

# 960 FRANKLIN AVENUE REZONING

**DRAFT**

**FINAL**

## SCOPE OF WORK FOR A DRAFT ENVIRONMENTAL IMPACT STATEMENT

CEQR NO. 19DCP095K

~~February 8, 2019~~ January 29, 2021

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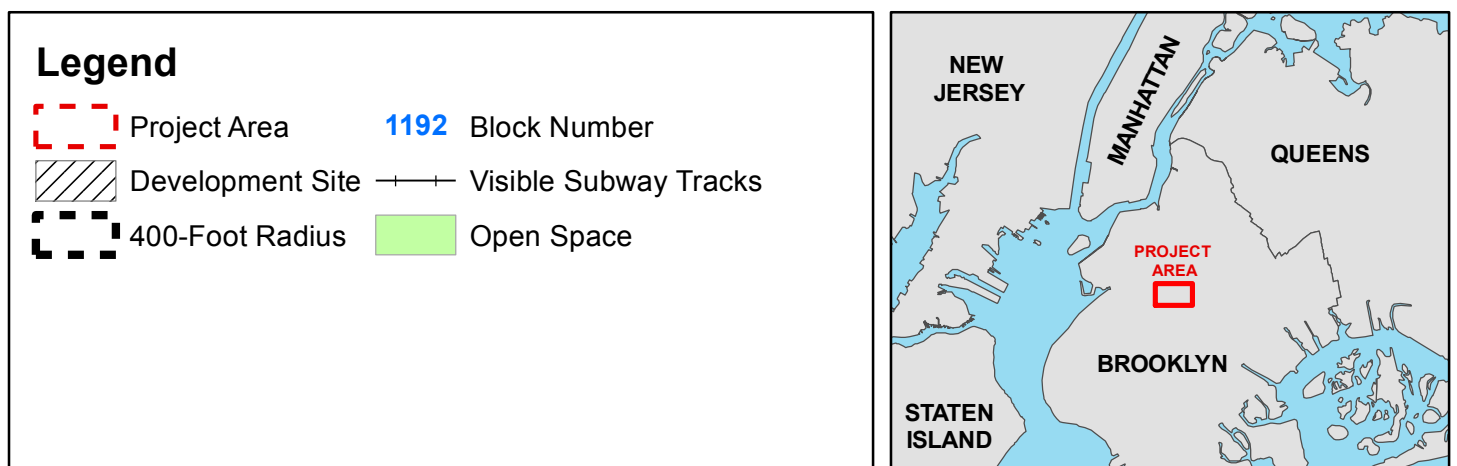
This document is the Final Scope of Work (Final Scope) for the 960 Franklin Avenue Rezoning Draft Environmental Impact Statement (DEIS). This Final Scope has been prepared to describe the Proposed Actions, present the proposed framework for the EIS analysis, and discuss the procedures to be followed in the preparation of the DEIS. This Final Scope incorporates changes that were made subsequent to publication of the Draft Scope of Work (Draft Scope). Revisions of the Draft Scope have been incorporated into this Final Scope and are indicated by double-underlining new text and striking deleted text.

### A. INTRODUCTION

This ~~Draft~~Final Scope of Work (~~Draft~~Final Scope) outlines the technical areas to be analyzed in the preparation of the Draft Environmental Impact Statement (DEIS) for the 960 Franklin Avenue Rezoning project in the Crown Heights neighborhood of Brooklyn Community District (CD) 9 (see **Figure 1** for project site location). The 120,209 sf (approximately 2.76-acre) site is comprised of Brooklyn ~~block~~Block 1192, ~~lots~~Lots 41, 46, 63, and 66 (“Development Site”), while the proposed rezoning area also includes lot 40 and parts of ~~lot~~Lot 1, ~~lot~~Lot 77 and ~~lot~~Lot 85 (“the Project Area”), as shown in **Figure 2, “Lots in Development Site and Limits of Project Area”**). The Development Site is mostly occupied by a spice distribution and warehouse facility, while the southern portion of the site (lots 63 and 66) is predominantly vacant.

The Proposed Actions, consisting of zoning map and text amendments, as well as a Large Scale General Development (LSGD) special permit, and special permit to waive parking are being requested for the purposes outlined below.

- ~~1. The proposed zoning map amendment, which would rezone the Project Area from R6A to R9D with a C2-4 commercial overlay (mapped in the Project Area within 100 feet of Franklin Avenue), would increase the permitted FAR in the Project Area, allowing for additional development of residential and commercial uses than could be provided under existing conditions. The requested R9D zoning designation would allow the Applicant to construct a predominantly residential development with 50 percent affordable and 50 percent market-rate residential units within 9.7 FAR. Although the R9D zoning district provides up to 10.0 FAR for residential uses under M1H, the Applicant would not utilize 0.3 of the available FAR; this would be restricted by the RD.~~





NYC Digital Tax Map

Effective Date : 04-25-2017 10:37:32  
End Date : Current  
Brooklyn Block: 1192



Legend

- Streets
- Miscellaneous Text
- Possession Hooks
- Boundary Lines
- Lot Face Possession Hooks
- Regular
- Underwater
- Tax Lot Polygon
- Condo Number
- Tax Block Polygon
- Development Site
- Proposed Rezoning Area / Project Area
- Lot Area in Proposed R9D Zoning District



1. 2. The proposed zoning map amendment, which would rezone the Project Area from R6A to R9D and R9D/C2-4 (within 100 feet of Franklin Avenue).

Zoning text amendment, which would designate the Project Area as a Mandatory Inclusionary Housing (MIH) area, would require the construction of permanently affordable residential units on the Applicant-owned and controlled Development Project Site. The Proposed Development is comprised of 50 percent affordable dwelling units and 50 percent market-rate dwelling units (approximately 789 affordable dwelling units and 789 market-rate dwelling units), which exceeds MIH requirements. Of the 50 percent affordable apartments, 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH option 2), 20 percent would accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would accommodate families at or below 120 percent AMI (158 units). The number of affordable units, if granted the density for affordability requested (9.7 FAR), would be mandated through an agreement with the New York City Department of Housing Preservation and Development (HPD). This agreement would require that an additional 20 percent of the total units beyond what would be required under the City's MIH program would be made affordable. However, no additional affordable units over the MIH Option 2 requirement would be provided if a 9.7 FAR is not approved.

2. 3. The requested LSGD special permit would allow for greater flexibility in site design, particularly the location of buildings on the Development Site without regard to applicable height and setback regulations, the distance between buildings, and yard regulations. Proposed open space areas also would be shown on the site plan for illustrative purposes. The proposed LSGD special permit would serve to promote better site planning and urban design on the Development Site. The LSGD special permit would be required to waive certain tower coverage requirements in R9D districts per ZR section 23-663(b) (minimum lot coverage and minimum lot area under Tower Regulations) to permit minimum area of lot coverage of 11.4 percent when 33 percent would be required per zoning. Additionally, a modification of ZR section 23-663(c) (tower coverage regulation for the highest four stories of the tower under Tower Regulations) is requested to permit 100 percent tower coverage for the highest four stories of the building instead of the 50 to 80 percent coverage permitted under zoning. These waivers are requested to allow slender, uniform towers. Upon approval, the Applicant would enter into a RD, a legally binding mechanism tied to require that the project site that governs the provisions of the LSGD. This would ensure that the Proposed Development is the RWCDs in terms of building envelope, floor area, and parking, set aside either 25 percent of all units under MIH Option 1, or 30 percent of all units under MIH Option 2 for affordable housing.

3. 4. A special permit would be required Special permit pursuant to ZR section 74-74, "Large-Scale General Development" would seek to modify location of buildings on the Development Site without regard to applicable height and setback regulations, the distance between buildings, and yard regulations. The LSGD special permit seeks to waive certain tower coverage requirements in R9D districts per the ZR.

4. Special permit pursuant to ZR section 74-533, "Reduction of Parking Spaces to Facilitate Affordable Housing," to waive the parking requirements per ZR section 25-23. The requested parking reduction would facilitate the development of additional affordable housing in a Development Site located within a transit zone. Parking, "Requirements Where Group Parking Facilities Are Provided." Per the site's proposed zoning, parking would be required for 40 percent of the non-income restricted units, with a total of approximately 462442 required parking spaces. Approximately 180 parking spaces for approximately 16 percent of all market-rate DUs are proposed. As such, 282 approximately 314 parking spaces would be waived by the requested special permit. It should be noted that no parking would be required for the income-restricted units under MIH zoning.

5. ~~Finally, although~~ The Proposed Actions would also include recordation of a Restrictive Declaration, (E) designation (E-586) and Public Access Agreement (PAA) to codify commitments of the Proposed Development.

Although not known at this time, the Proposed Development may also involve the use of public financing for the development of permanently affordable housing from the New York City Department of Housing Preservation and Development (HPD), the New York City/State Housing ~~Development Corporation~~ (HDC/Finance Agency (HFA)), or other governmental or private sources.

The Proposed Actions would ~~create 789 new~~ facilitate the development of the 120,209 sf (approximately 2.76-acre) Development Site with an approximately 1,369,314 gsf (1,151,671 zsf) mixed-use development (the “Proposed Development”). The Applicant anticipates that the Proposed Development would comprise 1,263,039 gsf of residential uses, introducing a total of 1,578 dwelling units, including either 25 percent of the total units set aside pursuant to Option 1 of the City’s MIH program (395 units of affordable housing units (with an average 60 percent AMI, or \$46,620 per year for a family of three), or 30 percent of the total units set aside pursuant to Option 2 of the City’s MIH program (473 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 or 25 percent of the dwelling units as affordable housing, depending on the MIH option selected (Option 1 or Option 2), to provide a combined total of 50 percent of the total dwelling (789 units-) affordable and workforce housing. Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH option Option 2), 20 percent would be provided by the Applicant in addition to MIH requirements to accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would be provided by the Applicant in addition to MIH requirements to accommodate families at or below 120 percent AMI (157 units-), as shown in **Table 1**. The proposed affordable housing would help to address affordable housing goals set forth by the City in Housing New York: A Five-Borough, Ten-Year Plan. As described above, the Proposed Development would be constructed on underbuilt and vacant land in close proximity to public transportation and other public amenities. In addition to the proposed residential component, approximately 21,183 gsf of local retail space and approximately 9,678 gsf of community facility space would be provided.

**TABLE 1** Approximately 180 parking spaces

**Applicant-Proposed Distribution of Affordable Dwelling Units**

<u>Average Median Income (AMI)</u>	<u>Proposed Percentage of Total Dwelling Units</u>	<u>MIH (Option 2) Affordable Units</u>	<u>Proposed Percentage of Affordable Dwelling Units</u>	<u>Additional Affordable (Income Targeted)</u>	<u>Proposed Percentage of Affordable Dwelling Units</u>	<u>Total Units Affordable Dwelling Units</u>
<u>50%</u>	<u>20%</u>	<u>316</u>	<u>40%</u>	<u>--</u>	<u>--</u>	<u>316</u>
<u>80%</u>	<u>10%</u>	<u>158</u>	<u>20%</u>	<u>--</u>	<u>--</u>	<u>158</u>
<u>100%</u>	<u>10%</u>	<u>--</u>	<u>--</u>	<u>158</u>	<u>20%</u>	<u>158</u>
<u>120%</u>	<u>10%</u>	<u>--</u>	<u>--</u>	<u>157</u>	<u>20%</u>	<u>157</u>
<u>Total</u>	<u>50%</u>	<u>474</u>	<u>60%</u>	<u>315</u>	<u>40%</u>	<u>789</u>

**Notes:**

<sup>1</sup> For analysis purposes, MIH Option 2 (30 percent of the total DU count designated as affordable housing) is assumed.

Parking for approximately 16 percent of all market-rate DUs. Approximately 180 parking spaces would be allocated in two separate parking garages on the ground- and cellar-levels of the Proposed Development. The accessory parking garages would be accessed via a curb cut on Franklin Avenue, and a curb cut located on Montgomery Street. Additionally, secondary access into the parking garages would be provided via the proposed internal private roadway, which would create a driveway located between the two proposed buildings.

It is expected that the Proposed Development would be constructed over an approximately ~~five~~four-year period following project approval, with completion and occupancy expected to occur in 2024. This build year was determined in consideration of the reasonable amount of time necessary for the two-phase project to be developed. Prior to the first phase of construction on Lots 63 and 66, the Morris J. Golombeck, Inc. Importers spice company ("Golombeck"), occupants of Lots 41 and 46, would vacate the property and relocate operations. Phase I demolition is projected to commence October of 2019 and is completed by the end of December 2019 (3 Months), begin during the first quarter of 2021 regardless of the Proposed Actions to accommodate either the as-of-right development pursuant to the site's existing zoning, or to accommodate the Proposed Development. Phase I excavation and foundation is projected to commence January 2020 on as as-of-right basis in first quarter 2021 and is completed by the end of May 2020 (5 Months) third quarter 2021 (seven months). Phase I construction, i.e., initiation of superstructure, is projected to commence June 2020 third quarter 2021 and would be completed by the end of December 2022 early-2024 (30 Months). Marketing of phase I units is projected to commence four months prior to completion of phase I buildings months).

Phase II demolition is projected to commence ~~April of 2020 and is completed by the end of December 2020 (9 Months)~~third quarter 2021. Phase II excavation and foundation is projected to commence ~~January 2021~~first quarter 2022 and is completed ~~by the end of September 2021 (9 Months)~~during fourth quarter 2022 (nine months). Phase II construction is projected to commence ~~October 2021~~during fourth quarter 2022 and is ~~anticipated to be completed by the end of April~~during fourth quarter 2024 (30 Months)32 months. Marketing of Phase II units is projected to commence four months prior to completion of ~~phase~~Phase II buildings.

This document provides a description of the Proposed Actions and associated reasonable worst case development scenario (RWCDs), and includes task categories for all technical areas to be analyzed in the DEIS.

## **B. REQUIRED APPROVALS AND REVIEW PROCEDURES**

### **Required Approvals**

The Proposed Development would encompass discretionary actions that are subject to review under the Uniform Land Use Review Procedure (ULURP), Section 200 of the City Charter, and City Environmental Quality Review (CEQR) process. As described above, the anticipated discretionary actions include a zoning map amendment, zoning text amendment, a LSGD Special Permit, and a special permit to reduce the

required parking for market-rate dwelling units. In addition, approval of financing for the construction of affordable housing may also be sought. These actions are detailed below.

### Zoning Map Amendment

The proposed zoning map amendment, which would rezone the Project Area from R6A to R9D with a C2-4 commercial overlay mapped within 100 feet of Franklin Avenue, would increase the permitted FAR in the Project Area (see **Figure 2** for boundaries of the Project Area), allowing for development of more residential and commercial uses than could be provided under existing conditions. As shown in **Figure 2**, the northern boundary of the Project Area would extend along Montgomery Street approximately 300 feet west of the centerline of Franklin Avenue to the right-of-way of the Franklin Avenue shuttle to the western side of the right-of-way. The eastern boundary would extend along Franklin Avenue from Montgomery Street to a point approximately 150 feet north of Sullivan Place. The southern boundary of the Project Area would extend west from Franklin Avenue in a line that runs parallel to and approximately 150 feet north of Sullivan Place to a point approximately 100 feet east of Washington Avenue. The western boundary of the Project Area would run parallel to and 100 feet east of Washington Avenue from a point approximately 150 feet north of the Sullivan Place centerline to a point approximately 300 feet west of Franklin Avenue and would then extend to the centerline of Montgomery Street.

The proposed R9D/C2-4 zoning district would allow for the development of a wider range of uses at higher densities and would create opportunities for a more vibrant, mixed-use community, while local retail uses where such uses are not currently permitted, while also maximizing space for affordable housing units. Within an R9D/C2-4 district, residential and community facility uses would be subject to the bulk controls of an R9D district and commercial uses would be subject to the bulk controls of a C2-4 district.

### Zoning Text Amendment

A zoning text amendment to Section 23-90 (Appendix F) of the ZR is being sought in order to establish the entirety of the proposed rezoning area as a MIH area. ~~As the Proposed Actions would create opportunities for significant new housing development, the mapping of an MIH area is required as a condition of approval for the proposed LSGD Special Permit (described below).~~ The proposed zoning text amendment, which would designate the Project Area as a MIH area, would require the construction of affordable residential units on the Applicant-owned and controlled Development Site, including permanently affordable housing through the City's MIH program. The City's MIH program specifies that an applicant can choose between Option 1, which requires that 25 percent of the housing must be affordable to households making 60 percent of the AMI for a household of three, and Option 2, which requires that 30 percent of the housing must be affordable to households making 80 percent of AMI for a household of three. ~~The Proposed Development would exceed the MIH requirement and provide 50 percent affordable dwelling units and 50 percent market rate dwelling units (789 affordable dwelling units and 789 market-rate dwelling units).~~ As proposed, the project comprises two predominantly residential buildings containing approximately 1,578 apartments, 50 percent affordable, for a Applicant anticipates that 30 percent of the total of 789 affordable apartments, in excess of MIH requirements. Of the 50 percent affordable apartments, 60 percent would accommodate families at or below units would be set aside pursuant to Option 2 of the City's MIH program (474 units of affordable housing with an average of 80 percent AMI, (473 units, consistent with and exceeding MIH option 2), or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 percent would accommodate families at or below 100 percent AMI (158 of the dwelling units (315 dwelling units) as affordable housing, to provide a combined total of 50 percent (789 units) and 20 percent of the units

would accommodate families at or below 120 percent AMI (158 units). The number of affordable units in excess of the minimum required through the city's MIH program. The number of affordable units, if granted the density for affordability requested (9.7 FAR), would be mandated through an agreement with HPD-affordable and workforce housing.

It is anticipated that the units provided beyond the required MIH requirements would be bound to affordability through a restrictive declaration recorded against the property or through a regulatory agreement with HPD or other governmental agency.

### **Large-Scale General Development (LSGD) Special Permit**

The requested LSGD special permit would allow for greater flexibility in site design, particularly the location of buildings on the Development Site without regard to applicable height and setback regulations, the distance between buildings, and yard regulations. A portion of the proposed open space areas also would be shown on the site plan and would be subject to a Public Access Agreement (PAA). The proposed LSGD special permit would serve to promote better site planning and urban design on the Development Site. For example, in order to create appropriate street frontage, street walls would be maintained to a contextual height on Franklin Avenue and Montgomery Street, and sidewalk level retail would activate the sidewalks. Specifically, a waiver is being sought for the base height at Phase II to go to 95 feet for alignment with the building bulk that would be permitted in the adjacent R8X zoning district to the north. The proposed massing would step upward from the lower street walls to introduce more height in the middle of the site, where it would be further removed from the street level experience. An internal drive is proposed to open the middle of the site for internal site circulation within an active entrance court and off the adjacent streets. The LSGD special permit would be required to waive certain tower coverage requirements in R9D districts per ZR section 23-663(b) (minimum lot coverage and minimum lot area under Tower Regulations) to permit minimum area of lot coverage of 11.4 percent when 33 percent would be required per zoning. Additionally, a modification of ZR section 23-663(c) (tower coverage regulation for the highest four stories of the tower under Tower Regulations) is requested to permit 100 percent tower coverage for the highest four stories of the building instead of the 50 to 80 percent coverage permitted under zoning. These waivers are requested to allow slender, uniform towers.

### **Large-Scale General Development (LSGD) Special Permit**

A LSGD Special Permit is being sought in order to allow the location of buildings without regard to applicable height and setback, distance between building, and yard regulations, and to waive certain tower coverage requirements. The proposed LSGD Special Permit would allow greater design flexibility for the purpose of better site planning and urban design. LSGDs are typically located in medium- or high-density commercial or manufacturing districts and uses in an LSGD must adhere to the underlying zoning district. The waivers granted under the LSGD Special Permit would result in a better site plan and relationships among buildings and open areas to adjacent streets, surrounding development, and adjacent open areas that would not be possible without such modification. Upon approval, the Applicant would enter into a RD, a legally binding mechanism tied to the project site that governs the provisions of the LSGD.



### **Special Permit to Reduce Required Parking**

A special permit would be required pursuant to ZR section 74-533 to waive the parking requirements per ZR section 25-23. ~~Parking~~The requested parking reduction would facilitate the development of additional affordable housing in a development site located within a transit zone. Under the proposed zoning district, parking would be required for 40 percent of the non-income restricted units, with a total of approximately 462442 required parking spaces. ~~Approximately 180 parking spaces are~~Parking for approximately 16 percent of all market-rate DUs is proposed. As such, ~~282~~314 parking spaces would be waived by the requested special permit. It should be noted that no parking would be required by zoning for the income-restricted units ~~under MIH zoning~~.

### **Public Financing**

~~In addition to the actions described above, financing from city, state, and/or federal sources may be sought. At the city level, funding may be requested in the form of tax exempt bonds from HDC and HPD under the Extremely Low and Low income Affordability (ELLA) financing programs. Funding sources at the state level may include the New York State Homes and Community Renewal (HCR). Federal sources of funding may include the United States Department of Housing and Urban Development (HUD) financing programs, allocated by HPD, as well as new market tax credit (NMTC) transactions, or other governmental or private sources.~~

### **Restrictive Declaration, Public Access Agreement and (E) Designation**

The project approvals would also require recordation of a Restrictive Declaration (RD), Public Access Agreement (PAA) and (E) Designation. Upon approval, the Applicant would enter into a Restrictive Declaration (RD), a legally binding mechanism tied to the Development Site that governs the provisions of the LSGD. This would ensure that the Proposed Development is the RWCDs in terms of building envelope, floor area, and parking. The approvals would also require execution of a PAA which will govern a portion of the open space area along the internal roadway. Additionally, the project approvals would also include recordation of an (E) Designation (E-586) related to hazardous materials, air quality and noise, to commit future development of the rezoning area in accordance with any necessary conditions identified through the environmental review.

### **City Environmental Quality Review (CEQR) and Scoping**

~~The Proposed Actions are~~Development is classified as a Type I Action, as defined under 6 NYCRR 617.4(b)(10), and is subject to environmental review in accordance with CEQR guidelines. An Environmental Assessment Statement (EAS) and Positive Declaration were issued on February 8, 2019 by the New York City Department of City Planning (DCP), as lead agency. DCP ~~has~~ determined that the Proposed Actions may result in significant adverse environmental impacts and directed that a Draft Environmental Impact Statement (DEIS) be prepared.

This ~~Draft~~Final Scope of Work (Final Scope) for the preparation of a DEIS contains a description of the Proposed Actions and the tasks that would be undertaken to analyze the potential environmental impacts

of the Proposed Actions. The issuance of the Draft Scope ~~marks~~of Work on February 8, 2019 ~~marked~~ the beginning of the public comment period. The scoping process allows the public a voice in framing the scope of the DEIS. The scoping document sets forth the analyses and methodologies that will be utilized to prepare the DEIS. During the public comment period, ~~those interested in reviewing the Draft Scope may do so and give their comments to the lead agency. The~~ public, interested agencies, and elected officials, ~~are~~were invited to comment on the Draft Scope, either in writing or orally, at the public scoping meeting.

A public scoping meeting ~~is scheduled to be~~was held on **Tuesday March 12, 2019** starting at **1:00 PM** in the **Equitable Life Building, 120 Broadway, New York, NY 10271** in the hearing room on the lower concourse level.

Comments received during the Scoping Meeting and written comments received ~~up to ten days after the meeting – until 5:00 PM on~~through Monday March 25, 2019, will be ~~were~~ considered and incorporated, as appropriate, into ~~the~~this Final Scope of Work (This Final Scope). ~~The Final Scope will incorporate~~incorporates all relevant comments made on the Draft Scope and ~~revises~~revises the extent or methodologies of the studies, as appropriate, in response to comments made during the CEQR scoping process. Appendix 1 includes responses to comments made on the Draft Scope of Work. The written comments received are included in Appendix 2. The DEIS will be prepared in accordance with ~~the~~resultingthis Final Scope.

Once the lead agency is satisfied that the DEIS is complete, the document will be made available for public review and comment. A public hearing will be held on the DEIS in conjunction with the City Planning Commission (CPC) hearing on the land use applications to afford all interested parties the opportunity to submit oral and written comments. At the close of the public review period, a Final EIS (FEIS) will be prepared. Comments made on the DEIS will be responded to and incorporated into the FEIS, as appropriate. The FEIS will then be used by the relevant City agencies to evaluate CEQR findings, which address project impacts and proposed mitigation measures, and to decide whether to approve the requested discretionary actions, with or without modifications.

## C. PROJECT DESCRIPTION

### Development Site

The 120,209 sf Development Site is located east of the Brooklyn Botanic Garden on a portion of an irregularly-shaped block that is bounded by Sullivan Place to the south, Washington Avenue to the west, Montgomery Street to the north, and Franklin Avenue to the east. The Development Site is comprised of the following properties: ~~lot~~Lot 41 located at 130 Montgomery Street, ~~lot~~Lot 46 located at 124 Montgomery Street, ~~lot~~Lot 63 located at 962 Franklin Avenue, and ~~lot~~Lot 66 located at 972 Franklin Avenue. The Development Site contains approximately 225 feet of frontage along Montgomery Street and approximately 576 feet of frontage along Franklin Avenue.

The northern portion of the Development Site contain several multi-story buildings totaling 107,744 gsf, including an office building, a former boiler building, as well as buildings which contain spice warehousing and spice processing uses associated with Morris J. Golombeck, Inc. Importers (“Golombeck”). In addition, a decommissioned smoke stack is located on the Development Site. The southern portion of the lot contains an empty warehouse building (~~lot~~Lot 63) and is otherwise vacant (~~lot~~Lot 66). There are two

existing curb cuts along Montgomery Street and five existing curb cuts along Franklin Avenue; not all curb cuts are used for site access at present.

Golombeck has operated on the northern portion of the Development Site (~~lots~~Lots 41 and 46) from approximately 1955 to present as a spice warehouse, processing and distribution facility. The northern portion of the Development Site contains several multi-story buildings totaling 107,744 gsf, including an office building, a former boiler building, as well as buildings which contain spice warehousing and spice processing uses. In addition, a decommissioned smoke stack is located on the Development Site. Prior uses on the northern portion of the Development Site include: Burton Dixie Corporation, a manufacturer of mattresses and cotton felts, from 1932 to 1955; and Consumers Park Brewery, a brewery with cold storage and bottling of beverages from 1908 to 1932.

In a letter dated December 4, 2017, the New York City (NYC) Landmarks Preservation Commission (LPC) issued a response letter indicating that no part of the Development Site is considered to have archaeological significance. In a subsequent letter, dated December 20, 2017, LPC indicated that ~~lots~~Lots 63 and 66 had no architectural significance. For ~~lots~~Lots 41 and 46 the response letter indicated that LPC had no interest in the on-site buildings; however, LPC's response indicated that the buildings are eligible for the New York State and National Registers (S/NR eligible).

The southern portion of the site (~~lots~~Lots 63 and 66) has remained predominantly vacant since 1961. Prior uses on the southern portion of the Development Site include: tennis courts from 1951 to 1961; the Rubel Corporation's ice production and distribution facility from 1932 to 1951; and Flatbush Hygienic Ice Company's ice production and distribution facility from 1908 to 1932.

There are two existing curb cuts along Montgomery Street and five existing curb cuts along Franklin Avenue. Not all curb cuts are used for site access on a regular basis at present. Only the curb cut on Franklin Avenue that serves the Golombeck facility is used regularly.

### **The Balance of the Proposed Rezoning Area**

~~The remainder of the properties, located entirely or partially within the Project Area, are occupied by the following land uses: lot 1 is a 30,080-sf rectangular property which contains the MTA's Franklin Avenue subway shuttle right-of-way, an open-cut subway; 122A Montgomery Street (lot 40) is a vacant 1,282-sf rectangular property; 1015 Washington Avenue (lot 77) is a 28,432-sf trapezoidal property containing a six-story, 95,000-gsf multi-family residential building; and 1035 Washington Avenue (lot 85) is a 28,437-sf irregular shaped property containing a six-story, 117,250-gsf multi-family residential building.~~

The Project Area also includes portions of four lots not owned or under the control of the Applicant, including: part of ~~lot~~Lot 1 (approximately 18,431 sf or 56.8 percent of the 32,461 sf lot), all of ~~lot~~Lot 40 (approximately 1,282 sf), part of lot 77 (approximately 6,969 sf or 24.4 percent of the 28,621 sf lot), and part of ~~lot~~Lot 85 (approximately 186 sf or 0.6 percent of the 29,141 sf lot-), as shown in Table 2 and as shown in Figure 2. As described below, the Proposed Actions would not be expected to result in new development on ~~lots~~Lots 1, 40, 77 or 85.

The remainder of the properties, located entirely or partially within the Project Area, are occupied by the following land uses:

Lot 1 contains the MTA's Franklin Avenue subway shuttle right-of-way, an open-cut subway line that

transects block 1192 from Montgomery Street to Washington Avenue. As this tax lot is owned by the MTA, it would require additional discretionary approvals to allow for the disposition of City property in order to be redeveloped or to transfer or sell the development rights from this property to an adjacent property. As such, it is unlikely to be developed as a consequence of the Proposed Actions. Therefore, it would not be considered a projected development site pursuant to CEQR Technical Manual guidance.

122A Montgomery Street (~~lot~~ Lot 40) is a 1,282 sf (10 feet wide by 128 feet deep) rectangular property that is located within the Project Area. Although lot 40 is vacant, At 10 feet wide, it does not meet the small size minimum residential lot width requirements of the site precludes ZR Section 23-32, "Minimum Lot Area or Lot Width for Residences." Additionally, it is not considered a substantial possible development on this site due to the extensive shoring that would have to be done along the western edge of the narrow property within the property lines in order to develop the site- due to its proximity to the adjacent MTA subway cut.

1015 Washington Avenue (~~lot~~ Lot 77) is a 28,432 sf trapezoidal property partially located within the Project Area. Lot 77 is occupied by a six-story, 99,750 gsf multi-family residential building, which represents a built FAR of 3.34. The current residential building contains 90 dwelling units constructed before 1974. Although Lot 77 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as a consequence of the Proposed Actions since only a small portion (24.4 percent) of the site would be rezoned as a consequence of the Proposed Actions—, with the remainder of the lot remaining R8A. The area changed is in the rear of the lot with no street frontage, so the rear yard requirement would prohibit most of the area to be built upon. Per ZR 77-22, a blended portion of the available floor area could be located on the front of the site. Under the current R8A zoning the existing zoning lot has approximately 70,000 sf of unbuilt floor area, but only 26,000 sf could be added as an addition to the existing building and only about 32,000 sf of additional area could be realized as a new build. With the proposed rezoning to R9D, constructing an addition on top of the existing building would allow an increase of the existing building by 31,000 sf (approximately 5,000 sf over the expansion of the existing building that would be permitted under existing zoning) and about 60,000 sf (approximately 28,000 sf more than would be permitted under the R8A zoning) with a complete new build. As this incremental increase in floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish the existing building in order to obtain approximately 28,000 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC Board of Standards and Appeals (BSA) to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.

1035 Washington Avenue (~~lot~~ Lot 85) is a 28,437 sf irregular shaped property partially located within the Project Area. Lot 85 is occupied by a six-story, 123,113 gsf multi-family residential building which represents a built FAR of 4.12. The current residential building contains 97 dwelling units constructed before 1974. Although lot 85 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as only a small portion (0.6 percent) of the site would be rezoned as a consequence of the Proposed Actions. The area that would be rezoned as a consequence of the Proposed Actions is on the side lot line along Franklin Avenue. Per ZR 77-22, a blended portion of the available floor area created by the portion of the lot located in the proposed R9D zoning district could be used in the portion of the lot that lies within the R8A zoning district. Under the current R8A zoning, the existing building shape makes the construction of an addition impossible due to the required rear yard equivalent to be mapped at the middle of the site. Under the current zoning,

approximately 47,700 sf additional floor area could be obtained by demolishing the existing building and constructing a new building to maximize the FAR available under the existing R8A zoning. Under the proposed rezoning, approximately 17,600 sf of additional floor area would be available from the portion of the lot that would be rezoned to R9D. When added to the 47,700 sf of additional floor area that is available on the site with the underbuilt condition, a total of 65,300 sf of additional floor area could be created on the site. As this incremental increase in floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish the existing building in order to obtain approximately 17,600 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC BSA to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.

### **Land Use**

Golombeck has operated on the northern portion of the Development Site (~~lots~~Lots 41 and 46) from approximately 1955 to present as a spice warehouse, processing and distribution facility. This portion of the Development Site is currently developed with several multi-story buildings including an office building, former boiler building, spice warehousing and spice packaging areas located in the northern portion of the property. An out-of-service smoke stack is also located in the central portion of the Development Site.

Prior uses on the northern portion of the Development Site include: Burton Dixie Corporation, a manufacturer of mattresses and cotton felts, from 1932 to 1955; and Consumers Park Brewery, a brewery with cold storage and bottling of beverages from 1908 to 1932.

As indicated above, the southern portion of the Development Site (lots 63 and 66) has remained predominantly vacant since 1961. Prior uses on the southern portion of the Development Site include: tennis courts from 1951 to 1961; the Rubel Corporation operated an ice production and distribution facility from 1932 to 1951; and Flatbush Hygienic Ice Company operated an ice production and distribution facility from 1908 to 1932.

### **Zoning**

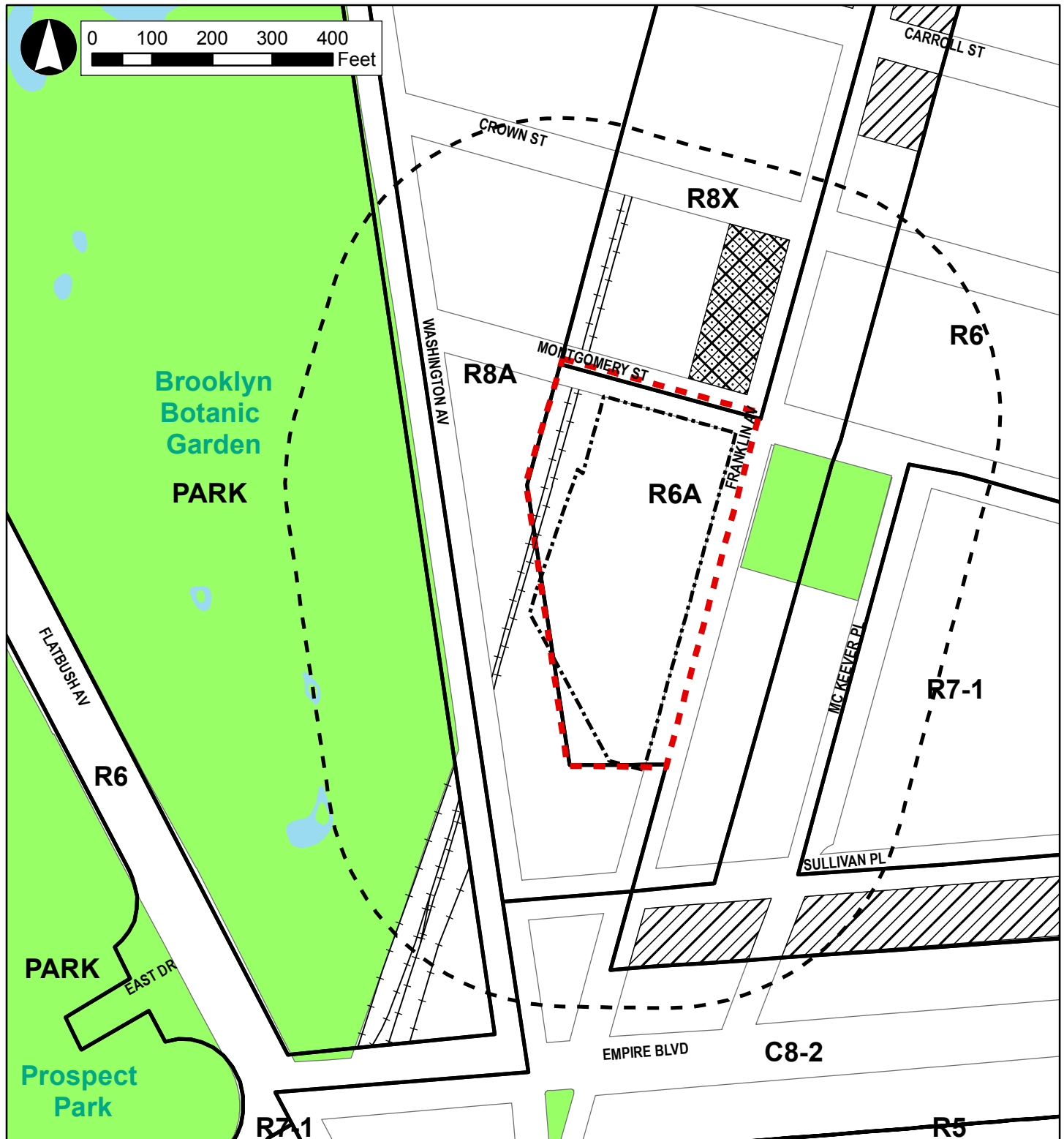
As shown in **Figure 23, “Zoning Map,”** the Development Site is located within an R6A zoning district. The balance of the Project Area is mapped R8A.

#### **R6A**

R6A zoning districts are medium-density contextual districts where Quality Housing bulk regulations are mandatory. R6A districts permit a maximum FAR of 3.0 with a minimum base height of 40 feet, a maximum base height of 60 feet (65 feet with a qualifying ground floor), and a maximum building height of 70 feet (75 feet with a qualifying ground floor). Parking is required for 50 percent of the market-rate dwelling units in R6A zoning districts.

#### **R8A**

R8A zoning districts are high-density contextual districts where Quality Housing bulk regulations are mandatory. R8A districts permit a maximum FAR of 6.02 with a minimum base height of 60 feet, a maximum base height of 85 feet (95 feet with a qualifying ground floor), and a maximum building height of 120 feet (125 feet with a qualifying ground floor). Parking is required for 40 percent of dwelling units



### Legend

- |                  |                            |              |
|------------------|----------------------------|--------------|
| Project Area     | Visible Subway Tracks      | C1-3 Overlay |
| Development Site | Open Space                 | C2-3 Overlay |
| 400-Foot Radius  | Zoning District Boundaries | C2-4 Overlay |

in R8A zoning districts.

**TABLE 12**

**Percentage of Lot Area Within the Existing R6A Zoning District**

Block	Lot <sup>1</sup>	Address	Total Lot Area (SF) <sup>2</sup>	Square Footage of Lot Within Project Area (SF)	Percentage of Lot Located Within the Existing R6A Zoning District (%)
1192	1	Washington Avenue (MTA Right-of-Way)	32,461	18,431	57%
	40	122A Montgomery Street	1,282	1,282	100%
	41	130 Montgomery Street	12,463	12,463	100%
	46	124 Montgomery Street	54,488	54,488	100%
	63	962 Franklin Street	12,981	12,851	99%
	66	972 Franklin Street	40,277	38,666	96%
	77	1015 Washington Avenue	28,621	6,969	24%
	85	1035 Washington Avenue	29,141	186	1%

<sup>1</sup>The shaded rows represent the Development Site.  
<sup>2</sup>Lot area comes from PLUTO data (lots 1, 40, 77 and 85) and from a topographic survey (the Development Site).

As shown in **Figure 23, “Zoning Map,”** an R6A zoning district is mapped across most of the Development Site. However, six lots also have lot area that is mapped with an R8A zoning district. As described above, the existing zoning district boundaries create split lot conditions for the following tax lots: ~~lot~~Lot 1, ~~lot~~Lot 41, ~~lot~~Lot 63, ~~lot~~Lot 66, ~~lot~~Lot 77, and ~~lot~~Lot 85. As shown in **Table 12**, the vast majority of the Development Site is located within the boundaries of the existing R6A/proposed R9D zoning district (100 percent of ~~lots~~Lots 41 and 46, 99 percent of ~~lot~~Lot 63, and 96 percent of lot 66). Lot 40, while not part of the Development Site, would also be located entirely within the Project Area; however, as indicated above, development of that property would not be able to take advantage of the increase in FAR due to its narrow lot size. Conversely, only a small portion of ~~lots~~Lots 77 and 85 would be rezoned as a result of the Proposed Actions, with approximately 24 percent of ~~lot~~Lot 77 and approximately 1 percent of ~~lot~~Lot 85 being located within the proposed rezoning area. Further, while approximately 57 percent of ~~lot~~Lot 1 would be located within the Project Area, this property is an open subway cut for the MTA’s Franklin Avenue subway shuttle and is not likely to be redeveloped.

**1991 Contextual Rezoning**

In 1991, the Project Area was rezoned in conjunction with a Department of City Planning rezoning of a 13-block area bounded by Eastern Parkway, Washington Avenue, Sullivan Place, and a line 100 feet east of Franklin Avenue, pursuant to ULURP No. C910293 ZMK. The application rezoned R6 and R8 districts and a 150-foot-deep C1-3 commercial overlay to contextual R6A and R8A districts, and lessened the C1-3 overlay to a 100-foot depth. The rezoning was intended to encourage mid-rise, high coverage buildings, and to prevent incursion of commercial uses in the residential mid-blocks. The 1991 rezoning effort was City Planning’s response to area conditions in 1991, namely, to encourage contextual residential development. The project site is currently zoned R6A, which allows for medium-density residential (Use Group 1 and 2) and community facility uses (Use Groups 3 and 4). Commercial and industrial/ manufacturing uses are not permitted. Development is governed by Quality Housing regulations.

**ZQA and MIH**

On September 21, 2015, the CPC certified into ULURP (i) the Zoning for Quality and Affordability text amendment (“ZQA”) under ULURP No. N160049ZRY, and (ii) the Mandatory Inclusionary Housing text

amendment (“MIH”) under ULURP No. N160051ZRY. The ZQA text amendment allows modest five, ten or fifteen-foot height increases in certain zoning districts to allow for buildings with desirable high-ceilinged ground floor retail space, to allow for variety in building envelopes, to reduce parking requirements for buildings providing affordable housing under the Inclusionary Housing program in certain transit-rich areas, and to accommodate all permitted floor area in the permitted bulk envelope, particularly in buildings providing affordable housing under the Inclusionary Housing program. The MIH text amendment makes the Inclusionary Housing program mandatory in certain districts to facilitate the production of affordable housing. On February 2, 2016, the New York City Planning Commission approved the text amendments with modifications. On March 22, 2016, the City Council approved the text amendments.

### **Franklin Avenue Rezoning<sup>1</sup>**

On December 20, 2018, the City Council approved the Franklin Avenue Rezoning (ULURP Nos 180347ZMK and N180348ZRK). This project resulted in the rezoning of portions of Blocks 1188, 1189, and 1190 from R6A, R6A with a C1-3 overlay and R8A zoning districts to an R8X district and R8X with a C2-4 overlay. The rezoning area was generally bounded by Franklin Avenue to the east, Montgomery Street to the south, a point approximately 300 feet west of Franklin Avenue to the west and on the north by a line 131 feet north of, and parallel to, Carroll Street. The following blocks and lots were rezoned: Block 1188: a portion of Lot 35, a portion of Lot 44, and Lots 53, 54, 55, 56, and 58; block 1189: Lots 31 and a portion of 60; Block 1190: a portion of Lot 26, and Lots 28, 29, 45, 46, 48 and 50. The portions of Blocks 1188 and 1190 were designated as MIH areas. The middle blockfront portion of the block bound by Carroll Street, Franklin Avenue and Crown Street (which includes the two-story New York Police Department’s (NYPD’s) Transit District 32 facility at 960 Carroll Street (Lot 31) and Tivoli Towers at 49 Crown Street (Lot 60)) was not designated as an MIH area. Combined, approximately 518 total dwelling units (140 affordable pursuant to the MIH program), approximately 16,284 gsf of local retail, and 151 parking spaces were proposed by the applicant for the rezoning with an anticipated occupancy in 2021. Additionally, one projected development site was identified in the EAS at 882-886 Franklin Avenue (Block 1188, Lots 53, 54, and 55) that may be developed as a consequence of the rezoning with approximately 46,500 gsf, including 47 new dwelling units, of which there would be 12 affordable units, and approximately 7,500 sf of local retail with an anticipated occupancy in 2023. The maximum building height within the R8X district is 175 feet, which is the equivalent of a 16-story building.

### **Topography**

The topography of the project site slopes downwards from Montgomery Street toward the southern edge of the property. Existing elevations in the vicinity of the property generally range from approximately 100 feet along Montgomery Street to approximately 88 feet near Franklin Avenue at the southern edge of the property (as measured in North American Vertical Datum of 1988).

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<sup>1</sup> Appendix 2 of the DEIS considers a potential revised No-Action Scenario as a result of the Supreme Court of Kings County, New York's decision to overturn the Franklin Avenue Rezoning (CEQR No. 17DCP067K). The EIS currently incorporates development facilitated by the Franklin Avenue Rezoning in its background analysis. The Appendix outlines how each technical area analyzed in the EIS would be affected if the decision in the Franklin Avenue lawsuit stands and the sites included in the Franklin Avenue Rezoning would be developed under their prior as-of-right R6A zoning.



