East New York Rezoning Proposal
Chapter 22: Unavoidable Adverse Impacts

A. INTRODUCTION

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Actions. According to the *City Environmental Quality Review* (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 infeasible.

As described in Chapter 20, "Mitigation," the Proposed Actions would result in significant adverse impacts with respect to community facilities, open space, shadows, historic and cultural resources, transportation, air quality, noise, and construction. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation was identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Actions that would meet their purpose and need, eliminate their impacts, and not cause other or similar significant adverse impacts. In other cases, mitigation has been proposed, but absent a commitment to implement the mitigation, the impacts may not be eliminated.

B. COMMUNITY FACILITIES

Child Care Services

As described in Chapter 4, "Community Facilities and Services," the Proposed Actions are expected to result in significant adverse impacts to publicly funded child care centers. The Proposed Actions could introduce approximately 3,665 affordable residential units, generating an estimated 614 children under age six eligible for publicly funded child care programs. With the addition of these children, child care facilities in the study area would operate at 103.1 percent of capacity, which represents an increase in the utilization rate of 10.3 percentage points over the future No-Action condition. This increase exceeds the five percent threshold in the *CEQR Technical Manual* for a significant adverse impact.

Mitigation measures for this significant adverse impact may include provision of suitable space(s) for a child care center within new or existing buildings and within a reasonable walking distance (leased at a rate affordable to the New York City Administration of Children's Services [ACS] or ACS providers) or funding, or making program improvements to support additional capacity (refer to Chapter 20, "Mitigation"). Measures to mitigate the identified significant adverse impact on publicly funded child care centers will continue to be explored between the DEIS and FEIS in coordination with the lead agency, the New York City Department of City Planning (DCP), and ACS. However, a potential exists that sufficient measures may not be available to fully mitigate the identified adverse impacts. If after exploring all possible mitigation measures, it is determined that the significant adverse impact on publicly funded child care facilities would not be completely eliminated, an unmitigated significant adverse impact would result.

C. OPEN SPACE

As discussed in Chapter 5, "Open Space," given the anticipated decrease in the total, active, and passive open space ratios in the residential study in the future with the Proposed Actions, a significant adverse open space impact would

result. Measures being considered to mitigate the Proposed Actions' significant adverse open space impact include: expanding existing parks; creating new open space on publicly-owned sites; pursuing opportunities to encourage owners of large privately-owned sites to create new open space as part of their redevelopment; making playgrounds accessible to the community after school hours through the Schoolyards to Playgrounds program, establishing new pedestrian plazas in streets through the City's Plaza Program, and/or improving existing parks to allow for more diverse programming and enhanced usability. These potential mitigation measures are currently being explored in coordination with the lead agency, DCP, and the New York City Department of Parks and Recreation (DPR) and will be refined between the DEIS and FEIS.

Although many of the mitigation measures being considered would substantially increase the amount and usability of open space resources for the additional population introduced by the Proposed Actions, opportunities to create new publically-accessible open space resources in sufficient amounts (i.e., approximately 4.69 acres) within the study area to fully mitigate the identified significant adverse open space impact are very limited. As a consequence, the Proposed Actions' significant adverse open space impact may not be completely eliminated and, as a result, an unavoidable significant adverse open space impact would occur.

D. SHADOWS

As discussed in Chapter 6, "Shadows," the Proposed Actions would result in a significant adverse shadow impact (and shadow-related historic resource impact) on the NYCL-eligible and S/NR-eligible Holy Trinity Russian Orthodox Church. Incremental shadows on sunlight-sensitive features of the Holy Trinity Russian Orthodox Church would occur on all four representative analysis days, with durations ranging from 36 minutes to one hour and 48 minutes, which may have the potential to affect the enjoyment of this feature from the interior of the church. It should be noted that the sites that would cast incremental shadows on this historic resources are potential, rather than a projected, development sites. As described in Chapter 1, "Project Description," potential development sites are considered less likely to be developed than projected development sites. Consequently, the likelihood of this impact occurring is less than if it were to result from development on a projected development site.

The *CEQR Technical Manual* identifies potential mitigation strategies for incremental shadow impacts on historic resources which may include, but are not limited, the use of artificial lighting to simulate the effect of sun-light on features such as stained glass windows. This and other feasible and practical measures to reduce or eliminate the project's shadow impacts will be explored in consultation with the New York City Landmarks Preservation Commission (LPC) between the DEIS and FEIS. Absent the identification and implementation of feasible and practicable measures, the Proposed Actions could have an unmitigated significant adverse shadows impact on the Holy Trinity Russian Orthodox Church.

E. HISTORIC AND CULTURAL RESOURCES

As described in Chapter 7, "Historic and Cultural Resources," the Proposed Actions could result in significant adverse historic resources impacts to one resource that is eligible for S/NR-listing and NYCL-designation. Projected development site 37, which is expected to be developed under RWCDS With-Action conditions, contains the S/NR- and NYCL-eligible Empire State Dairy Building. As the maximum permitted With-Action FAR on site 37 could be constructed without the demolition or enlargement of the Empire State Dairy Building, the structure is not projected to be demolished, either partially or entirely, or substantially altered under the RWCDS. However, the Proposed Actions do not include any measures that would prevent the demolition or alteration of the Empire State Dairy Building.

