

**A. INTRODUCTION**

This chapter of the Final Environmental Impact Statement (FEIS) summarizes and responds to substantive comments received during the public comment period for the Draft Environmental Impact Statement (DEIS), issued on August 23, 2019, for the proposed Lenox Terrace project.

City Environmental Quality Review (CEQR) requires a public hearing on the DEIS as part of the environmental review process. The DEIS public hearing was held on December 18, 2019, at the City Planning Commission Hearing Room, 120 Broadway, New York, New York. The comment period remained open through January 6, 2020.

A list of organizations and individuals who commented can be found in Section B. Section C contains a summary of relevant comments on the DEIS 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 EIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together. Commenters who expressed general support or general opposition but did not provide substantive comments on the DEIS are listed at the end of Section C. All written comments are included in Appendix E, “Written Comments Received on the Draft Environmental Impact Statement.” Where relevant, in response to comments on the DEIS, changes have been made and are shown with double underlines in the FEIS.

**B. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT<sup>2</sup>****ELECTED OFFICIALS**

1. Brian A. Benjamin, Senator, New York Senate—30th District, letter dated September 19, 2019 (Benjamin\_NYSS\_011)
2. Gale A. Brewer, Manhattan Borough President, letter dated December 12, 2019 (Brewer\_MBP\_002) and oral testimony delivered on December 18, 2019 (Brewer\_MBP\_046)
3. Inez Dickens, Assemblymember, New York State Assembly—70th District, letter dated November 4, 2019
4. Adriano Espaillat, Congressperson, United States House of Representatives—New York’s 13th Congressional District, letter dated October 16, 2019 (Espaillat\_HOR\_014)
5. Bill Perkins, Councilmember, New York City Council—9th District, letter dated October 15, 2019 (Perkins\_CCNY\_012)

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<sup>1</sup> This chapter is new to the FEIS.

<sup>2</sup> Citations in parentheses refer to internal comment tracking annotations.

**COMMUNITY BOARDS**

6. Lisa Downing, Chair, Land Use Committee for Community Board 10, oral testimony delivered on December 18, 2019 (Downing\_CB10\_036)
7. Cicely Harris, Chair, Manhattan Community Board 10, resolution from November 6, 2019 General Board Meeting (Harris\_CB10\_001)
8. Henrietta Lyle, Chairperson, Manhattan Community Board 10, letter dated June 26, 2015 (Lyle\_CB10\_016) and oral testimony delivered on December 18, 2019 (Lyle\_CB10\_053)
9. Thomas Moore, Manhattan Community Board 10, oral testimony delivered on December 18, 2019 (Moore\_CB10\_039)
10. Julius Tajiddin, Harlem Advocates/Community Leaders and Manhattan Community Board 10, letter dated December 18, 2019 (Tajiddin\_CB10\_026) and oral testimony delivered on December 18, 2019 (Tajiddin\_CB10\_038)
11. Dominique Williams, Manhattan Community Board 10, oral testimony delivered on December 18, 2019 (Williams\_CB10\_037)

**ORGANIZATIONS AND BUSINESSES**

12. 32BJ, petition with 29 signatories, dated November 11, 2019 (32BJ\_005)
13. Cassie Carillo, 32BJ, letter dated December 18, 2019 (Carillo\_32BJ\_004) and oral testimony delivered on December 18, 2019 (Carillo\_32BJ\_033)
14. Daniel Carpenter-Gold, Staff Attorney, TakeRoot Justice, letters dated December 18, 2019 (Carpenter-Gold\_TRJ\_022) and January 6, 2020 (Carpenter-Gold\_TRJ\_057), and oral testimony delivered on December 18, 2019 (Carpenter-Gold\_TRJ\_030)
15. Dr. Misa Dayson, Lenox Terrace Association of Concerned Tenants, letter dated December 19, 2019 (Dayson\_LT-ACT\_023)
16. Lynn Ellsworth, Chair, Humanscale NYC, letter dated December 18, 2019 (Ellsworth\_025) and oral testimony delivered on December 18, 2019 (Ellsworth\_035)
17. Pierre Gooding, Esquire, Uptown Democratic Club, letter dated December 27, 2019 (Gooding\_UDC\_003)
18. William Hurley, 1st Vice President, Greater Harlem Housing Development Corporation, letter dated December 17, 2019 (Hurley\_GHHDC\_009)
19. Lenox Terrace Association of Concerned Tenants, letter dated December 18, 2019 (LT-ACT\_024)
20. Winston Majette, Executive Director, Harlem Week, Inc., letter dated December 17, 2019 (Majette\_HWI\_008)
21. David Paterson, former New York Governor, currently with DAP Strategies, LLC, letter dated October 17, 2019 (Paterson\_013)
22. Voza Rivers, Chairman, Harlem Arts Alliance, letter dated December 17, 2019 (Rivers\_HAA\_007)
23. Lenn Shebar, President, Lenox Terrace Association of Concerned Tenants, letter dated September 12, 2019 (Shebar\_LT-ACT\_010)
24. TakeRoot Justice, letter dated December 18, 2019 (TRJ\_019)
25. Lloyd Williams, President, Greater Harlem Chamber of Commerce, letter dated December 17, 2019 (Williams\_GHCC\_006)

**GENERAL PUBLIC**

26. Michael Henry Adams, oral testimony delivered on December 18, 2019 (Adams\_049)
27. Anonymous, letter dated December 18, 2019 (Anonymous\_020)
28. Sharon Bailey, oral testimony delivered on December 18, 2019 (Bailey\_042)

29. Valerie Bradley, oral testimony delivered on December 18, 2019 (Bradley\_043)
30. Kaloma Kosi Cardwell, oral testimony delivered on December 18, 2019 (Cardwell\_051)
31. Jean Corbett-Covington, oral testimony delivered on December 18, 2019 (Corbett-Covington\_045)
32. Veronica Glasgow, oral testimony delivered on December 18, 2019 (Glasgow\_041)
33. Delsinea Glover, oral testimony delivered on December 18, 2019 (Glover\_048)
34. Elizabeth Harper, transportation analyst, letter dated October 17, 2019 (Harper\_021)
35. Tony Hillery, oral testimony delivered on December 18, 2019 (Hillery\_031)
36. Marcia Hudson, oral testimony delivered on December 18, 2019 (Hudson\_054)
37. Winifred Jackson, oral testimony delivered on December 18, 2019 (Jackson\_044)
38. Loretta Kane, letter dated December 16, 2019 (Kane\_017) and letter dated December 18, 2019 (Kane\_018)
39. Danny Kim, oral testimony delivered on December 18, 2019 (Kim\_034)
40. Jerilyn Mabry, oral testimony delivered on December 18, 2019 (Mabry\_052)
41. Marie Middlejohn, oral testimony delivered on December 18, 2019 (Middlejohn\_055)
42. Cora Percival, oral testimony delivered on December 18, 2019 (Percival\_040)
43. Gwendolyn Satterfield, oral testimony delivered on December 18, 2019 (Satterfield\_056)
44. Joanne Scott, oral testimony delivered on December 18, 2019 (Scott\_050)
45. Karina Smith, oral testimony delivered on December 18, 2019 (Smith\_028)
46. Michael Sorkin, oral testimony delivered on December 18, 2019 (Sorkin\_027)
47. George Stewart, oral testimony delivered on December 18, 2019 (Stewart\_032)
48. Zytiin Thornton, oral testimony delivered on December 18, 2019 (Thornton\_047)
49. Savannah Washington, oral testimony delivered on December 18, 2019 (Washington\_029)

## C. COMMENTS AND RESPONSES

### PROJECT DESCRIPTION

**Comment 1:** Community Board 10 (CB10) rejects the application, which calls for a C-6 rezoning, as not consistent with the present and future needs of the community it affects. CB10 will only consider a rezoning plan if the current one is withdrawn and a new one is certified with the following conditions and CEQR boilerplate assessments in the areas below.... Zoning Requirements, the building heights cannot exceed 195 feet, with appropriate set-backs and the commercial zoning remain C1-4. (Harris\_CB10\_001)

**Response:** Comment noted. As indicated in the Foreword and Chapter 1, “Project Description,” of the FEIS, the proposed rezoning has been modified to an R8 residential district with a C1-5 overlay zoning district along Lenox and Fifth Avenues and 135th Street. The proposed rezoning—in its original form, as well as the modification—was analyzed in the EIS, and the EIS concluded that the proposed rezoning would not result in any significant adverse impacts to land use, zoning, or public policy. See also the response to Comment 9, below.

**Comment 2:** While no plan can insulate a community from market pressures leading to displacement, a project as large as the Proposed Project should include a plan that

is equitable. An equitable plan would: 1) create significantly more affordable housing; 2) further preserve the current affordable housing stock; 3) provide support to local entrepreneurs and small businesses; 4) improve public transportation resources; and 5) create and improve open space. The current proposal fails to meet those criteria. (Brewer\_MBP\_002)

**Response:** The EIS describes and analyzes the effects of the proposed project on socioeconomic conditions (including housing and effects on businesses), transportation, and open space. As detailed in the EIS, the proposed actions would result in the development of between 411 and 493 residential units designated as permanently affordable pursuant to the MIH program on the Lenox Terrace site, as well as the potential future development of 21 affordable units on the projected future development site. The existing affordable housing units on the proposed development site would be maintained in the future with the proposed actions. The proposed development would create more than six acres of private open space on the Lenox Terrace site. Furthermore, to address the proposed actions' significant adverse open space and shadows impacts, improvements would be made to Howard Bennett Playground and Hansborough Recreation Center as partial mitigation for those impacts (see Chapter 21, "Mitigation"). The proposed C1-5 commercial zoning overlay would allow for the provision of a variety of local retail uses. The Lenox Terrace tenants association has expressed a strong desire for certain retail tenants to continue in the proposed project, and other tenants to be replaced with new retailers. Toward that end, for retail tenants that are determined by the applicant and Lenox Terrace residents to be desired in the proposed project, the applicant has committed to negotiate with such tenants for newly-constructed spaces before marketing such spaces to other new businesses. Therefore, it is possible that some directly displaced businesses could tenant the new retail space resulting from the proposed actions, which is greater than the amount currently in the rezoning area. The proposed actions would generate new employment opportunities and create new retail opportunities to meet the needs of local workers, residents, and visitors, while the new residential population would increase consumer demand for goods and services at existing and new retail businesses. As detailed in Chapter 13, "Transportation," the EIS provides an assessment of transit consistent with the guidance of the *CEQR Technical Manual*. No significant adverse transit impacts were identified for the proposed actions.

**Comment 3:** The following steps will be required to win the confidence of Lenox Terrace residents, as well as the Harlem community, and to win approval of a project of this magnitude ... Pursuant to the Large Scale General Development (LSGD), the improvements committed to by the Applicant should be tied to the Temporary Certificates of Occupancy obtained for the new buildings. (Brewer\_MBP\_002)

**Response:** The timing for implementation of developer obligations—including mitigation measures and other project components—that are tied to the findings of the EIS

will be identified in the Restrictive Declaration to be recorded in conjunction with ULURP approvals.

**Comment 4:** Olnick claims that commercial rezoning is a “commonly used mechanism to both allow for and place limitations on the new development.” Commercial rezoning in a residential area is NOT so commonly used, and especially not in Central Harlem. In this case, the rezoning to commercial would allow them to double the number of apartments within the complex, which they cannot do under the current residential zoning. (LT-ACT\_024)

**Response:** The EIS analyzes the potential land use impacts of the proposed project. The proposed zoning was modified subsequent to the DEIS public hearing in response to public comments, from a C6-2 commercial district to an R8 residential district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street, along with a Large Scale Special Permit for the proposed development site to modify height and setback regulations and control the type, size, and distribution of uses on the zoning lot. R8 residential zoning districts are mapped in three locations within ¼-mile of the project area: the east blockfront of Adam Clayton Powell Jr. Boulevard between West 136th and 137th Streets; the area north of East 138th Street and east of Fifth Avenue, adjacent to the Harlem River, and the block east of Fifth Avenue between East 131st and 132nd Streets. C1 commercial overlays are common throughout Harlem and are intended to accommodate local ground-floor retailers rather than high-density commercial uses. See also the response to Comment 1.

**Comment 5:** There are no public facilities. There’s no school. There’s no clinic. There’s no rec center. There’s not even a park. I think constraining the mix by adding additional public facilities, whatever they turn out to be, Harlem Hospital or a day care center, a public school, City College needs space, et cetera, et cetera. (CUNY has) just run out of space, and it would be great if we could rent some rather than depend on the Dormitory Authority to pony up. (Sorkin\_027)

I think it would be great to have more open community spaces [in the neighborhood]. Right now there’s [the] Hansborough Rec Center, which doesn’t belong to [the applicant] ... there’s [the] Kennedy Center, which does some public programming, which is also not owned by Olnick but is [a] privately owned space. Sometimes [the Kennedy Center is] rented out for different community things. I think it would be great to have some sort of community development, or community-accessible spaces, not just for Lenox Terrace residents, [but] for everyone that lives nearby. I think that would be helpful. (Smith\_028)

**Response:** The proposed project would include 15,055 gsf of community facilities space. The applicant has engaged with residents and community stakeholders to determine the most desired mix of tenants for the proposed community facility space within the project. Furthermore, the proposed project would convert a

substantial amount of space from paved driveways and parking areas to on-site private open space. Chapter 4, “Community Facilities and Services,” of the EIS analyses the potential for the proposed actions to result in significant adverse impacts to community facilities and services. The EIS concluded that the proposed actions would not have a significant adverse impact to community facilities and services.

**Comment 6:** It’s offensive to me that you would make this amenity [open space on proposed development site] as your only potentially public amenity and then hedge about whether people can walk in and use it. (Sorkin\_027)

**Response:** As described in the EIS, the proposed project would create a substantial amount of new private open space on the proposed development site, approximately six acres in total. This new open space would surround the existing and new buildings on the Lenox Terrace campus, and would replace much of the area currently occupied by surface parking. It is currently anticipated that the features of this open space could include a large central lawn, a winding pedestrian promenade lined with trees and garden areas, and four “pocket parks.” This new open space would be accessible to existing and new residents of Lenox Terrace and their guests, and would help to meet their open space needs. Chapter 5, “Open Space,” of the EIS provides an analysis of the potential effects of the proposed actions on open space. As detailed in that chapter, the new private open space to be created on the proposed development site is not accounted for in the quantitative analysis, but is considered qualitatively. The EIS analysis also notes that a wide variety of other open space resources not included in the quantitative assessment—including community gardens, NYCHA open spaces, large open spaces just outside the open space study area, and other private open spaces—would remain available to study area residents in the future with the proposed actions, providing alternative open space options for both active and passive recreation.

**Comment 7:** I’d like to just address the question of how many issues are still up in the air at this point. There’s obviously the question of the actual site plan. There’s a new proposal for affordable housing to be designated to a single building, which as Commissioner De La Uz mentioned might not even be correct or available under MIH. (Carpenter-Gold\_TRJ\_030)

**Response:** As analyzed in the EIS, at the present time it is anticipated that the affordable housing to be created on the proposed development site will be allocated among the proposed buildings, not designated for a single building. Furthermore, the site plan is subject to a General Large Scale Development special permit and is subject to review and approval by the City Planning Commission and City Council.

**Comment 8:** The 1,700 units this project is expected to create is nearly half the number in the East Harlem rezoning, which was 3,500 dwelling units. And 40 percent of those

in the Inwood Rezoning, which was almost 4,000. Now you all went through all of those experiences and I went through hundreds of meetings on both of them. And although both projects incorporated their new units into far larger areas than that of Lenox Terrace, this particular project before you today talks about 4,000 new residents in a single three-block area and will cause a disproportionate impact on local residents, infrastructure, economy, and educational resources. The other rezonings that I just mentioned, East Harlem and Inwood, included commitments with almost the same number of units on the City in the amounts of some three to five million for infrastructure, housing preservation, open space, schools and other elements of a neighborhood's high quality of life. So it seems to me that we should require something similar, otherwise you're going to have the kinds of negative impact that we tried to avoid in the other two rezonings. And you had a lot to do with that. We need a lot more out of this particular proposal. In order to achieve an equitable result, a project the size and scale of the one proposed here requires extensive efforts from the private and public sector. And you'll read in there about the displacement issue, the transit issues, the open space issues. (Brewer\_MBP\_046)

**Response:** The EIS considers the potential for the proposed project to result in significant adverse impacts in 18 technical categories, including infrastructure, socioeconomic conditions, open space, schools, and neighborhood character. See Chapter 3, "Socioeconomic Conditions;" Chapter 4, "Community Facilities;" Chapter 5, "Open Space;" Chapter 10, "Water and Sewer Infrastructure;" and Chapter 18, "Neighborhood Character." The analyses presented in those chapters conclude that the proposed actions would result in a significant adverse indirect impact to open space in the 2026 analysis year due to the anticipated reduction in open space ratios, as well as a significant adverse shadows impact to the Howard Bennett Playground on the December 21 analysis day. The EIS did not identify any significant adverse impacts in the categories of socioeconomic conditions, infrastructure, schools, or neighborhood character. Where impacts are identified, practicable mitigation for such impacts is also identified. Comparisons to area-wide rezonings such as East Harlem and Inwood cannot be relied upon to inform the impacts and mitigation of the proposed projects, as those rezonings were proposed for other neighborhoods with other existing and future background conditions that do not necessarily match those in the area of the proposed project. Overall, the cost associated with implementing identified mitigation measures is estimated to meet or exceed the costs cited by the commenter.

**Comment 9:** We're all concerned about the height of the buildings, the number of the buildings, all that has to be renegotiated. (Brewer\_MBP\_046) (Brewer\_MBP\_002)

The building heights cannot exceed 195 feet, with appropriate setbacks, and the commercial zoning must remain C1-4. (Harris\_CB10\_001)

The height of these buildings needs to be dramatically reduced. You know, as an architect, I recognize that plan. It's the same plan as the National Library of France, which has these L-shaped bracketing buildings at the corners and it has a certain morphological appeal. But the buildings are too big. (Sorkin\_027)

**Response:** Comment noted. The EIS assesses the potential for significant environmental impacts of the project as proposed by the applicant. See Chapter 2, "Land Use, Zoning and Public Policy" and Chapter 8, "Urban Design and Visual Resources." The analyses presented in those chapters of the EIS conclude that the proposed actions would not have a significant adverse impact on land use, zoning, public policy, urban design, or visual resources. The assessment provided in the EIS is intended to inform the decisions of those who may vote to approve, approve with modifications, or disapprove the application. Height and number of buildings are components of the application that those decision makers may elect to modify in consideration of the impacts identified in this EIS.

**Comment 10:** It occurred to me that if the property were landmarked and if you could transfer air rights based on the property being landmarked, perhaps you can satisfy Olnick's requirements with 100-story tower. Now a lot of people say, 100-story tower, there's not a 100-story tower in all of Harlem. But when you look at something like St. Bartholomew's Church, with the General Electric building behind it, and you see how magnificently that works, despite imaging at first blush that that would be completely out of context. But it works there and perhaps something like that would work here. (Adams\_049)

**Response:** As detailed in the EIS, LPC has determined that the Lenox Terrace complex appears eligible for listing on the State and National Registers of Historic Places for its cultural associations with prominent African Americans in the Harlem community. LPC has not determined that the Lenox Terrace complex is eligible for designation as a New York City Landmark. The applicant has not proposed the development of a 100-story tower.

**Comment 11:** Olnick must agree to a well-conceived parking plan detailing accessibility and outlining options and payments for both existing residents and new residents. This plan will be approved by the LTDC (Lenox Terrace Development Committee) and will address the allocation of spaces, transferability of spaces, reduced parking fees for rent stabilized tenants. (Harris\_CB10\_001)

**Response:** As detailed in the EIS, the 387 parking spaces on the proposed development site currently provided for the existing residential tenants will be maintained in the future with the proposed actions, and 138-273 parking spaces will be provided for the new mixed-use development (based on the percentage of units to be designated as affordable). Accounting for other parking available in the study area, the EIS concluded that the parking utilization levels in the future with the proposed actions would be within the area's off-street public parking capacity,



and thus the proposed actions are not expected to result in the potential for parking shortfalls or significant adverse parking impacts. Parking fees are not a subject for analysis under CEQR.

*AFFORDABLE HOUSING*

**Comment 12:** The proposed affordable housing offered as an “incentive” is insufficient. Harlem has become increasingly devoid of affordable housing, and adding a massive development with five new buildings should come with a percentage of “affordable” housing that at a bare minimum reflects the realities of Harlem’s residents with a median income of \$42,010, not the standard adjusted median income for New York City residents of \$74,700. The need for affordable housing should be reflected both in an increased percentage of affordable units and a price adjustment that makes it possible for Harlemites to live at Lenox Terrace. The current proposal to add an additional 1,200 units of market rate housing will exacerbate the displacement of existing residents. (Gooding\_UDC\_003)

**Response:** Chapter 3, “Socioeconomic Conditions,” of the EIS considers the potential for the proposed actions to result in direct and indirect residential displacement. As detailed in Chapter 1, “Project Description,” the incremental development that is assumed to occur within the rezoning area in the With Action scenario by 2026 includes approximately 1,711 dwelling units, including 431 to 514 of which are assumed to be affordable pursuant to MIH. The EIS analysis of potential effects on socioeconomic conditions concluded that the proposed actions would not have significant adverse impacts related to direct or indirect residential displacement.

The proposed project would introduce a substantial amount of permanently affordable housing. Under the Mandatory Inclusionary Housing (MIH) area that would be established conterminous with the rezoning area, between 20 and 30 percent of total residential floor area would be set aside for households making an average of between 40 and 115 percent of Area Median Income (AMI), depending upon the MIH option chosen by the City Planning Commission (CPC) and City Council. As detailed in Chapter 3, “Socioeconomic Conditions,” according to 2012-2016 Census American Community Survey (ACS) data, the average annual household income of residents living in the socioeconomic study area was an estimated \$63,101. Under MIH, permanently affordable units generated by the proposed project would be available for households at and below the average household income for the study area. While it is expected that the population moving into new affordable housing would generally have income characteristics comparable to existing residents in the study area, the number of affordable DUs and corresponding AMI bands for residential development resulting from the proposed actions have not yet been determined.

**Comment 13:** The proposed redevelopment that would take an estimated ten years is an infill of an additional five buildings, upwards of 28 stories, between the existing six lower rise buildings. The development would more than double the number of residents in this three-square-block area with an additional 1,600 apartments. We are also concerned that these new luxury buildings would further degrade the quality of affordable housing in Lenox Terrace. (Shebar\_LT-ACT\_010)

**Response:** The EIS evaluates the potential for significant adverse environmental impacts resulting from the buildings and residents that would be introduced by the proposed actions. The proposed “luxury buildings” as characterized in the comment would include a mix of market-rate and permanently affordable housing. Chapter 3, “Socioeconomic Conditions,” finds that the proposed actions would not result in significant adverse impacts due to indirect residential displacement within the study area. In addition, in conjunction with the proposed actions, the applicant intends to renovate and upgrade elements of the existing buildings. Please also see the responses to Comment 131 and Comment 132.

**Comment 14:** I do think that you need—that 80 percent of current units are rent stabilized and despite all the great work that has gone on in Albany, we still worry about that as the preservation project—preservation package for existing units. We worry about the few number and in my opinion, of affordable units that are proposed, we want the City Council, should it go forward, to require the deep affordability option in the MIH, which you know only too well. (Brewer\_MBP\_046)

**Response:** Comment noted.

**Comment 15:** While we are open to further discussion and a review of modified proposals from the Olnick Organization, we emphasize our belief that affordability extends beyond 80 percent market rate and 20 percent affordable units. (Lyle\_CB10\_016)

**Response:** Comment noted.

**Comment 16:** The second component of the negative impact is the nature of the mix. I think that the advocates have been rather slippery about this. The apartment mix, sort of the late blooming idea of an affordability ghetto, one of the apartments. I think the finessing of the mix of incomes within the buildings within the larger complex is very vital. (Sorkin\_027)

**Response:** As detailed in Chapter 1, “Project Description” of the EIS, the proposed actions would result in an MIH-designated area. Under MIH, when new housing capacity is approved through land use actions, CPC and the New York City Council establish the MIH Option and its associated percentages and levels of affordability. The overall average income of households who are expected to reside in the residential units generated by the proposed actions cannot be estimated at this time, because the amount of affordable DUs produced and

resulting range of affordability presented would ultimately depend on the MIH Option that is utilized, as well as the rent levels of the market-rate units. While it is expected that the population moving into new affordable housing would generally have income characteristics comparable to existing residents in the study area, the number of affordable DUs and corresponding AMI bands for residential development resulting from the proposed actions have not yet been determined. See also the response to Comment 17.

**Comment 17:** If you'd like, I can go into detail of the question on the affordable building and why I think it's important to hold this hearing over. So I understand your point of the MIH. And I think that there would be a lot of concern if it were true that there were a new building that was designated as the affordable building and that that's something regardless of how this interacts with MIH that should be considered. (Carpenter-Gold\_TRJ\_030)

One of the things that Olnick said today was that they were considering one of the buildings for affordable housing. To me that speaks of segregation. Why? Because they're all in one building. I have real concerns about that because is that building going to be different? Is it going to have less than what the other buildings have? Why herd them all in one space. That to me is a serious issue. (Middlejohn\_055)

**Response:** As described in Chapter 1, "Project Description" of the EIS, it is the applicant's intention that the affordable housing to be created on the proposed development site would be allocated among the proposed buildings, not designated for a single building.

**Comment 18:** To date, the Olnick organization has not presented an income targeted housing plan that is more attractive than 60 percent of the AMI. The Olnick organization has not presented an income targeted housing plan that is satisfactory to CB10 or the community at large. Community Board 10 has submitted its Mandatory Inclusionary Housing resolution to the owner; the Olnick plan does not meet our Resolution standards and expectations. Olnick must agree that the income bands in this housing model be set at 50/30/20 of the AMI—open market, moderate income, low income, respectively—and that the income bands be permanent. (Harris\_CB10\_001)

Many speakers addressed the proposed income levels for residents of the affordable housing to be built under the MIH program and they expressed concern that the income levels would be too high to provide housing for the average Harlem family. (Brewer\_MBP\_002)

Eighty percent of current units are rent stabilized, but that does not ensure future affordability. I recommend that the Applicant work with city and state agencies to create a preservation package for the existing units, and increase the number of

affordable units that will better balance the mix of affordable and market-rate units in the new buildings. (Brewer\_MBP\_002)

**Response:** As described in the EIS, under MIH zoning regulations, when new housing capacity is approved through land use actions, CPC and the New York City Council can choose to apply either or both Option 1 and/or Option 2 regarding affordable housing set-asides. Option 1 requires 25 percent of residential use to be affordable at an average of 60 percent AMI; Option 2 requires 30 percent at an average of 80 percent AMI, with restrictions on income bands. Also pursuant to MIH zoning regulations, CPC and the New York City Council may also add one or both of two other options: Deep Affordability requires a 20 percent affordable housing set aside for which rents must be affordable to households earning an average of 40 percent of AMI; and the Workforce option with a 30 percent affordable housing set aside for which rents must be affordable to households earning an average of 115 percent of AMI, with at least 5 of the 30 percent affordable to households earning 70 percent of AMI, and another 5 of the 30 percent affordable to households earning 90 percent of AMI.

