

A. INTRODUCTION

This chapter summarizes and responds to all substantive comments on the Draft Environmental Impact Statement (DEIS) for the West 44th Street and Eleventh Avenue Rezoning made during the public review period. Comments consist of spoken or written testimony submitted at the public hearing held by the New York City Department of Housing Preservation and Development (HPD) on December 2, 2009, as well as written comments received during the public comment period, which closed on December 14, 2009. Written comments received on the DEIS are included in Appendix D.

Section B of this chapter lists the elected officials, agencies, community board and organization members, and individuals who commented at the DEIS public hearing or in writing. The comments are summarized and responded to in Section C. The organization and/or individual that commented are identified after each comment. These summaries convey the substance of the comments but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally follow the chapter structure of the DEIS. Where more than one commenter expressed a similar view, the comments have been grouped and addressed together.

B. LIST OF OFFICIALS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT EIS**PUBLIC OFFICIALS**

1. Commissioner Irwin G. Cantor, oral comments (Cantor)
2. Commissioner Richard W. Eaddy, oral comments (Eaddy)
3. Commissioner Maria M. del Toro, oral comments (del Toro)
4. Senator Thomas K. Duane, oral comments (presented by Seth Robert Berliner) and written submission dated December 2, 2009 (Duane)
5. Commissioner Kenneth J. Knuckles, oral comments (Knuckles)
6. Commissioner Anna Levin, oral comments (Levin)
7. Commissioner Karen A. Phillips, oral comments (Phillips)
8. Assemblymember Linda Rosenthal, written submission dated December 2, 2009 (Rosenthal)
9. Honorable Scott Stringer, Manhattan Borough President, oral comments (presented by Anthony Borelli) and written submission dated November 30, 2009 (Stringer)

¹ This chapter is new to the FEIS.

AGENCIES

10. Gina Santucci, The City of New York Landmarks Preservation Commission, written submission dated August 13, 2009 (LPC)
11. New York State Office of Parks, Recreation and Historic Preservation, Ruth L. Pierpont, Director, written submission dated November 17, 2009; Douglas P. Mackey, Historic Preservation Program Analyst, Archaeology, written submission dated November 17, 2009; Beth A. Cumming, Historic Site Restoration Coordinator, written submission dated December 30, 2009 (OPRHP)

COMMUNITY BOARDS

12. John Weis, Chair, Manhattan Community Board Four joint written submissions dated October 23, 2009 and November 14, 2009; and Elisa Gerontianos and Sarah Desmond, Co-Chairs, Clinton/Hell's Kitchen Land Use Committee; oral comments and joint written submissions dated October 23, 2009 and November 14, 2009 (CB4)
13. Jean Daniel Nolan, oral comments (Nolan)
14. Joe Restuccia, Co-Chair, Community Board Four Housing Committee, oral comments (Restuccia)

INTERESTED PUBLIC

15. Marlie Buehler, oral comments and undated written submission (Buehler)
16. Community Education Council District 2, written submission dated October 26, 2009 (CECD2)
17. Katherine Consuelo Johnson, New School Committee, oral comments and undated written submission (Johnson)
18. Kathy Gavesia, written submission dated December 11, 2009 (Gavesia)
19. Shelley Grant, P.S. 51 New School Committee, oral comments and written submission dated December 2, 2009 (Grant)
20. Rafael Mejia, oral comments and undated written submission (Mejia)
21. P.S. 51 "Asks," undated written submission (P.S. 51 Asks)
22. Mary Ann Savage, PTA President, P.S. 51, oral comments (Savage)
23. Lucas Shapiro, Housing Conservation Coordinators, oral comments (Shapiro)
24. The Elias Howe School, Nancy Sing-Bock, Principal; Julye Symanski, School Leadership Team; Mehji Ano, PTA Executive Board, written submissions dated September 21, 2009 and December 11, 2009 (Howe)
25. Kathleen Treat, Hell's Kitchen Neighborhood Association, Chair, oral comments (Treat)
26. Erica Wong, written submission dated December 9, 2009 (Wong)
27. Jenny Zheng, written submission dated December 9, 2009 (Zheng)

C. RESPONSE TO DRAFT EIS COMMENTS

LAND USE, ZONING, AND PUBLIC POLICY

Comment 1: The Land Disposition Agreement (LDA) must contain provisions to include Gotham's agreement not to transfer development rights off-site. (CB4, Levin, Stringer, Duane)

Response: The plan for the Proposed Project does not generate additional air rights for transfer.

Comment 2: The LDA must include limits on height, massing and set-backs of the Proposed Project. (CB4, Stringer, Duane)

Response: In connection with the GLSD, the sponsor would record a Restrictive Declaration that would cover the Project Site. The CPC approval for the "Disposition Area" (discussed in Chapter 1, Project Description) would be contingent upon the execution and recording of a Restrictive Declaration upon closing, which would be approved by the CPC and bind the project sponsor and its successors or assigns to the bulk requirements contained in the GLSD special permit. The Restrictive Declaration would bind the development of both parcels (the Disposition Area and the balance of the Project Site) to the GLSD Special Permit.

