

**From:** [Ashley Thompson](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony on the Gowanus Rezoning - 413 Bond LLC  
**Date:** Friday, October 15, 2021 12:34:03 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[image004.png](#)  
[98 Fourth Street - 413 Bond St - Spoken Testimony for City Council Public Hearing\\_final.pdf](#)  
[413 Bond Street & 98 4th Street - Waterfront Access Plan \(6-16-21\).pdf](#)

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Attached for your records is a written version of the testimony delivered by Casey Dillenberger of 413 Bond Street LLC at Tuesday's public hearing, along with a map identifying the concerns with the upland connection and waterfront access plans.

Ashley Thompson  
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**Comments to the New York City Council, Committee on Land Use Subcommittee on Zoning and Franchises Regarding the Proposed Gowanus Neighborhood Rezoning**

**October 12, 2021**

**98 Fourth Street Development Group LLC & 413 Bond Street LLC**

My name is Casey Dillenberger, I am the manager of 98 Fourth Street Development Group LLC and 413 Bond Street LLC. We own two properties in the rezoning area, 98 Fourth Street, located along Bond Street and the Canal, and 413 Bond Street, an irregular, L-shaped lot between 3<sup>rd</sup> Street and 4<sup>th</sup> Street with frontage on the Canal. As property owners, we have been intentional about providing spaces for the locally-owned creative industries and businesses that have become synonymous with the Gowanus neighborhood. 98 Fourth Street is currently home to 67 small creative businesses with over 300 workers, including furniture makers, jewelry makers, and photographers. 413 Bond Street has approved plans for a similar but larger development that contains these very same uses, which we anticipate will result in 450-500 additional local jobs.

We are opposed to two specific components of the proposed Gowanus Rezoning text that particularly undermine our ability to develop the Gowanus mixed uses on our site at 413 Bond Street, including:

1. The proposed visual corridor and supplemental public access area ("upland connection") required mid-block between Bond Street and the Canal; and
2. The proposed waterfront yard and shore public walkway requirements.

The proposed visual corridor requires an unobstructed area at least 50 feet wide extending along the eastern boundary of our site (a portion of which is a required supplemental public access area, or "upland connection"), and the proposed waterfront yard requires an unobstructed area of at least 30 feet along the shoreline. City Planning has stated that each waterfront parcel will be required to provide only 15-20% of its lot area for public access, but this percentage does not include any required visual corridor. Our analysis of the zoning text suggests that together, these regulations would actually reduce our usable lot area by as much as 40%. This would make the proposed redevelopment of 413 Bond Street infeasible, even with the proposed M1-4 zoning designation, a result that would be inconsistent with the City's stated objective to "support existing clusters of economic activity and promote development of new job generating uses."

If the City believes that the upland connection and visual corridor are necessary on our block, we respectfully request that they are instead located on the adjacent site that is proposed to be rezoned for residential development and has a more regular footprint, and would therefore not be as severely burdened. Even having to accommodate a portion of the visual corridor or upland connection on our site would significantly restrict our intended non-residential development.

We ask that the City Council support our request to make these small modifications to the proposed zoning text to help protect the future of industrial use and manufacturing businesses in Gowanus.

Thank you for the opportunity to testify today.

Property Details

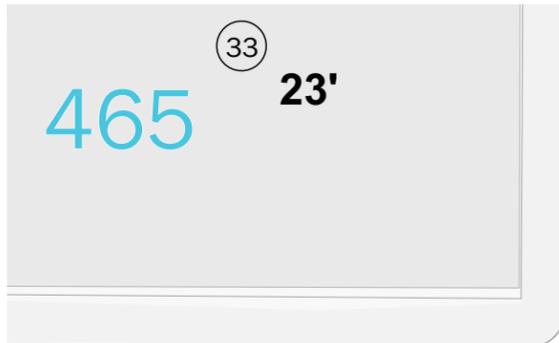
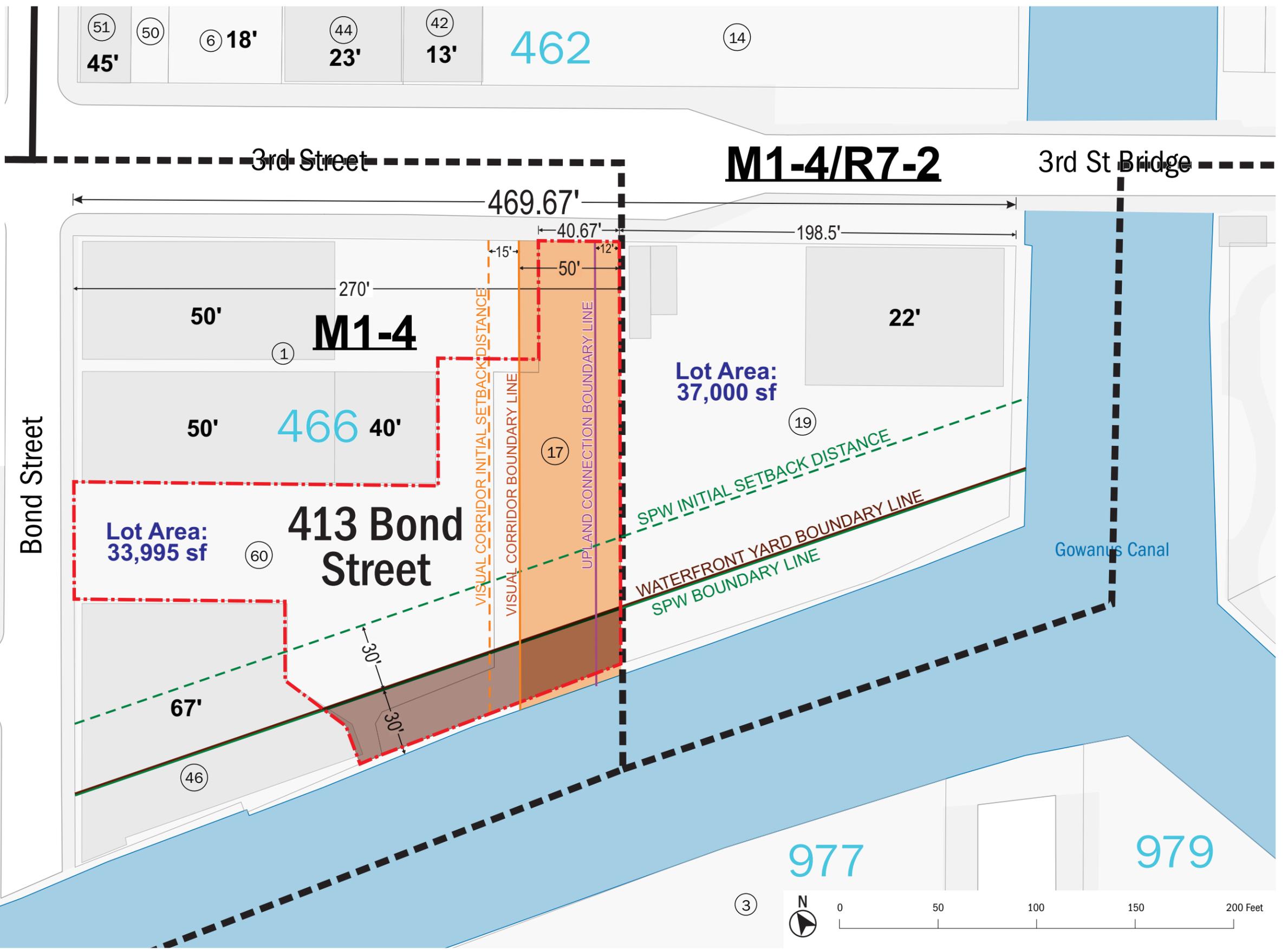
- 45' Roof Height (in feet)
- 5037 Block Numbers
- # Lot Numbers

Proposed Waterfront Access Plan

- Shore Public Walkway (SPW) Boundary Line
- Shore Public Walkway (SPW) Initial Setback Distance
- Visual Corridor Boundary Line
- Visual Corridor Initial Setback Distance
- Upland Connection Boundary Line
- Waterfront Yard Boundary Line

Zoning

- Existing Zoning District Boundary
- Proposed Zoning District Boundary
- M1-4 Proposed Zoning District



M1-4/R7-2

3rd St Bridge

Bond Street

3rd Street

4th Street

Gowanus Canal

977

979



**From:** [Andie Corso](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Land Use Testimony - Gowanus Plan  
**Date:** Tuesday, October 12, 2021 10:28:40 AM

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My name is Andrea Corso and I live on Bergen and Nevins and worship at St. Lydia's Church on 304 Bond Street in Gowanus.

St. Lydia's is a member of the Gowanus Neighborhood Neighborhood Coalition for Justice. This coalition can not support the Gowanus Plan rezoning unless the following basic demands are met:

Full capital funding for local NYCHA developments, net zero CSOs, and the creation of a task force to hold the city and all parties accountable for commitments made through rezoning.

If these demands are met- we have the chance to make Gowanus more accessible, more affordable and healthier - for long term neighborhood residents and new development. Allowing this rezoning to take place without meeting these demands would result in making Gowanus more exclusive and yet another neighborhood in NYC for that serves wealthy people and excludes others.

As a person of faith, I call on you to meet these basic demands and ensure that the revenues resulting from development lead to meeting the full capital needs of neighborhood NYCHA housing and creating a resilient and accessible community for all.

**From:** [Angela DiGuseppi](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Oppose Gowanus ReZoning  
**Date:** Tuesday, October 12, 2021 6:22:00 PM

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My name is Angela DiGuseppi and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “**find serious problems with the City's Gowanus Neighborhood Rezoning.**”

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.”** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus**

**Rezoning!**

Thank you,  
Angela DiGuseppi

**From:** [Abby Goldstein](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning oppose  
**Date:** Tuesday, October 12, 2021 9:28:11 AM

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My name is Abby Goldstein  
I have lived in this neighborhood for 30 years and I strongly oppose the Gowanus Rezoning.

**This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.**

I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “**find serious problems with the City's Gowanus Neighborhood Rezoning.**”

**Abby Goldstein**  
**she/her**

*Professor of Art-Clinical, Visual Arts Program, Graphic Design*  
FORDHAM UNIVERSITY, 113 West 60th Street, Room 423, New York, NY 10023  
[abbygoldstein.com](http://abbygoldstein.com)

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**From:** [Alexia Nazarian](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Testimony - in favor  
**Date:** Tuesday, October 12, 2021 12:22:14 PM

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My name is Alexia Nazarian and I'm testifying in favor of the Gowanus Rezoning. Though I don't believe it should matter where I live because our housing needs are city-wide, I am a resident of Community Board 6 of which Gowanus is a part.

Building housing in wealthy, high opportunity neighborhoods well-served by mass transit supports racial integration and fair housing, reduces displacement, and reduces carbon emissions.

It is our moral imperative to build more housing in this city. According to a recent analysis by UC Berkeley the NY metro area is the most segregated by race. By contrast, the racial equity report finds that the rezoning "has the clear potential to be a net positive for racial equity." Time and again we hear elected officials and activists say we need more affordable housing, and yet when it comes down to it, they find excuses to stop it. This reactionary behavior has led us to where we are today.

If we don't do this rezoning, we are saying we're ok with over 39,000 children living in shelter, we're ok with 42% of New Yorkers being rent burdened, we're ok telling refugees that there's no room for them here in New York.

If we don't pass the Gowanus rezoning, we're quite literally telling 3000 households to look for housing somewhere else. If we don't build here people won't disappear — they'll likely move into existing housing, drive up rents, and push existing residents deeper into neighborhoods like crown heights.

The consequence of doing nothing means the status quo will only get worse. I think we all agree that is not acceptable. We've had nearly 10 years of a robust community engagement process. The plan identifies solutions for the many valid concerns that have been raised over the years. Although I will say there is still one change that I believe needs to be made, which is to eliminate parking requirements entirely. Cars kill, they pollute, and they're not needed in such a transit-rich area. Let's move this forward.

Thank you,  
Alexia

**From:** [Pedersen](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning plan  
**Date:** Tuesday, October 12, 2021 8:59:39 AM

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My name is Ann Pedersen and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assembly member Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

**This neighborhood has protested the rezoning for years and no one is listening. We do not need high risers in the Gowanus. We do not need another Downtown Brooklyn full of these expensive condos and canyons of streets that have no life. Our neighborhood is a mix of artist, manufacturers, small businesses and this rezoning will ruin it. Please consider lowering the heights of these high-risers so we can see the sunrises, the sunsets, the Manhattan skyline, and so our children can feel the warmth of living in a**

**neighborhood not a steel and glass ghost town.**

**Thank you  
Ann Pedersen**

**From:** [Allison Prete](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Tuesday, October 12, 2021 10:58:43 AM

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My name is Allison Prete and I made a film way back in 1998 opposing Gowanus Rezoning and I still oppose the Gowanus Rezoning. This new plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “find serious problems with the City’s Gowanus Neighborhood Rezoning.”

“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.” The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes. We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

Allison Prete  
**RoR Productions**  
[allisonprete@gmail.com](mailto:allisonprete@gmail.com)  
(917) 854-8848

**From:** [andrea sansom](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezone Plan - Testimony  
**Date:** Monday, October 11, 2021 7:55:12 PM

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Dear City Council Members,

My name is Andrea Sansom and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **“find serious problems with the City’s Gowanus Neighborhood Rezoning.”**

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.”** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Thank you for your consideration of the above,

Andrea Sansom

**From:** [Amy Weil](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Written testimony  
**Date:** Monday, October 11, 2021 8:34:28 PM

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· My name is Amy Weil and I am a member of the Gowanus art community,  
*I have been working in Gowanus for over 10 years as a professional artist.*

· The FEIS (final environmental impact study) was highly problematic. The FEIS states:

**"Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business".**

How do you categorize artists leasing studio spaces as freelancers and how do you know that their studios are not their regular place of business without actually studying them?

*\*\*\*\*\*Please state if you are a small business or LLC or if you work fulltime in your studio.,*

This neighborhood is vibrant and desirable for a reason, to not fully examine the impact this rezoning will have on the existing arts community is a huge misstep and an insult to the artists and cultural workers in Gowanus.

· In preparation for the rezoning, Arts Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus. This community benefits agreement would provide 200+ subsidized artist work studios to keep Gowanus a thriving creative community

If a signed contract is **NOT** signed by the time you vote, I strongly urge you to

vote **NO** on the rezoning. Moving forward with the rezoning without an ironclad agreement in place would effectively kill the creative community in Gowanus and make us just one more artist community in New York City that is forced to move and this time is there even a place to go?

If you want to see firsthand what is at stake in this rezoning, I invite you to come see Gowanus Open Studios this weekend, with over 400 artists and 100 locations - there is a lot to lose if a community benefits agreement isn't accomplished. I demand that you vote **NO** on this rezoning if this CBA is not accomplished.

Thank you,  
Amy Weil

Sent from my iPhone

**From:** [Theo Longfellow](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] gowanus  
**Date:** Thursday, October 14, 2021 4:13:14 PM

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I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

Best,  
Alyson Shotz



11231

**From:** [anna.moschovakis](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] concerns about the Gowanus rezoning plan  
**Date:** Thursday, October 14, 2021 4:25:54 PM

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To Whom It May Concern:

My name is Anna Moschovakis, and I am an editor at Ugly Duckling Presse, in the Old American Can Factory in Gowanus, Brooklyn. We have had our offices in this building since 2006, and are very concerned about the current rezoning plan.

Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council cannot and should not vote on this without an adequate EIS. As you know, the Council itself passed legislation last week requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year were insufficient, and do not want to repeat these mistakes.

The Council should not vote on this now and should send it back to City Planning Commission, but if they do vote, they should vote NO.

Thank you for your time,  
Anna Moschovakis  
Editor  
Ugly Duckling Presse

///

**anna.moschovakis**  
<http://badutopian.com/news/>

  
she/her/hers

please note my new email address,  
thanks!

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**From:** [JoAnne Simon](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Plan Testimony - Assemblymember Jo Anne Simon  
**Date:** Friday, October 15, 2021 5:48:30 PM  
**Attachments:** [Gowanus Neighborhood Plan AM Simon Testimony 10 15 21.pdf](#)

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Dear Esteemed City Council Colleagues,

Thank you for the opportunity to submit this written testimony regarding the Gowanus Neighborhood Plan.

Please do not hesitate to reach out to me with any questions.

Very truly yours,

Jo Anne Simon



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JO ANNE SIMON

CHAIR

Committee on Ethics and Guidance

CO-CHAIR

Legislative Ethics Commission

**Testimony Submitted by NYS Assemblymember Jo Anne Simon  
to the NYC Council Committee on Land Use, Zoning and Franchises  
October 12, 2021 – Oral Testimony  
October 15, 2021 – Written Testimony**

**GOWANUS NEIGHBORHOOD PLAN**

**(20210052 HAK; 20210053 PPK; 20210177 ZMK; 20210178 ZRK; 20210179 MMK;  
20210180 MMK; (20225005 HAK); (20180039 MMK); 20200319 PCK; 20200320 MMK;  
20200321 PSK)**

Thank you, Chair Francisco Moya and councilmembers for this opportunity to testify in connection with the Gowanus Neighborhood Plan.

I have represented the 52nd Assembly District, which includes Gowanus, Brooklyn Heights, Boerum Hill, Carroll Gardens, Cobble Hill, Downtown Brooklyn, DUMBO, Fulton Ferry Landing, Vinegar Hill, and parts of Park Slope and Prospect Heights in the New York State Assembly since 2015. Before that, I was an active community leader and activist and have lived in the area for 40 years. When I moved to my neighborhood of Boerum Hill, it was still redlined. Thus, I have seen a lot of change over the years that informs my perspective on this rezoning proposal.

At base, the challenge for this rezoning proposal and the area's current and future residents can be reduced to one word: **Climate**. Climate change. Climate justice. It's all about climate. And we ignore the significant climate concerns at our peril. We can't cover this up. We can't make believe that climate change won't happen. It is happening as we speak, and we all know it. This rezoning is taking place in one the most polluted areas of the country, which has been subjected to 150 years of contamination by industrial waste and raw sewage. Nearly the entire Gowanus area is in a flood plain. There are so many variables that we can't control for in a large rezoning, let alone in a project of the size, complexity and consequence of the Gowanus Superfund area rezoning, that we need as many tools as possible to control and shape a healthy and safe implementation as possible.

As I have testified in the past, I believe that the Gowanus area needs a rezoning that would establish a cohesive approach to land use going forward, including schools, open space, light manufacturing and space for artists and artisans. It also desperately needs water and sewer

infrastructure improvements. However, believing that a rezoning is in order does not mean that *any* proposal would be acceptable. There are a number of aspects of this proposal that I find commendable, but others are unacceptable. The Gowanus rezoning proposal before us today encompasses too large a footprint, exacerbating the likelihood that what proponents anticipate will never come to fruition. It increases the Floor Area Ratio far beyond that which the community process had identified as the acceptable maximum, and fails to adequately address how its proposals can be achieved while also remediating one of the most contaminated bodies of water and toxic uplands in the country. Once a rezoning is complete, there are no controls. The likelihood that the Gowanus rezoning will look anything like what is proposed today or be built within the 10-year period projected in the FEIS is slim to none. What's more, if it starts going off the rails, the City has no tools to right it.

Last month, Congresswoman Nydia Velazquez and I sent a letter to Mayor de Blasio and held a press conference the week after Hurricane Ida to call attention to the flaws in the DEIS, and urge the City to revise the Gowanus rezoning DEIS to address the significant inconsistencies and contradictions identified by the EPA. It is extremely troubling that the City thought it could ignore the EPA's recommendations, and issued a final EIS without correcting the contradictions and using updated modeling, instead of rainfall data from 2008. The City's recalcitrance in following EPA's orders for this Superfund site, combined with its use of Pre-Hurricane Sandy, Pre-Superfund data in the DEIS tells us that NYC is making believe that it can do business as usual. The City shouldn't play games with data to evade remediation and costs. Mother Nature will not be fooled. The City must plan for the future and focus on the public's health. In the aftermath of two severe storms that claimed the lives of over a dozen New Yorkers, we must address climate change as the Code Red crisis it is, and act to ensure the health and safety of current and future residents of the area.

This morning's Daily News article about this rezoning hearing today got many facts wrong. A bit of history is called for lest this Committee and the City Council make a decision based on a faulty premise and misinformation.

The article opens by saying, "For nearly 10 years, community groups, elected officials, environmentalists and residents have been hard at work planning the future of the Gowanus neighborhood in Brooklyn." Incorrect. It's been much longer. In 2008, when the EPA assessed whether the Gowanus Canal and its uplands qualified for designation as a Superfund site, the City Planning commission already had a proposal for rezoning the area, developed through a refreshing engagement of community working together with City Planning for once. I participated in that effort and was, on the whole, pleased with the result, although there were some very sticky wickets, including serious environmental degradation concerns. When the Superfund was proposed, City Planning withdrew that proposal.

The advent of the Superfund designation tore the community apart. We see vestiges of this today. For decades, many people wanted to develop the Public Place site – the area's largest parcel– into senior housing. That included me, who supported the Superfund designation. It also included Councilman de Blasio, who along with the Bloomberg administration, opposed the Superfund designation. At that time no one knew just how toxic that site was. I supported the Superfund designation as it was the only way to ensure that multiple responsible parties and multiple jurisdictions could be held accountable and clean up this terribly contaminated Gowanus canal and uplands.

“Bridging Gowanus” was instead the realization by proponents that with the Superfund declaration, and the effects of Sandy, resurrecting the prior effort to rezone Gowanus would require addressing the aforementioned “sticky wickets” in a fundamentally different way. Some of that has been achieved with this rezoning proposal, yet critical elements have not.

Moreover, no one is seeking to preserve the area in amber as the Daily News article sarcastically suggests, nor does the proposal address water and rainfall adequately. The article baits with extremes. The answer to a flawed proposal should neither be approving it despite shortcomings, nor doing nothing; the answer is to do something - but do it right – to actually implement what the EPA had ordered the City to do regarding stormwater, rainfall, CSOs, and environmental justice. We can’t afford to get it wrong. The City’s noncompliance underscores why we can’t trust the City’s rezoning proposal or its EIS.

The current proposal by City Planning covers 82 blocks and includes parts of Boerum Hill and Park Slope. Neither area is Gowanus. The current proposal is not reflective of the footprint of either the 2008 proposal, nor the area under discussion in the Bridging Gowanus process in which I also participated. Councilman Lander is to be commended for leading the Bridging Gowanus process, and attempting to get people on the same page in an area that I agree needs a cohesive rezoning.

The Bridging Gowanus report was good, but contained a certain number of recommendations with which the residential and arts community disagreed, and others for which there was grudging acceptance. For example, building heights along the canal should be no more than 12 to 14 stories. The current proposal allows for 22 to 28 stories. Are the objections just about height? Of course not. They are about the effect of such density in a seriously contaminated area that is a flood zone, with poor drainage and poor sewer capacity, and the City’s serious delay in implementing the EPA’s requirements.

The Daily News article goes on to say, “It is also the height of irony that the opponents are living in the Gowanus neighborhood and simultaneously arguing it’s too dangerous to let others live there.” **No. WRONG.** Actually, the area in greatest contention is **vacant**. It has been for over 100 years. That’s the point! It was the site of gas manufacturing plants leaking coal tar into the soil and the canal itself. No one is currently living above a capped coal tar tank.

The biggest bone of contention in the proposed rezoning has been this very site, Public Place, the most toxic parcel. And is it ever toxic! According to the EPA, 50 years from now they will still be sucking toxic coal tar out of that site. We would be foolish and reckless to ignore the toxicity of this site and others and rezone in the absence of the City’s having even begun the mandated sewage retention tanks – a key tool in reducing CSOs and critical to the Superfund remedy.

The City of New York is a responsible party under the Superfund designation and it has shirked its responsibilities in several ways that will have serious consequences. In its August 9 comments, the EPA stated that

“EPA’s review of the DEIS has identified a number of inconsistencies in the presentation of wastewater and stormwater calculations in Chapter 11 and Appendix F of the DEIS... the DEIS lacks adequate clarity in presentation and supporting information in the form of data, modeling inputs, and other

assumptions for the CSO-related conclusions presented therein. As a result, it is unclear whether correcting and supplementing these items will allow the preparers to still conclude that the project would result in either no increase or a net reduction in CSO loading. Similarly, based on the information provided in the DEIS, EPA also cannot discern the effect that the City's pending 2021 Unified Stormwater Rule will have in offsetting increased sanitary sewage loading and reducing CSO discharges.

While EPA is, and will in the future be seeking some of this supplemental information about rezoning impacts from DEP under its Superfund oversight authority, EPA believes that these CSO discharge questions should be addressed in the DEIS as well, so that all interested parties can better understand the rezoning process.

EPA also notes several inconsistencies between the optimistic CSO-related projections found in the DEIS, and positions the City/DEP has taken in response to EPA's administrative orders to the City, including delays in the design and construction of the CSO retention tanks and the City's stated expectation that it will not fully comply with EPA's latest order.

Specifically, on July 14, 2021, the City submitted a letter... concerning its intent to comply with only certain provisions of EPA's March 29, 2021 administrative order (Order) issued to the City under Section 106 of CERCLA. This Order requires the City to, among other things, construct and operate the two CSO retention tanks to prevent contaminated solids discharges to the Canal, which could compromise the in-Canal cleanup."

In other words, the City is seriously and intentionally out of compliance with the EPA's mandated remedy. This is no mere technicality; the health and safety of the environment and the area's current and future residents is at stake.

Much is being made of the affordability that is proposed for this rezoning. Only one site – the most polluted site – will be actually affordable. The vast majority of the housing to be built will be market rate. In this part of the world, that means expensive. Past is prologue. I invite you to name one large-scale rezoning that hasn't increased rents in the area and displaced residents, especially residents of color. I don't think you can. I know that the cumulative effect of Metrotech, the 4th Ave rezoning, the Downtown Brooklyn rezoning and Atlantic Yards changed my neighborhood from one that was diverse and low-to-moderate income, to one that is whiter and significantly wealthier. Regardless of intentions, rezonings overwhelmingly end up displacing current residents, most often low-income people of color. Rezonings contribute heavily to gentrification; they displace artists and performers as well. New Yorkers know that the next "hot" neighborhood is the one the artists moved to when they were displaced from their prior neighborhoods. While proponents focus on traditional arguments, like bringing affordable

housing – and here the affordability is real – and protecting against hodge-podge development – concerns I share – this rezoning is fundamentally different than most. That difference is the toxicity caused by 150 years of industrial contaminants and that changes everything. The EIS is more crucial here than elsewhere. It must be accurate and rely on current data that reflects the state of climate change.

Members of the local residential communities, including local advocacy groups and public housing residents have raised many of these concerns. And here's the thing: no one really disagrees on the proposal's shortcomings. CB2 saw the problems and voted to reject the proposal. CB6 saw the very same problems and voted to approve with nearly 20 pages of conditions listing 30 significant issues – the very same inadequacies that caused CB2 to reject it. This includes several significant issues, including a CSO and sewage system capable of handling climate change disaster scenarios and increased capacity, and full funding of capital needs and maintenance for NYCHA Gowanus Houses and Wycoff Gardens, affordable housing that already exists in the area that has been allowed to fall into deep disrepair.

Given the enormous toxicity of the area and the delicate balance that needs to be achieved, these problems are not mere concerns, they are threatening to individual lives and health and to the area's sustainability. The proposal does not address how it will provide a resilient future for residents of public housing whose buildings were flooded in Hurricane Sandy and which are in a direct path of future flooding. It does not provide a plan for the promised interim park and pool while Thomas Greene Park is torn up for the removal of its coal tar tank and the installation of the sewage overflow system, which is behind schedule and the subject of an EPA Administrative Order, and which the City persists in arguing is not really necessary. It does not address how to protect the uplands areas from additional contamination in the event of storm surge – which is anticipated to cause much of the uplands – going as far north as Bergen Street – to be underwater by 2050. It does not provide a mechanism for ensuring there are no net CSO's – a goal we all share. It does not address the likely migration and volatilization of compounds at Public Place – the most contaminated site – or anywhere else.

There is much that the developers propose that is creative and appears environmentally sound at Public Place. I support the plan for 100% affordability – in fact, I would like to see more such housing, including supportive housing. But: there is no assurance of proper oversight at Public Place and one would be remiss not to express concerns about the possibility of toxic fumes in 20 – 30 years that can cause pulmonary disorders and damage to the developing brains of children. I have spent too many years working with neuro-atypical people not to have a well-founded concern about this. How inequitable would it be to have 100% affordable housing attracting low income residents, many of whom likely would be residents of color, only to poison them slowly? That in my mind is not housing justice, it is not climate justice, it is not environmental justice, it is not social justice. **As an elected official, it is my obligation to raise the red flags, because the consequences of not getting it right could be devastating.**

So, before you vote, Councilmembers should understand two very basic facts:

(1) The EPA has jurisdiction of the Superfund site's remedy. It is the appropriate scientific authority with relevant expertise and *without interest* in the asserted benefits of the proposed rezoning;

(2) New York City is a responsible party charged with significant remedial obligations to the canal and uplands under the Superfund remedy. Its refusal to move forward with critical aspects of the remedial plan cannot be entirely divorced from the aforementioned-history or its current proposal. It has a significant conflict of interest.

The City's recalcitrance in following EPA's orders, combined with its use of Pre-Sandy, Pre-Superfund data and failure to analyze cumulative impacts in the EIS tells me that NYC is not planning for the future; it is not focused on livability and the public's health. It is making believe that it can do business as usual, playing games with data to evade recognition (and cost) of the problems that are on our doorstep. It's using an outdated zoning tool as a proxy for urban planning. While ULURP is always an unsatisfying process, here in the Gowanus watershed the consequences will be much more than unsatisfactory; they will be dangerous to the health and safety of current and future residents of the area.

The City must conduct the rainwater, sewer, climate change and Environmental Justice analyses that EPA has stated are essential. They are the real experts here; they say the EIS is flawed and decision-making based on its highly flawed analysis in the key area of rain and stormwater and failure to accurately assess cumulative impacts would therefore also be highly flawed. That is the task set out for you, the City Council.

I know the local members support it. Bridging Gowanus was Councilman Lander's signature effort, after all. It was a good effort. But even he recognizes that the City Planning Commission's proposal is lacking in critical ways, including as to CSO reduction. It is also important to note that this proposal is not the Bridging Gowanus report. It is vastly larger and more complex, as well as deficient in those technical aspects that will come back to bite us in the you-know-what.

Years ago, there was an oleo margarine commercial with a woman dressed up as a hippie with flowers in her hair. She chided the margarine company whose product tasted just like butter! (LOL) that "it's not nice to fool Mother Nature." Well, it's actually not possible to fool Mother Nature. She knows where the underground streams are that the City has refused to study that the community and elected officials have been requesting for over a decade, and which [contributed to so much of the flooding during Hurricane Ida](#). Mother Nature will win. And when she does, we will all lose.

The City Council approves this rezoning proposal at the City's peril. It must order the relevant City agencies to literally clean up their acts and comply with the EPA's mandates. It must ensure the conditions upon which CB6 based its approval are met. It must create a mechanism that will prohibit development until the Superfund remedy is successfully completed. Anything short of that is dangerously unacceptable.

Thank you.

**From:** [Brendan Cheney](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] NYHC Testimony to the Subcommittee on Zoning and Franchises  
**Date:** Wednesday, October 13, 2021 11:16:36 AM  
**Attachments:** [NYHC Gowanus NYCC Testimony Sep 12 2021.pdf](#)

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Attached please find New York Housing Conference's full written testimony to the Subcommittee on Zoning and Franchises. Let me know if you have any questions.

Brendan Cheney  
he / him / his  
Director of Policy and Communications  
New York Housing Conference  
646-627-6262 (cell)  
[Brendan.cheney@thenyh.org](mailto:Brendan.cheney@thenyh.org)

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<https://thenyh.org/>  
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## **Testimony of Brendan Cheney, New York Housing Conference Gowanus Rezoning**

New York City Council  
Subcommittee on Zoning and Franchises  
October 12, 2021

Good afternoon. My name is Brendan Cheney. I am the director of policy and communications at the New York Housing Conference (NYHC). NYHC is a nonprofit affordable housing policy and advocacy organization. As a broad-based coalition, our mission is to advance City, State and Federal policies and funding to support the development and preservation of decent and affordable housing for *all* New Yorkers.

New York Housing Conference strongly supports the Gowanus rezoning, as long as it includes a dedicated capital commitment for repairs and upgrades at local NYCHA residences Wyckoff Gardens and Gowanus Houses.

As we emerge from the COVID pandemic, New York is facing an ever-growing housing crisis. Homelessness continues to accelerate, as it has under every mayor since Ed Koch. Housing capital repair needs at NYCHA total \$40 billion<sup>1</sup> – a figure that is only growing. By one measure, New York is rated as the fourth most segregated city in the country.<sup>2</sup> Finally, nearly 1 million New Yorkers are rent burdened, paying more than 30% of their income on rent. It is an unsustainable situation.

The city desperately needs more affordable housing and policies that will reverse and repair our history of racial discrimination. Every neighborhood must contribute to the city's affordable housing development, but bringing affordable housing to this neighborhood is particularly important, as it would help make it more economically and racially diverse.

While residents in most other major City-led rezoning areas are at least 80% Latinx and/or Black, more than 50% of Gowanus residents are White/non-Hispanic. Gowanus also has a higher median household income than the surrounding borough, unlike most other rezoning areas. Gowanus' median household income is \$106,749 while Brooklyn's median household income is \$62,050. Gowanus is therefore an ideal neighborhood for creating affordable housing opportunities in high income neighborhoods through residential rezoning.

These policies – asking every neighborhood to be a partner in creating affordable housing and upzoning in high-income neighborhoods – have wide appeal. Both were

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<sup>1</sup> <https://www.nbcnewyork.com/news/local/nycha-needs-40-billion-in-extra-capital-new-boss-says/2259520/>

<sup>2</sup> <https://www.brookings.edu/blog/the-avenue/2018/12/17/black-white-segregation-edges-downward-since-2000-census-shows/>

recommendations of the United for Housing coalition – a coalition led by NYHC and joined by 90 partner organizations in New York City.

The Gowanus Neighborhood Rezoning Plan was developed with an in-depth and inclusive community planning process. The rezoning will map Mandatory Inclusionary Housing throughout much of the rezoning area, requiring that 25% to 30% of residential development be affordable to households making between an average of 60% of AMI to 80% of AMI, or between \$64,440 and \$85,920 for a family of three (in 2021). The city estimates that this will generate roughly 3,000 units of desperately needed affordable housing.

The community plan also included funding for the two adjacent public housing developments – Gowanus Houses and Wyckoff Gardens. Preserving NYCHA is just as important as building new affordable housing.

While the affordable housing will provide tangible benefits for the people that get the housing, it will also create economic benefits to the community. Housing investment creates jobs and can spur needed economic recovery. Research has found that 100 units of affordable housing construction creates 230 jobs and \$46 million in economic activity, and the city, state and national economy need additional stimulus to recover from the recession.

As the city's economy struggles to recover, opportunities like Gowanus rezoning can create needed affordable housing, unlock new tax revenue, refill the construction pipeline, and help local businesses.

The New York Housing Conference supports this rezoning and funding for adjacent NYCHA sites and the community planning process used here should be replicated in other neighborhoods in the city. Thank you for this opportunity to testify.

**From:** [Benjamin Margolis](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony on behalf of Old American Can Factory  
**Date:** Wednesday, October 13, 2021 9:20:17 AM  
**Attachments:** [Margolis SBIDC Testimony Gowanus Plan Council LU subcmte 211012.pdf](#)

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Good Morning.

Attached, please find written testimony on behalf of The Old American Can Factory's requested modification of Section 139-48 Authorization approved by CPC for the Gowanus Neighborhood Plan (rezoning).

Sincerely,  
Ben Margolis

NYC Council Land Use Committee's Subcommittee on Zoning and Franchises  
Hearing on the Gowanus Neighborhood Rezoning  
October 12, 2021

Oral Testimony of Ben Margolis on behalf of The Old American Can Factory.

Good Afternoon.

I am Ben Margolis, recent Executive Director of SBIDC - a nonprofit that for four decades has supported essential businesses and workers in Gowanus.

Today, I am testifying on behalf of the Old American Can Factory - a haven for the Gowanus industrial and cultural community for over three decades. And a paragon of "Gowanus Mix" uses.

In its own report, 'Engines of Opportunity', The City Council highlighted the Can Factory, calling it a "model for how light manufacturing and creative production can be incubated, supported, and expanded."

As early as 2016, the Can Factory presented an expansion plan that would allow for a long-term commitment to retain and support Gowanus Mix uses on site, coupled with artist housing - especially for aging artists - all in addition to any required Mandatory Inclusionary Housing (MIH).

Unfortunately, the proposed zoning as written for the site not only makes that expansion plan infeasible but incentivizes future owners to build an all-residential project. And, crucially, offers no protection to Gowanus Mix users. That directly threatens 300 creative workers currently housed at The Can Factory. And it would lead to further loss of much-needed production space in Gowanus.

But there is an easy fix.

The Can Factory has submitted a clear and detailed request to the Council to revise the Section 139-48 Authorization approved by CPC. Including a commitment to preserve, in perpetuity, no less than 20% of FAR for Gowanus Mix. It is our understanding from conversations with the Council Land Use team that this requested revision and clarification is within Scope.

With the modification, the Council would immediately secure a minimum 60,000 sf of Gowanus Mix uses. And, crucially, support the largest concentration currently existing within the entire rezoning area.

So, I implore you to help those in the creative industries that helped make this neighborhood unique and beloved in the first place.

Thank you for the opportunity to testify.

Ben Margolis

**From:** [Briget Rein](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Testimony (002).docx  
**Date:** Tuesday, October 12, 2021 5:47:23 PM  
**Attachments:** [Gowanus Testimony \(002\).docx](#)

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Sent from my iPhone

Speaker Johnson and Chair's Fransico Moya and Rafael Salamanca Jr. Thank you for holding this important hearing.

This is my testimony for the Community Board 6 and Community Board 2 hearing, please submit this testimony intact for the Land use Committee Hearing:

Thank you Chairs Singletary and Fleming and District Manager Racioppo for setting up this meeting.

Since I know this is going to be a long day and we have a lot of speakers so I am going to keep my remarks as brief as I can.

I want to support this plan. I really do. But there is something is rotten in the state of Denmark.

I said for over a year now that I did not want this plan to move forward until this pandemic was over and we could all meet in person. I even wrote about this for *Bklyner*. However, Hizzoner had different plans.

For me to give my vote of approval for this rezoning, I told myself that I would need assurances on two things: 1) proof that the Gowanus Canal cleanup would be done before any resident moved in and 2) proof that the existing infrastructure could handle it.

As I looked over the various documents and web pages in preparation for this testimony, there is one thing I could not easily find: a timeline of the work. I can find timelines for where we are within the rezoning process but nothing that shows side-by-side when the canal will be fully cleaned up, the new sewage tanks will be installed, and when the move-in date for new residents will be.

Maybe I didn't look in the right places. But all I saw were pages upon pages of jargon that the average person would not understand. The Executive Summary of the Environmental Impact Statement alone is 102 pages! Not all of us are architects and engineers - I myself am a teacher. Community Boards are supposed to represent a cross-section of people from the community who would be impacted by rezonings. But when the average person like myself cannot understand what is being written, it gives the impression that someone is burying the lede.

If I could just be told right here and right now by the Mayor's Office and the developers that the canal will be fully cleaned up and the sewage tanks will be in place to handle the influx of people before any new residents move in, I would emphatically vote "aye" this evening. But, that isn't happening.

Why are those two issues so vital to my yes vote? Because I do not want Gowanus to become another Environmental Justice Neighborhood. I love how this plan has affordable housing and, frankly, I would like more of it. But, and I won't mince words here, that means that it will mean

people in minority populations would be moving here. We saw what Robert Moses did to Harlem and the South Bronx half of a century ago - there is no question why rates of asthma are so high there. I, for one, could not live with myself if I voted yes and, down the line, one child gets asthma from breathing in some toxic fumes or someone drinks some contaminated water or one toilet backs up because the sewage lines couldn't handle it.

I want my friends over at the Carpenters' Union and 32BJ to have good-paying jobs from this project. I want us to start to fix our city's housing crisis. I want there to be more parks and green space.

And If someone from the Mayor's Office will say **under oath tonight** that no one will move in until the EPA says that the Gowanus is clean and human waste won't flood into the water, I will gladly vote aye. But, until then, I vote nay. Thank you.

Briget Rein  
Former City Council Candidate District 39  
Former Community Board Member 6  
Former Resident of 290 Clinton Street

**From:** [Bob Robbin](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Bob Robbin](#)  
**Subject:** [EXTERNAL] Gowanus Public Hearing  
**Date:** Monday, October 11, 2021 9:22:02 PM

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I am opposed to the current proposal because I think it will dramatically increase the density of the area without providing for increased transportation, school, car parking and local retail to service the increased density as well as failing to deal appropriately with the existing toxic environment and failing to properly secure and review input from federal, state and local agencies with jurisdiction.

Thank you, Robert Robbin (44 year resident of Carroll Gardens )

**From:** [Bob Robbin](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Bob Robbin](#)  
**Subject:** [EXTERNAL] Gowanus public hearing  
**Date:** Monday, October 11, 2021 9:46:01 PM

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Councilmembers: I am opposed to the proposed Gowanus rezoning because I think the dramatically increased density will overwhelm existing transportation, school, and parking options available to residents as well as water and sanitation run-off problems that continue to threaten the neighborhood. In addition the plan fails to adequately address existing traffic (which will be compounded by the restrictions on use of the BQE for 10+ years that will flood neighborhood streets with cars and trucks ), the existing toxic brownfield issues and fails to properly take into account input from federal, state, and local agencies as required by law and good practice and the need to create affordable housing in sufficient number to address the needs of existing residents of the affected communities at rents that reflect those most in need .

Thank you, Robert Robbin ( 44+ year neighborhood resident ).

**From:** [Barbara Woods](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus  
**Date:** Monday, October 11, 2021 8:02:07 PM

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Dear City Council,

My name is Barbara Woods, I live in Gowanus and I oppose the Gowanus Rezoning. The Gowanus rezoning is an environmental justice issue. There is brown sewage filling the canal after every rainstorm. Hurricane Ida flooded most of the Gowanus area. This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.

I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “find serious problems with the City’s Gowanus Neighborhood Rezoning.”

New York City is feeling the brunt of climate change; it cannot afford projects that fail to protect human health and the environment.

The City needs to account for the fact that much of Gowanus is a flood zone, and has experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms. NYC is using rainfall numbers from 2008; before Superstorm Sandy and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident. The City is using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

This development is 80 blocks in size and 4 times the size of Hudson Yards. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewage system overhaul.

We need Climate Justice, not more giveaways for wealthy developers. Take this back and Vote NO on the Gowanus Rezoning!

Thank you for your time,  
Best wishes,  
Barbara Woods

Barbara Woods  
*she/her*

Artist & Museum Educator  
Website: <http://bawoods.com>

“Do not get lost in a sea of despair. Do not become bitter or hostile. Be hopeful, be optimistic. Never, ever be afraid to make some noise and get in good trouble, necessary trouble. We will find a way to make a way out of no way.” -John Lewis

**From:** [Betsy Cannon](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Land Use Testimony  
**Date:** Monday, October 11, 2021 8:54:13 PM

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Hi,

I am Betsy Cannon, a congregant of St. Lydia's church and a member of the Gowanus Neighborhood Coalition for Justice. Our coalition will not support the rezoning unless our top three demands are met: full capital funding for local NYCHA developments, net zero CSOs, and the creation of a task force to hold the city and all parties accountable for commitments made through the rezoning process.

As a person of faith, I stand firmly with all three of these demands. For too long, rezonings have benefited those who look like me and come from similar socioeconomic backgrounds as me to the detriment of others. It is immoral that we would consider allowing developers extravagant revenues without ensuring that our neighbors in the Gowanus Houses and Wycoff Gardens have their capital needs met. All deserve to live in a neighborhood and housing that is well maintained. With this rezoning, we have the opportunity to make Gowanus more accessible, more affordable, more diverse, more resilient, and more sustainable. Let's ensure that this rezoning moves towards this future, not a whiter, more exclusive one.

Thank you,

Betsy Cannon  
CB6 resident and GNCJ member

**From:** [Charlie Samboy](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Testimony CEQR #19DCP157K  
**Date:** Tuesday, October 12, 2021 9:54:00 AM  
**Attachments:** [Gowanus Rezoning Testimony to Council Subcommittee 10 12 21\\_FINAL.pdf](#)

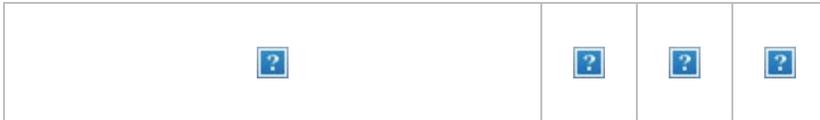
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Hi,

Please see the attached testimony.

Best,  
Charlie

**Charlie Samboy** | Director, Government Affairs  
**New York Building Congress**  
t: 646-868-0380 | e: [csamboy@buildingcongress.com](mailto:csamboy@buildingcongress.com)  
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October 12, 2021

## TESTIMONY TO THE NEW YORK CITY COUNCIL REGARDING THE GOWANUS NEIGHBORHOOD PLAN, CEQR #19DCP157K

Chair Council Member Moya and members of the Subcommittee on Zoning and Franchises, the New York Building Congress is pleased to testify in support for the Gowanus Neighborhood Plan (Gowanus Plan) for Brooklyn and the need to rezone this neighborhood into a model for sustainable development in New York City.

Neighborhood-wide rezonings have the potential to change the course of a community for generations to come. They have a deeply meaningful impact for the residents of today and those to come following their approval. Of course, writing the next chapter of a community and how it will evolve is a delicate balancing act that requires a willingness to listen, collaborate and advance a shared vision for the future. As such, the Building Congress applauds your office, the de Blasio administration, Council Member Brad Lander, Brooklyn Community Board 6 and the hundreds of community stakeholders who persevered for more than a decade to continue to advance this plan. Today, after years of listening and planning, the Gowanus Plan is primed to become a reality.

For the last 100 years, the New York Building Congress has advocated for infrastructure investment, pursued job creation and promoted preservation and growth in the New York region. As outlined in our 2021 Policy Agenda, we believe the City must pursue rezoning's in a strategic manner, ensure that these efforts promote the growth of livable neighborhoods, invest in critical infrastructure, encourage economic development, support good-paying jobs and create housing stock for all income levels. With buildable land becoming scarcer and the need to accommodate growth a key ingredient to our future success, the City must take advantage of rezoning efforts in neighborhoods that have tremendous potential for increased density. These neighborhoods are transit rich, are near essential services and in neighborhoods where we can promote equity and economic integration. The Gowanus neighborhood meets all these requirements and is well positioned to advance numerous important policy goals.

Dating back to its construction in the mid-19<sup>th</sup> century, the Gowanus Canal and upland areas were a working industrial waterfront and hub for shipping and manufacturing due to its proximity to the New York Harbor. With this concentration of industrial and commercial activity, including a gas manufacturing plant, Gowanus was bustling with economic activity. Following the end of World War II, however, the decline in shipping activity in Brooklyn, and manufacturing in New York at-large, led to a mass exodus of companies and thus to a general decline of the neighborhood. Additionally, the Canal was no longer dredged regularly due to increased costs and a flushing station went abandoned for over thirty years. Decades of industrial use and frequently overwhelmed combined sewage outflows left nearby land significantly contaminated and the canal severely polluted. By the late 1990s, the Gowanus Canal was better known as a toxin-filled wasteland instead of a former economic engine.

The U.S. Environmental Protection Agency designated the Canal a Superfund site in 2010. That became a catalyst for members of the community and city, state and federal leadership to develop a shared vision for Gowanus's future. Since the late 2000s, the Department of City Planning and relevant City agencies, in concert with community stakeholders, have developed specific recommendations to meet their needs across housing, arts and culture, sustainability and resiliency, small businesses and economic development and open space.

Many iterations of a plan for the neighborhood have been brought forth, but none have achieved as much consensus as the one we have today. Now, the City of New York and Gowanus residents have a tremendous opportunity to write a new chapter for the neighborhood, draw upon its rich history to attract new job-creating industries and repurpose the Canal for the enjoyment of generations to come.

The Building Congress is excited to see that after decades of conversations, including in-depth and inclusive community planning exercises, the Gowanus Plan is positioned to deliver significant investments. We support the Plan as it seeks to tackle the housing crisis, which has been made only worse from the COVID-19 pandemic, by potentially creating approximately 8,200 apartments, 3,000 of which would be permanently affordable at no cost to the City with the implementation of Mandatory Inclusionary Housing; a new school for local families; more than one acre of open space and a new esplanade along the Canal; a clean and safe canal for waterborne activities; and new commercial spaces, all of which are expected to generate thousands of temporary construction and permanent jobs in the process. Additionally, the City has demonstrated its commitment to the community by moving forward with the first affordable mixed-income, mixed-use development, Gowanus Green, which will feature 950 units of 100-percent affordable and supportive housing, including residences for individuals with a history of homeless, senior citizens and low-income New Yorkers.

This project will also be a lifeline to New York City's building industry, which before March 2020 was thriving and a main contributor of jobs and revenue for our economy. A recent report by State Comptroller Tom DiNapoli found our industry was the fastest-growing sector from 2011 to 2019, with a 43.5-percent jump in jobs. All of that was brought to a grinding halt, however, when the pandemic began. As the City emerges from the economic struggles of the past year, initiatives like the Gowanus Plan, including Gowanus Green, help unlock public and private capital, replenish the construction pipeline and deliver important community benefits.

Additionally, we have seen new private developments erected and industrial warehouses adaptively reused for artist studios, offices and small-scale manufacturing. Proper long-term planning is best done, however, when government proactively collaborates with the community and all the resources available through the public sector are brought to bear to address generational needs that the private cannot deliver alone. Outdated zoning has prohibited the expansion of more job-creating uses, much so that some users have elected to even operate nonconforming uses in the neighborhood in spite of regulations that prohibit those activities. Also, strong demand for housing citywide has had an acute impact locally by pushing up prices on the limited supply and thus displacing lower-income households. And while NYCHA's 1,137-unit Gowanus Houses is a foundation of affordability for families, it is in dire need of repairs in the tens of millions of dollars. All are concrete examples signaling the need for meaningful government action.

Last, recent trends demonstrate a significant benefit to developing communities where people can live close to their place of work and be within walking distance of necessary amenities. With nearby central business districts such as Downtown Brooklyn and Lower Manhattan, Gowanus has emerged as a strong employment nexus for workers, with the number of jobs and businesses growing in the neighborhood by 72-percent and 73-percent, respectively, between 2000 and 2016. The need for housing, however, has long outpaced supply. Over time, the construction of thousands of units of housing, at a variety of income levels, will help meet this need and bring a considerable density and variety of amenities for both long-time residents and newcomers alike. Most importantly, this rezoning is one of the first to meet fair housing standards because it is positioned near a more affluent neighborhood than past efforts and is focused in a generally industrial area with large underused or vacant sites, particularly along the waterfront.

In closing, as we emerge from the COVID-19 pandemic, the Building Congress believes that pursuing smart growth strategies that seek to foster equity and inclusion, while simultaneously addressed long-standing needs, are a recipe for success. They will provide both immediate and long-term benefits for residents and for our city and state economies. By working together, community stakeholders and local leaders have demonstrated that we achieve much when we listen intently, consider multiple viewpoints and position the long-term needs of a neighborhood as their guiding light. The

Gowanus Plan has done just that and will help create thousands of temporary and permanent jobs and inject hundreds of millions of dollars into the broader economy in the years ahead – a boost to the city precisely when it needs it most. While the private sector can be a strong catalyst for growth, the public sector must play a key role in getting New York back on the road to recovery – toward a better and healthier future. More than ever, the public and private sectors must come together and invest in the next generation of housing, infrastructure and public spaces. The Gowanus Plan and all its benefits provides us all with hope that best days of New York are ahead of us. As such, the Building Congress urges you to vote in support of its passage.

Thank you.

Charlie Samboy  
Director of Government Affairs  
New York Building Congress

**From:** [CSimmons](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony Gowanus Neighborhood Plan  
**Date:** Wednesday, October 13, 2021 4:21:44 PM

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Dear Councilmember Salamanca and Councilmember Moya,

First, I would like to mention how much I appreciate my council member's, Brad Lander, gracious acknowledgement of his Voice of Gowanus and Friends of Greater Gowanus constituents' enormous efforts to ensure that there was in person component to Brooklyn Community Board Six public ULURP hearing on the Gowanus Rezoning. It's unfortunate that it took a costly lawsuit to make this successful hybrid hearing a reality.

I am submitting this testimony in opposition to the Gowanus Rezoning. As a resident of Gowanus, I support Congresswoman Velázquez's and Assemblymember Simon's request that City Planning redo the FEIS and use current and accurate stormwater modeling numbers per the EPA's and other's submitted comments to City Planning. This need is heightened by the fact that the city is out of compliance with the construction of the retention tanks which are part of the Gowanus Canal superfund remedy. Furthermore, there has been no assurances from this administration (or the likely successor) or the city council that these tanks will be built in a timely manner.

For the past thirty years I have lived in a 50 plus unit building on President Street near Bond Street which is on the border of this rezoning and is across the street from the Gowanus Canal. During Sandy the canal breached its banks and water made its way across Bond Street and up some side streets including mine. I believe that properties on the west side of the canal were more drastically impacted. Subsequent to Hurricane Sandy, new FEMA flood maps were released and my building was included in the new flood zone. In order to find out what this would mean for myself and my neighbors, I attended a few FEMA meetings hosted by Congresswoman Velázquez and others. One thing at these meetings was clear and that was that people were were distraught. Many would not be able to afford flood insurance or comply with FEMA regulations. For example, raising attached frame houses on unstable Gowanus land, adding an additional floor, or relocating mechanicals is just not feasible. Some people with ground floor commercial spaces feared losing their businesses if they had to comply with FEMA regulations. The outcome was that the proposed maps were appealed by the de Blasio administration and did not take effect but that merely kicks the can down the road and new FEMA maps are imminent. The newer maps will probably be even more alarming and affect more properties. Additionally, to date there are public housing developments in Gowanus and Red Hook that continue to suffer the effects of Sandy.

For the city council to approve this rezoning without addressing the concerns raised by Congresswoman Velázquez, Assemblymember Simon, the USEPA, and countless other Gowanus residents and business owners by requesting that City Planning redo the FEIS using updated and accurate modeling numbers would be incredibly irresponsible. The city council should be asking City Planning why are they so hesitant. City Planning staff are urban planners just as Councilmember Lander is by training. They are not, as they themselves have mentioned in prior ULURP hearings, engineers or scientists. The EPA is comprised of scientists and engineers and the city council should defer to their expertise and perhaps that of other agencies such as FEMA and the Army Corps of Engineers and request that City Planning redo the FEIS prior to voting on the Gowanus Rezoning.

In order to get this massive rezoning in a polluted flood zone right, I would also ask the city council members to set aside developer driven deadlines such as the imminent change in administration and the expiration of the 421-a tax benefit program.

Thank you for your consideration,  
Cynthia Simmons, Gowanus Resident

**From:** [Carol Steuer](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Vote NO on Gowanus rezoning.  
**Date:** Tuesday, October 12, 2021 4:41:40 PM

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Vote **NO** on Gowanus rezoning.

I am a member of the Gowanus art community, and have worked full time in my studio on 9th Street for 3 years. The arts community is a vibrant contributor to life in Brooklyn and it would be tragic to lose it to mega-developments and sky-high rental properties.

Rezoning this area without examining the impact on the arts community is a mistake. I urge you to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus.

--  
Carol Steuer  
646-575-0634  
[WovenByCarol.etsy.com](http://WovenByCarol.etsy.com)

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**From:** [Colin Strohm](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] NO to Gowanus Rezoning  
**Date:** Tuesday, October 12, 2021 8:41:24 AM

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My name is Colin Strohm and I am a member of the Gowanus art community. I have been repeatedly displaced from studio space by development and rising rents since moving to South Brooklyn in 1997.

A rezoning plan for Gowanus MUST include an affordable studio program, or it will destroy the character of this neighborhood as we have seen vibrant, creative neighborhoods paved over time and time again across the city.

Colin  
718-791-2602  
[www.arttarrat.com](http://www.arttarrat.com)

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**From:** [Chris Weller](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] ULURP/City Council/Gowanus Rezoning Meeting  
**Date:** Tuesday, October 12, 2021 9:38:08 AM

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Good Morning,

My name is Chris Weller and I have been a member of the Gowanus art community for twenty years. Over that time I have been a part of, and have seen other, groups of artists leasing studio space and routinely having to move due to rezoning and rent increases.

I oppose the FEIS because of its problematic statement that, "Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business."

There are no studies supporting this claim. The Gowanus neighborhood is vibrant and desirable in no small part due to its increasingly rare arts community. In my experience, most artists hold two full time jobs, one of which is making art, their studio absolutely being their "regular place of business." Over the past 22 years I have watched and personally been a part of artists pioneering and transforming less desirable neighborhoods with unused brown space into the most desirable ones, only to be pushed out by rezoning and rent hikes.

Twenty years ago Williamsburg had already gone through such a transformation and was pushing its artists out. My studio group, originally Brooklyn Artist Gym and then Brooklyn Art Space, moved four times within the Gowanus neighborhood over the past 15 years and recently closed a space in Sunset Park due to high rent. This story is played out in every city but its gravity is felt deepest in New York which prides itself on being the centre of the art world.

This is a pivotal point for the artistic health of the city. The art community is a major part of why Gowanus is one of the only vibrant, diverse, grassroots arts communities left in New York. We don't need another SoHo or Chelsea with impossibly expensive boutiques and galleries. We need a zoning decision which supports small businesses including our working artists.

Please support creating the Community Benefits Agreement which Arts Gowanus, Brad Lander and several developers have been working on. You have a great opportunity to see first hand what is at stake by coming to Gowanus Open Studios this weekend where I and over 400 artists will be showing our work.

Gowanus and New York City have so much to gain by helping this community to thrive.

Best regards, Chris

Chris Weller

917-414-8765  
[nycdrawings.com](http://nycdrawings.com)

**From:** [Curtis Widem](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Rezoning feedback  
**Date:** Tuesday, October 12, 2021 8:01:57 AM

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Good Morning,

I'm writing to voice my concern about the Gowanus rezoning. I am an artist who has been working with Gowanus open studios for several years, and without it I will have lost an outlet from my work and my community. I'll be unable to be at the meeting in person, but my opinion is to vote "No" on the rezoning. Thank you.

Sincerely,

C. Widem

**From:** [Carmen Rodriguez](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony about Gowanus Neighborhood Plan  
**Date:** Thursday, October 14, 2021 10:15:35 PM

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I urge you to vote No on the Gowanus Neighborhood Plan. Ensuring health & safety is your first priority for the community.

The threats of flooding, threats, sewage overflow, & exposure to toxic substances cannot be ignored.

Please vote No on this plan.

Carmen Rodríguez



Brooklyn, NY11217

Sent from my iPhone

**From:** [carol.milano](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Wednesday, October 13, 2021 2:51:01 PM

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Hello,

I am an aware and concerned voter, a Brooklyn resident, and I strongly oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.**

I agree with Congresswoman Nydia Velázquez's and Assembly member Jo Anne Simon, who told Mayor De Blasio last month that they **find serious problems with the City's Gowanus Neighborhood Rezoning.**

They said that New York **"has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** Our City needs to recognize that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**They also said that "The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident. These out-of-date numbers definitely make this plan unsafe! It's data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and four times the size of Hudson Yards, this is a huge rezoning. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards. But the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**Don't prioritize Real Estate developers! New York City does way too much of that. Instead, we need Climate Justice! Please Vote NO on the Gowanus Rezoning. Or at least insist that the plan be improved significantly, for the benefit of residents.**

Thank you for your consideration.

Sincerely,  
Carol Milano  
Brooklyn 11215

**From:** [Wiley, Daniel](#)  
**To:** [Moya, Francisco](#); [Lander, Brad](#); [Land Use Testimony](#)  
**Cc:** [Kelley, Chelsea](#)  
**Subject:** [EXTERNAL] Testimony Congresswoman Nydia Velázquez Gowanus Neighborhood Rezoning City Council Hearing  
**Date:** Wednesday, October 13, 2021 6:50:09 PM  
**Attachments:** [image001.png](#)  
[Rep Velazquez Testimony on Gowanus Neighborhood Rezoning Plan to City Council LU Committee 10-12-21 .pdf](#)

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Chairman Moya, CM Brad Lander and LU Committee,

Kindly find attached Congresswoman Nydia Velazquez's written testimony on the Gowanus Neighborhood Plan.

(20210052 HAK; 20210053 PPK; 20210177 ZMK; 20210178 ZRK; 20210179 MMK; 20210180 MMK)

Thank you for all your hard work. I sat through the entire hearing too!

Dan

**Dan Wiley** | District Director for Southwest Brooklyn | **Congresswoman Nydia Velázquez**

SW Brooklyn District Office | 266 Broadway, Suite 201 | Brooklyn, NY  
T (718) 599 3658 | [daniel.wiley@mail.house.gov](mailto:daniel.wiley@mail.house.gov)



Coronavirus Updates:

<https://velazquez.house.gov/media-center/press-releases/information-coronavirus>

**Testimony Congresswoman Nydia M Velázquez**  
**Gowanus Neighborhood Rezoning City Council Hearing**  
**October 12, 2021**

As I have said in the past, New York City's infrastructure is not where it needs to be to withstand climate change. Tragically, we saw this again with Ida. In Congress, I'm fighting to pass the Build Back Better Act which will dedicate the resources needed to lead the charge on climate resilient infrastructure. Today, we are here to discuss the future of Gowanus, a neighborhood we all love and I'm proud to represent in Congress.

I support the goals of creating an integrated neighborhood with affordable housing, but it is vitally important that it is truly affordable, safe and that we do it right. I have concerns over the Gowanus Neighborhood Rezoning. The Environmental Impact Statement (EIS), as prepared by the City was fraught with inconsistencies and contradictions, and most importantly, it does not properly take into consideration the impacts of climate change on the Gowanus community and on the ongoing cleanup of the Gowanus Canal, which is an EPA Superfund site.

In a letter with Assemblywoman Jo Anne Simon, I asked the City to revisit their Draft Environmental Impact Statement for the Gowanus rezoning. We highlighted EPA's comments on the DEIS related to the Gowanus Canal Superfund cleanup, which EPA sent to Marisa Lago, Director NYC Department of City Planning on August 8. EPA has yet to see direct responses to its comments and questions, which are not adequately addressed in the FEIS. We must receive formal responses to concerns raised.

The EPA Superfund Record of Decision issued in 2013 requires that any future development under the City's purview not compromise the environmental cleanup remedy. It specifically states that redevelopment projects must prevent additional

sewer load. High-density residential development can put more pressure on old sewers risking overflow contamination of the cleanup and spillover effects. While the Unified Storm Water Rule is a good step for new development, we must also take sanitary flows – black water – into account. In order to ensure that the rezoning does not increase combined sewer overflows (CSOs) into the canal and surrounding area, the City must comprehensively study the sewer system, drainage and hydrology and implement tools to guarantee that new development does not add to the problems but is effective at solving them.

The City claims in its EIS that the rezoning would not increase CSO loading but decrease it. However, the EPA points out that the City relies on dated 2008 rainfall data, when more recent data is available, and neglects to incorporate its own climate change and sea level rise projections. This must be adequately addressed. If you undercount by 50%, your projections will not hold water. Rainfall data for storm frequency, intensity and duration are critical, and needs to drive infrastructure improvements.

Moreover, the City is out of compliance with many of EPA's latest orders on CSO controls, yet the City assumes in its EIS that those measures are a done deal. The City had in July responded to EPA that it cannot meet set deadlines for completing the tanks or come up monitoring and reporting requirements. We have yet to see a formal update to this position. The City DEP negotiating with EPA on its orders and "continuing future discussions" doesn't cut it. The City Council can require that this City agency complies with EPA orders as a starting point, as opposed to continuously moving the goal posts. The City Council should require that the City fully comply with EPA's Superfund orders as a condition of rezoning. These conditions should include the timing for constructing the CSO retention tanks and ensuring appropriate implementation of stormwater regulations, stormwater separation and treatment, monitoring, and reporting. Many groups including

Community Board 6 have also called for the creation of a Task Force – with a 15-year funded facilitator – to hold the City and all parties accountable for any commitments made through the rezoning process. No such commitment has yet been made.

Our City, which has already felt the consequences of climate change, cannot afford projects that fall short of protecting human health and the environment. The events of last month should make clear to everyone that the effects of climate change are not just projections but are here and becoming more frequent. The City needs to adequately account for the fact that much of Gowanus is a flood zone.

The City also needs to do more now to ensure responsible development. This is an issue of environmental justice, a sustainable future, and as Ida has proved, it could not be more important. I cannot support the rezoning as it currently stands without stronger commitments.

Thank you for your consideration on this matter.

**From:** [Derek Bupp](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Application NO. C 210177 ZMK  
**Date:** Monday, October 11, 2021 6:55:32 PM

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Dear Land Use Committee:

I own a small property within the proposed rezoning area and I have lived here (block 448 lot 10, he corner of President Street and 3rd Avenue) for almost 20 years. I am IN FAVOR of the rezoning. I have followed along since DCP proposed rezoning in 2007, though the superfund designation and more recent rezoning proposals . I participated in community meetings for several years. I have had conversations with my neighbors. The plan is not perfect and it never will be. But the plan is far better than allowing this neighborhood, my home , to continue being developed (or mostly undeveloped) according to zoning crafted in the 1960's. The world has changed and it's time to move this plan and this neighborhood forward. I believe the majority of people opposed to this plan do not even live in this community. I'm here to say I live in the area, I am not a developer and I support rezoning for a mix of uses that will lead to a more vibrant and attractive community to live and work in.

Thank you,  
Derek Bupp

**From:** [Daniel Cohen](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Please approve the Gowanus rezoning  
**Date:** Tuesday, October 12, 2021 6:29:48 PM

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Hi, I'm a resident of NYC and I'd like you to approve the Gowanus rezoning. We have a severe housing shortage, and it's completely unethical that the zoning code bans new high-density housing anywhere in NYC, much less in a wealthy, transit-rich neighborhood like Gowanus. The rezoning only modestly scales back the zoning code's existing ban on new housing, but even so, every little bit helps.

Thank you,

Daniel Cohen



New York,  
NY

**From:** [David Congdon](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Margaret Maugeness](#); [Marlene Donnelly and Ben](#)  
**Subject:** [EXTERNAL] Testimony Regarding the Gowanus Rezone Plan to the NY City Council Subcommittee on Zoning  
**Date:** Thursday, October 14, 2021 1:37:27 AM

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Hello, my name is David Congdon, and I have lived on Hoyt Street near Sackett in Brooklyn since 1976.

Here are a few of the many reasons that **you should vote NO on the Gowanus Rezoning** and require the NYC DCP to pause the ULURP certification:

• The CSO tanks that will not be built before the rezoning development starts

• The DCP DEIS is missing legally required input from EPA and FEMA.

• The DCP Gowanus Rezoning plan proposes housing for 20,000 people in a FEMA Flood Zone A.

• The current sewer system supporting the entire Gowanus Watershed Rezoning Plan is inadequate to the task of handle storm runoff of any size, let alone a Hurricane Ida.

• Placing public housing and elementary schools on poisoned land is irresponsible.

Any redevelopment should prioritize the need for open space in the Gowanus. In the DCP DEIS, there is only one acre of newly mapped parkland out of the entire 410-acre rezoned area, which is less than .3% of the Gowanus.

The DEIS also states that the plan “is comprised of goals and strategies to make Gowanus a cleaner, greener, and more inclusive neighborhood.” One acre of newly mapped parkland out of the entire 410-acre rezoned area is utterly inadequate. Return Public Place to the public. It was earmarked as public parkland in the 1970’s, and the City should take steps to restore that designation.

My message to DiBlasio and Lander is to tell the DCP to go back to the drawing board, finish their job, and issue a complete DEIS with the engagement of EPA and FEMA, so a full evaluation of the Gowanus Neighborhood Rezoning Plan can be considered.

Thank you.

David Congdon

[REDACTED]

Brooklyn, NY 11231

[REDACTED]

davidcongdon@att.net

**From:** [David Fleischmann](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus rezoning  
**Date:** Wednesday, October 13, 2021 2:55:27 PM

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I am writing in opposition to the proposed rezoning for Gowanus.

As everyone knows, New York City has a long-standing tradition of displacing people for the sake of development. Of displacing people who don't really count, in the sociopolitical scheme of things: minority New Yorkers, for the most part, but artists as well. And the Final Environmental Impact Statement for Gowanus follows in this tradition, blithely excluding artists from its tally of 'directly displaced employment' on the grounds that "the studio spaces are not their regular place of business."

This is transparently ridiculous. Perhaps the FEIS should also exclude from its count workers in Gowanus manufacturing sites if their companies' sales offices happen to be located elsewhere.

Ridiculous ... and intellectually dishonest ... but very convenient if the objective is to exclude from consideration a group (in this case, artists) that complicates the narrative of development.

Of course, artists have long been an endangered species in New York. Although they are universally acknowledged to be an important constituent in the diverse cultural mix of New York, and an important component of the city's economy, the relentless march of development has forced artists out of one marginal neighborhood after another. They persist, but this becomes impossible if their habitat is erased, as is proposed here. Unless there is a clear plan to mitigate this loss of habitat, the rezoning should be voted down.

**From:** [Diana Reyna](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony for Gowanus Community Plan on behalf of Old American Can Factory  
**Date:** Tuesday, October 12, 2021 9:52:45 AM  
**Attachments:** [OACF NEW YORK CITY COUNCIL SUBCOMMITTEE ON ZONING AND FRANCHISES 10-12-21.pdf](#)

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To Council Land Use Staff:

Please accept my testimony attached for today's hearing.

Thank you,  
Diana

**Diana Reyna**  
Founding Principal  
**Diana Reyna Strategic Consulting, LLC**  
Email: [diana@DianaReynaSC.com](mailto:diana@DianaReynaSC.com)  
Tel.: 917-626-0811

NEW YORK CITY COUNCIL SUBCOMMITTEE ON ZONING AND FRANCHISES

HEARING ON GOWANUS NEIGHBORHOOD PLAN

October 12, 2021

**ORAL TESTIMONY BY DIANA REYNA ON BEHALF OF THE OLD AMERICAN CAN FACTORY**

Hello, my name is Diana Reyna. I served in government for over two decades as former NYC Councilmember and Deputy Brooklyn Borough President. Today, I am working as an advisor to support the development team of The Old American Can Factory.

The Old American Can Factory is a vibrant community of curated businesses in the creative sector of interdisciplinary talents. For over 30 years, the Can Factory has been providing and retaining mixed-use, cross-subsidized studio spaces preserving 300 local jobs in the Gowanus community.

In previous years leading up to the Gowanus Rezoning, the Can Factory had actively participated in the Bridging Gowanus community process as a “potential development site” for its future expansion. After numerous conversations with the Department of City Planning and several iterations of planning designs, the Can Factory is now limited to grow, financially constrained and landmarked. These challenges can only be addressed by the city council.

As noted in the recommendation response from the Office of the Brooklyn Borough President, “DCP’s proposal for the Can Factory zoning lot merely incentivizes development without any protections for existing tenants. Permitted development would allow significantly less space for Gowanus Mix uses than exists today. The sole public benefit would be future affordable housing development pursuant to MIH. Such an outcome would have long-lasting negative impact on the arts and culture ecosystem in Gowanus. Borough President Adams urges modification of the proposed zoning to permit the Can Factory’s expansion and to maintain its unique tenant mix. The new mixed-use development would accommodate residential use under a set of prescribed conditions, with a legal mechanism to ensure preservation of current uses.”

With modification actions by the City Council, The Can Factory would like to maintain existing sky exposure regulations on their zoning lot, so that building height would be determined by suitable minimum floor plates. Combining the C8-2 exposure plane with a maximum height of 285 feet would reasonably accommodate the DCP proposed bulk. Furthermore, the as-of-right expansion of creative industry workspaces at the Can Factory will produce a minimum of 60,000 square feet of Gowanus Mix Uses in perpetuity, additional affordable housing through the MIH regulations and a financially workable landmarked building. Currently, none of this is possible as proposed by DCP.

Thank you to the committee for your time and attention to this urgent matter.

**From:** [David Seiter](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Zoning - Support  
**Date:** Tuesday, October 12, 2021 10:59:10 AM

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Hello –

I signed up to testify this morning on the Gowanus Rezoning but it looks like I will have to sign on to another meeting.

My name is David Seiter, resident of Carroll Gardens, and owner / design director of Future Green –a landscape design and urban ecology firm based in Red Hook, Brooklyn. I founded Future Green in 2008 on 3<sup>rd</sup> Street in Gowanus and my firm has been involved in notable green infrastructure projects in the neighborhood like a 7000 SF green roof on 360 Smith Street and the Carroll Street MTA Plaza. Currently we're designing the rooftop landscapes for 545 Sackett in collaboration with Handel Architects.

I want to voice my support for the Gowanus Rezoning proposal. I believe that *if done right*, responsible development can lead to a more sustainable and just neighborhood. I support development that brings equity to neighborhoods and addresses longstanding environmental issues. I would like to see the city make commitments on a few key issues.

Parks and public space – The city must ensure there is no adverse impact to public space. We need to see an investment in new public spaces that overlay human needs with ecological performance but equally important, we need a significant commitment to care and maintain our parks and public spaces.

Stormwater Infrastructure – The city must ensure the Unified Stormwater Plan is put into effect prior to the sewer connection enabled by the rezoning. In addition, there must be a commitment to ongoing monitoring of this plan on annual basis.

Extreme Weather Survey – The city should include Gowanus in the Governor's cloud burst study to survey the adverse impacts of extreme weather on neighborhoods. It's important to prioritize Gowanus as an area in need of further resiliency study.

Thank you,

**DAVID SEITER**  
Principal + Design Director

**Future Green Studio**  
Landscape Design + Urban Ecology  
18 Bay Street

Brooklyn, NY 11231  
718 855 8995

[www.futuregreenstudio.com](http://www.futuregreenstudio.com)

[Instagram](#)

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**From:** [Dan Miller](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Support the Gowanus rezoning  
**Date:** Tuesday, October 12, 2021 10:40:40 PM

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I'd like to add my voice to the chorus of people calling on you to support the Gowanus rezoning. The benefits for the city are plain--more desperately needed housing, including both subsidized and market rate units. The city is in the midst of a housing shortage, as leaders including Eric Adams have acknowledged, and neighborhoods like Gowanus are a great place to build. Thank you.

Dan Miller  
Open New York

**From:** [David Lloyd](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] [WARNING: ATTACHMENT(S) MAY CONTAIN MALWARE]Testimony on Gowanus Neighborhood Plan  
**Date:** Friday, October 15, 2021 8:04:45 AM  
**Attachments:** [David Lloyd - Written Testimony to NYC Council Subcommittee 10-14-21.docx](#)

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Attached is my written testimony in support of the Gowanus Neighborhood Plan.

Best regards,

David Lloyd

[REDACTED]

Brooklyn, NY 11217

[REDACTED]

October 14, 2021

The Honorable Francisco Moya  
Chair, Subcommittee on Zoning and Franchises  
Committee on Land Use  
New York City Council  
250 Broadway  
New York, NY 10007

Dear Chair Moya and Members of the Subcommittee on Zoning and Franchises,

I write in support of the Gowanus Neighborhood Plan and urge the Subcommittee and to approve it without further delay.

Blocking Neighborhood Plan would be a self-inflicted blow, denying 3,000 New York families from accessing affordable units in the area, which Gowanus desperately needs. With a disproportionately white and high median income (\$90,000) population, Gowanus is exactly the type of community that should be expected to contribute its fair share of housing. The mixed-income housing in the proposal would further integration and advance fair housing and opportunity in the area. With good schools and underutilized transit, the failure to expand housing in this area is unjustifiable.

Indeed, Neighborhood Plan is also critical to preventing displacement of low- and middle-income Gowanus residents. Without the 8,000 housing units (3,000 of which would be affordable), displacement pressures will continue to grow. Under the status quo of a constrained housing supply with rising demand, Gowanus housing prices and rents will continue to increase quickly, forcing out current residents and increasing displacement into other less-affluent communities like Crown Heights. Building more homes is essential to interrupting these cycles of displacement.

The Neighborhood Plan is also important to living up to New York's progressive values. Affordable housing is key to maintaining New York City as a diverse, vibrant place where people from all over the world can live and pursue their dreams. Those who oppose building additional housing seek to close off New York City to others, forcing an increasing number of non-affluent residents – disproportionately Black, Latino/a, and other people of color – to leave and preventing newcomers from ever arriving. Without new housing, what is left are sterile enclaves of affluent residents who have used their wealth to claim the limited housing stock for themselves.

New York City's failure to build enough housing is driving higher poverty and homelessness. Due in large part to New York City, New York State is one of only a few states where the U.S. Census Bureau's Supplemental Poverty Measure, which takes into account the effect of cost of living and government assistance programs, is higher than the official poverty measure ([13.3%](#)

[vs. 11.8%](#)). The high cost of living in New York City, with housing costs being the most significant household expense, is a primary driver of this trend. **The high cost of living in New York City – driven by high housing costs associated with inadequate supply – is literally forcing people into poverty.** As a result, homelessness continues to increase, with a nearly 25 percent increase in New Yorkers sleeping each night in shelters compared to 10 years ago, according to the Coalition for the Homeless, which [rightly blames](#) “the lack of affordable housing” as a “primary cause of homelessness.” The number of single adults who are homeless has increased doubled in the past 10 years. Perhaps ironically, this is the same length of time this proposal has been debated.

The city should also fully fund the urgently needed repairs to Wyckoff Gardens and the Gowanus Houses. That the city has not done so is shameful. Yet, it will be little solace if the city fails to fund these basic infrastructure repairs and, as a result, rejects the Neighborhood Plan. If that occurs, NYCHA residents will continue to be subjected to intolerable conditions, and 3,000 families will be denied affordable housing nearby. Such an outcome would be worst of all.

Therefore, I urge the Subcommittee to approve the Gowanus rezoning to help ensure a vibrant, diverse, mixed-income neighborhood. The alternative is more of the same: Housing shortages resulting in ever-higher prices that lead to continuing cycles of displacement.

Sincerely,

David Lloyd



Brooklyn, NY 11217

**From:** [Summers, Dave](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Vote NO on Gowanus rezoning  
**Date:** Thursday, October 14, 2021 2:57:13 PM

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I urge you and all subcommittee members to vote **NO** on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make the current plan is ill-conceived.

The area doesn't have the infrastructure to support the huge increase in residents this rezoning would bring. Real estate developers are exercising disproportionate influence over this process, and should largely bear the cost of needed schools, transportation, parking and sanitation infrastructure to meet the needs of any population increase that they seek to profit from.

Public place should not be given to developers, it should remain as what it was intended when given to the city, a public place. Low income housing should not be built on the most notoriously toxic site in the zone, the optics look terrible. The height and size of the proposed buildings are also severely out of context with the surrounding area and would create a bizarre landscape. Artists and light manufacturing jobs would also be displaced from the area.

Please **VOTE NO** to the Gowanus rezoning.

Thanks,

David Summers

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**From:** [Christopher W. London](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Testimony  
**Date:** Tuesday, October 12, 2021 6:10:14 AM

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Honorable Members of the City Council,  
I oppose the Gowanus Rezoning.

Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, told Mayor De Blasio on September 8 that they *"find serious problems with the City's Gowanus Neighborhood Rezoning."* I agree and urge you to vote no on this rezoning.

The proposal before you is a terrible plan that exposes the homes, families, and neighbors of this community to untold risk from the environmental impacts of climate change.

Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment. The City needs to seriously consider the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this plan represents a huge rezoning. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but this rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**Our city and its residents need and DESERVE Climate Justice, not more giveaways for Big Real Estate. Please go back to the drawing board and in the interim Vote NO on the Gowanus Rezoning!**

Thank you,

Dr. Christopher W. London - architectural & art historian

**From:** [ELIZABETH FRENCHMAN](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Zoning for artists and small businesses  
**Date:** Tuesday, October 12, 2021 9:21:21 AM

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As small design business owner, I rent studio space in Gowanus, Brooklyn, on President Street. I have no windows but I have 200 sq ft to use to produce my apparel line of nightgowns. This space allows me to run this business which otherwise would not exist.

The great attributes of Gowanus— access to transportation, supplies and most of all reasonably priced space, should be celebrated rather than squashed by yet another takeover by those seeking the maximum return for the smallest investment and I don't mean only money.

Please factor in the artists and small businesses and our needs when you redraw the zoning in Gowanus.

Thank you,  
Elizabeth Frenchman  
Fichu Bedwear  
917-848-8056

--

Elizabeth Frenchman  
FICHU bedwear  
NYC

**From:** [eipaint2@aol.com](mailto:eipaint2@aol.com)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus flood!  
**Date:** Tuesday, October 12, 2021 4:48:10 PM

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My name is Eileen Freyer and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez’s and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **“find serious problems with the City’s Gowanus Neighborhood Rezoning.”** **“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.”** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

**I’m very concerned about this. Eileen Freyer**

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**From:** [Ella Yang](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Needs to work for Artists and Artisans  
**Date:** Tuesday, October 12, 2021 12:41:17 PM

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My name is Ella Yang, and I have been a part of the Gowanus art community since 2001, when 20 years ago I rented my first studio on Douglass Street near 3rd Avenue. Since then, I have established myself as a sole proprietor in Kings County, obtained a NY Sales and Tax Reuse Certificate, have been making and selling art, and annually submitting an IRS Schedule C - thanks to my being able to have a low-cost space which I can afford. I have also seen commercial rent prices rising, largely due to the growth in office spaces and hotels. Consequently, I have moved twice, most recently this past May, luckily still in Gowanus. While I do a reasonably good job of selling artwork, I am by no measure becoming rich from it. In fact, as space has become more expensive per square foot, and it is my largest expense, I make less profit, as it is difficult for me to raise my prices or sell significantly more annually. Because I work in oil paints, I need a space separate from my home to make art, not to mention a larger amount of space than I have at home: for creation, storage, display and professionally hosting art consultants, curators and potential buyers.

Therefore, I have been paying close attention to the rezoning efforts, and have found the FEIS (final environmental impact study) highly problematic. The FEIS states:

**"Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business".**

Is this based on real data? I, for one, certainly was not asked about this in the context of an official study.

Gowanus is considered desirable because of the creative energy of the artists

and artisans who work in the neighborhood. Periodic events, such as public art shows, pop-up gallery exhibits, even art displayed in local business windows, undeniably are attractive cultural assets for the Borough and the City. The biggest and most well-known event is the upcoming annual Gowanus Open Studios organized by Arts Gowanus (our local artist community nonprofit). You can see for yourself this coming weekend - over 300 artists will open their studio doors to the public, attracting thousands of visitors to the neighborhood and will bring important revenues to local businesses, including mine.

It is critical to fully study the impact rezoning will have on the artist community as there is a huge risk that it will be destroyed, just as it has been on far too many occasions in NYC history (Greenwich Village, Tribeca, SoHo, Williamsburg, DuMBO, etc).

Since no such study has been done, Arts Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement (CBA), which promises to provide 200+ subsidized artist work studios if the rezoning is approved. This would ensure that a significant number of artists can continue to work and add value in Gowanus.

If this CBA is **NOT** signed by the time you vote, I strongly urge you to vote **NO** on the rezoning. Moving forward with the rezoning without this agreement in place will effectively kill the creative community in Gowanus, and just add it to the long list of decimated artist neighborhoods in New York City. Let's make history by doing something different!

Thank you for your consideration,  
Ella Yang

543 Union St, Suite 1-C, Gowanus

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Ella Yang Studio | Brooklyn, NY

[www.EllaYangStudio.com](http://www.EllaYangStudio.com)

**From:** [Emily Greenspan](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning testimony  
**Date:** Thursday, October 14, 2021 7:34:23 PM

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My name is Emily Greenspan and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. I strongly urge you to Vote NO on the Gowanus Rezoning!**

**Emily Greenspan, M.D.**  
**Brooklyn, N.Y.**

**From:** [Emma Zea Clippinger](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Vote NO on Gowanus rezoning  
**Date:** Thursday, October 14, 2021 9:45:50 PM

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I urge you to vote NO on the Gowanus rezoning. This is getting ridiculous – we have been through the Downtown Bk, Barclays/Atlantic Yards, and, most recently, 80 Flatbush rezoning/variances. All appeals to affordable housing are a complete joke at this point and calling the opposition NIMBYism is just bad faith, fueled by developers. The environmental impact statements are also a joke. We are now living in the world that all of this ad hoc, developer-driven, unaccountable rezoning has created. And it is a sterile, mall-like, corporate developer's idea of a rich millennial playground. But not even a fun playground. I am a public interest attorney and I can only afford to live here because my landlord bought his house 30+ years ago and is not interested in commodifying his home. All of these new buildings are only affordable for those who make well over \$100k/year and good luck if you want to be able to afford enough space to start a family!. Trickle down housing/increasing supply doesn't work (show me the studies); luxury housing is luxury housing.

What's worse is if (and if, because so far none of the rezoning and development has fulfilled any kind of promises affordable -- or, better yet, low income(!) -- housing) any kind of below-market housing gets built, it will be on a Superfund site! This is environmental justice 101 and I don't know how the City can honestly be considering this. If you go ahead with this, it will be a chapter in an environmental justice textbook, but the human cost (long-term health effects) will be real. Climate change is real. The flooding is real. Sandy was only a few short years ago and we saw the catastrophic flooding and damage with our own eyes -- not to mention the more recent flooding with Ida. The global approach is denialism fueled by short-term thinking and capitalist greed. NYC is no exception, but it is not too late to turn the tide. The developers don't need this one; they are just fine. We don't need more ugly, inefficient buildings (I have been shocked to see all of these buildings in Downtown BK post efficiency ratings of C!! At least build climate-smart buildings!). Stop relying on developer money to improve the city--it's the tail wagging the dog. What we need is public money invested in climate resiliency, in low-income and family housing (but not on top of toxic sludge--stop doing that to people of color and people with limited resources), and more green spaces (Ft. Greene Park has been destroyed by the influx of people downtown).

Many of the incoming Council members (or those who made it far) won/were popular because they said NO to developer interests and yes to real, community interests. Please **honor the wishes of the electorate** and VOTE NO.

Thank you very much,  
Emma Clippinger (10-year Boerum Hill renter/District 33)

--

emma zea clippinger . [REDACTED] . [emma.clippinger@gmail.com](mailto:emma.clippinger@gmail.com)

**From:** [fran benitez](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Vote NO on the Gowanus Rezoning  
**Date:** Friday, October 15, 2021 11:32:30 AM

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Dear members of the City Council Subcommittee on Zoning,

I urge you to listen to our neighbors from the Gowanus area and vote no on this rezoning. This is not a community-based plan. This plan prioritizes developer profits, not affordable housing, racial justice, or cleanup. It is your duty to act in the interests of the greater community, not those who stand to profit from this plan. The rezoning has not addressed the major issues of toxic land and coal tar plumes.

Be the voice of the people who live and die for their city, as you promised to be, and do not solidify your legacy as a crony of the already-super-rich. I urge you to listen to the most vulnerable people in this city who beg you to use your power to protect them. If you vote yes on this rezoning, your message to the people is clear: there is no deeper purpose of your office than to personally profit and enrich those who already have access to power.

You know what to do. Please vote NO on the Gowanus rezoning.

Thank you

Francisca Benitez

[REDACTED]

New York, NY 10002 US

[REDACTED]

[francisca.benitez@gmail.com](mailto:francisca.benitez@gmail.com)

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**From:** [guy\\_desimini](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony  
**Date:** Monday, October 11, 2021 5:42:11 PM

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My name is G it Desimini and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Sent from my iPhone

**From:** [Glenn Kelly](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus zoning  
**Date:** Thursday, October 14, 2021 6:11:22 PM  
**Attachments:** [101221 Gowanus Testimony .pdf](#)

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My name is Glenn Kelly and I live in Carroll Gardens Brooklyn three blocks from the Gowanus Canal. I have followed and participated in the planning for this rezoning for nearly 30 years and while I generally support a rezoning of Gowanus, there is too much wrong with this plan for it to move forward.

