

**Comments on the DEIS for the  
1460-1480 Sheridan Boulevard Proposed Rezoning  
Bronx River Alliance testimony**

July 24, 2023

Chair Garodnick and Commissioners, staff of the Mayor's Office of Environmental Coordination, thank you for the opportunity to submit written comments on the Draft Environmental Impact Statement for the 1460-1480 Sheridan Boulevard proposal for rezoning and related actions.

This testimony is submitted by Elena Conte, the Interim Executive Director of the Bronx River Alliance, a community organization which is also a public-private partnership with the Parks Department that serves as the coordinated voice for the river.

Formed by assemblage of community-based do-it-yourselfers who started removing cars and tires from the river going back to the 1970s -- with a structure that requires ongoing accountability with community groups -- for more than 20 years we have been **the** umbrella organization that supports communities along the river to manifest their dreams for it – and we have led in its protection, restoration, and connection.

Some quick facts about our history, scope, and impact:

- 22,000 of our volunteers have devoted almost
- 127,000 hours to restoring and enjoying the river, and
- dozens of local organizations have incorporated river restoration into their work.

Our efforts

- helped create 26 acres of new parkland and 5 miles of greenway trails near the river.
- Hundreds of educators have taken advantage of our 23-mile-long outdoor classroom to create deep connections to nature for students, some for the first time.

A full partner list is attached, and we work closely with community groups along all 8 miles of the river in the Bronx and beyond. In this immediate area some of our partners are Youth Ministries for Peace and Justice, the POINT CDC, Intervine at the Hope Program, Rocking the Boat, Friends of Concrete Plant Park, Mary Mitchell, Banana Kelly, Friends of Soundview Park, Urban Health plan – to name just a fraction.

As an organization seeking to connect the Bronx, city- and region-wide communities with the resource of a healthy river, we welcome investment in the corridor when it serves to advance the goals and plans of the surrounding communities.

We appreciate that the proposal before you creates new waterfront access, is mixed use, and will hopefully include some deeply affordable housing but unfortunately, **in its current form, it falls too short of community goals, while introducing some new concerns, and so we are urging the Commission to ask a lot of detailed questions during its review period of the developers, and to recommend modifications and commitments that would allow the project to more fully meet community needs.**

This document speaks to 1) housing affordability, 2) environmental standards, 3) significant adverse impacts found in the DEIS, 4) the portion of Starlight Park abutting the rezoning area, known also as “the Overflow Lot 5) public value recovery.

## **1) Housing affordability**

### **Housing affordability Background**

- According to the City’s data in the Racial Equity Report – 48% of the surrounding community is in the Extremely Low Income category – that would require affordability levels not beyond 30% of AMI to be affordable. It is 96% people of color.
- The current proposal seeks to do the legal minimum creation of deeply affordable units. The 15% of units at 30% of AMI that are included are legally required by law for projects accepting city subsidy as a set aside for formerly homeless people.
- But nearly half the people’s area are at that income level, indicating that it is appropriate to seek subsidy to create the most deeply affordable units, so that the people of the neighborhood would have some opportunity to live in the new development
- The 120% AMI at the top of the proposed income restriction is way too high for the area’s people --- and for the market as well. The median rent in the neighborhood is just over \$1000 a month. We would like the application of the Mix and Match term sheet to limit the top of the band to 100% of AMI, which for context, is now \$141k for a

family of 4. This would achieve greater affordability without changing the financing mechanisms the developer has already in conversation with HPD about

### **Housing affordability Questions**

- What is the status of the developer's conversations with HPD? Have they had an intake meeting? If not, what are they waiting for? What feedback have they received from HPD and how are they taking it into account?
- Why is the developer proposing to seek only the Mix and Match Subsidy? There are three proposed buildings and a combination of approaches and subsidies are possible?
- What is the distribution of units that the developer is proposing in each tier indicated in the DEIS?
- Considering how far above market 120% of AMI is, does the developer intend to keep units vacant until the market catches up? That seems like an unfair use of precious land in a community that desperately needs housing it can afford.

### **Housing affordability Modifications sought**

- The developer should apply for the subsidies that achieve the deepest levels of affordability, which is the ELLA term sheet, on all three of its proposed buildings
- A commitment to permanent affordability for all the income-restricted units in the proposed development

## **2) Environmental standards –**

### **Environmental standards Background**

- As a trained urban planner, I am generally pro-density; I have also spent much of my career contending with NIMBYs and faux environmentalists. As such, I want to be clear that nothing in these comments should be interpreted as in the spirit of those oppositional actors. Density – wherever it occurs – must be done right, and it is still also true not every site is appropriate for mid or high density.

