

Jackson Park Watch

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Mr. Todd Wyatt
City of Chicago Department of Planning and Development
121 N. LaSalle Street, Room 1000
Chicago, IL 60602

Submitted via: <https://parkplanning.nps.gov/commentForm.cfm?documentID=106746>

Re: Comment on “Federal Actions In and Adjacent to Jackson Park: UPARR Amendment and Transportation Improvements” (Sec. # 17-B7203-00-ES)

Dear Mr. Wyatt,

We write in response to the release by the National Park Service on September 28 of the *Environmental Assessment of Federal Actions In and Adjacent to Jackson Park: Urban Park and Recreation Recovery Amendment and Transportation Improvements* (dated August 2020) and to the accompanying announcement that public input was sought on that document during a required 30-day public comment period.

The Environmental Assessment (EA) is prepared pursuant to the National Environmental Policy Act (NEPA), which requires federal agencies to evaluate the impact on the natural and human environment of their proposed actions or involvement in a particular project. In this case the “project” is the changes to be made to Jackson Park due to the construction of the Obama Presidential Center (OPC) in that park.

Over the past three years Jackson Park Watch has been a consulting party on the Section 106 review of this project and also commented on elements of the NEPA review process [April 18, 2018 and July 4, 2018 to Eleanor Gorski; August 27, 2018 to Morgan Elmer], both under its initial management by the Federal Highway Administration (FHWA) and after the switch to management by the National Park Service (NPS). We have expressed concerns about flaws in the basic premise and structure of the review that would inevitably lead only to a flawed conclusion. We regret that the EA of August 2020 still retains those same flaws and has additional problems as well that compromise not just the EA but the separate Section 4(f) review also.

- The failure to establish a logically consistent Purpose and Need statement -- The structure of the EA falsely divides the project into segments, with separate purposes and needs for each agency, even though the underlying but unacknowledged purpose for each

is the same, and the need for the action or any of its segments is never established. In fact, there is only one project – the construction of the OPC in Jackson Park and the related changes proposed to accommodate the OPC – and the federal agency actions under consideration are intertwined and all are integral to the completion of that project. There should be a consistent Purpose and Need for the EA to assess the impact on Jackson Park of the totality of the actions proposed, not separate assessments for selected subsets and no assessments at all for other segments.

- The false premise that the South Lakefront Framework Plan (SLFP) developed and validated the actions proposed – In fact, the SLFP is an *ex post facto* plan that was premised on the assumption that the OPC and related road changes were in place. It was created in order to legitimize and give cover to those pre-existing plans. The SLFP process was launched on June 21, 2017, a month *after* the OPC plan was unveiled. CDOT presented its fully developed road proposal at that same June 21 meeting. Neither the OPC plan nor the CDOT plan resulted from or was substantively changed by the SLFP community meetings and in fact deep discussion of these plans or of possible alternatives was disallowed at those meetings.
- The failure to define accurately the No-Action Alternative Baseline against which project impacts should be evaluated – The EA is further compromised by the failure to establish a single No-Action Baseline against which all of the proposed changes in Jackson Park can be evaluated. Rather, counter to commonsense, there are two baselines used in the EA. The NPS actions are evaluated against Alternative A – Jackson Park as it exists today – whereas the FHWA actions are evaluated against Alternative B, in which NPS actions have been approved and the OPC has been constructed. This segmentation is evidently an effort, in part, to avoid a thorough environmental assessment of the impact on the park of the actual construction of the OPC. The segmentation is particularly nonsensical considering that the related Section 106 review under the National Historical Preservation Act, that is cited and incorporated into the EA for its Cultural Resources evaluation (5.2.4), includes an Assessment of Effects Report that encompassed the totality of proposed changes in the park (including the construction of the OPC and the City-mandated road closures) and on that basis determined that the proposed changes would have a severe adverse impact on the Park’s historical integrity. Even though the FHWA has maintained that it has no authority to challenge the City’s action, that denial does not diminish or negate the significance of the impacts or the significance of the fact that the Section 106 review process did legitimately address the whole project, not just a slice. An EA of comparable scope and reach is required if it is to be at all legitimate and useful.
- The failure to define and rigorously evaluate reasonable alternatives against the standard of the No-Action Alternative baseline -- According to the statute, an EA must rigorously explore and objectively evaluate the impacts of reasonable alternatives against a Baseline No-Action Alternative. Yet, as noted above, this EA does not consider any alternatives beyond those presented by the City for either the UPARR replacement area or for the road changes, and then predictably, it determines that the City’s current proposal is the preferred alternative. It is a closed feedback loop that leads only to a foregone conclusion.

