

**A. INTRODUCTION**

This document summarizes and responds to comments on the Draft Environmental Impact Statement (“DEIS”) for the Gateway Estates II proposal. Comments were received during the public hearing held by the New York City Department of Housing Preservation and Development in conjunction with the City of New York City Planning Commission Uniform Land (ULURP) public hearing on January 7, 2009. Written comments were accepted from issuance of the DEIS through the public comment period which ended January 20, 2009.

Section B lists the elected officials, organizations, and individuals that provided relevant comments on the DEIS. Section C contains a summary of these comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and parallel the chapter structure of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together. Some commenters submitted general opinions about the proposed project; these comments are not itemized below because they are not comments on the DEIS.

Some commenters did not make specific comments related to the proposed approach or methodology for the impact assessments. Others had suggested editorial changes. Where relevant and appropriate these edits, as well as other substantive changes to the Draft EIS, have been incorporated into the FEIS.

**B. LIST OF PUBLIC OFFICIALS, ORGANIZATIONS, AND INDIVIDUALS WHO COMMENTED ON THE DEIS****PUBLIC OFFICIALS**

1. Commissioner Angela R. Cavaluzzi, oral comments (Cavaluzzi)
2. Commissioner Irwin G. Cantor, oral comments (Cantor)
3. Brooklyn Borough President, Marty Markowitz, written submissions dated October 17, 2008 and December 18, 2008 (BBP)
4. Commissioner Shirley A. McCrae, oral comments (McCrae)
5. Commissioner Karen A. Phillips, oral comments (Phillips)

**ORGANIZATIONS**

6. Community Board 5, written submission dated December 1, 2008 (CB5)<sup>1</sup>

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<sup>1</sup> No specific comments on the DEIS.

7. Patrice Leonard, New Lots/Nehemiah Association, oral comments (Leonard)<sup>1</sup>
8. Della Skinner, East New York Nehemiah Homeowners Association, oral comments (Skinner)<sup>1</sup>
9. Concerned Homeowners Association, Ronald Dillon, President, oral comments (Dillon)
10. New York State Office of Parks, Recreation and Historic Preservation, Ruth L. Pierpont, Director, written submission dated September 16, 2008 (SHPO)
11. Community Consulting Services, Inc., Brian Ketcham, Executive Director, written submission dated January 5, 2009 (Ketcham)
12. Empire State Development Corporation, Rachel Shatz, Vice President, written submission dated January 15, 2009 (ESDC)
13. New York City Transit, Ira Haironson, e-mail submission dated January 13, 2009 (NYCT)
14. National Park Service, Pete McCarthy, Acting Superintendent, Jamaica Bay Unit, written submission dated January 21, 2009 (NPS)

## **C. COMMENTS AND RESPONSES**

### **PROCESS**

**Comment 1:** Long established community residents have been denied any meaningful participation in the process and any limited participation has been summarily dismissed. The Draft Environmental Assessment hearing was not held in the affected community and when objection was raised, NYC HPD replied that there is no legal requirement that affected community be constructively engaged. (Dillon)

**Response:** The DEIS conformed with all applicable regulations and the project has had extensive community participation. HPD and the project team attended multiple meetings with Brooklyn Community Board 5 at its offices in East New York both before and during the Uniform Land Use Review Procedure (ULURP) process. At these meetings, HPD and the project team answered questions posed by the Community Board and other attendees. A public scoping meeting on the DEIS was held on March 21, 2007, and notices of the hearing were sent to Community Board 5 and other interested members of the public. The DEIS was mailed to Community Board 5 and those who provided comments at the public scoping meeting. The DEIS was also posted to HPD's website. As required by ULURP and the State Environmental Quality Review Act (SEQRA), a joint ULURP and DEIS public hearing was held at the Department of City Planning on January 7, 2009. The hearing was noticed in the *New York Post* on December 24, 2008.

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<sup>1</sup> No specific comments on the DEIS.

**Comment 2:** Comments submitted by the Concerned Homeowners Association were misascribed to another entity. HPD and the project sponsors continue to manipulate the ULURP process at the community board level. (Dillon)

**Response:** The review of the project has complied with the requirements of ULURP and CEQR.

**Comment 3:** The community board did not officially vote on this matter and thus could not have registered any valid approval. (Dillon)

**Response:** Brooklyn Community Board 5 held a public hearing on the Proposed Project on November 17, 2008 and voted to recommend approval of the proposed actions.

**Comment 4:** The Concerned Homeowners Association requests an extension of three weeks to submit its Environmental Assessment comments. (Dillon)

**Response:** HPD, as CEQR lead agency for the proposal's environmental review, considered the request of the Concerned Homeowners Association to extend the comment period and decided against changing it from January 20, 2009. The comment period provided for the DEIS was longer than the 10 days following the public hearing required by regulation; moreover, HPD has made the DEIS available for public review for several months.

**Comment 5:** Nowhere does the draft EIS report the real costs that this project will shove onto the shoulders of Brooklyn residents. Congestion, air pollution, traffic noise, and the many other externalities produce huge costs—about \$56 million a year for just the retail segments of the project. The entire project, including existing retail and new housing, will produce impacts that are four times what I have reported, costing nearby Brooklyn communities more than \$200 million in externalities annually. The EIS requires full disclosure of all costs and benefits of this project. (Ketcham)

**Response:** No documentation is provided for the commentator's reported "costs" associated with the Proposed Project. It appears that all trips are treated as new travel, when in fact many shoppers will be shortening trips that might otherwise be to more distant retail centers outside New York City or will be linked to shoppers using existing stores at Gateway Plaza. To the extent that the Proposed Project's retail results in shorter shopping trips to a more convenient location, it can reduce the vehicle miles traveled by some patrons. In any case, a cost/benefit assessment is not called for by the *CEQR Technical Manual*, nor is it required by the Proposed Project's scope of work.

