

Jackson Park Watch

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April 18, 2018

Eleanor Gorski, Department of Planning and Development

John Sadler, Department of Transportation

City of Chicago

Via Email: eleanor.gorski@cityofchicago.org, john.sadler@cityofchicago.org,
dpd@cityofchicago.org

Re: NEPA Review Process

Dear Ms. Gorski and Mr. Sadler:

We are a consulting party for the Section 106 review of the proposals to construct the Obama Presidential Center (OPC) and to make related road changes in Jackson Park. We have provided our comments on the Section 106 review and the draft Historical Properties Identification Report in a separate communication, also dated April 18. Here we would like to express concerns about the definition and sequencing of the National Environmental Policy Act (NEPA) review process of which the Section 106 review is one part, but we note that the issues we raise here extend to the Section 106 review. We note also that concerns outlined in the separate comments on the Section 106 review apply generally. There is considerable inconsistency and confusion within the draft reports and public presentations to date about the definition of the “project” to be reviewed, confusion created in part by the misleading references to and uses of the South Lakefront Framework Plan update. Clarification is needed to insure that such confusion does not infect other elements of the federal review.

In mid-March, in advance of the second public meeting for the Section 106 review, you posted on the City’s website

(https://www.cityofchicago.org/content/dam/city/depts/dcd/supp_info/jackson/fha-purpose.pdf) a draft document, dated February 6, 2018 and entitled “Purpose of and Need for Action – Federal Highway Administration,” which aims to define the OPC project, set the focus and parameters for the various reviews to be organized under the NEPA study, and determine how federal and City agencies examine the project alternatives and consider any associated adverse impacts. We understand that public participation is necessary in the development of the vitally important purpose and need statement, and so we have been surprised to learn that staff of the City’s Department of Transportation (CDOT), Department of Planning and Development (DPD), and the Chicago Park District (CPD) composed the initial statement for the OPC project in mid-November 2017 without the expected public involvement in the scoping process.

We have fully participated to date in the OPC planning process. We attended and participated in the meetings that have occurred over the past year, starting on May 3, 2017 (when President Obama first revealed his vision for the OPC), continuing in June 2017 with the presentation of CDOT's plan for road reconfiguration in Jackson Park and the launch of the South Lakefront Framework Plan (SFLP) process just concluded in April 2018 with its presentation to the Park District Board, and including many meetings in between. Some meetings were sponsored by the Chicago Park District, some by CDOT, and some by the Obama Foundation; some were open to the public, some were by invitation only. These meetings in the main were presentations with some limited opportunities for public comment on some elements of the various proposals prepared by the Obama Foundation, CDOT, the Chicago Parks Golf Alliance, and the Chicago Park District.

Yet, in none of these meetings was the development of the purpose and need statement for the NEPA review of the proposed initiatives discussed or even mentioned, nor was the federal review process fully explained. Participants were never told of the necessary public role in the development of the NEPA purpose and need statement. Any such public participation would need to be informed and focused, and we know that these past meetings did not allow for such focused public input. We feel confident that you would agree. This leaves us questioning how you now plan to meaningfully involve the public in developing a proper purpose and need statement for the NEPA and accompanying reviews, a critically important issue since the definition of the "purpose and need" shapes all that follows.

In addition to our concern about the lack of public participation in the development of the purpose and need statement required for the NEPA review and the urgent need to rectify this critical omission, we are greatly concerned about the February 6 draft statement "Purpose of and Need for Action -- Federal Highway Administration," now posted on the City website.

Although the current federal reviews have been triggered by the *proposals* (our emphasis) to construct the Obama Presidential Center in Jackson Park and to make numerous significant road changes to accommodate its desired design, the February 6 draft purpose and need statement makes the rather remarkable assertion, in the section entitled Project Need (p. 4): "Needs were identified based on the effects of the No-Action scenario, which *assumes* the roadway closures as described in Section 1.1 are in place and the OPC is constructed in Jackson Park." (Emphasis added) It goes on to assert, contrary to all evidence: "Stakeholder input was also considered." Following from its initial incorrect assumption concerning the baseline "No-Action scenario," the draft statement concludes (p. 8) with a definition limiting the purpose for the review: "The project purpose is to (1) address changes in travel patterns *resulting from closing roadways* (our emphasis) in Jackson Park and (2) improve bicycle and pedestrian access and circulation."

In fact, the baseline No-Action condition must necessarily be the condition obtaining in Jackson Park today – that is, the OPC is not in place and no roadway changes have been made.