## Neighborhood Context

The Project Area is located in the Crown Heights neighborhood of Brooklyn. Nearby neighborhoods include Prospect-Lefferts Gardens and Prospect Heights, and the Project Area is also located just east of Prospect Park and the Brooklyn Botanic Garden. During the past several years, the neighborhood has experienced considerable residential growth. The secondary study area, located within a radius of approximately a quarter-mile of the Project Area, is primarily residential and institutional, but also accommodates some commercial/office space, transportation uses, open space resources, and vacant land.

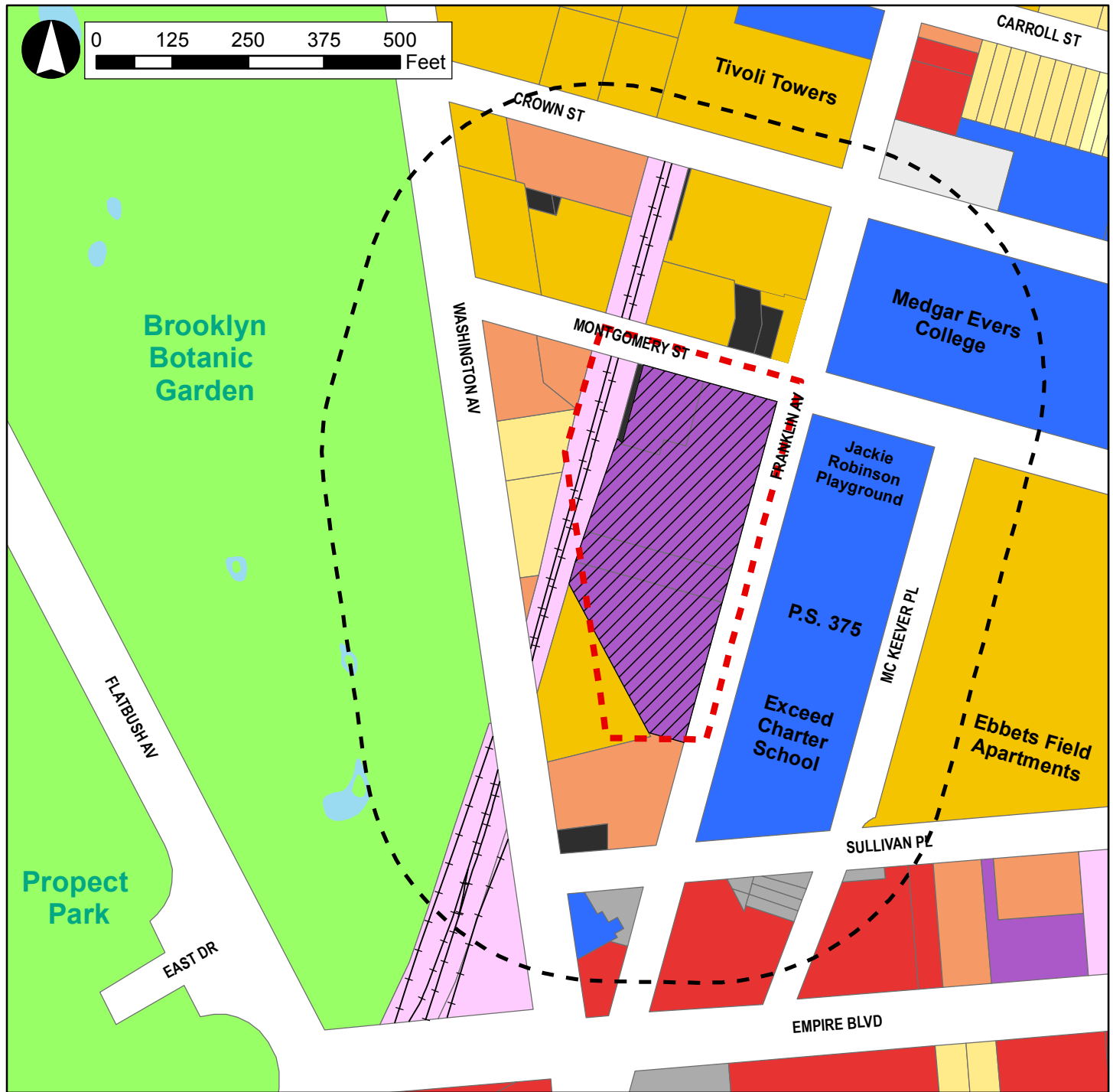
Approximately 19.5 percent of the lot area and 19.9 percent of the buildings in the quarter-mile study area is comprised of public facilities and institutions. P.S. 241 Emma L. Johnston (976 President Street), P.S. 375 Jackie Robinson School/M.S. 352 Ebbets Field (46 McKeever Place) and the City University of New York's (CUNY's) Medgar Evers College campus (1637 Bedford Avenue) are located within a quarter-mile of the Project Area (see **Figure 34, "Land Use Map"**).

Additionally, several religious institutions are located within an approximate quarter-mile radius of the Project Area. The Full Gospel Assembly Pentecostal Church (836 Franklin Avenue) is located four blocks north of the Project Area. The Ebenezer Haitian Baptist Church (1594 Bedford Avenue), the Kingdom Hall of Jehovah's Witnesses (1032 Carroll Street), and the Full Gospel Assembly of God (131 Sullivan Place) are located in the eastern section of the secondary study area. Grace Reformed Church (1800 Bedford Avenue) and the Gospel Truth Church of God (1055 Washington Avenue) are located in the quarter-mile study area to the south of the Project Area.

Additional institutions in the quarter-mile study area include the Brooklyn Museum (200 Eastern Parkway) at the northwestern limits of the study area; the Five Block Day Care Center (955 Carroll Street) to the east of the Project Area; and, the Institute for Community Living Inc. (516 Flatbush Avenue), a 20-bed congregate community residence for individuals who are diagnosed with co-occurring psychiatric and substance abuse disorders is located at the southern limits of the study area. The Bedford-Union Armory (1555 Bedford Avenue) is located just beyond the limits of the quarter-mile study area boundary to the northeast of the Project Area.

There are also several large open space resources within the secondary study area. A portion of Prospect Park, including the Prospect Park Zoo (450 Flatbush Avenue), is located in the southwestern section of the quarter-mile study area. A majority of the Brooklyn Botanic Garden, including the Science Center (109 Montgomery Street), is also located within the quarter-mile study area, to the west of the Project Area. To the northwest of the Project Area is the 1.36-acre Dr. Ronald McNair Park, bounded by Eastern Parkway, Classon Avenue, and Washington Avenue.

The residential buildings in the area surrounding the Project Area vary greatly, ranging in height and density from two-story, semi-detached houses, to six-story apartment buildings, to the seven 25-story Ebbets Field Houses apartment buildings containing approximately 1,300 dwelling units at 1720 Bedford Avenue in the eastern portion of the study area. Tivoli Towers, located at the northern limits of the study area, is a Mitchell-Lama residential complex built in the 1970s, consisting of 33 stories (297~~315~~<sup>315</sup> feet high) and approximately 321 dwelling units. Building permits were approved in April 2018 for a 12-story residential building with 163 residential units to be constructed at 111 Montgomery Street (Block 1190, Lot 61), which is located between Washington Avenue and Franklin Avenue. Building occupancy is anticipated in 2020.



## Legend

	Project Area		Multi-Family Walkup Buildings		Public Facilities & Institutions
	Development Site		Multi-Family Elevator Buildings		Open Space
	400-Foot Radius		Mixed Commercial/Residential Buildings		Parking Facilities
	Visible Subway Tracks		Commercial/Office Buildings		Vacant Land
<b>Land Use</b>			Industrial/Manufacturing		All Others or No Data
	One & Two Family Buildings		Transportation/Utility		

Portions of Blocks 1188, 1189, and 1190 were recently rezoned from R6A, R6A with a C1-3 overlay and R8A zoning districts to an R8X district and R8X with a C2-4 overlay in conjunction with the Franklin Avenue Rezoning EAS (CEQR #17DCP067K). The rezoning area was generally bounded by Franklin Avenue to the east, Montgomery Street to the south, a point approximately 300 feet west of Franklin Avenue to the west and on the north by a line 131 feet north of, and parallel to, Carroll Street. The following blocks and lots were rezoned: Block 1188: a portion of Lot 35, a portion of Lot 44, and Lots 53, 54, 55, 56, and 58; Block 1189: Lots 31 and a portion of 60; Block 1190: a portion of Lot 26, and Lots 28, 29, 45, 46, 48 and 50. The portions of Blocks 1188 and 1190 were designated as Mandatory Inclusionary Housing (MIH) areas. The middle blockfront portion of the block bound by Carroll Street, Franklin Avenue and Crown Street (which includes the two-story New York Police Department's (NYPD's) Transit District 32 facility at 960 Carroll Street (Lot 31) and Tivoli Towers at 49 Crown Street (Lot 60)) was not designated as an MIH area. Combined, approximately 518 total dwelling units (140 affordable pursuant to the MIH program), approximately 16,284 gsf of local retail, and 151 parking spaces were proposed by the applicant for the rezoning with an anticipated occupancy in 2021. Additionally, one projected development site was identified in the EAS at 882-886 Franklin Avenue (Block 1188, Lots 53, 54, and 55) that may be developed with approximately 46,500 gsf, including 47 new dwelling units, of which there would be 12 affordable units, and approximately 7,500 sf of local retail with an anticipated occupancy in 2023. The maximum building height is 175 feet in 16 stories.

## **Description of the Proposed Actions**

The Proposed Actions include a zoning map amendment, zoning text amendment, a Large-Scale General Development (LSGD) Special Permit, and a special permit to reduce the required parking for market-rate dwelling units. In addition, approval of financing for the construction of affordable housing may also be sought. These actions are detailed below.

### ***Zoning Map Amendment***

The proposed zoning map amendment, which would rezone the Project Area from R6A to R9D with a C2-4 commercial overlay mapped within 100 feet of Franklin Avenue, would increase the permitted FAR in the Project Area (see **Figure 23** for boundaries of the Project Area), allowing for development of more residential and commercial uses than could be provided under existing conditions. As shown in **Figure 23**, the northern boundary of the Project Area would extend along Montgomery Street approximately 300 feet west of the centerline of Franklin Avenue to the right-of-way of the Franklin Avenue shuttle to the western side of the right-of-way. The eastern boundary would extend along Franklin Avenue from Montgomery Street to a point approximately 150 feet north of Sullivan Place. The southern boundary of the Project Area would extend west from Franklin Avenue in a line that runs parallel to and approximately 150 feet north of Sullivan Place to a point approximately 100 feet east of Washington Avenue. The western boundary of the Project Area would run parallel to and 100 feet east of Washington Avenue from a point approximately 150 feet north of the Sullivan Place centerline to a point approximately 300 feet west of Franklin Avenue and would then extend to the centerline of Montgomery Street.

The proposed R9D/C2-4 zoning district would allow for the development of a wider range of uses at higher densities and would create opportunities for a more vibrant, mixed-use community, while local retail uses where such uses are not currently permitted, while also maximizing space for affordable housing units. Within an R9D/C2-4 district, residential and community facility uses would be subject to the bulk controls of an R9D district and commercial uses would be subject to the bulk controls of a C2-4 district.

### **Zoning Text Amendment**

A zoning text amendment to Section 23-90 (Appendix F) of the ZR is being sought in order to establish the entirety of the proposed rezoning area as a MIH area. ~~As the Proposed Actions would create opportunities for significant new housing development, the mapping of an MIH area is required as a condition of approval for the proposed LSGD Special Permit (described below).~~ The proposed zoning text amendment, which would designate the Project Area as a MIH area, would require the construction of affordable residential units on the Applicant-owned and controlled Development Site, including permanently affordable housing through the City's MIH program. The City's MIH program specifies that an applicant can choose between Option 1, which requires that 25 percent of the housing must be affordable to households making 60 percent of the AMI for a household of three, and Option 2, which requires that 30 percent of the housing must be affordable to households making 80 percent of AMI for a household of three. ~~The Proposed Development would exceed the MIH requirement and provide 50 percent affordable dwelling units and 50 percent market-rate dwelling units (789 affordable dwelling units and 789 market-rate dwelling units).~~ As proposed, the project comprises two predominantly residential buildings containing approximately 1,578 apartments, 50 percent affordable, for a total of 789 affordable apartments, in excess of MIH requirements. Of the 50 percent affordable apartments, 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH option 2), 20 percent would accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would accommodate families at or below 120 percent AMI (158 units). The number of affordable units in excess of the minimum required through the city's MIH program, if granted the density for affordability requested (9.7 FAR), would be mandated through an agreement with HPD. The Applicant anticipates that 30 percent of the total units would be set aside pursuant to Option 2 of the City's MIH program (474 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 percent of the dwelling units (315 dwelling units) as affordable housing, to provide a combined total of 50 percent (789 units) affordable and workforce housing.

Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (474 units, consistent with and exceeding MIH Option 2), 20 percent would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 100 percent AMI (157 units), and 20 percent of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 120 percent AMI (158 units), as shown in Table 1.

The number of units combined with this income targeted mix allows for the Applicant to address the need for affordable housing at all levels as identified in the Statement of Needs of Community District 9. The units provided beyond the required MIH requirements are anticipated to be bound to affordability through a restrictive declaration recorded against the property or through a regulatory agreement with HPD or other governmental agency.

### **Large-Scale General Development (LSGD) Special Permit**

The requested LSGD special permit would allow for greater flexibility in site design, particularly the location of buildings on the Development Site without regard to applicable height and setback regulations, the distance between buildings, and yard regulations. Proposed open space areas also would be shown on the site plan for illustrative purposes. The proposed LSGD special permit would serve to promote better

site planning and urban design on the Development Site. For example, in order to create appropriate street frontage, street walls would be maintained to a contextual height on Franklin Avenue and Montgomery Street, and sidewalk level retail would activate the sidewalks. Specifically, a waiver is being sought for the base height at Phase II to go to 95 feet for alignment with the building bulk that would be permitted in the adjacent R8X zoning district to the north. The proposed massing would step upward from the lower street walls to introduce more height in the middle of the site, where it would be further removed from the street level experience. An internal roadway is proposed to open the middle of the site for internal site circulation within an active entrance court and off the adjacent streets. The LSGD special permit would be required to waive certain tower coverage requirements in R9D districts per ZR section 23-663(b) (minimum lot coverage and minimum lot area under Tower Regulations) to permit minimum area of lot coverage of 11.4 percent when 33 percent would be required per zoning. Additionally, a modification of ZR section 23-663(c) (tower coverage regulation for the highest four stories of the tower under Tower Regulations) is requested to permit 100 percent tower coverage for the highest four stories of the building instead of the 50 to 80 percent coverage permitted under zoning. These waivers are requested to allow slender, uniform towers.

#### **~~Large-Scale General Development (LSGD) Special Permit~~**

~~A LSGD Special Permit is being sought in order to allow the location of buildings without regard to applicable height and setback, distance between building, and yard regulations, and to waive certain tower coverage requirements. The proposed LSGD Special Permit would allow greater design flexibility for the purpose of better site planning and urban design. LSGDs are typically located in medium- or high-density commercial or manufacturing districts and uses in an LSGD must adhere to the underlying zoning district. The waivers granted under the LSGD Special Permit would result in a better site plan and relationships among buildings and open areas to adjacent streets, surrounding development, and adjacent open areas that would not be possible without such modification. Upon approval, the Applicant would enter into a RD, a legally binding mechanism tied to the project site that governs the provisions of the LSGD.~~

Upon approval, the Applicant would enter into a RD, a legally binding mechanism tied to the project site that governs the provisions of the LSGD. This would ensure that the Proposed Development is the RWCDs in terms of building envelope, floor area, and parking.

#### ***Special Permit to Reduce Required Parking***

A special permit would be required pursuant to ZR section 74-533 to waive the parking requirements per ZR section 25-23. ~~Parking~~The requested parking reduction would facilitate the development of additional affordable housing in a development site located within a transit zone. Under the proposed zoning district, parking be required for 40 percent of the non-income restricted units, with a total of approximately 462442 required parking spaces. Approximately 180 parking spacesParking for approximately 16 percent of all market-rate DUs are proposed. As such, 282314 parking spaces would be waived by the requested special permit. It should be noted that no parking would be required for the income-restricted units under MIH zoning.

#### ***Public Financing***

~~In addition to the actions described above, financing from city, state, and/or federal sources may be sought. At the city level, funding may be requested in the form of tax exempt bonds from HDC and HPD under the ELLA financing programs. Funding sources at the state level may include the New York State HCR. Federal sources of funding may include the United States Department of HUD financing programs,~~

allocated by HPD, as well as NMTC transactions, or other governmental or private sources.

### **Purpose and Need for the Proposed Actions**

The proposed zoning map amendment, which would rezone the area from R6A to R9D with a C2-4 overlay mapped within 100 feet of Franklin Avenue, combined with the text amendment and other requested discretionary actions described above, would facilitate the Proposed Development by increasing the permitted FAR in the Project Area, allowing for the development of more residential space, including approximately 789 units of affordable housing, including 30 percent (473~~474~~) units) of the total units that would be permanently affordable housing through the City's MIH program. ~~The remaining 20 percent of the proposed affordable housing would be~~ The units provided beyond the required MIH requirements are anticipated to be bound to affordability through a restrictive declaration recorded against the property or through a regulatory agreement with HPD or other governmental agency. The proposed rezoning would also allow for the introduction of new local retail uses within 100 feet of Franklin Avenue.

The proposed zoning text amendment, which would designate the Project Area as a MIH area, would require the construction of affordable dwelling units on the Applicant-owned Development Site. As described above, the MIH program has two options for applicants to select from, which provide either 25 or 30 percent of the total residential units be made permanently affordable. The Applicant's proposal to construct a development that is comprised of 50 percent affordable dwelling units (including 30 percent permanently affordable through the City's MIH program and 20 percent through ~~an agreement with HPD~~ the Applicant's intent) and 50 percent market-rate rental units (789 affordable units and 789 market-rate units) would surpass the City's existing affordability requirements as a result of the City approval of a high-density zoning district on the project site. The creation of new affordable housing would help to address affordable housing goals set forth by the City in Housing New York: A Five-Borough, Ten-Year Plan. Further, the 789 units of affordable housing would help to meet the stated goal of Brooklyn Community District 9 in the fiscal year 2019 Statement of Community District Needs and Community Board Budget Requests to address the critical need for affordable housing.

~~The proposed development~~ Proposed Development would be constructed on private land in close proximity to public transportation. The inclusion of the proposed C2-4 commercial overlay would extend the existing commercial corridor further south along Franklin Avenue. As a result, it is anticipated that pedestrian activity of the surrounding Crown Heights neighborhood would be drawn south along Franklin Avenue into the Project Area.

~~It is anticipated~~ The Applicant anticipates that all of the proposed residences would be rented quickly due to high demand for affordable and market-rate dwelling units, especially in light of the fact that this area is well-served by public transit, with easy access to Downtown Brooklyn and Manhattan. Douglas Elliman prepared a demographic market study and found that between 2010 – 2017 New York City's population grew by 450,000 residents, with 144,000 new residents in Brooklyn. The average person per unit in NYC is 1.85 persons per unit. To meet this demand, Brooklyn would have needed to add 72,000 new units from 2010 – 2017, however only 23,000 new units were added in this time. Additionally, there are only approximately 14,000 additional units in the pipeline between 2018 and 2022. Of these 14,000 units, Douglas Elliman roughly estimates that close to 75 percent of them will be located north of Eastern Parkway and priced at \$65 per sq ft or more. The estimated pricing for the Proposed Development is anticipated to be in the \$50-\$51/ per sq ft range. Therefore, the Proposed Development is anticipated to satisfy existing demand for affordable and market-rate units.

~~There~~The Applicant believes that there is precedent for the proposed ~~density~~ maximum building height and ~~scale~~ in the immediate vicinity of the Project Area, with the 33-story Tivoli Towers residential development located two blocks to the north of the Project Area, and the 25-story Ebbets Field residential development located two blocks to the east of the Project Area. Tivoli Towers, built in 1979, contain approximately 321 dwelling units, while Ebbets Field Apartments, constructed in 1962, contain approximately 1,300 dwelling units.

Further, as described above, the Project Area is currently undergoing a transformation; several new mid-rise residential developments are nearing completion or are planned in the immediate vicinity of the Project Area. A 12-story building is being constructed on an as-of-right basis pursuant to the site's existing R8A zoning at 109-111 Montgomery Street between Washington Avenue and Franklin Avenue, with occupancy anticipated in 2020. Finally, the Franklin Avenue Rezoning EAS (CEQR No. 17DCP067K, ULURP No. C180347ZMK, N180348ZRK) was recently approved (a revised negative declaration was issued by the Department of City Planning on June 11, 2018 and the application was approved on October 31, 2018) and resulted in the rezoning of the area immediately north of the Development Site to an R8X zoning district and R8X with a C2-4 overlay, which permits buildings up to 16 stories tall or 175 feet with a qualifying ground floor. As a result of this recent rezoning, two 16-story buildings are expected to be constructed and occupied with new market-rate and affordable apartments and 16,284 gsf of local retail by 2021.

### **Description of the Proposed ~~Project~~Development**

For analysis purposes, it is anticipated that the Proposed Actions would facilitate the development of a two tower, approximately 1,369,314 gsf (1,151,671 zsf) mixed-use residential/commercial/community facility development (see **Table 3, Figure 45, "Illustrative With-Action Condition Site Plan"** and **Figure 56, "Illustrative Views of the Proposed Development"**). The Proposed Development would comprise approximately 1,263,039 gsf of residential uses, introducing a total of approximately 1,578 dwelling units, of which 50 percent (789 dwelling units) would be affordable units through a combination of the City's MIH program requirements (assuming 30 percent requirement under the City's MIH Option 2 and an additional 20 percent affordable that the Applicant intends to construct in coordination with HPD) and 50 percent (789 dwelling units) would be market-rate units. It is anticipated that 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH option 2), 20 percent would accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would accommodate families at or below 120 percent AMI (158 units). The number of affordable units, if granted the density for affordability requested (9.7 FAR), would be mandated through an agreement with HPD.

The Applicant anticipates that 30 percent of the total units would be set aside pursuant to Option 2 of the City's MIH program (474 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 percent of the dwelling units (315 dwelling units) as affordable housing, to provide a combined total of 50 percent (789 units) affordable and workforce housing.

Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (474 units, consistent with and exceeding MIH Option 2), 20 percent would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 100 percent AMI (158 units), and 20 percent of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families

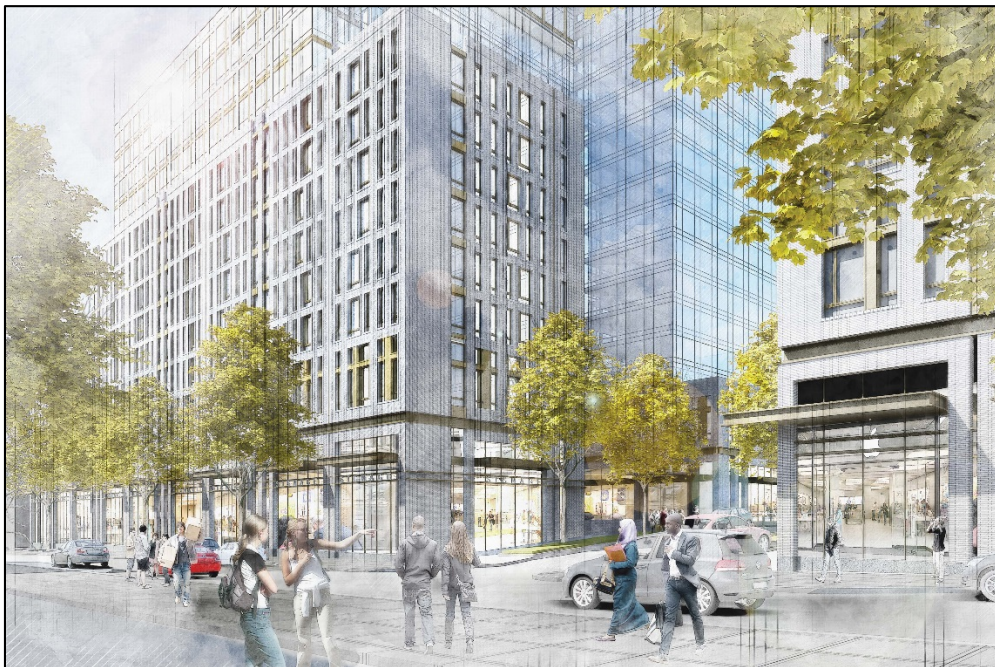
**Figure 5**  
**Illustrative With-Action Condition Site Plan**







1. Illustrative view of the Proposed Development from the parking lot located at the northeast corner of Montgomery Street and Franklin Avenue.



2. Illustrative pedestrian-level view of the Proposed Development from the southeast corner of Montgomery Street and Franklin Avenue.

at or below 120 percent AMI (157 units), as shown in **Table 1**.

In addition to the residential component, approximately 21,183 gsf of local retail space and approximately 9,678 gsf of community facility space would be provided. Parking for approximately 16 percent of all market-rate DUs

~~In addition to the residential component, approximately 21,183 gsf of local retail space and approximately 9,678 gsf of community facility space would be provided. Approximately 180 parking spaces would be allocated in two separate parking garages on the ground- and cellar-levels of the Proposed Development. The accessory parking garages would be accessed via a curb cut on Franklin Avenue, and a curb cut located on Montgomery Street. Additionally, secondary access into the parking garages would be provided via the proposed internal private roadway, which would have a driveway located between the two proposed buildings.~~

The Proposed Development would be constructed in two consecutive phases. During the first phase, a 39-story, approximately 421-foot tall tower (excludes the 40-foot mechanical bulkhead) would be constructed on the southern portion of the Development Site (lots 63 and 66). The phase I tower would have a six-story street wall for approximately 65 feet, five-inches along Franklin Avenue at the southern end of the site, which would step up to a seven-story street wall for approximately ~~220~~225 feet to the north along Franklin Avenue. The building would be set back 15 feet before rising up to 17 stories, and then another ~~155~~ feet before rising to 34 stories and would then set back approximately ~~80~~85 feet to the 39-story portion of the building. The first phase of the Proposed Development would comprise approximately 705,652 gsf with approximately 810 dwelling units, including approximately 405 affordable units, approximately 9,641 gsf of local retail uses, and approximately ~~113~~67 parking spaces.

In the second phase, a 39-story, approximately 424-foot tall tower (excludes the 40-foot mechanical bulkhead) would be constructed on the northern portion of the Development Site (lots 41 and 46). The phase II tower would have a six-story street wall for approximately ~~217~~222 feet, three-inches along Franklin Avenue and approximately ~~195~~225 feet along Montgomery Street. The building would be set back 15 feet from Franklin Avenue and Montgomery Street before rising up to 17 stories. The building would be set back 15 feet from Franklin Avenue and Montgomery Street before rising up to 17 stories. There would be another setback of ~~95~~90 feet on the Franklin Avenue frontage and approximately 22--feet 3--inches on the Montgomery Street frontage before rising to 31 stories. The building would then step back another 15 feet from Franklin Avenue and another ~~70~~65 feet from Montgomery Street before rising to 39 stories. The second phase of the Proposed Development would comprise approximately 663,662 gsf with approximately 768 dwelling units, 11,542 gsf of local retail uses, approximately 9,678 gsf of community facility space and approximately ~~67~~61 accessory parking spaces.

Approximately 50,258 sf of open space areas would be provided, including approximately 24,959 sf of roof garden terrace areas, approximately ~~17,959~~10,790 sf of open plaza along the interior roadway, and approximately 7,340 sf of at-grade landscaped area along the western property line that would likely serve as a buffer between the proposed development and the subway right-of-way. It is anticipated that only the ~~17,959~~10,790 sf of open plaza areas along the proposed interior roadway would be accessible to the public between dawn and dusk. The balance of the open space areas would be private open spaces for use by building residents. As design of the open space areas has not been completed at this time, potential future amenities are not yet known.

As described above, approximately 75,414 gsf (parking for approximately 16 percent of all market-rate units) would be allocated for parking on the ground- and cellar-levels of the Proposed

Development. The accessory parking garages would be accessed via a curb cut on Franklin Avenue, and a curb cut located on Montgomery Street. Additionally, secondary access into the parking garages would be provided via the proposed internal roadway, which would have a driveway located between the two proposed buildings.

**TABLE 23****Proposed Development Program**

	Total Area		Residential GSF	Dwelling Units			Commercial GSF	Community Facility GSF	Accessory Parking	Building Stories	Building Height <sup>2</sup>
	GSF	ZSF		Market-Rate	Affordable MIH <sup>1</sup>	Additional Applicant-Proposed					
Phase I	705,652	587,385	648,520	405	405 <sup>2</sup> 37	158	9,641	0	113 <sup>67</sup>	39	421
Phase II	663,662	564,286	614,519	384	384 <sup>2</sup> 36	157	11,542	9,678	67 <sup>61</sup>	39	424
Total	1,369,314	1,151,671	1,263,039	789	789 <sup>4</sup> 74	315	21,183	9,678	180		

**Notes:**

<sup>1</sup> For analysis purposes, MIH Option 2 (30 percent of the total DU count designated as affordable housing) is assumed.

<sup>2</sup> The maximum building height does not include the 40-foot bulkhead allowance that is being provided for each building. However, the bulkhead is analyzed in the relevant technical areas, including the shadows assessment.

**Construction Phasing**

The Proposed Development would occur be constructed in two consecutive phases and would commence as soon as all necessary public approvals are granted. Phase I demolition is projected to commence October by first quarter 2021 regardless of 2019 and is completed by the end Proposed Actions to accommodate either the as-of-December 2019 (3 Months)-right development pursuant to the site's existing R6A zoning, or to accommodate the Proposed Development. Phase I excavation and foundation is projected to commence January 2020 and is on an as-of-right basis in first quarter 2021 and be completed by the end of May 2020 (5 Months)-late in third quarter 2021 (seven months). Phase I construction is projected to commence June 2020third quarter 2021 and is completed by the end of December 2022early 2023 (30 Months). Marketing of Phase I units is projected to commence four months prior to completion of phase I buildings.months).

Phase II demolition is projected to commence April of 2020 and is completed by the end of December 2020 (nine months)-fourth quarter 2021. Phase II excavation and foundation is projected to commence January 2021first quarter 2022 and is completed by the end of September 2021fourth quarter 2022 (nine months). Phase II construction is projected to commence October 2021during fourth quarter 2022 and is anticipated to be completed by the end of April during fourth quarter 2024 (30 months). Marketing of Phase II units is projected to commence four months prior to completion of Phase II buildings.32 months).

**D. ANALYSIS FRAMEWORK FOR ENVIRONMENTAL REVIEW**

The Proposed Actions would change the regulatory controls governing land use and development at the

Development Site. The ~~2014~~2020 *CEQR Technical Manual* will serve as the general guide on the methodologies and impact criteria for evaluating the Proposed Development's potential effects on the various environmental areas of analysis.

### Analysis Year

Construction of the Proposed Development would occur over an approximately five-year period with an anticipated start date in ~~2019~~2021 with all components complete and fully operational by the end of 2024. Accordingly, the Proposed Development will use a 2024 Build Year for analysis purposes. As the Proposed Development would be operational in 2024, its environmental setting is not the current environment, but the future environment. Therefore, the technical analyses and consideration of alternatives assess current conditions and forecast these conditions to the expected 2024 Build Year for the purposes of determining potential impacts. Each chapter of the EIS will provide a description of the "Existing Condition" and assessment of future conditions without the Proposed Development ("Future without the Proposed Actions") and with the Proposed Development ("Future with the Proposed Actions").

### Reasonable Worst-Case Development Scenario (RWCDs)

In order to assess the possible effects of the Proposed Actions, a reasonable worst-case development scenario (RWCDs) for the project site was established for both Future No-Action and Future With-Action conditions. The incremental difference between the future No-Action and future With-Action conditions will serve as the basis of the impact category analyses in the EIS. The requested LSGD Special Permit would require the submission of drawings to the City Planning Commission and would require that the proposed development program be within the scope of the RWCDs analyzed in the EIS. Furthermore, upon approval of the LSGD Special Permit, the Applicant would enter into a RD, a legally binding mechanism tied to the project site that governs the provisions of the LSGD: and would cap the available FAR at 9.7 rather than the 10.0 FAR that would typically be available in an R9D zoning district. Therefore, the Proposed Development would represent the upper limits of potential development and the impact of the Proposed Actions would be no worse than those considered in the EIS.

Additionally, the proposed rezoning area follows the City's existing zoning district boundaries. The existing zoning district boundaries create split lot conditions for the following tax lots: Lot 1, Lot 41, Lot 63, Lot 66, Lot 77, and Lot 85. As shown in Table 2, the vast majority of the Development Site is located within the boundaries of the existing R6A/proposed R9D zoning district (100 percent of Lots 41 and 46, 99 percent of Lot 63, and 96 percent of Lot 66).

As described below, the Proposed Actions would not be expected to result in new development on Lots 1, 40, 77 or 85:

Lot 1 contains the MTA's Franklin Avenue subway shuttle right-of-way, an open-cut subway line that transects Block 1192 from Montgomery Street to Washington Avenue. As this tax lot is owned by the MTA, it would require additional discretionary approvals to allow for the disposition of City property in order to be redeveloped or to transfer or sell the development rights from this property to an adjacent property. As such, since any development of this area or sale transfer of development rights to another adjacent property would require its own environmental reviews and approvals, Lot 1 is unlikely to be developed on an as-of-right basis as a consequence of the Proposed Actions. Therefore, it would not be considered a projected development site pursuant to CEQR Technical Manual guidance.

122A Montgomery Street (Lot 40) is a 1,282 sf (10 feet wide by 128 feet deep) rectangular property that is located within the Project Area. At 10 feet wide, it does not meet the minimum residential lot width requirements of ZR Section 23-32, "Minimum Lot Area or Lot Width for Residences." Additionally, it is not considered a possible development site due to the extensive structural shoring that would have to be installed along the western edge of the narrow property within the property lines in order to develop the site due to its proximity to the adjacent MTA subway cut.

1015 Washington Avenue (Lot 77) is a 28,432 sf trapezoidal property partially located within the Project Area. Lot 77 is occupied by a six-story, 99,750 gsf multi-family residential building, which represents a built FAR of 3.34. The current residential building contains 90 dwelling units constructed before 1974. Although Lot 77 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as a consequence of the Proposed Actions since only a small portion (24.4 percent) of the site would be rezoned from R6A to R9D as a consequence of the Proposed Actions, with the remainder of the lot remaining R8A. The area changed is in the rear of the lot with no street frontage, so the rear yard requirement would prohibit most of the area to be built upon. Per ZR 77-22, a blended portion of the available floor area could be located on the front of the site. Under the current R8A zoning the existing zoning lot has approximately 70,000 sf of unbuilt floor area, but only 26,000 sf could be added as an addition to the existing building and only about 32,000 sf of additional area could be realized as a new build. With the proposed rezoning to R9D, constructing an addition on top of the existing building would allow an increase of the existing building by 31,000 sf (approximately 5,000 sf over the expansion of the existing building that would be permitted under existing zoning) and about 60,000 sf (approximately 28,000 sf more than would be permitted under the R8A zoning) with a complete new build. As this incremental increase in floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish the existing building in order to obtain approximately 28,000 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC Board of Standards and Appeals (BSA) to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.

1035 Washington Avenue (Lot 85) is a 28,437 sf irregularly shaped property partially located within the Project Area. Lot 85 is occupied by a six-story, 123,113 gsf multi-family residential building which represents a built FAR of 4.12. The current residential building contains 97 dwelling units constructed before 1974. Although lot 85 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as only a small portion (0.6 percent) of the site would be rezoned as a consequence of the Proposed Actions. The area that would be rezoned as a consequence of the Proposed Actions is on the side lot line along Franklin Avenue. Per ZR 77-22, a blended portion of the available floor area created by the portion of the lot located in the proposed R9D zoning district could be used in the portion of the lot that lies within the R8A zoning district. Under the current R8A zoning, the existing building shape makes the construction of an addition impossible due to the required rear yard equivalent to be mapped at the middle of the site. Under the current zoning, approximately 47,700 sf additional floor area could be obtained by demolishing the existing building and constructing a new building to maximize the FAR available under the existing R8A zoning. Under the proposed rezoning, approximately 17,600 sf of additional floor area would be available from the portion of the lot that would be rezoned to R9D. When added to the 47,700 sf of additional floor area that is available on the site with the underbuilt condition, a total of 65,300 sf of additional floor area could be created on the site. As this incremental increase in floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish



the existing building in order to obtain approximately 17,600 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC BSA to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.

Therefore, the proposed rezoning would not create a substantial amount of new usable floor area for any of the other lots outside of the Proposed Development site that would be partially, or completely, rezoned as a consequence of the Proposed Actions. As such, there would be no new off-site development within the Project Area that would be expected to occur due to the proposed rezoning and the RWCDs would be comprised of only the Proposed Development.

### ***The Future Without the Proposed Actions (No-Action)***

It is anticipated that an as-of-right residential development would be constructed on the Development Site (~~lots~~ Lots 41, 46, 63 and 66) in two phases pursuant to the existing R6A zoning under future No-Action conditions. The R6A zoning district permits 3.0 FAR with a maximum base height of 60 feet and a maximum building height of 70 feet. The No-Action development would include a total of approximately 414,607 gsf (approximately 356,190 zsf) of residential uses with approximately 518 market rate condominiums (assuming an average dwelling unit size of approximately 800 gsf per unit). Approximately 259 parking spaces would be provided, which is the equivalent of 50 percent of the building's market-rate dwelling units as required by the site's R6A zoning.

All four lots comprising the Development Site are under the control of the Applicant. Lots 63 and 66 are predominantly vacant and would be redeveloped pursuant to the existing R6A zoning. While the Phase II property currently contains the Morris J. Golombek, Inc. Importers spice company operations, the Applicant has an accepted purchase agreement and the spice operations would vacate the property regardless of the Proposed Actions. As such, an as-of-right development would be developed on the Development Site pursuant to the existing R6A zoning under future No-Action conditions.

### ***The Future With the Proposed Actions (With-Action)***

Under the With-Action scenario, two mixed-use buildings would be constructed with a total combined area of approximately 1,369,314 gsf (1,151,671 zsf). The Proposed Development would comprise 1,263,039 gsf of residential uses, introducing a total of 1,578 dwelling units, ~~of which 50 percent or 789 dwelling units would be affordable units and 50 percent or 789 dwelling units would be market rate units.~~ An average unit size of 800 gsf per unit is assumed for all dwelling units. ~~It is anticipated that~~

The Applicant anticipates that 30 percent of the total units would be set aside pursuant to Option 2 of the City's MIH program (474 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 percent of the dwelling units (315 dwelling units) as affordable housing, to provide a combined total of 50 percent (789 units) affordable and workforce housing.

Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (473474 units, consistent with and exceeding MIH ~~option~~ Option 2), 20 percent would be provided by the Applicant in addition to MIH requirements to accommodate families at or below 100 percent AMI (158157 units)), and 20 percent

of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 120 percent AMI (158 units), as shown in Table 1. The units provided in ad the required MIH requirements would be bound to affordability through a restrictive declaration recorded against the property or through a regulatory agreement with HPD or other governmental agency.

In addition to the residential component, approximately 21,183 gsf of local retail space and approximately 9,678 gsf of community facility space would be provided. ). In addition to the residential component, approximately 21,183 gsf of local retail space and approximately 9,678 gsf of community facility space would be provided. For conservative analysis purposes it is assumed that the community facility space would be a medical office; however, it is the Applicant's intent to provide a daycare facility. Approximately 75,414 gsf (approximately 180 parking spaces for 16 percent of all market-rate DUs) would be allocated for parking on the ground- and cellar-levels of the Proposed Development in two separate garages.

Approximately 50,258 sf of open space areas would be provided, including approximately 24,959 sf of roof garden terrace areas, approximately ~~17,959~~10,790 sf of open plaza along the interior roadway, and approximately ~~7,340~~10,790 sf of at-grade landscaped area along the western property line that would likely serve as a buffer between the proposed development and the subway right-of-way. It is anticipated that only the 17,959 sf of open plaza areas along the proposed interior roadway would be accessible to the public ~~between dawn and dusk~~. The balance of the open space areas would be private open spaces for use by building residents. As design of the open space areas has not been completed at this time, potential future amenities are not yet known. The proposed site plan design intends to satisfy the findings of the LSGD special permit related to the creation of a superior site plan by creating a streetwall along Franklin Avenue that is consistent with the existing and anticipated proposed future built conditions to the north and south along Franklin Avenue, by breaking up the proposed massing on the site through the creation of an interior roadway, and by introducing publicly accessible open spaces in the form of plazas and seating around the proposed interior roadway.

The Proposed Development would be constructed in two consecutive phases beginning in ~~October the first quarter of 2019~~2021 and ending in ~~April late-2024~~. During the first phase (beginning in ~~October first quarter of 2019~~2021 and completed by ~~the end of December 2022~~early 2024), a 39-story, approximately 421-foot tall tower (excludes the 40-foot rooftop mechanical bulkhead) would be constructed on the southern portion of the Development Site (~~lots~~Lots 63 and 66). The ~~phase~~Phase I tower would have a ~~6~~six-story street wall for approximately 65-feet, ~~5~~five-inches along Franklin Avenue at the southern end of the site, which would step up to a seven-story street wall for approximately ~~220~~225 feet to the north along Franklin Avenue. The building would be set back 15 feet before rising up to 17 stories, and then another ~~155~~ feet before rising to 34 stories and would then set back approximately ~~80~~85 feet to the 39-story portion of the building. The first phase of the Proposed Development would comprise approximately 705,652 gsf with approximately 810 dwelling units, and approximately 9,641 gsf of local retail uses. Approximately ~~113~~67 parking spaces would be provided in Phase I.

In the second phase (beginning in ~~April first quarter of 2020~~2022 and completed by ~~the end of April late-2024~~), a 39-story, approximately 424-foot tall tower (excludes the 40-foot rooftop mechanical bulkhead) would be constructed on the northern portion of the Development Site (~~lots~~Lots 41 and 46). The ~~phase~~Phase II tower would have a six-story street wall for approximately ~~217~~222 feet, ~~three~~-inches along Franklin Avenue and approximately ~~195~~225 feet along Montgomery Street. The building would be set back 15 feet from Franklin Avenue and Montgomery Street before rising up to 17 stories. There would be another setback of ~~95~~90 feet on the Franklin Avenue frontage before rising to 31 stories and ~~22~~-feet,

three-inches on the Montgomery Street frontage before rising to 31 stories. The building would then step back another 15 feet from Franklin Avenue and another 7065 feet from Montgomery Street before rising to 39 stories. The second phase of the Proposed Development would comprise approximately 663,662 with approximately 768 dwelling units (~~approximately 384 affordable dwelling units~~), 11,542 gsf of local retail uses, and approximately 9,678 gsf of community facility space. Approximately 6761 parking spaces would be provided in Phase II.

### Possible Effects of the Proposed Actions

**Table 34** below provides a comparison of the No-Action and With-Action scenarios identified for analysis purposes of the Proposed Development. As shown, the incremental (net) change that would result from the Proposed Development is the addition of 1,061 affordable dwelling units (848,418 gsf) ~~060 affordable dwelling units (848,418 gsf)~~, including the MIH-required affordable units (either 25 or 30 percent of the total dwelling units) and the additional affordable units that the Applicant intends to provide to reach 50 percent income-targeted affordable dwelling units (848,432 gsf, or 789 total dwelling units), 21,183 gsf of local retail uses, 9,678 gsf of community facility uses, and a net decrease of approximately 79131 ~~79131~~ accessory parking spaces. Based on 2010 census data, Brooklyn Community District 9 has an average of 2.62 persons per household. Using this ratio, and other standard ratios for estimating employment, **Table 34** provides an estimate of the number of residents and workers generated by the Proposed Development.

The AMI breakdown for each building has not been determined at this time.

