ENVIRONMENTAL ASSESSMENT AND REVIEW DIVISION

May 6, 2025

TECHNICAL MEMORANDUM 001

Re:	**Midtown South Mixed-Use Plan (MSMX)**
CEQR No.	24DCP094M
ULURP No(s).	C250185ZMM, N250186ZRM
SEQRA Classification:	Type I

INTRODUCTION

The purpose of this memorandum is to outline the new information that became available since the issuance of the Draft Environmental Impact Statement (DEIS) in January 2025 and to assess the effects of the new information on analysis conclusions. As a result, the Historic and Cultural Resources, and Transportation chapters will be updated and a new chapter assessing the Proposed Actions Effects on Disadvantaged Communities will be included in the Final Environmental Impact Statement (FEIS) as summarized below.

HISTORIC AND CULTURAL RESOURCES

The FEIS will include discussion of these historic resources and analysis of the potential for significant adverse impacts to these historic resources as a result of the Proposed Actions. Since publication of the DEIS in January 2025, the New York City Landmarks Preservation Commission (LPC) has calendared five historic resources within the MSMX Affected Area for potential designation as New York City Landmarks (NYCL). These five calendared resources include[1]:

Barbey Building – 15 West 38th Street (Block 840, Lot 31)

The 12-story 1908-1909 Barbey Building (S/NR-Eligible, LPC-Eligible) at 15 West 38th Street was built in the modern French style and designed to accommodate both offices and lofts.

Mary (Lorillard) Barbey retained the architectural firm of Delano & Aldrich to design the building. Clad in red terra cotta, the second through twelfth floors were framed within a single elliptical arch. The full-height piers between the grouped openings took the form of engaged fasces that sprouted from elaborate terra cotta urns. Above the top floor, a panel--surrounded by sumptuous decorations--announced the construction date. Massive terra cotta urns stood guard along the parapet[2]. The ground floor has been stripped of all detail, but the rest of the building remains intact[3].

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[1] Calendared items in bold are historic resources located within 90 feet of a projected/potential development site identified in the Reasonable Worst-Case Development Scenario (RWCDS) for the Proposed Actions. The 90-foot radius is used as resources within 90 feet of a site are subject to the Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 (Procedures for Avoidance of Damage to Historic Structures Resulting from Adjacent Construction).

[2] https://daytoninmanhattan.blogspot.com/2021/07/the-1908-barbey-building-15-17-west.html. Accessed October 30, 2024.

[3] https://landmarkbranding.com/just-off-fifth-the-barbey-building-at-15-west-38th-street. Accessed October 30, 2024.

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Fashion Tower - 135 West 36th Street (Block 812, Lot 19)

Built in 1924-1925 and designed by Emery Roth, the Fashion Tower (S/NR-Listed 2009, LPC-Eligible) is a 22-floor rare example of a Garment District building ornamented with imagery reflective of the women's garment industry. The freight entrance is crowned by a pair of colorful terra-cotta peacocks with their ornate tail feathers fully evident (peacocks are a traditional symbol of women's fashion, often appearing as ornament on women's fashion boutiques). Winged putti, one carrying shears, unfurl a band of fabric emblazoned with the building's name above the second floor. Above the sixth-floor, windows are panels alternating with women admiring themselves in a mirror and carrying cotton spindles[4].

Fur Craft Building - 242-246 West 30th Street (Block 779, Lot 66)

Designed by the architect Henry I. Oser, the Fur Craft Building (S/NR-Eligible, NYCL-Eligible) at 242-246 West 30th Street was built in 1925–1926 to house businesses in the fur industry. At the same time, the owners erected a two-story building with stores to the east as a means to protect the loft building's access to sunlight. Since reclad, the addition was also designed by Oser. The 14-story, brick-and-stone building has Classical design elements and is massed on its upper floors in a series of setbacks with a central angled pavilion. A temple front ornaments the pavilion above the first setback and a cupola with Palladian windows crowns the central pavilion. The entrance infill is metal with decorative spandrel panels, a clock, urn reliefs on the jambs, and anthemia. A cartouche and swags are set in the parapet of the entrance. The storefronts on either side of the entrance appear to have been altered, but stone cartouches and the cornice above the base remain.

