



City Environmental Quality Review

ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) FULL FORM

Please fill out and submit to the appropriate agency ([see instructions](#))

| Part I: GENERAL INFORMATION | | | | | |
|---|----------------------------|---|---|--|-----------|
| PROJECT NAME Permanent Open Restaurants Program | | | | | |
| 1. Reference Numbers | | | | | |
| CEQR REFERENCE NUMBER (to be assigned by lead agency) 21DOT016Y | | | BSA REFERENCE NUMBER (if applicable) | | |
| ULURP REFERENCE NUMBER (if applicable) N 210434 ZRY | | | OTHER REFERENCE NUMBER(S) (if applicable) (e.g., legislative intro, CAPA) | | |
| 2a. Lead Agency Information | | | 2b. Applicant Information | | |
| NAME OF LEAD AGENCY New York City Department of Transportation | | | NAME OF APPLICANT New York City Department of City Planning and New York City Department of Transportation | | |
| NAME OF LEAD AGENCY CONTACT PERSON Naim Rasheed, Assistant Commissioner Traffic Engineering and Planning, Division of Transportation Planning and Management, New York City Department of Transportation | | | NAME OF APPLICANT'S REPRESENTATIVE OR CONTACT PERSON Naim Rasheed, Assistant Commissioner Traffic Engineering and Planning, Division of Transportation Planning and Management New York City Department of Transportation | | |
| ADDRESS 55 Water Street | | | ADDRESS 55 Water Street | | |
| CITY New York | STATE NY | ZIP 10041 | CITY New York | STATE NY | ZIP 10041 |
| TELEPHONE 212 839 7710 | EMAIL nrasheed@dot.nyc.gov | | TELEPHONE 212 839 7710 | EMAIL nrasheed@dot.nyc.gov | |
| 3. Action Classification and Type | | | | | |
| SEQRA Classification | | | | | |
| <input type="checkbox"/> UNLISTED <input checked="" type="checkbox"/> TYPE I: Specify Category (see 6 NYCRR 617.4 and NYC Executive Order 91 of 1977, as amended): 617.4(b)(3); 617.4(b)(9); | | | | | |
| Action Type (refer to Chapter 2 , "Establishing the Analysis Framework" for guidance) | | | | | |
| <input type="checkbox"/> LOCALIZED ACTION, SITE SPECIFIC | | <input type="checkbox"/> LOCALIZED ACTION, SMALL AREA | | <input checked="" type="checkbox"/> GENERIC ACTION | |
| 4. Project Description | | | | | |
| <p>In accordance with Local Law 114 of 2020 recently enacted by the New York City Council ("City Council"), the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a Permanent Open Restaurants (POR) Program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the "Proposed Action").</p> <p>New York City's current Open Restaurants Program, as authorized by Mayoral Emergency Executive Orders 126 and 128 and Local Law 77 of 2020, is an emergency effort to implement a temporary citywide program to expand outdoor seating options for food service establishments to maintain public health and safety, enhance social distancing, and help them rebound in difficult economic times during the COVID-19 pandemic. Under the temporary program, individual food service establishments may apply to the New York City Department of Transportation (NYC DOT) and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. Separate from the temporary Open Restaurants program, the existing sidewalk café program, which involves a permit application and review process through the Department of Consumer and Worker Protection (DCWP), formerly the Department of Consumer Affairs (DCA), was temporarily suspended by the executive orders. The Proposed Action would seek to establish the rules of a new permanent program consistent with Local Law 114's authorization. This program would consist of both a roadway café seating program, and improvements to and transfer of authority for sidewalk cafés as a successor to the DCWP program.</p> <p>See Attachment A, "Project Description," for more information.</p> | | | | | |
| Project Location | | | | | |
| BOROUGH All | | COMMUNITY DISTRICT(S) All | | STREET ADDRESS N/A | |
| TAX BLOCK(S) AND LOT(S) Generic Action | | | ZIP CODE N/A | | |

| | |
|--|---------------------------------|
| DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS N/A | |
| EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY Multiple underlying districts | ZONING SECTIONAL MAP NUMBER N/A |
| 5. Required Actions or Approvals (check all that apply) | |
| City Planning Commission: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNIFORM LAND USE REVIEW PROCEDURE (ULURP) <input type="checkbox"/> CITY MAP AMENDMENT <input type="checkbox"/> ZONING CERTIFICATION <input type="checkbox"/> CONCESSION <input type="checkbox"/> ZONING MAP AMENDMENT <input type="checkbox"/> ZONING AUTHORIZATION <input type="checkbox"/> UDAAP <input checked="" type="checkbox"/> ZONING TEXT AMENDMENT <input type="checkbox"/> ACQUISITION—REAL PROPERTY <input type="checkbox"/> REVOCABLE CONSENT <input type="checkbox"/> SITE SELECTION—PUBLIC FACILITY <input type="checkbox"/> DISPOSITION—REAL PROPERTY <input type="checkbox"/> FRANCHISE <input type="checkbox"/> HOUSING PLAN & PROJECT <input type="checkbox"/> OTHER, explain: <input type="checkbox"/> SPECIAL PERMIT (if appropriate, specify type: <input type="checkbox"/> modification; <input type="checkbox"/> renewal; <input type="checkbox"/> other); EXPIRATION DATE: | |
| SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION ZR Article 1, Chapters 2 and 4; and ZR Sections 22-00; 32-411; 33-05; 43-03; 52-34, 73-243; 83-05; 97-03, 97-13, 97-14, and 97-412; 109-02; 117-03 and 117-05. | |
| Board of Standards and Appeals: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> VARIANCE (use) <input type="checkbox"/> VARIANCE (bulk) <input type="checkbox"/> SPECIAL PERMIT (if appropriate, specify type: <input type="checkbox"/> modification; <input type="checkbox"/> renewal; <input type="checkbox"/> other); EXPIRATION DATE: | |
| SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION | |
| Department of Environmental Protection: <input type="checkbox"/> YES <input type="checkbox"/> NO If "yes," specify: | |
| Other City Approvals Subject to CEQR (check all that apply) <input checked="" type="checkbox"/> LEGISLATION <input type="checkbox"/> FUNDING OF CONSTRUCTION, specify: <input checked="" type="checkbox"/> RULEMAKING <input type="checkbox"/> POLICY OR PLAN, specify: <input type="checkbox"/> CONSTRUCTION OF PUBLIC FACILITIES <input type="checkbox"/> FUNDING OF PROGRAMS, specify: <input type="checkbox"/> 384(b)(4) APPROVAL <input type="checkbox"/> PERMITS, specify: <input type="checkbox"/> OTHER, explain: | |
| Other City Approvals Not Subject to CEQR (check all that apply) <input type="checkbox"/> PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION AND COORDINATION (OCMC) <input type="checkbox"/> LANDMARKS PRESERVATION COMMISSION APPROVAL <input type="checkbox"/> OTHER, explain: | |
| State or Federal Actions/Approvals/Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," specify: | |
| 6. Site Description: <i>The directly affected area consists of the project site and the area subject to any change in regulatory controls. Except where otherwise indicated, provide the following information with regard to the directly affected area.</i> Graphics: <i>The following graphics must be attached and each box must be checked off before the EAS is complete. Each map must clearly depict the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. Maps may not exceed 11 x 17 inches in size and, for paper filings, must be folded to 8.5 x 11 inches.</i> <input type="checkbox"/> SITE LOCATION MAP <input type="checkbox"/> ZONING MAP <input type="checkbox"/> SANBORN OR OTHER LAND USE MAP <input type="checkbox"/> TAX MAP <input checked="" type="checkbox"/> FOR LARGE AREAS OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S) <input type="checkbox"/> PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP | |
| Physical Setting (both developed and undeveloped areas) Total directly affected area (sq. ft.): Generic Action; see Attachment A, "Project Description" Waterbody area (sq. ft.) and type: Roads, buildings, and other paved surfaces (sq. ft.): Other, describe (sq. ft.): | |
| 7. Physical Dimensions and Scale of Project (if the project affects multiple sites, provide the total development facilitated by the action) SIZE OF PROJECT TO BE DEVELOPED (gross square feet): N/A NUMBER OF BUILDINGS: N/A GROSS FLOOR AREA OF EACH BUILDING (sq. ft.): N/A HEIGHT OF EACH BUILDING (ft.): N/A NUMBER OF STORIES OF EACH BUILDING: N/A | |
| Does the proposed project involve changes in zoning on one or more sites? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "yes," specify: The total square feet owned or controlled by the applicant: N/A The total square feet not owned or controlled by the applicant: N/A | |
| Does the proposed project involve in-ground excavation or subsurface disturbance, including, but not limited to foundation work, pilings, utility lines, or grading? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," indicate the estimated area and volume dimensions of subsurface disturbance (if known): AREA OF TEMPORARY DISTURBANCE: sq. ft. (width x length) VOLUME OF DISTURBANCE: cubic ft. (width x length x depth) | |

AREA OF PERMANENT DISTURBANCE: sq. ft. (width x length)

8. Analysis Year [CEQR Technical Manual Chapter 2](#)

ANTICIPATED BUILD YEAR (date the project would be completed and operational): 2022

ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: N/A

WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE? YES NO IF MULTIPLE PHASES, HOW MANY?

BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE:

9. Predominant Land Use in the Vicinity of the Project (check all that apply)

- RESIDENTIAL MANUFACTURING COMMERCIAL PARK/FOREST/OPEN SPACE OTHER, specify: Public Facilities and Institutions

DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS

The information requested in this table applies to the directly affected area. The directly affected area consists of the project site and the area subject to any change in regulatory control. The increment is the difference between the No-Action and the With-Action conditions.

| | EXISTING CONDITION | | NO-ACTION CONDITION | | WITH-ACTION CONDITION | | INCREMENT |
|---|------------------------------|-----------------------------|------------------------------|-----------------------------|------------------------------|-----------------------------|-----------|
| LAND USE | | | | | | | |
| Residential | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| Describe type of residential structures | | | | | | | |
| No. of dwelling units | | | | | | | |
| No. of low- to moderate-income units | | | | | | | |
| Gross floor area (sq. ft.) | | | | | | | |
| Commercial | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| Describe type (retail, office, other) | | | | | | | |
| Gross floor area (sq. ft.) | | | | | | | |
| Manufacturing/Industrial | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| Type of use | | | | | | | |
| Gross floor area (sq. ft.) | | | | | | | |
| Open storage area (sq. ft.) | | | | | | | |
| If any unenclosed activities, specify: | | | | | | | |
| Community Facility | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| Type | | | | | | | |
| Gross floor area (sq. ft.) | | | | | | | |
| Vacant Land | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," describe: | | | | | | | |
| Publicly Accessible Open Space | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify type (mapped City, State, or Federal parkland, wetland—mapped or otherwise known, other): | | | | | | | |
| Other Land Uses | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," describe: | | | | | | | |
| PARKING | | | | | | | |
| Garages | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| No. of public spaces | | | | | | | |
| No. of accessory spaces | | | | | | | |
| Operating hours | | | | | | | |
| Attended or non-attended | | | | | | | |
| Lots | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | | | | |
| No. of public spaces | | | | | | | |
| No. of accessory spaces | | | | | | | |
| Operating hours | | | | | | | |
| Other (includes street parking) | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," describe: | | | | | | | |
| POPULATION | | | | | | | |
| Residents | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> YES | <input type="checkbox"/> NO | |
| If "yes," specify number: | | | | | | | |
| Briefly explain how the number of residents was calculated: | | | | | | | |

| | EXISTING CONDITION | NO-ACTION CONDITION | WITH-ACTION CONDITION | INCREMENT |
|---|--|--|--|-----------|
| Businesses | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | |
| If "yes," specify the following: | | | | |
| No. and type | | | | |
| No. and type of workers by business | | | | |
| No. and type of non-residents who are not workers | | | | |
| Briefly explain how the number of businesses was calculated: | | | | |
| Other (students, visitors, concert-goers, etc.) | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | <input type="checkbox"/> YES <input type="checkbox"/> NO | |
| If any, specify type and number: | | | | |
| Briefly explain how the number was calculated: | | | | |
| ZONING | | | | |
| Zoning classification | | | | |
| Maximum amount of floor area that can be developed | | | | |
| Predominant land use and zoning classifications within land use study area(s) or a 400 ft. radius of proposed project | | | | |
| Attach any additional information that may be needed to describe the project. | | | | |
| If your project involves changes that affect one or more sites not associated with a specific development, it is generally appropriate to include total development projections in the above table and attach separate tables outlining the reasonable development scenarios for each site. | | | | |

Part II: TECHNICAL ANALYSIS

INSTRUCTIONS: For each of the analysis categories listed in this section, assess the proposed project’s impacts based on the thresholds and criteria presented in the CEQR Technical Manual. Check each box that applies.

- If the proposed project can be demonstrated not to meet or exceed the threshold, check the “no” box.
- If the proposed project will meet or exceed the threshold, or if this cannot be determined, check the “yes” box.
- For each “yes” response, provide additional analyses (and, if needed, attach supporting information) based on guidance in the CEQR Technical Manual to determine whether the potential for significant impacts exists. Please note that a “yes” answer does not mean that an EIS must be prepared—it means that more information may be required for the lead agency to make a determination of significance.
- The lead agency, upon reviewing Part II, may require an applicant to provide additional information to support the Full EAS Form. For example, if a question is answered “no,” an agency may request a short explanation for this response.

| | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. LAND USE, ZONING, AND PUBLIC POLICY: CEQR Technical Manual Chapter 4 | | |
| (a) Would the proposed project result in a change in land use different from surrounding land uses? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Would the proposed project result in a change in zoning different from surrounding zoning? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) Is there the potential to affect an applicable public policy? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) If “yes,” to (a), (b), and/or (c), complete a preliminary assessment and attach. See Attachment B | | |
| (e) Is the project a large, publicly sponsored project? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| o If “yes,” complete a PlaNYC assessment and attach. See Attachment B. | | |
| (f) Is any part of the directly affected area within the City’s Waterfront Revitalization Program boundaries? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| o If “yes,” complete the Consistency Assessment Form . See Attachment B. | | |
| 2. SOCIOECONOMIC CONDITIONS: CEQR Technical Manual Chapter 5 | | |
| (a) Would the proposed project: | | |
| o Generate a net increase of more than 200 residential units or 200,000 square feet of commercial space? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ If “yes,” answer both questions 2(b)(ii) and 2(b)(iv) below. | | |
| o Directly displace 500 or more residents? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ If “yes,” answer questions 2(b)(i), 2(b)(ii), and 2(b)(iv) below. | | |
| o Directly displace more than 100 employees? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ If “yes,” answer questions under 2(b)(iii) and 2(b)(iv) below. | | |
| o Affect conditions in a specific industry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ If “yes,” answer question 2(b)(v) below. | | |
| (b) If “yes” to any of the above, attach supporting information to answer the relevant questions below. If “no” was checked for each category above, the remaining questions in this technical area do not need to be answered. | | |
| i. Direct Residential Displacement | | |
| o If more than 500 residents would be displaced, would these residents represent more than 5% of the primary study area population? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If “yes,” is the average income of the directly displaced population markedly lower than the average income of the rest of the study area population? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ii. Indirect Residential Displacement | | |
| o Would expected average incomes of the new population exceed the average incomes of study area populations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If “yes:” | | |
| ▪ Would the population of the primary study area increase by more than 10 percent? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ Would the population of the primary study area increase by more than 5 percent in an area where there is the potential to accelerate trends toward increasing rents? | <input type="checkbox"/> | <input type="checkbox"/> |
| o If “yes” to either of the preceding questions, would more than 5 percent of all housing units be renter-occupied and unprotected? | <input type="checkbox"/> | <input type="checkbox"/> |
| iii. Direct Business Displacement | | |
| o Do any of the displaced businesses provide goods or services that otherwise would not be found within the trade area, either under existing conditions or in the future with the proposed project? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Is any category of business to be displaced the subject of other regulations or publicly adopted plans to preserve, | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | YES | NO |
|--|-------------------------------------|-------------------------------------|
| enhance, or otherwise protect it? | | |
| iv. Indirect Business Displacement | | |
| o Would the project potentially introduce trends that make it difficult for businesses to remain in the area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Would the project capture retail sales in a particular category of goods to the extent that the market for such goods would become saturated, potentially resulting in vacancies and disinvestment on neighborhood commercial streets? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| v. Effects on Industry | | |
| o Would the project significantly affect business conditions in any industry or any category of businesses within or outside the study area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Would the project indirectly substantially reduce employment or impair the economic viability in the industry or category of businesses? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. COMMUNITY FACILITIES: CEQR Technical Manual Chapter 6 | | |
| (a) Direct Effects | | |
| o Would the project directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, health care facilities, day care centers, police stations, or fire stations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Indirect Effects | | |
| i. Child Care Centers | | |
| o Would the project result in 20 or more eligible children under age 6, based on the number of low or low/moderate income residential units? (See Table 6-1 in Chapter 6) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project result in a collective utilization rate of the group child care/Head Start centers in the study area that is greater than 100 percent? | <input type="checkbox"/> | <input type="checkbox"/> |
| o If "yes," would the project increase the collective utilization rate by 5 percent or more from the No-Action scenario? | <input type="checkbox"/> | <input type="checkbox"/> |
| ii. Libraries | | |
| o Would the project result in a 5 percent or more increase in the ratio of residential units to library branches? (See Table 6-1 in Chapter 6) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project increase the study area population by 5 percent or more from the No-Action levels? | <input type="checkbox"/> | <input type="checkbox"/> |
| o If "yes," would the additional population impair the delivery of library services in the study area? | <input type="checkbox"/> | <input type="checkbox"/> |
| iii. Public Schools | | |
| o Would the project result in 50 or more elementary or middle school students, or 150 or more high school students based on number of residential units? (See Table 6-1 in Chapter 6) | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project result in a collective utilization rate of the elementary and/or intermediate schools in the study area that is equal to or greater than 100 percent? | <input type="checkbox"/> | <input type="checkbox"/> |
| o If "yes," would the project increase this collective utilization rate by 5 percent or more from the No-Action scenario? | <input type="checkbox"/> | <input type="checkbox"/> |
| iv. Health Care Facilities | | |
| o Would the project result in the introduction of a sizeable new neighborhood? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project affect the operation of health care facilities in the area? | <input type="checkbox"/> | <input type="checkbox"/> |
| v. Fire and Police Protection | | |
| o Would the project result in the introduction of a sizeable new neighborhood? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project affect the operation of fire or police protection in the area? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. OPEN SPACE: CEQR Technical Manual Chapter 7 | | |
| (a) Would the project change or eliminate existing open space? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Is the project located within an under-served area in the Bronx , Brooklyn , Manhattan , Queens , or Staten Island ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) If "yes," would the project generate more than 50 additional residents or 125 additional employees? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) Is the project located within a well-served area in the Bronx , Brooklyn , Manhattan , Queens , or Staten Island ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (e) If "yes," would the project generate more than 350 additional residents or 750 additional employees? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (f) If the project is located in an area that is neither under-served nor well-served, would it generate more than 200 additional residents or 500 additional employees? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (g) If "yes" to questions (c), (e), or (f) above, attach supporting information to answer the following: | | |
| o If in an under-served area, would the project result in a decrease in the open space ratio by more than 1 percent? | <input type="checkbox"/> | <input type="checkbox"/> |
| o If in an area that is not under-served, would the project result in a decrease in the open space ratio by more than 5 | <input type="checkbox"/> | <input type="checkbox"/> |

| | YES | NO |
|--|-------------------------------------|-------------------------------------|
| percent? | | |
| <ul style="list-style-type: none"> o If "yes," are there qualitative considerations, such as the quality of open space, that need to be considered? Please specify: | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. SHADOWS: CEQR Technical Manual Chapter 8 | | |
| (a) Would the proposed project result in a net height increase of any structure of 50 feet or more? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Would the proposed project result in any increase in structure height and be located adjacent to or across the street from a sunlight-sensitive resource? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) If "yes" to either of the above questions, attach supporting information explaining whether the project's shadow would reach any sunlight-sensitive resource at any time of the year. | | |
| 6. HISTORIC AND CULTURAL RESOURCES: CEQR Technical Manual Chapter 9 | | |
| (a) Does the proposed project site or an adjacent site contain any architectural and/or archaeological resource that is eligible for or has been designated (or is calendared for consideration) as a New York City Landmark, Interior Landmark or Scenic Landmark; that is listed or eligible for listing on the New York State or National Register of Historic Places; or that is within a designated or eligible New York City, New York State or National Register Historic District? (See the GIS System for Archaeology and National Register to confirm) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Would the proposed project involve construction resulting in in-ground disturbance to an area not previously excavated? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) If "yes" to either of the above, list any identified architectural and/or archaeological resources and attach supporting information on whether the proposed project would potentially affect any architectural or archeological resources. See Attachment D. | | |
| 7. URBAN DESIGN AND VISUAL RESOURCES: CEQR Technical Manual Chapter 10 | | |
| (a) Would the proposed project introduce a new building, a new building height, or result in any substantial physical alteration to the streetscape or public space in the vicinity of the proposed project that is not currently allowed by existing zoning? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Would the proposed project result in obstruction of publicly accessible views to visual resources not currently allowed by existing zoning? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) If "yes" to either of the above, please provide the information requested in Chapter 10 . See Attachment E. | | |
| 8. NATURAL RESOURCES: CEQR Technical Manual Chapter 11 | | |
| (a) Does the proposed project site or a site adjacent to the project contain natural resources as defined in Section 100 of Chapter 11 ? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," list the resources and attach supporting information on whether the project would affect any of these resources. | | |
| (b) Is any part of the directly affected area within the Jamaica Bay Watershed ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| o If "yes," complete the Jamaica Bay Watershed Form and submit according to its instructions . | | |
| 9. HAZARDOUS MATERIALS: CEQR Technical Manual Chapter 12 | | |
| (a) Would the proposed project allow commercial or residential uses in an area that is currently, or was historically, a manufacturing area that involved hazardous materials? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to hazardous materials that preclude the potential for significant adverse impacts? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (c) Would the project require soil disturbance in a manufacturing area or any development on or near a manufacturing area or existing/historic facilities listed in Appendix 1 (including nonconforming uses)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) Would the project result in the development of a site where there is reason to suspect the presence of hazardous materials, contamination, illegal dumping or fill, or fill material of unknown origin? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (e) Would the project result in development on or near a site that has or had underground and/or aboveground storage tanks (e.g., gas stations, oil storage facilities, heating oil storage)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (f) Would the project result in renovation of interior existing space on a site with the potential for compromised air quality; vapor intrusion from either on-site or off-site sources; or the presence of asbestos, PCBs, mercury or lead-based paint? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (g) Would the project result in development on or near a site with potential hazardous materials issues such as government-listed voluntary cleanup/brownfield site, current or former power generation/transmission facilities, coal gasification or gas storage sites, railroad tracks or rights-of-way, or municipal incinerators? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (h) Has a Phase I Environmental Site Assessment been performed for the site? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," were Recognized Environmental Conditions (RECs) identified? Briefly identify: | <input type="checkbox"/> | <input type="checkbox"/> |
| (i) Based on the Phase I Assessment, is a Phase II Investigation needed? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. WATER AND SEWER INFRASTRUCTURE: CEQR Technical Manual Chapter 13 | | |
| (a) Would the project result in water demand of more than one million gallons per day? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) If the proposed project located in a combined sewer area, would it result in at least 1,000 residential units or 250,000 square feet or more of commercial space in Manhattan, or at least 400 residential units or 150,000 square feet or more of commercial space in the Bronx, Brooklyn, Staten Island, or Queens? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | YES | NO |
|--|-------------------------------------|-------------------------------------|
| (c) If the proposed project located in a separately sewerred area , would it result in the same or greater development than that listed in Table 13-1 in Chapter 13 ? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) Would the project involve development on a site that is 5 acres or larger where the amount of impervious surface would increase? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (e) If the project is located within the Jamaica Bay Watershed or in certain specific drainage areas , including Bronx River, Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek, would it involve development on a site that is 1 acre or larger where the amount of impervious surface would increase? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (f) Would the proposed project be located in an area that is partially sewerred or currently unsewerred? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (g) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a Wastewater Treatment Plant and/or contribute contaminated stormwater to a separate storm sewer system? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (i) If "yes" to any of the above, conduct the appropriate preliminary analyses and attach supporting documentation. | | |
| 11. SOLID WASTE AND SANITATION SERVICES: CEQR Technical Manual Chapter 14 | | |
| (a) Using Table 14-1 in Chapter 14 , the project's projected operational solid waste generation is estimated to be (pounds per week): N/A | | |
| o Would the proposed project have the potential to generate 100,000 pounds (50 tons) or more of solid waste per week? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the proposed project comply with the City's Solid Waste Management Plan? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. ENERGY: CEQR Technical Manual Chapter 15 | | |
| (a) Using energy modeling or Table 15-1 in Chapter 15 , the project's projected energy use is estimated to be (annual BTUs): N/A | | |
| (b) Would the proposed project affect the transmission or generation of energy? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 13. TRANSPORTATION: CEQR Technical Manual Chapter 16 | | |
| (a) Would the proposed project exceed any threshold identified in Table 16-1 in Chapter 16 ? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) If "yes," conduct the appropriate screening analyses, attach back up data as needed for each stage, and answer the following questions: | | |
| o Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If "yes," would the proposed project result in 50 or more vehicle trips per project peak hour at any given intersection? <i>**It should be noted that the lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour. See Subsection 313 of Chapter 16 for more information.</i> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Would the proposed project result in more than 200 subway/rail or bus trips per project peak hour? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If "yes," would the proposed project result, per project peak hour, in 50 or more bus trips on a single line (in one direction) or 200 subway/rail trips per station or line? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Would the proposed project result in more than 200 pedestrian trips per project peak hour? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If "yes," would the proposed project result in more than 200 pedestrian trips per project peak hour to any given pedestrian or transit element, crosswalk, subway stair, or bus stop? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 14. AIR QUALITY: CEQR Technical Manual Chapter 17 | | |
| (a) <i>Mobile Sources:</i> Would the proposed project result in the conditions outlined in Section 210 in Chapter 17 ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) <i>Stationary Sources:</i> Would the proposed project result in the conditions outlined in Section 220 in Chapter 17 ? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| o If "yes," would the proposed project exceed the thresholds in Figure 17-3, Stationary Source Screen Graph in Chapter 17 ? (Attach graph as needed) See Attachment G | <input type="checkbox"/> | <input type="checkbox"/> |
| (c) Does the proposed project involve multiple buildings on the project site? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) Does the proposed project require federal approvals, support, licensing, or permits subject to conformity requirements? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (e) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to air quality that preclude the potential for significant adverse impacts? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (f) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation. See Attachment G | | |
| 15. GREENHOUSE GAS EMISSIONS: CEQR Technical Manual Chapter 18 | | |
| (a) Is the proposed project a city capital project or a power generation plant? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Would the proposed project fundamentally change the City's solid waste management system? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) Would the proposed project result in the development of 350,000 square feet or more? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (d) If "yes" to any of the above, would the project require a GHG emissions assessment based on guidance in Chapter 18 ? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o If "yes," would the project result in inconsistencies with the City's GHG reduction goal? (See Local Law 22 of 2008 ; § 24- | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | YES | NO |
|---|--|-------------------------------------|
| 803 of the Administrative Code of the City of New York). Please attach supporting documentation. See Attachment H | | |
| 16. NOISE: CEQR Technical Manual Chapter 19 | | |
| (a) Would the proposed project generate or reroute vehicular traffic? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) Would the proposed project introduce new or additional receptors (see Section 124 in Chapter 19) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (d) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (e) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation. See Attachment I | | |
| 17. PUBLIC HEALTH: CEQR Technical Manual Chapter 20 | | |
| (a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Air Quality; Hazardous Materials; Noise? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) If "yes," explain why an assessment of public health is or is not warranted based on the guidance in Chapter 20 , "Public Health." Attach a preliminary analysis, if necessary. See Attachment A. | | |
| 18. NEIGHBORHOOD CHARACTER: CEQR Technical Manual Chapter 21 | | |
| (a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Shadows; Transportation; Noise? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (b) If "yes," explain why an assessment of neighborhood character is or is not warranted based on the guidance in Chapter 21 , "Neighborhood Character." Attach a preliminary analysis, if necessary. See Attachment J | | |
| 19. CONSTRUCTION: CEQR Technical Manual Chapter 22 | | |
| (a) Would the project's construction activities involve: | | |
| o Construction activities lasting longer than two years? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Construction activities within a Central Business District or along an arterial highway or major thoroughfare? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Closing, narrowing, or otherwise impeding traffic, transit, or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, etc.)? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o The operation of several pieces of diesel equipment in a single location at peak construction? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Closure of a community facility or disruption in its services? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Activities within 400 feet of a historic or cultural resource? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Disturbance of a site containing or adjacent to a site containing natural resources? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| o Construction on multiple development sites in the same geographic area, such that there is the potential for several construction timelines to overlap or last for more than two years overall? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (b) If any boxes are checked "yes," explain why a preliminary construction assessment is or is not warranted based on the guidance in Chapter 22 , "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology for construction equipment or Best Management Practices for construction activities should be considered when making this determination. See Attachment A. | | |
| 20. APPLICANT'S CERTIFICATION | | |
| I swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmental Assessment Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and familiarity with the information described herein and after examination of the pertinent books and records and/or after inquiry of persons who have personal knowledge of such information or who have examined pertinent books and records. | | |
| Still under oath, I further swear or affirm that I make this statement in my capacity as the applicant or representative of the entity that seeks the permits, approvals, funding, or other governmental action(s) described in this EAS. | | |
| APPLICANT/REPRESENTATIVE NAME Naim Rasheed | SIGNATURE  | DATE June 18, 2021 |
| PLEASE NOTE THAT APPLICANTS MAY BE REQUIRED TO SUBSTANTIATE RESPONSES IN THIS FORM AT THE DISCRETION OF THE LEAD AGENCY SO THAT IT MAY SUPPORT ITS DETERMINATION OF SIGNIFICANCE. | | |

Part III: DETERMINATION OF SIGNIFICANCE (To Be Completed by Lead Agency)

INSTRUCTIONS: In completing Part III, the lead agency should consult 6 NYCRR 617.7 and 43 RCNY § 6-06 (Executive Order 91 or 1977, as amended), which contain the State and City criteria for determining significance.

1. For each of the impact categories listed below, consider whether the project may have a significant adverse effect on the environment, taking into account its (a) location; (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude.

Potentially Significant Adverse Impact

| IMPACT CATEGORY | Potentially Significant Adverse Impact | |
|-------------------------------------|--|-------------------------------------|
| | YES | NO |
| Land Use, Zoning, and Public Policy | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Socioeconomic Conditions | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Community Facilities and Services | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Open Space | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Shadows | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Historic and Cultural Resources | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Urban Design/Visual Resources | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Natural Resources | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Hazardous Materials | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Water and Sewer Infrastructure | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Solid Waste and Sanitation Services | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Energy | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Transportation | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Air Quality | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Greenhouse Gas Emissions | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Noise | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Public Health | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Neighborhood Character | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Construction | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

2. Are there any aspects of the project relevant to the determination of whether the project may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials?

YES NO

If there are such impacts, attach an explanation stating whether, as a result of them, the project may have a significant impact on the environment.

3. Check determination to be issued by the lead agency:

- Positive Declaration:** If the lead agency has determined that the project may have a significant impact on the environment, and if a Conditional Negative Declaration is not appropriate, then the lead agency issues a *Positive Declaration* and prepares a draft Scope of Work for the Environmental Impact Statement (EIS).
- Conditional Negative Declaration:** A *Conditional Negative Declaration* (CND) may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements of 6 NYCRR Part 617.
- Negative Declaration:** If the lead agency has determined that the project would not result in potentially significant adverse environmental impacts, then the lead agency issues a *Negative Declaration*. The *Negative Declaration* may be prepared as a separate document (see [template](#)) or using the embedded Negative Declaration on the next page.

4. LEAD AGENCY'S CERTIFICATION

| | |
|--|------------------------|
| TITLE Assistant Commissioner, Traffic Engineering and Planning, Division of Transportation Planning and Management | LEAD AGENCY NYC DOT |
| NAME Naim Rasheed | DATE June 18, 2021 |
| SIGNATURE  | |

NEGATIVE DECLARATION (Use of this form is optional)

Statement of No Significant Effect

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6 NYCRR, Part 617, State Environmental Quality Review, _____ assumed the role of lead agency for the environmental review of the proposed project. Based on a review of information about the project contained in this environmental assessment statement and any attachments hereto, which are incorporated by reference herein, the lead agency has determined that the proposed project would not have a significant adverse impact on the environment.

Reasons Supporting this Determination

The above determination is based on information contained in this EAS, which that finds the proposed project:

No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA).

| | |
|-----------|-------------|
| TITLE | LEAD AGENCY |
| NAME | DATE |
| SIGNATURE | |

A. INTRODUCTION

In accordance with Local Law 114 of 2020 enacted by the New York City Council (City Council), the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a Permanent Open Restaurants (POR) Program (the “Proposed Action”) to succeed the temporary program established by the Mayoral Emergency Executive Order 126 dated June 18, 2020, as extended and amended by subsequent orders, and Local Law 77 of 2020.

New York City’s current Open Restaurants Program, as authorized by Mayoral Emergency Executive Orders 126 as extended and amended by subsequent orders, and Local Law 77 of 2020, is an emergency effort to implement a citywide program to expand outdoor seating options for food service establishments to maintain public health and safety, enhance social distancing, and help such establishments rebound in difficult economic times during the COVID-19 pandemic. Under the temporary program, individual food service establishments may apply to the New York City Department of Transportation (NYCDOT) and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. As a result, the existing sidewalk café program, which involves a permit application and review process through the Department of Consumer and Work Protection (DCWP), formerly the Department of Consumer Affairs (DCA), was temporarily suspended by the executive orders. The Proposed Action would seek to establish the rules of a new permanent program consistent with Local Law 114’s authorization. This program would consist of both a roadway café seating program, and improvements to and transfer of authority for sidewalk cafés as a successor to the DCWP program.

The objectives of the POR program are to:

- Create an outdoor dining program that is similar to the current temporary Open Restaurants program in robustness of access and ease of use for sidewalk and roadway cafes;
- Reduce the administrative burden to the city and to food service establishments;
- Combine the sidewalk and roadway outdoor dining programs under unified agency oversight; and
- Retain the primary public right to the street.

As mentioned, the Proposed Action requires the suspension, repeal, or amendment of certain laws and rules for implementation of the POR program. These revised rules would be promulgated under the Citywide Administrative Procedure Act (CAPA) authorized under Local Law 114 and may require additional City Council legislation in order to implement the changes to existing laws and rules as outlined above. Components of the Proposed Action associated with the zoning text amendment require discretionary approval from the New York City Planning Commission (CPC) and are subject to a public review process under section 200 of the New York City Charter. As a discretionary approval, the Proposed Action is classified as Type 1 as defined under 6 NYCRR

Permanent Open Restaurants Program

617.4 [(b)(3) and (b)(9)] and NYC Executive Order 91 of 1977, as amended, and is subject to an environmental review, as required by the State Environmental Quality Review Act (SEQRA), and in accordance with the City Environmental Quality Review (CEQR).

B. BACKGROUND

SIDEWALK CAFÉS & TEMPORARY OPEN RESTAURANTS PROGRAM

EXISTING SIDEWALK CAFÉ AND STREET SEATS PROGRAMS

There are approximately 27,000 restaurants across the City of New York. The existing permanent outdoor dining permitting program (the “existing program”) applicable to these restaurants consist of a sidewalk café program administered by DCWP and a Street Seats program administered by NYCDOT. As of March 2020, there were 1,224 active permits for sidewalk cafés¹ and 25 active Street Seats.

Locational criteria for sidewalk cafés are regulated by the ZR, Article I, Chapter 4: Sidewalk Regulations. There are three types of sidewalk cafés under the existing program: enclosed cafés, unenclosed cafés, and small unenclosed cafés. Unenclosed sidewalk cafés are permitted in commercial, manufacturing, and select high density residential (R10H) districts only, though there are exceptions to these regulations, including specific districts and streets with further prohibitions or restrictions applied to sidewalk cafés, as well as special purpose districts in which sidewalk cafés are permitted. Enclosed cafés are allowed in most locations, except for prohibitions in additional special districts such as Hudson Yards, Lower Manhattan, and East Harlem. Small unenclosed cafés only are allowed in additional areas of Manhattan, as part of a moderate expansion of eligibility in 2004.

Pursuant to the Administrative Code, all of these café types are subject to specific clear path regulations based on their location, while the minimum clear path² required for all sidewalk cafés is 8 feet or 50 percent of the sidewalk width, whichever is greater. Additional requirements dictate the offsets required from sidewalk cafés to sidewalk obstructions such as fixtures and furniture. These requirements are designed to allow sufficient passage for pedestrians and other sidewalk users. Participating cafés are also subject to regulations governing their sign display, set-up, table count, railings, fences, planters, valences, canopies, awnings, and heaters, in coordination with required approvals from the New York City Department of Buildings (DOB) and the Landmarks Preservation Commission (LPC), as applicable.

Street Seats is a citywide program in which businesses and institutions may apply to NYCDOT to install facilities in the roadbed along the curb line to create a setting for outdoor dining or other activities. Any type of business or institution that owns or operates the frontage at the ground floor of a building may be eligible to install and maintain a Street Seat. Business Improvement Districts

¹ Including 1,122 unenclosed and 102 enclosed cafés. While enclosed cafés would not be part of the proposed POR program, the existing enclosed cafés would be allowed to continue to operate as such.

² According to the DCWP Sidewalk Café Design and Regulations Guide, all sidewalk cafés must maintain a minimum clear path of eight (8) feet between the outer limit of the café and any object near the curb, including the curbstone. Traffic signs, parking meters, and trees with grating flush to grade will not be considered an obstruction to the 8-foot clear path requirement. Sidewalk cafés must maintain a nine (9) foot clear path to an intersection, with no exceptions.

(BIDs) and non-profit organizations without frontage can also be eligible, if they work in partnership with a local business that has frontage. Siting and design requirements for Street Seat sites include specific provisions to ensure that the facilities do not obstruct sidewalk and roadway amenities and infrastructure, as well as providing protection for Street Seat users. Street Seats is a seasonal program spanning the months of March through December and any outdoor dining facilities included in the Street Seats program are subject to specific operating hour restrictions.

TEMPORARY OPEN RESTAURANTS PROGRAM

Following the onset of the COVID-19 pandemic in 2020, the permanent outdoor dining program was suspended and replaced by a temporary program per Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128. The temporary Open Restaurants Program (the “temporary program”) is an emergency temporary citywide program to expand outdoor seating options for food service establishments to maintain public health and safety, enhance social distancing, and help them rebound in difficult economic times. Under the temporary program, individual food service establishments may apply to NYCDOT and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. As of March 2021, there were 10,772 self-certified temporary open restaurant applications recorded citywide. Of these, 1,042 were for roadway seating only, 4,151 were for sidewalk seating only, and 5,579 included both roadway and sidewalk seating.

C. DESCRIPTION OF THE PROPOSED ACTION

In accordance with Local Law 114 of 2020 enacted by City Council, the city seeks to establish a Permanent Open Restaurants (POR) program to succeed the temporary program.

Building on the requirements set forth in Local Law 114, the POR is intended to include the following elements, applicable to both roadway and sidewalk seating applications:

- Eligibility would be limited to restaurants with an active Department of Health and Mental Hygiene (DOHMH) food service establishment license and ground floor frontage;
- No geographic restrictions would apply;³
- Permanent fully enclosed structures would be prohibited,
- Any restaurant, bar or other establishment participating in the POR program must adhere to all local, state, and federal requirements relating to accessibility for people with disabilities, including path of travel, minimum table heights, and clearance requirements;
- Any restaurant, bar or other establishment participating in the POR program must adhere to all applicable guidance issued by NYCDOT, DOHMH, the New York State Department of Health, and the State Liquor Authority; and
- A restaurant’s seating area may not exceed the business frontage.

³ While existing restrictions placed on sidewalk cafés in specific geographic areas would be removed, the POR program would not alter zoning regulations that specify which zoning districts allow restaurants.

SIDEWALK SEATING

The proposed sidewalk seating program would require seating areas to be up against the wall (or as close as possible) of the business, as well as located within the frontage of the establishment. Seating would be kept clear of the amenity zone⁴ and maintain a minimum established clear path (at least 8 feet) for pedestrians, while also maintaining established buffer distances from street furniture, infrastructure, and other fixed obstructions. There would be specific instances in which the proposed sidewalk seating program may deviate from the 8-foot clear path requirement:

- In certain central business district (CBD) locations, a minimum clear path width of 12 feet may be required where achievable; and
- In certain locations with low pedestrian volumes, restaurants may apply for a waiver to achieve a minimum clear path width of 6 feet, so long as the applicant can demonstrate that pedestrian flow and accessibility needs can be met.
- A 50 percent clear path rule would also apply, requiring wider than 8-foot or 12-foot clear paths on sidewalks where 50 percent of the sidewalk width is greater than these respective minimum clear path widths.

ROADWAY SEATING

The proposed roadway seating program would be limited to no farther than 8 feet from the curb line. All seating and any protection would be fully contained within the parking lane and would be prohibited from encroaching on any bike lane, vehicle travel lane, or painted buffer. A minimum 18-inch wide and 30 to 36-inch high protective barrier, such as planters or objects of similar size and weight, would be required on all three sides of the seating perimeter that are in the roadway in order to separate the seating from the travel lane. Roadway seating would also necessitate ADA compliance via ramp or platform. Fully enclosed structures would be prohibited under the proposed roadway seating program. As with the sidewalk seating program, roadway seating areas would be required to maintain established offset distances from obstructions and infrastructure. Roadway seating would also be prohibited from No Standing Anytime and No Stopping Anytime zones, as well as bus lanes or stops, taxi stands, or designated car share parking spaces.

A complete list of analyzed siting criteria for the proposed sidewalk and roadway seating program is provided in **Appendix 1**.

In general, this new program is intended to create a sidewalk and roadway café program applicable citywide. The new program would be reliant clear path and other physical siting criteria to dictate dimensions, and would lead to a simplified sidewalk café model and simpler, more streamlined administrative procedures.

DISCRETIONARY ACTIONS REQUIRED

The Proposed Action seeks to implement Local Law 114 of 2020 as enacted by City Council, as well as any successor local law(s) necessary to establish a new roadway café program and make improvements to and transfer of authority for sidewalk cafés as a successor to the DCWP program. The Proposed Action would also remove any zoning geographic restrictions on sidewalk café

⁴ The portion of the public right-of-way between the curb and the sidewalk that is outside of the pedestrian walking area.

eligibility in the program to allow any restaurant with an active DOHMH food service establishment license and ground floor frontage to apply for an Open Restaurant permit so long as they meet the siting criteria (described above). The following administrative and zoning actions are required to implement the POR program:

SUSPENSION, REPEAL OR AMENDMENT OF CERTAIN LAWS AND RULES FOR THE IMPLEMENTATION OF THE PERMANENT OPEN RESTAURANTS PROGRAM

New York City Zoning Resolution

Revisions to provisions of the New York City Zoning Resolution (ZR) to the extent necessary to provide for the implementation, administration and operation of the Open Restaurants Program, including:

- ZR, Article 1, Chapter 2, relating to sidewalk café definitions;
- ZR, Article 1, Chapter 4, relating to sidewalk café regulations;
- ZR Section 22-00, to the extent that a sidewalk café may not be enlarged in R10H Districts;
- ZR Section 32-411, to the extent such section does not allow for operable windows;
- ZR Sections 33-05 and 43-03, to clarify the compatibility of NYCDOT café programs and sidewalk widening provisions;
- ZR Section 52-34, to the extent such section requires certain eating and drinking establishment uses in Residence Districts to be located within completely enclosed buildings;
- ZR Section 73-243, to extent BSA special permit provisions allowing for eating and drinking establishments would preclude operable windows;
- ZR Section 83-05, to extent that it would preclude operable windows in a Limited Commercial District;
- ZR Sections 97-03, 97-13, 97-14, and 97-412, to the extent such section limits the locations of sidewalk cafes in the Special 125th Street District;
- ZR Section 109-02, to the extent such section imposes any condition on the use of public streets and sidewalks for the maintenance of sidewalk cafes or outdoor cafes by restaurants in the Special Little Italy District; and
- ZR Sections 117-03 and 117-05, to the extent such section limits the locations of sidewalk cafes in in the Special Long Island City Mixed Use District.

Administrative Code of the City of New York

Revisions to provisions of the Administrative Code of the City of New York (Admin. Code) to the extent necessary to provide for the implementation, administration and operation of the Open Restaurants Program, including but not limited to:

- Admin. Code Section 10-125, relating to the prohibition of the consumption of alcohol on streets;
- Admin. Code Section 17-306(c), to the extent necessary to clarify that the definition of “food vendor” set forth in such section shall not include any restaurant participating in the Open Restaurants Program;

Permanent Open Restaurants Program

- Admin. Code Sections 19-124(a)(2) and 19-124(c), to the extent any restaurant is required by such provisions to obtain a permit or pay a fee to erect or maintain a canopy over any outdoor seating area such restaurant operates pursuant to the Open Restaurants Program;
- Admin. Code, Title 20, Chapter 2, Subchapter 6, relating to licenses for sidewalk cafes;
- Admin. Code Section 20-465(q)(1), relating to prohibiting any general vendor from vending within 20 feet of a sidewalk cafe; and
- Admin. Code, Title 28, Chapter 7, Section BC 3101.1, relating to special building construction, Section 3111, relating to the construction of sidewalk cafes, and Section 3202.4.1, relating to the construction of enclosures for sidewalk cafes, provided, however that section BC 3111.4, relating to prohibited obstructions, and Section 3111.6, relating to accessibility, are not suspended.

Rules of the City of New York

Revisions to provisions of the Rules of the City of New York (RCNY) to the extent necessary to provide for the implementation, administration and operation of the Open Restaurants Program, including but not limited to:

- RCNY Title 3, Chapter 4, Section 404-03, relating to fire safety requirements for sidewalk cafes, Section 404-03(b)(2), relating to Building Code and permit requirements, and Section 404-03(b)(3), relating to submission of floor and elevation plans;
- RCNY Title 6, Chapter 2, Subchapter F, relating to licenses for sidewalk cafes;
- RCNY Title 6, Chapter 1, Section 1-03(b), relating to the display of license signs by sidewalk cafe licensees;
- RCNY Title 34, Chapter 2, Sections 2-03 and 2-04(b)(2), to the extent such provisions require a restaurant to obtain a permit or pay a fee to erect or maintain a canopy over any outdoor seating area such restaurant operates pursuant to the Open Restaurants Program;
- RCNY Title 50, Chapter 1, Section 1-01, to the extent necessary to clarify that the definition of “street event” set forth in such section shall not include any outdoor service provided by a restaurant pursuant to the Open Restaurants Program; and
- RCNY Title 62, Chapter 3, Subchapter B, Sections 3-07(c)(2) and 3-07(f)(4), to the extent such provisions impose fees for sidewalk cafe revocable consent applications or renewal applications.

ADOPTION OF SITING AND ADMINISTRATIVE CRITERIA

Promulgate new rules under the Citywide Administrative Procedure Act (CAPA) authorized under Local Law 114, which allows administering agencies to adopt rules consistent with the parameters set above.

Drafts of the proposed amendments to the ZR are provided in **Appendix 1**.

D. DESCRIPTION OF PROJECT AREA

The proposed POR program would be implemented citywide, with no geographic restrictions other than the underlying zoning regulations on where restaurant uses are generally allowed. However, existing non-conforming restaurants that operate in zoning districts that do not allow restaurants as-of-right, would also be eligible for the POR program.

GENERAL AREA OF APPLICABILITY

Eating and drinking establishments are classified by the ZR as Use Group 6 (retail and service establishments that serve local needs) and are allowed in all zoning districts except:

- Residential districts without a commercial overlay except for R10H, which allows for transient hotel uses; and
- Certain specialty commercial districts such as waterfront recreational districts (C3 and C3A) and amusement parks districts (C7).

While the existing program also allows sidewalk cafes in the same areas in which restaurants are allowed, it includes restrictions on sidewalk seating in various areas of the City including streets with elevated rail transit lines citywide (unless specifically permitted in ZR Section 14-43), and select special districts, streets, and corridors for some or all sidewalk café types. The areas of applicability under the existing program are shown in **Figure A-1**. Therefore, the new area of geographic applicability for sidewalk seating consists of those block faces (including the sidewalk and curbside segments) where open restaurants would be allowed (“eligible block faces”) under the POR program but are excluded under the existing program.

However, the existing sidewalk café program does not allow roadway seating. Thus, the new geographic area of applicability for roadway seating is anywhere an open restaurant would be allowed under the POR program. The block faces that would be eligible for open restaurants under the POR program is shown in **Figure A-2**, and the incremental increase in eligible block faces between the existing program and the POR program is shown in **Figure A-3**.

In total, the number of eligible block faces would increase by approximately 5,000 block faces under the POR program as compared to the existing program. A summary of eligible block faces by borough is provided in **Table A-1**. The quantity of eligible block faces would increase in all boroughs under the POR program as compared to the existing program, and the overall distribution of eligible block faces by borough would remain generally consistent - Brooklyn and Queens have the highest percentage of eligible block faces while Manhattan and Bronx also have a substantial share, and Staten Island has the smallest share.

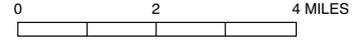
**Table A-1
Open Restaurant Eligible Block Faces by Borough**

| Borough | Existing Program | | POR Program | | Increment | |
|--|----------------------|-------------------------------------|----------------------|-------------------------------------|----------------------|-------------------------------------|
| | Eligible Block faces | Percent of All Eligible Block faces | Eligible Block faces | Percent of All Eligible Block faces | Eligible Block faces | Percent of All Eligible Block faces |
| Bronx | 5,286 | 13% | 6,341 | 14% | 1,055 | 21% |
| Brooklyn | 14,124 | 35% | 15,472 | 34% | 1,348 | 27% |
| Manhattan | 7,814 | 19% | 9,163 | 20% | 1,349 | 27% |
| Queens | 11,168 | 28% | 12,193 | 27% | 1,025 | 21% |
| Staten Island | 2,021 | 5% | 2,232 | 5% | 211 | 4% |
| Total | 40,413 | 100% | 45,401 | 100% | 4,988 | 100% |
| Notes: | | | | | | |
| 1) Reflects eligibility for any type of outdoor seating. | | | | | | |
| 2) Eligibility is determined based on allowance of restaurant use. The actual ability to provide sidewalk and roadway seating would be determined by each program’s siting criteria. | | | | | | |
| Sources: NYC DOITT; DCP MapPLUTO 20v8; DCP ZoLa 21v1 | | | | | | |

In terms of the projected increase in eligible block faces under the POR program, Brooklyn and Manhattan would see the highest percentage increase, while Queens and Bronx would also have a substantial increase. Specific neighborhoods with concentrations of newly eligible block faces



- Low Density Residential (R1-R5) with Commercial Overlay
- Medium/High Density Residential (R6-R10) with Commercial Overlay
- Neighborhood Commercial (C1-C2)
- General/Service Commercial (C4-C6, C8)
- Manufacturing (M1-M3)
- Special Mixed-Use (MX)





- Low Density Residential (R1-R5) with Commercial Overlay
- Medium/High Density Residential (R6-R10) with Commercial Overlay
- Neighborhood Commercial (C1-C2)
- General/Service Commercial (C4-C6, C8)
- Manufacturing (M1-M3)
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- Low Density Residential (R1-R5) with Commercial Overlay
- Medium/High Density Residential (R6-R10) with Commercial Overlay
- Neighborhood Commercial (C1-C2)
- General/Service Commercial (C4-C6, C8)
- Manufacturing (M1-M3)
- Special Mixed-Use (MX)



PERMANENT OPEN RESTAURANTS PROGRAM

New Area of Eligibility under Proposed Action (Sidewalk Seating)

Figure A-3

Permanent Open Restaurants Program

as a result of the POR program would include Midtown and SoHo in Manhattan; DUMBO and Cypress Hills/East New York in Brooklyn; Hunters Point/Long Island City in Queens; and in Hunts Point and along the Grand Concourse in the Bronx.

A comparison of eligible block faces in the existing program and the POR program to the total number of block faces in each borough is provided in **Table A-2**. In general, the distribution of eligible block faces as a portion of total block faces across boroughs is consistent between the existing program and the POR program. In both the existing and Proposed conditions, Manhattan has the largest portion of block faces eligible for open restaurants, and Staten Island has the least. In total, the incremental increase in eligible block faces between the existing program and POR program constitutes approximately 4 percent of the total block faces in the City.

