
Prospect Heights Neighborhood Development Council

Atlantic Yards Arena and Redevelopment Project

Comments on the EIS Draft Scope of Work

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1. Introduction

1.1 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.

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 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 project as described in the ESDC's draft scope would consist of a 19,000-seat arena, 7,300 units of housing, nearly 900,000 square feet of office and retail space, a 180-room hotel, seven acres of open space and parking for 4,000 cars. The ESDC will receive comments with respect to the EIS scope until October 28, 2005.

With respect to public participation in the review of the proposed project, an independent study by the Pratt Institute Center for Community and Environmental Development (PICCED) released in February 2005 found that

“...the process through which this development has been advanced has not been sufficiently fair or accountable... Planning for the project was initiated by the developer, considering the best site for a basketball team he was purchasing, and a large-scale mixed-use development. No officially-sanctioned public planning took place in advance to consider various alternatives for use of the site, or to collect input from area residents. Rather than fostering inclusiveness and building community consensus, the developer's approach has been perceived as divisive, with residents being played against each other... Moreover, little clear information has been provided about the review process that the project would undergo. The City's Unified Land Use Review Process (ULURP), which provides substantial opportunities for public input, has been effectively rendered

irrelevant. Essentially, the developer has been allowed to choose the path of least public review and comment.”¹

1.2 Prospect Heights Neighborhood Development Council

Forest City Ratner’s Atlantic Yards proposal in many ways was the culmination of a pattern of development of the industrial blocks of northeastern Prospect Heights, beginning most significantly with the conversion of the abandoned Daily News printing facility into the Newwalk condominium project in 1999. However, the magnitude of the development potential of the area had not been recognized by the community as a whole prior to the unveiling of FCRC’s plans. Other sizeable new construction projects in Prospect Heights broke ground or were proposed in the winter of 2003-2004. The strength of the New York real estate market appeared to be propelling the neighborhood into new directions that had the potential to alter—for better or worse—the scale, character and demographics of Prospect Heights.

The Prospect Heights Neighborhood Development Council (PHNDC) was formed in February 2004 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 current officers of PHNDC are:

- Gib Veconi, Chairman
- Peter Krashes, Vice President
- Danae Oratowski, Secretary
- Robert Puca, Treasurer

PHNDC has worked to communicate the perceptions and priorities articulated by neighborhood residents to public officials and other organizations active in the community. PHNDC is also continuing to work to provide Prospect Heights residents with independent, objective information with respect to major development projects proposed for this community. Finally, PHNDC is meeting with other community-based organizations in adjoining neighborhoods to represent the Prospect Heights community in the larger context of development in downtown Brooklyn.

1.3 About this report

1.3.1 Purpose

The purpose of this report is to provide community commentary on the draft scope of analysis for the Atlantic Yards Arena and Redevelopment Project released by the Empire State Development Corporation on September 16, 2005. PHNDC intends that all content presented in this report be considered by ESDC in its evaluation of potential impacts of the proposed project to the surrounding neighborhoods. It is further PHNDC’s intention to review the eventual draft EIS to verify that all impacts identified in any portion of this report have been effectively addressed and meaningful mitigations proposed.

¹ *A Preliminary Planning Analysis of the Brooklyn Atlantic Yards Project*, The Pratt Center, March 2005

1.3.2 Expert opinion

PHNDC has sought and received assistance from urban planning professionals to identify many of the impacts cited in this report. Among others, we are indebted to the work of Dr. Tom Angotti of Hunter College and his students.

1.3.3 Input from community organizations

PHNDC also received input from the following member organizations:

- Dean Street Block Association
- Eastern Parkway Cultural Neighborhood Association
- Park Place/Underhill Avenue Block Association
- Prospect Heights Association
- Prospect Heights Parents Association
- Prospect Place Block Association

These organizations have provided specific input into impacts they expect to see affect their respective neighborhoods, which has been incorporated into this report.

1.3.4 Input from community residents

In June of 2004, PHNDC commissioned a study by the Pratt Institute Center for Community and Environmental Development (PICCED), which subsequently prepared a report analyzing over 400 survey responses which were collected from Prospect Heights residents at street locations and via the Internet. (Details of the study are available online at <http://www.phndc.org/study.php>.) Survey data showed that Prospect Heights residents, across different classifications of race and income, shared similar perceptions of the neighborhood strengths, including: social and economic diversity; good public transportation; access to parks and open space; architectural quality; and a strong sense of community. Responses also demonstrated common perceptions about areas in need of improvement in Prospect Heights, including: public education; public safety; housing opportunities for low- and moderate-income households; and street conditions, traffic safety and parking availability.

Throughout this report, summary data from the survey are provided that illustrates the perceptions and concerns of Prospect Heights residents with respect to the task areas identified in the draft scope of work.

In June of 2005, PHNDC held a public meeting in Prospect Heights to explain the SEQRA process and solicit the community's concerns about the impact of the Project. These comments have been incorporated into this report.

2. Guidelines for the scoping and environmental review process

PHNDC is concerned that the history of the proposed Atlantic Yards project to date has been marred by a lack of transparency. The developer has not engaged the Prospect Heights community in which the project is located. Instead, the developer has cultivated organizations to act as counterparties to a so-called “community benefits agreement” in an effort to create the impression that local support for the project exists. These actions have created an atmosphere of tension and socioeconomic divisiveness in Prospect Heights where none existed before. Therefore the EIS should, to the greatest extent possible, seek to reverse this situation by actively engaging the local community in the EIS process as described below.

2.1 Access to all materials

The ESDC and project consultants should make available on-line and in a timely manner all research materials used in producing the EIS. These should disclose all methodologies and assumptions used in making calculations and estimates.

2.2 Continuous consultations

The lead agency and project consultants should hold open public meetings on a regular basis, approximately once a month, to discuss the ongoing analysis and preliminary findings. It is important that there be community input before completion of the Draft EIS. These consultations should begin with a thorough disclosure of the assumptions and methodologies to be utilized.

2.3 Access to technical assistance

It is critical that community organizations and community boards receive funding from the project developer and/or ESDC so they may contract with independent technical assistance providers. This will help in analyzing the voluminous technical material generated by project consultants and in preparing comments on the environmental review and Draft Environmental Impact Statement. Since this is one of the largest development projects in Brooklyn in recent decades, it is important that there be informed deliberation by community residents and businesses. PHNDC is a member of the Council of Brooklyn Neighborhoods, and joins CBN in its call for the ESDC to exercise its ability to collect funds from the developer during the EIS process and facilitate funding technical assistance for the communities surrounding the proposed Project to be administered by CBN and local Community Boards.

3. Scoping tasks

3.1 Task 1: Project description

3.1.1 Lack of detailed information

The project plan currently lacks specific details about the project's zoning, design and implementation. Such details include the location of loading docks, access roads, parking garages and retail space. Areas of Prospect Heights near the proposed project will be affected by specific details about the Project's design and its implementation that have not been included in the plan released to the public, Uncertain use of developed property

The draft scope of work describes two variations for the use of Towers 1 and 2 to be developed on the arena site. The differences in the commercial and retail applications described would result in substantially different types of impacts to the surrounding community. Separate EIS analyses must be prepared for each variation.

3.1.2 "Community benefits agreement"

The draft scope cites the execution of a so-called "community benefits agreement" between the Project Sponsors and eight "community-based organizations." Since the publication of the draft scope, it has been reported and confirmed that the principal signatories to this agreement have a direct financial relationship with the developer². Further, it has been reported that the Project Sponsors played an active role in organizing one of these "community" groups³.

The ability of the proposed project to deliver jobs and affordable housing has been cited by its supporters and the Project Sponsors as being one of its key justifications. Therefore, the EIS should evaluate the basis of the "community benefits agreement," and estimate the likelihood that the benefits described in the draft scope will be realized. In particular, the EIS should consider the qualifications of the organizations proposed to implement the benefits programs: their relative experience with comparable projects, their operational capabilities with respect to administering the programs, and their legal and governance structures with respect to ensuring their administration of benefits will be free from conflicts of interest. The EIS must further confirm the standing of these groups within the immediate and neighboring communities to determine whether the "community benefits agreement" was executed by a sufficiently representative set of counterparties so as to constitute a good faith effort on the part of the Project Sponsors to reach out to the affected communities, and not simply to create favorable public relations for the Project.

3.1.3 Blight

The section on Purpose and Need should identify specific objective criteria used to define blight and underutilization. It should identify all properties determined to be blighted, including properties owned by the project sponsor. There must be an assessment of the extent to which announcement of the project, and land assembly by the project sponsor, may have contributed to blight conditions. The Project sponsor should disclose the number of occupied residential and commercial properties it acquired and subsequently vacated, thus potentially contributing to blight conditions.

3.2 Task 2: Analysis framework

3.2.1 Specific study areas

As the draft ESDC report notes, Prospect Heights is separated from neighboring areas by major roadways and the below grade rail yard. The neighborhood of Prospect Heights, bounded by Flatbush Avenue,

² "BUILD admits Ratner funding," *New York Daily News*, October 18, 2005

³ "To Build Arena, Developer First Builds Bridges," *The New York Times*, October 14, 2005.

Atlantic Avenue, Washington Avenue and Eastern Parkway, should be considered a separate area of study with respect to topics on land-use, socioeconomic conditions and neighborhood character.

3.2.2 Existing conditions

“Existing conditions” should be defined as of December 2003 (the date of the announcement of project) in order to take into account displacement of residents, businesses and artists due to FCRC, ESDC, or local development corporation agreements made in the face of the threat of eminent domain. These transactions with property owners and tenants should not be categorized as voluntary. Using September 2005 as a baseline for establishing existing conditions skews analysis because the baseline conditions are being set at a point after many of the businesses and residences have been cleared out. This affects study across the whole spectrum of topics and includes the “no build option.” It is not relevant whether a property owner’s sale was voluntarily or not when studying topics like land-use, socio-economic conditions, neighborhood character and the project’s costs to businesses like retail and the arts community,

The analysis of “existing conditions” should exclude any purchases of FCR property and any government owned property vacant at the time of the announcement of the project. Incomplete but approved projects should be assessed for their value and projects in some stage of approval (for example with the B.S.A.) should not be considered vacant. Businesses that have been displaced should be traced to establish they still are located in the city.

