# TECHNICAL MEMORANDUM 003
# POTENTIAL CITY COUNCIL MODIFICATIONS
# EAST HARLEM NEIGHBORHOOD REZONING
# CEQR No. 17DCP048M

ULURP Nos.: N170359 ZRM, C170358 ZMM,
and C170360 HUM
November 28, 2017

## A. INTRODUCTION

The New York City Department of City Planning (DCP), together with the Department of Housing Preservation and Development (HPD), is proposing a series of land use actions—including zoning map amendments, zoning text amendments, and amendments to the Milbank Frawley Circle-East Urban Renewal Plan (collectively, the "Proposed Actions")—as a component of the City's East Harlem Initiative (the "Initiative"), a comprehensive, community-focused effort aimed at identifying opportunities for the creation of new mixed-income housing and the preservation of existing affordable units consistent with Mayor de Blasio's housing plan, *Housing New York: A Five-Borough, Ten-Year Plan*. The Proposed Actions are intended to facilitate the development of affordable housing, preserve existing neighborhood character, improve the pedestrian experience, and create new commercial and manufacturing space to support job creation adjacent to existing and future transit nodes. The Proposed Actions would affect an approximately 96-block area of the East Harlem neighborhood of Manhattan, Community District 11. The area that is subject to the Proposed Actions is generally bounded by East 104$^{th}$ Street to the south, East 132$^{nd}$ Street to the north, Park Avenue to the west, and Second Avenue to the east.

The Draft Environmental Impact Statement (DEIS) for the Proposed Actions was accepted as complete on April 21, 2017, by DCP, acting on behalf of the City Planning Commission (CPC) as lead agency. A public hearing on the DEIS was held on August 23rd, 2017, in conjunction with the CPC's citywide public hearing pursuant to ULURP, and written comments on the DEIS were accepted until September 5th, 2017. The Notice of Completion for the Final Environmental Impact Statement (FEIS) was issued on September 19, 2017 (CEQR No. 17DCP048M) The FEIS incorporated responses to the public comments received on the DEIS and additional analysis conducted subsequent to the completion of the DEIS.

Following the publication of the FEIS, modifications to the Proposed Actions were made by the CPC, which were evaluated in Technical Memorandum 002 (TM 002), issued by the DCP on September 29, 2017. The assessment contained in TM 002 demonstrated that the CPC modifications would not result in any new or different significant adverse impacts not already identified in the FEIS. The CPC adopted the Proposed Actions (with modifications) on October 2, 2017 (the "Approved Actions") and referred the application to the City Council.

Since the CPC's adoption of the Approved Actions, potential modifications have been identified as under consideration by the City Council. The potential City Council modifications (the "Potential Modifications") are summarized below. This technical memorandum examines whether the Potential Modifications would result in any new or different significant adverse environmental impacts not already identified in the FEIS as pertains to the Approved Actions. As set forth below, this technical memorandum concludes that the Potential Modifications by the City Council would not result in any new or different significant adverse impacts not already identified in the FEIS.

## B. DESCRIPTION OF THE POTENTIAL MODIFICATIONS

The Potential Modifications consist of substantive and/or procedural changes to the Approved Actions in the following areas: modifications to proposed zoning district boundaries, modifications to permitted height and density, and modifications to the proposed minimum non-residential floor area requirement in the Park Avenue Subdistrict of the Special East Harlem Corridors District. The modifications to proposed zoning district boundaries and minimum non-residential floor area requirement are described in detail below. A comparison of the allowable density and height limits under the Approved Actions and the Potential Modifications are provided in **Table 1** along with a detailed narrative description presented below. The zoning text associated with the Potential Modifications is contained in **Appendix 1**.

**Table 1**
**Proposed Density and Height Limits by Zoning District**

| Proposed Zoning District | Approved Actions | | Potential Modifications | |
|---|---|---|---|---|
| | Max Density (FAR) | Max Height (Ft) | Max Density (FAR) | Max Height (Ft) |
| M1-6/R9 | 8.5 | 285 | 8.5 | 215 |
| M1-6/R10 | 12.0 | 350 | 12.0[1] | 295[1] |
| R7D/C2-5 | 5.6 | 115 | 5.6 | 115[2] |
| R7D/C1-5 | 5.6 | 115 | 5.6 | 115 |
| R8A/C2-5 | --- | --- | 7.2 | 215 |
| R9/C2-5 | 8.5 | 285/325 | 9.0[3] | 215 |
| R9A/C2-5 | --- | --- | 8.5 | 175[4] |
| R10/C2-5 | 12.0 | 325 | 10.0[5] | 275[5] |
| C6-4 | 12.0 | N/A | 12.0[6] | N/A |
| C4-6 | 12.0 | 325 | 10[7] | 235[7] |

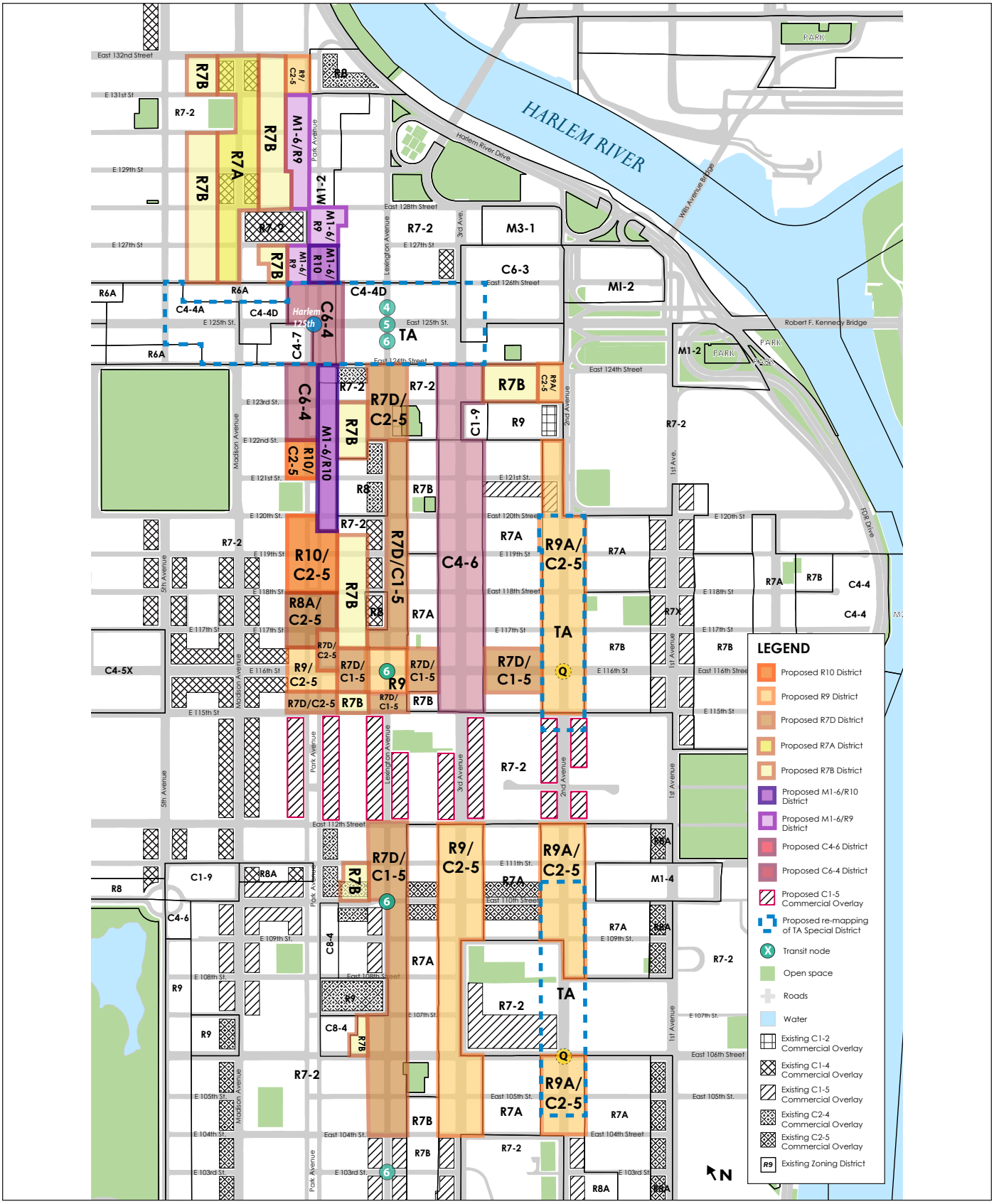
**Notes:**
[1] Maximum FAR of 10.0 and height limit of 275 feet along Park Avenue between East 120th and East 124th Streets
[2] Maximum height limit of 215 feet along Park Avenue
[3] Maximum FAR of 8.5 along Park Avenue
[4] Maximum height limits of 215 and 325 feet within TA Special District with provision of easement or infrastructure improvements
[5] Maximum FAR of 9 and height limit of 255 feet along Park Avenue between East 121st and East 122nd Streets
[6] Maximum FAR of 10.0 along Park Avenue between East 122nd and East 124th Streets
[7] Maximum FAR of 9.0 and building height capped at 215 feet along Third Avenue between East 115th and East 122nd Streets

### MODIFICATIONS TO ZONING DISTRICT BOUNDARIES

The Potential Modifications include changes to zoning district boundaries under the Approved Actions that would remove discrete areas from the rezoning proposal along Madison and Park Avenues. The proposed zoning districts with the Potential Modifications are shown in **Figure 1** and described below.

*MADISON AVENUE*

The Potential Modifications would remove the eastern blockfront of Madison Avenue between East 126th and East 127th Street from the R7A district as originally considered under the Approved Actions. The Potential Modifications would also remove a portion of the R7B district, which is proposed on the block bounded by East 126th Street, Madison Avenue, East 127th Street, and Park Avenue. The existing R7-2 zoning designation would remain in these geographies.




Proposed Zoning—
Potential Modifications

**EAST HARLEM REZONING**

**Figure 1**

*PARK AVENUE*

The Potential Modifications would remove the western blockfront of Park Avenue between East 120th and East 121st Streets from the R10 district with a C2-5 commercial overlay as originally considered under the Approved Actions. The existing R7-2 zoning designation with a C1-4 commercial overlay would remain in this geography.

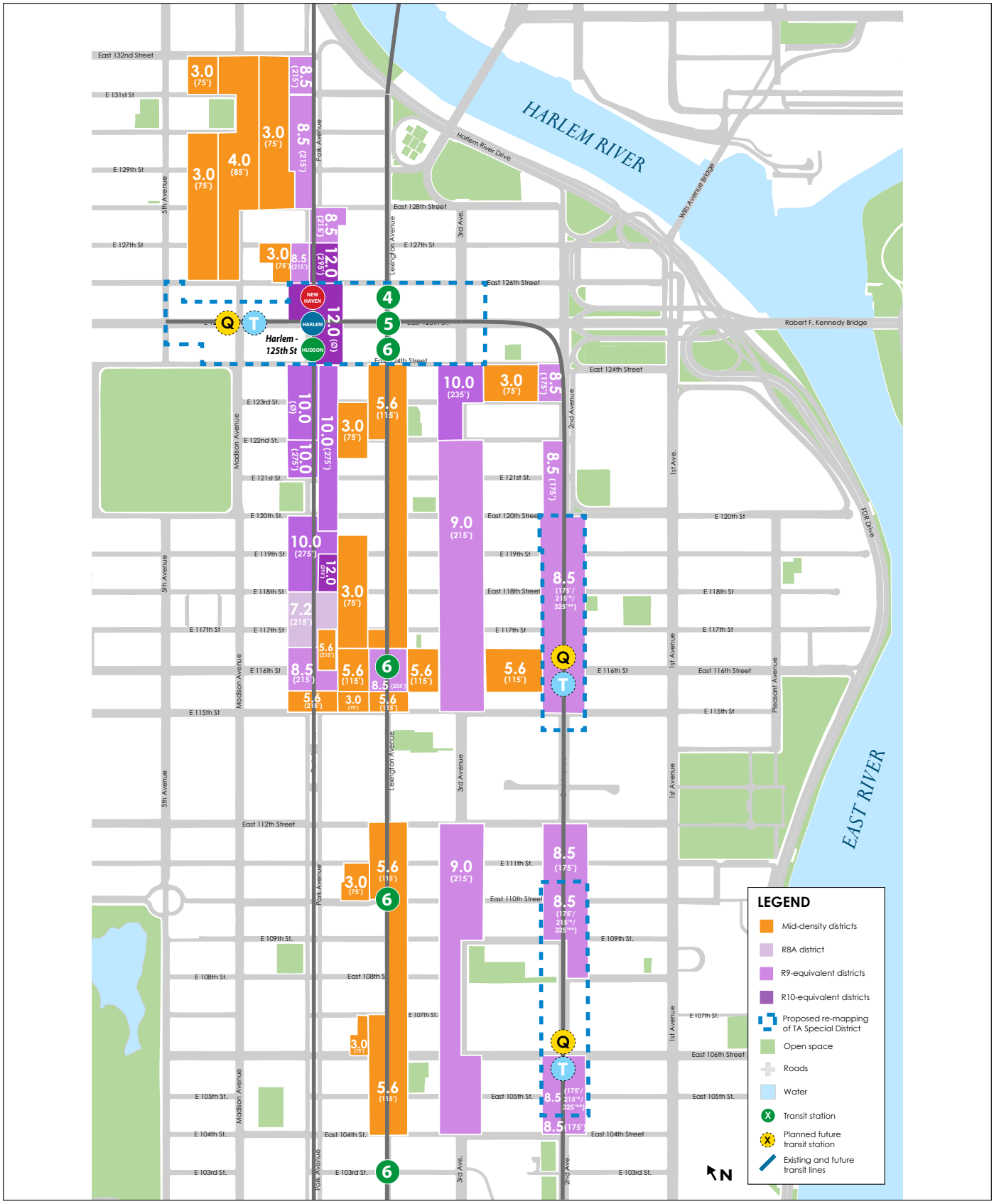
**MODIFICATIONS TO PERMITTED HEIGHT AND DENSITY**

The Potential Modifications include changes to permitted height and density along Park Avenue, the intersection of Lexington Avenue and East 116th Street, Third Avenue, and Second Avenue. The changes to allowable density and height restrictions are shown in **Figure 2** and described below by corridor within the Special East Harlem Corridors District.

*PARK AVENUE*

The Potential Modifications would change the permitted height and density in several areas along Park Avenue as follows:

- Under the Potential Modifications the proposed R9 district along the western blockfront of Park Avenue between East 131st and East 132nd Street would have a new maximum permitted height of 215 feet versus the Approved Actions' maximum permitted height of 285. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.
- Under the Potential Modifications, the proposed M1-6/R9 district along the western blockfronts of Park Avenue between East 128th and East 131st Street would have a new maximum permitted height of 215 feet versus the Approved Actions' maximum permitted height of 285 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.
- The proposed M1-6/R10 district along the eastern blockfronts of Park Avenue between East 126th and East 128th Street would be split into two districts, divided by a line extending roughly over the centerline of the de-mapped East 127th Street:
  - Under the Potential Modifications, the eastern blockfront of Park Avenue between the former East 127th Street and East 128th Street would be mapped with an M1-6/R9 district. This district would have a maximum permitted height of 215 feet and a maximum permitted FAR of 8.5 versus a maximum permitted height of 350 feet and maximum permitted density of 12 FAR in the proposed M1-6/R10 district under the Approved Actions.
  - Under the Potential Modifications, the eastern blockfront of Park Avenue between East 126th and the former East 127th Street would maintain the M1-6/R10 zoning designation. This district would have a maximum permitted height of 295 feet versus the Approved Actions' maximum permitted height of 350 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.
- Under the Potential Modifications, the proposed M1-6/R9 district along the western blockfront of Park Avenue between East 126th and East 127th Street would have a maximum permitted height of 215 feet versus the Approved Actions' maximum permitted height of 285 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.




Maximum Height and Allowable Density—
Potential Modifications

**EAST HARLEM REZONING**

**Figure 2**

- Under the Potential Modifications, the proposed C6-4 district along the western blockfronts of Park Avenue between East 122nd and East 124th Street would have a maximum permitted density of 10.0 FAR versus the Approved Actions' maximum permitted density of 12.0 FAR. No maximum permitted height limit was proposed here under the Approved Actions, and there would continue to be no maximum permitted height in this area under the Potential Modifications.
- The proposed R10 district with a C2-5 commercial overlay along the western blockfront of Park Avenue between East 121st and East 122nd Street would have a maximum permitted FAR of 10.0 and a maximum permitted height of 275 feet under the Potential Modifications, as opposed a maximum permitted density of 12.0 FAR and maximum permitted height of 325 feet under the Approved Actions.
- The proposed M1-6/R10 district along the eastern blockfronts of Park Avenue from between East 119th and East 120th Street to East 124th Street would have a maximum permitted density of 10.0 FAR and a maximum permitted height of 275 feet under the Potential Modifications, as opposed to a maximum permitted density of 12.0 FAR and maximum permitted height of 350 feet under the Approved Actions.
- The proposed R10 district with a C2-5 commercial overlay along the western blockfronts of Park Avenue between East 119th and East 120th Street, and the eastern blockfronts of Park Avenue from East 119th to midway between East 119th and East 120th Street, would have a maximum permitted density of 10.0 FAR and a maximum permitted height of 275 feet under the Potential Modifications, as opposed to a maximum permitted density of 12.0 FAR and maximum permitted height of 325 feet under the Approved Actions.
- Under the Potential Modifications, the proposed R10 district with a C2-5 commercial overlay along the eastern blockfront of Park Avenue from East 118th to East 119th Street would have a maximum permitted height of 295 feet, versus the Approved Actions' maximum permitted height of 325 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.
- On the western blockfronts of Park Avenue from midway between East 116th and East 117th Street to East 118th Street, and on the eastern blockfronts of Park Avenue between East 117th and East 118th Street, the proposed R9 district with a C2-5 commercial overlay would be modified to an R8A district with a C2-5 commercial overlay under the Potential Modifications. This district would have a maximum permitted density of 7.2 FAR and a modified maximum permitted height of 215 feet, as opposed to a maximum permitted density of 8.5 FAR and maximum permitted height of 285 feet in the proposed R9 district with a C2-5 commercial overlay under the Approved Actions.
- On the eastern blockfront of Park Avenue between East 116th and East 117th Street, the proposed R9 district with a C2-5 commercial overlay would be modified to an R7D district with a C2-5 commercial overlay under the Potential Modifications. This district would have a maximum permitted density of 5.6 FAR and a modified maximum permitted height of 215 feet, as opposed to a maximum permitted density of 8.5 FAR and maximum permitted height of 285 feet in the proposed R9 district with a C2-5 commercial overlay under the Approved Actions.
- The proposed R9 district with a C2-5 commercial overlay on the western blockfronts of Park Avenue from midway between East 115th and East 116th Street to midway between East 116th and East 117th Street, and on the eastern blockfronts of Park Avenue from midway between East 115th and East 116th Street to East 116th Street, would have a maximum permitted height of 215 feet under the Potential Modifications. Under the Approved Actions,

the proposed R9 district with a C2-5 commercial overlay in this area has a maximum permitted height of 285 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.

- On Park Avenue from East 115th Street to between East 115th and East 116th Street, the proposed R9 district with a C2-5 commercial overlay would be modified to an R7D district with a C2-5 commercial overlay under the Potential Modifications. This district would have a maximum permitted density of 5.6 FAR and a modified maximum permitted height of 215 feet, as opposed to a maximum permitted density of 8.5 FAR and maximum permitted height of 285 feet in the proposed R9 district with a C2-5 commercial overlay under the Approved Actions.

*LEXINGTON AVENUE AND EAST 116$^{TH}$ STREET INTERSECTION*

- Under the Potential Modifications, the proposed R9 district with a C2-5 commercial overlay at the intersection of Lexington Avenue and East 116$^{th}$ Street would have a maximum permitted height of 205 feet, as opposed to the Approved Actions' maximum permitted height of 285 feet. The maximum permitted FAR under the Potential Modifications would remain the same as under the Approved Actions.

*THIRD AVENUE*

- Under the Potential Modifications, the proposed C4-6 district on Third Avenue between East 122nd and East 124th Street would have a maximum permitted density of 10.0 FAR and a maximum permitted height of 235 feet, as opposed to the Approved Actions' maximum permitted density of 12.0 FAR and maximum permitted height of 325 feet.
- Under the Potential Modifications, the proposed C4-6 district on Third Avenue between East 115th and East 122nd Street would have a maximum permitted density of 9.0 and a maximum permitted height of 215 feet, as opposed to the Approved Actions' maximum permitted density of 12.0 FAR and maximum permitted height of 325 feet.
- On Third Avenue from East 104th Street to East 115th Street, the proposed R10 district with a C2-5 commercial overlay would be modified to an R9 district with a C2-5 commercial overlay under the Potential Modifications. This district would have a maximum permitted density of 9.0 FAR and a maximum permitted height of 215 feet as opposed to a maximum permitted density of 12.0 FAR and a maximum permitted height of 325 feet in the proposed R10 district with a C2-5 commercial overlay under the Approved Actions.

*SECOND AVENUE*

- Under the Potential Modifications, the proposed R9 Districts with C2-5 commercial overlays along Second Avenue would be modified to R9A Districts. These districts would have a maximum permitted height of 175 feet, as opposed to a maximum permitted height of 285 feet in the proposed R9 Districts under the Approved Actions. The contextual quality housing envelope would be available for developments in these areas, and there would be no change to the 8.5 FAR density as originally certified by the CPC.
- The Special Transit Land Use District certification process would be modified to allow additional height for sites providing infrastructure or with other easements related to construction of the Second Avenue Subway.
  - This certification process would allow a maximum permitted height of 215 feet for developments containing subway entrances, including light wells, stairs, elevators, escalators, ramps and passageways.

- The process would allow a maximum permitted height of 325 feet for developments containing ancillary facilities required to support the functioning of subway station or rail mass transit facilities, including, but not limited to, emergency egress or ventilation structures.

**MODIFICATIONS TO THE MINIMUM NON-RESIDENTIAL FLOOR AREA REQUIREMENT**

The Potential Modifications would include changes to the proposed minimum non-residential floor area requirement within the Park Avenue Subdistrict of the Special East Harlem Corridors District.

Proposed R10-equivalent zoning districts within the Park Avenue Subdistrict of the Special East Harlem Corridors District, including the proposed M1-6/R10 and C4-6 districts, would be subject to a minimum non-residential floor area requirement of 1.5 FAR. This requirement would affect districts with a maximum FAR of both 10.0 and 12.0 FAR. Under the Approved Actions, the minimum non-residential floor area requirement in proposed R10-equivalent districts is 2.0 FAR.

Proposed R9-equivalent zoning districts within the Park Avenue Subdistrict of the Special East Harlem Corridors District, including the proposed M1-6/R9 districts, would be subject to a minimum non-residential floor area requirement of 1.0 FAR. Under the Approved Actions, the minimum non-residential floor area requirement in proposed R9-equivalent districts is 1.5 FAR.

*POTENTIAL COUNCIL MODIFICATIONS TO SENDERO VERDE*

City Council is also considering a modification to the land use application for the proposed HPD-sponsored affordable housing development of Sendero Verde. This potential City Council modification would require, as part of the property disposition action pursuant to ULURP No. C 170363 HAM, that a minimum of 11,450 sf of lot area be devoted to community garden or passive recreation use, and a minimum of an additional 18,000 sf be devoted to use as publicly accessible open space. The land use actions necessary to facilitate the Sendero Verde development were evaluated in the FEIS as the Sendero Verde Development Alternative and, as part of FEIS analysis framework for this Alternative, included approximately 16,900 sf of publicly accessible open space as part of its development program; the proposed community gardens were not described or analyzed quantitatively in the open space analysis. The potential City Council modification would memorialize with precision the areas of the community gardens, courtyard, stairway and pathway through the gardens as shown on the large-scale special permit drawings approved by the City Planning Commission in connection with the related special permit and Restrictive Declaration. Accordingly, the Council's potential modification would not affect the Reasonable Worst-Case Development Scenario (RWCDS) analyzed in the FEIS for the Sendero Verde Development Alternative, as the development program would be unaffected; therefore, the Council modification for Sendero Verde would not alter the conclusions of the FEIS.

## C. REASONABLE WORST-CASE DEVELOPMENT SCENARIO

The Potential Modifications would result in changes to the RWCDS presented in the FEIS and assessed in connection with the Approved Actions. The proposed modifications to permitted height and density would result in changes to the RWCDS presented in the FEIS, as these modifications could result in shorter buildings and fewer DUs (reduced residential floor area) on affected development sites. Accordingly, a modified With Action Condition was established to account for the proposed modifications to permitted height and density (referred to hereafter as

the "Modified With Action Condition") as detailed below. The proposed modifications to the zoning district boundaries and the minimum non-residential floor area requirement would not affect the RWCDS. No projected or potential development sites were identified in the two discrete areas located along Park and Madison Avenues that would be removed from the rezoning proposal. The non-residential floor area requirement would set a minimum allowable density threshold for non-residential space and would not alter the assumptions for non-residential space in the RWCDS. For these reasons, the changes to the zoning district boundaries and minimum non-residential floor area requirement would not affect the RWCDS, and would not require further assessment in this Technical Memorandum.

Development under the Potential Modifications would occur on the same 102 development sites (68 projected and 34 potential) identified for the Approved Actions. The Potential Modifications would result in density and height reductions. Consequently, the residential floor area would decrease. The Potential Modifications would affect 25 projected development sites. No changes to the amount of commercial, community facility or industrial floor area would occur. Seventeen potential development sites could be affected by the Potential Modifications and experience height reductions. **Table 2,** shown below, summarizes the difference between the increment of the Approved Actions and the Potential Modifications. The specific changes affecting the projected and potential development sites with the Potential Modifications are shown in **Table 3**. Under the Modified With Action Condition, the total development expected to occur on the 68 projected development sites would consist of approximately 5,827,638 sf of built floor area, including approximately 5,154 DUs, a substantial proportion of which are expected to be affordable; 507,551 sf of commercial retail space, 219,771 sf of office space, 112,437 sf of community facility space and 155,171 sf of industrial use.

**Table 2**

**Incremental Difference Between Approved Actions and Potential Modifications**

| Use | Approved Actions Increment | Potential Modifications Increment | Difference |
|---|---|---|---|
| Commercial (gsf) | 164,574 | 164,574 | 0 |
| Community Facility (gsf) | 105,042 | 105,042 | 0 |
| Industrial (gsf) | 132,394 | 132,394 | 0 |
| Total Residential Dwelling Units (DUs) | 3,488 | 2,682 | -806 |
| Workers | 1,544 | 1,510 | -34 |
| Residents | 8,405 | 6,464 | -1941 |

**Table 3**
**Affected Projected and Potential Development Sites with the Potential Modifications**

| Development Site | Height (Feet) under Approved Actions | Height (Feet) under Potential Modifications | Approved Actions Dwelling Unit (DU) count | Potential Modifications DU count | Dwelling Unit (DU) loss | Incremental Change (No Action vs. Potential Modifications) |
|---|---|---|---|---|---|---|
| **Projected Development Sites** | | | | | | |
| 2 | 200 | 150 | 127 | 94 | -33 | 94 |
| 3 | 155 | 155 | 89 | 73 | -16 | 42 |
| 4 | 215 | 165/185 | 802 | 798 | -4 | 386 |
| 6 | 200 | 175 | 243 | 197 | -47 | 197 |
| 7 | 210 | 165 | 210 | 167 | -43 | 167 |
| 11 | 275 | 225 | 186 | 143 | -43 | 139 |
| 12 | 200 | 170 | 164 | 122 | -42 | 40 |
| 13 | 190 | 140 | 156 | 109 | -46 | 109 |
| 14 | 200 | 140 | 130 | 92 | -38 | 37 |
| 15 | 190 | 130 | 92 | 65 | -27 | 32 |
| 16 | 220 | 140 | 139 | 100 | -39 | 41 |
| 17 | 300 | 200 | 252 | 179 | -72 | 36 |
| 18 | 290 | 210 | 206 | 143 | -63 | 69 |
| 19 | 260 | 200 | 144 | 99 | -45 | 35 |
| 20 | 210 | 175 | 208 | 147 | -61 | 29 |
| 21 | 180 | 130 | 170 | 121 | -49 | 23 |
| 22 | 180 | 160 | 164 | 137 | -27 | 84 |
| 24 | 175 | 165 | 50 | 36 | -14 | 36 |
| 26 | 145 | 155 | 69 | 61 | -8 | 54 |
| 28 | 95 | 95 | 21 | 20 | -1 | 20 |
| 29 | 170 | 120 | 105 | 73 | -31 | 21 |
| 31 | 95 | 95 | 19 | 19 | 0 | 11 |
| 32 | 150 | 110 | 63 | 49 | -14 | 23 |
| 33 | 260 | 190 | 112 | 80 | -32 | 24 |
| 69 | 165 | 175 | 52 | 42 | -10 | 42 |
| **Potential Development Sites** | | | | | | |
| B | 170 | 160 | 101 | 83 | -18 | 53 |
| D | 155 | 115 | 62 | 38 | -24 | 18 |
| E | 160 | 215 | 92 | 83 | -10 | 34 |
| F | 225 | 175 | 56 | 40 | -16 | 12 |
| G | 230 | 160 | 117 | 84 | -33 | 34 |
| H | 210 | 150 | 58 | 41 | -17 | 12 |
| I | 170 | 130 | 76 | 54 | -22 | 22 |
| J | 165 | 125 | 133 | 83 | -50 | 83 |
| P | 190 | 155 | 156 | 113 | -43 | 71 |
| Q | 330 | 270 | 226 | 190 | -35 | 190 |
| R | 295 | 255 | 183 | 138 | -45 | 138 |
| S | 200 | 130 | 120 | 85 | -34 | 85 |
| T | 240 | 180 | 67 | 54 | -13 | 54 |
| U | 170 | 120 | 135 | 79 | -56 | -4 |
| V | 205 | 210 | 58 | 28 | -29 | 28 |
| AH | 155 | 115 | 93 | 68 | -25 | 59 |
| AI | 210 | 170 | 105 | 85 | -20 | 85 |

In addition to changes associated with the Potential Modifications, the development assumptions regarding Projected Development Site 26—an assemblage of two lots (Block 1655, Lots 24 and 29) at East 106th Street and Second Avenue—have changed. Lot 29 contains an existing residential building with seven dwelling units (DUs). Subsequent to the issuance of the FEIS, the DCP, as lead agency, was made aware that the property owner entered into a Regulatory Agreement with HPD to preserve the existing DUs as affordable housing. Under the Approved

Actions, it was assumed that the building would be demolished and the existing units displaced. This would no longer occur because the Regulatory Agreement preserves the affordability of the units in exchange for HPD financing for repairs and upgrades to the building. Under the Modified With Action Condition, the existing seven-unit residential building would remain and transfer unused development rights to the vacant portion of Lot 29 and Lot 24. Projected Development Site 26 would be developed as infill housing and would consist of two buildings containing a total of 61 DUs (between the two buildings) and approximately 5,000 sf of local retail on Lot 29 and an MTA ancillary support facility on Lot 24.

