

West Harlem Rezoning FEIS

CHAPTER 20: UNAVOIDABLE ADVERSE IMPACTS

A. INTRODUCTION

According to the *CEQR Technical Manual*, unavoidable significant adverse impacts occur when significant adverse impacts would be unavoidable if a project is implemented regardless of the mitigation employed (or if mitigation is impossible). As described in Chapter 18, “Mitigation,” the identified shadows impact would be unmitigated, and the potential impact to historic architectural resources would not be fully mitigated.

B. SHADOWS

As discussed in Chapter 6, “Shadows,” the Proposed Action would result in a significant adverse shadows impact on St. Mary’s Episcopal Protestant Church. Incremental shadows cast by development identified in the RWCDS, portions of projected development sites 14 and 40, would be cast on stained glass features on the eastern façade of this resource on December 21 (when shadows are at their longest), for a duration of approximately 1 hour and 33 minutes. Given the location of projected development sites 14 and 40 relative to St. Mary’s Protestant Episcopal Church and the limited number of intervening buildings, and the fact that these shadows would be cast when shadows are at their longest, any increase in height of the structures on sites 14 and 40 would produce incremental shadows cast on the sunlight-sensitive features on the eastern façade of the church, and result in a significant adverse shadows impact.

The Proposed Action was assessed for possible mitigation measures in accordance with CEQR guidelines. Several ways in which impacts on potential architectural resources can be mitigated were identified by the Department of City Planning, including:

- Redesigning and/or relocating the action, (i.e. avoiding the incremental shadows cast on the sunlight-sensitive features altogether by moving the proposed project away from the features), as analyzed in Chapter 19, “Alternatives.”
- Providing indirectly mounted artificial lighting on St. Mary’s Episcopal Protestant Church.

Redesigning or relocating the action so that it does not cast an incremental shadow on the western façade of St. Mary’s Episcopal Protestant Church (e.g. by removing portions of the projected development sites from the rezoning proposal) is not a practical solution from a zoning standpoint. Further, removal of the entirety of the development sites would be inconsistent with the overall purpose and need of the proposal and is considered infeasible and impracticable. Together, projected development sites 14 and 40 comprise a significant proportion of the proposed MX district's lot area. As noted in Chapter 1, “Project Description,” and described in section “C. Historic and Cultural Resources” below, the proposed MX district is mapped on one of the few portions of the proposed rezoning area that would provide an opportunity for development of commercial and light manufacturing uses. Accordingly, the proposed MX district is critical to new commercial and light manufacturing development activity. Provision of indirectly mounted lighting is not available as a mitigation measure, given the nature of the proposed action as an area-wide rezoning. Accordingly, as the potential for this impact would not be completely eliminated it would constitute an unavoidable significant adverse shadows impact on St. Mary’s Episcopal Protestant Church as a result of the Proposed Action.

C. HISTORIC AND CULTURAL RESOURCES

Architectural Resources

Demolition Impacts

As noted in Chapter 7, “Historic Resources,” the Proposed Action could result in significant adverse impacts due to potential demolition of one eligible resource on projected development sites 14 and 40 (the former Bernheimer & Schwartz Pilsener Brewing Company complex), which was heard by the LPC on 7/15/91 and 10/29/91, and remains calendared for consideration for landmark status. As the RWCDs for the Proposed Action anticipates that the existing structures on sites 14 and 40 would be demolished, either partially or entirely, as a consequence of the Proposed Action, this would result in a significant adverse direct impact to this LPC- and S/NR-eligible resource.

The Proposed Action was assessed for possible mitigation measures in accordance with CEQR guidelines. The *CEQR Technical Manual* identifies several ways in which impacts on potential architectural resources can be mitigated, including:

- Redesigning the action so that it does not disturb the resource (i.e., avoiding the resource altogether by moving the proposed project away from the resource);
- Relocating the action to avoid the resource altogether;
- Contextual redesign of a project that does not actually physically affect an architectural resource but would alter its setting;
- Adaptive reuse to incorporate the resource into the project rather than demolishing it;
- A construction protection plan to protect historic resources that may be affected by construction activities related to a proposed action;
- Data recovery or recordation of historic structures that would be significantly altered or demolished; and
- Relocating architectural resources.