Comment 3: The proposed rezoning must limit commercial use to Eleventh Avenue and limit the commercial floor area ratio (FAR) to 1.0 to be consistent with the rest of the district. (CB4, Restuccia)

Response: The proposed commercial use is approximately 17,000 SF, with approximately 7,000 SF below grade, which is less than 1 FAR of commercial space. The GLSD Plan will cap the commercial use as proposed and any increase in commercial use would require an amendment to the GLSD Plan. The commercial program is currently being defined. The developer will continue to engage the community to ensure that the commercial program will be compatible with the surrounding neighborhood.

Comment 4: CPC should limit the application of the C2-5 overlay along Eleventh Avenue to the minimum depth needed to allow the proposed development to be considered a GLSD. (Stringer, Levin, Restuccia)

Response: If the C2-5 commercial overlay is restricted to Eleventh Avenue so that the new school building is located only in an R8 district, it would be subject to the rear yard equivalent requirement of Section 24-382, applicable to community facilities in residential zoning districts, instead of Section 33-283, applicable in commercial zoning districts. Under Section 33-283 a rear yard equivalent of 40

feet is required. To allow the new school's gymnasium to have a regulation size basketball court, a waiver of 1.75 feet is required to reduce the required 40 foot rear yard equivalent to 38.25 feet. Under Section 24-382, a rear yard equivalent of 60 feet is required. Therefore, if the school is located only in an R8 district subject to Section 24-382, the requested waiver would have to be increased by 20 feet to reduce the required 60 foot rear yard equivalent to 38.25 feet. Such an increase in the requested waiver would be outside the scope of the proposal and the environmental review, necessitating the submission of a new application, draft scope of work and draft environmental impact statement, recertification and a new public review. Accordingly, this comment cannot be accommodated under the current application and scope.

Comment 5: DCP, CB4, and Gotham should develop a means by which the 1 FAR may be embodied in an enforceable agreement and the commercial overlay may be significantly reduced. (Duane)

Response: The proposed commercial use is approximately 17,000 SF, with approximately 7,000 SF below grade, which is less than 1 FAR of commercial space. The GLSD Plan will cap the commercial use as proposed and any increase in commercial use would require an amendment to the GLSD Plan. The commercial program is currently being defined. The developer will continue to engage the community to ensure that the commercial program will be compatible with the surrounding neighborhood.

Comment 6: There is concern that if this project does not work out for the developer, the C2-5 mapping will be in place for another developer to come along and build something significantly different than the package uses. (Levin)

Response: The proposed commercial use is approximately 17,000 sf, with approximately 7,000 SF below grade, which is less than 1 FAR of commercial space. The GLSD Plan will cap the commercial use as proposed and any increase in commercial use would require an amendment to the GLSD Plan.

Comment 7: The modification in zoning regulations that would allow P.S. 51 to have a smaller playground should not be permitted. (Howe)

Response: There is no zoning modification regarding the size of the school playground. While DOE typically tries to create playgrounds with 30 square feet per student, or 18,900 square feet for the new PS 51, this sizing is simply a guideline and not a requirement of the New York City Zoning Resolution. The proposed rezoning allows for a site plan that balances the various public purposes of the Proposed Project, including more than 600 affordable housing units, the construction of a new and expanded P.S. 51, and adaptive reuse of the existing, historic P.S. 51 building. The site area is very restricted given all the required uses on-site and cannot accommodate a larger playground.

SOCIOECONOMIC CONDITIONS

Comment 8: In addition to the 1,210 residential units introduced by the Proposed Project, the DEIS projects that an additional 3,380 units will be built within the ¼ mile radius from the Project Site by 2013—this constitutes a substantial new population that existing residents must be prepared to receive. In consideration of scarce resources and limited public land, the remaining 75 affordable units generated under the 80/20 program must also be affordable in perpetuity. A public site should be affordable in perpetuity. It will not affect the ongoing finance issue since the City of New York is able to deal with how to build future tax exemptions after the 30-year bond expires so those units will be carried with low rents. (CB4, Duane, Eaddy, Restuccia, Rosenthal)

Response: To the extent that permanent affordability does not have a negative impact on the ability to obtain project financing, 44th Street Development, LLC will consider making the remaining 75 units affordable in perpetuity. If the permanent affordability could be applied to these additional units, upon the expiration of financing and tax incentive programs, the developer would have the ability to increase the threshold income from 40 percent or 50 percent AMI to 125 percent AMI.

Comment 9: Fifty percent of all affordable units must be family-sized units, i.e. two-bedroom or larger. An additional 10 percent of the units should be made larger to offset the disproportionate number of studio and one-bedroom units that are being constructed in our community. This condition must be included in the LDA. (CB4, Duane, Eaddy)

Response: The development will include a mix of studios, one bedroom, two bedroom, and three bedroom units. Of the 600 permanently affordable units, 40 percent will be two or three bedroom units. In order to accommodate the required 540 affordable units in Buildings B, CN, and CS, it is not possible to increase the proportion of large units. The financing programs anticipated to be used for Building A require that the mix of affordable unit types parallels the market rate units. The market rate demand for the area does not support making 50 percent of the units larger than 2 bedrooms. As such, it is not possible to accommodate the request in Building A either. All of the affordable units in the Proposed Project will be designed and distributed pursuant to the Inclusionary Housing Zoning Text and HPD, and if appropriate according to the guidelines of the New York State Housing Finance Agency (HFA).. These requirements will be incorporated into the LDA.