## D. ENVIRONMENTAL ASSESSMENT OF THE POTENTIAL MODIFICATIONS

### LAND USE, ZONING, AND PUBLIC POLICY

Like the Approved Actions, the Potential Modifications would not result in any significant adverse impacts and would generally result in the same effects to land use, zoning, and public policy. The Potential Modifications would not adversely affect surrounding land uses, nor would it generate land uses that would be incompatible with existing zoning and land uses. Furthermore, the Potential Modifications would not result in development that conflicts with adopted public policies. The Potential Modifications would continue to provide opportunities for new housing, including substantial amounts of affordable housing, along the key corridors of East Harlem, which would expand housing choices for current and future residents. Like the Approved Actions, the Potential Modifications would also create new commercial and industrial space to support job creation adjacent to existing and future transit nodes.

*LAND USE*

No significant adverse impacts to land use are anticipated under the Potential Modifications. The Potential Modifications would result in the same land uses as the Approved Actions. Like the Approved Actions, the Potential Modifications would facilitate an inclusive residential neighborhood with a wide variety of local and regional commercial activities and job growth. Opportunities for new housing, including affordable housing, along key corridors, particularly Park, Third, and Second Avenues, would provide more housing choices for current and future residents. The Potential Modifications would unlock development opportunities and accommodate a growing residential population. In addition, they would facilitate the expansion of customer bases for existing and new businesses, such as grocery stores, pharmacies, and other services, which would help these businesses continue to flourish. As a result the Potential Modifications would not result in any significant adverse impacts to land use.

*ZONING*

Although the zoning changes sought under the Potential Modifications would differ somewhat from the Approved Actions in terms of allowable density and height in certain locations, they would not result in significant adverse impacts. The Potential Modifications propose density reductions in the R9, R10 and R9- and R10-equivalent commercial districts. The Potential Modifications propose lower height limits in most of the proposed zoning districts except for the contextual R7A, R7B, and R7D districts. The Potential Modifications would change the allowable densities in most of the proposed C4-6, C6-4, and R10 districts along Park, Third, and Second Avenues from a floor area ratio (FAR) of 12 to FARs of 8.5, 9 and 10; a maximum FAR of 12 would remain along portions of the Park Avenue Corridor. The Potential Modifications would also limit building heights along Second, Third, and Park Avenues and at the node at Lexington Avenue and East 116th Street. In addition, the Potential Modifications propose the

mapping of contextual R8A and R9A districts with C2-5 overlay. No changes to the contextual R7A, R7B, and R7D districts would occur with the Potential Modifications. The density and height reductions associated with the Potential Modifications respond to concerns raised during the public review process that the Approved Actions would result in large buildings that did not match the existing context of East Harlem. Therefore, like the Approved Actions, the Potential Modifications would not result in a significant adverse impact to zoning.

*PUBLIC POLICY*

*Housing New York*

Similar to the Approved Actions, the Potential Modifications would be consistent with the public policies that affect the study areas, including the City's WRP and would further support the goals of Housing New York, OneNYC, and PlaNYC.

The Potential Modifications, like the Approved Actions, directly support the goals and principles outlined in *Housing New York* by promoting affordable housing development, encouraging economic development, creating pedestrian friendly streets, and introducing new community resources to foster a more equitable neighborhood. Although the Potential Modifications would result in less dwelling units, this modification would still increase the supply of housing available over the No Action Condition and increase the supply of affordable housing in East Harlem. Therefore, like the Approved Actions, the Potential Modifications would be consistent with public policy.

*OneNYC*

The Potential Modifications would be consistent with the goals of OneNYC. The Potential Modifications would result in an incremental difference in dwelling units compared with the Approved Actions. Like the Approved Actions, it would help create affordable housing and support the development of a vibrant neighborhood, make streets safer, improve commercial services and provide access to jobs. While all these goals are staples of OneNYC, one of the most important goals is to create new housing opportunities at a range of incomes. Under the Potential Modifications, a net increase of 2,682 DUs would result. Similar to the Approved Actions, development would continue to be focused in areas serviced by mass transit, foster walkable commercial corridors, and support job grown and expand economic activity. Overall, the Potential Modifications would be supportive of creating a more equitable City for all New Yorkers.

*PlaNYC 2030*

The FAR restrictions and height limits proposed under the Potential Modifications will continue to facilitate new development in the Project Area, and along the key corridors of East Harlem. The Potential Modifications would result in development similar to the Approved Actions and would therefore also be consistent with the PlaNYC's goals with respect to land use, open space, water quality, transportation, air quality, energy, natural resources, and solid waste.

**SOCIOECONOMIC CONDITIONS**

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts related to socioeconomic conditions. The Potential Modifications would result in the same effects as the Approved Actions with respect to all areas of socioeconomic concern with the exception of indirect residential displacement. With respect to indirect residential displacement, the smaller residential population anticipated under the Potential Modifications would have slightly less potential to alter the demographics of the study area population. The

following summarizes the potential socioeconomic effects of the Potential Modifications for each area of socioeconomic concern.

*DIRECT RESIDENTIAL DISPLACEMENT*

As with the Approved Actions, the Potential Modifications would not result in significant adverse impacts due to direct residential displacement. The Potential Modifications would result in the same amount of direct residential displacement because the number and location of projected development sites would not change. Like the Approved Actions, under the RWCDS by 2027 the Potential Modifications would directly displace an estimated 10 residents living in 4 DUs.[1] Based on 2014 *City Environmental Quality Review (CEQR) Technical Manual* guidelines, this level of potential direct residential displacement would not substantially alter the socioeconomic character of the neighborhood.

*INDIRECT RESIDENTIAL DISPLACEMENT*

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts due to indirect residential displacement. The Potential Modifications would introduce approximately 806 fewer DUs than the Approved Actions (2,682 DUs, as compared to 3,488 DUs with the Approved Actions), with the same proportion of affordable DUs to market rate DUs. As such, the population introduced under the Potential Modifications would have the same imputed average household income as the population introduced by the Approved Actions. However, with a slightly smaller population increment and the same overall average income, the new residential population under the Potential Modifications would have slightly less potential to alter the demographics of the study area population.

As stated in the FEIS, there is already a readily observable trend toward higher incomes and new market rate residential development in the study area in the future without the Approved Actions. The Potential Modifications would not introduce or accelerate the existing trend of increased rents and incomes; rather, like the Approved Actions, the Potential Modifications would introduce a greater proportion of affordable DUs as compared to the No Action Condition.

*DIRECT BUSINESS DISPLACEMENT*

As with the Approved Actions, the Potential Modifications would not result in significant adverse impacts due to direct business displacement. Projected development under the Potential Modifications would result in the same amount of direct business displacement: 14 businesses and an estimated 209 jobs associated with those businesses. These 14 businesses are located on 8 projected development sites.[2]

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[1] The 4 DUs are located on Projected Development Site 11. The FEIS estimate of directly displaced residents with the Approved Actions included 7 additional DUs located on Projected Development Site 26; however, as noted previously in this document, the property owner of the existing residential building on Site 26 recently agreed to maintain those 7 DUs under a Regulatory Agreement with HPD. Therefore, under both the Approved Actions and Potential Modifications, there would be no direct residential displacement on Site 26.

[2] Similar to the Approved Actions, there are a number of businesses that could be displaced in the No Action Condition because of development projects unrelated to the Potential Modifications; the businesses displaced in the No Action Condition are not considered displaced by the Potential Modifications in the With Action Condition because displacement could occur regardless of the Potential Modifications.

The 14 businesses do not represent a majority of study area businesses or employment within any given industry sector. While all businesses contribute to neighborhood character and provide value to the City's economy, because there are alternative sources of goods, services, and employment provided within the socioeconomic study area, the potentially displaced businesses are not of critical value to the socioeconomic conditions of the area as defined by CEQR. Similar to the Approved Actions, the Potential Modifications would result in incremental commercial space, manufacturing space, and community facility space; as such, comparable services and employment opportunities to those provided by directly displaced businesses could be available as part of the Potential Modifications.

*INDIRECT BUSINESS DISPLACEMENT*

Similar to the Approved Actions, the Potential Modifications would not result in significant adverse impacts due to indirect business displacement. The study area has well-established residential, retail, office, and manufacturing uses and markets; the Potential Modifications would not add a new economic activity or add to a concentration of a particular sector of the local economy enough to significantly alter or accelerate existing economic patterns. The Potential Modifications are expected to result in the same amount of commercial retail and office space as the Approved Actions (see **Table 2**). The retail space resulting from the Potential Modifications would not exceed the threshold to potentially alter or accelerate existing trends. Like the Approved Actions, the office space (an increment of 143,212 sf) and manufacturing space (an increment of 132,394 sf) resulting from the Potential Modifications and associated RWCDS would create opportunities for companies to locate in East Harlem, providing quality jobs to residents and helping to maintain the mixed-use character of the study area. As concluded for the Approved Actions, the Potential Modifications would not directly displace uses that provide substantial direct support for businesses in the area or that bring people into the area that form a substantial portion of the customer base for local businesses. In addition, directly displaced firms are not relied upon exclusively for products or services by business establishments in the study area, and the Potential Modifications would not directly or indirectly displace residents, workers, or visitors who form a customer base for existing businesses in the study area.

*ADVERSE EFFECTS ON SPECIFIC INDUSTRIES*

Similar to the Approved Actions, the Potential Modifications would not result in significant adverse impacts on specific industries. The Potential Modifications would result in the same amount of direct business displacement. For existing customers of those directly displaced businesses, there are alternative and comparable sources of goods and services available within the study area, and there are no regulations or plans to preserve, enhance, or otherwise protect them. In terms of indirect business displacement, the Potential Modifications would result in the same amount of commercial retail, office, community facility, and manufacturing development as the Approved Actions. As concluded for the Approved Actions, the Potential Modifications would not significantly affect business conditions in any particular industry or category of business.

## COMMUNITY FACILITIES AND SERVICES

Like the Approved Actions, the Potential Modifications would not result in significant adverse community facility impacts. As compared to the Approved Actions the Potential Modifications would result in less demand on schools, publicly funded childcare, and libraries. The effects of the Potential Modifications on community facilities and services are discussed below.

*SCHOOLS*

The Potential Modifications, as compared to the Approved Actions, would result in a decrease of 806 incremental residential units across 25 of the projected development sites. Based on the *CEQR Technical Manual* student generation rates, with an increment of approximately 2,682 DUs, the Potential Modifications would generate up to approximately 322 elementary students, 107 intermediate students, and 161 high school students. The Approved Actions would result in approximately 418 elementary students, 139 intermediate students, and 209 high school students; therefore, the Potential Modifications would result in 96, 32, and 48 fewer elementary, intermediate, and high school students, respectively, as compared to the Approved Actions. As shown in **Table 4**, 348 units are located in Subdistrict 1/CSD 4, approximately 975 units are located in Subdistrict 2/CSD 4, and approximately 1,360 units are located in Subdistrict 1/CSD 5. Therefore, approximately 42 elementary students and 14 intermediate students would be introduced in Subdistrict 1/CSD 4; approximately 117 elementary students and 39 intermediate students would be introduced in Subdistrict 2/CSD 4; and approximately 163 elementary and 54 intermediate students would be introduced in Subdistrict 1/CSD 5.

**Table 4**
**Estimated Student Generation in the Future with the Potential Modifications**

| Study Area | Proposed Incremental DUs | Students Introduced by Projected Development | | |
|---|---|---|---|---|
| | | Elementary | Intermediate | High School |
| Subdistrict 1/CSD 4 | 348 | 42 | 14 | -- |
| Subdistrict 2/CSD 4 | 975 | 117 | 39 | -- |
| Subdistrict 1/CSD 5 | 1,360 | 163 | 54 | -- |
| Manhattan | 2,682 | -- | -- | 161 |
| **Total** | | 322 | 107 | 161 |

**Source:** See Table 6-1a of the 2014 *CEQR Technical Manual*.

*Elementary Schools*

Under the Potential Modifications, elementary school utilization rates for Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5 would increase by 1.1, 3.7, and 4.1 percent, respectively, as compared to 2.1, 5.0, and 4.5 percent, respectively, under the Approved Actions.

Under the Potential Modifications, elementary school enrollment in Subdistrict 1/CSD 4 would increase by 42 students to 3,694 (98.1 percent utilization) with a surplus of 71 seats (see **Table 5**). In Subdistrict 2/CSD 4, elementary school enrollment would increase by 117 students to 2,966 (94.5 percent utilization) with a surplus of 174 seats. Elementary school enrollment in Subdistrict 1/CSD 5 would increase by 163 students to 2,999 (74.8 percent utilization) with a surplus of 1,013 seats.

A significant adverse impact may occur if a proposed project would result in both of the following conditions: (1) a utilization rate of school in the study area that is equal to or greater than 100 percent in the With Action Condition; and (2) an increase of five percentage points or more in the collective utilization rate between the No Action and With Action Conditions.

For Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5, the utilization rate of elementary schools would remain below 100 percent and would not result in an increase of five percentage points or more in the collective utilization rate between the future without and the future with the Potential Modifications. Comparatively, while the Approved Actions would result in an increase of 2.1, 5.0, and 4.5 percentage points between the future without and the future with the Approved Actions for Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5, respectively, the Potential Modifications would result in an increase of 1.1, 3.7, and 4.1 percentage points between the future without and the future with the Potential Modifications,

which is less than the Approved Actions. Therefore, like the Approved Actions, the Potential Modifications would not result in a significant adverse impact to elementary schools.

**Table 5**
**Estimated Public School Enrollment, Capacity, and Utilization:**
**Future with the Potential Modifications**

| Study Area | No Action Enrollment | Students Introduced by the Potential Modifications | Total Modified With Action Enrollment | Capacity | Available Seats | Utilization | Change in Utilization Compared with No Action |
|---|---|---|---|---|---|---|---|
| **Elementary Schools** | | | | | | | |
| Subdistrict 1/CSD 4 | 3,652 | 42 | 3,694 | 3,765 | 71 | 98.1% | 1.1% |
| Subdistrict 2/CSD 4 | 2,849 | 117 | 2,966 | 3,140 | 174 | 94.5% | 3.7% |
| Subdistrict 1/CSD 5 | 2,836 | 163 | 2,999 | 4,012 | 1,013 | 74.8% | 4.1% |
| **Intermediate Schools** | | | | | | | |
| Subdistrict 1/CSD 4 | 1,374 | 14 | 1,388 | 2,006 | 618 | 69.2% | 0.7% |
| Subdistrict 2/CSD 4 | 1,248 | 39 | 1,287 | 1,863 | 576 | 69.1% | 2.1% |
| Subdistrict 1/CSD 5 | 1,287 | 54 | 1,341 | 1,964 | 623 | 68.3% | 2.7% |
| **High Schools** | | | | | | | |
| Manhattan | 48,579 | 161 | 48,740 | 68,118 | 19,378 | 71.6% | 0.2% |

**Sources:**
DOE Enrollment Projections 2015–2024 by Grier Partnership; DOE, *Utilization Profiles: Enrollment/Capacity/Utilization*, 2015–2016; DOE 2015–2019 Proposed Five-Year Capital Plan, Amended February 2017; School Construction Authority.

*Intermediate Schools*

Under the Potential Modifications, intermediate school utilization rates for Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5 would increase by 0.7, 2.1, and 2.7 percent, respectively, as compared to 1.3, 2.8, and 3.1 percent, respectively, under the Approved Actions.

In the future with the Potential Modifications, intermediate school enrollment in Subdistrict 1/CSD 4 would increase by 14 students to 1,388 (69.2 percent utilization) with a surplus of 618 seats (see **Table 5**). In Subdistrict 2/CSD 4, intermediate school enrollment would increase by 39 students to 1,287 (69.1 percent utilization) with a surplus of 576 seats. Intermediate school enrollment in Subdistrict 1/CSD 5 would increase by 54 students to 1,341 (68.3 percent utilization) with a surplus of 623 seats.

For Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5, the utilization rate of intermediate schools would remain below 100 percent and would not result in an increase of five percentage points or more in the collective utilization rate between the future without and the future with the Potential Modifications. Comparatively, while the Approved Actions would result in an increase of 1.3, 2.8, and 3.1 percentage points between the future without and the future with the Approved Actions for Subdistrict 1/CSD 4, Subdistrict 2/CSD 4, and Subdistrict 1/CSD 5, respectively, the Potential Modifications would result in an increase of 0.7, 2.1, and 2.7 percentage points between the future without and the future with the Potential Modifications, which is less than the Approved Actions. Therefore, like the Approved Actions, the Potential Modifications would not result in a significant adverse impact to intermediate schools.

*High Schools*

Under the Potential Modifications, the high school utilization rate would increase by 0.2 percent, as compared to 0.3 percent under the Approved Actions.

In the future with the Potential Modifications, the total high school enrollment in Manhattan would increase by 161 students to 48,740 (71.6 percent utilization), resulting in a surplus of 19,378 seats (see **Table 5**). The new high school students introduced by the Potential

Modifications would increase utilization in the borough by 0.2 percentage points, less than 1 percentage point over the No Action Condition.

As described above, DOE does not require high school students to attend a specific high school in their neighborhood; instead, they may attend any high school in the City depending on seating availability and admissions criteria. Utilization would remain under 100 percent. Further, the increase in the study area high school utilization rate would be less than one half of one percent, substantially lower than the five percentage point increase in utilization that, according to the *CEQR Technical Manual*, could be considered a significant adverse impact. Comparatively, while the Approved Actions would result in an increase of 0.3 percentage points between the future without and the future with the Approved Actions for Manhattan, the Potential Modifications would result in an increase of 0.2 percentage points between the future without and the future with the Potential Modifications, which is less than the Approved Actions. Therefore, like the Approved Actions, the Potential Modifications would not result in significant adverse impacts on high schools.

*LIBRARIES*

The Potential Modifications would result in 1,941 fewer incremental residents than the Approved Actions, and would therefore place less demand on libraries within the project area.

The Potential Modifications, as noted above, would result in a decrease of 806 incremental DUs across 25 of the projected development sites. Overall, the Potential Modifications would result in an increment of approximately 2,682 units over the No Action Condition. Using an average household size of 2.41 persons (the average household size for Manhattan Community District 11 according to 2010 U.S. Census data), the Potential Modifications would result in an increment of approximately 6,464 residents over the No Action Condition, as compared to 8,405 residents under the Approved Actions. Therefore, the Potential Modifications would result in 1,941 fewer incremental residents.

While some projected development sites are located within more than one library catchment area, residents are more likely to utilize a library that is closer in proximity and have been assigned to the most proximate library. Therefore, approximately 3,064 residents would be introduced in the 125th Street Branch library catchment area, approximately 1,848 residents would be introduced to the Aguilar Branch library catchment area, and approximately 1,552 residents would be introduced to the Harlem Branch library catchment area (see **Table 6**). No residents have been assigned to the 115th Street Branch, 96th Street Branch, or the Countee Cullen Branch because these libraries are farther from the projected development sites.

With this additional population, the 125th Street Branch library would serve 87,429 residents (approximately a 3.6 percent increase). The holdings per resident ratio for the 125th Street Branch library would decrease from 0.46 to 0.45 with the Potential Modifications. With an additional population of 1,848 residents, the Aguilar Branch library would serve 130,600 residents (approximately a 1.4 percent increase). The holdings per resident ratio for the Aguilar Branch library would decrease from 0.59 to 0.58 with the Potential Modifications. The Harlem Branch library would serve 137,589 residents with the additional population (approximately a 1.1 percent increase). The holdings per resident ratio for the Harlem Branch library would remain at 0.36 with Potential Modifications. Comparatively, since the Approved Actions would result in a percent increase in population of 4.4 at the 125th Street Branch library, 2.2 at the Aguilar Branch library, and 1.4 at the Harlem Branch library, the Potential Modifications would result in a reduction in percent increase of 1.2 at the 125th Street Branch library, 0.9 Aguilar Branch library, 0.4 and at the Harlem Branch library, as compared to the Approved Actions. For each branch library, the catchment area population increases attributable to the Potential

Modifications are below the 5 percent threshold cited in the *CEQR Technical Manual*. Therefore, like the Approved Actions, the Potential Modifications would not result in a noticeable change in the delivery of library services, or a significant adverse impact related to library services.

**Table 6**
**Future with the Potential Modifications: Catchment Area Population**

| Library Name | Catchment Area Population—No Action Condition | Projected Development Sites within Catchment Area[1] | Population Increase due to the Potential Modifications[2] | Catchment Area Population with the Potential Modifications | Population Increase | Holdings per Resident |
|---|---|---|---|---|---|---|
| 115th Street Branch | 127,001 | 0 | 0 | 127,001 | 0.0% | 0.34 |
| 125th Street Branch | 84,365 | 2,4,9–14, 22, 27, 32, 36, 37, 50, 52–60, 69 | 3,064 | 87,429 | 3.6% | 0.45 |
| 96th Street Branch | 120,563 | 0 | 0 | 120,563 | 0.0% | 0.45 |
| Aguilar Branch | 128,752 | 15–21, 23, 25, 26, 28, 29, 31, 33,35, 38–49, 51, 61–68 | 1,848 | 130,600 | 1.4% | 0.58 |
| Countee Cullen Branch | 100,374 | 0 | 0 | 100,374 | 0.0% | 0.80 |
| Harlem Branch | 136,037 | 1, 3, 5, 6–8, 24, 30 | 1,552 | 137,589 | 1.1% | 0.36 |

**Notes:**
[1] Projected development sites located within more than one library catchment area have been assigned to the most proximate library.
[2] Based on an average household size of 2.41 persons (the average household size for Manhattan Community District 11 according to 2010 U.S. Census data).
**Sources:** NYPL (2014); 2011–2015 American Community Survey 5-Year Estimates; AKRF, Inc.

*CHILD CARE*

In terms of child care services, the Potential Modifications would generate 28 fewer children eligible for publicly funded child care services, and therefore would result in lesser impacts on area child care facilities, as compared to the Approved Actions.

The Potential Modifications would introduce an increment of approximately 1,519 affordable DUs. In order to ensure a conservative analysis, it is assumed that all these units would meet the financial and social eligibility criteria for publicly funded child care, even though—according to the *CEQR Technical Manual*—children from households earning above 80 percent AMI would not be eligible for publicly funded child care services. Based on the *CEQR Technical Manual* child care multipliers, this development would result in approximately 175 children under the age of six who would be eligible for publicly funded child care programs, whereas the Approved Actions would result in approximately 203 children under the age of six who would be eligible for publicly funded child care programs. Therefore, the Potential Modifications would result in approximately 28 fewer children under the age of six who would be eligible for publicly funded child care programs.

With the addition of these children, child care facilities in the study area would operate at 91.4 percent utilization with a surplus of 332 slots (see **Table 7**). Total enrollment in the study area would increase to 3,513 children, compared with a capacity of 3,845 slots, which represents an increase in the utilization rate of 4.6 percentage points over the No Action Condition. Comparatively, the Approved Actions would result in an increase in the utilization rate of 5.3 percentage points over the No Action Condition

**Table 7**
**Estimated Public Child Care Facility Enrollment, Capacity, and Utilization in the Future with the Potential Modifications**

| | Enrollment | Capacity[1] | Available Slots | Utilization Rate | Change in Utilization |
|---|---|---|---|---|---|
| No Action Condition | 3,338 | 3,845 | 507 | 86.8% | N/A |
| Future with the Potential Modifications | 3,513 | 3,845 | 332 | 91.4% | 4.6% |

**Note:**
[1] According to ACS, a new publicly funded child care facility is anticipated to open at 510-516 West 145th Street and would provide 58 slots. Since this facility is expected to open in the near future, this capacity has been added in the No Action Condition.
**Sources:** ACS June 2017; AKRF, Inc.

As noted above, the *CEQR Technical Manual* guidelines indicate that a demand for slots greater than the remaining capacity of child care facilities and an increase in demand of five percentage points of the study area capacity could result in a significant adverse impact. Different from the Approved Actions, the Potential Modifications would not result in an increase in utilization of more than five percentage points over the No Action Condition. In addition, the overall utilization would remain below 100 percent under the Potential Modifications. Therefore, like the Approved Actions, the Potential Modifications would not result in a significant adverse impact on publicly funded child care facilities.

**OPEN SPACE**

The Potential Modifications, like the Approved Actions, would not result in significant adverse open space impacts. The same direct effects associated with shadows on these open space resources that would occur under the Approved Actions would also occur with the Potential Modifications, although, the extent and duration of shadows would be slightly less. Because the Potential Modifications would introduce fewer residents and workers to the open space study area, less demand would be placed on publicly accessible open space resources as compared to the Approved Actions. The Potential Modifications would introduce 1,941 fewer residents and 34 less workers than the Approved Actions due to the building height and density restrictions. In terms of indirect effects, the open space ratios for residential open space study area would generally be slightly higher than those under the Approved Actions, while the open space ratios for the non-residential open space study area would generally be the same as those under the Approved Actions. With respect to direct effects, the Potential Modifications would result in the same or very similar significant adverse shadow impacts as the Approved Actions related to shadows on three open space resources: Eugene McCabe Field, El Catano Garden, and Jackie Robinson Garden. As discussed in Shadows analysis below, shadows on these resources would affect the utility of the open spaces. The analysis found that although the significant adverse shadow impacts would reduce the utility of the open spaces, the open spaces would continue to be available and provide for other passive or active open space uses and therefore would not be a direct significant adverse open space impact.

By the 2027 Build Year, the Potential Modifications are expected to result in a net increase of approximately 2,682 dwelling units; 185,536 square feet commercial; 72,701 square feet of community facility space; and 132,394 square feet of industrial space. The RWCDS associated with the Potential Modifications would introduce an estimated 6,464 new residents and 1,510 new workers, compared with the No Action Condition.

*INDIRECT EFFECTS*

In the non-residential study area the Potential Modifications would reduce the passive open space ratio by 3.24 percent, which is the same under the Approved Actions. In the residential study area, the Potential Modifications would reduce the total, passive, and active open space ratios by 3.12, 3.07, and 2.92 percent, respectively, as compared to 3.96, 4.02, and 3.89 percent reductions in the total, passive, and active open space ratios, respectively, under the Approved Actions.

