9 NATURAL RESOURCES

9.1 Introduction

Per the 2021 *CEQR Technical Manual*, "natural resources" are defined as 1) the City's biodiversity (plants, wildlife, and other organisms), 2) aquatic or terrestrial habitats that can sustain the life processes of plants, wildlife, and other organisms, and 3) areas that can function in support of the ecological systems that maintain the City's environmental stability. Although any aspect of the City's biodiversity may be considered in a CEQR evaluation, species classified as sensitive, vulnerable, rare, of special concern, threatened, endangered or otherwise worthy of protection are given individual consideration.

The Proposed Actions would allow the development of the Proposed Facility, an approximately 3,093,880-gross-square-foot (gsf) gaming facility on the Development Site (as defined in Chapter 1 of this EIS, "Project Description"). The Proposed Facility is designed to have a footprint of approximately 445,000 square feet (sf) and rise to 245 feet above the ground floor, or an elevation of 280 feet North American Vertical Datum 88 (NAVD88). As part of the Proposed Actions, a replacement standalone golf clubhouse would be redeveloped north of the Proposed Facility, and improvements would be made to Ring Road (as defined in Chapter 1 of this EIS, "Project Description"). Collectively, the Development Site and Ring Road comprise the "Affected Area." The Proposed Facility, replacement golf clubhouse, and improvements to Ring Road comprise the "Proposed Development." The Development Site is part of the larger Bally's Golf Links at Ferry Point golf course (the "Golf Course"), which is in turn, part of the overall Ferry Point Park (the "Park"). The "Study Area" comprises the Affected Area and a 400-foot radius surrounding the Affected Area.

A natural resources assessment may be appropriate if a natural resource is present on or near a proposed project and the project would directly or indirectly cause a disturbance of that resource. A natural resources assessment is warranted for the Proposed Development because the Development Site is located near several natural resources, as defined in the *CEQR Technical Manual*; these include the East River, a freshwater wetland,

tidal wetlands, mapped rare, threatened, or endangered species habitat, and potential migratory bird habitat.

This chapter examines the potential impacts of the Proposed Development on terrestrial and aquatic natural resources, and describes:

- Regulatory programs with jurisdiction over groundwater, floodplains, wildlife, threatened or endangered species, aquatic resources or other natural resources within the Study Area;
- Existing groundwater, floodplain, and natural resources within the Study Area, and surface water quality, aquatic and terrestrial biota, and threatened or endangered species and species of special concern;
- Conditions of the groundwater, floodplains, surface water quality, threatened and endangered species and natural resources under the No-Action Condition; and
- Potential effects of the Proposed Development on the groundwater, floodplains, surface water quality, threatened and endangered species and natural resources conditions under the With-Action Condition.

9.2 Principal Conclusions

The Proposed Actions would not result in a significant adverse impact to natural resources. The Proposed Actions would not significantly alter the character of the Affected Area, which would remain developed with buildings, paved surfaces, an active roadway, and landscaping.

Habitats and Vegetation

Habitat within the Development Site generally comprises paved surfaces, buildings, and landscaped areas. Habitat within Ring Road generally comprises an active paved roadway, portions of the Whitestone Bridge, and adjoining landscaped areas. A freshwater wetland dominated by common reed (*Phragmites australis*) is present south of Ring Road. The Proposed Development would not significantly alter the character of the existing Study Area. Buildings, paved surfaces, and landscaping would still be present on the Development Site in the proposed condition. Ring Road would remain an active roadway in the With-Action Condition. The majority of the Golf Course and existing vegetated parkland to the west and south of Ring Road and along the East River would generally remain undisturbed by the Proposed Development.

Work would not occur within the freshwater wetland located south of Ring Road. As discussed in Chapter 6 of this Environmental Impact Statement (EIS) "Shadows," project-generated shadow is projected to fall on this wetland for up to 2.5 hours in one day; however, the wetland would not receive project-generated shadow on the December analysis day and would continue to receive more than eight hours of sunlight on the March, May, and June analysis days.

The New York City Department of Transportation (NYCDOT) is considering creating a wetland to the south of the Proposed Facility. Both the East River and this potential future wetland would only receive incremental shadow on the June analysis day for less than one hour. Both sunlight-sensitive elements would continue to receive over 11 hours of sunlight in the June analysis day. Thus, the project-generated shadow is not anticipated

to have a significant adverse impact on this wetland, the East River, or the potential future NYCDOT wetland and is not anticipated to significantly impact the ecological integrity of the Study Area.

Per the analysis provided in Chapter 6 of this EIS, "Shadows," the Proposed Development would not result in a significant adverse shadows impact to other sunlight-sensitive features. However, the Proposed Development could result in significant adverse impacts to discrete areas of the Golf Course's vegetation (grass) in the following limited areas near the Proposed Facility:

- Hole 1: The putting practice area and rough around the teeing areas;
- Hole 9: The green and surrounding fairway and rough;
- Hole 10: The southern fringe of the southernmost tee box;
- Hole 18: The fairway and rough at southwestern edge of the hole; and
- Driving Range: The southern extent of the teeing area.

Measures to mitigate significant adverse impacts to the Golf Course's grass are discussed within Chapter 22 of this EIS, "Mitigation." The significant adverse shadows impacts would be limited to manicured areas of the Golf Course and additional habitat outside of the areas of shadow would continue to be available. Thus, the Proposed Development would not cause a loss of habitat that would rise to the level of a significant adverse impact.

Wildlife

The Affected Area is not anticipated to serve as habitat for large populations of terrestrial wildlife. No state- or federal-listed threatened or endangered bird species, or U.S. Fish and Wildlife Service (USFWS)-listed Birds of Conservation Concern, were observed onsite during the May 2024 bird survey. The Whitestone Bridge was surveyed for potential active use by bats as roosting habitat in the vicinity of the Affected Area in June 2024, and was concluded unlikely to be active roosting habitat. Furthermore, there is habitat similar to the habitat present onsite in the vicinity of the Affected Area. This includes the majority of the Golf Course which would remain undisturbed by the Proposed Development, and landscaped parkland west of the Hutchinson River Expressway. As such, any wildlife currently using the Affected Area as habitat would have access to similar, nearby habitat when development within the Affected Area commences. Alteration of habitat within the Affected Area is therefore not anticipated to have a significant impact on local populations of terrestrial wildlife. As previously discussed, the Proposed Development does not involve any disturbance to the freshwater wetland located south of Ring Road, the existing parkland located west and south of Ring Road, or the existing elements of Ferry Point Park south of the Development Site.

Project-generated stormwater would be conveyed to existing outfalls to the East River and Westchester Creek. Use of existing outfalls would involve connecting to existing infrastructure upland of any tidal wetland or surface water features or adjacent areas and would not require in-water work. Stormwater outfall connection would take place farther upland from the East River or tidal wetland-adjacent areas, and as such would not be anticipated to significantly impact Essential Fish Habitat, or habitat of species mapped by the National Oceanic and Atmospheric Administration (NOAA) NMFS Section 7 mapper in the East River.

Rare or Protected Species and Communities

The New York State Department of Environmental Conservation (NYSDEC) maps habitat for the state-listed endangered peregrine falcon (Falco peregrinus) within the Study Area but outside of the Affected Area. NYSDEC also maps rare dragonflies and damselflies, not listed as threatened or endangered by NYSDEC, adjacent to Ring Road along its western edge. As previously discussed, there is habitat similar to the habitat present onsite in the vicinity of the Affected Area. As such, any peregrine falcon or rare dragonflies or damselflies currently utilizing herbaceous habitat onsite will continue to have access to a significantly larger area of adjacent, similar habitat after project construction. The Proposed Development is therefore not anticipated to result in significant disturbance to these species' habitat.

The USFWS Information for Planning and Consultation (IPaC) Species List generated for the Affected Area identifies the federally listed threatened (state listed endangered) piping plover (*Charadrius melodus*) as needing to be considered in an effects analysis for activities in the Affected Area (Appendix E). Because the Study Area is located outside of the known range of breeding populations of piping plover, the Proposed Development is not anticipated to have a significant effect on piping plover populations.

The IPaC system also identifies the federally listed endangered (state listed endangered) northern long-eared bat (*Myotis septentrionalis*), and the federally proposed endangered (state unlisted) tricolored bat (*Perimyotis subflavus*) as needing to be considered in an effects analysis for wind turbine operations in the Affected Area. Because the Proposed Development does not include wind turbines, northern long-eared bat and tricolored bat do not need to be considered in an effects analysis of activities in the Affected Area, according to the USFWS IPaC system. The IPaC report (Appendix E) also confirmed the absence of designated, critical bat habitat onsite. However, out of an abundance of caution this report assesses the potential for habitat for the currently listed northern long-eared bat within the Affected Area.

Langan field scientists performed a structural assessment for bats at the Whitestone Bridge to assess the bridge for active use by bats as roosting habitat and did not observe evidence of use by bats. Langan field scientists also assessed trees within the Affected Area for suitable northern long-eared bat roosting habitat and found only nine trees exhibiting traits indicative of suitable habitat. The small, isolated, and low-density character of woodlands in the surrounding Study Area reduces their likelihood to serve as habitat for active populations of northern long-eared bats. As such, northern long-eared bats are considered unlikely to actively roost in trees within the Affected Area.

Wetlands and Surface Waters

Tidal wetlands and surface waters are mapped in the East River and Westchester Creek within the Study Area. Project-generated stormwater would be conveyed to existing stormwater outfalls. Use of existing outfalls would involve connecting to existing infrastructure upland of any tidal wetland or surface water features or adjacent areas and would not require in-water work. While not anticipated, any work proposed near or in tidal wetlands or surface waters would be performed in accordance with the appropriate permits from NYSDEC, New York City Department of Environmental Protection (NYCDEP), or the United States Army Corps of Engineers (USACE). Project-generated stormwater would be required to meet the water quality standards of the NYC Unified Stormwater

Rule, which requires stormwater to be treated before being discharged into a city-owned system. As such, the project is anticipated to result in a net increase in the quality of stormwater being discharged from the Affected Area.

As described in Chapter 6 of this EIS, "Shadows," project-generated shadow would not be cast on the East River during three of the four CEQR analysis days: the December 21st, March 21st, and May 6th analysis days. On the June analysis day (June 21st, the summer solstice), project-generated shadow would be cast on the East River's littoral zone for about 48 minutes at the end of the June analysis day. The portions of the river that would receive incremental shadow would remain in direct sunlight from 5:57AM to 5:13PM, a duration of 11 hours and 16 minutes, and therefore the Proposed Development would not have a significant adverse impact on the East River.

The sole freshwater wetland in the Study Area is located to the south of Ring Road. This wetland ~~is not anticipated to~~may be regulated by NYSDEC pursuant to § 24-0107 of the NYSDEC Freshwater Wetlands Act ~~but~~ and may be regulated by USACE pursuant to Section 404 of the Clean Water Act.[1] The Proposed Development is being designed to avoid disturbing this wetland. If ~~wetland~~ disturbance to this wetland or its regulatory adjacent area would occur during the construction of the Proposed Development, appropriate permits from USACE and/or NYSDEC would be obtained as necessary. As discussed in Chapter 6 of this EIS, "Shadows," project-generated shadow is projected to fall on this wetland for up to 2.5 hours on the March, May, and June analysis days; however, the wetland would continue to receive more than eight hours of sunlight on the each of the CEQR analysis days. Accordingly, the Proposed Actions would not result in a significant shadows impact to the wetland.

An area south of the Development Site along the shore of the East River may contain a future NYCDOT wetland mitigation project.[2] This area could receive up to 26 minutes of incremental shadow during the June analysis day. This portion of the Park would continue to receive sunlight for over 11 hours on the June analysis day before incremental shadow begins to fall on this area. Accordingly, the Proposed Actions would not result in a significant shadows impact to the area.

9.3 Methodology

Per the *CEQR Technical Manual*, an assessment of natural resources is appropriate if a natural resource exists on or near a development site, and if a proposed action involves disturbance of that resource. A natural resources assessment considers species in the context of the surrounding environment, habitat, or ecosystem, and examines the potential for a proposed action to adversely impact these resources.

Both direct and indirect effects to natural resources are considered when evaluating the need for an assessment. Direct effects are activities that directly alter the condition of a

[1] As of January 1, 2025, NYSDEC ~~will~~ regulates certain urban freshwater wetlands if they meet one of NYSDEC's 11 newly established criteria. ~~Currently, t~~This freshwater wetland ~~is~~ may be regulated ~~exclusively~~ by USACE and there is no regulated USACE buffer area. If NYSDEC asserts jurisdiction over this wetland and its adjacent areas, the expansion of Ring Road ~~would~~ may be subject to permitting requirements for freshwater wetland adjacent areas, which might include additional measures to protect the wetland, if deemed necessary by NYSDEC.

[2] The NYCDOT Wetland Mitigation project has not been fully designed or approved; however, this potential project was included for a conservative analysis of the potential effects of the Proposed Development.

resource. Indirect effects occur when changes on a site alter conditions to adjacent or nearby resources or on the site after construction has ended.

Regulatory Setting

In addition to regulatory programs, federal, state, and local (New York City) legislation may provide protections for natural resources in the Development Site and were considered in this analysis. These protections are reviewed below to determine their applicability to the Study Area.

Federal

Clean Water Act (33 U.S. Code [USC] §§ 1251-1387)

The objective of the Clean Water Act - also known as the Federal Water Pollution Control Act - is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States. The Clean Water Act regulates point sources of water pollution, such as: discharges of municipal sewage, industrial wastewater, and stormwater runoff; the discharge of dredged or fill material into navigable waters and other waters; and non-point source pollution (e.g., runoff from streets, construction sites) that enters water bodies from sources other than from outfalls.

