

**A. INTRODUCTION**

According to the 2012 *City Environmental Quality Review (CEQR) Technical Manual*, unavoidable significant adverse impacts are defined as those that meet the following two criteria:

- There are no reasonably practicable mitigation measures to eliminate the Proposed Action’s impacts; and
- There are no reasonable alternatives to the Proposed Action that would meet its purpose and need, eliminate its impacts, and not cause other or similar significant adverse impacts.

As described in Chapter 20, “Mitigation,” the Proposed Action would result in significant adverse impacts with respect to open space; shadows; historic resources; transportation (traffic and pedestrians); and construction impacts related to transportation (traffic and pedestrians). In addition, the analysis presented in Chapter 22, “Conceptual Analysis,” identified the potential for significant adverse traffic impacts resulting from potential hotel development. As discussed in Chapter 4, “Community Facilities,” there is also the potential for a significant adverse impact to public elementary schools if substantial residential development occurs in the Rezoning Area before the proposed public elementary school on Projected Development Site 1 is constructed.

To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in a number of instances no practicable mitigation was identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Action that would meet its purpose and need, eliminate its impacts, and not cause other or similar significant adverse impacts. The following is a summary of those “Unavoidable Adverse Impacts.”

**PRINCIPAL CONCLUSIONS**

The Proposed Action could result in unavoidable adverse impacts to community facilities, open space, shadows, historic resources, transportation (traffic and pedestrians), and construction transportation. However, as discussed below, the significant adverse impact to community facilities would only occur if ~~1,388~~ 1,529 residential units or more are developed in the Rezoning Area before the public elementary school on Projected Development Site 1 is operational. In addition, mitigation measures for the significant adverse open space and shadows impacts have been identified (see Chapter 20, “Mitigation”) and ~~will be~~ were explored by the lead agency, the New York City Department of City Planning (DCP), in consultation with the New York City Department of Parks and Recreation (DPR) between the Draft and Final EIS. With respect to the significant adverse impacts to historic resources, it should be noted that absent the Proposed Action, as-of-right development in the future could result in the same potential adverse construction-related impacts to archaeological and architectural resources identified for the Proposed Action.

## B. COMMUNITY FACILITIES

As discussed in Chapter 4, “Community Facilities,” the Applicant has expressed a commitment to the development of a public elementary school on Projected Development Site 1 and has entered into a letter of intent with the School Construction Authority (SCA), a copy of which is found in **Appendix 2**. In accordance with the letter of intent, the Applicant is prepared to build out space (to core and shell) that would accommodate a 444-seat elementary school, along with an outdoor playground. However, the opening of a new public school requires the provision of adequate public funding within the SCA/Department of Education (DOE) budget to fit-out the space and operate the school, which is outside of the Applicant’s control.

In addition, in the event that construction of Projected Development Site 1 is not among the first sites to be developed (as described in the conceptual construction schedule provided in Chapter 1 and Chapter 18), there is the potential for a significant adverse impact to elementary schools in CSD 2/Sub-District 2 to occur until such time that the proposed elementary school is constructed and operational. Specifically, if ~~4,388~~ 1,529 residential units or more are developed in the Rezoning Area before a public elementary school is operational, the Proposed Action would result in a significant adverse impact to elementary schools in CSD 2/Sub-District 2 unless and until the proposed elementary school is operational.

In order to address the Proposed Action’s potential significant adverse impact on elementary schools, the Applicant will enter into Restrictive Declarations, recorded against the development sites it owns or controls, pursuant to which the Applicant would agree that it would not apply for building permits with respect to any such development sites prior to the development of Projected Development Site 1, unless, at the time a building permit is sought for a building on one of the Applicant-owned or controlled development sites, the total number of residential units built, under construction, or the subject of a pending or issued building permit, inclusive of the units proposed for such development site, falls below a unit count set forth in the Restrictive Declaration. For this purpose, the unit count would be sufficiently low to minimize the potential for an impact on public elementary schools to occur prior to the development of Projected Development Site 1. Between the Draft and Final EIS, the lead agency will consider additional feasible and practicable measures that would provide assurance that construction of Projected Development Site 1 would take place as early as possible relative to conditions which may otherwise result in a significant adverse elementary school impact. Absent the implementation of such measures, the Proposed Action could result in an unavoidable significant adverse impact on public schools. In the event that the SCA elects not to exercise its option to build a school on this site, the Proposed Action could result in an unavoidable significant adverse impact on public schools.

