

**A. INTRODUCTION**

As described in Chapter 1, “Project Description,” and Chapter 2, “Analysis Framework,” this Supplemental Environmental Impact Statement (SEIS) analyzes whether Phase II of the Project under the Extended Build-Out Scenario and changed background conditions would result in any significant adverse impacts not previously disclosed. This chapter assesses potential impacts on zoning and public policy during the construction of Phase II under the Extended Build-Out Scenario.

According to the 2012 *City Environmental Quality Review (CEQR) Technical Manual*, an analysis of zoning and public policy considers a project's compliance with, and effect on, the study area's zoning and other applicable public policies. Consistent with the 2006 Final Environmental Impact Statement (FEIS), the study area for this analysis has been defined as the area within  $\frac{3}{4}$  miles of the project site. The 2006 FEIS and 2010 Technical Memorandum concluded that upon completion, the Project would not result in any significant adverse impacts to land use, zoning, and public policy. This construction analysis of zoning and public policy identifies zoning or other public policy changes that have been implemented in the study area since the completion of the 2006 FEIS, and assesses potential impacts on such zoning and public policy changes during the construction of Phase II under the Extended Build-Out Scenario.

**PRINCIPAL CONCLUSIONS**

The SEIS concludes that construction of Phase II of the Project under the Extended Build-Out Scenario would not result in significant adverse impacts with respect to Zoning and Public Policy.

The 2006 FEIS analyzed the consistency of the Project with zoning and public policy and found that, upon completion, the Project would not result in any significant adverse impacts associated with those categories. The 2006 FEIS found that the Project would offer the opportunity to further some of the City's policies for housing and commercial development in Brooklyn, including removing blight and eliminating negative environmental conditions; maximizing the development of appropriate land use; strengthening the tax base of the City by encouraging development and employment opportunities; providing affordable housing and market-rate housing of high quality; and providing appropriate community facilities, parks and recreational uses, retail shopping, and parking. The completion of Phase II of the Project at a later date would delay the delivery of some of the aforementioned Project benefits. Under the Extended Build-Out Scenario, Phase II would be completed by 2035, compared to the 2016 completion date assumed in the 2006 FEIS. However, none of the benefits related to Phase II would be achieved in the No Build condition (i.e., the Future Without Phase II). As Phase II of the Project, even under the Extended Build-Out Scenario, would provide numerous benefits related to public policies analyzed in the 2006 FEIS, it would not be inconsistent with the goals and objectives of those policies.

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In addition, as described below, construction of Phase II of the Project under the Extended Build-Out Scenario would not result in any conflicts with zoning or other public policy changes that have been implemented in the  $\frac{3}{4}$ -mile study area since the completion of the 2006 FEIS.

### *ZONING*

Since the 2006 FEIS, three contextual rezonings within the study area have been approved: the Fort Greene/Clinton Hill Rezoning, the Boerum Hill Rezoning, and the Crown Heights West Rezoning. These contextual rezonings impose additional restrictions on development, as their objectives are to prevent out of scale development in those neighborhoods, match new zoning to existing built character and land uses, and incentivize the development of modest amounts of new affordable housing. Therefore, these rezonings would further strengthen the 2006 FEIS conclusion that the Project would not be expected to spur substantial changes in the firmly established neighborhoods that surround the project site. The completion of Phase II of the Project at a later date would not alter the conclusions of the 2006 FEIS.

As Phase II is incrementally constructed, it would also provide a higher proportion of affordable units than would the Inclusionary Housing Program in the designated areas under the Fort Greene/Clinton Hill Rezoning and Crown Heights West Rezoning. The affordable housing provided by Phase II would be targeted to a greater range of incomes than the Inclusionary Housing Program (which is targeted to households earning up to 80 percent Area Median Income [AMI]), because the affordable housing in Phase II, based on currently available programs, would be targeted towards five income bands: households earning between 30 to 40 percent of AMI; households earning between 41 to 50 percent of AMI; households earning between 60 to 100 percent of AMI; households earning between 101 to 140 percent of AMI; and households earning between 141 to 160 percent of AMI. The affordable housing units in Phase II would be constructed incrementally on the Phase II project site over the course of the Extended Build-Out Scenario. Construction of Phase II of the Project would be supportive of the City's goal to create new units of affordable housing.

