



APPENDIX 2: ASSESSMENT OF REVISED NO-ACTION SCENARIO I.

INTRODUCTION

This memorandum considers a potential revised No-Action Scenario for the 960 Franklin Avenue DEIS (CEQR No. 19DCP095K) as a result of the Supreme Court of Kings County, New York's decision to overturn the Franklin Avenue Rezoning (CEQR No. 17DCP067K) in *Alicia Boyd, Lashaun Ellis and Michael Hollingsworth v. Laurie Cumbo, Winston R. Von Engle*, The Department of City Planning of the City of New York (DCP), the New York City Planning Commission (CPC), Marisa Lago, the New York City Department of Buildings, Cornell Realty Management LLC, Carroll Development Plaza LLC, Franklin Yards LLC, and CP VI Crown Heights LLC (2020 WL 7234364) (the "Franklin Avenue lawsuit").

The Franklin Avenue Rezoning sought to rezone portions of Blocks 1188, 1189, and 1190 in the Crown Heights neighborhood of Brooklyn from R6A and R8A to R8X, with a C2-4 commercial overlay on portions of the rezoning area. The portions of the rezoning area containing the projected development sites would be designated Mandatory Inclusionary Housing Area, unlike the current area. The Franklin Avenue Rezoning was approved by the CPC and was expected to result in the development of 565 DUs and 23,784 gsf of commercial space at three different Projected Development Sites (931 Carroll Street, 40 Crown Street, and 882 Franklin Avenue).

The *960 Franklin Avenue Rezoning EIS* incorporates development facilitated by the Franklin Avenue Rezoning in its background analysis. The *960 Franklin Avenue Rezoning EIS* assumes these developments would be completed by the 2024 build year (the date that the proposed 960 Franklin Avenue development would be completed) and as such form part of the study area baseline future without the proposed action (No-Action) condition.

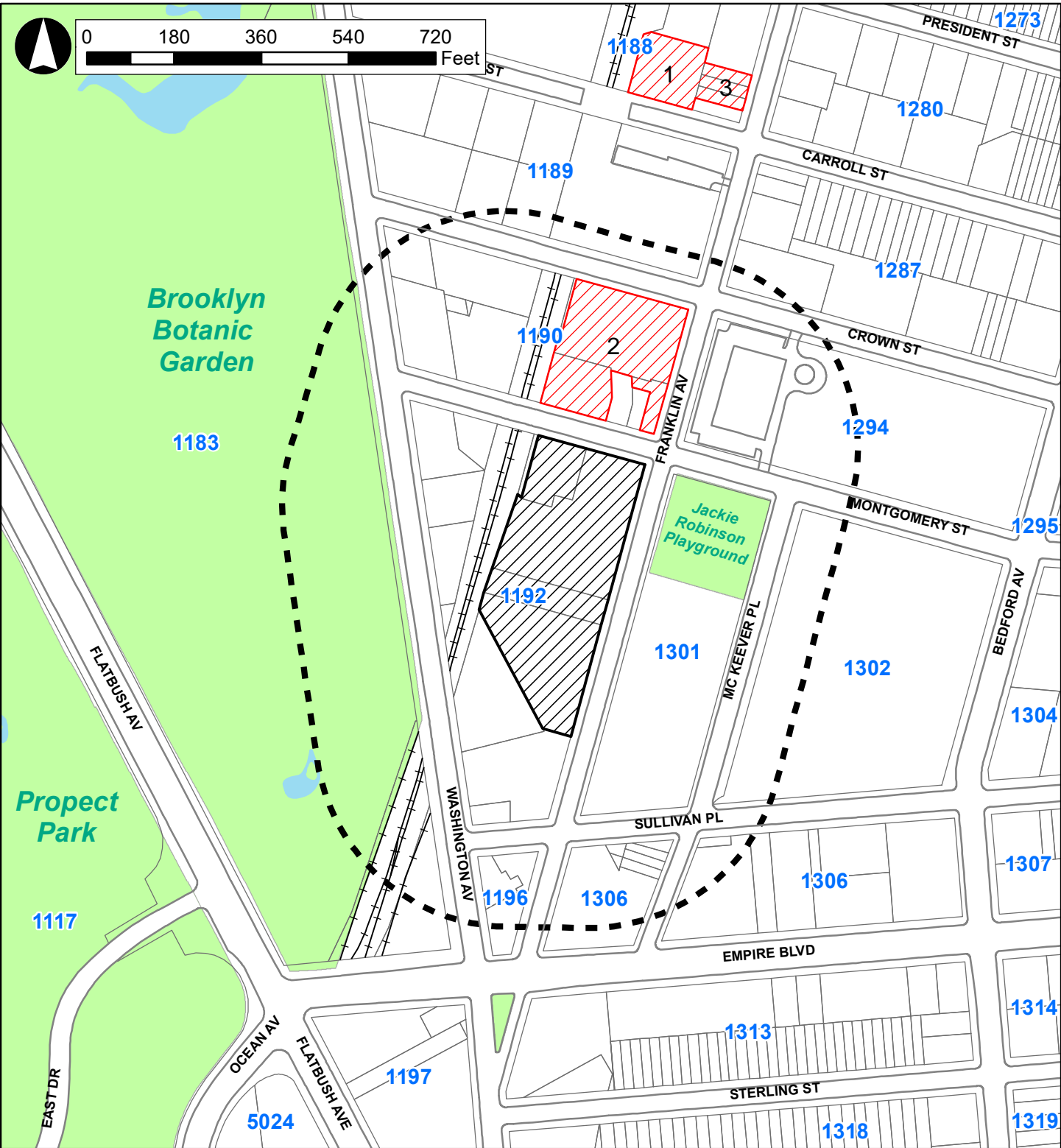
The memorandum below outlines how each technical area analyzed in the *960 Franklin Avenue Rezoning EIS* would be affected if the decision in the Franklin Avenue lawsuit were to stand, and sites included in the Franklin Avenue Rezoning would be developed under their prior as-of-right R6A zoning.

As discussed below, the new No-Action Scenario as a result of the Franklin Avenue lawsuit would not lead to any significant change or worsening to the impact determinations made in the *960 Franklin Avenue Rezoning EIS*.

II. FRANKLIN AVENUE AS-OF-RIGHT R6A DEVELOPMENTS

The *Franklin Avenue Rezoning EAS* (CEQR No. 17DCP067K) anticipated development on three development sites as a result of the rezoning. These sites include:

- 931 Carroll Street (Projected Development Site 1) (Block 1188; Lot 58)
- 40 Crown Street (Projected Development Site 2) (Block 1190; Lots 29, 45, and 50)
- 882 Franklin Avenue (Projected Development Site 3) (Block 1188; Lots 53, 54, and 55)



Legend



960 Franklin Ave Development Site



Franklin Ave Projected Development Sites



400-Foot Radius



Block Number



Visible Subway Tracks



Open Space

In the absence of the Franklin Avenue rezoning, Projected Development Sites 1 and 2 were expected to be redeveloped with as-of-right residential buildings pursuant to R6A zoning. These DOB-approved zoning documents are attached for reference.

Projected Development Site 1

At 931 Carroll Street, a new building permit was filed in 2015 (DOB Job No. 321080833) for a seven-story 69,524 gsf, 69-unit residential building that would comply with all R6A zoning regulations.

Projected Development Site 2

At 40 Crown Street, a new building permit was filed in 2015 (DOB Job No. 321042304) for a seven-story, 208-unit residential building that would comply with all R6A zoning regulations.

Projected Development Site 3

As part of the *Franklin Avenue Rezoning EAS*, Projected Development Site 3 would not be redeveloped under the as-of-right R6A zoning. Therefore, the site would continue to be occupied by four residential units and approximately 7,400 gsf of commercial space.

Table 1 depicts the negative increment in DUs and commercial space that would occur if the Franklin Avenue lawsuit stands and the sites were to be developed under the as-of-right R6A zoning. Likewise, **Table 2** depicts the change in building heights that would occur under the same scenario.

TABLE 1
Increment in Revised No-Action Scenario for 960 Franklin EIS

	No-Action Scenario included in 960 Franklin Ave. EIS Analysis			Scenario analyzed in this Memorandum (New No-Action Scenario)			Residential Increment	Commercial Increment
	Zoning	Franklin Av. Rezoning EAS With-Action Residential	Franklin Av. Rezoning EAS With-Action Commercial Space	Zoning	No-Action Residential (R6A Zoning)	No-Action Commercial Space (R6A Zoning)		
Projected Development Site 1	R8X	134,342 gsf (128 DUs)	-	R6A	69,524 gsf (69 DUs)	-	-64,818 gsf -59 DUS	-
Projected Development Site 2	R8X/C2-4	411,350 gsf (390 DUs)	16,284 gsf	R6A	225,821 gsf (208 DUs)	-	-185,529 gsf -182 DUS	-16,284 gsf
Projected Development Site 3	R8X/C2-4	46,500 gsf (47 DUs)	7,500 gsf	R6A/C1-3	2,575 gsf (4 DUs)	7,400 gsf	-43,925 gsf -43 DUS	-100 gsf
Total:							-299,272 gsf (284 DUs)	-16,384 gsf

TABLE 2
Change in Building Bulk in Revised No-Action Scenario for 960 Franklin EIS

	No-Action Scenario included in 960 Franklin Ave. EIS Analysis			Scenario analyzed in this Memorandum (New No-Action Scenario)			Height in Feet Increment	Number of Stories Increment
	Zoning	Franklin Av. Rezoning EAS With-Action Height in Feet	Franklin Av. Rezoning EAS With-Action Number of Stories	Zoning	No-Action Height in Feet	No-Action Number of Stories		
Projected Development Site 1	R8X	175'	16	R6A	70'	7	-105'	-9
Projected Development Site 2	R8X/C2-4	175'	16	R6A	70'	7	-105'	-9
Projected Development Site 3	R8X/C2-4	175'	16	R6A/C1-3	30' (est.)	3	-145'	-13

As shown in **Table 1**, if the Franklin Avenue lawsuit stands, approximately 284 less residential units (299,272 gsf) and 16,284 gsf less commercial gsf would be constructed at 931 Carroll Street, 40 Crown Street, and 882 Franklin Avenue. As shown in **Table 2**, if the Franklin Avenue lawsuit stands, Sites 1 and 2 would be 105 feet (9 stories) shorter than projected and Site 3 would be 145 feet (13 stories) shorter than projected. Below, each technical area analyzed in the 960 Franklin Avenue EIS is revisited based on a decrease of 284 DUs and 16,924 gsf and reduced heights in the No-Action scenario.

III. LAND USE, ZONING, & PUBLIC POLICY

The *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Actions would not have a significant adverse impact on land use, zoning, or public policy, as set forth in the *CEQR Technical Manual*. The Proposed Actions would not adversely affect surrounding land use, nor would the Proposed Actions generate land uses that would be incompatible with land use, zoning, or public policy within the quarter-mile study area.

If the Franklin Avenue lawsuit stands, the increment from the new No-Action Scenario to the With-Action Scenario in the *960 Franklin Avenue Rezoning EIS* would not result in a significant adverse impact to land use, zoning, or public policy. The New No-Action Scenario would contain multi-family residential uses and a small amount of commercial space at the Franklin Avenue Rezoning Projected Development Sites, similar to what was analyzed in the *960 Franklin Avenue Rezoning EIS* i.e., the same types of uses though at a lower density. The change in the No-Action Scenario would not produce an incremental change from No-Action to With-Action conditions resulting in significant adverse land use impacts, similar to the conclusions presented in Chapter 2 of the EIS.

IV. SOCIOECONOMIC CONDITIONS

The *960 Franklin Avenue Rezoning EIS* found that the Proposed Actions would not result in any significant adverse impacts to the five socioeconomic areas studied under *CEQR* including direct residential, direct business/institutional displacement, indirect residential displacement, indirect business/institutional displacement, and adverse effects on specific industries, in accordance with *CEQR Technical Manual* guidance.

The indirect residential displacement analysis in the 960 Franklin Avenue EIS includes a preliminary assessment that shows an observable trend towards increasing rents and property values in the study area independent of the Proposed Project at 960 Franklin Avenue. Under the new No-Action Scenario, new multi-family residential buildings would be constructed under the as-of-right R6A zoning, similar to what was analyzed in the *960 Franklin Avenue Rezoning EIS*. Therefore, the new No-Action Scenario as a result of the Franklin Avenue lawsuit would not substantially change the analysis presented on indirect residential displacement in the *960 Franklin Avenue Rezoning EIS*.

The new No-Action Scenario, if the Franklin Avenue lawsuit stands, would not change the findings of the Direct Residential/Business Displacement, the Indirect Business Displacement, or Adverse Effects on Specific Industries Analyses presented in the *960 Franklin Avenue Rezoning EIS*. No significant adverse impacts would occur to socioeconomic conditions under the new No-Action Scenario.

V. COMMUNITY FACILITIES AND SERVICES

The *960 Franklin Avenue Rezoning EIS* found that the Proposed Actions would not result in impacts to public schools or public libraries. Significant adverse impacts would occur on publicly funded child care centers. As the impact threshold for the technical areas analyzed in the Community Facilities chapter are based on a percent change from the No-Action to With-Action Scenarios, revised analyses for public schools, libraries, and publicly funded child care services are presented below based on the new No-Action Scenario.

Public Schools

As the number of additional students introduced by No-Action Residential Development in the *960 Franklin Avenue Rezoning EIS* is based on the NYC School Construction Authority's *Projected New Housing Starts 2018-2027 Enrollment Projections* rather than any specific developments, the new No-Action Scenario would not alter the conclusions of the public schools analysis presented in the *960 Franklin Avenue Rezoning EIS*. No significant adverse impacts would occur to public schools under the new No-Action Scenario. The analysis presented in the *960 Franklin Avenue Rezoning EIS* would be conservative in that it estimates a higher level of school enrollment than the new No-Action Scenario.

Libraries

The Project Area is served by the Brooklyn Public Library (BPL) system, which includes a Central Library, a Business Library, and 58 neighborhood libraries. BPL also serves adult learners through five learning centers. Two BPL libraries are located within ¾-mile of the Project Area: the Central Library at 10 Grand Army Plaza and the Crown Heights Library at 560 New York Avenue.

As discussed above, the new No-Action Scenario would result in 284 less DUs than what was analyzed in the *960 Franklin Avenue Rezoning EIS*. **Table 3** shows the revised No-Action Population for the Crown Heights and Brooklyn's Central Library catchment areas¹.

