HERKIMER-WILLIAMS EIS
Chapter 25: Effects on Disadvantaged Communities

A. INTRODUCTION

Effective December 30, 2024, Section 8-0109(2)(k) of the New York State Environmental Conservation Law requires that Environmental Impact Statements (EISs) include a statement of the effects of the Proposed Actions on disadvantaged communities, including whether the Proposed Actions may cause or increase a disproportionate pollution burden. The 2021 *City Environmental Quality Review* (CEQR) *Technical Manual* predates these revisions to the Environmental Conservation Law and does not provide guidance regarding the scope of this analysis. On January 29, 2025, the New York State Department of Environmental Conservation (DEC) proposed draft revisions to its State Environmental Quality Review Act (SEQRA) regulations (6 NYCRR Part 617) to implement this new statutory provision. This assessment considers the impacts that have been identified pursuant to the 2021 *CEQR Technical Manual* as well as applicable guidance from DEC in determining whether the Proposed Actions would result in disproportionate impacts on disadvantaged communities.

As described in **Chapter 1, "Project Description,"** the Proposed Actions would facilitate the development of five new buildings on the projected development sites in the Project Area. The new mixed-use development on the projected development sites would contain a combined total of approximately 1,589,202 gross square feet (gsf), including approximately 435,766 gsf of commercial office space, 113,760 gsf of commercial retail space, 834,763 gsf of residential space (1,112 dwelling units [DUs]), 22,985 gsf of community facility (house of worship) space, and 98,483 gsf of light industrial space for Use Groups III-X, as well as approximately 174 accessory parking spaces (approximately 83,445 gsf) and 20,080 sf of publicly accessible area ("PAA") space (the "Proposed Development"). Pursuant to the City's MIH program, up to 20-30 percent or approximately 222-334 units would be designated as permanently affordable at an average of 40-80 percent area median income (AMI) depending on the selected Option (the Applicant intends to map both Options 1 and 2). In addition to the approximately 222-334 permanently affordable units pursuant to MIH, the Applicant intends to work with the New York City Department of Housing and Preservation (HPD) to allow the proposed DUs in the Proposed Development to be designated as 100 percent affordable units as well, pursuant to available subsidy.

A Reasonable Worst Case Development Scenario (RWCDS) has been established for the Proposed Actions for an analysis year of 2036. In the future with the Proposed Actions, the Proposed Actions would be approved, allowing the Applicant to construct the Proposed Development on the projected development sites in the Project Area. In addition, a second RWCDS (the "Alternate Community Facility Scenario") will be assessed for conservative analysis purposes, where deemed appropriate for any technical area in the EIS where this development scenario serves as the more conservative RWCDS compared to the Proposed Development. The Alternate Community Facility Scenario would include five new buildings in the Project Area containing a combined total of approximately 1,620,348 gsf, including approximately 688,065 gsf of residential uses (911 DUs), 461,749 gsf of commercial office space, 137,026 gsf of commercial retail space, 114,691 gsf of community facility space (including 22,985 gsf of house of worship space and 91,706 gsf of academic university space), and 111,933 gsf of light industrial space for Use Groups III-X, as well as approximately 200 accessory parking spaces (approximately 106,884 gsf) and 20,080 sf of PAA space. Pursuant to the City's MIH program, up to 20-30 percent or 182-273 units would be designated as permanently affordable at an average of 40-80 percent AMI depending on the selected Option (as mentioned, the Applicant intends to map both Options 1 and 2). Like the Proposed Development, the

Applicant intends to work with HPD to allow the proposed DUs in the Alternate Community Facility Scenario to be designated as 100 percent affordable units, pursuant to available subsidy.

B. PRINCIPAL CONCLUSIONS

The area affected by the Proposed Actions would affect census tracts comprised of Disadvantaged Communities (DACs) – both higher and lower vulnerability levels – and non-DACs. The Proposed Actions have the potential to result in significant adverse impacts in the following CEQR technical areas: transportation (traffic, transit, and pedestrians); mobile source air quality; and construction (transportation).