As compared to the Approved Actions, the indirect effects on area open spaces would be less because the Potential Modifications would result in fewer residents and workers, therefore, placing less demand on open spaces. As discussed in detail below, under the Potential Modifications the open space ratios for the non-residential study area would remain the same while the open space ratios for the residential study area would be slightly higher than those under the Approved Actions. The open space ratio for the non-residential worker population would decrease by 3.24 percent under both the Approved Actions and the Potential Modifications. The open space ratio for the non-residential combined user population (workers and residents) would decrease by 3.03 percent, less than the decrease (-4.04 percent) under the Approved Actions and below the CEQR threshold for a quantitative open space impact.

Similar to the Approved Actions, all open space ratios for the residential (½-mile) study area would be below the *CEQR Technical Manual* open space guidelines for open space adequacy and citywide planning goals, and the percent change from the No Action Condition to the Modified With Action Condition would remain lower than 5 percent. In the residential study area the total open space ratio would decrease by 3.12 percent, and passive space and active space would decrease by 3.07 percent and 2.92 percent, respectively (see **Table 8**). The decrease in the residential open space ratios would be less significant than those under the Approved Actions, where the total, passive, and active open space ratios would decrease by approximately 3.96, 4.02, and 3.89 percent respectively. In addition, the passive open space for the combined user population in the residential study area would decrease by 2.86 percent. Therefore, as with the Approved Actions, under the Potential Modifications no significant adverse impacts related to open space in the residential study area would occur.

**Table 8**
**Comparison of Open Space Ratios**
**2027 Future No Action, Approved Actions, and Potential Modifications**

| | Open Space Ratios per 1,000 | | Percent Change | |
|---|---|---|---|---|
| | No Action | Modified With Action Condition | Future No Action to Modified With Action Condition | Future No Action to Approved With Action Condition |
| ***Non-Residential (¼-mile) Study Area*** | | | | |
| Passive – Workers | 0.401 | 0.388 | -3.24 | -3.24 |
| ***Residential (½-mile) Study Area*** | | | | |
| Total – Residents | 0.834 | 0.808 | -3.12 | -3.96 |
| Passive – Residents | 0.423 | 0.410 | -3.07 | -4.02 |
| Active – Residents | 0.411 | 0.399 | -2.92 | -3.89 |

*NON-RESIDENTIAL (¼-MILE) STUDY AREA*

The Potential Modifications, like the Approved Actions, would not result in a significant adverse impact related to workers and the combined user population in the non-residential study area. While the ratio of passive open space per 1,000 workers would decrease to 0.388 (from 0.401), it

would continue to exceed the City's guideline ratio of 0.15 acres. The passive open space ratio for the combined users would decrease to 0.096 (from 0.099 under the No Action Condition), just slightly above the ratio of passive open space per 1,000 users in the Approved Actions (0.095). Both the Approved Actions and the Potential Modifications would continue to fall short of the City's guideline of 0.15 acres of passive space per 1,000 workers and residents. However, as noted in the *CEQR Technical Manual*, residents are more likely to travel farther to reach parks and recreational facilities, and they use both passive and active open spaces.

In the both the future with the Potential Modifications and the Approved Actions, the non-residential study area's passive open space ratio would decrease by less than 5 percent from No Action Condition (a decrease of 3.24 percent), and it would remain above the City's guideline ratio of 0.15 acres per 1,000 workers, at 0.388 acres per 1,000 workers. Compared to the Approved Actions, under the Potential Modifications, the passive open space ratio for the combined users would increase by 0.01 acres per 1,000 users and would result in a smaller decrease in the percent change from the No Action Condition. While the passive open space ratio for combined residents and workers within the non-residential study area would remain below the City's guideline ratio of 0.15 acres per 1,000 users, at 0.096 acres per 1,000 workers, the decrease would be less than 5 percent (a decrease of 3.03 percent). In addition, the study area contains a prevalence of community gardens and public housing owned and operated by NYCHA. Neither NYCHA recreational areas nor community gardens were considered in the quantitative analysis, as it is likely that residents living within the study area, regardless of whether they live in NYCHA housing, would utilize community gardens during the day for passive uses, and may be more likely to utilize community gardens than workers who may not reside in the neighborhood. NYCHA open spaces and community gardens could offset demand placed on other passive open spaces which could then be utilized by workers.

*RESIDENTIAL (½-MILE) STUDY AREA*

Similar to the Approved Actions, the Potential Modifications would not result in significant adverse impacts. With the Potential Modifications, total open space ratios in the residential study area would decrease from 0.834 acres in the No Action Condition to 0.808. The active open space ratio would decrease compared with the No Action Condition, from 0.411 to 0.399 acres per 1,000 residents, which would continue to be below the City's guideline ratio of 2.0 acres of active open space per 1,000 residents. The passive open space ratio per 1,000 residents would also decrease compared with the No Action Condition, from 0.423 to 0.410 acres per 1,000 residents, and would also remain below the City's guideline of 0.5 acres of passive space per 1,000 residents. Despite these decreases, under the Potential Modifications the total, active, and passive open space ratios would be slightly higher than the open space ratios associated with the Approved Actions (0.801, 0.395, and 0.406, respectively). Although the passive open space ratio for the combined residential and worker populations would also decrease from 0.315 under the No Action Condition to 0.306 acres per 1,000 users in the Potential Modifications, and would continue to be below the City's guideline of 0.5 acres, it would be slightly higher than that of the Approved Actions (0.304 acres per 1,000 users).

Like the Approved Actions, with the Potential Modifications ratios of open space would continue to be lower than the measure of open space adequacy and the *CEQR Technical Manual* open space guidelines of 2.5 acres of open space per 1,000 residents, including 0.5 acres of passive open space and 2.0 acres of active open space. Despite this, the total residential study area open space ratio would only decline by 3.12 percent; the active residential study area open space ratio would only decline by 2.92 percent; and the passive residential study area open space ratio would decline by 3.07 percent. As none of these decreases would exceed the 5 percent

impact threshold, the Potential Modifications, like the Approved Actions, would not result in indirect significant adverse impacts on open space within the residential study area.

**SHADOWS**

The Potential Modifications, like the Approved Actions, would result in significant adverse shadow impacts to three open space resources; however, the extent and duration of incremental shadow would be less on two the resources and no change would be would be experienced with respect to the third resource. The Potential Modifications would reduce the RWCDS massing of the developments facilitated by the Approved Actions on 42 projected or potential sites, thereby changing the geographic extent of the shadows they would cast throughout the year. The building envelopes of all facilitated developments with the Potential Modifications would fall entirely within the comparable building envelopes of the RWCDS under the Approved Actions. Therefore, the shadows cast by the developments facilitated by Potential Modifications would not extend beyond the new shadows cast by the RWCDS under the Approved Actions, and no additional sunlight-sensitive resources would be affected by new shadow. Although the Proposed Modifications would reduce shadow on 34 of the resources identified in the FEIS, like the Approved Actions, the Potential Modifications would result in significant adverse shadow impacts on three sunlight-sensitive resources: El Catano Garden, Eugene McCabe Field, and Jackie Robinson Garden.

In total, the Potential Modifications would reduce the duration or extent of incremental shadow on the sunlight-sensitive features of 30 open space resources and 4 historic resources. The reduction in shadow duration on sunlight-sensitive resources compared to those disclosed in the FEIS would range from 5 minutes to over 2 hours of reduced shadow. The most significant reductions in new shadow would be experienced by those resources in the vicinity of Third Avenue. In December, over half of Dr. Ronald E. McNair Playground would receive approximately 1 hour and 30 minutes of additional direct sunlight. Approximately, ¼ of the Herb Garden on East 111th Street would receive over 2 hours of additional sunlight in the spring.

Of the three resources found to experience a significant adverse shadow impact with the Approved Actions, the Potential Modifications would change the extent or duration of incremental shadow on two—El Catano Garden and Eugene McCabe Field. The Potential Modifications, however, would not eliminate significant adverse shadow impacts on El Catano Garden or Eugene McCabe Field. With The Potential Modifications, El Catano Garden would be cast in significant new shadow throughout the year. When compared to the Approved Actions, the Potential Modifications would remove long durations of shadow from isolated areas of the garden. Within the growing season, the rear portion of the garden would receive as much as 1 hour and 30 minutes of additional direct sunlight. However, in the Modified With Action Condition, incremental shadows falling on the garden would prevent most areas of the resource from receiving enough direct sunlight within the growing season to support a variety of plant life. The Potential Modifications, like the Approved Actions, would result in a significant shadow impact on El Catano Garden.

With the Potential Modifications, the total duration and geographic extent of new shadows on Eugene McCabe Field would decrease throughout the year with moderate durations of shadow removed from discrete areas of the field. When compared to the Approved Actions, the field area to the north would receive up to 45 minutes of additional direct sunlight in the winter and spring. With the Proposed Modifications, the shadow on portions of the field area closer to East 120th Street would not be significantly reduced in the winter but reductions to this field area in the spring and summer would allow for up to 1 hour and 30 minutes of additional direct sunlight.

However, because incremental shadows falling in the Modified With Action Condition would significantly reduce the hours of direct sunlight falling on most areas of the field throughout the year, the Potential Modifications would significantly alter the usability of the resource. As with the Approved Actions, the Potential Modifications would result in a significant shadow impact on Eugene McCabe Field.

The extent and duration of new shadow on Jackie Robinson Garden—the third open space resource that would experience a significant shadow impact under the Approved Actions—would not be changed with the Potential Modifications from those disclosed in the FEIS. With the Potential Modifications, the garden would be cast in long durations of new shadow that would significantly reduce direct sunlight on the resource. Like the Approved Actions, within the growing season, the garden would not be able to sustain the same variety of plant species and would experience a significant shadow impact.

**HISTORIC AND CULTURAL RESOURCES**

The Potential Modifications, like the Approved Actions, would result in significant adverse construction-related impacts to architectural resources and significant adverse archaeological resources associated with burial remains. In addition, new information has become known since completion of the FEIS concerning a new State and National Register (S/NR)-eligible East Harlem Historic District, which would overlap the boundaries of the Project Area. As discussed below in further detail, as a result of this new information, additional historic resources could be impacted by the Approved Actions and Potential Modifications.

Both the Approved Actions and the Potential Modifications would result in significant adverse impacts to four architectural resources (St. Paul's Rectory and School, Chambers Memorial Baptist Church, a former stable at 166 East 124th Street, and the Park Avenue Viaduct) as result of construction activities adjacent to eligible historic resources. Buildings or structures that are S/NR-Eligible or New York City Landmark (NYCL)-Eligible would be afforded standard protection under the New York City Department of Building (DOB)'s regulations applicable to all buildings located adjacent (within 90 feet) to construction sites; however, since the resources identified above are not S/NR-Listed or NYCLs, they are not afforded the added special protections under DOB's TPPN #10/88. Additional protective measures afforded under DOB TPPN #10/88, which include a monitoring program to reduce the likelihood of construction damage to adjacent S/NR-Listed resources or NYCLs, would only become applicable if the S/NR-Eligible resources are listed or designated in the future prior to the initiation of construction. Otherwise, there is the potential for inadvertent construction damage and impacts to occur as a result of adjacent development.

On October 13, 2017, the New York State Historic Preservation Office (SHPO) determined that the East Harlem Historic District (HD)—generally bounded by Park Avenue, East 117th Street, Second Avenue, East 120th Street, the East River, East 111th Street, First Avenue, and East 115th Street was eligible for listing on the State and National Register. As part of that process, the SHPO made determinations of which properties contribute to the significance of the eligible historic district ("contributing resources"). In accordance with *CEQR Technical Manual* guidance, the S/NR-eligible East Harlem HD is considered a historic and cultural resource and the potential for significant adverse impacts would need to be evaluated. Four projected development sites (Projected Development Sites 28, 48, 49 and 63) and 3 potential development sites (Potential Development Sites E, I and AE) could directly impact 8 contributing resources through demolition. Six of the 7 development sites would be redeveloped in the No Action Condition, and direct effects associated with demolition would not be attributed to either the Approved Actions or the Potential Modifications. However, a contributing resource located on

Projected Development Site 49 would be directly displaced as the site is not expected to experience redevelopment under the No Action Condition. The demolition of the contributing resource on Projected Development Site 49 would result in a significant adverse impact.

In addition, development on Projected Development Site 49 and Potential Development Sites L, M, N and AG would result in construction-related impacts to contributing resources. As with the Approved Actions, the additional protective measures afforded under DOB TPPN #10/88, which include a monitoring program to reduce the likelihood of construction damage to adjacent S/NR-Listed resources or NYCLs, would only become applicable if the S/NR-Eligible resources are listed or designated in the future prior to the initiation of construction. Otherwise, there is the potential for inadvertent construction damage and impacts to occur as a result of adjacent development resulting from the Potential Modifications.

No other significant adverse impacts associated with direct physical impacts or indirect impacts would occur to architectural resources. With respect to archaeological resources, both the Approved Actions and the Potential Modifications have the potential to result in significant adverse archaeology impacts associated with burial remains at two development sites located on the south side of East 128th Street (east of Park Avenue). Mitigation measures under the Potential Modifications would be the same as the Approved Actions.

**URBAN DESIGN AND VISUAL RESOURCES**

Like the Approved Actions, the Potential Modifications would not result in any significant adverse impacts to the urban design or visual resources in the primary or secondary study areas. The Potential Modifications, like the Approved Actions would allow for new residential and mixed-use developments at a greater density than what is currently permitted as-of-right in the primary study area. The Potential Modifications would still allow for new housing, including affordable housing, along key corridors, particularly Park, Third, and Second Avenues; however, the lower height limits would result in new buildings more in keeping with the existing built environment.

Along Second Avenue, the maximum height of buildings under the Potential Modifications would be 175 feet (approximately 17 stories), which would result in buildings similar in height to existing buildings along the corridor including the Wagner Houses that are bounded by Second Avenue, Harlem River Drive, East 124th and East 120th Streets rise up to 16 stories (approximately 142 feet tall); the Jefferson Houses located on the superblocks bounded by East 115th and East 112th Streets and Second and Third Avenues are 14 stories tall (approximately 141 feet tall); and Franklin Plaza—located between Third and First Avenues and East 108th and East 106th Streets—are between 20 and 22 stories tall (approximately 198 to 225).

Along Third Avenue, the maximum height of buildings under the Potential Modifications would be 215 feet (approximately 21 stories) between East 122nd and East 115th and between East 112th and East 104th Streets and 235 feet (approximately 23 stories) between East 124th and East 122nd Streets. The Potential Modifications would allow greater building heights closer to East 125th street. Existing buildings of similar heights include Franklin Plaza, described above, and the Taino Towers at 221 East 122nd Street that are 35 stories (approximately 360 feet tall).

The maximum height of buildings under the Potential Modifications along Park Avenue would be limited to 215 feet tall in most areas (approximately 21 stories). However, along the east side of Park Avenue between East 126th and East 127th Streets, the maximum building height would be 295 feet (approximately 29 stories). Between East 118th and East 124th Streets, the maximum building height would be 275 feet (approximately 27 stories). There would be no height restrictions along the west side of Park Avenue between East 122nd and East 124th

Streets, and the portion of Park Avenue within the Special 125th street District between East 124th and East 126th Streets. The variety of heights would reflect the varied existing building heights along the Park Avenue Corridor. Existing buildings of similar heights include the following: Fifth on Park (also known as 1485 Fifth Avenue), a 32-story (approximately 280-foot-tall) building with multiple setbacks after the eleventh floor; The Miles at 1982 Lexington Avenue, which rises 28 stories (approximately 279 feet); The Taino Towers at 221 East 122nd Street, is described above; The Taft Houses on the superblocks bounded by Park, Madison, and Fifth Avenues, and East 115th and East 112th Streets which are 19 stories (approximately 184 feet tall).

As compared to the Approved Actions, the Potential Modifications would result in an improvement to urban design conditions by ensuring the overall building height is lowered to be more consistent with the existing built context. Under the Approved Actions, the allowable density along most of the Park Avenue corridor and along the Third Avenue corridor was 12 FAR. With the Potential Modifications, the allowable densities would be reduced significantly in most areas from 12 FAR to 8.5, 9, and 10 FAR. The lower heights along Second and Third Avenues would reflect the existing tower buildings located along these avenues, while the slightly taller buildings along Park Avenue would be in keeping with existing buildings along Park Avenue and the nearby avenues including Fifth and Lexington Avenues. Additionally, taller buildings would be constructed on Third and Park Avenues near East 125th and East 124th Streets, which are major corridors, and would be located near transit hubs. The Potential Modifications would maintain the existing street wall along Second and Third Avenues and create a unified street wall along Park Avenue.

Like the Approved Actions, the Potential Modifications would be constructed within the existing street grid and existing view corridors and are not expected to be affected as a result. The Potential Modifications would not obscure views of the three churches that are considered visual resources north of East 125th Street. The lower height of the buildings under the Potential Modifications would ensure that views along view corridors remain long. Compared to the Approved Actions, the Potential Modifications would result in shorter buildings along Second and Third Avenues that would allow for the continuation of current views and would not eliminate any existing views.

**NATURAL RESOURCES**

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts to Natural Resources for reasons similar to those presented the FEIS, as summarized below.

- Floodplains—Because the floodplain within New York City is controlled by astronomic tide and meteorological forces (e.g., nor'easters and hurricanes) and not by fluvial flooding, the projected development sites would not have the potential to adversely affect the floodplain or result in increased coastal flooding within or adjacent to the study area. Projected development sites would comply with New York City Building Codes for construction within the 100-year and 500-year floodplains.
- Groundwater—As with the Approved Actions, the Potential Modifications would not result in significant adverse impacts to groundwater resources. Projected development sites would implement measures developed on the basis of further environmental investigation to minimize adverse impacts to the environment, such as (E) Designations or as part of Land Disposition Agreements (LDA) for City-owned properties, as detailed in the FEIS. In addition, construction of any subsurface storm water source control best management

practices (BMPs), as described in the FEIS, would not result in significant adverse impacts to the direction of groundwater flow toward the Harlem River.

- Terrestrial Resources—Any development associated with the Potential Modifications, as with the Approved Actions, would result in the disturbance of paved road/paths, mowed lawns with trees, urban vacant lots, and urban structure exterior habitats. These ecological communities provide limited habitats to wildlife apart from those species common to urban areas. While loss of these habitats may affect individual wildlife unable to find suitable available habitats in the vicinity of the study area, any potential loss would not constitute significant adverse impacts to populations of affected species within the New York City metropolitan region.

**HAZARDOUS MATERIALS**

The Potential Modifications would not result in significant adverse impacts associated with hazardous materials. The effects with the Potential Modifications would be the same as the Approved Actions. Like the Approved Actions, the same projected and potential development sites identified under the Potential Modifications would be mapped with (E) Designations to preclude exposure to hazardous materials. Testing and remedial measures, if warranted, would be required through (E) Designation E-422 (or required through an LDA or comparable mechanism for City-owned sites). With these requirements, the Potential Modifications like the Approved Actions would not result in significant adverse impacts related to hazardous materials.

**WATER AND SEWER INFRASTRUCTURE**

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts. As discussed below, compared to the Approved Actions the Potential Modifications would place less demand on the City's water supply and wastewater treatment systems, however, the Potential Modifications would result in generally the same effects as the Approved Actions as they pertain to stormwater drainage and management. As shown on **Table 9**, under the Potential Modifications, the projected development sites are expected to generate a water demand of approximately 2,405,995 gallons per day (gpd) in the Modified With Action Condition, a decrease of approximately 302,375 gpd as compared to the Approved Actions' With Action Condition water consumption (2,708,370 gpd). Similar to the approved Actions, this would represent a minimal increase in demand compared to the City's average daily water supply of approximately one billion gpd. Therefore, development under the Potential Modifications would not result in significant adverse impacts on the City's water supply system.

**Table 9**
**Potential Modifications – With Action Condition Water Consumption**

| Land Use | Water Consumption and Wastewater Generation Rates[1] | Area/Units | Domestic Water/Wastewater Generation (gpd) | Air Conditioning (gpd) |
|---|---|---|---|---|
| Residential | Domestic: 100 gpd/person[2]<br>A/C: 0.17 gpd/sf | 4,730,204 sf<br>(5,154 DU) | 1,242,000 | 804,135 |
| Retail | Domestic: 0.24 gpd/sf<br>A/C: 0.17 gpd/sf | 507,551 sf | 121,812 | 86,284 |
| Commercial/Office | Domestic: 0.10 gpd/sf<br>A/C: 0.17 gpd/sf | 219,771 sf | 21,977 | 37,361 |
| Industrial | Domestic: 0.23 gpd/sf[3]<br>A/C: 0.17 gpd/sf | 155,171 sf | 35,689 | 26,379 |
| Community Facility[4] | Domestic: 0.10 gpd/sf<br>A/C: 0.17 gpd/sf | 112,437 sf | 11,244 | 19,114 |
| **Total Water Demand** | | | | **2,405,995** |
| **Total Wastewater Generation** | | | | **1,432,722** |

**Notes:**
Totals may not sum due to rounding.
[1] Consumption rates from *CEQR Technical Manual* Table 13-2, "Water Usage and Sewage Generation Rates for Use in Impact Assessment," unless otherwise noted.
[2] Assumes 2.41 residents per DU (2010 Census average household size for Manhattan Community District [CD] 11)
[3] Based on *East New York Rezoning Proposal FEIS* (equal to 10,000 gpd/acre); calculated based on total building floor area.
[4] Assumes same rate as commercial/office, based on *East New York Rezoning Proposal FEIS.*

*WASTEWATER TREATMENT*

In terms of sanitary sewage generation, the Potential Modifications would result in 194,300 gpd less than the Approved Actions. As shown on **Table 9,** under the Potential Modifications, the projected development sites would result in a projected sanitary sewage generation of approximately 1,432,722 gpd, a decrease of approximately 194,300 gpd as compared to the projected sanitary sewage generation of the Approved Actions (1,627,022 gpd). As with the RWCDS analyzed for the Approved Actions, the incremental increase in sanitary sewage would be divided among the eight subcatchment areas in which the projected development sites are located, and would not represent a significant increase in flows to the Wards Island Wastewater Treatment Plant (WWTP), which would continue to have reserve capacity. Therefore, the demand associated with the Potential Modifications would be well within the capacity of the affected treatment plant, and similar to the Approved Actions, the Potential Modifications would not result in a significant adverse impact to the City's wastewater treatment services.

*STORMWATER AND DRAINAGE MANAGEMENT*

Lot coverage and the percentage of impervious cover would remain the same under the Approved Actions and the Potential Modifications; therefore, the effects on stormwater and drainage would be the same. The Potential Modifications would generally result in reduced building heights and less bulk on the Projected Development Sites, but would not affect lot coverage regulations applicable to the Projected Development Sites. Therefore, the surface areas on the Projected Development Sites is expected to be similar to the surface areas presented in the Approved Actions, with roof area estimated to comprise between 94 and 100 percent of most of the projected development sites, and similar stormwater runoff coefficients. As noted above, the Potential Modifications would result in a lower amount of sanitary sewage generation on the projected development sites, therefore there would be a reduction in overall flows to the combined sewer system during storm events as compared to the RWCDS analyzed for the Approved Actions in the FEIS. Similar to the Approved Actions, stormwater source control best management practices (BMPs) would be implemented on each Projected Development Site in

accordance with the City's site connection requirements, which would result in reduced peak stormwater runoff rates as compared with existing conditions. Therefore, the Potential Modifications would not result in a significant adverse impact related to the City's sanitary sewage conveyance and treatment system.

**SOLID WASTE AND SANITATION SERVICES**

Significant adverse impacts would not occur under the Approved Actions or the Potential Modifications. The Potential Modifications would result in 16.5 fewer tons of solid waste than the Approved Actions. This translates into approximately 1.3 less truck trips per week for the New York City Department of Sanitation (DSNY); as such compared with the Approved Actions the Potential Modifications would result in a decrease in solid waste generation and a slight decrease in truck trips for public carriers. Like the Approved Actions, this would not overburden available waste management capacity and would not conflict with, or require any amendment to, the City's solid waste management objectives as stated in the SWMP. Therefore, no significant impacts related to solid waste generation and sanitation services are anticipated under the Potential Modifications.

**ENERGY**

Compared with the Approved Actions, the Potential Modifications would result in a decrease of 80,547,776 BTUs of energy per year. Similar to the Approved Actions, the Potential Modifications would result in a decrease in the amount of energy generated annually, and no significant adverse impacts related to energy systems would occur. The Potential Modifications would place somewhat less demand on energy as compared to the Approved Actions because it would result in fewer DUs.

The Potential Modifications would result in an increased demand of approximately 436,029,106 British thermal units (BTUs) of energy per year as compared with the No Action Condition. Compared with the Approved Actions, the Potential Modifications would result in a decrease of 80,547,776 BTUs of energy per year. In addition, the Potential Modifications would generate an incremental increase in energy demand that would be negligible when compared with the overall demand within Consolidated Edison's (Con Edison's) New York City and Westchester County service area. Therefore, no significant adverse energy impacts would occur.

Any new development resulting from the Potential Modifications would be required to comply with the New York City Energy Conservation Code (NYCECC), which governs performance requirements of heating, ventilation, and air condition systems, as well as the exterior building envelope of new buildings. In compliance with this code, new development must meet standards for energy conservation, which include requirements related to energy efficiency and combined thermal transmittance.

**TRANSPORTATION**

With the Potential Modifications, there would be fewer action-generated vehicle, transit, and pedestrian trips and less demand for on-street and off-street public parking, as compared with the Approved Actions. Based on the trip generation assumptions utilized in the FEIS, the Potential Modifications would generate approximately 658, 330, 720 and 612 fewer incremental person trips in the weekday AM, midday and PM, and Saturday peak hours, respectively (see **Table 10**). Depending on the peak hour, this represents an approximately 9 to 16 percent decrease in project-generated person trips compared with the Approved Actions. Like the Approved Actions, it is anticipated that the Potential Modifications would result in significant adverse traffic, subway, bus, and pedestrian impacts. Neither the Approved Actions nor the Potential

Modifications would result in significant adverse parking impacts; however, parking shortfalls would occur under both scenarios.

**Table 10**
**Comparison of Incremental Peak Hour Person Trips by Mode**
**Approved Actions vs. Potential Modifications**

| Scenario | Auto | Taxi | Subway/ Railroad | Bus | Walk/ Other | Total |
|---|---|---|---|---|---|---|
| **Weekday AM** | | | | | | |
| Approved Actions | 400 | 88 | 2,350 | 511 | 665 | 4,014 |
| Potential Modifications | 338 | 85 | 1,927 | 431 | 575 | 3,356 |
| ***Difference*** | ***(62)*** | ***(3)*** | ***(423)*** | ***(80)*** | ***(90)*** | ***(658)*** |
| **Weekday Midday** | | | | | | |
| Approved Actions | 238 | 150 | 1,296 | 325 | 1,559 | 3,568 |
| Potential Modifications | 216 | 150 | 1,070 | 293 | 1,509 | 3,238 |
| ***Difference*** | ***(22)*** | ***0*** | ***(226)*** | ***(32)*** | ***(50)*** | ***(330)*** |
| **Weekday PM** | | | | | | |
| Approved Actions | 481 | 108 | 2,716 | 617 | 1,460 | 5,382 |
| Potential Modifications | 427 | 103 | 2,242 | 532 | 1,358 | 4,662 |
| ***Difference*** | ***(54)*** | ***(5)*** | ***(474)*** | ***(85)*** | ***(102)*** | ***(720)*** |
| **Saturday** | | | | | | |
| Approved Actions | 404 | 123 | 2,101 | 575 | 1,835 | 5,038 |
| Potential Modifications | 355 | 119 | 1,702 | 504 | 1,746 | 4,426 |
| ***Difference*** | ***(49)*** | ***(4)*** | ***(399)*** | ***(71)*** | ***(89)*** | ***(612)*** |

*TRAFFIC*

As presented in **Table 11**, compared with the Approved Actions, the Potential Modifications would generate approximately 58, 12, 54, and 23 fewer incremental vehicle (auto, taxi, and truck) trips during the weekday AM, midday, PM, and Saturday peak hours, respectively. Depending on the peak hour, this represents a decrease of approximately three to 12 percent as compared with the incremental vehicle trips that would be generated under the Approved Actions.

The Approved Actions would result in significant adverse traffic impacts at a total of 27 study area intersections during one or more analyzed peak hours. A total of 34 lane groups at 21 intersections would be impacted in the AM peak hour, 17 lane groups at 14 intersections in the midday, 34 lane groups at 25 intersections in the PM, and 22 lane groups at 19 intersections in the Saturday peak hour.

Based on the magnitude of the reduction in vehicle trips in each peak hour that would result from the Potential Modifications, it is likely that there would be a modest reduction in the number of impacted lane groups as compared to the Approved Actions, and that a small number of intersections would no longer be impacted in any peak hour. Given the locations of the projected development sites affected by the Potential Modifications, any reduction in significant adverse impacts would be most likely to occur at intersections along the Third Avenue corridor, as well as in the vicinity of the RFK Bridge approaches where incremental traffic would tend to be concentrated.

