
Prospect Heights Neighborhood Development Council

Atlantic Yards Arena and Redevelopment Project

Testimony on the Modified General Project Plan

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1. Executive summary and recommendation

The Prospect Heights Neighborhood Development Council appreciates the opportunity to present its testimony on the Atlantic Yards Land Use Improvement and Civic Project Modified General Project Plan to the Empire State Development Corporation, our elected officials, and public agencies. PHNDC and its member organizations have closely followed the Atlantic Yards proposal since its announcement in December 2003. PHNDC is concerned that the already low standard of transparency, public accountability, and community involvement that has been the hallmark of Atlantic Yards has now further degraded to such a degree that the 2009 MGPP review and approval process may be effectively irrelevant in terms of influence on the ESDC's decision-making, which itself may exist only in theory. Nevertheless, we are compelled to present testimony on a modified plan that threatens to leave the future character and quality of life of our neighborhood in the hands of a private developer, which would be granted flexibility to create the conditions of blight that the Atlantic Yards project originally claimed to remove, and to act without fear of oversight from any accountable public agency or elected body.

At the time of its approval, Atlantic Yards was merchandised as a transit-oriented development of "world class architecture" that would create some twenty thousand jobs, more than two thousand units of affordable housing, eight acres of "publicly-accessible" open space, and connect Prospect Heights, Fort Greene, Boerum Hill and Park Slope. The proposed modifications to the Atlantic Yards plan represent an implicit acknowledgement that the ESDC's expectations for the project have withered to a shadow of its original claims. There can be no other explanation as to why the agency is willing to accept a committed delivery schedule that includes only the Barclays Center arena and two buildings. That the developer need only complete the arena to avoid reimbursement of the funds of State taxpayers gives further cause for concern. And provisions that allow the developer to transfer ownership of the arena before it is even complete cast uncertainty on the question of who exactly may be responsible for delivering on the sliver of the original project that the ESDC has somehow decided remains worthy of its commission.

In testimony on the original Atlantic Yards general project plan, many observers criticized the delivery of the majority of the project's benefits in the project's second phase. PHNDC wrote in its testimony on the DEIS that "this structure represents an unacceptable transfer of risk from the developer to the community, which may fail to realize the project's benefits should its first phase fail to meet the developer's success criteria." By relaxing the developer's obligations under the 2009 MGPP, ESDC has in fact created a risk that the community will fail to realize the project's benefits even if the first phase *meets* the developer's success criteria. The second phase has been allowed to become open-ended in a way that permits the developer to bank the land on blocks 1128 and 1129, and retain an evergreen option for decking blocks 1120 and 1121 for future development when conditions are most favorable—in the developer's sole judgment.

It is clear from the 2009 MGPP that the project's architecture, programming and phasing have changed. But in its haste to clear a path for the developer, ESDC has adopted the 2009 MGPP without reviewing a revised site plan or new design renderings¹. However, mitigations of several significant impacts disclosed in the Atlantic Yards FEIS depend upon design features of the original project. At this point, it isn't possible for the public to comment on the extent to which the absence of such features in the changed project will result in greater environmental impacts to the surrounding community under the 2009 MGPP. ESDC representatives have proposed that the existence of design guidelines in the MGPP is a guarantee that the revised Atlantic Yards project will meet them. PHNDC does not accept this assumption, and calls for complete design documentation on the revised project to be issued for public review, and for accompanying Technical Memorandum to be updated to reference such documentation.

In its 2005 comments on the Draft Scope of Analysis for the Atlantic Yards EIS, PHNDC called for a study of the impacts of project delay or failure, writing "The worst case scenarios evaluated must also include a Failure scenario in which the project becomes indefinitely stalled prior to completion but following the clearing of buildings and land. The Failure scenario should identify potential causes such a delay in or abandonment of the project, including negative economic conditions, insolvency of the Project Sponsors, natural disasters, and acts of war or terrorism." This analysis was not included in the FEIS. However, in the current economic environment, where the value of the equity in the developer's parent company has declined 87% since its high following project approval, an analysis of a Failure scenario is more relevant now than ever before.

¹ The documents released with the 2009 MGPP include new architectural renderings, but these images have been repudiated by the developer.

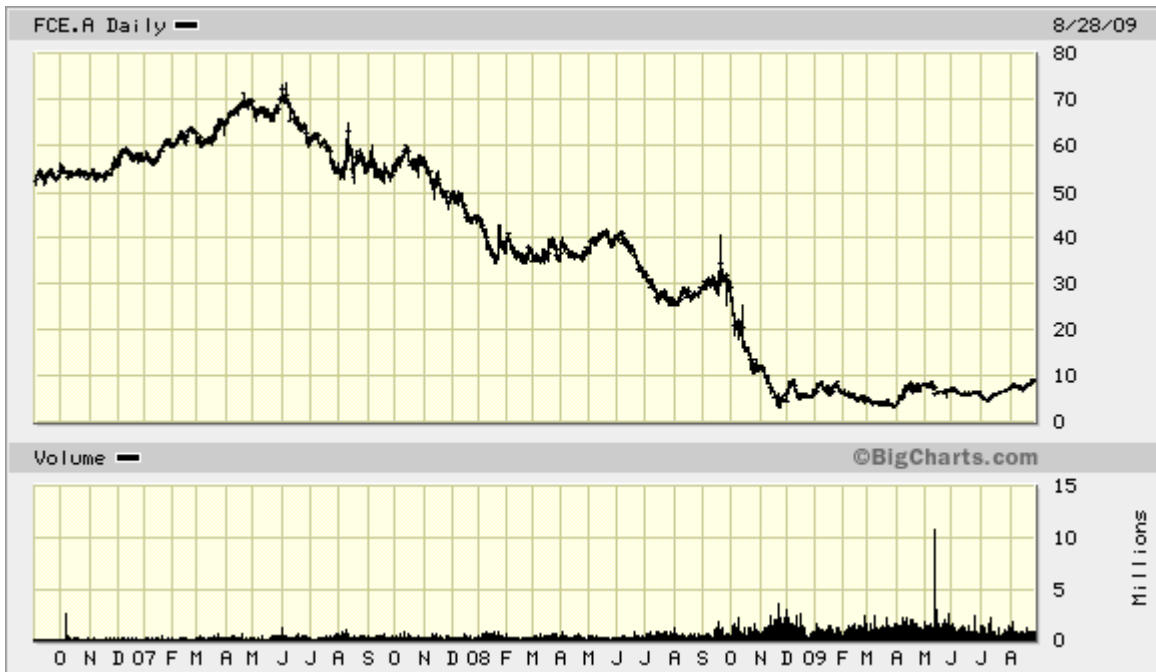


Figure 1: Forest City Enterprises closing price (two years)²

The Technical Memorandum acknowledges the potential for significant delays to project completion, but then presents the illogical argument that such delays do not represent additional impact because someday the project will be completed. The certainty of Atlantic Yards' completion according to plan is, however, an unreasonable assumption. The history of large construction projects in New York City has shown not only that construction schedules routinely exceed their initial estimates, but that the programming and design for large projects is subject to change with economic conditions, public needs and architectural tastes. Further, the 2009 MGPP has made inadequate provision for remedies to the developer's extended delay of completion—thus increasing the risk that the project completion will be delayed. Finally, the existence of the 2009 MGPP itself is evidence that the project's design, phasing and schedule can change; that the developer's obligations can be relaxed; and that there is institutional will in State and City government to allow both. The 2009 MGPP therefore gives no reason to assume that there will be no further changes to Atlantic Yards, but instead gives every reason to expect that changes will continue to affect the project as they already have—delaying its schedule, reducing its public benefits, and increasing its impacts.

