

East New York Rezoning Proposal

Chapter 22: Unavoidable Adverse Impacts

A. INTRODUCTION

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Actions. According to the *City Environmental Quality Review (CEQR) Technical Manual*, unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is infeasible.

As described in Chapter 20, “Mitigation,” the Proposed Actions would result in significant adverse impacts with respect to community facilities, open space, shadows, historic and cultural resources, transportation, air quality, noise, and construction. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation was identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Actions that would meet their purpose and need, eliminate their impacts, and not cause other or similar significant adverse impacts. In other cases, mitigation has been proposed, but absent a commitment to implement the mitigation, the impacts may not be eliminated.

B. COMMUNITY FACILITIES

Child Care Services

As described in Chapter 4, “Community Facilities and Services,” the Proposed Actions are expected to result in significant adverse impacts to publicly funded child care centers. The Proposed Actions could introduce approximately 3,538 affordable residential units, generating an estimated 630 children under age six eligible for publicly funded child care programs. With the addition of these children, child care facilities in the study area would operate at 103.4 percent of capacity, which represents an increase in the utilization rate of 10.6 percentage points over the future No-Action condition. This increase exceeds the five percent threshold in the *CEQR Technical Manual* for a significant adverse impact.

Mitigation measures for significant adverse child care impacts include the provision of suitable space(s) for a child care center within new or existing buildings and within a reasonable walking distance (leased at a rate affordable to the New York City Administration of Children’s Services [ACS] or ACS providers) or funding, or making program improvements to support additional capacity (refer to Chapter 20, “Mitigation”). Measures to mitigate the identified significant adverse impact on publicly funded child care centers were explored between the DEIS and FEIS in coordination with the lead agency, the New York City Department of City Planning (DCP), and ACS. While the mitigation measures outlined in Chapter 20, “Mitigation,” could offset or would serve to at least partially mitigate the identified impact, in the event that the significant adverse impact on publicly funded child care facilities is not completely eliminated, an unavoidable significant adverse impact would result.

C. OPEN SPACE

As discussed in Chapter 5, “Open Space,” given the anticipated decrease in the total, active, and passive open space ratios in the residential study in the future with the Proposed Actions, a significant adverse open space impact would result. Measures to mitigate the Proposed Actions’ significant adverse open space impact were explored in

coordination with the lead agency, DCP, and the New York City Department of Parks and Recreation (DPR) between the DEIS and FEIS. As outlined in Chapter 20, "Mitigation," based on these discussions, the following mitigation measures have been identified. Improvements to study area open space resources would be implemented to add and/or enhance park components that would address the need for increased fitness and recreation opportunities for current and future residents. The scope of improvements to study area open space resources would be contingent upon available funds and the deficiencies or needs specific to the open space resource. New open space would also be provided by making the schoolyards of two area schools (P.S. 677 and P.S. 345) accessible to the public after school hours through the City's Schoolyards to Playgrounds program and creating a publicly accessible playground at the new school to be built as part of the Proposed Actions.

These measures, which would substantially increase the usability of and enhance open space resources for the additional population introduced by the Proposed Actions, would partially mitigate the significant adverse open space impact. As a consequence, the Proposed Actions' significant adverse open space impact would not be completely eliminated and, as a result, an unavoidable significant adverse open space impact would occur.

D. SHADOWS

As discussed in Chapter 6, "Shadows," the Proposed Actions would result in a significant adverse shadow impact (and shadow-related historic resource impact) on the NYCL-eligible and S/NR-eligible Holy Trinity Russian Orthodox Church. Incremental shadows on sunlight-sensitive features of the Holy Trinity Russian Orthodox Church would occur on all four representative analysis days, with durations ranging from 36 minutes to two hours and 50 minutes, which may have the potential to affect the enjoyment of this feature from the interior of the church. It should be noted that the sites that would cast incremental shadows on this historic resources are potential, rather than a projected, development sites. As described in Chapter 1, "Project Description," potential development sites are considered less likely to be developed than projected development sites. Consequently, the likelihood of this impact occurring is less than if it were to result from development on a projected development site.

Measures to reduce or eliminate the project's shadow impacts were explored in consultation with the New York City Landmarks Preservation Commission (LPC) between the DEIS and FEIS. As discussed in Chapter 20, "Mitigation," it has been determined that there are no feasible or practicable mitigation measures that can be implemented to mitigate this impact, and the Proposed Actions' significant adverse shadows impact on the Holy Trinity Russian Orthodox Church therefore remains unmitigated.

