
Chapter 22: Unavoidable Adverse Impacts

22.1 Introduction

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Action. According to the *2014 CEQR Technical Manual*, unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is impossible. As described in Chapter 19, "Mitigation," unavoidable significant adverse impacts resulting from the Proposed Action have been identified with respect to open space, shadows, historic and cultural resources, transportation (traffic, transit and pedestrians) and construction (historic and cultural resources, traffic and noise).

22.2 Analysis

Open Space

As discussed in Chapter 4, "Open Space," the Proposed Action would result in significant adverse indirect open space impacts. These indirect impacts result from a reduction in the passive open space ratio, which, in the Open Space study area was found to be below the CEQR guidelines in the existing condition (i.e., below the citywide guidance of 0.15 acres of passive open space per 1,000 non-residential users). However, while CEQR guidelines recognize that the goals for open space ratios are not feasible for areas such as Midtown Manhattan, and are not, therefore an impact threshold, the indirect effects analysis demonstrated that the Proposed Action would result in a significant adverse open space impact due to the decrease in the passive open space ratios by 3.85 percent for the non-residential population and 3.43 percent for the combined non-residential and residential population.

The *CEQR Technical Manual* lists potential mitigation measures for open space impacts. These measures may include, but are not limited to, creating new open space within the study area; funding for improvements, renovation, or maintenance at existing local parks; or improving existing open spaces to increase their utility or capacity to meet identified open space needs in the area, such as through the provision of additional active open space facilities.

Substantial public realm improvements to the open space network in the East Midtown Subdistrict are planned as part of the Proposed Action. As noted in Chapter 1, "Project Description," the public realm improvements would be implemented subject to the Governing Group's approval and funding, and the exact timing of the improvements is unknown. The minimum amount of additional open space to fully mitigate the open space impacts would be 1.20 acres. The proposed public realm improvements identified would total at least 2.43 acres and would increase the passive open space ratio by 2.01 percent for the non-residential population and by 2.46 percent for the combined non-residential and residential

population.¹ Therefore, the proposed public realm improvements would offset the impact identified in Chapter 4, "Open Space." If less than 1.20 acres of the planned public realm improvements are built, then the significant adverse open space impact would only be partially mitigated.

The other standard mitigation measures listed above such as funding for improvements, renovation, or maintenance at existing local parks; or improving existing open spaces to increase their utility or capacity were explored by the Department of City Planning (DCP) and NYC Parks and found to be unpracticable. However, as described above, the inclusion of public realm improvements would fully or partially mitigate any impacts on open space that would occur as a result of the Proposed Action.

Therefore, if less than 1.20 acres of the identified public realm improvements are approved by the Governing Group and built, and absent additional measures that can be implemented to mitigate these impacts, the Proposed Action's significant adverse open space impacts would remain unmitigated.

Shadows

As discussed in Chapter 5, "Shadows," the Proposed Action would result in one significant adverse shadows impact, to St. Bartholomew's Church and Community House (Resource H19, located on the block between East 51st and East 52nd Streets at Park Avenue). No publicly accessible open spaces would experience significant adverse shadow impacts as a result of the Proposed Action.

The sunlight-sensitive stained-glass windows of St. Bartholomew's Church and Community House would experience significant adverse shadows impacts on the May 6th and June 21st analysis days due to incremental shadows cast by Projected Development Site 7. The incremental shadows that would be cast on this historic architectural resource would result in a substantial reduction in sunlight available for the enjoyment or appreciation of the buildings' sunlight-sensitive features, and thus the incremental shadows are being considered significant adverse shadows impacts. Based on shadow modeling, it was determined that the height of any new development on Projected Development Site 7 would need to be limited to the height of the existing buildings on this site (approximately 300 feet tall) in order to eliminate the significant adverse shadows impacts on St. Bartholomew's Church and Community House. However, if Projected Development Site 7 were limited to its existing height of 300 feet, it is anticipated significant adverse shadow impacts would be caused by Potential Development Sites C and D which are directly southwest of Projected Development Site 7 and would cast shadows in the same direction towards St. Bartholomew's. It should be noted, as discussed further in Chapter 5, that both the individual building massings and their projected combined shadow effect on sunlight sensitive resources in the shadow screening study area represent an overly conservative approach to this analysis that by definition would not occur.

As discussed in Chapter 19, "Mitigation," the Proposed Action was assessed for possible mitigation measures in accordance with CEQR guidelines.