It would seem only prudent, therefore, that the ESDC would undertake a supplemental environmental impact statement (SEIS) to study the effect of an Atlantic Yards project that contained only the elements which the agency has obligated the developer to deliver. Such a project would include the proposed arena, one or two buildings, and a large assembly of surface parking accessory to the arena. The Technical Memorandum instead relies on two less likely "worse case" scenarios to argue against an SEIS, stating that in each case (1) the Atlantic Yards project will someday get built as proposed, and (2) the maximum impact during the period from start of Phase I construction through completion of Phase II have already been disclosed. PHNDC finds this conclusion premature. Changes in arena entrance and egress, reconfiguration of the arena loading dock location and bays, and reduction in the number of service tracks in the railyard, all have potential for increased environmental impacts on the surrounding neighborhood and must be studied. Our analysis of the changes to the parking plan also indicates the potential for a 62% increase in the number of parking spaces available for arena parking after the arena opens and before Phase II construction begins than would be present at full build out. As the Technical Memorandum implicitly acknowledges the likelihood of extended delays, there is simply no excuse for ESDC's failing to study the impacts of such changes prior to taking action on the 2009 MGPP.

² BigCharts.com, 2009



Figure 2: Rendering of Atlantic Yards delayed build out scenario³

Taken as a whole, the process through which the Atlantic Yards project has been proposed, reviewed, approved and now modified presents a dark perspective of the role of a public authority as a facilitator of development. It seems possible that the UDC law has been gamed to present a favored developer with the opportunity to acquire property whose value will be increased through override of zoning, to then extract the greatest possible public subsidy with the least accountability, and to finally pursue development of the site with maximum flexibility and minimal oversight. Consider that the original Atlantic Yards plan approved in 2006 represented the largest single-source real estate project in New York City history and the densest residential development in North America: it is now quite conceivable that the disclosed plan was never actually intended to be built, but instead was a tool to help buttress the future argument that further environmental review of project changes would be unnecessary because the impacts of such an enormous project had already been disclosed. Three years later, it is also difficult to avoid the conclusion that the ESDC's review of the 2009 MGPP is being undertaken for the appearance of a public process, instead of for the meaningful analysis that such a fundamental shift from the "original" project should merit.

If Atlantic Yards is to move forward on this basis, a disturbing precedent would be set for development in New York State. The UDC law would become available as a tool for a developer to option unlimited development rights on any property over an indefinite time period, including property under private ownership to be acquired through condemnation by the State. To take advantage of this tool, the developer would simply have to propose a plan calling for the maximum density and environmental impact possible on the surrounding area in order to receive the greatest flexibility in its future management of the project. No barrier of feasibility assessment would be required for the "plan" to clear. The developer could expect the cooperation of the ESDC in granting terms that obligated the developer only to modest near-term project deliverables, and avoiding meaningful oversight of project changes to the greatest extent possible. No matter the actual build out, the developer and the ESDC would be able to proceed without accountability or even transparency to the local community or its elected representatives. Atlantic Yards, in short, sets the stage for policy that removes existing regulation of development and keeps the legislature at arm's length, while holding the surrounding community hostage to a private developer's whims with no accountable

³ Municipal Art Society of New York, 2009.

restraint by State government. It is policy most contemporary planners would find unlikely to result in sustainable development or vibrant communities, and most economists would expect to be wasteful of public resources.

PHNDC therefore finds it to be in the interest of not just our community, but of all the citizens of New York State, that the ESDC be forthright with respect to the reality of the changes proposed to the Atlantic Yards project. If the agency is willing to accept an obligation from Forest City Ratner Companies that includes only the proposed arena, two buildings and a parking lot, this is the project that must be disclosed to the public, together with all of its impacts. Before taking action to approve the 2009 MGPP, PHNDC calls upon the ESDC to

- require FCRC to release a revised site plan and complete design documentation of the revised Atlantic Yards project;
- update the Technical Memorandum to reflect specific changes in site programming, building design, traffic and parking;
- produce a supplemental environmental impact statement analyzing a worst case scenario where only the elements for which the agency has secured specific obligations from FCRC will be delivered; and
- release the SEIS for public review and comment.

2. Background

2.1 Brooklyn Atlantic Yards project

In December of 2003, Forest City Ratner Corporation (FCRC) announced plans for Brooklyn Atlantic Yards (BAY), a large-scale, mixed-use real estate development. The 22-acre parcel of land proposed for development is bordered by Atlantic Avenue to the north, Dean Street to the south, Flatbush Avenue to the west and Vanderbilt Avenue to the east. FCRC's initial plan called for the use of space over the Metropolitan Transportation Authority's (MTA) Vanderbilt rail yards, as well as FCRC's acquisition of adjacent commercial and residential properties to the south of Atlantic Avenue, potentially through the use of eminent domain. The use of MTA property, as well as eminent domain, would apparently allow the project planning to be coordinated through the Empire State Development Corporation (ESDC) under the New York State Environmental Quality Review Act (SEQRA). Unfortunately, when compared to the New York City Unified Land Use Review Process (ULURP), SEQRA provides for little or no local governmental oversight, and limited public review.

2.1.1 Establishment of project partner relationships

In March of 2005, FCRC, the City of New York, and the ESDC signed several Memoranda of Understanding (MOUs) with respect to the proposed project site and adjacent sites west of Flatbush Avenue and north of Atlantic Avenue. The MOU with respect to the original BAY project site was publicly announced, but MOUs with respect to the other sites were not disclosed until August 2005, when a local community organization obtained copies through a FOIA request. Together with the originally proposed BAY site, the additional sites make the combined project the largest development project in Brooklyn's history.

In July of 2005, the MTA received responses to its previously-issued request for proposals (RFP) for the Vanderbilt Yards site. FCRC bid \$50 million for the site; a competing developer bid \$150 million with a proposal to build a smaller project. However, the MTA subsequently announced its intention to negotiate exclusively with FCRC, and allowed FCRC sixty days to improve its bid.

Also in July of 2005, FCRC announced the execution of a Community Benefits Agreement (CBA) intended to demonstrate the developer's intention to provide for affordable housing, job training and certain community programs as a function of the BAY project. In addition to FCRC, the CBA was signed by eight organizations that are to administer the proposed benefits programs under the agreement should BAY proceed. Although the CBA contains a provision for one of the eight groups to work with FCRC in assessing environmental impacts, the CBA makes clear the fact that all impact analysis and mitigation requirements are to be determined through state-mandated processes (e.g., SEQRA), and as such the CBA does not bind the developer with respect to environmental impacts. In October of 2005, it was reported and confirmed that some of the CBA signatories had a direct financial relationship with FCRC⁴, and that the developer had played a role in organizing at least one the groups⁵.