- We are concerned that the official documents accompanying the action understate the impacts and wish to highlight our concerns based on our intimate relationship to the river and close connection to the surrounding communities.
- We have a number of environmental concerns about the proposed development, the leading one being stormwater management.
- Stormwater and combined sewer overflows are the top sources of pollution that compromise the quality of the Bronx River, the health of its habitats, and the ability of people to truly enjoy its natural beauty.<sup>[1]</sup>
- This project is immediately on the waterfront: in a flood zone and coastal zone.
- Our understanding is that the current proposal meets the minimum legal standard for stormwater management, and additionally includes a non-binding proposal for some porous pavers in the public walkway.
- Based on what we heard at the July 12, 2023 CPC hearing, it appears as though the specific environmental standard to which the development proposes to meet is the [Enterprise Green Communities Criteria](#). While it is not even clear whether this commitment is binding, the stormwater management requirement is described as,

*3.6 Surface Stormwater Management Retain: infiltrate and /or harvest the first 1.0 inch of rain that falls [4 points] OR as calculated for a 24-hour period of a one-year (1) storm event, so that no stormwater is discharged to drains/ inlets. [8 points] For both options, permanently label all storm drains and inlets.*

- Despite the fact that the documented weather pattern of the last month alone directly shows the insufficiency of either one of these “standards”, it’s not clear which one the developer is proposing to meet. Furthermore, the NYC Stormwater Resiliency Plan itself explains the mindset the City is adopting for its infrastructure:

- ***Recent academic studies show that sub-daily rainfall intensity may increase over the coming decades.*** *Since rainfall information started being collected, the number of days with extreme rainfall ...has increased. Projections created by the Northeast Regional Climate Center at Cornell University show the peak intensities of storms rising in the future. For example, the observed 5-year, 1 hour storm from 1970-1999 in Central Park ...is projected to increase to 2.15 inches per hour from 2040-2069.*

- *The historical design context of NYC’s sewers is essential to consider when predicting performance under future conditions and conducting long-term drainage planning. As discussed previously, DEP’s current sewer design standard is based...historical rainfall data. Design efforts for sewer infrastructure must take into account projected future sea level rise (SLR), increased precipitation, and frequency of high intensity storm events whenever possible. To reduce future vulnerability from these elements, **new and existing infrastructure shall undergo risk-based engineering analyses to protect against the impacts of climate change. DEP is currently revising its drainage planning procedures to use a projected 5-year storm event...and will continue to evaluate the drainage network under future storm scenarios. ...in 2021, the rainfall scenario that should be used for evaluating future sewer projects is the projected average rainfall intensity values for the years 2070-2099.** [emphasis added] p. 14*

### Environmental standards Questions:

- Are there guaranteed to be stormwater capture through Green Roofs, as is suggested in the DEIS?
- Will the 25, 000 sq foot open air garage have stormwater management features? If so, which ones, and how much stormwater will they capture?
- Given the City’s policy in its Stormwater Resiliency Plan, should private developers be held to the same standard as the City for forward planning for stormwater and wastewater management? Why is a private developer striving to — at best — capture rainfall in a 1-year storm, when the city’s planning standard is the 5-year storm? And why is the developer’s aspiration so minimal in an area that is targeted for stormwater flood with future sea level rise?<sup>[2]</sup>
- To which option in the Enterprise Surface Stormwater Retention standard is the developer committing?
- How has that standard measured up against the weather pattern witnessed this year? How does it stand up to future rainfall projections?
- How will that commitment be made binding?
- What additional stormwater capture features has the developer considered? What factors have kept them from committing to a higher standard?

### **Environmental standards Modifications sought**

- Features that are not guaranteed in the final design should not be included in or considered as part of the FEIS
- There are a range of solutions – grey water systems; additional green infrastructure; retention tanks; and beyond – that could be adopted at a range of costs that could improve the performance – and limit pollution, as we aspire to get as close to 100% stormwater capture as possible on waterfront developments.
- Regardless of the environmental standard sought, that standard should be completely clear to the public, and should be made binding.
- Understanding that the pace of climate change and environmental degradation has been far quicker than the speed of the law catching up, as planners and community members who have been on the losing side of failed policies for decades, we are taking into account the reality that we see and measure and experience every day on the river – and implore you to do the same.
- The standards to which this development adheres will absolutely set a precedent for what development will look like in the rest of the corridor – let's get it right here and get ahead of the legal standard to create the future we truly want and need. The outcome of this proposed action will reverberate throughout the river corridor and has the potential to uplift standards and positive impact – or lock-in harmful practices.
- DEP's certification process for sewer connection meet aggressive forward thinking standards, and not just the legal minimum.