**TABLE 34**

**Comparison of No-Action and With-Action Development Scenarios**

Use	No-Action Scenario	With-Action Scenario	Increment
Residential			
Market-Rate Dwelling Units	518 (~414,607 gsf)	789 (~631,519.5 gsf)	+271 (216,912.5 gsf)
Affordable Dwelling Units	0	789 (~631,519.5 gsf)	+789 (~631,519.5 gsf)
<u>MIH Option 2 Units</u>	=	<u>474 DU (~378,911.7 gsf)</u>	<u>474 DU (~378,911.7 gsf)</u>
<u>Applicant-Proposed Units</u>	=	<u>315 DU (~252,607.8 gsf)</u>	<u>315 DU (~252,607.8 gsf)</u>
<b>TOTAL</b>	<b>518 (~414,607 gsf)</b>	<b>1,578 (1,263,039 gsf)</b>	<b>1,060 (848,432 gsf)</b>
Local Retail	--	21,183 gsf	+21,183 gsf
Community Facility	--	9,678 gsf	+9,678 gsf
Parking	259 spaces (~90,650 gsf)	<del>180128</del> spaces (75,414 gsf)	<del>-79131</del> spaces (-15,236 gsf)
<b>Population/Employment<sup>1</sup></b>	<b>No-Action Scenario</b>	<b>With-Action Scenario</b>	<b>Increment</b>
Residents	1,358	<u>4,134</u> <del>135</del>	<u>+2,776</u> <del>777</del>
Workers	26	160	+134

**Notes:**

<sup>1</sup> Assumes 2.62 persons per DU (based on 2010 U.S. Census data for Brooklyn Community District 9). Estimate of workers is based on standard rates and are as follows: 1 worker per 25 dwelling units; 3 workers per 1,000 sf retail space; 3 workers per 1,000 sf community facility space; and 1 worker per 50 parking spaces.

## E. PROPOSED SCOPE OF WORK FOR THE DEIS

As the Proposed Actions would affect various areas of environmental concern and was found to have the potential for significant adverse impacts in a number of impact categories, pursuant to the EAS and



Positive Declaration, a DEIS will be prepared for the Proposed Development that will analyze all technical areas of concern.

The DEIS will be prepared in conformance with all applicable laws and regulations, including SEQRA (Article 8 of the New York State Environmental Conservation Law) and its implementing regulations found at 6 NYCRR Part 617, New York City Executive Order No. 91 of 1977, as amended, and the Rules and Procedure for CEQR, found at Title 62, Chapter 5 of the Rules of the City of New York.

The DEIS, following the guidance of the ~~2014~~2020 *CEQR Technical Manual*, will include:

- A description of the Proposed Development and its environmental setting;
- A statement of the environmental impacts of the Proposed Development, including short- and long-term effects and typical associated environmental effects;
- An identification of any adverse environmental effects that cannot be avoided if the Proposed Development is implemented;
- A discussion of reasonable alternatives to the Proposed Development;
- An identification of irreversible and irretrievable commitments of resources that would be involved in the Proposed Development, should it be implemented; and
- A description of mitigation proposed to eliminate or minimize any significant adverse environmental impacts.

Based on the preliminary screening assessments as outlined in the ~~2014~~2020 *CEQR Technical Manual* and detailed in the EAS for the Proposed Actions, with the exception of historic resources, natural resources and solid waste and sanitation services, all of the CEQR technical areas warrant detailed assessment and would therefore be included in the DEIS. The specific technical areas to be included in the DEIS, as well as their respective tasks and methodologies, are described below.

## **TASK 1. PROJECT DESCRIPTION**

The first chapter of the DEIS introduces the reader to the discretionary actions required to facilitate the Proposed Project Development, and sets the context in which to assess impacts. This chapter contains a description of the Proposed Actions, Proposed Project Development, Project Area (including background and/or history); a statement of the purpose and need for the Proposed Actions; key planning considerations that have shaped the current proposal; and discussion of the approvals required, procedures to be followed, and the role of the EIS in the process. In addition, the Project Description chapter will present the planning background and rationale for the actions being proposed and summarize the RWCDs for analysis in the EIS.

This chapter provides a baseline for understanding the Proposed Project Development and its potential for impacts, and gives the public and decision-makers a base from which to evaluate the Proposed Project Development against the future condition absent the project. The section on approval procedures will explain the ULURP process, its timing, and hearings before the Community Board, the Borough President's office, the CPC, and the New York City Council. The role of the EIS as a full-disclosure document to aid in decision-making will be identified and its relationship to ULURP and the public hearings described.

## **TASK 2. LAND USE, ZONING, AND PUBLIC POLICY**

Under CEQR, a land use analysis characterizes the uses and development trends in the area that may be affected by a ~~proposed project~~Proposed Development, describes the public policies that guide development in the area, and determines whether a ~~proposed project~~Proposed Development is compatible with those conditions and consistent with these policies. In addition to considering the Proposed Action's effects in terms of land use compatibility and trends in zoning and public policy, this chapter will also provide a baseline for other analyses.

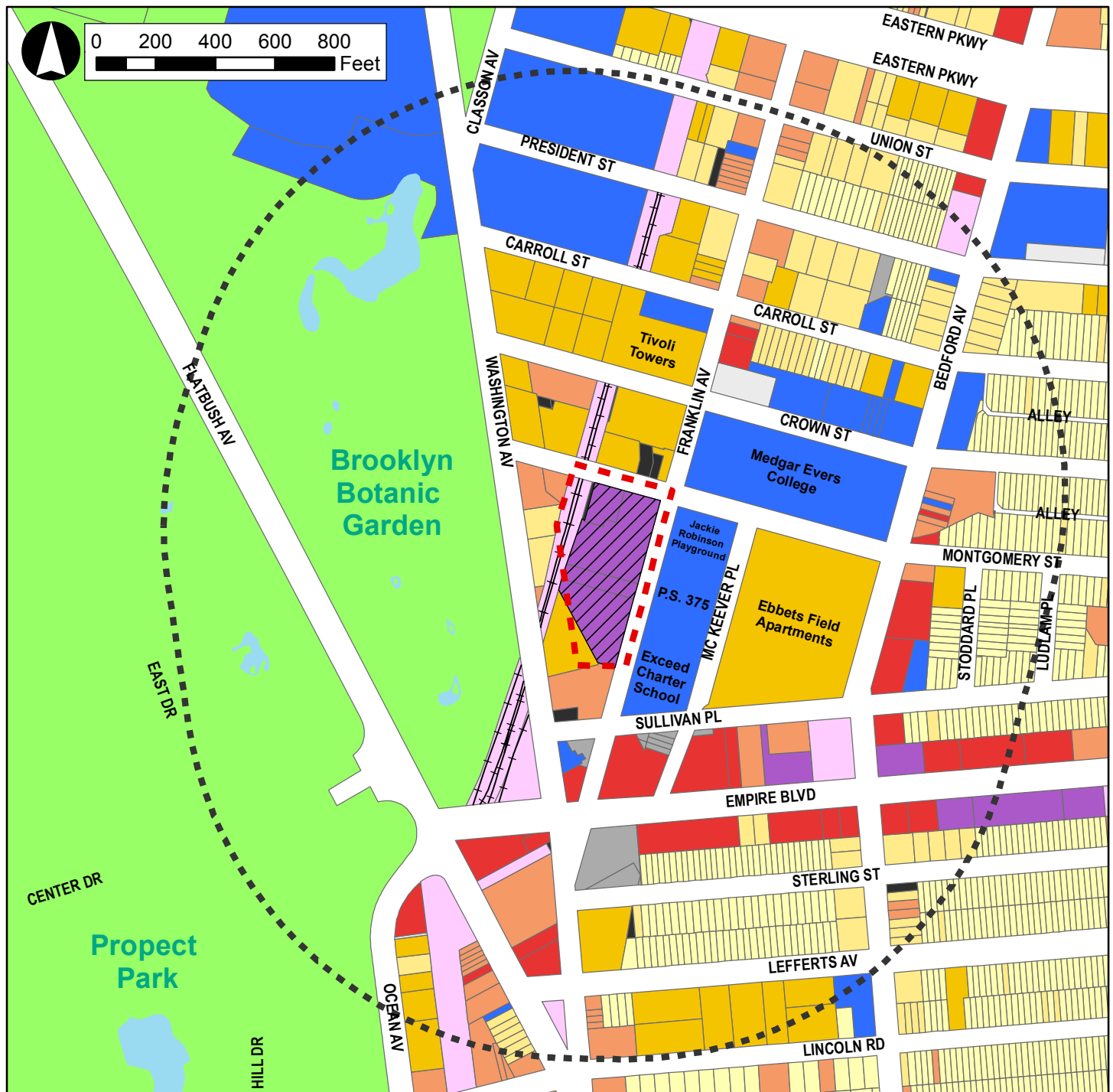
The primary land use study area will consist of the Project Area, where the potential effects of the Proposed Actions would be directly experienced (reflecting the proposed rezoning). The secondary land use study area would include the neighboring areas within a 0.25-mile radius from the Development Site, as shown in **Figure 67**, which could experience indirect impacts. The analysis will include the following subtasks:

- Provide a brief development history of the Project Area and surrounding (secondary) study area.
- Provide a description of land use, zoning, and public policy in the study areas discussed above. Recent trends in the proposed rezoning area will be noted. Other public policies that apply to the study areas will also be described, including Housing New York, and the City's sustainability/PlaNYC/OneNYC policies.
- Based on field surveys and prior studies, identify, describe, and graphically portray predominant land use patterns for the balance of the study areas. Describe recent land use trends in the study areas and identify major factors influencing land use trends.
- Describe and map existing zoning and recent zoning actions in the study areas.
- Prepare a list of future development projects in the study areas that are expected to be constructed by the 2024 analysis year and may influence future land use trends. Also, identify pending zoning actions or other public policy actions that could affect land use patterns and trends in the study areas. Based on these planned projects and initiatives, assess future land use and zoning conditions without the Proposed Actions (No-Action condition).
- Describe the Proposed Actions, including the requested special permit to reduce the amount of required parking, and provide an assessment of the impacts of the Proposed ~~Project~~Development on land use and land use trends, zoning, and public policy. Consider the effects of the Proposed ~~Project~~Development related to issues of compatibility with surrounding land use, consistency with public policy initiatives, and the effect on development trends and conditions in the area.

### **TASK 3. SOCIOECONOMIC CONDITIONS**

The socioeconomic character of an area includes its population, housing, and economic activity. Socioeconomic changes may occur when a project directly or indirectly changes any of these elements. Although socioeconomic changes may not result in impacts under CEQR, they are disclosed if they would affect land use patterns, low-income populations, the availability of goods and services, or economic investment in a way that changes the socioeconomic character of the area. This chapter will assess the Proposed ~~Project's~~Development's potential effects on the socioeconomic character of the study area.

The socioeconomic study area boundaries are dependent on the size and characteristics of the Proposed ~~Project~~Development, pursuant to Section 310 of Chapter 5 of the ~~2014~~2020 *CEQR Technical Manual*. A socioeconomic assessment seeks to assess the potential to change socioeconomic character relative to



## Legend

	Project Area		Multi-Family Walkup Buildings		Public Facilities & Institutions
	Development Site		Multi-Family Elevator Buildings		Open Space
	Quarter-Mile Radius		Mixed Commercial/Residential Buildings		Parking Facilities
	Visible Subway Tracks		Commercial/Office Buildings		Vacant Land
<b>Land Use</b>			Industrial/Manufacturing		All Others or No Data
	One & Two Family Buildings		Transportation/Utility		

the study area population. The Proposed ProjectDevelopment is expected to generate 1,578 dwelling units, with an anticipated net increase of up to 1,060 residential units. For projects or actions that result in an increase in population, the scale of the relative change is typically represented as a percent increase in population (i.e., a project that would result in a relatively large increase in population may be expected to affect a larger study area). Therefore, if the Proposed ProjectDevelopment would increase the population by five percent compared to the expected No-Action population in a quarter-mile (0.25-mile) study area, the socioeconomic study area would be expanded to a half-mile (0.5-mile) radius, consistent with the *CEQR Technical Manual*.

The six principal issues of concern with respect to socioeconomic conditions are whether a proposed action would result in significant adverse impacts due to: (1) direct residential displacement; (2) direct business and institutional displacement; (3) indirect residential displacement; (4) indirect business and institutional displacement due to increased rent; (5) indirect business displacement due to retail market saturation; and (6) adverse effects on specific industries. As detailed below, the Proposed ProjectDevelopment warrants an assessment of socioeconomic conditions with respect to indirect residential displacement. Direct displacement of fewer than 500 residents or of fewer than 100 employees would not typically be expected to alter the socioeconomic characteristics of a neighborhood, according to the *CEQR Technical Manual*. The Proposed ProjectDevelopment would not exceed the *CEQR Technical Manual* analysis thresholds of 500 displaced residents or 100 displaced employees, and therefore, are not expected to result in significant adverse impacts due to direct residential or business/institutional displacement as Golombeck is selling has sold the property and leaving left their current facility by the end of in 2019 irrespective of the Proposed ProjectDevelopment. Furthermore, the remainder of the Development Site is vacant and does not support any active uses.

Per *CEQR Technical Manual* guidelinesguidance, projects resulting in less than 200,000 sf of commercial development would typically not result in significant socioeconomic impacts. The Proposed ProjectDevelopment would result in fewer than 200,000 sf of commercial floor area and therefore, an assessment of potential indirect business displacement is not warranted. In addition, the Proposed ProjectDevelopment does not require changes such as a citywide regulatory change that would adversely affect the economic and operational conditions of certain types of business or processes such that socioeconomic conditions would be affected in the neighborhood. Furthermore, non-residential uses in the Proposed ProjectDevelopment include approximately 21,183 gsf of retail space and approximately 9,678 gsf of community facility space, which is intended to serve a local demand that is unmet. Therefore, based on the type of non-residential uses included in the Proposed ProjectDevelopment, no potential significant adverse impacts on specific industries would be anticipated and no further analysis is warranted.

The Proposed ProjectDevelopment would result in a net increase of more than 200 new residential units, which is the *CEQR Technical Manual* threshold for assessing the potential indirect residential effects of a project. Therefore, an assessment of indirect residential displacement will be provided in the EIS. The assessment of indirect residential displacement will begin with a preliminary assessment to determine whether a detailed analysis is necessary. Detailed analyses will be conducted for those areas in which the preliminary assessment cannot definitively rule out the potential for significant adverse impacts. The detailed assessments will be framed in the context of existing conditions and evaluations of the Future No-Action and With-Action conditions in 2024, including any population changes anticipated to take place by the analysis year of the Proposed ProjectDevelopment.

## Indirect Residential Displacement

Indirect residential displacement is the involuntary displacement of residents that results from a change in socioeconomic conditions created by a ~~proposed project~~Proposed Development. Indirect residential displacement could occur if a ~~proposed project~~Proposed Development either introduces a trend or accelerates a trend of changing socioeconomic conditions that may potentially displace a vulnerable population to the extent that the socioeconomic character of the neighborhood would change. To assess this potential impact, the *CEQR Technical Manual* seeks to answer a series of threshold questions in terms of whether the project substantially alters the demographic character of an area through population change or the introduction of costlier housing.

The indirect residential displacement analysis will use the most recent available U.S. Census data, New York City Department of Finance's Real Property Assessment Data (RPAD) database, as well as current real estate market data, to present demographic and residential market trends and conditions for the study area. The presentation of study area characteristics will include population estimates, housing tenure and vacancy status, median value and rent, estimates of the number of housing units not subject to rent protection, and median household income. The preliminary assessment will carry out the following the step-by-step evaluation:

- Step 1: Determine if the Proposed ~~Project~~Development would add substantial new population with different income as compared with the income of the study area population. If the expected average incomes of the new population would be similar to the average incomes of the study area populations, no further analysis is necessary. If the expected average incomes of the new population would exceed the average incomes of the study area populations, then Step 2 of the analysis will be conducted.
- Step 2: Determine if the Proposed ~~Project's~~Development's population is large enough to affect real estate market conditions in the study area. The *CEQR Technical Manual* defines "large enough" as a population increase of greater than five percent in the study area as a whole, or within any identified subareas. If the population increase may potentially affect real estate market conditions, then Step 3 will be conducted.
- Step 3: Determine whether the study area has already experienced a readily observable trend toward increasing rents and the likely effect of the action on such trends and whether the study area potentially contains a population at risk of indirect displacement resulting from rent increases due to changes in the real estate market caused by the new population.

A detailed analysis would utilize more in-depth demographic analysis and field surveys to characterize existing conditions of residents and housing, identify populations at risk of displacement, assess current and future socioeconomic trends that may affect these populations, and examine the effects of the Proposed ~~Project~~Development on prevailing socioeconomic trends and, thus, impacts on the identified populations at risk.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## TASK 4. COMMUNITY FACILITIES AND SERVICES

The demand for community facilities and services is directly related to the type and size of the new population generated by the development resulting from a ~~proposed project~~Proposed Development. The Proposed ~~Project~~Development would result in the development of an incremental 1,060 residential units

on the Development Site, including 789 affordable units, of which ~~473~~<sup>474</sup> would accommodate households earning up to 80 percent of AMI. According to Table 6-1 of the *CEQR Technical Manual*, this level of development in Brooklyn would trigger a detailed analysis of elementary and intermediate schools, libraries, and child care centers.

The *CEQR Technical Manual* recommends conducting a detailed analysis of public high schools if a proposed action would generate 150 or more high school students. Based on the RWCDs net increment of 1,060 residential units as compared to No-Action conditions, and the CEQR student generation rate of 0.14 high school students per unit in Brooklyn, the Proposed Project Development would generate approximately 148 high school students. As such, a detailed analysis of the Proposed Project's Development's effects on high schools is not warranted.

Additionally, according to the *CEQR Technical Manual*, a detailed analysis of police and fire protection services and health care facilities is required if a proposed action would (a) introduce a sizeable new neighborhood where one has not previously existed, or (b) would displace or alter a hospital or public health clinic, fire protection services facility, or police station. As the Proposed Project Development would not result in any of the above, no significant adverse impacts would be expected to occur, and a detailed analysis of police/fire services and health care facilities is not warranted.

## Public Schools

Per the ~~2014~~<sup>2020</sup> *CEQR Technical Manual*, in Brooklyn, an analysis of public elementary and intermediate schools is warranted when a project introduces more than 121 incremental residential units (that is, units assumed to be inhabited by families with school-aged children, or pupils). Public high school analyses are warranted when a larger increment – 1,068 residential units – is anticipated. These thresholds are informed by Projected Public School Ratios – residential multipliers indicating how many pupils may be generated by new housing.

Recently, new Projected Public School Ratios data was released by the NYC School Construction Authority (SCA) as part of the documents used in drafting the NYC Department of Education (DOE)/SCA FY2020-2024 Capital Plan Proposed November 2018. It utilizes the 2012-2016 American Community Survey – Public Use Microdata Sample and is available at SCA's website under Capital Plan Reports and Data. According to this data, multipliers for Primary and Intermediate Schools have been refined to reflect how many pupils are generated by new housing at the school district level (multipliers for high schools have been maintained at the borough level). As a result, the thresholds for determining when public schools analyses are necessary have changed. For elementary and intermediate schools, in school district 17 in Brooklyn if a project is anticipated to introduce more than 152 incremental residential units, an analysis is warranted. For high schools in Brooklyn the new threshold is 1,767 incremental residential units. The ~~2014~~<sup>2020</sup> *CEQR Technical Manual* ~~has not been updated to reflect these~~<sup>includes new guidance related to the thresholds. However, DCP as lead agency, in consultation with the Mayor's Office of Environmental Coordination (MOEC) has determined that the 2012-2016 American Community Survey – Public Use Microdata Sample data should be utilized as the basis for determining the need for a public schools CEQR analysis, in order to present a reasonable and accurate environmental assessment by school district. These thresholds are determined using the SCA's Projected Public School Ratio.</sup>

The proposed development would introduce a total incremental increase of 1,060 residential units. In light of the newly Projected Public School Ratios, the 1,060 incremental residential units would exceed the threshold for elementary and intermediate school analysis. Therefore, a detailed analysis of elementary and intermediate schools will be provided. The incremental residential units fall below the

thresholds that trigger high school analysis. Therefore, the ~~proposed project~~ Proposed Development does not warrant an analysis of indirect effects on public school capacity related to high schools.

The school analysis will be conducted pursuant to the following methodology:

- The primary study area for the analysis of elementary and intermediate schools should be the “sub-district” of the school district in which the project is located, pursuant to CEQR guidelines. As the Development Site is located wholly within Community School District (CSD) 17, Sub-district 2, the elementary and intermediate school analyses will be conducted for schools in that sub-district (refer to **Figure 7a8a**).
- Public elementary and intermediate schools serving CSD 17, Sub-district 2 will be identified and located. Existing capacity, enrollment, and utilization data for all public elementary and intermediate schools within the affected sub-district will be provided for the current (or most recent) school year, noting any specific shortages of school capacity.
- Conditions that would exist in the No-Action condition for the sub-district will be identified, taking into consideration projected changes in future enrollments, including those associated with other developments in the affected sub-district, using the SCA’s *Projected New Housing Starts*. Plans to alter school capacity, either through administrative actions on the part of the DOE or as a result of the construction of new school space prior to the 2024 analysis year, will also be identified or incorporated into the analyses. Planned new capacity projects from the DOE’s Five Year Capital Plan will not be included in the quantitative analysis unless the projects have commenced site preparation and/or construction. They may, however, be included in a qualitative discussion.
- Future conditions with the Proposed Actions will be analyzed, adding students likely to be generated by the Proposed ~~Project~~ Development to the projections for the future No-Action condition. Impacts will be assessed based on the difference between the future With-Action projections and the future No-Action projections (at the sub-district level for elementary and intermediate schools) for enrollment, capacity, and utilization in 2024.
- A determination of whether the Proposed ~~Project~~ Development would result in significant adverse impacts to elementary and/or intermediate schools will be made. A significant adverse impact may result, warranting consideration of mitigation, if the Proposed ~~Project~~ Development would result in: (1) a collective utilization rate of the elementary and/or intermediate schools in the sub-district study area that is equal to or greater than 100 percent in the With-Action condition; and (2) an increase of five percent or more in the collective utilization rate between the No-Action and With-Action conditions, pursuant to CEQR.
- If impacts are identified, mitigation will be developed in consultation with SCA and DOE.

## Libraries

- Identify the local public library branch(es) serving the area within approximately three-quarters of a mile from the Development Site, which is the distance that one might be expected to travel for such services. Show the identified local public library branch(es) within a 0.75-mile radius on a map.
- Describe existing libraries within the study area and their respective information services and user population. Information regarding services provided by branch(es) within the study area will include holdings and other relevant existing conditions. Details on library operations will be based on publicly available information and/or consultation with library officials. If applicable, holdings per resident





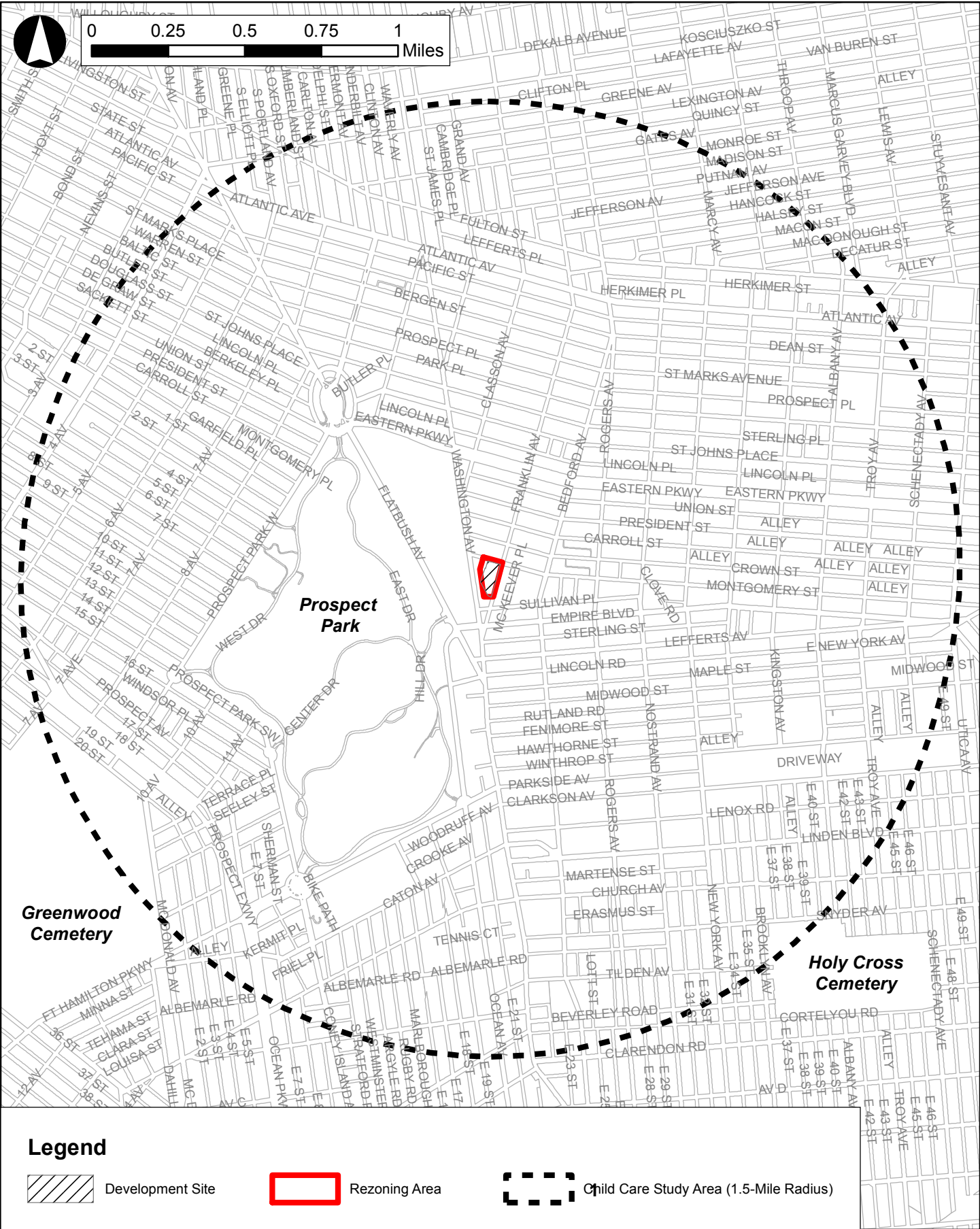
may be estimated to provide a quantitative gauge of available resources in the applicable branch libraries in order to form a baseline for the analysis.

- For No-Action conditions, projections of population change in the area and information on any planned changes in library services or facilities will be described and the effects of these changes on library services will be assessed. Using the information gathered for the existing conditions, holdings per resident in the No-Action condition will be estimated.
- Determine the effects of the addition of the population resulting from the Proposed Project Development on the study area libraries' ability to provide information services to their users. Holdings per resident in the With-Action condition will be estimated and compared to the No-Action holdings estimate.
- Determine whether the Proposed Project Development would result in a significant adverse impact. According to the *CEQR Technical Manual*, if the Proposed Project Development would increase the 0.75-mile study area population by five percent or more over No-Action levels, and it is determined, in consultation with the appropriate library agency, that this increase would impair the delivery of library services in the study area, a significant adverse impact may occur, warranting consideration of mitigation.

### Child Care Centers

- Existing publicly funded child care centers in Brooklyn within approximately 1.5 miles of the Development Site (refer to **Figure 7b8b**) will be identified. Each facility will be described in terms of its location, number of slots (capacity), enrollment, and utilization in consultation with the Administration for Children's Services (ACS).
- For No-Action conditions, information will be obtained for any changes planned for child care programs or facilities in the area, including the closing or expansion of existing facilities and the establishment of new facilities. Any expected increase in the population of children under age six within the eligibility income limitations will be discussed as potential additional demand, and the potential effect of any population increases on demand for child care services in the study area will be assessed. The available capacity or resulting deficiency in slots and the utilization rate for the study area will be calculated for the No-Action condition.
- The potential effects of the additional eligible children resulting from the Proposed Project Development will be assessed by comparing the estimated net demand over capacity in the With-Action condition to a net demand over capacity in the No-Action analysis.
- A determination of whether the Proposed Project Development would result in significant adverse impacts to child care centers will be made. A significant adverse impact may result, warranting consideration of mitigation, if the Proposed Project Development would result in both of the following: (1) a collective utilization rate of the group child care centers in the study area that is greater than 100 percent in the With-Action condition; and (2) an increase of five percent or more in the collective utilization rate of child care centers in the study area between the No-Action and With-Action conditions, in accordance with the *CEQR Technical Manual*.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.



## TASK 5. OPEN SPACE

If a project may add population to an area, demand for existing open space facilities would typically increase. Indirect effects may occur when the population generated by the Proposed Project Development would be sufficiently large to noticeably diminish the ability of an area's open space to serve the future population. For the majority of projects, an assessment is conducted if the Proposed Project Development would generate more than 200 residents or 500 employees, or a similar number of other uses. However, the need for an open space assessment may vary in certain areas of the City that are considered either underserved or well-served by open space; if a project is located in an underserved area, an open space assessment should be conducted if that project would generate more than 50 residents or 125 workers; if a project is located in a well-served area, an open space assessment should be conducted if it would generate more than 350 residents or 750 employees.

It is anticipated that the Proposed Project Development would introduce approximately 4,134 total new residents and approximately 159 total new employees to the area, with an incremental increase over future No-Action conditions expected to be approximately 2,776 residents and approximately 133 employees.

The Proposed Project Development would not have any direct effect on open space, as there are no publicly accessible open spaces on the lots comprising the Development Site proposed for development. Therefore, an analysis of direct impacts on existing open space in the area is not warranted; however, based on other chapters of the EIS, this chapter will summarize the findings of potential direct effects related to shadows, noise, and construction. With respect to potential indirect impacts, the Proposed Project Development, which is located within a well-served area is not expected to result in an incremental increase of 750 or more employees compared to No-Action conditions (as stated above, 133 new employees would be introduced to the area as compared to No-Action conditions); therefore, an assessment of the potential for indirect effects on open space due to an increased worker population is not warranted. However, the incremental increase in the residential population resulting from the Proposed Project Development would exceed the 350-resident CEQR threshold requiring a detailed residential open space analysis as approximately 2,776 incremental residents would be introduced to the study area. Therefore, a detailed open space analysis is warranted for the residential population only, which would be included in the EIS pursuant to the following sub-tasks.

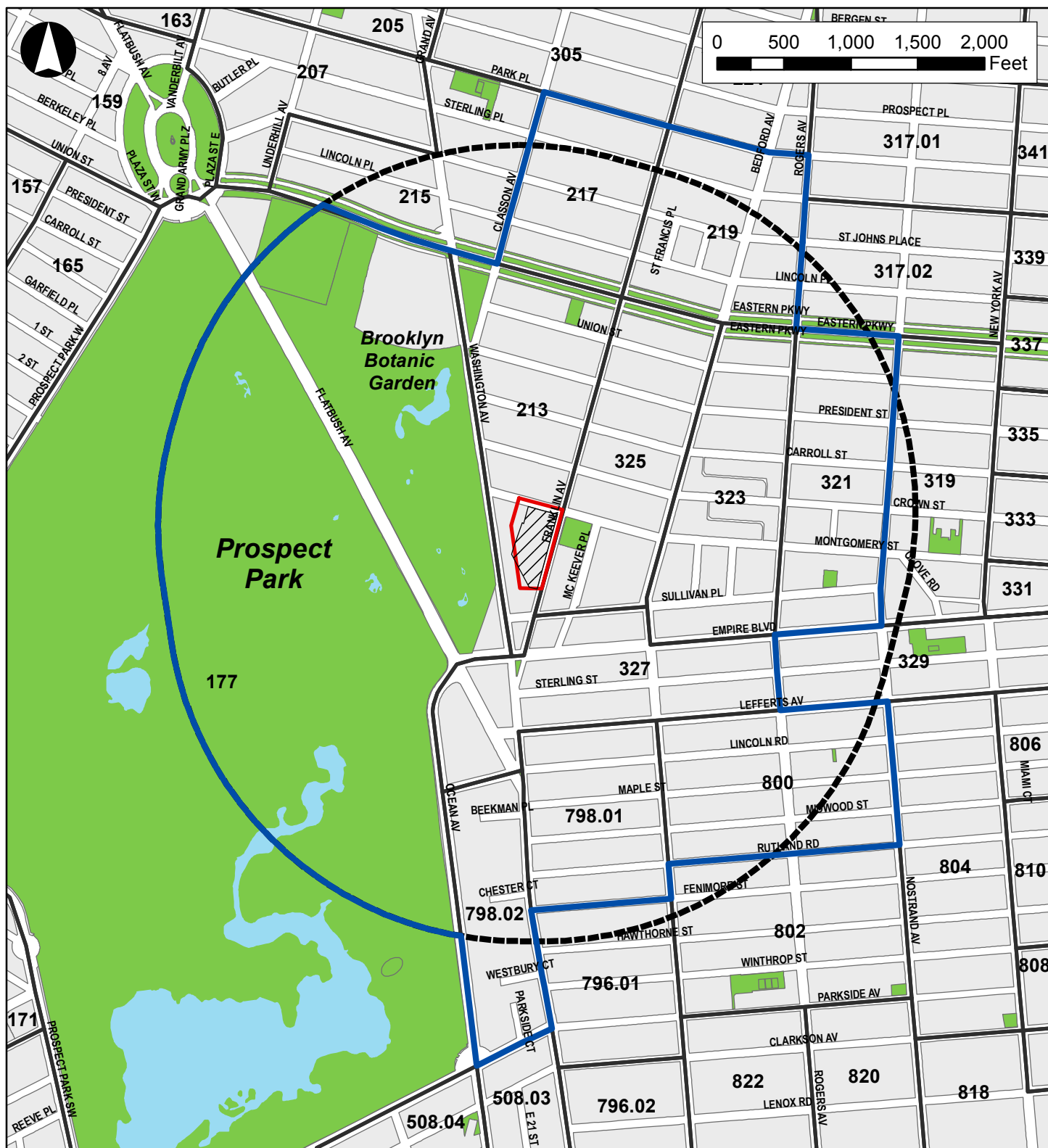
The open space analysis will consider both passive and active open space resources within a residential (0.5-mile radius) study area. As shown in **Figure 89**, the study area will generally comprise those census tracts that have 50 percent or more of their area located within the 0.5-mile radius of the Development Site, as recommended in the *CEQR Technical Manual*.<sup>2</sup>

The detailed open space analysis in the DEIS will include the following subtasks:







- Characteristics of the residential users will be determined. To determine the number of residents in the study area, 2010 U.S. Census data will be compiled for census tracts comprising the residential open space study area. As the study area may include a workforce and daytime population that may

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<sup>2</sup> 0.5-mile radius adjusted to be coterminous with the boundaries of census tracts and census blocks with existing populations that have 50 percent of their area within the radius; the 0.5-mile radius was not adjusted to be coterminous with census tracts with negligible existing populations (e.g., census tracts entirely comprised of open space).



## Legend

- |  |  |   |
|--|--|---|
|  Development Site       |  2010 Census Tracts |  Open Space Study Area |
|  Proposed Rezoning Area |  Half-Mile Radius   |  Open Space            |

also use open spaces, the number of employees and daytime workers in the study area will also be calculated, based on reverse journey-to-work census data and other available information.

- Existing publicly-accessible passive and active open spaces within the 0.5-mile open space study area will be inventoried and mapped. Any open space that typically charges an entry fee (e.g., Prospect Park Zoo and the Brooklyn Botanic Garden) will not be included in the inventory or quantitative analysis. The condition and usage of existing facilities will be described based on the inventory and field visits. Acreages of these facilities will be determined and the total study area acreages will be calculated. The percentage of passive and active open space will also be calculated.
- Based on the inventory of facilities and study area populations, total, passive, and active open space ratios will be calculated for the residential population and compared to City guidelines to assess adequacy. Open space ratios are expressed as the amount of open space acreage (total, passive, and active) per 1,000 user population.
- Expected changes in future levels of open space supply and demand in the 2024 analysis year will be assessed, based on other planned development projects within the open space study area. Any new open space or recreational facilities that are anticipated to be operational by the analysis year will also be accounted for. Open space ratios will be calculated for future No-Action conditions and compared with exiting ratios to determine changes in future levels of adequacy.
- Effects on open space supply and demand resulting from increased residential population associated with the Proposed ProjectDevelopment will be assessed. Any new public accessory open space facilities included in the Proposed ProjectDevelopment would also be taken into account. The assessment of the Proposed Project'sDevelopment's impacts will be based on a comparison of open space ratios for the future No-Action versus future With-Action conditions. In addition to the quantitative analysis, a qualitative analysis will be performed to determine if the changes resulting from the Proposed ProjectDevelopment constitute a substantial change (positive or negative) or an adverse effect to open space conditions. The qualitative analysis will assess whether or not the study areas are sufficiently served by open space, given the type (active or passive), capacity, condition, and distribution of open space, and the profile of the study area populations.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK 6. SHADOWS**

A shadows analysis assesses whether new structures resulting from a proposed action would cast shadows on sunlight sensitive publicly accessible resources or other resources of concern, such as open space, historic resources, and natural resources, and to assess the significance of their impact. This chapter will examine the Proposed Project'sDevelopment's potential for significant and adverse shadow impacts pursuant to *CEQR Technical Manual* criteria. Generally, the potential for shadow impacts exists if an action would result in new structures or additions to buildings resulting in structures over 50 feet in height that could cast shadows on important natural features, publicly accessible open space, or on historic features that are dependent on sunlight. New construction or building additions resulting in incremental height changes of less than 50 feet can also potentially result in shadow impacts if they are located adjacent to, or across the street from, a sunlight-sensitive resource.

The Proposed ProjectDevelopment would result in the construction of two new 39-story buildings in the vicinity of sunlight-sensitive resources, including Jackie Robinson Playground to the east and the Brooklyn

Botanic Garden and Prospect Park to the west. Therefore, a shadows assessment is warranted to determine the extent, duration, and effects of any potential incremental new shadows on any sunlight-sensitive resources in the vicinity of the Development Site. The shadows assessment will follow the methodology described in the *CEQR Technical Manual*, and will include the following:

- A preliminary shadows screening assessment will be prepared to ascertain whether shadows from the Proposed ProjectDevelopment may potentially reach any sunlight-sensitive resources at any time of year. As a LS GD special permit is being requested, a maximum building envelope will be evaluated within which the Proposed ProjectDevelopment would be built.
  - A Tier 1 Screening Assessment will be conducted to determine the longest shadow study area for the Proposed ProjectDevelopment, which is defined as 4.3 times the height of a structure (the longest shadow that would occur on December 21, the winter solstice), pursuant to the *CEQR Technical Manual*. A base map that illustrates the location of the Proposed ProjectDevelopment in relation to the sunlight-sensitive resources will be developed.
  - A Tier 2 Screening Assessment will be conducted if any portion of a sunlight-sensitive resource lies within the longest shadow study area. The Tier 2 assessment will determine the triangular area that cannot be shaded by the Proposed ProjectDevelopment due to the path of the sun across the sky, which in New York City is the area that lies between -108 and +108 degrees from true north.
  - If any portion of a sunlight-sensitive resource is within the area that could be potentially shaded by the Proposed ProjectDevelopment, a Tier 3 Screening Assessment will be conducted. The Tier 3 Screening Assessment will determine if shadows resulting from the Proposed ProjectDevelopment can reach a sunlight-sensitive resource through the use of three-dimensional computer modeling software with the capacity to accurately calculate shadow patterns. The model will include a three-dimensional representation of the sunlight-sensitive resource(s), a three-dimensional representation of the Proposed ProjectDevelopment, and a three-dimensional representation of the topographical information within the area to determine the extent and duration of new shadows that would be cast on sunlight-sensitive resources as a result of the Proposed ProjectDevelopment.
- If the screening analysis does not rule out the possibility that project-generated shadows would reach any sunlight-sensitive resources, a detailed analysis of potential shadow impacts on publicly-accessible open spaces and/or sunlight-sensitive historic resources resulting from project will be provided in the DEIS. The detailed shadow analysis will establish a baseline condition (No-Action), which will be compared to the future condition resulting from the Proposed ProjectDevelopment (With-Action) to illustrate the shadows cast by existing or future buildings and distinguish the additional (incremental) shadow cast by the Proposed ProjectDevelopment. The detailed analysis will include the following tasks:
  - The analysis will be documented with graphics comparing shadows resulting from the No-Action condition with shadows resulting from the Proposed ProjectDevelopment, with incremental shadow highlighted in a contrasting color.
  - A summary table listing the entry and exit times and total duration of incremental shadow on each applicable representative day for each affected resource will be provided.
  - The significance of any shadow impacts on sunlight-sensitive resources will be assessed based on CEQR criteria.



If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK 7. HISTORIC AND CULTURAL RESOURCES**

Historic and cultural resources include both architectural and archaeological resources. Such resources are identified as districts, buildings, structures, sites, and objects of historical, aesthetic, cultural, and archaeological importance in the *CEQR Technical Manual*. Impacts on historic resources are considered on the affected site and in the surrounding area. The historic resources study area is therefore defined as the directly affected area (i.e., the project site), plus a 400-foot radius, as per the guidance provided in the *CEQR Technical Manual*. Archaeological resources are considered only for the project site, where new in-ground disturbance would occur compared to No-Action conditions. This is discussed in more detail below.

### **Archaeological Resources**

As the project site has previously been disturbed, there will be consultation with LPC and SHPO to see if any further evaluation of archaeological resources is needed. If LPC and/or SHPO identify the project site as archaeologically sensitive, a Phase 1A Archaeological Documentary Report would be prepared for the project site. The Phase 1A would include an evaluation of archaeological resources on the development site, documentation of site history, its development and use, and the potential to host significant archaeological resources. The DEIS would summarize the results of the Phase 1A report, if required.

If the project site is identified as having archaeological potential in the Phase 1A report and LPC and SHPO concur, the effect of the Proposed Project Development on those resources would be evaluated to determine if a significant adverse impact would result due to the Proposed Project Development. If it is found that a significant adverse impact to archaeological resources would occur, LPC and SHPO would be consulted on what, if any, mitigation measures may be available to address those impacts.

### **Architectural Resources**

Impacts to historic resources may result from both temporary (e.g., related to construction process) and permanent (e.g., related to long-term or permanent result of the Proposed Project Development or construction project) activities. As part of the architectural resources assessment, known and eligible architectural resources within 400 feet of the project site will be identified in consultation with the LPC and SHPO. Identified resources will be mapped and described. If known and/or eligible architectural resources are identified in the study area, probable impacts of the Proposed Project Development on architectural resources will be assessed. The assessment will address the following: (a) would there be a physical change to the property; or (b) would there be a physical change to its setting, such as context or visual prominence (“indirect impacts”), and, if so, is the change likely to alter or eliminate the significant characteristics of the resource that make it important. Additionally, the EIS will determine if the Proposed Project Development will result in the introduction of significant new shadows or significant lengthening of the duration of existing shadows on an historic landscape or on an historic structure if the features that make the structure significant depend on sunlight. For example, stained glass windows that cannot be seen without sunlight, or buildings containing design elements that are part of a recognized architectural style that depends on the contrast between light and dark design elements, such as deep window reveals and prominent rustication. This task will be coordinated with Task 6, “Shadows.” If significant adverse impacts to architectural resources are identified, mitigation measures would be developed in consultation with LPC and SHPO.

## **TASK 8. URBAN DESIGN AND VISUAL RESOURCES**

Urban design is the totality of components that may affect a pedestrian's experience of public space. An assessment of urban design and visual resources is appropriate when there is the potential for a pedestrian to observe, from the street level, a physical alteration beyond that allowed by existing zoning. When an action would potentially obstruct view corridors, compete with icons in the skyline, or would result in substantial alterations to the streetscape of the neighborhood by noticeably changing the scale of buildings, a more detailed analysis of urban design and visual resources would be appropriate. As the Proposed ProjectDevelopment would rezone the Development Site to allow higher density, a preliminary assessment of urban design and visual resources will be provided in the EIS.

The urban design study area will be the same as that used for the land use analysis (delineated by a 0.25-mile radius from the Project Area boundary). For visual resources, the view corridors within the study area from which such resources are publicly viewable will be identified. The preliminary assessment will consist of the following:

- Based on field visits, the urban design and visual resources of the directly affected area and adjacent study area will be described using text, photographs, and other graphic material, as necessary, to identify critical features, use, bulk, form, and scale.
- In coordination with Task 2, "Land Use," the changes expected in the urban design and visual character of the study area due to known development projects in the future No-Action condition will be described.
- Potential changes that could occur in the urban design character of the study area as a result of the Proposed ProjectDevelopment will be described. For the Development Site, the analysis will focus on the Proposed Project'sDevelopment's massing, as well as elements such as streetwall height, setback, and building envelope. Photographs and/or other graphic material will be utilized, where applicable, to assess the potential effects on urban design and visual resources, including views of/to resources of visual or historic significance and a three-dimensional representation of the future With-Action condition streetscape.