Permitting pursuant to Section 404 of the Clean Water Act is administered by USACE. Pursuant to Section 401 of the Clean Water Act, applicants for discharges to waters of the United States, such as the East River, must also obtain a Water Quality Certification from the New York State Department of Environmental Conservation (NYSDEC).

One freshwater wetland was delineated south of Ring Road, west of the Whitestone Bridge. This wetland may be regulated under the jurisdiction of USACE pursuant to Section 404 of the Clean Water Act. No disturbance is proposed to this freshwater wetland.

Rivers and Harbors Act of 1899, Section 10

Section 10 of the Rivers and Harbors Act of 1899 requires authorization from the Secretary of the Army - acting through the USACE - to construct a structure in or over a navigable water of the United States; excavate from or deposit material in these waters; or obstruct or alter a navigable water of the United States. The purpose of the Act is to protect navigation and navigable channels. Structures placed in or over navigable waters, such as pilings, piers, or bridge abutments up to the mean high water (MHW) line are regulated by this Act. Permitting pursuant to Section 10 of the Rivers and Harbors Act is administered by the USACE.

The Proposed Development would connect to existing stormwater outfalls and a Section 10/404 NWP No. 7 permit would not be required.

Federal Endangered Species Act of 1973 (16 USC §§ 1531-1544)

The federal Endangered Species Act of 1973 (ESA) recognizes that endangered species of wildlife and plants are of aesthetic, ecological, educational, historical, recreational, and scientific value to the nation and its people. The ESA protects endangered and threatened species and the critical habitats that these species depend on. The ESA also prohibits the importation, exportation, taking, possession, and other activities that involve illegally taken species that are covered under the ESA. The Act also regulates interstate or foreign

commercial activities involving endangered or threatened species. Permitting for activities regulated under the ESA is administered by the USFWS or the National Marine Fisheries Service (NMFS).

As discussed later in this chapter, no ESA-regulated species are anticipated to be impacted by the Proposed Actions.

Magnuson-Stevens Act (16 USC §§ 1801 TO 1883)

Section 305(b)(2)-(4) of the Magnuson-Stevens Act outlines the process for the National Marine Fisheries Service (NMFS) and the Regional Fishery Management Councils (in this case, the Mid-Atlantic Fishery Management Council) to comment on actions that are proposed by federal agencies that may adversely impact areas designated as Essential Fish Habitat (EFH). These actions may include the issuance of permits, authorization, or funding for projects.

EFH is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity (16 USC §1802(10)). Adverse impacts on EFH, as defined in 50 CFR 600.910(A), include impacts that reduce the quality or quantity of EFH. Adverse impacts may include:

- Direct impacts, such as physical disruption or the release of contaminants;
- Indirect impacts, such as the loss of prey or reduction in the fecundity (number of offspring produced) of a managed species; or
- Site-specific or habitat-wide impacts that may include individual, cumulative, or synergetic consequences of a federal action.

As discussed below, the project is designed to minimize disturbance of water area outside of the current footprint of in-water structures (outfalls). As such, this project is not anticipated to impact any areas of EFH.

New York State

Freshwater Wetlands Act, Article 24, ECL, Implementing Regulations 6 NYCRR § 662-665

As defined in Article 24 of the Environmental Conservation Law, freshwater wetlands include land and water areas ~~shown on the freshwater wetlands map~~ that support certain categories of aquatic or semi-aquatic vegetation, do not support vegetation that is neither aquatic nor semi-aquatic, are surrounded by lands that reflect the qualities listed above, or are submerged. ~~NYSDEC administers the Freshwater Wetlands regulatory program and maps the State's freshwater wetlands.~~ A permit is required for various land uses and activities within regulated Freshwater Wetlands or "Adjacent Areas", which extend 100 feet from the edge of the wetland, or farther, at the discretion of NYSDEC. ~~Freshwater wetlands smaller than 12.4 acres in size are not regulated by the State unless they are considered to have unusual local importance.~~

As of January 1, 2025, NYSDEC ~~will~~ regulates all wetlands of 12.4 acres or larger, regardless of whether they are mapped by NYSDEC, and small wetlands of "unusual importance" that meet one of NYSDEC's 11 newly established criteria. As of January 1, 2028, NYSDEC will also regulate all wetlands of 7.4 acres or larger.

No freshwater wetlands are mapped on or in the vicinity of the Study Area by NYSDEC, including informational freshwater wetland mapping published by NYSDEC, last updated

23 December 2024. However, if NYSDEC asserts jurisdiction over ~~a USACE-regulated~~the wetland south of Ring Road and its adjacent areas, the expansion of the roadway may~~would~~ be subject to permitting requirements for freshwater wetland adjacent areas, which might include additional measures to protect the wetland, if deemed necessary by NYSDEC.

Tidal Wetlands Act, Article 25, ECL, Implementing Regulations 6 NYCRR § 661

In New York State, tidal wetlands include the Hudson River and the marine shores, bays, inlets, canals, and estuaries of Long Island, New York City, and Westchester County. NYSDEC administers the tidal wetlands regulatory program and maps the State's tidal wetlands. A permit is required for various land uses and activities within regulated Tidal Wetlands and "Tidal Wetland Adjacent Areas", which in New York City extend up to 150 feet inland from a tidal wetland boundary, with certain exceptions.

No tidal wetlands are mapped within the Affected Area. One tidal wetland is mapped approximately 675 feet south-southeast of the Affected Area, on the shore of the East River.

The Proposed Development would connect to existing stormwater outfalls. No significant adverse impacts to tidal wetlands are anticipated as a result of stormwater outfall use and a tidal wetlands permit from NYSDEC would not be required.

Tidal wetlands are also located along the bank of Westchester Creek in the Study Area. The Proposed Development would continue to use the existing outfalls, which discharge some of the project-generated stormwater to Westchester Creek. No impacts to tidal wetlands are anticipated as a result of stormwater outfall use in these areas.

Protection of Waters Program, Article 15, Title 5 ECL, Implementing Regulations 6 NYCRR § 608

The NYSDEC administers the "Protection of Waters Program" to preserve and prevent undesirable impacts to rivers, streams, lakes, ponds, and other surface waters. Through this program, NYSDEC has established regulations and permitting requirements that are compatible with the preservation, protection, and enhancement of the present and potential values of the water resources. These regulations and permitted requirements also protect the public health and welfare and are consistent with the reasonable economic and social development of New York State. Under the Protection of Waters Program, all New York State waters are assigned a class and a standard designation based on existing or expected best usage of each water or waterway segment.

As previously discussed, the East River and Westchester Creek are located in the Study Area. Because the Proposed Development would connect to existing outfalls, a Protection of Waters permit from NYSDEC would not be required.

State Pollutant Discharge Elimination System (SPDES), (ECL Article 3, Title 3; Article 15; Article 17, Titles 3, 5, 7, and 8; Article 21; Article 70; Article 71, Title 19; Implementing Regulations 6 NYCRR Chapter 10 Article 2)

NYSDEC administers the State Pollutant Discharge Elimination System (SPDES) to define the State's authority to regulate pollution from wastewater and storm water discharges to the State's waterways and groundwater systems. Activities requiring a SPDES permit include: point source discharges of wastewater into surface or ground waters of the State, including the intake and discharge of water for cooling purposes; construction or

operation of a disposal system (sewage treatment plant); discharge of stormwater; and construction activities that disturb one acre or more.

A SPDES General Permit allows NYSDEC oversight over the duration of construction. Upon completion, use of existing outfalls would be subject to the regulations of the agencies that have jurisdiction over existing outfalls. Ownership of the existing outfalls is currently being investigated, and the Proposed Development would connect to the existing outfalls through the applicable review and approval process.

Flood Hazard Areas, Article 36 ECL, Implementing Regulations 6 NYCRR § 501-502

New York State regulates work within flood control lands. Regulated activities under this section include any activity that changes or adds to land or structures within flood control lands. Flood control lands are defined as any land or interest in land acquired for flood control purposes. The Study Area is not known to contain any flood control lands.

Endangered and Threatened Species of Fish and Wildlife; Species of Special Concern (ECL, Sections 11-0535[1]-[2], 11-0536[2], [4], Implementing Regulations 6 NYCRR § 182)

The Endangered and Threatened Species of Fish and Wildlife, Species of Special Concern Regulations perpetuate and restore native animal life in New York State for the use and benefit of current and future generations. The regulations prohibit the unauthorized taking, import, transport, possession, or selling of any endangered or threatened species of fish or wildlife, or any hide or other part of these species as listed in Section 182.6 of Title 6 of the New York Code, Rules, and Regulations (NYCRR). The regulations further prohibit adverse modification of occupied habitat of endangered or threatened species without authorization from NYSDEC.

As shown on Figure 9-1 below, the western edge of Ring Road is located in the vicinity of NYSDEC-mapped rare dragonflies and damselflies, which are not listed as threatened or endangered by NYSDEC. A mapped area of Animals Listed as Endangered or Threatened is located approximately 950 feet south-southeast of the Development Site. A review of the NYSDEC EAF mapper revealed the species associated with this mapping to be the peregrine falcon (*Falco peregrinus*). The Proposed Development would connect to an existing stormwater ~~outfall~~sewer, which discharges to the East River in the vicinity of this mapping; however, the outfall connection would not disturb any existing peregrine falcon habitat. As such, the project is not anticipated to result in disturbance to any species listed as threatened or endangered by NYSDEC.

Consultation with NYSDEC for Northern Long-Eared Bat (NLEB) is carried out through the Environmental Assessment Form (EAF). As shown on the EAF short form in Appendix E, the Study Area is located outside of any areas of NYSDEC known NLEB habitat. Furthermore, the project site is not located within any municipalities on the NYSDEC list of "Northern Long-eared Bat Occurrences by Town," provided on the NYSDEC website.

Figure 9-1: NYSDEC Mapped Rare Plants or Animals, and Significant Natural Communities



Protected Native Plants (ECL 9-1503, Implementing Regulations 6 NYCRR § 193.3)

The NYSDEC's Protected Native Plants Program provides protections for four categories of protected plants: endangered, threatened, rare, and vulnerable to exploitation. Pursuant to 6 NYCRR § 193.3(e), it is a violation to pick, pluck, sever, remove, damage by the application of herbicides or defoliants, or carry away, without the consent of the landowner, any protected plant in New York State. The regulation gives landowners additional rights to prosecute those who collect plants without permission.

As shown on Figure 9-1, no NYSDEC-mapped significant natural communities are located within the Study Area.

Waterfront Revitalization of Coastal Areas and Inland Waterways, NYS Executive Article 42 (910 to 923)

The federal Coastal Zone Management Act was passed in 1972 to encourage coastal states to develop and implement Coastal Management Programs (CMPs). The act was established as a United States national policy to preserve, protect, develop, and where possible, restore or enhance the resources of the Nation's coastal zone for current and succeeding generations. In New York State, the CMP is administered by the New York State Department of State (NYSDOS), under the Waterfront Revitalization of Coastal Areas and Inland Waterways Act. NYSDOS has established 44 coastal policies that promote the beneficial use of coastal resources, prevent their impairment, or otherwise address activities that may affect resources within the New York State Coastal Zone. Consistency review with New York State Coastal Policies is required for projects that are located within the New York State Coastal Zone and that are subject to federal funding, permits, or authorizations. As discussed below, within New York City, the CMP is administered by the New York City Planning Commission.

As discussed in Appendix A of this EIS, the Proposed Actions are consistent with the requirements of the New York City Waterfront Revitalization Program (WRP) and the New York State Coastal Zone Management Program.

New York City

NYC Waterfront Revitalization Program (WRP)

The New York City WRP established the City's policies for waterfront planning, preservation, and development projects. The goal of the WRP is to maximize the benefits derived from economic development, environmental conservation, and public use of the waterfront, while minimizing any potential conflicts among these objectives. The WRP is authorized by the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act, which was enacted in response to the federal Coastal Zone Management Act and allows municipalities to participate in the State's Coastal Management Program by creating their own local WRP.

The City Planning Commission, in its capacity as the City Coastal Commission, and the New York City Department of City Planning administer the City's WRP. Consistency review with WRP policies is required for projects that are located within the City's WRP boundaries.

As discussed in Appendix A of this EIS, the Proposed Actions are consistent with the requirements of the New York City Waterfront Revitalization Program.

Flood Resilience Zoning Text Amendment

The Flood Resilience Zoning Text Amendment was adopted by City Council on 9 October 2013. The zoning text amendment is intended to encourage flood-resilient building construction throughout designated flood zones. FEMA issued new flood maps for New York City following Hurricane Sandy, which included higher flood elevations and a larger 100-year (1 percent annual chance) flood zone. Residential uses are now required to be built two feet above the Base Flood Elevation (BFE) and non-residential uses must be built one foot above the BFE.

The Proposed Development consists of a gaming facility and accessory uses and improvements to Ring Road. No residential uses are associated with the Proposed Development. Portions of the Development Site are in a one percent annual chance (1-in-

100 year) floodplain with a Base Flood Elevation (BFE) of 13 feet, as measured in the North American Vertical Datum of 1988 (NAVD88). The Proposed Development would be constructed at least two feet above the BFE at elevation 15 NAVD88 (BFE plus 2 feet of freeboard). If mechanical equipment is placed below the BFE, it would be floodproofed in accordance with the requirements outlined in the Flood Resilience Zoning Text Amendment and Appendix G of the New York City Building Code (NYCBC). Therefore, the Proposed Actions would meet all requirements outlined in the Flood Resiliency Zoning Text Amendment, as well as all flood-proofing requirements to mitigate the risk of flood damage.

