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## Memorandum

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**To:** Rachel Shatz, ESDC

**From:** Linh Do

**Subject:** Atlantic Yards Arena and Redevelopment Project  
Consideration of Comments on the FEIS

**Date:** December 8, 2006

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The following written comment submissions on the Final Environmental Impact Statement (FEIS) were received:

- 1) Community Consulting Services, Carolyn S. Konheim, Chair, and Brian Ketcham, Executive Director, written submission dated December 6, 2006;
- 2) Council of Brooklyn Neighborhoods, Candace Carponter and Therese Urban, Co-chairs, written submissions dated November 21, 2006;
- 3) Council of Brooklyn Neighborhoods, Candace Carponter and Therese Urban, Co-chairs, written submissions dated December 6, 2006;
- 4) Develop Don't Destroy Brooklyn, Jeff Baker, Young Sommer..LLC, written submission dated December 8, 2006;
- 5) The Municipal Art Society of New York, written submission dated December 6, 2006;
- 6) Daniel P. Cush, undated written submission;
- 7) Vaidila Kungys, Brooklyn resident, written submissions dated December 1, 2006;
- 8) Brent M. Porter, Professor, School of Architecture, Pratt Institute, written submission dated December 8, 2006; and
- 9) Michael Stafford, Rivkin Radler and Theresa Elkowitz, Freudenthal and Elkowitz Consulting Group, Inc. (representing PC Richards), submission dated November 27, 2006;

Of the nine submissions received, one was a letter of general support and eight commented on the FEIS (see Attachment A). The comments could be grouped into the following general areas: process, open space, urban design, socioeconomics, shadows, traffic, transit, wind and security/terrorism.

AKRF and Philip Habib and Associates have carefully considered these submissions and attached for your review are our detailed evaluations and responses to those comments. Our conclusion is that none of the comments received on the FEIS require any additional analyses or raise issues not previously addressed in the FEIS.

cc: Stuart Gewirtzman, PHA

# **Atlantic Yards Arena and Redevelopment Project**

## **Comments on the FEIS**

**Community Consulting Services, Carolyn S. Konheim, Chair and Brian Ketcham, Executive Director, written submission dated December 6, 2006**

### **TRAVEL DEMAND MITIGATION MEASURES A HOAX**

**Comment 1:** To assuage fears of traffic lockdown prior to Arena events, the FEIS repeatedly cites “innovative” parking/transit incentives, intended to reduce auto trips to the Nets games by 20%. None of the mitigation strategies for the 41 scheduled games apply to the expected 184 other events, which are left to manage on their own without any administrative framework, but are not analyzed on the unsubstantiated premise that they would likely attract fewer auto trips. The abdication of responsibility for non-Nets events is a prescription for traffic chaos on many days of the year.

**The FEIS addresses this comment in Chapter 24, “Response to Comments,” in Responses 12-113 and 12-44.**

**Comment 2:** For Nets games, the FEIS makes the astonishing new assertion (probably unintended) that the “transit incentive” would “yield a ten percent increase in previously estimated subway trips generated by a weekday or weekend basketball game.” Such a gross overstatement of the results of mitigation, understandably, did not translate into pre-game subway trips being increased by 10% and needs to be exorcised, lest it becomes a binding obligation on the project.

**The FEIS does reflect a mode shift equivalent to a 10 percent increase in project-generated subway trips, after implementation of mitigation. The effects of a 10 percent increase in trips at the Atlantic Avenue/Pacific Street subway station complex are analyzed in the FEIS in Tables 19-5 through 19-8 of Chapter 19, “Mitigation”. The FEIS further indicates in Chapter 19 that relatively small numbers of additional trips resulting from the transit incentive mitigation are expected to occur at other analyzed stations.**

### **WRONG PEAK PERIOD**

**Comment 3:** The planned mitigation for Nets game traffic appears to be for the wrong time period. A comment on the DEIS revealed that East Coast NBA games start at 7:30 p.m., not 8:00 p.m. as assumed in the DEIS, resulting in the pre-game period being 6:30-7:30 p.m., not the 7:00-8:00 p.m. assumed in the DEIS. To defend making no change, the preparers of the FEIS wiggle through an argument that Madison Square Garden data suggests as much as 30% of game-goers arrive in the half hour after the game begins

**The FEIS addresses this comment in Chapter 24, “Response to Comments,” in Response 12-21.**

**Comment 4:** Besides not making such anomalous data open to inspection, the preparers of the DEIS pretend not to understand that the real issue is that the baseline traffic volumes are for the

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wrong time period. Based on Brooklyn Bridge hourly counts, there is a significant drop in traffic volume after 7:00 p.m., suggesting that the analysis did not capture higher background traffic between 6:30 and 7:00 p.m. The matter could have been put to rest with the publication of hourly traffic volumes, required in the CEQR process for this very purpose. But that obvious response might have shown all that the pre-game analyses had to be redone, and slowed the project approval. Many errors of the DEIS/FEIS appear to be result of short-cuts and time pressures.

**The FEIS specifically addresses the issues of periods for analysis. Furthermore, 2004 DOT data show a difference of only 3 percent in Brooklyn-bound Brooklyn Bridge traffic volumes between the 6-7 PM period and the 7-8 PM period.**

### LUDICROUS LOGIC

**Comment 5:** The claimed effectiveness of the initial transit incentive mitigation in the DEIS, a 50% discount on a two-way MetroCard, was so debunked by the public that the FEIS now offers a “free” two-way subway pass, reinforcing the conclusion that the preparers of the FEIS are either hopelessly naive or are banking to be so. The free MetroCard would be targeted to on-line purchasers of high end tickets, which are well above \$100/seat. This “\$4 value” package is postured as a 100% in the cost (whereas, this is only for the MetroCard) and, in reality, \$4 is less than a 4% saving on the entire \$100+ package.

**The FEIS thoroughly addressed the effectiveness of transit incentives as part of the proposed project’s game-day demand management strategy on pages 19-13 and 19-14 of Chapter 19, “Mitigation” and also addressed a similar comment in Chapter 24, “Response to Comments,” in Response 12-117.**

**Comment 6:** Then to justify that this estimated cost/benefit will get drivers and their passengers to give up their cars, the FEIS cites the MTA half-fare holiday bonus experiment in 2005. Selecting this as a justification is even more ludicrous than the example in the DEIS, since the holiday half-fare program was found to result in no increase of ridership whatsoever on commuter trains and a big loss in fares of subway riders who would have traveled anyway. The irrelevance the example to the Arena is underscored by the lack of any correlation of change in auto use corresponding to the change of fares. Thus, the key travel demand mitigation in the FEIS relies on a hoax. Yet, the FEIS contends that just this transit incentive will “entirely mitigate” project impacts even at two distant intersections, Atlantic Avenue at Clinton and Henry Streets.

**The FEIS included fare elasticity data from a number of sources including “*Fare Elasticity and Its Application to Forecasting Transit Demand*,” *American Public Transit Association, 1991*; “*2002 Subway and Bus Ridership Report*,” *Office of Management and Budget, MTA New York City Transit, May 2003*, as well as the MTA half-fare holiday data (see p.19-13 in the FEIS and the Demand Management Strategies Technical Memorandum in Appendix C.**

**The comment regarding the project impacts at Atlantic Avenue at Clinton and Henry Streets is inaccurate. The FEIS indicates that the reduction in trips from the game day demand management measures would address all impacts at these two intersections in 2010. However, in 2016, additional**

**signal timing and/or parking regulation changes would be needed at both locations as shown in Table 19-2. Even with these additional measures, unmitigated impacts would remain at both locations in the Saturday 4-5 PM period.**

**NO BASIS FOR CLAIMED MITIGATION**

**Comment 7:** There is, in fact, no basis for the FEIS claim of mitigation of the two Atlantic Avenue intersections close to the exit and entry ramps of the Brooklyn Queens Expressway. No traffic analysis was performed of them because they allegedly do not meet the City Environmental Quality Review (CEQR) criteria of 50 project-generated trips in the peak analysis periods. Apparently, no trip Atlantic Yards drivers are expected to use the BQE. However, it seems someone forgot about a companion mitigation strategy, Remote Parking, which was revealed in the FEIS to include the parking garage of Long Island College Hospital, next to the BQE ramps, where 100 spaces are to be dedicated for Arena patrons.

