26.0 Effects on Disadvantaged Communities

Introduction

Section 8-0109(2)(k) of the New York State Environmental Conservation Law, effective December 30, 2024, requires that future Environmental Impact Statements (EIS) include a statement of the effects of the Proposed Actions on disadvantaged communities, including whether an action may cause or increase a disproportionate pollution burden. The 2021 *CEQR Technical Manual* predated changes to the Environmental Conservation Law § 8-0109 and does not provide guidance regarding the scope of this analysis. The New York State Department of Environmental Conservation (NYSDEC) proposed a rule in January 2025 that provides additional considerations regarding this new statutory provision. Draft NYSDEC regulations and guidance were consulted to develop this assessment.[1] The assessment in this chapter incorporates that draft guidance and discusses the impact categories outlined in the *CEQR Technical Manual*.

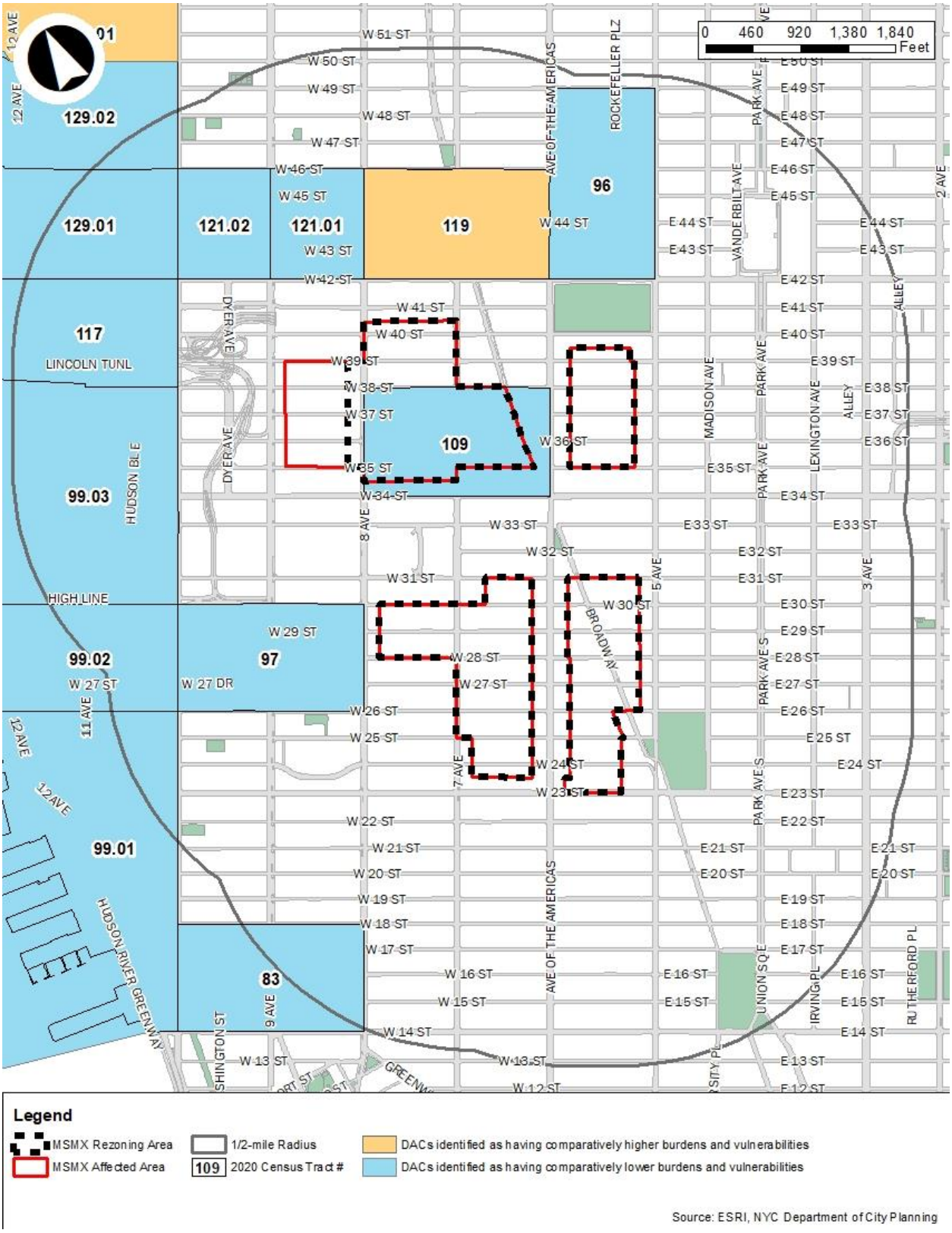
As described in Chapter 1, "Project Description," the Proposed Actions would rezone a 42-block area in Manhattan Community Districts 4 and 5. By the 2034 build year, the total development expected to occur on the 61 projected development sites, as well as 1,093,808 gross-square-feet (gsf) of non-residential floor area likely to be converted to residential uses within the Affected Area. On these projected development sites and in the eligible conversion area, the Proposed Actions are expected to result in a net (incremental) increase of approximately 9,676 dwelling units (DU), including 1,940 to 2,890 permanently affordable units; 462,129 gsf of projected retail space (local retail), 81,755 gsf of community facility use, a decrease of 732,619 gsf of commercial office space decrease of 69,782 gsf of industrial/warehouse space. The estimated incremental population as a result of the Proposed Actions would be approximately 16,256 residents and a decrease of 5,523 workers.