**Table 11**
**Comparison of Incremental Peak Hour Vehicle Trips by Mode**
**Approved Actions vs. Potential Modifications**

| Scenario | Auto | Taxi | Truck | Total |
|---|---|---|---|---|
| **Weekday AM** | | | | |
| Approved Actions | 340 | 136 | 8 | 484 |
| Potential Modifications | 288 | 130 | 8 | 426 |
| ***Net Difference*** | (52) | (6) | 0 | (58) |
| **Weekday Midday** | | | | |
| Approved Actions | 146 | 204 | 20 | 370 |
| Potential Modifications | 134 | 204 | 20 | 358 |
| ***Net Difference*** | (12) | 0 | 0 | (12) |
| **Weekday PM** | | | | |
| Approved Actions | 384 | 156 | 0 | 540 |
| Potential Modifications | 340 | 146 | 0 | 486 |
| ***Net Difference*** | (44) | (10) | 0 | (54) |
| **Saturday** | | | | |
| Approved Actions | 206 | 132 | 10 | 348 |
| Potential Modifications | 191 | 124 | 10 | 325 |
| ***Net Difference*** | (15) | (8) | 0 | (23) |

*TRANSIT*

*Subway*

As presented in **Table 10**, compared with the Approved Actions, the Potential Modifications would generate approximately 423 and 474 fewer incremental subway trips during the analyzed weekday AM and PM peak hours, respectively. This represents decreases of approximately 18 percent and 17 percent during these periods, respectively, compared with the incremental subway trips that would be generated under the Approved Actions.

*Subway Stations*

**Table 12** presents a comparison of the number of subway trips (inbound and outbound combined) that would be generated by the Approved Actions and by the Potential Modifications at analyzed subway stations. As shown in **Table 12**, compared with the Approved Actions, the Potential Modifications would generate approximately 98 fewer trips in the AM peak hour at the 103rd Street (6) station and 111 fewer in the PM. There would be 108 and 118 fewer trips during these same periods, respectively, at the 110th Street (6) station; 118 and 128 fewer trips during these same periods, respectively, at the 116th Street (6) station; and 87 and 106 fewer trips, respectively, at the 125th Street (4, 5, 6) station.

Given the magnitude of the reduction in subway trips at each station with the Potential Modifications, the Approved Actions' significant adverse PM peak hour impact to street stair S4/M4 at the 103rd Street station would potentially not occur. However, the significant adverse impact to this stair in the AM peak hour would likely remain, as would the AM peak hour impacts to street stair S3/P3 at the 116th Street station and street stair S2/M2 at the 125th Street station, and the AM and PM peak hour impacts to street stair S3/M3 and platform stairs P2 and P3 at the 125th Street station. There would be no significant fare array impacts at any of the four analyzed subway stations under either the Approved Actions or the Potential Modifications.

**Table 12**
**Comparison of Incremental Peak Hour Subway Trips at Analyzed Subway Stations Approved Actions vs. Potential Modifications**

| Scenario | 103rd Street (6) Station | 110th Street (6) Station | 116th Street (6) Station | 125th Street (4,5,6) Station |
|---|---|---|---|---|
| **Weekday AM** | | | | |
| Approved Actions | 261 | 307 | 712 | 933 |
| Potential Modifications | 163 | 199 | 594 | 846 |
| ***Net Difference*** | ***(98)*** | ***(108)*** | ***(118)*** | ***(87)*** |
| **Weekday PM** | | | | |
| Approved Actions | 311 | 325 | 804 | 1,104 |
| Potential Modifications | 200 | 207 | 676 | 998 |
| ***Net Difference*** | ***(111)*** | ***(118)*** | ***(128)*** | ***(106)*** |
| **Note:** Trips shown are inbound and outbound combined. | | | | |

Under both the Approved Actions and the Potential Modifications, it is anticipated that both No Action and With Action demand at most pedestrian elements at the four analyzed Lexington Avenue Line stations would be reduced with completion of Second Avenue Subway Phase II, and that AM and PM peak hour conditions would generally be better than those reflected in the impact analyses. As was the case for the Approved Actions, it is anticipated that some, if not all, of the significant peak hour stair impacts at Lexington Avenue Line subway stations with the Potential Modifications would not occur with implementation of Phase II of the Second Avenue Subway.

*Subway Line Haul*

Under the Approved Actions, no analyzed subway line would experience an average of five or more additional passengers per car in any peak hour; consequently, there would not be any significant adverse subway line haul impacts based on *CEQR Technical Manual* impact criteria. As shown in **Table 10**, the Potential Modifications would generate 423 fewer subway trips in the AM peak hour and 474 in the PM compared with the Approved Actions. Therefore, the Potential Modifications are also not expected to generate an average of five or more additional peak hour trips on any subway line, and would also not result in any significant adverse subway line haul impacts.

Under both the Approved Actions and the Potential Modifications, completion of Phase II of the Second Avenue Subway is expected to result in improved line haul conditions on the Lexington Avenue Line 4, 5, and 6 services compared with the conditions reflected in the impact analyses.

*Bus*

As presented in **Table 10**, compared with the Approved Actions, the Potential Modifications would generate approximately 80 and 85 fewer incremental bus trips during the analyzed weekday AM and PM peak hours, respectively. This represents decreases of approximately 14 percent and 16 percent during these periods, respectively, compared with the incremental bus trips that would be generated under the Approved Actions.

As shown in **Table 13**, compared with the Approved Actions, the Potential Modifications would generate from four to 17 fewer trips at the maximum load point in each direction in each peak hour on both M101 LTD and M15 SBS buses. It is likely that these reductions in trips would not be sufficient to eliminate the Approved Actions' significant adverse AM peak hour impact to

southbound M15 SBS buses. As was the case for the Approved Actions, under the Potential Modifications there would be no additional significant adverse bus impacts in any peak hour, and the addition of one southbound M15 SBS bus would fully mitigate the significant bus impact in the AM.

Completion of Phase II of the Second Avenue Subway is expected to result in improved line haul conditions on both the M15 SBS and M101 LTD routes (which parallel the Second Avenue Line). Therefore, the over-capacity condition on the southbound M15 SBS service in the AM peak hour under both the Approved Actions and the Potential Modifications would likely not occur in 2027 with completion Phase II of the Second Avenue Subway.

**Table 13**
**Comparison of Incremental Peak Hour Bus Trips by Route**
**Approved Actions vs. Potential Modifications**

| Scenario | Total Bus Trips | M15 SBS (NB)[1] | M15 SBS (SB)[1] | M101 LTD (NB)[1] | M101 LTD (SB)[1] |
|---|---|---|---|---|---|
| **Weekday AM** | | | | | |
| Approved Actions | 511 | 35 | 53 | 60 | 60 |
| Potential Modifications | 431 | 30 | 36 | 49 | 51 |
| ***Net Difference*** | ***(80)*** | ***(5)*** | ***(17)*** | ***(11)*** | ***(9)*** |
| **Weekday PM** | | | | | |
| Approved Actions | 617 | 29 | 26 | 101 | 73 |
| Potential Modifications | 532 | 22 | 22 | 88 | 63 |
| ***Net Difference*** | ***(85)*** | ***(7)*** | ***(4)*** | ***(13)*** | ***(10)*** |

**Note:**
[1] Incremental trips at the maximum load point.

*PEDESTRIANS*

As presented in **Table 10**, compared with the Approved Actions, the Potential Modifications would generate fewer pedestrian trips (walk-only trips plus pedestrians en route to/from subway stations and bus stops) in all peak hours. As shown in **Table 14**, the Potential Modifications are expected to generate 593, 308, 661, and 559 fewer incremental pedestrian trips in the weekday AM, midday, PM, and Saturday peak hours, respectively, than the Approved Actions. Compared with the Approved Actions, pedestrian demand under this alternative would be from 10 percent to 17 percent less in each peak hour.

As discussed in the FEIS, the Approved Actions would result in a significant adverse impact to the south sidewalk on East 126th Street between Park and Lexington Avenues in all periods, and there would be no significant impacts to any crosswalk or corner area. While pedestrian demand with the Potential Modifications would be less than under the Approved Actions, and pedestrian conditions at some analyzed sidewalks, corner areas and crosswalks would improve, the significant impact to the south sidewalk on East 126th Street between Park and Lexington Avenues would likely remain. Removal of a tree pit at the most constrained point on this sidewalk would fully mitigate the impact under the Approved Actions, and would also mitigate any potential impact to this sidewalk with the Potential Modifications.

As also discussed in the FEIS, under a scenario with completion of Phase II of the Second Avenue Subway, the Approved Actions would result in additional significant adverse AM peak hour impacts to the north and south crosswalks on Park Avenue at East 125th Street. Although pedestrian demand under the Potential Modifications would be less than under the Approved Actions, it is anticipated that these crosswalks would remain impacted in the AM with the

Second Avenue Subway. Widening the segment of the north crosswalk west of the Park Avenue median by 1.5 feet (to a total of 19.5 feet) and the segment of the south crosswalk east of the median by 0.5 feet (to a total of 18.5 feet) would fully mitigate these impacts under both the Approved Actions and the Potential Modifications.

**Table 14**
**Comparison of Incremental Peak Hour Pedestrian Trips**
**Approved Actions vs. Potential Modifications**

| Scenario | Total |
|---|---|
| **Weekday AM** | |
| Approved Actions | 3,526 |
| Potential Modifications | 2,933 |
| ***Net Difference*** | ***(593)*** |
| **Weekday Midday** | |
| Approved Actions | 3,180 |
| Potential Modifications | 2,872 |
| ***Net Difference*** | ***(308)*** |
| **Weekday PM** | |
| Approved Actions | 4,793 |
| Potential Modifications | 4,132 |
| ***Net Difference*** | ***(661)*** |
| **Saturday** | |
| Approved Actions | 4,511 |
| Potential Modifications | 3,952 |
| ***Net Difference*** | ***(559)*** |

**Note:**
Includes walk-only trips and trips en route to/from area transit services.

*VEHICULAR AND PEDESTRIAN SAFETY EVALUATION*

A review of DOT crash data for the three-year reporting period between January 1, 2012, and December 31, 2014, identified eight intersections in the traffic and pedestrian study areas as high crash accident locations. Subsequent years have seen the implementation of measures to enhance pedestrian/bicycle safety throughout the study area, including signal timing modifications, installation of high visibility crosswalks and countdown clocks, and the installation of new on-street bicycle lanes and medians with pedestrian refuge areas. Under both the Approved Actions and the Potential Modifications, additional improvements to increase pedestrian/bicyclist safety at high crash locations could include improved street lighting and modifying additional traffic signal timings to reflect slower walking speeds.

*PARKING*

Compared with the Approved Actions, the reduction in dwelling units under the Potential Modifications would result in less incremental demand for off-street and on-street parking in proximity to projected development sites. As shown in **Table 15,** development associated with the Potential Modifications would generate a peak net parking demand of approximately 603 spaces in the weekday midday (1–2 PM) period and 476 spaces in the overnight period. This compares with 695 spaces in the midday and 635 spaces in the overnight period under the Approved Actions. Under the Potential Modifications, it is assumed that up to 341 accessory parking

spaces would be provided on projected development sites, the same as under the Approved Actions.

As discussed the FEIS, after accounting for the number of accessory parking spaces provided on a site-by-site basis, it is estimated that compared with the No Action Condition, incremental parking demand at off-street public parking facilities and on-street under the Approved Actions would total approximately 448 spaces in the weekday midday period and 410 spaces during the overnight period. By comparison, incremental parking demand with the Potential Modifications would total approximately 370 spaces in the weekday midday and 274 spaces in the overnight period, 78 and 136 fewer spaces than the Approved Actions during each of these periods, respectively.

Under the Approved Actions there would be a deficit of approximately 174 spaces of on-street and off-street public parking capacity within ¼-mile of projected development sites during the midday period, and a surplus of 1,579 spaces overnight. With the reduction in parking demand under the Potential Modifications, it is anticipated that the midday deficit would decrease to approximately 96 spaces, and that the overnight surplus would increase to approximately 1,715 spaces. While some drivers destined for the Project Area would potentially have to travel a greater distance to find available parking in the midday, the shortfalls under both the Approved Actions and the Potential Modifications would not be considered significant adverse impacts based on *CEQR Technical Manual* criteria due to the magnitude of available alternative modes of transportation. Therefore, like the Approved Actions, the Potential Modifications are not expected to result in significant adverse parking impacts during the weekday midday peak period for commercial and retail parking demand, nor during the overnight peak period for residential demand.

## Table 15
## Net Incremental Weekday Hourly Parking Demand by Land Use—Potential Modifications

| | Local Retail (a) | Office (a) | Residential (a,c) | Hotel (b,d) | Light Industrial (b) | Restaurant (e) | Auto Repair (b) | Destination Retail (a) | Supermarket (b,f) | Laboratory Space (g) | Medical Office Visitors (h) | Medical Office Staff (h) | Total Demand |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 12-1 AM | 0 | 0 | 509 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476 |
| 1-2 | 0 | 0 | 509 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476 |
| 2-3 | 0 | 0 | 509 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476 |
| 3-4 | 0 | 0 | 509 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476 |
| 4-5 | 0 | 0 | 509 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 476 |
| 5-6 | 0 | 0 | 491 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 459 |
| 6-7 | 0 | 2 | 460 | -32 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 433 |
| 7-8 | 0 | 19 | 431 | -31 | 1 | 0 | -1 | 1 | 3 | 1 | 14 | 9 | 447 |
| 8-9 | 0 | 86 | 327 | -29 | 4 | 0 | -6 | 5 | 3 | 10 | 38 | 48 | 486 |
| 9-10 | 0 | 129 | 313 | -26 | 8 | 1 | -17 | 13 | 3 | 16 | 70 | 57 | 567 |
| 10-11 | 6 | 124 | 298 | -23 | 7 | 7 | -18 | 22 | 3 | 17 | 98 | 58 | 599 |
| 11-12 | 0 | 109 | 290 | -21 | 8 | 13 | -14 | 26 | 5 | 16 | 105 | 58 | 595 |
| 12-1 PM | 0 | 109 | 293 | -29 | 8 | 13 | -14 | 30 | 3 | 16 | 105 | 58 | 592 |
| 1-2 | -2 | 110 | 295 | -27 | 7 | 14 | -7 | 32 | 2 | 16 | 105 | 58 | 603 |
| 2-3 | -4 | 116 | 303 | -26 | 6 | 7 | -9 | 31 | 3 | 18 | 100 | 57 | 602 |
| 3-4 | -3 | 118 | 323 | -28 | 5 | 6 | -9 | 28 | 3 | 17 | 88 | 56 | 604 |
| 4-5 | 5 | 90 | 358 | -27 | 4 | 4 | -3 | 26 | 3 | 12 | 70 | 46 | 588 |
| 5-6 | 3 | 35 | 414 | -31 | 0 | 7 | -3 | 23 | 3 | 3 | 61 | 7 | 522 |
| 6-7 | 1 | 15 | 451 | -31 | 0 | 13 | -1 | 23 | 2 | 0 | 37 | 0 | 510 |
| 7-8 | -1 | 1 | 483 | -31 | 0 | 10 | 0 | 21 | 1 | 0 | 14 | 0 | 498 |
| 8-9 | 0 | 0 | 505 | -33 | 0 | 4 | 0 | 15 | 0 | 0 | 4 | 0 | 495 |
| 9-10 | 0 | 0 | 498 | -33 | 0 | 1 | 0 | 5 | 0 | 0 | 0 | 0 | 471 |
| 10-11 | 0 | 0 | 504 | -33 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 472 |
| 11-12 | 0 | 0 | 505 | -33 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 472 |

**Notes:**

(a) Parking accumulation pattern based on data from the 2012 *West Harlem Rezoning FEIS*.
(b) Parking accumulation pattern based on data from the 2016 *East New York Rezoning FEIS*.
(c) Assumes 0.19 spaces/D.U. derived from average 2011-2015 ACS Tenure by Vehicles Available data for project area census tracts.
(d) 0.4 spaces/room based on data from the 2008 *East 125th Street Development FEIS.*
(e) Parking accumulation pattern based on data from the 2015 *Vanderbilt Corridor and One Vanderbilt FEIS*.
(f) Parking accumulation pattern based on data from the 2009 *Food Retail Expansion to Support Health (FRESH) Food Store Program*.
(g) Parking accumulation pattern for light industrial use assumed for laboratory space.
(h) Parking accumulation pattern based on data from 2014 *New York Methodist Hospital Center for Community Health EAS.*

## AIR QUALITY

Like the Approved Actions, the Potential Modifications would not result in any significant adverse mobile or stationary source air quality impacts. With respect to stationary sources, in some cases, as described in greater detail below, the (E) Designation requirements for some projected and potential development sites have changed as a result of shorter building heights and/or less floor area. Like the Approved Actions, existing sources of air emissions would not result in significant adverse impacts to projected and potential development generated under the Potential Modifications.

*MOBILE SOURCES*

Compared to the Approved Actions, the Potential Modifications would result in slightly fewer vehicle trips. Therefore, like the Approved Actions, the Potential Modifications would not result in significant adverse air quality impacts from mobile sources.

*STATIONARY SOURCES*

With the Potential Modifications, building heights and/or square footage for 42 developments (25 projected and 17 potential development sites) would change. Therefore, a screening analysis was performed to assess air quality impacts associated with emissions from heat and hot water systems for the 42 affected development sites (see **Table 3**) using the methodology described in the FEIS.

The screening analysis determined that the Potential Modifications' RWCDS program for Projected Development Sites 11, 12, 14, 15, 16, 17, 18, 21, 22, 24, 26, 28, 29, and 69; and Potential Development Sites B, D, F, G, H, P, Q, R, T, AH, and AI would not change the conclusions presented in the FEIS for air quality impacts. For Projected Development Site 6 and Potential Development Sites E, J, S, and V burning No. 2 fuel oil or natural gas would not result in potential significant adverse air quality impacts because the proposed buildings would be below the maximum development size shown in Figures 17-5 and 17-7 of the Air Quality Appendix of the *CEQR Technical Manual*, respectively. Therefore, the proposed (E) Designations identified in the FEIS for these sites would not be required. In addition, due to the changes in buildings heights and reductions in floor area to projected and potential development sites with the Potential Modifications, the building clusters that were analyzed under the Approved Actions would no longer be of concern with respect to potential cumulative air quality impacts. As a result, the E-designations that were proposed for Projected Development Sites 19 and 33, and Potential Development Site H, would no longer be required with the Potential Modifications.

Projected Development Sites 2, 7, 13, 21, and 22 and Potential Development Site R failed the screening analysis using No. 2 fuel oil, but passed using natural gas; therefore, under the Potential Modifications, an air quality restriction would be required for these sites. To avoid potential project-on-project impacts at Projected Development Site 3 with the Potential Modifications, an air quality stack height restriction would be required.

Projected Development Sites 4, 20, 31, and 32; and Potential Development Sites I, and U failed the screening analysis for both No. 2 fuel oil and natural gas. Therefore, under the Potential Modifications, these sites would require additional air quality restrictions as compared to the Approved Actions, to avoid significant adverse air quality impacts, as described below.

Site 4: With the Potential Modifications, Projected Development Site 4 would be shorter in height than Potential Development Site V. In addition, the massing for Projected Development Site 4 is revised under the Potential Modifications, resulting in two separate buildings with

heights of 165 feet and 185 feet. To avoid potential air quality impacts, an E-designation restricting fossil fuel-fired heating and hot water equipment to utilize natural gas fuel and a minimum stack height restriction of 220 feet above grade for each building would be placed on Projected Development Site 4.

Site 20: Like the Approved Actions, Projected Development Site 20 would be shorter in height than Projected Site 33. Therefore, the proposed E-designation under the Approved Actions (A natural gas fuel restriction and stack(s) located at least 85 feet from the lot line facing East 105th Street and equipped with low $NO_x$ (30 ppm) burners) is considered sufficiently protective for air quality, and is identical to the proposed E-designation under the Approved Actions.

Site 31: With the Potential Modifications, there is no change to the massing or floor area. Therefore, the E-designation proposed under the Approved Actions (A natural gas fuel restriction and stack(s) located no more than 15 feet away from the lot line facing East 116th Street) is considered sufficiently protective for air quality, and is identical to the proposed E-designation under the Approved Actions.

Site 32: With the Potential Modifications, Projected Development Site 32 would be shorter in height than an existing building located on Block 1768 and Lot 33. To avoid potential air impacts, an E-designation restricting fossil fuel-fired heating and hot water equipment to utilize natural gas fuel and a minimum stack height restriction of 130 feet would be placed on Projected Development Site 32. Alternately, an E-designation would be placed on Projected Development Site 32 restricting fossil fuel-fired heating and hot water equipment to utilize natural gas fuel and a minimum setback for stack(s) of at least 29 feet away from the lot line facing East 119th Street and equipped with low $NO_x$ (30 ppm) burners.

Site I: Like the Approved Actions, Potential Development Site I would be shorter in height than Projected Development Site 16. Under the Approved Actions, an E-designation was proposed to require a stack height at least 5 feet above Projected Development Site 16 (225 feet). Under the Potential Modifications, an E-designation would be placed on Potential Development Site I restricting fossil fuel-fired heating and hot water equipment to utilize natural gas and a minimum stack height restriction of 150 feet above grade.

Site U: Like the Approved Actions, Potential Development Site U would be shorter in height than Projected Development Site 33. Under the Approved Actions, an E-designation was proposed to require fossil fuel-fired heating and hot water equipment to utilize natural gas and a stack height at least 5 feet above Projected Development Site 33 (265 feet). Under the proposed modifications an E-designation would be placed on Potential Development Site U to require fossil fuel-fired heating and hot water equipment to utilize natural gas and a minimum stack height of 200 feet above grade. Alternately, fossil fuel-fired heating and hot water equipment stack(s) would be located at least 69 feet away from the lot line facing East 105th Street with low $NO_x$ (30 ppm) burners, to avoid potential air quality impacts.

Overall, the Potential Modifications would not result in any significant adverse air quality impacts.

**GREENHOUSE GAS EMISSIONS AND CLIMATE CHANGE**

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts associate with greenhouse gas (GHG) emissions and their effect on climate change. As discussed below, the Potential Modifications would result in less GHG emissions as compared to the Approved Actions; however, this is associated with less use, and does not represent an actual reduction in overall GHG emissions. In terms of energy efficiency and other measures to reduce

emissions, the Potential Modifications and Approved Actions would be the same, and neither would implement any specific reduction measures. In addition, similar to the Approved Action, the Potential Modifications would not implement any specific resilience measures beyond the building code which would address potential future flooding conditions.

Following the methodology described in the FEIS and per the *CEQR Technical Manual* guidance, projected GHG emissions are presented in this section for the Potential Modifications, followed by a qualitative discussion of potential measures for reducing GHG emissions and consistency of the Potential Modifications with the City's policy for GHG emissions reduction. All differences between the GHG emissions quantified for the Potential Modifications and for the Approved Actions are due to the reduction in projected residential development.

Please note that following the publication of the FEIS, an error was identified in the GHG emissions calculations as it pertains to the Approved Actions, which resulted in a double counting of the passenger vehicle trip emissions. The result of this correction is lower emissions from mobile sources and lower total emissions and would not change the conclusions of the FEIS as it relates to GHG emissions.

The Potential Modifications would result in GHG emissions from annual building operations which would be approximately 4,200 annual metric tons less than the building operation emissions from the Approved Actions. Note that this does not represent a reduction in net GHG emissions since similar emissions may occur elsewhere from development providing the same uses reduced here.

The Potential Modifications would result in annual GHG emissions from mobile sources that would be approximately 1,500 metric tons less than those expected from the Approved Actions. Note that this does not represent a reduction in net GHG emissions since similar emissions may occur elsewhere from development providing the same uses reduced here.

In addition to the direct emissions included in the analysis, an additional approximately 25 percent would be emitted upstream, associated with fuel extraction, production, and delivery.

A summary of GHG emissions by source type for the Potential Modifications are presented in **Table 16**. With the reduction in residential development, the Potential Modifications would result in annual GHG emissions that would be approximately 5,700 metric tons of less than those expected from the Approved Actions. Note that this does not represent a reduction in net GHG emissions since similar emissions may occur elsewhere from development providing the same uses reduced here.

Note that if new buildings were to be constructed elsewhere to accommodate the same number of units and space for other uses, the emissions from the use of electricity, energy for heating and hot water, and vehicle use could equal or exceed those estimated for the Potential Modifications, depending on their location, access to transit, building type, and energy efficiency measures. Construction emissions were not modeled explicitly, but are estimated to be equivalent to approximately 5 to 10 years of operational emissions, including both direct energy and emissions embedded in materials (extraction, production, and transport). Similar to the Approved Actions, the Potential Modifications are not expected to fundamentally change the City's solid waste management system, and therefore emissions associated with solid waste are not presented.

**Table 16**
**Summary of Annual GHG Emissions— Potential Modifications RWCDS**
**(metric tons $CO_2e$)**

| Use | Building Operations | Mobile | *Total* |
|---|---|---|---|
| Residential | 31,172 | 9,886 | *41,058* |
| Commercial Retail | 4,786 | 9,876 | 14,663 |
| Office (Includes Laboratory Offices) | 2,536 | 2,362 | 4,898 |
| Community Facility (Assumed Medical Offices) | 1,060 | 1,625 | 2,686 |
| Industrial (Excludes Laboratory Offices) | 2,458 | 2,235 | 4,693 |
| Parking | 101 | 0 | *101* |
| **Total** | **42,113** | **25,985** | ***68,095*** |

*CONSISTENCY WITH THE CITYWIDE GHG REDUCTION GOALS*

Similar to the Approved Actions, since development under the Potential Modifications would not result in development under ongoing control of the City at most development sites, specific decisions regarding construction and building design at those sites, which would affect energy use and GHG emissions, cannot be affected by the City within the scope of the Potential Modifications and would be made by developers under the building code requirements in effect at the time. The City is addressing citywide building energy efficiency and other GHG-related design questions through its ongoing long-term GHG policy development and implementation process. However, some of the sites may require specific energy efficiency measures beyond the code requirements if developers apply for HUD funding (described below). In addition, similar to the Approved Actions, Projected Development Sites 4, 5, 10, 27, and 69, currently owned in part by the City, would be developed under contract with HPD and therefore are under control of the City. Therefore, these sites would meet certain sustainable design requirements which would, among other benefits, result in lower GHG emissions.

*RESILIENCE TO CLIMATE CHANGE*

As with the Approved Actions, some developments with the Potential Modifications would be subject to current and/or future flood risks, with flood depth increasing in the future as sea levels rise and flood hazard areas expand. Current flood hazards are addressed under the requirements of the building code. No specific requirements would be incorporated to address future flood risk.

The Potential Modifications, as with the Approved Actions, would not affect resilience in the area or other environmental effects as they may be affected by climate change. As with the Approved Actions, the Potential Modifications would not result in any development in the water or on the waterfront, and therefore other considerations identified in WRP Policy 6.2 are not relevant. The Potential Modifications would also not adversely affect other resources (including ecological systems, public access, visual quality, water-dependent uses, infrastructure, and adjacent properties) due to climate change.

**NOISE**

Similar to the Approved Actions, the Potential Modifications would not result in any significant adverse impacts due to noise. The noise effects with the Potential Modifications would be the same as the Approved Actions. With the incorporation of noise attenuation requirements set forth in (E) Designation (E-422) applicable to privately owned projected and potential development sites, or required through an LDA for sites under City jurisdiction, the Potential Modifications would not result in any significant adverse noise impacts. The same window-wall

attenuation requirements required under the Approved Actions would be required with the Potential Modifications. Like the Approved Actions, the projected and potential development sites assessed in the Potential Modifications would require between 28 and 44 dBA window/wall attenuation to meet applicable *CEQR Technical Manual* interior noise level requirements and between 25 and 40 dBA window/wall attenuation to meet applicable HUD interior noise level guidelines, where applicable. These attenuation requirements would be required through (E) Designation E-422 (or through an LDA or comparable mechanism for City-owned sites). With these attenuation measures, the Potential Modifications like the Approved Actions would not result in significant adverse impacts related to noise.

