

A. INTRODUCTION**OVERVIEW**

The project site is located in the Coastal Zone designated by New York State and City (see Figure 12-1), and is therefore subject to the city's and state's Coastal Zone management policies. This chapter examines the compliance of the proposed project with local Coastal Zone policies.

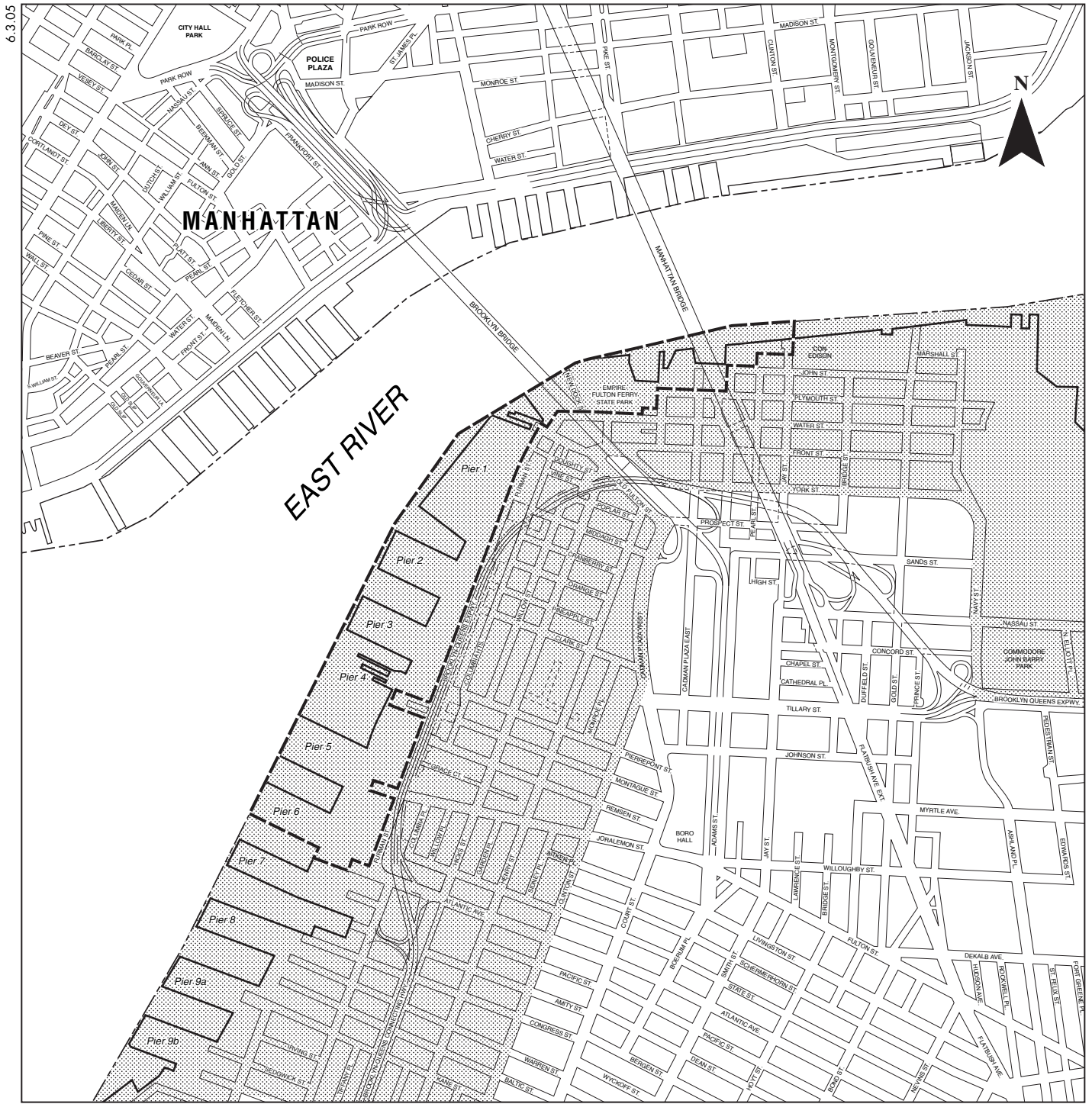
The federal Coastal Zone Management (CZM) Act of 1972 was established to support and protect the distinctive character of the waterfront, and set forth standard policies for reviewing proposed development projects along coastlines. The program responded to city, state, and federal desires to manage the critical shoreline region of the country.