Comment 10: The affordable housing fund should first be applied to the proposed affordable housing on publicly-owned sites as described in the Hudson Yards and West

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Chelsea Rezoning Points of Agreement before being applied to citywide needs. (CB4, Stringer, Duane, Rosenthal)

Response: HPD will be dispersing the funds pursuant to the Hudson Yards Points of Agreement, which establishes that the fund will be allocated to a Citywide Affordable Housing Fund.

Comment 11: 50 percent of tenant selection must be allocated to residents of CD4. (CB4)

Response: All affordable units provided by the Proposed Project will be subject to HPD or other city and state guidelines, as appropriate. Current and eligible residents of Community Board 4 will receive preference for 50 percent of the affordable units. Eligible households that include persons with mobility impairments will receive preference for 5 percent of the units; eligible households that include persons with visual and/or hearing impairments will receive preference for 2 percent of the units, and eligible City of New York Municipal Employees will receive 5 percent preference.

Comment 12: Will the old school contain affordable housing? (Phillips)

Response: Market rate units are planned for the renovated P.S. 51 building. The affordable units are located in Buildings A, B, CN, and CS.

Comment 13: Are all the rentals permanently affordable? (Phillips)

Response: Six hundred (600) units of the Proposed Project will be permanently affordable. See the response to Comment 8 regarding the possible permanent affordability of the additional inclusionary housing units.

COMMUNITY FACILITIES

Comment 14: If the school includes grades 6 to 8, it would only allow for minimal expansion in the elementary school, where there would still be a shortage of seats due to the projected population growth of elementary school-aged children in the P.S. 51 zone, which extends from 34th Street to 38th Street between Fifth and Twelfth Avenues. If school seats for our pre-K to 5 students are not provided in the P.S. 51 new school building, there would be overcrowding soon after the new school opens. (Shapiro, Grant, Levin, Duane, P.S. 51 Asks, Rosenthal)

Response: In accordance with DOE policy, the proposed P.S. 51 replacement facility is being designed to accommodate the educational needs of students in pre-Kindergarten through grade eight in order to provide the greatest possible flexibility in addressing the evolving needs of the community over the decades during which the school would be in use. A final decision on the programming of the school would be made by DOE in the year before the school opens. Should the DOE propose to expand the P.S. 51 school organization to serve grades six

through eight, the proposal would require a public process culminating in approval by the Panel for Educational Policy.

Comment 15: The SCA and the DOE, in conjunction with Gotham, should develop a task force of P.S. 51 administrators, the P.S. 51 P.T.A., CB4, and other stakeholders to address issues of school design, construction, and programming. This is different from the construction task force in that it is to discuss various aspects of the school, specifically the programming. The first meeting of the community advisory committee should be in January or February of 2010. (Stringer, CB4, CECD2, Shapiro, Savage, Duane, Rosenthal)

Response: SCA has agreed to participate in a task force comprised of the relevant stakeholders, including 44th Street Development LLC, to address any ongoing concerns that may arise during the period of construction, including construction-related air, noise, and safety issues, and effects on the ongoing operations of P.S. 51. The SCA, coordinating with the developer, will conduct the construction of the proposed school facility in accordance with its construction and safety practices. The SCA's Construction Management staff will keep the community apprised of construction activities and related environmental concerns. The SCA and the developer have and will continue to work closely with the P.S. 51 administration and have incorporated their feedback throughout the design process and will continue to do so during the development and the construction of this project.

Comment 16: Does SCA have the rest of the money for the financing of the school? (Cantor)

Response: Funding for the P.S. 51 replacement facility is identified in DOE's 2010-2014 capital plan.

Comment 17: The mechanical equipment should be relocated to leave 50 percent of roof space for play space at the western side of the building to maximize sunlight and compensate for the projected shadows in the proposed school yard. (CB4, Stringer, Shapiro, Duane, Nolan, Rosenthal)

Response: As currently designed, the proposed school facility's mechanical and ventilation equipment would occupy much of the building's roof. The SCA's Architecture and Engineering Department is investigating the feasibility and cost implications of creating a safe rooftop play area. However, the SCA cannot at this time affirm that such a play area could or would be created.

Comment 18: The current playground should be brought back, not the canyon described in the current blueprints. (Johnson)

Response: If the playground were retained in its current configuration, it would be infeasible to construct the new, expanded P.S. 51 and at the same time maintain the existing, historic P.S. 51 school building.

Comment 19: Making space in P.S. 51 available to certain community groups for meetings, athletics and artistic performance opportunities could effectively address some of the residents' concerns and more positively integrate this proposed development into the daily lives of members of our community. Funding can be made available through a portion of the fifteen million (\$15,000,000.00) dollars being provided by Gotham to cover the administrative, custodial, supervisory and other associated costs of making this facility available for use by the entire community on a year round basis. (CB4, Duane)

Response: The P.S. 51 replacement facility would be subject to DOE policy regarding extended use of school facilities. The Integrated Service Center approves all applications requesting use of school buildings for events and for security coverage when appropriate on school grounds after regular school hours. Applications are completed and submitted through the DOE website. After approval, a confirmation number is issued. The funds provided by the developer are for capital improvements for the construction of the new school and cannot be used for operations.