3.2.3 Reasonable worst case scenarios

The EIS should study in full the effect of residential and retail development in relation to non-retail business operation on Dean Street and Bergen Street. For industrial displacement, assume the residential variation. For most community facilities and services, schools in particular, assume the residential variation.

3.2.4 Direct displacement

Households, businesses and artists who entered into voluntary agreements with the project sponsors and were displaced should be counted as displaced by the project. The threat of condemnation does not make such agreements truly voluntary; without the threat of condemnation many of these households may not have moved. Tenants who have been forced to move by landlords who sold their properties to the project sponsor should be considered as having been displaced.

3.3 Task 3: Land use, zoning and public policy

3.3.1 Trend analysis

In addition to identifying those properties vacated by project sponsor, the ESDC or any local development corporation, the EIS must establish their current or former use, (residential condo, furniture warehouse, storage facility, artist studio, etc.).

Not all changes in land use that city allows are a result of the lack of viability of manufacturing in a certain area. The EIS must establish why individual changes in land use were allowed within the study area.

3.3.2 Public policy

The EIS must consider the relationship of light industrial zones to artists. Will the proposed zoning changes affect the arts community in the vicinity of the project? Should public policy find ways to protect arts communities that value affordable square feet?

3.3.3 Zoning and land use compatibility

The EIS must assess the compatibility of the proposed zoning and land use changes with existing zoning, land use and public policy.

- The proposed changes may result in zoning changes outside the footprint not included in the project plan. What would the impact of these changes be and who would be impacted?

- How will the Project’s new residential and commercial zones on Dean Street between Carlton and Vanderbilt affect the operation of manufacturing businesses across the street? Will it affect the appropriateness of the M-1 zoning in Prospect Heights?
- Have there been any recent zoning or use changes not in character with the proposed development?

3.3.4 Community interests

The PICCED study referenced in section 1.3.4 surveyed residents of Prospect Heights with respect to commercial services most needed in the community. Residents’ responses are summarized in the table below.⁴

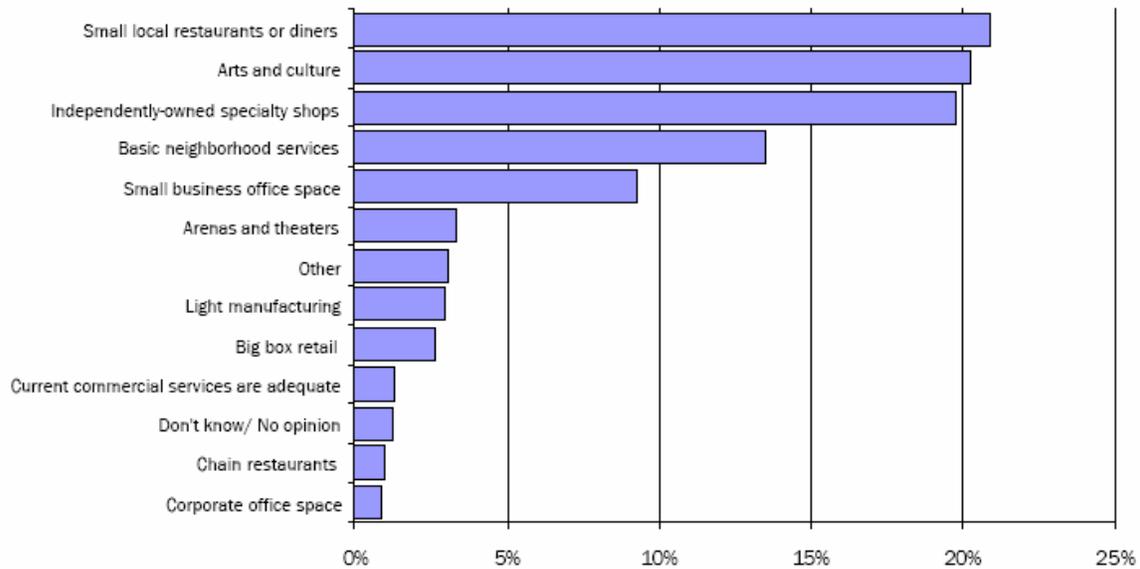


Figure 1: Commercial services needed in Prospect Heights

The EIS should consider the potential for the Project, over the course of the study period, to promote the establishment of the types of commercial applications cited most frequently by neighborhood residents.

3.4 Task 4: Socioeconomic conditions

The PICCED study referenced in previous sections found that social and economic diversity was perceived by Prospect Heights’ residents to be one of the neighborhood’s greatest strengths⁵. Eighty-three percent of survey respondents rated the diversity of Prospect Heights as “good” or “very good.” The EIS must therefore examine fully the potential of the Project to accelerate a trend towards gentrification and homogeneity in Prospect Heights’ demographics by examining in detail specific institutions and communities that reinforce diversity in the neighborhood.

3.4.1 Religious institutions, cultural organizations and social service providers

The EIS must identify the religious institutions, cultural organizations and social service providers whose operations or sources of financial support may be adversely affected by the Project. Among others the study should include

⁴ *Prospect Heights Neighborhood Survey Summary Report*, Pratt Institute Center for Community and Environmental Development, October 2004

⁵ *Ibid.*

- The Temple of Restoration on Dean Street,
- The Iglesias Evangelica Latinas on Bergen Street,
- The America/Burma Buddhist Association and its monastery on Dean and Bergen Streets,
- St. Joseph's on Pacific Street and St. Joseph's Senior Residence on Dean Street, and
- Boys and Girls Towns on Dean and Bergen Streets.

Among other issues that must be studied are disruptions in operations, physical damage to facilities as well as regional and local access. For each institution, the impact to traffic/parking, noise, and construction impacts during both the construction phase and the Project's completion should be studied in order to determine how these impacts may disrupt the institution's ability to serve its population.

3.4.2 Existing neighborhood retailers

New large-footprint retailers on the project site may displace existing local retailers because they will benefit from direct and indirect subsidies to the project. The EIS should disclose the local retailers and service providers in the study area that will be displaced as a result of land and rent increases, the potential for storefront vacancies, and the costs associated with these vacancies. This should include retail strips on Atlantic Avenue (both east and west of the site), Flatbush Avenue, Fifth Avenue, Seventh Avenue, Smith Street, Vanderbilt Avenue, Washington Avenue, Myrtle Avenue and Fulton Street.

3.4.3 Unique irreplaceable businesses

3.4.3.1 *Ulano*

The EIS must consider the impact on Ulano, the largest manufacturer of screen-printing templates in the United States. Both manufacturing sites for this business are in the primary study area, and its manufacturing process is dust sensitive. The EIS should project the likelihood that jobs at Ulano will be retained in Brooklyn should the manufacturer be required to relocate due to impacts from the Project.

3.4.3.2 *Food products manufacturers*

The EIS should study the impact on the manufacturers and suppliers of food products in the vicinity.

3.4.3.3 *Suppliers to ethnic communities*

The EIS should study the risk to specific ethnic groups like Brooklyn's Burmese community in relation to the proposed project. The study should analyze ties among manufacturers, these ethnic groups and their religious institutions.

3.4.4 Prospect Heights arts community

Prospect Heights' art community plays an essential, unique role in New York's culture and economy. Not only are there many affiliated artists in the neighborhood, many of those have made historically important work that is included in the collections of museums like the MOMA and the Metropolitan Museum. Negative economic impact may occur both because of direct and indirect artist displacement as well as the substantial loss of affordable commercial space used as studio and loft space. The indirect displacement of artists and the indirect loss of studio and loft space may also be caused by the likely changes of land use and zoning the Project stimulates.

Any assessment of the economic and cultural impact of this project on the arts community should be measured both in terms of displacement and the amount of affordable studio and loft space, (measured by square feet), occupied by artists that may be lost in the vicinity. The analysis should take into account likely changes in land use and zoning in the primary and secondary study areas of the project including Gowanus.

Artists and related businesses in the vicinity of the proposed project are unusually vulnerable to land use shifts from manufacturing to residential, and increases in residential density, because they rely on

commercial leases for the studios and lofts spread across the area's manufacturing district. The EIS must also assess the impact of pressure on artists' residential rents near the site, as well as the significant construction impacts and study the impact on AIR buildings.

Art service providers, galleries and special interest retail are also part of the arts community. The EIS should study the impact of the direct and indirect displacement of businesses including Simon Liu, Inc., a manufacturer of stretchers for many painters exhibited in museums like MOMA and the Metropolitan Museum. Will the loss of Simon Liu and other businesses like it affect artists and businesses remaining in Prospect Heights?

What steps can be taken to maintain Prospect Heights as an energetic hub of artistic activity? There are many possible mitigations that must be studied. Artists subject to direct or indirect dislocation in the area should be relocated and the terms of that relocation should be disclosed to the public.

Finally, the EIS should link the study of the socioeconomic impacts on the arts community to the study of Prospect Heights' neighborhood character.

3.4.5 Economic and fiscal benefits

Economic and fiscal benefits attributed to the Project must be considered in light of the significant government subsidies the Project Sponsors are expected to receive. The net benefits should then be compared to the alternative scenario in which the project proposed by Extell Development is built.

The economic impact of the Failure scenario must be considered by the EIS. What will the net effect of the Project's indefinite deferment be to the tax revenues projected by the Project Sponsors, and how would that compare to the No Build scenario? What will be the economic costs to local businesses and residents in this scenario?

3.5 Task 5: Community facilities and services

3.5.1 Community services

3.5.1.1 Care providers

The EIS must include the study of foster care facilities and senior homes. It should assess all public and private community facilities and social service providers in relation to construction impacts, environmental impacts (e.g., noise and air quality), traffic and pedestrian safety, and building access and parking. Specifically, Boys and Girls Town and St. Joseph's Senior Residence should be studied in this respect.

3.5.1.2 Postal service

The impact of the proposed project on the Post Office located on Fulton Street must be studied by the EIS, including the impact on delivery times during the construction phases and at the phases of completion.

3.5.1.3 New facilities

Who is operating the community facilities that will be added and where will they be located? In what phase will they be built?