In 1982, New York State adopted its Coastal Management Program, designed to balance economic development and preservation in the Coastal Zone by promoting waterfront revitalization and water-dependent uses while protecting fish and wildlife, open space and scenic areas, public access to the shoreline and farmland, and minimizing adverse changes to ecological systems and erosion and flood hazards. The program provides for local implementation when a municipality adopts a local waterfront revitalization program, as has been done in New York City.



The program also encourages coordination among all levels of government to promote sound waterfront planning and requires consideration of the program's goals in making land use decisions. The New York State Department of State (NYS DOS) administers the program at the state level, and the New York City Department of City Planning (DCP) administers it in the city.

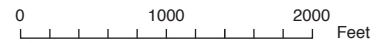
Because the proposed project is located within the City's Coastal Zone, it is subject to the policies of the *New York City Waterfront Revitalization Program* (WRP). The WRP was originally adopted in 1982 and approved by NYSDOS for inclusion in the New York State Coastal Management Program. The WRP establishes the city's policies for development and use of the waterfront and provides a framework for evaluating activities proposed in the Coastal Zone. The city's WRP was revised to 10 consolidated policies and adopted by the City Council in October 1999. In May 2002, NYSDOS approved the city's new WRP, and the United States Department of Commerce concurred in August 2002. This chapter reviews the New York City Coastal Zone policies which constitute the new WRP, and assesses the general consistency of the proposed project with the policies.

This analysis concludes that the proposed project would be consistent with the city's ten WRP policies and standards. The development of an approximately 85-acre public park on the project site is consistent with borough and citywide goals for revitalizing and creating public access to the waterfront and would represent a dramatic increase in public access to the waterfront for recreational use.



6.3.05

-  Project Area Boundary
-  Coastal Zone Boundary



POLICY BACKGROUND

Other studies relevant to Coastal Zone management in the city and in the area of the proposed project are the *New York City Comprehensive Waterfront Plan*, published by DCP in 1992 and the *Plan for the Brooklyn Waterfront* published by DCP in 1994 as a companion to the *New York City Comprehensive Waterfront Plan*. The *Comprehensive Waterfront Plan* led to the City's current waterfront zoning and was the impetus for the revised WRP.

B. CONSISTENCY OF PROPOSED PROJECT WITH THE WRP POLICIES

Policy 1: Support and facilitate commercial and residential development in areas well-suited to such development.

Policy 1.1: Encourage commercial and residential redevelopment in appropriate coastal zone areas.

The proposed project would include a limited amount of commercial and residential development that would complement similar land uses in the adjoining upland neighborhoods. This is consistent with the *New York City Comprehensive Waterfront Plan's* recommendation that "proposals being prepared for the Port Authority-owned Piers 1-5 should consider the inclusion of housing, mixed uses, recreation, open space, and marina development." The commercial and residential uses within the park would encourage use of the park. Therefore, the proposed project would be consistent with this policy.

Policy 1.2: Encourage non-industrial development that enlivens the waterfront and attracts the public.

The proposed project would consist primarily of publicly accessible open space and recreational facilities including a waterfront promenade, landscaped areas, a marina, kayak launches, soccer fields, and sports fields and courts. Additionally, the proposed project would incorporate commercial uses, including restaurants, local retail establishments, and a hotel, that would attract the public to the waterfront area during both daytime and evening hours. Therefore, the proposed project would be consistent with this policy.