## C. OPEN SPACE

As discussed in Chapter 5, “Open Space,” given the anticipated decrease in the active and total open space ratios in the residential study area and the fact that open space ratios in the study area would remain below the city guideline ratios, the Proposed Action would result in a significant adverse impact to active and total open space resources in the residential study area.

Mitigation measures for this significant adverse impact ~~will be~~ were explored by the lead agency, the New York City Department of City Planning (DCP), in consultation with the New York City Department of Parks and Recreation (DPR) between the Draft and Final EIS. The significant adverse impact on open space would be partially mitigated by means of Restrictive

Declarations requiring a financial contribution by the Applicant towards the improvement of active open space, with a principal focus upon improvements to the Tony Dapolito Recreation Center operated by DPR that would enhance its ability to attract additional members from the community and increase its potential utilization. The scope of those and other improvements to open space would be developed by DPR in consultation with the community.

The financial contribution to the Tony Dapolito Recreation Center would constitute partial mitigation because fully mitigating this impact would require the addition of 2.7 acres of new open space, of which approximately 0.8 acres would need to be active recreation space. Nonetheless, improvements to the Tony Dapolito Recreation Center, among other recreational opportunities, would be appropriate mitigation as it would allow year-round access to active recreation space and would appeal to a wide range of users. As the significant adverse impact on open space would not be fully mitigated, ~~Absent the implementation of such measures,~~ the Proposed Action would result in an unavoidable significant adverse impact on open space.

## D. SHADOWS

As described in Chapter 6, “Shadows,” the incremental shadows cast by a future building on Projected Development Site 2 in the future with the Proposed Action (the With-Action condition) could result in significant adverse shadow impacts to Trump SoHo Plaza and SoHo Square. It should be noted that although the reasonable worst-case development scenario (RWCDS) for the future without the Proposed Action (the No-Action condition) assumes a development on Projected Development Site 2 with a height of only 30 feet, there is no height restriction under the current zoning in the Rezoning Area. Therefore, in the No-Action condition Projected Development Site 2 could be constructed to heights as tall as or taller than the 320 foot height limit in the With-Action condition, which would result in similar shadows on Trump SoHo Plaza and SoHo Square.

During the spring, late summer and fall, the Proposed Action would result in long durations of incremental shadow on Trump SoHo Plaza. The plaza already experiences periods of existing shadows, and the new project-generated shadows would reduce and at times eliminate the remaining periods of sunlight. Therefore, the analysis concluded that the Proposed Action would result in significant adverse shadow impacts to the users of this open space resource.

At SoHo Square during the spring and fall (the March 21/September 21 analysis day), the incremental shadow would remove the remaining areas of sunlight within the open space for about an hour, which would result in a significant adverse shadow impact to the users of this resource.

The *CEQR Technical Manual* identifies several different measures that could mitigate significant adverse shadow impacts on open spaces. These measures include relocating sunlight-sensitive features within an open space to avoid sunlight loss; relocating or replacing vegetation; undertaking additional maintenance to reduce the likelihood of species loss; or providing replacement facilities on another nearby site. Other potential mitigation strategies include the redesign or reorientation of the open space site plan to provide for replacement facilities, vegetation, or other features. *CEQR Technical Manual* guidelines also discuss strategies to reduce or eliminate shadow impacts, including modifications to the height, shape, size, or orientation of the proposed development that creates the significant adverse shadow impact. To substantially reduce the extent of incremental shadows and eliminate the significant adverse shadow impact on Trump SoHo Plaza, Projected Development Site 2 would need to be limited to approximately 70 feet or less in height. Likewise, to substantially reduce the extent of

incremental shadows and eliminate the significant adverse shadow impact on SoHo Square, Projected Development Site 2 would need to be limited to approximately 130 feet or less in height.

~~Between the Draft and Final EIS, the Applicant will consult with DPR and DCP with respect to potential mitigation measures to offset the significant adverse impact to the users of Trump SoHo Plaza and SoHo Square. However, as discussed in Chapter 20, "Mitigation," these shadow impacts would not be completely eliminated. No feasible mitigation measures for this significant adverse impact were identified. Therefore, the Proposed Action would result in unavoidable adverse shadow impacts on Trump SoHo Plaza and SoHo Square.~~

## **E. HISTORIC AND CULTURAL RESOURCES**

### **ARCHAEOLOGICAL RESOURCES**

As described in Chapter 7, "Historic and Cultural Resources," portions of four projected development sites (Sites 5, 10, 12, and 13) and two potential development sites (Sites 22 and 23) were identified as archaeologically sensitive for resources associated with the 19th century occupation of the 20 historic lots included within those sites. The Phase 1A Archaeological Documentary Study completed in February 2012 recommended Phase 1B archaeological testing for these sites to determine the presence or absence of archaeological resources.