29th Street Towers - 214-222 West 29th Street (Block 778, Lots 48 and 52)

Henry I. Oser designed the 16-story loft building (S/NR-Eligible, LPC-Eligible) at 214-224 West 29th Street in the fur district. Built in 1925–1926, it is ornamented with Gothic elements and is asymmetrically massed above the seventh floor in a series of setbacks, pavilions, and a light court. The façade is divided into nine recessed bays of three windows flanked by brick piers. The mottled stone base contains Gothic details that include pointed-arch entrances, grotesque figures supporting buttresses, pinnacles, and blind arcades of pointed arches in low relief. Similar Gothic details in mottled stone are placed at the setbacks.

Lefcourt Clothing Center - 275 7th Avenue (Block 801, Lot 1)

The 28-story Lefcourt Clothing Center Building (S/NR-Eligible, NYCL-Eligible) was built 1927-1928 at Seventh Avenue and 25th Street to serve the garment industry. Its builder was Abraham E. Lefcourt, and it was designed by Eli Jacques Kahn of Buchman & Kahn. Kahn was known for his early abstract Art Deco buildings with richly colored terra-cotta ornamentation. When built, the 25-story full-blockfront structure was devoted to the men's and boy's clothing industry.

As noted in Kahn's obituary, "His characteristic buildings were of modern classical design, which evolved from the Beaux Arts tradition. They were notable for their clean lines and their basic simplicity". The Lefcourt was Kahn's subsequent restrained but effective use of monochromatic terracotta, particularly on the truncated pilasters along the upper floors. Kahn evolved an abstract geometric decorative style which was fully on display in Lefcourt's lobby ceiling, which has since been removed.

Like many of the buildings Kahn designed under the city's 1916 Zoning Resolution, this building features architectural setbacks so the building is profitably close to its permitted envelope.

Analysis in the FEIS

The FEIS will include analysis of the potential for significant adverse impacts to these historic resources as a result of the Proposed Actions. For each property, this will be completed in accordance with the 2021 *CEQR*

4 https://old.skyscraper.org/EXHIBITIONS/URBAN_FABRIC/wall06.php. Accessed October 29, 2024.

Technical Manual. The 61 identified projected development sites and 7 potential development sites in the Rezoning Area could result in new construction of building type(s) that could compromise the historic context of these five sites; therefore, they will be analyzed for potential significant adverse impacts.

TRANSPORTATION – CONGESTION PRICING

New York City's Central Business District (CBD) Tolling Program, also known as "Congestion Pricing," is an electronic toll system that charges vehicles that enter Manhattan's CBD[5] and taxis/for hire vehicles that enter, leave or travel within the CBD, which includes the entire MSMX Affected Area. The program is intended to reduce congestion in the CBD and provide a new local, recurring funding source for MTA capital projects. The program went into effect on January 5, 2025.

Initial data collected by the Metropolitan Transit Authority/New York City Transit (MTA/NYCT) and New York City Department of Transportation (NYCDOT) indicate a decrease in congestion in the CBD, however, the longer-term effects cannot yet be determined. Thus, while the transportation data presented in the DEIS were collected prior to implementation of the Congestion Pricing program, this data was not adjusted to account for the implementation of the program, nor have any improvements to the transit system been considered.

EFFECTS ON DISADVANTAGED COMMUNITIES

Section 8-0109(2)(k) of the New York State Environmental Conservation Law, effective December 30, 2024, requires that future EIS include a statement of the effects of the Proposed Actions on disadvantaged communities (DAC), including whether an action may cause or increase a disproportionate pollution burden. The New York State Department of Environmental Conservation (NYSDEC) proposed a rule in January 2025 that provides additional considerations regarding this new statutory provision.