In 2012, the Downtown Brooklyn Parking Text Amendment was approved, which reduces parking requirements in Downtown Brooklyn, including portions of the Phase I project site. The text amendment is expected to result in the provision of parking supply that better reflects actual parking demand in Downtown Brooklyn, which—like the project site—features some of the best transit access in the city, including numerous subway and bus lines. Phase II of the Project is not within the area covered by the Downtown Brooklyn Parking Text Amendment, and therefore this text amendment is not relevant to the analysis of a delay in the construction of Phase II. The SEIS includes an assessment of a Reduced Parking Alternative in Chapter 6, “Alternatives.”

In 2011, the Special 4th Avenue Enhanced Commercial District was established, which is expected to enliven the 4th Avenue streetscape by requiring active commercial and community facility uses at the ground level of buildings, limit new curb cuts on 4th Avenue, and requiring certain design and transparency specifications for uses fronting on 4th Avenue. Realization of the goals of this zoning change is not expected to be affected by the construction of Phase II of the Project under the Extended Build-Out Scenario.

### *PUBLIC POLICY*

At the time of the publication of the 2006 FEIS, both the State and National Register (SN/R)-listed Prospect Heights Historic District and the New York City Landmark (NYCL)-eligible Prospect Heights Historic District were included in the analysis of impacts. Since the 2006 FEIS,

the NYCL Prospect Heights Historic District has been designated by the New York City Landmarks Preservation Commission (LPC), and the boundaries have been defined slightly differently than those analyzed in the 2006 FEIS. Accordingly, the Construction Protection Plan (CPP) required under the Letter of Resolution with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) was modified to include new historic resources within the expanded boundaries of the Prospect Heights Historic District that are within 90 feet of future construction activity associated with the Project. In light of the adjustments made to the CPP, construction of Phase II under the Extended Build-Out Scenario would not have a significant adverse construction impact on the expanded district.

PlaNYC was established in 2007, and provides a policy framework for sustainable planning in New York City. Even with a prolonged period of construction, the Project would assist in meeting many of the goals and objectives established in PlaNYC, such as by providing new affordable and market-rate housing to meet the needs of current and future residents at a transit-accessible location, providing new open spaces, and utilizing public land to facilitate development that would eliminate blighted conditions. The completion of Phase II of the Project at a later date would delay the delivery of some of the Project benefits that would be supportive of PlaNYC, but would not conflict with the goals of PlaNYC. Under the Extended Build-Out Scenario, Phase II is assumed to be completed in 2035, compared to the 2016 completion date assumed in the 2006 FEIS. Thus, the full achievement of the Project's benefits related to PlaNYC would be delayed under the Extended Build-Out Scenario. However, none of the benefits related to Phase II would be achieved in the No Build condition (i.e., the Future Without Phase II). Because Phase II of the Project, even in the Extended Build-Out Scenario, would provide benefits related to PlaNYC, it would not be inconsistent with the goals and objectives of PlaNYC.