2.1.2 Scoping of environmental impact analysis

In September of 2005, the MTA awarded the development of the Vanderbilt Yards to FCRC. The ESDC announced its role as lead agency with respect to the development under SEQRA, and published a draft scope for the EIS. The ESDC accepted written comments on the draft scope of analysis until October 28, 2005. The volume of comments received by the ESDC was reportedly large. Many community organizations, including PHNDC, published their written submissions to the ESDC. Among the comments most frequently repeated were

- the need to expand the boundaries of the study area;
- the need to consider the effect of the proposed project on direct and indirect displacement of residents and businesses;
- the need to consider other development proposed for Brooklyn when determining traffic and transportation impacts;

⁴ "BUILD admits Ratner funding," *New York Daily News*, October 18, 2005

⁵ "To Build Arena, Developer First Builds Bridges," *The New York Times*, October 14, 2005.

- the need to assess how the project can be better integrated with the surrounding neighborhoods; and
- the need to establish processes through which the community can be effectively engaged during the environmental review.

The ESDC issued the final scope of analysis on March 31, 2006. Community organizations reviewing the final scope generally were disappointed with the relatively small increase in the size of the primary and secondary study areas, which were each increased from the original quarter mile and half mile radii by a quarter mile each (some civic groups and community boards had asked to expand to a two-mile radius). Also absent from the final scope was any suggestion of a process to involve the community in the activities leading up to the publication of the DEIS.

2.1.3 Release of Draft EIS and public response

On July 18, 2006, the ESDC released the Atlantic Yards General Project Plan and its Draft Environmental Impact Statement. The ESDC further announced a sixty-day review period extending to September 22, 2006, with a public hearing scheduled for August 23, and a “community forum” on September 12. Civic organizations, community boards, and elected officials expressed frustration and outrage over the timing of the release, which was made during a two-month period when New York’s community boards generally do not meet, and many residents are away from the city. The scheduling of the “community forum” on the date of New York’s Democratic primary election was also challenged by groups seeking broader public participation in the review process. The ESDC subsequently announced a one-week extension of the deadline for comments to September 29, and an additional “community forum” on September 18. However, this action was not enough to address the concerns of Community Board 6, which subsequently voted to disapprove the Atlantic Yards project, citing “a failure to involve the community board and the community in a meaningful way; misleading and overstating the involvement of the public in the process⁶.”

2.1.4 Project approval

In November of 2006, the ESDC board voted to approve the Atlantic Yards general project plan and accept the findings of the Final Environmental Impact Statement (FEIS). As Eliot Spitzer had been elected Governor of the State of New York, observers of the Atlantic Yards project were hopeful that the Public Authorities Control Board would (composed of representatives of the Senate Majority Leader, the State Assembly Speaker and the Governor) would defer action on approving the project financing until the new administration took office in January, and changes to the plan presumably could be negotiated. However, at the end of December, the PACB voted to approve the financing of the Atlantic Yards project in the last weeks of 2006.

2.1.5 Calls for transparency and public accountability

Following approval of the project, concerned civic groups and community organizations began calls for community involvement, increased transparency of decision-making, and reform of project governance. Litigation challenging the validity of the FEIS and the use of eminent domain to assemble property for the Atlantic Yards was also initiated.

In August of 2007, a group of Brooklyn and citywide civic associations and affordable housing organizations sponsoring the initiative known as BrooklynSpeaks released a proposal for the reform of Atlantic Yards governance.⁷ The sponsoring organizations included the Atlantic Avenue LDC, the Boerum Hill Association, the Brooklyn Heights Association, the Fifth Avenue Committee, the Municipal Art Society, the National Trust for Historic Preservation, the Park Slope Civic Council, the Pratt Area Community Council, the Project for Public Spaces, PHNDC, Scenic America, and the Tri-State Transportation Campaign. The proposed model for Atlantic Yards governance was based upon successful City/State partnerships such as the Hudson River Park Trust, where a dedicated subsidiary or public benefit corporation oversees a project throughout its lifecycle. The oversight entity is governed by a board including representatives selected with the input of City and State legislatures, ensuring that a broad stakeholder perspective is represented. This model is also consistent with structure in place at all other large ESDC projects in New York City (with the exception of Atlantic Yards). The BrooklynSpeaks proposal was subsequently endorsed by Assembly members Hakeem Jeffries and Jim Brennan, State Senators Velmanette Montgomery and Eric Adams, and City Council members Leticia James and David Yassky.

⁶ “Loud & Clear: CB6 Rejects Atlantic Yards,” *Brooklyn Heights Courier*, September 15, 2006.

⁷ “Reforming the governance of Atlantic Yards,” sponsors of BrooklynSpeaks, August 8, 2007

In the spring of 2008, the ESDC contacted local elected officials and Community Boards with a proposal to form a community advisory council (CAC) for Atlantic Yards. With no specific charter offered, and a meeting schedule of once a quarter proposed, the elected officials declined to nominate representatives until the role of the CAC in project decision-making could be defined. The moment did not come.

On June 16, 2008, a group of civic organizations (including PHNDC) and elected officials announced legislation to create a new public benefit corporation to provide oversight of the Atlantic Yards project. The Atlantic Yards Governance Act (A11395) was sponsored in the State Assembly by Assemblyman Hakeem Jeffries and in the State Senate by State Senator Velmanette Montgomery. The Atlantic Yards Governance Act was endorsed by Assembly members Jim Brennan and Joan Millman, and City Council members Leticia James and David Yassky.

2.1.6 News of changes

By the spring of 2008, it had also become clear that economics would not support the build out of the Atlantic Yards project as originally approved. It was suggested that the four towers surrounding the arena (a key design feature mitigating the placement of the arena in a residential neighborhood) would be delayed. New York Times architecture critic Nicolai Ouroussoff, an early supporter of Atlantic Yards, wrote “Postpone the towers and expose the stadium, and it becomes a piece of urban blight — a black hole at a crucial crossroads of the city’s physical history. If this is what we’re ultimately left with, it will only confirm our darkest suspicions about the cynical calculations underlying New York real estate deals.”⁸ At the same time, Forest City Ratner announced changes to the Atlantic Yards arena, including the removal of its “green roof” with active open space.

In November of 2008, it became known that architect Frank Gehry had released the team working on the Atlantic Yards project, and FCRC announced that it had retained a team to “value engineer” the arena design in an effort to reduce cost. However, few specifics were forthcoming. In January 2009, FCRC spokesman Joe DePlasco told the New York Times that “Frank Gehry has not been removed from the project.”⁹

On May 29, 2009, State Senator Bill Perkins, Chair of the State Senate Standing Committee on Corporations, Authorities and Commissions convened a public hearing on the Atlantic Yards project. The purpose of the hearing was to “elicit recommendations for improved accountability, and transparency, land use planning, and community participation for large scale development.” Officials testifying included ESDC Chair Marisa Lago, NYC EDC Chair Seth Pinsky, and MTA interim chief Helena Williams. No representative from Forest City Ratner spoke. In addition to State Senator Perkins, State Senator Montgomery and Assemblyman Jeffries asked questions of the public officials testifying. Lago and Williams repeatedly stated that the Atlantic Yards project had not changed, while acknowledging that each of their agencies were in negotiations with FCRC to amend their existing agreements. No details of changes to the project were discussed, with each official citing the “sensitive negotiations” underway.