The EIS must propose the sourcing policies that will be used to select operators of the various community facilities that are described by the draft scope as being provided by the Project Sponsors. Sourcing policies must reflect best practices in awarding contracts to providers of public services, including RFP procedures, contracting guidelines, remedies, and conflict of interest policies.

3.5.1.4 *Police*

PICCED found that, among Prospect Heights residents, safety and security from crime was considered the second most highly-rated factor necessary for quality of life⁶. It was also the second neighborhood characteristic most often cited as being in need of improvement in Prospect Heights.

The drastic change in population density in Prospect Heights that will ensue from the Project, as well as the arena application planned for the Project site, demand that the EIS include a full analysis of the sufficiency of existing police services to address security issues that the project will create.

- The EIS must study changes in patterns of reported crime and quality-of-life offenses in other urban areas where arenas have been built and determine the additional crime likely to occur in Prospect Heights as a function of the arena proposed for the Project.
- The EIS must study other developments of the size and scope of the proposed Project that have occurred in New York City and in other metropolitan areas in the United States with respect to the change in patterns of reported crime and quality-of-life offenses occurring during the construction phases of such projects. The EIS must estimate the impact in terms of additional crime likely to occur in Prospect Heights as a function of the construction phases of the Project.
- The EIS must consider the increase of the resident and worker populations in Prospect Heights that will occur as a result of the proposed Project, and estimate the increase in crime and quality-of-life offenses that will occur simply as a function of population increases.
- The EIS must analyze the current resources of the site's zoned police precinct (the NYPD 77th Precinct). Radio patrol assignments must be studied to identify potential issues in the location of police dispatch relative to the Project site (the 77th Precinct station house is approximately three miles from the Project site). Impacts to response times should be studied given increased traffic both during the day and in the evenings when sports events are held at the arena.
- The EIS must study the NYPD 78th Precinct station house location on Sixth Avenue with respect to impacts during and after construction phases. Specifically, impacts to pedestrian safety and street parking should be studied given the station's proximity to the proposed arena and the proposed narrowing of sidewalks in front of the station house. Impacts to response times should be studied given increased traffic both during the day and in the evenings when sports events are held at the arena. The analysis should use an arena event as the standard for the worst-case condition rather than using averages of response times.
- The EIS must consider the potential for the closure of local streets (e.g., the blocks of Sixth Avenue between Atlantic and Dean, and Carlton between Atlantic and Dean) for security reasons either permanently or during sports events, and determine the effect on police response times.

The EIS must include an assessment of the expected total net increase in crime and quality-of-life offenses as a function of each phase of the proposed Project. The study must also assess the impairments to the NYPD's ability to respond within current levels of effectiveness during and after construction of the Project. The EIS must consider specific mitigations to address any gaps in current levels of police responsiveness. Mitigations to be considered should include

- increasing the resources of the 77th, 78th and 88th precincts;
- staffing a temporary remote command center of the 77th precinct on the project site during construction phases;
- staffing a permanent satellite station of the 77th precinct to be located in proximity to the Project site (perhaps at the NYPD building located at the northeast corner of Washington Avenue and Park Place);
- relocating the 78th precinct station house prior to commencement of construction; and

⁶ *Ibid.*

- redrawing 77th and 78th precinct boundaries to locate the project site and neighboring Prospect Heights communities fully within a single command with a proximate station house.

3.5.1.5 *Fire services*

Given the size and scope of the Project, the EIS must address issues associated with dispatching fire services to the project site in the event of a fire or similar accident during the construction phases of the project.

Vanderbilt Avenue and Atlantic Avenue are frequently used by fire trucks responding to alarms. The EIS must analyze the potential for disruption to these routes, and any possible impairment to the ability of the Fire Department to respond to emergencies in the area.

Specifically, the EIS must study Engine Company 219/Ladder Company 1 on Dean Street near Sixth Avenue, at each phase of the project and following construction. Pedestrian safety and parking impacts must be considered, as well as any impact to response times associated with the station's proximity to the arena.

The EIS must consider the potential for the closure of local streets (e.g., the blocks of Sixth Avenue between Atlantic and Dean, and Carlton between Atlantic and Dean) for security reasons either permanently or during sports events, and determine the effect on fire service response times.

3.5.1.6 *Emergency services*

The EIS must identify the locations from which EMS vehicles are dispatched to the Prospect Heights neighborhood, and the hospitals to which they routinely travel. The EIS must consider the effect of increased traffic along routes traveled by EMS during and after construction phases on emergency service response times.

3.6 Task 6: Open space

The PICCED study cited previously found access to parks and open space to be the one of the most often-cited strength of the Prospect Heights community among its residents (second only to access to public transportation)⁷ Eighty-nine percent of respondents to the PICCED survey rated current access to parks and open space "good" or "very good".

3.6.1 *Accessibility*

In analyzing public space within the project and the study area, only fully accessible public space should be included. This should not include landscaped areas within apartment complexes that effectively service only residents. Walkways, gardens and plazas that are not accessible because of the way they are configured, with visual and design barriers, are not comparable to public parks and playgrounds. Design elements that may be introduced to maximize security must be analyzed in detail, including barriers, bollards, surveillance equipment, etc. Security policies may effectively restrict the use of open space by excluding individuals and groups who would otherwise have a right to access to public open spaces. The use and function of open space in the project should be compared to Metrotech and Atlantic Center, where the Project Sponsors have already established policies for security and access. The demand for public space per worker in the project should be projected, but this should not be considered satisfied by either the Dean Playground or Bears Garden, the only open spaces in the immediate area.

3.6.2 *Location of space to be provided by the Project*

The EIS must identify the amount of new public open space to be completed at the end of Phase one and then at the end of Phase Two.

⁷ *Ibid.*

The EIS should study moving the open space in Phase Two off of Pacific Street between Carlton and Vanderbilt to the northern side of Dean Street between Carlton and Vanderbilt. Specifically, the EIS should

- compare the two options for ease of public access from the Prospect Heights neighborhood;
- compare the two options for length of sun exposure and ability to place a wider variety of plantings including large shade trees;
- compare the benefit for the surrounding neighborhoods of therefore being able to leave Pacific Street open
 - in relation to construction costs due to infrastructure rerouting to Dean Street,
 - in relation to traffic volume on local streets surrounding the project,
 - in relation to evacuation routes,
 - in relation to compatibility with existing land use (retail can be moved to Pacific eliminating clash with M-1 zone on the south side of Dean Street), and
 - in relation to increased foot traffic that could affect local businesses.

3.6.3 Dean Street Playground

The Dean Playground, with several local and regional basketball leagues in residence, is directly across from parts of the proposed project and very close to the proposed arena. In addition to the impact of the new proposed population increase, study the effect of traffic, parking, shadows, litter, noise, local and regional access, pedestrian safety as well as security in relation to the playground. Study the impact on the playground across all building and construction phases of the project. Can the H.P.D. parking lot be returned to the playground to mitigate somewhat the increase in population of the area? Private money has been raised by the local community to renovate the playground. Will the reconstruction schedule overlap with the construction of the arena?

3.6.4 Other neighborhood resources

The EIS must also assess the impact of the proposed project on other neighborhood parks and playgrounds in terms of increased use and wear, traffic, parking, shadows, litter, noise, local and regional access, pedestrian safety as well as security. Neighborhood resources to be studied include

- Prospect Park,
- Mount Prospect Park, and
- The Underhill Avenue Playground.

3.6.5 Street trees

The EIS should disclose the impact of the project on the number of trees and distinguish between mature and newly-planted trees, decorative and shade trees. The study should identify which streets (such as Sixth Avenue) will be unable to accommodate tree pits because of narrowed sidewalks.

3.7 Task 7: Cultural resources

3.7.1 Rowhouse blocks

The EIS should examine the blocks of rowhouses typical to the area that are not protected by historic district regulations. The rowhouse facades of Prospect Heights differ from those in the neighboring Park Slope Historic District, are constructed of more varied types of softer stone, and are often more detailed in their carved designs. These houses represent an important document of the history of Prospect Heights.

3.7.2 Places of worship

The EIS should identify the neighborhood places of worship that are not protected but may lose worshippers or face economic pressures to close. Specifically, the religious institutions listed in section 3.4.1 should be studied.

3.7.3 Unique properties

The following properties with historic value should be described in the EIS:

- The building at 24 Sixth Avenue that housed the original Spalding sporting goods factory;
- Freddy's Bar, Dean Street and Sixth Avenue, once a private club run by the Spalding Company;
- 636 Pacific Street, a warehouse designed by George S. Kingsley;
- The former Ward's and Pechter's Bakery at 800 Pacific St; and
- The Temple of Restoration at 515 Dean Street.

3.7.4 African American and Native American settlements

The EIS should investigate whether the site may have remains of early African American and Native American settlements that developed around Atlantic Avenue and possibly continued into the late 19th century. The site may also have been a stop on the Underground Railroad.

3.7.5 Arts community

An essential part of Prospect Height's neighborhood character is as an arts community. Arts communities need density great enough to support their own services. The EIS should describe a strategy to maintain the arts community in Prospect Heights that takes this issue into account.

3.8 Task 8: Urban design and visual resources

3.8.1 Public space

The EIS should describe the plan for greening, in the streets and in public spaces. How will the public spaces be programmed and used? Unprogrammed public space will fall into the same trap as the green spaces in urban housing projects, to become unused swaths of landscape serving only to anchor towering residential blocks.

The posture of the buildings, seeming to turn their backs on the street and the surrounding communities and enclosing the "public space" isolates the project from the larger community, suggesting latent enclaves within the larger urban context. The EIS should consider alternatives to the proposed design that presents the proposed open space as being truly public, such as the relocation of the public open space to the perimeter of the site.

Finally, the EIS should detail a perpetual maintenance plan built in to the cost/earnings of the project to provide for the public spaces.

3.8.2 Street-level design

The EIS should provide detailed street level views of the proposed project from multiple vantage points including views from every intersection around the circumference of the project including Pacific Street and Vanderbilt Avenue. Also include street level views looking down Vanderbilt, Carlton, 6th and Flatbush Avenues toward the project in each direction.