**Comment 19:** Olnick must agree to partner with HPD/HDC to explore all affordability programs and options, and that HPD will oversee the implementation of affordability programs and provide said oversight and report to CB10 on how many units are transferred to CB10 residents and well as the levels of affordability devised for the project. (Harris\_CB10\_001)

The City Council should require the Deep Affordability Option pursuant to MIH. (Brewer\_MBP\_002)

**Response:** Comment noted. The applicant is currently engaged in discussions with HPD to explore all affordability programs and options that may be applicable to the project. Please see also the response to Comment 18.

**Comment 20:** Olnick must agree that CB10 residents will have a 50 percent preference on all the moderate and low income units. (Harris\_CB10\_001)

**Response:** The rental of new affordable housing units is beyond the scope of CEQR analyses, and is also determined by HPD rather than the developer. The applicant agrees to support this preference, provided it complies with the law at the time, and with the understanding that ultimately such preferences are determined by HPD.

**Comment 21:** Because we are concerned about the development of truly affordable housing units in East Harlem, we are pleased that the development, when concluded, is guaranteed to provide 400+ permanently affordable apartments. (Hurley\_GHHDC\_009) (Majette\_HWI\_008) (Rivers\_HAA\_007) (Williams\_GHCC\_006)

[We need] these apartments need and we need additional affordable housing. So I love it. I hope that we will move forward. (Stewart\_032)

**Response:** Comment noted.

**Comment 22:** It has been historically demonstrated that even when developing as of right, the likelihood that developers who build on a scale such as what the Olnick plan proposes even without a rezoning approval will apply for the federal Low-Income Housing Tax Credit (LIHTC) because the tax credits are more attractive than tax deductions. For any developer to qualify, it agrees to one of the following: At least 20 percent or more of the residential units in the development are both rent restricted and occupied by individuals whose income is 50 percent or less than the area median gross income. At least 40 percent or more of the residential units in the development are both rent restricted and occupied by individuals whose income is 60 percent or less than the area median gross income. At least 40 percent or more of the residential units in the development are both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. The average of the imputed income limitations shall not exceed 60 percent of the area median gross income. (Moore\_CB10\_039) (Tajiddin\_CB10\_026)

Typically, the project owner will agree to a higher percentage of low income usage than these minimums, up to 100 percent. There are no limits on the rents that can be charged to tenants who are not low income but live in the same project. However, the rule says, “60 percent or less” contemplating that the owner/developer will seek some sort of tax abatement or free “something” from the local government, thus the rule does not prevent the developer/owner from offering a lower percentage of the AMI. The Olnick group has not presented an income targeted housing plan that is more attractive than 60 percent of the AMI, which is something that they will most likely do even without a rezoning approval. (Tajiddin\_CB10\_026)

However, this is a project for a rezoning. The Olnick group has requested a zoning that will give it greater bulk and density with other benefits. Also, Olnick will more than likely apply for the city’s J51 Tax Credit program and for a set term not pay any city property taxes, without having to offer the low-income units to families earning less than 60 percent of the AMI. (There were very few units that were offered at 50 percent of the AMI.) Again, this will put a heavy tax burden on Harlem’s smaller property home owners. (If I am wrong on this, neither Olnick nor any other devil’s advocate disputed this hypothesis.) When you add everything up, left unchecked, we are allowing housing, new and old, through a systematic standard, practice and procedure which its effect will diminish the ability of Harlem’s plurality African American population to elect their preferred candidates of choice within several years. We cannot allow this standard, practice or procedure any longer. (Tajiddin\_CB10\_026)

**Response:** As described in the EIS, under MIH zoning regulations, when new housing capacity is approved through land use actions, CPC and the New York City Council can choose to apply either or both Option 1 and/or Option 2 regarding affordable housing set-asides. Option 1 requires 25 percent of residential use to be affordable at an average of 60 percent AMI; Option 2 requires 30 percent at an average of 80 percent AMI, with restrictions on income bands. Also pursuant to MIH zoning regulations, CPC and the New York City Council may also add one or both of two other options: Deep Affordability requires a 20 percent affordable housing set aside for which rents must be affordable to households earning an average of 40 percent of AMI; and the Workforce option with a 30 percent affordable housing set aside for which rents must be affordable to households earning an average of 115 percent of AMI, with at least 5 of the 30 percent affordable to households earning 70 percent of AMI, and another 5 of the 30 percent affordable to households earning 90 percent of AMI. The EIS in Chapter 3, "Socioeconomic Conditions," considers the potential for significant adverse impacts due to indirect residential displacement, assuming development under one of the MIH options described above, not under the LIHTC which might require lower AMIs. The EIS finds that the proposed project would not 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. See also the response to Comment 159.

*AS OF RIGHT DEVELOPMENT*

**Comment 23:** Currently they have about 425,000 square feet of as of right that's left over and that was calculated using a 340,000 square foot plus the 90,000 square feet that they're going to demolish as part of the current existing C1-4. So they have about 435,000 square feet now. We think that that footprint is within the scope of what should happen. Because that's still almost one-third more of what's existing on the property today. So if we're talking about maybe another 100,000 square feet, that might to be something that's livable. That might be something that is doable to gain some amenities, to gain some tenant agreement, additional benefits for the residents. Because if the residents can get about 25 percent off their rent, or 50 percent off their rent for another 100,000 square feet, then that's something we have to ask the residents. There's 1,700 apartments and most of the residents would like to stay within the footprint that they have. But I think that, again, for one of the things we have to consider is, yeah, this is another 100,000 square feet doable and that's—and as of right now, I don't have the answer for you. But that's something that we would have to have. We were planning on doing a survey of our residents for all of this, all 1,700 apartments with these things to ask them what is livable infill for you and what are—what are you willing to trade off for. (Washington\_029)

**Response:** Comment noted. For the purposes of a conservative analysis that would disclose a greater range of incremental impacts, the EIS assumes development would not occur within the rezoning area in the future without the proposed actions. While current zoning regulations do allow development to occur on the proposed development site of the approximate square footage cited by the commenter and without discretionary approvals, such development would not meet the goals and objectives of the proposed actions, as intended by the applicant and detailed in Chapter 1, “Project Description” of the EIS, which are: to create a substantial number of new dwelling units within Manhattan CD 10, a portion of which would be designated as permanently affordable, thereby advancing a City-wide initiative to build and preserve 200,000 affordable units over 10 years in order to support New Yorkers with a range of incomes; achieve high quality urban design, architecture, community facility space, and open space elements; provide enhancements to the surrounding streetscape and enliven the pedestrian experience, through the creation of new buildings, landscaping, and open space on the proposed development site; add to the retail mix in the Central Harlem neighborhood; and strengthen the City’s tax base by encouraging development and employment opportunities in the area.

**Comment 24:** The C1-5/R7-2 is very similar to the C1-4/R7-2 in Lenox Terrace. The main difference between a C1-4 and a C1-5 is parking: C1-5s generally don’t have parking requirements, while C1-4s [do]. But, the parking requirements are generally subject to waiver anyways-basically, a retail use in C1-4 that is <40,000 sq ft will generally not have a parking requirement in either a C1-4 or C1-5. And they can always put parking below ground (which is what happened for the residential parking at that development). And [Park West Village, Columbus between W. 97th-100th, on the east side of the street] it’s very similar to Lenox Terrace also in that it’s an old Urban Renewal site (brick buildings set back from Columbus) that was infilled with new residential and commercial development (glass buildings close to Columbus). That’s an excellent example of how as-of-right development could go at Lenox Terrace. (Carpenter-Gold\_TRJ\_022)

Olnick can do responsible construction under the current residential zoning. (LT-ACT\_024)

**Response:** See the response to Comment 23.

**Comment 25:** Given the insurmountable list of negatives of this proposed rezoning, I, along with the residents of the Lenox Terrace property, believe that, residential and commercial enhancements can be made to this area without a rezoning. It is evident that this can be achieved, as our office strives daily to make sure that the quality of life in this district is up to par. (Benjamin\_NYSS\_011)

If you have as of right, why do you want more? If you have as of right to do what you want, why are you putting 28 buildings for us in our community? That's a lot. And people lives around us will be destroyed. (Corbett-Covington\_045)

This is a total revamping of who and what we are. And there's nothing that's being offered that can't be offered as of right. Whether we're talking about community gardens, whether we're talking about—if they continue to build. And we're not against rebuilding. But they have demonstrated—what's the word—a lack of appreciation for what they have, how to manage it. The people that had contributed to this being continuing to be a desirable community and a lot of the questions and the concerns that we had are problems that are tantamount to the oversized, overscale development that they are proposing. (Hudson\_054)

**Response:** While some development can indeed be achieved on the site as-of-right as discussed above, such development would not allow for substantial benefits of the project, including: a consistent streetwall, a substantial number of affordable-housing units, the conversion of on-site parking and driveways to open space, the creation of building amenities for use by all existing and new residents, and substantial improvements to existing buildings. See also the response to Comment 23.

*RESTRICTIVE DECLARATION*

**Comment 26:** A restrictive declaration is only as strong as its enforcers. Unlike zoning regulations, which could be enforced by the people impacted by development, restrictive declarations typically allow enforcement only by the City. The extent to which the City prioritizes land-use controls has historically varied, and will likely to continue to vary going forward. And once a structure is substantially complete, it is extremely difficult to force a developer to tear it down. If the City decides that it does not have the resources to diligently enforce the declaration, Olnick could simply change its plans, build a different structure, and suffer almost no consequences. Finally, a restrictive declaration can typically be altered—or removed entirely—by the City. The requirement for modification or cancellation can be as simple as applying to the Chair of the City Planning Commission. The City has failed in its stewardship of such restrictions in the past; the most infamous example of this is Rivington House, a nursing home that was restricted to use by nonprofit healthcare providers until the City lifted that restriction in exchange for about \$16 million. CPC's stated policy is that they will seek approval from the City Council on any substantial changes to restrictive declarations, but they may not adhere to that policy in the future. Therefore, the DEIS should not assume that any limits embodied in a restrictive declaration will be honored. (TRJ\_019)

**Response:** The proposed project requires a number of discretionary approvals, including a Large Scale General Development special permit. This special permit will be



accompanied by a set of approved plans that will control development on the proposed development site. The Restrictive Declaration will memorialize the plans approved in the ULURP process and will be legally binding upon the applicant and any successors in ownership to the property. There is no basis to assume that it will not be enforced in the future. Furthermore, the EIS analyzes a reasonable worst-case development scenario that considers development of the site pursuant to the large-scale plans, as in the event the special permit expires or is ceded, absent further approvals development of greater density or height will be unachievable for two reasons: 1) the Restrictive Declaration will preclude development of greater FAR or height than that shown on the special permit drawings, even if the special permit(s) are ceded; and 2) the presence of existing buildings and other site constraints and zoning regulations would preclude the full 7.2 FAR from being developed for residential use. The additional residential FAR theoretically available for development pursuant to the rezoning would need to be massed on the remainder of the site with no height and setback relief. In addition, more than 1,000 parking spaces would need to be provided for existing and new DUs. While zoning regulations would permit the development of some buildings as-of-right under the rezoning, sufficient lot area does not exist to mass a 7.2 FAR development along with the requisite 1,000+ parking spaces that would be needed.

**Comment 27:** The proposed rezoning would nearly double the maximum density currently permitted in Lenox Terrace. The current zoning is R7, which allows for a maximum floor area ratio (FAR—roughly speaking, the ratio of lot size to building size) of 3.44, or 4.0 under certain circumstances. The actual built FAR, according to the DEIS is only about 3.0. Olnick’s requested rezoning would allow up to a 7.2 FAR. The DEIS, however, assumes a maximum FAR of 5.61, which would be only about two-thirds of the allowable increase. The DEIS justifies the assumption that Olnick will not build to the maximum possible density by claiming that the applicant “is expected to enter into a Restrictive Declaration” limiting residential density. This reflects only the expectation of DCP, and provides no assurances whatsoever that development will not proceed to the maximum possible extent. Yet, that assumption is used throughout the DEIS, and no accounting is made of the possibility that Olnick will take full advantage of the rezoning. In any case, a restrictive declaration is not a reliable means of ensuring that development will not exceed Olnick’s proposal. First, the declaration would apparently be negotiated with the City, not the tenants or local residents. This means that the community will have no control over the negotiations, and that the substance of the declaration might not address the concerns of the community. Given Olnick’s refusal to engage with the people who are actually impacted by this development, or their local representatives, this is unlikely to change if the proposed rezoning is approved. (TRJ\_019) (Carpenter-Gold\_TRJ\_057)

Even assuming a declaration is put in place, neither the public nor the relevant decision-makers know what its precise content would be. It would likely only affect property owned by the current applicant, and would likely only be enforceable by the City of New York, raising questions as to the efficacy of any restraints it placed on development. It could very well be predicated on the issuance of a special permit, meaning that if a developer did not seek a special permit, it would not be bound by the declaration. And more fundamentally, it could very easily contain provisions that do not match the proposed site plan exactly, meaning that the DEIS would not properly reflect the development that the proposed actions would permit. (Carpenter-Gold\_TRJ\_057)

**Response:** As detailed in Chapter 1, “Project Description,” of the EIS, the Large Scale Special Permit drawings, as memorialized in the Restrictive Declaration, would restrict the uses within buildings on the proposed development site to what is shown on the site plan associated with the large-scale special permit; establish the envelope within which the buildings must be constructed, including limitations on height, bulk, and floor area; establish the required setbacks and distance between buildings; and establish open areas on the site where buildings are not permitted. The Restrictive Declaration would also restrict the project’s FAR and height to that shown on the special permit drawings, irrespective of whether or not the site is developed pursuant to the special permit. Furthermore, in the event the special permit expires or is ceded, in addition to the FAR and height limits imposed by the Restrictive Declaration, the presence of existing buildings and other site constraints and zoning regulations would preclude the full 7.2 FAR from being developed for residential use. The additional residential FAR theoretically available for development pursuant to the rezoning would need to be massed on the remainder of the site with no height and setback relief. In addition, more than 1,000 parking spaces would need to be provided for existing and new DUs. While zoning regulations would permit the development of some buildings as-of-right under the rezoning, sufficient lot area does not exist to mass a 7.2 FAR development along with the requisite 1,000+ parking spaces that would be needed.

**Comment 28:** The unknowability of the restrictive declaration affects the site plan to an enormous extent. The actual build under the proposed new zoning could look like anything from a doubling of the proposed new residential build—if developers build to the maximum residential density allowed—to a massive new shopping mall—if developers build to the maximum commercial density allowed, and take full advantage of the ability to add Use Group 10 uses. Because the restrictive declaration cannot be known at this stage, the DEIS’s assumption that development beyond the site plan presented by the applicant will not occur is inappropriate. In other words, the Reasonable Worst Case Development Scenario (RWCDs) the DEIS claims to have used as its With Action scenario is not, in fact, the maximum level of development possible should the proposed action be

taken. Therefore, none of the DEIS's findings of no significance are based on comparison of the appropriate scenarios, and none are adequate under CEQR. (Carpenter-Gold\_TRJ\_057)

**Response:** As detailed in Chapter 1, "Project Description," of the EIS, because the applicant intends to enter into a Restrictive Declaration, the analysis appropriately reflects the conditions of the Restrictive Declaration as the basis for the RWCDs. This development scenario is consistent with the Final Scope of Work. If the special permit were to expire or cede, the presence of existing buildings, other site constraints, zoning regulations, and the FAR and height restrictions of the Restrictive Declaration would preclude the full 7.2 FAR of the proposed rezoning from being developed for residential use. Specifically, the existing six residential buildings could not be demolished or significantly altered due to rent regulations that apply to the majority of apartments. As such, the approximately 2.3 million sf of additional residential development theoretically available for development pursuant to the rezoning would need to be massed on the remainder of the site with no height and setback relief. In addition, more than 1,000 parking spaces would need to be provided for existing and new DUs. While zoning regulations would permit the development of some buildings as-of-right under the rezoning, sufficient lot area does not exist to mass a 7.2 FAR development (which would contain approximately 2.3 million sf of new development) along with the requisite 1,000+ parking spaces that would be needed. Finally, the proposed zoning district has been changed in response to public comments from a C6-2 to an R8 and R8 with a C1-5 overlay, thereby further limiting the potential commercial development on the site to the same type and density of retail can be built today.

#### LAND USE, ZONING, AND PUBLIC POLICY

**Comment 29:** CPC should limit commercial spaces to 10,000 sf unless it is a space occupied by a qualifying FRESH food store. (Brewer\_MBP\_002)

**Response:** Comment noted. The request made in this comment is beyond the scope of the project's environmental review. However, the proposed zoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. As described in Chapter 2, "Land Use, Zoning and Public Policy" of the FEIS, commercial overlay districts are mapped within residential districts to serve local retail needs (e.g., grocery stores, dry cleaners, and restaurants). The proposed C1-5 commercial overlay along Lenox and Fifth Avenues and West 135th Street would allow commercial use to a maximum FAR of 2.0, and would not permit commercial uses above the ground floor in mixed-use buildings; in addition, in this zoning district certain commercial use groups are indeed limited to 10,000 square feet. The analysis provided in the EIS concluded that the proposed actions would not have any significant adverse impacts on land use, zoning, or public policy.

## Lenox Terrace

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**Comment 30:** The reconstructing of this zone will be more problematic than beneficial. In changing the property from a residential R7-2 zone to a C6-2 commercial zone, the residents at Lenox Terrace and those surrounding, will be greatly impacted. (Benjamin\_NYSS\_011)

**Response:** The proposed zoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. R8 residential zoning districts are mapped in three locations within ¼-mile of the project area. Commercial overlay districts like the one proposed here are mapped within residential districts to serve local retail needs (e.g., grocery stores, dry cleaners, and restaurants).

As detailed in the “Purpose and Need” section of EIS Chapter 1, “Project Description,” the proposed rezoning would facilitate the applicant’s proposal for the improvement and enlargement of the Lenox Terrace housing complex while preserving the original development’s interplay between high-rise structures and accessible open space. They would facilitate the creation of additional housing (including additional affordable housing units) in support of the New York City housing policies, facilitate the development of new community facility and retail uses that would improve the quality of ground-floor street-front retail spaces and create a more defined streetwall along Lenox Avenue, improve site circulation and access, and increase open space available to tenants. The proposed development would create more than six acres of private outdoor recreation space for tenants. In conjunction with the proposed actions, the applicant also intends to renovate and upgrade elements of the existing buildings. In addition to the increase in residential density, the proposed actions would allow for the provision of a variety of neighborhood appropriate retail uses while restricting commercial development beyond that proposed by the project.

As noted in Chapter 1, “Project Description” of the EIS, the applicant believes that the proposed actions would allow for the new buildings to be designed in such a way as to provide as much light, air, and distance as possible relative to the existing Lenox Terrace residential buildings, and would allow for the maintenance of unbuilt-upon areas at the site and the conversion of such areas from predominantly parking to predominantly usable open space.

As determined in the EIS, the proposed actions would result in significant adverse environmental impacts related to open space, shadows, historic resources, pedestrians, and construction-period pedestrians and noise. As described in Chapter 21, “Mitigation” of the EIS, a number of the potential impacts identified for the proposed project could be mitigated; however, in some cases, impacts could not be fully mitigated. As described in Chapter 22, “Alternatives,” of the EIS, no reasonable alternative could be developed which eliminates the proposed projects’ unmitigated significant adverse impacts without substantially compromising the proposed project’s stated goals.

**Comment 31:** Areas with a commercial C6-2 designation are normally found in the central business district and regional commercial centers of cities, such as the 34th Street corridor that travels through Herald Square, Times Square, and the Bronx Shopping Terminal on 149th Street. They are not found in residential areas such as the current Lenox Terrace property, nor does any other similar commercial zoning exist in the surrounding Community Board 10 Central Harlem area, except on 125th Street. By allowing Lenox Terrace to become a commercial zoning district C6-2 property, which would open the door for the development of overscale retail stores, a cascade of negative impacts will affect the surrounding Central Harlem community, especially with regards to parks and recreation. (Kane\_018)

**Response:** The proposed zoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. See also the responses to Comment 4 and Comment 64.

**Comment 32:** LT-ACT understands and accepts that the Olnick Organization has the right to build on their property without the zoning change. The current residential zoning district R7-2, with a very limited C-1 commercial overlay, allows for smaller-scale neighborhood retail development. As an example, Park West Village, an apartment complex between 97th and 100th Streets on Columbus Avenue, was able to develop a series of new hi-rise buildings next to the older, traditional, group of buildings, along with new commercial retail stores. This new development was built with the exact same R7-2 zoning as Lenox Terrace and, virtually, all of Harlem. The current R7-2 residential zoning district, with a very limited C-1 commercial overlay, would also allow—under the current “Housing New York: Zoning for Quality and Affordability” modifications of 2015—limited height and floor area bonuses for providing Affordable Senior Housing and Long Term Care. (Kane\_018)

**Response:** Comment noted. As described in Chapter 1, “Project Description,” of the EIS, the increase in residential density from R7 to R8 is necessary to facilitate the proposed project. However, the proposed rezoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. A commercial overlay is a C1 or C2 district mapped within residential districts to serve local retail needs (e.g., grocery stores, dry cleaners, and restaurants).

**Comment 33:** It is understood that development is needed in the City. But we can create livable infill in Harlem and Lenox Terrace that sustains a positive quality of life for the community. That zoning from Lenox Terrace should remain a contextual residential zoning. (Washington\_029)

**Response:** It should be noted that neither the current R7-2 zoning district, nor the proposed (as revised) R8 district are “contextual districts;” however, as more fully discussed in EIS Chapter 2, “Land Use, Zoning and Public Policy,” the proposed project would result in buildings no higher than Harlem Hospital across 135th Street and thus would be contextual to the neighborhood. Furthermore, the application was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay, to ensure contextual commercial uses would be developed. Commercial overlay districts are mapped within residential districts to serve local retail needs (e.g., grocery stores, dry cleaners, and restaurants). R8 residential zoning districts are mapped in three locations within ¼-mile of the project area: the east blockfront of Adam Clayton Powell Jr. Boulevard between West 136th and 137th Streets; the area north of East 138th Street and east of Fifth Avenue, adjacent to the Harlem River; and the block east of Fifth Avenue between East 131st and 132nd Streets.

**Comment 34:** The DEIS inappropriately determines that the proposed project—which would allow a first-ever destination-retail center and enormous new luxury development in an otherwise small-scale residential neighborhood—finds that there would be no significant impact on land use. The DEIS arrives at this conclusion by overlooking the difference between the proposed C6 zoning, described as appropriate for “the central business district and regional commercial centers,” and the current residential zoning with small commercial overlays “designed to provide for local shopping” that is “relatively unobjectionable to nearby residences.” These are, in fact, conflicting uses that indicate that the project will have a significant adverse impact on land use and public policy in the area, and the DEIS must reflect that. (Carpenter-Gold\_TRJ\_057)

While Olnick’s renderings of their proposed development depicts restaurants, cafes, and grocery stores, a Commercial Zoning District C6-2 designation would set a precedent allowing for future overscale commercial development of the property and the area, such as Target and Home Depot retail stores. Olnick’s past and current behavior with residents of Lenox Terrace gives little confidence that they will not, in the future, invite to the property and neighborhood large, overscale, commercial business. (Kane\_018)

**Response:** The proposed rezoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. R8 residential zoning districts are mapped in three locations within ¼-mile of the project area: the east blockfront of Adam Clayton Powell Jr. Boulevard between West 136th and 137th Streets; the area north of East 138th Street and east of Fifth Avenue, adjacent to the Harlem River; and the block east of Fifth Avenue between East 131st and 132nd Streets. Commercial overlay districts are mapped within residential districts to serve local retail needs (e.g., grocery stores, dry cleaners,

and restaurants). The FEIS evaluates the potential land use, zoning and public policy effects of the proposed rezoning to a R8 and R8/C1-5 district in Chapter 2, “Land Use, Zoning and Public Policy,” and concludes that the proposed actions would not result in any significant adverse impacts to land use, zoning, or public policy.

**Comment 35:** There’s nothing wrong with the population density as a kind of abstract concept but I thought the proponents were a little bit evasive not about density per se, but about density effects. (Sorkin\_027)

I think having open space available in the middle of it, there’s open space available in the middle of it now. I know it’s a parking lot, which may not be green space so to speak but it is open space. But I think by crowding it with more buildings, five buildings at that, it’s just too much. I think it’s too much. (Smith\_028)

**Response:** The EIS assesses the potential environmental effects that would be generated by the increase in density that would result from the proposed actions. See also the response to Comment 33.

## SOCIOECONOMIC CONDITIONS

**Comment 36:** At [the project’s] proposed scale, it promises to change the physical and socioeconomic character of Central Harlem. According to the construction timeline, the population of the Project Area, which is equivalent to three square city blocks, is expected to double within seven years. Forty-two other development projects within ½-mile of the Project Area are expected to be built during the same period. As a result, the Proposed Project has generated enormous concern among area residents. (Brewer\_MBP\_002)

**Response:** The analyses presented in Chapter 3, “Socioeconomic Conditions,” of the EIS account for the proposed project’s scale in evaluating the potential for both indirect residential and business displacement. The analyses consider conditions in the future with the development projects anticipated to be completed within the study areas by 2023 and 2026. The potential impacts of the proposed actions are considered against these background conditions. Specific to indirect residential displacement, the proposed actions under MIH would result in the development of between 411 and 493 residential units designated as permanently affordable pursuant to the MIH program on the Lenox Terrace site, as well as the potential future development of 21 affordable units on the projected future development site. This amount of affordable housing is greater than any other project planned within the ¼-mile study area by the proposed project’s 2026 analysis year and would be the third-largest amount introduced within the larger ½-mile study area (after the East Harlem MEC and Sendero Verde projects facilitated by the East Harlem Rezoning). The proposed project’s permanently affordable housing

would represent between 84 and 87 percent of the total amount of affordable housing projected to be built within the ¼-mile study area by 2026, and would represent between 16 and 18 percent of the total amount of affordable housing projected to be built within the ½-mile study area by 2026. The proposed project's contribution to the permanently affordable housing stock in the study area would help to maintain a wider range of income demographic when considered in this context.

The proposed project's physical scale is addressed in EIS Chapter 8, "Urban Design and Visual Resources," while Chapter 18, "Neighborhood Character," considers both physical and socioeconomic factors. Both analyses concluded that the proposed actions would not result in significant adverse impacts.

#### *INDIRECT RESIDENTIAL DISPLACEMENT*

**Comment 37:** The DEIS's reference to the *CEQR Technical Manual* is unavailing for three reasons. First, adherence to the *CEQR Technical Manual* is not necessarily sufficient to satisfy CEQR or SEQRA, especially in cases where—as here—there are clear signs that residential displacement is likely to occur as a result of the project. Second, the DEIS does not, in fact, adhere to the *CEQR Technical Manual*: it fails to determine whether the trend is occurring in "the vast majority" of the area or only "within smaller portions of the study area." This analysis is particularly necessary for this project, which is occurring in an area with a wide mix of incomes and rents—with rent-stabilized apartments and public housing alongside market-rate buildings—and is therefore likely to have variations in trends within the study area. Finally, the analysis was able to determine only that there exists an upward trend in rents and incomes, not the actual amount of the increase, meaning that the DEIS provides no income on the magnitude of the preexisting trend, and therefore will not help decision-makers determine the likelihood that the proposed project will accelerate such trends. (Carpenter-Gold\_TRJ\_057)

The current proposal to add an additional 1,200 units of market rate housing will exacerbate the displacement of existing residents. (Gooding\_UDC\_003)

**Response:** The *CEQR Technical Manual* is an appropriate guidance document for performing environmental review under CEQR (as well as under SEQRA, for projects located within New York City). In addition to *CEQR Technical Manual* guidance, the EIS analyses are informed by public comments on the Draft Scope of Work (DSOW), the subsequent Final Scope of Work (FSOW), and direction from reviewing agencies.

