22

Unavoidable Significant Adverse Impacts

Unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is impossible.

Introduction

This chapter summarizes unavoidable significant adverse impacts resulting from the With-Action condition. According to the *2021 CEQR Technical Manual*, unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is impossible.

As described in **Chapter 20, Mitigation**, the Proposed Actions have the potential to result in significant adverse community facilities, transportation, and construction impacts. The Proposed Actions would also result in a temporary active open space impact during the construction period. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation has been identified to fully mitigate the significant adverse impacts, and there are no reasonable alternatives to the Proposed Actions that would meet the purpose and need, eliminate potential impacts, and not cause other or similar significant adverse impacts.

Community Facilities

Early Childhood Programs

As discussed in **Chapter 4, Community Facilities and Services**, the Proposed Actions would result in a significant adverse impact on publicly funded ~~child care and Head Start Centers~~early childhood programs according to the thresholds set forth by the *CEQR Technical Manual*.

As discussed in **Chapter 20, Mitigation**, a suggested mitigation strategy for one of the No-Action developments – the Brooklyn ~~Developmental~~Development Center – will be for that project to introduce 290 childcare slots to the study area for a total capacity of 1,900 slots. This is a commitment that was made in the EIS for the Brooklyn ~~Development~~Developmental Center. With this provision of childcare slots by the Brooklyn ~~Development~~Developmental Center under the No-Action condition, the study area would only operate at a deficit of 375 slots and the study area utilization rate would be 107.2 percent. The change in utilization for the Proposed Actions would be 12.5 percent.

Accounting for mitigation by the above development for its childhood program impacts, the Proposed Project could mitigate the childcare impact by providing 128 childcare slots within the Proposed Project (to reduce the change in utilization to 5 percent) or pay for them to be provided offsite. The Applicant will coordinate with the New York City Department of Education (DOE) in an effort to include space that could be used for publicly funded early childhood programming in the Proposed Project. To satisfy the need for seats, it is the Applicant's intention to provide a publicly funded facility of at least approximately 6,350 gsf on site (conservatively assuming 50 sf per child) to avoid the potential impact. The Proposed Project has allocated 12,320-gsf for a childcare facility within the Project Area. Consideration of providing additional childcare facility capacity and/or other measures ~~is being~~was explored in consultation with DOE ~~and will be further explored~~ between the DEIS and FEIS and no additional measures were identified.

There are 20 publicly funded early childhood programs within the 1.5-mile radius study area. These early childhood programs have a total capacity of 1,610 seats and have 167 available seats or a collective utilization of 89.63 percent. In the With-Action condition, the Proposed Actions would introduce 1,338 non-senior affordable units below 80 percent AMI resulting in an increment of 238 additional childcare-eligible children. To avoid the identified significant adverse impact to early childhood programs, the number of non-senior affordable dwelling units that could be developed would have to be reduced from 1,338 to 530, a reduction of 808 affordable units.[1] However, this is not a feasible alternative as a substantial reduction in the number of affordable housing units developed in the Development Site would be less supportive of the goals and objectives of the Proposed Actions. Alternatively, taking into account the proposed mitigation from other developments in the study area, the provision of 128 early childhood slots under this alternative would avoid the unmitigated significant adverse impact to early childhood programs.

[1] Note that this takes into account the Brooklyn Developmental Center Mitigation in the No-Action Condition. If the Brooklyn Developmental Center impact goes unmitigated, then the Proposed Project would have to reduce further to 450 units.

~~As indicated above, the Proposed Project would provide 12,320-gsf for~~ In order to address a ~~childcare facility within the Project Area.[2] A facility of approximately 6,350 sf feet would fully mitigate the~~ significant adverse impact ~~if the designated spaces are tenanted by~~ to early childhood ~~providers in consultation with NYCDOE. Therefore, the 12,320-gsf space proposed by~~services resulting from the Land Use Actions, the Applicant ~~would exceed the~~ shall provide, at the direction of the DOE, a minimum ~~mitigation required.~~

~~Possible mitigation measures for this significant adverse impact may include provision of suitable space on-site for a childcare center, provision of a suitable location off-site~~6,350 sf of space in Building 4 (i.e., core and ~~within a reasonable distance (at a rate~~shell), as shown on the Large-Scale Plans that accompany the Uniform Land Use Review Procedure (ULURP) application, for publicly funded daycare services at rents affordable to DOE providers~~), or funding or making program or physical improvements to support adding capacity to existing facilities if determined feasible through consultation with DOE's Division~~. Upon the construction of ~~Early Childhood Education, or providing new early childhood programs within or near the project sites. As stated above~~530 non-senior, affordable units within the Development Site, the Applicant ~~proposes to include an approximately 12,320-gsf space on-site for a childcare center.~~