Comment 20: The City must work with CB4 to identify a suitable location for day care facilities. HPD should review the multiple projects proposed in the Clinton Urban Renewal Area to find resources to house the deficit of daycare facilities. Additionally, mitigation should incorporate funding measures for day care similar to the school seats mechanism approved by the City Planning Commission as a requirement of the 770 11th Avenue project (CB4, Duane)

Response: Based on the new methodologies for the assessment of publicly-funded day care, the significant adverse impact disclosed in the DEIS would not occur. The revised assessment for the FEIS concludes that the Proposed Action would not result in significant adverse impacts on publicly-funded day care, and no mitigation measures would be necessary.

Comment 21: The developer of the proposed project should consider providing daycare space on the Project Site or support nearby facilities. In lieu of space, the developer should provide funds to supplement the number of ACS daycare slots in the area after the number of completed residential units on-site reaches a threshold of need. (Stringer)

Response: Based on the new methodologies for the assessment of publicly-funded day care, the significant adverse impact disclosed in the DEIS would not occur. The revised assessment for the FEIS concludes that the Proposed Action would not

result in significant adverse impacts on publicly-funded day care, and no mitigation measures would be necessary.

Comment 22: Is there space available on the site for daycare, and if not how will this be addressed? (Levin)

Response: Space is not available on the project site to provide for a publicly-funded daycare facility. Based on the new methodologies for the assessment of publicly-funded day care, the significant adverse impact disclosed in the DEIS would not occur. The revised assessment for the FEIS concludes that the Proposed Action would not result in significant adverse impacts on publicly-funded day care.

Comment 23: The lease negotiated by DOE with Gotham should be recorded as an exhibit to the LDA for the site at 520 West 45th Street, and include provisions to ensure the continued operation of the school without disruption, taking into account unforeseeable delays in opening the new facility. (CB4)

Response: P.S. 51 will occupy the existing building until the replacement facility is operational.

Comment 24: The special education classrooms in the new school must be located among non-special education classrooms so as to not segregate these students. (CB4)

Response: The new P.S. 51 will provide classrooms intended to serve citywide special education students (District 75). Special education classrooms are typically located in proximity to one another to accommodate and support the needs of the students. However, the specific District 75 program that would be located within the new building would be determined by the DOE at a date closer to the school's opening.

Comment 25: The new school should be designed to a LEED standard and incorporate green design elements, including, but not limited to, a green roof and the use of recycled materials to construct playground furnishings. (CB4, P.S. 51 Asks)

Response: In accordance with Local Law 86, the SCA has adopted green design standards that are being applied to the design, construction, and operation of the new P.S. 51. These design standards correspond to a LEED Certified rating.

Comment 26: The new school should be designed to accommodate advancements in technology and educational tools. (CB4)

Response: Comment noted. The proposed school facility would be a state-of-the-art building that would be equipped with wireless internet access in every classroom, as well as smart boards and laptop computers.

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Comment 27: Gotham's financial contribution to the cost of construction must be held in a segregated account held by the City of New York and used only for construction of the new P.S. 51. (CB4)

Response: Comment noted. The funds that 44th Street Development LLC has committed would be used for the construction of the new school facility.

Comment 28: The construction of the new school under the management of the Educational Construction Fund (ECF) with Gotham as the builder is the most efficient solution to selecting a developer for the new school. Contrary to SCA's claims that it is impossible for SCA to do this procurement, they have signed a letter to Related regarding the Western Rail Yards, saying that they are going to have Related build the school. (CB4)

Response: Pursuant to its enabling legislation under the Public Authorities Law, SCA must engage in a public procurement process, soliciting multiple bids. Therefore, SCA cannot legally designate Gotham as the developer at this time.

The Western Rail Yards involved a different set of circumstances than the P.S. 51 replacement project. Whereas the school component of Western Rail Yards would constitute a portion of a mixed-use building that a private developer would construct and control, the City of New York owns and would continue to own the site of the P.S. 51 school facility.

Comment 29: Would it not be more efficient if Gotham built the school? (Cantor, Knuckles, Restuccia)

Response: Pursuant to its enabling legislation under the Public Authorities Law, SCA must engage in a public procurement process, soliciting multiple bids. Therefore, SCA cannot legally designate Gotham as the developer of the new school building at this time.

Comment 30: The proposed school yard will be much smaller than the current school yard, although our school population will be about twice the size as our current school population. Is there not a way to expand the proposed school yard given the fact that we are still in the planning phase of the project? (Howe, CECD2, Gavesia, Wong, Zheng)

Response: The site plan balances the various public purposes of the Proposed Project, including affordable housing, the construction of a new and expanded P.S. 51, and adaptive reuse of the existing, historic P.S. 51 building. To incorporate a larger playground, the site plan would fully or partially compromise one or more of these public purposes.

Response: Based on DOE recommendations, the outdoor playground for the new school with 610 students should be at least 18,300 square feet. (Shapiro, Savage, Johnson, Grant, Rosenthal)

Response: The site plan balances the various public purposes of the Proposed Project, including affordable housing, the construction of a new and expanded P.S. 51, and adaptive reuse of the existing, historic P.S. 51 building. To incorporate an 18,300 square foot playground, the site plan would fully or partially compromise one or more of these public purposes.

