
CHAPTER 26: UNAVOIDABLE ADVERSE IMPACTS

A. INTRODUCTION

According to the *CEQR Technical Manual*, unavoidable adverse impacts are disclosed when a proposed action is expected to result in significant adverse impacts for which there are no reasonable or practical mitigation measures. As described in Chapter 21, “Mitigation,” most of the potential significant adverse impacts of the Proposed Action could be avoided or mitigated by implementing appropriate measures. However, there are also some unavoidable adverse impacts for which there is no mitigation. These unavoidable adverse impacts are described below.

B. OPEN SPACE

As described in Chapter 6, “Open Space,” the Proposed Action would result in a significant adverse impact to open space. With the Proposed Action, the population of the open space study area would increase by 5,516 residents, from 92,120 to 97,636. The amount of public open space would remain the same, with 33.99 total acres of public open space, consisting of 27.41 acres of active open space and 6.58 acres of passive open space. In the future with the Proposed Action, open space ratios in the open space ratio would decrease by approximately 5.6 percent as compared to the future without the Proposed Action. The private recreational space created under the Quality Housing Program for all action-generated residential units in the future with the Proposed Action would contribute to alleviating some of the shortage of open space in the study area. In addition, there are several large open space resources just outside the study area and bike lanes on existing roadways in the area which would also partially alleviate the shortage of open space for ~~new~~ residents of the study area proposed action. However, the decrease in open space ratio would exceed the 5 percent threshold for possible impacts, In light of the very low open space ratios for both passive and active recreation in the study area under No-Action conditions and worsening that would occur with the Proposed Action, there would be a significant adverse open space impact.

~~Possible measures to mitigate significant adverse quantitative open space impacts are discussed in Chapter 24 “Mitigation.” HPD will explore the feasibility of implementing mitigation measures between the Draft and Final EIS and will coordinate this effort with relevant public agencies and other parties as necessary and appropriate. In the event that no mitigation measures are found feasible or practicable, the quantitative open space impact would remain unmitigated.~~

As discussed in Chapter 24 “Mitigation”, HPD has considered the following measures to mitigate the significant adverse quantitative open space impacts: may include:

- The creation of new open space within the open space study area; or
- The enhancement and improvement of existing open spaces within the open space study area.

HPD has identified partial mitigation for the shortfall in passive open space. In order to partially mitigate the significant adverse open space impact, a new open space would be set aside within the open space study area at the junction of Beaver Street and Bushwick Avenue within the West Bushwick URA. The open space mitigation site is also known as URA Site 8 (Block 3137, Lots 1, 6, 9 and 11). The site is approximately 18,000 square feet and is City-owned (under HPD jurisdiction). As discussed in Chapter 24 “Mitigation”, once funds for the design and development of the open space are identified and secured

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HPD would transfer jurisdiction of the site to the Department of Parks and Recreation (DPR), which would develop and maintain the site as passive open space. The new site would partially mitigate the passive open space impact; however, the study area would continue to be underserved by passive and active open space. Furthermore, due to the absence of available funding, enhancements and/or improvements to existing open spaces in the open space study area is not considered feasible and no commitments can be made at this time. As a result, significant adverse impacts related to active open space would remain unmitigated.

C. SHADOWS

As discussed in Chapter 7, “Shadows,” the Proposed Action has the potential to result in significant adverse impacts due to shadows cast on the Bartlett Playground and the “Project Roots” Community Garden.

BARTLETT PLAYGROUND

Bartlett Playground, located along the south side of Bartlett Street, would receive significant incremental shadow coverage resulting from the future condition with the Proposed Action, specifically from future development at projected development sites 5 and 6. Sun sensitive resources located within the playground include deciduous trees, playground facilities, spray showers, benches and basketball courts. The duration of the shadow coverage over the four analysis periods (6 ¼ to 11 ¼ hours) would reduce the exposure of vegetation to sunlight to 3 hours on May 6th and 4 hours and 35 minutes on June 21st. While the reduction in sunlight exposure as a result of the Proposed Action would not significantly affect active recreation areas within the playground such as basketball courts, the lack of sunlight on the Bartlett Playground is a significant adverse impact during the May 6th analysis period because the resource would receive less than the minimum required for its vegetative cover and trees during part of the growing season.