## **B. FUTURE WITH PHASE II CONSTRUCTION ACTIVITIES**

### **ZONING AND PUBLIC POLICY**

The 2006 FEIS analyzed the consistency of the Project with zoning and public policy and found that, upon completion, the Project would not result in any significant adverse impacts associated with those categories. Public land use policies in the ¾-mile study area that were assessed include the Atlantic Terminal Urban Renewal Area (ATURA), the Brooklyn Center Urban Renewal Area (BCURA), the Schermerhorn-Pacific Urban Renewal Area (SPURA), and the Brooklyn Academy of Music (BAM) Cultural District. Citywide programs and policies affecting development that were assessed include: the Housing Marketplace Plan, transit-oriented development, and economic development policies. The 2006 FEIS found that the Project would offer the opportunity to further some of the City's policies for housing and commercial development in Brooklyn, including removing blight and eliminating negative environmental conditions; maximizing the development of appropriate land use; strengthening the tax base of the City by encouraging development and employment opportunities; providing affordable housing and market-rate housing of high quality; and providing appropriate community facilities, parks and recreational uses, retail shopping, and parking. The completion of Phase II of the Project at a later date would delay the delivery of some of the aforementioned Project benefits. Under the Extended Build-Out Scenario, Phase II would be completed by 2035, compared to the 2016 completion date assumed in the 2006 FEIS. However, none of the benefits related to Phase II would be achieved in the No Build condition (i.e., the Future Without Phase II). As Phase II of the Project, even under the Extended Build-Out Scenario, would provide

numerous benefits related to public policies analyzed in the 2006 FEIS, it would not be inconsistent with the goals and objectives of those policies.

In addition to the assessment of the 2006 FEIS policies provided above, this section identifies zoning and public policy changes in the study area that have occurred since the 2006 FEIS, and assesses the consistency of Phase II of the Project with those policies. As described above and in Chapter 2, “Analysis Framework,” most public policy and zoning initiatives anticipated in the 2006 FEIS have been implemented. Additional zoning and public policy initiatives that have been implemented or proposed for consideration since completion of the 2006 FEIS are described below.

