CHAPTER 23: UNAVOIDABLE SIGNIFICANT ADVERSE IMPACTS

A. INTRODUCTION

According to the *CEQR Technical Manual*, significant adverse impacts are considered unavoidable if (i) significant adverse impacts occur when a project is implemented, regardless of the mitigation employed; or (ii) mitigation is impossible.

As described in Chapter 21, "Mitigation," the Proposed Actions are anticipated to result in significant adverse impacts to community facilities, open space, historic and cultural resources, transportation, and construction. Mitigation has been proposed to the extent practicable 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.

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Actions.

B. COMMUNITY FACILITIES

PUBLIC SCHOOLS

The Project Area falls within the boundaries of New York City Community School District (CSD) 31, Sub-district 4. As described in Chapter 4, "Community Facilities," the Proposed Actions would introduce approximately 1,125 total students, including approximately 537 elementary school students, 230 intermediate school students, and 358 high school students over the No-Action Condition. According to *CEQR Technical Manual* guidance, a significant adverse impact may result if a proposed action would result in (i) a utilization rate equal to or greater than 100 percent, and (ii) an increase in the collective utilization rate of equal to or greater than 5 percentage points between the No-Action and With-Action conditions.

The elementary school utilization rate would increase from 123.87 percent in the No-Action Condition to 128.80 percent in the With-Action Condition (a 4.93-percentage-point increase), with a deficit of 3,151 elementary school seats. In the With-Action Condition, intermediate would continue to operate under capacity (less than 100 percent utilization rate). Therefore, the Proposed Actions are not anticipated to have a significant adverse impact on elementary or intermediate schools in CSD 31, Sub-district 4. The high school utilization rate would increase from 108.60 percent in the No-Action Condition to 110.63 percent in the With-Action Condition (a 2.03-percentage-point increase), with a deficit of 1,852 high school seats. Therefore, the Proposed Actions are not anticipated to result in a significant adverse impact to high schools within the Borough of Staten Island.

As described in Chapter 21, "Mitigation," while the Proposed Actions would not result in significant adverse impacts to public schools, shortly before the issuance of the DEIS, new data from the School Construction Authority (SCA) was released related to projected public school ratios, enrollment

projections, and projected new housing starts. The indirect effects analysis on public schools will need to be re-analyzed, and there is a possibility that a public schools impact may be identified given this new data. Should an impact be identified, DCP, as lead agency, will explore possible mitigation measures with the SCA/Department of Education (DOE) between DEIS and FEIS. If feasible mitigation measures cannot be identified to fully mitigate the potential impact, the impact will be identified as unavoidable.

CHILD CARE FACILITIES

As described in Chapter 4, "Community Facilities," under the Proposed Actions, approximately 1,061 new low- to moderate-income units would be developed by 2030, which would generate approximately 95 children under the age of six who could be eligible for publicly funded child care programs based on the *CEQR Technical Manual* child care multipliers. With the addition of these children, there would be a deficit of 98 slots in the 1.5-mile Study Area by 2030 (125.59 percent utilization), and the Proposed Actions would increase the utilization rate by approximately 24.80 percentage points over the No-Action Condition. Because (i) the Proposed Actions would result in greater than a 5-percentage-point increase in the Child Care Study Area's utilization rate and (ii) child care facilities would operate over capacity (greater than 100 percent utilization rate) in the With-Action Condition, the Proposed Actions would result in a significant adverse impact to publicly funded group child care facilities.

As described in Chapter 21, "Mitigation," mitigation measures for significant adverse impacts to child care facilities will be developed in consultation with the New York City Administration for Children's Services (ACS) between this Draft Environmental Impact Statement (DEIS) and the FEIS. The projected increase in demand for child care slots could be offset by private day care facilities and day care centers outside of the 1.5-mile Child Care Study Area; some parents may choose day care providers that are closer to their workplace rather than their home. In addition, the City's universal Pre-Kindergarten program has greatly expanded the number of free Pre-K seats available for three- to five-year-olds, which are not accounted for in this analysis. New York City recently announced that this initiative will expand to offer free, full-day Pre-K to all three-year-olds within the next four years. Families might choose to enroll their children in Pre-K rather than in day care, thereby reducing the demand for child care seats. While these measures could offset or at least partially mitigate the identified impact, in the event that the significant adverse impact on publicly funded child care facilities is not completely eliminated, an unavoidable significant impact would result.

C. OPEN SPACE

As discussed in Chapter 5, "Open Space," in the With-Action Condition, given the anticipated decrease in the total and active open space ratios in the Residential Study Area and the fact that both the total and active open space ratios in the study area would remain below the City guidance ratios, the Proposed Actions would result in a significant adverse indirect impact to the total and active open space resources in the Residential Study Area.