In 2023, the Climate Justice Working Group (CJWG) used 45 indicators to identify disadvantaged communities (DAC) in New York State. Approximately 35 percent of New York State census tracts were identified as DAC. Indicators include land use and facilities associated with historical discrimination or disinvestment, potential climate change risks, potential pollution exposures, and population and health characteristics. As shown in **Figure 26-1,** portions of the Rezoning/Affected Area, specifically the northwest quadrant, and the Affected Area's ½-mile radius are located within DAC.

DAC that intersects with the Rezoning Area and ½-mile radius generally have comparatively lower burdens and vulnerabilities. New York County (Manhattan) census tract 119 within the ½ mile radius has been identified as having comparatively higher burdens and vulnerabilities. New York County (Manhattan) census tract 109 largely overlapping with the northwest quadrant has been identified as having comparatively lower burdens and vulnerabilities. DAC are concentrated in the northern and western portions of the Affected Area's ½-mile radius (refer to **Figure 26-1**).

[1] https://dec.ny.gov/regulatory/regulations/proposed-emergency-recently-adopted-regulations/state-environmental-quality-review-act-regulatory-revisions

Figure 26-1: Disadvantaged Communities



Assessment

The Proposed Actions would not result in significant adverse impacts in the following CEQR technical areas: land use, zoning, and public policy; socioeconomic conditions; community facilities and services; urban design and visual resources; natural resources; water and sewer infrastructure; solid waste and sanitation services; energy; air quality (HVAC/stationary source and mobile source); greenhouse gas emissions and climate change; public health; and neighborhood character.

The Proposed Actions would not result in significant adverse impacts to hazardous materials, air quality (mobile source, HVAC source and large/major source), and noise on projected and potential sites, as the placement of an E-designation would eliminate the potential for any impacts while some sites would have adverse air quality impacts from an existing light industrial source in the study area. However, the potential for significant impacts from hazardous materials, air quality, and noise cannot be precluded for the potential conversion area from non-residential to residential use.

Significant adverse impacts have the potential to occur in the following CEQR technical areas: open space; shadows; historic and cultural resources; air quality (light industrial and large/major source emissions); transportation (traffic and pedestrians); and construction.

Open Space

As presented in Chapter 5, "Open Space," additional residents located in the ½-mile residential study area at the 61 projected development sites and conversion area would lower the total open space ratio approximately 8.19 percent, resulting in an indirect significant adverse impact.

Table 26-1 below presents total, active, and passive open space ratios under No-Action and With-Action conditions for DAC and Non-DAC census tracts located within the ½-mile residential open space study area used in Chapter 5, "Open Space".