**Comment 6:** Although there is mention of anticipated ESDC enhancements for the project, ESDC would like to clarify that it anticipates providing the following exemptions: (1) mortgage recording tax; and (2) sales tax for construction

materials. In order to provide these exemptions, ESDC would lease the site and sublease it to the developer. Please include ESDC as an Involved Agency for the remainder of the project's environmental review process and make any necessary revisions to the Final EIS in light of this clarification. (ESDC)

**Response:** The applicant has circulated official CEQR correspondence to ESDC, including the DEIS. In addition, the FEIS now lists the ESDC as an involved agency for the project's environmental review and has clarified ESDC's role with respect to the Proposed Project.

## **PROJECT DESCRIPTION**

**Comment 7:** It appears from photographs of the homes being constructed that there is parking for Phase I in the rear at a rate of one space per home using concrete ribbons to minimize impervious surface. Are there any restrictions that would preclude a homeowner from providing a second parking space within the rear yard or would the homeowner's association be permitted to authorize parking along sections of the common drive? (BBP)

**Response:** The residential development at Gateway Estates II has been designed to be fully compliant with the requirements of the proposed zoning and Fresh Creek Urban Renewal Plan (FCURP) for accessory parking. Residential accessory parking is provided in the following manner: all Elton Street corridor buildings contain ground floor indoor parking; each Nehemiah building lot contains one off street parking space in the rear accessed through an internal alley shared by all lots on the particular block; and where feasible, the octet developments contain accessory group parking facilities accessed by the shared internal alley. The total on-site residential accessory parking provided is approximately 1,140 spaces. The new street plan provides for an additional 960 on-street spaces for a total of approximately 2,100 parking spaces accessible to the residential community. According to the 2000 Census data for Community Board 5, the average vehicle ownership rate per household is approximately 51 percent. Therefore, the 2,385 proposed dwelling units would generate a demand for approximately 1,216 parking spaces. The 2,100 off-street and on-street parking spaces are expected to provide sufficient parking for the new residential community. Additional off-street parking for the residential units could be provided so long as it complies with the underlying zoning and other applicable regulations.

**Comment 8:** For the residential buildings along the Elton Street spine, it appears that parking is provided as a single loaded corridor along the rear of the buildings. Is it possible to provide double loaded parking by tucking it underneath the rear portion of the building at the ground floor? (BBP)

**Response:** The residential development at Gateway Estates II has been designed to be fully compliant with the requirements of the proposed zoning and FCURP for accessory parking. The ground floors of the Elton Street buildings contain the lobbies to the upper floors, mechanical service rooms, retail and community facility space and the ground floors have maximized the use of all ground floor space. It is not possible to “tuck” the parking under the rear portion of the building at the ground floor.

**Comment 9:** Regarding the loading dock by the rain garden between the existing shopping center and the new park, there is concern that there is not proper signage, and that trucks might not pay attention to it. Also that the trucks would back up and want to use the whole area. It would be helpful to have a section that explains how these issues would be addressed. (Cavaluzzi)

**Response:** The loading area driveways for both the existing and proposed shopping centers are for delivery vehicles and employee access to the rear of the stores only. Each driveway has or will have stop signs and clear pavement markings denoting sidewalk and pedestrian crossings at Gateway Drive and Erskine Street for the delivery vehicles exiting the facility.

The pedestrian connection in the center of the two retail centers will contain gates, marked and elevated pedestrian crosswalks, stop signs and pavement markings denoting traffic controls. The rain garden and 25 foot landscaped buffers are protected from encroaching truck traffic by the 10 foot high “sound wall,” curbs, and planted buffer areas.

**Comment 10:** There does not appear to be any parking provided for the eight-plex buildings (generally along Vandalia Avenue west of Elton Street and along Gateway Drive) except for a nominal amount on Sites 8a and 3a. In order to maximize parking in the project area: are any sections along Vandalia Avenue feasible for parking along its center median and sidewalk curb; and, might it be feasible to provide angle parking along the Gateway Drive section of the perimeter park? (BBP)

**Response:** Parking would be provided along the curb on both sides of Vandalia Avenue. However, it is not feasible to provide parking along the center median of Vandalia Avenue or along the Gateway Drive section of the perimeter park. The street layout, including center medians along Vandalia Avenue and Elton Street, was part of the urban design planning process undertaken by HPD, DCP, and the project team. The planted street medians are an integral design feature of the wider, more heavily trafficked, and more densely developed Elton Street and Vandalia Avenue. In addition, Gateway Drive is designed for the expected traffic flow, and it is not feasible to provide angled parking there because it would reduce the usable roadway and impede the flow of traffic through the site.

Portions of this street infrastructure have already been constructed and are in place, and other portions have construction contracts already in the pipeline. A change in the street network at this point would create costs associated with the reconstruction and design, which would make the affordability component of the Proposed Project more difficult to achieve.

**Comment 11:** The illustrative site plan indicates pedestrian markings for certain street and parking lot aisle crossings. Nothing is depicted for the truck access road between the existing and proposed retail center buildings, though there are pedestrian areas and landscaping leading up to where the public would walk to and from the new center and existing stores. Nothing is indicated between the western end of the shopping center and the area depicted for the bus turnaround area with its canopy covered gathering area. Traffic calming and pedestrian treatment should be required to encourage access between these locations. (BBP)

**Response:** All road, driveway, and loading area pedestrian crossings would be appropriately signed and improved/painted to provide identification for motorists to ensure the safety of pedestrians and customers of the retail center. Traffic calming measures will be incorporated as needed.