**PUBLIC HEALTH**

Neither the Approved Actions nor the Potential Modifications would result in significant adverse public health impacts. Like the Approved Actions, the Potential Modifications would not result in unmitigated significant adverse impacts in the areas of air quality, operational noise, water quality, or hazardous materials. However, both the Approved Actions and the Potential Modifications could result in unmitigated construction noise impacts as defined by *CEQR Technical Manual* thresholds. Although the *CEQR Technical Manual* thresholds for significant adverse impacts are predicted to be exceeded at certain locations during construction, the criteria used for public health, (i.e., the magnitude and duration of these exceedances) would not constitute a significant adverse public health impact. As discussed above, the *CEQR Technical Manual* thresholds for construction noise are based on quality of life considerations and not on public health considerations. An impact found pursuant to a quality of life framework does not imply that an impact will exist when the analysis area is evaluated in terms of public health. The predicted absolute noise levels would be below the health-based noise threshold of 85 dBA at all at-grade receptors. Some receptors may experience exterior absolute noise levels above 85 dBA at elevations above the first floor at the building façade—especially those receptors that are immediately adjacent to construction sites and above the height of site-perimeter noise barriers. However, outdoor terraces are not common within the rezoning area. As such, residents at these receptors would not experience exterior levels of construction noise. Because the buildings at these receptors would provide approximately 25 dBA window/wall attenuation, interior noise levels would be below the health-based noise threshold of 85 dBA. Accordingly, neither the magnitude nor the duration of the construction noise reaches the public health impact threshold. Since these are the appropriate criteria for the Public Health assessment, it follows that the Potential Modifications, like the Approved Actions, would not result in significant adverse public health impacts due to construction noise.

**NEIGHBORHOOD CHARACTER**

Like the Approved Actions, the Potential Modifications would not result in significant adverse impacts to neighborhood character. The changes resulting from the Potential Modifications, like those changes that would be seen under the Approved Actions, would generally result in similar effects in the following technical areas that are considered in the neighborhood character assessment pursuant to the *CEQR Technical Manual*: land use, zoning, and public policy; socioeconomic conditions; open space; historic and cultural resources; urban design and visual resources; shadows; transportation; and noise. Although the same significant adverse impacts would occur with respect to historic resources, shadows and transportation under the Potential Modifications, like the Approved Actions, these impacts would not result in a significant change to one of the determining elements of neighborhood character.

## CONSTRUCTION

Development under the Potential Modifications would occur on the same 102 development sites (68 projected and 34 potential) identified for the Approved Actions. The Potential Modifications would result in density and height reductions and would affect 24 projected development sites. Since potential sites are considered less likely to be developed over the analysis period, they are not considered in the construction analysis assessment. The construction phasing, activities, and estimates under the Potential Modifications are expected to be similar or less than those under the Approved Actions. Neither the Approved Actions nor the Potential Modifications would result in significant adverse construction impacts with respect to land use and neighborhood character, socioeconomic conditions, community facilities, open space, hazardous materials, air quality, or vibration. However, similar to the Approved Actions, construction activities related to the Potential Modifications would result in temporary historic and cultural resources, transportation, and noise impacts.

As discussed in detail above, like the Approved Actions, the Potential Modifications would result in significant adverse construction-related impacts to four architectural resources (St. Paul's Rectory and School, Chambers Memorial Baptist Church, a former stable at 166 East 124th Street, and the Park Avenue Viaduct) and archaeological resources associated with burial remains at two development sites located on the south side of East 128th Street (east of Park Avenue). In addition, new information has become known since completion of the FEIS concerning a new State and National Register (S/NR)-eligible East Harlem Historic District, which would overlap the boundaries of the Project Area. On October 13, 2017, the New York State Historic Preservation Office (SHPO) determined that the East Harlem Historic District (HD)—generally bounded by Park Avenue, East 117th Street, Second Avenue, East 120th Street, the East River, East 111th Street, First Avenue, and East 115th Street was eligible for listing on the State and National Register. As part of that process, the SHPO made determinations of which properties contribute to the significance of the eligible historic district ("contributing resources").

Development on Projected Development Site 49 and Potential Development Sites L, M, N and AG would result in construction-related impacts to contributing resources. Because Potential Development Sites L, M, N and AG are on NYCHA property, any redevelopment would be subject to a future environmental review, and if necessary, measures comparable to TPPN #10/88 could be required as a condition of any development agreement. Regarding Projected Development Site 49, as with the Approved Actions, the additional protective measures afforded under DOB TPPN #10/88, which include a monitoring program to reduce the likelihood of construction damage to adjacent S/NR-Listed resources or NYCLs, would only become applicable if the S/NR-Eligible resources are listed or designated in the future prior to the initiation of construction. Otherwise, there is the potential for inadvertent construction damage and impacts to occur as a result of adjacent development resulting from the Potential Modifications.

The construction transportation analysis is based on the overall peak worker and truck trips during construction under the Proposed Actions. With the potential reduction in construction durations and intensities for the 24 affected projected development sites due to density and height reductions, the overall peak work and truck trips during construction under the Potential Modifications are expected to be less than those under the Approved Actions. Therefore, the potential for significant adverse transportation impacts during construction under the Potential Modifications would be reduced when compared with those under the Proposed Actions.

The construction processes and durations under the Potential Modifications for the projected development sites not affected by the Potential Modifications are expected to be the same as those for the Proposed Actions. Therefore, it is anticipated that the predicted noise levels due to peak construction-related activities at these locations under the Potential Modifications would be the same to the Proposed Actions. For the 24 projected development sites that are affected by the Potential Modifications, the predicted construction noise levels at nearby receptors due to the activities at these sites would generally be less than what was predicted in the Approved Actions, depending on the receptors' distance to other projected development sites under construction. Therefore, the overall extent of the significant adverse construction noise impacts under the Potential Modifications would be reduced when compared with those under the Approved Actions and no additional significant adverse construction noise impacts would occur.

## MITIGATION MEASURES REQUIRED FOR THE POTENTIAL MODIFICATIONS

The Potential Modifications would result in significant adverse impacts related to shadows, historic and cultural resources, transportation (traffic, transit and pedestrians, and transit), and construction (noise). Mitigation measures have been identified to address those impacts, where feasible and/or practical. As discussed below in more detail, partial mitigation is proposed for significant adverse impacts associated with historic and cultural resources, traffic, transit and construction. The significant adverse transit (bus) and pedestrian impacts would be fully mitigated. If no possible mitigation has been identified, an unavoidable significant adverse impact would result.

### *SHADOWS*

Like the Approved Actions, the Potential Modifications would result in significant adverse impacts to three open space resources. The detailed analysis found that El Catano Garden (171 East 110th Street/Block 1638, Lot 32), Eugene McCabe Field (Park Avenue and East 120th Street/Block 1747, Lot 1), and Jackie Robinson Garden (103 East 122nd Street/Block 1771, Lot 5) would be significantly impacted by new shadow originating from projected and potential development sites. Of the three resources found to experience a significant adverse shadow impact with the Approved Actions, the Potential Modifications would change the extent or duration of incremental shadow on two—El Catano Garden and Eugene McCabe Field. However, the Potential Modifications would not eliminate significant adverse shadow impacts on El Catano or Eugene McCabe Field. Therefore, the Potential Modifications would result in significant shadow impacts on the same three sunlight-sensitive resources as the Approved Actions: El Catano Garden, Eugene McCabe Field, and Jackie Robinson Garden.

There are no reasonable means to partially or fully mitigate significant adverse shadow impacts on these three open space resources; therefore, the shadow impacts would be an unavoidable significant adverse impact of the Potential Modifications. Possible measures that could mitigate significant adverse shadow impacts on open spaces may include relocating sunlight-sensitive features within an open space to avoid sunlight loss; relocating or replacing vegetation; undertaking additional maintenance to reduce the likelihood of species loss; or providing replacement facilities on another nearby site. Other potential mitigation strategies include the redesign or reorientation of the open space site plan to provide for replacement facilities, vegetation, or other features. In addition, the *CEQR Technical Manual* identifies strategies to reduce or eliminate shadow impacts, including modifications to the height, shape, size, or orientation of a proposed development that creates the significant adverse shadow impact. The New York City Department of City Planning (DCP), as lead agency, has explored possible mitigation measures with the New York City Department of Parks and Recreation (NYC Parks) and it was found that there are no reasonable means to partially or fully mitigate significant

adverse shadows impacts on these three open space resources. Therefore, the shadow impacts would be an unavoidable significant adverse impact of the Potential Modifications (see the "Unavoidable Adverse Impacts" section below).

*HISTORIC AND CULTURAL RESOURCES*

The Potential Modifications would result in significant adverse construction-related impacts to four historic structures located within the Historic and Cultural Resources study area, as described below. In addition, new information has become known since completion of the FEIS concerning a new State and National Register (S/NR)-eligible East Harlem Historic District, which would overlap the boundaries of the Project Area. As a result of this new information, additional historic resources could be impacted by the Approved Actions and Potential Modifications though either demolition or construction activity.

Like the Approved Actions, construction activity at two development sites located on the south side of East 128th Street (east of Park Avenue) have the potential to result in significant adverse archaeology impacts associated with human remains. Partial mitigation is proposed for the significant adverse impacts to the Park Avenue Viaduct and the archaeology impact associated with human remains. The remaining significant adverse impacts would be unavoidable impacts of the Potential Modifications.

*Architectural Resources*

As mentioned above, the Potential Modifications would result in significant adverse construction-related impacts to the same four eligible architectural resources located within 90 feet of projected or potential development sites. In addition, a contributing resource located within the new S/NR-eligible East Harlem Historic District would be demolished as a result of new development on Projected Development Site 49, which would result in a significant adverse impact. Because Projected Development Site 49 is owned by a private entity, there is no mechanism in place to preclude demolition of the resource, and the demolition of the contributing building would be an unavoidable impacts of the Approved Actions and the Potential Modifications.

Designated New York City Landmarks (NYCL) or S/NR-Listed architectural resources located within 90 feet of a projected or potential new construction site are subject to the protections of DOB's Technical Policy and Procedure Notice (TPPN) #10/88. Like the Approved Actions, the Potential Modifications would impact the four resources listed above, which are not NYCLs or S/NR-Listed; therefore they would not be afforded any of the protections under TPPN #10/88. If the eligible resources are designated in the future prior to the initiation of construction, the protective measures of TPPN #10/88 would apply and significant adverse impacts from construction would be avoided.

In addition, the new S/NR-eligible East Harlem Historic District would be affected by development on Projected Development Site 49 and Potential Development Sites L, M, N and AG, which would result in construction-related impacts to contributing resources. Because Potential Development Sites L, M, N and AG are on NYCHA property, any redevelopment would be subject to a future environmental review, and if necessary, measures comparable to TPPN #10/88 could be required as a condition of any development agreement. Regarding Projected Development Site 49, as with the Approved Actions, the additional protective measures afforded under DOB TPPN #10/88, which include a monitoring program to reduce the likelihood of construction damage to adjacent S/NR-Listed resources or NYCLs, would only become applicable if the S/NR-Eligible resources are listed or designated in the future prior to the initiation of construction. Otherwise, there is the potential for inadvertent construction

damage and impacts to occur as a result of adjacent development resulting from the Potential Modifications.

Projected development sites within 90 feet of the Park Avenue Viaduct which include one or more parcels under New York City Department of Housing Preservation and Development (HPD) jurisdiction (i.e., Sites 4, 10, and 69) would be required to implement a Construction Protection Plan (CPP) as part of their development to protect from inadvertent construction-related damage. No other feasible mitigation was identified; therefore, should the resources above remain undesignated, the additional protective measures of TPPN #10/88 would not apply and the significant adverse construction-related impacts would be unavoidable.

*Archaeological Resources*

The Potential Modifications have the potential to result in the same unavoidable significant adverse archaeology impacts. Construction activity at Projected Development Site 4 and Potential Development Site V, located on the south side of East 128th Street and east of Park Avenue, has the potential to result in significant adverse archaeology impacts associated with human remains associated with 19th century burials. A Phase 1A study of both development sites was completed in March 2017 and identified the development sites as potentially sensitive for human remains associated with the churchyard and burial vaults of Saint Andrew's Church, formerly located within both development sites.

Similar to the Approved Actions, mitigation measures include preparation of a Testing Protocol and Human Remains Discovery Plan, which would be submitted to LPC for review and concurrence and Phase 1B testing. Phase 1B testing is designed to confirm the presence or absence of archaeological resources in areas of archaeological sensitivity that are identified in the Phase 1A study.

As with the Approved Actions, under the Potential Modifications Projected Development Site 4 contains a City-owned lot under HPD jurisdiction. Development of Projected Development Site 4 would be in accordance with HPD requirements, which would include measures to require prospective sponsors to conduct archaeological testing and if warranted, recovery of human remains. Potential Development Site V is owned by a private entity. There is no mechanism in place to require archaeological testing prior to construction or require the preservation or documentation of archaeological resources, should they exist. In the event that human remains are encountered during the construction of an as-of-right project, the developer be legally obligated to contact the New York City Police Department (NYPD) and the New York City Office of the Chief Medical Examiner (OCME). However, because there is no mechanism to ensure that the potential impacts would be avoided or mitigated in full at Potential Development Site V, the significant adverse impact would be considered unavoidable.

*TRANSPORTATION*

For both the Approved Actions and the Potential Modifications, the identified bus transit and pedestrian impacts could be fully mitigated, and some, if not all, of the subway station impacts would likely not occur with implementation of Phase II of the Second Avenue Subway. Due to the existing congested conditions at many study area intersections, it is anticipated that a number of the significant adverse traffic impacts with the Potential Modifications could not be fully mitigated through standard traffic improvement measures, as would be the case under the Approved Actions. However, it expected that fewer study area lane groups would have unmitigated significant impacts with the Potential Modifications than under the Approved Actions.

*Traffic*

As discussed in the FEIS, the Approved Actions' traffic mitigation plan would include implementation of traffic engineering improvements such as signal timing changes and modifications to curbside parking regulations and lane striping. The recommended measures would provide mitigation for many of the traffic impacts anticipated under the Approved Actions. However, unmitigated significant impacts would remain at a total of five lane groups at two intersections in the weekday AM peak hour, six lane groups at four intersections in the weekday PM peak hour, and one lane group at one intersection in the Saturday peak hour. No significant impacts would remain unmitigated in the weekday midday.

As discussed previously, compared with the Approved Actions, the Potential Modifications would generate approximately 58, 12, 54, and 23 fewer incremental vehicle trips during the weekday AM, midday and PM, and Saturday peak hours, respectively. It is therefore anticipated that the traffic mitigation measures recommended for the Approved Actions would be similarly effective at addressing the traffic impacts that would occur under the Potential Modifications. In addition, given the reduction in vehicle trips, some of the impacts that would remain unmitigated under the Approved Actions could potentially be mitigated under the Potential Modifications.

*Transit*

*Subway*

Substantial reductions in both No Action and With Action demand are expected to occur at Lexington Avenue Line subway stations with implementation of Second Avenue Subway Phase II, which is also expected to include improvements to pedestrian circulation elements at the 125th Street station. Therefore, it is anticipated that some, if not all, of the subway stair impacts expected to occur with the Potential Modifications would not occur with implementation of Second Avenue Subway Phase II. In the absence of Phase II of the Second Avenue Subway and stair relocations at the 116th Street station, the subway stair impacts under the Potential Modifications would remain unmitigated, as would be the case under the Approved Actions.

*Bus*

As under the Approved Actions, the significant adverse AM peak hour impact to southbound M15 SBS service with the Potential Modifications could be mitigated by increasing the number of southbound buses from 15 to 16 in the AM. The general policy of the Metropolitan Transportation Authority is to provide additional bus service where demand warrants, taking into account fiscal and operational constraints. It should also be noted that the over-capacity condition on the southbound M15 SBS service in the AM under both the Approved Actions and the Potential Modifications would be unlikely to occur with completion Phase II of the Second Avenue Subway in 2027.

*Pedestrians*

The Approved Actions would result in a significant adverse impact to the south sidewalk on East 126th Street between Park and Lexington Avenues in all peak hours, and this impact is also expected to occur with the Potential Modifications. Removal of a tree pit at the most constrained point on this sidewalk would fully mitigate the impact under the Approved Actions, and would also mitigate any potential impact to this sidewalk with the Potential Modifications.

Under a scenario with completion of Phase II of the Second Avenue Subway, the Approved Actions would result in additional significant adverse AM peak hour impacts to the north and south crosswalks on Park Avenue at East 125th Street. Although pedestrian demand under the Potential Modifications would be less than under the Approved Actions, it is anticipated that these crosswalks would remain impacted in the AM with the Second Avenue Subway. Widening

the segment of the north crosswalk west of the Park Avenue median by 1.5 feet (to a total of 19.5 feet) and the segment of the south crosswalk east of the median by 0.5 feet (to a total of 18.5 feet) would fully mitigate these impacts under the Approved Actions as well as with the Potential Modifications.

*Construction Noise*

The Potential Modifications would have the potential to result in significant adverse construction noise impacts throughout the Project Area and at sensitive receptors in the vicinity of the Project Area.

Three representative construction sites were selected for analysis. Based on the construction stage predicted to occur at each development site according to the conceptual construction schedule during each of the selected analysis periods, each receptor expected to experience an exceedance of the *CEQR Technical Manual* noise impact threshold was determined for each period. One peak construction period per year over the analysis period of 2018 to 2027 was analyzed. Based on these determinations, receptors where noise level increases are predicted to exceed the noise impact threshold criteria for two or more consecutive years were identified.

Because the analysis is based on construction phases, it does not capture the natural daily and hourly variability of construction noise at each receptor. The level of noise produced by construction fluctuates throughout the days and months of the construction phases, while the construction noise analysis is based on the worst-case time periods only, which is conservative. The noise analysis results show that the predicted noise levels could exceed the *CEQR Technical Manual* impact criteria throughout the Project Area. The analysis is based on a conceptual site plan and construction schedule. It is possible that the actual construction may be of less magnitude, or that construction on multiple projected development sites may not overlap, in which case construction noise would be less intense than the analysis predicts.

Proposed mitigation could include a variety of source and path controls. Similar to the Approved Actions, it was found that there are no reasonable means to ensure measures are employed that would mitigate, partially or fully, the significant adverse construction noise impacts. Therefore, the significant adverse construction noise impacts would be unavoidable.

## UNAVOIDABLE SIGNIFICANT ADVERSE IMPACTS

The Potential Modifications would result in the same unavoidable significant adverse impacts as the Approved Actions. According to the *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 discussed above the Potential Modifications would result in significant adverse impacts with respect to shadows, historic and cultural resources, transportation, and construction. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation has been identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Potential Modifications that would meet the Potential Modifications' purpose and need, eliminate potential 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.

*SHADOWS*

As described above, the Potential Modifications, like the Approved Actions, would result in significant adverse shadow impacts to three open space resources. The detailed analysis found that El Catano Garden (171 East 110th Street/Block 1638, Lot 32), Eugene McCabe Field (Park Avenue and East 120th Street/Block 1747, Lot 1), and Jackie Robinson Garden (103 East 122nd Street/Block 1771, Lot 5) would be significantly impacted by new shadow originating from projected and potential development sites.

The duration of incremental shadow cast on some areas of Eugene McCabe Field could reduce the hours of direct sunlight received by the resource by a maximum of over eight hours a day, potentially altering the public's use of the resource and its utilization rate. The incremental shadow that could be cast on a majority of the area within El Catano and Jackie Robinson Garden could potentially prevent these open spaces from supporting the same variety of plant life as they could in the No Action Condition.

Possible mitigation measures were explored in coordination with the New York City Department of Parks and Recreation (NYC Parks) and it was found that there are no reasonable means to partially or fully mitigate the significant adverse shadows impacts on El Catano Garden, Eugene McCabe Field, and Jackie Robinson Garden. In the absence of feasible mitigation, the significant adverse impact to El Catano Community Garden would be unavoidable. It should be noted that the same unavoidable significant adverse impacts would occur under the Approved Actions.

*HISTORIC AND CULTURAL RESOURCES*

As discussed above in the "Mitigation" section, the Potential Modifications would result in significant adverse construction-related impacts to four historic structures located within the Historic and Cultural Resources study area. In addition construction activity at two development sites located on the south side of East 128th Street (east of Park Avenue) have the potential to result in significant adverse archaeology impacts associated with human remains. Partial mitigation is proposed for the significant adverse impacts to the Park Avenue Viaduct and the archaeology impact associated with human remains. The remaining significant adverse impacts would be unavoidable impacts of the Potential Modifications.

As previously discussed, new information has become known since completion of the FEIS concerning a new State and National Register (S/NR)-eligible East Harlem Historic District, which would overlap the boundaries of the Project Area. As a result of this new information, additional historic resources could be impacted by the Approved Actions and Potential Modifications through either demolition or construction activity.

*Architectural Resources*

A contributing resource located within the new S/NR-eligible East Harlem Historic District would be demolished as a result of new development on Projected Development Site 49, which would result in a significant adverse impact. Because Projected Development Site 49 is owned by a private entity, there is no mechanism in place to preclude demolition of the resource, and the demolition of the contributing building would be an unavoidable impact of the Approved Actions and the Potential Modifications.

The Potential Modifications would result in significant adverse construction-related impacts to four eligible architectural resources located within 90 feet of projected or potential development sites. In addition, the new S/NR-eligible East Harlem Historic District would be affected by development on Projected Development Site 49 and Potential Development Sites L, M, N and

AG, which would result in construction-related impacts to contributing resources. Because Potential Development Sites L, M, N and AG are on NYCHA property, any redevelopment would be subject to a future environmental review, and if necessary, measures comparable to TPPN #10/88 could be required as a condition of any development agreement.

As mentioned in the "Mitigation" section above, designated New York City Landmarks (NYCL) or S/NR-Listed architectural resources located within 90 feet of a projected or potential new construction site are subject to the protections of DOB's Technical Policy and Procedure Notice (TPPN) #10/88. As the four resources listed above are not NYCLs or S/NR-Listed, they would not be afforded any of the protections under TPPN #10/88, and would need to make TPPN #10/88 or comparable measures applicable to the eligible resources. However, it is not known and cannot be assumed that owners of these properties would voluntarily implement the mitigation. Similar to the Approved Actions, the viability of these or other mitigation measures were explored for the Potential Modifications and no feasible mitigation was identified with respect to non-City owned sites. As with the Approved Actions, under the Potential Modifications the significant adverse construction impacts to the four S/NR-Eligible architectural resources would be unavoidable. Similarly, the construction-related impact from Projected Development Site 49 associated with the new S/NR-eligible East Harlem Historic District would unavoidable because no feasible mitigation measures comparable to TPPN #10/88 would be available.

*Archaeological Resources*

The Potential Modifications have the potential to result in unavoidable significant adverse archaeology impacts. Construction activity at two development sites possesses potential archaeological significance. A Phase 1A study completed in March 2017 identified the potential and projected development sites as potentially sensitive for human remains associated with the churchyard and burial vaults of Saint Andrew's Church, which was formerly located within both development sites.

As mentioned in the "Mitigation" section, one development site (Projected Development Site 4) contains a City-owned lot under HPD jurisdiction, while the other development site (Potential Development Site V) is owned by a private entity. In the event that human remains are encountered during the construction of an as-of-right project, the developer is legally obligated to contact the New York City Police Department (NYPD) and the New York City Office of the Chief Medical Examiner (OCME). However, because there is no mechanism to ensure that the potential impacts would be avoided or mitigated in full at Potential Development Site V. Therefore, as with the Approved Actions, under the Potential Modifications the significant adverse impact would be an unavoidable impact.

*Transportation*

*Traffic*

As discussed above, the Approved Actions would result in significant adverse traffic impacts at 29 intersections (all signalized) during one or more analyzed peak hours. A total of 34 lane groups at 21 intersections would be impacted in the AM peak hour, 17 lane groups at 14 intersections in the midday, 34 lane groups at 25 intersections in the PM and 22 lane groups at 19 intersections in the Saturday peak hour.

The Approved Actions' traffic mitigation plan would include implementation of traffic engineering improvements such as signal timing changes and modifications to curbside parking regulations and lane striping. The recommended measures would provide mitigation for many of the traffic impacts anticipated under the Approved Actions. However, as discussed in the FEIS,

unmitigated significant impacts would remain at a total of five lane groups at two intersections in the weekday AM peak hour, six lane groups at four intersections in the weekday PM peak hour, and one lane group at one intersection in the Saturday peak hour. No significant impacts would remain unmitigated in the weekday midday.

As discussed previously, compared with the Approved Actions, the Potential Modifications would generate approximately 58, 12, 54, and 23 fewer incremental vehicle trips during the weekday AM, midday and PM, and Saturday peak hours, respectively. It is therefore anticipated that the traffic mitigation measures recommended for the Approved Actions would be similarly effective at addressing the traffic impacts that would occur under the Potential Modifications. In addition, given the reduction in vehicle trips, some of the impacts that would remain unmitigated under the Approved Actions may potentially be mitigated under the Potential Modifications.

*Transit – Subway Stations*

With both the Approved Actions and the Potential Modifications, six stairs at three subway stations served by the Nos. 4, 5, and/or 6 trains on the Lexington Avenue Line would be significantly adversely impacted in the weekday AM and/or PM peak hours. These would include one street stair at the 103rd Street station, one street stair at the 116th Street station, and two street stairs and two platform stairs at the 125th Street station. It is anticipated that some, if not all of these significant peak hour stair impacts at Lexington Avenue Line subway stations would not occur with implementation of Phase II of the Second Avenue Subway which would include three new subway stations at East 106th Street, East 116th Street, and East 125th Street. It should also be noted that it is anticipated that the City will be conducting to a follow-up study in regards to relocating subway stairs at the 116th Street station into the building envelopes on adjacent projected development sites. If such a stair relocation were to occur, it would serve to mitigate the significant adverse AM peak hour impact to street stair S3/P3 that would occur under both the Approved Actions and the Potential Modifications.

In the absence of Phase II of the Second Avenue Subway and stair relocations at the 116th Street station, the subway stair impacts under the Potential Modifications would remain unmitigated, as would be the case under the Approved Actions.

*Transit – Bus*

Both the Proposed Actions and the Potential Modifications would result in a passenger capacity shortfall on southbound M15 SBS buses in the weekday AM peak hour. This significant adverse impact to the M15 SBS could be fully mitigated by the addition of one bus in the southbound direction in the AM. If this change is not made, this impact would be considered unavoidable.

*Pedestrians*

As discussed above, with both the Approved Actions and the Potential Modifications, the south sidewalk along East 126th Street between Park and Lexington Avenues would be significantly adversely impacted in all four analyzed peak hours, and there would be no significant impacts to any corner areas or crosswalks. The removal of a tree pit at a constrained point on the impacted sidewalk would fully mitigate this significant adverse impact. Under a scenario with completion of Second Avenue Subway Phase II in 2027, it is anticipated that the north and south crosswalks on Park Avenue at East 125th Street would also be significantly adversely impacted in the AM peak hour under both the Approved Actions and the Potential Modifications. Widening the segment of the north crosswalk west of the Park Avenue median by 1.5 feet (to a total of 19.5 feet) and the segment of the south crosswalk east of the median by 0.5 feet (to a total of 18.5 feet) would fully mitigate these impacts. In the absence of these measures, the significant adverse impacts would be unavoidable.

*Construction Noise*

Like the Approved Actions, the Potential Modifications would be required to follow the requirements of the NYC Noise Control Code for construction noise control measures. The specific noise control measures, as required under the NYC Noise Code, to be incorporated under the Potential Modifications were outlined above in the noise mitigation plan(s).

The above mitigation measures, which are intended to address the pieces of construction equipment that would produce the highest noise levels, were explored. However, even if all of the above mitigation measures are determined to be feasible and practicable, some significant adverse construction noise impacts could potentially continue to be experienced at sensitive receptors and, as the result, be unavoidable. It was found that there are no reasonable means to ensure measures be employed that would mitigate, partially or fully, the significant adverse construction noise impacts; therefore, the significant adverse construction noise impacts would be unavoidable. ✷

# Appendix 1

## Zoning Text
## Potential Modifications

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is to be deleted;
Matter with # # is defined in Section 12-10 or 81-613;
Matter in double ~~strikeout~~ is old, deleted by the City Council;
Matter in double underline is new, added by the City Council;
* * * indicates where unchanged text appears in the Zoning Resolution

**ARTICLE I**
**GENERAL PROVISIONS**

**Chapter 1**
**Title, Establishment of Controls and Interpretation of Regulations**

* * *

**11-122**
**Districts established**
In order to carry out the purposes and provisions of this Resolution, the following districts are hereby established:

* * *

Special Purpose Districts

* * *

Establishment of the Special Downtown Jamaica District

In order to carry out the special purposes of this Resolution as set forth in Article XI, Chapter 5, the #Special Downtown Jamaica District# is hereby established.

Establishment of the Special East Harlem Corridors District

In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 8, the #Special East Harlem Corridors District# is hereby established.

Establishment of the Special Enhanced Commercial District

In order to carry out the special purposes of this Resolution as set forth in Article XIII, Chapter 2, the #Special Enhanced Commercial District# is hereby established.

* * *

**Chapter 2**
**Construction of Language and Definitions**

* * *

**12-10**
**DEFINITIONS**

* * *

Special Downtown Jamaica District

The "Special Downtown Jamaica District" is a Special Purpose District designated by the letters "DJ" in which special regulations set forth in Article XI, Chapter 5, apply.

