

WORLD TRADE CENTER MEMORIAL AND REDEVELOPMENT PLAN PROPOSED FINDING OF NO ADVERSE EFFECT UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

I. INTRODUCTION

In this proposed Finding of No Adverse Effect, the Lower Manhattan Development Corporation (LMDC) proposes to find, in accordance with Section 106 of the National Historic Preservation Act, that the World Trade Center Memorial and Redevelopment Plan (Proposed Action) that LMDC proposes to undertake in New York City, New York, will not have an adverse effect on properties or sites listed or eligible for listing in the National Register of Historic Places.

LMDC, in cooperation with the U.S. Department of Housing and Urban Development (HUD), the Federal Transit Administration (FTA), the Port Authority of New York and New Jersey (Port Authority), the Federal Highway Administration (FHWA) and the New York State Department of Transportation (NYSDOT), has engaged in consultations pursuant to Section 106 in order to determine whether the approximately 16-acre World Trade Center site bounded by Liberty, Church, and Vesey Streets, and Route 9A (WTC Site) is eligible for listing in the National Register. For the reasons set forth in the Coordinated Determination of Eligibility dated February 6, 2004, LMDC, FTA, FHWA, NYSDOT and the Port Authority have determined that the WTC Site is eligible for such listing. In addition, LMDC has identified a broad range of other historic resources, other than the WTC Site, within the Area of Potential Effect (APE) for the Proposed Action, as fully described in the Draft Generic Environmental Impact Statement (DGEIS) for the Proposed Action prepared by LMDC as lead agency under the National Environmental Policy Act. The consulting parties have received hard copies of the Executive Summary and Chapter 5, "Historic Resources," of the DGEIS, as well as the entire DGEIS in CD form.

In this draft finding, LMDC considers whether the Proposed Action would have an adverse effect on historic properties. The Proposed Action was developed with due consideration of the uses that existed on the WTC Site prior to September 11, 2001, the events of September 11, the compelling need to remember those who were lost on that day and the urgent need to rebuild the WTC Site and revitalize the community of which it is part. The Proposed Action, with its memorial, cultural, commercial, open space and other uses, seeks to reflect the significance of the events of September 11, to remember those who perished on that day and February 26, 1993, and to redevelop what was destroyed. Developed in accordance with stated planning principles and a guiding memorial mission statement with extensive public involvement, the Proposed Action commemorates and reaffirms the spirit of those who lived, worked, and died in and around the WTC Site.

The preliminary determination of effects with respect to historic resources beyond the site and within the APE for the Proposed Action is described in the DGEIS approved by the Board of Directors of the LMDC on January 20, 2004 and made available to the public starting on January 22, 2004. Chapter 5 sets forth the reasons why LMDC believes that the Proposed Action will not adversely affect those historic resources in the APE that are not on the WTC Site. The discussion below therefore focuses on the potential effect of the Proposed Action on the WTC Site itself. Before making a final determination on any of these potential effects, LMDC will consider comments from consulting parties and others, including the New York State Historic Preservation Office, on this proposed finding, as well as public comments on the DGEIS.

Written comments on this proposed finding and on the DGEIS must be received by LMDC at the following address by 5:00 PM on March 15, 2004:

Lower Manhattan Development Corporation
Attention: Comments WTC Memorial and Redevelopment Plan/Section 106 Review
One Liberty Plaza, 20th Floor
New York, New York 10006

In addition, LMDC will meet with the consulting parties at 4:00 PM on February 24, 2004 to discuss any comments on this draft finding by any of the consulting parties. Public hearings on the DGEIS will also be held on February 18, 2004, at which members of the public may also comment on the effect of the Proposed Action on historic resources.

II. CRITERIA OF ADVERSE EFFECT

Under Section 106, an adverse effect is found if an undertaking will alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. As stated in the Determination of Eligibility, the WTC Site retains integrity of location, setting, feeling, and association. Some physical remnants on the WTC Site possess integrity of materials.

III. CONSIDERATION OF POTENTIAL ADVERSE EFFECTS

The significance of the transcending events of September 11 and the aftermath clearly does not depend on the presence of the original, or even the damaged, buildings and structures that portrayed the horror of that day. The terrorist attacks on September 11 and the resulting destruction left enormous piles of material at the WTC Site along with 2,749 dead, grieving families and friends, and devastated communities. The WTC Site, where most of the remains of those killed were found, does not require the presence of any physical elements to be considered eligible for listing on the National Register. Although the site has been altered through the critical rescue and recovery efforts from September 11, 2001 through June 2002, these necessary physical changes have not affected the importance of the events of September 11 or the significance of the site.

