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## CHAPTER 23: UNAVOIDABLE ADVERSE IMPACTS

### A. INTRODUCTION

According to the *CEQR Technical Manual*, unavoidable adverse impacts are disclosed when a proposed action is expected to result in significant adverse impacts for which there are no reasonable or practical mitigation measures. As described in Chapter 21, “Mitigation,” most of the potential significant adverse impacts of the proposed project could be avoided or mitigated by implementing appropriate measures. However, there are also some unavoidable adverse impacts for which there is no mitigation. These unavoidable adverse impacts are described below.

### B. OPEN SPACE

As described in Chapter 5, “Open Space,” the proposed project would result in a significant adverse impact to open space. In the future condition without the proposed actions, the open space ratio would be 0.83 acres per 1,000 residents. As a result of the future condition with the proposed actions, the open space ratio would decrease to 0.78 acres per 1,000 residents, a decrease of approximately 6.83 percent. Like projects in so many areas of the city, the new open space ratio (0.78 acres per 1,000) is less than the DCP goal of 2.5 acres and the CEQR guideline of 1.5 acres for open space; therefore, a significant adverse impact to publicly-accessible open space would result from the proposed project.

The recreational space created under the Quality Housing Program in the future with the proposed project will contribute to alleviating some of the shortage of open space in the study area. In addition, there are several large open space resources just outside the study area which would also partially alleviate the shortage of open space for new residents of the proposed actions. However, despite these two additional open space opportunities, the proposed actions would still result in a significant adverse effect on open space.

As discussed in Chapter 21, “Mitigation,” potential measures to mitigate the significant adverse impact on open space resources ~~will be~~ has been explored between the Draft and Final EIS. Potential mitigation measures were explored in coordination with the city’s Department of Parks and Recreation (DPR). As was noted Chapter 5, “Open Space,” there is limited City-owned vacant property that is available and suitable for open space creation, so options explored included improvements to existing open spaces, such as the Dutch Kills Playground and Queensbridge Park. Measures which could improve overall open space conditions were identified, but these would not constitute sufficient mitigation for the proposed actions significant adverse open space impact. Therefore the significant adverse open space impact ~~may~~ would remain unmitigated. Nonetheless, DPR has demonstrated its commitment to improve existing open space resources and to work with other city agencies to identify sites for long term opportunities for open space uses in the Dutch Kills area.

### C. HISTORIC RESOURCES

#### ARCHAEOLOGICAL RESOURCES

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Five lots were identified within the proposed rezoning area that could potentially experience new in-ground disturbance and possess the potential for intact archaeological deposits. In the future with the proposed actions, it is anticipated that at least four, if not all five, of these lots would be developed as the result of the proposed rezoning. This development would likely result in new in-ground disturbance, which would constitute an adverse physical impacts to potential archaeological resources. The five lots consist of the following Blocks and Lots:

- Block 367, Lot 23
- Block 368, Lot 11
- Block 371, Lot 38
- Block 398, Lot 1
- Block 398, Lot 39

Conclusions regarding the potential for intact archaeological deposits within the five sites were based on the research and background information that is currently available and on previous archaeological studies regarding the nature, location, and depth of prehistoric and historic period resources.

The proposed actions were assessed for possible mitigation measures in accordance with the guidelines contained in the *CEQR Technical Manual*. The guidelines identify several ways in which impacts on potential archaeological resources can be mitigated, including:

- Redesigning a project so that it does not disturb the resource.
- Fieldwork/field-testing – this includes archaeological site testing to assess whether archaeological resources are, in fact, present. If evidence of such resources is found, additional archaeological testing is performed to determine the extent and significance of the archaeology site.
- Data Recovery – when archaeological resources are determined to be present on a project site and avoidance of significant archaeological resources is not an option, a data recovery program can be implemented. Since the value or significance of an archaeological resource relates to its potential to provide important information, adverse impacts are considered mitigated when the information has been recovered through systematic archaeological data recovery. Mitigation is not considered to be complete until a final report has been reviewed and approved and artifacts are curated in an appropriate repository (see below).
- Repositories – artifacts recovered through data recovery should be curated in an appropriate repository which would keep them to professional standards and make them available to researchers.