On June 4, 2009, Forest City Ratner announced that the Gehry design had been dropped, and a new design had been created by Ellerbe Beckett, an architecture firm noted for sports facilities and convention centers in the midwest.¹⁰ Critics likened the new design to an airplane hangar. Ouroussoff of the Times again took the opportunity to criticize the change, writing, “If it is ever built, it will create a black hole in the heart of a vital neighborhood.”¹¹

2.1.7 Modified general project plan

On June 22, 2009, the MTA Finance Committee met to vote on a renegotiated deal with FCRC to acquire development rights over the Vanderbilt Yard. The new agreement would allow FCRC to acquire the rights in stages, beginning with the portion of the Yard below the arena block. The initial payment from the developer was reduced from \$100 million to \$20 million. The work to be completed by FCRC on the replacement railyard was scaled down considerably, with the effect that the completed “upgraded” railyard would have a capacity not only less than originally committed, but less than the current railyard. The Finance Committee voted to recommend approval of the new deal.

⁸ “What Will Be Left of Gehry’s Vision for Brooklyn?”, *The New York Times*, March 21, 2008.

⁹ “Atlantic Yards Developer Denies Removing Architect”, *The New York Times*, January 8, 2009.

¹⁰ “Developer Drops Gehry’s Design for Brooklyn Arena”, *The New York Times*, June 4, 2009.

¹¹ “Battle Between Budget and Beauty, Which Budget Won”, *The New York Times*, June 8, 2009.

The following day, the board of the ESDC met to adopt a modified general project plan for Atlantic Yards (the 2009 MGPP). Board members had been presented with the detailed text of the modified plan the previous afternoon following the MTA committee meeting. No site plan or design renderings were included. The ESDC board voted unanimously to adopt the 2009 MGPP, setting in place a public comment period, again without a site plan or design drawing available for review. On June 24, the full MTA board ratified the renegotiated FCRC agreement.

The ESDC set a deadline for public comments of August 31, again ensuring that public review of the largest single source project in City history would occur during the summer months. The ESDC scheduled public hearings for July 29 and 30, and promised to hold two informational meetings open to the public. The first was held on July 22. Project supporters, including representatives from building trade unions and CBA organizations with financial relationships with the developer, disrupted the meeting and limited the information other audience members were able to receive from the speakers, which for the first time since the project's approval included executives from FCRC. The public hearings were held as planned on July 29 and 30 at New York City Technical College's Kiltgord Auditorium. On the stage was an easel holding a placard with a site plan of the Atlantic Yards project. The outline of the arena had been erased completely. FCRC CEO Bruce Ratner stated at the time that his firm would release new drawings before Labor Day¹². However, the drawings were not made available before the close of the MGPP comment period. ESDC representatives have suggested that the second informational meeting will now be held after the August 31 deadline for public comments on the 2009 MGPP.

2.2 Prospect Heights Neighborhood Development Council

The Prospect Heights Neighborhood Development Council (PHNDC) was formed by a group of community organizations and block associations interested in working together to better understand and guide the future of development in Prospect Heights. PHNDC's mission is: (1) To assess the needs and concerns of the Prospect Heights community in terms of housing, economic development, physical environment, safety and security as well as social services; (2) To prepare or sponsor analyses of potential development in the Prospect Heights community, including the impact of such development on the existing conditions in Prospect Heights; (3) To represent the interests of its member organizations in relations with elected officials, public agencies, and commercial interests; and (4) To coordinate the participation of its member organizations in fulfilling the above purposes.

The member organizations of PHNDC are:

- The Carlton Avenue Association
- The Dean Street Block Association
- The Eastern Parkway Cultural Row Neighborhood Association
- The Friends of Underhill Playground
- The Park Place/Underhill Avenue Block Association
- The Prospect Heights Association
- The Prospect Heights Parents Association
- The Vanderbilt Avenue Merchants District

The current officers of PHNDC are:

- Danae Oratowski, Chairman
- Peter Krashes, Vice President
- Gib Veconi, Secretary
- Steve Commender, Treasurer

¹² "Atlantic Yards' Developer Races a Court Hearing, a Bond Deadline and Opponents", *The New York Times*, August 9, 2009.

2.3 About this report

2.3.1 Purpose and audience

The purpose of this report is to provide testimony on the Modified General Project Plan for the Atlantic Yards Arena and Redevelopment Project as adopted by the Empire State Development Corporation on June 23, 2009.

The audience for this report is

- the staff, officers and board of the Empire State Development Corporation;
- officials of Forest City Ratner Company and Forest City Enterprises;
- local, State and Federal elected officials;
- administrators and staff of relevant public agencies;
- community board members; and
- residents of the Prospect Heights community, and those of other neighborhoods surrounding the proposed project.

2.3.2 Sources

Since the time of its announcement in December of 2003, a great deal has been written on the Atlantic Yards proposal, including a significant amount of informed commentary by urban planners, engineers, and investigative reporters. PHNDC appreciates the work of the individuals who have made their research, findings and insights available on the Internet.

We have used our best efforts to cite sources of information presented in this report.

2.3.3 Writers and editors

Finally, this report owes much to the work of the members of PHNDC's constituent organizations, who have prepared and edited the report's text. Their knowledge of Prospect Heights, its streets, buildings, homes, businesses and people have been critical PHNDC's efforts in sifting through the enormous amount of material presented in the FEIS and by its commentators, and preparing this response within the very short deadline set by the ESDC. The following individuals contributed writing or editorial assistance to the creation of this document:

- Peter Krashes
- Danae Oratowski
- Gib Veconi

3. Comments on the Modified General Project Plan and Technical Memorandum

The Technical Memorandum analyzing the modifications of the 2009 MGPP for the Atlantic Yards Project assesses two scenarios. The first includes modifications to the project and its implementation using a scenario of a ten-year project build out with a delay in the construction of Building One. The project would be completed three years after the original date anticipated for the project. The second is a delay scenario that analyzes the modifications to the project and its implementation over an extended period. In both cases, the Technical Memorandum finds no new significant adverse impacts.

The analysis in the Technical Memorandum is disingenuous because it applies the expectation that the project will be delayed and that the economy will not support development when that assumption lowers impacts, but fails to acknowledge the high probability of a delay when that assumption will create new impacts or increase the degree of significance of impacts. The Technical Memorandum also fails to address significant new adverse impacts that are the result of project modifications and does not analyze the project that the developer is obligated to build: an arena, two buildings and a parking lot.

Our review of the Technical Memorandum also identified the following concerns:

- The Technical Memorandum fails to analyze the most likely outcome of the project and the recent adopted modifications a project delayed for decades or not completed - as the most likely scenario.
- The Technical Memorandum also fails to properly address a surge scenario, which, though unlikely, is the scenario the ESDC is counting on to achieve full project build out in ten years.
- The Technical Memorandum fails to distinguish between the degree of impact produced by a project delay of short duration and the degree of impact produced from a delay that is longer, if not permanent.
- The Technical Memorandum does not use CEQR Technical Manual background traffic guidelines that dictate a .5% increase in traffic each year. Instead, the Technical Memorandum avoids identifying significant new traffic impacts by using assumptions not found in the FEIS.
- The Technical Memorandum fails to acknowledge modifications such as the expansion of pedestrian crosswalks on Dean Street that are in response to new project modifications that will produce new adverse significant impacts.
- The Technical Memorandum fails to assess the consequences of project modifications such as the loss of an arena lay-by-lane and fails to disclose the nature and affect of changes to project elements tied to mitigations, such as the arena loading dock, all of which may lead to new increased significant impacts.
- The Technical Memorandum fails to disclose the implications for construction impacts from an extended construction schedule, a reduction in the scale of the active footprint, and the loss of opportunities to use below grade locations for construction staging.

