Seaside Park and Community Arts Center
Chapter 7: Hazardous Materials

A. INTRODUCTION

This chapter assesses the potential for the presence of hazardous materials from previous and existing uses in soil and/or groundwater on or near the development site. A hazardous material is any substance that poses a threat to human health or the environment. Substances that can be of concern include, but are not limited to, heavy metals, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), methane, polychlorinated biphenyls (PCBs), and hazardous wastes (defined as substances that are chemically reactive, ignitable, corrosive, or toxic).

As described in Chapter 1, "Project Description," the proposed project would result in the development of a 2.41 acre publicly accessible open space that would include an approximately 5,100 seat amphitheater requiring excavation and subsurface disturbance. The proposed project would also include the restoration and adaptive reuse of the (Former) Childs Restaurant Building. Excavation, if not performed in accordance with prescribed procedures, could result in human exposure to hazardous materials. An evaluation of potential hazardous materials impacts at the development site is provided below.

As described in the *City Environmental Quality Review (CEQR) Technical Manual,* the goal of a hazardous materials assessment is to determine whether a proposed action could lead to potential increased human exposure to hazardous materials and whether the increased exposure could lead to significant public health impacts or environmental impacts. The objective of the hazardous materials assessment is to determine if the development site may have been adversely affected by current or historical uses at or adjacent to the site, such that the property may be adversely impacted by hazardous materials.

B. PRINCIPAL CONCLUSIONS

Phase I Environmental Site Assessments (ESAs) were prepared for all lots included within the project area. The ESAs indicated that no hazardous materials exist in the project area, and did not identify any Recognized Environmental Conditions (RECs) on-site, with the exception of an (E) designation for hazardous materials on the (Former) Childs Restaurant Building. While the Phase I ESAs did not identify any on-site RECs, based on the historical on-site and surrounding area land uses, (E) designations are recommended for Lots 27, 28, 30, 32, 34, 76, 79, 81, 142, 226, and 231 in order to avoid any potential for significant adverse hazardous materials impacts. (E) designations would ensure that testing and, if warranted, mitigation, would be provided as necessary before any future development and/or soil disturbance. As such, the proposed project would not increase human exposure to hazardous materials. Moreover, the proposed project would not introduce new activities or processes using hazardous materials. Therefore, it is expected that no significant adverse hazardous materials impacts would result from construction on the development site, and following construction, there would be no potential for significant adverse hazardous material impacts.

C. METHODOLOGY

Three Phase I Environmental Site Assessments were completed for the project area by Fleming Lee Shue, Inc. in June of 2013. The three reports included separate investigations at 2101 Boardwalk (Block 7071, Lot 130), 2113 Boardwalk (Block 7071, Lot 142), and 2225 Boardwalk (Block 7071, Lots 27, 28, 30, 32, 34, 76, 79, 81, 226, 231). The three Phase I ESAs were prepared in conformance with the United States Environmental Protection Agency (EPA) All Appropriate Inquiry (AAI) requirements (November 2005) and the revised ASTM E 1527-05 (November 2005), as well as generally accepted protocols for lenders. The reports evaluated the project area's potential for impacts due to hazardous materials by:

- Documenting the physical characteristics of the site through a review of available topographic, geologic, wetland, flood plain, groundwater data, and site observations;
- Researching the site history through a review of land deeds, fire insurance maps, city directories, aerial photographs, prior reports and interviews;
- Documenting current site conditions, via observations and interviews, regarding the presence or absence of hazardous substances/petroleum products; the generation, treatment, storage, or disposal of hazardous, regulated or medical wastes; the presence of electrical equipment that utilizes oils which potentially contain PCBs; and the presence of storage tanks (above and below ground);
- Determining the usage of adjoining and nearby properties to identify the likelihood for environmental conditions (if present and/or suspected) and concerns for migration onto the site; and
- An evaluation of information contained within federal and state environmental databases and other local environmental records, within specific search distances.

D. EXISTING CONDITIONS

The project area includes all lots that would be affected by the proposed zoning map amendment, including the development site, as well as Lots 79 and 81 on Block 7071 (the "outparcels"), which are located immediately to the northwest of the development site. The development site is generally bounded by the Riegelmann Boardwalk to the south, West 23rd Street to the west, West 21st Street to the east, and properties fronting Surf Avenue to the north. The development site is an assemblage of ten tax lots on Block 7071 (Lots 27, 28, 30, 32, 34, 76, 130, 142, 226, and 231), as well as the beds of Highland View Avenue and a portion of West 22nd Street (approved for demapping in 2009 in the Coney Island Rezoning), and covers an aggregate lot area of approximately 130,404 sf (3.0 acres).