- Both Congresswoman Velasquez and Assemblywoman Simon called for the EIS of this plan to meet legal requirements
- The EPA has spoken against this plan due to the use of faulty data and an insufficient cleanup
- Community Board 2 rejected it completely
- My Community Board 6 approved it with 14 pages of conditions but I voted against it for the following reasons:

1. Recent storms and flooding show us that we will not avoid climate change and sea level rise. It is foolish for us to rezone for resiliency to reduce risk to people and property and then increase the amount of people and property we put at risk. We should build housing outside of flood zones or it will certainly not be permanent.

2. The contaminated sites along the canal are not safe for housing or schools and I am not convinced that they will be cleaned sufficiently to allow such uses. The public place site is one of the most toxic spots in New York State. It would be cruel to require families to risk their health for their housing subsidy.

3. Residents of our subsidized housing should be means tested every year so that unneeded subsidies can be recaptured. We do this with the affordable care act and other programs so it would be easy. Without this, we will again see affordable housing slip through our fingers.

4. The subsidies are enormous and the worst is the Opportunity Zone which is supposed to benefit low income communities. We will receive no benefit from this unnecessary incentive. It is just a giveaway to wealthy investors.

We are never going to solve our housing shortage if we keep making these mistakes. I hope that you will see the common sense in my statement.

Glenn Kelly



Brooklyn, NY 11231  
(646) 483-1555

My name is Glenn Kelly and I live in Carroll Gardens Brooklyn three blocks from the Gowanus Canal. I have followed and participated in the planning for this rezoning for nearly 30 years and while I generally support a rezoning of Gowanus, there is too much wrong with this plan for it to move forward.

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4. The subsidies are enormous and the worst is the Opportunity Zone which is supposed to benefit low income communities. We will receive no benefit from this unnecessary incentive. It is just a giveaway to wealthy investors.

We are never going to solve our housing shortage if we keep making these mistakes. I hope that you will see the common sense in my statement.

Glenn Kelly

  
Brooklyn, NY 11231  
(646) 483-1555

**From:** [Andrea Parker](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Ehrman, Julia](#); [Solotaire, Ben](#); [Diana Gruberg](#); [Amy Motzny](#); [Jordan Heiden](#)  
**Subject:** [EXTERNAL] GCC Comments to City Council on Gowanus Rezoning and CSO Facility  
**Date:** Friday, October 15, 2021 5:34:19 PM  
**Attachments:** [211015 GCC City Council Comments.pdf](#)  
[211008 GCC Memo City Commitments needed to ensure Net Zero CSO Rezoning.pdf](#)  
[210810 GCC Comments to CPC Gowanus Rezoning and DEIS.pdf](#)  
[210917 GCC Comments to CPC Gowanus Canal CSO Facility.pdf](#)

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Please find attached Gowanus Canal Conservancy's comments to the City Council regarding Gowanus Neighborhood Rezoning and Related Actions and Gowanus Canal CSO Facility - Owls Head. We are additionally attaching relevant background documents.

Thanks,  
Andrea

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**Andrea Parker**  
Executive Director  
Gowanus Canal Conservancy

The Old American Can Factory  
248 3rd Street | Brooklyn, NY 11215  
office: 718.541.4378 ext 7002 | cell: 510.421.3720

Keep up with GCC!  
[Facebook](#) | [Twitter](#) | [Instagram](#)  
[gowanuscanalconservancy.org](http://gowanuscanalconservancy.org)

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**AUGUST 9, 2021**

**TO:** City Planning Commission

**RE:** Gowanus Neighborhood Rezoning and Related Actions & Draft Environmental Impact Statement  
CEQR #19DCP157K

On behalf of Gowanus Canal Conservancy (GCC), please accept these comments regarding the *Gowanus Neighborhood Rezoning and Related Actions & Draft Environmental Impact Statement CEQR No. 19DCP157K (DEIS)*.

Gowanus Canal Conservancy is the lead community-based environmental steward for the neighborhood and are spearheading the Gowanus Lowlands community-based planning process for the public realm, which builds upon existing remediation and planning processes to identify actionable steps towards a vibrant, accessible, and resilient network of parks and public spaces centered on the Gowanus Canal.

We are a proud member of Gowanus Neighborhood Coalition for Justice (GNCJ), a diverse coalition of residents and community organizations that advocates for a just, inclusive, and resilient Gowanus neighborhood and planning process. We stand with our GNCJ partners to demand that the City invest in the full capital needs of Gowanus Houses and Wyckoff Gardens, ensure Net Zero CSO, and establish a community-based Task Force to hold the City and developers accountable for all commitments made through the Gowanus Rezoning. We additionally work closely with and support numerous other organizations, stakeholders, businesses, and residents in the Gowanus neighborhood, who have informed the comments below. We firmly believe that robust, comprehensive planning for the future of the neighborhood is contingent on engagement of the people who know it best.

We believe that, ***if done right***, a district-wide Gowanus rezoning offers an opportunity to make progress towards a more just and sustainable neighborhood. The proposed Waterfront Access Plan and mitigation of CSO through the new Stormwater Rule are good starting points to address "green and blue" concerns, but we withhold our support until we see clear investments and commitments in public spaces and infrastructure that can 1) address longstanding environmental injustices and 2) support a growing population.

Parks and Public Space - The City must ensure that there is no adverse impact to the open space ratio, by creating and supporting more open space in the immediate neighborhood, investing in existing open spaces, restoring damages to natural resources, and supporting active, engaging use of public spaces.

Water and Sewer Infrastructure - The City must ensure that the Unified Stormwater Rule is in effect prior to the first site sewer connection enabled by the Gowanus Rezoning, provide transparent reporting on implementation of the Unified Stormwater Rule, complete a comprehensive hydrological study that fully examines the capacity of the local sewer system in relation to coastal and inland flooding in order to identify critical areas of concern for targeted infrastructure improvements and upgrades, and commit capital funds for needed infrastructure.

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# **1: PROJECT DESCRIPTION**

## **ANALYSIS**

### ***Concerns about Reasonable Worst-Case Development Scenario***

We continue to be concerned that the *Gowanus Neighborhood Rezoning and Related Actions & Draft Environmental Impact Statement CEQR No.19DCP157K (DEIS)* does not accurately portray the amount of density that could result from the proposed rezoning, as detailed in our comments on the *Draft Scope of Work (DSOW)*.<sup>1</sup> These comments pointed out map and data discrepancies, 91 sites identified as Potential Development Sites that should be considered Projected, and 96 parcels that were excluded as Projected/Potential Development Sites that should be further examined as study sites. An analysis that re-examines the selection of Projected Development sites to include both likely-to-develop Potential Sites and likely-to-develop sites excluded from the *DSOW* projection would more accurately represent a future Reasonable Worst Case Development Scenario (RWCDs). The *Final Scope of Work (FSOW)* incorporated 3 additional sites as Projected, but did not address the other sites of concern. If the additional sites had been addressed, the predicted increase in population would be closer to 15,680 residential dwelling units and 32,773 residents. The current RWCDs does not account for these potential additional 13,000 residents, amounting to a substantial underestimation of all tasks assessing environmental impacts of the rezoning.

In their response to comments on the *DSOW*, the City states that “*the approach used to develop the RWCDs is consistent with criteria outlined in the CEQR Technical Manual*”.<sup>2</sup> However, the Department of City Planning (DCP) has a track record of underestimating residential development in an adjacent neighborhood when using the same criteria.<sup>3</sup> If the City fails to update their criteria with lessons learned, many of them specific to conditions in this neighborhood, it can be expected that the resulting *Final Environmental Impact Statement (FEIS)* will not accurately portray the impacts, even if it does comply with CEQR.

### ***Additional mitigation is needed for unexpected residential population in adjacent neighborhoods***

In Downtown Brooklyn, the City severely underestimated residential population growth as a result of the 2004 rezoning<sup>4</sup> and did not invest in sufficient community infrastructure, including open space, school seats, libraries, and community facilities. This neighborhood shares numerous critical infrastructures with Gowanus, in particular the RH-034 CSO-shed, the Borough Hall Energy Service District, District 15 school seats, and the F, G and R train lines. In numerous parts of the *DEIS*, the City claims that the Gowanus rezoning won't have an adverse impact on infrastructure, but ignores the adverse impact that was already created by the Downtown Brooklyn Rezoning. The City's objectives for the Proposed Actions include: “*Support[ing] a successful Neighborhood Plan by institutionalizing a comprehensive planning framework that is inclusive of relevant capital infrastructure needs and services to support current demand and future growth.*”<sup>5</sup> In line with this objective, the City must take responsibility for their previous actions, and use this opportunity to fully mitigate the impacts of both the Gowanus rezoning and the Downtown Brooklyn rezoning.

### ***Previous city commitments to open space, infrastructure, and community amenities should not count as mitigation under the EIS***

The *FSOW* and *DEIS* continue to discuss existing City commitments, such as renovating the Gowanus Community Center, as an element of the Gowanus Neighborhood Plan.<sup>6</sup> The projects below must be acknowledged as funding that

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<sup>1</sup> Gowanus Canal Conservancy, [Comments on Gowanus Neighborhood Rezoning and Related Actions Draft Scope of Work CEQR No.19DCP157K](#), 2019, p.3

<sup>2</sup> *FSOW*, Appendix 1, p.90

<sup>3</sup> Municipal Arts Society, [A Tale of Two Rezoning: Taking a Harder Look at CEQR](#), 2018

<sup>4</sup> Municipal Arts Society, [A Tale of Two Rezoning: Taking a Harder Look at CEQR](#), 2018

<sup>5</sup> *DEIS*, 2-49

<sup>6</sup> *FSOW*, Appendix 1-30

has already been committed to neighborhood infrastructure, but not spent. These commitments should be followed through on, and should not be counted towards City funding associated with the rezoning:

- District 39 Participatory Budget funding for 9th, 3rd and Union Street Green Corridors (2013: \$170,000, 2015: \$150,000)
- District 33 Participatory Budget funding for Gowanus Houses Community Center (2014: \$475,000)
- DEP has committed to installing green infrastructure assets that will manage 12 percent of the impervious surfaces or a 41 MG reduction in annual overflow volume<sup>7</sup> within the Gowanus Canal combined sewer service area by 2030<sup>8</sup>. To date, DEP has reached the 70% target for this goal<sup>9</sup> and additional ROW green infrastructure practices and public property retrofits are owed to the watershed through the Green Infrastructure Program.

### ***Need for a Zoning Commitment Task Force***

Pursuant to Local Law 175 (2016), the City is responsible for publishing a list of capital and programmatic commitments associated with neighborhood-scale rezonings, and an annual progress report detailing the status of each initiative, which it does through the NYC Rezoning Commitment Tracker. However, this important resource currently operates as a one-way conduit, and does not support the community in understanding or giving feedback on the ongoing status of commitments. Given the scale and complexity of this proposed action, the overlaps with Superfund and other neighborhood remediation activities, and the documented concern that the City is underestimating residential development, the City must recognize and fund a Zoning Commitment Task Force to ensure that commitments identified in the proposed Gowanus Rezoning, EIS, and Neighborhood Plan are met by the City and private developers.

The proposed Gowanus Zoning Commitment Task Force will act as a resource for the community that not only provides up to date information, but also serves as a place and process to register issues, and a governance structure that encourages proactive public-private partnership and accountability around implementation. With representation from local organizations, residents, and stakeholders, the Task Force will empower the community to hold the City and development entities accountable for the Gowanus Neighborhood Plan throughout its execution. The Task Force will collect and organize reporting from responsible agencies on their rezoning commitments, and disseminate the information in a transparent and accessible manner. The Task Force will facilitate productive and respectful engagement between government agencies, development entities, and a range of diverse stakeholders in the community, with the aim of raising up voices of those most impacted.

As noted above in the case of the Downtown Brooklyn Rezoning, the City's CEQR process frequently underestimates the scale of developments, leaving decision makers with incomplete information and neighborhoods unequipped to successfully absorb impacts. We believe that, ***if done right***, a district-wide Gowanus rezoning offers an opportunity to make progress towards a more just and sustainable neighborhood, but this must include a reliable representation of expected development and a realistic evaluation of impact and mitigation strategies. The process in Gowanus has informed city-wide conversations around revision of the *CEQR Technical Manual* and development of Comprehensive Planning methods in order to achieve more proactive, coordinated and equitable planning, but the Gowanus Neighborhood Plan is being implemented under existing CEQR guidelines. In order to ensure that this process is done right, , the City must address potential miscalculation along the way through incremental impact tracking, periodic reporting of FEIS assumptions to the Zoning Commitment Task Force, and following through on it's stated commitment to invest in capital infrastructure needs and services to support long term future growth.

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<sup>7</sup> NYC Dept of Environmental Protection, [Combined Sewer Overflow Long Term Control Plan for Gowanus Canal, 2015](#)

<sup>8</sup> NYC Dept of Environmental Protection, [Combined Sewer Overflow Long Term Control Plan for Gowanus Canal, 2015](#)

<sup>9</sup> NYC Dept of Environmental Protection, [NYC Green Infrastructure Annual Report, 2020](#)

## **2: LAND USE, ZONING, AND PUBLIC POLICY**

### **WATERFRONT ZONING**

Under existing zoning, most new development on the NYC waterfront is required to build and maintain public space along the water. Development of waterfront parcels in the Gowanus rezoning area will result in an estimated 4 acres of new public waterfront parks governed by the proposed Gowanus Waterfront Access Plan (WAP).<sup>10</sup> With the right language in place, the WAP can be a powerful tool to promote successful public spaces, in combination with critical other tools: the Gowanus Lowlands Master Plan, a community oversight mechanism for waterfront esplanades, and a Parks Improvement District to support maintenance and programming.

The WAP makes strides in reaching community goals through new rules allowing for diverse elevations, wetlands, more appropriate lighting levels, and incentives for amenities. However, while the *DEIS* calls for 50% of the waterfront to be active program space, the WAP doesn't yet provide a definitive path to achieve the active and engaging spaces the community has asked for, including boat docks, playgrounds, performance space, and BBQs - instead of passive waterfronts. Areas of the WAP, outlined below, should be modified to create more accessible, ecological, diverse, and active esplanades along the water.

***The WAP should create a continuous waterfront park, in character with the existing neighborhood, that is accessible, inclusive, and welcoming to the public***

### **STREET ENDS**

- 139-51 (2) - The seating requirement for street ends should be removed to allow for flexibility and the creation of green infrastructure installations, boat launches, and larger program areas like playgrounds or splash pads.
- In DEP's forthcoming Unified Stormwater Rule, the City should allow areas that are being built and maintained by landowners under the WAP to count towards the lot area for the defined "covered development site," in order to encourage stormwater management at the street ends.

### **BRIDGES**

- The WAP should facilitate additional pedestrian bridge crossings where access is needed, including at the First Street Turning Basin, Degraw Street, and between Gowanus Green and the Salt Lot.
- 139-44 - "*#waterfront public access area# shall be designed to provide pedestrian connection to the #street# adjacent to the terminus of the bridge structure. The requirements of this Section may be waived where the New York City Department of Transportation determines that such a pedestrian connection to the #street# would result in a hazard to traffic safety.*" The term 'hazard to traffic safety' should be rephrased to 'hazard to pedestrian safety', to ensure that the requirement is only waived in the most necessary of situations.
- Similarly, in 139-51(b) DOT should be given very little leeway to waive the required connection of circulation paths to bridges, to ensure continuity and accessibility.

### **EXISTING AND INDUSTRIAL USES**

- In 139-45 *Waterfront Public Access Area Requirements*, the requirement for use group 18 (heavy manufacturing) to provide limited public access requirements (from 62-58) should include the same indemnification for liability and maintenance agreements that are in place under typical waterfront access requirements.

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<sup>10</sup> New York City Department of City Planning, [Special Gowanus Mixed Use District Text Amendment](#), 2021, p.11

## PAVING

- In *139-545 Special design standards for paving*, the text should allow ADA compliant<sup>11</sup> metal grating on required circulation paths. In addition, the text should allow gravel (including decomposed granite) over permeable surfaces other than within required circulation paths. In both cases, these materials will allow for flexibility for increased permeability and diversity of experience, as well as improved tree health and stormwater management in areas of structural soil or suspended paving.

## LIGHTING

Lighting requirements should consider the special context of Gowanus as a narrow 2-sided waterbody, be better in line with DOT requirements, support the community desire for dark skies, and account for advances in lighting technology such as the transition to LED fixtures. In *139-543 Special design standards for lighting*, the following changes should be included:

- Switch fixture from “Tear Drop (SENTRY LIGHTING SBCA3)” to “Shielded Teardrop (SENTRY LIGHTING SBCA3 + TOP SHIELD)” or Helm or Stad if LED lamps become available. This modification will decrease light pollution. This fixture is currently approved as a DOT fixture for mounting at 25-30 ft heights for roadway lighting only and the output must be decreased to avoid overlighting at pedestrian mounting. A reduced output for LED fixtures has been confirmed by the lighting manufacturer (Sentry) as an easily achievable modification.
- For LED fixtures, the output specifications must be lowered to avoid over-lighting at pedestrian mounting: (0.35 AMP, NOMINAL 2,500 LUMEN, NOMINAL 20WATT)
- Use Civil Twilight as the guide to activate electric lighting instead of sunrise.
- Include Vertical illuminance criteria within all walkable areas using the metric of Uniformity Ratio of 5:1 average to minimum illuminance.
- Require a minimum color rendering index of 80. Higher CRI values can enable better visibility without requiring increases in power.
- Include an average to maximum uniformity ratio for horizontal illuminance levels of 1:10 with waterfront public access areas.

## SIGNAGE

- *139-16* should be modified to replace the generic WAP logo with a more locally contextual image.

***The WAP should build and protect a resilient ecosystem that improves drainage and supports habitat***

## ELEVATION / RESILIENCY

- *139-51 (b) #Shore public walkways# (2)* should be modified to allow a greater percentage of required circulation path to be below six feet above the shoreline to promote design flexibility, more generous water access, and gradual slopes.

## BOAT AND WATER ACCESS

- *139-544* allows for tidal wetlands installed below mean high tide to count towards the waterfront yard calculation. This provision should be expanded to allow a boat launch or get down (access point that is not planted) that is situated below mean high tide to also count towards the waterfront yard calculation.

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<sup>11</sup> ADA 2010: Openings in floor or ground surfaces shall not allow passage of a sphere more than ½ inch (13 mm) diameter except as allowed in 407.4.3, 409.4.3, 410.4, 810.5.3 and 810.10. Elongated openings shall be placed so that the long dimension is perpendicular to the dominant direction of travel. Americans with Disabilities Act, [2010 ADA Standards for Accessible Design](#), 2010, p.105

- At a minimum, the City should commit to providing boat access or emergency egress from the water between each bridge along the Canal by providing city capital commitments for access at street ends and by designating required boat access locations for private properties in the WAP.

#### PLANTING

- 139-544 *Special design standards for planting* should be modified to allow tree planting areas with walkable surfaces over structural soil to count towards the planting requirement
- 139-544 should also allow plantings below boardwalks to count towards the planting requirement

***The WAP should promote thriving public spaces with arts, active recreation, water access, and community activities along the Canal***

#### DESIGN, CERTIFICATION AND MAINTENANCE

- The City should implement stronger measures to ensure new esplanades include at least 50% active program spaces, such as boat docks, playgrounds, and BBQs, not just the passive waterfronts that often result from waterfront zoning.
- The City must commit to adapt the waterfront certification process in order to give the community a voice in the design of the public spaces built on each property along the waterfront. This oversight should be nested in a community-based Gowanus Zoning Commitment Task Force.
- The current plan does not include any provision that requires, facilitates, or funds community-driven programming in privately-owned public spaces. The City must commit to working with local stakeholders on the creation of a Parks Improvement District that would levy a tax assessment on new development to support cohesive programming and maintenance of the public realm.

#### AMENITIES

- In 139-544, the allowable square feet planting reductions per feature (ie 22 sf for picnic table, 100 sf for public art pieces) should be modified to be proportional to the size of the feature
- In 139-544, BBQs, an amenity the community has repeatedly asked for, should be included to count towards a reduction in the planting requirement

#### **STREET TREE REQUIREMENTS**

As discussed further on page 21, Gowanus is sorely lacking in mature tree canopy and will be impacted by anticipated tree removals associated with the rezoning.

The proposed Gowanus text amendment includes a section on street tree planting that, for lots with more than 100 feet of frontage, requires tree pits closer than 25 feet to be planted as a single continuous street tree pit.<sup>12</sup> This is a welcome revision that will improve tree health with an expanded root zone and increase stormwater management.

In addition to the amendment already included, the City should require that all restitution and tree requirements be located in Gowanus through the creation of a Gowanus Tree Trust (see page 22 below for more details).

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<sup>12</sup> New York City Department of City Planning, [Special Gowanus Mixed Use District Text Amendment](#), 2021, p.39

## 5: OPEN SPACE

The Gowanus Neighborhood is lacking in open space - currently there are just 0.34 acres of open space per 1,000 residents, which is far below the recommended NYC guidelines of 2.5 acres of total open space per 1,000 residents cited in the *DEIS*. Beyond that low ratio, very little of the existing open space in the ¼ mile study area is actually in the low-lying area adjacent to the Canal.

The Gowanus rezoning will add critical open space resources to the local neighborhood, including 3.98 acres of public waterfront on privately owned land and 1.48 acres of newly mapped park at Public Place. However, with the increased population, this increased open space will still be far below the ideal ratio. Of particular concern is a reduction in the active public space ratio, which is critical to supporting a more residential neighborhood.

As discussed in comments on Chapter 1, the City should provide more mitigation for infrastructure, including open space, that was strained due to the underestimation of residential population growth in the 2004 Downtown Brooklyn rezoning. Though the City makes arguments in the *DEIS* for why they should not strive to reach their own recommendations for 2.5 acres of total open space per 1,000 residents, it is unacceptable for the already low ratios to decrease with the proposed actions, and any opportunity to increase this low ratio should be taken.

### ANALYSIS

#### **Discrepancies in DEIS data hide a decrease in open space ratio with the proposed actions**

The *DEIS* shows that the open space ratio will stay at 0.34 acres per 1,000 residents in the ½ mile study area, but our analysis below shows several discrepancies in assumptions about the overall acreage of active space in new open spaces, which will reduce the ratio to 0.31 per 1,000 residents in the ½ mile study area. The *DEIS* does acknowledge the adverse impact to active open space, showing a reduction from 0.21 to 0.18 active acres per 1,000 residents in the ½ mile study area, but additional calculation discrepancies hide the full extent of this reduction. These discrepancies must be addressed in the FEIS.

#### **Open Space introduced regardless of the proposed actions is overcounted**

The table and text below describe discrepancies found in the *DEIS* assumptions about open space to be introduced regardless of the proposed actions, and GCC proposed mitigation to address these discrepancies.

TABLE 5-1: Open Space Introduced Regardless of the Proposed Actions

		DEIS Analysis			GCC Analysis					
					Corrected Discrepancies			GCC Proposed Mitigation		
		Acreage			Acreage			Acreage		
Study Area	Name	Total	Passive	Active	Total	Passive	Active	Total	Passive	Active
1/4 mile	Head End Open Space	1.60	1.44	0.16	1.60	1.60	0.00	1.60	1.12	0.48
1/2 mile	625 Fulton Street	0.35	0.35	0.00	0.25	0.25	0.00	0.25	0.25	0.00
1/2 mile	Pacific Park	8.00	6.00	2.00	3.09	2.32	0.00	3.09	2.32	0.00
	<b>Total</b>	<b>9.95</b>	<b>7.79</b>	<b>2.16</b>	<b>4.94</b>	<b>4.17</b>	<b>0.00</b>	<b>4.94</b>	<b>3.69</b>	<b>0.48</b>
	<b>Difference from DEIS</b>				<b>-5.01</b>	<b>-3.62</b>	<b>-2.16</b>	<b>-5.01</b>	<b>-4.10</b>	<b>-1.68</b>

The *DEIS* cites 0.16 acres of active open space at the Head End Open Space, though the designs shared to date show no active open space despite strong community requests. GCC proposes a commitment to 30% active space at the

Head End, as described on page 13.

- The *DEIS* includes .35 acres of introduced open space at 625 Fulton Street, though there is an active zoning application to reduce this to .25 acres.<sup>13</sup> The GCC analysis uses the more conservative .25 acres.
- The *DEIS* analysis includes 8 acres of the proposed Pacific Park, which straddles census tracts 161 and 163, as introduced open space.

However, in accordance with the CEQR Technical Manual<sup>14</sup>, the *DEIS* only includes population projections for census tract 161 in calculating the open space ratio and leaves out census tract 163, which artificially inflates it. The GCC analysis corrects this to only include the 3.09 acres of park in census tract 161 and not the portion in census tract 163, while assuming the same ratio of active to passive space as the *DEIS*.

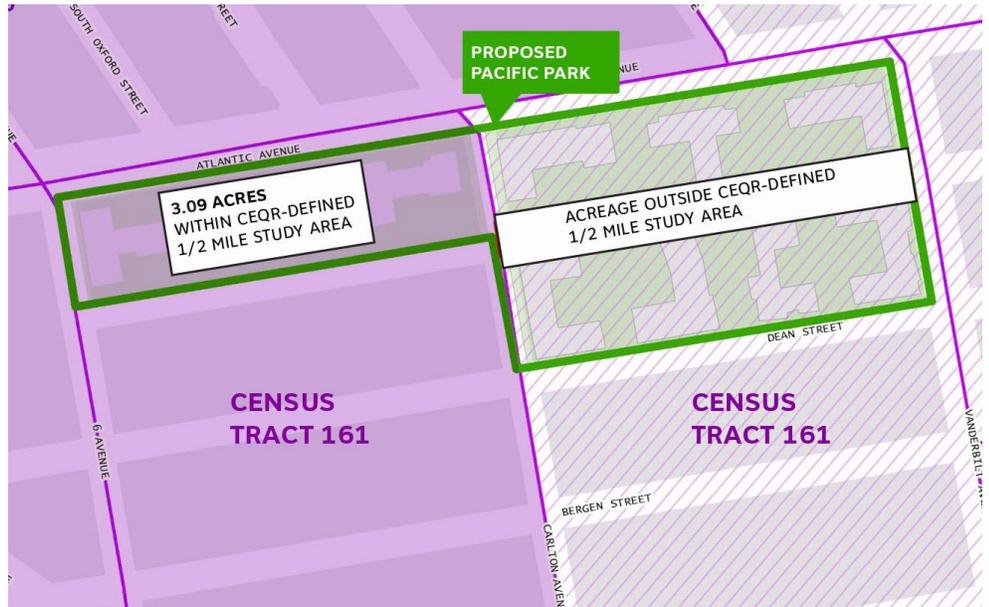


FIGURE 5-1: Only 3.09 acres of Pacific Park fall within CEQR-Defined 1/2 mile study area

**Open Space introduced as part of the proposed actions is less active than assumed**

The table and text below describe discrepancies found in the *DEIS* assumptions about active open space percentages in new open spaces introduced as part of the proposed actions and GCC proposed mitigation.

TABLE 5-2: Open Space Introduced as Part of the Proposed Actions

		DEIS Analysis			GCC Analysis					
					Corrected Discrepancies			GCC Proposed Mitigation		
		Acreage			Acreage			Acreage		
Study Area	Name	Total	Passive	Active	Total	Passive	Active	Total	Passive	Active
1/4 mile	Gowanus Green	1.48	0.94	0.54	1.48	0.94	0.54	1.48	0.74	0.74
1/4 mile	Shore Public Walkways	3.98	1.99	1.99	3.98	2.79	1.19	3.98	2.79	1.19
	<b>Total</b>	<b>5.46</b>	<b>2.93</b>	<b>2.53</b>	<b>5.46</b>	<b>3.73</b>	<b>1.73</b>	<b>5.46</b>	<b>3.53</b>	<b>1.93</b>
	<b>Difference from DEIS</b>				<b>0.00</b>	<b>0.80</b>	<b>-0.80</b>	<b>0.00</b>	<b>0.60</b>	<b>-0.60</b>

Based on CEQR guidelines for esplanades<sup>15</sup>, the *DEIS* assumes that new shore public walkways will be 50% active and 50% passive space. However, an analysis of the existing Waterfront Public Access Areas (WPAA) in Gowanus, at 363-365 Bond and Whole Foods, show that this ratio has not been achieved using the required waterfront zoning

<sup>13</sup> New York City Planning Commission, [625 Fulton Street Rezoning](#), 2018

<sup>14</sup> [CEQR Technical Manual](#), 2020, p.6

<sup>15</sup> [CEQR Technical Manual](#), 2020, p.9

dimensions, which include the 40' Shore Public Walkway (SPWW) and minimum 12' clear primary path. In both of these examples, active space is limited solely to the 12' primary path which could be used for running or walking. The existing percentage of active space is 28% for 353-365 Bond and 32% for Whole Foods. Though we firmly request that the City implement stronger measures to ensure new esplanades include at least 50% active program spaces, as described on page 7, this cannot be taken for granted given the extremely low existing active open space ratio. GCC's analysis in the table above uses a more realistic 30%, in line with what has been achieved on existing Gowanus SPWWs.

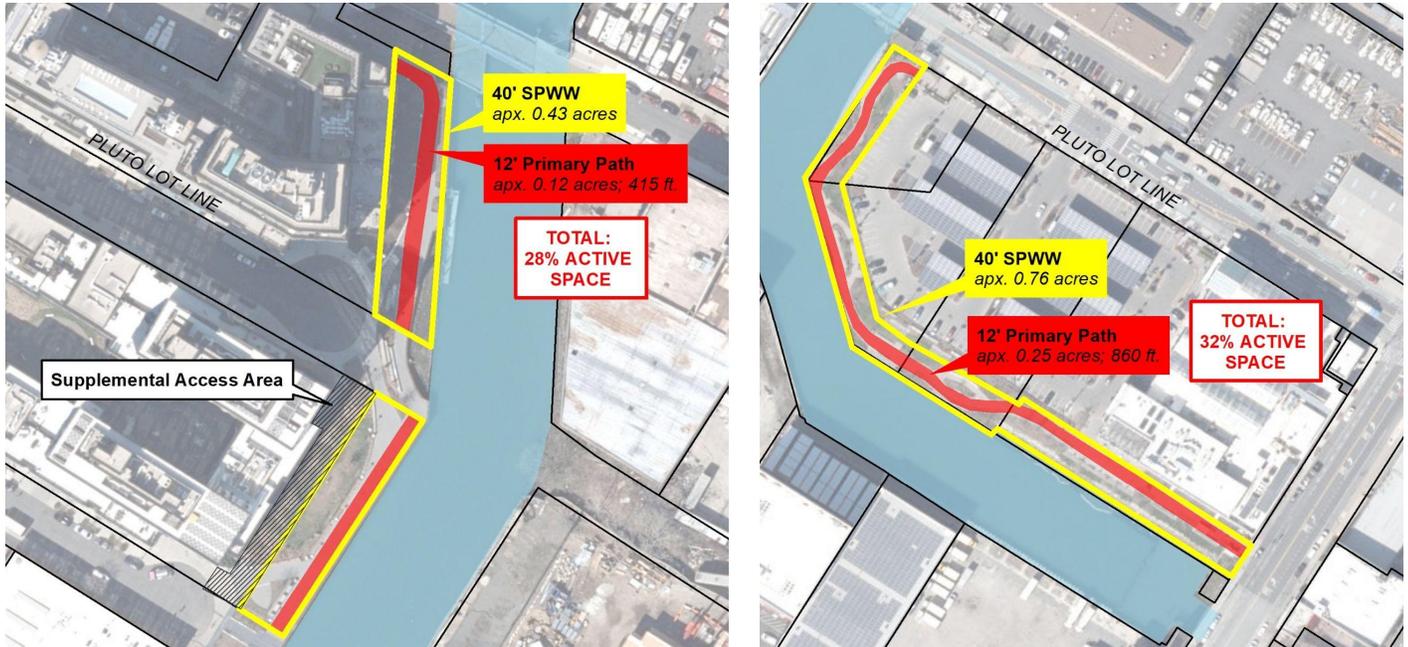


FIGURE 5-2: The percentage of active space on existing Gowanus Shore Public Walkways is 28% for 353-365 Bond and 32% for Whole Foods.

With the discrepancies described above corrected, the open space ratio with the proposed actions is more significantly adversely impacted, as shown in *GCC Analysis: Corrected Discrepancies* in Tables 5-4 and 5-5. In both the ¼ mile and ½ mile study area, GCC projects a reduction in both the total and active open space ratios as a result of the rezoning. As previously noted, this is not acceptable given the extremely low existing open space ratio, coupled with inadequate mitigation for Downtown Brooklyn residential development.

**City commitments needed to mitigate adverse impacts on open space and active open space**

In order to ensure that there is no adverse impact, the City must make additional commitments to capital investment, improved access, and construction timelines for open space in the neighborhood, as described on the following pages and in Figure 5-3. These commitments will eliminate adverse impacts to the total and active open space ratio, as shown in *GCC Analysis: GCC Proposed Mitigation* in Tables 5-4 and 5-5.

TABLE 5-3: Proposed Additional Open Spaces to Mitigate Adverse Impacts on Open Space

		GCC Proposed Mitigation		
		Acreage		
Study Area	Name	Total	Passive	Active
1/4 mile	The Salt Lot	3.50	2.45	1.05
1/4 mile	Green Space on 4th Extension	0.20	0.16	0.04
1/4 mile	Fran Brady / Under the Tracks Park	1.50	0.50	1.00
1/4 mile	Smith/9th Transit Plaza	0.50	0.50	0.00
1/4 mile	Pumphouse Plaza	0.30	0.24	0.06
1/4 mile	Public Boat Launches	0.25	0.00	0.25
1/4 mile	Gowanus Underpass	0.69	0.45	0.24
1/4 mile	6 Schoolyards to Playground	2.29	0.00	2.29
1/2 mile	1 Schoolyard to Playground	0.89	0.00	0.89
<b>Total Proposed Additional Open Spaces</b>		<b>10.12</b>	<b>4.30</b>	<b>5.82</b>

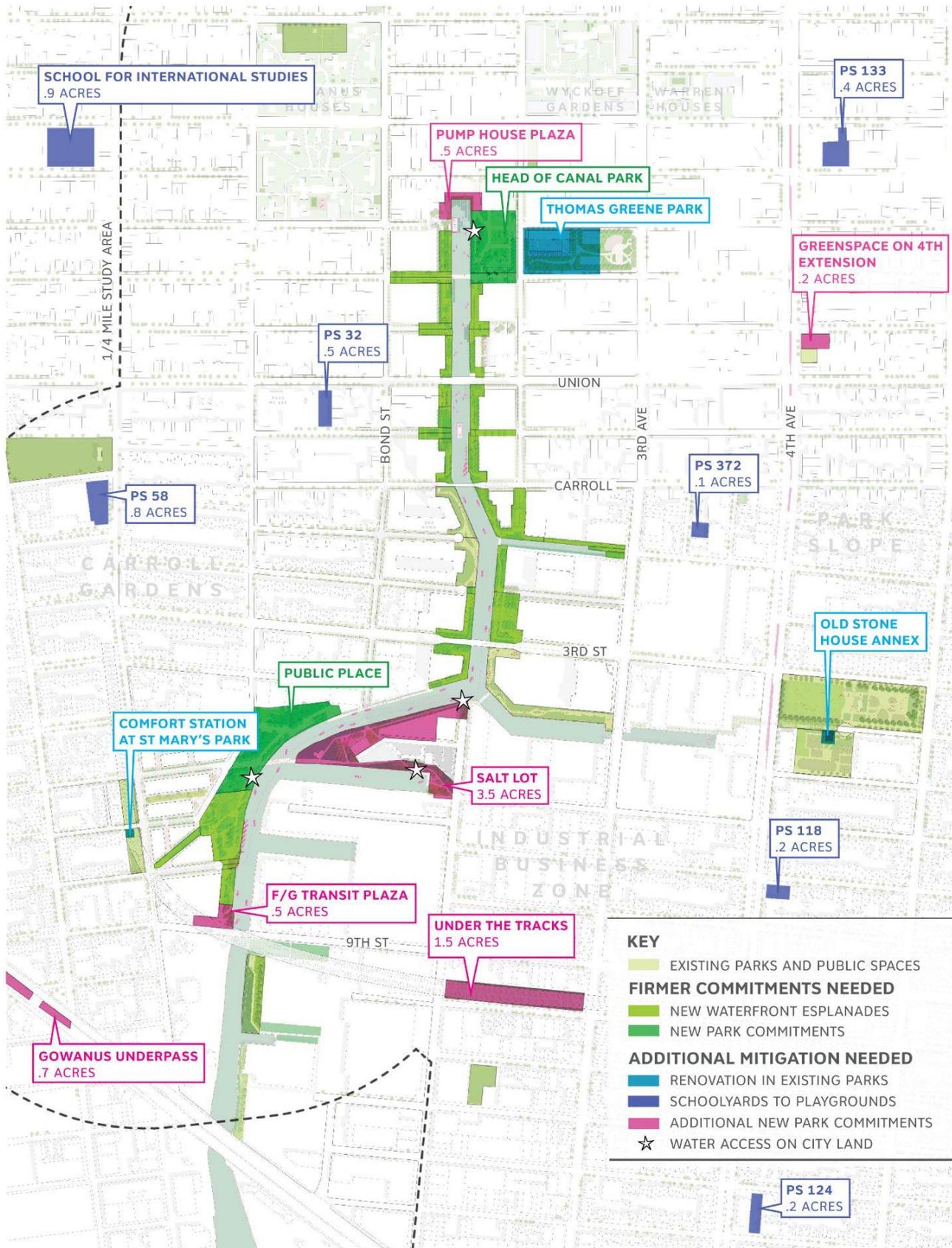
TABLE 5-4: Open Space Ratio in Non-Residential Study Area (1/4 mile)

		DEIS Analysis			GCC Analysis					
		Ratio per 1000 persons			Corrected Discrepancies			GCC Proposed Mitigation		
					Ratio per 1000 persons			Ratio per 1000 persons		
		Total	Passive	Active	Total	Passive	Active	Total	Passive	Active
Existing	Workers	0.49	0.12	0.36	0.49	0.12	0.36	0.49	0.12	0.36
With Action	Workers	0.48	0.16	0.32	0.48	0.18	0.30	0.71	0.27	0.43
<b>Difference from Existing</b>		<b>-0.01</b>	<b>0.04</b>	<b>-0.05</b>	<b>-0.01</b>	<b>0.05</b>	<b>-0.06</b>	<b>0.22</b>	<b>0.15</b>	<b>0.07</b>
Existing	Workers and Residents	0.15	0.04	0.11	0.15	0.04	0.11	0.15	0.04	0.11
With Action	Workers and Residents	0.14	0.05	0.09	0.14	0.05	0.09	0.20	0.08	0.13
<b>Difference from Existing</b>		<b>0</b>	<b>0.01</b>	<b>-0.02</b>	<b>0.00</b>	<b>0.01</b>	<b>-0.03</b>	<b>0.05</b>	<b>0.04</b>	<b>0.01</b>

TABLE 5-5: Open Space Ratio in Residential Study Area (1/2 mile)

		DEIS Analysis			GCC Analysis					
		Ratio per 1000 persons			Corrected Discrepancies			GCC Proposed Mitigation		
					Ratio per 1000 persons			Ratio per 1000 persons		
		Total	Passive	Active	Total	Passive	Active	Total	Passive	Active
Existing	Resident	0.34	0.13	0.21	0.34	0.13	0.21	0.34	0.13	0.21
With Action	Resident	0.34	0.16	0.18	0.31	0.14	0.17	0.37	0.16	0.21
<b>Difference from Existing</b>		<b>0.00</b>	<b>0.03</b>	<b>-0.02</b>	<b>-0.03</b>	<b>0.01</b>	<b>-0.04</b>	<b>0.03</b>	<b>0.03</b>	<b>0.00</b>

FIGURE 5-3: City Commitments Needed to Mitigate Adverse Impacts on Open Space



## MITIGATION

We have seen too often that rezonings include commitments for open space that are then not met - Gowanus cannot repeat this mistake. The Points of Agreement must include clear timelines and capital funding for all open space commitments. The City must provide commitments in the Points of Agreement to create and support more open space in the immediate neighborhood and invest in existing open spaces. This should include the following:

1. Clear capital commitments and timelines for new planned open spaces at the Head of Canal and Gowanus Green
2. Additional capital and access commitments and timelines for open space on 6.94 acres of City-owned land in the neighborhood, identified in table 5-3 and below
3. Commit to make 7 local schoolyards accessible to the public after school hours through the Schoolyards to Playground program, providing 3.18 acres of active public space.
4. Renovations and improvements to existing parks and open spaces to ensure these spaces can support a growing population, including Thomas Greene, St Mary's, Old Stone House/Washington Park, Wyckoff Gardens Campus, and Gowanus Houses Campus
5. Modifications to the Waterfront Access Plan and certification process to better facilitate active uses, water access, and community oversight (see page 5)
6. Sustainable funding for open space maintenance through the creation of a Parks Improvement District

### **1. The City must make capital and timeline commitments for planned open spaces**

The DEIS analysis identifies new public parks that must be completed in order to support the growing population. The City must make the following commitments in the Points of Agreement:

#### HEAD OF CANAL PARK (1.6 acres, increase to 30% active)

The DEIS counts these 1.6 acres in the Open Space analysis. EPA has recently ordered DEP to complete the tank construction by 2029, but there is not a committed date for the park construction.

- *Mitigation needed:* The City must commit to capital funding and a timeline for completion of the public open space *in addition to* the timeline for completion and operation of the CSO tank.

The DEIS analysis relies on 10% of this public space as *active* uses, which is not reflected in the current design despite a clear interest from the community.

- *Mitigation needed:* The City must increase the amount of active space in the existing site design. The site design must be revised to include at least 30% of the site area as *active* uses that the community has advocated for, including performance areas, a skate park, play areas, and a boat launch.

#### GOWANUS GREEN (1.5 acres, increase to 50% active)

- *Mitigation needed:* The City and developer must commit to firm capital and maintenance funding with construction timelines for Gowanus Green park.
- *Mitigation needed:* The City must increase the planned percentage of active open space in the park from 36% to 50% to serve the growing community.

### **2. The City must plan for and commit to capital funding and timelines for additional open space on 6.94 acres of City owned land in the neighborhood**

#### SALT LOT (3.5 acres, 30% active)

The Salt Lot is the eco-industrial heart of Gowanus and currently provides critical city infrastructure (salt, sewage, and compost management) as well as a stewardship and education hub. The City will be building a sewage holding tank and new bulkheads on the Salt Lot beginning in 2022. This site will also serve as critical infrastructure in order to reduce CSO into the Gowanus Canal, however, existing uses on the site will be displaced.

- *Mitigation needed:* The Mid-Canal CSO tank site should be improved and expanded to accommodate the existing compost facility, native plant nursery, and education and stewardship center as well as provide 3.5 acres of new public space, a large scale salt marsh restoration, and water access integrated into the design of the sewage tank.

SMITH/9TH TRANSIT PLAZA (0.5 acres, 20% active)

The MTA-owned parcel on the northwest corner of the 9th Street Bridge could provide an essential connector from the train station to the public waterfront.

- *Mitigation needed:* This site should become a public plaza that provides clear and safe access from the shore public walkway to the train entrance, as well as shade and seating, bicycle parking, and an area for food trucks.

UNDER THE TRACKS PARK (1.5 acres, 66% active)

Once an active community park, the space underneath the F/G train viaduct along 10th Street has been shuttered since the 1990s when MTA closed it to perform repairs on the viaduct.

- *Mitigation needed:* The space underneath the F/G train viaduct along 10th Street should be repurposed as public space with programming that includes artist residencies in mobile studios, rotating art installations, a maker’s market, and a display area for the Kentile Sign and other historic artifacts.

GREEN SPACE ON 4TH EXTENSION (0.2 acres, 20% active)

Greenspace on 4th, one of the few community gardens in Gowanus, is a welcome respite along busy 4th Avenue. This garden occupies a portion of a much larger lot owned by the City and serves as an access point for a DEP Water Tunnel.

- *Mitigation needed:* The DEP-owned lot on Sackett Street and 4th Avenue adjacent to Greenspace on 4th should be developed into public space, extending the community garden into a larger native plant park with space for gathering, shade, and a composting comfort station. The site should also host an elevator connection to the northbound R Train at Union Street, a much needed accessibility investment for the growing neighborhood.

PUMPHOUSE PLAZA (0.5 acres, 0% active)

The DEP owned plaza at the head of the Canal is occasionally needed for access to sewer infrastructure, but is generally unoccupied and blocking access around the head of the Canal.

- *Mitigation needed:* The City should open the plaza to the public on a regular basis and invest in an educational space in the Pump House in order to provide educational interpretation of the complex hydrological history and infrastructure in Gowanus, similar to the Visitor Center at the Newtown Creek Wastewater Treatment Plant.

PUBLIC BOAT LAUNCHES (0.25 acres, 100% active)

When defending the low active space ratio, the overall *DEIS* refers to the 1.8 mile Gowanus Canal as “an active open space resource for kayaking and other water-dependent activities”<sup>16</sup> and states that this is “expected to increase as accessibility and water quality improves over the analysis period, further enhancing the quality and availability of open space resources in the study area.” The City cannot sit back and “expect” this increase - they must plan for it, through a combination of commitments on publicly-owned land and clear pathways for encouraging private owners to install water access. In order to best integrate equitable access along the Canal:

- *Mitigation needed:* The City must commit to building boat launches at the Head of Canal Park, the Salt Lot, and Gowanus Green.
- *Mitigation needed:* The City must identify ideal locations for water access in the Waterfront Access Plan that are in line with the following principles:
  - There should be at least one emergency egress point between each bridge, striving for even distribution on both sides of the Canal.

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<sup>16</sup> *DEIS*, 5-31

- In order to allow ADA accessibility while not taking up too much space on the narrow Canal, ADA launches should be located in turning basins and at the head of the Canal.

**GOWANUS UNDERPASS (.69 acres, 35% active)**

The area under the Gowanus Expressway between Court Street and West 9th Street is heavily used by bikers and pedestrians crossing between Red Hook and Gowanus, but the traffic and air quality present serious safety and environmental justice concerns.

- *Mitigation needed:* The City must commit to creating greener and safer access across this expanse, with clear wayfinding and safety measures for bikers and pedestrians, and green infrastructure to reduce flooding and CSO.

**3. The City must commit to making 7 schoolyards accessible to the public after school hours through the Schoolyards to Playground program, providing 3.18 acres of active public space.**

As discussed in the *DEIS*, the City must address the open space deficit by making New York City public school playgrounds listed below accessible to the community after school hours through the Schoolyards to Playgrounds Program. The City should also provide additional capital investment that may be needed for particular playgrounds to support more use, and prioritize educational green infrastructure installations.

TABLE 5-6: Proposed Schoolyards to Playgrounds

		GCC Proposed Mitigation		
		Acreage		
Study Area	Name	Total	Passive	Active
1/4 mile	PS 124: Schoolyard to Playground	0.23	0.00	0.23
1/4 mile	PS 118: Schoolyard to Playground	0.19	0.00	0.19
1/4 mile	PS 133: Schoolyard to Playground	0.38	0.00	0.38
1/4 mile	PS 372: Schoolyard to Playground	0.13	0.00	0.13
1/4 mile	PS 32: Schoolyard to Playground	0.51	0.00	0.51
1/4 mile	PS 58: Schoolyard to Playground	0.84	0.00	0.84
1/2 mile	School for International Studies: Schoolyard to Playground	0.89	0.00	0.89
<b>Total Proposed Schoolyards to Playgrounds</b>		<b>3.18</b>	<b>0.00</b>	<b>3.18</b>

**4. The City must commit to renovations and expanded access to ensure that existing parks and open spaces can support a growing population**

**THOMAS GREENE PARK**

Under an Administrative Settlement with the EPA, National Grid is required to remediate the western two thirds of Thomas Greene Park, within the footprint of the former Fulton Manufactured Gas Plant site. While National Grid will be required to replace the park in kind, there is a need for additional investment to create an urban park that meets community needs aligned with the Master Plan developed by Friends of Thomas Greene Park and the Lowlands Master Plan. The design should complement and connect to the Head of Canal Park across Nevins Street and design elements should include an expanded pool and pool house, additional plantings, and sports facilities.

- *Mitigation needed:* The City must work closely with National Grid to identify a location for a temporary park and pool during remediation of the park.
- *Mitigation needed:* The City must commit to funding for comprehensive renovation after the remediation is complete in order to augment what National Grid is required to provide.

### ST MARY'S PARK

The newly constructed St Mary's Park has provided a much needed place to play in the neighborhood, however, the lack of public restroom facilities is creating a public nuisance.

- *Mitigation needed:* The City must commit to providing a restroom at St. Mary's Park, ideally a composting bathroom like the Wellhouse Comfort Station in Prospect Park.

### OLD STONE HOUSE & WASHINGTON PARK

Old Stone House & Washington Park are a historic site and park conservancy that provide interpretation, education programming, community facilities, and park space to the community. The proposed Old Stone House Annex will increase visibility and access, provide educational exhibits, and support additional programming at the site.

- *Mitigation needed:* The City must commit to capital funding for the Old Stone House Annex at Washington Park.

### GOWANUS HOUSES CAMPUS

The *DEIS* cites the potential of investing in active spaces on local public housing campuses as a potential mitigation for the active open space deficiency. If these spaces are invested in, the capital funds cannot be used to scale down the \$274 million commitment that is needed for capital repairs in the buildings at Gowanus Houses and Wyckoff Gardens.

- *Mitigation needed:* The City should invest in improvements to the campus with input from residents. Recommended improvements include community maintenance of gardens and green infrastructure, an accessible green roof pilot, Community Center entrance garden and backyard improvements, lighting enhancements, BBQ areas, and seating.

### WYCKOFF GARDENS CAMPUS

The *DEIS* cites the potential of investing in active spaces on local public housing campuses as a potential mitigation for the active open space deficiency. If these spaces are invested in, the capital funds cannot be used to scale down the \$274 million commitment that is needed for capital repairs in the buildings at Gowanus Houses and Wyckoff Gardens.

- *Mitigation needed:* The City should invest in improvements to the campus with input from residents. Recommended improvements include community maintenance of gardens and green infrastructure, an accessible green roof pilot, Community Center entrance, garden improvements, and lighting enhancements.

## **6. The City must facilitate sustainable long term management of parks and public spaces**

Under waterfront zoning regulations, new development along the waterfront will be required to construct and maintain publicly-accessible esplanades but there is no mandate to provide programming or community engagement. The Street Tree Planting requirement will bring an estimated 500 new street trees to the neighborhood with no plan or funding for maintenance - a critical component of young tree survival. Additionally, the proposed City-owned public spaces, including one at Gowanus Green, lack funding for maintenance and programming entirely. With significant cuts in the New York City general budget, including a 14% decrease for the Department of Parks & Recreation in fiscal year 2021<sup>17</sup>, maintenance funding for new parks is not a given. The Gowanus neighborhood presents an opportunity to plan for this funding upfront, before new parks are created.

- *Mitigation needed:* The City must work with local stakeholders on the creation of a Parks Improvement District to ensure sufficient, cohesive maintenance and programming across existing and future parks and public spaces in Gowanus.

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<sup>17</sup> New Yorkers for Parks, [Release: Play Fair Coalition - 14% Slash to Parks Budget Threatens Open Spaces When New Yorkers Need Them Most](#), 2020

## **6: SHADOWS**

### **GOWANUS CANAL**

According to the *DEIS*, “Incremental shadows would cover portions of the Canal for varying durations and coverage on all four analysis days.”<sup>18</sup> The Canal is considered a light sensitive resource and impacts to recreational uses will have the most effect during the spring, summer, and fall, when new development would cast large shadows early and late in the day. The *DEIS* also acknowledges the potential for minor hindrance to fish passage by anticipated shadows.<sup>19</sup>

While the City does not find that shadow impacts on the Canal will be significant, there will clearly be impacts to both recreation and habitat, particularly in the portion of the Canal north of 3rd Street. To mitigate this impact, the City should:

- *Mitigation needed:* Invest in the habitat restoration projects described below in *Natural Resources*, particularly wetland restoration in the 6th Street, 7th Street, and 11th Street Turning Basins and at the Salt Lot, which will not be impacted by shadows from new development.
- *Mitigation needed:* Invest in new public boat launches south of 3rd Street, where shadows will have less of an impact on recreational uses.

### **THOMAS GREENE PARK**

The *DEIS* has shown that neighboring development enabled with the rezoning would produce shadows on the existing pool at Thomas Greene Park in May and August, stating that “...in the late afternoon of the May 6/August 6 analysis day, the pools would be mostly or entirely in incremental shadow from approximately 3:45 PM to 6:00 PM when it closes (i.e. 7:00 PM EDT). This extent and duration of new shadow would come at a time of day when temperatures and use of the pool are at their highest and have the potential to affect both the pool’s operation and the user experience. Therefore, a significant impact on the Double D Pool could occur on this analysis day.”<sup>20</sup> Proposed mitigation for shadows includes “modifications to the height, shape, size, or orientation of proposed developments that cause or contribute to the significant adverse shadow impact.”<sup>21</sup>

- *Mitigation needed:* The City should model modified massing on 549 Sackett St, 270 Nevins St, and 495 Sackett St to identify ways to reduce shadows on Thomas Greene Park.

As the Thomas Greene Park is renovated, the reconstructed pool should be sited to avoid these shadows. The *DEIS* notes that “In the spring, summer, and fall, the northern half of the park receives the most sun, and the southeastern corner, the least. Therefore, recreational activities that depend most on sunlight, such as sitting and sunning, or water features such as a pool or sprinklers, would likely be best located in the northern half or central area and not in the southeast corner.”<sup>22</sup>

- *Mitigation needed:* In the comprehensive renovation, the City should assess siting the pool in the northern half of the park.

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<sup>18</sup> *DEIS*, 6-37

<sup>19</sup> *DEIS*, 6-38

<sup>20</sup> *DEIS*, 6-12

<sup>21</sup> *DEIS*, 21-2

<sup>22</sup> *DEIS*, 6-13

## 9: NATURAL RESOURCES

The Gowanus Canal and surrounding lowland neighborhood is home to a wide array of flora and fauna that has been and will continue to be drastically impacted by a number of actions currently proposed or underway: the proposed Gowanus Rezoning, Superfund bulkhead replacement and dredging, and CSO tank construction. These processes impact intertidal habitat along the Canal's banks, nesting grounds for birds, the urban forest along streets and lots, and aquatic life within the Canal itself. While impacts to this biodiversity must be mitigated in part through the Natural Resource Damages Assessment initiated under the Superfund designation, there are a number of areas described below where the City must provide mitigation to impacts resulting from the proposed Gowanus Rezoning.

### ECOLOGICAL COMMUNITIES

#### ANALYSIS

**Data on natural resources outlined in the DEIS is incomplete**

The DEIS relies on insufficient and incomplete datasets in determining that the proposed actions would not have a significant adverse impact on natural resources. The FEIS must include the more accurate data sets described below in order to truly evaluate impacts on natural resources.

Gowanus Canal Conservancy, with partners the Gowanus Dredgers, Macaulay Honors College, New York Botanical Garden, Brooklyn Bird Club, and other taxon specialists, have been conducting biological surveys of the Canal and adjacent land for the past 4 years. This data is summarized in the 2021 *Gowanus Ecosystems Biological Survey Report*<sup>23</sup>, which catalogues species observed during annual bioblitzes, or biological surveys, conducted in August 2017, April 2018, and September 2019, along with ongoing data recorded on [iNaturalist](#) between 2008 and 2020.

These surveys have shown that the Gowanus Canal and the land around it are home to an abundance of wildlife. In the survey area (Figure 9-1) 4,111 observations were made of individual specimens from 1,144 distinct species.

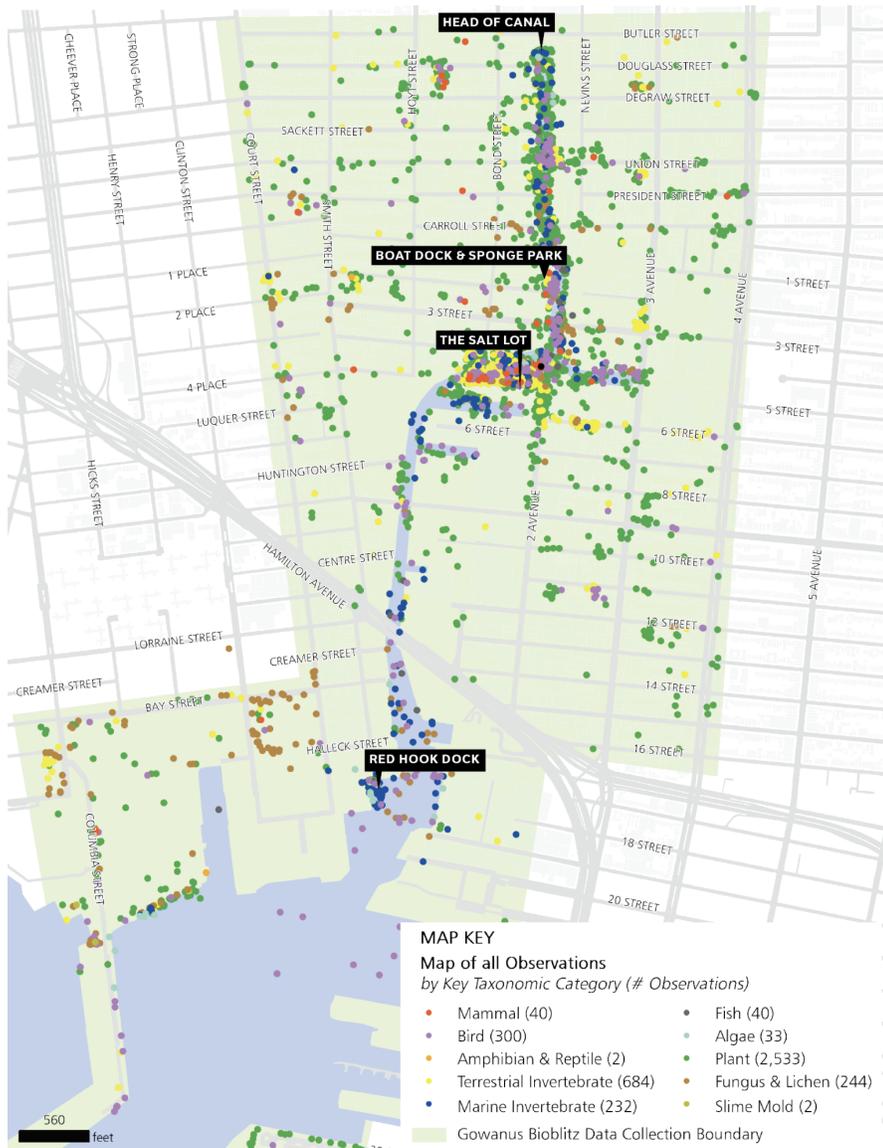


FIGURE 9-1: All Observations recorded on [iNaturalist](#) between 2008 and 2020.

<sup>23</sup> Gowanus Canal Conservancy, [Gowanus Ecosystems Biological Survey Report](#), 2021

## VEGETATION

Data in the *DEIS* on vegetation relies on a single-day reconnaissance mission in 2019 conducted by engineering firm AKRF, which identified just 59 species of vegetation, from a limited set of survey points.<sup>24</sup> GCC and partners have identified 646 species of vegetation in the area around the Gowanus Canal.<sup>25</sup>

## WETLANDS

The *DEIS* description of existing wetlands relies on generalized definitions and assumes that the Canal lacks hydrophytic vegetation.<sup>26</sup> For over a decade, GCC has planted thousands of native plants in demonstration gardens and restoration areas at the BK6 Salt Lot. Native ecosystems found on site include a number of areas categorized as tidal wetlands by the Department of Environmental Conservation.<sup>27</sup>

14,900 sf of restoration areas at the BK6 Salt Lot include:

- *Intertidal Marsh (200 sf)*: Intertidal marsh is a tidal wetland zone located between low and high tide elevations, as defined in state tidal wetlands regulations,<sup>28</sup> and was the dominant ecosystem in the Gowanus neighborhood prior to Canal development. Intertidal marsh species *Spartina alterniflora* restores the historic ecology of the Gowanus creek and salt marsh, and provide habitat for mussels, crabs, fish, and a variety of shorebirds.
- *High marsh, Maritime Meadow, and Shrubland (12,100 sf)*: High marsh is the upper tidal wetland zone located just above high tide elevation, as defined in state tidal wetlands regulations.<sup>29</sup> High marsh on the Salt Lot includes wetland species such as *Spartina patens*, *Iva frutescens*, and *Baccharis halimifolia*.
- *Emergent Marsh Rain Gardens (2,600 sf)*: Site stormwater is directed to and managed by two rain gardens planted with emergent marsh species that include *Juncus effusus*, *Asclepias incarnata*, *Iris versicolor*, *Cornus amomum*, and *Cephalanthus occidentalis*.

## AQUATIC LIFE

The *DEIS* notes a number of benthic invertebrates and finfish present in the Canal, but fails to document certain species, such as the Atlantic Ribbed Mussel, or to document the extent of populations present.

On October 31st, 2020 The Gowanus Dredgers and Gowanus Canal Conservancy conducted a primary observation survey of the Atlantic Ribbed Mussel in the Gowanus Canal to understand mussel populations and habitat along the Canal bulkhead.<sup>30</sup> The team analyzed the mussel counts by bulkhead material and found that existing wooden bulkheads

## 4,111 OBSERVATIONS OF 1,144 SPECIES

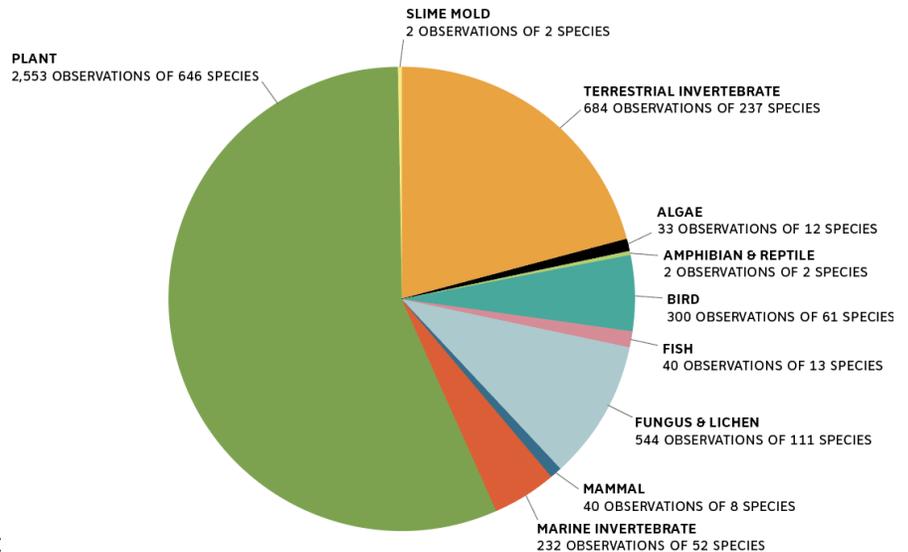


FIGURE 9-3: Gowanus Ecosystems Report Data Summary - Chart includes data recorded on iNaturalist as of October 2020 within the place boundary of Gowanus Canal Conservancy combined with data recorded on paper data sheets during the 2019 Gowanus Bioblitz with Macaulay Honors College

<sup>24</sup> *DEIS*, 9-14

<sup>25</sup> Gowanus Canal Conservancy, [Gowanus Ecosystems Biological Survey Report](#), 2021, p.48

<sup>26</sup> *DEIS*, 9-6

<sup>27</sup> New York State Department of Environmental Conservation, [DEC Tidal Wetlands Categories](#)

<sup>28</sup> Thomson Reuters Westlaw, [New York Codes, Rules and Regulations, 2020](#)

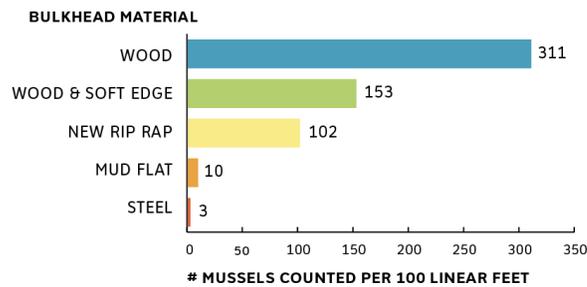
<sup>29</sup> *Ibid*

<sup>30</sup> GCC, [Gowanus Ecosystems Biological Survey Report](#), 2021, p.20

provide significant habitat for mussels, at an average rate of 311 mussels per 100 linear feet. Wood supports 103 times more mussels than steel. Steel bulkheads provide minimal to no mussel habitat, at an average rate of 3 mussels per 100 linear feet. The existing wooden bulkheads along the Gowanus Canal are being replaced with steel under the Superfund, removing critical habitat to Atlantic Ribbed Mussels.

**TOTAL MUSSELS COUNTED: 4,129**

**MUSSEL COUNTS BY BULKHEAD MATERIAL**



WOODEN BULKHEADS PROVIDE SIGNIFICANT HABITAT FOR MUSSELS (311 MUSSELS/100LF)

WOOD SUPPORTS 103 TIMES MORE MUSSELS THAN STEEL

STEEL BULKHEADS PROVIDE MINIMAL TO NO MUSSEL HABITAT (3 MUSSELS/100LF)

FIGURE 9-2 Gowanus Mussels Counts by Bulkhead Material

**BIRDS**

The DEIS references the New York State Breeding Bird Atlas survey, noting that the study area is located within portions of survey Blocks 5750D and 5850C, where the Bird Atlas identifies 64 possible species of breeding birds. Yet the DEIS claims that only the most “disturbance-tolerant generalists” are expected to be able to thrive in the study area itself, without conducting a thorough avian survey.<sup>31</sup> In fact, GCC and partners have identified 61 species of birds in the study area including 7 state listed species: American black duck, Great egret, Great blue heron, Laughing gull, Yellow-crowned night heron, Black-crowned night heron, Cape May Warbler.<sup>32</sup> Many of these species are considered vulnerable, imperiled, or critically imperiled in New York State and a number rely for survival on shoreline habitat and tree canopy that are currently or will be impacted by proposed land use changes and remediation.



Yellow-crowned Night Heron observed in Gowanus in September 2019 during a BioBlitz conducted by Gowanus Canal Conservancy and Macaulay Honors College. Photo by Ken Chaya

**THREATENED, ENDANGERED, AND SPECIAL CONCERN SPECIES**

The DEIS claims that “no recently confirmed state-listed species are documented within 0.5 miles of the study area.”<sup>33</sup> However, 17 species observed are considered Species of Greatest Conservation Need (SGCN) by the New York State Department of Environmental Protection (DEC): Great egret, Great blue heron, Laughing gull, Yellow-crowned night heron, Black-crowned night heron, Cape May Warbler, American eel, Mummichog, Atlantic silverside, Northern pipefish, Salt-meadow grass, Five-angled dodder, Fragrant flat sedge, Willow oak, Annual saltmarsh aster.<sup>34</sup>



Atlantic Silverside observed in Gowanus in September 2019 during a BioBlitz conducted by Gowanus Canal Conservancy and Macaulay Honors College. Photo source: iNaturalist

<sup>31</sup> DEIS, 9-15

<sup>32</sup> GCC, [Gowanus Ecosystems Biological Survey Report](#), 2021, p.18

<sup>33</sup> DEIS, 9-16

<sup>34</sup> GCC, [Gowanus Ecosystems Biological Survey Report](#), 2021, p.18

### ***The proposed actions will impact the tree canopy through street tree removals***

The lack of mature tree canopy in Gowanus is palpable. In stark contrast from the leafy neighborhoods of Park Slope and Carroll Gardens, the Gowanus neighborhood is a hole in the urban canopy where 35% of the street trees are under six inches in diameter and fewer than 2% are more than 24 inches in diameter. The *DEIS* notes that the proposed actions will result in the removal of street trees.<sup>35</sup> Given the sparseness of the existing canopy, any removals will have significant impact. While these removals will be required to comply with restitution requirements outlined in Local Law 3 of 2010, there is not a guarantee that required replacement trees will stay within the study area. The law allows for wide discretion in locating replacement trees, stating that “*to the extent practicable*” trees should be planted in the same community district, which is already a much larger area than the study area itself.<sup>36</sup> There are no guarantees that replacement trees will be planted in the immediate vicinity of the Canal, the area that so severely lacks tree canopy.

### ***Future green spaces will not automatically result in improved wildlife habitat***

In arguing that there will not be adverse impacts to ecological communities, the *DEIS* claims that proposed green spaces like bioswales and greenstreets will improve habitat in the study area.<sup>37</sup> However, these new green spaces will only result in improved wildlife habitat with maintenance that uses ecological best practices, which is not currently a common practice on many City- and privately-owned properties.

In 2019, the NYC Comptroller audited the Department of Environmental Protection’s green infrastructure maintenance, and “*found that the majority were not sufficiently maintained to ensure their proper functioning and appearance.*”<sup>38</sup> The comptroller’s findings included that 67% of right-of-way rain gardens “*exhibited two or more conditions that DEP’s own maintenance manual states can impede their proper functioning,*” including “*sediment build up in gravel strips, planted areas, and curb cuts; compacted/depleted soil that needed to be raked or replenished; weeds and overgrown plants; and missing trees and plants.*” Simply put, the City’s experiment in GI is on a path destined for failure unless a dramatic course-correction is made.

A key finding of the Comptroller’s audit was that DEP should “*engage with local communities to assist in maintaining and improving the condition of rain gardens as neighborhood resources to prevent flooding and enhance quality of life.*” In November 2019, DEP held a GI Program Maintenance & Workforce Development Workshop, bringing together organizations to discuss development of an RFI specific to GI maintenance and workforce development.

## **MITIGATION**

### ***1. The City must invest in restoration areas on public street ends, parks, and in the water***

As noted in the above section on Open Space, the City must invest in 10 acres of new open space throughout the Gowanus neighborhood to meet the needs of the anticipated population. To mitigate impacts to ecological communities described above, the City should include habitat restoration in a number of capital investments:

- *Mitigation needed:* Invest in habitat restoration areas on public street ends and in new parks:
  - New public space at the Salt Lot is a unique opportunity for a large scale intertidal marsh, that would restore habitat to a number of aquatic species and shorebirds
  - Public street ends provide opportunities for wildlife-supporting green infrastructure and coastal ecologies, with the right maintenance regimes in place (see below)
  - Proposed public spaces at Public Place, Greenspace on 4th Extension, and Transit Plaza should all incorporate areas of wildlife habitat, including wetland shelves, meadows, forest, and shrubland.
- *Mitigation needed:* Wetland restoration in turning basins along the Canal: The City should invest in wetland restoration in the Canal’s turning basins, spurs off the main channel that will not need to remain navigable into

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<sup>35</sup> *DEIS*, 9-22

<sup>36</sup> The New York City Council, [Local Law 3 of 2010, Legislation Text](#), 2010

<sup>37</sup> *DEIS*, 9-22

<sup>38</sup> Scott Stringer, NYC Comptroller, [Audit Report on DEP’s Maintenance of Rain Gardens](#), 2019

the future. The DEIS mentions a habitat enhancement project that is not actually planned for at the moment: “The 6th Street turning basin habitat enhancement project will restore vegetated tidal wetlands to the 6th Street turning basin.”<sup>39</sup> While there are no existing plans for this project, the City should commit to it and wetland restoration in the other turning basins along the Canal.

## **2. The City must pursue and support habitat improvements to bulkheads and edges along the Canal**

- *Mitigation needed:* Floating wetlands and bulkhead habitat modules: While proposed waterfront public access areas will provide important public space along the water, they will not automatically restore habitat, particularly along the ecologically critical intertidal zone, where steel bulkheads will replace more varied life-supporting edges. To address this, the City should invest in and work with developers to install habitat modules for bulkhead edges and floating wetlands within the Canal itself.
- *Mitigation needed:* Support for GCC and Gowanus Dredgers mussel habitat project: Gary Francis and the Gowanus Dredgers and GCC are working to design, fabricate, and install modular mussel habitat and conduct monitoring and analysis in Fall 2021, Spring 2022, and Fall 2022. Tests will include deploying a series of cast concrete structures on the surface of an existing steel bulkhead to mimic the conditions and geometric conditions in a natural mussel bank. This experimentation can build a case for larger scale implementation, to reintroduce habitat that can again support the thriving mussel populations that are being destroyed. The City should provide expense funding for this ongoing project.

## **3. The City must create a Gowanus Tree Trust**

The City must require that all restitution and tree requirements be located in Gowanus.

- *Mitigation needed:* The City should establish a Gowanus Tree Trust that new development can contribute to in lieu of planting *if and only if* it is entirely impossible to plant required trees on new frontages. This Tree Trust should be used to install street trees only within the Gowanus neighborhood, with clear community oversight.

## **4. The City must commit to funding for local stewardship of green infrastructure**

As mentioned above, much of the City’s green infrastructure has seen poor maintenance practices, which have resulted in poor outcomes for habitat. Beginning in 2021, Gowanus Canal Conservancy, the Bronx River Alliance, The HOPE Program, and Newtown Creek Alliance formed a new collaborative effort aimed at improving rain garden performance, increasing co-benefits such as wildlife habitat, community beautification, and urban heat island mitigation, providing local jobs and workforce development, and engaging local communities in the stewardship of their green spaces. This project pilots watershed-specific approaches that can be scaled up to a citywide solution for sustainable green infrastructure maintenance and workforce development.

- *Mitigation needed:* The City should commit funding to GCC to provide ongoing local stewardship of proposed green infrastructure, to ensure that wildlife habitat and community benefits are sustained into the future.

## **5. The City must commit to working with NYS DEC to ensure waterbody designation and water quality standards support current and future use of the Canal**

In the *FSOW*, the City states that the classification of the Canal is beyond the scope of the *DEIS*<sup>40</sup>, however, the overall *DEIS* designates the Canal as “an active open space resource for kayaking and other water-dependent activities”<sup>41</sup>.

These statements are contradictory, as water quality standards that are suitable for and protective of these uses must be planned for in advance. These concerns are especially relevant in light of limited regulatory enforcement by NYSDEC due to their recent proposal to rollback protective language for primary and secondary contact recreation on SD/I

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<sup>39</sup> *DEIS*, 9-22

<sup>40</sup> *DEIS*, 9-10

<sup>41</sup> *DEIS*, 5-31

waterways<sup>42</sup>. GCC maintains that the existing Industrial Waterbody Classification and Use Designation (Class SD) must be reconsidered and the City must anticipate enhanced access and recreation on the Canal are likely to occur as a result of the Proposed Actions.

- *Mitigation needed:* The City must coordinate with the State to ensure that waterbody designation supports future uses.

## **10: HAZARDOUS MATERIALS**

### **CONTAMINATED SITES WITH (E) DESIGNATIONS**

The DEIS notes that the Proposed Actions will “include (E) designations (or other measures comparable to such a designation) for all projected and potential development sites,”<sup>43</sup> which will result in numerous site clean-ups that would not otherwise happen. The DEIS also notes that “Any redevelopment involving subsurface disturbance could potentially increase pathways for human exposure to any subsurface hazardous materials present.”<sup>44</sup>

- *Mitigation needed:* In order to protect neighborhood health and safety, these clean-ups must be done with community notification and oversight through the Gowanus Zoning Commitment Task Force. A Community Construction Coordinator, supported by the City, should be in direct contact with remediation contractors, and relevant DEC and OER managers for any ongoing remediation, in order to keep the community updated and concerns addressed.

## **11: WATER AND SEWER INFRASTRUCTURE**

Combined Sewer Overflow (CSO) and persistent inland flooding are two of the greatest environmental threats facing the Gowanus neighborhood today. The City must commit to a “Net Zero CSO” rezoning that will ensure that new development projects implement practices that do not increase pollution to the Canal and worsen neighborhood flooding. The DEIS concludes that the proposed actions under the rezoning are not projected to impact CSO discharges or water quality in the Gowanus Canal *with* the forthcoming Unified Stormwater Rule in place<sup>45</sup>. With the new rule, the DEIS shows an outcome that is better than Net Zero CSO, reducing annual CSO discharges by 5 million gallons. Absent the new rule, however, the City concedes that given the anticipated increase in population density under the RWCDs, future increases in sanitary flow would lead to an annual CSO increase of 3 million gallons per year<sup>46</sup>.

While the modeling presented in the DEIS shows a future condition that meets the demand for a Net Zero Rezoning, we have outstanding questions and concerns about the modeling assumptions, overall impacts, and mitigation efforts pertaining to two areas outlined below: Combined Sewer Overflow (CSO) and System Capacity, Flooding, and Long-Term Resiliency.

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<sup>42</sup> New York State Department of Environmental Conservation, [Proposed Amendments, Site-Specific Enterococcus Water Quality Standards for Class I/SD Waters](#)

<sup>43</sup> DEIS, 10-18

<sup>44</sup> DEIS, 10-18

<sup>45</sup> DEIS, 11-2

<sup>46</sup> DEIS, 11-27

## COMBINED SEWER OVERFLOW

The overloaded sewer system currently discharges about 363 million gallons of raw sewage and polluted run-off into the Canal each year.<sup>47</sup> While planned grey and green infrastructure investments, including the proposed CSO Facilities required under the Superfund process, will improve water quality in the Canal - they do not fully address CSO. Once these projects are complete, there will still be about 115 million gallons of annual CSO discharge left unmanaged under *existing conditions*<sup>48</sup>. The rezoning is anticipated to add approximately 18,000 new residents on 63 Projected Development sites, which will increase sanitary flow by 1.29 million gallons per day (mgd).

### ANALYSIS

As mentioned previously, the *DEIS* modeling concludes that the proposed actions are not anticipated to impact CSO discharges and water quality in the Gowanus Canal *with* the Unified Stormwater Rule in place. With the new rule, the *DEIS* reports reductions in CSO loading and frequency at each individual CSO outfall and summarizes overall impacts by CSO-shed based on future development conditions at the 63 Projected Development sites.

However, given the location and topography of the study area and the subsequent sensitivities to CSO increases, guidelines under the *CEQR Technical Manual* warranted a more detailed analysis that fully investigates the potential for increased sanitary or stormwater discharges that may impact capacity in the existing sewer system, exacerbate CSO volumes and/or frequencies, or contribute greater pollutant loadings in combined sewage discharged to receiving water bodies. The more detailed analysis provided in the *DEIS* included an assessment of impacts for the proposed actions *without* the Unified Stormwater Rule and under the current regulatory framework, the 2012 Stormwater Rule. This analysis yielded concerning results, including a projected increase in overall annual CSO volume by 3 million gallons and an increase in Total Suspended Solids (TSS) load to the Canal of 3,175 pounds per year or a 2.8% increase from the No Action condition.

The *DEIS* addresses many community concerns and comments provided by GCC and other stakeholders regarding CSO in the DSOW and we appreciate DEP's efforts to implement the Unified Stormwater Rule by 2022. However, the reported impacts on CSO discharge and water quality *without* the Unified Stormwater Rule in place underscore the importance of the new rule's implementation prior to future development and outline a critical need to oversee and track the incremental impacts as part of the site sewer connection permitting process for each development site. The *FEIS* must include a commitment to implement the new stormwater rule *before* permitting site sewer connections in the Rezoning Study Area and DEP's final schedule for rule implementation must be in the *FEIS*. Additionally and prior to finalizing the *FEIS*, there are several outstanding concerns pertaining to CSO and water quality modeling and subsequent analyses that must be addressed to ensure the new stormwater rule is successful:

### **Projected sanitary flows must accurately reflect the RWCDs**

The projected sanitary flow, which assumes a per capita wastewater generation of 73 gallons per day, is entirely contingent on the population density outlined under the RWCDs. Under this framework, the projected increase in daily sanitary flow is determined to be 1.29 million gallons per day (mgd) for an anticipated 18,000 new residents on 63 Projected Development sites. As noted in the above section on *Project Description: Analysis Framework*, we continue to be concerned that the *DEIS* does not accurately portray the amount of density that will result from the proposed rezoning. GCC's comments on the DSOW presented an alternative analysis that recommends 91 Potential Development Sites be counted as Projected Development Sites, which would result in an additional 13,000 residents that are unaccounted for in the assessment on water and sewer infrastructure. Under this alternative development scenario, daily sanitary flows are likely to increase by 2.26 million gallons per day - a figure that is nearly 1 mgd greater than what is presented in the *DEIS*. Given the substantial underestimation of environmental impacts in previous rezonings, we

<sup>47</sup> NYC Dept of Environmental Protection, [SPDES Combined Sewer Overflows, Best Management Practices Annual Report](#), 2019

<sup>48</sup> NYC Dept of Environmental Protection, [Combined Sewer Overflow Long Term Control Plan for Gowanus Canal](#), 2015

strongly encourage DEP to consider an alternative assessment of the RWCDs that anticipates growth on these likely to develop Potential Sites that have been left out of the scope. In particular, those falling within the 8 CSO-sheds that will not receive additional infrastructure investment to manage this anticipated growth.

### ***Modeling must account for impacts of climate change***

Watershed modeling performed as part of the Gowanus Canal 2017 Long-Term Control Plan (LTCP) and Superfund Project has been refined in the *DEIS* to more accurately determine baseline conditions and assess sewer system capacity serving the Project Area. While this effort to improve upon the existing model is responsive to many community concerns and provides a foundation for the future assessment of sewershed impacts, it continues to rely on outdated precipitation data from 2008 that does not anticipate increased frequency and duration of wet weather events in light of climate change. In order to more accurately assess future impacts of development and ensure the Gowanus neighborhood is prepared to withstand these imminent threats, modeling parameters must incorporate forward-looking climate change data to be consistent with NYC's "Climate Resiliency Design Guidelines"<sup>49</sup>. At a minimum and echoing recent concerns expressed by EPA in their July 13th correspondence to Gowanus elected officials regarding inconsistencies in the *DEIS*,<sup>50</sup> the City's watershed model for the study area must acknowledge that 1) mean annual precipitation will increase between 4% to 13% by the 2050s and by 5% to 19% by the 2080s and that 2) sea level will rise by 11 to 21 inches by the 2050s and by 18 to 39 inches by the 2080s.

### ***MITIGATION***

#### ***The Unified Stormwater Rule must be in effect prior to the first site sewer connection enabled by the Rezoning***

The *DEIS* shows an outcome that is better than Net Zero CSO, essentially meeting our demand and reducing CSO to the Gowanus Canal by 5 million gallons per year *with* the forthcoming Unified Stormwater Rule in place. Absent this new rule, the City concedes that CSO would increase by 3 million gallons per year.

- *Mitigation Needed:* The new rule must be in effect prior to the first site sewer connection in the Rezoning Study Area and the City must establish and provide transparent reporting on baseline conditions.

#### ***DEP must provide transparent reporting on implementation of the Unified Stormwater Rule***

The *DEIS* shows a projection, but we need to see the reality as it plays out on the ground. As part of DEP's assessment of water and sewer infrastructure in the *DEIS*, they have developed a detailed model of the local sewer system, including an Amended Drainage Plan (ADP), that sets the stage for tracking new site sewer connections. DEP's work on this analysis is above and beyond what is generally required in an EIS and demonstrates that they are listening to community concerns. However, models by their very nature are imperfect projections that must be validated with empirical data and direct measurements as they become available.

- *Mitigation Needed:* To ensure the Unified Stormwater Rule performs as anticipated in the *DEIS*, DEP must provide transparent and accessible reporting of actual impacts as new buildings are constructed to validate the model and prove that new development does not add pollution or worsen neighborhood flooding. To monitor incremental impacts of development, the Amended Drainage Plan should be updated for each development site catchment upon approval of permitted Stormwater Management Plans (SMPs) required under the new stormwater rule and cumulative impacts by CSO-shed should be summarized annually. The community must have access to this reporting through the Zoning Commitment Task Force.

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<sup>49</sup> New York City Mayor's Office of Resiliency, [Climate Resiliency Design Guidelines](#), 2020, p.49-51

<sup>50</sup> United States Environmental Protection Agency, [Potential Combined Sewer Overflow Increases/Decreases into Gowanus Canal from Rezoning-Related Development](#)

## SYSTEM CAPACITY, FLOODING & LONG-TERM RESILIENCY

### ANALYSIS

#### **Assessment of sewer system capacity must address the impacts of previous and proposed future rezonings**

The *DEIS* concludes that development under the *With Action* condition is expected to generate a total of approximately 2.4 million gallons per day (mgd) of sanitary sewage that will be directed to the Red Hook and Owls Head WRRF's during dry weather. This *With Action* condition represents a 2.2% and 0.5% increase of the permitted capacity to the Red Hook and Owls Head WRRFs, respectively, resulting in **80.2% dry weather capacity at the Red Hook WRRF** and 45.5% dry weather capacity at the Owls Head WRRF.

We are increasingly concerned that the Red Hook WRRF is close to reaching its dry weather permitted capacity and that the analysis presented in the *DEIS* does not assess the cumulative impacts of ongoing and proposed land use actions outside of the Gowanus Neighborhood Plan, including:

- GOVERNORS ISLAND: the proposed South Island Development Zones as part of the phased Governors Island Rezoning are projected to increase daily dry weather flow to the Red Hook WRRF by an additional 4.15%<sup>51</sup>.
- DOWNTOWN BROOKLYN: The City grossly underestimated the residential density and subsequent environmental impacts of the 2004 Downtown Brooklyn rezoning<sup>52</sup>, which shares numerous critical infrastructures with Gowanus, in particular the RH-034 CSO-shed, which diverts flow to the Red Hook WRRF.
- ATLANTIC YARDS: This will almost double the amount of anticipated new housing units in our area and have significant impacts on critical infrastructure for Gowanus, in particular the RH-034 CSO-shed, which diverts flow to the Red Hook WRRF.
- GOWANUS 4TH AVENUE: Along 4th Avenue, 30 parcels have been developed since the Park Slope Rezoning proposal was approved in 2003<sup>53</sup>. Collectively, these lots account for an increase of 1,434 residential dwelling units and 3,140 residents since 2003 and must be accounted for in this analysis.

#### **Neighborhood flood modeling and risk assessment is not comprehensive and lacks spatial context**

In addition to an assessment of CSO impacts, the *DEIS* presents an analysis of neighborhood flooding for the Rezoning study area based on the refined model that incorporates the Amended Drainage Plan (ADP). In the *FSOW*, the City states that “*Infrastructure improvements are beyond the purview of zoning and the Proposed Actions. However, the development of the Framework resulted in the identification of infrastructure and other community needs, including flood resiliency, stormwater management, sewer infrastructure, and remediation of the Canal.*”<sup>54</sup>

While DEP's assessment of flood risk provides a useful starting point, impacts and analyses are not comprehensive and do not provide enough spatial context for future infrastructure planning. Appendix F of the *DEIS* presents a table with “Number of Flooded Manholes and Total Surface Flooding Volume” comparing the *No Action* and *With Action* scenarios with both the existing 2012 Stormwater Rule and the proposed Unified Stormwater Rule in place<sup>55</sup>. The table, which serves as the only assessment of surface flooding in the *DEIS*, simply concludes that under the 2035 *With Action* scenario with the Unified Stormwater Rule in place, there will be a 0.05 MG reduction in flood volume and 5 fewer flooded manholes. The locations of the manholes are not disclosed and reductions in projected flood volume are contingent on implementation of the Unified Stormwater Rule.

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<sup>51</sup> New York City Office of Environmental Coordination, [Phased Redevelopment Of Governors Island –South Island Development Zones, FSSGEIS](#), 10-2

<sup>52</sup> Municipal Arts Society, [A Tale of Two Rezoning: Taking a Harder Look at CEQR](#), 2018

<sup>53</sup> NYC DCP, *Primary Land Use Tax Lot Output (PLUTO) Data*, September 2018

<sup>54</sup> *FSOW*, 2-52

<sup>55</sup> *DEIS*, Appendix F, p.29

Additionally, the flood risk assessment presented in the *DEIS* fails to acknowledge the recent NYC Stormwater Resiliency Plan<sup>56</sup> and incorporate high-resolution data from the *New York City Stormwater Flood Maps* that depict areas most at risk for rain-driven flooding and subsequent need for targeted infrastructure investment. Figure 11-5 shows the Extreme Stormwater Flood Risk in Gowanus, identifying much of the Rezoning study area at extreme risk for deep and contiguous flooding. Prior to finalizing the FEIS, the City must incorporate these data to ensure a comprehensive assessment of neighborhood flooding.