A detailed analysis will be prepared based on the preliminary assessment. Examples of projects that may require a detailed analysis are those that would make substantial alterations to the streetscape of a neighborhood by noticeably changing the scale of buildings, potentially obstruct view corridors, or compete with icons in the skyline, as described in the *CEQR Technical Manual*. The detailed analysis would describe the Development Site and the urban design and visual resources of the surrounding area. The analysis would describe the potential changes that could occur to urban design and visual resources in the future with the Proposed ProjectDevelopment condition, in comparison to the future without the Proposed ProjectDevelopment condition, focusing on the changes that could negatively affect a pedestrian's experience of the area. If necessary, mitigation measures to avoid or reduce potential significant adverse impacts will be identified.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK 9. NATURAL RESOURCES**

A natural resources assessment is conducted when a natural resource is present on or near the project area and when an action involves the disturbance of that resource. The *CEQR Technical Manual* defines



natural resources as: water resources, including surface water bodies and groundwater; wetland resources (freshwater and tidal); surface water hydrology; upland resources, including beaches, maritime dunes, erosional slopes and bluffs; shrublands, grasslands, meadows and old fields; upland forests, woodlands and barrens; and built resources, including piers and other waterfront structures, old piers, pile fields and other ruins, beach protection structures, flood protection structures; and significant, sensitive, or designated resources, as indicated by the New York Natural Heritage Program. The project area is located in a fully developed area in Brooklyn and has limited potential to provide the habitat required by state- or federally-listed rare, threatened and/or endangered species. A screening analysis will be presented in the EIS identifying whether the Proposed Development would result in significant impacts on natural resources. The Brooklyn Botanic Garden represents a terrestrial cultural community as defined in the *CEQR Technical Manual* which may be affected by the Proposed Development. The assessment will assess the effects of shading from the Proposed Development on the sunlight sensitive natural resources in the Brooklyn Botanic Garden during the early morning hours, as described in the shadows assessment. In addition, due to anticipated facade materials (i.e., glass), landscaping, and landscaping placement, and lighting for the new buildings, the potential for impacts due to bird strikes will also be examined.

#### **TASK ~~9~~10. HAZARDOUS MATERIALS**

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

The hazardous materials chapter will examine the potential for significant hazardous materials impacts from the Proposed Project Development. The EIS will include a discussion of the site's history and current environmental conditions. A Phase I Environmental Site Assessment (ESA) for the Development Site will be prepared that will include the review of historic Sanborn maps, regulatory databases, and a site reconnaissance. The results of the Phase I ESA, as well as any previous relevant Phase II Subsurface Site Investigations will be summarized in the hazardous materials chapter. If needed, additional hazardous materials studies (e.g., Phase II Subsurface Site Investigation) will also be performed. The chapter will include a discussion of the Proposed Project's Development's potential to result in significant adverse hazardous materials impacts and, if necessary, will include a description of any additional further testing, remediation, or other measures that would be necessary to avoid impacts.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~10~~11. WATER AND SEWER INFRASTRUCTURE**

The water and sewer infrastructure assessment determines whether a proposed action may adversely affect the City's water distribution or sewer system and, if so, assess the effects of such actions to determine whether their impact is significant. The *CEQR Technical Manual* outlines thresholds for analysis of an action's water demand and its generation of wastewater and stormwater. As described in the EAS

for the Proposed Actions, an analysis of the City's water supply is not warranted as the Proposed ProjectDevelopment would not result in a demand of more than one million gallons per day (gpd) and the Development Site is not located in an area that experiences low water pressure. However, water demand estimates will be provided in the EIS to inform the wastewater and stormwater conveyance and treatment analysis.

The threshold of preliminary wastewater and stormwater analysis for projects in Brooklyn with combined sewers is 400 dwelling units or 150,000 sf of commercial space or more. As the Proposed ProjectDevelopment would include up to 1,578 dwelling units, with an incremental increase of approximately 1,060 dwelling units, an assessment of wastewater and stormwater conveyance systems is required. The water and sewer infrastructure analysis will consider the potential for significant adverse impacts resulting from the Proposed ProjectDevelopment. The New York City Department of Environmental Coordination (DEP) will be consulted in preparation of this assessment.

### **Water Supply**

- The existing water distribution system serving the Development Site will be described based on information obtained from DEP's Bureau of Water Supply and Wastewater Collection.
- Water demand generated by the Development Site under existing conditions and No-Action and With-Action conditions will be projected.
- The effects of the incremental demand on the City's water supply system will be assessed to determine if there would be impacts to water supply or pressure. The incremental water demand will be the difference between the water demand on the Development Site in the With-Action condition and the demand in the No-Action condition.

### **Wastewater and Stormwater Infrastructure**

- The appropriate study area for the assessment will be established in accordance with the guidelines of the *CEQR Technical Manual* and in consultation with DEP. The Proposed Project'sDevelopment's directly affected area is primarily located within the service area of the Owls Head Wastewater Treatment Plant (WWTP).
- The existing stormwater drainage system and surfaces (pervious or impervious) on the Development Site will be described, and the amount of stormwater generated on the site will be estimated using DEP's volume calculation worksheet.
- The existing sewer system serving the Development Site will be described based on records obtained from DEP. The existing flows to the Owls Head WWTP, which serves the directly affected area, will be obtained for the latest twelve-month period, and the average dry weather monthly flow will be presented.
- Any changes to the stormwater drainage plan, sewer system, and surface area expected in the future without the Proposed ProjectDevelopment will be described, as warranted.
- Future stormwater generation from the Proposed ProjectDevelopment will be assessed to determine the Proposed Project'sDevelopment's potential to result in impacts. Changes to the Development Site's surface area will be described, runoff coefficients and runoff for each surface type/area will be presented, and volume and peak discharge rates from the site will be determined based on the DEP volume calculation worksheet.

- Sanitary sewage generation for the Development Site will also be estimated. The effects of the incremental demand on the system will be assessed to determine if there will be any impact on operations of the Owls Head WWTP.

A more detailed assessment may be required if increased sanitary or stormwater discharges from the Proposed ~~Project~~Development are predicted to affect the capacity of portions of the existing sewer system, exacerbate combined sewer overflow (CSO) volumes/frequencies, or contribute greater pollutant loadings in stormwater discharged to receiving water bodies. The scope of a more detailed analysis, if necessary, will be developed based on conclusions from the preliminary infrastructure assessment and in coordination with DEP and DCP.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~11~~12. SOLID WASTE AND SANITATION**

A solid waste assessment determines whether a ~~proposed project~~Proposed Development would cause a substantial increase in solid waste production that would overburden available waste management capacity or otherwise be inconsistent with the New York City Solid Waste Management Plan (SWMP) or with state policy related to the City's integrated solid waste management system. Few projects have the potential to generate substantial amounts of solid waste (50 tons per week or more) and, therefore, most projects would not result in a significant adverse impact. However, the *CEQR Technical Manual* recommends that the solid waste and service demand (if relevant) generated by a project be disclosed, based on an estimate using Table 14-1 of the *CEQR Technical Manual*. An unusually large project or a project involving a use with unusual waste generation characteristics may increase a component of the City's waste stream beyond the projections for that component in the SWMP. In these cases, further analysis should be conducted.

Wastes with special characteristics, such as regulated medical wastes, are subject to specific handling and disposal regulations. Compliance with applicable requirements generally eliminates possible significant adverse impacts.

#### **Preliminary Capacity Analysis**

The capacity of the City's solid waste management system generally consists of carting capacity and transfer/disposal capacity. The SWMP estimates that approximately 50,000 tons per day (tpd) of public and private sector solid wastes (exclusive of dredge spoils and biosolids) are generated in the City. As of 2009, there is authorized processing capacity within the City of approximately 20,697 tpd for putrescible solid waste and 23,970 tpd for mixed construction and demolition debris, and storage capacity of approximately 784,312 cubic yards for fill material. Additionally, there is waste transfer processing and disposal capacity outside the City, but within the metropolitan region. Sufficient capacity is required to meet demand on peak days, as the waste flow quantity fluctuates by day of the week, season, and economic cycle. While there is currently excess non-putrescible waste transfer capacity in the City, there is not sufficient capacity at the permitted putrescible transfer stations to handle peak days for the combined DSNY-managed and commercial carter-managed putrescible waste streams. There is, however, sufficient capacity within the region, together with in-City capacity, to accommodate the transfer of all City-origin refuse.

If a project's generation of solid waste in the With-Action condition would not exceed 50 tons per week, it may be assumed that there would be sufficient public or private carting and transfer station capacity in the metropolitan area to absorb the increment, and further analysis generally would not be required. However, it is recommended that the solid waste and service demand (if relevant) to be generated by a project be disclosed, using the Citywide average rates for waste generation (Table 14-1 of the *CEQR Technical Manual*) to make this determination. Any waste management features to be included in the project should also be disclosed.

*CEQR Technical Manual* guidance also indicates that if a project would result in the development of more than either 500 residential units or 100,000 square feet of commercial space, the anticipated volume of residential waste, and the proposed location and method of storage of refuse and recyclables prior to collection should be disclosed. In addition, if the use of compactors, dumpsters, and/or "roll on/roll off" refuse containers are proposed to avoid large piles of bags with refuse on the sidewalk or building perimeter awaiting collection, they should also be described. If refuse set out for collection would consist of large piles of bags with refuse and/or recyclables, the EIS should also describe the expected location, square footage, volume, and duration of such piles, and their effects upon traffic, pedestrians, public health, and community character.

Regardless of the amount of solid waste generated by a ~~proposed project~~Proposed Development, a more detailed discussion is warranted if the project involves the construction, operation, or closing of any type of regulated solid waste management facility, DSNY district garage, or borough repair shop, or if it would involve a regulatory change to public or private waste collection, processing, recycling, or disposal activity. Such a project should be analyzed for its quantitative impact to the solid waste management system, as well as for its consistency with the goals and elements of the SWMP. The Proposed Development would not have any direct effects on any DSNY facilities or result in any regulatory changes to solid waste management.

As the ~~Proposed Project~~Proposed Development would result in the development of more than 500 residential units, the proposed location and method of storage of refuse and recyclables prior to collection will be described in the EIS. In addition, the proposed use of compactors, dumpsters, and/or "roll on/roll off" refuse containers will be described in the EIS. Finally, if refuse set out for collection would consist of large piles of bags with refuse and/or recyclables, the EIS will describe the expected location, square footage, volume, and duration of such piles, and their effects upon traffic, pedestrians, public health, and community character.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

### **TASK ~~12~~13. ENERGY**

An EIS must include a discussion of the effects of a ~~proposed project~~Proposed Development on the use and conservation of energy, if applicable and significant, in accordance with CEQR. In most cases, a project does not need a detailed energy assessment, but its operational energy is projected. A detailed energy assessment is limited to projects that may significantly affect the transmission or generation of energy. For other projects, in lieu of a detailed assessment, the estimated amount of energy that would be consumed annually as a result of the day-to-day operation of the buildings and uses resulting from a ~~proposed project~~Proposed Development is disclosed, as recommended in the *CEQR Technical Manual*.

An analysis of the anticipated additional demand from the Proposed Project Development will be provided in the DEIS. The DEIS will disclose the projected amount of energy consumption during long-term operation resulting from the Proposed Project Development. The projected amount of energy consumption during long-term operation (for the Development Site) will be estimated based on the average and annual whole-building energy use rates for New York City (per Table 15-1 of the *CEQR Technical Manual*). If warranted, the Mayor's Office of Environmental Coordination (OEC) and/or the power utility serving the area (Con Edison of New York) will be consulted.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~13~~14. TRANSPORTATION**

The objective of a transportation analysis is to determine whether a proposed action may have a potential significant impact on traffic operations and mobility, public transportation facilities and services, pedestrian elements and flow, the safety of all roadway users (pedestrians, bicyclists and motorists), on- and off-street parking, or goods movement. The ~~proposed project~~ Proposed Development is expected to result in new residential, local retail, and community facility uses, which would generate additional vehicular travel and demand for parking, as well as additional subway and bus riders and pedestrian traffic. These new trips have the potential to affect the area's transportation systems.

#### **Travel Demand and Screening Assessment**

A detailed travel demand forecast was prepared for the Proposed Project Development using standard sources, including the *CEQR Technical Manual*, U.S. census data, previously-approved studies, and other references. The travel demand forecast (a Level 1 screening assessment) is summarized by peak hour, mode of travel, as well as person and vehicle trips. The travel demand forecast also identifies the number of peak hour person trips made by transit and the numbers of pedestrian trips traversing the area's sidewalks, corner areas, and crosswalks. The results of this forecast have been summarized in a Transportation Planning Factors (TPF) and Travel Demand Forecast (TDF) technical memorandum. Detailed vehicle, pedestrian and transit trip assignments (a Level 2 screening assessment) were prepared based on the results of the Proposed Project's Development's travel demand forecast to identify the intersections and pedestrian/transit elements selected for quantified analysis.

#### **Traffic**

The EIS will provide a detailed traffic analysis focusing on those peak hours and street network intersections where the highest concentrations of project-generated demand would occur. The peak hours for analysis will be selected, and the specific intersections to be included in the traffic study area will be determined based upon the assignment of project-generated traffic and the *CEQR Technical Manual* analysis threshold of 50 additional vehicle trips per hour, or at known congested locations.

The Proposed Project Development would exceed the minimum development density screening thresholds for a transportation analysis specified in Table 16-1 of the *CEQR Technical Manual*. Therefore, a travel demand forecast is required to determine if the Proposed Project Development would generate 50 or more vehicle trips in any peak hour. Based on a preliminary forecast, the Proposed Project Development is expected to generate more than 50 additional vehicular trips in the weekday AM, midday, and PM peak hours, as well as the Saturday midday peak hour. Based on a preliminary vehicle

trip assignment, it is anticipated that a detailed traffic analysis will be warranted at up to ~~8~~nine intersections (see **Figure 910**). The analyzed intersections will include the following:

- Washington Avenue and Classon Avenue
- Washington Avenue and Carroll Street (un-signalized)
- Washington Avenue and Crown Street
- Washington Avenue and Montgomery Street (un-signalized)
- Washington Avenue and Sullivan Place
- Washington Avenue and Empire Boulevard
- Franklin Avenue and Empire Boulevard
- Franklin Avenue and Montgomery Street (un-signalized)
- Franklin Avenue and Sullivan Place

The following outlines the anticipated scope of work for conducting a traffic impact analysis for the Proposed ~~Project~~Development:

- Conduct a count program for traffic analysis locations that includes a mix of automatic traffic recorder (ATR) machine counts and intersection turning movement counts (TMC). If needed, vehicle classification counts and travel time studies (speed runs) will be conducted to provide supporting data for air quality and noise analyses. TMC data will be collected at each analyzed intersection during the weekday and Saturday peak hours, and will be supplemented by nine days of continuous ATR counts. Vehicle classification count data will be collected during each peak hour at several representative intersections along each of the principal corridors in the study area. The TMC and vehicle classification counts will be conducted concurrently with the ATR counts. Where applicable, available information from recent studies in the vicinity of the study area will be compiled, including data from such agencies as DOT and DCP.
- Inventory physical data at each of the analysis intersections, including street widths, number of traffic lanes and lane widths, pavement markings, turn prohibitions, bicycle routes, curbside parking regulations. Signal phasing and timing data for each signalized intersection included in the analysis will be obtained from DOT.
- Determine existing traffic operating characteristics at each analysis intersection including capacities, volume-to-capacity (v/c) ratios, average vehicle delays, and levels of service (LOS) per lane group, per intersection approach, and per overall intersection. This analysis will be conducted using the 2000 Highway Capacity Manual (HCM) methodology with the latest approved Highway Capacity Software (HCS).
- Based on available sources, U.S. Census data and standard references including the *CEQR Technical Manual*, estimate the demand from other major developments planned in the vicinity of the Development Site by the 2024 analysis year. This will include total daily and peak hour person and vehicular trips, and the distribution of trips by auto, taxi, and other modes. A truck trip generation forecast will also be prepared based on data from the *CEQR Technical Manual* and previous relevant studies. Mitigation measures accepted for all No-Action projects as well as other DOT initiatives will be included in the future No-Action network, as applicable.
- Compute the future 2024 No-Action traffic volumes based on approved background traffic growth rates for the study area (0.5 percent per year for years one through five, 0.25 percent for year six) and



demand from major development projects expected to be completed in the future without the Proposed ~~Project~~Development. Incorporate any planned changes to the roadway system anticipated by 2024, and determine the No-Action v/c ratios, delays, and levels of services at analyzed intersections.

- Using Census data, standard references including the *CEQR Technical Manual*, and data from previous studies, develop a travel demand forecast for the Development Site based on the net change in uses compared to the No-Action condition. For each analyzed peak hour, determine the net change in vehicle trips expected to be generated by the Proposed ~~Project~~Development as described in the TPF/TDF technical memorandum. Assign the net project-generated trips in each analysis period to likely approach and departure routes, and prepare traffic volume networks for the 2024 future with the Proposed ~~Project~~Development condition for each analyzed peak hour.
- Determine the v/c ratios, delays, and LOS at analyzed intersections for the With-Action condition and identify significant adverse traffic impacts in accordance with *CEQR Technical Manual* criteria.
- Identify and evaluate potential traffic mitigation measures, as appropriate, for all significantly impacted locations in the study area in consultation with the lead agency and DOT. Potential traffic mitigation could include both operational and physical measures such as changes to lane striping, curbside parking regulations and traffic signal timing and phasing, roadway widening, and the installation of new traffic signals. Where impacts cannot be fully or partially mitigated, they will be described as unavoidable adverse impacts.

## Transit

Detailed transit analyses are generally not required if a proposed action is projected to result in fewer than 200 peak hour rail or bus transit trips according to the general thresholds used by the Metropolitan Transportation Authority (MTA) and specified in the *CEQR Technical Manual*. If a proposed action would result in 50 or more bus trips being assigned to a single bus line (in one direction), or if it would result in an increase of 200 or more trips at a single subway station or on a single subway line, a detailed bus or subway analysis would be warranted.

As noted above, based on preliminary travel demand forecasts provided in the TPF/TDF technical memorandum, the Proposed ~~Project~~Development is expected to generate a net increase of more than 200 additional subway trips in one or more peak hours, and would therefore require detailed transit analyses based on *CEQR Technical Manual* criteria. The projected net increase in bus trips is not expected to exceed the *CEQR Technical Manual* analysis threshold of 50 or more bus trips per line and direction and would therefore not require a detailed analysis.

## Subway

There are three existing subway stations located in proximity to the Development Site that would potentially be utilized by project-generated trips: the Franklin Avenue station on the IRT Eastern Parkway Line (2, 3, 4, and 5 trains), the Botanic Garden station on the BMT Franklin Avenue Shuttle, and the Prospect Park station on the BMT Brighton Line (B and Q trains) and BMT Franklin Avenue Shuttle. Transit analyses typically focus on the weekday AM and PM commuter peak hours when overall demand on the subway and bus systems is usually highest. The detailed transit analyses will include the following subtasks:

- Identify for analysis those subway stations expected to be utilized by 200 or more project-generated



trips in one or more peak hours. At each of these stations, analyze those stairways and entrance control elements expected to be used by significant concentrations of project-generated demand in the weekday AM and PM peak hours.

- Conduct counts of existing weekday AM and PM peak hour demand at analyzed subway station elements and determine existing v/c ratios and levels of service based on *CEQR Technical Manual* criteria.
- Determine volumes and conditions at analyzed subway station elements in the future without the Proposed Actions using approved background growth rates and accounting for any trips expected to be generated by any major projects in the vicinity of the study area.
- Add project-generated demand to the No-Action volumes at analyzed subway station elements and determine AM and PM peak hour volumes and conditions in the future with the Proposed Actions.
- Identify potential significant adverse impacts at subway station stairways and fare control elements based on *CEQR Technical Manual* impact criteria.
- Mitigation needs and potential subway station improvements will be identified, as appropriate, in conjunction with the lead agency and New York City Transit (NYCT). Where impacts cannot be mitigated, they will be described as unavoidable adverse impacts.

## **Pedestrians**

Projected pedestrian volumes of less than 200 persons per hour at any pedestrian element (sidewalks, corner areas, and crosswalks) would not typically be considered a significant impact, since the level of increase would not generally be noticeable and therefore would not require further analysis under *CEQR Technical Manual* criteria. Based on the level of new pedestrian demand generated by the Proposed ProjectDevelopment, it is anticipated that project-generated pedestrian trips would exceed the 200-trip *CEQR Technical Manual* analysis threshold at several locations in one or more peak hours (refer to TPF technical memorandum). A detailed pedestrian analysis will therefore be prepared for the EIS focusing on selected sidewalks, corner areas, and crosswalks along corridors that would experience more than 200 additional peak hour pedestrian trips. Pedestrian counts will be conducted at each analysis location and used to determine existing levels of service. No-Action and With-Action pedestrian volumes and levels of service will be determined based on approved background growth rates, trips expected to be generated by major projects in the vicinity of the study area, and project-generated demand. The specific pedestrian facilities to be analyzed will be determined in consultation with the lead agency once the assignment of project-generated pedestrian trips has been finalized. The analysis will evaluate the potential for incremental demand from the Proposed ProjectDevelopment to result in significant adverse impacts based on current *CEQR Technical Manual* criteria. Potential measures to mitigate any significant adverse pedestrian impacts will be identified and evaluated, as warranted, in consultation with the lead agency and DOT.

## **Vehicular and Pedestrian Safety**

Data on traffic crashes involving pedestrians and/or cyclists at study area intersections will be obtained from DOT for the most recent three-year period available. These data will be analyzed to determine if any of the studied locations may be classified as high crash locations and whether vehicle and/or pedestrian trips and any street network changes resulting from the Proposed ProjectDevelopment would adversely affect vehicular and pedestrian safety in the area. If any high crash locations are identified, practicable

measures to enhance pedestrian/bicycle safety at these locations will be explored to alleviate potential safety issues.

## Parking

As project-generated parking demand will not be fully accommodated at the Development Site, a detailed analysis of on-street and off-street parking conditions will be provided in the EIS. A detailed inventory of existing on-street and off-street parking would be conducted for the weekday midday period (when commercial parking demand typically peaks) and weekday overnight period (when residential parking demand typically peaks) to document existing supply and demand for each period. Parking utilization within 0.25-mile of the Development Site will be analyzed. If the initial on- and off-street parking assessment shows conditions at or near capacity, then a parking assessment would be conducted up to a 0.5-mile radius to determine if capacity is available to accommodate the projected demand. The parking analyses would document changes in the parking utilization in proximity to the Development Site under the No-Action and With-Action conditions based on accepted background growth rates and projected demand from No-Action and With-Action development on the Development Site and other major projects in the vicinity of the study area.

Parking demand generated by the projected residential component of the Proposed Project Development will be forecasted based on auto ownership data for the Development Site and the surrounding area. Parking demand from all other uses will be derived from the forecasts of daily auto trips generated by these uses.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK ~~14~~15. AIR QUALITY**

The vehicle trips generated by the Proposed Development would potentially exceed the *CEQR Technical Manual's* carbon monoxide (CO) screening threshold of 170 vehicles in a peak hour at one or more intersections and/or the particulate matter (PM) emission screening threshold discussed in Chapter 17, Sections 210 and 311 of the *CEQR Technical Manual*. Therefore, a screening analysis for mobile sources will be performed. If any screening thresholds are exceeded, a detailed mobile source analysis would be required. The Proposed Project's Development's parking facility will be analyzed to determine its effect on air quality. Potential impacts on surrounding uses from the heating and hot water systems that would serve the Proposed Project Development will also be assessed. The effect of heating and hot water systems associated with large or major emission sources in existing buildings on the Proposed Project Development will be analyzed.

## Mobile Source Analysis

A screening analysis for CO and PM will be prepared based on the traffic analysis and the above mentioned CEQR criteria. If screening levels are exceeded, a dispersion analysis would be required.

If warranted, a detailed mobile source analysis will be prepared in accordance with CEQR guidance, to evaluate the Proposed Actions for potential impacts from CO, and fine particulate matter less than 2.5 microns in diameter (PM<sub>2.5</sub>), due to vehicular traffic anticipated to be generated by the Proposed

Development. One worst-case intersection would be selected for detailed analysis for both CO and PM<sub>2.5</sub>, as described below:

### ***Emissions Modeling***

Vehicular cruise and idle CO and PM emission factors to be utilized in the dispersion modeling will be computed using EPA's Motor Vehicle Emission Simulator (MOVES). Each selected intersection will be divided into distinct links for emissions modeling purposes reflecting different types of vehicle activity in accordance with the recommendations of EPA's Transportation Conformity Guidance for Quantitative Hot-spot Analyses in PM<sub>2.5</sub> and PM<sub>10</sub> Nonattainment and Maintenance Areas. Project-specific traffic data obtained through field studies will be used, as well as county-specific hourly temperature, relative humidity, vehicle age distribution, fuels and inspection/maintenance program data obtained from the New York State Department of Environmental Conservation (NYSDEC).

In order to account for the suspension of fugitive road dust in air from vehicular traffic in the local microscale analysis, PM<sub>2.5</sub> emission rates will include fugitive road dust. However, as DEP considers fugitive road dust to have an insignificant contribution on a neighborhood scale, fugitive road dust will not be included in the neighborhood scale PM<sub>2.5</sub> microscale analyses. Road dust emission factors will be calculated according to the latest procedure delineated by EPA.

### ***Dispersion Modeling***

The CO mobile source analysis will be conducted using the US Environmental Protection Agency (EPA) CAL3QHC model Version 2.0. PM<sub>2.5</sub> analysis will be conducted using the refined CAL3QHCR model and five years of meteorological data. The PM<sub>2.5</sub> analysis will include estimating off-peak traffic volumes based on available 24-hour count data in the study area.

### ***Parking Garage Analysis***

The Proposed Project Development is expected to include 186-space accessory parking spaces in below-grade parking garages. The parking garage accumulation table from the transportation chapter will serve as the basis for analysis. Mobile source emission factors will be developed using the latest version of the EPA MOVES model (MOVES2014a). An analysis of CO and PM emissions from the garage will be performed using MOVES-generated emission factors and the procedures outlined in the *CEQR Technical Manual* for assessing potential impacts from proposed parking facilities. Cumulative impacts from on-street sources and emissions from parking garages will be calculated, where appropriate.

### ***Stationary Source Analysis***

#### ***HVAC Analysis***

The analysis of the HVAC systems of the Proposed Project Development will consider impacts following the screening procedures outlined in the *CEQR Technical Manual* to determine the potential for impacts on existing developments as well as the potential for "project-on-project impacts." The nearest existing or planned building of a similar or greater height will be analyzed as the potential receptor. If the results fail the initial screening, a refined modeling analysis will be prepared using the latest EPA-approved version of the AERMOD model and five years of representative meteorological data. Emission rates will be developed based on the size of the Proposed Project Development and assumptions developed to

represent boiler stack location(s). Concentrations of nitrogen dioxide (NO<sub>2</sub>), sulfur dioxide (SO<sub>2</sub>), and particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>) will be determined at surrounding publicly-accessible locations. Receptors will be placed at publically accessible locations at ground level and at elevated locations on all facades at multiple elevations on adjacent buildings (including the Proposed ProjectDevelopment) to identify maximum pollutant concentrations and concentration increments per the guidance provided in the *CEQR Technical Manual*.

Projected potential values will be compared with the National Ambient Air Quality Standards (NAAQS) for NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>10</sub>, and the CEQR *de minimis* criteria for PM<sub>2.5</sub>. If required, an enforceable legal mechanism will be proposed to mandate fuel, system, operational, and/or exhaust stack restrictions that would be required to avoid any potential significant adverse air quality impacts.

### **Major Emission Source Analysis**

A review of existing land uses within 1,000 feet of the Project Area showed no major emission sources (i.e., Title V or State Facility permits). As no such emission sources are found, no Major Source Analysis is proposed.

### **Industrial Source Analyses**

Because the existing zoning already allows for sensitive (residential) uses on the Development Site on an as-of-right basis, no industrial source analysis is warranted. However, if it is determined that the increase in residential density resulting from the Proposed Actions would necessitate an Industrial Source Analysis, an analysis would be provided as follows:

- EPA, NYSDEC, and NYCDEP database searches and permit records will be reviewed to identify industrial sources within 400 feet of the proposed rezoning area.
- A field survey will be performed to confirm the operational status of the sites identified in the permit search, and to identify any additional sites that have sources of emissions that would warrant an analysis.
- Emission rates for industrial sources within the study area will be estimated based on air permit data. If industrial sites are present that do not pass the *CEQR Technical Manual* industrial source screening procedure, detailed analysis will be conducted with AERMOD.
- Predicted worst-case impacts would be compared with the short-term guideline concentrations (SGCs) and annual guideline concentrations (AGCs) recommended in NYSDEC's DAR-1 AGC/SGC Tables.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK ~~15~~16. GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE**

### **Greenhouse Gas Emissions**

Increased greenhouse (GHG) emissions are changing the global climate, which is predicted to lead to wide-ranging effects on the environment, including rising sea levels, increases in temperature, and changes in precipitation levels. Although this is occurring on a global scale, the environmental effects of climate change are also likely to be felt at the local level. As the Proposed ProjectDevelopment exceeds the

350,000 sf development threshold, a GHG emissions assessment will be provided in the EIS.

In accordance with the *CEQR Technical Manual*, GHG emissions generated by the Proposed ProjectDevelopment will be quantified, and an assessment of consistency with the City's established GHG reduction goal will be prepared. Emissions will be estimated for the analysis year and reported as carbon dioxide equivalent (CO<sub>2</sub>e) metric tons per year. GHG emissions other than carbon dioxide (CO<sub>2</sub>) will be included if they would account for a substantial portion of overall emissions, adjusted to account for the global warming potential. Relevant measures to reduce energy consumption and GHG emissions that could be incorporated into the Proposed ProjectDevelopment will be discussed, and the potential for those measures to reduce GHG emissions from the Proposed ProjectDevelopment will be assessed to the extent practicable.

- Building Operational Emissions: GHG emissions from the Proposed ProjectDevelopment will be estimated based on carbon intensity factors specified in the *CEQR Technical Manual*.
- Mobile Source Emissions: GHG emissions from vehicle trips to and from the Development Site will be quantified using trip distances and vehicle emission factors provided in the *CEQR Technical Manual*.
- Potential Measures to Reduce GHG Emissions: Design features and operational measures to reduce the Proposed Project'sDevelopment's energy use and GHG emissions will be discussed to the extent that information is available.
- Consistency with the City's GHG Reduction Goal: Consistency of the Proposed ProjectDevelopment and the Proposed Actions overall will be assessed. While the City's overall goal is to reduce GHG emissions by 40 percent below 2005 level by 2030, individual project consistency is evaluated based on building energy efficiency, proximity to transit, on-site renewable power and distributed generation, efforts to reduce on-road vehicle trips and/or to reduce the carbon fuel intensity or improve vehicle efficiency for project-generated vehicle trips, and other efforts to reduce the project's carbon footprint.

## Climate Change

Per the Preliminary Flood Insurance Rate Maps for New York City dated 1/30/2015, which are issued by the Federal Emergency Management Agency (FEMA) and considered the best available flood hazard data, the Development Site is not located within the 100-year or 500-year floodplain, or any projected future flood zones. Therefore, the Development Site is not likely to experience storm surge and coastal flooding, and an assessment of climate change is not warranted.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK ~~16~~17. NOISE**

For the Proposed ProjectDevelopment, there are two major areas of concern regarding noise: (1) the effect the Proposed ProjectDevelopment would have on noise levels in the surrounding community; and (2) the level of building attenuation necessary to achieve interior noise levels that satisfy CEQR requirements.

The Proposed ProjectDevelopment would generate vehicle trips, but given the background conditions and the anticipated project-generated traffic, it is not expected that project-generated traffic would be likely

to result in significant adverse noise impacts. However, a screening assessment will be performed to determine whether there are any locations where there is the potential for the Proposed ProjectDevelopment to result in significant noise impacts (i.e., doubling of Noise Passenger Car Equivalents [PCEs]) due to project-generated traffic. As the Proposed ProjectDevelopment is located immediately adjacent to the Franklin Avenue subway shuttle line, an assessment of train noise will be warranted. Additionally, as the Proposed ProjectDevelopment is located directly across the street from the Jackie Robinson Playground, a playground noise assessment will also be warranted. A detailed analysis of potential noise impacts due to outdoor mechanical equipment is not required as the outdoor mechanical equipment for any future development facilitated by the Proposed ProjectDevelopment would be required to meet applicable New York City Department of Buildings (DOB) regulations, which ensure that noise levels from equipment are below *CEQR Technical Manual* impact criteria. The noise analysis will also examine the level of building attenuation necessary to meet CEQR interior noise level requirements.

The following tasks will be performed in compliance with *CEQR Technical Manual* guidelines:

- Based on the traffic studies conducted for Task ~~13~~14, “Transportation,” a screening analysis will be conducted to determine whether there are any locations where there is the potential for the Proposed ProjectDevelopment to result in significant noise impacts (i.e., doubling Noise PCEs) due to project-generated traffic. If it is determined that Noise PCEs would double at any sensitive receptor, a detailed analysis would be conducted in accordance with *CEQR Technical Manual* guidelines.
- Appropriate noise descriptors for building attenuation purposes would be selected. Based on CEQR criteria, the noise analysis will examine the  $L_{10}$  and the one-hour equivalent ( $L_{eq(1)}$ ) noise levels.
- Existing noise levels will be measured at receptor locations adjacent to the Development Site. At each receptor site, 20-minute measurements will be performed during typical weekday AM, midday, and PM peak periods (coinciding with the traffic peak periods) in areas that do not have direct line of sight to the adjacent subway; for areas that would be exposed to noise generated by the subway, one-hour measurements will be performed. 20-minute noise measurements will also be conducted during the school PM peak period to determine noise levels associated with peak school activities (e.g., playground noise). Depending on the screening results of Task ~~13~~14, “Transportation,” a Saturday midday noise measurement may also be warranted. Noise measurements will be recorded in conformance with *CEQR Technical Manual* procedures, and measured noise level descriptors will include equivalent noise level ( $L_{eq}$ ), maximum level ( $L_{max}$ ), minimum level ( $L_{min}$ ), and statistical percentile levels such as  $L_1$ ,  $L_{10}$ ,  $L_{50}$ , and  $L_{90}$ . A summary table of existing measured noise levels will be provided as part of the EIS.
- Following procedures outlined in the *CEQR Technical Manual* for assessing mobile source noise impacts, future No-Action and With-Action noise levels will be estimated at the noise receptor locations based on acoustical fundamentals. All projections will be made with  $L_{eq}$  noise descriptor.
- The level of building attenuation necessary to satisfy CEQR requirements (a function of the exterior noise levels) will be determined based on the highest  $L_{10}$  noise level estimated at each monitoring site. If required, an enforceable legal mechanism will be proposed to memorialize building attenuation requirements, such as (E) designations placed pursuant to Section 11-15 of the New York City Zoning Resolution and the (E) designation rules. The EIS would include the (E) designation language, if necessary.
- If the results of the screening analysis indicated that any sensitive receptor location would experience a doubling of traffic between the Future No-Action and Future With-Action conditions, a detailed

mobile source noise analysis would be performed at that location in compliance with *CEQR Technical Manual* guidance.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~17~~18. PUBLIC HEALTH**

Public health is the organized effort of society to protect and improve the health and well-being of the population through monitoring; assessment and surveillance; health promotion; prevention of disease, injury, disorder, disability, and premature death; and reducing inequalities in health status, as defined in the *CEQR Technical Manual*. The goal of CEQR with respect to public health is to determine whether adverse impacts on public health may occur as a result of a ~~proposed project~~ Proposed Development, and, if so, to identify measures to mitigate such effects.

A public health assessment may be warranted if an unmitigated significant adverse impact is identified in other CEQR analysis areas, such as air quality, hazardous materials, or noise, according to the *CEQR Technical Manual*. If unmitigated significant adverse impacts are identified for the Proposed ~~Project~~ Development in any of these technical areas and a public health assessment is warranted, an analysis will be provided for the specific technical area or areas.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~18~~19. NEIGHBORHOOD CHARACTER**

Neighborhood character is established by numerous factors, including land use patterns, the scale of its development, the design of its buildings, the presence of notable landmarks, and a variety of other physical features that include traffic and pedestrian patterns, noise, etc. The ~~proposed project~~ Proposed Development has the potential to alter certain elements contributing to the affected area's neighborhood character. Therefore, a neighborhood character analysis will be provided in the DEIS.

A preliminary assessment of neighborhood character will be provided in the DEIS to determine whether changes expected in other technical analysis areas—land use, zoning, and public policy; socioeconomic conditions; open space; historic and cultural resources; urban design and visual resources; transportation; and noise—may affect a defining feature of neighborhood character. The preliminary assessment will:

- Identify the defining features of the existing neighborhood character.
- Summarize changes in the character of the neighborhood that can be expected in the future With-Action condition and compare to the future No-Action condition.
- Evaluate whether the Proposed ~~Project~~ Development has the potential to affect these defining features, either through the potential for a significant adverse impact or a combination of moderate effects in the relevant technical areas.

If the preliminary assessment determines that the Proposed ~~Project~~ Development could affect the defining features of neighborhood character, a detailed analysis will be conducted in accordance with the *CEQR Technical Manual* guidelines.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

## **TASK ~~1920~~. CONSTRUCTION**

Construction impacts, though temporary, can have a disruptive and noticeable effect on the adjacent community, as well as people passing through the area. Construction impacts are usually important when construction activity has the potential to affect transportation conditions, archaeological resources and the integrity of historic resources, community noise levels, air quality conditions, and mitigation of hazardous materials. Multi-sited projects with overall construction periods lasting longer than two years and that are near to sensitive receptors should undergo a preliminary impact assessment according to the *CEQR Technical Manual*. Construction of the Proposed Project Development is expected to take place over a period greater than two years, and is therefore considered long-term. In addition, based on the conceptual construction schedule prepared for the Proposed Project Development, there is the potential for on-site receptors on buildings to be completed before the final build-out of the Proposed Project Development. As such, construction analysis will focus on two peak periods: 1) the overlap of the two phases of construction to identify peak intensity; and, 2) construction of phase two during occupancy of phase one to assess project-on-project effects. This chapter of the DEIS will provide a preliminary impact assessment following the guidelines in the *CEQR Technical Manual*. The preliminary assessment will evaluate the duration and severity of the disruption or inconvenience to nearby sensitive receptors. Technical areas to be assessed include the following:

- **Transportation Systems:** In accordance with *CEQR Technical Manual* methodologies, the travel demand that would be generated during construction of the RWCDs projected development sites will be forecasted to identify the expected number of vehicle, transit (bus and subway) and pedestrian trips from construction workers and equipment. The potential effects of this construction travel demand on study area transportation systems will then be assessed. Based on the trip projections of activities associated with peak construction for the Proposed Project Development, an assessment of potential transportation impacts during construction and how they are compared to the trip projections under the operational condition will be provided. If this effort identifies the need for separate detailed quantitative analysis due to an exceedance of the *CEQR Technical Manual* quantified transportation analysis thresholds (50 or more vehicle-trips and/or 200 or more transit/pedestrian trips during a given peak hour), such analysis will be prepared. The assessment will also evaluate the potential effects of construction activities on streets, sidewalks, bicycle and bus lanes, and transit access points adjacent to projected development sites, where applicable.
- **Air Quality:** The construction air quality impact section will contain a detailed discussion of emissions from construction equipment, on-road construction-related vehicles, as well as fugitive dust. The quantitative analysis will review the projected activity and equipment in the context of intensity, duration, and location of emissions relative to nearby sensitive locations including the adjacent school and playground, and identify any project-specific control measures required to further reduce the effects of construction and to ensure that significant impacts on air quality do not occur.
- **Noise:** The construction noise impact section will contain a detailed quantitative analysis of noise from each phase of construction activity. Appropriate recommendations will be made to comply with NYCDEP Rules for Citywide Construction Noise Mitigation and the New York City Noise Control Code. The analysis will qualitatively review the projected activity and equipment in the context of intensity, duration, and location of emissions relative to nearby sensitive locations, and identify any project-specific control measures required to further reduce construction noise. Potential construction-related noise impacts will be assessed and addressed quantitatively.



- **Other Technical Areas:** As appropriate, the construction assessment will discuss other areas of environmental concern, including Land Use and Neighborhood Character, Socioeconomic Conditions, Community Facilities, Open Space, Historic and Cultural Resources, and Hazardous Materials, for potential construction-related impacts. In accordance with *CEQR Technical Manual* guidelines, the construction analysis will include an assessment of whether construction of the Proposed ProjectDevelopment would potentially physically impact, or inhibit access to, adjacent land uses, including community facilities.

If significant adverse impacts are identified, mitigation measures will be identified in conjunction with DCP as lead agency and any expert agencies, as appropriate.

#### **TASK ~~20~~21. MITIGATION**

Where significant adverse impacts have been identified in Tasks 2 through ~~19~~20, measures to mitigate those impacts will be described. Based on the conceptual construction schedule prepared for the Proposed ProjectDevelopment, there is the potential for some buildings to be completed before the final build-out of the Proposed ProjectDevelopment. As such, the chapter will consider when mitigation measures will need to be implemented. These measures will be developed and coordinated with the responsible City/State agencies, as necessary. Where impacts cannot be fully mitigated, they will be disclosed as unavoidable adverse impacts.

#### **TASK ~~21~~22. ALTERNATIVES**

The purpose of an alternatives section in an EIS is to examine development options that would reduce or eliminate impacts resulting from the Proposed ProjectDevelopment while substantively meeting the goals and objectives of the Proposed ProjectDevelopment. The specific alternatives to be analyzed will be better defined once the full extent of the Proposed Project'sDevelopment's impacts have been identified. The EIS will include a No-Action alternative, which describes the conditions that would exist if the Proposed Actions were not implemented, and a No Unmitigated Impact alternative, which assesses a change in density or program design in order to avoid the potential for any unmitigated significant adverse impacts that may be associated with the Proposed ProjectDevelopment. Additional alternatives and variations of the Proposed ProjectDevelopment may be identified during the scoping process or be based on any significant adverse impacts identified in the EIS. The analysis of each alternative will be qualitative, except in those technical area where significant adverse impacts of the Proposed ProjectDevelopment have been identified.

#### **TASK ~~22~~23. SUMMARY EIS CHAPTERS**

The EIS will include the following three summary chapters, in accordance with CEQR guidance:

- **Unavoidable Adverse Impacts:** summarizes any significant adverse impacts that are unavoidable if the Proposed ProjectDevelopment is implemented regardless of the mitigation employed (or if mitigation is not feasible).
- **Growth-Inducing Aspects of the Proposed ProjectDevelopment:** which generally refer to “secondary” impacts of the Proposed ProjectDevelopment that trigger further development.
- **Irreversible and Irretrievable Commitments of Resources:** which summarizes the Proposed ProjectDevelopment and its impact in terms of the loss of environmental resources (loss of

vegetation, use of fossil fuels and materials for construction, etc.), both in the immediate future and in the long term.

#### **TASK ~~23~~24. EXECUTIVE SUMMARY**

The executive summary will utilize relevant material from the body of the DEIS to describe the Proposed ~~Project~~Development, the environmental impacts, measures to mitigate those impacts, and alternatives to the Proposed ~~Project~~Development. The executive summary will be written in enough detail to facilitate drafting of a notice of completion by DCP, the lead agency.

## **960 FRANKLIN AVENUE**

### **RESPONSE TO COMMENTS ON THE DRAFT SCOPE OF WORK FOR A DRAFT ENVIRONMENTAL IMPACT STATEMENT**

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#### **A. INTRODUCTION**

This document summarizes and responds to comments on the Draft Scope of Work (DSOW), issued on February 8, 2019, for the 960 Franklin Avenue Rezoning (the “Proposed Actions”). Oral and written comments were received during the public meeting held by the New York City Department of City Planning (DCP) on behalf of the New York City Planning Commission (CPC) on March 12, 2019. Written comments were accepted through the close of the public comment period, which ended at 5:00 PM on Monday, March 12, 2019. Appendix II contains the written comments received on the DSOW. A Final Scope of Work (FSOW) was issued on January 29<sup>th</sup>, 2021, incorporating comments received on the DSOW where relevant and appropriate, as well as other background and project updates that were made subsequent to publication of the DSOW.

Section B lists the elected officials, organizations, and individuals that provided relevant comments on the DSOW. Section C contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the chapter structure of the DSOW.

#### **B. LIST OF ELECTED OFFICIALS, ORGANIZATIONS, AND INDIVIDUALS THAT COMMENTED ON THE DRAFT SCOPE OF WORK**

##### **Elected Officials and Government Agencies**

1. Eric L. Adams, Brooklyn Borough President; written submission dated March 25, 2019 and oral statement delivered by Richard Bearak at public scoping meeting.
2. Patricia Baker, Brooklyn Community Board 9 Chairwoman; written submission dated March 12, 2019, and oral statement delivered at public scoping meeting.
3. Laurie Cumbo, Council Member, 35<sup>th</sup> Council District; written submission dated March 15, 2019 (submitted by Brian Paul, Senior Project Manager, Land Use Division, New York City Council), oral statement delivered by Crystal Hudson at public scoping meeting.
4. Rafael Espinal, Jr; written submission dated March 25, 2019.
5. Walter Mosley, New York State Assemblymember, 57th Assembly District, oral statement delivered by Lucian Allen at public scoping meeting.
6. Beverly Newsome, Brooklyn Community Board 9, Chairwoman of the Housing Committee; oral statement delivered at public scoping meeting.