¹ Table 3 depicts the new No-Action Scenario and is an update to Table 4-9 presented in the 960 Franklin Avenue EIS.

TABLE 3**Expected 2024 New No-Action Scenario Residential Development within the Library Catchment Areas**

Library	Existing Populations ¹	# of No-Action DUs Expected in Library Catchment Areas ³	Average Household Size in Library Catchment Areas ²	Populations Introduced by No-Action Developments ³	Total No-Action Populations ³
<i>Crown Heights Library</i>	125,694	1,627	2.62	4,262	129,956
<i>Brooklyn's Central Library</i>	93,876	1,942	2.37	4,603	98,479

Notes:¹ Refer to **Table 4-8** of the 960 Franklin Avenue EIS.² ACS 2013-2017 five-year estimate for each library catchment area. It should be noted that, for conservative analysis purposes, the 518 DUs expected to be constructed on the Development Site under No-Action conditions was multiplied by 2.62 (the average household size of Brooklyn Community District 9 in the 2010 Census per **Chapter 1**).³Reflects the 284 less residential units that would be developed if the Franklin Avenue lawsuit stands.

No changes to either the Crown Heights Library or Brooklyn's Central Library are expected in the future without the Proposed Actions, and for analysis purposes, the number of holdings in each library is assumed to remain the same in 2024. Based on this assumption, **Table 4** presents the anticipated holdings-per-resident ratios of each library in the future without the Proposed Actions (the new No-Action Scenario). As indicated in the table, the No-Action holdings-per-resident ratio would decrease from 0.46 to 0.44 for the Crown Heights Library, and from 8.00 to 7.57 for the Central Library.

TABLE 4**Expected 2024 new No-Action Scenario Library Holdings-Per-Resident Ratios**

Library	No-Action Holdings ¹	No-Action Catchment Area Populations ²	No-Action Holdings per Resident
<i>Crown Heights Library</i>	57,887	129,956	0.45
<i>Brooklyn's Central Library</i>	751,062	98,479	7.62

Notes:¹ 2013 holdings (BPL via DCP); Assumes no change in the No-Action condition.² Refer to **Table 3** (reflects 284 less DUs under the new No-Action Scenario if the Franklin Avenue lawsuit stands).

According to the *CEQR Technical Manual*, if a proposed action increases the study area population by five percent or more as compared to the No-Action condition, this increase may impair the delivery of library services to the study area, and a significant adverse impact could occur.

Table 5 presents the With-Action Scenario compared to the new No-Action Scenario presented in **Table 4**.

TABLE 5**Expected 2024 With-Action Library Catchment Area Population Increases**

Library	No-Action Population ¹	Population Introduced in With-Action Condition ²	Total With-Action Population	Increase in Catchment Area Population over No-Action Condition
<i>Crown Heights Library</i>	129,956	2,777	133,450	2.14%
<i>Brooklyn's Central Library</i>	98,479		101,939	2.82%

Notes:¹ Refer to **Table 3** (reflects 284 less DUs under the new No-Action Scenario if the Franklin Avenue lawsuit stands).² For conservative analysis purposes, the 1,060 incremental DUs expected to be constructed on the Development Site under With-Action conditions were multiplied by 2.62 (the average household size of Brooklyn Community District 9 in the 2010 Census).

As the library catchment area populations for both the Crown Heights Library and Brooklyn’s Central Library would increase by less than five percent from the new No-Action Scenario, this level of increase would not result in a noticeable change in the delivery of library services at these locations. As such, no significant adverse library impacts would occur as a result of the Proposed Actions. Therefore, the new No-Action Scenario would not result in a different outcome than what was presented in the *960 Franklin Avenue Rezoning EIS*.

Publicly Funded Child Care Centers

As presented in Chapter 4, “Community Facilities,” of the *960 Franklin Avenue Rezoning EIS*, there are 18 publicly funded child care centers within the study area with a combined capacity of 1,506 slots and 140 available slots (90.7 percent utilization)². Although family-based child care facilities and informal care arrangements provide additional slots in the study area, these slots are not included in the quantitative analysis.

Under the No-Action Condition presented in the existing 960 Franklin Avenue EIS, the analysis included approximately 673 units of affordable units for households earning up to 80 percent of AMI including, amongst others, 152 affordable DUs at 902 Franklin Avenue/931 Carroll Street and 250 affordable DUs at the Bedford-Union Armory.³

Approval of the Franklin Avenue Rezoning would result in 152 additional affordable residential units for households earning up to 80 percent AMI. Therefore, the new No-Action Scenario would result in 521 affordable units for households earning up to 80 percent AMI. Based on Table 6-1b of the *CEQR Technical Manual*, these additional 521 affordable units in the new No-Action Scenario would generate 93 children under age six eligible for publicly funded child care services. **Table 6** presents the new No-Action Scenario and is based on Table 4-14 of the *960 Franklin Avenue Rezoning EIS*.

TABLE 6
Comparison of Budget Capacity, Enrollment, Available Slots, and Utilization for Existing Conditions and the 2024 Future new No-Action Scenario Conditions

	Budget Capacity	Enrollment¹	Available Slots	Utilization
Existing Conditions	1,506	1,366	140	90.7%
New No-Action Increment ¹	0	+93	-193	+6.2%
2024 New No-Action Scenario	1,506	1,459	47	96.9%

Sources: *CEQR Technical Manual*, Table 6-1b.

¹Reflects 152 less affordable DU at 931 Carroll Street as a result of the Franklin Avenue lawsuit.

As detailed in Chapter 1, “Project Description,” of the *960 Franklin Avenue Rezoning EIS* under 2024 RWCDs conditions, 474 affordable housing units for families with incomes at or below 80 percent of AMI would be constructed on the Development Site. Based on Table 6-1b of the *CEQR Technical Manual*, these additional 474 affordable units would generate 84 children under age six eligible for publicly funded child care services (refer to Table 4-15 of the *960 Franklin Avenue Rezoning EIS*).

According to the *CEQR Technical Manual*, a significant adverse child care center impact could result if a proposed action results in: (1) a collective utilization rate greater than 100 percent in the With-Action

² Refer to Table 4-13 of the 960 Franklin Avenue DEIS.

³ Sources: NYC DOB New Building Permits; Articles from *Curbed New York*, *YIMBY*, *The Real Deal*, and *Brownstoner*; and HPD’s “Housing New York Map.”

condition; and (2) the demand constitutes an increase of five percent or more in the collective capacity of child care centers serving the study area over the No-Action condition.

As presented in **Table 7**, the additional 84 children potentially eligible for publicly funded child care would increase the study area child care utilization rate to 102.5 percent, a 5.6 percent increase from the new No-Action Scenario conditions. As such, the Proposed Actions would result in significant adverse impacts to publicly funded child care facilities in the study area, similar to the analysis already presented in the *960 Franklin Avenue Rezoning EIS*.

TABLE 7
Comparison of Budget Capacity, Enrollment, Available Slots, and Percent Utilized for the 2024 Future New No-Action Scenario and With-Action Conditions

	Budget Capacity	Enrollment	Available Slots	Utilization
2024 New No-Action Scenario	1,506	1,459	47	96.9%
With-Action Increment	0	+84	-37	+5.6%
2024 With-Action Condition	1,506	1,543	-64	102.5%

Sources: *CEQR Technical Manual*, Table 6-1b.

Similar to the analysis presented in the *960 Franklin Avenue Rezoning EIS*, this impact could be mitigated if the Applicant provided nine child care slots off-site. Therefore, the new No-Action Scenario would not result in any additional impact relative to what was presented in the *960 Franklin Avenue Rezoning EIS*.

VI. OPEN SPACE

The *960 Franklin Avenue Rezoning EIS* found that the Proposed Actions would not result in indirect impacts to open space but would result in direct impacts to open space due to incremental shadows created by the Proposed Project. The impact threshold for indirect open space impacts is based on the percent change in the open space ratio between the No-Action and With-Action scenarios. Based on the new No-Action Scenario due to the Franklin Avenue lawsuit, a revised indirect effects analysis is presented below⁴.

As presented in Table 5-1 of the *960 Franklin Avenue Rezoning EIS*, the existing residential population in the ½-mile open space study area is 41,256 people⁵. The No-Action Scenario of the *960 Franklin Avenue Rezoning EIS* expected 20 No-Action developments to introduce 5,836 residents to the ½-mile study area. As the new No-Action Scenario would result in 284 less DUs, and the *960 Franklin Avenue Rezoning EIS* assumes an average household size in the area of 2.62 persons per household, the new No-Action Scenario would result in 745 less residents than was included in the *960 Franklin Avenue Rezoning EIS* No-Action Condition. **Table 8** reflects the new No-Action Scenario based on the Franklin Avenue lawsuit and is based on Table 5-4 of the *960 Franklin Avenue Rezoning EIS*.

⁴ A revised direct effect open space analysis is presented in 'Section VII. Shadows'.

⁵ Source: U.S. Census Bureau 2010

TABLE 8
Adequacy of Open Space Resources: New No-Action Scenario

2024 New No-Action Scenario Population ¹	Open Space Acreage			Open Space per 1,000 Residents			City Open Space Planning Goals		
	Total	Active	Passive	Total	Active	Passive	Total	Active	Passive
51,213	204.28	90.45	113.83	3.99	1.77	2.22	2.50	2.00	0.50

¹Reflects the 745 less residents in the ½-mile Study Area as a result of the Franklin Avenue lawsuit.

In the 2024 With-Action condition, the additional population introduced to the ½-mile study area by the Proposed Actions (2,777 residents) would further increase the demand on the area’s open space resources. As indicated in **Table 9**, the With-Action total, active, and passive open space ratios per 1,000 residents are expected to decrease to 3.78, 1.68, and 2.11, respectively, from 3.99, 1.77, and 2.22, respectively, under the new No-Action Scenario. Similar to the new No-Action Scenario, the total and passive open space ratios would remain above the City’s community district median and the City’s optimal planning guidelines, while the active open space ratio would remain below the City’s community district median and the City’s optimal planning guidelines.

TABLE 9
Adequacy of Open Space Resources: With-Action Scenario

2024 New With-Action Scenario Population ¹	Open Space Acreage			Open Space per 1,000 Residents			City Open Space Planning Goals		
	Total	Active	Passive	Total	Active	Passive	Total	Active	Passive
53,990	204.28	90.45	113.83	3.78	1.68	2.11	2.50	2.00	0.50

A significant adverse open space impact may occur if a proposed action would reduce the open space ratio by more than five percent in areas that are currently below the Citywide median community district open space ratio of 1.50 acres per 1,000 residents. In areas that are extremely lacking in open space, a reduction of as little as one percent may be considered significant, depending on the area of the City. These reductions may result in the overburdening of existing facilities or further exacerbating a deficiency in open space. Conversely, in areas that are well-served by open space (such as the Project Area), a greater percentage of change (more than five percent) may be tolerated. **Table 10** presents the percentage change from the new No-Action Scenario to the With-Action condition for the ½-mile open space study area.

TABLE 10
Residential Open Space Ratios Summary

Type of Open Space	CEQR Technical Manual Open Space Guideline	Open Space Ratios per 1,000			Percent Change (Future No-Action to Future With-Action)
		Existing	No-Action	With-Action	
Total	2.50	4.95	3.99	3.78	-5.14%
Active	2.00	2.19	1.77	1.68	-5.14%
Passive	0.50	2.76	2.22	2.11	-5.07%

With respect to the reduction in open space ratios in the ½-mile open space study area, the residential total open space ratio would decrease by approximately 5.14 percent from the new No-Action Scenario, the residential active open space ratio would decrease by approximately 5.14 percent from the new No-Action Scenario, and the residential passive open space ratio would decrease by approximately 5.07 percent from the new No-Action Scenario. The *CEQR Technical Manual* states that an indirect impact on open space may occur if a project would reduce the open space ratio by more than 5 percent in areas that are currently below the City’s median community district open space ratio of 1.5 acres per 1,000 residents. As the total and passive open space ratios for the open space study area would remain above the City’s planning guidelines of 2.50 acres of total open space per 1,000 residents and 0.50 acres of passive open space per 1,000 residents (refer to **Table 9**), residents in the ½-mile study area would continue to be well-served by total and passive open space resources and no significant adverse impacts would result, in accordance with *CEQR Technical Manual* guidance. Therefore, the new No-Action Scenario would not result in any significant change to the analysis presented in the *960 Franklin Avenue Rezoning EIS*.

VII. SHADOWS

The *960 Franklin Avenue EIS* shadows analysis concluded that the Proposed Actions would result in significant adverse shadows impacts to the Brooklyn Botanic Garden and the Jackie Robinson Playground. As the height and bulk of 40 Crown Street, 931 Carroll Street, and 882 Franklin Avenue (refer to **Table 2**) would change under the new No-Action Scenario, a revised shadows analysis was completed to assess whether the Proposed Actions would result in any additional incremental shadows not disclosed in the *EIS*.

Brooklyn Botanic Garden

Due to the angle of the as-of-right R6A developments at 40 Crown Street and 931 Carroll Street relative to the Proposed Project, the new No-Action Scenario would not result in any changes to the size or duration of incremental shadow coverage on the Brooklyn Botanic Garden on the March/September 21, May/August 6, or June 21st analysis days. **Figures 2-1** through **2-3** depict the incremental shadow coverage on each of these analysis days⁶. These figures can be found in the Appendix.

As shown in **Figure 2-4a**, on the December 21 analysis day, from approximately 8:51 – 8:58 AM, the new No-Action Scenario would result in additional incremental shadow coverage on the Brooklyn Botanic Garden near the Fragrance Garden. This portion of additional incremental shadow as a result of the new No-Action Scenario measures approximately 400 sf and would decrease in size from 8:51 until 8:58 AM. The new No-Action Scenario would not change the total incremental shadow duration for the Proposed Actions on the Brooklyn Botanic Garden on the December 21 analysis day.

⁶ Refer to Table 6-3 of the 960 Franklin Avenue Rezoning EIS for the duration of incremental shadows on each sunlight-sensitive resource.

As the new No-Action Scenario would not increase the duration of incremental shadow coverage, and because the new No-Action Scenario would only result in an additional 400 sf of incremental shadow coverage for a total of eight minutes, the new No-Action Scenario would not alter the impact determination made in the *960 Franklin Avenue Rezoning EIS*.

