

A. INTRODUCTION

Unavoidable significant adverse impacts are defined as those that meet the following two criteria:

- There are no reasonably practicable mitigation measures to eliminate the impact; and
- There are no reasonable alternatives to the proposed actions that would meet the purpose and need for the actions, eliminate the impact, and not cause other or similar significant adverse impacts.

As described in Chapter 21, “Mitigation Measures,” a number of the potential impacts identified for the proposed actions could be mitigated. However, as described below, in some cases, impacts from the proposed actions would not be fully mitigated.

B. HISTORIC AND CULTURAL RESOURCES

As described in Chapter 7, “Historic and Cultural Resources,” the proposed actions, through redevelopment, would have significant adverse direct impacts on two architectural resources that have been determined eligible for listing on the State and National Registers of Historic Places (S/NR)—the Essex Street Market and the former fire station at 185 Broome Street. In addition, new development on Site 1 could have significant adverse visual and contextual impacts on the S/NR-listed Lower East Side Historic District and the S/NR-eligible Eastern Dispensary, which also appears to be eligible for New York City Landmark (NYCL) designation.

As described in Chapter 21, “Mitigation Measures,” the New York City Economic Development Corporation (NYCEDC) and the City of New York Department of Housing Preservation & Development (HPD) are undertaking continuing consultation with the New York City Landmarks Preservation Commission (LPC) and the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) regarding the development of mitigation measures for these significant adverse impacts. Potential mitigation measures that could partially mitigate the impact of the demolition of the Essex Street Market and former fire station may include, to the extent practicable and feasible: preparation of Historic American Buildings Survey documentation of all four buildings of the Essex Street Market and the former fire station; a permanent interpretive exhibit or exhibits about the Essex Street Market and the former fire station, which could be developed and installed in the new Essex Street Market facility on Site 2 or in another appropriate location near the project site; architectural salvage if any significant exterior or interior architectural elements could be removed and incorporated into the proposed development; and design of the new buildings on Sites 2, 8, 9, and/or 10 to reference the design of the Essex Street Market, which could include incorporating references to such architectural elements of the market buildings as the strip windows and the incised lettering above the entrances.

In addition, NYCEDC and HPD will continue to consult with LPC and/or OPRHP regarding the compatibility of the proposed development on Site 1 with the S/NR-listed Lower East Side District, in which it is located, and with the S/NR-eligible and NYCL-eligible Eastern Dispensary. Submission of the preliminary design of the proposed building on Site 1 to LPC and/or OPRHP for review and comment following a developer's Request for Proposals (RFP) process (described below) is proposed as a means to eliminate or partially mitigate the potential contextual and visual impact on the historic district and Eastern Dispensary from the proposed development on Site 1. If LPC and/or OPRHP determine that the preliminary design of the proposed building on Site 1 would result in a significant adverse impact on the Lower East Side Historic District and/or the Eastern Dispensary and no design changes, which are feasible and practicable given NYCEDC and HPD's goals and objectives, are identified to eliminate or fully mitigate this impact, it would constitute an unmitigable significant adverse impact on the Lower East Side Historic District and/or the Eastern Dispensary.

At this time, there are no specific development proposals for Sites 1 through 6 and 8 through 10, and future developers will be selected pursuant to an RFP process. For sites that may be under the jurisdiction of HPD, mitigation would, to the extent practicable and feasible, either be undertaken by HPD or required to be undertaken by the developer(s) through provisions in the Land Disposition Agreement (LDA) between HPD and the developer(s). For City properties that may be managed by NYCEDC, mitigation would, to the extent practicable and feasible, either be undertaken by NYCEDC or required to be undertaken by the developer(s) through the provisions of a contract of sale or long-term lease or other legally binding agreement between NYCEDC and the developer(s).

C. TRANSPORTATION.

As discussed in Chapter 13, "Transportation," the proposed actions would result in significant adverse traffic impacts at locations within the traffic study area. The vast majority of the locations that would be significantly impacted could be mitigated using standard traffic improvements such as signal timing and phasing changes, parking regulation changes to gain or widen a travel lane at key intersections, and lane restriping.

Following the issuance of the Draft Generic Environmental Impact Statement (DGEIS), the New York City Department of Transportation (NYCDOT) adopted and began implementing an area-wide Delancey Street Safety Improvements plan to improve pedestrian, bicycle, and vehicular safety conditions along the Delancey Street corridor. Some significantly impacted intersections that were mitigated in the DGEIS would be unmitigated in the Final Generic Environmental Impact Statement (FGEIS) due to these safety oriented changes, particularly along Delancey Street where vehicular traffic capacity would be reduced in order to enhance overall pedestrian, bicycle, and vehicular traffic safety in response to community needs. In addition, signal timing modifications are being proposed by NYCDOT along Allen Street to improve service along the M15 bus line. These changes to the study area's transportation network were incorporated as part of the FGEIS.