For the 100 cars to get to the garage entrance on northbound Hicks Street, the FEIS should show 100 vehicles turning onto Henry Street southbound, Amity Street westbound, but it shows no project generated trips at all.

**The FEIS analysis did assign trips to and from the BQE via Atlantic Avenue, and at the intersections of Atlantic Avenue with Henry and Hicks Streets, immediately to the east of the BQE ramps. The trip assignment methodology (prior to the implementation of mitigation measures) is described in detail and illustrated in the Transportation Planning Assumptions Memo included in Appendix C. The traffic analysis with the implementation of mitigation measures reflects the re-assignment of trips to the remote parking garages.**

**Comment 8:** It also appears not to have added 24 vehicle trips on Atlantic Avenue for shuttle buses from the garage to the Arena (or drop-off and pick-up space at the Arena site).

**As stated in Chapter 19 of the FEIS, the shuttle buses would operate on a 10-minute headway so there would be only 6 trips from the garage to the arena and 6 return trips in the pre-game peak hour, not 24. These shuttle bus trips would be *de minimis* and were not included as discrete assignments.**

**Comment 9:** There is no analysis of at Henry and Atlantic of traffic to and from the BQE or of the planned 1,240 residences and other activities in the Brooklyn Bridge Park, adjacent to LICH.

**The comment is incorrect. The FEIS included the analysis of the intersection of Atlantic Avenue and Henry Street, and accounted for Brooklyn Bridge Park traffic as a No Build project and project-generated traffic to and from the BQE in the Build condition.**

**Comment 10:** The FEIS doesn't even show these volumes at the expected 50% effectiveness of the mitigation. (Another sleight of hand is to regard the 50% effectiveness as conservative; it is only conservative to not take full credit for the effect of the strategy on traffic volumes in the study area.) Thus, there is no basis for the claims in the FEIS of full mitigation of the intersection. But this strategy has bigger problems: the zoning and financing of the



LICH garage restrict its use to accessory parking for the hospital. Thus, the entire mitigation strategy in the FEIS is invalid.

By this logic, the FEIS should have assumed that 500 autos would divert from the majority of the study area traffic network instead of the 250 that was assumed (i.e., assumed the remote parking to be 100 percent effective). This assumption would have been inappropriate for the study area as a whole (because to assume this level of effectiveness would result in fewer project-generated cars throughout the study area and would not reflect a conservative analysis). Similarly, assuming 100 percent effectiveness would result in fewer project-generated cars traveling through the Atlantic Avenue and Henry Street intersection. All necessary approvals for utilization of the LICH garage for remote parking would be obtained.

#### CONCEALMENT OF REALISTIC AREA-WIDE TRAFFIC IMPACTS

**Comment 11:** The multitude of contradictions in the FEIS analysis for one minor intersection serves as a microcosm of the problems across the study area. Detailed analysis of virtually every intersection would reveal many more flaws: large numbers of vehicles that simply disappear from the network, illogical routes or missing trips (such as none to or from the LICH garage) and no accounting for realistic traffic operations, e.g., spillback and double parking. All these affect the bottom line of traffic analysis, the calculation of “level of service” (i.e., the severity of delay at an intersection). But we are barred from confirming the reported findings because ESDC has refused to release Level of Service calculation sheets on the gratuitous assertion that the worksheets were reviewed by NYCDOT and the false claim they are not normally included in an EIS. In fact, the same consultant team has provided worksheets along with detailed trip generation and trip assignment diagrams for all No Build projects for the Downtown Brooklyn Plan DEIS.

**Traffic-related information requested on November 30, 2006 has been provided, including HCS summary outputs showing the level of service calculations.**

**Comment 12:** The FEIS’s continued reliance on a method that analyzes each intersection in isolation seriously conceals the magnitude of the areawide impact of the project, the footprint of which necessitates street closures and redirection of traffic in centrifugal patterns radiating outward through neighborhoods to the periphery of Downtown. Rather than develop a traffic model that shows the full network, as Community Consulting Services has done, the partial model released late in the DEIS review process, displays the effect of mitigated impacts only for 20010, not 2016, and for just the blocks close to the site. The empty excuse is that as trips disperse with distance from the site, their effects dissipate. This familiar ploy ignores that the cumulative impact of added project trips to already overloaded access routes, such as the BQE and the Brooklyn and Manhattan Bridges, where seemingly small increments can result in queues reaching into Manhattan. CCS’s model shows areawide gridlock.

**The FEIS included a screening analysis of the potential for impacts from the proposed project on the Manhattan and Brooklyn Bridges, as detailed on pages 12-80 and 12-81 of Chapter 12, “Traffic and Parking,” and this comment is also addressed in Chapter 24, “Response to Comments,” in Response 12-19.**

CONCEALMENT OF REALISTIC TRAFFIC OPERATIONS AT ARENA SITE

**Comment 13:** Although traffic mitigation is focused on the area closest to the site, the FEIS fails to look closely or realistically at the traffic behavior immediately around the site entrance. Imposing an activity of such complexity as the Arena on the borough's most complicated and congested intersection demands detailed time/space analysis. An assessment of the adequacy of lanes providing 63 auto spaces (equal to 40 spaces for shuttle buses and media trucks) must account for drop-off, layover and pick-up demand of charter and shuttle buses, taxis, black cars and limousines (250 for 500 box seats). It must assess the effect of double and triple parking both near the Arena entrance and at the expanded Atlantic Center.

**The FEIS addressed traffic-related issues in the immediate area of the project site, including enforcement of curbside regulations, in Chapter 24, "Response to Comments," in Responses 12-40, 12-63, 12-106.**

**Comment 14:** In addition, the FEIS must fulfill its obligation to carry forward the Downtown Brooklyn Traffic Calming Project in the context of project plans, not seek to evade any responsibility to do so on the specious grounds that the Traffic Calming report did not specify measures to be implemented in the area.

**The FEIS addressed the comments related to the Downtown Brooklyn Traffic Calming Project in Chapter 24, "Response to Comments," in Responses 12-14.**

PERSISTENT FAILURE TO ACCOUNT FOR REAL GROWTH

**Comment 15:** All the above deficiencies are even worse because the No Build and background volumes of trips will be much higher than assumed in the FEIS. Despite an elaborate defense of their methodology for selecting No Build trip generators, the FEIS has NOT accounted for all Downtown Brooklyn development projects by 2016. It repeatedly cites that the DEIS accounted for 33 discrete sites. The revised FEIS claims it has accounted for 38 new projects in their No Build condition. However, examination of the documentation shows this is not true. Of the 35 projects listed in Table 2-1, plus three additions requested by NYCDOT, only 26 are actually accounted for. The rest are omitted on the premise that the CEQR threshold for inclusion of other projects is 200 dwelling units. This may be reasonable in cases where there are one or two projects, but it is irrational when the dozen ignored projects add up to about 800 dwelling units, between 800,000 and 1,200,000 square feet of new development.

**The FEIS's transportation analyses included reasonable assumptions with respect to the projects likely to be built in the future without the proposed project. The rationale for the development of the list of No Build projects is detailed in the memorandum entitled "Summary of No Build Sites Considered for the EIS Transportation Analyses" provided in Appendix C. As indicated in that memo, the background growth assumed in the FEIS (0.5 percent per year) would be roughly equivalent to the travel demand generated by 19,000 new dwelling units or 9 million square feet of new office space in Downtown Brooklyn. The FEIS also addresses this comment in Chapter 24, "Response to Comments," in Response 12-1.**



WRONG FACTOR FOR BACKGROUND GROWTH

**Comment 16:** It is a further distortion of CEQR guidelines to assert that the omitted discrete sites are accounted for in the 0.5% annual background growth factor recommended in the CEQR Technical Manual for Downtown Brooklyn. The 20-year old 0.5% factor in the CEQR Manual is intended to reflect trips generated by the truly small projects in the l study area. The Manual specifies 1%/year for Brooklyn outside Downtown for trips generated outside the narrow study area. Since these areas are the principal source of trips within Downtown, a 10% growth over 10 years is more inappropriate for background growth than the 5% used. This is consistent with the growth in building permits issued in Brooklyn. Anyone who drives around Brooklyn and sees new construction being shoehorned everywhere knows using the 0.05% /year background growth rate used in the FEIS is irresponsible. The higher background growth would profoundly change all FEIS conclusions.