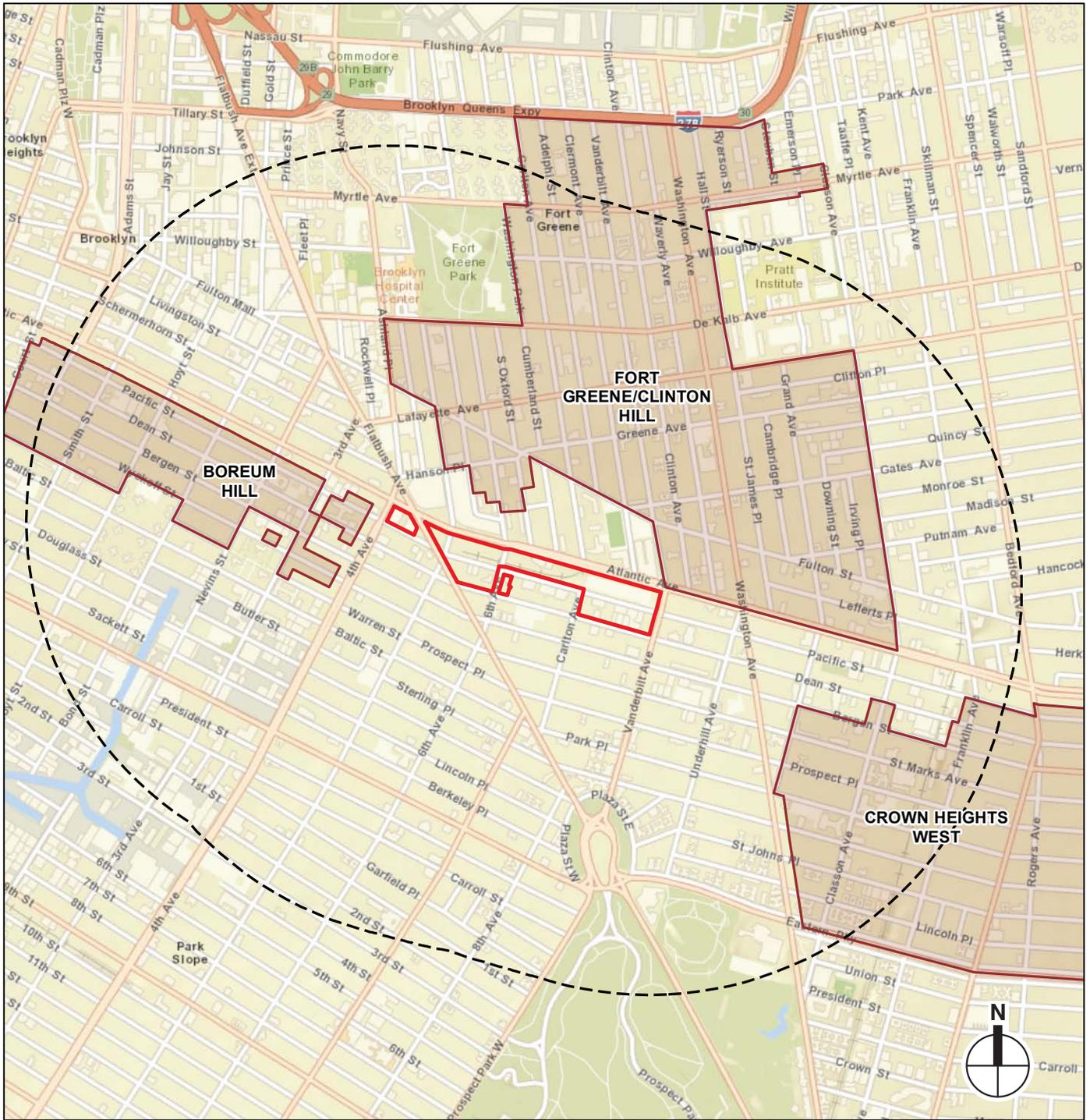
### ZONING

#### *Contextual Rezoning*

Since the 2006 FEIS, the New York City Department of City Planning (DCP) has initiated three rezonings in the study area, with the goal of protecting neighborhood character, preventing out of context development, and providing opportunities for new development—including incentives for affordable housing—in specific areas, generally along major avenues and adjacent to public transportation services. The boundaries of these rezonings are shown on **Figure 3B-1**. As described below, these rezonings would further strengthen the 2006 FEIS conclusion that the Project would not be expected to spur substantial changes in the firmly established neighborhoods that surround the project site. The completion of Phase II of the Project at a later date would not alter the conclusions of the 2006 FEIS. In addition, the affordable housing that would be provided by Phase II of the Project would be supportive of the City’s affordable housing production goals, as provided for in the two rezonings that established Inclusionary Housing designated areas.

The Fort Greene/Clinton Hill Rezoning (2007) covers a 99-block area covering much of the study area north of the project site. The rezoning establishes contextual zoning districts that are expected to preserve the predominantly brownstone character of that neighborhood’s residential core and provide opportunities for apartment house construction and incentives for affordable housing on Myrtle Avenue, Fulton Street, and Atlantic Avenue within the rezoning area. Specifically, the rezoning replaced R6, R7-1, and R7-2 residential districts with R5B, R6A, R6B, and R7A districts. The lowest density zoning designation, R5B, typically consists of three-story rowhouses with a maximum Floor Area Ratio (FAR) of 1.35. Similarly, R6B districts are typically mapped in areas with four-story rowhouses and allow a maximum FAR of 2.0. R6A and R7A districts include mandatory quality housing bulk regulations that produce high lot coverage six- to eight-story apartment buildings of up to 3.0 FAR in R6A districts and 3.45 FAR in R7A districts if no affordable housing is provided and 4.6 FAR if affordable housing is included.

Within the rezoning area, the Inclusionary Housing program applies within the R7A districts, establishing incentives for the creation and preservation of affordable housing in conjunction with new development. R7A districts within the rezoning area are located along Myrtle Avenue, Fulton Street, and Atlantic Avenue. With the Inclusionary Housing bonus, maximum FAR in R7A districts can be increased 33 percent (from 3.45 to 4.6) for developments providing 20 percent affordable housing. Affordable housing is defined as units targeted to households earning up to 80 percent of the AMI.