The following discussion considers the potential effects of the Proposed Action on those elements at the WTC Site that retain integrity.

Location—The Proposed Action would not change the location of the WTC Site.

Setting—The Proposed Action would not adversely affect the historic resources that are the setting for the WTC Site. It would replace the former parking lot on the south side of Liberty Street between Route 9A and Washington Street (now a staging area) and the former plaza at 130 Liberty Street (now an excavated area) with a park that would also provide a setting for a rebuilt St. Nicolas Church. Tower 5 would replace the damaged office building at 130 Liberty Street. Overall the Proposed Action would not adversely affect the setting of the WTC Site.

The Proposed Action would set aside for a permanent WTC Site Memorial an approximately 4.4-acre area where the Twin Towers, a hotel, and connecting plaza areas were located. The proposed Memorial would recognize the history of September 11 and would introduce features that would represent the former location of the Twin Towers. The proposed Memorial would recognize both at-grade and to at least 30 feet below-grade the symbolic space occupied by the Twin Towers. The openness of the site plan for the Memorial would recall the openness of the WTC Site as it now exists after the recovery efforts and the openness of the Austin J. Tobin Plaza at the center of the WTC. The size and the location of the Memorial reflect LMDC's commitment from the very beginning of its planning efforts to leave open the space at grade level where the Twin Towers once stood. The appropriateness of recognizing the footprints in this manner was expressed in the Memorial Competition Guidelines and supported by the

consulting parties, one of whom observed that “a footprint can be something that is written on the psyche or in the soul and on the heart and not necessarily always in steel and cement and concrete.”

Materials—Some physical remnants on the WTC Site possess integrity of materials. The original, now truncated, box beams outlining portions of the footprints of the Twin Towers are among the elements most frequently identified by the consulting parties and many others. The Proposed Action would allow access to bedrock and truncated box beam columns.

The slurry wall was also frequently mentioned by the consulting parties and many others. It was heavily damaged on September 11 and never designed or built to withstand being exposed to the elements as it now is. This wall was extensively altered during the recovery process in order to stabilize it as the bathtub was excavated. Except for the altered portions, the slurry wall cannot stand on its own if permanently exposed. Further, the recovery effort never contemplated the long-term exposure of the slurry wall. The Proposed Action would allow public access to a portion of the west slurry wall via a ramp descending from grade to bedrock. Exposing this portion of the slurry wall and making it accessible to the families and the public would avoid an adverse effect. Further, the proposed ramp would recall the temporary ramp, which has provided access to the bedrock since the bathtub was excavated by the recovery efforts.

The Hudson Tube that is visible on the eastern basement wall of the bathtub (but actually crushed behind the wall by the collapse of Tower Two), the remnants of the parking and service levels under 6 WTC at the north end of the bathtub, the heavily damaged stair and escalator platform on Vesey Street, and a specific elevator pit at the base of each tower were also identified by the consulting parties. However, none of these remnants are considered character-defining in relationship to the WTC as a symbol of American commerce or to the attacks or to the rescue and recovery efforts. They each lack functional integrity, and the remnants of the parking and service levels under 6 WTC also lack structural integrity. They were left in place during the recovery efforts for short-term practical reasons. It was the intent of the recovery operations to remove them. They were not intended to be returned to use or functional condition. All of these elements can be photographically recorded for use in the proposed Memorial Center. It is also possible that a portion of the Hudson tube could be retained for use in the Memorial Center.

Feeling—The WTC Site has been found to retain integrity of feeling. The surviving physical features at the site—including the bathtub area, slurry wall, and bases of the box beam columns—convey the tragedy and destruction that took place on September 11 because they have been revealed by the rescue and recovery efforts. However, as stated above, the importance of the transcending events of September 11 and in its aftermath the heroic rescue and unprecedented recovery efforts do not depend on the presence of the actual structures in and around which they took place.

The Proposed Action seeks to redevelop the entire destroyed WTC Site with history in mind, and the proposed Memorial has been designed to outline and establish at grade level the ground floors of the Twin Towers. At the bedrock level a special enclosure would be created to preserve the more than 12,000 human remains of victims of the WTC attacks that the Office of the Chief Medical Examiner has not been able to identify. The return of these human remains to rest at the WTC Site where these innocent individuals died would contribute to the feeling of the WTC Site as a historic resource. Further, as stated above, the Proposed Action would allow access to bedrock, the truncated box beam columns, and a portion of the slurry wall, thus avoiding an adverse effect on those elements that are considered to contribute to feeling.