Impact Criteria

Pursuant to the *CEQR Technical Manual*, impacts are considered "significant" if they meet one or more of several criteria. These include activities that would:

- render a water resource unfit for one or more uses for which it is classified;
- cause or exacerbate a water quality violation;
- adversely affect a significant, sensitive, or designated resource;
- reduce habitat for endangered, threatened, or rare species, or species of special concern;
- result in loss of native plant species that are endangered, threatened, vulnerable or rare in NYC according to the New York Flora Atlas;
- reduce a resource that is important because it is large, unusual, the only one remaining in the area where the project is to take place, or occurs within a limited geographic region;
- adversely affect a resources ability to serve ecological functions; or,
- reduce habitat which allows a resource to perform its primary function, which is inconsistent with NYC natural resource policies.

Data Sources

Existing information was identified based on a tabletop mapping review, a bird survey conducted 22 May 2024 and 9 October 2024, a wetland delineation, structural survey for bats, and tree survey for bat habitat conducted on 25 June and 8 July 2024, agency correspondence, applicable literature, and information obtained from governmental and nongovernmental sources, such as: NYSDEC Water Quality Classifications Data; NYSDEC New York State Regulatory Tidal Wetlands Data; USFWS IPaC list of federally listed threatened and endangered species; Federal Emergency Management Agency (FEMA) Preliminary and Effective Flood Insurance Rate Maps (pFIRMs and FIRMs); the National Oceanic and Atmospheric Administration (NOAA) Essential Fish Habitat (EFH) mapper; the NOAA Endangered Species Act (ESA) Section 7 Mapper; the Cornell Lab of Ornithology eBird Hotspot Mapper; the 2000–2005 New York State Breeding Bird Atlas; and the New York Natural Heritage Program (NYNHP). See Appendix E for agency consultations referenced in this chapter. All other data sources are publicly available and referenced in footnotes.

9.4 Existing Conditions

The Development Site is an approximately 18-acre parcel located entirely within the Golf Course, a 222-acre public golf course in the Bronx. The Golf Course is a part of the Park and under the jurisdiction of the New York City Department of Parks and Recreation (NYC Parks). Bally's is the licensee and operator of the Golf Course. The Proposed Development also includes improvements to Ring Road.

The Development Site is bounded by Hutchinson River Expressway to the west, and otherwise bounded by the Golf Course and Park. The Ring Road parcel is generally within the area of the existing Ring Road, with wider boundaries in some areas (see Appendix C for the metes and bounds of the parcels comprising the Affected Area). The Development Site is currently improved with the Golf Course clubhouse, parking lot, a portion of the practice area, and other landscaped areas. The clubhouse is one story and has approximately 25,265 gsf of floor area.

The Development Site is accessed from Hutchinson River Expressway and the local street network via Ring Road, which connects the southbound Hutchinson River Expressway service road to the northbound service road by looping beneath the Whitestone Bridge within the Park. To the north, the Hutchinson River Expressway provides access to interstates 95, 278, and 295. These interstate highways allow onward regional connections to areas such as the Bronx, Westchester, New Jersey, and Connecticut. Southbound, the Hutchinson River Expressway provides access across the East River via the Whitestone Bridge to the Cross Island Parkway, which provides onward connections to Queens and Long Island.

Beyond the Golf Course, Ferry Point Park contains waterfront walking paths and a public parking lot south of the Development Site. These elements and the Golf Course comprise the portion of Ferry Point Park east of the Hutchinson River Expressway, which bisects the 400-acre Park in two distinct sides. West of the Hutchinson River Expressway, the Park offers barbecuing areas, basketball courts, cricket fields, football fields, dog-friendly areas, handball courts, playgrounds, public restrooms, soccer fields, and Wi-Fi Hot Spots. Additionally, there is a surface parking lot for Park users and a Metropolitan Transportation~~it~~ Authority (MTA) office building bound to the east by the Whitestone Bridge and otherwise bound by Ring Road. Additional information on existing conditions within the Study Area can be found within Chapter 1 of this EIS, "Project Description."

Habitats and Vegetation

The Development Site is mostly a paved parking lot and internal access drives, existing buildings, paved walking paths and a practice driving range consisting of maintained lawn areas and sand traps. The southern portion of the site includes an area of landscaped meadow with scattered low trees and an area of gravel-covered surface. Landscape areas and a vegetated stormwater basin are also present onsite. To the south and southeast of the Development Site are vegetated drainage swales and paved walking paths and grassy slopes. Ring Road comprises an active roadway and adjacent landscaping. A freshwater wetland is present to the south of Ring Road. The Park's landscaped and wooded areas are present to the west of Ring Road and the Hutchinson River Expressway.

Essential Fish Habitat

EFH comprises waters and substrates necessary for fish species spawning, breeding, feeding, or growing to maturity. Data provided from NOAA's EFH Mapper program indicates a number of fish species with EFH are proximate to the Study Area. Table 9-1 lists the species and life stages of fish identified as having EFH in the East River near the Study Area.

Table 9-1: EFH-Designated Species within the Study Area

		Life Stage			
Common Name	**Scientific Name**	**Eggs**	**Larvae**	**Juvenile**	**Adult**
Little Skate	*Leucoraja erinacea*			X	X
Winter Skate	*Leucoraja ocellata*			X	X
Longfin Inshore Squid	*Doryteuthis pealeii*	X		X	X
Atlantic Butterfish	*Peprilus triacanthus*	X	X		X
Atlantic Herring	*Clupea harengus*			X	X
Summer Flounder	*Paralichthys dentatus*			X	X
Atlantic Mackerel	*Scomber scombrus*	X	X	X	X
Black Sea Bass	*Centropristis striata*			X	
Pollock	*Pollachius virens*			X	X
Scup	*Stenotomus chrysops*	X	X	X	X
Red Hake	*Urophycis chuss*	X	X	X	X
Winter Flounder	*Pseudopleuronectes americanus*	X	X	X	X
Windowpane Flounder	*Scophthalmus aquosus*	X	X	X	X

Source: NOAA EFH Mapper Report (Appendix E)

Significant Coastal Fish and Wildlife Habitats

The NYSDOS Division of Coastal Resources delineates the State's coastal zone boundary and identifies Significant Coastal Fish and Wildlife Habitats. The entirety of the Study Area is located within the New York State Coastal Zone, but the waters of the East River and Westchester Creek are not designated Significant Coastal Fish and Wildlife Habitat in the vicinity of the Development Site and Ring Road. The assessment of the Proposed Actions' consistency with the City's WRP is provided in Appendix A.

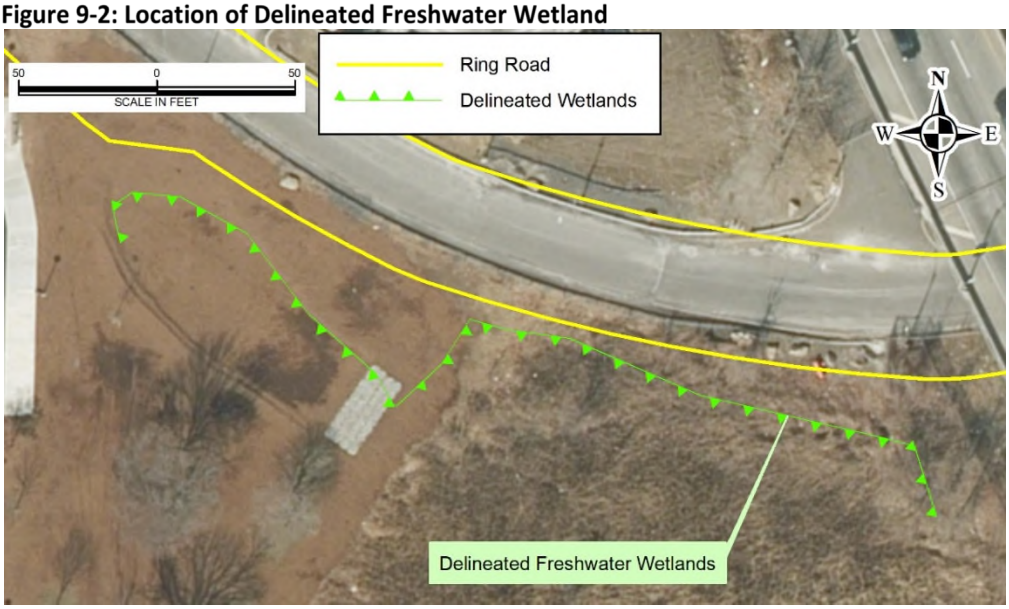
Terrestrial Habitat

Habitat within the Development Site generally comprises paved surfaces, buildings, and landscaped areas. Vegetation observed in landscaped areas includes arborvitae (*Thuja occidentalis*), eastern redcedar (*Juniperus virginiana*), oaks (*Quercus sp.*), hydrangea (*Hydrangea sp.*), and maintained lawn. The landscaped meadow south of the Golf Course comprises scattered, small trees and low, maintained upland herbaceous vegetation. Trees in the area include white pine (*Pinus strobus*), pitch pine (*Pinus rigida*), eastern redcedar, American holly (*Ilex opaca*), black locust (*Robinia pseudoacacia*), and sweetgum (*Liquidambar styraciflua*).

One freshwater wetland that may fall under Army Corps and/or NYSDEC jurisdiction was observed within the Study Area during a site visit on 25 June 2024 (Figure 9-2). The wetland is located south of Ring Road and west of the Whitestone Bridge. The wetland is generally dominated by common reed (*Phragmites australis*), an invasive species. A strip of varying vegetation was observed along the northern edge of the wetland. Vegetation in this area included cleavers (*Galium aparine*), fescue (*Festuca* sp.), goldenrod (*Solidago*

sp.), elderberry (*Sambucus* sp.), eastern baccharis (*Baccharis halimifolia*), and grape species (*Vitis* spp.). Hydrology in the portion of the wetland in the vicinity of Ring Road appears to be driven primarily by surface water runoff from the adjacent roadway and uplands.

Figure 9-2: Location of Delineated Freshwater Wetland



Vegetation in the drainage swales located at the boundary of the Golf Course and Ferry Point Park east of the Whitestone Bridge consist of switchgrass (*Panicum virgatum*), common reed (*Phragmites australis*), wrinkleleaf goldenrod (*Solidago rugosa*), New York ironweed (*Vernonia noveboracensis*), and eastern baccharis (*Baccharis halimifoia*). The grassy slopes within Ferry Point Park east of the Whitestone Bridge are generally dominated by switchgrass, redtop (*Agrostis gigantea*), common reed, and reed canary grass (*Phalaris arundinacea*). The shoreline along the East River consists of rip-rap. Significant refuse and debris were observed along the shoreline of the East River. Small, wooded areas are located in the southwestern and western portions of the Study Area. A narrow row of trees and maintained lawn is present along the eastern edge of Ring Road, where it abuts the existing Golf Course.

Wildlife

The Affected Area is highly developed and largely surfaced with pavement. The Development Site comprises an active golf course and associated infrastructure. As discussed in the Terrestrial Habitat section of this chapter, vegetated areas on the Development Site generally comprise landscaped areas, maintained lawn, and a small area of landscaped meadow with scattered low trees south of the Golf Course surface parking lot. The remainder of the Affected Area is comprised of Ring Road and small portions of adjacent areas. Habitat adjacent to Ring Road includes paved walking trails and a freshwater wetland. Birds and small mammals accustomed to disturbed areas may occupy portions of the Affected Area; however, the Affected Area does not have characteristics that indicate it is able to support significant local populations of terrestrial wildlife.

Birds

Breeding Bird Atlas

The 2000–2005 New York State Breeding Bird Atlas is a statewide inventory of all the birds breeding in the state. Fieldwork for the atlas was conducted by dividing the state into small blocks within which volunteers recorded the bird species using that area and document evidence of breeding. All census blocks span three square miles. Census Block 5951A includes the portion of New York City that stretches from the intersection of Metcalf Avenue and Watson Avenue, south to Rikers Island, and east to the intersection of the Cross Bronx Expressway and Throggs Neck Expressway. The Affected Area is located entirely within this Census Block. Census Block 5951A includes the entirety of Ferry Point Park, spans the width of the East River, contains sections of additional waterways such as Westchester Creek, Pugsley Creek, and the Bronx River, and contains portions of additional waterfront parks such as Pugsley Creek Park and Soundview Park. Forest, tidal wetlands, and beaches are present in this Census Block.

Given the extensive development in the Affected Area and the prevalence of paved surface, most of the bird species documented by the 2000-2005 New York State Breeding Bird Atlas within this Census Block are not anticipated to rely heavily on the Affected Area's habitat. Vegetated habitat in the Affected Area is generally a small portion of adjacent or nearby similar habitat. Parkland adjacent to Ring Road and along the East River south of the Development Site would not be significantly disturbed as part of the Proposed Development. The 2000–2005 New York State Breeding Bird Atlas documented 29 species as possible, probable, or confirmed breeders in Census Block 5951A (see Table 9-2).