E. HISTORIC AND CULTURAL RESOURCES

As described in Chapter 7, "Historic and Cultural Resources," the Proposed Actions could result in significant adverse historic resources impacts to one resource that is eligible for S/NR-listing and NYCL-designation. Projected development site 37, which is expected to be developed under RWCDs With-Action conditions, contains the S/NR- and NYCL-eligible Empire State Dairy Building. As the maximum permitted With-Action FAR on site 37 could be constructed without the demolition or enlargement of the Empire State Dairy Building, the structure is not projected to be demolished, either partially or entirely, or substantially altered under the RWCDs. However, the Proposed Actions do not include any measures that would prevent the demolition or alteration of the Empire State Dairy Building.

In the event that the structure was designated as a landmark by the LPC, the significant adverse impact would be fully mitigated. However, as the designation process is subject to LPC approval, and not CPC approval, it cannot be assumed or predicted with any certainty. The possibility of potential designation of this resource was explored, in consultation with the LPC, between the DEIS and FEIS. Specifically, LPC has been in contact with the property owner(s) of the S/NR- and NYCL-eligible Empire State Dairy Building with the intent of potentially designating the property as a NYCL. However, as this process is ongoing, designation of the building by LPC is not certain at this time. Absent LPC's designation of the Empire State Dairy Building, the implementation of measures such as

photographically documenting the eligible structure in accordance with the standards of the Historic American Buildings Survey (HABS) could partially mitigate the identified significant adverse direct impact to this historic architectural resource. However, a mechanism to require such measures is not available. Accordingly, this impact would not be completely eliminated, and, if the Empire State Dairy Building is not designated as a landmark, an unavoidable significant adverse impact on this historic resource would result.

F. TRANSPORTATION

Traffic

As discussed in Chapter 13, “Transportation,” the Proposed Actions would result in significant adverse traffic impacts at 47 study area intersections during one or more analyzed peak hour; specifically, 59 lane groups at 41 intersections during the weekday AM peak hour, 40 lane groups at 25 intersections during the weekday midday peak hour, 67 lane groups at 39 intersections during the weekday PM peak hour, and 38 lane groups at 26 intersections during the Saturday midday peak hour. Implementation of traffic engineering improvements, such as signal timing changes or modifications to curbside parking regulations would provide mitigation for many of the anticipated traffic impacts. Specifically, as summarized in Table 22-1, below, the significant adverse impacts would be fully mitigated at all but 18 lane groups at 11 intersections during the weekday AM peak hour, 13 lane groups at four intersections during the weekday midday peak hour, 21 lane groups at 11 intersections during the weekday PM peak hour, and ten lane groups at five intersections during the Saturday midday peak hour. In total, impacts to one or more approach movements would remain unmitigated in one or more peak hours at 16 intersections.

TABLE 22-1
Lane Groups With Unmitigated Significant Adverse Traffic Impacts

Intersection	Peak Hour			
	Weekday AM	Weekday Midday	Weekday PM	Saturday Midday
Signalized Intersections				
Atlantic Ave & Rockaway Ave	WB-TR	EB-TR, WB-TR	---	---
Atlantic Ave & Eastern Pkwy	WB-T (main)	---	---	---
Atlantic Ave & Pennsylvania Ave	WB-TR, NB-TR, SB-L, SB-TR	EB-LEB-TR, WB-TR, NB-TR, SB-L, SB-TR	EB-L, EB-LT, WB-TR, NB-TR, SB-L	EB-TR, WB-TR, NB-TR, SB-L
Atlantic Ave & Warwick Street	---	---	EB-TR	---
Atlantic Ave & Logan St	SB-LTR	---	SB-LTR	SB-LTR
Broadway & Eastern Pkwy	EB-TR, WB-LT	---	EB-L, EB-TR, WB-LT	---
Fulton St & Pennsylvania Ave	---	---	NB-TR, SB-L	---
Fulton St & Miller Ave	---	---	EB-TR	---
Fulton Street & Logan St	WB-LTR	---	WB-LTR	---
Bushwick Ave/Jamaica Ave & Pennsylvania Ave/Jackie Robinson Pkwy	EB-Jamaica-TR, WB-L, WB-T, NB-L	EB-Bushwick-R, WB-L, WB-T, NB-L	EB-Bushwick-R, WB-L, WB-T, NB-L	WB-L, WB-T, NB-L
Pitkin Ave & Mother Gaston Blvd	WB-LTR	---	---	---
Pitkin Ave & Pennsylvania Ave	WB-LTR	WB-LTR	WB-LTR	WB-LTR
Unsignalized Intersections				
Arlington Ave & Jamaica Ave	---	---	---	NB-LR
Fulton St & Elton St	NB-TR	---	---	---
Pitkin Ave & Elton St	---	---	NB-LTR	---

Notes:

NB – northbound, SB – southbound, EB – eastbound, WB – westbound
L – left-turn, T – through, R – right-turn, DefL – defacto left-turn

Transit

Bus

The Proposed Actions would result in a capacity shortfall of 17 spaces on westbound Q8 service in the PM peak hour. This significant adverse impact to Q8 local bus service could be fully mitigated by the addition of one standard bus in the westbound direction in the PM peak hour. If these changes are not made, these impacts would be considered unavoidable.