In the event that the structure was designated as a landmark by the LPC, the significant adverse impact would be fully mitigated. However, as the designation process is subject to LPC approval, and not CPC approval, it cannot be assumed or predicted with any certainty. The possibility of potential designation of this resource will be explored, in consultation with the LPC, between the DEIS and FEIS. Absent LPC's designation of the Empire State Dairy Building,

the implementation of measures such as photographically documenting the eligible structure in accordance with the standards of the Historic American Buildings Survey (HABS) could partially mitigate the identified significant adverse direct impact to this historic architectural resource. However, a mechanism to require such measures is not available. Accordingly, this impact would not be completely eliminated, and, if the Empire State Dairy Building is not designated as a landmark, an unavoidable significant adverse impact on this historic resource would result.

F. TRANSPORTATION

Traffic

As discussed in Chapter 13, "Transportation," the Proposed Actions would result in significant adverse traffic impacts at 47 study area intersections during one or more analyzed peak hour; specifically, 58 lane groups at 40 intersections during the weekday AM peak hour, 36 lane groups at 23 intersections during the weekday midday peak hour, 63 lane groups at 40 intersections during the weekday PM peak hour, and 37 lane groups at 25 intersections during the Saturday midday peak hour. Implementation of traffic engineering improvements, such as signal timing changes or modifications to curbside parking regulations would provide mitigation for many of the anticipated traffic impacts. Specifically, the significant adverse impacts would be fully mitigated at all but 15 lane groups at nine intersections during the weekday AM peak hour, ten lane groups at two intersections during the weekday midday peak hour, 18 lane groups at nine intersections during the weekday PM peak hour, and ten lane groups at four intersections during the Saturday midday peak hour. Implementation of the recommended traffic engineering movements is 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 may be identified. In the absence of the application of mitigation measures, the impacts would remain unmitigated. In addition, and as summarized in Table 22-1, below, no practicable mitigation was identified for one or more lane groups at 14 impacts intersections, and impacts in one or more peak hours at these locations would remain unmitigated.

Between the DEIS and FEIS, the specific measures proposed for each intersection will continue to be reviewed to confirm adequacy and feasibility of their implementation and recommend changes as necessary. If it is determined that a specific measure is not feasible at a particular location, other mitigation measures would be explored to mitigate impacts. However if it is determined that other measures are not available to mitigate the identified impacts, either in part of in whole, the impact would be identified in the FEIS as unmitigable.

Transit

Subway Line Haul

In the 2030 future with the Proposed Actions, AM peak hour demand on southbound J/Z trains would exceed practical capacity, and the Proposed Actions would increase this demand by an average of more than five passengers per car. Southbound J/Z trains would therefore be significantly impacted by the Proposed Actions based on *CEQR Technical Manual* criteria. This significant adverse impact could be fully mitigated by the addition of one southbound J or Z train during the AM peak hour. If this adjustment is not made, this subway line haul impact would be considered unavoidable.

Bus

The Proposed Actions would result in a capacity shortfall of 17 spaces on westbound Q8 service in the PM peak hour. This significant adverse impact to Q8 local bus service could be fully mitigated by the addition of one standard bus in the westbound direction in the PM peak hour. If these changes are not made, these impacts would be considered unavoidable.

TABLE 22-1
Lane Groups With Unmitigated Significant Adverse Traffic Impacts

Intersection	Peak Hour			
	Weekday AM	Weekday Midday	Weekday PM	Saturday Midday
Signalized Intersections				
Atlantic Ave & Eastern Pkwy	WB-T (main)	---	---	---
Atlantic Ave & Pennsylvania Ave	WB-TR, NB-TR, SB-L	EB-TR, WB-TR, NB-L, NB-TR, SB-L, SB-TR	EB-T, WB-TR, NB-TR, SB-L	EB-TR, WB-TR, NB-L, NB-TR, SB-L
Atlantic Ave & Logan St	SB-LTR	---	SB-LTR	SB-LTR
Broadway & Eastern Pkwy	EB-TR, WB-LT	---	EB-L, EB-TR, WB-LT	---
Fulton St & Pennsylvania Ave	---	---	NB-TR, SB-L	---
Fulton St & Miller Ave	---	---	EB-TR	---
Fulton Street & Logan St	WB-LTR	---	WB-LTR	---
Bushwick Ave/Jamaica Ave & Pennsylvania Ave/Jackie Robinson Pkwy	EB-Jamaica-TR, WB-L, WB-T, NB-L	EB-Bushwick-R, WB-L, WB-T, NB-L	EB-Bushwick-R, WB-L, WB-T, NB-L	WB-LT, NB-L
Jamaica Ave & Highland Pl/Force Tube Ave	---	---	SB-TR	---
Pitkin Ave & Mother Gaston Blvd	WB-LTR	---	---	---
Pitkin Ave & Pennsylvania Ave	WB-LTR	---	---	---
Unsignalized Intersections				
Arlington Ave & Jamaica Ave	---	---	---	NB-LR
Fulton St & Elton St	NB-TR	---	---	---
Pitkin Ave & Elton St	---	---	NB-LTR	---