Comment 31: The discussion relating to infrastructure is limited to water and sewer usage. Given the full scope of proposed future development in this area, the DEIS lacks any meaningful analysis of future needs with regard to its impact upon future police, health and fire services. The collective impact of all proposed development within the district must be evaluated. (CB4)

Response: Chapter 4, “Community Facilities,” of the EIS assesses the potential impacts of the Proposed Project on healthcare and police and fire protection in accordance with CEQR methodologies. The EIS concludes that the Proposed Project would not result in a significant adverse impact on healthcare facilities and police and fire protection.

OPEN SPACE

Comment 32: In light of the deficiency of open space in the area, CB4 requests the school yard be opened to the public as a public playground, consistent with PlaNYC’s top open space initiative, to mitigate the insufficiency of open space. (CB4, Stringer, Nolan)

Response: The EIS did not account for the P.S. 51 playground as publicly accessible. Whether to make the playground publicly accessible would be decided by the DOE in consultation with the school administration closer to the school’s opening.

Comment 33: The neighborhood needs new open space. Open space resources in Clinton are scarce and the Proposed Project is going to further reduce the ratio of open space to residents of the community. The City should prioritize the development and improvement of parks in the neighborhood. (Nolan, Treat, Stringer)

Response: Comment noted. Chapter 5, “Open Space,” of the EIS includes a detailed analysis of the Proposed Project’s potential impacts on open space resources in the study area, pursuant to *CEQR Technical Manual* methodologies. Based on the quantitative and qualitative assessments of open space, the DEIS concluded that significant adverse impacts related to indirect open space effects would not occur. Active and passive open space ratios would be below the New York City Department of City Planning’s planning goals irrespective of the Proposed Project, and the Proposed Project would not result in a significant adverse impact on open space according to CEQR guidelines.

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Comment 34: There is too little open space in the R8 portion of the site and more than necessary in the R10 portion. Will the people who have too little open space be able to access the open space in the tower portion? And will everybody have access to all the open space areas? (Levin)

Response: The residents of the Proposed Project will have access to both of the open space areas being provided as part of the residential development.

SHADOWS

Comment 35: There must be adequate sunlit play space included in the design of the new school. This deficiency must be mitigated by including a rooftop play space at the western side of the building that would maximize sunlight and compensate for the projected shadows in the proposed school yard. (CB4, Stringer, Shapiro, Buehler, Nolan)

Response: Although not required by CEQR, the EIS includes a shadows analysis of the proposed P.S. 51 playground. Mitigation is not required because the DEIS did not disclose any significant adverse shadow impacts as a result of the Proposed Action.

As currently designed, the proposed school facility's mechanical and ventilation equipment would occupy much of the building's roof. The SCA's Architecture and Engineering Department is investigating the feasibility and cost implications of creating a safe rooftop play area. However, the SCA cannot at this time affirm that such a play area could or would be created.

HISTORIC RESOURCES

Comment 36: We request the individual landmark designation of the following historic resources cited in the DEIS, listed here in order of CB4's priority:

- P.S. 51, 520 West 45th Street
- E&J Burke Company warehouse, 616-620 West 46th Street – S/NR-eligible
- Acker, Merrall & Condit Company warehouse, 536 West 46th Street
- 626 Eleventh Avenue, the site of The Landmark Tavern
- Houbigant Company Building, 539 West 45th Street (CB4, Stringer)

Response: Comment noted. The landmarks designation of these buildings is subject to a separate process by the New York City Landmarks Preservation Commission and/or the New York State Office of Parks, Recreation, and Historic Preservation. (refer to the December 1, 2009 letter from LPC and the December 30, 2009 letter from OPHRP, both provided in Appendix D).

Comment 37: The Acker, Merrall and Condit Co. warehouse appears LPC eligible. (LPC)

Response: Comment noted. The EIS identifies the Acker, Merrall and Condit Co. warehouse as a potential resource.

Comment 38: The construction of the new P.S. 51 will have no direct impact upon cultural resources in or eligible for inclusion in the State and National Register of Historic Places. (OPRHP)

Response: Comment noted. SCA, 44th Street Development LLC, and HPD will enter into a letter of resolution with OPHRP to protect the existing P.S. 51 during construction of the new facility. The LOR will be executed prior to the conveyance of the residential portion of the project site to 44th Street Development LLC and prior to any construction activities on the Project Site.

Comment 39: Based on a review of the Phase 1B Archaeological Study submitted by SCA, there are no further archaeological concerns with respect to the proposed school site. (OPRHP)

Response: Comment noted.