Construction of the OPC has not begun, and a central purpose of the present federal review is to determine whether and under what conditions that construction may be allowed to proceed. Similarly, none of the proposed road changes have occurred, and a central purpose of the present federal review is to determine whether and under what conditions that road construction may be allowed to proceed.

Our concern about the seeming lack of the required public involvement in the development of the draft purpose and need statement and the erroneous baseline asserted by that statement extends to all aspects of the review process:

- We do not understand how the NEPA review with its various components could proceed without a purpose and need statement fully reflecting public input, which the statement dated February 6, 2018 does not.
- We question how the Section 106 review process could have been initiated on December 1, 2017, in advance of involving the public during scoping for the project to develop a viable purpose and need statement.
- We question how, when a comprehensive review of the “project” is necessary, the October 29, 2017 letter from Eleanor Gorski (which was responding to our request to be a consulting party for the Section 106 review) could already assert that the Federal Highway Administration (FHWA) and the City will complete an Environmental Assessment (EA) for the project under NEPA, an assertion that was repeated in the handout at the March 29, 2018 Section 106 meeting, and incorporated into the compressed timeline for the Section 106 review. Such a predetermination that there should not be a full Environmental Impact Statement (EIS) in this case would seem to be in conflict with the extent of resources at stake and the level of controversy surrounding the OPC project and with the full intent of the NEPA review. Given the scope of the project and its significant impacts, we believe that an EIS is necessary, appropriate and required. To that point, there should be much more information provided as to where the decision making process is on an EIS, and if a determination has been made not to perform an EIS, the public should be clearly notified as to who made the decision, when and why.
- We question why the subject of the National Park Service’s review of the project under the terms of the Urban Parks Recreation and Recovery Act (UPARR) was introduced during the March 29 meeting for the Section 106 review without full explanation of the nature or import of that review. Further, we ask how the proposal to use the Midway Plaisance to replace converted recreational parkland accords with the concept of “replacement land,” since the Midway parkland proposed as a “replacement” for recreational parkland in Jackson Park is already parkland in its own right.
- We question why the Section 4(f) review that we understand should be part of the early stages of the NEPA process, especially with the resources we know are at stake in this project, has not been mentioned beyond a passing reference in the October 29, 2017 consulting party letter and a brief acknowledgement by Abby Monroe in her introduction to

the March 29 meeting. We understand that the Section 106 review would help determine what the 4(f) review examines. With historic and publicly precious Section 4(f) resources at stake, we strongly urge CDOT to allow early and comprehensive public participation in identifying and evaluating all “prudent and feasible alternatives” that could minimize the range and severity of impacts before any particular alternative is selected.

- Similarly, we question the underpinnings and sequencing of the other federal reviews, such as the Section 404 permit review and Section 401 certification, and the UPARR review mentioned above. It is important to know up front whether certain alternatives will violate these provisions, and cause serious delay in the process.

Overall, the planning and approval process being advanced by the City seems to be getting ahead of the federal review process and the sequencing of the federal reviews is unclear. To give validity to all of those reviews, the full NEPA process needs to be clarified, the merger or overlap of some reviews explained, and the timelines should to be coordinated.

In conclusion, we ask: When and how do you plan to initiate public participation in the scoping process for the NEPA purpose and need statement? What is the specific schedule for the NEPA review process and how are the elements of the review integrated? When and how will the public be allowed to fully participate in this process?

We appreciate your consideration of these questions and look forward to your response.

Sincerely,

Brenda Nelms and Margaret Schmid
Co-presidents
Jackson Park Watch

cc: Matt Fuller, Federal Highway Administration; Abby Monroe, Chicago Department of Planning and Development; Rachel Leibowitz, Illinois State Historic Preservation Office; Bonnie McDonald and Lisa DiChiera, Landmarks Illinois; Jerry Adelman, Ted Haffner, and Stacy Meyers, Openlands; Ward Miller, Preservation Chicago; Juanita Irizarry, Lauren Moltz and Fred Bates, Friends of the Parks; Charles Birnbaum, The Cultural Landscape Foundation; Dan Marriott, NAOP; Betsy Merritt, National Trust for Historic Preservation; Michael McNamee and Karen Rechtschaffen, Save the Midway; Bronwyn Nichols Lodato, Midway Plaisance Advisory Council; Walter Kindred, SSCC Advisory Council; Naomi Davis, BIG; Jawanza Malone, Kenwood-Oakland Community Association; Jack Spicer, Promontory Point Conservancy