As noted above, the loading area driveways between the existing and proposed shopping center buildings are for delivery vehicles and employees needing access to the rear of the stores only. Each driveway has or will have stop signs and clear pavement markings denoting sidewalk and pedestrian crossings at Gateway Drive and Erskine Street for the delivery vehicles exiting the facility.

**Comment 12:** In order to avoid the loss of affordable housing options for future generations, the borough president seeks assurances that units offered in this project can remain affordable permanently. The applicant should provide an appropriate plan to ensure that some or all of Elton Street can obtain permanent affordability. There are a number of mechanisms that can accomplish this such as: the recording of a deed restriction on property; incorporating a guarantee of affordability into the HPD Land Disposition Agreement; and/or, remapping the proposed R7A zoning designation to R7A Inclusionary. (BBP)

**Response:** The Elton Street mixed use corridor is currently planned to be a mix of low-income rental and low to moderate income home-ownership units. The rental housing will be developed using the New York City Housing Development Corporation's Low-income Affordable Marketplace Program and Mixed-income Rental Program, both of which limit the income ranges for tenants to up to 60 percent of the Area Median Income (AMI). The affordability requirement is set at thirty (30) years which means during that period rents cannot exceed affordability levels of those incomes. In terms of for-sale housing, HPD currently requires a long-term affordability requirement of fifteen years (15). If

buyers sell at any time during the fifteen year period, they are obligated to pay back all or a portion of the underlying subsidies associated with their home.

**Comment 13:** Given the competition for limited government subsidies for affordable housing such as tax credits and other types of financing, what are the guarantees that the units will actually be developed as affordable and at desired income ranges? (BBP)

**Response:** Significant capital dollars have been set aside for the infrastructure work for the Nehemiah housing. In addition, capital dollars have been allocated to subsidize construction of the Nehemiah housing and Elton Street corridor. These dollars are tied closely with affordability targets not to exceed 130 percent of AMI overall with more specific targets set for the various housing components. These funds, however, are not guaranteed but are a priority project under the Mayor's Housing Plan for the creation of 165,000 units of housing by Fiscal Year 2014. The affordability requirements will be memorialized in the UDAAP approvals as well as the Land Disposition Agreement with both Nehemiah and The Related Companies.

**Comment 14:** In the 1996 approved plan, there was going to be 2,385 housing units; 179 units more than the currently proposed plan. It appears feasible to accommodate a substantial number of the units that have been omitted from the current plan. As the City is using up its last holdings of vacant land, it is important that opportunities to develop affordable housing be maximized. I would like the Third Amended Urban Renewal Plan to include these 179 units. The illustrative site plan and URP controls seem to provide an opportunity for more height for the buildings depicted on Sites 4, 6b, 7b, 12b, 12d, 16c, 19b, and 20a than the renderings provided in the DEIS. Why were eight-story buildings, with the possibility of additional housing units, not depicted? (BBP)

Given the intention to provide affordable housing along Elton Street, was consideration given to mapping the R7A zoning district subject to an Inclusionary Housing designated area resulting in an increase of floor area from 4.0 to 4.6 FAR as a means of increasing the unit count? This can result in approximately housing an additional 110 units resulting from the increased floor area itself. (BBP)

**Response:** The DEIS analyzed the potential effects of up to 2,385 units on the project site, all of which would be affordable. This is identical to the number of units contemplated in the 1996 Plan. Although only 2,206 units are currently contemplated on the site, the FCURP and the proposed zoning would permit increases up to 2,385 units in the future should development programs change.

**Comment 15:** There is concern about whether enough Brooklyn residents, particularly those in East New York, will be able to afford these new homes. I need to understand the

incomes by family size that would qualify for the rental and ownership units. Such information would help in measuring our success in providing the maximum opportunity for area residents to have the hope of possibly being selected to live in Gateway Estates. (BBP)

What is the maximum buyer's annual income for the Nehemiah houses and eight-unit buildings? (BBP)

What is the range of projected rents and minimum and maximum incomes based on household size for the Section 202 housing and apartment buildings along the Elton Street spine? (BBP)

**Response:** The project team is committed to building a project that is affordable to the community. The Nehemiah housing program is based on a homeownership model, of which Phases I and II are slated for households with annual incomes of between 65 and 76 percent of Area Median Income (AMI) for single-family homes, between 85 and 102 percent of AMI for two-family homes, and between 116 and 137 percent AMI for three-family homes.

The buildings along Elton Street are projected to be a mix of rental and ownership properties with residential units that are anticipated to be affordable to households earning between 60 and 130 percent of AMI. The rental units will be affordable to households earning a maximum of 60 percent of AMI, which currently means incomes ranging from approximately \$32,300 for a studio unit to \$47,900 for a three bedroom unit. The ownership buildings would be affordable to households earning up to 130 percent of AMI, which means eligible incomes currently ranging from \$43,000 for a studio and \$63,900 for a three-bedroom up to \$69,900 for a studio and \$103,800 for a three-bedroom.

The Proposed Project would also utilize the Section 202 program for the senior housing on Parcel 12d. In general, the Section 202 housing is restricted to persons who are at least 62 years of age and have incomes below 50 percent of AMI, which is currently \$26,880 for a studio apartment.

