Chapter 22: Unavoidable Adverse Impacts

22.1 Introduction

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Action. According to the *2014 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 19, "Mitigation," unavoidable significant adverse impacts resulting from the Proposed Action have been identified with respect to open space, shadows, historic and cultural resources, transportation (traffic, transit and pedestrians) and construction (historic and cultural resources, traffic and noise).

22.2 Analysis

Open Space

As discussed in Chapter 4, "Open Space," the Proposed Action would result in significant adverse indirect open space impacts. These indirect impacts result from a significant reduction in the passive open space ratio, which, in the Open Space study area was found to be below the CEQR guidelines in the Existing Conditions (i.e., below the citywide guidance of 0.15 acres of passive open space per 1,000 non-residential users). However, while CEQR guidelines recognize that the goals for open space ratios are not feasible for areas such as Midtown Manhattan, and are not, therefore an impact threshold, the indirect effects analysis demonstrated that the Proposed Action would decrease passive open space ratios by 4.45 percent for the non-residential population and 3.97 percent for the combined non-residential and residential population.

The Proposed Action would introduce new public realm improvements as part of the project which were not, conservatively, included in the quantitative or qualitative analyses. These resources would be built as part of the Concept Plan's public realm improvements (see Chapter 1, "Project Description," Figure 1-3). While these new resources could reduce the demand on the existing open space resources substantially, they are not anticipated to completely offset the potential significant adverse impact on open space. .

The *CEQR Technical Manual* lists potential mitigation measures for open space impacts. These measures may include, but are not limited to, creating new open space within the study area; funding for improvements, renovation, or maintenance at existing local parks; or improving existing open spaces to increase their utility or capacity to meet identified open space needs in the area, such as through the provision of additional active open space facilities. In addition to the potential public realm improvements mentioned above, between this Draft EIS and the Final EIS, DCP will explore reasonable and feasible measures in concert with the Department of Parks and Recreation.

Based on preliminary calculations, by including just a portion of the Public Realm Improvements—the Park Avenue Median Improvements and the planned Pedestrian Plazas as currently envisioned—the

percent decrease in the combined open space ratio would be reduced from 3.97 percent to 2.68 percent.[1] The passive open space Public Realm Improvements and the other standard mitigation measures listed above will be explored by DCP and NYC Parks between the Draft and Final EIS. If feasible mitigation is found, the impacts will be considered partially mitigated. Absent additional measures that can be implemented to mitigate these impacts, the Proposed Action's significant adverse open space impacts would remain unmitigated.

Shadows

As discussed in Chapter 5, "Shadows," the Proposed Action would result in one significant adverse shadows impact, to St. Bartholomew's Church and Community House (Resource H19, located on the block between East 51st and East 52nd Streets at Park Avenue). No publicly accessible open spaces would experience significant adverse shadow impacts as a result of the Proposed Action.

The sunlight-sensitive stained-glass windows of St. Bartholomew's Church and Community House would experience significant adverse shadows impacts on the May 6th and June 21st analysis days due to incremental shadows cast by Projected Development Site 7. The incremental shadows that would be cast on this historic architectural resource would result in a substantial reduction in sunlight available for the enjoyment or appreciation of the buildings' sunlight-sensitive features, and thus the incremental shadows are being considered significant adverse shadows impacts. Based on shadow modeling, it was determined that the height of any new development on Projected Development Site 7 would need to be limited to the height of the existing buildings on this site (approximately 300 feet tall) in order to eliminate the significant adverse shadows impacts on St. Bartholomew's Church and Community House. However, if Projected Development Site 7 were limited to its existing height of 300 feet, it is anticipated significant adverse shadow impacts would be caused by Potential Development Sites C and D which are directly southwest of Projected Development Site 7 and would cast shadows in the same direction towards St. Bartholomew's.

As discussed in Chapter 19, "Mitigation," the Proposed Action was assessed for possible mitigation measures in accordance with CEQR guidelines.

Between the Draft and Final EIS, DCP will explore whether there are feasible changes to the bulk regulations governing Projected Development Site 7 and Potential Development Sites C and D that would reduce or eliminate the incremental shadow that causes the impact.