- Project Site Boundary
- Study Area Boundary (3/4-Mile Perimeter)
- Rezoning Area Boundary



The rezoning also modified commercial overlays from C1-3 and C2-3 to C2-4, and reduced the overlay depth from 150 feet to 100 feet. Commercial overlays were added in locations along Myrtle Avenue, Emerson Place, Lafayette Avenue and Fulton Street (to reflect existing commercial uses where no overlays existed) and commercial overlays were removed from areas along Fulton Street and Adelphi Street to reflect wholly residential use on those blocks.

The Boerum Hill Rezoning (2011) covers a 31-block area in the Boerum Hill neighborhood, located west of the project site. The rezoning established contextual zoning districts that reflect existing building forms and uses, and aim to protect the character and scale of the neighborhood while allowing for appropriate development. Specifically, the rezoning replaced R6 and R7B zoning districts with R6B, R6A and R7A contextual districts that allow new development of up to 2.0, 3.0, and 4.0 FAR, respectively. The R6B designation was applied to most of the rezoning area (26 full or partial blocks), while the R6A designation was applied to mixed-use corridors and areas with higher density (16 full or partial blocks) and the R7A designation was applied along 3rd Avenue (6 blocks) to allow for development of vacant sites and provide for housing growth in a transit-rich location a block from the Atlantic Terminal Long Island Rail Road and Atlantic Ave/Barclays Center subway station. The rezoning also modified commercial overlay zoning districts covering the Court Street, Smith Street, and 3rd Avenue commercial corridors to more closely tailor them to the existing distribution of mixed uses, bringing existing establishments into conformance, and preventing the encroachment of commercial uses onto residential mid-blocks.

The Crown Heights West Rezoning (2013) covers a 55-block area in the western portion of the Crown Heights neighborhood, located east of the project site. The rezoning established contextual zoning districts with height limits, with the goal of maintaining the existing scale and character of the neighborhood and allowing context-sensitive new development. The rezoning also created a new Inclusionary Housing-designated area that would incentivize affordable housing development along commercial corridors.

The rezoning replaced R6, R7-1, C4-3, C8-2 zoning districts with R5B, R6B, R6A, R7A, and R7-D zoning designations. As described above, R5B, R6B, R6A, and R7A districts allow a maximum FAR of 1.35, 2.0, 3.0, and 4.0, respectively. R7D districts include mandatory quality housing bulk regulations that produce 10-story residential or mixed-use buildings with an FAR of up to 4.2. The lower-density R5-B and R6-B zoning designations were primarily applied to low-rise, mid-block areas, while higher-density districts (R6A) were established along major thoroughfares, including Classon Avenue, Bedford Avenue, Rogers Avenue, and Nostrand Avenue, with the highest density districts (R7A and R7D) along Eastern Parkway and Franklin Avenue.

The Crown Heights West rezoning applies the Inclusionary Housing program to portions of the proposed R7A and R7D districts within the rezoning area at the eastern-most boundary of the study area, establishing incentives for the creation and preservation of affordable housing in conjunction with new development. In R7A districts within the Inclusionary Housing area, FAR can be increased by 33 percent (from 3.45 to 4.60) for developments providing 20 percent affordable housing. Likewise, in R7D districts, FAR can be increased by 33 percent (from 4.2 to 5.6) for developments providing 20 percent affordable housing. Affordable housing is defined as units targeted to households earning up to 80 percent of AMI.