The commenter's claim that the EIS analysis of potential indirect residential displacement does not adhere to *CEQR Technical Manual* methodologies is incorrect. The analysis in Chapter 3, "Socioeconomic Conditions," applies CEQR guidance and the data available—including US Census data and online real estate



databases—in finding that there is a readily observable trend toward increased rental housing prices within the broader ½-mile study area, as well as within a more immediate ¼-mile study area surrounding the rezoning area.

For geographies as small as a census tract, the ¼-mile study area, or even the ½-mile study area, the Census ACS sample sizes are often too small to report with statistical confidence the estimated amount of increased rent. Due to these data limitations, the FEIS analysis does not rely on a percent-change-in-rent statistic to make findings; rather, the analysis relies on data that can be reported with statistical confidence—that there has been a pervasive trend of increasing rents within the ¼-mile and ½-mile socioeconomic study areas. Please see also the response to Comment 40.

**Comment 38:** It has been historically demonstrated that major developments that consist of mainly market rate units increase rents, property values, and taxes in the catchment areas where such developments are located. The Lenox Terrace block is surrounded by many properties owned by senior African Americans with limited income, thereby putting such property owners at risk of higher property taxes and precluding African Americans the option of living in a neighborhood that we historically enjoy. (Harris\_ CB10\_001) (Moore\_CB10\_039) (Tajiddin\_CB10\_026)

According to LT ACT (from the accounts of the pending litigation whereby Lenox Terrace has been charged with illegally deregulating rent stabilized apartments), there is a strong implication that the owners of Lenox Terrace are the key driver of displacement and destabilization in Harlem. This unspoken reality leaves residents of Lenox Terrace vulnerable. (Harris\_ CB10\_001)

The community’s concerns are not unreasonable or unfounded. Twelve-hundred of the proposed 1,700 dwelling units will be market-rate. This would result in a significant shift in the area’s demographic composition; new residents will have much higher income levels. Other speakers stressed a fear that the plan would hasten gentrification and displacement of current Harlem residents. (Brewer\_MBP\_002)

**Response:** Chapter 3, “Socioeconomic Conditions,” of the EIS analyzed the potential for the proposed actions to result in significant adverse impacts related to indirect residential displacement. According to the *CEQR Technical Manual*, the objective of the indirect residential displacement analysis is to determine whether a 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. The EIS analysis finds that the proposed actions would introduce a new population with incomes that—on average—exceed the average of the existing study area population. However, the proposed actions under MIH would result in the development of between 411 and 493 residential units designated as

permanently affordable pursuant to the MIH program on the Lenox Terrace site, as well as the potential future development of 21 affordable units on the projected future development site. Given an existing, prevailing trend toward increased rents that is expected to occur with or without the proposed actions, the proposed actions' contribution to the permanently affordable housing stock in the study area would help to maintain a wider range of income demographic within the study area. Please also see the responses to Comment 37 and Comment 40.

**Comment 39:** This precedent setting rezoning proposal must be halted. As a community leader, I urge you to not be complicit in this dangerous rezoning change that will escalate rents, erode both culture and sense of community. (Paterson\_013)

**Response:** Comment noted. The analysis of indirect residential displacement in Chapter 3, "Socioeconomic Conditions," considers the potential effects of the proposed actions on study area rents, and Chapter 18, "Neighborhood Character" considers both physical and socioeconomic factors in finding that the proposed actions would not result in significant adverse impacts due to changes in community character.

**Comment 40:** The DEIS's conclusion that there would be no significant impact as a result of the proposed project is based on an insufficient analysis. The DEIS finds that there will be an increase to rents in the area as a result of the project, but inappropriately ignores this fact, concluding that there will be no significant impact on indirect residential displacement. The only basis the DEIS provides for overlooking the increased rents is that rents are currently increasing in the immediate area. This is an insufficient reason to determine that there will be no significant impact on secondary residential displacement: the fact that there is a current trend toward higher rents does not mean that further luxury development will not accelerate or extend that trend in a manner that would not have occurred under the No Action condition. (Carpenter-Gold\_TRJ\_057)

The current proposal to add an additional 1,200 units of market rate housing will exacerbate the displacement of existing residents. (Gooding\_UDC\_003)

**Response:** The EIS analysis of indirect residential displacement in Chapter 3, "Socioeconomic Conditions," adheres to the Final Scope of Work, *CEQR Technical Manual* guidelines, and guidance from DCP in evaluating whether the project could affect study area rents in a manner that could significantly alter or accelerate existing trends. As presented in Chapter 3, according to the 2012-2016 American Community Survey (ACS), average and median gross rents have been increasing in the study area since 2000. In particular, the study area gross rents increased at significantly greater rates than that of Manhattan and New York City, Census 2013-2017 ACS estimates indicate that about half of study area households pay under 30 percent of their household income toward rent—renters

who allocate more than 30 percent of income toward gross rent are considered “rent burdened” as established by the U.S. Department of Housing and Urban Development. The percentage of rent-burdened households in the study area has been increasing over time. Given the prevailing study area trend toward increased rents, the proposed project’s permanently affordable units (25 to 30 percent of residential floor area) would over the long term help maintain rents at prices affordable to existing study area residents. Please also see the response to Comment 38.

As stated in the EIS, the proposed actions would increase population in the surrounding neighborhood study area by approximately 5.2 percent. This is about 4,000 people on a population of 70,000 people in the neighborhood. While 5.2 percent is technically over the 5 percent threshold for population increase that could trigger secondary displacement, it is only by a small margin. The analysis of the change of rent and income in the study area showed that rents and income population are already increasing in the neighborhood. With this data the EIS concluded that the proposed actions would not accelerate secondary displacement of area residents.

**Comment 41:** As a community, gentrification, it goes without saying that adding structures like this will further gentrify—Harlem itself is going through a mass gentrification. It’s not something necessarily that can be stopped so to speak. But it is something that we can control for. It is not helpful to the tenants. (Smith\_028)

**Response:** The EIS analysis, following the Final Scope of Work and *CEQR Technical Manual* guidelines, finds that the proposed project would not result in significant adverse impacts from indirect residential or business displacement. Please also see the responses to Comment 38 and Comment 40.

**Comment 42:** The DEIS determines that the proposal “is not expected to induce any significant additional growth beyond that identified and analyzed” in other chapters. The only basis for this is the claim that there is a preexisting trend in rents and residential development in the general area. But the project could accelerate or extend this trend, meaning that it would create additional growth, and the DEIS cannot even quantify the current rate of rent increase, let alone project future rent increases with enough accuracy to determine that the project would have no effect on them. And the simple logic of neighborhood change demonstrates that such growth is, in fact, likely to occur: increased property value as a result of the rezoning will put upward pressure on neighboring property values, raising both rent and property taxes, and further accelerating the rate at which low-income people are pushed out of the area. (Carpenter-Gold\_TRJ\_057)

**Response:** Please see the responses to Comment 37 and Comment 38.

**Comment 43:** I never thought I'd ever be defending Le Corbusian slab architecture. In truth, I'm not. I'm here to put on my economist hat and argue against the underlying theorizing that developers use to justify this kind of project. The same theorizing that I have found is gripped Vicki Been, John Mangin, REBNY, and the Mayor on how to deal with high housing crises. The theory behind all this is a kind of Reaganite, supply side, trickle-down fundamentalism. It's an anti-regulatory ideology that since the early 2000s has been brought out of obscurity by Edward Glaeser, an economist who got the backing of the Manhattan Institute to popularize his ideas. The theory goes like this, that the cause of the high real estate prices is imagined to be zoning regulations. And, therefore, we must unfetter the real estate developers from these regulations so they can build like crazy. If they build like crazy enough, housing prices will start to fall, not a short-term mini-drop, but a long-term sustained drop. For example, prices of high end luxury units of 25,000 square foot duplexes facing Central Park, those prices will fall and then the price will fall drip over many years for people who rent mattresses in the basement apartment in the outer boroughs. There's a lot wrong with this theory, as an economist. First and foremost, that it has never worked anywhere in big cities. And it's only sort of worked in remote suburbs surrounded by farmland where ticky-tacky little houses all in a row were the construction norm. Second, its theoretical underpinnings in New York City are laughable. Homogenous consumers, substitute ability among types of housing units, the trickle down effect in general, the perfect competition among skyscraper builders to name a few. It also assumes that we can infinitely penetrate sky dome without significant social costs and negative externalities. And in the end, it's not ethical economic theorizing at all but schilling for a libertarian government regime that the real estate industry adores.

One of these negative externalities and social costs that is popular to talk about in New York City now is the displacement that the build-baby-build policies generate. And the data is stacking up that displacement is real; from Tom Angotti's work here in New York City to Donovan Rypkema's work in the Upper East Side to economist Yonah Freeman's work in the effects of upzoning in Chicago. The lesson? Harlem has already been deluged with speculative real estate capital that seeks to make money off gentrification; this project would just add fuel to the fire. Enough already! In the end, the causes of New York City's affordable housing crisis are many, but none of them really have to do with restrictions on height. The alternative policies to address those causes are complicated, less simple-minded than the build-baby-build notion Glaeser and his allies promote, and so they need to be the subject of additional testimony, but suffice to say here that unfettering real estate developers to do what they want is not one of them. (Ellsworth\_025) (Ellsworth\_035)

**Response:** Comment noted. Please also see the responses to Comment 38 and Comment 40.

**Comment 44:** I think what we see in the studies [of displacement] is both [direct and indirect displacement] happen and both happen fast. Whereas the housing crisis don't fall down fast enough to do the building. You can't build yourself out in the way that the policy is designed. (Ellsworth\_035)

**Response:** Comment noted.

**Comment 45:** Public Advocate Jumaane Williams is introducing legislation asking the Commission to address the ratio of cultural polarity that exists in both the process, the standard process, because it's leaving out a whole plethora of issues that occur at the effects of gentrification. We've noticed that in Williamsburg and other areas, the studies are coming to the surface for us to better understand what those impacts are, largely displacement. So that's specifically around the issue affecting the current rent stabilization civil lawsuit that's currently underway with Olnick and the existing tenants. (Downing\_CB10\_036)

**Response:** Comment noted. Please also see the responses to Comment 38 and Comment 40.

**Comment 46:** Rezoning the most famous African American community in the world out of existence in order to develop a uptown, which is income residents, pricing out of midtown, so that's why they want to come uptown. Wealthy residents to purchase investment property. And vacation for sleepover apartments without having to pay City income taxes. You have AirB&B come in here now in the existing development. (Thornton\_047)

**Response:** Comment noted. The EIS analysis of indirect residential displacement in Chapter 3, "Socioeconomic Conditions," found that the proposed actions would not 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. Existing tenants would not be directly displaced by the proposed project.

#### *INDIRECT BUSINESS DISPLACEMENT*

**Comment 47:** The proposed project would create the only C6 zoning in the immediate area, and so it is likely to attract large-scale retail that will compete with local businesses. The large-scale retailers would likely be able to afford higher rates, and therefore drive up rents and other costs for local businesses, making it unlikely that the current mix of businesses—or any local business at all—would return in the area. (Carpenter-Gold\_TRJ\_057)

**Response:** As indicated in the Foreword and Chapter 1, "Project Description," of the FEIS, in response to public comments the proposed rezoning has been modified to an R8 district with a C1-5 overlay along Lenox and Fifth Avenues and 135th Street. A C1-5 overlay within residential districts is intended to serve local retail needs

(e.g., grocery stores, dry cleaners, restaurants). C1 and C2 commercial overlays are common within the study area. In addition, the applicant has engaged with residents and community stakeholders to determine the most desired mix of retail tenants for the proposed commercial space within the project. Please also see the response to Comment 30.

**Comment 48:** Olnick must agree that a detailed plan for the retail corridor will be developed; one that is approved by LTDC and CB10 Economic committee; a plan that includes: uses, type (local vs. destination), rent concessions for small business, incorporates existing street vendors, a coop share for local small businesses. (Harris\_CB10\_001)

**Response:** The retail tenants for the proposed development have not yet been determined and will be a function of market conditions. However, the applicant has engaged with residents and community stakeholders to determine the most desired mix of retail tenants for the proposed commercial space within the project.

**Comment 49:** The C6-2 rezoning that the applicant is seeking will have major implications on surrounding homes and small businesses thus requiring a community driven approach and study. Despite the applicant's renderings of commercial space occupied by small vendors and cafes, a C6-2 zoning would allow big box retail stores historically limited to large commercial hubs such as Times Square. Such an addition to Central Harlem would threaten the viability of surrounding small businesses and overburden the local public transit infrastructure. (Gooding\_UDC\_003)

As indicated in the Foreword and Chapter 1, "Project Description," of the FEIS, in response to public comments the proposed rezoning has been modified to an R8 district with a C1-5 overlay along Lenox and Fifth Avenues and 135th Street. A C1-5 overlay within residential districts is intended to serve local retail needs (e.g., grocery stores, dry cleaners, restaurants). C1 commercial overlays are common within the study area. It is expected that the proposed project's commercial mix would include a combination of local and destination retail stores, not to include "big box" retail. The EIS in Chapter 3, "Socioeconomic Conditions," addresses the proposed actions' potential for indirect business displacement, while Chapter 13, "Transportation," addresses potential transit impacts. Those analyses determined that the proposed actions would not have significant adverse impacts related to indirect business displacement or transit. Olnick's requested rezoning would create a high-density commercial district allowing for large-format retail-essentially a giant shopping mall-on top of Lenox Terrace. It would create a C6-2 district covering the entire development, which would allow for a large number of commercial uses not currently permitted, as well as far greater density of commercial use. Specifically, the current zoning allows for local uses such as small retail, groceries, and cafes and restaurants,

mostly within 100 feet of the street. Olnick’s requested rezoning would allow much higher commercial density throughout the entirety of Lenox Terrace, and would allow for many more uses. These uses include department stores and large variety stores—stores like Wal-Mart and Target—that would completely disrupt the local area. The DEIS at some points admits that the commercial rezoning will lead to “destination retail tenants.” In fact, the DEIS even states that it assumes that new retail “could be split evenly” between local and “destination” retail” (although the DEIS never explains the basis for this assumption). Elsewhere, the DEIS argues in favor of placing new shopping malls in Central Harlem, on the ground that “Harlem is in the midst of a retail transformation from small-format retailers to large-format stores,” and adding a big-box store at Lenox Terrace would be “in-line with existing trends.” In other words, the application argues that the 125th St. rezoning—and all the “destination retail” that came with it—is the future of Harlem.

But the remainder of the DEIS contradicts this, treating the new development as if it will consist entirely of local retail and service—uses that are already permitted by the current zoning. First, the renderings included in the DEIS, as well as those presented to the City Planning Commission when the application was certified for the Uniform Land Use Review Procedure, show local retail uses such as a coffee shop, restaurant, and supermarket. These would not require a commercial upzoning. Although the contrast between the renderings and the requested rezoning was pointed out by Commissioner Levin, and the Department of City Planning (DCP) apparently discussed the possibility of changing only the residential zoning with Olnick, there is no explanation of the discrepancy between the figures in the DEIS and the actual commercial development that is likely to occur. Presenting these images as the face of the project is misleading, to say the least.

Other areas of the DEIS completely deny the possibility of new “destination” retail, in direct contradiction with the admission above. The DEIS’s description of the square footage of the predicted new uses states that all new retail development will be local. Similarly, the description of neighborhood character states that the project “would not add uses not already present” in the general area. But nothing like the large-format retail stores the proposed project would bring actually exist nearby. (TRJ\_019) (Carpenter-Gold\_TRJ\_057)

**Response:** As indicated in the Foreword and Chapter 1, “Project Description,” of the FEIS, in response to public comments the proposed rezoning has been modified to an R8 district with a C1-5 overlay along Lenox and Fifth Avenues and 135th Street. A C1-5 overlay within residential districts is intended to serve local retail needs (e.g., grocery stores, dry cleaners, restaurants). C1 and C2 commercial overlays are common within the study area. The applicant’s intent is to provide mostly neighborhood-oriented retail uses to serve the population in the rezoning area and the residents and workers in the surrounding area. For the EIS, reasonable retail

split assumptions (assumed to include half local and half destination retail uses) which do not include “big box” retail were used in the analysis in Chapter 13, “Transportation,” to provide for a conservative assessment of potential impacts.

*DIRECT BUSINESS DISPLACEMENT*

**Comment 50:** Part of the basis for the DEIS’s conclusion that eliminating all businesses in the project area would have no impact is that the project would create commercial space. The DEIS fails to analyze the likely makeup of the tenants of the new commercial space, which is necessary to determine the project’s potential socioeconomic impact and effect on neighborhood character. (Carpenter-Gold\_TRJ\_057)

**Response:** The analysis in Chapter 3, “Socioeconomic Conditions,” adheres to the Final Scope of Work and *CEQR Technical Manual* guidelines in determining that the proposed actions would not result in significant adverse impacts due to direct business displacement. The *CEQR Technical Manual* advises consideration of the following factors in determining the potential for significant adverse impacts: whether the businesses to be displaced provide products or services essential to the local economy that would no longer be available in its trade area; and whether a category of businesses is the subject of other regulations or publicly adopted plans to preserve, enhance, or otherwise protect it. As detailed in Chapter 3, “Socioeconomic Conditions,” while all businesses contribute to neighborhood character and provide value to the City’s economy, because there are alternative, comparable sources of goods and services within reasonable walking distance, the potentially displaced businesses are not of critical value to the socioeconomic conditions of the area as defined by CEQR.

As part of the assessment of potential indirect business displacement, Chapter 3, “Socioeconomic Conditions,” considers whether the proposed actions add to the concentration of a particular sector of the local economy enough to alter or accelerate an ongoing trend or to alter existing patterns. As detailed in Chapter 3, the increment of approximately 40,000 sf of ground-floor retail resulting from the proposed actions would not be enough to alter or accelerate an ongoing trend or existing pattern; the study area contains approximately 3.5 million sf of retail space including many large-format retailers, and the study area has over 120,000 sf of retail planned in the future without the proposed project.

**Comment 51:** All of the 15 businesses have leases. On their leases we have a 90 day construction clauses, which means that with a 90-day notice from our management, that we can be kicked out any time just like this. We’re going to start construction, you get out. So without any written or any kind of promises—even though I was told by the management that we would have priority once the project is done, then we’ll come back to the same places or even better places. But without any



promises, without any written contract or anything written, our businesses will who serve more than 100 families depending on us. There's no official communication from management that we'll be afforded or guaranteed to come back. We will be in – I guess we'll be gone. I don't think any of us will survive eight, nine years construction period. Just going out there and oh, once the project is done then come back. But at what rate? Will we have to pay \$30,000 rent? I don't think anybody will be able to survive eight, nine—even – not business live stream, business income coming in. (Kim\_034)

**Response:** The concern cited is not the subject of CEQR analysis. The CEQR analysis of direct business displacement in Chapter 3, "Socioeconomic Conditions," conservatively assumes that existing businesses would not tenant new retail space. As detailed in Chapter 3, while all businesses contribute to neighborhood character and provide value to the City's economy, because there are alternative, comparable sources of goods and services within reasonable walking distance, the potentially displaced businesses are not of critical value to the socioeconomic conditions of the area as defined by CEQR, and their potential displacement would not result in significant adverse impacts.

**Comment 52:** All of the 15 business have business leases. [They] don't have any online presences. So we heavily depend on our business, on foot traffic. So if this project goes on and up, putting more people [in]to a neighbor[hood], it could be very good for our business, which means more foot traffic, we'll make a lot more money. (Kim\_034)

**Response:** Comment noted.

**Comment 53:** We'd like to have the [re]location plan that 15 businesses can go—once the—it's not going to buy six buildings and start construction at the same time. One will be started and the first is complete and once they're completed and then we can relocate again into a newly constructed building and then once—when the building's complete, then we can come back. I understand. They don't—I mean, the management is [in a] hard position, they cannot promise anything. But if it's possible, we would like to know if there was anything that was written on paper that there was some kind of relocation plan that we can renew the contract, building and then come back. (Kim\_034)

**Response:** Comment noted. Please see the response to Comment 51.

**Comment 54:** But this plan would economically endanger the residents that are presently living in the six-story building. With retail at ground level. The rezoning would exert enormous economic pressures on Lincoln Houses, which is across the street from me on Fifth Avenue, which are really low. I think they're six stories high. And they being converted into a market rate complex also. Local merchants will

virtually be vanished. I heard part of the man that spoke earlier because he was not be coming back to have his store again. (Thornton\_047)

**Response:** The EIS in Chapter 3, “Socioeconomic Conditions,” addresses the potential socioeconomic effects of the project in terms of direct business displacement, as well as indirect (or secondary) residential and business displacement. The analyses found that the proposed project would not result in significant adverse impacts as defined by CEQR. Please also see the response to Comment 51.

**Comment 55:** The DEIS incorrectly determines that the elimination of all of the businesses currently located in the project area would have an insignificant impact. The proposed action would evict a Goodwill, a grocery store, several restaurants and local retail stores, and a Chase Bank. The Goodwill will be a particularly hard loss for the area, as it is an important shopping center for low-income families, and there are no other Goodwill locations in Manhattan north of 125th St. The DEIS also inappropriately glosses over the loss of the supermarket that serves Lenox Terrace by referring to other supermarkets about a quarter-mile away; the loss of the supermarket next door would be a significant impact on residents’ lives, particularly residents who are elderly or otherwise have difficulty walking that distance. (Carpenter-Gold\_TRJ\_057)

**Response:** The EIS analysis of direct business displacement in Chapter 3, “Socioeconomic Conditions,” correctly applied the methodology and guidelines of the FSOW and *CEQR Technical Manual* in determining that the proposed project would not result in significant adverse impacts as defined by CEQR. The *CEQR Technical Manual* advises consideration of the following factors in determining the potential for significant adverse impacts: whether the businesses to be displaced provide products or services essential to the local economy that would no longer be available in its trade area; and whether a category of businesses is the subject of other regulations or publicly adopted plans to preserve, enhance, or otherwise protect it. As detailed in Chapter 3, “Socioeconomic Conditions,” while all businesses contribute to neighborhood character and provide value to the City’s economy, because there are alternative, comparable sources of goods and services within reasonable walking distance, the potentially displaced businesses are not of critical value to the socioeconomic conditions of the area as defined by CEQR. The assessment in Chapter 3 specifically addresses grocery stores and discount clothing stores.

## **COMMUNITY FACILITIES**

**Comment 56:** Not to mention what it’s going to mean for Harlem Hospital, not just in terms of environmental concerns but the hospital already is overwhelmed with patients and adding another 1,600 units right across the street would, also, I’d imagine

overwhelm Harlem Hospital, as well as school districts there are nearby. (Smith\_028)

**Response:** In accordance with the *CEQR Technical Manual* and as described in EIS Chapter 4, “Community Facilities,” a detailed assessment of potential effects on healthcare facilities is conducted only if a proposed project would affect the physical operations of, or access to and from, a hospital or a public health clinic or where a proposed project would create a sizeable new neighborhood where none existed before. Those criteria are not applicable to the proposed project. For informational purposes, a description of existing health care facilities serving the project area is provided in Chapter 4. An analysis of potential effects on public schools is provided in Chapter 4, “Community Facilities” of the EIS. That analysis concluded that the proposed actions would not have a significant adverse impact on public schools.

**Comment 57:** The proposed towers and “destination” retail would threaten to put an unsustainable burden on community resources, including Harlem Hospital. (Paterson\_013)

The requested C6-2 zoning is the same zoning as downtown Brooklyn and even larger than Bronx Terminal Market—imagine a Bronx Terminal Market inside Lenox Terrace! The change in zoning would allow for neighborhood-altering mega-structures that would threaten to put an unsustainable burden on community resources, including Harlem Hospital. (Shebar\_LT-ACT\_010)

**Response:** The proposed rezoning was modified subsequent to the DEIS public hearing in response to public comments, to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. C1-5 commercial overlays permit residential-serving neighborhood retail uses. Furthermore, the proposed project would be governed by a Restrictive Declaration which would restrict the size and distribution of retail space to what is shown on the site plan. See also the response to Comment 56.

**Comment 58:** You have extra, 4,000 more people using the hospital, the library, the bank. They’re already crowded. (Jackson\_044)

**Response:** As discussed in Chapter 4, “Community Facilities and Services,” population increases attributable to the population generated by the proposed project would not be expected to result in a noticeable change in the delivery of library services, or a significant adverse impact related to library services. Regarding healthcare facilities, in accordance with the *CEQR Technical Manual*, a detailed assessment of service delivery is conducted only if a proposed project would affect the physical operations of, or access to and from, a hospital or a public health clinic or where a proposed project would create a sizeable new neighborhood where

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none existed before. None of these circumstances are applicable to the proposed project. See also the response to Comment 56.

**Comment 59:** Kennedy Center needs support. (Brewer\_MBP\_046)

**Response:** Comment noted. The Kennedy Center is privately owned and outside the control of the City and applicant.

**Comment 60:** The DEIS inappropriately ignores the impact that the proposed project would have on emergency services in the immediate area, which will impact public health in the neighborhood and in all areas served by the Harlem Hospital. The proposed project would double the amount of residents of Lenox Terrace, as well as creating new destination-retail space likely to substantially increase foot and vehicular traffic. These changes would both increase the amount of emergency services required—new buildings and commercial uses creating new fire risks, and new residents and large, heavily trafficked stores creating new health and security demands, just to name some examples—and impede delivery of those services by increasing traffic in the area. This omission is particularly glaring given the fact that the project would be located across the street from the Harlem Hospital, the largest hospital in the area. (Carpenter-Gold\_TRJ\_057)

**Response:** As discussed in Chapter 4, “Community Facilities and Services,” according to the *CEQR Technical Manual*, analyses of fire and police protection in not required unless the proposed actions would introduce a sizeable new neighborhood where none existed before. Similarly, regarding healthcare facilities, a detailed assessment of service delivery is conducted only if a proposed project would affect the physical operations of, or access to and from, a hospital or a public health clinic or where a proposed project would create a sizeable new neighborhood where none existed before. None of these criteria are applicable to the proposed project. In addition, when necessary, emergency vehicles can maneuver around and through congested areas because they are not bound by standard traffic controls. Furthermore, the significant adverse traffic impacts identified in the EIS can be fully mitigated. Therefore, incremental traffic volumes projected to occur with the proposed project are not expected to significantly affect emergency vehicle response times in the immediate area. The applicant would coordinate with Harlem Hospital on any temporary moving lane closures that might be required on 135th Street during construction of the proposed project.

**Comment 61:** George James, the respected urban planner, said of this proposed project that this level of infill for a residential community is extraordinary. There’s a feeling sometimes in the City that communities can absorb any amount of development and that is not true. Each community reaches a tipping point of what is livable and sustains a livable quality of life. As Manhattan Borough President, Gale

Brewer said in her disapproval, this project puts a disproportionate impact on local residents, infrastructure, economy and educational resources. (Washington\_029)

**Response:** The EIS considered the potential for the proposed actions to result in significant adverse impacts to community facilities and infrastructure, among other technical areas, in accordance with the Final Scope of Work and the guidelines of the *CEQR Technical Manual*. The analyses presented in the EIS concluded that the proposed actions would not have a significant adverse impact on infrastructure or community facilities, including educational resources. See also the response to Comment 33.