**The FEIS utilizes the background growth factor of 0.5 percent per year called for in the *CEQR Technical Manual* for Downtown Brooklyn. This background growth factor was approved by the New York City Department of Transportation and New York City Transit.**

**Comment 17:** The claim that some of the projects not counted in the No Build are reflected in baseline traffic counts in 2006 is highly suspect, because while bridge crossings continue to grow, many counts used for 2006 in the EIS are lower than reported in earlier EISs, but cannot not be checked because ESDC has not responded to our request for traffic count data. This in itself violates a principle of National Environmental Policy Act procedures, implicit in CEQR, that any data on which an EIS relies that is not in the public domain must be made available on request.

**The FEIS also addresses this comment in Chapter 24, "Response to Comments," in Response 12-41. All traffic data requested by CCS have been provided.**

TRANSIT RIDERS WILL BE ESPECIALLY PENALIZED BY WRONG GROWTH FACTOR

**Comment 18:** The refusal to apply higher than the 0.5% growth rate is particularly derelict for subway trips which the NYC Transit turnstile entry counts show have grown by nearly 2% a year in Brooklyn outside Downtown over the last five years. The likelihood of even higher future growth in subway ridership is indicated by 2004 to 2005 turnstile counts that began an upward trajectory of 3.3%, which averages 3% for all Brooklyn. The continuation of such growth in outer Brooklyn is further indicated by more than 300 building permits for new construction, alone, in Community Board 20 in southern Brooklyn vs. about 200 in Community Board 2, which covers most of Downtown.

**The FEIS addresses this comment in Chapter 24, "Response to Comments," in Response 13-6.**

**Comment 19:** This obvious source of data, easily accessible on the web, appears to have been ignored altogether in the FEIS. Instead, the FEIS claims the projected subway ridership by line

was approved by NYC Transit, but provides no correspondence from NYC Transit indicting its concurrence, as with the City agencies, a typical requirement of FEISs.

**As indicated in the FEIS, NYCT has reviewed and concurred with the transit analysis.**

*LACK OF ANY COORDINATED, COMPREHENSIVE TRAFFIC AND TRANSIT PLAN*

**Comment 20:** The FEIS provides no realistic integrated plan to deal with the understated traffic it will exacerbate or the transit crowding it denies will occur. The transit consequences are particularly severe, because due to the under-reporting of growth in a series of recent EISs, NYC Transit has no capability to put even one more train into service in peak hours and has no plans to expand its fleet.

**As discussed in the FEIS, the proposed project would not result in any significant adverse impact on subway line haul conditions.**

**Comment 21:** Finally (although there are many more fundamental flaws in the FEIS), ESDC takes the ultimate cop-out, saying, if the proposed mitigations don't work, others will be developed—but not assigning any responsibility to do so. At the same time, it jettisons any discussion of the one contingency measure that could make the project workable, congestion pricing.

**The FEIS addresses this comment in Chapter 24, "Response to Comments," in Response 12-89.**



**Council of Brooklyn Neighborhoods, Candace Carponter and Therese Urban, Co-chairs, written submission dated November 21, 2006**

**Comment 1:** We are particularly concerned about the profound range of consequences resulting from concentrating, in what would be the nation's most densely populated urban tract, adjacent to one of Brooklyn's busiest intersections, three Department of Homeland Security-designated terror targets: a glass-walled sports arena and a glass-clad office tower built above the borough's largest transportation hub, which was, in 1997, the target of a thwarted terror plot.

These concerns were made known to the ESDC in responses to its Draft Scope of Analysis from CBN, Brooklyn Community Boards 2, 6, and 8, and many elected representatives and community groups. Unfortunately, the ESDC failed to acknowledge these concerns in its Final Scope of analysis, its Draft Environmental Impact Statement, or its FEIS. The most serious concerns include: the insurance cost to the project and surrounding property and business owners; security concerns that might affect the public's right of entry to the project's publicly accessible open space; effects on traffic flow or diversions, air quality, public health and business activity due to security barriers and inspections at arena events; emergency response times from degraded traffic conditions; safety codes and standards to be used for project design and construction of the project; and what public funding would be devoted to the project for ongoing protection.

**The FEIS addressed concerns regarding terrorism and security in Responses G-5, G-10, G-11, G-16, G-17, G-18, G-20, G-21, G-23, G-24, G-25, G-27, and G-29.**

In accordance with SEQRA, the FEIS focuses on the impacts of the potential reasonable worst case from construction and operation of the proposed project. Emergency scenarios such as a large-scale terrorist attack similar to the World Trade Center attack, a biological or chemical attack, or a bomb are not considered a reasonable worst-case scenario and are therefore outside of the scope of the EIS. However, as indicated in Chapter 1, "Project Description," the proposed project would implement its own site security plan, which includes measures such as the deployment of security staff and monitoring and screening procedures. In addition, as noted in the FEIS, the project sponsors have consulted with the FDNY regarding access needs of emergency vehicles and other safety considerations, such as evacuation plans for places of public gathering and fire protection and security measures, and have met with NYPD to review the overall project and public safety and security measures. Consultation with NYPD and FDNY has been taking place and would continue should the project move forward. Disclosing detailed security plans is not appropriate for an EIS.

**Council of Brooklyn Neighborhoods, Candace Carponter and Therese Urban, Co-chairs, written submission dated December 7, 2006**

The FEIS is simply not ready to be approved.

**Comment 1:** The General Project Plan does not conform to ATURA design specifications. There are serious unresolved questions regarding the space apportionment under ATURA regulations.

**The conformity of the project to the ATURA plan is discussed in Chapter 24, "Response to Comment," Responses 3-1 and 3-9. As noted in the FEIS, ESDC would override ATURA with respect to its requirements relating to zoning compliance. In other respects, the project would be expected to be in conformity with ATURA.**

**Comment 2:** There are still comments and contributors missing from the FEIS, a flaw that was attempted to be corrected after the first submission for approval.

**All substantive comments have been appropriately addressed as required under SEQRA.**

**Comment 3:** The paraphrased Comments frequently distort the original comment and thus do not accurately respond. The Responses offered in the FEIS are frequently inaccurate and suffer from self-referential circular logic that will not be defensible to legal challenge.

**All substantive comments have been appropriately addressed as required under SEQRA.**

**Comment 4:** The FEIS indefensibly and unrealistically characterizes a study of terrorism as not being a consideration worthy of worst case scenario analysis.

**The FEIS addressed concerns regarding terrorism and security in Responses G-5, G-10, G-11, G-16, G-17, G-18, G-20, G-21, G-23, G24, G-25, G-27, and G-29.**

**In accordance with SEQRA, the FEIS focuses on the impacts of the potential reasonable worst case from construction and operation of the proposed project. Emergency scenarios such as a large-scale terrorist attack similar to the World Trade Center attack, a biological or chemical attack, or a bomb are not considered a reasonable worst-case scenario and are therefore outside of the scope of the EIS. However, as indicated in Chapter 1, "Project Description," the proposed project would implement its own site security plan, which includes measures such as the deployment of security staff and monitoring and screening procedures. In addition, as noted in the FEIS, the project sponsors have consulted with the FDNY regarding access needs of emergency vehicles and other safety considerations, such as evacuation plans for places of public gathering and fire protection and security measures, and have met with NYPD to review the overall project and public safety and security measures. Consultation with NYPD and FDNY has been taking place and would continue should the project move forward. Disclosing detailed security plans is not appropriate for an EIS.**



**Develop Don't Destroy Brooklyn, Jeff Baker, Young Sommer..LLC, written submission dated December 8, 2006**

**Comment 1:** The FEIS fails to meet that standard. ESDC staff rushed to complete the FEIS which was accepted by the Board on November 15th. Thereafter, staff realized that in their rush to completion they omitted numerous comments and then rushed again to reissue the FEIS. However, that speed did not alleviate the overall sloppiness inherent in the FEIS. The FEIS is rife with errors and omissions. Most strikingly, although there were numerous substantive comments on the DEIS, in many cases the response to those comments is nothing more than a reiteration of the language in the DEIS. The failure to consider and respond to those comments is not only illegal, but insulting and demonstrates that the result of ESDC's consideration of the project is a foregone conclusion.