The project is at odds with the way in which buildings in Prospect Heights occupy their lots and how they collectively occupy the block to create a street wall. The effect of each of the parts as well as the entire project is that of an object on a field rather than a complex urban assemblage, with relationships and interrelationships between architectures.

The building street wall is an important, easily read and understood urban form and structure marking the boundary between public and private. Gaps in the street wall, which are not streets, disrupt the continuity of the street wall, are ambiguous, create visual disturbance to the pedestrian eye (related to safety) and detract from the street quality. The EIS must describe how sidewalks and the interface between the sidewalk and the project will be treated (i.e. lighting, street trees, ground floor, storefronts).

The EIS must identify the locations of all building entrances. A detailed analysis of the blocks facing the project should take place including considerations of type of use.

Finally, the EIS should detail how building configuration, walkways, lighting and other urban design features are intended to direct residents to Vanderbilt Avenue businesses.

3.8.3 Super-block impacts

Because one of the Project's goals is to weave together neighborhoods separated by the rail yards, the design of the Project should be measured by the extent that it achieves that goal. Does the campus design of the project and the incongruous scale of the project inhibit the public's desire and ability to pass from Prospect Heights to Fort Greene?

By de-mapping parts of Pacific Street, the project creates a "super-block," an essentially anti-urban gesture. Along Atlantic Avenue, long stretches of building façade, unchanging and monolithic horizontally, could present a blank face to the street and create a dead street, forcing the public to avoid the resulting street façade, quelling opportunities for public and social interaction, destroying the emerging street life, and precipitating threatening encounters, especially at night. The EIS should study the sidewalk utilization patterns of similar projects in other urban areas where super-blocks have been created. The EIS must consider mitigations for negative impacts, including the alternative of not creating super-blocks within the Project.

3.8.4 Separating space

The EIS must specify how spaces between the buildings are to be used. The gaps between the proposed buildings could create potentially harsh and violent wind channels with downdraughts from the tall buildings, making it unpleasant to traverse especially in the winter.

3.8.5 Barriers to movement

The EIS must define the nature of the environment that pedestrians are moving through. Public and private are not clearly delineated in the draft scope, presenting opportunities for conflict. The drift of the public into the private realm and vice versa, potentially leading to, in the interest of security and protection of private property, the encroachment on and the privatization of designated public spaces with the erection of fences, gates and sentry boxes. The EIS must explain how open space that is designated as public can be expected to remain so not just name, but in practice.

3.8.6 Building materials and construction

The EIS must describe the materials used to construct the publicly-visible portions of the project.

What efforts are being made regarding sustainability? How can the project buildings minimize their use of energy/source alternative forms of energy?

3.8.7 Role of architects and designers

The EIS should describe the roles of the architects and designers that have been selected by the Project Sponsors.

3.9 Task 9: Shadows

3.9.1 Dean Street Playground

The effect of shadows on the Dean Street Playground should be studied by the EIS.

3.9.2 Residential gardens

The effect of shadows on gardens appurtenant to rowhouses in the immediate vicinity of the Project must be studied by the EIS.

3.9.3 Impact to artists

The EIS should study the effect of shadows created by the project on the artist community of Prospect Heights.

3.10 Task 10: Hazardous materials

No comment.

3.11 Task 11: Infrastructure, energy and solid waste

3.11.1 Water quality

We are concerned about storm water discharge quality from siltation and other pollutants associated with road construction and operations. The EIS should discuss potential impacts of discharge water quality, designated uses and biological resources (if any) from construction and operations of the Project. The discussion in the document should be of sufficient detail to determine which alternatives are environmentally preferable. Site-specific water quality problems need to be assessed in greater detail, if applicable, including the adoption of site-specific mitigation measures to protect water quality in stormwater discharge areas.

3.11.1.1 Characterization

The EIS should identify all surface waters that may be affected by the proposed project, as well as current drainage patterns in the project study area. The document should identify the existing and potential designated uses of these surface waters.

The EIS should discuss how the project will comply with state and local water quality management plans, state water quality objectives; and state-adopted, EPA-approved water quality standards. The New York DOT or other appropriate agency responsible for storm water quality should work closely with state water pollution control agencies on water quality standards; the protection of water quality, designated uses and biological resources; mitigation and monitoring for adverse impacts. If the proposed project includes disturbance of five or more acres of land during construction, and point source discharges into waters of the United States (i.e., water bodies such as rivers, lakes, wetlands, etc.), coverage under an EPA stormwater National Pollutant Discharge Elimination System (NPDES) General Permit or state equivalent may be required.

In addition, Section 319 of the CWA requires states to assess nonpoint source water pollution problems, develop nonpoint source pollution management programs, and implement controls to protect and improve water quality and beneficial uses. The state DOT should work closely with appropriate state water pollution control agencies to determine what pollution control measures should be adopted to advance the state's nonpoint source management plans in the project area. Specifically, the status of development of Total Maximum Daily Loads (TMDLs) for any waterways in the study area should be identified and how the proposed project could affect implementation of restoration efforts in these watersheds.

3.11.1.2 Mitigation

The EIS should discuss what mitigation measures (e.g., nonpoint source controls) will be implemented to protect or improve water quality, designated uses, and biological resources. Mitigation measures related to protection of water quality should be tailored depending on the condition of the specific water resource as well as the severity of the potential impacts. Best Management Practices (BMPs) should be used to reduce runoff during construction and operation of the facility. In the vicinity of impaired surface water resources in the project area, it is recommended that all storm water runoff from the Project be collected and treated before being discharged to surface waters. Compliance should include both BMP application and long-term maintenance.

3.11.1.3 Local basement flooding conditions

The EIS should assess existing conditions of local storm water back-up in homes (Dean Street, Carlton Avenue, Bergen and St. Marks have identified problems at the PHNDC prescoping meeting on June 16, 2005), and determine the effect of Project construction phases on these conditions.

3.11.1.4 Collapsing streets

The EIS must study the source of the collapsing streets on Dean and Bergen Streets. If the source is groundwater or underground streams, how will that affect the proposal to build large buildings on top? Will the water be rerouted by the proposed project? Will the water be contaminated during construction?

3.11.2 Cost of disruptions to Dean Street residents

The EIS must assess the cost to existing businesses, residents and artists of significant street disruptions due to infrastructure rerouting. Compare the proposed Project to an alternative of leaving Pacific Street between Carlton and Vanderbilt and routing infrastructure down it.

3.12 Task 12: Traffic and parking/transit and pedestrians

PICCED found existing parking and traffic safety conditions to be the most frequently cited by Prospect Heights residents as being in need of improvement, second only to public education services. Further, when asked about the impact proposed Atlantic Yards project, ninety percent of residents described themselves as being “concerned” or “very concerned” about increased traffic, making this the most significant concern expressed.⁸ The following charts show this concern to be shared consistently across varying demographic populations in Prospect Heights.

⁸ *Ibid.*

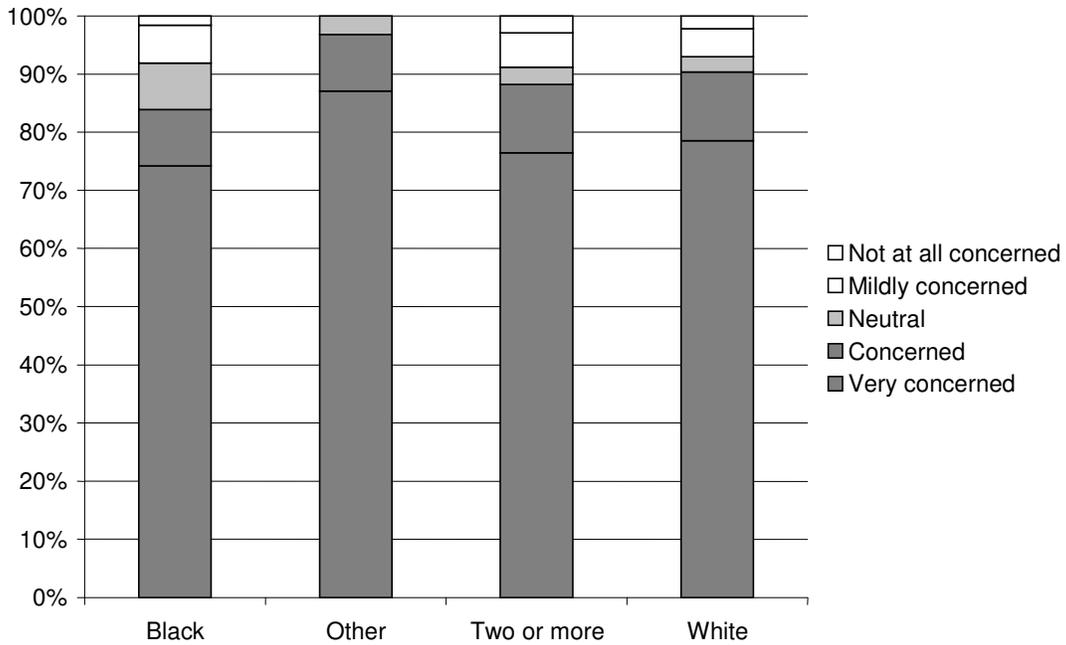


Figure 2: Atlantic Yards traffic concern by race of respondents

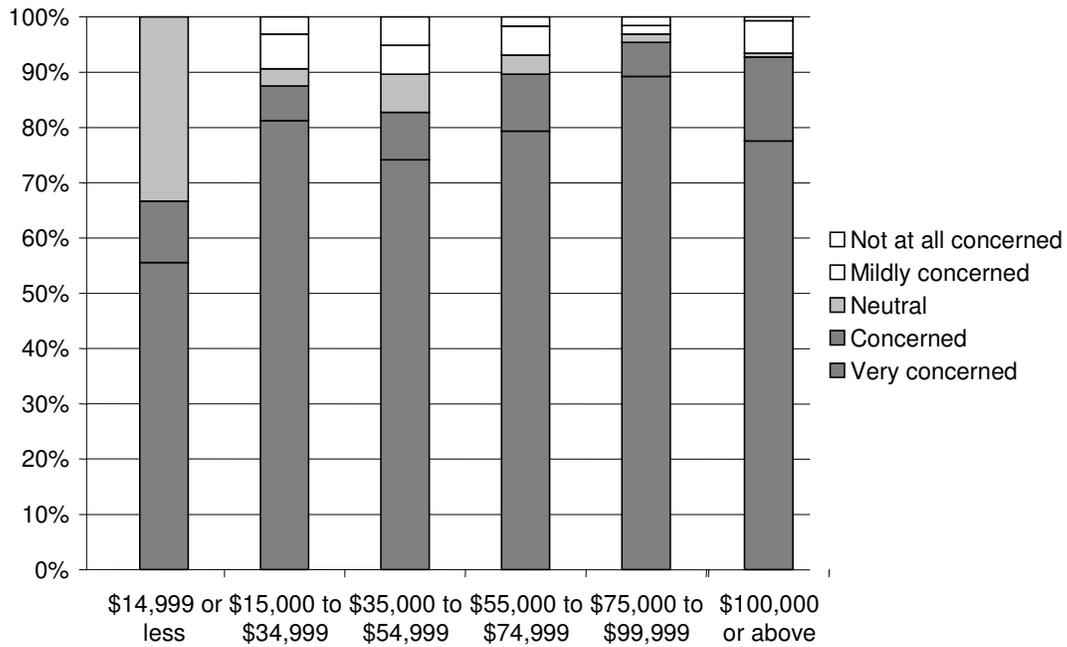


Figure 3: Atlantic Yards traffic concern by income of respondents

3.12.1 Public transportation

The EIS must study impact on the A,C,E,2,3,4,5,Q and B trains.