Table 9-2: Bird Species Confirmed Breeding within Census Block 5951A

Common Name	Scientific Name
Canada Goose	*Branta canadensis*
Gadwall	*Anas strepera*
Mallard	*Anas platyrhynchos*
Ring-necked Pheasant	*Phasianus colchicus*
Black-crowned Night-Heron	*Nycticorax nycticorax*
Killdeer	*Charadrius vociferus*
Rock Pigeon	*Columba livia*
Mourning Dove	*Zenaida macroura*
Downy Woodpecker	*Picoides pubescens*
Northern Flicker	*Colaptes auratus*
Willow Flycatcher	*Empidonax traillii*
Blue Jay	*Cyanocitta cristata*
American Crow	*Corvus brachyrhynchos*
Fish Crow	*Corvus ossifragus*
Barn Swallow	*Hirundo rustica*
American Robin	*Turdus migratorius*
Gray Catbird	*Dumetella carolinensis*
Northern Mockingbird	*Mimus polyglottos*
European Starling	*Sturnus vulgaris*
Yellow Warbler	*Dendroica petechia*
Common Yellowthroat	*Geothlypis trichas*
Song Sparrow	*Melospiza melodia*
Northern Cardinal	*Cardinalis cardinalis*
Red-winged Blackbird	*Agelaius phoeniceus*
Common Grackle	*Quiscalus quiscula*
Brown-headed Cowbird	*Molothrus ater*
House Finch	*Carpodacus mexicanus*
American Goldfinch	*Spinus tristis*

Common Name	Scientific Name
House Sparrow	*Passer domesticus*

Source: 2000–2005 New York Breeding Bird Atlas for Block 5951A

Bird Survey

The scope of this CEQR chapter includes a two-season bird survey to identify birds that utilize the Affected Area and nearby habitat. The first survey took place on 22 May 2024, and the second survey took place on 9 October 2024. These times were selected based on the Probability of Presence Summary for migratory birds generated by the USFWS IPaC system for the Affected Area. The selected months maximize the number of bird species potentially present in the Study Area during the spring and fall site visits. As shown on Figure 9-3 below, the surveys were conducted in eight different locations within the Study Area. These eight survey locations are generally representative of the major land cover types present within the Study Area.

The methodology for the bird survey was developed based on guidance provided by the United States Department of Agriculture (USDA) Forest Service[3] and USFWS[4].

Langan field scientists identified 42 bird species during the two surveys, 38 of which were confirmed visually. The remaining four species were observed exclusively by sound. Species observed during the May and October surveys are included in Table 9-3 below. Of these, none are federally listed or state-listed as threatened or endangered, and none are considered Birds of Conservation Concern. The osprey (*Pandion haliaetus*) is listed as a species of Special Concern by NYSDEC.

[3] Ralph, C. John; Droege, Sam; and Sauer, John R. 1995. Managing and Monitoring Birds Using Point Counts: Standards and Applications. *Monitoring Bird Populations by Point Counts.* Gen. Tech. Rep. PSW-GTR-149. U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station. pp. 161-169.
https://www.fs.usda.gov/psw/publications/documents/psw_gtr149/psw_gtr149_pg161_168.pdf

[4] Knutson MG, O'Brien L, Sutherland TW, Carlyle KL, Herner-Thogmartin J., Carter L. 2016. National protocol framework for the inventory and monitoring of breeding landbirds using point counts. Version 2.0. Natural Resources Program Center.
https://ecos.fws.gov/ServCat/Reference/Profile/54162

Figure 9-3: Approximate Bird Survey Locations



Table 9-3: Bird Species Observed During May & October 2024 Bird Surveys

Common Name	Scientific Name	Observed May 2024	Observed October 2024
Red winged blackbird	*Agelaius pheoniceus*	X	
Mallard	*Anas platyrhynchos*	X	X
Tufted titmouse	*Baeolophus bicolor*		X
Cedar waxwing	*Bombycilla cedrorum*	X	
Canada goose	*Branta canadensis*		X
Green heron	*Butorides virescens*	X	
Northern cardinal	*Cardinalis cardinalis*	X	X
Killdeer*	*Charadrius vociferus*	X	X
Northern flicker	*Colaptes auratus*	X	X

Common Name	Scientific Name	Observed May 2024	Observed October 2024
Rock dove	*Columba livia*	X	X
Ruby-crowned kinglet	*Corthylio calendula*		X
American crow	*Corvus brachyrhynchos*		X
Fish crow	*Corvus ossifragus*	X	
Blue jay*	*Cyanocitta cristata*		X
Grey catbird	*Dumetella carolinensis*	X	X
American kestrel	*Falco sparverius*		X
Barn swallow	*Hirundo rustica*	X	
Baltimore oriole	*Icterus galbula*	X	
Ringbilled gull	*Lauris delawarensis*	X	
Herring gull	*Larus argentatus*		X
Laughing gull	*Leucophaeus articilla*	X	
Song sparrow	*Melospiza melodia*	X	X
Northern mockingbird	*Mimus polyglottos*	X	X
Black-and-white warbler	*Mniotilta varia*		X
Double crested cormorant	*Nannopterum auritum*	X	
Osprey	*Pandion haliaetus*	X	
House sparrow	*Passer domesticus*	X	X
Savannah sparrow	*Passerculus sandwichensis*		X
Eastern towhee	*Pipilo erythrophthalmus*		X
Common grackle	*Quiscalus quiscula*	X	X
Golden-crowned kinglet	*Regulus satrapa*		X
Black-legged kittiwake	*Rissa tridactyla*	X	
Eastern phoebe	*Sayornis phoebe*		X
Yellow-rumped warbler	*Setophaga coronata*		X
Yellow warbler	*Setophaga petechia*	X	
Pine warbler	*Setophaga pinus*		X
American goldfinch*	*Spinus tristis*	X	
European starling	*Sternus vulgaris*	X	X
Carolina wren*	*Thryothorus ludovicianus*	X	X
House Wren	*Troglodytes aedon*		X
American robin	*Turdus migratorius*	X	X
Mourning dove	*Zenaida macroura*	X	X

*Denotes species that were only observed by sound and were not confirmed visually during either survey.

Mammals

According to the NYC Department of Parks and Recreation (NYC Parks) website, mammals commonly found in NYC public parks include white tailed deer (*Odocoileus virginianus*), coyote (*Canis latrans*), red fox (*Vulpes vulpes*), Virginia opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), raccoon (*Procyon lotor*), eastern gray squirrel (*Sciurus carolinensis*), eastern chipmunk (*Tamias striatus*), little brown bat (*Myotis lucifigus*), big brown bat (*Eptesicus fuscus*), and tricolored bat (*Perimyotis subflavus*)[5]. Because the Study

[5] NYC Parks, n.d. *Wildlife in New York City.* Accessed 12 April 2024 from https://www.nycgovparks.org/learn/wildlife-in-new-york-city

Area partly comprises an NYC public park, some of these species may be found in the Study Area.

Reptiles and Amphibians

According to the NYC Parks website, reptiles and amphibians commonly found in NYC public parks include eastern box turtle (*Terrapene carolina carolina*), diamondback terrapin (*Malaclemys terrapin*), painted turtle (*Chrysemys picta*), red-eared slider (*Trachemys scripta elegans*), snapping turtle (*Chelydra serpentina*), red-backed salamander (*Plethodon cinereus*), spotted salamander (*Ambystoma maculatum*), and spring peeper (*Pseudacris crucifer*).[5] Because the Study Area partly comprises an NYC public park, some of these species may be found in the Study Area. During the 9 October 2024 site visit, a small lizard was observed on the walking path west of Ring Road. While a positive identification was not made, it is assumed to have been a juvenile Italian wall lizard (*Podarcis sicula*), the only lizard whose known range overlaps the site.[6]

Aquatic Biota

New York City is at the convergence of several major river systems, all of which connect to the Atlantic Ocean's New York Bight. This convergence has resulted in a mixture of habitats in the New York–New Jersey Harbor Estuary that support marine fish, estuarine fish, anadromous fish (i.e., fish that migrate up rivers from the sea to breed in freshwater), and catadromous fish (i.e., fish that live in freshwater but migrate to marine waters to breed).

In 2019, the East River Ichthyological Alliance (ERIA) conducted a survey of fish species in the East River.[7] The study divided the River into ten zones and characterized species diversity in each zone separately. The Development Site is located within Zone 2 of the ERIA study. Zone 2 extends from the Whitestone Bridge to Throgs Neck Bridge. The study took place from 1 April through 1 December 2019, and involved the surveying of 9,279 fish across the East River. 47 species were observed, 19 of which were present in Zone 2. Of the 47 species observed, the five most abundant were Atlantic silverside (*Menidia menidia*) (6,212 occurrences), Atlantic menhaden (*Brevoortia tyrannus*) (636 occurrences), mummichog (*Fundulus heteroclitus*) (632 occurrences), striped bass (*Morone saxatilis*) (249 occurrences), and black sea bass (*Centropristis striata*) (204 occurrences).

None of the fish species noted in the 2019 study are listed by the USFWS as having a Federal conservation rank, and none are listed by New York State as Endangered, Threatened, or Special Concern species. Of the 47 species observed in the 2019 study, six have a New York State conservation status as a high priority species of greatest need (not Endagered, Threatened, or Special Concern), and there is no statutory protection for this classification. These species include American eel (*Anguilla rostrata*), winter flounder (*Pseudopleuronectes americanus*), northern pipefish (*Syngnathus fuscus*), fourspine

[6] New York State Department of Environmental Conservation, 1999. NYSDEC *Herp Atlas Project: Lizards & Snakes Distribution Map.* https://extapps.dec.ny.gov/docs/wildlife_pdf/herpatlaslizardssnakes.pdf

[7] Park, P. J., Girgenti, C. D., Del Bello, I. G., Tobitsch, C. M., Gorsen, D. M., Stanner, K. C., Van Horn, D., Wilding, K. C., Gonzalez, L. F., Wu, J. R., Adams, J. J., Reeve, E. J., Bender, M. E., Bowser, C., Turrin, M. K., and Lake, T., 2020. New York City East River Fish Species Inventory and Emergence of a Unique Fish Community Science Network. *Urban Naturalist, 38*, 1-27. https://www.eaglehill.us/urna-pdfs-regular/urna-038-Park.pdf

stickleback (*Apeltes quadracus*), tautog (*Tautoga onitis*), and Atlantic tomcod (*Microgadus tomcod*). The other species listed above are considered unranked.

Rare or Protected Species and Communities

IPaC and EAF

As shown on Figure 9-1, the western edge of Ring Road is located in the vicinity of NYSDEC-mapped rare dragonflies and damselflies that are not listed as threatened or endangered by NYSDEC. The only project activity occurring in this area is the expansion of an existing roadway into existing maintained lawn and landscaping. This area of disturbance is surrounded by a much larger area of similar, contiguous habitat. As such, the proposed project is not anticipated to have a significant adverse impact on any rare dragonflies or damselflies using this area as habitat.

As shown on Figure 9-1, a mapped area of Animals Listed as Endangered or Threatened is located approximately 950 feet south-southeast of the Development Site. A review of the NYSDEC EAF mapper revealed the species associated with this mapping to be the state-listed endangered peregrine falcon (*Falco peregrinus*). No development is proposed in the vicinity of this mapping for the Proposed Development. On the Development Site, approximately 950 feet from the mapped peregrine falcon habitat, the Proposed Development would remove approximately 423,000 square feet (sf) of existing landscaped area, including golf practice area that is regularly mowed and landscaped islands in a parking lot. The landscaped areas that would be removed from the Development Site are about four percent of available foraging acreage on the Golf Course. As such, any peregrine falcon currently utilizing the Development Site for foraging habitat is not anticipated to be significantly negatively affected by the Proposed Development.

USFWS's IPaC system identified the federally listed threatened (state listed endangered) piping plover (*Charadrius melodus*) as needing to be considered in an effects analysis for activities in the Affected Area (Appendix E). The IPaC system also identified the federally listed endangered (state listed endangered) northern long-eared bat (*Myotis septentrionalis*), and the federally proposed endangered (state unlisted) tricolored bat (*Perimyotis subflavus*) as needing to be considered in an effects analysis for wind turbine operations in the Affected Area (Appendix E). Because the Proposed Development does not include wind turbines, northern long-eared bat and tricolored bat do not need to be considered in an effects analysis of activities in the Affected Area, according to the USFWS IPaC system. However, out of an abundance of caution, this report assesses the potential for habitat for the currently listed northern long-eared bat within the Affected Area.

IPaC also confirmed the absence of designated, critical habitat onsite. As shown on Figure 9-1 above, and as shown on the attached Environmental Assessment Form (EAF) Summary Report (Appendix E) generated by the NYSDEC online EAF mapper, piping plover, northern long-eared bat, and tricolored bat are not listed by NYSDEC as having known occurrences within the Study Area.

Piping Plover

Piping plovers primarily inhabit sandy, gravelly, or cobble beaches, dunes, tidal flats, or dredge spoil shores.[8] Per NYSDEC, the only known breeding populations of piping plovers

[8] NYSDEC. 2017. Species Status Assessment for Piping Plover. https://www.dec.ny.gov/docs/wildlife_pdf/sgcnpipplover.pdf

in New York City are located on Long Island.[9] Because the Study Area is located outside of Long Island, it is not anticipated to impact piping plover populations.

Northern Long-Eared Bat

According to the northern long-eared bat USFWS species profile, this species is dependent upon forest and woodland habitat for survival, as this species primarily forages in forested habitat and primarily utilizes trees as roosting habitat. This species is also dependent upon hibernacula for survival, such as caves and abandoned mines.[10]

During the active season, northern long-eared bats typically roost in trees, roosting singly or colonially. Males typically roost individually. During gestation, females migrate to summer habitat where they roost colonially with other females in "maternity roosts," arriving in mid-May. Northern long-eared bats, including maternity colonies, typically roost beneath loose/exfoliating bark, in tree cavities and/or in crevices, but have been observed roosting in manmade structures.[11,12] What follows is a discussion of potential tree and structure roosting habitat in the Study Area.