Table A-2
Open Restaurant Eligible Block Faces as Share of Total Borough Block Faces

| Borough | Total Block Faces | Eligible Block Faces as Percent of Total Borough Block Faces | | |
|---------------|-------------------|--|-------------|-----------|
| | | Existing Program | POR Program | Increment |
| Bronx | 16,240 | 33% | 39% | 6% |
| Brooklyn | 32,972 | 43% | 47% | 4% |
| Manhattan | 11,591 | 67% | 79% | 12% |
| Queens | 48,546 | 23% | 25% | 2% |
| Staten Island | 15,650 | 13% | 14% | 1% |
| Total | 124,999 | 32% | 36% | 4% |

Notes:
 1) Reflects eligibility for any type of outdoor seating.
 2) Eligibility is determined based on allowance of restaurant use. The actual ability to provide sidewalk and roadway seating would be determined by each program's siting criteria.
Sources: NYC DOITT; DCP MapPLUTO 20v8; DCP ZoLa 21v1

A summary of eligible block faces by zoning category under the existing and proposed programs is provided in **Table A-3**. While the number of eligible block faces in each zoning category would increase under the POR program as compared to the existing program, the distribution of restaurants across zoning categories would remain generally the same with the majority of eligible block faces in low and medium/high density residential districts and most of the remaining eligible block faces located in general/service commercial and manufacturing districts. General/service commercial and manufacturing districts would have the largest increase in number of eligible block faces under the POR program, followed by medium/high density residential districts with commercial overlays. Special mixed-use districts would also see a substantial increase in eligible block faces under the POR program, and would more than double compared to existing conditions.

**Table A-3
Open Restaurant Eligible Block Faces by Zoning Categories**

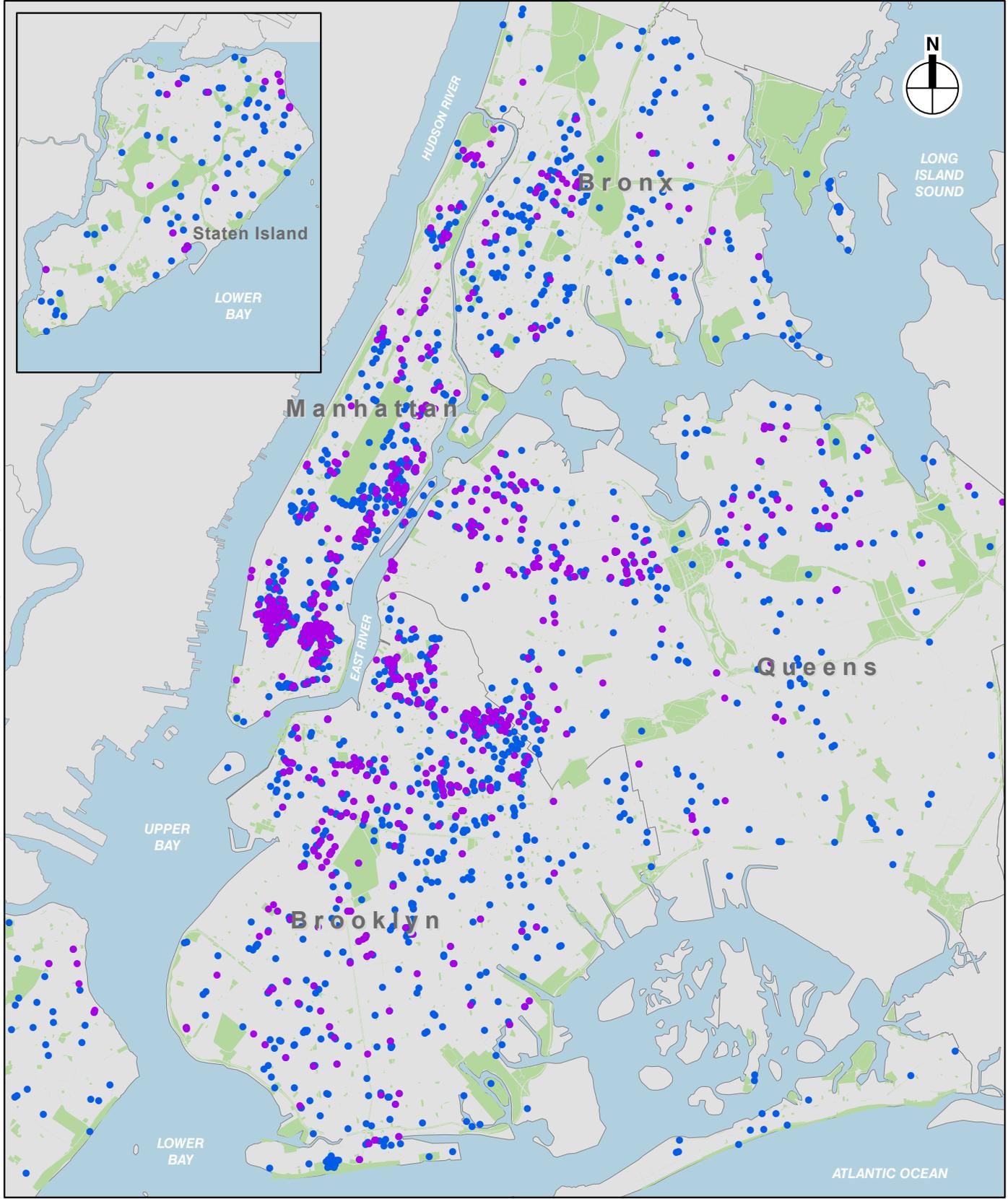
| Zoning Category | Existing Program | | POR Program | | Increment | |
|--|----------------------|-------------------------------------|----------------------|-------------------------------------|----------------------|-------------------------------------|
| | Eligible Block Faces | Percent of All Eligible Block Faces | Eligible Block faces | Percent of All Eligible Block Faces | Eligible Block Faces | Percent of All Eligible Block Faces |
| Low Density Residential (R1-R5) with Commercial Overlay | 10,376 | 26% | 10,657 | 23% | 281 | 6% |
| Medium/High Density Residential (R6-R10) with Commercial Overlay | 13,290 | 33% | 14,176 | 31% | 886 | 18% |
| Neighborhood Commercial (C1-C2) | 1,447 | 4% | 1,633 | 4% | 186 | 4% |
| General/Service Commercial (C4-C6, C8) | 7,388 | 18% | 8,806 | 19% | 1,418 | 28% |
| Manufacturing (M1-M3) | 7,363 | 18% | 8,922 | 20% | 1,559 | 31% |
| Special Mixed-Use (MX) | 549 | 1% | 1,207 | 3% | 658 | 13% |
| Total | 40,413 | 100% | 45,401 | 100% | 4,988 | 100% |

Notes:
 1) Reflects eligibility for any type of outdoor seating.
 2) Eligibility is determined based on allowance of restaurant use. The actual ability to provide sidewalk and roadway seating would be determined by each program's siting criteria.
Sources: NYC DOITT; DCP MapPLUTO 20v8; DCP ZoLa 21v1

Additionally, there are restaurants that are legally operating with a DOHMH permit but are located and operating in zoning districts where restaurant use is not allowed as-of-right (residential without commercial overlay and specialty commercial districts), and are thus non-conforming. These restaurants are ineligible for sidewalk seating under the existing program but would be eligible for sidewalk and roadway seating as a result of the Proposed Action. A map showing the location of these restaurants, including those that currently provide open restaurant seating under the temporary Open Restaurants program is provided in **Figure A-4**. In total, there are approximately 2,950 existing non-conforming restaurants,⁵ with approximately 1,000 of these restaurants participating in the temporary program.⁶ These non-conforming restaurants appear throughout New York City; however, most are concentrated in medium and high density areas, primarily in Manhattan and western Brooklyn and Queens, and are within areas of neighborhoods that already have a commercial or mixed-use character. Many of these restaurants are located adjacent or in close proximity to zoning districts that allow restaurants as-of-right. A small number of restaurants are sprinkled throughout lower density areas in the outer boroughs; however, very few are in areas that do not have a mixed-use character. It is expected that some but not all of these restaurants (since many are doing so only in response to COVID-19 conditions) would likely continue to provide open restaurant seating under the POR program; however, it is conservatively

⁵ New York City Department of Health and Mental Hygiene (DOHMH) New York City Restaurant Inspection Results, Downloaded on 03/15/2021. <https://data.cityofnewyork.us/Health/DOHMH-New-York-City-Restaurant-Inspection-Results/43nn-pn8j>

⁶ DCP Open Restaurant Mapper (as of 04/01/2021). <https://nycplanning.github.io/td-covid19/sidewalkcafe/#11.65/40.6898/-73.8894>; <https://github.com/NYCPlanning/td-covid19/tree/master/sidewalkcafe>



Permanent Open Restaurants Program

assumed that potentially all existing non-conforming restaurants would continue to provide open restaurants seating.

E. PURPOSE AND NEED

The objectives of the proposed POR program are to create an outdoor dining program similar to the current temporary program in accessibility and ease of use, thereby reducing the administrative burden to the city and to food service establishments. This program would include an expanded zone of eligibility as compared to the existing sidewalk café program by removing restrictions placed on certain areas of the city. This program would also combine the sidewalk and outdoor dining programs under unified agency oversight while retaining the primary public right to the street.

F. ANALYSIS FRAMEWORK

In accordance with the guidelines presented in the 2020 *CEQR Technical Manual*, the Proposed Action should be analyzed as a “generic action” because it would have wide application throughout the city. For such actions, a site-specific description or analysis is not appropriate. As described in the *CEQR Technical Manual*, generic analyses are conducted using the following methodology:

- *Identify Typical Cases*: Provide several descriptions similar to those in a localized action for cases that can reasonably typify the conditions and impacts of the entire proposal.
- *Identify a Range of Conditions*: A discussion of the range of conditions or situations under which the action may take place, so that the full range of impacts can be identified. As detailed below, this includes existing conditions, a future scenario without the Proposed Action, and a future scenario with the Proposed Action.

Due to the broad applicability of the Proposed Action, the variability of market conditions, and the uncertainty of future outdoor dining utilization rates after the COVID-19 pandemic, it is difficult to predict the specific sites where sidewalk or roadway dining usage would be expanded.

REASONABLE WORST CASE DEVELOPMENT SCENARIO

Because of the generic nature of the Proposed Action, there are no known or projected sidewalk or roadway dining sites identified as part of the Proposed Action’s Reasonable Worst-Case Development Scenario (RWCDs). To produce a reasonable analysis of the likely effects of the Proposed Action, six representative prototypical analysis configurations (“prototypes” or “prototype corridors”) have been identified to demonstrate the wide range of proposed implementation configurations for streets and corridors that may experience expanded outdoor dining as a result of the Proposed Action. These prototypes are loosely based on real-world sites and represent the types of streets and neighborhood contexts where the Proposed Action would likely occur in order to assess a variety of possible outcomes.

Restaurant quantity assumptions in the future without and with the Proposed Action reflect restaurant data from before the COVID-19 pandemic. The Proposed Action is not expected to change the total number of restaurants in the city.

NO ACTION CONDITION

The future without the Proposed Action (the “No Action condition”) is assumed to reflect a continuation of the existing sidewalk café program. Accordingly, the quantity and location of open restaurants assumed in the No Action condition corresponds to the quantity and eligible location areas of permitted DCWP cafés operating before the COVID-19 pandemic; approximately 1,200 sidewalk cafés across 40,000 block faces. The number of eligible restaurants participating in the DCWP program could potentially increase if restaurants participating in the temporary program elected to retain their sidewalk seating following expiration of the temporary program. However, a No Action condition of approximately 1,200 sidewalk cafés was selected in order to provide a conservative baseline for analysis. Size, siting, configuration and operations of open restaurant facilities in the No Action condition are assumed to be consistent with the requirements of the prior DCWP existing program. As in the prior DCWP existing program, for the No Action condition it is assumed that sidewalk cafés are permitted in commercial, manufacturing, and select high density residential (R10H) zoning groups only, though there are exceptions to these regulations, including specific districts and streets with further prohibitions or restrictions applied to sidewalk cafés, as well as special zoning districts in which sidewalk cafés are permitted. Roadway seating in the No Action condition is assumed to be consistent with the existing Street Seats program, in which participation is relatively limited (approximately 25 sites citywide) and seating areas are seasonal and temporary.

WITH ACTION CONDITION

The future with the Proposed Action (the “With Action condition”) is assumed to reflect a city wide implementation of the proposed POR program. The total quantity of open restaurants under the temporary program, approximately 10,000 open restaurants, is assumed to be the highest share of restaurants that can reasonably be expected to participate in the proposed POR program. This is anticipated to be a conservative assumption as the COVID-19 pandemic has created an emergency need for outdoor capacity greater than that which is anticipated to exist long-term. While it is not expected that all restaurants with outdoor seating under the temporary program would participate in the proposed POR program, this benchmark was selected as a highly conservative utilization rate for the purpose of this assessment. The size, siting, and configuration of open restaurants in the With Action condition is assumed to be consistent with the practices described in Section C, above. The With Action condition would expand eligibility of open restaurants citywide, including all the areas of exclusion in the existing program and including existing non-conforming restaurants throughout the city.

A description of the areas of eligibility in the No Action (existing program) and With Action (POR program) conditions is provided in Section E, above.

PROTOTYPICAL ANALYSIS

To assess the possible effects of the Proposed Action, a RWCDs was developed for the No Action and With Action conditions for a range of prototypical corridors throughout New York City. In order to provide a robust analysis that both typifies and covers the range of conditions under both the No Action and With Action conditions, the six prototypes reflect various combinations of zoning categories, development density and pedestrian activity, street and sidewalk widths, and number of restaurants. The incremental difference between the No Action and With Action conditions serves as the basis for the analyses by which the potential environmental effects of the Proposed Action are evaluated.

Permanent Open Restaurants Program

Overall, the open restaurants prototype corridors were developed to demonstrate:

- *Street & Sidewalk Width.* A range of street and sidewalk widths are reflected in the selected prototypes, categorized into narrow and wide conditions. Streets narrower than 75 feet are considered narrow, and those wider than 75 feet are considered wide; sidewalks 12 feet or narrower are considered narrow, and those wider than 12 feet are considered wide. While street and sidewalk widths would not change between the No Action and With Action conditions, these factors inform the achievable minimum clear path width for the corridor type, which may vary between the No Action and With Action conditions.
- *Density & Pedestrian Activity.* The prototypes selected reflect a range of population density and pedestrian activity conditions, categorized as low, medium, and high. Foot traffic classifications used are based on population density for the corridor in question. The density and foot traffic in each prototypical corridor is not anticipated to change as a result of the Proposed Action, but will be used to inform the minimum clear path width for each type of corridor.
- *Restaurant Concentration.* Prototypical corridors represent a range of existing concentration of restaurants per block as well. Blocks with one to three restaurants were classified as low restaurant concentration, those with four to eight restaurants as medium, and those with greater than eight restaurants as high. The restaurant concentration on a given block is anticipated to remain the same between the No Action and With Action conditions. This factor is used to determine the likely total number and number of consecutive open restaurants on a given block face.

The selected prototypes are summarized in **Table A-4**. Detailed descriptions and illustrative renderings of the No Action and With Action conditions for each of the six prototypical corridors are provided below.

**Table A-4
Prototypical Corridors**

| ID | Prototype Character | Street Width ¹ | Sidewalk Width ² | Pedestrian Activity | Restaurant Concentration ³ | Existing Sidewalk Cafés ⁴ | Assumed Open Restaurants ⁴ |
|----|--|---------------------------|-----------------------------|---------------------|---------------------------------------|--------------------------------------|---------------------------------------|
| 1 | Local/neighborhood-serving corridor with limited space | Narrow | Narrow | Medium | Medium | 1 | 2 |
| 2 | Neighborhood/district hub with concentration of restaurants | Narrow | Wide | Medium | Medium-High | 1 | 4 |
| 3 | Wide street in auto-centric area with a concentration of restaurants | Wide | Wide | Low | High | 0 | 4 |
| 4 | Wide avenue in CBD with significant space in the ROW | Wide | Wide | High | Medium | 0 | 2 |
| 5 | Wide avenue in high density residential neighborhood with significant space in the ROW | Wide | Wide | Medium | High | 1 | 4 |
| 6 | Restaurant street | Narrow | Narrow | High | High | 0 | 6 |

Notes:

1. Narrow street width < 75 feet, wide street width > 75 feet
2. Narrow sidewalk width < 12 feet, wide sidewalk width > 12 feet
3. Low restaurant concentration 1 to 3 restaurants per block, medium 4 to 8 restaurants per block, high greater than 8 restaurants per block
4. Assumed number of applicable outdoor seating facilities (sidewalk, roadway, or combined sidewalk and roadway open restaurants) per block face

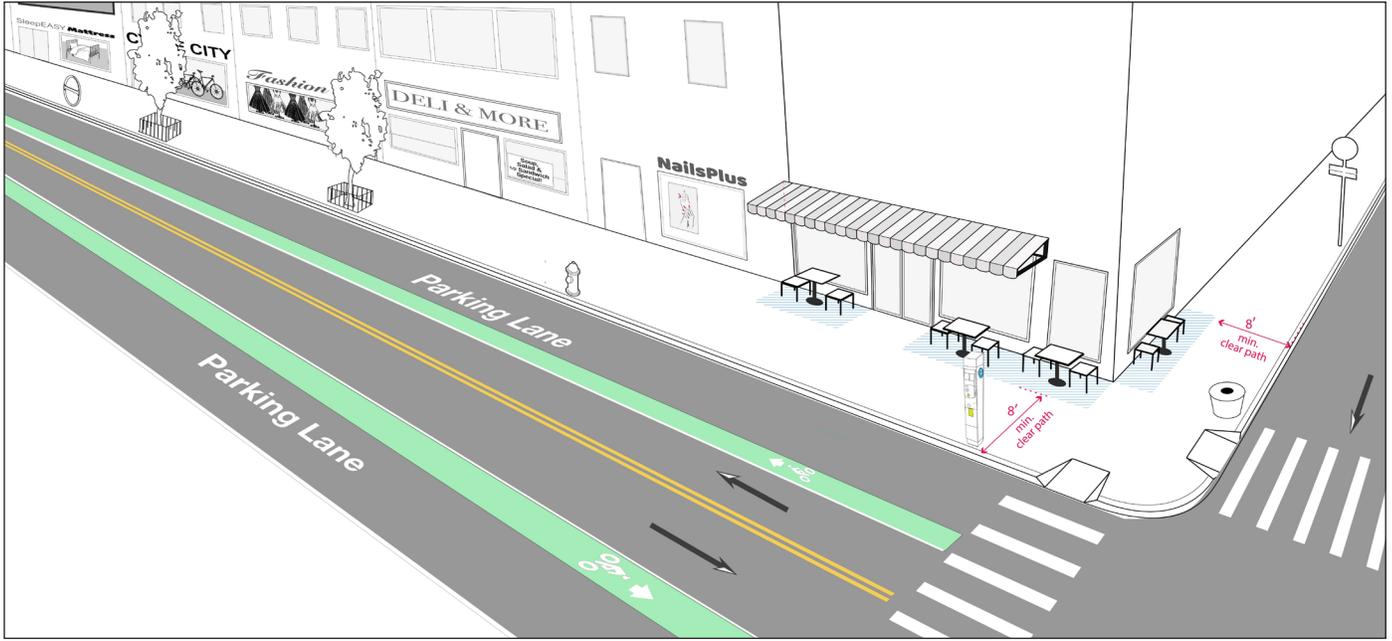
PROTOTYPE 1: LOCAL/NEIGHBORHOOD-SERVING CORRIDOR WITH LIMITED SPACE

As illustrated in **Figure A-5**, this prototype evaluates the effects of the Proposed Action on a mixed, local/neighborhood-serving street with limited sidewalk and roadway space. This corridor is assumed to be in a medium density (R5-R6) zoning district with a commercial overlay and have 3- to 5-story mixed use residential buildings with local retail on the ground floor, including a medium concentration of restaurants. It is on a narrow two-way street with one travel lane, one bicycle lane and curbside parking in each direction. This corridor is assumed to have relatively narrow space in the roadway, with a street width of less than 75 feet and a sidewalk width of 10 to 12 feet.

In the No Action condition, this corridor is assumed to be currently eligible for sidewalk café seating under the existing program, with one sidewalk café on one side of each block. In the With Action condition, it is assumed that there would be up to two open restaurants per block face – one sidewalk seating only and one a combination of roadway and sidewalk seating. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 10 feet.

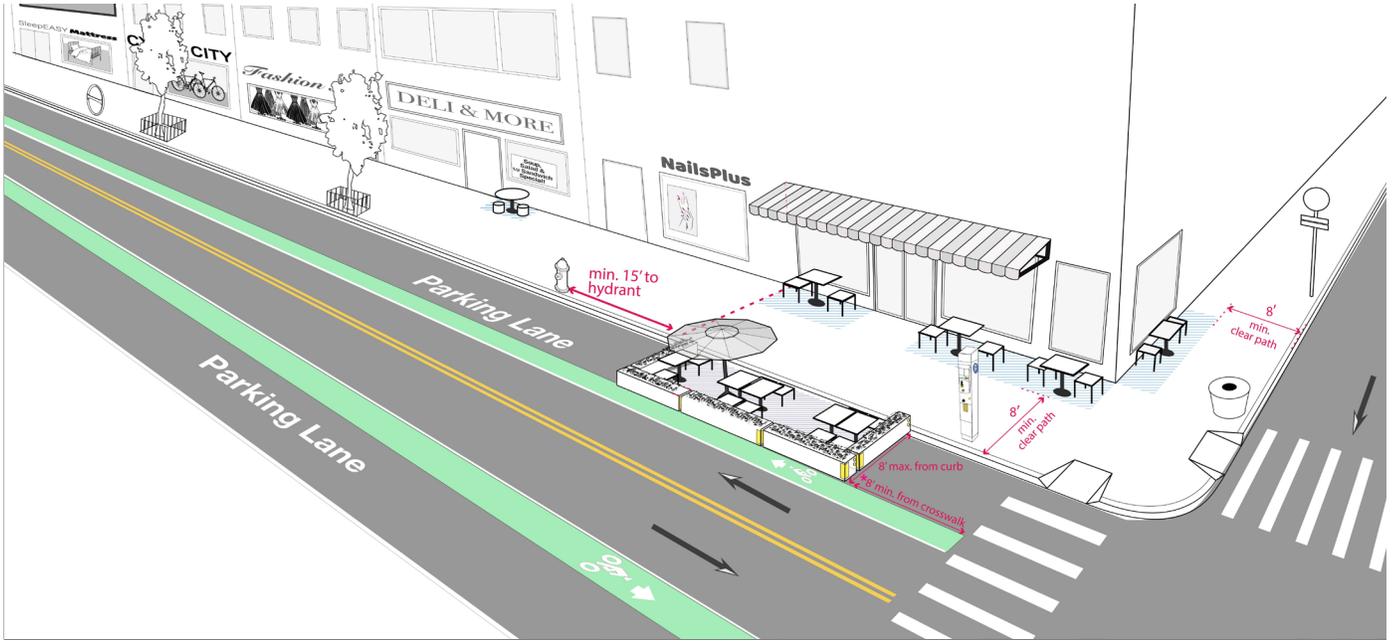
This prototype also covers restaurants located in residential (R1-R10) zoning districts without commercial overlays, which are allowed to operate in otherwise disallowed locations due to a grandfathered condition. These restaurants are ineligible for sidewalk café seating in the No Action condition and eligible under the With Action condition. This unique condition typified in

6.3.21



No Action

Source: NYC DOT



With Action

Note: Not to scale. For illustrative purposes only

Note: For roadways where 15 feet of clear width between parked/queued vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Illustrative Rendering of No Action vs. With Action Conditions:
Prototype 1 – Local/Neighborhood-Serving Corridor with Limited Space

Permanent Open Restaurants Program

this prototype will be used for certain analyses, including noise, to understand the potential impact of the Proposed Action in the most limiting cases.

PROTOTYPE 2: NEIGHBORHOOD/DISTRICT HUB WITH CONCENTRATION OF RESTAURANTS

As illustrated in **Figure A-6**, this prototype evaluates the effects of the Proposed Action on a neighborhood/district hub corridor with a concentration of restaurants, including in elevated rail corridors. This prototype has similar features the Prototype 1, above except that it exhibits wider sidewalks and ranges from medium density to higher density and can be featured in more commercial areas. This prototype is assumed to be in a medium/high density commercial district (C4) that is also surrounded by residential neighborhoods and is well-served by transit. This corridor is assumed to have low- to medium-rise commercial and mixed residential/commercial buildings with local retail on the ground floor, including a medium to high concentration of restaurants. It is on a narrow two-way street with one travel lane, one bicycle lane, and curbside parking in each direction, further constricted by elevated rail infrastructure in some cases. This corridor is assumed to have a street width of less than 75 feet and have 12- to 15-foot wide sidewalks.

In the No Action condition, this corridor is assumed to be currently ineligible for sidewalk café seating under the existing program. In the With Action condition, is assumed that there would be up to four open restaurants per block face – two sidewalk seating only and two a combination of roadway and sidewalk seating. It is assumed that there would be a maximum of two consecutive open restaurants on a given block face. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 15 feet.

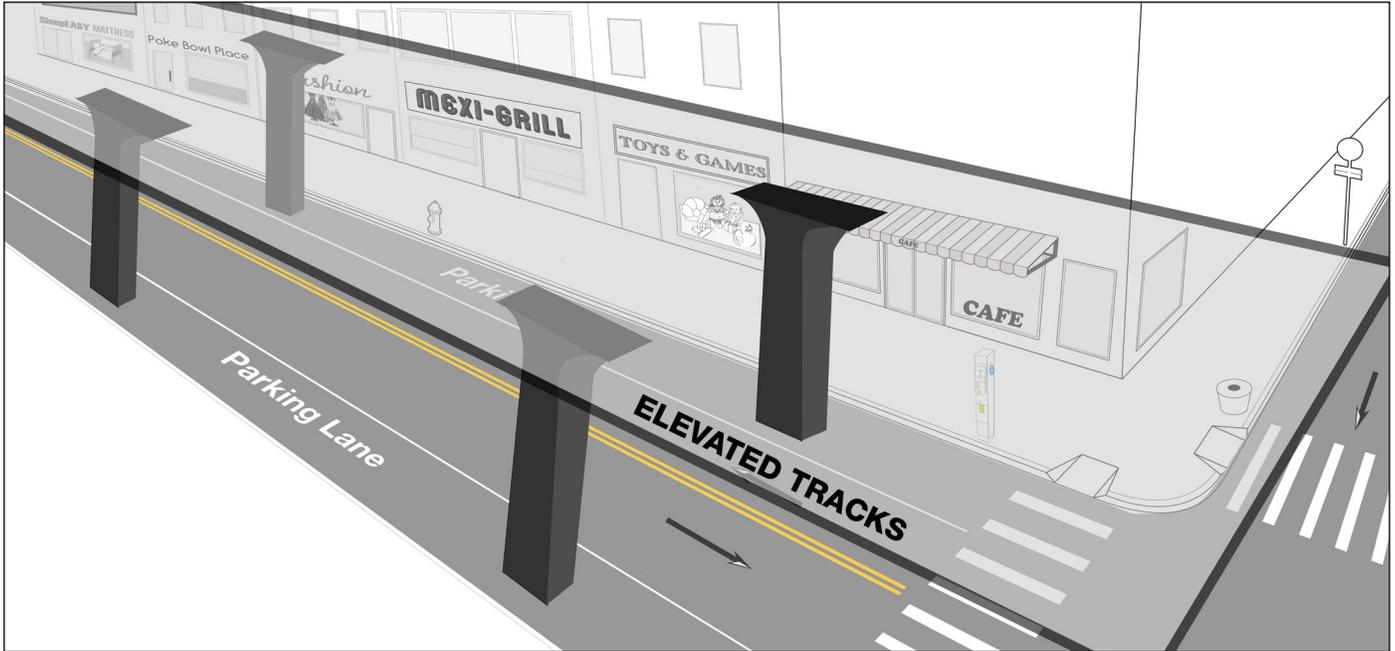
PROTOTYPE 3: WIDE STREET IN AUTO-CENTRIC AREA WITH A CONCENTRATION OF RESTAURANTS

As illustrated in **Figure A-7**, this prototype evaluates the effects of the Proposed Action on a wide street in an auto-centric area with a concentration of restaurants. This prototype is a neighborhood-serving corridor in a low-density neighborhood that is in an auto-centric area. This corridor is assumed to be in a low density residential (R3-R4) zoning district with a commercial overlay and to have 1- to 3-story, mostly commercial buildings with some mixed use residential buildings with local retail on the ground floor. This corridor has a high percentage of restaurants. It is on a wide two-way street, greater than 75 feet in width, with two travel lanes and a center median/left-turning lane and curbside parking in each direction. This corridor is assumed to have 15- to 20-foot wide sidewalks.

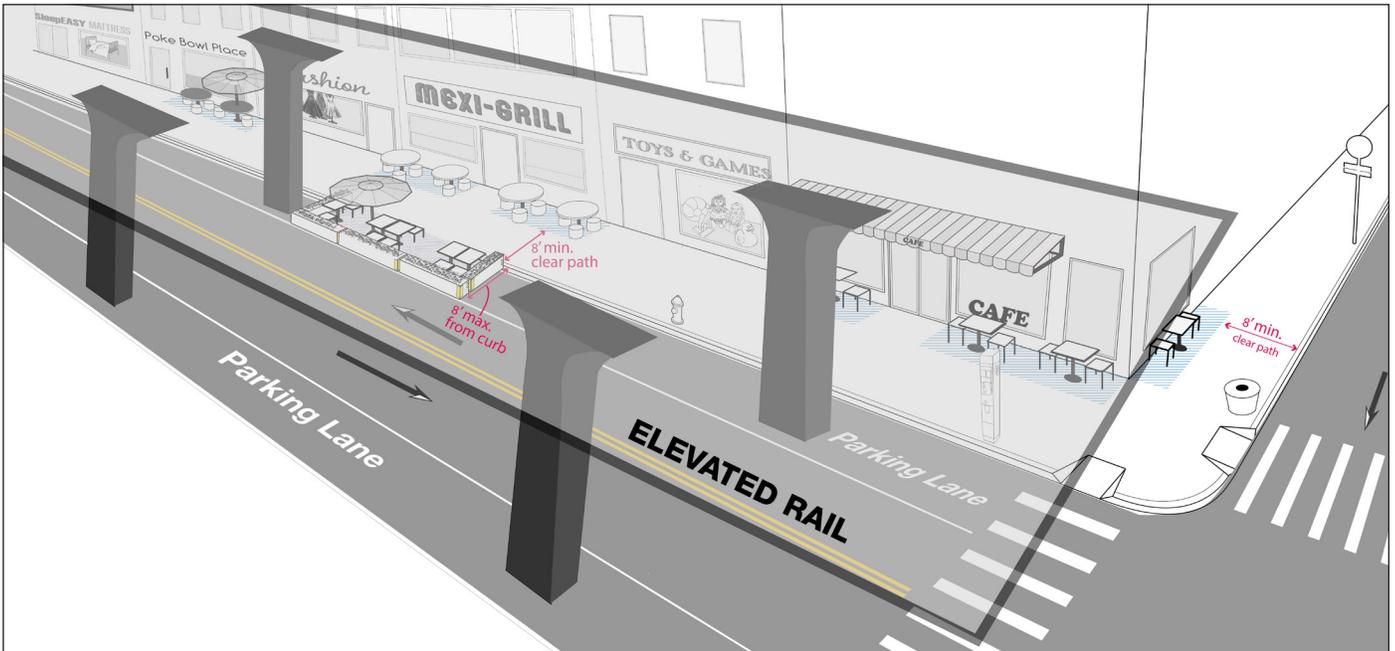
In the No Action condition, it is assumed that this corridor does not include any sidewalk cafés. The With Action condition assumes four open restaurants per block face – one sidewalk seating only and three a combination of sidewalk and roadway seating. This assumption serves to demonstrate the potential effects of parking loss in the prototypical auto-centric area. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 15 feet.

PROTOTYPE 4: WIDE AVENUE IN CENTRAL BUSINESS DISTRICT WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

As illustrated in **Figure A-8**, this prototype evaluates the effects of the Proposed Action on wide avenues in central business district (CBD) and transit corridor areas with significant roadway and



No Action



With Action

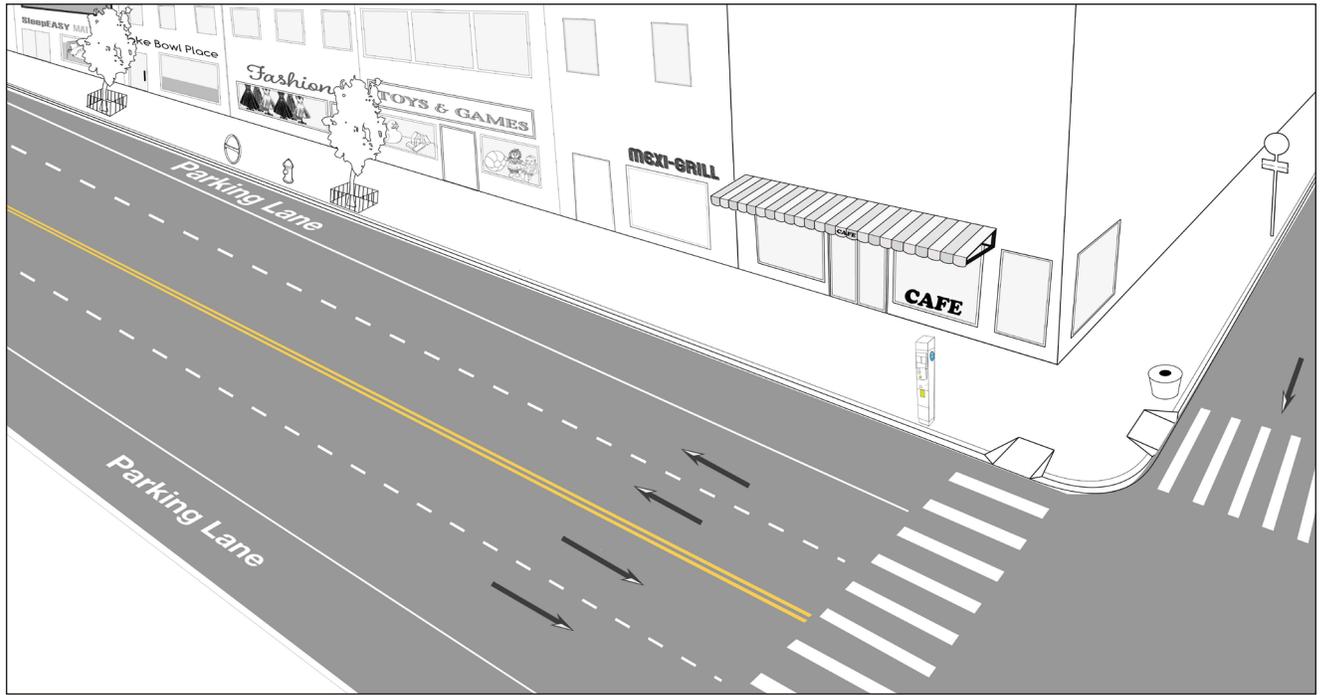
Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

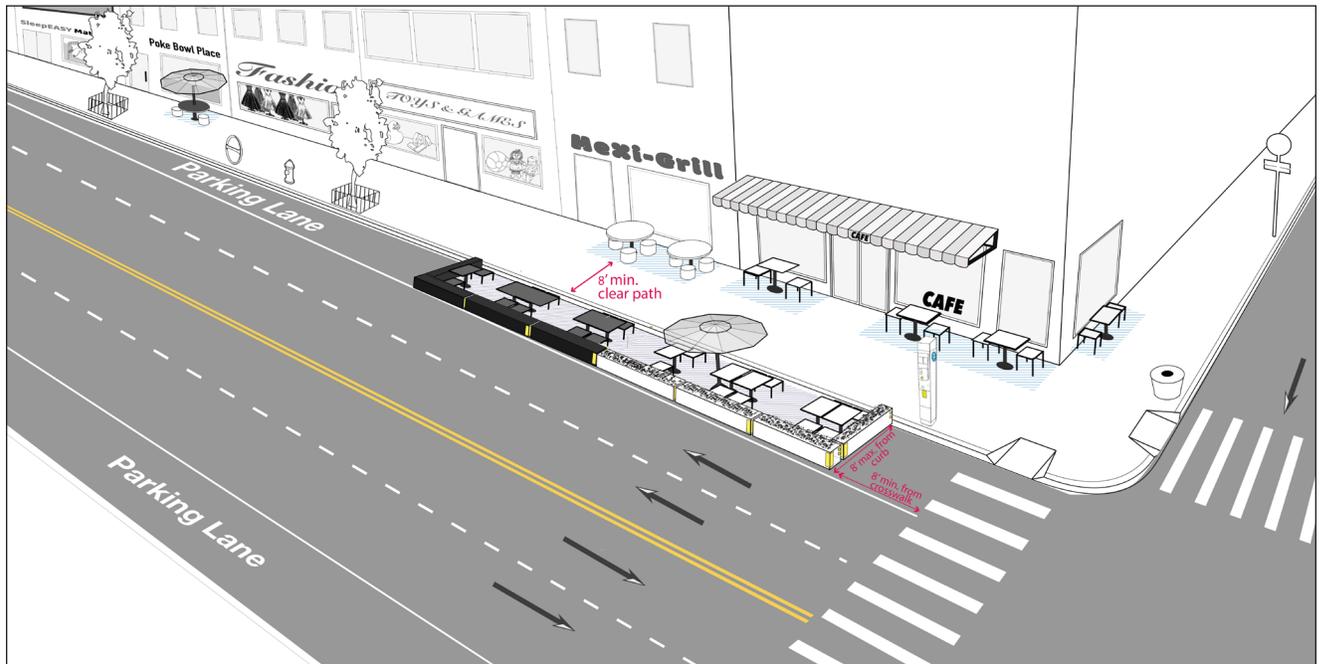
Note: For roadways where 15 feet of clear width between parked/queued vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Illustrative Rendering of No Action vs. With Action Conditions:
Prototype 2 – Neighborhood/District Hub
with Concentration of Restaurants

Figure A-6



No Action



Source: NYC DOT

With Action

Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

Illustrative Rendering of No Action vs. With Action Conditions: Prototype 3 – Wide Street in Auto-Centric Area with a Concentration of Restaurants

sidewalk space in the right-of-way (ROW). This prototype reflects CBD avenues, which represent the highest pedestrian activity. This corridor is assumed to be in a high density commercial (C5-C6) zoning district with high-rise commercial office buildings with ground floor retail as well as some mixed use office/residential buildings with ground floor retail, including a medium concentration of restaurants. It is on a wide one-way street with four travel lanes and curbside lanes that are regulated primarily for loading and bus stops/lanes during weekdays. This corridor is assumed to have a street width of greater than 75 feet and 15- to 20-foot wide sidewalks.

In the No Action condition, it is assumed that this corridor does not include any sidewalk cafés. The With Action condition assumes that there would be two open restaurants per block face, both of which would be sidewalk seating only. As described above in Section C. Description of the Proposed Action, under the proposed POR program, a minimum 12-foot wide pedestrian clear path would be required to implement sidewalk seating on streets within this prototype. It is assumed that the curbside activity and regulations in effect in this corridor would preclude implementation of roadway seating areas. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 19 feet.

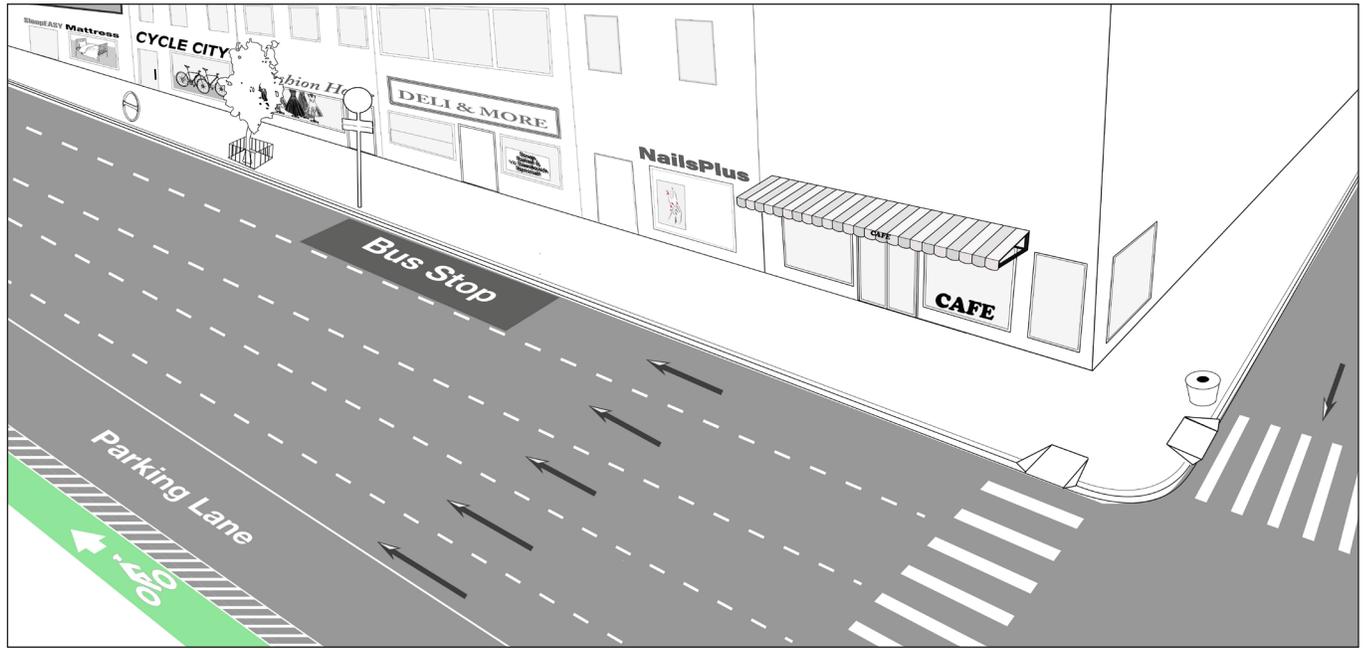
PROTOTYPE 5: WIDE AVENUE IN HIGH DENSITY RESIDENTIAL NEIGHBORHOOD WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

As illustrated in **Figure A-9**, this prototype evaluates the effects of the Proposed Action on wide avenues in high-density, residential neighborhoods and transit corridor areas with significant roadway and sidewalks space in the ROW. This prototype reflects wide avenues in high-density residential districts with medium-to-high pedestrian activity and is assumed to be in a high density residential (R9-R10) zoning district with a commercial overlay and located near transit. The corridor has medium- to high-rise mixed use residential/commercial buildings with ground floor retail and a high concentration of restaurants. It is on a one-way street with three travel lanes, a curbside parking lane on one side of the street and a protected bike lane with an adjacent parking lane on the other side. This corridor is assumed to have a street width of greater than 75 feet and 15- to 20-foot wide sidewalks.

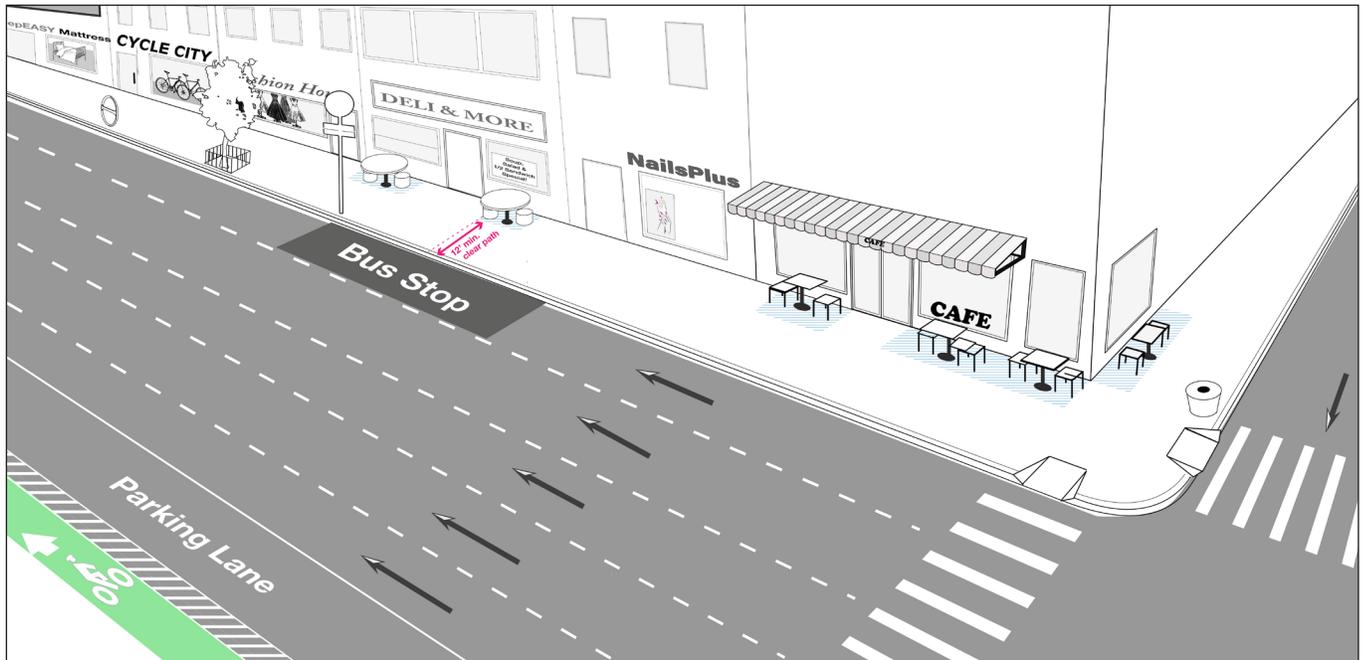
In the No Action condition, this corridor is assumed to be currently eligible for sidewalk café seating under the existing program, with one sidewalk café on one side of each block. Given that this corridor is in a more residential area with more local restaurants as compared to Prototype 4, the With Action condition assumes a higher rate of open restaurant implementation, with an assumed four open restaurants per block face – two sidewalk seating only, one roadway seating only, and one a combination of roadway and sidewalk seating. It is assumed that there would be a maximum of two consecutive open restaurants on a given block face. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 17 feet.

PROTOTYPE 6: RESTAURANT STREET

As illustrated in **Figure A-10**, this prototype evaluates the effects of the Proposed Action on restaurant streets, which are considered to be long blocks with on narrow streets with a high volume of pedestrian traffic and a high concentration of restaurants. This corridor is typified by narrow sidewalks dominated by low-rise buildings, except near the avenues, with stoops and many other obstructions. It is on a one-way street with one travel lane and parking lanes on both sides. This corridor is assumed to have a narrow street width of less than 75 feet and narrow sidewalks less than 12 feet in width.



No Action



Source: NYC DOT

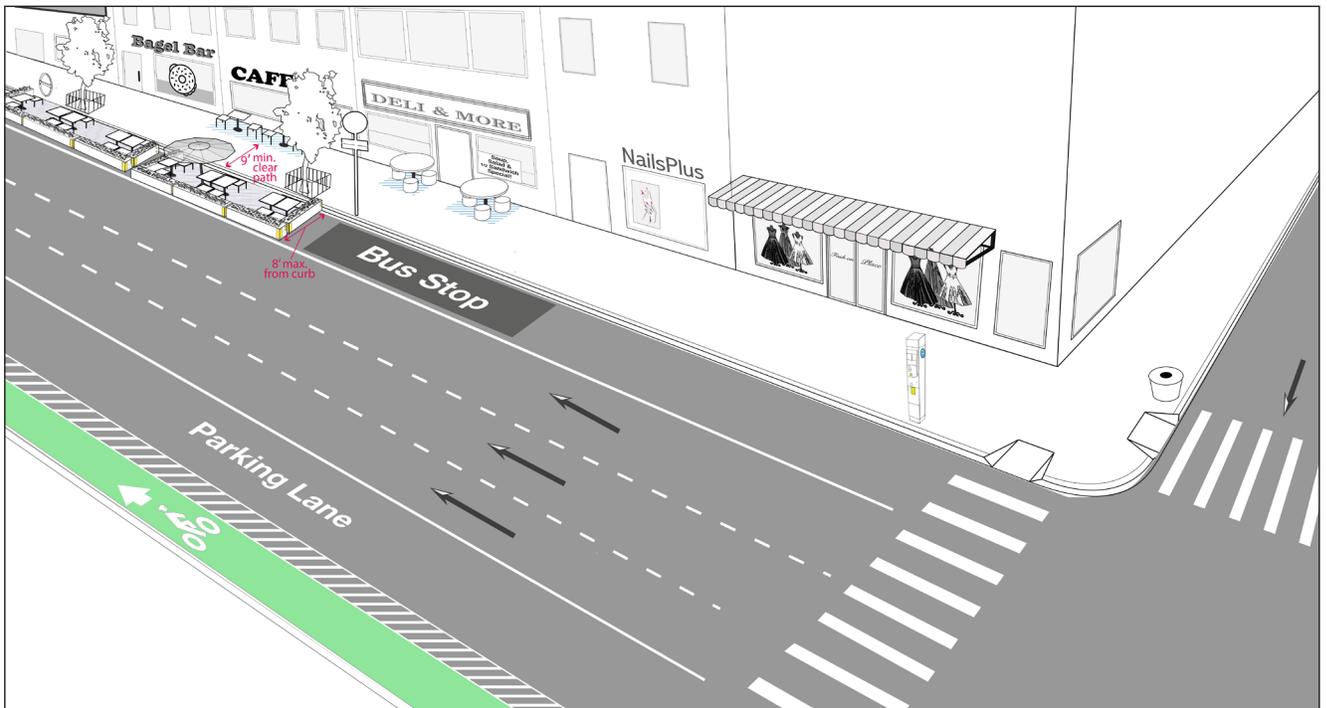
With Action

Note: Not to scale. For illustrative purposes only

Illustrative Rendering of No Action
 vs. With Action Conditions:
 Prototype 4 – Wide Avenue in Central Business District
 with Significant Space in the Right-of-Way



No Action



With Action

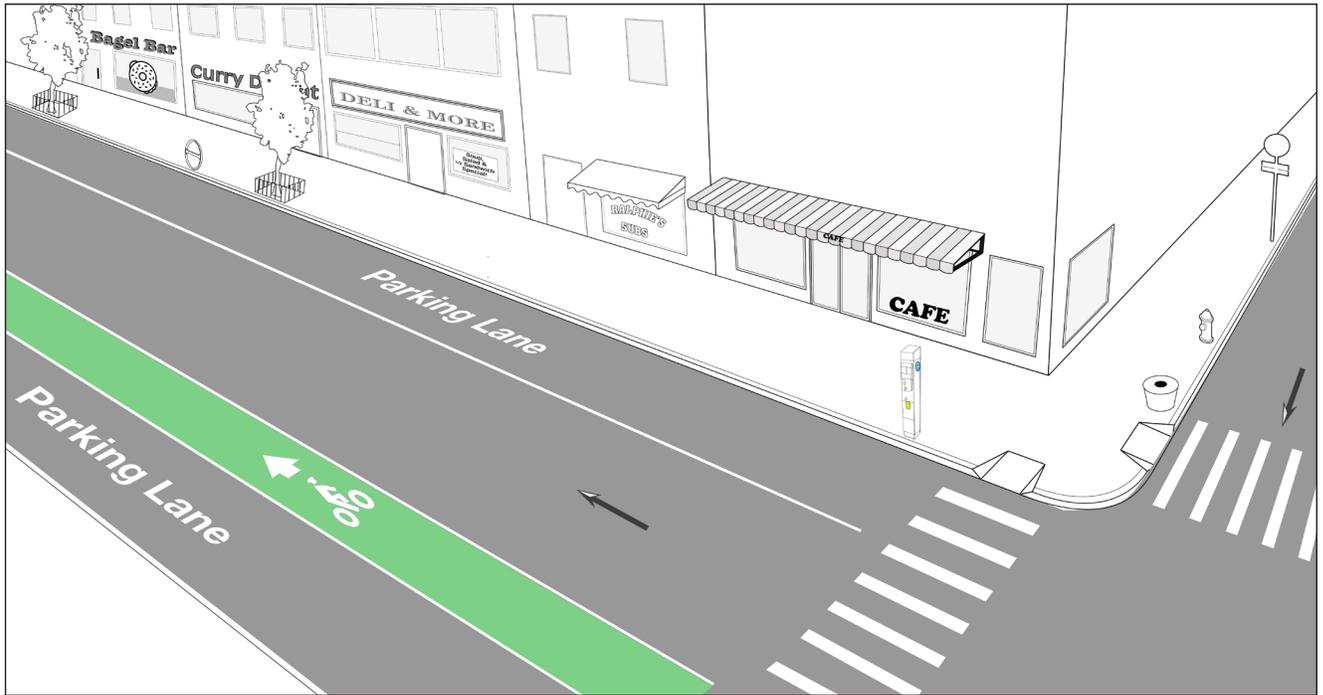
Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

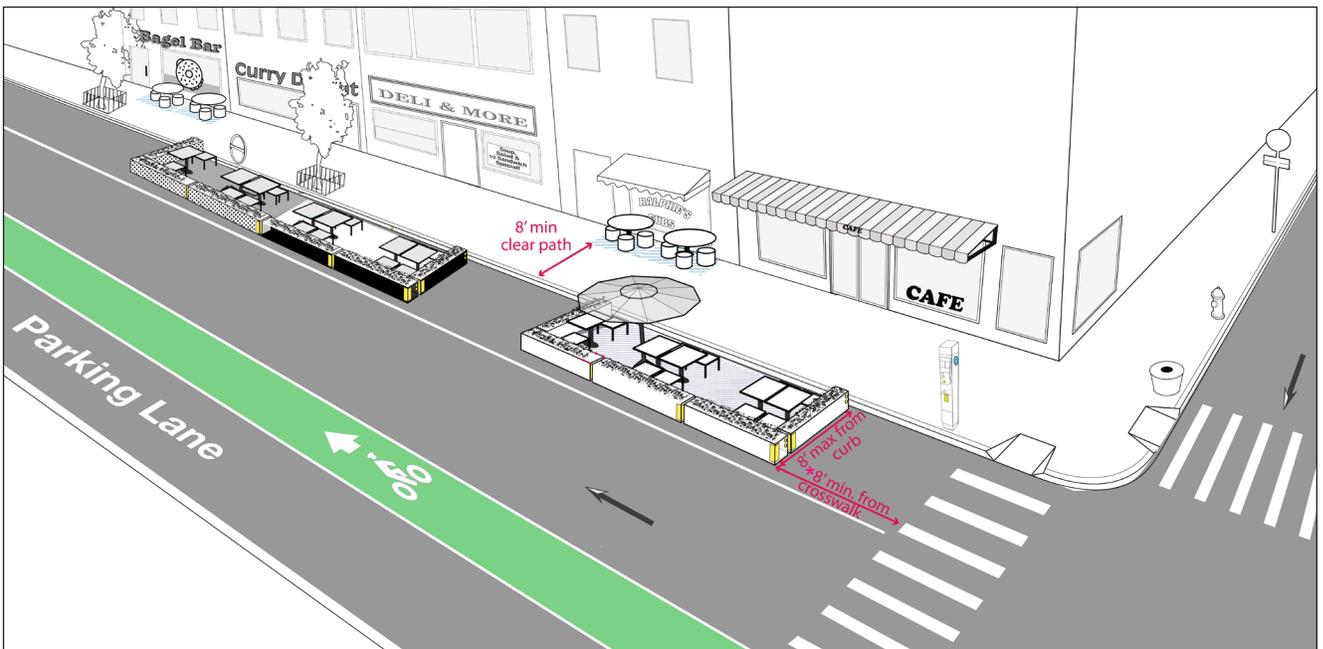
Source: NYC DOT

Illustrative Rendering of No Action vs. With Action Conditions: Prototype 5 – Wide Avenue in High Density Residential Neighborhood with Significant Space in the Right-of-Way

Figure A-9



No Action



With Action

Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

Note: For roadways where 15 feet of clear width between parked vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Source: NYC DOT

Illustrative Rendering of No Action vs. With Action Conditions: Prototype 6 – Restaurant Street

Figure A-10

Permanent Open Restaurants Program

In the No Action condition, it is assumed that this corridor does not include any sidewalk cafés. Given the high concentration of restaurants, the With Action condition assumes six open restaurants per block face – two sidewalk seating only and four roadway seating only. It is assumed that a maximum of three of these open restaurants would be located consecutively on a given block face. While this prototype demonstrates the worst case for total and consecutive open restaurants on a given block face, they are assumed to primarily consist of roadway seating due to the limited sidewalk space in this corridor. For analysis purposes, in both the No Action and With Action conditions this prototype is assumed to have an average sidewalk width of 11 feet.