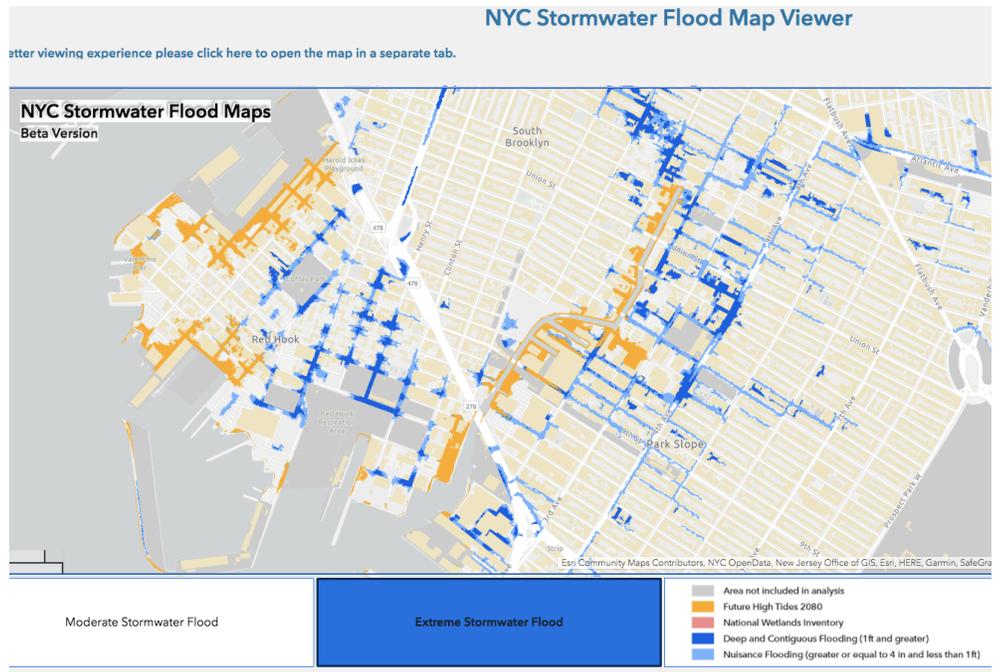


Figure 11-5: NYC Stormwater Flood Maps - Extreme Stormwater Flood Risk in Gowanus

**Assessment of sewer system capacity must address known capacity issues of infrastructure diverting flows to the Red Hook WRRF**

Of further concern, there is an urgent need to address known bottlenecks in the sewer system that further exacerbate capacity issues in the Red Hook Sewershed, including the Bond-Lorraine Sewer Line. This critical junction directs wet weather flow from Carroll Gardens catchment areas impacted by the rezoning through Red Hook which diverts flow towards the Red Hook Wastewater Treatment Plant via the Red Hook Interceptor - the predominant sewer line serving the 3,200-acre drainage area that includes much of central Brooklyn.

NYC Department of Environmental Protection (NYCDEP) has reported that the aging Bond-Lorraine sewer is tidally-influenced and currently more than 50% full during dry weather conditions, exceeding the anticipated design capacity by more than 30% (Figure 11-1). During wet weather events, this infrastructure is insufficient, resulting in regular street-level flooding, sewer backups, noxious odors, and combined sewer overflow (CSO). These conditions are likely to be exacerbated by rising sea and groundwater levels, increased precipitation, and future development proposed under the *With Action* condition in the *DEIS*. NYCDEP hydrologic modeling shows that conditions along this sewer line are the “highest priority problem” (Figure 11-2) in the area and that infrastructure upgrades are needed.

<sup>56</sup> NYC Mayor’s Office of Resiliency, [NYC Stormwater Resiliency Plan](#), May 2021

<sup>57</sup> NYC Mayor’s Office of Resiliency, [NYC Stormwater Resiliency Plan](#), May 2021

# Issues Affecting Gowanus - Bond-Lorraine Sewer

- Bond-Lorraine sewer currently 50% full during dry weather (normal capacity is 10% to 20% full)
- Prone to sedimentation and flooding
- Tidally influenced – three regulator structures connect to sewer (making it a pseudo interceptor)
- Connected to the Red Hook Interceptor.

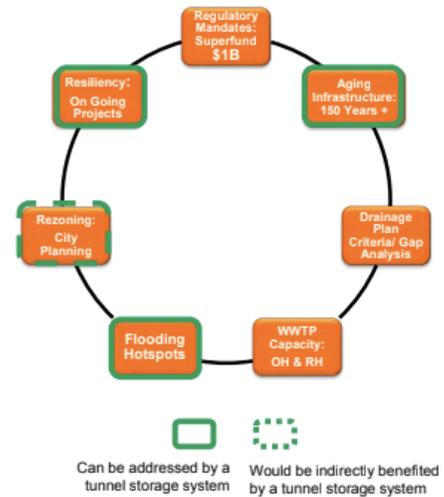


Figure 11-1: Issues Affecting Gowanus - Bond-Lorraine Sewer

# Trunk Sewers and 4th Avenue Siphons Modeling Summary



MODELED RAINFALL EVENTS	Rain Duration (hour)	Total Rain Depth (inches)	2 hour Rain Depth (inches)	1 hour Peak (inches)
2-year NOAA 2nd Quartile Rainfall Event	24	3.80	0.73	0.37
5-year NOAA 2nd Quartile Rainfall Event	24	4.70	0.96	0.48
6/14/2008 Storm	5	1.86	1.57	1.36
DEP 5-year Storm	2	1.84	1.84	1.88
8/14/2011 Storm	23	7.80	3.14	2.41
Hurricane Harvey	65	28.28	3.94	2.00

	Smith St	Butler St	Dean St	7/4/3rd Ave	3rd St	Bond Lorraine	Butler St	7th St				12th St		26th St					
			Siphon				Siphon	7a	7b	7c	7d	Siphon	7e	7f	Siphon	7g	7h	7i	7j
Storm Event with 58" SLR	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2-year NOAA 2nd Quartile Rainfall Event	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
5-year NOAA 2nd Quartile Rainfall Event	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
6/14/2008 Storm	✓	✓	✓	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✓	✓	✗	✗	✗
DEP 5-year Storm	✗	✓	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
8/14/2011 Storm	✓	✓	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✓	✓	✗	✗	✗
Hurricane Harvey	✓	✓	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✓	✓	✗	✗	✗

Figure 11-2: Highest Priority Problem

<sup>58</sup> NYCDEP, [Gowanus Canal Superfund CSO Project Tunnel Storage System Alternative, EPA Technical Workshop](#), Slide 14, July 2018

<sup>59</sup> NYCDEP, [Gowanus Canal Superfund CSO Project Tunnel Storage System Alternative, EPA Technical Workshop](#), Slide 10, July 2018

**MITIGATION**

**Capital commitments for future infrastructure and planning must be anticipated**

The City must acknowledge the existing limitations of the sewer system, and make commitments for infrastructure that will address capacity issues.

- *Mitigation Needed:* The City must complete a comprehensive hydrological and flood resiliency study that fully examines the capacity of the local sewer system in relation to coastal and inland flooding in order to identify critical areas of concern for targeted infrastructure improvements and upgrades. This study must go beyond the outdated Gowanus Long-Term Control Plan (LTCP) and anticipate the impacts of climate change and new population density.
- *Mitigation Needed:* The City must commit capital funds for infrastructure upgrades at the Bond-Lorraine Sewer Line to address capacity issues in the Red Hook Sewershed. In conjunction with the 2019 proposal to construct a 16-million gallon underground tunnel below the Gowanus Canal, NYCDEP proposed what could be a solution, including the construction of an underground microtunnel transecting Red Hook Park and a dry weather pumping station where the Bond-Lorraine sewer line meets the Red Hook Interceptor at the intersection of Wolcott and Conover Streets but dropped the suggestion when the tunnel proposal was rejected by the U.S. Environmental Protection Agency (USEPA). This proposal should be funded in the context of the Gowanus Neighborhood Plan.

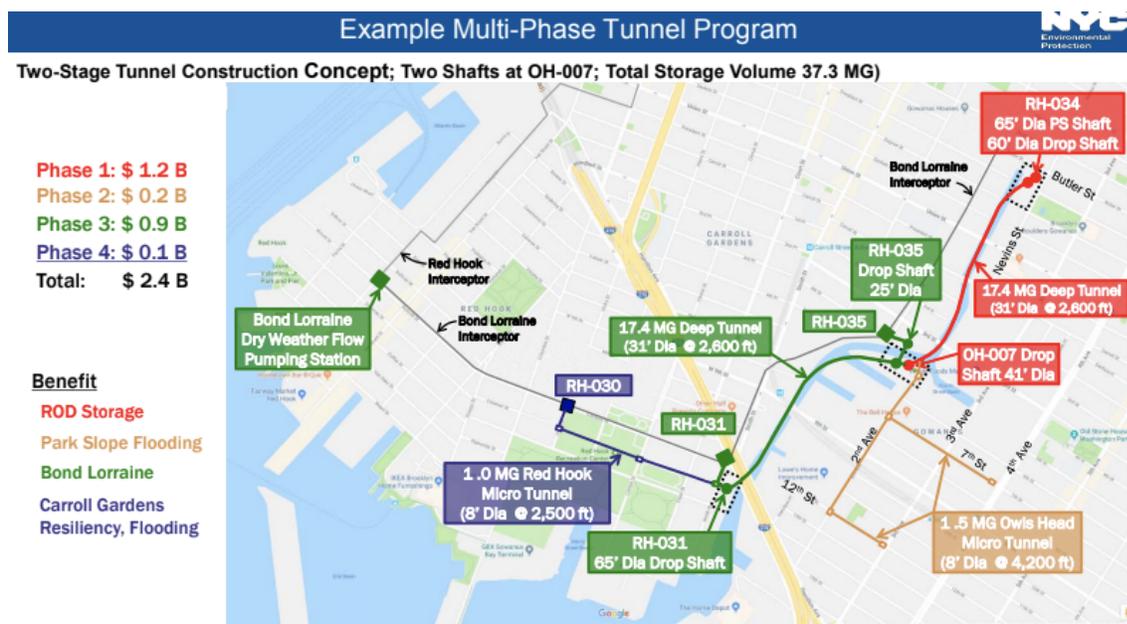


Figure 11-3: Proposed Infrastructure Upgrades at the Bond-Lorraine Sewer<sup>60</sup>

- *Mitigation Needed:* The City must investigate opportunities for increasing CSO capture during design and planning for the OH-007 CSO Facility. As noted in EPA’s letter to NYCDEP regarding their final decision on the proposed tunnel alternative<sup>61</sup>, the Agency is amenable to discussing a potential expansion of the volume of the two CSO retention tanks in relation to the rezoning proposal.
- *Mitigation Needed:* The City must commit to additional green and grey infrastructure, including sewer separation projects, right-of-way and street end green infrastructure, and micro-tunnels throughout the Gowanus Sewershed in order to address capacity issues. As mandated by EPA’s recent Administrative Order<sup>62</sup>, when

<sup>60</sup> NYCDEP, [Gowanus Canal Superfund CSO Project Tunnel Storage System Alternative, EPA Technical Workshop](#), Slide 18, July 2018

<sup>61</sup> USEPA, [Letter to NYCDEP Re: Gowanus Canal Superfund Site](#), September 2019

<sup>62</sup> USEPA, Region 2, [Executive Administrative Order for Remedial Action, Gowanus Canal](#), March 2021

implementing or approving municipal sewer infrastructure upgrades and/or private stormwater controls within the Gowanus sewershed, NYCDEP must separate stormwater for discharge to the Gowanus Canal to the maximum extent practicable.

## **20: CONSTRUCTION**

As described in the *DEIS*, construction activities associated with the rezoning would be disruptive and result in significant adverse impacts while underway, projected to be an approximately 14-year period.<sup>63</sup> This construction period overlaps with construction activities associated with ongoing Superfund dredging and planned combined sewage overflow tanks, which are located in the same area and will impact the same residential population, historic and cultural resources, and transit systems. Under the status quo, construction oversight and coordination is an incredibly complex and convoluted system, with 11 agencies at 3 levels of government variously responsible for 24 areas of oversight, ranging from building codes to noise codes to air emissions to hazardous materials.<sup>64</sup>

*Mitigation needed:* Due to the high potential for adverse impacts from construction activities and compounding overlaps with Superfund activities, it is critical that the City establish a Zoning Commitment Task Force to provide oversight and coordination of construction on public and private properties throughout the neighborhood. The following components should be included in the scope of the Task Force:

1. In regular meetings, contractors, agencies and utilities should share information, receive community feedback, and coordinate construction timelines to lessen environmental impacts on neighbors. Information includes impacts on buildings, streets, bridges, sewers and public spaces, as well as updates on construction practices including 24-hour air monitoring, safety, staging, removal of contaminated soil, timelines, and tree removal.
2. For every large construction project, the agency or owner should provide a dedicated community liaison that can provide rapid response to issues. The oversight body should oversee communication to the wider community, through signage, regular meetings, and other forms of outreach.
3. A neighborhood-wide Community Construction Coordinator should be provided to 1) Liaise with all agencies and private developers undertaking construction in the neighborhood; 2) Develop and maintain data review and tracking of all ongoing construction; 3) Communicate information about ongoing construction to the public; and 4) Direct community requests to appropriate agencies for review.

## **21: MITIGATION**

All mitigation measures must be added to the Neighborhood Plan, tracked in the City Commitment Tracker and reported regularly to the Gowanus Zoning Commitment Task Force. Necessary mitigation is described in detail in chapters above, and summarized below:

### **5: OPEN SPACE**

1. Clear capital commitments, increases in the active open space ratio, and timelines for planned open spaces
  - Head Of Canal Park (1.6 acres, increase to 30% active)
  - Gowanus Green (1.5 acres, increase to 50% active)
2. Additional capital and access commitments and timelines for open space on 6.94 acres of City owned land in the neighborhood
  - Salt Lot (3.5 acres, 30% active)
  - Smith/9th Transit Plaza (0.5 acres, 20% active)
  - Under The Tracks Park (1.5 acres, 66% active)

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<sup>63</sup> *DEIS, 20-1*

<sup>64</sup> *DEIS, 20-5*

- Green Space On 4th Extension (0.2 acres, 20% active)
  - Pumphouse Plaza (0.5 acres, 0% active)
  - Public Boat Launches (0.25 acres, 100% active)
  - Gowanus Underpass (.69 acres, 35% active)
3. Make 7 local schoolyards accessible to the public after school hours through the Schoolyards to Playground program, providing 3.18 acres of active public space.
  4. Renovations and improvements to existing parks to ensure these open spaces can support a growing population
    - Thomas Greene Park
    - St Mary's Park
    - Old Stone House & Washington Park
    - Gowanus Houses Campus
    - Wyckoff Gardens Campus
  5. Modifications to the Waterfront Access Plan and certification process to better facilitate active uses, water access, and community oversight
  6. Sustainable funding for open space maintenance through the creation of a Parks Improvement District

## 6: SHADOWS

1. Gowanus Canal: Capital investment in habitat restoration and Public boat launches in the Gowanus Canal south of 3rd Street
2. Thomas Greene Park: Modified massing for adjacent properties to reduce shadows on the park and siting of the pool in the northern half of the park

## 9: NATURAL RESOURCES

1. Restoration areas on public street ends, parks, and in the water
2. Habitat improvements to bulkheads and edges along the Canal
3. Creation of a Gowanus Tree Trust to keep all required tree plantings in Gowanus
4. Sustainable funding for local stewardship of green infrastructure
5. Coordination with the State to ensure that waterbody designation supports current and future uses

## 10: HAZARDOUS MATERIALS

1. Support a Community Construction Coordinator, who is in direct contact with remediation contractors and relevant DEC and OER managers for any ongoing remediation, and is responsible to keep the community updated and concerns addressed

## 11: WATER AND SEWER INFRASTRUCTURE

1. Ensure that the Unified Stormwater Rule is in effect prior to the first site sewer connection enabled by the Gowanus Rezoning
2. Provide transparent reporting on implementation of the Unified Stormwater Rule.
3. Complete a comprehensive drainage and flood resiliency study that fully examines the capacity of the local sewer system in relation to coastal and inland flooding in order to identify critical areas of concern for targeted infrastructure improvements and upgrades.
4. Commit capital funds for infrastructure upgrades at the Bond-Lorraine Sewer Line to address capacity issues in the Red Hook Sewershed.
5. Investigate opportunities for increasing CSO capture during design and planning for the OH-007 CSO Facility.
6. Commit to additional green and grey infrastructure, including sewer separation projects, right-of-way and street end green infrastructure, and micro-tunnels throughout the Gowanus Sewershed in order to address capacity issues.

## 20: CONSTRUCTION

1. Establish a Zoning Commitment Task Force to provide oversight and coordination of construction on public and private properties throughout the neighborhood.
2. Require a dedicated community liaison for every large construction project that can provide rapid response to issues.
3. Support a neighborhood-wide Community Construction Coordinator to 1) Liaise with all agencies and private developers undertaking construction in the neighborhood; 2) Develop and maintain data review and tracking of all ongoing construction; 3) Communicate information about ongoing construction to the public; and 4) Direct community requests to appropriate agencies for review



September 17, 2021

TO: City Planning Commission

**RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)**

Gowanus Canal Conservancy (GCC) advocates and cares for ecologically sustainable parks and public spaces in the Gowanus lowlands while empowering a community of stewards. GCC currently occupies the Salt Lot along with partner non-profit Big Reuse through an agreement with the Department of Sanitation (DSNY). As current occupants of the Salt Lot, the selected site for the OH-007 CSO Facility, we are writing today with recommendations for site planning in order to protect critical services and provide community and ecosystem benefits.

Since 2010, GCC has headquartered community stewardship and education programs, and a native plant nursery at the BK6 Salt Lot. We understand that DEP is currently planning for 1) the construction of the 2nd Avenue and Salt Lot bulkhead between 2022 and 2023, required by the EPA as part of the Gowanus Canal Superfund<sup>1</sup> and 2) the construction, between 2023 and 2028, and subsequent operation of the OH-007 Combined Sewage Overflow (CSO) detention tank. As the current occupants of the site, we support the construction of this critical infrastructure to reduce CSO into the Canal, and agree that the Salt Lot, which is owned by the City and adjacent to the OH-007 outfall, is the most appropriate site.

**However, we request that as a condition of ULURP approval, the City commit to** 1) communicate effectively and regularly with site occupants, 2) provide support for relocation, and 3) produce a final site design that keeps the Salt Lot the eco-industrial heart of Gowanus. Displaced site components and programs include compost production, landscape maintenance, a native plant nursery, environmental education, and biodiverse restoration areas. The long-term design should also incorporate additional community benefits and ecosystem improvements, including public access areas, environmental stewardship education, ecological resources management, green job training, and interpretation of the new CSO infrastructure.

Of immediate concern is the need for a temporary home for GCC's 8,200 square foot nursery, outdoor classroom, and maintenance facility, which will be entirely displaced at the end of 2021 in order for the City to begin bulkhead construction. The City has verbally communicated that they intend to support our relocation, but we have not yet received a firm commitment in writing

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<sup>1</sup>EPA CSO Administrative Order for Remedial Action to the City of New York, March, 29 2021, Appendix

for a suitable temporary space and relocation assistance. As of this writing, on September 17, we do not know where we will move at the end of the year. It is critical that as a condition of this ULURP the City commits to and follows through on providing a temporary home to GCC's existing 8,200 square foot facility during both bulkhead and tank construction.

The following pages provide detailed comments on needed process, existing conditions and recommendations for final site design, and build on GCC's previous comments on the Draft Scope of Work for the OH-007 CSO tank.<sup>2</sup>

## 1. PROCESS

We ask that the City:

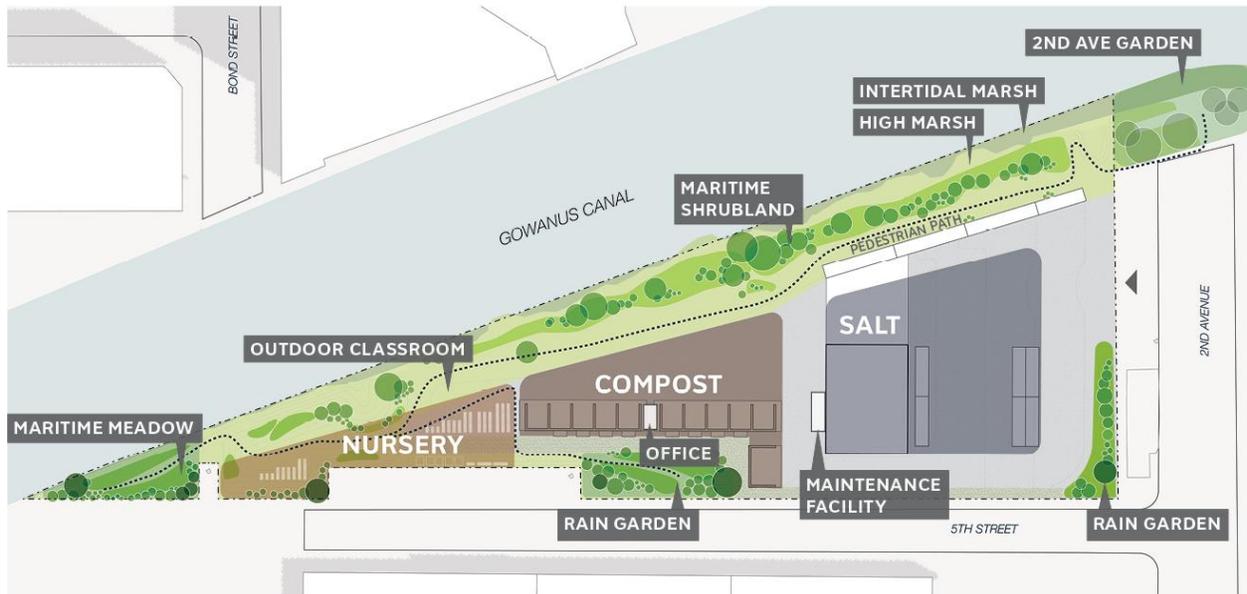
- **Work closely with current occupants to mitigate impact on current operations -**  
Given the multiple facilities on site, it is critical that DEP work closely with current site occupants to plan for a site design and construction process that minimizes and mitigates impact on current operations. We request that DEP coordinate the construction timeline with GCC and Big Reuse, provide ample notice for construction activities that will impact site operations and public programs, and provide support and a temporary site for any period of time that we need to relocate our operations and programs.
  - Given GCC's imminent displacement at the end of 2021 due to bulkhead work, we ask DEP to help us secure and pay for a lease on a private site or provide us with use of a public site, such as the MTA site at 9th Street and the Canal or the water tunnel site located at 4th Ave. and Sackett St. A suitable site will need to accommodate GCC's 8,200 SF operations footprint for a period of 2 years, from January 2022 through the end of 2024.
  - We understand that the City is exploring establishing a temporary site for DSNY operations on a parcel south of 5th Street during the period of tank construction from 2024-2028. We request that the City commits to accommodating both GCC and Big Reuse operations on this site with a minimum allocation of 18,200 sf, in line with existing space allocations.
- **Engage current occupants and other local stakeholders in the design process -**  
Per the Facility Plan, public outreach should be used to inform planning and design decisions.<sup>3</sup> This outreach should specifically elicit feedback about replacement of current operations, public space design and programming, water access, and educational interpretation of grey and green infrastructure. Outreach to current occupants should be frequent and transparent, to ensure that the final site design supports ongoing operations. Additionally, particular attention should be paid to gathering feedback from ecosystem restoration experts, local teachers who use the Gowanus as a classroom, industrial businesses in the IBZ, boaters, and other local neighbors.

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<sup>2</sup> June 16, 2017 Letter from Gowanus Canal Conservancy to DEP. Re: Comments on Draft Scope of Work for the Gowanus Canal CSO Facilities. CEQR NO. 17DEP040K for Owl's Head CSO tank site

<sup>3</sup> CSO-GC-SFS DES Facility Plan Report - OH-007, September 2017, Section 7.5

## 2. EXISTING CONDITIONS



*Salt Lot: Existing Conditions (Gowanus Canal Conservancy)*

### FACILITIES AND COMMUNITY PROGRAMMING

Over the past decade, GCC, Big Reuse, and DSNY have built and maintained a number of improvements on the site, which will be impacted, displaced and/or destroyed by site investigation, demolition, and construction. Between 2014 and 2017 the site saw a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. GCC and Big Reuse operations currently comprise a combined 18,200 square feet of space. Site components include:

- **Salt Storage and Snow Response Facility:** DSNY uses the site as a base for Community District 6 snow response operations. Facilities include a covered salt storage shed and plow blade storage racks.
- **Compost Facility** (10,000 sf) Big Reuse operates a compost processing facility and residential food scrap drop-off. The large scale multi-bay compost facility features solar-powered aerated static pile technology, with an estimated annual throughput of 150 tons of organic material. GCC and Big Reuse distribute compost for public greening projects through compost pick-ups and giveback events. About 50% of the compost produced enriches tree pits and gardens in the Gowanus Watershed, improving plant growth and water retention.
- **Landscape Maintenance Facility** (1,200 sf) With a base of operations at the Salt Lot, GCC deploys landscape maintenance personnel to care for on-site gardens as well as off-site street trees, bioswales, and gardens throughout the Gowanus Watershed, increasing permeability to decrease CSO. Personnel includes full time staff, youth green job trainees, and an annual average of 750 volunteers. Facilities include equipment and material storage.
- **Lowlands Nursery** (6,000 sf) GCC operates a native plant nursery, growing and distributing over 4,000 native plants each year, with over a third planted at the Salt Lot



Existing Program: Lowlands Nursery



Existing Program: Lowlands Nursery



Existing Program: Outdoor Classroom



Existing Program: Green Job Training

and in gardens and tree pits throughout the neighborhood. Facilities include outdoor growing areas, a shade structure, propagation tunnels, and storage.

- **Outdoor Classroom** (1,000 sf) GCC hosts over 500 local students and teachers annually at workshops and field trips to learn about environmental issues facing Gowanus and mitigation strategies. Facilities include seating and work stations for 30 students, water quality testing area, and equipment storage space.
- **Office:** A small office space supports up to two Big Reuse and GCC staff working on site in inclement weather.
- **Planted gardens and restoration areas** (17,000 sf) Described further below in “Ecosystem Improvements and Performance”

## ECOSYSTEM IMPROVEMENTS AND PERFORMANCE

For over a decade, GCC has planted thousands of native plants in demonstration gardens and restoration areas at the Salt Lot. This restoration work has yielded one of the most high-performing and biodiverse sites along the Gowanus Canal. The planted areas improve

Gowanus Canal water quality through erosion control and increased stormwater capture and filtration, managing an estimated 32,300 gallons per storm event. Native ecosystems found on site include a number of areas categorized as tidal wetlands by the Department of Environmental Conservation.<sup>4</sup> Visitors have access to these ecosystems along a pedestrian path that includes viewing areas, water access, and interpretive signage.



Existing Ecosystem: Emergent Marsh Rain Garden



Existing Ecosystem: Intertidal Marsh



Existing Garden: 2nd Avenue Garden



Existing Ecosystem: High Marsh

Existing restoration areas and gardens span 17,000 sf and include:

- **Intertidal Marsh** (200 sf): Intertidal marsh is a tidal wetland zone located between low and high tide elevations, as defined in state tidal wetlands regulations.<sup>5</sup> In 2012, GCC installed an intertidal and high marsh restoration along the northeast shore of the Salt Lot. This is the only patch of *Spartina alterniflora* on the Gowanus Canal, and continues to thrive at the edge of the site. Intertidal marsh species restore the historic ecology of

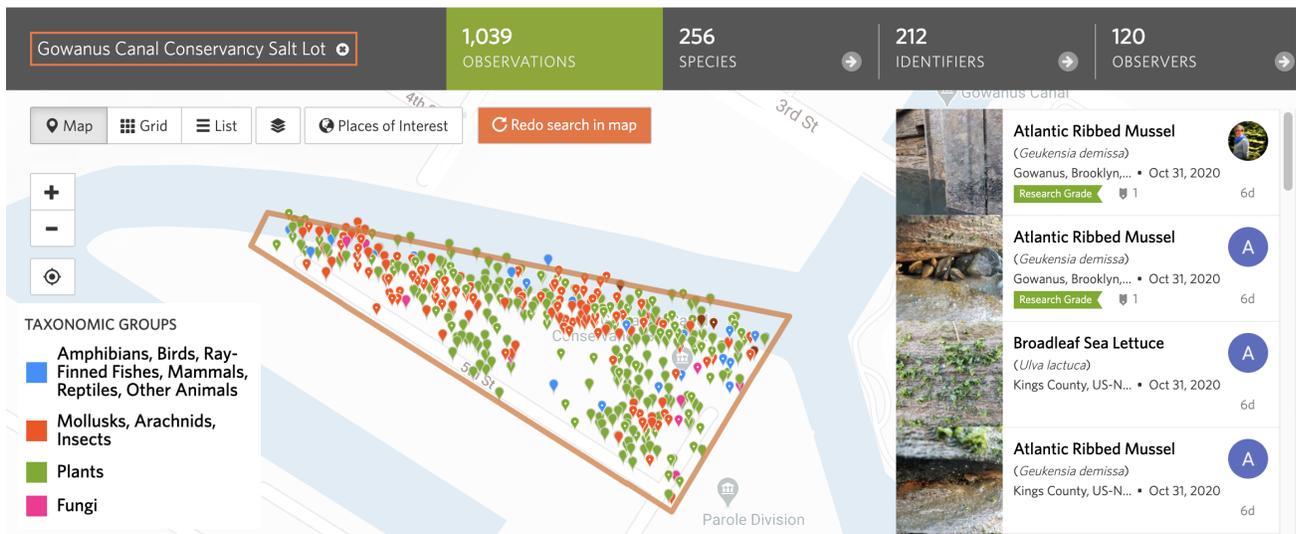
<sup>4</sup> DEC Tidal Wetlands Categories, <https://www.dec.ny.gov/lands/5120.html>

<sup>5</sup> Compilation Of Codes, Rules And Regulations Of The State Of New York, 6 CRR-NY 661.4(hh) [https://govt.westlaw.com/nycrr/Document/14ecd4445cd1711dda432a117e6e0f345?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/nycrr/Document/14ecd4445cd1711dda432a117e6e0f345?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1)

the Gowanus creek and salt marsh, and provide habitat for mussels, crabs, fish, and a variety of shorebirds.

- **High marsh, Maritime Meadow, and Shrubland** (12,100 sf) High marsh is the upper tidal wetland zone located just above high tide elevation, as defined in state tidal wetlands regulations.<sup>6</sup> High marsh on the Salt Lot includes wetland species such as *Spartina patens*, *Iva frutescens*, and *Baccharis halimifolia*. A diversity of additional native maritime meadow and shrub species thrive in these areas, providing habitat for birds, pollinators and other wildlife. Notable species include *Rhus typhina*, *Prunus maritima*, *Panicum virgatum*, *Monarda fistulosa*, and *Schizachyrium littorale*.
- **Emergent Marsh Rain Gardens** (2,600 sf) Site stormwater is directed to and managed by two rain gardens planted with emergent marsh species that include *Juncus effusus*, *Asclepias incarnata*, *Iris versicolor*, *Cornus amomum*, and *Cephalanthus occidentalis*.
- **The 2nd Avenue Street End Garden** (2,100 sf) In 2012, GCC installed a garden where 2nd Avenue meets the Gowanus Canal, providing much needed public space for people to experience the Canal. The space features native plantings, retentive stone structures, seating, and an informal boat launch and get down.

GCC has worked with scientists, students, and volunteers to document the biodiversity of the site during annual biological surveys, or bioblitzes, using *iNaturalist* and paper data sheets, collectively recording over 1,000 observations of over 250 species of plants, birds, fish, invertebrates, and mammals.<sup>7</sup> Impacts to this biodiversity must be mitigated in the future site plan.



*Species Observations (iNaturalist)*

<sup>6</sup> Ibid

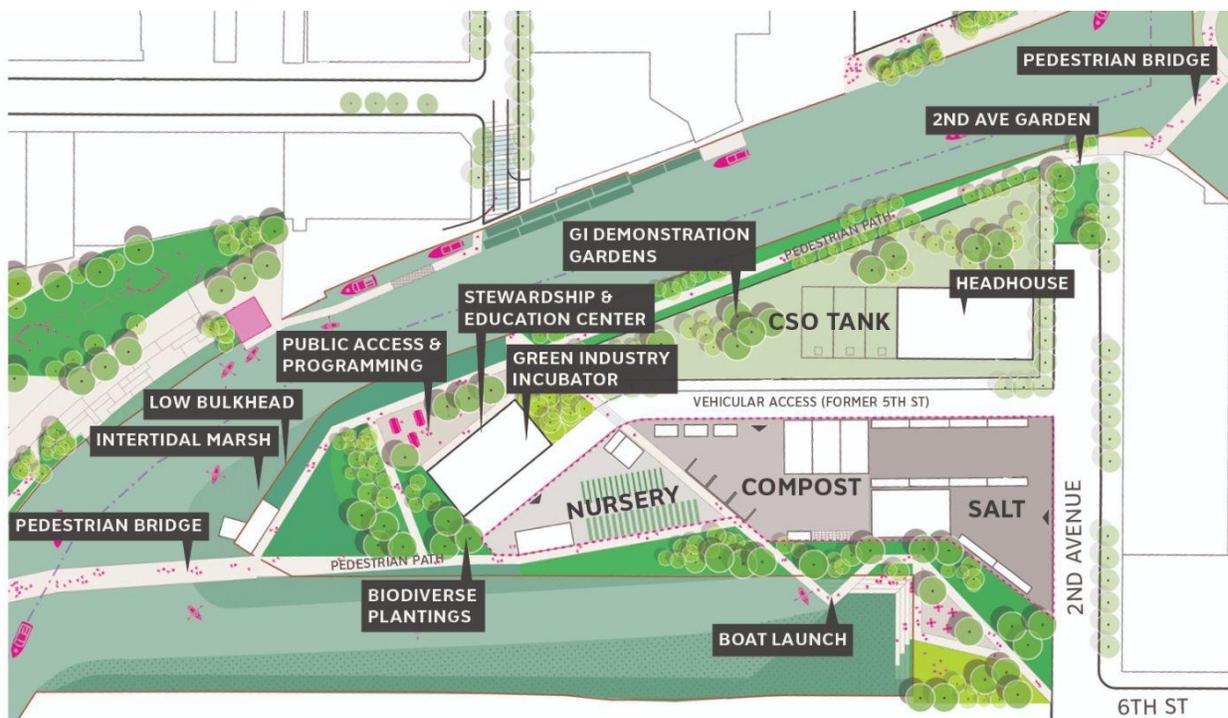
<sup>7</sup> iNaturalist observations, Gowanus Canal Conservancy Salt Lot [https://www.inaturalist.org/observations?place\\_id=152219](https://www.inaturalist.org/observations?place_id=152219)

## DISPLACED 5TH STREET BUSINESSES

Directly across the street from the current Salt Lot site are 6 industrial businesses along 5th Street, all of which will be displaced by the City to place the CSO Tank. As the City has done with prior business displacements (e.g., the Greenpoint Relocation Program provided displaced businesses with total eligible moving costs or \$50,000 per business), relocation support of a comparable amount should be provided, with particular assistance given to relocating these businesses in the Gowanus IBZ where possible.

## 3. DESIGN RECOMMENDATIONS

As DEP consultants note in the CSO-GC-SFS DES Facility Plan Report - OH-007 (Facility Plan), the OH-007 CSO Facility can be a model of civic infrastructure, integrating critical sewer infrastructure with community benefits and ecosystem improvements.<sup>8</sup> At a baseline, any new design must include the existing programs and facilities that the community relies on: a landscape maintenance facility and native plant nursery, a compost facility, a DSNY salt storage and snow response facility, an outdoor classroom, and biodiverse coastal habitats. Additional new programs - public space, salt marsh restoration, a stewardship and education center, and interpretation for the new CSO facility - would greatly enhance the public benefits of the project. Below are recommendations for site design, construction and operations.



*Salt Lot: Proposed Site Plan (Gowanus Canal Conservancy and SCAPE)*

<sup>8</sup> CSO-GC-SFS DES Facility Plan Report - OH-007, September 2017, Section 6.8.3.8

## FACILITY AND SITE DESIGN

- Design and construct a **Low Bulkhead** to minimize ecological impact and support further ecological restoration. The first action DEP must take on the site, in 2021, is construction of a bulkhead to support the Superfund dredging. DEP consultants note that a cantilever system is the more practical bulkhead system for the site, and detail two options for the height of the bulkhead: 1) *at elevation 8 with a level grade behind*, or 2) *at the low water line with a sloped embankment up to finished grade*.<sup>9</sup> We strongly recommend the second approach where possible, both to protect existing ecosystems and support future ecosystem restoration. This low bulkhead could be constructed while preserving the existing vegetation along the waterfront, particularly the existing areas of intertidal marsh which extend to just above the low water line and require regular tidal inundation. This low bulkhead would then enable additional restoration of intertidal ecosystems with the larger site design.
- **Examine opportunities to increase CSO volume capture** at the OH-007 facility in relation to the proposed increase in population density as projected in the City's rezoning proposal for the Gowanus neighborhood. As noted in [EPA's Sept. 2019 correspondence with DEP](#)<sup>10</sup> regarding DEP's proposed tunnel alternative, EPA is amenable to discussing a potential expansion of the volume of the CSO retention tanks if additional capacity is required to meet the needs of a growing population. While tank expansion might result in further delays to the CSO facility planning, other measures, such as CSO outfall consolidation, should be considered on this site to minimize CSO discharges to the Gowanus Canal to the maximum extent practicable.
- Incorporate **Existing Facilities**. The site design should incorporate the existing facilities described above. Sufficient space should be allocated to accommodate current operations, including: Salt Storage and Snow Response Facility, Compost Facility, Landscape Maintenance Facility, Lowlands Nursery, Outdoor Classroom, and Office.
- Include space for a new **Stewardship and Education Center** that houses landscape maintenance operations and expands community opportunities for education and green job training. This facility should include indoor classrooms and weather protected outdoor classrooms to accommodate experiential, place-based science and design-based learning, allowing local students to explore and document the canal's ecology.
- Include space for a new **Green Industry Incubator** - The Facility Plan calls for purchasing 2 lots which currently host six industrial businesses that support 85 full time jobs. In order to offset the loss of these jobs in the Industrial Business Zone, the City should invest in a green industry incubator, with a focus on supporting businesses and jobs in the emerging green building sector, including green infrastructure construction and maintenance.
- **Provide interpretation of the CSO facility** - The OH-007 CSO facility is a major public investment that will provide critical management of combined sewage overflow into the Gowanus Canal and improve water quality. There is an additional need to further engage community members and students to interpret how this infrastructure works, and how

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<sup>9</sup> Ibid, Section 6.2.9

<sup>10</sup> Lopez, Peter (USEPA) to Vincent Sapienza (NYCDEP). September 20, 2019.

green and grey infrastructure are part of the solution. Specific elements could include signage, interactive urban watershed models, and areas demonstrating green infrastructure and integrated stormwater management techniques. DEP's Newtown Creek Wastewater Treatment Plant provides an excellent example of similar interpretation by the agency.

- Provide **waterfront public space** - The Draft Environmental Impact Statement (DEIS) for the overall Gowanus rezoning shows a serious deficiency in open space per resident, particularly active space. This site offers a unique opportunity to improve this ratio by creating a substantial new public space. There should be an accessible public path along the waterfront of the entire peninsula that connects larger public spaces on the 2nd Avenue Street End, the top of the CSO tank, the western tip of the peninsula, and the end of the 6th Street Basin. Programming and site design should include educational interpretation, a boat launch, demonstration gardens and seating areas.
- Provide **water access** at the 2nd Avenue Street End and the 6th Street Turning Basin - When defending the low active space ratio, the overall DEIS refers to the Gowanus Canal as *“an active open space resource for kayaking and other water-dependent activities”* and states that this is *“expected to increase as accessibility and water quality improves over the analysis period, further enhancing the quality and availability of open space resources in the study area.”* The City cannot sit back and “expect” this increase - they must commit to building boat launches on publicly owned land. A get down at the 2nd Avenue Street End, and an ADA accessible boat launch in the 6th St Turning Basin can help ensure that the Canal is accessible to all.
- Provide **safe and intuitive circulation** for all site users - Particular attention should be paid to clear and safe access for the range of vehicles and pedestrians that need to access the site facilities, ranging from snow plows to pedestrians.
- Install **biodiverse plantings** to restore ecosystem function - As noted in the Facility Plan,<sup>11</sup> the site design should pay particular attention to restoring coastal ecologies and maximizing stormwater management across the site. Ecosystem design should reference the years of experimentation and observation that GCC and community partners have done on site, to restore Intertidal marsh, High marsh, Maritime Meadow and Shrubland, and Emergent Marsh and to provide habitat for observed species.
- Install **large scale intertidal marsh** on the western tip of the peninsula - Under the Superfund, Potentially Responsible Parties, including DEP, will be responsible for Natural Resource Restoration projects to restore ecosystem services that have been damaged through the contamination or clean-up. A large scale restoration project integrated into this project could be credited to the future settlement.

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<sup>11</sup> CSO-GC-SFS DES Facility Plan Report - OH-007, September 2017 - Section 6.8.3.3., Section 6.8.3.5

We appreciate the opportunity to share these recommendations.

Sincerely,



Andrea Parker  
Executive Director  
Gowanus Canal Conservancy



*Salt Lot: Vision (Gowanus Canal Conservancy and SCAPE)*

Attachments:

Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing, August 18, 2021

Appendix 2 - Additional Letters of Support

**Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing , August 18, 2021**

*Diana Gruberg*  
*Landscape Director*

I'm Diana Gruberg, Landscape Director of Gowanus Canal Conservancy. Since 2010 we have headquartered community stewardship, education for local students, and a native plant nursery at the BK6 Salt Lot, the proposed site for the Owls Head CSO tank. While we support this critical infrastructure to reduce CSO into the canal, the City must commit to our 3 asks: 1) communicate effectively and regularly with site occupants 2) provide support for relocation, and 3) produce a final site design that keeps the Salt Lot the eco-industrial heart of Gowanus.

Over the last decade we have planted thousands of native plants in demonstration gardens and restoration areas at the Salt Lot and 2nd Avenue street end garden. This restoration work has yielded the most biodiverse site along the Gowanus Canal, where for the first time in over a century you can now find salt marsh grasses supporting a community of mussels and crabs, reasserting the 400 acres of salt marsh that once existed here.

Today, the 17,000 square feet of native ecosystems and public spaces found at the Salt Lot collectively manage all site stormwater while providing habitat for marine life, shorebirds, invertebrates, and small mammals. During annual biological surveys, we have documented over 280 species on the site, including many considered Species of Greatest Conservation Need by the state because they are vulnerable or imperiled in New York<sup>1</sup>, namely the Great blue heron, Laughing gull, Mummichog, Atlantic silverside and Five-angled dodder.

The City will be required to provide restoration under a likely Natural Resource Damages settlement as part of the Superfund, but this investment could get directed offsite to places like Jamaica Bay if there are no local options. The City must commit to keep these dollars and habitat here, in Gowanus, by dedicating a portion of this site for restoration of the critical habitat we have lost and will lose again with this project. The City must commit to include in the long term site design biodiverse plantings, soft waterfront edges, and a large-scale intertidal marsh installation integrated into public space.

The health of our ecosystem depends on it.

.....  
*Jordan Heiden*  
*Engagement Manager*

Good morning. My name is Jordan Heiden, and I'm the Engagement Manager at the Gowanus Canal Conservancy. While we do support the critical infrastructure to reduce CSO into the Canal, the City must commit to: 1) communicate effectively and regularly with site occupants 2)

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<sup>1</sup> iNaturalist observations, Gowanus Canal Conservancy Salt Lot  
[https://www.inaturalist.org/observations?place\\_id=152219](https://www.inaturalist.org/observations?place_id=152219)

**Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing , August 18, 2021**

provide support for upcoming relocation, and 3) produce a final site design that keeps the Salt Lot the eco-industrial heart of Gowanus.

In the last 10 years GCC has hosted over 5,000 local K-12 students on the Salt Lot for field trips to learn about environmental issues and potential solutions in Gowanus. Students test the water quality to investigate the impacts of combined sewer overflow and learn about grey and green infrastructure. They also propagate native plants to explore local ecosystems and biodiversity. These education opportunities engage local students (and their families) in the critical environmental issues facing Gowanus, and help build the next generation of environmental advocates.

The future site design should include space and support for a new facility for experiential, science, and design-based learning for local students. Additionally, site design should include a comprehensive interpretation plan for the Owls Head CSO facility including signage, urban watershed models, and demonstration green infrastructure. It is essential that we connect place-based learning to better understanding our urban environment. The City has demonstrated in previous installations that this type of work is possible, and we hope to see it for our site as well.

Our next generation of environmental stewards depends on this. Thank you.

.....  
*Joanne Zhao*  
*Youth Stewardship Manager and Nursery Coordinator*

Hello, my name is Joanne Zhao and I am the Youth Stewardship Manager and Nursery Coordinator at Gowanus Canal Conservancy. While we do support the critical infrastructure to reduce CSO into the Canal, the City must commit to: 1) communicate effectively and regularly with site occupants 2) provide support for upcoming relocation, and 3) produce a final site design that keeps the Salt Lot the eco-industrial heart of Gowanus.

I'm here to talk about the importance of the Salt Lot, which is where many of our operations such as the native plant nursery and composting take place. I manage paid youth apprentices who grew up in Gowanus and Brooklyn area and introduce and integrate them into our work at GCC. Our site is where local youth can come experience and see the cycle of life for plants, animals, insects, and the seasons. This site is important because it seeds passion and excitement for hands-on work with the land, soil, compost, plants, and so much more. I grew up in Brooklyn and never dreamed of working in horticulture and public green space because I rarely saw it, let alone experienced it. Some local youth I interviewed for the paid environmental stewardship apprenticeship, have never worked with plants and soil before. I remember vividly interviewing a high school sophomore one year, and she told me she's never even owned a house plant before. This stuck with me because it resonated with my own upbringing in a

**Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing , August 18, 2021**

low-income community of color and now, I feel very grateful and honored to work in horticulture and see youth's eyes shine with interest as they move through the apprenticeship.

Some of the youth who go through our program did not even know jobs like this existed and some walk away with a new profound passion and interest in environmental work. This is why a site like the Salt Lot is incredibly valuable and needed in communities like Gowanus. It's an opportunity to create a long loving connection with our planet, which can get lost easily in a city like NYC. In terms of where we stand now, we will need the City to provide a temporary site by the end of this year when site work begins, or our youth program will not be able to continue. We need this site to foster current and future youth with budding green thumbs and a passion for a healthy living planet and environment.

.....  
*Madison Myers*  
*Green Team Senior Apprentice*

Good afternoon my name is Madison Myers and I'm a Green Team senior apprentice with Gowanus Canal Conservancy. I'm an upcoming high school senior and I'm from Brooklyn. I would like to testify about the importance of the environmental work that happens at the Salt Lot, which will be displaced by the proposed combined sewage overflow tank. My experience with Gowanus Canal Conservancy working at the Salt Lot has been incredible. I joined the GCC team in the Summer of 2020. It was my first job. As a sophomore in high school I just saw it as a way to get paid at first, but to my surprise I ended up loving it. I was able to meet new people and learn new things. This program is important because it can give other youth an opportunity to help their community and also learn about it. Green Team is an opportunity for youth to learn about ongoing environmental issues in the community and also how they can help solve the issues. Green Team also helps with maintenance at their native plant nursery, like potting up plants, weeding, watering, and more. GCC was able to help me have a different outlook on a lot of things. I never realized how important trees were, not only for us but for the streets, clean air and the ecosystem as well. I never knew that those rain gardens that you see on the sidewalk helped with combined sewage overflow, which pollutes the Gowanus Canal almost every time it rains. I would've never learned these things without GCC and I want other youth to experience that as well. Growing up in Brooklyn I was never exposed to green spaces that much, I never noticed how many different types of plants there were and what they do for us. If I would've never worked for GCC I would probably still be clueless. This program also allowed me to experience new things. About 3 weeks ago I got the chance to cut phragmites, a highly invasive species in the water at Prospect park. The reason we had to cut down the phragmites is because they're so invasive and they start to grow out of control. If they would have continued growing they would have eventually taken over and they would have taken nutrients and sunlight from other plants in the area. Never in a million years did I think I would have the opportunity to do that. I was also able to see 2 farms that I never knew existed in Brooklyn! I would love it if other kids got the chance to experience that too. Without GCC and our home

**Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing , August 18, 2021**

base at the Salt Lot, I wouldn't have learned all the things I've learned and experienced the things I've experienced. I also wouldn't have been connected to the environment before.

.....

*Anthony Pimentel*  
*Green Team Senior Apprentice*

Hi my name is Anthony Pimentel and I am a Green Team Senior Apprentice here at Gowanus Canal Conservancy. I would like to testify about the importance of the environmental work that happens at the Salt Lot, which will be displaced by the proposed combined sewage overflow tank. The Gowanus Canal Conservancy and our home at the Salt Lot is a necessity to the place we call New York City. Work such as maintenance, taking care of the street trees, in addition to visiting different places within the city has taught me a lot. These skills I have learned--I will be taking with me in the future as I go on into college fighting for my future. The green work that we have done has taught me to love my surroundings and the environment. The people I worked with taught me to persevere and to always be myself no matter the struggle. The collaborative work that we have done with other organizations and people looking to help our Earth has taught me that there is a way to get people interested in green work. The Salt Lot was the first place I had received a job and I ended up coming back a second year because I loved my experience the first time around and I just wanted to help even more. Growing up in the city, there is trash almost everywhere you go. There are people littering and smoking and driving, messing up the entire ecosystem. The amount of buildings that are being built is leaving little to no room for green space and without green space there will be no healthy air for our children to breathe and for generations to breathe healthy smooth air. The city is rough and being able to help it spread its beauty within different green spaces allows for other people to stop and pay attention to what we are doing. GCC deserves to be a part of the city's plans because of how much work we have put into selling plants, care of city trees, care for rain gardens, volunteer events, and trips to help other places that need the experience that you gain when working with GCC at the Salt Lot. Finally, I want to thank GCC for helping me through my time of Covid and helping me transition into the next step of my life. This job is something that will stay with me forever as I grow old and help others around me. Thank you for listening.

.....

*Andrea Parker*  
*Executive Director*

I'm Andrea Parker, Executive Director of Gowanus Canal Conservancy. As my colleagues have noted, we support this critical infrastructure to reduce CSO into the canal, however as a condition of this approval, the City must commit to 1) communicating effectively and regularly with site occupants, 2) providing support for relocation, and 3) producing a final site design that keeps the Salt Lot the eco-industrial heart of Gowanus.

## **Appendix 1 - GCC Oral Testimony at City Planning Commission Hearing , August 18, 2021**

As I testified here just a few weeks ago, Gowanus is severely lacking in parks and open space. The City's DEIS for the Gowanus Rezoning shows that even with new open space created by the rezoning, there will be an adverse impact on the open space ratio, currently a fraction of the ratio the City recommends. Though the project before you today is a separate ULURP application, I urge you to think of the larger picture, and ensure that your recommendations help address the overall concerns and needs of the neighborhood.

As part of the overall rezoning, GCC has submitted comments outlining 10 additional acres of City land that should become open space in order to mitigate the adverse impact. 3.5 acres of that is on the Salt Lot. We have seen that DEP can create excellent public space in the Newtown Creek Nature Walk as part of that Wastewater Treatment Plant. Similarly, the agency should take this opportunity to integrate beautiful, immersive, educational and ecologically productive public space into this critical infrastructure. This should include restoring the outdoor classrooms and demonstration gardens, as well as investing in a much larger salt marsh restoration, to continue fostering environmental awareness in our next generation. It should restore water access at 2nd Avenue, and create an ADA accessible boat launch in the 6th St Turning Basin to ensure that the Canal is accessible to all. And it should consider and create space for two potential pedestrian bridges across the Canal, to connect residents and students from the new development to the west and north to this incredible public amenity.

Continuing to foster this eco-industrial heart, which provides both critical civic services and transformative experiences to a community, is going to require deep outreach and partnership with current site occupants, and the larger community. We appreciate the efforts that the agencies have made to work with us over the last 10 years, and in planning for this coming transition, and look forward to collaborating with the City over the coming years to advocate for a process and site design that addresses community needs. We ask today that you ensure that future administrations and agency staff continue to take and deepen a collaborative approach, by requiring commitments to public space, restoration, access and community outreach as part of this ULURP approval.

## Appendix 2 - Additional Letters of Support

June 24, 2021

TO: Community Board 6

RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)

My name is Jessica Dalrymple and I am a Volunteer Coordinator for the Gowan's Canal Conservancy since 2013 who has maintained an art studio and teaching practice in Gowan's since 2013. Today I am advocating for the long-term investment and protection of the BK6 Salt Lot, a biodiverse oasis in Gowanus that provides an abundance of ecosystem and community benefits, including compost production, landscape maintenance, environmental education, youth workforce development, ecological restoration areas, and native plant nursery operations.

**I fully support of the Superfund requirement for DEP to construct bulkheads along the Salt Lot and 2nd Avenue and to construct the OH-007 combined sewer overflow detention tank but I am firmly requesting that during this ULURP process, the City commits to 1) minimize negative impacts to existing uses, 2) provide needed support for relocation, and 3) produce a final site design that integrates displaced site components and programs, as well as additional community benefits and ecosystem improvements.**

I'm writing today because I have a very personal experience with the Salt Lot, and I want to support this site in the same way it has supported me. Over the past 8 years, the Salt Lot has served as a unique urban green space (particularly unique in it's juxtaposition to industry) in which I've derived much inspiration and brought other artists and students through art workshops and events designed to engage people with the evolving landscape and to learn about the importance of urban ecology

as well as other environmentally pressing issues. It is one of the only public greens spaces (aside from Whole Food's canal side waterfront & Valentino park in Red Hook) in the whole Gowanus and Red Hook area. I've also participated in a great deal of horticulture programming at the Salt Lot and seen the hundreds of volunteers and students that come to the site to learn about the local landscape and its environmental challenges and use it as launching point for stewardship of plants and trees and the surrounding vicinity.

It is critical that the City works closely with the current site occupants: Gowanus Canal Conservancy (GCC), Big Reuse, and DSNY, as well as the 6 industrial businesses across 5th Street, to ensure construction impacts are appropriately managed. DEP must develop and coordinate a reasonable timeline with all site occupants and provide support for relocation in the event that programming and site operations are disrupted.

The City must also allow for meaningful engagement on the long term site design with local stakeholders who have valuable insight and feedback regarding this process. In addition to GCC and Big Reuse, teachers, students, Green Team apprentices, volunteers, neighborhood stewards, and many others have personal experience with the Salt Lot site and deserve to have their voices heard.

The long term site design should incorporate the multiple improvements that GCC, Big Reuse, and DSNY have built and maintained on the Salt Lot, including a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. Some highlights include:

- 24/7 Residential food scrap drop-offs

- An estimated annual 150 tons of processed compost that enriches 50% of the tree pits and gardens throughout the Gowanus Watershed
- Landscape maintenance that provides green jobs and opportunities for 7 full time staff, 2 part-time staff, 7 youth staff, and an annual average of 750 volunteers
- A native plant nursery that grows and distributes over 4,000 native plants each year, with many planted in community gardens, public parks, tree beds, and schools throughout the Gowanus neighborhood
- An outdoor classroom that hosts over 500 local students annually in grades K-12 in community science and urban ecology programming
- Restoration areas including intertidal marsh, high marsh, maritime meadow, shrubland, emergent marsh rain gardens, and the 2nd Avenue street end garden, which cumulatively capture an estimated 32,300 gallons of stormwater per rain event
- Biodiversity documentation of over 1,000 observations including over 250 species of plants, birds, fish, invertebrates, and mammals

All of the above site benefits will likely be impacted, displaced, and/or destroyed due to the City's plan, which is why effective collaboration and transparency is essential. With proper management, the relocation of displaced site components and programs, and investment in

additional community and ecosystem services, we believe the Salt Lot can continue to serve Gowanus for generations to come.

Thank you for your dedication to the CB6 community.

Sincerely,

*Jessica Dalrymple*

**Updated Salt Lot Letter/Testimony Template  
CPC Hearing - 8.18.21**

TO: City Planning Commission  
RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK,  
C200321PSK, and C200319PCK)

My name is Katherine Thompson and I am Co-chair of the Friends of Bushwick Inlet Park located on the Greenpoint/ Williamsburg waterfront. Today I am urgently advocating for the long-term investment and protection of the BK6 Salt Lot, home to GCC's stewardship and education programs, the Lowlands Nursery, Big Reuse compost operations, over 250 species of plants and animals, six industrial businesses, and over 90 jobs.

**While I am in full support this critical infrastructure for a cleaner Gowanus Canal, I am firmly requesting that during this ULURP process, the City commits to:**

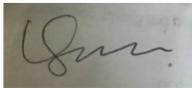
- 1. Effective and regular communication with site occupants**
- 2. Support for relocation for existing occupants**
- 3. A long-term design that keeps the Salt Lot the eco-industrial heart of Gowanus**

With these three commitments in place, the Salt Lot has potential to serve both the community and the ecosystem for generations to come. Additional details can be found [here](#).

I'm sharing all of this with you today because I too have a very special relationship with the Salt Lot, and I want to support this site in the same way it has supported me:  
The Friends of Bushwick Inlet Park have worked with community volunteers to design, plant and refurbish the gardens at BIP. Since 2018 we have planted 4 new gardens with native species which support birds and pollinators. We hold regular weekly gardening events as well as multiple educational and stewardship programs throughout the year. **Very importantly, we procure most of our native plants along with compost from the Lowlands Nursery. Our plants have been flourishing and we are proud to be supporting another organization which is actively working to replenish our open space with locally grown native plant that improve enhance the ecology and wildlife habitats in Brooklyn.**

Thank you for your dedication to the Gowanus community and support for an eco-industrial future for the Salt Lot.

Sincerely,



*Katherine Conkling Thompson  
Co-chair, Friends of Bushwick Inlet Park*

June 24, 2021

TO: Community Board 6

RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)

My name is Bryan Simpson and I am volunteer with the Gowanus Canal Conservancy doing composting and community education at the 2<sup>nd</sup> Avenue DSNY BK6 Salt Lot. I am also a BK Community District 6 resident, living at 181 12<sup>th</sup> Street, Apt. 1F, Brooklyn, NY 11215 and other addresses for the past 7 years. Today I am advocating for the long-term investment and protection of the BK6 Salt Lot, a biodiverse oasis in Gowanus that provides an abundance of ecosystem and community benefits, including compost production, landscape maintenance, environmental education, youth workforce development, ecological restoration areas, and native plant nursery operations.

While I am in full support of the Superfund requirement for DEP to construct bulkheads along the Salt Lot and 2nd Avenue and to construct the OH-007 combined sewer overflow detention tank, **I am firmly requesting that during this ULURP process, the City commits to 1) minimize negative impacts to existing uses, 2) provide needed support for relocation, and 3) produce a final site design that integrates displaced site components and programs, as well as additional community benefits and ecosystem improvements.**

I'm writing you today because I too have a very personal experience with the Salt Lot, and I want to support this site in the same way it has supported me. The Salt Lot as it exists today has been a gathering place for the community, and the source of much needed community engagement and greenspace that is generally lacking in the district. I have found a sense of community connection, and greater purpose, through what the Salt Lot has offered me. It would be a terrible shame to not maintain the spirit of what the Salt Lot has been able to offer to me and the community.

It is critical that the City works closely with the current site occupants: The Gowanus Canal Conservancy (GCC), Big Reuse, and DSNY, as well as the 6 industrial businesses across 5th Street, to ensure construction impacts are appropriately managed. DEP must develop and coordinate a reasonable timeline with all site occupants and provide support for relocation in the event that programming, and site operations, are disrupted.

The City must also allow for meaningful engagement on the long-term site design with local stakeholders who have valuable insight and feedback regarding this process. In addition to GCC and Big Reuse, teachers, students, Green Team apprentices, volunteers, neighborhood stewards, and many others have personal experience with the Salt Lot site and deserve to have their voices heard. The ULURP process has historically not engaged the public enough in the decisions made by the community board, the Borough President's office, the City Council, and the Mayor's office. Continuing these practices will further disengage the community from the process, which strikes at the spirit of what ULURP, and community engagement, is meant to do

The long-term site design should incorporate the multiple improvements that GCC, Big Reuse, and DSNY have built and maintained on the Salt Lot, including a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. Some highlights include:

- 24/7 Residential food scrap drop-offs
- An estimated annual 150 tons of processed compost that enriches 50% of the tree pits and gardens throughout the Gowanus Watershed
- Landscape maintenance that provides green jobs and opportunities for 7 full time staff, 2 part-time staff, 7 youth staff, and an annual average of 750 volunteers
- A native plant nursery that grows and distributes over 4,000 native plants each year, with many planted in community gardens, public parks, tree beds, and schools throughout the Gowanus neighborhood
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- Biodiversity documentation of over 1,000 observations including over 250 species of plants, birds, fish, invertebrates, and mammals

All of the above site benefits will likely be impacted, displaced, and/or destroyed due to the City's plan, which is why effective collaboration and transparency is essential. With proper management, the relocation of displaced site components and programs, and investment in additional community and ecosystem services, we believe the Salt Lot can continue to serve Gowanus for generations to come.

Thank you for your dedication to the CB6 community.

Sincerely,  
Bryan Simpson

██████████ Brooklyn, NY 11215

To: New York City Planning Commission

I moved to the Carroll Gardens neighborhood in June of 2017 and volunteered with the Gowanus Canal Conservancy almost immediately, helping at their plant nursery. I am writing today in support of the GCC's position on the proposed plans for the BK6 salt lot, located at 2 Second Avenue in Gowanus.

I fully support their request for clear communication with the current occupants of the salt lot, including Big Reuse, temporary relocation of all activities that take place there, and a permanent home for these activities on this site after the proposed improvements are completed.

I do not wish simply to reiterate the talking points that the GCC has submitted. Instead I would like to comment that I feel they have been too modest in their self-appraisal. They have gone far beyond their list of accomplishments; providing and maintaining numerous native plants and run-off mitigating infrastructure for a large swath of the surrounding neighborhoods, educating countless school children from all over the city and raising awareness of the natural world that exists closer than many of us realize in New York City.

When there is so much concern for 'sustainability' in planning, this seems to me to be low-hanging fruit. This site currently supports a thriving community that provides the kind of environmental services and infrastructure that we know we need to become a green, 'sustainable' city (waste reduction through composting, water and air purification through plant propagation and education through passive and active environmental programming).

Over more than a decade, the current occupants of the salt lot have created something of true value to the City of New York. I believe that it would be a huge loss if the City did not support and nurture it. It will be next to impossible to replace it, especially because the rezoning plan as it is currently written would leave the newly imagined Gowanus neighborhood very underserved for parkland. If allowed to continue its work, the GCC has much to contribute to improving the neighborhood's environmental services, and even expanding them. I urge you to support the requests of the Gowanus Canal Conservancy wholeheartedly. Thank you,

Lisa Shufro



Brooklyn, NY

June 24, 2021

TO: Community Board 6

RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)

My name is Peter Reich and I am a CAG member and long-time Gowanus Canal Conservancy supporter. Today I am advocating for continued investment and protection of the BK6 Salt Lot, a biodiverse oasis in Gowanus that provides an abundance of ecosystem and community benefits, including compost production, landscape maintenance, environmental education, youth workforce development, ecological restoration areas, and native plant nursery operations.

While I am in full support of the Superfund requirement for DEP to construct bulkheads along the Salt Lot and 2nd Avenue and to construct the OH-007 combined sewer overflow detention tank, I am firmly requesting that during this ULURP process, the City commits to

- 1) minimize negative impacts to existing uses,**
- 2) provide needed support for relocation, and**
- 3) produce a final site design that integrates displaced site components and programs, as well as additional community benefits and ecosystem improvements.**

I'm writing today because I too have a very personal experience with the Salt Lot, and I want to support this site in the same way it has supported mein my volunteer work with the Gowanus Canal Conservancy on some truely memorable design projects over the years.

It is critical that the City works closely with the current site occupants: Gowanus Canal Conservancy (GCC), Big Reuse, and DSNY, as well as the 6 industrial businesses across 5th Street, to ensure construction impacts are appropriately managed. DEP must develop and coordinate a reasonable timeline with all site occupants and provide support for relocation in the event that programming and site operations are disrupted.

The City must also allow for meaningful engagement on the long term site design with local stakeholders who have valuable insight and feedback regarding this process. In addition to

GCC and Big Reuse, teachers, students, Green Team apprentices, volunteers, neighborhood stewards, and many others have personal experience with the Salt Lot site and deserve to have their voices heard.

The long term site design should incorporate the multiple improvements that GCC, Big Reuse, and DSNY have built and maintained on the Salt Lot, including a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. Some highlights include:

- 24/7 Residential food scrap drop-offs
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All of the above site benefits will likely be impacted, displaced, and/or destroyed due to the City's plan, which is why effective collaboration and transparency is essential. With proper management, the relocation of displaced site components and programs, and investment in additional community and ecosystem services, we believe the Salt Lot can continue to serve Gowanus for generations to come.

Thank you for your dedication to the CB6 community.

Sincerely,

Peter Reich



Brooklyn, NY 11217

June 24, 2021

TO: Community Board 6

RE: Gowanus Canal CSO Facility - Owls Head (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)

My name is Potter Palmer. I am a long-time resident of Brooklyn, a frequent visitor to the Gowanus Canal area, a canoer of the Canal, and a proud member of and contributor to the Gowanus Canal Conservancy. Today I am advocating for the long-term investment and protection of the BK6 Salt Lot, a biodiverse oasis in Gowanus that provides an abundance of ecosystem and community benefits, including compost production, landscape maintenance, environmental education, youth workforce development, ecological restoration areas, and native plant nursery operations.

While I am in full support of the Superfund requirement for DEP to construct bulkheads along the Salt Lot and 2nd Avenue and to construct the OH-007 combined sewer overflow detention tank, **I am firmly requesting that during this ULURP process, the City commits to 1) minimize negative impacts to existing uses, 2) provide needed support for relocation, and 3) produce a final site design that integrates displaced site components and programs, as well as additional community benefits and ecosystem improvements.**

I'm writing today because I too have a very personal experience with the Salt Lot, and I want to support this site in the same way it has supported me. That includes volunteering time and energy to the greening of the Canal and the education of myself and fellow neighbors about this extraordinary historical landscape and vibrant ecosystem. The Salt Lot, as conceived and implemented, has developed into an effective social portal allowing involvement in so much of what is important to create and grow in South Brooklyn. It draws people of all backgrounds and allows them to work together in various projects and modes, shoulder to shoulder, on things they commonly care about. And to experience together the beauty and wonder of the unique natural splendor of the Salt Lot. We need to preserve all of this.

It is critical that the City works closely with the current site occupants: Gowanus Canal Conservancy (GCC), Big Reuse, and DSNY, as well as the 6 industrial businesses across 5th Street, to ensure construction impacts are appropriately managed. DEP must develop and coordinate a reasonable timeline with all site occupants and provide support for relocation in the event that programming and site operations are disrupted.

The City must also allow for meaningful engagement on the long term site design with local stakeholders who have valuable insight and feedback regarding this process. In addition to GCC and Big Reuse, teachers, students, Green Team apprentices, volunteers, neighborhood stewards, and many others have personal experience with the Salt Lot site and deserve to have their voices heard.

The long term site design should incorporate the multiple improvements that GCC, Big Reuse, and DSNY have built and maintained on the Salt Lot, including a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. Some highlights include:

- 24/7 Residential food scrap drop-offs
- An estimated annual 150 tons of processed compost that enriches 50% of the tree pits and gardens throughout the Gowanus Watershed
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- Biodiversity documentation of over 1,000 observations including over 250 species of plants, birds, fish, invertebrates, and mammals

All of the above site benefits will likely be impacted, displaced, and/or destroyed due to the City's plan, which is why effective collaboration and transparency is essential. With proper management, the relocation of displaced site components and programs, and investment in additional community and ecosystem services, we believe the Salt Lot can continue to serve Gowanus for generations to come.

Thank you for your dedication to the CB6 community.

Sincerely,  
Potter Palmer  
  
Brooklyn, NY 11215

June 24, 2021

**TO: Community Board 6 Land Use Committee**

**RE: Gowanus Canal CSO Facility - Owls Head (ULURP #s C200320MMK, C200321PSK, and C200319PCK)**

My name is Chris Heitmann and I am a CB6 resident and regular volunteer for both the Gowanus Canal Conservancy (GCC) and BIG Reuse at the Lowlands Nursery, Community Compost Facility, and on-site gardens at the BK6 Salt Lot. Today I am advocating for the long-term investment and protection of the Salt Lot site, a biodiverse oasis in Gowanus that provides an abundance of social and ecological benefits to both CB6 and to the city as a whole, including: environmental education and youth workforce development, compost production, landscape maintenance and ecological restoration areas, native plant nursery operations, and vibrant community gathering place.

While in full support of the Superfund requirement for DEP to construct bulkheads along the canal's Salt Lot and 2nd Ave shoreline, and to construct the OH-007 combined sewer overflow (CSO) detention tank, I am firmly requesting that during this ULURP process, the City formally commit to:

- 1) Directly include GCC, Big Reuse, and DSNY, as long-term and future tenants, in the planning process;
- 2) Minimize negative impacts to all existing uses of the site throughout the construction process;
- 3) Provide needed support for relocation of all uses during construction; and
- 4) Produce a collaborative final site design that integrates all current site components, users, and programs, as well as additional community benefits and ecosystem improvements.

The Salt Lot site – and GCC's and Big Reuse's on-site staff and programs – function not just as an ecological oasis, but as a vibrant social nexus that links a deep level of care and commitment to the neighborhood with the (quite beautiful) nuts-and-bolts operations of a climate-responsible city. This is a truly unique place in NYC – much more than “BK6 Salt Lot” connotes – and the planning process for its future must reflect the same care and consideration it has for the CB6 community. Having just moved (back) to New York in June 2020, mid-pandemic, working outside at the Salt Lot site – amidst piles of my neighbors' food scraps, with the magical compost that results, and in the dirt of past, present and future Brooklyn – this place has helped me deeply re-connect with the city in a tangible, even visceral way. My sense is it has done the same for many others and has the potential to do so for many more in the future.

It is thus critical that the City work closely with the current site occupants – GCC, Big Reuse, and DSNY – as well as the six (6) industrial businesses across 5<sup>th</sup> Street, to ensure construction impacts are appropriately managed. DEP must develop and coordinate a reasonable and agreed upon timeline with all site occupants and provide support for relocation in the event that programming and site operations are disrupted.

The City must also allow for meaningful engagement on the long-term site design with local stakeholders, all of whom have valuable insight and feedback regarding this process. In addition to GCC and Big Reuse, teachers, students, Green Team apprentices, volunteers, neighborhood stewards, and many others have personal experience with the Salt Lot site and deserve to have their voices heard and ideas taken into account. The long-term site design should incorporate the multiple improvements that GCC, Big Reuse, and DSNY have built and maintained on the Salt Lot, including a \$2 million renovation, spurred by an initial \$500,000 in funding from District 39 participatory budgeting. These improvements and benefits include:

- 24/7 residential food scrap drop-offs;

- An estimated annual 150 tons of processed compost that enriches 50% of the tree pits and gardens throughout the Gowanus Watershed;
- Landscape maintenance that provides green jobs and opportunities for 7 full time staff, 2 part-time staff, 7 youth staff, and an annual average of 750 volunteers;
- A native plant nursery that grows and distributes over 4,000 native plants each year, with many planted in community gardens, public parks, tree beds, and schools throughout the Gowanus neighborhood;
- An outdoor classroom that hosts over 500 local students annually in grades K-12 in community science and urban ecology programming;
- Restoration areas including intertidal marsh, high marsh, maritime meadow, shrubland, emergent marsh rain gardens, and the 2nd Ave. street-end garden, which cumulatively capture an estimated 32,300 gallons of stormwater per rain event;
- Biodiversity documentation of over 1,000 observations including over 250 species of plants, birds, fish, invertebrates, and mammals.

This place and all of the above benefits will be negatively impacted, displaced, and/or destroyed due to the City's current plan, which is why effective collaboration and transparency is essential. With the right process, proper management, the relocation of displaced site components and programs, and dedicated investment in additional community and ecosystem services, we believe the Salt Lot site can continue to serve Gowanus and the City as a whole for generations to come.

Thank you for your tireless work on behalf of the CB6 community.

Sincerely,



Chris Heitmann

[REDACTED]  
Brooklyn, NY 11215

[chris.heitmann77@gmail.com](mailto:chris.heitmann77@gmail.com)

[REDACTED]



October 8, 2021

## **RE: City Commitments needed to ensure Net Zero CSO Rezoning**

Since the 2018 release of DCP's Gowanus Framework for a Sustainable, Inclusive, Mixed-use Neighborhood, introducing the proposal for a district-wide rezoning of the Gowanus neighborhood, GCC and our partners in the Gowanus Neighborhood Coalition for Justice (GNCJ) have demanded a **Net Zero CSO Rezoning** to ensure future development in the neighborhood does not contribute additional Combined Sewer Overflow (CSO) to the historically burdened and polluted Gowanus Canal. As part of this demand, we have repeatedly requested that the City provide accurate and up-to-date modeling of the sewer system that utilizes best available data to realistically account for the reasonable worst case development scenario and increased precipitation as a result of climate change in order to realistically assess environmental impacts.

In April 2021, DCP released the Draft Environmental Impact Statement (DEIS), where DEP has shown a robust response to this demand, going above and beyond CEQR requirements with a better than Net Zero outcome. The DEIS shows CSO reductions to the Gowanus Canal by 5 million gallons per year *with* the forthcoming Unified Stormwater Rule in place as new development installs stormwater management practices required under the new rule. Absent the new rule, the City concedes that CSO would actually increase by 3 million gallons per year. While we commend DEP for their work on adopting new citywide stormwater policy that will undoubtedly improve stormwater management in the neighborhood and across the City, it is critical to note that the assessment of CSO outcomes are based on complex sewer and stormwater modeling or projections that are only as reliable as the data that informs them. Evaluating these models requires tools and expertise beyond what the average citizen has access to and for this reason, GCC, local elected officials and the Gowanus community have looked to EPA for guidance. In August 2021, EPA's comments on the City's DEIS concluded that they "*cannot assess what the net CSO discharge impacts will be from the proposed rezoning*" due to a number of inconsistencies in the data presented in the DEIS, including the use of outdated rainfall projections that are not representative of expected future climate predictions.

Given EPA's inconclusive assessment of the Gowanus CSO and sewer modeling and the detrimental local impacts of extreme weather caused by recent storms Henri and Ida, the City must provide additional information and take additional responsibility for tracking the net CSO discharge impacts over time in order to fully meet the community's demand. The City acknowledged the need for future study in flood prone neighborhoods just this past Monday,

when the Mayor's Office office released a landmark report<sup>1</sup>: *The New Normal: Combatting Storm-Related Extreme Weather in New York City*," committing more than \$2.7 billion to counteract impacts of extreme weather as a result of climate change and calling for accelerated planning to upgrade our City's sewer system and improve modeling efforts. If the City intends to deliver on it's promise to ensure the Gowanus Neighborhood Plan provides a just and green neighborhood for all, **we urge the City to commit to the following as Points of Agreement (POA) prior to the approval of the Gowanus Rezoning:**

1. To ensure our demand is met, **the Unified Stormwater Rule must be in effect prior to the first site sewer connection in the Rezoning Area** and the City must provide transparent reporting on implementation as described in #3 below.

2. **The Gowanus neighborhood must be included as one of the 10 neighborhoods that the City advances for its upcoming Cloudburst Study.**

As outlined in the Mayor's report, DEP will select 10 at-risk neighborhoods for the implementation of a **cloudburst design study** by the end of 2021. We need a firm commitment from the City to identify the Gowanus neighborhood and adjacent drainage areas in the Red Hook Sewershed as one of these areas in order to make good on the *flood resiliency or hydrology study* that the Gowanus community has been asking for for years.

- **Background:** A **Cloudburst Study** assesses stormwater flow paths based on topography and sub-surface conditions in at-risk areas to identify grey and green infrastructure priorities and capital projects for flood mitigation and stormwater management. It is essentially the *flood resiliency or hydrology study* that the Gowanus community has been asking for for years. It can and should:

- Integrate recent data and high-resolution flood maps developed by the Mayor's Office of Resiliency as part of the *Stormwater Resiliency Plan* (May 2021)<sup>2</sup>, 311 flood and sewer reports recorded across the neighborhood following extreme weather, and Coastal Flood maps - all of which demonstrate a high-level of extreme flood risk in Gowanus, particularly along 9th Street and along the Bond-Lorraine Sewer Line, which connects the Gowanus Neighborhood to Red Hook and has been identified by DEP as a "Highest Priority" stormwater improvement project.

- Address EPA's recommendation that the City develop a separate "probability analysis" to study the various impacts of development and the range of potential climate change outcomes.

- Ensure flood resilience measures in the public right-of-way as new development occurs in the Gowanus neighborhood. While the Unified Stormwater Rule aims to improve private on-site stormwater

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<sup>1</sup> [The New Normal: Combating Storm-Related Extreme Weather in NYC \(September 2021\)](#)

<sup>2</sup> [NYC Stormwater Resiliency Plan \(May 2021\)](#)

management, there is no plan to address the high-risk flooding that occurs in streets and sidewalks.

- Incorporate impacts of new development as a result of the Gowanus Rezoning
- Be a transparent and inclusive process that incorporates diverse stakeholder input.

3. **DEP must commit to annual monitoring of net changes in sanitary and stormwater loading within the Gowanus Sewershed as mandated by EPA's Executive Administrative Order.**

The City must agree to comply with the monitoring and reporting requirements for *Stormwater Controls* outlined in Paragraph 73c of EPA's Executive Administrative Order (EAO) from March 29, 2021. As per this mandate, the City must commit to **annual monitoring of net changes in sanitary and stormwater loading, to be reported as modeled volumes**, within the Gowanus Sewershed in order to assess incremental impact of sewer hookups and ensure these do not result in a net increase.

- *Background:* The EPA's EAO includes four distinct and separate mandates for monitoring and subsequent reporting of the following: 1) Stormwater Controls; 2) Separated Outfall Treatment Units; 3) CSO Solids; and 4) CSO Tank Operation and Maintenance.
- The City's response to EPA's EAO provides reasoning towards a "sufficient cause for non-compliance" regarding all four monitoring areas. We believe that in most cases the City provides reasonable grounds for this defense. In particular, regarding *CSO Solids*, the City commits to submitting a post-dredging Monitoring Plan to EPA by October 31, 2021 that will outline protocol for assessing CSO recontamination of the Canal consistent with requirements of the EPA Record of Decision (ROD).
- However, the **monitoring area of greatest relevance** to our demand for a *Net Zero CSO Rezoning* pertains to *Stormwater Controls*, outlined in *Paragraph 73c* of the EAO<sup>3</sup>.

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<sup>3</sup>*Paragraph 73c. Stormwater Controls: Beginning upon the Effective Date of this Order, Respondent shall ensure implementation of applicable City regulations for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and stormwater control regulations and standards, as set forth in the ROD, at minimum, and as may be updated in City regulations and guidelines, for project plan approvals within the Gowanus Canal sewershed, to ensure that hazardous substances and solids from additional stormwater and sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity. See ROD at page 85. When implementing or approving municipal sewer infrastructure upgrades and/or private stormwater controls within the Gowanus Canal sewershed, stormwater shall be separated for discharge to the Gowanus Canal to the maximum extent practicable. Commencing on January 31, 2022, Respondent shall submit to EPA an annual report summarizing the net changes in sanitary and stormwater loadings within the Gowanus Canal sewershed, which shall include but not be limited to, the major project plan approvals for the preceding calendar year. Respondents shall submit the proposed form and contents of the report for EPA approval.*

- It is our firm belief that this particular mandate will be essential for validating on-the-ground, incremental impacts of the Unified Stormwater Rule and meeting compliance with the EPA ROD mandate that *“redevelopment projects will need to take mitigation measures to prevent or offset additional sewer loadings.”* Without this tracking, the City cannot confirm that the rezoning will achieve Net Zero CSO.
  - The City’s response to the EAO<sup>4</sup> suggests that compliance with this mandate is not feasible, claiming that applications for site sewer connections are *not always implemented* and that *pollutant loadings from sanitary and stormwater flows are best calculated through modeling to be measured on a long-term basis*. This reasoning is not good enough.
- *Modeling as Monitoring:* We acknowledge that on-the-ground tracking of sanitary and stormwater flows for every redevelopment site may not be feasible and therefore accept annual modeling of projected sanitary and stormwater flows and/or site-based CSO reduction as a sufficient form of *monitoring* to satisfy this demand.
- Under requirements for the Unified Stormwater Rule (USWR), applicants applying for their site sewer connection must provide DEP with the project proposed sanitary discharge, proposed development site storm flow, allowable flow from the site and/or the stormwater release rate from the site in accordance with DEP rules.
  - Additionally, applicant sites greater than 20,000 square feet will trigger the USWR Chapter 19.1 requirements. These sites will also be required to submit a Stormwater Management Plan (SMP) containing documentation for all infiltration/retention practices to be implemented on site.
  - Under DEP’s 2021 Green Infrastructure Contingency Plan,<sup>5</sup> the Department provides a methodology for converting green infrastructure practices or “greened acres” to a CSO reduction volume.
- The required metrics for a site sewer connection combined with DEP’s updated metric for assessing CSO reduction volume provide sufficient information for satisfying the EPA mandate for an annual report summarizing projected or *modeled* annual net changes and overall CSO reduction. While all site-sewer applicants may not implement projects, a summary of net changes based on the applicant projections would be sufficient for this tracking.

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<sup>4</sup> As part of the application for connection to the City sewer system, an applicant must provide the proposed sanitary discharge, proposed development site storm flow, allowable flow from the site and/or the stormwater release rate from the site in accordance with DEP rules. DEP thus receives information on the projected storm and sanitary flows, as applicable. However, DEP’s approval of a project does not mean that the project will be implemented. Further, pollutant loadings from sanitary and stormwater flows are calculated through modeling, are not expected to change significantly on an annual basis and are better measured on a long-term basis. Thus, DEP believes that beginning in 2023 reporting the number of stormwater management pollution prevention plans for approved and/or completed projects, including the number of post construction management practices triggered by the City’s stormwater regulations, should be sufficient. This clarification was included in the proposed edits conveyed to Mr. Carr on May 4th, but was rejected by EPA.

<sup>5</sup> [DEP Green Infrastructure Contingency Plan \(June 2021\)](#)



**OCTOBER 15, 2021**

**TO:** City Council Subcommittee on Zoning & Franchises

**RE: *Gowanus Neighborhood Rezoning and Related Actions*** (ULURP Numbers: C210053PPK, C210052HAK, C210177ZMK, N210178ZRK, C210179MMK, C210180MMK) and  
***Gowanus Canal CSO Facility - Owls Head*** (ULURP Numbers C200320MMK, C200321PSK, and C200319PCK)

On behalf of Gowanus Canal Conservancy (GCC), please accept these comments regarding ULURP actions Gowanus Neighborhood Rezoning and Related Actions and the Gowanus Canal CSO Facility - Owls Head.

Gowanus Canal Conservancy is the lead community-based environmental steward for the neighborhood and is spearheading the Gowanus Lowlands community-based planning process for the public realm, which builds upon existing remediation and planning processes to identify actionable steps towards a vibrant, accessible, and resilient network of parks and public spaces centered on the Gowanus Canal.

We are a proud member of Gowanus Neighborhood Coalition for Justice (GNCJ), a diverse coalition of residents and community organizations that advocates for a just, inclusive, and resilient Gowanus neighborhood and planning process. We stand with our GNCJ partners to demand that the City invest in the full capital needs of Gowanus Houses and Wyckoff Gardens, ensure Net Zero CSO, and establish a community-based Task Force to hold the City and developers accountable for all commitments made through the Gowanus Rezoning. We additionally work closely with and support numerous other organizations, stakeholders, businesses, and residents in the Gowanus neighborhood, who have informed the comments below. We firmly believe that robust, comprehensive planning for the future of the neighborhood is contingent on engagement of the people who know it best.

We believe that, ***if done right***, a district-wide Gowanus rezoning offers an opportunity to make progress towards a more just and sustainable neighborhood. The proposed Waterfront Access Plan and mitigation of CSO through the new Stormwater Rule are good starting points to address "green and blue" concerns, but there are additional commitments needed for investment in public space, infrastructure, restoration and planning for a changing climate. This Council must ensure that all of these commitments are transparently reported to a community-based Task Force, so that the incoming Council Members have the tools to hold the City accountable.

### **Water and Sewer Infrastructure**

GCC and our GNCJ partners have demanded a Net Zero CSO Rezoning to ensure future development in the neighborhood does not contribute additional Combined Sewer Overflow (CSO) to the historically burdened and polluted Gowanus Canal. As part of this demand, we have repeatedly requested that the City provide accurate and up-to-date modeling of the sewer system that utilizes best available data to realistically account for the reasonable worst case development scenario and increased precipitation as a result of climate change.

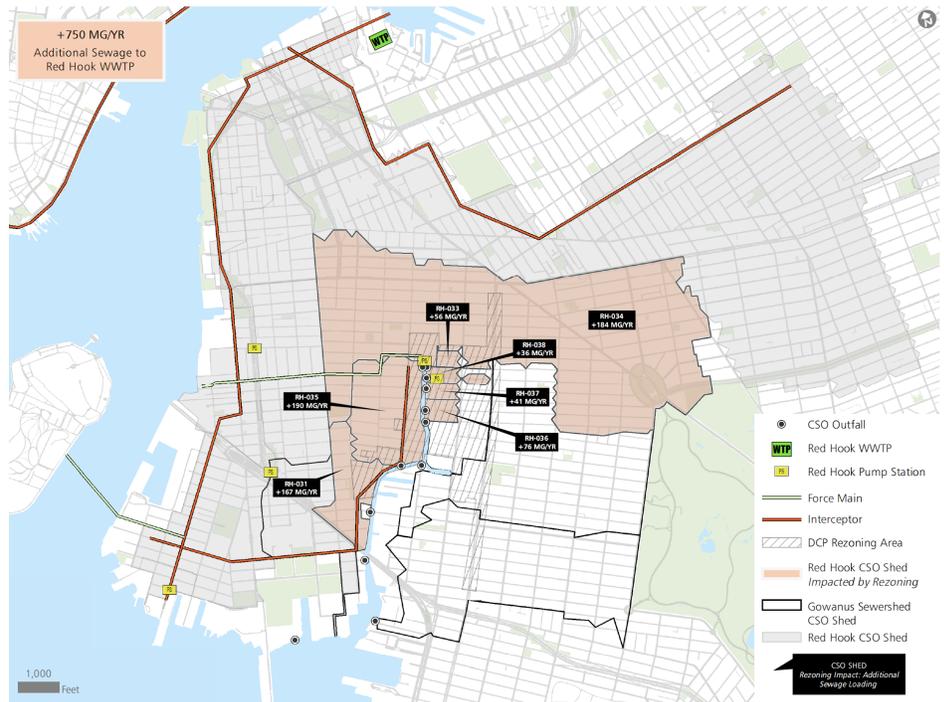
The FEIS shows CSO reductions to the Gowanus Canal by 5 million gallons per year *with* the forthcoming Unified Stormwater Rule in place as new development installs stormwater management practices required under the new rule. Absent the new rule, the City concedes that CSO would actually increase by 3 million gallons per year. While we commend DEP for their work on adopting new citywide stormwater policy that will undoubtedly improve stormwater management in the neighborhood and across the City, their assessment is based on complex sewer models that are only

as reliable as the data that informs them. Our community has looked to EPA to review these models, but they are not able to assess net CSO impacts of the rezoning primarily due to the use of outdated rainfall data.