Association—The WTC Site also retains integrity of association, which is the direct link between an important historic event and a historic property. The destruction of the WTC was the objective of the September 11 attacks, but despite the severity of the destruction and the thorough recovery and removal efforts, the WTC Site retains its quality of association with the profound events of that day. The Proposed Action has been designed specifically to reinforce that association.

IV. LMDC'S MEMORIAL AND PLANNING EFFORTS

LMDC is part of the association of historic events in response to the events of September 11. It was established by the Governor and the Mayor and funded by Congress to plan and create the Memorial and plan and coordinate the rebuilding of the WTC Site. The creation of LMDC for this purpose is part of the historic response to the tragedy. The culmination of LMDC's efforts will be to recognize the significance of the events and the site and to memorialize both.

Further from its inception, LMDC has engaged in an unprecedented level of public involvement. Public involvement has helped to ensure that the WTC Site's integrity of feeling and association is not diminished. As a result the Proposed Action would reconcile the need to recognize history, remember loss and reaffirm life in the aftermath of terror by developing a cohesive Memorial on the WTC Site that incorporates, while at the same time, transcends the over 4-acre area reserved for the Memorial. Even the open spaces proposed on the WTC Site are intended to recall the tragedy and the response.

In addition to the Memorial and the open spaces, the Proposed Action would create a Memorial Center to commemorate the WTC and to portray the pre-WTC history of the site, the circumstances that lead to the creation of the WTC, the engineering and design features that were part of the WTC construction, the events of September 11, the heroic, self-sacrificing efforts of the rescue workers, a large number of whom also became victims of the attacks, and the remarkable recovery efforts that have lead us to the redevelopment of the WTC Site as a symbol of American resilience and resolve.

The redevelopment of the WTC Site and the creation of the Memorial Center would also provide an opportunity to return a number of the artifacts that have been taken from the WTC Site thereby increasing the historic significance of the WTC Site and its value in teaching future generations.

Redevelopment of the WTC Site under the Proposed Action would thus create a living memorial for future generations for whom the tragedy of September 11 still resonates, and ensuring that Lower Manhattan retains its role as the financial capital of the world, an endeavor for which the WTC was originally created and the status of which was contributed to by many if not all of the victims.

V. PROPOSED FINDING

For the reasons set forth in Chapter 5 of the DGEIS and in the discussion above, LMDC proposed to find that the Proposed Action would not have an adverse effect on historic resources. *



New York State Office of Parks, Recreation and Historic Preservation
Historic Preservation Field Services Bureau
Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

February 9, 2004

Kevin M. Rampe, President
Lower Manhattan Development Corporation
One Liberty Plaza, 20th Floor
New York, New York 10006

Dear Mr. Rampe:

Re: LMDC
WTC Memorial and Redevelopment Plan
New York, New York
03PR02664

Thank you for requesting the comments of the New York State Historic Preservation Office (SHPO). The SHPO has reviewed the Final Determination of Eligibility for the World Trade Center Site in accordance with Section 106 of the National Historic Preservation Act of 1966, and the implementing regulations.

The SHPO appreciates the opportunity to attend and participate in the Section 106 Consulting Parties meetings on the Determination of Eligibility and for the World Trade Center Memorial and Redevelopment Plan. The meetings, and the Draft Determination of National Register Eligibility for the World Trade Center Site, which was shared with the SHPO and the Consulting Parties on January 21, 2004, have provided us with a good understanding of the intent of the document and the comments and concerns of the Consulting Parties. As is often the case, the SHPO has chosen to respond expeditiously to your submission in order to make our comments available as early as possible for the consideration of the Consulting Parties and the public.

Based upon this review, the SHPO concurs with the determination that the World Trade Center Site is eligible for the National Register of Historic Places. We recognize the unusual nature of this determination and appreciate the commitment and effort that was given to the evaluation. We are pleased to note that many of the suggestions and recommendations provided by the SHPO and the Consulting Parties were incorporated into the final determination of eligibility. In the opinion of the SHPO, the National Register criteria for evaluation and National Register guidelines were reasonably and appropriately applied to the evaluation of this unprecedented event and unique historic property. In addition to satisfactorily establishing the historical significance of the site, the determination provides sufficient information with regard to boundaries, features, and integrity to provide a basis for proceeding with the Section 106 review process.