Trees: Roost trees are typically three inches or greater in diameter at breast height. These trees can be living or snags with exfoliating/sloughing bark, crevices, or cavities. Although, individual trees with these characteristics that are greater than 1,000 feet from a forested edge/woodland are not considered potential roost habitat.[12] Northern long-eared bats are flexible in their roost selection with male and non-reproductive females even being observed roosting in caves and mines during the active season.[10]

Per the USFWS Northern Long-Eared Bat Assisted Determination Key, northern long-eared bats are assumed unlikely to inhabit forest that is less than ten acres in size, and unlikely to travel more than 1,000 feet in the open between forested areas.[13] Suitability of a forested area to northern long-eared bat foraging and roosting is also tied closely to high canopy closure and interior forest.[13,14] One study found that mean canopy closure in the vicinity of roost trees selected by a studied population of northern long-eared bats was 78 percent, with the majority of roost trees being located in areas of at least 75 percent canopy closure.[14]

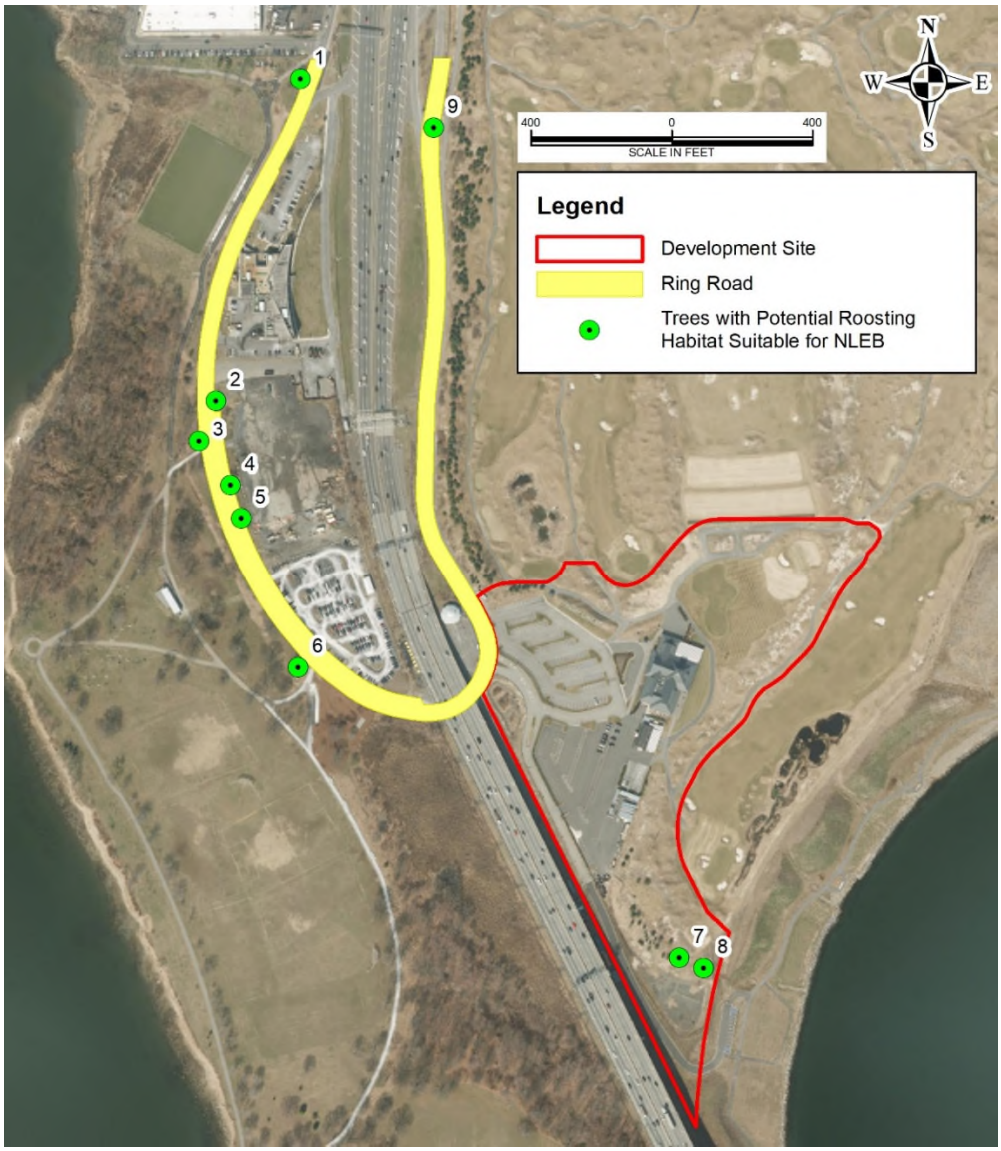
The two wooded areas identified in the Study Area, located to the west and south of Ring Road, are approximately 8 acres and 12 acres in size respectively, and are surrounded by open parkland and looser stands of trees. No other forested land is located within 1,000 feet of these areas. While the wooded areas and adjoining areas of loosely spaced trees are large enough to meet the minimum size typically utilized by northern long-eared bat,

[9] NYSDEC. (n.d.) *Piping Plover*. Retrieved 05 July 2022 from https://www.dec.ny.gov/animals/7086.html
[10] USFWS (n.d.) *Northern Long-Eared Bat Species Profile*. Accessed 3 October 2023 from https://www.fws.gov/species/northern-long-eared-bat-myotis-septentrionalis
[11] USFWS (2015). *Northern Long-Eared Bat Fact Sheet.* Accessed 26 December 2023 from https://www.fws.gov/sites/default/files/documents/508_NLEB%20fact%20sheet.pdf
[12] USFWS (2024). *Range-Wide Indiana Bat & Northern Long-Eared Bat Survey Guidelines.* https://www.fws.gov/sites/default/files/documents/2024-04/final_usfws_rangewide_ibat-nleb_survey_guidelines_508-compliant_.pdf
[13] Marsan, Sean and Nordstrom, Lori H. 2023. Standing Analysis and Implementation Plan – Northern Long-Eared Bat Assisted Determination Key. USFWS. Accessed 18 July 2024 https://www.fws.gov/sites/default/files/documents/Standing%20Analysis%20Version%201.0%20March%202023.pdf
[14] Stantec Consulting Services, Inc. 2013. Northern Long-eared Bat Habitat Requirements – Literature Review and Annotated Bibliography: Wild Meadows Wind Project Grafton and Merrimack Counties, New Hampshire. Accessed 18 July 2024 from https://www.nhsec.nh.gov/projects/2013-02/documents/131212appendix_43.pdf

the fragmentation of the onsite woodlands and isolation from surrounding larger forests reduces the likelihood that the area is utilized by northern long-eared bat.

Regardless, an assessment of suitable trees for northern long-eared bat roosting was performed in the Affected Area on 8 July 2024 and 9 and 17 October 2024. Of the trees present in the Affected Area, only nine were observed that exhibited traits indicative of suitable roosting habitat for northern long-eared bat. These are presented on Figure 9-4 below.

Figure 9-4: Trees in the Affected Area with Potential Roosting Habitat Suitable for Northern Long-Eared Bat (NLEB)



The observed potential roosting trees were generally 20 to 40 feet tall and up to 13 inches in diameter at breast height, with a maximum diameter at breast height of 33 inches. The observed trees exhibited cracked limbs, fissures, holes, and peeling or sloughing bark suitable for roosting northern long-eared bats. Most of the observed trees were separated from the nearest wooded habitat by existing active roadways. Additional details on the

observed trees are included on the New York State Department of Transportation (NYSDOT) Suitable Habitat Assessment Form for Trees (SHAFT) in Appendix E.

Structures: Northern long-eared bats are known to occasionally roost in bridges, culverts, and other artificial structures. Locations within a bridge used for roosting include cracks in concrete, expansion joints, guardrails, and any crevices approximately 0.5 to 1.25 inches wide and greater than four inches deep (if sealed on one end) or greater than 12 inches deep (if open on both ends).[12] Shallower cracks can be used as footholds for open roosting. Suitable roosting locations are typically at least four feet off the ground.[15] Signs of bat roosting include visual or auditory observation of bats, body oil staining, urine staining, presence of guano (droppings) on the wall and ground beneath a potential roosting location, and an ammonia odor. Body oil staining is typically approximately four to six inches wide. Guano is almost always present at bat roosting sites, except where roosts are located above a body of water that would wash it away. Water staining and concrete efflorescence can have a similar appearance to urine staining, making the presence of guano an important confirmatory indicator of the presence of bats.[12]

The Whitestone Bridge is located immediately above and adjacent to a portion of the proposed Ring Road improvements. At the request of NYC Parks, Langan field scientists performed a bridge/structure assessment survey on 25 June 2024 of the portion of the Whitestone Bridge in the vicinity of the proposed Ring Road improvements in accordance with the guidelines in Appendix K of the *Range-wide Indiana Bat & Northern Long-Eared Bat Survey Guidelines* document, dated March 2024. The purpose of this survey was to assess the studied portion of the bridge for potential use by bats, particularly northern long-eared bat, as roosting habitat. A brief summary of the findings of this survey is included below. A Bridge/Structure Bat Assessment Form and photographs from the survey are included in Appendix E.

The Whitestone Bridge is a cast-in-place concrete bridge, with a metal deck and steel supporting beams. The bridge carries six lanes of traffic from Interstate 678 (I-678); three northbound and three southbound. In the studied area, the ground cover beneath the bridge is generally composed of rip-rap with sparse vegetation, and spare construction materials resting on the ground. The concrete of the bridge supports did not exhibit cracking of sufficient depth to be suitable for bat roosting. No areas of peeling paint of sufficient size to support bat roosting were observed. The expansion joints of the bridge appeared to be sealed from below, such that the section of the underside of the bridge deck composed of concrete did not exhibit crevices suitable for bat roosting. The underside of the bridge deck was primarily surfaced with corrugated metal.

Three primary locations offering potential suitable roosting habitat for bats were observed: (1) Crevices large enough for potential roosting existed where the corrugated metal sheeting met the horizontal steel beams supporting the weight of the bridge. (2) One flat, metal panel was observed on the outside face of the bridge deck on each side of the bridge (northbound and southbound sides). These panels were not connected to the bridge along their lower edges and appeared to provide a crevice large enough to be suitable for roosting bats. (3) The point of connection between the bridge deck beams

[15] Federal Transportation Agency/State Department of Transportation (DOT). (2017) Appendix D: Bridge/Structure Bat Assessment Form Guidance. Accessed 1 July 2024 from https://www.fws.gov/media/appendix-d-bridgestructure-assessment-guidance

and the concrete supports immediately north of Ring Road is secured behind a screen and is significantly recessed. Several active birds were observed in the screened-in area.

Langan field scientists did not observe any signs of active use by bats in these areas (e.g., body staining, urine staining, guano, odor). Langan field scientists did observe water staining and bird droppings on several surfaces, but nothing indicative of bat presence. Dark staining was observed running down the concrete support from the screened-off area behind the beam-support connections, but due to the high bird activity in the area, and the lack of other indicators of bats, this staining is suspected to be due to water running through the screened-off area and carrying bird droppings down the wall.

Ultimately, Langan field scientists concluded the portion of the Whitestone Bridge in the vicinity of Ring Road is unlikely to serve as active roosting habitat for bats, including northern long-eared bat.

Due to high-speed traffic on I-678 and the lack of safe access to the bridge deck surface, Langan field scientists were unable to assess the upper side of the bridge deck for potential bat roosting activity.

Breeding Bird Atlas

None of the species documented by the Breeding Bird Atlas in the Study Area's census block are state listed as threatened or endangered, or federally listed species.

Bird Survey

None of the species observed in the May and October 2024 bird surveys are state-listed as threatened or endangered, or federally listed species. The osprey is listed as a species of Special Concern by NYSDEC.

