



City Planning will assign and stamp reference numbers here

Land Use Review Application

Department of City Planning



150213ZSM

APPLICATION NUMBER

Received by Central Intake on December 30, 2014

APPLICATION NUMBER

APPLICATION NUMBER

1. APPLICANT AND APPLICANT'S REPRESENTATIVES

Tower Management Holdings LLC

Valerie G. Campbell, Esq.

APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION) *

APPLICANT'S PRIMARY REPRESENTATIVE

2450 Broadway Boulevard, 6th Floor

Kramer Levin Naftalis & Frankel LLP

STREET ADDRESS

REPRESENTATIVE'S COMPANY/AGENCY OR OTHER ORGANIZATION

Santa Monica CA 90404

1177 Avenue of the Americas

CITY

STATE

ZIP

STREET ADDRESS

AREA CODE TELEPHONE # FAX#

New York NY 10036

CITY

STATE

ZIP

212 715-9183 212 715-8000

AREA CODE TELEPHONE #

FAX#

vcambbell@kramerlevin.com

RECEIVED

* List additional applicants below:

JAN - 8 2015

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

BY COMMUNITY BOARD 8

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)
ADDITIONAL APPLICANT REPRESENTATIVE

2. SITE DATA

(If the site contains more than one property complete the "LR Item 2. Site Data Attachment Sheet.")

20-22 East 71st Street

STREET ADDRESS

PROJECT NAME (IF ANY)

South side of E 71st St, on the block bounded by E 70th and E 71st Streets and 5th and Madison Aves

DESCRIPTION OF PROPERTY BY BOUNDING STREETS OR CROSS STREETS

C5-1(MP)

8c

EXISTING ZONING DISTRICT (INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY)

ZONING SECTIONAL MAP NO(S)

Block 1385, Lot 57

Manhattan

8

TAX BLOCK AND LOT NUMBER

BOROUGH

COMM DIST

Upper East Side Historic District, Special Madison Avenue Preservation District, Madison Ave BID

URBAN RENEWAL AREA, HISTORIC DISTRICT OR OTHER DESIGNATED AREA (IF ANY)

IS SITE A NEW YORK CITY OR OTHER LANDMARK? NO ☒ YES ☐ IF YES, IDENTIFY

3. DESCRIPTION OF PROPOSAL

(If the entire project description does not fit in this space, enter "see attached description" below and submit description on a separate sheet, identified as "LR item 3. Description of Proposal")

see attached description

4. ACTIONS REQUESTED AND FEES

(Check appropriate action(s) and attach supplemental form)

* No supplemental form required

- ☐ CHANGE IN CITY MAP.....MM \$
- ☐ ZONING MAP AMENDMENT.....ZM \$
- ☐ ZONING TEXT AMENDMENT.....ZR \$
- ☒ ZONING SPECIAL PERMIT.....ZS \$ 4,080.00
- ☐ ZONING AUTHORIZATION.....ZA \$
- ☐ ZONING CERTIFICATION.....ZC \$
- ☐ PUBLIC FACILITY, SEL./ACQ.....PF \$
- ☐ DISPOSITION OF REAL PROP.....PD \$
- ☐ URBAN DEVELOP'T ACTION.....HA \$
- ☐ URBAN RENEWAL PROJECT.....* \$
- ☐ HOUSING PLAN & PROJECT.....* \$
- ☐ FRANCHISE.....* \$
- ☐ REVOCABLE CONSENT.....* \$
- ☐ CONCESSION.....* \$
- ☐ LANDFILL.....* \$
- ☐ OTHER (Describe) \$

- ☐ MODIFICATION \$
- ☐ FOLLOW-UP \$
- ☐ RENEWAL \$
- ☐ OTHER \$
- APPLICATION NO. \$
- APPLICATION NO. \$
- SPECIFY \$
- TOTAL FEE (For all actions) \$ 4,080.00

Make Check or Money Order payable to Department of City Planning

If fee exemption is claimed check box below and explain

☐ 12-30-14

Has pre-application meeting been held? ☐ NO ☒ YES

If yes Stephen Johnson 02/25/2014
DCP Office/Representative Date of meeting

5. ENVIRONMENTAL REVIEW

CITY ENVIRONMENTAL QUALITY REVIEW (CEQR) (Discuss with CEQR lead agency before completing)

LEAD AGENCY New York City Planning CommissionCEQR NUMBER 15DCP012M

TYPE OF CEQR ACTION:

☐ TYPE II

Type II category: _____

Date determination was made: _____

☒ TYPE IHas EAS been filed? Yes ☒ No ☐☐ UNLISTEDIf yes, Date EAS filed: July 18, 2014Has CEQR determination been made? Yes ☐ No ☒

If yes, what was determination?

Negative Declaration ☐CND ☐Positive Declaration ☐

Date determination made: _____

(Attach Copy)

If Positive Declaration, has PDEIS been filed? _____

Has Notice of Completion (NOC) for DEIS been issued? _____

If yes, attach copy. _____

If PDEIS has not been filed, has final scope been issued? _____

If yes, date issued: _____

6. COASTAL ZONE MANAGEMENTIS SITE IN STATE DESIGNATED COASTAL ZONE MANAGEMENT (CZM)? AREA? No ☐ Yes ☐**7. RELATED ACTIONS BY CITY PLANNING**

LIST ALL CURRENT OR PRIOR CITY PLANNING COMMISSION ACTIONS RELATED TO SITE:

APPLICATION NO.

DESCRIPTION/ DISPOSITION/STATUS

CAL. NO.

DATE

8. RELATED ACTIONS BY OTHER AGENCIES

LIST ALL OTHER CURRENT OR PRIOR CITY, STATE OR FEDERAL ACTIONS RELATED TO APPLICATION:

REFERENCE NO.

DESCRIPTION/ DISPOSITION/STATUS

CAL. NO.

DATE

LPC#16-4445

LPC Certificate of No Effect ("CNE")

161311

11/03/14

LPC#16-0984

LPC ZR Section 74-711 Report ("MOU")

164453

11/03/14

LPC#16-4454

LPC Certificate of Appropriateness ("CoA")

164454

11/03/14

9. FUTURE ACTIONS REQUIRED

LIST ALL FUTURE CITY, STATE OR FEDERAL ACTIONS REQUIRED TO IMPLEMENT THE PROPOSED ACTION:

10. APPLICANT
(Attach authorizing resolution(s), if applicable)

Fady Bakhos

Secretary

NAME AND TITLE OF APPLICANT OR AUTHORIZED REPRESENTATIVE

SIGNATURE OF APPLICANT

DATE

Tower Management Holdings LLC

APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION (IF ANY)

11. CO-APPLICANTS

(Attach authorizing resolution(s), if applicable)

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE

SIGNATURE OF CO-APPLICANT

DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS

CITY

STATE

ZIP

TEL. NO.

FAX

NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE

SIGNATURE OF CO-APPLICANT

DATE

CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION

STREET ADDRESS

CITY

STATE

ZIP

TEL. NO.

FAX

ADMINISTRATIVE CODE

ANY PERSON WHO SHALL KNOWINGLY MAKE A FALSE REPRESENTATION ON OR WHO SHALL KNOWINGLY FALSIFY OR CAUSE TO BE FALSIFIED ANY FORM, MAP, REPORT OR OTHER DOCUMENT SUBMITTED IN CONNECTION WITH THIS APPLICATION SHALL BE GUILTY OF AN OFFENSE PUNISHABLE BY FINE OR IMPRISONMENT OR BOTH, PURSUANT TO SECTION 10-154 OF THE CITY OF NEW YORK ADMINISTRATIVE CODE.

NOTICE

THIS APPLICATION WILL BE DEEMED PRELIMINARY UNTIL IT IS CERTIFIED AS COMPLETE BY THE DEPARTMENT OF CITY PLANNING OR THE CITY PLANNING COMMISSION. ADDITIONAL INFORMATION MAY BE REQUESTED OF THE APPLICANT BY THE DEPARTMENT OF CITY PLANNING.

Department of City Planning

150213ZSM

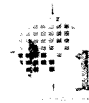
150213ZSM

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Special Permit/Authorization/Certification. . . .ZS/ZA/ZC

Department of City Planning



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APPLICATION NO.

(If more than five actions are being requested, enter "see attached" below, and list ALL PROPOSED ACTIONS in the same format as below on a separate sheet titled "Proposed Zoning Special Permits/ Authorization/ Certifications.")

Action(s) requested pursuant to ZR (Check one box for each proposed action)	Special Permit (ZS)	Authorization (ZA)	Certification (ZC)	PURSUANT TO:		TO MODIFY: SECTION NO. (If applicable)
				ZONING RESOLUTION SECTION NUMBER	ZONING RESOLUTION SECTION TITLE	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	74-711	Landmark preservation in all districts	23-851, 23-861
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			

HAS A DRAFT RESTRICTIVE DECLARATION BEEN INCLUDED WITH THIS APPLICATION? YES ☒ NO ☐

WILL ALL PARTIES IN INTEREST TO THE PROPERTY AGREE TO A RESTRICTIVE DECLARATION IF REQUIRED? YES ☒ NO ☐

Property ownership/ interest

CHECK APPLICABLE BOX(ES) (If more than one box is checked in the left column, please explain below).

APPLICANT:

- ☒ IS OWNER OF SUBJECT PROPERTY
☐ IS LESSEE OF SUBJECT PROPERTY
☐ HAS CONTRACT TO LEASE/BUY SUBJECT PROPERTY
☐ IS OTHER (explain real property interest below)

APPLICANT:

- ☐ IS A CITY AGENCY
☐ IS A STATE OR FEDERAL AGENCY

Discussion of findings

STATEMENT IN SUPPORT OF REQUIRED ZONING RESOLUTION FINDINGS/DECLARATION OF COMPLIANCE

(This is the same discussion/statement as in Attachment #11. If it fits below, it may be put here instead of in a separate attachment. If Attachment #11 has been completed, you may leave this area blank).