Policy 1.3: Encourage redevelopment in the coastal area where public facilities and infrastructure are adequate or will be developed.

As described in Chapter 11, "Infrastructure," the project site is fully served with water, sewer, power, and telecommunications infrastructure. Therefore, the proposed project would be consistent with this policy.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well-suited to their continued operation.

Policy 2.1: Promote water-dependent and industrial uses in Significant Maritime and Industrial Areas.

The project site is not located within a Significant Maritime and Industrial Area. Therefore, this policy does not apply.

Policy 2.2: Encourage working waterfront uses at appropriate sites outside the Significant Maritime and Industrial Areas.

The project site is not appropriate for working waterfront uses. While the project site has a history of working waterfront use, the cargo operations on the site ceased in 1984, as the site could no longer meet modern shipping requirements. The project site, which currently contains mostly parking lots, warehouses, and vacant sheds, is underutilized and no longer suited to active maritime use. It presents an opportunity for the development of new public open space as called for by the *New York City Comprehensive Waterfront Plan* and the *Plan for the Brooklyn Waterfront*.

Policy 2.3: Provide infrastructure improvements necessary to support working waterfront uses.

Because the project site is not appropriate for working waterfront uses, this policy does not apply.

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

3.1 Support and encourage recreational and commercial boating in New York City's maritime centers.

The proposed project would provide recreational boating opportunities. A marina with approximately 185 slips would be constructed between Piers 4 and 5, and kayak launches would be located on Piers 2 and 4. Additionally, mooring for historic vessels would be provided between Piers 5 and 6. Therefore, the proposed project would be consistent with this policy.

3.2 Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

The proposed project would not be utilized by commercial or ocean-going freight vessels. Recreational boating at the project site would conform to appropriate safety measures.

3.3 Minimize impact of commercial and recreational boating activities on the aquatic environment and surrounding land and water uses.

The proposed project would include water taxi docks and a recreational boating marina. The marina would be located adjacent to a waterfront promenade, soccer fields, and a parking lot, and it would not conflict with any of these land uses. As described in Chapter 10, "Water Quality and Natural Resources," the operation of the marina and the proposed wave fence that would enclose it to the west would not be expected to result in significant adverse impacts to water quality, fish, and macroinvertebrates within the project area. Water depths within the proposed marina area (greater than 10 feet at Mean Low Water) would be sufficient to minimize the potential for increased suspended sediment from boat activity. As demonstrated by a hydrodynamics study, circulation and sedimentation processes would experience minimal change after construction of the marina wave fence. Concentrations of water quality parameters such as dissolved oxygen would not be expected to change from the existing condition as a result of the marina. Any contaminants (e.g., sewage, petroleum, metals from biocides) accidentally released as a result of marina operation would be flushed rapidly and would not result in

significant adverse impacts to water quality in or adjacent to the project area. Implementation of best management practices to minimize environmental impacts of marinas, presented in the 2003 New York State Department of Environmental Conservation (NYSDEC) publication *Environmental Compliance, Pollution Prevention, and Self-Assessment Guide for the Marina Industry* would further reduce marina-related impacts.

Water taxi docks would be located along the south side of Pier 6, at the slip between Piers 2 and 3, and the north side of Pier 1. These would be located adjacent to open space and recreational uses and would provide convenient access to the park. They would not conflict with surrounding land uses. Water depths at these locations would be sufficient that the operation of water taxis would not be expected to result in significant adverse impacts to water quality. Therefore, the proposed project would be consistent with this policy.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

Policy 4.1: Protect and restore the ecological quality and component habitats and resources within the Special Natural Waterfront Areas, Recognized Ecological Complexes and Significant Coastal Fish and Wildlife Habitats.

The project site is not located within a Special Natural Waterfront Area, Recognized Ecological Complex or Significant Coastal Fish and Wildlife Habitat. Therefore, this policy does not apply.

Policy 4.2: Protect and restore tidal and freshwater wetlands.