As described in the DEIS, the Proposed Actions would rezone a 42-block area in Manhattan Community Districts 4 and 5. By the 2034 build year, the total development expected to occur on the 61 projected development sites, as well as 1,093,808 gross-square-feet (gsf) of non-residential floor area likely to be converted to residential uses within the Affected Area. On these projected development sites and in the eligible conversion area, the Proposed Actions are expected to result in a net (incremental) increase of approximately 9,676 dwelling units (DU), including 1,940 to 2,890 permanently affordable units; 462,129 gsf of projected retail space (local retail), 81,755 gsf of community facility use, a decrease of 732,619 gsf of commercial office space decrease of 69,782 gsf of industrial/warehouse space. The estimated incremental population as a result of the Proposed Actions would be approximately 16,256 residents and a decrease of 5,523 workers.

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. Indicators include land use and facilities associated with historical discrimination or disinvestment, potential climate change risks, potential pollution exposures, and population and health characteristics. As shown in Figure 1, portions of the Rezoning/Affected Area, specifically the northwest quadrant, and the Affected Area's ½-mile radius are located within DAC.

DAC that intersects with the Rezoning Area and ½-mile radius generally have comparatively lower burdens and vulnerabilities. New York County (Manhattan) census tract 119 has been identified as having

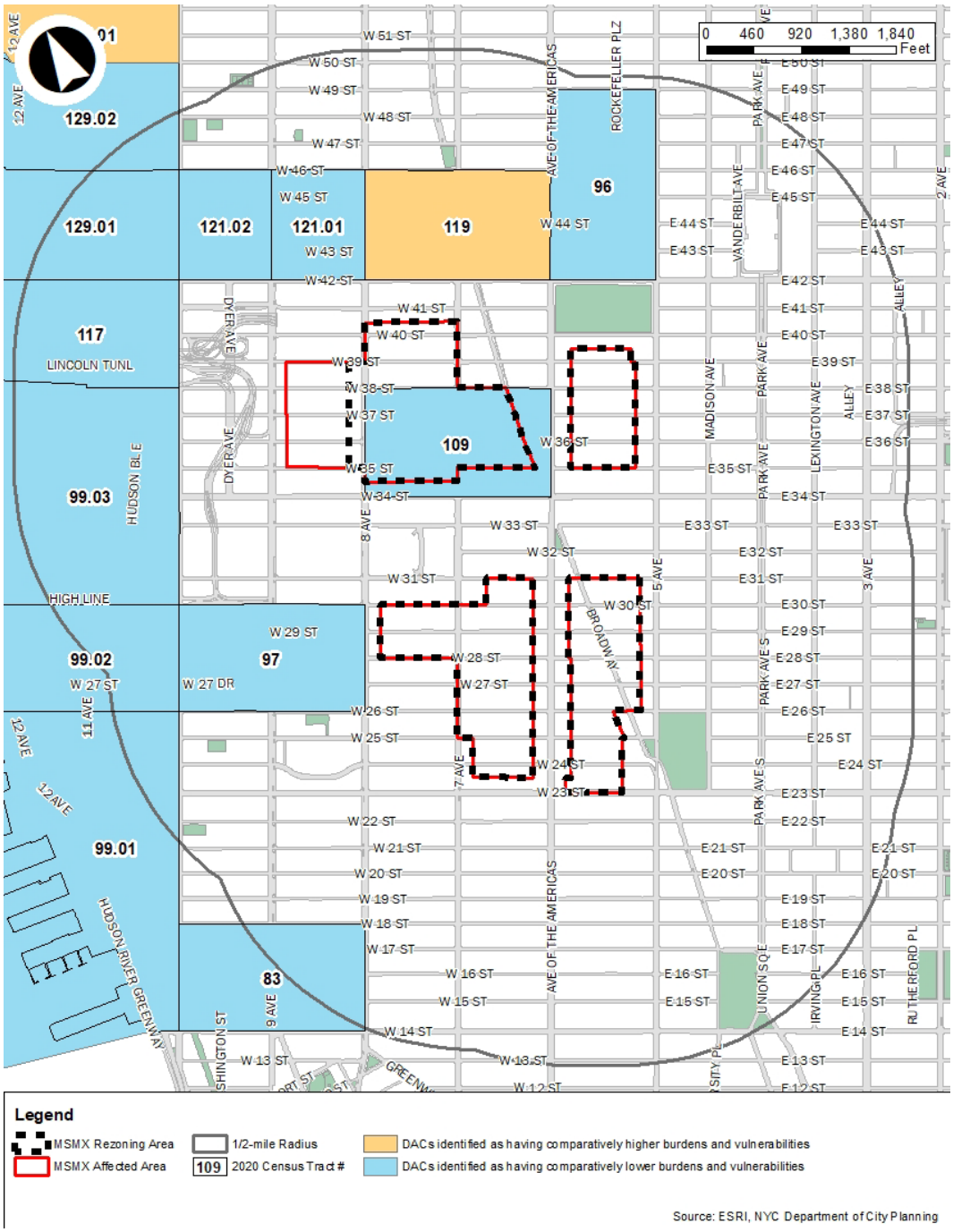
[5] The CBD is the area below 60th Street, exclusive of the FDR Drive, West Street and connections of the Hugh L. Carey Tunnel to West Street