However, none of the six potential and projected development sites identified as archaeologically sensitive are under the Applicant's control. Future development on these properties could include as-of-right development, and there are no mechanisms available through CEQR to require that such development undertake archaeological testing to determine the presence or absence of archaeological resources or mitigation for any identified significant resources through avoidance or excavation and data recovery (i.e., Phase 2 or Phase 3 archaeological testing). Therefore, as-of-right development that is anticipated to occur as a result of the Proposed Action could result in unavoidable significant adverse impacts on archaeological resources.

### **ARCHITECTURAL RESOURCES**

As described in Chapter 7, "Historic and Cultural Resources," under the standards of the *CEQR Technical Manual*, construction of projected and potential development and enlargement sites not controlled by the Applicant could potentially result in construction-related impacts to ~~7~~ **one known resource and six** potential architectural resources due to their location within 90 feet of such development and enlargement sites. The resources would be afforded limited protection under New York City Department of Buildings (DOB) regulations applicable to all buildings located adjacent to construction sites (C26-112.4); however, since the resources are not New York City Landmarks (NYCL) or National Register-listed (NR-listed) properties, they are not afforded special protections under DOB Technical Policy and Procedure Notice (TPPN) #10/88 (*TPPN #10/88*). Additional protective measures afforded under *TPPN #10/88* would only become applicable if the resources are designated or listed in the future prior to the initiation of adjacent construction. If the resources are not designated or listed, they would not be subject to *TPPN #10/88* and may, therefore, be adversely impacted by adjacent development resulting from the Proposed Action.

The *CEQR Technical Manual* identifies protective measures, such as construction monitoring, as a possible mitigation measure for construction-related significant adverse impacts to

architectural resources. However, future development on properties not controlled by the Applicant could be as-of-right development, and there are no mechanisms available through CEQR to require that such protective measures are undertaken. Therefore, as-of-right development that is anticipated to occur as a result of the Proposed Action on properties not controlled by the Applicant could result in unavoidable significant adverse construction-related impacts on architectural resources.

## F. TRANSPORTATION

~~As described in Chapter 1, “Project Description,” and Chapter 13, “Transportation,” the transportation analyses were prepared based on a slight variation of the No Action and With Action RWCDs assumptions. As a result of recent building permits issued for new developments in the Rezoning Area that were not accounted for in the Draft Scope of Work, several changes were made to the No Action and With Action RWCDs assumptions. The changes to the RWCDs occurred shortly prior to certification of the Draft EIS, after substantial work had been completed on the transportation analyses. Because the RWCDs assumptions for the transportation analyses analyzed a larger incremental development between the No Action and With Action conditions (the updated RWCDs assumptions would yield up to approximately 470 fewer incremental person trips and up to approximately 80 fewer incremental vehicle trips), the transportation analyses are conservative in that they present a larger potential for project-generated impacts. Correspondingly, the transportation mitigation analyses presented in Chapter 20, “Mitigation,” are based on the more conservative variation of the No Action and With Action RWCDs assumptions.~~

~~Between the Draft and Final EIS, the transportation related analyses will be updated to reflect the final RWCDs. Where impacts would continue to exist with the smaller trip increments as a result of the updated No Action and With Action RWCDs assumptions, similar measures (including primarily signal timing changes, daylighting, and crosswalk widenings) are likely to be warranted to mitigate those impacts. At other locations, some impacts may be completely eliminated. Impacts determined to be unmitigatable under the current analysis may also become mitigatable by imposing standard mitigation measures.~~

## TRAFFIC

As discussed in Chapter 13, “Transportation,” traffic conditions were evaluated at ~~22~~ 28 intersections for the weekday AM, midday, and PM peak hours, and at ~~18~~ 23 intersections for the Saturday midday peak hour. The Proposed Action would result in significant adverse traffic impacts at ~~13~~ 14 intersections during the weekday AM peak hour, 3 intersections during the weekday midday peak hour, ~~13~~ 14 intersections during the weekday PM peak hour, and 5 intersections during the Saturday midday peak hour. In comparison, a majority of the impacted lane groups/movements at the impacted intersections operate at congested levels (mid-LOS D or worse) under the existing and No-Action conditions, due in part to the high traffic volumes passing through the study area to access the Holland Tunnel. Some of the impacts could be mitigated through the implementation of traffic mitigation measures, including minor adjustments to signal timing in order to increase green time for impacted movements and changing parking regulations to prohibit parking near some intersections during certain peak time periods (known as “daylighting”), while others could not be mitigated during one or more analysis peak hours.