There would not be any disproportionate pollution burden on DACs because of the Proposed Actions related to transportation and construction. Although most of the potential impacts would occur in DACs with "higher burdens and vulnerabilities," the potential impacts would not cause a greater or more severe pollution burden in DACs as compared to non-DACs. However, as a mobile source air quality impact may occur in DACs with higher burdens and vulnerabilities, a disproportionate pollution burden could occur. Between certification of the DEIS and publication of the FEIS, additional refinements to the analysis will be performed which is expected to determine that the identified threshold for a *de minimis* impact related to mobile source annual average $PM_{2.5}$ increments will not be met. Additional modeling of $PM_{2.5}$ concentrations (Grid Analysis) will be performed using more comprehensive analysis procedures to determine the magnitude and extent of neighborhood-scale $PM_{2.5}$ impacts from mobile sources. Other updates may include the use of newer vehicle emissions model data and projections. It is anticipated that the analysis accounting for these additional data points will conclude that $PM_{2.5}$ concentrations as a result of the Proposed Actions fall below the annual *de minimis* criteria thresholds, and consequently the identified impacts related to mobile sources would not occur. In addition to the refined analysis which may demonstrate that potential impacts related to mobile sources would not occur, potential mitigation measures are currently being explored by the lead agency, DCP, and will be refined between certification of the DEIS and publication of the FEIS.

C. IDENTIFICATION OF DISADVANTAGED COMMUNITIES

In 2023, the Climate Justice Working Group (CJWG) used 45 indicators to identify disadvantaged communities (DAC) in New York State. Approximately 35 percent of New York State census tracts were identified as DAC. The criteria include multiple indicators that represent the environmental burdens or climate change risks within a community, or population characteristics and health vulnerabilities that can contribute to more severe adverse effects of climate change. Each census tract was scored based on relative burden, risk, vulnerability, or sensitivity. Specifically, the percentile ranks of the indicators for each census tract were combined to produce a value measuring a census tract's relative level of "Environmental Burdens and Climate Change Risks" as well as "Population Characteristics and Health Vulnerabilities" relative to other census tracts. census tracts with higher scores relative to other census tracts statewide or to their region (i.e., New York City) were identified as DACs.

DEC's Disadvantaged Community Assessment Tool (DACAT) compares three scores (Combined Score, Burden Component Score, and Vulnerability Component Score) for each census tract to non-DAC comparison scenarios (statewide urban, statewide rural, and urban/rural for each of the 10 regions). The DACAT then selects the lowest score in each of the comparison scenarios, called the "aggregate denominator." It also displays the percent difference between the three scores and the statewide mean

or median for each. The DACAT compares the three scores with the identified aggregate denominators. If the Combined Score is 25 percent higher than its aggregate denominator, and one or both the Burden and Vulnerability Component Scores are 35 percent higher than their aggregate denominators, then DACAT highlights the census tract as having comparatively higher existing burdens or vulnerabilities. This indicates an increased likelihood that a proposed action may have a moderate or large impact on the DAC. If the conditions above are not met, then the DACAT highlights the census tract as having comparatively lower existing burdens or vulnerabilities, and therefore a decreased likelihood that a proposed action may have a moderate or large impact on the DAC.

As shown in **Figure 25-1** and listed in **Table 25-1** below, portions of two census tracts in the Project Area are identified as DACs – census tract 365.02 with lower burdens and vulnerabilities, and census tract 367 with higher burdens and vulnerabilities. In total, the half-mile study area includes 14 census tracts identified as DACs with higher burdens and vulnerabilities, and seven census tracts identified as DACs with lower burdens and vulnerabilities. The remaining two census tracts in the half-mile study area (census tracts 407 and 561) were not identified as DACs by DEC. Details of the DACs with higher burdens and vulnerabilities identified in the Project Area and half-mile study area are provided below.