ANALYSIS YEAR

Local Law 114 of 2020 stipulates that the POR program is to be implemented following the expiration of the temporary program on September 30, 2021. Therefore, an analysis year of 2022 has been identified for this environmental review, as the first full year of program implementation.

G. ENVIRONMENTAL ASSESSMENT SCREENING

All environmental analyses were performed in accordance with the guidance contained in the *CEQR Technical Manual*. Outdoor dining facilities operating under the POR program would also be subject to the requirements of applicable laws, codes, and regulations, including the New York City Building Code and the New York City Noise Code. For categories in which the Proposed Action would not have the potential to result in any significant adverse impacts, no further analysis is necessary. Further assessments of Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Historic and Cultural Resources; Urban Design and Visual Resources; Transportation; Air Quality; Noise; and Neighborhood Character are provided as part of this EAS.

The identification of potential environmental impacts is based upon the comparison of the No Action and With Action conditions. In certain technical areas (e.g., air quality and noise) this comparison can be quantified, and the severity of any potential impact rated in accordance with the *CEQR Technical Manual*. In other technical areas, (e.g., urban design and visual resources) the analysis is qualitative in nature. The methodology for each analysis is presented at the start of each technical analysis. As summarized below and in the attachments to this EAS, the Proposed Action would not result in any significant adverse environmental impacts.

LAND USE, ZONING, AND PUBLIC POLICY

See Attachment B, “Land Use, Zoning, and Public Policy.”

SOCIOECONOMIC CONDITIONS

See Attachment C, “Socioeconomic Conditions.”

COMMUNITY FACILITIES AND SERVICES

Community facilities, as defined under CEQR, include public or publicly funded schools, libraries, publicly funded child care centers, health care centers, and fire and police protection. A project can affect these facilities and services when it physically displaces or alters a community facility or causes a change in population that may affect the services delivered by a community facility, such as by creating a demand that could not be met by the existing facility. According to the *CEQR Technical Manual*, a detailed community facility analysis is conducted when a proposed action

would have a direct or indirect effect on a community facility. The criteria for a detailed analysis of indirect effects on a community facility are as follows:

- *Public Schools* – 50 or more elementary/intermediate school students or 150 or more high school students.
- *Libraries* – More than five percent increase in ratio of residential units to library benches.
- *Early Childhood Programs (Publicly Funded)* – 20 or more eligible children under the age of six based on the number of low or low/moderate-income units.
- *Health Care Facilities* – Introduction of a sizeable new neighborhood.
- *Fire and Police Protection* – Introduction of a sizeable new neighborhood.

The Proposed Action is not in-and-of-itself expected to induce development or lead to new restaurants where they would not otherwise have occurred absent the Proposed Action; therefore, the Proposed Action would not directly displace a community facility or introduce a new residential population that would result in increased demand for community facilities and services. As restaurants would be required to maintain specified offsets from existing street obstructions and maintain minimum clear widths, the Proposed Action would also not affect the ability of the local police and fire departments to provide protection services. Therefore, the Proposed Action would not result in any adverse impacts on community facilities and services and no further analysis is necessary.

OPEN SPACE

The *CEQR Technical Manual* recommends performing an open space assessment if a proposed action would have a direct effect on an open space (i.e., displacement of an existing open space resource) or an indirect effect through increased population size. Indirect effects may occur when a population generated by a proposed action would be sufficiently large to noticeably diminish the ability of an area's open spaces to serve the future population. The Proposed Action is not expected to directly displace any open space resources, induce any new residential development, or introduce additional restaurant workers. Therefore, the Proposed Action would not result in any adverse impacts on open space and no further analysis is necessary.

SHADOWS

A shadows assessment is conducted when a proposed project could result in new shadows long enough to reach a sunlight-sensitive resource. The *CEQR Technical Manual* recommends conducting a shadows analysis only if the project would result in new structures (or additions to existing structures) of 50 feet or more, or if the project would be located adjacent to or across the street from a sunlight-sensitive resource. Further, if a project's height increase is ten feet or less and is located adjacent to or across the street from a sunlight-sensitive open space resource, which is not a designated New York City Landmark or listed on the State/National Registers of Historic Places (or eligible for these programs), the lead agency may determine whether a shadow assessment is appropriate. Given that the Proposed Action would not result in any new permanent structures nor any structures greater than ten feet, the Proposed Action would not result in any adverse shadows and no further analysis is necessary.

HISTORIC AND CULTURAL RESOURCES

See Attachment D, "Historic and Cultural Resources."

URBAN DESIGN AND VISUAL RESOURCES

See Attachment E, “Urban Design and Visual Resources.”

NATURAL RESOURCES

A natural resources assessment is conducted when a natural resource is present on or near a project site and when an action involves the disturbance of that resource. The *CEQR Technical Manual* defines natural resources as water resources, including surface waterbodies and groundwater; wetland resources, including freshwater and tidal wetlands; upland resources, including beaches, dunes, and bluffs, thickets, grasslands, meadows and old fields, woodlands and forests, and gardens and other ornamental landscaping; and built resources, including piers and other waterfront structures.

The Proposed Action would not result in significant adverse impacts to natural resources. The Proposed Action itself is not expected to induce development or lead to new restaurants on sites where natural resources exist and where development would not have otherwise been possible. In addition, in many areas where natural resources exist, there are regulations that ensure their protection. These regulations include New York State Department of Environmental Conservation tidal and freshwater wetland regulations, the New York State Coastal Zone Management Program, and special zoning designations including Special Natural Area zoning. The Proposed Action would not eliminate and/or change the existing protections. As such, the Proposed Action would not result in significant adverse impacts to natural resources and no further analysis is warranted. No effects to natural resources, new incremental soil disturbance or effects to groundwater are anticipated, and the Jamaica Bay Watershed Form is not necessary for this generic proposal.

HAZARDOUS MATERIALS

A hazardous materials assessment determines whether a proposed action may increase the exposure of people or the environment to hazardous materials, and, if so, whether this increased exposure would result in potential significant public health or environmental impacts. The potential for significant impacts related to hazardous materials can occur when: (a) elevated levels of hazardous materials exist on a site and the project would increase pathways to human or environmental exposures; (b) a project would introduce new activities or processes using hazardous materials and the risk of human or environmental exposure is increased; or (c) the project would introduce a population to potential human or environmental exposure from off-site sources.

The Proposed Action would not introduce or incentivize any new ground disturbance, introduce new activities or processes using hazardous materials, or introduce a population to exposure from off-site sources. No significant adverse impacts on hazardous materials are anticipated, and further analysis is not needed.

WATER AND SEWER INFRASTRUCTURE

The *CEQR Technical Manual* requires an assessment of the potential effects of a proposed action on the City’s water supply, wastewater treatment, and stormwater management infrastructure to ensure that these systems have adequate capacity to accommodate land use or density changes. According to the *CEQR Technical Manual*, only projects that increase density or change drainage conditions on a large site require such an analysis. The Proposed Action itself is not expected to induce development or to lead to new restaurants. Additionally, the siting criteria and provisions

related to the POR program would ensure that proper access to utility covers and associated infrastructure would be maintained, and that drainage would not be hindered. Furthermore, POR operations would not be allowed to disrupt infrastructure capital improvement projects, maintenance and emergency repair work. Therefore, no further analysis is warranted and there would be no potential for Proposed Action to adversely affect the City's water and sewer infrastructure.

SOLID WASTE AND SANITATION SERVICES

A solid waste assessment determines whether an action has the potential to cause a substantial increase in solid waste production that may overburden available waste management capacity or otherwise be inconsistent with the City's Solid Waste Management Plan or with State policy related to the City's integrated solid waste management system. The *CEQR Technical Manual* specifies that few projects generate substantial amounts of solid waste (50 tons per week or more) that would result in a significant adverse impact. The Proposed Action is not expected to induce development or result in new restaurants, and thus would not result in development that generates more than 50 tons of solid waste per week.

The Proposed Action would allow for restaurants to provide customer seating areas on sidewalks in front of their restaurants and roadway seating in the adjacent curb lane. Restaurant solid waste and recyclables are handled by private carting companies. Buildings are required to place all solid waste generated by their tenants on the sidewalk at the curb for pick-up by private carters (for commercial waste including from restaurants) and by the New York City Department of Sanitation (DSNY) (for residential waste). Sidewalk seating areas under the Proposed Action would occupy sidewalk space on the building side directly in front of the restaurant, and would therefore not directly interfere with curbside storage of waste for pickup. It is anticipated that due to odor and customer experience considerations restaurants with sidewalk seating would not place solid waste for pick-up directly next to sidewalk seating space during operating hours, with sidewalk storage and eventual pick up of the waste instead occurring during off-hours. Residential buildings may place waste material at the curb for DSNY collection beginning at 4:00 p.m. the evening before scheduled collection, per 16 RCNY §1-02.1. Thus, for mixed-use properties with residential above commercial spaces with restaurants, residential waste may be set out collection during operating hours of sidewalk seating. It is assumed that any temporal overlap between residential waste set out and restaurant sidewalk seating would be limited, and that restaurant operators would either temporarily move seating or coordinate this timing with the building owner. Further, as waste set out for collection is moveable and temporary, it does not affect the minimum clear width for a given sidewalk. Therefore, the sidewalk cafes developed under the Proposed Action are not expected to interfere with the handling of solid waste generated by commercial or residential tenants, nor is solid waste expected to interfere with restaurant operations in the Proposed Action.

In terms of roadway seating allowed under the Proposed Action, the siting criteria and provisions that define where roadway seating could occur would limit the potential for these seating areas to interfere with sanitation operations, including the pick-up of solid waste or the cleaning of streets. Such criteria include limiting seating areas to the existing parking lane and stipulating that roadway seating may not block existing No Stopping Anytime, No Standing Anytime, or other loading zone areas. Additionally, participating restaurants would be required to keep the interior of their roadway dining areas clean, and would also be responsible for cleaning up to 18 inches along the outside of their roadway dining setouts to prevent the accumulation of litter around the exterior of these areas. Participating restaurants would also be required to clean along the curbline for 8 feet in either direction from the edges of their roadway dining setout to prevent litter

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accumulation in areas made inaccessible by DSNY mechanical brooms due to minimum turning radius. Further, roadway seating applications on streets with more than 25 percent of the roadway allocated would be reviewed by NYCDOT staff to evaluate street layout and consider reconfiguration of the street and/or loading zones if needed. NYCDOT would inform DSNY of any street reconfigurations or loading zone evaluations where necessary.

As the roadway dining program would be limited to warmer times of the year, the program would not interfere with DSNY snow removal. While snow accumulation could occur during the roadway dining season, in these instances DSNY would be able to navigate around roadway setouts given that roadway dining areas would not extend beyond 8 feet from the curb line. Therefore, no further analysis is required, and the Proposed Action would not result in any significant adverse impacts to solid waste and sanitation services.

ENERGY

According to the *CEQR Technical Manual*, a detailed assessment of energy impacts would be limited to actions that could significantly affect the transmission or generation of energy or that generate significant consumption of energy. The entire City is served by energy suppliers and the Proposed Action is not expected to generate significant demand for energy. Therefore, no further analysis is required and the Proposed Action would not result in significant adverse impacts to the consumption or supply of energy.

TRANSPORTATION

See Attachment F, "Transportation."

AIR QUALITY

See Attachment G, "Air Quality."

GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

The *CEQR Technical Manual* recommends that a greenhouse gas (GHG) consistency assessment be undertaken for any project preparing an environmental impact statement expected to result in 350,000 square feet or more of development and other energy-intense projects. The Proposed Action would not result in the development of any new permanent structures. While food establishments may install outdoor comfort heating equipment to serve new sidewalk seating locations, these would be limited to radiant heaters fueled by electricity or natural gas. Comfort heating equipment would not be allowed in roadway seating areas, which would be limited seasonally and would not operate during the coldest months on the year. Propane heaters would not be allowed in any outdoor dining setting. Given these requirements and the anticipated seasonality of outdoor dining installations, additional comfort heating equipment in the With Action condition would be minor and is not anticipated to result in a significant increase of GHG emissions. Therefore, no further assessment of GHG emissions is required.

Regarding resilience to potential climate conditions, the Proposed Action has citywide applicability and sites that are eligible for outdoor dining facilities as part of the Proposed Program may be located in current federally-designated flood hazard areas. With climate change, flood hazard areas are likely to expand in the future and the depth of flooding in those areas is likely to increase. The resilience of new outdoor dining facilities under the Proposed Action is described in

greater detail in the Waterfront Revitalization Program (WRP) consistency assessment statement (see **Attachment B, “Land Use, Zoning, and Public Policy”, and Appendix 3**).

Restaurants in very low-lying areas of the city, such as those directly along the waterfront, may be exposed to more regular tidal flooding as sea levels rise, which may increase the frequency of disruption of outdoor dining operation in these areas. Temporary structures associated with the newly eligible outdoor dining facilities under the Proposed Action, such as tables, chairs, or umbrellas, are features that may be damaged by flooding. However, they are not likely to present significant consequences as they would be secured or removed from the sidewalk and/or roadway prior to a flood event. Additionally, the Proposed Action would not hinder the ability of buildings to incorporate future adaptive strategies to mitigate future flood risks. Therefore, the Proposed Action would not adversely impact other resources (including ecological systems, public access, visual quality, water-dependent uses, infrastructure, and adjacent properties) due to climate change, and no further assessment is required.

NOISE

See Attachment H, “Noise.”

PUBLIC HEALTH

According to the *CEQR Technical Manual*, a public health assessment considers if a project will have adverse impacts on public health and, if so, identifies ways to mitigate these effects. A public health assessment is warranted if a project would result in significant unmitigated adverse impacts in the areas of air quality, water quality, hazardous materials, or noise. The Proposed Action would not result in significant adverse impacts in any of the areas that affect public health; therefore, a public health assessment is not warranted.

NEIGHBORHOOD CHARACTER

See Attachment I, “Neighborhood Character.”

CONSTRUCTION

As described in Section C, “Description of the Proposed Action,” the Proposed Action would affect zoning and administrative regulations on a citywide basis and would result in changes to the permit requirements and review process for outdoor restaurant dining. The Proposed Action is not expected to induce development or result in new restaurants, and thus is not anticipated to result in substantial construction activities. Outdoor dining areas under the Proposed Action are anticipated to not be fully unenclosed and not designed for winterization, and thus inherently temporary and moveable. Installation of the furniture associated with these outdoor dining facilities would not require in-ground disturbance or substantial construction.

Based on *CEQR Technical Manual* guidelines, where the duration of construction is expected to be short-term (less than two years), detailed construction assessment is not warranted. If the duration of construction is expected to be short-term, those potential impacts are considered temporary. Further, if any construction activities are required, they would be carried out in accordance with applicable building codes and regulations, and NYC Building Department permits. In addition, any designated NYCL or S/NR-listed historic buildings located within 90 linear feet of a projected or potential new construction site would be subject to the protections of DOB’s *TPPN #10/88*, which would ensure that any development resulting from the Proposed

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Action would not result in any significant adverse construction-related impacts to designated historic resources. As such, the Proposed Action would not result in significant adverse construction impacts. *

A. INTRODUCTION

This attachment assesses the potential impacts of the Proposed Action on land use, zoning, and public policy in the future with the Proposed Action (the With Action condition), as compared to conditions in the future without the Proposed Action (the No Action condition). According to the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, a land use analysis evaluates the uses and development trends in the area that may be affected by a proposed action and determines whether a proposed action is compatible with those conditions or may affect them. The analysis also considers a proposed action's compliance with, and effect on, the area's zoning and other applicable public policies.

As described in Attachment A, "Project Description," the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a permanent Open Restaurants (POR) program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the "Proposed Action"). The Proposed Action requires discretionary approval from the New York City Planning Commission (CPC) associated with the zoning text amendment and is subject to a public review process per the Uniform Land Use Review Procedure (ULURP).

According to the *CEQR Technical Manual*, a land use and zoning analysis is warranted for projects involving a change in land use or zoning. As the Proposed Actions involve a number of discretionary actions including zoning text amendments, an analysis is warranted. This land use analysis evaluates the uses and development trends that may be affected by the Proposed Action and determines whether the Proposed Action is compatible with those conditions or may affect them. Similarly, the analysis considers the Proposed Action's compliance with, and effect on, the area's zoning and other applicable public policies. Overall, the assessment finds that the Proposed Action would not have any significant adverse impacts on land use, zoning, or public policy.

B. METHODOLOGY

Consistent with *CEQR Technical Manual* guidelines, the Proposed Action is analyzed in this EAS as a "generic action," because the POR program would be implemented citywide, it is difficult to predict the specific sites where sidewalk or roadway dining usage would be expanded. According to the *CEQR Technical Manual*, generic actions are programs and plans that have wide application or affect the range of future alternative policies. Usually these actions affect the entire city or an area so large that a site-specific description or analysis is not appropriate.

The With Action condition identifies the location of restaurants that would be eligible to apply for a POR permit under the new permanent program by 2022 as a result of the Proposed Action. The No Action condition identifies the existing sidewalk café program administered by the New York

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City Department of Consumer Affairs and Worker Protection (DCWP) that would remain applicable absent the Proposed Action in the analysis year of 2022. The incremental difference between the two conditions serves as the basis for the impact analyses.

Following the onset of the COVID-19 pandemic in 2020, the existing program, which involves a discretionary review process through DCWP, was suspended and replaced by a temporary program per Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128. The temporary Open Restaurants Program (the “temporary program”) is an emergency effort to implement a citywide program to expand outdoor seating options for food service establishments to promote open space, enhance social distancing, and help them rebound in difficult economic times. Under the temporary program, individual food service establishments may apply to the New York City Department of Transportation (NYCDOT) and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. The temporary program is set to expire in September 2021; therefore, the No Action condition assumes that in the 2022 analysis year, the temporary program will have been suspended and the existing program will be back in place.

STUDY AREA

As detailed in Attachment A, “Project Description,” the Proposed Action would remove any geographic restrictions on eligibility in the existing program to allow any restaurant with an active Department of Health and Mental Hygiene (DOHMH) food service establishment license and ground floor frontage to apply for an Open Restaurants permit so long as they are located on the ground floor and meet the siting criteria. As discussed above, the Proposed Action would be implemented citywide and would be analyzed in this environmental review as a generic action. The study area includes all zoning districts that allow for sidewalk or roadway seating, as well as existing non-conforming restaurants, which are those that are operating in otherwise disallowed locations due to a grandfathered condition and are not eligible for sidewalk seating under the existing program are assumed to be eligible as a result of the Proposed Action.

DATA SOURCES

In accordance with the CEQR Technical Manual, the detailed analysis describes existing and anticipated future (i.e., No Action) conditions to a level necessary to understand the relationship of the Proposed Action to such conditions. The analysis assesses any changes to these conditions that could be created by the Proposed Action in the 2022 analysis year. Existing land uses were identified through a GIS analysis of the DCP 2020 Primary Land Use Tax Lot Output (MapPLUTO 20v8), Zoning and Land Use Output (ZoLa 21v1), and New York City Department of Information Technology and Telecommunications (DOITT) data sets. Restaurant and sidewalk café information was obtained from New York City Department of Health and Mental Hygiene (DOHMH) New York City Restaurant Inspection Results, (downloaded March 2021) and the DCP Open Restaurant Mapper (as of April 2021). Other publications and approved environmental review documents that have been completed for similar citywide actions were also consulted. New York City Zoning Maps and the ZR were consulted to describe existing zoning districts and provided the basis for the zoning evaluation of the future No Action and With Action conditions. Applicable public policies were identified, and a public policy analysis was prepared to determine the potential for the Proposed Action to alter or conflict with applicable public policies.

C. EXISTING CONDITIONS

LAND USE

As detailed in **Table B-1**, the majority of lots adjacent to existing sidewalk café-eligible sidewalks are residential (approximately 66 percent of total lots), mixed commercial and residential buildings (approximately 16 percent of total lots), and commercial/office buildings (approximately 6 percent of total lots). Among residential buildings, one- and two-family buildings comprise the largest percentage of total lots (approximately 41 percent), followed by multi-family walkup buildings (approximately 23 percent) and multi-family elevator buildings (approximately 3 percent). Residential, mixed commercial/residential, and commercial/office buildings represent approximately 80 percent of the land uses adjacent to restaurants eligible under the existing program. Residential uses comprise 29 percent of total lot area and 38 percent of total building area in the applicable area; for mixed residential and commercial buildings, the rates are approximately 8.5 percent of total lot area and approximately 25 percent of total building area. This is likely due to a relatively high number of smaller residential and mixed residential and commercial buildings on smaller lots throughout the applicable area. While commercial properties represent approximately 6 percent of total lots, they represent approximately 10 percent of total lot area and approximately 21 percent of total building area, likely due to the presence of large office buildings and other high-density commercial uses (refer to **Table B-1**).

**Table B-1
Land Uses Adjacent to Existing Sidewalk Café Eligible Sidewalks**

| Land Use¹ | No. of Lots | Percent of Total Lots | Lot Area (in million sf) | Percent of Total Lot Area | Building Area (in million sf) | Percent of Total Building Area |
|---|--------------------|------------------------------|---------------------------------|----------------------------------|--------------------------------------|---------------------------------------|
| Residential | 181,100 | 66.4% | 621.15 | 29.2% | 1,141.86 | 38.1% |
| <i>One- & Two-Family Buildings</i> | 112,001 | 41.1% | 303.18 | 14.2% | 227.47 | 7.6% |
| <i>Multi-Family Walkup Buildings</i> | 62,128 | 22.8% | 189.17 | 8.9% | 364.52 | 12.2% |
| <i>Multi-Family Elevator Buildings</i> | 6,971 | 2.6% | 128.81 | 6.1% | 549.88 | 18.4% |
| Mixed Commercial/Residential Buildings | 42,626 | 15.6% | 181.85 | 8.5% | 735.16 | 24.5% |
| Commercial/Office Buildings | 17,547 | 6.4% | 218.40 | 10.3% | 619.11 | 20.7% |
| Industrial/Manufacturing | 7,693 | 2.8% | 159.31 | 7.5% | 158.63 | 5.3% |
| Transportation/Utility | 3,854 | 1.4% | 424.55 | 20.0% | 66.02 | 2.2% |
| Public Facilities & Institutions | 6,709 | 2.5% | 134.81 | 6.3% | 246.51 | 8.2% |
| Open Space | 1,406 | 0.5% | 247.55 | 11.6% | 8.35 | 0.3% |
| Parking Facilities | 5,513 | 2.0% | 51.53 | 2.4% | 19.60 | 0.7% |
| Vacant Land | 6,324 | 2.3% | 88.56 | 4.2% | 127.17 | 0.0% |
| Total | 272,772 | | 2,127.73 | | 2,995.39 | |
| Sources: MapPLUTO 21v1 | | | | | | |
| Notes: | | | | | | |
| Totals may not sum due to rounding | | | | | | |
| ¹ Excludes lots with "Null" Land Use in MapPLUTO data. | | | | | | |

ZONING

There are approximately 28,000 restaurants across the City of New York. Many of these restaurants are in areas that are currently eligible for permanent outdoor dining permitting programs, which consist of the Sidewalk Café program administered by DCWP and the Street

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Seats program administered by NYCDOT (collectively, the “existing program”). As of March 2020, there were 1,224 active permits for sidewalk cafés and 25 active permits for Street Seats.

Eating and drinking establishments are classified by the ZR as Use Group 6 (retail and service establishments that serve local needs) and are allowed in all zoning districts except:

- Residential districts without a commercial overlay except for R10H, which allows for transient hotel uses; and
- Certain specialty commercial districts such as waterfront recreational districts (C3 and C3A) and amusement parks districts (C7).

EXISTING PROGRAM

Sidewalk Cafes

While the existing program also allows sidewalk cafes in these same areas, it includes restrictions on sidewalk seating in various areas of the City including streets with elevated rail transit lines citywide (unless specifically permitted in ZR Section 14-43), and select special districts, streets, and corridors for some or all sidewalk café types. Sidewalk cafés are currently regulated by the ZR in Article I, Chapter 4: Sidewalk Regulations. Per the ZR, sidewalk cafés are permitted in all areas where eating or drinking establishments are permitted, with certain special eligibility regulations as discussed below. There are three types of sidewalk cafés under the existing DCWP program: enclosed cafés, unenclosed cafés, and small unenclosed cafés. All of these café types are subject to specific clear path regulations based on their location, while the minimum clear path¹ required for all sidewalk cafés is 8 feet or 50 percent of the sidewalk width, whichever is greater. Additional requirements dictate the offsets required from sidewalk cafés to sidewalk obstructions such as fixtures and furniture. Participating cafés are also subject to regulations governing their sign display, set-up, table count, railings, fences, planters, valences, canopies, awnings, and heaters, in coordination with required approvals from the New York City Department of Buildings (DOB) and the Landmarks Preservation Commission (LPC), as applicable.

There are special eligibility regulations that identify streets, areas, special districts and malls or portions of streets for which special area eligibility regulations apply. These include locations where certain sidewalk cafés are not permitted; locations where enclosed sidewalk cafés are not permitted; locations where only small sidewalk cafés are permitted; special purpose districts where certain sidewalk cafés are permitted; and street malls where certain sidewalk cafés are permitted. One such special purpose district where unenclosed and enclosed sidewalk cafés are not allowed under the existing program is the 125th Street District in Harlem.² There are a number of special purpose districts in Manhattan, Brooklyn, and the Bronx where only unenclosed sidewalk cafés are allowed. A full list of the special area eligibility locations can be found in Article I, Chapter 4 of the ZR, and is also provided in **Appendix 2**.

¹ According to the zoning regulations (ZR Section 14-11(a)), for the purpose of the minimum clear path, parking meters, traffic sign, and trees that have gratings flush to grade, which outs fences or guards, shall not count as obstructions.

² Unenclosed sidewalk cafés are allowed on the east side of Malcolm X Boulevard between West 125th and West 126th Streets, on the west side of Malcolm X Boulevard between West 124th and West 125th Streets and on the east side of Fifth Avenue between East 125th and East 126th Streets

Street Seats

Street Seats is a citywide program separate from the existing sidewalk café program in which businesses and institutions may apply to NYCDOT for a permit to install facilities in the roadbed along the curb line to create a setting for outdoor dining or other activities during certain months of the year. Street Seats is not regulated by zoning but by siting and design requirements. Street Seats is a seasonal program spanning the months of March through December and any outdoor dining facilities included in the Street Seats program are subject to specific operating hour restrictions and are considered temporary. As of March 2019, there were only 25 active permits for Street Seats.

As shown in **Table B-2**, there are approximately 40,413 block faces citywide that are eligible for the existing Sidewalk Café program. The majority of eligible block faces are in low and medium/high density residential districts with commercial overlays (approximately 60 percent) and most of the remaining eligible block faces located in general commercial and manufacturing districts (18 percent each). However, most restaurants are located in medium/high density residential and commercial districts, followed by low density residential districts with commercial overlays (see **Table B-3**). There are fewer restaurants in lower density residential and commercial districts and manufacturing district compared to their share of eligible block faces. A general description of each applicable zoning district category is provided below.

**Table B-2
Existing Sidewalk Café Eligible Block Faces by Zoning District**

| Zoning District Type | Applicable Block Faces under Existing Program | Percent of All Applicable Block Faces under Existing Program |
|--|--|---|
| Low Density Residential (R1–R5) with Commercial Overlay | 10,376 | 26% |
| Medium/High Density Residential (R6–R10) with Commercial Overlay | 13,290 | 33% |
| Neighborhood Commercial (C1, C2) | 1,447 | 4% |
| General Commercial (C4–C6, C8) | 7,388 | 18% |
| Manufacturing (M1-M3) | 7,363 | 18% |
| Mixed-Use (MX) | 549 | 1% |
| Total | 40,413 | 100% |

**Table B-3
Restaurants with a DOHMH License by Zoning District**

| Zoning District Type | DOHMH Restaurants | Percent of All DOHMH Restaurants |
|--|--------------------------|---|
| Low Density Residential (R1–R5) with Commercial Overlay | 4,187 | 15% |
| Medium/High Density Residential (R6–R10) with Commercial Overlay | 9,270 | 33% |
| Neighborhood Commercial (C1, C2) | 1,839 | 6% |
| General Commercial (C4–C6, C8) | 8,573 | 30% |
| Manufacturing (M1-M3) | 2,132 | 8% |
| Mixed-Use (MX) | 394 | 1% |
| Zoning Districts that do not allow restaurants | 1,967 | 7% |
| Total | 28,362 | 100% |

Permanent Open Restaurants Program

LOW DENSITY RESIDENTIAL (R1-R5) WITH COMMERCIAL OVERLAY

Residential districts are the most prevalent zoning districts in New York City, accounting for about 75 percent of the city's zoned land area. The lowest density residential districts (R1 and R2) permit only single- and two-family residences; R3, R4, and R5 districts are general residence districts which permit all types of residential buildings, including small multi-family apartment buildings. These districts generally include bulk regulations (e.g., minimum lot size, yards, maximum lot coverage) that are intended to result in new homes that match the character of low density neighborhoods; many districts also include contextual regulations which establish maximum building height limits. Approximately 26 percent of all eligible block faces are within low density residential districts with commercial overlay.

MEDIUM/HIGH DENSITY RESIDENTIAL (R6-R10) WITH COMMERCIAL OVERLAY

Approximately 33 percent of existing eligible block faces are within medium- and high-density residential districts paired with a commercial overlay (R6-R10)³. These areas include a high concentration of multi-family buildings, such as mid-rise apartment buildings served by elevators, as well as walk-up structures, and areas with large residential campuses.

COMMERCIAL (C1-C2, C4-C6, C8)

Approximately 22 percent of eligible block faces are located in commercial use (C1-C6) districts. Most of these commercial zones play an important role in providing retail and services to local residents, and include a wide range of building types, from single-story retail stores to mixed-use developments and office buildings. In addition, some commercial districts are mapped in limited areas and are intended for special commercial needs. C8 districts are mapped in heavy commercial and semi-industrial areas and permit all commercial and general service uses, but not residential uses. Excluded from the eligible zoning districts are C3 specialty commercial districts and C7 districts. C3 districts are mapped along portions of the waterfront and allow only commercial uses related to boating and other waterfront recreational activities, as well as low-density residential uses. C7 districts are mapped in major regional amusement districts and permit entertainment and amusement facilities but no other commercial, community facility, or residential uses.

MANUFACTURING (M1-M3)

Approximately 18 percent of the existing eligible block faces are located in manufacturing (M1-M3) districts. Manufacturing districts are particularly common in waterfront areas, a result of New York City's history of working waterfront areas. Manufacturing districts include warehouses and factory buildings, as well as open uses such as construction material distributors, automobile dismantlers, or maritime facilities. In general, M2 and M3 districts permit heavy industrial uses, and M1 districts (generally used as buffers between M2 or M3 districts and commercial or residential areas) permit light manufacturing uses and warehouses. Commercial uses (including eating and drinking establishments) are generally permitted in manufacturing districts, although some commercial uses are not permitted in M2 and M3 districts. Residential uses are generally not permitted, however manufacturing districts may contain pockets of non-conforming residential buildings.

³ This includes the R10 equivalent Special Battery Park City District

SPECIAL MIXED-USE (MX)

Approximately one percent of the existing eligible block faces are located in special mixed-use (MX) districts. MX districts pair a light manufacturing district with a residential district to promote a balanced variety of uses. In mixed-use districts, residential and community facility development is generally controlled by the residential district regulations, while commercial and manufacturing development is controlled by the manufacturing district regulations.

PUBLIC POLICY

WATERFRONT REVITALIZATION PROGRAM

Projects that are located within the designated boundaries of New York City's Coastal Zone must be assessed for their consistency with the City's Waterfront Revitalization Program (WRP). The federal Coastal Zone Management Act (CZMA) of 1972 was enacted to support and protect the distinctive character of the waterfront and to set forth standard policies for reviewing proposed development projects along coastlines. The program responded to City, State, and Federal concerns about the deterioration and inappropriate use of the waterfront. In accordance with the CZMA, New York State adopted its own Coastal Management Program (CMP), which provides for local implementation when a municipality adopts a local waterfront revitalization program (LWRP), as is the case in New York City.

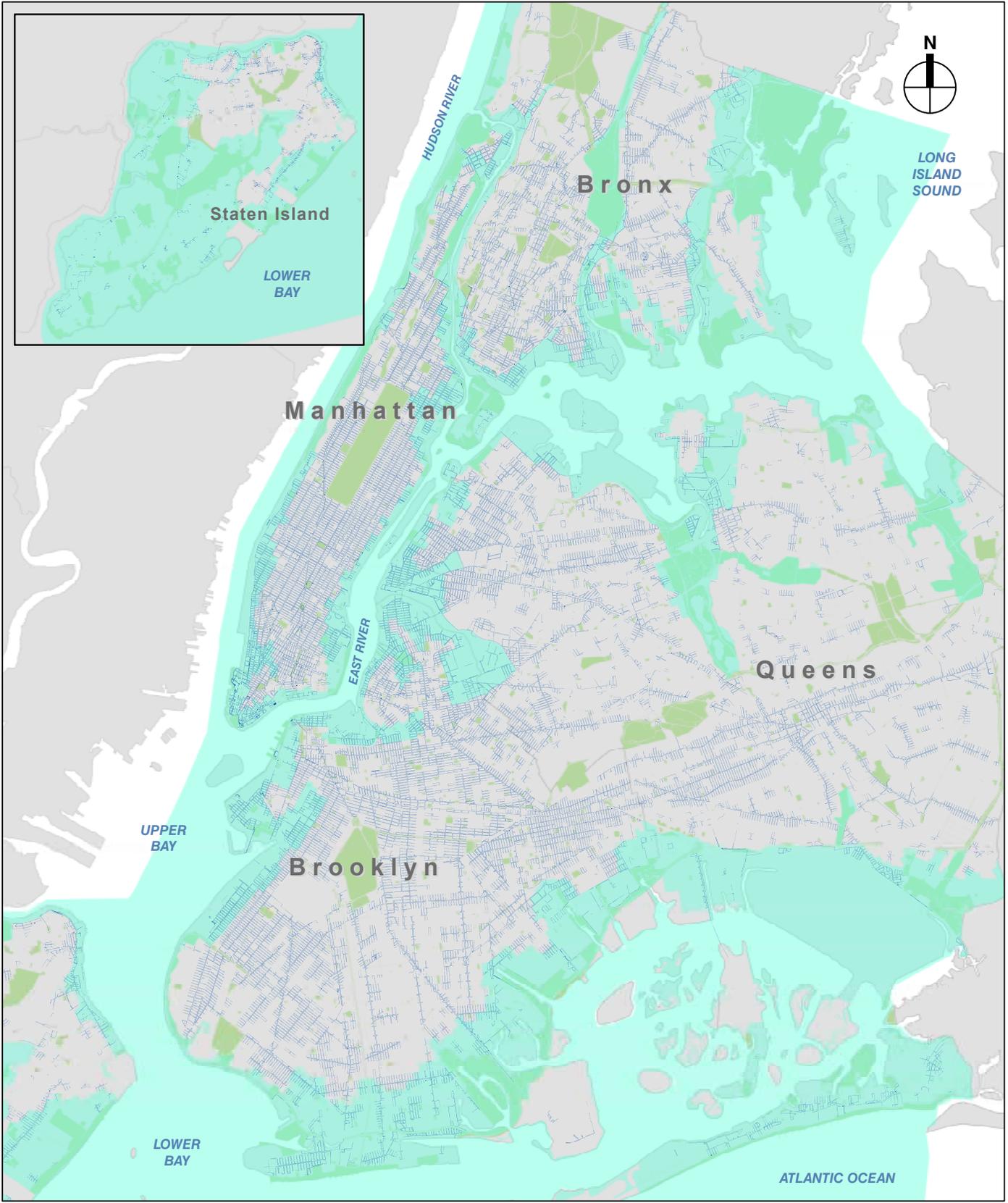
The New York City WRP is the City's principal coastal zone management tool. The WRP was originally adopted in 1982 and approved by the New York State Department of State (NYSDOS) for inclusion in the New York State CMP. The WRP encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program's goals in making land use decisions. NYSDOS administers the program at the State level, and DCP administers it in the City. The WRP was revised and approved by the City Council in October 1999. In 2002, The New Waterfront Revitalization Program was approved by the New York State Secretary of State for inclusion in the NYS CMP, and the U.S. Secretary of Commerce concurred. In October 2013, the City Council approved revisions to the WRP in order to proactively advance the long-term goals laid out in *Vision 2020: The New York City Comprehensive Waterfront Plan*, (released in 2011). The changes solidify New York City's leadership in the area of sustainability and climate resilience planning as one of the first major cities in the U.S. to incorporate climate change considerations into its Coastal Zone Management Program. They also promote a range of ecological objectives and strategies, facilitate interagency review of permitting to preserve and enhance maritime infrastructure, and support a thriving, sustainable working waterfront. The NYSDOS approved the revisions to the WRP on February 3, 2016. The U.S. Secretary of Commerce concurred with the State's request to incorporate the WRP into the New York State CMP.

As the Proposed Action would include a zoning text amendment applicable to sites throughout the city within the Coastal Zone see **Figure B-1**, it must be assessed for its consistency with the policies of the City's WRP. In accordance with the guidance of the *CEQR Technical Manual*, a Consistency Assessment Form (CAF) was prepared for the Proposed Action, which is provided in **Appendix 3** and summarized in the "With Action Condition" section below.

VISION ZERO

The City's Vision Zero initiative seeks to eliminate all deaths from traffic crashes regardless of whether on foot, bicycle, or inside a motor vehicle. In an effort to drive these fatalities down,

Source: NYC DOITT; DCP MapPLUTO 20v8; DCP ZoLa 21v1. Mapping by AECOM



Project Area (Permanent Open Restaurants Program Eligible Streets)



Coastal Zone

0 2 4 MILES

Permanent Open Restaurants Program

NYCDOT and the New York Police Department (NYPD) developed a set of five plans, each of which analyzes the unique conditions of one New York City borough and recommends actions to address the borough's specific challenges to pedestrian safety. These plans pinpoint the conditions and characteristics of pedestrian fatalities and severe injuries; they also identify priority corridors, intersections and areas that disproportionately account for pedestrian fatalities and severe injuries, prioritizing them for safety interventions. The plans outline a series of recommended actions comprised of engineering, enforcement and education measures that intend to alter the physical and behavioral conditions on city streets that lead to pedestrian fatality and injury.

STREET DESIGN MANUAL

NYCDOT first published the Street Design Manual in 2009 to provide a comprehensive resource for street design standards, guidelines, and policies that should be used by those entities designing projects that impact public and private streets in New York City, including roadways, sidewalks, and plazas. Multiple divisions with NYCDOT review project designs throughout the planning and design phases to evaluate: the safety of all street users; pedestrian mobility and access; accessibility that meets or exceeds ADA standards; public space opportunities; temporary and permanent art and street furniture placement; parking utilization, and other factors.

The most recent edition of the Street Design Manual (Third Edition, 2020) provides guidelines for public programming in the public right-of-way. Such events might include block parties, street fairs, farmers markets, and plaza events. Among other requirements, these events must maintain 5 feet on each side of a fire hydrant, 8 feet of non-event pedestrian flow on sidewalks, an 5-foot bicycle lane (if bicycle lane exists in permitted area), and a 15-foot emergency vehicle lane (full street closure and pedestrian plaza events).

ONENYC

In April 2015, Mayor Bill de Blasio released *OneNYC*, a comprehensive plan for a sustainable and resilient city for all New Yorkers that speaks to the profound social, economic, and environmental challenges faced by the city. *OneNYC* is the update to the sustainability plan for the City started under the Bloomberg administration, previously known as *PlaNYC 2030: A Greener, Greater New York*. Growth, sustainability, and resiliency remain at the core of *OneNYC*, but with the poverty rate remaining high and income inequality continuing to grow, the de Blasio administration added equity as a guiding principle throughout the plan. In addition to the focuses of population growth, aging infrastructure, and global climate change, *OneNYC* brings new attention to ensuring the voices of all New Yorkers are heard and to cooperating and coordinating with regional counterparts. Since the 2011 and 2013 updates of *PlaNYC*, the City has made considerable progress towards reaching its original goals and completing initiatives. *OneNYC* includes updates on the progress towards the 2011 sustainability initiatives and 2013 resiliency initiatives and also sets additional goals and outlines new initiatives under the organization of four visions: growth, equity, resiliency, and sustainability.

The goals of the plan are to make New York City:

- A Growing, Thriving City—by fostering industry expansion and cultivation, promoting job growth, creating and preserving affordable housing, supporting the development of vibrant neighborhoods, increasing investment in job training, expanding high-speed wireless networks, and investing in infrastructure.

- A Just and Equitable City—by raising the minimum wage, expanding early childhood education, improving health outcomes, making streets safer, and improving access to government services.
- A Sustainable City—by reducing greenhouse gas emissions, diverting organics from landfills to attain Zero Waste, remediating contaminated land, and improving access to parks.
- A Resilient City—by making buildings more energy efficient, making infrastructure more adaptable and resilient, and strengthening coastal defenses.

In April 2019, Mayor Bill de Blasio released *OneNYC 2050*, a comprehensive strategy to secure the City against future challenges. In addition to the previous focuses of *OneNYC*, *OneNYC 2050* draws attention to inequity of rising rents, access to healthcare and education, and the need to further strengthen democracy in New York City. Among other issues, *OneNYC 2050* identifies the need grow the economy with good-paying jobs and prepare New Yorkers to fill them. As the *CEQR Technical Manual* has yet to be updated to address the approach of *OneNYC*, the *PlaNYC* sustainability assessment will continue to be utilized on large publicly-sponsored projects.

BUSINESS IMPROVEMENT DISTRICTS

Business Improvement Districts (BIDs) are geographical areas where local stakeholders oversee and fund the maintenance, improvement, and promotion of their commercial districts. BIDs create vibrant, clean, and safe districts, and deliver services and improvements above and beyond those typically provided by the City, such as street cleaning and maintenance; public safety and hospitality; marketing and events; capital improvements; beautification; advocacy; and business development. BIDs help to brand their districts and market small businesses on their corridor, facilitating networking among merchants, host community events, and advocate for improvements to the district. BIDs also serve as a liaison between local businesses and stakeholders and the City government. In doing so, BIDs provide a collective voice for the neighborhood and help inform City policy based on their unique local knowledge. Each BID in the City is run by a not-for-profit organization, and BID programs and services are funded by a special assessment billed to property owners within a district. There are currently 76 BIDs in New York City.

D. NO ACTION CONDITION

Under the No Action condition, the temporary Open Restaurants program will have expired (in September 2021), and the existing program would be back in place. The sidewalk café program administered by DCWP and the Street Seats program administered by NYCDOT would continue to use the existing separate application processes, and the restaurants that received authorization under the temporary program would lose their eligibility to offer sidewalk or roadway seating.

LAND USE

In the future without the Proposed Action, existing land use trends and in the areas near restaurants or block faces to which the proposed text amendment applies are expected to continue, albeit without the benefit of the expanded and simplified Open Restaurant program provided by the Proposed Action.

ZONING AND PUBLIC POLICY

In the No Action condition, the zoning districts and public policies described above in the existing conditions section would continue to apply in the areas affected by the Proposed Action.

Permanent Open Restaurants Program

No changes in public policy are anticipated absent the Proposed Action.

E. WITH ACTION CONDITION

The Proposed Action is not expected to induce new development, and land use trends and development patterns are expected to remain similar to the No Action condition under the With Action condition. However, the Proposed Action would expand eligibility of open restaurants citywide, including all the areas of exclusion in the existing program and including existing non-conforming restaurants throughout the city.

The proposed POR program would be implemented citywide, with no geographic restrictions, except within zoning districts where restaurants are generally not allowed. Eating and drinking establishments, which are classified by the ZR as Use Group 6 (retail and service establishments that serve local needs) are allowed in all zoning districts except:

- Residential districts without a commercial overlay except for R10H, which allows for transient hotel uses; and
- Certain specialty commercial districts such as waterfront recreational districts (C3 and C3A) and amusement parks districts (C7).

Additionally, there are some legally operating but non-conforming restaurants located and operating in zoning districts where restaurant use is not allowed as-of-right (residential without commercial overlay and specialty commercial districts). These restaurants are ineligible for sidewalk seating under the existing program but would be eligible for sidewalk and roadway seating as a result of the Proposed Action.

As described in Attachment A, “Project Description”, in order to implement, administer, and operate the POR, the following revisions to the provisions of the ZR are necessary:

- ZR, Article 1, Chapter 2, relating to sidewalk café definitions;
- ZR, Article 1, Chapter 4, relating to sidewalk cafe regulations;
- ZR Section 22-00, to the extent that a sidewalk café may not be enlarged in R10H Districts;
- ZR Section 32-411, to the extent such section does not allow for operable windows;
- ZR Sections 33-05 and 43-03, to clarify the compatibility of NYCDOT café programs and sidewalk widening provisions;
- ZR Section 52-34, to the extent such section requires certain eating and drinking establishment uses in Residence Districts to be located within completely enclosed buildings;
- ZR Section 73-243, to extent BSA special permit provisions allowing for eating and drinking establishments would preclude operable windows;
- ZR Section 83-05, to extent that it would preclude operable windows in a Limited Commercial District;
- ZR Sections 97-03, 97-13, 97-14, and 97-412, to the extent such section limits the locations of sidewalk cafes in the Special 125th Street District;
- ZR Section 109-02, to the extent such section imposes any condition on the use of public streets and sidewalks for the maintenance of sidewalk cafes or outdoor cafes by restaurants in the Special Little Italy District; and
- ZR Sections 117-03 and 117-05, to the extent such section limits the locations of sidewalk cafes in in the Special Long Island City Mixed Use District.

Additionally, the Proposed Action would include the suspension, repeal, or amendment of certain laws and rules in the Administrative Code of the City of New York (Admin. Code) and Rules of the City of New York (RCNY) for implementation of the POR program. These revised rules would be promulgated under the Citywide Administrative Procedure Act (CAPA) authorized under Local Law 114 and may require additional City Council legislation in order to implement these changes to such existing laws and rules.

In total, the number of eligible block faces would increase by approximately 5,000 block faces in the With Action condition as compared to the No Action condition.

LAND USE

Land uses adjacent to all eligible block faces under the Proposed Action, which include those block faces that are eligible under the existing program in the No Action conditions as well as those that would be newly eligible under the proposed POR program in the With Action condition, are provided in **Table B-4**. Under the existing DCWP program, one- and two-family residential are the most common lots adjacent to café-eligible sidewalks, while mixed commercial/residential are the most common non-residential lots. In the With Action condition, residential land uses would remain the most common land use type adjacent to block faces made eligible under the Proposed Action, followed by mixed commercial/residential use. The Proposed Action would not significantly alter type or distribution of land uses adjacent to outdoor dining eligible areas. In the With Action condition, residential, mixed use commercial/residential, and commercial uses would still represent approximately 88 percent of the land uses adjacent to all eligible block faces, similar to the No Action condition.

**Table B-4
Comparison of Adjacent Land Uses**

| Land Use | No Action Condition (Existing Program) | | With Action Condition (POR Program) | | Increment | |
|---|--|---|--|---|---|--|
| | No. of Lots Adjacent to Eligible Block Faces | Percent of Lots Adjacent to Eligible Block Faces | No. of Lots Adjacent to Eligible Block Faces | Percent of Lots Adjacent to Eligible Block Faces | No. of Lots Adjacent to Newly Eligible Block Faces | Percent of Lots Adjacent to Newly Eligible Block Faces |
| Residential - One- & Two-Family Buildings | 112,001 | 41.1% | 116,084 | 40.4% | 4,083 | 28.2% |
| Residential Multi-Family Walkup Buildings | 62,128 | 22.8% | 64,265 | 22.4% | 2,137 | 14.8% |
| Residential Multi-Family Elevator Buildings | 6,971 | 2.6% | 7,430 | 2.6% | 459 | 3.2% |
| Mixed Commercial/Residential Buildings | 42,626 | 15.6% | 45,552 | 15.9% | 2,926 | 20.2% |
| Commercial/Office Buildings | 17,547 | 6.4% | 19,380 | 6.7% | 1,833 | 12.7% |
| Industrial/Manufacturing | 7,693 | 2.8% | 8,447 | 2.9% | 754 | 5.2% |
| Transportation/Utility | 3,854 | 1.4% | 4,249 | 1.5% | 395 | 2.7% |
| Public Facilities & Institutions | 6,709 | 2.5% | 7,186 | 2.5% | 477 | 3.3% |
| Open Space | 1,406 | 0.5% | 1,531 | 0.5% | 125 | 0.9% |
| Parking Facilities | 5,513 | 2.0% | 6,050 | 2.1% | 537 | 3.7% |
| Vacant Land | 6,324 | 2.3% | 7,075 | 2.5% | 751 | 5.2% |
| Total | 272,772 | 100% | 287,249 | 100% | 14,477 | 100% |

Sources: NYC Department of City Planning, MapPluto 21v1.

