24 RESPONSE TO COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

24.1 Introduction

This document summarizes and responds to comments on the Draft Environmental Impact Statement (DEIS), issued April 7, 2023, for the proposed 1460-1480 Sheridan Boulevard project (the "Proposed Actions").

A public meeting was held by the New York City Department of City Planning (DCP), the Lead Agency, on July 12, 2023. The public hearing was accessible in-person (DCP hearing room at 120 Broadway) and remotely through the City's Engage NYC portal. Written comments were accepted through the duration of the public comment period, which ended July 24, 2023. A Final Environmental Impact Statement (FEIS) was issued on August 11, 2023, incorporating verbal and written comments received on the DEIS where relevant and appropriate.

Section 2 below lists the elected officials, organizations, and individuals who provided relevant comments on the DEIS. Section 3 contains a summary of relevant comments collated by subject matter. Comments are not necessarily quoted verbatim but are summarized to convey the substance of the issue. Appendix J contains the written comments received on the DEIS and Appendix K contains the transcript from the DEIS public hearing.

The numbers after each comment correspond to the commenter list in Section 2. This Response to Comments parallels the chapter structure of the DEIS.

24.2 List of Elected Officials, Organizations, and Individuals who Commented on the DEIS

Elected Officials

City Planning Commission

1. Alfred C. Cerullo III, verbal comments dated July 12, 2023.
2. Rasmia Kirmani-Frye, verbal comments dated July 12, 2023.
3. Orlando Marin, verbal comments dated July 12, 2023.

Organizations

4. Elena Conte, Interim Executive Director, Bronx River Alliance: verbal comments dated July 12, 2023.
5. Lisa Soren, President, Bronx Chamber of Commerce: verbal comments dated July 12, 2023.
6. Dariella Rodriguez, Director of Community Development, The POINT Community Development Corporation (CDC): written comments dated July 24, 2023
7. Wanda Salaman, Mothers on the Move (MOM): written comments dated July 24, 2023.

Interested Public

8. Edmundo Martinez: verbal comments dated July 12, 2023.

24.3 Comments and Responses on the DEIS

The numbers in the parentheses following comments in this section correspond with the commenter, as numbered in Section 24.2.

Executive Summary and Project Description

Comment 1: The affordability of the Proposed Development is higher than the median income of the surrounding area. (4, 8)

Response 1: Comment noted. Chapter 3, "Socioeconomic Conditions" of the DEIS provides an analysis of the median income of the surrounding area and the anticipated household income of project-generated residents. After consultation with Bronx Community Board 9, Bronx Borough President Gibson, and Councilmember Rafael Salamanca, the Applicant believes the affordability levels in the New York City Department of Housing Preservation & Development's (HDP's) Mix & Match Program are appropriate and will be quickly tenanted by local residents of the Bronx.

Comment 2: There should be indoor community facility space provided as a part of the Proposed Development (8)

Response 2: Comment noted. The Applicant does not propose an indoor community facility space. Chapter 4, "Community Facilities and Services" of the DEIS assessed the effects of the project on community facilities and services in accordance with the *CEQR Technical Manual*. The DEIS concluded that the project would not result in a significant adverse impact to community facilities and services and mitigation is not warranted.

As noted in Chapter 5, "Open Space," the proposed public open space introduced by the Proposed Development would contain a variety of amenities that could be programmed in partnership with the community, such as the proposed amphitheater.

Comment 3: The developer will keep apartments vacant until they find tenants that are 120 percent of the Area Median Income (AMI). (4)

Response 3: Comment noted. The proposed affordable housing would be subject to a regulatory agreement with HPD that would preclude the Applicant from keeping apartments vacant.

Comment 4: The current environmental standards are outdated and do not meet the community's standards. (6, 7)

Response 4: Comment noted. The DEIS uses the environmental standards provided in the 2021 *City Environmental Quality Review (CEQR)* Technical Manual published by the New York City Department of City Planning (DCP). The 2021 *CEQR Technical Manual* is the latest guidance on environmental review for projects commenced on or after December 30, 2021.

Comment 5: The Project Site is more desirable and has increased land value because of the efforts led and sustained by low-income communities of color pursuing environmental justice. The developers should redistribute the publicly created land value back to the public. (4)

Response 5: Comment noted.