The EIS must assess and describe the impact to M.T.A. bus routes during and after the construction phases of the project.

- Where will the B65 bus be rerouted from Dean Street during the construction phase?
- If increased rider ship necessitates more buses will that increase noise along the bus routes?
- If buses will be routed away from the project for security or other purposes, what will their routes be? Analyze for local noise and air quality impacts.

Any analysis of travel patterns and mode of transportation choice must include an assessment of LIRR, NJ transit, and PATH schedules and travel times for travel to and from arena at game times.

The EIS must study new subway and train entrances for their impact on existing communities including the way the new locations impact on pedestrian and automobile traffic.

3.12.2 Traffic flow

The traffic analysis should include projected traffic volumes that would utilize the facility from the connecting portions of Brooklyn surface streets and interstate highways I- 678, I-495, I-295 and I-287. Even though each project element would presumably have independent utility, each is envisioned to connect with other, i.e., stadium, retail shops, residences, etc. The traffic analysis must include an estimation of additional traffic volumes, particularly truck traffic that would be involved in construction and post-construction. This should include traffic considered as “pass-through” to the study area, as well as traffic that either originates or would ultimately end their destination in the study area. This traffic information should be split out and reported separately.

As the Project will be a major long-term construction effort, heavy truck traffic can be expected. Projections for truck traffic using the interstate highway should be consistent from state to state when incorporated in the air quality and noise analysis for each Project segment.

The study of capacity of the street system in the subway area should examine service, v/c ratios and delays on streets during likely hours of games and other major arena events. This includes Saturday and Sunday evenings. The EIS must fully study all affects of the project to the local streets surrounding the project, including

- the widening of Flatbush to Dean Street and the taxi and loading zone on Flatbush;
- the closure of Pacific in two locations (analyzed separately);
- the widening of 6th Avenue and the creation of a two-way street there; and
- the temporary construction closure of the 6th Avenue and Carlton Avenue bridges over the rail yard.

The EIS must study the traffic patterns of the block of Sixth Avenue from Atlantic to Dean Street. How will the placement of loading docks, building entrances, and access to parking garages impact the flow of traffic on this block and on Atlantic Avenue?

The EIS must consider the possibility that Sixth Avenue and Carlton Avenue (both between Atlantic and Dean) could be sold to the Project’s developer at a later date, and how this change will impact the flow of traffic and pedestrians on both streets.

The study of traffic flow on local streets must take into account the circling of vehicles looking for street parking during arena events. Intersections on Dean, Bergen and Pacific Streets should be measured as far west as Smith Street because they are frequently used as “spill-over” routes when Atlantic is experiencing back up.

The EIS must address the change of Pacific to a two-way street and any impact to the flow of traffic on Atlantic Avenue and Dean Streets.

Park Place is currently used by many motorists driving southbound on Flatbush Avenue as an unofficial detour to avoid the Grand Army Plaza roundabout. This phenomenon, in conjunction with the propensity of drivers on Vanderbilt Avenue to speed due to its wider lanes, has resulted in many two-car accidents at the intersection of Park Place and Vanderbilt Avenue. The EIS should assess the potential for Park Place and

other residential cross streets of Prospect Heights to have increased traffic diverted to them, and propose mitigations to reduce the risk of accidents and preserve the residential quality of local streets.

The EIS must analyze the routes taken by existing and future tour buses. Where will these buses load, unload and park?

Because of security concerns, traffic including MTA buses has been routed around the MetroTech campus on to local streets. At a meeting at the Borough President's office in December of 2004, Jim Stuckey of Forest City Ratner Companies said this was done at the request of the Department of Homeland Security. What can be done with the plans of this project to insure that security and evacuation concerns do not result in traffic being moved on to local streets like Dean Street? This should be analyzed both for future normal conditions and for emergency evacuations.

3.12.3 Parking capacity

A separate study should be conducted for current and future parking capacity within a quarter mile radius.. As the arena sits at the western end of the half mile site, the boundary of the eastern end of the half mile radius study area would be a full mile from the arena. It is unreasonable to assume that arena event attendees will walk a mile from a garage to the arena.

The study of current and future parking conditions should analyze parking conditions during weekend evening game times. Arena uses besides basketball games should be measured separately, and impact should be estimated for weekday and weekend events, during daytime and evening hours.

The EIS should study Dean and Bergen Street parking between 6th Avenue and Vanderbilt and 6th Avenue between Dean and Flatbush, for conflict problems between government vehicles, churches, businesses and residents. Parking in this area includes government and non-government vehicles associated with NYPD 78th Precinct, Engine Company 219/Ladder Company 1, and the Department of Housing, Preservation and Development on Bergen, (with parking also next to Dean Playground),

Among other alternatives, the EIS should consider the potential for the issuance of neighborhood parking permits in an attempt to mitigate projected parking issues.

3.12.4 Pedestrians and bicyclists

The EIS must include a review of pedestrian, bicycle and motor vehicle accidents along the intersections of Flatbush, Vanderbilt and Washington Avenues between Atlantic Avenue and Eastern Parkway. The EIS must estimate the change in the number of injuries and deaths due to increases in population and traffic flows. The EIS must propose changes to lane widths, bike lanes, medians, parking options and signal timings on these should the Project proceed.

The EIS should describe mitigation measures to be made to assure pedestrian crossing safety at the intersections of Flatbush and Atlantic and Flatbush and Dean Street. Pedestrian use of 6th Avenue, with its smaller sidewalks and direct route to the Bergen Street station, should be studied.

The EIS should address impact to bike lanes on Dean Street and Bergen Street during the construction phases of the Project. The EIS should disclose all bicycle parking spaces lost to the project and all spaces to be provided by the project.

3.12.5 Impact on existing businesses

The EIS should study new traffic and pedestrians patterns in relation to the operational ability of local businesses, including the impact on loading and unloading for local businesses.

3.13 Task 13: Air quality

3.13.1 Sensitive Receptors

The following locations near sensitive receptors and concentrated pedestrian traffic should be monitored. This is not a definitive list:

- Vanderbilt Avenue and Sterling Place
- St. Marks Avenue and Underhill
- Dean Playground as well as Boys and Girls Town on Dean Street
- PS 9 building and playground
- St. Joseph's Senior Residence

The EIS should contain a discussion of the transportation air quality regulatory requirements, regional air quality concerns in the project area, and a localized carbon monoxide (CO) analysis. The document should assess existing air quality conditions in terms of National Ambient Air Quality Standards (NAAQS), Federal Prevention of Significant Deterioration (PSD) increments, and New York State air quality standards (particularly if they are more stringent than the federal regulations). Any aspects of the project that could adversely affect air quality, in terms of creating new violations of Federal air quality standards, increasing the frequency and severity of existing violations of the standards, or delaying attainment of the standards should be identified. All emissions resulting from the project must be in compliance with applicable air quality regulations, particularly the NAAQS for criteria air pollutants [e.g., ozone, carbon monoxide (CO), nitrogen oxides, sulfur dioxide, lead and particulate matter (PM)] in designated non-attainment or maintenance areas.

3.13.2 Mesoscale concerns

Ozone, hydrocarbons, and nitrogen oxides air quality concerns are regional in nature and as such meaningful evaluation on a project-by-project basis is not possible. Therefore, the EIS should include a discussion of regional air quality conditions of the project, as described below:

3.13.2.1 *Non-attainment/maintenance areas*

As we believe that the project is located in a nonattainment or maintenance area, the EIS must document that provisions of 40 CFR Part 93 Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Project Development, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, have been satisfied. For example, the project should be included in a Long Range Transportation Plan (LRTP) and/or Transportation Improvement Program (TIP) that is in conformance with an approved State Implementation Plan (SIP). The relationship of the project to the SIP should be described in the EIS. Specifically, the EIS must show that the project (without significant changes to the scope and/or design) has been included in the LRTP and/or TIP, and that FHWA has issued a conformity determination for the most recent SIP.

3.13.2.2 *Attainment areas*

If the project is not located in a nonattainment or maintenance area, the EIS should make a negative declaration for Section 176(c) of the Clean Air Act. In this case, the provisions of 40 CFR Part 93 Subpart A, Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Project Development, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Laws, will not apply.

3.13.3 Microscale (project-level) concerns

The primary pollutant that is analyzed at the project stage is carbon monoxide. Therefore, CO emissions must be addressed by a localized hot spot analysis. The locations and level of detail for conducting analyses should be collectively determined by the affected agencies. The requirements of 40 CFR Part 93 Subpart A for carbon monoxide emissions must be satisfied.