Notes:
NB – northbound, SB – southbound, EB – eastbound, WB – westbound
L – left-turn, T – through, R – right-turn, DefL – defacto left-turn

Pedestrians

Incremental demand from the Proposed Actions would significantly adversely impact a total of two sidewalks, one crosswalk, and one corner area in one or more peak hour. Specifically, two of the 79 analyzed sidewalks, one of the 67 analyzed crosswalks, and one of the 58 analyzed corner areas would experience significant adverse impacts in one or more peak hour. As outlined in Chapter 20, "Mitigation," the identified pedestrian impacts would be fully mitigated through sidewalk widenings, tree pit removal, and crosswalk widenings. 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. If no feasible measures can be identified, the projected impacts would remain unmitigated and would therefore be considered unavoidable adverse impacts.

G. NOISE

As presented in Chapter 16, "Noise," the Proposed Actions would result in significant adverse impacts on Richmond Street between Fulton Street and Dinsmore Place, with predicted noise level increases of 4.9 dBA at this location. According to field observations, all of the residences at this location appear to have double-glazed windows, and most of the residences appear to have through-wall air conditioners or window air conditioners (i.e., an alternate means of ventilation).

Residential units with double-glazed windows and an alternate means of ventilation would be expected to achieve approximately 25 dBA of attenuation resulting in interior $L_{10(1)}$ values of approximately 50 dBA during the AM peak hour and approximately 47 dBA during the PM peak hour. With respect to upgrades at the residential units, there

are no further practical or feasible mitigation measures that would fully or partially mitigate the significant adverse noise impact at these locations.

Residential units with double-glazed windows and no alternate means of ventilation would be expected to achieve approximately five dBA of attenuation resulting in interior $L_{10(1)}$ values of approximately 70 dBA during the AM peak hour and approximately 67 dBA during the PM peak hour. Window air conditioners potentially could be installed at these residential units to provide an alternate means of ventilation. As outline in Chapter 20, with the window air conditioners and a closed-window condition, interior $L_{10(1)}$ values would be approximately 50 dBA during the AM peak hour and approximately 47 during the PM peak hour, which would partially mitigate the significant adverse noise impact at these locations. With respect to upgrades at the residential units, there are no further practical or feasible mitigation measures that would fully mitigate the significant adverse noise impact at these locations.

Other potential measures to fully mitigate the noise impact at these locations may be examined between the DEIS and FEIS. Potential mitigation measures may include rerouting traffic where feasible. If no feasible measures can be identified, the projected impacts would not be fully or partially mitigated and would therefore be considered unavoidable adverse impacts.

H. CONSTRUCTION

Historic and Cultural Resources

As described in Chapter 18, "Construction," development under the Proposed Actions—specifically, on projected development sites 7, 13, 35, 38, 39, 49, and 74 and potential development sites A3, A7, A8, A18, A40, A41, A50, A65, A70, A82, A86, A87, and A95—could result in inadvertent construction-related damage to ten NYCL- and/or S/NR-eligible historic resources, as they are located within 90 feet of one or more of the aforementioned projected and potential development sites. If these eligible resources are designated in the future prior to the initiation of construction, the protective measures of New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 would apply and indirect significant adverse impact from construction would be avoided. Should they remain undesignated, however, the additional protective measures of TPPN #10/88 would not apply, and the potential for significant adverse construction-related impacts would be unmitigated.

In order to make TPPN #10/88 or similar measures applicable to historic resources in the absence of site-specific approval, 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 the DEIS and FEIS. Should no feasible mitigation be identified, the significant adverse construction impact on historic and cultural resources would remain unmitigated.

Noise

Chapter 19, "Construction," concludes that the Proposed Actions would have the potential to result in significant adverse construction noise impacts at several locations throughout the rezoning area. For all the smaller individual projected development sites throughout the rezoning area, significant adverse construction noise impacts were determined to potentially occur at receptors that are adjacent to two or more projected development sites. However, adjacent projected development sites may not be constructed consecutively, which would result in periods where there would be lower or no construction noise followed by periods of higher construction noise, but with a duration of less than two years. Construction of all buildings on projected development sites 66 and 67 is expected to occur over 67 months and construction of all buildings on projected development site 46 is expected to occur over 41 months. The worst-case month during the construction period was analyzed. Although the duration of construction activities would occur for two consecutive years or more, the type of activity occurring on a development site would progress through the major construction stages and noise generated during each of these

construction stages could vary substantially and, as a consequence, noise levels which exceed the noise impact threshold criteria may not be sustained for the entirety of two consecutive years or more. An evaluation of construction noise during a representative two-year time period for these large development sites will be completed between the DEIS and FEIS. If that analysis finds that a significant adverse construction noise impact would occur, mitigation measures will be explored and presented in the FEIS. Absent the identification of a mitigation measure for this potential construction noise impact, an unmitigated significant adverse construction noise impact would result.