Land Use, Zoning and Public Policy

Comment 6: There are no supermarkets close to the Proposed Development. (8)

Response 6: Comment noted.

Open Space

Comment 7: The overflow lots are not accessible to the public because that lot is also used by the Bronx River Alliance. (8)

Response 7: As described in Chapter 1, "Project Description" of the DEIS, the de-mapped portion of East 172nd Street between Sheridan Boulevard and the Bronx River is part of Starlight Park and is used by NYC Department of Parks and Recreation (NYC Parks) as back-of-house space for storage, horticulture staging, overflow parking, and an emergency boat launch. This area is currently fenced off and is not regularly open to the public; however, it is accessible to NYC Parks and the Bronx River Alliance for operations and programming support. As described in Chapter 5, "Open Space," the existing fence that closes off this part of Starlight Park to the public would be relocated to increase the park's publicly accessible area while continuing to restrict public access to the emergency boat launch and NYC Parks' storage bins. The design of the Starlight Park connection continues to be

coordinated with NYC Parks and the final design would be approved through a Parks permit prior to construction. As a condition of this permit, the Applicant would enter into a license agreement with NYC Parks to maintain the connection. The maintenance obligations and permit requirements will be codified in the maintenance and operations agreement between the Applicant and the City, and in the Restrictive Declaration for the 1460-1480 Sheridan Boulevard Waterfront Actions land use application.

Comment 8: Starlight Park and Concrete Plant Park are not well maintained well. (5)

Response 8: As noted on DEIS page 5-10 in Chapter 5, "Open Space", Starlight Park and Concrete Plant Park were both determined by NYC Parks to be in acceptable condition. Per NYC Parks Inspections, Zone 1 of Starlight Park (East 172nd Street to the bridge northeast of 174 Street) was inspected ten times since April of 2019. Since February of 2022, Zone 1 of Starlight Park was determined by NYC Parks to be in an acceptable condition overall and considered to have "acceptable" cleanliness. The EIS has been updated to note that the latest inspection for Concrete Plant Park in February 2023 found unacceptable features related to graffiti and lawns; however, the park has been inspected ten times since March of 2019 and was determined by NYC Parks to be acceptable for both cleanliness and overall condition eight out of ten times. Overall, both parks are considered in acceptable condition per NYC Parks standards.

Comment 9: Starlight Park and Concrete Plant Park are already overwhelmed by the current residential population. (4, 8)

Response 9: As noted on DEIS page 5-10 in Chapter 5, "Open Space", both Starlight Park and Concrete Plant Park were determined by NYC Parks to be in acceptable condition during a majority of inspections since 2019. Per website reviews of Starlight Park, users have not commented that Starlight Park[1,2] and Concrete Park[3,4] are overwhelmed by the current residential population.

As noted below in response to Comment 10, 1.38 acres of publicly-accessible, privately-maintained open space would be created as part of the Proposed Development, in addition to outdoor tenant-only open space available to residents. The new public and private open space would serve to alleviate some of the incremental demand for open space that would be generated by the Proposed Development's residential and worker populations.

Comment 10: The DEIS should clarify who will manage and maintain the project-generated open space. (1)

Response 10: As described on DEIS Page 5-2 in Chapter 5 "Open Space", the Proposed Actions would add 1.38-acres of new publicly accessible open space on the Applicant's sites that would be constructed, operated, and maintained by the Applicant. As a condition of the City Planning Commission's approval of the waterfront actions, a maintenance agreement would be put in place that would require the Applicant to maintain the waterfront open spaces on the Applicant's sites. The maintenance agreement would be tied to the sites in perpetuity through a Restrictive Declaration.

As noted above in response to Comment 7, the Applicant will also commit to maintaining the proposed connection to Starlight Park.

[1] https://nicelocal.com/new-york-city/entertainment/starlight_park/
[2] https://www.yelp.com/biz/starlight-park-new-york#reviews
[3] https://www.yelp.com/biz/concrete-plant-park-bronx?osq=concrete+plant+park&override_cta=Get+pricing
[4] https://nicelocal.com/new-york-city/entertainment/concrete_plant_park/

Shadows

Comment 11: The building heights will increase shadow on the Bronx River and Starlight Park. (3, 8)

Response 11: Comment noted. Chapter 6, "Shadows" of the DEIS assessed the project-generated shadows effects on proximate sunlight-sensitive resources including the Bronx River and Starlight Park and concluded that the project would not result in significant adverse shadows impacts.