These contextual rezonings impose additional restrictions on development, as their objectives are to prevent out of scale development in the areas that were rezoned, match new zoning to existing built character and land uses, and incentivize the development of modest amounts of

new affordable housing. Therefore, these rezonings would further strengthen the 2006 FEIS conclusion that the Project would not be expected to spur substantial changes in the firmly established neighborhoods that surround the project site. As Phase II is incrementally constructed, it would also provide a higher proportion of affordable units (approximately 36 percent) than would the Inclusionary Housing Program in the designated areas under the Fort Greene/Clinton Hill Rezoning and Crown Heights West Rezoning (20 percent, if fully utilized by new development). As described in Chapter 1, “Project Description,” the affordable housing provided by Phase II would be targeted to a greater range of incomes than the Inclusionary Housing Program (which is targeted to households earning up to 80 percent AMI), because the affordable housing in Phase II, based on currently available programs, would be targeted towards five income bands: households earning between 30 to 40 percent of AMI; households earning between 41 to 50 percent of AMI; households earning between 60 to 100 percent of AMI; households earning between 101 to 140 percent of AMI; and households earning between 141 to 160 percent of AMI. The affordable housing units in Phase II would be constructed incrementally on the Phase II project site over the course of the Extended Build-Out Scenario. Therefore, construction of Phase II of the Project would be supportive of the City’s goal to create new units of affordable housing. The completion of Phase II of the Project at a later date would not alter the conclusions of the 2006 FEIS.

### *Downtown Brooklyn Parking Text Amendment*

In 2012, the Downtown Brooklyn Parking Text Amendment was approved, which reduces parking requirements in Downtown Brooklyn, including the portion of Phase I of the project site west of 5th Avenue. The text amendment reduced by half the amount of parking that new residential developments are required to provide, eliminated parking requirements for affordable housing units, and provided more flexibility to locate required accessory parking off-site, to build small underground public garages in Downtown Brooklyn and to allow accessory parking garages to be available to all residents, workers and visitors in Downtown Brooklyn. The text amendment is expected to result in the provision of parking supply that better reflects actual parking demand in Downtown Brooklyn, which—like the project site—features some of the best transit access in the city, including numerous subway and bus lines.

The Project under the Extended Build-Out Scenario would result in 2,896 parking spaces on the project site, whereas the 2006 FEIS assumed that 3,670 parking space would be provided. This proposed reduction in parking would be consistent with the Downtown Brooklyn Parking Text Amendment, and recognizes the growing trend towards the use of public transit, bicycling, and walking, instead of private vehicle use. As described in Chapter 4D, “Operational Transportation,” the 2,896 on-site parking spaces provided with full build-out of the Project would be sufficient to accommodate all of the non-Arena demand generated by the Project’s residential, commercial and public school uses (plus New York Police Department parking) under both the residential mixed-use and commercial mixed-use variations in the Future With Phase II, and there would be sufficient off-street parking for Arena patrons within ½ mile of the Arena. Therefore, the completion of Phase II under the Extended Build-Out Scenario would be supportive of this public policy change.

### *Special Fourth Avenue Enhanced Commercial District*

In 2011, the Special 4th Avenue Enhanced Commercial District was established, which extends along the 4th Avenue corridor from the midblock between Atlantic Avenue and Pacific Street to the north, to 24th Street (outside of the study area) to the south. The special district is expected

to enliven the 4th Avenue streetscape by requiring active commercial and community facility uses at the ground level of buildings, limit new curb cuts on 4th Avenue, and requiring certain design and transparency specifications for uses fronting on 4th Avenue.

The realization of the goals of this zoning change is not expected to be affected by the completion of Phase II of the Project under the Extended Build-Out Scenario.

### *PUBLIC POLICY*

#### *Historic District Designations*

At the time of the publication of the 2006 FEIS, both the SN/R-listed Prospect Heights Historic District and the NYCL-eligible Prospect Heights Historic District were included in the analysis of impacts. Since the 2006 FEIS, the NYCL Prospect Heights Historic District has been designated by LPC, and the boundaries have been defined slightly differently than those analyzed in the 2006 FEIS. As designated, the historic district is generally bounded by Pacific Street to the north, Eastern Parkway to the south, Flatbush Avenue to the west and Washington Avenue to the east. The Historic District does not include any portion of the project site. Any new buildings (or alterations to contributing structures) in the historic district require LPC approval in the form of a Certificate of Appropriateness, which establishes that the proposed change is consistent with the historic character of the area.