~~Possible measures to mitigate significant adverse shadows impacts are discussed in Chapter 24 “Mitigation.” HPD will explore the feasibility of implementing mitigation measures between the Draft and Final EIS and will coordinate this effort with relevant public agencies and other parties as necessary and appropriate. In the event that no mitigation measures are found feasible or practicable, the shadows impacts would remain unmitigated.~~

HPD, in consultation with DPR, considered the following measures to mitigate significant adverse shadow impacts on the Bartlett Playground:

- Eliminating projected development sites 5 and 6 (the sites creating the shadow impact);
- reducing the height of buildings causing the shadow impact; or
- choosing shade tolerant species for vegetation to be planted in areas that would be in shadow.

HPD explored the aforementioned measures and has determined that the measures are not feasible. Therefore, as described in Chapter 24 “Mitigation”, the significant adverse shadow impacts to the Bartlett Playground would remain unmitigated.

“PROJECT ROOTS” COMMUNITY GARDEN

The “Project Roots” Community Garden is located along the south side of Walton Street. Incremental shadows, as a result of the Proposed Action, would primarily result from development on projected development site 24, where a distinctly taller building (80 feet in height) is projected. The duration of the shadow coverage over the four analysis periods (6 ¼ hours to 12 hours) would significantly reduce the exposure of vegetation (including the greenhouse) to sunlight and diminish the attractiveness of the open space and utility of the greenhouse.

~~Possible measures to mitigate significant adverse shadows impacts are discussed in Chapter 24 “Mitigation.” HPD will explore the feasibility of implementing mitigation measures between the Draft and Final EIS and will coordinate this effort with relevant public agencies and other parties as necessary and appropriate. In the event that no mitigation measures are found feasible or practicable, the shadows impacts would remain unmitigated.~~

HPD, in consultation with DPR, considered the following measures to mitigate significant adverse shadow impacts on the “Project Roots” Community Garden:

- Eliminating projected development site 24 (the site creating the shadow impact);
- reducing the height of buildings causing the shadow impact;
- choosing shade tolerant species for vegetation to be planted in areas that would be in shadow; or
- realignment or relocation of the greenhouse to another area of the garden.

HPD explored the aforementioned measures and has determined that the measures are not feasible. Therefore, as described in Chapter 24 “Mitigation”, the significant adverse shadow impacts to the “Project Roots” Community Garden would remain unmitigated.

D. HISTORIC RESOURCES

As discussed in Chapter 8, “Historic Resources,” the Proposed Action would not result in significant impacts to archaeological but would result in construction related impacts for two historic resources.

Inadvertent direct construction-related impacts could potentially occur to two (the Lincoln Savings Bank and the All Saints Church) of the State and/or National Registers of Historic Places S/NR eligible resources as a result of development in the Project Area. Construction activity associated with projected development sites 1 and 34 would result in potential construction-related impacts. The resource within 90 feet of projected development site 1 is the All Saints Church building, located on Throop Avenue. The resource within 90 feet of projected development site 34 is Lincoln Savings Bank which is located on Broadway.

The impacted resources would be afforded some protection from construction-related impacts under DOB regulations applicable to all buildings located adjacent to construction sites; however, since the resources are not S/NR-listed or New York City Landmarks (NYCL-designated), the resources are not afforded special protections under the New York City Department of Buildings’ *Technical Policy and Procedure Notice #10/88, (TPPN 10/88)*. However, the resources would be provided a measure of protection from construction as Building Code section 27-166 (C26-112.4), which requires that all lots, buildings, and service facilities adjacent to foundation and earthwork areas be protected and supported in accordance with the requirements of Building Construction Subchapter 7 and Building Code Subchapters 11 and 19.

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Additional protective measures afforded under TPPN 10/88, which apply to designated historic resources, would not be applicable in this case, unless the eligible resources are designated in the future prior to the initiation of construction. If these resources are not designated, however, they would not be subject to the above construction protection procedures and adjacent or nearby development resulting from the Proposed Action would result in significant adverse construction-related impacts to these resources.

These impacts would be unavoidable and remain unmitigated for privately owned development sites as no mechanism to require a Construction Protection Plan (CPP) is currently in place for private sites, aside from the standard Building Code measures identified above.

E. CONSTRUCTION IMPACTS

As stated above, inadvertent direct construction-related impacts could potentially occur to two (the Lincoln Savings Bank and the All Saints Church) of the S/NR eligible historic resources as a result of development in the Project Area. Construction activity associated with projected development sites 1 and 34 would result in potential construction-related impacts. The resource within 90 feet of projected development site 1 is the All Saints Church building, located on Throop Avenue. The resource within 90 feet of projected development site 34 is Lincoln Savings Bank which is located on Broadway.

As discussed above under “Historic Resources”, these impacts would be unmitigated for privately owned development sites as no mechanism to require a CPP is currently in place for private sites, aside from the standard Building Code measures identified above.