**Comment 16:** The borough president believes that the increasing demand for senior citizen housing should be addressed where appropriate. The borough president notes that unlike the approved 1996 plans for this site that proposed a set aside of two buildings for senior housing, the current application called for one senior citizen building with 80 units. As this area has a senior population in need of affordable housing options, the borough president urges the applicant to pursue the addition of a second senior citizen building. If HUD ultimately does not fund such a site after two or more funding request cycles, the borough president believes that it would then be appropriate to seek out additional funding sources for other forms of affordable housing. (BBP)

What is the possibility of pursuing funding to have an additional senior housing unit built? (McCrae)



**Response:** Comment noted. The decision to reduce the senior citizen housing component to one building with 80 units was based on budgetary concerns and a decision to accommodate additional low- and middle-income households on the Elton Street corridor.

**Comment 17:** A lot of the retail stores located along the Elton Street spine and town center should have locally based ownership. (BBP, Phillips)

In a letter from HPD dated December 1, 2008, HPD stated that the Related Companies will continue to work with elected officials and the community to devise a plan for entrepreneurs to lease spaces along the Elton Street corridor. The borough president urges the applicant to also include local development corporations, merchant associations, and area business improvement districts as a means to obtaining an extensive outreach. (BBP)

**Response:** Comment noted.

#### **LAND USE, ZONING, AND PUBLIC POLICY**

**Comment 18:** Why is the project requesting the signage waiver under the General Large Scale District? (Cantor)

**Response:** The location of the proposed shopping center opposite a public park and a residential district boundary line limit the proposed shopping center's as-of-right signage to that permitted in C1 zoning districts, the most restrictive in the Zoning Resolution. The site is allowed signs of 50 square feet of surface area for illuminated signs no higher than 25 feet above curb level. The proposed shopping center would be a regional retail center, and as such needs to provide proper direction for motorists. Therefore, the Proposed Plan is seeking a waiver for sign regulations under the General Large Scale District to increase sign surface area and increase the sign height to 56 feet 6 inches above curb level. This is important for the visibility of the proposed shopping center. Furthermore, the scale of the proposed signage would be consistent with the scale of the signage located on the existing retail center.

**Comment 19:** The current practice elsewhere in the City is to downzone communities, but this project proposes to upzone. Where in affluent communities with more open space and fewer vehicles are planned, this project proposes to reduce open space and increase traffic congestion. (Dillon)

**Response:** The Proposed Action includes an upzoning of portions of the project site to allow for the proposed expansion of the retail center and also to increase the allowable residential density along Elton Street and on the parcels south of Flatlands Avenue between Ashford and Elton Streets. However, in other portions of the FCURA, the density would remain generally the same as the

1996 Plan, and the Proposed Project would provide one acre more parkland than was proposed in the 1996 Plan.

**Comment 20:** The borough president believes that Site 4 is a suitable location to develop a supermarket and calls upon HPD and the Hudson Companies to continue working with the Brooklyn Economic Development Corporation (BEDC) and his office towards developing a plan to bring a quality supermarket to site 4 (as referenced in the Third Amended Urban Renewal Plan [URP] as bounded by Flatlands Avenue and Ashford, Elton and Locke Streets). (BBP, Phillips)

A supermarket should not just serve the more than 2,000 households expected to live at Gateway, but long-time residents living on the blocks north of Flatlands Avenue as well. (BBP)

The most critical factor adversely affecting the development of new supermarkets is ever increasing rents. Therefore, the borough president asks that the City sale price of the aforementioned parcel be set at an amount that would not be a deterrent for the designated developer to execute a lease or sale agreement to facilitate the operation of a supermarket. (BBP)

**Response:** Comment noted. Parcel 4, the block bounded by Flatlands Avenue, Elton Street, Locke Street, and Ashford Place is the likeliest location for a supermarket or food store. The proposed retail space at that location is the largest along Elton Street and it is conveniently located for the new residential neighborhood and the surrounding community. HPD and the project team agree that a supermarket use will be an asset to the community and will endeavor to try to bring such use to the site.

**Comment 21:** The borough president has strong opposition to allowing retailers into the borough that have had questionable employment practices. Plans for the signage approvals (drawings Z11.1 – Z11.4) for the retail space appear to include one two-story space that appears to exceed 150,000 square feet. The borough president has sought assurances from the developers that a lease would not be executed with such retailers. In a letter to the borough president, dated December 1, 2008, HPD stated that the Related Companies are not yet in a position to decide on potential retail tenants and thus are unable to commit on the inclusion or exclusion of any specific retailer. The borough president does not find this response adequate enough to address his concern. He believes that this can be achieved by limiting the maximum square footage to 120,000 sf per establishment. The Urban Renewal Plan should be modified to incorporate a size limitation control that will limit the maximum size per retail establishment to 120,000 sq ft. (BBP)

Given that Costco is operating on two levels in Sunset Park, additional legal assurances are needed so that Related Companies or any successor will not lease to the likes of Costco, Wal-Mart, or Sam's Club. (BBP)

Certain large destination retail stores apparently do not have as much interest in the welfare of their employees. Those stores that either accommodate unions or provide employee benefit packages that rival union pay-scale and benefits are welcome. However, it is well known that stores such as Wal-Mart, have questionable labor practices and adversely affect neighborhood retailers. Such stores must be prohibited at Gateway Estates. Are HPD and/or the developer willing to consider any type of restrictions prohibiting such stores? If so, what type of restrictions would be proposed? (BBP)

**Response:** The tenanting of the site will comply with zoning and Department of Buildings requirements. Neither HPD nor the project team have committed to future restrictions on the tenanting of this site beyond those required by existing land use controls. The Related Companies is not yet in a position to begin discussing potential retail tenants and are unable to commit to the potential inclusion or exclusion of specific retailers. Cognizant of the Borough President's concerns regarding particular retailers, the Related Companies has developed similar, large shopping centers in New York City and has always delivered high-quality, responsible tenants that are widely supported by the communities they serve. The Gateway II shopping center will be developed and leased with this same commitment.