Table 26-1: DAC Open Space Ratio Summary

	DAC			Non-DAC		
	No-Action	With-Action	% Change	No-Action	With-Action	% Change
Total	0.822	0.791	-3.88%	0.284	0.258	-10.18%
Passive	0.578	0.557	-3.88%	0.257	0.233	-10.18%
Active	0.244	0.234	-3.88%	0.028	0.025	-10.18%

As shown in **Table 26-1**, indirect impacts to open space (total, active, and passive) would not be concentrated in DAC census tracts. DAC would experience a lower percentage in reduction in open space ratio (OSR) relative to non-DAC and therefore would not be a disproportionate open space burden to disadvantaged communities. Therefore, the Proposed Actions would not cause or increase a disproportionate pollution burden on DAC related to open space.

Shadows

As discussed in Chapter 6, "Shadows," incremental shadow would result in significant adverse impacts to five sunlight-sensitive resources. The detailed shadows analysis identified significant adverse impacts at five sunlight-sensitive resources. The analysis determined that the POPS at

1185 Broadway would not receive adequate sunlight during the growing season (at least the six- to eight-hour minimum specified in the *CEQR Technical Manual*) as a result of incremental shadow coverage, and vegetation at this resource could be significantly impacted. The analysis determined that the Marble Collegiate Church, St. John the Baptist Roman Catholic Church, St. Francis of Assisi Roman Catholic Church, and the Trinity Chapel Complex would receive incremental shadow that may have the potential to affect the public's enjoyment of sunlight-sensitive features. Each of these resources are not located in a DAC. Therefore, there would not be a disproportionate burden related to shadows within DACs.

Historic and Cultural Resources

As discussed in Chapter 7, "Historic and Cultural Resources," the construction of projected development sites 3, 5, 7, 28, 31, 33, 34, 35, 49, 51, 57, 58, 59, 60, and 61 and potential development sites A and B would result in construction-related impacts to up to 16 individual S/NR-Eligible and NYCL-Eligible resources that are not afforded the added special protection under DOB's TPPN #10/88. None of these 15 projected development sites and two potential development sites are located in DAC. As a result, construction related impacts would not result in a disproportionate burden within DACs.

The Proposed Actions would result in indirect (contextual impacts) to one resource, the S/NR-Listed and NYCL-Designated Trinity Chapel Complex, which would be impacted by projected development site 40. The new building at projected development site 40 would obstruct views of the west façade of the Trinity Chapel Complex and would partially obscure distant views of the main entrance on the south façade from Sixth Avenue and west on 25th Street. This resource would also be impacted by incremental shadow cast by development at projected development site 40. Projected development site 40 is not located in a DAC. As a result, indirect impacts related to historic and cultural resources would not result in a disproportionate burden within DACs.

The Proposed Actions would result in the redevelopment of 15 properties in the S/NR-Listed Garment Center Historic District. One potential development site and two projected development sites contain non-contributing resources that do not rise to the level of S/NR-Eligibility due to extensive alterations and lack of integrity. The remaining 12 sites contain contributing resources that are S/NR-Listed and would be directly impacted by the Proposed Actions. The Garment Center Historic District overlaps with census tract 109, which is a DAC.

Overall, impacts to historic and cultural resources would not disproportionately burden DAC census tracts.

Hazardous Materials

As described in Chapter 1, "Project Description," the RWCDS conversion model is not site-specific. Because it is not possible to determine exactly where and to what extent an existing non-residential use might convert to a residential use, there are no specific sites and the extent of any additional in-ground disturbance that may occur for each residential conversion cannot be determined. In addition, since there are no specific development sites among the 1,093,808 gsf RWCDS residential conversion area, the absence of hazardous materials cannot be definitively demonstrated, and the possibility of impacts cannot be eliminated.

Approximately 345,978 gsf (247 DUs) of potential conversion area is located within a DAC compared to the total 1,093,808 gsf (781 DUs). Therefore, it is unlikely that DAC would be disproportionately burdened by any potential hazardous materials impacts as a result of

residential conversions however the potential for disproportionate burden on a DAC cannot be excluded.

Transportation

As described in Chapter 13, "Transportation," the Proposed Actions would result in significant adverse impacts to 29 signalized intersections during one or more analyzed peak hours. Impacts would also occur at 17 sidewalks, six crosswalks, and three corners in one or more analyzed peak hours.