Under the proposed actions, a maximum of ten ~~six~~ intersections would experience unmitigable impacts in the 2022 With Action year (but not in all peak hours). Of these ten ~~six~~ intersections, one intersection, the intersection of East Houston Street ~~Delancey Street~~ and Allen Street/First Avenue, could be partially mitigated. At this intersection, traffic improvements would be able to mitigate one, but not all, of the impacted movements during the weekday AM peak hour. The nine ~~five~~ other intersections that would remain unmitigated are the intersections of: East

Houston Street and Chrystie Street/Second Allen Street/First Avenue; and Delancey Street with Allen Street, Ludlow Street, Essex Street, Norfolk Street, Suffolk Street and Clinton Street; Broome Street and Norfolk Street; and Grand Street and Clinton Street. Specific peak hours affected are described in detail in Chapter 21, “Mitigation Measures.”

~~The New York City Department of Transportation (NYCDOT) is currently developing an areawide plan to improve traffic and pedestrian safety in the study area. Also, signal timing modifications are being proposed by NYCDOT along Allen Street to improve service along the M15 bus line. Details of these plans, when finalized, will be incorporated between the completion of the Draft Generic Environmental Impact Statement (DGEIS) and Final Generic Environmental Impact Statement (FGEIS) should the plans be adopted prior to release of the FGEIS. As a result, mitigation measures and findings presented in the FGEIS may be different than those identified in the DGEIS.~~

Under the proposed actions, up to two sidewalks could experience unmitigable impacts in the 2022 With-Action year (but not in all peak hours). These potential significant impacts would occur at the west sidewalk of Essex Street between Delancey and Broome Streets and the east sidewalk of Essex Street between Delancey and Rivington Streets. As discussed in Chapter 13, “Transportation” and Chapter 21, “Mitigation Measures,” subsequent to the issuance of the DGEIS, at NYCDOT’s direction, the pedestrian trip assignment was revised to direct more pedestrian trips on Essex Street. These changes resulted in increased project-generated pedestrian trips on Essex Street’s sidewalks and crosswalks, and subsequently in potential significant adverse impacts at these sidewalk locations. In addition, the pedestrian analysis for the 2022 With Action condition was performed by incorporating the pedestrian activities generated by the project’s RWCDS full build-out. The sidewalk analysis used the narrowest pedestrian walking paths by reducing the available sidewalk widths from obstructions created by subway stairways, street furniture, and “shy-distances” (i.e., the space left between pedestrians and curbs/building façades) throughout the entire length of these sidewalk segments, following the 2000 Highway Capacity Manual guidelines. These assumptions reduced the effective widths to approximately 20 to 30 percent of the overall widths available at these two sidewalk locations. The combination of all these factors resulted in the potential for significant adverse sidewalk impacts at these locations in the future 2022 With Action condition.

For the east sidewalk of Essex Street between Delancey and Rivington Streets, the potential significant adverse pedestrian impact could be fully mitigated by widening the sidewalk from its existing width of 13 feet to 13 feet and 7 inches. The potential significant adverse pedestrian impact at the west sidewalk of Essex Street between Delancey and Broome Streets could be fully mitigated by widening the sidewalk from its existing width of 13 feet to 13 feet and 8 inches. However, these mitigation measures to widen the sidewalks by 7 and 8 inches are not feasible and practicable since there are constraints that would prohibit such widening. Specifically, the presence of subway stairways would preclude any widening towards the west side. Although widening the sidewalk by extending in to the roadbed is a potential mitigation measure, NYCDOT does not typically undertake such widening except for extending corners by providing bulbouts; thus, the potential significant adverse sidewalk impacts would be unmitigated.

It should also be noted that the pedestrian analysis presents a RWCDS assessment of future pedestrian levels since the project’s development program and design may not be fully realized as assumed in the RWCDS in the future conditions, resulting in different travel patterns at these locations.

D. CONSTRUCTION

As described in Chapter 19, “Construction,” construction of the proposed development would be required to include measures to reduce noise levels during construction as required by the New York City Noise Control Code. Even with these measures, a conservative analysis based on a conceptual worst-case construction activity and equipment schedule determined that noise levels due to construction activities would result in significant adverse noise impacts at some sensitive receptors (i.e., residential/school buildings) immediately adjacent to some of the proposed development sites. Construction activities would be expected to result at various times in significant adverse noise impacts at 15 3 locations including 350 Grand Avenue (Seward Park High School) and the outdoor balconies of two residential buildings south of Grand Street near Clinton Street.