**Comment 22:** The various building elevations (sheets Z11.1 through Z11.5), including the signage calculation chart indicating building frontages, delineates 17 retail establishments between Erskine Road to Gateway Drive. By knowing the frontage of each space the size of each store was estimated, with the biggest store unit at approximately 135,000 sf for the establishment space designated as C1 because it is indicated as a two-story space. The next largest establishment appears to be the one designated as C2 which appears to be approximately 50,000 sf. Please confirm whether these elevation drawings (and apparent establishment floor space areas) are binding to any of the ULURP approvals. (BBP)

**Response:** The drawings pertinent to the Special Permit for the Sign Waivers are binding pursuant to the ULURP approval by the City Planning Commission.

**Comment 23:** Would the State units for special needs housing be concentrated in one area in one building or scattered throughout the site? (Phillips)

**Response:** It is anticipated that the 70 supportive housing units would be distributed among all of the Elton Street mixed-use multi-family apartment buildings.

## SOCIOECONOMIC CONDITIONS

**Comment 24:** The project continues the pattern of abandonment with respect to the historically commercial areas in New Lots—New Lots Avenue, Pitkin Avenue, City Line, and Fulton Street. (Dillon)

**Response:** The Proposed Project would introduce new retail uses that would compete with nearby commercial areas. However, as discussed in Chapter 3, “Socioeconomic Conditions,” in the future with the Proposed Project, retail capture rates within the Primary Trade Area would be within the 70 to 80 percent range that is characteristic of trade areas that are satisfying the retail demand generated by trade area households. Therefore, the Proposed Project would not significantly affect competitive stores within the Primary Trade Area. Furthermore, the retail uses in the Proposed Project is not expected to adversely affect local retail corridors because local residents would continue to shop at these corridors because of the convenience, variety and selection of items, and public transit accessibility.

## OPEN SPACE

**Comment 25:** This project proposes to reduce open space. (Dillon)

**Response:** The 1996 Plan contemplated the development of a total of 45.2 acres of mapped parkland in the FCURA. In comparison, the Proposed Action would develop 46.2 acres of mapped parkland in the FCURA, one acre more than was proposed under the 1996 Plan.

As discussed above, the Proposed Plan would result in higher open space ratios compared to the 1996 Plan, and the open space study area would have open space ratios that greatly exceed DCP benchmark ratios referenced in the *CEQR Technical Manual*.

**Comment 26:** Where is it written that parkland can be designated as an urban renewal site? Why has other parkland in the city, such as Central Park, not been so designated? (Dillon)

**Response:** The New York State Urban Renewal Law, known as Article 15 of the General Municipal Law, describes the requirements for the approval of urban renewal plans and requirements to have specific land uses in urban renewal plans. The law provides for approval of the urban renewal plan by the governing body, in this case the City Council. There is no prohibition in the Urban Renewal Law on parkland being designated as urban renewal property in order to delineate it as part of a larger plan for an area. The third amendment to the Fresh Creek Urban Renewal Area Plan does not change the intent of the second amendment to the

Plan with respect to parks, except that it would change the location of interior parks.

## **HISTORIC RESOURCES**

**Comment 27:** The project has chosen to ignore the history of the area. (Dillon)

**Response:** The project's planning history and background are described in the DEIS, and the project is compatible with the site's public policy initiatives. The Proposed Project would amend the Fresh Creek Urban Renewal Plan (FCURP), which was originally approved in 1967. The FCURP proposed to redevelop this landfill site with a mix of uses, including residential, retail, community facilities, and parklands. The proposed amendment would be consistent with the intent of the FCURP in that the uses originally contemplated would continue to be developed on the project site.

**Comment 28:** It is SHPO's opinion that the project will have No Effect upon cultural resources in or eligible for inclusion in the National Registers of Historic Places. (SHPO)

**Response:** Comment noted.

## **URBAN DESIGN**

**Comment 29:** What impact will the taller signage have on the surrounding neighborhood? (Cantor)

**Response:** The proposed signs for Gateway Center Phase II would be located on Gateway Drive and Erskine Street, north of the existing shopping center. The Gateway Drive pylon sign would be located 65 feet from the nearest residential building and the structure would extend to a height of approximately 60 feet above curb level. The top of the sign itself would be at 56 feet, 6 inches. This sign would face the side façade of a building whose primary windows would be located in the front and rear of the building. The Erskine Street pylon sign would be 133 feet tall and perpendicular to the buildings within the Brooklyn Developmental Center and 310 feet away from the nearest residential building to the north. The signage would be similar to the signage that already exists at Gateway Center Phase I and would not result in a significant adverse impact on the surrounding neighborhood.

## **NATURAL RESOURCES**

**Comment 30:** As the primary steward of Jamaica Bay, Gateway National Recreation Area had major concerns regarding ecological impacts of Phase I to the estuary, as well as its surrounding upland areas. The initial construction associated with Gateway Estates resulted in the filling of 3.5 acres of wetlands to create a new Beltway

interchange and several storm water outfalls, plus clearing and excavation of a much valued grassland habitat known as the Vandalia Dunes—a site identified as a priority for protection in the Buffer the Bay Revisited, a 1990 report completed by NYC Audubon Society and the Trust for Public Land. The National Park Service (NPS) now extends its concerns to the much more extensive development involved in Phase II. (NPS)

**Response:** The FEIS for the 1996 Plan included mitigation measures for that project’s significant adverse impacts on natural resources and water quality. These commitments have been or are in the process of being implemented. As described in the DEIS for the Gateway Estates II project, the revised site plan would not result in additional impacts on natural resources or water quality.

