

A. INTRODUCTION

According to the *City Environmental Quality Review (CEQR) Technical Manual (January 2012 Edition)*, unavoidable significant adverse impacts are defined as those that meet the following two criteria:

- There are no reasonably practicable mitigation measures to eliminate the Proposed Actions' impacts; and
- There are no reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate its impacts, and not cause other or similar significant adverse impacts.

As described in Chapter 21, "Mitigation," the Proposed Actions would result in significant adverse impacts with respect to: Shadows; Historic and Cultural Resources; Transportation (traffic, transit, and pedestrians); and Construction Impacts related to Open Space, Transportation, and Noise. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in a number of instances no practicable mitigation was identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate its impacts, and not cause other or similar significant adverse impacts. The following is a summary of those "Unavoidable Adverse Impacts."

B. SHADOWS

The analysis in Chapter 6, "Shadows" finds that the shadows cast by the Bleecker Building would result in significant adverse shadow impacts on LaGuardia Corner Gardens, a community garden located along LaGuardia Place adjacent to the Bleecker Building site on the South Block. While considered a private open space because of limited public access, the garden is an important community resource. The Bleecker Building would cast between four and five-and-a-half hours of new shadow on the restored garden during morning hours throughout the growing season (in the spring, summer, and fall). While the remaining sunlight could support shade-tolerant species, the proposed project's incremental shadows would jeopardize the viability of shade-intolerant species.

Mitigation options considered, but rejected, for the significant adverse shadow impact on LaGuardia Corner Gardens included moving the proposed Bleecker Building eastward toward the center of the South Block, or southward toward West Houston Street, as well as reducing the height of the proposed Bleecker Building. While a change in the location of the Bleecker Building (either eastward or southward) would reduce the incremental shadows cast on the LaGuardia Corner Gardens, such an adjustment in site plan would result in an encroachment on the boundary of University Village, which has been determined eligible for listing on the State and National Registers of Historic Places (S/NR-eligible), and is also a designated New York City Landmark (NYCL). Given that such an adjustment could have adverse contextual effects on

this historic resource, and that the reduction in shadows would only partially mitigate the significant adverse shadow impact, the relocation of the proposed Bleecker Building was rejected as a potential mitigation measure.

Reducing the proposed height of the Bleecker Building and/or re-orienting the tower portion of the building also were considered, but rejected as potential mitigation measures. Re-orienting the tower so that the nine-story portion of the building faces LaGuardia Place was rejected because shadow modeling of this configuration showed only marginal improvements in shadows on the LaGuardia Corner Gardens, and because the re-orientation could have adverse effects on the north-facing views from 505 LaGuardia Place. A reduction in height of the proposed Bleecker Building was rejected because the reduction in height that would be necessary to mitigate the significant adverse shadows impact would be so severe as to substantially compromise the goals and objectives of the Proposed Actions. As described in Chapter 22, “Alternatives,” based on shadow modeling, it was determined that the proposed Bleecker Building would have to be approximately 50 feet in height or less in order to eliminate the unmitigated significant adverse shadow impact on the LaGuardia Corner Gardens. Such a substantial reduction in height (from 208 feet with the proposed project) would not allow for the provision of a 100,000-square-foot public school within the building (or a 100,000-square-foot academic space should SCA not exercise its option to build a public school), nor would it allow the amount of space that would be necessary for NYU to redevelop the site as a dormitory. As described in Chapter 1, “Project Description,” a purpose and need for the Proposed Actions is to develop NYU dormitories so that more undergraduate students would have opportunity to live in student housing within the core campus to create a strong academic community and to become better acclimated to the City. Additionally, the proposed Bleecker Building is the best location for a public school within the proposed project because it could be built earlier than the buildings on the North Block—allowing the New York City School Construction Authority (SCA) greater flexibility in the timing of the public school—and the building’s design would allow for the public school as a separate and distinct use, with a separate entrance exclusive to the public school along Bleecker Street.

A partial mitigation measure considered further since the issuance of the DEIS is planting shade-tolerant species in portions of the LaGuardia Corner Gardens that would receive substantial shadowing as a result of the proposed project, and monitoring the health of the replanted garden. This mitigation would occur when the garden is restored (i.e., after the construction of the proposed Bleecker Building). While this mitigation is feasible, it would not serve to fully mitigate the significant adverse impact because the extent of project-generated shadows during the growing season could substantially alter the types of plantings that would be viable.