As described in Chapter 21, "Mitigation," measures being considered to mitigate the Proposed Actions' significant adverse open space impact include making improvements to existing parks to allow for expanded programming and enhanced usability, and making New York City public school playgrounds accessible to the community after school hours through the "Schoolyards to

Playgrounds" program. In addition, the New York City Department of Parks and Recreation (DPR) recently completed the North Shore Staten Island Recreation Center Replacement Feasibility Study, which identified an opportunity to develop a new recreation center at the Lyons Pool site. If implemented, this facility would provide additional active recreational amenities. These and other potential mitigation measures would be explored in coordination with DCP, as lead agency, and DPR between the DEIS and the FEIS.

Although many of the mitigation measures being considered would increase the amount and usability of passive and active recreation resources for the additional population introduced by the Proposed Actions, opportunities to create new publically-accessible open space resources in sufficient amounts 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 might not be completely eliminated and, as a result, an unavoidable significant adverse open space impact would occur.

D. HISTORIC AND CULTURAL RESOURCES

As discussed in Chapter 7, "Historic and Cultural Resources," the construction activity at Projected Development Site 5 under the With-Action Condition has the potential to result in significant adverse archaeological impacts associated with prehistoric resources and nineteenth- to early twentieth-century waterfront features.

A Phase 1A study of Projected Development Site 5 was completed in May 2017 (Appendix E). The Phase 1A study concluded that the archaeological area of potential effects (APE) has a moderate to high sensitivity for prehistoric resources on the western margin in the limited area of fast land, and a moderate to high sensitivity for nineteenth- to early-twentieth-century waterfront features (docks or piers) in the remainder of the southern archaeological-APE. The northern, narrow portion of the archaeological-APE was identified as having no to low sensitivity for shoreline features. The Phase IA recommended archaeological testing in advance of any future ground disturbing developments within the two areas of archaeological sensitivity to determine the absence or presence of potential buried resources.

However, as Projected Development Site 5 is owned by a private entity, there is no mechanism in place to require a developer to conduct archaeological testing or require the preservation or documentation of archaeological resources, should they exist. Therefore, a significant adverse effect related to archaeological resources may occur on Projected Development Site 5. Because there is no mechanism to avoid or mitigate potential impacts to archaeological resources at the privately-owned Projected Development Site 5, the significant adverse impact would be unavoidable.

E. TRANSPORTATION

As described in Chapter 21, "Mitigation," a number of the potential transportation impacts identified for the Proposed Actions could be mitigated. However, as described below, in some cases, impacts from the Proposed Actions would be unmitigatable or partially mitigated.

TRAFFIC

The Proposed Actions would result in significant adverse traffic impacts at 31 Study Area intersections. As discussed in Chapter 21, "Mitigation," traffic mitigation measures would be employed at individual intersections to mitigate the adverse significant traffic impacts. The proposed mitigation measures consist of standard traffic capacity improvement measures, such as lane restriping, signal timing modifications, and installation of new traffic signals at unsignalized intersections. However, even with these measures in place, some of the Study Area intersections would not be completely mitigated in the future conditions to within the significant impact thresholds. Table 23-1 summarizes those intersections that would remain unmitigated, including those intersections that could only be partially mitigated. The lead agency, DCP, will continue to coordinate with the New York City Department of Transportation (DOT) for the purposes of evaluating additional mitigation measures that may be available for these intersections.

Table 23-1: Summary of Unavoidable Adverse Traffic Impacts

Intersection	Impacted Peak Hour: Partially Mitigated	Impacted Peak Hour: Unmitigatable
Richmond Terrace and Jersey Street	Weekday PM	
Richmond Terrace and Ferry Terminal (parking lot)		Weekday MD, Weekday PM, Saturday MD
Richmond Terrace and Ferry Terminal (bus)		Weekday MD, Weekday PM, Saturday MD
Victory Boulevard and Bay Street/ St. Marks Place		Weekday PM
Victory Boulevard and Bay Street	Weekday MD, Weekday PM, Saturday MD	
Bay Street and Hannah Street	Weekday AM	
Bay Street and Swan Street/ Van Duzer Street		Weekday PM
Bay Street and Grant Street	Weekday AM, Weekday MD, Weekday PM, Saturday MD	
Bay Street and Baltic Street	Weekday MD, Weekday PM, Saturday MD	
Bay Street and William Street		Weekday AM, Weekday MD, Weekday PM, Saturday MD
Bay Street and Congress Street		Weekday PM
Bay Street and Wave Street	Weekday PM	
Bay Street and Water Street	Weekday MD, Saturday MD	Weekday PM
Bay Street and Canal Street	Weekday PM	
Bay Street and Broad Street	Weekday PM	
Victory Boulevard and Cebra Avenue		Weekday AM, Weekday MD, Weekday PM
Victory Boulevard and Jersey Street		Weekday MD, Weekday PM, Saturday MD
Victory Boulevard and Forest Avenue	Weekday PM	
Vanderbilt Avenue and Tomkins Avenue		Weekday AM, Weekday MD, Weekday PM
Bay Street and Vanderbilt Avenue	Weekday PM	
Bay Street and Hylan Boulevard		Weekday AM, Weekday MD, Weekday PM, Saturday MD
Bay Street and School Road	Weekday PM	