**Comment 31:** A major priority in maintaining and improving the ecological integrity of Jamaica Bay is securing and protecting, in a natural state, buffering habitats. Elimination of the open space provided by Vandalia Dunes and the incorporation of dense housing and commercial units will only invite further encroachment on Jamaica Bay. (NPS)

**Response:** As described in Chapter 10, “Natural Resources” of the DEIS, the Proposed Project would not result in significant adverse impacts to wetlands, plant communities, wildlife, water quality, or the aquatic biota of Jamaica Bay. Therefore, the Proposed Project would not result in significant adverse impacts to the resources of Jamaica Bay responsible for its designation as a Significant Coastal Fish and Wildlife Habitat.

While not intended as offsets for any adverse impacts resulting from the Proposed Project, the habitat restoration activities at the former Pennsylvania and Fountain Avenue Landfills would provide substantial new foraging and nesting habitat for wildlife. The White Island restoration project would also be expected to provide some additional grassland habitat. These properties will continue to provide terrestrial resources throughout the year for wildlife using upland and tidal wetland areas, and any future restoration activities at these properties will greatly enhance their resource value.

**Comment 32:** In the initial FEIS, White Island was identified as a 73-acre mitigation site to offset the 56-acre loss of high-quality grassland habitat. Restoration was scheduled to take place in tandem with the construction of Gateway Estates, with the rationale being that the newly restored grasslands would have allowed migratory species to occupy White Island as the grasslands within the FCURA were destroyed. Unfortunately, the White Island project was delayed, which resulted in several lost years of available grassland habitat for resident and migratory species. As indicated in this DEIS, White Island restoration is back on track, but NPS recommends that the scale of mitigation be increased to

compensate for the several years of habitat loss experienced by wildlife populations due to the acknowledged project delays. (NPS)

**Response:** The restoration of White Island is underway, which will mitigate the quantity of grasslands lost with implementation of the 1996 Plan (Gateway Center Phase 1 and other proposed development within the FCURA). The delay experienced in the implementation of this mitigation and resultant reduction in grasslands may have diverted some species to other habitats more distant from the FCURA. Efforts taken outside the White Island Restoration Project, include restoration at Gerritsen Beach, which is located adjacent to Gerritsen Creek southwest of White Island. The Gerritsen Beach project will result in the restoration of tidal wetlands and grassland habitats, and is being undertaken by the City, the State, and U.S. Army Corps of Engineers (USACOE). These combined efforts will increase the value of the habitat at both sites. The City will work within its capacity and with the USACOE and the New York State Department of Environmental Conservation (NYSDEC) to enhance the value and habitat elements of Gerritsen Beach to the extent permissible.

The species that occur within this area are, generally, common to urban settings. While construction of Proposed Project would adversely affect vegetation and some wildlife individuals currently present within the Project Site, the loss of this flora and fauna would not result in significant adverse impacts to these terrestrial resources on a regional scale, and therefore, mitigation is not required for the Gateway Estates II project.

While not intended as offsets for any adverse impacts resulting from the Proposed Project, the habitat restoration activities at the former Pennsylvania and Fountain Avenue Landfills would provide substantial new foraging and nesting habitat for wildlife. These properties will continue to provide terrestrial resources throughout the year for wildlife using upland and tidal wetland areas, and any future restoration activities at these properties will greatly enhance their resource value.

**Comment 33:** As far as the extensive commercial and residential development and associated infrastructure is concerned, Gateway National Recreation Area expects that HPD will adapt all design to conform to the Best Management Practices described in the Jamaica Bay Watershed Protection Plan (JBWPP October 2007), issued by the New York City Department of Environmental Protection. HPD, being a NYC agency, must conform to the guidelines prescribed in the JBWPP to achieve NYC's commitment to protect *"a watershed as an urban environment that harbors healthy estuarine and land-based habitats in which New Yorkers and visitors co-exist with natural areas and clean water."* The JBWPP further elaborates that this vision must be obtained through *"environmentally sensitive land use initiatives, ranging from the modification of an individual's landscaping practices to comprehensive planning and*

*management measures.*” The storm water BMP’s are designed to improve infiltration, retention, and detention of storm water runoff. In addition, reducing the amount of impervious surface, increasing interception of rainfall, and promoting the development of pervious media (i.e., landscaped areas) can help reduce the impact of urban storm water on water quality in Jamaica Bay. (NPS)

**Response:** HPD and the project team have and will continue to coordinate site planning with DEP. The project’s stormwater management plan incorporates BMPs consistent with the Jamaica Bay Watershed Protection Plan as well as DEP and other City requirements.

### INFRASTRUCTURE

**Comment 34:** The City long has engaged in the destruction of the Old Mill community in the past by withholding even the most basic of services, water. Millions of dollars of infrastructure improvements are being devoted to the proposed project while long-established residents are still without sewer service. (Dillon)

**Response:** The Proposed Project would provide infrastructure to facilitate development on the project site, including new streets and sidewalks as well as water, sewer, gas, electric, and other utility lines.