~~As a City agency, DOE does not directly provide new childcare facilities, instead it contracts with providers in areas of need.~~shall contact DOE ~~is also working to create public/private partnerships to facilitate the development of new early childhood programs where there is an area of need. As part of that initiative, DOE may be able to contribute capital funding, if it is available, towards such projects to facilitate the provision of new programs.~~

~~At this time, it is not feasible to determine precise mitigation measures~~to confirm that ~~would be appropriate for~~the mitigation measure is needed. Upon DOE 's confirmation of a mitigation measure, the Applicant shall act with due diligence to obtain necessary approvals, permits, and licenses to allow such services to be provided. Notwithstanding the ~~study area. The childcare analysis is conservatively based on~~ foregoing, in the ~~existing inventory of publicly funded early childhood programs in~~ event either (i) the ~~area and does not reflect likely shifts in demand or~~DOE, the ~~creation of new childcare capacity.~~Department of Health, or other Governmental Authority does not issue a required approval, permit, or license, or (ii) DOE determines based on subsequent monitoring that sufficient early childhood services have been developed in proximity to the Development Site, this Mitigation Measure shall not be required and the Applicant shall have no further obligation with respect to such Mitigation Measure. . If no other alternative mitigation measures are identified to reduce the exceedance in capacity for existing programs in the Project Area, then this would be an ~~unmitigated~~unavoidable impact.

Libraries

As discussed in **Chapter 4, Community Facilities and Services** and **Chapter 20, Mitigation**, the Proposed Project would result in a significant adverse impact to public libraries.

[2] ~~Subject to DOE coordination and funding availability.~~

Possible mitigation measures to address the identified significant adverse impact to public libraries ~~will be~~were developed in consultation with the BPL. Such measures ~~should be~~were targeted to alleviate the impact created and ~~may~~would include providing project residents with computer lab/reading areas with free internet access within lounge spaces in each building and providing space within the PAC and additional space outdoors within the central Quad for use by BPL for programming.

There is no precise program delineating the mitigation measures; rather, the mitigation measures rely upon the direction of BPL. Therefore, absent certainty as to whether any measures would be practicable, there remains the potential that the predicted indirect impacts to public libraries may be unavoidable.

Open Space

As discussed in **Chapter 5, Open Space**, and **Chapter 20, Mitigation**, the Proposed Project would result in a temporary indirect adverse impact to active open space during construction as new residents would be introduced into the area prior to completion of the planned on-site open space resources.

Possible mitigation for the identified open space impact ~~is being~~was explored by the Applicant, DCP, and NYC Parks ~~and will be refined~~ between the DEIS and FEIS. ~~If~~As measures to partially or fully mitigate this impact ~~cannot be~~were not identified, the impact would remain unmitigated and would constitute an unavoidable temporary adverse impact of the Proposed Actions.

Transportation

Traffic

As discussed in **Chapter 13, Transportation**, and **Chapter 20, Mitigation**, the Proposed Project would result in significant adverse impacts which could not be fully mitigated with standard traffic capacity improvement measures at six of the 13 intersections during the weekday AM peak hour, two intersections during the weekday midday peak hour, five intersections during the weekday PM peak hour and four intersections during the Saturday peak hour. During the Sunday peak hour, four of the seven intersections analyzed would remain unmitigated. As discussed in **Chapter 21, Alternatives,** a sensitivity analysis conducted at key intersections determined that a modest increase in traffic and pedestrians (about eight percent of the Proposed Project, that is, no more than 165 residential units) above No-Action condition levels would be expected to result in traffic impacts that could not be mitigated.

The proposed mitigation measures are subject to review and approval by the New York City Department of Transportation (NYC DOT). If, prior to implementation, NYC DOT determines that any of the identified mitigation measures are ~~is~~ infeasible, and no other alternative and equivalent mitigation measures could be advanced, then the impacts would remain unmitigated.

If certain proposed mitigation measures are deemed infeasible by NYC DOT, practical alternative measures, if any, may be ~~analyzed and presented in the Final Environmental~~

~~Impact Statement (Final EIS).~~advanced. If no other alternative mitigation measures can be identified, those additionally impacted locations would be ~~unmitigated~~unavoidable.