### **3) Significant adverse impacts**

**Shadows and Natural Resources** – the detailed study shows a significant adverse impact on the Bronx River, which could impact habitat and recreational enjoyment. The DEIS does *not* find a significant impact on Natural Resources, the argumentation for which we do not think is correct. Simply because a landlord has held a site in poor condition for decades in an environmentally sensitive area doesn't mean that the site is unsuitable for natural resources – only that the way that it has been kept has prevented and blocked their flourishing.

### **Transportation impacts**

The DEIS finds significant adverse impacts for traffic and pedestrian elements. Five intersection approaches/lane groups in the study area would experience a significant adverse traffic impact and seven intersections would experience Pedestrian impacts. The DEIS proposes to mitigate the traffic with signal changes “if feasible,” and four of the seven pedestrian locations, “if feasible,” while leaving three unmitigated. This piecemeal approach to transportation in the area is disappointing and unfitting for the long history of community based transportation planning that the Greenway and the Sheridan plan represent.

### **Construction impacts**

Similarly, the DEIS finds significant adverse impacts for traffic from construction vehicles in the area. We believe that congestion at intersections is but a small piece of the construction impacts for which we should plan and mitigate.

There is a danger posed by exhaust from construction equipment and vehicles, in an area with poor air quality and high rates of respiratory disease. There is a danger of construction contractors and/or former tenants of the property disposing of waste and debris into the river (as was the case during recent Cross Bronx Expressway construction).

### **Significant adverse impacts Modifications sought:**

- The four pedestrian mitigations can be done with readily available elements – and City DOT and the developer should absolutely commit to their implementation, at the cost of the developer, on a set timeline. But beyond that, a holistic plan for transportation in the area, along with the funding to implement it, is overdue. The arrival of more than 2,700 new people to the area certainly warrants it, in an area that remains challenged by a lack of bold commitment to safety.
- **A plan should strive for safe pedestrian and cycling access in the area, to minimize the influx of cars and trucks through limiting onsite parking, and to improve true pedestrian access across the Boulevard (with wait times that make sense for parkgoers), accessibility access at the subways, and safe bike paths with clear signage.** This step has the potential to plan for populations, and to address the redundant roads adjacent to the unnecessary number of lanes on the Sheridan Boulevard. Onsite parking should be questioned, not only for the impact on traffic in the area, but for the ways it drives up development costs and compromises affordability, as well as compromises the stormwater capture potential of the site.
- Construction trucks, other vehicles and equipment should be required to be electric, and emissions free. Traffic, cyclist, and pedestrian rerouting should be clearly marked, and safe and monitored. Contractors and subcontractors should receive training and instruction on how to properly dispose of materials so as not to

contaminate the water. This could all be implemented through a **community-informed process that coordinated through a construction liaison** funded by the developer who is responsible to a community oversight committee, consisting of representatives of local groups, community boards, and elected officials.

**4) The portion of Starlight Park also known as the “Overflow Lot”, which abuts the proposed rezoning area**

**“Overflow Lot” Background**

- There is public parkland out of which the Bronx River Alliance operates daily that is essential to our programming on the river and in Starlight and Concrete Plant Parks, as well as the safety of the river, that is directly adjacent to the proposed zoning area, also known as the “Overflow Lot.”
- This area is used for horticultural staging, keeping specialized watercraft used for water quality monitoring and other equipment that can’t be housed elsewhere, as well as space for canoes in large events.
- Storage at the Parks Department is at a premium, and Ranaqua is at capacity. As a case in point, in July 2023, due to DEP work related to construction on the Cross Bronx Expressway, the Parks Department asked us to relocate 2 trailers and their essential contents from Ranaqua. There was no place else for them to go – except the Overflow Lot.
- The lot is used as a direct site for open community events that don’t have other suitable sites – like the compost giveaway that took place just last weekend.
- Every square foot of this parkland is in active, essential use, supporting the backend – and sometimes frontend – of community activities and projects. Altering the footprint would greatly diminish our capacity to serve the community.