- The failure to properly define reasonably foreseeable future actions and include them in assessments of cumulative effects as required by the NEPA statute – The analyses and presentation of data in the EA are often inconsistent, inaccurate, and/or incomplete. They are particularly deficient in defining the indirect and cumulative impacts of reasonably foreseeable future actions that should be taken into consideration when evaluating alternatives. The Frequently Asked Questions document for this EA review that was posted by NPS on the City website notes that during a NEPA review to determine if federal actions will have “significant impacts” on the human environment, “*Significance is determined based on context and intensity*” [emphasis added]. This makes clear the importance of including all foreseeable cumulative effects – past, present, future -- in the Environmental Assessment. And while the EA often downplays “significance” by incorrectly calling permanent changes “temporary” (as with the destruction and rebuilding of the Women’s Garden) or by promising vague, undetailed mitigation (as with the loss of parking spaces in the park), the significance of the impacts remains and cannot be denied or ignored.

The following examples from the EA will indicate the types and range of problems resulting from these false premises and from various omissions and inconsistencies.

Regarding consideration of all reasonable alternatives, the EA does not provide full information about the specifics of alternatives or about the federal agencies’ evaluations of alternatives. For example, in Section 4.4.1 -- Alternatives Considered and Dismissed from Further Analysis -- the NPS accepts the single proposal put forth by the City for replacement parkland, and indicates only that “Further information regarding the UPARR application and site selection process is contained in the City of Chicago Analysis of its Proposal Related to Jackson Park, Cook County, Illinois under the Urban Park and Recreation Recovery Act Program (City of Chicago 2020).” Yet no reference to an appendix or weblink is given for this report. It is not part of the appendices to the EA and does not appear to be on the City’s website. Why is this document not part of the EA? Why has the NPS deferred to the City rather than itself evaluating possible alternatives or at the very least fully explicating how the City’s consideration of alternative locations was valid?

A similar lack of specificity, inconsistency, and illogical definition of cumulative impact is found in the section devoted to the FHWA’s “Alternatives Considered and Dismissed from Further Analysis.” First the EA (4.4.2.) asserts that the FHWA considered a wide range of proposed improvements to meet its purpose and need while avoiding or minimizing impacts to Jackson Park and other environmental resources. The EA then states: “. . . the Alternatives to Be Carried Forward and Preferred Alternative documents describe the Federal Actions In and Adjacent to Jackson Park Environmental Assessment 27 August 2020 development and evaluation of alternatives and are incorporated by reference in full at <http://www.tinyURL.com/JPIImprovements>. A summary of the documentation is provided below.” Yet when following that weblink, one is led not to a specific document but to the general page administered by the City’s Department of Planning and Development, and on that site the only document that seems to fit the description is labeled as a draft and dated April 18, 2018. Comments on that draft document were submitted by Jackson Park Watch (April 18, 2018 and July 4, 2018) and perhaps by others, though there was no formal public review. Was there a

final document? If not, why not? Again, the gaps and sloppiness in the EA text indicate the need for revision and call into doubt its conclusion.