DCP, as lead agency, will also explore the viability of providing for indirectly mounted lighting that would serve as a substitute for the sunlight on the sunlight-sensitive features of St. Bartholomew's Church and Community House between the Draft EIS and Final EIS. Absent measures that can be implemented to mitigate these impacts, the Proposed Action's significant adverse shadows impacts would remain unmitigated.

Historic and Cultural Resources

As described in Chapter 6, "Historic and Cultural Resources," the Proposed Action could result in significant adverse impacts due to potential partial or complete demolition of six NYCL-eligible and/or

[1] Assuming approximately 2.75 acres of new open space.

S/NR-eligible historic resources located on Projected Development Sites 2, 4, 6 and 10 and Potential Development Site J. As the RWCDS for the Proposed Action anticipates that the existing structures on these sites would be demolished, either partially or entirely as a consequence of the Proposed Action, this would result in significant adverse direct impacts to these eligible resources.

As discussed in Chapter 19, "Mitigation," the *CEQR Technical Manual* identifies several ways in which impacts on architectural resources can be mitigated. However, the measures, if deemed feasible, would only be considered partial mitigation. Consequentially, these impacts would not be completely eliminated and they would constitute unavoidable significant adverse impacts on these historic resources as a result of the Proposed Action.

Transportation

Traffic

As described in Chapter 12, "Transportation," the Proposed Action would result in significant adverse traffic impacts at 116 study area intersections during one or more analyzed peak hours; specifically, the impact locations comprise 189 approach movements at 101 intersections during the AM peak hour, 179 approach movements at 101 intersections during the Midday peak hour, and 200 approach movements at 106 intersections during the PM peak hour. Implementation of standard traffic engineering measures could be used to mitigate some of these significant adverse impacts, but unmitigated significant adverse impacts would remain at 155 approach movements at 77 intersections during the AM peak hour, 123 approach movements at 56 intersections during the Midday peak hour, and 150 approach movements at 77 intersections during the PM peak hour. Implementation of the recommended traffic engineering improvements is subject to review and approval by the New York City Department of Transportation (DOT). If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified.

Between the Draft and Final EIS, other mitigation measures will be explored, where feasible, to further address the identified impacts. In the absence of the application of mitigation measures, the impacts would remain unmitigated.

As described in Chapter 19, "Mitigation," the traffic analysis uses an extremely conservative approach that assigns vehicle trips to the shortest route. This method does not contemplate diversions from areas of congestion to other routes or times of the day and thus conservatively portrays impacts at areas of concern. As such, the future conditions analyses represent a worst-case scenario and may not be entirely indicative of what will occur as development proceeds during the approximate 20-year period.

DCP and DOT will work together to identify other interventions to help mitigate congestion. As new development occurs, DCP will coordinate with DOT to identify areas where new density could contribute to existing vehicular and pedestrian congestion in the traffic and pedestrian networks. The City will also explore options for developing a comprehensive traffic management plan for Greater East Midtown that is consistent with the City's goals to provide a safe environment for all street users and to reduce auto use in highly dense areas where public transportation is readily available. Furthermore, between the Draft and Final EIS, DCP, in consultation with DOT, will develop a scope of work for a traffic monitoring program (TMP). The TMP will address traffic resulting from project-

generated development in the project area over time, and consider changes that may occur in travel patterns.

Transit

As discussed in Chapter 12, "Transportation," the results of the analyses of transit conditions show that additional trips resulting from the Proposed Action would result in significant adverse impacts at three subway stations/station complexes in the weekday AM and PM commuter peak hours. At the Grand Central 42nd Street subway station, measures to mitigate the impacts will be explored by New York City Transit (NYCT) between the Draft and Final EIS. At the 42nd St-Bryant Park subway station, mitigation measures for street Stair MB20 are considered infeasible and this impact would remain unmitigated. At the Lexington Avenue-53rd Street subway station measures to mitigate the impacts will be explored by NYCT between the Draft and Final EIS. In the absence of the application of mitigation measures, the impacts would remain unmitigated.