Coordination with state/local/regional air pollution control agencies on air quality planning, air quality modeling, compliance with federal/state air quality standards, the need for air permits, air quality monitoring, and mitigation for adverse impacts should be identified in the EIS. The air quality analyses at the regional and local scales should include as modeling inputs the additional traffic volumes that would utilize the Atlantic Yards Development Company, LLC, and Brooklyn Arena LLC Project from other

sources. Parties which will be responsible for implementing air quality mitigation measures should be included in the document.

3.13.4 Construction

It is recommended that all construction equipment be tuned to manufacturer's specifications to reduce air emissions. Open burning should also be minimized/avoided to reduce the emissions of ozone precursors. It is recommended that any necessary open burning be coordinated with the state and/or county regarding permitting needs. The EIS should discuss the types and effectiveness of any mitigation measures that will be used to protect air quality (e.g., vapor recovery systems, fumes incinerators, and dust control measures) during construction phase. We recommend water for fugitive dust control during construction, instead of oils and other chemicals.

3.14 Task 14: Noise

Local project construction and operational noise should be predicted for the no build and each of the build alternatives. State-of-the-art noise modeling should be utilized and methods used should be consistent with other NYDOT and NYCDOT studies so the results may be compared with other similar projects elsewhere. In general, a greater level of consistency in approach, methodology and mitigation of noise impacts is needed for the Project.

3.14.1 Construction noise

The EIS should analyze construction noise attributable to the project. Typical noise levels produced by construction equipment (e.g., trucks, front end loaders, pile drivers, etc.) within 50 feet, which are available in the literature, should be disclosed. The total project construction time (months, years) should also be estimated to assess the magnitude of the construction noise impact. Attempts should also be made to estimate the temporary construction time associated with any one feature along the ROW or section thereof. For example, how long is construction expected to take near any given affected residence or for an average mile of roadway? This information would allow affected residents to approximate their degree of noise disturbance during construction.

Although temporary, construction noise should be reasonably mitigated in the vicinity of residential areas or other noise-sensitive land uses. We recommend that construction should not start before 7:00 AM or continue after 7:00 PM during the work week and should be discontinued on weekends and on locally-observed federal and/or state holidays (exceptions could involve nighttime construction in urban areas that would otherwise involve lane closures during daytime peak traffic periods). In addition, the use of "hush houses" should be considered around any stationary equipment to shield noise at its source. We recommend that all motorized equipment be properly tuned to the manufacturer's specifications for additional source reduction. All construction equipment should be equipped with noise attenuation devices, such as mufflers and insulated engine housings. Such mitigative methods should be identified in the EIS for implementation as part of future construction-related activities.

3.14.2 Highway noise

Given that the Project will be situated in an urban setting, we recommend the following measures.

3.14.2.1 *Definitions of substantial noise increases*

Pursuant to 23 CFR 772, the Federal Highway Administration (FHWA) provides the New York DOT discretion in their interpretation of what constitutes a "substantial increase" in noise levels attributable to their highway projects. When predicted traffic noise levels substantially exceed the existing noise level, it is defined as a traffic noise impact which warrants further attention. Some states consider a 10 dBA or greater increase as substantial while other states believe that increases are not substantial until increases are 15 dBA or greater. We believe that a 10 dBA or greater increase due to the project is substantial (significant) since a 10 dBA increase is perceived as a doubling of sound by the human ear. We request

that noise analysis also be provided for a 10-14 dBA increment category as well as the 15 dBA or greater increment category.

3.14.2.2 *Consistent use of noise metrics*

Similar to the states' discretion in defining substantial incremental increases, FHWA allows the use of either the Leq or the L10 metric in the noise analysis. In order to achieve consistency within the noise analysis of this Project, we request that if the use of L10 is prescribed by state regulation, a noise analysis using Leq should also be provided to supplement the required L10 analysis.

3.14.2.3 *Consistent use of noise models*

Modeling should also be consistent for noise analyses along the local residential/commercial streets. It is particularly important that the same noise model version be used for both the Draft EIS and Final EIS to the extent possible. For example, use of STAMINA followed by the use of the Traffic Noise Model could create concern regarding model acceptability.

3.14.2.4 *Noise mitigation*

Noise abatement should be considered when project noise impacts approach FHWA Noise Abatement Criteria or meet or exceed the existing noise levels by the New York State thresholds, i.e., incremental increases of 10 dBA or greater (preferred by EPA) or 15 dBA or greater. Forms of noise mitigation include -- but are not limited to -- the construction and use of fabricated noise barriers. In general, avoiding noise impacts via alignment shifts is frequently the most effective form of "mitigation" (since it avoids or minimizes the need for attenuation) and should therefore be emphasized during the alternative analysis.

3.14.2.5 *Vibrations*

The EIS should estimate vibrations resulting from additional truck, bus, subway and train traffic and potential impacts on residential blocks in the area.

3.14.3 Noise from project activity

The EIS should estimate noise impacts from crowds entering and leaving the arena on residential blocks in the area and the noise impacts resulting from idling trucks, deliveries, and other commercial activity at loading docks located at the arena and each building.

3.15 Task 15: Neighborhood character

Prospect Heights has long been a stable community of unique character: Residential brownstones in the south and a balanced mixture of manufacturing, residential uses and artists' studio/lofts in the north. It is a neighborhood with a quiet pace – one of New York City's truly special neighborhoods. Those residents value living here because of its intimate and diverse community feel, its quiet tree lined streets, and its historic housing stock. Manufacturers, long a presence in the M-1 zone that defines the northern part of Prospect Heights, are here because of their dependence on the neighborhood's central location, as well as easy loading and parking. Artists, also long a presence in both the residential and manufacturing areas, are here to be part of a large community of artists and to take advantage of the affordable space in the large manufacturing buildings in the neighborhood. In many cases manufacturers and artists are interdependent.

PICCED noted that residents of Prospect Heights identify the architectural quality of the neighborhood as a strength. Further, when asked about development, large majorities of residents from diverse demographic groups agree that new development in Prospect Heights should match the character of existing surroundings.⁹

⁹ *Ibid.*

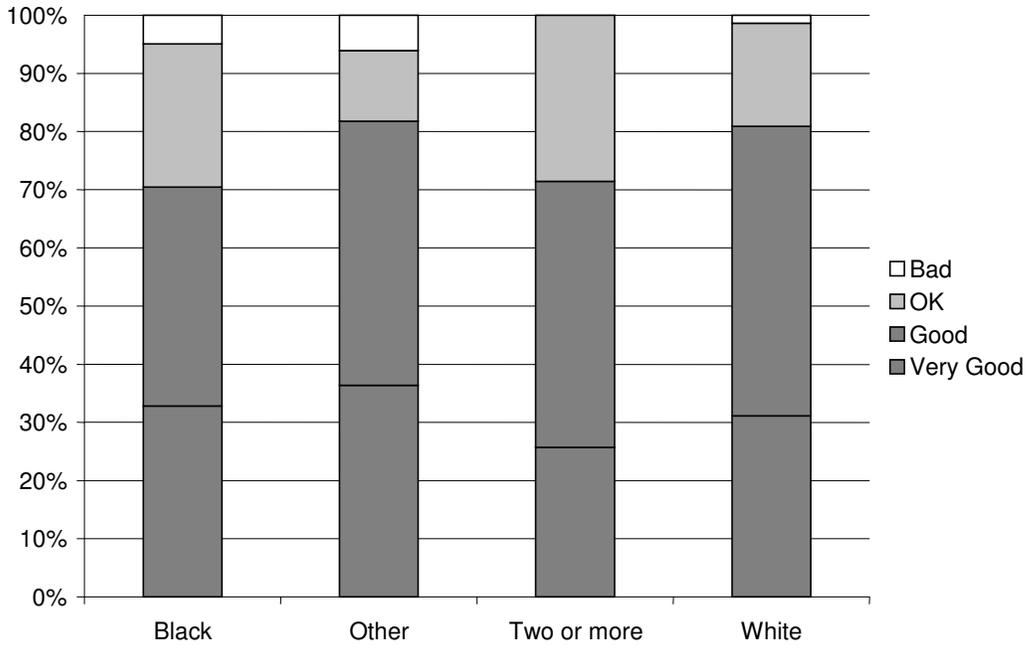


Figure 4: Rating of architectural quality of Prospect Heights by race of respondent

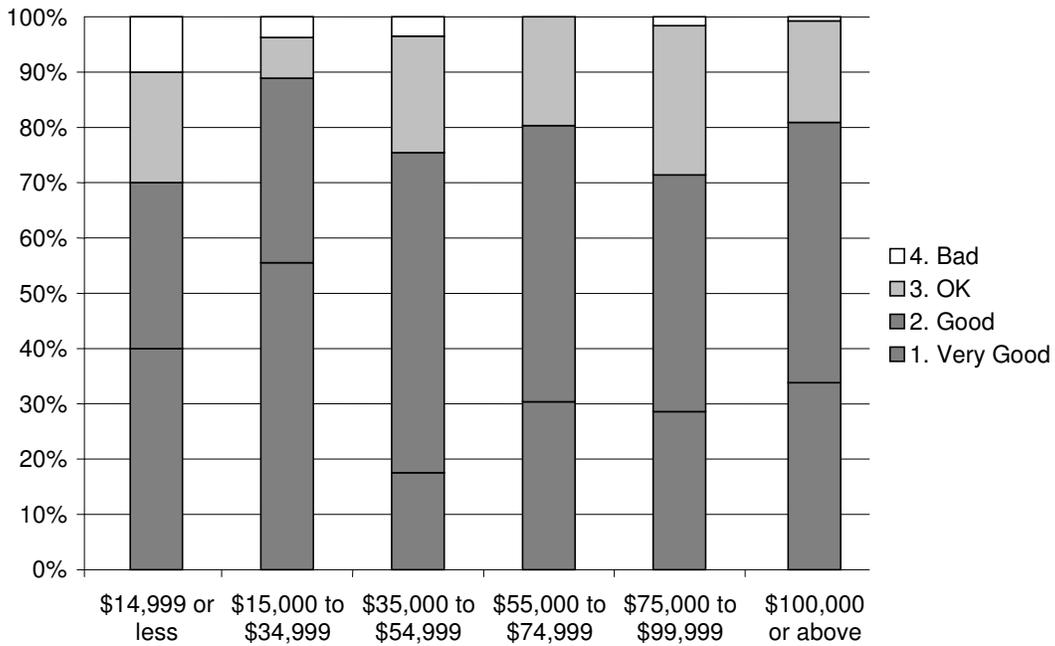


Figure 5: Rating of architectural quality of Prospect Heights by income of respondent