Another potential mitigation measure is the relocation of the LaGuardia Corner Gardens prior to construction of the Bleecker Building, either further south on the South Block or elsewhere in the ¼-mile study area. However, the feasibility of relocation has not been demonstrated at this time as discussed in detail below.

Since the issuance of the DEIS, an assessment of potential relocation sites within the ¼-mile study area was undertaken. The assessment of feasible locations was guided by the following criteria:

- Ownership by the Applicant (NYU) or by the City of New York (not including parkland in active use for a recreation purpose);
- Size sufficient to accommodate a garden of approximately comparable size;

- Sufficient sunlight to sustain shade-intolerant species; and
- Not currently occupied or planned to be occupied for use by NYU (in the case of NYU-owned property) or the City of New York (in the case of City-owned property).

The assessment did not identify any sites which meet these criteria. In particular, the feasibility of relocating to the City-owned property to the south of the LaGuardia Corner Gardens on the western area of the South Block is uncertain, due to its current use as the ‘Time Landscape’ planting.

In order to address the possibility that new relocation sites may exist at a later date, prior to construction of the Bleecker Building, the Restrictive Declaration will require NYU to notify the City at a date certain prior to construction start, allowing the City to conduct a new assessment of whether there are any relocation sites that meet the foregoing criteria, working in consultation with the Community Board and other stakeholders, including the membership of LaGuardia Corner Gardens and the City’s Green Thumb program. In the event that a relocation site is identified, the LaGuardia Corner Gardens will be relocated.

In the absence of the relocation of facilities under this procedure, the other mitigation measures discussed above involving the planting of shade-tolerant species in coordination with support for monitoring and maintenance by NYU will be implemented. In that event, the significant adverse shadow impacts on the LaGuardia Corner Gardens would only be partially mitigated. Therefore, absent reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate this impact, and not cause other or similar significant adverse impacts, the Proposed Actions would have an unavoidable adverse impact on the LaGuardia Corner Gardens.

C. HISTORIC AND CULTURAL RESOURCES

WASHINGTON SQUARE VILLAGE

As detailed in Chapter 7, “Historic and Cultural Resources,” Washington Square Village has been determined eligible for listing on the State and National Registers of Historic Places (S/NR). The proposed project would result in alterations to the Washington Square Village complex—including the proposed development of two new buildings and landscaping, which require the elimination of the LaGuardia Retail building and the elevated garden (i.e., the Sasaki Garden), as well as limited alterations to the Washington Square Village buildings themselves. These alterations to the Washington Square Village complex would remove elements of this architectural resource that contribute to its significance. Therefore, the proposed project would have a significant adverse impact on this architectural resource.

Measures to minimize or partially mitigate significant adverse impacts to Washington Square Village would be implemented in consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) and are set forth in a Letter of Resolution (LOR) among the applicant, OPRHP and DASNY. Mitigation measures include the following:

- Preparation of Historic American Buildings Survey (HABS) Level II documentation of Washington Square Village which would include photographic documentation, historic plans, and an accompanying historical narrative.
- NYU would provide a scaled landscaping plan documenting the existing Sasaki Garden that shall include the existing flora species and their locations, as well as the existing walking paths and original garden features. To the extent the information is available, the original landscaping plan, or information about those plans, would also be documented. This

documentation would be conducted by a recognized professional credentialed for preparing such reports. Copies of the documentation would be provided to the New York Public Library, the NYU Library, the Museum of the City of New York, and to OPRHP (with one copy to be provided to the New York State Archives).

