

A. INTRODUCTION

The FGEIS analysis concluded that the illustrative Rezoning Scenario was consistent with the applicable Statewide and City-specific coastal zone management policies. This chapter updates the assessment in the FGEIS to reflect the specific development program now considered under the Proposed Actions. It assesses the proposed development program's consistency with the city's New Local Waterfront Revitalization Program (LWRP) and the East River Bikeway and Esplanade Master Plan.

The development program analyzed in this SEIS does not present substantial differences in uses, density, or building configuration that would alter the findings presented in the FGEIS relating to consistency with the LWRP, or with the East River Bikeway and Esplanade Master Plan. This analysis finds that the Proposed Actions would be consistent with applicable coastal zone management policies. Compared to the site plans associated with the illustrative Rezoning Scenario, the configuration of public open space now envisioned under the proposed development program—combined with a program that facilitates the possible future development of a pedestrian bridge over the FDR Drive that would provide public access to the East River Esplanade—further enhances the proposed program's consistency with coastal zone management policies compared to the plans considered in the FGEIS.

BACKGROUND

The Coastal Zone Management (CZM) Act of 1972 was established to support and protect the distinctive character of the waterfront, and set forth standard policies for reviewing proposed development projects along coastlines. The program responded to local, state, and federal concerns about the deterioration and inappropriate use of the waterfront. Pursuant to the Act, the State of New York adopted its Coastal Management Program to balance economic development and preservation by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline, and farmland; and minimizing adverse changes to ecological systems and erosion and flood hazards.

The state's program encourages coordination among all levels of government in order to promote sound waterfront planning and requires consideration of the program's goals in decisions directing land use development. The New York City Department of City Planning (DCP) administers the Coastal Management Program for the City. Because the development parcels are located within New York City's Coastal Zone Boundary as outlined in DCP's Coastal Zone Boundary of New York City, June 1986, they are subject to the city's LWRP.

Other policies that influence and/or affect coastal zone management in the city and in the project area are the New York City Comprehensive Waterfront Plan, published by the Department of City Planning in 1993, and The East River Bikeway and Esplanade Master Plan, published by the New York City Economic Development Corporation in 1996. The Comprehensive

Waterfront Plan led to the city's current waterfront zoning and was the impetus for the current LWRP, which now incorporates the policies of the Comprehensive Waterfront Plan. The East River Bikeway and Esplanade project proposes to implement 5.5 miles of the city's plan for achieving a continuous public walkway and recreational space along Manhattan's shoreline from the Battery to East 125th Street.

B. SUMMARY OF FGEIS FINDINGS

The FGEIS analyzed potential redevelopment under As-of-Right and Rezoning Scenarios at the development parcels to determine consistency with city Waterfront Revitalization Program policies. The FGEIS considered the former LWRP criteria, which consisted of 44 statewide policies and 12 city-specific policies, as well as the City's new LWRP policies that are analyzed in this SEIS. The FGEIS analysis found that the development programs analyzed under the Rezoning Scenario would be consistent with the former and new LWRP policies. The As-of-Right Scenario was found to be less consistent with the policies, as it would fail to provide enhanced access to waterfront areas or the improved waterfront recreational views associated with the Rezoning Scenario.

The FGEIS stated that the master planning process for the parcels would investigate opportunities to better link the parcels to the waterfront and increase public access. Those opportunities have been considered and are reflected in ERRC's proposed development program, which in its design allows for the possible future construction of a pedestrian bridge over the FDR Drive south of East 41st Street. The feasibility of the pedestrian bridge envisioned by ERRC ultimately depends upon planning decisions related to the reconfiguration of the FDR Drive, which is being contemplated by the New York State Department of Transportation (NYSDOT). NYSDOT has advanced several alternative FDR Drive reconfiguration plans, only some of which would allow for a pedestrian bridge from the development parcels over the FDR Drive. While ERRC's design for the development parcels allows for the development of a pedestrian bridge, as described in the FGEIS, the planned redevelopment on the development parcels without a pedestrian bridge over the FDR Drive would still improve access to views of the East River and Queens.

The FGEIS also described ERRC's intent to provide all at-grade landscaping improvements associated with construction of up to a 1.2-acre portion of the esplanade on city-owned land between East 38th and East 41st Streets. It is expected that improvements to that 1.2-acre portion of the esplanade would be undertaken by the city as part of the East River Bikeway and Esplanade Master Plan. Given that such improvements would occur irrespective of the Proposed Actions, the analysis in the SEIS does not consider improvements to the 1.2-acre portion of the esplanade as part of the Proposed Actions.