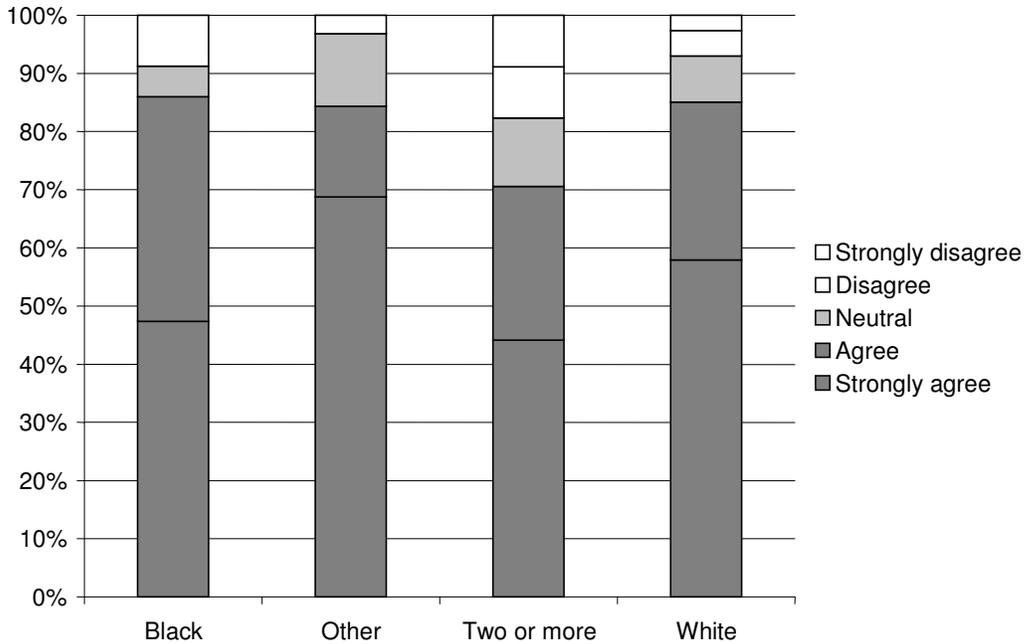


Figure 6: Response to "New development should fit in with existing architecture" by race

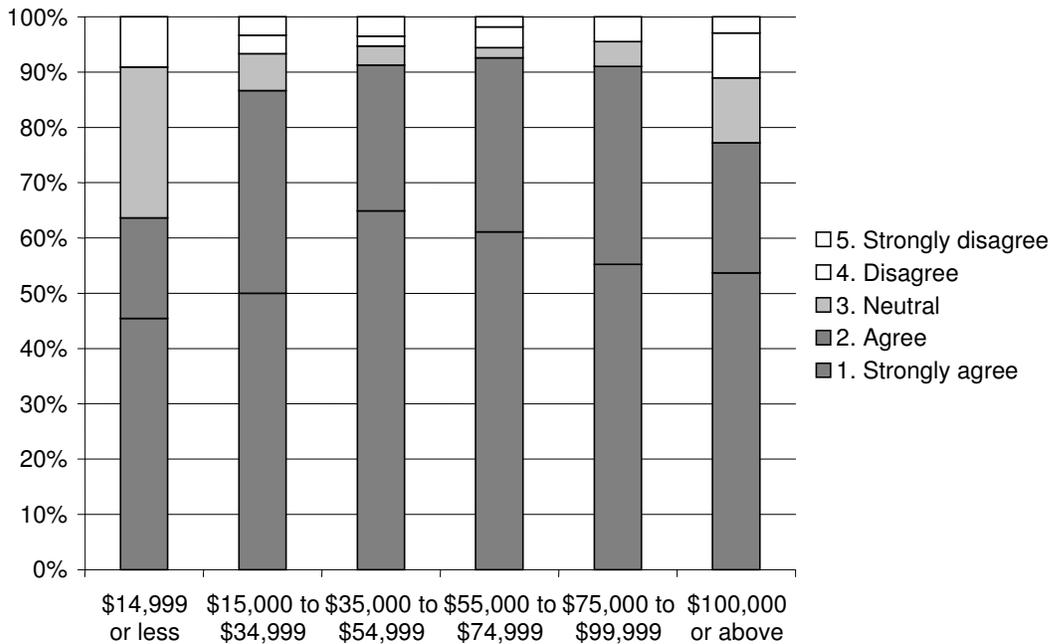


Figure 7: Response to "New development should fit in with existing architecture" by income

3.15.1 Scale and character of proposed Project

The scale and bulk of the proposed buildings contradict the general building forms found in this area and include the creation of vast canyons between buildings. Spaces enclosed by buildings can feel safe when the scale of the enclosing walls does not overwhelm the space.

The EIS must address ways to mitigate the negative contextual impact of the proposed Atlantic Yards project by drastically scaling down its size and bulk.

The EIS should propose how the Project can build upon the elements that do work in the surrounding neighborhoods, and that could be implemented at the site: the informal commercial environments; intimate cultural institutions to augment the lower scale residential. The EIS should propose how the Project can focus on remediating the urban problems that do exist rather than exacerbating them, i.e. parks and gardens, the creation of true public space (accessible, programmed, green); pedestrian safety; air and noise pollution; health; traffic taming.

3.15.2 Adaptability of design

The EIS should determine whether buildings within the Project have been tightly designed to very specific uses. Can they be adapted later to any one of a variety of future uses with regard to floor-to-ceiling heights, building materials, and the design of ground floors?

3.16 Task 16: Construction impacts

PICCED found that concern regarding disruptions from the estimated ten years of the Project's construction phases was shared among Prospect Heights residents of varying demographic groups¹⁰.

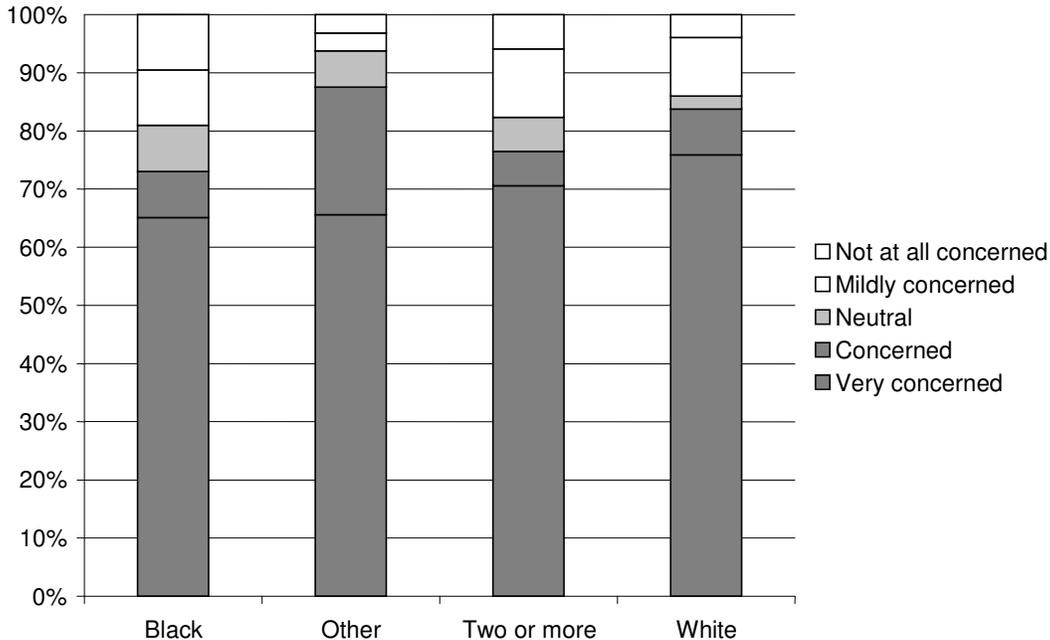


Figure 8: Perception of impact from ten years of Atlantic Yards construction by race

¹⁰ *Ibid.*

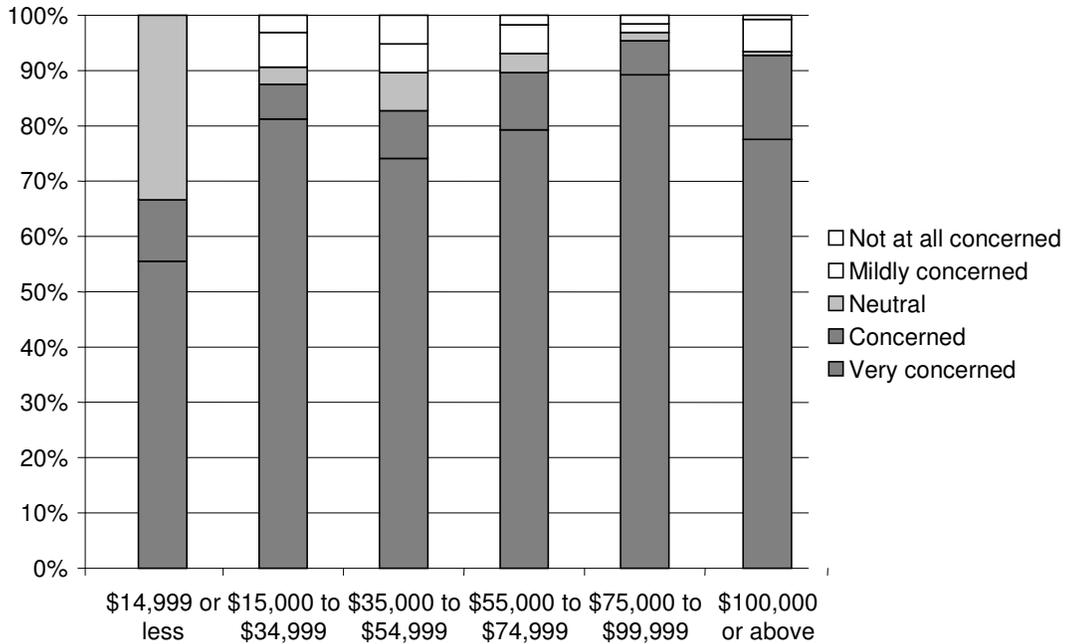


Figure 9: Perception of impact from ten years of Atlantic Yards construction by income

3.16.1 Decking of rail yards

At what stage will the new rail yard be covered? If it is in the second phase, assess the noise produced by the rail yards operation including train operation, rail maintenance and snow removal.