See Attachment #11 for Statement of Findings.



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



November 3, 2014

ISSUED TO:

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

RECEIVED

JAN - 8 2015

BY COMMUNITY BOARD 8

Re: LPC - 160984
MOU 16-4453
20 EAST 71ST STREET
HISTORIC DISTRICT
UPPER EAST SIDE
Borough of Manhattan
Block/Lot: 1385 / 57

At the Public Meeting of May 13, 2014, following the Public Hearing and Public Meeting of April 29, 2014, the Landmarks Preservation Commission voted to issue a report to the City Planning Commission ("CPC") in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution for modifications of bulk regulations at the building located at 20 East 71st Street. The Designated Building consists of a building designed in the neo-Italian Renaissance by C.P.H. Gilbert and built in 1922-23. The Designated Building is located in the Upper East Side Historic District.

In voting to issue a favorable report to the CPC, the LPC found that the applicant has agreed to undertake facade work to restore the Designated Building and bring it up to a sound, first-class condition, including cleaning and repairs to limestone and brick masonry, cleaning and refinishing of decorative metalwork and ironwork, repointing, window replacement, and repairs to the copper mansard roof and other sheet-metal elements; that the restorative work will bring the building up to a sound, first-class condition, aid in its long-term preservation, and reinforce the architectural and historic character of the building, the streetscape, and the historic district; that the owner of the building has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound, first-class condition; and that a Restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. The Declaration will be recorded at the New York County Registrar's Office.

The Declaration requires the Declarant to commission a qualified preservation professional, whose credentials are to be approved by LPC, to undertake inspections every four years of the Designated Building's exterior

and such portions of the interior, which, if not properly maintained, would cause the Designated Building to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Building in a sound, first-class condition within the stated time periods.

Please note that the restoration work must be completed and approved by the Landmarks Preservation Commission before the owners may apply for or accept a temporary Certificate of Occupancy or a permanent Certificate of Occupancy from the Department of Buildings for the area of the buildings and the vacant that are the subject of this special permit.

Please note that this Modification of Use is being issued in conjunction with Certificate of Appropriateness 16-4454 (LPC 16-1058), approving a proposal to install a guardrail at the rear roof of the building; and Certificate of No Effect 16-4455 (LPC 16-1311) approving façade repairs, window replacement, and roof work.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Olivia Braze.



Meenakshi Srinivasan
Chair

cc: Jared Knowles, Deputy Director, Preservation/LPC; Thomas Harrison, Owner



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



PERMIT

CERTIFICATE OF NO EFFECT

ISSUE DATE: 11/03/14	EXPIRATION DATE: 5/13/2020	DOCKET #: 161311	CNE #: CNE 16-4455
<u>ADDRESS:</u> 20 EAST 71ST STREET <u>HISTORIC DISTRICT</u> UPPER EAST SIDE		<u>BOROUGH:</u> MANHATTAN	<u>BLOCK/LOT:</u> 1385 / 57

Display This Permit While Work Is In Progress

ISSUED TO:

Thomas F. Harrison, Principal
Project Operation LLC
c/o Colony Capital, LLC
2450 Broadway Boulevard, 6th Floor
Santa Monica, CA 90404

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on October 31, 2014.

The approved work consists of restorative work at the primary and secondary facades, including cleaning of the limestone cladding and trim; selective patching and pinning repairs to cracked or spalled limestone; the removal of a flagpole installed at the front entrance without Landmarks Preservation Commission permit(s), and associated patching of the façade at the removal; selective retooling of delaminated stone; selective repointing of deteriorated masonry mortar joints; cleaning, stripping, and refinishing or repainting of all metalwork, including the basement window and door security grilles, the bronze-and-glass main entry door, and the bronze balcony at the third floor, all on the front façade, and the fifth-floor fence at the rear facade; the application of caulking and/or the installation of lead weather caps at all skyward-facing masonry joints; the installation of waterproofing and drainage systems at the second-, third-, and fourth-floor balconies; the repair or replacement in kind of copper drip edges at the mansard roof; selective soldering repairs to the copper mansard roof; at the rear façade, the removal of paint coatings and selective repointing of brickwork; at the roof; replacement of the roofing membrane; selective repair and repointing of cracked and deteriorated brick parapets, stair bulkhead walls, and chimneys; selective repair or replacement in kind of sheet-metal cladding at the stair bulkhead; selective cleaning and repointing at the eastern limestone-clad parapet wall; scraping, priming, and repainting the metal security fan-grilles at the eastern and western rear roof parapets; at the front façade, the replacement in kind of the wood casement windows at the basement floor, the wood

casement windows with double transoms at the first, second, and third floors, and the single-pane wood casement windows at the fourth floor; in kind replacement of all wood brickmolds; with the new windows and brickmolds to be painted beige (Benjamin Moore "Shaker Beige" HC-45) to match the historic color, as determined by paint analysis; at the rear façade, the removal of the non-historic French doors with fanlight transoms and infill spandrels from the square-headed openings at the first floor, and the installation of wood casement windows with double transoms within the existing openings; the removal of wood casement windows with louvered transoms from the second- and third-floor window openings, and the installation of wood casement windows with double transoms within the existing openings; the removal of single-pane casement windows from the fourth floor, and the installation of one-over-one double-hung wood windows within the existing openings; with the new windows and brickmolds to be painted beige (Benjamin Moore "Shaker Beige" HC-45) to match the historic color, as determined by paint analysis; and related non-restorative work, including the removal of a non-historic gate at the secondary basement entrance on the East 71st Street façade; the replacement of the metal sidewalk hatch at the front of the building; the removal of a standpipe at the base of the building; the installation of an intercom panel at the main entrance; the removal of a two-story greenhouse enclosure at the basement and first floors of the rear façade; the enlargement of window openings at the basement floor of the rear façade for the installation of a window wall; the construction of retaining walls with stone balustrades at the eastern and western rear-yard property lines, and the construction of new concrete slabs at the basement level and at grade; the installation of translucent pavers at grade within the rear yard; the installation of light fixtures at the first and fifth floors of the rear façade; the replacement of skylights and the installation of mechanical equipment at the roof; and the installation of a metal security fence at a portion of the eastern parapet wall; the reconstruction of a brick and limestone chimney at northeast corner of the roof; and interior alterations at the basement through sixth floors, as described in existing conditions and recommendations report dated February 26th, 2014 and written specifications, and shown in photographs and drawings labeled T-000.00, T-001.00, T-002.00, T-003.00, DM-100.00, DM-101.00, DM-102.00, DM-103.00, DM-104.00, DM-105.00, DM-106.00, DM-107.00, A-100.00, A-101.00, A-102.00, A-103.00, A-104.00, A-105.00, A-106.00, A-107.00, A-500.00, A-501.00, A-600.00, A-601.00, and A-610.00, dated October 15, 2014, prepared by Peter P. Marino, R.A.; and S-100.00, S-101.00, S-102.00, S-200.00 through S-206.00, M-100.00, M-101.00, M-150.00 through M-156.00, M-200.00 through M-207.00, M-300.00 through M-303.00, M-400.00, M-401.00, P-100.00 through P-105.00, P-200.00 through P-207.00, SP-100.00, and SP-200.00 through SP-207.00, dated October 15, 2014, and prepared by Edward J. Hanington, P.E..

In reviewing the proposal, the Commission noted that the Upper East Side Historic District designation report describes 20 East 71st Street as a neo-Italian Renaissance style residence designed by C.P.H. Gilbert and built in 1922-23; and that the building's style, scale, materials, and details are among the features contributing to the special architectural and historic character of the Upper East Side Historic District. The Commission further noted that Notice of Violation 05-0300 was issued on February 10, 2005, for the "installation of flagpole at East 71st Street facade without permit(s)".

With regard to the proposed work, the Commission finds that the removal of the flagpole will remove an unsympathetic alteration; that the proposed patching mortar will match the color, texture, finish and details of the original stone; that the proposed work will protect the building's façade and structure from future damage due to water infiltration and aid in the long term preservation of the building; that the removal of the greenhouse enclosure will not result in any damage to, or demolition of, a significant architectural feature of the rear façade or rear yard; that the window and door openings at the basement floor of the rear façade have been altered over time, and are not visible from the street; and that therefore the introduction of a window wall at the basement level will not detract from the special architectural and historic character of the building. The Commission further finds that the installation of the light fixtures will not cause damage to, or loss of any significant historic fabric; that the light fixtures are well scaled to the façade; that the finish of

the proposed light fixtures will not call undue attention to their presence; that there will be no visible electrical conduit; and that the installation of the intercom will not cause damage to, or loss of any significant historic fabric; that the intercom is well sealed to the façade; that the finish of the proposed intercom will not call undue attention to their presence; that there will be no visible electrical conduit; and that the reconstructed chimney will match the existing original chimney in terms of materials, dimensions, profiles, details, and ornamentation. Finally, the Commission finds that the proposed masonry units will match the historic masonry units in terms of size, color, texture and bond pattern; that the existing joints will be raked by hand or by a method that will not cause damage to the surrounding brick; that the proposed mortar will match the historic mortar in terms of size, color, texture and tooling; that the proposed patching mortar will match the color, texture, finish and details of the original stone; that the cleaning of the facades will be done in the gentlest effective method without causing damage to the masonry; that the water pressure will not exceed 500 psi; and that the proposed work will protect the building's façade and structure from future damage due to water infiltration and aid in the long term preservation of the building.

PLEASE NOTE that this permit is contingent upon the Commission's review and approval of samples of masonry cleaning, joint cutting method(s), pointing, limestone patching, replacement brick and metal refinishing, prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Submit digital photographs of all samples to obrazee@lpc.nyc.gov for review.