Pedestrians

As described in Chapter 12, "Transportation," incremental demand from the Proposed Action would significantly adversely impact a total of nine sidewalks, 26 crosswalks and 22 corner areas in one or more peak hours. Recommended mitigation measures to address these impacts are outlined in Chapter 19, "Mitigation". Implementation of these measures would be subject to review and approval by DOT. If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified. Between the Draft and Final EIS, other mitigation measures will be explored, where feasible, to further address the identified impacts. In the absence of the application of mitigation measures, the impacts would remain unmitigated.

Construction

Historic and Cultural Resources

For designated NYC Landmarks and S/NR-listed historic buildings located within 90 feet of a proposed construction site, protective measures under the New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 would apply and indirect significant adverse impacts from construction would be avoided. As described in Chapter 18, "Construction," development under the Proposed Action—specifically, on Projected Development Sites 2, 4, 5, 6, 7, 11 and 13, and Potential Development Sites B, C, E, F, and K—could result in inadvertent construction-related damage to 12 NYCL- and/or S/NR-eligible historic resources, as they are located within 90 feet of Projected or Potential Development Sites and the protective measures under TPPN #10/88 would only apply if the resources become designated. Without the protective measures described above, significant adverse construction-related impacts to eligible resources would not be mitigated.

In order to make TPPN #10/88 applicable to eligible historic resources in the absence of a site-specific approval, such as a Special Permit with an accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance. Since it is not known and cannot be assumed that owners of these properties would voluntarily implement this mitigation, DCP, as lead agency, will explore the viability of this mitigation measure between Draft EIS and Final EIS.

Absent measures that can be implemented to mitigate these impacts, the Proposed Action's significant adverse construction-related impacts would therefore remain unmitigated.

Traffic

As described in Chapter 18, "Construction," construction-related traffic would have significant adverse impacts to four intersections during the construction AM peak hour (6:00–7:00 a.m.) and 14 intersections during the construction PM peak hour (3:00-4:00 p.m.). Implementation of traffic engineering improvements, which are subject to review and approval by DOT, would provide mitigation for most of the anticipated traffic impacts. but unmitigated significant adverse impacts would remain at one intersection during the construction AM peak hour and eight intersections during the construction PM peak hour. Absent measures that could be implemented to mitigate impacts at the remaining impacted intersections, these construction-related traffic impacts would remain unmitigated.

Noise

As discussed in Chapter 18, "Construction," construction activities associated with the Proposed Action would occur on multiple development sites within the same geographic area and, as a result, has the potential to increase interior noise levels of existing adjacent commercial buildings. These increases would likely approach or marginally exceed the impact threshold for short periods of time and has the potential during other construction quarters bordering the peak construction period.

The findings indicate that noise levels above the CEQR impact threshold are expected at several existing adjacent buildings to Projected Development Sites 4 and 5. Although these locations are expected to experience exterior noise levels significantly above CEQR limits, for those buildings with double-paned glazed-glass windows and a closed ventilation system, it would keep interior noise levels for those buildings below or near the CEQR 50-dBA L_{10} impact threshold for commercial buildings and the CEQR 45-dBA L_{10} impact threshold for residential buildings. The interior noise levels of these adjacent buildings would likely approach or marginally exceed the CEQR L_{10} impact thresholds for short periods of time. The same potential for noise impacts also exist for similar noise-level increases at these and/or other receptor locations in the immediate vicinity of Project Development Sites 4 and 5 during other construction quarters bordering this peak construction period (i.e., second quarter of 2029). Therefore, if the peak construction scenario conservatively assumed for simultaneous construction on Projected Development Sites 4 and 5 for the purposes of this analysis is realized, the Proposed Action would result in a significant adverse construction noise impact.

Recommended mitigation measures to address these impacts are outlined in Chapter 19, "Mitigation". However, the proposed measures discussed above are considered partial mitigations only. Consequently, these impacts would not be completely eliminated and they would constitute an unmitigated significant adverse construction noise impact.