Given EPA's inconclusive assessment and the local impacts of recent storms, the City must commit to additional measures to track implementation and plan for a changing climate. To effectively meet our Net Zero CSO demand, the City must commit to the following prior to the approval of the Gowanus Rezoning:

1. The **Unified Stormwater Rule must be in effect prior to the first site sewer connection in the Rezoning Area** - if not the City must include a stipulation in the zoning text that the any development enabled by the rezoning complies with the Rule and the City must provide transparent reporting on implementation as described in #3 below.

2. **The Gowanus neighborhood must be included as one of the 10 neighborhoods that the City advances for its upcoming Cloudburst Study.** As outlined in the Mayor's recent report, DEP will select 10 at-risk neighborhoods for the implementation of a **cloudburst design study** by the end of 2021. We need a firm commitment from the City to identify the Gowanus neighborhood and adjacent drainage areas in the Red Hook Sewershed as one of these areas in order to make good on the *flood resiliency or hydrology study* that the Gowanus community has been requesting for years.



Focus areas and issues to be addressed in Gowanus / Red Hook Cloudburst Study

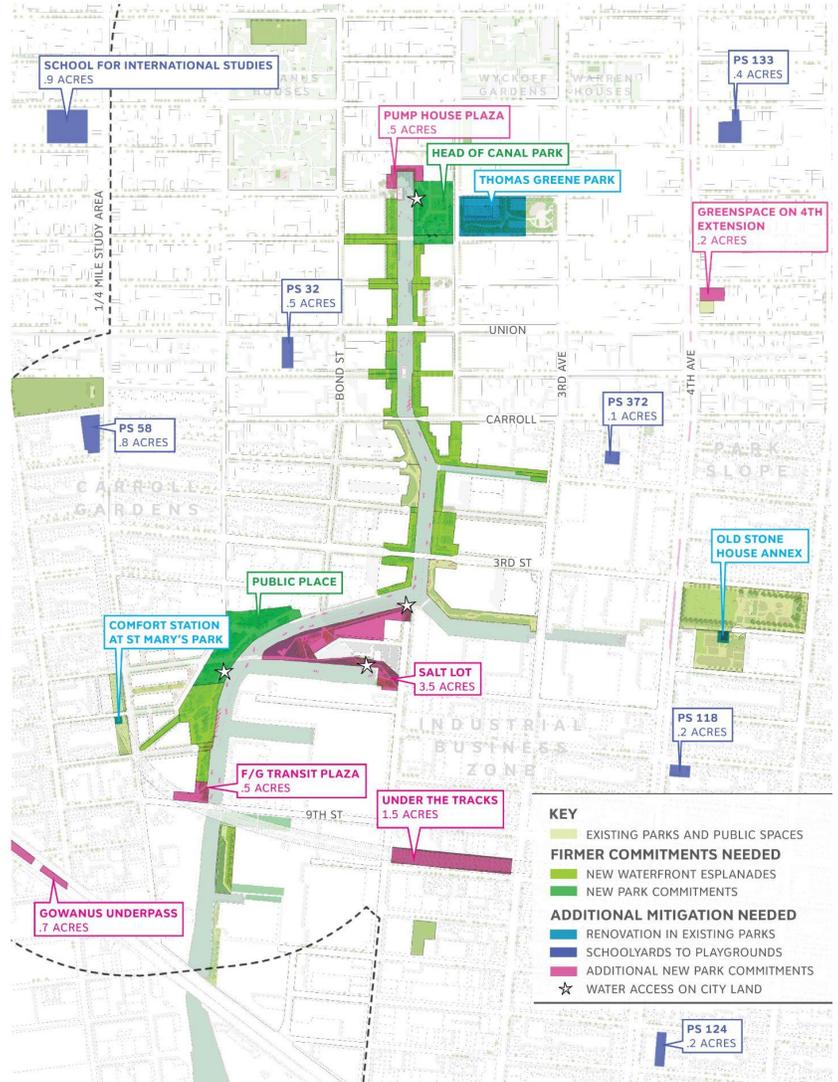
3. **DEP must commit to annual monitoring of net changes in sanitary and stormwater loading within the Gowanus Sewershed as mandated by EPA's Executive Administrative Order.** The City must agree to comply with the monitoring and reporting requirements for *Stormwater Controls* outlined in Paragraph 73c of EPA's Executive Administrative Order (EAO) from March 29, 2021. As per this mandate, the City must commit to annual monitoring of net changes in sanitary and stormwater loading, to be reported as modeled volumes, within the Gowanus Sewershed in order to assess incremental impact of sewer hookups and ensure these do not result in a net increase.
4. **DEP must commit to assess future drainage investments in Gowanus as the City develops a new drainage standard, using new rainfall intensity projections that account for climate change in their update of the Long-Term Control Plan by 2023,** as outlined in the Mayor's recent weather report.

**Parks and Public Space**

The Gowanus Neighborhood is lacking in open space - currently there are just 0.336 acres of open space per 1,000 residents, which is far below the recommended NYC guidelines of 2.5 acres of total open space per 1,000 residents. Beyond that low ratio, very little of the existing open space in the ¼ mile study area is actually in the low-lying area adjacent to the Canal.

The Gowanus rezoning will add critical open space resources to the local neighborhood. However, with the increased population, the FEIS shows that the park ratio will decrease to even further below the ideal ratio, to 0.336 acres of open space per 1,000 residents. Of particular concern is a reduction in the active public space ratio, which is critical to supporting a more residential neighborhood.

The City must ensure that there is no adverse impact to the open space ratio, by creating and supporting more open space in the immediate neighborhood, investing in existing open spaces, restoring damages to natural resources, and supporting active, engaging use of public spaces. The Points of Agreement should provide a clear timeline, process, and funding commitments for 10 acres of new parks, and for needed improvements in existing parks to support a growing population as described below:



*City Commitments Needed to mitigate adverse impacts on Open Space*

- 1. Parks Improvement District:** Commit to supporting development of Parks Improvement District for Gowanus open spaces.
- 2. Old Stone House/Washington Park:** Commit to investments and timelines for park improvements and new facility.
- 3. Thomas Greene Park shadow mitigation:** Identify ways to reduce shadows on Thomas Greene Park through modified massing on 549 Sackett St, 270 Nevins St, and 495 Sackett St.
- 4. Thomas Greene Park:** Commit to investments and timelines for park improvements in addition to work being done under the brownfield clean-up
- 5. Gowanus Green Park:** Commit to investments and timelines for new park
- 6. Head of Canal Park:** Commit to investments and timelines for new public space.
- 7. The Salt Lot:** Commit to GCC temporary space and return to the site, timeline and public process for long-term facilities and public space.

8. **Smith/9th Transit Plaza:** Commit to creating public open space on MTA property that connects the Smith/9th Street train station to the waterfront esplanade.
9. **Gowanus Underpass:** Commit to public space, including pedestrian safety and stormwater improvements in the area under the Gowanus Expressway between Court Street and West 9th Street that connects Red Hook and Gowanus.
10. **Greenspace on 4th Extension:** Commit to investments and timelines for new public space on the DEP property at Sackett St. and 4th Avenue
11. **Under the Tracks** - Commit to investments and timelines for new public space on the MTA property at 10th Street between 2nd and 3rd Avenues
12. **St Mary's Park** - Commit to constructing a comfort station.
13. **Schoolyards to Playgrounds** - Commit to making 5 schoolyards accessible to the public after school hours through the Schoolyards to Playground program, providing 2.85 acres of active public space.

### **The Salt Lot**

In addition to the overall Gowanus Rezoning, the Council is also currently reviewing the Gowanus Canal CSO Facility, an important component of the Gowanus Superfund remedy. As the current occupants of the site that will be displaced by this action, we support the construction of this critical infrastructure to reduce CSO into the Canal but firmly request that the City make commitments to public space, restoration, access and community outreach as part of this ULURP approval.

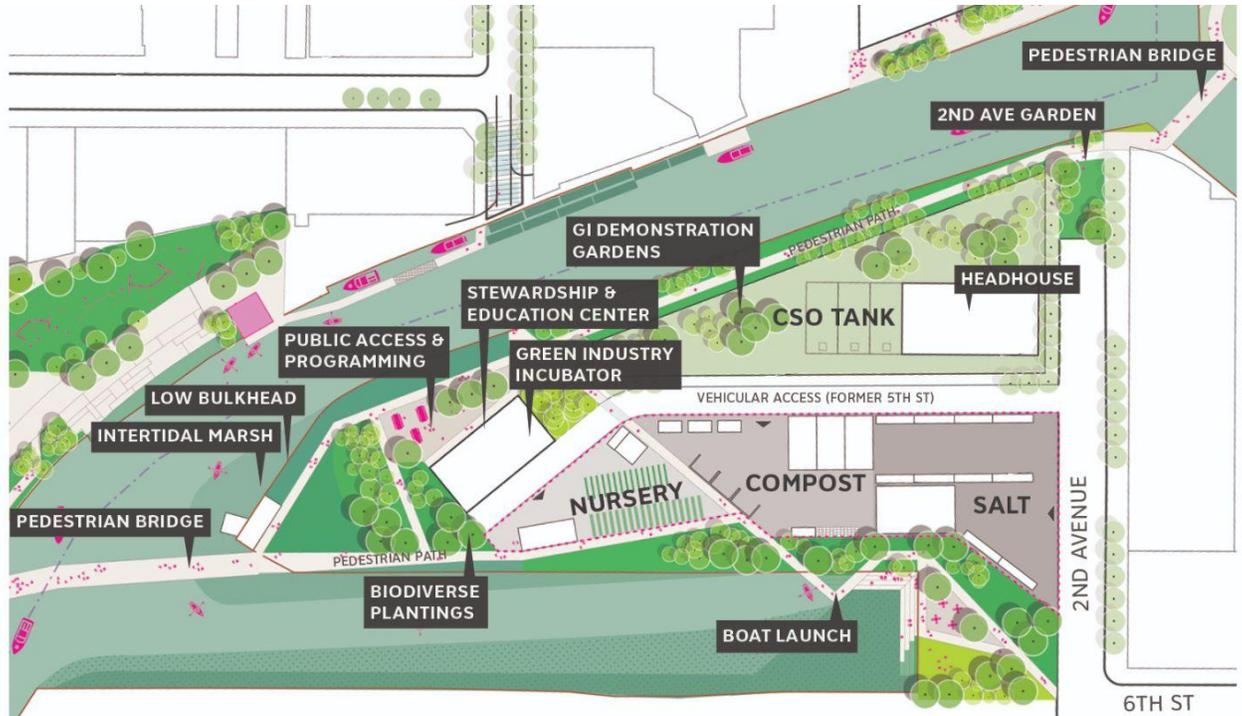
Since 2010, GCC has headquartered community stewardship and education programs, and a native plant nursery at the BK6 Salt Lot, the location of the proposed Gowanus CSO Facility. We understand that DEP is currently planning for 1) the construction of the 2nd Avenue and Salt Lot bulkhead between 2022 and 2023, required by the EPA as part of the Gowanus Canal Superfund<sup>1</sup> and 2) the construction, between 2023 and 2028, and subsequent operation of the OH-007 Combined Sewage Overflow (CSO) detention tank. As a condition of ULURP approval, the City must:

1. **Provide support for relocation and a temporary site for Gowanus Canal Conservancy's 8,200 sq ft facility for any period of time that operations and programs are displaced.**
  - a. Given GCC's imminent displacement at the end of 2021 due to bulkhead work, we ask DEP to help us secure and pay for a lease on a private site or provide us with use of a public site, such as the MTA site at 9th Street and the Canal or the water tunnel site located at 4th Ave. and Sackett St. A suitable site will need to accommodate GCC's 8,200 SF operations footprint for the entire time we will be displaced - our understanding is that this is a period of 2 years, from January 2022 through the end of 2024.
  - b. We understand that the City is planning to establish a temporary site for DSNY operations on a parcel south of 5th Street during the period of tank construction from 2024-2028. We request that the City commits to accommodating both GCC and Big Reuse operations on this site with a minimum allocation of 18,200 sf, in line with existing space allocations.
2. **Commit to funding and a timeline for a long-term site design that includes the existing programs and facilities that the community relies on: a landscape maintenance facility and native plant nursery, a compost facility, an outdoor classroom, and biodiverse coastal habitats as well as new public space, salt marsh restoration, a stewardship and education center, and interpretation for the new CSO facility.**

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<sup>1</sup> EPA CSO Administrative Order for Remedial Action to the City of New York, March, 29 2021, Appendix

- a. Facilities: Salt Storage, CSO Tank and Head House, Community Compost Facility, Stewardship & Education Center, Small Business Incubator for Green Industries, Native Plant Nursery
- b. Public Spaces: 2nd Avenue Street End Garden, Biodiverse Plantings and GI Demonstration Gardens Intertidal Marsh, Turning Basin Boat Launch, Connection via Pedestrian Bridges



*Salt Lot: Proposed Site Plan (Gowanus Canal Conservancy and SCAPE)*

**3. Commit to work closely with site occupants for the duration of construction and design of the new facility and a public engagement process to get feedback on the design.**

- a. Per the Facility Plan, public outreach should be used to inform planning and design decisions.<sup>2</sup> This outreach should specifically elicit feedback about replacement of current operations, public space design and programming, water access, and educational interpretation of grey and green infrastructure. Outreach to current occupants should be frequent and transparent, to ensure that the final site design supports ongoing operations. Additionally, particular attention should be paid to gathering feedback from ecosystem restoration experts, local teachers who use the Gowanus as a classroom, industrial businesses in the IBZ, boaters, and other local neighbors.

Thanks for your time and consideration.

*Attached:*

- 211008\_GCC Memo\_City Commitments needed to ensure Net Zero CSO Rezoning
- 210917\_GCC Comments to CPC\_Gowanus Canal CSO Facility
- 210810\_GCC Comments to CPC\_Gowanus Rezoning and DEIS

<sup>2</sup> CSO-GC-SFS DES Facility Plan Report - OH-007, September 2017, Section 7.5

**From:** [Sabine Aronowsky](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [askeric@brooklynbp.nyc.gov](mailto:askeric@brooklynbp.nyc.gov); [rbearak@brooklynbp.nyc.gov](mailto:rbearak@brooklynbp.nyc.gov); [sfitzpatrick@cityhall.nyc.gov](mailto:sfitzpatrick@cityhall.nyc.gov); Ehrman, Julia; Solotaire, Ben; [Brian.Honan@nycha.nyc.gov](mailto:Brian.Honan@nycha.nyc.gov); [Wiley, Daniel](mailto:Wiley, Daniel); [simonj@nyassembly.gov](mailto:simonj@nyassembly.gov); [brisport@nysenate.gov](mailto:brisport@nysenate.gov); [team@shahanafrombk.com](mailto:team@shahanafrombk.com); [lincoln@lincolnforcouncil.com](mailto:lincoln@lincolnforcouncil.com); [mlago@planning.nyc.gov](mailto:mlago@planning.nyc.gov); [Lucia Marquez Reagan](#)  
**Subject:** [EXTERNAL] GNCJ Comments on the Gowanus Neighborhood Plan for the New York City Council Subcommittee on Zoning & Franchises  
**Date:** Friday, October 15, 2021 3:47:22 PM  
**Attachments:** [GNCJ City Council Comments 10.15.21.pdf](#)

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On behalf of the **Gowanus Neighborhood Coalition for Justice (GNCJ)** please find attached our written comments on the Gowanus Neighborhood Plan (C 210177 ZMK, N 210178 ZRK, C 210179 MMK, C 210180 MMK, C 210053 PPK, C 210052 HAK), and Related Actions for the New York City Council Subcommittee on Zoning & Franchises.

Sabine Aronowsky  
Fifth Avenue Committee  
South Brooklyn Accountable Development Initiative  
Work From Home contact number: 917-657-2922

October 15, 2021

New York City Council Subcommittee on Zoning & Franchises  
Francisco Moya, Chair  
City Hall Park,  
New York, NY 10007  
Via Email: [landusetestimony@council.nyc.gov](mailto:landusetestimony@council.nyc.gov)



RE: Gowanus Neighborhood Plan (C 210177 ZMK, N 210178 ZRK, C 210179 MMK, C 210180 MMK, C 210053 PPK, C 210052 HAK), Gowanus Mercy Home UDAAP (20225005 HAK)  
Gowanus Canal CSO Facility (C 200319 PCK, C 200320 MMK, 200321 PSK, C 180039 MMK)

Dear Councilmember Moya and Members of the Subcommittee on Zoning & Franchises:

Thank you for taking time during Tuesday's public hearing to listen to testimony from the Gowanus Neighborhood Coalition for Justice (GNCJ) and other community stakeholders about the Gowanus area-wide rezoning and other actions in Gowanus. The Gowanus Neighborhood Coalition for Justice (GNCJ)—a racially and socioeconomically diverse coalition of local groups focused on equity, inclusion, economic and environmental sustainability and justice—continues to call on the City to meet our priority demands for the Gowanus Neighborhood Rezoning.

We reiterate that GNCJ will not support the rezoning unless our top 3 demands and multiple priorities are met. Our coalition's full demands are also endorsed by over 1,600 signers via Petition to the City of NY and DCP and can be found online at [www.gncj.org/new-our-advocacy](http://www.gncj.org/new-our-advocacy) and as appendix A to this letter. As many of our Coalition members have testified throughout the ULURP Hearing the City must address our concerns before the final rezoning application is voted on by the Council.

To expound upon our coalition members' testimony on October 12, we submit here as written testimony details regarding GNCJ's demands and priorities and the specific funding and policy commitments we seek from the City. All of these commitments must be transparently reported to a Gowanus Zoning Commitment Task Force to ensure that these commitments identified are met.

The following pages include the full list of GNCJ's demands and priorities with additional details. The attached appendices provide further background detail on specific demands and priorities. The City of New York must include these details in the Points of Agreement and final zoning text and/or map amendments that the City Council will vote on as part of the Gowanus zoning applications referenced above.

Please contact us with any questions and thank you for your time to address our Coalition's concerns.

Sincerely,

[Gowanus Neighborhood Coalition for Justice \(GNCJ\)](#)

Cc: Councilmember Brad Lander, 39th District  
Councilmember Stephen Levin, 33rd District  
Deputy Mayor Vicki Been  
NYC DCP Chair Marisa Lago  
Brooklyn Borough President Eric Adams  
NYCHA Chair Greg Russ

Congressmember Nydia Velazquez, 7th District  
Assemblymember Jo Anne Simon, 52nd District  
State Senator Jabari Brisport, 25th District  
City Council candidate Shahana Hanif, 39th District  
City Council candidate Lincoln Restler, 33rd District

Demand	Category of Ask	Ask	Agreement Details
<b>1.) UPFRONT FUNDING FOR FULL CAPITAL NEEDS AT WYCKOFF AND GOWANUS (See Appendix B for the full Physical Needs Assessments (PNA) from NYCHA.)</b>	Capital	\$274M	Full funding and timelines for specific capital repairs, as listed by residents. See Appendix B for the full Physical Needs Assessments (PNA) from NYCHA.
	Expense	\$70,000/year for 15 years for independent TA	Provide Independent technical assistance to local public housing Resident Associations regarding capital repairs related to Gowanus Houses and Wyckoff Gardens.
	Expense/Policy	Assign dedicated NYCHA liaison on capital repairs and Section 3 hiring related to Gowanus and Wyckoff	Fund a NYCHA Liaison to support NYCHA residents in navigating construction processes and holding NYCHA accountable for repairs, tenant rights, Section 3 hiring, and all commitments made through the rezoning.
<b>2.) NET ZERO COMBINED SEWAGE OVERFLOW (CSO) - (See Appendix C for the City Commitments needed to ensure Net Zero CSO Rezoning)</b>	Policy	Enact Stormwater Rule	The Unified Stormwater Rule must be in effect prior to the first site sewer connection in the Rezoning Area
	Policy	Commit to a Gowanus / Redhook Cloudburst Study	Complete a cloudburst study of Gowanus and Red Hook by 2025 with infrastructure recommendations that includes forward looking rain projections in addition to sea level rise, groundwater, and sewer system projections
	Policy	Monitoring effectiveness of Unified Stormwater Rule	Commit to a transparent method of monitoring impacts of new development on CSO, report to Task Force.
	Policy	Update Long-Term Control Plan with updated rainfall data and reassess infrastructure investments in Gowanus by 2023	A commitment to assess future drainage investments in Gowanus as the City develops a new drainage standard, using new rainfall intensity projections that account for climate change in their update of the Long-Term Control Plan by 2023, as outlined in the Mayor's recent weather report.
	Capital	Accelerate 4th Avenue Vision Zero and Stormwater Management	Accelerate stormwater infrastructure investment in 4th Avenue as part of DOT's Vision Zero Plan, which includes green (trees and plantings) and grey (underground retention) infrastructure to address frequent and persistent flooding. Assess opportunity for targeting this corridor as a "Cloudburst Street" in relation to a future Cloudburst Study in the area. This management strategy would include both plantings and underground infrastructure to retain, collect, and transport stormwater during cloudburst wet weather events.

Demand	Category of Ask	Ask	Agreement Details
	Expense/Policy	Conduct outreach and provide grants for retrofits to improve stormwater management on existing buildings	Conduct outreach and provide grants to property owners of existing buildings throughout the neighborhood, particularly 4th Ave and the IBZ, to improve stormwater and sewer management using the revised Green Infrastructure Grant Program, the recently adopted Private Property Retrofit Incentive Program, the recently updated Green Roof Tax Abatement incentive, and HPD's Green Housing Preservation Program (GHPP).
	Expense/Policy	Prioritize impacted buildings for backwater valve installations	As outlined in the Mayor's recent Weather Report, prioritize existing buildings that were impacted by recent storm events in Gowanus for immediate enhancements to household infrastructure as the City begins to study the expansion of backwater valve installations to prevent sewer backups into private properties.
<b>3.) SUPPORT AND FUND A GOWANUS ZONING COMMITMENT TASK FORCE ((See Appendix D for the proposed Gowanus Zoning Commitment Task Force.)</b>	Policy	Create a Gowanus Zoning Commitment Task Force to ensure that commitments identified in the proposed Gowanus Rezoning, FEIS and Neighborhood Plan are met by the City and private developers	The Task Force will collect and organize reporting from responsible agencies on their rezoning commitments, and disseminate the information in a transparent and accessible manner. The Task Force will facilitate productive and respectful engagement between government agencies, development entities and a range of diverse stakeholders in the community, with the aim of raising up voices of those most impacted. (See Appendix D for the proposed Gowanus Zoning Commitment Task Force.)
	Expense	\$70k/per year for 15 years for facilitator	Fund a facilitator for a fifteen-year period to oversee Task Force activities, help to organize and enable Task Force meetings, and otherwise support the Task Force's work.
	Expense	\$70,000/year for 15 years for planning expertise	Commit funding to allow the Task Force to obtain ongoing professional planning expertise for the same period of time, so that the Task Force can obtain, analyze and compile accurate and timely data and assemble them in user friendly language to share with the community.
	Expense/Policy	Assign dedicated senior staff people from DOB, DEP, DPR, SCA, DOT (see NYCHA above) to work with Task Force	Commit senior level staff from agencies, including NYCHA, DOB, DEP, DCP, DPR, SCA, DOT to provide regular reporting to the Task Force to monitor compliance with public and private commitments, adherence to zoning requirements, and implementation of the Rezoning.

Demand	Category of Ask	Ask	Agreement Details
<b>4.) GUARANTEE TIMELY REOPENING AND RENOVATION OF THE GOWANUS COMMUNITY CENTER WITH RESIDENT-LED PROCESS FOR DESIGN, ORGANIZATIONAL STRUCTURE, AND PROGRAMMING</b>	Capital and Expense	Cornerstone contract and commitment to engage local tenants in the programming	Renovation and reopening of the Gowanus and Wyckoff Gardens Community Centers by winter 2023. Ensure new Gowanus Cornerstone contract supports a resident-led process for design, org structure and programming
	Expense	\$150k	Purchase IT equipment to establish computer labs at Gowanus Houses and Wyckoff Gardens Community Centers (note digital literacy instruction below).
<b>5.) INVEST IN COMMUNITY HEALTH &amp; SOCIAL RESILIENCE</b>	Expense	\$XX	Implement NYC's "Cool Neighborhoods Initiative" and "Be A Buddy Program" in Gowanus and Red Hook to address urban heat island and disaster preparedness with focus on vulnerable populations (NYC DOHMH, MOER, etc..) (Also see Urban Land Institute Reports: 1) <a href="#">Vision for a Greener, Healthier, Cooler Gowanus: Strategies to Mitigate Urban Heat Island Effect</a> & 2) <a href="#">Urban Design Climate Workshop: Gowanus, Brooklyn: From Climate Science to Climate Action</a> )
	Expense	\$100,000/yr for 10 years	Fund a community led initiative fostering entrepreneurship, community resiliency and culture while providing fresh produce in an already food insecure area, in which prices will increase.
	Expense	\$XX	Fund the development of a Gowanus Community Emergency Preparedness Plan with coordination with local stakeholders (model is how done in Red Hook - included outside consultants, NYCEM and local CBOs)
	Expense/Policy	Expand MAP Program to Gowanus	Invest in Anti-Violence Efforts in Gowanus
	Expense	\$250k/yr for 10 years	Expand services to seniors in Gowanus with focus on NYCHA residents and those with disabilities.
	Capital	Accelerate NYCHA Broadband Access for Wyckoff, Warren and Gowanus houses	Ensure Wyckoff, Warren and Gowanus Houses have broadband access by a date certain.
	<b>6.) BUILD ECONOMIC EQUITY ENSURING LOCAL ACCESS TO SECTION 3 EMPLOYMENT</b>	Policy	City to gather information and report out to local taskforce

Demand	Category of Ask	Ask	Agreement Details
<b>7.) INVEST IN KNOW-YOUR-RIGHTS TRAININGS</b>	Expense	\$40k/per year for 5 years if nonprofit provides trainings; or City provides trainings	Funding for know-your-rights trainings, including Affirmatively Furthering Fair Housing, civil rights compliance and other building and tenant related trainings and services to Warren, Wyckoff and Gowanus residents. Expanding Know Your Rights trainings (via HPD / AFFH / NYCHA)
<b>8.) 100% AFFORDABILITY ON PUBLIC LAND</b>	Policy	100% affordable	Already committed through HPD announcement of Gowanus Green and Mercy Housing projects. Reference 100% affordability in the zoning text and UDAAP and POA.
<b>9.) ADDRESS LOCAL SKILLS GAP WITH TARGETED MULTI-YEAR WORKFORCE INVESTMENT</b>	Expense	\$1.5m per year for 10 years	Fund sector based workforce training, bridge programming, adult ed classes, wrap around services and job placement and retention services for CD6, 2 and 7 unemployed and underemployed residents with focus on public housing residents and foreign born NYers. Note Gowanus Racial Equity Report's recommendations.
		\$75k/per year for 10 years	Digital Literacy Instruction - focus on NYCHA residents, immigrants and seniors.
		\$125k/per year for 10 years	Supporting local CB6, 2 and 7 residents connecting to apprenticeship programs
		\$200,000 per year for 10 years	Business training services to local minority and women-owned manufacturers, LMI entrepreneurs, and start-ups to allow them to optimize and grow.
		\$75,000 per year for 10 years	To facilitate enhanced job placement services in Gowanus, particularly for individuals accessing these new training services, we recommend funding the hiring of an additional account manager at Brooklyn's Workforce 1 Industrial & Transportation Career Center.
		\$3.63 million. Total eligible moving costs or up to \$70,000 per business for 50 businesses; 100k-130k estimated administrative costs.	Industrial Business displacement fund.

Demand	Category of Ask	Ask	Agreement Details
<b>10.) STUDY, IMPLEMENT AND ENFORCE TRANSFER OF DEVELOPMENT RIGHTS TO FUND FULL CAPITAL REPAIRS AT, WYCKOFF AND GOWANUS NYCHA DEVELOPMENTS</b>			GNCJ Understands that this demand is presently Out of Scope
<b>11.) CREATE AN AFFORDABLE HOUSING LOTTERY PREFERENCE FOR LOCAL CD6 NYCHA RESIDENTS</b>	Policy	Expand affordable housing lottery preferences.	Create affordable housing lottery preferences for local NYCHA residents, with an increased percentage for people with disabilities as well as ensure the creation of a significant number of affordable units for seniors.
<b>12.) MAP THE MOST AFFORDABLE MIH OPTIONS</b>	Policy	Map MIH Option 3 and Option 1	Mapping MIH Option 3 in addition to MIH Option1
<b>13.) MANDATE DEEPER MIH LEVELS FOR PRIVATE DEVELOPERS</b>	Policy	Commit 600 Section 8 vouchers for existing CB6 and 2 NYCHA residents to be expand affordable lottery eligibility	Commit to 600 Section 8 vouchers for existing CB6 and 2 NYCHA residents so they can move to newly created affordable housing.
	Policy	Institute CONH	Institute Certificate of No Harrassment as part of rezoning for CB6 and CB2
<b>14.) FOLLOW THROUGH WITH IBZ COMMITMENT</b>	Capital	\$5M	Investment in open-access fiber conduit system broadband within the IBZ.
	Policy/Expense	\$XX	DOT should commit to conducting a mobility study of the Gowanus IBZ to consider turning lanes and loading/unloading zones.
<b>15.) CREATE JOBS FOR LOW INCOME CD6 RESIDENTS TO MAINTAIN NEW BUILDINGS AND PUBLIC SPACE</b>	Expense	\$150k/per year for 10 years	Fund local CBOs to recruit local unemployed and underemployed residents to access relevant property management training (i.e. 32BJ)
	Expense	\$150k/per year for 10 years	Fund local CBOs to support green jobs for maintenance of public spaces, including green infrastructure
<b>16.) PRESERVE INDUSTRY AND ART SPACES</b>	Policy	Institute narrower uses as part of Gowanus Mix	Define narrower uses as part of Gowanus mix that serve to preserve industry and art spaces
<b>17.) INVEST IN LOCAL YOUTH EMPLOYMENT</b>	Expense	Double the # of SYEP slots for local NYCHA youth.	Double the # of Summer Youth Employment Program slots to ensure access to youth from NYCHA communities locally.

Demand	Category of Ask	Ask	Agreement Details
<b>18.) INVEST IN PUBLIC SPACE</b>	Policy	City Commits to supporting development of Parks Improvement District	City commits to supporting PID process for Gowanus open spaces.
	Capital	Old Stone House/Washington Park	Commit to investments and timelines for park improvements and new facility
	Capital	Pacific street Library Branch	Commit to investments and timelines for renovations
	Policy	Thomas Greene Park shadow mitigation	Identify ways to reduce shadows on Thomas Greene Park through modified massing on 549 Sackett St, 270 Nevins St, and 495 Sackett St
	Capital	Thomas Greene Park - timeline and public process	Commit to investments and timelines for park improvements in addition to work being done under the Superfund clean-up
	Capital	Head of Canal Park	Commit to investments and timelines for new public space
	Capital	The Salt Lot	Commitments to GCC temporary space and return to the site, timeline and public process for long-term facilities and public space
	Capital	Smith/9th Transit Plaza	Commit to creating public open space on MTA property that connects the Smith/9th Street train station to the waterfront esplanade.
	Capital	Gowanus Underpass	Commit to pedestrian safety and stormwater improvements in the area under the Gowanus Expressway between Court Street and West 9th Street that connects Red Hook and Gowanus.
	Capital	Greenspace on 4th Extension	Commit to investments and timelines for new public space on the DEP property
Capital	Under the Tracks	Commit to investments and timelines for new public space	
Capital	St Mary's Park	Commit to constructing a comfort station.	

**Appendix A**

Full GNCJ Demand List



## Gowanus Neighborhood Coalition for Justice

*Dealbreakers and Priority Demands for the Gowanus Rezoning*

*Last updated October 15, 2021*

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### **If these dealbreaker demands are not fulfilled, GNCJ will not support the rezoning in any form or fashion:**

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- 1. DEALBREAKER: UPFRONT FUNDING FOR FULL CAPITAL NEEDS AT WYCKOFF AND GOWANUS** The City must dedicate enough upfront funding for full capital needs at Wyckoff Gardens and Gowanus Houses. All funding spent to improve Wyckoff Gardens and Gowanus Houses must adhere to HUD Section 3 hiring policies to ensure local NYCHA residents and low-income residents are hired to complete the work.
  - 2. DEALBREAKER: NET ZERO COMBINED SEWAGE OVERFLOW (CSO)** Mandate net zero CSO from new construction created as a result of the rezoning, through the following actions: (1) Accurately model how increased density will increase CSO and impact local hydrology, (2) Require and enforce CSO mitigation in new development and (3) Ensure city investment in infrastructure to completely mitigate any negative hydrological impacts of rezoning.
  - 3. DEALBREAKER: SUPPORT AND FUND A GOWANUS ZONING COMMITMENT TASK FORCE.** The Task Force will monitor compliance with public and private commitments, adherence to zoning requirements, and implementation of the Rezoning. With representation from local organizations, City agencies, and stakeholders, the Task Force will receive quarterly updates from the City and other stakeholders on planning, implementation, and successful completion of commitments, and disseminate this information to the community in a transparent and accessible manner.
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The below demands are priorities for the entire coalition:

- 4. GUARANTEE TIMELY REOPENING AND RENOVATION OF THE GOWANUS COMMUNITY CENTER WITH RESIDENT-LED PROCESS FOR DESIGN, ORGANIZATIONAL STRUCTURE, AND PROGRAMMING** All funding spent to improve local NYCHA developments must adhere to HUD Section 3 hiring policies to ensure Wyckoff Gardens, Warren Street Houses and Gowanus Houses (WWG) residents - especially lower income public housing residents - are hired to complete the work.
- 5. INVEST IN COMMUNITY HEALTH & SOCIAL RESILIENCE** Commit to a comprehensive package of funding to improve Social Resilience and Health outcomes for local public housing residents, by supporting an Environmental Justice and Racial Equity Assessment and fund the implementation of its recommendations to eliminate disparities. Ensure *all* local residents are included in a Community Health Needs Assessment and Community Emergency Preparedness Plan to address local health disparities and disaster risks.
- 6. BUILD ECONOMIC EQUITY ENSURING LOCAL ACCESS TO SECTION 3 EMPLOYMENT** Commit to HUD Section 3, HPD and NYC administrative code compliance and enforcement. Fund the promotion of local residents earning under 80% of Area Median Income applying for training, employment and economic opportunities through Section 3.
- 7. INVEST IN KNOW-YOUR-RIGHTS TRAININGS** The City must provide funding for know-your-rights trainings, including Affirmatively Furthering Fair Housing, civil rights compliance and other building and tenant related trainings and services to Warren, Wyckoff, and Gowanus residents.



## Gowanus Neighborhood Coalition for Justice

*Dealbreakers and Priority Demands for the Gowanus Rezoning*

*Last updated October 15, 2021*

- 8. 100% AFFORDABILITY ON PUBLIC LAND** Require 100% affordability on land owned by the City of New York. The City must provide the necessary subsidies to provide permanent and deeply affordable units for seniors and people with low incomes 0-60% of AMI.
- 9. ADDRESS LOCAL SKILLS GAP WITH TARGETED MULTI-YEAR WORKFORCE INVESTMENT** Programming must include bridge programming, training, and job placement for CD6 residents with barriers to living wage employment with focus on public housing residents and an industrial sector apprenticeship program. Implement through CBOs.
- 10. STUDY, IMPLEMENT AND ENFORCE TRANSFER OF DEVELOPMENT RIGHTS TO FUND FULL CAPITAL REPAIRS AT WYCKOFF AND GOWANUS NYCHA DEVELOPMENTS** The City must comprehensively and transparently examine and permit the purchase and transfer of development rights from Wyckoff Gardens and Gowanus Houses to privately owned parcels within the larger Gowanus area-wide rezoning, not to exceed the density that the City has already proposed in the Draft Scope of Work. Strong and representative local oversight of the generated funds must include Wyckoff Gardens and Gowanus Houses residents.
- 11. CREATE AN AFFORDABLE HOUSING LOTTERY PREFERENCE FOR LOCAL CD6 NYCHA RESIDENTS** The City, through HPD, must make the necessary regulatory and legislative changes to create affordable housing lottery preferences for local NYCHA residents, and an increased percentage for people with disabilities as well as ensure the creation of a significant number of affordable units for seniors. The City must also commit to a significant number of Section 8 vouchers for existing NYCHA residents so they can move to newly created affordable housing. The planned Affirmatively Furthering Fair Housing (AFFH) pilot must be in Gowanus and start as soon as possible.
- 12. MAP THE MOST AFFORDABLE MIH OPTIONS** The City must map ONLY the deepest mandatory inclusionary housing (MIH) options so low-income residents and the local public housing community can afford the new affordable housing. Use existing options: option 1 - 25% of units at 60% of AMI and option 3 - 20% of units at 40% of AMI.
- 13. MANDATE DEEPER MIH LEVELS FOR PRIVATE DEVELOPERS** Developments along the Gowanus Canal must commit to deeper affordability than MIH alone by providing 25% permanently affordable housing at an average of 50% of AMI with 10% at 30% of AMI.
- 14. FOLLOW THROUGH WITH IBZ COMMITMENT** The City must commit to translating the recently released IBZ Vision Plan into a zoning framework that protects existing industrial businesses and helps them stay in the Gowanus IBZ and modernize and expand, while carefully managing competing uses that can impede industrial operations such as large scale entertainment, gyms, big-box retail, and stand-alone office. The City should consider lowering the parking requirements for industrial properties; allowing increased density for the creation of industrial space and production-based uses; maintaining the prohibition on new residential uses, and examining strategies to help businesses reduce emissions.
- 15. CREATE JOBS FOR LOW INCOME LOCAL RESIDENTS TO MAINTAIN NEW BUILDINGS AND PUBLIC SPACE** Leverage both private and public investment in buildings and public spaces to create jobs for low income local residents in new buildings and the public realm by requiring and committing to local CBO partnerships for recruitment, training and hiring.
- 16. PRESERVE INDUSTRY AND ART SPACES** by implementing an incentive of .3 FAR for specific uses groups in Gowanus Mix that are limited to production, repair, and arts uses exclusively. Require public disclosure and transparency in leasing agreements of Gowanus Mix spaces.



## **Gowanus Neighborhood Coalition for Justice**

*Dealbreakers and Priority Demands for the Gowanus Rezoning*

*Last updated October 15, 2021*

**17. INVEST IN LOCAL YOUTH EMPLOYMENT** Fund Summer Youth Employment Program slots to ensure access to youth from WWG communities.

**18. INVEST IN PUBLIC SPACE** Commit to investments and timelines for public realm improvements called out in the Gowanus Lowlands Master Plan and the North Canal Visioning Plan, including Thomas Greene Park, Head of Canal Park, The Salt Lot, NYCHA campuses, Greenspace on 4th Extension, MTA easements, streets, streets ends, and other city owned parcels. Develop all plans with continued public input.

## **Appendix B**

NYCHA Physical Need Assessment (PNA) for Gowanus Houses and Wyckoff Gardens

## Capital Needs over Next 5 Years Gowanus Houses and Wyckoff Gardens

Sources:

PNA = Physical Needs Assessment, January 15, 2021

MOD = Modernization Activities Report for CM Levin, December 2020

	<b>TOTAL</b>	<i>Source</i>
<b>FUNDED - Completed</b>	\$ 29,951,321	MOD
<b>FUNDED - Not Completed</b>	\$ 118,517,108	MOD
<b>UNFUNDED</b>	\$ 273,549,758	PNA
	<b>\$ 422,018,187</b>	

	<b>Gowanus Houses</b>	<b>Wyckoff Gardens</b>	
<b>FUNDED - Completed</b>	\$ 13,178,324	\$ 16,772,997	MOD
IN PROGRESS	\$ 59,541,606		
DESIGN / PLANNING	\$ 38,819,017	\$ 5,665,000	
5-YEAR PLAN	\$ 12,691,485		
DASNY MANAGED	\$ 1,000,000	\$ 800,000	
<b>FUNDED - Not Completed</b>	<b>\$ 112,052,108</b>	<b>\$ 6,465,000</b>	MOD
Apartment	\$ 75,439,909	\$ 38,680,097	
Architectural	\$ 46,888,943	\$ 21,465,353	
Elevators	\$ 20,800,000		
Electrical	\$ 13,073,163	\$ 2,063,481	
Mechanical	\$ 29,572,427	\$ 5,401,715	
Site - Architectural	\$ 8,667,522	\$ 2,831,398	
Site - Electrical	\$ 401,547	\$ 197,954	
Site - Mechanical	\$ 8,066,250		
<b>UNFUNDED</b>	<b>\$ 202,909,761</b>	<b>\$ 70,639,997</b>	PNA

GOWANUS - Physical Needs Assessment (Replace As-Is)

COMPLETED - 5 YEARS						
Project	Fund Code	General Category	Item	Budget		Comp Year
6481	FEDERAL		EXT. RESTORATION & EMERGENCY SHEDS (LOCAL LAW 11)	\$1,389,333		2017
7757	FEDERAL	Architectural	SPRAY FOAM ROOFING SYSTEMS	\$3,039,273		2015
7781	FEDERAL / IRSAND		SECURITY ENHANCEMENTS(CM FEES)	\$61,979		2016
7987	FEDERAL	Architectural	EXTERIOR BRICK REPAIRS (LOCAL LAW 11)	\$2,471,671		2017
7989	FEDERAL	Architectural	BRICKWORK/FAÇADE RESTORATION (LOCAL LAW 11)	\$2,276,347		2016
8033	FEDERAL		EMERGENCY REPAIRS DUE TO HURRICANE SANDY	\$518,599		2015
8424	FEDERAL	Mechanical	REPLACEMENT OF BOILERS STUDY	\$29,550		2019
8966 MF	CITY		FAÇADES (LOCAL LAW 11)	\$1,963,195		2019
9065	IRSAND		SECURITY ENHANCEMENTS	\$128,794		2016
9192	FEDERAL		REPLACEMENT OF UNDERGROUND STEAM DISTRIBUTION SYSTEM	\$31,380		2018
9787 EPC	EPC		LIGHTING	\$1,165,140		2018
10076	IRCAPF		FAÇADE INSPECTION SAFETY PROGRAM	\$103,063		2020
				<b>\$13,178,324</b>		

IN PROGRESS						
Project	Fund Code	General Category	Item	Budget	Construction Start	Anticipated End
E211	FEDERAL		REPAIRS & MITIGATION (SANDY), INCLUDING ROOF REPLACEMENT	\$57,000,000	05/08/17	01/16/21
9789 EPC	EPC	Mechanical	HEATING CONTROLS	\$2,541,606	08/30/19	12/31/20
				<b>\$59,541,606</b>		

DESIGN / PLANNING							
Project	Fund Code	General Category	Item	Phase	Budget	Anticipated Start	Anticipated End
10186	CITY		CCTV/SECURITY	PLANNING	\$150,000	12/09/22	04/01/24
10329	STATE		BOILER REPLACEMENT	DESIGN	\$38,669,017	11/16/21	02/24/24
					<b>\$38,819,017</b>		

5-YEAR PLAN						
Project	Fund Code	General Category	Item	Budget		
8681	CITY		COMMUNITY CENTER RENOVATION	\$4,000,000		2021
10329	FEDERAL	Mechanical	BOILER REPLACEMENT	\$8,399,433		2022
9613	FEDERAL		FIRE ALARM SYSTEM AT THE SENIOR CENTER	\$292,052		2023
				<b>\$12,691,485</b>		

DASNY MANAGED							
Project	Fund Code	General Category	Item	Phase	Budget	Anticipated Start	Anticipated End
D167	CLOSED		CCTV	CLOSED	\$1,000,000	03/02/18	08/17/18
					<b>\$1,000,000</b>		

General Category	Item	Sub-Item	1-5 Year	Add'l Required Total	Notes		
Apartment	Architectural	Bathroom**	\$6,186,515	\$25,695,600	\$52,595,000	\$52,595,000 does include the plumbing and chase wall.	
		Kitchen	\$27,667,793	\$0	\$27,667,793		
		Ceiling	\$1,655,293		\$1,655,293		
		Closet	\$259,535		\$259,535		
		Doors	\$7,536,897		\$7,536,897		
		Floor	\$17,298,361		\$17,298,361		
		Wall	\$1,935,881		\$1,935,881		
		<b>Architectural Total</b>		<b>\$62,540,276</b>	<b>\$25,695,600</b>		<b>\$108,948,761</b>
	Electrical	Electrical Panel Board		\$4,344,490			\$4,344,490
		Intercom		\$94,000			\$94,000
		Light Fixtures		\$2,142,847			\$2,142,847
		Smoke Detectors		\$121,192			\$121,192
		<b>Electrical Total</b>		<b>\$6,702,529</b>			<b>\$6,702,529</b>
	Mechanical	Radiator / Convect / Baseboard		\$6,197,105			\$6,197,105
<b>Mechanical Total</b>			<b>\$6,197,105</b>		<b>\$6,197,105</b>		
<b>Apartment Total</b>			<b>\$75,439,909</b>	<b>\$25,695,600</b>	<b>\$121,848,394</b>		

Why does this need	General Category	Item	Sub-Item	1-5 Year	Add'l Required Total	Notes	
	Architectural	Exterior	Main Doors	\$143,183		\$143,183	
			Roof	\$5,125,669		\$5,125,669	Project in Progress
			Windows	\$8,292,840		\$28,360,910	1-5 year figure is for windows that need immediate replacement; to replace all windows = \$28,360,910
			Other	\$8,127,804		\$8,127,804	
			<b>Exterior Total</b>	<b>\$21,689,496</b>		<b>\$41,757,566</b>	
			Interior	\$25,143,785		\$25,143,785	
	Structural		\$55,661		\$55,661		
	<b>Architectural Total</b>		<b>\$46,888,943</b>		<b>\$46,888,943</b>		

<b>Elevators Total</b>				<b>\$20,800,000</b>		<b>\$20,800,000</b>
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Electrical	Corridor Lighting		\$186,870		\$186,870
	Emergency Generator Set		\$292,600		\$292,600
	Exit Lights		\$3,163		\$3,163
	Grounding System		\$8,547		\$8,547
	Lighting Explosion Proof Fixtures		\$2,262		\$2,262
	Lighting - Exterior Security / Riot Lights		\$1,399,515		\$1,399,515
	Lighting Fixture - Fluorescent		\$962,927		\$962,927
	Lighting Fixture - HID		\$37,035		\$37,035
	Lighting Fixture - Incandescent		\$12,900		\$12,900
	Motor Starter / Contactor		\$34,170		\$34,170
	Panelboard		\$1,981,942		\$1,981,942

		Service Switch			\$4,674,230		\$4,674,230	
		Stairhall Lighting			\$58,432		\$58,432	
		Switchboard			\$3,418,571		\$3,418,571	
		<b>Electrical Total</b>			<b>\$13,073,163</b>		<b>\$13,073,163</b>	
Critical for Apartm Critical for Apartm	Mechanical	Air Compressor			\$11,158		\$11,158	
		Air Conditioning			\$12,209		\$12,209	
		Climate Control			\$1,056		\$1,056	
		Domestic Water System**			\$576,000	\$10,617,465	\$11,193,465	
		Drainage / Sewage System**			\$147,541	\$6,101,512	\$6,249,053	
		Garbage Chute			\$12,290		\$12,290	
		Heating			\$14,217,935		\$14,217,935	
		Heating Plant			\$13,336,207		\$13,336,207	Project in Progress
		Interior Compactor			\$1,176,000		\$1,176,000	
		Non Residential Spaces			\$3,410		\$3,410	
		Ventilation			\$78,620		\$78,620	
		<b>Mechanical Total</b>			<b>\$29,572,427</b>		<b>\$29,572,427</b>	
Site - Architectural	Fences				\$3,766,871		\$3,766,871	
	Fixed Equipment				\$34,783		\$34,783	
	Landscaping				\$2,424		\$2,424	
	Paving - Non-Vehicular Area				\$4,085,590		\$4,085,590	
	Paving - Vehicular Area				\$407,099		\$407,099	
	Playgrounds				\$359,911		\$359,911	
	Retaining Walls				\$7,954		\$7,954	
	Site Walls (Not Retaining Walls)				\$2,889		\$2,889	
		<b>Site - Architectural Total</b>			<b>\$8,667,522</b>		<b>\$8,667,522</b>	
Site - Electrical	Lighting				\$401,547		\$401,547	
	<b>Site - Electrical Total</b>				<b>\$401,547</b>		<b>\$401,547</b>	
Site - Mechanical	Exterior Compactor				\$375,000		\$375,000	
	Underground Condensate Return Piping				\$1,462,500		\$1,462,500	
	Underground Hydronic Piping				\$2,835,000		\$2,835,000	
	Underground Natural Gas Piping				\$468,750		\$468,750	
	Underground Steam Piping				\$2,925,000		\$2,925,000	
	<b>Site - Mechanical Total</b>				<b>\$8,066,250</b>		<b>\$8,066,250</b>	
<b>TOTAL</b>					<b>\$202,909,761</b>	<b>\$25,695,600</b>	<b>\$228,605,361</b>	

\*Includes out-year work that, while not part of the 1-5 year scope, should be included to avoid duplication of resources

\*\*Full Bathroom renovation would involve the work in the Bathrooms themselves as well as plumbing work for the Domestic Water System and the Drainage / Sewage System

WYCKOFF - Physical Needs Assessment (Replace As-Is)

COMPLETED - 5 YEARS						
Project	Fund Code	General Category	Item	Budget	Comp Year	
7600	CITY/FEDERAL		EXTERIOR BRICKWORK & ROOFING	\$14,485,958	2016	
7987	FEDERAL		EXTERIOR BRICK REPAIRS (LOCAL LAW 11)	\$17,246	2015	
7988	FEDERAL		EXTERIOR BRICK REPAIRS (LOCAL LAW 11)	\$82,620	2015	
8678	CITY		TODDLERS' PLAY AREA	\$210,431	2019	
9087	RESAND		CM COST DISTRIBUTION FOR SANDY PROJECTS	\$5,124	2018	
9302EPC	EPC		EPC-LIGHTING IMPROVEMENTS AND WATER CONSERVATION	\$700,039	2017	
9411	FRSAND		A/E WORK AND INITIAL ASSESSMENT RELATED TO SANDY PROJECTS	\$5,080	2018	
10192	FEDERAL		ROOF TANK REPLACEMENT	\$1,266,499	2020	
				<b>\$16,772,997</b>		

DESIGN / PROCUREMENT							
Project	Fund Code	General Category	Item	Phase	Budget	Anticipated Start	Anticipated End
9398	CITY		COMMUNITY CENTER RENOVATION	DESIGN	\$4,365,000	10/14/21	01/28/23
9831	STATE		SECURITY LIGHTING	PLANNING	\$1,300,000	5/27/22	11/22/23
					<b>\$5,665,000</b>		

DASNY MANAGED							
Project	Fund Code	General Category	Item	Phase	Budget	Construction Start	Construction End
0319	CLOSED		APPLIANCES INSTALLATION	CLOSED	\$800,000	12/06/18	07/10/19
					<b>\$800,000</b>		

General Category	Item	Sub-Item	1-5 Year	Add'l Required Work*	Total	Notes		
Apartment	Architectural	Bathroom	\$5,279,152	\$9,576,000	\$14,855,152	This does not include the plumbing and chase wall. The total number for chase wall, bathrooms and related work (527 bathrooms) = \$23,715,000.00		
		Kitchen	\$12,789,370	\$0	\$12,789,370			
		Ceiling	\$861,448		\$861,448			
		Doors	\$4,957,320		\$4,957,320			
		Floor	\$9,211,337		\$9,211,337			
		Wall	\$965,103		\$965,103			
		Architectural Total		<b>\$34,063,731</b>	<b>\$9,576,000</b>		<b>\$43,639,731</b>	
		Electrical	Electrical Panel Board		\$128,880			\$128,880
				Intercom	\$226,775			\$226,775
				Light Fixtures	\$785,639			\$785,639
				Smoke Detectors	\$16,200			\$16,200
		Electrical Total		<b>\$1,157,494</b>			<b>\$1,157,494</b>	
		Mechanical	Radiator / Convector / Baseboard Terminal Unit Steam Trap		\$3,454,597			\$3,454,597
					\$4,275			\$4,275
Mechanical Total		<b>\$3,458,872</b>		<b>\$3,458,872</b>				
Apartment Total			<b>\$38,680,097</b>	<b>\$9,576,000</b>	<b>\$48,256,097</b>			
Architectural	Exterior	Main Doors	\$0		\$0			
		Roof	\$349,224		\$349,224			
		Windows	\$7,267,346		\$7,267,346			
		Other	\$173,787		\$173,787			
		Exterior Total	<b>\$7,790,357</b>		<b>\$7,790,357</b>			
		Interior	\$13,663,461		\$13,663,461			
Structural	\$11,535		\$11,535					
Architectural Total			<b>\$21,465,353</b>		<b>\$21,465,353</b>			
Electrical		Corridor Lighting	\$653,850		\$653,850			
		Emergency Lighting	\$24,121		\$24,121			
		Exit Lights	\$20,926		\$20,926			
		Exit/Emergency Combination	\$4,104		\$4,104			
		Lighting - Exterior Security / Riot Lights	\$390,044		\$390,044			
		Lighting Fixture - Fluorescent	\$247,615		\$247,615			
		Lighting Fixture - HID	\$800		\$800			
		Lighting Fixture - Incandescent	\$61,107		\$61,107			
		Motor Starter / Contactor	\$14,019		\$14,019			
		Panelboard	\$471,163		\$471,163			
		Stairhall Lighting	\$152,392		\$152,392			
		Telephone	\$23,340		\$23,340			
Electrical Total			<b>\$2,063,481</b>		<b>\$2,063,481</b>			
Mechanical		Air Conditioning	\$47,409		\$47,409			
		Climate Control	\$670		\$670			
		Domestic Water System	\$350,436	\$2,522,618	\$2,873,054			
		Drainage / Sewage System	\$29,422	\$3,909,760	\$3,939,182			
		Garbage Chute	\$9,270		\$9,270			
		Heating	\$69,250		\$69,250			
		Heating Plant	\$4,403,845		\$4,403,845			
		Interior Compactor	\$294,000		\$294,000			
		Non Residential Kitchen	\$21,937		\$21,937			
		Non Residential Spaces	\$2,766		\$2,766			
		Standpipe System	\$66,342		\$66,342			
Ventilation	\$106,368		\$106,368					
Mechanical Total			<b>\$5,401,715</b>		<b>\$5,401,715</b>			
Site - Architectural		Fences	\$676,738		\$676,738			
		Fixed Equipment	\$491		\$491			
		Parking Lot	\$1,527,795		\$1,527,795			
		Paving - Non-Vehicular Area	\$231,881		\$231,881			
		Paving - Vehicular Area	\$312,418		\$312,418			
		Retaining Walls	\$3,044		\$3,044			

	Sidewalks & Curb		\$14,879		\$14,879	
	Stairs / Ramps		\$64,153		\$64,153	
Site - Architectural Total			<b>\$2,831,398</b>		<b>\$2,831,398</b>	
					0	
Site - Electrical	Lighting		<b>\$197,954</b>		<b>\$197,954</b>	Project in Progress
Site - Electrical Total			<b>\$197,954</b>		<b>\$197,954</b>	
<b>TOTAL</b>			<b>\$70,639,997</b>	<b>\$9,576,000</b>	<b>\$80,215,997</b>	

\*Includes out-year work that, while not part of the 1-5 year scope, should be included to avoid duplication of resources

\*\*Full Bathroom renovation would involve the work in the Bathrooms themselves as well as plumbing work for the Domestic Water System and the Drainage / Sewage System

## **Appendix C**

City Commitments needed to ensure Net Zero CSO Rezoning



October 8, 2021

## **RE: City Commitments needed to ensure Net Zero CSO Rezoning**

Since the 2018 release of DCP's Gowanus Framework for a Sustainable, Inclusive, Mixed-use Neighborhood, introducing the proposal for a district-wide rezoning of the Gowanus neighborhood, GCC and our partners in the Gowanus Neighborhood Coalition for Justice (GNCJ) have demanded a **Net Zero CSO Rezoning** to ensure future development in the neighborhood does not contribute additional Combined Sewer Overflow (CSO) to the historically burdened and polluted Gowanus Canal. As part of this demand, we have repeatedly requested that the City provide accurate and up-to-date modeling of the sewer system that utilizes best available data to realistically account for the reasonable worst case development scenario and increased precipitation as a result of climate change in order to realistically assess environmental impacts.

In April 2021, DCP released the Draft Environmental Impact Statement (DEIS), where DEP has shown a robust response to this demand, going above and beyond CEQR requirements with a better than Net Zero outcome. The DEIS shows CSO reductions to the Gowanus Canal by 5 million gallons per year *with* the forthcoming Unified Stormwater Rule in place as new development installs stormwater management practices required under the new rule. Absent the new rule, the City concedes that CSO would actually increase by 3 million gallons per year. While we commend DEP for their work on adopting new citywide stormwater policy that will undoubtedly improve stormwater management in the neighborhood and across the City, it is critical to note that the assessment of CSO outcomes are based on complex sewer and stormwater modeling or projections that are only as reliable as the data that informs them. Evaluating these models requires tools and expertise beyond what the average citizen has access to and for this reason, GCC, local elected officials and the Gowanus community have looked to EPA for guidance. In August 2021, EPA's comments on the City's DEIS concluded that they "*cannot assess what the net CSO discharge impacts will be from the proposed rezoning*" due to a number of inconsistencies in the data presented in the DEIS, including the use of outdated rainfall projections that are not representative of expected future climate predictions.

Given EPA's inconclusive assessment of the Gowanus CSO and sewer modeling and the detrimental local impacts of extreme weather caused by recent storms Henri and Ida, the City must provide additional information and take additional responsibility for tracking the net CSO discharge impacts over time in order to fully meet the community's demand. The City acknowledged the need for future study in flood prone neighborhoods just this past Monday, when the Mayor's Office office released a landmark report<sup>1</sup>: *The New Normal: Combatting*

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<sup>1</sup> [The New Normal: Combatting Storm-Related Extreme Weather in NYC \(September 2021\)](#)

*Storm-Related Extreme Weather in New York City*,” committing more than \$2.7 billion to counteract impacts of extreme weather as a result of climate change and calling for accelerated planning to upgrade our City’s sewer system and improve modeling efforts. If the City intends to deliver on it’s promise to ensure the Gowanus Neighborhood Plan provides a just and green neighborhood for all, **we urge the City to commit to the following as Points of Agreement (POA) prior to the approval of the Gowanus Rezoning:**

1. To ensure our demand is met, **the Unified Stormwater Rule must be in effect prior to the first site sewer connection in the Rezoning Area** and the City must provide transparent reporting on implementation as described in #3 below.

2. **The Gowanus neighborhood must be included as one of the 10 neighborhoods that the City advances for its upcoming Cloudburst Study.**

As outlined in the Mayor’s report, DEP will select 10 at-risk neighborhoods for the implementation of a **cloudburst design study** by the end of 2021. We need a firm commitment from the City to identify the Gowanus neighborhood and adjacent drainage areas in the Red Hook Sewershed as one of these areas in order to make good on the *flood resiliency or hydrology study* that the Gowanus community has been asking for for years.

- *Background: A Cloudburst Study* assesses stormwater flow paths based on topography and sub-surface conditions in at-risk areas to identify grey and green infrastructure priorities and capital projects for flood mitigation and stormwater management. It is essentially the *flood resiliency or hydrology study* that the Gowanus community has been asking for for years. It can and should:

- Integrate recent data and high-resolution flood maps developed by the Mayor’s Office of Resiliency as part of the *Stormwater Resiliency Plan* (May 2021)<sup>2</sup>, 311 flood and sewer reports recorded across the neighborhood following extreme weather, and Coastal Flood maps - all of which demonstrate a high-level of extreme flood risk in Gowanus, particularly along 9th Street and along the Bond-Lorraine Sewer Line, which connects the Gowanus Neighborhood to Red Hook and has been identified by DEP as a “Highest Priority” stormwater improvement project.

- Address EPA’s recommendation that the City develop a separate “probability analysis” to study the various impacts of development and the range of potential climate change outcomes.

- Ensure flood resilience measures in the public right-of-way as new development occurs in the Gowanus neighborhood. While the Unified Stormwater Rule aims to improve private on-site stormwater management, there is no plan to address the high-risk flooding that occurs in streets and sidewalks.

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<sup>2</sup> [NYC Stormwater Resiliency Plan \(May 2021\)](#)

- Incorporate impacts of new development as a result of the Gowanus Rezoning
- Be a transparent and inclusive process that incorporates diverse stakeholder input.

3. **DEP must commit to annual monitoring of net changes in sanitary and stormwater loading within the Gowanus Sewershed as mandated by EPA's Executive Administrative Order.**

The City must agree to comply with the monitoring and reporting requirements for *Stormwater Controls* outlined in Paragraph 73c of EPA's Executive Administrative Order (EAO) from March 29, 2021. As per this mandate, the City must commit to annual **monitoring of net changes in sanitary and stormwater loading, to be reported as modeled volumes**, within the Gowanus Sewershed in order to assess incremental impact of sewer hookups and ensure these do not result in a net increase.

- *Background:* The EPA's EAO includes four distinct and separate mandates for monitoring and subsequent reporting of the following: 1) Stormwater Controls; 2) Separated Outfall Treatment Units; 3) CSO Solids; and 4) CSO Tank Operation and Maintenance.
- The City's response to EPA's EAO provides reasoning towards a "sufficient cause for non-compliance" regarding all four monitoring areas. We believe that in most cases the City provides reasonable grounds for this defense. In particular, regarding *CSO Solids*, the City commits to submitting a post-dredging Monitoring Plan to EPA by October 31, 2021 that will outline protocol for assessing CSO recontamination of the Canal consistent with requirements of the EPA Record of Decision (ROD).
- However, the **monitoring area of greatest relevance** to our demand for a *Net Zero CSO Rezoning* pertains to *Stormwater Controls*, outlined in *Paragraph 73c* of the EAO<sup>3</sup>.
  - It is our firm belief that this particular mandate will be essential for validating on-the-ground, incremental impacts of the Unified Stormwater Rule and meeting compliance with the EPA ROD mandate that

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<sup>3</sup>*Paragraph 73c. Stormwater Controls: Beginning upon the Effective Date of this Order, Respondent shall ensure implementation of applicable City regulations for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and stormwater control regulations and standards, as set forth in the ROD, at minimum, and as may be updated in City regulations and guidelines, for project plan approvals within the Gowanus Canal sewershed, to ensure that hazardous substances and solids from additional stormwater and sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity. See ROD at page 85. When implementing or approving municipal sewer infrastructure upgrades and/or private stormwater controls within the Gowanus Canal sewershed, stormwater shall be separated for discharge to the Gowanus Canal to the maximum extent practicable. Commencing on January 31, 2022, Respondent shall submit to EPA an annual report summarizing the net changes in sanitary and stormwater loadings within the Gowanus Canal sewershed, which shall include but not be limited to, the major project plan approvals for the preceding calendar year. Respondents shall submit the proposed form and contents of the report for EPA approval.*

*“redevelopment projects will need to take mitigation measures to prevent or offset additional sewer loadings.”* Without this tracking, the City cannot confirm that the rezoning will achieve Net Zero CSO.

- The City’s response to the EAO<sup>4</sup> suggests that compliance with this mandate is not feasible, claiming that applications for site sewer connections are *not always implemented* and that *pollutant loadings from sanitary and stormwater flows are best calculated through modeling to be measured on a long-term basis*. This reasoning is not good enough.
  
- *Modeling as Monitoring*: We acknowledge that on-the-ground tracking of sanitary and stormwater flows for every redevelopment site may not be feasible and therefore accept annual modeling of projected sanitary and stormwater flows and/or site-based CSO reduction as a sufficient form of *monitoring* to satisfy this demand.
  - Under requirements for the Unified Stormwater Rule (USWR), applicants applying for their site sewer connection must provide DEP with the project proposed sanitary discharge, proposed development site storm flow, allowable flow from the site and/or the stormwater release rate from the site in accordance with DEP rules.
  - Additionally, applicant sites greater than 20,000 square feet will trigger the USWR Chapter 19.1 requirements. These sites will also be required to submit a Stormwater Management Plan (SMP) containing documentation for all infiltration/retention practices to be implemented on site.
  - Under DEP’s 2021 Green Infrastructure Contingency Plan,<sup>5</sup> the Department provides a methodology for converting green infrastructure practices or “greened acres” to a CSO reduction volume.
  
- The required metrics for a site sewer connection combined with DEP’s updated metric for assessing CSO reduction volume provide sufficient information for satisfying the EPA mandate for an annual report summarizing projected or *modeled* annual net changes and overall CSO reduction. While all site-sewer applicants may not implement projects, a summary of net changes based on the applicant projections would be sufficient for this tracking.

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<sup>4</sup> As part of the application for connection to the City sewer system, an applicant must provide the proposed sanitary discharge, proposed development site storm flow, allowable flow from the site and/or the stormwater release rate from the site in accordance with DEP rules. DEP thus receives information on the projected storm and sanitary flows, as applicable. However, DEP’s approval of a project does not mean that the project will be implemented. Further, pollutant loadings from sanitary and stormwater flows are calculated through modeling, are not expected to change significantly on an annual basis and are better measured on a long-term basis. Thus, DEP believes that beginning in 2023 reporting the number of stormwater management pollution prevention plans for approved and/or completed projects, including the number of post construction management practices triggered by the City’s stormwater regulations, should be sufficient. This clarification was included in the proposed edits conveyed to Mr. Carr on May 4th, but was rejected by EPA.

<sup>5</sup> [DEP Green Infrastructure Contingency Plan \(June 2021\)](#)

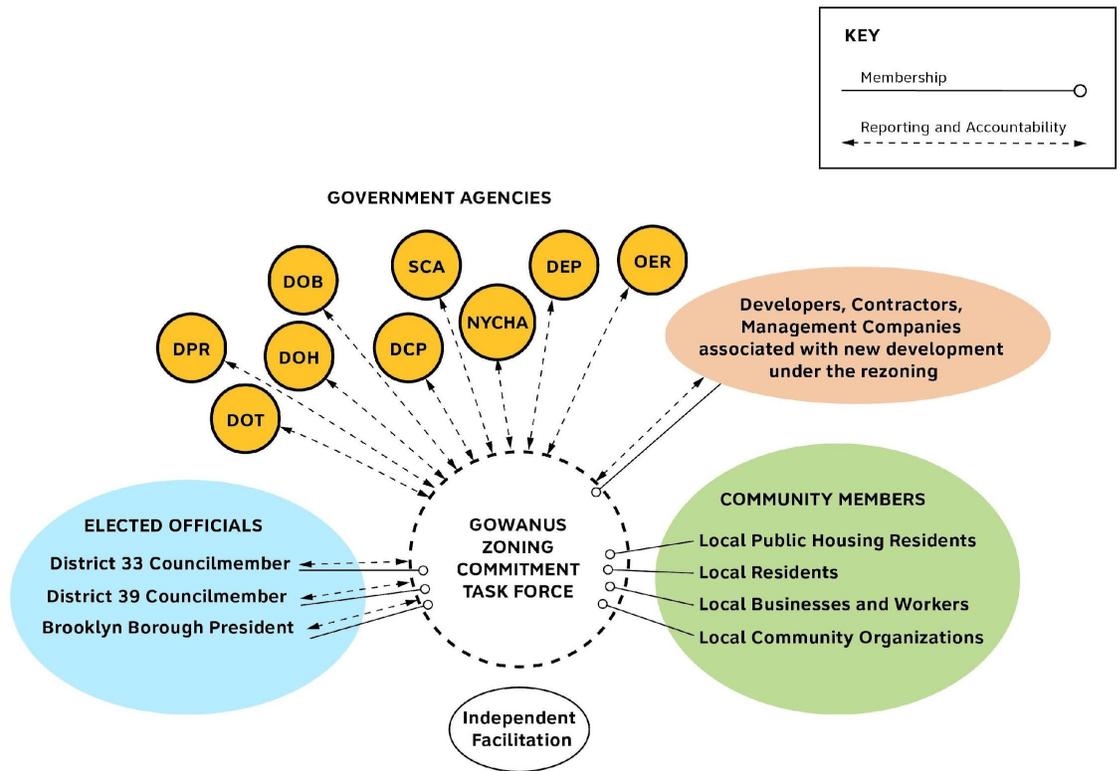
**Appendix D**

Proposed Gowanus Rezoning Task Force Description

# Gowanus Zoning Commitment Task Force

## Mission

The proposed Gowanus Zoning Commitment Task Force will ensure that commitments identified in the proposed Gowanus Rezoning, EIS and Neighborhood Plan are met by the City and private developers. With representation from local organizations, residents and stakeholders, the Task Force will empower the community to hold the City accountable for the Gowanus Neighborhood Plan throughout its execution. The Task Force will collect and organize reporting from responsible agencies on their rezoning commitments, and disseminate the information in a transparent and accessible manner. The Task Force will facilitate productive and respectful engagement between government agencies, development entities and a range of diverse stakeholders in the community, with the aim of raising up voices of those most impacted.



## Why the existing City Commitment Tracker is not sufficient

Pursuant to Local Law 175 of 2016, the City is responsible for publishing a list of capital and programmatic commitments associated with neighborhood-scale rezonings, and an annual progress report detailing the status of each initiative, which it does through the Commitment Tracker. However, this important resource currently operates as a one-way conduit, and does not support the community in understanding or giving feedback on the ongoing status of commitments. Given the scale and complexity of this proposed rezoning, as well as the overlaps with Superfund and other neighborhood remediation activities, we aim to partner with each relevant City Agency as a resource for the community that not only provides up to date information, but also serves as a place and process to register issues, with a governance structure that encourages proactive public-private partnership and accountability around implementation.

## **City Commitments Needed**

1. Fund a facilitator for a fifteen-year period to oversee Task Force activities, help to organize and enable Task Force meetings, and otherwise support the Task Force's work.
2. Fund a NYCHA Liaison to provide technical assistance and support for NYCHA residents in navigating construction processes and holding NYCHA accountable for repairs, tenant rights, Section 3 hiring, and all commitments made through the rezoning.
3. Commit funding to allow the Task Force to obtain ongoing professional planning expertise for the same period of time, so that the Task Force can obtain, analyze and compile accurate and timely data and assemble them in user friendly language to share with the community.
4. Commit senior level staff from agencies below to provide regular reporting to the Task Force to monitor compliance with public and private commitments, adherence to zoning requirements, and implementation of the Rezoning.
  - New York City Housing Authority (NYCHA)
    - Provide regular and transparent updates on all streams of capital funding for Wyckoff Gardens and Gowanus Houses
    - Provide regular, transparent and accessible updates on all construction in Wyckoff Gardens and Gowanus Houses, including progress, timeline, safety procedures, and Section 3 hiring.
  - Department of Buildings (DOB)
    - Provide regular updates on Gowanus Mix leasing
  - Department of Environmental Protection (DEP)
    - Provide regular updates of sewer modeling with new Sewer connection permits and construction status
  - Department of Parks / Department of City Planning
    - Require developers requesting waterfront certification and/or authorization to present site designs and gain approval
  - School Construction Authority
    - Provide regular reports on projected school seats needed for new construction
    - Provide reports on sites requesting school construction bonus
  - Transportation
    - Provide regular reports on local traffic and construction impacts
  - All Agencies with construction commitments.
    - Provide regular reports on progress on all City construction projects in the rezoning area, including DEP tanks, etc.
    - Provide timely response to community concerns

**From:** [Hal Bromm](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Testimony  
**Date:** Monday, October 11, 2021 9:57:07 PM

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Honorable Members of the City Council,

I oppose the Gowanus Rezoning.

Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, told Mayor De Blasio on September 8 that they *"find serious problems with the City's Gowanus Neighborhood Rezoning."* I agree and urge you to vote no on this rezoning.

The proposal before you is a terrible plan that exposes the homes, families, and neighbors of this community to untold risk from the environmental impacts of climate change.

Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment. The City needs to seriously consider the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this plan represents a huge rezoning. Last week the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but this rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**Our city and its residents need and DESERVE Climate Justice, not more giveaways for Big Real Estate. Please go back to the drawing board and in the interim Vote NO on the Gowanus Rezoning!**

Thank you,

Hal Bromm



[www.halbromm.com](http://www.halbromm.com)

**From:** [Alison Greenberg](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Thursday, October 14, 2021 6:14:26 PM  
**Attachments:** [HDC Letter Gowanus Rezoning Land Use Subcommittee Oct. 14 2021.pdf](#)

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Please see attached on behalf of the Historic Districts Council.



HISTORIC DISTRICTS COUNCIL

THE ADVOCATE FOR NEW YORK CITY'S HISTORIC NEIGHBORHOODS

October 14, 2021

Hon. Francisco Moya, Chair  
New York City Council  
Land Use Subcommittee on Zoning  
and Franchises  
City Hall  
250 Broadway  
New York, NY 10007

VIA E-MAIL to: [landusetestimony@council.nyc.gov](mailto:landusetestimony@council.nyc.gov)

Re: Gowanus Rezone Plan

Dear Chair Moya,

The Historic Districts Council (HDC) is the advocate for all of New York City's historic neighborhoods. Our mission is to ensure the preservation of significant historic neighborhoods, buildings and public spaces in New York City, uphold the integrity of the City's Landmarks Law, and further the preservation ethic.

HDC joins with the concerned neighbors and residents of Gowanus in calling for a moratorium of the proposed Gowanus rezoning.

At the October 12, 2021 hearing before the City Council's sub-committee on Zoning & Franchises, the diverse, passionate and informed neighborhood constituency expressed valid and serious concerns about the impact the Gowanus Neighborhood Plan will have on small businesses and residents, including those who live in the long-neglected NYCHA Gowanus Houses and Wyckoff Houses complexes. The community opposition made their concerns abundantly clear.

History and studies starkly illuminate the effects rezonings have on neighborhoods demographically, socially, and physically. As currently proposed, these effects on existing and potential future local populations are both unknown and meaningfully – unexamined – at this location.

A moratorium now on this rezoning would provide the opportunity for a new administration to require a mandatory racial and ethnic impact study, prior to any rezoning, so as to combat displacement and segregation. A study like that should create a significant opportunity to help generate the more equitable city we all hope for —the kind of city which the proponents of this plan say they want. We want it, too.

Champions of the plan, such as the Real Estate Board of New York, have created a public campaign claiming that pausing this proposal eliminates “giving working New Yorkers a chance to live in affluent neighborhoods.” The plan, however, proposes to build majority market-rate (i.e. luxury ) housing. And it is a slap in the face to the thousands of NYCHA residents whose main concern is decent living conditions in their current homes.

The relative recent rezonings of Fourth Avenue and the Williamsburg waterfront illustrate the kind of demographic and visual devastation these kinds of actions can visit upon neighborhoods. There is no reason to believe Gowanus will be treated more kindly or successfully. In fact, should the current proposal be adopted, there are plenty of reasons to believe that Gowanus as we know it will cease to exist, buried under a wave of massive speculative towers which could remain vacant.

The Gowanus neighborhood is currently home to a substantial population of NYCHA residents—a population which the rezoning provides nothing for. During the current pandemic, NYCHA populations were disproportionately affected by COVID-19, a testament to the administration's ongoing neglect of this diverse community. This new proposal ignores and reinforces present shortfalls, and it is certainly not responsive and responsible community planning.

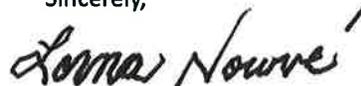
Finally, as part of the current plan, a public space would be largely be given over to private development. The City Planning Commission designated 'Public Place' in 1974 to "provide land for badly needed recreational space." HDC finds it indefensible that a city-designated site for public purposes will be given away to private interests for majority market rate, luxury development. As our world and priorities are rapidly changing, reform and provision of social and public services have come to the fore of public conversations. De-designating a community site for profit is tone-deaf public policy.

One of the guiding tenets of the Historic Districts Council is the belief that everything starts and ends in community. HDC has been working with our community partners in Gowanus for nearly a decade. We participated in the Bridging Gowanus Study of 2014-15, served on the Gowanus Rezoning Study Public Realm Working Group in 2016, and in 2017, co-founded the Gowanus Landmarking Coalition during the rezoning framework process, which led to the designation of five significant historic buildings in 2019.

HDC invests in the people of all communities and seeks to build sustainable, vital neighborhoods for all New Yorkers. We implore you to honor this mission and put the rezoning plan on hold until it responds to the many needs of the existing community and the city as a whole.

Thank you.

Sincerely,



Lorna Nowvé

Interim Executive Director

cc: Eric Adams, Brooklyn Borough President  
Stephen Levin, City Councilman  
Corey Johnson, City Council Speaker  
Brad Vogel, Voice of Gowanus

**From:** [Jenny](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] resident opposition to Gowanus Re-zoning  
**Date:** Tuesday, October 12, 2021 9:41:10 AM

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My name is Jenny Bevill and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Sincerely,

Jenny Bevill



Brooklyn, NY 11215

**From:** [Joanne Boger](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Opposition to Gowanus ReZoning  
**Date:** Tuesday, October 12, 2021 7:32:17 PM

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I live close by the Gowanus Canal and after listening to the testimony today via live stream, I must add my voice to the VOTE NO side of the question.

I have long followed the excellent work of the City agencies and coalitions of neighbors to create an excellent vision for the Gowanus area. I agree that the public housing nearby should receive investment immediately — in fact, that investment needs to start TODAY, and it does not have to wait for income to trickle in from the development process.

I appreciate the beautiful building and public space designs and the mix of uses which the proposals are promising.

The big problem is that the rezoning is all being done on the basis of a Final Environmental Impact Statement that just ignores the reality of climate change, using out of date modeling. The City must not go forward with a rezoning of this scope without first doing the studies in depth. We have to be sure that redevelopment deals with several immediate threats: flooding from storms and sea level rise. We also have to make sure the City deals with the inadequate sewer infrastructure, to keep combined sewage overflow from pouring into the canal. I was shocked to learn that the holding tanks in the plan won't be large enough and neither of them will even be completed until 2030. Until these matters are established and certified by scientific analysis and the plans gain the approval of bodies like the EPA, the City Council should hold off on approval of this rezoning.

Joanne Boger  
402 7th St

**From:** [Jo Rectra Cogan](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Comments against rezoning in Gowanus  
**Date:** Tuesday, October 12, 2021 7:24:39 AM

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My name is Jo Cogan and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Sent from my iPhone

**From:** [Jill Fiengo](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus are Rezoning  
**Date:** Tuesday, October 12, 2021 2:55:36 PM

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Hello,

My name is Jill Fiengo and I oppose the Gowanus Rezoning.

This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes. We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

Jill Fiengo

Sent from my iPhone

**From:** [Jerry Luna](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Plan Testimony Oct 12th Hearing  
**Date:** Tuesday, October 12, 2021 4:01:28 PM

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To: Members of the City Council Subcommittee on Zoning and Franchises

I'm a resident of Gowanus and an environmental activist and I'm writing to express my opposition to the Gowanus Rezoning and to ask you to vote no on this rezoning proposal at the Oct 12th hearing.

There are a number of problems with this rezone but the most pressing is that the city's environmental assessment is not accurate or up to date: it needs to be re-done with involvement from Federal agencies like EPA and FEMA and it needs to plan for the kind of flooding we saw just weeks ago with Ida and Henri (I had flooding in my home and watched as my neighbors in basement apartments spent days bailing out from these storms). The EIS uses 2008 rainfall data in spite of the fact that more recent, accurate data and projections exist. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon's calls for the assessment to be re-done. Velázquez and Simon wrote a letter to Mayor De Blasio on September 8 stating their concerns:

"We find serious problems with the City's Gowanus Neighborhood Rezoning and accompanying Draft Environmental Impact Statement (DEIS) which is fraught with inconsistencies and contradictions that the U.S. Environmental Protection Agency (EPA) has outlined in its thorough comments on the DEIS."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment. The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area."

"The City needs to do much more now to ensure responsible development in the future, especially with record setting storms now being the norm."

The City has not designed or built the Combined Sewage Overflow holding tanks that EPA ordered for the Gowanus canal (projections for the completion of these tanks is more than a decade from now) so we still see raw sewage in the canal every day, and continue to experience flooding in our homes. Gowanus has dozens of Brownfield sites with serious

pollution including former manufactured gas plants with carcinogenic coal tar deep in the soil. We need climate justice, not more giveaways for big real estate. Vote NO on the Gowanus Rezoning!

--

.. jerry luna ..

[jerry.luna@gmail.com](mailto:jerry.luna@gmail.com)

**From:** [Linda Laviolette](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Written Testimony on Gowanus Rezoning  
**Date:** Wednesday, October 13, 2021 12:35:02 AM  
**Attachments:** [VoG Written Testimony Gowanus.pdf](#)  
[Gowanus Rezoning DEIS DCP Letter NV JAS 9-8-21 \(1\).pdf](#)  
[EPA 8 9 2021 Comments on Gowanus Rezoning EIS 19DCP157K and Attachment.pdf](#)  
[VoG FEIS Official Comments Submission CEQR No. 19DCP157K.pdf](#)

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**To: New York City Council Subcommittee on Zoning and Franchises**  
**From: Voice of Gowanus**  
**Re: Written Testimony on the Gowanus Neighborhood Plan**

October 12, 2021

Chair Moya and Council Members,

Voice of Gowanus is a coalition of community groups, concerned citizens and small business owners who have come together to fight for a just and sustainable future for Gowanus. Founders of our coalition include environmental activists who were instrumental in the successful campaign to list the Gowanus Canal as a Superfund site. We are deeply committed to safeguarding the health and safety of current and future residents, and to working to counteract the decades of Environmental Injustice that has so deeply harmed our neighborhood. This longstanding and ongoing abuse of the Gowanus Canal and its environs—one of the most polluted navigable waterways of the United States of America—has led to serious and compounding health and safety impacts for our community, including the 10,000 residents in public housing.

The 82-block rezoning area under your consideration lies substantially in a FEMA Flood Zone A that experienced severe flooding during Hurricanes Sandy and Ida, including the recent tragic death by drowning of local resident Michael Robinson in the flash flooding during Ida. The rezone area also includes 133 documented toxic sites, including multiple manufactured gas plant sites. The City's own sea level rise projections show that future storm events will increase flood risk and the risk of toxic exposure.

Given these and other facts and what the law prescribes, the community has been advocating for months to have relevant state and federal agencies, including EPA, FEMA, DEC, HUD and the Army Corps of Engineers, identify themselves as "Involved Agencies" under the State Environmental Quality Review Act (SEQRA), and "Cooperating Agencies" under the National Environmental Policy Act (NEPA) so that their scientific expertise could be brought to bear on the Environmental Impact Statement (EIS) for Gowanus. Our Congresswoman Nydia Velazquez and NYS Assemblymember Jo Anne Simon have joined the community in demanding that the City re-draft the dangerously flawed Gowanus EIS with the full involvement of relevant agencies, as required by law (See: [Attached letter to Mayor de Blasio](#)). Community Board 2 overwhelmingly voted down this proposal. And EPA submitted formal comments to the City that they have indeed identified flaws, errors, and inconsistencies in the water modeling used by the City in the Gowanus EIS (See: [Attached EPA Comments](#)). This water modeling is fundamental to understanding how new development projects will impact the federally mandated clean-up of the Gowanus Canal, compliance with the Clean Water Act, compliance with the Rivers and Harbors Act, and the increasing risk of flooding and toxic exposure for the community at large due to climate change, especially those in low-lying legacy buildings, such as the Gowanus Houses NYCHA Campus, which flooded during Hurricane Sandy.

The current EIS simply does not meet the minimum due process requirements for environmental impact review. Please see the formal comments submitted by Voice of Gowanus on the EIS ([Attached](#)), which, along with the comments from EPA, our Congresswoman, Gowanus Neighborhood Coalition for Justice (GNCJ), Gowanus Canal Conservancy, and a host of other community groups and stakeholders, were summarily and illegally ignored by the City and the City Planning Commission during the EIS process.

We ask that you set aside your particular policy positions on development, housing, job creation, and a host of other vital issues that proponents of the rezoning will cite, and consider that even if you are in favor of this action, the rezoning will be at significant legal risk unless the EIS satisfies the requirements of state and federal statutes. Without a legally sufficient and comprehensive EIS, you have not been given the impact analysis that would allow you to properly assess this zoning action. And if you vote in favor of this rezoning without being given such analysis in advance, you will be complicit in the City's failures.

As such, we strongly urge you to take a stand for due process and transparency, vote your conscience, and **VOTE NO** on the Gowanus Neighborhood Plan. If you have any trouble accessing the referenced and attached documents or if you have any additional questions, please do not hesitate to reach out to [info@voiceofgowanus.org](mailto:info@voiceofgowanus.org).

Sincerely,

Jack Riccobono  
Co-Chair, Outreach Committee  
Voice of Gowanus

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**ENCLOSED:**

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September 8 , 2021 Letter from Congresswoman Nydia Velazquez and NYS Assemblymember Jo Anne Simon to Mayor Bill de Blasio: [https://www.dropbox.com/s/9pvfx4jij5msrkyu/Gowanus\\_Rezoning\\_DEIS\\_DCP\\_Letter\\_NV\\_JAS\\_9-8-21\\_%281%29.pdf?dl=0](https://www.dropbox.com/s/9pvfx4jij5msrkyu/Gowanus_Rezoning_DEIS_DCP_Letter_NV_JAS_9-8-21_%281%29.pdf?dl=0)

EPA Comments on Gowanus EIS:

<https://www.dropbox.com/s/xrf707wv0i1yqpc/EPA%20Comments%20on%20Gowanus%20Rezoning%20EIS%2019DCP157K%20and%20Attachment%208-9-2021.pdf?dl=0>

Voice of Gowanus Comments on Gowanus

EIS: [https://www.dropbox.com/s/6xum5hy1xsshda3/VoG\\_FEIS%20Official%20Comments%20Submission\\_CEQR%20No.%2019DCP157K.pdf?dl=0](https://www.dropbox.com/s/6xum5hy1xsshda3/VoG_FEIS%20Official%20Comments%20Submission_CEQR%20No.%2019DCP157K.pdf?dl=0)

Voice of Gowanus *Baselines for Just & Sustainable Development in*

*Gowanus*: [https://www.dropbox.com/s/89mtmgttseilfrw/Voice%20of%20Gowanus\\_BASELINES\\_long.pdf?dl=0](https://www.dropbox.com/s/89mtmgttseilfrw/Voice%20of%20Gowanus_BASELINES_long.pdf?dl=0)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 2  
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BY EMAIL

Marisa Lago, Director  
New York City Department of City Planning  
120 Broadway  
31st Floor  
New York, NY 10271

Re: Comments on Gowanus Neighborhood Rezoning Draft Environmental Impact Statement and Gowanus Canal Superfund Site, Brooklyn, New York

Dear Ms. Lago:

The U.S. Environmental Protection Agency (EPA) submits this letter for the purpose of commenting on the Gowanus Neighborhood Rezoning plan and accompanying draft environmental impact statement (DEIS), which the Department of City Planning (DCP) is overseeing on behalf of the City Planning Commission as lead agency.

### Background

As you know, the proposed rezoning affects an area surrounding the Gowanus Canal which EPA placed on the Superfund National Priorities List in March 2010, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA" or "Superfund"). The Gowanus Canal Superfund Site ("Site") includes the approximately 100-foot wide, 1.8-mile-long Canal, and upland areas that are sources of contamination to the Canal.

In 2013, EPA issued a Record of Decision (ROD), selecting a remedy for the cleanup of the Site that includes the dredging and off-Site disposal of much of the accumulated contaminated sediment within the Canal, the capping of certain contamination remaining below the dredged material, and the control of upland sources to prevent the recontamination of the clean Canal. See <https://semspub.epa.gov/work/02/692106.pdf>. Such upland sources include certain contaminated sewer solids discharged into the Canal during Combined Sewer Overflow (CSO) events, when stormwater and sanitary sewage capacity is exceeded within the approximately 1,758-acre Gowanus Canal watershed. Among other things, the CSO portion of the EPA-selected remedy requires the construction and operation of two CSO retention tanks to help prevent recontamination of the Canal after dredging. Pursuant to several EPA administrative orders, New York City (City), a potentially responsible party (PRP) for the Site, is required, among other things, to design and construct those CSO tanks, take various measures to control CSO and stormwater discharges to the Canal, and participate in the first stage of the dredging and capping work. The New York City Department of Environmental Protection (DEP) has taken the lead for

the City work under the orders. The in-Canal cleanup work, which began in November 2020, is being performed by a group of PRPs, including the City, led by National Grid, pursuant to one of the aforementioned orders.