The EA's presentation of its assessment of impacts in the various environmental categories is similarly problematic. The EA repeatedly omits a full accounting of reasonably foreseeable future actions. The sections on Natural Resources (5.1), all deemed "Impact Topics Not Carried Forward for Further Analysis," offer several examples of flawed analysis.

In Appendix C, Natural Resources Technical Memorandum, Attachment C-3 includes a February 28, 2020 communication from the U.S. Department of Interior Fish and Wildlife Service to the Illinois Department of Transportation regarding endangered wildlife that states: "This list is provided to you as the initial step of the consultation process required under section 7(c) of the Endangered Species Act, also referred to as Section 7 Consultation. **Please note! For all wind energy projects and projects that include installing towers that use guy wires or are over 200 feet in height**, please contact this field office directly for assistance, even if no federally listed plants, animals or critical habitat are present within your proposed project or may be affected by your proposed project" [*bold highlight appears in original letter*]. Yet in spite of this bold-faced, special alert, IDOT does not acknowledge or disclose the permanent indirect action that would place the OPC Museum tower – planned to be 235-feet tall – within 100 feet of the natural habitat being assessed for significant impact, an area that is used by, among other wildlife, migrating birds. Rather the assessment of impact focuses only on tree removal and replacement (itself a flawed analysis since it does not address the issue of how many years it will take newly planted trees to provide the cover and habitat options that exist now for wildlife generally and for migratory birds also). This deliberate obfuscation negates the value of the whole review. How can the impact on wildlife generally and particularly on migratory birds be assessed without including the fact of a 235' tower and an OPC campus daily filled (it is projected) with crowds of tourists and local users? The conclusion that "the proposed actions would not alter the overall quality of the wildlife habitat of Jackson Park" and that "OPC site development would not involve any indirect impacts to natural areas" is ludicrous and outrageous.

Air Quality is assessed (5.1.4 and Appendix E) only by estimating traffic volumes and, to a lesser degree by noting and dismissing as a temporary problem discharges of particles into the air during construction, with the conclusion that there is no significant impact. But there is no consideration of the important role of tree cover in promoting better air quality, no evaluation of the impact of the removal of 789 trees on air quality, and no information about when the replacement plantings might equal the current value of trees as air cleansers.

Also incomplete is the EA evaluation of impact of the proposed action on the Lake Michigan shoreline and beaches with regard to both Water Resources (Appendix F) and Natural Resources (Appendix C). It asserts that while the Lake Michigan beaches are habitats for endangered species (Piping Plover and Rufa Red Knot), there will be no problem because "CDOT committed that all construction activities would occur to the west of Lake Shore Drive with exception of some curb and gutter elements proposed in existing concrete areas" (Attachment C-2). The EA ignores the fact that Lake Shore Drive is not a dividing line for the full length of Jackson Park because LSD ends at E. Marquette Drive, and that in the southeast corner of the park that

extends beyond that LSD terminus, there will be active construction work along the shoreline for the installation of an underpass spanning E. Marquette Drive just north of 67th Street. Such construction has the potential to impact both water resources and wildlife habitats, but has not been addressed in the EA. The evaluation of the proposal to remove the wetland area on the eastern tip of the Midway Plaisance is also incomplete. The proposed mitigation to purchase a replacement segment in a wetland bank in Will County would perhaps address the spatial issue, but it gives no consideration to the function of the current wetland with regard to stormwater storage or sediment retention. Here, as elsewhere throughout the EA, the impact analysis is narrowly focused and incomplete.

The EA also fails to consider the potential impact or feasibility of road and underpass construction proximate to the lake given the rising lake levels – now at historic highs and expected to continue for some time – that have wrought such damage in the last couple of years. The higher lake level is both a present and a reasonably foreseeable future natural action that should be taken into consideration in any Environmental Assessment. The lack of attention to the phenomena of rising lake levels also ignores the possibility of its impact on the toxic waste site that is the former NIKE missile installation, just west of Lake Shore Drive at about 62nd Street and extending through Bobolink Meadow to the East Lagoon around Wooded Island. This area was identified as problematic in the USACE preparatory study of 2013 conducted as the Great Lakes Fishery and Ecosystem Restoration (GLFER) project was being defined. This area was then eliminated from the initial GLFER project because of unresolved environmental issues, but it is not referenced at all in the EA regarding either the GLFER project or the proposed FHWA actions.