As described in Chapter 10, “Water Quality and Natural Resources,” portions of the two coves located in the interbridge portion of the project area are 6 feet deep or less and therefore may be classified as littoral zone tidal wetlands by NYSDEC. Because the fixed-pile-supported walkways proposed for these two coves would not impede movement of tidal waters in and out of these coves, they would not result in significant adverse impacts to tidal wetlands. During construction, measures would be implemented to minimize any temporary impacts to littoral zone wetlands due to disturbance of bottom sediments that may result from: construction of the previously described waterfront promenade from the existing high-level and low-level relieving platforms, and the 10-foot-wide fixed-pile-walkway from the shoreline to Pier 1; the removal of a portion of the existing bulkhead and relieving platform to form the proposed shallow-water habitats between Piers 4 and 5, and upland of Pier 4; replacement of timber sheet pile with steel sheet pile and riprap on the eastern (newly exposed) edge of Pier 1; and replacement of the timber wharf at the John Street Site. Containment booms would be used to contain floatables, and piles would be cut at the mudline by divers or broken by machine.

The shoreline improvements that would result from modifications to the relieving platforms would benefit wetland resources, and offset the littoral zone affected by dredging, through the creation of intertidal wetland habitat along the newly exposed shoreline adjacent to the waterfront promenade between Piers 1 and 5 that would be armored with riprap and planted with intertidal vegetation. The development of the shallow-water habitats would result in approximately 23,600 square feet of open water habitat, some of which would be expected to be littoral zone. Because the proposed 10-

foot-wide fixed pile walkway between the shore and Pier 1 would not impede the movement of tidal waters, it would not be expected to result in significant adverse impacts to wetlands.

Therefore, the proposed project would be consistent with this policy.

Policy 4.3: Protect vulnerable plant, fish and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

As described in Chapter 10, “Water Quality and Natural Resources,” the vulnerable aquatic biota—including the endangered shortnose sturgeon and the four species of marine turtle—would not be expected to occur within the project area except as transient individuals and would not be affected by the proposed project. The proposed project would not affect the availability of the state-endangered peregrine falcon nesting location that is occasionally used within the project area. Construction activities would not be expected to affect nesting success. The operation of the park has the potential to benefit the peregrine falcons by increasing prey availability through the creation of natural habitat areas that would attract additional birds to the project area. No significant adverse impacts to terrestrial resources are anticipated as a result of construction of the proposed project. Therefore, the proposed project would be consistent with this policy.

Policy 4.4: Maintain and protect living aquatic resources.

As described in Chapter 10, “Water Quality and Natural Resources,” the implementation of a Stormwater Pollution Prevention Plan (SWPPP) during construction and operation, an Integrated Pest Management (IPM) strategy, and the management of stormwater generated within the park boundary would minimize adverse impacts to water quality and aquatic biota from the discharge of stormwater during construction and operation of the park. On the basis of the rapid flushing and the slow sediment accumulation rates identified for the project area, any temporary increase in suspended sediment associated with pile driving, and other in-water construction activities resulting in sediment disturbance, would be localized and expected to dissipate shortly after the completion of the sediment disturbing activity and would not be expected to result in significant adverse impacts to water quality or aquatic biota.

Additionally, new shallow water habitats for aquatic life will be created near Piers 1, 4, and 5 as part of the proposed project. Therefore, the proposed project would be consistent with this policy.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

As described in Chapter 13, “Infrastructure,” little or no stormwater would be discharged into the city’s combined sewer system. Stormwater management techniques could include capture and storage of the water for reuse, managed wetlands, detention and retention ponds, adding pervious surfaces, and natural and manufactured filtration systems. Additionally, the change from the existing paved aprons of the piers to landscaped lawns and open space would reduce the runoff coefficient, and thereby lower both the volume of stormwater discharged into the East River and the rate at which it is discharged. Therefore, the proposed project would be consistent with this policy.

