West Harlem Rezoning EIS
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 shadows impact on St. Mary's Episcopal Protestant Church. Incremental shadows cast by the projected and potential development identified in the RWCDS would be cast on stained glass features on the western façade of this resource on one of the four analysis periods, for a duration of approximately 1 hour and 33 minutes. Analysis of an alternative which would eliminate or reduce the impacts of the Proposed Action are provided in the Alternatives chapter. The conclusion of the Alternatives chapter is that there are no alternatives which would eliminate or substantially reduce this shadow impacts while meeting the goals and objectives of the Proposed Action.

A potential mitigation measure for the identified impact on this resource may include the use of artificial lighting to simulate the sunlit conditions. The provision of indirectly mounted lighting could simulate lost sunlight conditions at the affected stained glass windows of this resource. This and other feasible and practicable mitigation measures for this potential significant adverse impact will be explored by the lead agency in consultation with the LPC between the Draft and Final EIS. Absent the identification and implementation of such feasible and practicable measures, the Proposed Action could have an unmitigated significant adverse shadows impact on St. Mary's Protestant Episcopal Church.

C. HISTORIC (ARCHITECTURAL) RESOURCS

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 has been heard by LPC, but has not been designated to date. Privately owned properties that are pending designation as landmarks (such as a site that has been "heard" by LPC) are afforded some measure of protection under the NYC Landmarks Law, which requires consultation with LPC before any alteration or demolition of those resources can occur. 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.

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. With implementation of this HABS documentation measure, 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.

Based on the above mitigation options, no mitigation measures are feasible and practicable for the Proposed Action, because the area to be rezoned and the sites identified for projected and potential development are privately-owned. In the future, if the sites are developed as-of-right in accordance with the new zoning, private ownership of the land prevents the City from requiring any of the above mitigation measures. As such, the architectural impact identified in Chapter 7 is considered to be an unmitigated impacts 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.