While the NYSDEC Draft SEQR Workbook Guidance indicates that a level of service impact is likely to result in an impact to a DAC, detailed mobile source air quality and noise analyses (Chapter 14, "Air Quality" and Chapter 16, "Noise") were conducted pursuant to the guidance of the *CEQR Technical Manual.* These analyses demonstrate that the Proposed Actions would not result in significant adverse mobile air quality impacts or noise impacts at projected and potential development sites.

Therefore, the project would not contribute to a disproportionate pollution burden on a DAC.

Air Quality

As described in Chapter 14, "Air Quality," the industrial source analyses determined that one non-criteria carcinogenic pollutant from a NYCDEP permitted small industrial facility exceeds the NYSDEC DAR-1 annual guideline concentration threshold for air toxics at projected and potential development sites 11, 13, 14 and C that are located within a DAC E-Designation would be placed on projected development site 13 to eliminate potential unacceptable cancer risk caused by exposure to possible Cadmium emission from Ben-Amun Co. Inc., an existing industrial facility.

In addition, one NYSDEC permitted large facility's 1-hour NO_2 concentrations exceed the NAAQS standard at projected development site 17 and potential development site G.[2] An E-designation would be placed on the affected sites to ensure industrial and large/major source impacts are minimized. Projected development site 17 and potential development site G are not located in DAC.

Similar to the discussion in the Hazardous Materials section above, for the area to be converted to residential uses, the extent of air quality impacts is unknown because of the non-site-specific nature of DCP's conversion model. For residential conversion development sites also in the same area as projected development sites 11, 13, 14, 17 and potential development sites C and G, the possibility of similar air quality impact cannot be precluded. Specifically, the conversion area in proximity to Ben-Amun Co. Inc. located at 246 West 38th Street and the New York Times Building Condominiums would have greater potential to experience significant adverse air quality impacts. The Ben-Amun Co. Inc. building is located within a DAC and the New York Times Building Condominiums are not located in a DAC.

Due to the location of the Ben-Amun Co. Inc. building within a DAC, the potential exists for air quality impacts to be concentrated in a DAC and therefore could result in potential for a disproportionate pollution burden in a DAC.

[2] The permitted large facility is the New York Times Building Condominium.

Noise

Impacts from noise would not occur at the 68 projected and potential development sites. However, due to the non-site-specific nature of DCP's conversion model, noise impacts cannot be precluded from conversion area. As described above, approximately 345,978 gsf (247 DUs) of potential conversion area is located within a DAC compared to the total 1,093,808 gsf (781 DUs). Therefore, it is unlikely that DAC would be disproportionately burdened by any potential noise impacts as a result of residential conversions however the potential for disproportionate pollution burden to a DAC cannot be excluded.

Construction

As described in Chapter 19, "Construction," the Proposed Actions would result in temporary construction impacts for construction transportation, noise, and air quality.

Figures 19-5 and 19-6 show the very objectionable[3] and objectionable[4] construction noise impacts would occur in the vicinity of projected and potential development sites. These temporary construction noise impacts would occur in a manner that is distributed throughout the Affected Area, comprised of DAC and non-DACs, and are not disproportionately located in DACs. Measures required by the New York City Noise Control Code may partially mitigate impacts at some affected receptors. Therefore, there is not a disproportionate construction noise pollution burden to DACs.

At individual and combined projected development sites 46 and 49 and combined projected and development sites 51 and 52, the maximum annual incremental $PM_{2.5}$ concentration is predicted to exceed the *de minimis* criteria of 0.3 µg/m^3. Each of these four projected development sites are not located in a DAC. These temporary construction air quality impacts are distributed throughout the Affected Area, comprised of DAC and non-DACs and are not disproportionately located in DACs. Therefore, there is not a disproportionate construction air quality pollution burden to DACs.

Although the thresholds for significant adverse construction noise and air quality impacts are predicted to be exceeded during construction in DAC and Non-DAC census tracts, these temporary noise and air quality exceedances would not disproportionately affect the DACs. Given the potential for noise and air quality effects related to construction sources would be temporary and localized, it is not anticipated that the Proposed Action would have a disproportionate pollution burden on DACs as a result of noise or air quality emissions during construction.

[3] Temporary noise increases of 20 dBA within approximately 150 feet and sustained for three continuous months.
[4] Temporary noise increases of 15 dBA within approximately 250 feet and sustained for 12 continuous months.