As previously noted, soil boring data could not be obtained for any of the lots. In light of the history of filling and grading across the Dutch Kills neighborhood in association with the late nineteenth and early twentieth century urbanization and development of the area, it is possible that each of these lots have experienced some type of past land manipulation and disturbance. The extent to which each lot has been previously filled and/or graded would have direct implications for the potential archaeological sensitivity of these areas. Therefore, if such data becomes available, these borings should be reviewed and the conclusions regarding the sensitivity of each lot for prehistoric and historic period archaeological deposits should be reevaluated. Absent that reevaluation, development due to the proposed actions could result in significant adverse impacts to potential archaeological resources through construction; these potential impacts would be unavoidable adverse impacts. There are no mechanisms available to require that

subsequent private as-of-right development undertake archaeological field tests to determine the presence of archaeological resources or mitigation for any identified significant resources through avoidance or excavation and data recovery.

### ARCHITECTURAL RESOURCES

Of the S/NR and/or NYCL eligible historic architectural resources located with the study area only four individual structures are located on or in close enough proximity of the proposed actions' development sites which could potentially lead to direct and/or indirect significant adverse historic resources impacts due to the proposed actions. Those structures are:

- New York Consolidated Card Company
- Pierce-Arrow Building (Harrolds Motor Car Company)
- Garside & Sons Shoe Factory
- FDNY Engine Company 261/Hook & Ladder 116

The proposed actions were assessed for possible mitigation measures in accordance with CEQR guidelines. The *CEQR Technical Manual* identifies several ways in which impacts on potential architectural resources can be mitigated, including:

- Redesigning the action so that it does not disturb the resource;
- Relocating the action to avoid the resource altogether;
- Contextual redesign of a project that does not actually physically affect an architectural resource but would alter its setting;
- Adaptive reuse to incorporate the resource into the project rather than demolishing it;
- Development of a construction protection plan to protect historic resources that may be affected by construction activities related to a proposed action;
- Data recovery or recordation of historic structures that would be significantly altered or demolished; and
- Relocating architectural resources.

State and National Register eligibility does not provide restrictions to private property as-of-right use and development and private owners of properties eligible for, or even listed on, the Registers using private funds can alter or demolish their properties without further review or approval. Privately owned properties that are NYCLs, in New York City Historic Districts, or pending designation as Landmarks are protected under the New York City Landmarks Law, which requires LPC review and approval before any alteration or demolition can occur, regardless of whether the project is publicly or privately funded. As noted previously, Pierce-Arrow Building (Harrolds Motor Car Company) is eligible for NYCL designation. This could potentially afford some protection for this architectural resource pending a decision from LPC. However, it has not been calendared for consideration by LPC; therefore it is assumed that it would not be designated as such for this analysis

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These architectural resources could experience accidental damage from adjacent construction and could be offered some limited protection through the New York City Department of Buildings controls governing the protection of adjacent properties from construction activities. Although additional protections could be provided through the implementation of construction protection plans that follow the *New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88* (Procedures for the Avoidance of Damage to Historic Structures) there are no mechanisms for requiring the implementation of such plans for private as-of-right development.

Based on the analysis presented herein, the proposed actions could result in direct and/or indirect significant adverse impacts to the four identified architectural resources noted above and these potential impacts would be unavoidable adverse impacts.

### **D. TRAFFIC**

As discussed in Chapter 15, “Traffic and Parking,” and Chapter 21, “Mitigation,” the proposed traffic mitigation measures would mitigate all significant adverse impacts in the AM peak hour, midday peak hour, and the Saturday midday peak hour. Four of the six significant adverse traffic impacts in the weekday PM peak hour would be mitigated.

No reasonable mitigation would be available to mitigate the two remaining significant adverse impacts at the intersection of Northern Boulevard and Steinway Street/39<sup>th</sup> Street in the weekday PM peak hour. The traffic movements that would be affected by unmitigated impacts are the eastbound left-turn on Northern Boulevard and the northbound left-turn from the 39<sup>th</sup> Street Bridge. At these locations, use of the range of mitigation measures that are available to the city, including signal timing changes, and changes in on-street parking regulations to allow additional travel lanes could not fully mitigate the anticipated impacts of the proposed project. Thus, these are unmitigated significant adverse impacts of the proposed project with respect to traffic.