Subsequent to designation of the district by LPC, the CPP required under the Letter of Resolution with OPRHP was modified to include new historic resources within the expanded boundaries of the Prospect Heights Historic District that are within 90 feet of future construction activity associated with the Project. In light of the adjustments made to the CPP, construction of Phase II under the Extended Build-Out Scenario is not expected to have a significant adverse impact on the district.

#### *PlaNYC*

In April 2007, the Mayor's Office of Long Term Planning and Sustainability released PlaNYC: A Greener, Greater New York. It includes policies to address three key challenges that the City faces over the next twenty years: (1) population growth; (2) aging infrastructure; and (3) global climate change. Elements of the plan are organized into six categories—land, water, transportation, energy, air quality, and climate change—with corresponding goals and objectives for each. These goals include, but are not limited to, the following:

- Create homes for almost a million more New Yorkers, while making housing more affordable and sustainable;
- Develop new neighborhoods on underutilized sites;
- Ensure that all New Yorkers live within a 10-minute walk of a park;
- Clean up all contaminated land in New York City;
- Reduce pollution by implementing infrastructure upgrades, and using best management practices to prevent stormwater from entering the sewer system;
- Implement natural strategies such as planting 1 million trees;
- Improve access to transit and provide transit oriented development;
- Target large consumers to accelerate efficiency upgrades;
- Improve the efficiency of buildings;

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- Encourage conversion from highly polluting fuels to natural gas and other cleaner fuels; and
- Reduce greenhouse gas emissions by 30 percent.

The Project would assist in meeting many of the goals and objectives established in PlaNYC. The Project would provide new housing to meet the needs of current and future residents at a transit-accessible location, provide new open spaces, and utilize underutilized public land to facilitate development that would eliminate blighted conditions.

Phase II of the Project would include the creation of approximately up to 4,932 dwelling units, including up to 1,800 affordable dwelling units, and would create new development in an area that is very well served by existing transit infrastructure, including several subway and bus lines. It would also deck over a rail yard and would develop an underused area to knit neighborhoods together, and would be supportive of the housing goals of PlaNYC. The Project also would meet certain of the open space goals of PlaNYC, including creating or enhancing publicly accessible open spaces in every community. Over the course of the Extended Build-Out Scenario, Phase II would incrementally add new publicly-accessible open spaces to the project site, such that eight acres of publicly accessible active and passive open space would be built by 2035. This substantial new open space would be consistent with PlaNYC and help achieve the PlaNYC goal that all New Yorkers live within a 10-minute walk of a park (the eight acres of open space on the Phase II site, although publicly accessible, would not be a mapped City park.)

The Project is largely consistent with the goals and objectives of PlaNYC elements relating to water, transportation, energy, air quality, and climate change in that it is a new development that is anticipated to incorporate sustainable design in terms of water utilization, stormwater management, transportation efficiency, energy demand, air quality emissions, and effects on and from climate change. In addition, the Project is registered with the United States Green Building Council (USGBC) as a Leadership in Energy and Environmental Design (LEED) project. The Project has already provided new subway access on the Arena Block; Phase II of the Project would continue to encourage transit-oriented development that would encourage use of mass transit and reduce automobile utilization and associated emissions.

The completion of Phase II of the Project at a later date would delay the delivery of some of the aforementioned Project benefits. Under the Extended Build-Out Scenario, Phase II would be completed in 2035, compared with the 2016 completion date assumed in the 2006 FEIS. Nevertheless, none of the benefits related to Phase II would be achieved in the No Build condition (i.e., the Future Without Phase II). As Phase II of the Project, even under the Extended Build-Out Scenario, would provide numerous benefits related to PlaNYC, as described above, it would not be inconsistent with the goals and objectives of PlaNYC.

Based on the above, Phase II of the Project under the Extended Build-Out Scenario would not result in any significant adverse impacts on zoning or public policy. \*