#### OPEN SPACE

**Comment 62:** Olnick must agree to a well conceived plan [in which] open space is protected. (Harris\_CB10\_001)

**Response:** The proposed actions would not directly displace any existing open space resources. Chapter 5, “Open Space,” and Chapter 6, “Shadows,” of the EIS analyze the potential effects of the proposed actions on open space resources. The EIS concluded that the proposed actions would result in a significant adverse shadows impact to the Howard Bennett Playground on the December 21 analysis day, and would result in a significant adverse open space impact in the 2026 With Action condition due to the anticipated reduction in the open space ratio. Mitigation measures for these impacts were developed in consultation with DCP and NYC Parks, and will consist of facility enhancements at the Howard Bennett Playground and the Hansborough Recreation Center. With the implementation of these mitigation measures, the impacts would be considered partially mitigated.

**Comment 63:** The DEIS study area has an overall open space ratio of 0.678 acres per 1,000 residents. This is significantly lower than the CEQR guideline of 2.5 acres of combined active and passive open space per 1,000 residents. The DEIS concludes that the open space expected to be created in connection with the proposed project would offset an anticipated loss of existing open space. However, the open space created will be exclusive to residents of the Lenox Terrace complex. This proposal creates a disparity in access and in the amount of open space available to area residents and those of the new development. (Brewer\_MBP\_002)

The proposed rezoning would lead to a huge jump in population in the area-about 2,000 new apartments, which Olnick’s own estimates would bring 3,500 new people. In other words, the population of Lenox Terrace would basically double (from DSOW). This would put substantial pressure on the Hansborough Recreation Center as well as parks and playgrounds in the immediate area, which serves youth, young adult, adult and senior populations. (Kane\_018)

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I don't think [the idea of absolute numbers is] so relevant. But the idea that [the introduction of] a lot of people have certain effects on existing facilities and possibilities. You know, how much green space per capita and this will definitely reduce it, especially if the green space they're building is not available to the community at large. (Sorkin\_027)

**Response:** The new private open space created by the proposed project would surround the existing and new buildings on the Lenox Terrace campus, and would replace much of the area currently occupied by surface parking. It is currently anticipated that the features of this open space could include a large central lawn, a winding pedestrian promenade lined with trees and garden areas, and four "pocket parks." This new open space would be accessible to both existing and new residents of Lenox Terrace and their guests, and would help to meet their open space needs. However, as identified in the EIS, the proposed project would result in a significant adverse indirect impact to open space according to CEQR methodology which evaluates project-generated changes to the study area's open space ratio (acres per 1,000 resident); the new open space to be created on the Lenox Terrace site is not accounted for in this quantitative analysis. As noted in Chapter 21, "Mitigation," in the FEIS, potential mitigation measures for this impact have been developed in consultation with DCP and NYC Parks and will consist of facility enhancements at the Howard Bennett Playground and Hansborough Recreation Center. See also the response to Comment 6.

**Comment 64:** In anticipation of a major increase in population, the Applicant should provide funds to improve the Howard Bennett and Lincoln Playgrounds, the Hansborough Recreation Center, and the Lt. Joseph Kennedy Center. (Brewer\_MBP\_002)

**Response:** Comment noted. Mitigation measures for the project's open space impact have been developed in consultation with DCP and NYC Parks and will consist of facility enhancements at the Howard Bennett Playground and Hansborough Recreation Center.

**Comment 65:** The rezoning would also drastically increase the potential development of the land on which the Hansborough Recreation Center and Kennedy Center—which primarily serves the senior population of the neighborhood—currently stand. This would lead to pressure on both City Parks and Recreation and Catholic Charities to either develop those properties or sell them to developers, which would further decrease space and programs for recreation in the area. (Kane\_018)

**Response:** Chapter 1, "Project Description" of the EIS explains that given that the Hansborough Recreation Center (Lot 55) is owned by NYC Parks and has been operated as a public recreational facility for over 80 years, redevelopment of this site would require several discretionary actions, including possible State legislative action for parkland alienation. Additionally, per conversations with NYC Parks, there are no plans to relocate this facility. Thus, redevelopment of

this lot is not anticipated to occur as a result of the proposed actions. The Joseph P. Kennedy Memorial Community Center has operated in its facility since 1954 and prior to 1954, the building was also a community facility use, as the Harlem Boys Club. While the site would be rezoned under the proposed actions, the owner of the Kennedy Center—Catholic Charities of the Archdiocese of New York—has indicated that it has no intention of developing the Kennedy Center site, or altering its long established functions. Therefore, development of this site under the rezoning is unlikely in the foreseeable future. In order to provide a conservative analysis, however, the EIS considers this property as a potential development site. With regard to the open space analysis, the facility is not a publicly accessible open space and is not included in the open space analysis under CEQR guidelines.

**Comment 66:** Rather than improving the District’s parks and recreational facilities, Community Board 10 would, by voting yes to Olnick’s request to be rezoned as a C6-2 property, inadvertently pave the way for a decrease in space, programs, and recreation in the Central Harlem area, as well as overburden the capacity of city workers to maintain the cleanliness, sanitation, and aesthetics of the districts’ parks due to population overcrowding. (Kane\_018)

**Response:** The proposed actions would not directly displace any existing open space resources. The proposed project would also introduce a substantial amount (more than six acres) of new private open space on the proposed development site that would be accessible to both existing and new tenants of the Lenox Terrace campus. See also the responses to Comment 4 and Comment 6.

## SHADOWS

**Comment 67:** It is believed that the new buildings will cast major shadows on the old buildings and deprive tenants in the old buildings adequate sunlight. Olnick must offer rent concessions to residents who are inconvenienced by shadows and whose views are compromised as a result. (Harris\_CB10\_001)

**Response:** The EIS evaluates the proposed project’s impact on shadows and air quality. Consistent with the *CEQR Technical Manual*, shadows on private buildings are not subject to analysis, with the exception of shadows on sunlight-sensitive features of architectural resources. Shadows on building façades is a typical environmental effect of development in dense urban areas. It should be noted that the proposed project would comply with all zoning regulations for minimum distance between existing and proposed buildings.

**Comment 68:** [I am concerned with the project’s potential effect on] natural light and its effect upon people who live in this area. The removal of that light at all four corners of this development is detrimental because studies coming out about this in other areas, in other cities, some in Europe, somebody wrote about the effect that

overshadowing has on health of residents who are affected by all of this. (Smith\_028)

**Response:** Comment noted. This is beyond the scope of the environmental review of the project. Consistent with the *CEQR Technical Manual*, the detailed analysis included in the EIS discloses project-generated shadows cast on public open space and architectural resources with sunlight-sensitive features. Incremental shadows are not identified in the *CEQR Technical Manual* as one of the technical areas potentially requiring a review of public health issues. Shadows on building façades is a typical environmental effect of development in dense urban areas. It should be noted that the proposed project would comply with all zoning regulations for minimum distance between existing and proposed buildings.

**Comment 69:** The problem I'm having, along with everybody else's problems, is that building that they've kept vacant on 132nd Street, my terrace faces that building. I live on the fourth floor so I don't have no more sunlight [in the future with the proposed project] because the [proposed] building is 28 stories high and my building right now is 17 stories high. So I can't get a tan on my terrace anymore when the sun comes across. (Thornton\_047)

**Response:** The EIS assessments of the proposed project's impact on shadows and air quality are consistent with the FSO and guidelines under CEQR. Please see the responses to Comment 67 and Comment 68.

**Comment 70:** This dramatic increase in the mass on the site will have easily observable impacts on things like light and shade. The mass of the project will have deleterious impact on light. (Sorkin\_027)

**Response:** The detailed shadows analysis included in the EIS discloses the duration and extent of project-generated shadows cast on sunlight-sensitive resources and shadows cast on project-generated private open spaces within Lenox Terrace. Consistent with the *CEQR Technical Manual*, shadow impacts on vegetation and the usability of public open space are only determined for sunlight-sensitive resources. As detailed in Chapter 6, "Shadows," project-generated shadow would result in a significant adverse shadow impact on one sunlight-sensitive resource, the Howard Bennett Playground, on the December 21 analysis day; the long duration and extent of new shadow on the playground could significantly affect the usability of the resource on this winter analysis day. As detailed in Chapter 21, "Mitigation," mitigation measures for this impact were developed in consultation with DCP and NYC Parks, and will consist of facility enhancements at the Howard Bennett Playground. With the implementation of the mitigation measures, the impact would be considered partially mitigated.



## HISTORIC AND CULTURAL RESOURCES

**Comment 71:** According to CEQR, the Landmark Preservation Council determined that the Lenox Terrace complex appears to be National Register eligible. To date, Olnick has inadequately addressed the historic, architectural and cultural significance of the Lenox Terrace complex. For example, in the existing site plans it is suggested that a six story podium be erected in front of the classic driveway in front of 470 Lenox Avenue. The driveways of Lenox Terrace were a unique feature of the complex during the postwar period; other Harlem buildings built during this period did not have them. The driveways gave the complex a cache; the driveways coupled with a fully suited doorman was a feature that attracted upwardly mobile African Americans to live at Lenox Terrace as both they and their guests arriving to the residence could be dropped off in front of the full service building; it was this element of service and convenience at that time that was only to be experienced in downtown Manhattan.

The CB10 community desires that any proposed development must protect and celebrate the Lenox Terrace architectural relics of the period; in the proposed site plan, the new buildings built at the proposed height would put the Lenox Terrace as originally built, at risk. The plans will overshadow the distinguished architectural gem the Lenox Terrace is known for. Our New York City society at large wants more than photographs, statues, or written information on historic places, hence we have a NYC Landmarks Preservation Commission and New York State Registry of Historic Sites that support the physical brick and mortar that any proposed plan should adhere to. The proposed rezoning and the development of five State Office Building sized towers will dwarf and overshadow the original historic Lenox Terrace buildings character. The Olnick plan will diminish the visibility of such buildings and potentially create an “out of site out of mind” effect. To date, Olnick has not adequately addressed either the negative impacts and how they would mitigate such impacts. (Harris\_CB10\_001)

**Response:** As detailed in Chapter 7, “Historic and Cultural Resources” of the EIS, the New York City Landmarks Preservation Commission (LPC) has determined that the Lenox Terrace complex appears eligible for listing on the State and National Registers of Historic Places for its cultural associations with prominent African Americans in the Harlem community. The EIS concluded that the demolition of the one-story retail structures on the proposed development site would result in a significant adverse impact to historic resources. Mitigation for this adverse effect was developed in coordination with LPC. Mitigation measures will include HABS Level II recordation of the Lenox Terrace complex and an interpretive program. The interpretive program will be installed at publicly accessible locations within the Lenox Terrace site.

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In response to comments received during public review, the applicant has also modified the proposed site plan to eliminate the previously proposed six-story base connecting the two new buildings along Lenox Avenue. In conjunction with this change, the existing single driveway between 133rd and 134th Street would be retained, rather than replaced with the two new driveways shown in the DEIS. The FEIS also identifies that redevelopment of the projected future development site (the Metropolitan AME Church site) would occur within 90 feet of one Lenox Terrace residential building. In response to public comments, Chapter 7, “Historic and Cultural Resources” also has been revised to indicate the possibility that—should standard DOB controls governing the protection of adjacent properties from construction activities not provide sufficient protection—development on the projected future development site and the potential development site could have a direct, physical impact on the Lenox Terrace resource during construction.

**Comment 72:** Community Board 10 disapproves of the Olnick Rezoning Plan ... and sets forth in this Resolution the following conditions [including that] Olnick must agree to a well-conceived plan that is approved by CB10’s Historic Preservation and Arts and Culture committees, Save Harlem Now and other local preservation/arts organizations as well as support an application submission to NYS and Federal Registry of Historic Sites. (Harris\_CB10\_001)

**Response:** As detailed in Chapter 21, “Mitigation,” of the FEIS, mitigation for the project’s adverse effect on historic resources was developed in coordination with LPC. Mitigation measures will include HABS Level II recordation of the Lenox Terrace complex and an interpretive program. The interpretive program will be installed at publicly accessible locations within the Lenox Terrace site.

**Comment 73:** At the [Manhattan Borough President’s public] hearing [on the proposed project, held on November 18, 2019, Councilmember Bill] Perkins distributed a second letter of support for Lenox Terrace residents and opposition to the rezoning, noting the original development’s historical and cultural importance [and] the negative impacts the new development would have on the area. (Kane\_017)

**Response:** Comment noted. The application was modified subsequent to the DEIS public hearing in response to public comments, to eliminate the six-story low-rise building in front of 470 Lenox Avenue and retain the original driveway to this building from Lenox Avenue.

**Comment 74:** The DEIS acknowledges that the proposed project would mar the enormous historical and cultural importance of Lenox Terrace, but does nothing to avoid or mitigate that damage. The DEIS includes a statement from LPC stating that Lenox Terrace “appears to be National Register eligible, for its cultural associations with prominent African Americans in the Harlem community.” Because of the

importance of the development and its site plan, the DEIS determines that “the demolition of the one-story structures on the proposed development site would result in a significant adverse impact to historic resources.” In other words, the DEIS found that the new development would demolish an important piece of Harlem’s history for the sake of unwanted luxury high-rises and large-format retail.

The DEIS also ignores much of the damage to Lenox Terrace. The physical destruction of the retail buildings is bad enough, but the proposed project would also radically alter the layout and design of Lenox Terrace, which is as much a part of the history of the place as the individual buildings. The new luxury apartment buildings will damage the layout and design of Lenox Terrace—for example, by removing the iconic circular driveways in front of 470 Malcolm X Blvd. and 40 West 135th St. Furthermore, the location of new “destination” retail as a wall around the existing buildings will completely change the character of the perimeter from a charming series of neighborhood stores to a shopping mall.

The DEIS provides wildly inadequate mitigation for these harms. The only concrete proposal that the applicant is “consider[ing]” is installing “educational material and displays” about cultural figures somewhere on the property. A plaque on the wall cannot make up for defacing a key Harlem neighborhood. This mitigation proposal should be removed, or else treated as only partial mitigation of the significant impact of the project on the historical and cultural aspects of Lenox Terrace. (TRJ\_019) (Carpenter-Gold\_TRJ\_057)

What I’m saying is that Olnick did not given the consideration that they should to this project and the impact that it will have on our community both in historical terms and in terms of the people who live there. (Adams\_049)

**Response:** The potential effects of the proposed actions on historic and cultural resources are analyzed in EIS Chapter 7, “Historic and Cultural Resources.” The analysis concluded that the proposed actions would have a significant adverse effect on historic and cultural resources. As detailed in EIS Chapter 21, “Mitigation,” mitigation for the project’s adverse effect on historic resources was developed in coordination with LPC. Mitigation measures will include HABS Level II recordation of the Lenox Terrace complex and an interpretive program. The interpretive program will be installed at publicly accessible locations within the Lenox Terrace site. With the implementation of these mitigation measures, the historic and cultural resources impact would be considered partially mitigated. In addition, the application was modified subsequent to the DEIS public hearing in response to public comments, to eliminate the six-story connecting building along Lenox Avenue and maintain the existing driveway in front of 470 Lenox Avenue.

**Comment 75:** I don’t think anyone acknowledges the importance culturally and historically of the Lenox Terrace development. This feeling that you see it—Community Boards, hearings, Borough President’s recommendations. Everyone understands

this is really a gem of Central Harlem. It's not just something that can be preserved in a residence and set aside. It's something that needs to be nurtured through land use planning and through preservation so that future generations can also have access to this place that's a real generator of historical, cultural and political brilliance. So the Landmarks Preservation Commission has also discussed the importance of this site and the possibility of it being eligible for a State and Federal Historic Registry. That's in the application itself and the DEIS. And the new proposal deals serious damage to that historical and cultural nature of this site. It completely changed the site plan. Whatever proposal actually ends up before this Commission, it would be dumping a large amount of new residential density in the middle of something that has become a central Harlem icon. And in the opinion of LT-ACT, this is simply inappropriate. ... There's a compilation of the materials of the historical cultural importance of the area that I'd be happy to provide to the Commission. (Carpenter-Gold\_TRJ\_030)

Peg Breen, the CEO of New York Landmarks Conservancy, recently said in a CBS news interview, that Lenox Terrace is a good place for being a cultural landmark. But then she went even further when she wrote a letter to Gale Brewer, our Borough President, in which she said that the complex of buildings known as Lenox Terrace is worthy of landmark designation. It is an outstanding example of mid-century architecture and planning and has a remarkable cultural and social history. She went further by saying that within a few years of its opening in 1958, residents of the Terrace—as it was often referred to by locals—included a host of elected officials and musicians and actors, et cetera. The complex is significant [not] only for its mid-century modern architecture but also for its cultural history. (Bradley\_043)

And here you've got the Lenox Terrace, which Peg Breen, the head of one of the leading preservation organizations in the nation, says is of architectural distinction representing mid-century architecture and planning as well as cultural and historical significance, and the Landmarks Preservation Commission of the City of New York has said instead that the building cannot be landmarked as a City landmark because it lacks architectural distinction. When I was considered by the Lyman Commission for the Landmarks Preservation Commission and I was asked this question, what would you do when issues of landmarking conflicted with the issues of planning? And I said, there's no such thing in the Landmarks Law that says any improvement representing special character and/or architectural, historical or cultural significance and this building represents all three and should be designated a New York City landmark. (Adams\_049)

**Response:** As detailed in the EIS, LPC has determined that the Lenox Terrace complex appears eligible for listing on the State and National Registers of Historic Places for its cultural associations with prominent African Americans in the Harlem community. The EIS concluded that the demolition of the one-story retail structures on the proposed development site would result in a significant adverse

impact to historic resources. Mitigation for this adverse effect was developed in coordination with LPC. LPC has not determined the Lenox Terrace complex eligible for designation as a New York City Landmark. See also the response to Comment 71.

**Comment 76:** Here's what Ms. Breen said. And, of course, it's absolutely true. On TV, she said if the complex were landmarked, that would not prevent development but it would give the community, the residents, an extra layer of involvement and a greater ability to negotiate with the developer. And that's what I think we deserve, just like people who have landmark properties in other parts of the City. (Adams\_049)

**Response:** Comment noted.

#### URBAN DESIGN AND VISUAL RESOURCES

**Comment 77:** I am not speaking so much about population density but the City as a mass. And this dramatic increase in the mass on the site will have easily observable impacts on things like the view from existing apartments and on light and shade and I assume on—I don't know what analysis they've done on ventilation. But I am volunteering and I would be happy to perform this analysis in greater detail, if you'd like. The mass of the project will have deleterious impact on light, view, atmosphere, scale, crowding and in part, I think a generally claustrophobic effect to the existing buildings. (Sorkin\_027)

**Response:** Under the guidance of the *CEQR Technical Manual*, the analysis of potential impacts to urban design and visual resources focuses on the pedestrian perspective and views from the public realm. The effects of shadows on private open space and buildings are not the subject of CEQR assessment, with the exception of sunlight-sensitive features of architectural resources. The EIS analysis of urban design and visual resources—which was prepared consistent with the Final Scope of Work and *CEQR Technical Manual* guidelines—concluded that the proposed actions would not result in any significant adverse impacts to urban design and visual resources. See Chapter 8, “Urban Design and Visual Resources” of the EIS.

As stated in the “Purpose and Need” section of EIS Chapter 1, “Project Description,” the applicant believes that the proposed actions would allow for the new buildings to be designed in such a way as to provide as much light, air, and distance as possible relative to the existing Lenox Terrace residential buildings. Specifically, the proposed actions would allow for the new buildings to be situated as far away as possible from the existing residential buildings. In addition, by situating the new construction at the corners of the site, it is the applicant's intention that the proposed project would minimize effects on views from existing apartments. Furthermore, the majority of new construction would take the place of existing one-story commercial buildings, allowing for the

maintenance of unbuilt-upon areas at the site and the conversion of such areas from predominantly parking to predominantly usable open space.

**Comment 78:** As Manhattan Borough President, Gale Brewer, and the CB10 mentioned in their opposition recommendations to this project, it is completely out of scale for a residential community. (Washington\_029)

One component of density, of course, is scale. And this is clearly out of scale, not only with the Lenox Terrace but with the general character of its surroundings. So there is a density of the materiality that I think is completely misplaced. (Sorkin\_027)

**Response:** Chapter 2, “Land Use, Zoning and Public Policy” and Chapter 8, “Urban Design and Visual Resources” of the EIS analyze the potential for adverse effects due to the scale of the proposed development and concluded that it would not result in significant adverse impacts. The scale of the development permitted under the proposed R8 zoning would be compatible with existing buildings within the rezoning area, and would be similar to an R8A district located in the southwest portion of the study area. However, under the proposed large-scale special permit, not all of this permissible FAR would be utilized by the proposed project, which would be limited to an FAR of approximately 5.61, and the maximum height of the proposed buildings would not exceed a height of 284 feet, reflective of the Harlem Hospital Center across West 135th Street from the site.

R8 residential zoning districts are mapped in three locations within ¼-mile of the project area: the east blockfront of Adam Clayton Powell, Jr. Boulevard between West 136th and 137th Streets; the area north of East 138th Street and east of Fifth Avenue, adjacent to the Harlem River, and the block east of Fifth Avenue between East 131st and 132nd Streets. Within these districts, residential development at an FAR greater than that proposed to be utilized at the proposed development site, is permissible in existing conditions. Furthermore, as illustrated in Figure 8-4, “Built FAR within Study Area,” of the EIS, a number of buildings within the study area are constructed to FARs greater than that proposed to be utilized at the proposed development site (5.61).

**Comment 79:** I also alert you to be wary of the propaganda of the image. The perspective view that we’ve seen repeatedly, it’s a street wall, six-story storefront. It looks like very nice. Shimmering in the background is one building pretending to be invisible. That’s not the project. The project is for a series of overscaled towers that will decidedly and negatively impact both the existing residents and the neighborhood. (Sorkin\_027)

**Response:** Chapter 8, “Urban Design and Visual Resources,” of the EIS provides illustrative renderings of the proposed project as well as the massing of the potential future development on the projected future development site and the potential future

development site. The renderings provide a comparison of views to the rezoning area in the future without and with the proposed actions, from a variety of locations within the ¼-mile study area for urban design and visual resources. The EIS concluded, based on the mass of the proposed buildings, that the proposed actions would not have a significant adverse impact on urban design and visual resources.

**Comment 80:** We were concerned about the kinds of contextual building elements that would be used. Building elements should be contextual in substance. This means that the exteriors should consist of materials similar to those found in the existing Lenox Terrace buildings. (Brewer\_MBP\_002)

**Response:** Comment noted. The materiality of the proposed buildings is not governed by the proposed actions or the Restrictive Declaration.

**Comment 81:** Olnick has requested a Special Permit for large scale general development (ZR 74-743) that will provide height and set back relief. The five 28 story towers in the Olnick plan will almost reach as high as the Adam Clayton Powell Jr., Harlem State Office Building and be positioned on the street line rather than set back with open space in the forefront if approved. Such height proposed is generally allowed in areas that can provide considerable set back and open space in the forefront, near parks or on hills, etc. The Olnick plan is way out of the contextual landscape of the area. (Harris\_CB10\_001)

**Response:** The potential for the proposed actions to result in adverse impacts to urban design and visual resources was evaluated in the EIS, consistent with the guidance of the *CEQR Technical Manual*. The EIS concluded that the proposed actions would not have a significant adverse effect on urban design and visual resources. The new buildings on the proposed development site would be much taller than the existing 1-story retail structures they would replace, and approximately 140 feet taller than the existing Lenox Terrace residential buildings (or approximately 100 feet when accounting for mechanical bulkheads on those buildings); however, the height of the proposed buildings (to the top of the mechanical bulkheads) was designed to be consistent with the height of the mechanical bulkhead of the Harlem Hospital Center, directly north of, and across the street from, the proposed development site. The larger residential complexes in the area (both NYCHA [New York City Housing Authority] and privately owned) also are generally 13- to 16-stories tall, like the existing Lenox Terrace development. See also the response to Comment 77.

**Comment 82:** It has been testified by residents that this form of dense redevelopment threatens a neighborhood community that has enjoyed light and air and moderate density. Even the [Victoria Theater Project] which is a towering 26 story building on W, 125th Street—a project under the control of the Empire State Development Corp

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—has honored the spirit of Section 5 of the Voting Rights Act of 1965 and, the 125th Street Special District, whereby it has a 100 feet set back and its housing model is targeted at 50/30/20, which housing income bands are Open, Moderate and Low, respectively. Further, the Victoria building is shorter than the buildings in the Olnick plan. (Harris\_CB10\_001)

**Response:** Comment noted. See the response to Comment 78.

**Comment 83:** I'm concerned about the height. This has been my biggest pet peeve. I live on 135th Street. First of all, the community is so noisy. I've been making a lot of notes when we talk about noise with some of the other developers here. But Harlem Hospital is across the street. I'm on the eighth floor. I can look out my window, the sixth floor is higher than the eighth floor in Lenox Terrace. Harlem Hospital's sixth floor is higher. So I did some research to find out why are Hospital's ceilings so much higher and I couldn't find official information but it did talk about the fact of all the equipment for sanitary purposes. So for development, what gives any developer the right to say that is as high as we want to go. Because there's a reason why hospitals are so tall ceilings and it is not in context with the rest of the community but it's a hospital. (Lyle\_CB10\_053)

**Response:** See the response to Comment 81. The EIS's comparison of the height of Harlem Hospital to the height of the proposed buildings is based on height in feet rather than number of stories.

**Comment 84:** The DEIS incorrectly states that the "proposed actions would not result in any changes to buildings...in the study area," and, partially on the basis of that conclusion, determines that there would be no significant impact on urban design or visual resources. In fact, the proposed project would demolish four buildings at Lenox Terrace and replace them with residential towers far taller than nearly any building in the immediate area. While residential uses to predominate in the area, 30-story buildings do not, and constitute a significant impact on design and views. Plopping a residential complex twice the size of any other in the area on top of a preexisting, well planned design is, by definition, a significant impact on design. (Carpenter-Gold\_TRJ\_057)

**Response:** The EIS correctly states that the proposed actions would not result in any changes to buildings, natural features, open spaces, or streets in the study area. Changes to buildings would occur only within the rezoning area. See also the response to Comment 81.

**Comment 85:** The failure to consider urban design in the DEIS is magnified by the failure to provide comparisons of street-level views from nearby the proposed project site. The only renderings provided of the project site are from a substantial distance away, giving an incorrect understanding of the impact of the project on the overall design of the area. If renderings of the type suggested by the *CEQR Technical*



*Manual* were used, the significance of the design impact would be clear. (Carpenter-Gold\_TRJ\_057)

**Response:** Chapter 8, “Urban Design and Visual Resources,” of the EIS provides illustrative renderings of the proposed project as well as the massing of the potential future development on the projected future development site and the potential future development site. The renderings are consistent with the guidelines of the *CEQR Technical Manual*. The renderings provide a comparison of views to the rezoning area in the future without and with the proposed actions, from a variety of locations within the ¼-mile study area for urban design and visual resources. One additional illustrative rendering has been added to the FEIS, showing views east along 135th Street toward the rezoning area from near Lenox Avenue in the future without and with the proposed actions. The FEIS also provides a rendering of views to the rezoning area from Lenox Avenue near 133rd Street, illustrating the changes to the site plan that were made in response to public comments. The EIS concluded that the proposed actions would not have a significant adverse impact on urban design and visual resources.

#### SOLID WASTE AND SANITATION

**Comment 86:** Here’s another density effect. They’re generating a lot more trash. (Sorkin\_027)

**Response:** As detailed in Chapter 11, “Solid Waste and Sanitation,” of the EIS, an analysis concluded that the proposed actions would not result in a significant adverse impact on solid waste and sanitation services. The proposed actions would not directly affect a solid waste management facility and would not result in an increase in solid waste that would overburden available waste management capacity. Furthermore, the proposed actions would not result in any conflicts with, or require any amendment to, the City’s solid waste management objectives as stated in the SWMP.