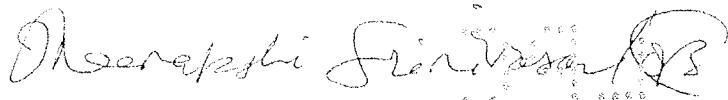
This permit is also contingent on the understanding that the work will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

PLEASE ALSO NOTE that this Certificate of No Effect is being issued in conjunction with Modification of Use 16-4453 (LPC 16-0984), approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use; and Certificate of Appropriateness 16-4454 (LPC 16-1058) approving a proposal to install a guardrail at the rear roof of the building.

The Commission has reviewed the application and these drawings and finds that the work will have no effect on significant protected features of the building.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The work is limited to what is contained in the perforated document. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fine. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Olivia Braze.



Meenakshi Srinivasan

Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:

Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

cc: Jared Knowles, Deputy Director, Preservation/LSPC



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



PERMIT

CERTIFICATE OF APPROPRIATENESS

ISSUE DATE: 11/03/14	EXPIRATION DATE: 5/13/2020	DOCKET #: 161058	COFA #: COFA 16-4454
<u>ADDRESS:</u> 20 EAST 71ST STREET <u>HISTORIC DISTRICT</u> UPPER EAST SIDE		<u>BOROUGH:</u> MANHATTAN	<u>BLOCK/LOT:</u> 1385 / 57

Display This Permit While Work Is In Progress

ISSUED TO:

Thomas F. Harrison, Principal
Project Operation LLC
c/o Colony Capital, LLC
2450 Broadway Boulevard, 6th Floor
Santa Monica, CA 90404

Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of May 13, 2014, following the Public Hearing of April 29, 2014, the Landmarks Preservation Commission voted to approve a proposal to install a guardrail at the rear façade, as put forward in your application completed on April 3, 2014, and as you were notified in Status Update Letter 15-7952 (LPC 15-4492), issued on May 20, 2014.

The proposal, as approved, consists of the installation of a black-painted metal guardrail at the rear roof parapet, to match the design of the existing historic black-painted metal fence at the fifth-floor rear facade terrace, as shown in digital presentation slides labeled 1 through 17, dated April 2, 2014, prepared by Li / Saltzman Architects, PC, submitted as components of the application and presented at the Public Hearing and Public Meeting.

In reviewing the proposal, the Commission noted that the Upper East Side Historic District designation report describes 20 East 71st Street as a neo-Italian Renaissance style residence designed by C.P.H. Gilbert and built in 1922-23; and that the building's style, scale, materials, and details are among the features contributing to the special architectural and historic character of the Upper East Side Historic District. The Commission further noted that Notice of Violation 05-0300 was issued on February 10, 2005, for the "installation of flagpole at East 71st Street facade without permit(s)".

With regard to this proposal, the Commission found that the proposed guardrail will match the design.

details, and finish of the existing guardrail at the rear fifth-floor roof terrace; that the proposed guardrail will be visible only in context with the rear facade and the rear facades of adjacent buildings, and from a considerable distance; and that the proposed guardrail will not detract from the significant architectural features of the building or the Upper East Side Historic District. Based on these findings, the Commission determined the work to be appropriate to the building and to the Upper East Side Historic District and voted to approve this application.

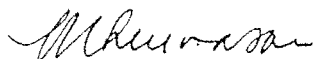
However, in voting to grant this approval, the Commission stipulated that two final signed and sealed Department of Buildings filing drawings showing the approved proposal be submitted to the Landmarks Preservation Commission for review and approval. Subsequently, on October 21, 2014, the Landmarks Preservation Commission received final drawings T-000.00, T-001.00, T-002.00, T-003.00, DM-100.00, DM-101.00, DM-102.00, DM-103.00, DM-104.00, DM-105.00, DM-106.00, DM-107.00, A-100.00, A-101.00, A-102.00, A-103.00, A-104.00, A-105.00, A-106.00, A-107.00, A-500.00, A-501.00, A-600.00, A-601.00, and A-610.00, dated October 15, 2014, prepared by Peter P. Marino, R.A.; and S-100.00, S-101.00, S-102.00, S-200.00 through S-206.00, M-100.00, M-101.00, M-150.00 through M-156.00, M-200.00 through M-207.00, M-300.00 through M-303.00, M-400.00, M-401.00, P-100.00 through P-105.00, P-200.00 through P-207.00, SP-100.00, and SP-200.00 through SP-207.00, dated October 15, 2014, and prepared by Edward J. Hanington, P.E.. Accordingly, the staff of the Commission reviewed the drawings, and found that the proposal approved by the Commission had been maintained. Based on this and the above findings, the drawings have been marked approved with a perforated seal, and Certificate of Appropriateness 16-4454 is being issued.

Please note that this Certificate of Appropriateness is being issued in conjunction with Modification of Use 16-4453 (LPC 16-0984), approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use; and Certificate of No Effect 16-4455 (LPC 16-1311) approving facade repairs, window replacement, and roof work.

Please note that NOV 05-0300 will remain in force against the property until the work approved under this permit is completed and inspected for compliance. Please submit photographs of the completed work to the Commission along with a letter from the building owner requesting a Notice of Compliance.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The work is limited to what is contained in the perforated document. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fine. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Olivia Brazee.



Meenakshi Srinivasan
Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:
Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

and such portions of the interior, which, if not properly maintained, would cause the Designated Building to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Building in a sound, first-class condition within the stated time periods.

Please note that the restoration work must be completed and approved by the Landmarks Preservation Commission before the owners may apply for or accept a temporary Certificate of Occupancy or a permanent Certificate of Occupancy from the Department of Buildings for the area of the buildings and the vacant that are the subject of this special permit.

Please note that this Modification of Use is being issued in conjunction with Certificate of Appropriateness 16-4454 (LPC 16-1058), approving a proposal to install a guardrail at the rear roof of the building; and Certificate of No Effect 16-4455 (LPC 16-1311) approving façade repairs, window replacement, and roof work.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Olivia Brazee.



Meenakshi Srinivasan
Chair

cc: Jared Knowles, Deputy Director, Preservation/LPC; Thomas Harrison, Owner

20-22 EAST 71ST STREET**RECEIVED**

December 30, 2014

JAN - 8 2015

BY COMMUNITY BOARD 8

1. Introduction

This statement is made on behalf of Tower Management Holdings LLC (the "Applicant") in support of an application to the City Planning Commission ("CPC" or "Commission") for a special permit pursuant to Section 74-711 of the New York City Zoning Resolution (the "Zoning Resolution" or "ZR") to facilitate the renovation of an existing 5-story building (the "Building") located at 20-22 East 71st Street in Manhattan (Block 1385, Lot 57) (the "Development Site" or "Project Area") and conversion of the Building to its original single-family residential use. The conversion will not affect the amount of floor area utilized by the Building. The Project Area is located within a C5-1(MP) zoning district and within the Special Madison Avenue Preservation District ("MP") and the Upper East Side Historic District. The Building is a contributing building to the historic district. As part of the ZR 74-711 special permit, the Applicant is requesting waivers of the provisions of (i) ZR 23-851 requiring a minimum inner court dimension of 30 feet, (ii) ZR 23-851 requiring a minimum inner court area of 1,200 square feet, and (iii) ZR 23-86 requiring a minimum distance of 30 feet to the lot line for legal windows.

2. Background

The Building is a 5-story neo-Italian Renaissance style townhouse designed by C.P.H. Gilbert and was commissioned by Julius Forstmann, a wealthy woollens manufacturer, as a single-family residence. C.P.H. Gilbert is a noted architect who designed many opulent homes for New York City's leading families. It was erected from 1922-1923 and is a contributing building to the Upper East Side Historic District. The original 1923 Certificate of Occupancy ("CO") describes it simply as "Dwelling".

Julius Forstmann lived in the Building until his death in 1938. In 1942, his heirs sold the Building to the Archdiocese of New York who used the Building as a multiple dwelling for the Catholic Center for the Blind. According to the 1943 and the 1987 CO's, the Building's basement housed a kitchen and dining rooms, its first floor included a living room and the floors above housed a mixture of bedrooms, dormitories and bath rooms as well as an infirmary, a community living room and store rooms. According to deeds for the Development Site, the Archdiocese sold the Development Site to 22 East 71st St. Realty Corp (a Canadian real estate investment company affiliated with Fieldhouse Realty Ltd. and T.T. 3 Inc.) in 1979. In 1982, T.T. 3 Inc. sold the Development Site to Instalaciones Inmobiliarias para Industrias, S.A. de C.V. (a subsidiary of PEMEX, the Mexican state owned oil and gas company), who then sold it to Twenty-Two E. 71st St. Associates (an affiliate of IMG Models) in 1984. It appears from contemporary newspaper reports that IMG Models occupied the Building at this time. A 1986 CO lists the Building as being occupied entirely by Use Group 6 offices on the basement through the 5th floors.¹ This conversion to Use Group 6 offices made the non-complying residence into a

¹ See Historical Overview prepared by Christopher Gray attached hereto as Exhibit A for a more detailed building history.

complying building. In 2004, Aby Rosen bought the Building and it was leased to an art gallery -- Salander-O'Reilly Galleries which filed for bankruptcy in 2007. The house was sold to the applicant in 2012 who purchased the building intending to restore it for use as a personal residence. It has been vacant since 2007.

From 1923 to at least 1979, the Building was either a single-family residence or a multiple dwelling with numerous bedrooms and other living rooms. The exterior of the Building and the distance between the Building and the buildings located to the rear (19 and 21 East 70th Street) does not appear to have been changed significantly over time. With the exception of the 1985 solarium extension², which appears to have been erected without permits and which will be removed, and the mechanical and bulkhead enclosure that was erected on the building's roof, the Building has not been expanded or otherwise extended into the rear yard since its original construction in 1923. The rear wall and windows are in their original location. The windows on the first through the fifth floors are quite large and meet current building code requirements for legal required windows in terms of their dimensions for the living spaces they will serve. Although our consultant, Christopher Gray, has been unable to locate the original plans or filing drawings at the Department of Buildings or through other sources, the description of the building in the Department of Buildings New Building Docket from 1922 clearly indicates that the original building was a dwelling that was 45 feet wide and 88 feet 4 inches deep. New York City Tax Assessment Records from 1925, 1930 and 1935 state that the Building's dimensions as being 45 by 88 feet on a 45 by 100 feet five inches lot. In addition, the landmaps from 1925, 1930 and 1974 show no change in the Building's depth. The depth of the Building and the location of the rear windows are typical of many of residential buildings constructed in the late 19th Century and early 20th Century. It is a very common condition in the Upper East Side Historic District, particularly for town houses and mansions.