Natural Resources

Comment 12: The building height will affect migratory birds. (8)

Response 12: As described on DEIS page 9-24 of Chapter 9 "Natural Resources", the Proposed Development would adhere to all local laws and building codes, including Local Law 15 of 2020 which requires new buildings be constructed to bird-friendly design requirements. The Proposed Actions do not request a waiver from the requirements of Local Law 15 of 2020.

Comment 13: The project will affect aquatic wildlife within the Bronx River. (8)

Response 13: The proposed project would not introduce new physical barriers to aquatic wildlife in the Bronx River. As described in Chapter 6, "Shadows," of the DEIS, project-generated shadow would not preclude the ability for fish to migrate throughout the river.

As described in Chapter 9, "Natural Resources," project-generated development would occur in-board of the existing bulkhead and would not increase the footprint of existing disturbance along the Bronx River. The project would replace the existing industrial and parking uses on the Applicant's sites with the Proposed Development, which includes native vegetation and landscaping that would support the overall ecology of the Bronx River.

In addition, the Proposed Development would incorporate several restoration measures to lessen the effects of incremental shading on the Bronx River. These include increasing the amount of vegetation along the onsite shore public walkway to provide a greater quantity of shade-tolerant tree species; providing informational signage along the shore public walkway to educate the public on the presence of migratory American eel, blueback herring, and alewife present, and the ongoing restoration of the Bronx River; and coordinating with NYC Parks to provide funding to improve fish passage over the Starlight Park weir for migratory American eel and river herring to pass over the weir at low tide in the vicinity of the Project Site. These proposed measures have been developed in coordination with the New York City Department of Environmental Protection (NYCDEP) and NYC Parks. These commitments would be memorialized in a Restrictive Declaration tied to Projected Development Sites 1 and 2.

The Applicant plans to enter the New York State Department of Environmental Conservation (NYSDEC) Brownfield Cleanup Program (BCP). The BCP would require remediation in accordance with a brownfield cleanup agreement that would be executed between the Applicant and NYSDEC. As part of the agreement, the site would be remediated and the bulkhead would be sealed to prevent hazardous materials from flowing into the Bronx River or surrounding area, as described in Chapter 6, "Hazardous Materials" of the DEIS. Therefore, the Proposed Development would improve water quality by reducing the potential for contaminants on the Applicant's sites to reach the Bronx River.

Water and Sewer Infrastructure

Comment 14: There should be more detail on the stormwater management for the Proposed Development, and they should go beyond the legal required standards. Combined Sewer Overflow events have a major impact on the Bronx River. (4, 6, 7)

Response 14: In New York City, new development must comply with the Unified Stormwater Rule (per Chapters 19.1 and 31 of Title 15 of the RCNY), which was codified in 2022. These regulations require that stormwater be released from redeveloped sites at a rate lower than CEQR requirements. As described in DEIS Chapter 11, "Water and Sewer Infrastructure," project-generated development would comply with Chapters 19.1 and 31 of Title 15 of the Unified Stormwater Rule, which sets the maximum allowable discharge rate to the City sewer system. With the Unified Stormwater Rule in place, the Proposed Development may reduce the intensity and frequency of combined sewer overflow (CSO) events and would have a nominal effect on the City sewer system. Therefore, the Proposed Development would not result in significant adverse impacts on the City's wastewater infrastructure facilities and would not increase the intensity and frequency of CSO events.

New development would require a connection to the City's combined sewer system. New stormwater outfalls would require a discretionary permit from NYSDEC and would be required to comply with the current NYSDEC standards pertaining to stormwater discharges directly to the Bronx River. The NYSDEC permitting process provides protections to ensure that project-generated stormwater that discharges directly to the river would not have the potential to result in significant adverse effects.