Phase I ESA Results

Development Site

(FORMER) CHILDS RESTAURANT BUILDING (LOT 130)

This portion of the development site consists of a 25,400 sf (0.58 acre) lot improved with a two-story (plus partial basement) warehouse building known as the (Former) Childs Restaurant Building, containing two full floors, a partial basement and a partial mezzanine area located on the 2nd floor. The lot is 100 by 248 feet and the building footprint covers the entire lot. The total square footage of the

building is 60,000 square feet. The (Former) Childs Restaurant Building was constructed in 1923. The building was used as a bathing pavilion and restaurant until it was converted to an industrial warehouse sometime between 1950 and 1966. A chocolate manufacturing business, Tell Chocolate Novelties Corp., operated in the building between the 1960s and the late 1990s. Currently, the building is being used to store relief supplies for victims of Hurricane Sandy.

According to the ESA, indications of the possible presence of an aboveground fuel oil tank were observed in the basement of the building. However, full access to the boiler room was not possible, due to flooding at the time the site visit was conducted. The water in the basement was observed to be clear and there was no sheen, petroleum odors or other evidence of petroleum impact on the water in the boiler room. The ESA also indicates that numerous floor drains, pits and a sump were observed in the basement of the building during a prior Phase I ESA conducted in 2007. These structures were not visible during the site visit conducted for the June 2013 ESA due to flooding in the basement. A concrete utility trench was observed in the first floor of the building; however, no drains were observed in this trench. No stressed vegetation, discolored soils or pavement, odors or other evidence of contamination was observed during the site visit.

The Phase I ESA also included a preliminary evaluation of specific potential environmental issues or conditions that are, according to ASTM E 1527-05, considered non-scope considerations, such as asbestos-containing material (ACM), polychlorinated biphenyls (PCBs) light ballasts and caulking materials, and exterior lead-based paint (LBP). The ESA indicated that fluorescent light fixtures were observed in the building; and that the date of installation of the light fixtures is uncertain and based on the age of the building (it was built in 1923), the light fixtures may use PCB-containing light ballasts. The ESA also observed that painted surfaces were in poor condition throughout the building, and based on the date of construction, it is likely that the building contains LBP. While a survey for asbestos is not included within the scope of work defined in ASTM E 1527-05, a limited survey was conducted of the interior of the building to identify certain friable and non-friable materials, which may contain asbestos. Based on the date of construction (1923), it is likely that the building contains ACM. The ESA indicated that at the time of the site visit, small quantities of suspect asbestos-containing pipe insulation was observed on pipes in the stairways and in the basement. Other potential ACM in the building include wall and ceiling surfacing materials and roofing materials. No samples were collected as part of this limited survey. The ACM, typical of many older buildings in New York City, is usually dealt with at the time of construction.

Lot 130 ~~contains~~ has an (E) designation (E-229) for hazardous materials that may require special activities coordinated through the New York City Office of Environmental Remediation (OER) to be performed at the time of site redevelopment. Such activities may include subsurface investigations, preparation of remedial action work plans, site specific health and safety plans and others. Properties where intrusive soil work would be needed as part of development would need to satisfy the (E) designation in order to obtain building permits from the New York City Department of Buildings. For properties where existing buildings would be converted with no intrusive soil work, a copy of the development plans must be provided to OER, prior to receiving a Notice of No Objection, which would enable the New York City Department of Buildings to issue the conversion permit. This (E) designation is identified as a recognized environmental condition (REC).

REMAINDER OF DEVELOPMENT SITE (LOTS 27, 28, 30, 32, 34, 76, 142, 226, 231)

The remainder of the development site is comprised of a ~~47,200 sf (1.08 acre)~~ lot that is currently undeveloped and entirely unpaved (Lot 142), two undeveloped, partially vegetated lots (Lots 226 and

231), and a parking and maintenance facility for school buses (Lots 27, 28, 30, 32, 34, and 76). The school bus parking lot and maintenance facility contains a 1-story (on slab), 2-bay repair garage on the northwest corner of the lots, and a small storage shed located on the northeast corner of the lots. The ESAs indicate that at the time of the site visit, Lot 231 was being used for the temporary storage of construction equipment and supplies, most likely for repairs being made to the adjoining boardwalk. The area was enclosed with chain link fencing and contained two cars, a bobcat, a front end loader, construction tools, supplies, construction barriers and a temporary, 275-gallon fuel oil aboveground storage tank (AST), presumably used for fueling the construction equipment. No staining or other indications of spills or leaks were observed around this tank.