C. NEW YORK CITY'S NEW LOCAL WATERFRONT REVITALIZATION PROGRAM POLICIES

New York City's LWRP includes 10 policies designed to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among those objectives. Each policy is presented below, followed by a discussion of the policy's applicability to the Proposed Actions and its consistency with the policy.

Policy 1: Support and facilitate commercial and residential development in areas well-suited to such development.

Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.

The development parcels are located in east midtown Manhattan in an area containing a mixture of residential, institutional, commercial and open space uses. Within a ¼-mile area to the northwest of the development parcels there is a mix of office uses that is considered part of the Midtown Manhattan Central Business District (CBD). The southern and northeastern portions of the ¼-mile area around the parcels are largely residential. The development parcels are currently vacant, with the exception of 700 First Avenue, which is occupied by decommissioned steam generation facilities that are currently being demolished. The proposed development program would redevelop the sites with a mix of residential, commercial, community facility, and recreational uses consistent with those in the neighborhood. The encouragement of these types of uses in this location would be appropriate, as discussed in Chapter 2, “Land Use, Zoning, and Public Policy.” As a result, the Proposed Actions would promote development that is consistent with the policy stated above.

Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.

The development program would create a mix of residential, office, retail, community facility uses, and public open space uses. These uses would result in substantially greater numbers of people coming to the area, would attract the public, and would enliven this stretch of land near the waterfront. In addition, the proposed development program provides publicly-accessible pedestrian routes to new East River waterfront views. Therefore, the Proposed Actions would encourage non-industrial development that enlivens areas near the waterfront and attracts the public.

Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.

The development parcels have the advantage of being located in an urban community with access to existing mass transit, highways, water and sewer lines, and health, educational, and social services. A subway line runs three avenues west of the disposal parcels. Vehicular access to the parcels can be achieved via the FDR Drive; First Avenue; and East 35th, 36th, 38th, 39th, 40th, and 41st Streets. Water, sewer lines, and electricity serve the area. Redevelopment resulting from the Proposed Actions would be in an area where essential public services and facilities are available and adequate.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

The development parcels are not located in a Significant Maritime and Industrial Area; therefore, this policy does not apply.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.

First Avenue Properties Rezoning Final SEIS

The development parcels are located inland from the East River and are separated from the shoreline by the FDR Drive. Therefore, the development parcels are not an appropriate location for working waterfront uses.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

As described above, the development parcels are located inland from the East River and are separated from the shoreline by the FDR Drive. There are no working waterfront uses in the vicinity of the development parcels for which infrastructure could be provided. Therefore, the development parcels are not an appropriate location for providing such infrastructure.

Policy 3: Promote use of New York City’s waterways for commercial and recreational boating and water-dependent transportation centers.

Policy 3.1: Support and encourage recreational and commercial boating in New York City’s maritime centers.

The portion of East River shoreline nearest the development parcels is not one of New York City’s maritime centers and there are no policies or plans for boating along this stretch of waterfront. Therefore, this policy does not apply.

Policy 3.2: Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

The development resulting from the Proposed Actions does not involve recreational, commercial, or ocean-going freight vessels. Therefore, this policy does not apply.

Policy 3.3: Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.

The Proposed Actions are not expected to result in commercial or recreational boating activities. Therefore, this policy does not apply.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes and Significant Coastal Fish and Wildlife Habitats.

The development parcels are not located within a Special Natural Waterfront Area, Recognized Ecological Complex, or Significant Coastal Fish and Wildlife Habitat, nor is there any natural area located on the development parcels. Therefore, this policy does not apply.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

There are no tidal or freshwater wetlands on or adjacent to the development parcels. Therefore, this policy does not apply.

Policy 4.3: Protect vulnerable plant, fish, and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

As described in detail in Chapter 10, “Natural Resources,” the proposed project would result in a net gain of 4.84 acres of publicly accessible open space. This open space would provide areas for both passive and active recreation and would open up views to the East River. While some wildlife located within the project site would have the potential to be impacted during the

construction phase of the proposed development program, the proposed open space areas would result in a net gain in terrestrial habitat for wildlife species commonly found in urban environments.

Policy 4.4: Maintain and protect living aquatic resources.