In conjunction with the overall restoration and rehabilitation of the building, including façade repairs, window replacement, and roof work pursuant to Certificate of No Effect ("CNE") 16-4455 (LPC 16-1311) issued by the New York City Landmarks Preservation Commission ("LPC") on November 3, 2014 (submitted herewith) and the installation of a guardrail at the rear roof of the building pursuant to Certificate of Appropriateness ("CoA") 16-4454 (LPC 16-1058) issued by the LPC on November 3, 2014 (submitted herewith), it will be retrofitted with state of the art HVAC equipment. Because the rear wall of the building is original (other than the solarium slated for demolition above the basement floor), the demolition or relocation of the rear wall is not feasible due to structural and landmarks constraints. Restricting "living rooms" to the front of the building would render the rear 18 feet (the portion of the Building located within 30 feet of the Development Site's rear lot line) of the Building unusable for living purposes.

The review of the Building's history demonstrates that (i) it was built as a residence; (ii) that the distance between the rear lot line and the original rear wall and windows of the residence has not changed since its initial construction in 1923 and (iii) as of December 15, 1961 (the effective date of the New York City Zoning Resolution, as amended), the living rooms in the back of the building were not in compliance with ZR Section 23-861 which requires a distance of

² A New York Times article dated March 3, 1985 describes the work to convert the Building into offices, including construction of a greenhouse on the ground floor.

30 feet between any “legally required window” and a rear lot line or with the provisions of (x) Building Code Section 1205.2.5 which requires that exterior glazed opening shall open on a yard, court, plaza, or space above a setback that complies with Section 1206 and (y) Building Code Sections 1206.2 and 1206.3 which state respectively that yards and courts “shall not be less than the dimensions prescribed by the New York City Zoning Resolution and other applicable laws, rules, and regulations.” As of December 15, 1961, the rear windows of the Building faced upon a yard or open area that was an existing legally noncomplying condition for zoning purposes and which therefore complied with the referenced Building Code Sections. Commercial use after 1979 did not change the inherent physical conditions of this historic residential building. For these reasons, the restoration of its original residential use will not create any new noncompliance contrary to ZR Section 54-31 or Building Code Section 1206.2 and should be permitted.

3. Description of the Surrounding Area

The Project Area is located in the Borough of Manhattan, on the south side of East 71st Street, 25 feet west of Madison Avenue, on the block bounded by East 70th Street, Fifth Avenue, East 71st Street and Madison Avenue in Community Board 8 in Manhattan. It is located entirely within a C5-1 zoning district and is in the Special Madison Avenue Preservation District (MP) in the Lenox Hill portion of the Upper East Side neighborhood of Manhattan. It is also within the boundaries of the Upper East Side Historic District and the Madison Avenue Business Improvement District (BID).

The surrounding area was largely developed in the late 19th century following the construction of Central Park. In particular, the area along Fifth Avenue attracted the city’s wealthiest industrialists, who built residences near the park. The structure adjacent to the west of the Project Area, 18 East 71st Street, is a six-story building with limestone facing that is designed in the neo-French Classic style. The structure adjacent to the east of the Project Area on a corner lot with frontages on East 71st Street and Madison Avenue, 870 Madison Avenue, is a five-story limestone building, designed in the neo-Italian Renaissance style. Each of these buildings is a contributing building to the Upper East Side Historic District. The buildings adjacent to the Project Area along East 71st Street, as well as those located across the street, are 5- or 6-story townhouses that were generally built between the 1890s and the 1930s and reflect this period of high-end residential development. While some of these townhouses have remained single-family residences, several have been converted into multi-family apartments:

22 East 71st Street - Converted Residences within 400 Ft. Radius

Block	Lot	Address	Dwelling Units	Built	Multi-Family conversion
1355	14	17 EAST 70 STREET	13	1906-1911	1942
1354	13	11 EAST 69 STREET	2	1924	2007
1354	48	30 EAST 70 STREET	8	1898-1897	1939
1354	51	837 MADISON AVENUE	9	1894	1953
1354	22	831 MADISON AVENUE	12	1895-1898	1957
1354	14	18 EAST 69 STREET	10	1892-1893	1980
1355	51	28 EAST 72 STREET	5	1897	1955
1354	25	23 EAST 69 STREET	8	1896-1898	1944
1354	43	34 EAST 70 STREET	9	1894-1895	1953
1354	23	25 EAST 69 STREET	13	1895-1898	1955
1355	14	15 EAST 71 STREET	2	1896-1898	1950
1354	28	29 EAST 69 STREET	5	1895-1898	1955
1355	51	16 EAST 72 STREET	5	1892-1894	1953
1355	52	16 EAST 71 STREET	16	1910-1911	1946

The remainder of the surrounding area contains a similar mix of historic single-family or multi-family townhouses in midblock areas along with larger apartment buildings located along the avenue frontages. The apartment buildings (from 12 to 20 stories) were largely developed later in the 20th century when apartment living became more popular among wealthy New Yorkers. The western end of the project block, facing Fifth Avenue, contains the Frick Collection; the building was formerly the mansion of industrialist Henry Clay Frick and is now a fine art museum.

In addition to residential uses, the surrounding area contains a number of commercial uses, particularly along Madison Avenue. High-end fashion stores and boutiques are particularly prominent in the area and are located on the lower floors of apartment buildings. A few stores are located in repurposed historic mansions, such as the former Gertrude Rhinelanders Waldo House located at 867 Madison Avenue. 867 Madison Avenue, along with a recently built French Beaux Arts-style building across the street at 888 Madison Avenue, contain the flagship stores of the Ralph Lauren fashion line. The surrounding area also contains St. James' Church, located at East 71st Street and Madison Avenue, a Gothic Revival-style church originally built in the 1880s, and several historic townhouses located along East 69th Street that are now foreign consulates. The headquarters of the Explorer's Club is located at 46 East 70th Street and contains lodging facilities, exhibition spaces, and a library.

Within the 600 foot study area are Fifth Avenue, Madison Avenue, Park Avenue and East 72nd Street. There are five bus lines that service the neighborhood, the M1, M2, M3, M4, and M72. These bus lines run uptown on Madison Avenue, downtown on Fifth Avenue along Central Park, and the M72 runs eastward on East 72nd Street. The M57 and M31 bus lines run along West 57th Street. Central Park is located within the 600 foot study area. The study area is located entirely within the Upper East Side Historic, with the westerly portion of the study area covering a portion of Central Park.

Individual landmarks located within 600 feet of the Project Area include the J. William and Margaretta C. Clark House (49 East 68th Street), the Percy and Maud H. Pyne House (680 Park Avenue), the Oliver D. and Mary Pyne Filler House (684 Park Avenue), the William and Frances Crocker Sloane House (686 Park Avenue), the Henry P. and Kate T. Davison House

(690 Park Avenue), the Gustav and Virginia Pagenstecher House (21 East 70th Street), the Dave Hennen and Alice Morris House (19 East 70th Street), the Alvin W. and Angeline Krech House (17 East 70th Street), the John Chandler and Corinne deBebian Moore House (15 East 70th Street), 11 East 70th Street, the Henry Clay and Adelaide Childs Frick House (now the Frick Collection and the Frick Art Reference Library, 1 East 70th Street and 10 East 71st Street), the Oliver Gould and Mary Brewster Jennings House (7 East 72nd Street), the Henry T. and Jessie Sloane House (9 East 72nd Street), and the Gertrude Rhinelanders Waldo House (867 Madison Avenue). Central Park was designated by LPC as a scenic landmark in 1974.

The Project Area is located entirely within a C5-1 zoning district in the Special Madison Avenue Preservation District (MP). The Special Madison Avenue Preservation District extends along Madison Avenue from East 61st Street to East 97th Street. The MP District was created in 1973 to preserve and reinforce the unique retail and residential character of Madison Avenue and the surrounding area from East 61st to East 96th Streets. Retail continuity is ensured for the famed specialty shops by mandating that the ground floor of buildings on Madison Avenue must be occupied by selected uses. The C5-1 district is bordered by an R8B district on the mid-blocks to the west and east (except within 100 feet of East 72nd Street). The R8B district also includes the Limited Height District (LH-1A) which limits buildings to a maximum height of 60 feet. The easternmost 125 feet of Fifth Avenue, the westernmost 100 feet of Park Avenue, and East 72nd Street (except within 100 feet of Madison Avenue which is a C5-1 district) are located within an R10 district in the Special Park Improvement District (PI).

The Project Area is located within the Upper East Side Historic District, established in 1981. In the late 18th century, following the Civil War, the area developed as a major retailing and commercial district. The Upper East Side Historic District is composed largely of the mansions, town houses, apartment houses, private carriage houses and garages, and institutional buildings erected by or for New York City's wealthiest citizens in the first decades of the 20th Century. The Upper East Side Historic District is listed on the State/National Registers of Historic Places (S/NR).

The Project Area and a portion of the study area located along Madison Avenue are located within the Madison Avenue Business Improvement District (BID), a public-private partnership established in 1996 covering the area along Madison Avenue retail corridor between East 57th Street and East 86th Street. The Madison Avenue BID operates several programs that seek to enhance the pedestrian experience and the local business environment, including supplemental security and street cleaning services, streetscape improvements, and promotional activities.