- NYU would consult with OPRHP with respect to the redevelopment of the residential buildings at Washington Square Village’s north and south buildings as design plans proceed, with plans to be submitted to OPRHP at a minimum at the preliminary and pre-final stages of such redevelopment. If OPRHP has significant concerns at the pre-final review, OPRHP may request review of the final plans.
- NYU would consult with OPRHP regarding the proposed new construction on the North Block. At a minimum, plans must be submitted to OPRHP at the preliminary and pre-final stages of development. If OPRHP has any significant concerns at the pre-final review, it may request review of the final plans.
- Prior to construction of the proposed project, and in consultation with OPRHP and the New York City Landmarks Preservation Commission (LPC), NYU would develop and implement Construction Protection Plans (CPPs) for University Village, Washington Square Village, and Shimkin Hall. The CPPs would be prepared in coordination with a licensed professional engineer and would follow the guidelines set forth in Section 523 of the *CEQR Technical Manual*, including conforming to LPC’s *New York City Landmarks Preservation Commission Guidelines for Construction Adjacent to a Historic Landmark* and *Protection Programs for Landmark Buildings*. The CPP would also comply with the procedures set forth in the New York City Department of Buildings (DOB)’s *Technical Policy and Procedure Notice (TPPN) #10/88*.¹
- NYU would include one or more plaques or historic markers providing a historical interpretation of the Sasaki Garden and Washington Square Village in its modifications to the North Block. The historic plaques or historical markers would illustrate the history of the superblock development and the significance of the Sasaki Garden. Design for the interpretive materials would be submitted to OPRHP at the preliminary and pre-final stages of development for OPRHP comment.

As detailed in **Appendix B: Historic and Cultural Resources**—which assesses whether it would be feasible to retain the Washington Square Village complex in its current configuration as part of the proposed project—no practicable mitigation measures have been identified to fully mitigate this significant adverse impact. Therefore, absent reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate this impact, and not cause other or similar significant adverse impacts, there would be an unavoidable significant adverse impact on Washington Square Village as a result of the Proposed Actions.

¹ TPPN #10/88 was issued by DOB on June 6, 1988, to supplement Building Code regulations with regard to historic structures. TPPN #10/88 outlines procedures for the avoidance of damage to historic structures resulting from adjacent construction, defined as construction within a lateral distance of 90 feet from the historic resource.

POTENTIAL NOHO HISTORIC DISTRICT EXPANSION

As detailed in Chapter 7, “Historic and Cultural Resources,” four of the six buildings¹ in the Commercial Overlay Area that would be modified with ground floor alterations as a result if the Proposed Actions are contributing to the S/NR-eligible potential NoHo Historic District Expansion. Although these buildings are within an S/NR-eligible historic district, because there is no federal or state funding involved with the proposed ground floor alterations, there is no regulatory process to control changes to these architectural resources. Further, none of these architectural resources is an NYCL and, therefore, alterations to these architectural resources would not require LPC’s review and approval. The analysis in this FEIS finds that depending on the extent of alterations and intact historic material to be removed, future alterations to the ground floors of these architectural resources could in some cases result in significant adverse impacts. To address this potential significant adverse impact, prior to the commencement of construction of the proposed project,² in consultation with LPC and OPRHP, NYU would develop and implement CPPs for the four Commercial Overlay Area buildings that are contributing to the potential NoHo Historic District Expansion. The CPPs would be prepared in coordination with a licensed professional engineer and would follow the guidelines set forth in Section 523 of the *CEQR Technical Manual*, including conforming to LPC’s New York City Landmarks Preservation Commission Guidelines for Construction Adjacent to a Historic Landmark and Protection Programs for Landmark Buildings. The CPPs will also comply with the procedures set forth in the New York City Department of Buildings *Technical Policy and Procedure Notice (TPPN) #10/88*. However, currently there are no specific redevelopment plans for the four buildings contributing to the S/NR-eligible Potential NoHo Historic District Expansion, so at this time it cannot be determined whether this measure would fully mitigate potential impacts. By excluding the development in the Commercial Overlay Area, one of NYU’s programmatic needs—to allow for an enlivened, more flexible streetscape to better connect NYU’s buildings to the City and the surrounding area—would not be fulfilled. Absent practicable mitigation measures to ensure that this potential impact would be fully mitigated, or reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate this impact, and not cause other or similar significant adverse impacts, there is the potential for an unavoidable significant adverse impact on the Potential NoHo Historic District Expansion as a result of the Proposed Actions.

D. CONSTRUCTION IMPACTS

NOISE³

The Proposed Actions would result in significant adverse construction noise impacts at some nearby residential locations, including at residential terraces. The proposed mitigation measures

¹ As part of an environmental review for a separate project in 2007, the buildings at 7 Washington Place/283 Mercer Street and 15 Washington Place were determined by OPRHP to be ineligible for listing on the State/National Registers of Historic Places and to be non-contributing to the Potential NoHo Historic District Expansion (see Appendix A, “Historic and Cultural Resources.”)