Jackie Robinson Playground

As shown in **Figures 3-1** through **3-4**, the new No-Action Scenario would not alter the impact determination made in the *960 Franklin Avenue Rezoning EIS*. The new No-Action Scenario would not result in any changes to duration or amount of incremental shadow coverage as a result of the Proposed Actions on any of the four representative analysis days.

VIII. HISTORICAL & CULTURAL RESOURCES

The new No-Action Scenario would not result in any changes to the analysis presented in the *960 Franklin Avenue Rezoning EIS*. The Proposed Actions would not result in significant adverse indirect or contextual impacts on existing historic resources. The With-Action buildings on the Development Site would not significantly alter the context or setting of surrounding historic resources as compared to No-Action conditions. The top of the With-Action towers would be visible behind the LPC-designated and S/NR-eligible Brooklyn Central Office's Bureau of Fire Communications building when looking northeast from Empire Boulevard. Additionally, there are several mid-rise buildings under construction and planned in the secondary study area which will further alter the context of the landmark building in the future without the Proposed Actions.

IX. URBAN DESIGN & VISUAL RESOURCES

The *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Actions would not have a significant adverse impact on urban design and visual resources in the Project Area or surrounding secondary study area, as set forth by the guidance in the *CEQR Technical Manual*. The Proposed Actions would not result in significant adverse impacts to urban design as the proposed project would have street wall heights that are not substantially different than existing and planned buildings in the area and above the base would have setbacks, as required by zoning, to provide light and air to the street and that would prevent the creation of sheer walls abutting the street. Likewise, the Proposed Actions would not result in significant adverse impacts to visual resources as the area is a densely developed urban environment and multiple mid- and high-rise buildings are existing or planned within three blocks of the Development Site.

If the Franklin Avenue lawsuit stands, the change in conditions from the new study area No-Action scenario, i.e., from the *Franklin Avenue Rezoning EAS*'s No-Action conditions for that rezoning's three development sites, to the With-Action Scenario in the *960 Franklin Avenue Rezoning EIS* would not result in a significant adverse impact to urban design and visual resources. While the determination of no significant adverse urban design and visual resources impacts relied in part on the presence of mid- and high-rise buildings in the vicinity of the project site, including the projected 170-foot tall Franklin Avenue Rezoning development site buildings, those three buildings would not be the only high-rise nor the tallest No-Action buildings in the study area, which also includes the existing 315-foot tall (33-story) Tivoli Towers and 211-foot tall (25-story) Ebbets Field Houses. In addition, there are existing residential buildings at 1015 and 1035 Washington Avenue (the latter with frontage on Franklin Avenue), located directly to the south featuring street walls, base heights, and lot coverage characteristics that are generally consistent with those proposed for the base of 960 Franklin Avenue. As such, the pedestrian experience at the project site would be similar to conditions already present in portions of the study area. Furthermore, two of the three Franklin Avenue

Rezoning development sites would be redeveloped with 70-foot tall street wall buildings. As such, the urban design and visual resources effects of the Proposed Actions would be comparable under either scenario for the Franklin Avenue Rezoning development sites and therefore, the change in the No-Action Scenario would not result in any change in the Urban Design and Visual Resources impact determination.

X. NATURAL RESOURCES

The *960 Franklin Avenue Rezoning EIS* found that the Proposed Actions would result in significant adverse impacts due to incremental shadows cast by the Proposed Project onto the Brooklyn Botanic Garden. The *960 Franklin Avenue Rezoning EIS* concluded that several Greenhouses within the Brooklyn Botanic Garden are used to propagate plants for desert, tropical, and warm temperate climates that require full, year-round sun including sunlight during the important winter months. Therefore, any incremental shading of these greenhouses, specifically during the winter months, would have a significant adverse impact on the plants in these greenhouses. As presented in Section VII, Shadows, the new No-Action Scenario would result in marginal increases in incremental shadow coverage and duration to the area near the fragrance garden in the Brooklyn Botanic Garden, thereby slightly increasing the magnitude of this impact disclosed in the EIS, but not representing a substantial change to the disclosed impact. Therefore, the new No-Action Scenario would not result in any significant change to the conclusions presented in the Natural Resources analysis of the *960 Franklin Avenue Rezoning EIS*.

XI. HAZARDOUS MATERIALS

The hazardous materials analysis presented in the *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Actions would not result in significant adverse impacts related to hazardous materials. The placement of an (E) designation on the project site would ensure that an adverse impact to human health and the environment resulting from the Proposed Actions would be avoided. As the analysis of hazardous materials is site specific, a change in the zoning of the Franklin Avenue Rezoning Projected Development Sites would not alter the conclusions of the *960 Franklin Avenue Rezoning EIS*.

XII. WATER & SEWER INFRASTRUCTURE

The analysis presented in the *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Project would not result in a significant adverse impact on the City's water supply, wastewater and stormwater conveyance and treatment infrastructure. As the analysis of water and sewer infrastructure is site specific, a change in the zoning of the Franklin Avenue Rezoning Projected Development Sites would not alter the conclusions of the *960 Franklin Avenue Rezoning EIS*.

XIII. SOLID WASTE & SANITATION SERVICES

The *960 Franklin Avenue Rezoning EIS* analysis concluded that the Proposed Actions would not result in a significant adverse impact on solid waste and sanitation services. The Proposed Actions would generate an increment above the No-Action condition of approximately 24.4 tons per week of solid waste, but would not directly affect a solid waste management facility. Because the analysis of solid waste and sanitation services is site specific, a change in the zoning of the Franklin Avenue Rezoning Projected Development Sites would not alter the conclusions of the *960 Franklin Avenue Rezoning EIS*.

XIV. ENERGY

The *960 Franklin Avenue Rezoning EIS* analysis concluded that the Proposed Project would not result in a significant adverse impact on energy systems. Development facilitated by the Proposed Actions is expected to create an increased demand on energy systems, including electricity and gas. It is estimated that With-Action development on the Development Site would result in an increase of approximately 114.5 billion British thermal units (BTUs) over No-Action conditions. This increase in annual demand would represent less than 0.1 percent of the City's forecasted future annual energy requirement of 172 trillion BTU for 2024 and, therefore, is not expected to result in a significant adverse impact on energy systems. Because the analysis of demand on energy systems is site specific, a change in the zoning of the Franklin Avenue Rezoning Projected Development Sites would not alter the conclusions of the *960 Franklin Avenue Rezoning EIS*.

XV. TRANSPORTATION

The *960 Franklin Avenue Rezoning EIS* concludes that the Proposed Actions would have the potential to result in significant adverse impacts to vehicular traffic at one intersection in one or more peak hours as well as to pedestrians on a crosswalk at one intersection. As previously discussed above in this Technical Memorandum, in the absence of the Franklin Avenue rezoning, if the Franklin Avenue lawsuit stands, approximately 284 less residential units (299,272 gsf) and 16,924 gsf less commercial gsf would be constructed. The absence of the rezoning would result in a decrease to the forecasted transportation demand to the area, including person and vehicle trips. Given the potential of the lawsuit being overturned, the No-Action scenario would conservatively account for the Franklin Avenue rezoning in the Transportation analyses presented in the *960 Franklin Avenue Rezoning EIS*. As such, the transportation analyses under the No-Action and With-Action scenarios presented in the 960 Franklin Avenue rezoning conservatively omit the potential decrease in demand as a result of the Franklin Avenue lawsuit. This conservative approach considers that the No-Action developments in the Franklin Avenue rezoning would generate more person and vehicle trips without the lawsuit, potentially resulting in higher delays, slightly decreased levels-of-service, and increased chance for potential impacts in the With-Action scenario of the 960 Franklin Avenue rezoning.

XVI. AIR QUALITY

The *960 Franklin Avenue Rezoning EIS* air quality analysis concluded that the Proposed Actions would not result in significant adverse air quality impacts. This analysis included HVAC detailed analysis of on-site emission which showed that both project site buildings had the potential to impact each other; however, this impact would be avoided through (E) designations for both buildings specifying fuel type, stack height and location restrictions that would be placed as part of the Proposed Actions to ensure the Proposed Development would not result in any significant air quality impacts from fossil fuel-fired heat and hot water systems emissions.

If the Franklin Avenue lawsuit stands, the change in conditions from the new study area No-Action scenario, i.e., from the *Franklin Avenue Rezoning EAS*'s No-Action conditions for that rezoning's three development sites, to the With-Action Scenario in the 960 Franklin Avenue EIS would not result in a significant adverse air quality impact. As is the case under the analysis presently provided in the *960 Franklin Avenue Rezoning EIS*, with shorter buildings that have less building area, the proposed project's taller buildings would not have the potential to result in significant adverse HVAC systems impacts on the three Franklin Avenue Rezoning development sites. Likewise given their distance from the proposed 960 Franklin Avenue

buildings, reductions in building heights and densities would not affect the analysis presented in the EIS and the recommended (E) designations.

XVII. GREENHOUSE GAS EMISSIONS & CLIMATE CHANGE

The greenhouse gas emissions and climate change analysis presented in the *960 Franklin Avenue Rezoning EIS* found that the Proposed Project would be consistent with the City’s applicable emissions reduction goals of transit-oriented development and construction of new resource- and energy-efficient buildings. The analysis of greenhouse gas emissions and climate change is site specific. Therefore, a change in the zoning of the Franklin Avenue Rezoning Projected Development Sites would not alter the conclusions of the greenhouse gas emissions and climate change analysis presented in the *960 Franklin Avenue Rezoning EIS*.

XVIII. NOISE

The *960 Franklin Avenue Rezoning EIS* analysis concluded that relative increases in noise levels would fall below the applicable *CEQR Technical Manual* significant adverse impact threshold (3.0 dBA), the Proposed Actions would not result in any significant adverse noise impacts due to action-generated vehicular traffic. An (E) designation (E-586) would be placed on the Project Site to ensure acceptable interior noise levels by requiring certain levels of attenuation on several facades of the Proposed Project⁷.

The new No-Action Scenario would result in less vehicular traffic in the area surrounding the Project Site. Specifically on Montgomery Street where the number vehicles entering and exiting 40 Crown Street (Projected Development Site 2) would decrease under the R6A as-of-right development. Therefore, a revised noise analysis is presented below based on the new No-Action Scenario for the Montgomery Street frontage (Noise Receptor Location 2 in the *960 Franklin Avenue Rezoning EIS*).

Table 11 shows the existing noise levels that were monitored at the Montgomery Street Receptor Location in November 2017 (refer to Chapter 17, “Noise,” of the *960 Franklin Avenue Rezoning EIS*).

TABLE 11
Existing Noise Levels (in dBA) at Receptor Location 2 (Montgomery Street)

Receptor Location ¹	Time ²	L _{max}	L _{min}	L _{eq}	L ₁	L ₁₀ ³	L ₅₀	L ₉₀	CEQR Noise Exposure Category
2	AM	75.20	52.40	61.57	69.68	65.09	58.84	55.22	Marginally Acceptable
	MD	89.15	47.12	63.14	74.37	67.26	55.10	50.31	
	SC PM	70.84	49.06	57.45	66.07	60.83	54.67	51.76	
	PM	77.14	48.02	59.95	69.37	64.07	55.09	50.53	

Notes: All PCE and noise value are shown for a weekday.

¹ With-Action Leq – No-Action Leq

² The highest L₁₀ noise levels at each monitoring location are shown in **bold**.

⁷ Refer to Chapter 17, “Noise,” of the 960 Franklin Avenue EIS for the specific (E) designation text.

Based on the new No-Action Scenario's as-of-right development at 40 Crown Street, the trip generation for incremental vehicles on Montgomery Street was revised. As a result of the Franklin Avenue lawsuit, it is expected that there would be 18, 32, and 34 less vehicles in the AM, Midday, and PM peak hours traveling on Montgomery Street, respectively.

As shown in **Table 12**, there would be minimal increases in noise levels at Receptor Location 2 due to background growth and No-Action development (i.e., the as-of-right R6A development at 40 Crown Street). Similar to existing conditions, the receptor location would remain under the "Marginally Acceptable" CEQR Noise Exposure Category.

TABLE 12
New No-Action Scenario Noise Levels (in dBA) at Receptor Location 2 (Montgomery Street)

Noise Receptor Location	Time	Existing PCEs	No-Action PCEs	Existing Leq	No-Action Leq	Change ¹	No-Action L10 ²	CEQR Noise Exposure Category
2	AM	85.0	100.6	61.57	62.30	0.73	65.82	Marginally Acceptable
	MD	182.7	188.2	63.14	63.27	0.13	67.39	
	SC PM	153.0	157.6	57.45	57.58	0.13	60.96	
	PM	130.0	133.9	59.95	60.08	0.13	64.20	

Note: Based on the revised new No-Action Scenario as a result of the Franklin Avenue lawsuit.

¹ With-Action Leq – No-Action Leq

² The highest L₁₀ noise levels at each monitoring location are shown in **bold**.

Under the With-Action Scenario, compared the new No-Action Scenario, the Proposed Actions would not result in any significant adverse impacts to operational noise along the Montgomery Street frontage. The Receptor Location would be classified under the same CEQR Noise Exposure Category as what was presented in the *960 Franklin Avenue Rezoning EIS*. Therefore, the new No-Action Scenario would not result in any new significant adverse impacts or alter the conclusions to the analysis presented in the *960 Franklin Avenue Rezoning EIS*.

TABLE 13
With-Action Scenario Noise Levels (in dBA) at Receptor Location 2 (Montgomery Street)

Noise Receptor Location	Time	With-Action PCEs	No-Action Leq	With-Action Leq	Change ¹	With-Action L10 ²	CEQR Noise Exposure Category
2	AM	153.6	62.30	64.14	1.84	67.66	Marginally Acceptable
	MD	220.2	63.27	63.95	0.68	68.07	
	SC PM	220.6	57.58	59.04	1.46	62.42	
	PM	196.9	60.08	61.75	1.67	65.87	

Notes: All PCE and noise value are shown for a weekday.

¹ With-Action Leq – No-Action Leq

² The highest L₁₀ noise levels at each monitoring location are shown in **bold**.

XIX. PUBLIC HEALTH

The *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Actions would not result in unmitigated significant adverse impacts in the following technical areas that contribute to public health: operational air quality, operational noise, water quality, or hazardous materials. The Proposed Project would result in temporary, partially mitigated significant adverse construction-related noise impacts. However, while during some periods of construction the Proposed Project would result in significant adverse impacts related to noise, as defined by *CEQR Technical Manual* thresholds, the predicted overall temporary change in noise levels would not be large enough to substantially affect public health. Therefore, the Proposed Project would not result in significant adverse public health impacts during construction.