Special East Harlem Corridors District

The "Special East Harlem Corridors District" is a Special Purpose District designated by the letters "EHC" in which special regulations set forth in Article XIII, Chapter 8, apply.

Special Enhanced Commercial District

The "Special Enhanced Commercial District" is a Special Purpose District designated by the letters "EC" in which special regulations set forth in Article XIII, Chapter 2, apply.

* * *

**Chapter 4**
**Sidewalk Cafe Regulations**

* * *

**14-40**

**AREA ELIGIBILITY FOR SIDEWALK CAFES**

* * *

**14-44**
**Special Zoning Districts Where Certain Sidewalk Cafes Are Permitted**

* * *

| Manhattan | #Enclosed Sidewalk Cafe# | #Unenclosed Sidewalk Cafe# |
|---|---|---|
| Clinton District | No | Yes |
| East Harlem Corridors District | No | Yes |
| Enhanced Commercial District 2 (Columbus and Amsterdam Avenues) | Yes | Yes |

* * *

**ARTICLE II**
**RESIDENCE BULK REGULATIONS**

**Chapter 3**
**Residential Bulk Regulations in Residence Districts**

* * *

**23-011**
**Quality Housing Program**

* * *

R6 R7 R8 R9 R10

(c) In the districts indicated without a letter suffix, the optional Quality Housing #bulk# regulations permitted as an alternative pursuant to paragraph (b) of this Section, shall not apply to:

* * *

(2) Special Purpose Districts

However, such optional Quality Housing #bulk# regulations are permitted as an alternative to apply in the following Special Purpose Districts:

#Special 125th Street District#;
#Special Downtown Brooklyn District#;
#Special Downtown Jamaica District#;
#Special East Harlem Corridors District#;
#Special Grand Concourse Preservation District#;

* * *

**23-03**
**Street Tree Planting in Residence Districts**

R1 R2 R3 R4 R5 R6 R7 R8 R9 R10

In all districts, as indicated, the following shall provide #street# trees in accordance with Section 26-41 (Street Tree Planting):

* * *

(b) #enlargements# of #single-# or #two-family residences# by 20 percent or more within the following special purpose districts:

#Special Bay Ridge District#;

#Special Clinton District#;

#Special Downtown Brooklyn District#

#Special Downtown Jamaica District#

#Special East Harlem Corridors District#;

#Special Grand Concourse Preservation District#;

* * *

**ARTICLE III**

## COMMERCIAL DISTRICT REGULATIONS

## Chapter 3
## Bulk Regulations for Commercial or Community Facility Buildings in Commercial Districts

* * *

### 33-03
### Street Tree Planting in Commercial Districts

C1 C2 C3 C4 C5 C6 C7 C8

In all districts, as indicated, the following shall provide #street# trees in accordance with Section 26-41 (Street Tree Planting):

* * *

(b) #enlargements# of #single-# or #two-family residences# by 20 percent or more within the following special purpose districts:

#Special Bay Ridge District#;

#Special Clinton District#;

#Special Downtown Brooklyn District#

#Special Downtown Jamaica District#

#Special East Harlem Corridors District#;

#Special Grand Concourse Preservation District#;

* * *

**ARTICLE IX**
**SPECIAL PURPOSE DISTRICTS**

**Chapter 5**
**Special Transit Land Use District**

**95-00**
**GENERAL PURPOSES**

* * *

**95-03**
**Transit Easement**

Any #development# or #enlargement# involving ground level construction within the #Special Transit Land Use District# shall provide an easement on the #zoning lot# for subway-related use and public access to the subway mezzanine or station when required pursuant to the provisions of Section 95-04.

The issuance by the Department of Buildings of an excavation permit for any #zoning lot# located within the Special District shall be dependent upon prior compliance with the provisions of this Chapter.

The transit easement required on a #zoning lot# shall permit the realization of one or more of the following planning objectives:

(a) the integration and relating of subway station design to surrounding development;

(b) the introduction of light and air to: stations; ~~and~~ mezzanines; and other related facilities constructed pursuant to the provisions of Section 95-032 (Determination of transit easements at other stations);

* * *

**95-031**
**Selection of transit easement at certain stations**

At the stations specified below, ~~T~~the transit easement required on a #zoning lot# shall constitute a volume whose dimensions above and below #curb level# shall comply with the requirements as set forth in Table A or Table B of this Section, depending on the depth of the proposed subway mezzanine below #curb level#, as established by the Metropolitan Transportation Authority.

* * *

TABLE B
MINIMUM DIMENSIONS FOR TRANSIT EASEMENT VOLUME

(in feet)

Stations: Chatham Square, Grand St., 14th St., 23rd St., UN Plaza, East Midtown, and Yorkville~~, Franklin Plaza, and Triboro Plaza~~

* * *

**95-032**
**Determination of transit easements at other stations**

At the 106th Street, 116th Street and 125th Street stations, a transit easement shall be provided to accommodate, whether singly or in any combination, light wells, stairs, ramps, escalators, elevators, passageways, or ancillary facilities required to support the functioning of subway station or rail mass transit facilities, including, but not limited to, emergency egress or ventilation structures, the Metropolitan Transportation Authority shall, in consultation with the owner of the #zoning lot# and the City Planning Commission, determine the appropriate type of transit easement and reasonable dimensions for such transit easement volume.

**95-03~~2~~3**
**Location of transit easements**

* * *

**95-05**
**Terms and Conditions for Permitted Uses and Construction within Transit Easement Volume**

The transit easement volume shall be used as an entrance/exit for public access to the subway and/or to provide better access of light and air to the subway station mezzanine, and for related uses. Illustrative of such purposes are light wells, stairs, ramps, escalators, ~~or~~ elevators~~,~~ or, for #zoning lots# subject to the provisions of Section 95-032 (Determination of transit easements at other stations), ancillary facilities required to support the functioning of subways, including, but not limited to, emergency egress or ventilation structures.

No #floor area# bonus shall be allowed for any transit easement provided on a #zoning lot#. When a transit easement volume required on a #zoning lot# is located within a #building#, any floor spaces occupied by such transit easement volume shall not count as #floor area#. Any portion of the #lot area# of a #zoning lot# occupied by a transit easement and weather protected by an overhang or roofed area, shall be considered as a #public plaza# in the districts that allow such #public plaza# bonuses.

* * *

**95-051**
**Development of transit ~~access~~ facilities**

All access facilities, including any light wells or sky lights required within a transit easement volume established pursuant to the provisions of Section 95-031 (Selection of transit easement at certain stations), or access and ancillary facilities required pursuant to the provisions of Section 95-032 (Determination of transit easement at other stations), shall be constructed and maintained by the Metropolitan Transportation Authority except for any #building# columns, footings or any other permitted obstructions allowed therein.

* * *

**95-052**
**Special access facilities for persons with disabilities at certain stations**

For #zoning lots# subject to the provisions of Section 95-031 (Selection of transit easement at certain stations), ~~S~~special elevators for persons with disabilities may locate within a transit easement volume, provided stair and/or escalator access to the subway mezzanine are located within the same easement and in no event located within the public sidewalk adjacent to the #zoning lot#.

* * *

**Article IX**
**Special Purpose Districts**

**Chapter 7**
**Special 125th Street District**

**97-00**
**GENERAL PURPOSES**

The "Special 125th Street District" established in this Resolution is designed to promote and protect the public health, safety, general welfare and amenity. The general goals include, among others, the following specific purposes:

(a) to preserve, protect and promote the special character of 125th Street as Harlem's "Main Street" and the role of 125th Street as Upper Manhattan's premier mixed use corridor;

(b) to guide development on the 125th Street corridor;

(c) to expand the retail and commercial character of 125th Street;

(d) to provide incentives for the creation of visual and performing arts space and enhance the area's role as a major arts, entertainment and cultural destination in the City;

(e) to support mixed use development throughout the 125th Street corridor, including residential uses, and to provide incentives for the production of affordable housing;

(f) to ensure that the form of new buildings is compatible and relates to the built character of the 125th Street corridor;

(g) to enhance the pedestrian environment through appropriate ground floor uses and regulations;

(h) to ensure, in the Park Avenue Hub Subdistrict, compatibility with the purposes of the #Special East Harlem Corridors District#; and

~~(h)~~(i) to promote the most desirable use of land and thus conserve and enhance the value of land and buildings, and thereby protect the City's revenue.

* * *

**97-03**
**District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special 125th Street District# Plan. The District Plan, including Map 1 (Special 125th Street District and ~~Core~~ Subdistricts) and Map 2 (Permitted Small Sidewalk Cafe Locations), is set forth in Appendix A of this Chapter and is hereby incorporated as part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

**97-04**
**Establishment of ~~Core~~ Subdistricts**

In order to carry out the purposes and provisions of this Chapter, ~~the Core~~ two subdistricts ~~is~~ are established within the #Special 125th Street District# ~~and~~: the Core Subdistrict and the Park Avenue Hub Subdistrict. Each subdistrict includes specific regulations designed to support an arts and entertainment environment and other relevant planning objectives along 125th Street. The boundaries of the ~~Core S~~subdistricts are shown on Map 1 in Appendix A of this Chapter.

* * *

**97-06**
**~~Applicability of Special Transit Land Use District Regulations~~**
**Applicability of ~~District~~ Regulations**

[Note: existing provisions moved to Section 97-061]

**97-061**
**Applicability of Special Transit Land Use District Regulations**

[Note: existing provisions moved from Section 97-06 and updated a cross reference. The specification of the #Special Transit Land Use District# was eliminated since they are specified in Zoning Maps.]

Wherever the #Special 125th Street District# includes an area which also lies within the #Special Transit Land Use District#, the requirements of the #Special Transit Land Use District#, as set forth in Article IX, Chapter 5, shall apply, subject to the modifications described in paragraphs ~~(e)~~ (a)(4) and ~~(f)~~ (a)(5) of Section 97-~~433 (Street wall location)~~ 442 (Height and setback regulations within the Core Subdistrict and areas outside of a subdistrict).

~~The #Special Transit Land Use District# includes the area within the #Special 125th Street District# bounded by a line 50 feet west of Second Avenue from 124th Street midway to 125th Street where such area widens to a line 100 feet west of Second Avenue.~~

**97-062**
**Applicability of the Quality Housing Program**

[Note: existing provisions moved from 97-40 (SPECIAL BULK REGULATIONS)]

In the #Special 125th Street District#, #buildings# containing #residences# shall be #developed# or #enlarged# in accordance with the Quality Housing Program, and the regulations of Article II, Chapter 8 shall apply. The #bulk# regulations of this Chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

**97-063**
**Applicability of Inclusionary Housing Program**

[Note: existing provision moved from Section 97-421 (Inclusionary Housing) and changed to include Mandatory Inclusionary Housing applicability]

For the purposes of applying the Inclusionary Housing Program provisions set forth in Section 23-154 (Inclusionary Housing) and in Section 23-90 (INCLUSIONARY HOUSING), inclusive, #Inclusionary Housing designated areas# and #Mandatory Inclusionary Housing areas# within the #Special 125th Street Districts# are shown on the maps in APPENDIX F of this Resolution.

**97-10**
**SPECIAL USE AND LOCATION REGULATIONS**

* * *

**97-14**
**Transient Hotels Within the Park Avenue Hub Subdistrict**

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the #development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed:

(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal, as set forth in this Section, has been met, or

(b) where such residential development goal, has not been met, by special permit by the City Planning Commission. To permit such a #transient hotel#, the Commission shall find that:

(1) sufficient sites are available in the area to meet the #residential development# goal; or

(2) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# is consistent with the character of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

For the purpose of applying the provisions of this Section, the #residential development# goal shall be met when at least ~~4,470~~ 3,865 #dwelling units# within the combined areas of the #Special East Harlem Corridors District#, and the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, have received temporary or final certificates of occupancy subsequent to [date of adoption].

**97-20**
**LOCATION AND ACCESS REGULATIONS**

[Note: applicability of Article II, Chapter 8 has been moved to Section 97-062]

Within the Core Subdistrict, as shown on Map 1 in Appendix A of this Chapter, and areas outside of a subdistrict, the provisions of Section 97-21 (Location and Access Requirements in Certain Areas), inclusive, shall apply.

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the provisions of Section 97-21, inclusive, shall apply to any #zoning lot#, or portion thereof, specified in Section 97-21, and the provisions of Section 97-22 (Use Location Regulations in the

Park Avenue Hub Subdistrict), inclusive, shall apply to all other #zoning lots#, or portion thereof.

For the purposes of applying the provisions of this Section, defined terms shall include those set forth in Sections 12-10 (DEFINITIONS) and 37-311 (Definitions).

**97-21**
**~~Location of and Access to Arts and Entertainment Uses~~**
**Supplemental Use and Streetscape Regulations along 125th Street**

[Note: existing 97-21 provisions moved to Section 97-211]

[Note: existing provisions, moved from Section 97-20]

Within the #Special 125th Street District#, ~~F~~for any #zoning lot# that fronts upon 125th Street, the #use# regulations of the underlying districts shall be modified by the ~~locational and access~~ requirements of this Section, inclusive. However, ~~O~~on #through lots# or #corner lots# with frontage along 125th Street, such requirements shall apply within the first 100 feet of the 125th Street #street line#.

**97-211**
**Location and Access to Art and Entertainment Uses**

[Note: existing provisions, moved from Section 97-21]

Any arts and entertainment #uses# listed in Section 97-11 that are provided in order to comply with the requirements of Section 97-12 (Arts and Entertainment Use Requirement) or Section 97-422 (Floor area bonus for visual or performing arts uses) shall be subject to the following location and access requirements:

* * *

**97-212**
**Uses not permitted on the ground floor of buildings**

[Note: existing provisions moved from Section 97-22 and modified]

The following #uses# are not permitted within #stories# that have a floor level within five feet of #curb level# in #buildings developed# after April 30, 2008, or within #stories# that have a floor level within five feet of #curb level# within portions of #buildings enlarged# after April 30, 2008, where such #building# or portion of a #building# fronts upon 125th Street, or is within 100 feet from 125th Street. Entranceways and lobby space for access to such #uses# shall be permitted at the ground floor level, pursuant to the provisions of Section 97-~~221~~ 213 (Access to non-ground floor uses).

*  *  *

**97-213**
**Access to non-ground floor uses**

[Note: existing provisions, moved from Section 97-221]

The maximum ground floor #street# frontage on 125th Street allocated to entranceways or lobby space for non-ground floor #uses# listed in Section 97-22 shall be as set forth for Type 1 lobbies in Section 37-33 (Maximum Width of Certain Uses), except that for #developments# or #enlargements# with at least 200 linear feet fronting on 125th Street, the Type 2 lobby regulations shall apply.

Additionally, within the Core Subdistrict the #residential# portion of a #development# or #enlargement# may be accessed from an entrance on 125th Street only if such #development# or #enlargement# does not front upon a #street# other than 125th Street.

**97-214**
**Transparency requirements along 125th Street**

[Note: existing provisions, moved from 97-23]

For all #uses#, other than houses of worship, libraries and primary rehearsal spaces, located on the ground floor of #developments# and #enlargements# that front upon that portion of 125th Street located within the #Special 125th Street District#, the ground floor #street wall# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

**97-22**
~~**Uses Not Permitted on the Ground Floor of Buildings**~~
**Supplemental Use and Streetscape Regulations within the Park Avenue Hub Subdistrict**

[Note: existing 97-22 provisions moved to Section 97-212]

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, for #zoning lots#, or portion thereof, that are not subject to the provisions of Section 97-21 (Location and Access Regulations along 125th Street), inclusive, the provisions of this Section, inclusive, shall apply.

**97-221**
~~**Access to non-ground floor uses**~~
**Modification of supplemental use location regulations**

[Note: existing 97-221 provisions moved to Section 97-213]

The supplementary #commercial use# regulations of Section 32-421 (Limitation on floors occupied by commercial uses) shall be modified to permit #commercial uses# on any #story#, provided that at any level containing #residences#, no access exists between such #commercial# and #residential uses# and provided that such #commercial uses# are not located directly over any #residential use#.

**97-222**
**Ground floor use and streetscape regulations**

The provisions of this Section, inclusive, shall apply to #developments# or #ground floor level enlargements#. Any portion of a #ground floor level# allocated to a transit easement required by the MTA pursuant to the provisions of Article IX, Chapter 5 need not comply with the streetscape requirements of this Section.

For the purposes of applying the special #ground floor level# streetscape provisions set forth in Section 37-30 to this Chapter, any portion of a #ground floor level street# frontage along Park Avenue that is not subject to the provisions of Section 97-21 (Location and Access Regulations along 125th Street), inclusive, as well as any #narrow street# frontage within 50 feet of Park Avenue, shall be considered #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#.

(a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 2 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements).

(b) Along #secondary street frontages#

For #buildings#, or portions thereof, with #secondary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#, provided that any #group parking facilities# on the #ground floor level# shall be wrapped or screened in accordance with the provisions of Section 37-35.

The level of the finished floor of such ground floor shall be located not higher than five feet above nor lower than five feet below the as-built level of the adjoining #street#.

~~**97-23**~~
~~**Transparency Requirements**~~

[Note: existing 97-23 provisions moved to Section 97-214]

* * *

**97-40**
**SPECIAL BULK REGULATIONS**

[Note: the applicability of Article II, Chapter 8 moved to Section97-062]

Within the #Special 125th Street District#, ~~all #developments# or #enlargements# containing #residences# shall comply with the requirements of Article II, Chapter 8 (Quality Housing), and~~ the applicable #bulk# regulations of the underlying districts shall apply, except as modified ~~in~~ by the provisions of this Section, inclusive.

**97-41**
**Special Floor Area Regulations**

The maximum #floor area ratio#, #open space ratio# and #lot coverage# requirements of the applicable underlying district shall apply within the #Special 125th Street District#, unless modified by the following regulations.

**97-411**
**Maximum floor area ratio ~~in C4-4D, C4-7 and C6-3 Districts~~ within the Core Subdistrict and areas outside of a subdistrict**

In C4-4D, C4-7 or C6-3 Districts in the Core Subdistrict, as shown on Map 1 in Appendix A of this Chapter and areas outside of a subdistrict, the maximum permitted #floor area ratios# shall be as listed in the following table for #residential#, #commercial# and #community facility uses#, and may only be increased pursuant to Section 97-42 (Additional Floor Area ~~Bonuses~~ Regulations), inclusive.

* * *

**97-412**
**Maximum floor area ratio in the Park Avenue Hub Subdistrict**

Within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the maximum #floor area ratio# for #zoning lots# is set forth in paragraph (a) of this Section, and is modified for certain #zoning lots# in accordance with paragraph (b) of this Section.

(a) Maximum #floor area ratio#

The maximum #floor area ratio# shall be 12.0. Where a #development# or #enlargement# contains #residential floor area#, such #zoning lot# shall satisfy the provisions of either:

(1) a minimum non-#residential floor area ratio# of 2.0 shall be provided on such #zoning lot#. Such #floor area# shall not include any #floor area# containing a #transient hotel# pursuant to the provisions of Section 97-14 (Transient Hotels Within the Park Avenue Hub Subdistrict); or

(2) a minimum #floor area ratio# of 0.5, or a minimum amount of floor space equivalent to such 0.5 #floor area ratio#, shall be provided on such #zoning lot#. Such #floor area# or equivalent floor space shall be exclusively used for those visual or performing arts #uses#, designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses), and shall be certified by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 (Certification for floor area bonus for visual or performing arts uses) have been met.

(b) Modified maximum #floor area ratio# for certain #zoning lots#

For #zoning lots# existing on or before [date of adoption] with a #lot area# of less than 5,000 square feet, or for #zoning lots# subject to the provisions of paragraph (d)(4) of Section 23-154 (Inclusionary Housing), the maximum #floor area ratios# set forth in paragraph (a) of this Section shall be modified, as follows:

(1) the minimum non-#residential floor area# requirements set forth in paragraph (a) of this Section shall be optional for #zoning lots# existing on or before [date of adoption] with a #lot area# of less than 5,000 square feet. For #zoning lots# utilizing the provisions of this paragraph, the minimum non-#residential floor area# or visual or performing arts space requirements set forth in paragraph (a) of this Section shall not apply;

(2) for #zoning lots#, subject to the provisions of paragraph (d)(4)(i) or (d)(4)(iii) of Section 23-154, the maximum #residential floor area# provision of the underlying district as specified in Section 23-153 (For Quality Housing buildings) shall apply; and

(3) for #zoning lots# utilizing the provisions of paragraph (b)(1) or (b)(2) of this Section, the maximum overall #floor area ratio# shall be 10.0, except that such maximum #floor area ratio# may be increased pursuant to the provisions of

paragraph (b) of Section 97-422 (Floor area bonus for visual or performing arts uses).

**97-42**
**Additional Floor Area ~~Bonuses~~ Regulations**

Within #Inclusionary Housing designated areas#, as specified in APPENDIX F of this Resolution, ~~T~~the maximum #floor area ratio# may be increased ~~by a~~ pursuant to the #floor area# ~~bonus, pursuant to~~ provisions of Sections ~~23-154 (Inclusionary Housing)~~ 97-421 (Inclusionary Housing) or 97-422 (Floor area bonus for visual or performing arts uses), which may be used concurrently.

Within #Mandatory Inclusionary Housing areas#, as specified in APPENDIX F of this Resolution, the maximum #floor area ratio# may be increased for certain #zoning lots# specified in paragraph (b) of Section 97-412 (Maximum floor area ratio in the Park Avenue Hub Subdistrict) by the provisions of Section 97-422.

**97-421**
**Inclusionary Housing**

[Note: the Inclusionary Housing Program applicability provision moved to 97-063 (Applicability of Inclusionary Housing Program)]

~~Within the #Special 125th Street District#,~~ In #Inclusionary Housing designated areas# within C4-4D, C4-7 and C6-3 Districts in the Core Subdistrict or areas outside of a subdistrict, ~~shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90(INCLUSIONARY HOUSING), inclusive, and this Section, applicable within the Special District. Within such #Inclusionary Housing designated areas#,~~ the #residential floor area ratio# may be increased by an Inclusionary Housing bonus, pursuant to the provisions of Section 23-154 (Inclusionary Housing).

**97-422**
**Floor area bonus for visual or performing arts uses**

(a) In C4-4D, C4-7 or C6-3 Districts within the ~~#Special 125th Street District#~~ Core Subdistrict or areas outside of a subdistrict, for a #development# or #enlargement# with frontage on 125th Street, the maximum #floor area ratio# otherwise permitted for #residential# or #commercial uses# listed in Section 97-411 may be increased up to the maximum #floor area ratio# specified in the table in this Section, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of such bonused #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses).

Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

MAXIMUM PERMITTED FLOOR AREA RATIO (FAR)
FOR RESIDENTIAL AND COMMERCIAL USES WITH
FLOOR AREA BONUS FOR VISUAL OR PERFORMING ARTS USES

| ~~Outside the Core District~~ Within areas outside of a subdistrict | | Within the Core Subdistrict | |
|---|---|---|---|
| #Residential Floor Area Ratio# | #Commercial Floor Area Ratio# | #Residential Floor Area Ratio# | #Commercial Floor Area Ratio# |

* * *

(b) In C6-4 Districts within the Park Avenue Hub Subdistrict, for a #development# or #enlargement#, the maximum #floor area ratio# permitted in paragraph (b) of Section 97-412 (Maximum floor area ratio in the Park Avenue Hub Subdistrict) may be increased up to a maximum #floor area ratio# of 12.0, provided that for every four square feet of bonused #floor area#, an amount of space equivalent to one square foot of #floor area# shall be used for those visual or performing arts #uses# designated in paragraph (b) of Section 97-11 (Special Arts and Entertainment Uses). Such bonused #floor area# shall be permitted only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the conditions set forth in Section 97-423 have been met.

**97-423**
**Certification for floor area bonus for visual or performing arts uses**

The minimum non-#residential floor area# or equivalent floor space provisions of paragraph (a)(2) of Section 97-412 (Maximum floor area ratio in the Park Avenue Hub Subdistrict) or the #floor area# bonus provisions of Section 97-422 shall apply only upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the following conditions have been met:

(a) Drawings have been provided that clearly designate all #floor area# permitted pursuant to the provisions of paragraph (a)(2) of Section 97-412, or all #floor area# that will result from the permitted increase in #floor area ratio# pursuant to Section 97-422, including the location of such #floor area#.

(b) Drawings also have been provided that clearly designate all #floor area# ~~and/~~or below grade floor space for any new visual or performing arts #uses# provided for the purposes of satisfying the provisions of paragraph (a)(2) of Section 97-412, or for which a bonus is to be received pursuant to Section 97-422.

Such drawings shall be of sufficient detail to show that such designated space shall be designed, arranged and used for the new visual arts or performing arts #uses#, and shall also show that:

(1) all such visual or performing arts #uses# are located at or above the ground floor level of the #building#, except that performance space meeting the requirements of paragraph (b)(4) of this Section may be located below grade, and #accessory uses# may be located below grade, subject to the requirements of paragraph (b)(5) of this Section;

(2) all bonused #floor area# or below grade space occupied by visual or performing arts #uses# is primarily accessed from 125th Street, except where such visual or performing arts #floor area# or floor space is provided pursuant to paragraphs (a)(2) of Section 97-412 or (b)(2) of Section 97-422;

(3) in the case of primary rehearsal space, where such space does not consist of #accessory uses# subject to the requirements of paragraph (b)(4), such space:

* * *

(iii) has a #street wall# with at least 50 feet of frontage along 125th Street, except that where such primary rehearsal space is provided pursuant to paragraphs (a)(2) of Section 97-412 or (b)(2) of Section 97-422 such #street wall# with 50 feet of frontage need not be along 125th Street, and has a minimum area of 2,000 square feet, with a floor-to-ceiling height of not less than nine feet six inches; and

* * *

(5) #Accessory# space

(i) For primary rehearsal spaces, no more than 25 percent of such minimum required #floor area# or equivalent below grade floor space, or such ~~the~~ bonused #floor area# or below grade floor space, shall be occupied by #uses accessory# to such primary rehearsal spaces. #Accessory uses# shall include but are not limited to educational and classroom space, administrative offices, circulation space, restrooms and equipment space;

(ii) For visual or performing arts #uses# other than a primary rehearsal space, no more than 40 percent of such minimum required #floor area# or equivalent below grade floor space, or such bonused #floor area# or below grade floor space, shall be occupied by #uses accessory# to such visual or performing arts #uses#, provided no single #accessory use# occupies more than 25 percent of ~~the~~ such total minimum required #floor area# or equivalent below grade floor space, or bonused #floor area# or below

grade floor space. #Accessory uses# shall include but are not limited to educational and classroom space, non-primary rehearsal space, administrative offices, lobbies, circulation space, ticket offices, restrooms, dressing rooms, other backstage areas and equipment space; and

* * *

(6) Signage

(i) Signage that identifies the visual or performing arts facility shall be provided at the 125th Street entrance of the visual or performing arts facility, subject to the requirements of Section 97-30, inclusive, except where such visual or performing arts facility is provided pursuant to paragraphs (a)(2) of Section 97-412 or (b)(2) of Section 97-422; and

* * *

(e) A legal commitment by the owner has been provided for continued occupancy of all #floor area# or equivalent floor space provided for the purposes of satisfying minimum equivalent non-#residential# floor space provisions of paragraph (a)(2) of Section 97-412, or for which a bonus has been received~~,~~ pursuant to ~~this~~ Section 97-422, as a visual or performing arts space only in accordance with the drawings and design plans provided pursuant to paragraphs (b) and (c)(5) of this Section, and providing further that in the event of a change of operator, the owner or operator shall obtain a new certification pursuant to this Section. An #adult establishment use# shall be prohibited for the life of the #development# or #enlargement#.

* * *

(g) A legal commitment by the owner has been provided that, in the event of an adjudicated violation of the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# or equivalent floor space provided for the purposes of satisfying minimum equivalent non-#residential# floor space provisions of paragraph (a)(2) of Section 97-412, or for which a bonus has been received, pursuant to Section 97-422, as a visual and performing arts space only, the owner shall not permit the occupancy of any #floor area# in the #development# or #enlargement# which is vacant as of the date of such adjudication or thereafter, or up to the amount of the increased #floor area# permitted under Section 97-422, as applicable, until such time as the Chairperson of the City Planning Commission has determined that the visual or performing arts space is occupied in accordance with the provisions of this Section.