##### **Organizations and Interested Public**

7. Molly Adams, Advocacy and Outreach Manager at New York City Audubon; written submission dated March 22, 2019.

8. Stephen Albonesi, Senior Project Manager, Planning, Municipal Arts Society of New York; written submission dated March 22, 2019, oral statement delivered at public scoping meeting.
9. Anonymous; written submission dated March 24, 2019.
10. Dana Archer-Rosenthal; written submission dated March 19, 2019.
11. Elaine Arnold; written submission dated March 19, 2019.
12. Todd Baker; oral statement delivered at public scoping meeting.
13. Maxine Barnes; oral statement delivered at public scoping meeting.
14. Robert Bate, Executive Vice President of the New York City Audubon; oral statement delivered at public scoping meeting.
15. Virginia Bechtold; written submission dated March 25, 2019.
16. Martin Bennett; oral statement delivered at public scoping meeting.
17. Sonal Bhatt, President of Education at the Brooklyn Botanic Garden; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
18. Chris Black; written submission dated March 25, 2019.
19. Rowan Blaik, Director of Living Collections at the Brooklyn Botanic Garden; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
20. Kaitlin Bonenberger; written submission dated March 25, 2019.
21. Alicia Boyd, Movement to Protect the People (MTOPP); written submission dated March 25, 2019, and oral statement delivered at public scoping meeting.
22. Melissa Brown; written submission dated March 20, 2019.
23. Nina Browne; written submission dated March 25, 2019.
24. Julia Bryant; oral statement delivered at public scoping meeting.
25. Esther Burson; written submission dated March 25, 2019.
26. Zachary Calamari; written submission dated March 23, 2019.
27. Teri-Ann Carryl; written submission dated March 25, 2019.
28. Suwen Cheong, Concerned Citizens for Community Based Planning; written submission dated March 25, 2019.
29. David Chesser; oral statement delivered at public scoping meeting.
30. Thomas Chisena; written submission dated March 25, 2019.
31. Jan Clausen; written submission dated March 18, 2019.
32. Joseph Coen; written submission dated March 23, 2019.
33. Sherri Cohen; written submission dated March 25, 2019.
34. Ruben Colon, Area Standards Representative for the NYC District Council of Carpenters (Carpenters Union); written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
35. Marilyn Coppa; written submission dated March 23, 2019.
36. Andrea Corbett; written submission dated March 25, 2019.
37. Nicola Cox, President of the Sullivan Stoddard Neighborhood Association and Community Board 9 member; written submission dated March 25, 2019.
38. Joan Deely; written submission dated March 21, 2019.
39. Travis DeMello; written submission dated March 16, 2019.
40. Jennifer DeMeritt; written submission dated March 14, 2019.
41. Shayna Denburg; written submission dated March 24, 2019.
42. Nicolette Dixon; written submission dated March 24, 2019.
43. Ingrid Dudek; written submission dated March 24, 2019.
44. Brenda Edwards, President of the Prospect Gardens Neighborhood Association; oral statement delivered at public scoping meeting.
45. Madison Edwards; written submission dated March 14, 2019.
46. David Eisenbach; oral statement delivered at public scoping meeting.
47. Rohana Elias-Reyes; written submission dated March 25, 2019.
48. Lashawn Ellis; oral statement delivered at public scoping meeting.
49. Jeffrey Ewing; written submission dated March 24, 2019.
50. Chris Farmer; written submission dated March 23, 2019.
51. Daniel Feighery; written submission dated March 15, 2019.
52. Rachel Fischhoff; written submission dated March 24, 2019.
53. Emma Fitzsimmons and Mariusz Kujawski; written submission dated March 25, 2019.

54. Sean Flynn; written submission dated March 14, 2019.
55. Dorothea Foggie; oral statement delivered at public scoping meeting.
56. Ashar Foley; written submission dated March 23, 2019.
57. Jean Fontaine; written submission dated March 19, 2019.
58. Marcia Fowle; written submission dated March 21, 2019.
59. Inez Fraser; written submission dated March 25, 2019.
60. Susan Freytes; written submission dated March 23, 2019.
61. Ashley Gagnay, Coordinator for Brooklyn Botanic Garden's Project Green Reach; written submission dated March 12, 2019, and oral statement delivered at public scoping meeting.
62. Micah Garen; written submission dated March 13, 2019.
63. Vincent Gaynor, Business Agent for Local 638 Enterprise Association of Steamfitters; oral statement delivered at public scoping meeting.
64. Kidus Girma; written submission dated March 25, 2019.
65. Esteban Giron, Member of the Crown Heights Tenant Union, Member of Community Board 9's ULURP Committee; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
66. Margaret Golden; written submission dated March 25, 2019.
67. Dorothy Green; oral statement delivered at public scoping meeting.
68. Florian Gruenke and Kate Horton; written submission dated March 25, 2019.
69. Adrienne Haeberle; written submission dated March 14, 2019.
70. Sarah Han; written submission dated March 14, 2019.
71. Jerold Heubner; written submission dated March 15, 2019.
72. Nancy Hoch; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
73. Jen Hoyer; written submission dated March 14, 2019.
74. Dennis Hrehowsik, Brooklyn Bird Club; written submission dated March 22, 2019.
75. Tessa Huxley; oral statement delivered at public scoping meeting.
76. Peter Jacobson; written submission dated March 14, 2019.
77. Clare Johnson; oral statement delivered at public scoping meeting.
78. Jennifer Kaas; written submission dated March 14, 2019.
79. Nicholas Kaufmann and Alexa B. Antopol; written submission dated March 24, 2019.
80. James Kelly; written submission dated March 21, 2019.
81. Mikhail Kim; written submission dated March 14, 2019.
82. Angelika Klein; written submission dated March 25, 2019.
83. Elizabeth Knauer; oral statement delivered at public scoping meeting.
84. Marcia Kresege; written submission dated March 22, 2019, oral statement delivered at public scoping meeting.
85. Jane and Joseph Kubat; written submission dated March 24, 2019.
86. Gail Lambert, Principal of Brooklyn Academy of Science and Environment; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
87. Minghuei Lee; written submission dated March 25, 2019.
88. Richard Leslie; written submission dated March 25, 2019.
89. Chantel Lewis; written submission dated March 20, 2019.
90. Suzy Lieber; written submission dated March 21, 2019.
91. Laura Limonic; written submission dated March 19, 2019.
92. Marcia Lloyd; written submission dated March 25, 2019.
93. Sam Lucey; written submission dated March 17, 2019.
94. Alanna MacLeod-Bluver; oral statement delivered at public scoping meeting.
95. Kaitlin Marolla; written submission dated March 25, 2019.
96. Mat Marolla; written submission dated March 25, 2019.
97. Adam Mathurin; written submission dated March 25, 2019.
98. Beth McCrea; written submission dated March 15, 2019.
99. Winston McIntosh; written submission dated March 18, 2019.
100. Ena McPherson; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.

101. Scot Medbury, President of the Brooklyn Botanic Garden; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
102. Jonathan Molofsky; written submission dated March 19, 2019.
103. Sarah Mudge; written submission dated March 26, 2019.
104. Kim Newman; written submission dated March 14, 2019.
105. Janine Nichols, Secretary of the Sullivan Ludlam Stoddard Neighborhood Association; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
106. Dwayne Nicholson; written submission dated March 25, 2019.
107. Katherine O'Sullivan; written submission dated March 24, 2019.
108. Leonard Paul, Foreman of the Steinhart Conservatory at the Brooklyn Botanic Garden; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
109. Angela Perry; written submission dated March 19, 2019.
110. Lauren Pesqueira; written submission dated March 25, 2019.
111. Pamela Pettyjohn, Coney Island Beautification Project; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
112. Jack Pliskin; written submission dated March 24, 2019.
113. Brent Porter, Pratt School of Architecture; oral statement delivered at public scoping meeting.
114. Lisa Preudhomme; written submission dated March 18, 2019.
115. Eutha Prince; written submission dated March 18, 2019.
116. Sarah Prud'homme; written submission dated March 25, 2019.
117. Virginia Pruitt; written submission dated March 20, 2019.
118. Donald Reed, Chair of the Board of Trustees Government Affairs Committee for the Brooklyn Botanic Garden; written submission dated March 12, 2019, and oral statement delivered at public scoping meeting.
119. Sandy Reinburn, President of Preserve Our Brooklyn Neighborhoods; written submission dated March 20, 2019.
120. Leah Rinaldi; written submission dated March 23, 2019.
121. Susannah Ringel; written submission dated March 23, 2019.
122. Patrick Robbins; written submission dated March 19, 2019.
123. Felice Robertson, Vice President of the Washington Botanic Block Association; oral statement delivered at public scoping meeting.
124. Blanche Robinson; oral statement delivered at public scoping meeting.
125. Santos Rodriguez, representative for NYC Building and Construction Trades Council; written submission dated March 12, 2019, oral statement delivered at public scoping meeting.
126. Jason Rosenfeld; written submission dated March 23, 2019.
127. Betty Rothbart; written submission dated March 19, 2019.
128. Raul Rothblatt; written submission dated March 25, 2019.
129. Holly Rothcorp, Save Central Park NYC; written submission dated March 19, 2019, oral statement delivered at public scoping meeting.
130. Kathleen Rugh; written submission dated March 25, 2019.
131. Ben Sacks; written submission dated March 13, 2019.
132. Rena Schklowsky; oral statement delivered at public scoping meeting.
133. Elizabeth Scott; written submission dated March 19, 2019.
134. Chris Shaw, Representative for the AFL-CIO Housing Investment Trust; oral statement delivered at public scoping meeting.
135. Melissa Shelter, Political Director for Local, Metallic and Reinforcing Ironworkers, oral statement delivered at public scoping meeting.
136. Christine Sheppard, Director of the Glass and Collisions Program at the American Bird Society; written submission dated March 20, 2019.
137. Matthew Siegel; written submission dated March 24, 2019.
138. Toni Simon; written submission dated March 18, 2019.
139. Mae Singerman, Member of the 1035 Washington Avenue Tenant Association; oral statement delivered at public scoping meeting.
140. Justine Slattery; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
141. Courtney Smith; written submission dated March 20, 2019.

142. Dave Snyder; written submission dated March 26, 2019.
143. Vinny Stellato, representative for Local 32BJ; oral statement delivered at public scoping meeting.
144. Aleza Summit; written submission dated March 25, 2019.
145. Salvatore Tagliaferro, President of Carpenters Local 926; oral statement delivered at public scoping meeting.
146. Robert Thibault; written submission dated March 25, 2019, oral statement delivered at public scoping meeting.
147. Lorraine Thomas; oral statement delivered at public scoping meeting.
148. Ziggy Tzioumis and Jamie Kosta; written submission dated March 25, 2019.
149. Lucia Vail; written submission dated March 20, 2019.
150. Peter Velez; written submission dated March 21, 2019.
151. Alison Wade; written submission dated March 22, 2019.
152. Laura Wagner; oral statement delivered at public scoping meeting.
153. Ronald Weiss; oral statement delivered at public scoping meeting.
154. Jeffery Welch; written submission dated March 25, 2019.
155. Anthony Williamson, representative for Local 79 Brick Masons; oral statement delivered at public scoping meeting.

## C. COMMENTS AND RESPONSES ON THE DRAFT SCOPE OF WORK

### 1. Project Description/Development Scenario Comments

**Comment 1.1:** A project that proposes 50 percent affordable housing and touts 100 percent union labor and union financing sounds like a much-needed improvement. And while these commitments to good jobs with livable wages, both during and post-construction, cannot be overlooked, we are also faced with downtown Brooklyn sized towers overshadowing the Brooklyn Botanic Gardens and Prospect Park, shattering all precedent for height and scale. (3)

**Response 1.1:** *The project would meet the requirements of the City's Mandatory Inclusionary Housing (MIH) requirements for affordable housing (either 25 percent affordable under MIH Option 1, or 30 percent affordable under MIH Option 2). In addition, it is the Applicant's intention to provide additional affordable housing beyond the MIH requirements and use 100 percent union labor to construct the project. This commitment is going to benefit the community by providing much-needed affordable housing for New York City and will also help current community members who work in the union trades by giving them local work at prevailing wages.*

*As noted in the final scope of work (FSOW), the effects of the Proposed Actions will be discussed in detail in the Shadows and Urban Design and Visual Resources chapters of the Draft Environmental Impact Statement (Draft EIS).*

**Comment 1.2:** This proposal was developed with zero community consultation or input. (3, 9, 65)

**Response 1.2:** *Comment noted. Additionally, a public hearing was held on March 12<sup>th</sup> to receive public comments on the draft scope of work (DSOW) in accordance with the requirements of 6 CRR-NY 617.8(d) which requires that "Scoping must include an opportunity for public participation. The lead agency may either provide a period of time for the public to review and provide written comments on a draft scope or provide for public input through the use of meetings, exchanges of written material, or other means."*

**Comment 1.3:** The large, soon to be vacant, spice factory does indeed represent an opportunity to bring much needed truly affordable housing to Crown Heights. But that should not give the developer carte blanche to propose 40-story, downtown-style glass towers in the middle of this community. (3)

**Response 1.3:** *Comment noted. This proposal is unique because it intends to exceed MIH requirements by providing 50 percent affordable units on private land. The proposed rezoning is a tool that is being used to facilitate the development of much needed affordable housing. Without the additional FAR, the Applicant has stated that it would not be financially feasible to provide any affordable units above the City's MIH requirements (either 25 percent affordable under MIH Option 1, or 30 percent affordable under MIH Option 2).*

Comment 1.4: This location immediately to the east of the Brooklyn Botanic Gardens Conservatory greenhouses may actually be in an inappropriate location for a development of this size. (3)

**Response 1.4:** *Comment noted. See response to Comment 1.1.*

Comment 1.5: There is also the issue of the overall density of the project and the proposed addition of over 3,000 new residents in the neighborhood and an additional 1,500 apartments. This project is so large that the EAS conducted for the project flags potentially significant impacts on schools, libraries, child care, transportation, and many other areas. (3)

**Response 1.5:** *Comment noted. Due to the number of proposed dwelling units and the anticipated number of residents at the Proposed Development, the EAS conducted for the project does indeed indicate that there is a need for further study of a variety of technical areas, including: schools, libraries, child care, transportation, and other areas. As such, the New York City Department of City Planning, in its role as lead agency, issued a Positive Declaration and is requiring that a Draft Environmental Impact Statement (EIS) be prepared to study the potential effects of the proposed actions and the resulting development. The DEIS will provide analyses of schools, libraries, and child care in Chapter 4, "Community Facilities & Services," transportation analysis in Chapter 14, "Transportation," identify mitigation for significant adverse impacts in Chapter 21, "Mitigation," and disclose impacts which can or may not be fully mitigated in Chapter 23, "Unavoidable Adverse Impacts."*

Comment 1.6: The murky status of the legal commitment to affordability beyond MIH is also a real concern. The scoping materials state that an HPD regulatory agreement will be negotiated and executed but at what point in the process will this happen. Since it is not part of the zoning, like MIH, is it truly guaranteed? Will it be permanent? (3, 21)

**Response 1.6:** *The proposed zoning text amendment, which would designate the Project Area as a MIH area, would require the construction of permanently affordable residential units on the Applicant-owned and controlled Development Site. Although negotiations between the Applicant and HPD are ongoing, the Applicant anticipates that the Proposed Development would comprise 1,263,039 gsf of residential uses, introducing a total of 1,578 dwelling units, including either 25 percent of the total units set aside pursuant to Option 1 of the City's MIH program (395 units of affordable housing with an average 60 percent AMI, or \$46,620 per year for a family of three), or 30 percent of the total units set aside pursuant to Option 2 of the City's MIH program (473 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 or 25 percent of the dwelling units as affordable housing, depending on the MIH option selected (Option 1 or Option 2), to provide a combined total of 50 percent (789 units) affordable and workforce housing. These additional non-MIH units would not be mandated by the actions subject to CPC approval. Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH Option 2), 20 percent would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 120 percent AMI (158 units).*



***The Applicant has initiated conversations with HPD to formalize the commitment to the proposed affordable housing that would exceed the City's MIH program requirements. The terms of such agreement will be described in the DEIS, as appropriate.***

Comment 1.7: None of the materials that are the subject of this hearing include the Franklin Avenue Rezoning approved in December 2018, just to the north of this site. The maps and all narrative description show the prior R6A zoning extending up Franklin Avenue. (3)

***Response 1.7: All documentation for the FSOW has been updated to include information about the approved Franklin Avenue Rezoning project and the Draft EIS and Final EIS will also include information about the approved Franklin Avenue Rezoning project.***

Comment 1.8: The projected impacts of the Cornell/Carmel development (670 units) and the Bedford-Union Armory rezoning (400 units) must be taken into account cumulatively with the impacts of development at the 960 Franklin site. This calls for a coordinated review of all three actions in the EIS to ensure that full cumulative impacts are evaluated. (3, 6, 21, 28, 65)

***Response 1.8: Per CEQR Technical Manual guidance, "Known Projects" such as the Cornell/Carmel development (CEQR No. 17DCP067K) and the Bedford-Union Armory (CEQR No. 16DME005K) (both of which have already been approved through the City's public review process) are included in the future conditions without the Proposed Actions (No-Action condition). As such, the technical analyses provided in the DEIS will account for the demands that these developments would place on the local community (e.g., community facilities, open spaces, water and sewer infrastructure, and transportation). In addition, the Cornell/Carmel development (the Franklin Avenue Rezoning) is in the process of judicial review and is included in the DEIS for conservative assessment of the cumulative impacts of these developments.***

Comment 1.9: This development exists in combination and in the context of the other developments that already exist alongside it and that are currently being evaluated. So to quote the State Environmental Quality Review handbook, cumulative impact occurs when multiple actions affect the same resources. These impacts can occur with the incremental or increased impacts of an action, or actions, are added to other past, present and reasonably foreseeable future actions. Cumulative impacts can result from a single action or from a number of individually minor, but collectively significant, actions taking place over a period of time. Cumulative impacts do not have to be all associated with one sponsor or applicant. So in this context that means that the EIS for this rezoning needs to include not only a worst case scenario evaluation for all of the lots touched by the rezoning, not just those lots in which there's proposed development but also, the development that's currently being proposed by Cornell Realty next door and the Bedford-Union Armory which was also recently approved, and other proposed developments under consideration in the area. A coordinated review should be conducted for all proposed actions in this EIS. (3, 12, 21, 79, 105)

***Response 1.9: See response to Comment 1.8.***

Comment 1.10: As currently proposed there appears to be no firm guarantee that the developer will arrive in an agreement for HPD financing for the extra 20 percent of income restricted units or be compelled to use the special permit that would enable the specific proposed design. (3)

***Response 1.10: See response to Comment 1.6.***

Comment 1.11: The proposed rezoning would also include part of the MTA's Franklin Avenue Shuttle rail beds at a nearly 130,000 square feet of development rights to this parcel. With the MTA searching for potential revenues, it is not unfeasible that the MTA would seek to sell and transfer these development rights in the future and the scenario should be fully analyzed in the EIS. (3)

**Response 1.11:** *A sale of the MTA property would not be permitted on an as-of-right basis or without additional discretionary approvals. As such, any potential sale and subsequent transfer of air rights to an adjacent property owner would have to undergo its own environmental assessment to study the potential environmental effects. As such, this EIS will not evaluate a condition that could not occur on an as-of-right basis.*

Comment 1.12: In addition to the substantial level of affordability, which is something that has been missing from many of the development projects in central Brooklyn, this project will be union built and union financed using 100 percent union labor and garnering full support from labor unions. (5)

**Response 1.12:** *Comment noted.*

Comment 1.13: At a time when affordable housing is scarce and the landscape of our community is rapidly changing before our eyes, we as a community need to get creative in how we address the worst housing crisis we've experienced since the 1930s. (5)

**Response 1.13:** *Comment noted.*

Comment 1.14: This is one of the few proposals I've seen come through my district that offers truly substantial bands of affordability and benefits to working class families. (5)

**Response 1.14:** *Comment noted.*

Comment 1.15: The development is going to result in overcrowding with all of the new residents expected in the area as a result of planned developments. The quality of life in the area would be diminished. (2, 6, 31, 33, 39, 44, 55, 64, 89, 99, 106, 120, 123, 137, 154)

**Response 1.15:** *The effects of the Proposed Actions will be discussed in detail in the various chapters of the Draft Environmental Impact Statement (Draft EIS), including: socioeconomic conditions, community facilities, open space resources, water and sewer infrastructure, solid waste and sanitation, energy, transportation, air quality, noise, public health, and neighborhood character.*

Comment 1.16: There are people who are already living in the community and that our voices are important. (2)

**Response 1.16:** *Comment noted. The scoping process is an opportunity for the public to provide comments on the scope of work that will be studied in the EIS. Further, there will be additional opportunities for public input throughout the public review process including the community board public hearing, Brooklyn Borough President's public hearing, City Planning Commission's public hearing, and the City Council public hearing.*

Comment 1.17: The affordable housing piece needs to be reassessed or reevaluated because it is not affordable to many local residents. (2, 15, 22, 84, 94, 106, 116, 133)

**Response 1.17:** *As noted in the FSOW, one of the major goals of the proposed rezoning is to provide opportunities for the creation of affordable housing, in part through the City's MIH program. The level of affordability for the MIH units created as a result of the Proposed Actions will be determined through the City's Uniform Land Use Review Procedure. The City's MIH program specifies that an applicant can choose between Option 1, which requires that 25 percent of the housing must be affordable to households making 60 percent of the AMI for a household of three, and Option 2, which requires that 30 percent of the housing must be affordable to households making 80 percent of AMI for a household of three.*

*NYCHPD is the administering agent for the City's MIH program. The City's MIH program uses*

*AMIs established by the U.S. Department of Housing and Urban Development (HUD). When determining the AMI for the New York metropolitan area, HUD includes all five boroughs, as well as portions of Rockland and Westchester counties, but not Long Island. In the city, affordability is benchmarked to AMI; using a metric other than AMI, a metric established by HUD, would make it more difficult for the housing projects to reach lower income levels in conjunction with other federal, state, and City programs, should they be made available. Additionally, reform of this methodology is outside the scope of this EIS.*

*Affordability requirements under MIH are defined as an average, which enables flexibility to create units at deep levels of affordability, along with units for households with more moderate incomes. In addition, some MIH options require a percentage of MIH housing at specific AMI levels that target deep affordability. For example, Option 1 requires 10 percent of the building be affordable to those earning 40 percent of AMI, which is approximately \$34,360 for a family of three (HUD 2017).*

Comment 1.18: The development should be able to accommodate residents in the community. (2)

**Response 1.18:** *Comment noted.*

Comment 1.19: Ebbets Field and Tivoli Towers have been used as a precedent for the height, but what's being overlooked is that these towers were built during a time when there was a lot more space. And there was a need being met for truly affordable housing. It is now approximately 60 years later and the community is inundated with market rate that has taken up this space. (6)

**Response 1.19:** *Comment noted. This proposal would be constructed on private land and would include both affordable and market-rate residential units. An assessment on the Proposed Building's height in relation to the surrounding neighborhood is provided in Chapter 8, "Urban Design & Visual Resources," of the DEIS.*

Comment 1.20: I understand the significance of having jobs that pay living wages. But once the building is built, that job is done, the union workers will move on to the next project. The rest of us will be stuck with this. (6)

**Response 1.20:** *Comment noted. Assessing the types of jobs created by the proposed actions is beyond the scope of CEQR. Above and beyond the union construction jobs intended to be created by the Applicant, the Applicant intends to employ members of 32BJ once the development has been completed. This will ensure that local community members are making a living wage once the building is occupied.*

Comment 1.21: We have concerns about the project's scale. (6, 8, 29, 40, 67, 73, 78, 84, 104, 153)

**Response 1.21:** *Comment noted. The DEIS will provide an assessment of the Project's scale in relation to the surrounding neighborhood in Chapter 8, "Urban Design & Visual Resources."*

Comment 1.22: Segmentation is a violation of SEQRA. Segmentation is when the proposed rezoning is separated to reduce the negative environmental effects. According to SEQRA, Section 617, proposals, or parts of proposals, that are related to each other closely enough to be in effect a single course of action should be evaluated as one whole action. CEQR 617.9.b.5, states a description of the proposed action should include the purpose, including any public need for or any public benefit. No justification has been given as to why these lots are not being included in the rezoning or the benefits to the community these lots will provide. This EIS must include all of the lots being rezoned, including the worst case scenario where a property owner may request a hardship variance to change the entire zone under the higher zoning. In the Draft Scope of Work, it is stated, the intention not to assess the environmental impacts of all of the lots being rezoned. No

justification has been given as to why these lots are not being included in the rezoning or the benefits to the community these lots will provide.

Lots 41, 46, 63 and 66, are included in the Environmental Assessment. Lot 1, lot 40, lot 77 and lot 85 are included in the rezoning area boundaries but are not assumed to be developed as a consequence of the Proposed Actions (57 percent of lot 1 is included in the rezoning area boundaries; 24 percent of lot 77 is included in the rezoning area boundaries; 100 percent of lot 40 is included in the rezoning area boundaries; 24 percent of lot 77 is included in the rezoning area boundaries; and one percent of lot 85). Why aren't they included in this rezoning? Because they are segmenting this project so that it doesn't have a big impact. (21, 48, 65, 139, 140)

**Response 1.22:** *The proposed rezoning area boundaries follow the City's existing zoning district boundaries. The existing zoning map shows that the majority of the lot area for Lot 1, Lot 40, Lot 77 and Lot 85 is located within an R8A zoning district, while a small portion of these lots are also located within an R6A zoning district. This proposal would leave the existing zoning district boundaries unchanged.*

*Lot 1 is under the jurisdiction of the MTA and would require an additional discretionary action and public hearings through the City's ULURP process for its development. Lot 40 is 10 feet wide and does not meet the minimum residential lot width requirements of zoning resolution (ZR) Section 23-32 and is not a possible development site. The portions of Lots 77 and 85 located within the boundaries of the proposed rezoning area would not automatically allow for those lots to be redeveloped with the 10.0 FAR available under the R9D. As these four lots will not be able to utilize any additional floor area as a consequence of the Proposed Actions on an as-of-right basis, and as a discretionary action would be required by the BSA, the EIS does not have to assume that these lots would be developed.*

**Comment 1.23:** The developer's promises, or binding agreements that do not exist are not to be used as a reasonable worst case scenario. Worst case scenarios are to be performed based on the New York City Zoning regulation, which determines what a developer may build as of right, based on the zoning. The developer is calculating a number of residential units, student population and et cetera, based 9.7 FAR, not what he is lawfully entitled to build in the R9D, which is 10.0 FAR. This is to reduce the negative impact. Bruce Eichner's residential configuration must be conducted by MIH FAR of 10. All other lots within the rezoned area must be assessed at the 9.0 FAR. All the calculations that are depended upon the number of residential units must be conducted upon the calculation determined by ZR. Rezoning of 1015 and 1035 Washington Avenue, rezoned to increase buildability space and remove height limits. Owner can ask for a hardship variance to build of standards and appeals to build at a new higher zone. However, the current building must be destroyed to build up the new height, 20 to 40 stories. Rent Stabilization laws allow owners not to renew leases if intending to destroy buildings. The developer is saying the above scenario, however is lawful and has been used before. (24)

**Response 1.23:** *The proposed project would be limited in bulk due to the RD and LSGD. Modifications to either the RD or LGSD would be subject to future environmental review. As described below, the Proposed Actions would not be expected to result in new development on Lots 1, 40, 77 or 85:*

*Lot 1 contains the MTA's Franklin Avenue subway shuttle right-of-way, an open-cut subway line that transects Block 1192 from Montgomery Street to Washington Avenue. As this tax lot is owned by the MTA, it would require additional discretionary approvals to allow for the disposition of City property in order to be redeveloped or to transfer or sell the development rights from this property to an adjacent property. As such, since any development of this area or sale transfer of development rights to another adjacent property would require its own environmental reviews and approvals, Lot 1 is unlikely to be developed on an as-of-right basis as*

*a consequence of the Proposed Actions. Therefore, it would not be considered a projected development site pursuant to CEQR Technical Manual guidance.*

*122A Montgomery Street (Lot 40) is a 1,282 sf (10 feet wide by 128 feet deep) rectangular property that is located within the Project Area. At 10 feet wide, it does not meet the minimum residential lot width requirements of ZR Section 23-32, "Minimum Lot Area or Lot Width for Residences." Additionally, it is not considered a possible development site due to the extensive structural shoring that would have to be installed along the western edge of the narrow property within the property lines in order to develop the site due to its proximity to the adjacent MTA subway cut.*

*1015 Washington Avenue (Lot 77) is a 28,432 sf trapezoidal property partially located within the Project Area. Lot 77 is occupied by a six-story, 99,750 gsf multi-family residential building, which represents a built FAR of 3.34. The current residential building contains 90 dwelling units constructed before 1974. Although Lot 77 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as a consequence of the Proposed Actions since only a small portion (24.4 percent) of the site would be rezoned from R6A to R9D as a consequence of the Proposed Actions, with the remainder of the lot remaining R8A. The area changed is in the rear of the lot with no street frontage, so the rear yard requirement would prohibit most of the area to be built upon. Per ZR 77-22, a blended portion of the available floor area could be located on the front of the site. Under the current R8A zoning the existing zoning lot has approximately 70,000 sf of unbuilt floor area, but only 26,000 sf could be added as an addition to the existing building and only about 32,000 sf of additional area could be realized as a new build. With the proposed rezoning to R9D, constructing an addition on top of the existing building would allow an increase of the existing building by 31,000 sf (approximately 5,000 sf over the expansion of the existing building that would be permitted under existing zoning) and about 60,000 sf (approximately 28,000 sf more than would be permitted under the R8A zoning) with a complete new build. As this incremental increase in floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish the existing building in order to obtain approximately 28,000 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC Board of Standards and Appeals (BSA) to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.*

*1035 Washington Avenue (Lot 85) is a 28,437 sf irregularly shaped property partially located within the Project Area. Lot 85 is occupied by a six-story, 123,113 gsf multi-family residential building which represents a built FAR of 4.12. The current residential building contains 97 dwelling units constructed before 1974. Although Lot 85 is developed to less than the maximum allowable FAR under the R8A zoning (6.02 FAR), it is unlikely the property would be redeveloped as only a small portion (0.6 percent) of the site would be rezoned as a consequence of the Proposed Actions. The area that would be rezoned as a consequence of the Proposed Actions is on the side lot line along Franklin Avenue. Per ZR 77-22, a blended portion of the available floor area created by the portion of the lot located in the proposed R9D zoning district could be used in the portion of the lot that lies within the R8A zoning district. Under the current R8A zoning, the existing building shape makes the construction of an addition impossible due to the required rear yard equivalent to be mapped at the middle of the site. Under the current zoning, approximately 47,700 sf additional floor area could be obtained by demolishing the existing building and constructing a new building to maximize the FAR available under the existing R8A zoning. Under the proposed rezoning, approximately 17,600 sf of additional floor area would be available from the portion of the lot that would be rezoned to R9D. When added to the 47,700 sf of additional floor area that is available on the site with the underbuilt condition, a total of 65,300 sf of additional floor area could be created on the site. As this incremental increase in*

*floor area provided under the proposed R9D zoning would be very small, it is anticipated that there would be little incentive for the building owner to demolish the existing building in order to obtain approximately 17,600 sf of floor area that would not be available under existing zoning. Further, if the owner were to seek relief from the NYC BSA to try to have the FAR of the proposed R9D zoning district applied to the entire lot, that would mean that additional discretionary actions would be required as there would be no way to utilize the FAR available under the R9D zoning on this lot on an as-of-right basis.*

*Therefore, the proposed rezoning would not create a substantial amount of new usable floor area for any of the other lots outside of the Proposed Development site that would be partially, or completely, rezoned as a consequence of the Proposed Actions. As such, there would be no new off-site development within the Project Area that would be expected to occur due to the proposed rezoning and the RWCDs would be comprised of only the Proposed Development.*

Comment 1.24: The rezoning of 960 Franklin Avenue is important because it will be built 100 percent union. There are many union members who live in this area that are out of work and this project will help to keep union members working in prevailing wage jobs. (34, 63, 72, 125, 135, 143, 145)

**Response 1.24: Comment noted.**

Comment 1.25: Union pensions will be invested in this project. The project can be used as an example across the City showing that we are willing to invest our pension in projects that will create new housing and good union construction jobs for the people of this City. The project will help provide New Yorkers with an opportunity to earn a middle class living. (34, 63, 125, 145)

**Response 1.25: Comment noted.**

Comment 1.26: This project is important because it will set aside 50 percent of the units for desperately needed affordable housing for the working and middle class residents in Brooklyn. (29, 34, 83, 125, 143)

**Response 1.26: Comment noted.**

Comment 1.27: Request for the local Brooklyn Public Library branch, the Eastern Parkway Library, be designated a repository for the administrative record, that all documents supporting the agency's decision, and including all evaluations and technical analysis be included in this administrative record and that there be a physical copy of the administrative record available at the library. If the administrative record is held online, I would like to request that a paper index outlining all available online documents be provided at the public library. (140)

**Response 1.27: Pursuant to the Procedures and Documentation section of the 2020 CEQR Technical Manual, public access to documents is typically provided online and at the local library, as described below. All complete CEQR documents must also be sent to MOEC, which acts as the official repository for environmental review documents and maintains a database of such documents that are publicly available at its offices pursuant to 62 RCNY 5-04(c)(5). MOEC requests that all documents be sent in an electronic format. These documents and notices, including EASs, accompanying positive or negative declarations, and EISs and accompanying notices of completion must be maintained in files that are readily accessible to the public, and must be made available upon request. Copies of CEQR documents are often placed in a local library for public reference during a public comment period.**

Comment 1.28: The project will lead to many new union building service jobs. The developer has committed to provide prevailing wage jobs for building service workers once the building is completed. (143)

**Response 1.28: Comment noted.**

Comment 1.29: It is not often that a private development on private land generates this much affordable housing. (143)

**Response 1.29: Comment noted.**

Comment 1.30: We hope that the environmental review process will take the issue of job quality for building service workers seriously. This rezoning is a chance for working families to benefit from development and to uphold and promote strong standards that are in place for good building service jobs in New York City. (143)

**Response 1.30: Comment noted.**

Comment 1.31: The proposed development at 960 Franklin Avenue provides needed affordable housing in the Crown Heights neighborhood of Brooklyn. (8, 131)

**Response 1.31: Comment noted.**

Comment 1.32: The documentation does not demonstrate how site planning and urban design would actually be improved under the proposal. This leads MAS to question whether the special permit is merely a mechanism to facilitate the construction of much larger towers than otherwise would be permitted. (8)

**Response 1.32: The Large Scale General Development creates a building envelope that locks in a specific envelope that requires the proposed buildings to fit within. To facilitate the Proposed Development, the Applicants are seeking a Large Scale General Development (LSGD). For LSGDs, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and bulk controls. The regulations are designed to allow greater flexibility for the purpose of securing better site planning, while safeguarding the present or future use and development of the surrounding area.**

Comment 1.33: There are thousands of union workers that live in Brooklyn that need jobs. They need affordable housing. We need to be able to live in the community in which we were born and raised. (34, 63, 145)

**Response 1.33: Comment noted.**

Comment 1.34: I am opposed to any further high-rise construction in the area that is not specifically and entirely dedicated to subsidized housing for homeless and low-income people. (31, 84)

**Response 1.34: Comment noted. It is the Applicant's intention to provide 50 percent affordable (through the City's MIH program requirements and through an additional earmarking of affordable units on consultation with HPD) and 50 percent market-rate residential units in a development that would be constructed on privately-owned land.**

Comment 1.35: A bad precedent will be set if this rezoning is approved. (28, 40, 84, 123)

**Response 1.35: Comment noted. The DEIS will provide an assessment of the proposed actions compatibility with surrounding land use and zoning patterns in Chapter 2, "Land Use, Zoning, and Public Policy."**

Comment 1.36: The proposal to rezone 960 Franklin Avenue should be withdrawn. (44)

**Response 1.36: Comment noted.**

Comment 1.37: The AFL-CIO Housing Investment Trust has been working with the Continuum Company for well over a year to bring this project to life. The HIT has been active in New York throughout its history with a specific commitment to the City since 2002. In 2002, the HIT, the Housing Investment Trust, launched what we called the New York City Community Investment Initiative to help the City of New York address its urgent affordable housing needs in the aftermath of September 11th. Now in its third phase, our initiative has allowed the HIT to finance 55 projects for a total of more than \$3 billion worth of investments, which has created and preserved over 37,000 housing units, 94 percent of those are affordable and/or workforce housing. A number of these investments have been financed to repair, renovate and retrofit the same Mitchell Lama projects which the labor movement sponsored so many years ago. The HIT has been a key partner to the City in preserving the key sources of affordable housing. Our initiative has positively impacted the lives of thousands of New Yorkers across the five boroughs and neighboring Yonkers. With the ongoing severe shortage of houses for low and middle income families, the HIT has focused on helping to fill the gap through its network of developers, State and City housing agencies, labor leaders and City officials. But that's not enough. The disparity between wage and rent continues to grow. Each year more and more workers have to relocate out of the City, away from their jobs in order to afford their homes. Under our current phase at the HIT, we have the housing initiative strategy. The HIT has set another goal of committing \$1 billion towards preserving and creating 20,000 workforce and affordable housing. Only with the addition of newly built affordable housing can the City keep up with the pace of this demand. The HIT stands by the Continuum Company and other developers working to address this critical issue. We will work with Continuum and the Housing Finance Agency to invest debt for this important project. (134)

**Response 1.37: Comment noted.**

Comment 1.38: Several accomplished real estate developers in New York City have spoken eloquently of their willingness to fund renovations of the train stations near their current or proposed buildings. This developer should do the same. (131)

**Response 1.38: Comment noted.**

Comment 1.39: If any amount of the units will have their rent pegged to a particular income bracket, there must be units well below \$1,000/month (not just studios and one-bedrooms), must include the full mix of incomes, and must guarantee residents a home for the foreseeable future. 30 years is not enough. (131)

**Response 1.39: Comment noted. The proposed zoning text amendment, which would designate the Project Area as a MIH area, would require the construction of permanently affordable residential units on the Applicant-owned and controlled Development Site. The City's MIH program specifies that an applicant can choose between Option 1, which requires that 25 percent of the housing must be affordable to households making 60 percent of the AMI for a household of three, and Option 2, which requires that 30 percent of the housing must be affordable to households making 80 percent of AMI for a household of three. Refer to Response 1.17.**

Comment 1.40: I appreciate the need for affordable housing and the inevitability of development but it must be done thoughtfully. (4, 76, 81, 130)

**Response 1.40: Comment noted.**

Comment 1.41: The postal service in our area has become unreliable due to the abundance of new developments that have left letter carriers trying to cover the same routes with a tremendous increase in the numbers of addresses to be delivered to. (31, 130)



**Response 1.41:** *Comment noted. The CEQR Technical Manual presents methodologies to analyze public schools, libraries, child care facilities, fire protection services, police protection services, homeless shelters, jails, community centers, colleges, or cultural facilities. No methodologies are presented to analyze postal services. Therefore, this is outside of the scope of CEQR and the environmental review.*

Comment 1.42: I reject the argument that allowing private developers to reap huge profits while constructing a few so-called "affordable" units is the way to address the housing crisis. (57, 91, 99)

**Response 1.42:** *Comment noted. As a key initiative of Mayor de Blasio's housing plan, Housing New York, the Department of City Planning launched a Mandatory Inclusionary Housing program that will require through zoning actions a share of new housing to be permanently affordable. Developed in close consultation with the HPD and informed by extensive policy and financial feasibility analysis, this program marks a new approach to ensuring neighborhood economic diversity as the City plans for growth. The requirement will work together with City housing subsidies and other incentives, and future zoning changes.*

*Affordable housing under this program is mandatory, not voluntary. Production of affordable housing becomes a condition of residential development when developers build in an area zoned for Mandatory Inclusionary Housing, whether rezoned as part of a City neighborhood plan or a private rezoning application.*

*Affordable housing units provided to satisfy the City's MIH program would be permanent. There is no expiration to the affordability requirement of apartments generated through Mandatory Inclusionary Housing, making them a long-term, stable reservoir of affordable housing.*

*Every land use action to apply Mandatory Inclusionary Housing to a specific area would also go through a full public land-use review process, with final approval resting with the City Council.*

Comment 1.43: It is incomprehensible that the city would allow the short-term pecuniary interests of real estate developers to override the needs of a flourishing, vibrant, healthy Brooklyn Botanic Garden. (9, 10, 43, 102, 119)

**Response 1.43:** *Comment noted. The DEIS, specifically Chapter 5, "Open Space," Chapter 6, "Shadows," and Chapter 9, "Natural Resources," will evaluate the potential for shadows impacts on the Brooklyn Botanic Garden.*

Comment 1.44: The affordable units need to be an adequate size to meet family needs. (84)

**Response 1.44:** *Comment noted. The affordable units will comply with the City requirements. The DEIS will provide further information; refer to Chapter 1, "Project Description."*

Comment 1.45: We need affordable housing, not luxury towers. (26)

**Response 1.45:** *Comment noted. See response to Comment 1.9.*

Comment 1.46: I believe it is much better to construct dense housing on formerly industrial sites, than to knock down hundreds of nice old buildings on the area's lovely residential blocks, building them out to the maximum capacity that the zoning laws will allow and destroying the sense of cohesiveness and scale, as we have seen happen in many instances. So, in many ways I am actually sympathetic to the basic project of the 960 Franklin building. However, the above principles do not apply without limits. And, while a tower on the site that fits into the existing zoning limits would probably be a welcome addition to the neighborhood, a dramatic height increase of the kind proposed raises some real environmental concerns. (137)

**Response 1.46:** *Comment noted. While no specific environmental concerns are named by the commenter, an EIS is being prepared to analyze the potential environmental consequences of the Proposed Actions. The DEIS will provide an assessment of the Proposed Building's height in relation to the surrounding neighborhood in Chapter 8, "Urban Design & Visual Resources." and will assess the proposed actions' effects on elements that contribute to neighborhood context in Chapter 19, "Neighborhood Character.," The EIS will examine the increment between what will be permitted as-of-right under the current zoning district and what is to be proposed under the LSGD special permit.*

Comment 1.47: I am very concerned about this environmental impact. The city should take particular care that the outcome of the report is not skewed by the fact that the economic interests on one side are concentrated and well-organized, while those on the other are more diffuse, though possibly much larger in aggregate. (137)

**Response 1.47:** *Comment noted. The New York City Department of City Planning, in its role as Lead Agency, reviews the environmental impact statement in conjunction with other expert agencies (e.g., the NYC Department of Transportation, the NYC Department of Environmental Protection, among others) to ensure that the document is accurate and that each technical area is examined in an objective manner that is faithful to the established regulatory guidelines.*

Comment 1.48: It is our belief that the developers are making a deliberately preposterous request in order to lay the groundwork for a "compromise" that only partially damages the garden. (85)

**Response 1.48:** *Comment noted. The EIS will provide information on measures and alternatives that seek to mitigate fully or partly or avoid significant adverse impacts. Refer to Chapters 21 and 22, "Mitigation," and "Alternatives," respectively. In the case of significant adverse impacts for which full mitigation is not feasible or practicable, the EIS will disclose unavoidable adverse impacts. Refer to Chapter 23, "Unavoidable Adverse Impacts."*

Comment 1.49: We urge the DCP to reject this proposal before a study wastes time and taxpayer money – and to instruct the developers to submit a request that actually does no harm to the Garden. (85)

**Response 1.49:** *Comment noted. See response to Comment 1.48.*

Comment 1.50: No apartments have been earmarked for homeless people. If homeless housing will be provided, details need to be disclosed. (21)

**Response 1.50:** *Comment noted. No homeless housing is being proposed at this time. See response to Comment 1.9 for a proposed breakdown of the affordable units.*

Comment 1.51: The project proponents allege in the DSOW that based on the preliminary screening assessments outlined in the 2014 *CEQR Technical Manual* (and detailed in the EAS for the Proposed Actions), historic resources, natural resources and solid waste and sanitation services, don't warrant detailed assessment, indicating the proponents and Lead Agency intend not include them (p.18). This assertion benefits from a segmented approach to the Proposed Action, and also disregards legally critical cumulative impacts that the Proponents failed to recognize or respond to in the DSOW. (21)

**Response 1.51:** *The DSOW and FSOW include a description of the proposed scope of work for both Historic Resources and Solid Waste and Sanitation Services. Additionally, upon further consultation with the NYC Department of City Planning it was determined that an analysis of Natural Resources will be added to the Final Scope of Work and to the DEIS.*

***As described above in Response 1.23, the project is not being segmented from any other developments that could be reasonably expected to occur as a direct consequence of the Proposed Actions. As described above, the portions of lot 1, lot 40, lot 77 and lot 85 located within the boundaries of the proposed rezoning area could not automatically be redeveloped with the 10.0 FAR available under the R9D. As these four lots will not be able to utilize any additional floor area as a consequence of the Proposed Actions on an as-of-right basis, and as a discretionary action would be required by the BSA to allow for any potential future development, the EIS assumes that these lots would not be developed. Therefore, the consequences of the Proposed Actions are being fully analyzed in the environmental review documents.***

***Further, as described in the response to Comment 1.8, Per CEQR Technical Manual guidance, “Known Projects” such as the Cornell/Carmel development (CEQR No. 17DCP067K) and the Bedford-Union Armory (CEQR No. 16DME005K) (both of which have already been approved through the City’s public review process) are included in the future conditions without the Proposed Actions (No-Action condition). As such, the technical analyses provided in the DEIS will account for the demands that these developments would place on the local community (e.g., community facilities, open spaces, water and sewer infrastructure, and transportation) and a separate cumulative analysis is not warranted.***

***For the record, subsequent to the scoping process, the City issued an updated 2020 edition of the CEQR Technical Manual, effective December 24, 2020. This new edition supersedes the 2014 CEQR Technical Manual, but as noted in the new edition the changes are minor and do not change the CEQR guidance provided therein.***

Comment 1.52: On behalf of the City Planning Commission, the Department of City Planning Environmental Assessment and Review Division determined, pursuant to 6 NYCRR Part 617.7, that the proposed actions may have a significant effect on the quality of the environment in 16 separate categories, and require an Environmental Impact Statement (EIS). The Draft EIS to be prepared for the proposed action must identify and describe any other potential effects on the environment. (21)

***Response 1.52: A positive declaration was issued to indicate that an EIS is required for the proposed actions and subsequent development. This means that further study is required due to the potential for the project to result in impacts, not that the project has, in fact, resulted in impacts. The Draft EIS will provide the detailed analyses for each technical area that warrants analysis, as described in the FSOW.***

Comment 1.53: The Designated Lead Agency is the Housing Preservation and Development Agency (HPD), not the Department of City Planning (DCP). The DSOW states that public financing “may be sought” from city, state, and/or federal sources, including United States Department of Housing and Urban Development (HUD) financing programs that are allocated by HPD, as well as new market tax credit (NMTTC) transactions, or other governmental or private sources. This suggestion raises two key points: first, the DSOW must specify the types and sources of HUD funding the project intends to access; and second, to the extent any of the funds originate in covered programs listed in 24 CFR §58, the lead agency for the proposed project would be HPD as the Responsible Entity under HUD regulations (HPD clearly states on its website that under 24 CFR Part 58, HPD is responsible for environmental review, decision-making, and action that would otherwise apply to actions undertaken by HUD to include project financing.) Moreover, the use of HUD funds requires the environmental review process comply with the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508, and applicable Federal laws, Executive Orders, and other authorities in addition to State and local legal requirements for the EIS. Funds from covered programs cannot be released without full NEPA compliance.