As the new No-Action Scenario would not result in any new significant adverse impacts to any of these technical areas, and would not extend or alter the Proposed Project's construction schedule. Therefore, the new No-Action Scenario would not alter the conclusions presented in the public health analysis presented in the *960 Franklin Avenue Rezoning EIS*.

XX. NEIGHBORHOOD CHARACTER

The Proposed Project would not result in significant adverse impacts in the areas of land use, zoning, and public policy; socioeconomic conditions; historic and cultural resources; urban design and visual resources; or noise. The significant adverse transportation impacts that are identified and described in the Transportation chapter would not affect any defining feature of neighborhood character, nor would a combination of moderately adverse effects affect such a defining feature. Likewise, the shadows impacts on the open space and natural resources at Brooklyn Botanic Garden and the open space resources at Jackie Robinson Playground would not affect any defining feature of neighborhood character, nor would a combination of moderately adverse effects affect such a defining feature. Therefore, the Proposed Project would not result in significant adverse impacts on neighborhood character.

As described above, the new No-Action Scenario would not create any significant impacts that were not disclosed in the *960 Franklin Avenue Rezoning EIS*. Therefore, in the event the Franklin Avenue lawsuit stands, no public health significant adverse impacts would occur as a result of the Proposed Actions.

XXI. CONSTRUCTION

The construction analysis included in the *960 Franklin Avenue EIS* is site specific. The new No-Action Scenario would not alter or extend the Proposed Project's construction schedule. Therefore, the new No-Action Scenario would not result in any new significant adverse impacts that were not already disclosed in the *960 Franklin Avenue Rezoning EIS*.

XXII. MITIGATION

As described above, the new No-Action Scenario would not create any new significant adverse impacts or worsen any significant adverse impacts already disclosed in the *960 Franklin Avenue Rezoning EIS*.

XXIII. ALTERNATIVES

No additional alternatives would be explored as a result of the new No-Action Scenario.

XXIV. UNAVOIDABLE ADVERSE IMPACTS

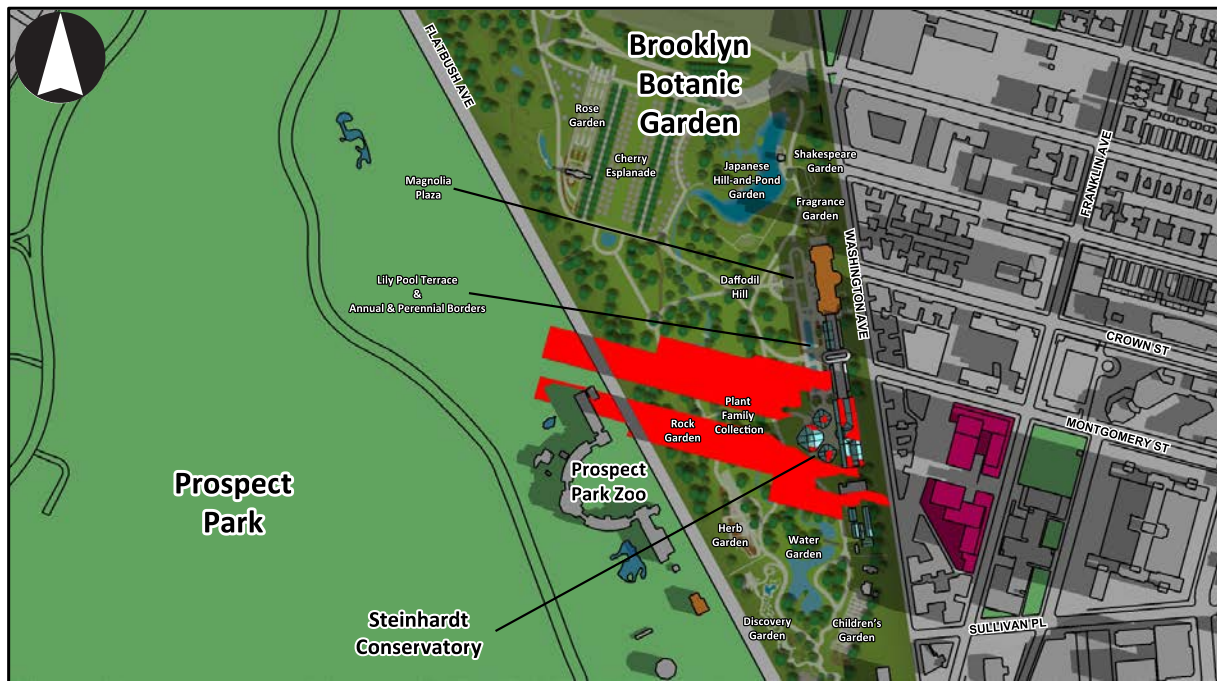
The new No-Action Scenario would not result in any new significant adverse impacts or any worsening of significant adverse impacts that were already disclosed in the 960 Franklin Avenue EIS. Therefore, the new No-Action Scenario would not alter the conclusions presented in the unavoidable adverse impacts chapter of the *960 Franklin Avenue Rezoning EIS*.

XXV. GROWTH INDUCING ASPECTS OF THE PROPOSED ACTION

The growth inducing aspects analysis included in the *960 Franklin Avenue Rezoning EIS* concluded that the Proposed Project would not result in any secondary impacts that were not analyzed in the EIS. The new No-Action Scenario would not result in any new growth inducing aspects.

XXVI. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENTS OF RESOURCES

The irreversible and irretrievable commitments or resources analysis included in the 960 Franklin Avenue Rezoning is site specific. The new No-Action Scenario would not alter the conclusions of this analysis.



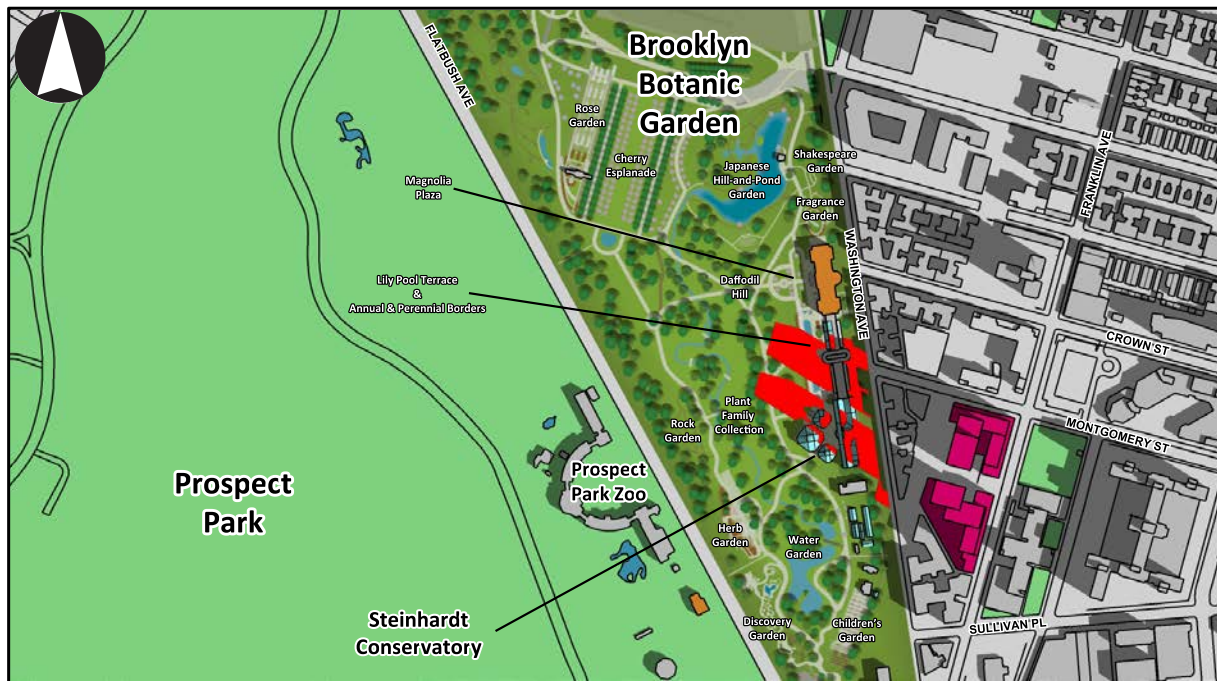
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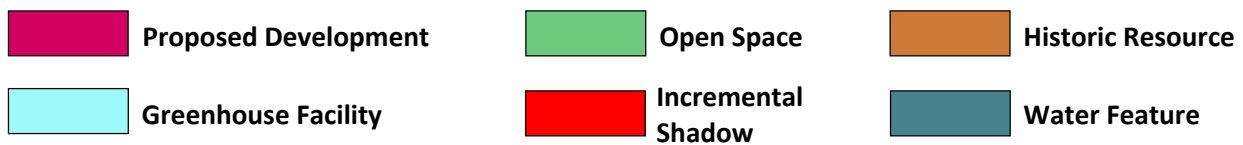
Brooklyn Botanic Garden & Prospect Park
Incremental Shadows on March 21/September 21