* * *

The owner shall not apply for or accept a temporary certificate of occupancy for such portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the #floor area# permitted pursuant to the provisions of paragraph (a)(2) of Section 97-412 or the increased #floor area# permitted

pursuant to Section 97-422, and the Department of Buildings shall not issue a temporary certificate of occupancy for such portion of the #development# or #enlargement#, until the Commissioner of the Department of Cultural Affairs has certified that the visual or performing arts space is substantially complete. The owner shall not apply for or accept a permanent certificate of occupancy for such portion of the #development# or #enlargement#, nor shall the Department of Buildings issue a permanent certificate of occupancy for such portion of the #development# or #enlargement#, until the visual or performing arts space has been finally completed in accordance with the approved plans and such final completion has been certified by the Commissioner of the Department of Cultural Affairs. The declaration of restrictions shall be noted on any temporary or final certificate of occupancy for the #building#. The temporary or final certificate of occupancy for any portion of the #development# or #enlargement# identified under the terms of the declaration of restrictions as utilizing the #floor area# permitted pursuant to the provisions of paragraph (a)(2) of Section 97-412 or the increased #floor area# permitted pursuant to Section 97-422 shall include the provisions of paragraph (e) of this Section, requiring the continued occupancy of all #floor area# for which a bonus has been received as a visual or performing arts space only, as a condition of occupancy of such portion of the #development# or #enlargement#.

* * *

**97-~~44~~ 43**
**Special Height and Setback Regulations**

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

**97-~~441~~ 431**
**Permitted obstructions**

The provisions of Section 33-42 (Permitted Obstructions) shall apply, except that dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

**97-~~442~~ 432**
**Height and setback regulations ~~for C4-7 and C6-3 Districts~~ in the Core Subdistrict and areas outside of a subdistrict**

[Note: provisions of paragraph (a) moved from Section 97-443 and modified]

(a) Street wall location

In all #Commercial Districts# within the Core Subdistrict and areas outside of a subdistrict, the #street wall# shall be located on the #street line# of 125th Street and

extend along the entire #street# frontage of the #zoning lot# up to at least the applicable minimum base height of the underlying district, or the height of the #building#, whichever is less.

The #street wall# location provisions of such #Commercial Districts# shall be modified, as follows:

~~(a)~~(1) On Park Avenue, within 10 feet of its intersection with any #street#, the #street wall# may be located anywhere within 10 feet of the Park Avenue #street line#. However, to allow articulation of the #street walls# pursuant to the provisions of paragraph (b) of this Section, the #street walls# may be located anywhere within an area bounded by a #street line#, the #street wall# on Park Avenue and a line connecting these two lines 15 feet from their intersection.

~~(b)~~(2) To allow articulation of #street walls# at the intersection of any two #streets# within the Special District, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

~~(c)~~(3) Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of the second #story# and up to the applicable maximum base height, recesses are permitted for #outer courts# or balconies, provided that the aggregate width of such recesses does not exceed 30 percent of the width of the #street wall# at any level, and the depth of such recesses does not exceed five feet. No recesses shall be permitted within 20 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except in compliance with corner articulation rules.

~~(d)~~(4) The #street wall# location and minimum #street wall# height provisions of this Section shall not apply to any existing #buildings# that are to remain on the #zoning lot#.

~~(e)~~(5) For any #development# or #enlargement# ~~within the #Special 125th Street District#~~ that is partially within the #Special Transit Land Use District# and located directly over the planned Second Avenue subway line tunnel, the #residential# portion of such #development# or #enlargement# may be constructed pursuant to the R8A #street wall# requirements and the #commercial# portion of such #development# or #enlargement# may be constructed pursuant to the C4-4D #street wall# requirements in lieu of the requirements of this Section.

~~(f)~~(6) The requirements of this Section shall apply within the #Special Transit Land Use District# except that, for the area of the #Special Transit Land Use District# that is also within the #Special 125th Street District#, a #street wall# of a #development# or #enlargement# located on the #street line# of a #zoning lot#

need not exceed 15 feet if that portion of the #development# or #enlargement# is located directly over the planned Second Avenue subway line tunnel.

(b) Maximum height of building and setback

The following modifications of the underlying district regulations shall apply for C4-7 and C6-3 Districts within ~~the Special District~~ the Core Subdistrict and areas outside of a subdistrict:

~~(a)~~(1) The minimum and maximum base height of the #street wall# and the maximum height of a #building or other structure# shall be as set forth in the following table:

* * *

~~(b)~~(2) Special regulations for certain C4-7 Districts

~~(1)~~(i) For the area located within 50 feet of the 126th Street frontage and between 200 feet east of Adam Clayton Powell Boulevard and 150 feet west of Lenox Avenue/Malcolm X Boulevard, the height of any portion of a #building or other structure# shall be limited to 80 feet.

~~(2)~~(ii) For #zoning lots# bounded by 125th Street, Park Avenue and 124th Street, the maximum height of a #building or other structure# shall be 330 feet.

~~(3)~~(iii) For Lots 1 and 7501 on Block 1910, the requirements of City Environmental Quality Review (CEQR) Environmental Designation Number (E-102) have been modified, as set forth in the Technical Memorandum to the Final Environmental Impact Statement for CEQR Number 07DCP030M, dated July 18, 2008.

~~(c)~~(3) In C6-3 Districts, the maximum length of any #story# located above a height of 85 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 85 feet. No side of such rectangle shall exceed a width of 150 feet.

**97-~~44~~ 43**
**Special Height and Setback Regulations**

Within the #Special 125th Street District#, the underlying height and setback regulations shall be modified in accordance with the provisions of this Section, inclusive.

**97-~~441~~ 431**

**Permitted obstructions**

The provisions of Section 33-42 (Permitted Obstructions) shall apply, except that dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).

**97-~~442~~ 432**
**Height and setback regulations ~~for C4-7 and C6-3 Districts~~ in the Core Subdistrict and areas outside of a subdistrict**

* * *

**97-~~443~~ 433**
**~~Street wall location~~**
**Height and setback regulations in the Park Avenue Hub Subdistrict**

[Note: existing provisions of Section 97-443 moved to paragraph (a) of Section 97-432]

In C6-4 Districts within the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, the following provisions shall apply.

(a) #Street wall# location

The applicable provisions of Section 35-651 shall be modified as follows:

(1) Along 125th Street

Along 125th Street, the minimum base height shall be 60 feet, or the height of the #building#, whichever is less, except that for #buildings# or portions thereof within 50 feet of Park Avenue, the minimum base height shall be 40 feet, or the height of the #building#, whichever is less. The street wall location provisions of this paragraph shall be modified to allow a sidewalk widening pursuant to the provisions of paragraph (a)(2) of this Section; and

(2) Along Park Avenue and #narrow streets#

Along Park Avenue and any #narrow streets#, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 40 feet, or the height of the #building#, whichever is less.

In addition, for #zoning lots# with frontage along Park Avenue between 124th Street and 125th Street, any #development# or horizontal #enlargement# shall provide a sidewalk widening along the #street line# of Park Avenue. Such sidewalk widening shall have a depth of 10 feet, be improved to Department of

Transportation standards for sidewalks, and be at the same level as the adjoining public sidewalk.

(b) Basic maximum #building# height and setback regulations

The maximum height of #buildings or other structures# shall be as set forth in Sections 35-652 (Maximum height of buildings and setback regulations) or 35-654 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), as applicable, except that the minimum base height shall be as set forth in paragraph (a) of this Section, and the maximum base height for #buildings or other structures# along the #street line# of 125th Street and within 50 feet of such #street line# shall be 85 feet.

For the purposes of applying the provisions for #qualifying ground floors#, the provisions of Section 97-20 (LOCATION AND ACCESS REGULATIONS), inclusive, shall apply in lieu of the applicable provisions of paragraph (b)(2) of Section 35-652.

(c) Optional height and setback regulations

As an alternative to the provisions of paragraph (b) of this Section, the provisions of this paragraph (c) may be applied to #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), or #zoning lots# where 50 percent or more of the #floor area# is allocated to non-#residential uses#.

(1) Setbacks

At a height not lower than the minimum base height specified in paragraph (a) of this Section, nor higher than a maximum base height of 85 feet, a setback shall be provided in accordance with paragraph (c) of Section 23-662 (Maximum height of buildings and setback regulations). Above such required setback, any portion of a #building# or #buildings# on the #zoning lot# shall be considered a “tower.”

(2) #Lot coverage# requirements for towers

Each #story# of a tower containing #residential floor area# shall not exceed a maximum #lot coverage# of 40 percent, except that, for #zoning lots# less than 20,000 square feet, such #lot coverage# may be increased in accordance with the table in Section 23-65 (Tower Regulations). Each #story# of a tower allocated exclusively to non-#residential floor area# shall not exceed a maximum #lot coverage# of 50 percent. However, where dormers are provided within the required setback, such portions of #buildings# shall not count toward the maximum allowable #lot coverage# set forth in this paragraph.

(3) Maximum #building# height

No height limit shall apply to towers.

**97-~~45~~ 44**
**Special Provisions for Zoning Lots Divided by District Boundaries**

* * *

**97-50**
**SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**

* * *

**97-51**
**Required Accessory Off-Street ~~Residential~~ Parking Within the Core Subdistrict and areas outside of a subdistrict**

[Note: existing provisions moved to Section 97-511]

**97-511**
**Required Accessory Off-Street Residential Parking**

[Note: existing provisions moved from Section 97-51]

#Accessory# off-street parking spaces, open or enclosed, shall be provided for all #developments# or #enlargements# within the #Special 125th Street District# that contain #residences#, according to the provisions of the underlying district, as modified by the provisions of Section 97-50 (SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive.

**97-512**
**Required Accessory Off-Street Commercial Parking**

[Note: existing provisions moved from Section 97-52]

In #Commercial Districts# within the ~~#Special 125th Street District#~~ Core Subdistrict, as shown on Map 1 in Appendix A of this Chapter, and areas outside of a subdistrict, #accessory# off-street parking spaces shall be provided if required by Section 36-21, as modified by the provisions of Section 97-50 (SPECIAL OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS), inclusive, except that no #accessory# parking spaces shall be required for #commercial uses# in C4-4D Districts.

**97-52**
**Required Accessory Off-Street ~~Commercial~~ Parking Within the Park Avenue Hub Subdistrict**

[Note: existing provisions moved to Section 97-512]

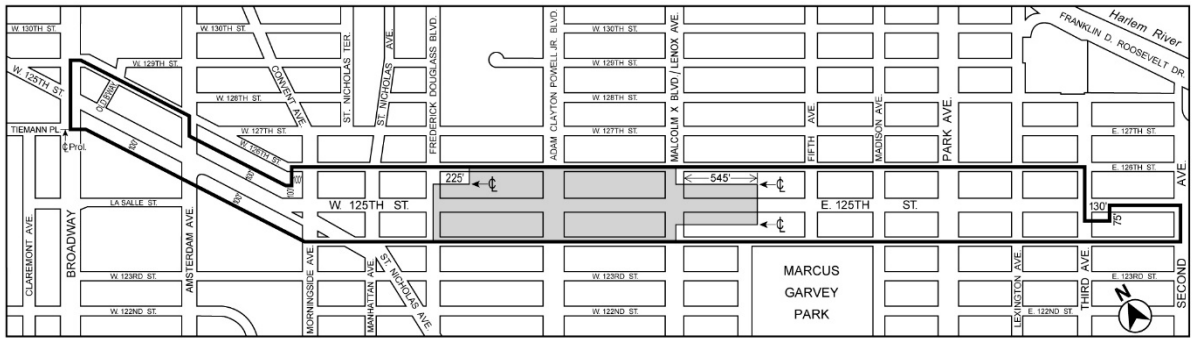
In the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of this Chapter, no #accessory# off-street parking shall be required for #residences#. Off-street parking shall be permitted in accordance with the regulations of the underlying district.

* * *

**Appendix A**
**Special 125th Street District Plan**

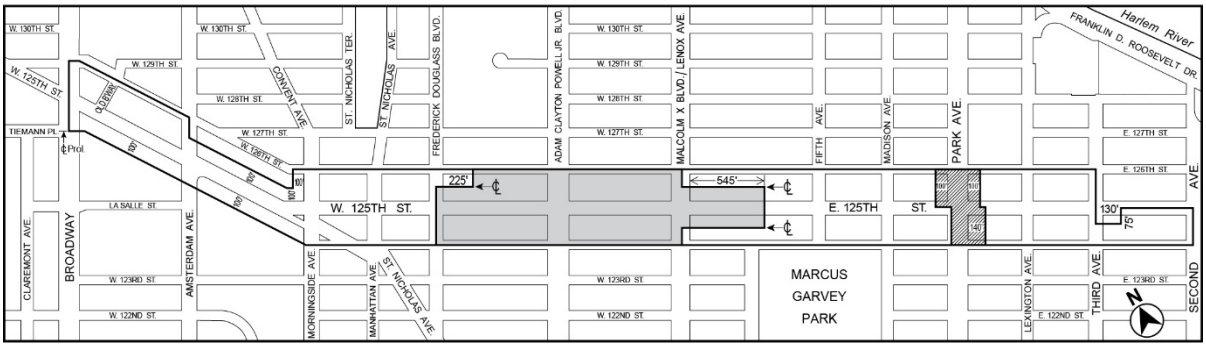
Map 1: Special 125th Street District and ~~Core~~ Subdistricts

[EXISTING MAP]




*Special 125th Street District* boundary
Core Subdistrict

[PROPOSED MAP]




*Special 125th Street District* boundary
Core Subdistrict
Park Avenue Hub Subdistrict

*  *  *

**Article XIII**
**SPECIAL PURPOSE DISTRICTS**

* * *

**Chapter 8**
**Special East Harlem Corridors District**

**138-00**
**GENERAL PURPOSES**

The "Special East Harlem Corridors District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

(a) encourage and guide the development of East Harlem as a dynamic mixed-use neighborhood by permitting the expansion and development of residential, commercial, community facility and light manufacturing uses in appropriate areas;

(b) encourage the development of residential uses along appropriate corridors ;

(c) encourage the development of permanently-affordable housing;

(d) facilitate the development of high-density commercial and manufacturing uses in order to locate jobs near transit connections in ;

(e) enhance the vitality of both existing and emerging commercial corridors by ensuring that ground floor frontages are occupied by active uses that enliven the pedestrian experience along the street;

(f) ensure that the form and use of new buildings relates to and enhances neighborhood character and responds to unique neighborhood conditions such as the Park Avenue viaduct; and

(g) promote the most desirable use of land in the area and thus preserve, protect and enhance the value of land and buildings and thereby protect City tax revenues.

**138-01**
**General Provisions**

The provisions of this Chapter shall apply within the #Special East Harlem Corridors District#. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

**138-02**
**District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special East Harlem Corridors District# Plan. The District Plan includes the map, "Special East Harlem Corridors District and Subdistrict," in the Appendix to this Chapter which is hereby incorporated and made part of this Resolution for the purpose of specifying locations where the special regulations and requirements set forth in this Chapter apply.

**138-03**
**Subdistrict**

In order to carry out the provisions of this Chapter, the Park Avenue Subdistrict is established within the #Special East Harlem Corridors District#. The location of the Subdistrict is shown in the Appendix to this Chapter.

**138-04**
**Applicability**

**138-041**
**Applicability of Article IX, Chapter 5**

In the event of a conflict between the provisions of this Chapter and Article IX, Chapter 5 (Special Transit Land Use District), the provisions of Article IX, Chapter 5 shall control.

**138-042**
**Applicability of Article XII, Chapter 3**

In M1 Districts paired with a Residence District, the special #use#, #bulk# and parking and loading provisions of Article XII, Chapter 3 (Special Mixed Use Districts) shall apply, except

where modified by the provisions of this Chapter, and shall supplement or supersede the provisions of the designated #Residence# or M1 District, as applicable.

**138-043**
**Applicability of the Quality Housing Program**

In the #Special East Harlem Corridors District#, #buildings# containing #residences# shall be #developed# or #enlarged# in accordance with the Quality Housing Program and the regulations of Article II, Chapter 8 shall apply. The #bulk# regulations of this Chapter shall be considered the applicable #bulk# regulations for #Quality Housing buildings#.

**138-044**
**Applicability of the Inclusionary Housing Program**

For the purposes of applying the Inclusionary Housing Program set forth in Section 23-90 (INCLUSIONARY HOUSING), the #Special East Harlem Corridors District# shall be a #Mandatory Inclusionary Housing area#.

**138-10**
**SPECIAL USE REGULATIONS**

The #use# regulations of the underlying districts, or Article XII, Chapter 3 (Special Mixed Use Districts), as applicable, are modified by the provisions of this Section, inclusive.

**138-11**
**Location of Residential Use Within Buildings**

In C4 or C6 Districts, the underlying provisions of Section 32-422 (Location of floors occupied by commercial uses) shall be modified, for #mixed buildings# that are #developed# or #enlarged#, to permit #dwelling units# on the same #story# as a #commercial use# provided no access exists between such #uses# at any level containing #dwelling units# and provided no #commercial uses# are located directly over any #dwelling units#. However, such #commercial uses# may be located over #dwelling units# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from #commercial uses# exists within the #building#.

**138-12**
**Transient Hotels**

C1-5 C2-5 C4-6 C6-4 M1-6/R9 M1-6/R10

In the districts indicated, the #development# or #enlargement# of a #building# containing a #transient hotel#, as listed in Section 32-14 (Use Group 5), or the #conversion# or change of #use# within an existing #building# to a #transient hotel#, shall only be allowed:

(a) upon certification by the Chairperson of the City Planning Commission to the Commissioner of Buildings that the residential development goal, as set forth in this Section, has been met, or

(b) where such residential development goal, has not been met, by special permit by the City Planning Commission. To permit such a #transient hotel#, the Commission shall find that:

(1) sufficient sites are available in the area to meet the #residential development# goal; or

(2) a harmonious mix of #residential# and non-#residential uses# has been established in the area, and such #transient hotel# is consistent with the character of the surrounding area.

The Commission may prescribe additional conditions and safeguards to minimize adverse effects on the character of the surrounding area.

For the purpose of applying the provisions of this Section, the #residential development# goal shall be met when at least ~~4,470~~ 3,865 #dwelling units# within the combined areas of #Special East Harlem Corridors District#, and the Park Avenue Hub Subdistrict, as shown on Map 1 in Appendix A of Article IX, Chapter 7 (Special 125th Street District), have received temporary or final certificates of occupancy subsequent to [date of adoption].

**138-13**
**Physical Culture or Health Establishments**

Within the #Special East Harlem Corridors District#, the provisions of Section 73-36 (Physical Culture or Health Establishments) shall not apply. In lieu thereof, #physical culture or health establishments# shall be permitted as-of-right in C2-5, C4-6, and C6-4 Districts, and in M1 Districts paired with an R9 or R10 District.

**138-14**
**Public Parking Garages**

C1-5 C2-5 C4-6 C6-4 M1-6/R9 M1-6/R10

In the districts indicated, for the purpose of applying regulations applicable to #public parking garages# set forth in Article III, Chapter 2 (Use Regulations) and Article III, Chapter 6 (Accessory Off-Street Parking and Loading Regulations), the regulations set forth for C1-4 Districts shall apply to C1-5 Districts, and the regulations set forth for C2-4 Districts shall apply to all other districts. In an M1 District paired with an R9 or R10 District, the regulations of #public parking garages# in Article XII, Chapter 3 (Special Mixed Use Districts) shall not apply. In lieu thereof, the regulations set forth for C2-4 Districts shall apply.

**138-20**
**SPECIAL BULK REGULATIONS**

In the #Special East Harlem Corridors District#, all #developments# and #enlargements# shall comply with the #bulk# regulations for #Quality Housing buildings#, as modified by the provisions of this Section, inclusive.

In all districts, the #floor area# provisions of Section 138-21 (Floor Area Regulations), inclusive, and the #street wall# location provisions of Section 138-22 (Street Wall Regulations), shall apply. In #Commercial Districts#, the height and setback provisions of Section 138-23 (Height and Setback Regulations in Commercial Districts) shall apply. In M1 Districts paired with an R9 or R10 Districts, the height and setback provisions set forth in Section 138-24 (Height and Setback Regulations in M1 Districts Paired With an R9 or R10 District) shall apply.

**138-21**
**Floor Area Regulations**

Within the #Special East Harlem Corridors District#, the underlying #floor area# regulations shall apply as modified in this Section, inclusive.

**138-211**
**Special floor area regulations**

(a) In certain #Commercial Districts# and #Manufacturing Districts# paired with a #Residence District#, shown on Map 2 of the Appendix to this Chapter, for any #zoning lot# containing #residential floor area#, the maximum #residential floor area ratio# shall be modified as follows:

(1) for #zoning lots# complying with the applicable provisions of paragraph (d)(3) of Section 23-154 (Inclusionary Housing) or, for #affordable independent residences for seniors#, the maximum #residential floor area ratio# set forth on Map 2 shall apply;

(2) for #zoning lots# utilizing the provisions of paragraphs (d)(4)(i) or (d)(4)(iii) of Section 23-154, the maximum #residential floor area ratio# shall apply as modified in the table below:

MODIFIED MAXIMUM #RESIDENTIAL FLOOR AREA RATIO#

| Maximum #residential floor area ratio# shown on Map 2 | Modified maximum #residential floor area ratio# |
|---|---|
| 8.5 | 7.52 |
| 9.0 | 7.52 |
| 10.0 | 9.0 |

(3) except in C2 Districts subject to the provision of paragraph (b) of this Section, the maximum #floor area ratio# for any combination of #uses# shall be the maximum #floor area ratio# specified in paragraphs (a)(1) or (a)(2) of this Section, whichever is applicable; and

(4) in C4-6 Districts and in C2 Districts mapped within an R9 or R10 District, the #floor area# provisions of Sections 33-13 (Floor Area Bonus for a Public Plaza) or 33-14 (Floor Area Bonus for Arcades) shall not apply.

(b) In C2 Districts mapped within an R7D District that is also located within 100 feet of Park Avenue, the maximum #community facility floor area ratio# shall be 6.5, except that the applicable provisions of paragraph (d) of Section 33-121 shall apply to #zoning lots# containing philanthropic or non-profit institutions with sleeping accomodations or #long-term care facilities#.

**138-~~211~~ 212**
**Additional ~~F~~floor area regulations in the Park Avenue Subdistrict**

~~The maximum #floor area ratio# for #zoning lots# within the Park Avenue Subdistrict, as shown in the Appendix to this Chapter, is set forth in paragraph (a) of this Section. Such provisions are modified for certain #zoning lots# in accordance with paragraph (b).~~

Within the Park Avenue Subdistrict, as shown on Map 1 of the Appendix to this Chapter, the #floor area ratio# regulations of Section 138-211 are further modified in this Section.

(a) ~~Maximum~~ Required non-#residential# #floor area ratio#

Where a #development# or #enlargement# of a #building# on a #zoning lot#, or portion thereof, located within the Park Avenue Subdistrict contains #residential floor area#, such #zoning lot# shall provide a minimum non-#residential floor area ratio# as set forth below:

(1) ~~I~~in M1-6 Districts paired with an R9 District, ~~the maximum #floor area ratio# shall be 8.5. Where a #development# or #enlargement# of a #building# on a #zoning lot# contains #residential floor area#, such #zoning lot# shall provide~~ a minimum non-#residential floor area ratio# of ~~1.5.~~ 1.0 shall be provided;

(2) ~~I~~in C6-4 Districts, and in M1-6 Districts paired with an R10 District~~,~~ whose maximum #residential floor area ratio# is 10.0, ~~the maximum #floor area ratio# shall be 12.0. Where a #development# or #enlargement# of a #building# on a #zoning lot# contains #residential floor area#, such #zoning lot# shall provide~~ a minimum non-#residential floor area ratio# of ~~2.0.~~ 1.5 shall be provided; and

(3) in M1-6 Districts paired with an R10 District whose maximum #residential floor area ratio# is 12.0, a minimum non-#residential floor area ratio# of 1.5 shall be provided.

~~Where a #development# or #enlargement# of a #building# on a #zoning lot# contains #residential floor area#, such #zoning lot# shall provide a minimum non-#residential floor area ratio# of 1.5 in M1-6 Districts paired with an R9 District, and 2.0 in C6-4 Districts and M1-6 Districts paired with an R10 District.~~

(b) Modified maximum #floor area ratio# for certain #zoning lots#

The ~~maximum~~ #floor area ratios# set forth in paragraph (a) of this Section and Section 138-211 shall be modified, as follows:

(1) the minimum non-#residential floor area# requirements set forth in paragraph (a) of this Section shall be optional for #zoning lots# existing on or before [date of adoption] with a #lot area# of less than 5,000 square feet. For #zoning lots# utilizing the provisions of this paragraph (b)(1), the minimum non-#residential floor area# requirements set forth in paragraph (a) of this Section shall not apply;

~~(2) for #zoning lots# subject to the provisions of paragraph (d)(4)(i) or (d)(4)(iii) of Section 23-154 (Inclusionary Housing), the maximum #residential floor area ratio# of the underlying district as specified in Section 23-153 (For Quality Housing buildings) shall apply; and~~

~~(3)~~(2) for #zoning lots# subject to paragraphs (b)(1) ~~or (b)(2)~~ of this Section, the maximum #floor area ratio# for all #uses# shall be ~~7.52 in M1-6 Districts paired with an R9 District, and 10.0 in C6-4 Districts and M1-6 Districts paired with an R10 District.~~ set forth as follows:

MODIFIED MAXIMUM
#FLOOR AREA RATIO#

| Maximum #floor area ratio# shown on Map 2 | Modified maximum #floor area ratio# |
|---|---|
| 8.5 | 7.52 |
| 10.0 | 9.0 |

~~**138-212**~~
~~**Floor area regulations outside of the Park Avenue Subdistrict**~~

~~For #zoning lots#, or portions thereof, outside of the Park Avenue Subdistrict, as shown in the Appendix to this Chapter, the underlying #floor area# regulations shall apply, except that:~~

~~(a) in C2 Districts mapped within an R9 District, for any #zoning lot# containing #residential floor area#, the maximum #residential floor area ratio# for #zoning lots# complying with the applicable provisions of paragraph (d)(3) of Section 23-154 (Inclusionary housing),~~

~~or, for #affordable independent residences for seniors#, shall be 8.5, the maximum #residential floor area ratio# for #zoning lots# utilizing the provisions of paragraphs (d)(4)(i) or (d)(4)(iii) of Section 23-154 shall be 7.52, and the maximum #floor area ratio# for any combination of #uses# shall be 8.5; and~~

~~(b) in C4-6 Districts and in C2 Districts mapped within an R9 or R10 District, the #floor area# provisions of Sections 33-13 (Floor Area Bonus for a Public Plaza) or 33-14 (Floor Area Bonus for Arcades) shall not apply.~~

**138-22**
**Street Wall Regulations**

All #developments# and #enlargements# within the #Special East Harlem Corridors District# shall comply with the #street wall# regulations of Section 35-651 (Street wall location), as specified and modified in this Section. Where M1 Districts are paired with R9 or R10 Districts, #developments# and #enlargements# within such districts shall comply with the provisions of paragraph (b) of this Section. The applicable provisions of Section 35-651 are specified and modified as follows:

(a) Along #wide streets# other than Park Avenue

Along all #wide streets# other than Park Avenue, and along #narrow streets# within 50 feet of an intersection with such #wide street#, the provisions of paragraph (b) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(b) Along Park Avenue

Along Park Avenue and along #narrow streets# located within 100 feet of Park Avenue, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 40 feet, or the height of the #building#, whichever is less.

(c) Along all other #streets#

Along all #streets# not subject to the provisions of paragraph (a) or (b) of this Section, the provisions of paragraph (a) of Section 35-651 shall apply, except that the minimum base height shall be 60 feet, or the height of the #building#, whichever is less.

(d) Within #flood zones#

For #buildings# within the #flood zone#, the provisions of paragraphs (a), (b) and (c) of this Section, as applicable, shall be modified as follows:

(1) for #developments# or horizontal #enlargements#, or portions thereof, where no transparent materials are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk pursuant to the provisions of Section 37-34 (Minimum Transparency Requirements), for a continuous distance of more than 25 feet, such #street wall# shall be located at least three feet beyond the #street line#;

(2) for portions of #developments# and #enlargements# where the provisions of paragraph (a) of this Section apply, such #street wall# shall not be located beyond five feet of the #street line#, except that such #street wall# may be located beyond such distance pursuant to the applicable provisions of paragraph (b) of Section 35-651 or of Section 64-333 (Street wall location in certain districts); and

(3) the area between such #street wall# and the sidewalk, or portions thereof, that do not contain any planting pursuant to the provisions of paragraph (a) of Section 138-32 (Special Streetscape Provisions for Blank Walls), shall be improved to Department of Transportation standards for sidewalks, be at the same level as the adjoining public sidewalk and be accessible to the public at all times. In addition, such area shall provide visual mitigation elements in accordance with the provisions of Section 138-32.