**“Overflow Lot” Questions**

- Why did the developers attempt to speak on behalf of the Bronx River Alliance with regard to uses at the lot during the July 12, 2023 hearing? They could have simply requested that the Commission ask us directly and give us time to speak for ourselves.



- How does compromising the essential active uses of parkland get misconstrued as a benefit to the public?
- If the Overflow Lot is compromised as the developer proposes, how will the docks be maintained, where will the greenhouse be relocated, where will canoes, water quality testing boats, and other essential equipment be housed, especially as new items are currently being placed in the lot due to lack of suitable space elsewhere? What role would the developer be prepared to take on (if any) for replacing the uses it proposes to take?

#### **“Overflow Lot” Modifications sought:**

- Preexisting access points to the river should not be compromised in any way.
- The developer should seek to protect and expand the capacity of the Bronx River Alliance, by maintaining the footprint of the lot, and creating additional maintenance and operations as well as programming space – at no cost – in its proposed developments.

### **5) Public value recovery**

#### **Public value recovery Background**

- Starlight Park II has just opened in April 2023, after decades of our advocacy. With an additional almost 3 acres, we expect this summer will make clear the challenges and needs — at the **current** usership level. The DEIS shows that the proposed development will decrease the Open Space Ratio for residents from the existing insufficient .56 acres per 1,000 people (the NYC standard is 2.5 acres per 1,000 people)
- Growth in development should be accompanied by growth in the services that make the area livable — and developers who profit from the hard-fought community efforts to create a livable environment and clean river have a responsibility to support — in an ongoing way — the maintenance of those public assets.
- The reason that this location is now desirable for housing is directly related to the park creation, river clean up, maintenance, and programming, and the conversion of the Sheridan into a Boulevard – all efforts led and sustained by the low-income

communities of color pursuing a modicum of environmental justice, in partnership with government.

- Maintenance for Starlight Park and the corridor overall is grossly underfunded
- The developers have held this land for 45 years, while the community strove to clean and improve the area, and whose dedication created tremendous land value. There has been no recent acquisition cost to factor into a proforma. Through a public land use action, the value created publicly is now poised to accrue to private landholders, disproportionately, in our opinion, without sharing enough of that value back to the public through benefiting the amenity that creates the value in the first place. The concept is the same as when, for example, public transit creates value, and the precedent of the developers who profit from that value dedicating a portion of their profit back to transit amenities in midtown Manhattan.

#### **Public value recovery Modifications sought**

- We call for substantial financial commitment that would provide **ongoing** support for the maintenance of Starlight Park and the river.
- Building on the precedent established by the Riverside Center zoning action which included a developer contribution to Riverside Park and the recreation center, we urge that the Text Amendment require developer payments into a Greenway maintenance and programming fund that would support the long-term viability and maintenance of the Bronx River Greenway.
  - A one-time contribution per unit would be payable upon completion of each unit and placed in escrow for parks maintenance and programs.
  - A \$3000 contribution per unit would, upon full-build-out, fund a \$2.9 million account that could help care for and provide diverse programming for the parks as they accommodate the hundreds of new daily parks visits these projects will generate.
- All we are asking is that the developers redistribute that publicly created value -- which is about to be enhanced by a public action undertaken by public servants -- back to the public, via improving the standards of the development -- through deeper, permanent affordability, context-appropriate environmental standards, and ongoing support for the assets that support the ongoing profit-value of the site.

- And from the Commission, in your role as planners stewarding the future wellbeing of our city’s people and the environment which sustains them – we are asking you to ask hard questions, recommend modifications to the greatest extent of your technical and political powers --- and to know that doing so will reap benefits far beyond this specific action, but into a whole natural – and social – ecosystem along the corridor, generations into the future.

Thank you, we look forward to working with all parties involved to arrive at the best possible development for the community and the river, rooted in real and transparent commitments.

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[1] “Stormwater runoff is a fast-growing source of freshwater pollution worldwide, and [the largest source of water pollution in U.S. cities](#).

During times of frequent or large storm events in many urban areas, sewer systems are often overwhelmed and allow run off from the streets—a combination of rainwater, oil, grease, heavy metals, pesticides and sometimes even raw sewage—to be discharged directly into our lakes, rivers and oceans.” From [How LEED works to Manage Stormwater](#)

[2] According to [NYC Stormwater Flood Maps](#)