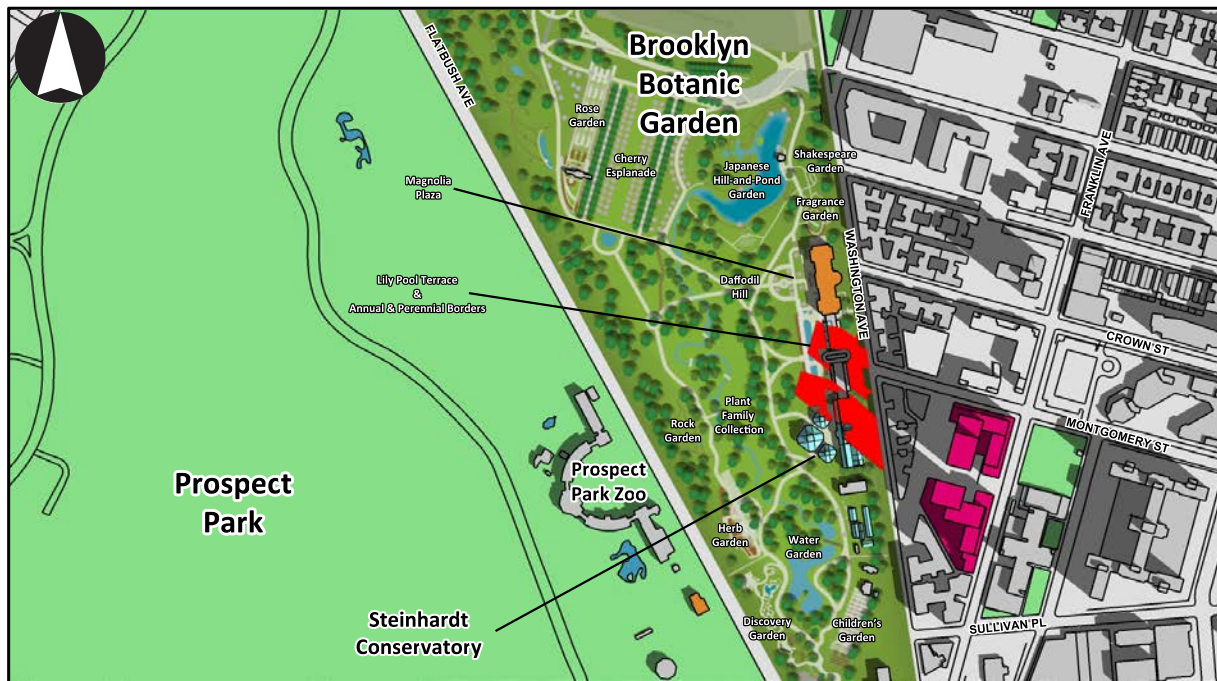


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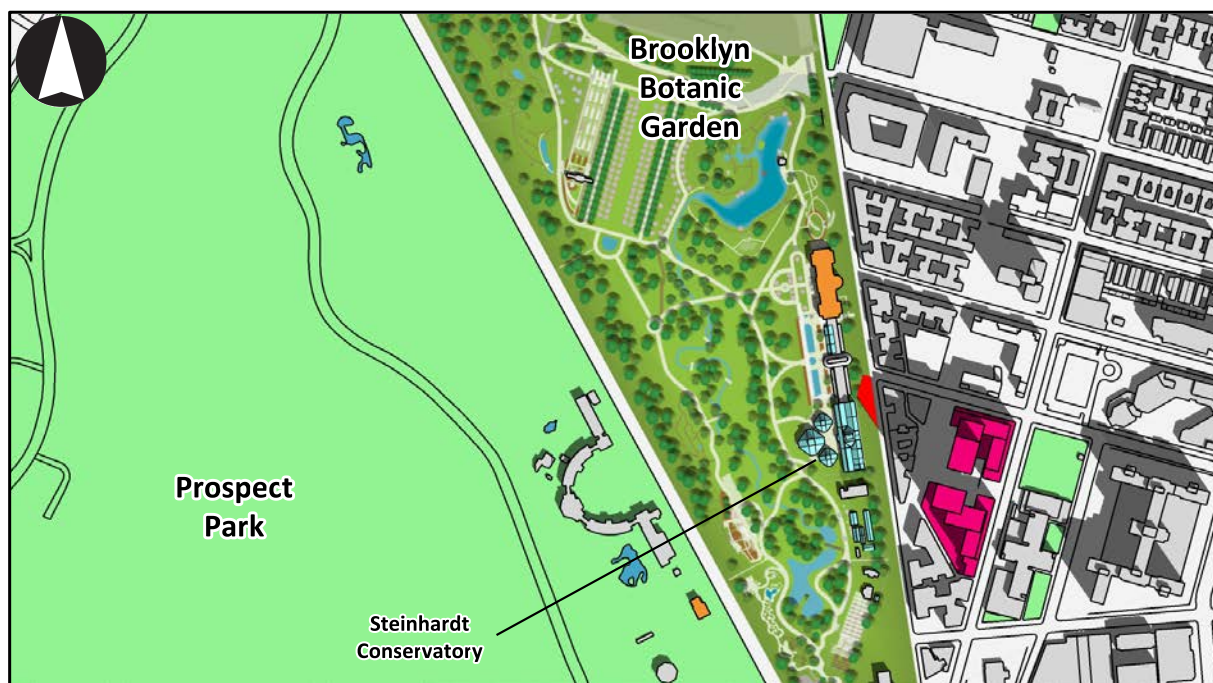
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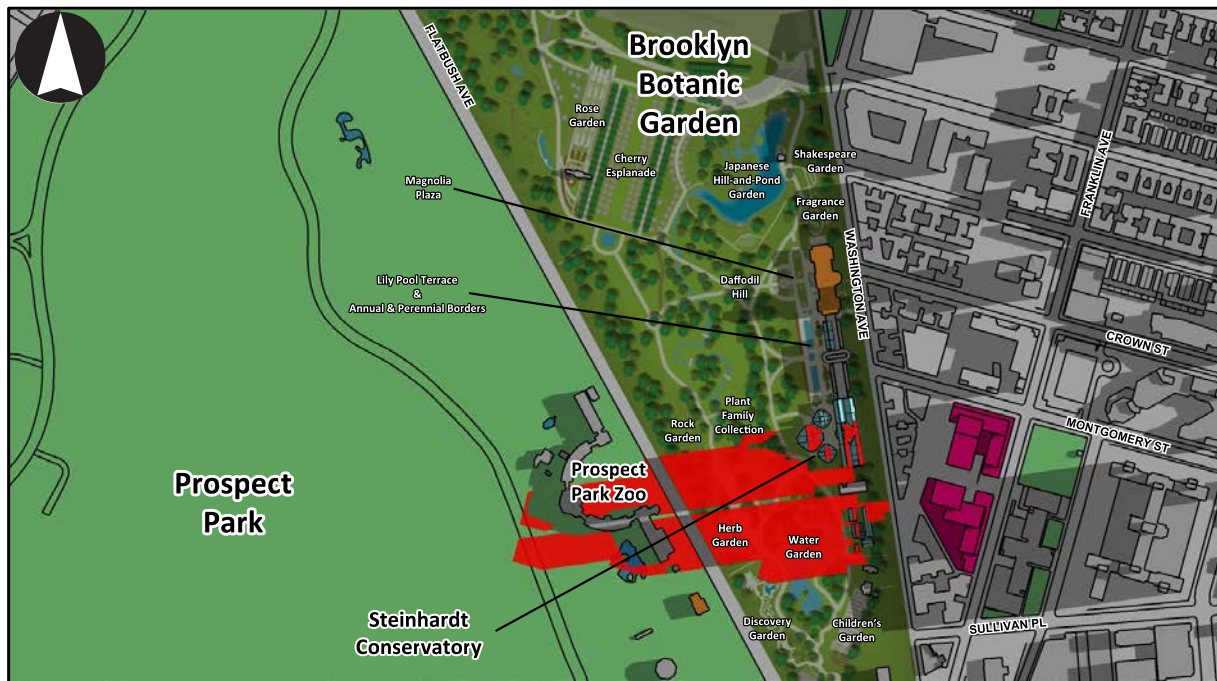


Brooklyn Botanic Gardens & Prospect Park
Incremental Shadows on March 21/September 21



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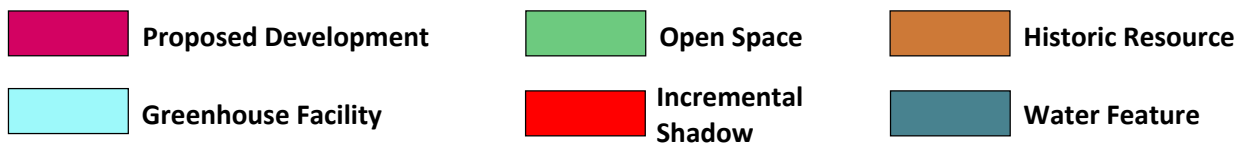




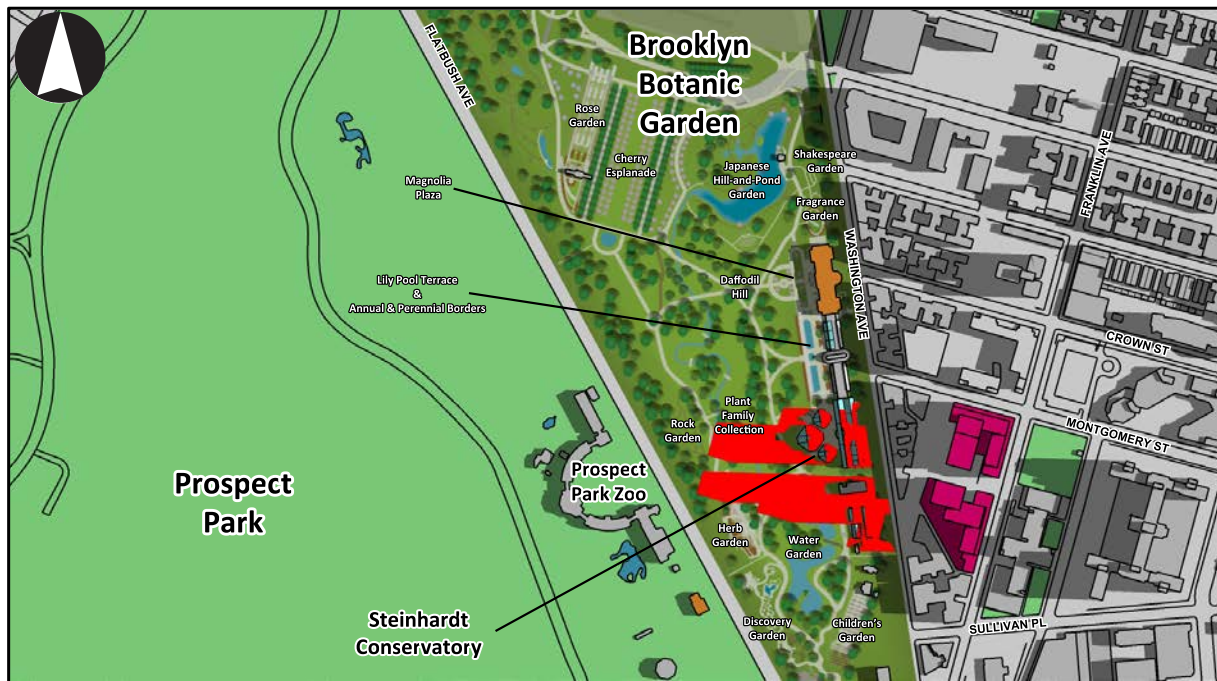
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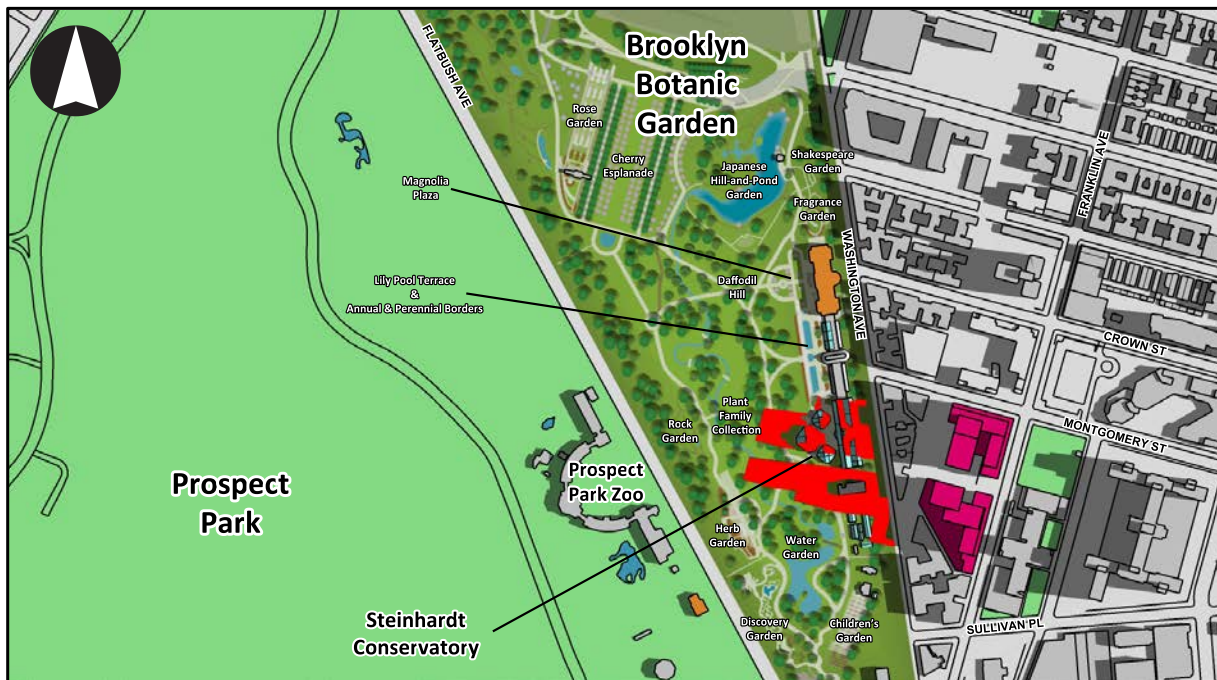
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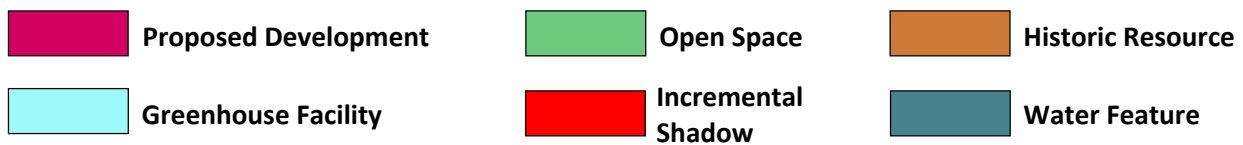
Brooklyn Botanic Garden & Prospect Park
Incremental Shadows on May/August 6

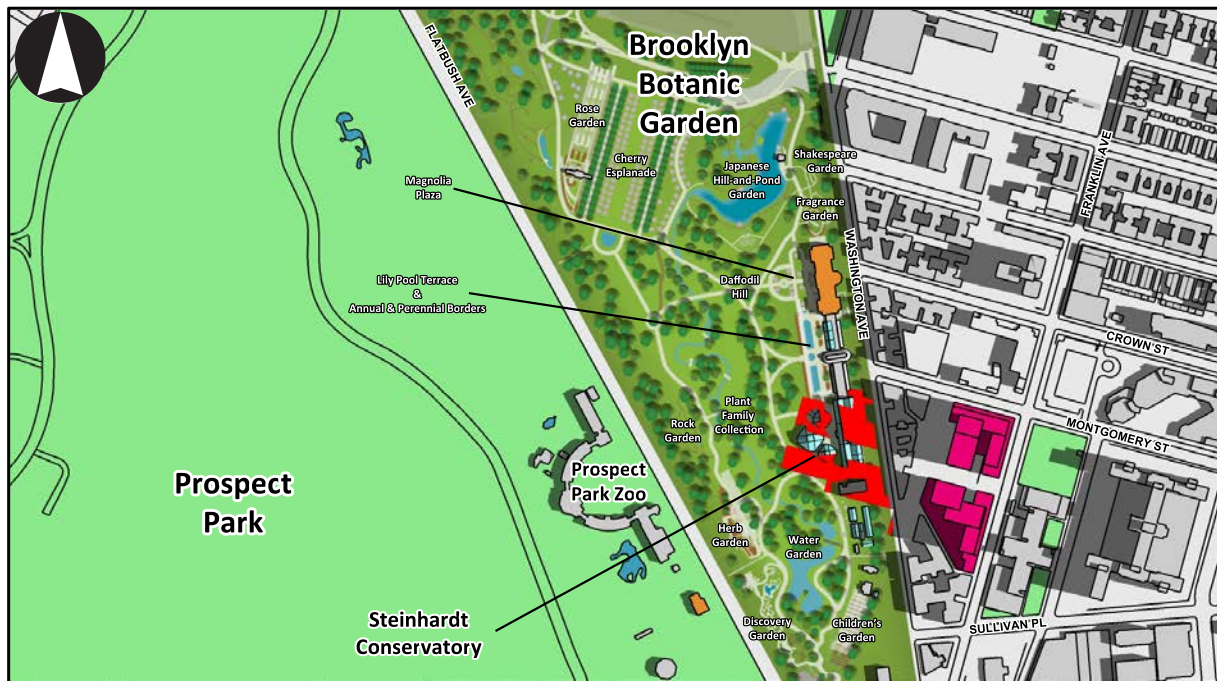


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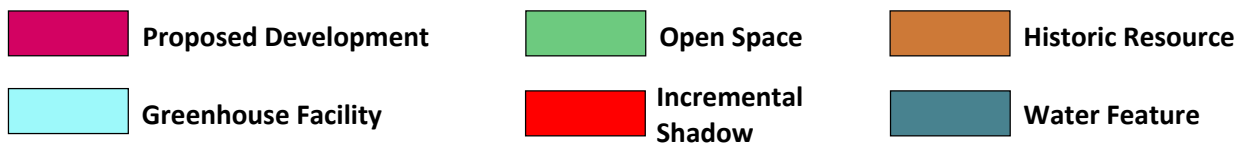




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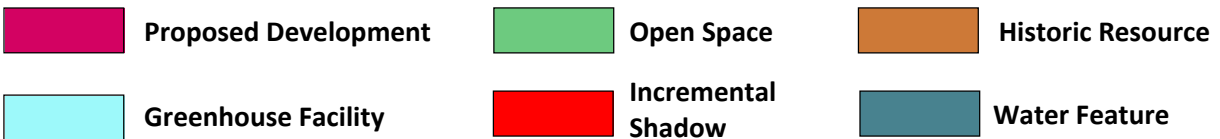
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Brooklyn Botanic Gardens & Prospect Park
Incremental Shadows on May/August 6



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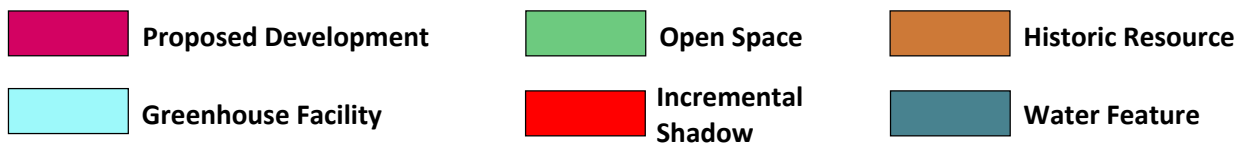