The analyses presented in the FEIS were conducted thoroughly and accurately based on guidance from the *CEQR Technical Manual* and expert professional judgment. Chapter 24, "Response to Comments," provides substantive responses and, where appropriate, refers the readers to text, tables, and graphics from the FEIS that address their question or comment.

OPEN SPACE

**Comment 2:** Many comments noted the dearth of open space, particularly publicly accessible open space and the fact that the space provided is less than the City goal of 2.5 acres per 1,000 residents and is less than is being provided in Battery Park City. The FEIS responds that the project provides 1.7 acres per 1,000 residents. (FEIS p. 24-169) However the math is wrong. Per the FEIS, there will be approximately 13,503 residents based on the assumption of 2.1 persons per unit. That results in a ratio of 0.59 acres per 1000 residents - far less than the 1.7 acres represented in the FEIS. This fundamental mathematical error is indicative of the carelessness of the FEIS and should put the Board on notice that there has not been sufficient analysis to warrant approval of the project.

The commentor correctly identifies a mathematical error in Response 6-6. The error relates to the open space ratio on the project site itself, in a discussion that compares the percentage of the project site allocated to open space use (36 percent) to that in Battery Park City (33 percent). The computation is not relevant to the open space analysis in Chapter 6 of the FEIS, which was conducted pursuant to the methodologies outlined in the *CEQR Technical Manual*. The proposed project would provide approximately 0.6 acres per 1,000 residents, not 1.7 acres per 1,000 residents. This error does not affect the FEIS analysis in any way and does not change the conclusions iterated in Response 6-6 that a) although the open space ratio for the proposed project is less than the citywide goal of 2.5 acres per 1,000 residents, the citywide goal is not feasible and not achievable for many areas of the city and is not considered as an impact threshold for CEQR purposes, and b) the proposed project would not result in significant adverse open space impacts upon completion in 2016.

TRAFFIC AND POLICE AND FIRE RESPONSE TIMES

**Comment 3:** The project's impact on traffic has been a major concern, where a road network already at capacity will have to bear the burden of at least 20,000 additional vehicles. Besides

ignoring the comments about how the DEIS understated traffic impacts and took too narrow a look, the FEIS also ignores the concerns expressed about response times for emergency vehicles. Faced with gridlock conditions, the FEIS simply states that emergency vehicles will not be hampered because police, fire and ambulance vehicles "are not bound by standard traffic controls" when responding to emergencies. (FEIS 24-143). Apparently when faced with gridlock, the traffic magically parts to make way for the vehicles without delay - a miracle of modern physics that has not been witnessed in other gridlock events.

**Comments on police and fire response times are addressed in Chapter 24, "Response to Comments," in Responses 5-11 and 5-16. In addition, as noted in Chapter 5, "Community Facilities," of the FEIS, police and fire stations are widely distributed around the project site, so emergency vehicles would have numerous routes available for responding to emergencies. The FEIS properly indicates that NYPD and FDNY vehicles are capable of adjusting to congestion, as they do in many areas of the City.**

#### TERRORISM THREATS AND SECURITY ISSUES

**Comment 4:** The FEIS takes the bizarre position that the threat of terrorism need not be considered in the planning of the project or in the FEIS. To quote from the FEIS (p. 24-538), the only response to numerous serious public concerns regarding terrorism and security is as follows: "Emergency scenarios such as a large-scale terrorist attack similar to the World Trade Center attack, a biological or chemical attack, or a bomb are not considered a reasonable worst-case scenario and are therefore outside the scope of the EIS."

There is no support for such a head in the sand approach to an obvious threat. Placing a 20,000-seat arena over a major transit hub, adjacent to a major traffic intersection, surrounded by glass-walled towers presents an obvious invitation to terrorists. Nevertheless, the FEIS claims no responsibility to consider that potential and to design accordingly to minimize the impacts such a threat poses or the costs incurred by related planning, insurance, and emergency issues. While ESDC staff may disregard the responsibility to consider the threat, we hope that the ESDC Board is not so narrow-minded.

**The FEIS addressed concerns regarding terrorism and security in Responses G-5, G-10, G-11, G-16, G-17, G-18, G-20, G-21, G-23, G-24, G-25, G-27, and G-29. See Comment 1 under the Council of Brooklyn Neighborhoods in this memo for further detail. The above comment is incorrect in its assertion that the FEIS "takes the position" that terrorism need not be considered in project planning. On the contrary, the document makes clear that the project sponsors would implement a site security plan, developed in consultation with the NYPD and NYFD. That plan would include all appropriate measures to address any threat of terrorist activity.**

#### BLIGHT

**Comment 5:** A substantial number of detailed comments were submitted detailing the errors in the DEIS and the Blight Study, including a 191 page response from my client DDDDB. In particular it was noted that there are no blighting conditions on blocks 1127, 1128 and



1129. Comments noted that any conditions in the area are a result of either neglect by MTA or vacancies created by FCR. Comments also noted that in the entire history of the Atlantic Terminal Urban Renewal Area (ATURA), despite numerous opportunities, the City of New York never claimed the project site and in particular the blocks to be condemned-as blighted. All of those comments were completely ignored and the FEIS simply reiterates the statements made in the DEIS. While the FEIS makes the claim that the blocks south of Pacific Street are blighted, saying so does not make it true and the Board should not ratify a decision that is contradicted by hard facts.

The Blight Study characterizes the project site as crime-ridden, claiming that instances of crime in the project site are greater than surrounding precincts. As shown in my clients response the crime statistics are misrepresented and skewed to such an extent that the reality is crime is lower in the project site than surrounding areas. The FEIS completely ignored this critical point. Another hard fact the Board should be wary of ratifying.

**The Blight Study was attached to the GPP and was not a part of the EIS. The DEIS and FEIS accurately describe the blighted conditions on the project site.**

#### CONEY ISLAND ALTERNATIVE

**Comment 6:** DDDDB's comments noted that the DEIS misrepresented the feasibility of Coney Island as a location for the arena. The DEIS claimed there was no room for an arena. DDDDB demonstrated that at least two locations were suitable. The FEIS tried to correct the error by acknowledging that there were suitable sites but then in only a few paragraphs argued why it was not preferable to the chosen site. There continues to be no sound argument as to why the arena needs be part of a mixed-use development. ESDC cannot ignore an obvious alternative in a DEIS and then pretend to consider it in the FEIS without subjecting it to a full alternative analysis subject to public review. ESDC has ignored the long-standing goal of the Brooklyn political leaders to bring a major league franchise to Coney Island, a desire that has continued to be expressed.

**The FEIS addresses this comment in Chapter 24, "Response to Comments," in Responses 1-9 and 20-30, and in Chapter 1, "Project Description."**

#### VIOLATIONS OF THE UDC ACT

**Comment 7:** DDDDB and others noted that ESDC has violated Sec. 16 of the UDC Act by failing to hold the comment period open until October 18th, 30 days after the last public hearing on September 18th. The FEIS while acknowledging the legal obligation of Sec. 16, continues the absurd contention that the public hearing was on August 23rd and the September 18th event was a "community forum". The fact remains that the "community forums" were completely indistinguishable from the public hearing. ESDC cannot try and hide behind a change in name to avoid its legal obligation. The minimum time frames in the applicable laws providing for public review are often insufficient to consider enormous projects. At the least ESDC must comply with the minimum legal requirements. Instead ESDC shortened the mandatory minimum comment period by nearly 3 weeks.