The designation of HPD is also required under lead agency selection criteria in the Rules of the City of New York, since as a funding agency HPD will have the greater degree of responsibility for planning and implementing the action; be involved for a longer duration; provide for the most thorough environmental assessment (because it will include requirements under Federal NEPA); provide the greater level of funding for the action; and may be acting earlier on the proposed action (although the proponents have not provided a full account of the HPD involvement). Accordingly, HPD must conduct environmental reviews under the laws and rules which apply to HUD programs and policies noted above. (21)

**Response 1.53:** *Comment noted. It has been determined that the Department of City Planning is the appropriate lead agency because of the specific actions being requested by the Applicant. The Proposed Actions consist of zoning map and text amendments, as well as a Large Scale General Development (LSGD) special permit, and special permit to waive parking. HPD is an involved agency since it has jurisdiction to fund a portion of the proposal.*

*The CEQR rules provide that where only one City agency is involved in a proposed project, that agency shall be the lead agency for environmental review under CEQR. 62 RCNY 5-03. Where more than one agency is involved, a single lead agency is usually selected. Exceptions to this rule include legislative action, where the City Council and the Office of the Mayor act as co-lead agencies, and situations where a City and state agency may act as co-lead agencies. CEQR rules address lead agency selection in detail for a number of City processes, including the enactment of local laws, actions involving franchises, applications for special permits from the Board of Standards and Appeals, and specific actions that require CPC approval under the New York City Charter, among others.*

*The environmental review is “coordinated” meaning – there is one environmental review that will cover all actions. This process includes involvement from expert agencies outside of the Department of City Planning, such as NYC Department of Parks and Recreation, NYC Department of Transportation, MTA New York City Transit, NYC Department of Environmental Protection, and possibly others, as appropriate.*

*The possible financing action may be pursued in conjunction with the affordable component. If financing is sought, a second step in the approvals process would be triggered. Such a request for HPD and/or HDC financing would rely on the findings of the EIS if it is within the scope of analysis and impact determinations provided in the EIS. If this is not the case, then additional supplemental environmental review would be conducted as warranted. Depending on the effects of such changes as they relate to the impact determinations disclosed in the EIS, such additional actions may be subject to technical memoranda or a supplemental EIS, in accordance with applicable environmental review regulations and guidance. The Applicant will work with all involved agencies to ensure that the environmental review adequately complies with the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations in 40 CFR Parts 1500 through 1508, and applicable Federal laws, Executive Orders, and other authorities in addition to State and local legal requirements for the EIS.*

**Comment 1.54:** The Project requires Alienation of Parkland Subject to Separate Action and Evaluation. In 1897, New York State legislation reserved 39 acres for a botanic garden in Brooklyn that has since expanded to 52 acres. Courts have long recognized proper park uses as monuments and aesthetic embellishments, zoos and horticultural displays, playgrounds, and restaurants. Under New York common law, a municipality holds parkland in trust for the people of the state, and the people's trust may not be diminished or infringed upon without specific authorization by statute from the state legislature. New York courts have a long tradition of extending public trust protections to municipal parks by requiring specific state legislative authorization for sale, alienations, or non-park uses of the park's assets. Air, light, and airspace are critical components of a “park,” the use of which is governed and protected no differently from use of the surface land or water within

park boundaries. City zoning action that transfers light and airspace from park use (open airspace with unimpeded and unaffected light corridors to plants and visitors) to development use (obstructed light corridors carrying building shadows and absorbing reflected glare) along with surface asset transfer for shadow and glare absorption constitutes an alienation that must be authorized by the State legislature. Shadow and glare absorption are permanent uses of parkland air and surface space no different from tradable development capacity or acreage, and requires state alienation approval. The planned “Towers” component of the proposed action goes beyond the usual “shadow” and “reflection” factors and constitute an inconsistent use of BBG parkland air, light, airspace, and surface land assets that amounts to a transfer of park assets. The EIS must therefore identify and analyzed the requirement for State alienation legislation as well as performing shadow and glare/reflectivity assessments. (21)

**Response 1.54:** *Comment noted. Per the New York State Office of Parks, Recreation and Historic Preservation’s Handbook on the Alienation and Conversion of Municipal Parkland (Revised September 1, 2017), parkland alienation occurs when a municipality wishes to convey, sell, or lease municipal parkland or discontinue its use as a park. The incremental shade and/or sun reflection from a proposed project does not constitute parkland alienation.*

Comment 1.55: Chapter 2, Section 320 of the *CEQR Technical Manual* recognizes that discretionary actions like the 960 Franklin Avenue Rezoning permit a range of development scenarios to occur even though the action may be sought in order to facilitate a specific development. The CEQR Manual specifies that the scenario with the worst environmental consequences is chosen for analysis. In order that the Reasonable Worst Case Development Scenario (RWCDS) of the Proposed Action be accurate, environmental impacts of from redevelopment of ALL the lots affected by the discretionary zoning action sought must be analyzed.

Changes to the improperly segmented Lots 1, 40, 77 and 85 in Block 1192 (totaling 26,868 sq ft) from the current R8A (12 story height limits) to RD9 (no height limit) that increases building capacity by 300% are part of the RWCDS. The DSOW must include a properly calculated RWCDS that fully discloses potential additional development, especially as it is likely to alter the neighborhood character, overload assets and resources in contravention of law, and alienate parkland assets. A proper hard look requires accurate depictions of the Action Scenario with a full, unsegmented RWCDS, and reasonable alternatives that do not induce worst case impacts and contravene law. (21)

**Response 1.55:** *As described above in Response 1.23, the project is not being segmented from any other developments that could be reasonably expected to occur as a direct consequence of the Proposed Actions. As described above, the portions of lot 1, lot 40, lot 77 and lot 85 located within the boundaries of the proposed rezoning area could not automatically be redeveloped with the 10.0 FAR available under the R9D. As these four lots will not be able to utilize any additional floor area as a consequence of the Proposed Actions on an as-of-right basis, and as a discretionary action would be required by the BSA for each development on these lots that sought to expand, the EIS does not have to assume that these lots would be developed. Therefore, the consequences of the Proposed Actions are being fully analyzed in the environmental review documents.*

*Further, as described in the response to Comment 1.8, per CEQR Technical Manual guidance, “Known Projects” such as the Cornell/Carmel development (CEQR No. 17DCP067K) and the Bedford-Union Armory (CEQR No. 16DME005K) (both of which have already been approved through the City’s public review process) are included in the future conditions without the Proposed Actions (No-Action condition). As such, the technical analyses provided in the DEIS will account for the demands that these developments would place on the local community (e.g., community facilities, open spaces, water and sewer infrastructure, and transportation) and a cumulative analysis is not warranted.*

Comment 1.56: The radius being studied in this project in regards to school impact and transportation and sewer is too small. The radius includes the botanic garden, which takes up about 1/3 of the proposed study area. Given that the garden is open space, it is not an appropriate representation of the residential average of the neighborhood and the radius should be increased to study the actual impact on the transportation, schools and sewers. All new developments within a mile radius should be taken into consideration. (140)

**Response 1.56:** *Comment noted. The proposed study areas have been determined to be in compliance with CEQR Technical Manual criteria, and from guidance issued by the lead agency and other expert and involved agencies. The study area radius for each technical area is defined and justification for the study area boundary is described in each relevant chapter of the DEIS.*

Comment 1.57: I request that any public meetings and hearings regarding this project, be held within the community that it stands to affect, and that those meetings be held with an early evening start time, so members of our community who work during the day, are able to attend. (140)

**Response 1.57:** *Comment noted. Applications for City projects that must also be reviewed pursuant to the Uniform Land Use Review Procedure (ULURP) are filed with the New York City Department of City Planning (DCP). For private applicants, DCP serves as the CEQR lead agency for projects subject to ULURP; DCP also serves as lead agency for some other City projects in ULURP (see 43 RCNY 5-03 for the exceptions). ULURP procedures are detailed in Sections 197-c and 197-d of the New York City Charter and should be consulted for the purpose of coordinating CEQR with ULURP. The timetable for ULURP begins once an application is certified as complete. A completed ULURP application must include one of the following: a Type II Determination, a Negative Declaration, a Conditional Negative Declaration, or a DEIS and Notice of Completion for the DEIS.*

*The scheduling for the scoping of the proposed project and an opportunity to comment on the DSOW was provided to the public in accordance with the environmental review rules under Section 617.8 of Part 617 (State Environmental Quality Review Act) of the New York Codes, Rules, and Regulations and Section 5-07 of Chapter 5 under Title 62 of the Rules of the City of New York.*

*As this project is subject to approval through the City's ULURP process, it is subject to review by the local community board, the Brooklyn Borough President, the City Planning Commission (CPC) and the City Council. The community board and the borough president typically have their hearings in the evening. The community board holds their hearings within the local community. The borough president holds the public hearing at Brooklyn Borough Hall in Downtown Brooklyn. In support of the City's efforts to contain the spread of COVID-19, public hearings are being held remotely through the teleconferencing application, Zoom. Details about participating in these public hearings can be found on the Upcoming Meetings page of NYC Engage ([www.nyc.gov/engage](http://www.nyc.gov/engage)).*

Comment 1.58: A low-rise as-of-right development with the same 50/50 ratio of affordable and market-rate units would help build the neighborhood feel of the community. (66)

**Response 1.58:** *Comment noted.*

Comment 1.59: Disclosure of impacts or compliance interference under applicable substantive laws. The evaluation of environmental "impacts" includes identification, disclosure, and analysis of any aspect of the proposed project[s] that is subject to laws, rules, and regulations other than SEQRA, CEQR, or Executive Order 91 process requirements. Actions and effects that extend beyond the impact category and represent potential for violations of, or compliance interference with, laws, regulations, Orders on Consent, Administrative Orders, or any other enforcement action issued by Federal, State, or municipal authorities covering the operation and management area of the project[s] must be evaluated and disclosed. In the case of the 960 Franklin Project, these include

(but are not limited to) the Clean Water Act, the Clean Air Act, Local Law 152, and the Fair Housing Act, inter alia. (21)

**Response 1.59:** *The EIS describes the potential significant adverse environmental impacts identified in the scoping process at a level of detail sufficient to enable the lead agency and other involved agencies to make informed decisions about those impacts for a proposed project, and, if necessary, how to avoid or mitigate those impacts to the maximum extent practicable. The lead agency should take care to explain the identified impacts in sufficient detail, considering the nature and magnitude of the proposed project and the significance of the potential impacts. The Department of City Planning and the other involved and interested agencies review the Draft EIS to ensure compliance with applicable laws, regulations, Orders on Consent, Administrative Orders, or any other enforcement action issued by Federal, State, or municipal authorities.*

Comment 1.60: The Scope of Work must be revised to include all necessary Federal and State cumulative impacts analysis. (21)

**Response 1.60:** *The CEQR Technical Manual is the guidance document used by the City in order to take into account the special circumstances of New York City's urban environment. The Draft EIS is being prepared pursuant to CEQR criteria and methodology. The CEQR Technical Manual was created in consideration of federal and state environmental review regulations, while also establishing a greater degree of scrutiny.*

Comment 1.61: The requested R9D zoning designation would allow an FAR of up to 10.0 under MIH. However, the Applicant is choosing to utilize only 9.7 of the available FAR, which would be recorded under a Restrictive Declaration (RD). To clarify this choice, the DEIS must include an explanation for why the Applicant is not using the remaining 0.3 FAR for additional affordable housing—which is a stated primary objective of the project—and include a summary of the conditions of the RD, which will govern the site. (8)

**Response 1.61:** *The proposed zoning map amendment, which would rezone the Project Area from R6A to R9D with a C2-4 commercial overlay (mapped in the Project Area within 100 feet of Franklin Avenue), would increase the permitted FAR in the Project Area, allowing for development of more residential space than could be provided under existing conditions. Although the R9D zoning district provides up to 10.0 FAR for residential uses under MIH, the Applicant would not be permitted to utilize 0.3 of the available FAR as a consequence of a Restrictive Declaration (RD), which would cap the development potential of the site at 9.7 FAR and would be recorded against the property as a part of the Proposed Actions. The RD will be part of the ULURP application. The EIS and ULURP application will describe the reasons for using 9.7 of the 10.0 FAR.*

Comment 1.62: The project would be developed in two phases, with all of the community facility space and 384 affordable units scheduled for construction in the second phase. Because information is not provided in the DSOW, we request that the DEIS explain the reasoning for phasing construction and in particular the development of community facilities and affordable housing units in the second phase. (8)

**Response 1.62:** *It is the Applicant's intention to split the construction of the affordable units evenly between the two buildings so that they are integrated with the market-rate units. As the commercial overlay would only be mapped within 100 feet of Franklin Avenue, as Franklin Avenue is a commercial corridor, and as the community facility is anticipated to be a daycare center, it was determined that the local retail uses would be appropriate along Franklin Avenue while the community facility would be better suited on Montgomery Street in the second phase of development. The DEIS and ULURP application will provide additional rationale behind the phasing.*

## 2. Land Use, Zoning, and Public Policy

Comment 2.1: While there's some precedent in Tivoli Towers and the Ebbets Field apartments for building larger towers to bring affordable housing to this part of Crown Heights, the 960 Franklin Proposal would rise far above even these buildings. Indeed, there is no precedent for zoning higher than R8 anywhere outside of downtown Brooklyn. (3)

**Response 2.1:** *The DEIS will provide an assessment of the proposed action's compatibility with surrounding land use and zoning patterns in Chapter 2, "Land Use, Zoning, & Public Policy."*

Comment 2.2: Rezoning of 1015-1035 Washington Avenue, rezoned to increase buildability space and remove height limits. The building owner can ask for a hardship variance from the Board of Standards and Appeals to build at the higher FAR. However, the current building must be demolished. Rent Stabilization laws allow owners not to renew leases if intending to destroy buildings. Changing the current R8A (12 story height limits) to RD9 (no height limit) increases the building capacity by 300%; BSA hardship application to implement would not otherwise require a ULURP process or environmental review. The 95% approval rate for such hardship variances requires that a "hard look" must include the impacts of *all development that can occur as a result of the Proposed Action*. (21, 24, 77, 79, 140, 152)

**Response 2.2:** *See response to Comment 1.23.*

Comment 2.3: Local elected officials are demanding a stay on all rezonings and communities of color until negative consequences on ethnic populations are assessed. Public Advocate Jumaane Williams has called for a moratorium on rezoning until fully analyzed and the negative effects assessed. (13)

**Response 2.3:** *Comment noted. The Draft EIS will provide an assessment of Land Use, Zoning, and Public Policy, and will comply with the CEQR Technical Manual to ensure that the EIS provides the appropriate level of detail for all analyses, including the land use, zoning and public policy analysis and the socioeconomic analysis.*

Comment 2.4: In 1991, there was a community plan created to promote new development in keeping with existing scale and character and ensure continuous, unobstructed sunlight for the Botanic Garden and their greenhouses and conservatories. The current zoning should remain unchanged. (4, 7, 8, 10, 13, 20, 21, 22, 23, 25, 27, 28, 32, 35, 36, 38, 43, 44, 46, 49, 50, 52, 53, 56, 57, 58, 68, 72, 74, 75, 77, 79, 84, 88, 90, 91, 94, 96, 97, 99, 100, 105, 106, 107, 112, 117, 118, 119, 120, 121, 127, 129, 136, 137, 141, 142, 144, 146, 148, 149, 150, 151, 153)

**Response 2.4:** *Comment noted. The EIS will provide an assessment of Land Use, Zoning, and Public Policy, Shadows, Urban Design and Visual Resources, and Natural Resources pursuant to the methodologies and guidance of the CEQR Technical Manual. Each chapter of the Draft EIS will describe impact criteria and discuss the potential for the Proposed Actions to result in impacts (if any). Where impacts are identified, mitigation measures would be identified pursuant to CEQR Technical Manual guidance.*

Comment 2.5: The zoning was designed to protect BBG's ability to grow diverse plants that populate the 52-acre BBG and must remain unchanged. (32, 50, 61, 100, 108, 120, 122)

**Response 2.5:** *Comment noted. See response to Comment 2.4.*

Comment 2.6: The area to be studied must include all of the Cornell buildings because those buildings will be live when you begin construction and all the effects of whatever change is happening in our neighborhood will be in action. (124)



**Response 2.6:** *Comment noted. See response to Comment 1.23.*

Comment 2.7: Preserve the air, light and open space for the Brooklyn Botanic Garden. (45, 78, 107, 129)

**Response 2.7:** *Comment noted. See response to Comment 2.4.*

Comment 2.8: Remove portions of lot 77 and lot 85 from the rezoning area. (152)

**Response 2.8:** *Comment noted. See response to Comment 1.23.*

Comment 2.9: The developer is perfectly capable of developing this property within the existing zoning constraints, which are there to protect both the Garden and surrounding community. (49)

**Response 2.9:** *Comment noted. The Proposed Development intends to provide a substantial amount of affordable housing which would not be possible under the existing zoning. As described above, the Proposed Development is comprised of 50 percent affordable dwelling units and 50 percent market-rate dwelling units (approximately 789 affordable dwelling units and 789 market-rate dwelling units), which exceeds MIH requirements.*

Comment 2.10: The proposed buildings will be environmentally unsustainable despite the availability of decades of technological innovation in carbon-neutral building materials and systems, and despite the desire of more and more people to put this city on an environmentally regenerative path. (9)

**Response 2.10:** *Comment noted. Although the design of the Proposed Development has not been finalized at this time, it will be subject to green building laws and regulations, including NYC's Local Law 97 of 2019 and subsequent amendments, which enforces carbon emissions limits for buildings to help meet the city's goal to reduce overall carbon emissions 80 percent by 2050. In any event, this comment is outside of the scope of CEQR.*

Comment 2.11: The proposed project is a spot rezoning. (56)

**Response 2.11:** *As described above, the Project Area includes portions of several other lots along the western and southern edges of the Development Site. The boundaries of the Project Area follow existing zoning district boundary lines. Refer to Chapter 2, "Land Use, Zoning, & Public Policy," of the DEIS.*

Comment 2.12: The project would require a Large-Scale General Development (LSGD) Special Permit, and zoning waivers to reduce minimum lot coverage from 33 percent to 11.4 percent, or a 65 percent reduction. The Applicant is also seeking to waive tower coverage regulations that require the building's top four floors to be set back 50 to 80 percent above 165 feet in height. With the waiver, the developer would be able to build with 100 percent tower coverage with no setbacks on the uppermost floors. According to the DSOW, these modifications would "promote better site planning and urban design on the Development Site" and "allow slender, uniform towers." We are unconvinced of this rationale. The DSOW and other project information fail to demonstrate how the waivers actually improve site planning and urban design. Nor is it clear how adding bulk and eliminating setbacks on the top floors would result in more slender tower design. Instead, we believe the Special Permit and subsequent zoning waivers are part of a strategy to facilitate taller towers with larger (and more valuable) upper floor area than would otherwise be allowed. Therefore, MAS requests a clear and thorough explanation as to how the Special Permit and waivers would enhance site planning and design on the Development Site. (8)

**Response 2.12:** *Comment noted. The Draft EIS and ULURP application provide additional details about the LSGD Special Permit and the proposed design. Refer to Chapter 8, "Urban Design & Visual Resources," of the DEIS. The filed ULURP Application and drawings will be available on the Department of*

**City Planning's Zoning Application Portal (ZAP) found at [www.zap.nyc.planning.gov](http://www.zap.nyc.planning.gov).**

### 3. Socioeconomic Conditions

Comment 3.1: I would love to see all this affordable housing materialize because we need it. The median income in Crown Heights is approximately \$44,000. Rents are increasing and long-time residents in the community are being displaced. (2, 72)

**Response 3.1: Comment noted. Chapter 3 of the EIS evaluates the potential for the project to result in residential displacement.**

Comment 3.2: Children should not have to be living with parents when they're going to college. People always say if you do what is expected of you, when you get out of school with a degree, you'll be able to have a job that's making a nice salary and be able to afford to live in your own house or your own apartment. You can't do that now. (2)

**Response 3.2: Comment noted.**

Comment 3.3: We are losing our churches and we're losing our homes and already there's been too many people displaced. (2)

**Response 3.3: As described in Task 3 of the FSOW, in accordance with CEQR Technical Manual methodology, the EIS will include analyses of indirect residential displacement as a result of the Proposed Project. Per CEQR Technical Manual, the DEIS will provide a preliminary assessment for indirect residential displacement that will consider current market conditions and trends and evaluate the Proposed Project's potential effects on socioeconomic conditions, as compared to the future without the Proposed Project. Non-residential uses in the Proposed Project include approximately 21,183 gsf of retail space and approximately 9,678 gsf of community facility space, which are intended to serve a local demand that is unmet and accommodate future residents.**

Comment 3.4: New development in the area should be done in such a way where we're avoiding indirect residential displacement. (2)

**Response 3.4: See Response 3.3.**

Comment 3.5: Crown Heights has been inundated with developers who are displacing residents. (2)

**Response 3.5: As described in Task 3 of the FSOW, the DEIS will provide a preliminary assessment for indirect residential displacement that will consider current market conditions and trends, and evaluate the Proposed Actions' potential effects on socioeconomic conditions. If the Proposed Actions could potentially introduce or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population, a detailed analysis is warranted and will be provided.**

Comment 3.6: The displacement that has occurred at Ebbets Field is a concern. It has become predatory. Long-time tenants are being harassed. Some tenants get to the point where they can't take it anymore and they just go because they're going back and forth to Housing Court. They're behind \$20 or \$25 – you're not supposed to go to Housing Court for that. And people say you have a right to counsel – but that is only the case for people 200 percent below the poverty level. A significant portion of Ebbets Field does not qualify. (6)

**Response 3.6: Comment noted.**

Comment 3.7: Homeowners are complaining because developers are harassing them to sell. (6)

**Response 3.7: Comment noted. Owners who sell their properties to developers are not typically considered displaced as the owners have entered into a voluntary agreement.**

Comment 3.8: The developers must apply the number of units and their income brackets of the 20 percent affordable units, not a part of the MIH requirements. The developers must calculate all non-rent stabilized units and preferential leases, including units inside of rent stabilized buildings within a five-mile radius. (13)

**Response 3.8: The number of affordable units above and beyond the City's MIH requirements will be described in terms of the proposed AMI. The socioeconomic analysis for the Draft EIS, including the applicable study areas, will be consistent with the guidance and methodologies provided in the CEQR Technical Manual.**

Comment 3.9: Studies have shown development along transit corridors in low to moderate income communities causes displacement. The community has an AMI of \$40,000 and residents and small businesses will be displaced. (13)

**Response 3.9: Comment noted. The socioeconomic analysis provided in the Draft EIS will evaluate the possibility of indirect displacement as a consequence of the Proposed Development.**

Comment 3.10: Studies have shown that displacement causes an increase in mental health issues. There is a strong link to increased diabetes, cancer and heart disease in displaced residents. These studies must be analyzed and assessed. A cost benefit analysis would prove the increased health care costs far outweigh any, if at all, benefits to our community. (9, 13, 79)

**Response 3.10: Comment noted. An analysis of the effects of displacement on physical or mental health is outside the scope of CEQR. The socioeconomic analysis for the Draft EIS, including the applicable study areas, will be consistent with the guidance and methodologies provided in the CEQR Technical Manual.**

Comment 3.11: We speak about affordable housing continuously. We will continue to speak about affordable housing if we do not provide good-paying union jobs to people so that they can afford to live in the city. (125, 155)

**Response 3.11: Comment noted. The Proposed Development would provide affordable housing and the Applicant has committed to utilizing union labor.**

Comment 3.12: There is potential for direct residential displacement at 1015 and 1035 Washington Avenue as a result of the proposed upzoning. Tenants of these two buildings have voiced concern over the inclusion of a small portion of each of these properties in the rezoning area. This inclusion opens the possibility that the current or future landlords might request a hardship variance in order to take advantage of the new rezoning density and height. It is legal for landlord to demolish a rent stabilized building if they present a viable plan to the City and secure appropriate financing. This would result in the possible loss of 183 units that accommodate larger families than the units proposed. These two buildings should fall under the category of direct displacement and should be studied as such. (2, 21, 67, 139)

**Response 3.12: No direct displacement would result from the Proposed Actions. As described above, the DEIS will provide a preliminary assessment for indirect residential displacement that will consider**

***current market conditions and trends, and evaluate the Proposed Actions' potential effects on socioeconomic conditions. If the Proposed Actions could potentially introduce or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population, a detailed analysis is warranted and will be provided.***

Comment 3.13: Study the potential for indirect displacement in Ebbets Field and other rent stabilized buildings in the area. The current guidelines don't require study of potential displacement of rent stabilization. The 11125 zip code has been identified as having the second highest rate of evictions in all of Brooklyn and even with rights to legislation, the exploitation of loopholes in the rent laws continues to cause widespread displacement and harassment. We need to see detailed eviction data for Ebbets Field housing and any rent stabilized building that Ebbets Field houses and any rent stabilized building in the area bounded by Eastern Parkway to the north, Empire Boulevard to the south, Washington Avenue to the west, Bedford Avenue to the east. There also need to be formal outreach done with tenants in this area so that the study can further reflect the reality of displacement. Tenants associations and neighborhood-wide tenant organizations should be consulted and included in this study. (2, 65, 84, 139)

***Response 3.13: As stated under Task 3 of the FSOW, the EIS will provide a preliminary assessment of indirect residential displacement that will consider current market conditions and trends, and evaluate the Proposed Project's potential effects on socioeconomic conditions. The analysis will consider a study area dependent on the size and characteristics of the Proposed Project, pursuant to Section 310 of Chapter 5 of the CEQR Technical Manual. If the Proposed Action could potentially introduce or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population, a detailed analysis is warranted and will be provided. Pursuant to guidance from the CEQR Technical Manual, this analysis is conducted when the potential impact may be experienced by renters living in privately held units that are not protected by rent control or rent stabilization, which includes a right to lease renewal and limits on rents and rent increases, or by renters whose incomes or poverty status indicate they may not support substantial rent increases.***

Comment 3.14: There is a lot of bureaucracy behind a person actually getting an apartment through the MIH program. Is there any support to help applicants navigate the process? How long does the application process take from application to a selected party moving into one of the affordable units? (132)

***Response 3.14: NYC HPD has resources available to assist in the application process. NYC Housing Connect has been established to help guide applicants through the application process, including a step-by-step guide that explains what to expect when applying for affordable housing in NYC. This information is available at the following website:  
<https://www1.nyc.gov/site/hpd/renters/housing-connect.page>***

Comment 3.15: The senior and immigrant populations are susceptible to displacement. (55, 64, 84, 99)

***Response 3.15: Pursuant to CEQR Technical Manual guidelines, the EIS will identify existing populations that may be at risk of displacement as a result of the Project. According to the CEQR Technical Manual, at risk populations are defined as people living in privately held units that are not protected by rent regulations, who, based on income or poverty status, may not be able to afford substantial rent increases. The EIS will determine the amount and general location of protected and unprotected housing units within the rezoning area and within a ½-mile study area.***

Comment 3.16: Even with a substantial portion of affordable apartments, a development of this size would result in indirect residential displacement and increase gentrification due to increased housing costs. (15, 18, 22, 68, 72, 79, 99, 110, 116, 133, 146, 154)

**Response 3.16:** *See Responses 3.3 and 3.5. As described in Task 3 of the FSOW, in accordance with CEQR Technical Manual methodology, the EIS will include analyses of the potential for the Proposed Project to result in indirect residential displacement.*

Comment 3.17: We continue to see massive displacement of long-time residents who can no longer afford to live here. (31, 84)

**Response 3.17:** *Comment noted. See Responses 3.3, 3.5 and 3.16.*

Comment 3.18: The proposed development will negatively impact the economic wealth distribution of our minority community. (57, 91)

**Response 3.18:** *Potential changes in race and ethnicity are not considered in a CEQR analysis and will not be included in the DEIS as there is no CEQR Technical Manual methodology or criteria for such an analysis. Likewise, wealth distribution of existing community residents are not considered in a CEQR analysis, as Socioeconomic conditions analysis focuses on the effects that changes in housing costs has on the ability of residents to maintain occupancy of existing housing. CEQR analyses do not consider changes to wealth that may occur as result of direct or indirect displacement but does identify whether such displacement would be likely to occur. As discussed in Task 3 of the FSOW, the demographic analysis in the DEIS will focus on income, including average and median household income, income distribution, and income trends over time. The socioeconomic conditions analysis will consider whether the Proposed Actions could substantially alter these demographic and market conditions in a way that could lead to increased rents and potential indirect residential displacement. If the Proposed Actions could potentially introduce or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population, a detailed analysis is warranted and will be provided.*

Comment 3.19: I do not want to see local businesses crowded out by big box stores and skyrocketing rents. (9, 22, 84)

**Response 3.19:** *Comment noted. Further, the Proposed Development would only introduce approximately 21,183 gsf of local retail uses and approximately 9,678 gsf of community facility space and would not provide space for any big box commercial uses.*

*Per CEQR Technical Manual guidance, projects resulting in less than 200,000 sf of commercial development would typically not result in significant adverse socioeconomic impacts related to indirect business displacement. The Proposed Project would result in fewer than 200,000 sf of commercial floor area and therefore, an assessment of potential indirect business displacement is not warranted. In addition, the Proposed Project does not require changes such as a citywide regulatory change that would adversely affect the economic and operational conditions of certain types of business or processes such that socioeconomic conditions would be affected in the neighborhood. Therefore, based on the type of non-residential uses included in the Proposed Project, no potential significant adverse impacts on specific industries would be anticipated and no further analysis is warranted.*

Comment 3.20: Indirect Residential Displacement Step 3 comes into consideration when rents, analyzed as part of Step 2, discloses an increase of at least five percent of the population in the study area. Step 3 would then seek to disclose the likely effect of the action on such a trend. For Step 3, the analysis looks for where the study area has already experienced a readily observable trend toward increasing.

If those trends do exist near to or within smaller portions of the study area, the action could have the potential to accelerate an existing trend. In this circumstance, a detailed analysis would be

conducted. If the preliminary assessment finds that the proposed action would introduce a trend or accelerate an existing trend of changing socioeconomic conditions that may have the potential to displace a residential population and substantially change the socioeconomic character of the neighborhood, a detailed analysis would be conducted. The detailed analysis would utilize more in-depth demographic analysis and field surveys to characterize existing conditions of residents and housing, identify populations at risk of displacement, assess current and future socioeconomic trends that may affect these populations, and examine the effects of the proposed action on prevailing socioeconomic trends and, thus, impacts on the identified population at risk.

In addition to the above, for Step 3, it is appropriate for the study area characteristics to include estimates of the number of housing units governed by rent protection measures that are in buildings with significant unused residential floor area. Step 3 should also then identify the number of housing units with a gap between the rent pursuant to a lease and the legally permitted regulatory rent. Such underdeveloped property is often referred to as a “soft site.” In this context, a soft site is a property deemed to be attractive enough as a development site based on the extent of the built floor area in comparison to the permitted floor area. Additionally, a property may be considered a soft site if it contains residential units with a significant gap between charged rent and the legally permitted regulatory rent (known as preferential rent).

If a detailed preliminary assessment would be deemed warranted according to Step 3 of the listed analysis, the draft scope should be more explicit in its disclosure of the characterized existing conditions of residential housing to identify populations at risk of displacement. Specifically, the presentation study area characteristics should also include estimates of the number of housing units subject to rent protection where such units might be deemed attractive enough to be a development site based on the extent of zoning floor area built in comparison to permitted zoning floor area, or contain residential units where preferential rent exist.

Regarding under-built sites, there is the example of at least one known development site along Fourth Avenue in Park Slope that resulted from the vacating of rent-stabilized tenants for the purpose of demolishing the multi-unit buildings. This example demonstrates that it is reasonable to account for rent-stabilized buildings where zoning floor area utilization is less than half of the permitted floor area, because a stabilized designation is not a legal deterrent to lawful demolition.

According to Section 9 NYCRR 2524.5 of the Rent Stabilization Code, it is permissible for a property owner of a rent-stabilized building to not renew the lease of a rent-stabilized tenant on the grounds that the property owner intends to demolish the building. Approval from the New York State Division of Housing and Community Renewal (DHCR) is subject to approved plans for future development, proof of financial ability to complete the project, and agreement to pay tenant relocation expenses as well as a stipend according to established formulas. This strategy was well-publicized during a June 2016 real estate summit in Brooklyn.

In addition, such regulated stabilized apartments might include tenants occupying units where preferential rents exist. Such significant increases in rents would further exacerbate rent burden and might result in residential displacement.

Therefore, the documentation of such underdeveloped rent-stabilized buildings and rent-stabilized buildings where there is a gap between the preferential rent versus the legally permitted regulatory rent should both be accounted for in developing assumptions for the possibilities of induced indirect displacement.

Should Step 3 be pursued, the determination as to whether the study area has already experienced a readily observable trend toward increasing rents should consider the rent-stabilized buildings in the study area, including those with significant unused residential floor area rights as well as units with a gap between the preferential rent versus the legally permitted regulatory rent. (1)

**Response 3.20:** *Comment noted. See Responses 3.3, 3.5 and 3.16.*

Comment 3.21: The proposed AMI mix will not be affordable to the existing residents of the area, many of whom experience rent burden (their rent is more than 30 percent of their income) or severe burden (their rent is more than 50 percent of their income). (21, 72)

**Response 3.21:** *The level of affordability for the MIH units created as a result of the Proposed Actions will be determined through the City's Uniform Land Use Review Procedure. NYCHPD is the administering agent for the City's MIH program. The City's MIH program uses AMIs established by the U.S. Department of Housing and Urban Development (HUD). When determining the AMI for the New York metropolitan area, HUD includes all five boroughs, as well as portions of Rockland and Westchester counties, but not Long Island. In the city, affordability is benchmarked to AMI; using a metric other than AMI, a metric established by HUD, would make it more difficult for the housing projects to reach lower income levels in conjunction with other federal, state, and City programs, should they be made available. Additionally, reform of this methodology is outside the scope of this EIS.*

*Affordability requirements under MIH are defined as an average, which enables flexibility to create units at deep levels of affordability, along with units for households with more moderate incomes. In addition, some MIH options require a percentage of MIH housing at specific AMI levels that target deep affordability. For example, Option 1 requires 10 percent of the building be affordable to those earning 40 percent of AMI, which is approximately \$34,360 for a family of three (HUD 2017).*

Comment 3.22: The developer must define the proposed income bands, unit sizes, and which MIH scenario they will be pursuing in order to assess the potential for future rent burden and/or severe rent burden and in order to determine the effects of the proposed residential development on the existing population. The Department of City Planning, in its role as lead agency, must determine if there can be assurances that the apartments being created will not cause indirect displacement and rent burden in the community. (21)

**Response 3.22:** *Comment noted. See Response 1.6. Unit sizes are set by City regulations, such as those prescribed by Mandatory Inclusionary Housing and the Building Code. Unit mix will be provided, as available, in the Draft EIS.*

Comment 3.23: Mayor de Blasio's plan to make NYC's housing more affordable is two pronged: 1) build more affordable housing; and, 2) preserve the rent-stabilized housing that we already have. If the proposed project causes a net loss of affordable housing in the neighborhood by causing a loss of a large number of rent-stabilized apartments, then it will have failed the mayor's charge. (72)

**Response 3.23:** *Comment noted. See Responses 3.3, 3.5 and 3.16.*

Comment 3.24: In the DSOW it is stated that HPD/HUD funding for this development is being sought under the "affordable" category. MIH guidelines allows developers to use the same units to get money from other funding sources, called double, triple, quadruple etc...dipping. For example, if the developer chooses the two income bands scenario sited in the image to the left he can use the same apartments under the income band of 50% of AMI (\$52,120 – 316 apartments), which is 20% of the total housing being created, to get funds from the HUD/HPD. This means the entire additional 20% (which excludes the MIH portion) can be at 165% AMI (\$172,095) which falls under the "affordable" category. As long as the developer selects an income band under the "affordable" category he will be in compliance with the law. The largest income band is 165% of AMI. Not only will all of these apartments be severe rent burden apartments for the existing population, but everyone will be able to agree they are above market rate for the existing population. These

scenarios show why it would be imperative to get a more detailed description of how many apartments, their exact target income, the sizes of these apartments along with the income options the developer is proposing under the MIH and their exact percentages etc... Then additional scenarios need to be explored by the lead agency to recalculate what can be legally done to ensure the “Affordable” apartments being created in the community will not cause displacement and rent burden and/or severe burden situation to the community. (21)

**Response 3.24:** *Comment noted. The Applicant anticipates that the Proposed Development would comprise 1,263,039 gsf of residential uses, introducing a total of 1,578 dwelling units, including either 25 percent of the total units set aside pursuant to Option 1 of the City’s MIH program (395 units of affordable housing with an average 60 percent AMI, or \$46,620 per year for a family of three), or 30 percent of the total units set aside pursuant to Option 2 of the City’s MIH program (473 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 or 25 percent of the dwelling units as affordable housing, depending on the MIH option selected (Option 1 or Option 2), to provide a combined total of 50 percent (789 units) affordable and workforce housing. Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH Option 2), 20 percent would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 120 percent AMI (158 units). The Applicant will comply with the City’s MIH requirements and all applicable HPD guidelines governing affordable housing.*

**Comment 3.25:** The methodology used to determine displacement as set forth in the *CEQR Technical Manual* is flawed. First, it imposes an arbitrary threshold of 5% anticipated population growth for performing an in-depth displacement analysis; second, if an in-depth displacement analysis is performed, it assumes that only non-regulated tenancies are at risk. Real-world experience shows us that the introduction of above-market units to a neighborhood puts both unregulated and regulated tenants at risk of displacement. (65)

**Response 3.25:** *Comment noted. The CEQR Technical Manual is the City’s guidance document for socioeconomic analyses and it serves to provide methodology and assessment criteria for this technical area. The EIS analyses follow the CEQR Technical Manual methodology. The objective of the indirect residential displacement analysis is to determine whether the proposed project may either introduce a trend or accelerate a trend of changing socioeconomic conditions that may potentially displace a vulnerable population to the extent that the socioeconomic character of the neighborhood would change. Generally, an indirect residential displacement analysis is conducted only in cases in which the potential impact may be experienced by renters living in privately held units unprotected by rent control, rent stabilization, or other government regulations restricting rents, or whose incomes or poverty status indicate that they may not support substantial rent increases. The CEQR Technical Manual’s socioeconomic conditions chapter includes the following guidance regarding residential displacement:*

**STEP 1**

*Determine if the proposed project would add new population with higher average incomes compared to the average incomes of the existing populations and any new population expected to reside in the study area without the project. It is often helpful to break down income levels into a “market rate” category specific to the proposal and compare it with groupings that are commonly used in the city to define income levels for low, moderate, and middle income for eligibility for inclusionary housing and other public assistance programs. Income thresholds are typically based on a family of four. For a description of current definitions, refer to:*



<http://www.nyc.gov/html/hpd/html/developers/inclusionary.shtml>

*These definitions typically change annually based on economic factors.*

*If the project would introduce a more costly type of housing compared to existing housing and the housing expected to be built in the No-Action condition, then the new population may be expected to have higher incomes. In some cases, the study area would already be experiencing socioeconomic change and the housing to be developed under a proposed project represents a continuation of an existing trend, and not a new trend.*

*If the expected average incomes of the new population would be similar to the average incomes of the study area populations, no further analysis is necessary. If the expected average incomes of the new population would exceed the average incomes of the study area populations, then Step 2 of the analysis should be conducted.*

#### **STEP 2**

*Determine if the project's increase in population is large enough relative to the size of the population expected to reside in the study area without the project to affect real estate market conditions in the study area.*

- *If the population increase is less than 5 percent within the study area, or identified sub-areas, further analysis is not necessary as this change would not be expected to affect real estate market conditions.*
- *If the population increase is greater than 5 percent in the study area as a whole or within any identified subareas, move on to Step 3.*
- *If the population increase is greater than 10 percent in the study areas as a whole or within any identified subarea, move on to a Detailed Analysis.*

*As explained above, the 5 percent threshold identified in CEQR because anything less than a 5 percent change would not be expected to affect real estate market conditions.*

Comment 3.26: Disclosure under SEQRA and CEQR requires full analysis and documentation of displacement, including City and Proponent compliance with Fair Housing Act (FHA) requirements prohibiting discriminatory effect in the displacement assessment. Displacement can change the social fabric and demographics of the community, and is increasingly recognized as having discriminatory effects. Court decisions have held that impacts upon community character must be considered in making determinations of significance even if there are no other impacts on the physical environment.

The Fair Housing Act (FHA) prohibits discrimination based on race, religion, color, national origin, sex, disability status, and familial status. The FHA broadly declares that “[i]t is the policy of the United States to provide . . . for fair housing throughout the United States” and serves as the primary vehicle to address the injustices of housing discrimination and residential segregation. To end residential segregation, the law imposes requirements that jurisdictions receiving federal housing funding bar discrimination and affirmatively further fair housing.

New York City’s obligation to affirmatively further fair housing under the FHA arguably bars discriminatory displacement due to gentrification. New regulations issued by HUD in April 2016 have responded to growing recognition that the harms caused by gentrification may well equate to those harms caused by segregation or attributed to exclusionary zoning practices.

FHA regulations apply to zoning actions, and are critical to use of public financing by the 960 Franklin Project. Full disclosure in the EIS includes data, information, and analysis that allows City agencies and HUD to consider all negative effects of gentrification in weighing whether the discretionary zoning acts for the 960 Franklin Avenue Project promote housing opportunity, a predicate to use of public funds.