#### TRANSPORTATION

**Comment 87:** The subways, they’re already crowded. And the traffic around 3:00, 4:00, there’s no getting from Manhattan to the Bronx or from Bronx to Manhattan expeditiously. (Jackson\_044)

**Response:** The analysis in Chapter 13, “Transportation,” of the EIS was prepared in accordance with the Final Scope of Work and requirements prescribed in the *CEQR Technical Manual*. It addresses potential impacts created by the proposed project and recommends measures to mitigate projected impacts to the extent practicable. As detailed in EIS Chapter 13, “Transportation,” the rezoning area is located near two New York City Transit (NYCT) subway stations: (1) 135th Street (No. 2 and 3 trains); and (2) 135th Street (B and C trains). The EIS transit screening assessment concluded that a detailed analysis of the 135th Street

Subway Station (No. 2 and 3 trains) circulation elements and control areas was warranted for the weekday AM and PM peak hours. The No. 2 and 3 subway lines connect the rezoning area to other areas of Manhattan, as well as the Bronx to the north and Brooklyn to the south. In addition, subway line-haul analyses (for the No. 2 and 3 trains) were conducted for the weekday AM and PM peak hours. The EIS analysis concluded that the proposed project would not result in any significant adverse subway impacts.

**Comment 88:** Because DEIS analyses are done on an incremental basis—one project at a time—CB10, the Manhattan Borough President’s Office, and the City Councilmember’s office are not getting any information about the cumulative effects multiple projects are having or will have on the community over time. Given the rapid rate of growth in this neighborhood, the Manhattan Borough President, The City Councilmember’s Office, and Community Board 10 may want to consider a more detailed build out analysis and study of cumulative traffic impacts on the neighborhood as well as a plan to address mobility and safety issues. It would be a better approach than the patchwork—first developer in the door—approach to build out and congestion given the intensified development within Central Harlem. West Harlem/CB9 took such an approach several years ago with their community wide zoning approach. (Anonymous\_020)

**Response:** The EIS assessed the incremental transportation impacts from the proposed project in accordance with *CEQR Technical Manual* guidelines and provided recommendation on measures that could mitigate those impacts to the extent practicable. As detailed in EIS Chapter 13, “Transportation,” the existing conditions in the study area were considered together with the projected growth in the area independent of the proposed project (including background growth and trips from 20 of 42 discrete No Build projects identified within the ½-mile traffic study area) and incremental trip-making associated with the proposed project to identify potential transportation impacts. As detailed in Chapter 13, “Transportation” and Chapter 21, “Mitigation,” the detailed traffic analysis concluded that the proposed project would result up to six significant adverse impacted traffic intersections, which could be fully mitigated by standard traffic mitigation measures; the detailed transit analysis concluded that the proposed project would not result in any significant adverse transit impacts; the detailed pedestrian analysis concluded that the proposed project would result in a significant adverse crosswalk impact, which could not be mitigated by standard DOT pedestrian mitigation measures; and the detailed parking analysis concluded the proposed project would not result in the potential for parking shortfalls or significant adverse parking impacts.

**Comment 89:** All the aspects of the transportation analysis (parking, traffic, transit, pedestrians) depend on the trip rates and assumptions shown in Table 13-7 of the DEIS. The assumptions there are borrowed from other studies or taken from the city-wide

trip rates. There is no justification for why these generic rates and assumptions are appropriate to use for this type of development in this community at this time. While this is technically acceptable according to the *CEQR Technical Manual*, in a community under a great deal of pressure for growth, it is important to use primary data collection and to evaluate the impact within the context of the surrounding community. (Harper\_021)

The transportation chapter of the DEIS bases its analysis on standard values or values produced for other environmental assessments. Such a large increase of residents in a small project is not standard, and should be analyzed using data that is specific to this area. (Carpenter-Gold\_TRJ\_057)

**Response:** As described in EIS Chapter 13, “Transportation,” applicable references to the latest available census data for nearby tracts, which capture recent area travel patterns and preferred travel modes, were used to develop pertinent travel characteristics for analyzing potential impacts associated with the proposed project. These and other travel demand assumptions were reviewed by DOT and deemed appropriate for the EIS analyses. Furthermore, an abundance of recent transportation data were collected to form the basis of the EIS’s analyses of existing conditions; these data and analyses accounted for travel via all modes of transportation in the area surrounding the rezoning area.

#### *TRAFFIC*

**Comment 90:** Future conditions were modeled for the 11 intersections that were indicated through the Levels 1 and 2 screening process. The approach was to evaluate the current level-of-service (LOS) with extensive counts, increase the volumes by the assumed increases caused by background development and then increase volumes again by the assumed increase in volumes caused by the Lenox Terrace Development. Those intersections pushed over into the unacceptable LOS category by the incremental difference between the background development and the Lenox Terrace development must be mitigated by Lenox Terrace. It is not clear whether the impacts of background development were specifically allocated to individual streets and intersections by block, or whether the assumed percentage increase in volumes were simply applied across the board to all links and intersections. It might matter if background developments are clustered; creating bottlenecks is certain locations. It does not appear that a microsimulation of traffic in the neighborhood has been done. (Anonymous\_020)

**Response:** As detailed in EIS Chapter 13, “Transportation,” the future 2023 and 2026 No Action conditions were developed by increasing existing traffic levels by the expected growth in overall travel through and within the study area (percentage increase in volumes applied across the board to all analyzed study area intersections) as well as overlaying the incremental trips generated by discrete background projects (No Build projects) that would advance absent the proposed

project onto the study area intersections (incremental trips from background development specifically allocated to individual streets and intersections by block). As detailed in the Chapter 13, “Transportation,” a total of 42 No Build projects were identified within the ½-mile traffic study area. Out of these 42 No Build projects, discrete trip estimates and assignments were developed for 20 of them and overlaid onto the traffic study area to develop the future traffic baseline conditions.

The traffic analysis presented in Chapter 13, “Transportation,” is consistent with the guidance of the *CEQR Technical Manual*. The New York City Department of Transportation (DOT) has reviewed and deemed the traffic capacity analysis in the EIS, without the need for a microsimulation of traffic, as appropriate in disclosing the proposed project’s traffic impacts.

**Comment 91:** Olnick must agree to a well-conceived density plan approved by CB10 Public Safety committee and the LTDC, one that examines cumulative traffic impact and considers both pedestrian and vehicular traffic issues as identified by community stakeholders (not an EIS report) and acknowledges overall safety, school zones, and peak traffic area days and times (e.g., 135th and Fifth Avenue intersection). (Harris\_CB10\_001)

**Response:** The request made in the comment is beyond the scope of this environmental review. Chapter 13, “Transportation,” of the EIS includes the transportation analyses described in the Final Scope of Work. Those analyses assess the project’s potential for traffic, transit, pedestrian, and parking impacts consistent with the guidance of the *CEQR Technical Manual*.

*TRANSIT*

**Comment 92:** Olnick must agree to a detailed plan approved by the CB10 Transportation Committee, MTA (Metropolitan Transit Authority) and LTDC (Lenox Terrace Development Committee) that addresses plans to mitigate transportation impacts at the 135th Street Subway station and the intersection at 135th Street and Fifth Avenue. (Harris\_CB10\_001)

One area in need of attention is public transit. Substantial improvement to the area’s public transit resources must be made to ensure an equitable result. According to the DEIS’ line-haul analysis, the 2 and 3 lines are currently operating beyond capacity. With 85 percent of the public transit usage generated by the Proposed Development forecasted to utilize the West 135th Street Station on the 2 and 3 lines, serious overcrowding is foreseeable. (Brewer\_MBP\_002) (Washington\_029)

NYCT should work with the applicant to develop a plan to alleviate the overcrowding at the West 135th Street Station on the 2 and 3 line by increasing and improving alternative transportation options. (Brewer\_MBP\_002)

**Response:** The EIS provides an assessment of transit consistent with the guidance of the *CEQR Technical Manual*. Based on the existing subway line-haul analysis presented in the EIS, the No. 2 and 3 lines currently operate above capacity levels in the peak southbound direction during the weekday AM peak hour. As detailed in Chapter 13, “Transportation,” in the future conditions, after accounting for incremental subway trips from background growth and trips from discrete No Build projects in the study area (under the 2026 No Action conditions [see Table 13-40] – approximately 580 and 810 incremental subway trips during the weekday AM and PM peak hours, respectively) and overlaying the proposed project’s incremental subway trips (under the 2026 With Action conditions [see Table 13-43] – approximately 460 and 430 incremental subway trips during the weekday AM and PM peak hours, respectively), the proposed project would not result in significant adverse subway line-hauls based on *CEQR Technical Manual* impact criteria. Therefore, no significant adverse transit impacts were identified for the subway line-haul analysis at the 135th Street subway station.

It should be noted that the EIS analysis findings also serve as a disclosure document for various agencies including NYCT to inform on existing and future projected conditions at different transportation facilities such that those conditions could be taken into account for their consideration of future improvements. No significant adverse pedestrian impacts were identified at the intersection of 135th Street and Fifth Avenue; however, a significant adverse pedestrian impact was identified at the south crosswalk of 135th Street and Lenox Avenue. Due to the presence of the existing subway entrance/exit stairs on the south side of 135th Street, the EIS determined that feasible mitigation for this impact—such as extending the crosswalk along the south side of 135th Street—could not be developed and the impact would be unmitigated.

**Comment 93:** An additional 1,300–1,600 unique daily subway trips are projected from the project. According to the DEIS the subway station at 135th/Lenox was screened out for additional analysis of a) stations circulation (basically adequacy of access and platforms) and b) line haul. The more detailed analysis concluded that there was no potential for significant adverse impacts. Using Times Square as a “maximum point load” to analyze the impact of these trips disguises the extreme and unsupportable impact to the 135th/Lenox Ave. subway. (Anonymous\_020)

In the DEIS that they used, our expert, Elizabeth Harper, noted that they had used the 72nd Street Station and the 42nd Street station as part of their load points, which according to 42nd Street absorbs a much more load point than the West 135th Street station can. (Washington\_029)

**Response:** It is not clear how the commenter calculated the number of unique daily subway trips from the proposed project. As presented in Table 13-9 of the EIS, the proposed project is projected to generate approximately 510 to 1,100 incremental subway trips during the four analysis peak hours. The commenter’s assertion that

the 135th Street Subway Station (No. 2 and 3 trains) screened out for additional analysis in the EIS is incorrect. The EIS transit screening assessment concluded that a detailed analysis of station circulation elements and control areas was warranted for this station during the weekday AM and PM peak hours. In addition, subway line-haul (No. 2 and 3 trains) analyses were determined to be warranted for the weekday AM and PM peak hours. The detailed transit analysis conducted is consistent with the guidance of the *CEQR Technical Manual*. Furthermore, the existing maximum load point data were provided by New York City Transit (NYCT) for the detailed subway line-haul analysis, which identified the Times Square–42nd Street Station as the peak load point in the uptown direction during the weekday PM peak hour and the 72nd Street Station as the peak load point in the downtown direction during the weekday AM peak hour. NYCT has determined these to be the appropriate peak load points for the proposed project’s subway line-haul analysis. Since these are the maximum load points during the respective analysis peak hours, ridership at the West 135th Street Subway Station would be lower in comparison. Therefore, overlaying the proposed project’s incremental subway trips on to these maximum loading points would result in a conservative assessment on of line-haul conditions along these subway lines.

**Comment 94:** The proposed towers and “destination” retail would threaten to put an unsustainable burden on community resources, including the already dangerously overcrowded subway stop at 135th Street. (Paterson\_013)

The DEIS inappropriately assumes that the enormous population increase planned here will not significantly impact public transportation at the 135th St. 2/3 station, which is frequently overcrowded. (Carpenter-Gold\_TRJ\_057)

George James, the respected urban planner, said of this proposed project that this level of infill for a residential community is extraordinary. There’s a feeling sometimes in the City that communities can absorb any amount of development and that is not true. Each community reaches a tipping point of what is livable and sustains a livable quality of life. As Manhattan Borough President, Gale Brewer said in her disapproval, one area in need of attention is public transit. (Washington\_029)

The requested C6-2 zoning is the same zoning as downtown Brooklyn and even larger than Bronx Terminal Market—imagine a Bronx Terminal Market inside Lenox Terrace! The change in zoning would allow for neighborhood-altering mega-structures that would threaten to put an unsustainable burden on community resources, including the already dangerously overcrowded and narrow subway stop at 135th Street. (Shebar\_LT-ACT\_010)

**Response:** The detailed transit analysis presented in the EIS accounts for the proposed project’s incremental trips, conservatively including the trips associated with potential destination retail uses. The analysis was prepared in accordance with the

Final Scope of Work and *CEQR Technical Manual* impact criteria, and in coordination with NYCT. The EIS analysis concluded that the proposed project would not result in any significant adverse subway impacts.

**Comment 95:** The assessment of the impact on the transit lines looks at increases in passengers at the maximum load points on the line (in this case, 72nd Street and 42nd Street). While this is an accepted approach to evaluating the impact of a project on a transit system as a whole, it does not speak to the peak period crowding conditions on trains and platforms at 135th Street—or 145th Street, or 125th Street or any point on the lines within Harlem. (Harper\_021)

**Response:** The EIS provides an assessment of transit consistent with the guidance of the *CEQR Technical Manual*. Per the *CEQR Technical Manual* transit (subway) Level 1 and Level 2 screening analysis guidelines, further detailed analysis would be warranted if the proposed project would result in 200 or more incremental peak hour subway trips at a station or along a subway line. The EIS transit screening assessment presented in Chapter 13, “Transportation,” concluded that only the 135th Street Subway Station (No. 2 and 3 trains) would experience 200 or more proposed project incremental peak hour subway trips warranting further detailed analysis. Therefore, detailed analysis of this station’s circulation elements and control areas was conducted for the weekday AM and PM peak hours. In addition, a qualitative assessment of this station’s platform condition was provided and subway line-haul (No. 2 and 3 trains) analyses were conducted for the weekday AM and PM peak hours. NYCT has reviewed the EIS’s detailed transit analysis, which concluded that the proposed project would not result in any significant adverse subway impacts, and deemed it appropriate.

**Comment 96:** The evaluation of traffic on the one nearby entry point to the 2/3 station is based on limited data collection and subjective observations of crowding in front of the turnstiles. It assumes that the widest point on the platform describes the whole platform while those of us using the station know that there are many choke points on the platform that make it dangerously crowded. (Harper\_021)

**Response:** The EIS’s subway assessment was prepared in accordance with the guidance of the *CEQR Technical Manual*, and was reviewed by NYCT and deemed appropriate. The EIS’s detailed transit analysis included an analysis of the 135th Street Subway Station’s circulation elements and control areas during the weekday AM and PM peak hours. The specific 135th Street Subway Station stairways and fare control arrays selected for detailed analysis were determined in consultation with NYCT (see Chapter 13, “Transportation”). Once the specific station elements were determined for detailed analysis, data collection was performed for these selected elements during the weekday hours of 7:00 AM to 11:00 AM and 4:00 PM to 7:00 PM to establish baseline conditions for subway

station analysis. Contrary to the assertion made by the commenter, adequate data were collected for the detailed analysis.

In addition, a qualitative description of platform conditions was deemed appropriate based on discussions NYCT and was incorporated into the EIS's Chapter 13, "Transportation," specifically on page 13-51. Observations of platform conditions were made for the peak direction of travel—downtown during the weekday morning peak period and uptown during the weekday evening peak period. The observations were made of the entire platform in each direction of travel and were not, as the commenter asserted, subjective or narrowly focused on the "widest point on the platform." Instead, the observations showed that due to the limited amount of space along both the unpaid and paid sides of the downtown platform control line (turnstiles and fare separation railings), where entering customers choose to stand along the platform influences the amount of congestion in front of the turnstiles, while the overall platforms extending beyond the front of the turnstiles were observed to have ample space for riders to disperse. It should also be noted that the EIS analysis findings serve as a disclosure document for various agencies including NYCT to inform on existing and future projected conditions at different transportation facilities such that those conditions could be taken into account for their consideration of future improvements.

**Comment 97:** So obviously the subway and this disingenuous idea that you can solve the problem of people clumping up on the (train). There's only one solution to that and that is to build another entrance. And that doesn't seem to be on the table. (Sorkin\_027)

Our greatest issue—well, not our greatest but one of the many issues touched upon, also I wanted to touch upon is, also, I only could say they observed on the transit platform at 135th Street during their observations. I ride that subway line daily and have ridden it daily since I was a child. There is bottleneaking at the entrance. The platform is narrow. That platform is crowded from the front to the back. Everyone's clustering in one spot. That is an untrue statement. That is a consistent issue at this platform and adding 1,600 apartments and more people to this area will flood an already overpopulated area. It's dense already. (Smith\_028)

**Response:** The EIS provides an assessment of transit consistent with the guidance of the *CEQR Technical Manual*. Per the *CEQR Technical Manual* transit (subway) screening analysis guidelines, further detailed analysis would be warranted if the proposed project would result in 200 or more incremental peak hour subway trips at a station. The EIS transit screening assessment presented in Chapter 13, "Transportation," concluded that only the 135th Street Subway Station (No. 2 and 3 trains) would experience 200 or more proposed project incremental peak hour subway trips warranting further detailed analysis. Therefore, detailed analysis of this station's circulation elements and control areas was conducted for the



weekday AM and PM peak hours. Once the specific station elements were determined for detailed analysis in consultation with NYCT, data collection was performed for these selected elements during the weekday hours of 7:00 AM to 11:00 AM and 4:00 PM to 7:00 PM to establish baseline conditions for the subway station analysis. Consistent with *CEQR Technical Manual* methodologies, the existing baseline conditions at the selected station analysis elements were considered together with the projected growth in the area independent of the proposed project (including background growth and trips from discrete No Build projects) and incremental trip-making associated with the proposed project to identify potential transit impacts. No significant adverse transit impacts were identified at the 135th Street Subway Station (No. 2 and 3 trains) in accordance with *CEQR Technical Manual* impact criteria and therefore no mitigation measures were warranted.

**Comment 98:** We know that the station at 135th Street with this many more residents would be impacted tremendously. As I indicated in the other rezonings, we've spend a great deal of time in getting money for transit. (Brewer\_MBP\_046)

**Response:** In coordination with NYCT, the relevant analysis at the West 135th Street Subway Station has been presented in the EIS. The detailed transit analysis results, which account for the proposed project's incremental trips, indicate that in accordance with *CEQR Technical Manual* impact criteria, the proposed project would not result in any significant adverse subway impacts.

## AIR QUALITY

**Comment 99:** Never mind the problem with the air quality, which is major for many seniors. (Thornton\_047)

**Response:** The EIS presented a detailed analysis of the proposed action's direct and indirect effects on air quality, which demonstrated that there would be no significant adverse impacts.

**Comment 100:** It is well documented in the CD10 profile that there is a high rate of asthma among young children and adults in Harlem, a condition that has plagued the Harlem community for decades. In addition, Harlem residents suffer from other conditions that impact health and quality of life such as cardiovascular disease, depression and stress. Even diseases like diabetes has been associated with higher rates of stress and pollution. For the area covered by CB10, New York's own Environmental Health agency reports high levels of very fine (PM<sub>2.5</sub>) airborne contaminants and ozone derived from vehicle emissions. Fine particulates (PM<sub>10</sub>) derived from construction and other types of activities are also elevated in Central Harlem. These particles are small enough to lodge in the lungs and cause short and long term lung damage. While there has been some discussion to date around

air quality testing pre, during and post construction, there is no discussion concerning air quality post construction and the impact it will have on residents living in the older buildings which will be enclosed and surrounded by larger buildings. It is reasonably believed that 7-10 years of construction as anticipated in the Olnick plan, will have a serious negative impact at a minimum on people who suffer from asthma and other related respiratory diseases. (Harris\_CB10\_001)

Olnick must agree to a well-conceived plan that is approved by CB10, through its Health and Human Services committee and considers the high resident senior citizen population (65 percent) as well as the Harlem population afflicted with high rates of respiratory diseases including asthma. A plan must consider the effects of construction on the health and well-being of residents and those populations at risk; one that implements routine (e.g., monthly) indoor and outdoor air quality testing before, during and after construction; one that requires a health proxy taken of all residents with existing respiratory illness pre construction; and one that offers relocation allowance for residents who cannot physically endure and providing HEPA air purifiers/ breathing devices based upon medical claims. (Harris\_CB10\_001)

We have seniors now in wheelchairs. We have children—we have about six schools around us. Asthma—every morning I get up, I can't hardly breathe. I'm suffering from asthma. And all I'm asking is to consider what goes on inside. Don't just look at outside. It looks nice from the outside but believe me, we have issues going on inside that need to be taken care of even before you can even get in a conversation of six buildings. (Corbett-Covington\_045)

**Response:** The EIS included a detailed analysis of the potential for construction-period impacts from the proposed actions. As detailed in the EIS, an emissions reduction program would be implemented for the proposed project to minimize the effects of construction activities on the surrounding community. Measures would include, to the extent practicable, dust suppression measures, use of ultra-low sulfur diesel (ULSD) fuel, idling restrictions, diesel equipment reduction, best available tailpipe reduction technologies, and the utilization of newer equipment. With the implementation of these emission reduction measures, the dispersion modeling analysis of construction-related air emissions for both non-road and on-road sources determined that particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), annual-average nitrogen dioxide (NO<sub>2</sub>), and carbon monoxide (CO) concentrations would be below their corresponding *de minimis* thresholds or National Air Quality Ambient Standards (NAAQS), respectively. Therefore, construction of the proposed project would not result in significant adverse air quality impacts due to construction sources.

## GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE

**Comment 101:** I don't see too much attention to what every architect is now devoted to, which is the green and sustainable features of these buildings. (Sorkin\_027)

**Response:** Chapter 15, "Greenhouse Gas Emissions and Climate Change," addresses the project in relation to resiliency and climate change. In accordance with the *CEQR Technical Manual* and the Final Scope of Work, greenhouse gas (GHG) emissions generated by the proposed project were quantified, and an assessment of consistency with the City's established GHG reduction goal was prepared. Relevant measures to reduce energy consumption and GHG emissions that could be incorporated into the proposed project were discussed, and the potential for those measures to reduce GHG emissions from the proposed project were assessed to the extent practicable. The EIS analysis concluded that based on the adherence to the City's energy efficiency requirements and by virtue of the project's location and nature, the proposed actions would be consistent with the City's emissions reduction goals, as defined in the *CEQR Technical Manual*. The proposed project and any future development on the projected future development site would be constructed to meet the codes and any related resiliency requirements in effect at the time of construction.

## PUBLIC HEALTH

**Comment 102:** Lenox Terrace is a home to many families, but to a lot of senior citizens in particular, many of whom are not able to come down here and testify on their behalf. I have a very elderly relative who is 100 years old that lives in Lenox Terrace and is unable to be here so I'm speaking on his behalf as well. I'm concerned for his safety. I'm concerned about his health. I'm concerned for what this project is—will not be a project if it happens in two years. This project is going on for a very long time. We're talking about air quality. We're talking about—I honestly believe that—that the asthma rate in Harlem is extremely high and this construction is going to create even more respiratory issues. (Smith\_028)

**Response:** Comment noted. See the response to Comment 123.

**Comment 103:** This zoning change will without a doubt, negatively affect the large senior population in this area, many of which already seek services from our office. The project will increase the strain that is already upon them through possible displacement, worsened air quality, traffic and congestion, noise quality, and potentially impede access to the most frequented hospital in Harlem, Harlem Hospital. (Benjamin\_NYSS\_011)

**Response:** Comment noted. See the response to Comment 63.

**Comment 104:** So I am concerned that with the nine to ten buildings and all that comes along with that, the air quality and the lack of light and all of that may possibly be detrimental to, not only my health but the of all of the seniors and there's many, many, many seniors in Lenox Terrace buildings. So I definitely say no to all that is being proposed and to the large over Harlem Hospital buildings. It would not be healthy for us. It would not be healthy for the children. I work with children. There's so many illnesses with our children in Harlem and it would just be detrimental and I don't know if we or the children would last through this. (Percival\_040)

**Response:** Chapter 17, "Public Health," of the EIS describes the methodology used to determine whether the proposed project would require a public health assessment. The *CEQR Technical Manual* states that a public health assessment is warranted for a specific technical area if there is a significant adverse impact found in other CEQR analysis areas, such as air quality, water quality, hazardous materials, or noise. As described in the relevant analyses of the FEIS, upon completion of construction, the proposed actions would not result in significant unmitigated adverse impacts in any of the technical areas related to public health. However, as identified in Chapter 19, "Construction," the proposed actions would result in unmitigated significant adverse construction-period noise impacts at existing residential buildings, churches, and Harlem Hospital within the rezoning area, and therefore Chapter 17, "Public Health," of the EIS provided a public health assessment of construction-period noise at these locations. The analysis presented in the EIS determined that construction of the proposed project would not result in chronic exposure to high levels of noise, prolonged exposure to noise levels above 85 dBA, or episodic and unpredictable exposure to short-term impacts of noise at high decibel levels, as per the *CEQR Technical Manual*. Consequently, construction of the proposed project would not result in a significant adverse public health impact. See also the response to Comment 105.

**Comment 105:** I'm now having all kinds of badness for my body. When I came there, I didn't have any illnesses and I met my husband and me we were in building No. 25 and then the small little one bedroom and since then we moved to another one and that was a bigger one. So then we moved to 470 Lenox Avenue. He died a long time ago. But I only had one kid and everything. And I enjoyed doing everything. And I worked up until I was 70. I am now 76. And I got asthma. I was in the hospital on the 7th of last month and they kept me for awhile and I carry the little thing that I – and you know I went in the bathroom to do it. All this because of what they have been doing to us. Okay. And I tell people. I said, I've been there all of these years. I never had problems. Okay. I waited until I, you know, when I was going—I said I worked for Liz Claiborne for umpteen years and I went to 70. And she said, oh, but she died before I got out of there. And I always tell everybody, I said, I loved it, doing things. And now I—it's just me and my little

doggie. I never wanted a doggie. We had—with my husband, a fish tank. (Satterfield\_056)

**Response:** Chapter 18, “Air Quality,” of the FEIS describes the methodology for determining the maximum expected total pollutant concentrations of the proposed project. To determine this, the calculated impacts from the emission sources must be added to a background value that accounts for existing pollutant concentrations from other sources. The background levels are based on concentrations monitored at the nearest DEC ambient air monitoring stations over the most recent three-year period for which data are available (2015–2017), with the exception of NO<sub>2</sub>, which is based on five years of data, consistent with current DEP guidance (2013–2017). All pollutants analyzed do not exceed the thresholds established by National Ambient Air Quality Standards.

## NEIGHBORHOOD CHARACTER

**Comment 106:** This precedent setting rezoning proposal must be halted. As a community leader, I urge you to not be complicit in this dangerous rezoning change that will erode both culture and sense of community. (Paterson\_013)

**Response:** Comment noted. Chapter 18, “Neighborhood Character,” of the EIS states that the proposed project would not result in significant impacts to neighborhood character. Although significant adverse impacts would occur with respect to historic and cultural resources, shadows and open space, traffic and pedestrians, and construction-period noise, these impacts would be at least partially mitigated, and would not result in a significant overall change to the defining elements of the area’s neighborhood character. In addition, the proposed zoning was modified subsequent to the DEIS public hearing in response to public comments, from a C6-2 commercial zoning district to an R8 residential zoning district with a C1-5 commercial overlay along Lenox and Fifth Avenues and 135th Street. This change also alters the use groups permitted within the rezoning area, and is intended to more closely reflect the local retail character of the existing study area.