URBAN DESIGN/VISUAL RESOURCES

Comment 40: Long street walls on the side streets must be designed to reflect the area's context: using traditional building materials like brick; repeating fenestration to harmonize with surrounding streets; and varying street walls and façade treatments to diminish the effect of the portions of the buildings above the 7-story bases. (CB4)

Response: Chapter 8, "Urban Design/Visual Resources," includes a full assessment of the Proposed Project's potential impacts on urban design and visual resources. As described in the EIS, although the new residential buildings, the new school building, and the conversion of P.S. 51 to residential use would change the uses on the Project Site, the Proposed Project would be consistent with the existing residential and institutional uses in the study area. The proposed buildings would range in height from a new five-story school building on West 44th Street to a new residential building on Eleventh Avenue with a seven-story base and taller 28-, 30-, and 31-story components oriented closest to the building's Eleventh Avenue street frontage. The other three new residential buildings would have 7- and 9-story bases with overall heights of 14 stories. The new residential buildings would be of a greater bulk and would have larger footprints than the existing warehouse, stable, and school building on the Project Site. However, the new residential buildings would be similar in bulk, massing, and materials to the variety of existing buildings in the study area.

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Comment 41: The façade of the new school should be designed to be brick, in a color that is consistent with adjacent buildings, reflect the horizontal rhythm characteristic of surrounding buildings, incorporate vertical elements and punched windows to break up the western portion of the façade and be consistent in style with the rest of the development. (CB4)

Response: In response to concerns voiced by the community board, the design of the new P.S. 51 building has been refined to incorporate masonry materials and a color scheme more consistent with the neighborhood context.

Comment 42: The project will include one building with towers reaching 14 stories each as well as another with two towers reaching 30 and 31 stories respectively. While it seems that some compromise on height will be necessary in order to house the community's desired volume of affordable units, I urge all parties to continue to work to ensure that the buildings are contextual to our neighborhood's low-rise character. (Duane)

Response: The proposed rezoning allows for a site plan that balances the various public purposes of the Proposed Project, including more than 600 affordable housing units, the construction of a new and expanded P.S. 51, and adaptive reuse of the existing, historic P.S. 51 building. The resultant buildings heights allow for a successful balance of the various public purposes of the Proposed Project. Chapter 8, "Urban Design/Visual Resources," of the EIS includes a full assessment of the Proposed Project's building heights and their effect on urban design and visual character. The results of the analysis conclude that the Proposed Project would not result in significant adverse impacts to urban design/visual resources.

HAZARDOUS MATERIALS

Comment 43: Copies of the findings of the Phase II investigation and the DEP-approved plans should be submitted to CB4 prior to initiation of remediation. (CB4)

Response: HPD will provide copies of the Phase II report to CB4 prior to the start of remediation activities on the Project Site.

TRAFFIC AND PARKING

Comment 44: CB4 recommends the reduction of on-site parking to further mitigate anticipated traffic impacts. (CB4)

Response: The traffic analysis presented in the EIS identifies automobile trips that would be generated by the Proposed Project during the AM, midday, and PM peak hours based on factors such as U.S. Census data, analysis of other projects in the area, and industry sources. The results of the travel demand this analysis are

independent of the amount of parking provided on-site, and the EIS identifies measures to fully mitigate the Proposed Project's significant adverse traffic impacts.

Comment 45: Based on the DEIS quantitative analysis, the parking supply within a ¼-mile radius of the Project Site will be underutilized in the Build scenario, with the exception of weekday midday use. The analysis of midday availability, which indicates a shortage in the Build scenario, uses an unlikely assumption that vehicles displaced from parking lots on the Project Site will need to park with ¼-mile of this location. Among the vehicles currently parked at the Project Site are long-term vehicles that could find an alternative location. (CB4)

Response: The parking impact assessment was undertaken in accordance with CEQR methodology. The analysis reasonably assumes that displaced vehicles would seek alternative off-street parking in the vicinity of the Project Site and the assumption is an appropriate one.

Comment 46: The police department should consider parallel, rather than perpendicular parking for its precinct on the south side of West 42nd Street, at a minimum of 100 feet west from 10th Avenue and West 42nd Street. (CB4)

Response: The EIS identifies measures to fully mitigate the Proposed Project's traffic impacts. The issue of New York City Police Department (NYPD) parking is out of the jurisdiction of the lead agency and the NYCDOT. CB4 could pursue changes in parking along West 42nd Street with the NYPD and NYCDOT.

Comment 47: To minimize parking and traffic impacts, parking in the Proposed Project's garage should be limited to 204 accessory parking spaces, as proposed (Stringer).

Response: Comment noted. As identified in the GLSD Plan, the development will include 204 accessory parking spaces.

Comment 48: The Department of Transportation should reevaluate the appropriateness of parking regulations on streets surrounding the Project Site given the changing needs of the future development. (Stringer)

Response: Comment noted. The EIS identifies measures to fully mitigate the Proposed Project's significant adverse traffic impacts, and the mitigation measures were reviewed and approved by NYCDOT. No parking impacts were identified in the EIS, therefore mitigation measures are not warranted. However, Community Board 4 could pursue the above-described measures with NYCDOT.

TRANSIT AND PEDESTRIANS

Comment 49: The pedestrian crossing time at 10th Avenue and West 42nd Street should be increased as well as pedestrian-only crossing time at the east-west crossing on the north side of the intersection. (CB4)

Response: The EIS did not identify significant adverse impacts on pedestrian circulation, including the intersection of Tenth Avenue and 42nd Street, and mitigation is not required as a result of the Proposed Project. Community Board 4 could pursue the above-described measure with NYCDOT.