4/5. Description of the Project Area/Development Site

The Project Area (20-22 East 71st Street) is a 45 foot wide by 100.42 foot deep 4,519 square foot interior lot located on the south side of East 71st Street, 25 feet west of Madison Avenue, on Lot 57 in Block 1385. Block 1385 is bounded by East 71st Street, Fifth Avenue, East 70th Street and Madison Avenue. It is located within a C5-1 zoning district within the Upper East Side Historic District and the Special Madison Avenue Preservation District, and in Community District 8.

The Building is a 5-story neo-Italian Renaissance style townhouse designed by C.P.H. Gilbert and was commissioned by Julius Forstmann as a single-family residence. It contains 16,738 zoning square feet (3.7 FAR).

C5-1 zoning districts permit a maximum floor area ratio (“FAR”) of 10.0 for residential and community facility use, a basic maximum FAR of 4.0 for commercial use, and a basic maximum FAR of 10.0 for any combination of residential, commercial (not exceeding 4 FAR) and community facility uses. Permitted uses in the C5-1(MP) zoning district are residential uses in Use Groups 1 and 2; community facility uses in Use Groups 3 and 4; transient hotels in Use Group 5; and retail and other commercial uses in Use Groups 6 and 9 through 11.

6. Description of the Proposed Development

The Applicant is proposing to convert Building, which has been vacant since 2007, to its original use as a single-family residence. The existing Building is 16,738 square feet (3.7 FAR). The proposed conversion which involves the removal of the non-historic solarium at the rear would not affect zoning square footage of the Building (3.7 FAR). The Building has a stone façade with a rusticated ground floor and an arched front entrance. The second story windows have stone balustrades. The third floor’s center window has an iron balcony. A stone balustrade separates the third and fourth floors. The Building has a mansard roof with arched dormers. A non-original one-story solarium extends from the building’s rear façade into the yard area (i.e., inner court per the Zoning Resolution).

Because the Building predates the existing zoning regulations, it contains features that do not conform to the zoning requirements for residential uses. In particular, the building’s rear windows are 11 feet 11 inches from the rear lot line rather than the 30 feet now required by Section 23-86 of the Zoning Resolution. In addition, the open area at the rear of the building, which is considered an inner court for zoning purposes, does not provide the minimum dimension of 30 feet or the minimum of 1,200 square feet of space required for inner courts under Section 23-851 of the Zoning Resolution. The proposed ZR 74-711 special permit would waive the requirements for minimum inner court dimension, minimum inner court area, and minimum distance to the lot line for legal windows.

The proposed conversion would include the restoration and repair of the exterior of the Building pursuant to the CNE and CoA issued by the LPC and will also include certain interior alterations. The proposed façade repair work (as further described in the Modification of Use 16-4453 (LPC 16-0984) (“MOU”) issued by the LPC on November 3, 2014 (submitted herewith), would not substantially alter the Building’s appearance or historic character but would restore the building’s north and south facades. Exterior restoration work (as described in the MOU) would include, but would not be limited to: cleaning the limestone front façade and brick and stone rear façade, repointing deteriorated mortar joints and repairing cracks in the front and rear facades, replacing windows with new wood windows to match the original operation and configuration, cleaning and painting the ironwork, cleaning the bronze balcony railing and entry door grilles, repairing or replacing the skylights, and repairing the copper bulkhead roof, and installing a new fence at the roof parapet (pursuant to the CoA) to match the existing balcony

roof. In addition, the non-original one-story solarium on the Building's rear that occupies a portion of the yard area would be removed. The area of the rear façade that would be affected by the removal of the solarium would be renovated and new doors would be installed to replace the existing interior grade doors. Overall, the proposed façade repair work would not change the overall character of the Building or the Upper East Side Historic District.

The modifications to the rooftop mechanical components and skylights would not remove any significant features of the Building. A new guardrail designed to match the existing fence at the 5th floor balcony would be installed at the roof parapet in order to comply with current building codes pursuant to the CoA. The rooftop modifications would not substantially alter the context of the Building or the surrounding buildings in the Upper East Side Historic District as the rooftop modifications would not be visible from nearby street level vantage points. Therefore, the proposed conversion would not result in any substantial contextual or visual impacts on the Building and the proposed alterations would be compatible with the surrounding buildings in the Upper East Side Historic District.

7. Action(s) Necessary to Facilitate the Project

This Application requests a special permit pursuant to ZR Section 74-711 to waive the following sections of the Zoning Resolution to allow for the conversion of the Building to its original residential use:

- ZR Section 23-861 (Minimum Distance Between Buildings): requiring a minimum distance of 30 feet to the lot line for legal windows; and
- ZR Section 23-851 (Minimum Dimensions of Inner Courts): requiring a minimum inner court dimension of 30 feet and minimum inner court area of 1,200 square feet.

An as-of-right conversion back to residential use is not permitted because (i) the distance from the original rear façade of the Building to the rear lot line at only 11 feet 11 inches is less than the minimum required 30 feet, and (ii) the area in the rear of the Building with a depth of 11 feet 11 inches and a total area of 536 square feet is less than the required minimum 30 foot dimension and 1,200 square foot area for inner courts. This is the original condition as built and would be a permitted legally noncomplying condition if the use had not changed. However, because the use was changed to office use, the conversion back to residential use is prohibited since it would create a zoning noncompliance as none of the rear windows could be used for habitable rooms (bedrooms, living rooms etc.).

8. Conclusion

Based on the foregoing, we respectfully request that the Commission grant the special permit described herein pursuant to Zoning Resolution Sections 74-711 to allow the conversion of the Building back to its original residential single-family use. The requested bulk modifications will enable the Building to be returned to its original single-family residential use, which would otherwise require the demolition of the historic rear wall as well as significant interior architectural features such as the grant staircase. The requested actions are consistent with the existing land uses in the surrounding area, which are predominantly residential.

Exhibit A

Historical Overview

20-22 East 71 st Street - Historical Overview		
Compiled from sources at the Department of Buildings, the Department of Housing, Preservation and Development, digitized newspapers and other serials, and census and map records. Christopher Gray, March 28, 2013		
DATE	EVENT	SOURCE
1922	Construction as a private house: Filing at the Department of Buildings, New Building application NB 244 of 1922, one 5-story dwelling, 45' [frontage] x 88'-4" [deep] x 70' high; 45' x 100' plot; Owner: Julius Forstmann, a textile executive; Architect: Charles P. H. Gilbert Application filed April 21, 1922; commenced July 26, 1922; no completion date, but no other applications bear completion dates either in this period.	<i>Department of Buildings New Buildings Docket Book, at the Municipal Archives.</i>
1923	Certificate of Occupancy #7205, dated October 22, 1923, for a "dwelling"	On file at DoB
1925	Forstmann loses a suit he brought to restrain the erection of a business building on NE corner of Madison & 70 th . Forstmann alleged that a previous restrictive clause allowed only single family dwellings to be built on that property until 1929. Defendants alleged that Forstmann broke that clause by leasing an existing corner building to physicians who carried on a medical practice on the site.	<i>NY Times</i> May 10, 1925, page 22
1925, 1930 and 1974	Landmaps in these years show that the building was originally built to its present depth, and not extended.	
1939	Julius Forstmann dies at his residence at age 68. Had amassed \$50 million fortune	<i>NY Times</i> , October 28, 1939, page 1 st
1940	1940 Census: Adolphine Forstmann, widow, aged 61, lives in house with 6 servants.	1940 United States Census
1941	"Occupied by one family"	Department of Housing Preservation and Development - I-Card

1941	Sale by the Forstmann family: Forstmann family sells house for \$300,000 in cash transaction (part of four properties sold by Forstmann heirs); "occupied by the Forstmann family until last year."	<i>NY Times</i> January 9, 1942, page 38
1942	Joseph L. Finis & Co. purchases the building and property from the Forstmann estate for \$325,000 cash.	<i>The New York Sun</i> January 9, 1942, page 43
1942	End of single family occupancy; converted to a home for the blind. Plans filed at the Department of Buildings "directing partitioning; relocating electrical fixtures"; owner: Catholic Center for The Blind.	Alteration 561 of 1942, as reported in <i>The Record and Guide Quarterly</i>
1943	Certificate of Occupancy #29733, dated March 26, 1943. Describes the building as a Class B multiple dwelling, with a kitchen, seven dormitories and 17 bedrooms.	On file at DoB
1943	17 sleeping room(s) Class B converted dwelling	Department of Housing Preservation and Development - I-Card
1948	Building vacant and locked.	Department of Housing Preservation and Development - I-Card
1967	Alteration 216 of 1967 filed, "General alterations", owner: Catholic Charities of The Archdiocese of N.Y. Catholic Center for the Blind.	Alteration 216 of 1967 as reported in <i>The Record and Guide Quarterly</i>
1981	Unoccupied by this date; controversy over proposed project to build 15-story apartment tower at site.	<i>NY Times</i> November 20, 1981
1984	Alteration 797 of 1984 filed at the Department of Buildings: "General alterations" - apparently for a subsequent owner, conversion to offices.	Alt 797 of 1984 as reported in <i>The Record and Guide Quarterly</i>
1985	"Work is underway to turn the building into ... offices ... Robert Liebreich, architect for the conversion, said plans include construction of a half-floor addition at the fifth level, a greenhouse on the ground floor, and a skylight in the roof ..." Mr. Liebreich confirmed to me in a telephone conversation that he has no original drawings of the house.	New York Times, March 3, 1985
1986	Certificate of Occupancy #08426, dated April 7, 1986, entire building classed as "offices"	On file at DoB
1986	Classed as "offices"	Department of Housing Preservation and Development - I-Card

Special Permit Pursuant to ZR Section 74-711
Applicant's Discussion of Conditions

74-711

Landmark preservation in all districts

In all districts, for *zoning lots* containing a landmark designated by the Landmarks Preservation Commission, or for *zoning lots* with existing *buildings* located within Historic Districts designated by the Landmarks Preservation commission, the City Planning Commission may permit modification of the *use* and *bulk* regulations, except *floor area ratio* regulations, provided that:

(a) The following conditions are met:

- (1) any application pursuant to this Section shall include a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject *building* or *buildings*, and that such *use* or *bulk* modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;**

At the public meeting on May 13, 2014, the Landmarks Preservation Commission (the "Commission") voted to approve a request that the Commission issue a report to the City Planning Commission in support of this application for a special permit pursuant to Section 74-711 of the Zoning Resolution for modifications of bulk regulations. This application includes such report dated November 3, 2014 (Modification of Use 16-4453 (LPOC 16-0984)) supporting this application for a special permit pursuant to Section 74-711 of the Zoning Resolution to allow the proposed bulk modifications, a copy of which report is submitted herewith. The report states that a program has been established for the continuing maintenance of the landmark building located at 20-22 East 71st Street (Block 1385, Lot 57), Manhattan (the "Designated Structure") and that such program contributes to a preservation purpose. In particular, the Commission found that the proposed restorative work to the landmark building will bring the landmark building up to a sound, first-class condition, aid in its long-term preservation and reinforce the architectural and historic character of the building, the streetscape, and the Upper East Side Historic District (the "Historic District"); and that the implementation of a cyclical maintenance plan (the "Continuing Maintenance Program") will ensure the continued maintenance of the building in a sound, first-class condition.