~~Some potential receptor controls that could be used to mitigate the impacts at the 10 residential/commercial locations where interior L_{10} values would be expected to exceed the value considered acceptable by CEQR criteria include the installation of interior storm windows at locations with single-glazed windows, replacement of single-glazed windows with acoustically rated windows, improvements in the sealing of the existing windows, and/or the provision of air-conditioning so that the impacted structures can maintain a closed window condition. Such measures may affect the ability to achieve project goals with regard to the development of affordable housing and/or other project amenities; however, further exploration of the measures will be conducted between DGEIS and FGEIS to determine the practicability and feasibility of implementing these measures to minimize or avoid the potential significant adverse impacts, taking into account the practicability relative to project goals. Should it be determined that there are no practicable mitigation measures, taking into account project goals, and should the development sites be developed and constructed as conservatively presented in this conceptual schedule, up to 10 residential/commercial locations would be expected to experience an unmitigated significant adverse impact at various times.~~

The refined construction analysis performed between the DGEIS and FGEIS predicted construction noise impacts at fewer windows at Seward Park High School and a shorter duration of impacts. The remaining impacts at the school are a result of noise generated by construction of Sites 1, 2, and 3.

Upon selection of a developer for each of these development sites, an additional construction noise analysis shall be completed by the developer(s) of each site, taking into consideration: (1) the specific development project(s) to be constructed; (2) the anticipated construction timeline and sequencing in relation to the other project sites; (3) the proposed construction means and methodologies, and any new available technologies that exist at the time of construction to reduce construction noise; and (4) the path and source controls, which are to be implemented in conjunction with the project. The Office of the Deputy Mayor for Economic Development (ODMED), as lead agency, and HPD and/or NYCEDC will review the additional analyses.

If the additional analyses find that construction at any of the three development sites would continue to have the potential to result in significant noise impacts at Seward Park High School, the developer(s) of the site(s) with the potential to result in significant noise impacts will investigate whether additional path and source controls may be available to mitigate the potential significant impact and the extent to which the impact would be mitigated.

If the additional analysis, taking into account the detailed information on construction methodology, timing and sequencing and any available additional path and source controls, still

shows the potential for significant noise impacts at Seward Park High School resulting from construction at one of the development sites, the developer of that site will explore potential receptor controls for the school facility in consultation with the New York City School Construction Authority (SCA). Potential receptor controls to be considered may include the installation of interior storm windows at locations with single-glazed windows, replacement of single-glazed windows with acoustically rated windows, improvements in the sealing of the existing windows, and/or the provision of air conditioning, so that the impacted façades of the school can maintain a maximum interior noise environment of 45dBA under closed-window conditions. These measures would have the potential to mitigate the impacts at Seward Park High School. In the event that implementing such receptor controls is not practicable, as determined by ODMED as lead agency in consultation with HPD and/or NYCEDC, the proposed actions would result in a partially mitigated impact on Seward Park High School, as set forth in this FGEIS.

For properties that may be under the jurisdiction of HPD or developed through an HPD program, additional mitigation (source and path control measures) identified in the refined and/or additional analyses would be required to be undertaken by the developer(s) through provisions in a Land Disposition Agreement, to be entered into at the time of closing. The Land Disposition Agreement would also require the use of a construction monitor, which would operate under the oversight of ODMED, to ensure such measures are implemented during construction activities. In the event it is determined that receptor controls will be implemented at the school, the developer(s) would be required to fund and install the measures (in coordination with ODMED, HPD and SCA) at the affected facades of the school prior to the commencement of construction at the site(s) causing the noise impact.

For properties that may be under the jurisdiction of NYCEDC, noise control measures identified in the refined and/or additional analyses, including receptor controls if determined practicable, would be required to be undertaken by the developer(s) through provisions of a contract or other legally binding agreement between NYCEDC and the developer(s). The contract or other legally binding agreement would require the use of a construction monitor, which will operate under the oversight of ODMED, to ensure that such measures are implemented during construction activities.

~~At limited times during the construction period, Seward Park High School (350 Grand Street) would be expected to experience significant noise impacts that may be considered unmitigated. The west, north, and east facades of the school building may experience elevated noise as a result of the proposed actions. The DGEIS discloses worst case construction related noise impacts at the school. However, it is possible that based on further assessment of conditions at the school, certain facades (or portions thereof) may be less affected (or not be affected at all) by project related construction noise. Further assessment related to construction impacts at the school will be conducted between DGEIS and FGEIS to refine the area of potential impact. Some potential receptor controls that could be used to mitigate the impacts include the installation of interior storm windows, replacement of single-glazed windows with acoustically rated windows, improvements in the sealing of the existing windows, and/or the provision of air conditioning so that the impacted structures can maintain a closed window condition. The project sponsors will explore potential mitigation measures between DGEIS and FGEIS. In the event that mitigation measures are not determined feasible and practicable, the impact would be unmitigated.~~

In addition, at the ~~four~~ (4) two residential buildings that have the potential to experience noise impacts only at outdoor balconies at various floors, there would be no feasible or practicable

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mitigation to mitigate the construction noise impacts at the balconies. Therefore these balconies would be considered to experience unmitigated significant noise impacts as a result of construction.

Thus, should the development sites be developed and constructed as conservatively presented in the conceptual schedule in Chapter 19, "Construction," up to ~~45~~ 3 locations could experience significant impacts for certain limited periods during construction. *