Between the Draft and Final Environmental Impact Statements, various mitigation measures were explored to reduce or eliminate the significant adverse shadows impact. It was explored whether having more restrictive setback regulations on the development site casting the shadows would reduce or eliminate the significant adverse impact (Projected Development Site 7), through analysis of an

¹ The identified public realm improvements comprise 2.43 acres of open space consisting of two 0.16 acre plazas on either side of Park Avenue between 40th Street and 41st Street, a 0.16-acre plaza at Pershing Square East, and the 1.95 acres of improvements to the Park Avenue median.

alternative building massing (see Appendix O, “Additional Shadows Mitigation Analysis of St. Bartholomew’s Episcopal Church).” The analysis showed that the alternative massing would not reduce the shadows impact, and therefore was determined not to be reasonable or feasible. Another mitigation measure that was explored was the provision of artificial lighting of the resource to simulate sunlit conditions, however this was similarly determined not to be feasible.

Based on the above, there are no reasonable means to avoid or mitigate shadows impacts on the St. Bartholomew’s Church and Community House at this time. Therefore, this shadow impacts would be an unavoidable significant adverse impact of the Proposed Action and thus constitute an unavoidable adverse impact.

Historic and Cultural Resources

As described in Chapter 6, “Historic and Cultural Resources,” the Proposed Action could result in significant adverse impacts due to potential partial or complete demolition of six NYCL-eligible and/or S/NR-eligible historic resources located on Projected Development Sites 2, 4, 6 and 10 and Potential Development Site J. As the RWCDs for the Proposed Action anticipates that the existing structures on these sites would be demolished, either partially or entirely as a consequence of the Proposed Action, this would result in significant adverse direct impacts to these eligible resources.

As discussed in Chapter 19, “Mitigation,” the *CEQR Technical Manual* identifies several ways in which impacts on architectural resources can be mitigated. However, the measures, if deemed feasible, would only be considered partial mitigation. Consequentially, these impacts would not be completely eliminated and they would constitute unavoidable significant adverse impacts on these historic resources as a result of the Proposed Action.

Transportation

The Proposed Action would result, as detailed below, in unavoidable impacts to vehicular traffic, transit (subway stations) and pedestrians (sidewalks, crosswalks, and corner areas).

Traffic

As described in Chapter 12, “Transportation,” the Proposed Action would result in significant adverse traffic impacts at 116 study area intersections during one or more analyzed peak hours; specifically, the impact locations comprise 190 approach movements at 101 intersections during the AM peak hour, 179 approach movements at 101 intersections during the Midday peak hour, and 201 approach movements at 106 intersections during the PM peak hour. Implementation of standard traffic engineering measures could be used to mitigate some of these significant adverse impacts, but unmitigated significant adverse impacts would remain at 159 approach movements at 82 intersections during the AM peak hour, 126 approach movements at 59 intersections during the Midday peak hour, and 160 approach movements at 82 intersections during the PM peak hour. Implementation of the recommended traffic engineering improvements is subject to review and approval by the New York City Department of Transportation (DOT), except for the enforcement of existing parking regulations, which is under the jurisdiction of the New York Police Department (NYPD), and the removal of diplomat/consular parking is subject to review and approval by the U.S. Department of State. The removal of diplomat/consular and NYP parking spaces would require the identification of alternate

parking spaces where the parking could be relocated. If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified.

As described in Chapter 19, "Mitigation," the traffic analysis uses an extremely conservative approach that assigns vehicle trips to the shortest route. This method does not contemplate diversions from areas of congestion to other routes or times of the day and thus conservatively portrays impacts at areas of concern. As such, the future conditions analyses represent a worst-case scenario and may not be entirely indicative of what will occur as development proceeds during the approximate 20-year period.

DCP and DOT will work together to identify other interventions to help mitigate congestion. As new development occurs, DCP will coordinate with DOT to identify areas where new development could exacerbate to existing vehicular and pedestrian congestion in the traffic and pedestrian networks.

In between the Draft and Final EIS, the City explored options for developing a comprehensive traffic management plan for Greater East Midtown. In order to verify the need and effectiveness of the proposed mitigation measures identified in the EIS and to determine the extent to which future volume projections presented in the EIS may occur, the City has committed to conduct a traffic monitoring program (TMP). The TMP will address traffic resulting from project-generated development in the project area over time, and consider changes that may occur in travel patterns. The City will implement a multi-tiered monitoring program once either a net increase of 1.5 million square feet of commercial development or four new buildings associated with the rezoning are built and occupied, whichever occurs first. The findings of the TMP (i.e., actual volumes, and capacity and level of service analyses) will be used by DOT as the basis for determining whether actual future Build conditions have, in fact, resulted in significant traffic and/or pedestrian impacts and verifying the need for the mitigation measures identified in the EIS and/or developing recommendations to improve traffic and/or pedestrian conditions.