Permanent Open Restaurants Program

ZONING

In the With Action condition, the distribution of restaurants across zoning categories would remain generally the same as the No Action condition with the majority of eligible block faces in low and medium/high density residential districts and most of the remaining eligible block faces located in general/service commercial and manufacturing districts (see **Table B-5**). General/service commercial and manufacturing districts would have the largest increase in number of eligible block faces in the With Action condition (with a 28 percent and 31 percent increase, respectively) followed by medium/high density residential districts with commercial overlays (18 percent increase). Special mixed-use districts would also see a substantial increase in eligible block faces under the With Action condition, and would more than double compared to the No Action condition. For example, only unenclosed sidewalk cafés were permitted in the Special Long Island City Mixed Use District and only on certain streets. In the With Action condition, these geographic restrictions would be lifted and more restaurants would be eligible to apply for sidewalk or roadway seating. This increase in eligible block faces within this special mixed use district would promote the general goals set forth by the ZR Section 117-00, including supporting the continuing growth of a mixed residential, commercial and industrial neighborhoods.

Table B-5
Comparison of Eligible Block Faces by Zoning Categories

| Zoning Category | No Action Condition (Existing Program) | | With Action Condition (POR Program) | | Increment | |
|---|---|---|--|---|-------------------------|---|
| | Eligible Block Faces | Percent of All Eligible Block Faces | Eligible Block faces | Percent of All Eligible Block Faces | Eligible Block Faces | Percent of All Eligible Block Faces |
| Low Density Residential (R1-R5) with Commercial Overlay | 10,376 | 26% | 10,657 | 23% | 281 | 6% |
| Medium/High Density Residential (R6–R10) with Commercial Overlay | 13,290 | 33% | 14,176 | 31% | 886 | 18% |
| Neighborhood Commercial (C1-C2) | 1,447 | 4% | 1,633 | 4% | 186 | 4% |
| General/Service Commercial (C4– C6, C8) | 7,388 | 18% | 8,806 | 19% | 1,418 | 28% |
| Manufacturing (M1-M3) | 7,363 | 18% | 8,922 | 20% | 1,559 | 31% |
| Special Mixed-Use (MX) | 549 | 1% | 1,207 | 3% | 658 | 13% |
| Total | 40,413 | 100% | 45,401 | 100% | 4,988 | 100% |

Sources: NYC Department of City Planning, MapPluto 21v1

Special purpose districts would also see an increase in eligible block faces under the Proposed Action. These districts include the 125th Street District, the Little Italy and Lower Manhattan Districts, the Clinton District in Midtown Manhattan, the Coney Island District, and the special zoning districts in Queens. The Proposed Action would enhance many of the specific planning and urban design objectives defined for these areas without adversely affecting pedestrian flow or safety. The proposed sidewalk seating program would require seating areas to be up against the wall (or as close as possible) of the business, as well as located within the frontage of the establishment. Seating would be kept clear of the amenity zone⁴ and maintain a minimum established clear path (at least 8 feet) for pedestrians, while also maintaining established buffer distances from street furniture, infrastructure, and other fixed obstructions. As with the sidewalk

⁴ The portion of the public right-of-way between the curb and the sidewalk that is outside of the pedestrian walking area.

seating program, roadway seating areas would be required to maintain established offset distances from obstructions and infrastructure. Roadway seating would also be prohibited from ‘No Standing Anytime’ and ‘No Stopping Anytime’ zones, as well as bus lanes or stops, taxi stands, or designated car share parking spaces.

The 125th Street District in Harlem, which previously precluded sidewalk cafés, aims to generate new mixed use development while protecting the scale of the 125th Street corridor’s commercial and historic rowhouse areas by establishing street wall and height limits. The amount of ground floor street frontage that may be occupied by banks, office and residential lobbies, and other non-active uses is restricted in this district to ensure active and diverse retail uses, such as restaurants. Adding sidewalk and roadway café eligibility would be compatible with the specific objectives of the 125th Street District in Harlem. The Special Little Italy District currently only allows unenclosed sidewalk cafés and only on certain streets. Additionally, the use of public streets and sidewalks for the maintenance of sidewalk cafés requires a separate approval from the New York City Board of Standards and Appeals (BSA). Under the Proposed Action, the location restrictions would be removed and restaurants would no longer require separate approval from the BSA. The Proposed Action would not hinder the goals of the Special Little Italy District. The minimum sidewalk and roadway clear path and obstruction requirements, along with protective barrier requirements for roadway seating, would help preserve the vitality of street life by reducing conflict between pedestrian and vehicular traffic, a goal set forth in the ZR for this special purpose district.⁵ The Proposed Action would also promote the objective of the Special Hunts Point District to strengthen the expanding food industry sector.

Additionally, there are some legal non-conforming restaurants located and in zoning districts where restaurant use is not allowed as-of-right (residential without commercial overlay and specialty commercial districts). These individual restaurants are ineligible for sidewalk seating under the existing program but would be eligible for sidewalk and roadway seating as a result of the Proposed Action even though they are not located in areas that would be eligible. A map showing the location of these restaurants (including those that currently provide open restaurant seating under the temporary Open Restaurants program) is provided in Attachment A, “Project Description,” Figure A-4. In total, there are approximately 2,950 existing non-conforming restaurants,⁶ with approximately 1,000 of these restaurants participating in the temporary POR.⁷ These non-conforming restaurants appear throughout New York City; however, most are concentrated in medium and high density areas, primarily in Manhattan and western Brooklyn and Queens, and are within areas of neighborhoods that already have a commercial or mixed-use character. Many of these restaurants are located adjacent or in close proximity to zoning districts that allow restaurants as-of-right. A small number of restaurants are sprinkled throughout lower density areas in the outer boroughs; however, few are in areas that do not have a mixed-use character. It is assumed that some but not all of these restaurants (since many are doing so only in

⁵ ZR Chapter 9, Section 109-00

⁶ New York City Department of Health and Mental Hygiene (DOHMH) New York City Restaurant Inspection Results, Downloaded on 03/15/2021. <https://data.cityofnewyork.us/Health/DOHMH-New-York-City-Restaurant-Inspection-Results/43nn-pn8j>

⁷ DCP Open Restaurant Mapper (as of 04/01/2021). <https://nycplanning.github.io/td-covid19/sidewalkcafe/#11.65/40.6898/-73.8894>; <https://github.com/NYCPlanning/td-covid19/tree/master/sidewalkcafe>

Permanent Open Restaurants Program

response to COVID-19 conditions) would continue to provide open restaurant seating under the Proposed Action.

Overall, the increased area of eligibility would not change overall land use patterns throughout the City. Residential, mixed commercial/residential, and commercial/office buildings would still represent the majority of land uses adjacent to restaurants eligible under the Proposed Action. While the revisions to the provisions of the ZR would remove any geographic restrictions on eligibility in the program to allow any restaurant with an active DOHMH food service establishment license and ground floor frontage to apply for an Open Restaurant permit, applicants would be required to adhere to specific siting criteria. The proposed ZR revisions would not alter the underlying zoning regulations on where restaurant uses are generally allowed, except that existing non-conforming restaurants that currently operate in zoning districts that do not allow restaurants as-of-right would also be eligible for the POR program; however, most of these sites are within or directly adjacent to areas that are mixed use in character. Therefore, the Proposed Action would not result in any significant adverse impacts to land use and zoning.

PUBLIC POLICY

WATERFRONT REVITALIZATION PROGRAM

See Section F, “Waterfront Revitalization Program Assessment.”

VISION ZERO

The Proposed Action supports the goals outlined in Vision Zero by further encouraging a safe, pedestrian-friendly environment. The sidewalk and roadway seating siting criteria for the proposed POR program would include a series of pedestrian safety measures including a required minimum distance (at least 5 feet) between sidewalk seating and potential pedestrian/vehicular conflict points such as curb cuts, driveways, parking lots and loading docks. Additionally, roadway seating would require a reflective protective barrier between the seating area and the roadway, and would need to be a minimum distance from an intersection and crosswalks. Additionally, all seating would be required to be ADA accessible from the sidewalk. Therefore, it would be consistent with Vision Zero.

STREET DESIGN MANUAL

The Proposed Action would be consistent with the policies and guidelines of the Street Design Manual. It would contribute to the vitality of New York City by providing programming on public space, while maintaining the safety of all street users; ensuring that pedestrian mobility and access is not adversely affected; and providing accessibility that meets or exceeds ADA standards.

ONENYC

The Proposed Action would support the goals identified by *OneNYC* that increase accessibility, fostering industry expansion and cultivation, and promoting job growth by reducing administrative burden to the city and to business owners. The Proposed Action would facilitate the initiative of *OneNYC 2050* of supporting the growth and retention of small businesses by streamlining regulations and ensuring that businesses, such as restaurants, are resilient.

BUSINESS IMPROVEMENT DISTRICTS

As discussed above, the Proposed Action is not expected to induce development where it would not occur absent the Proposed Action. The Proposed Action would create opportunities for restaurants within a BID to contribute to its goals of increasing the vibrancy and safety of the BID. Additionally, presence that Open Restaurants would provide on the street could contribute to the branding and business development goals of a BID. The Proposed Action would not adversely affect the services that BIDs provide, including street cleaning and maintenance. Overall, the Proposed Action would be consistent with the policy goals of BIDs.

F. WATERFRONT REVITALIZATION PROGRAM ASSESSMENT

As noted above, the Proposed Action must be assessed for its consistency with the policies of the WRP, as it affects zoning regulations in the City's Coastal Zone. The WRP includes policies designed to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among those objectives. According to the *CEQR Technical Manual*, actions located within the designated boundaries of NYC Coastal Zone require an assessment of the action's consistency with the WRP. The WRP consistency review includes consideration and assessment of other local, state and federal laws and regulations governing disturbance and development within the Coastal Zone.

For generic or programmatic actions, the potential locations likely to be affected within the Coastal Zone boundary should be considered. Since the Proposed Action would affect thousands of properties across numerous zoning districts and special districts throughout the City, sites that are or would become subject to the provisions may be located in the boundaries of the Coastal Zone. Consequently, the Proposed Action's consistency with the WRP has been evaluated.

The WRP CAF, which is provided in **Appendix 2**, lists the WRP policies and indicates whether the Proposed Action would promote or hinder each policy, or if that policy would be not applicable. This section provides additional information for the policies that have been checked "promote" or "hinder" in the WRP CAF.

Policy 5: Protect and improve water quality in the New York City Coastal Area

Policy 5.1: Manage direct or indirect discharges to waterbodies.

The Proposed Action would remove any geographic restrictions on eligibility in the program to allow any restaurant with an active DOHMH food service establishment license and ground floor frontage to apply for an Open Restaurant permit so long as they are located on the ground floor and meet certain siting criteria. The components of the text amendment that would facilitate the project are not expected to cause any direct or indirect impacts on water discharges, and would also not increase the amount of impervious surface. In addition, the Proposed Action would not affect a property owner's responsibility to comply with regulations for discharge of wastewater into surface or groundwater set forth by the NYS Department of Environmental Conservation under the State Pollutant Discharge Elimination System (SPDES). Therefore, the Proposed Action would promote this policy.

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Policy 6: *Minimize loss of life, structures, infrastructure, and natural resources caused by flooding and erosion, and increase resilience to future conditions created by climate change.*

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the site, the use of the property to be protected, and the surrounding area.

Because the Proposed Action has citywide applicability, sites that are subject to the provisions of the text amendment may be located in a federally designated flood hazard area or state-designated erosion hazards area. The proposed provisions would not change any of the existing protections and development in a federally designated flood hazard area would continue to follow floodplain management statutes and regulations guiding construction and renovation of residential and non-residential structures, including the New York City Administrative Code, Title 28, Article 10: General Limitations on Occupancy and Construction within Special Flood Hazard Areas, §27-316 and §27-317. The Proposed Action would also not affect a property owner's responsibility to comply with the New York State Coastal Erosion Hazard Area statutes and regulations. Sidewalk and roadway cafés would not result in a permanent structure within the floodplain. Tables, chairs, and other elements that would be placed along the sidewalk or roadway as part of the Proposed Action would be secured or removed prior to a flood event. Therefore, the Proposed Action would promote this policy.

Policy 6.2: Integrate consideration of the latest New York City projections of climate change and sea level rise (as published by the NPCC, or any successor thereof) into the planning and design of projects in the city's Coastal Zone.

As outlined in The New York City Waterfront Revitalization Program Climate Change Adaptation Guidance document, for programmatic, non-site-specific actions (such as area-wide zoning text amendments), the general methodology approach should be utilized to assess a project's or action's consistency with Policy 6.2 of the WRP. The general methodology consists of the following steps:

1. *Identify vulnerabilities and consequences. The goal of this first step is to assess the project's vulnerabilities to future coastal hazards and what potential consequences may be.*
 - a. *Assess the project area's exposure to current and future flood risk.*

As noted above, since the Proposed Action has citywide applicability, sites that are subject to the provisions of the text amendment may be located in future flood zones or areas that may be exposed to future tidal flooding. With climate change, the current floodplain is likely to expand in the future and the height of flooding to increase. In addition, restaurants in very low-lying areas of the city, such as directly along the waterfront, may be exposed to more regular tidal flooding, which may increase the frequency of disruption of outdoor dining operation in these areas.

- b. *Identify if the project or action would facilitate the development of any vulnerable, critical, or potentially hazardous features within areas exposed to flooding from Mean Higher High Water or 1% Annual Chance Flood by the 2050s under the 90th percentile of sea level rise projections.*

The Proposed Action would not facilitate the development of any vulnerable, critical, or potentially hazardous features within areas exposed to flooding from Mean Higher High Water or 1% Annual Chance Flood by the 2050s under the 90th percentile of sea level rise projections. Although components of the newly eligible sidewalk cafés under the Proposed Action, such as tables and chairs, or umbrellas, are features that may be damaged by flooding, they are not likely

to present significant consequences as they would be secured or removed from the sidewalk and/or roadway prior to a flood event.

2. Identify adaptive strategies. The goal of Step 2 is to assess how the vulnerabilities and consequences identified in Step 1 are addressed through the project's design and planning. Step 2 assesses how applicable codes and regulations, planned flood damage reduction elements and adaptive measures, or likely future infrastructure investments (beyond the scope of the proposed project) would or would not reduce potential flood damage for any proposed vulnerable, critical, or potentially hazardous feature.

The Proposed Action would not introduce vulnerable, critical, or potentially hazardous features that would require adaptive strategies. Tables, chairs, umbrellas, etc. are not permanent structures occupying the floodplain and would be either secured or removed prior to a storm event. Additionally, the Proposed Action would not hinder the ability of buildings to incorporate future adaptive strategies to mitigate future flood risks.

3. Assess Policy consistency. The final step is to assess whether the project is consistent with Policy 6.2 of the WRP.

As noted above, since the Proposed Action has citywide applicability, sites that are subject to the provisions of the text amendment may be located in future flood zones or areas that may be exposed to future tidal flooding. With climate change, the current floodplain is likely to expand in the future and the height of flooding to increase. In addition, very low-lying areas of the city may be exposed to more regular tidal flooding.

While the proposed text amendments would expand the zone of eligibility as compared to the existing sidewalk café program by removing restrictions placed on certain areas of the city, these changes would not hinder the ability of buildings to incorporate future adaptive strategies to mitigate future flood risks. Given that these changes facilitated by the Proposed Action would not induce development compared to the No Action condition and would be limited to restaurants with an active DOHMH food service establishment license and ground floor frontage, such changes would not significantly increase overall densities in areas likely to be exposed to future tidal flooding. Additionally, sidewalk and roadway cafés would not result in a permanent structure within the floodplain. Tables, chairs, and other elements that would be placed along the sidewalk or roadway as part of the Proposed Action would be secured or removed prior to a flood event, and would not increase vulnerability to flooding or require any adaptive strategies to reduce potential flood damage. Therefore, the Proposed Action would promote this policy.

Policy 7: Minimize environmental degradation and negative impacts on public health from solid waste, toxic pollutants, hazardous materials, and industrial materials that may pose risks to the environment and public health and safety.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, substances hazardous to the environment, and the unenclosed storage of industrial materials to protect public health, control pollution and prevent degradation of coastal ecosystems.

The Proposed Action is not expected to induce development or result in new restaurants. It would allow for restaurants to provide customer seating areas on sidewalks in front of their restaurants and roadway seating in the adjacent curb lane. Restaurant solid waste and recyclables are handled by private carting companies. Buildings are required to place all solid waste generated by its tenants on the sidewalk at the curb for pick-up by private carters (for commercial waste including from restaurants) and by the New York City Department of Sanitation (for residential waste).

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Sidewalk seating areas under the Proposed Action would occupy sidewalk space on the building side directly in front of the restaurant, and would therefore not directly interfere with curbside storage of waste for pickup. In addition, restaurants with sidewalk seating would not place solid waste for pick-up directly next to sidewalk seating space during operating hours. Sidewalk storage and eventual pick up of the waste occurring in off-hours. Therefore, the sidewalk cafés developed under the Proposed Action are not expected to interfere with the handling of solid waste generated by commercial or residential tenants

In terms of roadway seating allowed by the Proposed Action, the siting criteria and provisions that define where roadway seating could occur would limit the potential for these seating areas to interfere with sanitation operations, including the pick-up of solid waste or the cleaning of streets.

Overall, the siting criteria and provisions would ensure that roadway dining would not interfere with sanitation operations. Therefore, the Proposed Action would promote this policy.

Policy 7.2: Prevent and remediate discharge of petroleum products.

The Proposed Action would not introduce or incentivize any new ground disturbance, introduce new activities or processes using hazardous materials, or introduce a population to exposure from off-site sources. Therefore, it would not have the potential to affect petroleum discharges would promote this policy.

Policy 8: Provide public access to, from, and along New York City's coastal waters.

Policy 8.1: Preserve, protect, maintain, and enhance physical, visual and recreational access to the waterfront.

While the Proposed Action would affect zoning regulations citywide and introduce mechanisms to expand the zone of eligibility as compared to the existing sidewalk café program by removing restrictions placed on certain areas of the city, it is not expected to have a significant effect on physical, visual and recreational access to the waterfront. Under the text amendment, there would be no changes to underlying waterfront zoning requirements and minimum sidewalk clear paths would be required as part of the siting criteria, leaving adequate room for pedestrian passage. Therefore, the Proposed Action would promote this policy.

Policy 8.3. Provide visual access to the waterfront where physically practical.

The Proposed Action would not introduce incompatible visual or atmospheric elements to the waterfront. Components of sidewalk or roadway seating, such as tables, would not be permanent structures that would affect visual access to the waterfront. While the Proposed Action would affect zoning regulations citywide, it is not expected to have a significant effect on visual access to the waterfront. Under the text amendment, there would be no changes to underlying waterfront zoning requirements. Therefore, the Proposed Action would promote this policy.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

The Proposed Action is not expected to have significant adverse contextual or visual impacts on existing visual resources. As noted above, the Proposed Action would affect zoning regulations citywide and introduce mechanisms to expand the zone of eligibility as compared to the existing sidewalk café program by removing restrictions placed on certain areas of the city. Sidewalk

seating would not be allowed beyond a building's frontage, and no new development would take place. Sidewalk and roadway restaurant seating facilitated by the Proposed Action not be permanent structures, would be compatible with the urban design of the area surrounding the prototypical analysis configurations, and would not adversely impact the pedestrian experience. The Proposed Action would not result in changes to views of visual resources and would not alter significant view corridors. As such, the Proposed Action would promote this policy.

Policy 9.2: Protect and enhance scenic values associated with natural resources.

Under the Proposed Action, visual quality and scenic resources would continue to be protected through historic preservation; natural resource protection; parks and open space planning and acquisition; zoning special districts; and waterfront zoning controls on over-water development, areas for public viewing, and urban design standards that shape new development. The Proposed Action would therefore not facilitate new development and would not result in permanent structure that could potentially have adverse impacts on the scenic values associated with natural resources, and would promote this policy.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, architectural, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve historic resources, and enhance resources significant to the coastal culture of New York City.

The Proposed Action would affect specific zoning districts on a citywide basis, and some of these districts may be situated in historic districts, or adjacent to historic resources. Participating cafés would be subject to review by the Landmarks Preservation Commission (LPC). Additionally, under the Proposed Action, all projects involving historical and cultural resources would continue to comply with national, state, and local laws and regulations regarding designated historical resources. In particular, privately owned properties that are NYCLs or in New York City Historic Districts would continue be protected under the New York City Landmarks Law, and any designated NYCL or State and National Register (S/NR)-listed historic buildings located within 90 linear feet of a new construction site would be subject to the protections of DOB's *Technical Policy and Procedure Notice (TPPN) #10/88*. Therefore, the Proposed Action would not result in significant adverse impact on historic and would promote this policy.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

Because the Proposed Action has citywide applicability, sites that are subject to the provisions of the Proposed Action may be located on or in close proximity to archaeological in the areas near eligible restaurants. Under the Proposed Action, there would be no in-ground disturbance, and all projects involving historical and cultural resources would continue to comply with national, state, and local laws and regulations regarding designated historical resources, including those pertaining to the discovery, investigation, and recovery of archaeological resources. Participating cafés would be subject to review by LPC. Therefore, the Proposed Action would promote this policy.

Overall, the Proposed Action would not have any significant adverse impacts on land use, zoning, or public policy.

*

A. INTRODUCTION

This attachment assesses the potential impacts of the Proposed Action on socioeconomic conditions. As described in the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, the socioeconomic character of an area includes its population, housing, and economic activity. Socioeconomic changes may occur when a project directly or indirectly changes any of those elements.

The Proposed Action would not directly affect population, housing, or economic activity, but could have indirect effects that are evaluated in this attachment. Specifically, the attachment considers: whether the loss of on-street parking could adversely affect residences or business; and whether the Proposed Action could alter the composition of businesses within retail corridors by making restaurants a more favorable use due to increased revenue potential. Overall, the assessment finds that the Proposed Action would not have any significant adverse impacts on socioeconomic conditions.

B. METHODOLOGY

Even when socioeconomic changes would not result in impacts under CEQR, they are disclosed if they would affect land use patterns, low-income populations, the availability of goods and services, or economic investment in a way that changes the socioeconomic character of the area. In some cases, the predicted socioeconomic changes may be substantial but not adverse. In other cases, the changes may be good for some groups, but bad for others. The objective of the CEQR analysis is disclose whether any changes created by the Proposed Action would have a significant adverse impact compared to what would happen in the future No Action condition.

Typically, socioeconomic changes are brought about by the direct displacement of residents or businesses from a project site, or by introducing new development that is different from existing uses. The Proposed Action involves regulatory changes that would not directly displace residents or businesses but would displace parking that supports neighborhood residential and business uses. The socioeconomic concern is whether the loss of parking could lead to disinvestment in a neighborhood by compromising a residential amenity (on-street parking availability) or lead to the indirect displacement of businesses that provide important products or services to residents and businesses.

As noted in the *CEQR Technical Manual*, a project may not displace, but may still affect the operation of a major industry or commercial operation in the City. The socioeconomic assessment also considers the effects of the Proposed Action on restaurants and on other non-restaurant retail and service-oriented businesses as a specific industry because restaurants are a unique use addressed in the proposal. The analysis considers whether the Proposed Action could influence commercial market conditions within a neighborhood retail corridor by increasing revenue-generating restaurant space. The socioeconomic concern is whether there are businesses

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potentially vulnerable to indirect displacement from changes in market conditions, and if so, whether those businesses provide a product or service to residents that would no longer be available within a trade area.

The Proposed Action is a citywide regulatory change, making it difficult to predict the specific sites where sidewalk or roadway dining usage would be expanded. As described in the *CEQR Technical Manual*, such “generic” analyses are conducted using the following methodology:

- Identify Typical Cases: provide several descriptions for cases that can reasonably typify the conditions and impacts of the entire proposal.
- Identify a Range of Conditions: provide a discussion of the range of conditions or situations under which the action(s) may take place, so that the full range of impacts can be identified.

To assess the possible effects of the Proposed Action, a RWCDs was developed for the No Action and With Action conditions for a range of prototypical corridors throughout New York City. As detailed in Attachment A, “Project Description,” the six prototypes reflect various combinations of zoning categories, development density and pedestrian activity, street and sidewalk widths, and number of restaurants.

STUDY AREA

As detailed in Attachment A, “Project Description,” the Proposed Action would remove any geographic restrictions on eligibility in the existing program to allow any restaurant with an active Department of Health and Mental Hygiene (DOHMH) food service establishment license and ground floor frontage to apply for an Open Restaurants permit so long as they are located on the ground floor and meet the siting criteria.

DATA SOURCES

The socioeconomic analysis of the Proposed Action was conducted utilizing a variety of data sources, including information from literature research, publicly accessible data including from New York City Department of City Planning (DCP) retail surveys and New York City Department of Transportation (NYCDOT) Mode Choice Surveys. This was supplemented by virtual storefront inventories conducted using Google Streetview, and private business data from Esri Business Analyst.

C. PRELIMINARY ASSESSMENT

SOCIOECONOMIC EFFECTS OF ON-STREET PARKING DISPLACEMENT

This section addresses whether the Proposed Action, by reducing the availability of on-street parking space, could impact residents and businesses, and whether such an influence could lead to significant adverse socioeconomic impacts.

IMPACT ON RESIDENTS

The concern under CEQR is whether the loss of on-street parking under the Proposed Action could make an area less desirable as a residential neighborhood, leading to disinvestment. As detailed below, the Proposed Action would not create such conditions.

As shown in **Table C-1**, under the Proposed Action it is assumed there would be up to six open restaurants per block face on a long block, with up to three restaurants utilizing both the sidewalk

and roadway for dining (under Prototype 3) and up to four restaurants utilizing only the roadway (under Prototype 6). Restaurants with roadway seating would on average be expected to displace one to two curbside parking spaces. Medium and high density residential neighborhoods with non-conforming restaurants, as exemplified in Prototype 1, would displace no more than one or two parking spaces per block. Streets that are zoned for lower density commercial and residential uses but which have a high concentration of restaurants could have up to three sidewalk and roadway seating open restaurants, as denoted by Prototype 3. Meanwhile, the high-density neighborhoods well served by transit, such as the central business district (CBD) indicated in Prototype 4, are not expected to see any restaurant dining in the roadway and would not displace any parking spaces along the commercial corridor.

**Table C-1
No Action and With Action Conditions for Prototypes**

| | Existing/No Action Condition | With Action Condition |
|-------------|---|---|
| | Sidewalk Café Assumption | Open Restaurant (OR) Assumption |
| Prototype 1 | Assumes corridor is currently eligible for sidewalk café seating under the DCA program and assumes 1 sidewalk café on one side of the block. | Assumes that there are up to 2 ORs per block face with 1 sidewalk only OR and 1 sidewalk + roadway seating. |
| Prototype 2 | Assumes No Sidewalk cafes. | Assumes 4 ORs per block face with 2 sidewalk only ORs, and 2 roadway and sidewalk ORs. Also assumes 2 consecutive restaurants per block face. |
| Prototype 3 | Assumes No Sidewalk cafes. | Assumes 4 ORs - 1 sidewalk only OR and 3 sidewalk + roadway seating ORs per side of the block. |
| Prototype 4 | Assumes No Sidewalk Cafes | Assumes that there are 2 ORs per block face – 2 sidewalk only |
| Prototype 5 | Assumes this corridor is currently eligible for sidewalk café seating under the DCA program, and that there is 1 sidewalk café on one side of the block | Assumes 4 ORs per block face – 2 sidewalk only, 1 roadway only, and 1 sidewalk + roadway. Also assumes a worst-case of 2 consecutive restaurants per block face |
| Prototype 6 | Assumes No Sidewalk Cafes | Assumes 6 ORs per block face (long block) - 2 sidewalk only, 4 roadway only (up to 3 consecutive) |

The majority of parking available along permanent Open Restaurant (POR) program-eligible corridors is metered parking. Based on a sample of corridors evaluated for each prototypical condition, approximately 75 to 100 percent of available parking spaces are metered spaces. Overall, the maximum time for a parking session for meters in New York City varies by type of vehicle and ranges from 1 to 15 hours; however, parking is priced to encourage turnover, especially in low supply/high demand areas. Additionally, in 2020, NYCDOT converted one-hour meter parking zones to two-hour parking and instituted a graduated fee rate for the second hour of parking to further encourage parking turnover. Due to residents’ need for longer-term parking spots, it is unlikely that they depend on metered parking along the central corridors. Non-conforming restaurants in residential districts would typically displace no more than one to two parking spaces per block.

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The minimal loss of parking within the commercial corridor would not be expected to have substantive “spillover” effects on neighboring residential streets. In adjacent residential neighborhoods where off-street parking is in high demand, the low rate of turnover will not make side-street parking a viable alternative for auto-based consumers. Areas low in density, where there is more limited access to transit, such as Prototype 3, tend to have a greater need for personal vehicles, and therefore parking. Under New York City zoning regulations, these commercial corridors are typically required to have accessory off-street parking available, making on-street parking less critical for businesses and customers. Overall, the Proposed Action’s displacement of a limited amount of largely metered parking would not significantly affect the desirability of an area as a residential neighborhood, and therefore would not result in any significant adverse impacts to socioeconomic conditions.

IMPACT ON BUSINESSES

As noted in *CEQR Technical Manual*, indirect displacement of businesses may occur if a project directly displaces any type of use (in this case, parking) that either directly supports businesses in the area or brings a customer base to the area for local businesses. The following section considers the potential effects of the loss of parking on business conditions.

As shown in **Table C-1**, under the Proposed Action it is assumed there would be up to four open restaurants per block face on a long block utilizing the roadway (under Prototype 6). Auto-centric streets that tend to be low density with a high concentration of restaurants could have up to three sidewalk and roadway seating open restaurants, as denoted by Prototype 3. Meanwhile, the high-density neighborhoods well served by transit, such as the central business district (CBD) indicated in Prototype 4, are not expected to see any restaurant dining in the roadway and would not displace any parking spaces along the commercial corridor.

Since restaurants tend to operate on or near commercial corridors with one- to three-hour limited, metered curbside parking, and with commensurate turnover rates of parked cars, the reduction of parking spaces for restaurants participating in curbside dining is not expected to have a significant adverse impact on a customer’s ability to park along a corridor. It is expected that some auto-based consumers would shift to other modes in areas well-served by transit and adapt to parking shortfalls by modifying their parking strategies. For example, visitors may shift shopping times to off-peak hours, or find a single metered spot and remain there for the duration of their visit, completing the entirety of their business along the corridor on foot rather than moving their car for each errand.

In addition, in New York City a vast majority of retail customers are not reliant upon a car or parking space. Based on a sampling of modal split data from various projects throughout New York City, between approximately 6 and 12 percent of retail customers arrive by personal automobile.¹ In areas less well-served by transit with higher rates of auto-based customers, such as under Prototype 3, underlying zoning regulations typically require commercial corridors to have accessory off-street parking available, making on-street parking less critical for businesses and customers. Given the small amount of displaced parking, and the small percentage of neighborhood goods and services customers arriving by personal auto, the Proposed Action would not have the potential to jeopardize the viability of businesses due to a potential loss of customers.

¹ New York City Department of Transportation Mode Choice Surveys.

Studies have shown that transforming roadways into more publicly accessible spaces has had a positive effect on local businesses and communities. The transformation of pedestrian walkways, as well as improved transit and public spaces, have shown increases in engagement and benefits to local retail revenues. For example, an NYCDOT study conducted in 2012 evaluated the success of local street enhancements and found that transforming underused parking spaces into public seating or pedestrian plazas increased seated pedestrians by 77 percent and increased sales at fronting businesses by 14 percent.²

Studies of similar programs nationally do not suggest impacts to businesses due to a loss in consumer traffic, and in many cases, parklet programs have been found to increase patronage to an area. For example, a parklet impact study conducted by the San Francisco Great Streets Project assessed how repurposing parking spaces into public parks and seating impacted the local businesses and traffic.³ The study found an increase in foot traffic and bike parking along the corridors with parklets and saw substantial increases in stationary activities such as sitting and dining. People stayed within the neighborhood area for longer periods, and businesses noticed that most of their customers were residents from the surrounding area. Overall, there did not appear to be any negative impact on the businesses due to the loss of parking, and in most cases there was actually a growth in alternative modal routes, such as biking and walking. The potential changes in modal patterns of customers, along with the supply of accessory off-street parking located within the vicinity of the retail corridor is substantial enough to supplement the minimal loss of on-street parking spaces to open restaurants and would not have a significant adverse impact on businesses.

Overall, the Proposed Action is not expected to substantively alter business conditions for local neighborhoods. The displaced parking would not be of an amount that could jeopardize the viability of neighborhood retail stores. The large majority of customers would still arrive to businesses along a corridor by a mode other than personal automobile. Those who choose to drive would be expected to continue to be able to park along the corridor, given the minimal impact that the Open Restaurant program would have on the overall supply of on-street parking. A small number of these drivers may find alternative parking options, including paying for off-street parking, or would select alternative modes of transit when feasible. The potential changes in modal patterns of customers, along with the supply of accessory off-street parking and public parking facilities located within the vicinity of the retail corridor is substantial enough to supplement the minimal loss of on-street parking spaces to open restaurants. Therefore, the displacement of parking associated with the Proposed Action would not result in significant adverse impacts due to indirect business displacement.

ADVERSE EFFECTS ON SPECIFIC INDUSTRIES

This section considers whether the Proposed Action, by increasing the availability of revenue-generating restaurant space, could result in an increase of additional restaurants that replace or out-compete other retail and services uses that might otherwise occupy the ground floor commercial space. Neighborhoods are constantly evolving in New York City in response to

² New York City Department of Transportation. "Measuring the Street: New Metrics for 21st Century Streets." Department of Transportation, City of New York, NY: 2012.
https://nacto.org/docs/usdg/measuring_the_street_nyc_dot.pdf

³ San Francisco Great Streets Project. "Parklet Impact Study." San Francisco, CA: San Francisco Great Streets Project, 2011. https://nacto.org/docs/usdg/parklet_impact_study_sf_planning_dept.pdf.

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changes in consumer behavior. The environmental concern under CEQR is whether the Proposed Action could create displacement pressures on a business that is unusually important because its products or services are uniquely dependent on its location; that, based on its type or location, is the subject of other regulations or publicly adopted plans aimed at its preservation; or that serves a population uniquely dependent on their services at its present location.

As a generic analysis, this assessment considers the likely effects of a potential market shift toward a higher density of restaurants along retail corridors, and whether this shift results in the indirect displacement of goods and services that a substantial number of residents or workers depend upon. Neighborhood shopping corridors offer residents, workers, and visitors a combination of:

- **Food and beverage stores**, such as restaurants, bars, and supermarkets;
- **Dry retail** including clothing and accessories, electronics, and home goods; and
- **Services** provided by businesses like salons, dry cleaners, and banks.

Successful retail corridors strike a balance of these uses based on local market conditions to create a vibrant and walkable street environment that reduces the need for cars, and that creates entrepreneurship opportunities for small businesses.

Table C-2 identifies the types and proportions of retail goods and services storefronts located within an approximate five-minute walking radius of sampled City corridors matching the analysis prototypes. Where applicable, locations with relatively few restaurants at a corridor's center were compared to those in the same prototype with a higher number of restaurants located at the center of a retail corridor.

As detailed in **Table C-2**, across all prototypes, neighborhoods with high concentrations of restaurants at the center of a corridor continue to provide the mix of goods and services that are critical to a functioning neighborhood. The proportions of day-to-day goods and services offerings at the heart of a retail corridor may differ, but dry retail and neighborhood services, including health services, continue to comprise a large percentage of businesses within a five-minute walking distance of a corridor's center.

With the Proposed Action, the increase in seating area for restaurants is not expected to substantively alter the retail market in a manner that could lead to the loss or substantial diminishment of neighborhood goods and services. A wide range of neighborhood goods and services, as well as dry retail or shopping goods, continue to be found in neighborhoods with high concentrations of restaurants. While some types of goods and service uses may shift to second floor spaces or to less highly-trafficked portions of a retail concentration, they still persist in all neighborhoods, as the demand for those services continue to exist. Even within Prototype 6 corridors recognized as "restaurant streets," there still can be found jewelry stores, wine shops, salons, electronic stores, and general merchandise. All neighborhoods with highly concentrated restaurants present a vibrant mix of uses that serve restaurant patrons, and the day-to-day needs of local residents. The Proposed Action would not present large enough variation in market conditions to substantively alter the retail composition in a manner that could lead to disinvestment, or loss of businesses critical to neighborhood character.

Table C-2
Composition of Uses in Neighborhoods Surrounding Retail Corridors

| Lower Restaurant Concentration at Center of Corridor | Higher Restaurant Concentration at Center of Corridor |
|---|---|
| <i>Prototype 1 [Local/neighborhood-serving corridor with limited space]</i> | |
| Composition Food and Beverage: 38% Dry Retail: 13% Services: 49% | Composition Food and Beverage: 36% Dry Retail: 30% Services: 34% |
| <i>Prototype 2 [Neighborhood/district hub with concentration of restaurants]</i> | |
| Composition Food and Beverage: 44% Dry Retail: 16% Services: 40% | Composition Food and Beverage: 29% Dry Retail: 32% Services: 39% |
| <i>Prototype 3 [Wide street in auto-centric area with a concentration of restaurants]</i> | |
| NA | Composition Food and Beverage: 46% Dry Retail: 17% Services: 37% |
| <i>Prototype 4 [Wide avenue in CBD with significant space in the ROW]</i> | |
| NA | Composition Food and Beverage: 48% Dry Retail: 30% Services: 22% |
| <i>Prototype 5 [Wide avenue in high density residential neighborhood with significant space in the ROW]</i> | |
| Composition Food and Beverage: 35% Dry Retail: 24% Services: 41% | Composition Food and Beverage: 32% Dry Retail: 24% Services: 44% |
| <i>Prototype 6 [Restaurant street]</i> | |
| NA | Composition Food and Beverage: 55% Dry Retail: 18% Services: 27% |
| Notes: | NA indicates not applicable, as the prototypes focus on corridors with higher concentrations of restaurants. |
| Sources: | AKRF, Inc. virtual inventory of sample corridors conducted via Google Maps and Street View conducted in April 2021. The date of street-level storefront images ranged from October 2019 to November 2020. |

CONCLUSION

The Proposed Action would provide opportunities for restaurant expansion beyond their indoor footprint, but the program is limited in its ability to accommodate a substantial increase in diners, and also requires a fee to participate. Projected development in the affected area would be consistent with the prevailing market conditions and trends in the area and would enable new restaurant development as-of-right, helping to meet market demand. The scale of the projected open restaurant development would not result in substantial changes to socioeconomic conditions as the majority of the land uses within the study area is not expected to change as a result of the Proposed Action. Detailed socioeconomic analysis is not warranted based on the above preliminary analyses. The Proposed Action would not displace existing residents or businesses. The Proposed Action would also not affect real estate market conditions in a way that would result in indirect displacement of residents or businesses. As the Proposed Action does not have the potential to result in direct or indirect residential or business impacts or impacts on specific industries, no significant impacts are anticipated, and further analysis is not warranted. *

A. INTRODUCTION

This attachment assesses the potential for the Proposed Action to affect historic and cultural resources. As described in Attachment A, “Project Description,” the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a permanent Open Restaurants (POR) program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the “Proposed Action”). The POR program would consist of both sidewalk and roadway restaurant seating without geographic restrictions on eligibility.

The Proposed Action would not result in any below-grade disturbance and, therefore, would not result in any potential adverse impacts to archaeological resources. In addition, as described more fully below, the installation of new sidewalk or roadway restaurant seating would not result in any potential adverse direct or indirect impacts to architectural resources.

B. METHODOLOGY

Consistent with the guidance of the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, in order to determine whether the Proposed Action could potentially affect architectural resources, this attachment considers whether the Proposed Action would result in a physical change to any resource or a physical change to the setting of any resource (such as context or visual prominence), and, if so, whether the change is likely to alter or eliminate the significant characteristics of the resource that make it important. More specifically, as set forth in the *CEQR Technical Manual*, potential impacts to architectural resources may include the following:

- Physical destruction, demolition, damage, alteration, or neglect of all or part of a historic property;
- Changes to an architectural resource that cause it to become a different visual entity;
- Isolation of the property from, or alteration of, its setting or visual relationships with the streetscape, including changes to the resource’s visual prominence;
- Introduction of incompatible visual, audible, or atmospheric elements to a resource’s setting;
- Replication of aspects of the resource so as to create a false historical appearance;
- Elimination or screening of publicly accessible views of the resource;
- Construction-related impacts, such as falling objects, vibration, dewatering, flooding, subsidence, or collapse; and
- Introduction of significant new shadows, or significant lengthening of the duration of existing shadows, over a historic landscape or on a historic structure (if the features that make the

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resource significant depend on sunlight) to the extent that the architectural details that distinguish that resource as significant are obscured.

The study area for archaeological resources is defined as the area where subsurface disturbance would occur. As the proposed program of sidewalk and roadway restaurant seating would not result in below-grade disturbance, no further consideration of archaeological resources is warranted, and this chapter focuses on architectural resources only.

Consistent with the guidance of the *CEQR Technical Manual*, architectural resources include: New York City Landmarks (NYCL), Interior Landmarks, Scenic Landmarks, New York City Historic Districts (NYCHD); resources calendared for consideration as one of the above by the New York City Landmarks Preservation Commission (LPC); resources listed on or formally determined eligible for inclusion on the State and National Registers of Historic Places (S/NR), or contained within a district listed on or formally determined eligible for listing on the Registers; resources recommended by the New York State Board for listing on the Registers; and National Historic Landmarks (NHL). The proposed program of generally unenclosed sidewalk restaurant seating and roadway restaurant seating enclosed on three sides by a 30- to 36-inch tall and minimum 18-inch-wide protective barrier, composed of planters or objects of similar size and weight, would not have the potential to result in potential construction-related impacts or the introduction of significant new shadows. Therefore, this chapter focuses on the other types of potential impacts to architectural resources.

As described in Attachment A, “Project Description,” because of the generic nature of the Proposed Action, there are no known or projected sidewalk or roadway dining sites identified as part of the Proposed Action’s Reasonable Worst-Case Development Scenario. Therefore, this attachment does not include a specific analysis of the prototype corridors, but generally considers if the Proposed Action could result in direct or indirect effects on architectural resources.

C. EXISTING CONDITIONS

Under the existing permanent outdoor dining permitting programs (the “existing program”), existing areas of eligibility are located throughout all five boroughs as shown on Figure A-1, and as of March 2020 there were approximately 1,200 active permits for sidewalk cafés and 25 active permits for Street Seats in the city. The installation of unenclosed sidewalk cafés within NYCHDs are subject to LPC approvals, and applications for permits can be expedited through LPC’s FasTrack Service, which provides certain types of building permit applications with a permit within 10 days. The installation of unenclosed sidewalk cafes adjacent to individual NYCLs, S/NR-listed or S/NR-eligible resources, or NHLs, or that are located within a S/NR-listed or S/NR-eligible historic district are not subject to LPC review. However, in the rare case that the Landmark site of an individual NYCL includes the sidewalk, then the installation of an unenclosed sidewalk cafe in that sidewalk would require LPC approval. As the existing areas of eligibility are numerous and widespread, they overlap with multiple historic districts, and examples of NYCHDs that contain existing sidewalk cafes include: in Manhattan, Greenwich Village Historic District, South Village Historic District, and Upper East Side Historic District; and in Brooklyn, Cobble Hill Historic District and Prospect Heights Historic Districts. It is expected that sidewalk cafes can be found adjacent to many individual architectural resources.

D. NO ACTION CONDITION

As described in Attachment A, “Project Description,” the No Action condition is assumed to reflect a continuation of the existing sidewalk café program. Permit applications for sidewalk cafes located within NYCHDs will continue to go through LPC’s FasTrack Service. In addition, it is expected that new sidewalk cafes may be installed without LPC review adjacent to individual architectural resources or within S/NR-listed or S/NR-eligible historic districts.

E. WITH ACTION CONDITION

The With Action condition is assumed to reflect a citywide implementation of the proposed POR program in which sidewalk restaurant seating would be generally unenclosed and roadway restaurant seating would have a 2.5- to 3-foot tall 12- to 18-inch wide protective barrier, made of planters or objects of similar size and weight, on all three sides of the seating perimeter that are in the roadway. Roadway seating would also include a ramp for ADA compliance. The With Action condition would expand the eligibility of open restaurants citywide, including to all the areas of exclusion in the existing program and including existing non-conforming restaurants throughout the city. In the With Action condition, as under the No Action condition, seating within a NYCHD would be subject to LPC review through LPC’s FasTrack Service or a similar program. In addition, LPC would issue guidance on what kinds of sidewalk or roadway restaurant seating perimeters would be approved for installation. With LPC approval, it is not expected that sidewalk and roadway seating within a NYCHD (or within the Landmark site of an individual NYCL in the unusual case where a Landmark site includes the sidewalk) would result in adverse impacts on the historic district (or individual NYCL). Under the Proposed Action, sidewalk and roadway restaurant seating would be allowed in the following three NYCHDs where it is not currently allowed under the existing program due to zoning restrictions—Albemarle-Kenmore Terraces Historic District in Brooklyn, SoHo Cast Iron Historic District in Manhattan; and Manida Street Historic District in the Bronx.

As under the existing program, the installation of sidewalk and roadway restaurant seating adjacent to an individual architectural resource or within a S/NR-listed or S/NR-eligible historic district would not be subject to LPC review (except in the unusual case where the Landmark site of an individual NYCL includes the sidewalk). However, it is not expected that the Proposed Action would result in the following types of potential impacts to architectural resources:

- *Physical destruction, demolition, damage, alteration, or neglect of all or part of a historic property.* The installation of sidewalk or roadway restaurant seating would not destroy, demolish, or damage any aspects of an architectural resource. Sidewalk restaurant seating under the proposed program would be generally unenclosed and, while it would be required to be against or close to the applying restaurant, would not involve physical effects to the building containing the restaurant. Installing sidewalk or roadway seating within a historic district would not alter an architectural aspect of the historic district as the seating would be removable and would be in addition to any existing street furniture (e.g., fire hydrants, parking signs, street lights, etc.) in the historic district.
- *Changes to an architectural resource that cause it to become a different visual entity.* Installing sidewalk or roadway restaurant seating in front of an individual architectural resource would not result in this type of adverse effect, because the new seating would not directly affect the resource, which would maintain its architectural character. In addition, new restaurant seating within a historic district would not change the overall architectural character

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of the historic district. As noted above, new sidewalk or roadway restaurant seating installed within a NYCHD would require LPC approval as in the No Action condition.

- *Isolation of the property from, or alteration of, its setting or visual relationships with the streetscape, including changes to the resource's visual prominence.* Seats, tables, umbrellas, and roadway enclosures of planters or similarly sized objects would not be substantial enough structures to alter the visual prominence of an architectural resource. Further, such restaurant seating would not isolate an architectural resource from its urban setting or substantially alter that urban setting such that an adverse impacts results. Nor would sidewalk or roadway restaurant seating alter a visual resource's relationship with the urban streetscape.
- *Introduction of incompatible visual, audible, or atmospheric elements to a resource's setting.* Although the specific context of each architectural resource in the City is unique, they are all part of a dense urban environment. Therefore, the installation of new sidewalk or roadway restaurant seating adjacent to an individual architectural resource or within a historic district would not introduce an incompatible visual, audible, or atmospheric element to that resource's setting.
- *Elimination or screening of publicly accessible views of the resource.* Generally unenclosed sidewalk restaurant seating or roadway restaurant seating enclosed on three sides by planters or similarly sized objects would not be substantial enough structures to eliminate or screen publicly accessible views of an adjacent architectural resource.

Therefore, the Proposed Action would not result in adverse impacts to historic and cultural resources. *

A. INTRODUCTION

This attachment assesses the potential for the Proposed Action to affect urban design and visual resources. As defined in the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, urban design is the totality of components that may affect a pedestrian’s experience of public space. A visual resource can include views of the waterfront, public parks, landmark structures or districts, otherwise distinct buildings, and natural resources.

As described in Attachment A: “Project Description,” the city seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a Permanent Open Restaurants (POR) program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the “Proposed Action”). This program would consist of both sidewalk and roadway restaurant seating.

Due to the generic nature of this action, there are no known or projected as-of-right development sites identified as part of the Proposed Action’s Reasonable Worst-Case Development Scenario (RWCDS). To produce a reasonable analysis of the likely effects of the Proposed Action, six representative prototypical analysis configurations were identified, as detailed in Attachment A, “Project Description.”

As described below, this preliminary assessment concludes that the Proposed Action would not result in any significant adverse impacts to urban design or visual resources. Sidewalk and roadway restaurant seating facilitated by the Proposed Action would be compatible with the urban design of the prototypical analysis configurations and surrounding areas and would not adversely impact the pedestrian experience. The Proposed Action would not result in changes to views of visual resources and would not alter significant view corridors. Therefore, no further analysis of urban design and visual resources is warranted.

B. METHODOLOGY

In accordance with the *CEQR Technical Manual*, this analysis considers the effects of the Proposed Action on the experience of a pedestrian in the study area. The assessment focuses on those project elements that have the potential to alter the built environment, or urban design, of a prototypical analysis configuration (“prototype” or “prototype corridor”), which are collectively formed by the following components:

- *Streets*. The arrangement and orientation of streets define location, flow of activity, street views, and create blocks on which buildings and open spaces are arranged. Other elements including sidewalks, plantings, streetlights, curb cuts, and street furniture also contribute to an area’s streetscape.

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- *Buildings.* A building's size, shape, setbacks, pedestrian and vehicular entrances, lot coverage and orientation to the street are important urban design components that define the appearance of the built environment.
- *Open Space.* Open space includes public and private areas, including parks and other landscaped areas, cemeteries, and parking lots.
- *Natural Features.* Natural features include vegetation and geologic, topographic, and aquatic features that are natural to the area.
- *View Corridors and Visual Resources.* Visual resources include significant natural or built features, including important view corridors, public parks, landmark structures or districts, or otherwise distinct buildings or groups of buildings.
- *Wind.* Channelized wind pressure from between tall buildings and downwashed wind pressure from parallel tall buildings may cause winds that affect pedestrian comfort and safety.

In accordance with the *CEQR Technical Manual*, a preliminary assessment of urban design and visual resources is appropriate when there is the potential for a pedestrian to observe, from the street level, a physical alteration beyond that allowed by existing zoning. Because the Proposed Action would result in this potential, it meets the threshold for a preliminary assessment of urban design and visual resources.

Per Section 230 of the *CEQR Technical Manual*, a study of wind conditions and their effect on pedestrian level safety may be warranted under certain circumstances for projects involving the construction of large buildings at locations that experience high wind conditions. The *CEQR Technical Manual* identifies west- and northwest-facing waterfronts in New York City as high wind locations. The Proposed Action would not result in the construction of multiple, tall buildings of substantial size that could potentially create "channelization" or "downwash" effects that would affect pedestrian safety in the vicinity of the sites. Therefore, a pedestrian wind conditions analysis is not warranted for the Proposed Action.

STUDY AREA

According to the *CEQR Technical Manual*, the study area for urban design and visual resources is the area where an action may influence development patterns and the built environment. As detailed in Attachment A, "Project Description," the Proposed Action would remove any geographic restrictions on eligibility in the existing program to allow any restaurant with an active food service establishment license and ground floor frontage to apply for an Open Restaurants permit so long as they are located on the ground floor and meet the siting criteria. As discussed above, the Proposed Action would be implemented citywide and is analyzed in this environmental review as a generic action. Because the Proposed Action could affect thousands of properties across numerous zoning districts and special districts, the possible effects of the Proposed Action are considered by means of prototypical analysis. To produce a reasonable analysis of the likely effects of the Proposed Action, six representative prototypical analysis configurations were identified, as noted above and as detailed in Attachment A, "Project Description." The study area for the urban design and visual resources analysis consists of the six prototypical analysis configurations and their immediate surroundings. A detailed assessment of these prototypical analysis configurations is provided below.