PEDESTRIANS

The Proposed Actions would result in significant adverse pedestrian impacts at a number of sidewalk and crosswalk elements. As discussed in Chapter 21, "Mitigation," all impacted crosswalks could be widened to mitigate the adverse significant crosswalk impacts. However, the impacted sidewalk elements could not be mitigated in the future conditions to within the significant impact thresholds, as shown in Table 23-2.

Table 23-2: Summary of Unavoidable Adverse Pedestrian Impacts- Sidewalks

Intersection	Unmitigatable Impacts Non-Platoon Conditions	Unmitigatable Impacts Platoon Conditions
Bay Street and Hannah Street (east leg, north sidewalk)	Weekday AM, Weekday MD, Weekday PM, Saturday MD	Weekday AM, Weekday MD, Weekday PM, Saturday MD
Bay Street and Hannah Street (east leg, south sidewalk)	Weekday AM, Weekday MD, Weekday PM, Saturday MD	Weekday AM, Weekday MD, Weekday PM, Saturday MD
Bay Street and Baltic Street (north leg, west sidewalk)		Weekday MD, Weekday PM, Saturday MD
Bay Street and Wave Street (north leg, east sidewalk)		Weekday PM
Bay Street and Wave Street (south leg, east sidewalk)		Saturday MD
Bay Street and Wave Street (south leg, west sidewalk)	Weekday AM, Weekday PM	Weekday AM, Weekday PM
Bay Street and Wave Street (north leg, west sidewalk)	Weekday PM	Weekday PM
Front Street and Hannah Street (south leg, west sidewalk)	Saturday MD	Weekday AM, Weekday PM, Saturday MD
Front Street and Wave Street (north leg, east sidewalk)		Weekday PM, Saturday MD
Jersey Street and Victory Boulevard (east leg, south sidewalk)		Weekday MD
Front Street and Baltic Street (north leg, west sidewalk)		Weekday MD, Weekday PM, Saturday MD

F. CONSTRUCTION

HISTORIC AND CULTURAL RESOURCES

As described in Chapter 7, "Historic and Cultural Resources," the Proposed Actions have the potential to result in construction-related impacts on two eligible historic resources near (i.e., within 90 feet) Projected/Potential Development Sites which would not be redeveloped under the No-Action condition. Development under the Proposed Actions— specifically, on Projected Development Site 20 and Potential Development Site Q—could result in inadvertent construction-related damage to two eligible resources – the State/National Register of Historic Places (S/NR)-eligible 292 Van Duzer Street and the S/NR-eligible and New York City Landmarks (NYCL)-eligible Stapleton Branch of the New York City Public Library. Neither of these eligible resources is S/NR-listed nor LPC-designated nor calendared for designation, and therefore, they are not afforded the added special protections under New York City Department of Building's (DOB's) Technical Policy and Procedure Notice (TPPN) #10/88 beyond standard protection under DOB regulations applicable to all buildings located adjacent to construction sites. If these eligible historic

resources are designated in the future prior to the initiation of construction, the protective measures of DOB 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 could not be mitigated.

Should these potential resources remain undesignated or unlisted, the Proposed Actions would result in an unavoidable significant adverse construction impact on the S/NR-eligible 292 Van Duzer Street and the S/NR-eligible and NYCL-eligible Stapleton Branch of the New York City Public Library.

NOISE

Based on the construction predicted to occur at each development site during each of the selected analysis periods, many receptors are expected to experience an exceedance of the *CEQR Technical Manual* noise impact threshold. One peak construction period per year was analyzed, from 2019 to 2030. Receptors where noise level increases are predicted to exceed the noise impact threshold criteria for two or more consecutive years were identified.

The noise analysis results show that the predicted noise levels could exceed the *CEQR Technical Manual* impact criteria throughout the rezoning area. This analysis is based on a conceptual site plan and construction schedule. It is possible that the actual construction may be of less magnitude, or that construction on multiple projected development sites may not overlap, in which case construction noise would be less intense than the analysis predicts.

Proposed mitigation could include a variety of source and path controls. Between the DEIS and FEIS, possible mitigation measures to address the identified potential construction noise impacts will be explored. In the event no practicable or feasible mitigation measures are identified, the significant adverse construction noise impacts would be unavoidable.