The first phase of the project has been changed in ways designed to lessen the costs of the development and to enable a longer or incomplete build out. The central feature of the first phase of the project, an arena woven together with four commercial and residential buildings designed by the architect Frank Gehry has been abandoned. Instead, a new arena block design has been adopted, executed by another architect, in which the arena stands alone, has no green or public space on the roof, and is isolated from the buildings buffering it. This design enables a slower build out, and radically modifies the original strategy of the project to mitigate the placement of the arena within residential neighborhoods by integrating it with commercial and residential density. This and other modifications made to lower the cost of development and increase the flexibility of the developer in relation to the construction timetable have created new significant impacts that necessitate a supplemental environmental impact statement.

The most likely scenario for the 2009 MGPP is a significantly delayed or incomplete project. That scenario has never been assessed by environmental analysis. PHNDP does not believe the Technical Memorandum assesses a feasible or likely scenario as its primary scenario. We also disagree strongly with the conclusion of the Technical Memorandum that the environmental impacts of a delayed project will not increase relative to a project completed on schedule. The FEIS clearly describes significant impacts such as a deficit of open space that will not be corrected until full project build out. The adverse impact of placing an arena in a residential neighborhood will not be

corrected until the buffer buildings that surround it are built. Local retail will be shifted away from residents to arena patrons. New traffic patterns due to the narrowing of arena parking options and changes to the mix of who is parking, will stay in place. The Atlantic Yards general project plan describes a twenty-two acre multipurpose project that with a delay will be an arena project with surface parking, a small amount of housing and a railyard with less capacity in a new location. A project delay of the duration that can be reasonably anticipated based on experience with other large development projects in New York City will produce new significant impacts that necessitate a supplemental environmental impact statement.

3.1 Inadequately addressed project modifications

The following identifies problems with the Technical Memo's analysis of project modifications in its principle scenario of a ten-year construction schedule with a full build out date in 2019. The comments here focus on areas of concern in which PHNDC is a stakeholder and has knowledge or expertise.

3.1.1 Traffic and pedestrians

3.1.1.1 *Background traffic and pedestrian analysis disregards CEQR guidelines*

The Technical Memorandum dispenses with CEQR Technical Manual guidelines for measuring background traffic and pedestrians, namely that they will increase by .5% a year, and instead applies new baselines taken during the current economic downturn. It projects this reduction forward into the future. At the same time the Technical Memorandum does not treat the delay scenario as the most likely scenario. This is disingenuous because the Technical Memorandum is departing from the guidelines in CEQR and as consequence avoids addressing potential significant impacts. At the same time it does not address the implication that the economic circumstances in which the ten-year timeline for the project was identified as the most likely and feasible scenario have changed to make that scenario unlikely or impossible. The analysis in the Technical Memorandum should be revised to follow CEQR guidelines.

3.1.1.2 *The Technical Memorandum does not acknowledge a new significant impact with pedestrians on Dean Street*

The crosswalks on Dean Street have been widened in recognition of a new significant impact for pedestrians on Dean Street. The Technical Memorandum fails to acknowledge this.

3.1.1.3 *Increased arena traffic is being routed south of the project due to modifications in the project plans.*

The plan of the project has been changed in a number of ways which singly and taken together will shift the entry for the arena and the traffic associated with it toward the south and east sides of the project. Most of these changes have neither been analyzed singly nor together for the way they affect traffic and pedestrians at the intersection of Dean and Flatbush; the intersections of Dean Street and 6th Avenue, Carlton Avenue and Vanderbilt Avenue; or 6th Avenue intersections at Flatbush, Bergen, Pacific and Atlantic. Of particular note is the impact to the intersection of Dean Street and Carlton Avenue, which independent of these changes, would experience a LOS D.

- The removal of the lay-by lane on Flatbush Avenue (between Dean Street and Fifth Avenue) will increase the number of cars turning east on Dean to use the lay-by lane on Dean Street.
- The 2009 MGPP re-characterizes and repurposes the "secondary" V.I.P. arena entrance on Dean Street; it is now for general arena use, a use that was not disclosed in the FEIS. Its identification as a V.I.P. entrance in the original general project plan was cited as a moderating factor for the arena being placed in a residential area. Because this is now a general entrance adjacent to lay-by lane, it will have increased use, causing potential traffic delays on Dean Street. In addition, it will increase pedestrian presence along the streets on the south side of the arena block, not just because of its role as an entrance for parking at block 1129, but also because of its proximity to transit entrances to the south.
- The creation of a larger surface parking lot for block 1129 will draw more pedestrian and vehicular traffic down Dean Street as arena patrons make their way to and from the Dean Street entrance and the parking lot.

- The creation of interim open space will diffuse arena pedestrians in the arena block, increasing the probability of delays as pedestrians and traffic interact. A delayed or not completed Urban Room will increase this scenario because the direct route from the subway to the arena will no longer be in place.

3.1.2 Parking

As in traffic and pedestrian analysis, the Technical Memorandum dispenses with CEQR Technical Manual guidelines for measuring background parking demand, namely that it will increase by .5% a year, and instead uses new analysis taken during the current economic downturn. It projects this reduction in parking demand forward into the future. The Technical Memorandum must be reanalyzed using CEQR guidelines.

3.1.3 Land use

3.1.3.1 *Changes to loading dock and security screening*

According to statements at the informational meeting with the ESDC and FCRC on July 22nd the loading dock has been reduced from eight to seven berths. This is not disclosed in the Technical Memorandum or MGPP.. Given the absence of information about these changes, there are also concerns the loading dock may have been changed to be at grade or closer to grade. The placement of the loading dock below grade was a land use mitigation for locating the arena within 200 feet of a residential area. MGPPThe Technical Memorandum should have disclosed the changes that have been made to the security screening and loading dock areas and their operation in full, and assessed the impact of those changes on neighboring residential uses.

3.1.3.2 *Changes to Dean Street arena entrance*

As stated previously, the 2009 MGPP recharacterizes and repurposes the V.I.P. arena entrance on Dean Street, and it is now for general arena use. Because this is now a general entrance adjacent to a lay-by lane, it will have greater use, causing increased impacts on neighboring residential districts.

3.1.4 Neighborhood character

3.1.4.1 *Technical Memorandum does not describe the worst case scenario*

The 2009 MGPP describes two or more stages of property condemnations. The Technical Memorandum describes two stages. The 2009 MGPP is a worse case scenario in relation to neighborhood character than the Technical Memorandum analyzes.

3.1.4.2 *Limited property improvements*

Because condemnations will be spread over either two or possibly three phases, owners of properties slated to be condemned in later phases will not have the incentive to improve their properties, encouraging blight. Tenants will not renew leases, leading to hardship for property owners. These impacts are not considered in the Technical Memorandum.

3.1.5 Construction

3.1.5.1 *Background construction traffic analysis disregards CEQR guidelines*

As elsewhere in the analysis, the Technical Memorandum dispenses with CEQR Technical Manual guidelines for measuring background traffic, namely that it will increase by .5% a year, and instead uses new analysis taken during the current economic downturn. It projects this reduction in traffic forward into the future. The Technical Memorandum must be reanalyzed using CEQR guidelines.