The restoration work to the landmark would consist of a comprehensive exterior restoration program for the Designated Structure, including work on the front façade, rear façade and roof to bring the Designated Structure to a sound, first-class condition, including cleaning the limestone front façade and brick and stone rear façade, repointing deteriorated mortar joints and repairing cracks in the front and rear facades, replacing windows with new wood windows to match the original operation and configuration, cleaning and painting the ironwork, cleaning the bronze balcony railing and entry door grilles, repairing or replacing the skylights, and repairing the copper bulkhead roof, as described in Certificate of No Effect ("CNE") 16-4455 (LPC 16-1311) issued by the Commission on November 3, 2014, a copy of which is submitted herewith, and the

installation of a guardrail at the rear of the building, as described in Certificate of Appropriateness (“CoA”) 16-4454 (LPC 16-1058) issued by the Commission on November 3, 2014, a copy of which is submitted herewith. The Commission found that the proposed work will restore the Designated Structure to its historic appearance and serve to prevent further deterioration and contribute to the long term preservation of the Designated Structure.

Further, the long-term preservation of the Designated Structure will be guaranteed through the Continuing Maintenance Program. The Applicant will bind itself and its successors in interest, to perform the Continuing Maintenance Program through a legally enforceable restrictive declaration to be recorded against the property. This will ensure that the Designated Structure will continue to add to the special character of the Upper East Side Historic District.

Under the Continuing Maintenance Program, the Designated Structure’s owner or its successor in interest shall engage a preservation architect, engineer or other qualified person to perform an inspection of the Designated Structure every five years. The periodic inspection shall include review of the Designated Structure’s brick masonry, stone masonry, windows, cornices, bronze balconies and rails, roof and parapet. The preservation architect, engineer or other qualified person shall submit a report on each periodic inspection to the owner and the LPC outlining the existing conditions of the Designated Structure and detailing the work that should be performed in order to maintain the Designated Structure in a sound first-class condition. The owner or its successor in interest shall perform the repairs, rehabilitation and repointing detailed in the report.

(2) any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the Landmarks Preservation Commission stating that such *bulk* modifications relate harmoniously to the subject landmark *building* or *buildings* in the Historic District, as applicable; and

The requested bulk modifications relate to existing historic conditions and do not require any modifications to the envelope of the Designated Structure. Accordingly, no Certificate of Appropriateness is required for the requested bulk modifications.

As described above, copies of the Report describing the Continuing Maintenance Program, the CNE for the proposed restoration work, and the COA for the installation of a new metal railing similar to historic railings to meet code requirements at the rear façade roof as further described in the Project Description (LR Item 3) are submitted herewith.

(3) the maximum number of *dwelling units* shall be as set forth in Section 15-111 (Number of permitted dwelling units).

One dwelling unit with a floor area of 16,738 square feet is proposed. This complies with the requirements of Section 15-111 and Section 23-22 of the Zoning Resolution which, based on a Dwelling Unit Factor of 790 for R10 zoning districts and residential floor area of 16,738 square feet, would permit up to 21 dwelling units.

**Special Permit Pursuant to ZR Section 74-711
Attachment #11
Applicant's Statement of Findings**

74-711

Landmark preservation in all districts

In all districts, for *zoning lots* containing a landmark designated by the Landmarks Preservation Commission, or for *zoning lots* with existing *buildings* located within Historic Districts designated by the Landmarks Preservation Commission, the City Planning Commission may permit modification of the *use* and *bulk* regulations, except *floor area ratio* regulations, provided that:

* * * *

(b) In order to grant a special permit, the City Planning Commission shall find that:

(1) such *bulk* modifications shall have minimal adverse effects on the structures or *open space* in the vicinity in terms of scale, location and access to light and air;

As further discussed in the Discussion of Conditions, the building located at 22 East 71st Street (Block 1385, Lot 57), Manhattan (the "Designated Structure"), is a contributing structure within the Upper East Side Historic District.

The requested bulk modifications include waiver of the requirements of (i) Section 23-861 of the Zoning Resolution of the City of New York ("ZR" or "Zoning Resolution") (minimum distance from a window to lot line) requiring a minimum distance of 30 feet to the lot line for legal windows, (ii) ZR Section 23-851 (minimum dimensions for courts) requiring a minimum inner court area of 1,200 square feet, and (iii) ZR 23-851 (minimum dimensions for courts) requiring a minimum inner court dimension of 30 feet.

As a result of the office use beginning in the 1980's, the Designated Structure's certificate of occupancy no longer permits residential use. An as-of-right conversion back to residential use is not permitted because (i) the distance from the rear of the Designated Structure to the rear lot line at only 11 feet 11 inches is less than the minimum required 30 feet, and (ii) the area in the rear of the Designated Structure with a depth of 11 feet 11 inches and a total area of 536.25 square feet is less than the required minimum 30 foot dimension and 1,200 square foot area for inner courts. This is the original condition as built and would be a permitted legally noncomplying condition if the use had not changed. However, because the use was changed to office use, the conversion back to residential use is prohibited since it would create a zoning noncompliance as none of the rear windows could be used for habitable rooms (bedrooms, living rooms etc.).

The proposed bulk waivers do not involve modifications to the floor area or building envelope for the Designated Structure (other than the removal of the non-historic solarium and the installation of a new railing on the roof of the Designated Structure to comply with building code requirements). The proposed floor area of 3.7 FAR is less than the maximum 10.0 FAR

permitted in the C5-1(MP) zoning district. Since no changes are being made to the Designated Structure's existing floor area and building envelope, granting the requested modifications will not adversely affect the Designated Structure or other structures or open space in the vicinity in terms of scale, location and access to light and air.

The requested modifications will enable the Designated Structure to be returned to its original single family residential use, which would otherwise require the demolition of the historic rear wall as well as significant interior architectural features such as the grand staircase. The Landmarks Preservation Commission ("LPC") approved the proposed removal of the solarium as detailed in the Certificate of No Effect ("CNE") 16-4455 (LPC 16-1311) issued by the LPC on November 3, 2014 (submitted herewith) and the installation of a new metal railing similar to historic railings to meet code requirements at the rear façade roof, as detailed in the Certificate of Appropriateness ("CoA") 16-4454 (LPC 16-1058) issued by the LPC on November 3, 2014 and submitted herewith, finding that its materials and other design features are compatible with the special architectural and historic character of the Upper East Side Historic District.

(2) such *use* modifications shall have minimal adverse effects on the conforming *uses* within the *building* and in the surrounding area.

The proposed Use Group 2 residential use in the Building is a permitted conforming use. No use modification is requested. This finding is not applicable to this Application.

The City Planning Commission may prescribe appropriate additional conditions and safeguards which will enhance the character of the *development* and *buildings* on the *zoning lot*.

[KL 12/15/2014]

RECEIVED

JAN - 8 2015

BY COMMUNITY BOARD 8

20-22 EAST 71ST STREET

DECLARATION

Dated: As of _____, 20__

Location: Block 1385, Lot 57
New York County, New York

Record & Return to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attn: Valerie G. Campbell, Esq.

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DECLARATION made as of the ____ day of _____, 20__ by Project Operation LLC, having an address at c/o Thomas F. Harrison, Principal, Colony Capital, LLC, 2450 Broadway Boulevard, 6th Floor, Santa Monica, CA 90404 (“Declarant”).

W I T N E S S E T H:

WHEREAS, Declarant is the owner in fee of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 1385, Lot 57 on the Tax Map of the City of New York and by the street address 20-22 East 71st Street, and is more particularly described on Exhibit A attached hereto (the “Subject Property”) and on which is located a five-story building (the “Designated Structure”); and

WHEREAS, Declarant proposes to renovate the Designated Structure; and

WHEREAS, the Subject Property together with the Designated Structure constitutes the Subject Premises (the “Subject Premises”); and

WHEREAS, _____ (“Title Company”) has certified as of _____, 20__, that Declarant and _____ (“Mortgagee”) are the sole parties-in-interest (“Parties in Interest”), as that term is defined in the zoning lot definition in Section 12-10 of the Zoning Resolution (as hereinafter defined), to the Subject Premises, a copy of which certification is attached hereto as Exhibit B; and

WHEREAS, the sole Parties in Interest to the Subject Premises have therefore either executed this Declaration or waived their right to do so; and

WHEREAS, by the instrument attached hereto as Exhibit C, Title Company has determined that as of _____, 20__ there has been no change in the certification attached as Exhibit B, and Declarant represents and warrants that the Parties in Interest listed in Exhibit C are the only known Parties in Interest in the Subject Premises as of the date hereof; and

[WHEREAS, the Mortgagee has executed a Waiver of Execution of Restrictive Declaration and Subordination to Declaration, a copy of which is attached hereto as Exhibit D and is to be recorded simultaneously with this Declaration; and]

WHEREAS, pursuant to the provisions of Section 3020 of the New York City Charter and Title 25, Chapter 3 of the Administrative Code of the City of New York (the "Landmark Preservation Law"), the Landmarks Preservation Commission (the "LPC") has designated an area which includes the Designated Structure as the Upper East Side Historic District because of its special character or historical or aesthetic interest or value; and

WHEREAS, pursuant to Application No. _____, dated _____, 20____ (the "Application"), Declarant has applied to the City Planning Commission of the City of New York (the "CPC") for a special permit pursuant to Section 74-711 of the Zoning Resolution (the "Special Permit"), to modify the bulk regulations of (i) ZR Section 23-86 (minimum distance from a window to lot line) requiring a minimum distance of 30 feet to the lot line for legal windows, (ii) ZR Section 23-851 (minimum dimensions for courts) requiring a minimum inner court area of 1,200 square feet, and (iii) ZR 23-851 (minimum dimensions for courts) requiring a minimum inner court dimension of 30 feet.