comparatively higher burdens and vulnerabilities. DAC are concentrated in the northern and western portions of the Affected Area's ½-mile radius (refer to **Table 1** and **Figure 1**).

Table 1. Disadvantaged Communities in ½-mile Study Area

CENSUS TRACT	DAC BURDENS & VULNERABILITIES	LOCATION
83	Lower	½-mile Study Area
96	Lower	½-mile Study Area
97	Lower	½-mile Study Area
99	Lower	½-mile Study Area
109	Lower	Affected Area & ½-mile Study Area
117	Lower	½-mile Study Area
119	Higher	½-mile Study Area
121	Lower	½-mile Study Area
129	Lower	½-mile Study Area

Figure 1: Disadvantaged Communities



The Proposed Actions would not result in significant adverse impacts in the following CEQR technical areas: land use, zoning, and public policy; socioeconomic conditions; community facilities and services; urban design and visual resources; natural resources; water and sewer infrastructure; solid waste and sanitation services; energy; air quality (HVAC/stationary source and mobile source); greenhouse gas emissions and climate change; public health; and neighborhood character.

The Proposed Actions would not result in significant adverse impacts to hazardous materials, air quality (HVAC/stationary source and mobile source), and noise on projected and potential sites, as the placement of

an E-designation would eliminate the potential for any impacts. However, the potential for significant impacts from hazardous materials, air quality, and noise cannot be precluded for the potential conversion area from non-residential to residential use.

Significant adverse impacts have the potential to occur in the following CEQR technical areas: open space; shadows; historic and cultural resources; air quality (light industrial and large/major source emissions); transportation (traffic and pedestrians); and construction.

Open Space

As presented in the DEIS, additional residents located in the ½-mile residential study area at the 61 projected development sites and conversion area would lower the total open space ratio approximately 8.19 percent, resulting in an indirect significant adverse impact.

Table 2 below presents total, active, and passive open space ratios under No-Action and With-Action conditions for DAC and Non-DAC census tracts located within the ½-mile residential open space study area used in the DEIS "Open Space" chapter.

Table 2: DAC Open Space Ratio Summary

	DAC			**Non-DAC**		
	No-Action	With-Action	% Change	No-Action	With-Action	% Change
Total	0.822	0.791	-3.88%	0.284	0.258	-10.18%
Passive	0.578	0.557	-3.88%	0.257	0.233	-10.18%
Active	0.244	0.234	-3.88%	0.028	0.025	-10.18%

As shown in Table 2, indirect impacts to open space (total, active, and passive) would not be concentrated in DAC census tracts and therefore would not be a disproportionate open space burden to disadvantaged communities.