3.1.5.2 *Construction has been extended by over three years, affecting construction health*

The Technical Memorandum notes that construction of the project commenced in 2007. It begins its ten-year timeline for construction of the project in 2009. While the construction analysis recognizes localized significant adverse impacts from construction, it does not acknowledge that the extended durations of exposure increase impacts. Extended construction impacts will affect the health of the community near the project. The success of the

noise mitigations provided by the developer are debated, but they do not mitigate construction noise for sidewalks, streets and outdoor play areas. Dean Playground is within noise impact range of the construction of the arena block, and has already been impacted by infrastructure work lasting over a year.

Developer has discretion to exceed peak construction impacts in the case of a surge in construction. The developer and the ESDC have acknowledged a likely delay in the construction schedule of the arena and the remainder of the arena block, but have affirmed the feasibility of a ten-year construction schedule for the project as a whole. These PHNDC comments assume Atlantic Yards will be long delayed, or not completed. In the unlikely event that market conditions, public subsidies and construction costs all enable a ten-year build out of the project, a short term delay could be followed by a surge in construction, significantly exceeding the amount of construction identified as peak in the Technical Memorandum or the FEIS. Worse still, this construction would be taking place at the same time the arena is in operation, which has not been considered. The Technical Memorandum should consider a surge scenario.

3.1.5.3 Timing of shelter closure discretionary

The FEIS did not anticipate any residents or businesses in the footprint at the time of the initial building demolitions. Shelter residents have been exposed to dust, rodents and hazardous materials due to their close proximity to the work and their lack of access to the noise and dust mitigation provided some area residents. It is understood by the community that air quality measurements have shown unhealthy air for shelter residents. If the residents of the shelter are to remain in the footprint during construction, the Technical Memorandum should address the need for a construction plan to be developed with local elected officials that addresses the shelter's location in the footprint.

3.1.5.4 The 2009 MGPP has changed the construction plans and designated new construction staging areas, but has not released the necessary details for the public to make comment on the analysis in the Technical Memorandum

The 2006 FEIS included diagrams showing the locations of construction staging sites in the project footprint across the project build out timetable. Because of the phasing of property condemnations and the staggering of the railyard purchase, the amount of area in the project footprint available for project construction staging has been significantly reduced. The Technical Memorandum describes arena construction staging now taking place on the arena block, but does not disclose where. It still places the primary construction staging and construction worker parking lots on block 1129, however it does not define clearly where the railyard construction staging will take place.

3.1.5.5 Staging for railyard construction not disclosed

2). Forest City Ratner is now responsible for building a temporary railyard, (and potentially the permanent one), but it will only have property control over the area of the railyard under the arena. Construction staging locations for the railyard have not been identified in the Technical Memorandum. If loss of flexibility for the developer results in additional construction staging for the railyard being located at grade, then construction impacts may be increased. Below grade options contain noise and dust.

3.1.6 Air and noise

Changes to FCRC's agreement with the MTA for development rights over the railyard may increase noise impacts on the surrounding community. The temporary railyard will provide capacity for 42 cars from the 72 in the existing railyard. The revised agreement between the MTA and Forest City Ratner now changes the permanent railyard capacity from 72 cars to 56. In the primary scenario studied by the Technical Memorandum the permanent railyard will apparently be covered in full around six years later. The MTA has confirmed there is a relationship between capacity and the length of time the railyard will need to operate. Therefore, a reduction in capacity will increase the hours of the railyard's operation, leading to increased unanticipated exposure for noise impacts during the six years the Technical Memorandum says it will take to complete the platform. Because the agreement between the MTA and FCRC reshapes the operation of the railyard and creates new unanticipated conditions in the relationship of the railyard to the community surrounding the project, the Technical Memorandum should analyze the impact of the uncovered railyard operation on the surrounding community, and find a new significant impact. (PHNDC asked for the noise of the railyard operation to be assessed in our 2005 comments on the Draft Scope of Analysis, but the FEIS did not include such an analysis.)

3.1.7 Urban design and visual resources

The FEIS states “The proposed project is designed as a comprehensive plan with buildings of varying heights, unique shapes, and a style of architecture that would differ substantially from the buildings in the surrounding neighborhoods.” It is not clear from the 2009 MGPP what design the revised Atlantic Yards project will have, or even if its buildings will be designed by the same architect. A revised site plan and design renderings must be made available so that the Technical Memorandum can properly assess the visual impact of a revised plan on the surrounding neighborhood. Further, the potential of an extended delay or incomplete build out requires analysis of the visual impact on the surrounding area of the vast surface parking lots planned for the Phase II site in advance of construction.

3.2 Project delay

The following identifies problems with the Technical Memorandum’s analysis of project modifications assuming a delay will occur with the project. The comments here focus on areas of concern in which PHNDCC is a stakeholder and has knowledge or expertise. It is not an inclusive list of concerns about the analysis in the Technical Memorandum.

3.2.1 Open space

3.2.1.1 *Delay in providing new private open space*

The FEIS notes that “based on the analysis of quantitative factors listed in the CEQR Technical Manual, the proposed project would result in a temporary significant adverse impact within the non-residential (1/4-mile) study area at the end of Phase I until the Phase II open space is phased in. This temporary adverse impact is due to the added population as a result of the proposed project but no new publicly accessible open space.” We note moreover, that this open space deficit is compounded by increases in background growth not considered in the Technical Memorandum.

The FEIS also notes further that the significant impact is not eliminated until full project build out. “By 2016 (full development of the proposed project), the passive open space ratios would improve and the temporary significant adverse impact experienced in 2010 would be eliminated by the proposed project’s additional eight acres of publicly accessible open space constructed between Phase I and Phase II. ” A project delay, or an incomplete project will result in a significant impact not being eliminated in a timely way, with a real risk that it will never be eliminated if build out remains incomplete.

The FEIS states that “Although the declines in residential study area open space ratios are substantial given the study area’s existing lack of open space resources, the qualitative assessment concludes that the open space elements and public amenities not included in the quantitative analysis, including the private open space on the roof of the arena, the publicly accessible Urban Room, and plaza areas—all to be developed as part of the proposed project in Phase I—and the availability of large nearby open spaces (e.g., Prospect Park and Fort Greene Park), would help alleviate the burden on this study area’s open spaces.”

However, the private open space (such as the open space on the arena roof) has been removed from the project or delayed, increasing demand for open space in the area during construction and following Phase I. The FEIS notes the lack of open space resources in the study area and references larger open spaces outside the study area accessible only by crossing wide, high traffic streets such as Atlantic Avenue and Eastern Parkway.

3.2.1.2 *Impacts to existing public open space*

Existing permanent public outdoor open space will have to accommodate unanticipated demand due to a delay of the delivery of open space in Phase II as well as increased background demand. It will also be impacted by the implementation and operation of the project.

The three permanent public outdoor open spaces impacted by the project are Dean Playground, (the largest open space resource in the study area), Brooklyn Bears Garden and the South Oxford Playground. Dean Playground is the only permanent public outdoor open space in the immediate area that can be reached from the project site

without crossing a major thoroughfare. Dean Playground and Brooklyn Bears Garden are the closest to the project site.

As disclosed in the FEIS and in a letter of agreement between Forest City Ratner and the NYC Department of Parks and Recreation included with the FEIS, Dean Playground will experience three impacts from the project:

- Construction noise impacts, in particular from the construction of building #12;
- increased use due to “incremental” delivery of open space in Phase 2; and
- traffic impacts, which have increased due to the modifications of the project.