Policy 5.2: Protect the quality of New York City's waters by managing activities that generate nonpoint source pollution.

As described above, the proposed project would manage stormwater runoff. As described in Chapter 10, "Water Quality and Natural Resources," the conversion of approximately 18 acres of the upland portion of the project area to pervious landscaped plant habitat between Piers 1 and 6, and a portion of the John Street Site to pervious landscaped habitat would reduce the amount of stormwater to be managed within the project area. Implementation of stormwater management measures such as bioswales and retention ponds as part of the SWPPP during operation of the proposed project would minimize potential impacts to the East River from the discharge of stormwater from the project area.

Therefore, the proposed project would be consistent with this policy.

Policy 5.3: Protect water quality when excavating or placing fill in navigable waters and in or near marshes, estuaries, tidal marshes, and wetlands.

Dredging (5,000 to 8,000 cubic yards) would be limited to areas within the safe water zones and the marina. Any impacts to water quality or aquatic biota that may occur from this minimal dredging activity would be temporary and localized. Water quality impacts would be expected to dissipate shortly after the completion of the dredging activity and fish and macroinvertebrates would be expected to reoccupy these areas. No significant adverse impacts would be expected to occur to water quality or aquatic biota as a result of dredging. Therefore, the proposed project would be consistent with this policy.

The proposed reuse of processed (mixed with Portland cement) dredged material from the Harbor Estuary as grading fill within the upland area between Piers 1 and 5 would not result in significant adverse impacts to groundwater or surface waters. The placement of processed dredged material would be in accordance with a Beneficial Use Determination (BUD) issued by the NYSDEC for the proposed project. The BUD will include specifications (chemical and physical standards) for the processed dredged material that will be used within the park, to ensure that it is non-hazardous and that its use will be protective of the environment.

Policy 5.4: Protect the quality and quantity of groundwater, streams, and the sources of water for wetlands.

As described above, the proposed project is not expected to result in any significant adverse impacts to water quality or wetlands. Therefore, the proposed project would be consistent with this policy.

Policy 6: Minimize loss of life, structures and natural resources caused by flooding and erosion.

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

The project site is located within a federally designated flood hazard area. The project would comply with the New York City Building Code and Federal Emergency Management Agency (FEMA) requirements regarding the lowest floor elevation, which

would be at or above the base flood elevation (BFE). Therefore, the proposed project would be consistent with this policy.

Policy 6.2: Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

The proposed project does not involve the use of public funds for flood prevention or erosion control. Therefore, this policy does not apply.

6.3 Protect and preserve non-renewable sources of sand for beach nourishment.

The project site does not contain any public or private beaches and does not have a non-renewable source of sand. Therefore, this policy does not apply.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

Policy 7.1: Manage solid waste material, hazardous wastes, toxic pollutants, and substances hazardous to the environment to protect public health, control pollution and prevent degradation of coastal ecosystems.

As described in Chapter 11, “Hazardous Materials,” most of the soil throughout the site was found to contain above-background concentrations of polycyclic aromatic hydrocarbons, and in some cases concentrations of metals and polychlorinated biphenyls (PCBs), that are associated with the importation of poor quality urban fill material containing ash or other wastes for past grading and site development activities. Such soil, if excavated for site development, would be managed and disposed of in accordance with all applicable federal, state and local regulations. Existing fill remaining on-site would be either covered with two feet of certified clean fill or capped with concrete or asphalt pavement, buildings or other permanent structures to prevent potential exposure to the public. Localized areas of petroleum-contaminated soil would be delineated, excavated, and properly disposed of off-site as part of site development. All soil excavated as part of soil remedial activities would be managed and disposed of in accordance with all applicable federal, state and local regulations.

Prior to any dewatering activities for construction, sampling would be performed to ensure that any discharged groundwater meets the New York City Department of Environmental Protection (DEP) limitations for effluent to municipal sewers, should this be the designated course of action.