Transportation

Comment 15: There will be additional cars in the area due to the Proposed Development, which could create more vehicular collisions. (8)

Response 15: Comment noted. DEIS Chapter 12 "Transportation" provides an analysis of the effects of project-generated vehicular traffic on the surrounding network. DEIS Chapter 12 also provides a vehicular and pedestrian safety evaluation. Please refer to the below response to Comment 17 for additional discussion.

Comment 16: The Proposed Development will impact the cycling infrastructure in the surrounding area, which is already impacted by illegal parking within the bike lanes. (8)

Response 16: The project does not propose geometric changes to the area's existing cycling infrastructure, and parking enforcement issues are beyond the scope of CEQR. Separate from the Proposed Development, New York City Department of Transportation (NYCDOT) has a number of safety improvement and bike lane projects planned in the area including the Installation of pedestrian islands, and protected bicycle lanes along Westchester Avenue between Southern Boulevard and Whitlock Avenue. Please refer to the below response to Comment 17. While not part of the Proposed Development, each of these NYCDOT improvement projects will be evaluated in connection with the Proposed Development in a post-implementation Transportation Monitoring Plan (TMP) to be prepared by the Applicant, in consultation with NYCDOT. Please refer to the below response to Comment 20, describing the TMP.

Comment 17: The district already is susceptible to a lot of vehicular collisions with pedestrians by vehicles. (8)

Response 17: A vehicular and pedestrian safety evaluation was completed pursuant to CEQR and is provided in Chapter 12 of the DEIS ("Transportation"). A screening assessment of potential high-crash locations was also completed pursuant to CEQR as part of the project's Travel Demand Factors (TDF) Memorandum. This supplemental screening assessment was conducted for intersections located within one-quarter mile of the Proposed Rezoning Area with project-generated trips assigned to them (see Appendix H, "Transportation"). These analyses found that one intersection (Westchester Avenue and Whitlock Avenue) of the study area's 18 total intersections is classified as a "high crash intersection" per CEQR. The DEIS also notes that NYCDOT plans to implement safety improvements at this intersection per the *Westchester Avenue, Southern Boulevard to Whitlock Avenue Safety Improvement Plan* published in 2022 by NYCDOT.

Comment 18: Illegal parking is happening in the area. (8)

Response 18: Comment noted. Enforcement issues are beyond the scope of CEQR.

Comment 19: The proposed 100 parking spaces will not be enough for the project-generated traffic. (8)

Response 19: The CEQR parking analysis in Chapter 12 of the DEIS ("Transportation") found that the project would not result in a potentially significant public parking shortfall within one-half mile of the Proposed Rezoning Area.

Comment 20: Significant traffic impacts for the project should be addressed and considered (6, 7).

Response 20: Chapter 12, "Transportation" of the DEIS considers the potentially significant adverse traffic impacts of the Proposed Development. The Proposed Development would have the potential to result in significant adverse traffic impacts during one or more peak hours to five total intersection approaches/lane groups at four study area intersections. Measures to reduce or fully mitigate these potentially significant adverse impacts were explored in Chapter 19, "Mitigation" of the DEIS. The analysis found that potentially significant adverse traffic impacts at all five impacted intersection approaches/lane groups could be mitigated with the modification of traffic signal timings.

The feasibility of the proposed transportation mitigation measures will be further explored by the Applicant in a post-implementation Transportation Monitoring Plan (TMP). At the time of the TMP, if reviewing agencies determine that alternate mitigation measures would more adequately address the transportation conditions and impacts, the Applicant will work with NYCDOT, and alternate mitigation measures may be identified. The Applicant would be responsible for costs associated with the TMP, including any subsequent design and implementation of mitigation measures identified in the plan.

Construction

Comment 21: Construction impacts of the project must be addressed and considered. (6, 7)

Response 21: Chapter 18, "Construction" of the DEIS considers the potentially significant adverse construction traffic impacts of the Proposed Development. Potentially significant adverse traffic impacts could result from construction of the Proposed Development during one or more peak hours at up to three total intersection approaches/lane groups at three study area intersections. Measures to reduce or fully mitigate these significant adverse impacts were explored in Chapter 19, "Mitigation" of the DEIS. The analysis found that

potentially significant adverse traffic impacts at all three intersection approaches/lane groups could be mitigated with the modification of traffic signal timings. The proposed traffic signal timing modifications would be subject to review and approval by NYCDOT.