Another major gap in the EA is the exclusion of the proposed golf course project that would merge and redesign the existing Jackson Park and South Shore golf courses with the expected loss of many hundreds of mature trees beyond the number to be cut by the City action allowing the construction of the OPC. The exclusion of the golf course project is explained thus: “while a golf course project was noted in the SLFP, the final plans and design for the golf course are not yet approved.” This is a very selective use of the SLFP that ignores that elements of the roadway changes to be reviewed or accepted by the FHWA – the underpasses to be built under Jeffrey Blvd. and under Marquette Drive at 67th Street and the closure of Marquette Drive between Stony Island Avenue and Rich Drive – are explicitly designed to accommodate the golf course plan and were developed in conjunction with that project, and these “improvements” are included in the City’s action plan (closure of Marquette Drive) and in its request to the FHWA for permissions and funding for the underpasses. As with the OPC campus construction, the golf course project must be considered a reasonably foreseeable future action. Without its inclusion no valid environmental assessment is possible.

Most of the above examples of inadequacies of the EA relate to the natural environment. While the quality of the human environment is integrally linked to the quality of the natural environment, there are also categories in which the human environment, including the impact on surrounding communities, takes primacy. Those are the categories that have been designated in the EA as “Impact Topics Retained for Further Analysis” (Section 5.2). In these areas too the EA shows inconsistencies and deficiencies.

With regard to Recreation Resources, the EA considers the proposal by the City to use the eastern tip of the Midway Plaisance as UPARR replacement parkland and addresses many impact issues – additional noise, construction disturbances, loss of wetland, etc. But there is never any consideration of whether this site is even appropriate for a children’s play area, regardless of the final design of playground structures. In this case as in so many examples throughout the EA, there is the unsupported assumption that sections of parkland are interchangeable pieces without full consideration of context. The evaluation completely avoids the question of whether a play area in this difficult-to-access location is needed or would be regularly used. There are or will be other playgrounds close by, most prominently the proposed takeover and expansion of the 62nd St. Playground as part of the OPC construction, but also two existing playgrounds for varying ages at the intersection of Stony Island and 56th St. and the playground for Bret Harte School at the same intersection as well as CPD playlots west of the Metra viaduct. With other playgrounds so close by, one should ask if a site that is bounded on three sides by heavy traffic flows, that is further somewhat isolated by the viaduct on the fourth side, and that is not proximate to residential areas that include large numbers of young children is the best site for such an investment, given the expected high cost of draining and filling in the natural wetland area. Even recognizing that cost is not a factor in UPARR evaluations, it seems a questionable decision, and one that demands consideration of other alternatives. Yet, as noted above, the NPS has not fulfilled its responsibility to review reasonable alternatives.