Pedestrians

Incremental demand from the Proposed Actions would significantly adversely impact a total of two sidewalks, one crosswalk, and one corner area in one or more peak hour. Specifically, two of the 79 analyzed sidewalks, one of the 67 analyzed crosswalks, and one of the 58 analyzed corner areas would experience significant adverse impacts in one or more peak hour. As outlined in Chapter 20, "Mitigation," the identified pedestrian impacts would be fully mitigated through sidewalk widenings, tree pit removal, and crosswalk widenings. Implementation of these measures would be subject to review and approval by DOT. If, prior to implementation, DOT determines that an identified mitigation measure is infeasible, an alternative and equivalent mitigation measure will be identified. If no feasible measures can be identified, the projected impacts would remain unmitigated and would therefore be considered unavoidable adverse impacts.

G. NOISE

As presented in Chapter 16, "Noise," the Proposed Actions would result in significant adverse impacts on Richmond Street between Fulton Street and Dinsmore Place, with predicted noise level increases of 4.9 dBA at this location. Traffic mitigation measures were developed to reduce congestion and increase speeds along Logan Street. The traffic mitigation measures would tend to result in lower levels of traffic noise, and consequently, using the methodology described in Chapter 16, "Noise," a mobile source noise analysis was conducted for receptor site 10 with the proposed traffic mitigation measures in place to determine whether the predicted significant adverse impact at this location would be removed or lessened in magnitude with the traffic mitigation measures. At all other receptor sites where significant adverse noise impacts were not predicted to occur in the With-Action condition, noise levels in the With-Action with Traffic Mitigation condition would be expected to experience noise levels equal to or less than those predicted in Chapter 16, "Noise," and additional analyses were not conducted.

Noise levels increases due to traffic mitigation measures are expected to result in smaller noise level increases to the Proposed Actions during all analyzed time periods. The maximum increase in $L_{eq(1)}$ noise levels for the With-Action with Traffic Mitigation condition compared to the No-Action condition for receptor site 10 would be 3.9 dBA during the AM peak hour, which constitutes a significant adverse impact, although with a smaller magnitude than that predicted to occur in the With-Action condition. According to field observations, all of the residences at this location appear to have double-glazed windows, and most of the residences appear to have through-wall air conditioners or window air conditioners (i.e., an alternate means of ventilation). With respect to upgrades at the residential units, there are no further practical or feasible mitigation measures that would fully or partially mitigate the significant adverse noise impact at these locations.

Window air conditioners potentially could be installed at these residential units to provide an alternate means of ventilation. As outlined in Chapter 20, with respect to upgrades at the residential units, there are no further practical or feasible mitigation measures that would fully mitigate the significant adverse noise impact at these locations.

H. CONSTRUCTION

Historic and Cultural Resources

As described in Chapter 18, “Construction,” development under the Proposed Actions—specifically, on projected development sites 7, 13, 35, 38, 39, 49, and 74 and potential development sites A3, A7, A8, A14, A18, A25, A40, A41, A50, A65, A70, A82, A86, A87, A95, and A102—could result in inadvertent construction-related damage to 12 NYCL- and/or S/NR-eligible historic resources, as they are located within 90 feet of one or more of the aforementioned projected and potential development sites. If these eligible resources are designated in the future prior to the initiation of construction, the protective measures of New York City Department of Buildings (DOB) Technical Policy and Procedure Notice (TPPN) #10/88 would apply and indirect significant adverse impact from construction would be avoided. Should they remain undesignated, however, the additional protective measures of TPPN #10/88 would not apply, and the potential for significant adverse construction-related impacts would be unmitigated.

In order to make TPPN #10/88 or similar measures applicable to historic resources in the absence of site-specific approval, a mechanism would have to be developed to ensure implementation and compliance, since it is not known and cannot be assumed that owners of these properties would voluntarily implement this mitigation. DCP, as lead agency, explored the viability of this and other mitigation measure between the DEIS and FEIS and determined that there were no feasible and practical mitigation measures to fully mitigate the identified significant adverse construction-related impact on historic resources.

Noise

Chapter 19, “Construction,” concludes that the Proposed Actions would have the potential to result in significant adverse construction noise impacts at several locations throughout the rezoning area. Mitigation measures to address the identified construction noise impact were explored between the DEIS and FEIS. As there are no practical or feasible mitigation measures that would fully mitigate the significant adverse construction noise impacts at these locations an unmitigated significant adverse construction noise impact would result.