Shadows

As discussed in the DEIS, incremental shadow would result in significant adverse impacts to five sunlight-sensitive resources. The detailed shadows analysis identified significant adverse impacts at five sunlight-sensitive resources. The analysis determined that the POPS at 1185 Broadway would not receive adequate sunlight during the growing season (at least the six- to eight-hour minimum specified in the CEQR Technical Manual) as a result of incremental shadow coverage, and vegetation at this resource could be significantly impacted. The analysis determined that the Marble Collegiate Church, St. John the Baptist Roman Catholic Church, St. Francis of Assisi Roman Catholic Church, and the Trinity Chapel Complex would receive incremental shadow that may have the potential to affect the public's enjoyment of sunlight-sensitive features. Each of these resources are not located in a DAC. Therefore, there would not be a disproportionate burden related to shadows within DACs.

Historic and Cultural Resources[6]

As discussed in the DEIS, the construction of projected development sites 3, 5, 7, 28, 31, 33, 34, 35, 49, 51, 57, 58, 59, 60, and 61 and potential development sites A and B would result in construction-related impacts

[6] This assessment was completed before the LPC historic resources listed above were calendared, and does not include the Barbey Building, Fashion Tower, Fur Craft Building, 29th Street Towers or the Lefcourt Clothing Center in the analysis. The FEIS "Effects on Disadvantaged Communities" chapter will include a Historic and Cultural Resources analysis that considers these recent LPC-calendared historic resources.

to up to 16 individual S/NR-Eligible and NYCL-Eligible resources that are not afforded the added special protection under DOB's TPPN #10/88. None of these 15 projected development sites and two potential development sites are located in DAC. As a result, construction related impacts to historic and cultural resources would not result in a disproportionate burden within DACs.

The Proposed Actions would result in indirect (contextual impacts) to one resource, the S/NR-Listed and NYCL-Designated Trinity Chapel Complex, which would be impacted by projected development site 40. The new building at projected development site 40 would obstruct views of the west façade of the Trinity Chapel Complex and would partially obscure distant views of the main entrance on the south façade from Sixth Avenue and west on 25th Street. This resource would also be impacted by incremental shadow cast by development at projected development site 40. Projected development site 40 is not located in a DAC. As a result, indirect impacts to historic and cultural resources would not result in a disproportionate burden within DACs.

The Proposed Actions would result in the redevelopment of 15 properties in the S/NR-Listed Garment Center Historic District. One potential development site and two projected development sites contain non-contributing resources that do not rise to the level of S/NR-Eligibility due to extensive alterations and lack of integrity. The remaining 12 sites contain contributing resources that are S/NR-Listed and would be directly impacted by the Proposed Actions. The Garment Center Historic District overlaps with census tract 109, which is a DAC. Overall, it is not expected that impacts to historic and cultural resources would disproportionately burden DAC census tracts.

Hazardous Materials

As described in the DEIS, the RWCDS conversion model is not site-specific. Because it is not possible to determine exactly where and to what extent an existing non-residential use might convert to a residential use, there are no specific sites and the extent of any additional in-ground disturbance that may occur for each residential conversion cannot be determined. In addition, since there are no specific development sites among the 1,093,808 gsf RWCDS residential conversion area, the absence of hazardous materials cannot be definitively demonstrated, and the possibility of impacts cannot be eliminated. Approximately 345,978 gsf (247 DUs) of potential conversion area is located within a DAC compared to the total 1,093,808 gsf (781 DUs). Therefore, it is unlikely that DAC would be disproportionately burdened by any potential hazardous materials impacts as a result of residential conversions.

Transportation

As described in the DEIS, the Proposed Actions would result in significant adverse impacts to 28 signalized intersections during one or more analyzed peak hours. Impacts would also occur at 19 sidewalks, six crosswalks, and three corners in one or more analyzed peak hours.