With regard to Traffic Congestion, Jackson Park Watch has previously commented on the unacceptably narrow focus of the EA and the failure of the FHWA to consider reasonable alternatives beyond the City’s plan. One such [alternative](#) is presented in the study *CDOT’s Transportation Plan for the Obama Presidential Center in Jackson Park: A Review and Alternative*, prepared for JPW in May 2018 and submitted on many occasions to City and Federal agencies. Beyond the conclusion that the OPC could be accommodated in Jackson Park without the costly and disruptive closures of Cornell Drive and the EB Midway Plaisance, this study identifies several other traffic issues that are not adequately addressed in the EA. The traffic analysis presented in the EA does not properly address the impact of the diversion of traffic into neighborhoods south, north and west of Jackson Park. By tightly confining its focus to the area between 56th and 67th and Stony and LSD, the EA avoids any assessment of where that diverted traffic will actually go; the overflow just magically disappears from consideration. Even within the focus area, there are unaddressed diversion issues. Thus, the Year 2040 Travel Patterns for the Preferred Alternative C (Attachment H-4a) shows that average daily traffic on 57th Street west of the Metra tracks will jump to 5,900 (from 2,100 in 2016 Existing Condition Attachment H-1a). That is a massive increase for a street that is already very congested, yet the EA does not address the jump. Similarly, the impact of the reduction in parking spaces available in the park (a net loss of 233 now-functioning on-street spaces in total) is dismissed as inconsequential. In fact, it is deemed so unimportant that the total number is not even presented in the text of the EA; rather a reader has to compute the total by adding numbers from pp. 47 and 49 or consult Tables 11 and 14 in Appendix (a task complicated by the fact the references in the EA text are to Tables 10 and 13). The conclusion that the impact would be inconsequential is based on a study conducted in the fall of 2018, not a season when there is peak demand for access to the park and also before pandemic concerns increased interest in park usage and at the same time decreased usage of public transportation and shared ride services. In fact, such a sizable reduction in parking spaces would have a major impact on (1) the ability of Chicago

residents to access the park for activities beyond the OPC campus (unless they were willing to pay the fees for the OPC parking garage if space is available) and (2) the congestion in adjacent neighborhoods as drivers would look for nearby free parking beyond the OPC garage. This latter scenario is especially likely as the EA emphasizes that the OPC parking garage is sized to accommodate visitors to the OPC campus and its employees, not to serve regular users of other parts of the park. In addition, the study that the EA relies on does not take into account the likely expanded parking demands related to the expected use of the OPC facilities for special events. The projected loss of 233 parking spaces is also blithely dismissed as not important because, the EA implies, the SLFP represents a solid commitment by the Chicago Park District for infrastructure improvements (in this case, more parking spaces) rather than recognizing that the SLFP is just an unfunded wish list. Altogether, the cumulative effects regarding traffic and parking are not properly addressed in the EA.

With regard to the impact of proposed action on Cultural Resources (Historical Properties), the EA is just checking a box, not seriously engaging the topic. It references but then skips past the Assessment of Effects report prepared for the Section 106 review conducted by FHWA and just now concluding. The EA does acknowledge that two historic resources (of eight in the survey area) would be adversely effected -- those being the Jackson Park Historic Landscape District and Midway Plaisance, and the Chicago Park Boulevard System Historic District that includes the Midway and Jackson Park. What the EA does not acknowledge is that the AOE report concludes that the proposed action -- the construction of the OPC -- would have significant and permanent adverse effects on the historic integrity of Jackson Park and Midway. The EA seeks to minimize that finding by stating, without any solid basis, that the massive adverse impact on Jackson Park will not endanger its listing on the National Register of Historic Places (an assertion contradicted in the AOE report) and by trying to shift focus to the fact that the OPC will impact only a small area -- about 20 acres out of Jackson Park and the Midway's combined 643 acres. In citing this frequently mentioned number, the EA ignores some real facts: (1) The AOE report identifies adverse effects throughout the park, not just on the OPC campus, because of the road changes that will chop off slices of the park and destroy the ionic Olmsted circulation design. (2) Most of the acreage in Jackson Park (which without the Midway is about 543 acres) is restricted to very specific uses (Museum of Science and Industry, La Rabida, golf course, lagoons, harbors, nature sanctuary) and thus the park space available for casual recreational and athletic purposes -- ballplaying, picnicking, loitering and such -- is really quite limited and within that framework the loss of 20 acres is quite significant. The mitigation actions proposed under Section 106 review similarly skirt the central source of the adverse effects -- the siting and design of the OPC -- and the acceptance of that by the EA does not excuse the need for a more complete review.