The EIS should assess Carlton Avenues and 6th Avenues bridge closures impacts on local traffic including emergency vehicles.

3.16.2 Compounded impacts

The EIS should identify particular areas of Prospect Heights like Dean Street that will be affected by compounded construction impacts, in addition to assessing what businesses, residents and artists will be affected by all construction related impacts. At what stage will the infrastructure rerouting on Dean take place? The EIS must assess how existing businesses and residents will be impacted during each phase.

Study the impact of the Project's construction, as well as the unknowns of the Project's design, on real estate sales and rentals in the area immediately adjacent to the project.

3.16.3 Project staging

The EIS should identify the staging areas for the construction in each phase. What will happen to the properties currently vacated?

The EIS should assess the financial loss to local retail of the drop in population due to dislocation, dated to the time of the Project's announcement. What local retail is affected? What is the cost to Prospect Heights of blocks 1129 and blocks 1128 lying dormant until Phase Two? If the dormant buildings in those lots are filled in the intermediate term, what uses will they have and will those uses have impacts on the surrounding neighborhood?

3.16.4 Pedestrian impacts

The EIS should detail traffic and pedestrian impairments that will exist during the construction phases and estimate the cost of those impairments to local businesses.

How will pedestrians from the blocks to the east of Flatbush get to the Atlantic Avenue transportation axis if there are construction barriers closing Pacific Street? How will commuters who have been rerouted to the Bergen Street or Seventh Avenue stations impact crowding on those stations' subway platforms?

3.16.5 Security

Assess security concerns during the construction period.

- Will construction barriers encourage crime and graffiti?
- Will barriers to traffic affect response times for police, fire and ambulance during the construction period?

3.17 Task 17: Public health

The project's impacts on air quality, ambient noise and land use in the neighborhood can have negative effects on the health of residents and workers in the area.

3.17.1 *Air, Noise and Odors*

Assess the effect of air quality changes, noise and odors resulting from the project on public health in the area, including impacts on sensitive receptors, particularly people with compromised immune systems.

3.17.2 *Stress*

Assess the affects of stress on residents and workers in the area due to construction, displacement due to the project, and the changes in neighborhood character.

3.17.3 *Costs*

Estimate the public and private costs of the above impacts in terms of treatment and productivity losses.

3.18 Task 18: Mitigation

A procedure should be established so that all mitigation measures proposed will be completed before the project receives a certificate of occupancy and is able to enter in operation. A transparent system for monitoring implementation of mitigation measures should be established that includes the possibility of penalties for failure to implement as well as changes to take into account altered conditions.

3.19 Task 19: Alternatives

3.19.1 Alternative scenario

The RFP response submitted to the M.T.A. by Extell Development must be fully considered as a viable alternative to the proposed Project. Besides being a valid proposal from a recognized developer with resources to fulfill its plan, the Extell proposal is, in PHNDCC's opinion, more representative of the type of development that would have been expected for the area had the Project Sponsors not sought control of the larger site.

3.19.2 No Build scenario

The No Build scenario must take into account the trend of development within the proposed Project site, and identify underutilized properties that would be reasonably likely to become redeveloped during the projected ten-year construction of the Project.

3.19.3 Failure scenario

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. The following tasks should be assessed in the context of the Failure scenario:

- Land use, zoning and public policy
- Socioeconomic conditions
- Community facilities and services
- Open space
- Hazardous materials
- Infrastructure, energy and solid waste
- Traffic and parking/transit and pedestrians
- Air quality
- Neighborhood character

3.20 Task 20: Executive summary

No comment.

3.21 Additional Task A: Terrorism

3.21.1 Public Access

The EIS should address the impact of security measures on public access to the project site and physical connections with surrounding neighborhoods. This section should detail limitations on access to areas of public open space, and barriers to through pedestrian, bicycle and vehicular traffic.

How may the limited number of access points (see published Site Plan) into the BAY development be defended/secured to prevent unwanted entry of car or truck bombs; both during NYC's "normal" and elevated federal Alert conditions? How might such full or limited access impact traffic, evacuation and rescue operations?

Given such defense and security needs, what would be the affected Community Boards', or other local agencies' involvement in determining the size, types, locations, numbers, appearance, etc. of traffic control and security barriers? What effect would there be on the local economies for each different kind of traffic control measure? What agencies (and costs) may be involved in satisfying these security requirements?

How will each of the full range of "defense & security" measures affect local thoroughfare & side street traffic flow and thus impact evacuation and rescue operations? (E.g., searching commercial vehicles, in August of 2004, at the Manhattan Bridge stopped all downtown Brooklyn traffic & had to be curtailed.) This is already an area that experiences almost daily traffic bottleneck conditions.

How will each of the full range of "defense and security" for parking facilities and all Project entries limit the free movement of people and goods between local communities and thus the local economy? What will be the economic consequences of such fortress generated dislocations on those communities & local businesses? What effect might it have on the public's access (per any CBA agreements and city ordinances) to the open spaces within the Project complex? What would be the affected Community Boards', or other local agencies', involvement?

The traffic plans for this project must find ways to protect local side streets like Dean, Carlton and Bergen from having to absorb the consequences of traffic forced around the project for the sake of security. Describe those plans in detail.

3.22 Additional Task B: Environmental justice

Executive Order 12898 (Federal Actions to Address in Minority and Low-Income Populations) requires all federal agencies to identify and address disproportionately high and adverse human health or environmental effects of federal programs on minority or low-income populations. The general purpose is to foster non-discrimination in federal programs and to provide minority and low-income communities greater opportunities for public participation in, and access to public information regarding human health and environmental issues.

In an effort to determine whether there are potential environmental justice (EJ) areas of concern (areas that have high levels of minority and/or low-income populations relative to the reference area), the demographic characteristics of the proposed project area must be examined by the EIS. Information regarding potential EJ areas identified in the screening process is used to ensure that these communities have access to both concise and clear information sufficient to effectively participate in the public involvement process and to ensure that these communities/areas are not disproportionately adversely affected by this project area. Consistent with Executive Order 12898, potential EJ impacts should be considered in the EIS document. The following items should be incorporated into all EJ analyses related to the Atlantic Yards project.

3.22.1 Demographic characterization

The EIS should identify potential EJ areas of concern. Appropriate geographic boundaries surrounding the communities that may be potentially impacted by the proposed project must be identified. General screening to identify potential EJ areas involves comparing the minority and low-income characteristics of smaller geographic areas (project area) with those of a larger geographic areas (reference area). U.S. Census data for 2000 (or more recent data if possible) should be used for the minority and low-income analysis. Data should be collected at the block group level for the project area and the county, metropolitan statistical area, or state for the reference area. The block group data level should be used because it provides the best combination of demographic accuracy and data accessibility. The appropriate reference area should be selected based on the scope and intent of the project. Given the magnitude of the proposed Project, state-level data should be used as the reference areas. The EIS should indicate what demographic threshold or methodology was used to determine whether low-income and/or minority populations exist in the study area. We recommend the use of a relative threshold in EJ analyses for determining significant minority and low-income populations.

3.22.2 Environmental characterization and impact assessment

If percentages of low-income or minority populations are elevated within the project area, alternatives should be considered that avoid or minimize impacts to potential EJ areas. The issue of disproportionately high and adverse impacts should also be evaluated in the document by comparing environmental impact data to EJ information for highway segments. Adverse effects are defined as “disproportionate” if the risk of adverse environmental impacts are predominately borne in areas with minority or low-income populations or if the impacts are greater in magnitude in areas with minority or low-income populations than in other areas. When analyzing these impacts, it is important to assess both the negative and positive impacts, consider both the short and long-term effects as well as the secondary and cumulative impacts. One of the most detrimental aspects of controlled access can be to divide defined communities regardless of whether they are EJ communities. This potential impact must be assessed.

3.22.3 Public involvement

If impacts are unavoidable, we request that coordination with these affected populations be conducted to determine the affected population’s concerns and comments regarding the proposed project. This coordination should include a clear discussion of the project, project updates or expansions, environmental impacts, any economic benefits (job opportunities, etc.) of the project to the affected population, and the opportunity for informal and/or formal comments (e.g., EIS scoping meetings, public hearings, or other public meetings). Because public involvement is an important part of the EIS process, we recommend early involvement with the potentially impacted communities and documentation of community coordination in the EIS document.

3.22.4 Maps

The EIS should contain maps of potential EJ areas of concern within the proposed project corridor. Maps for the route should evaluate population density, minority status, and low-income status.

3.22.5 Economic development

In those segments where economic development is a primary objective, efforts should be made to describe any opportunities the impacted community, especially EJ communities, may have for economic benefit. These opportunities should be described as clearly and in as much detail as possible. For example, the document should discuss how many jobs (or other economic development opportunities) would be created as a result of the proposed project and what percentage of the affected EJ community would likely be the recipient of these opportunities. The document should also address any adverse economic effects on potential EJ communities that may occur.

3.23 Additional Task C: Growth-inducing aspects

3.23.1 Potential for future upzonings

The analysis should not assume a static zoning environment in the neighborhoods surrounding Atlantic Yards. Downtown expansion over the past fifty years has produced pressures for upzoning in adjacent residential neighborhoods, such as the recent Fourth Avenue rezoning. In conjunction with projections of potential secondary residential and business displacement, the EIS should consider the likelihood of future upzonings, particularly in those areas not currently protected by contextual zoning or historic districts.

3.23.2 Potential for future use of eminent domain

Given the case made for the use of eminent domain in the current Project, the EIS should identify other privately-held properties in Prospect Heights that may be taken by eminent domain under the claim of economic development. The number of residents, institutions and businesses that could potentially be displaced from those properties should be estimated.