**138-23**
**Height and Setback Regulations in Commercial Districts**

In #Commercial Districts#, the underlying height and setback provisions are modified as follows:

(a) Basic Height and Setback Regulations

~~Except as provided in paragraph (b) and (c) below, i~~In #Commercial Districts#, the maximum height of #buildings or other structures# shall be as set forth in Sections 35-652 (Maximum height of buildings and setback regulations) or 35-654 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), as applicable, except that:

(1) the minimum base heights shall be modified by the provisions of Section 138-22 (Street Wall Regulations)~~,~~;

(2) in C2 Districts mapped within an R9 District that is also located within 100 feet of Third Avenue, the maximum #building height# for #buildings# utilizing the provisions of Section 35-654 shall be modified to 215 feet;

(3) in C4-6 Districts whose maximum #residential floor area ratio# is 9.0, as set forth on Map 2 of the Appendix to this Chapter, the applicable provisions of Sections 35-652 or 35-654 for R9 Districts shall apply, except that the minimum base height of Section 138-22 shall apply and the maximum #building height# for #buildings# utilizing the provisions of Section 35-654 shall be modified to 215 feet; and

(4) where applicable, in lieu of the provisions of this paragraph, the provisions of paragraph (b) of this Section may be applied.

The regulations of paragraph (b)(2) of Section 36-652 relating to requirements for #qualifying ground floors#, where otherwise applicable, shall not apply. In lieu thereof, the provisions of Section 138-30 (STREETSCAPE REQUIREMENTS), inclusive, shall apply.

(b) Alternate Height and Setback Regulations in Certain Districts

~~Except as provided in paragraph (c) below, i~~In C2 Districts mapped within an R9 or R10 District, or in C4-6 or C6-4 Districts, or in C2 Districts mapped within an R7D or R8A District that are also located within 100 feet of Park Avenue, as an alternative to the provisions of paragraph (a) of this Section, the provisions of this paragraph may be applied to #zoning lots# meeting the applicable criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors), or to #zoning lots# where 50 percent or more of the #floor area# is occupied by non-#residential uses#.

(1) Setbacks

At a height not lower than the minimum base height specified in Section 138-22 (Street Wall Regulations), nor higher than a maximum base height of 85 feet, a setback shall be provided in accordance with paragraph (c) of Section 23-662 (Maximum height of buildings and setback regulations). Above such required setback, any portion of such #building# shall be considered a “tower.”

(2) #Lot coverage# requirements for towers

Each #story# of a tower containing #residential floor area# shall not exceed a maximum #lot coverage# of 40 percent, except that, for #zoning lots# of less than 20,000 square feet, such #lot coverage# may be increased in accordance with the table in Section 23-65 (Tower Regulations). Each #story# of a tower containing exclusively non-#residential floor area# shall not exceed a maximum #lot coverage# of 50 percent. However, where dormers are provided within the required setback, such portions of #buildings# shall not count toward the maximum allowable tower #lot coverage# set forth in this paragraph.

(3) Maximum ~~#building#~~ tower height ~~in certain districts~~

(i) ~~In C2 Districts mapped within R9 Districts, the maximum #building# height shall be 285 feet~~. The maximum tower height shall be set forth on Map 3 of the Appendix to this Chapter.

(ii) ~~However, i~~In C2 Districts mapped within R9 Districts that are also located within the #Special Transit Land Use District#, for #zoning lots# which include a transit easement in accordance with the applicable provisions of Article IX, Chapter 5 (Special Transit Land Use District), the maximum ~~building~~ tower height shall be:

(a) 325 feet for #zoning lots# which include ancillary facilities with emergency egress and/or ventilation structures as specified in Section 95-032 (Determination of transit easements at other stations); and

(b) 215 feet for #zoning lots# which include only transit facilities specified in Section 95-032 other than ancillary facilities with emergency egress and/or ventilation structures.

~~(ii) In C2 Districts mapped within R10 Districts, and in C4-6 Districts, the maximum building height shall be 325 feet.~~

(iii) In C6-4 Districts, no height limit shall apply to towers.

**138-24**
**Height and Setback Regulations in M1 Districts Paired With an R9 or R10 District**

In M1 Districts paired with an R9 or R10 District, the applicable #street wall# location and minimum base height provisions of paragraph (c) of Section 138-22 (Street Wall Regulations) shall apply, and the applicable maximum height of #buildings or other structures# and setback provisions set forth in Section 123-66 (Height and Setback Regulations), inclusive, shall apply as modified in this Section.

(a) In M1 Districts paired with an R9 District, at a height not lower than the minimum base height set forth in Section 138-22, nor higher than a maximum base height of 105 feet, a setback shall be provided in accordance with paragraph (c) of Section 23-662 (Maximum height of buildings and setback regulations). The maximum #building# height shall be ~~285~~ 215 feet; ~~and~~

(b) in M1 Districts paired with an R10 District whose maximum #floor area ratio# is 10.0, at a height not lower than the minimum base height set forth in Section 138-22, nor higher than a maximum base height of 155 feet, a setback shall be provided in accordance with paragraph (c) of Section 23-662. The maximum #building# height shall be ~~350~~ 275 feet~~.~~; and

(c) in M1 Districts paired with an R10 District whose maximum #floor area ratio# is 12.0, at a height not lower than the minimum base height set forth in Section 138-22, nor higher than a maximum base height of 155 feet, a setback shall be provided in accordance with paragraph (c) of Section 23-662. The maximum #building# height shall be 295 feet.

**138-30**
**STREETSCAPE REQUIREMENTS**

The provisions of this Section, inclusive, shall apply to #developments# or #ground floor level enlargements# in all districts. In #Commercial Districts# mapped within R7D Districts, the underlying provisions of Section 32-434 (Ground floor use in C4-5D and C6-3D Districts and in certain C2 Districts) shall not apply. Any portion of a ground floor level that is within a transit easement required pursuant to the provisions of Article IX, Chapter 5 need not comply with the streetscape requirements of this Section, inclusive.

**138-31**
**Ground Floor Use Regulations**

The special #ground floor level# streetscape provisions set forth in Section 37-30, shall apply to Second Avenue, Third Avenue, Lexington Avenue, Park Avenue and East 116th Street, within

the #Special East Harlem Corridors District# which, for the purposes of applying such provisions, shall be considered designated retail streets, and any portion of a #ground floor level street# frontage along the designated retail streets, as well as any #narrow street# frontage within 50 feet of such #streets#, shall be considered #primary street frontages#. A #ground floor level street# frontage along any other #street# shall be considered a #secondary street frontage#. For the purposes of this Section, defined terms shall also include those defined in Section 37-311 (Definitions).

(a) Along #primary street frontages#

For #buildings#, or portions thereof, with #primary street frontage#, #uses# on the #ground floor level#, to the minimum depth set forth in Section 37-32 (Ground Floor Depth Requirements for Certain Uses), shall be limited to non-#residential uses#, except for Type 2 lobbies and entrances and exits to #accessory# parking spaces provided in accordance with the applicable provisions of Section 37-33 (Maximum Width of Certain Uses). #Group parking facilities# located on the #ground floor level# shall be wrapped by #floor area# in accordance with the provisions of paragraph (a) of Section 37-35 (Parking Wrap and Screening Requirements). #Ground floor level street walls# shall be glazed in accordance with the provisions set forth in Section 37-34 (Minimum Transparency Requirements), except that:

(1) in M1-6 Districts paired with an R9 or R10 District, where the #ground floor level# is occupied by #uses# in Use Groups 16, 17 and 18, up to 50 percent of the #ground floor level street wall# width may be exempt from such regulations, provided that any #street wall# width exceeding 50 feet with no transparent elements on the #ground floor level# shall provide planting or screening in accordance with the provisions of paragraphs (a) or (e) of Section 138-32 (Special Streetscape Provisions for Blank Walls) for at least 75 percent of such blank wall; and

(2) in #flood zones#, where no transparent materials or #building# entrances or exits are provided on the #ground floor level street wall# below a height of four feet above the level of the adjoining sidewalk for a continuous width of at least 15 feet, visual mitigation elements shall be provided in accordance with Section 138-32 for such blank wall.

(b) Along #secondary street frontages#

For #buildings#, or portions thereof, with #secondary street frontage#, all #uses# permitted by the underlying district shall be permitted on the #ground floor level#,

provided that any #group parking facilities# on the #ground floor level# shall be wrapped or screened in accordance with Section 37-35.

The level of the finished floor of such ground floor shall be located not higher than five feet above nor lower than five feet below the as-built level of the adjoining #street#.

**138-32**
**Special Streetscape Provisions for Blank Walls**

Where visual mitigation elements are required on a blank wall along the #ground floor level street wall# pursuant to the provisions of Section 138-31 (Ground Floor Use Regulations), at least 75 percent of the linear footage of any such blank wall shall be treated by one or more of the following visual mitigation elements which shall be provided on the #zoning lot#, except where such elements are permitted within the #street# under other applicable laws or regulations. Such features when utilized as visual mitigation elements shall include:

(a) Planting

Any combination of perennials, annuals, decorative grasses or shrubs shall be provided in planting beds, raised planting beds or planter boxes in front of the #street wall#. Each foot in width of a planting bed, raised planting bed or planter box, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Such planting bed shall extend to a depth of at least three feet, inclusive of any structure containing the planted material. Any individual planted area shall have a width of at least five feet, and the height of such planting, inclusive of any structure containing the planted materials, shall be at least three feet.

Where a blank wall exceeds a #street wall# width of 50 feet, at least 25 percent of such #street wall# width shall be planted in accordance with the provisions of this paragraph.

(b) Benches

Fixed benches with or without backs shall be provided in front of the #street wall#. Unobstructed access shall be provided between such benches and an adjoining sidewalk or required circulation paths. Each linear foot of bench, as measured parallel to the #street wall#, shall satisfy one linear foot of frontage mitigation requirement. Any individual bench shall have a width of at least five feet, and no more than 20 feet of benches may be used to fulfill such requirement per 50 feet of frontage.

(c) Bicycle racks

Bicycle racks, sufficient to accommodate at least two bicycles, shall be provided in front of the #street wall#, and oriented so that the bicycles are placed parallel to the #street wall#. Each bicycle rack so provided shall satisfy five linear feet of frontage mitigation requirement. No more than three bicycle racks may be used to fulfill such requirement per 50 feet of frontage.

(d) Tables and chairs

Fixed tables and chairs shall be provided in front of the #street wall#. Each table shall have a minimum diameter of two feet, and have a minimum of two chairs associated with it. Each table and chair set so provided shall satisfy five linear feet of frontage mitigation requirement.

(e) Wall treatment

Wall treatment, in the form of permitted #signs#, graphic or sculptural art, rustication, decorative screening or latticework, or living plant material, shall be provided along the #street wall#. Each linear foot of wall treatment shall constitute one linear foot of frontage mitigation requirement. Such wall treatment shall extend to a height of at least 10 feet, as measured from the level of the adjoining sidewalk or grade, and have a minimum width of 10 feet, as measured parallel to the #street wall#.

**138-40**
**OFF-STREET PARKING AND LOADING REGULATIONS**

The applicable parking and loading regulations of Article II, Chapter 5, Article III, Chapter 6, Article IV, Chapter 4 (ACCESSORY OFF-STREET PARKING AND LOADING REGULATIONS) or Section 123-70 (PARKING AND LOADING), inclusive, shall be modified in this Section, inclusive.

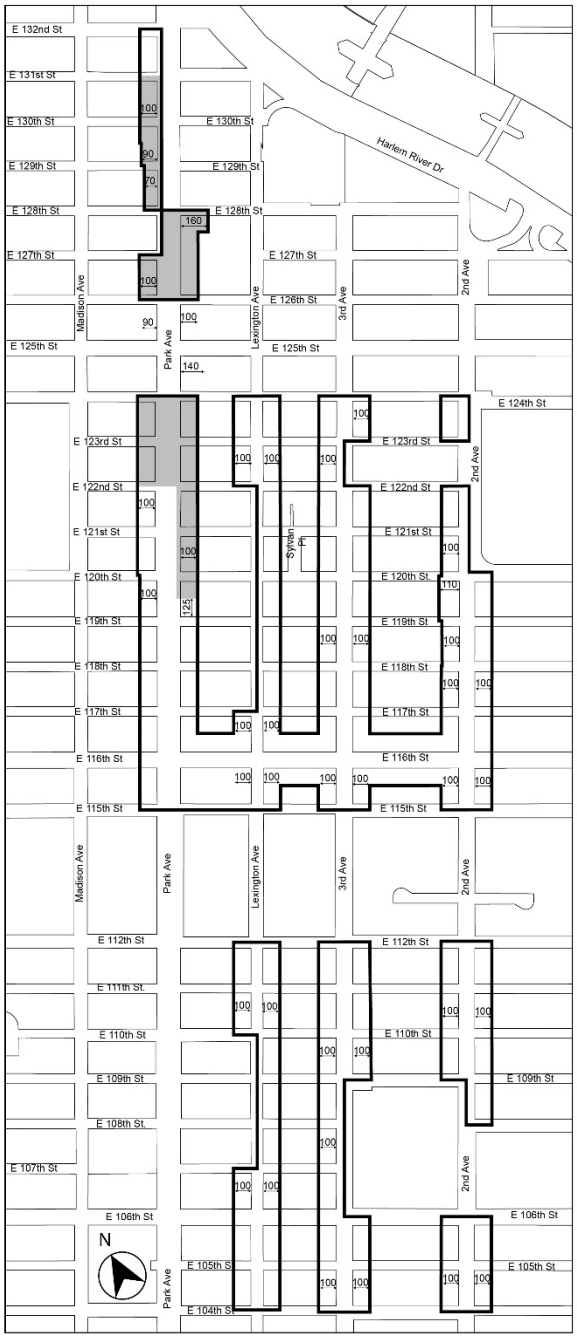
**138-41**
**Required Accessory Off-street Parking Spaces for Residences**

In the #Special East Harlem Corridors District#, no #accessory# off-street parking shall be required for #residences#. Off-street parking shall be permitted in accordance with the underlying district regulations.

**APPENDIX: SPECIAL EAST HARLEM CORRIDORS DISTRICT PLAN**

**Map 1: Special East Harlem Corridors District and Subdistrict**

[CPC APPROVED MAP]



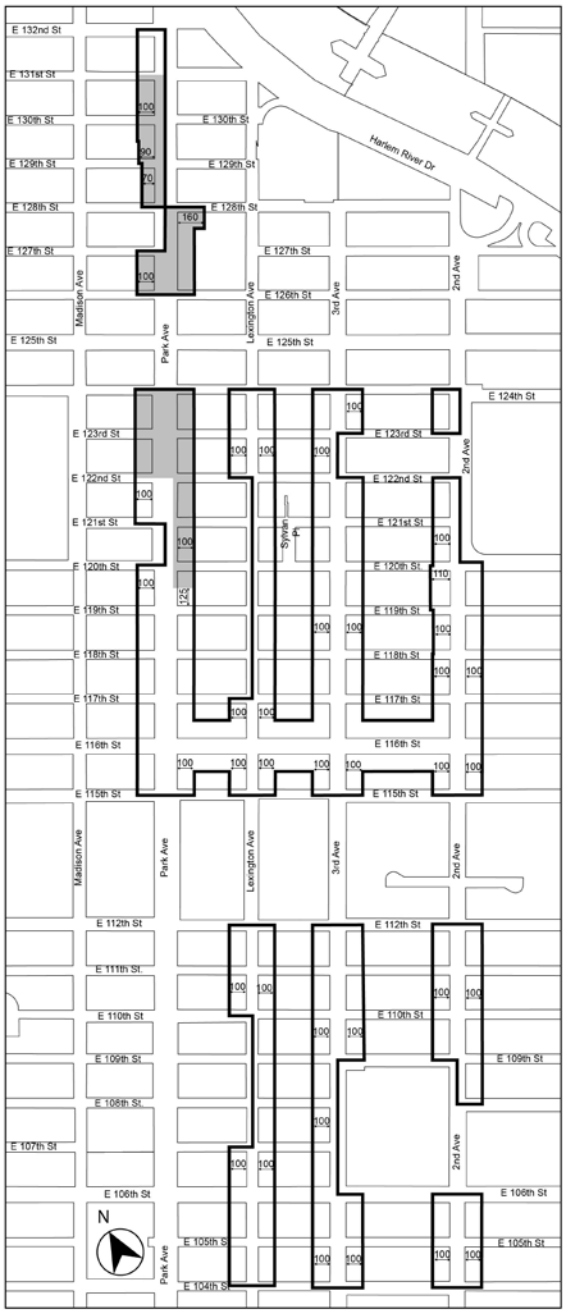

EAST HARLEM DISTRICT PLAN

SPECIAL EAST HARLEM CORRIDOR DISTRICT AND SUBDISTRICT

Special East Harlem Corridors District

Park Avenue Subdistrict

[CITY COUNCIL MODIFIED MAP]




EAST HARLEM DISTRICT PLAN

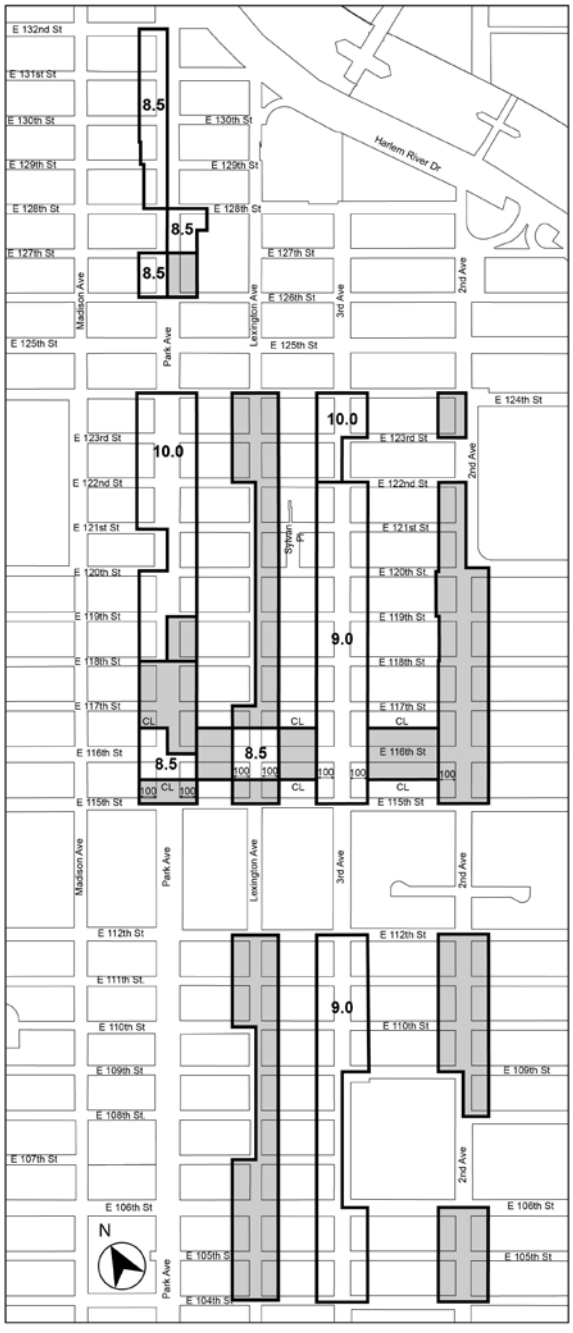
SPECIAL EAST HARLEM CORRIDOR DISTRICT AND SUBDISTRICT

Special East Harlem Corridors District

Park Avenue Subdistrict

**Map 2: Maximum Residential Floor Area Ratio**

[CITY COUNCIL MODIFICATION]



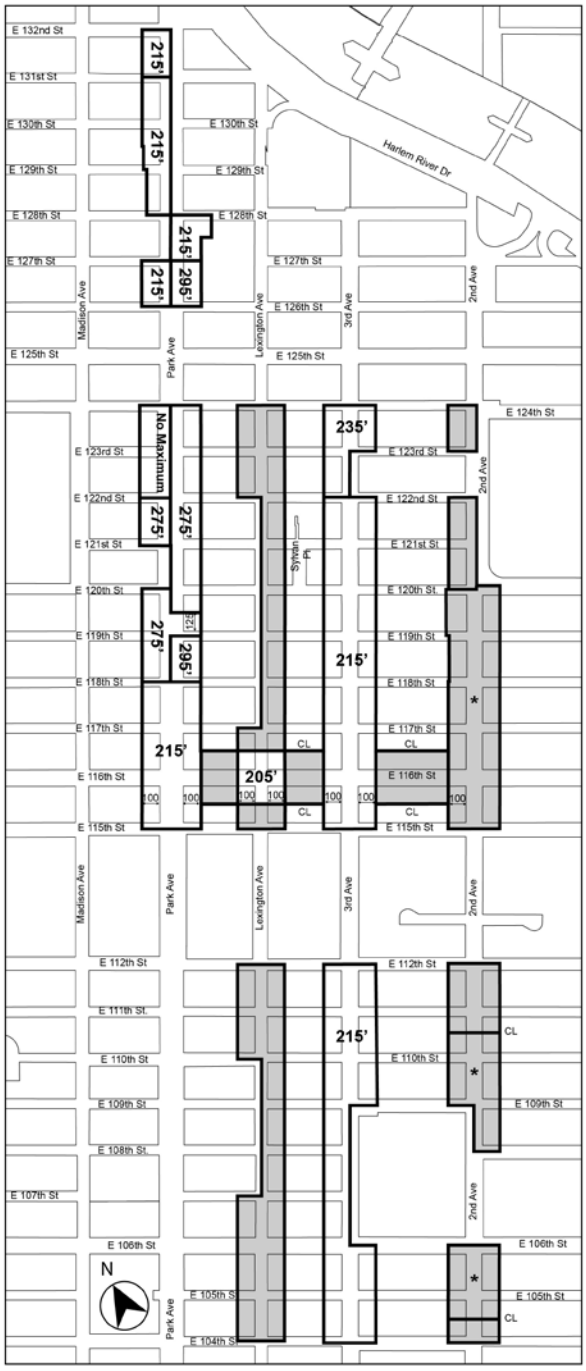

EAST HARLEM DISTRICT PLAN

MAP 2. MAXIMUM RESIDENTIAL FAR

Underlying FAR Applies

**Map 3: Maximum Height**

[CITY COUNCIL MODIFICATION]




EAST HARLEM DISTRICT PLAN

MAP 3. MAXIMUM HEIGHT

* Subject to 138-23(b)(3)(ii)

Underlying Maximum Height Applies

* * *

**APPENDIX F**
**Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas**

* * *

**MANHATTAN**

* * *

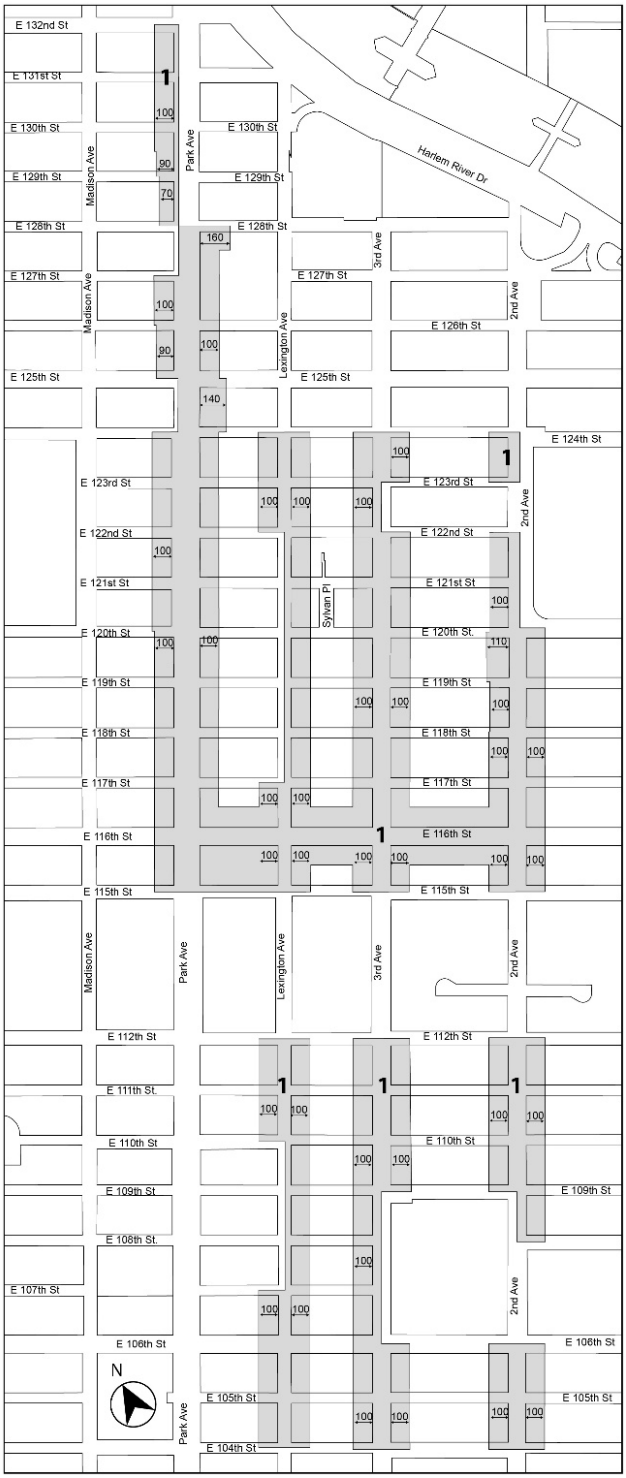
**Manhattan Community District 11**

In the R7D, R8A, R9, R9A and R10 Districts within the areas shown on the following Map 1 and Map 2:

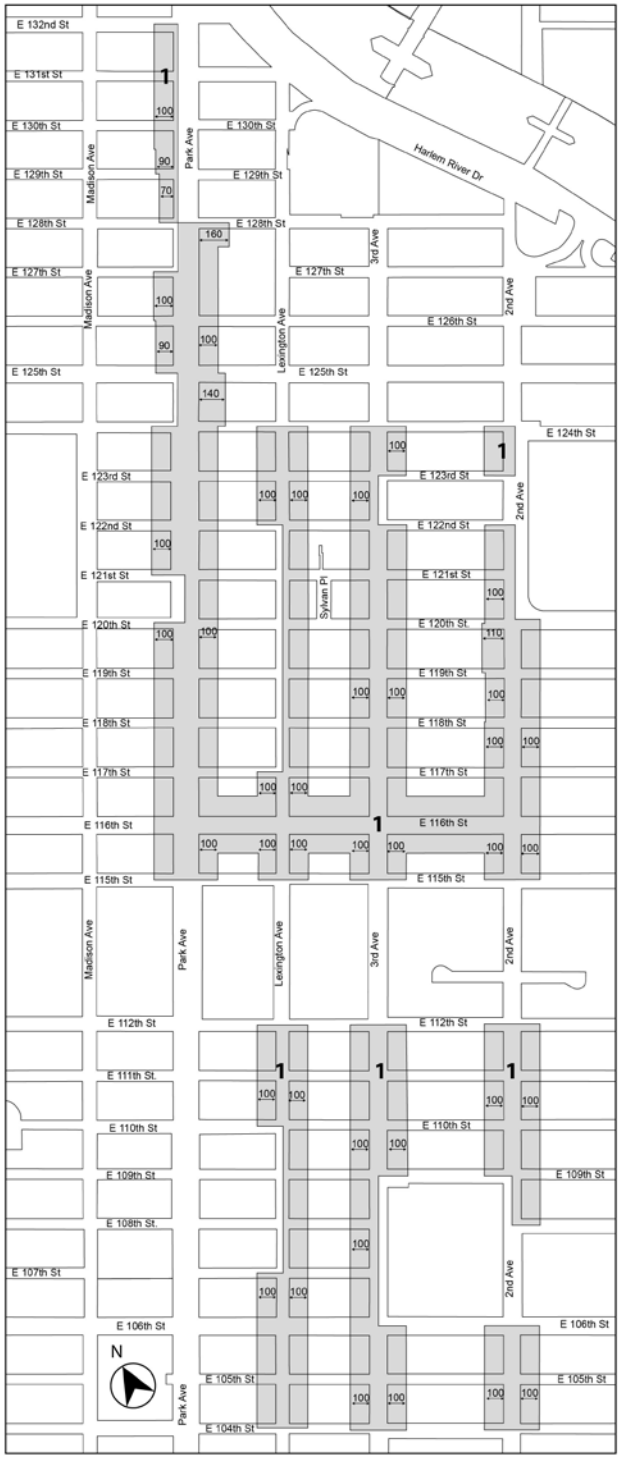
* * *

Map 2 – [date of adoption]

[CPC APPROVED MAP]



[CITY COUNCIL MODIFIED MAP]



Mandatory Inclusionary Housing Program area *see Section 23-154(d)(3)*

Area **1** [date of adoption] — MIH Program Option 1 and and the Deep Affordability Option ~~2~~

Portion of Community District 11, Manhattan

* * *