23 UNAVOIDABLE ADVERSE IMPACTS

23.1 Introduction

Per the 2021 *CEQR Technical Manual*, significant adverse impacts are considered unavoidable if mitigation is impracticable or if a significant adverse impact occurs when a project is implemented, regardless of the mitigation employed. This chapter summarizes the unavoidable significant adverse impacts that may result from the Proposed Actions.

23.2 Principal Conclusions

As described in Chapter 22 of this Environmental Impact Statement (EIS), "Mitigation," the Proposed Actions are expected to result in significant adverse impacts in the area of shadows, ~~noise (operational and construction) and~~ transportation, noise (operational), and construction (transportation). To the greatest extent practicable, mitigation measures have been proposed for the identified significant adverse impacts in coordination with NYC Department of Parks and Recreation (NYC Parks), the NYC Department of Transportation (NYCDOT), and the NYC Department of Environmental Protection (NYCDEP). However, at this time, no practicable mitigation has been identified to fully mitigate the significant adverse impacts for shadows, operational noise, and vehicular traffic (operational and construction), and there are no reasonable alternatives that would meet the purpose and need of the Proposed Actions, eliminate potential impacts, or not cause other or similar significant adverse impacts. These instances, which are listed and described below, are considered unavoidable adverse impacts.

Shadows

The Proposed Actions would result in significant adverse impacts to discrete locations of the Golf Course's vegetation (grass) closest to the proposed buildings in limited areas. Due to the shadow on select holes of the Golf Course, adverse impacts may also result on portions of holes 1, 9, 10, and 18 with respect to utilization. Because of these impacts to

small portions of the vegetation of the Golf Course and to ensure player/pedestrian safety on the Golf Course and near the Proposed Facility, mitigation measures are proposed for several holes and the driving range of the Golf Course in Chapter 22 of this EIS, "Mitigation." Hole 18 ~~may~~ would be partially reconfigured to move portions of ~~the hole~~the fairway and green away from the Proposed Facility. Additionally, portions of holes 1, 9, and 10 would~~may~~ also be slightly reconfigured or relocated.

The proposed Golf Course reconfiguration has been reviewed and conceptually approved by 1-JN and the New York City Department of Parks and Recreation (NYC Parks).~~Any Golf Course reconfiguration would be reviewed and approved by Nicklaus Design and NYC Parks pursuant to the existing concession agreement between Bally's and NYC Parks~~. Further, to support vegetative growth, changes to seed mixes, changes to turf maintenance protocols, the addition of fans, and artificial sunlight may be incorporated within the impacted areas of the Golf Course, as needed and pursuant to consultation and approval by ~~Nicklaus Design~~1-JN and NYC Parks. Bally's ~~may~~ would also introduce full-shade and shade-tolerant vegetation in areas near the Proposed Facility.

~~The conceptual design of the reconfigured golf holes and practice area and inclusion of other measures to mitigate the significant adverse impacts resulting from the Proposed Development would be further refined between Draft and Final EIS.~~

With these mitigation measures, significant adverse impacts would be fully mitigated at holes 1, 9, and 10, and partially mitigated at hole 18 and the driving range~~partially mitigated~~. Because hole 18 and the driving range cannot be fully mitigated, these significant adverse impacts ~~If any of the mitigation measures are deemed to be infeasible and no alternative mitigation measures can be identified, then impacts to holes 1, 9, 10 and 18 and the driving range of the Golf Course~~ would remain unmitigated and constitute unavoidable significant adverse impacts.

Transportation

The Proposed Actions would result in significant adverse transportation impacts in the area of vehicular traffic. The analysis identified seven traffic intersection/approach lane groups in the study area that would experience a significant adverse impact in at least one peak hour. As described in Chapter 22 of this EIS, "Mitigation," several of the significant adverse impacts related to traffic could be mitigated with a proposed highway overpass, traffic signal phasing and timing modifications, on-street parking restrictions, geometric and striping modifications, and/or lane assignment modifications. However, ~~four~~ two of the adversely impacted intersections would remain unmitigated with the Proposed Actions. In the absence of feasible mitigation measures, the traffic impacts during these peak hours would continue to remain unmitigated and would constitute unavoidable significant adverse impacts.