With regard to Social and Economic Issues, the EA focuses particularly on the effects of the proposed action on minority and low-income populations in the surrounding communities. The assessment relies heavily on projections of economic impact presented in a report prepared by Deloitte in 2016 for the Obama Foundation. Unfortunately, the data and analyses behind the projections are no longer up to date and do not reflect the dramatic changes to the economic, social, and health sectors wrought by the pandemic. While we all hope the OPC, wherever located, will have a very positive impact on the South Side, we should have current, more reliable analyses commissioned by the federal agencies themselves. Among the more

bewildering omissions of the EA is in the topic of environmental justice. Never considered is the issue of equitable access to public park space and facilities. The EA asserts that there are ample parks on the South Side. However, that general claim is challenged by statistics from, among others, Friends of the Parks. And in any case, the project area is defined as the neighborhoods of Hyde Park, Woodlawn and South Shore. Of these, Hyde Park, a middle-class community with a sizable non-Black population and the University of Chicago as a major sustaining institution, is fairly well-endowed with public parks of varying sizes. The same cannot be said for Woodlawn and South Shore, where park resources are scattered and scarce as one moves away from the edges of Jackson, South Shore and Washington Parks (as maps in Appendix I make clear). In those cases, the loss of 20 acres to the OPC in Jackson Park -- accessible, often used recreational space -- is significant and the failure to expand the parkland footprint in Woodlawn, especially in West Woodlawn, when locating UPARR replacement land seems a major missed opportunity.

Finally, we wish to comment on the NEPA review process. The NEPA review of the changes proposed for Jackson Park has been a jerky, start-and-stop process, initially to be directed by the FHWA and then shifted to the direction of the NPS. Perhaps due to this shifting around, the process has never seemed smooth and never been fully explained to or understood by the public. There were occasional cryptic references to federal reviews, including NEPA, in the SLFP presentations in the summer and fall of 2017, but never any detailed discussion and certainly no indication that the staged presentations by the Park District and CDOT at the South Shore Cultural Center were meant to be providing feedback specific to the NEPA review. Thus, it was not surprising to read (after a JPW FOIA request to CPD) email communications among City and Park District staff and consultants recognizing that the Purpose and Need statement they were developing in Fall 2017 for the FHWA did not reflect a true Stakeholder Involvement Plan but rather relied on a misrepresentation of the SLFP sessions as fulfilling that role. The City continued to prepare documents for FHWA during the first half of 2018, drafts of which appeared in the City website but were never presented for public engagement. In September 2018 the NPS took over management of the NEPA review, and hosted a public information session at which posters and a video presentation outlined the steps of the NEPA review, but public discussion of details was informal, dependent on catching the ear of a NPS or City staffer for a brief chat. At that time, it was projected that the draft EA would be issued in Fall 2018/Winter 2019. In actuality the EA has been issued almost two full years later. In between, there has been the occasional reference but no substantive public discussion about NEPA. Now in late September 2020, the EA has been issued and presented to the public via a You-Tube video that allowed wide accessibility but did not provide for actual discussion with asking and answering of questions. While the public comment period of 30-days may be the standard for such reviews, it seems inadequate given the complexity of the triggering project and of the EA with its mix of actions by multiple agencies and given the two-year gap since the introductory session.

The many problems with the EA text and analysis -- false premise, inconsistencies, inaccuracies, gaps -- indicate the need and necessity of correcting the current EA text. These analytical errors and problems combined with problem of inadequate and ineffective public engagement point to the need for a full-blown Environmental Impact Statement such as would customarily be required for a major undertaking of this scale and import. An EIS would require and allow for

active public collaboration to define the range of issues and potential alternatives to be addressed in the review, an important collaboration that has been missing so far. Given the historic significance of Jackson Park and its importance as a park serving the South Side and given the significance of the proposed Obama Presidential Center, we urge revisions to the EA and the completion of an Environmental Impact Study.

Respectfully submitted,

Brenda Nelms and Jack Spicer
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