DDDB also noted that the project does not meet the legal definitions of a civic project or a land use improvement project. Those comments are not recognized or responded to in the FEIS. These are fundamental questions that go to the public need, purpose and authority of ESDC to undertake the action and override local land use controls. The lack of response is a striking admission that ESDC is operating beyond its authority.

**The lead agency followed all procedures required under the UDC Act.**



**The Municipal Art Society of New York, written submission dated December 6, 2006**

**Comment 1:** *The following comment was not addressed: "The DEIS points to the Mayor's Housing Plan to support the premise that the project advances city policy on housing. The goal of the Housing Plan is to create and/or preserve 130,000 units of affordable housing by 2012, through public subsidy. In order to accurately assess whether the Atlantic Yards proposal will result in a net gain of affordable housing units, there needs to be an accounting of the public expenditures on this project versus the total amount of public subsidies available in the same fiscal year so that decision makers can accurately assess the public costs versus the public benefits. What percentage of the city's total funds for housing will be required to build the project's 2,250 units?"*

As indicated in Response 4-58 in Chapter 24, "Response to Comments," the FEIS included the socioeconomic analysis that is appropriate under CEQR. In addition, in Response G-48, the FEIS indicates that the project sponsors would utilize affordable housing incentives that are available to any other developer in New York City. As stated on page 3-30 of the FEIS, the Mayor's Housing Marketplace Plan envisions development of 130,000 affordable units over a 10-year period. The proposed project and any financing associated with the affordable housing component of the project would be consistent with that plan.

**Comment 2:** *The following comment was weakly addressed: "The DEIS assumes an increasing need for commercial space. The assumption is based on the 2001 Group of 35 Report, coordinated by Senator Schumer. However, the data in that report were gathered and analyzed prior to 9/11 and the destruction, dislocation, and the focus on rebuilding and repopulating that have occurred in Lower Manhattan—all of which have reshaped both Class A office space vacancy rated citywide and the city's priorities for attracting commercial tenants. Additionally, this report has not been widely publicized, nor has it received the public support required for it to be considered citywide policy."*

*Although the FEIS will be changed in that it will delete the reference to the Group of 35 Report in this Chapter, instead including it in the Project Description, the FEIS still fails to address the underlying issue. To support the assertion of an increased need for office space, it again references the NYMTC Demographic and Socioeconomic forecast. The FEIS also mentions "other studies" but does not name them or go into any detail on their contents. Additional support given by ESDC for the assertion is RPA(!)'s own Atlantic Yards commentary that indicates growth in the region and is probably a fairly respectable study but in no way can be construed as public policy. The NYMTC study substituting for city economic development policy is also problematic, as indicated by another MAS original comment, also not addressed: "The DEIS references the NYMTC Demographic and Socioeconomic forecast, which anticipates 31,000 new jobs by 2010. However, without more detailed information about which sectors will be experiencing job growth (the NYMTC data referenced is not broken down by sector), it is not possible to evaluate whether the land use program for the Atlantic Yards will sufficiently address the needs for job growth and creation."*

**Response 3-10 provides an appropriate response to the referenced comment. Responses 1-14 and 4-73 of Chapter 24, "Response to Comments" indicate that future job growth in Brooklyn is likely to be predominantly in the office and retail sectors.**



**Comment 3:** *The following comment was not addressed, in that no updated data on commercial vacancy rates was provided: "The DEIS references the Downtown Brooklyn Redevelopment Plan in its claim that the "demand for modern, state-of-the-art office space should continue to exceed office supply in Manhattan..." In order to support the conclusion, additional, updated data from Manhattan, Brooklyn, and Queens concerning commercial vacancy rates is required."*

**As stated in Response 1-14, according to the latest forecasts from the New York Metropolitan Transportation Council (NYMTC), Brooklyn is predicted to add 60,000 jobs between 2005 and 2015, translating into a strong need for space to accommodate growth.**

**Comment 4:** *The FEIS fails to adequately address the impacts on the Prospect Heights Historic District, and fails to provide adequate mitigation measures for the significant adverse contextual impacts the project will have on the Prospect Heights Historic District. The Landmarks Preservation Commission has not provided current boundaries for the NYCL-eligible Prospect Heights District, and it is therefore impossible to judge the impacts on that district. The boundaries outlined in 1979 by the LPC were then described as "tentative" and are in fact different, and larger, than the NR district boundaries. In the last 27 years, the area's building stock has improved remarkably, and it is likely that the NYCL-eligible district will be larger than the NR district.*

**Chapter 7, "Cultural Resources," addresses the project's potential effect on the Prospect Heights Historic District. This issue is also discussed in Chapter 24, "Response to Comments" Response 7-13.**

**Comment 5:** *DEIS should have contained the Stage 1A Documentary Study in the appendix. The public was not given appropriate notice of this study therefore it was impossible to know during the public comment period what archaeological resources were eliminated and why, or perhaps more importantly, which were identified as potentially sensitive. Respondents noted that it was not included when the DEIS was published because the study was incomplete and "At the time the Stage 1A archaeological Study was prepared the Brooklyn Historical Society was closed and research on the past residents of Block 1119, Lot 1 could not be completed at that time." Instead of waiting for the Brooklyn Historical Society to open, respondents could have obtained information about occupation and residents on Brooklyn sites through the New York Public Library, The Municipal Archives, and NARA (that would be census manuscripts and directories). The DEIS should not have been published without the Stage 1A Documentary Study. The failure of the Empire State Development Corporation to include this study in the DEIS curtailed the public's opportunity to properly comment upon the impacts of the project on the archaeological resources.*

**The Stage 1A Documentary Study was made available for public inspection and review at four Brooklyn library branches (Grand Army Plaza, 496 Franklin Avenue, 380 Washington Avenue, and 93 St. Edwards Street), at ESDC, the Brooklyn Borough President's Office, and the offices of Brooklyn Community Boards 2, 6, and 8. Under the Letter of Resolution (LOR), the Stage 1A archaeological study for Block 1119, Lot 1 will be prepared under the supervision of OPRHP.**



**Comment 6:** *The Final Environmental Impact Statement does not adequately address our comments on the DEIS and contains so many conflicting statements that it is difficult to ascertain what actually will be allowed and what the impact will be. One can make the assumption that the most egregious and highly illuminated signage could be allowed if the developer or the Empire State Development Corporation wishes it, and there is no way that the city administration could disallow it.*

*The FEIS and the Design Guidelines for the Atlantic Yards project are extremely obtuse when dealing with signage issues. The Design Guidelines say that **opaque** signage shall be limited to 100% of the surface area of the Urban Room signage Zone as shown in Appendix 3. Appendix 3 shows the maximum opaque signage to extend to the top of the Urban Room, 60 feet on Building 1 and 40 feet on the Arena.*

*On page 8-5 the FEIS states that signage would be allowed on the Urban Room up to 80-150 feet in height. It also states that this permitted signage would have to be sufficiently transparent to make activity within the building and the interior architecture visible to passersby, and to allow people within the building to see outside. On page 8-29 of the FEIS it states that; "The **opaque** signage at the Atlantic and Flatbush Avenue intersection could rise to the height of the Urban Room (approximately 80 to 150)"... They also state, on the same page in the FEIS that additional signage and lighting would also be allowed on the Urban Room, on Building 1 (to a height of 60 feet), and on the arena volume façade (to a height of 40 feet); however, this additional permitted signage would have to be sufficiently transparent to make activity within the building and the interior architecture visible to passersby and to allow people within the building to see outside the building.*

*In the Design Guidelines the opaque signage zone soars to what appears to be a height of 150 feet on the Urban Room, 60 feet on Building 1 and 40 feet on the arena block. The diagram does not indicate that this area will be transparent signage. We clearly need guidance in interpreting these two conflicting statements in the FEIS, and how the Design Guidelines will be applied. Nowhere in the FEIS or in the Design Guidelines are there any indications of degree of illumination, only that the illumination will be brighter on "game nights."*