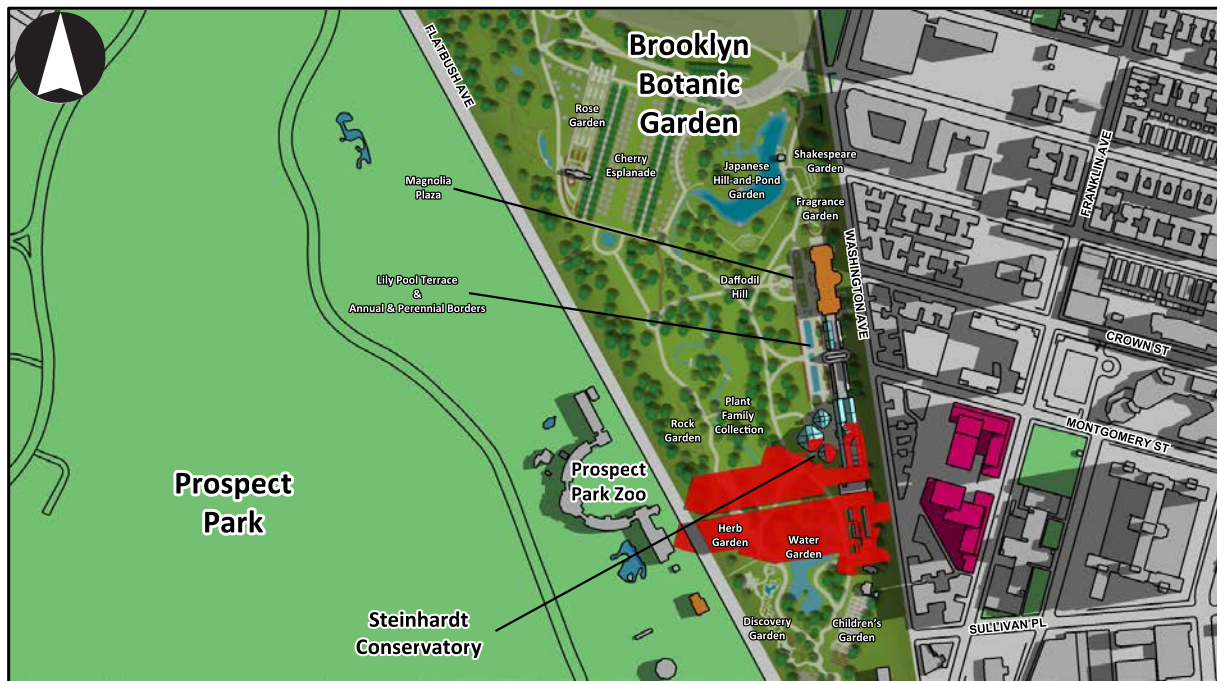


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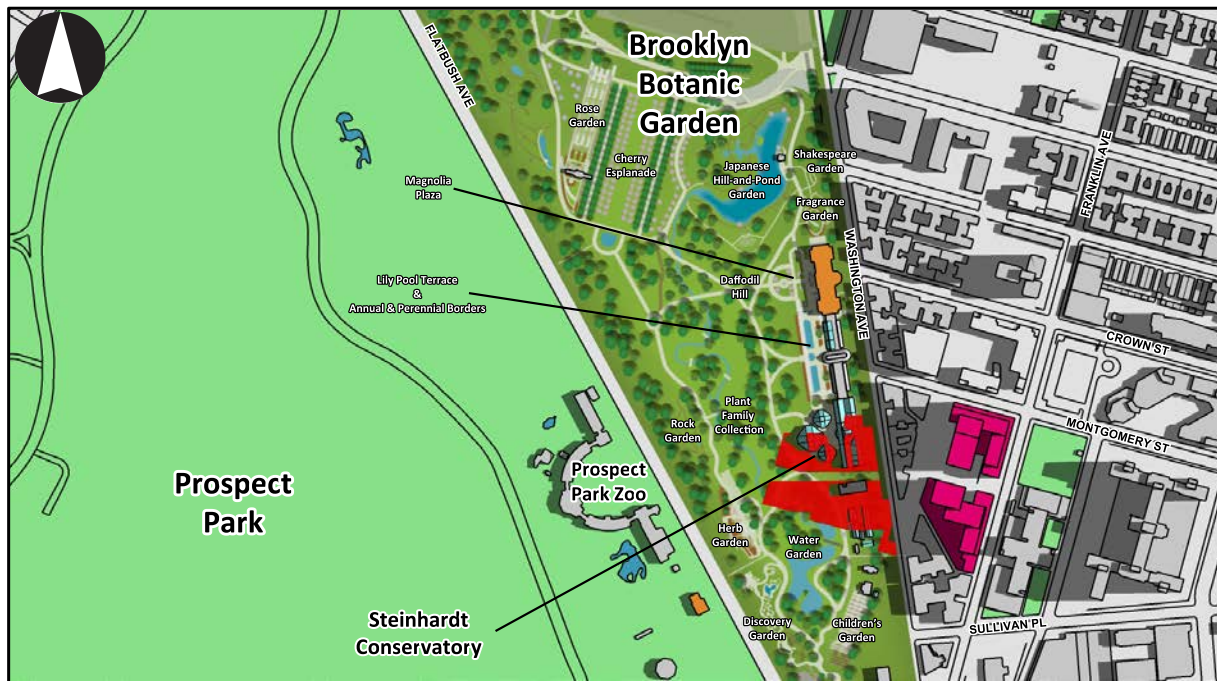


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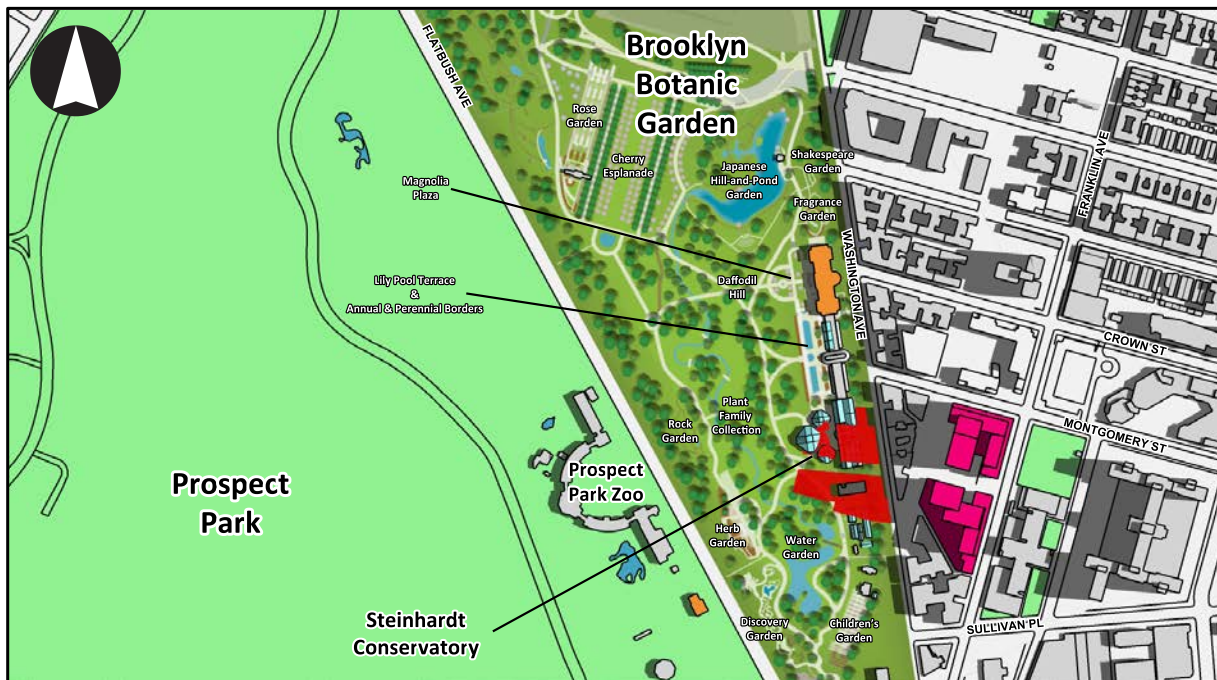


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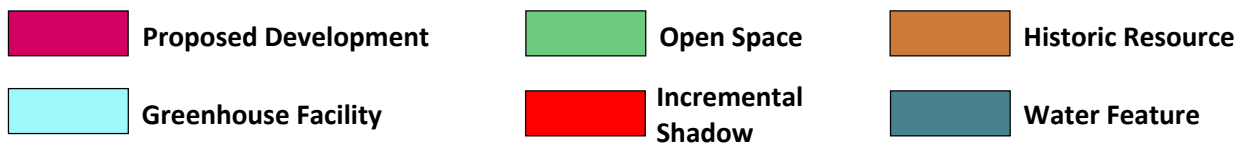




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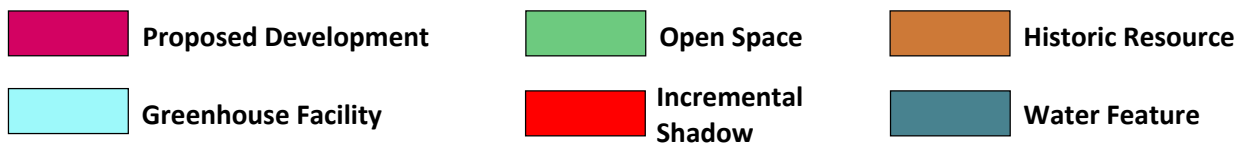


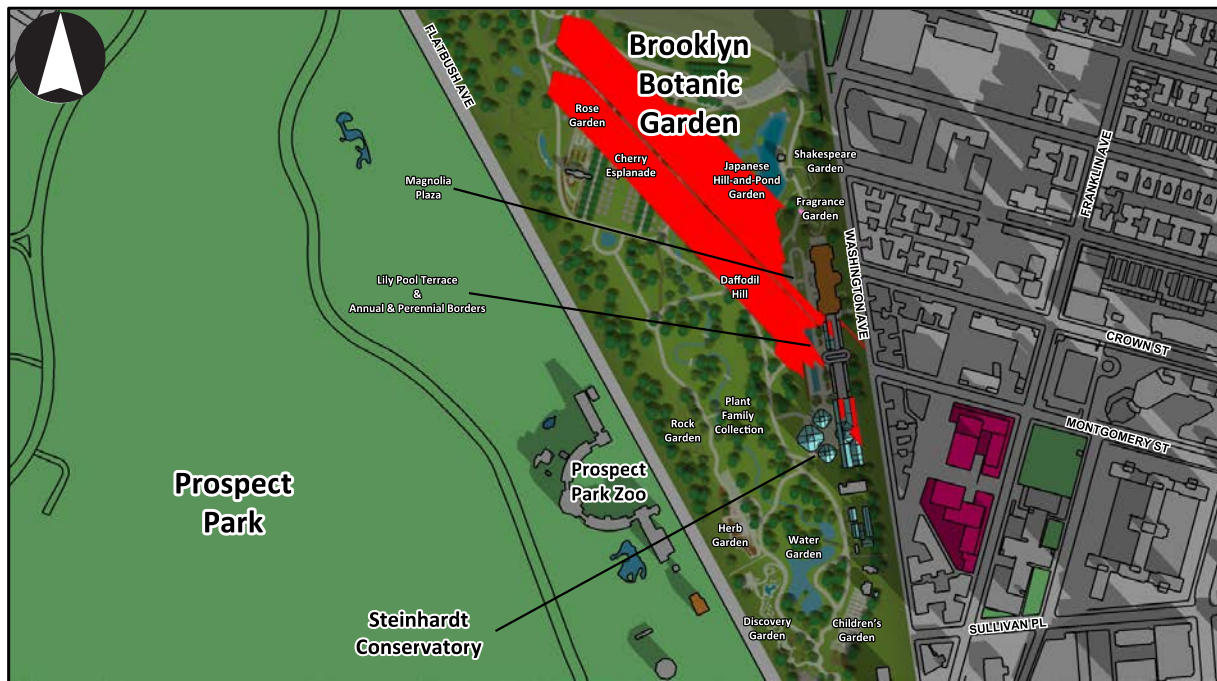


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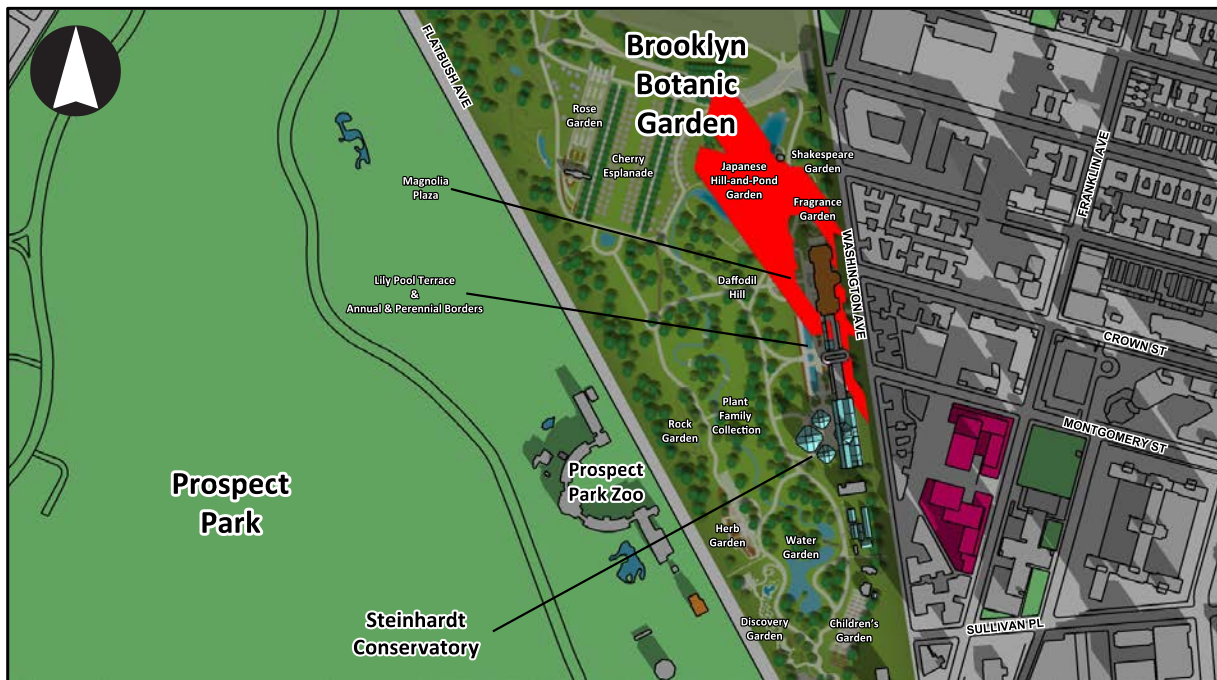