**Comment 107:** The neighborhood-character analysis required by CEQR typically incorporates the analyses of land use, socioeconomic conditions, open space, historic and cultural resources, urban design, and transportation. The project will have significant impact on each one of these categories, as described above, though the DEIS ignores many of these impacts. These impacts would all damage important determining characteristics of the neighborhood: the primarily residential nature of the neighborhood, the availability of an appropriate amount of open space, the deep history and cultural importance of Lenox Terrace itself, the balance of the Lenox Terrace development and sight lines with the surrounding streets, and the convenience of a central transportation hub. As a result, the DEIS’s finding that

the project would create no significant impact on neighborhood character is absolutely incorrect. Neighborhood character may also be significantly impacted by combinations of factors that would not individually be considered significant. Thus, even if the DEIS were correct in finding that there is no significant impact in any of the individual areas described in this section—which would be incorrect—the totality of these impacts would certainly be sufficient to produce a significant impact on neighborhood character. Indeed, the cumulative effect of a small changes resulting from new commercial development in a largely residential neighborhood—“changing it from a small-scale, quiet residential area to a busier commercial one”—is used as the primary example of this in the *CEQR Technical Manual*. (Carpenter-Gold\_TRJ\_057)

**Response:**

As stated in Chapter 18, “Neighborhood Character,” of the EIS, under CEQR an analysis of neighborhood character identifies the defining features of the neighborhood and then evaluates whether a proposed project has the potential to affect the defining features, either through the potential for a significant adverse impact or a combination of moderate effects in relevant technical analysis areas. To determine the effects of a proposed project on neighborhood character, the defining features of neighborhood character are considered together. According to the *CEQR Technical Manual*, neighborhood character impacts are rare, and it would be unusual that, in the absence of a significant adverse impact in any of the relevant technical areas, a combination of moderate effects to the neighborhood would result in an impact to neighborhood character. Moreover, a significant adverse impact identified in one of the technical areas that contributes to a neighborhood’s character does not necessarily constitute a significant impact on neighborhood character, but rather serves as an indication that neighborhood character should be examined. The analysis provided in the EIS concluded that the proposed actions would not result in significant adverse impacts to neighborhood character. As described in the relevant chapters of the EIS, the proposed actions would not result in significant adverse impacts to land use, zoning, and public policy; socioeconomic conditions; urban design and visual resources; or operational-period noise. Although significant adverse impacts would occur with respect to historic and cultural resources, shadows and open space, traffic and pedestrians, and construction-period pedestrians and noise, most of these impacts would be partially or fully mitigated, and would not result in a significant overall change to the defining elements of the area’s neighborhood character. The example situation cited by the commenter (a change from a small-scale, quiet residential area to a busier commercial one) is not relevant, as the neighborhood surrounding the rezoning area is mixed use and not small in scale.

**Comment 108:** We’re talking about the livelihood of hundreds of employees that depending on our businesses, not just including my own family but there are over 100 families depending on those 15 businesses to make [a] living to put food on the table. So it is very important. And, also, I mean, even though there are a lot of people,

Harlem residents, people thinking we are just making money and then live somewhere else. Yes, that's quite true. But like I said, we do spend 15 or more than 12 hours a day, six days a week, sometimes seven days a week. And we do believe that we are part of the community. Unfortunately, not just by look of myself but I am a minority. We—I'm representing only 15 of us, not like the 1,700 tenants in Lenox Terrace or how many number of residents in Harlem community. But I strongly believe that we take a big part of the Harlem community as small businesses, not big box stores. Mom and pop stores that has a lot to do with the consistency of the Harlem community. (Kim\_034)

**Response:** As defined in the *CEQR Technical Manual*, neighborhood character is an amalgam of various elements that give a neighborhood its distinct "personality." These elements may include a neighborhood's land use and socioeconomic conditions, among others, but not all of the potential elements contribute to neighborhood character in every case. The EIS included an analysis of potential effects on neighborhood character consistent with the *CEQR Technical Manual*, and concluded that the proposed actions would not result in a significant overall change to the defining elements of the area's neighborhood character. Please also see the responses to Comment 50 and Comment 107.

## CONSTRUCTION

**Comment 109:** Olnick must agree to a construction impact assessment as this is an infill project that affects existing residences and open space. The assessment will evaluate the duration and severity of the disruption or inconvenience to all impacted including noise and vibration analyses. (Harris\_CB10\_001)

**Response:** The EIS includes a detailed analysis of the potential for construction-period impacts from the proposed actions, including the potential for noise- and vibration-related impacts on open space and residences. The EIS concluded that construction pursuant to the proposed actions has the potential to result in construction noise levels that exceed the *CEQR Technical Manual* construction noise screening threshold for an extended period of time at receptors within the rezoning area and study area. While the greatest levels of construction noise would not persist throughout construction, and the noise levels would fluctuate resulting in noise increases that would be intermittent, these locations would experience construction noise levels whose magnitude and duration could constitute significant adverse impacts.

As described in Chapter 19, "Construction," the buildings of most concern with regard to the potential for structural or architectural damage due to vibration are the existing buildings and structures within the rezoning area. However, given their distances from the proposed development sites, vibration levels at these buildings and structures would not be expected to exceed 0.50 in/sec PPV, including during sheeting driving, which would be the most vibration intensive

activity. Additional receptors farther away from the rezoning area would experience less vibration than those listed above, and similarly would not be expected to cause structural or architectural damage. To avoid inadvertent demolition and/or construction-related damage from ground-borne construction period vibrations, falling debris, collapse, etc., the buildings to be retained on the proposed development site, as well as the two historic resources that are located within 90 feet of the proposed project, would be included in a Construction Protection Plan (CPP) for historic structures that would be prepared in coordination with LPC and implemented in consultation with a licensed professional engineer.

In terms of potential vibration levels that would be perceptible and annoying, the equipment that would have the most potential for producing levels that exceed the 65 VdB limit is the pile driver. It would have the potential to produce perceptible vibration levels (i.e., vibration levels exceeding 65 VdB) at receptor locations within a distance of approximately 550 feet depending on soil conditions. However, the operation would occur for limited periods of time at a given location and therefore would not result in any significant adverse impacts. Consequently, the EIS concluded there is no potential for significant adverse vibration impacts from the development under the proposed actions.

**Comment 110:** Olnick must agree to monthly/quarterly meetings with both the LTDC and CB10 respectively on the evolution of construction plans, report findings, progress and timelines. (Harris\_CB10\_001)

**Response:** As detailed in Chapter 19, “Construction,” regular construction updates would be provided to the community and local leaders, and a dedicated hotline would be established for community members to register concerns or problems that may arise during the construction period. In addition, New York City maintains a 24-hour telephone hotline (311) so that concerns can be registered with the City.

**Comment 111:** Speaking to the air monitoring—WeACT maintains that air monitors can be installed now to set a baseline before construction that we actually understand what the health impacts could be once construction starts. (Dayson\_LT-ACT\_023)

**Response:** DEC maintains an air quality monitoring program across the state to collect real-term measurements of various air pollutants, including those pollutants that were analyzed in the EIS construction analysis to determine the potential air quality impacts associated with the proposed actions. As detailed in Chapter 19, “Construction” of the EIS, with *CEQR Technical Manual* guidance, to estimate the maximum expected total pollutant concentrations in the detailed construction air quality analysis, the modeled impacts from the emission sources were added to an ambient background value that accounts for existing pollutant concentrations from other sources. The background levels were based on



concentrations monitored at the nearest DEC ambient air monitoring stations, including locations at the City College of New York and John S. Roberts Junior High School 45, which are relatively near the proposed development site. As per the *CEQR Technical Manual*, DEC monitors are indicative of pollutant levels throughout the nearby region. As detailed in Chapter 19, “Construction,” the proposed actions would not result in significant adverse air quality impacts.

**Comment 112:** Construction issues would include impeded hospital access because of additional trucks, traffic, noise, worsening air quality in a neighborhood with a large senior population and elevated rates of asthma, among a myriad of additional concerns. (Paterson\_013)

**Response:** As described in Chapter 19, “Construction,” of the EIS, access to and from the Harlem Hospital Center located north of the proposed development sites would be maintained during the construction period. Maintenance and Protection of Traffic (MPT) plans would be developed to ensure the safety of the construction workers and the public and approval of these plans and implementation of the closures would be coordinated with DOT’s Office of Construction Mitigation and Coordination (OCMC). Measures specified in the MPT plans that are anticipated to be implemented would include parking lane closures, safety signs, safety barriers, and construction fencing.

Chapter 19, “Construction,” of the EIS provides a comprehensive analysis of construction-period impacts in the areas of transportation, air quality, and noise. As discussed in the EIS, no significant adverse construction-period air quality impacts were identified. An emissions reduction program would be implemented for the proposed project to minimize the effects of construction activities on the surrounding community. Measures would include, to the extent practicable, dust suppression measures, use of ULSD fuel, idling restrictions, diesel equipment reduction, best available tailpipe reduction technologies, and the utilization of newer equipment. Please refer to the response to Comment 135 regarding the potential noise impacts during the construction period.

**Comment 113:** As Lenn Shebar, President of the LT-ACT, has said, “The thought of 8 to 10+ years of continuous disruptive construction to the existing tenants is mind-boggling and frightful. We ask Community Board 10, all officials, and the mayor to vote against this dehumanizing force of commerce-minded urban planning and put community stability first.” (Kane\_018)

As one long-time Lenox Terrace resident said at the meeting, “We will have to keep our windows closed for 9 years—I already have health issues, I won’t be able to live through this level of construction.” (LT-ACT\_024)

With the proposed nine years of construction in such close proximity, I can forget opening my windows or sitting on my terrace because the dust, debris and noise with—will be far worse for my physical and mental health. (Mabry\_052)

I don't think it's a compromise for us. I think that for the duration, for as long as this project will be going on, that the way that the tenants that currently live there will be affected is—and I'm not just talking about the tenants of Lenox Terrace, I'm talking about, as somebody mentioned, it's a super block. So I'm talking about everyone in that area, everything that surrounds that entire north, south, east and west of that area. Those people will be affected for God knows how many years. (Smith\_028)

**Response:**

As is typical with most large construction projects, construction of the proposed project would result in temporary disruptions in the surrounding area. However, as described in EIS Chapter 19, "Construction," the applicant has committed to implementing a variety of measures (e.g., communication with community, community safety measures, and environmental performance measures) during construction to minimize impacts to the nearby community. With the implementation of these measures, the construction effects of the proposed project on the surrounding area would be substantially reduced.

The EIS included a detailed analysis of the potential for construction-period noise impacts from the proposed actions. The EIS concluded that construction pursuant to the proposed actions has the potential to result in construction noise levels that exceed *CEQR Technical Manual* construction noise screening thresholds for an extended period of time at receptors within the study area. While the greatest levels of construction noise would not persist throughout construction, and the noise levels would fluctuate resulting in noise increases that would be intermittent, these locations would experience construction noise levels whose magnitude and duration could constitute significant adverse impacts. The EIS also describes measures that would be undertaken by the project sponsor to partially mitigate the predicted construction noise impacts, including offers of alternate means of ventilation at residences predicted to experience impacts if they do not already have them. Such measures would allow for the maintenance of a closed-window condition during the period, resulting in lower levels of construction noise inside these buildings. Outside of the construction hours (i.e., expected to be weekday daytime periods), receptors would be unaffected by construction noise.

As detailed in the EIS, all measures required by the DEP's *Construction Dust Rules* regulating construction-related dust emissions would be implemented. The rules require implementation of a dust control plan including a robust watering program. For example, all trucks hauling loose material would be equipped with tight-fitting tailgates and their loads securely covered prior to leaving the proposed development site. Water sprays would be used for all demolition, excavation, and transfer of soils to ensure that materials would be dampened as

necessary to avoid the suspension of dust into the air. Loose materials would be watered, stabilized with a chemical suppressing agent, or covered.

**Comment 114:** The noise on Fifth Avenue, I'm facing Fifth Avenue, already it's like crazy at 2:00 in the morning. We have Harlem Hospital. The ambulance. There's no break with the noise. I can't even imagine once the construction starts what it would feel like to live there. I'm retired now and I want to enjoy some of that. And I know change is good. Some things are good but this eight years is just unheard of. And I wish, really wish that you would really consider not approving. (Corbett-Covington\_045)

**Response:** The EIS includes a detailed analysis of the potential for construction-period noise impacts from the proposed actions. The EIS concluded that construction pursuant to the proposed actions has the potential to result in construction noise levels that exceed *CEQR Technical Manual* construction noise screening thresholds for an extended period of time at receptors within the study area, including along Fifth Avenue. While the greatest levels of construction noise would not persist throughout construction, and the noise levels would fluctuate resulting in noise increases that would be intermittent, these locations would experience construction noise levels whose magnitude and duration could constitute significant adverse impacts.

The EIS also describes measures that would be undertaken by the project sponsor to partially mitigate the predicted construction noise impacts, including offers of alternate means of ventilation at residences predicted to experience impacts if they do not already have them. Such measures would allow for the maintenance of a closed-window condition during the period, resulting in lower levels of construction noise inside these buildings. Outside of the construction hours (i.e., expected to be weekday daytime periods), receptors would be unaffected by construction noise. As discussed in Chapter 21, "Mitigation," even with these mitigation measures, interior  $L_{10(1)}$  noise levels at some receptors would at times during the construction period exceed the 45 dBA guideline recommended for residential and community spaces according to CEQR noise exposure guidelines. Therefore, the significant adverse construction noise impacts identified in Chapter 19, "Construction," would be only partially mitigated. Because these impacts cannot be fully mitigated, the impacts would constitute an unavoidable impact. Furthermore, at the outdoor residential balconies of the residential buildings within the rezoning area, there are no feasible or practicable mitigation measures to avoid the significant adverse construction noise impacts identified in Chapter 19, "Construction." Therefore, at these receptors, the significant adverse construction noise would be unavoidable. However, as construction would not regularly occur during evening or weekend hours, the balconies would be free of construction noise during these times.

**Comment 115:** Construction jobs must be provided to union workers with a diverse workforce and that hire locally. Any exceptions must be negotiated in an ironclad agreement between CB10 and Olnick. Such ironclad agreement shall be written into law. (Harris\_ CB10\_001)

**Response:** Comment noted. Construction hiring is beyond the scope of CEQR analysis.

#### MITIGATION

**Comment 116:** Although the DEIS finds that the proposed project would have a significant impact on open space, it entirely fails to offer specific mitigation proposals. This directly contradicts the response provided to commenters in the Final Scope of Work, which said that “[i]f significant adverse impacts related to open space are identified, mitigation measures will be proposed in the EIS.” The DEIS does promise that mitigation proposals “will be refined between the DEIS and FEIS,” but later suggests that it may not, in fact, propose mitigation for this impact. Even if the FEIS does, in fact, provide mitigation measures, refusing to even suggest mitigation measures in the DEIS deprives the public of its right to comment on those proposals. (Carpenter-Gold\_TRJ\_057)

**Response:** As of the issuance of the DEIS, potential mitigation measures for open space were still being explored by the applicant in consultation with DCP and NYC Parks. As detailed in Chapter 21, “Mitigation,” of the FEIS, mitigation measures for the open space and shadows impacts have been developed in coordination with DCP and NYC Parks. Mitigation will consist of facility enhancements at the Howard Bennett Playground and the Hansborough Recreation Center. The impacts would be considered partially mitigated with these measures.

#### ALTERNATIVES

**Comment 117:** The EIS must provide alternative scenarios for comparison to the with-action and no-action scenarios, to enable decision-makers to understand the other potential paths the development might take. In particular, the EIS should consider a “no unmitigated impact” alternative that would adjust the proposed project to prevent the unmitigated impacts that would occur as a result of the project, including those described in these comments and those identified in the DEIS. (Carpenter-Gold\_TRJ\_057)

**Response:** Alternatives selected for consideration in an EIS are generally those which are feasible and have the potential to reduce, eliminate, or avoid adverse impacts of a proposed action while meeting some or all of the goals and objectives of the action, which are as follows: to create a substantial number of new dwelling units within Manhattan CD 10, a portion of which would be designated as permanently affordable, thereby advancing a City-wide initiative to build and preserve 200,000 affordable units over 10 years in order to support New Yorkers with a range of

incomes; achieve high quality urban design, architecture, community facility space, and open space elements; provide enhancements to the surrounding streetscape and enliven the pedestrian experience, through the creation of new buildings, landscaping, and open space on the proposed development site; add to the retail mix in the Central Harlem neighborhood; and strengthen the City's tax base by encouraging development and employment opportunities in the area.

As detailed in Chapter 20, "Alternatives," and in accordance with the FSOW and the *CEQR Technical Manual*, the EIS analyzes two alternatives to the proposed project: a No Action Alternative, and a No Unmitigated Significant Adverse Impacts Alternative, which would eliminate the proposed project's unmitigated significant adverse impacts on open space, shadows, historic resources, pedestrians, and construction pedestrians and noise. The analysis concluded that no reasonable alternative could be developed which eliminates the proposed projects' unmitigated significant adverse impacts on open space, shadows, historic resources, pedestrians, and construction-period pedestrians and noise without substantially compromising the proposed project's stated goals.

**Comment 118:** The DEIS is incorrect in claiming that there are "no reasonable alternatives" that would prevent unmitigated impacts on shadows, open space, historical and cultural resources, or pedestrian traffic. The impact of shading the Howard Bennett Playground could be mitigated by altering the building envelope creating that shadow, or else providing in the site plan for a playground that would be unaffected by shadow. The excessive reduction of the open-space ratio could be mitigated by scaling down the residential density of the project. The effect of tearing down several buildings that are original to Lenox Terrace could be mitigated either by altering the site plan to retain those buildings or by creating real cultural benefits for Central Harlem residents—beyond the "Walk of Fame" proposed by the developers. Finally the decrease in square feet per pedestrian and level of service of the crosswalk at West 135th and Malcolm X could be mitigated by decreasing the number of new residents or the amount of new commercial development, which would therefore decrease foot traffic. (Carpenter-Gold\_TRJ\_057)

**Response:** Chapter 20, "Alternatives," of the EIS considered two alternatives to the proposed actions in accordance with the *CEQR Technical Manual*: a No Action Alternative, and a No Unmitigated Significant Adverse Impacts Alternative. In addition to a comparative impact analysis, the alternatives are assessed to determine to what extent they would meet the goals and objectives of the proposed actions. The EIS analysis concluded that no reasonable alternative could be developed which eliminates the proposed projects' unmitigated significant adverse impacts on open space, shadows, historic resources, pedestrians, and construction-period pedestrians and noise without substantially compromising the stated goals for the proposed project. With the exception of pedestrian impacts, the EIS identifies practicable mitigation measures for all of the impact areas identified by the

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commenter. For pedestrian impacts, the widening of the crosswalk across the south side of 135th Street at Lenox Avenue was determined in consultation with DOT to be impracticable based on the location of the subway entrance/exit stair. An alternative to the proposed project that prevents all unmitigated impacts.

### MISCELLANEOUS

**Comment 119:** Prior to demolition, the single-story vacant commercial building on Fifth Avenue and West 132nd Street should be renovated and marketed to local businesses, arts and cultural organizations, church groups, and local community-based organizations at an affordable cost. (Brewer\_MBP\_002)

There has been a lot of concern about the vacant building on Fifth and 132nd Street because when you have a vacant building, you have quality of life issues and the developer hasn't rented it and it does provide opportunity for types of quality of life issues that are not supported in the neighborhood. (Brewer\_MBP\_046)

**Response:** Comment noted. The proposed actions would result in the demolition of the currently-vacant retail space to facilitate the development of new community facility and retail spaces that would create more active and defined ground-floor street-fronts; improve site circulation and access; and create more than six acres of outdoor recreation space for residents. The applicant has engaged with residents and community stakeholders to determine the most desired mix of tenants for the proposed community facility space within the project. In addition, the Lenox Terrace tenants association has expressed a strong desire for certain retail tenants to continue in the proposed project, and other tenants to be replaced with new retailers. Toward that end, for retail tenants that are determined by the applicant and Lenox Terrace residents to be desired in the proposed project, the applicant has committed to negotiate with such tenants for newly-constructed spaces before marketing such spaces to other new businesses. Although not assumed for the CEQR analysis, the applicant will endeavor to occupy the currently vacant retail space on Fifth Avenue with pop-ups and/or seasonal tenants.

**Comment 120:** I am arguing for a rigorous, community-based planning/zoning study designed to help Central Harlem's residents and property owners reach a degree of consensus about the future. This community is under significant pressure for development and change. If you and the residents and property owners of Central Harlem want to understand the full picture of how this incremental approach to development will impact the community then a comprehensive approach to community planning needs to take place—and it needs to take place before too many more major zoning changes are given the green light. (Harper\_021)

**Response:** Comment noted.

**Comment 121:** We wanted to make absolutely sure that some of the concerns to touch on land use but might not be directly triggering a new CPC hearing like the negotiations with HPD or the negotiations for restrictive declaration, which is really the whole thing that holds this site plan together and holds this project together. Because without it, they don't have extra build they could put in if the rezoning was to be approved is quite extensive. And there are all sorts of issues with the skybridges, et cetera. I encourage the Commission to hold another hearing after we receive the results from HPD and negotiations after we see that actual site plan that the Commission is actually voting on. (Carpenter-Gold\_TRJ\_030)

**Response:** Comment noted.

**Comment 122:** A project that will increase overall density of approximately 4,000 persons (not including the church development) is going to have a socioeconomic effect on the complex and the public systems (MTA, local schools, recreation areas and existing businesses). While the changes have been acknowledged, the research and plans to date have not been adequate. This project is more than a private developer led rezoning. The level of transformational change anticipated as a result of this project requires a plethora of community stakeholders, urban planners, policy analysts, residents and business leaders to both understand the magnitude of the project, and the various components impacted in order to 1) develop effective solutions/recommendations to ensure balanced growth and scale, and 2) manage the change. Ultimately, what Olnick is proposing in this resolution is creating a "mini city." To date, there has not been enough collective dialogue with institutional and public partners at the same table who can mitigate risk and support the public systems that will be affected. Olnick must agree to a true community engagement process that includes Lenox Terrace residents as well as the broader Harlem community, a process that includes (but not limited to) charettes, visioning, and focus groups. Olnick must plan to include neighboring institutions surrounding Lenox Terrace in the planning of services and the planning of construction and inconveniences caused. (Harris\_CB10\_001)

As we have seen, residential rezonings are a very complicated and delicate process that requires fairness and good faith engagement. That is the only way to move forward and I am confident that Manhattan Community Board 10 is equipped to demand this standard of all stakeholders. LT-ACT is the voice of this community and I stand with the residents and community who have seen—and as I have borne witness—the short- and long-term consequences of plans that impact the very fiber of the community. The need for mutual understanding has grown more salient as minority and low-income families are impacted the greatest by market forces and demographic change. Equity and equanimity. And nothing less. This is what Lenox Terrace residents and our community demand. I stand with the thousands of residents that call Lenox Terrace home and respectfully ask that their views and concerns are given full and fair consideration. (Espaillat\_014)

**Response:** The project has been the subject of multiple public meetings. All public review was conducted in compliance with the requirements of ULURP and CEQR. In accordance with the Final Scope of Work and the guidance of the *CEQR Technical Manual*, the EIS analyzed the potential for the proposed actions to result in significant adverse impacts to 17 technical areas, including neighborhood character. As described in the EIS, the proposed actions would not result in significant adverse impacts to land use, zoning, and public policy; socioeconomic conditions; urban design and visual resources; or operational-period noise. Although significant adverse impacts would occur with respect to historic and cultural resources, shadows and open space, traffic and pedestrians, and construction-period noise, these impacts would be at least partially mitigated, and would not result in a significant overall change to the defining elements of the area's neighborhood character. New development on the proposed development site would allow for the provision of additional housing units, including permanently affordable housing pursuant to MIH; facilitate the development of new community facility and retail uses that would create more active ground-floor street-front retail spaces and create a more defined streetwall along Lenox Avenue; improve site circulation and access; and create more than six acres of outdoor recreation space for residents. The proposed reduction in parking regulations and the conversion of interior areas of the site from predominantly parking to open space are intended to enhance the urban design conditions of the proposed development site and surrounding area, thereby contributing to the neighborhood character. In addition, as detailed in Chapter 21, "Mitigation," of the FEIS, mitigation measures for identified shadows and open space impacts have been developed in consultation with DCP and NYC Parks, measures to mitigate historic resources impacts were developed in consultation with LPC, and measures to mitigate transportation-related impacts were developed in consultation with DOT.

**Comment 123:** Olnick must agree that MWBE targets will be established (30 percent and/or >) and approved by CB10 and employment preferences will be given to community residents. (Harris\_ CB10\_001)

**Response:** Comment noted. MWBE targets and local hiring is beyond the scope of CEQR analysis; however, Olnick has identified MWBE targets and local hiring goals for implementation in conjunction with project construction.

**Comment 124:** Olnick must agree that a detailed security plan will be outlined to ensure the safety of residents, business owners, and staff. This plan will be approved by CB10 Public Safety committee, tenants, affected and surrounding institutional partners and leaders of the 32nd Precinct. (Harris\_ CB10\_001)

We want to speak to the "Green Space Proposal" that Lenox Terrace has featured. Currently Lenox Terrace has taken out most of the benches that existed on the



property due to security concerns. So if you're going to expand green space we're asking what are you're going to do about security? Currently security guards at Lenox Terrace are being used to distribute flyers for Olnick. They're also being used to cover for doormen. We have six buildings. Security is supposed to be monitoring the hallways and the stairwells, they're also supposed to be monitoring the property, but: from 4–7 pm there are two guards covering six buildings as well as covering our doormen breaks as well as distributing flyers; from 7–9 pm, there are 3 guards; from 9 pm–2 am, 4 guards; from 2–5 am, 2 guards; from 5–7 am, one guard. Our concern is that if you're going to put in all of this greenspace and you have this kind of security on the property, we're not feeling safe. (Dayson\_LT-ACT\_023)

**Response:** The EIS considers the potential impacts of the project on community facilities including the provision of public safety services, and determined there is not a potential for significant adverse impacts in these areas. Nonetheless, in response to public comments, the applicant has committed to increase private on-site security services in conjunction with development of the proposed project. Furthermore, it should be noted that the proposed project seeks to convert a substantial portion of the interior portion of the property from parking lots to open space, which has the potential to increase utilization of such space and thus improve public safety within the property.

*COMMUNITY BENEFITS AGREEMENT*

**Comment 125:** Olnick must agree to a process for completing a binding and inclusive Community Benefits Agreement to be in place before any zoning application is approved. (Harris\_CB10\_001)

**Response:** While the applicant has engaged with residents with a goal of executing a Tenant Benefits Agreement in conjunction with development of the proposed project, to the extent such an agreement establishes benefits beyond the scope of mitigation for impacts identified in this EIS, such an agreement would be outside the scope of the ULURP/CEQR process. The environmental review is intended to identify and address the range of potential environmental impacts. To the extent that a Community Benefits Agreement includes provisions to address concerns that go beyond potential environmental impacts, they cannot be legally required through CEQR. The applicant also has engaged with stakeholders in the community to identify and articulate the community benefits of the project.