EPA has previously outlined its role in the City's land-use process through EPA's May 2019 comments to DCP on the DEIS scoping documents and in EPA's October 27, 2020 letter to the Director of the DCP and the Commissioner of DEP. EPA's October letter stated:

*Consistent with EPA's May 2019 comments, the EIS process should accurately determine not just the total wastewater generation, but also the incremental sanitary and stormwater volumes and what appropriate mitigation measures, or combination of measures, are required to prevent added CSO-related discharges to the Canal and adverse effects on the Canal remedy. In particular, EPA believes that DEP must determine whether any infrastructure serving the parcels that are to be rezoned requires upgrading to provide adequate conveyance and prevent overflows to the Canal. EPA will review all such determinations and other relevant information related to the impacts of the proposed rezoning on the Superfund Canal remedy and will assess whether any mitigation measures proposed as part of the development, as a result of the rezoning, would indeed be protective of the Canal remedy.*

*EPA acknowledges the City's authority to engage in land-use planning and zoning. With that being said, however, EPA respectfully submits that any rezoning impacting the Canal must proceed in a manner that is protective of human health and the environment, as envisioned in EPA's Canal remedy.*

EPA reaffirms the above positions as part of these DEIS comments. As you may be aware, EPA has received requests from various elected officials, as well as community members, for EPA to broadly evaluate the DEIS.

Although EPA has reviewed the DEIS in its entirety, consistent with EPA's public positions on the rezoning, EPA's focus is on ensuring that there is an appropriate evaluation of whether the rezoning plan is consistent with Superfund requirements and will protect the Superfund remedy, which was selected to be protective of public health and the environment by addressing the release and threatened release of hazardous substances at and from the Canal. EPA also has provided comments to other matters, reflecting the Agency's strong commitments to ensuring resilient development in the face of climate change and to environmental justice, particularly in the Gowanus neighborhood where EPA is cognizant of the presence of environmental justice areas of concern, and also the existence of substantial climate impacts on those and other nearby areas.

In addition to participating in the rezoning process, including by providing these DEIS comments, EPA will continue to separately exercise its federal Superfund oversight authorities to ensure that the protectiveness of the Site remedy is not compromised.

## Summary of Comments

EPA's review of the DEIS has identified a number of inconsistencies in the presentation of wastewater and stormwater calculations in Chapter 11 and Appendix F of the DEIS. These are outlined further below. As is also discussed further below, the DEIS lacks adequate clarity in presentation and supporting information in the form of data, modeling inputs, and other assumptions for the CSO-related conclusions presented therein. As a result, it is unclear whether correcting and supplementing these items will allow the preparers to still conclude that the project would result in either no increase or a net reduction in CSO loading. Similarly, based on the information provided in the DEIS, EPA also cannot discern the effect that the City's pending 2021 Unified Stormwater Rule will have in offsetting increased sanitary sewage loading and reducing CSO discharges.

While EPA is, and will in the future be seeking some of this supplemental information about rezoning impacts from DEP under its Superfund oversight authority, EPA believes that these CSO discharge questions should be addressed in the DEIS as well, so that all interested parties can better understand the rezoning process.

EPA also notes several inconsistencies between the optimistic CSO-related projections found in the DEIS, and positions the City/DEP has taken in response to EPA's administrative orders to the City, including delays in the design and construction of the CSO retention tanks and the City's stated expectation that it will not fully comply with EPA's latest order.

Specifically, on July 14, 2021, the City submitted a letter, enclosed here, concerning its intent to comply with only certain provisions of EPA's March 29, 2021 administrative order (Order) issued to the City under Section 106 of CERCLA.<sup>1</sup> This Order requires the City to, among other things, construct and operate the two CSO retention tanks to prevent contaminated solids discharges to the Canal, which could compromise the in-Canal cleanup.

The City's letter asserts that it has sufficient cause not to comply with, among other things, the Order's deadlines for the work; requirements to ensure compliance with its stormwater regulations at new development projects (which would include the proposed 2021 Unified Stormwater Rule), including separation and treatment of stormwater at new Canal-side development projects and street-ends; and discharge monitoring and reporting requirements to ensure the CSO remedy remains effective. The City asserts that EPA's 2028 and 2029 CSO retention tank construction deadlines are not achievable by DEP, even though DEIS Figure 11-4 indicates that both tanks will be completed in 2028. The CSO-related conclusions in the DEIS are contradicted, rather than corroborated, by the positions the City has taken, post-DEIS, with regard to the CSO portion of the remedy EPA selected for the Superfund site.

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<sup>1</sup> EPA disagrees with the validity of the positions set forth in DEP's July 14, 2021 letter, and will be responding separately.

## Specific DEIS Comments

### **Sanitary and Stormwater Projections**

EPA's review of the DEIS has found numerous inconsistencies in the presentation of wastewater and drainage calculations. For example, it does not appear that the results shown in Chapter 11 for sanitary flows and stormwater runoff calculations were used in the modeling results shown in Appendix F. In addition, the DEIS conclusions are not consistent with previous CSO calculations that DEP has provided to EPA during discussions of other aspects of work related to the Site. The discrepancies should be fully addressed.

For these reasons, as noted, with the information presented, EPA cannot assess what the net CSO discharge impacts will be from the proposed rezoning. In addition, EPA cannot assess the extent to which compliance with the proposed 2021 Unified Stormwater Rule will be able to mitigate the additional sanitary flows that will be generated by the proposed redevelopment. While these inconsistencies in the DEIS may not affect EPA's ability to evaluate performance of the CSO components of the 2013 ROD, which EPA can assess through its CERCLA authority, the lack of clarity should be resolved. Specifically, this document needs to clarify whether the inputs used in model development are consistent with earlier analyses and, if not, how updated model inputs were developed.

The key sanitary and stormwater projection issues are summarized below.

- 1) Inconsistent total flows are indicated:
  - a) Page 11-4 states that the new development will be "generating additional sanitary flow of 1.29 [million gallons per day (mgd)]."
  - b) Table 11-8 on page 11-16 states that an additional 1.98 mgd of wastewater will be generated as result of the rezoning.
  - c) Appendix F, Table 3-4, states that the additional sanitary flow is 1.605 mgd.
- 2) Different residential wastewater generation rates are assumed, contrary to the City Environmental Quality Review (CEQR) manual and other standards:
  - a) Page 11-22 states: "Additional dry weather sanitary flow was added to the model based on the projected no action residential population in the rezoning area, assuming a per capita wastewater generation of 73 [gallons per day (gpd)]." The same 73 gpd wastewater generation assumption is made for the "with-action" scenario on page 11-23. The 73 gpd is less than the 100 gpd specified in the CEQR manual and comparable guidelines, such as the Ten States Standards and other design guidelines, and it is inconsistent with other statements in Chapter 11 and Appendix F. Nor is there any explanation for using 73 gpd in this calculation.
  - b) Table 3-4 in Appendix F, which is calculated based on a different methodology from the one cited above, known as a transit analysis zone, effectively utilizes a figure of 83.0 gpd when the calculations are normalized as unit sanitary flow for the rezoning, but higher and lower unit amounts are used for the baseline and without rezoning scenarios (see the yellow-highlighted column below that EPA has added to Table 3-4). This variation needs to be explained.

Scenario	Population in Rezoned Area	Sanitary Flow in Rezoned Area (MGD)	Sanitary Flow (gpd)
Baseline	6,541	0.640	97.8
2035, Without Rezoning	8,746	0.960	109.8
2035, With Rezoning	27,035	2.245	83.0

- 3) Table 11-4 on page 11-9 shows sanitary flows for four rainfall volumes for each of five "subcatchment areas" in the Red Hook Water Resource Recovery Facility (WRRF) service area and one Owls Head WRRF subcatchment area for the Existing Condition. The "Sanitary Volume to Combined Sewer System" (CSS) in millions of gallons (MG) appears to change from one size event to another, but should be constant for all scenarios because, while the stormwater volume may change, the sanitary load would not. The same is true in Tables 11-7 and 11-11 for the other scenarios. It also gives the impression that there are no sanitary flows from several of these catchment areas, which is, obviously, not possible. The supporting data, assumptions, and calculations are not presented in the DEIS.
- 4) During the past several years, the City has revised its CSO discharge models to include the improvements projected to result from the construction of the two EPA-required CSO retention tanks, as well as from DEP's green infrastructure and High-Level Sewer Separation projects. DEP provided typical year CSO discharge volume calculations to EPA at various times. The DEIS conclusions and the typical year CSO discharge volumes at specific outfalls shown below in Table 11-16 for the "No Action Condition" are not consistent with the LTCP, as well as other submittals by DEP to EPA, and it would be important to resolve such discrepancies coming from different NYC entities. For instance, DEP's estimates of CSO volumes from outfalls to the Canal post-retention tank construction provided to EPA in September 2018, were in some cases significantly different from estimates provided in the DEIS. In addition, Appendix F does not appear to be consistent with the modeling and engineering work presented to EPA at past meetings. It appears that new modeling may have been performed to represent new conditions (e.g., the retention tanks) using the methods the City has used previously, but EPA cannot piece together the City's previous submittals with those in the DEIS.

DEIS conclusions:

*"The analysis found that, under the With Action condition, with the additional development facilitated by the Proposed Actions, CSO volumes would decrease as compared with the No Action condition despite the increase to sanitary flows from new development." - Page 11-4*

*"The Unified Stormwater Rule benefits in the rezoning area more than offset the increase in sanitary flows and, even with the increased population and sanitary flow, would result in approximately 5 million gallons per year of CSO reduction to the Gowanus Canal." - Page 11-4*

*"The assessment found that the estimated pollutant loads to Gowanus Canal decreased, due to the decrease in CSO volumes as described above." - Page 11-4*

From DEIS, Table 11-16:

**Table 11-16  
Detailed Analysis—CSO Volume**

Outfall #	No Action Condition CSO Volume—Tank (MG)	With Action Condition CSO Volume—Tank (MG)	With Action Increment (MG)
OH-005	0.9	0.9	-
OH-006	18.4	18.3	-0.1
OH-007	10.2	9.9	-0.3
RH-030	17.1	16.2	-0.9
RH-031	19.4	18.2	-1.2
RH-033	0	0	-
RH-034	29.9	28.5	-1.4
RH-035	8.1	7.0	-1.1
RH-036	0.4	0.1	-0.3
RH-037	0.04	0.02	-0.02
RH-038	1.0	0.9	-0.1
<b>Total</b>	105.44	100.02	-5.42

**Source:** DEP, Gowanus Canal CSO and Surcharging Assessment Technical Memorandum (January 2021)

- 5) For example, on the west side of the Canal, the no-action discharge volumes shown in Table 11-16 for RH-035, where substantial rezoning would occur, are more than 2.5 million gallons higher than previous projections made available to EPA, and the Agency has not been provided with sufficient information to be able to understand how this value was determined.
- 6) The CSO discharge volumes shown in Table 4-2 of Appendix F are not consistent with Chapter 11 of the DEIS.
- 7) There appear to be inconsistencies between how sanitary flow and stormwater runoff calculations shown in Chapter 11 and Appendix F were performed for the “with” and “without” scenarios utilizing the proposed Unified Stormwater Rule.

### **Rainfall and Climate Resiliency**

Watershed modeling performed by the City in support of the Gowanus Canal 2015 Long-Term Control Plan (LTCP) relied on a 2008 model storm year. The rainfall data for storm frequency, intensity and duration are critical inputs for the volume projections set forth in the DEIS. However, as reflected in EPA’s response to public comments in the ROD, various stakeholders questioned the suitability of the rainfall data selections that had been utilized by DEP. Among other things, that rainfall data, which continues to be utilized in the DEIS, is from the National Oceanic and Atmospheric Administration (NOAA) weather station at JFK Airport, which is the lowest of the three NOAA weather stations, after Central Park and LaGuardia Airport. Although DEP is only mandated to utilize one rainfall year for purposes of the LTCP process, EPA is not aware of any guideline that would preclude the City from providing the public with a more comprehensive evaluation of alternative rainfall scenarios in the DEIS. EPA recommends that new watershed modeling be prepared for the Gowanus watershed that updates the analysis from

the 2008 model storm year to something more representative of expected future climate predictions.

In September 2020, the City released its updated “Climate Resiliency Design Guidelines,” the primary goal of which is to incorporate forward-looking climate change data in the design of City capital projects. The City has projections for the metropolitan region that anticipate extreme weather will increase in frequency and severity and that the climate will become more variable. Of particular note for the Gowanus Neighborhood Plan, these projections include: 1) mean annual precipitation increasing between 4% to 13% by the 2050s and by 5% to 19% by the 2080s; and 2) sea level rising by 11 to 21 inches by the 2050s and by 18 to 39 inches by the 2080s. These climate change timeframes will overlap or follow those projected for the rezoning build-out.

Sea level rise is of equal importance to increased future rainfall, as there are certain CSO outfalls that are currently inundated by seawater entering the combined sewer system during certain tide cycles, and this problem is expected to worsen. When the sewer system capacity is compromised during high tides and storm surges, such as Hurricane Sandy, CSO overflows are blocked from discharging into the Canal, causing potential sewage backups and discharges at other locations.

It is unclear to EPA if the City expects these climate change projections to be incorporated into the baseline conditions in rainfall-related City planning evaluations, such as this DEIS. Like the alternative rainfall scenarios noted above, DEP could provide a probability analysis of the various impacts of the range of potential climate change outcomes on future projected CSO discharge volumes.

### **City Noncompliance/DEIS Inconsistency with EPA CSO-related Superfund Orders**

For several years, the City has been in significant noncompliance with EPA Superfund administrative orders issued between 2014 and 2016 regarding the Site. EPA included a partial summary of this noncompliance in paragraphs 50-54 of the Order, available online at: <https://semspub.epa.gov/work/02/620708.pdf>

As is noted above, on July 14, 2021, the City submitted a letter concerning whether it intends to comply with the Order. The City’s letter disputes various terms of the Order. This is of concern for several reasons, including the fact that many of the Order provisions that the City disputes are central to the stormwater and sewer analysis set forth in the DEIS. The City’s past non-compliance (principally through DEP actions/inaction) and stated intention to not comply with various CSO stormwater-related aspects of the Order, including the CSO retention tank construction deadlines, is of importance to EPA’s comments on the DEIS, in part because the timely design and construction of the CSO retention tanks required by EPA’s orders is an assumed precondition of much of the DEIS’s analysis of stormwater and sewer outcomes of the proposed actions.

For instance, as mentioned above, the City asserts in DEIS Figure 11-4 that both CSO retention tanks will be complete in 2028, whereas in its correspondence with EPA, DEP has argued that meeting EPA’s 2028 and 2029 CSO retention tank deadlines in the Order is not achievable. It

should be noted that the Order containing this construction schedule was issued to the City on March 29, 2021, several weeks in advance of the April 19, 2021 issuance of the DEIS.

The City also asserts that it has sufficient cause not to comply with EPA's Order requirements to ensure compliance with existing and future stormwater regulations (which would include the pending 2021 Unified Stormwater Rule) to separate and treat stormwater at new Canal-side development projects and street-ends as well as to perform discharge monitoring and reporting to ensure the CSO portion of the remedy remains effective. In contrast, the DEIS presumes compliance with the City's stormwater rules, projects CSO discharge reductions that cannot be readily verified now and provides no mechanism for future confirmation or correction.

EPA believes that in anticipation of potential redevelopment, the ROD is sufficiently clear in requiring that any future activities that fall under the City's purview, including development by other parties that requires approval by the City, do not compromise the protectiveness of the Gowanus Canal remedy. Among other things, the ROD specifically states:

*Current and future high density residential redevelopment along the banks of the canal and within the sewershed shall adhere to NYC rules for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and shall be consistent with current NYCDEP criteria (NYCDEP, 2012) and guidelines to ensure that hazardous substances and solids from additional sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity. For example, redevelopment projects will need to take mitigation measures to prevent or offset additional sewer loadings. Separated stormwater outfalls will also require engineering controls to ensure that hazardous substances and solids are not discharged to the Canal. [ROD at page 84.]*

Absent the City's recognition of EPA's Superfund authority to require the City to ensure appropriate implementation of its stormwater regulations for purposes of implementing the ROD, the City is potentially reserving the option to waive the application of its own stormwater rules when reviewing projects at the Site. As a result, there is no assurance that either the current or anticipated stormwater regulations will be implemented in a manner that achieves the CSO discharge projections set forth in the DEIS.

One potential resolution for achieving the goal of a net zero increase in CSO discharges to the Canal, as stated by certain City elected officials and community groups, as well as avoiding negative impacts to the Site remedy, may be the inclusion in any final rezoning of a condition that the City fully comply with EPA's Superfund orders, which include the timing for constructing the CSO retention tanks and ensuring appropriate implementation of stormwater regulations, stormwater separation/treatment, monitoring, and reporting.

### **Public Place/Citizens Manufactured Gas Plant Site**

A portion of the former Public Place/Citizens Manufactured Gas Plant (MGP) site on Smith Street has been proposed as a mixed-use redevelopment project that includes affordable housing, market-rate housing, and a new school. EPA is working with NYSDEC to address questions

raised about this former MGP site. It is the largest group of contiguous parcels within the area of the rezoning proposal.

Developing new affordable housing is a valuable tool in combatting housing challenges faced by low-income residents. Recent concerns from a variety of public officials and Gowanus stakeholders have called into question the viability of the Public Place site for either affordable housing or public use, such as a new public school, citing environmental justice concerns, stemming from the yet-to-be-completed cleanup of the former MGP at that location.

By agreement between the agencies, NYSDEC generally has the lead on the upland cleanups along the Canal, subject to certain reservations in the ROD. EPA's primary Superfund focus is ensuring that the Public Place/Citizens site cleanup mitigates future contaminant releases to the Canal. In light of public concerns, EPA is also working closely with NYSDEC to assure that the upland cleanup will meet the level of cleanup necessary for the site's intended future uses. EPA believes that it is feasible for the site to be cleaned up to allow for the types of land uses currently under consideration. As part of EPA's assessment of the Public Place remediation effort, EPA and NYSDEC have agreed to work cooperatively with all parties involved to ensure that the remediation will be protective of public health and the environment, and that the basis for the remedy is clearly communicated to the public.

### **Environmental Justice**

EPA is cognizant that the Gowanus area includes Environmental Justice areas of concern, including the proposed affordable housing at Public Place and with respect to the many residents living in existing public housing. In the DEIS, Chapter 3 (Socioeconomic) touches on some of the same issues. EPA recommends an environmental justice analysis be incorporated into Chapter 3. This chapter already analyzes the potential for economic displacement as a consequence of the "with-action" activities. This analysis might include evaluating the net displacement of people with lower economic mobility to perceivably less desirable subareas of the study area, or elsewhere, and whether that may result in more exposures to pollution. If the City would like assistance from EPA in this regard, or would like to discuss this matter further, please reach out to David Kluesner, Director of Strategic Programs, Office of the Regional Administrator, at 212-637-3653 or [Kluesner.dave@epa.gov](mailto:Kluesner.dave@epa.gov).

### **Conclusion**

EPA will continue to separately exercise its federal Superfund oversight authorities to ensure that the protectiveness of the ROD remedy is not compromised.

EPA's Order requires monitoring to help determine remedy effectiveness and whether and to what degree any mitigation will be required. EPA will also continue to evaluate calculated sanitary flows, drainage, and mitigation of stormwater discharges to the Gowanus Canal for proposed redevelopment projects on a case-by-case basis. These actions are all independent of the proposed rezoning and the proposed 2021 Unified Stormwater Rule.

EPA looks forward to engaging with the City, the community, and other stakeholders so that the appropriate information is available for a productive consideration of the Superfund environmental issues raised by the rezoning proposal.

Sincerely yours,

Doug Garbarini, Chief  
New York Remediation Branch  
Superfund and Emergency Response Division

Enclosure

cc: Honorable Vincent Sapienza, P.E.  
Commissioner, DEP

# MANKO | GOLD | KATCHER | FOX LLP

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July 14, 2021

A LIMITED LIABILITY PARTNERSHIP  
FORMED IN PENNSYLVANIA

Via Electronic and First-Class Mail

Brian Carr, Assistant Regional Counsel  
United States Environmental Protection  
Agency – Region 2290 Broadway – 17<sup>th</sup> Floor  
New York, NY 10007-1866

*Partner responsible:*  
*John F. Gullace (NJ)*  
*Brenda H. Gotanda (HI)*

Re: Gowanus Canal Superfund Site (“Site”)  
Administrative Order for Remedial Action, Removal Action and Remedial  
Design, CERCLA 02-2021-2019

Dear Mr. Carr:

I am writing on behalf of the City of New York (the “City”) in response to the above-referenced Administrative Order for Remedial Action, Removal Action and Remedial Design, which was issued by the United States Environmental Protection Agency (“EPA”) to the City on March 29, 2021 and subsequently amended by EPA by letter dated June 29, 2021 (as amended, the “Order”).

On April 29, 2021, Ms. Kathryn DeLuca, Esq. conducted a conference with the City under paragraph 123 of the Order. At the conference, the City set forth numerous technical and legal concerns regarding certain work requirements in paragraph 73 of the Order. Mr. Brian Carr, Esq. requested that the City propose clarifying language to certain provisions in Paragraph 73 where EPA and the City agreed on the intent of the provisions, but the language of the Order needed revision to clarify that intent. By email dated May 4, 2021, I provided this language on behalf of the City.

By letter dated May 5, 2021, Ms. DeLuca requested that the City submit a written letter detailing the concerns raised at the April 29<sup>th</sup> conference, which the City submitted to EPA on May 12, 2021. By email dated May 19, 2021, Mr. Thomas Lieber, Esq. notified the City that EPA decided to extend the effective date of the Order to allow the Agency sufficient time to consider the concerns the City raised.

By letter dated June 29, 2021, EPA provided its response, which included, *inter alia*, amending certain wording of Paragraph 73 “for purposes of clarification.” The City’s proposed



clarifying language submitted to Mr. Carr on May 4<sup>th</sup> was largely rejected, and more generally, the revisions to the Order did not address the City's legal and technical concerns.

EPA's June 29<sup>th</sup> letter stated that the Order would become effective on June 30, 2021, and directed the City to provide written notice to EPA stating whether it will comply with the terms of the Order by July 7, 2021. Due to the July 4<sup>th</sup> holiday, EPA subsequently granted an extension of the deadline to provide written notice until July 14, 2021.

Pursuant to Section XXVI of the Order, the City hereby notifies EPA that the City will comply with the Order by performing the CSO design and CSO remedial action work required by the Order, as well as the removal action for design and construction of a bulkhead at property owned by the City where the OH-007 CSO tank will be constructed. To that end, the City continues to advance the design, removal and remedial action work required by the Order. Specifically:

- the City completed procurement for the OH-007 Tank Remedial Design by May 31, 2021;
- based on the current design, the City expects completion of the procurement for the Salt Lot/2<sup>nd</sup> Avenue Bulkhead by December 31, 2021;
- Although the Order contains no deadlines for CP-1 and CP-1A for the RH-034 tank work, CP-1 and CP-1A bids were received on June 23, 2021 and July 8, 2021 respectively, and DEP expects to proceed with award and registration of these contracts following due diligence evaluation of the bids, and the apparent low bidder's EH&S performance.

However, consistent with the issues raised at the conference and in our subsequent correspondence with the Agency, the City has sufficient cause not to comply with the following components of the Order:

- i. the Order's deadlines for the work, which are impossible to achieve for technological reasons, City-mandated procurement processes and financial reasons;
- ii. the Order's requirements regarding separate storm sewers, which extend beyond the scope of the CSO controls selected in the September 27, 2013 Record of Decision ("ROD") and are inconsistent with the National Contingency Plan, 40 C.F.R. § 300 *et seq.*;
- iii. the Order requirements regarding enforcement of City regulations and EPA's approval of property locations proposed to be used in connection with the

construction of the OH-007 Tank, which extend beyond EPA's authority to compel under the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and are therefore invalid; and

- iv. Certain requirements in paragraphs 73.d. and 73.f. of the Order that are vague and devoid of standards such that the City has inadequate direction as to how to comply with the Order.

The City's reasons for not complying with these specific aspects of the Order are grounded in objective evidence, and its position is reasonable and made in good faith. Further, alleged non-compliance with the Order based on the good faith bases identified herein is not willful non-compliance with the Order. Finally, the City does not admit the factual findings and legal conclusions in the Order.

#### I. The Sufficient Cause Defense

- A. Sufficient cause for not complying with a UAO includes a reasonable belief that the UAO is invalid or requires work that is inconsistent with the NCP.

CERCLA permits EPA to seek civil penalties and punitive damages when a party willfully and without sufficient cause fails to comply with an EPA UAO. Specifically, with respect to civil penalties, 42 U.S.C. § 9606(b)(1) states:

##### (b) Fines; reimbursement

(1) Any person who, ***without sufficient cause, willfully*** violates, or fails or refuses to comply with, any order of the President under subsection (a) ***may***, in an action brought in the appropriate United States district court to enforce such order, be fined not more than \$25,000<sup>1</sup> for each day in which such violation occurs or such failure to comply continues.

(emphasis added).

42 U.S.C. § 9607(c)(3), regarding the availability of punitive damages, states:

##### (c) Determination of amounts

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<sup>1</sup> Pursuant to the Civil Monetary Penalty Inflation Adjustment Rule, the current maximum daily penalty, adjusted for inflation, is \$58,328.00.

(3) If any person who is liable for a release or threat of release of a hazardous substance fails without sufficient cause to properly provide removal or remedial action upon order of the President pursuant to section 9604 or 9606 of this title, such person may be liable to the United States for punitive damages in an amount at least equal to, and not more than three times, the amount of any costs incurred by the Fund as a result of such failure to take proper action.

(emphasis added).

CERCLA does not define “sufficient cause” and EPA has not promulgated regulations or issued guidance as to what the term means. *See, e.g. Gen. Elec. Co. v. Jackson*, 595 F. Supp. 2d 8, 19 (D.D.C. 2009), *aff’d*, 610 F.3d 110 (D. C. Cir. 2010) (noting that the EPA’s failure to issue guidance defining “sufficient cause” may be poor policy.”) However, “Circuit Courts of Appeal have interpreted ‘sufficient cause’ to mean a ‘good faith’ or ‘objectively reasonable basis for believing that the EPA’s Order was either invalid or inapplicable to it.’” *Emhart Indus., Inc. v. New England Container Co., Inc.*, 274 F. Supp. 3d 30, 80 (D.R.I. 2017). “A party may meet this standard by demonstrating ‘that the applicable provisions of CERCLA, EPA regulations and policy statements, and any formal or informal hearings or guidance the EPA may provide, give rise to an objectively reasonable belief in the invalidity or inapplicability of the clean-up order.’” *Id.*; *see also United States v. Barkman*, No. CIV. A. 96-6395, 1998 WL 962018, at \*17 (E.D. Pa. Dec. 17, 1998), *on reconsideration in part*, No. CIV.A. 96-6395, 1999 WL 77251 (E.D. Pa. Feb. 5, 1999) (“‘Sufficient cause’ has been interpreted to mean that the party had a reasonable belief that it was not liable under CERCLA or that the required response action was inconsistent with the national contingency plan.”). Therefore, sufficient cause exists based upon a reasonable, good faith belief of the invalidity of the UAO (e.g., not in accordance with law or otherwise arbitrary and capricious), the inapplicability of the UAO (e.g., the recipient is not a liable party), or the UAO requires work that is inconsistent with the NCP. Any of these bases establishes sufficient cause not to comply with a UAO.<sup>2</sup> As set forth below, the City has established sufficient cause not to comply with certain provisions of the Order on these grounds.

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<sup>2</sup> 42 U.S.C. § 9606(b)(1) also requires a “willful violation.” In a case prior to the Superfund Amendments and Reauthorization Act (“SARA”), a court noted that the term “willful” in and of itself provided a defendant with a “good faith” defense:

Section 9606(b) authorizes a district court to award fines against ‘[a]ny person who *willfully* violates, or fails or refuses to comply with, any order of the President under subsection (a)...’ (emphasis added). The key rests with the word ‘willful’ which traditionally is synonymous with bad faith. ... Assuming the inclusion of the willfulness standard, a good faith defense may be read into § 9606(b).

*Wagner Seed Co. v. Daggett*, 800 F.2d 310, 316 (2d Cir. 1986). The SARA amendment then added the “without sufficient cause” language to the provision.

- B. Sufficient cause also includes “substantial compliance” with a UAO or non-compliance if compliance is impossible.

Courts also acknowledge explicitly that “substantial compliance” and the doctrine of “impossibility” are proper grounds for satisfying the “sufficient cause” defense. In *Employers Ins. of Wausau v. Browner*, the Court stated:

The most difficult case is where the party cannot complete the required action for reasons beyond its control. ... The statute requires compliance with the clean-up order, but compliance need not be a matter of all or nothing. In contract law, substantial compliance with contractual duties is often compliance enough. *Hardin, Rodriguez & Boivin Anesthesiologists, Ltd. v. Paradigm Ins. Co.*, 962 F.2d 628, 636 (7th Cir. 1992); *Jacob & Young's, Inc. v. Kent*, 230 N.Y. 239, 129 N.E. 889 (1921) (Cardozo, J.). The doctrines of impossibility, impracticability, and frustration, which operate as implied terms in contracts, sometimes excuse noncompliance with contractual duty altogether. These familiar defenses, along with a concept of substantial compliance as sufficient when to require more would be unreasonable, could be considered—we need not decide whether they are—implied terms in EPA orders as well.

52 F.3d 656, 664 (7th Cir. 1995).

CERCLA’s legislative history also indicates that “impossibility” qualifies as “sufficient cause.” In the legislative debate concerning the passage of CERCLA, Senator Stafford, one of the bill’s sponsors, engaged in a colloquy on the meaning of “without sufficient cause” with Senator Simpson:

There could also be “sufficient cause” for not complying with an order if the party subject to the order did not at the time have the financial or technical resources to comply **or if no technological means for complying was available.**

(emphasis added) H.R. REP. NO. 1016, 96th Cong., 2d Sess., pt.#1, at 304 (1980) (to accompany H.R. 7020), reprinted in 2 SUPERFUND: A LEGISLATIVE HISTORY 429, 445 (Helen C. Needham ed., 1982). See also J. Wylie Donald, *Defending Against Daily Fines and Punitive Damages Under CERCLA: The Meaning of "Without Sufficient Cause"*, 19 Colum. J. Envtl. L. 185, 193 (1994) (“Second, the Senator listed the lack of financial or technical means as sufficient cause not to comply. Lack of technical means seems noncontroversial. If the cleanup

cannot physically be done, it would be absurd to penalize a party for not doing it.”); Memorandum from Don R. Clay to James M. Strock: Guidance on CERCLA Section 106(a) Unilateral Administrative Orders for Remedial Designs and Remedial Action 15 (Mar. 7, 1990) n. 37, *available at* <https://www.epa.gov/sites/production/files/documents/cerc106-uaor-rpt.pdf> (“The technical difficulty of response actions should be considered before issuing unilateral orders.”).

The City satisfies both grounds for establishing a sufficient cause defense. First, the City will not just comply “substantially” with the Order’s substantive CSO work requirements. The City intends to comply fully. The City will design and build the CSO tanks and bulkhead adjacent to the OH-007 tank. Second, meeting the deadlines for design and construction unilaterally imposed by EPA is impossible and impracticable for technological reasons, due to City mandated procurement processes, contracting rules and structures, and for financial reasons as set forth in detail below.

II. The City Has Sufficient Cause For Not Complying With The Order’s Design and Construction Deadlines, Which Are Impossible to Meet for Technical, Contracting and Financial Reasons.

A. The history of the proposed CSO tank schedules demonstrates that the schedule in the Order is arbitrary and capricious.

The schedules for the design and construction of the CSO tanks at RH-034 and OH-007 proposed by the City and EPA provide the starting point for the City’s sufficient cause defense. In December 2018, as part of its presentation to EPA on a potential alternative to the CSO tanks, the City provided EPA with the City’s current schedule for design and construction of the CSO tanks. The schedule reflected two facts: (i) CP-1 (the Site demolition work) for the RH-034 tank would be delayed due to EPA’s determination, along with the State Historic Preservation Office, that brick salvage was required for the façade at 234 Butler Street, and (ii) DEP held off on design work on OH-007, other than the preparation of the draft Basis of Design Report (BODR), performance of preliminary geotechnical investigations, and preparation and issuance of the environmental impact statement (EIS), while EPA considered the Tunnel alternative. Based on these facts, the City’s schedule provided that RH-034 tank construction would be completed by September 30, 2030 and the OH-007 tank construction would be completed by December 31, 2029.<sup>3</sup>

EPA did not provide any written response to the City’s proposed schedule until November 20, 2020. On that date, EPA proposed a schedule requiring construction completion

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<sup>3</sup> The City’s proposed schedule contained all of the interim design and construction dates to meet these ultimate construction completion dates. The subsequent schedules submitted by the City did the same.

dates of June 30, 2029 and June 30, 2028 for the RH-034 and OH-007 tanks respectively. EPA's schedule accelerated the construction completion dates provided by the City by 15 months for RH-034 and 18 months for OH-007. EPA offered no technical support for its proposed schedule and no technical comments on the schedule that the City proposed to EPA almost two years earlier.

In response to EPA's proposed schedule, the City diligently evaluated ways to accelerate the schedule despite the intervening delays in CP-1 for RH-034 and for the design of OH-007 while EPA considered the tunnel alternative. Specifically, the City proposed schedule acceleration by (i) limiting built-in risk and uncertainty factors to the City's schedule that are typical and inherent in complex projects of this nature, (ii) proposing extended working hours where appropriate, and (iii) providing a notice to proceed for next stage of work **before** the prior stage of work is completed, a completely unprecedented contracting process for the City. Through this aggressive schedule re-evaluation, on December 7, 2020 the City proposed construction completion dates of August 31, 2030 and June 30, 2029 for the RH-034 and OH-007 tanks respectively. Compared to the proposed schedule the City submitted to EPA in December 2018, this schedule saved one month on construction completion for RH-034 and six months for OH-007, achieved by using unprecedented, costly measures described above, measures that created great financial impacts and risk to the City.

The City provided a detailed presentation to EPA demonstrating the basis for the City's accelerated schedule. Following that meeting, the City also provided EPA with its written Basis of Schedule Reports for each of the RH-034 CSO Tank construction phases, and every assumption that the City used in developing the accelerated schedule. The City's schedule for the OH-007 tank construction is consistent with the final draft BODR, which is a planning document. The design for each the OH-007 CSO Tank CPs and corresponding Basis of Schedule reports will be developed under the OH-007 detailed design contract that was procured in May 2021.

On January 15, 2021, EPA transmitted a new proposed schedule. The schedule proposed construction dates that were not just earlier than the City's revised schedule, but also earlier than **EPA's own schedule** that it had proposed to the City less than two months prior. EPA provided no technical rationale for reversing its own course, and no comments on the City's detailed basis for its accelerated schedule.

To say the least, the City was troubled by EPA's further acceleration of the schedule, especially because EPA had not provided the City with any technical basis for its decision. The City therefore requested a further technical workshop with EPA to address each milestone date in EPA's latest schedule. The City also requested a copy of any technical evaluation performed by EPA or its consultant in advance of the workshop, but none was provided.

The workshop was held on January 29, 2021. During that workshop, EPA's consultant stated for the first time that EPA's schedule was based on several other projects the consulting firm had worked on. The consultant provided two-sentence descriptions of each of these projects at the workshop, and to this day neither EPA nor the consultant has provided the City with any detailed information concerning them.

That said, based on even the limited descriptions that were provided to the City at the workshop, the projects are wholly incomparable to the RH-034 and OH-007 CSO Tank projects. For example, the Lower Harbor Brook Facility in Onondaga, New York is located in a suburban area, with wide open space for staging laydown and construction support, requires minimal piping because the interceptor sewer is right in front of the tank and includes no screening or grit removal. Similarly, the Truman School CSO tank in New Haven, Connecticut has no head house, no odor control and no screening grit removal, and is located on an open lot with no significant site preparation or demolition work required. It is simply a tank with a submersible pump for dewatering. Finally, the Strategic Tunnel Enhancement Program Pumping Station in Abu Dhabi, UAE is not even a CSO tank. The geotechnical conditions are far more favorable for construction, it is not located in an urban area, and it has plenty of staging and laydown space. It also would presumably not have the procurement and labor requirements that the City must satisfy. And none of these other projects required a CERCLA remediation on the very site where the tanks were constructed.

On March 29, 2021, with no further technical discussion with the City, EPA issued the Order with a scheduled completion date for RH-034 of March 31, 2029 and for OH-007 of May 1, 2028. The completion for RH-034 is 17 months earlier than the City's schedule, which the City demonstrated is the earliest achievable completion date, and three months earlier than the date EPA itself proposed in November 2020. The Order's completion date for OH-007 is May 1, 2028, 13 months earlier than the earliest achievable date demonstrated by the City, and two months earlier than the date EPA itself proposed in November 2020.

The above chronology demonstrates that the schedule imposed by EPA in the Order (i) contradicts EPA's own prior proposed schedules, (ii) lacks any technical support, and (iii) relies upon other projects' schedules that are not comparable or relevant to the design and construction schedules for the complicated, urban construction work necessary for the RH-034 or OH-007 tanks at a CERCLA site. The Order's schedule is therefore arbitrary and capricious and the City has sufficient cause not to comply with it.

- B. The process used by the City to develop its schedule was rigorous, consistent with industry standards and demonstrates that no earlier dates are achievable.

The City followed a rigorous process to develop achievable schedules for the RH-034 and OH-007 CSO tanks based on industry standards, professional engineering judgment,

practical experience from other City CSO tank projects, and lessons learned from other complex construction projects in urban environments with tight site constraints.

The City has completed the procurement of an engineering consultant contract to provide planning, permitting, detailed design, assistance during bidding, design services during construction, and startup assistance for the 8 million gallon tank at RH-034 and for the 4 million gallon tank at OH-007.

For both efforts, this work is being performed by Hazen and Sawyer and Brown and Caldwell with support from several specialty consultants. Separate engineering consultant contracts will be solicited for the construction management (CM) of this work. As the construction work packages are fully developed by the design consultant to the 100% design level of completion, the City will procure services for the CM (beyond RH-034 CP-1, which has a CM procured) and construction contractors to implement the work.

For both the RH-034 and OH-007 CSO tanks, the City has established three design/construction work packages at each site:

Construction package 1 (CP-1) is a site preparation contract. This contract will demolish existing structures on sites, disconnect and/or relocate any in-service utilities, and provide a secure site perimeter for work that will follow. For RH-034, an additional site preparation contract has been added – CP-1A – site preparation for the Parcel I contractor staging area, distinct from the site prep contract focused on the future site of the tank, headhouse, and public amenities at Parcels VI and VII.

Construction package 2 (CP-2) includes most of the belowground work. It includes construction of the support of excavation, the excavation, stabilization, and disposal of soils, and construction of the foundation for the facility.

Construction package 3 (CP-3) includes aboveground construction on the facility itself as well as the conveyance necessary to integrate the facility with DEP's infrastructure.

As part of the design consultant's scope of work for the RH-034 and OH-007 contracts, schedules have been developed by the project team. As detailed below, the durations for each CP have been developed based on current information available and the level of engineering completeness for each of the CSO tank projects. In the case of RH-034, the schedules are based on detailed engineering from the 90% design for each CP. The OH-007 schedule is based on the Final Draft Basis on Design Report (May 2018).

In developing these schedules, the project team was comprised of experienced and well-regarded engineering firms and individuals who have engineered and delivered numerous CSO tank facilities similar to the planned RH-034 and OH-007 facilities across the United States and who have extensive familiarity with the construction phasing, sequencing, and challenges with similar facilities. The lead scheduler, Tom Zakrzewski, the Project Controls Manager for RH-034 and OH-007, was previously the Scheduling Engineer for the DEP's Paerdegat Basin CSO Facility located in Brooklyn, NY. Paerdegat is one of several of DEP's CSO tanks in operation, and it was constructed using a similar phased CP approach and comparable construction techniques/elements (such as a slurry wall, cast-in place concrete, pump back facilities, and odor control). The schedules developed and presented in the Basis of Schedule Report and summarized below draw upon that experience. Further, the City integrated a new subconsultant, NASCO, to the project in 2018 with separate expertise in cost and schedule controls. Upon retention, the new subconsultant conducted a detailed bottom-up review of the RH-034 construction schedules. Notably, its findings aligned directly with those that the core project team that had been advancing since 2016.

Additionally, the construction schedules are based on the unique considerations and rules governing construction and its associated impacts in the City as well as the challenges of working in an ultra-urban environment, all of which can significantly impact production rates and site deliveries. The February 22, 2018 Environmental Impact Statement (EIS) developed for this project identifies these challenges and the commitments the City must satisfy for this project. EPA was provided a copy of the EIS and provided no comments thereon. Specifically, the EIS codifies many of the City's environmental commitments which must be followed during the construction program with respect to working hours, noise, odors, dust, traffic control through defined mitigation activities. Therefore, as discussed above, comparisons to scheduled durations or construction costs from other municipalities must be adjusted due to the unique characteristics of performing work in the City both in terms of the physical environment (density of construction, limited laydown/staging area, complexity of subsurface construction given volume of competing utilities) and legal environment (Standard City construction contract, the City MWBE requirements (limitations on work hours and work days, etc.), including commitments in the EIS.

It is also important to note that although the City's one-year timeframe for procurement of construction contracts may be considered long when compared to other municipalities or the private sector, the City's schedule provides for starting all procurement as early as possible and in parallel with the preceding construction contract where possible. In addition, the City's schedule also assumes that the notice to proceed for each subsequent contract will be issued prior to the end of the preceding contract (3-6 months depending on the particular CP) in order to remove the preparation and approval of submittals, and material procurement from the overall construction critical path. The City incorporated this procedure in order to accelerate the schedule as much as possible, even though it creates additional risk to the City in the event that

completion of the preceding contract is delayed for any reason. In other words, the City would be liable for payments under the succeeding contract even when no work commenced if the preceding contract had not yet been completed. For that reason, the procurement process the City has developed for this project is extremely aggressive, risky and unprecedented.

1. The basis of schedule for RH-034

This section describes and presents the scope of work, approach and assumptions used to develop the Critical Path Method (“CPM”) construction schedules for the RH-034 CSO tank that have been previously shared with EPA. Four CPs have been established for the construction of the RH-034 tank: CP-1 (site preparation of tank site); CP-1A (site preparation of contractor laydown/staging area); CP-2 (belowground work); and CP-3 (aboveground work). A Basis of Schedule report has been submitted to DEP for each CP at each design phase (30%, 60%, and 90%); additional detail on the schedules can be found in those reports, including the detailed construction schedules utilizing the CPM of scheduling. Primavera P6 Professional, Version 16.1, software was utilized to prepare the individual schedules that are summarized herein.

The Order does not include dates for CP-1 procurement, CP-1 start construction, CP-1 complete construction, CP-2 procurement, or CP-2 start construction. However, the City’s current anticipated dates for those milestones are presented and discussed below in order to provide a comprehensive schedule for the entire RH-034 construction program.

The schedules presented for RH-034 were developed using the following documents / information:

- 90% Design Drawings & Specifications
- 90% Cost Estimate
- Input from DEP
- Input from Project Team, Industry Professionals, and Experienced Contractors
- Applicable DEP Standard Operating Procedures (SOPs)
- AACE Recommended Practices (RPs)
- Lessons learned from similar projects that have already been completed.

a. Construction schedule: CP-1 site preparation.

The table below provides the City’s schedule developed for CP-1:

Table 1. CP-1 Site Preparation				
	Phase	Start	Finish	Duration (months)

Table 1. CP-1 Site Preparation				
	Phase	Start	Finish	Duration (months)
City	Procurement	11/15/2020	10/1/2021	10.5
City	Construction	10/1/2021	12/31/2022	15

The critical path for the CP-1 scope of work consists of disconnecting existing utilities, removal of hazardous equipment, hazardous materials abatement in structures, demolition of structures with preservation of available brick, backfilling to grade and installation of a perimeter fence around the property. This work is estimated to cost approximately \$20 million.

This critical path is inherently sequential in nature, which presents minimal opportunities for concurrent work that could potentially accelerate completion. Disconnecting utilities prior to demolition is imperative from a health and safety perspective, and abatement of hazardous materials is needed so necessary precautions are taken before potential asbestos and other hazardous materials are disturbed during demolition, which would lead to greater exposure risk for contractors and the surrounding community. The process of preserving ~80 year old brick is intricate and time-consuming, as there is limited on-site supply and EPA has required maximizing the redeployment of existing brick rather than using faux-aged brick that is a visual match. In isolation, the brick issue adds three months to the CP-1 schedule and eventual commissioning of the CSO facility.

Factors that complicate the CP-1 schedule include:

- Approval from the City’s Department of Buildings (DOB) Construction Safety Compliance Group (CSCG, formerly BEST Squad) approval will be required before demolition can begin. Coordination with DOB has been initiated and taken as far as possible prior to Contractor selection and notice-to-proceed.
- Significant regulated material abatement (asbestos, lead, PCBs) is required in the existing ~80-year-old buildings.
- There is the potential that additional USTs and abandoned utilities, and historical / archeological artifacts will be discovered during the work (allowances have been included in CP-1, but could increase in scope and duration).
- The City must conduct brick-by-brick demolition of the 234 Butler Street and Nevins Street building facades until approximately 38,900 bricks are preserved. This scope requires employment of a Conservator to oversee this work.

Schedule assumptions for CP-1 are as follows:

- All buildings at both locations are assumed to have the same level of hazardous material contamination.

The following crew sizes were used in developing the schedules:

- Electrical Demolition – 4 to 6 person crews.
- Mechanical/Utility Demolition – 2 to 4 person crews.
- Building Demolition – 10 to 15 person crews.
- Hazardous Material Abatement – 10 to 15 person crews.
- Site Work / Restoration – 4-to-8-person crew.

b. Construction schedule: CP-1A site preparation

The table below presents the DEP schedule developed for CP-1A:

Table 2. CP-1A Site Preparation				
	Phase	Start	Finish	Duration (months)
City	Procurement	1/1/2021	12/31/2021	12
City	Construction	1/1/2022	12/31/2022	12

The scope of work for CP-1A consists of similar activities as CP-1 – disconnecting existing utilities, removal of hazardous equipment, hazardous materials abatement of structures, backfilling to grade and installation of a perimeter fence around the property. This work is estimated to cost approximately \$12 million.

CP-1A lacks a brick preservation component which drives the shorter construction duration as compared to CP-1. That said, as with CP-1, several logistical constraints limit the City's ability to accelerate construction because the work is inherently sequential in nature. Demolishing a structure necessitates disconnecting utilities and abating legacy materials prior to the physical deconstruction of the structure.

Factors that complicate the CP-1A schedule include:

- Approval from the City’s DOB CSCG is required before demolition can begin – only controlled demolition is allowed. Coordination has been initiated for CP-1 and will be expanded to include CP-1A.
- The work entails significant steel and concrete demolition, along with required separation / recycling and landfill waste diversion.
- Significant regulated material abatement (asbestos, lead, PCBs) required in ~70-year-old building.

The following crew sizes were used in developing the schedules:

- Electrical Demolition – 4 to 6 person crews.
- Mechanical/Utility Demolition – 2 to 4 person crews.
- Building Demolition – 10 to 15 person crews.
- Hazardous Material Abatement – 10 to 15 person crews.
- Site Work / Restoration – 4-to-8-person crews.

c. Construction schedule: CP-2 below-groundwork

The table below presents the City’s schedule developed for CP-2:

Table 3. CP-2 Belowground Work				
	Phase	Start	Finish	Duration (months)
City	Procurement	4/1/2021	9/30/2022	18
City	Construction	10/1/2022	6/30/2027	57

The scope of work for CP-2 consists of a groundwater/construction water treatment system; on-site slurry production; support of excavation (SOE) slurry T-wall panels installed approximately to 200 foot depth to bedrock to create a watertight bathtub; excavation, stabilization and off-site disposal of contaminated soils (105,000 cubic yards); subsurface structural construction (tie downs, base slab, tank walls, top slab); influent/effluent structures

to/from tank to RH-034 regulator; and jet grout mat at base of influent/effluent structures. This work is estimated to cost approximately \$390 million as of 90 percent design.

Factors that complicate the CP-2 schedule include:

- Limited construction staging / support area.
- SOE construction adjacent to unlimited source of water (Canal).
- Poor and challenging geotechnical conditions as demonstrated by current building settlement issues.
- Fulton MGP bulkhead/cutoff wall deadmen and structural support features (designed and constructed by National Grid, approved by EPA) within 10 feet from edge of SOE. These features must be protected during construction. For example, weight limits are now imposed in the area between the bulkhead and SOE, 600 psf effectively reducing the total area available to support the construction due to Fulton MGP bulkhead/cutoff wall design.

As with CP-1 and CP-1A, the work is inherently sequential, with limited opportunity to advance on parallel fronts in series. Having an operational Construction Water Treatment System (CWTS) prior to subsurface construction is essential to achieving discharge requirements necessitated both by permit and in the environmental review process. The construction of the SOE – essentially, a watertight bathtub – must precede the removal activity for any excavation to proceed at an acceptable production rate unencumbered by infiltration. Once the SOE is in place, the removal activity will proceed with one truck being prepped, filled with stabilized soils, decontaminated, and hauled off site every 12 minutes, for up to ten hours a day for 229 workdays. Only once the removal activity is complete can concrete be poured for the structural base slab of the tank and structures.

DEP schedule assumptions for CP-2 are as follows:

- SOE
  - Tank SOE T-panel construction is estimated to require 305 workdays. This assumes two fronts, with an average excavation rate of 10 yd/hr and concreting rate of 95 yd/hr (10+ trucks/hr) per front.
  - Due to the excavation depth and volume of concrete required for the slurry wall panels, construction of the slurry wall SOE is anticipated to work a 10-hour shift, 5 days a week.

- 10-hour days for SOE / Conveyance / Excavation Work Activities.
- Removal Activity
  - 105,000 cubic yards of soils are estimated for removal (includes soil stabilization additives and expansion factor due to excavation). This assumes one truck being loaded every 12 minutes (229 workdays, 370 yds/d).
  - An estimated 1,200 piles will be removed as part of the CSO tank excavation activity. This assumes removal of 3 piles per hour.
  - Truck loading will take place 8 hours per day.
  - Trucks also need to be weighed in, queued, loaded, decontaminated, etc.
  - Large influent and effluent conduit construction is required.

EPA’s schedule duration is 9 months shorter than the City’s schedule. EPA’s duration does not appropriately account for the complex and difficult construction required for the support of excavation, and does not provide for reasonable average productivity rates for the significant volumes of soil to be excavated, and concrete foundations to be poured.

d. Construction schedule: CP-3 aboveground work

Table 4. CP-3 Aboveground Work				
	Phase	Start	Finish	Duration (months)
City	Procurement	1/1/2026	12/31/2026	12
City	Construction	1/1/2027	8/31/2030	44

The scope of work for CP-3 consists of the construction of the significant CSO facility superstructure enclosure and architecture (24,300 square feet in total), installation of process mechanical and electrical equipment, start-up / testing, facility commissioning and construction of new sewer conveyance within Nevins Street to pick up adjacent overflows. This work is estimated to cost approximately \$240 million as of 90% design (i.e., prior to integrating the SHPO MOA requirements for the reconstruction of the 234 Butler Street facades in place).

As with preceding construction packages, the work is highly sequential. The building must be physically constructed and waterproofed before process mechanical equipment can be

installed. Once process mechanical equipment (pumps, screens, grit classifiers, etc.) is physically in place, it must be connected electrically, which is needed to test and commission equipment. Supporting disciplines such as HVAC fans and ducts must also be installed (and wired) for the facility to operate in accordance with operational feedback and environmental commitments.

Factors that complicate the CP-3 schedule include:

- The above-ground elements are a complex facility with significant equipment, conduit, and wiring.
- The construction is based on over 2,100 contractor submittals, approximately 35 large systems and witness tests and over 1,030 individual shop drawings.
- CP-3 involves significant procurement and installation of complex equipment/systems.
- CP-3 requires significant start-up and testing effort for facility commissioning.
- CP-3 cannot proceed until there are completed and accurate as-built drawings from CP-2 (~230 drawings).
- CP-3 requires an additional Sewer Conveyance path ~3 months off critical path (headhouse structure and process mechanical). This conveyance path is less likely to be able to be accelerated given the complexity of underground utilities and requirement to capture/convey other CSOs.

EPA's schedule is nearly 1 year shorter than the City's schedule. EPA's schedule does not provide sufficient time to construct the building enclosure, nor account for the significant complex construction required to procure, install, start up and test each individual system, nor the facility as a whole.

## 2. The basis of schedule for OH-007

This section describes and presents the scope of work, approach and assumptions used to develop the CPM construction schedules for the OH-007 CSO tank that have been previously shared with EPA. The schedules are based on the draft BODR from May 2018. The OH-007 schedules also rely on the information and knowledge gained from the advancement of the RH-034 design schedules and construction of the Paerdegat CSO Facility.

Similar to RH-034, the City envisions three CPs for the construction of the OH-007 tank: CP-1 (site preparation of tank site); CP-2 (belowground work); and CP-3 (aboveground work).

a. BODR: CP-2 and CP-3

Before proceeding with the detailed design of CP-2 and CP-3 DEP, the design engineer must update and validate the May 2018 draft BODR that was prepared for the OH-007 Tank under a separate contract. The draft BODR must be reviewed to account for any changes in codes or standards, incorporate coordination with the OH bulkhead design (design completed December 2020), and capture any changes in operator preferences and other design changes that were implemented at the RH-034 Tank Design. The City proposed four months for this task. The Order requires that the Work be completed in three months, which will not be enough time to present and discuss the changes noted above to the operating bureaus and other stakeholders, conduct the required workshops, solicit feedback and prepare responses, and finalize and issue the updated BODR report.

b. Construction schedule: CP-1 site preparation

Table 6. CP-1 Site Preparation				
	Phase	Start	Finish	Duration (months)
City	Design	6/1/2021	6/30/2022	13
City	Procurement	7/1/2022	6/30/2023	12
City	Construction	7/1/2023	9/30/2024	15

Similar to the RH-034 CP-1, the design effort requires assessments and investigations of existing structures on adjacent private property in order to prepare design for demolition and abatement of regulated materials (50-70 year old buildings). The scope of construction phase of work for CP-1 consists of many of the same elements as the RH-034 CP-1 work including disconnecting existing utilities, removal of hazardous equipment, hazardous materials abatement of structures, demolition of structures, backfilling to grade and a perimeter fence around the property. The construction period also accounts for construction of new temporary facilities for Department of Sanitation (DSNY), relocation of DSNY, then demolition of the existing DSNY facility. This work is estimated to cost approximately \$15 million as of the draft BODR.

Some of the factors that complicate the CP-1 schedule include:

- Second Avenue Pump Station must remain in service through CP-1, CP-2 and much of CP-3, including BWT access.
- The DSNY facility must remain operational, especially during winter months (critical to public health and safety). Planning is needed to relocate the Salt Shed

South of 5th Street before decommissioning the existing structure and relocation cannot be conducted until structures south of 5th Street are cleared.

- There has been no access to date to perform building assessments for scope of demolition and hazardous / regulated materials abatement (different than RH-034 which featured extensive pre-design investigation (PDI) and site inventory of a Conservator to oversee this work).

The schedule in the Order is one month shorter than the City's proposed schedule of 13 months to complete the CP-1 design and is not achievable due to the need to access, inspect and assess the private properties and buildings south of 5<sup>th</sup> street. The conditions of those buildings and the required designs to abate regulated material and demolish them are unknown. Similarly, the schedule in the Order for CP-1 construction is 3 months shorter than DEP's proposed schedule of 15 months, and is not achievable because of the potentially significant remediation / removal of regulated materials required prior to demolition. In addition, EPA's schedule does not account for the need to maintain DSNY operations throughout the CP-1 construction, which requires demolition of the existing buildings south of 5<sup>th</sup> Street, construction of new temporary DSNY facilities, relocation of DSNY operations to the new facilities, and then demolition of the existing DSNY facilities in a sequential manner.

c. Construction schedule: CP-2 below-groundwork

The table below presents the City's schedule developed for CP-2.

Table 7. CP-2 Belowground Work				
	Phase	Start	Finish	Duration (months)
City	Design	10/1/2021	9/30/2023	24
City	Procurement	1/1/2023	6/30/2024	18
City	Construction	7/1/2024	8/31/2027	38

Similar to the RH-034 CP-2, the scope of the design and construction for OH-007 will consist of a groundwater/construction water treatment system; on-site slurry production; support of excavation (SOE) slurry T-wall panels installed approximately to the depth to bedrock to create a watertight bathtub; excavation, stabilization and off-site disposal of contaminated soils; subsurface structural construction (tie downs, base slab, tank walls, top slab); influent/effluent structures to/from tank; and jet grout mat at base of influent/effluent structures. This work is estimated to cost approximately \$227 million as of the draft BODR.

Factors that complicate the CP-2 schedule include:

- Additional geotechnical and environmental borings required to support SOE design.
- Remediation requirements are currently undefined.
- Irregular parcel (triangular, not rectangular) adds constraints/ limits working fronts, with access only from the south.
- Dead end street poses access and logistical challenges.
- CP-2 must maintain 2nd Avenue Pumping Station existing outfall structures.
- CP-2 requires shared site access (5th street) for construction work and vehicles and DSNY.

EPA’s schedule duration for CP-2 design is three months shorter than the City’s schedule and is not achievable. EPA’s duration does not appropriately account for the performance of the geotechnical and environmental boring/sampling program necessary to inform the design, nor does it appropriately account for the complex nature of the design due to the unique characteristics of the site such as the limited staging, proximity to the bulkhead/Canal, and high groundwater.

EPA’s schedule duration for CP-2 construction is seven months shorter than the City’s schedule and again is not achievable. EPA’s duration does not appropriately account for the complex and difficult construction required for the support of excavation, especially in close proximity to the Canal, and does not provide for reasonable average productivity rates for the significant volumes of soil to be excavated, and concrete foundations to be poured.

d. Construction schedule: CP-3 aboveground work

The table below presents the City’s schedule developed for CP-3:

Table 8. CP-3 Aboveground Work				
	Phase	Start	Finish	Duration (months)
City	Design	10/1/2021	12/31/2023	27
City	Procurement	4/1/2026	3/31/2027	12
City	Construction	4/1/2027	6/30/2029	27

Similar to RH-034 CP-3, the scope of the design and construction design for OH-007 CP-3 will consist of the CSO facility superstructure enclosure and architecture, installation of process mechanical equipment, start-up / testing, facility commissioning and conveyance construction. Additionally, the 2nd Ave Pumping Station will be replaced. This work is estimated to cost approximately \$95 million as of the draft BODR.

Factors that complicate the CP-3 schedule include:

- CP-3 design requires significant coordination and approval by BWT, and other internal DEP stakeholders.
- CP-3 is a complex facility with significant equipment, conduit and wiring.
- CP-3 requires significant start-up and testing effort for facility commissioning.
- Complete and accurate as-built drawings from CP-2 are necessary to allow for early CP-3 activities.

EPA's schedule duration for CP-3 design is three months shorter than the City's schedule and is not achievable. EPA's schedule does not account for the evaluation of, iteration through, presentation of, and review of the design with the City's technical and operating staff, and other stakeholders, which is critical for the delivery of the design of such a complex facility.

EPA's schedule duration for CP-3 construction is three months shorter than the City's schedule and again is not achievable. EPA's schedule does not provide sufficient time to construct the building enclosure, nor does it account for the significant complex construction required to procure, install, start up and test each individual system and the facility as a whole.

The information detailed above demonstrates the technological and procurement requirements that make EPA's schedule in the Order arbitrary and capricious. The City has thoroughly and painstakingly documented why its proposed schedule is the most aggressively achievable schedule. Accordingly, the City has sufficient cause not to meet EPA's milestones. Simply stated, the City cannot perform the impossible. The City will perform the CSO and bulkhead work under the Order, but has sufficient cause not to comply with the Order's unilaterally imposed and unachievable deadlines.

C. Financial reasons demonstrate that the City has sufficient cause not to meet EPA’s unilaterally imposed design and construction schedules.

In addition to these technological and procurement bases for the City’s sufficient cause defense regarding the Order’s schedule, the City also has sufficient cause not to comply with the Order schedule due to financial constraints. Cost is an NCP Criterion. The City and DEP continue to face a period of significant fiscal uncertainty directly caused by the ongoing COVID-19 pandemic. Compounding these issues is the financial hardship confronting many New Yorkers across the City and State. DEP expects substantial financial impacts on ratepayers related to the projected parallel schedules for multiple large State and Federal mandated projects including, but by no means limited to, the Gowanus Canal CSO Tanks. DEP is seeking to logically plan these projects in light of ratepayer financial burdens and critical needs of existing infrastructure. On their own, the costs of the CSO tanks, which are far greater than forecasted in the Record of Decision<sup>4</sup> (without EPA issuing an Explanation of Significant Differences to explain its forecasting error, let alone account for the newly mandated services set forth in the Order), will require ratepayers to bear a significant financial burden. Now, the schedule for the mandates of the Order will require DEP to prioritize the CSO tanks over, and thereby delay, other projects that would benefit a larger number of customers, serve a larger service area, or address time critical system needs, such as upgrading or replacing aging core system assets. Further, the City faces ongoing fiscal uncertainty, due to the continued reduced level of economic activity in, and travel to, the City. The uncertainty makes it difficult for the City to estimate its revenues or cash position, in addition to creating uncertainty around expected construction costs, debt market conditions, and other variables important to accurate long-term financial planning.<sup>5</sup>

III. The City Has Sufficient Cause For Not Complying With Paragraphs 73.a., 73.c. And 73.d. Of The Order Because The Requirements Of Those Paragraphs Are Inconsistent With The ROD And The NCP, Beyond EPA’s Authority Under CERCLA And Otherwise Legally Invalid.

A. The Order’s requirements regarding treatment units for separate storm sewers, sampling and reporting related to these treatment units, and separating stormwater are not part of the CSO remedy selected in the ROD and are inconsistent with the NCP.

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<sup>4</sup> The ROD estimated the costs for both CSO tanks at approximately \$78 million. The Order now seeks financial assurance of \$1.1 billion to construct these tanks. Order at ¶50.

<sup>5</sup> In paragraph 50 of the Order, EPA states that the City, in the Administrative Settlement Agreement and Order for Remedial Design, Removal Action and Cost Recovery, Index No. CERCLA-02-2016-2003 for the Gowanus Canal Site (the “City Consent Order”), waived its right to claim financial inability to comply with certain aspects of the RH-034 tank project. That waiver does not apply to the OH-007 tank, which is not subject to the City Consent Order.

Paragraphs 73.c. and d. of the Order, as amended by EPA's June 29, 2021 letter, provide in part as follows (EPA's revisions shown in redline):

c. Stormwater Controls: Beginning upon the Effective Date of this Order, Respondent shall ensure appropriate implementation of applicable City regulations for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and stormwater control regulations and standards, as set forth in the ROD, ~~at minimum,~~ and as may be updated in City regulations and guidelines, for project plan approvals within the Gowanus Canal sewershed, to ensure that hazardous substances and solids from additional stormwater and sewage loads do not compromise the effectiveness of the remedy, and the permanent CSO control measures by exceeding their design capacity. ~~See ROD at page 85.~~ When implementing or approving municipal sewer infrastructure upgrades which discharge to the Gowanus Canal, and/or private stormwater controls ~~within the Gowanus Canal sewershed along the banks of the Canal,~~ stormwater shall be separated ~~for discharge to the Gowanus Canal~~ to the maximum extent practicable, and such stormwater discharges shall be treated pursuant to paragraph 73.d below.

d. Separated Outfall Treatment Units: Beginning upon the Effective Date of this Order, Respondent shall install, operate and maintain EPA-approved treatment units at all newly constructed or upgraded City-owned separated stormwater outfalls, including street end discharges, at the ~~s~~Site. Respondent shall continue to operate and maintain any existing treatment units previously installed at City-owned separated storm water outfalls at the site. Respondent shall require the installation, operation, and maintenance of treatment units at all privately owned separated stormwater outfalls at the site that are ~~owned by or~~ approved by Respondent after the Effective Date and are not otherwise covered by a NYSDEC discharge permit. ~~These~~ treatment units required by this subparagraph shall ~~should~~ have the capacity to effectively separate oil contamination and capture solids from stormwater runoff, prior to discharging to the Canal.<sup>6</sup> The responsibility to

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<sup>6</sup> There is no standard in the Order, the ROD or any other document for capture of solids or effectiveness of separation of oil contamination from separate sewer discharges. See footnote 10 *infra*.

install, operate and maintain EPA-approved treatment units at all separated stormwater outfalls [discharging any stormwater from City-owned property or streets](#) may be delegated to [private](#) property owners as part of redevelopment plan approvals, but Respondent shall track, oversee and remain responsible for such Work.

As reflected by the language in paragraphs 73.c. and 73.d., these requirements apply to separate storm sewers owned by the City currently and in the future, and those owned by unrelated parties. Paragraphs 73.c. and 73.d. further provide that even for third-party owned storm sewers connections, the City remains responsible for separating stormwater and for maintaining and monitoring the required treatment units.

While the ROD includes some of the language from paragraphs 73.c. and 73.d. in describing general engineering controls, in the context of addressing sewage loads, paragraphs 73.c. and 73.d. of the Order would impose requirements that do not appear anywhere in EPA's remedy selection process for the Gowanus Canal. They do not appear in any of the alternatives analyzed pursuant to the NCP in the Feasibility Study prepared by EPA, nor do they appear at all in the Feasibility Study Addendum EPA published with the ROD. They do not appear in the evaluation and selection of the preferred remedy set forth in EPA's Proposed Plan for the Site. And, in the final ROD issued by EPA, they are not listed in any of the alternatives evaluated as part of the final selected remedy.

The only references to separated sewers in the ROD, which in large part contain similar language, are as follows<sup>7</sup>:

Current and future high density residential development along the banks of the Canal within the sewershed would need to adhere to NYC rules for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and be consistent with recently adopted NYC criteria for on-site stormwater control and green infrastructure (NYCDEP, 2012) so as to ensure that hazardous substances and solids from additional sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity. Separated stormwater outfalls may also require source controls pursuant to

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<sup>7</sup> The ROD summary, at iii, contains similar language to the statements in the body of the ROD:

Implementation of appropriate engineering controls to ensure that hazardous substances and solids from separated stormwater, including from future upland development projects, are not discharged to the Canal.

applicable SPDES permits and best management practices. In particular, such separated stormwater outfalls would need to utilize appropriate engineering controls to minimize the discharges of hazardous substances and solids.

ROD at 56.

Also:

Site management controls relating to future sewer capacity would be necessary to maintain the effectiveness of the CSO measures. Specifically, controls would be utilized to ensure that current and future high-density residential development projects along the banks of the Canal and within the sewershed would be constructed consistent with NYC guidelines (NYCDEP, 2012) so as to not exceed control capacity therefore avoiding the contribution of new sewerage discharges to the canal that could compromise the remedy. Separated stormwater outfalls may also require discharge treatment controls.

ROD at 72.

And:

Current and future high density residential redevelopment along the banks of the canal and within the sewershed shall adhere to NYC rules for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and shall be consistent with current NYCDEP criteria (NYCDEP, 2012) and guidelines to ensure that hazardous substances and solids from additional sewage loads do not compromise the effectiveness of the permanent CSO control measures by exceeding their design capacity. For example, redevelopment projects will need to take mitigation measures to prevent or offset additional sewer loadings. Separated stormwater outfalls will also require engineering controls to ensure that hazardous substances and solids are not discharged to the Canal. Pilot projects supported by federal and City grants are currently under way for the control of street runoff along the Gowanus Canal using green street ends.

Id. at 85.

On their face, these aspirational statements in the ROD in no way constitute a remedy selection. They speak in terms of general engineering controls, pilot studies and green infrastructure. They focus primarily on sewage loads, not stormwater. Nowhere do they discuss or evaluate specific treatment technologies or performance standards for storm water flows. And most importantly, the statements lack any remedy evaluation, as is required for the selection of any remedy, consistent with the NCP. There was no screening of various engineering controls, no evaluation or comparison of remaining engineering controls against the nine NCP criteria, including the threshold criteria of overall protectiveness and compliance with ARARs. 40 C.F.R. § 300.430.

One additional fact further demonstrates that EPA did not select any treatment remedy for separate storm sewers in the ROD, let alone do so consistently with the NCP. The NCP requires EPA to identify any significant changes to the remedy that were made after publication of the Proposed Plan and before issuance of the ROD. 40 C.F.R. § 430(f)(3)(ii). As stated above, no document prior to the ROD included any remedy evaluation for separated storm sewers. In the section of the ROD entitled Documentation of Significant Changes, there is no mention of any remedy for separated storm sewers. ROD at 93-94. Therefore, in EPA's own words, that remedy was not evaluated upon issuance of the Proposed Plan nor identified as a significant change in the ROD.

Proper remedy selection relating to storm sewers is particularly important because storm sewers are independently regulated under the Clean Water Act. For that reason, EPA has long advised coordination between these two programs. By skipping remedy selection for storm sewers as part of the Gowanus Superfund Site, EPA has created potential inconsistencies and conflicts between these programs. Simply stated, the requirements in paragraphs 73.c. and 73.d. of the Order are not consistent with the ROD nor the NCP and therefore are invalid. Accordingly, the City has sufficient cause not to comply with the requirements in that portion of the Order.

On a related note, paragraph 50 of the Order states that in the City Consent Order, the City waived its right to challenge "the CSO remedy." Order at ¶50. While there are explicit exceptions to that waiver, the exact language of the City Consent Order is as follows:

Respondent waives and agrees not to assert any claims, causes of action, defenses or challenges relating to the **selection** of the **CSO controls** in the September 27, 2013 ROD, including the costs attributable to the design and construction of the RH-034 tank at the Canal-side Property rather than the Park Property and the concurrent design of the RH-034 tank for the Park Property.

(emphasis added). City Consent Order at ¶104.

The waiver is explicitly limited to claims, causes of action, defenses or challenges relating to the **selection of CSO controls**. By definition, separate sewers are not CSOs and control of separate sewers and storm discharges, as required by paragraphs 73.c. and 73.d. of the Order, are not CSO controls. Moreover, in the ROD, EPA did not select a remedy for treatment of the discharges from separate storm sewers. Therefore, the City has not waived its right to challenge any remedy selection for separate sewers, including without limitation, a challenge on grounds that imposition of a remedy for separate storm sewers was not made consistently with the NCP.

Paragraph 73.c. of the Order also includes additional requirements that are not part of the ROD. Paragraph 85 of the ROD applies by its terms only to regulation of “additional sewage loads.” In contrast, in paragraph 73.c. the Order imposes those requirements on “stormwater and sewage loads.”

- B. The Order’s requirements regarding EPA approval of property locations proposed to be used in connection with the construction of the OH-007 Tank (§ 73.a.) and enforcement of City’s regulations (§ 73.c.), are beyond EPA’s authority under CERCLA and invalid.
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Paragraph 73.a. of the Order, as amended by EPA’s June 29, 2021 letter, provides as follows (EPA’s revisions shown in redline):

- a. Respondent shall construct the RH-034 Tank and OH-007 Tank following EPA approval of the 100% designs for each respective tank, in accordance with those designs and within the time frames set forth in Appendix B. Any ~~property acquisition~~ locations proposed by Respondent to be used in connection with ~~for~~ the construction of the OH-007 Tank shall be subject to EPA approval, and whatever access or property interest is needed for those EPA-approved locations shall be obtained by Respondent ~~shall be completed~~ so as to meet the time frames set forth in Appendix B.

The federal government lacks authority to approve property acquisition by a local government, or to mandate that the City obtain access to any property.<sup>8</sup> The City has the right under Article IX § 1(e) of the New York State Constitution “to take by eminent domain private

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<sup>8</sup> This requirement is also inconsistent with paragraph 89 of the Order, which merely requires the City to use best efforts to obtain access, and indeed provides that “EPA may use its legal authorities to obtain access for Respondent.”

property within [its] boundaries for public use....” As the City exercises the power of eminent domain pursuant to State authorization, the City is, as a political subunit of the State, exercising the State’s eminent domain power – which is one of the State’s inherent sovereign powers. EPA’s assertion of authority over the City’s exercise of eminent domain would be tantamount to an impermissible federal interference with a state’s sovereign powers. *See, e.g., Superintendent of Public Works v. Paonesso*, 14 Misc. 2d 787, 790 (County Court of New York, Niagara County 1958) (“The Federal statute of eminent domain [the Federal Power Act] merely gives to a licensee that does not have the power of eminent domain such a right but it is not intended to interfere with the power of eminent domain already existent in a State agency and the State does not surrender such power of eminent domain by the acceptance of a license.”); *Long Island Water Supply Co. v. Brooklyn*, 166 U.S. 685, 692 (1897) (holding that eminent domain comes from the “right and duty of [every political sovereign community to] guard[] its own existence, and of protecting and promoting the interests and welfare of the community at large.”); *see generally* 1 Nichols on Eminent Domain § 1.141[3].

In situations where the City acquires property using federal funding, the Uniform Relocation Assistance and Real Property Acquisition Act sets out the minimum requirements the City must follow. However, this statute contains no provision giving the federal government authority over *which* properties are to be acquired. *See* 42 U.S.C. § 4601 *et seq.* EPA has no authority to approve property acquisition related to the construction of the OH-007 tank or to require the City to obtain access to the property.

Paragraph 73.c of the Order, as amended by EPA’s June 29, 2021 letter, provides in part as follows (EPA’s revisions shown in redline):

- c. Beginning upon the Effective Date of this Order, Respondent shall ensure appropriate implementation of applicable City regulations for sewer connections (Chapter 31 of Title 15 of the Rules of the City of New York) and stormwater control regulations and standards, as set forth in the ROD, ~~at minimum,~~ and as may be updated in City regulations and guidelines, for project plan approvals within the Gowanus Canal sewershed, to ensure that hazardous substances and solids from additional stormwater and sewage loads do not compromise the effectiveness of the remedy, and the permanent CSO control measures by exceeding their design capacity. ~~See ROD at page 85.~~ When implementing or approving municipal sewer infrastructure upgrades which discharge to the Gowanus Canal, and/or private stormwater controls ~~within the Gowanus Canal sewershed~~ along the banks of the Canal, stormwater shall be separated ~~for discharge to the Gowanus Canal~~ to the maximum extent practicable, and such

[stormwater discharges shall be treated pursuant to paragraph 73.d below.](#)

Paragraph 73.c.'s requirement that the City ensure "appropriate" implementation of its own regulations is likewise not within EPA's power to order. As the Order acknowledges, DEP has the authority to review and approve sewer connections under 15 RCNY Chapter 31. Based on that authority, DEP may direct developers to connect to available combined or separate sewers as applicable and require stormwater controls for certain qualifying development where these options are available. However, these are decisions that are within the authority of DEP, not EPA. The City proposed a resolution to this issue in the proposed edits to this sentence provided to Mr. Carr on May 4, but the proposed edits were not adopted in the final Order as amended.

Further, requiring that approvals of private stormwater controls provide that "stormwater shall be separated to the maximum extent practicable" would require private developers to seek State Pollutant Discharge Elimination System (SPDES) permits from the New York State Department of Environmental Conservation (DEC) where the option of direct discharge was available. In this instance, the authority to grant such a permit is not with DEP or EPA, but instead with DEC.

The U.S. Supreme Court has made clear that the federal government does not have the power to enforce local or state regulations, nor the power to force local or state governments to enforce or implement local or state regulations in a particular manner. *See, e.g., New York v. United States*, 505 U.S. 144, 188 (1992) (holding that while the federal government and the states could both regulate low level radioactive waste, the federal government could not simply direct the states to enact and enforce a federal regulatory program); *Printz v. United States*, 521 U.S. 898, 935 (1997) (Congress cannot circumvent commandeering prohibition by conscripting state officials directly). It is axiomatic that if commandeering state and local governments to enforce federal regulations is beyond the authority of the federal government, so too is commandeering state and local governments to enforce *their own* regulations in a manner that the federal government dictates.

Therefore, the City has sufficient cause not to comply with these requirements in paragraphs 73.a. and 73.c.

IV. The City Has Sufficient Cause For Not Complying With Paragraphs 73.b., 73.c. And 73.d. Of The Order Because The Requirements In Those Paragraphs Are Arbitrary And Capricious, Inconsistent With The NCP, And Are Technically And/Or Financially Impossible or Impractical to Implement.

Separate and apart from the legal invalidity of the requirements in paragraphs 73 as set forth above, the City has sufficient cause not to comply with the requirements of paragraphs

73.b., 73.c., and 73.d. because (i) these paragraphs impose requirements that are technically and/or financially impracticable or impossible and thus do not meet NCP criteria, including implementability and cost, and (ii) in any event, the City has substantially complied with EPA's express purpose for those requirements: preventing recontamination of the in-Canal remedy. Specifically, the City has sized and designed the two CSO tanks to achieve percentage CSO solids reduction well beyond ROD requirements while accounting for significant growth in population in the Gowanus watershed. In addition, the City is seeking to expand its regulations City-wide to both separate and combined sewer areas through a Unified Stormwater Rule (USWR), the implementation of which will regulate the treatment and amount of stormwater that enters the City's sewer system, including in the combined sewer area surrounding the Gowanus Canal. The City believes that the USWR once promulgated will regulate the flow of stormwater that enters the City's combined sewers sufficiently so as not to compromise the effectiveness of the permanent CSO control measures.

The specific technical and financial impossibility and impracticability in paragraphs 73.b., 73.c. and 73.d. are discussed below.

A. Reporting on Solids Removal under Paragraph 73.b.

Paragraph 73.b. of the Order, as amended by EPA's June 29, 2021 letter, provides as follows (EPA's revisions shown in redline):

- a. CSO Tank Operation and Maintenance: Following completion of construction of the RH-034 and OH-007 Tanks, respectively, Respondent shall properly operate and maintain such Tanks. Respondent shall submit to EPA a quarterly report summarizing the operation and maintenance status of such Tanks, including the volume of water treated, the total amount of solids that entered the treatment system, and the amount of solids captured (as weight of materials ~~sludge~~ shipped off-Ssite). Respondent shall submit the proposed form and contents of the quarterly reports for EPA approval.

The City objects to the requirement set forth in paragraph 73.b. that DEP report to EPA on "the volume of water treated, the total amount of solids that entered the treatment system, and the amount of solids captured as weight of materials shipped off-site" at each of the CSO tanks. The CSO facilities will have the ability to remove solids from the combined sewage that enters the tank, but the solids will consist mostly of grit, such as sand, gravel and other inorganic components, which would not be contaminated with ROD COCs. This grit will be captured in containers along with screenings residuals and will be shipped offsite, and there are no provisions for weighing those containers. Organic solids, which may be contaminated with COCs, will remain in the tank and be pumped to the wastewater facility following the storm;

thus, measuring the amount of solids captured “as weight of materials shipped off-site” is not only impossible to accurately determine, but also not an appropriate measurement of solids captured at each CSO tank.

B. Separation of Sewers under Paragraph 73.c.

As set forth above, EPA does not have legal authority to require the City to enforce or implement local stormwater regulations. Even if EPA had that authority, however, the City does not have the ability to comply with all aspects of the requirements set forth in paragraph 73.c. For example, paragraph 73.c., as amended, requires that “when implementing or approving municipal sewer infrastructure upgrades which discharge to the Gowanus Canal and/or private stormwater controls within the Gowanus Canal sewershed along the banks of the Canal, stormwater will be separated to the maximum extent practicable, and such stormwater discharges shall be treated pursuant to paragraph 73.d. below.”

DEP regulations establish requirements for connections to available combined or separate sewers, however, replacing combined sewers with separate sewers to the “maximum extent practicable,” does not mean that infrastructure upgrades or newly approved private stormwater controls will include separate sewers because of limitations inherent in the combined sewershed that surrounds the Gowanus Canal and incorporating new separated sewers into the drainage plan. Separate storm sewers are not always prudent in low-lying areas like Gowanus – significant storms, coupled with sea level rise and/or storm surges would likely require pumping in order to provide relief from flooding. Additionally, DEP’s Drainage Plan was created as a combined system, so generally it has smaller pipes discharging into larger pipes as you go inland to a regulator on the Interceptor. Storm pipes would need to be installed in the opposite direction with smaller inland pipes discharging to larger pipes as you go towards the water where outfalls will be located.

Recently, DEP received a permit sewer connection application for a development along the canal that highlights the problems associated with separating sewers in this area. The developer had indicated that, in accordance with the Order, it will send sanitary loads to the combined sewer; that it will separate and treat stormwater from the site; and that it will discharge the on-site stormwater to the canal pursuant to a SPDES permit it will obtain from NYSDEC. DEP has no objection to these aspects of the developer’s plan. However, the development also includes the creation of a new street that ends at the canal, and the developer has proposed separating and treating stormwater from the new street and discharging it to the canal from a second outfall at the street end. This is problematic for several reasons.

First, it is impractical for DEP to maintain separate infrastructure in the same street, *i.e.*, combined sewer moving away from the canal and separated sewer traveling to the canal. It is also impractical for DEP to plan for separated sewers in a piecemeal fashion instead as part of its comprehensive drainage plan. This piecemeal approach also adds an unnecessary burden on the

ratepayers, particularly in flood prone areas where there is significant potential for backups related to sea level rise and increased storm events. Finally, during the vast majority of storms, combined flow would be treated at the City's wastewater treatment plants, especially after the CSO tanks are constructed and operational. Thus, in this situation, DEP believes that the most practical solution is to require the developer to connect to the combined system for both sanitary loads and stormwater loads from the new street.

Moreover, the requirement to construct and operate new separated stormwater sewers would be financially burdensome and DEP does not have the resources and funding to undertake such a substantial increase in assets. Again, EPA is requiring the City to expend further funds that were not contemplated or analyzed in the Feasibility Study, PRAP or ROD without compliance with the NCP.

C. Reporting under Paragraph 73.c.

Paragraph 73.c., as amended, requires the City to submit to EPA an annual report beginning in 2022 summarizing "the major project plan approvals and completions for the preceding calendar year within the Gowanus Canal sewershed, as well as the projected net changes in sanitary and stormwater loadings related to completed projects." As part of the application for connection to the City sewer system, an applicant must provide the proposed sanitary discharge, proposed development site storm flow, allowable flow from the site and/or the stormwater release rate from the site in accordance with DEP rules. DEP thus receives information on the projected storm and sanitary flows, as applicable. However, DEP's approval of a project does not mean that the project will be implemented. Further, pollutant loadings from sanitary and stormwater flows are calculated through modeling, are not expected to change significantly on an annual basis and are better measured on a long-term basis. Thus, DEP believes that beginning in 2023 reporting the number of stormwater management pollution prevention plans for approved and/or completed projects, including the number of post construction management practices triggered by the City's stormwater regulations, should be sufficient. This clarification was included in the proposed edits conveyed to Mr. Carr on May 4<sup>th</sup>, but was rejected by EPA.

D. Treatment Units at Separated Sewer Outfalls under Paragraph 73.d.

In addition to the legal issues discussed above, there are many technical issues relating to the installation of outfall treatment units. End of pipe controls are very difficult to retrofit to existing systems due to hydraulic constraints, and head losses imposed by new treatment systems could cause flooding issues upstream. Further, the streets in the Gowanus sewershed are already congested with other utilities, and it could be difficult to find space in the streets for end of pipe treatment systems. Vortex treatment units require specific flow rates and hydraulic designs that may not be met with retrofits. Finally, treatment units can be difficult to maintain depending on location in street, as they often end up under parking spaces, or require street

closing in order to inspect, maintain and clean. This is precisely why these remedial alternatives should have been thoroughly evaluated consistent with the NCP.<sup>9</sup>

In addition, the City recently conducted a pilot study on separate storm water treatment technologies including hydrodynamic vortex separators in the Gowanus Canal Watershed and the monitoring data was provided to EPA. The data suggests vortex separators were no more or less effective than other technologies such as catch basins inserts or existing catch basins. For this reason, because the treatment units were not selected in the ROD consistent with the NCP, the City has sufficient cause not to maintain any such existing units.

E. Reporting of oils and solids captured from separate storm sewers under Paragraph 73.d.

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Paragraph 73.d. of the Order, as amended, further provides in part as follows (EPA revisions shown in redline):

Commencing on January 31, 2022, Respondent shall submit to EPA an annual report summarizing the location of such treatment units and their maintenance status, including the amounts of oil and solids removed from each unit, and the results of semi-annual testing of the water at the exit point of the treatment units to ensure the functionality of the units. The treatment unit testing shall include solids content, VOCs, SVOCs, and heavy metals. Respondent shall submit the proposed form and contents of the annual reports for EPA approval. Respondent shall request EPA approval for treatment units on a project-by-project basis, or, as appropriate, for a set of standardized units.

There is no standard in paragraph 73.d. of the Order, the ROD or any other document for capture of solids or effectiveness of separation of oil contamination from separate sewer discharges. The City also objects to EPA's requirement that DEP must report the amount of solids and oils removed from *each* outfall treatment unit, as it is technically infeasible and unduly burdensome. The City further objects to the requirement that it must test the treatment units for contaminants that are not contaminants of concern identified in the ROD (VOCs,

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<sup>9</sup> Not only are the requirements of paragraph 73.d. relating to the installation and operation of treatment units at separated stormwater outfalls not authorized by the ROD or consistent with the NCP, but they are also unduly burdensome considering that the City is already required to meet water quality standards under the Clean Water Act. Except in very limited circumstances, DEP does not currently have treatment or sampling infrastructure at storm outfalls or street ends. While DEP's LTCP program requires chlorination/dechlorination and floatables control, these requirements only apply to a small number of CSO outfall locations associated with a CSO tank or other large conduit. This requirement would add a substantial amount of additional infrastructure to be maintained and/or monitored by DEP.

SVOCs). Indeed, this requirement suggests that EPA will require DEP to install outfall treatment units that remove these contaminants even though they are not identified in the ROD, and treating for such contaminants would significantly increase the cost of these treatment units.

F. CSO Solids Monitoring under Paragraph 73.e and CSO maintenance dredging under Paragraph 73.f.

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Paragraphs 73.e. and 73.f. of the Order, as amended by EPA's June 29, 2021 letter, provide as follows (EPA's revisions shown in redline):

e. CSO Solids Monitoring: Respondent shall monitor post-dredging CSO solids contaminant levels pursuant to an EPA-approved Monitoring Plan ("Plan"). The Plan shall include periodic in-Canal monitoring of ~~CSO solids~~surface sediment recontamination levels and annual tracking of CSO solids loading from each CSO outfall, including a detailed description for how the CSO outfall solids loading is calculated. for the purpose of determining whether CSO solids removal will be required to mitigate impacts to sediment from CSO discharges. The Plan shall be submitted for EPA approval by October 31, 2021, and the City shall submit the proposed form and content of the monitoring to be reported pursuant to the Plan for EPA approval at least 60 days prior to this date. In-Canal monitoring consistent with the Plan shall begin one year after EPA notifies Respondent that capping is completed in RTA 1. The CSO solids outfall loading monitoring shall begin ~~on~~as early as June 1, 2022, to establish a baseline for CSO solids loading ~~prior to the buildout of rezoning within the Gowanus Canal sewershed.~~

f. CSO Solids Maintenance Dredging: If EPA so directs, based on the monitoring performed pursuant to paragraph 73.e. Respondent shall perform CSO solids maintenance dredging. Such work shall be performed in accordance with a work plan and schedule approved by EPA. If the CSO solids maintenance dredging results in any damage or impacts to the cap system, Respondent shall be responsible for cap repairs. Respondent shall coordinate and cooperate with respondents to EPA enforcement instruments for implementation of the CSO and in-Canal remedies, including for mitigation and repair of CSO maintenance dredging impacts to the cap.

The City objects to the requirement that it monitor CSO solids contaminant levels in the Canal post-dredging under paragraph 73.e, including periodic in-canal monitoring of surface sediment recontamination levels and annual tracking of CSO solids loading from each CSO outfall. This would require the City to conduct bathymetry surveys and to conduct sampling of

canal sediment, CSO discharges, and discharges from the Flushing Tunnel, all of which go well beyond the scope required to determine if a maintenance dredge is required for deposition that occurred post dredging and prior to the operation of the CSO tanks, which is the only applicable obligation.