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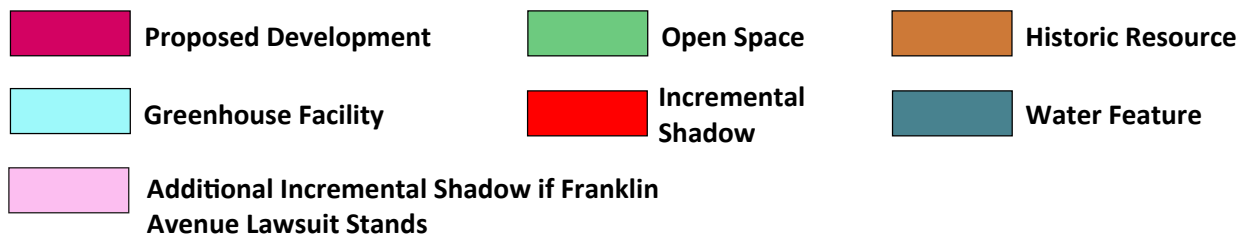


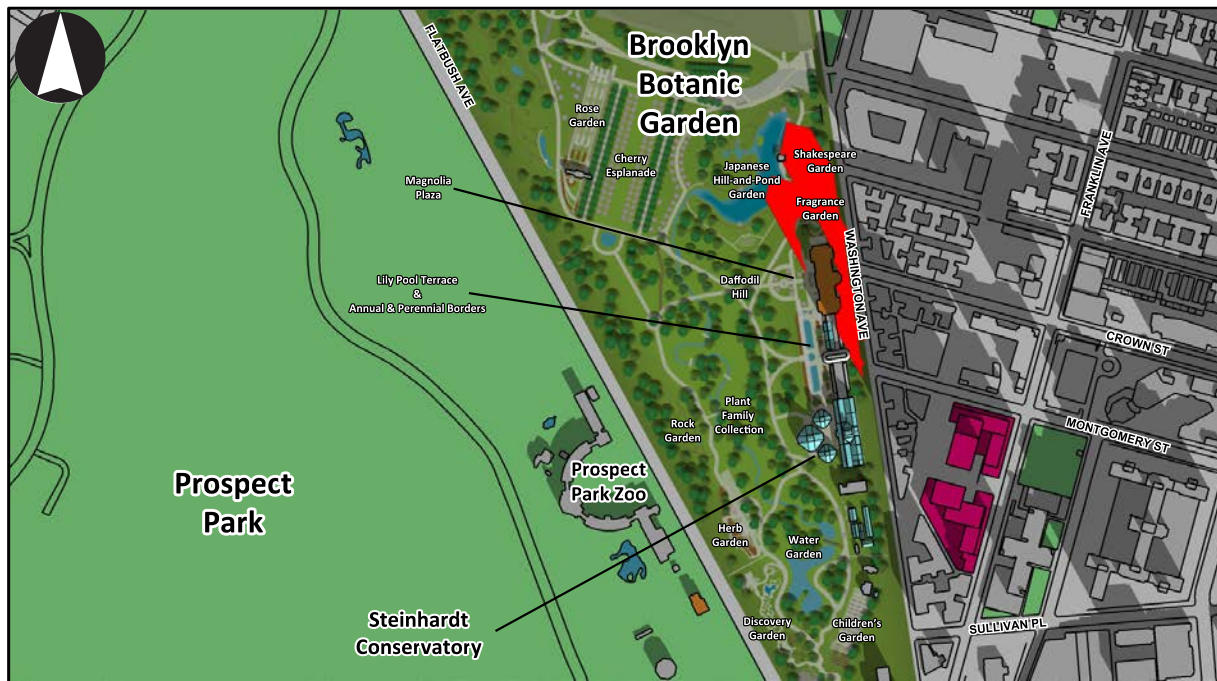


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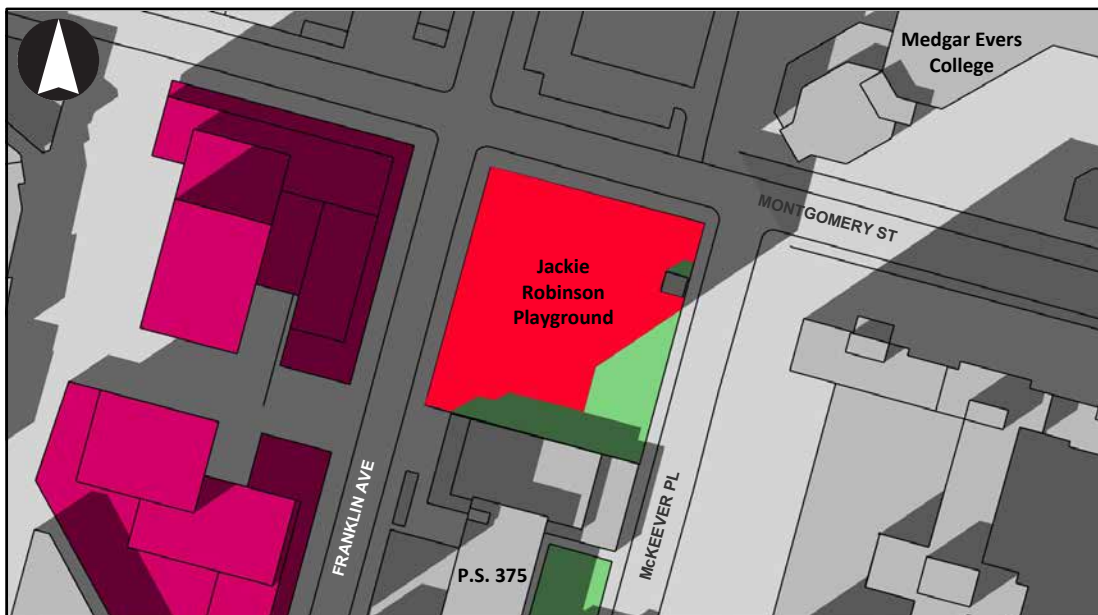


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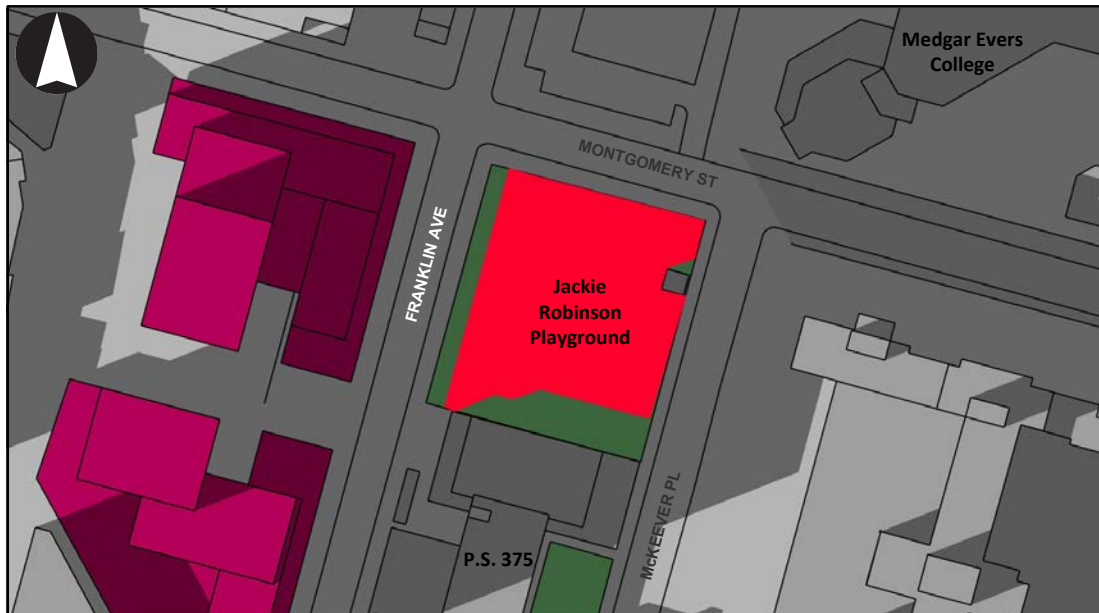
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3:00 PM

 Proposed Development  Open Space  Incremental Shadow

Jackie Robinson Playground
Incremental Shadows on March 21/September 21

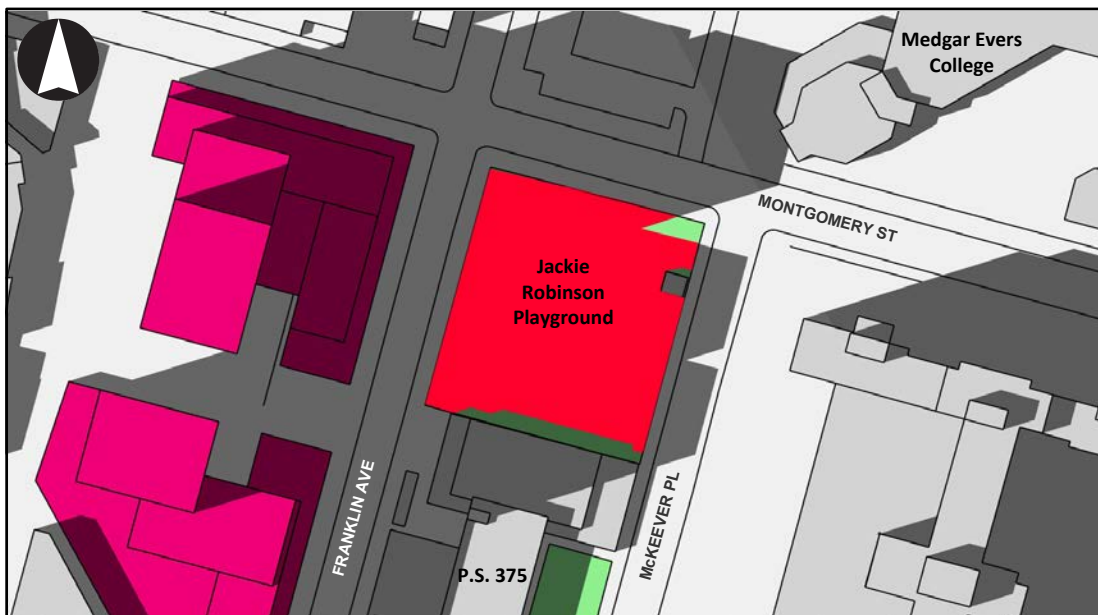


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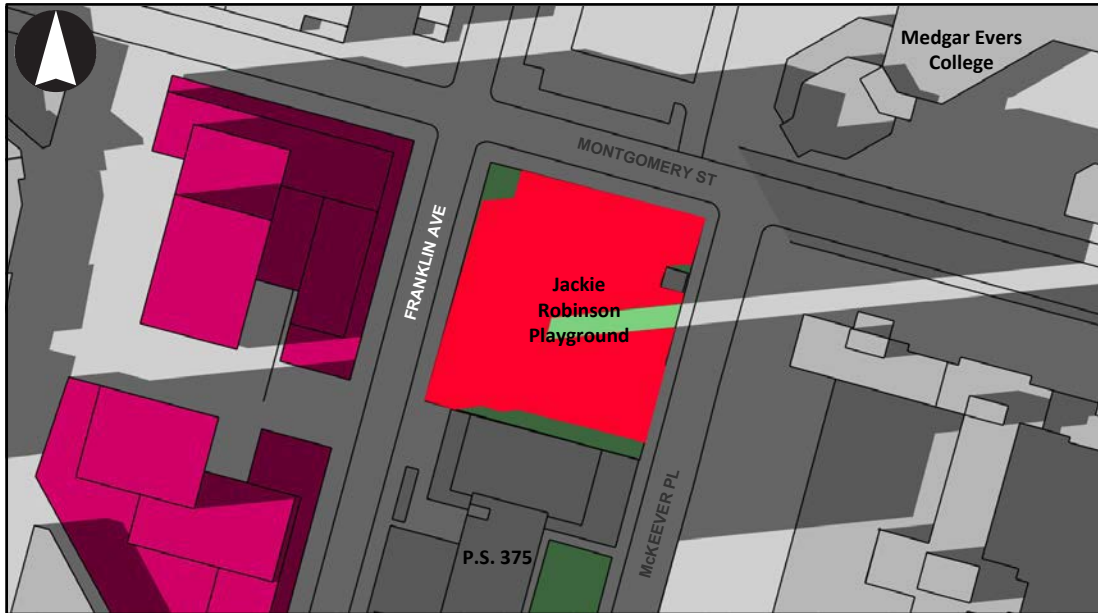


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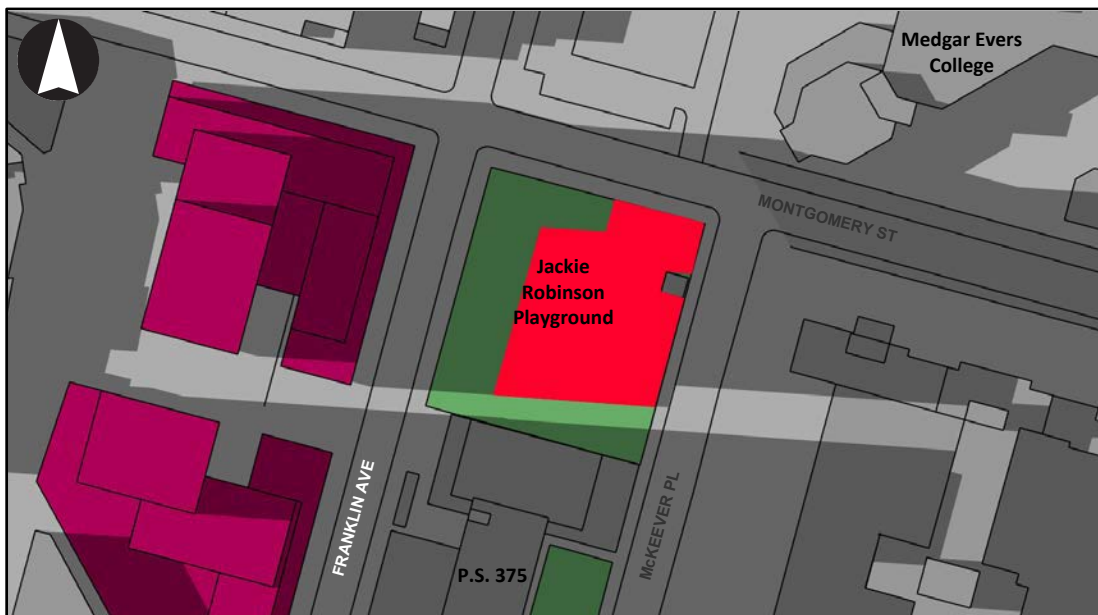