**Comment 126:** Olnick must agree that poor credit history or having no credit at all cannot be used to disallow an applicant for housing in the new buildings if that is the only reason used to disallow such applicant. And under no circumstances will a person's landlord/tenant litigation history with a landlord be used as a reason to disapprove

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an applicant, unless such landlord prevailed on an action for non-payment of rent. (Harris\_ CB10\_001)

**Response:** Comment noted. While outside the scope of the CEQR process, the applicant will adhere to all rules and regulations for the rental of housing that is developed as part of the proposed project.

**Comment 127:** For a plan like the one proposed in this application to provide equitable solutions it must also contain commitments proportional to rezonings such as East Harlem and Inwood, which led to commitments from the City in the amount of approximately \$300 to \$500 million for investments in infrastructure, housing preservation, open space, schools, and other elements essential to a neighborhood’s quality of life. (Brewer\_ MBP\_002)

**Response:** Comparisons to area-wide rezonings such as East Harlem and Inwood cannot be relied upon to inform the analyses of potential impacts of, and the development of mitigation for, the proposed projects, as those rezonings were proposed for other neighborhoods with other existing and future background conditions that do not necessarily match those in the area of the proposed project.

**Comment 128:** The community will look at the stakeholders like Hansborough and Kennedy Center and Schomburg Center and Harlem Hospital. There’s other stakeholders within the community that surround the complex. So the community benefit agreement could be something that would require a wider scope. (Washington\_029)

**Response:** Comment noted.

*EXISTING LENOX TERRACE RESIDENTS AND TENANTS BENEFITS AGREEMENT*

**Comment 129:** Olnick must agree to commit to a legally binding agreement to maintain all of the current units under the rent stabilized law. (Harris\_ CB10\_001)

**Response:** While the rent-stabilization status of the current residential units at Lenox Terrace are beyond the scope of CEQR analysis, the applicant will commit to adhere to the requirements of the Housing Stability and Tenant Protection Act of 2019 and all other applicable rules and regulations regarding the current residential units.

**Comment 130:** A permanently binding Tenant’s Benefit Agreement that addresses immediate and long term concerns of existing and future tenants must be in place before any zoning application be approved. The Olnick organization is currently in negotiation with Lenox Terrace residents regarding a “Tenants-Benefits Agreement.” In the absence of a final draft of such agreement, Community Board 10 has drafted conditions to be included in such agreement and that such agreement must be finalized to the satisfaction of the current residents and, that

the Manhattan Borough President's Office, Department of City Planning and City Council must consider any absence of such legal document as CB10 has. To date there is no tenants-benefits agreement of any kind but one should include a series of comprehensive solutions with respect to process as well as benefits to tenants that compensate for all inconveniences caused as a result of such project. A solution and a benefit would include Olnick being a responsible affordable housing partner. (Harris\_CB10\_001)

I wrote letters to DCP as well as the Board of Standard and Appeals to not support the application until there was an understanding from the community as to how the development plan submitted impacts the already overstretched community. We as the Village of Harlem were successful in starting the initial conversations with Olnick to cooperate with the resident association about how it should benefit those who have made Harlem the great community that we knew it was. To date, as willing as the resident association has been to offer its suggestions, Olnick has not been willing to incorporate their vision. I will continue to support the Resident Association of Lenox Terrace as they seek from Olnick a plan that includes the present residents as a focal point of the future of Lenox Terrace. (Dickens\_NYSA\_015)

**Response:** While the applicant has engaged with residents with a goal of executing a Tenant Benefits Agreement in conjunction with development of the proposed project, to the extent such an agreement establishes benefits beyond the scope of mitigation for impacts identified in this EIS, such an agreement would be outside the scope of the ULURP/CEQR process. The environmental review is intended to identify and address the range of potential environmental impacts. To the extent that a Community Benefits Agreement includes provisions to address concerns that go beyond potential environmental impacts, they cannot be legally required through CEQR.

**Comment 131:** According to LT-ACT, Olnick has a poor record of stewardship to Lenox Terrace residents ranging from poor service, negligent maintenance and repair, and insufficient staffing on the premises which compromises resident's safety. Further evidence provided by the Committee is that the Olnick organization has failed to maintain the apartments and common areas of the complex. This negligence has created conditions which have resulted in significant health hazards. Tenants have identified mold, lead contamination in the water pipes, and friable asbestos from cracked asbestos in the vinyl tile flooring. It is reported that many residents are living in "deplorable conditions" or as the testimony suggests, at the least conditions that are not bargained for. No legal plan and/or agreement has been put in place to rectify the outstanding maintenance repairs or the desperately needed capital improvements required as a "Tenant Right" or one that outlines tenant's obligations for personal and collective upkeep. Olnick must agree to present an acceptable plan, approved jointly by the tenant's association of Lenox Terrace and CB10, one that is legally binding on how it intends to

resolve the outstanding maintenance conditions within the complex and the conditions of the apartments—all of which have now posed a health hazard that must be remedied. CB10 is requesting a review of any remediation and inspection reports as proof the work has been completed/addressed before any other approval or negotiations of any other aspect of the proposed rezoning can occur. (Harris\_CB10\_001, Kane\_018)

The Olnick Organization has shown itself to be a bad player in this community. (Kane\_017)

Many speakers expressed great mistrust in the Applicant. One of the recurring themes in the testimony delivered at the CB10 and Borough President hearings is skepticism about the Applicant's ability to follow through on the commitments they have made in connection with this proposal. Many people have cited the long-term vacancy of the single-story commercial building at Fifth Avenue and West 132nd Street as an example. The planning process which led to the decision to keep over 17,000 square feet of commercial space vacant indicates indifference toward the local economy, and a lack of investment in the neighborhood's commercial vitality. (Brewer\_MBP\_002)

According to the Applicant and residents, there are upgrades and improvements that are needed at all six buildings in the Lenox Terrace complex. The Applicant insists that the proposed development is required to generate revenue necessary to perform these improvements. Many of the complaints by residents appear to involve conditions that the property owner is required by law to address, including rodents and other vermin, broken floor tiles, and similar conditions that have persisted for years. According to HPD, in the last 12 months the residents of the existing residential buildings have logged 149 complaints, which include the lack of heat and hot water throughout the buildings, bed bugs, roaches, and failed electrical outlets. The Applicant has recently held town meetings with residents, and they have taken steps to improve communication between the building management and residents. (Brewer\_MBP\_002)

**Response:** Comments noted. The concerns noted are outside the scope of CEQR analysis. The applicant disagrees with the characterization of the current conditions of the property, and believes the property and housing units are managed in full compliance with the law and do not present "significant health hazards" to residents.

**Comment 132:** Olnick must agree that any rezoning and/or as of right development plan they undertake, will include (and Olnick to fund) a resident services office, one that serves tenants 24/7 pre, during and post construction with real time information. The role and its various functions of this office will be negotiated and approved by CB10 and the tenants. The office will negotiate tenant abatements, concessions, and relocations. The office will administer the Lenox Terrace Development Committee and organize routine meetings with the tenants and the

developer concerning construction progress and updates. The office will also manage the newly established resident's council, governing body comprised of various sub committees. (Harris\_CB10\_001)

**Response:** Comment noted. As such services would not be considered mitigation or a project component intended to avoid an environmental impact identified in the EIS, any such agreement would be outside the scope of the ULURP/CEQR process. The environmental review is intended to identify and address the range of potential environmental impacts. To the extent that a benefits agreement includes provisions to address concerns that go beyond potential environmental impacts, they cannot be legally required through CEQR.

**Comment 133:** Olnick must agree that building staffing ratios will be addressed and employees dispersed based upon the residents' needs and the overall needs of "the Facility." (Harris\_CB10\_001)

**Response:** Comment noted. Any such agreement would be outside the scope of the ULURP/CEQR process. The environmental review is intended to identify and address the range of potential environmental impacts. To the extent that a benefits agreement includes provisions to address concerns that go beyond potential environmental impacts, they cannot be legally required through CEQR.

**Comment 134:** We stand in solidarity with community residents, advocates, and elected officials in opposition to the applicant's proposal due to its failure to address long standing repairs in existing housing, insufficient affordable housing, and lack of community input. The applicant has been negligent in the performance of routine maintenance repairs in its existing housing of Lenox Terrace. When questioned regarding outstanding maintenance requests at public hearings held by CB10, the applicant's representatives stated repairs to existing units would be contingent upon CB10's vote of approval for their rezoning application. To be clear, current residents suffer from years of derelict conditions within their apartment and building that the Applicant is required to renovate in accordance with local, state and federal law regardless of any on-going negotiations. Using the decrepit state of existing housing as a bargaining chip is immoral, illegal, and definitive of the historical characterization of a slumlord. In our great city of New York, such predatory tactics must be met with universal condemnation. (Gooding\_UDC\_003)

**Response:** The applicant disagrees with the characterization of the current conditions of the property, and believes the property and housing units are managed in full compliance with the law. The performance of the applicant as a building manager is not the subject of the EIS. Furthermore, the No Action condition analyzed for comparative purposes in this EIS assumes, in the absence of the proposed project, no change to the current condition of the property. As such, any conditions

identified above would not result from the proposed project that is the subject of analysis in this EIS.

**Comment 135:** The Olnick Organization must address outstanding concerns expressed by its current residents including: rodent and pest control, noise during renovations, accessibility, rent collection policy, and that the proposal must include a commitment to the history, culture, and community of Harlem. (Lyle\_CB10\_016)

**Response:** The EIS included a detailed analysis of the potential for construction-period noise impacts from the proposed actions. The EIS concluded that construction pursuant to the proposed actions has the potential to result in construction noise levels that exceed *CEQR Technical Manual* construction noise screening thresholds for an extended period of time at receptors within the rezoning area and study area. While the greatest levels of construction noise would not persist throughout construction, and the noise levels would fluctuate resulting in noise increases that would be intermittent, these locations would experience construction noise levels whose magnitude and duration could constitute significant adverse impacts. The EIS also describes measures that would be undertaken by the project sponsor to partially mitigate the predicted construction noise impacts, including offers of storm windows and alternate means of ventilation at residences predicted to experience impacts if they do not already have them. While such measures would not fully mitigate all predicted construction noise impacts, it would allow for the maintenance of a closed-window condition during the period, resulting in lower levels of construction noise inside these buildings. Outside of the construction hours (i.e., expected to be weekday daytime periods), receptors would be unaffected by construction noise. The EIS also describes that a pest management program would be implemented to reduce the presence of rodents at and near the proposed development site during construction.

Mitigation for the project's adverse effect on historic resources was developed in coordination with LPC. Mitigation measures will include HABS Level II recordation of the Lenox Terrace complex and an interpretive program. The interpretive program will be installed at publicly accessible locations within the Lenox Terrace site.

With respect to the project's commitment to the history, culture, and community of Harlem, the EIS followed the FSOW and *CEQR Technical Manual* guidelines in assessing the proposed actions' effects on neighborhood character; please see the response to Comment 107.

It is unclear exactly what the commenter refers to in regard to "rent collection policy;" however, rent collection is beyond the scope of CEQR analyses.

**Comment 136:** Some of the building issues that Olnick is proposing in their presentation in their [Tenant Benefit Agreement] section as upgrades are basic building issues. We at

LT-ACT maintain that, what they are proposing as upgrades are basic building maintenance issues and should NOT be a part of any Tenant Benefit Agreement. We also maintain that they are cosmetic features that don't address outstanding issues that Olnick has willfully neglected for the last many years. In each building's basement and laundry room, the tiling in all of the apartments are made from asbestos vinyl tile flooring. This generally should be safe, until it breaks or cracks. When it breaks or cracks it becomes "friable" which means it becomes breathable, which means it's a serious health concern. Many apartments have these vinyl asbestos tiles where they have begun to crack. You can go into every building in Lenox Terrace in the laundry rooms, the tiles have also begun to crack and break. Olnick has not addressed this in a comprehensive way. So that's not part of what they're saying in terms of upgrades. Tenants have complained for years about plumbing issues. This has resulted in the ceilings falling in in people's kitchens and bathrooms and not being repaired consistently. This is related to an ad hoc approach to renovation. Our plumbing is over 60 years old and when they're installing dishwashers, it puts a strain on infrastructure. That's not being addressed. Our electrical panels in the apartments are not uniform. Some apartments have circuit breakers, others have fuse boxes. Many tenants throughout the building have talked about their electricity going out when there's a renovation happening because [Olnick's] not maintaining uniform electrical panels in the building. The sockets are also very old. Many tenants' sockets depress into the walls which causes a health hazard. Also some of the wiring is faulty. You'll have a three-pronged socket where people plug in their air conditioners but they are sockets that are made of 15 amps and they should be 30 amps. But the 30 amp sockets only have two-pronged sockets. This isn't being addressed. One of the presenters said Lenox Terrace was asked how can we bring Lenox Terrace into the 21st century when they weren't taking care of the buildings. (Dayson\_LT-ACT\_023)

The landlord has said they will update the older kitchens and bathrooms as a "Tenant Benefit." This work is NOT a "Tenant Benefit," it is their responsibility as landlords NOW. These are on-going maintenance items that a responsible landlord would take care of during the course of normal business, including updating the electrical work to today's code. (LT-ACT\_024)

There's the hint of blackmail on the repairs to Lenox Terrace if this doesn't get done. And there's definitely a hedge on the nature of the mix of the commercial component. (Sorkin\_027)

One of the things that the tenant upgrades committee has been talking with Olnick about is the siloing off these items, like maintenance and repairs and things like a new laundry room, better carpet cleaning, maintenance issues. If people are living now with 50 or 60-year old kitchens and bathrooms, that that should already be upgraded. That should not be a tenant benefit agreement. That is not a tenant benefit. They paid those kitchens and bathrooms over and over again. That should

be something that they should do as part of good landlording, if that's a word. But that should be part of their current responsibility to, you know, replace kitchens and bathrooms that have outlived their useful life. (Washington\_029)

I have lived in Lenox Terrace 42 years. When I moved in, it was luxury apartment, that's what it was billed as, luxury apartments. But through the years, especially since talk of this redevelopment started, services have been diminished, down. As an example, in my building, 45, it was—constant plagued with constant sewer backups for a number of years. It took them months for them to get this fixed. The landlord had only recently gotten serious about it. It's been corrected since they want approval of the expansion project. As another example, in September of this year, I called the office and asked that my bathroom, once again, being painted because every six to eight weeks, the paint comes down. I don't get service that way. The only way I get service is you call 311. So I gave them three days, didn't hear from them. I called 311. During that time, maybe about three weeks it took them to get repaired the bathroom. To answer the complaint that I put in the first week of September, last week the 9th of December, the painter came—he say he come to take care of that problem. I says it's already been taken care of. But it took them four months. If I had not called 311, I would not have had repairs done. And this is how I get any complaint done now. Now last week we get a letter saying, oh, now we understand. (Glasgow\_040)

I am in Lenox Terrace and I've seen it go—we had in-house cameras where we could see the lobby. That's gone. We had shampooing of the rugs in the hallway. That's gone. When I go away and come back, I have debris backed up in my tub, or sometimes in my sink. So all of those things are going down, which tells me that the owners, and they let go of so many people, the owners don't have money to keep it up. So how can you build on top of if you don't have the money to keep it running as efficiently as it should be. So what are you going to do to add more onto your plate? I watch television and I watch the residents say, we're living in the worst landlord houses, and that's the New York City Housing Authority. They put mice traps or rat traps on top of their stoves. You open up the ground where there are currently people living, eating food and both you upset their housing, the rodents, they're going to come into my apartment. To me that sounds like slumlording. (Jackson\_044)

My name is Jean Corbett-Covington. I moved to Lenox Terrace in 1974. I got married in my apartment at that time at Lenox Terrace. I had my son there in 1975. My building where I live—when I think about leaving, the most frightening thing for me is leaving my family and the family that I have in Lenox Terrace, you can't find a better community of people. But there's some things inside that haven't been discussed in our building. The mice and roaches is unbearable. Anything that goes on, if they renovate an apartment, the roaches—the rats come up. Every spot in my apartment has been filled up with steel wool. And I ask that you please consider voting no until they make it what's right for us and make it



better. And another thing, let me just say this. Lenox Terrace was built in 1956. Some people still have those refrigerators. The only way that I have a refrigerator—I bought my own refrigerator and my own stove because it's ridiculous. If someone died in that building that had been there since day one and they bring out the refrigerator, it look like an ice box. You know what an ice box look like? That's what they look like. (Corbett-Covington\_045)

I am a tenant of 2186 and I have lived there—well, I've lived in Lenox Terrace for 45 years and prior to living in Lenox Terrace, my aunt lived there since it was developed. And I have seen neglect, constant neglect, intentional neglect by the Olnick Corporation. It is totally unbelievable. There has been—I mean, they started to put the—as an example, they started to put the machines where you could get the—things—buy things from—they used to have a milk machine in the basement and you could buy, I think soap powder or whatever. They took that away and so they started to charge higher rent to tenants who renovated their apartments and then they brought that back. The blighting. We live in a blighted neighborhood on Fifth Avenue. I am scared. I am afraid to walk the streets at night on 132nd Street because it is so unsafe. I have read certain accounts where neighbors have sued for blighted conditions. This has been going on for ten years. Because they want to save money. So I urge you, please—also, I live—I live in an apartment, a two-bedroom apartment and some of the tenants want to know why I'm there. The new tenants. So it's going to be a situation between the have and the have nots. Another thing is, I've been living with mice. It's to the point where I have been terrorized by them and I've had to live in bins. Take everything out of my linen closet and wash it and live in bins. And it took three months for them to fix that problem. So please—until they can take care of the residents that they have and the buildings that they have, please vote no to this project. (Scott\_050)

He was amazed to see how the pipes in my renovated apartment is constructed under my sink. It makes for a backup. He came to unstop my sink and it was full of sewer. So what else did I say? If this is—if this is what happens in a renovated apartment, what do we have to look forward to going forward in this nine years of construction? I spent all of my money. My savings. I came to New York. I came to Harlem from Brooklyn. I lived in Savoy Park and that was a renovated apartment that cost \$1,675 a month. And I had to live through every other weekend my apartment, my renovated bathroom being overflowed with somebody else's stuff. And my son, who at that time was working for the New York Times and is now vice president at CNN Digital, he got bit with the paper that came to me from—for that apartment complex. And he said, mom, these people have raised this rent illegally. So I was there 13 months. I had to go to a hospital because they didn't give me heat. (Mabry\_052)

**Response:** The applicant disagrees with the characterization of the current conditions of the property, and believes the property and housing units are managed in full

compliance with the law. The performance of the applicant as a building manager is not the subject of the EIS. In response to tenant concerns relating to maintenance, however, it should be noted that the applicant has hired a new maintenance and property management team and has restructured how maintenance requests are received and addressed. The applicant met most recently with tenants at an open meeting November 25, 2019 to specifically discuss maintenance issues. The applicant claims to have addressed all of the 86 requests received as part of that meeting.

**Comment 137:** They're two different things [community benefits agreement and tenant benefits agreement]. The tenant benefit agreement, if it comes brought to bear, the tenant benefit agreement would only reflect the tenants of Lenox Terrace. (Washington\_029)

**Response:** Comment noted.

*RACIAL IMPACT ANALYSIS/NEIGHBORHOOD RACIAL COMPOSITION*

**Comment 138:** The NYC Public Advocate, Jumaane Williams, delivered testimony. He requested a moratorium on all neighborhood rezonings, and sought support for a pending City Council bill that would require a "racial impact analysis" whenever an environment impact statement (EIS) is prepared by an applicant whose project is subject to City Planning Commission review. (Brewer\_MBP\_002)

The social service organization and house of worship, all the churches will be jeopardized because of the difference in the ethnicity that would have to come into the community. Displacement is that glue, that mix of social fabric of our neighborhood together are the churches. There's one right on 132nd and Fifth across from the building that would be going up. (Thornton\_047)

The DEIS must also include an analysis of the potential impact of the proposed project on the racial and ethnic makeup of the neighborhood. CEQR requires analysis of impacts to "the character or quality of...existing community or neighborhood character." 43 R.C.N.Y. § 6-06(a)(5). There is no justification provided, or available, for the decision to exclude analysis of the racial and ethnic impacts of the proposed project. It is inappropriate to ignore this factor, particularly in an area the predominantly Black racial makeup of which is cherished by such a large number of its residents, and in a development which is likely eligible for a State and National Historic Registry listing because of its "cultural associations with prominent African Americans in the Harlem community." (Carpenter-Gold\_TRJ\_057)

**Response:** Potential changes to neighborhood racial composition and ethnicity are not the subject of CEQR assessment. Per CEQR guidance, the demographic analysis provided in Chapter 3, "Socioeconomic Conditions" of the EIS focuses on income, including average and median household income and income trends over

time. The socioeconomic conditions analysis considers 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 of a low-income population currently living in unprotected rental units. The analysis found the projected residential and commercial uses would be consistent with market trends in the study area. These market trends reflect all households irrespective of a household's racial composition.

The New York City Housing Authority and HPD recently published the draft *Where We Live* report, a multi-year comprehensive study of the impediments to Fair Housing outcomes that drew on input from hundreds of stakeholders to identify goals, strategies, and actions that the City will undertake to advance Fair Housing goals over the next five years.

**Comment 139:** In addition to the threat of CB10's African American plurality, the basic tenant protections that residents seek from any landlord are being compromised through negligence and a lack of transparency. To date, Olnick has not addressed these concerns nor disputed any of the aforementioned claims nor demonstrated an organizational/project capacity to address our need for balanced growth. A major development such as the one proposed, will no doubt tip the scale from a demographic standpoint. In sum, one tenant referred to the proposed development as "dynamite" as it will have explosive effects. It is the hope of the residents and community at large that all these factors be seriously considered by the developer in this process. (Harris\_CB10\_001)

**Response:** The performance of the applicant as a building manager is not the subject of the EIS. The EIS in Chapter 3, "Socioeconomic Conditions," assesses whether the proposed project could result in significant adverse impacts due to indirect residential displacement of vulnerable populations due to increased rents. The analysis found that the proposed project would not introduce a trend or accelerate a trend of changing socioeconomic conditions that would displace a vulnerable population to the extent that the socioeconomic character of the neighborhood would change. Please also see the response to Comment 37.

**Comment 140:** I want to talk a little bit about racial impact. The organization called Churches United for Fair Housing has put together a study on racial impacts based on rezonings that have already happened across the City. I want to give you just a few highlights from that. Between 2003 and 2007, nearly 200,000 properties were rezoned and typically research has shown that areas with wealthier, white populations were down zoned to lower residential densities, while lower income, largely minority areas, were up zoned for higher densities. Unfortunately, this has continued under the current administration and we are seeing the residents of those communities displaced as a result. Let's look at two: Greenpoint and Williamsburg. There was a decrease of about 15,000 Latino residents in

Greenpoint and Williamsburg between 2000 and 2015, despite a population increase of over 20,000 during the same period. In Park Slope, a decrease of about 5,000 black and Latino residents between 2000 and 2013, despite overall population growth of 6,000 during the same period. This administration clearly understands that racial disparity and racial displacement is a component of this. My last job up until a few months ago, was executive director of an organization called Tenants and Neighbors. And I, with some other organizations, bid for a contract from the City to do anti-displacement work in three of the communities that had been rezoned under this administration: East Harlem, the Bronx, and Inwood. That's a \$1.5 million contract. The reason they're putting this money into that is because they have seen the result of rezoning in neighborhoods of color because this made displacement and gentrification of those communities. Some people say displacement is another form of ethnic cleansing, maybe without the violence. I agree with that. (Glover\_048)

The first statistics that I read to you were not City sponsored rezonings. They were private developer rezonings. So—and I don't think that the sponsor of the rezoning has anything to do with the effect if the term sheets—if the whole system of it is the same. If you rezone communities of color with 75 percent—so you're moving it 75 percent of the buildings that you build, or in this case about 1,100 are wealthy people. And they are not typically going to look like us. And then you have 25 percent of so-called affordable housing. What do you think is going to happen in the community? It's going to gentrify. There will be no—there will no longer be a majority community of color, as people talked about from the Community Board. And this—nothing happens by accident. I've been on this planet long enough to know that nothing happens by accident. It happens by design. So if the plan is to disperse black people from these communities, then it's going to be working. If that's what you want to do, you will be affected if you do this. Because you cannot say after this is done that you didn't know it was going to happen. You know full well what's going to happen and what's going to happen is the destruction of communities of color of more color all across this City. And do not tell me that it is not deliberate because it is. (Glover\_048)

For a century, Harlem has been the epicenter of Black culture in America, but recent real estate trends have resulted in gentrification and led to a decrease in the area's Black population. (Brewer\_MBP\_002)

And finally what I say is that African Americans deserve a place to live in Manhattan too. And this project will simply exacerbate our ability to continue to live in Manhattan. (Adams\_049)

**Response:** Potential changes to neighborhood racial composition and ethnicity are not the subject of CEQR assessment. Per CEQR guidance, the demographic analysis provided in Chapter 3, "Socioeconomic Conditions" of the EIS focuses on income, including average and median household income and income trends over time. The socioeconomic conditions analysis considers 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 of a low-income population currently living in unprotected rental units. The analysis found the projected residential and commercial uses would be consistent with market trends in the study area. These market trends reflect all households irrespective of a household's racial composition.

The New York City Housing Authority and HPD recently published the draft *Where We Live* report, a multi-year comprehensive study of the impediments to Fair Housing outcomes that drew on input from hundreds of stakeholders to identify goals, strategies, and actions that the City will undertake to advance Fair Housing goals over the next five years.

**Comment 141:** Community Board 10 followed the Harlem Platform Committee's recommendation for an Income Targeted Housing model, in its decision disapproving the 125th Street Rezoning with Conditions back in 2007. What Income Targeted Housing does is allow the creation of housing that addresses the relevant income bands in the district where the development is going to go up on a priority basis. So if there are 100 people in your district in need of housing and 80 percent are low income earning between 15–29K a year, with or without a family of three, and the 20 percent are families earning 130–200K a year, with or without a family of three, we don't want/need 80 percent of housing that caters to someone or families earning 130–200K a year, and the 20 percent of housing only geared to families not even making 15–29K a year but instead earning 43–90K a year. That is truly gentrification at its top form, which is a condition created by unlawful government means. It pushes those low income tenants out and brings in wealthier tenants. This so happens to coincide with Black people being the ones pushed out and whites or non-Black people being the ones brought in. Well this has been happening in Harlem for some time now and it is time to stop. However, there are people in government who have heard our plea. Assembly member Inez Dickens has been pushing for Income Targeted Housing. Public Advocate Jumaane Williams is asking for Income Targeted Housing. Former HPD Commissioner Shaun Donovan tried to push for it before he went to HUD. Even the [Victoria Theater Project] which is a towering 27/28 story building on W, 125th Street—a project under the control of the Empire State Development Corp—has honored the spirit of the Voting Rights Act of 1965, as amended in 2006, and the 125th Street Special District, whereby it has a 100 feet set back and its housing model is targeted at 50/30/20, which housing income bands are Open, Moderate and Low, respectively. The Urban League development will also be utilizing an Income Targeted Housing model. This is a fair attempt at respecting and adhering to the Fannie Lou Hamer, et al, law. The Olnick group will not be harmed by a decision of "NO" on its project. However, any harm that could occur doesn't rise above a supreme law of the land, especially since the project came well after such law was enacted. Furthermore, neither the ULURP procedure nor

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the traditional standard and practice (precedent) of how things are done when it comes to housing development supersedes a supreme law of the land. (Tajiddin\_CB10\_026)

**Response:** Comment noted. Please also see the response to Comment 16.

### *GENERAL OPPOSITION*

**Comment 142:** The Proposed Project lacks the public and private investments necessary to make it a prudent exercise of planning for future growth. (Brewer\_MBP\_002)

**Response:** Comment noted.

**Comment 143:** To preserve the integrity, culture, and livability of Harlem the rezoning for Lenox Terrace must be disapproved. The applicant has an obligation to ensure that its existing housing is up to code. Furthermore, residents and community leaders throughout Manhattan demand community driven rezoning proposals that reflects the wants and needs of communities, rather than that of developers. Please do not be swayed by minor incentives that may be offered in exchange for a “yes” vote, as this is an opportunity to better our neighborhood by holding those that want to build in our community responsible for their past, present and future behavior. We sincerely appreciate your attention to this matter and hope that we can count on your continued support. (Gooding\_UDC\_003)

**Response:** Comment noted.

**Comment 144:** Given the Insurmountable list of negatives of this proposed rezoning, I, along with the residents of the Lenox Terrace property, believe that, residential and commercial enhancements can be made to this area without a rezoning. It is evident that this can be achieved, as our office strives dally to make sure that the quality of life in this district is up to par. (Benjamin\_NYSS\_011)

**Response:** Comment noted.

**Comment 145:** I write this letter to express my support for the leadership of the Lenox Terrace tenant association and its loyal followers, current tenants and community neighbors; as it has led a constant opposition to the Olnick Organization’s massive expansion of the Lenox Terrace complex. To cite from a January, 2018 LT-ACT newsletter: “In the past year Olnick has been on a charm offensive to try to persuade tenants to forget their past egregious behavior and to ignore the calamitous changes they are looking to bring to our complex and our community. Olnick can do responsible in-fill construction under the current residential zoning.” As Brian Benjamin said at the Community Board 10 meeting in 2015 when Olnick brought their re-zoning proposal, “This plan is disappointing... What are you giving back to the community in exchange [for the zoning change]?”