The ROD very specifically only requires reductions in solids discharges from two CSO outfalls, RH-034 and OH-007, and not each and every outfall that discharges to the Canal. The sampling effort required to sample each and every outfall during wet weather would be extremely impractical, expensive and burdensome. Multiple crews would be required to actually perform the sampling due to the number of outfalls and logistical requirements, and crews would be required to wait on standby in anticipation of wet weather events that do not always materialize.

In addition, it would be infeasible to accurately determine the source of the contaminated sediment if found, due to a number of potential pathways unrelated to CSO discharges, including tides and storm surges, the Flushing Tunnel and/or recontamination of sediment from contaminated groundwater, ebullition or seeps from uplands sites.

Finally, the addition of the language “for purposes of determining whether CSO solids removal will be required to mitigate impacts to sediment from CSO discharges” is unclear and potentially beyond the requirements of the ROD. To the extent “CSO solids removal” in paragraph 73.e. refers to maintenance solids dredging in the Canal, as paragraph 73.f. suggests, then paragraph 73.e. should so state. However, to the extent the phrase “CSO sediment removal” in paragraph 73.e. refers to additional CSO solids reductions, then this language directly contradicts the ROD remedy which selected two CSO tanks with a CSO solids reduction percentage of 58 to 74. The City has in fact designed CSO tanks with a solids reduction percentage well in excess of the ROD requirement. But paragraph 73.e. cannot impose a CSO solids reduction percentage beyond that which the ROD requires.

G. CSO maintenance dredging under Paragraph 73.f.

Paragraph 73.f. provides that EPA, in its discretion, can require the City to perform maintenance dredging. But neither the ROD nor the order cabin that discretion. There is no standard for determining whether maintenance dredging is necessary. The absence of such a standard compounds the difficulties discussed above regarding in-Canal sampling required by Paragraph 73.c. The Order empowers EPA to direct the City to perform maintenance dredging, without such a standard, and this obligation may attach even where the data shows that the sources of solids and contaminants in-Canal are unrelated to the CSOs.<sup>10</sup>

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<sup>10</sup> The absence of any standard (i) in paragraph 73.d. for capture efficiency of solids or separation of oil contamination from separate sewer discharges, and (ii) in paragraph 73.f. for when maintenance dredging as a result

H. The City does not admit to the factual findings in the Order.

The City's notice of its intent to comply with the Order is not an admission of any liability, nor an admission of any facts or conclusions of law EPA alleges in the Order. By way of example only, among other things, the City disputes the following:

1. In paragraph 8, the Order states that the City owns the Canal. On the contrary, Brooklyn Improvement Company constructed and owned the turning basins at the Canal. As for the main stem of the Canal, the only portions the City may own are derived from a patent granted by the King of England to the City of Brooklyn in the 1600s. That patent applies only to lands in the bed of the original Gowanus Creek. Approximately twenty-five percent (25%) of the bed of Gowanus Creek is co-extensive with Canal. Further, all of RTA-3 in the Canal was originally part of Gowanus Bay and not within the aforementioned King's patent. The City will provide additional information on this issue if EPA so desires.

2. In paragraph 14, the Order states that the 1<sup>st</sup> Street Basin was filled in between 1954 and 1966. The City did not fill in the Basin. In addition, the City neither constructed nor operated the 1<sup>st</sup> Street Basin and there is no definitive evidence that the City owned the 1<sup>st</sup> Street Basin.

3. In paragraph 34, the Order states that the releases from the BRT Powerhouse "likely" resulted in contamination in the 1<sup>st</sup> Street Basin and the Canal. On the contrary, sampling, analytic and forensic evidence demonstrates that contaminants in the 1<sup>st</sup> Street Basin and the Canal are not related to releases from the BRT Power House during the City's ownership or operation of the BRT Power House.

4. As set forth in prior correspondence, in emails, in meetings and in progress reports, and pursuant to the force majeure provisions of the relevant EPA orders, the City disputes EPA's findings (including those in paragraphs 51 and 52 of the Order) that the City failed to comply with the City UAO or the City Consent Order.

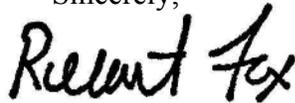
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of CSO discharges would be required, deprives the City of the ability to determine how to comply with the Order and therefore does not afford the City with due process.

Brian Carr, Assistant Regional Counsel  
July 14, 2021  
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In sum, the City remains committed to complying with the Order by performing the removal action and remedial actions required by the ROD, namely design and construction of the CSO tanks and bulkhead for the OH-007 tank location. The City looks forward to working collaboratively and cooperatively with EPA to do so.

Sincerely,

A handwritten signature in black ink that reads "Robert D. Fox". The signature is written in a cursive, slightly slanted style.

Robert D. Fox  
For MANKO, GOLD, KATCHER & FOX, LLP

RDF/kl

cc: Hilary Meltzer, Esquire  
Christopher King, Esquire  
Devon Goodrich, Esquire  
Tess Dernbach, Esquire  
Elissa Stein Cushman, Esquire  
Daniel Mulvihill, Esquire



September 20, 2021

Stephanie Shellooe, AICP, Deputy Director  
Environmental Review and Assessment Division  
New York City Department of City Planning  
120 Broadway, 31st Floor  
New York, N.Y. 10271

Re: Comments — Final Environmental Impact Statement  
CEQR No. 19DCP157K

As the CEQR lead agency acting on behalf of the City Planning Commission (CPC), the Department of City Planning (DCP) has prepared a Final Environmental Impact Statement (FEIS) for proposed actions related to the development of the Gowanus Neighborhood Rezoning and Related Actions (hereinafter, “the Rezoning”).

For the reasons stated in its comments on the DEIS, Voice of Gowanus (VoG) considers the FEIS still legally deficient in several key areas, with DCP and its contractors again failing to both include, and adequately analyze, accurate and meaningful data and information so as to take the “hard look” required by environmental analysis law. VoG reiterates all its prior comments for the record, including:

- The National Environmental Policy Act (NEPA) is applicable to the proposed action due to the planned use of funding from the US Department of Housing and Urban Development;
- The USEPA, US Army Corps of Engineers, FEMA, and the NYS Dept. of Environmental Conservation (NYSDEC) are cooperating/involved agencies, and had they been properly included as required, the FEIS would not likely be so grossly deficient;
- No adequate resolution of New York City’s inherent conflict of interest due to its status as a Proponent of the Rezoning and Respondent in multiple enforcement orders intended to rectify harmful pollution damage in the area being rezoned;
  - This includes conflicts arising from hundreds of millions in cleanup spending being charged back to NYC taxpayers and the 1.2 million National Grid ratepayers in Brooklyn, Queens, and Staten Island inuring to the benefit of Rezoning developers;
- Other specific comments regarding water and sewer, air quality, climate change, flooding and resiliency, and Environmental Justice.

VoG notes that the Gowanus Canal Conservancy (GCC), the Gowanus Neighborhood Coalition for Justice (GNCJ), USEPA Region 2, Friends and Residents of Greater Gowanus (FROGG), Congresswoman Nydia Velazquez, and State Assemblymember Jo Anne Simon all provided similar comments pointing out major gaps and deficiencies in the DCP and AKRF data disclosures and analyses. The impressive levels of depth, knowledge, and detail in comments provided by individuals, government officials, and organizations taking enormous time and effort to develop an accurate and legally compliant draft—and now final—EIS is almost mockingly ignored or trivialized by the DCP/AKRF responses. The Gowanus Rezoning political haste has laid waste to the purposes and goals of writing an EIS. This is particularly demonstrated by the document’s studious avoidance of any clear explanation of the major enforcement

actions that de facto and de jure limit additive use,<sup>1</sup> allowing the public to sometimes conflate, sometimes confuse, the concepts of “best effort” mitigation under the State Environmental Quality Review Act with mandated compliance actions under statutes like the Clean Water Act, Superfund, the Rivers and Harbors Act, the Clean Air Act, and multiple applicable NY State statutes that NYC is *still violating*. Even the Region 2 inclusion of the most recent Administrative Order for the Superfund cleanup is stiff-penned in the FEIS.

In addition to reiterating its original, unaddressed comments on the DEIS (included as Attachment 3 to this submission), VoG provides the following comments regarding the FEIS, and associates itself with the similar comments provided by other concerned organizations. VoG also agrees with Congresswoman Nydia Velazquez and Assemblymember Jo Anne Simon who call for a re-drafting of the inadequate DEIS in a letter to Mayor Bill DeBlasio (Attachment 1 to this submission), and demands that such a re-draft be done by a replacement contractor with more experience in planning for air, water, and land use when those vital public assets are actively under the compliance jurisdiction of enforcement agencies.

## **I. Compliance Abdication: The Ultimate Environmental Injustice**

The Gowanus Rezone is one of several planning actions continuously proposed by the Department of City Planning and other City Agencies that will further exacerbate and interfere with existing, sometimes multi-decade, enforcement and compliance requirements. This Rezoning is well beyond the conventional notions of “impact” and “mitigation” that remain the inadequate hallmarks of EIS drafting. VoG instead invites the Commission’s attention to a pattern of open disregard for environmental law enforcement and compliance that pervades rezoning proposals and dangerously misleads the public in a time of climate crisis.

The DEIS overtly failed to disclose and analyze extant binding compliance requirements for assets and infrastructure that will be burdened by the upzoning’s additive users; this amounts to deception—and yet another substitution of Environmental Injustice (E[I]J) for due process. Adding insult to injury, no matter what substantive and vital information has been put forth by commentators, elected officials, and subject matter expert organizations in this and other EISs, Community Boards, hearings, and lawsuits, New York City seemingly ignores these vital inputs, instead doubling down and pushing through rezoning and development actions irrespective of the E[I]J harm created.

The damage caused by Environmental Injustice (E[I]J) has the attention of President of the United States, and his Administration has made E[I]J correctives a priority going forward. It remains unclear why New York City leaders, especially in the wake of tragic environmental deaths experience by vulnerable citizens from Ida sewage flooding (including a Gowanus Canal drowning), would enable rezoning actions of this nature to proceed without the proper review and compliance assurance that protects those already suffering under past E[I]J failures.

*Compliance Orders under statutes like the Clean Water Act or Superfund are free-standing legal mandates, and are not an optional, default function of rezoning “mitigation” practice.*

As noted in the DEIS comments, the Gowanus Canal and its surrounding land area are subject to multiple substantive legal mandates under law and Administrative Order with which New York City has yet to fully comply (or fully demonstrate compliance) regarding remediation and restoration of soil, air, and water assets. In a recent hearing before the City Council on the deadly Ida floods, the New York City De-

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<sup>1</sup> VoG also notes that its comment detailing these compulsory actions required under multiple Administrative Orders were omitted from the both the Chapter 27 Response to Comments and the Addendum K text of comments in the FEIS due to “clerical error.” The letter of objection to Chair Lago is Attachment 2 of this submission.

partment of Environmental Protection (NYCDEP) and other City Agency leaders could only offer that millions of dollars had been spent, and testified that more millions of dollars were needed from the Federal Government to do their job. Outstanding Orders for Gowanus tank construction, City-wide and Gowanus CSO control, City-wide sewage backup elimination, and fully fishable/swimmable waters applicable to the Gowanus Canal and its environs are barely noted in the D/FEIS, let alone disclosed as established protection mandates for the residents and workers of the area.

In their disclosure laxity, the DCP and DEP appear to treat ongoing Administrative Orders for flagrant violations of major environmental laws as business-as-usual, where festering Superfund mega-sites, poisonous combined sewer outfalls, and fetid basement backups are just a cost of doing government. The institutional failure to disclose existing compliance mandates in an EIS, while also failing to contextualize the harms the enforcement is intended to both rectify and prevent, amounts to dereliction of duty by both the planning and the enforcement agencies involved. As a result, proponents check and raise commenters into suggesting these already existing compliance mandates be implemented as some kind of voluntary or beneficent “mitigation” for the rezoning, to be achieved at some future time as development proceeds, when in fact they are current prerequisites to any additive use of the compromised water, air, or soil assets.

This disregard for ongoing compliance failure has the insidious effect of defaulting EIS practice into an amateur enforcement program—government agencies at all levels drag out enforcement actions while continuing upzoning and development, thereby shifting the compliance burden onto the impacted citizenry whose meagre options include demeaning mitigation begging in comment processes, and costly out-of-pocket court actions for judicial relief rarely obtained. To be clear, forcing adversely impacted citizens to beg for “mitigations” that are, in reality, obligated compliance actions is a most insidious form of E[II] that New York City routinely foists on communities least able to assure compliance they often don’t even know they are entitled to.

Deluding the New York populace in rezoning after rezoning into thinking that fundamental laws that ban continued pollution or mandate it’s cleanup are optional post-rezoning mitigation measures is at best a dangerous game of gaslighting, but is now approaching the level of systemic fraud. Forcing citizens to spend time and funds to induce government agencies to fulfill their legal obligations to clean and restore the Gowanus Environment before zoning-in further pollution loading to an already non-compliant system is yet another form of E[II] that compounds the continued exposure of vulnerable people to a toxic legacy of polluted water, air and land.

## **II. The FEIS is Totally Non-Responsive to Comments**

The Gowanus Rezoning DEIS caused several sets of comprehensive comments to be submitted, several of which (Gowanus Neighborhood Coalition for Justice, USEPA Region 2, The Gowanus Conservancy, and Voice of Gowanus) have all identified similar major deficiencies in the DEIS, none of which was adequately addressed in the FEIS.

In just one area—sewer system capacity—multiple commentators provided extensive and accurate critiques of DEIS legal sufficiency that alone call into serious question whether it or the now FEIS have taken the requisite “hard look” at water and sewer infrastructure:

- *The Sewer System Capacity Analysis fails to address the cumulative loadings from previous and future rezonings, especially given the limited capacity at the Red Hook WRRF*
  - These cumulative loads include Governor’s Island, Downtown Brooklyn, Atlantic Yards, and Gowanus 4th Avenue development

- The DEIS also failed to evaluate cumulative impacts from the predictable density under the Rezoning (based on patterns emerging from prior upzonings such as Downtown Brooklyn where development vastly exceeded EIS estimates).
  - This includes the potential for as many as 13,000 additional residents that would bring additive sanitary sewage flow to 2.26 million gallons per day (MGD), none of which would be “offset” by direct diversion of water to the Gowanus Canal (bypassing sewer pipes) under a possible future Unified Stormwater Rule
- Further capacity issues and resulting sewer bottlenecks are insufficiently addressed, such as the Bond-Lorraine sewer line which is currently more than 50% full in dry weather and causing street flooding in vulnerable areas during wet weather
- Climate change modeling fails to account for predictable impacts, including precipitation increases of 4% to 13% by the 2050s, and 5% to 19% by the 2080s and sea level rise of up to 39 inches the 2080s
  - These additive volumes of water will enter the sewer system, especially as the “green infrastructure” hopefulness has already proven inadequate for current levels of sanitary, storm, surge, and sea-level rise water volumes, let alone future increases
- The FEIS lacks adequate, comprehensive hydrological and flooding analyses
- The analysis that is contained in the EIS lacks data substantiation, and routinely includes conclusory assertions without evidence
- The Uniform Stormwater Rule does not and will not create offsets to additive sanitary loading from the additive Gowanus development and cumulative loads from other development areas entering the shared Red Hook and Owl’s Head sewersheds
  - The concept of Net-Zero sewage loading is misleading and inapposite to ongoing combined sewer violations in the Red Hook sewershed
  - Even if the Unified Stormwater Rule enables capture of stormwater currently flowing directly into the Canal or into sewage pipes and reduces some stormwater loading, increased sanitary loading as well as increased precipitation rates must be fully evaluated before any net-zero outcome can legitimately be claimed
  - Net-zero additive stormwater increases from the Gowanus rezonings are useful but not indicative of compliance assurance with legal mandates of the legally mandated Long Term Control Plan, Sewage Backup Order, or the Superfund remedial actions.

The inadequate response to comments coupled with the original gaps and insufficiencies of the DEIS in this and multiple other areas calls into question whether any informed vote on the Gowanus Rezoning proposal can occur in the New York City Council until the EIS is overhauled. Moreover, this lack of responsiveness reinforces a troubling “catch-me-if-you-can” attitude in preparing these documents. The systemic practice of DCP et al. seems to suggest government entities charged with getting these due process requirements right instead put out bare minimums to check a box, and shift the burden of repair to the ill-equipped citizenry absorbing the impacts.

### **III. VoG respectfully disagrees with comments that support allowing the Rezoning to occur under an ultra-vires Zoning Commitment Task Force**

The mere fact that a zoning action needs a separate commission to ride heard on its implementation should tell New Yorkers everything they need to know about the broken promises, failed compliance, bait and switch, and developer-first history of upzoning in recent years. Sadly, New York City cannot be trusted to follow through on promises and claims for future actions.

NYCHA funding, sewage outfall controls, Superfund cleanup—these are not bartered actions predicated on communities girding to withstand floods and washouts, or suffering with mold and without electricity, or relinquishing their precious, life-preserving air and water assets to a developer before they are provided.

The Rezoning cart has gotten way out in front of the most basic governance horses. The custom and practice of trading massive supplies of public air, land, and water in bulk rezonings that ultimately profit small cadres of The Connected for the promise of rarely affordable apartments and condominiums has proven too often to be a contractual farce, if not a full-blown scam. The idea that sustaining public housing, sustaining public water and air, sustaining public open space, assuring neighborhood integrity and delivering basic justice are only achievable as secondary, knock-on effects of keeping the REBNY Regatta afloat is a travesty of governance.

The decline of tax expenditures for NYCHA in favor of the REBNY Raiders is perhaps the most illustrative (and shameful) demonstration of New York City's abdication of governance responsibilities. In the fateful clean water year of 1992, when NYC was first cited for CSO violations that continue to this day, 17.5% of NYC tax expenditures for housing went to NYCHA (\$280.6M). By 2021, NYCHA support had been reduced to 9.5% of foregone tax revenue, while developer subsidies from the 421a program had engorged to \$1.7B, a first place 23% of all foregone housing tax revenue, with NYCHA (\$691M) and Coop/Condo abatements (\$655M) a far second and third. Arguably, had neighborhoods been cleaned and greened as much as developer pockets in that timeframe, Gowanus contamination would be gone by now; had taxes been collected, NYCHA might have a sufficient operating budget.

Nonetheless, solving this shambolic housing market-rigging will not come from adding ultra-vires oversight lacking enforcement powers to the NYC Rezoning Commitment Tracker in the hopes that see if just maybe communities can get the parties to do the right thing this time. The preferred course of action involves steps that it would appear most commentators could agree to:

- Discontinue any zoning action of this size (the effects of adding this much FAR and other capacity to any area is too unpredictable and uncontrollable, as the points about Downtown Brooklyn so effectively make)
- Compile and publish an inventory and appraisal of publicly held air, land, and water assets involved in a rezoning as part of any zoning application (this includes inter alia, airspace, airshed, airwaves, flyways, park land/air/water, rights-of-way, surface and subsurface land, water discharge capacity, waterway, water supply, coastal area)
- Require written sign-off by all applicable enforcement agencies (e.g., USEPA, FEMA, USACE, NYS-DEC) that a proposed rezoning over a certain size will not require, occur in or near, or implicate air, land, or water assets subject to any compliance requirement or action
- Ultimately, limit the activity under any rezoning to users not exceeding the quantity of air, land, and water assets listed in the zoning application (in effect, a geocapital cap).

Additional information for the record regarding first principles for a Gowanus Rezoning may be found in [Attachment 4, “Baselines for Just and Sustainable Development in the Gowanus”](#) prepared by Voice of Gowanus earlier this year.

#### **IV. The Cost of Cleanup to Ratepayers (and conversely the value realized by developers) Must be Disclosed and Evaluated in the EIS**

Most of the cleanup costs for both the upland gas plant and Gowanus Canal Superfund remediation programs ***are being paid for by ratepayers in the National Grid service territory*** covering portions of Brooklyn, Queens and Staten Island. This means that 1.2 million ratepayers will foot the bill for most of the restoration of Gowanus air, land, and water assets to be used by the rezoning developments, while private developers will be a primary beneficiary of these expenditures. Key factors include:

- The costs incurred by National Grid (NG) as a responsible party under Federal and State Superfund laws, as well as Brownfield programs is an allowable charge back to customers that has been paid by residents on their gas bills since the inception of the cleanup programs
- Known as Site Investigation and Remediation (SIR) costs, the Public Service Commission (PSC) has allowed National Grid/Keyspan/Brooklyn Union Gas (BUG) to accumulate a deferral balance of these spent and forecasted costs, and include pay down of the outstanding balances as part of base and delivery rates
- The predicted costs to National Grid are currently \$2.4 billion, of which \$1.8 billion is in the former BUG service territory, all of which National Grid expects to collect from ratepayers
- Although cost recovery has been sought against insurers and other potentially responsible parties, remediation decisions appear to be related to the need for NG/BUG to keep costs down in order not to raise alarms regarding the hundreds of multi-millions of cost recovery being assessed, including against residents exposed to the pollution
- Use of Brownfield procedures appear to be part of the overall “cost containment” strategy to minimize cleanup outlays, but has the corresponding effect of potentially leaving contamination in place that can harm future users of these gas plant sites and surrounding residents

The “Ratepayer Pays” financial structure creates a cascading set of damaging outcomes in two significant policy arenas:

***Climate Change:***

Allowing companies to recover the costs of rectifying their own imprudence and damage is effectively acting as a public subsidy of fossil fuel enterprises. Providing this level of public subsidy fifty years after the passage of the Superfund and other laws may now be in contravention of the 2019 Climate Leadership and Community Protection Act that requires an 85% reduction in greenhouse gas emissions such as methane by 2050.

The Rezoning creates additive development that enables gas companies like National Grid to increase the size of its rate base, adding sales and thus further increasing greenhouse gas emissions. Continued subsidy of fossil/gas companies through public underwriting of cleanup costs forces victims of climate change to subsidize the very corporations that overload airshed assets, contribute to sea-level rise, flooding, weather events, and engender a host of climate-related disasters and damage (while also having damaged the locality soil and water).

***Environmental Injustice:***

Working families in the National Grid service territory paid gas bills that accumulated profits over decades for NG/BUG and its various corporate conglomerate owners (currently National Grid plc, headquartered in London). These same residents and customers lived and raised families surrounded by a toxic stew in the soils and waters of their neighborhood while corporations avoided cleanup outlays for decades. This in turn postponed reckoning until the problems were nearly intractable; drove up ultimate costs; and allowed Responsible Parties to pocket the gained opportunity costs of avoided expenditure.

Working families in a utility service territory of only 1.2 million customers are expected to shoulder tens of millions of dollars in remediation costs, on a surcharge model not unlike a condominium or cooperative needing a new roof, except no family in the National Grid service territory ever shared in the profits, dividends, or multi-million dollar salaries enjoyed by National Grid stockholders and employees.

Moreover, the subsidized operations of National Grid were releasing the very greenhouse gases that are causing the climate change impacts noted in the section above. Gowanus area residents and New Yorkers

throughout the City now live with sea-level rise, flooding, weather events and other dangerous risks while National Grid operates at a significant profit courtesy of rate case decisions.

Developers who will directly profit from follow-on use are receiving properties restored at the expense of the Gowanus Neighborhood customers and other areas in the National Grid service territory, and not at their own cost.

*Full EIS Assessment of Ratepayer Costs and Developer Benefits is Needed*

National Grid plc, founded in 1990 and is headquartered in London, the United Kingdom, transmits and distributes electricity and natural gas in multiple markets including UK Electricity Transmission, UK Gas Transmission, US Regulated, National Grid Ventures (NGV) and other segments.

A complex intertwined set of National Grid plc companies make up the UK and US ventures described above. National Grid North America currently serves more than 20 million customers throughout New York, Massachusetts, and Rhode Island. National Grid NY, a part of National Grid USA, began—and continues to operate—as the Brooklyn Union Gas Company, but goes by multiple names and titles including Keyspan Energy Delivery New York (KEDNY, with a sister company on Long Island known as KEDLI), and National Grid NY. The BUG/KEDNY component company serves approximately 1,000,000 natural gas customers in Brooklyn, part of Queens, and Staten Island, one-twentieth of the customer base of National Grid USA. Currently, KEDNY has whole or partial responsibility for 27 Manufactured Gas Plant (MGP) sites and two federal Superfund Sites. KEDLI is wholly or partially responsible for 29 MGP sites; 16 of these 29 MGP sites are actively managed, while the remaining 13 sites have received a “No Further Action” determination with no ongoing obligation.

National Grid plc stock price is 64.76 per share as of August 30, 2021, with a market capitalization of \$46.8 billion. Its share price is up 19% in the last three years, with a compound annual growth rate of 12% over that time, with a corresponding drop of 23% per year in earnings per share. According to the most recent annual report, the National Grid plc CEO receives \$6,980,230 in total compensation. The top three executives receive a total of \$13,328,650.

The Annual report by National Grid USA indicates the total remediation costs it expects to incur in the US are \$2.4 billion, of which \$1.8 billion is for cleanups in the NG/BUG territory. National Grid lists regulatory assets of \$2.5 billion. A “regulatory asset” includes monies a company expects to collect from gas bills over time. Reporting its cleanup liability (\$2.4B) as having an offsetting regulatory asset (\$2.5B) means NG expects to cover the entire liability with funds collected from US ratepayers.

In the most recent filing for a rate increase request, NG/BUG included following information in its 2019 Revenue Requirements Testimony:

- Over the period 2015 through December 31, 2018, the total O&M costs incurred by KEDNY (BUG) increased from \$401.3 million to \$614.6 million, an increase of \$213.2 million
- In that timeframe, SIR costs (a subset of O&M) increased \$43.2 million over previous estimates
- Testimony of Company Witness Charles F. Willard, KEDNY proposed a base rate allowance consisting of the following three cost components:
  - Forecast MGP-related SIR costs of \$66.088 million in the Rate Year, \$62.635 million in Data Year 1, \$44.915 million in Data Year 2, and \$30.040 million in Data Year 3;
  - \$20 million in each of the Rate Year and Data Years for costs associated with remediation of the Gowanus Canal and Newtown Creek Superfund sites, based on the combined spending on these sites during the Historic Test Year; and
  - A continuation of the current amortization of \$18.521 million annually representing one-tenth of the forecast deferral balance at December 3, 2016

- ***These combined rate base allowances would add up to over \$100 million per year charged to customers, or approximately \$102 per bill.***

NG/BUG currently receives approximately a 9% return on equity, meaning it can claim a profit percentage of 9% on the total expenditures to serve the customers (the rate base). The larger the “rate base” is operationally, the greater the profits. Continuing to add SIR costs into the rate base (as well as potentially new customers) adds to the levels of spending calculated to generate profits.

*Further Gowanus Rezoning Implications*

Although most cleanup remedy and compliance actions brought by regulators are intended to “make the polluter pay,” the financial burden for utility cleanups remain largely with the customers, and shareholders pay little if any of the true cost through foregone profits or other equity financing. The EIS should fully inform the public of possible financial as well as contamination impacts related to National Grid operating and financial factors as they relate to the Rezoning, including:

- Whether Canal water and upland cleanup actions will be affected if National Grid operations are curtailed by the Climate Leadership and Community Protection Act, which mandates an 85% reduction in greenhouse gas emissions by 2050 and thus impacts sales of natural gas.
- Remediation costs incurred by New York City under NYCHA gas purchases
- Whether SIR costs can be allocated from profits going forward, or could National Grid accept a lower ratio of profit (4 or 5%) in order that more funds can be allocated to cleanup from shareholder profits (Share and Shareholder alike)
- Whether developers have to “pay-in” to existing funds and costs as a hook-up or participation fee so that new residents share equally in costs to remediate and restore water and soil assets

Summary

The legal insufficiencies of this D/FEIS are moving beyond the standards for a “hard look” typically evaluated in individual EIS documents to one of repeated misinformation, failed disclosure, and inadequate analysis as a pattern of deception if not outright fraud on the people of New York. In spite of multiple in-depth comments from affected parties across the support/oppose spectrum, the document remains substandard to the point of near fraudulent in its failure to address and evaluate whether the air, land, and water assets of the Gowanus region, the Red Hook sewershed, and the vulnerable populations residing therein, can provide necessary natural asset capacity, and the last can be protected from harm.

The DCP—and ultimately the City Planning Commission—must take the side of people and the planet before conceding public assets to developers and risking the public harm that all now know results. Consistent with the request of Congresswoman Velazquez and Assemblymember Simon, the EIS must be redone before any further action on this rezoning can occur.

Sincerely yours,



Linda LaViolette  
Co-Chair, Outreach Committee  
Voice of Gowanus

Attachments

Cc:

The Honorable Charles Schumer  
The Honorable Kirsten Gillibrand  
The Honorable Nydia Velázquez  
The Honorable Jerrold Nadler  
The Honorable Letitia James  
The Honorable Jabari Brisport  
The Honorable Jo Anne Simon  
The Honorable Marcela Mitaynes  
The Honorable Scott Stringer  
The Honorable Jumaane Williams  
The Honorable Eric Adams  
The Honorable James F. Gennaro  
The Honorable Eric A. Ulrich  
The Honorable Stephen T. Levin  
The Honorable Darma V. Diaz  
The Honorable Brad Lander  
The Honorable Carlos Menchaca  
The Honorable Robert Holden  
Jaime Pinkham, Assistant Secretary of the Army for Civil Works, USACE  
Deanne Criswell, Administrator, FEMA  
Michael Regan, Administrator, USEPA  
Sean W. O'Donnell, Inspector General, USEPA  
Lawrence Starfield, Acting Assistant Administrator, Office of Enforcement and Compliance Assurance, USEPA  
Brenda Mallory, Chair, Council on Environmental Quality, Executive Office of the President  
Cecilia R. Martinez, Senior Director for Environmental Justice, CEQ, EOP  
Matthew Tejada, Director, Office of Environmental Justice, USEPA  
Charles Lee, Senior Policy Advisor, Office of Environmental Justice, USEPA  
Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management, USEPA  
Radhika Fox, Principal Deputy Assistant Administrator, Office of Water, USEPA  
Stephen E. Murphy, Deputy Regional Administrator HUD  
Letizia Tagliaferro, NYS Inspector General  
Basil Seggos, Commissioner, NYS Department of Environmental Conservation  
Sean Mahar, Chief of Staff, Environmental Justice, NYS DEC  
Margot Brown, AVP, Environmental Justice & Equity, Environmental Defense Fund  
Mark Izeman, Senior Director, Natural Resources Defense Council  
Courtney Bowie, Managing Attorney, Northeast Regional Office, Earthjustice  
Suzanne Novak, Senior Attorney, Earthjustice  
Michael Dulong, Senior Attorney, Riverkeeper



**Attachment 1:**

[Letter to Mayor Bill DeBlasio](#) from Congresswoman Nydia Velazquez and Assemblymember Jo Anne Simon, dated September 8, 2021

**Attachment 2:**

[Letter to Chair Marisa Lago](#) from Voice of Gowanus dated September 17, 2021



## **ATTACHMENT 3**

### **VOG Comments to Draft EIS (Submitted August 9, 2021)**

August 9, 2021

Olga Abinader, Director  
Environmental Assessment and Review Division  
NYC Department of City Planning  
120 Broadway, 31st Floor  
New York, N.Y. 10271

Re: Comments — Draft Environmental Impact Statement  
CEQR No. 19DCP157K

As the CEQR lead agency acting on behalf of the City Planning Commission (CPC), the Department of City Planning has prepared a Draft Environmental Impact Statement (DEIS) under 6 NYCRR 617.9(b) and Sections 6-08 and 6-12 of Executive Order No. 91 of 1977 as amended (City Environmental Quality Review) for proposed actions related to the development of the Gowanus Neighborhood Rezoning and Related Actions (hereinafter, “the Rezoning”).

Voice of Gowanus (VoG) is a coalition of multiple community organizations representing the citizens working and residing in neighborhoods surrounding the befouled Gowanus Canal to resolve the many issues directly and adversely impacting the current and future health and safety of their families, residences, neighborhood, businesses, and community organizations, including assuring the ultimate restoration and cleanup of the Gowanus Canal to fishable/swimmable quality standards as the law requires.

VoG considers the Draft Environmental Impact Statement (DEIS) to be deficient in several key areas. Therefore the document fails to analyze sufficient accurate and meaningful data and information necessary to take the “hard look” required by environmental analysis law. VoG provides the following comments regarding changes to, and expansion of, the DEIS issued on April 19, 2021, necessary to provide an environmental impact statement compliant with the provisions of the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQRA) prior to any zoning changes.

Moreover, SEQRA is both a procedural and a substantive law. In addition to establishing environmental review procedures, “the law mandates that agencies act on the substantive information produced by the environmental review.”<sup>2</sup> The Gowanus Canal and its surrounding land area are subject to multiple substantive legal mandates under law and Administrative Order with which New York City has yet to fully comply (or fully demonstrate compliance) regarding remediation and restoration of soil, air, and water assets. The DEIS cannot leave out critical data and information needed for the “hard look” because it may create a need for further compliance action.

The citizens residing, working, or running businesses in the Gowanus Neighborhood do not carry the burden of proving NYC is in violation—federal, state, and local agencies are responsible for that compliance burden, and elected officials are rightly exercising their oversight role when questioning if it has been met. Forcing citizens to spend time and funds to induce government agencies to fulfill their legal obligations to clean and restore the Gowanus Environment before adding further pollu-

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<sup>2</sup> New York State Department of Environmental Conservation (NYSDEC). The SEQR Handbook, Fourth Edition, 2020, p. 3.

tion loading to the system is its own form of injustice that compounds the continued exposure to a toxic legacy of polluted water, air and land.

### Gowanus Neighborhood Rezoning:

#### VoG Draft Environmental Impact Statement Comment Summary

- ◆ No comprehensive or large-scale Rezoning of the Gowanus Neighborhood should occur until the Retention Tanks necessary to control ongoing pollution from Combined Sewer Outfalls discharging to the Gowanus Canal are built and operating as required under the legal mandates of the Superfund Record of Decision
- ◆ No comprehensive or large-scale Rezoning of the Gowanus Neighborhood should occur until the US Environmental Protection Agency (USEPA) independently verifies New York City compliance with the Long Term Control Plan implemented to control Combined Sewer Overflows into the Gowanus Canal and Water Quality Standards Compliance in accordance with its *2001 Guidance: Coordinating CSO Long-Term Planning with Water Quality Standards Review*
  - ◆ *This includes monitoring and data collection sufficient to determine compliance with fecal coliform and other Water Quality Standards consistent with current designation requirements*
- ◆ No Rezoning should occur until USEPA conducts a post-compliance review in accordance with its Guidance noted above and reconsiders whether the Gowanus Canal should be subject to a Total Maximum Daily Load (TMDL) limit for discharges consistent with the Canal's continued status as an Impaired Water under Clean Water Action §303.
- ◆ No Rezoning should occur until the US Department of the Interior, NY State Department of Environmental Conservation, and the National Oceanic and Atmospheric Administration complete the Natural Resources Damage Assessment required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Oil Pollution Control Act of 1990, and the Clean Water Act that resolves the "strong probability that a claim for damages" exists, assesses the damages, and determines liability.
- ◆ No Rezoning of the contaminated parcels comprising or—in the vicinity of—the three former Manufactured Gas Plant sites on the banks of the Gowanus Canal (Citizens, Metropolitan, and Fulton) can occur until:
  - ◆ The parcels are formally recognized and redesignated as Operable Units of the Gowanus Canal Superfund site, as they have effectively been since the Canal was included on the National Priorities List in 2010
  - ◆ The Citizens Manufactured Gas Plant site (also known as Gowanus Green and/or Public Place) is separately reviewed for potential inclusion on the National Priorities list if its soil, air, or water exposure levels meet the Hazard Ranking Score threshold of 28.5
- ◆ No Rezoning of any parcels in the Gowanus Neighborhood should occur without a fully compliant Impact Assessment meeting all applicable requirements under the National Environmental Policy Act, the State Environmental Quality Review Act, the City Environmental Quality Review Technical Manual, and Executive Order No. 91 of 1977
  - ◆ The Draft Environmental Impact Statement for the Rezoning currently under review does not meet applicable requirements for the reasons stated below.

## V. Background: A Unique and Terrible Toxicity

No where inside the boundaries of the New York Metropolitan Area does a neighborhood bear a greater toxic legacy than the environs of the Gowanus Canal. After draining valuable wetlands, the design deliberately created a doubly dirty dual use channel: first, a canal was cut to carry the means and ends of industrial production whose pipes and runoff discharged decades of uncontrolled toxic pollution into the Canal waterway; and second, the Canal water was used as an open sewer receiving billions of gallons of toxic drainage from businesses, homes, and streets both before and after federal law finally mandated wastewater treatment plants and other discharge relief for the poisoned waterways of New York.

From its inception, wet weather events proved too much for the Canal, and coupled with the growth of Brooklyn and the resulting changes in its drainage, the Canal became flooded with mud, sediments, and toxins making it difficult to navigate outside of high tide. Efforts to address water quality date back to the late 1800s, when the City contracted for the design of a tunnel between the head of the Canal and Buttermilk Channel to improve circulation and flush pollutants from the Canal. The intermittent operation of the flushing tunnel provided inadequate dilution for the pollution.<sup>3</sup> The accumulating toxic cocktail present in the water would come to include polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (better known as PCBs, the bane of the Hudson River), pesticides, metals, volatile organic compounds, coal tar, fecal matter and other “floatables,” bacteria, and the equally destructive absence of dissolved oxygen necessary to sustain living organisms.

Even after 1972’s sweeping amendments to the Federal Water Pollution Control Act of 1948, and passage of the Comprehensive Environmental Response, Compensation, and Liability Act in 1980 (“CERCLA,” also known as the Superfund law), New York City actively resisted taking necessary steps to address the continued poisoning of a valuable water asset. In the 1990s, compliance officials launched a major enforcement action against NYC for severe violations of sewage control provisions of the Clean Water Act (CWA), culminating in multiple State Administrative Orders on Consent to reduce Combined Sewer Overflows in 2005 that have been repeatedly modified in 2011, 2012, 2014, 2015, and 2018.

And then finally in 2010—by which time the Gowanus Canal, along with its sister waterway, the Newtown Creek, had earned unique recognition as one of the most polluted waterbodies in the United States—the Canal was finally added to Superfund’s National Priorities List, creating a second enforcement front to ongoing efforts under the CWA to force the City to control the sewage overflows poisoning the water, while also remediating the “Black Mayonnaise” of toxic accumulations in the Canal bed itself. Eliminating the continued discharges of sewer overflow and upland toxic releases into the Canal are mandated under the Superfund Cleanup Record of Decision along with remediating the Canal bed itself.<sup>4</sup>

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<sup>3</sup> Notably, the Gowanus Flushing Tunnel opened for operations in 1911, and may have actually worked too well in its first decade—the New York City Department of Health shut down the last of the Raritan Bay oyster beds by 1927 to stop the spread of typhoid and other contagion spread by water-to-food contamination created by the successful pollution dilution solution.

<sup>4</sup> RECORD OF DECISION, Gowanus Canal Superfund Site Brooklyn, Kings County, New York, United States Environmental Protection Agency Region II, September 2013 (p. ii). <https://casedocuments.darrp.noaa.gov/northeast/gowanus/pdf/Gowanus-ROD.pdf>

## VI. DEIS Deficiencies

### A. Conformance with Law and Due Process

1) *The Rezoning presents a unique form of conflict of interest, requiring special scrutiny of the DEIS*

The Gowanus Neighborhood targeted by this proposed Rezoning includes multiple areas of land and water

**Table 1: New York Rainfall Rates and Levels**

Rainfall Measurement Locations	Year of Measurement	2018 Liquid-Equivalent Precipitation Annual Total (Rainfall Inches)	2019 Liquid Equivalent Precipitation Annual Total (Rainfall Inches)
Central Park	2018	63.43	63.43
LaGuardia Airport	2018	57.55	57.55
JFK Airport	2018	56.17	56.17
Newark Airport	2018	58.18	58.18
JFK Airport (Standard 2008)	1955-2008	46.25	46.25
Central Park	1955-2018	47.35	47.35
LaGuardia Airport	1955-2018	43.15	43.15
JFK Airport	1970-2018	42.37	42.37
Newark Airport	1955-2018	44.33	44.33
Red Hook WRRF Drainage Area	2019	Not Provided	49.55
Owls' Head WRRF Drainage Area	2019	Not Provided	54.44

that are subject to ongoing compliance requirements as a result of multiple enforcement actions tracking back at least to 1992. As this makes NYC both a proponent of this Action and the Respondent in significant open Administrative Orders, compliance with which are effectively a prerequisite to attempting any action that increases the pollution as yet not remediated or controlled.

2) *The DEIS must be revised to comply with the provisions and requirements of the National Environmental Policy Act*

A portion of the Rezoning will affect a group of parcels on the canal banks currently called Public Place, where the City of New York is proposing to allow and facilitate the construction of an affordable housing complex called “Gowanus Green” and a public school. The area is in fact the highly contaminated former Citizens Manufactured Gas Plant (MGP) site being remediated by National Grid under the State Brownfield Program. As fully disclosed by the City of New York in the [Draft Scope of Work \(DSOW\)](#) for an EIS to rezone Public Place for the “Gowanus Green” project in 2008, then NYC lead agency, the Department of Housing Preservation and Development (HPD):

"anticipate[d] the use of federal funding from the U.S. Department of Housing and Urban Development (HUD) including HUD HOME Investment Partnerships

Program to facilitate the construction of affordable housing. It is expected that HOME funding may be utilized at a later date to facilitate the construction of affordable housing on the Project Site. ***Because HPD anticipates the use of federal funding, the Draft Environmental Impact Statement (DEIS) will also include the analyses required under the National Environmental Policy Act (NEPA).*** Under Code of Federal Regulations (CFR) Part 58, HPD has assumed the responsibilities for environmental review, decision-making and action that would otherwise apply to HUD under NEPA.”<sup>5</sup> (Emphasis added)

As confirmed by updates reported for the Brownfield Cleanup in the [Pre-Design Investigation \(PDI\) Work Plan issued July 14, 2021](#), (see Figure 1) and verbal statements on record at the [Gowanus Superfund Community Advisory Group Meeting on July 27, 2021](#), by Michelle de la Uz of the Fifth Avenue Development Corporation, federal funding will again be sought for the development of Gowanus Green/Public Place through Federal Housing and Urban Development Programs.

Figure 1

**PROPOSED AFFORDABLE HOUSING PHASING PLAN**



The Proponents of the Rezoning have problematically suggested that because such federal funding is planned but not yet “secured,” the provisions of NEPA do not apply. Unfortunately, neither the law, NYC’s previous disclosures in the 2008 DSOW for rezoning the same parcels, or current planning support such claims. Therefore, the DEIS must be redone under the requirements of NEPA and Code of Federal Regulations (CFR) Part 58.

**3) The DEIS must include Cooperating and Involved Agencies under NEPA and SEQRA**

Under NEPA (42 U.S.C. 4321 et. seq.), all agencies of the Federal Government are directed to prepare a detailed statement on “the environmental impact of the proposed action.”<sup>6</sup> In addition, that section of the law provides that “[p]rior to making any detailed statement, the responsible federal official shall consult with and obtain the comments of any federal agency which has jurisdiction by law of special expertise with respect to any environmental impact involved.”<sup>7</sup> (Emphasis added)

SEQRA defines an “involved agency” as one that has or will have a discretionary decision to make regarding some aspect of the action. The N.Y. Comp. Codes R. & Regs., Title 6 §617.2 states:

“(t) ‘Involved agency’ means an agency that has jurisdiction by law to fund, approve or directly undertake an action. If an agency will ultimately make a discretionary decision to fund, approve or undertake an action, then it is an “involved agency” notwithstanding that it has not received an application for funding or approval at the time the SEQR process is commenced. The lead agency is also an ‘involved agency.’”

<sup>5</sup> See: <https://www1.nyc.gov/assets/hpd/downloads/pdfs/services/gowanus-green-draft-scoping.pdf>, p. 7.

<sup>6</sup> NEPA Section 102(2)(c)(1).

<sup>7</sup> Ibid.

Federal agencies can be either or both Cooperating and Involved Agencies under NEPA and SEQRA respectively by: 1) granting specific permits; 2) “approving” development actions made necessary by the rezoning; and 3) requirements to assure compliance with multiple enforcement actions against NYC and other responsible parties, and 4) special expertise. Therefore, the Gowanus EIS should include the following agencies as Cooperating and/or Involved parties:

**Table 2: Multiple Sanitary Flow Estimates**

<b>Existing Area Baseline</b>	<b>189,308 GPD</b>
<b>DEIS Text (p. 11-4)</b>	<b>1.29 MGD</b>
<b>DEIS Chart 11-8</b>	<b>1.978 MGD</b>
<b>DEIS Appendix F (Table 3-4)</b>	<b>2.245 MGD</b>

- a. **USEPA:** Due to its highly specialized and vital expertise in remedy development, water quality maintenance, and the significant legal compliance requirements affected by the Rezoning, USEPA must be a party to the EIS, particularly to maintain Compliance Assurance responsibilities under two major federal statutes:

**i. Clean Water Act Compliance Assurance**

Sewage Backup Administrative Order No. CWA-02-2016-3012 (including SPDES permits for the Red Hook and Owls Head treatment plants) to New York City for violations of CWA Section 301 for failed operation and maintenance of its sewage Collection System. Sewer backup complaints have not been appreciably reduced since the Order was issued in 2016.

CWA Section 303(d) Impaired Water Listing: unless the EIS can demonstrate loading from the additive development under the Rezoning can meet restrictions imposed by the 2015 Long Term Control Plan, EPA must reconsider impressing a Total Maximum Daily Load (TMDL) limit.

NYS Department of Environmental Conservation CSO Administrative Orders on Consent:

- Case No. R2-3351-90-12, June 1992 (Updated, 1996)
- Case No. CO2-200000107-8, January, 2005 (modified by “2008 Order,” “2009 Order,” “2011 Order,” “2012 Order,” and “2015 Order,”)

**ii. Comprehensive Environmental Response, Liability and Compensation Act Compliance Assurance (CERCLA, also known as “Superfund”)**

Superfund Record of Decision, September 2013: requires remediation of sediments and source controls

Multiple Retention Tank Administrative Orders on Consent: require the building of two large-scale retention tanks to control the current sewage overloads and exceedances

EPA must be involved in any analysis to assure the additive loading from cumulative development in the sewersheds will not compromise ongoing compliance activities or create impacts in the absence of compliance with the multiple Orders described

- c. **NYSDEC:** The State DEC has filed an Order on Consent (CSO Order Modification to C02-20000107-8; DEC Case No. C02-20110512-25) for violations of Article 17 of the

Environmental Conservation Law and Part 750, et seq., of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York. This order is the enforcement basis for actions and monitoring required by multiple NYC Long Term Control Plans, including for the Gowanus Canal, and NYSDEC participation is needed to avoid authorizing of any action that interferes with legal compliance.

- d. **Federal Emergency Management Agency (FEMA):** Construction pursuant to this Proposed Action will occur in a major New York City floodplain, be subject to resiliency and other floodplain codes and requirements, and potential requiring access to federal and other insurance schema.
- e. **Department of Housing and Urban Development (HUD):** The Lead Agency under NEPA and also an Involved Agency under SEQRA. The full extent to which Federal funds will be used for capital, debt services, or lending leverage must be described in the EIS, as such monies are key to construction and operation. The EIS must also disclose how the proposed action will conform to HUD regulations under 24 CFR Part 58.
- f. **US Army Corps of Engineers (USACE):** 33 USC §407 makes it unlawful to aid, abet, authorize, or instigate a violation of the Rivers and Harbors Act §§ 13 (discharges), 14, and 15. Violators can be found guilty of a misdemeanor under §16 and face fine, imprisonment, or both. The Uplands area around the Gowanus Canal retains significant residual toxic material at depths of 100 feet or more, material that may migrate, leach, or otherwise enter the Canal, a tributary of the East River and New York Harbor, in the course of construction activities required to anchor buildings of the height contemplated on MGP and other contaminated sites. Since it is the duty of District Engineers to take notice of violations and take necessary steps to secure enforcement of the law, the USACE must be an involved party to the EIS to ensure proper analysis prevents aiding, abetting, authorization, or instigation (and upzoning would be clear instigation) of RHA violations.

Without full data, information, and participation of Federal Agencies assuring compliance with multiple enforcement actions ongoing for the Gowanus Canal, its soil environs, and its sewershed systems, the EIS fails to take the legally necessary “hard look.”

Federal Agency designations as “Involved” in the 2008 Gowanus Green DSOW for redevelopment of the Citizens MGP site (discussed above) clearly demonstrate New York City understands the SEQRA law requirements. The 2008 DSOW states that for the Gowanus Green subset rezoning:

“The Proposed Project would require additional city, state, and federal approvals. Specifically, the New York City Department of Parks and Recreation (DPR) will review and approve the proposed open space designs, layout, and furnishings. Discretionary approvals from the New York State Department of Environmental Conservation (NYSDEC) will be required for shorefront protection, new stormwater outfalls to the Gowanus Canal, and stormwater discharges. Federal approvals from the U.S. Army Corps of Engineers (USACOE) will also be required for shorefront protection and new stormwater outfalls to the Gowanus Canal.

When permits and approvals are required from State and federal agencies, these agencies are defined as involved agencies under City Environmental Quality Review (CEQR)/the State Environmental Quality Review Act (SEQRA). Therefore, as the lead agency, HPD will coordinate the environmental review of the Proposed Project with other involved agencies.”<sup>8</sup>

The current rezoning will still require USACE permits for shorefront protection and outfalls, and the DEC approvals are still necessary. However, since 2008, multiple new “approvals” as the term is clearly understood, have been added due to 1) the Gowanus Canal designation as a Superfund site, requiring all development actions be deemed consistent with the Superfund remedy and thus, “approved” by USEPA; 2) NYC was

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<sup>8</sup> 2008 DSOW for Gowanus Green, p. 7.

issued the Sewage Backup Order noted above, which also places assurance approval requirements on USEPA for further development in Owls Head sewershed areas affected by the Rezoning; and 3) the remains designated an “Impaired Water” under CWA Section 303, and USEPA is obligated to approve actions that can interfere with Long Term Control Plan compliance and trigger setting a TMDL.

**Figure 2** compliance the Red Hook and Gowanus Canal

The 2008 DSOW also set out the applicable federal statutes for the Gowanus Green rezoning subset. This legally required transparency stemmed from the recognition that Federal Funds from the Department of Housing and Urban Development would be used, a factor the current Administration has obfuscated, and only recently confirmed in published documents and public statements (see above). Just as in 2008, the following statutes and requirements must be analyzed for the Rezoning because of federal funding NEPA requirements, as well as Federal Agency Involved Status under SEQRA:

- Historic Preservation [36 CFR 800]; Section 106 of the National Historic Preservation Act;
- Floodplain Management [25 CFR 55, Executive Order 11988];
- Wetlands Protection [Executive Order 11990];
- Coastal Zone Management Act [Sections 307(c),(d)];
- Sole Source Aquifers [40 CFR 149];
- Endangered Species Act [50 CFR 402];
- Wild and Scenic Rivers Act [Sections 7(b),(c)];
- Air Quality [Clean Air Act (CAA), Sections 176(c) and (d), and 40 CFR 6, 51, 93];
- Farmland Protection Policy Act [7 CFR 658];
- Environmental Justice [Executive Order 12898];
- Noise Abatement and Control [24 CFR 51 B];
- Toxic or Hazardous Substances and Radioactive Materials [HUD Notice 79-33];
- Siting of HUD-Assisted Projects near Hazardous Operations [24 CFR 51 C]; and
- Airport Clear Zones and Accident Potential Zones [24 CFR 51 D].

The [2017 Final Scope of Work for the Gowanus Canal Combined Sewer Overflow \(CSO\) Facilities Project](#) (the Superfund Retention Tanks) also included a partial list (Figure 2) of “Permits” and “Approvals or Equivalents” that trigger Involved Agency status (see also 2008 DSOW and regulatory references above).

Notably, the list failed to include the Long Term Control Plan as a compliance requirement, even though compliance is required to prevent the otherwise required setting of a Total Maximum Daily Load (TMDL) for all loadings into the Gowanus Canal (also, the Administrative Orders issued under the 2013 Superfund Record of Decision establish approval authority, not “coordination and consultation”).

**4) *The DEIS fails to evaluate cumulative effects/impacts as required by both NEPA and SEQRA***

Under NEPA, environmental “effects or impacts” are changes from the proposed action that are “reasonably foreseeable and have a reasonably close causal relationship to the proposed action,” including those effects that “occur at the same time and same place as the proposed action or alternatives” and may include “effects that are later in time or farther removed in distance from the proposed action or alternatives.”<sup>9</sup>

SEQRA implementing regulations state that all draft EISs must include “reasonably related short-term and long-term impacts, *cumulative impacts*, and other associated environmental impacts” (Emphasis added).<sup>10</sup> The SEQRA Handbook, recently released in its fourth edition, provides further guidance on the requirements for cumulative impact analysis, describing the multiple instances when cumulative impacts can occur:

- when the incremental or increased impacts of an action, or actions, are added to other past, present and reasonably foreseeable future actions

<sup>9</sup> See: 40 CFR §1508.1(g).

<sup>10</sup> See: 6 NYCRR § 617.9(b)(5)(iii)(a).

- a single action or a number of individually minor but collectively significant actions taking place over a period of time
- multiple actions that are in close enough proximity to affect the same resources (examples include construction along a single road segment, hydrological connections, or demands on the same water or sewer system).<sup>11</sup>

Cumulative impacts must be assessed when actions are proposed, or can be foreseen as likely, to take place simultaneously or sequentially in a way that the combined impacts may be significant. Assessment of potential cumulative impact assessment should be done under the following circumstances:

If two or more simultaneous or subsequent actions themselves are related because —

- One action is an interdependent part of a larger action or included as part of any long range plan,
- One action is likely to be undertaken as a result of the proposed action or will likely be triggered by the proposed action,
- One action cannot or will not proceed unless another action is taken or one action is dependent on another, or
- If the impacts of related or unrelated actions may be incrementally significant and the impacts themselves are related.<sup>12</sup>

By any measure, the accumulating sanitary sewage loading to the Red Hook and Owls Head sewershed from ongoing development are effects under NEPA and cumulative impacts under SEQRA. Appendix 1 to these comments includes a compilation of the full buildout in the Red Hook area from upzonings to Downtown Brooklyn and Atlantic Yards. A major upzoning of Governors Island is also underway, and the plain engineering reality is that if more sanitary sewage loading remains in pipes when rain begins, more commingled storm and sewer water will be discharged through CSOs into receiving waters like the Gowanus Canal. The additive loading from the Downtown Brooklyn and Atlantic Yards developments can be as high as 3 million gallons per day (gpd), and another 1 million gpd is forecast for Governors Island. The Gowanus Rezoning DEIS gives conflicting sewage loading data, including stating that total buildout under the Rezoning will add another 2.4 million gpd, of which 1.6 million gpd will load into the Red Hook system (The cumulative impacts of Atlantic Yards to Gowanus is further supported by the actual inclusion of Gowanus CSO effects in Chapter 11 of the [FEIS for Atlantic Yards](#)).

The accumulated loading of these four large-scale developments throughout just the Red Hook sewershed is thus adding almost 6 million gpd to a current flow of 27 million gpd, approximately a 20% increase to a wastewater treatment plant system that relies on in-line storage and other aspects of dry weather sewage system operation to handle wet weather loading, CSO outfalls, and backups in the Gowanus.

USEPA acknowledged this major gap in necessary data disclosure when it called out problems with DEIS calculations in a July 13, 2021 letter to Congresswoman Velazquez:

**Potential Major Permits, Approvals or Equivalent, Consultation, and Coordination<sup>1</sup>—  
Gowanus Canal CSO Facilities**

Agency/Entity	Permit/Approval/Consultation/Coordination
<b>FEDERAL</b>	
U.S. Environmental Protection Agency (USEPA)	CERCLA coordination and consultation
Coastal Zone Management Act	Projects affecting New York's coastal zone must be consistent with the Coastal Zone Management Act, through the New York State Department of State's Coastal Management Program and approved Local Waterfront Revitalization Plans
U.S. Army Corps of Engineers (USACE)	Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act
United States Fish and Wildlife Service (USFWS)	Consultation under Section 7 of the Endangered Species Act; Biological Assessment; Federal Fish and Wildlife Permit
Advisory Council on Historic Preservation	Consultation under Section 106 of the National Historic Preservation Act of 1966
<b>STATE</b>	
New York State Department of State (NYS DOS)	Coastal Zone Management Consistency
New York State Department of Environmental Conservation (NYS DEC)	State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity - GP-D-10-001: erosion and sediment control and post-construction stormwater management in accordance with the stormwater pollution prevention plan (SWPPP)
	Individual SPDES Permit or Application Form NY-2C for Industrial Facilities (Dewatering activities requiring discharge to surface water)
	Modification to a SPDES Permit (Individual Permit) for Discharge of Wastewater from Publicly Owned Treatment Works (NY-2A) to remove inactive outfalls
	Tidal Wetlands Permit
	Long Island Well Permit and Approval of Completed Works
	Protection of Waters Permit Navigable Waters (Excavation or Fill)
New York State Office of Parks, Recreation and Historic Preservation (NYSOPRHP)	Section 401 Water Quality Certification
	Natural Heritage Program Consultation—consultation to determine potential presence of threatened or endangered species listed in New York State
<b>NEW YORK CITY</b>	
New York City Department of City Planning (DCP)	ULURP for site selection, property acquisition, and an amendment to the City Map (street demapping for due diligence—not required to build the Project); and potential site selection and zoning approvals; <sup>2</sup> New York City Waterfront Revitalization Program—Consistency Assessment
<b>Note:</b>	
<sup>1</sup> Includes documentation of regulatory compliance under CERCLA through equivalent review by responsible agencies.	
<sup>2</sup> ULURP for property acquisition and street demapping (Douglass Street) would be required for the Head End Facility. The Owls Head Facility would have a separate ULURP for property acquisition at a later time, and may potentially also require site selection and street demapping actions.	

<sup>11</sup> See: SEQR Handbook, Chapter 4, Section B (NYS Department of Environmental Conservation, 4th Edition, 2020)

<sup>12</sup> SEQR Handbook, Chapter 4.

“As stated above, *EPA has identified apparent errors in some of the DEIS calculations* and will be providing comments on the document. EPA will review the revised calculations once the document is revised to address EPA’s comments. It is expected that retaining additional stormwater on redeveloped lots will change the sewage-to-stormwater ratio in the combined sewer system during rain events by a small degree, *but CSO loading originates from the entire sewershed*, and the local changes derived from the proposed development may not be measurable.”  
(Emphasis added)

The ongoing NYC practice in all its development EISs is to count only marginal increases in dry weather sewage generation against total plant capacity, as if each were separated/segmented unrelated actions. Failing to add up the total additive loading to the “entire sewershed” as USEPA points out amounts to a deceptive incrementalism that both violates cumulative impacts requirements, and indicates the EIS has failed to take a “hard look.”

**Table 3: Combined Sewer Capture Analysis Components 2018-2019**

	Owl’s Head 2019	Owls Head 2018	Red Hook 2019	Red Hook 2018
Drainage Total (acres)	10,078	10,078	3,738	3,738
Combined Sewage Drainage (acres)	9,448	9,448	2,991	2,991
Average Dry Weather Flow (MGD)	81.6	85.6	26.2	32.7
Design Dry Weather Flow (MGD)	120	120	60	60
Maximum Wet Weather Flow (MGD)	244	247	126	125
Permitted Wet Weather Flow (MGD)	240	240	120	120
Combined Sewer Capture Rate (Actual)	74%	71%	92%	85%
Combined Sewer Capture Rate (Standardized)	Not Calculated	68%	Not Calculated	83%

Meanwhile, this accumulated increase in sanitary loadings means less capacity is available to take stormwater flows, leading to potentially larger, longer, and more frequent CSO discharges into the Canal and other outfall locations, many of which are proximate to areas already subject to toxic conditions brought about by environmental injustice.

This need for full effects and cumulative impacts assessment extends to air emissions and solid waste management analysis as well, and may also have significant implications regarding the current DEIS analysis viability for transportation impacts.

**5) *The DEIS Must Fully Disclose All Ongoing Compliance Requirements and Potential Compliance Interference***

Consistent with SEQRA mandates “that agencies act on the substantive information produced by the environmental review,”<sup>13</sup> the evaluation of environmental “impacts” includes identification, disclosure, and analysis of any aspect of a proposed project that is subject to laws, rules, and regulations other than SEQRA, CEQR, or Executive Order 91 process requirements. Actions and effects that extend beyond the impact category and represent potential violations of, or compliance interference with, laws, regulations, Orders on Consent, Administrative Orders, or any other enforcement action issued by Federal, State, or municipal authorities covering the operation and management area of the project must be evaluated and disclosed as part of any hard look taken by the EIS.

In the case of the Rezoning, these include (but are not limited to) requirements under the Clean Water Act, the Clean Air Act, Local Laws 66 and related state and local greenhouse gas control mechanisms, the Comprehensive Environmental Response Compensation, and Liability Act, the Rivers and Harbors Act, and the Stafford Act (as amended). If any action related to the Rezoning would interfere with execution of binding legal orders or decisions, or violate other lawful requirements, the zoning action should not proceed unless and until brought into compliance.

#### ***6) The DEIS Cannot Segment the Proposed Actions***

Segmentation is a parallel concept to cumulative impact analysis. Part 617 of Chapter VI of the Codes, Rules, and Regulations of the State of New York defines segmentation as the division of the environmental review of an action so that various activities or stages are addressed as though they were independent, unrelated activities needing individual determinations of significance. Except in special circumstances, considering only a part, or segment, of an overall action is contrary to the intent of SEQRA. Like insufficient analysis of cumulative impacts, subdividing a project into smaller components to avoid disclosing detrimental effects violates the law.

Arguably, the arithmetic sleight of hand that is the “Reasonable Worst Case Development Scenario” constitutes a form of institutional segmentation embedded in the CEQR Technical Manual.<sup>14</sup> Development that would have occurred “without” the planned action cannot be segmented or excluded from the accumulated effects of an analyzed project. If the air, land, water, population, and economy of an area will be impacted by a proposed action that is additive to activity that will occur without it, then by definition the proposed action is cumulative. The analysis must therefore, provide a hard look at the effects of these accumulating and even compounding results, and not segment them.

The attempt to avoid NEPA review by withholding information on use of Federal Funds at the Gowanus Green/Public Place redevelopment on the Citizens MGP Site is arguably an improper attempt to segment the analysis, and only apply the fully required analysis requirements to a small portion of the project at an unspecified future date. In fact, the development of affordable housing at the Gowanus Green/Public Place site is integral to the entire rezoning as it will be used to satisfy Mandatory Inclusionary Housing provisions that enable the Rezoning.

#### **B. The EIS Process under CEQR**

The customary NYC practice for a EIS follows the procedures of the City Environmental Quality Review (CEQR) which are laid out in the CEQR Technical Manual. It is important to note that this manual is not a promulgated rule or regulation, and is subordinate to requirements of the State Environmental Quality Review Act (SEQRA), New York State regulations (Title 6 of the New York Codes, Rules, and Regulations), adjudicated case law, and in this case, NEPA and its regulations.

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<sup>13</sup> See Note 1 above.

<sup>14</sup> City Environmental Quality Review Technical Manual, Chapter 2, Section B(400)

The CEQR Chapter analysis below focuses on three primary areas—Hazardous Substances, Sewer Infrastructure, and Greenhouse Gases, along with Flood Resiliency (which, although not a formal chapter, is a formidable concern for the buildout under consideration).

### 1) *Hazardous Materials (Chapter 12)*

The Rezoning proposes low-income housing be built on the site of a former manufactured gas plant where less stringent cleanup standards and requirements have been imposed under Brownfield Cleanup procedures than would normally be mandated for a Superfund action under State and Federal law. In addition, dozens more parcels have been identified as having or potentially having contamination present, including two other manufactured gas plants sites whose contamination is affecting the Canal and neighboring areas.

Under the CEQR, a hazardous materials assessment determines whether a proposed action may increase the exposure of people or the environment to hazardous materials, and, if so, whether this increased exposure would result in potential significant public health or environmental impacts. The Technical Manual states that: “The potential for significant impacts can occur when: (a) elevated levels of hazardous materials exist on a site and the project would increase pathways to human or environmental exposures; (b) a project would introduce new activities or processes using hazardous materials and the risk of human or environmental exposure is increased; or (c) the project would introduce a population to potential human or environmental exposure from off-site sources.”

The hazards material assessment of the DEIS is minimal, compartmentalized, and inadequate to address the contamination risk and harm from rezoning and redeveloping on historically contaminated soils designated as Federal and State Superfund Sites overlapping multiple Brown/Blackfields draining into two overburdened sewage systems backing contaminated water up into homes and businesses in violation of one of several ongoing CWA Administrative Orders.

(a) *The DEIS fails to evaluate all the Remedial Investigation and Feasibility Studies conducted for the Manufactured Gas Plant sites to determine exposure risk from disturbance and construction from the Rezoning*

- Page 10-3 of the DEIS indicates that “a standard list of federal and state regulatory databases (per ASTM E1527-13) related to the potential for hazardous materials was reviewed” as part of analyzing hazardous material impacts.
- Although the DEIS indicates “subsurface contamination in the study area is likely to be principally associated with...[c]oal-tar and other contamination migrating from former MGP facilities,” the data and information in key documents such as the 2005 Final Remedial Investigation for Public Place, the full Remedial Investigation and Feasibility Study for the Superfund Cleanup, and other published reports detailing the full extent of the contamination as currently known are not disclosed, discussed, or evaluated in relation to the impacts of allowing significant redevelopment and potential exposure to the Rezoning area.
- Considering the duration and severity of the toxicity and contamination in and around the Gowanus Canal and its Upland areas, page 10-18 of the DEIS rather indifferently concedes that:

***“[a]ny redevelopment involving subsurface disturbance could potentially increase pathways for human exposure to any subsurface hazardous materials present.***

Except for a limited number of sites that are already subject to an (E) designation (or already subject to DEC requirements, primarily those fronting the Canal, such as an administrative order) ***such soil disturbance would likely not be conducted in accordance with all of the procedures*** (e.g., for conducting testing before commencing excavation and implementation of environmental health and safety plans during construction) ***described in the following section.*** However, should petroleum tanks and/or petroleum spills be identified (e.g., during excavation for new foundations), regulatory requirements (including DEC requirements) would need to be followed. Off-site disposal of excess soil/fill would also need to be

conducted in accordance with applicable federal and state requirements.” (Emphasis added)

- The DEIS cannot punt full disclosure and mitigation requirements for redeveloping contaminated land to a perfunctory “regulatory requirements would need to be followed.” This is precisely the type of segmented, kick-the-can-down-the-road invitation to continue ongoing unmitigated impacts that NEPA/SEQRA was enacted to prevent.
- ***Notably, if regulatory requirements had ever been followed in Gowanus, regulators would not be constantly issuing order after order to compel compliance.***
- (b) *The DEIS must include a full analysis of soil characterization, institutional and engineering controls required to prevent exposure, vapor intrusion impacts, operation and maintenance of remedies, and all remedial requirements to prevent harm to human health should parcels be sold or transferred.*
- (c) *The DEIS must also disclose data and information sufficient to demonstrate any future development will comply with the requirements of the 2013 Gowanus Canal Cleanup Record of Decision (ROD) that specifically states:*

“To prevent recontamination of the canal following the implementation of the above-described remedial actions, the upland sources of hazardous substances, including discharges from three former manufactured gas plants (MGPs), CSOs, other contaminated upland areas and unpermitted pipes along the canal, must be addressed prior to the commencement of, or in phased coordination with, the implementation of the selected remedy.”<sup>15</sup>
- (d) *The DEIS must disclose the extent to which the Rezoning Proponent, New York City, has sufficiently budgeted for all remediation and exposure control requirements necessary to allow uses intended by the new zoning designations*
- The DEIS appears to simply assume future compliance with all hazardous material exposure control requirements in the course of any development enabled by the Rezoning, including compliance by the City of New York. However, a clear pattern of compliance failure by the City of New York is already established in the Administrative Records for the multiple enforcement actions under the Clean Water Act, Superfund, and similar provisions of State laws.
- In light of past resistance and protracted cleanup delays, the DEIS must identify and review the funding streams currently budgeted in operations, maintenance, recapitalization and other categories that will remain available to complete the removals, remedies, and/or management practices necessary to comply with outstanding hazardous material compliance actions, and note deficiencies when compared to ongoing cleanup cost requirements.
- (e) *The DEIS fails to sufficiently address data, information, and impact analysis regarding residual toxics at the three MGP sites upland of the Gowanus Canal*
- The requirements to remediate and control upland contamination (including non-aqueous phase liquid (NAPL) and associated polycyclic aromatic hydrocarbons (PAHs) discharged from the MPGs) is also restated in the ROD as a matter of statutory determination. Inadequate remediation could leave hazardous materials subject to rain and flood-based migration, risking re-contamination of the Gowanus Canal in violation of the Superfund ROD, the Clean Water Act, and the Rivers and Harbors Act.
- The DEIS must take a hard look at the potential for continued—and illegal—releases of toxic residuals from the site into the Canal under all applicable laws in conjunction with redevelopment (E.g., according to the Former Metropolitan Works MGP Manufactured Gas Plant (MGP) Program State Superfund (SSF) Program Fact Sheet, June 2020: “No impacts from this site have been identified into the adjacent portion of the Gowanus Canal. ***However, migration of coal tar from this site, in the form of non-aque-***

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<sup>15</sup> The design costs of the in-canal portion of the remediation (dredging and capping of sediments) has been allocated between NYC and twenty other parties.

*ous phase liquid (NAPL), appears to have taken place at depths below the bottom of the canal.”* (Emphasis added)

- The DEIS must also include data and information regarding the consistency with law and regulation across New York State of applying restricted residential zoning (which would permit residential and school uses) on contaminated land, as well as the human health impacts of such land uses.
- The DEIS fails to evaluate the Environmental Justice equities of reusing contaminated land for low-income housing and a school, impacts that must particularly be assessed due to the real risk of New Yorkers in need of affordable housing being less likely to ask for the most basic health and safety protections in fear of being denied access to affordable shelter (see further comments below).

## 2) *Water and Sewage (CEQR Chapter 13)*

As noted in the cumulative impact comments above, the additive sanitary sewage component of Combined Sewer Overflows into the Gowanus Canal from the Red Hook and Owls Head sewersheds have or will grow by at least 20% based on only four major upzonings (and not including all other development growth). Some management practices implemented over the last 20 years, such as additional in-line or tank retention, green infrastructure, and system capacity improvements, have offset a portion of this major and continuing growth.

However, the DEIS as drafted contains multiple data, information and analysis gaps and flaws as well as out-of-date data use causing the current document to fall short of the hard look at the Rezoning required by law:

(a) *Up-to-Date population levels for the Red Hook and Owls Head Sewershed are available to generate sewage flow data and must be used*

- Neither population apportionment methods developed by DEP in 2014 (and used in the LTCP models) or the Appendix F Transportation Analysis Zone (TAZ) modeling (using only lots undergoing rezoning) provide accurate data as to actual population increases in the Red Hook and Owls Head sewersheds since the 2010 census numbers relied on were published
- Actual water use in NYC has only dropped 40 million gallons/day city-wide over the last decade.<sup>16</sup>
  - In addition, the FEIS for the Gowanus Canal Development known as the Lightstone Project on Bond Street states the Red Hook WRRF dry weather flow was 33 mgd in 2009, and notes that project alone added 114,032 gpd of sanitary sewage loading that is cumulative with the Rezoning
  - Appendix F of the DEIS claims the current dry weather flow to the Red Hook WRRF is only 24 mgd (a massive 33% decrease from 2009), in spite of the limited reductions in water use City wide, the addition of 3 inches of stormwater to the area (see below), and at least a 20% increase in water use from various developments
  - The DEIS fails to note if tanks and other mitigation measures required by the Atlantic Yards development have actually been built and could in any way be contributing to the significant reduction in dry weather flow in the face of countervailing flow increases
- The massive development in and around Downtown Brooklyn and Atlantic Yards, other accumulating development and population, as well as increases in commercial, recreation, and tourism populations must all be used to analyze and verify sanitary sewage baselines and analysis conclusions.<sup>17</sup>

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<sup>16</sup> See Water Use Chart here: <https://data.ny.gov/widgets/ia2d-c54m>

<sup>17</sup> Development well in excess of the original 2004 Downtown Brooklyn Rezoning Plan is adding almost 12,000 dwelling units and potentially more than 2 million gallons/day to the Red Hook sanitary sewage loadings compared to the 1,000 additional residences estimated under the 2004 Plan. In addition, by 2030, two redevelopment options evaluated for Governors Island (the “University/Research” and “Mixed Use” Options) are estimated to generate an incremental increase to the Red Hook WWTP of 1,120,856 gpd (+4.15 percent), and 888,456 gpd (+3.29 percent) over the current daily average flow, respectively.

(b) Up-to-Date rainfall levels consistent with current Climate patterns are available to generate accurate stormwater flow data and must be used

- As Table 1 shows, the JFK Airport Standard rainfall level from 13 years ago is entirely superseded by actual rainfall measurements. Rainfall across New York City areas is increasing, and annual rainfall in both the Red Hook and Owls Head areas are substantially above levels applied in various calculations and analysis.
- All sewage and stormwater calculations must use actual rainfall totals to assure the DEIS meets legal requirements for a “hard look” and avoids arbitrary outcomes.

(c) Gallon per Person calculations are inconsistent and arbitrary and fail to provide an accurate hard look

- Actual water consumption in New York City in 2020 was 118 gallons per person, per day (gpd). The CEQR Manual calculates water use and subsequent sewage loading at a rate of 100 gpd. The LTCP calculations used only 75 gpd, and Appendix F wastewater generation calculations assumed 73 gpd used in the segmented “RWCDS lots.”
- No data is included in the DEIS that demonstrates or confirms that presumed “proactive water conservation efforts undertaken by developers in recent projects” have or will further reduce sanitary flow in any significant level given most water conservation gains were made in the 30 years from 1979 to 2009, and have tapered off significantly since.<sup>18</sup>
- In addition, the CEQR Manual is clear as to the gallon per day levels that should be used in calculations.

(d) Combined Sewer System (CSS) Loading Rates in Table 11-4 Assign Arbitrary and Unsupportable Rain Duration Rates

- The DEIS “Flow Volume Matrix: Existing Conditions” (Table 11-4), which purports to show a current baseline flow of stormwater into sub-catchment areas (which happen to coincide with the surface metes and bounds of the Rezoning) contains two major data failures that violate legal and regulatory requirements for NEPA and SEQRA:
  - The delineation of “sub-catchment” areas as the zone of analysis is an improper segmentation of the Red Hook and Owls Head sewer systems that are the proper basis for analysis under both laws, and the CEQR Manual.
  - The presumption that rain inches correspond directly to rainfall durations is misleading. If rain fell according to schedule, the backups and overflows and street inundations seen regularly throughout NYC would not exist—[yet they do](#).

(e) The DEIS fails to accurately identify and assess the knowable impacts from the “original drainage plan” which is a euphemism for 104 acres of the Gowanus Area that NYCDEP has acknowledged have no current sewer system piping or drainage (see also: Wastewater Watershed Facilities Plan)

- Page 16 of Appendix F states that “Any differences in HGLs [hydraulic grade line] due to rezoning projects must be noted and reviewed in detail to assess if those are acceptable based on the original drainage plan for the local sewers.”
- “Original drainage plans” in Gowanus seems to refer to lots along the banks of the Canal comprising the 104 acres that do not drain to any sewer.
  - The last collection grate in the street are located on the west side of Bond Street on the west, and on Nevins Street or 3rd Ave on the east.
  - The modeling of existing conditions needs to specifically address and account for impacts occurring because these 104 acres remain totally unsewered and can drain directly into the Canal, which DEP once acknowledged are not sewerred in Gowanus.

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<sup>18</sup> See Water Use Chart here: <https://data.ny.gov/widgets/ia2d-e54m>

- Notably, the Citizens MGP site (Public Place) doesn't currently drain stormwater into any sewer (a new sewer is projected for the new street on that site in the Rezoning). Sites in what are labeled TAZ Polygon 1584 on page 20 of Appendix F are parking lots that drain to the Canal, as are sites in TAZ 1566 which are located on the banks of the Canal, and this additive load must be factored into wet-weather calculations.
  - New sewer hookup to these sites will bring not just additional sanitary flow into the system but can send stormwater in excess of the required Uniform Stormwater Rule retention/detention rules.
  - The DEIS does not confirm or assess whether unsewered areas will become sewer under the 2012 and/or Unified Stormwater Rules so heavily relied on by Proponents for Gowanus area CWA compliance assurance
- The DEIS must fully disclose the impacts and effects of the Rezoning taking into account the lack of sewerage capture and flow capacity on a significant portion of the Gowanus area
  - In general, the modeling and analysis in Appendix F is unsupported and cannot be considered a valid "hard look" at the impacts to wastewater infrastructure and water quality in the Gowanus Area.
- (f) *The DEIS Analysis Cannot Use Data Presumptions that include Superfund Retention Tank Completion*
- The DEIS estimates Superfund CSO Retention Tank buildout and completion in 2028 in Figure 11-4 in Chapter 11.
  - In the 2015 Long Term Control Plan, NYC adopted analysis that did not consider the tank buildout necessary to meet water quality standards for the Canal, but conceded that meeting reduced levels for Total Suspended Solids (which provide an indicator of likely sediment recontamination) made the tanks necessary.
  - In addition, USEPA first directed NYC to build the tanks in the 2013 Superfund ROD, issued two Administrative Orders in 2014 and 2016 to commence actions for construction, and has now issued a third AO in 2021 with which NYC has largely refused to comply.
  - The ongoing and increasing NYC resistance and delay in tank buildout for 8 years renders any assumption of tank construction completion or operational tank retention capacity in Gowanus CSO calculations arbitrary and capricious in DEIS analysis or Reasonable Worst Case Development Scenarios calculations.
- (g) *Multiple and conflicting CSO Discharge Increases are used in the DEIS and other NYC Reporting*
- See Table 2 Summary of multiple and inconsistent projections of sanitary flow added by project buildout.
  - The inconsistent calculations and assertions of the DEIS regarding additive CSS loading to the affected sewersheds undermines the validity of impact conclusions; the data must be verifiable and accurate before any Rezoning of this magnitude is approved for an already overburdened and degraded natural asset system.
- (h) *The DEIS fails to assess changes to in-line storage and other CSO controls subject to change from cumulative development loading*
- The capacity for in-line storage available as an active measure against CSOs is potentially reduced by cumulative development loading to those pipes, as well as infiltration due to sea-level rise.
  - The DEIS must evaluate the extent to which CSO capacity is reduced by competing users of sewer system capacity or other water management requirements (including increased closure of tidal gates due to climate change), and cannot rely on presumptions of operational efficiency.

- (i) The DEIS fails to include key data on reduction or loss of historic stormwater retention capacity in calculating future CSO events and volumes
- The DEIS relies on presumed retention capacity created under the 2012 Stormwater Rules, and the pending Unified Stormwater Rules.
  - However, throughout the Red Hook and Owls Head sewersheds, development has eliminated historic stormwater detention and retention capacities such as that of the Vanderbilt Train Yards (covered by the Atlantic Yards Project). Although the City has promulgated a new stormwater rule regarding detention and retention, the loss of natural infiltration and/or recharge capacity must be calculated and offset against claims of retention improvement in DEIS calculations.
  - In addition, a recent Canal-side development at 365 Bond Street has alarmingly high pathogen levels in the Canal water nearby; the DEIS should evaluate whether the unintended consequences of the 2012 and pending Unified Stormwater Rules will be incentives for building projects to avoid sewer loadings and avail projects of the option to discharge into the Canal.
- (j) The DEIS fails to disclose and analyze the impacts of the Rezoning on the excessive occurrence of Sewage Backups that remain subject to the 2016 Sewage Backup Administrative Order (AO)
- On page 11-1, the DEIS states: “Ensuring these systems have adequate capacity to accommodate land use or density changes and new development is critical to avoiding environmental and health problems such as **sewer back-ups, street flooding, or pressure reductions.**” (Emphasis added)
  - However, although the DEIS discusses manhole flooding, there is no data or analysis regarding sewer backups or pressure losses causing what NYC admits are “**environmental and health problems.**”
  - In unsupported reliance on full buildout of the Superfund Retention Tanks by 2035, the DEIS claims the number of flooded manholes and total surface flooding surface volume would be reduced between the No Action and With Action conditions should the 2012 Stormwater Rule and the proposed Unified Stormwater Rule actually be complied with in the Project buildout.
    - However, as noted in the 2016 AO issued by USEPA (cited above), the Proponent/Respondent’s Management Report for fiscal year 2013 (July to June) states that approximately 4,221 Confirmed Sewer Backups occurred. And in fiscal year 2014, the Proponent/Respondent reported approximately 3,207 confirmed Sewer Backups in that year’s Report.
    - The AO also noted there were 2,846 confirmed sewer backups reported in fiscal year 2015. However, NYC also reported that in fiscal year 2015 it received over 11,000 Sewer Backup complaints, which includes the 2,846 Confirmed Sewer Backups and significant number of Unconfirmed Sewer Backups.
    - USEPA noted that many of Respondent's Sewer Backups reoccur at the same location within the same year. The ongoing occurrence of thousands of backups per year, including repeat backups, was deemed an indication of continued inadequate operation and maintenance by Respondent in response to grease, debris, and heavy rain causes for the backups.
    - Brooklyn has the second highest number of backups reported among the five boroughs, and the unconfirmed backup reporting remains at well over 3,000 annual reports, the same amount as in 2015 before the order was issued.
  - The DEIS completely fails to take a hard look at the immediate and cumulative effects and impacts, including the admitted environmental and human health problems, of adding multiple rezoning mega-developments and the concurrent increases in sanitary loading that will affect backups in Brooklyn sewer systems and potential compliance interference with the 2016 Backup AO.

(k) DEIS Lacks Adequate Analysis and Disclosure regarding Water Quality Standards Compliance

- According to a Bloomberg Administration Report on New York City’s Wastewater Treatment System,
 

“Heavy metals and other toxic chemicals, such as cadmium and mercury, solvents and pesticides, enter our wastewater treatment plants every day. Many of these substances come from industries and business that dispose of chemicals in their wastewater as part of their regulated industrial processes. They also come from people who use and improperly dispose of hazardous household items such as cleaning products, paints and pesticides. One potential source of lead and copper in wastewater comes from corroding pipes in existing building plumbing systems. Some toxins in wastewater begin as air pollutants that have fallen to the ground and are carried by rain water to our plants and waterways. Wastewater treatment plants cannot destroy all of these substances so they remain in small amounts (still below standards set by the State and federal governments) in the treated wastewater discharged to local waterways.”<sup>19</sup>

These toxic substances remain at full strength in the sewage outfall discharges through CSOs or backing up into homes and businesses.

- The Multiple CSO Control Orders issued to NYC between 1992 and 2012 culminated in the 2015 LTCP for Gowanus (as well as 10 other Plans throughout the City), which NYC maintains only requires meeting Water Quality Standards for pathogens, consistent with the ongoing designation of the upper Gowanus Canal as SD (saline waters usable only for recreation).<sup>20</sup>
- In spite of multiple legal requirements promulgated by and since the 1972 Clean Water Act to make all waters of the United States fishable and swimmable, NYC has failed to upgrade the Gowanus, and continues to apply water quality standards for SD waters from 6CRR-NY §703.3 (e.g., dissolved oxygen: not less than 3.0 mg/L at any time).
- In 2001, USEPA published [\*Guidance: Coordinating CSO Long-Term Planning with Water Quality Standards Reviews\*](#) which provides two methods for implementing CSO control:
  - The “**presumptive approach**” under which achievement of performance criteria such as 85% by volume capture is presumed to meet WQS; or
  - The “**demonstration approach**” for developing and implementing an LTCP that meets applicable WQSs.

The Guidance clearly states that “Both approaches would entail post-construction compliance monitoring to demonstrate attainment of water quality standards.” (p. 3)

- The requirement for post-construction compliance monitoring raises two issues for the legal sufficiency of this DEIS:
  - Any and all data and analysis pertaining to compliance with Water Quality Standards under the RWCDS, other scenarios, alternatives, and models must demonstrate consistency—if not direct sourcing—from the required compliance monitoring.
  - The need to assure demonstrated compliance and validity of CSO control efficacy and accurate use and application of compliance data reinforces the need for USEPA to be a

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<sup>19</sup> ["New York City’s Wastewater Treatment System"](#) New York City Department of Environmental Protection, Document No. 206372 (undated), p. 11.

<sup>20</sup> The inability of NYC to control for the multiple pollutants recontaminating the Gowanus Canal in spite of ongoing presumed Clean Water Act CSO and other discharge controls is viewed as a primary driver of listing the Gowanus as a Superfund site so as to assure actual cleanup.

cooperating and/or involved agency in the DEIS process (the 2001 Guidance was specifically cited and considered applicable to the Gowanus LTCP).

- This Compliance Assurance responsibility cannot be abandoned because the parallel Superfund remediation is ongoing, especially in the face of direct evidence that NYC is neither taking affirmative actions to build the tanks within any timeframe under consideration, to the point of lacking adequate funding for even early stages of construction.

*(l) To the extent the Rezoning proponents are relying on Water Quality Standards to be enforced as Applicable or Relevant and Appropriate Standards (ARARs) to achieve impact conclusions in the DEIS, these ARARs must be identified and analyzed in the DEIS*

- The unexplained but seeming presumption of the DEIS is that both Red Hook and Owls Head WRRFs are achieving 85% capture rates at those plants, and therefore LTCP implementation coupled with the 2012 and Unified Stormwater Rules will effectively prevent or mitigate all potential adverse impacts.
- However, as discussed above, DEIS also presumes Superfund Retention Tank completion, but fails to disclose or analyze the full array of ongoing pollution and impacts completion of the Superfund remedy is expected to mitigate or eliminate necessary for a sufficiently hard look

*(m) The DEIS has not met CEQR requirements to assess the Rezoning effects and impacts to the Red Hook and Owls Head combine sewage and stormwater **system** capacities*

- Chapter 13 of the CEQR Technical Manual requires an EIS analysis to “**assess whether projects undergoing review may adversely affect the City’s water distribution or sewer system....**” which includes the water assets that are the final repository for the effluent constituents (p. 13-1, Emphasis added).
- Recognizing water and receiving waterbodies as key components of the sewershed system is particularly critical for government actions that so directly affect the future water quality of an historically degraded and toxic water asset.<sup>21</sup>
- Comprehensive analysis is also required under CEQR Chapter 13, Section 420.1, which specifically recognizes that significant impacts on WWTPs, interceptors, regulators, and pumping stations may occur if the project would result in:
  - Inconsistency with the provisions of a Consent Order or other applicable regulatory program;
  - Significantly increased wastewater or combined flows that would affect sanitary or combined sewer pumping stations, regulators, or interceptors with limited or no existing capacity; or
  - Loadings that would exceed capacity per specific SPDES parameters and limits.
- At the time of the 2013 Superfund Cleanup ROD, it was understood that the EPA’s cleanup plan required construction of two sewage and storm water retention tanks to significantly reduce CSO discharges from two key locations in the upper portion of the canal specifically because

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<sup>21</sup> The entire purpose of a sewer system is to use water to push and carry toxic material to locations where the toxins can be treated and released back into...water. Additive and cumulative system discharges (particularly toxic bacterial and chemical contaminants contained therein) compound impairment and degradation already affecting water assets such as the Gowanus Canal, which remains on the Clean Water Act Section 303 List of Impaired Waters (UB-EB-1) (1701-0011). USEPA has postponed issuance of a Total Maximum Daily Load (TMDL) cap on CSO discharges as long as the Long Term Control Plan brings the water assets up to statutory quality standards.

these discharges were not being addressed by current New York City upgrades to the sewer system. Without these controls, CSO discharges would re-contaminate the canal after its cleanup.

- For reasons that are not explained, the DEIS is basing most of its sewage infrastructure analysis and impact disclosure on the “average Monthly flow for the 12-month period through March 2017” to the WRRF as both a baseline and depiction of sewer system capacity availability. Not only is more recent data available, but reverting to five-year-old data that bypasses load measurement from multiple developments noted above throughout the sewershed that are adding approximately 20% more residential load, as well as additional large-scale commercial activity such as the Barclays Center, falls short of the hard look required and begs the question as to why available recent data is not used.