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 Proposed Development  Open Space  Incremental Shadow

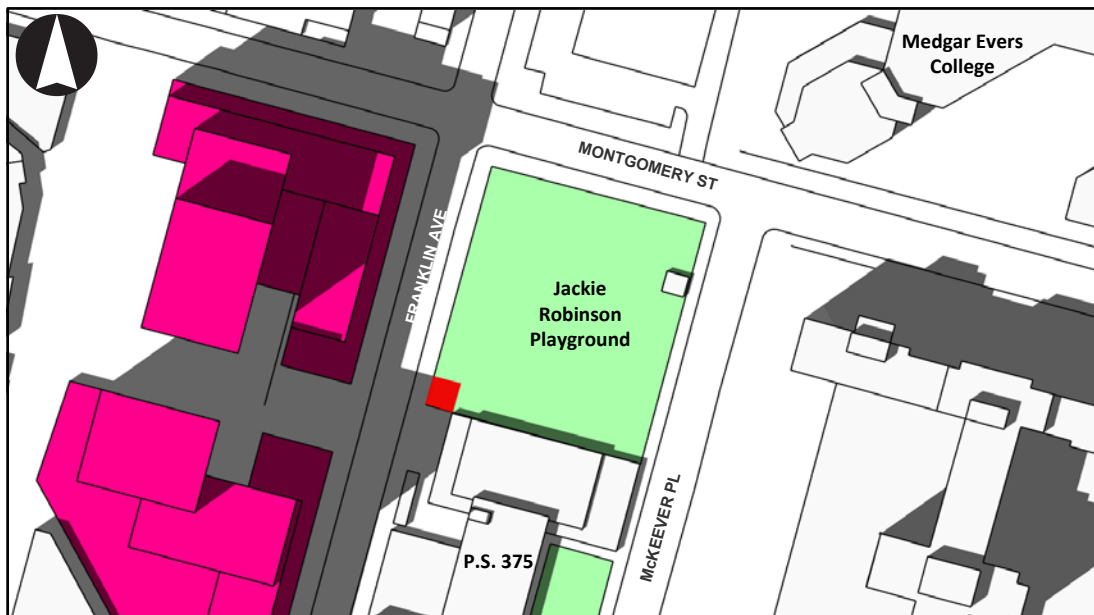


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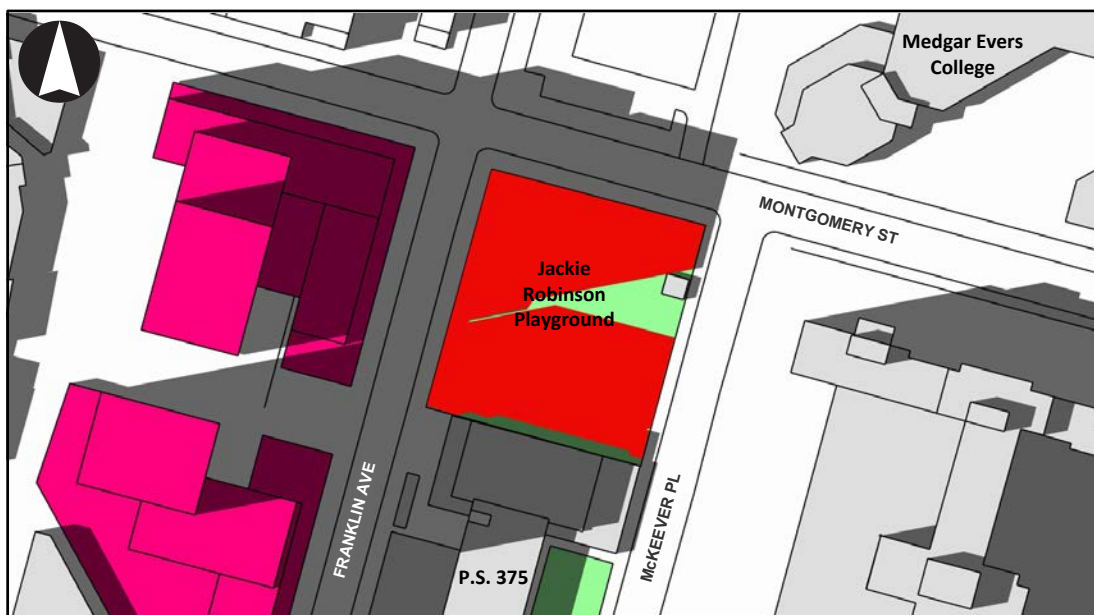


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 Proposed Development  Open Space  Incremental Shadow

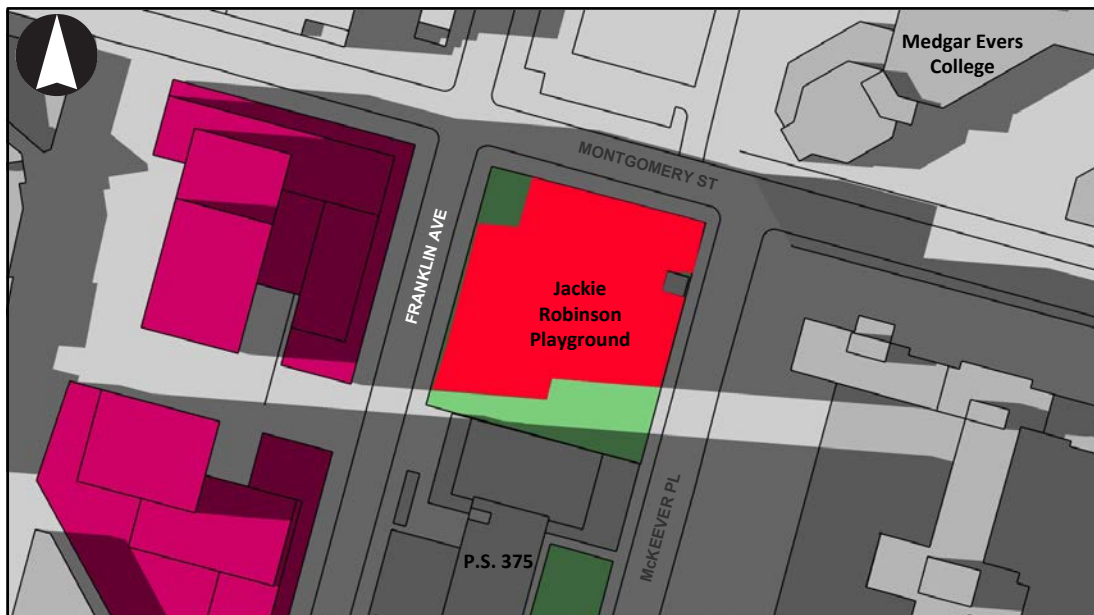


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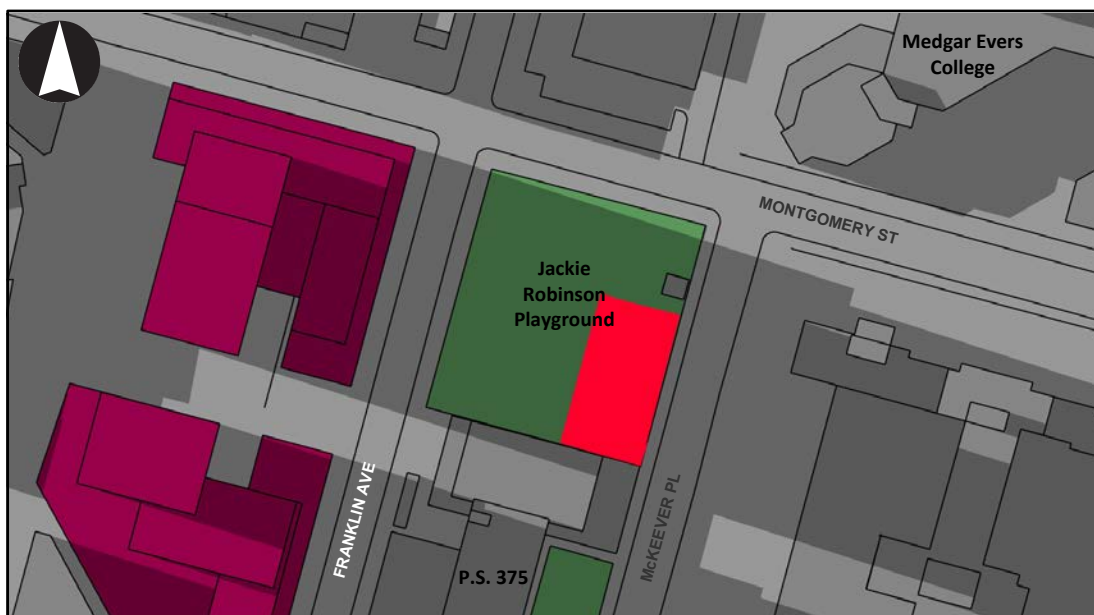


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Proposed Development
 Open Space
 Incremental Shadow

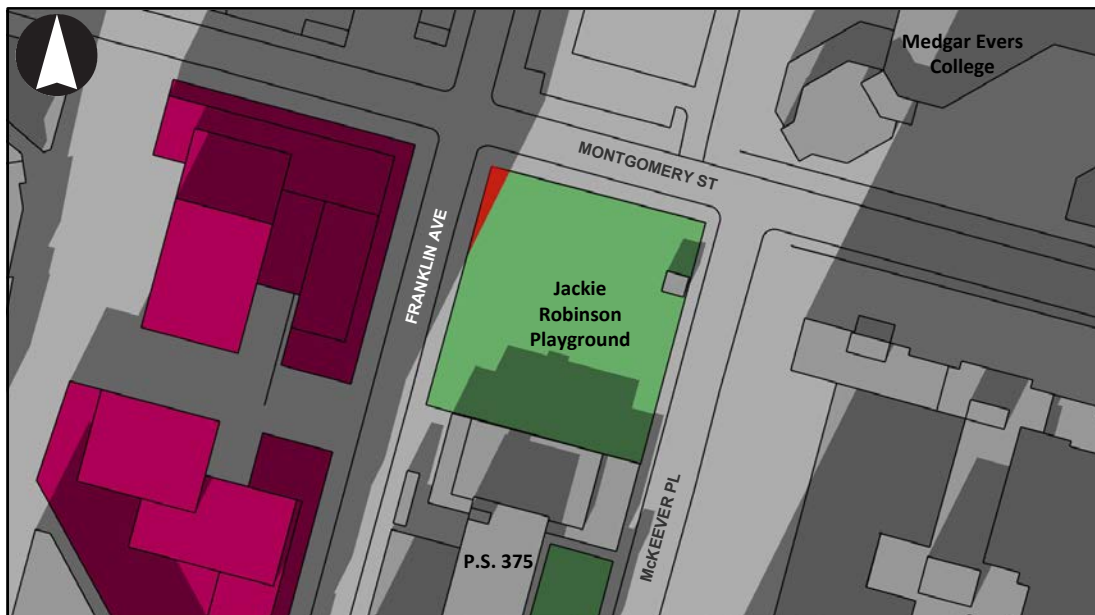


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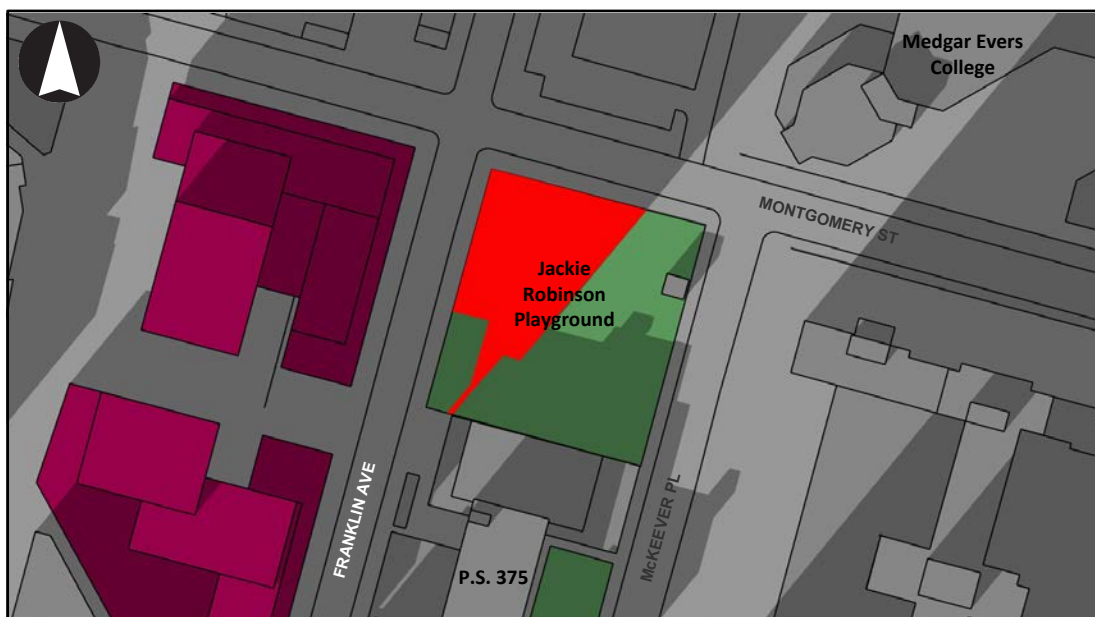


6:00 PM

 Proposed Development  Open Space  Incremental Shadow



1:45 PM



2:45 PM

 Proposed Development  Open Space  Incremental Shadow



3:45 PM

 Proposed Development

 Open Space

 Incremental Shadow