The ESAs indicate that this portion of the development site was mostly vacant prior to 1895. Lots 27, 28, 30, 32, 34, 76, 142, 226, 231 were developed with a hotel, bathing pavilion, and seven residential buildings between 1895 and 1906. Between 1906 and 1930 these lots were further developed with stores, amusement rides, dwellings, and bath houses. Most of the former structures at the site were demolished sometime between 1930 and 1950, leaving stores (presumably concession stands) and an arcade on Lots 226 and 231, which were all demolished sometime prior to 1977. A bathing pavilion with a swimming pool and locker rooms, as well as several retail stores located on Lot 142 were demolished sometime between 1968 and 1975. A community garden was established on Lot 142 sometime afterwards. The operations of the bus maintenance area and garage on the site involve the use of typical automotive chemicals such as lubrication oils, grease, antifreeze, automatic transmission fluids, brake fluids, and others. The ESA indicated that these materials were stored on the concrete floor in the garage building located on Lot 76 and no staining or indications of significant spills or leaks were observed around these materials. Oil staining was observed on the concrete floor of the service pit in the garage. The service pit appeared to be in good condition with no evidence of drains, cracks, or penetrations. The ESA indicated that the staining on the floor of the pit is considered a *de minimis condition*, defined as a condition that generally does not present a threat to human health or the environment. In addition, six drums of various automotive chemicals such as motor oil and antifreeze, a 275-gallon fuel oil AST and a 300+/- gallon waste oil aboveground tank (AST) were being stored on the concrete slab outside the south wall of the garage building. No staining or indications of past spills or leaks were observed in this area.

In October 2012, the development site and surrounding areas were significantly impacted by Hurricane Sandy. The ESA indicated that the site was flooded, the garage building was damaged and significant quantities of sand were deposited on the lots. During the storm, oil drum(s) being stored in a garage on Lot 76 were reportedly knocked over, releasing an unknown amount of oil into the service pit and onto the garage floor. The 275-gallon heating oil AST was also knocked over on its side outside the garage, but reportedly did not release any oil. The waste oil AST was apparently not impacted by the storm. On December 6, 2012 and December 19, 2012, EBI Consulting (EBI) visited the school bus parking and maintenance portion of the site for the purpose of viewing and documenting conditions in connection with the release of oil at the site caused during Hurricane Sandy. The report states that an oil/water mixture was observed in the service pit and on the floor of the garage. No staining or other visible indications of petroleum spills were observed in the parking areas, either from the garage, or from diesel fuel released from busses on the lot which were flooded by the storm. The oil/water mixture from the service pit was removed by J.B. Waste Oil on December 6, 2012 and subsequent cleaning of the pit and garage floor was performed by site personnel. The report concludes that the initial spill was contained in the service pit, and the oil/water mixture appeared to have been successfully removed with no evident impacts to the sub-surface, and that significant impacts to the subsurface from the storm related spill is considered unlikely. Given the information from the EBI report, and that no visible indications of site contamination were observed during the site visit, the ESA considered it unlikely that

the petroleum spill caused by Hurricane Sandy would have significantly impacted the site, and was therefore not considered a Recognized Environmental Condition (REC) in the ESA.

Therefore, no on-site RECs have been identified on the remainder of the development site.

Outparcels

Lots 79 and 81 were vacant prior to 1895 and no structures have occupied those lots since 1977. Currently, the adjacent outparcels form an asphalt-paved parking lot and are enclosed by chain link fencing. Based on the historical land use of Lots 79 and 81 as well as observations made during the site inspection, no on-site RECs have been identified in the ESA.