Bally's has proposed constructing a one-way westbound overpass from the northbound Hutchinson River Parkway Service Road to the southbound Hutchinson River Parkway Service Road that would enable traffic to bypass their respective signalized intersections at Lafayette Avenue. The proposed overpass has received conceptual approval from NYCDOT and New York State Department of Transportation (NYSDOT) prior to the preparation of this Final Environmental Impact Statement (FEIS) and has been included in the With-Action-with-Mitigation Condition analysis for this FEIS. Final design of the proposed overpass will be completed prior to commencement of construction of the proposed overpass, and approvals of the final design would be required from relevant

agencies, such as NYSDOT and NYCDOT. ~~Bally's is exploring the feasibility of constructing a one-way westbound overpass from the northbound Hutchinson River Parkway Service Road to the southbound Hutchinson River Parkway Service Road. This potential overpass would enable traffic to bypass the signalized intersections at Lafayette Avenue.~~ Significant adverse impacts identified at the intersection of Lafayette Avenue and the northbound Hutchinson River Parkway Service Road and at the intersection of Lafayette Avenue and the southbound Hutchinson River Parkway Service Road would be fully mitigated ~~or vastly improved~~ during ~~one or more~~ peak hours analyzed with the proposed overpass. ~~if the overpass is determined to be practicable and feasible. The potential overpass will be further explored by Bally's in consultation with relevant City, State, and Federal agencies between the Draft and Final EIS.~~

The Proposed Development would also result in significant adverse traffic impacts to two highway segments during the Weekday AM peak hour, ~~five~~ four highway segments during the weekday midday peak hour, ~~eight~~ nine highway segments during the weekday PM peak hour, nine highway segments during the weekend midday peak hour, and eight highway segments during the weekend PM peak hour. Potential measures to provide more capacity along these highways such as additional lanes are not practicable or reasonable. Due to the absence of feasible mitigation measures, these traffic impacts would continue to remain unmitigated and would constitute unavoidable significant adverse impacts.

Traffic Monitoring Plan

As described in Chapter 14 of this EIS, "Transportation" and Chapter 22 of this EIS, "Mitigation," the feasibility of the proposed mitigation measures will be further explored by Bally's in a post-construction Traffic Monitoring Plan (TMP). The TMP will be established by Bally's in coordination with the Lead Agency and in collaboration with NYCDOT, New York State Department of Transportation (NYSDOT), NYC Parks, NYCDEP, and the Metropolitan Transportation Authority (MTA) Bridges and Tunnels (TBTA) with the purpose to measure the actual travel demand generated by the Proposed Actions at the time the Proposed Development is complete and will include the roadway improvements that have been implemented in the study area at that time. The TMP, if necessary, will revise the traffic analyses based on the new travel demand surveys and would incorporate NYCDOT improvement projects that have been implemented in the study area. The TMP and supporting documentation will be reviewed by applicable agencies, including the Lead Agency, NYCDOT, NYSDOT, NYC Parks, and MTA (TBTA). At the time of the TMP's implementation, if reviewing agencies determine that additional or alternative mitigation measures would more adequately address traffic impacts, Bally's would work with NYCDOT and appropriate reviewing agencies, as needed, to evaluate the feasibility and implementation of such mitigation measures. If, based on the TMP, any of the mitigation measures are deemed to be infeasible and no alternative mitigation measures can be identified at that time, then the significant adverse traffic impacts would continue to remain unmitigated.