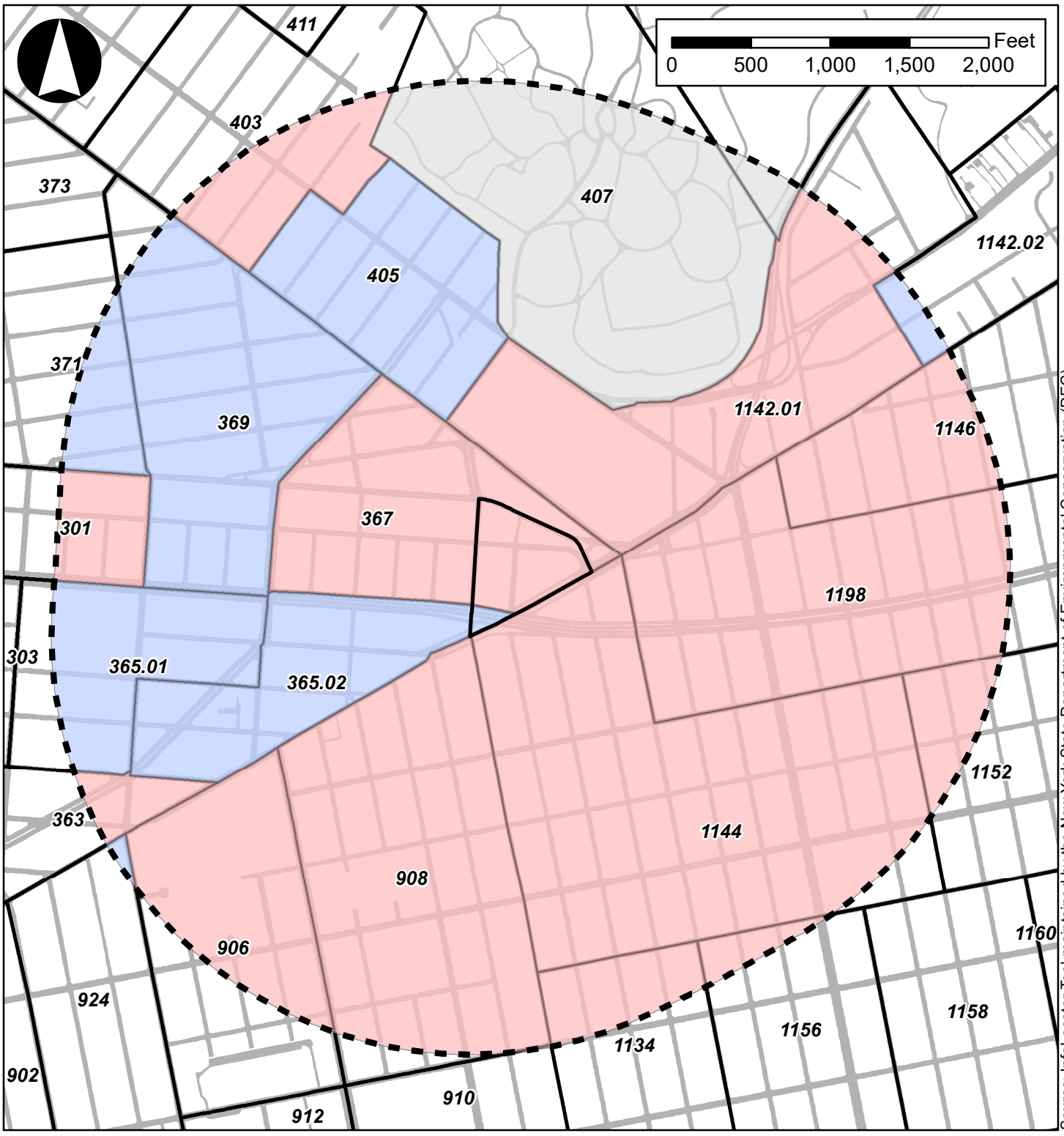
D. DISADVANTAGED COMMUNITIES ASSESSMENT

The Proposed Actions would not result in significant adverse impacts in the following technical areas analyzed in this EIS: land use, zoning, and public policy; socioeconomic conditions; community facilities and services; open space; shadows; historic and cultural resources; urban design and visual resources; hazardous materials; water and sewer infrastructure; solid waste and sanitation services; energy; stationary source air quality; greenhouse gas emissions and climate change; noise; public health; neighborhood character; or construction air quality and noise. Furthermore, the EIS does not identify the potential for the Proposed Actions to cause any combination of moderate effects which together result in an impact. As such, the Proposed Actions would not cause a disproportionate impact on DACs with respect to any of these technical areas, including cumulative effects from multiple technical areas.

Significant adverse impacts have the potential to occur in the following CEQR technical areas: transportation (traffic, transit, and pedestrians); mobile source air quality; and construction (transportation).

As the 2021 *CEQR Technical Manual* has not been updated to include guidance for an assessment of Effects of Disadvantaged Communities, the draft proposed revised SEQRA Environmental Assessment Form (EAF) has been consulted for guidance for this analysis. The proposed EAF Full Form identifies direct or indirect impacts that may affect a DAC, including: new noise sources or expansions/modifications of existing noise sources (i.e., noise from operational sources or construction activities); emissions of air pollutants including mobile emissions; wastewater discharges; generation of odors; light pollution; new or modified radiation sources; or new or modified sources of solid waste generation, management, or disposal. The Proposed Actions would not result in significant adverse impacts in most of these technical areas in DACs or in non-DACs, nor would it cause a combination of moderate effects which together may result in a pollution impact in the Project Area or surrounding study area. The EIS discloses the potential for mobile source air quality impacts. However, as discussed below, between certification of the DEIS and publication of the FEIS, additional review, refinements, and evaluation of mobile source air quality impacts will be performed, which is expected to determine that the Proposed Actions would not result in significant adverse impacts. The EIS also discloses that the Proposed Actions have the potential to result in significant adverse operational and construction-related transportation impacts; while none of these impacts themselves constitute pollution, each are described briefly below.