Surrounding Area

The surrounding properties were developed predominantly with single family dwellings and stores from as early as 1895, and were redeveloped, mostly between 1906 and 1930, with additional residences, stores, bath house pavilions, and hotels. There was a former garage/gasoline filling station (circa 1930s to late 1960s) in the northwest corner of Block 7071, upgradient of the site, auto repair operations northwest, northeast, and west of the site, and a furniture finishing facility northwest of the site. The properties to the east, across West 21st Street were also developed as Washington Baths with the same structures and a laundry sometime between 1906 and 1930 until its removal sometime between 1977 and 1995. Historically, the adjoining properties to the north, west, and east were generally commercial. Currently, predominant land uses in the surrounding area include vacant land/vehicle storage, public facilities and institutional, residential, and commercial.

The adjacent property to the north of Lots 130 and 142 is occupied by a parking lot and single 3-story commercial office building. In the past, the building has housed manufacturing businesses including a laminate manufacturer. The building is currently occupied by the New York City Human Resources Administration. The building has an (E) designation for hazardous materials that requires the completion of a Phase I Environmental Site Assessment (ESA) and, if necessary, a Phase II ESA, before issuance of construction-related building permits by DOB.

The ESA reports identified the following sites as potential off-site RECs:

- Historic operations on surrounding properties including a garage/filling station with five gasoline tanks that was present from 1930-1968 on the same block, northwest of the site;
- Auto repair operations northwest (1989-2007), west (1991-2007), and northeast (1930-1950) of the site;
- A furniture finishing operation was located approximately 400 feet north of the site (1966-2007);
- A listing for Laminates Unlimited (3038 West 21st Street) from sometime prior to 1970 until sometime prior to 1985 indicates the potential manufacture of laminated products on the adjoining northern property.

No additional information or documentation was found in the database search regarding the former garage/filling station (1930-1968) in the northwest corner of Block 7071, upgradient of the site; the auto repair operations northwest (1989–2007), northeast (1930-1950) and west (1991-2007) of the site; the

furniture finishing north of the site; and the laminates manufacturer. As there are no indications of releases from these facilities, they are not considered to be RECs.

One off-site REC has been identified at the New York City Housing Authority (NYCHA) Carey Gardens at 2955 West 23rd Street due to an open NYSDEC Spill of #2 fuel oil and ongoing investigations at this facility located less than one-eighth of a mile from the development site. According to information in the database, Spill Number 0206040 was assigned to this site on 9/11/2002 when contaminated soil was discovered during the removal of a No. 2 Fuel Oil underground storage tank. Subsequent investigations revealed that groundwater at the site had been impacted by this spill. The database notes state that, as of June 2009, an Investigative Work Plan was submitted to NYSDEC, indicating that NYSDEC is requiring additional investigation at the site. While no evidence was found in the information reviewed for the ESA report that suggests that the released fuel has impacted the site, due to the ongoing investigation and the upgradient proximity of Carey Gardens to the site, the ESA reports considered the presence of the spill incident that has not been closed by the NYSDEC a potential off-site REC.

E. THE FUTURE WITHOUT THE PROPOSED PROJECT (NO-ACTION CONDITION)

In the absence of the proposed project (No-Action), it is anticipated that the development site would be redeveloped as analyzed in the *Coney Island Rezoning FEIS* (2009). The (Former) Childs Restaurant Building on Lot 130 would be restored and adaptively reused at its current floor area and the remainder of the site would be redeveloped with residential, commercial, and open space uses. In the future without the proposed project, it is assumed that the two outparcels (Lots 79 and 81) would remain vacant.

The (Former) Childs Restaurant Building (Lot 130) which occupies the eastern portion of the development site has an (E) designation for hazardous materials, which may require special activities coordinated through (OER) to be performed at the time of site re-development. The (E) designation on the (Former) Childs Restaurant Building would require that, prior to redevelopment, the property owner conduct a Phase I Environmental Site Assessment (ESA) in accordance with the American Society of Testing Materials (ASTM) E1527-05, prepare and implement a soil and groundwater testing protocol, and conduct remediation where appropriate, to the satisfaction of the NYC Department of Environmental Protection (DEP) before issuance of construction-related building permits by the DOB (pursuant to Section 11-15 of the Zoning Resolution – Environmental Requirements). The (E) designation also requires mandatory construction related health and safety plans, which must also be approved by DEP. A Phase II report is required at the completion of the site investigation if potential contamination is identified. Remediation, if necessary, based on the Phase II would then be addressed during construction. A closure report is required at the completion of all remedial activities.