WHEREAS, at a public hearing held on April 29, 2014, Declarant requested that the LPC issue a report to the CPC in connection with the Application; and

WHEREAS, at the public meeting held on May 13, 2014, following said public hearing, the LPC voted to issue the report to the CPC as requested in connection with the Application, and subsequently issued report MOU 16-4453 (LPC 16-0984), dated November 3, 2014 (the "LPC Report") annexed hereto as Exhibit E; and

WHEREAS, at the public meeting on May 13, 2014, the LPC also voted to grant a Certificate of Appropriateness for the installation of a black-painted metal guardrail at the rear roof parapet of the Designated Structure, and subsequently issued COFA 16-4454 (LPC-161058), dated November 3, 2014 (the "COA") annexed hereto as Exhibit F; and

WHEREAS, the LPC has also issued a Certificate of No Effect on Protected Architectural Features (CNE 16-4455 (LPC-161311) for restorative work on the Designated Structure, dated November 3, 2014 (the "CNE") annexed hereto as Exhibit G; and

WHEREAS, Section 74-711 of the Zoning Resolution requires, inter alia, that a program has been established for continuing maintenance (the "Continuing Maintenance Program") that will result in the preservation of the Designated Structure; and

WHEREAS, Declarant has agreed to certain obligations and restrictions contained in this Declaration for the protection, preservation, repair and maintenance of the Designated Structure; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Premises may be developed, restored, and operated in order to assure the protection, preservation, repair and maintenance of the Designated Structure; and

WHEREAS, Declarant represents and warrants that there are no restrictions, liens, obligations, covenants, easements, limitations or encumbrances of any kind, the requirements of which have not been waived or subordinated, which would prevent or preclude, presently or potentially, the imposition of the restrictions, covenants, obligations, easements and agreements of this Declaration;

NOW, THEREFORE, Declarant does hereby declare and agree that the Subject Premises shall be held, sold, transferred, conveyed and occupied subject to the following restrictions,

covenants, obligations, easements, and agreements, all of which are for the purpose of protecting the Subject Premises, which shall inure to the benefit of the City of New York, and which shall run with the Subject Premises and bind Declarant and its heirs, successors and assigns so long as they have a right, title or interest in the Subject Premises or any part thereof.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

1.1 “Application” shall mean the application to the City Planning Commission for the Special Permit.

1.2 “Buildings Department” shall mean the New York City Department of Buildings, or any successor to the jurisdiction thereof.

1.3 “Chairperson of the CPC” shall mean the Chairperson of the City Planning Commission of the City of New York or any successor to the jurisdiction thereof.

1.4 “Chairperson of the LPC” shall mean the Chairperson of the Landmarks Preservation Commission of the City of New York or any successor to the jurisdiction thereof.

1.5 “City” shall mean the City of New York.

1.6 “City Council” shall mean the New York City Council or any successor to the jurisdiction thereof.

1.7 “CPC” shall mean the New York City Planning Commission, or any successor to the jurisdiction thereof.

1.8 “Declarant” shall mean the named Declarant and the heirs, successors and assigns of the named Declarant including, without limitation, any owner of a condominium unit within the Designated Structure, except that Declarant shall not be deemed to include (i) a mortgagee of all

or any portion of the Subject Property until it succeeds to the interest or obligation of Declarant by purchase, assignment, foreclosure or otherwise, or (ii) a tenant of the Subject Premises, unless such tenant holds a lease to all or substantially all of the Subject Premises.

1.9 “DCP” shall mean the New York City Department of City Planning or any successor to the jurisdiction thereof.

1.10 “Designated Structure” is defined in the first Whereas Clause set forth above.

1.11 “Effective Date” is defined in Section 4.1(a) hereof.

1.12 “Force Majeure” shall mean: strike, lockout or labor dispute(s); inability to obtain materials or reasonable substitutes therefore unless due to any act or failure to act by Declarant; acts of God; unforeseen governmental restrictions, regulations, omissions or controls; enemy or hostile government actions; civil commotion, insurrection, revolution or sabotage; fire or other casualty; inclement weather of such a nature as to make performance or completion of the Landmark Work not feasible unless due to any act or failure to act by Declarant; any damage to the Subject Premises of such a nature as to make completion of the Landmark Work not feasible; a taking of the Subject Premises, or a portion thereof, by condemnation or eminent domain; failure of a public utility to provide power, heat or light; unusual delay in transportation; material delays by the City, State or United States Government, or any agency or instrumentality thereof, in the performance of any work or processing or approval of any applications required in order to permit Declarant to carry out its obligations pursuant to this Declaration unless due to any act or failure to act by Declarant; denial to Declarant by any owner of an enforceable interest in adjoining real property, including any private fee owner or ground lessee of adjoining real property, or any agency of the City or State having an enforceable interest in adjoining real property, including sidewalk or streets, of a right

to access to such adjoining real property, if such access is required to accomplish the obligations of the Declarant pursuant to this Declaration; the pendency of a litigation not initiated by Declarant or similar proceeding which suspends or materially and adversely affects the ability of the Declarant to accomplish the obligations of the Declarant pursuant to this Declaration; or other conditions similar in character to the foregoing which are beyond the control of Declarant. No event shall constitute a Force Majeure unless Declarant complies with the procedures set forth in Sections 2.2 and 6.2 hereof.

1.13 “Landmark Work” is defined in Section 2.1(a) hereof.

1.14 “LPC” shall mean the Landmarks Preservation Commission of New York City or any successor to the jurisdiction thereof.

1.15 “Party(ies)-in-Interest” shall mean any party-in-interest listed in Exhibit B and any other party-in-interest to the Subject Premises who has given written notice of its name and address to the CPC and the LPC.

1.16 “PCO” is defined in Section 2.2(b) hereof.

1.17 “Special Permit” is defined in the recitals of this Agreement.

1.18 “Special Permit Space” shall mean floors 1 through 5 in the Designated Structure.

Notwithstanding the foregoing, no space shall be deemed Special Permit Space if it is permitted as of right within the Subject Premises by the terms of the Zoning Resolution then in effect.

1.19 “TCO” is defined in Section 2.2(b) hereof.

1.20 “Zoning Resolution” shall mean the Zoning Resolution of the City of New York, effective December 15, 1961, as amended.

ARTICLE II

DEVELOPMENT, PRESERVATION, REPAIR AND

MAINTENANCE OF THE DESIGNATED STRUCTURE:

PROJECT COMPONENTS RELATED TO THE ENVIRONMENT

2.1 Certificate of Occupancy.

(a) The "Landmark Work" shall be a comprehensive exterior restoration program for the Designated Structure, including work on the front façade, rear façade and roof to bring the Designated Structure to a sound, first-class condition:

Front Façade:

- Clean limestone façade using the most effective, least deleterious method, based on field testing;
- Repoint open and deteriorated mortar joints with mortar to match the visual and physical characteristics of the original mortar;
- Repair cracks in limestone after addressing underlying cause, e.g. corrosion of metal anchors;
- Repair or provide new copper drip edge at copper roof;
- Repair balcony drainage, flashing/roofing;
- Clean bronze balcony railing;
- Replace windows with new wood windows with laminated insulated glazing to match original operation and configuration, brickmolds, and sills;
- Remove flagpole and patch holes with composite repair material matching adjacent stone in color, texture, and tooling;
- Prepare, prime and paint ironwork;
- Clean bronze and glass doors;
- Refurbish existing security gate at service entry;
- Retool delaminated stone; and
- Provide weathercaps at horizontal joints of projection.

Rear Façade:

- Remove paint from brick on lower two floors;
- Clean brick of rear façade using the most effective, least deleterious method, based on field testing;
- Repoint open and deteriorated mortar joints with mortar to match the visual and physical characteristics of the original mortar;
- Repair cracks in brick or replace brick with new to match after addressing underlying cause;
- Retool delaminated stone lintels;
- Replace windows with new wood windows with laminated insulated glazing to match original operation and configuration; and
- Prepare, prime and paint ironwork.

Roof:

- Clean brick and limestone using the most effective, least deleterious method, based on field testing;
- Replace face brick with new to match at chimneys and bulkheads where extensive cracking is exhibited;
- Rebuild chimney at northeast corner using new brick and salvaged limestone to match original configuration;
- Repoint open and deteriorated mortar joints with mortar to match the visual and physical characteristics of the original mortar;
- Repair damaged limestone;
- Retool delaminated stone;
- Prepare, prime and paint ironwork;
- Remove existing roofing and provide new membrane roofing;
- Repair or replace skylights;
- Repair previous poor patches in copper-clad bulkhead with copper to match original configuration;
- Repair door head in copper-clad bulkhead;
- Provide new metal railing similar to historic railings to meet code requirements; and
- Repair open seams in copper as required.