*Trying to interpret what is meant with "opaque" and "transparent" and what constitutes an "advertising sign" and "accessory sign" is very difficult. One can only conclude that the FEIS is not being forthcoming with what the signage will actually look like, and one can easily make the assumption that the Urban Room will be covered by opaque changeable (video) signage soaring to 150 feet high. This type of signage will clearly be visible to the surrounding brownstone community and will create an adverse impact for local residents.*

**The description of the signage and the conclusion made by the commentor are incorrect. The description of the signage set forth in the FEIS is accurate and consistent with the Design Guidelines. Opaque signage would not be allowed on the arena "volume façade." Opaque signage is limited to a height of 40 feet on Building 1. Opaque signage on the urban room is limited to the westernmost 75 feet of the building and to no more than 50 percent of that area.**

**Vaidila Kungys, written submission dated December 1, 2006**

**Comment 1:** 24-209: The FEIS fails to address my comment 12-4. The de-mapping of streets will adversely affect traffic congestion, safety, and pollution. The EIS stated that de-mapped streets would create “a number of design features that would enhance overall safety, including the elimination of several roadway segments through the project site,” but it failed to justify this claim with evidence. Is the implication that view corridors are sufficient substitutes for a public right of ways?

**This comment is addressed in Chapter 24, “Response to Comments,” in Response 12-10.**

**Comment 2:** 24-211: *The FEIS failed to address my comment asking to show evidence that de-mapped streets and disproportionately tall buildings will improve connections between neighborhoods. The FEIS does explain how the open space in the project will improve connections but it fails to address how de-mapped streets and extremely tall buildings amidst brownstone Brooklyn will fit into the surrounding environment.*

**This comment is addressed in Chapter 24, “Response to Comments,” in Responses 8-3, 8-4, and 8-18.**

**Comment 3:** *The FEIS places my number (299) in 24-42, grouping me together with comments that the scale of the project needs to be reduced. None of my comments stated that the scale of the project should be reduced.*

**This comment is inaccurate. A number of the submitted comments state that the project would need to be scaled down or reduced in size.**

**TRAFFIC AND PARKING**

**Comment 4:** 12-2 – *The DEIS fails to analyze traffic adequately because of poor methodology—the intersections studied were too few and too close to the project site. In fact, 40 intersections within a quarter mile of the project site were not even looked at. It is not acceptable to plan for an additional 15,000 people and fail to analyze important intersections just two blocks away from the project, such as at Fulton and Clinton.*

**This comment is addressed in Chapter 24, “Response to Comments,” in Response 12-22**

**Comment 5:** 12-3 – *The Traffic Impact Analysis states that 73% of the intersections studied will be adversely affected by the time the project is completed in 2016. What about before 2016? Many intersections will surely be adversely impacted when streets are de-mapped before construction even begins. In addition, considering that most of the analyzed intersections were located within ½ mile of the project site, what adverse traffic and congestion impacts will the project have for Brooklyn and for Manhattan?*

**This comment is addressed in Chapter 24, “Response to Comments,” in Responses 12-26 and 12-19.**

**Comment 6:** 12-4 – *The DEIS states that the project would incorporate “a number of design features that would enhance overall safety, including the elimination of several roadway segments through the project site...” This claim is not supported. De-mapped streets will lead to more congestion and therefore less safety. De-mapped streets will significantly increase*



*traffic around the project site and thereby increase the number of automobile-related accidents. To substantiate the claim that eliminated roadways will enhance safety; the EIS should provide data to corroborate this claim.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 12-10.**

**Comment 7:** *12-4 – In addition, the DEIS states that to ensure safety during games, "police and traffic control officers would be deployed at key intersections in the vicinity of the area..." This project should not plan to use publicly employed officers to mitigate unsafe streets, which the project itself will generate. Instead, the project should address the source of these unsafe streets, which is perhaps the placement of an arena in an already congested part of Brooklyn.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 12-18.**

#### TRANSIT AND PEDESTRIANS

**Comment 8:** *13-11 – It is not reasonable to assume a 0.5% growth rate for the no build scenario, especially at the Atlantic Avenue subway station. In the DEIS, table 13-3 shows that turnstile counts increased 12% in 2005 (24,573 to 27,559), and 13% the previous year. The actual historical growth rate of this station's ridership is therefore 24 times greater than the growth rate that the DEIS assumes. The assumed growth rate of 0.5% is therefore not consistent for all neighborhoods and should not be used for this project.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 13-6.**

**Comment 9:** *13-82 – Considering the addition of some 15,000 residents as a result of this project, the DEIS does not provide sufficient data to substantiate the claim that "crowding on the platforms at the Atlantic Avenue/Pacific Street subway station complex is not expected to be problematic..." An additional study needs to confirm this claim with more rigorous analysis.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 13-14.**

#### MITIGATION

**Comment 10:** *19-55 – Elimination of west crosswalk on 4th Avenue at Atlantic Avenue. The elimination of this crosswalk will force pedestrians to the center island named Times Plaza. Since many more pedestrians will be forced to the confluence of Atlantic Avenue and Flatbush Avenue where there will be a higher risk of automobile/pedestrian accidents, what will be the impact of added pedestrian crossing from this island? This crosswalk should be studied further to ensure pedestrian safety.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 13-49.**

URBAN DESIGN

**Comment 11:** 8-2 – *The DEIS states that the project would be dramatically different from the surrounding neighborhood's design and it would "enhance the vitality of the area and foster connections between neighborhoods..." How would dramatically different buildings lead to better neighborhood connections? It is likely that a drastically different environment will isolate and separate the existing neighborhood from the new neighborhood, especially considering the breaks in the street wall, and enormous heights (that will cause increased shadows), and de-mapped streets, which hold together the sense of connections in urban settings. To justify the claim that this dramatically different new neighborhood will enhance connections, the DEIS needs to show evidence that de-mapped streets, disproportionately tall buildings, and open space within a private compound will, in fact, improve the connections between neighborhoods.*

**This comment is addressed in Chapter 24, "Response to Comments," in Responses 8-3, 8-4, and 8-18.**

**Comment 12:** 8-26 – *Visual Resources – This section is misleading and inaccurate. De-mapped streets do result in significant adverse visual impacts. When a street is de-mapped it destroys the visual connection of the urban fabric, the street grid, which creates confusion to the passerby, impairs one's understanding of his/her location in respect to what is beyond the de-mapped street, and it removes in perpetuity the opportunity to build a significant visual structure within that view corridor.*

8-28 – *Street Pattern, Street Hierarchy, and Block Shapes – This section is simply false: the proposed project will adversely affect street patterns. In de-mapping three streets the project is essentially removing over 124,000 square feet of public though space (the area of the de-mapped roads) currently used for the free transportation of automobiles, pedestrians, and bicycles. By removing over a ¼ mile of public roads the project destroys the street grid, creating fewer places to access the surrounding neighborhoods and risking increased traffic and congestion on other roads. A project that adds density needs to maintain or increase the number of roads to provide additional egress for pedestrians, cyclists, and automobiles. The proposed project will adversely affect street patterns.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 8-2.**

**Comment 13:** 8-28 – *Streetscape – The project would alter a streetwall that is consistent and clear: buildings front the street line. The proposed project would set back buildings, which would not create strong streetwalls; rather, the setback buildings would detract from the consistent Brooklyn framework where most buildings front the streetwall so that the line of sight along a block is consistent. A consistent streetwall helps to maintain a uniform structure while allowing individual buildings to have significantly different architectural styles. The streetwall should be maintained and altering would harm the project's connection to the surrounding neighborhoods.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 7-4.**

**Comment 14:** 8-29 – *Spelling error –.. a spelling error in the last sentence where it is stated that the street closure would help, "by eliminating intersections that are near on another?"*



**This spelling error was fixed in the FEIS.**

**Comment 15:** 8-29 – *Visual Resources* – How can it be expected that the project will “make positive contributions to visual resources in the area” when, in fact, the project will make the area much darker because of shadows, it will remove the visual corridors produced by the de-mapped streets, it will not provide a visually obvious park space, and the scale of the buildings will be so massive in size that there will be no connection to the surrounding neighborhoods. To make positive visual contributions to the area, the project would have to scale down its size significantly, maintain the street grid, and place the open space in a park surrounded by public streets.