### ENERGY

**Comment 35:** The draft EIS energy analysis fails to entirely estimate the effects of transportation energy use because of this project. Gateway Center II will generate nearly 12 million trips annually, traveling approximately 46 million miles, using approximately 3 million gallons of gasoline each year. (Ketcham)

**Response:** The energy analysis presented in the DEIS follows the guidelines of the *CEQR Technical Manual* for performing assessments of energy consumption for development projects. Further, the methodology was described in the draft and final scope of work for the environmental review.

### TRAFFIC AND PARKING

**Comment 36:** This project proposes to increase traffic congestion. (Dillon)

**Response:** Consistent with the *CEQR Technical Manual*, the DEIS identifies the amount of traffic expected to be generated by the project, the potential significant impacts that would occur if the project were approved, and the specific improvements needed to mitigate those impacts. Of the 46 intersections analyzed, the vast majority of the intersections (depending on the analysis period, 40 to 43 intersections), would either not be significantly impacted by the Proposed Project or the significant impacts could be fully mitigated. At the remaining



three to six intersections, significant adverse impacts would not be mitigated or would be only partially mitigated, and increased congestion would occur.

**Comment 37:** The traffic analysis conducted for the proposed project identifies many intersections that currently are defined as unsatisfactory. At these intersections (located in Brownsville, East Flatbush, and East New York), the delay per vehicle lasts for one minute or more. This means that traffic is circulating poorly. The identified mitigation ranges from simple measures such as modifying the amount of stop and go time for various traffic lights; to establishing turning lanes, restriping lanes, installing traffic signals; and, in a few cases, reconstructing raised concrete medians—a time-consuming and complicated measure to implement. The unreasonable delays and congestion issues at these intersections need to be evaluated concurrently with this plan, rather than wait for the construction of the Gateway expansion and more than 2,000 housing units. (BPP)

**Response:** The DEIS discloses the Proposed Project's significant adverse traffic impacts. At the discretion of NYCDOT, traffic improvement measures can be implemented sooner than completion of full project buildout.

**Comment 38:** It is not clear how many onsite parking spaces are proposed for the housing units. Please provide a chart on a site by site basis. (BBP)

Given the distance to the subways, there is concern that despite the household incomes anticipated, car ownership might not be adequately addressed by residential parking. Please provide the number of onstreet parking spaces. (BBP)

**Response:** A total of 1,140 off-street parking spaces are proposed for the housing component of the project and approximately 960 additional parking spaces would be provided on-street as part of the proposed street network, for a total of 2,100 parking spaces. According to the 2000 Census data for Community Board 5, the average vehicle ownership rate per household is approximately 51 percent. Therefore, the 2,385 proposed dwelling units would generate a demand for approximately 1,216 parking spaces. The 2,100 off-street and on-street parking spaces are expected to provide sufficient parking for the new residential community.

**Comment 39:** An honest assessment of the traffic and parking impacts of the project on Fresh Creek and surrounding roads, including the Shore Parkway, are so severe that the project, as is, cannot be allowed to go forward. The draft EIS conceals these impacts by using false assumptions in the traffic and parking analyses. (Ketcham)

**Response:** The traffic and parking analyses are consistent with the *CEQR Technical Manual* and the EIS scope of work. The assumptions and analyses reported in these studies were reviewed and approved by NYCDOT and the New York State Department of Transportation (NYSDOT). The traffic and parking analyses document the project's potential traffic impacts and the traffic improvements that would be needed to mitigate those impacts, including new traffic signals, signal phasing and timing modifications, parking regulation restrictions, lane striping and intersection channelization; these are measures typically implemented by NYCDOT. Based on the traffic studies, 40 of the 46 intersections analyzed would either not be significantly impacted or the impacts could be fully mitigated. As documented in the EIS, the parking needs of the proposed project are expected to be accommodated by the on-site supply of on-street and off-street parking.

**Comment 40:** The analysis of the project's impact along the Shore Parkway is totally implausible. The fundamental flaw is the low balled trip generation rates used in this analysis. It is understood that limited surveys of vehicles entering and leaving the parking lot were undertaken in November 2006, their data are not reported in the DEIS for public review. What is reported is wrong. The resulting trip generation factors are not credible. They are about half what the Institute of Transportation Engineers reports for ordinary shopping centers nationwide. The trip numbers used in the traffic and parking analysis and the consequent impacts should be more than twice as high as reported in the DEIS. (Ketcham)

**Response:** The trip generation rates used in the DEIS are appropriate and reasonably forecast the level of traffic expected from the Proposed Project. The estimates, based on original surveys conducted for the EIS, were reviewed and approved by NYCDOT. The assumptions utilized are more appropriate for this assessment than those reported by the Institute of Transportation Engineers (ITE) publications because the survey data was collected for existing retail uses at the Gateway Center, and therefore reflect actual travel patterns in this community. The assumptions used in the DEIS are conservative since they take only a limited trip reduction credit for linked trips—trips already made to the existing shopping center that would also patronize the new stores—while ITE would typically allow a greater trip reduction credit.

**Comment 41:** The draft EIS reports that the project will increase traffic along the Shore Parkway from 14 to 18 percent. The Parkway is at capacity for much of the day, sometimes moving at 5 to 10 mph, yet the traffic analysis assumes peak hour speeds of nearly 55 mph for most time periods on most sections of the Parkway. Nowhere does the draft EIS provide measured travel speeds along the Shore parkway to calibrate the model on actual observations. Thus, the analysis of impacts of the project on the Shore Parkway is wrong and the draft EIS is invalid. (Ketcham)

Commuters on Shore Parkway will be forced to travel another five minutes each day as a result of this project. (Ketcham)

**Response:** The traffic analyses conducted for the DEIS indicate that the Proposed Project would result in traffic increases of 4 to 7 percent along the Shore Parkway (depending on the time period and direction of travel), rather than the 14 to 18 percent increase stated above. Travel speeds presented in the EIS are all based on actual speeds measured along the Shore Parkway during each of the traffic analysis periods (as discussed on page 16-14 and provided in Table 16-5 on page 16-15). The traffic analysis does not “assume” speeds, but has modeled conditions based on the actual field-measured speeds. As shown in Table 16-5, at some locations field-measured speeds were 55 mph, while at numerous others actual field-measured speeds were significantly lower. Thus, the analysis of impacts, as described in the EIS, is correct.