As part of the Proposed Action, a public realm improvement fund would provide the ability to finance above-grade improvements as identified by DOT (see Section 1.4 of Chapter 1, "Project Description.") These improvements include pedestrian plazas, shared streets, widening of the Park Avenue median, bus bulbs, curb extensions and sidewalk widenings, and turn bays. A conceptual plan of these improvements is assessed in Chapter 12, "Transportation" as the Action-With-Improvements condition. The Action-With-Improvements condition would result in significant adverse traffic impacts at 199 approach movements at 103 intersections during the AM peak hour, 179 approach movements at 98 intersections during the Midday peak hour, and 210 approach movements at 107 intersections during the PM peak hour. Implementation of standard traffic engineering measures could be used to mitigate some of these significant adverse impacts, but unmitigated significant adverse impacts would, but unmitigated significant adverse impacts would remain at 172 approach movements at 83 intersections during the AM peak hour, 139 approach movements at 64 intersections during the Midday peak hour, and 168 approach movements at 83 intersections during the PM peak hour.

Transit

As discussed in Chapter 12, "Transportation," the results of the analyses of transit conditions show that additional trips resulting from the Proposed Action would result in significant adverse impacts at three subway stations/station complexes in the weekday AM and PM commuter peak hours.

Grand Central 42nd Street Subway Station

At the Grand Central 42nd Street subway station, there would be a significant adverse transit impact at one stairway during the PM peak hour. Additionally, a significant adverse transit impact would occur at eight escalators during the AM peak hour and at four escalators during the PM peak hour. Some of the significant adverse impacts to escalators at this station could be mitigated by operating the escalators at a higher speed (100 feet per minute versus 90 feet per minute). Implementation of these measures would mitigate the significant adverse impacts at four escalators during the AM peak hour and two escalators during the PM peak hour, but the significant adverse impacts at four escalators during the AM peak hour and two escalators during the PM peak hour would remain unmitigated. Operating the escalators at a higher speed would also allow some of the passenger load from the impacted stairway to shift to the escalators, which would mitigate the significant adverse impact to the one stairway during the PM peak hour. NYCT will perform a monitoring program to assess pedestrian operations and conditions at this subway station as developments are constructed and reevaluate the need for improvement measures.

42nd St-Bryant Park Subway Station

At the 42nd St-Bryant Park subway station, mitigation measures for street Stair MB20 are considered infeasible and this impact would remain unmitigated.

Lexington Avenue-53rd Street Subway Station

At the Lexington Avenue-53rd Street subway station, there would be a significant adverse impact at three escalators during the AM peak hour and at three escalators during the PM peak hour as a result of the Proposed Action. Some of the significant adverse impacts to escalators at this station could be mitigated by operating the escalators at a higher speed (100 feet per minute versus 90 feet per minute). Implementation of these measures would mitigate the significant adverse impacts at two escalators during the AM peak hour and one escalator during the PM peak hour, but the significant adverse impacts at one escalator during the AM peak hour and two escalators during the PM peak hour would remain unmitigated. NYCT will perform a monitoring program to assess pedestrian operations and conditions at this subway station as developments are constructed and reevaluate the need for improvement measures.

Pedestrians

As described in Chapter 12, "Transportation," incremental demand from the Proposed Action would significantly adversely impact a total of ten sidewalks, 29 crosswalks and 23 corner areas in one or more peak hours. Some of the pedestrian elements impacted in the With-Action condition could be fully mitigated with corner/sidewalk extensions, removal of street furniture, crosswalk widenings, and/or signal timing adjustments; however unmitigated significant adverse pedestrian impacts would remain at: eight, three, and ten sidewalks during the AM, Midday, and PM peak hours, respectively; 22, 6, and 20 crosswalks during the AM, Midday, and PM peak hours, respectively; and 18, 7, and 19 corner areas during the AM, Midday, and PM peak hours, respectively. Implementation of these measures would be subject to review and approval by DOT, except for the removal of garbage bins, which are subject to review and approval by the Grand Central Partnership. If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified.