(n) *Wet Weather Flows Must Be Fully and Accurately Disclosed and Analyzed*

- The rated wet-weather capacity of the Red Hook and Owls Head WRRFs (amounting to twice the daily dry weather flow or 2xDDWF) are 120 and 240 million gallons per day (MGD), respectively, both of which limits are regularly exceeded, forcing sewage and stormwater into Combined Sewer Outfalls (CSO) feeding the Canal
- Gowanus CSO outfalls discharge 293 million gallons, and two stormwater outfalls discharge 59 million gallons of stormwater annually into the Canal that is not, or can not be, captured and treated by either WRRF under current sewer system design, permit, and capacity limitations
- As Table 3 indicates (derived from actual SPDES reporting), both plants currently capture well below 100% of the actual runoff and sanitary flow occurring in wet weather events.<sup>22</sup>
  - The “capture rates” at both WRRFs has increased, in spite of major increases of sanitary loading from development and population increases, and substantial increases in rainfall levels, such that both plants are “achieving” the presumptive 85% capture rate
  - Notably, the year-on-year increases to both the Red Hook and Owls Head capture rates and decreases to average daily flow rates shown in Table 3 coincide with a change to NYCDEP calculation methodologies in the Annual CSO Reporting that is not explained in the DEIS. The July 2020 CSO Report discontinued use of standardized rainfall rates in the capture rate modeling, and switched to actual rainfall levels for the sewershed analyzed (see Table 2).
  - In spite of multiple change factors affecting flow, including actual measurements exceeding the standard rate year-on-year by 3.30” (Red Hook) and 8.19” (Owls Head); the addition of significant sanitary flows from Barclays Center, Downtown Brooklyn development, and other residential and commercial add-ins; loss of historic retention capability; and changes to in-line storage and tidal operations, both plants reported a lower daily average flow rate into the plants—and increased their capture rates—with no discernible upgrades to either plant’s capacity.<sup>23</sup>
  - Again, the DEIS does not provide any compliance verification of this suggested increase in capture data consistent with USEPA 2001 CSO Guidance

**3) Air Emissions and Greenhouse Gases (Chapters 15 and 16)**

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<sup>22</sup> 14 Wastewater Resource Recovery Facilities SPDES Permits/Combined Sewer Overflows Best Management Practices, ANNUAL REPORTS, Bureau of Water Treatment NYCDEP (January 1, 2018 - December 31, 2018, issued May 2019; and January 1, 2019 - December 31, 2019, issued July 2020). (Hereinafter, “CSO Report”)

<sup>23</sup>According to the US Geological Survey, one inch of rain drops 27,154 gallons of water per acre. Multiplying the inches, gallons falling, and drainage acreage affected (3.30 x 27,154 x 2,991) presents the possible addition of 268 million gallons to the Red Hook system that the SPDES Report is not clear was taken into account in the new calculations.

The Clean Air Act (CAA), as amended in 1990, defines non-attainment areas (NAA) as geographic regions that have been designated as not meeting one or more of the National Ambient Air Quality Standards (NAAQS). When an area is designated as non-attainment by EPA, the state is required to develop and implement a State Implementation Plan (SIP), which delineates how a state plans to achieve air quality that meets the NAAQS under the deadlines established by the CAA, followed by a plan for maintaining attainment status once the area is in attainment. As noted on page 15-8 of the DEIS, the State Environmental Quality Review Act (SEQRA) regulations and the CEQR Technical Manual states that the significance of predicted air emission consequences of a project (i.e., whether it is material, substantial, large or important) should be assessed in connection with its setting (e.g., urban or rural), its probability of occurrence, its duration, its irreversibility, its geographic scope, its magnitude, and the number of people affected.<sup>24</sup> ***“In terms of the magnitude of air quality impacts, any action predicted to increase the concentration of a criteria air pollutant to a level that would exceed the concentrations defined by the NAAQS (see Table 15-1) would be deemed to have a potential significant adverse impact.”***<sup>25</sup> (Emphasis added)

On July 19, 2017, DEC announced that the New York Metropolitan Area (NYMA) is not projected to meet the July 20, 2018 attainment deadline for the criteria pollutant Ozone, and DEC therefore requested that EPA reclassify the NYMA to "serious" non-attainment for that pollutant. EPA reclassified the NYMA from “moderate” to “serious” NAA effective September 23, 2019, which imposes a new attainment deadline of July 20, 2021 (based on 2018-2020 monitored data). On April 30, 2018, EPA designated the same area as a moderate NAA for the revised 2015 ozone standard. SIP revisions are due by August 3, 2021.

(a) *As the “attainment area” for New York is a geographic “setting” and “scope” beyond the immediate area of the Rezoning, the DEIS must evaluate the full cumulative impacts of the Rezoning in conjunction with loading from collocated growth and development occurring throughout the designation-wide attainment areas*

- Although the DEIS claims the Proposed Actions would not have a significant effect on the overall volume of vehicular travel in the metropolitan area, and therefore, no measurable impact on regional NO<sub>x</sub> emissions or on Ozone levels is predicted, the additive emissions from the proposed action to other actions affecting the same attainment area airshed as the Gowanus Area requires cumulative impact analysis for the reasons noted above in Section A
- The requirement for cumulative impact analysis is especially compelling for Ozone, as the NYMA is in Serious Non-Attainment for that pollutant.

(b) *The DEIS fails to take a hard look at whether and how Greenhouse Gas emissions from the Rezoning will be controlled in accordance with reduction requirements under state and local laws*

- Local Law 66 added a new target of reducing citywide GHG emissions 80% by 2050 from the baseline year of 2012.
- The City can claim a 15% greenhouse gas emission reduction from the 2005 baseline, but since registering the lowest output in 2012, greenhouse gas emissions have remained largely constant (with 2019 actually recording higher levels than 2012).<sup>26</sup>
- At the state level, the Climate Leadership and Community Protection Act of 2019 establishes emission reduction limits as well as additional goals to address climate change including:

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<sup>24</sup> See: CEQR Technical Manual, Chapter 1, Section 222, March 2014; and SEQRA Regulations, 6 NYCRR §617.7.

<sup>25</sup> Ibid.

<sup>26</sup> See: NYC Mayors Office of Sustainability, Greenhouse Gas Inventory <https://nyc-ghg-inventory.cusp.nyu.edu>

- Limiting statewide greenhouse gas emissions to 40% of 1990 levels by 2030 and 85% by 2050
- A plan to achieve net zero greenhouse gas emissions across New York State's economy
- 70% renewable electricity by 2030
- 100% zero emission electricity by 2040
- The DEIS lacks the required analysis of these compliance requirements or data and calculations that show planned development will not interfere with compliance with these legal mandates.

(c) The DEIS analysis of state and local greenhouse gas control impacts must also be cumulative

- Like all other fugitive loadings to airshed, sewershed, waterbodies, and other publicly owned natural assets, the analysis of greenhouse gases must include cumulative loadings entering the same air and water systems.

(d) The DEIS presents countervailing/contradictory propositions about resiliency controls that are arbitrary and insufficient to meet “hard look” requirements for a massive project being built in a flood zone

- DEIS Chapter 16 states that “Standards for analysis of the effects of climate change on a proposed project are still being developed and have not yet been defined in CEQR. However, the Waterfront Revitalization Program (WRP) addresses climate change and sea-level rise. The WRP requires consideration of climate change and sea-level rise in planning and design of development within the defined Coastal Zone Boundary (a substantial portion of the Project Area is within that zone). As set forth in more detail in the CEQR Technical Manual, the provisions of the WRP are applied by the New York City Department of City Planning (DCP) and other City agencies when conducting environmental review. The Proposed Actions’ consistency with WRP policies is described in Chapter 2, “Land Use, Zoning, and Public Policy,” and Appendix B.
- The DEIS then asserts: “Since most sites would be developed as a result of the Proposed Actions, but would not otherwise be controlled by the City, and because implementing specific resilience measures for each site prior to design while considering local street and utility elevations and the effect on existing buildings is not practicable, addressing resilience for those sites through the Proposed Actions is not practicable.”
- It further states: “New York City is aware of the potential current and future flooding potential in the Gowanus area, and is considering long-term solutions. The City’s long-term process for addressing coastal flooding risk in New York City may ultimately include large-scale projects providing coastal protection.”
- New York is a vulnerable coastal city—susceptible to storms, sea level rise, flooding, and other adverse climate change effects, especially in areas such as the Gowanus where the natural marsh, stream, tidal exchange and wetland assets best able to ameliorate coastal endangerment have been systemically destroyed.
- There is no evidence presented in the DEIS that NYC, the CPC, the DEP or any other City Agency lacks the authority or capability to control future, foreseeable development in a floodplain subject to superstorms, hurricanes, and rainfall sufficient to makes streets into rivers, all of which can include the industrial and sewage contamination.
- In light of the near decade since Superstorm Sandy, standards for analysis of effects of climate change are overdue, and NYC as a zoning proponent cannot again punt responsibility to provide full disclosure and analysis of these effects because it fails to act as a zoning regulator.

(e) The CPC as proponent of the proposed action is disqualified as the reviewing agency for the Waterfront Revitalization Program Consistency Assessment Form

(f) The DEIS fails to include useful or accurate Waterfront Revitalization and Resilience analysis to meet the hard look regarding Climate Change needed for so vulnerable an area

- The DEIS claims the Proposed Actions would be consistent with the City’s Waterfront Revitalization Program (WRP) and cites a WRP Consistency Assessment Form (WRP #19-036) that was reviewed by DCP’s Waterfront and Open Space Division.
- The Consistency Assessment Form concluded that the Proposed Actions would support the applicable policies of the City’s WRP, but at least 6 sections contained unanswered queries, invalidating its use as sufficient for a hard look under NEPA/SEQRA requirements.
- The DEIS suggests that no one is responsible for assuring all increases in flooding risk created by foreseeable effects of the Rezoning and that indeterminate “long-term solution” are under consideration.

**4) *Flooding and Resiliency (Natural Resources, Chapter 9)***

New York City has dangerously flooded before, and faces continued risk of coastal, tidal, and inland floods, as well as separate or compounding flooding from inadequate sewer system capacity. In Gowanus, coastal, tidal, and urban drainage/flash flooding are, according to the Mayor’s Office of Recovery and Resiliency, “a primary concern”<sup>27</sup> borne out by the experiences of recent hurricanes and severe storms.

*(a) The DEIS chapter assessing Natural Resources confirms the multiple Federal and State statutes with which the Rezoning actions will have to comply, necessitating Cooperating and Involved Agencies in DEIS preparation*

- This list reiterates the significant Federal and State involvement necessary to take the mandated hard look at the full impacts of the proposed mega-Rezoning that necessitates the noted agencies act as Cooperating or Involved Parties.
- The significant implications of assuring ongoing compliance with these statutory and regulatory requirements to prevent adverse impacts is not sufficiently evaluated or analyzed in the DEIS.

*(b) The DEIS fails to assess flood risk occurring from changes to the floodplain, flood water pathways, and/or distribution from high-rise and large-scale structure development near and around the contaminated Gowanus*

- On Page 9-2, the DEIS claims the Proposed Actions would not affect the flood elevation and would not increase risks from flooding in the study area, but does not offer any detailed analysis of the effects of buildout under the upzoned FAR and bulk allowances
- On Page 9-21, the DEIS agains claims, “Development under the Proposed Actions within the floodplain would not affect the flood elevation or increased risks due to flooding in the study area” yet provides no data or analysis comparing the current topography and structures with the topography and structural placement that would occur under the Proposed Action.

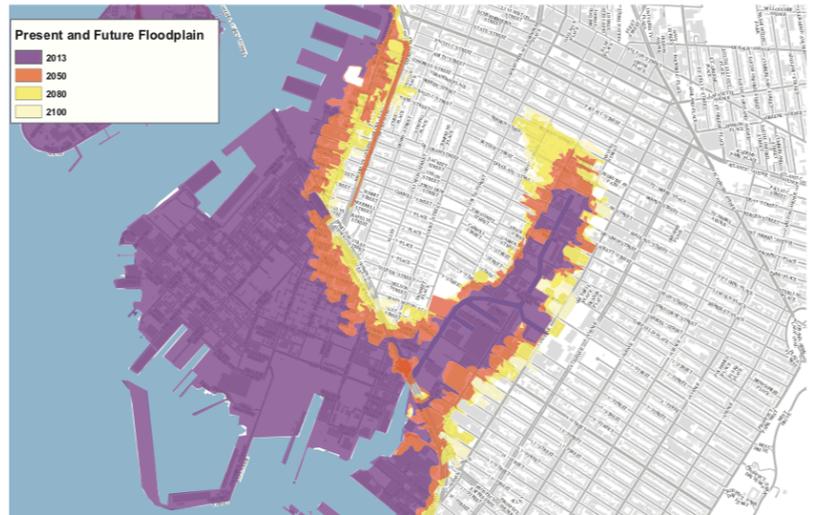
*(c) The DEIS fails to assess impacts to the floodplain and risks to established neighborhoods from changes to the Gowanus Canal embankments and uplands areas from a Waterfront Access Plan*

- The DEIS indicates a planned Waterfront Access Plan (WAP) would modify requirements and standards for public access and modify typical dimensional and grading requirements, permitted obstructions, and design standards for public access, to allow and encourage unique design solutions that are impossible under standard Waterfront Public Access Areas (WPAA) regulations, such as flood-resilient esplanades.
- The DEIS fails to evaluate how this WAP would prevent adverse impacts to surrounding areas in the event of flooding

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<sup>27</sup> See: <https://www1.nyc.gov/assets/planning/download/pdf/plans-studies/gowanus/resiliency-boards-pt1-1216.pdf>

(d) The DEIS fails to evaluate the impacts of the City of New York appeal of FEMA's preliminary flood insurance rate maps on June 26, 2015, following an independent review that claimed scientific and technical errors in the maps.



(e) The DEIS failed to identify or evaluate the impacts of the Rezoning on ongoing compliance with the Rivers and Harbors Act, which DEIS Chapter Nine notes as controlling authority

- Any residual contamination left in the uplands MGPs, or other contaminated land and facilities, is arguably subject to potential violation of the Refuse Act (Section 13 of the 1899 [Rivers and Harbors Act](#)), for ongoing discharges, as well as “any refuse matter of any kind or description whatever” entering the Canal from inundation and flooding.
- Releases into the Canal arguably create and continue conditions that impede navigation of the Canal, including stench, airborne particulates and chemicals, oil slicks, and floating objects, inter alia.

## 5) **Environmental Justice**

(a) The DEIS fails to include the requisite assessment of environmental justice following the guidance of the Council on Environmental Quality, EPA, and HUD

- Actions requiring compliance with the Executive Order 12898 include those in which the Project Site or neighborhood suffers disproportionately from high adverse environmental impacts on low income and/or minority populations relative to the community at large.
- The CPC, DCP, and HPD, as proponents of the Rezoning, are units of general purpose government acting under an assumption of HUD environmental review responsibility, and therefore must comply with the provisions of Executive Order 12898 (1994) to identify and address, to the extent practicable, disproportionately high adverse human health or environmental effects of their programs, policies and activities on minority and low income populations.
- Multiple aspects of the Rezoning, particularly plans to build low-income housing on the former site of a highly contaminated manufactured gas plant, will create potentially significant adverse impacts to sensitive receptors from noise and odors, as well as vapor infiltration from contaminants within a building or underlying soil that may result in significant adverse hazardous materials or air quality impacts.

(b) The DEIS fails to assess impacts to surrounding communities from sewage management practices, particularly communities already subject to environmental injustice conditions

- The extent to which loading from the Rezoning area into the Bond-Lorraine sewer and related interceptor and other Red Hook Sewer system capacity creates CSO discharges in the Red Hook neighborhoods must be assessed

(c) The DEIS fails to identify communities of concern that could be affected by the Rezoning, particularly communities subject to increased or disproportionately high flood risk and resulting adverse human health or environmental effects from the project.

(d) The DEIS fails to evaluate the proposed Rezoning impacts on the Integrated Flood Protection System (IFPS) intended to protect vulnerable Environmental Justice Communities encompassing the project area that remain subject to flood risk from coastal storms and sea level rise

### **6) Inadequate Sewage Analysis Has Been the Basis for Zoning Rejection**

- As recently as December 8, 2020, the Supreme Court in Kings County overturned a rezoning action on the grounds that the proponents had failed to assess water and sewage impacts in accordance with legal requirements.<sup>28</sup> The Court found, in pertinent part:

“[T]he environmental assessment and accompanying applications call into question the sufficiency of the lead agency's examination, analysis and conclusion regarding the environmental effect of the proposed action...and having determined the applications and REAS in this case were rife with inconsistencies and DCP failed to take a hard look at the environmental impacts on water and sewer, the Court need not address the remaining arguments of the parties to determine whether annulment is warranted. Accordingly...the determination of DCP is annulled on the grounds its determination was not rational or supported by the record.”<sup>29</sup>

- Not only might the Rezoning be invalid on sewage adequacy grounds, given the realities of historic City recalcitrance toward cleaning up the Canal, remediating the upland contamination, and attaining WQSs since the turn of the century, a “Hookup Moratorium” may be an appropriate prerequisite to any rezoning action in and around the Owls Head/Red Hook sewersheds pending execution of the Gowanus LTCP, full compliance with the Consent and Administrative Orders (including completed tank construction), and completion of at least the Canal dredging portion of the Gowanus Superfund cleanup.

### **III. Summary**

The Draft Environmental Impact Statement (DEIS) for the Gowanus Neighborhood Rezoning is legally deficient, and fails to take a hard look at the foreseeable effects and impacts of upzoning a neighborhood where the adverse effects of continuous use of the Gowanus Canal as both an industrial dumping ground and unsanitary sewer remains. The failure to accurately disclose critical data to the public, and related analysis and assessment regarding all likely adverse impacts, would disqualify any Uniform Land Use Review Procedure (ULURP) approval action taken.

In spite of multiple separate yet overlapping and intertwined discharge control and cleanup compliance and enforcement orders, the Gowanus remains a sewer canal. The responsibility to follow the law and regulations consistent with Due Process and Compliance Assurance in the Rezoning lies with New York City and the related proponents of the Rezoning. The burden of demonstrating compliance with NEPA, SEQRA, CEQR, CWA, Rivers and Harbors Act, CERCLA (Superfund),

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<sup>28</sup> Matter of Boyd v Cumbo 2020 NY Slip Op 51462(U) <https://law.justia.com/cases/new-york/other-courts/2020/2020-ny-slip-op-51462-u.html>

<sup>29</sup> Ibid, p.11.

Coastal Zone Management Act, Fair Housing Act, and related, applicable state and local law is also squarely on NYC as the Rezoning proponent. Significant changes to the DEIS are necessary before the FEIS is published and Findings can be issued that would legally support the proposed action.

Thank you for the opportunity to submit these comments and participate in the EIS process.

Very truly yours,



Jack Riccobono  
Co-Chair, Outreach Committee  
Voice of Gowanus



Linda LaViolette  
Co-Chair, Outreach Committee  
Voice of Gowanus

Cc:

The Honorable Charles Schumer  
The Honorable Kirsten Gillibrand  
The Honorable Nydia Velázquez  
The Honorable Jerrold Nadler  
The Honorable Letitia James  
The Honorable Jabari Brisport  
The Honorable Jo Anne Simon  
The Honorable Marcela Mitaynes  
The Honorable Scott Stringer  
The Honorable Jumaane Williams  
The Honorable Eric Adams  
The Honorable James F. Gennaro  
The Honorable Eric A. Ulrich  
The Honorable Stephen T. Levin  
The Honorable Darma V. Diaz  
The Honorable Carlos Menchaca  
Jaime Pinkham, Assistant Secretary of the Army for Civil Works, USACE  
Deanne Criswell, Administrator, FEMA  
Michael Regan, Administrator, USEPA  
Sean W. O'Donnell, Inspector General, USEPA  
Lawrence Starfield, Acting Assistant Administrator, Office of Enforcement and Compliance Assurance, USEPA  
Brenda Mallory, Chair, Council on Environmental Quality, Executive Office of the President  
Cecilia R. Martinez, Senior Director for Environmental Justice, CEQ, EOP  
Matthew Tejada, Director, Office of Environmental Justice, USEPA  
Charles Lee, Senior Policy Advisor, Office of Environmental Justice, USEPA  
Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management, USEPA  
Radhika Fox, Principal Deputy Assistant Administrator, Office of Water, USEPA  
Stephen E. Murphy, Deputy Regional Administrator HUD  
Letizia Tagliaferro, NYS Inspector General  
Basil Seggos, Commissioner, NYS Department of Environmental Conservation  
Sean Mahar, Chief of Staff, Environmental Justice, NYS DEC  
Margot Brown, AVP, Environmental Justice & Equity, Environmental Defense Fund

Mark Izeman, Senior Director, Natural Resources Defense Council  
Suzanne Novak, Senior Attorney, Earthjustice  
Michael Dulong, Senior Attorney, Riverkeeper

**Attachment 4:**

*Baselines for Just & Sustainable Development in Gowanus* prepared by Voice of Gowanus and released on March 22, 2021.



[www.VoiceofGowanus.org](http://www.VoiceofGowanus.org)

**New York City Council Subcommittee on Zoning and Franchises  
Written Testimony on the Gowanus Neighborhood Plan**

October 12, 2021

Chair Moya and Council Members,

Voice of Gowanus is a coalition of community groups, concerned citizens and small business owners who have come together to fight for a just and sustainable future for Gowanus. Founders of our coalition include environmental activists who were instrumental in the successful campaign to list the Gowanus Canal as a Superfund site. We are deeply committed to safeguarding the health and safety of current and future residents, and to working to counteract the decades of Environmental Injustice that has so deeply harmed our neighborhood. This longstanding and ongoing abuse of the Gowanus Canal and its environs—one of the most polluted navigable waterways of the United States of America—has led to serious and compounding health and safety impacts for our community, including the 10,000 residents in public housing.

The 82-block rezoning area under your consideration lies substantially in a FEMA Flood Zone A that experienced severe flooding during Hurricanes Sandy and Ida, including the recent tragic death by drowning of local resident Michael Robinson in the flash flooding during Ida. The rezone area also includes 133 documented toxic sites, including multiple manufactured gas plant sites. The City's own sea level rise projections show that future storm events will increase flood risk and the risk of toxic exposure.

Given these and other facts and what the law prescribes, the community has been advocating for months to have relevant state and federal agencies, including EPA, FEMA, DEC, HUD and the Army Corps of Engineers, identify themselves as "Involved Agencies" under the State Environmental Quality Review Act (SEQRA), and "Cooperating Agencies" under the National Environmental Policy Act (NEPA) so that their scientific expertise could be brought to bear on the Environmental Impact Statement (EIS) for Gowanus. Our Congresswoman Nydia Velazquez and NYS Assemblymember Jo Anne Simon have joined the community in demanding that the City re-draft the dangerously flawed Gowanus EIS with the full involvement of relevant agencies, as required by law (See: [Attached letter to Mayor de Blasio](#)). Community Board 2 overwhelmingly voted down this proposal. And EPA submitted formal comments to the City that they have indeed identified flaws, errors, and inconsistencies in the water modeling used by the City in the Gowanus EIS (See: [Attached EPA Comments](#)). This water modeling is fundamental to understanding how new development projects will impact the federally mandated clean-up of the Gowanus Canal, compliance with the Clean Water Act, compliance with the Rivers and Harbors Act, and the increasing risk of flooding and toxic exposure for the community at large due to

climate change, especially those in low-lying legacy buildings, such as the Gowanus Houses NYCHA Campus, which flooded during Hurricane Sandy.

The current EIS simply does not meet the minimum due process requirements for environmental impact review. Please see the formal comments submitted by Voice of Gowanus on the EIS ([Attached](#)), which, along with the comments from EPA, our Congresswoman, Gowanus Neighborhood Coalition for Justice (GNCJ), Gowanus Canal Conservancy, and a host of other community groups and stakeholders, were summarily and illegally ignored by the City and the City Planning Commission during the EIS process.

We ask that you set aside your particular policy positions on development, housing, job creation, and a host of other important issues that proponents of the rezoning will cite, and consider that even if you are in favor of this action, the rezoning will be at significant legal risk unless the EIS satisfies the requirements of state and federal statutes. Without a legally sufficient and comprehensive EIS, you have not been given the impact analysis that would allow you to properly assess this zoning action. And if you vote in favor of this rezoning without being given such analysis in advance, you will be complicit in the City's failures.

As such, we strongly urge you to take a stand for due process and transparency, vote your conscience, and **VOTE NO** on the Gowanus Neighborhood Plan. If you have any trouble accessing the referenced and attached documents or if you have any additional questions, please do not hesitate to reach out to [info@voiceofgowanus.org](mailto:info@voiceofgowanus.org).

Sincerely,



Jack Riccobono  
Co-Chair, Outreach Committee  
[Voice of Gowanus](#)

**ENCLOSED:**

September 8<sup>th</sup>, 2021 Letter from Congresswoman Nydia Velazquez and NYS Assemblymember Jo Anne Simon to Mayor Bill de Blasio: [https://www.dropbox.com/s/9pvfx4jj5msrkyu/Gowanus Rezoning DEIS DCP Letter NV JAS 9-8-21 %281%29.pdf?dl=0](https://www.dropbox.com/s/9pvfx4jj5msrkyu/Gowanus%20Rezoning%20DCP%20Letter%20NV%20JAS%209-8-21%20%281%29.pdf?dl=0)

EPA Comments on Gowanus EIS:

<https://www.dropbox.com/s/xrf707wv0i1yqpc/EPA%20Comments%20on%20Gowanus%20Rezoning%20EIS%2019DCP157K%20and%20Attachment%208-9-2021.pdf?dl=0>

Voice of Gowanus Comments on Gowanus EIS:

[https://www.dropbox.com/s/6xum5hv1xsshda3/VoG FEIS%20Official%20Comments%20Submission CQR%20No.%2019DCP157K.pdf?dl=0](https://www.dropbox.com/s/6xum5hv1xsshda3/VoG%20FEIS%20Official%20Comments%20Submission%20CQR%20No.%2019DCP157K.pdf?dl=0)

Voice of Gowanus *Baselines for Just & Sustainable Development in Gowanus*:

[https://www.dropbox.com/s/89mtmqttseilfrw/Voice%20of%20Gowanus BASELINES long.pdf?dl=0](https://www.dropbox.com/s/89mtmqttseilfrw/Voice%20of%20Gowanus%20BASELINES%20long.pdf?dl=0)

**From:** [Jim Protos](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Opposition to Gowanus Rezoning Plan  
**Date:** Tuesday, October 12, 2021 10:00:11 PM

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To the City Council:

I'm writing to express my opposition to the current Gowanus Rezoning plan and to express my concern that the plan puts local families and their homes at risk from well-documented as well as potential risks and environmental threats.

I side with Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who have expressed serious problems with the City's Gowanus Neighborhood Rezoning to Mayor De Blasio.

City government must safeguard human health and the environment by acknowledging that much of Gowanus is a flood zone and has experienced intense flooding in recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

The City must stop using rainfall flood data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

I urge you to rethink and revise this plan to accommodate for the likely hazards, to protect our citizens, and to vote NO on the Gowanus Rezoning!

Respectfully,

James Protos



Brooklyn, NY 11231

**From:** [Jermaine Gerena](#)  
**To:** [Land Use Testimony](#); [Brad Lander](#); [Council Member Brad Lander](#)  
**Subject:** [EXTERNAL] Climate Justice & the Gowanus rezoning... Please consider the impact to all of us.  
**Date:** Thursday, October 14, 2021 2:41:49 PM

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My name is Jermaine Gerena, and I oppose the Gowanus Rezoning. This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

Regards  
Jermaine Gerena

**From:** [Brady Meixell](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [jsolomon](#)  
**Subject:** [EXTERNAL] Written Testimony for Oct 12 Hearing on Gowanus Rezoning  
**Date:** Friday, October 15, 2021 3:15:57 PM  
**Attachments:** [image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)  
[SBIDC Testimony GowanusRezoning.pdf](#)

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Hi,

Attached you'll find the written testimony of Jesse Solomon (cc'd), executive director of SBIDC, regarding the October 12<sup>th</sup> Subcommittee on Zoning and Franchises hearing. Let us know if you need any additional materials!

Thanks,  
Brady

Brady Meixell  
Economic Development Specialist  
**Southwest Brooklyn Industrial Development Corporation**  
241 41st Street, Brooklyn, NY 11232  
Phone: 718-965-3100 ext. 108  
[www.sbidc.org](http://www.sbidc.org)



**For the latest updates on business assistance resources, programming, and policies regarding COVID-19, click [here](#).**





**Southwest Brooklyn  
Industrial Development  
Corporation**

241 41st Street, 2nd Floor  
Brooklyn, NY 11232  
718-965-3100 fax: 718-577-5858  
[www.sbidc.org](http://www.sbidc.org)

Jesse Solomon  
*Executive Director*

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October 12, 2021

Re: Gowanus Neighborhood Plan (20210052 HAK; 20210053 PPK; 20210177 ZMK;  
20210178 ZRK; 20210179 MMK; 20210180 MMK)

My name is Jesse Solomon and I'm the Executive Director of the Southwest Brooklyn Industrial Development Corporation (SBIDC).

SBIDC is a local economic development corporation whose mission is to provide advocacy and service to help businesses in Southwest Brooklyn grow and create employment opportunities for local residents. On behalf of SBIDC and the more than 1,500 businesses that we serve in Sunset Park, Gowanus and Red Hook, we strongly urge the City Council's Committee on Land Use Subcommittee on Zoning and Franchises to only recommend approval of the Gowanus Rezoning ULURP actions should the City commit to the priority demands of the Gowanus Neighborhood Coalition for Justice (GNCJ).

First, that there is upfront funding for full capital needs at Wykoff and Gowanus Houses; second, that there is net zero combined sewage overflow; and third, that the City support and fund a Gowanus Zoning Commitment Task Force.

Additionally, this rezoning needs to address the local skills gap with targeted multi-year workforce investment and by following through on the city's commitment to the neighboring Industrial Business Zone.

There is a critical need for targeted workforce development, adult education, and local hiring investments to ensure that individuals with barriers to employment benefit from increased local economic activity and investment. Moreover, local businesses in Gowanus have hiring needs and have expressed a skills gap. Council should see the rezoning as an opportunity to reinvest in the community's residents by funding workforce development and business training programs. With the proper investment and programming, the skills gap can be closed and hiring needs can be filled by low- and moderate-income residents in the surrounding community, particularly NYCHA residents. We believe this can be best achieved through City funding across a 10-year period for three various programs each of which, we believe, should be put out to an RFP that should preference local organizations serving these populations currently.

1. The City should provide \$1.5 million annually over 10 years to fund training, bridge programming, and full-time job placement for CD6 residents with barriers to living wage employment with focus on public housing residents and an industrial sector apprenticeship program. Additionally, there should a foundational skills industrial job training for participants aged 18-25 years from Community Board 6, particularly NYCHA residents. Such a program would ready young adults for many of the jobs available in the surrounding community (including new jobs created as part of the rezoning) and address the local skills gap.

2. The City should provide \$200,000 annually over 10 years to fund business training services to local minority and women-owned manufacturers, LMI entrepreneurs, and start-ups to allow them to optimize and grow.

3. The City should provide \$75,000 annually over 10 years to fund the hiring of an additional account manager at Brooklyn's Workforce 1 Industrial & Transportation Career Center. This would facilitate enhanced job placement services in Gowanus, particularly for individuals accessing these new training services.

As acknowledged in the FEIS, a substantial number of businesses will be displaced from Gowanus as a result of rising commercial and industrial rents. We estimate this number to be closer to 50 businesses. As done in prior rezonings, such as with the Greenpoint/Williamsburg Relocation Grant Program and Jerome Ave Relocation Grant Program, it is important for the City to provide a grant that can cover moving costs for these businesses, allowing them to stay in operation elsewhere in the five boroughs. Whereas the Greenpoint/Williamsburg Relocation Grant Program provided for eligible moving costs up to \$50,000, we believe this fund should do so similarly, applying a maximum of \$70,000 (adjusting for inflation). We estimate the cost of administering such a fund to be \$130,000, which covers the cost of a full-time staff member and overhead. We recommend this fund be administered through SBS with the assistance of an on-the-ground community organization that can help market the program to affected businesses and assist these businesses in the application process. Therefore, we recommend \$3.6 million-\$3.63 million be dedicated towards a displaced business relocation fund.

We also believe it critical for the City to follow through on its commitment to its Industrial Business Zones and provide the infrastructure investments necessary to allow the neighboring Gowanus IBZ to thrive and grow. Outdated streetscapes and broadband infrastructure are hampering the capacity of industrial producers in the Gowanus IBZ, harming the competitiveness of the area, and the rezoning will further strain these systems. The City should commit \$5 million to bring high speed broadband access to the Gowanus IBZ by investing in an open-access fiber conduit system in the IBZ Vision Study Area. The Department of Transportation should commit to conducting a mobility study of 3rd Avenue between 9th Street and Hamilton Avenue/16th Street near the entrance to the Gowanus Expressway. This study should consider turning lanes. Additionally, DOT should provide more flexibility around loading requirements by developing "loading and unloading only" and consolidated zones on each block throughout the IBZ with businesses sharing dedicated spots.

SBIDC believes that with the proper workforce development and infrastructure investments into the Gowanus community, this rezoning could serve to strengthen local small businesses and add capacity to the industrial and manufacturing sector that has long served as the backbone of this neighborhood's workforce and equitable growth. We urge the Subcommittee to ensure this rezoning is paired with the proper reinvestments into this community, fully met the capital needs for local public housing, net zero CSO, and a Gowanus Zoning Commitment Task Force.

Thank you.

**From:** [Joanne Gorman Coyle](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Gowanus proposed rezoning  
**Date:** Friday, October 15, 2021 9:45:47 AM

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Gowanus has serious environmental challenges - toxic superfund site from decades of uncontrolled and unmonitored industrial waste discharge, and waters damaged further by untreated sewage due to lack of sufficient City infrastructure.

The people who live in the area of the Gowanus rezoning and will be directly affected by what happens there are the ones who should have the strongest voice in its development. And new development needs to be part of the solution and not contributors to an ongoing problem.

The city can avoid wasting resources and avoid legal challenges by using community hearings as more than a tactic to quell opposition and satisfy a legal requirement.

I support the Gowanus advocates who are fighting for the place they call home. I oppose the current rezoning plan.

Joanne Gorman  
[facebook.com/friendsofsouthstreetseaport](https://facebook.com/friendsofsouthstreetseaport)

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**From:** [Katherine Lewandowski](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony in favor of Gowanus rezoning  
**Date:** Wednesday, October 13, 2021 8:57:24 AM

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To whom it may concern,

It is the moral duty of this committee to approve the rezoning. The evidence is incontrovertible that NYC is facing a major housing shortage that is increasing gentrification in areas of the city without infrastructure, quality schools, or economic opportunity. Rich neighborhoods like Gowanus must build more housing in order to maintain NYC as a beacon of opportunity and innovation. Barring new housing, NYC will only be available to the wealthiest and those with more modest means will be pushed out to the distant suburbs, facing punishing commutes, disadvantaging a generation of children, and further exacerbating an accuse climate crisis. This project should have already been built instead of years spent in endless meetings while the housing crisis only worsens.

Katherine Lewandowski  
Crown Heights

**From:** [Kate Loring](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus rezoning  
**Date:** Tuesday, October 12, 2021 2:22:14 PM

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Hello Councilmembers,

My name is Kate Loring and I oppose the Gowanus Rezoning.

This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes. We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

**From:** [Karen Mainenti](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Written testimony from a Gowanus artist  
**Date:** Tuesday, October 12, 2021 10:25:24 AM

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My name is Karen Mainenti and I am a member of the Gowanus art community, as an artist with a studio in the neighborhood as well as being a member of the board of Arts Gowanus.

The FEIS (final environmental impact study) was highly problematic. The FEIS states:

"Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business".

How do you categorize artists leasing studio spaces as freelancers and how do you know that their studios are not their regular place of business without actually studying them? As an artist and designer, I am established as an LLC and work full time from my Gowanus studio.

This neighborhood is vibrant and desirable for a reason, to not fully examine the impact this rezoning will have on the existing arts community is a huge misstep and an insult to the artists and cultural workers in Gowanus.

In preparation for the rezoning, Arts Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus. This community benefits agreement would provide 200+ subsidized artist work studios to keep Gowanus a thriving creative community

If a signed contract is NOT signed by the time you vote, I strongly urge you to vote NO on the rezoning. Moving forward with the rezoning without an ironclad agreement in place would effectively kill the creative community in Gowanus and make us just one more artist community in New York City that is forced to move and this time is there even a place to go?

If you want to see firsthand what is at stake in this rezoning, I invite you to come see Gowanus Open Studios this weekend, with over 400 artists and 100 locations - there is a lot to lose if a community benefits agreement isn't accomplished. I demand that you vote NO on this rezoning if this CBA is not accomplished.

Thank you,  
Karen Mainenti

**Karen Mainenti**

[kmainenti@gmail.com](mailto:kmainenti@gmail.com) | 917-494-9198

Art | [karenmainenti.com](http://karenmainenti.com)

Design | [karenmainentidesign.com](http://karenmainentidesign.com)

Coaching | [karenmainentipath.com](http://karenmainentipath.com)

Instagram | [@kmainenti](https://www.instagram.com/kmainenti)

**From:** [Kamili Posey](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] NO to Gowanus Rezoning!  
**Date:** Monday, October 11, 2021 4:43:49 PM

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My name is Kamili Posey and I oppose the Gowanus Rezoning. ***This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.*** I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon who told Mayor De Blasio on September 8 that they “**find serious problems with the City’s Gowanus Neighborhood Rezoning.**”

“**Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.**” The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

“**The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.**” NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week, the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the rezoning ***totally ignores those hazards.*** With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need *climate justice* not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Best,

Kamili Posey

**From:** [Kate Sekules](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] NO Gowanus Rezoning  
**Date:** Tuesday, October 12, 2021 8:16:23 AM

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My name is Kate Sekules, I am a local, and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez’s and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “**find serious problems with the City’s Gowanus Neighborhood Rezoning.**”

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.”** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

Yours,

Kate Sekules



**From:** [Karen Klatzkin](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Please vote no on the proposed Gowanus rezoning  
**Date:** Thursday, October 14, 2021 3:04:44 PM

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Dear City Council members:

My name is Karen Klatzkin, and I oppose the Gowanus Rezoning. **This plan puts people's homes, families, and neighborhoods at grave risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “**find serious problems with the City’s Gowanus Neighborhood Rezoning.**”

New York City and its people have already suffered from the effects of climate change, and we just can't move ahead with plans that will only make the situation worse. The city needs to consider the fact that much of Gowanus is in a flood zone; as proof of that designation, it experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook, where the Bond-Lorraine sewer, an environmental justice area, extends.

It is extremely important for the city to act responsibly here, especially since each storm that hits us seems to be more powerful than the last. NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded homes and even killed one Gowanus resident—to assure people that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week, the City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board, or Vote NO on the Gowanus Rezoning!** Thank you.

Sincerely,

Karen Klatzkin

**From:** [Katherine O'Sullivan](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Thursday, October 14, 2021 6:49:10 PM

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To The New York City Council:

I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Katherine O'Sullivan

New York, NY



**From:** [Lauren Bierly](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Testimony  
**Date:** Monday, October 11, 2021 8:38:35 PM

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Dear City Council,

Thank you for the opportunity to share my experience and concern for Gowanus rezoning. My name is Lauren Bierly and I've been a member of the Gowanus arts community for over a decade. I was previously a resident on 3rd Ave and 9th Street for 6 years, which is when I had my first studio and artist residency in Gowanus at Brooklyn Art Space on 7th Street. Since then, I've had three other studios in the Gowanus neighborhood as buildings were turned over before my current studio space on President Street in the heart of the neighborhood and artist community. Gowanus has been my home for the last 12 years, and the reason I stayed is because of the like-minded creatives, warm community, the Gowanus itself providing a plethora of material, and large enough spaces to produce the artwork I make.

I heard about the FEIS (final environmental impact study) on Gowanus and believe there are incredibly problematic points in the report. In particular: "Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business." How do you categorize artists leasing studio spaces as freelancers and how would you know if these studios are or aren't our regular places of business without asking us directly? I'm just home this evening from a 40-hour weekEND (Friday through today, Monday) in the studio, working towards an incredibly important event coming up this next week which defines the success of my forthcoming year. My studio space is my full-time place of business, and I think it is an incredibly ill-advised oversight to dismiss such a vital portion of the Gowanus community.

Some 400 artists participating in Open Studios this coming weekend are your regular visitors to local businesses, restaurants, vendors, fabricators and more, keeping this vibrant community active, open, alive and well. Please recognize the huge group of tax payers this report omits.

This neighborhood is vibrant and desirable for a reason, and to not fully examine the impact this rezoning will cause on the existing arts community is again, an ill-advised oversight and an insult to the artists and cultural workers who make NYC, Brooklyn especially, as vibrant a community as it is.

In preparation for the rezoning, I know Arts Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus. I currently have work on view in one of the partner's showrooms in Gowanus. This community benefits agreement would provide 200+ subsidized artist work studios to keep Gowanus a thriving creative community. **This is fantastic, but please note there are some 400 creatives currently working in Gowanus; half of which may not be guaranteed that space and subsidy with said agreement. This agreement is an absolute minimum.**

If a signed contract is NOT signed by the time you vote, **I strongly urge you to vote NO on the rezoning.** Moving forward with the rezoning without an ironclad agreement in place would effectively destroy the creative community in Gowanus and force us to move to another neighborhood to start from scratch. This is killing our space to produce, and it is killing our network of peer connections.

This coming weekend, October 16th and 17th, please join us for the 25th annual Gowanus Open Studios with over 400 artists and 100 locations to see why rezoning would be detrimental to the arts community of Gowanus. There is a lot of culture to lose if a community benefits agreement isn't accomplished. **I demand that you vote NO on this rezoning if this CBA is not complete.**

Thank you for reading / listening,  
Lauren Bierly

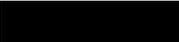
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Lauren Alyssa Bierly  
[laurenbierly@gmail.com](mailto:laurenbierly@gmail.com)  
[www.laurenbierly.com](http://www.laurenbierly.com)

**From:** [Lucy Koteen](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Testimony-opposed  
**Date:** Tuesday, October 12, 2021 11:12:13 AM  
**Attachments:** [Gowanus testimoney city council Oct 12.pdf](#)

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Lucy Koteen  
cell: 

Nothing could be clearer than that this process is backwards. First you clean all the toxins, place the retention tanks in which at best, will be installed by 2030, study the area for some years and then you begin the discussion as to the sustainability of adding 35,000 more people to a toxic flood zone.

This is about water, air, sewer capacity, flood zones, climate change, sea level rise, overwhelming rainfall, people's homes where basements serve as retention tanks for excess water and sewage backs up out of their toilets. This is not about land.

Wisely, Congresswoman Nydia Velazquez and Assemblywoman Jo Anne Simon demand a new EIS because it was obvious that the one done is totally inadequate. Using the 2008 rainfall level measured at JFK airport has nothing to do with the measurement of rainfall in a flood zone where basements saw four or more feet of water in them after Ida.

According to an EPA administrator the parcel of land where low income housing and a school will be placed can never be remediated.

This is about the need for a new paradigm where the city council stops deferring to the local council member because the sewer shed, air, the ocean, rivers and canals do not live in any one district. That absurdity has to stop. Climate change demands that business as usual must stop. Business as usual is the city council members being influenced by the money and pressure placed on them by developers. You must vote the interests of the whole city and not segment parcels into pieces of land under the discretion of one member.

The developers have said that they need to rush this through so they can get their footings in the ground before 421A expires. Hostage taking by developers must stop.

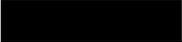
None of you will be here when the children come down with cancer and other diseases.

I call this Love Canal in reverse. First you define the land as toxic and then you build the homes. Ten years later when people get sick the government, meaning taxpayers, pay millions because they permitted this program to go forward despite knowing the land is toxic. Meanwhile, you all have gone on to your next job, probably a government tax payer paid job.

**From:** [Lucy Koteen](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony for Oct 12 Gowanus hearing  
**Date:** Friday, October 15, 2021 11:13:54 AM  
**Attachments:** [Gowanus testimoney city council Oct 12 \(1\).pdf](#)

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Lucy Koteen  
cell: 

Lucy Koteen

██████████  
Brooklyn, NY 11238

lucy.koteen@gmail.com

## Testimony Part 2

Brad Lander and Steve Levin had almost 12 years to get NYCHA the repairs they needed. They could have been raising a lot of noise about it for the last 12 years. Now they are using NYCHA as a pawn to push through an environmental disaster of developing 82 acres in a flood zone with a failed sewer system, and surrounded with toxics. It is immoral the way that they are using NYCHA to promote a project that has nothing to do with NYCHA. The NYCHA residents are being used as pawns by those who are pushing this untimely development through. Perversely the residents in NYCHA were not included as part of the demographic of the area.

Listening to the agencies present at the hearing on October 12th, it was obvious that they know nothing. To every question their answers were speculative. It is all guess work and spin.

Michael DeLoach of DEP "we are optimistic that we can achieve CSO reduction goal..."

"We will figure out ways..."

"DEP intends to monitor if needed..."

"We hope..."

Lander: "we *want* to include CB2 and CB7"

Lander: "NYCHA gets negotiated after approval. It's a flaw in our process."

Lander: Recommends lowering the lot size.

Lander: We will look at new rainwater studies and cloud burst studies. We should look at Red Hook.

Every item is speculative and is clearly "happy talk".

The push is to approve the development and then figure out how to fix and deal with every issue.

This is 100% backwards!

And don't forget that Lander received \$130,000 in contributions from many big developers involved in the project and the big lobbyists in 2017 and then piously declared he is not taking developer money for his run for Comptroller.

<https://pardonmeforasking.blogspot.com/2020/08/councilmember-brad-landers-damning.html>

The only reason this is being pushed through now is because the developers, as they have said, need to get their footings in the ground so they can collect on the 421A tax deferrals. This is nothing more than hostage taking by developers.

Not long ago this area was much more diverse but because of the development pushed through, such as the upscale highrises on Fourth Ave by Council member De Blasio it is less diverse. And now that is used as a talking point. Make it less diverse by pushing through upscale development and then work to make it more diverse artificially and make it look like it is the people who live in the area are to blame.

Climate change has been left out of the equation. Hurricane Ida made it clear how insufficient the EIS is. The city council must demand a new EIS and not be pawns in the game.

Testimony Part 1 delivered orally October 12, 2021

Nothing could be clearer than that this process is backwards. First you clean all the toxins, place the retention tanks in which at best, will be installed by 2030, study the area for some years and then you begin the discussion as to the sustainability of adding 35,000 more people to a toxic flood zone.

This is about water, air, sewer capacity, flood zones, climate change, sea level rise, overwhelming rainfall, people's homes where basements serve as retention tanks for excess water and sewage backs up out of their toilets. This is not about land.

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According to an EPA administrator the parcel of land where low income housing and a school will be placed can never be remediated.

This is about the need for a new paradigm where the city council stops deferring to the local council member because the sewer shed, air, the ocean, rivers and canals do not live in any one district. That absurdity has to stop. Climate change demands that business as usual must stop. Business as usual is the city council members being influenced by the money and pressure placed on them by developers. You must vote the interests of the whole city and not segment parcels into pieces of land under the discretion of one member.

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None of you will be here when the children come down with cancer and other diseases.

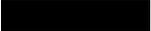
I call this Love Canal in reverse. First you define the land as toxic and then you build the homes. Ten years later when people get sick the government, meaning taxpayers, pay millions because they permitted this program to go forward despite knowing the land is toxic. Meanwhile, you all have gone on to your next job, probably a government tax payer paid job.

**From:** [Lynn Neuman](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Plan Testimony  
**Date:** Friday, October 15, 2021 10:21:22 AM  
**Attachments:** [350BKCouncilTestimony.pdf](#)

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Please see the attached testimony for the Gowanus Neighborhood Plan.

Thank you,  
Lynn

Lynn  


Neuman



TO: New York City Council Subcommittee on Zoning & Franchises  
Francisco Moya, Chair  
Sent Via Email: [landusetestimony@council.nyc.gov](mailto:landusetestimony@council.nyc.gov)

FROM: Lynn Neuman  
350Brooklyn, Steering Committee Member

RE: Gowanus Neighborhood Plan

DATE: October 15, 2021

I am writing to follow up and expand upon verbal testimony given on October 12, 2021. I am a member of the Steering Committee of 350Brooklyn, a community-based organization devoted to reversing climate change and achieving climate justice through local action. 350BK is an organization member of the Gowanus Neighborhood Coalition for Justice. 350BK and GNCJ do NOT support the rezoning unless GNCJ's top 3 demands are met: **full** capital funding for local NYCHA developments; net zero CSOs into the canal; and the creation and funding of the Gowanus Zoning Commitment Task Force.

Environmental justice demands that people of all races, incomes and cultures have a right to a safe quality of life. This is not the case in Gowanus Houses and Wyckoff Gardens, where residents have been living in substandard and often dangerous conditions. To date, what has been offered NYCHA residents by the city is less than a quarter of what is needed. The city's offer pitted Gowanus houses and Wyckoff Gardens against each other and asked the residents to choose between basic human rights, such as mold free homes and safe electrical outlets. These tactics set precedent for the future of us all to choose between basic human rights.

We have been requesting transparency throughout this ULURP around NYCHA funding. An 11<sup>th</sup> hour negotiation behind closed doors is not what the community wants or expects. While perhaps this is how business has been conducted in the past, this is not equitable nor has it engendered good faith.

Regarding CSO's, the City needs to address the limitations of the sewer system through commitments for infrastructure that will address capacity issues. The City must commit to further developing the local sewer modeling to identify critical infrastructure needs, including upgrades to the Bond-Lorraine sewer line and additional sewer separation projects. We do not want to displace a health and environmental hazard on our neighboring Red Hook community and this critically needs attention.

For 10 years the community has been participating with various city agencies, community boards and elected officials around the future of Gowanus. Strong civic engagement needs to continue through the Gowanus Zoning Commitment Task Force. While the city does have a rezoning commitment tracker, it is generally 18-24 months out of date and nearly

incomprehensible to the general lay public. It also acts as a one-way street for information; there is no mechanism for feedback or dialogue with the people who are impacted. The Gowanus Zoning Commitment Task Force should be created and funded to facilitate productive and respectful engagement between government agencies, development entities and a range of diverse community stakeholders, and to ensure that timely updates are reviewed and disseminated to the community in a transparent and accessible manner. Working with locally invested parties produces greater civic support, and a more resilient community.

It is also extremely important that the city invest in community health and social resilience. The Wyckoff-Boerum Hill-Gowanus Farm and Flea Market, also known as Gowanus Produces, does just this and should be funded as part of the Points of Agreement. This market is a new community initiative operating on Saturdays on Wyckoff between Bond and Hoyt, adjacent to public housing. It brings affordable fresh produce to an area of Gowanus that is already food insecure, and provides the opportunity for local makers of arts, crafts and other goods to sell their products, supporting local entrepreneurs. It provides community educational programming in healthy cooking, participatory arts and mentorship in training local residents to run the market and its programs.

The rezoning will only make access to affordable food harder to come by and the potential for storefront opportunities more expensive. Community resiliency requires building connections, and the market provides the opportunity for these connections to be made and to be strengthened. The rezoning would also significantly alter the neighborhood with the potential of fracturing existing communities along economic and racial lines. I strongly urge you to support this community initiative, which is included in the number five priority of the Gowanus Neighborhood Coalition for Justice.

Gowanus faces a high vulnerability heat index linked to a lack of quality green space and tree canopy. Increased density will exacerbate these conditions. While some new green space is being proposed, it will nowhere near meet the minimum area of what the city itself recommends. With climate change, the intensity and length of heat waves is worsening as is the frequency and severity of communicable viruses, like Covid-19, making the need for green space even more urgent.

Gowanus is a flood zone A area which was severely impacted by Hurricane Sandy. The streets of Gowanus are routinely flooded when it rains. With climate change and sea level rise, the incidence and severity of this is intensifying. A resiliency has yet to be developed nearly 10 years following Sandy. The remediation of the canal will take at least a decade to complete. Enabling and encouraging added density into these conditions is not responsible planning.

Given all this, the current plan is not nearly adequate to provide a sustainable way of life for Gowanus residents and in fact, the rezoning encourages people to move into an area that is potentially detrimental to their health and well-being. Minus significant changes to put the people who live here, or will potentially live here, first, I urge you to reject this rezoning.

Thank you for attention and service.

**From:** [Lee Towndrow](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [johnny@artsgowanus.org](mailto:johnny@artsgowanus.org)  
**Subject:** [EXTERNAL] Land Use Testimony - Lee Towndrow  
**Date:** Monday, October 11, 2021 9:30:14 PM

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To Whom it May Concern,

My name is Lee Towndrow and I am a member of the Gowanus art community, I'm a fine artist with a focus in photography, painting, and visual effects. In the ten years that I've been working and contributing to the cultural fabric of both New York and the broader United States, the industrial spaces and art resources in the Gowanus neighborhood have been an invaluable resource for me.

The FEIS (final environmental impact study) was highly problematic. The FEIS states: "Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business".

How do you categorize artists leasing studio spaces as freelancers and how do you know that their studios are not their regular place of business without actually studying them?

I depend on the studio spaces and arts resources in the industrial buildings in the Gowanus area to create my art and contribute economically and culturally both to New York City and the United States more broadly.

This neighborhood is vibrant and desirable for a reason, to not fully examine the impact this rezoning will have on the existing arts community is a huge misstep and an insult to the artists and cultural workers in Gowanus.

If a signed contract is NOT signed by the time you vote, I strongly urge you to vote NO on the rezoning. Moving forward with the rezoning without an ironclad agreement in place would effectively kill the creative community in Gowanus.

If you want to see firsthand what is at stake in this rezoning, I invite you to come see Gowanus Open Studios this weekend, with over 400 artists and 100 locations - there is a lot to lose if a community benefits agreement isn't accomplished. I demand that you vote NO on this rezoning if this CBA is not accomplished.

**From:** [Lane Glisson](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] We oppose the Gowanus rezoning plan  
**Date:** Tuesday, October 12, 2021 4:44:08 PM

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Our names are Lane and Steven Glisson and we oppose the Gowanus Rezoning. **The City's environmental assessment is not accurate or up to date:** it needs to be re-done with involvement from Federal agencies like EPA and FEMA and it needs to plan for the kind of flooding we saw just weeks ago with Ida and Henri instead of using 2008 rainfall data. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon's calls for the assessment to be re-done. Velázquez and Simon wrote a letter to Mayor De Blasio on September 8 stating their concerns:

"We find serious problems with the City's Gowanus Neighborhood Rezoning and accompanying Draft Environmental Impact Statement (DEIS) which is fraught with inconsistencies and contradictions that the U.S. Environmental Protection Agency (EPA) has outlined in its thorough comments on the DEIS."

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record setting storms now being the norm."**

The City has not designed or built the Combined Sewage Overflow holding tanks that EPA ordered for the Canal so we still see raw sewage in the Canal every day, and homes in the area were flooded with raw sewage in the recent storms. Gowanus has dozens of Brownfield sites with serious pollution including former manufactured gas plants with carcinogenic coal tar deep in the soil.

**We need Climate Justice, not more giveaways for Big Real Estate. Please vote NO on the Gowanus Rezoning!**

**From:** [Laura De Nunzio](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] TESTIMONY REGARDING GOWANUS NEIGHBORHOOD PLAN  
**Date:** Friday, October 15, 2021 6:50:42 AM

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I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.  
Sincerely,

Laura De Nunzio

**From:** [Lisa Lightbody](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony regarding Gowanus rezoning  
**Date:** Thursday, October 14, 2021 2:49:04 PM

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Hi New York City Council--

I live on President Street in Gowanus. Although I am in favor of rezoning the area, I am concerned that the current plan is inadequate.

I am concerned with increased combined sewer overflow after rain storms. I worry that the rezoning is happening before the CSO tanks have been built but I also note that these tanks are for current outflow levels and do not account for the increased outflows from the rezoning. I know that the current plan states that the rezoning will decrease such flows, even before the CSO tanks are built, but I find such a conclusion very difficult to believe and there is no plan b should the forecast be wrong.

I am concerned that the rezoning is happening without an upfront commitment to current park areas. Our area does not have a lot of park space and the one park, Thomas Greene, has been underfunded and neglected for years. If there are thousands of more residents coming into our neighborhood we need better and more functional green space. I think we need funding for Thomas Greene and also more public oversight as to how the esplanade along the Gowanus is designed and functions for the whole community, not just twenty-something people who live in high-end condos.

I am very concerned about the lack of investment in NYCHA. I know this has been mentioned by many politicians but we have still yet to see any upfront funding on this. How can we bring so much money into the area and leave our NYCHA neighbors with shockingly inadequate housing?

Finally, I know this concern is overshadowed by other issues, but I am very worried about the loss of light and open air in our neighborhood. Is Gowanus destined to become like Dumbo and Downtown Brooklyn? I am in favor of rezoning and better housing stock but these types of buildings make the area unliveable for those longer term residents who don't live in fancy buildings and get food delivery and have a rooftop deck. Ultimately, it seems like we still aren't building housing for the masses or making areas more liveable for working class families.

I would ask that this plan be paused and that the City be required to rethink several conclusions and aspects of the plan before it is passed.

Thank you for your consideration of my statement.

Lisa Lightbody

**From:** [M. Vern Woodhead](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezone  
**Date:** Thursday, October 14, 2021 11:31:04 PM

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My name is M. Vern Woodhead and I oppose the Gowanus Rezoning. I rehearse in the Gowanus and it is essential for my career as a professional musician. Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. The sewer upgrades in Park Slope, completed just last year were insufficient. Countless homes and businesses thought to be safe, were flooded.

Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council can't vote on this without a new, more adequate EIS. There should be a City-wide plan to protect every neighborhood.

This current plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

For these, and MANY OTHER REASONS, take all of this back to the drawing board or Vote NO on the Gowanus Rezoning!

Thank you,

M. Vern Woodhead II

**From:** [Madelaine Britt](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Rezoning Testimony\_Citizens Housing and Planning Council  
**Date:** Wednesday, October 13, 2021 10:09:25 AM  
**Attachments:** [Gowanus Testimony\\_Zoning Subcommittee\\_CHPC.docx](#)

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To whom it may concern,

My name is Madelaine Britt and I am a policy analyst with Citizens Housing and Planning Council. I am submitting testimony in support of the Gowanus Neighborhood Rezoning on behalf of my organization.

Thank you for your time and feel free to reach out with any questions.

Sincerely,  
Madelaine



**TESTIMONY AT THE GOWANUS REZONING  
BEFORE NYC CITY COUNCIL SUBCOMMITTEE ON  
ZONING AND FRANCHISES  
CITIZENS HOUSING AND PLANNING COUNCIL  
MADELAINÉ BRITT, POLICY ANALYST  
OCTOBER 12, 2021**

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Good afternoon and thank you for the opportunity to testify today. My name is Madelaine Britt, and I am a Policy Analyst at Citizens Housing and Planning Council (CHPC).

CHPC would like to thank the City Council, Community Boards 2 and 6, DCP, and all the other stakeholders involved for their dedication and hard work throughout this process. Rezoning Gowanus was a key recommendation in HPD's *Where We Live* plan to affirmatively further fair housing in New York City. Seeing this rezoning through is a step in fulfilling the City's promise to advance racial equity in our housing stock and neighborhoods.

The proposed plan will increase racial and economic diversity in Gowanus by making the neighborhood more accessible to low-income households and New Yorkers of color. These benefits are highlighted in the recent Racial Equity Report from City Council Land Use, Fifth Avenue Committee, and Columbia University. According to the study, the Gowanus rezoning will result in more than twice the recent rate of new affordable housing and reach deeper affordability levels than would be met otherwise. Only 15 percent of the 13,500 new units that have been built in Community Boards 2 and 6 since 2014 are affordable to low-income households. By contrast, 35 percent of the projected development under the rezoning will be affordable to households earning between 40 and 80 percent of AMI.

In addition to advancing racial equity and fair housing goals, the Gowanus Neighborhood Plan includes key strategies to bolster climate resiliency: creating more open space, remediating environmental hazards and improving sewer and water infrastructure. Yet as we saw from the tragedy wrought by Hurricane Ida, creating a more resilient New York also means building and investing in housing. Until every New Yorker has access to high-quality, affordable housing, occupants of substandard, poorly maintained, and illegal housing will remain at the greatest risk of injury and loss during disasters and climate events.

This includes NYCHA residents, who represent a crucial constituency of the Neighborhood Plan. CHPC applauds Council Members Lander and Levin, Borough President Adams, and the other community leaders and stakeholders who have demanded funding for improvements at Wyckoff Gardens and Gowanus Houses alongside the rezoning. This is a chance for the City to deliver on multiple promises and to put its stated commitments to fair housing into action.

We thank the Committee for its support and would be happy to answer any questions you may have.

**From:** [Smith G](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] GOWANUS NEIGHBORHOOD PLAN ZONING OBJECTION TESTIMONY  
**Date:** Tuesday, October 12, 2021 10:13:21 AM

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My name is Myra Gonzalez, I live at [REDACTED] Brooklyn, NY 11231. It's a corner property and the sign is on the 5th street side. My home is directly across from what you all call Gowanus public place. To us just referred to as the lot. Our parents purchased the building about 1969, we grew up on 5th St. We are 1 of the very few homes that have full time residence in them. I can't speak for the owners of the other properties., but I can tell you that no one has lived on 5th st longer than we have.

Your plan for the Gowanus neighborhood seems to be, on the surface, a racially equitable plan. However in your attempt to be inclusive you have created an exclusive situation for myself and others like me, who are minorities and have lived and worked in this area since we were children. We are Puerto Rican Americans who grew up on 5th St. We still own the house on the corner of 5th St and Smith Street across the street from "public place", the area that is slated for development. It is very nice that you have given me this opportunity to speak my mind because it appears that some of you have not even used Google Maps to take a look around the area where you plan to build. Words like "inclusive, equitable, and racial equality," appear to exclude those of us that have always lived there. I have attended some of your meetings. I have been trying to be included in some of the decisions and even though we own property directly affected by all of your decisions you have made and we have been ignored, and in fact disillusioned by this entire process. If you want to speak about discrimination look at us.

As property owners across the street of where you plan to build this housing, and rezone you have not taken into consideration the people that already live there and the businesses that have been there for decades owned by minorities like us and our parents.

It's great that you want to set goals for the area you will call "public place" but you should not discriminate against those of us that want to be heard yet ignored even though we already live there. We have written emails, made phone calls and did everything we could to try to reach the powers that drive this project. I have gone to meetings, and been ignored every step of the way. I will now use this platform to inform and object to this broad brush of planning. You say you go to community board meetings but when I want to be heard I am suppressed and ignored. To be clear our objection has to do with more than just the zoning it has to do with the lack of inclusion of us by this body.

1-We have an objection:

We have been a commercial industry since it was built in the early 1900's. That is over 100 years we are zoned for manufacturing "M1" and some of our tenants are businesses. We grew up in this building and our parents had businesses in the building. This new zoning that you all are considering is not looking at businesses directly across the street. The zoning is hurting our building and is so general it appears that no one is even looking at "google maps" to see that the train overpass is directly across the street. We have tried many different options to get our particular issue resolved, but to no avail. Our issue has to do with billboards or our door advertising. Our building has had billboards and advertising signs on it since before the train

overpass was built. Our building has had a multitude of types of businesses in the building. Now due to your rezoning we are told we can no longer have our advertising signage. We have had several "objections" listed as reasons as to why we can no longer have our outdoor advertising. The objection states "Section of Code: ZR 42-561. Objections: The advertising sign facing at an angle of less than 165 degrees away from residence district or park boundary". We feel we are being discriminated against because of the points listed below.

Point 1: We have tried to reach out to elected officials and to local leaders to clear this up and each time when asked if they have been to or google mapped the area we were told "no they have not" How then can you make an informed decision if you have not toured the area in question?

Point 2: Existing

If this audience still insists that "The advertising sign facing at an angle of less than 165 degrees away from residence district or park boundary". Then I point to "Outdoor" advertising of a "Lee" ad on the side of a building located on the corner of President Street and 3rd Avenue attached to the side of the "Super 8" hotel 267 3rd Ave Brooklyn. This is much larger advertising on a much newer building and is facing several residences on all sides. On the corner of Union Street and 3rd ave at 562 Union St. there is a very large billboard attached to a residential building facing other residential buildings. On top of a building on the corner of Carroll St and 4th ave there is a very large building facing many residences.

So how can this occur and not be objected to? Our advertising which has never been an issue since the 1920's be objected to. Our building doesn't face any residences right now or in the past. However, now because of the zoning we are told we can't have advertising? This is a mistake that must be corrected. As I drive around our neighborhood I find many examples of this type of discrimination in our area. This is not equitable, and not fair to our minority owned property.

We were never informed of objections to our signage and our building doesn't face any residential properties right now or in the past. The old gas company tanks were there for many years before they were taken down. Our building needs to be grandfathered in, and allowed to have the signage up that has been there for decades.

Point 3: Safety

The safety in this area is also a great concern. With such a large population of new residents it will impact negatively on the already overwhelmed 76 Precinct. We feel such a large development would have Precinct added to the facility. Since Construction started in the lot, vandalism and graffiti has drastically increased, including robberies and Theft. The fear is that additional overpopulation will add to an already bad situation. Over the years we were in the middle point for project wars between Red Hook and Bond Street projects. We are definitely hoping this doesn't kick further issues as well.

Point 3: Sewer system upgrades

I have searched everywhere to find any links to upgrades to the sewer and water systems that must handle this growth in population in these proposals. I don't see this anywhere. Without plans for this and for my next point these plans will fail this neighborhood.

Point 4: Parking

Parking is extremely bad in this area and getting worse all the time. I don't see any plans on accommodating all of the extra parking needs of all of all of the extra people with cars. Offering parking for sale or rent will not alleviate this problem. The reality is people have cars

and so matter how much you want to restrict people from having them or limiting the parking will not stop anyone from having a vehicle. So where is your plan for parking for the new residence of the units you are planning to build?

--

Capicu 423 LLC



Brooklyn, NY 11231

Email: [Capicu423llc@gmail.com](mailto:Capicu423llc@gmail.com)

**From:** [Smith G](#)  
**To:** [Land Use Testimony; capicu423 LLC](#)  
**Subject:** [EXTERNAL] GOWANUS NEIGHBORHOOD PLAN ZONING OBJECTION TESTIMONY  
**Date:** Tuesday, October 12, 2021 10:20:10 AM

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My name is Myra Gonzalez, I live at 423 smith st Brooklyn, NY 11231. It's a corner property and the sign is on the 5th street side. My home is directly across from what you all call Gowanus public place. To us just referred to as the lot. Our parents purchased the building about 1969, we grew up on 5th St. We are 1 of the very few homes that have full time residence in them. I can't speak for the owners of the other properties., but I can tell you that no one has lived on 5th st longer than we have.

Your plan for the Gowanus neighborhood seems to be, on the surface, a racially equitable plan. However in your attempt to be inclusive you have created an exclusive situation for myself and others like me, who are minorities and have lived and worked in this area since we were children. We are Puerto Rican Americans who grew up on 5th St. We still own the house on the corner of 5th St and Smith Street across the street from "public place", the area that is slated for development. It is very nice that you have given me this opportunity to speak my mind because it appears that some of you have not even used Google Maps to take a look around the area where you plan to build. Words like "inclusive, equitable, and racial equality," appear to exclude those of us that have always lived there. I have attended some of your meetings. I have been trying to be included in some of the decisions and even though we own property directly affected by all of your decisions you have made and we have been ignored, and in fact disillusioned by this entire process. If you want to speak about discrimination look at us.

As property owners across the street of where you plan to build this housing, and rezone you have not taken into consideration the people that already live there and the businesses that have been there for decades owned by minorities like us and our parents.

It's great that you want to set goals for the area you will call "public place" but you should not discriminate against those of us that want to be heard yet ignored even though we already live there. We have written emails, made phone calls and did everything we could to try to reach the powers that drive this project. I have gone to meetings, and been ignored every step of the way. I will now use this platform to inform and object to this broad brush of planning. You say you go to community board meetings but when I want to be heard I am suppressed and ignored. To be clear our objection has to do with more than just the zoning it has to do with the lack of inclusion of us by this body.

1-We have an objection:

We have been a commercial industry since it was built in the early 1900's. That is over 100 years we are zoned for manufacturing "M1" and some of our tenants are businesses. We grew up in this building and our parents had businesses in the building. This new zoning that you all are considering is not looking at businesses directly across the street. The zoning is hurting our building and is so general it appears that no one is even looking at "google maps" to see that the train overpass is directly across the street. We have tried many different options to get our particular issue resolved, but to no avail. Our issue has to do with billboards or our door advertising. Our building has had billboards and advertising signs on it since before the train

overpass was built. Our building has had a multitude of types of businesses in the building. Now due to your rezoning we are told we can no longer have our advertising signage. We have had several "objections" listed as reasons as to why we can no longer have our outdoor advertising. The objection states "Section of Code: ZR 42-561. Objections: The advertising sign facing at an angle of less than 165 degrees away from residence district or park boundary". We feel we are being discriminated against because of the points listed below.

Point 1: We have tried to reach out to elected officials and to local leaders to clear this up and each time when asked if they have been to or google mapped the area we were told "no they have not" How then can you make an informed decision if you have not toured the area in question?

Point 2: If this audience still insists that "The advertising sign facing at an angle of less than 165 degrees away from residence district or park boundary". Then I point to "Outdoor" advertising of a "Lee" ad on the side of a building located on the corner of President Street and 3rd Avenue attached to the side of the "Super 8" hotel 267 3rd Ave Brooklyn. This is much larger advertising on a much newer building and is facing several residences on all sides. On the corner of Union Street and 3rd ave at 562 Union St. there is a very large billboard attached to a residential building facing other residential buildings. On top of a building on the corner of Carroll St and 4th ave there is a very large building facing many residences.

So how can this occur and not be objected to? Our advertising which has never been an issue since the 1920's be objected to. Our building doesn't face any residences right now or in the past. However, now because of the zoning we are told we can't have advertising? This is a mistake that must be corrected. As I drive around our neighborhood I find many examples of this type of discrimination in our area. This is not equitable, and not fair to our minority owned property.

We were never informed of objections to our signage and our building doesn't face any residential properties right now or in the past. The old gas company tanks were there for many years before they were taken down. Our building needs to be grandfathered in, and allowed to have the signage up that has been there for decades.

Point 3: Safety

The safety in this area is also a great concern. With such a large population of new residents it will impact negatively on the already overwhelmed 76 Precinct. We feel such a large development would have Precinct added to the facility. Since Construction started in the lot, vandalism and graffiti has drastically increased, including robberies and Theft. The fear is that additional overpopulation will add to an already bad situation. Over the years we were in the middle point for project wars between Red Hook and Bond Street projects. We are definitely hoping this doesn't kick further issues as well.

Point 3: Sewer system upgrades

I have searched everywhere to find any links to upgrades to the sewer and water systems that must handle this growth in population in these proposals. I don't see this anywhere. Without plans for this and for my next point these plans will fail this neighborhood.

Point 4: Parking

Parking is extremely bad in this area and getting worse all the time. I don't see any plans on accommodating all of the extra parking needs of all of all of the extra people with cars. Offering parking for sale or rent will not alleviate this problem. The reality is people have cars and so matter how much you want to restrict people from having them or limiting the parking

will not stop anyone from having a vehicle. So where is your plan for parking for the new residence of the units you are planning to build?

--

Capicu 423 LLC

423 Smith St

Brooklyn, NY 11231

Email: [Capicu423llc@gmail.com](mailto:Capicu423llc@gmail.com)



Google



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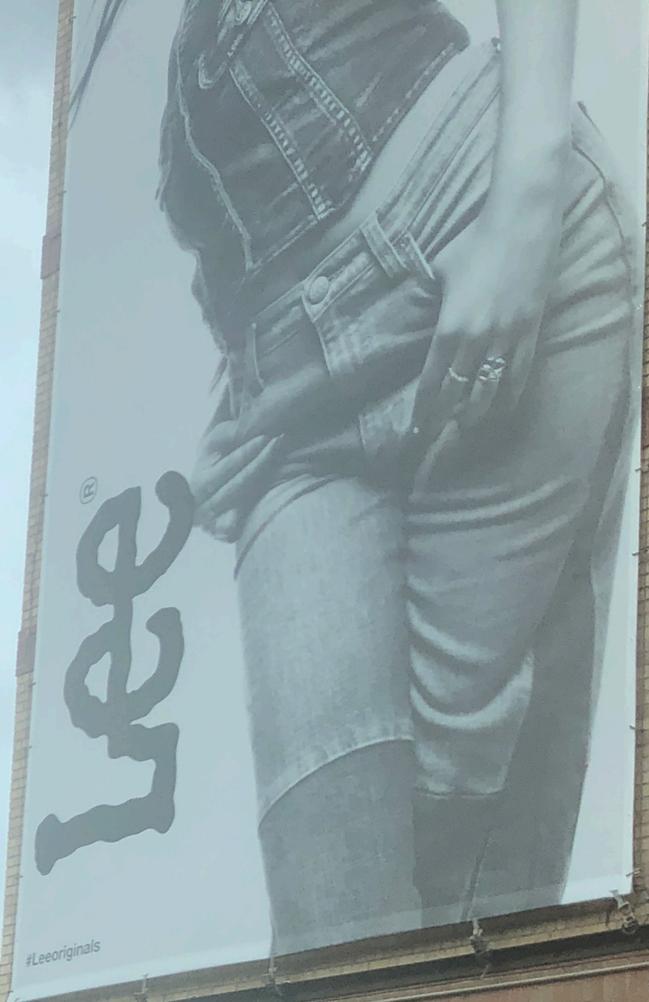
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**From:** [Maria Hodermarska](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony regarding Gowanus Neighborhood Plan  
**Date:** Thursday, October 14, 2021 2:34:10 PM

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## Testimony Regarding Gowanus Neighborhood Plan

I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

--

Maria Hodermarska, MA, RDT-BCT, CASAC, LCAT  
Clinical Associate Professor of Drama Therapy  
Executive Producer, NYU Drama Therapy As Performance Series  
Program in Drama Therapy  
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Preferred pronouns: she/her/hers

Faculty page:

<http://steinhardt.nyu.edu/music/dramatherapy/people/faculty/hodermarska>

Executive Producer NYU Program in Drama Therapy, As Performance Series:

<https://steinhardt.nyu.edu/music/dramatherapy/asperformance>

"Healing justice is an ongoing practice of engaging with our emotional selves that fosters tenderness, liberation and interdependence with others." Yolo Akili

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any printouts, in whole or in part, thereof.  
Thank you.

**From:** [Margaret Maugenest](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Please Vote NO on the Gowanus Rezoning  
**Date:** Monday, October 11, 2021 3:47:50 PM

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My name is Margaret Maugenest and I oppose the Gowanus Rezoning. I have been a Gowanus resident since 1984.

I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning." This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident— to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes. We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

Sincerely, Margaret  
Maugenest [REDACTED]  
[REDACTED]  
Brooklyn, NY 11217

**From:** [Miguel Reyes](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus art community testimony  
**Date:** Tuesday, October 12, 2021 6:47:45 AM

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Hello,

My name is Miguel Reyes and I am a member of the Gowanus art community since 2019, I am a painter trying to make a life as an artist, that is not easy, think is the same thing for most of the artists. I came to this city specially to be part of the Gowanus art community, I had been showing my artwork in a small local art gallery call la Bodega Gallery, that unfortunately disappeared, I participate in the drawing sessions in the same community, now I have my art studio at Brooklyn Neighborhood Arts in Gowanus, here I paint every evening after a hard work journey in construction just to keep doing what I love, in the best art community I have found. Next weekend I will be part of the artist open studios and would like to continue being part of this because NYC Art makes more interesting NYC.

That's what I say NO to the rezoning. We need each other.

Thank you.

Miguel Reyes

**From:** [matthew spitzer](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] please vote NO on the Gowanus rezoning proposal  
**Date:** Monday, October 11, 2021 10:12:42 PM

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My name is Dr. Matthew C. Spitzer, MD and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at unnecessary and increased risk from environmental impacts.**

I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon's conclusions, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

The City needs to account for the fact that much of Gowanus is a flood zone and has inadequate sewer and drainage systems, and experienced flooding, drainage backups, and/or other water entry into our home at 447 Sackett Street as well as the homes of many too many of our neighbors in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Vote NO on the Gowanus Rezoning! We need a more thoughtful, more considered, better and more just plan for our neighborhood, and for all of us.**

Sincerely,

**Matthew C. Spitzer, MD**

**██████████ Brooklyn, NY 11231**

**From:** [mac thayer](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Comment on Gowanus Rezoning Proposal  
**Date:** Friday, October 15, 2021 10:41:22 AM

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Our group (Gowanuslands.org) believes that DCP and NYC have thus far failed to follow applicable NYS law with respect to Block 471, Lot 1 in the rezoning area. This site likely qualifies as implied municipal parkland per the 1974 CPC zoning resolutions (protecting the site for open space and recreational uses, transferring to Parks Dept. etc.). As such we believe NYS approval is required before a zoning action can be enacted, per NYS Law on Parkland Alienation. Please see attached NYS handbook on Parkland Alienation: <https://parks.ny.gov/documents/publications/AlienationHandbook2017.pdf>

We request that the City Council committee solicit feedback and clarification from DCP with respect to the applicability of the Parkland Alienation law to Block 471, Lot 1 in the rezoning area, before proceeding with a vote on this issue. We have requested clarification from DCP several times without success and would appreciate feedback from DCP and/or City Council. We would be happy to provide more information and the 1974 documentation if helpful.

Best,

Mac

--

Mac Thayer  


**From:** [marge othrow](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] NO REZONING OF GOWANUS  
**Date:** Thursday, October 14, 2021 3:09:54 PM

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I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

Marge Othrow  
Brooklyn, N.Y.

**From:** [Martin Bisi](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Plan- Additional testimony - Can Factory  
**Date:** Thursday, October 14, 2021 3:22:00 PM

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Hi, i testified via Zoom at the hearing  
I'm Martin Bisi, owner of BC Studio (music recording) in Old American Can Factory since 1979

I need to point out that i, along with other commercial tenants in Can Factory are not in agreement with the current owners and operators, on their desired change to the rezoning application/authorization

Several people from Can Factory management advocated building much higher on the lot. This will surely displace dozens of artist and small business, including BC Studio - and in particular those who are in the un-landmarked portion of the building complex (about 1/2 of the 300 workers in Can Factory are in the un-landmarked section) And in the case of BC Studio, there would be the erasure of a space that's historic in NYC musical history -recording early Hip Hop, Herbie Hancock, Jazz, Indie Rock etc

The management testified that this is necessary to avoid the building being sold. I maintain that even though that's a possibility, their remedy -the building of this tower, necessitates and guarantees our displacement

So i hope that you do not request that DCP grant the Can Factory's request

Thank you'  
Martin Bisi - BC Studio/Gowanus

**From:** [mary\\_hedge](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Cc:** [info@voiceofGowanus.org](mailto:info@voiceofGowanus.org)  
**Subject:** [EXTERNAL] Gowanus Plan  
**Date:** Thursday, October 14, 2021 3:45:28 PM

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Coastal cities like New York are suffering from the combination of rising sea waters and heavy rain storms. We need City government to implement serious and sensible measures to mitigate the effects of these weather conditions in the most vulnerable places. One of these is the Gowanus Canal area where flooding even before the recent storms of this summer was frequent and consequential. Laying down more concrete areas is just the opposite of what the City should be doing. We need natural areas for the storm water to run off.

It was so obvious years ago that if the City had set aside a small area of the Gowanus for marshland, the water run-offs would have been ameliorated. Why can't City government be leaders? Why do WE have to drag you into facing up to the consequences of storm and rising sea waters? You have the knowledge and know-how, or can get it, we don't. We have to think about where water goes in the Canal area, where it could get diverted to or stored, if it could be slowed down. We changed the land over a couple of centuries, now we have to heal it and ourselves, not build concrete towers that will scar it all over again.

Mary Hedge



**From:** [Matvei Yankelevich](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony Regarding Gowanus Neighborhood Plan  
**Date:** Thursday, October 14, 2021 3:02:47 PM

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As an artist working in the Gowanus area for 15 years, I write to you to urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

Matvei Yankelevich

**From:** [michael newton](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Re: Gowanus rezoning plan  
**Date:** Thursday, October 14, 2021 4:17:21 PM

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*To Whom It May Concern,*

*My name is Michael Newton, and I am an editor at Ugly Duckling Presse, in the Old American Can Factory in Gowanus, Brooklyn, we have had our offices for fifteen years. Myself and fellow staff members are concerned and upset about the current rezoning plan.*

*Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council cannot and should not vote on this without an adequate EIS. As you know, the Council itself passed legislation last week requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year were insufficient, and do not want to repeat these mistakes.*

*The Council should not vote on this now and should send it back to City Planning Commission, but if they do vote, they should vote NO.*

*Thank you for your time,*

*Michael Newton*

--

Michael C. Newton

**From:** [Michael Thornton](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning testimony  
**Date:** Thursday, October 14, 2021 10:46:56 AM

---

Dear Members of the Land Use Committee:

I am a resident of Brooklyn's Community Board 6, and wanted to testify in support of the Gowanus rezoning proposals that were the subject of your hearing on 12 October 2021.

I live just three blocks from the Gowanus Canal. I am also an academic historian specializing in the history of urban growth and urban society, so the Gowanus rezoning process has been personally and professionally interesting over the past months and years. I testified in favor of the Rezoning to both the local community board and to Borough President Eric Adams, because I believe the rezoning would be a first step to rectifying the history of restrictive zoning and segregation that has characterized development in New York, particularly since the 1961 zoning changes, and the more recent downzonings of Carroll Gardens and nearby wealthy areas. I also believe that creating denser urban neighborhoods is essential to our global fight to reduce carbon emissions and create healthier, denser, and more sustainable cities.

There is one feature of the Gowanus rezoning plan and EIS that neither the CB6 resolution nor BP Adams' set of conditions fully addresses. I had hoped that their resolutions would include a more robust commitment to widening sidewalks, discouraging private vehicle ownership, and promoting cycle and pedestrian use. This could be achieved by eliminating parking minimums in all development, for example, or introducing car-light and car-free streets throughout the district.

Cities around the world have begun to redesign neighborhoods around humans, not cars, and Gowanus--particularly given its fragile ecosystem--could be a flagship place for New York to demonstrate a new way of organizing urban space. The RPA's recent [report](#) on reimagining the right of way in New York City draws on many of those overseas examples and offers an exciting vision for how our streets might do more than simply store or move private vehicles, which is their dominant role in this district today. The proposals for pedestrianizing parts of SoHo put out by the local BID there offer one model for what this could look like. I hope that the City Council will push for an even greater emphasis on reducing automobile use, increasing accessibility, promoting walking and cycling, and reducing our area's carbon footprint.

I urge you to approve this rezoning plan in a way that sets a new standard for denser, less segregated, more climate-friendly urban growth, not only in New York City, but across the nation and around the world.

Sincerely  
Michael Thornton



Brooklyn, NY

**From:** [Nora Almeida](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Plan Testimony Oct 12th Hearing  
**Date:** Monday, October 11, 2021 3:55:12 PM

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To: Members of the City Council Subcommittee on Zoning and Franchises

I'm a resident of Gowanus and an environmental activist and I'm writing to express my opposition to the Gowanus Rezoning and to ask you to vote no on this rezoning proposal at the Oct 12th hearing.

There are a number of problems with this rezone but the most pressing is that the city's environmental assessment is not accurate or up to date: it needs to be re-done with involvement from Federal agencies like EPA and FEMA and it needs to plan for the kind of flooding we saw just weeks ago with Ida and Henri (I had flooding in my home and watched as my neighbors in basement apartments spent days bailing out from these storms). The EIS uses 2008 rainfall data in spite of the fact that more recent, accurate data and projections exist. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon's calls for the assessment to be re-done. Velázquez and Simon wrote a letter to Mayor De Blasio on September 8 stating their concerns:

"We find serious problems with the City's Gowanus Neighborhood Rezoning and accompanying Draft Environmental Impact Statement (DEIS) which is fraught with inconsistencies and contradictions that the U.S. Environmental Protection Agency (EPA) has outlined in its thorough comments on the DEIS."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment. The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area."

"The City needs to do much more now to ensure responsible development in the future, especially with record setting storms now being the norm."

The City has not designed or built the Combined Sewage Overflow holding tanks that EPA ordered for the Gowanus canal (projections for the completion of these tanks is more than a decade from now) so we still see raw sewage in the canal every day, and continue to experience flooding in our homes. Gowanus has dozens of Brownfield sites with serious

pollution including former manufactured gas plants with carcinogenic coal tar deep in the soil.  
We need climate justice, not more giveaways for big real estate. Vote NO on the Gowanus  
Rezoning!

With urgency,  
Nora Almeida

Nora Almeida, MLIS / MFA  
[noralisaalmeida@gmail.com](mailto:noralisaalmeida@gmail.com)

**From:** [Nicholas Oo](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] I support Gowanus rezoning 100%  
**Date:** Tuesday, October 12, 2021 10:44:13 PM

---

Dear City Council members

I live in Queens and am a recent immigrant, who knows very well how difficult it is to find affordable housing in NYC, including from the experience that my fellow immigrant family members have had.

I support the Gowanus rezoning unequivocally. The rezoning will allow NYC, for the very first time in decades, to permit more apartments to be built in a high opportunity & wealthy white neighborhood. New York City as a city had been suffering from a serious housing shortage for decades, leading to escalating rent increases and the erosion of tenant bargaining power. No amount of legal rental protections will protect us renters unless we have more economic bargaining power in the form of more housing supply.

Gowanus as a high income white neighborhood with good access to transit should take up its fair share of new housing: both market rate and mandated affordable housing. The rezoning will allow thousands of families to move into Gowanus, relieving rent & displacement pressure from lower income neighborhoods. Building housing in neighborhoods like Gowanus helps everyone and every neighborhood, as the housing market in NYC is citywide and more supply in high opportunity neighborhoods will lower rents everywhere.

Please upzone Gowanus and do not tolerate any more delay. New Yorkers cannot wait for more delays. We need more housing, and we need more housing NOW.

Thank you and Best  
Nicholas Oo  
Astoria, Queens

**From:** [Nils Johnson-Shelton](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Vote NO on Gowanus Rezoning  
**Date:** Tuesday, October 12, 2021 4:07:39 PM

---

Hello Councilman Lander,

My name is Nils Johnson-Shelton, lifelong NYC resident, been in Carroll Gardens for 20 years. I'm writing to voice my opposition to the proposed Gowanus Rezoning.

This plan puts our homes, families, and neighbors at dire risk from the environmental impacts of climate change. I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they "find serious problems with the City's Gowanus Neighborhood Rezoning."

"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment." The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends.

"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm." NYC is using rainfall numbers from 2008—*before* Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes. We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!

Thank you,  
Nils Johnson-Shelton

**From:** [Tom Oesau](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Naturally Occurring Cultural Districts (NOCD-NY) and Arts & Democracy testimony  
**Date:** Tuesday, October 12, 2021 10:38:29 AM  
**Attachments:** [NOCD-NY.Arts&Democracy.testimony.Gowanus NeighborhoodPlan.pdf](#)

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New York City Council Subcommittee on Zoning and Franchises,

Thank you for the opportunity for Naturally Occurring Cultural Districts (NOCD-NY) and Arts & Democracy to provide testimony regarding the Gowanus Neighborhood Plan during your hearing on Tues, October 12, 2021.

Attached, you'll find my testimony on behalf of both organizations.