In addition, the EIS socio-economic analysis should analyze how the 960 Franklin Avenue Project furthers the goals and requirements of the Consolidated One-Year Action Plan submitted by the City of New York in its annual application to the United States Department of Housing and Urban Development's Office of Community Planning and Development (HUD-CPD). The Consolidated Plan is the basis for formula entitlement grant funds (Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), Emergency Solutions Grant (ESG), and Housing Opportunities for Persons with AIDS (HOPWA)) to address affordable housing, homelessness, supportive housing services and community development needs. (21)

**Response 3.26:** *Comment noted. See Responses 3.3, 3.5 and 3.16.*

**Comment 3.27:** At the March 12, 2019 public scoping meeting, the project planning consultant stated that 40 percent of the affordable units would accommodate families at or below 50 percent Area Median Income (AMI) under MIH. However, this figure is not included in the DSOW. Rather, the DSOW states that the lowest affordability level for the project will be 80 percent AMI (\$75,120 for a family of three). This is significantly higher than the \$53,401 median household income within a half-mile radius of the project site (2012-2016 American Community Survey Data from the New York City Population FactFinder). Based on this new information, the DEIS must provide a specific breakdown of planned affordable housing in percentage terms and by AMI level. The DEIS must also affirm that 40 percent of the affordable units would accommodate families at or below 50 percent AMI, if this is indeed true. If not true, MAS requests that a deeper level of affordability be evaluated in the DEIS than the 80, 100, and 120 percent AMI levels stated in the DSOW. We also request that the DEIS provide details on the specific source and magnitude of funding for the portion of affordable housing that requires public financing. (8)

**Response 3.27:** *As described in the DEIS, although negotiations between the Applicant and HPD are ongoing, the Applicant anticipates that the Proposed Development would comprise 1,263,039 gsf of residential uses, introducing a total of 1,578 dwelling units, including either 25 percent of the total units set aside pursuant to Option 1 of the City's MIH program (395 units of affordable housing with an average 60 percent AMI, or \$46,620 per year for a family of three), or 30 percent of the total units set aside pursuant to Option 2 of the City's MIH program (473 units of affordable housing with an average of 80 percent AMI, or \$62,150 per year for a family of three). In addition to the required MIH units, the Applicant intends to set aside an additional 20 or 25 percent of the dwelling units as affordable housing, depending on the MIH option selected (Option 1 or Option 2), to provide a combined total of 50 percent (789 units) affordable and workforce housing. Of the 50 percent affordable apartments, the Applicant intends to provide the following affordability levels: 60 percent would accommodate families at or below 80 percent AMI, (473 units, consistent with and exceeding MIH Option 2), 20 percent would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 100 percent AMI (158 units) and 20 percent of the units would be provided by the Applicant above and beyond MIH requirements to accommodate families at or below 120 percent AMI (158 units).*

**Comment 3.28:** Currently, within Brooklyn Community Board 9, 66.3 percent of the population is black and another 9.6 percent Hispanic. With 76 percent of the population being people of color and existing rent burdened, seeing 49 percent of the population spending 35 more of their income on rent, the proposed ratio of actual affordable housing will allow this population to experience some relief from existing rents and affordability. (5)

**Response 3.28:** *Comment noted. The Socioeconomic Conditions chapter of the DEIS examines the potential for the project to result in any indirect residential displacement.*

## 4. Community Facilities

Comment 4.1: The development would result in crowded schools. (2, 46, 79, 84, 110, 123, 130)

**Response 4.1:** *As detailed in the FSOW, the EIS will include a detailed analysis of elementary and intermediate schools pursuant to the CEQR Technical Manual, and a determination of whether the Proposed Project would result in significant adverse impacts to elementary and/or intermediate schools will be made. If impacts are identified, mitigation will be developed in consultation with SCA and DOE.*

Comment 4.2: The developer has calculated the number of residential units based upon lower FAR of 9.7 instead of 10. That's reducing the number of residential units, which reduces the number of students thus refusing to conduct a student enrollment analysis. This behavior is unlawful and it's being done to reduce the negative environmental effects. (24)

**Response 4.2:** *See the Response to Comment 1.23 above. The public schools analysis provided in the EIS will take into account the Reasonable Worst-Case Development Scenario (RWCDs) for the Proposed Actions.*

Comment 4.3: The CEQR formula used to calculate the projected number of high school students seems arbitrary. A project of this size warrants a full analysis of projected high school utilization. (2, 65)

**Response 4.3:** *The threshold used to calculate the projected number of high school students generated by the Proposed Project is based on new Projected Public School Ratios data released by the NYC School Construction Authority (SCA).. It utilizes the 2010 census to determine multipliers for pupils generated by new housing. For high schools in Brooklyn, the new threshold is 3,000 incremental residential units. The 2020 CEQR Technical Manual has been updated to reflect the new thresholds. DCP as lead agency, in consultation with MOEC, has determined that the ACS data should be used as the basis for determining the need for a public schools CEQR analysis, in order to present a reasonable and accurate environmental assessment. The Proposed Development would introduce an increment of 1,060 residential units on the Project Site, below the threshold that triggers high school analysis. Therefore, the Proposed Project does not warrant an analysis of indirect effects of public school capacity related to high schools, and it would not be expected to result in significant adverse impacts to high schools in Brooklyn.*

Comment 4.4: Child Care Centers. The detailed analysis' description of each publicly-funded group child care facility pertaining to existing child care centers should note whether the location is City-owned or -leased (including the number of years remaining on the lease), the year and extent of capital improvements, as well as available floor area. (1)

**Response 4.4:** *Comment noted. As detailed in the FSOW, per CEQR Technical Manual guidance, the analysis of child care centers in the EIS will include the identification of existing publicly funded child care centers within approximately 1.5 miles of the Development Site, and the description of each facility in terms of its location, capacity, enrollment, and utilization, in consultation with the Administration for Children's Services (ACS). Additionally, for the No-Action condition, information would be included for any changes planned for child care programs or facilities in the area would be included, including the closing or expansion of existing facilities and the establishment of new facilities. Any expected increase in the population of children under age six within the eligibility income limitations will be discussed as potential additional demand, and the potential effect of any population increases on demand for child care services in the study area will be assessed. Additionally, the available capacity or resulting deficiency in slots and the utilization rate for the study area will be calculated for the No-Action condition of the EIS.*

Comment 4.5: The NYC Departments of Fire and Police must be consulted. (105)

**Response 4.5:** *Comment noted. As detailed in the FSO, according to the CEQR Technical Manual, a detailed analysis of police and fire protection services is required if a proposed action would introduce a sizeable new neighborhood where one has not previously existed or would displace or alter a police station or fire protection services facility. As the Proposed Project would not result in any of the above, no significant adverse impacts to police or fire protection services would be expected to occur, and a detailed analysis of police and fire services is not warranted.*

**Comment 4.6:** The proposed actions would exceed the threshold for introducing 50 public elementary or intermediate or 150 high school students. According to the Draft Scope of Work, the improper segmentation of the project regarding zoning lots, inaccurate FAR application, and lack of cumulative impacts analysis among all projects affecting the area community services, the developer is not planning on conducting a Student Population assessment. The DSO, must be revised to include: 1) an accurate assess the number of residential units (per the segmentation and cumulative impact comments contained herein), and provide proper estimates of Student Population enrollment impact required by CEQR. (21)

**Response 4.6:** *See the Response to Comment 1.23 above. The public schools analysis provided in the EIS will take into account the RWCDs for the Proposed Actions. As detailed in the FSO, the EIS will include a detailed analysis of elementary and intermediate schools pursuant to the CEQR Technical Manual, and a determination of whether the Proposed Project would result in significant adverse impacts to elementary and/or intermediate schools will be made. If impacts are identified, mitigation will be developed in consultation with SCA and DOE.*

*The threshold used to calculate the projected number of high school students generated by the Proposed Project is based on a threshold of 1,767 incremental residential units. The Proposed Development would introduce an increment of 1.060 residential units on the Project Site, below the threshold that triggers high school analysis. Therefore, the Proposed Project does not warrant an analysis of indirect effects of public school capacity related to high schools, and it would not be expected to result in significant adverse impacts to high schools in Brooklyn. See Response to Comment 4.3 above for more details.*

## 5. Open Space

**Comment 5.1:** The Brooklyn Botanic Garden is owned by the City and functions as a horticultural park. So all the rules of a public park apply, thus the environmental analysis must be performed from that perspective when assessing negative impacts onto the Brooklyn Botanic Garden. (21)

**Response 5.1:** *Comment noted. The DEIS Open Space, Shadows, and Natural Resources chapters will assess the potential for the Proposed Actions to have any significant adverse impacts on the Brooklyn Botanic Garden from the perspective of open space, shadows, and natural resources.*

**Comment 5.2:** Brooklyn Botanic Gardens was founded in 1910 on City-owned land that had been acquired in the 1870s for Prospect Park. It became the eighth New York City cultural institution to join the Cultural Institutions Group (CIG), the consortium of 33 New York City institutions operated by independent, non-profit organizations on City property. In its first two decades, BBG created a unique collection of gardens within a garden, including a number of gardens that were the first of their type in North America, or in some cases the world. Over the last decade, BBG has engaged in the second most intensive period of site refinement in its history, reconstructing all three of its public entrances and creating a dozen acres of new, sustainable gardens and outdoor learning spaces. All the capital improvements on the property accrue to the City of New York, which has joined BBG in investing hundreds of millions of dollars into the garden since BBG's founding more than a century ago. This investment has been made at the behest of all New Yorkers and especially New York City children.

Among the facilities at risk now with the proposed rezoning, is the Steinhart Conservatory Complex, built in 1987 with City funds. In 1985 the Conservatory's architects, concerned about the potential for high-rise development in Crown Heights, wrote to the City to encourage a down zoning of nearby blocks to protect the Conservatory's access to sunlight, a process that was completed in 1991. (90, 118)

**Response 5.2:** *Comment noted. See response to Comment 2.4. Refer to Table 6-3 in Chapter 6, "Shadows," of the DEIS.*

Comment 5.3: BBG is not just an open space, it is a world renowned institution with collections and programs that inspire a love of plants and foster an environmental stewardship. (20, 42, 61, 81, 90, 96, 100, 102)

**Response 5.3:** *Comment noted.*

Comment 5.4: BBG's education program relies on the greenhouses, nurseries and conservatories currently under threat by the proposed rezoning of 960 Franklin Avenue. The plants that serve these start with the propagation in our greenhouses and nurseries. Just this year so far more than 2,000 seedlings are growing and ready for a busy spring and children's programs. The conservatory provides unique opportunities for year-round visits. BBG has over 24 programs, most of them free or highly subsidized, serving some of the most marginalized students and audiences in New York City. Each year 250,000 children visit the garden. In 2018 alone our staff spent 10,000 hours teaching 70 students -- 70,000 students and teachers from 1,610 individual schools. And as always, school groups and children under 12 are always free at BBG. We're located at the nexus of so many neighborhoods that we're essentially the backyard for countless urban children and adults. In the 105-year old children's garden, children of all age are learning where their food comes from and the importance of protecting plants and animals and developing good nutrition habits, a keystone of creating healthy citizens of your City. And the Garden Apprentice Program, BBG is working to provide a ladder to leadership, empowering young adults to see themselves as environmental stewards and powerful advocates for nature and science. BBG is a core partner to the Department of Education in providing equitable and inclusive access to STEM, a subject ingrained in our programs. Through this work, and through workforce training in green professions, we're training the next generation of science proficient citizens for New York City. Today BBG is in alignment with the issues identified through the City's own first cultural plan when taking significant steps to support people with disabilities. The garden provides programs for families with children with autism and other disabilities, people with memory loss and their caregivers, children and teachers in district 75 and more. BBG'S Education Department depends on the conservatories and the plants grown and housed in the conservatories and nurseries. We can't teach children to think and act globally about their role in the environment in science and climate change without them. Compromising these spaces would cause serious and lasting damage to the plants with which we teach and jeopardize our programs themselves. (17)

**Response 5.4:** *Comment noted. The Draft EIS will provide an assessment of Land Use, Zoning, and Public Policy, Open Space, Shadows, and Natural Resources pursuant to the methodologies and guidance of the CEQR Technical Manual. Each chapter of the Draft EIS will describe impact criteria and discuss the potential for the Proposed Actions to result in impacts (if any). Where impacts are identified, mitigation measures would be identified pursuant to CEQR guidance.*

Comment 5.5: BBG has been very instrumental in exposing students of color to the environment and science field (e.g. Botany, Plant Conservation, Sustainability and Urban Ecology). Science education is predicated on having certain characteristics and spaces such as the garden, which provides important space for entry-based, hands-on learning and long term investigation that helps to create STEM literate New York City citizens. (86)

**Response 5.5: Comment noted. See response to Comment 5.4.**

Comment 5.6: The Conservatory is a year-round operation. Over 4,500 different types of plants are displayed, ranging from Africa, Asia, Australia, North, South and Central America. In total, the conservatory and greenhouses combined has 21 misting growing chambers. In a conservatory as complex and diverse as this, every growing area must be finely calibrated to be the appropriate environment for the plants growing inside. Towers the size of those proposed by 960 Franklin Avenue will have a catastrophic impact on these growing conditions. Plants need light to thrive. And these towers will block nearly four hours of sunlight to the greenhouses, nursery and conservatory all year round. The negative effects that extend to other areas of the plant collections are the ability to use organic matters of pest control and sustainable plant production will be severely compromised, meaning that we will have to use harsh chemicals to control pest and diseases, which will be dangerous to our gardeners and to our public. In addition to the conservatory and greenhouses, our nursery produces nearly 23,000 annual seedlings last year. This year we will surpass that amount by 2,300. These are displayed all over the beautiful grounds of the Brooklyn Botanic Gardens. The proposed rezoning will cause a severe shade that will have lasting negative impact on BBG's greenhouses, nurseries and conservatories and we must maintain current zoning for the health and longevity of BBG's world class plant collection. (90, 108)

**Response 5.6: Comment noted. See response to Comment 5.4.**

Comment 5.7: BBG is just not any other open or green space in New York City but rather a unique scientific institution with an unparalleled range of scientific programs, educational programs, all of which are dependent are our ability to propagate and display living collection of plants. BBG's Conservatories support greenhouse and outdoor nursery facilities all lie in the direct path of the shadow of the proposed tall towers at 960 Franklin in spring, summer and fall. BBG's facilities house nearly 2,000 separate growing spaces, each with their own temperature and humidity regimes. Some of the indoor chambers are used for horticultural display, while others at back of house are used for the propagation of young plants. These facilities contain plant collections of international importance. We expect that a thorough examination of the shadow impacts, including plant, pest and disease of the proposed tall towers will be performed on each of these spaces as part of the Environmental Impact Study. I want to underscore that every part of the 52-acre Botanic Gardens is dependent on the propagation and growing facilities. All of our annual and perennial plants are produced in one of several nursery spaces for eventual out planting into the garden. There is no other place for us to accomplish this work. The direct shadows on BBG's propagation and growing facilities will have a dire impact on the entirety of the gardens' living collections. More than a century ago, BBG created a new model for a Botanic Garden in the world by ensuring that youth environmental education was every bit as important as horticultural display and research. We have a reach well beyond the garden itself, operating an exceptionally broad range of programs throughout New York City schools and in neighborhoods. The garden has an annual attendance ranging from 800,000 to nearly a million visitors, making it easily the most visited attraction in Brooklyn. This is not just a generic parcel of urban open space, this is a global leader in urban botanical display and education in an era of changing climates and one in which half of the world's population lives in cities. (90, 101)

**Response 5.7: Comment noted. See response to Comment 5.4.**

Comment 5.8: BBG's vast 52-acre paradise is an inspiration to all. It is of significant importance and provides plant material and expertise in support of community greening efforts to all of Brooklyn. It is a world renowned institution with collections and programs that inspire the love of horticulture, plants and foster environmental stewardship. (83, 100, 122)

**Response 5.8: Comment noted.**

Comment 5.9: The proposed project would create approximately 50,258 sf of open space, of which only 17,959 sf, or 36 percent, would be accessible to the public. Operating hours of the publicly accessible space are expected to be limited from dawn to dusk. Given the massive scale of the project, the amount of new residents, and the size of the Development Site (2.76 acres), MAS finds the proposed open space underwhelming. We also question why this space would have restricted operating hours, with no specific amenities known at this time, and no actual commitment to build the space. Therefore, we strongly recommend that more open space be provided, and that it be publically accessible 24 hours a day. We request that the DEIS include a detailed site plan showing the proposed layout and amenities of the open space. MAS also suggests examining using the area made available by waiving the 282 parking spaces for at least an additional acre of public open space. (8)

**Response 5.9:** *Comment noted. Although the design of the Proposed Development has not been finalized at time, the Draft EIS will provide a description of any additional publicly accessible open spaces that would be incorporated into the building design as well as a description of its layout and amenities. Associated graphics will also be provided, as available.*

Comment 5.10: It's well researched and documented that access to nature is important to mental health, and exposure to plants and sunlight in the winter can combat depression. The rezoning proposal would lessen the quality of health for communities all over Brooklyn. (42)

**Response 5.10:** *Comment noted. Pursuant to CEQR guidance, the DEIS Shadows chapter will document the anticipated shadow coverage and duration of shadows on each resource. It will also provide a solar analysis to show the amount of direct sunlight hours on resources affected by incremental shadows.*

Comment 5.11: For the calculation of existing active and passive open space, the determination of acreage should be adjusted to remove from the calculations of such space that typically requires a fee to obtain access. (1, 8)

**Response 5.11:** *As noted in the comment, the determination of acreage to be used in the calculation of existing active and passive open space will exclude private open spaces that are not available to the general public on a regular or constant basis (i.e., private-access fee-charging spaces such as the Brooklyn Botanic Garden and Prospect Park Zoo) from the quantitative analysis. However, pursuant to CEQR guidance, these spaces may be considered in the qualitative assessment of potential open space impacts.*

Comment 5.12: The New York City Department of Parks must be an involved Agency in the EIS process for the Proposed Action due to the significance of the adverse impacts to BBG parklands. (21)

**Response 5.12:** *Comment noted. It is anticipated that the New York City Department of Parks and Recreation will be consulted by the Department of City Planning as an interested agency and asked to review the Open Space, Shadows, and Natural Resources chapters of the Draft EIS.*

## 6. Shadows

Comment 6.1: The EIS should go beyond the CEQR standards by analyzing shadows in every month of the year and studying the potential impacts on the specific collections of the garden and the operations of its nursery. (3, 140)

**Response 6.1:** *In accordance with CEQR Technical Manual guidance, a preliminary shadows screening assessment will focus on the representative analysis days during the growing season in the New York City area (i.e., March 21 [vernal equinox]/September 21 [which is approximately the same];*

*June 21 [summer solstice]; and May 6/August 6 [halfway between the summer solstice and equinoxes]], as well as a representative analysis day during the winter months outside of the growing season (i.e., December 21 [winter solstice, the day on which the longest shadow could be cast by a proposed structure]), to demonstrate conditions during cold-weather when people who do use open spaces rely most heavily on available sunlight for warmth. According to CEQR, these months and days represent the full range of possible shadows that could be cast by a proposed project. For the representative growing season months, it is not necessary to analyze those months where it is found that no shadow from the Proposed Project would reach a sunlight-sensitive resource. For the cold-weather months, if it is found that no shadow from the Proposed Project would reach a sunlight-sensitive resource on the December 21 analysis day, then the assessment should be performed for a representative day in either November, January, or February in order to confirm that no shadow from the Proposed Project would reach a sunlight-sensitive resource during any of those months, in accordance with CEQR Technical Manual guidance. However, as project-generated shadows are expected to reach a sunlight-sensitive resource on the December 21 analysis day, an assessment on other cold-weather analysis days is not warranted.*

*According to the CEQR Technical Manual, it may be necessary to inventory vegetation, as well as assess the sensitivity of the open space and its sunlight-sensitive features to shadows. If a sunlight-sensitive resource is under the jurisdiction of the New York City Department of Parks and Recreation (DPR), determinations about the relative shade tolerance of the types of existing vegetation should be reviewed by DPR.*

Comment 6.2: All 12 months should be considered for the growing season. The CEQR document currently defines the growing season as March 21st to Sept 21st. This is a deficient assumption to use given that the area that stands to be affected by shadows houses greenhouses, which are growing plants year round. Some of these greenhouses are home to tropical plants whose native habitat is close to the equator. Plants native to the equator are accustomed to much more sunshine than those plants that are native to the northern hemisphere. I request to place, at minimum, equal weight on all 12 months, if not more emphasis on the shadows created between September the 21<sup>st</sup> and March the 21<sup>st</sup> when these tropical plants are already feeling the strain from the limited sunshine in the northern hemisphere. (140)

**Response 6.2:** *Refer to Response 6.1. As indicated above, in accordance with CEQR Technical Manual guidance, a preliminary shadows screening assessment will focus on the representative analysis days during the growing season in the New York City area (i.e., March 21 [vernal equinox]/September 21 [which is approximately the same]; June 21 [summer solstice]; and May 6/August 6 [halfway between the summer solstice and equinoxes]], as well as a representative analysis day during the winter months outside of the growing season (i.e., December 21 [winter solstice, the day on which the longest shadow could be cast by a proposed structure]). According to CEQR, these months and days represent the full range of possible shadows (i.e., longest periods of shading) that could be cast by a proposed project.*

Comment 6.3: There are concerns over the height and shadow impact these proposed housing towers would have on the Brooklyn Botanical Garden. (2, 4, 5, 8, 9, 18, 23, 26, 31, 33, 37, 39, 40, 41, 42, 45, 55, 57, 59, 60, 62, 64, 70, 71, 73, 75, 76, 82, 85, 87, 98, 100, 104, 114, 116, 123, 130, 137, 139, 144, 146, 153, 154)

**Response 6.3:** *As detailed in the SOW, and in accordance with CEQR Technical Manual guidance, a preliminary shadows screening assessment will be prepared to ascertain whether shadows from the Proposed Project may potentially reach any sunlight-sensitive resources. If the screening analysis does not rule out the possibility that project-generated shadows would reach any sunlight-sensitive resources, a detailed analysis of potential shadow impacts on publicly-accessible open spaces and/or sunlight-sensitive historic resources resulting from the Proposed Actions will be*



*provided in the EIS. The detailed shadow analysis will establish a baseline condition (i.e., the No-Action condition), which will be compared to the future condition resulting from the Proposed Actions (i.e., the With-Action condition) to illustrate the shadows cast by existing or future building and distinguish the additional (incremental) shadow cast by the Proposed Project. If the shadows analysis concludes there is a significant adverse impact, potential mitigation strategies will be assessed in accordance with the CEQR Technical Manual guidance to reduce or eliminate, to the greatest extent practicable, the effect caused by incremental shadows.*

**Comment 6.4:** It is my understanding that the developer has been working closely with the New York City Department of City Planning to address these shadows concerns, including restructuring the tower design to mitigate shadow impact and updating the contextual zoning. In addition, a preliminary shadow study was conducted using CEQR guidelines, the results of which have shown these towers only cast shadows for approximately two to three early morning hours on average per day, clearing up by late morning and allowing for approximately six or more hours of direct sunlight over the impacted area each day. (5)

**Response 6.4:** *Comment noted. The DEIS shadows chapter will provide details about the times that project-generated shadows would enter and exit a resource or area of concern and would also include shadow duration.*

**Comment 6.5:** When these buildings go up, they are not only going to create the shadow over Botanical Gardens and the Jackie Robinson Playground, they are also going to create a canyon and a shadow for those of us who live in the area. (2, 52, 67, 133)

**Response 6.5:** *Comment noted. Refer to Response 6.3. For the purposes of CEQR, city streets and sidewalks (except when improved as part of a greenstreet), buildings or structures (with the exception of those that are considered architectural resources dependent on direct sunlight for their enjoyment by the public), and private open spaces (i.e., those that are not publicly accessible, such as front and back yards, stoops, and vacant lots) are not considered to be sunlight-sensitive resources and their assessment for shadow impacts are not required.*

**Comment 6.6:** The developments would cast shadows on the natural resources of the Brooklyn Botanic Gardens. (12, 37, 46, 78, 79, 83, 92, 102, 109, 119, 133, 138)

**Response 6.6:** *Comment noted. Refer to Response 6.3.*

**Comment 6.7:** The shadows analysis should study the worst case scenario representing the entire building envelope, as well as the maximum height, including the FRESH program for both Cornell as well as this study. (21, 37, 79)

**Response 6.7:** *Refer to Response 6.3. As described in the SOW, the requested Large Scale General Development (LSGD) special permit, upon approval, would require the Applicant to enter into a Restrictive Declaration (RD), a legally binding mechanism tied to the project site that governs the provisions of the LSGD. This would ensure the Proposed Development is the RWCDs in terms of building envelope. Additionally, the Applicant has no intention of participating in the FRESH program and no grocery store is envisioned for the site. If the applicants ever pursued a FRESH Authorization for height it would require further environmental review. However, the LSGD Special Permit and associated RD would place a maximum height restriction on the site that could not be exceeded and would also specify a maximum building envelope for each building.*

*In addition to existing buildings, any approved or planned projects in the vicinity of the Project Area that are expected to be completed by the 2024 Analysis Year that could cast shadows on any of the sunlight-sensitive resources will be included in the three-dimensional (3D) computer mapping model to establish the baseline (No-Action) condition. In accordance with CEQR*

***Technical Manual guidance, if warranted, the objective of the detailed shadow analysis is to identify project-generated incremental shadows and document the time at which project-generated incremental shadows enter and exit the sunlight-sensitive resource(s) in order to determine the total duration of incremental shadows that are cast on the resource(s). Once established, the impact significance is determined by assessing the impacts to the character, use, survival, or enjoyment of the sunlight-sensitive resource(s) due to project-generated incremental shadows.***

Comment 6.8: BBG's distinctness both as an institution and as a New York City open space substantially compounds the impacts of possible future shadows on BBG from the proposed rezoning. (38, 41, 69, 81, 88, 92, 118)

**Response 6.8: Refer to Response 6.3.**

Comment 6.9: The proposed towers will cast shade on the Children's Garden, greenhouses, conservatories, and nurseries. The towers would affect the programs at the 52-acre BBG and its allied partners throughout Brooklyn. (4, 7, 11, 23, 27, 30, 36, 47, 54, 61, 66, 72, 75, 100, 103, 106, 110, 113, 141, 142, 149, 151)

**Response 6.9: Refer to Response 6.3.**

Comment 6.10: In the facilities at risk of rezoning shade, we have control bearing conditions, replicating climates from around the world. Desert's warm tempered and tropical regions, 21 areas in all, individually heated between 36 and 86 degrees Fahrenheit, all requiring natural daylight and day length. These areas house over 18-and-a-half thousand plants, represent almost 7,000 species. One-hundred-and ninety-four plant families and more than 150 endangered species under active conservation. These are in addition to the annual plants mentioned by my colleagues. These propagation and growing facilities are the heart of the garden. All new plant material comes through there, propagated or grown on for many years. Like a museum, not all of our collection can be displayed at the same time. Seventy percent of our glass house collections are held compactly behind the scenes and swapped out into larger display spaces for our visitors to appreciate them at their best. Combined the facilities at risk are just one-and-a-quarter of our 52 acres that hold over 19 percent of our total plant collections. Young plants must constantly be added to the garden, the cycle of acquiring and propagating plants has gone on unbroken throughout the history of the garden, building up a collection over many, many years with material exchanged from thousands of sources. Collections, however, can be irreparably damaged in a much shorter time. All living things die and as with other Botanic Gardens around five percent of our collections do and are replaced annually. That means with current light levels should we lose propagation and growing facilities, over half of our current collection will be gone in a decade. There is no commercial alternative to onsite propagation facilities for the Botanic Gardens, especially given the range and array of unusual plants we grow and the not-for-profit plant sharing agreements we are bound to. Importing all our plants would also risk importing pest and diseases to the garden. Any declining collections would be a decline in our global standing, reducing our ability to further acquire plant material. Shadow analysis will show where a somewhat sensitive resource that warrants the highest tier of study, early assessments show that some of our facilities could lose around four hours of direct sunlight at peak times of the year. Light lost through rezoning would damage the garden in every single day over the year. We have the experts, the plants and the facilities but we must also continue to have an environment that allows us to grow plants. The rezoning proposal would cause serious tangible damage to the garden and its collections. (4, 19, 79, 90, 92, 119, 126, 151)

**Response 6.10: Refer to Response 6.1, 6.2, and 6.3.**

Comment 6.11: Shadows cast by the proposed tall towers will significantly, negatively and permanently impact the gardens expensive plant propagation and growing facilities. We know that the entire Botanic Gardens is dependent on these growing facilities. The shadow impacts on this vital space must be carefully and thoroughly assessed in light of this institution's preeminent stature. (38, 43, 79, 101)

**Response 6.11:** *Refer to Response 6.1, 6.2, and 6.3.*

Comment 6.12: Jackie Robinson Playground would also be cast in mid- and late-afternoon shadow, leaving only a few hours when the playground can be enjoyed in unobstructed sunlight. (8, 46, 79, 113, 123)

**Response 6.12:** *Comment noted. In accordance with CEQR Technical Manual guidance, a significant shadow impact generally occurs when an incremental shadow of 10 minutes or longer falls on a sunlight-sensitive resource and results in one of the following:*

**VEGETATION**

- *A substantial reduction in sunlight available to a sunlight-sensitive feature of the resource to less than the minimum time necessary for its survival (when there was sufficient sunlight in the future without the project);*
- *A reduction in direct sunlight exposure where the sensitive feature of the resource is already subject to substandard sunlight (i.e., less than minimum time necessary for its survival);*

**HISTORIC AND CULTURAL RESOURCES**

- *A substantial reduction in sunlight available for the enjoyment or appreciation of the sunlight-sensitive features or an historic or cultural resource;*

**OPEN SPACE UTILIZATION**

- *A substantial reduction in the usability of open space as a result of increased shadows;*

**FOR ANY SUNLIGHT-SENSITIVE FEATURE OR RESOURCE**

- *Complete elimination of all direct sunlight on the sunlight-sensitive feature of the resource, when the complete elimination results in substantial effects on the survival, enjoyment, or, in the case of open space or natural resources, the use of the resource.*

*Further, in accordance with the CEQR Technical Manual guidance, the shadows analysis will consider if the incremental shadow may affect specific features that are key to the character use, survival, or enjoyment of the sunlight-sensitive resource. Should any significant adverse shadow impacts be identified, potential mitigation measures will be considered.*

Comment 6.13: Preliminary shadow modeling indicates that the project would lead to shadows that would affect the Botanic Gardens in the early morning hours during the March, June, August and December analysis months, a significant impact given the sun dependency and growing seasons of the garden plant species. (8)

**Response 6.13:** *Refer to Response 6.1, 6.2, 6.3, and 6.12.*

Comment 6.14: The DEIS must inventory and also describe specific impacts on all plant species within the garden. (8, 83)

**Response 6.14:** *Refer to Response 6.2.*

Comment 6.15: We expect that the City and applicant will meet with Botanic Garden officials to discuss ways to eliminate and/or mitigate potential shadows. All coordination efforts will be documented in the DEIS. (8)

**Response 6.15:** *In accordance with CEQR Technical Manual guidance, mitigation strategies are considered when a significant shadow impact has been identified. If a significant shadow impact is identified, potential mitigation strategies will be assessed to reduce or eliminate, to the greatest extent practicable, the effects caused by incremental shadows.*

Comment 6.16: I'm very concerned about the weakening of plants as a consequence of new shadows and what's going to happen to the plants with domestic plant diseases and, also, new diseases that may come. (16)

**Response 6.16:** *Comment noted. Refer to Response 6.12.*

Comment 6.17: The project team needs to consult with the gardens' experts in performing the analysis, as well as determining the significance of the shadows. The question should not be whether the plants can survive but whether they can continue to thrive and whether new plants in the growing areas can grow as they are intended to do. (83)

**Response 6.17:** *Comment noted. The Brooklyn Botanic Garden will have an opportunity to comment on the shadows analysis provided in the Draft EIS.*

Comment 6.18: Consideration should be given to the shadows that could be cast by a project under the proposed new zoning if the special permit is not used (10.0 FAR). (83)

**Response 6.18:** *Refer to Responses 6.3 and 6.7.*

Comment 6.19: No building should block the sun for any amount of time from a national treasure. That the staff of a nonprofit like the Brooklyn Botanic Garden has to spend its energy raising awareness of proposed developments that would cast shadows over its basic livelihood is a travesty. Our public donations to that organization should be enough. Even if this rezoning is not approved, the developers should compensate the BBG with a large gift to cover their time. (131)

**Response 6.19:** *Comment noted.*

Comment 6.20: Proposals in which even after shadow studies, there is debate and uncertainty between parties about negative impact on such a resource should not be permitted to move forward. (81)

**Response 6.20:** *Comment noted. Any comments provided at the public hearing on the draft scope of work were speculating about the effects of the proposed buildings on the Brooklyn Botanic Gardens. A shadows study was not yet prepared or publicly released at the time of the scoping hearing. The shadows analysis performed for the Draft EIS will be conducted pursuant to the guidance and methodologies of the CEQR Technical Manual. The Department of City Planning and the Department of Parks and Recreation will review both the Shadows chapter and the Natural Resources chapter of the Draft EIS.*

Comment 6.21: When you consider this proposal you should take into account credible, unbiased, independent, expert reports on what shadows will be cast and what effect that will have on the garden. The burden of showing "no material harm" should fall on those who want the variance. (68, 70, 85, 92, 137)

**Response 6.21:** *Comment noted. Refer to Response 6.3. Additionally, the Department of City Planning and the Department of Parks and Recreation will review both the Shadows chapter and the Natural Resources chapter of the Draft EIS.*

Comment 6.22: Research the impact that these towers would have on Prospect Park, the Prospect Park Zoo, the Brooklyn Botanic Gardens, Grand Army Plaza, and the surrounding eastern parkway area. (45, 109)

**Response 6.22: Comment noted. Refer to Response 6.3.**

Comment 6.23: It is unconscionable to me that the rush to build more and more luxury buildings in Brooklyn would be allowed to proceed at the expense of this world-class botanic facility. Surely this project does not need to move forward. (38, 148)

**Response 6.23: Comment noted.**

Comment 6.24: The DEIS should study the effect of the loss of plants from the garden. (21, 32)

**Response 6.24: Comment noted. Refer to Response 6.3.**

Comment 6.25: A financial impact study on the effect of having a darkened garden with less variety of plants in the garden should be conducted – for the BBG and for the surrounding community (the Brooklyn Museum, the public library, the businesses in the area, etc.). (32)

**Response 6.25: Comment noted. A financial impact study of this type is beyond the scope of CEQR. In accordance with the CEQR Technical Manual guidance, the Shadows Analysis will consider if increased shadows would result in a substantial reduction in the usability of open space. If impacts are identified, mitigation measures would be considered to reduce or eliminate any potential effects of the shading.**

Comment 6.26: The likely effects on the BBG should be determined with great deference to experts in horticulture, park design, etc., such as the people who manage the BBG and have dedicated their careers to it. (137)

**Response 6.26: Comment noted. Refer to Response 6.3. Additionally, the Department of City Planning and the Department of Parks and Recreation will review both the Shadows chapter and the Natural Resources chapter of the Draft EIS.**

Comment 6.27: 1015 Washington Avenue should be deemed as a development site based on its addition of more than 27,600 square feet of development rights added to more than 72,000 existing square feet of such rights. Shadow would be analyzed based on the permitted R8A street wall. (1)

**Response 6.27: Comment noted. As described in the response to Comment 1.23, this site does not meet the soft site criteria as defined in the CEQR Technical Manual.**

Comment 6.28: The Tier 3 Screening Assessment should give specific consideration to the sunlight-dependent spaces within the interior of the Brooklyn Botanic Garden's conservatory, green houses, and plant nursery, inclusive of special consideration for BBG's collection of climate dependent plants. (1)

**Response 6.28: Comment noted. Refer to Response 6.3.**

Comment 6.29: The solar radiation and sunlight at the equator should be calculated for every equivalent shadow study day done for the northern hemisphere, and the difference in light should be noted to show the difference in light climate that these already tropical plants are already having to cope with, given their life in a greenhouse in the northern hemisphere. (140)

**Response 6.29: The shadows analysis will be conducted in accordance with CEQR Technical Manual guidance.**

Comment 6.30: It should also be noted that 1 hour of sunlight between 9-10 AM is not equivalent to 1 hour of sunlight between 12-1 PM. Losing 1 hour of sunlight anytime between 11 AM-2 PM in January, will decrease the total light that the garden receives by nearly 1/3. The effect off light loss in the middle

of the day, is far greater, than light loss early or later, and that should be weighted accordingly. (140)

**Response 6.30: Comment noted.**

Comment 6.31: RWCDs as basis for Shadow Calculations: Section 314.2 of Chapter 8 of the *CEQR Technical Manual* requires all possible configurations of the “allowable building envelope” must be analyzed, which must then include the envelope configurations made possible by the unsegmented zoning changes to all the lots occurring in the proposed action. In other words, the shadow studies must be based upon the unsegmented “Worst Case Scenario” within the that three-dimensional model of the proposed project that includes future use of all FAR capacity being granted—the worst case shadows must be based on the “worst case” for actual construction on the totality of the unsegmented lots being rezoned, including all possible heights and bulk. (21)

**Response 6.31: Refer to Response 6.7.**

Comment 6.32: Public Housing Residences are sunlight-sensitive resources. Since Jacob Riis first published *How the Other Half Lives*, public and affordable housing investment in New York City has sought to overcome the darkness and despair of early tenement housing. For over a century after its publication, New York’s zoning laws were repeatedly updated to assure all apartment rooms had light. Public housing projects were built in what is known as the tower-in-the-park style—an adaptation of contemporary housing complexes pioneered by Le Corbusier—to provide L-shaped apartment design that came together tetris-style in green, open space to ensure every unit had light shining in the apartment throughout the day. These historic zoning and public investment in housing remain sunlight-sensitive assets; the DSOW must include evaluation of the Jackie Robinson Houses and Park for shadow and reflectivity damage. (21)

**Response 6.32: Comment noted. Refer to Responses 6.3 and 6.5.**

Comment 6.33: Preserve the existing zoning and protect the Brooklyn Botanic Garden from new shadows. (11, 18, 26, 31, 32, 38, 39, 49, 51, 73, 78, 80, 86, 93, 98, 99, 102, 111, 114, 115, 116, 119, 122, 127, 128, 133, 151)

**Response 6.33: Comment noted. A detailed shadows study and a natural resources assessment are part of the DEIS.**

## 7. Historic and Cultural Resources

Comment 7.1: Page 27 of the Draft Scope of Work, Task 7, says the project site has ground that has been previously disturbed. I would like to argue that the proposed 39-story tower with underground parking demands excavation that far exceeds the land that has currently been disturbed and that this constitutes a new ground disturbance. Given that this is former tribal land and next to what were two main, Lenape walking paths, I request that in addition to LPC and a SHPO being involved that a tribal historic preservation officer should be involved in this project as there could be tribal archeological significance. (46, 140)

**Response 7.1: In a letter dated December 20, 2017 (provided as an appendix to the EIS), LPC determined that none of the lots comprising the Project Site contain archaeological sensitivity. LPC’s review was based on archaeological sensitivity models, reports, and historic maps, which indicated that there is no potential for the recovery of remains from Native American, colonial, or historic period occupation on the Project Site.**

Comment 7.2: The spice factory building should be preserved and made into a community center (e.g., a museum, gallery, and/or performance space with an outdoor space). Perhaps the Brooklyn Botanic Garden can be a partner. (22, 84)

**Response 7.2:** *Comment noted.*

Comment 7.3: The spice factory has been in existence since the 1920s and is a historical site. (67)

**Response 7.3:** *In a letter dated December 20, 2017 (provided as an appendix to the EIS), LPC determined that lots 41 and 46 of the Project Site (124-130 Montgomery Street), which contain buildings from the Consumers Park Brewing Company Complex, were eligible for listing on the State/National Registers of Historic Places (S/NR). As detailed in the SOW, the potential effects of the Proposed Actions on historic and cultural resources will be evaluated in the DEIS.*

Comment 7.4: The former Consumers Park Brewery building has historical significance. It predates the Brooklyn Botanic Garden and the Brooklyn Museum. Consumers Park Brewery was the first all-electric brewery in the United States, and was one of the first brick structures in the neighborhood. It had its own subway stop on the Franklin Avenue Shuttle train. (140)

**Response 7.4:** *See response to Comment 7.3 above.*

Comment 7.5: Prospect Park is on the National Historical Registry and some areas of the park are landmarked as well. Please investigate whether the proposed development at 960 Franklin would violate the legal protections such designated areas enjoy. (72)

**Response 7.5:** *Prospect Park was made a New York City Historic Landmark on November 25, 1975, and was listed on the National Register of Historic Places on September 17, 1980. As detailed in the FSOW, the EIS will include a historic resources assessment to determine if the Proposed Project would alter, among other things, the setting and context of surrounding historic architectural resources that would be likely to alter or eliminate the significant characteristics of the resource that make it eligible for listing on the State/National Registers of Historic Places or for designation as a New York City Landmark. Additionally, the EIS will determine if the Proposed Project would result in the introduction of significant new shadows or significant lengthening of the duration of existing shadows on a historic landscape or historic structure if the features that make the resource significant depend on sunlight. If significant adverse impacts to historic architectural resources are identified in the EIS, mitigation measures would be developed in consultation with the New York City Landmarks Preservation Commission (LPC) and the New York State Historic Preservation Office (SHPO).*

Comment 7.6: According to the DSOW, the Landmarks Preservation Commission (LPC) confirmed that the historic buildings on lots 41 and 46 are eligible for the New York State and National Register of Historic Places. All correspondence with LPC and SHPO should be provided for these and other lots within the proposed rezoning area. (8)

**Response 7.6:** *Comment noted. Agency correspondence will be included in the DEIS.*

## 8. Urban Design and Visual Resources

Comment 8.1: To even consider the development of this size and scale outside of downtown Brooklyn, the public benefits would have to be massive and the site uniquely appropriate. (3)

**Response 8.1:** *Comment noted. As described above, the Applicant's proposal would be unique in that it would provide 50 percent affordable and 50 percent market-rate housing on private land. This means that there would be 789 units of affordable housing created as a consequence of the Proposed Actions.*

Comment 8.2: The EIS should study the effect of the glare from this development on the Brooklyn Botanic Garden. (2, 7, 12, 32, 37, 46, 60, 79, 85, 113, 118, 119, 137, 139)

**Response 8.2:** *Reflectivity or glare studies are not considered or required under CEQR. There is no defined methodology or impact criteria for this study in the CEQR Technical Manual. As such, a glare study will not be provided in the Draft EIS.*

Comment 8.3: And I would assume that the parameters of the study would be similar to the parameters that would be used for the shadow study. (37)

**Response 8.3:** *Comment noted. See response to Comment 8.2 above.*

Comment 8.4: Assess cumulative effect of the glare from the proposed project as well as the Cornell Realty development. (12)

**Response 8.4:** *Comment noted. See response to Comment 8.2 above.*

Comment 8.5: The EIS should study the effect of the glare from this development on the surrounding community. (37, 60)

**Response 8.5:** *Comment noted. See response to Comment 8.2 above.*

Comment 8.6: The proposed development will have a large negative effect on the character of a community that is predominately, 99 percent, three to four-story buildings. The average age 50 years. Ninety-nine percent are limestone, brownstone and brick structures. Clearly this proposal is out of character. SEQRA states examples of actions affecting community character that have been found to be significant include introduction of luxury houses into a working class ethnic community. This community has an area median income of \$40,000 and 70 percent of the residents in Crown Heights are black. (13)

**Response 8.6:** *Comment noted. The effects of the Proposed Actions will be discussed in detail in the Shadows, Urban Design and Visual Resources, Natural Resources, and Neighborhood Character chapters of the Draft EIS.*

Comment 8.7: Tall buildings at these sites would be out of scale with the existing neighborhood and would be visible from parts of the garden, spoiling the sensitive retreat from urban density that its trees and landscapes create. Once those buildings are constructed, they will loom over the garden. (18, 20, 28, 30, 50, 56, 57, 72, 79, 89, 91, 96, 105, 107, 109, 114, 130, 142, 144, 154)

**Response 8.7:** *Comment noted. See response to Comment 8.6 above.*

Comment 8.8: During the fall and spring migration, birds rely on the garden for food, water and shelter. How would their food supply, their flight patterns, their very lives be disrupted by this tower of glass? (46, 105)

**Response 8.8:** *Potential impacts to migratory birds are among the issues that will be discussed in the DEIS. The analysis methodology and level of detail will be compliance with the 2020 CEQR Technical Manual. The proposed rezoning area is already urbanized in the existing condition, and the Proposed Actions do not involve urbanization of an undeveloped natural area.*