The proposed project would not result in the introduction of any new hazardous substances to the site, and the operation of the proposed project would not result in any impacts to public health from hazardous substances. All solid waste would be transported in conformance with federal, state, and local regulations.

Thus, the proposed project is consistent with this policy.

Policy 7.2: Prevent and remediate discharge of petroleum products.

As part of the park development, all known underground petroleum storage tanks at the site, including those tanks previously closed-in-place, would be removed in accordance with all applicable federal, state and local regulations. If soil contamination associated with the tanks is encountered during the tank removal activities, NYSDEC would be notified of a spill, and the contaminated soil will be delineated, excavated and transported off-site for disposal as petroleum-contaminated material in accordance with

regulatory protocols. If associated groundwater contamination is discovered, additional remedial measures may be implemented as required by NYSDEC.

Trace levels of petroleum-related contaminants in groundwater samples were identified in localized areas near underground storage tanks or former maintenance facilities where the use of petroleum and/or solvents was common. Construction and development activities at the portion of the park that extends below the water table could expose localized areas of contaminated groundwater. In these cases, corrective action in accordance with regulatory protocols would be followed. Similarly, dewatering activities for construction of the new park, if necessary, may require treatment of the groundwater prior to discharge to the municipal sewer or the East River. Prior to any dewatering activities, sampling would be performed to ensure that any discharged groundwater meets the DEP limitations for effluent to municipal sewers, should this be the designated course of action.

Therefore, the proposed project would be consistent with this policy.

Policy 7.3: Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

The proposed project would not involve the siting of a hazardous waste facility. During operation of the proposed project, any solid waste and hazardous substances would be stored and transported in accordance with all federal, state, and local regulations. Thus, the proposed project is consistent with this policy.

Policy 8: Provide public access to and along New York City's coastal waters.

Policy 8.1: Preserve, protect and maintain existing physical, visual, and recreational access to the waterfront.

Physical and recreational access to the waterfront is currently available to the public only at certain areas to the north and east of Pier 1, including the Fulton Ferry Landing, the existing Empire-Fulton Ferry State Park, and the existing New York City-operated Main Street Park just west of the Manhattan Bridge. Besides providing new and enhanced access, existing public access to the waterfront in these areas would be maintained.

The proposed project would provide new visual access to the waterfront as well as maintaining existing view corridors. None of the proposed buildings would penetrate a view plane within the Special Scenic View District mapped across most of the project site. New buildings would be located so as not to obstruct view corridors extending from the upland streets.

Therefore, the proposed project is consistent with this policy.

Policy 8.2: Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

The proposed project would provide greatly enhanced physical and recreational access to the waterfront along the entire project site from Atlantic Avenue at the southern end to Jay Street at the northern end. The proposed project is therefore consistent with this policy.

Policy 8.3: Provide visual access to coastal lands, waters, and open space where physically practical.

As described above, the proposed project would provide new visual access to the waterfront as well as maintaining existing visual access. By creating opportunities to reach the water's edge in areas where there is currently no public access, the proposed project would also provide new opportunities for visual access to the water. Therefore, the proposed project is consistent with this policy.

Policy 8.4: Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

The proposed project would create an 85-acre park spanning the waterfront from Atlantic Avenue at the south to Jay Street at the north that would include lawns and landscaped areas as well as active recreational facilities such as soccer fields and kayaking areas. The proposed project would preserve and incorporate the existing open space at the Fulton Ferry Landing, the Empire-Fulton Ferry State Park, and the Main Street Park just west of the Manhattan Bridge and link them to the rest of the proposed park.

Policy 8.5: Preserve the public interest in and use of lands and waters held in public trust by the state and city.