Development of residential, commercial, and open space uses on the remainder of the development site would occur as-of-right. As the Phase I ESAs did not identify any on-site RECs on the remainder of the development site, it is expected that no significant adverse impacts related to hazardous materials would result in the future without the proposed project.

F. ~~PROBABLE IMPACTS OF~~ THE FUTURE WITH THE PROPOSED PROJECT (WITH-ACTION CONDITION)

In the future with the proposed project (With-Action), the (Former Childs Restaurant Building) would be restored and adaptively reused at its current floor area and the remainder of the site would be developed with a publicly accessible open space containing an approximately 5,100-seat amphitheater. In the future with the proposed project, it is assumed that the two outparcels (Lots 79 and 81) would remain vacant.

As previously discussed, the (Former) Childs Restaurant Building ~~contains~~ has an (E) designation for hazardous materials, which may require special activities coordinated through OER to be performed at the time of site redevelopment such as subsurface investigations, preparation of remedial action work plans, site specific health and safety plans, and others. Properties where intrusive soil work would be needed as part of development would need to satisfy the (E) designation in order to obtain building permits from the New York City Department of Buildings (DOB). For properties where existing buildings would be converted with no intrusive soil work, a copy of the development plans must be provided to OER, prior to receiving a Notice of No Objection, which would enable the DOB to issue the conversion permit. The (E) designation would reduce or avoid the potential for an adverse impact to human health and the environment resulting from the proposed project.

Development of the open space and amphitheater on the remainder of the site would require a similar level of excavation and subsurface disturbance in both the No-Action and With-Action scenarios. Although the Phase I ESAs discussed above did not identify any on-site RECs on the remainder of the development site at the time they were performed, based on the historical on-site and surrounding area land uses, DEP recommended that (E) designations be mapped on the remainder of the project area (Lots 27, 28, 30, 32, 34, 76, 79, 81, 142, 226, and 231). By placing (E) designations on sites where there is a known or suspect environmental concern, the potential for an adverse impact to human health and the environment resulting from the proposed project would be reduced or avoided. The (E) designation provides the impetus to identify and address environmental conditions so that significant adverse impacts during site development would be reduced. OER would provide the regulatory oversight of the environmental investigation and remediation during this process. Building permits are not issued by the Department of Buildings without prior OER approval of the investigation and/or remediation pursuant to the provisions of Section 11-15 of the NYC Zoning Resolution (Environmental Requirements).

The (E) designation would require that the fee owner of such a site conduct a testing and sampling protocol and have an approved remediation plan where appropriate, to the satisfaction of OER. The NYC Department of Buildings will typically issue the foundation permits when OER approves the remedial action work plan – the actual remediation is usually done concurrently with the construction. The remediation plan provided to OER to satisfy the (E) designation must also include a mandatory construction-related health and safety plan, which must also be approved by OER.

The (E) designation text related to hazardous materials is as follows:

> **TASK 1**
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> **The applicant must submit to the New York City Office of Environmental Remediation (OER), for review and approval, a soil and groundwater testing protocol, including a description of methods and a site map with all sampling locations clearly and precisely represented.**

If site sampling is necessary, no sampling should begin until written approval of a protocol is received from OER. The number and location of sample sites should be selected to adequately characterize the site, the specific source of suspected contamination (i.e., petroleum based contamination and non-petroleum based contamination), and the remainder of the site's condition. The characterization should be complete enough to determine what remediation strategy (if any) is necessary after review of sampling data. Guidelines and criteria for selecting sampling locations and collecting samples are provided by OER upon request.

TASK 2

A written report with findings and a summary of the data must be submitted to OER after completion of the testing phase and laboratory analysis for review and approval. After receiving such results, a determination is made by OER if the results indicate that remediation is necessary. If OER determines that no remediation is necessary, written notice shall be given by OER.

If remediation is indicated from the test results, a proposed remediation plan must be submitted to OER for review and approval. The applicant must complete such remediation as determined necessary by OER. The applicant should then provide proper documentation that the work has been satisfactorily completed.

An OER-approved construction-related health and safety plan (CHASP) would be implemented during ~~evacuation~~ excavation and construction ~~and~~ activities to protect workers and the community from potentially significant adverse impacts associated with contaminated soil and/or groundwater. This plan would be submitted to OER for review and approval prior to implementation.

All demolition or rehabilitation would be conducted in accordance with applicable requirements for disturbance, handling, and disposal of suspect lead-paint and asbestos-containing materials.