Sincerely,  
Tom Oesau

--

NOCD-NY Program Manager  
(718)490-9409

## Testimony for the Gowanus Neighborhood Plan - New York City Council Subcommittee on Zoning and Franchises, October 12, 2021

Tom Oesau

Program Manager, Naturally Occurring Cultural Districts NY (NOCD-NY)

Program Consultant, Arts & Democracy

*Naturally Occurring Cultural Districts NY (NOCD-NY) is a citywide alliance of artists, neighborhood leaders, activists, and policymakers that have joined together to revitalize New York City from the neighborhood up. Arts & Democracy cross pollinates culture, participatory democracy, and social justice. It supports cultural organizing and cross-sector collaborations and connects cultural practitioners with activists, organizers, and policymakers.*

Arts & Democracy and Naturally Occurring Cultural Districts NY (NOCD-NY) have been collaborating with the Gowanus community for over a decade to facilitate connections and explore important issues facing the neighborhood. With the Gowanus Residents Association and a Gowanus Houses resident organizing committee, NOCD-NY is a cultural partner to re-engage the community and reactivate the Gowanus Community Center in preparation for its renovation and reopening. Arts & Democracy and NOCD-NY also host our annual Cultural Organizing for Community Change event in Gowanus each year, convening national, citywide and neighborhood participants in workshops at various community spaces and offering a housing justice tour. We have been at the public engagement table as local groups, local council members, and now the NYC Department of City Planning have developed plans and rezoning proposals for the neighborhood. Orienting key issues and policy recommendations around cultural equity in Gowanus, we engaged residents to develop [We Are Your Neighbors!](#) in 2018, a report we shared with local council members and the NYC Department of City Planning.

### Supporting the Gowanus Neighborhood Coalition for Justice (GNCJ) Demands

As members of the Gowanus Neighborhood Coalition for Justice, Arts & Democracy and NOCD-NY have co-developed and stand by all of its [demands](#), requiring that the top three priorities must be met in order to advance the rezoning:

- **Upfront funding for the full capital needs at Gowanus Houses and Wyckoff Gardens.** The City must procure the funding needs of local NYCHA communities to meet housing standards for our fellow neighbors before building new housing.
- **Net zero combined sewage overflow (CSO).** A healthy and thriving community requires a healthy canal, with storm management practices that keep it clean and encourage community

presence at the waterfront in perpetuity.

- **Accountability through a Gowanus Zoning commitment task force.** A Gowanus Zoning Community Task Force can assure accountability for commitments made through the Gowanus Rezoning and make connections to optimize cross-sector opportunities that serve the community.

### **The Important Role of Arts and Culture in Gowanus**

NOCD-NY and Arts & Democracy are focused on the comprehensive health and vibrancy of the Gowanus community, which is strengthened by integrating arts and culture with other sectors to meet equitable community goals for a diverse range of residents.

Community based arts and culture are critical to neighborhood imagination, connection and belonging, safety, and resiliency. Artists, organizations, and spaces have proven themselves invaluable in responding to crises including Sandy recovery and the current COVID crisis, especially for communities of color and low-income communities most impacted by these crises. Despite their importance, local arts and culture are often undervalued or gestured in the language of planning documents, without any codified role for the protection, maintenance or strengthening of cultural infrastructure in neighborhoods. Cultural investments, restorative and community driven, must be prioritized in pursuit of a just and equitable City, as articulated in CreateNYC, New York City's cultural plan. Local arts and culture involve not only artists and the production, display, and sale of their work. They include a broad range of community cultural expressions and spaces and the interplay across a network of individuals and entities in the community. They involve immigrant groups, public housing residents, seniors and youth, religious communities, and creative industries. They strengthen work across sectors, including housing, economic production, social services, transportation, safety, and public space.

How planning decisions should strengthen cultural infrastructure that impact communities:

- **Reinvest in community assets.** Past actions that have removed cultural spaces from the neighborhood have negatively impacted the community fabric, compromising social cohesion. Tracking to assure the timely reopening of the Gowanus Community Center, its design, organizational structure, and programming must be expedited and community-led.
- **Recognize and support community cultural networks, including relationships between industry and cultural practices, that engage and address issues beyond land use.** Identify public and private partnerships that can support and sustain equitable collaborations, space ownership, and community engagement.
- **Affordable industrial spaces, including within a Gowanus Mixed-Use District, should accommodate active creative uses** like fashion, food and artisanal production; cultural archives;

and cultural spaces that engage with and serve the community. They should complement—rather than threaten—the manufacturing sector and create jobs.

- **Sectors operating in industrial and commercially-zoned spaces should prioritize the hiring and training of local residents**, with a focus on skill building and leadership of youth in public housing to retain talent and resources in the community.
- **The Gowanus Zoning task force that GNCJ proposes is an opportunity for a cross-section of community members to assess land uses and the possibility to “matchmake” over time** to reinforce a healthy neighborhood network of manufacturers, small businesses, entrepreneurs, creative industries, and arts spaces. Evaluation frameworks can consider successes and failures and readjust.
- **Identify and prioritize neighborhood commercial and retail spaces that serve existing residents**. As communities around Gowanus gentrify, low income residents are losing places to purchase goods and food that they can afford. Retailers and galleries that are beyond the means of local residents are a form of consumer displacement and compromise the longstanding character and cultural identity of the neighborhood.
- **Public spaces, including parks and street ends, should be accessible to a diverse range of populations in the neighborhood, including public housing residents, and should be designed through an inclusive public process**. Public space design and programming can signal belonging or dis-belonging for different members of the community. Support for arts and cultural programming can animate physical spaces, uplift neighborhood histories, and encourage participation and civic engagement.

Thank you for this opportunity to testify.

**From:** [Ariel Krasnow | The \(OA\) Can Factory](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Neighborhood Rezoning: NYC Council Land Use Hearing Testimony  
**Date:** Tuesday, October 12, 2021 3:50:02 PM  
**Attachments:** [Ariel Krasnow Old American Can Factory Testimony.pdf](#)  
[OACF\\_CCouncilTestimony 211012.pdf](#)

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Oral testimony and written testimony submitted herein.

Thank you.

...

**Ariel Krasnow** Managing Director  
XØ Projects Inc + LMS Realty Associates LLC

**The Old American Can Factory**  
232 Third Street #F100 Brooklyn, NY 11215  
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[xoprojects.com](http://xoprojects.com) | [thecanfactory.org](http://thecanfactory.org)

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## NYC Council Land Use Committee's Subcommittee on Zoning and Franchises

Hearing on the Gowanus Neighborhood Rezoning

October 12, 2021

Hello,

My name is Ariel Krasnow. I am an architect and urban designer, and since June of 2021 I have been Managing Director of the Old American Can Factory. I have also served on Community Board 6 since 2013, with a focus on housing and industrial business retention.

My association with the Can Factory dates back to its inception 30 years ago. Over the decades XOProjects, the Developer & Operating Company, has shaped the Can Factory into a cultural and business anchor at 3<sup>rd</sup> Street and 3<sup>rd</sup> Avenue in Gowanus. The existing 100 businesses, and 300 workers, all currently qualify as "Gowanus Mix" uses in the proposed zoning, but the proposed zoning has no requirement to retain them.

The Can Factory has always envisioned it would be a core part of a re-imagined Gowanus in which light industry, commercial and cultural businesses flourished within a walkable mixed-use community.

A decade ago, The Can Factory embarked on a plan to expand the Can Factory into a comprehensive complex adding uses that would enhance and reinforce the existing businesses; such as artisan-related retail, educational facilities, performance, event and gallery spaces, non-profit organizations and a residential component comprised of artist residencies, senior housing for artists, and live/work spaces.

The Can Factory as a business, has grown and thrived since the 1980's by generating value through creative, efficient management, operations and planning with its mission to offer decently-sized, well-maintained space to a community of light industrial/cultural/arts businesses. The expansion plan is necessary to properly preserve the existing structures as well as provide the benefits of broadened uses.

This is exactly the type of business that New York City should support in this rezoning, at far less cost and less risk than other city-funded initiatives that have had similar economic development plans.

The Authorization offered by the Department of City Planning, is intended to incentivize expansion of The Can Factory and retain existing Gowanus Mix uses, however, as written, it is unduly restrictive and burdensome towards development given the use restrictions.

The CPC Authorization by requiring predominant use to be residential, is not consistent with other Land Use Incentive programs. The Can Factory has offered a 20% Gowanus Mix of Arts & Manufacturing, which is which is feasible and would retain 60,000 SF of existing Gowanus Mix uses.

As part of this testimony, recommended revisions to the Authorization that will allow for a financially viable mixed-use development of the Can Factory, that promotes and advances the policy goals of the Gowanus Neighborhood Plan are submitted.

**Ariel Krasnow** Managing Director  
XØ Projects Inc + LMS Realty Associates LLC

**The Old American Can Factory**  
232 Third Street #F100  
Brooklyn, NY 11215

# TESTIMONY

Page 1 of 2

Date: 12 October 2021

To: **New York City Council Land Use Committee's Subcommittee on Zoning and Franchises**

CC: Speaker of the Council Corey Johnson; Councilmember Brad Lander; Councilmember and Chair Rafael Salamanca Jr.; Councilmember Stephen Levin

From: Nathan Elbogen, Diana Reyna, Sandy Hornick, Ben Margolis, Ariel Krasnow

Subject: **Modification to Section 139-48: Authorization for Large Mixed-Use Sites**  
regarding **The Old American Can Factory** site corner Third St and Third Ave (Brooklyn, Block 980, Lot 8)

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## A. REQUEST TO NYC CITY COUNCIL LAND USE COMMITTEE

The Old American Can Factory (The Can Factory) respectfully requests modifications to *Section 139-48: Authorization for Large Mixed-use Sites* which provides height relief on large development sites in the proposed Gowanus Neighborhood Plan,

The Can Factory currently houses the neighborhood's greatest concentration of Gowanus Mix uses and has proposed an expansion plan consistent with the proposed M1-4/R7X zoning, which would preserve and support the existing Gowanus Mix. However, under the use restrictions of the proposed Authorization, it is not possible to balance mandatory affordable housing plus the Gowanus Mix necessary to achieve a financially viable mixed-use development and the policy goals of the Gowanus Neighborhood Plan.

The modifications requested are as follows, and as attached hereto:

### 1. Paragraph 1:

- Remove: "...#predominantly# non-#residential uses#..."
- Replace with: "...#residential# and non-#residential uses# including #Gowanus Mix uses#..."

*A truly integrated mixed-use project is not financially feasible if the residential uses are reduced to the levels of the Authorization. This proposed change to the Authorization will secure Gowanus Mix uses in perpetuity within a zoning designation that otherwise does not require ANY non-commercial or Gowanus Mix.*

### 2. Section (b) Findings:

(1) "Where modifying #bulk# regulations..."

- Remove: "...non-#residential uses# within the #buildings# than would be feasible by applying the "Special Gowanus Mixed Use District# regulations on the zoning lot..."
- Replace with: "...a superior configuration of #buildings#" on the #zoning lot."

(2) Add: "that a commitment has been provided for the preservation of not less than twenty percent of the #floor area# on the #zoning lot# for #Gowanus Mix uses# and accessory #uses# thereto."

### 3. Final Paragraph:

- Remove: "...#predominantly# non-#residential uses#..."



# TESTIMONY

Page 2 of 2

- Replace with: "...not less than twenty percent of the #floor area# for #Gowanus Mix uses# and accessory #uses# thereto."

*We propose that the Authorization require 20% of a development to be Gowanus Mix uses in perpetuity. This requirement will deliver on the City's policy goals for the Gowanus Neighborhood Plan.*

## B. THE CAN FACTORY BACKGROUND

For over three decades, The Can Factory has served as a vital nexus of the Gowanus industrial and cultural community, and has been a paragon of "Gowanus Mix" uses. It is currently home to a community of close to 100 commercial units and nearly 300 artisans, visual/performing artists, poets/writers, filmmakers, architects/designers, publishers, non-profit organizations, and others working in the creative industries. Three buildings on the site were recently landmarked (with our support), fulfilling a community commitment to preservation of Gowanus' historic industrial sites.

## C. A PLAN FOR SECURING GOWANUS MIX USES IN PERPETUITY

The Can Factory's proposed expansion plans presented as early as 2016 (and known as Industriana® GC) offers the community and the City a long-term commitment that Gowanus Mix uses will be retained on the site, coupled with artist housing, especially for senior artists, in addition to the Mandatory Inclusionary Housing required.

However, with most of the street-facing buildings landmarked, any new development is now limited to a reduced and narrow footprint, requiring a building height beyond the proposed 145' height limit, which would allow for only 65% of the available FAR to be realized, and rendering the project unfeasible. Even with a height modification via a City Planning Commission authorization, the required use mix would leave 62.5% of the project to be cross-subsidized by only 37.5% of the project, an uneconomical business model.

We understand that the City Planning Commission (CPC) has denied The Can Factory's request for a proposed Chair Certification. As an alternative, Department of City Planning (DCP) has proposed an Authorization in Section 139-48 to help remedy this constriction, however, as noted, it reduces the amount of residential development thus making a robust mixed-use expansion project financially unfeasible, and in fact, encourages a residential only development.

The Can Factory's requested modification to the Authorization language includes a required finding that no less than 20% of the development be committed to Gowanus Mix (arts, arts-related and light manufacturing) uses. This equals approximately **60,000 ZSF** (based on the proposed development plan) to be reserved for Gowanus Mix uses, equal to 100% of ZSF for the landmarked industrial buildings, and equates to a total of 1.2 FAR - six times the amount of the 0.2 FAR Gowanus Mix use incentive within the Gowanus Special District.

It is our understanding from conversations with the Council Land Use team that this requested clarification is within Scope.

## D. HELP SECURE GOWANUS MIX TODAY

The proposed Gowanus Neighborhood Plan includes a non-mandatory incentive to developers in order to provide Gowanus Mix uses in designated areas, primarily in future development projects. With our requested modification, the City could secure the largest concentration of Gowanus Mix uses CURRENTLY EXISTING within the rezoning area.

The Can Factory is an integral part of the community that the rezoning seeks to preserve and grow, and a vital component of its past and future--The City can help to ensure that The Can Factory continues to provide its unique mix of arts/manufacturing uses into the future by allowing for development of a new mixed-use building that includes residential uses under a carefully prescribed set of conditions.

Thank you kindly for your consideration of this current request.



**139-48**

**Authorization for Large Mixed-use Sites**

**Requested Modifications to Final CPC Authorization text 09.22.21**

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In Subdistrict B, for #developments# on #zoning lots# located in a #Mixed-Use District#, on a #zoning lot# greater than 40,000 square feet in #lot area#, the City Planning Commission may authorize the modification of the regulations set forth in paragraph (a) of this Section to facilitate a #development# that will result in a mix of #residential# and #non-residential# #uses# including #Gowanus Mix uses# on the #zoning lot#, provided that the findings set forth in paragraph (b) of this Section are met.

(a) Modifications

The Commission may modify the following regulations:

- (1) the #use# regulations of this Chapter, limited to ground floor #use# regulations and supplemental #use# regulations;
- (2) the #bulk# regulations of this Chapter, except #floor area ratio# regulations, provided that any modifications to height and setback regulations do not exceed the heights permitted in an M1-4 District as set forth in Section 43-43; and
- (3) the parking regulations related to the number of required #accessory# off-street parking spaces and the location and spacing of curb cuts.

(b) Findings

In order to grant such authorization, the Commission shall find that:

- (1) where modifying #bulk# regulations, such modifications shall result in a superior configuration of #buildings# on the #zoning lot#;
- (2) that a commitment has been provided for the reservation of not less than twenty percent of the #floor area# on the #zoning lot# for #Gowanus Mix uses# and accessory #uses# thereto;
- (3) where modifying ground floor #use# regulations, the advantages of an off-street loading and access outweigh the disadvantages incurred by the interruption of retail continuity; and
- (4) where modifying supplemental #use# and parking regulations, that such modifications would present a limited interruption and would not create serious vehicular traffic congestion that would adversely affect the surrounding area.

Upon completion of the #development#, the #zoning lot# shall remain occupied by not less than twenty percent of the #floor area# for #Gowanus Mix uses# and accessory #uses# thereto. Such requirements shall be reflected in a notice of restrictions recorded against all tax lots comprising such #zoning lot#, and a copy of such notice shall be provided to the Department of Buildings.

The Commission may prescribe appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

**From:** [Peter Reich](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] NO to the Gowanus Rezoning  
**Date:** Monday, October 11, 2021 9:04:01 PM

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My name is Peter Reich, and I oppose the Gowanus Rezoning.

**This plan proposes buildings that are too tall, too big, and too close to the Canal, and it places the homes of my family and my neighbors directly in the path of the inescapable environmental impacts of climate change.**

I fully agree with Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **“find serious problems with the City’s Gowanus Neighborhood Rezoning.”**

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting our health and the environment.”** The City needs to plan for the **fact** that much of Gowanus is a flood zone, and has experienced intense flooding in the recent storms. Spillover effects can and do happen all around the Canal.

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and long before the most recent storms Ida and Henri flooded our homes—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been repeatedly questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores these hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and **MUST** be prioritized for cleanup, flood control, and sewer fixes. **We need Climate Justice, not more giveaways for Big Real Estate.**

**Please take this back to the drawing board and Vote NO on the Gowanus Rezoning!**

Thank you.

**From:** [Patricia Beraducci](#)  
**To:** [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#); [Land Use Testimony](#); [Levin, Stephen](#)  
**Subject:** [EXTERNAL] Testimony Regarding Gowanus Neighborhood Plan  
**Date:** Friday, October 15, 2021 8:14:42 AM

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**I have lived in this neighborhood my entire life and people forget that during Hurricane Sandy the Canal did overflow. During a typical heavy rain neighborhood sewers can not handle the water.** I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO!!!!!!

Patricia Beraducci

**From:** [Patricia Constantino](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Thursday, October 14, 2021 4:53:13 PM

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My name is Patricia Constantino, I live near the Canal and oppose the Gowanus Rezoning. I support Congresswoman Nydia Velázquez and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 they “find serious problems with the City’s Gowanus Neighborhood Rezoning.”

Most of Gowanus is a flood zone, and has experienced intense flooding in the recent storms. Flooding causes sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety.

Super storms Ida and Henri flooded homes near the Canal and even killed one Gowanus resident. The City is using data to justify rezoning that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

I urge you all to vote NO on the Gowanus Rezoning!

Sincerely,

Patricia Constantino



Brooklyn, NY 11231

**From:** [Rachel Cohen](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Written Testimony 10/12/21  
**Date:** Tuesday, October 12, 2021 10:11:58 AM

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Good morning!

My name is Rachel Cohen and I am representing Vorea Constuction Company.

I am in full support of the Gowanus Rezoning. There are so many amazing benefits to the Gowanus rezoning including a more robust affordable housing offering, opportunity for job creation, continued growth of the already thriving arts community as well as creating positive steps in supporting the environment.

As an NYC resident and a member of this community, I believe we have a responsibility to the city to get this done.

Thank you for your time,  
Rachel Cohen

**Rachel Cohen**

**The VOREA Construction Company**

44-02 11<sup>th</sup> Street, Suite 312, Long Island City, NY 11101

**C:** 203.984.6186

r.cohen@vorea.com | [vorea.com](http://vorea.com)

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**From:** [Rich Garr](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Rich Garr's Gowanus testimony  
**Date:** Tuesday, October 12, 2021 8:54:00 AM

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Good morning. **I want to make sure that I am on record NOT supporting this Gowanus rezoning because there are little guarantees of respecting the existing lower income residents, or the arts community that I am a part of.** These demands are carefully outlined in the [GNCJ website](#), and I've sure you've heard them. I will spare you details, but please consider them seriously.

An important specific detail to note is the agreement that Brad Lander is working at with developers. **If this Community Benefits Agreement isn't signed by the time of your vote, please vote NO on the rezone.** It is not worth bringing in a whole new community if we don't respect the old one. If you want to see firsthand what makes Gowanus so special, please visit our Open Studio this weekend. You can visit me, and hundreds of other artists.

One more guarantee I have fought for, and see no recognition of, is **direct access to the water.** For a neighborhood centered on a canal (which is being carefully cleaned up), strategic direct water access should be an important part of the plan. Please look for it, and vote NO if it isn't.

Sincerely,  
Rich Garr

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art- [www.RichGarr.com](http://www.RichGarr.com)  
walks- [www.GothamSideWalks.com](http://www.GothamSideWalks.com)  
[@GothamSideWalks](#)

**From:** [Ryan Oskin](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] VOTE NO on the Gowanus Rezoning!  
**Date:** Wednesday, October 13, 2021 12:54:53 PM

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Dear members of the City Council Subcommittee on Zoning,

My name is Ryan Oskin and I am a long time resident of Bedford-Stuyvesant in Brooklyn, NY. I urge you to listen to the residents' concerns and vote no on the Gowanus Rezoning. This is not a community-based plan. This plan prioritizes developer profits, not affordable housing, racial justice, or clean-up of the Gowanus Canal. It is your duty to act in the interests of the greater community, not those who stand to profit from this plan. The rezoning has not addressed the MAJOR issues of toxic land and coal tar plumes.

It is shameful the way that you are allowing profit-seekers to distort the intent of the Racial Impact Study law by claiming that people living in the area are somehow protected from the speculation and displacement that these upzonings cause EVERY SINGLE TIME. The data is there in countless articles and studies, (see CUFFH's widely cited study on the upzoning of Williamsburg). If you choose to ignore this reality and its very notable disparate impacts that specifically harm people of color, you neglect your duty as lawmakers and you show yourself as capitalists and racists at heart.

I urge you to listen to the most vulnerable people in the room who beg you to use your power to protect them. If you vote yes on this rezoning, your message to the people is clear: there is no deeper purpose of your office than to personally profit and enrich those who already have access to power.

PLEASE VOTE NO!

Yours sincerely,  
Ryan Oskin

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Artist living and working in Brooklyn, NY  
[www.ryanoskin.info](http://www.ryanoskin.info)

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[@ryanoskin](#)

**From:** [Bob Robbin](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Bob Robbin](#)  
**Subject:** [EXTERNAL] Gowanus Public Hearing  
**Date:** Monday, October 11, 2021 9:22:02 PM

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I am opposed to the current proposal because I think it will dramatically increase the density of the area without providing for increased transportation, school, car parking and local retail to service the increased density as well as failing to deal appropriately with the existing toxic environment and failing to properly secure and review input from federal, state and local agencies with jurisdiction.

Thank you, Robert Robbin (44 year resident of Carroll Gardens )

**From:** [rebekah smith](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Thursday, October 14, 2021 12:17:48 AM

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To Whom It May Concern,

My name is Rebekah Smith, and I am an editor and the production manager at Ugly Duckling Presse, in the Old American Can Factory in Gowanus, Brooklyn. We have had our offices in this building since 2006, and are very concerned about the current rezoning plan.

Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council cannot and should not vote on this without an adequate EIS. As you know, the Council itself passed legislation last week requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year were insufficient, and do not want to repeat these mistakes.

The Council should not vote on this now and should send it back to City Planning Commission, but if they do vote, they should vote NO.

Thank you for your time,  
Rebekah Smith

--

(she/her)



**From:** [Richard Weisfeld](#)  
**To:** [Land Use Testimony](#); [Joseph Borelli](#); [Grodenschik, Barry S.](#); [Ayala, Diana](#)  
**Cc:** [Levin, Stephen](#); [Moya, Francisco](#); [Reynoso, Antonio](#); [District2](#)  
**Subject:** [EXTERNAL] Proposed Gowanus rezoning - VOTE NO  
**Date:** Thursday, October 14, 2021 2:39:18 PM

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I strongly urge you and all committee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a clear choice.

PLEASE VOTE NO.

THANK YOU.

Rick Weisfeld

Gowanus resident, voter, small business operator, taxpayer, property owner, father of sons who will inherit this world in times of climate crisis, breather of air and drinker of water

**From:** [Rene W](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Testimony  
**Date:** Monday, October 11, 2021 12:37:47 PM

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To whom it may concern,

The Gowanus Rezoning plan should NOT move forward in its current form.

The environmental assessment of this plan is too flawed and should not be considered for a vote but if a vote is called to VOTE NO! Climate change is affecting Gowanus rapidly and the data the city is using has been flagged as inconsistent and out of date by the EPA and elected officials. In addition to polluted water, there will be elevated levels of polluted air, an excess of noise pollution and an exponential creation of waste.

The environmental aspect of this plan is only one part. Additionally! The city hasn't guaranteed funding to NYCHA repairs, something the people of the Gowanus and Wyckoff Houses have been begging for. An injustice on a human level and clearly a racial one too. This plan doesn't include upgrades to infrastructure like the subway, which will be back at prepandemic levels in no time. This plan doesn't come close to scratching the surface of "solving" the affordable housing crisis. Go check out the article @businessweek posted this weekend about rich kids completely changing the landscape of Williamsburg 12 using affordable housing loopholes. Where are the safeguards to ensure that the most in need will benefit directly. Why are we going bigger and bolder with the affordable housing mandate for developers? Where is the guaranteed affordable housing for those who have housing vouchers?

If this plan were to pass, where would those 10,000 + people send their kids to school? Where would they grocery shop? Because as it stands we are losing affordable grocery stores not gaining them? Where would these people park their cars? Because you know they all have one, and NYC won't even consider neighborhood permit parking. Where will all these people go outside to play? Because this plan doesn't call for an increase in outdoor and green space to accommodate a neighborhood of this potential size?

And the question still remains, why the rush? The plan was flawed before the pandemic and those holes have now become craters. Are the elected officials of this city bought and paid for by developers?

The city has a chance to implement really innovative and thoughtful change in Gowanus and I can't help but think that with this plan in 10 years we will be underwater, literally and figuratively.

With regards,  
Rene Woeckener

**From:** [Roy Sloane](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony Regarding Gowanus Neighborhood Plan  
**Date:** Thursday, October 14, 2021 3:43:13 PM  
**Attachments:** [HTGowanusCanalStormSurge2050.pdf](#)  
[HTPublicPlaceStormSurge2050.pdf](#)

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## Testimony of Roy W. Sloane

My name is Roy Sloane. I was part of the team of local civic leaders who fought for the Superfund status for the Gowanus. I was also a CB6 Land Use Committee member of almost 35 years, so have had the opportunity to closely study the proposed re-zoning area in detail for many years. While I am not opposed to some zoning changes and re-development of the area in consideration for re-zoning, I am opposed to the currently proposed re-zoning and must ask you and all subcommittee members to vote no on the proposed Gowanus rezoning.

My concerns are as follows:

**1) The proposed re-zoning is TOO BIG, TOO HIGH and has TOO MANY PEOPLE**

There is insufficient infrastructure to support the enormous increase in population proposed. No sewage treatment, insufficient power grid, limited school seats, no parks or residential amenities. I am favor of major investments in infrastructure in advance of any proposed re-zoning. I do not subscribe to the build it and it will come theory of urban re-development.

**2) A significant portion of the area is in a flood zone.**

A substantial portion was under water during Sandy and flooding in the future is projected to be far more extensive given the impact of sea level rise. Attached please find a map that shows the area impacted by Sandy overlaid against a map projecting the level of flooding that a Sandy level event would cause in 2050 with sea level rise factored in. This is only 30 years away and one 20 years away by the time there are residents living on the site! Resiliency must be planned and built in, changing conditions must be accounted for.

**3) I am strongly opposed to the proposed residential development of Public Place.**

This is a deeply toxic site and the very limited mitigation measures proposed for this former coal gasification site are woefully insufficient for people to live on the site. It is my opinion that the Public Place site could be re-used as a park. It is not safe for residential use. I personally would not live on this site and unless you would be willing to live in Public Place, you have no choice but to vote NO!

**Submitted by**

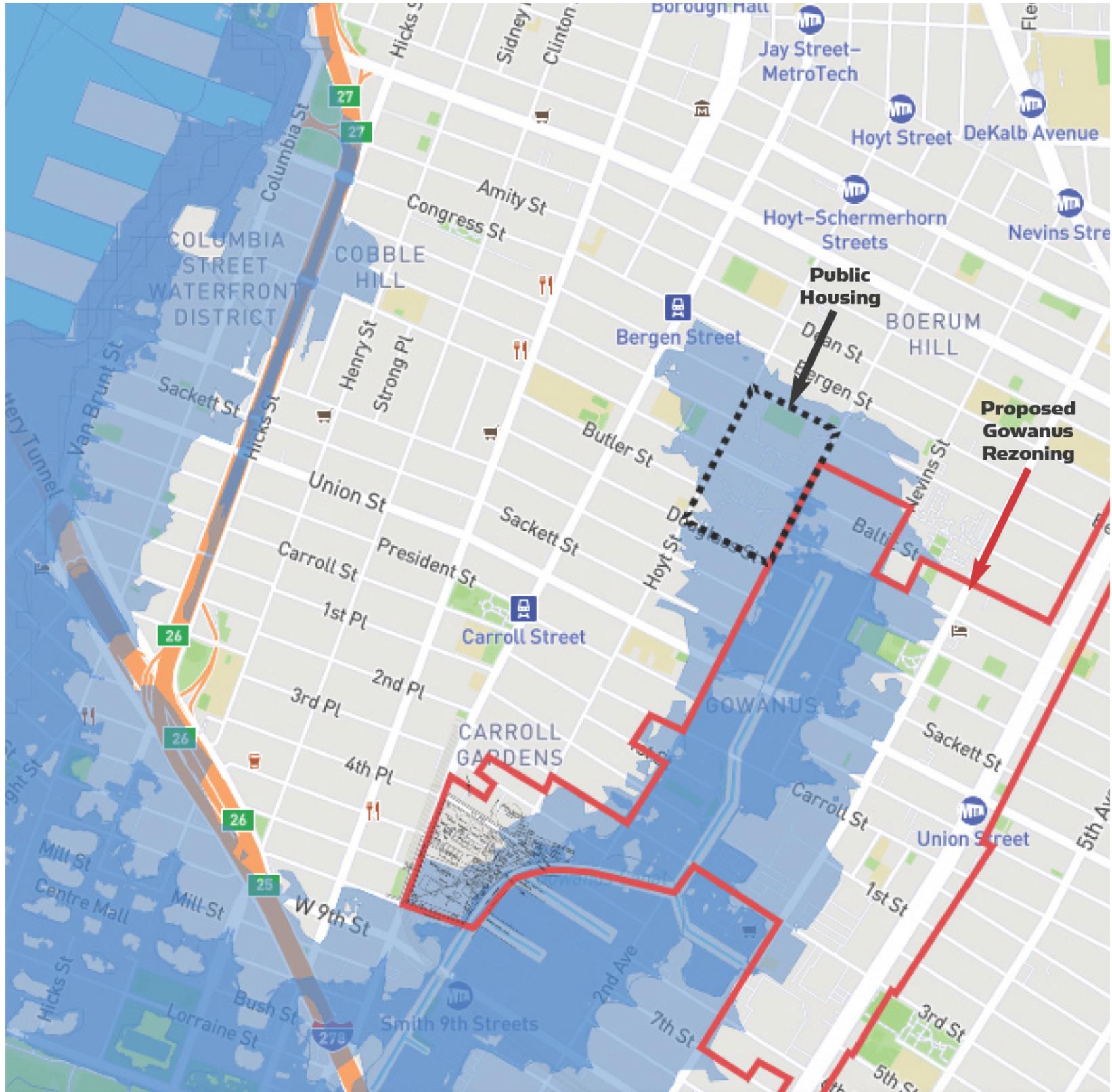
**Roy Sloane**



**Brooklyn, NY 11201**

**October 14, 2021**

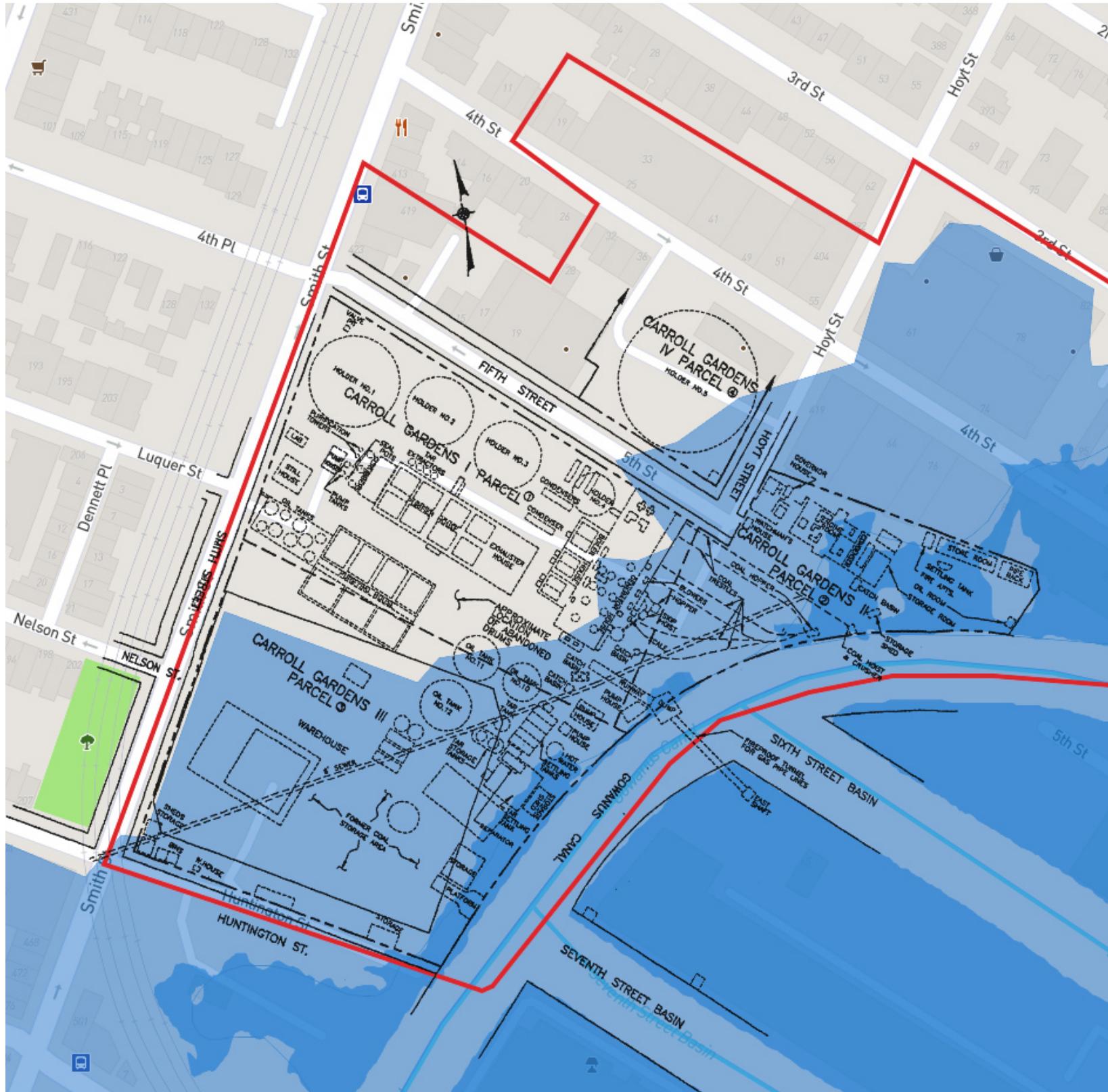
## Gowanus Canal Storm Surge Projection Map



Hurricane Sandy  
Flooding 2012

Sandy level flood event in 2050 including projected  
sea level rise due to global warming

## Public Place Gowanus Storm Surge Projection Map



 Hurricane Sandy  
Flooding 2012

 Sandy level flood event in 2050 including projected  
sea level rise due to global warming

**From:** [Ruth](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezone Comment  
**Date:** Tuesday, October 12, 2021 4:21:50 PM

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To the City Council Rezone Subcommittee:

My name is Ruth Benn. I'm listening to the hearing live, and I find I still oppose the Gowanus Rezoning. This plan puts homes, families, and our neighbors at dire risk from the environmental impacts of climate change. **I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon**, who told Mayor De Blasio on September 8 that they “find serious problems with the City’s Gowanus Neighborhood Rezoning.”

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.”** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.” NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

Our basement flooded during Ida (and other storms), and we are up-slope from Gowanus. I know it was way worse there.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

Sincerely,

Ruth Benn  
123 Garfield Place, 11215

**From:** [Steve Ettlinger](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] testimony re the FEIS and Gowanus zoning  
**Date:** Tuesday, October 12, 2021 6:14:38 PM

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To Whom It May Concern:

I hope I am not too late to contribute.

I am a long time resident of the area (35 years) and a sculptor. I have REGULARLY taken advantage of all the artist-related production spaces in the area: for inspiration, to be sure, such as during Gowanus Open Studios, but also using rent-by-the-hour woodworking shops and contracting with skilled workers in small shops for things like welding as well as to purchase supplies. And of course, the galleries — to sell, to buy, to enjoy. I have done all three. And my son has used the services of freelance musicians with studios in the area as well. In short, this area is a real gem because of the freelance artists.

I have lived and traveled in several places around the country and the world, and have to forcefully argue on behalf of any legislation or zoning that encourages such freelance artists and the small businesses that support them. They create an immensely valuable neighborhood, and one that is extremely attractive to all kinds of people. The FEIS must take freelancers of all kinds into account.

Please vote NO on the rezoning unless it includes provision to keep the existing arts community alive, especially one that protects and encourages studio spaces available to freelancers. For this, more study and surveying is called for.

Thank you for your consideration.

Steve Ettlinger

  
[steve@steveettlinger.com](mailto:steve@steveettlinger.com)

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[@steveslogs](#)

- My name is \_\_\_\_\_ and I am a member of the Gowanus art community, *-\*\*\*\*Briefly state your background, connection to the arts community in Gowanus.*
- The FEIS (final environmental impact study) was highly problematic. The FEIS states:

**"Freelance artists who lease studio spaces are not accounted for in the**

**estimates of directly displaced employment because the studio spaces are not their regular place of business".**

How do you categorize artists leasing studio spaces as freelancers and how do you know that their studios are not their regular place of business without actually studying them?

*\*\*\*\*\*Please state if you are a small business or LLC or if you work fulltime in your studio.,*

This neighborhood is vibrant and desirable for a reason, to not fully examine the impact this rezoning will have on the existing arts community is a huge misstep and an insult to the artists and cultural workers in Gowanus.

· In preparation for the rezoning, Arts Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus. This community benefits agreement would provide 200+ subsidized artist work studios to keep Gowanus a thriving creative community

If a signed contract is **NOT** signed by the time you vote, I strongly urge you to vote **NO** on the rezoning. Moving forward with the rezoning without an ironclad agreement in place would effectively kill the creative community in Gowanus and make us just one more artist community in New York City that is forced to move and this time is there even a place to go?

If you want to see firsthand what is at stake in this rezoning, I invite you to come see Gowanus Open Studios this weekend, with over 400 artists and 100 locations - there is a lot to lose if a community benefits agreement isn't accomplished. I demand that you vote **NO** on this rezoning if this CBA is not accomplished.

**From:** [Shahana Hanif](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Testimony on the Gowanus Neighborhood Plan  
**Date:** Tuesday, October 12, 2021 4:30:38 PM

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Good afternoon, I hope my message finds you well. I had signed up to testify but was not called to share my testimony despite receiving the Zoom credentials. I'm not sure what happened. But sending my testimony over email in opposition of the rezoning.

I'm Shahana Hanif, the Democratic nominee for City Council in the 39th district. I am here because my future constituents deserve to know where I stand on the Gowanus Rezoning.

At the public hearing in June hosted by Brooklyn's Community Board 6, I testified in opposition to the rezoning, with the condition that funding must be guaranteed for unmet and overdue capital needs at Wyckoff Gardens and Gowanus Houses -- the total amount needed for infrastructure upgrades is \$274 million. I do not want another rezoning that does not equitably plan for the needs of tenants, artists, youth, and communities whose needs continue to be sidelined in our city's land use process. Over and over, we have seen the City's disregard of NYCHA residents.

While the NYCHA developments are outside of the 39th District, housing affordability decisions made about the 39th will 100% impact our lowest income, most rent-burdened neighbors first and worse. However, in comparison to other rezonings, this plan includes more affordable units thanks in large part to the Gowanus Green project, which is 100% affordable housing. But, we must go further and build more, deeper affordable housing. Additionally, we need to ensure anti-displacement measures for artists and small businesses.

I applaud the organizing efforts initiated by the Gowanus Neighborhood Coalition for Justice to demand commitments for a more just, livable, and climate resilient Gowanus. In addition to their primary demand to fully fund NYCHA infrastructure, I support their call for transparent monitoring of sewage and CSO volumes as new development is constructed to make sure that there is no increase in wastewater, and that we continue to push for reductions to CSOs through green infrastructure, wastewater treatment plants, road and sewage maintenance, rain gardens, and other projects.

This rezoning is an opportunity to rethink what just, inclusive, and equitable land use can look like in our City. As council member I am committed to providing proactive support to our communities to ensure the City and its agencies follow through with and enforce their commitments, from remediation to participation in the proposed independent Community-Based Task Force, and would expect the same of our City partners. I will be making sure of it.

--

Shahana Hanif | শাহানা হানিফ  
Democratic Nominee, City Council District 39

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**From:** [Steve Marcus](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Monday, October 11, 2021 5:40:29 PM

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**My name is Steve Marcus and I oppose the Gowanus Rezoning.**

**This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.**

**I support Congresswoman Nydia Velázquez’s and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they “find serious problems with the City’s Gowanus Neighborhood Rezoning.”**

**“Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment.” The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.**

**“The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm.”**

**NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They’re using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.**

**At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning.**

**Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Gowanus Rezoning totally ignores those hazards.**

**With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.**

**We need Climate Justice, not more giveaways for Big Real Estate.**

**Please take this back to the drawing board or Vote NO on the Gowanus**

**Rezoning!**

**From:** [Preserve Our Brooklyn Neighborhoods](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] In OPPOSITION to Gowanus Rezoning Plans  
**Date:** Tuesday, October 12, 2021 10:59:40 AM  
**Attachments:** [POBN Testimony NO Gowanus REZONING City Council Hearing 10.12.21.pdf](#)

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## *Preserve Our Brooklyn Neighborhoods*

### **In opposition to the proposed Rezoning Actions to be taken in Gowanus 10/12/21**

Preserve Our Brooklyn Neighborhoods (“POBN”), as advocate for historic preservation of streetscapes, buildings as well as health justice in Brooklyn, supports its neighbors and neighborhood organizations involved in mutual concerns throughout Fort Greene, Clinton Hill, and elsewhere in Brooklyn.

After carefully reviewing the Gowanus Neighborhood Plan we are in unanimous agreement that **this project must not be permitted to go forward as proposed.** Flouting so many scientists’ findings of unquestionable warnings of toxic harm to residents and businesses in Gowanus would seem to come out of the Trump playbook. Surely our local electeds jest? The Federal EPA has issued its own ominous warning!

For nearly 2 decades elected representatives have spent more time trying to meet the goals of real estate developers than working to remediate Gowanus Canal’s toxic legacy. In fact, they worked against residents’ efforts to have the Gowanus Canal declared an EPA Superfund site

Preserve Our Brooklyn Neighborhoods therefore urges Council Member Lander to reject this proposal as presented in its current form and recommends that the priority should

be to clean up the Gowanus Canal first rather than putting all of this effort into rezoning –brazenly ignoring his constituents who’re now being put in health endangerment.

Thank you

Sandy Reiburn –President

Preserve Our Brooklyn Neighborhoods

100 South Elliott Place

Brooklyn, NY 11217

Preserve Our Brooklyn Neighborhoods

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# *Preserve Our Brooklyn Neighborhoods*

## **In opposition to the proposed Rezoning Actions to be taken in Gowanus**

10/12/21

Land Use Committee:

Preserve Our Brooklyn Neighborhoods ("POBN"), as advocate for historic preservation of streetscapes, buildings as well as health justice in Brooklyn, supports its neighbors and neighborhood organizations involved in mutual concerns throughout Fort Greene, Clinton Hill, and elsewhere in Brooklyn.

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For nearly 2 decades elected representatives have spent more time trying to meet the goals of real estate developers than working to remediate Gowanus Canal's toxic legacy. In fact, they worked against residents' efforts to have the Gowanus Canal declared an EPA Superfund site

Preserve Our Brooklyn Neighborhoods therefore urges Council Member Lander to reject this proposal as presented in its current form and recommends that the priority should be to clean up the Gowanus Canal first rather than putting all of this effort into rezoning –brazenly ignoring his constituents who're now being put in health endangerment.

Thank you

Sandy Reiburn –President  
Preserve Our Brooklyn Neighborhoods  
100 South Elliott Place  
Brooklyn, NY 11217

**From:** [sandy.renz](mailto:sandy.renz)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning  
**Date:** Wednesday, October 13, 2021 3:49:57 PM

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Dear Council.

My name is Sandye Renz and I gave testimony at yesterday's meeting. I have lived in Gowanus for over 30 years. When I heard one of the city planners speak at the meeting yesterday saying that this rezoning will make people want to live here all I could think is that all the development in my neighborhood and this proposed rezoning is making me want to run as far from here and as fast as I can, and I love my neighborhood.

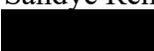
I don't understand why anyone has faith that this rezoning will be any different than the majority of rezoning and development that has happened in this city from Peter Stuyvesant to Robert Moses to Bloomberg and De Blasio's nightmare on 4th Ave. and this is all year long, not only Halloween. I participated in the much touted community engagement, a very good PR move, akin to renaming Public Place to Gowanus Green, but a shameful sham.. While the bugaboo of affordable housing is a crowd pleaser Atlantic Yards, which was also conveniently renamed to Pacific Park, has yet to supply it's promised affordable housing after 15 years. And there is still belief that promises are real. Astounding!

I agree with all the articulate dissenters that described their reasons why this proposal should be rejected. Their reasons are all valid with climate repercussions uppermost. During Ida I watched dumbfounded while the walls of my basement became waterfalls.

Why rush into this half-baked plan? A little over 1 acre of open space for 82 blocks of rezoning? Where will the sky be? Why won't we be able to have canal access, especially after all the effort to clean the canal? What is the guarantee for accountability? Will the already available public housing be remediated? And so on.

Please do the right thing and vote no.

Sincerely,  
Sandye Renz

  
Brooklyn, NY 11215

**From:** [Susan Tunick](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] rezoning Gowanus  
**Date:** Monday, October 11, 2021 9:08:55 PM

---

Friends of Terra Cotta is opposed to the rezoning of Gowanus. Don't give big developers a free hand...think of the community and all it has endured.

Sincerely, Susan Tunick President

Friends of Terra Cotta

771 West End Avenue, 10E

NY, NY 10025

[pstunick@att.net](mailto:pstunick@att.net)

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**From:** [Susan Yung](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] RE: City's Gowanus Neighborhood Rezoning has problems i.e using daya 2008 datas  
**Date:** Monday, October 11, 2021 4:58:40 PM

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My name is Susan Yung and I oppose the Gowanus Rezoning. **This plan puts our homes, our families, and our neighbors at dire risk from the environmental impacts of climate change.** I support Congresswoman Nydia Velázquez's and Assemblymember Jo Anne Simon, who told Mayor De Blasio on September 8 that they **"find serious problems with the City's Gowanus Neighborhood Rezoning."**

**"Our City has already felt the brunt of climate change; it cannot afford projects that fall short of protecting human health and the environment."** The City needs to account for the fact that much of Gowanus is a flood zone, and experienced intense flooding in the recent storms. Spillover effects can happen around the Canal and in places like Red Hook where the Bond-Lorraine sewer extends, an environmental justice area.

**"The City needs to do much more now to ensure responsible development in the future, especially with record-setting storms now being the norm."** NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded our homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

At 80 blocks, 100 acres, and 4 times the size of Hudson Yards, this is a huge rezoning. Last week City Council approved a bill that seeks to protect our most vulnerable residents from climate hazards, but the Rezoning totally ignores those hazards. With 25% of Gowanus residents living in NYCHA housing, Gowanus is ground zero for these environmental justice issues and should be prioritized for cleanup, flood control, and sewer fixes.

**We need Climate Justice, not more giveaways for Big Real Estate. Take this back to the drawing board or Vote NO on the Gowanus Rezoning!**

**From:** [Susan Yung](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] RE: Testimony on Gowanus Land Use  
**Date:** Friday, October 15, 2021 1:37:03 PM

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I urge you and all subcommittee members to vote NO on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, (apartments had been flooded, some with excrement and urine from the overtaxed sewer system; combined sewer overflow (CSO) risks to the superfund cleanup remedy; and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

Susan Yung

**From:** [Wolfe, Sue](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] City Council Testimony  
**Date:** Monday, October 11, 2021 10:29:23 AM

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City Council Members,

***I am Sue Wolfe, president of the The Friends of Thomas Greene Park and a proud member of the Gowanus Neighborhood Coalition for Justice. Our Coalition will NOT support the rezoning unless our top 3 demands are met: full capital funding for local NYCHA developments; net zero CSOs; and the creation of a Task Force to hold the City and all parties accountable for commitments made through the rezoning process.***

In addition we want to speak about our concerns about Thomas Greene Park located in Gowanus, between Nevins Street and 3rd Avenue and Douglass and DeGraw Streets:

The DD Pool in this park will be dug up by National Grid to remove the storage tanks beneath it and be replaced by a 'new' park. During this period National Grid, the Parks Dept. and Councilman Stephen Levin have 'guaranteed' that a temporary pool will be developed so there is no time our neighborhood will be without a pool and the programs that go with it.

There will be a 'new' park developed across Nevins Street extending to the Gowanus Canal Walkway.

We request that Nevins Street between Douglass and DeGraw Streets be DEMAPPED so there will be one continuous park from 3rd Avenue to the Gowanus Canal Walkway.

We have additional concerns:

1. EPA's impact noted that this Rezoning, in its current form, does not protect human health. This must be addressed.
2. As noted by Congresswoman Nydia Velasquez and Assemblywoman JoAnne Simon - the underground cleanup under the Public Place development is not

adequate especially since a public school, residential homes and a public park could be adversely affected by this contaminated area.

Thank you,  
Sue Wolfe

Sent from my iPad

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**From:** [Sarah Lawson](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Concerns regarding Gowanus rezoning plan  
**Date:** Thursday, October 14, 2021 3:25:26 PM

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To whom it may concern,

My name is Sarah Lawson, and I am an editor and the publicity director at Ugly Duckling Presse, in the Old American Can Factory in Gowanus, Brooklyn. We have had our offices in this building since 2006, and are very concerned about the current rezoning plan.

Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council cannot and should not vote on this without an adequate EIS. As you know, the Council itself passed legislation last week requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year, were insufficient, and do not want to repeat these mistakes.

The Council should not vote on this now and should send it back to the City Planning Commission, but if they do vote, they should vote NO.

Thank you for your time,  
Sarah Lawson

--

Sarah Lawson  
they/them

**From:** [Silvina Lopez Medin](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Concern about Gowanus rezoning plan  
**Date:** Thursday, October 14, 2021 3:45:15 PM

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To Whom It May Concern,

My name is Silvina Lopez Medin, and I am an editor at Ugly Duckling Presse, in the Old American Can Factory in Gowanus, Brooklyn. We have had our offices in this building since 2006, and are very concerned about the current rezoning plan.

Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. Our own Councilwoman and State Assembly member have called for the Environmental Impact Study and Statement to be redone. The Council cannot and should not vote on this without an adequate EIS. As you know, the Council itself passed legislation last week requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year were insufficient, and do not want to repeat these mistakes.

The Council should not vote on this now and should send it back to City Planning Commission, but if they do vote, they should vote NO.

Thank you for your time,  
Silvina Lopez Medin

**From:** [SJ Avery](#)  
**To:** [Land Use Testimony](#)  
**Cc:** [Council Member Lander](#)  
**Subject:** [EXTERNAL] Gowanus rezoning  
**Date:** Friday, October 15, 2021 12:04:50 PM  
**Attachments:** [testimony Gowanus Zoning Commitment Task Force.pdf](#)

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New York City Council Subcommittee on Zoning & Franchises  
Francisco Moya, Chair  
City Hall Park,  
New York, NY 10007  
Via Email: [landusetestimony@council.nyc.gov](mailto:landusetestimony@council.nyc.gov)

RE: Gowanus Neighborhood Plan (C 210177 ZMK, N 210178 ZRK, C 210179 MMK, C 210180 MMK, C 210053 PPK, C 210052 HAK), Gowanus Mercy Home UDAAP (20225005 HAK) Gowanus Canal CSO Facility (C 200319 PCK, C 200320 MMK, 200321 PSK, C 180039 MMK)

Dear Councilmember Moya and Members of the Subcommittee on Zoning & Franchises:

Thank you for taking time during Tuesday's public hearing to listen to testimony from community stakeholders about the Gowanus area-wide rezoning and other actions in Gowanus. I was encouraged by thoughtful questioning by Council members during the testimony period, particularly those with respect to specificity about the amount and timeline for capital investments in NYCHA housing, topics that have repeatedly remained frustratingly elusive when City Planning has been asked about them by groups such as Gowanus Neighborhood Coalition for Justice (GNCJ).

I am submitting this written testimony as a follow-up to my oral testimony on October 12, 2021

My name is SJ Avery. I am a member of the Park Slope Civic Council, which is proud organizational member of GNCJ. The top three GNCJ Gowanus rezoning demands are for immediate needed

repairs to NYCHA housing, no new CSO's in the canal, and creation of a Gowanus Zoning Commitment Task Force. While supportive of all demands, this written testimony focuses on the need for the Commitment Task Force.

I have lived half a block away from 4<sup>th</sup> Ave for 35 years. Over the past two years, I have seen three 3-story black-owned homes at the 4<sup>th</sup> Ave end of my block sold and demolished for the construction of a 12-story luxury condo - due in large part simply to *speculation* about Gowanus rezoning. For most of us who live in areas that are being rezoned, the experience inevitably feels like something that is being done to us. The very way we promote neighborhood changes through "rezoning" underlines the antiquated notion that neighborhood change can/should be done by simply deciding the height and density of new construction can be built on a parcel of land in a defined area. It addresses the needs of developers, not residents.

Yes, we residents are frequently reminded (as if we need to have the literally hundreds of volunteer hours spent in those meeting pointed out to us) that there have been years of "hearings" about Gowanus rezoning, sponsored by community boards, or local elected officials, or even city agencies that have resulted in shelves full of binders full of suggestions. Jonathan showed us some lovely photos of City Planning meetings. I only wish I had time to illustrate how many of the suggestions from those meetings did not end up in the Gowanus Plan as it is currently constructed. And more to the point, the current primacy (in review comments by Brooklyn Community Board 6 and by the Brooklyn Borough President) of demands for immediate NYCHA repairs, no new CSO's in the canal, and a Commitment Task Force were due to sustained advocacy **subsequent** to those hearings.

In our hearts most residents believe that the bulk of what traditionally ends up in a "rezoning plan" are the products of meetings with city officials and developers (often years before official rezoning talks begin). We rely on "points of agreement", negotiated by our Council representatives, to make sure that at least a few of our most important concerns are reflected in a final

document. And so, while deeply grateful that my Council member, Brad Lander, is a strong advocate for a Gowanus Zoning Commitment Task Force inclusion in the rezoning requirements, I am urging that the Commitment Task Force concept be insisted upon by all the City Council members both in this rezoning and in any subsequent ones. You - the City Council members - have recently advanced very progressive legislation related to issues such as stormwater management and inclusion of racial disparities and environmental impacts as part of land use studies. Establishing a Gowanus Zoning Commitment Task Force provides an opportunity to test a transparent mechanism for measuring the effectiveness of your legislation over time.

Additionally, we are facing an unprecedented environmental crisis that is frightening in its immediacy. Our response to that crisis is hindered by outdated acceptance of City agencies working in silos with little or no "real time" reporting on accomplishments or demonstrable coordination. As we move into the future, we can simply not keep clinging to outdated notions of City agency "sovereignty". Demanding that City agencies work together, with transparency and measurable effectiveness that is easily accessible to the public (we fund them!) has been dismissed as naïve idealism, but we are running out of time to meet challenges greater than we have seen before and "It's so *hard* to get them to work together" is not an acceptable excuse for inaction. The Gowanus Zoning Commitment Task Force offers a template for mandating City agency cooperation, in the context of a partnership with local community residents and organizations. I hope that members of the City Council can see establishment of the Task Force as a needed step in ensuring the success of progressive legislation.

In all honesty, I believe a task force should be in place at the beginning of city planning discussions, not just the end. From the very start of planning, our focus should be on the needs of people, on environmental challenges and fostering resiliency, with zoning text brought in at the end as needed to accommodate the planning goals that arise from those discussions. How different the speculative influence of developers (which drives up the building of luxury housing even before actual rezoning takes place) would

be if we started with discussions with a focus on community and climate resiliency and justice!

However, we need to work with where we are, and close to the end of the Gowanus rezoning review process, we still have time to make significant changes to the way we assess the impact of rezoning. It is past time to do so. The Gowanus Zoning Plan is not acceptable without them.

Thank you for your consideration: I have included a summary outline of the Gowanus Zoning Commitment Task Force structure and function.

Yours truly,

SJ Avery

[REDACTED]

Brooklyn, NY 11217

[Averysj@gmail.com](mailto:Averysj@gmail.com)

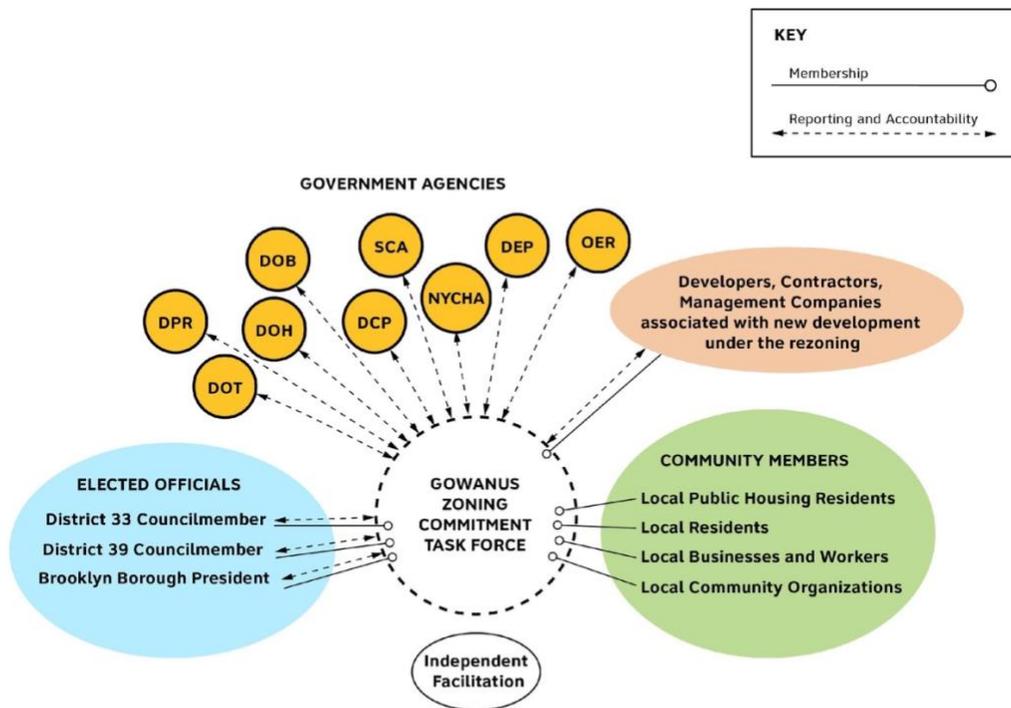
c. Councilmember Brad Lander

# Gowanus Zoning Commitment Task Force

## Mission

The proposed Gowanus Zoning Commitment Task Force will ensure that commitments identified in the proposed Gowanus Rezoning, EIS and Neighborhood Plan are met by the City and private developers.

With representation from local organizations, residents and stakeholders, the Task Force will empower the community to hold the City accountable for the Gowanus Neighborhood Plan throughout its execution. The Task Force will collect and organize reporting from responsible agencies on their rezoning commitments and disseminate the information in a transparent and accessible manner. The Task Force will facilitate productive and respectful engagement between government agencies development entities and a range of diverse stakeholders in the community, with the aim of raising up voices of those most impacted.



## Why the existing City Commitment Tracker is not sufficient

Pursuant to Local Law 175 of 2016, the City is responsible for publishing a list of capital and programmatic commitments associated with neighborhood-scale rezonings, and an annual progress report detailing the status of each initiative, which it does through the Commitment Tracker. However, this important resource currently operates as a one-way conduit, and does not support the community in understanding or giving feedback on the ongoing status of commitments. Given the scale and complexity of this proposed rezoning, as well as the overlaps with Superfund and other neighborhood remediation activities, we aim to partner with each relevant City Agency as a resource for the community that not only provides up to date information, but also serves as a place and process to register issues, with a governance structure that encourages proactive public-private partnership and accountability around implementation.

## City Commitments Needed

1. Fund a facilitator for a fifteen-year period to oversee Task Force activities, help to organize and enable Task Force meetings, and otherwise support the Task Force's work.
2. Fund a NYCHA Liaison to provide technical assistance and support for NYCHA residents in navigating construction processes and holding NYCHA accountable for repairs, tenant rights, Section 3 hiring, and all commitments made through the rezoning.
3. Commit funding to allow the Task Force to obtain ongoing professional planning expertise for the same period of time, so that the Task Force can obtain, analyze and compile accurate and timely data and assemble them in user friendly language to share with the community.
4. Commit senior level staff from agencies below to provide regular reporting to the Task Force to monitor compliance with public and private commitments, adherence to zoning requirements, and implementation of the Rezoning.

- New York City Housing Authority (NYCHA)

- *Provide regular and transparent updates on all streams of capital funding for Wyckoff Gardens and Gowanus Houses*

- *Provide regular, transparent, and accessible updates on all construction in Wyckoff Gardens and Gowanus Houses, including progress, timeline, safety procedures, and Section 3 hiring.*

- Department of Buildings (DOB)

- *Provide regular updates on Gowanus Mix leasing*

- Department of Environmental Protection (DEP)

- *Provide regular updates of sewer modeling with new Sewer connection permits and construction status*

- Department of Parks / Department of City Planning

- *Require developers requesting waterfront certification and/or authorization to present site designs and gain approval*

- School Construction Authority

- Provide regular reports on projected school seats needed for new construction

- Provide reports on sites requesting school construction bonus

- Transportation

- Provide regular reports on local traffic and construction impacts

- All Agencies with construction commitments.

- Provide regular reports on progress on all City construction projects in the rezoning area, including DEP tanks, etc.

- Provide timely response to community concerns

**From:** [Stephen Sollins](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] Testimony Regarding Gowanus Neighborhood Plan  
**Date:** Thursday, October 14, 2021 8:23:04 PM

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Dear City Council Members,

I live on Bergen Street at one end of the Gowanus Canal and I work on 9th Street close to the other end and right across the canal from the old Brooklyn Gas Works site. My family and I walk or cycle through, recreate, shop, and eat in the neighborhood every day.

I urge you and all subcommittee members to vote no on the proposed Gowanus rezoning. It would be a disaster as currently conceived. Flooding risks made clear by Hurricane Ida, combined sewer overflow risks to the superfund cleanup remedy, and other toxic threats to human health and safety make this a no-brainer: VOTE NO.

Thank you,  
-Stephen Sollins  
Sent from my iPhone

**From:** [Sue-Ellen Stroum](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Land Use Testimony  
**Date:** Thursday, October 14, 2021 8:35:50 PM

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Greetings All,

Below is my testimony regarding land use development for the Gowanus Canal. Please don't hesitate to email or call with any questions.

My number is below.

\*\*\*\*\*

In 2010 in the state of New York a democratically elected Congress voted to make it illegal to test for toxicity in Humans claiming that the tests were too dangerous. As a result many of the doctors who treated for toxicity along with the labs that previously tested for these metals and chemicals began to go bankrupt. The linkage between environmental toxicity and individual human illness was severed and buried.

As an artist I was aware that toxicity was negatively affecting my health and so about 30 years ago I stopped painting pictures, murals, interiors, and sets for a living - never knowing what was in my bloodstream - only guessing. At that time I was living downstream from the Gowanus canal in Carroll Gardens. I lived in that same spot for over 20 years.

In 2016 while working as a principle human scientist with Boston Consulting Group after many years of being tested and treated for many ailments such as severe gastritis; food, mold, and dust allergies; type two diabetes; ovarian cysts and pre-cancerous ovarian cells; pre-cancerous stomach cells; unexplained mood swings; madness; dementia, hair loss, blurry vision, eczema, inflammation, sinus issues, heart palpitations, and more; the medications I'd been prescribed for each individual ailment stopped working. At the time I'd probably been taking at least five different types of medication at once. And then all of the symptoms hit me simultaneously.

Like many in my occupation I had the best medical insurance; I'd been tested for every disease and disposition that may have caused these effects both genetic and non. I'd been seeing naturalpaths and acupuncturists and many kinds of therapists. I had continuity of care having the same medical team for my entire adult life. it became very clear that none of the treatments had been working and that common tests had not been picking up what was wrong.

Acupuncture needles inserted into my skin started to create bruises. I began to shake in such a way that I could barely hold a pen or type on a keyboard or draw; I developed double vision; could not look at a computer screen without becoming nauseated, my hands and feet became numb, and though I'd been an athlete I would often trip over my own feet: drop things unexplainably; my teeth began to rot and my demeanor became so negative that I was forced to leave my occupation. In my role as human scientist it was necessary to travel around the world doing field research and interviewing people to create systems and business strategies:

To innovate and create the future for large companies and for large-scale industry. I designed digital systems and strategies for the medical industry, for big Pharma, for the cement industry, for arts organizations, universities like MIT and The New School; for government... We were industry agnostic. I had an education on how things work on the inside; on how NDA's could be signed to prevent the spread of what should be common public knowledge.

My medical team after testing for all kinds of genetic predispositions and diseases decided that I needed to change my environment or continue to deteriorate and most likely die. Likely thousands of dollars were spent on medications and doctors both inside and outside of my insurance plan before coming to this conclusion.

I applied for disability through my company's very good insurance plan and was denied. Without conclusive testing there could be no diagnosis: No analysis; no treatment; no insurance -- no care.

After researching several climates in which allergies would be lessened I decided to move Encinitas, California where it was possible to live without ventilation all year 'round. For lack of better explanations I was told that it was mold and indoor allergy that was most likely making me ill. In my role as a consultant it became obvious to me when traveling that different environments affected my body in different ways. Every time I returned to New York I would suffer worse than anywhere else. Once in California it became clear that tests were available for toxicity and what happened can be described here:

<https://medium.com/@swel/notes-on-a-few-toxic-things-in-my-body-13266b517cd7>

I'd like to submit the article above as part of my testimony. One of the chemicals in my body that was found after testing was Mercury. Mercury is not a substance that could be found in any art materials I was working with so it was quite a mystery as to where it came from. In fact my doctor here in California told me that the level of mercury in my bloodstream was the highest she'd ever seen in all of her years of practice. Another chemical was chromium. Neither of these two elements can be found in painting materials that I was working with. But they do appear in the Gowanus canal in high amounts. After over 20 years of living near The Gowanus It's now pretty obvious where these chemicals came from. I reapplied for disability through my company's plan but was practically laughed out of the building when they said that poisoning through environmental toxicity was not something they covered. Eventually I did receive disability for extreme anxiety and emotional stress from Social Security Disability Insurance - SSDI - something for which I still suffer from today. Culturally it's always easy to tell a woman that she's hysterical and to attribute that 'hysteria' to some sort of genetic predisposition.

I'm sure there are many other chemicals in my body for which there were no tests. The Voice of Gowanus is an organization which has recently been posting substances contained in the Canal on a weekly basis for what they call Toxic Tuesday. It's been an educational experience for me as I'm finally finding out what's wrong and where it came from -- linking cause to effect. I'm writing today for all of the people who cannot currently get tests; who perhaps may be suffering like I did without knowing why.

Without testing there can be no diagnosis and without diagnosis there can be no insurer - and no proper treatment. Doctors by law are only required to treat for symptoms and never find

cause these days: A travesty of justice and of public health. If cause is buried then there's money to be made with all kinds of medications and treatments. Without diagnosis - without testing - insurance companies never need pay out. They gamble with our health; and we lose. One can only imagine that insurers and developers walk hand-in-hand with our corrupt officials; with developers and industry; with those employed to enforce laws and hold the guilty to account. It only seems to financially benefit the state and the government to deny testing, to deny proof, deny insurance: deny treatment: Which in fact can only be prevention and avoidance. There is no approved medical way to remove these chemicals from the body. Medications only suppress symptoms making patients more and more ill over the longterm -- requiring more and more expensive (uncovered) medications.

Developing residential or commercial properties or parks around the Gowanus canal without cleaning it up properly would be a crime. In fact crimes against the local population are being committed every day that this superfund clean up site is allowed to exist in its present form.

The canal has a multi-century history of failed attempts to clean it up. Everyone knows these chemicals and heavy metals are dangerous but no one has been linking them to individual disease. In my opinion everyone who lives nearby -especially those who live downstream - need to be tested for toxicity. When there are floods such as during hurricane Ida and hurricane Sandy the mercury, chromium and other chemicals in the canal flood into neighborhoods, infiltrating buildings basements and pipes: Buildings themselves uptake the heavy metals and poisons becoming sick along with their inhabitants.

I'm sure many citizens of Brooklyn have died without proper record of cause of death. Every 'underlying condition' probably contains some form of toxicity.

It has been shown that this kind of toxic environment is responsible for the spread of virus - like COVID-19.

Every day that testing is denied thousands of people are denied proper treatment and care and insurance companies are not required to offer compensation. Developers, pharmaceutical companies, polluters property managers, industrialists, insurers, doctors and the like are allowed to continue to operate as usual while the public suffers without knowing where their ailments originated.

There is often a delayed reaction between toxic exposure and disease. This delay makes it difficult to link diagnosis. And the effects are cumulative. The longer one lives in the area the sicker one gets. The toxins are stored in blood, muscle, bone; and - like in the case of fat-soluble mercury - these chemicals enter the brain and effect emotion and personality. The chemicals alter DNA, can trip the body into an auto-immune response, last for generations, and are passed through umbilical cord blood making each successive generation weaker, lowering immunity and immune system health.

Without direct linkage between toxicity and illness survivors of this toxicity are often blamed for their own sicknesses or treated as if they're hysterical or as if they've imagined it. Once the toxins are inside of our bloodstreams they become our responsibility. There's no accountability. There's no retribution.

Without change many people may be required to suffer similar fates to mine -- and likely are. In my case I lost my home, my family, my occupations, my livelihood, my reputation -- and nearly my life. Likely years have been taken off of my life span due in large part to the continuing poisoning from the Gowanus canal.

I'm slowly recovering in a less toxic environment -- it's been three years since I've seen my family or friends -- although as you could see from the article linked to above -- toxins are prevalent in many places. Where there is a choice why not remove them or render them inert?

With the Gowanus canal we have a choice. We don't need to continue along this path. Everyone who lives around the canal should be tested for toxicity and testing for toxicity in humans should be made legal and safe. In fact when farm animals become ill they are regularly tested for this type of toxicity. Why? If an animal in an upstate farm becomes ill it becomes impossible to sell it for food or livestock. And so there may be a loss of livelihood to a farmer. When all that is focused on is income and profit we all lose.

There is no treatment for this kind of chemical toxicity. There is only avoidance: There is only prevention. perhaps that would change if testing were allowed; if linkages were discovered and made obvious. It's time to hold our supposed law enforcement officials to account. It's time to hold building developers to account. In fact these corporations and industries are only made up of people who themselves are becoming ill right along with the public whose views and lives they are trying to squelch.

It's time to see the linkage between toxicity and illness. There is no safe amount of toxicity in the body. The combination of toxicity and water - constant humidity - even without flooding -- create perpetual mold -- create rapid oxidation - create compounds we haven't even named or discovered yet.

Low income housing and parkland and kayaking in the canal sounds very nice but at what cost? When air sheds and water sheds are already full; when PM 2.5 in the city makes it impossible for anyone to detox from any toxins; there should be no further development without cleaning up what is known to be toxic. We can't afford it: We can't afford to be lied to; not for our own health, not for our children's health: Not for future generations.

Sincerely,  
Sue-Ellen Stroum



**From:** [Thomas Dyja](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus  
**Date:** Tuesday, October 12, 2021 9:30:23 AM

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Dear Members of the City Council,

As the author of the recent book *New York, New York, New York: Four Decades of Success, Excess, and Transformation*, I have written extensively about how the city's artists have repeatedly led the way towards the rebirth and evolution of New York. In search of space to work and live, they've brought new capital of all sorts to often underutilized areas, only to find themselves quickly priced out by those who'd profit on their imagination not just as artists but as city dwellers, on their creativity and sense of community. Studios become retail or luxury housing; artistic ferment becomes a fashion trend, a broker's listing, and the artists are forced to find the next corner of the city where they can afford to live.

The problem is that we're running out of those corners in New York. And we can't afford to let working artists leave, not if we're serious about staying a global city, and not if we're serious about Recovery. New York defines itself in part by the Arts; they are crucial to the economy. But they mean more than just museums, galleries and big collectors, and they do more than just attract tourists. As a sector, the Arts employ thousands of New Yorkers in thousands of jobs. But while we reward innovation in every other economic sector and give seed money to incubators to draw young talent, when it comes to the Arts, we all but encourage young talent to leave.

Gowanus offers a chance to fix this broken cycle. It has enormous potential, but to be a part of a truly sustainable New York, it has to include the artists who helped everyone see its promise. Instead of trading on its "artsiness," let's guarantee that the Arts and artists will be a fundamental and authentic part of its development. Arts Gowanus is making progress towards a CBA with the developer. I ask you to vote NO unless a final agreement is reached to permanently secure workspace for artists.

Respectfully yours,

Thomas Dyja

**From:** [Toby Jones](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning - Strong Support  
**Date:** Tuesday, October 12, 2021 3:43:46 PM

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Council Members,

I have lived in the CB6 area for close to 8 years and I want to write in to strongly support the gowanus rezoning project. I make a good salary and am slowly getting priced out of the Boerum Hill neighborhood myself; I can't imagine what my fellow new yorkers who make a lower income are having to go through.

It's so needed that we vote yes on this to ensure that the city can continue to grow and build dense housing in transit rich areas.

When is NYC going to have the opportunity to build 3,000 affordable homes in an area that is becoming, as the Gowanus Racial Equity report put it, "steadily wealthier and whiter, with increasing inequality?"

Thank you,  
Toby

**From:** Valerie A. Gladstone  
**To:** Land Use Testimony  
**Subject:** [EXTERNAL] Gowanus rezoning  
**Date:** Tuesday, October 12, 2021 9:41:14 AM

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· My name is Valerie Gladstone and I am a member of the Gowanus art community,  
*I am a working artist and member of IATSE local 798 union.*  
*I am against the rezoning of Gowanus.*

The FEIS (final environmental impact study) was short sighted and insulting. The FEIS says that:

**"Freelance artists who lease studio spaces are not accounted for in the estimates of directly displaced employment because the studio spaces are not their regular place of business".**

How do you categorize artists leasing studio spaces as freelancers and how do you know that their studios are not their regular place of business without actually studying them? We are small businesses.

I have had an ironclad agreement with the rezoning, and Gowanus has been working closely with Brad Lander and several developers to create a Community Benefits Agreement that would ensure that the artist community would continue to exist and thrive in Gowanus. This community benefits agreement would provide 200+ subsidized artist work studios to keep Gowanus a thriving creative community

If a signed contract is **NOT** signed by the time you vote, I strongly urge you to vote **NO** on the rezoning. Moving forward with the rezoning without an ironclad agreement in place would effectively kill the creative community in Gowanus and make us just one more artist community in New York City that is forced to move and this time is there even a place to go?

If you want to see firsthand what is at stake in this rezoning, I invite you to come see Gowanus Open Studios this weekend, with over 400 artists and 100 locations - there is a lot to lose if a community benefits agreement isn't accomplished. I demand that you vote **NO** on this rezoning if this CBA is not accomplished.

 Reply  Forward

**From:** [Vincent Levien](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning Testimony  
**Date:** Wednesday, October 13, 2021 8:49:29 AM

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To Whom It May Concern:

I am Vincent LeVien, Director of External Affairs for the Roman Catholic Diocese of Brooklyn, which has 3 parishes surrounding the Gowanus Canal area, including: Our Lady of Peace at 522 Carroll Street, St. Agnes at 433 Sackett Street, and St. Mary Star of the Sea at 467 Court Street.

The Catholic Church has a long history of supporting and providing affordable housing in New York City, including 100 units of affordable housing for senior citizens at Mary Star of the Sea on 1st Street near the Gowanus Canal. It is our understanding that the proposed rezoning will create thousands of new housing units, many of which will fall under affordable housing restrictions. As proposed, this would be a welcome development, and that is why I am speaking in support of this proposal here today.

Our support is based on the understanding that the amount of affordable housing proposed in this rezoning will not be reduced or eliminated in any way.

Vincent D. LeVien  
Director of External Affairs  
Bishop DiMarzio  
Roman Catholic Diocese of Brooklyn  
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[www.netny.tv](http://www.netny.tv)  
[www.thetablet.org](http://www.thetablet.org)

**From:** [Vanessa Thill](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] VOTE NO on the Gowanus Rezoning  
**Date:** Wednesday, October 13, 2021 2:43:22 AM

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)Dear members of the City Council Subcommittee on Zoning,

I urge you to listen to the residents' concerns and vote no. This is not a community-based plan. This plan prioritizes developer profits, not affordable housing, racial justice, or cleanup. It is your duty to act in the interests of the greater community, not those who stand to profit from this plan. The rezoning has not addressed the MAJOR issues of toxic land and coal tar plumes.

It is shameful the way that you are allowing profit-seekers to bastardize the intent of the Racial Impact Study law by claiming that people living in the area are somehow protected from the speculation and displacement that these upzonings cause EVERY SINGLE TIME. The data is there in countless articles and studies, (see CUFFH's widely cited study on the upzoning of Williamsburg). If you choose to ignore this reality and its very notable disparate impacts that specifically harm Black and Brown people, you neglect your duty as lawmakers and you show yourself as capitalists and racists at heart.

Will you be the voice of the people who live and die for their city, as you promised to be, or will you solidify your legacy as a crony of the already-super-rich, who will pick up and leave when they've finished sucking our communities dry? I urge you to listen to the most vulnerable people in the room who beg you to use your power to protect them. If you vote yes on this rezoning, your message to the people is clear: there is no deeper purpose of your office than to personally profit and enrich those who already have access to power.

You know what to do.  
VOTE NO!

Yours sincerely,  
Vanessa Thill  
  
Brooklyn NY 11205

--

*Vanessa Thill*

**From:** [William Meehan](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezoning: Support  
**Date:** Wednesday, October 13, 2021 11:53:02 AM

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To the Land Use Committee:

My name is William Meehan. I am delivering this testimony in writing due to work meetings by the time public testimony was heard yesterday. I urge you to support the Gowanus Neighborhood Plan.

I live in Prospect Heights, just a few blocks away from CB6, and I find the current situation untenable. The downzonings of Carroll Gardens and Park Slope in the 2000s have caused rents to skyrocket and the surrounding area to get wealthier and more segregated. Without taking action, rents will continue to go up and up, and more people will get priced out of their neighborhoods or out of the city entirely. A vote for this rezoning is a vote to move past the status quo and build a better future.

Voting yes means welcoming 3000 low-income families to the neighborhood near the vast job centers of Downtown Brooklyn and Lower Manhattan. As the presentation yesterday said, median incomes for the area are well into the six figures. Creating new zoned capacity for low-income families through MIH is an important step to welcome permanently affordable housing. In fact, this is the first rezoning of a wealthy area, so for the first time, we can actually integrate a neighborhood by upzoning. There is also growing academic consensus that the addition of 5500 market-rate homes will help lower rents in existing buildings in Gowanus and nearby neighborhoods through filtering.

Upzoning cities is also good for climate change. New Yorkers have much lower emissions on average than most Americans, thanks to our efficient, electric subway, our walkable neighborhoods, and our attached homes and apartments. It is still important that New York reduce its building emissions to comply with Local Law 97. This is much easier to do through new builds than through retrofits, so allowing new housing in Gowanus will help decrease average emissions greatly. If we don't allow new homes in New York, people will continue to move to the Sun Belt, where they must drive everywhere, causing a greater carbon footprint.

This is an area that can easily handle new residents, since the subway is vastly under capacity. Not only did the existing trains have spare capacity pre-COVID, but the W could be extended into Brooklyn, or the G could be expanded to full-length trains.

In fact, due to ample subway capacity, the inclusion of parking minima is the one black stain on this rezoning. I request the council eliminate parking requirements in Gowanus and throughout the city. No one in Gowanus needs a car. In fact, we've seen from congestion pricing studies that New Yorkers who do own cars are much wealthier on average. Mandating new parking leads to more cars and more driving, which contributes to climate change. This rezoning is already very good, but it would have been better without parking.

Thank you for considering my testimony. Please vote to approve the rezoning.

William Meehan



Brooklyn, NY 11238

**From:** [Winslow Dennis](#)  
**To:** [Land Use Testimony](#); [Levin, Stephen](#); [Moya, Francisco](#); [Grodenschik, Barry S.](#); [Reynoso, Antonio](#); [Ayala, Diana](#); [District2](#); [Joseph Borelli](#)  
**Subject:** [EXTERNAL] The Gowanus Rezoning Plan - My Testimony  
**Date:** Thursday, October 14, 2021 5:24:56 PM

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Dear Councilmember,

I urge you to vote NO on the Gowanus rezoning plan. This plan was poorly conceived and is using a flawed EIS study. The risk of flooding is far more serious (as we have recently seen) than its findings. Additionally, the proposed Gowanus Green project would sit on a cauldron of toxic waste that poses a serious threat to anyone who might live, work, or go to school there. The remediation plan for that site is unacceptable.

Please vote no and send this plan back for a legitimate EIS and a better plan that considers the dangers of climate change.

Thank you,  
Winslow Dennis

**From:** [Yana Davydova](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Gowanus Rezone plan testimony  
**Date:** Tuesday, October 12, 2021 9:52:22 AM

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Hi, my name is Yana Davydova and I oppose Gowanus rezoning.

Not enough time has passed since the Gowanus flooding to have adequately reevaluated the new data. And Councilwoman Nydia Velásquez and NY State Assembly member Jo Anne Simon have called for the Environmental Impact Study and Statement to be redone. The Council can't vote on Gowanus Rezoning without an adequate EIS.

NYC is using rainfall numbers from 2008 —before Superstorm Sandy, and before the more recent storms Ida and Henri that flooded homes and even killed one Gowanus resident—to assure us that this plan is safe. They're using data that the EPA has said is incorrect, that elected officials have said is incorrect, and that has been questioned by many community groups.

The Council itself, last week passed legislation requiring a City-wide plan to protect every neighborhood. We saw that the sewer upgrades in Park Slope, completed last year were insufficient  
The Council should not vote on Gowanus Rezoning and should send EIS back to City Planning Commission - but if they do vote, to vote 'no'.

Thank you,  
Yana

**From:** [Zeke Luger](#)  
**To:** [Land Use Testimony](#)  
**Subject:** [EXTERNAL] Zeke Luger Testimony to the City Council's Hearing on the Gowanus Neighborhood Plan October 12, 2021  
**Date:** Tuesday, October 12, 2021 4:37:39 PM  
**Attachments:** [Zeke Luger Testimony to the City Council's Hearing on the Gowanus Neighborhood Plan October 12, 2021.pdf](#)

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Thank you for allowing me to testify :)

*Zeke Luger's Testimony to the City Council's Hearing on the Gowanus Neighborhood Plan  
October 12, 2021*

*Here's a handy link to the [Gowanus Racial Impact Study](#).  
And this is a link to the text of the [Racial Impact Study Bill](#).*

Hi, my name is Zeke Luger. I'm a Queens resident, and a statistics major at Queens College. I learned about NYC's land use issues during the Flushing rezoning, and since then have been active on land use issues around the city.

People keep referencing the Gowanus Racial Impact Study by Lance Freeman of Columbia University. The study is meant to preview future studies to be required under the Racial Impact Study Bill. The Gowanus report is used by supporters of the Gowanus Neighborhood Plan as a talking point to say this rezoning will bring integration to the city, to atone for DCP's oft-criticized previous neighborhood rezonings. DCP's rezonings have long been known to incentivize landlords to harass and evict their rent-regulated tenants in their rush to reach the booming luxury market. These evictions displace longtime working class communities, and deplete NYC's precious supply of affordable housing.

The bill requires that racial impact studies will calculate "a displacement risk index" largely reflecting the number of remaining rent stabilized units in the study area. Activists' demanded this provision to ensure these vulnerable residents' futures are accounted for in any large scale changes to zoning laws.

Have any of you read this study?

Did you read on page 5 how Freeman dismisses even the possibility of residential displacement?

Freeman concludes on page 34 that , "The risk of displacement...for Black and Latino families in the area is low since...the vast majority of low-income families reside in regulated affordable housing," describing those households as "protected", especially since rent laws were strengthened in 2019.

I've been in Flushing a lot lately, where residents have showed me how their rent stabilized buildings are *\*still\** facing MCI upgrades to raise their rent, and are *\*still\** seeing their rent stabilized buildings demolished.

Calling these vulnerable residents "protected" is such an insult to everyone who's ever been priced out of a home, or fought the city to acknowledge that this happens in official government documents, and contradicts the purpose of the racial impact study bill.

We know this study is nonsense, for any number of reasons, and actively attacks the experiences of New Yorkers. If DCP enacts the Council's racial impact study with this degree of disrespect for New York's longtime and vulnerable residents, we will make sure *\*everyone\** knows what you are doing.

This rezoning will displace residents. Please vote no on this rezoning.



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New York City Council  
Land Use Committee  
Zoning and Franchises Subcommittee  
City Hall  
New York, NY 10007

Re: Special Gowanus Mixed Use District

Dear Chair Moya and Members to the Subcommittee:

We are special land use counsel to Orange Management Inc. ("Orange"), the contract vendee of 125 Third Street (Lots 6, 8, 42, and 44 in Block 462) in Brooklyn ("Property"). The Property is within the western half of the block and is no less than 268 feet from the western edge of the Gowanus Canal. The Property is within the area now being considered for a series of zoning changes to implement the Gowanus Neighborhood Plan. The zoning changes, as adopted by the City Planning Commission, map the Property in an M1-4/R7-2 zoning district and within Subdistrict D of the Special Gowanus Mixed Use District. It is also within Block 12 of the Gowanus Waterfront Access Plan ("WAP") but has no obligations under that plan.

Orange has a number of concerns with the substance of the zoning changes and the process pursuant to which they were adopted.

- The boundary between Subdistrict D and Subarea D1 appears to have been moved from one location in the certified text to a different location in the text as adopted. In Appendix A, compare Map 2 of the text as certified and noticed with Map 2 of the text as adopted. Orange never had a proper opportunity to comment on the original location because none of the maps in the text as certified were dimensioned until long after the public hearing. In addition, the absence of dimensions raises questions about whether the changes made after the public hearing and incorporated into the final text were within scope.

There are two possible scenarios for the change. The first is that the certified Map 2 included only Lot 14 in Subarea D1 and that the Subarea was expanded in the approved map to include Lot 12 as well as Lot 14, an expansion that may have been out of scope. The second is that Map 2 as certified included Lots 42 and 44 and Lots 12 and 14 in Subarea D1 and that Lots 42 and 44 were removed in the



approved Map 2. If this were the case, the City Council can within scope restore the originally proposed boundaries of Area D1.

- The inclusion of the entire block 462 (including the Property) as Block 12 in the WAP notwithstanding the fact that all of the WAP's obligations were imposed on Lot 14, property on the eastern half of the block and entirely within Subarea D1. The inclusion of the Property in the WAP means that, as a condition to developing the Property, Orange will be required to obtain a certification that it has no obligations – a unnecessary process that is likely to take many months and involve time and expense for both Orange and the City that does nothing to advance the public health, safety and welfare. Orange therefore believes that the WAP should be limited to the portion of Block 12 that is mapped in Subarea D1. We note that there is precedent in the Greenpoint-Williamsburg WAP for including only the portion of a block affected by the WAP within it.

Based on the forgoing, Orange urges the City Council (i) to restore the boundary of Area D1 to include Lots 42 and 44, as we believe was shown in the certified and noticed text and (ii) to modify the boundaries of the WAP on Block 12 to include only Lot 14.

Thank you for your consideration.

Very truly yours,

  
Paul D. Selver

CC: Raju Mann  
Julie Lubin, Esq.  
Hon. Brad Lander  
Julia Ehrman  
Susan Amron, Esq.  
Winston Von Engel