**This comment is addressed in Chapter 24, “Response to Comments,” in Response 1-3.**

#### OPEN SPACE

**Comment 16:** 6-2 – *Open Space Ratios* – In regard to DCP’s open space recommendations, the DEIS states that “it is recognized that these goals are not considered feasible for many areas of the city and are therefore not considered impact thresholds.” To substantiate this claim, the EIS needs to show why the DCP’s goals are not considered feasible for parts of the city. Does the City of New York claim that DCP’s standards are not feasible or are they just high, albeit achievable, goals?

As noted on page 6-5 of the FEIS, “these goals are often not feasible for many areas of the City, and they do not constitute an impact threshold. Rather, they act as a benchmark to represent how well an area is served by its open space” which are based on the *CEQR Technical Manual* (see page 3D-13 of the *CEQR Technical Manual*).

**Comment 17:** 6-15 – *Open Space without the Proposed Project 2010* – The DEIS states that no changes to open space are “expected” to occur without the proposed project. This is an unsubstantiated assumption. In fact, there has been interest by various groups who would like to build a platform above the rail yards to develop housing, retail, and park space, as is evident from the Community Plan for the Atlantic Yards. Should this project fail to materialize a different project may develop a park that is not only publicly accessible but a truly public venue, such as Fort Greene Park or Bryant Park.

**This comment is addressed in Chapter 24, “Response to Comments,” in Response 6-24. In addition, two of the alternatives consider alternate open spaces, as described in Chapter 20, “Alternatives,” and the rationale for the assumptions under the No Build alternative are discussed in Response 2-1.**

**Comment 18:** 6-28 – *Spelling error* – The DEIS states “The proposed project would affect an open space in another way.” This is another spelling error.

**No spelling error.**

**Comment 19:** 6-28 – *Qualitative Considerations of Open Space* – In regard to the Reduced Density Arena Alternative, in 20-61 the DEIS states “The pocket parks would be surrounded on three sides by new residential buildings; therefore, they may not be perceived as public parks by other residents of the community.” Nevertheless, this is not mentioned in the Chapter 6 (Open Space) for the proposed project. Why not? The DEIS fails to be

*consistent in methodology. If it is assumed that pocket parks surrounded on three sides may not be perceived as public parks by other residents then, by the same logic, it would surely require the EIS to state that open space surrounded on all sides by new tower buildings would similarly not be perceived as public space by outside residents. This is yet another clear example to shows that the DEIS is inconsistent and filled with poor reasoning.*

**A similar comment from same commentor is addressed in Chapter 24, “Response to Comments,” in Response 20-12. The connective qualities of the proposed project’s open space and the deficiencies of the open space under the Reduced Density alternatives are described in Chapters 6, “Open Space and Recreational Facilities” and 20, “Alternatives,” respectively.**

#### NEIGHBORHOOD CHARACTER

**Comment 20:** *16-1 – Neighborhood character – The DEIS states “the change in character on the project site would not alter the basic character of the surrounding neighborhoods, whose defining elements are located at some distance from the project site and are protected by zoning and historic district designations.” This claim is completely unjustified and counterintuitive. How can it be claimed that over 16 tall buildings dropped within 2-5 story neighborhoods will not alter the basic character of the surrounding neighborhoods? The shadows will darken the surrounding neighborhoods and traffic will make them more dangerous to pedestrians. What data supports the claim that the project would not alter the basic character of the surrounding neighborhoods? In addition, the defining elements of these neighborhoods are not located “at some distance away” from the project site, they sit literally across the street from the project site. Shadows will cast much further than Dean Street, they will go well into Park Slope and Fort Greene.*

**This comment is general in nature and is addressed within a number of comment responses in Chapter 24, “Response to Comments,” including: 16-1, 16-5, 16-6, and 16-10.**

**Comment 21:** *16-2 – Transforming a community – The DEIS states that “the overarching goal of the proposed project is to transform the character of the project site from an underutilized and blighted area into a vibrant mixed-use community.” Nevertheless, the project that FCR is proposing goes counter to many accepted principles for developing successful communities. The Municipal Arts Society echoed this when their representatives stated on June 16, 2006 that certain principles must be followed to bring about a successful project. These principles are summed up as 1) Respect the existing neighborhoods; 2) Don’t eliminate streets; 3) Create a real public park; 4) Promote lively streets; 5) Don’t choke the streets. This project should follow these guidelines, especially considering the amount of public subsidies that are going to the developer.*

**This same comment is responded to in Chapter 24, “Response to Comments,” in Response 1-15.**



### UNAVOIDABLE IMPACTS

**Comment 22:** *Chapter 21-3 – Shadows – The DEIS states that an unavoidable adverse effect would be the casting of shadows. It states: “Reducing the height of these structures would be inconsistent with the goal to establish a high-density, mixed-use project in an area that is well served by necessary infrastructure, particularly transportation.” It would not be inconsistent with the goal of establishing a high-density, mixed-use project to reduce the heights of the proposed buildings. In fact, according to a residential permit parking study that was commissioned for the Downtown Brooklyn Council, the nearby communities of Fort Greene, Brooklyn Heights, and Boerum Hill are some of the most densely populated areas in the country, with over 32,000 residents per square mile. This project does not have to build over 8 million square feet of mixed-use space to achieve a high-density project.*

*The typical neighboring blocks maintain about 75 buildings each, and each one is about 4-5 stories tall. Therefore neighboring block to the project provides about 375 floor-through apartments per block. The proposed Atlantic Yards projects spans approximately 5½ blocks, so at the existing neighborhood scale (i.e. 75, 4-5 story buildings per block) the site would create some 2062 floor-through apartments. Nevertheless, by reducing the residential component of the proposed project by 50%, the product would still make approximately 3,000 residential units, which is 50% more dense than the surrounding neighborhoods. Reducing the heights of the proposed project's buildings is not inconsistent with the goal to create density, and it would avoid the negative impact of shadows on surrounding buildings and neighborhoods. It is not reasonable to state that any reduction in density would be “inconsistent with the goal to establish high-density.” A reduction in density from 8.7 million square feet to 5 million square feet is certainly less dense but in comparison to the surrounding neighborhood, a 5 million square foot project would still be very dense indeed.*

**The effect of reducing the density of the project is addressed in Chapter 24, “Response to Comments,” in Response 1-3.**

### FRAMEWORK

**Comment 23:** *2-3 – Public Review – The public review process conducted by the lead agency, the ESDC, was poor and lacking sufficient planning. The public hearing on August 23, 2006 began late and little time was given to the public to comment. In fact, nearly 45 precious minutes were squandered as the lead agency allowed for the project consultants to describe the project plan even though the meeting was a public hearing and not a project summary to the public. This was one example of the lead agency's failure to provide sufficient public review. Other failures include the lead agency's inconsistency of timekeeping during speakers' comments; the choice of a small venue for such a large and contentious project; the failure of the lead agency to fairly monitor the venue's entrance policy (i.e. hundreds of people were locked out); the failure to maintain a civil public hearing by not enforcing measures to counter disrespectful and irreverent behavior consistently.*

**A similar comment is responded to in Chapter 24, “Response to Comments,” in Response 2.**

ALTERNATIVES

**Comment 24:** 20-2 – *No action alternative* – The DEIS states that under the no action alternative “The MTA would not dispose of the air rights for the rail yard and, therefore, the rail yard (Blocks 1119, 1120, and 1121) would remain essentially in its current configuration.” Why does the DEIS make this claim? Is not it likely that, should the proposed project not go forward, that the MTA would re-appraise the rail yards and put them up for bid? It does not make sense to say that if this project fails to materialize that another project, even different from the other alternatives, would not rise. The MTA would dispose of the air rights under the right conditions and it is clear, as seen by the Extel bid for the rail yards, that even other developers are willing to pay more for the land than FCRC. Therefore, this is a false assumption.