C. PRELIMINARY ASSESSMENT

EXISTING CONDITIONS

Under the existing permanent outdoor dining permitting programs (the “existing program”), existing areas of eligibility are located throughout all five boroughs as shown on **Figure A-1** in Attachment A, “Project Description,” and as of March 2020 there were approximately 1,200 active permits for sidewalk cafés and 25 active permits for Street Seats in the city.

The three types of sidewalk cafés under the existing program are enclosed cafés, unenclosed cafés, and small unenclosed cafés. Unenclosed sidewalk cafés are permitted in commercial, manufacturing, and select high density residential districts only, though there are exceptions to these regulations, as described in Attachment A, “Project Description.” Enclosed cafés are allowed in most locations, except for prohibitions in additional special zoning districts such as Hudson Yards, Lower Manhattan, and East Harlem. Small cafés only are allowed in additional areas of Manhattan, as part of a moderate expansion of eligibility in 2004. The three café types are subject to specific clear path regulations based on their location, while the minimum clear path required for all sidewalk cafés is 8 feet or 50 percent of the sidewalk width, whichever is greater. Additional requirements dictate the offsets required from sidewalk cafés to sidewalk obstructions such as fixtures and furniture. These requirements are designed to allow sufficient passage for pedestrians and other sidewalk users. Participating cafés are also subject to regulations governing their sign display, set-up, table count, railings, fences, valences, canopies, awnings, and heaters.

Street Seats is a citywide program in which businesses and institutions may apply to the New York City Department of Transportation (NYCDOT) for a permit to install facilities in the roadbed along the curb line to create a setting for outdoor dining or other activities. Siting and design requirements for Street Seat sites include specific provisions to ensure that the facilities do not obstruct sidewalk and roadway amenities and infrastructure, as well as providing protection for Street Seat users. Street Seats is a seasonal program spanning the months of March through December.

As described in Attachment A, “Project Description,” to produce a reasonable analysis of the likely effects of the Proposed Action, six representative prototypical analysis configurations were identified that reflect various combinations of zoning categories, development density and pedestrian activity, street and sidewalk widths, and number of restaurants. The six selected prototypical analysis configurations are summarized in **Table E-1** and described below.

PROTOTYPICAL ANALYSIS CONFIGURATION 1: LOCAL/NEIGHBORHOOD-SERVING CORRIDOR WITH LIMITED SPACE

This prototype is a mixed, local/neighborhood-serving street with limited sidewalk and roadway space and is assumed to be in a medium density residential zoning district (R5-R6) with a commercial overlay. It is lined with 3- to 5-story residential buildings with local retail on the ground floor, including a medium concentration of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. Located on a narrow two-way street with one travel lane, one bicycle lane, and curbside parking in each direction, this corridor is assumed to have relatively narrow space in the roadway, with a street width of less than 75 feet and a sidewalk width of 10 to 12 feet. The prototype includes street trees and typical street furniture such as fire hydrants, street lights, parking signage, garbage cans, and newspaper boxes. No open spaces or natural

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features are assumed in this prototype. This corridor is assumed to be currently eligible for sidewalk café seating under the existing program, with one sidewalk café on one side of each block.

**Table E-1
Prototypical Corridors**

| ID | Prototype Character | Street Width ¹ | Sidewalk Width ² | Pedestrian Activity | Restaurant Concentration ³ | Existing Sidewalk Cafés ⁴ |
|----|--|---------------------------|-----------------------------|---------------------|---------------------------------------|--------------------------------------|
| 1 | Local/neighborhood-serving corridor with limited space | Narrow | Narrow | Medium | Medium | 1 |
| 2 | Neighborhood/district hub with concentration of restaurants | Narrow | Wide | Medium | Medium-High | 0 |
| 3 | Wide street in auto-centric area with a concentration of restaurants | Wide | Wide | Low | High | 0 |
| 4 | Wide avenue in CBD with significant space in the ROW | Wide | Wide | High | Medium | 0 |
| 5 | Wide avenue in high density residential neighborhood with significant space in the ROW | Wide | Wide | Medium | High | 1 |
| 6 | Restaurant street | Narrow | Narrow | High | High | 0 |

Notes:
 1. Narrow street width < 75 feet, wide street width > 75 feet
 2. Narrow sidewalk width < 12 feet, wide sidewalk width > 12 feet
 3. Low restaurant concentration 1 to 3 restaurants per block, medium 4 to 8 restaurants per block, high greater than 8 restaurants per block
 4. Assumed number of applicable outdoor seating facilities (sidewalk, roadway, and combined sidewalk and roadway open restaurants) per block face

This prototype also covers existing non-compliant restaurants located in residential zoning districts (R1-R10) without commercial overlays, which are allowed to operate in otherwise disallowed locations due to a grandfathered condition.

PROTOTYPICAL ANALYSIS CONFIGURATION 2: NEIGHBORHOOD/DISTRICT HUB WITH CONCENTRATION OF RESTAURANTS

This prototype is a neighborhood/district hub corridor with a concentration of restaurants, and it includes elevated rail corridors. It has similar features to Prototype 1, except that it has wider sidewalks and ranges from medium density to higher density and can be featured in more commercial areas. This prototype is assumed to be in a medium/high density commercial zoning district (C4) that is also surrounded by residential neighborhoods and is well-served by transit, and it is assumed to have low- to medium-rise commercial and mixed residential/commercial buildings with local retail on the ground floor, including a medium to high concentration of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. Located on a narrow two-way street with one travel lane, one bicycle lane, and curbside parking in each direction, this corridor is assumed to have a street width of less than 75 feet and have 12- to 15-foot wide sidewalks. Street furniture is assumed to include fire hydrants, street lights, parking signage, garbage cans, and newspaper boxes. In some cases, the roadway and

sidewalks are further constricted by elevated rail infrastructure. This corridor is assumed to be currently ineligible for sidewalk café seating under the existing program.

PROTOTYPICAL ANALYSIS CONFIGURATION 3: WIDE STREET IN AUTO-CENTRIC AREA WITH A CONCENTRATION OF RESTAURANTS

This prototype is assumed to be in a low-density auto-centric residential zoning district (R3-R4) with a commercial overlay. Consisting of 1- to 3-story, mostly commercial buildings with some mixed-use residential buildings with local retail on the ground floor, this corridor has a high percentage of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. It is on a wide two-way street, greater than 75 feet in width, with two travel lanes and a center median/left-turning lane and curbside parking in each direction. This corridor is assumed to have 15- to 20-foot wide sidewalks. This prototype has few street trees, and street furniture is assumed to include parking and bus stop signage, street lights, bike racks, parking meters, garbage cans, and fire hydrants. No open spaces or natural features are assumed in this prototype. In the existing condition, it is assumed that this corridor does not include any sidewalk cafés.

PROTOTYPICAL ANALYSIS CONFIGURATION 4: WIDE AVENUE IN CENTRAL BUSINESS DISTRICT WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

This prototype represents wide avenues in central business districts and transit corridors with significant roadway and sidewalk space in the right-of-way. In addition, it reflects central business district avenues with high pedestrian activity. This corridor is assumed to be in a high-density commercial zoning district (C5-C6) with high-rise commercial office buildings with ground floor retail as well as some mixed-use office/residential buildings with ground floor retail, including a medium concentration of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. Located on a wide one-way street with four travel lanes and curbside lanes that are regulated primarily for loading and bus stops/lanes during weekdays, this corridor is assumed to have a street width of greater than 75 feet and 15- to 20-foot-wide sidewalks. This prototype is assumed to have few street trees, and street furniture includes parking and bus stop signage, garbage cans, and street lights. No open spaces or natural features are assumed in this prototype. In the existing condition, it is assumed that this corridor does not include any sidewalk cafés.

PROTOTYPICAL ANALYSIS CONFIGURATION 5: WIDE AVENUE IN HIGH DENSITY RESIDENTIAL NEIGHBORHOOD WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

This prototype reflects wide avenues in high-density residential zoning districts (R9-R10) with a commercial overlay and with medium-to-high pedestrian activity. The corridor is located near transit and has medium- to high-rise mixed-use residential/commercial buildings with ground floor retail and a high concentration of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. Located on a one-way street with three travel lanes, a curbside parking lane on one side of the street, and a protected bike lane with an adjacent parking lane on the other side, this corridor is assumed to have a street width of greater than 75 feet and 15- to 20-foot wide sidewalks. This prototype is assumed to have street trees, and street furniture includes street lights, bike racks, bus stop and parking signage, bus shelters, fire hydrants, garbage cans, parking meters, mailboxes, and newsstands. No open spaces or natural features are assumed in this prototype. In the existing condition, this corridor is assumed to be currently eligible for

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sidewalk café seating under the existing program, with one sidewalk café on one side of each block.

PROTOTYPICAL ANALYSIS CONFIGURATION 6: RESTAURANT STREET

This prototype is a restaurant street, which is considered to be a long block on a narrow street with a high volume of pedestrian traffic and a high concentration of restaurants. The ground-floor storefronts are assumed to feature a combination of awnings and signage. This corridor has narrow sidewalks with predominantly low-rise buildings in the mid-block locations and taller buildings near the avenues. In addition to being narrow, the sidewalks typically consist of obstructions such as stoops, front gates, restaurant awning posts, planters, and tree pits. Located on a one-way street with one travel lane and parking lanes on both sides, this corridor is assumed to have a narrow street width of less than 75 feet and narrow sidewalks less than 12 feet in width. This prototype is assumed to have street trees, and street furniture includes lampposts, parking meters, parking signage, garbage cans, bike racks, and fire hydrants. No open spaces or natural features are assumed in this prototype. In the existing condition, it is assumed that this corridor does not include any sidewalk cafés.

NO ACTION CONDITION

As described in Attachment A, “Project Description,” the No Action condition is assumed to reflect a continuation of the existing sidewalk café program. In the future without the Proposed Action, the urban design of the prototype corridors is expected to remain as in existing conditions.

WITH ACTION CONDITION

The With Action condition is assumed to reflect a citywide implementation of the proposed POR program; this would expand the eligibility of open restaurants citywide. This would include all areas of exclusion in the existing program as well as existing non-conforming restaurants throughout the city.

SIDEWALK SEATING

The proposed sidewalk seating program would require seating areas to be up against the wall of the building, or as close as possible, and located within the frontage of the restaurant. Seating would be kept clear of the sidewalk amenity zone and maintain a minimum established clear path of at least 8 feet for pedestrians (and at least 12 feet for pedestrians in Prototype 4 [Wide CBD Avenues] and at other select streets), while also maintaining established buffer distances from street furniture, infrastructure, and other fixed obstructions. Seating would be generally unenclosed and not designed for winterization (although natural gas and electric heating elements would be allowed).

ROADWAY SEATING

The proposed roadway seating program would be limited to no farther than 8 feet from the curb line. All seating and any protection would be fully contained within the parking lane and would be prohibited from encroaching on any bike lane, vehicle travel lane, or painted buffer. A 2.5- to 3-foot tall and 12- to 18-inch wide protective barrier, made of planters or objects of similar size and weight, would be required on all three sides of the seating perimeter that are in the roadway in order to separate the seating from the travel lane. Roadway seating would also include a ramp for ADA compliance. Fully enclosed structures would be prohibited under the proposed roadway

seating program. As with the sidewalk seating program, roadway seating areas would be required to maintain established offset distances from obstructions and infrastructure. Roadway seating would also be prohibited from No Standing Anytime and No Stopping Anytime zones, as well as bus lanes or stops, taxi stands, or designated car share parking spaces.

PROTOTYPICAL ANALYSIS CONFIGURATION 1: LOCAL/NEIGHBORHOOD-SERVING CORRIDOR WITH LIMITED SPACE

In the With Action condition, it is assumed that there would be up to two open restaurants per block face in this prototype corridor—one sidewalk seating only and one a combination of roadway and sidewalk seating. This would be an increment over the No Action condition of one open restaurant per block face, including the introduction of roadway seating to the corridor. See **Figure E-1** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

PROTOTYPICAL ANALYSIS CONFIGURATION 2: NEIGHBORHOOD/DISTRICT HUB WITH CONCENTRATION OF RESTAURANTS

In the With Action condition, it is assumed that there would be up to four open restaurants per block face in this prototype corridor—two with sidewalk seating only and two with a combination of roadway and sidewalk seating. It is assumed that there would be a maximum of two consecutive open restaurants on a given block face. Under the No Action condition, this corridor is assumed to be currently ineligible for sidewalk café seating under the existing program; therefore, With Action condition would introduce both sidewalk seating and roadway seating to this prototype. See **Figure E-2** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

PROTOTYPICAL ANALYSIS CONFIGURATION 3: WIDE STREET IN AUTO-CENTRIC AREA WITH A CONCENTRATION OF RESTAURANTS

In the With Action condition, it is assumed that there would be four open restaurants per block face in this prototype corridor—one sidewalk seating only, and three combinations of either sidewalk or roadway seating. Comparatively under the No Action condition, it is assumed that this corridor does not include any sidewalk cafés. See **Figure E-3** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

PROTOTYPICAL ANALYSIS CONFIGURATION 4: WIDE AVENUE IN CENTRAL BUSINESS DISTRICT WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

In the With Action condition, it is assumed that there would be two open restaurants per block face in this prototype, both of which would be sidewalk seating only. The curbside activity of heavy pedestrian foot traffic and regulations in effect in this corridor would preclude implementation of roadway seating areas. Comparatively, under the No Action condition, it is assumed that this corridor does not include any sidewalk cafés. See **Figure E-4** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

PROTOTYPICAL ANALYSIS CONFIGURATION 5: WIDE AVENUE IN HIGH DENSITY RESIDENTIAL NEIGHBORHOOD WITH SIGNIFICANT SPACE IN THE RIGHT-OF-WAY

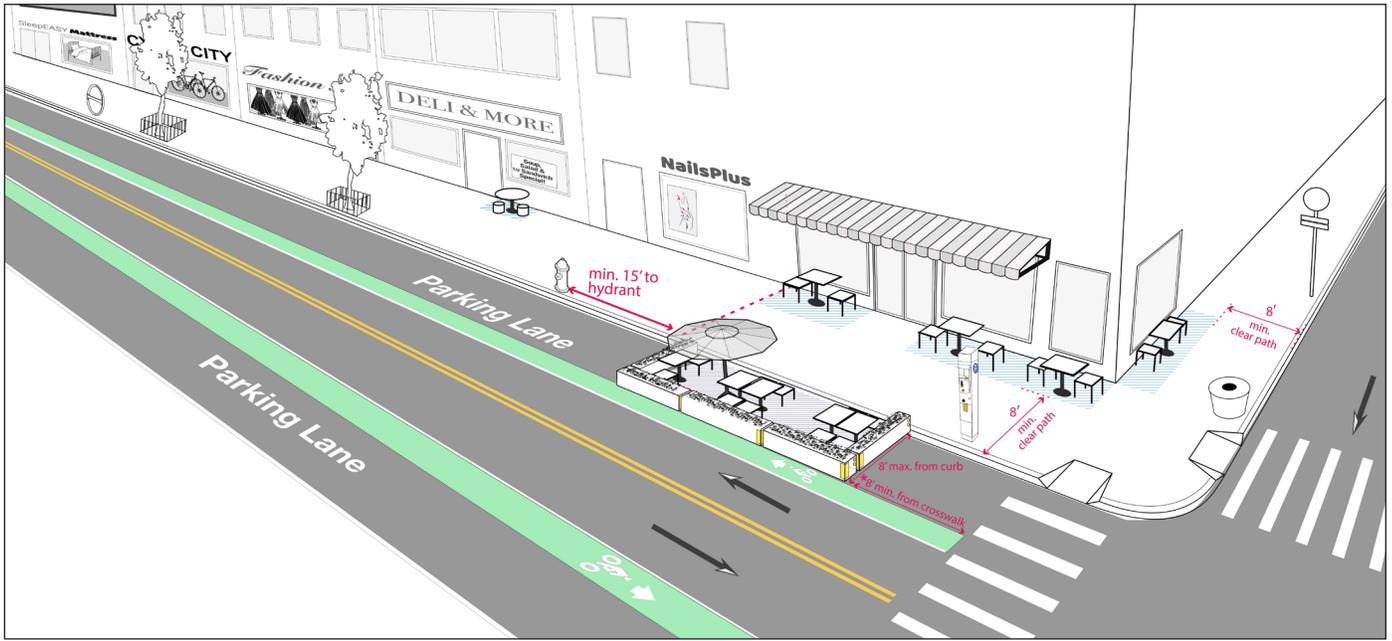
Given that this corridor is in a more residential area with more local restaurants as compared to Prototype 4, the With Action condition assumes a higher rate of open restaurant implementation,

6.3.21



No Action

Source: NYC DOT

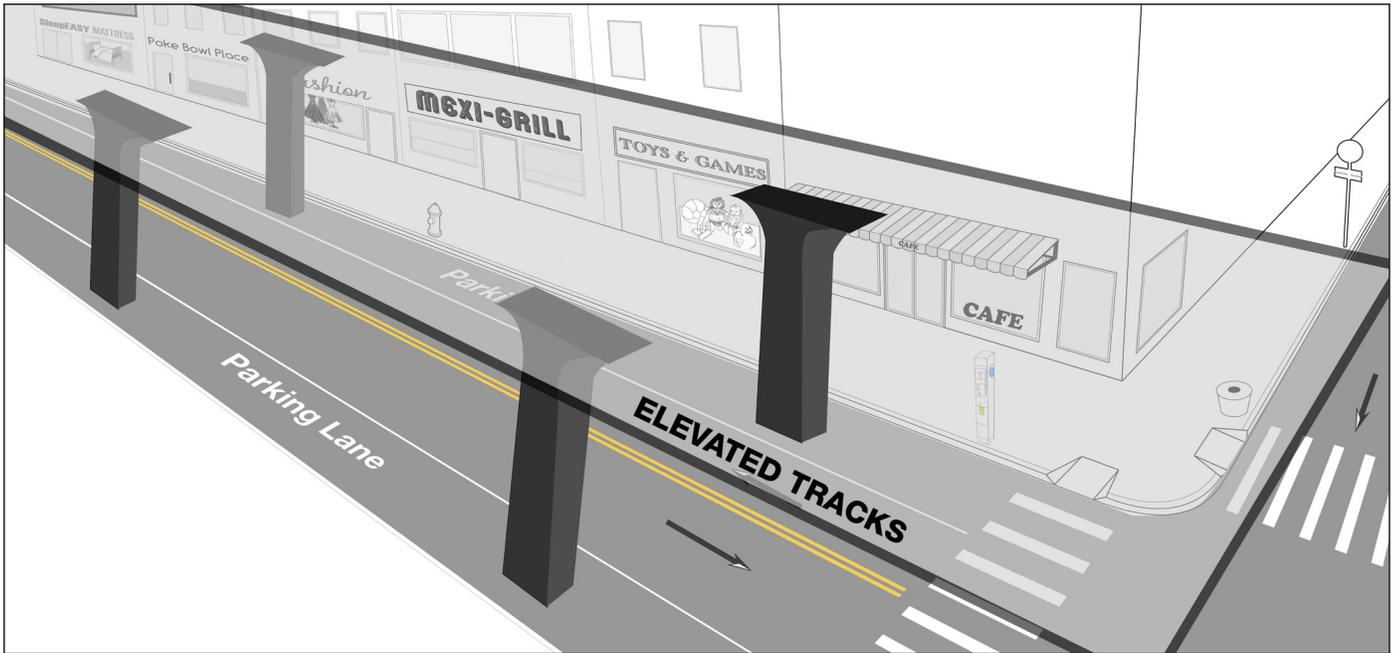


With Action

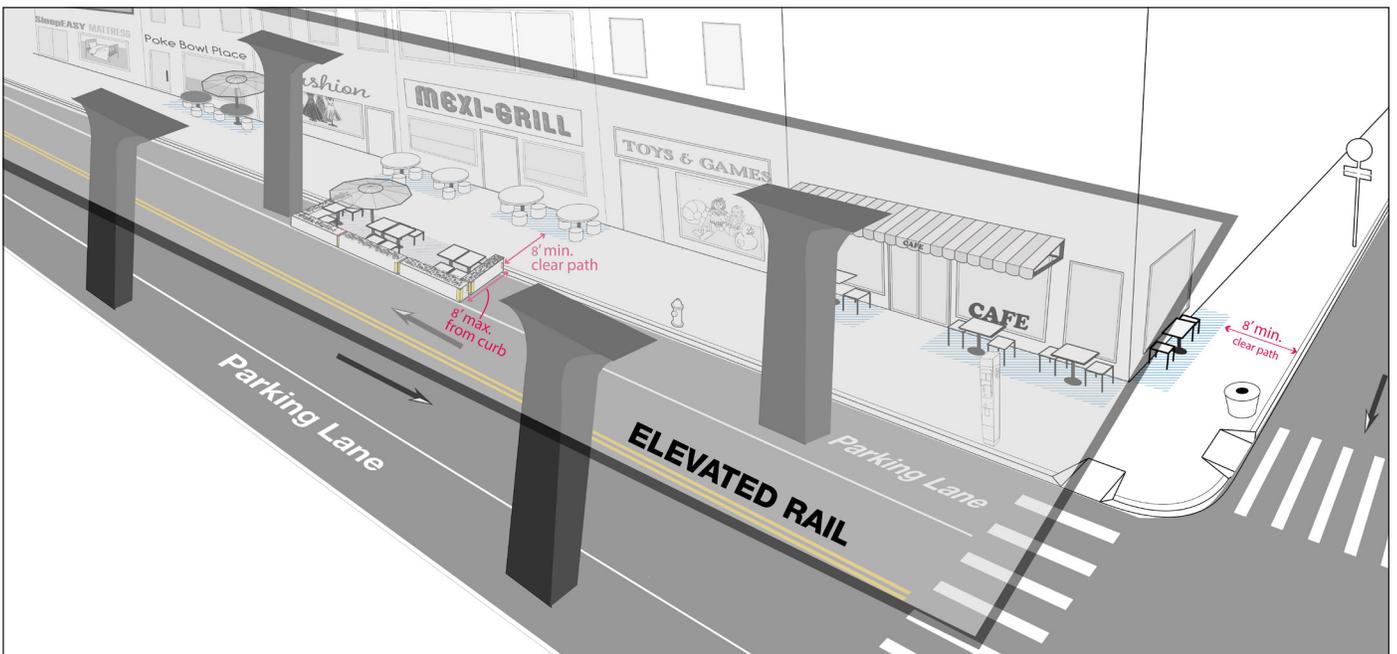
Note: Not to scale. For illustrative purposes only

Note: For roadways where 15 feet of clear width between parked/queued vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Illustrative Rendering of No Action vs. With Action Conditions:
Prototype 1 – Local/Neighborhood-Serving Corridor with Limited Space



No Action



With Action

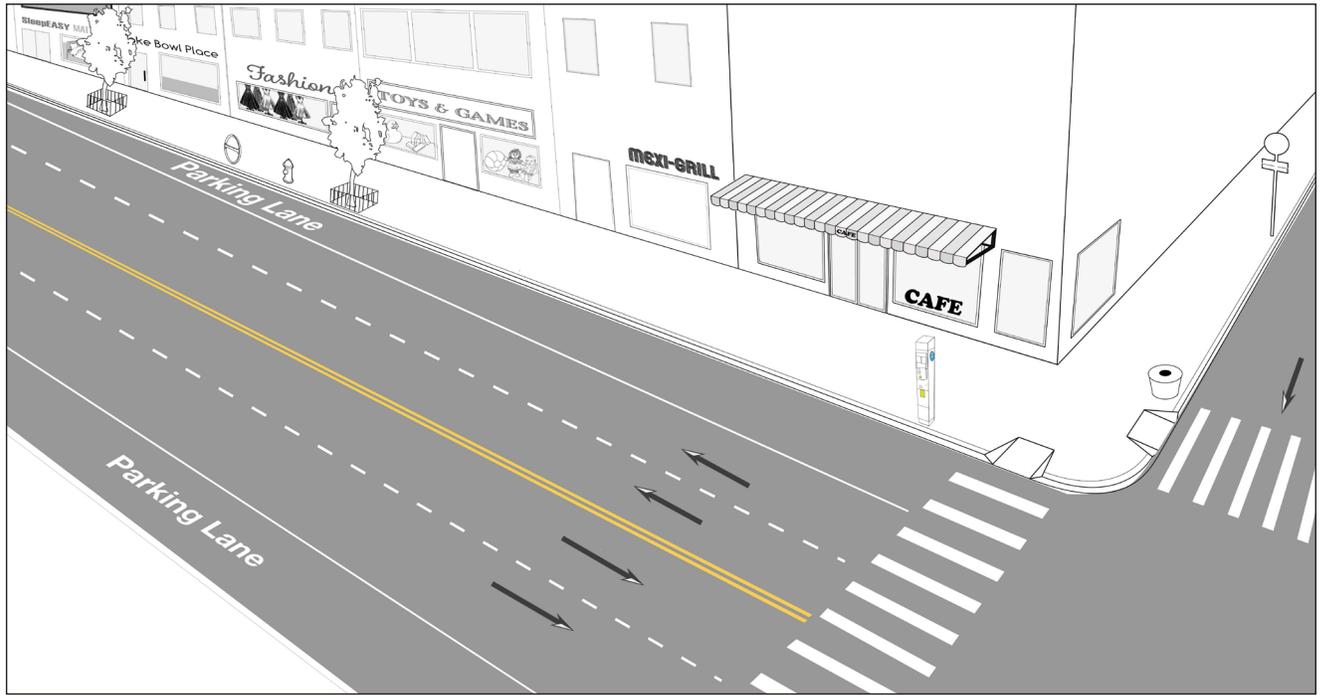
Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

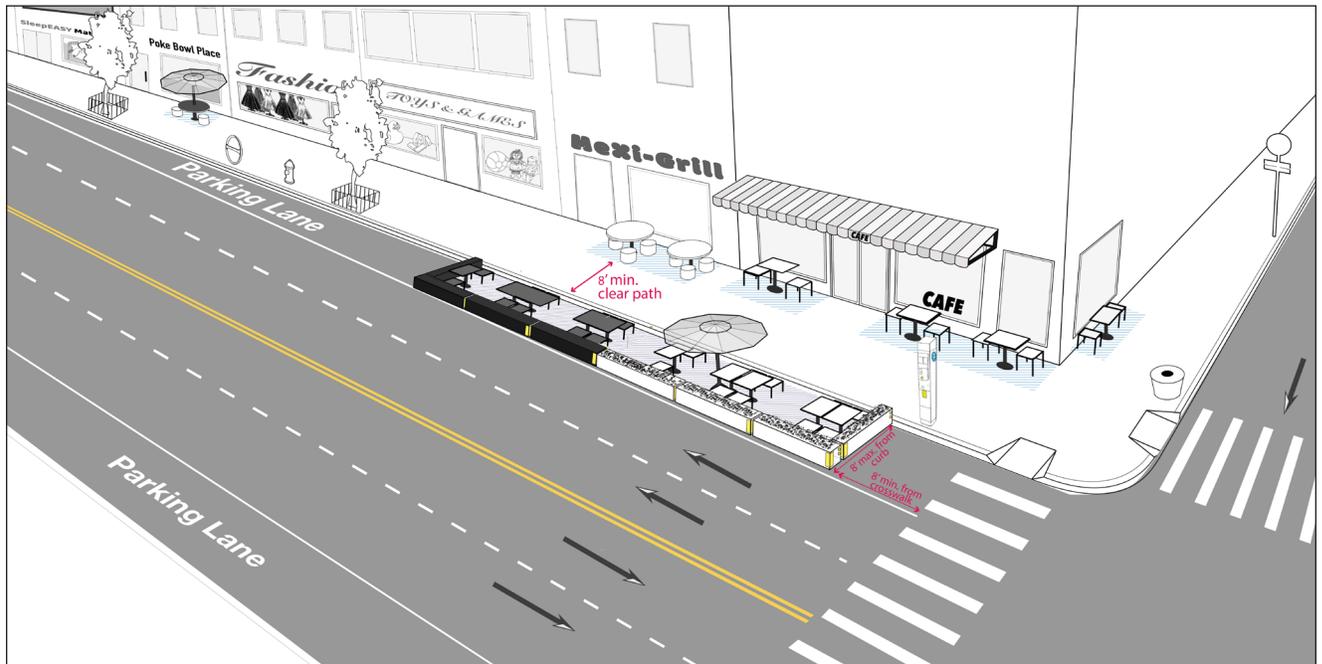
Note: For roadways where 15 feet of clear width between parked/queued vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Illustrative Rendering of No Action vs. With Action Conditions:
Prototype 2 – Neighborhood/District Hub with Concentration of Restaurants

Figure E-2



No Action



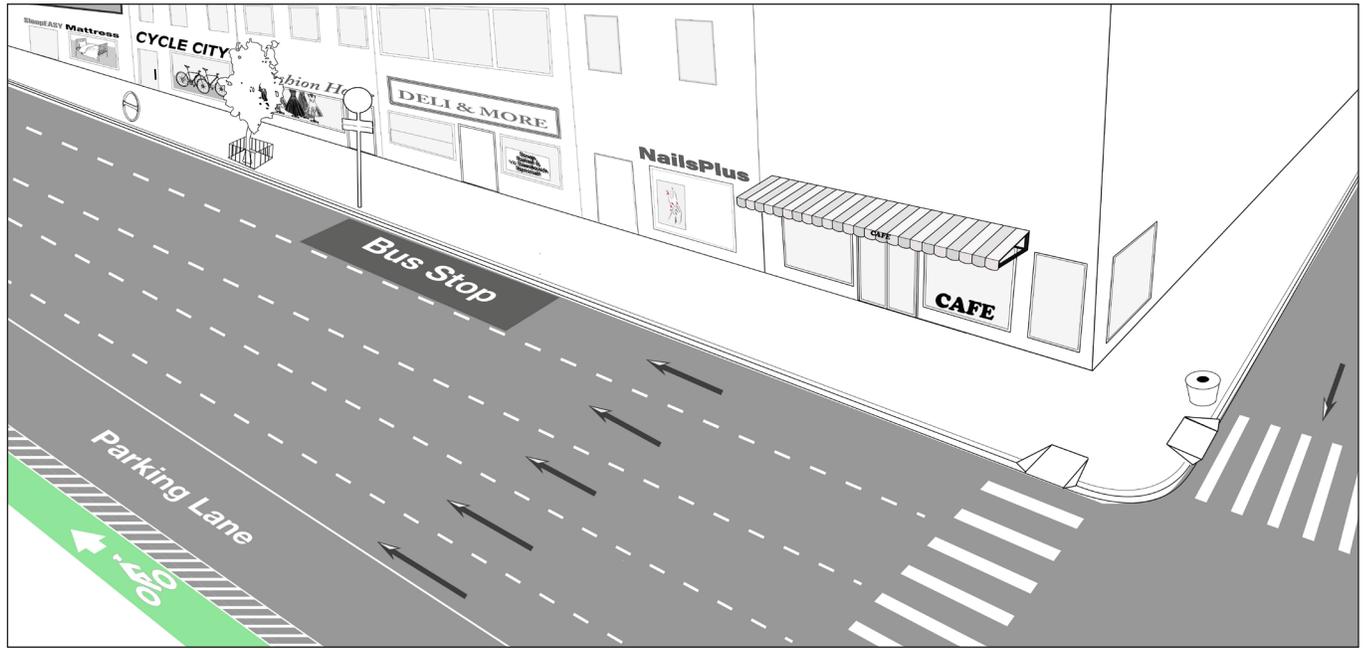
With Action

Note: One open restaurant is assumed to be located further down the block and does not appear in this view

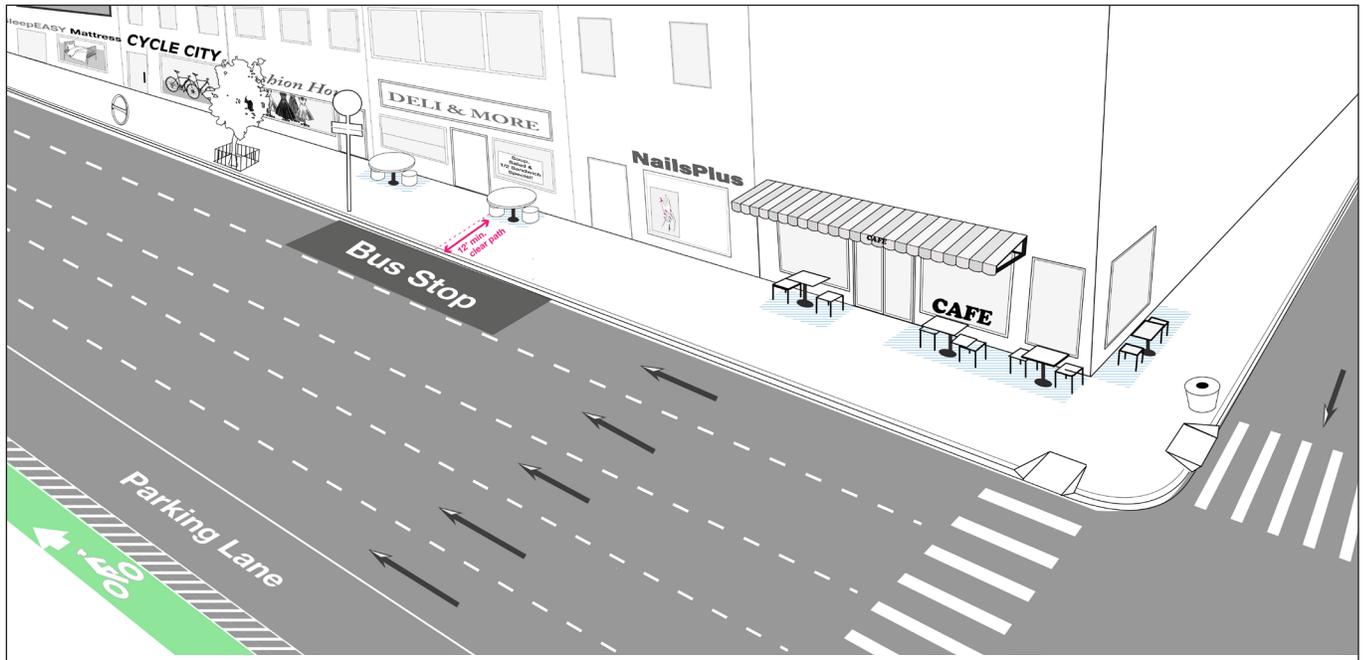
Note: Not to scale. For illustrative purposes only

Source: NYC DOT

Illustrative Rendering of No Action vs. With Action Conditions:
Prototype 3 – Wide Street in Auto-Centric Area with a Concentration of Restaurants



No Action



Source: NYC DOT

With Action

Note: Not to scale. For illustrative purposes only

Illustrative Rendering of No Action
 vs. With Action Conditions:
 Prototype 4 – Wide Avenue in Central Business District
 with Significant Space in the Right-of-Way

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with an assumed four open restaurants per block face—two sidewalk seating only, one roadway seating only, and one a combination of roadway and sidewalk seating. It is assumed that there would be a maximum of two consecutive open restaurants on a given block face. This would be an increment over the No Action condition of three open restaurants per block face. See **Figure E-5** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

PROTOTYPICAL ANALYSIS CONFIGURATION 6: RESTAURANT STREET

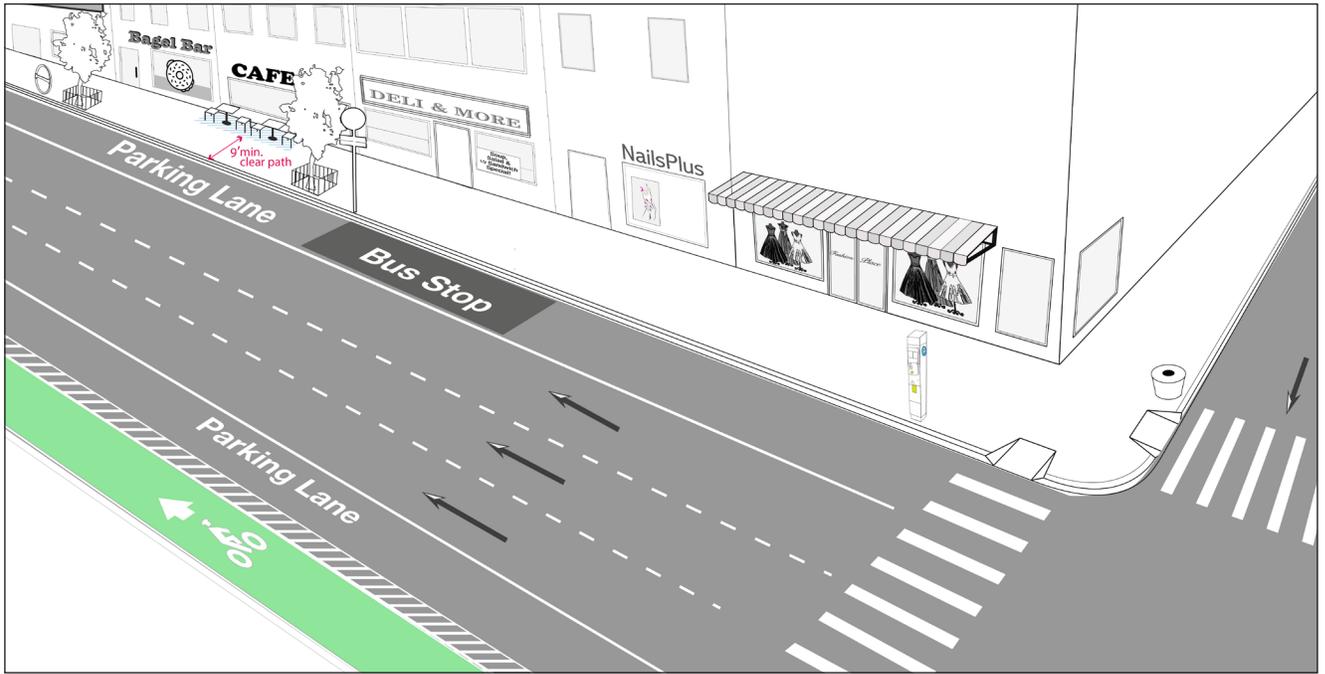
Given the high concentration of restaurants, the With Action condition assumes six open restaurants per block face in this prototype corridor—two sidewalk seating only and four roadway seating only. Comparatively, under the No Action condition, it is assumed that this prototype corridor does not include open restaurants. It is assumed that a maximum of three of these open restaurants would be located consecutively on a given block face. While this prototype demonstrates the worst case for total and consecutive open restaurants on a given block face, they are assumed to primarily consist of roadway seating due to the limited sidewalk space in this corridor. See **Figure E-6** for illustrative renderings comparing the No Action and With Conditions in this prototype corridor.

VISUAL RESOURCES ASSESSMENT

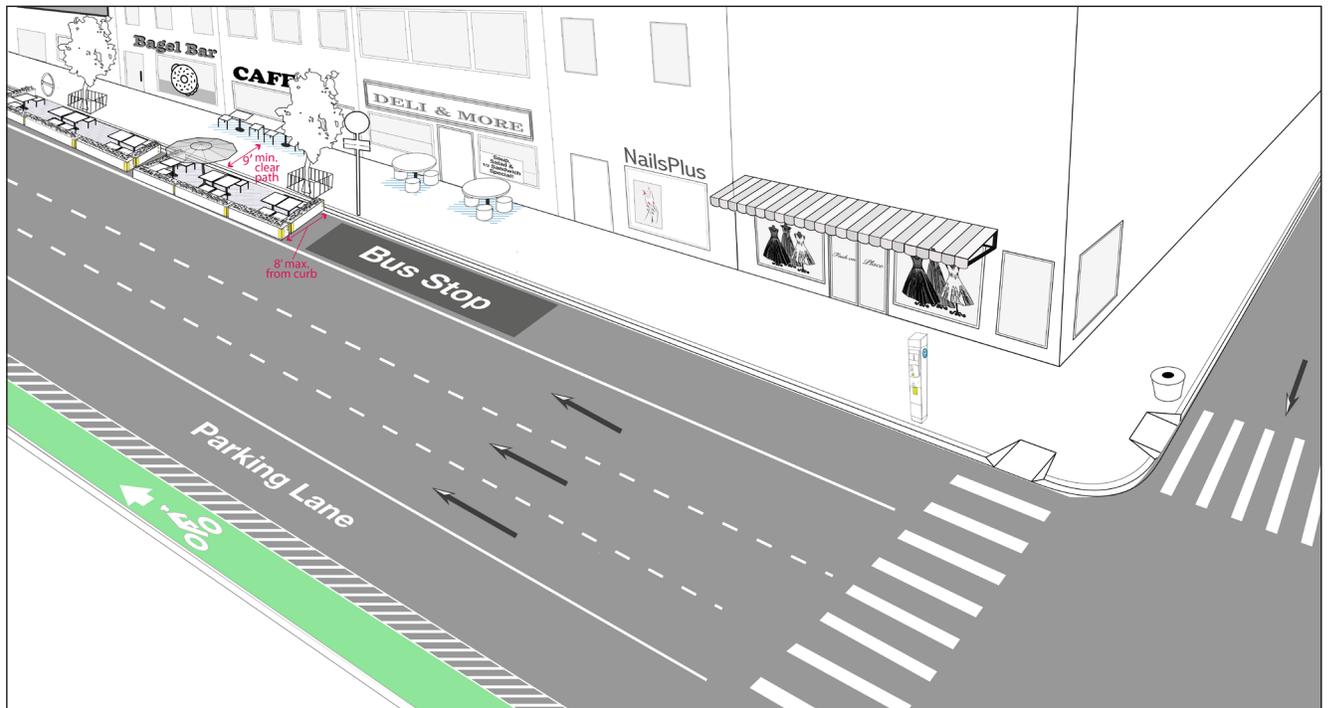
According to the 2020 *CEQR Technical Manual*, the assessment of impacts on visual resources takes into account “whether the project obstructs important visual resources and whether such obstruction would be permanent, seasonal, or temporary; how many viewers would be affected; whether the view is unique or do similar views exist; or whether the visual resource can be seen from many other locations.” Based on these considerations, it is not expected that the Proposed Action would result in significant adverse impacts on visual resources. Generally unenclosed sidewalk restaurant seating or roadway restaurant seating enclosed on three sides by enclosures no taller than 3 feet would not be substantial enough structures to obstruct visual resources. Therefore, the Proposed Action would not result in changes to views of visual resources and would not alter significant view corridors.

D. CONCLUSION

Overall, the open restaurant seating expected in the With Action condition for each of the six prototypical analysis corridors would be compatible with the existing built character of the corridors and the surrounding areas. Each of the prototype corridors is assumed to contain restaurants in the No Action condition (as they do in the existing condition), and the tables, chairs, enclosures, signage, lighting, etc. of the new open restaurant seating would be additional streetscape features in the prototype corridors that contain blockfronts of ground-floor retail marked by signage and that also feature a mix of existing street furniture. The proposed sidewalk seating and restaurant seating would further enliven these streetscapes and enhance the pedestrian experience, and the proposed open restaurant seating would be required to follow specific siting criteria so that pedestrian movement and road operations are not adversely impeded. As the prototype corridors are not assumed to contain open spaces or natural resources, the proposed restaurant seating would not affect those elements of urban design. In addition, the generally unenclosed sidewalk seating and the roadway seating enclosures would not block existing pedestrian views. *



No Action



With Action

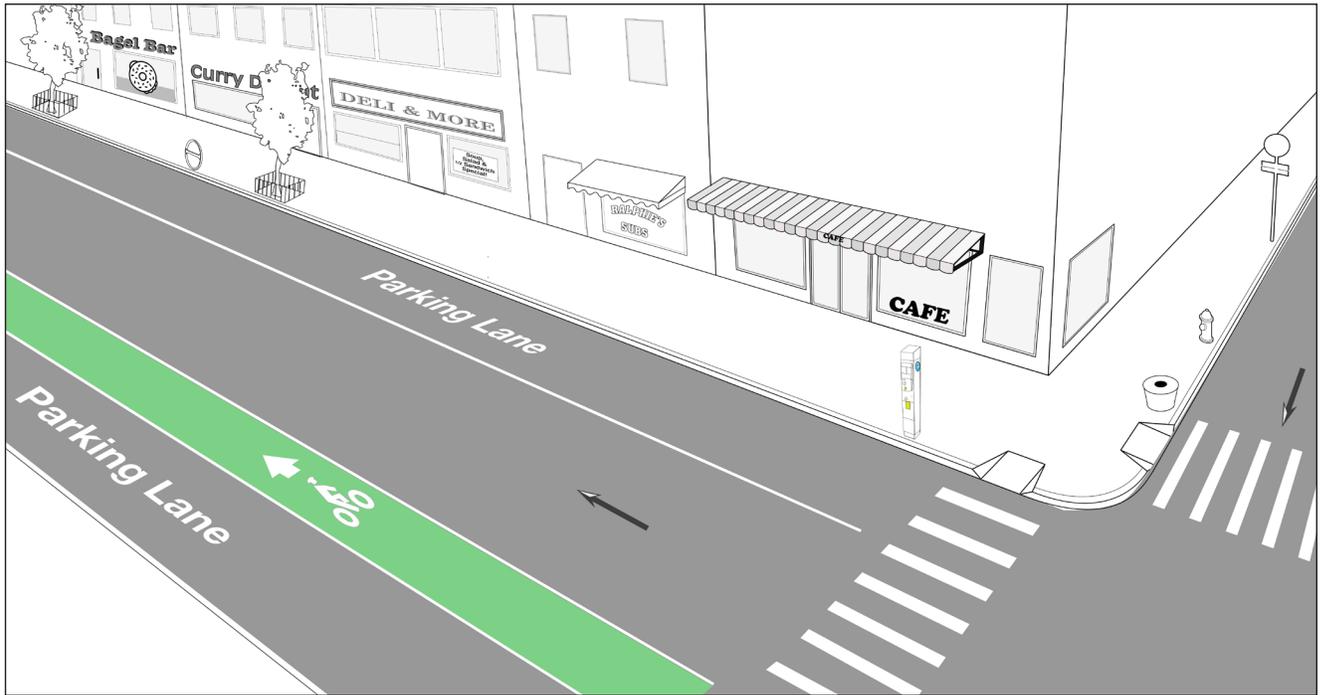
Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

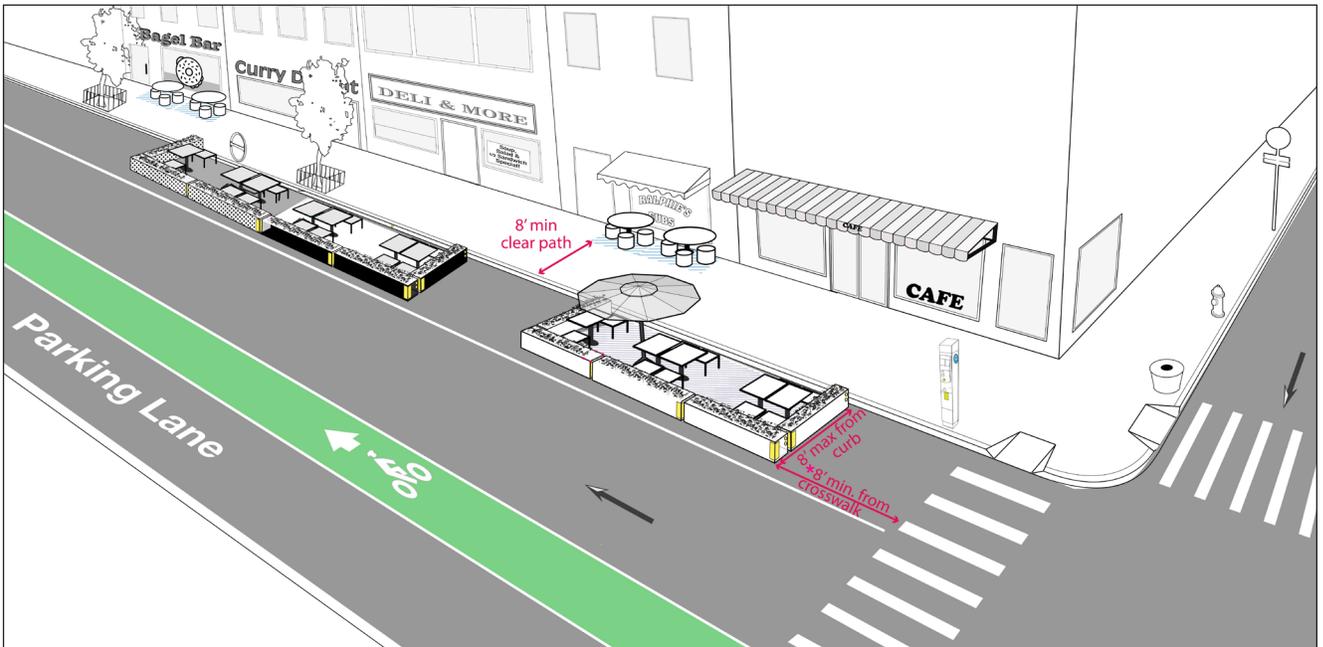
Source: NYC DOT

Illustrative Rendering of No Action vs. With Action Conditions: Prototype 5 – Wide Avenue in High Density Residential Neighborhood with Significant Space in the Right-of-Way

Figure E-5



No Action



With Action

Note: One open restaurant is assumed to be located further down the block and does not appear in this view

Note: Not to scale. For illustrative purposes only

Note: For roadways where 15 feet of clear width between parked vehicles and/or restaurant setups cannot be provided a 15 foot minimum clearance from the sidewalk is necessary instead of 8 feet

Illustrative Rendering of No Action vs. With Action Conditions: Prototype 6 – Restaurant Street

Figure E-6

A. INTRODUCTION

As described in Attachment A, “Project Description,” the City is seeking an amendment to the New York City Zoning Resolution and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York and the Rules of the City of New York to establish and implement a Permanent Open Restaurants (POR) program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the “Proposed Action”). The existing sidewalk café program, which involves a permit application and review process through the Department of Consumer and Work Protection (DCWP), formerly the Department of Consumer Affairs (DCA), was temporarily suspended by the executive orders. The Proposed Action would seek to establish the rules of a new permanent program consistent with Local Law 114’s authorization. This program would consist of both a roadway café seating program, and improvements to and transfer of authority for sidewalk cafés as a successor to the DCWP program.

According to the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, the Proposed Action is analyzed as a “generic action” because it would have wide application throughout the city and, due to the broad applicability of the Proposed Action, it is difficult to predict the sites where development would be facilitated. In addition, the Proposed Action is not in-and-of-itself expected to induce development where it would not have occurred absent the Proposed Action.

Because of the generic nature of the Proposed Action, there are no known or projected sidewalk or roadway dining sites identified as part of the Proposed Action’s Reasonable Worst-Case Development Scenario (RWCDS). To produce a reasonable analysis of the likely effects of the Proposed Action, six representative prototypical analysis configurations (“prototypes” or “prototype corridors”) have been identified for streets and corridors that may experience expanded outdoor dining as a result of the Proposed Action. These prototypes are loosely based on real-world sites and represent the types of streets and neighborhood contexts where the Proposed Action would likely occur in order to assess a variety of possible outcomes.

This attachment examines the potential effects of the Proposed Action on prototypical corridors where the POR is expected to be implemented which, in part, reflect a range of sidewalk conditions and pedestrian activity where the POR is expected to be implemented. Since it is expected that the Proposed Action would result in no greater than six open restaurant areas per block face for any prototype corridor, it is expected that the increase in dining area would be below the minimum development density thresholds for restaurant use in which project generated incremental pedestrian trips would need to be quantified. Therefore, for the purposes of this pedestrian analysis, the potential for significant adverse pedestrian impacts would be assessed based on the anticipated changes in sidewalk width due to the Proposed Action and the anticipated pedestrian volumes for each sidewalk prototype in the 2022 analysis year.