(Note pedestrians will also impact the playground, but the impact of pedestrians on noise and public safety were not studied in FEIS. The increase in surface parking spaces on block 1129 will increase the amount of pedestrians and traffic passing Dean Playground on the way to their cars).

3.2.1.3 Fewer connections between and within neighborhoods

If there is a delay in the build out of the open space, the landscaped visual and pedestrian connections intended to weave it into the existing pedestrian and bike circulation network will also be delayed.

In addition, the East-West route along the former Pacific Street between Carlton and Vanderbilt will be closed to create surface parking. With a delay, or an incomplete project, the pedestrian connections will be absent, leading to less connectivity than exists in the fully built or no-build scenarios. Less foot traffic may lead to business impacts on Vanderbilt Avenue.

3.2.1.4 Shortcomings in plans for interim open space

The 2009 MGPP states, “Upon the completion of construction on the Phase I Site, to the maximum extent practicable, temporary open spaces, to be usable by the general public, would be made available on the Phase II Site until such areas are required either for Arena parking or for the construction of the Phase II Site.” Since the arena is almost certain to open before completion of Phase I, for all purposes this time interval between completion of Phase I construction and the need for Arena parking will not exist. Therefore, this commitment as a mitigation for delays in delivering permanent open space is illusory.. The 2009 MGPP offers no minimum commitment of interim open space, even though the amount of parking that could be available at the end of Phase I to arena patrons appears to exceed the 1,100 spaces allocated for arena parking at full build out. The character of interim open space, if delivered at all, will differ from permanent spaces because there can be no permanent greenery like trees.

3.2.2 Neighborhood character, land use and public policy

The area surrounding the project site has changed since the project’s approval in 2006. New residences along block 1129 have been added and small independent retail serving the community in the vicinity of the project has emerged, particularly along Vanderbilt and Flatbush Avenues. In addition, many areas of Prospect Heights, including some adjacent to the project footprint, have just received New York City historic designation.

A project delay will leave in place a parking, pedestrian and traffic system servicing the arena, which will have significant adverse impacts on the community to the south of the project site.

3.2.2.1 Surface parking

While in the complete project residential buildings and below-grade parking were anticipated to be built within ten years, a delay will leave in place large-scale surface parking, combined in some variation with construction worker parking and construction staging. A quiet neighborhood that today ranges from residential to low-impact multiple uses will be impacted by a delayed removal of surface parking lots and the roads that feed them, if not quasi-permanent surface parking lots. In addition to serving arena users the any new residences in the project, the lots may also be accommodate increased background demand for parking as well as for park and ride uses. The lot on block 1129 has now been increased by 100 spaces. Together with the modifications of the project described in the previous section (the elimination of a lay-by lane on Flatbush Avenue, the change in use of the arena entrance on Dean Street), the increase in scale and the delay in the removal of the lots can be expected to have a significant adverse impact on neighborhood character and land uses of Dean Street, 6th Avenue and Bergen Streets as well as Vanderbilt and Carlton Avenues.

With a delay, arena patrons parking for games may now be concentrated in one lot. In the original plan, arena parking was to be located initially in three potential lots as well as potential parking within some of the other first phase buildings, dispersing traffic throughout the arena site and surrounding streets. Now, the movement of arena patrons who park on site will be concentrated along the same routes on either Dean Street or Carlton and Vanderbilt Avenues. The routes will be concentrated by a children's playground, a church and residences as well as through two low-density areas now protected by historic designation instead of dispersed throughout a larger area including routes with more diverse uses accustomed to larger amounts of traffic.

The FEIS argues the location of the surface parking will not impact light manufacturing uses, but does not analyze the impact of surface parking on residences. The Technical Memorandum does not address the impact of a delay on residential uses, even though it argues the location of the surface parking in block 1129 is compatible with the light manufacturing area it identifies to the south of the project. The Technical Memorandum needs to address the impact of surface parking on residential uses lining block 1129, as well as on Carlton Avenue which will function as a feeder street for the lot.

More residents live on the block of Dean Street between Carlton and Vanderbilt than in a typical brownstone block. Since the approval of the project in 2006, residential development and growth has continued on that block. The Technical Memorandum should address the increase in growth there and its relationship to the placement of surface parking across the street. A delayed removal of surface parking would almost certainly affect residential growth in the area.

Neither the FEIS, 2009 MGPP or the Technical Memorandum explain the extent to which interim parking within the footprint will be compliant with NYC DCP regulations governing the landscaping of surface parking lots. The Atlantic Yards project did not seek an override of such regulations, but it is possible the project sponsors may seek a waiver on the basis of the "interim" lots being temporary, even if they are to remain in place for decades. This would create a situation where the Atlantic Yards surface parking lots would have significantly greater impact to neighborhood character than a similar sized parking area built in compliance with City guidelines.

3.2.2.2 Buffer buildings may not surround the arena

City zoning regulations do not allow an arena within two hundred feet of a residential district. In the original general project plan, circling the arena with four high-density residential buildings was the central rationale for finding no land use impacts in placing the arena within two hundred feet of residential districts. It is now anticipated that three of the four buffer buildings around the arena, the retail at their base, and the high-density residential and commercial uses in them may all be delayed. The operation of the arena, which is a singular use because of its fluctuations between intense activity and dormancy, will dominate the character of the area. Because there is no commitment for a completion date for any of the buffer buildings, (although it is assumed Building 2 will be completed around the time of the arena opening), it is likely that the arena will operate with little commercial or residential density around it for years. The first building, (Building 2), has slightly more households in it than the number already displaced by the project, and fewer workers than the number that have been displaced. In a prolonged interim state, therefore, the project will have failed to increase the density of either residents or workers beyond the number that existed before start of demolition. In the case of a delay with only one buffer building in place at the time of the arena operation, there will be a new significant adverse impact on residential land uses.

- The planned residential and commercial density acts as a constant around the arena, modifying the swings of activity from dormancy to activity that uniquely characterize an arena. With a delay those constants will be missing, and the swings of activity of the arena will be unchecked.
- Interim open space will exacerbate the impact of an active arena in relation to residential uses. At a time of intense activity, arena patrons will fill the interim outdoor spaces located where the buffer buildings would have been.
- Buildings 1 through 4 are supposed to surround the arena to create mixed-uses that would activate the street level even when the arena was not hosting an event. The kiosks described in the 2009 MGPP are much less likely to have local retail directed to residents.
- Dean Street, described as shifting from a quiet mixed use area to an active mixed use area, will instead be dormant when there is no arena activity and an arena "driveway" and source of arena parking at others.

- Delay in building the buffer buildings around the arena will enable light and sound leakage from the arena and its signage into residential areas, increasing the arena's visual and noise impacts.

3.2.2.3 Impact from construction facilities resulting from project delay

Within the ten-year construction schedule, the FEIS finds that the level of activity will vary and move throughout the project site, and that no immediate area would experience the effects of the project construction for the full ten year period. Now, FCRC has purchased only a part of the railyard, and with a single payment can be released from its obligation to purchase the remainder. In addition, property condemnations are now staged. Whereas the FEIS assumed construction staging was to be dispersed in a number of locations throughout the project site, these changes will now concentrate construction staging on block 1129 and on several small lots on block 1128. The now reduced options for construction staging, combined with a delay in the project, will increase the impacts in the immediate vicinity of the staging areas for an unanticipated period of time.