Noise

As discussed in Chapter 17 of this EIS, "Noise," a potentially significant adverse noise impact could result from project-generated traffic along Ring Road. This potential significant adverse noise impact could occur within Ferry Point Park in the area that is west of the Hutchinson River Expressway and immediate to the exterior of Ring Road. This

impact would only occur approximately 100 feet exterior (west) to Ring Road and would not disturb other areas of the Park where users are more likely to recreate. Increases in noise would be less as users move away from Ring Road.

While the noise levels would not exceed the CEQR threshold for nuisance levels, L_{eq} noise levels could increase by more than 3 dB(A) over the No-Action noise levels during peak hours at a single noise analysis location. During the noisiest peak hour, L_{eq} noise levels are projected to increase by up to ~~9.6~~5.6 dB(A) over the No-Action noise level (~~6.6~~2.6 dB(A) above the applicable impact threshold. As this noise increase exceeds the CEQR noise impact criteria of 3 dB(A), it constitutes a significant adverse noise impact due to mobile sources.~~Measures to mitigate these impacts are outlined in Chapter 22 of this EIS, "Mitigation." If this~~

Measures to mitigate this impact were explored in coordination with NYC Parks between Draft and Final EIS. However, no practicable or feasible mitigation was identified. Mitigation measures such as a noise barrier were determined infeasible or impractical. These barriers would affect users' visual experience, visibility, and accessibility within and around the Park. Because no mitigation measures ~~is~~were deemed ~~in~~feasible and no alternative mitigation measures could~~can~~ be identified, ~~then~~ this significant adverse noise impact would remain unmitigated.

Construction

The Proposed Actions would result in significant adverse construction impacts in the area of vehicular traffic. The analysis identified ~~five~~ three traffic intersection/approach lane groups in the study area could experience a significant adverse impact during at least one of the weekday AM and PM construction peak hours. As described in Chapter 22 of this EIS, "Mitigation," several of the significant adverse impacts related to construction traffic could be mitigated with traffic signal timings modifications~~, on-street parking restrictions, and/or lane assignments~~. However, one of the three ~~of the~~ adversely impacted intersections would remain unmitigated with the Proposed Actions and would constitute unavoidable significant adverse impacts.

Potentially significant adverse traffic impacts could result from the construction of the Proposed Development at ~~five~~ four highway segments during the weekday PM construction peak hour. There are no proposed mitigation measures to the highway network. The proposed mitigation measures described for the local intersections may help reduce the overall impacts at the local streets/signalized intersections, but the one highway segment (the southbound Cross Bronx Expressway Approaching I-695 Merge, during the weekday PM construction peak hour) may remain unmitigated and constitute an unavoidable significant adverse impact.

Construction Traffic Monitoring Plan

As described in Chapter 20 of this EIS, "Construction" and Chapter 22 of this EIS, "Mitigation," the feasibility of the proposed mitigation measures will be further explored by Bally's during construction of the Proposed Development with the implementation of a Construction Traffic Monitoring Plan (CTMP). The CTMP will be developed by Bally's and established prior to the start of construction, in coordination with the Lead Agency and in collaboration with NYCDOT, NYSDOT, NYC Parks, NYCDEP, and MTA (TBTA). The purpose of the CTMP is to identify the actual travel and parking demand by construction workers and deliveries associated with construction of the Proposed Development and will include

the roadway improvements that have been implemented in the study area at that time. The CTMP and supporting documentation will be reviewed by applicable agencies, including the lead agency, NYCDOT, NYSDOT, NYC Parks, and MTA (TBTA). At the time of the CTMP's implementation, if reviewing agencies determine that additional or alternative mitigation measures would more adequately address traffic impacts, Bally's would work with NYCDOT and appropriate reviewing agencies, as needed, to evaluate the feasibility and implementation of such mitigation measures. If, based on the CTMP, any of the mitigation measures are deemed to be infeasible and no alternative mitigation measures can be identified at that time, then the significant adverse construction traffic impacts would remain unmitigated.