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For the purposes of this pedestrian assessment, historical peak hour pedestrian volume data collected at sidewalks in all five boroughs of New York City from 2016 to 2019 (i.e., not influenced by COVID-19's effects on pedestrian volume, therefore providing a conservative analysis) were obtained and aggregated. The 15th-percentile, 50th-percentile, and 85th-percentile peak hour pedestrian volumes were selected for analysis. Sidewalk clear path widths for the prototypes in the No Action and With Action conditions are presented in **Table F-1**; in the With Action condition, with the POR in place, the minimum clear path width that is required to be maintained per design guidelines would be 8 feet, with the exception of all streets in Prototype 4, where the minimum clear path width required would be 12 feet, as this prototype is generally located in certain central business district (CBD) locations where greater pedestrian activity would require a 12-foot minimum clear path to be maintained under the Proposed Action. Additionally, some individual streets in other prototype categories may also be subject to wider minimum clear path width provisions; however, for conservative pedestrian analysis purposes, an 8-foot minimum clear path width is assumed for these prototypes.

Table F-1

Sidewalk Width Assumptions for Sidewalk Analyses by Prototype

| Prototype | No Action Sidewalk Width | With Action Clear Width |
|---|--------------------------|-------------------------|
| 1: Local/Neighborhood-serving Corridor | 10' | 8' |
| 2: Neighborhood/District Hub | 15' | 8' |
| 3: Wide street in auto-centric area | 15' | 8' |
| 4: Wide avenue in Central Business District | 19' | 12' |
| 5: Wide avenue in High Density Residential Neighborhood | 17' | 8' |
| 6: Restaurant street | 11' | 8' |

The analyses were performed for a 2022 horizon year to identify potential impacts and, if warranted, determine appropriate project improvement measures to address any potential impacts. The capacity analyses presented in this attachment were conducted pursuant to the methodologies outlined in the 2020 *City Environmental Quality Review (CEQR) Technical Manual*.

B. TRANSPORTATION ANALYSIS METHODOLOGIES

PEDESTRIAN OPERATIONS

The adequacy of the study area's sidewalks, crosswalks, and corner reservoir capacities in relation to the demand imposed on them is evaluated based on the methodologies presented in the 2010 *Highway Capacity Manual (HCM)* and procedures detailed in the *CEQR Technical Manual*.

The primary performance measure for sidewalks and walkways is pedestrian space, expressed as sf per pedestrian (SFP), which is an indicator of the quality of pedestrian movement and comfort. The calculation of the sidewalk SFP is based on the pedestrian volumes by direction, the effective sidewalk or walkway width, and average walking speed. The SFP forms the basis for a sidewalk level of service (LOS) analysis. The determination of sidewalk LOS is also dependent on whether the pedestrian flow being analyzed is best described as "non-platoon" or "platoon." Non-platoon flow occurs when pedestrian volume within the peak 15-minute period is relatively uniform, whereas, platoon flow occurs when pedestrian volumes vary significantly with the peak 15-minute period. Such variation typically occurs near bus stops, subway stations, and/or where adjacent crosswalks account for much of the walkway's pedestrian volume. The LOS standards for sidewalks are summarized in **Table F-2**.

**Table F-2
LOS Criteria for Pedestrian Elements**

| LOS | Sidewalks |
|-----|--------------------|
| | Platoon Flow |
| A | > 530 SFP |
| B | > 90 and ≤ 530 SFP |
| C | > 40 and ≤ 90 SFP |
| D | > 23 and ≤ 40 SFP |
| E | > 11 and ≤ 23 SFP |
| F | ≤ 11 SFP |

The *CEQR Technical Manual* specifies acceptable LOS in non-Central Business District (CBD) areas is LOS C or better, while acceptable LOS in CBD areas is mid-LOS D or better. CBD areas include most of Manhattan, Downtown Brooklyn, Long Island City, and downtown Jamaica. CBDs generally have a substantially higher level of pedestrian activity than other non-CBD areas of New York City. As a result, pedestrians in CBD areas have become acclimated to, and tolerant of, restricted LOS conditions that might not be considered acceptable elsewhere.

Sidewalk analyses consider the effective width of the sidewalk, the pedestrian volume, and the pedestrian walking speed in determining levels of service. The effective width is the portion of the sidewalk that can effectively be used by pedestrians. Sidewalk analyses would consider the clear widths described in **Table F-1**, but also consider any potential obstructions that would be permitted to be within the clear width based on the Open Restaurant Program design guidelines, such as traffic signs, parking meters, and tree pits. Therefore, the effective width of the analyzed sidewalks would consider the clear width and deduct the width of obstructions (assumed to be 2 feet) and shy distances of building faces and curbs (assumed to be 2.5 feet) for all sidewalk prototypes, in accordance with the *CEQR Technical Manual*.

SIGNIFICANT IMPACT CRITERIA

The determination of significant pedestrian impacts considers the level of predicted decrease in pedestrian space between the No Action and With Action conditions. For different pedestrian elements, flow conditions, and area types, the CEQR procedure for impact determination corresponds with various sliding-scale formulas, as further detailed below.

Sidewalks

There are two sliding-scale formulas for determining significant sidewalk impacts. For non-platoon flow, the determination of significant sidewalk impacts is based on the sliding scale using the following formula:

$$Y \geq X/9.0-0.31,$$

where Y is the decrease in pedestrian space in SFP and X is the No Action pedestrian space in SFP.

For platoon flow, the sliding-scale formula is:

$$Y \geq X/9.5-0.321.$$

Since a decrease in pedestrian space within acceptable levels would not constitute a significant impact, these formulas would apply only if the With Action pedestrian space falls short of LOS C in non-CBD areas or mid-LOS D in CBD areas. **Table F-3** summarizes the sliding scale guidance provided by the *CEQR Technical Manual* for determining potential significant sidewalk impacts.

Table F-3
Significant Impact Guidance for Sidewalks

| Platoon Flow | | | |
|---|--|----------------------------------|--|
| Sliding Scale Formula: $Y \geq X/(9.5-0.321)$ | | | |
| Non-CBD Areas | | CBD Areas | |
| No Action Ped. Space (X, SFP) | With Action Ped. Space Reduc. (Y, SFP) | No Action Ped. Space (X, SFP) | With Action Ped. Space Reduc. (Y, SFP) |
| 43.5 to 44.3 | ≥ 4.3 | – | – |
| 42.5 to 43.4 | ≥ 4.2 | – | – |
| 41.6 to 42.4 | ≥ 4.1 | – | – |
| 40.6 to 41.5 | ≥ 4.0 | – | – |
| 39.7 to 40.5 | ≥ 3.9 | – | – |
| 38.7 to 39.6 | ≥ 3.8 | – | – |
| 37.8 to 38.6 | ≥ 3.7 | – | – |
| 36.8 to 37.7 | ≥ 3.6 | – | – |
| 35.9 to 36.7 | ≥ 3.5 | – | – |
| 34.9 to 35.8 | ≥ 3.4 | – | – |
| 34.0 to 34.8 | ≥ 3.3 | 34.0 to 34.8 | ≥ 3.3 |
| 33.0 to 33.9 | ≥ 3.2 | 33.0 to 33.9 | ≥ 3.2 |
| 32.1 to 32.9 | ≥ 3.1 | 32.1 to 32.9 | ≥ 3.1 |
| 31.1 to 32.0 | ≥ 3.0 | 31.1 to 32.0 | ≥ 3.0 |
| 30.2 to 31.0 | ≥ 2.9 | 30.2 to 31.0 | ≥ 2.9 |
| 29.2 to 30.1 | ≥ 2.8 | 29.2 to 30.1 | ≥ 2.8 |
| 28.3 to 29.1 | ≥ 2.7 | 28.3 to 29.1 | ≥ 2.7 |
| 27.3 to 28.2 | ≥ 2.6 | 27.3 to 28.2 | ≥ 2.6 |
| 26.4 to 27.2 | ≥ 2.5 | 26.4 to 27.2 | ≥ 2.5 |
| 25.4 to 26.3 | ≥ 2.4 | 25.4 to 26.3 | ≥ 2.4 |
| 24.5 to 25.3 | ≥ 2.3 | 24.5 to 25.3 | ≥ 2.3 |
| 23.5 to 24.4 | ≥ 2.2 | 23.5 to 24.4 | ≥ 2.2 |
| 22.6 to 23.4 | ≥ 2.1 | 22.6 to 23.4 | ≥ 2.1 |
| 21.6 to 22.5 | ≥ 2.0 | 21.6 to 22.5 | ≥ 2.0 |
| 20.7 to 21.5 | ≥ 1.9 | 20.7 to 21.5 | ≥ 1.9 |
| 19.7 to 20.6 | ≥ 1.8 | 19.7 to 20.6 | ≥ 1.8 |
| 18.8 to 19.6 | ≥ 1.7 | 18.8 to 19.6 | ≥ 1.7 |
| 17.8 to 18.7 | ≥ 1.6 | 17.8 to 18.7 | ≥ 1.6 |
| 16.9 to 17.7 | ≥ 1.5 | 16.9 to 17.7 | ≥ 1.5 |
| 15.9 to 16.8 | ≥ 1.4 | 15.9 to 16.8 | ≥ 1.4 |
| 15.0 to 15.8 | ≥ 1.3 | 15.0 to 15.8 | ≥ 1.3 |
| 14.0 to 14.9 | ≥ 1.2 | 14.0 to 14.9 | ≥ 1.2 |
| 13.1 to 13.9 | ≥ 1.1 | 13.1 to 13.9 | ≥ 1.1 |
| 12.1 to 13.0 | ≥ 1.0 | 12.1 to 13.0 | ≥ 1.0 |
| 11.2 to 12.0 | ≥ 0.9 | 11.2 to 12.0 | ≥ 0.9 |
| 10.2 to 11.1 | ≥ 0.8 | 10.2 to 11.1 | ≥ 0.8 |
| 9.3 to 10.1 | ≥ 0.7 | 9.3 to 10.1 | ≥ 0.7 |
| 8.3 to 9.2 | ≥ 0.6 | 8.3 to 9.2 | ≥ 0.6 |
| 7.4 to 8.2 | ≥ 0.5 | 7.4 to 8.2 | ≥ 0.5 |
| 6.4 to 7.3 | ≥ 0.4 | 6.4 to 7.3 | ≥ 0.4 |
| < 6.4 | ≥ 0.3 | < 6.4 | ≥ 0.3 |

Notes:
SFP = square feet per pedestrian; Y = decrease in pedestrian space in SFP; X = No Action pedestrian space in SFP

Sources:
New York City Mayor's Office of Environmental Coordination, *CEQR Technical Manual* (revised by the New York City Department of Transportation (NYCDOT) in May 2021)

PARKING CONDITIONS ASSESSMENT

The parking analysis identifies the extent to which on-street parking is available and utilized under existing and future conditions. It takes into consideration anticipated changes in area parking

supply and provides a comparison of parking needs versus availability to determine if a parking shortfall is likely to result from parking displacement attributable to or additional demand generated by a proposed project. Typically, this analysis encompasses a study area within a ¼-mile of the project site. If the analysis identifies a shortfall in parking within the ¼-mile study area, the study area could sometimes be extended to a ½-mile to identify additional parking supply.

Under the *CEQR Technical Manual*'s guidance, for proposed projects located in Parking Zones 1 and 2, the inability of a proposed project or the surrounding area to accommodate the projects' estimated parking demand is considered a parking shortfall, but is generally not considered significant due to the magnitude of available alternative modes of transportation.

For areas outside of the CBD in New York City, a parking shortfall that exceeds more than half the available on-street parking spaces within a ¼-mile of the project site may be considered significant. Additional factors, such as the availability and extent of transit in the area, proximity of the project to such transit, and patterns of automobile usage by area residents, could be considered to determine the significance of the identified parking shortfall. In some cases, if there is adequate parking supply within a ½-mile of the project site, the projected parking shortfall may also not necessarily be considered significant.

C. DETAILED PEDESTRIAN ANALYSIS

As described in Attachment A, "Project Description," six sidewalk prototypes were selected for analysis:

- Prototype 1: Local/Neighborhood-serving Corridor with limited space
- Prototype 2: Neighborhood/District Hub with concentration of restaurants
- Prototype 3: Wide street in auto-centric area with a concentration of restaurants
- Prototype 4: Wide avenue in Central Business District with significant space in the right-of-way
- Prototype 5: Wide avenue in High Density Residential Neighborhood with significant space in the right-of-way
- Prototype 6: Restaurant streets

These sidewalk prototypes were analyzed based on clear sidewalk width assumptions described in **Table F-1**, and based on volumes developed from historical pedestrian counts available on sidewalk frontages with restaurants, as described below.

VOLUME DEVELOPMENT METHODOLOGY

Sidewalk volumes for each of the prototypes were developed following extensive research of sidewalk counts collected from 2016 to 2019, from NYCDOT's Traffic Information Management System (TIMS) and previously conducted sidewalk analyses for projects that underwent environmental review.

Locations of available pedestrian counts were compared against tax parcels with restaurants, using New York City Department of City Planning's MapPLUTO data. Data collected at sidewalk frontages with at least one restaurant were considered appropriate for use after comparing to information from aerials and online street imagery resources, except for the following cases:

- Restaurant(s) is set too far back from the sidewalk for a sidewalk café to be implemented (i.e., restaurants in strip malls and with street-facing parking lots)

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- Restaurant(s) identified from tax parcel data on the block are no longer open
- Restaurant(s) identified from tax parcel data are not locatable from aerials/street imagery research
- Restaurant(s) identified from tax parcel data on the block appear to not offer any seating (indoor or outdoor)

In total, there were 113 roadway segments identified across all five boroughs of New York City with available historical sidewalk counts from 2016 to 2019. Among these roadway segments, those with available sidewalk counts during weekday and Saturday peak hours were selected, and each sidewalk was assigned a prototype. Since several of these roadway segments have available counts and restaurant frontages on both sides of the street, a total of 147 sidewalk frontages with restaurants have available sidewalk count data.

Weekday AM, Weekday Midday, Weekday PM, and Saturday Midday peak hour data collected from TIMS and previous transportation studies were then aggregated for each prototype. The following standard annual growth rates from the *2020 CEQR Technical Manual* summarized in **Table F-4** below were then applied by sidewalk count location to project the pedestrian volumes for the 2022 analysis year, based on when the original data was collected:

Table F-4
Annual Background Growth Rates

| Location of Sidewalk Count | Annual Background Growth Rate (Years 1 to 5) | Annual Background Growth Rate (Year 6, if applicable) |
|----------------------------|--|---|
| Manhattan | 0.25% | 0.125% |
| Bronx | 0.25% | 0.125% |
| Downtown Brooklyn | 0.25% | 0.125% |
| Other Brooklyn | 0.50% | 0.25% |
| Long Island City, Queens | 0.25% | 0.125% |
| Other Queens | 0.50% | 0.25% |
| St. George, Staten Island | 0.25% | 0.125% |
| Other Staten Island | 1.0% | 0.50% |

Based on the projected pedestrian volumes for the 2022 analysis year, percentile ranges of potential sidewalk volumes for each prototype were determined based on the aggregated peak hour pedestrian counts. Low range (15th percentile), median (50th percentile), and high range (85th percentile) sidewalk peak hour pedestrian volumes for the 2022 analysis year were then determined, as summarized in **Table F-5**.

Table F-5
Projected Peak Hour Pedestrian Volumes by Prototype

| Prototype | Sample Size (Total Number of Peak Hour Sidewalk Counts) | Peak Hour Pedestrian Volume (2022 Analysis Year) | | |
|---|---|--|--------------------------|------------------------------|
| | | Low Range (15th Percentile) | Median (50th Percentile) | High Range (85th Percentile) |
| 1: Local/Neighborhood-serving Corridor | 110 | 168 | 429 | 970 |
| 2: Neighborhood/District Hub | 166 | 180 | 423 | 1,012 |
| 3: Wide Street in Auto-Centric Area | 6 | 178 | 317 | 515 |
| 4: Wide avenue in Central Business District | 21 | 1,190 | 1,934 | 2,648 |
| 5: Wide Avenue in High Density Residential Neighborhood | 103 | 193 | 586 | 881 |
| 6: Restaurant Street | 47 | 337 | 591 | 1,054 |

SIDEWALK ANALYSIS STANDARD ASSUMPTIONS

As shown in **Table F-1**, the clear width in the With Action condition was assumed to be 8 feet for Prototypes 1, 2, 3, 5, and 6¹, and 12 feet for Prototype 4, consistent with the design guidelines for sidewalks with open restaurants. Based on the POR program’s siting criteria, sidewalk seating and tables cannot be adjacent to fire hydrants, bus stops, and utility hardware; however, obstructions such as street signs, parking meters, and tree pits with flush gratings, can be located within the clear path. Therefore, a standard obstruction width of 2 feet was conservatively applied, together with a 2.5-foot shy distance per CEQR guidelines, for a total effective width (minimum clear path minus obstruction width minus shy distance) of 3.5 feet for Prototypes 1, 2, 3, 5, and 6, and an effective width of 7.5 feet for Prototype 4. The effective width assumptions are summarized in further detail in **Table F-6**. The same obstruction and shy distance assumptions were applied in the No Action condition; while some sidewalk prototypes in the No Action condition may be permitted to have sidewalk cafes, it was conservatively assumed for the pedestrian analyses that no sidewalk cafes would be in place for the No Action condition. Peak hour factor assumptions for high range sidewalk volumes were determined based on the calculated average peak hour factors of all sidewalk volumes exceeding the 70th percentile peak hour volume for each prototype, generally ranging from 0.86 to 0.90. For low and medium range sidewalk volumes, a standard minimum peak hour factor of 0.80 was assumed, as the pattern of pedestrian activity on a sidewalk during the peak hour with lower volumes would generally be less dispersed, with greater 15-minute peaks.

**Table F-6
Sidewalk Effective Width Assumptions**

| Prototype | Minimum Clear Path | Estimated Width of Sidewalk Obstructions Within Clear Path | Shy Distance | Effective Width |
|---|--------------------|--|--------------|-----------------|
| 1: Local/Neighborhood-serving Corridor | 8' | 2' | 2.5' | 3.5' |
| 2: Neighborhood/District Hub | 8' | 2' | 2.5' | 3.5' |
| 3: Wide Street in Auto-Centric Area | 8' | 2' | 2.5' | 3.5' |
| 4: Wide avenue in Central Business District | 12' | 2' | 2.5' | 7.5' |
| 5: Wide Avenue in High Density Residential Neighborhood | 8' | 2' | 2.5' | 3.5' |
| 6: Restaurant Street | 8' | 2' | 2.5' | 3.5' |

The Proposed Action is not anticipated to generate noticeable increases in pedestrian trips as compared to the total pedestrian volumes shown in **Table F-5**. The majority of the sidewalk counts used to develop the pedestrian volume ranges shown in **Table F-5** are located in mixed-use neighborhoods where restaurants are not the predominant contributors to pedestrian activity. Since most of the pedestrian volumes for these sidewalk prototypes would consist of pass-by trips or trips generated by non-restaurant uses, the Proposed Action is not projected to generate any additional pedestrian volumes in the 2022 With Action condition, for the assumption purposes of sidewalk analysis. The 2022 With Action condition analyses, therefore, assess whether the reduction in sidewalk clear paths would result in any significant adverse pedestrian impacts at sidewalks for the six prototypes, for each of the peak hour pedestrian volume ranges shown in **Table F-5**.

¹ Some individual streets within these prototypes may be subject to wider clear path provisions.

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NO ACTION CONDITION

As described above, pedestrian volumes for the 2022 No Action and With Action conditions shown in **Table F-5** were developed by applying background growth rates per *2020 CEQR Technical Manual* guidelines and subdivided into ranges of peak hour pedestrian volumes for each prototype. Sidewalk clear paths assumed for each of the six prototypes in the 2022 No Action condition are presented in **Table F-1**. The sidewalk widths are based on typical sidewalk dimensions for each prototype, accounting for obstructions and shy distances to determine the effective widths. As shown in **Table F-7**, in the No Action condition, all sidewalk analysis locations will operate at acceptable LOS C or better, across all pedestrian volume ranges.

Table F-7
2022 No Action Condition: Sidewalk Analysis

| Prototype | Description | Pedestrian Volume Percentile | Effective Width (feet) | 1-HR Two-Way Volume | PHF | Peak 15 Min SFP | Peak 15 Min Platoon LOS |
|-----------|--|------------------------------|------------------------|---------------------|------|-----------------|-------------------------|
| 1 | Mixed, local neighborhood serving corridor with limited space | 85th | 5.5 | 970 | 0.87 | 70.4 | C |
| | | 50th | 5.5 | 429 | 0.80 | 147.4 | B |
| | | 15th | 5.5 | 168 | 0.80 | 377.0 | B |
| 2 | Neighborhood/district hubs with concentration of restaurants | 85th | 10.5 | 1,012 | 0.88 | 131.1 | B |
| | | 50th | 10.5 | 423 | 0.80 | 285.8 | B |
| | | 15th | 10.5 | 180 | 0.80 | 671.9 | A |
| 3 | Wide streets in auto-centric corridors with concentration of restaurants | 85th | 10.5 | 515 | 0.87 | 255.2 | B |
| | | 50th | 10.5 | 317 | 0.80 | 381.5 | B |
| | | 15th | 10.5 | 178 | 0.80 | 679.5 | A |
| 4 | Wide avenues in CBD areas | 85th | 14.5 | 2,648 | 0.90 | 70.3 | C |
| | | 50th | 14.5 | 1,934 | 0.80 | 85.9 | C |
| | | 15th | 14.5 | 1,190 | 0.80 | 140.0 | B |
| 5 | Wide avenues in high-density residential areas | 85th | 12.5 | 881 | 0.89 | 181.6 | B |
| | | 50th | 12.5 | 586 | 0.80 | 245.6 | B |
| | | 15th | 12.5 | 193 | 0.80 | 746.1 | A |
| 6 | Restaurant streets | 85th | 6.5 | 1,054 | 0.86 | 75.8 | C |
| | | 50th | 6.5 | 591 | 0.80 | 126.3 | B |
| | | 15th | 6.5 | 337 | 0.80 | 222.0 | B |

WITH ACTION CONDITION

In the 2022 With Action condition, the POR program would be implemented. Each of the six prototypes assumes that new sidewalk seating would be introduced the block face and, as a result, there would be a corresponding reduction in effective sidewalk width; however, there would be minimum sidewalk clear width requirements for sidewalk seating under the POR (8 feet for sidewalks classified as Prototypes 1, 2, 3, 5, and 6; 12 feet for sidewalks classified as Prototype 4). Since sidewalks classified as Prototype 4 were all located in CBD areas, the CBD area impact threshold of mid-LOS D (31.5 SFP) was applied for that prototype; since sidewalks classified as Prototypes 1, 2, 3, 5, and 6 could be in either CBD or non-CBD areas, the more conservative non-CBD area impact threshold of LOS C (39.5 SFP) was applied for those prototypes.

As shown in **Table F-8**, with the reduction in sidewalk width due to the Proposed Action, the analyzed sidewalk prototypes would continue to operate at mid-LOS D (31.5 SFP) or better in CBD areas and LOS C (39.5 SFP) or better in non-CBD areas under the With Action condition. Therefore, there would be no significant adverse pedestrian impacts as a result of the Proposed Action.

Table F-8
2022 With Action Condition: Sidewalk Analysis

| Prototype | Description | Pedestrian | Impact Criteria Applied* | Effective | 1-HR | PHF | Peak 15 Min | Peak 15 Min |
|-----------|--|------------|--------------------------|-----------|---------|--------|-------------|-------------|
| | | Volume | | Width | Two-Way | | SFP | Platoon |
| | | Percentile | | | (feet) | Volume | LOS | |
| 1 | Mixed, local neighborhood serving corridor with limited space | 85th | Non-CBD | 3.5 | 970 | 0.87 | 44.2 | C |
| | | 50th | | 3.5 | 429 | 0.80 | 93.5 | B |
| | | 15th | | 3.5 | 168 | 0.80 | 239.8 | B |
| 2 | Neighborhood/district hubs with concentration of restaurants | 85th | Non-CBD | 3.5 | 1,012 | 0.88 | 42.8 | C |
| | | 50th | | 3.5 | 423 | 0.80 | 94.8 | B |
| | | 15th | | 3.5 | 180 | 0.80 | 223.8 | B |
| 3 | Wide streets in auto-centric corridors with concentration of restaurants | 85th | Non-CBD | 3.5 | 515 | 0.87 | 84.6 | C |
| | | 50th | | 3.5 | 317 | 0.80 | 126.8 | B |
| | | 15th | | 3.5 | 178 | 0.80 | 226.3 | B |
| 4 | Wide avenues in CBD areas | 85th | CBD | 7.5 | 2,648 | 0.90 | 35.5 | D |
| | | 50th | | 7.5 | 1,934 | 0.80 | 43.7 | C |
| | | 15th | | 7.5 | 1,190 | 0.80 | 72.0 | C |
| 5 | Wide avenues in high-density residential areas | 85th | Non-CBD | 3.5 | 881 | 0.89 | 50.0 | C |
| | | 50th | | 3.5 | 586 | 0.80 | 68.2 | C |
| | | 15th | | 3.5 | 193 | 0.80 | 208.7 | B |
| 6 | Restaurant streets | 85th | Non-CBD | 3.5 | 1,054 | 0.86 | 40.0 | C |
| | | 50th | | 3.5 | 591 | 0.80 | 67.6 | C |
| | | 15th | | 3.5 | 337 | 0.80 | 119.3 | B |

Note: CBD impact criteria was applied for sidewalk prototypes that could only be in CBD areas; the more conservative non-CBD impact criteria was applied for prototypes that consisted of sidewalk prototypes that could either be in CBD or non-CBD areas.

D. PARKING ASSESSMENT

As a result of roadway seating that would be allowed under the Proposed Action, it is anticipated that in the With Action condition, on-street parking spaces could potentially be displaced in Prototypes 1, 2, 3, 5, and 6, all of which are assumed to have at least one open restaurant per block with seating in the roadway. To determine the extent of on-street parking displacement, an inventory of parking regulations on example corridors eligible for the POR was conducted to estimate the potential displacement of on-street parking, as a result of the Proposed Action.

ON-STREET PARKING

On average, approximately 25 to 50 feet of curbside frontage¹ is anticipated to be used for open restaurant seating for each restaurant, on any frontages that are eligible for the POR. Based on the number of open restaurants for each sidewalk prototype that are expected to have seating in the roadway, the average per-block frontage used for open restaurant seating that could potentially result in a displacement of on-street parking spaces is summarized in **Table F-9** below.

¹ Based on an analysis of existing roadway seating under the temporary Open Restaurants program, an average of 30 feet of frontage is used. A range of 25 to 50 feet is assumed to be conservative.

Table F-9
Potential Curbside Frontage Utilization for POR Seating by Prototype

| Prototype | Number of Open Restaurants per Block Face in With Action Condition | Potential Curbside Utilization for POR Seating |
|---|---|--|
| 1: Local/Neighborhood-serving Corridor | 2 (1 sidewalk seating only, 1 combined sidewalk and roadway seating) | 25' to 50' |
| 2: Neighborhood/District Hub | 4 (2 sidewalk seating only, 2 combined sidewalk and roadway seating) | 50' to 100' |
| 3: Wide Street in Auto-Centric Area | 4 (2 sidewalk seating only, 2 combined sidewalk and roadway seating) | 50' to 100' |
| 4: Wide Avenue in Central Business District | 2 (sidewalk seating only) | None |
| 5: Wide Avenue in High Density Residential Neighborhood | 4 (2 sidewalk seating only, 1 roadway seating only, 1 combined sidewalk and roadway seating) | 50' to 100' |
| 6: Restaurant Street | 6 (2 sidewalk seating only, 4 roadway seating only) | 100' to 200' |

On-street parking regulations were inventoried using example street frontages currently being used by restaurants for roadway seating under the temporary program. According to an assessment of curb space along these streets, there is a range in the amount of curb space that could legally be used for parking from none to all. Therefore, to be conservative, the maximum potential curbside utilization for seating shown in **Table F-8** has been assumed, which would generate the most parking loss for analysis purposes. At an average length of 20 feet per vehicle, no prototype would result in a loss in more than 5 parking spaces, except for Prototype 6, which could result in the loss of up to 10 parking spaces. This is highly conservative for several reasons. In many cases, there would be no useable curb space under the POR program for any restaurants fronting fire hydrants, bus lanes, bicycle lanes, and other restrictions of the program. Next, restaurants participating in the temporary Open Restaurant program had an average of 30 feet of useable frontage and would not have 50 feet of street frontage. Finally, the allowable parking regulations under the program for which roadway seating is allowed are severely limited as noted above. Therefore, the loss of on-street parking would generally be limited for the majority of curbsides, except at locations where there is a substantial concentration of restaurants and allowable conditions under the POR for roadway seating.

According to the 2020 *CEQR Technical Manual*, for proposed projects located in Parking Zones 1 and 2, the inability of a proposed project or the surrounding area to accommodate the projects' estimated parking demand is considered a parking shortfall, but is generally not considered significant due to the magnitude of available alternative modes of transportation. Since sidewalks classified under Prototype 4 are all located within Parking Zones 1 and 2, and since the POR would not have seating in the roadway for Prototype 4, no on-street parking spaces would be displaced. The Proposed Action would therefore not have the potential to result in significant adverse parking shortfalls for Prototype 4.

Since Prototypes 1, 2, 3, and 5 are predominantly located outside the CBD and generally have a lower concentration of restaurant frontages, the potential loss of on-street parking is expected to

be minimal and in areas where there would be a greater supply of legal on-street parking, thereby resulting in imperceptible changes in on-street parking supply along those block faces. The Proposed Action would therefore not have the potential to result in significant adverse parking shortfalls for Prototypes 1, 2, 3, and 5.

For Prototype 6, approximately 60 to 90 percent of the curb in front of restaurants is usable for public parking currently, so the 25 to 50 feet per restaurant would result in a loss of approximately one to two parking spaces per restaurant. Since the displacement of on-street parking for Prototype 6 would be minimal compared to the available curb space usable for public parking (typically at least 30 spaces per block face), and since most sidewalks classified as Prototype 6 would be located within Parking Zones 1 and 2, the Proposed Action would not have the potential to result in a significant parking shortfall for Prototype 6.

E. CONCLUSION

Pedestrian operations and parking were evaluated for the potential of the Proposed Action to have significant adverse impacts. There would not be a potential for significant adverse impacts to traffic operations since roadway seating areas would be contained within parking lanes, and the Proposed Action is not projected to generate a noticeable amount of additional pedestrian volumes in the With Action condition. Detailed pedestrian analyses of the prototype corridors determined that there would be no potential for significant adverse pedestrian impacts related to the reduction in effective sidewalk width that would result from the Proposed Action. A parking assessment was conducted for each prototype, which estimated a potential loss of 0 to 10 parking spaces per prototype; however, these losses in parking would not have the potential for significant adverse parking shortfalls. Therefore, there would be no potential for transportation impacts as a result of the Proposed Action. *

A. INTRODUCTION

As described in Attachment A, “Project Description,” the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a permanent Open Restaurants (POR) program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the “Proposed Action”). Under the temporary program, individual food service establishments may apply to the New York City Department of Transportation (NYCDOT) and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. This new program would seek to establish permanent rules to include both sidewalk and seasonal roadway restaurant seating, and would be implemented citywide, with no geographic restrictions other than the underlying zoning regulations on where restaurant uses are generally allowed.

The potential for air quality impacts associated with the Proposed Action is assessed in this attachment. The Proposed Action would not result in increased traffic volumes, increased vehicle delays, or decreased vehicle speeds. Subsequently, there would be no exceedances of any auto trips or heavy duty diesel vehicle thresholds defined in the *CEQR Technical Manual* for traffic analysis, and roadway emissions would not be impacted as a result of the Proposed Action. Furthermore, based on the anticipated duration for usage of roadway seating, potential impacts on longer averaging periods (8-hour, 24-hour, or annual average) would not be significant. Therefore, the Proposed Action would not exceed the incremental impact criteria defined in the *CEQR Technical Manual* for 8-hour average CO concentrations, 24-hour average PM_{2.5} concentrations, and annual average PM_{2.5} concentrations, and no further analysis of these pollutants and time periods is warranted at sidewalk locations.

However, restaurant seating within curb parking lanes on adjacent roadway locations would locate potential receptor locations closer to mobile source and may result in increased concentrations of 1-hour and 8-hour CO, 24-hour PM_{2.5}, and 1-hour nitrogen dioxide (NO₂). Therefore, only the potential effects at roadway seating locations were evaluated. Additionally, the potential for increased concentrations of 8-hour average CO as well as 24-hour and annual average PM_{2.5} were compared to the *CEQR de minimis* criteria. Due to the seasonal and transient usage of the roadway seating areas, significant impacts are not anticipated for long averaging periods.

Under the Proposed Action, eating and drinking establishments would be allowed to install outdoor comfort heating equipment to serve new sidewalk seating locations, and may include electric radiant heaters or natural gas radiant heaters, but not portable heaters fueled by propane. Additional comfort heating equipment in the With Action condition is not anticipated to result in a significant increase of pollutant emissions and would not be attached to an enclosed structure. Therefore, no analysis of potential comfort heaters is required.

B. METHODOLOGY

MOBILE SOURCES—ROADWAY SEATING

CARBON MONOXIDE

NYSDOT CO Screening Criteria

An assessment of the potential air quality effects on 1-hour and 8-hour CO emissions on the proposed roadway seating from adjacent roadways was performed considering the procedures outlined in the New York State Department of Transportation (NYSDOT) screening methodologies as specified in The Environmental Manual (*TEM*). Since the Proposed Action would be implemented citywide with no geographic restrictions other than the underlying zoning regulations on where restaurant uses are generally allowed, the assessment, in accordance with *CEQR Technical Manual* guidance, considered generalized conditions in order to determine the potential for significant air quality impacts within the roadway seating locations.

Before undertaking a detailed microscale modeling analysis of CO concentrations, the screening criteria first determine whether the project would increase traffic volumes or implement any other changes (e.g. changes in speed, roadway width, sidewalk locations, or traffic signals) to the extent whereby significant increases in air pollutant concentrations could be expected. The following multi-step procedure outlined in the *TEM* was used to determine if there is the potential for CO impacts from the Proposed Action:

- **Level of Service (LOS) Screening:** If the With Action condition LOS is A, B, or C, no air quality analysis is required. For intersections operating at LOS D or worse, proceed to Capture Criteria.
- **Capture Criteria:** If the With Action condition LOS is at D, E, or F, then the following Capture Criteria should be applied at each intersection or corridor to determine if an air quality analysis may be warranted:
 - a 10 percent or more reduction in the distance between source and receptor (e.g., street or highway widening); or
 - a 10 percent or more increase in traffic volume on affected roadways for the analysis year; or
 - a 10 percent or more increase in vehicle emissions for the analysis year; or
 - any increase in the number of queued lanes for the analysis year (this applies to intersections); it is not expected that intersections in the With Action condition controlled by stop signs would require an air quality analysis; or
 - a 20 percent reduction in speed when Build average speeds are below 30 mph.

If a project does not meet any of the above criteria, a microscale analysis is not required. Should any one of the above criteria be met in addition to the LOS screening, then a Volume Threshold Screening analysis is performed, using traffic volume and emission factor data to compare with specific volume thresholds established in the *TEM*. The proposed roadway seating would only result in a reduced distance between source and receptors. Therefore, only this criteria would be applicable.

Both the Capture Criteria and Volume Threshold Screening were developed by NYSDOT to be conservative air quality estimates based on worst-case assumptions. The *TEM* states that if the project-related traffic volumes are below the volume threshold criteria, then a microscale air

quality analysis is unnecessary even if the other Capture Criteria are met for a location with LOS D or worse, since a violation of the 1-hour average CO NAAQS would be extremely unlikely.

CEQR De Minimis Review

An additional assessment of the potential air quality effects of CO emissions on the proposed roadway seating from adjacent roadways was performed with consideration to the *de minimis* criteria outlined in the *CEQR Technical Manual*. In order to determine the potential increase in CO and PM concentrations, recently approved mobile source air quality analyses (including Environmental Assessment Statements [EAS], Draft Environmental Impact Statements [DEIS], and Final Environmental Impact Statements [FEIS]) were reviewed (see **Table G-1**). The difference between average pollutant concentrations at sidewalk receptors adjacent to roadways with and roadways without parking lanes were used to estimate the potential incremental concentrations within the proposed roadway seating areas. To account for the short-term exposure that patrons would experience at, concentrations were scaled down to represent 1 hour of exposure with the 8-hour average.

**Table G-1
Published Environmental Reviews**

| Project Name | Published Document | Year | Number of Intersections | Analyzed Pollutants |
|---|---------------------------|-------------|--------------------------------|----------------------------|
| ACME Fish Expansion | FEIS | 2021 | 1 | PM _{2.5} |
| Empire Station Complex Civic and Land Use Improvement Project | DEIS | 2021 | 3 | CO, PM _{2.5} |
| Gowanus Neighborhood Rezoning | DEIS | 2021 | 5 | CO, PM _{2.5} |
| Two Bridges LSRD | FEIS | 2018 | 3 | PM _{2.5} |
| Greater East Midtown Rezoning | FEIS | 2017 | 4 | CO, PM _{2.5} |
| South Ave Retail Development | FEIS | 2017 | 1 | CO |
| 550 Washington Street/Special Hudson River Park District Proposal | FEIS | 2016 | 1 | CO |

FINE PARTICULATE MATTER (PM_{2.5})

CEQR De Minimis Review

Similar to the assessment of the 8-hour average CO *de minimis* criteria, an additional assessment of the potential air quality effects of PM emissions on the proposed roadway seating from adjacent roadways was performed based on a review of recently approved mobile source air quality analyses. The difference between average pollutant concentrations at sidewalk receptors adjacent to roadways with and roadways without parking lanes were used to estimate the potential incremental concentrations within the proposed roadway seating areas. To account for the short-term exposure that patrons would experience, concentrations were scaled down to represent 1 hour of exposure within the 24-hour average. While the use of roadway seating would not be allowed during the colder winter months, the annual average incremental concentrations conservatively assumed that the roadway seating would be open the entire year and was only scaled down by the factor used for estimating the 24-hour average incremental concentrations.

NO₂ 1-HOUR

The Proposed Action would not result in increased traffic volumes, increased vehicle delays, or decreased vehicle speeds. Therefore, roadway emissions would not be increased due to the

Permanent Open Restaurants Program

Proposed Action and 1-hour average NO₂ concentrations would remain unchanged with the Proposed Action compared to the existing conditions. The five counties that comprise New York City are currently in attainment of the 1-hour average NO₂ standard.¹ The most recent concentrations at New York State Department of Environmental Conservation (NYSDEC) air quality monitoring stations within the City are presented in **Table G-2**. As shown, the recently monitored levels are less than 60 percent the applicable National Ambient Air Quality Standards (NAAQS).

Table G-2
Representative Monitored Ambient Air Quality Data
98th Percentile of Daily Maximum NO₂ 1-Hour Average Concentrations

| Location | 2017 | 2018 | 2019 | 3-Year Average | NAAQS ⁽¹⁾ |
|---|-------|-------|-------|----------------|----------------------|
| Botanical Gardens - Pfizer Lab | 105.3 | 101.3 | 94.8 | 100.4 | 188 |
| IS 52 | 111.7 | 111.5 | 108.5 | 110.5 | 188 |
| Queens College | 110.5 | 99.8 | 101.3 | 103.6 | 188 |
| Queens College Near-Road ⁽²⁾ | N/A | 100.6 | 95.9 | N/A | 188 |

Notes:
(1) The 1-hour NAAQS value is based on a three-year average (2017–2019) of the 98th percentile of daily maximum 1-hour average concentrations.
(2) The monitored concentrations at the Queens College Near-Road monitoring station represented less than 75 percent of the year. Therefore, only the 2018 and 2019 monitored concentrations are presented.
Source: NYSDEC, New York State Ambient Air Quality Data.

As part of the ongoing urban air monitoring program, NO₂ concentrations were collected by the New York City Department of Health and Mental Hygiene (DOHMH) at sidewalks, busy streets, parks and quiet neighborhood roads. The additional monitoring information from latest New York City Community Air Survey (NYCCAS) prepared by the New York City Department of Health and Mental Hygiene (DOHMH) found that NO₂ concentrations near roadways throughout New York City may be higher than those monitored at the NYSDEC stations. There are currently no screening procedures established by either NYSDOT or NYCDEP to assess the potential for an air quality impact for 1-hour average NO₂ concentrations from mobile sources. Therefore, a quantitative analysis was performed to assess the potential for significant increased concentrations within the proposed roadway seating areas.

Limited Exposure

The proposed roadway seating would be used to serve restaurant patrons during restaurant hours of operations and would not be publicly accessible outside of restaurant hours. Due to the transient nature of the space, restaurant patrons are not anticipated to occupy the proposed roadway seating for longer than a single hour and are unlikely to consistently experience increased concentrations.

To prevent impacts to roadway traffic, the proposed roadway seating would only be permitted for months when roadway snow plowing activities are generally not required. Therefore, the proposed roadway seating locations would not be accessible to restaurant patrons throughout the year, and would limit potential exposure to increased concentrations. Subsequently, this would further limit the statistical impact from exposure to 1-hour average NO₂ concentration.

¹ EPA has designated the entire state of New York as “unclassifiable/attainment” of the 1-hour NO₂ standard effective February 29, 2012.

Furthermore, all seating and any protection would be fully contained within the parking lane and would be prohibited from encroaching on any bike lane, vehicle travel lane, or painted buffer. A minimum 18-inch wide and 30- to 36-inch high protective barrier would be required on all three sides of the seating perimeter that are in the roadway in order to separate the seating from the travel lane, and would prevent direct pathways between the majority of vehicle exhaust and restaurant patrons.

Representative Modeling

In order to assess the potential increase in 1-hour NO₂ concentrations within the proposed roadway seating, a representative intersection was selected for a dispersion analysis. Air pollutant dispersion models mathematically simulate how traffic, meteorology, and physical configuration combine to affect pollutant concentrations. The mathematical expressions and formulations contained in the various models attempt to describe an extremely complex physical phenomenon as closely as possible. However, because all models contain simplifications and approximations of actual conditions and interactions, and since it is necessary to predict the reasonable worst-case condition, most dispersion analyses predict conservatively high concentrations of pollutants, particularly under adverse meteorological conditions.

The representative modeling employs models approved by EPA that have been used for evaluating air quality impacts of projects in New York City, other parts of New York State, and throughout the country. The modeling approach includes a series of conservative assumptions relating to meteorology, traffic, and background concentration levels resulting in a conservatively high estimate of expected pollutant concentrations.

Vehicle Emissions

Vehicular nitrogen oxide (NO_x) engine emission factors were computed using the EPA mobile source emissions model, Motor Vehicle Emission Simulator (MOVES 2014b).² This emissions model is capable of calculating engine, brake wear, and tire wear emission factors for various vehicle types, based on the fuel type (e.g., gasoline, diesel, or natural gas), meteorological conditions, vehicle speeds, vehicle age, roadway type and grade, number of starts per day, engine soak time, and various other factors that influence emissions, such as inspection maintenance programs. The inputs and use of MOVES incorporate the most current guidance available from DEC.

Traffic volumes, speed data, and vehicle classification data were based on data obtained from other traffic studies. Appropriate credits were used to accurately reflect the inspection and maintenance program.³ County-specific hourly temperature and relative humidity data obtained from DEC were used.

Dispersion Model for Microscale Analyses

The NO₂ concentrations due to vehicular emissions adjacent to the analysis sites were predicted using the American Meteorological Society/Environmental Protection Agency Regulated Model

² EPA. Motor Vehicle Emission Simulator (MOVES): User Guide for MOVES2014a. EPA420B15095. November 2015.

³ The inspection and maintenance programs require inspections of automobiles and light trucks to determine if pollutant emissions from each vehicle exhaust system are lower than emission standards. Vehicles failing the emissions test must undergo maintenance and pass a repeat test to be registered in New York State.

Permanent Open Restaurants Program

(AERMOD) Version 19191.⁴ AERMOD is a state-of-the-art dispersion model, applicable to rural and urban areas, flat and complex terrain, surface and elevated releases, and multiple sources (including point, area, and volume sources). AERMOD is a steady-state plume model that incorporates current concepts about flow and dispersion in complex terrain, including updated treatments of the boundary layer theory, understanding of turbulence and dispersion, and includes handling of terrain interactions. AERMOD has been a recommended model for transportation air quality analyses for several years and EPA mandated its use for transportation conformity purposes after a three-year transition period.⁵ Following EPA guidelines, the analysis was performed using an area source representation of emission sources in order to simulate traffic-related air pollutant dispersion.⁶ In addition, the weighted average release height and initial vertical source parameters were calculated for each modeled roadway. Hourly traffic volumes and associated emission factors were used to estimate hourly emission rates from each modeled roadway segment and predict traffic-related air pollutant concentrations at receptor locations.

The 1-hour average NO₂ concentrations were conservative estimated assuming full conversion of NO_x to NO₂.

Meteorology

In general, the transport and concentration of pollutants from vehicular sources are influenced by three principal meteorological factors: wind direction, wind speed, and atmospheric stability. Wind direction influences the direction in which pollutants are dispersed, and atmospheric stability accounts for the effects of vertical mixing in the atmosphere. These factors, therefore, influence the concentration at a particular prediction location (receptor).

The AERMOD model includes the modeling of hourly concentrations based on hourly traffic data and five years of monitored hourly meteorological data. The data consists of surface data collected at LaGuardia Airport and upper air data collected at Brookhaven, New York for the period 2016–2020. All hours were modeled, and the highest predicted concentration for each averaging period is presented.

Analysis Year

The microscale analyses was performed for an analysis year of 2022, and conservatively used emission factors for 2021. The analysis was performed for both the No Action condition and the With Action condition through receptor placement.

Receptor Placement

Multiple receptors (i.e., precise locations at which concentrations are evaluated) were modeled; receptors were placed along the approach and departure links and roadway segments at regularly spaced intervals. Ground-level receptors were placed at sidewalk or roadside locations near intersections with continuous public access, at a pedestrian height of 1.8 meters. To simulate the potential increase in concentrations within the proposed roadway seating areas, receptors were placed within parking lanes for the With Action condition.

⁴ EPA. *User's Guide for the AMS/EPA Regulatory Model (AERMOD)*. Office of Air Quality Planning and Standards. EPA-454/B-19-027. Research Triangle Park, North Carolina. August 2019.

⁵ EPA. Revisions to the Guideline on Air Quality Models: Final rule. Federal Register, Vol. 82, No. 10, January 2017.

⁶ EPA. *Project-Level Conformity and Hot-Spot Analyses*, available at: <https://www.epa.gov/state-and-local-transportation/project-level-conformity-and-hot-spot-analyses#pmguidance>

C. PROBABLE IMPACTS OF THE PROPOSED ACTION

MOBILE SOURCES—ROADWAY SEATING

NYSDOT CO SCREENING

Per NYSDOT guidance, there would be no potential air quality impacts to 1-hour CO concentrations at within roadway seating locations at participating restaurants unless they would be located adjacent to congested intersections or roadways (operating at LOS D or worse). Since the Proposed Action would be implemented citywide with no geographic restrictions, further assessment was performed for potential locations that would be located nearby congested intersections. While no intersections are identified, generalized conditions are considered using NYSDOT's Capture Criteria in order to determine the potential for significant air quality impacts adjacent to congested roadways.

Since the Proposed Action would not result in a change to roadway volumes, vehicle emissions, the number of queued lanes, or travel speeds when compared to the No Action condition, the Capture Criteria associated with these factors would not be met. However, there would be a reduction in the distance between source and receptor for the period when patrons would be allowed to occupy roadway seating areas. All seating and any protection would be fully contained within the parking lane and would be prohibited from encroaching on any bike lane, vehicle travel lane, or painted buffer. A minimum 18-inch wide and 30- to 36-inch high protective barrier would be required on all three sides of the seating perimeter that are in the roadway in order to separate the seating from the travel lane, would be limited to no farther than 8 feet from the curb line. Typical parking lanes widths within New York City range between 8 feet to 12 feet. Therefore, allowing patrons to occupy roadway seating locations would reduce the distance between source and receptor by more than 10 percent and a Volume Threshold Screening analysis would be performed for participating restaurants adjacent to congested roadways and installing roadway seating.

Vehicle CO emission factors for cruise emissions for automobiles and trucks (assuming an average congested cruise speed of 5 miles per hour) were projected to be less than 5 grams per mile. Similarly, engine idle emission factors would be less than 11 grams per hour. The associated volume thresholds at restaurants located adjacent to a congested roadway are 4,000 vehicles per hour for locations adjacent to area of intersection queuing, or 8,000 vehicles per hour for locations adjacent to roadway sections where vehicles would travel at free flow speeds.

Based on NYSDOT volume counts performed within New York City, roadways with volumes greater than 2,500 within a single hour would be limited to restricted roadways, where restaurant uses would not be located. Therefore, a detailed mobile source analysis for 1-hour average CO concentrations was not warranted and the Proposed Action would not result in a significant air quality impact to 1-hour average CO concentrations.

CEQR DE MINIMIS REVIEW

The published CO and PM_{2.5} concentrations are presented in **Tables G-3 through G-5**. As shown, the incremental concentrations would be well below the applicable *de minimis* thresholds. Therefore, the Proposed Action would not result in significant adverse air quality impacts for CO or PM_{2.5}.

Permanent Open Restaurants Program

**Table G-3
8-Hour Average CO Concentrations (ppm)**

| | Location | Total Concentration |
|---|-------------------------------------|----------------------------|
| With Parking | First Avenue and East 48th Street | 1.7 |
| | Spring Street and West Street | 2.3 |
| | Bond Street and 3rd Street | 1.3 |
| | Hoyt Street and 4th Street | 1.2 |
| | Sixth Avenue and West 31st Street | 1.7 |
| | Average | 1.6 |
| No Parking | South Avenue and Forest Avenue | 2.1 |
| | Second Avenue and East 37th Street | 1.7 |
| | Third Avenue and East 44th Street | 1.7 |
| | Seventh Avenue and West 34th Street | 1.5 |
| | Eighth Avenue and West 31st Street | 1.6 |
| | Average | 1.7 |
| Incremental Concentration | | 0.08 |
| Scaled Incremental Concentration | | 0.01 |
| De Minimis | | 3.7 |

Notes:
8-hour standard is 9 ppm.
Concentration includes a background concentration.

**Table G-4
24-Hour Average PM_{2.5} Concentrations (µg/m³)**

| | Location | Total Concentration |
|---|-------------------------------------|----------------------------|
| With Parking | Meserole Avenue and Franklin Street | 22.2 |
| | South Street and Montgomery Street | 24.0 |
| | South Street and Clinton Street | 23.3 |
| | Pike Street and Cherry Street | 21.6 |
| | Third Avenue and East 54th Street | 34.8 |
| | Bond Street and 3rd Street | 19.7 |
| | Hoyt Street and 4th Street | 19.3 |
| | Bond Street and Baltic Street | 19.8 |
| | Smith Street and 5th Street | 19.7 |
| | 3rd Avenue and Carroll Street | 20.8 |
| | Sixth Avenue and West 31st Street | 28.1 |
| | Average | 23.0 |
| No Parking | Third Avenue and East 44th Street | 32.9 |
| | Third Avenue and East 46th Street | 32.5 |
| | Seventh Avenue and West 34th Street | 28.8 |
| | Eighth Avenue and West 31st Street | 26.2 |
| | Average | 30.1 |
| Incremental Concentration | | 7.1 |
| Scaled Incremental Concentration | | 0.3 |
| De Minimis | | 7.7 |

Notes:
PM_{2.5} *de minimis* criteria—24-hour average, not to exceed more than half the difference between the highest background concentration recorded in 2021 (19.7 µg/m³) and the 24-hour standard of 35 µg/m³.

Table G-5
Annual Average PM_{2.5} Concentrations (µg/m³)

| | Location | Total Concentration |
|---|-------------------------------------|---------------------|
| With Parking | Meserole Avenue and Franklin Street | 8.08 |
| | South Street and Montgomery Street | 9.66 |
| | South Street and Clinton Street | 9.64 |
| | Pike Street and Cherry Street | 9.60 |
| | Third Avenue and East 54th Street | 9.93 |
| | Bond Street and 3rd Street | 7.66 |
| | Hoyt Street and 4th Street | 7.62 |
| | Bond Street and Baltic Street | 7.67 |
| | Smith Street and 5th Street | 7.67 |
| | 3rd Avenue and Carroll Street | 7.71 |
| | Sixth Avenue and West 31st Street | 10.0 |
| | Average | 8.66 |
| No Parking | Third Avenue and East 44th Street | 9.75 |
| | Third Avenue and East 46th Street | 9.53 |
| | Seventh Avenue and West 34th Street | 10.0 |
| | Eighth Avenue and West 31st Street | 10.1 |
| | Average | 9.85 |
| Incremental Concentration | | 1.19 |
| Scaled Incremental Concentration | | 0.05 |
| De Minimis | | 0.10 |

Note: PM_{2.5} *de minimis* criterion—annual (neighborhood scale), 0.1 µg/m³.