The development parcels are located inland from the East River and are separated from the shoreline by the FDR Drive. The development resulting from the Proposed Actions would not involve the harvesting of fish, spawning habitat, aquaculture, or fish stocking. Therefore, this policy does not apply.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

Combined storm and sewer lines serve the development parcels and are located beneath East 34th, 35th, 38th, 41st, and 42nd Streets. As detailed in Chapter 12, "Infrastructure," if the site is left vacant, 15.5 cubic feet per second (cfs) of stormwater would enter the combined sewer system. With the Proposed Actions, stormwater would be diverted to separate stormwater sewers or detained on-site. This would reduce the stormwater flows into the combined sewer system to 11.7 cfs, a reduction of 3.8 cfs. This is expected to reduce the frequency and volume of combined sewer overflow events. As described in detail in Chapter 12, "Infrastructure," the effects of the Proposed Actions on these occurrences would be insignificant. The proposed development program is not expected to have a significant adverse impact on the New York City sewer system or on the water quality of the East River.

Implementation of erosion and sediment control measures and stormwater management measures as part of the Stormwater Pollution Prevention Plan during construction and operation of the proposed project would minimize potential impacts to the combined sewer system as well as potential water quality impacts to the East River associated with stormwater runoff. Groundwater recovered during any construction dewatering would be treated, as necessary, prior to discharge to the combined sewer system.

Policy 5.2: Protect the quality of New York City's waters by managing activities that generate non-point source pollution.

The development program would utilize Best Management Practices to minimize the generation of any nutrients or pollutants or new contributions to non-point source pollution to the East River. See also Chapter 10, "Natural Resources."

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes or wetlands.

The project would not entail excavation in navigable waters or in or near marshes, estuaries, tidal marshes, or wetlands, nor would excavation fill be placed in navigable waters or in or near marshes, estuaries, tidal marshes, or wetlands.

Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

There are no streams or wetlands located on or adjacent to the development parcels. In Manhattan, groundwater is not used for drinking water or any other purposes. All on-site dewatering, if required, will be conducted in conformance with the New York City Department of Environmental Protection's regulations.

First Avenue Properties Rezoning Final SEIS

Policy 6: Minimize the loss of life, structures, and natural resources caused by flooding and erosion.

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

The Proposed Actions would not result in an alteration to the natural features of the shoreline or any structural or non-structural flood or erosion control measures. All on-site development would be consistent with FEMA guidelines that regulate the location of habitable structures. The 616 First Avenue parcel is within a Special Flood Hazard Area (SFHA). All structures built within the SFHA would comply with applicable City and FEMA requirements on construction and occupancy.

Implementation of erosion and sediment control measures and stormwater management measures as part of the SWPPP during construction and operation of the proposed project would minimize potential impacts to the combined sewer system as well as potential water quality impacts to the East River associated with stormwater runoff. Groundwater recovered during any construction dewatering would be treated, as necessary, prior to discharge to the combined sewer system.

Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

Public funding for flood prevention or erosion control measures is not part of the Proposed Actions. Therefore, this policy does not apply.

Policy 6.3: Protect and preserve non-renewable sources of sand for beach nourishment.

There are no non-renewable sources of sand associated with the development parcels. Therefore, this policy does not apply.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution and prevent degradation of coastal ecosystems.

None of the uses envisioned under the proposed development program would involve the use or discharge of hazardous or toxic pollutants. All toxic or hazardous substances uncovered during construction will be handled and removed in accordance with the applicable State and Federal standards to prevent impacts on surrounding areas. Solid waste would be hauled to out-of-City landfills by a private contractor.

Policy 7.2: Prevent and remediate discharge of petroleum products.

No petroleum products are expected to be disturbed or discharged as a result of the Proposed Actions. In the unlikely event that petroleum is disturbed or discharged, it would be remediated in conformance with all applicable laws, rules, and regulations, thereby complying with the goals of this policy.

Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

Solid waste resulting from the Proposed Actions would be hauled by DSNY or a licensed contractor or waste hauler according to applicable laws and regulations. No hazardous substances are expected to be generated by the Proposed Actions, and they would not involve the siting of any solid or hazardous waste facilities.

Policy 8: Provide public access to and along New York City's coastal waters.