Years have passed since Brian—as CB10’s chair then—first expressed such a solid opposition, and as the current NYS Senator, he has strengthened his support for the Lenox Terrace TA. And I join him and the tenants. Furthermore, I look forward to working with the Lenox Terrace Association and my colleague in government, as the broad leadership fights for a widely acceptable and rightful development plan. (Perkins\_CCNY\_012)

**Response:** Comment noted.

**Comment 146:** The DEIS is both self-contradictory and inadequate, and substantial new studies must be undertaken to understand the full impact the proposal to add enormous new residential density and “destination” retail to the center of Central Harlem. (TRJ\_019)

**Response:** The EIS was prepared in compliance with the Final Scope of Work and under the guidelines of the *CEQR Technical Manual*. It was subject to extensive agency and public review. All substantive comments on the DEIS were addressed in the FEIS.

**Comment 147:** This project will have clear negative effects on Lenox Terrace. (Sorkin\_027)

**Response:** Comment noted. The project’s potential impacts are disclosed in the EIS.

**Comment 148:** The name of Max Bond was evoked as a kind of sanction for this project. Max was a friend of mine. He was the Dean of the City College School of Architecture. He endowed our community action center and he’s been dead for several years. I wish he were here in order to comment on what happened to his planning effort in the years since his death. (Sorkin\_027)

**Response:** Comment noted.

**Comment 149:** The Lenox Terrace Association of Concerned Tenants (LT-ACT), which represents the residents of the Lenox Terrace apartment complex in central Harlem, strongly opposes the proposed development plan as it currently stands, put forth by the Olnick Organization, landlords of Lenox Terrace. We ask that the Commissioners vote no on this proposed project. Our last survey of tenants published in January 2014 was overwhelmingly against the rezoning, 75 percent to 25 percent. (Kane\_018) (LT-ACT\_024) (Washington\_029)

LT-ACT has been opposed to the Olnick Organization’s plan to rezone the Lenox Terrace property from a residential R7-2 to a commercial zoning C6-2 since the plan was introduced more than 10-years ago-it is a scary harbinger of developer-driven rezonings ahead of a community-driven plan for Central Harlem. The Olnick Organization intends to build as densely and as high as they can to maximize profit with no regard to the impact on the community. Together, we

must prevent this egregious project from moving forward. We ask that you VOTE NO to this plan. (Shebar\_LT-ACT\_010)

Today, Manhattan Borough President Gale Brewer recommended against adopting a proposed plan to demolish several buildings in the Lenox Terrace development and replace them with new luxury apartments and overscale retail stores. Brewer's decision echoes a rejection of the plan by Manhattan Community Board 10 last month. The rezoning application, filed by the Olnick Organization, owners of Lenox Terrace, is also opposed by LT-ACT, which represents tenants in the development. (Kane\_017)

I'm here to articulate the [Community] Board and the Manhattan Borough President's decision to disapprove the rezoning as proposed to us by Olnick. We ask that you vote no. (Downing\_CB10\_036)

I urge the Land Use Committee and the entire Board to vote No. (Paterson\_013)

Manhattan Community Board 10 has been unwilling to support any ULURP request from Olnick, and in my capacity as a Member of the New York State Assembly, [I] have supported their decision and expressed as such to my colleagues in both the city and state. (Dickens\_NYSA\_015)

After discussion and deliberation, Community Board 10 supports LT-ACT opposition to the Olnick Organization commercial rezoning as proposed. (Lyle\_CB10\_016)

I ask that you VOTE NO and submit correspondence to the New York City Council REJECTING the Lenox Terrace Rezoning application in its entirety pursuant to the advice of Community Board 10/Manhattan and the Honorable Gale Brewer, Borough President of Manhattan. The Community Board 10 Resolution is very sound. It covers all of the sentiments and concerns from all the relevant stakeholders, whether they were for the rezoning or against it. CB10 found that the majority of the stakeholders were against the rezoning and as a result CB10 was persuaded to vote in disapproval for the reasons expressed in the resolution. (Tajiddin\_CB10\_026)

We write on behalf of the Uptown Democratic Club to strongly urge your committee to disapprove the application seeking approval of five land use actions to facilitate the development of 5 new 28-story mixed-use buildings and one 6-story building located at the Lenox Terrace superblock. (Gooding\_UDC\_003)

[Olnick's rezoning proposal] is a very serious situation. As Lenox Terrace goes, so goes the rest of the community. This is a precedent setting move that's taking place that has to be stopped, nipped in the bud, otherwise it will flow like lava from a volcano and the victimization of it will be intolerable... It has to be one for all and all for one... I say NO! (LT-ACT\_024)

As Bill Perkins said at the meeting, "Defeating this rezoning proposal is going to be a process that will take some time. We have to stay committed and to stay the



course.” Brian Benjamin and Bill Perkins both offered to send buses to transport tenants to the meeting at Spector Hall. State Senator Brian Benjamin and Councilmember Bill Perkins stand with the tenants against the previous landlord rezoning proposal several years ago and the current rezoning proposal. They were unambiguous about this at the Town Hall Meeting. (LT-ACT\_024)

I’m here to urge you to vote no on this proposal. I’ve lived in Lenox Terrace for 30 years and I’ve watched Lenox Terrace, the place that I watched it when I was a little girl and I’d look up and say, I want to live there one day and I’d like to die there. That was my plan. (Jackson\_044)

Today was the first time that I heard them speak of building a building that would be totally affordable housing. This was the first. And each time they come to us, which I’ve been on the board for the 15 years when they initially brought this project to us. Every time they come, they try to tweak it a little just to make it more favorable—I just vote no on the rezoning of Lenox Terrace. (Thornton\_047)

The overwhelming majority of those who testified spoke in opposition to the rezoning plan. Most speakers called for a wholesale rejection of the proposed development. Much of what was said mirrored the concerns expressed in the Community Board 10 recommendation. (Brewer\_MBP\_002)

I am here speaking on behalf of my community, the Harlem community, but also for friends and family and associates that I know live in Lenox Terrace. I’m speaking in opposition of this project. I think everyone here has pretty much touched upon and even you, as the Commissioners have touched upon many of the issues that we have in this community with this project. (Smith\_028)

**Response:** Comments noted.

**Comment 150:** I think one of the Commissioners asked or suggested that the tenant association should serve the tenant to see what they’re willing to live with. As someone who meets regularly with my tenants at one of the buildings, let me tell you what tenants can live with. Tenants can live with the current rezoning. We don’t need officials pretending no better than us. We don’t want promises in exchange for a Harlem that will not be for us, which is a Harlem that won’t be for us, which is what we will have if this proposal is approved. The overwhelming majority of tenants have been saying over and over the same thing. Please reject this proposal in its entirety. (Bailey\_042)

**Response:** Comment noted.

**Comment 151:** It’s an incredible community. And that kind of development is going to destroy the community. (Lyle\_CB10\_053)

**Response:** Comment noted.

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**Comment 152:** I would love to hear a no vote from the Planning Commission. Let's put this on the back burner and let's take a look at these tangible, serious issues that are now confronting for this generation and those to come. (Hudson\_054)

**Response:** Comment noted.

*GENERAL SUPPORT FOR PROJECT*

**Comment 153:** As longstanding members of the Central Harlem business community and as members of the Greater Harlem Chamber of Commerce, we are pleased to inform you that we believe the proposed plans for the Lenox Terrace renovation and new development will bring meaningful benefit to our service area as well as to local area businesses. With that in mind, we encourage you to support the Lenox Terrace initiative. As Harlemites, we not only treasure Harlem's history, but also care deeply about its future and will be directly affected. That is why we are in favor of the various positive components that the Lenox Terrace initiative can and will bring to Harlem. The proposed plan for Lenox Terrace has the potential to be a major economic boon for our community creating hundreds of part time and full time jobs during the development and operational phases, as well as creating numerous business opportunities for our local entrepreneurs. The development phase will provide substantial opportunities for local service providers, contractors and small businesses. It is further our understanding from the Chamber and the Olnick Group that the project development team is committed to a minimum goal of 30 percent MWLBE participation. We further understand from the Olnick Group that the development project will also create many hundreds of jobs on-site, with a significant number of the workers coming from the Harlem community. We also eagerly look forward to witnessing the substantial revitalization of the retail, commercial and professional services environment which will benefit the Chamber's target area of West 127th Street to West 142nd Street east from Fifth Avenue to St. Nicholas Avenue on the west, thereby benefitting a significant portion of Central Harlem and beyond. We believe that the proposed development plan can provide a unique opportunity to address many of the ever-growing needs of our service area. (Hurley\_GHHDC\_009) (Majette\_HWI\_008) (Rivers\_HAA\_007) (Williams\_GHCC\_006)

**Response:** Comment noted.

**Comment 154:** If this project is approved, we will be allowed to scale our operation. That's another farm on the property, community space, office space within the new structure. We have programming right across the street from Lenox Terrace, at Burlington Houses where we provide after-school programming, free of charge to tenants' children. We have intergenerational programs with the senior center there. We grow food together, we cook food together, we eat food together, all

the time learning from each other. The food is our vehicle of community change. We have become a staple in that community. And I hope that my neighbors here from Lenox Terrace can agree with that point. I just want to say that we need space to scale. In our work we also advocate for affordable housing, below market rate apartments. Almost half of the children we serve are living in homeless shelters. So we are pushing and advocating. We create jobs in the community, fair wage jobs with health care for otherwise overlooked community members in the community. They work for us. We're negotiating with the developers. The program space would be 2,000 square feet within one of the new buildings. (Hillery\_031)

**Response:** Comment noted.

**Comment 155:** I'm looking at the zoning thing as a positive thing. But there are two sides to the story. I like the convenience of the transportation. The building itself, it's well known in the whole Harlem community. You should see the tourists. Every Saturday they come into the Harlem community. They come into our restaurants. I look at this as progress in our community that's undergoing progress in itself. I'm hearing about the opposition and they're legit and I get it. But I'm looking at it, I'm not going to be here that long. But it's a beautiful complex and so far since I've been there the neighbors are friendly and the community and the transportation is very easy to get to, the 1, 2, or the 3. It don't run good all the time but some time you get lucky. So other than that, I just think that I would hope that this project goes forward because all the years and the time it takes, the whole Harlem community, the whole City of New York is going to be changed. All you got to do is walk around and see the construction all over Harlem, all over Manhattan, the Bronx. We might as well keep up. It's gonna happen. The rents are not going to change. I'm looking at the additional affordable housing that's going to come with it, and I'm looking at the rehab of the [60 year] old building. that [is] taking place right now. (Stewart\_032)

**Response:** Comment noted.

**Comment 156:** [32BJ is] supportive of this proposal because it will preserve the existing building service jobs and standards at Lenox Terrace and create many new good jobs. For more than 30 years, 32BJ has represented the workers that currently clean and maintain the Lenox Terrace complex. These jobs are good jobs that pay a prevailing wage and provide working families access to upward mobility. Most property service jobs are filled by people who live in the community and when these jobs pay the industry standard, they have low turnover rates. In fact, the majority of the current staff at Lenox Terrace has served the complex for more than 20 years. Good jobs that provide both growth opportunities and security are important investments in New York communities and property service jobs that pay the industry standard do just that, which is why we are here in support of this

rezoning. The creation of hundreds of new units of housing and commercial and community facility space, will generate about 35 new property service jobs. Because Olnick has made credible commitment to provide prevailing wage building service jobs, these jobs will give access to a new generation of property service workers to live and work with dignity. 32BJ has a long partnership with the Olnick organization and know they will continue to be a responsible employer in Harlem. 32BJ supports responsible development that encompasses a commitment to providing prevailing wage jobs and on behalf of our 51 members at Lenox Terrace, and the more than 2,532 members that live and work in Community District 10 and our broader New York community membership, we urge you to approve this project. (Carillo\_033) (Carillo\_32BJ\_004)

We are the 51 porters, maintenance workers, and superintendent at the Lenox Terrace Apartments in Harlem. We are writing you, as the 32BJ members currently employed at Lenox Terrace, to express our support for the Olnick Organization's proposed rezoning. This rezoning will create about 35 new jobs like ours. We take pride in knowing that the new jobs created by this development will give workers access to family-sustaining wages, retirement and substantial health benefits, and help ensure good labor relations. We can personally attest to the impact that having a job that pays the prevailing wage can have on a family's quality of life. Our jobs have given us the ability to provide a stable life with security and dignity for our children. Local community members usually fill property service jobs like ours, and having a family-sustaining wage allows workers like us to remain in our communities. It is important that the Harlem community supports new developments that create good jobs and give existing community members access to the middle class and that is what Olnick Organization has planned to do. The majority of us have served the Lenox Terrace complex for 20 years or more. As residential workers, we have watched children grow up, taken care of people's homes and become experts at supporting the tenants through good times and bad. Being members of 32BJ for so long has also instilled in us the importance of creating and fighting for a standard that will continue to uplift and protect the next generation of property service workers who will do this important work. Additionally, this rezoning will allow the Olnick Organization to provide much-needed upgrades to the existing apartments. We have long, established relationships with residents and their families and we know that they deserve to have their homes invested in and deserve to live in dignity. For these reasons, we respectfully request that you approve this rezoning. (32BJ\_005)

**Response:** Comment noted.

*LAWSUIT*

**Comment 157:** There are claims currently pending or litigated against the applicant. Claims filed and damages sought and recovered need to be better understood. The Land Use

committee heard testimony which was later supported by written submission, and Olnick has not disputed such testimony or written submission, that it receives J51 tax credits and has unlawfully (attempted to) deregulate apartments at the Lenox Terrace properties while still receiving such tax credits and that it is involved in a civil dispute regarding the matter. This pending lawsuit, the outstanding maintenance concerns and alleged displacement of 700 residents has resulted in high levels of mistrust of Olnick among residents and the community at large questioning Olnick's overall integrity for any project moving forward. (Harris\_CB10\_001)

Now in this particular case, we're dealing with players—we're dealing with an ownership team that has a track record of gutting affordable housing. When people talk about the class action that they're currently in the process of settling, we're talking about them being accused of illegally deregulating rent stabilized units. What's the practical effect of that? The practical effect of that is one of my closest friends who moved to Harlem straight out of college, who moved to Lenox Terrace straight out of college, was only there for a year. Why? Because she entered one of those illegally deregulated apartment units. She no longer lives in the City. She's the kind of person that check on the neighbors and now our community doesn't have people such as her. So they have a track record of being on the wrong side of affordable housing, of being on the wrong side of displacing tenants and we would ask that you would take that track record seriously. It's almost unconscionable to me that the City would consider handing this same ownership team five additional buildings in the same year, or in close proximity to literally hundreds and potentially hundreds of tenants suing them on those very same issues. Now I don't know any of you personally but my guess is if you hire someone to clean your carpets and they destroyed your carpets or they did it in a way that forced you to move out, that you wouldn't want to hire them again. And two, you wouldn't say that they can now be the contractors to do carpeting on five new buildings. We're asking you something that's actually pretty simple. Please respect us at the very least in the way that you would if someone were doing your carpet and they violated the law. (Cardwell\_051)

**Response:** It is the position of the applicant that the comment does not accurately portray the history at Lenox Terrace and wrongly accuses The Olnick Organization of “illegally deregulating apartments” at a time when such deregulation was in accordance with the supervising agency's interpretation of law. Prior to the October 2009 Court of Appeals decision in Roberts v Tishman Speyer Properties (the Stuyvesant Town case) many owners, including The Olnick Organization, deregulated apartments while receiving J-51 tax benefits in accordance with specific and long-standing guidance that had been provided by DHCR (the agency that oversees rent stabilization and its deregulation provisions). At that time, DHCR took the position that such deregulation was proper and legal. The Roberts decision changed the deregulation process, finding *for the first time*, that deregulation could not occur while J-51 tax benefits were being received. The

decision did not, however, determine whether it should be applied retroactively to apartments previously deregulated. The “settlement” referred to in the comment resolves a class action commenced in 2010 shortly after the Roberts decision was issued. The settlement is the result of negotiations between The Olnick Organization and the affected tenants and includes rent adjustments based on the agreement of the parties; there is still not a final determination of the proper methodology for determining such rents, but Olnick has nonetheless agreed to a settlement with the affected tenants which has been preliminarily approved by the Court. Apartments deregulated after the expiration of the J-51 tax benefits are unaffected by the Roberts decision.

**Comment 158:** Olnick is simultaneously the defendant in a class-action lawsuit by current Lenox Terrace residential tenants for illegally taking units out of rent stabilization while claiming a tax abatement for affordable housing. They made headlines again in July of 2019 for sending lease renewals to tenants with unlawfully high rent increases—in some cases, more than 30 times the legal maximum. (Kane\_018)

**Response:** Comment noted. See the response to Comment 157.

*VOTING RIGHTS ACT*

**Comment 159:** We request the Commissioners of the City Planning Commission of New York City to follow the advice of CB10, the Honorable Gale Brewer and all those others to vote against the applications before it, advise the Olnick group to adhere to the concerns outlined in the CB10 resolution and follow a housing model that will not violate the Voting Rights Act of 1965, as amended in 2006, if it decides to come back with a rezoning application. (Tajiddin\_CB10\_026)

The city’s zoning standards and developers’ practices have created a dangerous precedent for the African American population in Harlem. Continuing to go unchecked it will accelerate the termination of the African American population’s plurality status. (Tajiddin\_CB10\_026) (Tajiddin\_CB10\_038)

After 15 years of continued gentrification in the Harlem community, I think it’s time for us to take pause and to really assess what’s happening. We are at a tipping point. So while we fully support responsible growth and development, the sheer density of this project will definitely be at best a tipping point on the scale from an economic and socio demographic and cultural perspective. Ten years ago maybe this project would have promised—would have been legal. But now it comes, it violates the law and not just any law but a supreme law of the land. So we’re introducing to you The Fannie Lou Hamer, Rosa Parks and Coretta Scott King and Rosa Parks Voting Rights Act Reauthorization and Amendments of 2006, Voting Rights Act of 1965. This law was enacted as—by the 196th Congress and by the United States Congress, the 43rd president of the United States, it’s the supreme law of the land that the temporary provisions in the voting

rights were again extended in 2006. In particular, Section 5 as amended, states that any standard practice or procedure with respect to voting, denies or abridges the right to vote if its purpose or its effect will be diminished of the ability of U.S. citizens on account of race or color or on contravention of certain guarantees to elect their preferred candidates of choice. In fact, Section 5 was challenged in 2012 and upheld by SCOTUS in the matter of the Shelby County versus Eric Holder in 2013. What this amounts to is this massive rezoning application and other ones in the ULURP pipeline that offer 25 percent affordable housing and 75 percent open market units. This is threatening our African American plurality in Central Harlem which is African American. The affordable units that are offered requiring income of approximately \$48,000 a year. Not only is this increase out of range for most Harlem residents, the units in that 25 percent are mostly studios and some one bedrooms. (Downing\_CB10\_036)

The City zoning standards and developers' practices have created a dangerous precedent for the African American population in Harlem. Continuing to go unchecked, it will accelerate termination of African American's plurality status. This is why a line is now being drawn in the sand and we stand on the Fannie Lou Hamer, et al lawsuit. Such concern is realistic because historically over market apartments are occupied, mostly by non-African Americans. (Williams\_CB10\_037)

As my colleague, continuing her thoughts, the City's zoning standards and developer's practices have created a dangerous precedent for the African American population in Harlem. Continuing to go unchecked, it will accelerate the termination of the African American population's plurality status.

Now this concern is realistic because historically open market apartments are occupied mostly by non African Americans. As historically African Americans have a higher unemployment rate due to discriminatory systems that have long been in place and African Americans historically have faced, and still do, unequal employment practices.

Voting Rights Act, Section 5, protection, and Harlem precedent. Back in 2007, Community Board 10 responded to the City's 125th Street's rezoning plan and its resolution disapproving a 125th Street rezoning, which included the ground that its plurality and political power would be threatened by such rezoning. Thereby making such zoning, in part, a violation of the Voting Rights Act of 1965 as amended in 2006. City Council heeded to Community Board 10's concern in that regard and within the 125th Street special districts area for the highest residential density, such development is actually discouraged by certain mechanisms that have been put in place under local law. In fact, City Council 9 residents successfully fought to strengthen the African American's plurality status in District 9, as well as in Community Board 10 where the City brought forth the City Council Redistricting Plan in 2013. Making such plurality 59 then percent but greater by eight percent.

The act's purpose in part is to guarantee the right of protected groups, such as African Americans, to be able to cast meaningful votes. Congress has found that the reasons for such concerns by the African American group are justified and there is continued need for protection. Whereas, Congress has declared in part, to such act that any practice or procedure that affects voting, that has a purpose of or will affect the diminishing or diluting the ability of any citizens in a protected class, such as African Americans, to elect their preferred candidates of choice, denies or abridges such group's right to vote.

The African American population in CB10 and Council District 9 is sufficiently large and geographically compact to constitute a majority in a single member district. Such group is politically cohesive and the majority vote sufficiently as a block. Therefore, because of the above, African Americans living in CB10, Council District 9, Senate District 30, and Assembly District 70, enjoy African American representation in government, which is by their choice and they have demonstrated that they want to continue voting for people from their group. (Tajiddin\_CB10\_038)

CB10 makes up a large part of City Council District 9 and its plurality is African American, giving Council District 9 also an African American Plurality. Community Board 10's citizen voting age plurality is also African American. The African American population in the United States is a protected group under the Voting Rights Act of 1965. CB10 (Central Harlem) and Council District 9 have enjoyed an African American plurality for over one hundred years and political power for the last four score years. The community at large, expert opinions and other evidence have alleged or demonstrated that the rezoning as proposed by the Olnick plans could affect the African American plurality in such a way that within 10 years, Harlem will not be an African American plurality. This scale of redevelopment threatens a community that has also enjoyed an African American plurality by potentially terminating such plurality and its history, as the overwhelming majority of units will be market rate. Such concerns are realistic because historically market rate apartments in Harlem are occupied mostly by non-African Americans, as historically African Americans have a higher unemployment rate due to discriminatory systems that have long been in place and African Americans historically have faced and still do, unequal employment practices precluding them from securing market rate apartments. There is no guarantee that the legacy of Lenox Terrace will be protected under the plurality of a non-African American group in the event that African Americans are no longer the majority thereby threatening our legacy in said place.

The Metropolitan African Methodist Church, located at 58 W. 135th St.—the second oldest African Methodist Episcopal congregation in Manhattan, and which is in the footprint of the rezoning proposal—has sold its property to Empire Development Fund 4, LLC, and there is a strong likelihood that another massive residential tower will be built in the former church space. Even further, the



possibility that the privately owned Joseph P. Kennedy, Jr. Center could be sold to a private developer and that space too could see one or two 28 story towers—culminating in potentially eight towers!—thereby, development on this block in totality could set a dangerous precedent for multifamily buildings in Harlem built in this era and accelerate the termination of the African America Plurality in the neighborhood forever.

In 2007, CB10 responded to New York City’s 125th Street Rezoning plan in its Resolution Disapproving of the 125th Street Rezoning which included the ground that its plurality and political power would be threatened by such rezoning, thereby making such zoning in part a violation of the Voting Rights Act (infra). The New York City Council paid close attention to CB10’s concern in that regard and within the 125th Street Special District’s zoning’s area for the highest residential density, such development is discouraged by certain mechanisms that have been put in place under local law. City Council District 9 residents successfully fought to strengthen the African American plurality in District 9 (as well as Community Board 10) when the City brought forth its City Council Redistricting plan in 2012-2013, making such plurality (59 percent) greater by 8 percent. Community Board 10 and District 9 residents relied on the Voting Rights Act of 1965, as amended in 2006 known as the Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Act Reauthorization and Amendments Act of 2006. Such Act’s purpose in part is to guarantee the right of protected groups (i.e., African American) to be able to cast meaningful votes [Section 2]. Congress has found that the reasons for such concerns by the African American group (supra) are justified. Congress has declared in part through such Act that any practice or procedure that affects voting that has the purpose of or will have the effect of diminishing or diluting the ability of any citizens in a protected class (i.e., African American) to elect their preferred candidates of choice denies or abridges the right to vote [Section 5].

The African American population in CB10 and Council District 9 is sufficiently large and geographically compact to constitute a majority in a single – member district; such group is politically cohesive; and the majority votes sufficiently as a bloc. Because of the above, African Americans living in CB10, Council District 9, Senate District 30, Assembly District 70, enjoy African American representation in government, which is by their choice and they have demonstrated that they want to continue voting for people in their group. The United States Supreme Court in 2013 in a matter known as *Shelby County v Eric Holder* upheld Section 5, which means a district’s plurality could sustain its political power and reject any rezoning or redistricting that threatens such political power. (Harris\_CB10\_001

**Response:** The issues raised in these comments regarding the Lenox Terrace land use application do not represent a judicially-recognized application of the Voting Rights Act. Independent of the CEQR review of this application, NYCHA and

**Lenox Terrace**

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HPD recently published the draft *Where We Live* report. The report identifies goals, strategies and actions that the City will undertake to advance Fair Housing goals over the next five years. The EIS analysis of indirect residential displacement in Chapter 3, “Socioeconomic Conditions,” adheres to the Final Scope of Work, *CEQR Technical Manual* guidelines, and guidance from DCP in evaluating whether the project could affect study area rents in a manner that could significantly alter or accelerate existing trends. Please also see the response to Comment 22.

**Comment 160:** MIH is no longer legal in Harlem under the supreme law of the land. You can’t impose a redistricting or a rezoning that will violate that law. We are a cohesive group and we vote a certain way and that’s protected under the Voting Rights Act, in particular, section 5. So it’s a constitutional right that we have. And there’s a reason why we have it. (Tajiddin\_CB10\_038)

**Response:** The statement that MIH is not legal in Harlem is incorrect. Challenging affordable housing programs does not represent a judicially-recognized application of the Voting Rights Act. \*