NO₂ 1-HOUR

The results of the representative modeling analysis are presented in **Table G-6**. While potential exceedances of the 1-hour NO₂ NAAQS were projected at sidewalk locations at both sidewalk receptors as well as the proposed roadway seating receptors, maximum concentrations at receptors would increase by approximately 2.1 percent. The representative concentrations were predicted using a conservative modeling approach for which the peak traffic conditions were modeled through the respective periods. This approach ensures that potential peak conditions would occur during worst-case meteorological conditions for all nearby receptors. Due to the infrequent number of times that peak conditions would occur through the year, the transient nature of the proposed roadway seating, and limit public accessibility, it is unlikely that peak conditions would consistently occur during worst-case meteorological conditions at any one receptor. Given the necessarily conservative modeling approach required to address the complex form of the 1-hour NO₂ standard, actual increases of 1-hour NO₂ concentrations would likely be much lower than 2.1 percent.

Table G-6
Maximum Modeled 1-hour NO₂ Concentrations
Representative Modeling Location (µg/m³)

| Scenario | Maximum Modeled Concentration |
|---------------------------------------|-------------------------------|
| No Action Condition—Sidewalk Receptor | 321.1 ⁽¹⁾ |
| With Action Condition—Roadway Seating | 327.9 ⁽¹⁾ |
| Incremental Concentration | 6.8 (+2.1%) |

Note:
1. The 1-hour average NO₂ concentration represents the maximum of the total 98th percentile 1-hour concentration predicted at any receptor.

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EPA has recommended interim thresholds for incremental 1-hour average concentrations of NO₂ to determine initially whether a proposed project's emissions increase would have a significant impact.⁷ Incremental concentrations above 4 percent, or 7.5 µg/m³ (4 ppb) would have the potential to result in significant adverse air quality impacts. While no incremental impact criteria have been identified for mobile sources, potential concentrations within the proposed roadway seating area would fall below the EPA interim thresholds. Therefore, the Proposed Project would likely not exacerbate patrons' exposure to elevated NO₂ concentrations in the With Action condition, and would not result in a significant adverse air quality impact. *

⁷ EPA. *Guidance Concerning the Implementation of the 1-hour NO₂ NAAQS for the Prevention of Significant Deterioration Program*. June 29, 2010.

A. INTRODUCTION

As described in Attachment A, “Project Description,” the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a Permanent Open Restaurants (POR) program (the “Proposed Action”). This new program would expand the City’s existing sidewalk café program and would replace the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128. Under the temporary program, individual food service establishments may apply to the New York City Department of Transportation (NYCDOT) and self-certify to use the sidewalk or curb parking lane on the roadway adjacent to their business. The proposed new program would establish permanent rules to include both sidewalk and seasonal roadway restaurant seating, and would be implemented citywide, with no geographic restrictions other than the underlying zoning regulations detailing where restaurant uses are generally allowed.

The potential for noise impacts associated with the Proposed Action is assessed in this attachment. In accordance with the *City Environmental Quality Review (CEQR) Technical Manual*, a noise analysis determines whether a Proposed Action would result in increases in noise levels that could have a significant adverse impact on nearby sensitive receptors. The Proposed Action would be limited to outdoor restaurant seating, which would not be considered new noise receptor locations, as defined in Section 124 of Chapter 19, “Noise,” in the *CEQR Technical Manual*. Therefore, analyzing noise exposure at the seating areas allowed under the Proposed Action is not warranted. Additionally, the Proposed Action would not result in alterations to traffic conditions as compared to the No Action condition and consequently would not have the potential to result in a significant increase in noise due to vehicular traffic (i.e., would not result in a doubling of Noise Passenger Car Equivalents, which would be necessary to result in a 3 dBA noise level increase).

However, the Proposed Action could result in the introduction of new stationary noise sources in the form of outdoor restaurant seating. While the proposed program would prohibit the use of amplified sound or music within roadway, sidewalk, or interior café spaces, the voices of patrons within these seating areas as experienced by nearby receptors could constitute newly introduced noise. As described in Chapter 19, Section 132 of the *CEQR Technical Manual*, “While people are not usually thought of as stationary noise sources, children in playgrounds or spectators at outdoor sporting events or concerts may cause annoyance in communities.” Consequently, the potential for noise resulting from the outdoor restaurant seating areas allowed under the Proposed Action to result in increased noise at nearby receptors requires further consideration.

B. METHODOLOGY

Given the citywide nature of the Proposed Action, it would introduce new stationary noise sources with additional outdoor restaurant seating. And because no existing institutional controls are in place, the *CEQR Technical Manual* guidance generally recommends further assessment. However, the Open Restaurant Program proposes a suite of measures that build upon and strengthen restrictions that apply to the existing New York City Department of Consumer and Worker Protection (DCWP) sidewalk café program and would be expected to control noise resulting from the Proposed Action. Thus, the potential for adverse noise effects has been evaluated by considering the applicable restrictions on noise-producing behavior associated with outdoor restaurant seating under the Proposed Action, both for existing DCWP sidewalk café program as well as the Proposed Action.

Background information and Existing Conditions

Outdoor restaurant seating allowed under the Proposed Action would be qualitatively similar to the outdoor restaurant seating previously (and currently) allowed under the existing DCWP sidewalk café program, which has been operating since 1980. Additionally, with the onset of the COVID-19 pandemic, the temporary Open Restaurants Program has been operating since June 2020 due to the need to provide outdoor spaces to allow restaurants to conduct business without seating customers indoors. Noise associated with outdoor restaurant seating under these programs has been subject to the requirements of the New York City Noise Code and the license requirements of the New York City Administrative Code.

C. NO ACTION CONDITION

As described in Attachment A, “Project Description,” the No Action condition is assumed to reflect a continuation of the existing DCWP sidewalk café program. The number of eligible restaurants participating in the DCWP program could potentially increase if restaurants participating in the temporary program elected to retain their sidewalk seating following expiration of the temporary program.

D. WITH ACTION CONDITION

The With Action condition is assumed to reflect a citywide implementation of the proposed POR program. As described in Attachment A, “Project Description,” the With Action condition would expand eligibility of open restaurants citywide, including all the areas of exclusion in the existing DCWP sidewalk café program and including existing non-conforming restaurants throughout the city, and would include sidewalk seating and roadway seating components.

E. PROBABLE IMPACTS OF THE PROPOSED ACTION

The proposed POR program would strengthen and enhance the existing controls to limit the noise emanating from outdoor restaurant seating that would be experienced at nearby noise-sensitive receptors (e.g., residences). Therefore, with controls in place, as described below, the proposed POR program would not be expected to result in an incremental increase of noise from outdoor restaurant seating at sensitive receptors. The controls would include the following measures that in combination would restrict noise-producing behavior associated with outdoor restaurant seating and avoid the potential for noise impacts associated with the program:

- Promulgation of rules in accordance with the City Administrative Act that incorporate and enhance the existing DCWP sidewalk café controls;
- Referral of community noise disputes to alternative dispute resolution through the Mediating Establishment and Neighbor Disputes NYC program (MEND NYC); and
- Highlighting for the restaurant community the license requirements that control noise (including the potential for termination of a license for non-compliance) through education and outreach such as an explicit “Code of Conduct” for potential licensees.

NYCDOT proposes to institute these controls through the promulgation of rules in accordance with the City Administrative Procedure Act that incorporate the existing DCWP sidewalk café controls. The existing rules include:

- Prohibition on amplified sound within roadway, sidewalk, and interior Open Restaurant spaces per 6 RCNY 2-53(f) and 57(b);
- Prohibition on excessive congregation within or immediately adjacent to Open Restaurant setups per 6 RCNY 2-51(a) and (b);
- Prohibition of exceedance of maximum occupancy within Open Restaurants areas pursuant to license requirements for seating and table limits per 6 RCNY 2-51(a) and (b); and
- Prohibition on party noise and disorderly conduct per 6 RCNY 2-57 (b), (e) and (f).

NYCDOT will promulgate new rules that go beyond the controls in the existing DCWP sidewalk café program. These may include rules relating to the application process, siting criteria, fines, and penalties. These rules will also require licenses for restaurants and provide that failure to comply with the above stated controls could result in the termination of such licenses.

Furthermore, NYCDOT will coordinate with other City agencies to resolve compliance issues. This coordination will include monitoring 311 noise complaints of program participants and working with DEP to confirm violations of the Noise Code by program participants. NYCDOT will commit resources, including new inspectors, to ensure compliance with these requirements.

Finally, NYCDOT will coordinate with other City agencies such as the Mayor’s Office of Nightlife and the Office of Administrative Tribunals and Hearings to develop programs for licensed operators that will support compliance and reduce the amount of enforcement actions such as a licensee “Code of Conduct” and alternative dispute resolution through the Mediating Establishment and Neighbor Disputes NYC program (MEND NYC). MEND NYC is a voluntary program that is a collaboration between OATH’s Center for Creative Conflict Resolution and the Office of Nightlife at the Mayor’s Office of Media and Entertainment that provides free mediation services to neighbors and businesses experiencing quality-of-life disputes that often include noise disputes.

MEND is an alternative to formal enforcement and in some instances MEND NYC may be able to solve a quality-of-life issue more quickly and with more sustainable results than the enforcement process. Participation in mediation is voluntary and all parties must agree to participate in the mediation. A MEND process may be initiated by either a resident or a business. For instance, a resident who is experiencing a chronic or urgent quality-of-life issue and believes it is related to a neighboring business may contact MEND or a business that is experiencing a heavy volume of complaints from a neighboring resident may contact MEND. No

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enforcement action needs to be started before requesting mediation and it is best for MEND to be used early before a conflict escalates.¹

The restrictions described in this attachment would guide licensed restaurants with steps to avoid the sources that have been previously observed to result in objectionable noise under the existing DCWP sidewalk café program and the temporary program allowing outdoor restaurant seating. The education and outreach such as an explicit “Code of Conduct” for potential licensees and referrals to MEND will address noise complaints that may not be violations of the Noise Code but cause community conflict, and the NYCDOT compliance and enforcement program will address Noise Code violations. With the hiring of additional inspectors, the highlighting of the existing regulations in the application process and with the implementation of education and outreach such as an explicit “Code of Conduct” for potential licensees and the new MEND program in place, noise from newly introduced outdoor restaurant seating areas would be comparable to the existing DCWP sidewalk café program. Consequently, the Proposed Action would not result in significant adverse noise impacts. *

¹ Requests for a MEND mediation are initiated by emailing MendNYC@oath.nyc.gov with a short description of the dispute and the initiating party’s contact information. More information on MENDNYC can be found at: <https://www1.nyc.gov/site/oath/conflict-resolution/mediating-establishment-and-neighbor-disputes.page>.

A. INTRODUCTION

This attachment assesses the potential impacts of the Proposed Action on neighborhood character. The 2020 *City Environmental Quality Review (CEQR) Technical Manual*, defines neighborhood character as an amalgam of various elements that give neighborhoods their distinct “personality.” These elements may include a neighborhood’s land use, historic and cultural resources urban design and visual resources, socioeconomic conditions, transportation and/or noise; but not all of these elements contribute to neighborhood character in all cases. For neighborhood character, CEQR considers how those elements combine to create the context and feeling of a neighborhood and how an action would affect that context.

According to the *CEQR Technical Manual*, neighborhood character impacts are rare, and it would be unusual that, in the absence of a significant adverse impact in any of the relevant technical areas, a combination of moderate effects to the neighborhood would result in an impact to neighborhood character. Moreover, a significant impact identified in one of the technical areas that contribute to a neighborhood’s character is not automatically equivalent to a significant impact on neighborhood character, but rather serves as an indication that neighborhood character should be examined.

As described in Attachment A, “Project Description,” the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a Permanent Open Restaurants (POR) Program to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 (the “Proposed Action”). The POR would consist of both sidewalk and roadway restaurant seating without geographic restrictions on eligibility.

This attachment includes a preliminary assessment of neighborhood character, which was prepared in accordance with the *CEQR Technical Manual*. This attachment describes the defining features of neighborhood character and considers the potential effects of the Proposed Action on these defining features. This assessment relies on the technical analyses presented in other chapters of this Environmental Assessment Statement.

B. METHODOLOGY

The *CEQR Technical Manual* states that an assessment of neighborhood character is needed when a proposed project has the potential to result in significant adverse impacts in any of the following technical areas: land use, zoning, and public policy; socioeconomic conditions; open space; shadows; historic and cultural resources; urban design and visual resources; transportation; or noise. An assessment may also be appropriate if the project would result in a combination of moderate effects to several elements that cumulatively may affect neighborhood character. According to the *CEQR Technical Manual*, a “moderate” effect is generally defined as an effect

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considered reasonably close to the significant adverse impact threshold for a particular technical analysis area.

The Proposed Action is a “Generic Action,” for which there are no known projected development sites and, due to its broad applicability, it is difficult to predict the sites where development would be facilitated by the Proposed Action. To produce a reasonable analysis of likely effects of the Proposed Action, six representative prototypical corridors have been established to assess the potential for significant adverse impacts in those technical areas mentioned above. As described in the relevant chapters of this EAS, based on the prototypical analysis, the Proposed Action would not result in significant adverse impacts in any of technical analysis areas that are relevant to neighborhood character; however, a combination of moderate effects to several elements may cumulatively affect neighborhood character. Therefore, based on the methodology provided in the *CEQR Technical Manual*, a screening analysis was conducted to determine the Proposed Action’s effects on neighborhood character.

C. SCREENING ANALYSIS

LAND USE

Development resulting from a proposed action could alter neighborhood character if it introduces new land uses, conflicts with land use policy or other public plans for the area, changes land use character, or generates significant land use impacts. As described in Attachment B, “Land Use, Zoning and Public Policy”, the increased area of eligibility of the POR would not change overall land use patterns throughout the City. Residential, mixed commercial/residential, and commercial/office buildings would still represent the majority of land uses adjacent to restaurants eligible under the Proposed Action. While the revisions to the provisions of the Zoning Resolution would remove any geographic restrictions on eligibility in the program, the proposed revisions would not alter the underlying zoning regulations on where restaurant uses are generally allowed. Existing non-conforming restaurants that currently operate in zoning districts that do not allow restaurants as-of-right would also be eligible for the POR; however, most of these sites are within or directly adjacent to areas that are mixed use in character. The proposed zoning text changes would not affect neighborhood character, but rather would support the existing restaurant uses by facilitating outdoor dining, which would contribute to the fabric of neighborhoods.

SOCIOECONOMIC CONDITIONS

Changes in socioeconomic conditions have the potential to affect neighborhood character when they result in substantial direct or indirect displacement or addition of population, employment, or businesses; or substantial differences in population or employment density. As described in Attachment C, “Socioeconomic Conditions”, the Proposed Action would provide opportunities for restaurant expansion beyond their indoor footprint, but the program is limited in its ability to accommodate a substantial increase in diners, and also requires a fee to participate. Projected development in areas affected by the Proposed Action would be consistent with the prevailing market conditions and trends in the area and would enable new restaurant development as-of-right, helping to meet market demand. The scale of the projected development occurring over the next ten years would not result in substantial changes to socioeconomic conditions as the majority of the land uses within the study area are not expected to change as a result of the Proposed action. The Proposed Action would not present large enough variation in market conditions to

substantively alter the retail composition in a manner that could lead to disinvestment, or loss of businesses critical to neighborhood character.

Overall, the Proposed Action would not displace existing residents or businesses. The Proposed Action would also not affect real estate market conditions in a way that would result in indirect displacement of residents or businesses. Therefore, the Proposed Action would not result in socioeconomic conditions that would affect neighborhood character.

OPEN SPACE

According to the *CEQR Technical Manual*, for an action to affect neighborhood character with respect to open space, it would need to result in the encroachment and loss of open space, or the imposition of noise, air pollutant emissions, odors, or shadows on public open space that may alter its usability. As described in Section H (Environmental Assessment Screening) of Attachment A, “Project Description,” the Proposed Action would not result in direct physical loss of open space resources nor would it result in a significant increase in demand for existing open spaces facilities that would diminish the ability of the open space to serve the existing and future population. Additionally, there would be no potential for noise, air pollutant emissions, odors, or shadows resulting from the Proposed Action that would significantly alter the usefulness of public open space. Therefore, the Proposed Action would not result in open space conditions that would affect neighborhood character.

SHADOWS

As described in Section H (Environmental Assessment Screening) of Attachment A, “Project Description,” the Proposed Action would not result in any new permanent structures nor any structures greater than ten feet, and the Proposed Action would not result in any adverse shadows impacts. Therefore, the Proposed Action would also not have the potential to result in incremental shadows that would affect neighborhood character.

HISTORIC AND CULTURAL RESOURCES

As described Attachment D, “Historic and Cultural Resources,” the Proposed Action would not result in any below-grade disturbance and, therefore, would not result in any potential adverse impacts to archaeological resources. In addition, as described more fully below, the installation of new sidewalk or roadway restaurant seating would not result in any potential adverse direct or indirect impacts to architectural resources. Therefore, there is no potential for the Proposed Action to affect defining features of neighborhood character related to historic and cultural resources.

URBAN DESIGN AND VISUAL RESOURCES

As described in Attachment E, “Urban Design and Visual Resources”, the open restaurant seating expected in the With Action condition for each of the six prototypical analysis corridors would be compatible with the existing built character of the corridors and the surrounding areas. Each of the prototype corridors is assumed to contain restaurants in the No Action condition (as they do in the existing condition), and the tables, chairs, enclosures, signage, lighting, etc. of the new open restaurant seating would be additional streetscape features in the corridors that already contain blockfronts of ground-floor retail marked by signage and feature a mix of existing street furniture. The proposed POR program’s sidewalk seating and restaurant seating would further enliven these streetscapes and enhance the pedestrian experience, and would be required to follow specific siting criteria such that pedestrian movement and road operations are not adversely impeded. In addition,

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the sidewalk seating and roadway seating areas would not be fully enclosed and would not block existing pedestrian views.

Therefore, since the Proposed Action would be consistent with existing built character of the areas it would affect, and enliven the streetscapes and enhance the pedestrian experience, and since it would not block existing pedestrian views, it would not adversely affect the defining features of neighborhood character related to urban design and visual resources.

TRANSPORTATION

Changes in traffic and pedestrian conditions can affect neighborhood character in a number of ways. For traffic to have an effect on neighborhood character, it must be a contributing element to the character of the neighborhood (either by its absence or its presence), and it must change substantially as a result of the action. As discussed in Attachment F, "Transportation," pedestrian operations were evaluated and it was determined that there would be no potential for significant adverse impacts to traffic operations since roadway seating areas would be contained within parking lanes, and the Proposed Action is not projected to generate a noticeable amount of additional pedestrian volumes in the With Action condition. Detailed pedestrian analyses of the prototype corridors determined that there would be no potential for significant adverse pedestrian impacts related to the reduction in effective sidewalk width that would result from the Proposed Action.

Overall, the Proposed Action would not result in changes in traffic patterns, in roadway classifications, or in vehicle mixes. It would not result in substantial increases in traffic volumes on residential streets or in significant adverse traffic impacts. While there would be changes to sidewalk conditions as a result of the addition of sidewalk seating areas, these changes would enliven the streetscape without adversely affecting pedestrian flow. Therefore, the Proposed Action would not affect neighborhood character with respect to transportation.

NOISE

As described in Attachment H, "Noise," the primary noise source under the Proposed Action would be noise generated by outdoor dining. The proposed POR program provisions would include institutional controls (i.e. no amplified noise; no excessive congregating or exceedance of maximum occupancy; no party noise and disorderly conduct; no excessive shouting or loud noises at late night hours) to limit the noise emanating from outdoor restaurant seating that would be experienced at nearby noise-sensitive receptors (e.g., residences). With such measures in place and enforced, the potential for significant adverse noise impacts would be avoided. Therefore, noise conditions under the Proposed Action would not affect neighborhood character.

D. CONCLUSION

As detailed above, land use; socioeconomic; open space; shadows; historic and cultural resources; urban design and visual resources; transportation; and noise conditions in the future with the Proposed Action would not negatively affect the neighborhood character. Rather, in the case of urban design, the proposed POR program's sidewalk seating and restaurant seating would likely further enliven these streetscapes and enhance the pedestrian experience. As such, no significant adverse neighborhood character impacts would occur as a result of the Proposed Action. *

APPENDIX 1
PROPOSED ZONING TEXT AND PERMANENT OPEN
RESTAURANT SITING CRITERIA

Proposed Zoning Text

OPEN RESTAURANTS TEXT AMENDMENT

Matter underlined is new, to be added;

Matter ~~struck out~~ is to be deleted;

Matter within # # is defined in Section 12-10;

* * * indicates where unchanged text appears in the Zoning Resolution.

**ARTICLE I
GENERAL PROVISIONS**

**Chapter 2
Construction of Language and Definitions**

* * *

**12-10
DEFINITIONS**

* * *

Dwelling unit

A “dwelling unit” contains at least one #room# in a #residential building#, #residential# portion of a #building#, or #non-profit hospital staff dwelling#, and is arranged, designed, used or intended for use by one or more persons living together and maintaining a common household, and which #dwelling unit# includes lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

~~Enclosed sidewalk cafe — see Sidewalk cafe, enclosed~~

Enlargement, or to enlarge

* * *

Side yard — see Yard, side

Sidewalk cafe

~~A “sidewalk cafe” is a portion of an eating or drinking place that is located on a public sidewalk and is either an #enclosed#, #unenclosed# or #small sidewalk cafe#. #Sidewalk cafes# are further defined in Section 20-223, subdivision (a), of the Administrative Code.~~

Sidewalk cafe, enclosed

An “enclosed sidewalk cafe” is a #sidewalk cafe# that is contained within a structure constructed predominantly of light materials such as glass, slow-burning plastic or lightweight metal.

Sidewalk cafe, small

A “small sidewalk cafe” is an #unenclosed sidewalk cafe# containing no more than a single row of tables and chairs adjacent to the #street line# where such tables and chairs occupy a space on the sidewalk no greater than 4 feet, 6 inches from the #street line#.

Sidewalk cafe, unenclosed

An “unenclosed sidewalk cafe” is a space on the sidewalk that contains readily removable tables, chairs or railings with no overhead coverage other than umbrellas or a retractable awning that is affixed to the #building# wall and does not extend further than the width of the #unenclosed sidewalk cafe#.

Sign

* * *

Two-family residence

A “two-family residence” is a #building# containing not more than two #dwelling units#, and occupied by only two #families#.

Unenclosed sidewalk cafe — see Sidewalk cafe, unenclosed

Urban plaza — see Plaza, urban

* * *

Chapter 4 Sidewalk Cafe Regulations

14-00 GENERAL PURPOSES

~~The sidewalk cafe regulations as established in this Resolution are citywide regulations, designed to encourage sidewalk cafes in locations where they are appropriate, discourage them in locations where they are inappropriate, and promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:~~

- ~~(a) — To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.~~
- ~~(b) — To promote sidewalk cafes as visual amenities that better relate to the streetscape.~~
- ~~(c) — To preserve and enhance the character of neighborhoods throughout the City.~~
- ~~(d) — To simplify administrative regulations and strengthen enforcement procedures for sidewalk cafes and ensure that such requirements are effective, efficient and enforceable.~~
- ~~(e) — To promote the most desirable use of land and thus to conserve the value of land and buildings and thereby protect the City's tax revenues.~~

14-01

General Provisions

~~In harmony with the general purpose and intent of this Resolution, and the general purposes of the #sidewalk cafe# regulations, certain specified regulations concerning area eligibility, sidewalk locational criteria and physical criteria for #sidewalk cafes#, in general, and specifically for #enclosed sidewalk cafes#, are herein established.~~

~~The three types of #sidewalk cafes# that are permitted by the regulations of this Chapter and defined in Section 12-10 (DEFINITIONS) are #enclosed sidewalk cafes#, #unenclosed sidewalk cafes# and #small sidewalk cafes#.~~

~~The amendments to Article I, Chapter 4, adopted by the City Council on January 29, 2003, shall become effective March 27, 2003.~~

~~Physical criteria, including structural and operational requirements for #sidewalk cafes#, and #unenclosed sidewalk cafes# in particular, shall be regulated by the Department of Consumer Affairs and found in Title 6, Chapter 2, Subchapter F., of the Rules of the City of New York.~~

~~Licenses for all #sidewalk cafes# must be obtained from the Department of Consumer Affairs, or its successor.~~

14-011

Sidewalk cafe locations

~~#Sidewalk cafes# may be located in all R10H Districts, in all #Commercial Districts# other than C3 Districts and in all #Manufacturing Districts# only where eating or drinking establishments are permitted, as modified by special eligibility regulations set forth in Sections 14-40 through 14-45, inclusive. These sections identify #streets#, areas, special districts and malls or portions of #streets# for which special area eligibility regulations apply:~~

~~Section 14-40 — (AREA ELIGIBILITY FOR SIDEWALK CAFES)~~

~~Section 14-41 — (Locations Where Certain Sidewalk Cafes Are Not Permitted)~~

~~Section 14-42 — (Locations Where Enclosed Sidewalk Cafes Are Not Permitted)~~

~~Section 14-43 — (Locations Where Only Small Sidewalk Cafes Are Permitted)~~

~~Section 14-44 — (Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted)~~

~~Section 14-45 — (Street Malls Where Certain Sidewalk Cafes Are Permitted).~~

~~#Sidewalk cafes# shall be permitted in Historic Districts or in designated landmark #buildings# only if such #sidewalk cafe# is approved by the Landmarks Preservation Commission.~~

14-10

ENCLOSED SIDEWALK CAFES

14-11

Locational Criteria for Enclosed Sidewalk Cafes

~~The regulations of this Section, governing clear path, clearance at intersection of #streets#, clearance from large obstructions and minimum distance between two cafes shall apply to all #enclosed sidewalk cafes#.~~

~~(a) — Clear path~~

~~There shall be a minimum of 8 feet, 0 inches clear distance or 50 percent of the sidewalk width, whichever is greater, free of all obstructions, in order to allow adequate pedestrian movement.~~

~~The minimum distance shall be measured from the portion of the #enclosed sidewalk cafe# frontage that is nearest either the curb line or the nearest obstruction. In no event may recesses in the #enclosed sidewalk cafe# frontage be used to satisfy this unobstructed width requirement, except that the corners of the #enclosed sidewalk cafe# may be rounded or mitered. A clearance of 8 feet, 0 inches shall be maintained around the corners of #enclosed sidewalk cafes#, measured in radius.~~

For the purpose of the minimum clear path, but not the clearance from corners of ~~#enclosed sidewalk cafes#~~, parking meters, traffic signs, and trees that have gratings flush to grade, without fences or guards, shall not count as obstructions

In the case of a ~~#street#~~ for which a mall plan or other special plan has been adopted, the clear path requirements pursuant to this Section shall be deemed satisfied if there is not less than an 8 feet, 0 inches clear path.

~~(b) — Clearance at intersections of street line~~

~~There shall be a minimum of 9 feet, 0 inches clearance, free of all obstructions with no exception, measured from the outer edge of the #enclosed sidewalk cafe# to the curbside obstacle. The corner of the #enclosed sidewalk cafe# wall may be rounded or mitered. Such distance shall be measured from the outer edge of the #enclosed sidewalk cafe# to either the curb line or the nearest obstruction.~~

~~(c) — Clearance from large obstructions~~

~~All #enclosed sidewalk cafes# shall be a minimum of 15 feet from large obstructions. For the purposes of this Section, large obstructions shall be bus stop shelters, newsstands, subway entrances or any other object greater than 15 square feet in area. The closed end of a subway entrance located along the #front lot line# may #abut# an #enclosed sidewalk cafe#.~~

~~(d) — Minimum distance between enclosed sidewalk cafes~~

~~There shall be a minimum distance of 40 feet between the near end walls of two #enclosed sidewalk cafes# if an entrance to a ground floor #commercial use#, other than an entrance to the eating or drinking place associated with either #enclosed sidewalk cafe#, is located between them.~~

~~There shall be a minimum distance of 15 feet between the near end walls of two #enclosed sidewalk cafes# if an entrance to a ground floor non #commercial use#, or a #use# located above or below the ground floor, other than an entrance to the eating or drinking place associated with either #enclosed sidewalk cafe#, is located between them.~~

**14-12
Physical Criteria for Enclosed Sidewalk Cafes**

**14-121
Structural requirements for enclosed sidewalk cafes**

The regulations of this Section governing certain structural and operational requirements shall apply to all ~~#enclosed sidewalk cafes#~~.

(a) — Ceiling

~~The ceiling of an #enclosed sidewalk cafe# shall be of incombustible materials, including colored or colorless safety glass or fabric which has been treated to be fire resistant as approved by the Department of Buildings.~~

~~At no point shall the height of the ceiling of an #enclosed sidewalk cafe# be lower than 7 feet, 0 inches above the floor of the #sidewalk cafe#.~~

(b) — Transparency — exterior walls

~~An #enclosed sidewalk cafe# may provide a base wall of opaque material up to a maximum height of 12 inches from the finished floor level. The base wall shall include any horizontal structural members that support transparent materials above.~~

~~All enclosing walls, doors and windows, except for the structural members, above finished floor level or base wall as provided in this Section, up to a height of 7 feet, 0 inches above finished floor level, must be of colorless, untinted, non-reflective, transparent material, as approved by the Department of Buildings. In order to maximize transparency, the horizontal as well as vertical structural members shall not be sized more than 10 inches wide.~~

~~At least 50 percent of the walls, up to a height of 7 feet, 0 inches above finished floor level, shall consist of operable transparent windows.~~

(c) — Elevation

~~The #enclosed sidewalk cafe# floor shall not be more than seven inches above the level of the adjoining sidewalk.~~

~~In the event of a major grade change, however, the City Planning Commission may, by certification, permit the floor level to be more than seven inches above the level of the adjoining sidewalk.~~

(d) — Designated boundaries

~~No portion of #enclosed sidewalk cafes#, such as doors, windows, walls or any objects placed within an #enclosed sidewalk cafe#, shall swing or project beyond the designated exterior perimeter of the #enclosed sidewalk cafe#. However, fire exit doors that are used exclusively as emergency fire exit doors shall be exempt from this provision.~~

(e) — Fixtures

~~The furnishings of the interior of an #enclosed sidewalk cafe# shall consist solely of moveable tables, chairs and decorative accessories. No objects, except lighting fixtures~~

and HVAC installations, may be permanently affixed onto any portion of the wall of the #enclosed sidewalk cafe#. In no event shall such objects penetrate the exterior perimeter of the wall or the roof of the #enclosed sidewalk cafe# or impede the transparency as required by this Chapter. The exhaust for such HVAC installations on the adjacent walls shall not be less than 10 feet above #curb level#.

(f) — Refuse storage area

No structure or enclosure to accommodate the storage of garbage may be erected or placed adjacent to or separate from the #enclosed sidewalk cafe# on the public right-of-way.

14-122

Access for persons with physical disabilities

An #enclosed sidewalk cafe# or its restaurant shall be directly accessible to persons with physical disabilities. In the event the main restaurant has provided such access, the #enclosed sidewalk cafe# shall be accessible to persons with disabilities from the interior of the restaurant.

In order to ensure access for persons with physical disabilities:

- (a) — at least one door leading into the #enclosed sidewalk cafe# or restaurant from the adjoining sidewalk shall be not less than three feet wide, clear; and
- (b) — a ramp with non-skid surface, if there is change of grade, having a minimum width of three feet and a slope of not greater than 1 in 12, shall be provided. Such ramp may be of portable type for #enclosed sidewalk cafes# that are six feet wide or less, except if such #sidewalk cafe# is at least 180 square feet in area.

14-123

Signage

No #signs# are permitted on an #enclosed sidewalk cafe#, except that the name and type of establishment may be placed upon the glass wall but shall not obscure the required transparency.

14-124

Music and noise amplification

Musical instruments or sound reproduction devices shall not be operated or used within an #enclosed sidewalk cafe# for any purpose.

14-13

Special Permit Modifications of Locational or Physical Criteria for Enclosed Sidewalk Cafes

~~In all #Commercial# or #Manufacturing Districts#, where #enclosed sidewalk cafes# are permitted in accordance with the provisions of this Chapter, the City Planning Commission may permit, upon application, modifications to the locational or physical criteria regulations for #enclosed sidewalk cafes#, except that there shall be no modification of Sections 14-41 (Locations Where Certain Sidewalk Cafes Are Not Permitted), 14-42 (Locations Where Enclosed Sidewalk Cafes Are Not Permitted), 14-44 (Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted) and 14-45 (Street Malls Where Certain Sidewalk Cafes Are Permitted), provided the Commission finds that:~~

- ~~(a) — the #enclosed sidewalk cafe# is developed consistent with the general purposes and objectives of this Chapter;~~
- ~~(b) — any proposed modification to the requirements of this Chapter will result in good overall design and enhance the general character of the #street# and the neighborhood;~~
- ~~(c) — any proposed modifications to the requirements of this Chapter will not cause a serious adverse effect on pedestrian traffic;~~
- ~~(d) — the restaurant or #enclosed sidewalk cafe# provides access for persons with disabilities;~~
- ~~(e) — where a proposed #enclosed sidewalk cafe# is located between two existing stoops, it will not project beyond the stoops; and~~
- ~~(f) — modifications to the provisions of paragraph (a) of Section 14-11 (Locational Criteria for Enclosed Sidewalk Cafes) shall be limited to the minimum clear path for a proposed #enclosed sidewalk cafe# that would be located on a #street# with a special pedestrian plan.~~

14-20 UNENCLOSED SIDEWALK CAFES

~~Physical criteria for #unenclosed sidewalk cafes#, including structural and operational requirements, shall be regulated by the Department of Consumer Affairs pursuant to the Rules of the City of New York as described in Section 14-01 (General Provisions). #Small sidewalk cafes#, however, shall also conform to the requirements of Section 14-30.~~

14-30 SMALL SIDEWALK CAFES

~~#Small sidewalk cafes# shall be subject to the regulations of Section 14-01 (General Provisions) and, in addition, shall comply with the requirements for the definition of #small sidewalk cafes#~~

in Section 12-10 as well as the following physical criteria:

- (a) ~~no form of serving station or any other type of furniture, other than the single row of tables and chairs set adjacent to the #street line#, may be placed within that space occupied by a #small sidewalk cafe#;~~
- (b) ~~there shall be no railing, structure or other form of barrier between a #small sidewalk cafe# and the remaining area of the sidewalk; and~~
- (c) ~~there shall be no overhead coverage other than a retractable awning that is affixed to the #building# wall and does not extend further than 4 feet, 6 inches.~~

~~#Small sidewalk cafes# are permitted wherever #sidewalk cafes# may be located pursuant to the requirements of Section 14-011. Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted) lists specific #streets# and areas where no #sidewalk cafes# other than #small sidewalk cafes# may be located.~~

14-40

AREA ELIGIBILITY FOR SIDEWALK CAFES

Sections 14-40 through 14-45 identify those locations where specific area eligibility regulations apply.

For the purposes of Sections 14-40 through 14-45, the length of a #street# shall run the full #block# to the nearest intersections with cross #streets#, unless otherwise stated.

Areas bounded by #streets# shall include both sides of such #streets# and shall be subject to the regulations of this Chapter pertaining to such areas. When a #street# forms the boundary of a special district, however, only that side of the #street# located within the special district shall be subject to the regulations pertaining to the special district.

~~#Sidewalk cafes# shall only be allowed to locate along the length of a #street# or within the area bounded by #streets#, as set forth in Sections 14-40 through 14-45, where the applicable #use# regulations of the district allow eating and drinking establishments, either as of right, by certification or by authorization or special permit.~~

14-41

Locations Where Certain Sidewalk Cafes Are Not Permitted

~~No #enclosed# or #unenclosed sidewalk cafes# shall be permitted on any of the following #streets#, portions of #streets# and areas, except that #small sidewalk cafes# may be permitted pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).~~

Citywide:

~~All #streets# with elevated rail transit lines, unless specifically permitted in Section 14-43.~~

Manhattan:

~~All #streets# bounded by 38th Street on the south, 59th Street on the north, Third Avenue on the east and Eighth Avenue on the west~~

~~All #streets# within the M1-5A and M1-5B Districts south of Houston Street~~

~~Bowery — from East Broadway to Canal Street~~

~~Elizabeth Street — from Bayard Street to Canal Street~~

~~Pell Street — the entire length~~

~~Mott Street — from Park Row to Canal Street~~

~~Mulberry Street — from Worth Street to Canal Street~~

~~Bayard Street — the entire length~~

~~Doyers Street — the entire length~~

~~All streets facing Chatham Square~~

~~Canal Street — the entire length~~

~~Orchard Street — from Canal Street to Houston Street~~

~~Delancey Street — from Norfolk Street to the Bowery~~

~~Eighth Street — from Avenue A to Sixth Avenue~~

~~14th Street — from Second Avenue to Eighth Avenue~~

~~23rd Street — from the East River to Eighth Avenue~~

~~31st Street — from Fifth Avenue to Eighth Avenue~~

~~32nd Street — from Fifth Avenue to Eighth Avenue~~

~~33rd Street — from Fifth Avenue to Eighth Avenue~~

~~34th Street — from the East River to Eighth Avenue~~

~~42nd Street — from the East River to Eighth Avenue~~

~~All #streets# or portions of #streets# bounded by 43rd Street on the south, 45th Street on the north, Eighth Avenue on the east and, on the west, a line 150 feet west of Eighth Avenue~~

~~57th Street — from the East River to Eighth Avenue~~

~~58th Street — from the East River to Eighth Avenue~~

~~59th Street — from the East River to Fifth Avenue~~

~~59th Street — from Sixth Avenue to Columbus Circle~~

~~All #streets# bounded by 59th Street on the south, 61st Street on the north, Fifth Avenue on the west and, on the east, a line 125 feet east of Fifth Avenue~~

~~60th Street — from Third Avenue to Fifth Avenue~~

~~61st Street — from Third Avenue to Fifth Avenue~~

~~62nd Street — from Second Avenue to Fifth Avenue~~

~~63rd Street — from Second Avenue to Fifth Avenue~~

~~68th Street — from First Avenue to Fifth Avenue~~

~~72nd Street — from the East River to Fifth Avenue~~

~~77th Street — from First Avenue to Fifth Avenue~~

~~79th Street — from the East River to Fifth Avenue~~

~~86th Street — from the East River to Fifth Avenue, south side only
86th Street — from the East River to 125 feet east of York Avenue, north side only, and from York Avenue to Fifth Avenue, north side only
116th Street — from Malcolm X Boulevard to Frederick Douglass Boulevard
First Avenue — from 48th Street to 59th Street
Third Avenue — from 59th Street to 62nd Street
Lexington Avenue — the entire length
Park Avenue — the entire length from 38th Street, northward
Madison Avenue — the entire length
Fifth Avenue — from Washington Square North to 61st Street
Sixth Avenue — from 31st Street to 38th Street
Broadway — from 31st Street to 38th Street
Seventh Avenue — from 31st Street to 38th Street
Eighth Avenue — from 31st Street to 38th Street
Herald Square.~~

~~Brooklyn:~~

~~13th Avenue — from 39th Street to New Utrecht Avenue
86th Street — from Third Avenue to Gowanus Expressway
Court Street — from Schermerhorn Street to Montague Street.~~

~~Queens:~~

~~82nd Street — from 34th Avenue to 41st Avenue
Austin Street — from Yellowstone Boulevard to Ascan Avenue
Junction Boulevard — from Northern Boulevard to 41st Avenue
Roosevelt Avenue — from Union Street to Prince Street
Skillman Avenue — from 43rd Street to 56th Street.~~

14-42

Locations Where Enclosed Sidewalk Cafes Are Not Permitted

No ~~#enclosed sidewalk cafe#~~ shall be permitted on any of the following ~~#streets#~~.

~~Manhattan:~~

~~Bleecker Street — from Bank Street to Mercer Street
Central Park South — from Fifth Avenue to Sixth Avenue
Park Avenue South and Park Avenue — from 31st Street to 38th Street
86th Street — from the East River to Fifth Avenue.~~

14-43

Locations Where Only Small Sidewalk Cafes Are Permitted

~~#Small sidewalk cafes# may be located wherever #sidewalk cafes# are permitted. In addition, only #small sidewalk cafes# shall be allowed on the following #streets#, notwithstanding any regulations set forth in Sections 14-41 or 14-42 prohibiting certain #sidewalk cafes# on such #streets#.~~

Manhattan:

~~Orchard Street — from Canal Street to Houston Street~~

~~Delancey Street — from Norfolk Street to the Bowery~~

~~Centre Street — from Canal Street to Spring Street~~

~~Lafayette Street — from Canal Street to Houston Street~~

~~Sixth Avenue — from Canal Street to a line 100 feet south of Spring Street~~

~~Special Union Square District¹~~

~~14th Street — from Second Avenue to Irving Place~~

~~14th Street — from a line 100 feet west of University Place to Eighth Avenue~~

~~23rd Street — from the East River to Eighth Avenue~~

~~31st Street — from Fifth Avenue to a line 200 feet east of Broadway~~

~~34th Street — from the East River to Fifth Avenue~~

~~35th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet east of Sixth Avenue~~

~~36th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue~~

~~37th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue~~

~~37th Street — from a line 150 feet east of Sixth Avenue to Broadway~~

~~38th Street — from Third Avenue to Seventh Avenue~~

~~39th Street — from Exit Street to Seventh Avenue~~

~~40th Street — from a line 100 feet east of Exit Street to Broadway~~

~~41st Street — from a line 100 feet east of Exit Street to Third Avenue~~

~~42nd Street — from First Avenue to Third Avenue~~

~~42nd Street — from Fifth Avenue to a line 275 feet east of Sixth Avenue~~

~~All #streets# bounded by 43rd Street on the south, 46th Street on the north, a line 200 feet east of~~

~~Third Avenue on the east and Third Avenue on the west~~

~~43rd Street — from Fifth Avenue to Sixth Avenue~~

~~44th Street — from Fifth Avenue to Sixth Avenue~~

~~45th Street — from Fifth Avenue to Sixth Avenue~~

~~46th Street — from Fifth Avenue to Sixth Avenue~~

~~47th Street — from a line 200 feet east of Third Avenue to Third Avenue~~

~~48th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west~~

~~49th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west~~

~~50th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west~~

~~51st Street — from a line 150 feet east of Third Avenue to Eighth Avenue~~
~~52nd Street — from a line 160 feet east of Third Avenue to Eighth Avenue~~
~~53rd Street — from a line 160 feet east of Third Avenue to Eighth Avenue~~
~~54th Street — from a line 150 feet east of Third Avenue to Eighth Avenue~~
~~55th Street — from a line 100 feet west of Second Avenue to Eighth Avenue~~
~~56th Street — from a line 100 feet west of Second Avenue to Eighth Avenue~~
~~57th Street — from the East River to Eighth Avenue~~
~~58th Street — from the East River to Eighth Avenue~~
~~59th Street — from the East River to Second Avenue~~
~~59th Street (Central Park South) — from Sixth Avenue to Columbus Circle~~
~~60th Street — from Lexington Avenue to Fifth Avenue~~
~~61st Street — from Third Avenue to Fifth Avenue~~
~~62nd Street — from Second Avenue to Fifth Avenue~~
~~63rd Street — from Second Avenue to Fifth Avenue~~
~~86th Street — from First Avenue to a line 125 feet east of Second Avenue, south side only~~
~~116th Street — from Malcolm X Boulevard to Frederick Douglass Boulevard~~
~~Special 125th Street District — only as set forth in Section 97-13 (Permitted Small Sidewalk Cafe Locations)~~
~~First Avenue — from 48th Street to 56th Street~~
~~Third Avenue — from 38th Street to 62nd Street~~
~~Lexington Avenue — from a line 100 feet south of 23rd Street to a line 100 feet north of 34th Street~~
~~Lexington Avenue — the entire length from a line 100 feet north of 96th Street, northward~~
~~Park Avenue — from 38th Street to 40th Street~~
~~Park Avenue — from 48th Street to 60th Street~~
~~Park Avenue — the entire length from a line 100 feet north of 96th Street, northward~~
~~Madison Avenue — from 23rd Street to 38th Street~~
~~Madison Avenue — from 59th Street to 61st Street~~
~~Special Madison Avenue Preservation District²~~
~~Madison Avenue — the entire length from a line 100 feet north of 96th Street, northward~~
~~Fifth Avenue — from 12th Street to 33rd Street~~
~~Fifth Avenue — from 59th Street to 61st Street~~
~~Sixth Avenue — from 36th Street to 42nd Street~~
~~Sixth Avenue — from a line 150 feet north of 42nd Street to 48th Street~~
~~Sixth Avenue — from 50th Street to Central Park South~~
~~Seventh Avenue — from 50th Street to Central Park South~~
~~Broadway — from 36th Street to 40th Street~~
~~Broadway — from 50th Street to Columbus Circle~~
~~Columbus Circle — from Eighth Avenue, westward, to Broadway.~~

¹ — ~~#Small sidewalk cafes# are not allowed on 14th Street~~

² — ~~#Small sidewalk cafes# are not allowed on 86th Street within the #Special Madison Avenue District#~~

Queens:

Jackson Avenue, north side — from 44th Drive to the prolongation of Dutch Kills Street
 Queens Boulevard — from a line 100 feet west of 39th Place to 48th Street
 Queens Plaza North — from 23rd Street to Northern Boulevard
 Queens Plaza South — from 23rd Street to Jackson Avenue
 Skillman Avenue, north side — from 45th Street to a line 100 feet east of 51st Street, including that portion within the #Special Planned Community Preservation District#
 Skillman Avenue, south side — from 45th Street to 51st Street, excluding that portion within the #Special Planned Community Preservation District#.

14-44

Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|--------------------------|----------------------------|
| 125th Street District | No | No ⁴ |
| Battery Park City District | Yes | Yes |
| Clinton District | No | Yes |
| East Harlem Corridors District | No | Yes |
| Enhanced Commercial District 2 (Columbus and Amsterdam Avenues) | Yes | Yes |
| Enhanced Commercial District 3 (Broadway/Upper West Side) | Yes | Yes |
| Hudson Square District | Yes | Yes |
| Inwood District | No | Yes |
| Limited Commercial District | No | No ¹ |
| Lincoln Square District | No | Yes |
| Little Italy District | No | Yes |
| Lower Manhattan District | No | Yes ² |
| Manhattanville Mixed Use District | No ³ | Yes |
| Transit Land Use District | Yes | Yes |
| Tribeca Mixed Use District | Yes | Yes |

| | | |
|-------------------------------------|----|------------------|
| United Nations Development District | No | Yes |
| West Chelsea District | No | Yes ⁵ |

¹ ~~_____ #Unenclosed sidewalk cafes# are allowed on Greenwich Avenue~~

² ~~_____ #Unenclosed sidewalk cafes# are not allowed on State, Whitehall or Chambers Streets or Broadway~~

³ ~~_____ #Enclosed sidewalk cafes# are allowed in Subdistrict B~~

⁴ ~~_____ #Unenclosed sidewalk cafes# are allowed on the east side of Malcolm X Boulevard between West 125th and West 126th Streets, on the west side of Malcolm X Boulevard between West 124th and West 125th Streets and on the east side of Fifth Avenue between East 125th and East 126th Streets~~

⁵ ~~_____ #Unenclosed sidewalk cafes# are allowed only on #wide streets# except they are not allowed on the west side of Ninth Avenue between West 15th Street and West 16th Street~~

| Brooklyn | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|--------------------------|----------------------------|
| Bay Ridge District | Yes | Yes |
| Coney Island District | No | Yes |
| Coney Island Mixed Use District | Yes | Yes |
| Downtown Brooklyn District | Yes | Yes |
| Enhanced Commercial District 1 (Fourth Avenue) | No | Yes |
| Enhanced Commercial District 4 (Broadway, Bedford-Stuyvesant) | No | Yes |
| Mixed Use District 8 (Greenpoint-Williamsburg) | Yes | Yes |
| Ocean Parkway District [†] | Yes | Yes |
| Sheepshead Bay District | No | Yes |

[†] ~~_____ #Sidewalk cafes# are not allowed on Ocean Parkway~~

| The Bronx | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|----------------------------------|--------------------------|----------------------------|
| City Island District | No | Yes |
| Harlem River Waterfront District | No | Yes |
| Jerome Corridor District | No | Yes |

| Queens | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|--|-------------------------------------|---------------------------------------|
| Downtown Far Rockaway District | No | Yes |
| Downtown Jamaica District | No | Yes |
| Flushing Waterfront District | No | Yes |
| Forest Hills District ¹ | No | Yes |
| Long Island City Mixed Use District ² | No | Yes |
| Southern Hunters Point District | No | Yes |
| Willetts Point District | No | Yes |

¹ _____ ~~#Sidewalk cafes# are not allowed on Austin Street~~

² _____ ~~See Appendix A in Article XI, Chapter 7~~

| Staten Island | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|-------------------------------------|-------------------------------------|---------------------------------------|
| Bay Street Corridor District | Yes | Yes |
| South Richmond Development District | Yes | Yes |
| St. George District | Yes | Yes |
| Stapleton Waterfront District | Yes | Yes |

14-45

Street Malls Where Certain Sidewalk Cafes Are Permitted

~~#Sidewalk cafes# are permitted as indicated in the following malls where allowed by the underlying zoning.~~

| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|----------------------|-------------------------------------|---------------------------------------|
| Mulberry Street Mall | No | Yes |
| Nassau Street Mall | No | Yes |

| Brooklyn | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---------------------------------|-------------------------------------|---------------------------------------|
| Fulton Street Mall ¹ | No | Yes |

[†] ~~_____ #Enclosed sidewalk cafes# are allowed along DeKalb Avenue~~

| Queens | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|--------------------------------|-------------------------------------|---------------------------------------|
| Far Rockaway Beach 20th Street | No | Yes |

* * *

ARTICLE II RESIDENCE DISTRICT REGULATIONS

Chapter 2 Use Regulations

22-00 GENERAL PROVISIONS

* * *

Use Group 6C, limited to docks for ferries and water taxis, as specified in Section 22-15, is permitted in R6 through R10 Districts in Community District 1 in the Borough of Brooklyn.

~~In R10H Districts, an eating or drinking establishment, permitted pursuant to Section 72-21 (Findings Required for Variances), that operates a #sidewalk cafe# pursuant to the provisions of Article I, Chapter 4, may be #enlarged# into any open area that may exist between the #street wall# and the #street line#.~~

For the purposes of this Chapter, any #residence# and any #accessory building abutting# such #residence# on the same #zoning lot# shall be considered a single #building#.

* * *

ARTICLE III COMMERCIAL DISTRICT REGULATIONS

Chapter 2 Use Regulations

* * *

32-41 Enclosure Within Buildings

C1 C2 C3 C4 C5 C6 C8

In the districts indicated, except as otherwise specifically provided in the Use Groups permitted in such districts and in Sections 36-11 (General Provisions), 36-61 (Permitted Accessory Off-street Loading Berths) and 73-36 (Physical Culture or Health Establishments), all permitted #uses# which are created by #development#, or which are #enlarged# or #extended#, or which result from a change of #use# shall be subject to the provisions of this Section with respect to enclosure within #buildings#. With respect to the #enlargement# or #extension# of an existing #use#, such provisions shall apply to the #enlarged# or #extended# portion of such #use#.

32-411

In C1, C5, C6-5 or C6-7 Districts

C1 C5 C6-5 C6-7

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# except for store fronts or store windows, associated with eating and drinking establishments, which may be opened to serve customers outside the #building#.

32-412

In other Commercial Districts

C2 C3 C4 C6-1 C6-2 C6-3 C6-4 C6-6 C6-8 C6-9 C8

In the districts indicated, all such #uses# shall be located within #completely enclosed buildings# or within #buildings# which are #completely enclosed# except for store fronts or store windows which may be opened to serve customers outside the #building#.

* * *

Chapter 3

Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

33-00

APPLICABILITY, DEFINITIONS AND GENERAL PROVISIONS

* * *

33-05

Outdoor Table Service Areas

Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth by the Department of Transportation shall be permitted within any required sidewalk widening areas.