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

Currently, there is no recreational access from the development parcels to the waterfront and East River. The Waterside parcel is vacant and there are no views of the river from this location or from 708 First Avenue since the 8-foot wall along the FDR Drive blocks views and prohibits public access. There are no visual resources on 616 First Avenue or the eastern portion of 685 First Avenue. The site at 616 First Avenue is a vacant site previously used for parking and it is enclosed by fencing that blocks views out from the site. The Waterside site blocks views from 685 First Avenue to the waterfront and the East River.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

The development program would incorporate new, publicly accessible open spaces and pedestrian routes on the development parcels that would enhance views of the East River. In addition, the proposed design of the Waterside/708 First Avenue parcels allows for the possible future construction of a pedestrian bridge over the FDR Drive. A pedestrian bridge over the FDR Drive would be publicly accessible and would provide a new point of access to the East River Esplanade.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

The open spaces associated with the proposed development program have been sited to maximize views of the East River. In particular, the open space on the Waterside parcel would provide substantial new access to views of the East River from First Avenue.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

While the development parcels are not located on the waterfront or on publicly owned land, the development program's design allows for the possibility of a publicly accessible pedestrian bridge over the FDR Drive, which would provide a new point of access to the East River Esplanade, thereby enhancing access to, and enjoyment of, publicly owned land.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the State and City.

The development parcels do not contain any lands or waters held in public trust by the State and City.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

Development that would result from the Proposed Actions would be located immediately to the south of the United Nations Headquarters complex and the Tudor City Historic District (S/NR, NYCL), which is a group of apartment houses built on a high bluff on First Avenue during the 1920s. The area surrounding the development parcels is a mix of residential, commercial, institutional, and open space uses. The construction of tall residential and commercial buildings and over 4.8 acres of open space that would occur as a result of the Proposed Actions would be consistent with, and contribute to, the visual quality of this urban context. The proposed development program would be an improvement over the vacant 616, 700, and 708 First Avenue sites that would exist in the future without the Proposed Actions. There are no recreational boating facilities, maritime industries, or natural features in the vicinity of the parcels. Consistent with this policy, the development program is expected to improve the visual quality associated with New York City's urban context.

Policy 9.2: Protect scenic values associated with natural resources.

Development that would result from the Proposed Actions would not reduce existing views or the scenic value of the East River. New views would be provided through the creation of on-site open space in the vicinity of the East River, and new view corridors would be created along the eastern elongations of East 39th and East 40th Streets.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

As discussed in Chapter 7 of the SEIS, "Historic and Archaeological Resources," there are no designated historic resources located on the development parcels. The one designated architectural resource in the study area is the Tudor City Historic District (S/NR, NYCL). The Tudor City Historic District is a group of apartment houses built on a high bluff on First Avenue in the 1920s. The Tudor City Historic District lies just outside the Coastal Zone Boundary. The development resulting from the Proposed Actions is not expected to result in significant adverse visual or contextual impacts on this resource.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

There are no previously recorded Native American sites located on the development parcels. The entire 616 First Avenue site and the eastern half of the 708/Waterside site were submerged in the East River until the nineteenth century. Therefore, these areas were not accessible to Native Americans. In addition, it is expected that the number of large buildings with basements located on all the parcels and the numerous construction episodes would have completely disturbed any archaeological resources, had they been present. Consequently, the development parcels are not considered sensitive for prehistoric resources or historic-period archaeological resources.

D. EAST RIVER BIKEWAY AND ESPLANADE PLAN

As noted above, The East River Bikeway and Esplanade Master Plan, published by the New York City Economic Development Corporation in 1996, sets forth the City's policy for development of recreational open space along the East River. The East River Bikeway and Esplanade project would provide 5.5 miles of the city's plan for achieving a continuous public walkway and recreational space along Manhattan's shoreline. The bikeway and esplanade will

become part of the city's overall Greenway System, connecting several locations to the city's planned on-street bikeway system, as well as to all of the East River bridges in the project area.

The development parcels are located inland from the East River and are separated from the shoreline by the FDR Drive. Therefore, the Proposed Actions would not adversely affect any planned or future improvements to the East River Esplanade. However, the development program would provide new publicly accessible pedestrian routes to views of the East River, the most notable being an on-site esplanade between East 38th and East 41st Streets (depicted in Figure 8-23 of Chapter 8, "Urban Design and Visual Resources."). In addition, through its design the proposed development program allows for the possible future construction of a pedestrian bridge over the FDR Drive south of East 41st Street (if the FDR Drive were reconfigured in a manner that allowed for its construction). A pedestrian bridge would provide public access to the East River Esplanade, and would be a new and improved connection to the continuous walkway envisioned under the East River Bikeway and Esplanade Master Plan. *