A similar comment is responded to in Chapter 24, “Response to Comments,” in Response 2-1.

**Comment 25:** 20-52 – *Reduced Density Arena Alternative* – The DEIS states that the Reduced Density Arena Alternative would create an arena that is too small. “As described in Chapter 1, “Project Description,” only one National Basketball Association (NBA) arena is smaller than 700,000 square feet, and every facility that has been constructed since 2000 has been larger than 750,000 square feet. The larger footprints of new arenas have been required to meet the logistical considerations of modern, professional sports venues.” The DEIS does not substantiate this claim with any proof. Perhaps most facilities are built larger than 750,000 square feet simply because they are built in locations with more free space to build. This claim is completely unsubstantiated.

This comment is addressed in Chapter 24, “Response to Comments,” in Response 20-11.

**Comment 26:** 20-61 – *Qualitative Assessment of Open Space* – The DEIS says that the Reduced Density Arena Alternative would place its largest park to the south of Atlantic Avenue and that “This location is not ideal for a park. It would be bordered on all sides by city streets, including Atlantic Avenue, which carry heavy traffic volumes.” Nevertheless, streets border many of our best parks: Bryant Park, Central Park, Fort Greene Park, and Prospect Park, for example. This proposed park would be qualitatively better than most of the proposed project’s open space because it would clearly be public specifically due to the fact that it would be surrounded by streets and not nestled within a private mixed-use development. Also, Atlantic Avenue does carry heavy traffic volumes but traffic calming techniques could be implemented to make for safe crossings. Moreover, the added streets (S. Oxford Street and Cumberland, for instance) would provide more opportunities for traffic calming techniques, such as traffic lights, bulb outs, improved lighting, and well-painted crossings.

In addition, the DEIS states that “Furthermore, the location of the park between an arena, a hotel, and an arterial street would isolate the open space from the residential neighborhood.” Although there would not be residential units adjacent to the park, it would still near many residential neighborhoods. It should not be assumed that only residents on the periphery of Central Park or Fort Greene Park are those who frequent



*the park, which would be a ridiculous assumption. Residents from far and near would come to visit this park because it would clearly be public in nature and open to all. Therefore, the location of the park would not isolate the open space from the residential neighborhood.*

*Later on the same page, the DEIS states "Furthermore, it is anticipated that the open spaces that would be provided under the Reduced Density—Arena Alternative would be less appealing for general public use than those included within the proposed project." Where is the evidence to corroborate the claim that the Reduced Density Arena Alternative would have less appealing open space? Was there a survey done to provide evidence for this claim? In general, it would probably be assumed that people prefer parks that are clearly public parks, those parks surrounded by public rights of way. This claim, that the Reduced Density—Arena Alternative would be less appealing for general public use is unsubstantiated.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 20-12.**

**Comment 27:** *20-62 – Urban Design and Visual Resources – The DEIS states "The Reduced Density—Arena Alternative proposes to continue the grid pattern of Fort Greene south across Atlantic Avenue into Prospect Heights by extending South Oxford and Cumberland Streets, and Clermont Avenue through the rail yard on Blocks 1120 and 1121 of the project site. The extensions of these three streets would terminate at Pacific Street, creating midblock T-intersections and five smaller blocks, and would serve mostly project-generated vehicles." It should not be assumed that a one-block extension of the grid is not significant. These three added blocks would provide much light and air to the development to make the increased density feel more bearable. In addition, the added streets would provide easier access to and from the site, especially for pedestrians who would not have to cross a super block. After all, this would be similar to the successful design concept that was used at Rockefeller Plaza.*

**This comment is addressed in Chapter 24, "Response to Comments," in Response 20-13.**

**Brent M. Porter, Professor, School of Architecture, Pratt Institute, written submission dated December 8, 2006**

**Comment 1:** I, as responder No. 107, gave both written and verbal testimony at hearings in Brooklyn concerning Atlantic Yards. I have only been acknowledged as having given verbal testimony at a hearing. However, I submitted written testimony which included solar shadowing diagrams which were contrary to those published in the DEIS. I submitted this written testimony at the hearing when I testified verbally. I also submitted a longer version of our Pratt Institute School of Architecture shadowing research concerning Atlantic Yards by e-mail. The written commentary has not been acknowledged as part of the public record.

**The written submission is acknowledged in Chapter 24 of the FEIS issued on November 27, 2006.**

WIND

**Comment 2:** The wind impact of the Atlantic Yards development has not been adequately studied. There will be great impact from the amplification of wind through the heart of the nineteen buildings development. There will be enhancement of wind impact through the new high street walls along both Flatbush and Atlantic Avenues which has bearing on the projected impacts of future hurricane winds. Most important will be the daily downsweep of high velocity winds caused by the new buildings which will be more than three times the height of the existing surrounding buildings. This impact is termed as the Monroe Effect. Research in Canada has shown the tremendous impact that the downsweep of wind from high buildings has on lowrise neighborhoods. There are other wind impacts as well.

**This comment is addressed in Chapter 24, "Response to Comments," in Response G-8.**

SHADOWS

**Comment 3:** Today I am reiterating the fact that the draft EIS's shadowing impact analysis is incorrect and is shown in the final draft of the EIS as being far less impactful than our Pratt Institute research simulated with a highly sophisticated computerized system which projects shadows and shade that proposed and existed buildings create. The main reason there is a broad disparity between the EIS and the Pratt findings is the fact that for those buildings which will be shadowed by the Atlantic Yards development but which at the same time face away from the Atlantic Yards site -- that is, their front facades turn away from the site -- the shadowing of those very same buildings is deleted from the overall shadowing diagrams for a given time of day and month of the year. In other words, the shadowing of these buildings' roofs, their rear walls, their side walls, and their rear yards is completely discounted by being omitted from the shadowing diagram.

**This comment is addressed in Chapter 24, "Response to Comments," in Response 9-3.**



**Comment 4:** Why would only the value of sunlight not being blocked from the front facade be the only consideration when shadowing by the Atlantic Yards buildings is taken into account? This is a grave mistake in the draft and final versions of the EIS for the project and will have consequences on our shared energy future for many years to come. The robbing of sunlight for the potential photovoltaic roofs and walls, the passive solar heating through windows, the value of gardens and "green roofs" which help lessen the impact of storm water drainage is bad public policy.

**This comment is addressed in Chapter 24, "Response to Comments," in Responses 9-11 and 9-15.**

**Michael Stafford, Rivkin Radler and Theresa Elkowitz, Freudenthal and Elkowitz Consulting Group, Inc. (representing PC Richards), submission dated November 27, 2006**

**Comment 1:** The FEIS provides no clearly-defined proposed action and still presents both program variations and a bifurcated analysis of the two scenarios. The lead agency should prepare a Generic EIS.

The proposed project was clearly defined in the EIS for analysis purposes. Both the residential mixed-use and the commercial mixed-use variations were analyzed in the EIS; the potential for significant adverse impacts for each variation were disclosed, and mitigation measures were identified, where appropriate. The program variations principally represent the re-allocation of the residential and commercial uses on the Arena block and Site 5. The flexibility being incorporated as part of the project was limited to only three of the 17 buildings included within the development.

**Comment 2:** *The FEIS makes conclusory and self-serving statements, provides non-responsive or inconsistent answers. Such responses do not satisfy the "hard look" requirements of SEQRA.*

The comment is inaccurate; the FEIS presents a thorough analysis of the potential environmental impacts of the proposed project. The conclusions presented in the FEIS are based on the *CEQR Technical Manual* and other relevant guidance, detailed analysis, and application of expert professional judgment. All substantive comments have been appropriately addressed and the lead agency has conducted the "hard look" required under SEQRA.

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