Comment 50: To further support the use of public transit in the area, there should be a study of an 11th Avenue bus line. (CB4)

Response: The EIS did not identify significant adverse impacts on transit operations, including the Eleventh Avenue bus line, and mitigation is not required as a result of the Proposed Project. However, Community Board 4 could pursue the above-described measures with New York City Transit (NYCT).

AIR QUALITY

Comment 51: While below the applicable threshold level of 19 truck trip equivalents for $PM_{2.5}$, the 15 truck trip equivalents generated by the Proposed Project is close to requiring a formal analysis and underscores the crucial need to consider the cumulative effects of all such “negligible” increases. New York City has been classified as a Non-Attainment Area for $PM_{2.5}$. (CB4)

Response: The assessment of air quality presented in the EIS was undertaken in accordance with CEQR methodology. The Proposed Actions would not result in any significant increases in heavy-duty diesel traffic near the Project Site or in the region. The maximum number of projected automobile trips at an intersection is equivalent to approximately 15 additional truck trips based on MOBILE6.2 engine emission factors for the Proposed Actions’ 2013 Build year. This is below the New York City Department of Environmental Protection’s (NYCDEP) current threshold (19 trucks, based on the average daily traffic volume and type of roadway) for conducting a $PM_{2.5}$ microscale mobile source analysis. Therefore, an analysis of potential impacts from respirable particulate matter is not warranted and was not provided.

Comment 52: Table 17-2, Maximum Background Pollutant Concentrations, presents background concentrations for the area of the development parcels. We request an explanation of why P.S. 59, the Beekman Hill International School on East 63rd Street, was used for these determinations rather than P.S. 51. (CB4)

Response: Specific data was not available for P.S. 51; therefore, representative data is used from New York State Department of Environmental Conservation monitoring station nearest Project Site.

Comment 53: We would like to have seen data from the P.S. 51 site included in Table 17-4 for comparison with the data from P.S. 59, P.S. 19, JHS 126 and IS 52. (CB4)

Response: As specific data is not available for P.S. 51, the analysis is compared to representative data for the New York State Department of Environmental Conservation monitoring station nearest the Project Site.

NOISE

Comment 54: In order to achieve the required dB levels in the new buildings the windows must be closed, and residents must rely on “alternative means of ventilation.” We regret that opening one’s window for fresh air would expose a resident to unacceptable traffic noise. (CB4)

Response: Noise analysis methodology assumes that people would close their windows to decrease noise exposure. The attenuation requirements for all buildings on the Project Site would require an alternate means of ventilation in order for fresh air to be available under closed-window conditions. The traffic levels and subsequent noise on the streets surrounding the Project Site would be present irrespective of the Proposed Project.

CONSTRUCTION

Comment 55: Regarding P.S. 51, demolition and hazardous material removal should be completed during the summer months when school is not in session, particularly given the fact that the DEIS states that construction activities may exceed certain safety thresholds set forth by CEQR. (CB4)

Response: Comment noted. The developer and SCA are exploring the feasibility of completing demolition and hazardous material removal at a time when school is not in session.

Comment 56: Students must have access to a playground while school is in session. An interim outdoor play space within three blocks of P.S.51 must be identified. Access to the existing P.S. 51 playground will be unavailable during the construction period, meaning the school would be without both indoor and outdoor play space during this time. The temporary playground must be available before construction begins in September of 2010. (CB4, Stringer, Howe, Johnson, P.S. 51 Asks)

Response: The EIS identifies two New York City Department of Parks and Recreation playground in close proximity to the existing P.S. 51—Hell’s Kitchen Park, located on Tenth Avenue between West 47th and West 48th Streets and May Matthews Playground located on West 45th Street between Ninth and Tenth Avenues. Either or both of these facilities could be used as temporary play space during the construction of the new P.S. 51. Both of these parks are currently operational and whether or not these parks could be utilized is under the discretion of P.S. 51, the DOE and the New York City Department of Parks and Recreation.

Comment 57: What efforts will be made to minimize the disruption of developing the property around the existing school? A construction task force must be formed to oversee the Proposed Project. This task force should include members of Gotham, the Block Association, local businesses, P.S.51 Administrators, P.S.51 PTA members and CB4. Additionally, the school would like Gotham, SCA, with representatives from CB4, HPD, and the school to come up with a site safety plan before ground is broken. It should deal with dust, noise, and possible ground contamination. Finally, during the 30 months of planned construction, it is expected that hundreds of trucks will pass by the school on a daily basis. This will have an immediate adverse impact on the neighborhood. (Knuckles, CB4, Stringer, Howe, CECD2, Meija)

Response: As described in Chapter 19, “Construction Impacts,” of the EIS, construction activities have the potential to result in temporary adverse effects but no significant adverse impacts would result. Any potential adverse effects would be eliminated or minimized to the fullest extent possible through the Construction Health and Safety Plans (CHASP) prepared by 44th Street Development LLC and the SCA. With respect to a construction task force, SCA and the developer have committed to a construction task force with P.S. 51 and Community Board 4.