NOAA ESA Section 7

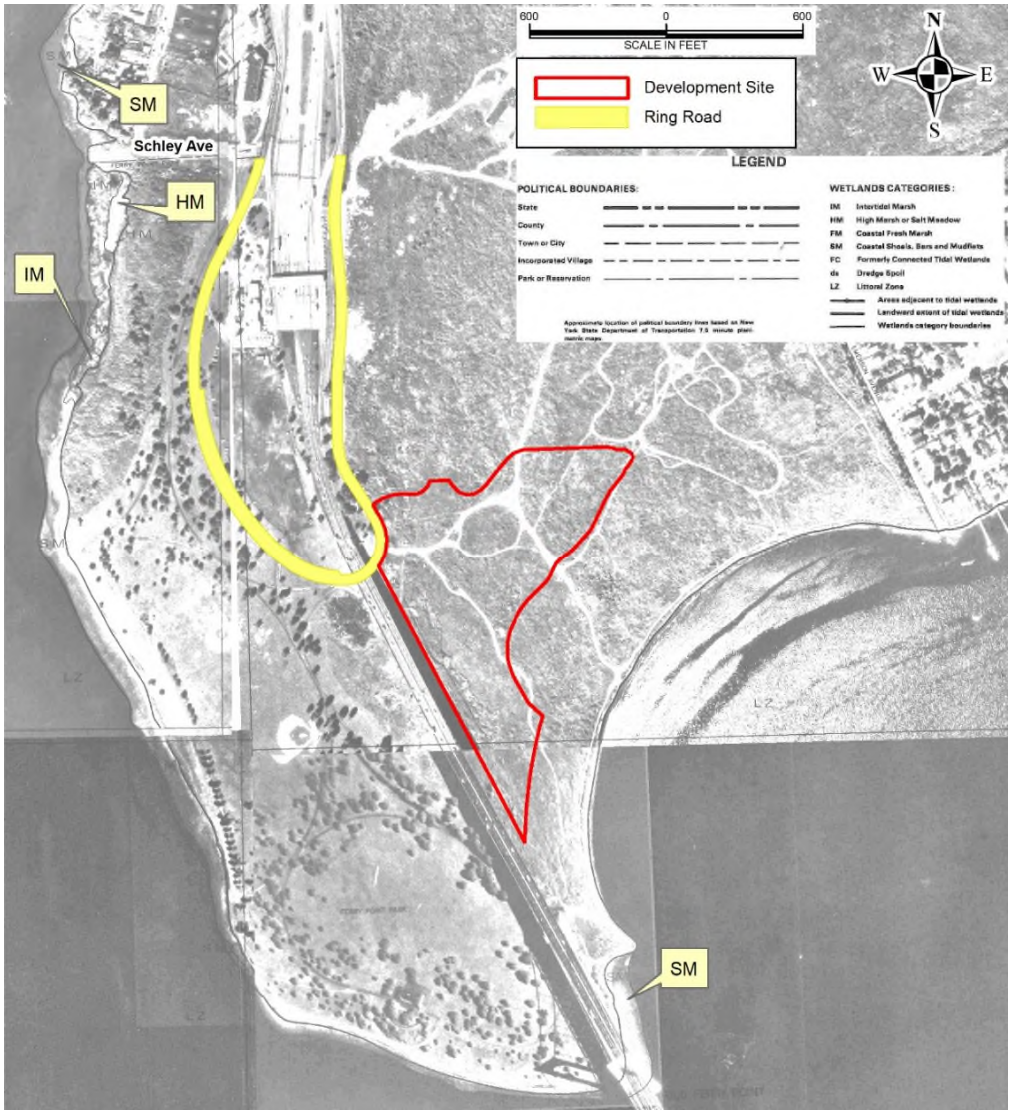
The NOAA ESA Section 7 mapper was also accessed to evaluate the potential presence of threatened or endangered species in the Study Area. The Development Site is located outside of any NOAA ESA Section 7 Consultation Areas (see NOAA ESA Section 7 mapper report in Appendix E). Mapped consultation areas for Atlantic sturgeon, shortnose sturgeon, green sea turtle, Kemp's ridley sea turtle, leatherback sea turtle, and loggerhead sea turtle are located in the East River to the southeast of the Study Area. Project-generated stormwater would ultimately discharge to the East River through an existing stormwater outfall. Project-generated stormwater would be treated in accordance with the requirements of the Unified Stormwater Rule. Thus, no impacts are anticipated to these species as a result of the Proposed Actions.

Wetlands and Surface Waters

Wetlands and Water Features

NYSDEC mapping shows no tidal wetlands to be located within the Development Site or the Ring Road parcel (the "Affected Area"). The littoral zone (LZ) of the East River is mapped approximately 275 feet east-southeast of the Development Site. One Coastal Shoals, Bars and Mudflats (SM) tidal wetland is mapped approximately 675 feet south-southeast of the Development Site, on the shore of the East River. One High Marsh (HM) wetland and one Intertidal Marsh (IM) wetland are mapped approximately 350 feet west of Ring Road. See Figure 9-5 below.

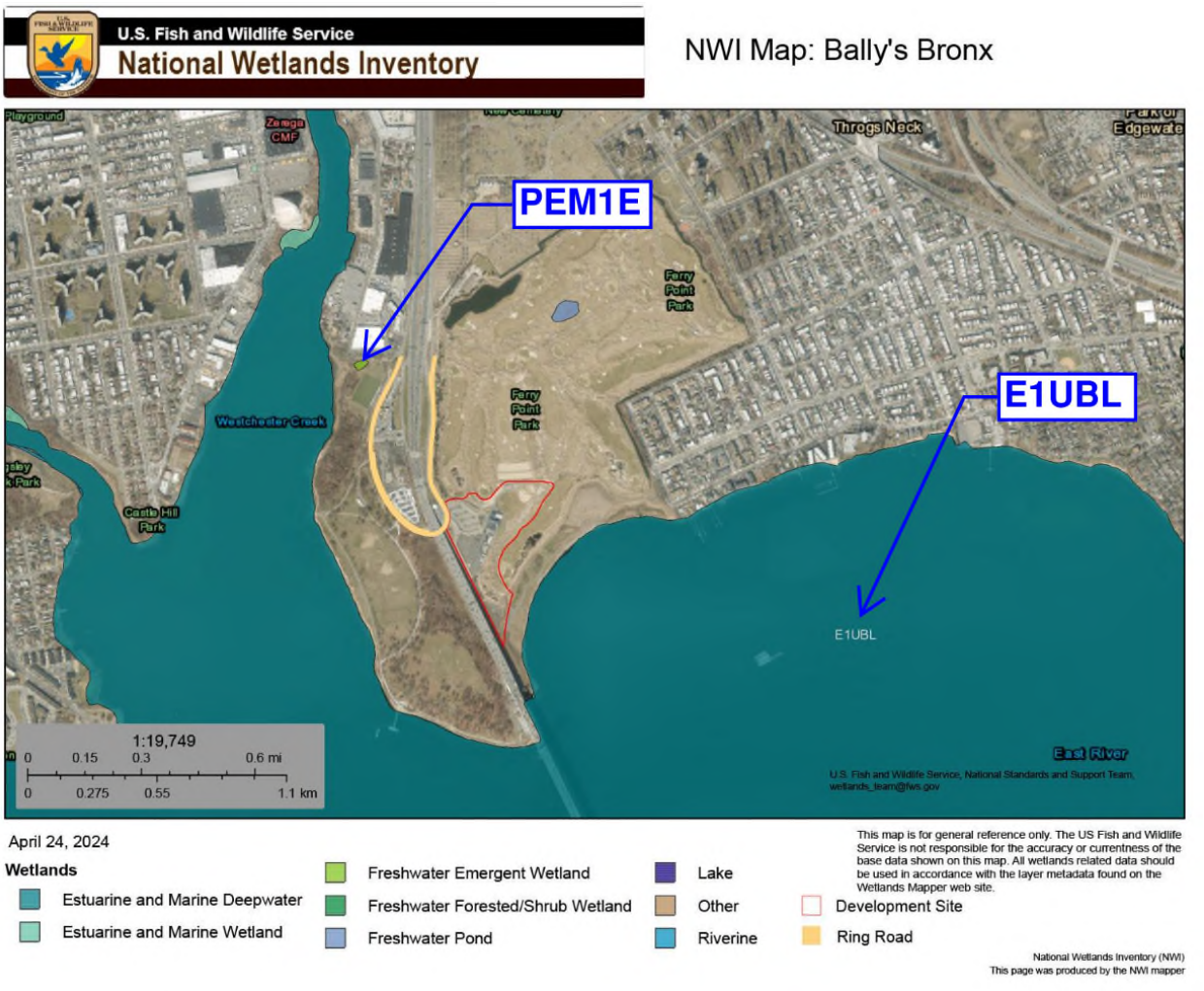
Figure 9-5: NYSDEC Mapped Tidal Wetlands



Langan field scientists visited the mapped SM tidal wetland at low tide on 8 July 2024, and noted the presence of smooth cordgrass (*Spartina alterniflora*) within the limits of the mapped wetland. No tidal or freshwater wetlands are mapped by NYSDEC or the National Wetlands Inventory (NWI) within the Affected Area. As shown on Figure 9-6 below, the nearest NWI-mapped wetland is a freshwater wetland mapped approximately 275 feet northwest of Ring Road, immediately south of Schley Avenue. The mapped wetland is classified as a Palustrine Emergent, Persistent, Seasonally Flooded/Saturated (PEM1E) wetland. No freshwater wetlands are mapped in the Study Area by NYSDEC. NWI maps the segments of the East River west and south of the Study Area as Estuarine, Subtidal, Unconsolidated Bottom, Subtidal (E1UBL) waters.

As previously discussed, one freshwater wetland was observed within the Study Area during a site visit on 25 June 2024. The wetland is located south of Ring Road and west of the Whitestone Bridge (See Figure 9-2 above).

Figure 9-6: NWI Mapped Wetlands



Ground Water Quality

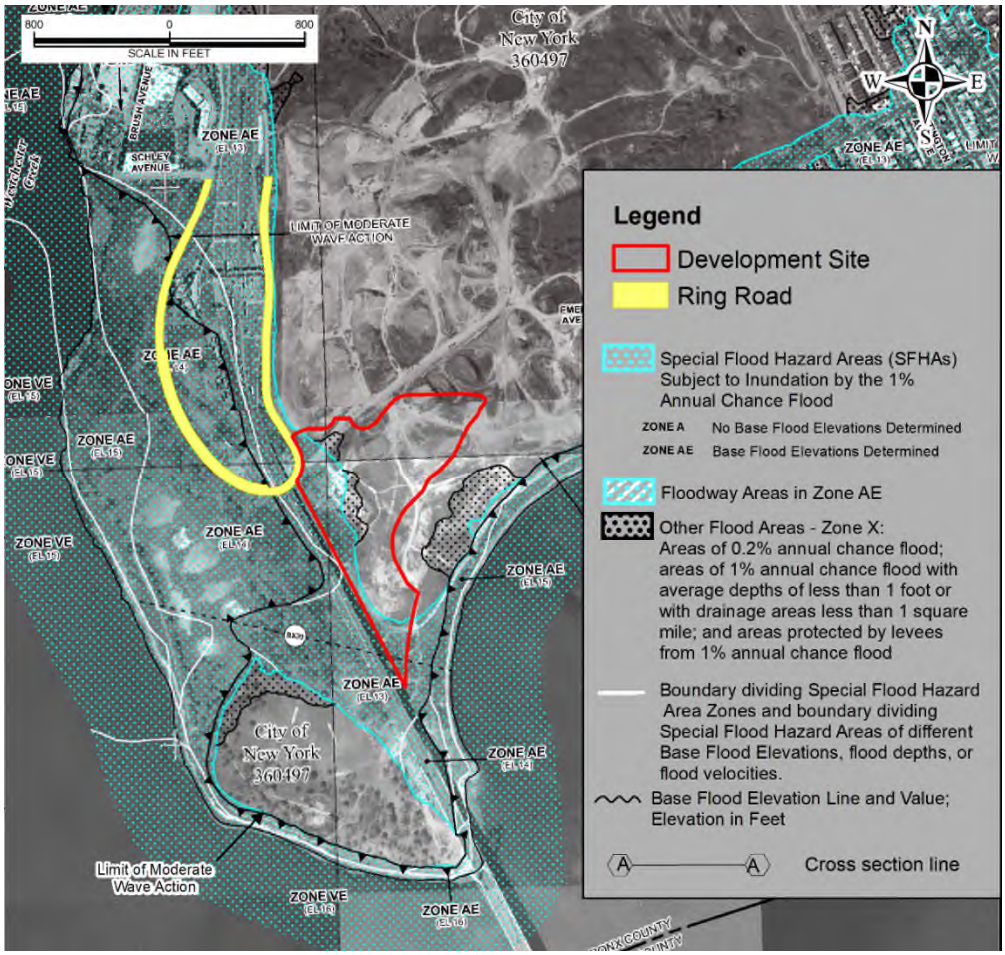
As discussed in Chapter 10 of this EIS, "Hazardous Materials," the Development Site operated as part of a municipal solid waste landfill from 1952 to the mid-1960s. Development of the existing Park and Golf Course was accompanied by extensive soil and groundwater testing and the installation of engineering controls to prevent any potential future impacts to the environment from the landfill. In addition, periodic monitoring of groundwater and soil gas is conducted in accordance with the Post Construction Custodial Care Plan (PCCCP) for the site. Groundwater monitoring wells are present within the Development Site and checked biennially. The latest groundwater sampling is summarized within the *2023 Semi-Annual Post Closure Certification Report* (see Appendix F). Following development of the site, the PCCCP would be updated to define the future operation, maintenance, and monitoring requirements under the oversight of the NYSDEC. NYSDEC oversight would preclude the potential for significant adverse impacts.

Floodplains

As shown on Figure 9-7 below, the FEMA pFIRM shows the western and southern portions of the Development Site to be located within the one percent annual chance of

exceedance (100-year) tidal floodplain of the East River/Westchester Creek at elevation 13 feet (NAVD88). Ring Road is located within the mapped 100-year tidal floodplain at elevations ranging from 13 to 14 feet (NAVD88), and the western portion of Ring Road is also located within the Limit of Moderate Wave Action.

Figure 9-7: FEMA pFIRM Snippet



Floodplains occur along streams, rivers, and coastal zones. Designated flood hazard areas and floodways are established and delineated by FEMA. These areas are where substantial flooding may result in property damage or threaten public safety. A FEMA-designated flood hazard area is the area that would be subject to inundation by the one percent (1 in 100) Annual Chance Flood. This area is referred to as Zone AE. Portions of the FEMA-designated flood hazard area are located in the Coastal High Hazard Area and are subject to velocity hazard and wave action. These areas are referred to as Zone VE. Zone X is the area that would be subject to inundation by the 0.2 percent (1 in 500) Annual Chance Flood.

The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 designate coastal high hazard areas and floodways. These acts also make federal flood insurance available to buildings and structures within these areas that are constructed to minimize danger to human lives. FEMA regulates floodplains for channels that have a

watershed (areas that drain to them) greater than one square mile. Properties located in smaller watersheds are not part of the FEMA mapping program.

9.5 No-Action Condition

Development Site

In the No-Action Condition, the one-story, 25,265-gsf golf clubhouse, accessory surface parking lot, a portion of the practice area, and other landscaped areas would remain as existing conditions. The existing uses on the Development Site are allowable uses on parkland pursuant to a license agreement between Bally's and NYC Parks. The existing stormwater outfalls within the Study Area would not be altered, and the quality of stormwater being discharged into the East River would not be improved.