Transit

As discussed in **Chapter 20, Mitigation,** the Proposed Project would result in unmitigated significant adverse impacts at the Glenwood Road fare control element at the Rockaway Parkway L subway station during the AM peak hour. As discussed in **Chapter 13, Transportation**, as part of recent station renovations, there is no fence or other barrier behind the Glenwood Road fare control and the ~~vast majority of subway riders were observed to evade the fare control. Per the direction provided by NYCT, the fare control was analyzed assuming all subway riders would use the fare control (no fare evasion) and thus this fare control would operate at over-capacity conditions during the AM peak hour under the existing and future No-Action and With-Action conditions. Measures to mitigate this impact could potentially include the construction of additional turnstiles. The practicability of implementing this measure, as well as measures to prevent prevalent fare evasion at this fare control area, will be evaluated in consultation with New York City Transit (NYCT) between the Draft EIS and Final EIS. Should measures to mitigate these impacts be determined to be impracticable, these significant impacts would be considered unmitigated in the Final EIS~~majority of subway riders were observed to evade the fare control.

Between the Draft EIS and the Final EIS, mitigation measures were studied in conjunction with NYCT and it was determined that this impact could be mitigated with the installation of an additional HEET at this fare control. As a practical matter the additional HEET would not be implemented in the absence of any measures taken by NYCT to deter the ongoing fare evasion. Therefore, until any measures are taken by NYCT to deter fare evasion at this location, the significant impact would be unmitigated and unavoidable. Thereafter, the significant impact would be fully mitigated upon the implementation of one additional HEET.

Pedestrians

As discussed in **Chapter 13, Transportation**, and **Chapter 20, Mitigation,** a total of 36 pedestrian elements were analyzed for the weekday AM, midday, PM, and Saturday peak hours, and 14 pedestrian elements along the Development Site frontages were analyzed for the Sunday peak hour. The Proposed Project would result in significant impacts at one pedestrian element during the weekday AM and midday peak hours, two pedestrian elements during the weekday PM peak hour, and four pedestrian elements during the Saturday peak hour. Pedestrian impacts that could not be mitigated were identified at 12 pedestrian elements during the Sunday peak hour which conservatively analyzed the confluence of the Proposed Project's peak hour of pedestrian activities with the peak hour of church services (when church trips are leaving the 8 AM service and arriving for the 10:30 AM service). Potential improvements that could mitigate the significant impacts were reviewed and it was determined that the pedestrian impacts could not be mitigated with typical improvement measures. Therefore, the significant adverse pedestrian impacts would be unavoidable.

Construction

Traffic

As discussed in **Chapter 19, Construction**, construction activities would result in significant adverse impacts which could not be fully mitigated at six of the 12 intersections analyzed during the weekday PM construction peak hour; impacts identified at two of the seven intersections analyzed during the weekday AM construction peak hour could be fully mitigated. Significant traffic impacts at other intersections could be mitigated with measures similar to those proposed for the Proposed Project. The proposed mitigation measures are subject to review and approval by the New York City Department of Transportation (NYC DOT). If, prior to implementation, NYC DOT determines that any of the identified mitigation measures are infeasible, and no other-alternative and equivalent mitigation measures could be advanced, then the impacts would be unavoidable.

Noise

As presented in **Chapter 20, Mitigation**, the Proposed Actions would result in significant adverse construction noise impacts which could not be fully mitigated at six buildings in the Project Area, including three existing buildings and three buildings that would be introduced by the Proposed Actions during the phased development.

Construction activities would adhere to the ~~NYCDEP~~NYC DEP Noise Code in order to mitigate construction noise. Noise source and path control measures that would be implemented to the extent feasible, practical, and safe. With the adherence to existing construction noise regulations and the implementation of a Construction Noise Mitigation Plan, as required by the New York City Noise Code, including an 8-foot-tall construction noise barrier, construction noise would be reduced but would still exceed the thresholds for significant construction noise impact prior to mitigation. In order to eliminate all significant adverse noise impacts, use of the loudest construction equipment, such as drill rigs during the foundation phases of construction and concrete mixer trucks during the foundation and superstructure phases of construction, would have to be reduced or eliminated and other construction activities would need to be substantially limited so as to not occur adjacent to existing noise sensitive receptors or to occur for substantially shorter durations. These limitations would severely limit the Proposed Actions' goals and objective for the project. Therefore, since it is not feasible to fully avoid or mitigate potential impacts, the significant adverse construction noise impact would be unavoidable.