Comment 58: Frequent noise and air quality studies of the school inside should be conducted before and during school hours during the entire time the site is under construction. (Johnson, P.S. 51 Asks)

Response: As described in the EIS, the developer will comply with the requirements of New York City Air Pollution Control Code and New York City Noise Control Code. SCA will undertake construction in accordance with procedures it has established for its citywide school construction program. In addition, as described in the EIS, prior to remediation of the Project Site, the developer will submit a CHASP for the review and approval of the New York City Department of Environmental Protection. The SCA will also develop a CHASP in accordance with its procedures for school construction projects throughout New York City. The CHASP will identify measures to protect construction workers

and the general public during remediation of the Project Site. It will identify procedures for the off-site transport and disposal of hazardous materials, including the need for dust monitoring.

The EIS also states that all necessary measures would be implemented to ensure that the New York City Air Pollution Control Code and New York City Noise Control Code are followed during construction. Furthermore, SCA will install air conditioning in the existing P.S. 51 prior to the start of construction for the new P.S. 51 building.

Comment 59: All construction deliveries or debris removal for the project should be made on West 44th Street or Eleventh Avenue entrances to minimize any noise disruptions and health concerns to PS 51. (CB4)

Response: To expeditiously complete construction the developer plans to make deliveries to all block faces of the project site. NYCDOT would have to approve the location of the access points.

Comment 60: Department of Transportation “No Standing Anytime” signs should be installed on both West 44th and West 45th Streets between Tenth and Eleventh Avenues during construction. This will help to alleviate congestion and minimize the traffic impact on neighborhood residents, businesses and PS 51. (CB4)

Response: SCA and the developer will apply for necessary construction permits, which may restrict parking by non-construction-related vehicles.

Comment 61: Please discuss the phasing of the project as it pertains to possible negative impacts on the school. The construction of the school must follow the same timeline as the residential development to minimize disruption to the operations of P.S. 51 and ensure a smooth transition to the new site. (CB4, del Toro, P.S. 51 Asks, Rosenthal)

Response: SCA and the developer will be separately constructing their facilities, but as described in the EIS, construction is anticipated to be simultaneous. The developer and SCA are committed to the continued operation of the existing P.S. 51 until the new P.S. 51 is completed.

Comment 62: The school would like Gotham to provide a 30-day construction look-ahead stating what anticipated construction activities would take place each month once construction begins. (Howe)

Response: SCA and the developer will provide a 30-day look ahead as part of their coordination through the construction task force.

West 44th Street and Eleventh Avenue Rezoning

Comment 63: In order that the construction timeline be synchronized, SCA/DOE should submit the Notice of Site Selection to the City Council and Mayor so as to complete the review required by each entity concurrent with the City Council review of the related ULURP actions for the residential component. (CB4)

Response: SCA is fully coordinating its site selection process with the ULURP application for the West 44th Street and Eleventh Avenue Rezoning project.

Comment 64: When will ground be broken? (Cantor)

Response: SCA and the developer plan to begin construction in late 2010.

PUBLIC HEALTH

Comment 65: Air conditioners and purifiers must be installed throughout the existing P.S. 51 to reduce particle dust, as recommended by the P.S.51 Administration. There should also be an insulated window system at the current P.S. 51 to protect the schools air quality during construction. (CB4, Johnson, P.S. 51 Asks, Rosenthal)

Response: The EIS studied construction impacts and determined that there would be no significant adverse impacts. The SCA's design consultants conducted a preliminary assessment of the electrical capacity of the existing P.S. 51 building. The preliminary assessment concluded that the building has sufficient electrical capacity to support air conditioning and air purification. However, further study is needed before the SCA can commit to a particular air purification system.

Comment 66: In order to preserve air quality, restricting the placement of HVAC exhaust stacks and the type of HVAC fuel used must be committed to prior to construction. (CB4)

Response: As described in the EIS, requirements for the location of stacks and fuel type will be incorporated into the LDA between HPD and 44th Street Development LLC.

Comment 67: CB4 would like to be apprised of the results of the comprehensive asbestos survey that will be done by Gotham prior to demolition and be advised as to what protocols and procedures will be followed to remove any asbestos from the site. (CB4)

Response: HPD will provide information on asbestos testing when it becomes available.

GENERAL

Comment 68: The negative long term results of the project should be considered, including overburdened infrastructure, traffic disruptions, poor air quality, increased noise pollution, loss of sunlight to the school, and reduction of the open school yard. Embedded among these problems are gentrification and social economic segregation. (Mejia)

Response: The EIS fully documents the potential long-term impacts of the Proposed Project. Based on CEQR methodology and impact criteria, the EIS identifies that the Proposed Project will not result in significant adverse impacts on socioeconomic conditions, infrastructure, air quality, noise, shadows, open space, and community facilities (public schools). The EIS identifies measures to fully mitigate the Proposed Project's traffic impacts.

Comment 69: When does Gotham expect to receive final approval from Amtrak? (Phillips)

Response: The developer has not submitted plans to Amtrak as design has not progressed to the level needed for their approval. The developer will allow adequate time for Amtrak review and approval in advance of receiving a building permit from the New York City Department of Buildings.

Comment 70: Is there an architect working on the design of the school and how does SCA foresee going through the schematic into working drawings? (Cantor)

Response: SCA has retained RMJM as the designers. Schematic design has been completed. SCA hopes to initiate demolition activities simultaneous with final design to expedite the construction schedule.

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