Ring Road

Absent the Proposed Actions, Ring Road would remain in its existing condition as a one-lane, one-way park roadway. The roadway would not be widened, and no additional improvements would be made to the roadway or existing roadway infrastructure. Traffic controls to enhance pedestrian safety would not be implemented, and walking and biking paths for cyclists and pedestrians would not be developed. The existing stormwater outfalls associated with Ring Road would not be altered, and the quality of stormwater being discharged would not be improved.

Study Area

Independent of the Proposed Actions NYCDOT is proposing to create new tidal wetlands to the south of the Development Site at the edge of the East River. This wetland improvement project would be completed after the 2030 analysis year, but construction of the proposed tidal wetlands is likely to start before 2030. Bally's would coordinate with NYC Parks and NYCDOT to ensure any construction or staging areas would not preclude or substantively inhibit NYCDOT's proposed wetland mitigation project along the East River waterfront.

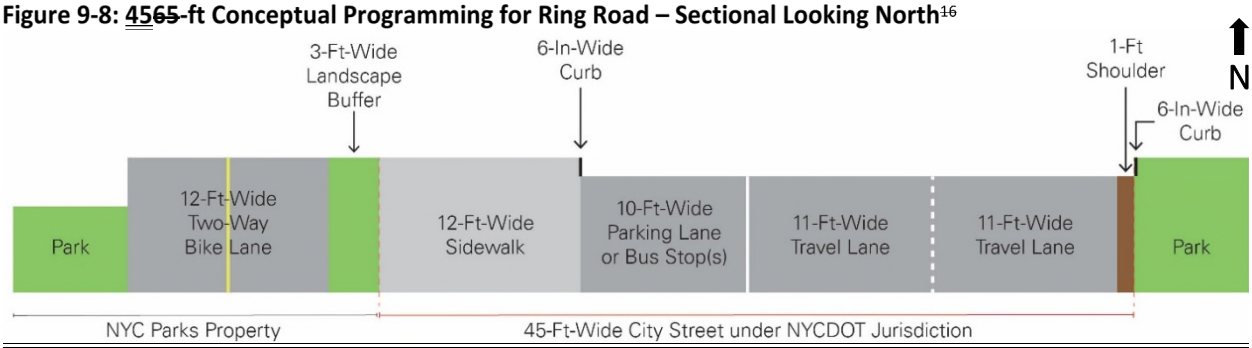
9.6 With-Action Condition

In the With-Action Condition, Bally's would demolish the existing golf clubhouse, about 230,000 sf of parking lot or paved areas, and about 423,000 sf of landscaped area (which includes approximately 97,000 sf of golf practice area) to construct the Proposed Facility. The Proposed Facility would consist of an approximately 3,093,880-gsf gaming facility with up to 5,146 gaming positions, restaurants, a 500-key hotel and spa, retail space, a 2,000-seat event center, and parking for approximately 4,660 vehicles. The Proposed Facility would have a building footprint of approximately 445,000-sf. Bally's would also construct a replacement standalone golf clubhouse north of the Proposed Facility. With the Proposed Actions, a majority of the Golf Course would remain undisturbed, preserved, and would continue to be open to the public.

As a part of the Proposed Development, Ring Road would be widened and improved in coordination with NYCDOT, NYC Parks, NYCDEP, and the MTA. The improvements to Ring Road would also create new and safer connections between the east and west sides of

the Park (under the Whitestone Bridge) for pedestrians and cyclists by creating a sidewalk and bike lane where none currently exists. As shown in Figure 9-8, Ring Road would be developed with two 11-foot-wide travel lanes ~~and~~, an additional ten-foot-wide lane for on-street parking, and a one-foot-wide shoulder. ~~A bus stop would be developed within a portion of the parking lane at a to-be-determined location in coordination with NYCDOT, NYC Parks, and MTA.~~ Six-inch curbs would be provided on either side of the roadbed~~way~~. The parking lane would have the potential to also serve as a future bus stop in locations approved by NYCDOT and MTA. ~~In the 65-foot-wide portions, Ring Road would contain a ten-foot-wide sidewalk, a five-foot-wide vegetated buffer and a twelve-foot-wide, two-way protected bike lane.~~ A 12-foot-wide sidewalk is planned along the exterior of Ring Road's roadbed and within the 45-foot-wide mapped street. The programming in the mapped street would be subject to review and approval by NYCDOT and NYC Parks and may be modified in certain locations to accommodate conditions such as to preserve wetlands, modify or add new vegetation or allow access to the MTA maintenance facility under the Whitestone Bridge.

Figure 9-8: 45~~65~~-ft Conceptual Programming for Ring Road – Sectional Looking North[16]



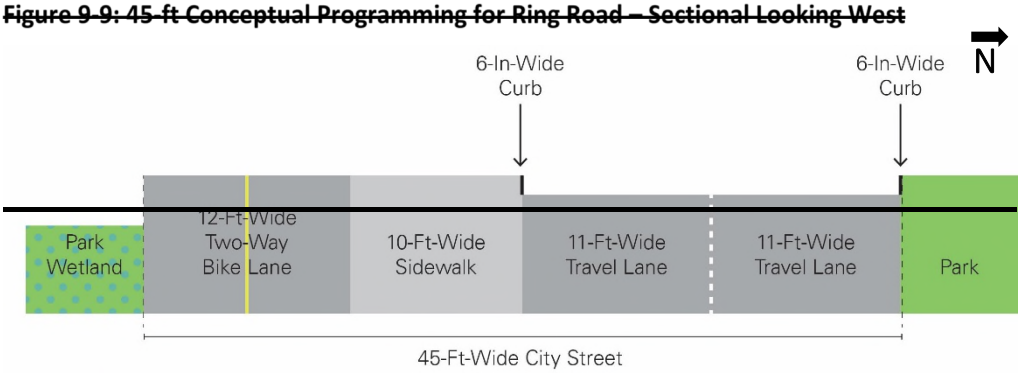
Note: This graphic was revised for the Final EIS. The programming in the mapped street would be subject to review and approval by NYCDOT and NYC Parks and may be modified in certain locations.

With the Proposed Actions, the approximately 24-foot park roadway with existing 4-foot-wide gravel area that may be used as a shoulder, would be widened to approximately ~~32~~ 33 feet of roadbed for two lanes of vehicular traffic ~~and~~, on-street parking, and a shoulder, with provision for a potential future bus stop in the parking lane. Additional improvements to Ring Road and the Park would provide paved pedestrian pathways and a two-way protected bike lane. ~~Five feet along the exterior of the roadway is included as a part of the mapping of Ring Road to allow for design flexibility.~~ Therefore, the Proposed Actions would expand public access to the Park and provide enhanced infrastructure, ~~and therefore~~with added safety, for pedestrians and cyclists. The bike lane would provide a new recreational amenity within the ~~street~~Park.

~~To avoid disturbance of the existing freshwater wetland near the southern tip of Ring Road, the seven-foot-wide landscape buffer and eight-foot-wide parking lane or bus stop area would be eliminated. The width of the two 11-foot-wide travel lanes, 10-foot-wide sidewalk, and 12-foot-wide, two-way bike lane would be consistent throughout the entirety of the roadway redevelopment, as shown in Figure 9-9.~~

~~[16] The proposed acreage to be mapped as an NYCDOT street is larger than the typical NYCDOT 60-foot road width because Bally's is coordinating with NYC Parks, MTA/TBTA, and NYCDOT to confirm roadway design.~~

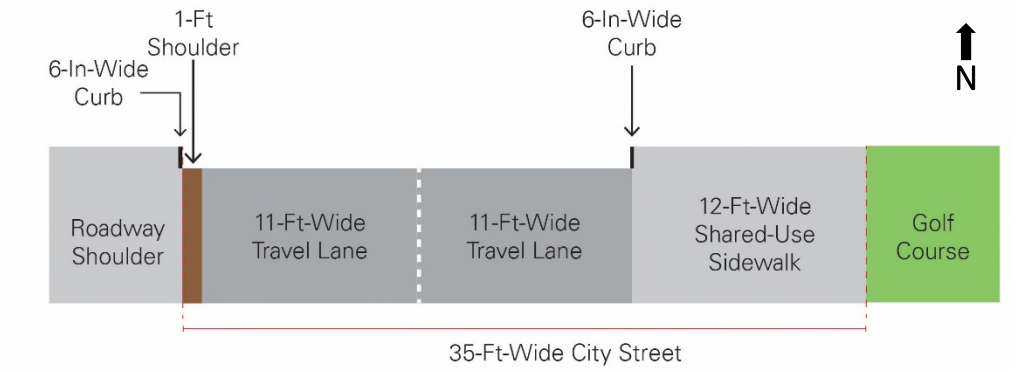
~~**Figure 9-9: 45-ft Conceptual Programming for Ring Road – Sectional Looking West**~~



North of the Development Site, Ring Road is constrained by the Hutchinson River Expressway to the west and the Golf Course and Saint Raymond's New Cemetery to the east. In this area north of the Development Site, the street would be mapped and constructed to a 35-foot width. This 35-foot-wide segment of Ring Road is planned to contain two 11-foot-wide travel lanes, a one-foot-wide shoulder, and a 12-foot-wide shared pedestrian and bicycle path ~~Along the east side of Ring Road, the roadbed would be striped to include two eleven-foot-wide travel lanes with six-inch curbs on either side, which would be remain consistent throughout the entirety of the redeveloped roadway. The existing roadway would be widened to accommodate a three-foot-wide landscaped buffer and a 12-foot-wide bike lane~~ (see

Figure 9-9).

Figure 9-9: ~~38~~35-ft Conceptual Programming for Ring Road – Sectional Looking North



Note: This graphic was revised for the Final EIS.

The majority of proposed work within the Affected Area would be located within areas that are currently improved with buildings, impervious surface, or landscaping. Stormwater generated by the Proposed Development would be treated in accordance with the Unified Stormwater Rule before being discharged to the existing stormwater sewer and ultimately through existing outfalls. Stormwater best management practices such as a green roofs, hydrodynamic separators, or other NYCDEP/NYSDEC-approved stormwater management practices would be used to treat the stormwater directed off-site to meet the appropriate stormwater regulations.

Approximately 30 trees may be removed because of the widening of Ring Road. The removal of trees would only be considered if no other feasible options to preserve these trees are available. If trees are removed, which would be under the jurisdiction of NYC

Parks, an NYC Parks permit would be required. Bally's would follow the NYC Tree Valuation Protocol to determine the value of the tree and the fee for replacement.

Additionally, park improvements and replacement parkland would be provided consistent with the requirements of the State alienation legislation. Bally's would contribute funds to the City of New York to be devoted to NYC Parks for such public improvements and would deed the designated new parkland to NYC Parks.

The Proposed Actions would enable a destination gaming facility that is expected to generate significant economic activity and tax revenue for both the City and State. The Development Site is well-suited to attract tourists and residents and is easily accessible from regional destinations because of its location near the Hutchinson River Expressway and connections to other major highways, as well as New York City's airports. The Proposed Actions would support the recommendations made in the 2015 NYC Department of City Planning *Hutchinson River Parkway Transportation Corridor Study* by making infrastructure and safety improvements to the Park, Ring Road, and the surrounding roadways.

Habitats and Vegetation

The Affected Area is fully developed and largely impervious. As discussed in Section 9.4, the Development Site is composed primarily of a paved parking lot and internal access drives, existing buildings, paved walking paths and a practice driving range consisting of maintained lawn areas and sand pits. The southern portion of the Development Site includes an area of landscaped meadow with scattered low trees and gravel-covered surface. Landscape areas and a vegetated stormwater basin are also present onsite. To the south and southeast of the Development Site are vegetated drainage swales and paved walking paths and grassy slopes, which are part of Ferry Point Park east of the Whitestone Bridge. The portion of the Affected Area associated with Ring Road is primarily composed of an existing public roadway.

As discussed above, the Development Site contains about 423,000 sf of landscaped area that would be removed with the Proposed Development. While the Proposed Development would have a direct effect on the existing vegetation within the Park, the majority of the 222-acre Golf Course and existing vegetated parkland to the west of the Hutchinson River Expressway and south of the Development Site would remain undisturbed by the Proposed Development. Additionally, as part of the Proposed Development, new native and non-invasive plant species would be planted throughout the Development Site.

As discussed in Chapter 6 of this EIS, "Shadows," the Proposed Development would cast some incremental shadow over the freshwater wetland located to the south of Ring Road. No shadow would be cast over the tidal wetland located southeast of the Development Site. At most, the freshwater wetland would receive up to 2.5 hours of shadow from approximately 5:57 AM to 8:25 AM on the June analysis day. The wetland is generally dominated by common reed, which displaces native species, reduces biodiversity, offers little value for wildlife and chokes waterways.[17] Common reed is often considered an invasive wetland plant, which can reduce the water retention of a wetland and therefore

[17] Robinson, Michelle (2002). "Common Reed: An Invasive Wetland Plant." Commonwealth of Massachusetts - Department of Conservation and Recreation - Office of Water Resources - Lakes and Ponds Program. Accessed 3 October 2024 from https://www.mass.gov/doc/phragmites-0/download

cause it to become shallower. Thus, common reed wetlands provide reduced ecological value compared to a native marsh community[18] and this small amount of shading is not anticipated to significantly impact the ecological integrity of the area. Furthermore, the wetland would continue to receive more than eight hours of sunlight on the each of the CEQR analysis days.

No direct disturbance is proposed to the freshwater wetland located to the south of Ring Road. A State Pollutant Discharge Elimination System (SPDES) General Permit would be required for construction of the Proposed Development. As required by this permit, Bally's would develop a Storm Water Pollution Prevention Plan (SWPPP) to address temporary (construction-related) stormwater management measures. The SWPPP would define the required temporary (construction) and permanent erosion control measures to minimize erosion and stabilize surfaces (i.e., vegetative covers, pavement, gravel, etc.). Thus, all construction activities related to the Proposed Development would take place with appropriate soil erosion and sediment control measures in place to minimize the migration of sediments into the adjacent wetland.