Kevin Rampe
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Providing additional time for comment on the eligibility by the Consulting Parties is appropriate given the unprecedented nature of the determination, the national significance of the events that took place at the World Trade Center Site, and the growing interest in viewing those events from an historical perspective. Any effort to augment the historical context and factual basis for the determination will be worth the effort. Therefore, the SHPO supports LMDC's decision to extend the comment period on the determination of eligibility for an additional 30-days.

It is also true that the current determination of eligibility provides an adequate basis for moving forward. As such, we feel it is appropriate to proceed with the Section 106 process and concur that it is acceptable to share a proposed Determination of Effect with the Consulting Parties. In the opinion of the SHPO the Section 106 regulations do not preclude such an action, LMDC has provided reasonable justification for this approach, and Section 800.3(g) appears to indicate that the need for such an allowance is both envisioned and accommodated by the regulations.

The SHPO looks forward to continuing to participate in the Section 106 review of the World Trade Center Memorial and Redevelopment Plan. If you have any questions, please feel free to call me at (518) 237-8643 ext. 3255.

Sincerely,



Robert Kuhn
Assistant Director
Field Services Bureau

cc: HUD
FTA
FHWA



LMDC
Remember Rebuild Renew

Lower Manhattan Development Corp.
One Liberty Plaza, 20th Floor New York, NY 10006
Tel: 212.962.2300 Fax: 212.962.2431 TTY: 212.962.0045
www.renewnyc.com

February 6, 2004

Robert Kuhn
Assistant Director, Historic Preservation Field Services
New York State Office of Parks, Recreation and Historic Preservation
Peebles Island
PO Box 189
Waterford, NY 12188-0189

Re: World Trade Center Memorial and Redevelopment Plan

Dear Mr. Kuhn,

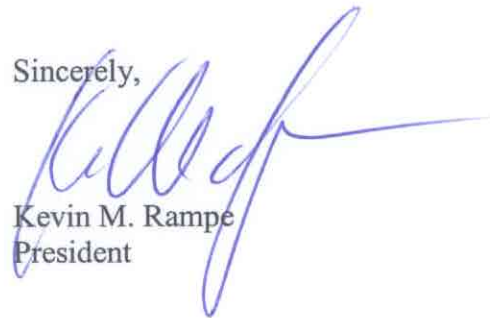
As you are aware, the Lower Manhattan Development Corporation ("LMDC") has initiated review of the proposed World Trade Center Memorial and Redevelopment Plan (the "undertaking") in accordance with Section 106 of the National Historic Preservation Act. As part of this review, a National Register evaluation of the World Trade Center Site has been coordinated with the Federal Transit Administration and the Federal Highway Administration. The New York State Historic Preservation Office (SHPO) has participated in meetings, hosted by LMDC and the federal agencies, with the Consulting Parties on January 6, 2004 and February 2, 2004 to review the potential eligibility of the World Trade Center Site for listing in the National Register of Historic Places. Following the meetings and receipt of written comments, the LMDC and the federal agencies have revised and finalized the determination of eligibility (enclosed). In accordance with Section 800.4(c)(2), the LMDC hereby seeks the SHPO's concurrence with the determination that the World Trade Center Site shall be considered eligible for the National Register for Section 106 purposes.

The National Register evaluation of the World Trade Center Site is unprecedented due to the recency of the events under consideration. We appreciate the valuable comments and recommendations provided by the SHPO and the Consulting Parties in furtherance of this finding. In the opinion of the LMDC, the final determination of eligibility represents a reasoned evaluation and inventory of the Historic Property, which is satisfactory for the purpose of proceeding with the Section 106 review of the undertaking. Nevertheless, we recognize that the unique nature of the determination continues to generate considerable interest on the part of the Consulting Parties and the public. Therefore, the LMDC and the federal agencies have agreed to provide an additional 30-day period to comment on the National Register eligibility determination. Further, LMDC intends to issue a proposed determination of effect for the undertaking on February 10 to proceed with the Section 106 process. The LMDC will provide the Consulting Parties with a 34-day comment period on its proposed determination of effect for the World Trade Center Memorial and Redevelopment Plan and intends to convene another meeting within the comment period in order to solicit and consider the views of the Consulting Parties.