While the NYSDEC Draft SEQR Workbook Guidance indicates that a level of service impact is likely to result in an impact to a DAC, detailed mobile source air quality and noise analyses (included in the DEIS Chapters 14, "Air Quality" and 16, "Noise") were conducted pursuant to the guidance of the *CEQR Technical Manual.* These analyses demonstrate that the Proposed Actions would not result in significant adverse mobile air quality impacts or noise impacts at projected and potential development sites. Therefore, the project would not contribute to a disproportionate transportation pollution burden on a DAC.

Air Quality

As described in the DEIS, the light industrial source analyses determined that one non-criteria carcinogenic pollutant from a NYCDEP permitted small industrial facility exceeds the NYSDEC DAR-1 annual guideline concentration threshold for air toxics and fails the cancer risk assessment at potential development site C. Potential development site C is located within a DAC.

In addition, one NYSDEC permitted large facility's 1-hour NO_2 concentrations exceed the NAAQS standard at projected development site 17 and potential development site G.[7] An E-designation would be placed on the affected sites to ensure industrial and large/major source impacts are minimized. Projected development site 17 and potential development site G are not located in DAC.

Similar to the discussion in the Hazardous Materials section above, for the area to be converted to residential uses, the extent of air quality impacts is unknown because of the non-site-specific nature of DCP's conversion model. For residential conversion development sites also in the same area as projected development site 17 and potential development sites C and G, the possibility of similar air quality impact cannot be precluded. Specifically, the conversion area in proximity to Ben-Amun Co. Inc. located at 246 West 38th Street and the New York Times Building Condominiums would have greater potential to experience significant adverse air quality impacts. The Ben-Amun Co. Inc. building is located within a DAC and the New York Times Building Condominiums are not located in a DAC. Due to the location of the Ben-Amun Co. Inc. building within a DAC, a disproportionate air quality pollution burden could occur.

Noise

Impacts from noise would not occur at the 68 projected and potential development sites. However, due to the non-site-specific nature of DCP's conversion model, noise impacts cannot be precluded from conversion area. As described above, approximately 345,978 gsf (247 DUs) of potential conversion area is located within a DAC compared to the total 1,093,808 gsf (781 DUs). Therefore, it is unlikely that DAC would be disproportionately burdened by any potential noise impacts as a result of residential conversions.

Construction

As described in the DEIS, the Proposed Actions would result in temporary construction impacts for construction transportation, noise, and air quality.

Figures 19-5 and 19-6 in the DEIS show the very objectionable[8] and objectionable[9] construction noise impacts would occur in the vicinity of projected and potential development sites. These temporary construction noise impacts would occur in a manner that is distributed throughout the Affected Area, comprised of DAC and non-DACs, and are not disproportionately located in DACs. Measures required by the New York City Noise Control Code may partially mitigate impacts at some affected receptors. Therefore, there is not a disproportionate construction noise pollution burden to DACs.

At individual and combined projected development sites 46 and 49 and combined projected and development sites 51 and 52, the maximum annual incremental PM2.5 concentration is predicted to exceed the de minimis criteria of 0.3 μg/m3. Each of these four projected development sites are not located in a DAC. These temporary construction air quality impacts are distributed throughout the Affected Area, comprised of DAC and non-DACs and are not disproportionately located in DACs. Therefore, there is not a disproportionate construction air quality pollution burden to DACs.

Although the thresholds for significant adverse construction noise and air quality impacts are predicted to be exceeded during construction in DAC and Non-DAC census tracts, these temporary noise and air quality exceedances would not disproportionately affect the DACs. Given the potential for noise and air quality effects related to construction sources would be temporary and localized, it is not anticipated that the Proposed Action would have a disproportionate pollution burden on DACs as a result of noise or air quality emissions during construction.

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7 The permitted large facility is the New York Times Building Condominium.
8 Temporary noise increases of 20 dBA within approximately 150 feet and sustained for three continuous months.
9 Temporary noise increases of 15 dBA within approximately 250 feet and sustained for 12 continuous months.