Comment 8.9: Developers are asking to reduce the distance between buildings here. Crown Heights is a hilltop and extremely windy. The project will create wind tunnel effects harmful to people's health and the quality of life. (46, 79, 105, 124)

**Response 8.9:** *Per Section 230 of the 2020 CEQR Technical Manual's Urban Design and Visual Resources chapter, wind conditions are only evaluated for waterfront sites. The CEQR Technical Manual specifies:*

*"The construction of projects involving multiple, tall buildings at or in close proximity to waterfront sites may result in an exacerbation of wind conditions due to 'channelization' or 'downwash' effects that may affect pedestrian comfort and safety."*

*As such, a detailed assessment of pedestrian wind conditions is not warranted in this case.*

Comment 8.10: The planned urban design study should allow for significant input from the community that will be most impacted by the proposed changes, involving representatives that live in our community in the form of community meetings, walk-around field visits and other steps of the urban design process. (140)

**Response 8.10:** *Comment noted. Public comments on the draft scope of work were heard at the March 12<sup>th</sup> scoping hearing and written comments on the proposed scope were accepted from March 12 through March 25. The public and interested organizations will have an opportunity to comment on the DEIS and the lead agency will provide responses to comments, including changes to analyses where appropriate, in the FEIS.*

Comment 8.11: Redeveloping this site would improve the immediate vicinity at least from the prospective of the Franklin Avenue streetscape as these sites are blighted. (83)

**Response 8.11:** *Comment noted.*

Comment 8.12: Conduct a view study from the BBG. The proposed towers would be visible from the BBG and would significantly alter the experience of being in this valuable city resource. (72, 152)

**Response 8.12:** *Views will be shown from the BBG in the Urban Design and Visual Resources chapter of the Draft EIS.*

Comment 8.13: Conduct a view study from Prospect Park, which was deliberately designed as a refuge. (72)

**Response 8.13:** *Views will be shown from Prospect Park in the Urban Design and Visual Resources chapter of the Draft EIS.*

Comment 8.14: The proposed development would interfere with the ability of people to enjoy the serenity and beauty of the Brooklyn Botanic Garden. (44)

**Response 8.14:** *Comment noted.*

Comment 8.15: The area doesn't need towers as large as what's been proposed from an urban planning and landscape perspective. (104)

**Response 8.15:** *Comment noted.*

Comment 8.16: Photographs referenced in determining the pedestrian experience should be taken from the vantage point of a person being on the sidewalk and from sidewalk locations as opposed to the street. (1)

**Response 8.16:** *Comment noted. Existing conditions photographs included in the urban design and visual resources assessment of the EIS will be taken from the sidewalk at pedestrian height, in accordance with CEQR Technical Manual guidance.*

Comment 8.17: In considering neighborhood context, "outliers" should be eliminated before looking at average or median building heights and densities. (28)

**Response 8.17:** *Pursuant to CEQR guidance, all building heights should be documented for the entire study area for the existing condition, the future No-Action condition, and the future With-Action condition when describing the neighborhood context.*

Comment 8.18: A new complex of 40 story towers at a 9+ FAR would significantly change the existing neighborhood context and character in terms of both height and density. (28)

**Response 8.18:** *Comment noted. As noted in the FSOW, as part of Task 8, "Urban Design and Visual Resources," the urban design and visual resources of the project area and ¼-mile radius secondary study area will be described, identifying critical features, use, bulk, form, and scale. Potential changes that could occur in the urban design character of the study area as a result of the Proposed Actions will be described as well.*

Comment 8.19: The impact of these towers on view corridors can stretch for miles. The visual impacts of these towers should be examined for a radius of up to 2 miles around the site. (28)

**Response 8.19:** *Comment noted. See response to Comment 8.18 above.*

Comment 8.20: Urban design impact requires consideration of the degree to which a project would result in a change to the built environment's arrangement, appearance, or functionality such that the change would negatively affect a pedestrian's experience of the area, a disclosure concept that overlaps with displacement and other adverse impacts discussed throughout these comments. Building luxury development in a low to moderate income community of color will have multiple negative effects, and the DSOW especially must be clear on the types, amounts, and sizing of the unsegmented development will be. (21)

**Response 8.20:** *Comment noted. See response to Comment 8.18 above. Additionally, the Draft EIS will also include analyses of socioeconomic conditions, and more specifically, the potential for the Proposed Development to result in indirect displacement.*

Comment 8.21: The EIS must use accurate and available Computational Fluid Dynamics (CFD) to study and predict location of reflected light from the unsegmented proposed action, the intensity of these reflections, and the related temperature increase originated by the reflected light on the surrounding area. (21)

**Response 8.21:** *Comment noted. See response to Comment 8.2 above.*

Comment 8.22: New York City sits directly on one of the three major flyways of migration in the United States. It's the Atlantic flyway. Birds crash into glass buildings in astounding numbers. It is the second largest cause of mortality in bird populations worldwide. Glass towers at this location will create an especially deadly obstacle for migrating bird species that are drawn to natural areas and green spaces in the city. There is bird safe glass that can be installed to mitigate this issue when considering a building of any height. (2, 7, 14, 58, 64, 72, 74, 79, 116, 136, 139)

**Response 8.22:** *Comment noted. See response to Comment 8.8 above.*

Comment 8.23: With greater densification there is an equally greater importance on public outdoor green space, one must not come at the expense of the other. We must apply a long-term view in order to protect valuable cultural and natural resources for future generations. (81, 138)

**Response 8.23:** *Comment noted. The Draft EIS will discuss both the potential consequences of the incremental shadows on the BBG and the urban design and visual resources context of the Proposed Development.*

Comment 8.24: The Brooklyn Botanic Garden provides crucial stopover habitat for the millions of birds that migrate through Brooklyn each year, with over 170 species documented in the Brooklyn Botanic Garden. Some 291 species have been documented in adjacent Prospect Park. A combination of increased light pollution and glass surface area in such close proximity to the park will result in significant numbers of bird mortality to migratory birds—all of which are protected by federal law. Using the New York City Audubon's Project Safe Flight program, our scientists estimate between 90,000 and 230,000 birds die every year in New York City from building collisions. Buildings adjacent to natural areas provide exceptionally high risk to birds. Birds do not perceive that clear or reflective glass is a solid barrier, and they fly into the reflections resulting in brain trauma, neck injury or death. Artificial light at night overwhelms their natural cues for nocturnal navigation (especially stars), rendering them confused and exhausted, and grounding them until the morning when they fall prey to reflective glass in windows. The proposed excessive high-rise development would cause large numbers of bird deaths and injuries. (7, 60, 74)

**Response 8.24:** *Comment noted. See response to Comment 8.8 above.*

Comment 8.25: If a big bird falls on a truck, bus, or car, a traffic accident could happen and people might be injured or killed. (60)

**Response 8.25:** *Comment noted.*

Comment 8.26 According to City Environmental Quality Review (CEQR) Technical Manual, Section 3I-1, Natural Resources, the BBG warrants consideration as being defined as an Upland Resource: Gardens and Other Ornamental Landscaping. Though its vegetation is not natural, such area is a useful resource for recreation and some bird, small mammal, and insect habitat. There is a question as to what extent the introduction of shadows through development pursuant to the proposed rezoning would qualify as an indirect disturbance, and, if so, whether such disturbance would be deemed insignificant. Given that the shadow assessment has not been completed, it seems premature to assess the extent of such disturbance, and thus it appears that environmental screening would be warranted toward determining the extent to which species may rely on these resources and whether the loss of part of this resource would result in a real loss of habitat, including any effects with annual Atlantic Flyway bird migration. (1)

**Response 8.26:** *Comment noted. See response to Comment 8.23 above. Further, a natural resources assessment will be provided pursuant to CEQR Technical Manual criteria.*

Comment 8.27: The Natural Resources category of impact analysis was improperly left out of the DSOW. Although the BBG Parklands contain "improved areas," in conjunction with Prospect Park it provides permanent and migratory habitat to over 170 bird species who migrate to and through this greenspace every year. The DSOW must evaluate whether impacts from the Proposed Actions are significant in light of several categories of natural asset value listed in the CEQR Technical Manual:

- A project would likely diminish habitat for a resident or migratory endangered, threatened, or rare animal species or species of special concern.
- A project would likely result in the loss of plant species that are endangered, threatened, rare, vulnerable or rare for the City.
- A project would likely result in the loss of part or all of a resource that is important because it is

large, unusual, the only one remaining in the area where the project is to take place, or occurs within a limited geographic region.

- A project would, either directly or indirectly, be likely to cause a noticeable decrease in a resource's ability to serve one or more of the following functions: wildlife habitat; food chain support; physical protection (e.g., flood protection); water supply; pollution removal; recreational use; aesthetic or scenic enhancement; commercial productivity; or microclimate support.
- A project that would be likely to directly or indirectly contribute to a cumulative loss of habitat or function which diminishes that resource's ability to perform its primary function; and that loss would be inconsistent with the current natural resources policies of the City. (21)

**Response 8.27:** *Comment noted. See response to Comment 8.23 above. Further, a natural resources assessment will be provided pursuant to CEQR Technical Manual criteria.*

Comment 8.28: In addition, State and Federal impact analysis requirements require analysis of whether the Proposed Action will harm or destroy plant life on which migratory birds feed, harm or destroy habitat, and cause flight death. Therefore, full analysis to include affected species, use levels, and interactive impacts from glare and other building features is required. (21)

**Response 8.28:** *Comment noted. See responses to Comments 8.2 and 8.23 above. Further, a natural resources assessment will be provided pursuant to CEQR Technical Manual criteria.*

Comment 8.29: Birds migrate at night and lighted buildings often disorient birds and disrupt the cues they take from the dark sky and visible stars. (74)

**Response 8.29:** *Comment noted. See response to Comment 8.23 above. Further, a natural resources assessment will be provided pursuant to CEQR Technical Manual criteria.*

## 9. Hazardous Materials

Comment 9.1: To the extent that the towers would consist of southern facing facades that are extensively glazed, an analysis should be conducted to disclose any impacts pertaining to excessive glare. (1)

**Response 9.1:** *Comment noted. See response to Comment 8.2 above.*

## 10. Water and Sewer Infrastructure

Comment 10.1: The demands on the existing infrastructure will increase beyond capacity. (2, 6, 15, 33, 64, 84, 123, 124)

**Response 10.1:** *As noted in Task 11 of the FSOW, the Draft EIS will analyze the Proposed Actions' potential effects on the water, wastewater, and stormwater infrastructure. The Water and Sewer Infrastructure chapter of the Draft EIS will be reviewed by the Department of City Planning and the NYC Department of Environmental Protection to ensure that there are no capacity issues as a consequence of the Proposed Development's new demand.*

Comment 10.2: The human waste from all of these buildings flows into the same overburdened sewer systems and when it rains, discharges into the same waterways. (12, 57, 79, 91, 130, 137)

**Response 10.2:** *Comment noted. See response to Comment 10.1 above.*

Comment 10.3: With the human waste generated by this proposed development and the Cornell Realty development, there will be a combined 50 tons of human waste a week. At over 50 tons of human waste a week, according to the City Environmental Quality Review Technical Manual, that level of waste requires the addition of other facilities. I didn't see waste or sewer being included in the Environmental Impact at all and yet we're now we're talking about the possibility of new facilities. (12)

**Response 10.3:** *Comment noted. See response to Comment 10.1 above.*

Comment 10.4: The water distribution system would be negatively affected. Water pressure changes and sends sediment into my building now. The added stress of the development and the four other high-rises could be catastrophic. (124)

**Response 10.4:** *As noted in the FSO, as part of Task 11, "Water and Sewer Infrastructure," the effects of the incremental demand on the City's water supply system will be assessed to determine if there would be impacts to water supply or pressure.*

Comment 10.5: Maximum consideration should be given to diverting stormwater runoff from the Owl's Head Wastewater Treatment Plant (WWTP). As the directly affected service area is the WWTP, a detailed assessment might be required based on increased sanitary and/or stormwater discharges from the project that could affect the capacity of portions of the sewer system or contribute greater pollutant loadings in stormwater discharged to receiving water bodies. If such a detailed assessment would be required, there should be consideration given as to the incorporation of blue and/or green roof features, New York City Department of Environmental Protection (DEP) rain gardens, and expanded tree pit management infrastructure. (1)

**Response 10.5:** *Comment noted. See response to Comment 8.2 above.*

Comment 10.6: It is important to note that New York City has been under a Consent Order for violating Water Quality Standards due excess hazard material loading into water bodies from Combined Sewer Overflow since 1992. On November 3, 2010, New York City entered into an additional consent order with the NYS Department of Environmental Conservation (NYSDEC) (DEC File No. R2-20080312-141) to resolve Clean Water Act violations relating to "CSO BMPs" ("2010 CSO BMP Order"). The City violated the 2010 CSO BMP Order, the Schedule of Compliance, and Required Action 3(e) provisions of that order by failing to submit an approvable plan for review and approval with implementation schedule to incorporate and implement best practices for CSO controls at wastewater treatment plants, including the Owl Head plant in whose sewer shed the 960 Franklin Project is located.

The need for comprehensive cumulative impacts analysis for incremental (and constant) additions to limited sewage carrying capacity is further underscored by specific requirements of the *CEQR Technical Manual* regarding conditions subject to legal compliance actions. Section 420.1 of Chapter 13 (Wastewater Treatment Plants and Collection Facilities) specifies that "inconsistency with the provisions of a Consent Order or other applicable regulatory program" indicates significant impacts on WWTPs, interceptors, regulators, and pumping stations may occur. As the Department of City Planning is on notice of the multiple Consent Orders and other regulatory program requirements, the incremental accumulation of development projects that must be analyzed at least includes all sewage loading added to the Owl Head Drainage area since the 2012 Consent Order update, and possibly all loading added since the original non-compliance occurred. (21)

**Response 10.7:** *Comment noted. See response to Comments 8.2 and 10.1 above.*

Comment 10.8: The DEIS must provide detailed analysis of the Proposed Project's direct and cumulative effects on the OHWTP drainage area, discharges and combined sewer overflow into the Coney Island Creek and the East River from the Owls Head WWTP drainage area, and sewer backup issues. (21)

**Response 10.8:** *As noted in the FSOW, the Draft EIS will analyze the Proposed Actions' potential effects on the water, wastewater, and stormwater infrastructure in accordance with CEQR Technical Manual methodology. The Water and Sewer Infrastructure chapter of the Draft EIS will be reviewed by the Department of City Planning and the NYC Department of Environmental Protection to ensure that there are no capacity issues as a consequence of the proposed development's new demand.*

Comment 10.9: The DSOW should evaluate whether a "Hookup Moratorium" is appropriate for the area pending execution of the 2016 Long Term Control Plan for the OHWWTP, and full compliance with the Consent and Administrative Orders noted above. Ongoing violations of the Clean Water Act such as those occurring now have resulted in serious consideration of a "hookup moratorium" in the past, a situation that may be again applicable given the overwhelming volumes of development added to the OHWWTP Drainage Area as well as the millions of additional square feet currently under construction, permitted, or planned in an area draining to an impaired water. (21)

**Response 10.9:** *Comment noted. See response to Comments 8.2 and 10.1 above.*

## 11. Solid Waste and Sanitation

Comment 11.1: There are solid waste and sanitation concerns for a project of this size. (60, 64, 79, 84)

**Response 11.1:** *Task 12, "Solid Waste and Sanitation Services," will be conducted in accordance with CEQR Technical Manual methodology. The Solid Waste and Sanitation chapter of the DEIS will be reviewed by the Department of City Planning and the NYC Department of Sanitation.*

Comment 11.2: Proper handling of solid waste is a concern to prevent a rodent infestation. (123)

**Response 11.2:** *Comment noted. The proper handling of solid waste will be addressed in conjunction with Task 12, "Solid Waste and Sanitation Services" and pursuant to CEQR Technical Manual methodology.*

Comment 11.3: The NYC Department of Sanitation must be consulted. (105)

**Response 11.3:** *Comment noted. Pursuant to SEQRA, as defined in 6 NYCRR Part 617.2(t), an "interested agency" is defined as an agency that lacks the jurisdiction to fund, approve or directly undertake an action but wishes to participate in the review process because of its specific expertise or concern about the proposed action. Therefore, the NYC Department of Sanitation qualifies as an interested agency and as part of a coordinated environmental review process, reviews and comments on all relevant analyses.*

Comment 11.4: The evaluation of solid waste must assess and disclose the following factors affecting solid waste management in the 960 Franklin Avenue geographic waste-shed per Local Law 152 (N.Y.C. Admin. Code §28 – 318.1):

- Transfer stations have the available capacity to accept the new load from 960 Franklin Avenue considering the cumulative demand for waste handling in the area;
- Sufficient hauling and transfer capacity is available accounting for holidays, weekends, and periods when one or more transfer facilities are closed;
- Sufficient hauling and transfer capacity is available accounting for daily, weekly, and seasonal fluctuations in waste generation—such as cyclical construction seasons and restaurants' busy seasons—that regularly and predictably require a transfer station's full capacity; and
- Can permitted transfer station capacity handle the cumulative impacts of 960 Franklin and

related projects waste handling requirements on individually busy days given daily capacity limits set forth in the permits (not averages or other non-specific, overly generalized calculations);

- Will transfer station capacity limits increase trips and related air emissions and congestion?
- The extent to which the cumulative impacts of 960 Franklin and related project development in the waste-shed are consistent with the New York City Department of Sanitation Commercial Waste Zones: A Plan to Reform, Reroute, and Revitalize Private Carting in New York City, released November 7, 2018;
- Slack capacity at transfer stations in the area's waste shed (including times periods when the facility is not even open or permitted to be open to accept waste) is sufficient for cumulative requirements (21)

**Response 11.4:** *As stated in the FSOW, the EIS will include a solid waste assessment, which will assess the impacts of the Proposed Actions' solid waste generation on the City's collection needs and disposal capacity, as well as the Proposed Actions' consistency with the City's Solid Waste Management Plan.*

## 12. Energy

Comment 12.1: The analysis should discuss the potential for lessening demand through passive house construction, and identify opportunities where the various building roof and terrace heights would permit the installation of rooftop micro-wind turbines as permitted obstructions, opportunities for rooftop solar energy installation, and/or geothermal generation, as a means to offset energy consumption during long-term operation. (1)

**Response 12.1:** *Comment noted. Passive house construction and the installation of rooftop micro-wind turbines, solar panels, and geothermal generation would not be required under the Proposed Actions, as there is no mechanism to require them.*

Comment 12.2: We request that the energy evaluation go beyond merely disclosing the projected energy demand of the Proposed Project and include information about sustainable design practices to be implemented during construction and operation. For a project of this magnitude, LEED™ building standards or equivalent should be considered. The DEIS should also evaluate the possibility of a more comprehensive Optimal Sustainable Development Scenario, a design alternative that demonstrates energy and water use savings with the application of sustainable practices for construction and operation. (8)

**Response 12.2:** *Comment noted. LEED™ building standards or equivalent and the requested design alternative would not be required under the Proposed Actions, as there is no mechanism to require them.*

## 13. Transportation

Comment 13.1: With a project of this size, we need to take a careful look at the potential impacts on transit service, in particular our subways and buses, to make sure we do what we need to improve transit access, including potential ADA improvements at the adjacent subway stations. (3)

**Response 13.1:** *As detailed in the FSOW, and in accordance with CEQR Technical Manual guidance, the transportation analyses will evaluate the potential for significant adverse impacts on traffic operations and mobility, public transportation facilities and services, pedestrian elements and flow, and the safety of all roadway users (pedestrians, bicyclists, and motorists) as a result of the Proposed Actions. If impacts are identified, mitigation needs and potential improvements will be identified, as appropriate, in conjunction with the lead agency, NYCDOT, NYCT, and the MTA.*

Comment 13.2: Are there going to be more transit lines? Or are we going to expand the transit lines? Franklin Avenue really needs a renovation job all over. We don't even have elevator for those of us who are handicapped on that line (2)

**Response 13.2:** *As detailed in the FSOW, the transportation analyses will assess the potential for significant adverse impacts to the three subway stations serving the Project Area. If impacts are identified, mitigation needs and potential improvements will be identified, as appropriate, in conjunction with the lead agency, NYC Transit, and the MTA.*

Comment 13.3: Right now at the Prospect Park and Franklin Avenue subway stations, when it rains outside, rain leaks through the ceiling inside. (6)

**Response 13.3:** *Comment noted. NYC Transit and the MTA conduct ongoing maintenance and repairs irrespective of the Proposed Actions.*

Comment 13.4: Parking is already difficult and is only going to get worse with the increased residential density that is anticipated, along with the known developments that are planned in the area. The proposed development at 960 Franklin Avenue will add demand, while also requesting a special permit to reduce parking spaces. (6, 55, 59, 60, 79, 83, 84, 89, 123, 131, 137, 147)

**Response 13.4:** *In accordance with CEQR Technical Manual guidance, the parking analysis in the EIS will document the existing on-street and off-street parking supply and demand within a 0.25-mile radius as well as changes in parking supply and utilization under both No-Action and With-Action conditions. The analysis will focus on the overnight period (when parking demand from the Proposed Actions' residential uses would peak) and the weekday midday period (when demand from the Proposed Actions' commercial uses would peak).*

Comment 13.5: With increased pedestrian traffic, pedestrian safety is a concern along Washington Avenue. (108)

**Response 13.5:** *As outlined in the FSOW, and in accordance with CEQR Technical Manual guidance, the transportation analyses will evaluate the potential for significant adverse impacts on traffic operations and mobility and the safety of all roadway users (pedestrians, bicyclists, and motorists) as a result of the Proposed Actions. If impacts are identified, mitigation needs and potential improvements will be identified, as appropriate, in conjunction with the lead agency, and NYCDOT. If any high crash locations are identified, the potential for vehicle and/or pedestrian trips and any street network changes resulting from the Proposed Actions to adversely affect vehicular and pedestrian safety will be assessed, and practicable measures to enhance pedestrian/bicycle safety will be described.*

Comment 13.6: Subway crowding is already an issue at the local subway stations. We want to see a more robust analysis of the subway infrastructure than the current scope suggests. (2, 15, 33, 40, 57, 59, 68, 79, 83, 91, 110, 116, 123, 131, 132, 137, 146, 154)

**Response 13.6:** *The EIS will assess the Proposed Actions' potential for significant adverse impacts at a total of three subway stations where incremental demand is expected to exceed 200 trips in a peak hour, consistent with CEQR Technical Manual guidance. Stations more distant from the proposed rezoning area are not expected to experience 200 or more incremental entering or exiting trips in any peak hour.*

Comment 13.7: Concern about increased traffic congestion in the area. (60, 123, 132, 154)

**Response 13.7:** *Comment noted. See response to Comment 13.1 above. A total of eight intersections will be analyzed, as described in the FSOW.*



Comment 13.8: We want to see a more robust analysis of the bus service (including the B48) than the current scope suggests. (2, 110)

**Response 13.8:** *As detailed in the FSOW, the projected net increase in bus trips is not expected to exceed the CEQR Technical Manual analysis threshold of 50 or more bus trips per line and direction and would therefore not require detailed analysis.*

Comment 13.9: The project area is well served by transit. (131)

**Response 13.9:** *Comment noted.*

Comment 13.10: Parking requirements exist for a reason. Two-unit houses in the outer boroughs are unable to fill their otherwise habitable basement unit because regulations stipulate a sufficient number of street parking spaces for each unit in a neighborhood. Should the developers at 960 Franklin Avenue gain an exception to this rule when single-home owners cannot, it would be a disservice to hundreds or thousands across the city that puts lie to the claim that this development would provide housing to a badly strained market. (131)

**Response 13.10:** *Comment noted. A special permit would be required pursuant to ZR section 74-533 to waive the parking requirements per ZR section 25-23. The requested parking reduction would facilitate the development of additional affordable housing in a Development Site located within a transit zone. Parking would be required for 40 percent of the non-income restricted units, with a total of approximately 462 required parking spaces. Approximately 180 parking spaces are proposed. As such, 282 parking spaces would be waived by the requested special permit. It should be noted that no parking would be required for the income-restricted units under MIH zoning. In neighborhoods zoned for multifamily housing, that are proximate to public transportation and where car ownership rates are low, the City's Mandatory Inclusionary Housing (MIH) program has made building off-street parking spaces optional for new affordable housing developments within transit zones.*

Comment 13.11: Reducing the parking would result in added strain on public transit. (131)

**Response 13.11:** *Comment noted. See response to Comment 13.1 above.*

Comment 13.12: Make sure that whatever building is added to 960 Franklin has a net-zero effect on the ease of parking in the area, particularly on weekdays when Medgar Evers College is in session, based on the existing parking patterns and the forecast fraction of the building's residents who will likely have cars. It is critical for the city to ensure that any such study is fact-based and unbiased. (137)

**Response 13.12:** *Comment noted. See response to Comment 13.4 above.*

Comment 13.13: In addition to the detailed analysis of the eight listed intersections as also depicted in Figure 9, in order to best capture vehicle trip assignment (traffic) for vehicles exiting at Montgomery Street and for vehicular routes to or from the south and east, the following intersection should be analyzed to determine if they would meet the screening threshold:

- Franklin Street at Empire Boulevard (signalized)
- Montgomery Street at Bedford Avenue (signalized)
- Empire Boulevard at Flatbush Avenue (signalized)
- Empire Boulevard at Bedford Avenue (signalized) (1)

**Response 13.13:** *Comment noted. As described in the FSOW, the EIS will provide a detailed traffic analysis focusing on those peak hours and street network intersections where the highest concentrations of project-generated demand would occur. The peak hours for analysis will be selected, and the specific intersections to be included in the traffic study area will be determined based upon the*

***assignment of project-generated traffic and the CEQR Technical Manual analysis threshold of 50 additional vehicle trips per hour, or at known congested locations. The Proposed Project would exceed the minimum development density screening thresholds for a transportation analysis specified in Table 16-1 of the CEQR Technical Manual. Therefore, a travel demand forecast is required to determine if the Proposed Project would generate 50 or more vehicle trips in any peak hour. Based on a preliminary forecast, the Proposed Project is expected to generate more than 50 additional vehicular trips in the weekday AM, midday, and PM peak hours, as well as the Saturday midday peak hour. Based on a preliminary vehicle trip assignment, it is anticipated that a detailed traffic analysis will be warranted at up to 8 intersections depicted in Figure 9 of the FSOW.***

Comment 13.14: The detailed inventory of existing on-street and off-street parking would be conducted for the weekday midday period, should be conducted during alternate side parking restriction hours that overlap when school is in session for the Public School 375 Jackie Robinson/Ebbets Field Middle School and for the City University of New York (CUNY)'s Medgar Evers College Campus. (1)

***Response 13.14: Comment noted. See response to Comment 13.4 above.***

Comment 13.15: Any substantial increases in transit ridership without overhauling the local subway stations and investing in the MTA appears ill-advised. (68)

***Response 13.15: Comment noted. See response to Comment 13.2 above.***

Comment 13.16: The impacts of density on public transportation should be considered not only for the nearest subway stations of Prospect Park on the Q line and Franklin Avenue on the IRT lines, but also on subway stops between these locations and Atlantic Avenue (the next big transfer point before Manhattan). We request that you look at MTA usage data taken from turnstiles during the rush hour - entries minus exits before reaching Atlantic Avenue. (28)

***Response 13.16: Comment noted. See response to Comment 13.6 above.***

Comment 13.17: The DEIS must specifically assess the effects of additional parking demand in light of the requested special permit to reduce on-site parking capacity. The analysis should evaluate street congestion, traffic, curb availability, deliveries, and other baseline conditions currently in the neighborhood character and flow. (21)

***Response 13.17: Comment noted. See responses to Comments 13.1 and 13.4 above.***

Comment 13.18: According to the DSOW, the development would generate more than 50 additional vehicular trips in the weekday AM, midday, and PM peak hours, as well as the Saturday midday peak hour, thereby necessitating a travel demand forecast. However, only eight intersections are identified for further analysis, and none are located east of the rezoning area. MAS requests a broader traffic analysis that extends at least 0.25-miles from the project site boundary, or a detailed explanation and the assumptions as to why additional intersections were not identified for further analysis. (8)

***Response 13.18: The DEIS provides a detailed description of the transportation planning assumptions and shows the incremental trips that would travel through the study area. As noted in the comment, the study area is limited to those intersections where 50 additional vehicle trips are expected as a consequence of the Proposed Development.***

## 14. Air Quality

Comment 14.1: Flatbush suffers from lower air quality as it is, and proximity to thriving and lush parks and gardens has been proven to improve air quality, so this is a public health and environmental justice issue as well. (122)

**Response 14.1:** *Comment noted. Per the guidance provided in NYSDEC's Commissioner Policy 29 (CP 29), environmental justice is defined as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice efforts focus on improving the environment in communities, specifically minority and low-income communities, and addressing disproportionate adverse environmental impacts that may exist in those communities. If the impacts of a project may be felt in an "environmental justice community," CP 29 calls for providing enhanced public participation opportunities for the members of that community, often in addition to the public participation requirements of CEQR and SEQR. When NYSDEC is involved as the regulator issuing a permit in a project, it looks to the permit applicant, often the City lead agency, to satisfy the requirements of CP 29. NYSDEC provides information and guidance on environmental justice on its website, <http://www.dec.ny.gov/public/333.html>.*

*No parkland or gardens will be directly disturbed as a consequence of the Proposed Actions. The shadows chapter of the Draft EIS will describe the potential consequences of the Proposed Development as it relates to the adjacent parks and gardens. The Draft EIS will also include an analysis of the potential to result in significant adverse impacts to the local air quality. As such, the Draft EIS will address the potential for the Proposed Actions to result in significant adverse effects on public health.*

## 15. Greenhouse Gas Emissions and Climate Change

Comment 15.1: According to Task 16, "Greenhouse Gas Emissions and Climate Change," relevant measures to reduce energy consumption and GHG emissions that could be incorporated into the proposed project will be discussed and quantified for their potential to reduce GHG emissions from the proposed project. Such discussion would assess the extent to which such measures would be practicable as reductions measures. It is recommended that such design features include passive house construction, blue and/or green roof assembly, and wind turbines. (1)

**Response 15.1:** *Comment noted. See responses to 10.1, 10.4, 10.8, and 12.1 above. Additionally, stormwater BMPs that could be implemented as part of the Proposed Project will be discussed in Task 11, "Water and Sewer Infrastructure".*

## 16. Noise

Comment 16.1: Noise. Forever gone will be the quiet of the BBG experience. There will be an unprecedented amount of noise that will occur, not only during the construction phase but after. These studies must be conducted cumulatively, taking into consideration all other proposed projects, their construction phases, et cetera. (79, 147)

**Response 16.1:** *Comment noted. As outlined in the SOW, a detailed noise analysis will be prepared as part of Task 17, "Noise." The analysis methodology, which is outlined in the SOW, will be conducted in accordance with CEQR Technical Manual guidance. According to the methodology guided by CEQR, the EIS noise analysis will consider the potential for the Proposed Actions to result in noise level increases at identified noise receptors. Based on the traffic studies conducted for Task 14,*

***“Transportation,” a screening analysis will be conducted to determine whether there are any locations where there is the potential for the Proposed Actions to result in significant noise impacts due to project-generated traffic. As described in the SOW, the EIS will also consider the potential for the Proposed Actions to result in noise impacts due to construction activities, which will be conducted in Task 20, “Construction.” If the potential for significant noise increases is identified, potential mitigation measures will be considered.***

Comment 16.2: The DSOW states the proposed actions could have the potential to result in mobile and stationary sources of noise and introduce new sensitive receptors. The *CEQR Technical Manual* identifies noise-sensitive locations called “receptors” as generally the subject of most noise impact analyses, and de-fines receptors as “an area where human activity may be adversely affected when noise levels exceed predefined thresholds of acceptability or when noise levels increase by an amount exceeding predefined thresholds of change.” The Manual states that receptors may be indoors or outdoors, the former including residences, health care facilities, nursing homes, schools, houses of worship, court houses, public meeting facilities, museums, libraries, and theaters; the latter include, but are not limited to, parks, outdoor theaters, golf courses, zoos, campgrounds, and beaches. It is already a foregone conclusion that the community will have a tremendous increase in noise to key receptors that must be analyzed in the DSOW:

- Brooklyn Botanic Garden (including interior open space and buildings as well as border areas) including psychological elements of tranquility loss
- Jackie Robinson Houses
- Jackie Robinson Houses Playground
- Schools and Learning Impacts (21)

***Response 16.2: Comment noted. See response to Response 17.2 above. According to the CEQR Technical Manual, receptor sites generally include all locations where significant impacts may occur. As the Proposed Project would generate vehicle trips, and as the Proposed Project is located immediately adjacent to the Franklin Avenue subway shuttle line, an assessment of mobile vehicular traffic and train noise will be warranted, as described in the FSOW. In addition, as the Proposed Project is located directly across the street from the Jackie Robinson Playground, a playground noise assessment will also be warranted. If significant impacts are identified during the analysis, it may be necessary for additional receptor sites to be added to the analysis, in accordance with CEQR Technical Manual guidance.***

## 17. Public Health

***No specific comments were received on this topic.***

## 18. Neighborhood Character

Comment 18.1: The prospect of adding such a massive new development without comprehensive consideration for its integration into the fabric of the neighborhood, is of great concern. (3)

***Response 18.1: Comment noted. As described above, the Draft EIS will provide a comprehensive consideration of the Proposed Actions and the Proposed Development pursuant to the guidance and criteria of the CEQR Technical Manual.***

Comment 18.2: A development of this scale will destroy the character of the neighborhood. (40)

***Response 18.2: Comment noted. See response to Comment 18.1 above.***

Comment 18.3: Neighborhood character is an amalgam of various elements that give neighborhoods their distinct "personality." These elements may include a neighborhood's land use, urban design, visual resources, historic resources, socioeconomics, traffic, and/or noise. Chapter 21, Section 210 indicates that a baseline Neighborhood Character assessment is appropriate since the Proposed Project has the potential to result in adverse impacts on multiple categories listed. In order to determine if luxury developments may have negative effects on the community, a detailed list of all apartments, their sizes, and prices of these apartments proposed under all "affordable" categories by the developer should be disclosed in the analysis, along with an in-depth analysis of the existing AMI of the current community (Crown Heights South), based upon the 2010 census and not the entire district of Councilwoman Laurie Cumbo. This is crucial because right next door to Crown Height South is a whiter and wealthier community and their income levels should not be included in the Crown Height South data, especially since they are more than a quarter a mile away from the rezoning area. (21)

**Response 18.3:** *Comment noted. An analysis of Neighborhood Character will be provided in the Draft EIS as described in Task 19 of the FSOW. As described in the FSOW, a preliminary assessment of neighborhood character will be provided in the DEIS to determine whether changes expected in other technical analysis areas—land use, zoning, and public policy; socioeconomic conditions; open space; historic and cultural resources; urban design and visual resources; transportation; and noise—may affect a defining feature of neighborhood character. The preliminary assessment will:*

- *Identify the defining features of the existing neighborhood character.*
- *Summarize changes in the character of the neighborhood that can be expected in the future With-Action condition and compare to the future No-Action condition.*
- *Evaluate whether the Proposed Project has the potential to affect these defining features, either through the potential for a significant adverse impact or a combination of moderate effects in the relevant technical areas.*

*If the preliminary assessment determines that the Proposed Project could affect the defining features of neighborhood character, a detailed analysis will be conducted in accordance with the CEQR Technical Manual guidelines.*

## 19. Construction

Comment 19.1: Large towers along the shuttle will require additional costs as they will create greater vertical force than a six or seven-story building. The foundation has to be strong enough to support the weight of the building, which will impact the retaining wall adjacent to the MTA Franklin Avenue Shuttle line. A professional engineer must perform the following additional analysis:

- A Civil/Structure Financial analysis of engineering requirements for the Proposed Action
- A Civil/Structure financial analysis of engineering requirements for the RWCDs
- A Civil/Structure financial analysis of engineering requirements without a shuttle train retaining wall

The financial analysis would ensure that all possible financial considerations are explored and the developer doesn't, after the rezoning, ask to reduce the affordable units required under the MIH program due to financial hardships attributed to unexpected consequences related to the shuttle. (21, 147)

**Response 19.1:** *Comment noted. The Construction chapter of the DEIS will provide an impact assessment following the guidance in the CEQR Technical Manual. The requested financial analysis is beyond the scope of CEQR. Further, extensive coordination with MTA will be required prior to construction.*

Comment 19.2: There are concerns about the noise and dust that will occur during the construction phase. These studies must be conducted cumulatively, taking into consideration all other proposed projects, their construction phases, et cetera. (2, 139, 147)

**Response 19.2:** *An analysis of construction noise will be provided in the Draft EIS as described in Task 20 of the FSOW. As described in the FSOW, the construction noise impact section will contain a detailed quantitative analysis of noise from each phase of construction activity. Appropriate recommendations will be made to comply with NYCDEP Rules for Citywide Construction Noise Mitigation and the New York City Noise Control Code. The analysis will qualitatively review the projected activity and equipment in the context of intensity, duration, and location of emissions relative to nearby sensitive locations, and identify any project-specific control measures required to further reduce construction noise. Potential construction-related noise impacts will be assessed and addressed quantitatively.*

Comment 19.3: On page 14 of the Draft Scope of Work, it states that the demolition is projected to start in October of 2019. A seven-month time line from now seems fairly aggressive and I ask, has the contracts for demolition been assigned and if so, how can the public be assured that this project will receive a full, fair and comprehensive review and that an approval to rezone hasn't already been predetermined? (140)

**Response 19.3:** *Comment noted. The site can be redeveloped on an as-of-right basis pursuant to the existing zoning. As such, the Applicant is able to conduct demolition activities at their discretion, unrelated to the Proposed Actions.*

Comment 19.4: Have any tests been done to see what building in this area would do to the air quality for the people and plants residing there? (150)

**Response 19.4:** *An analysis of construction air quality will be provided in the Draft EIS as described in Task 20 of the FSOW. As described in the FSOW, the construction air quality impact section will contain a detailed discussion of emissions from construction equipment, on-road construction-related vehicles, as well as fugitive dust. The quantitative analysis will review the projected activity and equipment in the context of intensity, duration, and location of emissions relative to nearby sensitive locations including the adjacent school and playground, and identify any project-specific control measures required to further reduce the effects of construction and to ensure that significant impacts on air quality do not occur.*

Comment 19.5: Regarding transportation systems, there is concern that construction along the New York City Transit (NYCT) Franklin Shuttle service trench might compromise the operation on the running shuttle service at its regularly intended schedule. This is of particular concern during excavation and construction staging associated with the building of the foundation and building superstructure. Therefore, the analysis should give consideration to the effect that such development activities might have in terms of any impact on the operation of shuttle train service. (1, 150)

**Response 19.5:** *An analysis of transportation systems will be provided in the Draft EIS as described in Task 20 of the FSOW. As described in the FSOW, the assessment will evaluate the potential effects of construction activities on adjacent streets, sidewalks, subway lines, bicycle and bus lanes, and transit access points adjacent to projected development sites, where applicable. Further, extensive coordination with MTA will be required prior to construction.*

Comment 19.6: If the building is to be demolished, I request that it instead be “deconstructed”. Meaning that the entirety of the structure is dismantled one brick and one window at a time. The purpose being to salvage as much of the building as possible. This is the most environmentally responsible way to handle the removal of this kind of building. Given the 2030 zero waste agenda by the city to lessen

waste in NYC, we should not allow a structure which could easily be diverted from the landfill through deconstruction, to be demolished and thus put the entirety of the building contents into a landfill as solid waste. It is irresponsible and it is not in line with any of the waste reduction plans that have been set forth by NYC or the Mayor's office. Deconstruction of such a building also would facilitate the creation of green jobs, and would allow the opportunity for job training in deconstruction, which will likely be a growing market going forward, as the city continues to move towards its Zero Waste 2030 plan. (140)

**Response 19.6:** *Comment noted. See response to Comment 19.3 above.*

Comment 19.7: Given the scale of the project and the longer, phased construction timeframe, the DSOW should include a detailed evaluation of work-related traffic, air quality, and noise impacts – including those affecting the immediately adjacent Jackie Robinson Playground, P.S. 375 Jackie Robinson School, and Ebbetts Field Middle School. (8)

**Response 19.7:** *Construction traffic, air quality and noise assessments will be provided in the DEIS. Sensitive receptors will be identified and assessed.*

## 20. Mitigation

Comment 20.1: The prospect of adding such a massive new development without comprehensive consideration for its integration into the fabric of the neighborhood is of great concern. The developer should be proactive in proposing measures to address these impacts and not simply wait for the Environmental Review to identify the bare minimum thresholds. (3)

**Response 20.1:** *The Draft EIS is a disclosure document that assesses the various technical areas described in the CEQR Technical Manual, identifies potential project impacts in any technical area studied, and identifies potential mitigation measures.*

Comment 20.2: In many cases where sun sensitive plantings and in open space will be cast in shadow from a project, appropriate mitigation can be replacing those plantings with ones that are shade tolerant. That type of mitigation should not be considered an option in the case of the garden. As the plantings themselves are its reason for existence and not a background amenity supporting general recreation. Therefore, height reduction or site reconfiguration may need to be examined as mitigation measures. Leaving a significant impact on the garden unmitigated to accommodate a specific project, the design should not be considered. (83, 137)

**Response 20.2:** *Comment noted. Please refer to Chapter 21, "Mitigation," section D. "Open Space, Shadows, and Natural Resources" in the DEIS.*

## 21. Alternatives

Comment 21.1: The application should be transparent with all possible outcomes, including an R9D development scenario without the special permit, which would be a bulkier squatter alternative and a development without extra affordable housing above MIH. For this location in particular, it is crucially important to understand all potential bulk scenarios and their impact on the shadows on the Brooklyn Botanic Garden. (3)

**Response 21.1:** *Comment noted. The requested General Large Scale Development Special Permit is one of the Proposed Actions that comprise this application. The requested analysis is not one of the*

***alternatives being considered by the Applicant. As such, the alternatives analysis will not evaluate this as an option.***

Comment 21.2: The development should be 100 percent affordable. (84)

***Response 21.2: Comment noted.***

Comment 21.3: That as alternatives to the proposed actions, any combination of alternative zoning boundaries and/or zoning districts that would substantially minimize the risk for 1015 Washington Avenue to be redeveloped. (1)

***Response 21.3: According to the CEQR Technical Manual, alternatives should be selected for consideration which are feasible and have the potential to reduce, eliminate, or avoid significant adverse impacts while meeting some or all of the goals and objectives of a project in order to provide decision makers with the opportunity to consider whether practicable alternatives exist which could minimize or avoid adverse environmental impacts identified in the EIS. As detailed in Chapter 22, "Alternatives," of the DEIS, these alternatives include the following:***

- ***A "No-Action" alternative examining a future without the approval of the Proposed Actions where an as-of-right residential development would be constructed on the Development Site in accordance to the existing R6A zoning district containing approximately 518 market rate dwelling units (DUs) and 259 parking spaces;***
- ***And a "No Unmitigated Significant Adverse Impacts" alternative which would result in the Proposed Project being modified to the point where the principle goals and objectives would not be realizable.***

***Please refer to Chapter 22, "Alternatives," of the DEIS for a detailed description of these alternatives and Response 21.4***

Comment 21.4: The DSOW fails to include project alternatives. The SEQRA regulations require that a Draft EIS must include an alternatives analysis comparing the proposed action to a "range of reasonable alternatives...that are feasible, considering the objectives and capabilities of the project sponsor." (§ 617.9(b)(5)(v)). The current scope fails to meet this legal requirement, and therefore reasonable alternative must be included. No-Action and With-Action scenarios are not "Alternatives" as the law contemplates, but merely restatements of the current status quo and the stated proposal. Alternatives can include different design and construction alternatives under zoning changes other than the current proposal, or new projects consistent with current density and neighborhood recognition provisions under the 1991 contextual zoning. (21)

***Response 21.4: As described in the FSOW, the purpose of an alternatives section in an EIS is to examine development options that would reduce or eliminate impacts resulting from the Proposed Project while substantively meeting the goals and objectives of the Proposed Project. The specific alternatives to be analyzed will be better defined once the full extent of the Proposed Project's impacts have been identified. The EIS will include a No-Action alternative, which describes the conditions that would exist if the Proposed Actions were not implemented, and a No Unmitigated Impact alternative, which assesses a change in density or program design in order to avoid the potential for any unmitigated significant adverse impacts that may be associated with the Proposed Project. Additional alternatives and variations of the Proposed Project may be identified during the scoping process or be based on any significant adverse impacts identified in the EIS. The analysis of each alternative will be qualitative, except in those technical area where significant adverse impacts of the Proposed Project have been identified.***