* * *

**ARTICLE IV
MANUFACTURING DISTRICT REGULATIONS**

**Chapter 3
Bulk Regulations**

**43-00
APPLICABILITY AND GENERAL PROVISIONS**

* * *

**43-03
Outdoor Table Service Areas**

Notwithstanding any other provisions of this Resolution, outdoor table service areas, associated with eating and drinking establishments, meeting all requirements set forth by the Department of Transportation shall be permitted within any required sidewalk widening areas.

* * *

**ARTICLE V
NON-CONFORMING USES AND NON-COMPLYING BUILDINGS**

**Chapter 2
Non-Conforming Uses**

* * *

**52-30
CHANGE OF NON-CONFORMING USE**

* * *

**52-34
Commercial Uses in Residence Districts**

In all #Residence Districts#, a #non-conforming use# listed in Use Group 6, 7, 8, 9, 10, 11B, 12, 13, 14 or 15 may be changed, initially or in any subsequent change, only to a conforming #use# or to a #use# listed in Use Group 6. In the case of any such change, the limitation on #floor area# set forth in Section 32-15 (Use Group 6) shall not apply. Eating or drinking ~~places,~~ establishments with musical entertainment, but not dancing, thus permitted as a change of #use#,

shall be ~~limited exclusively to the sale of food or drink for on-premises consumption by seated patrons within a #completely enclosed building#~~ subject to the enclosure provisions of Section 32-411.

* * *

ARTICLE VII ADMINISTRATION

Chapter 3 Special Permits by the Board of Standards and Appeals

* * *

73-24 Eating or Drinking Places

* * *

73-243 In C1-1, C1-2 and C1-3 Districts

In C1-1, C1-2 and C1-3 Districts, (except in Special Purpose Districts) the Board of Standards and Appeals may permit eating or drinking places (including those which provide musical entertainment but not dancing, with a capacity of 200 persons or less, and those which provide outdoor table service) with #accessory# drive-through facilities for a term not to exceed five years, provided that the following findings are made:

* * *

- (d) that in C1-1, C1-2, C1-3, C1-4, C2-1, C2-2, C2-3, C2-4, C5, M1-5A and M1-5B Districts, such #use# shall ~~take place in a #completely enclosed building#~~ be subject to the enclosure provisions of Section 32-411; and

* * *

~~In connection therewith, the Board may modify the requirement of Section 32-411 (In C1, C5, C6-5 or C6-7 Districts) insofar as it relates to the #accessory# drive-through facility.~~ The Board may prescribe additional appropriate conditions and safeguards to minimize adverse effects on the character of the surrounding area.

* * *

Article VIII - Special Purpose Districts

**Chapter 3
Special Limited Commercial District**

* * *

**83-00
GENERAL PURPOSES**

* * *

(10/9/69)

**83-05
Enclosure of Uses**

All permitted #uses# shall be located within #completely enclosed buildings# be subject to the enclosure provisions of Section 32-411.

* * *

**ARTICLE IX
SPECIAL PURPOSE DISTRICTS**

**Chapter 7
Special 125th Street District**

**97-00
GENERAL PURPOSES**

* * *

**97-03
District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special 125th Street District# Plan. The District Plan, including Map 1 (Special 125th Street District and Subdistricts) ~~and Map 2 (Permitted Small Sidewalk Cafe Locations)~~, is set forth in Appendix A of this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

* * *

**97-10
SPECIAL USE AND LOCATION REGULATIONS**

* * *

97-13

Permitted Small Sidewalk Cafe Locations

~~#Small sidewalk cafes# shall be permitted in the #Special 125th Street District# as indicated on Map 2 (Permitted Small Sidewalk Cafe Locations) in Appendix A of this Chapter, subject to all applicable regulations of Article I, Chapter 4 (Sidewalk Cafe Regulations).~~

97-14

Transient Hotels Within the Park Avenue Hub Subdistrict

* * *

97-40

SPECIAL BULK REGULATIONS

* * *

97-41

Special Floor Area Regulations

* * *

97-412

Maximum floor area ratio in the Park Avenue Hub Subdistrict

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the maximum #floor area ratio# for #zoning lots# is set forth in paragraph (a) of this Section, and is modified for certain #zoning lots# in accordance with paragraph (b) of this Section.

(a) Maximum #floor area ratio#

The maximum #floor area ratio# shall be 12.0. Where a #development# or #enlargement# contains #residential floor area#, such #zoning lot# shall satisfy the provisions of either:

- (1) a minimum non-#residential floor area ratio# of 2.0 shall be provided on such #zoning lot#. Such #floor area# shall not include any #floor area# containing a #transient hotel# pursuant to the provisions of Section 97-1413 (Transient Hotels Within the Park Avenue Hub Subdistrict); or

* * *

Chapter 7
Special Long Island City Mixed Use District

117-00
GENERAL PURPOSES

* * *

117-03
District Plan and Maps

The regulations of this Chapter implement the #Special Long Island City Mixed Use District# Plan.

The District Plan includes the following maps in Appendices A, B and C:

Appendix A ~~Special Long Island City Mixed Use District and Subdistricts Plan Map, including Permitted Sidewalk Cafe Locations~~

* * *

117-05
Permitted Sidewalk Cafe Locations

~~#Unenclosed sidewalk cafes#, including #small sidewalk cafes#, shall be permitted in the #Special Long Island City Mixed Use District# only on the #streets# indicated on the map in Appendix A (Special Long Island City Mixed Use District and Subdistricts Plan Map, including Permitted Sidewalk Cafe Locations) of this Chapter, except that such #unenclosed sidewalk cafes# may also extend up to 100 feet along the non-designated #street# frontage of a #corner lot#, subject to all other applicable regulations of Article I, Chapter 4.~~

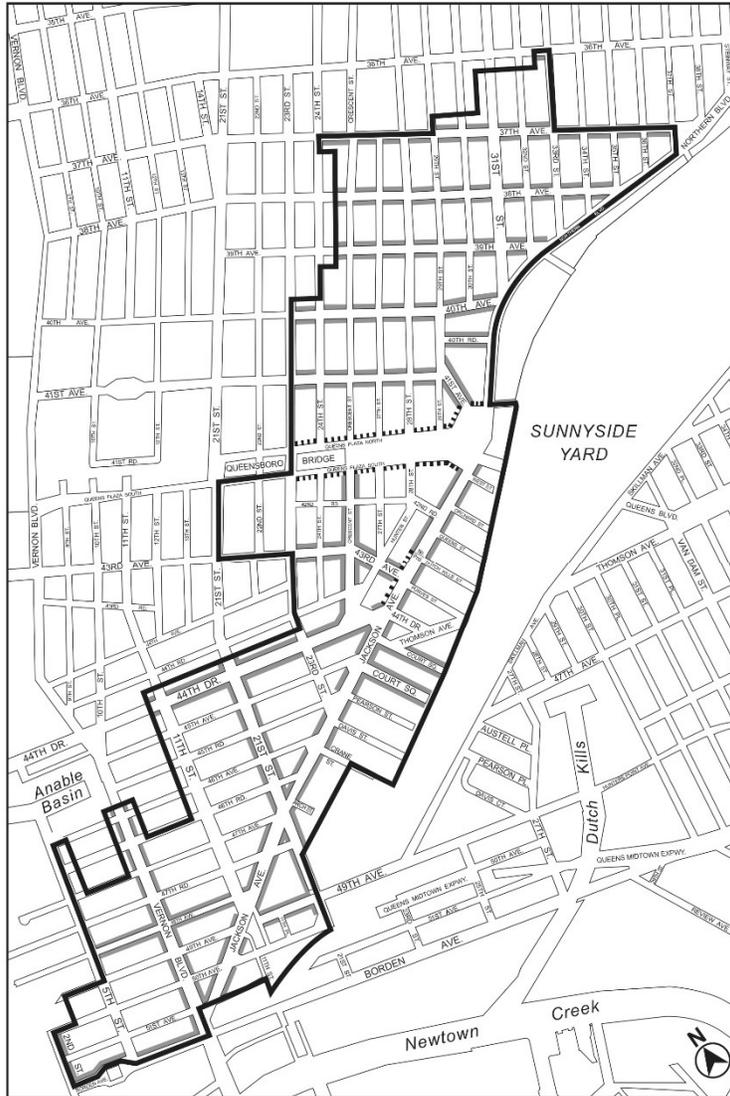
* * *

Appendix A
Special Long Island City Mixed Use District and Subdistricts ~~Plan Map, including~~
Permitted Sidewalk Cafe Locations

* * *

Permitted Sidewalk Cafe Locations

[TO BE DELETED]



— Unenclosed Sidewalk Cafes Small Sidewalk Cafes Only

* * *

**Proposed Permanent Open Restaurants Program Siting
Criteria**

| Sidewalk Seating Siting Rules | |
|---|--|
| Fire Hydrants | Clear path 8' requirement measured from this obstruction |
| Siamese connections/standpipes | 1' |
| Perimeter fence height (maximum) | 2.5' |
| Bus stop shelters | 10' |
| Bus stop poles | 8' |
| Subway Entrances (open end) | 15' |
| Transformer vaults/subway grates | 1'6" |
| Other Sidewalk Cafes | 0' (contiguous cafes) |
| Newsstands | 10' |
| Obstructions greater than 15 sf (Public Restrooms, Citibike Stations, etc.) | 10' |
| Traffic Signal | 8' |
| Telephone Booths/Kiosks | 5' |
| Mail Boxes | 4' |
| Street Light | 8' |
| Tree Pit (with fencing/guards) | 8' |
| Bicycle Racks | 8' |

| | |
|--|--|
| Subway Entrance (closed end) | Clear path from obstruction if along curb If along the building, 1' |
| Other Street Furniture, less than 15 sf (LinkNYC) | 5' |
| Cellar Door (when closed, locked and reinforced) | 0' |
| Curb cuts, driveways, parking lots and loading docks | 5' |
| Primary Building Entrances | 5' |
| Freight Elevator or Service Entrances | 0' |
| Retail (and other building) Entrances | 0' |
| Building Projection (Stoop, Step, Stair) | 0' |
| Exhaust ducts (above sidewalk grade) | 10' |
| Awnings (above sidewalk grade) | 7' |
| Enclosed Cafes | No new enclosed cafes |
| Service aisle | Assumes service aisle is within café designated area. |
| Level of Sidewalk Seating | Level of sidewalk (no platform) |
| Roadway Seating | |
| Protective Barriers (height) | 2.5'-3' |
| Protective Barriers (width) | 12"-18" |
| Curblines | 8' |

| | |
|---|----------------------|
| Crosswalks | 8'-15' |
| Hydrants | 15' |
| No Standing Anytime, No Stopping Anytime, bike lane, bus lane/stop or Car share space | Cannot block |
| Taxi stands | Cannot block |
| Accessible Entry | 3' |
| Accessible Path of Travel | 3' |
| Wheelchair Turning Space | 5' |
| Shelter | not to exceed 400 sf |

Source: New York City Department of Transportation

APPENDIX 2
NEW YORK CITY ZONING RESOLUTION
CHAPTER 4 – SIDEWALK CAFÉ REGULATIONS



Zoning Resolution

THE CITY OF NEW YORK

Bill de Blasio, Mayor

CITY PLANNING COMMISSION

Marisa Lago, Chair

Chapter 4 - Sidewalk Cafe Regulations

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Chapter 4 - Sidewalk Cafe Regulations

14-00 - GENERAL PURPOSES

LAST AMENDED

5/5/2004

The sidewalk cafe regulations as established in this Resolution are citywide regulations, designed to encourage sidewalk cafes in locations where they are appropriate, discourage them in locations where they are inappropriate, and promote and protect public health, safety, general welfare and amenity. These general goals include, among others, the following specific purposes:

- (a) To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.
 - (b) To promote sidewalk cafes as visual amenities that better relate to the streetscape.
 - (c) To preserve and enhance the character of neighborhoods throughout the City.
 - (d) To simplify administrative regulations and strengthen enforcement procedures for sidewalk cafes and ensure that such requirements are effective, efficient and enforceable.
 - (e) To promote the most desirable use of land and thus to conserve the value of land and buildings and thereby protect the City's tax revenues.
-

14-01 - General Provisions

LAST AMENDED

1/29/2003

In harmony with the general purpose and intent of this Resolution, and the general purposes of the #sidewalk cafe# regulations, certain specified regulations concerning area eligibility, sidewalk locational criteria and physical criteria for #sidewalk cafes#, in general, and specifically for #enclosed sidewalk cafes#, are herein established.

The three types of #sidewalk cafes# that are permitted by the regulations of this Chapter and defined in Section 12-10 (DEFINITIONS) are #enclosed sidewalk cafes#, #unenclosed sidewalk cafes# and #small sidewalk cafes#.

The amendments to Article I, Chapter 4, adopted by the City Council on January 29, 2003, shall become effective March 27, 2003.

Physical criteria, including structural and operational requirements for #sidewalk cafes#, and #unenclosed sidewalk cafes# in particular, shall be regulated by the Department of Consumer Affairs and found in Title 6, Chapter 2, Subchapter F., of the Rules of the City of New York.

Licenses for all #sidewalk cafes# must be obtained from the Department of Consumer Affairs, or its successor.

14-011 - Sidewalk cafe locations

LAST AMENDED

5/5/2004

#Sidewalk cafes# may be located in all R10H Districts, in all #Commercial Districts# other than C3 Districts and in all #Manufacturing Districts# only where eating or drinking establishments are permitted, as modified by special eligibility regulations set forth in Sections 14-40 through 14-45, inclusive. These sections identify #streets#, areas, special districts and

malls or portions of #streets# for which special area eligibility regulations apply:

Section 14-40 — (AREA ELIGIBILITY FOR SIDEWALK CAFES)

Section 14-41 — (Locations Where Certain Sidewalk Cafes Are Not Permitted)

Section 14-42 - (Locations Where Enclosed Sidewalk Cafes Are Not Permitted)

Section 14-43 — (Locations Where Only Small Sidewalk Cafes Are Permitted)

Section 14-44 — (Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted)

Section 14-45 — (Street Malls Where Certain Sidewalk Cafes Are Permitted).

#Sidewalk cafes# shall be permitted in Historic Districts or in designated landmark #buildings# only if such #sidewalk cafe# is approved by the Landmarks Preservation Commission.

14-10 - ENCLOSED SIDEWALK CAFES

LAST AMENDED

5/5/2004

14-11 - Locational Criteria for Enclosed Sidewalk Cafes

LAST AMENDED

2/2/2011

The regulations of this Section, governing clear path, clearance at intersection of #streets#, clearance from large obstructions and minimum distance between two cafes shall apply to all #enclosed sidewalk cafes#.

(a) Clear path

There shall be a minimum of 8 feet, 0 inches clear distance or 50 percent of the sidewalk width, whichever is greater, free of all obstructions, in order to allow adequate pedestrian movement.

The minimum distance shall be measured from the portion of the #enclosed sidewalk cafe# frontage that is nearest either the curb line or the nearest obstruction. In no event may recesses in the #enclosed sidewalk cafe# frontage be used to satisfy this unobstructed width requirement, except that the corners of the #enclosed sidewalk cafe# may be rounded or mitered. A clearance of 8 feet, 0 inches shall be maintained around the corners of #enclosed sidewalk cafes#, measured in radius.

For the purpose of the minimum clear path, but not the clearance from corners of #enclosed sidewalk cafes#, parking meters, traffic signs, and trees that have gratings flush to grade, without fences or guards, shall not count as obstructions

In the case of a #street# for which a mall plan or other special plan has been adopted, the clear path requirements pursuant to this Section shall be deemed satisfied if there is not less than an 8 feet, 0 inches clear path.

(b) Clearance at intersections of street line

There shall be a minimum of 9 feet, 0 inches clearance, free of all obstructions with no exception, measured from the outer edge of the #enclosed sidewalk cafe# to the curbside obstacle. The corner of the #enclosed sidewalk cafe# wall may

be rounded or mitered. Such distance shall be measured from the outer edge of the #enclosed sidewalk cafe# to either the curb line or the nearest obstruction.

(c) Clearance from large obstructions

All #enclosed sidewalk cafes# shall be a minimum of 15 feet from large obstructions. For the purposes of this Section, large obstructions shall be bus stop shelters, newsstands, subway entrances or any other object greater than 15 square feet in area. The closed end of a subway entrance located along the #front lot line# may #abut# an #enclosed sidewalk cafe#.

(d) Minimum distance between enclosed sidewalk cafes

There shall be a minimum distance of 40 feet between the near end walls of two #enclosed sidewalk cafes# if an entrance to a ground floor #commercial use#, other than an entrance to the eating or drinking place associated with either #enclosed sidewalk cafe#, is located between them.

There shall be a minimum distance of 15 feet between the near end walls of two #enclosed sidewalk cafes# if an entrance to a ground floor non-#commercial use#, or a #use# located above or below the ground floor, other than an entrance to the eating or drinking place associated with either #enclosed sidewalk cafe#, is located between them.

14-12 - Physical Criteria for Enclosed Sidewalk Cafes

LAST AMENDED

5/5/2004

14-121 - Structural requirements for enclosed sidewalk cafes

LAST AMENDED

5/5/2004

The regulations of this Section governing certain structural and operational requirements shall apply to all #enclosed sidewalk cafes#.

(a) Ceiling

The ceiling of an #enclosed sidewalk cafe# shall be of incombustible materials, including colored or colorless safety glass or fabric which has been treated to be fire resistant as approved by the Department of Buildings.

At no point shall the height of the ceiling of an #enclosed sidewalk cafe# be lower than 7 feet, 0 inches above the floor of the #sidewalk cafe#.

(b) Transparency — exterior walls

An #enclosed sidewalk cafe# may provide a base wall of opaque material up to a maximum height of 12 inches from the finished floor level. The base wall shall include any horizontal structural members that support transparent materials above.

All enclosing walls, doors and windows, except for the structural members, above finished floor level or base wall as provided in this Section, up to a height of 7 feet, 0 inches above finished floor level, must be of colorless, untinted, non-reflective, transparent material, as approved by the Department of Buildings. In order to maximize transparency, the horizontal as well as vertical structural members shall not be sized more than 10 inches wide.

At least 50 percent of the walls, up to a height of 7 feet, 0 inches above finished floor level, shall consist of operable transparent windows.

(c) Elevation

The #enclosed sidewalk cafe# floor shall not be more than seven inches above the level of the adjoining sidewalk.

In the event of a major grade change, however, the City Planning Commission may, by certification, permit the floor level to be more than seven inches above the level of the adjoining sidewalk.

(d) Designated boundaries

No portion of #enclosed sidewalk cafes#, such as doors, windows, walls or any objects placed within an #enclosed sidewalk cafe#, shall swing or project beyond the designated exterior perimeter of the #enclosed sidewalk cafe#. However, fire exit doors that are used exclusively as emergency fire exit doors shall be exempt from this provision.

(e) Fixtures

The furnishings of the interior of an #enclosed sidewalk cafe# shall consist solely of moveable tables, chairs and decorative accessories. No objects, except lighting fixtures and HVAC installations, may be permanently affixed onto any portion of the wall of the #enclosed sidewalk cafe#. In no event shall such objects penetrate the exterior perimeter of the wall or the roof of the #enclosed sidewalk cafe# or impede the transparency as required by this Chapter. The exhaust for such HVAC installations on the adjacent walls shall not be less than 10 feet above #curb level#.

(f) Refuse storage area

No structure or enclosure to accommodate the storage of garbage may be erected or placed adjacent to or separate from the #enclosed sidewalk cafe# on the public right-of-way.

14-122 - Access for persons with physical disabilities

LAST AMENDED
5/5/2004

An #enclosed sidewalk cafe# or its restaurant shall be directly accessible to persons with physical disabilities. In the event the main restaurant has provided such access, the #enclosed sidewalk cafe# shall be accessible to persons with disabilities from the interior of the restaurant.

In order to ensure access for persons with physical disabilities:

- (a) at least one door leading into the #enclosed sidewalk cafe# or restaurant from the adjoining sidewalk shall be not less than three feet wide, clear; and
- (b) a ramp with non-skid surface, if there is change of grade, having a minimum width of three feet and a slope of not greater than 1 in 12, shall be provided. Such ramp may be of portable type for #enclosed sidewalk cafes# that are six feet wide or less, except if such #sidewalk cafe# is at least 180 square feet in area.

14-123 - Signage

LAST AMENDED

5/5/2004

No #signs# are permitted on an #enclosed sidewalk cafe#, except that the name and type of establishment may be placed upon the glass wall but shall not obscure the required transparency.

14-124 - Music and noise amplification

LAST AMENDED

5/5/2004

Musical instruments or sound reproduction devices shall not be operated or used within an #enclosed sidewalk cafe# for any purpose.

14-13 - Special Permit Modifications of Locational or Physical Criteria for Enclosed Sidewalk Cafes

LAST AMENDED

5/5/2004

In all #Commercial# or #Manufacturing Districts#, where #enclosed sidewalk cafes# are permitted in accordance with the provisions of this Chapter, the City Planning Commission may permit, upon application, modifications to the locational or physical criteria regulations for #enclosed sidewalk cafes#, except that there shall be no modification of Sections 14-41 (Locations Where Certain Sidewalk Cafes Are Not Permitted), 14-42 (Locations Where Enclosed Sidewalk Cafes Are Not Permitted), 14-44 (Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted) and 14-45 (Street Malls Where Certain Sidewalk Cafes Are Permitted), provided the Commission finds that:

- (a) the #enclosed sidewalk cafe# is developed consistent with the general purposes and objectives of this Chapter;
- (b) any proposed modification to the requirements of this Chapter will result in good overall design and enhance the general character of the #street# and the neighborhood;
- (c) any proposed modifications to the requirements of this Chapter will not cause a serious adverse effect on pedestrian traffic;
- (d) the restaurant or #enclosed sidewalk cafe# provides access for persons with disabilities;
- (e) where a proposed #enclosed sidewalk cafe# is located between two existing stoops, it will not project beyond the stoops; and
- (f) modifications to the provisions of paragraph (a) of Section 14-11 (Locational Criteria for Enclosed Sidewalk Cafes) shall be limited to the minimum clear path for a proposed #enclosed sidewalk cafe# that would be located on a #street# with a special pedestrian plan.

14-20 - UNENCLOSED SIDEWALK CAFES

LAST AMENDED

5/5/2004

Physical criteria for #unenclosed sidewalk cafes#, including structural and operational requirements, shall be regulated by the Department of Consumer Affairs pursuant to the Rules of the City of New York as described in Section 14-01 (General Provisions). #Small sidewalk cafes#, however, shall also conform to the requirements of Section 14-30.

14-30 - SMALL SIDEWALK CAFES

LAST AMENDED

5/5/2004

#Small sidewalk cafes# shall be subject to the regulations of Section 14-01 (General Provisions) and, in addition, shall comply with the requirements for the definition of #small sidewalk cafes# in Section 12-10 as well as the following physical criteria:

- (a) no form of serving station or any other type of furniture, other than the single row of tables and chairs set adjacent to the #street line#, may be placed within that space occupied by a #small sidewalk cafe# ;
- (b) there shall be no railing, structure or other form of barrier between a #small sidewalk cafe# and the remaining area of the sidewalk; and
- (c) there shall be no overhead coverage other than a retractable awning that is affixed to the #building# wall and does not extend further than 4 feet, 6 inches.

#Small sidewalk cafes# are permitted wherever #sidewalk cafes# may be located pursuant to the requirements of Section 14-011. Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted) lists specific #streets# and areas where no #sidewalk cafes# other than #small sidewalk cafes# may be located.

14-40 - AREA ELIGIBILITY FOR SIDEWALK CAFES

LAST AMENDED

5/5/2004

Sections 14-40 through 14-45 identify those locations where specific area eligibility regulations apply.

For the purposes of Sections 14-40 through 14-45, the length of a #street# shall run the full #block# to the nearest intersections with cross #streets#, unless otherwise stated.

Areas bounded by #streets# shall include both sides of such #streets# and shall be subject to the regulations of this Chapter pertaining to such areas. When a #street# forms the boundary of a special district, however, only that side of the #street# located within the special district shall be subject to the regulations pertaining to the special district.

#Sidewalk cafes# shall only be allowed to locate along the length of a #street# or within the area bounded by #streets#, as set forth in Sections 14-40 through 14-45, where the applicable #use# regulations of the district allow eating and drinking establishments, either as-of-right, by certification or by authorization or special permit.

14-41 - Locations Where Certain Sidewalk Cafes Are Not Permitted

LAST AMENDED

8/9/2011

No #enclosed# or #unenclosed sidewalk cafes# shall be permitted on any of the following #streets#, portions of #streets# and areas, except that #small sidewalk cafes# may be permitted pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

Citywide:

All #streets# with elevated rail transit lines, unless specifically permitted in Section 14-43.

Manhattan:

All #streets# bounded by 38th Street on the south, 59th Street on the north, Third Avenue on the east and Eighth Avenue on the west

All #streets# within the M1-5A and M1-5B Districts south of Houston Street

Bowery — from East Broadway to Canal Street

Elizabeth Street — from Bayard Street to Canal Street

Pell Street — the entire length

Mott Street — from Park Row to Canal Street

Mulberry Street — from Worth Street to Canal Street

Bayard Street — the entire length

Doyers Street — the entire length

All streets facing Chatham Square

Canal Street — the entire length

Orchard Street — from Canal Street to Houston Street

Delancey Street — from Norfolk Street to the Bowery

Eighth Street — from Avenue A to Sixth Avenue

14th Street — from Second Avenue to Eighth Avenue

23rd Street — from the East River to Eighth Avenue

31st Street — from Fifth Avenue to Eighth Avenue

32nd Street — from Fifth Avenue to Eighth Avenue

33rd Street — from Fifth Avenue to Eighth Avenue

34th Street — from the East River to Eighth Avenue

42nd Street — from the East River to Eighth Avenue

All #streets# or portions of #streets# bounded by 43rd Street on the south, 45th Street on the north, Eighth Avenue on the east and, on the west, a line 150 feet west of Eighth Avenue

57th Street — from the East River to Eighth Avenue

58th Street — from the East River to Eighth Avenue

59th Street — from the East River to Fifth Avenue

59th Street — from Sixth Avenue to Columbus Circle

All #streets# bounded by 59th Street on the south, 61st Street on the north, Fifth Avenue on the west and, on the east, a line 125 feet east of Fifth Avenue

60th Street — from Third Avenue to Fifth Avenue

61st Street — from Third Avenue to Fifth Avenue

62nd Street — from Second Avenue to Fifth Avenue

63rd Street — from Second Avenue to Fifth Avenue

68th Street — from First Avenue to Fifth Avenue

72nd Street — from the East River to Fifth Avenue

77th Street — from First Avenue to Fifth Avenue

79th Street — from the East River to Fifth Avenue

86th Street — from the East River to Fifth Avenue, south side only

86th Street — from the East River to 125 feet east of York Avenue, north side only, and from York Avenue to Fifth Avenue, north side only

116th Street — from Malcolm X Boulevard to Frederick Douglass Boulevard

First Avenue — from 48th Street to 59th Street

Third Avenue — from 59th Street to 62nd Street

Lexington Avenue — the entire length

Park Avenue — the entire length from 38th Street, northward

Madison Avenue — the entire length

Fifth Avenue — from Washington Square North to 61st Street

Sixth Avenue — from 31st Street to 38th Street

Broadway — from 31st Street to 38th Street

Seventh Avenue — from 31st Street to 38th Street

Eighth Avenue — from 31st Street to 38th Street

Herald Square.

Brooklyn:

13th Avenue — from 39th Street to New Utrecht Avenue

86th Street — from Third Avenue to Gowanus Expressway

Court Street — from Schermerhorn Street to Montague Street.

Queens:

82nd Street — from 34th Avenue to 41st Avenue

Austin Street — from Yellowstone Boulevard to Ascan Avenue

Junction Boulevard — from Northern Boulevard to 41st Avenue

Roosevelt Avenue — from Union Street to Prince Street

Skillman Avenue — from 43rd Street to 56th Street.

14-42 - Locations Where Enclosed Sidewalk Cafes Are Not Permitted

LAST AMENDED

5/5/2004

No #enclosed sidewalk cafe# shall be permitted on any of the following #streets#.

Manhattan:

Bleecker Street — from Bank Street to Mercer Street

Central Park South — from Fifth Avenue to Sixth Avenue

Park Avenue South and Park Avenue — from 31st Street to 38th Street

86th Street — from the East River to Fifth Avenue.

14-43 - Locations Where Only Small Sidewalk Cafes Are Permitted

LAST AMENDED

5/22/2013

#Small sidewalk cafes# may be located wherever #sidewalk cafes# are permitted. In addition, only #small sidewalk cafes# shall be allowed on the following #streets#, notwithstanding any regulations set forth in Sections 14-41 or 14-42 prohibiting certain #sidewalk cafes# on such #streets#.

Manhattan:

Orchard Street — from Canal Street to Houston Street

Delancey Street — from Norfolk Street to the Bowery

Centre Street — from Canal Street to Spring Street

Lafayette Street — from Canal Street to Houston Street

Sixth Avenue — from Canal Street to a line 100 feet south of Spring Street

Special Union Square District¹

14th Street — from Second Avenue to Irving Place

14th Street — from a line 100 feet west of University Place to Eighth Avenue

23rd Street — from the East River to Eighth Avenue

31st Street — from Fifth Avenue to a line 200 feet east of Broadway

34th Street — from the East River to Fifth Avenue

35th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet east of Sixth Avenue

36th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue

37th Street — from a line 150 feet east of Fifth Avenue to a line 150 feet west of Fifth Avenue

37th Street — from a line 150 feet east of Sixth Avenue to Broadway

38th Street — from Third Avenue to Seventh Avenue

39th Street — from Exit Street to Seventh Avenue

40th Street — from a line 100 feet east of Exit Street to Broadway

41st Street — from a line 100 feet east of Exit Street to Third Avenue

42nd Street — from First Avenue to Third Avenue

42nd Street — from Fifth Avenue to a line 275 feet east of Sixth Avenue

All #streets# bounded by 43rd Street on the south, 46th Street on the north, a line 200 feet east of Third Avenue on the east and Third Avenue on the west

43rd Street — from Fifth Avenue to Sixth Avenue

44th Street — from Fifth Avenue to Sixth Avenue

45th Street — from Fifth Avenue to Sixth Avenue

46th Street — from Fifth Avenue to Sixth Avenue

47th Street — from a line 200 feet east of Third Avenue to Third Avenue

48th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west

49th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west

50th Street — from a line 150 feet east of Third Avenue on the east and Sixth Avenue on the west

51st Street — from a line 150 feet east of Third Avenue to Eighth Avenue

52nd Street — from a line 160 feet east of Third Avenue to Eighth Avenue

53rd Street — from a line 160 feet east of Third Avenue to Eighth Avenue

54th Street — from a line 150 feet east of Third Avenue to Eighth Avenue

55th Street — from a line 100 feet west of Second Avenue to Eighth Avenue

56th Street — from a line 100 feet west of Second Avenue to Eighth Avenue

57th Street — from the East River to Eighth Avenue

58th Street — from the East River to Eighth Avenue

59th Street — from the East River to Second Avenue

59th Street (Central Park South) — from Sixth Avenue to Columbus Circle

60th Street — from Lexington Avenue to Fifth Avenue

61st Street — from Third Avenue to Fifth Avenue

62nd Street — from Second Avenue to Fifth Avenue

63rd Street — from Second Avenue to Fifth Avenue

86th Street — from First Avenue to a line 125 feet east of Second Avenue, south side only

116th Street — from Malcolm X Boulevard to Frederick Douglass Boulevard

Special 125th Street District – only as set forth in Section 97-13 (Permitted Small Sidewalk Cafe Locations)

First Avenue — from 48th Street to 56th Street

Third Avenue — from 38th Street to 62nd Street

Lexington Avenue — from a line 100 feet south of 23rd Street to a line 100 feet north of 34th Street

Lexington Avenue — the entire length from a line 100 feet north of 96th Street, northward

Park Avenue — from 38th Street to 40th Street

Park Avenue — from 48th Street to 60th Street

Park Avenue — the entire length from a line 100 feet north of 96th Street, northward

Madison Avenue — from 23rd Street to 38th Street

Madison Avenue — from 59th Street to 61st Street

Special Madison Avenue Preservation District²

Madison Avenue — the entire length from a line 100 feet north of 96th Street, northward

Fifth Avenue — from 12th Street to 33rd Street

Fifth Avenue — from 59th Street to 61st Street

Sixth Avenue — from 36th Street to 42nd Street

Sixth Avenue — from a line 150 feet north of 42nd Street to 48th Street

Sixth Avenue — from 50th Street to Central Park South

Seventh Avenue — from 50th Street to Central Park South

Broadway — from 36th Street to 40th Street

Broadway — from 50th Street to Columbus Circle

Columbus Circle — from Eighth Avenue, westward, to Broadway.

¹ #Small sidewalk cafes# are not allowed on 14th Street

² #Small sidewalk cafes# are not allowed on 86th Street within the #Special Madison Avenue District#

Queens:

Jackson Avenue, north side — from 44th Drive to the prolongation of Dutch Kills Street

Queens Boulevard — from a line 100 feet west of 39th Place to 48th Street

Queens Plaza North — from 23rd Street to Northern Boulevard

Queens Plaza South — from 23rd Street to Jackson Avenue

Skillman Avenue, north side — from 45th Street to a line 100 feet east of 51st Street, including that portion within the #Special Planned Community Preservation District#

Skillman Avenue, south side — from 45th Street to 51st Street, excluding that portion within the #Special Planned Community Preservation District#.

14-44 - Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted

LAST AMENDED

3/22/2018

#Enclosed# or #unenclosed sidewalk cafes# shall be permitted, as indicated, in the following special zoning districts, where allowed by the underlying zoning. #Small sidewalk cafes#, however, may be located on #streets# or portions of #streets# within special zoning districts pursuant to the provisions of Section 14-43 (Locations Where Only Small Sidewalk Cafes Are Permitted).

| | | |
|-----------|--------------------------|----------------------------|
| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|-----------|--------------------------|----------------------------|

| | | |
|--|-----------------|------------------|
| 125th Street District | No | No ⁴ |
| Battery Park City District | Yes | Yes |
| Clinton District | No | Yes |
| East Harlem Corridors District | No | Yes |
| Enhanced Commercial District 2 (Columbus and Amsterdam Avenues) | Yes | Yes |
| Enhanced Commercial District 3 (Broadway/Upper West Side) | Yes | Yes |
| Hudson Square District | Yes | Yes |
| Inwood District | No | Yes |
| Limited Commercial District | No | No ¹ |
| Lincoln Square District | No | Yes |
| Little Italy District | No | Yes |
| Lower Manhattan District | No | Yes ² |
| Manhattanville Mixed Use District | No ³ | Yes |
| Transit Land Use District | Yes | Yes |
| Tribeca Mixed Use District | Yes | Yes |

| | | |
|-------------------------------------|----|------------------|
| United Nations Development District | No | Yes |
| West Chelsea District | No | Yes ⁵ |

- 1 #Unenclosed sidewalk cafes# are allowed on Greenwich Avenue
- 2 #Unenclosed sidewalk cafes# are not allowed on State, Whitehall or Chambers Streets or Broadway
- 3 #Enclosed sidewalk cafes# are allowed in Subdistrict B
- 4 #Unenclosed sidewalk cafes# are allowed on the east side of Malcolm X Boulevard between West 125th and West 126th Streets, on the west side of Malcolm X Boulevard between West 124th and West 125th Streets and on the east side of Fifth Avenue between East 125th and East 126th Streets
- 5 #Unenclosed sidewalk cafes# are allowed only on #wide streets# except they are not allowed on the west side of Ninth Avenue between West 15th Street and West 16th Street

| Brooklyn | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|--------------------------|----------------------------|
| Bay Ridge District | Yes | Yes |
| Coney Island District | No | Yes |
| Coney Island Mixed Use District | Yes | Yes |
| Downtown Brooklyn District | Yes | Yes |
| Enhanced Commercial District 1 (Fourth Avenue) | No | Yes |
| Enhanced Commercial District 4 (Broadway, Bedford-Stuyvesant) | No | Yes |
| Mixed Use District-8 (Greenpoint-Williamsburg) | Yes | Yes |
| Ocean Parkway District ¹ | Yes | Yes |

| | | |
|-------------------------|----|-----|
| Sheepshead Bay District | No | Yes |
|-------------------------|----|-----|

¹ #Sidewalk cafes# are not allowed on Ocean Parkway

| The Bronx | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|--|--------------------------|----------------------------|
| City Island District | No | Yes |
| Harlem River Waterfront District | No | Yes |
| Jerome Corridor District | No | Yes |
| Queens | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
| Downtown Far Rockaway District | No | Yes |
| Downtown Jamaica District | No | Yes |
| Flushing Waterfront District | No | Yes |
| Forest Hills District ¹ | No | Yes |
| Long Island City Mixed Use District ² | No | Yes |
| Southern Hunters Point District | No | Yes |
| Willets Point District | No | Yes |

¹ #Sidewalk cafes# are not allowed on Austin Street

² See Appendix A in Article XI, Chapter 7

| Staten Island | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|-------------------------------------|--------------------------|----------------------------|
| Bay Street Corridor District | Yes | Yes |
| South Richmond Development District | Yes | Yes |
| St. George District | Yes | Yes |
| Stapleton Waterfront District | Yes | Yes |

14-45 - Street Malls Where Certain Sidewalk Cafes Are Permitted

LAST AMENDED

5/5/2004

#Sidewalk cafes# are permitted as indicated in the following malls where allowed by the underlying zoning.

| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|----------------------|--------------------------|----------------------------|
| Mulberry Street Mall | No | Yes |
| Nassau Street Mall | No | Yes |

| Brooklyn | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---------------------------------|--------------------------|----------------------------|
| Fulton Street Mall ¹ | No | Yes |

¹ #Enclosed sidewalk cafes# are allowed along DeKalb Avenue

| Queens | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|--------------------------------|--------------------------|----------------------------|
| Far Rockaway Beach 20th Street | No | Yes |

APPENDIX 3
WATERFRONT REVITALIZATION PROGRAM
CONSISTENCY ASSESSMENT FORM (CAF)

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM Consistency Assessment Form

Proposed actions that are subject to CEQR, ULURP or other local, state or federal discretionary review procedures, and that are within New York City's Coastal Zone, must be reviewed and assessed for their consistency with the [New York City Waterfront Revitalization Program](#) (WRP) which has been approved as part of the State's Coastal Management Program.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, the New York City Department of City Planning, or other city or state agencies in their review of the applicant's certification of consistency.

A. APPLICANT INFORMATION

Name of Applicant: New York City Department of City Planning, New York City Department of Transportation

Name of Applicant Representative: Naim Rasheed, New York City Department of Transportation

Address: 55 Water Street, New York, NY 10041

Telephone: _____ Email: nrasheed@dot.nyc.gov

Project site owner (if different than above): N/A - Proposed Action is Citywide with broad applicability

B. PROPOSED ACTIVITY

If more space is needed, include as an attachment.

I. Brief description of activity

In accordance with Local Law 114 of 2020 recently enacted by the New York City Council ("City Council"), the City seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) ("the Proposed Action") to establish and implement a permanent Open Restaurants Program (ORP) to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128 ("the Proposed Project").

See Attachment A, "Project Description," for more details.

2. Purpose of activity

The Proposed Action would provide a Permanent Open Restaurants (POR) Program that would be more expansive and easier to access than the existing sidewalk café program, resulting in a reduced administrative burden to the city and to business owners. This proposed POR program would seek to make permanent the suspension of existing laws regarding the DCA sidewalk café program, and establish the rules of a new permanent program consistent with Local Law 114's authorization. This program would consist of both sidewalk and roadway restaurant seating and would require applicants to document their compliance with minimum sidewalk and roadway clear path and obstruction requirements. The objectives of the proposed POR program are to create an outdoor dining program similar to the current temporary Open Restaurants program while making the process of joining this program easy to access, thereby reducing the administrative burden to the city and to food service establishments. This program would include an expanded zone of eligibility as compared to the existing sidewalk café program by removing restrictions placed on certain areas of the city. This program would also combine the sidewalk and outdoor dining seating application processes while retaining the primary public right to the street.

C. PROJECT LOCATION

Borough: All Tax Block/Lot(s): Generic Action

Street Address: N/A

Name of water body (if located on the waterfront): All

D. REQUIRED ACTIONS OR APPROVALS

Check all that apply.

City Actions/Approvals/Funding

City Planning Commission Yes No

| | | |
|---|--|--|
| <input type="checkbox"/> City Map Amendment | <input type="checkbox"/> Zoning Certification | <input type="checkbox"/> Concession |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Zoning Authorizations | <input type="checkbox"/> UDAAP |
| <input checked="" type="checkbox"/> Zoning Text Amendment | <input type="checkbox"/> Acquisition – Real Property | <input type="checkbox"/> Revocable Consent |
| <input type="checkbox"/> Site Selection – Public Facility | <input type="checkbox"/> Disposition – Real Property | <input type="checkbox"/> Franchise |
| <input type="checkbox"/> Housing Plan & Project | <input type="checkbox"/> Other, explain: _____ | |
| <input type="checkbox"/> Special Permit | | |

(if appropriate, specify type: Modification Renewal other) Expiration Date: _____

Board of Standards and Appeals Yes No

| | |
|--|--|
| <input type="checkbox"/> Variance (use) | |
| <input type="checkbox"/> Variance (bulk) | |
| <input type="checkbox"/> Special Permit | |

(if appropriate, specify type: Modification Renewal other) Expiration Date: _____

Other City Approvals

| | |
|--|---|
| <input type="checkbox"/> Legislation | <input type="checkbox"/> Funding for Construction, specify: _____ |
| <input checked="" type="checkbox"/> Rulemaking | <input type="checkbox"/> Policy or Plan, specify: _____ |
| <input type="checkbox"/> Construction of Public Facilities | <input type="checkbox"/> Funding of Program, specify: _____ |
| <input type="checkbox"/> 384 (b) (4) Approval | <input type="checkbox"/> Permits, specify: _____ |
| <input type="checkbox"/> Other, explain: _____ | |

State Actions/Approvals/Funding

| | |
|---|-------------------------------|
| <input type="checkbox"/> State permit or license, specify Agency: _____ | Permit type and number: _____ |
| <input type="checkbox"/> Funding for Construction, specify: _____ | |
| <input type="checkbox"/> Funding of a Program, specify: _____ | |
| <input type="checkbox"/> Other, explain: _____ | |

Federal Actions/Approvals/Funding

| | |
|---|-------------------------------|
| <input type="checkbox"/> Federal permit or license, specify Agency: _____ | Permit type and number: _____ |
| <input type="checkbox"/> Funding for Construction, specify: _____ | |
| <input type="checkbox"/> Funding of a Program, specify: _____ | |
| <input type="checkbox"/> Other, explain: _____ | |

Is this being reviewed in conjunction with a [Joint Application for Permits?](#) Yes No

E. LOCATION QUESTIONS

1. Does the project require a waterfront site? Yes No
2. Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land under water or coastal waters? Yes No
3. Is the project located on publicly owned land or receiving public assistance? Yes No
4. Is the project located within a FEMA 1% annual chance floodplain? (6.2) Yes No
5. Is the project located within a FEMA 0.2% annual chance floodplain? (6.2) Yes No
6. Is the project located adjacent to or within a special area designation? See [Maps – Part III](#) of the NYC WRP. If so, check appropriate boxes below and evaluate policies noted in parentheses as part of WRP Policy Assessment (Section F).
 - Significant Maritime and Industrial Area (SMIA) (2.1)
 - Special Natural Waterfront Area (SNWA) (4.1)
 - Priority Martine Activity Zone (PMAZ) (3.5)
 - Recognized Ecological Complex (REC) (4.4)
 - West Shore Ecologically Sensitive Maritime and Industrial Area (ESMIA) (2.2, 4.2)

F. WRP POLICY ASSESSMENT

Review the project or action for consistency with the WRP policies. For each policy, check Promote, Hinder or Not Applicable (N/A). For more information about consistency review process and determination, see **Part I** of the [NYC Waterfront Revitalization Program](#). When assessing each policy, review the full policy language, including all sub-policies, contained within **Part II** of the WRP. The relevance of each applicable policy may vary depending upon the project type and where it is located (i.e. if it is located within one of the special area designations).

For those policies checked Promote or Hinder, provide a written statement on a separate page that assesses the effects of the proposed activity on the relevant policies or standards. If the project or action promotes a policy, explain how the action would be consistent with the goals of the policy. If it hinders a policy, consideration should be given toward any practical means of altering or modifying the project to eliminate the hindrance. Policies that would be advanced by the project should be balanced against those that would be hindered by the project. If reasonable modifications to eliminate the hindrance are not possible, consideration should be given as to whether the hindrance is of such a degree as to be substantial, and if so, those adverse effects should be mitigated to the extent practicable.

| | | Promote | Hinder | N/A |
|----------|---|--------------------------|--------------------------|-------------------------------------|
| I | Support and facilitate commercial and residential redevelopment in areas well-suited to such development. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| I.1 | Encourage commercial and residential redevelopment in appropriate Coastal Zone areas. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| I.2 | Encourage non-industrial development with uses and design features that enliven the waterfront and attract the public. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| I.3 | Encourage redevelopment in the Coastal Zone where public facilities and infrastructure are adequate or will be developed. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| I.4 | In areas adjacent to SMIA's, ensure new residential development maximizes compatibility with existing adjacent maritime and industrial uses. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| I.5 | Integrate consideration of climate change and sea level rise into the planning and design of waterfront residential and commercial development, pursuant to WRP Policy 6.2. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | Promote | Hinder | N/A |
|----------|---|--------------------------|--------------------------|-------------------------------------|
| 2 | Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2.1 | Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2.2 | Encourage a compatible relationship between working waterfront uses, upland development and natural resources within the Ecologically Sensitive Maritime and Industrial Area. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2.3 | Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas or Ecologically Sensitive Maritime Industrial Area. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2.4 | Provide infrastructure improvements necessary to support working waterfront uses. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2.5 | Incorporate consideration of climate change and sea level rise into the planning and design of waterfront industrial development and infrastructure, pursuant to WRP Policy 6.2. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3 | Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3.1. | Support and encourage in-water recreational activities in suitable locations. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3.2 | Support and encourage recreational, educational and commercial boating in New York City's maritime centers. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3.3 | Minimize conflicts between recreational boating and commercial ship operations. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3.4 | Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3.5 | In Priority Marine Activity Zones, support the ongoing maintenance of maritime infrastructure for water-dependent uses. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4 | Protect and restore the quality and function of ecological systems within the New York City coastal area. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.1 | Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.2 | Protect and restore the ecological quality and component habitats and resources within the Ecologically Sensitive Maritime and Industrial Area. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.3 | Protect designated Significant Coastal Fish and Wildlife Habitats. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.4 | Identify, remediate and restore ecological functions within Recognized Ecological Complexes. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.5 | Protect and restore tidal and freshwater wetlands. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.6 | In addition to wetlands, seek opportunities to create a mosaic of habitats with high ecological value and function that provide environmental and societal benefits. Restoration should strive to incorporate multiple habitat characteristics to achieve the greatest ecological benefit at a single location. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.7 | Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 4.8 | Maintain and protect living aquatic resources. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | Promote | Hinder | N/A |
|----------|---|-------------------------------------|--------------------------|-------------------------------------|
| 5 | Protect and improve water quality in the New York City coastal area. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.1 | Manage direct or indirect discharges to waterbodies. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.2 | Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5.3 | Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5.4 | Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 5.5 | Protect and improve water quality through cost-effective grey-infrastructure and in-water ecological strategies. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6 | Minimize loss of life, structures, infrastructure, and natural resources caused by flooding and erosion, and increase resilience to future conditions created by climate change. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.1 | Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the site, the use of the property to be protected, and the surrounding area. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.2 | Integrate consideration of the latest New York City projections of climate change and sea level rise (as published in <i>New York City Panel on Climate Change 2015 Report, Chapter 2: Sea Level Rise and Coastal Storms</i>) into the planning and design of projects in the city's Coastal Zone. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.3 | Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 6.4 | Protect and preserve non-renewable sources of sand for beach nourishment. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7 | Minimize environmental degradation and negative impacts on public health from solid waste, toxic pollutants, hazardous materials, and industrial materials that may pose risks to the environment and public health and safety. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.1 | Manage solid waste material, hazardous wastes, toxic pollutants, substances hazardous to the environment, and the unenclosed storage of industrial materials to protect public health, control pollution and prevent degradation of coastal ecosystems. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.2 | Prevent and remediate discharge of petroleum products. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 7.3 | Transport solid waste and hazardous materials and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8 | Provide public access to, from, and along New York City's coastal waters. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.1 | Preserve, protect, maintain, and enhance physical, visual and recreational access to the waterfront. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.2 | Incorporate public access into new public and private development where compatible with proposed land use and coastal location. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8.3 | Provide visual access to the waterfront where physically practical. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.4 | Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

| | | Promote | Hinder | N/A |
|-----------|--|-------------------------------------|--------------------------|-------------------------------------|
| 8.5 | Preserve the public interest in and use of lands and waters held in public trust by the State and City. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 8.6 | Design waterfront public spaces to encourage the waterfront's identity and encourage stewardship. | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 9 | Protect scenic resources that contribute to the visual quality of the New York City coastal area. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.1 | Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.2 | Protect and enhance scenic values associated with natural resources. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10 | Protect, preserve, and enhance resources significant to the historical, archaeological, architectural, and cultural legacy of the New York City coastal area. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10.1 | Retain and preserve historic resources, and enhance resources significant to the coastal culture of New York City. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10.2 | Protect and preserve archaeological resources and artifacts. | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

G. CERTIFICATION

The applicant or agent must certify that the proposed activity is consistent with New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If this certification can be made, complete this Section.

"The proposed activity complies with New York State's approved Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent's Name: Noah Bernstein, AICP / AKRF, Inc.

Address: 440 Park Avenue South, 7th Floor New York, NY 10016

Telephone: (646) 522-6277

Email: nbernstein@akrf.com

Applicant/Agent's Signature: 

Date: 5/27/2021

RE: WRP Consistency Determination: Open Restaurants Program (WRP#21-053)

Noah Bernstein <nbernstein@akrf.com>

Mon 5/10/2021 12:38 PM

To: Christopher Wassif (DCP) <CWassif@planning.nyc.gov>; Benjamin Huff (DCP) <BHUFF@planning.nyc.gov>**Cc:** Michael Marrella (DCP) <MMarrel@planning.nyc.gov>; Ullom, William <wullom@dot.nyc.gov>

Hi Chris,

Thank you for your review. Confirming receipt and copying DOT by way of this.

Regards,

Noah

**Noah Bernstein, AICP**
Technical DirectorP: 646.388.9797 | nbernstein@akrf.com | www.akrf.com
440 Park Avenue South, 7th Floor, New York, NY 10016

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From: Christopher Wassif (DCP) <CWassif@planning.nyc.gov>**Sent:** Monday, May 10, 2021 12:18 PM**To:** Benjamin Huff (DCP) <BHUFF@planning.nyc.gov>; Noah Bernstein <nbernstein@akrf.com>**Cc:** Michael Marrella (DCP) <MMarrel@planning.nyc.gov>**Subject:** WRP Consistency Determination: Open Restaurants Program (WRP#21-053)

Hello Noah,

We have completed the review of the project as described below with the policies and intent of the NYC Waterfront Revitalization Program (WRP).

Open Restaurants Program: The applicant seeks an amendment to the New York City Zoning Resolution (ZR) and the suspension, repeal, and amendment of certain laws and provisions of the Administrative Code of the City of New York (Admin. Code) and the Rules of the City of New York (RCNY) to establish and implement a permanent Open Restaurants Program (ORP) to succeed the temporary program established by Local Law 77 of 2020 and Mayoral Emergency Executive Orders 126 and 128.

Based on the information submitted, the Waterfront Open Space Division, on behalf of the New York City Coastal Commission, having reviewed the waterfront aspect of this action, finds that the actions will not substantially hinder the achievement of any Waterfront Revitalization Program (WRP) policy and hereby determines the project consistent with the WRP policies.

This determination is only applicable to the information received and the current proposal. Any additional information or project modifications would require an independent consistency review.

For your records, this project has been assigned **WRP#21-053**. If there are any questions regarding this review, please contact me.

Thank you,
Chris**CHRISTOPHER WASSIF**

WATERFRONT PLANNER • WATERFRONT AND OPEN SPACE DIVISION

NYC DEPT. OF CITY PLANNING

212-720-3445 | cwassif@planning.nyc.gov

6/17/2021

Mail - Benjamin Huff (DCP) - Outlook

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