² Submission of the CPPs may be phased so that a CPP is not required for a particular building until construction will occur at or proximate to that building.

³ Construction-related noise impacts on open spaces are described separately under “Open Space” in Section E.

would partially mitigate significant project impacts (and substantially reduce construction-related noise levels) at some locations. However, absent the implementation of additional mitigation measures which result in lower noise levels, the proposed project would have significant adverse construction noise impacts that are not fully mitigated.

Absent practicable mitigation measures to ensure that these potential construction-related noise impacts would be fully mitigated, or reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate this impact, and not cause other or similar significant adverse impacts, there would be unavoidable significant adverse construction noise impacts as a result of the Proposed Actions.

OPEN SPACE

As described in Chapter 20, “Construction Impacts,” during construction of the proposed Bleecker Building under the LaGuardia Place Staging Option (construction staging for the proposed Bleecker Building only along the LaGuardia Place frontage), the LaGuardia Corner Gardens—a Green Thumb garden on City-owned land that is not assessed as public open space under guidance set forth in the *CEQR Technical Manual*—would not be available for the approximately 39-month construction period, because it would be located inside of the construction perimeter, within an area that would be utilized for construction staging. The temporary displacement of the LaGuardia Corner Gardens would be a significant adverse impact on this resource.

Under the Bleecker Staging Option (construction staging only along the Bleecker Street frontage), it is expected that the LaGuardia Corner Gardens would remain accessible throughout Bleecker Building construction. However, under the Bleecker Street Staging Option, for an approximately 27-month period during construction most, if not all, of the garden would need to be covered by a construction shed in order to provide a safe construction site. The construction shed would reduce the overall utility of the garden, and would block most, if not all, direct sunlight for an approximately 27-month period, thereby affecting the viability of all plantings, and therefore would result in a significant adverse impact on this resource. Alternatives to a standard plywood construction shed—such as using a transparent material (e.g., plexiglass)—could enable some light to reach the garden. Other options such as providing “grow lights” under the construction sheds may be possible. Suitable hours for garden maintenance (outside of construction hours) could also be established provided that the area may be safely occupied outside standard construction hours. However, the feasibility and effectiveness of these non-standard methods is uncertain, given the need to ensure worker and resident safety while meeting DOB code requirements. These and other options would be further explored in coordination with the lead agency and in consultation with DOB, prior to construction of the Bleecker Building, in order to maximize opportunities to blend overhead protection and transparency without compromising safety. However, even if one or more of these options were deemed to be feasible, safe and approvable, they would only partially mitigate the adverse construction impacts on the LaGuardia Corner Gardens.

Another potential partial mitigation measure is the temporary relocation of the LaGuardia Corner Gardens to a location within the North Block, east of the La Guardia retail building, prior to development of that portion of the block. This measure would be feasible if the Bleecker Building is constructed in Phase 1, but would only be available until the commencement of construction of the LaGuardia Building on the North Block. Assuming the availability of this measure, consultation could take place with the members of the LaGuardia Corner Gardens and

the City's Green Thumb program to determine whether a temporary relocation is desirable. A temporary relocation site would not be considered if a permanent relocation site has been located to accommodate the LaGuardia Corner Gardens through the process described in Section B, above. For the foregoing reasons, temporarily relocating the LaGuardia Corner Gardens is only considered to be a potential partial mitigation measure.

While the significant adverse impacts described above under both construction staging options would be temporary in nature because upon completion of the Bleecker Building, the community garden could be restored, as detailed in Chapter 21, "Mitigation," upon completion of the Bleecker Building the LaGuardia Corner Gardens would be significantly impacted by the building's shadows. Accordingly, as detailed in Section B above, prior to commencement of construction of the Bleecker Building, a further assessment of permanent relocation opportunities for the LaGuardia Corner Gardens will be conducted and, if an appropriate relocation site is identified in accordance with the criteria described in Section B, NYU will assume responsibility for the costs of a relocation.