As part of the Proposed Action, a public realm improvement fund would provide the ability to finance above-grade improvements as identified by DOT (see Section 1.4 of Chapter 1, “Project Description”). These improvements include pedestrian plazas, shared streets, widening of the Park Avenue median, bus bulbs, curb extensions and sidewalk widenings, and turn bays. A conceptual plan of these improvements is assessed in Chapter 12, “Transportation” as the Action-With-Improvements condition. The Action-With-Improvements condition would result in significant adverse pedestrian impacts at 44 elements during the AM peak hour, 17 elements during the Midday, and 43 elements during the PM peak hour. Some of the pedestrian elements impacted in the Action-With-Improvements condition could be fully mitigated with removal of street furniture, crosswalk widenings, and/or signal timing adjustments; however unmitigated significant adverse pedestrian impacts would remain at: eight, three, and ten sidewalks during the AM, Midday, and PM peak hours, respectively; 24, 10, and 21 crosswalks during the AM, Midday, and PM peak hours, respectively; and six, two, and seven corner areas during the AM, Midday, and PM peak hours, respectively.

Construction

Historic and Cultural Resources

For designated NYC Landmarks and S/NR-listed historic buildings located within 90 feet of a proposed construction site, protective measures under the New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 would apply and indirect significant adverse impacts from construction would be avoided. As described in Chapter 18, “Construction,” development under the Proposed Action—specifically, on Projected Development Sites 2, 4, 5, 6, 7, 11 and 13, and Potential Development Sites B, C, E, F, and K—could result in inadvertent construction-related damage to 12 NYCL- and/or S/NR-eligible historic resources, as they are located within 90 feet of Projected or Potential Development Sites and the protective measures under TPPN #10/88 would only apply if the resources become designated. Without the protective measures described above, significant adverse construction-related impacts to eligible resources would not be mitigated.

In order to make TPPN #10/88 applicable to eligible historic resources in the absence of a site-specific approval, such as a Special Permit with an accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance. Since it is not known and cannot be assumed that owners of these properties would voluntarily implement this mitigation, DCP, as lead agency, explored the viability of this mitigation measure between Draft EIS and Final EIS and determined it was neither feasible nor practicable.

Absent measures that can be implemented to mitigate these impacts, the Proposed Action’s significant adverse construction-related impacts would therefore remain unmitigated.

Transportation (Traffic)

As described in Chapter 18, “Construction,” construction-related traffic would have significant adverse impacts to four intersections during the construction AM peak hour (6:00–7:00 a.m.) and 14 intersections during the construction PM peak hour (3:00–4:00 p.m.). Implementation of traffic engineering improvements, which are subject to review and approval by DOT, would provide mitigation for most of the anticipated traffic impacts. but unmitigated significant adverse impacts would remain at one intersection during the construction AM peak hour and eight intersections during the construction PM

peak hour. Absent measures that could be implemented to mitigate impacts at the remaining impacted intersections, these construction-related traffic impacts would remain unmitigated.

Noise

As discussed in Chapter 18, "Construction," construction activities associated with the Proposed Action would occur on multiple development sites within the same geographic area or at a development site with impact pile driving and, as a result, has the potential to increase interior noise levels of existing adjacent commercial buildings. These increases would likely approach or marginally exceed the impact threshold for short periods of time and has the potential during other construction quarters bordering the peak construction period.

The findings indicate that noise levels above the CEQR impact threshold are expected at several existing adjacent buildings to Projected Development Sites 4 and 5. Although these locations are expected to experience exterior noise levels significantly above CEQR limits, for those buildings with double-paned glazed-glass windows and a closed ventilation system, it would keep interior noise levels for those buildings below or near the CEQR 50-dBA L₁₀ impact threshold for commercial buildings and the CEQR 45-dBA L₁₀ impact threshold for residential buildings. The interior noise levels of these adjacent buildings would likely approach or marginally exceed the CEQR L₁₀ impact thresholds for short periods of time. The same potential for noise impacts also exist for similar noise-level increases at these and/or other receptor locations in the immediate vicinity of Project Development Sites 4 and 5 during other construction quarters bordering this peak construction period (i.e., second quarter of 2029). For Projected Development Site 15, which would include impact pile driving during the foundation phase of construction, the highest noise levels are projected to be at ground level and at elevated receptor locations adjacent to commercial and residential buildings on East 42nd and East 43rd Street near Second and Third Avenues. If the peak construction scenario conservatively assumed for simultaneous construction on Projected Development Sites 4 and 5 and for Projected Development Site 15 include impact pile driving is realized, the Proposed Action would result in a significant adverse construction noise impact.

Recommended mitigation measures to address these impacts are outlined in Chapter 19, "Mitigation". However, the proposed measures discussed above are considered partial mitigations only. Consequently, these impacts would not be completely eliminated and they would constitute an unmitigated significant adverse construction noise impact.