The Proposed Development would also cast incremental shadow on the East River. At most, the East River would receive approximately 48 minutes of incremental shadow from approximately 5:13 PM to 6:01 PM on the June analysis day. The portions of the river that would receive incremental shadow would remain in direct sunlight from 5:57AM to 5:13PM, a duration of 11 hours and 16 minutes, and the Proposed Actions would not have a significant adverse impact on the East River. An area south of the Development Site along the shore of the East River may contain a future NYCDOT wetland mitigation project. This area could receive up to 26 minutes of incremental shadow during the June analysis day. This portion of the Park would continue to receive sunlight for over 11 hours on the June analysis day before incremental shadow begins to fall on this area.

Potential Shadow Effects

As discussed in Chapter 6 of this EIS, "Shadows," the Proposed Development could result in significant adverse shadows impacts to the Golf Course's vegetation (grass) in the following limited areas- near the Proposed Facility:

- Hole 1: The putting practice area and rough around the teeing areas;
- Hole 9: The green and surrounding fairway and rough;
- Hole 10: The southern fringe of the southernmost tee box;
- Hole 18: The fairway and rough at southwestern edge of the hole; and
- Driving Range: The southern extent of the teeing area.

No significant adverse shadow impacts were identified for other sunlight-sensitive features within the Study Area. Measures to mitigate the significant adverse shadows impacts to the Golf Course's grass are discussed within Chapter 22 of this EIS, "Mitigation." These significant adverse shadows impacts would be limited to manicured areas of the Golf Course and additional habitat outside of the areas of shadow would

[18] Haight, Chris (2013). "Management Considerations for Restoring Phragmites australis Dominated Wetlands." Great Lakes Phragmites Collaborative. Accessed 3 October 2024 from https://www.greatlakesphragmites.net/blog/management-considerations-for-restoring-phragmites-australis-dominated-wetlands/

continue to be available. Thus, the Proposed Development would not cause a loss of habitat that would rise to the level of a significant adverse impact.

Wildlife

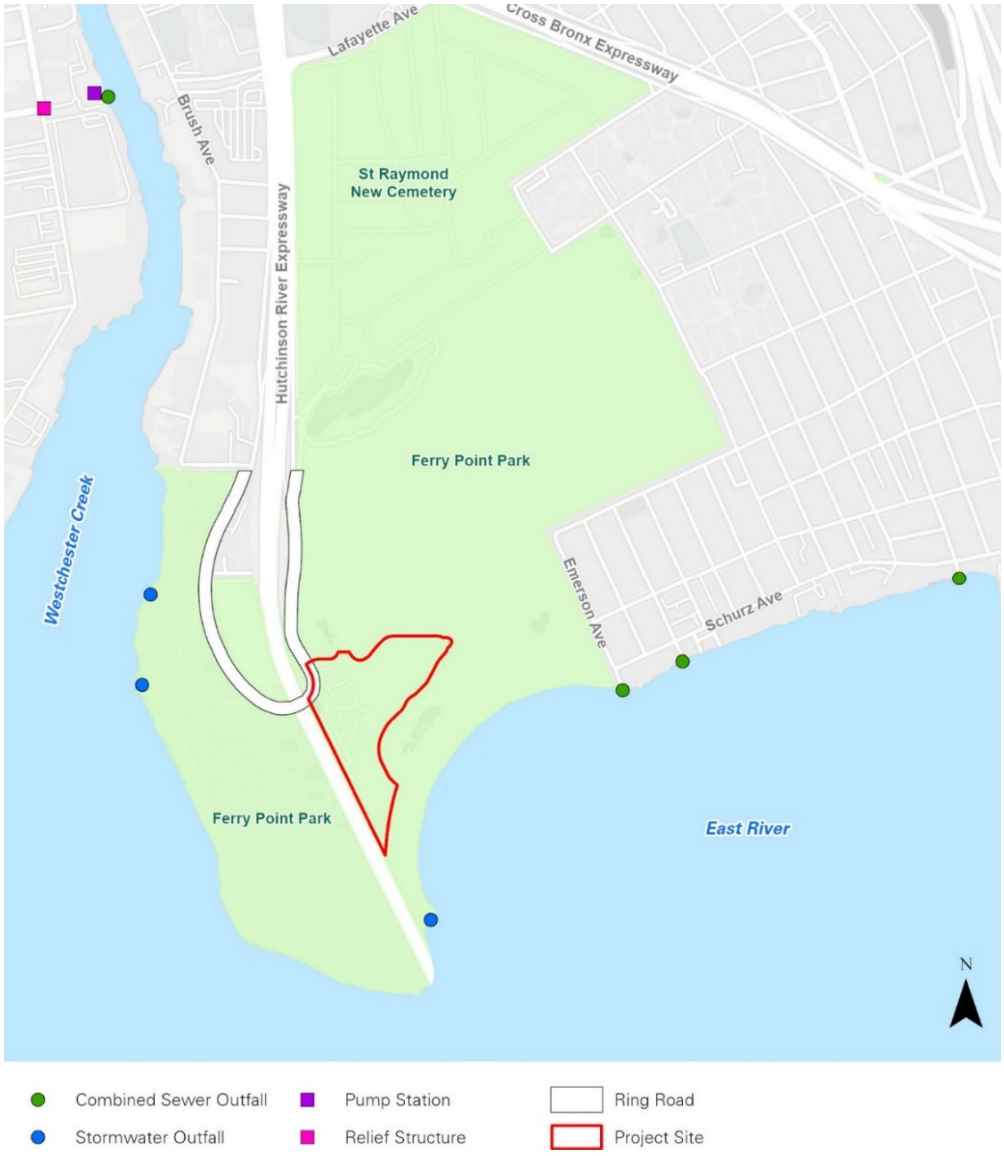
As previously discussed, the existing landscaped areas on the Development Site are not anticipated to serve as habitat for large populations of terrestrial wildlife. Furthermore, the majority of the Golf Course and adjacent parkland would remain undisturbed by the Proposed Development. Because adjacent landscaped areas are contiguous with the areas to be removed as part of this project, it is assumed that wildlife present onsite would relocate to adjacent contiguous habitat of similar character to that being removed once construction activities begin. Once construction activities and landscaping have concluded, it is assumed that any wildlife in adjacent contiguous habitat may reinhabit landscaped areas onsite.

As discussed in Section 9.4, while birds and small mammals accustomed to disturbed areas may occupy portions of the Affected Area, ultimately the Affected Area does not have characteristics that indicate it is able to support significant local populations of terrestrial wildlife. Five trees potentially containing roosting habitat suitable for northern long-eared bat were identified within the Affected Area. These trees are a relatively small percentage of tree-coverage in surrounding parkland. As such, their removal is not anticipated to have a significant negative impact on the availability of roosting habitat for any northern long-eared bats in the area. Furthermore, according to the USFWS IPaC list generated for this project, northern long-eared bats only need to be considered in an effects analysis of the Proposed Activities if the Proposed Activities involve wind turbine construction. Because the Proposed Activities do not involve wind turbines, impacts are not anticipated to northern long-eared bat populations as a result of the project.

The section of the East River located to the south of the Affected Area provides potential habitat for aquatic and marine species, including fish and avian species. Project-generated stormwater would connect to existing stormwater sewers. Stormwater would be treated in accordance with the Unified Stormwater Rule before being discharged to the existing stormwater sewer and ultimately through existing outfalls (see Figure 9-10). Runoff that enters a stormwater management system is typically managed via infiltration, evapotranspiration, reuse, filtration, or detention. The Development Site would use stormwater best management practices such as a green roofs, hydrodynamic separators, or other NYCDEP/NYSDEC-approved stormwater management practices to treat the stormwater directed off-site to meet the appropriate stormwater regulations. Detention tanks, detention ponds or other means of detaining stormwater may be used to meet these requirements. Additional coordination with NYCDEP and/or NYSDEC would be required to determine the feasibility and applicability of specific stormwater management practices on the Development Site.

New connections to the existing infrastructure would occur upland of tidal wetlands, surface water features, or adjacent areas and would not require in-water work. As such, the Proposed Development would not significantly impact essential fish habitat. All construction would be performed in accordance with permits subject to issuance by the USACE and NYSDEC.

Figure 9-10: Existing Outfalls near the Development Site



Source: NYCDEP Sewer Atlas and record drawings provided by NYC Parks for Ferry Point Park.

The Proposed Actions would adhere to all local laws and building codes, including Local Law 15 of 2020, which requires buildings be constructed to bird-friendly design requirements. Additionally, as part of the detailed design process, Bally's would explore dark sky concepts. Elements such as minimal security lighting and downward landscape lights would be explored throughout the detailed design phase of the Proposed Development to minimize light pollution.

Rare/Protected Species and Communities

IPaC records indicate the piping plover and northern long-eared bat are the sole federally-listed species that warrant consideration for new development in the Affected Area. NYSDEC does not list piping plover as having known occurrences on or near the Affected Area, and the Affected Area does not contain sandy, gravelly or cobble beaches usually

used by piping plovers as nesting grounds. As such, it is unlikely that the piping plover would use the Affected Area as breeding habitat.

As discussed in Section 9.4 above, northern long-eared bats roost in trees and human-made structures, most notably bridges. Langan field scientists performed an in-person assessment of the bridge for active use by bats on 26 June 2024 and concluded the Whitestone Bridge structure was unlikely to be in active use by bats. Five trees potentially suitable for use as roosting habitat by northern long-eared bats were observed within the Affected Area. These trees are a relatively small percentage of tree-coverage in surrounding parkland. As such, their removal is not anticipated to have a significant negative impact on the availability of roosting habitat for any northern long-eared bats in the area. Furthermore, according to the USFWS IPaC list generated for this project, northern long-eared bats only need to be considered in an effects analysis of the Proposed Activities if the Proposed Activities involve wind turbine operations. Because the Proposed Activities do not include wind turbines, impacts are not anticipated to northern long-eared bat populations as a result of the project.

As discussed in Section 9.3 above, the NYSDEC Environmental Resource Mapper shows potential habitat for the peregrine falcon, a state-listed endangered species, to be located approximately 950 feet south-southeast of the Development Site, near an existing stormwater outfall that discharges to the East River. The discharge of project-generated stormwater through the existing outfall is not anticipated disturb to peregrine falcon habitat. On the Development Site, approximately 950 feet from the mapped peregrine falcon habitat, the Proposed Development would remove about 423,000 square feet of existing landscaped area, including golf practice area that is regularly mowed. The Development Site is a small part of the larger 222-acre Golf Course. As such, any peregrine falcon currently utilizing the site for foraging habitat would have access to similar nearby habitat; thus, the Proposed Development is not anticipated to have a significant adverse impact on any peregrine falcon habitat.

As discussed in Section 9.3 above, the western edge of Ring Road is located in the vicinity of NYSDEC-mapped rare dragonflies and damselflies that are not listed as threatened or endangered by NYSDEC. The only project activity occurring in this area is the expansion of an existing roadway into existing maintained lawn and landscaping. This area of disturbance is surrounded by a much larger area of similar, contiguous habitat. As such, the Proposed Development is not anticipated to have a significant adverse impact on any rare dragonflies or damselflies using this area as habitat.

The Proposed Actions are therefore not anticipated to result in a significant adverse impact to rare, threatened, or endangered species.

Wetlands and Surface Waters

One freshwater wetland was delineated in the Affected Area, immediately south of Ring Road. No direct disturbance is proposed to the freshwater wetland located to the south of Ring Road. All construction activities in Ring Road would take place with appropriate soil erosion and sediment control measures such as a SWPPP required under the General SPEDS permit, which would minimize the migration of sediments into the adjacent wetland.

A mapped tidal wetland is located southeast of the Development Site, adjacent to the Whitestone Bridge. The Proposed Development would connect to an existing stormwater sewer that would ultimately discharge to an outfall in the East River that is proximate to

this mapped wetland. No other development is proposed in the vicinity of this wetland for the Proposed Development.

The East River is located southeast of the Development Site. The Proposed Development would connect to an existing stormwater sewer that discharges to an outfall in the East River. No other development is proposed in the vicinity of the river for the Proposed Development. Direct discharges into the East River would require a permit from the applicable regulatory agencies that have jurisdiction over the existing outfalls. Stormwater would be discharged into the East River per the applicable regulatory requirements, as discussed in Chapter 11 to this EIS, "Water and Sewer Infrastructure." Bally's would connect to the stormwater sewer through the applicable review and approval process. Project-generated stormwater would be required to meet the water quality standards of the NYC Unified Stormwater Rule, which requires a portion of stormwater runoff from a newly developed site be treated before being discharged into a city-owned system. As such, the project is anticipated to result in a net increase in the quality of stormwater being discharged from the Affected Area.

As discussed in Chapter 10 of this EIS, Hazardous Materials, Development Site operated as part of a municipal solid waste landfill from 1952 to the mid-1960s. Development of the existing Park and Golf Course was accompanied by extensive soil and groundwater testing and the installation of engineering controls to prevent any potential future impacts to the environment. In addition, periodic monitoring of groundwater and soil gas is conducted in accordance with the Post Construction Custodial Care Plan (PCCCP) for the site. Groundwater monitoring wells are present within the Development Site and checked biennially. The latest groundwater sampling is summarized within the *2023 Semi-Annual Post Closure Certification Report* (see Appendix F). Following development of the site, the PCCCP would be updated to define the future operation, maintenance, and monitoring requirements under the oversight of the NYSDEC. NYSDEC oversight would preclude the potential for significant adverse impacts.