After the publication of the DEIS, other options were explored to determine whether an alternate staging option could minimize the extent and duration of disturbance of the LaGuardia Corner Gardens due to construction activities. In particular, the possibility of staging construction from the east of the Bleecker Building site was assessed. This option was determined not to be feasible because it would require all trucks entering the staging area to drive past the staging area driveway on Bleecker Street and then back into the staging area from Bleecker Street. The frequent backwards movement of large construction trucks is considered undesirable from the standpoint of construction-worker and pedestrian safety. In addition, a flagger would be required to stop all vehicular movement on Bleecker Street during this truck maneuver, which would negatively impact traffic on Bleecker Street on multiple occasions throughout the day. Temporary traffic closures on Bleecker Street would also impact traffic on adjacent streets. Also the use of the area east of the Bleecker Building for construction staging would require occupying property that the applicant owns, but does not control due to the existence of a long-term lease and, therefore, the applicant would need to obtain permission from that lessee.

Absent the identification of acceptable relocation space in accordance with the procedure described in Section B above, the temporary significant adverse construction impact could only be partially mitigated by the provision of temporary space and/or the use of transparent construction shedding, the use of grow lights and permitting intermittent use of the garden during non-construction hours, if deemed feasible, safe and approvable. As indicated above, this partial mitigation would not minimize the significant adverse shadows impact on the LaGuardia Corner Gardens that is projected to occur once the Bleecker Building is operational.

Given the above, the Restrictive Declaration will provide that, in the absence of a permanent relocation of the community gardens in accordance with the procedure described in Section B above, the Bleecker Street Staging Option will be utilized unless subsequently developed information demonstrates to the satisfaction of the City that it is infeasible, and the temporary significant adverse construction impact will be partially mitigated by the provision of temporary space, if such space is identified and accepted by the LaGuardia Corner Gardens; and, if not, through the use of transparent construction shedding, grow lights and permitting intermittent use of the garden during non-construction hours, if deemed feasible, safe and approvable.

As described in Chapter 20, "Construction Impacts," noise levels at on-site open space locations adjacent to where construction activities are taking place would substantially exceed the 3-5 dBA *CEQR Technical Manual* impact criteria. Due to the close proximity of on-site open spaces

to construction activities, construction of the proposed project would result in significant adverse noise impacts on open spaces.

Noise levels at publicly accessible and private open space locations on the project site (e.g., Mercer Playground, Washington Square Village Elevated Garden, Silver Tower Oak Grove) are currently above the 55 dBA $L_{10(1)}$ recommended in the *CEQR Technical Manual* noise level for outdoor areas. Proposed construction activities would exacerbate these exceedances of the recommended level. No practical and feasible mitigation measures have been identified that could be implemented to reduce noise levels to below the 55 dBA $L_{10(1)}$ guideline and/or eliminate project impacts. Consequently, construction activities would result in noise levels in open space locations that would result in an unmitigated significant adverse construction noise impact. There is no feasible construction approach to the proposed project that would eliminate this unmitigated significant adverse impact.

As detailed in Chapter 20, “Construction,” during Phase 2 of construction—from 2022 to 2026 based on the conceptual construction schedule analyzed—the projected decreases in open space ratios would result in temporary significant adverse indirect impacts to active open space resources in the residential study area. The temporary impact would not begin until the proposed Mercer Building has initiated construction, and would be eliminated by the provision of the project open spaces associated with the next stage of construction (i.e., completion of the Mercer Building and central portion of the North Block’s proposed open space).

The DEIS stated that between the DEIS and this FEIS, NYU, in coordination with New York City Department of Parks and Recreation (DPR), would seek to identify feasible measures to mitigate this temporary significant adverse impact to active open space resources during the construction period for the Mercer Building. As a result, it has been determined that it would be feasible to partially mitigate this temporary impact through a financial contribution by NYU equal to the installation costs attributable to Adrienne’s Garden. These funds would be applied by DPR to improvements at the Mercer Street Playground and/or Washington Square Park playgrounds prior to commencement of the proposed Mercer Building construction. In addition, NYU would commit to funding the stationing of a DPR seasonal playground associate at Washington Square Park for six months of the year, during the duration of the period in which the Mercer Building construction would result in a significant adverse open space impact. This playground associate would be available for facilitating play activities, as well as clean-up. NYU has committed to implement the foregoing mitigation, and this commitment would be incorporated into the Restrictive Declaration.

Absent practicable mitigation measures to ensure that these potential construction-related open space impacts would be fully mitigated, or reasonable alternatives to the Proposed Actions that would meet its purpose and need, eliminate this impact, and not cause other or similar significant adverse impacts, there would be unavoidable significant adverse impacts on open spaces during construction as a result of the Proposed Actions. *