Redesigning or relocating the action so that it does not disturb the eligible resource located on projected development sites 14 and 40 (e.g. by eliminating projected development sites 14 and 40 from the rezoning proposal) would be inconsistent with the overall purpose and need of the proposal and is considered infeasible and impracticable. Together, projected development sites 14 and 40 comprise a significant proportion (approximately 30%) of the proposed MX district’s lot area. As noted in Chapter 1, “Project Description,” the proposed MX district is mapped on one of the few portions of the proposed rezoning area that would provide an opportunity for development of commercial and light manufacturing uses. Accordingly, the proposed MX district is critical to new commercial and light manufacturing development activity. Thus, the elimination of sites 14 and 40, and hence a large portion of the proposed MX district, from the proposed rezoning would be inconsistent with the purpose and need of the proposal. Contextual redesign, adaptive reuse and the use of a construction protection plan are not available as mitigation measures, given the nature of the Proposed Action as an area-wide rezoning.

Recordation of historic structures may include photographically documenting the eligible structures on projected development site 40 in accordance with the standards of the Historic American Buildings Survey (HABS). The documentation would be submitted to OPRHP for approval prior to any demolition. Two copies would be submitted to OPRHP, one of which would be for archival storage in the New York

State Archives and the other for retention in OPRHP files, and a third copy of the documentation would also be provided to the Museum of the City of New York. Further, an interpretive exhibit could be produced within the lobby of new construction, using the completed HABS documentation as a starting point. The exhibit design would be submitted to OPRHP and LPC for review and approval prior to execution and installation. With implementation of this HABS documentation measure, and the related measure to create an interpretive exhibit, the identified significant adverse direct impact to historic architectural resources would be partially mitigated, but would not be completely eliminated, thereby constituting an unavoidable significant adverse impact on this historic resource as a result of the Proposed Action.

In order to adopt these measures in the absence of a site-specific approval, such as a Special Permit with accompanying restrictive declaration, a mechanism would have to be developed to ensure implementation and compliance. Discussions with the owner of the complex have not, however, resulted in the development of such a mechanism.

In addition, LPC could elect to conduct a hearing and designate the structures, either in whole or in part, as landmark buildings. Should the Department of Buildings issue a notice of pending demolition to LPC, LPC then has 40 days to decide whether to designate. During this period, the owners of the property may work with LPC to modify their plans to make them appropriate. In the event that landmark designation is approved, LPC approval would be required for any alteration, enlargement or demolition of the designated structures. As the potential for use and results of any designation process cannot be assumed or predicted with certainty, the availability of designation is considered herein as a partial mitigation only.

Accordingly, as the potential for this impact would not be completely eliminated it would constitute an unavoidable significant adverse impact on this historic resource as a result of the Proposed Action.

Construction Impacts

Inadvertent construction-related damage could potentially occur to four eligible resources including: the residences at 2-14 Convent Avenue (S/NR-eligible), as a result of construction on projected development site 15; the S/NR-eligible St. Joseph's Roman Catholic Church complex, as a result of construction on projected development site 19 and part of projected development site 18; the LPC-eligible Engine Co. 23 building, as a result of construction on potential development site 30; and the LPC-eligible Upper Riverside Drive historic district, as a result of construction on potential development site 56 and projected development site 5. For these four non-designated resources, construction under the Proposed Action could potentially result in construction-related impacts to the resource, as the additional construction protections of *TPPN 10/88* would not apply (they only apply to designated landmarks). If these eligible resources are designated in the future prior to the initiation of construction, *TPPN 10/88* would apply and potential indirect significant adverse impacts resulting from construction would be avoided.

The City has procedures for avoidance of damage to structures from adjacent construction with added protection for designated historic resources, which would be afforded to the historic resources. Building Code section C26-112.4 serves to protect buildings by requiring that all lots, buildings, and service facilities adjacent to foundation and earthwork areas be protected and supported. In addition, the New York City Department of Buildings' *Technical Policy and Procedure Notice (PPN) #10/88*, supplements these procedures by requiring a monitoring program to reduce the likelihood of construction damage to adjacent LPC-designated or S/NR-listed resources (within 90 feet) and to detect at an early stage the beginnings of damage so that construction procedures can be changed. In the case of the four eligible resources listed above, any significant adverse impacts would be unmitigated, as none of these resources are designated New York City landmarks, have been calendared for designation or are S/NR-listed

resources. Without the protective measures described above, significant adverse construction-related impacts would not be mitigated.