The site of the proposed project would not adversely impact any lands held in public trust by the state or city. As described above, the proposed project would create an approximately 85-acre park that would provide continuous public access along a 1.3-mile stretch of waterfront. The proposed project would also provide recreational access on the water. A 185-slip marina would be located between Piers 4 and 5, and "safe water zones" between Pier 4 and between Pier 1 would provide approximately 12 acres of secure water area for kayaking and paddle boats. Thus, the proposed project is consistent with this policy, and improves access to lands and waters held in public trust.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

Policy 9.1: Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

As described in Chapter 7, "Historic Resources," the project site includes all or portions of five architectural resources: the Brooklyn Bridge, the Manhattan Bridge, the Fulton Ferry and D.U.M.B.O. Historic Districts, and the former National Cold Storage buildings. Measures would be taken to ensure that the two bridges and the buildings in the historic districts would not be damaged during construction. The National Cold Storage buildings would be demolished, and this would constitute a significant adverse impact on historic resources. This adverse impact would be substantially mitigated via measures developed in consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). The demolition of the National Cold Storage Plant buildings would enhance views across the project site of architectural resources including the Brooklyn and Manhattan Bridges. Therefore, the proposed project would be consistent with this policy.

As described further in Chapter 8, "Urban Design and Visual Resources," the proposed park would result in a dramatic improvement to the Brooklyn waterfront, and is

expected to greatly enhance the visual character of the project site. Vacant land and buildings, industrial uses, and parking lots on the project site would be replaced with a major new waterfront park. The area south of Old Fulton Street would be converted from an underutilized, industrial waterfront into a vibrant waterfront that is more accessible and varied. Views from the project site of visual resources, including the Manhattan skyline and the Brooklyn and Manhattan Bridges would be enhanced. The proposed project would also be expected to enhance the project site's views to visual resources, and would highlight the visual resources existing within the project site itself. It would create new views across the project site towards the East River and the Manhattan skyline. Furthermore, as most of the project site is located within the Brooklyn Heights Scenic View District, any new construction within the area protected by the scenic view district would comply with its regulations and would not result in any significant adverse impacts to views from the Brooklyn Heights Promenade.

Policy 9.2: Protect scenic values associated with natural resources.

The project site's few natural resources include littoral zone tidal wetland areas and various types of aquatic biota such as fish, benthic macroinvertebrates, and algae. Birds and other terrestrial wildlife on the project site are generally limited to species tolerant of urban conditions. The proposed project would add new natural habitats to the project site, including dunes, marshland, shrubland, meadow, and coastal forest, which would enhance the natural resources and their scenic value on the project site.

Furthermore, the scenic value of the water itself would be opened to the public as part of the proposed project, as the proposed project would provide public access to the waterfront along the entire project site and provide opportunities for recreational boating. This would allow for scenic views of the waterfront, the East River, and the harbor. Therefore, the proposed project would be consistent with this policy.

Policy 10: Protect, preserve, and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

Policy 10.1: Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

Although the National Cold Storage buildings would be removed, the proposed project would retain other noteworthy historic structures. The remaining two stories of the formerly five-story Tobacco Inspection Warehouses building would be preserved in Empire-Fulton Ferry State Park. The Empire Stores building in the Fulton Ferry Historic District would be adaptively reused as retail and commercial space. Therefore, the proposed project would be consistent with this policy.

Policy 10.2: Protect and preserve archaeological resources and artifacts.

Based on the New York City Landmarks Preservation Commission's (LPC) and OPRHP evaluation of the site, a Phase IA Archaeological Assessment was prepared for the project site by Historical Perspectives, Inc. The report concluded that the project area has the potential to contain significant archaeological resources related to the 17th, 18th, and 19th century development of the Brooklyn waterfront that have not been disturbed through later development. Where potential archaeological resources would be impacted (i.e., where construction would extend to the depths of potential archaeological sensitivity), testing measures would be developed in consultation with OPRHP and LPC to determine whether

archaeological resources may be present. Should the testing confirm the presence of significant archaeological resources (i.e., resources that are eligible for the State and National Registers of Historic Places) in locations that would be impacted by the proposed project, mitigation measures would be developed and implemented in consultation with OPRHP and LPC. Therefore, the proposed project is consistent with this policy. *