Figure 25-1
DEC Disadvantaged Communities in the Study Area



Source: InfoLocator Tool maintained by the New York State Department of Environmental Conservation (DEC)

Legend

- Project Area
- Half-Mile Study Area
- 367 2020 Census Tracts

Study Area Census Tracts

- Not identified as a Disadvantaged Community (DAC)
- Identified as a DAC with higher burdens and vulnerabilities
- Identified as a DAC with lower burdens and vulnerabilities

TABLE 25-1
NYS Disadvantaged Communities in the Half-Mile Study Area

Census Tract	DAC Burdens and Vulnerabilities	Location
301	Higher	Study Area
363	Higher	Study Area
365.01	Lower	Study Area
365.02	Lower	Project Area and Study Area
367	Higher	Project Area and Study Area
369	Lower	Study Area
371	Lower	Study Area
403	Higher	Study Area
405	Lower	Study Area
906	Higher	Study Area
908	Higher	Study Area
910	Higher	Study Area
924	Lower	Study Area
1134	Higher	Study Area
1142.01	Higher	Study Area
1142.02	Lower	Study Area
1144	Higher	Study Area
1146	Higher	Study Area
1152	Higher	Study Area
1156	Higher	Study Area
1198	Higher	Study Area

Source: DEC's DACAT.
Note: Refer to **Figure 25-1**.

Transportation (Traffic, Transit, and Pedestrians)

As detailed in **Chapter 13, "Transportation,"** the Proposed Actions have the potential to result in significant adverse impacts to a) vehicular traffic at 16 intersections; b) two stairs at one subway station; and c) pedestrian elements at four sidewalks, five corners, and three crosswalks. The identified impacts on pedestrians are unlikely to result in increased pollution. Traffic congestion occurs in locations throughout New York City, including in areas outside of DACs. Air and noise emissions associated with traffic may have the potential to create a pollution burden on a DAC, but traffic itself does not constitute pollution. Potential impacts related to mobile sources of air pollution are discussed below.

Air Quality (Mobile Sources)

This EIS discloses the potential for a significant adverse mobile source air quality impact at one intersection in **Chapter 14, "Air Quality."** The intersection, East New York Avenue and Williams Avenue,

is partially within two DAC census tracts with "higher burdens and vulnerabilities." At this location, the maximum annual incremental $PM_{2.5}$ concentration is predicted to exceed the *de minimis* criterion. However, as also detailed in **Chapter 14, "Air Quality,"** concentrations of CO and $PM_{2.5}$ due to project-generated traffic at analyzed intersections near the Project Area would not result in any violations of National Ambient Air Quality Standards (NAAQS), and furthermore, CO concentrations were predicted to be below CEQR *de minimis* criteria, as are the daily (24-hour) $PM_{2.5}$ increments at each of the intersections analyzed. Between certification of the DEIS and publication of the FEIS, additional refinements to the analysis will be performed which is expected to determine that the identified threshold for a *de minimis* impact related to mobile source annual average $PM_{2.5}$ increments will not be met. Additional modeling of $PM_{2.5}$ concentrations (Grid Analysis) will be performed using more comprehensive analysis procedures to determine the magnitude and extent of neighborhood-scale $PM_{2.5}$ impacts from mobile sources. Other updates may include the use of newer vehicle emissions model data and projections. It is anticipated that the analysis accounting for these additional data points will conclude that $PM_{2.5}$ concentrations as a result of the Proposed Actions fall below the annual *de minimis* criteria thresholds, and consequently the identified impacts related to mobile sources would not occur. In addition to the refined analysis which may demonstrate that potential impacts related to mobile sources would not occur, potential mitigation measures are currently being explored by the lead agency, DCP, and will be refined between certification of the DEIS and publication of the FEIS. While the mobile source air quality impact would not constitute a significant adverse public health impact, due to the existence of DACs and one intersection located partially within comparatively higher vulnerability DAC census tracts affected by the potential mobile source air quality impact, a disproportionate pollution burden to DACs could occur.

Construction (Transportation)

The EIS discloses that potential significant adverse traffic and pedestrian impacts could occur during construction, which would be within the range of impacts identified for the 2036 With-Action condition. As with operational transportation impacts, the identified impacts on traffic and pedestrians are unlikely to result in increased pollution. Moreover, traffic congestion occurs in locations throughout New York City, including in areas outside of DACs. In addition, the Proposed Actions would not result in a disproportionate pollution burden to DACs as a result of mobile source emissions from construction-related traffic. Therefore, the Proposed Actions would not result in disproportionate pollution burden as a result of construction-related traffic.