The LMDC requests the SHPO's concurrence that it is appropriate to provide an additional 30-day period to review the determination of eligibility for the World Trade Center Site while the LMDC proceeds with a proposed determination of effect for its undertaking. We seek to provide the Consulting Parties with every opportunity to participate in the process while we continue to move forward with the planning for this undertaking on a schedule that meets and satisfies public expectations. It is our hope that the SHPO will recognize the value of this approach and consider it to be procedurally acceptable under Section 800.3(g).

The SHPO's timely response to these requests would be greatly appreciated. If you have any questions or comments concerning any of these matters, LMDC would be happy to discuss them with you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin M. Rampe", with a long horizontal flourish extending to the right.

Kevin M. Rampe
President

Enclosure

— LEGAL NOTICE —

**NOTICE OF PROPOSED FINDING OF NO ADVERSE EFFECT UNDER SECTION 106
OF THE NATIONAL HISTORIC PRESERVATION ACT**

**FOR THE WORLD TRADE CENTER MEMORIAL AND REDEVELOPMENT PLAN
IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK, NY - February 9, 2004**

The Lower Manhattan Development Corporation (LMDC) is considering a World Trade Center Memorial and Redevelopment Plan (Proposed Action) consisting of a World Trade Center Memorial and memorial-related improvements, up to 10 million square feet of above-grade Class A office space, plus associated below-grade parking, storage, mechanical, loading, and other non-office space, up to 1 million square feet of retail space, a hotel with up to 800 rooms and up to 150,000 square feet of conference space, new open space areas, museum and cultural facilities, and certain infrastructure improvements.

The Proposed Action would be located in Lower Manhattan on a Project Site consisting of the World Trade Center Site (WTC Site) and the Adjacent Sites in Lower Manhattan, New York, New York. The WTC Site is an approximately 16 acre parcel bounded by Liberty Street, Church Street, Vesey Street, and Route 9A. The Adjacent Sites include the Southern Site and the below-grade portion of Site 26 at Battery Park City. The Southern Site comprises two adjacent blocks south of the WTC Site — one bounded by Liberty, Washington, Albany, and Greenwich Streets, and the other bounded by Liberty, Cedar, and Washington Streets and Route 9A — and portions of two streets: Liberty Street between those blocks and the WTC Site, and Washington Street between Cedar and Liberty Streets. Site 26 is half the block bounded by North End Avenue, Murray and Vesey Streets, and Route 9A on the eastern side of the Embassy Suites Hotel.

In accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, 36 CFR Part 800, LMDC, as the recipient of Community Development Block Grant program funds from the United States Department of Housing and Urban Development, is considering the potential effects of the Proposed Action on historic resources that are listed on or may be eligible for listing on the National Register of Historic Places. After consulting with the New York State Office of Parks, Recreation and Historic Preservation and other consulting parties, LMDC proposes to find that the Proposed Action will not have an adverse impact on any such historic resource for purposes of Section 106 review.

Any individual, group, or agency wishing to comment on this proposed finding may submit written comments to LMDC by 5 PM EDT on March 15, 2004. Comments should be sent to:

Lower Manhattan Development Corporation
Attention: Comments WTC Memorial and
Redevelopment Plan/Section 106 Review
One Liberty Plaza, 20th Floor
New York, NY 10006

Information regarding the Proposed Action and the Section 106 review and copies of the draft generic environmental impact statement (DGEIS) for the Proposed Action and the determination of the eligibility of the WTC Site for listing on the National Register of Historic Places are available on LMDC's website: www.RenewNYC.com in the "Planning, Design & Development" section, or by contacting William H. Kelley, Planning Project Manager, Lower Manhattan Development Corporation, One Liberty Plaza, 20th Floor, New York, NY 10006; Telephone: (212) 962-2300; Fax: (212) 962-2431; E-mail: wtkenvironmental@renewnyc.com. Copies of the DGEIS and documents related to the Section 106 review are also available for public review at the following locations:

Chatham Square Library 49-51 Chambers Street
33 East Broadway #715
New York, NY 10002 New York, NY 10007

New Amsterdam Library Community Board #2
9 Murray Street 3 Washington Square
New York, NY 10007 Park
New York, NY 10012

Hamilton Fish Library Community Board #3
415 East Houston Street 59 East 4th Street
New York, NY 10002 New York, NY 10003

Hudson Park Library
66 Leroy Street
New York, NY 10007

Kevin M. Rampe, President
Lower Manhattan Development Corporation