With the proposed mitigation measures in place, all significant adverse traffic impacts could be fully mitigated except at two intersections during the weekday AM peak hour, ten intersections during the weekday PM peak hour, and four intersections during the Saturday midday peak hour. Specifically, West Street at West Houston Street and Hudson Street at Canal Street would have unmitigated significant adverse impacts during the weekday AM peak hour, Hudson Street at Canal Street and Varick Street at West Houston, King, Charlton, Vandam, Spring, Dominick, Broome, and Canal Streets and Avenue of the Americas at Canal Street/Laight Street would have unmitigated significant adverse impacts during the weekday PM peak hour, and Varick Street at King, Charlton, Dominick, and Broome Streets would have unmitigated significant adverse impacts during the Saturday midday peak hour. ~~As described in Chapter 13, “Transportation,” additional intersections may be analyzed between the Draft and Final EIS. These intersections will be selected in consultation with DCP and NYCDOT. The analysis of these additional intersections may identify additional significant adverse traffic impacts, for which mitigation measures would be identified. If feasible measures are not available to fully mitigate these impacts, they would be identified as unmitigated in the Final EIS. Therefore, the Proposed Action would result in unavoidable significant adverse traffic impacts at these intersections.~~

## G. CONSTRUCTION

### TRANSPORTATION

As discussed in Chapter 18, “Construction,” the potential traffic impacts during peak construction would be within the envelope of significant adverse traffic impacts identified for the With-Action condition in Chapter 13, “Transportation.” Because existing and No-Action traffic conditions at some of the study area intersections through which construction-related traffic would also travel were determined to operate at unacceptable levels during commuter peak hours, it is possible that significant adverse traffic impacts could occur at some or many of these locations during construction. In order to alleviate construction traffic impacts, measures recommended to mitigate impacts associated with the operational traffic of the Proposed Action could be implemented during construction before full build-out of the Proposed Action. However, as with the With-Action condition, there could also be significant adverse traffic impacts at two intersections during the weekday AM peak hour, ten intersections during the weekday PM peak hour, and four intersections during the Saturday midday peak hour ~~and possibly others that may be identified between Draft and Final EIS~~ during construction that cannot be fully mitigated. Therefore, construction under the Proposed Action would result in unavoidable significant adverse traffic impacts.

~~As discussed in Chapter 18, “Construction,” the construction related transportation analyses reflect a slight variation of the No Action and With Action RWCDS assumptions that would yield more conservative impact findings. Between the Draft and Final EIS, the construction transportation analyses will be updated to reflect the final RWCDS.~~

## H. CONCEPTUAL ANALYSIS

The analysis presented in Chapter 22, “Conceptual Analysis,” determined that the hotel development scenario could result in significant adverse traffic impacts. It is not known which, if any, of the many properties in the Rezoning Area would be converted to new hotel use or developed with new construction hotel use. However, for the purposes of the conceptual

analysis, three sites were selected as representative of the type and amount of development that could occur under the hypothetical hotel development scenario. As compared with the total trip generation associated with the RWCDS, the hypothetical hotel development scenario would result in increases in the number of vehicle, pedestrian, and transit trips within the Rezoning Area during the weekday AM, weekday midday, weekday PM, and Saturday midday peak hours, with the greatest increases occurring during the weekday midday peak hour, as compared with the total trip generation associated with the RWCDS.

For any hotel construction or conversion that requires a special permit, any impacts that result from such development or conversion would be assessed and disclosed to the public under and pursuant to a separate environmental review, and measures to mitigate any impacts would be presented, if warranted. However, any new hotel construction that occurs after the “residential development goal” is met could proceed as-of-right under the Special District text of the Proposed Action, and such development could result in unavoidable significant adverse traffic impacts. (New hotel construction would replace the residential development assumed under the RWCDS.) Under the hotel development scenario, the impacts identified at study area intersections along the Varick Street corridor would worsen (with those at Charlton, Vandam, Spring, and Dominick Streets likely realizing the greatest effects), and the impacts identified at three intersections along Hudson Street (at Canal, Charlton, and King Streets) would worsen. For intersections farther away from the sites selected for the hotel development scenario, the projected traffic increases would be more dispersed and would have lesser effects on the operating levels of these intersections. \*