The construction plan includes demolitions for construction worker parking and construction staging throughout the project site and a protracted build-out will extend the period they will be in place. The FEIS finds that no significant adverse impact on neighborhood character would occur on the project site because an underutilized area will be replaced by construction activity, but does acknowledge localized impacts. Now there may be less construction activity, but the elements of the construction plan may stay in place longer.

The below grade railyard is no longer an option for parking or construction activity. Now, all parking and construction staging will be at grade. The FEIS claimed that staging construction at below-grade locations would significantly reduce construction impact. The Technical Memorandum should describe additional mitigations if below-grade staging areas were not available, but it does not.

3.2.2.4 Street trees

The City currently has a million tree program to green city streets. Trees are not planted at potential development sites or on the streets lining them. An uncertain construction schedule will mean no street trees will be planted in all of the areas lining the project footprint. The interim space replacing the Urban Room will have potted trees, not planted trees.

3.2.2.5 Operating railyard will be uncovered in new location

The primary purpose of the project is to eliminate blight, primarily by covering the railyard. With a delay, an uncovered operating railyard will be in place for a longer period; if the project is left uncompleted, the railyard may be left only partially covered. In the case of a delay, a smaller railyard with less capacity than the existing railyard will need to compensate by operating for longer hours, creating more noise and impacts on surrounding neighborhoods. While the former location was near commercial districts and larger streets with more street noise, the new railyard will be relocated and will be adjacent to low density residential uses on the south side and to the Atlantic Terminal Housing on the north. The Technical Memorandum does not address this change..

3.2.3 Cultural resources

Much of the area surrounding the surface parking lots has received City landmark status since the FEIS was released. The Prospect Heights Historic District extends along the surface parking lot on block 1129 lining both Carlton Avenue and Vanderbilt Avenue. In addition, a significant portion of the south side of Dean Street between 6th Avenue and Carlton Avenue has been landmarked and will now be exposed to significant project traffic. The FEIS analyzes the relationship of these areas to the built project, but does not analyze the impact of surface parking to them.

3.2.4 Traffic and pedestrians

3.2.4.1 Connections between neighborhoods reduced and implementation delayed

With a delay, there is a total reduction in connections between neighborhoods until the open space providing the connections will be built, but the three street closures disclosed will still take place. In addition to the delay of new added pedestrian and bicycle routes in the project in conjunction with the open space, the elimination of Pacific Street between Carlton and Vanderbilt for surface parking will remove an access route for traffic and pedestrians

that exists now. Only when the open space is built to replace the surface parking will the anticipated pedestrian route be put back in place. This is a reduction in connections within the neighborhood from the Full Build Out or No Build scenarios.

3.2.4.2 Parking available for arena patrons following Phase I will likely be greater than the provision for arena parking at the end of Phase II

It appears that a delayed build out scenario in which only the arena and two buildings are constructed would allow for more parking spaces specifically for the arena than the final project anticipates. The project at the end of Phase II is supposed to have 1,100 parking spaces for arena patron use (as opposed to residential or commercial users). Although there is no specific figure given for the number of spaces available for arena patron use at the end of Phase I, the MGPP states there will be 2,436 parking spaces in total at the end of Phase I. This number includes the 250 spaces planned for the arena block, and the 400 spaces planned for Site 5. The remaining 1,736 spaces must be located on block 1129. They would presumably be used for arena parking, as the distance between block 1129 and the arena block would seem to make block 1129 unattractive as a location for an accessory lot for residential or commercial buildings.

The MGPP contains no commitment to limit the amount of interim parking for the arena to the 1,100 spaces allocated to the arena at the end of Phase II. The amount of parking for arena patrons after Phase I therefore represents an increase of 62% over the amount disclosed at full build out. The Technical Memorandum makes no attempt to analyze the impact from the additional arena traffic on the streets surrounding block 1129.

The MGPP does not identify whether the requirements of High Occupancy Vehicle (HOV) parking, a mitigation proposed in the FEIS to encourage car pooling and reduce the number of vehicles coming to the study area, would apply to the interim lot. The use of on-site arena parking was to be limited to 600 spaces for HOV parking spaces and 500 spaces for suites and premium seating. The MGPP fails to acknowledge whether HOV requirements would be in effect in the interim lot and if so whether the more than 50% ratio of spaces dedicated to HOV parking would be retained. Changes to the use of on-site arena parking were not studied in the Technical Memorandum.

The profile of use of the interim parking spaces is also different than the use of parking at full project build out, when it is expected that much of the parking will be used by tenants of the residential buildings. Only 13% to 38% of the project's buildings will be completed at the end of Phase I, while 67% of the parking will be delivered. The profile of use of the parking at the end of Phase I would therefore be less residential and more transient than the use profile of parking at full build out. However, the Technical Memorandum makes no attempt to assess the impact of this difference, which would negatively affect neighborhood character and local traffic patterns.

3.2.4.3 Delay in underground connection between transit and the arena due to delay of Urban Room

The delay in the direct underground connection between public transit and the Urban Room will lead to increased pedestrian crossings at Atlantic and Flatbush. This could be exacerbated by the reduction in scale of the escalators exiting transit. Although vertical capacity has been increased in the modifications, those uncomfortable using stairs may use the elevator located at Pacific and 4th Street.

The delay in the Urban Room will eliminate a central component of crowd control for the arena. Not only will the crowd enter and exit the area of the arena differently without the central channel and focus of the Urban Room, they will also enter and exit the arena using more varied entrances and exits. Interim space surrounding the arena will diffuse crowds further. The security plans for the arena will be more difficult with crowds less centralized.

3.2.5 Air quality and noise

3.2.5.1 Surface parking

Surface parking in lot 1129 has been increased to 2,070 spaces. With a construction delay or an incomplete project, those spaces may remain uncovered for an indefinite period. All permanent parking would be located below grade and be covered. Surface parking will not be covered, and exhaust not filtered through HVAC systems. A delay will extend exposure to the community near the project.

3.2.5.2 Uncovered Operating Railyard in a New Location

The recent agreement between Forest City Ratner and the MTA changes the permanent replacement railyard from nine to seven tracks and reduces capacity from 76 cars to 56. The temporary railyard has 42 cars while the existing railyard in operation now has 72. Less capacity may force longer operational times in order to maintain current service. With a project delay, or an incomplete project this could lead to an operational railyard in a new location operating with adverse impacts on a residential population for longer periods in the day throughout the week. The plan of the project includes covering the railyard and creating a buffer for the railyard noise. However, with a delay or an incomplete project this covering would not take place for an extended period, creating an unassessed noise impact for the community.

3.2.6 Storm water

The elimination of the green roof for the arena has forced an increase in the scale of the retention tanks in the arena block and forced the shifting of 100 parking spaces under Building #2 to surface parking. The storm water plan is at the discretion of the ESDC.

3.2.6.1 Plans exceed worst case scenario

The surface parking lot which will be a feature of the project for an indefinite period of time will pose storm water issues not addressed by the mitigation measures described in the MGPP, not all of which will be implemented in the revised plan. The parking lot, the arena roof, and the new railyard location – if it includes a concrete floor – may cumulatively exceed the amount of unabsorbant surface anticipated in the FEIS that included a green arena roof and eight acres of open space in the second phase. Retained storm water run-off was anticipated to be reused to water the open space.

3.2.6.2 Storm water retention basins delayed

Storm water retention basins considered a new visual resource for the community cannot be put in place until the open space is created. They are also a major sustainable element of the project.