**Comment 42:** The fact that the DEIS reports only half the potential trip generation from new big box retail forces me to conclude that the entire traffic analysis is invalid. (Ketcham)

**Response:** As stated in the responses above, the traffic estimates and impact analyses provided in the DEIS are reasonable and appropriate. The methodology, assumptions, and conclusions were certified by HPD after a comprehensive review by NYCDOT and NYSDOT.

**Comment 43:** The draft EIS reports that there is now adequate parking capacity to meet project demand. This defies reality. Every time I have visited the site, I have observed spillover traffic, that is, traffic queuing on access roads waiting for someone to vacate a parking space. The draft analysis further asserts there will continue to be sufficient parking for the addition of another 700,000 square feet of new big box retail space. The developer is more than doubling retail space, but is increasing already inadequate parking capacity by only 77 percent. I can guarantee that this project will severely worsen parking problems, spilling back onto access roads including connections to and along the Shore Parkway, exacerbating existing traffic backups. (Ketcham)

**Response:** Parking occupancy data presented in the EIS represent field surveys conducted for the project for weekday and Saturday conditions, and indicate that weekday occupancy peaks at about 47 percent of capacity on a typical weekday and 72 percent on a typical Saturday. A doubling of the amount of retail space does not require a doubling of parking capacity, since a significant amount of those shopping at the new retail space will be shoppers already patronizing existing stores in the shopping center.

## TRANSIT AND PEDESTRIANS

**Comment 44:** The EIS does not discuss the provision of any transit service to the planned residential areas of Gateway. (NYCT)

**Response:** The DEIS identifies and assesses the transit services in the area and improvements associated with the Proposed Project. Additional services may be provided in the future at the discretion of NYCT and MTA Bus Company.

## AIR QUALITY

**Comment 45:** No supporting documentation has been provided for public review. The DEIS does not report the travel speeds used to estimate air quality impacts. Without this supporting documentation, no one can evaluate the claims made for air quality impacts. (Ketcham)

**Response:** Supporting documentation for the DEIS was provided to the New York City Department of Environmental Protection (NYCDEP). Detailed back-up data for the final analysis of air quality impacts will be provided in a digital format with the submission of the FEIS. The DEIS and appendices are available for public review.

**Comment 46:** No effort has been made to estimate CO<sub>2</sub> emissions. Based on the new retail portion of Gateway Center generating about 46 million miles of additional travel, I estimate it will add 23,000 tons of CO<sub>2</sub> emissions annually. (Ketcham)

**Response:** An analysis of CO<sub>2</sub> emissions is not currently required under CEQR and was not an issue raised during the project scoping period. Therefore, an analysis of air quality impacts as they related to CO<sub>2</sub> emissions was not performed for the proposed project.

## NOISE

**Comment 47:** The noise analysis in the DEIS fails to assess project impacts along Shore Parkway. Increasing traffic volumes by 14 percent to 18 percent will increase already unacceptable noise levels approximately in proportion to this traffic impact. The failure to consider Parkway impacts makes the DEIS incomplete and therefore it cannot be approved. (Ketcham)

**Response:** As discussed above, the Proposed Project would result in traffic increases of 4 to 7 percent along the Shore Parkway, not the 18 percent increase stated by the commenter. However, even if there was an 18 percent increase in traffic on Shore Parkway, it would result in less than a 1 dBA increase in noise levels, which would be imperceptible and insignificant according to CEQR criteria. Furthermore, there are no existing noise-sensitive receptors immediately

adjacent to Shore Parkway, and the residential portion of the Proposed Project would include the necessary building attenuation measures to ensure interior noise levels that comply with CEQR criteria.

## CONSTRUCTION

**Comment 48:** To help clarify the Preliminary Construction Schedule (DEIS Figure 20-2), please provide: an illustrative map indicating areas already constructed; which fiscal year construction work would begin; and an anticipated completion date for the various streets, parks, schools, day care center and housing. Please identify the capital budget status in terms of actual commitments and funding required. (BBP)

**Response:** Figure 1-3 of the DEIS shows the areas of the site, including streets, that have already been constructed. The existing infrastructure on the project site was constructed in compliance with the 1996 Plan.

The construction impacts assessment presented in the DEIS is based on a preliminary construction schedule and accounts for the period needed to construct new infrastructure. The construction of public infrastructure would be undertaken by the New York City Department of Design and Construction (DDC), and DDC has been advised on the timing of the Proposed Project. Capital funding for site infrastructure has been allocated both by HPD and DDC, and the school was included in SCA's draft 2010-2014 Capital Plan. Construction of site infrastructure for new development on the project site would begin in fiscal year 2010, and all public infrastructure, including parklands, the daycare center, and the school, is expected to be completed by 2013.

## MITIGATION

**Comment 49:** Adverse impacts on the first days of the project have been summarily dismissed as matters not requiring the City or sponsor's attention or mitigation. (Dillon)

**Response:** Mitigation for the significant adverse impacts identified in the DEIS will be implemented as required under CEQR.

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