The issuance of the Special Permit is premised on, inter alia, the agreement by Declarant to the performance of the Landmark Work in conformity with the CNE, the LPC Report, and the requirements thereof.

(b) The Declarant shall give written notice to the Chair of the LPC seven (7) days prior to applying to the Buildings Department for a temporary certificate of occupancy ("TCO") or permanent certificate of occupancy ("PCO") for the Special Permit Space. No TCO or PCO for the Special Permit Space shall be granted by the Buildings Department or accepted by Declarant until the Chairperson of the LPC shall have given written notice to the Buildings Department that the Landmark Work has been satisfactorily completed by Declarant or the Chairperson of the LPC has certified in writing, as provided in Section 2.2(d) hereof, that (a) a Force Majeure has occurred and (b) the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Premises. The Chairperson of the LPC shall issue said notice in the exercise of his or her reasonable judgment and reasonably promptly after Declarant has made written request to the Chairperson of the LPC and has provided documentation to support such request, and the Chairperson of the LPC shall in all events endeavor to issue such written notice to the Buildings Department, or inform Declarant in writing of the reason for not issuing said notice, within fourteen (14) calendar days after Declarant has requested such written notice. Upon receipt of the written notice from the Chairperson of the LPC that (i) the Landmark Work has been satisfactorily completed or (ii) the Chairperson of the LPC has certified that a Force Majeure has occurred and that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO, the Buildings Department may grant, and Declarant may accept, a TCO or PCO for the Designated Structure. In the event that the Buildings Department shall grant to Declarant, or Declarant shall accept, a TCO or PCO for

the Designated Structure in violation of the terms of this Declaration, the Declarant shall at the request of the Chair of the LPC immediately relinquish and forfeit such TCO or PCO. Notwithstanding anything to the contrary contained herein, the Chairperson of the LPC shall declare that the Landmark Work has been satisfactorily completed notwithstanding that minor and insubstantial details of construction or mechanical adjustment remain to be performed.

(c) Declarant shall permit inspection of the Designated Structure by the Chairperson of the LPC and representatives designated by the Chairperson of the LPC in connection with the notice described in Section 2.2(b) hereof.

(d) (i) Upon application by Declarant, notwithstanding anything contained in any other provision of this Declaration, the Chairperson of the LPC, in the exercise of his or her reasonable judgment, may certify that the performance or completion of the Landmark Work is delayed due to a Force Majeure as provided in paragraph (ii) below.

(ii) In the event that Declarant reasonably believes that full performance of its obligations to complete the Landmark Work has been delayed as a result of a Force Majeure, Declarant shall so notify the Chairperson of the LPC as soon as Declarant learns of such circumstances. Declarant's written notice shall include a description of the condition or event, its cause (if known to Declarant), its probable duration, and in Declarant's reasonable judgment, the impact it is reasonably anticipated to have on the completion of the Landmark Work. The Chairperson of the LPC shall, within fourteen (14) calendar days of its receipt of Declarant's written notice, (A) certify in writing that a Force Majeure has occurred, including a determination of the expected duration of such delay (the "Delay Notice"), and grant Declarant appropriate relief for such delay, including certifying in writing to the Buildings Department that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as

appropriate, all or part of the Subject Premises, or (B) notify Declarant that it does not reasonably believe a Force Majeure has occurred. With respect to any claim that a Force Majeure has delayed the Declarant's performance or completion of the Landmark Work, the LPC may require that Declarant post a bond or other security in a form and amount acceptable to the Chairperson of the LPC in order to ensure that the Landmark Work is completed. Such alternative security could include, without limitation, alternative or additional conditions on the issuance of any PCO or TCO. Any delay caused as the result of a Force Majeure shall be deemed to continue only as long as the Declarant shall be using reasonable efforts to minimize the effects thereof. Upon cessation of the events causing such delay, the Declarant shall promptly recommence the Landmark Work.

(e) Notwithstanding anything else to the contrary contained herein, this Declaration shall not be deemed to prohibit or restrict Declarant from (i) applying for or receiving a TCO or a PCO for any floor area in the Designated Structure which is not to within the Special Permit Space; or (ii) obtaining permits or building notices from the Buildings Department to perform work, including tenant work, in the Designated Structure prior to the completion of the Landmark Work; or (iii) entering into agreements affecting all or any portions of the space in the Designated Structure prior to completion of the Landmark Work.

2.2 Preservation, Repair and Maintenance. Declarant hereby covenants and agrees to preserve, repair and maintain the Designated Structure in sound first-class condition, at its own cost and expense, in accordance with this Declaration, the MOU and the Landmarks Preservation Law. It is understood that certain obligations and duties set forth in this Declaration are above and beyond the requirements of the Landmarks Preservation Law and do not in any way

diminish Declarant's obligation and responsibility to comply with all provisions of the Landmarks Preservation Law.

2.3 Continuing Maintenance Program. Declarant shall comply with the obligations and restrictions of the continuing maintenance program (the "Continuing Maintenance Program") as set forth below:

(a) Periodic Inspections. Declarant shall establish and carry out a cyclical inspection and maintenance program for the Designated Structure which shall include, without limitation, the following:

(i) At Declarant's expense, an inspection (the "Periodic Inspection") shall be made every five years, on or within thirty (30) days of the anniversary of the issuance by the LPC of the Notice of Compliance pursuant to the MOU, and thereafter, shall be made on or within thirty (30) days of the fifth anniversary of the date of such initial or subsequent inspection. In the event that Declarant has accepted a TCO or a PCO for the Special Permit Space without having first received the Notice of Compliance, the first periodic inspection shall be made on or within thirty (30) days of the fifth anniversary date of the issuance of such TCO or PCO and every five years thereafter. The Periodic Inspection shall be done by a preservation architect, engineer or other qualified person knowledgeable about the preservation of historic structures (the "Preservation Architect") selected by Declarant from a list prepared by Declarant and approved by the Chairperson of the LPC as to their credentials, which approval shall not be unreasonably withheld or delayed. Declarant shall update such listing upon the request of the Chairperson of the LPC. In addition, Declarant may periodically supplement the list of Preservation Architects, subject to the reasonable approval of the Chairperson of the LPC as to their credentials. The Preservation Architect shall make a thorough inspection of the exterior of

the Designated Structure as well as those portions of the Designated Structure's interior that are accessible to the owner and, if not properly maintained, could affect the condition of the exterior, including, but not limited to interior systems such as heating, plumbing and air conditioning. The Periodic Inspection shall include (but not be limited to) the following portions of the Designated Structure: front façade, rear façade, and roof.

(ii) The Preservation Architect shall, at the expense of Declarant, submit a report on each Periodic Inspection (the "Periodic Report") to Declarant and the LPC within 45 days after each Periodic Inspection. The Periodic Report shall outline the existing conditions of the Designated Structure and detail the work which should be performed in order to maintain the Designated Structure, including all architectural features and elements, in a sound first-class condition.

(iii) Submission of Local Law 10 & 11 Facade Inspection Report. If the Designated Structure is subject to the Facade Inspection Report requirements of Title 1 RCNY §32-03 et seq., a copy of any such Facade Inspection Report which is submitted to the New York City Department of Buildings, shall also be provided at the same time to the Landmarks Preservation Commission. In the event that the building is found to be unsafe pursuant to such inspection, the Declarant shall notify the Landmarks Preservation Commission simultaneously with the Department of Buildings, pursuant to Title 1 RCNY §32-03(b)(2)(vii).

(iv) Except as set forth below, Declarant shall perform all work which a Periodic Report, Facade Inspection Report or Emergency Incident Report (as defined below) identifies as necessary to maintain the Designated Structure, including architectural features and elements, in sound first-class condition. No work shall be performed except pursuant to a permit from the LPC if a permit is required under the Landmarks Preservation Law. If the LPC

determines that a specific item of work or method of work as set forth in a Periodic Report, Facade Inspection Report or Emergency Incident Report would be inappropriate or inadequate, the determination of the LPC shall control and Declarant need not and shall not have such specific item performed. Declarant shall have the right to contest in a hearing before the LPC any work called for in a Periodic Report or Emergency Incident Report. Declarant's obligation to perform such contested work or to perform it by a method acceptable to the LPC shall be stayed pending a decision in any such proceeding at the LPC. Declarant shall proceed with all work that is uncontested during the stay pursuant to a permit.

(v) Unless Declarant has notified the LPC in writing that it contests any work as set forth in the preceding paragraph, Declarant shall apply for all necessary permits or certificates from the LPC within 45 days of receiving the completed report from the Preservation Architect. Declarant shall use its best efforts to assure that all repairs, rehabilitation, repointing and restoration work detailed in the Periodic Report or Emergency Incident Report shall be completed at the earliest possible date, but no later than within nine months of the date of issue of the certificate or permit from the LPC, or, if no such certificate or permit is required, within nine months of the date of the Periodic Report or Emergency Incident Report. If for reasons beyond Declarant's control, as determined by the Chairperson of the LPC, in the exercise of his or her reasonable judgment, such work cannot be completed within nine months, Declarant shall apply to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time to be related to the period of delay and shall not be unreasonably withheld.

(b) Emergency Protection Program. Declarant shall establish and be prepared to carry out an emergency protection program for the Designated Structure which shall include at the minimum, the following:

(i) If a fire, the elements or any other cause whatsoever damages or destroys the Designated Structure or any part thereof (the “Emergency Incident”), Declarant shall use all reasonable means to save, protect and preserve the Designated Structure at the time of and following the Emergency Incident, including, but not limited to, acting with an approval from the Chairperson of the LPC or his or her designated representatives to stabilize and prevent further damage to or deterioration of the structure, and to secure the Subject Premises from unauthorized access. Declarant shall not remove from the Subject Premises any debris consisting of exterior features of the Designated Structure without an approval from the Chairperson of the LPC or his or her designated representative. Unless necessitated as a safety precaution as ordered by the Departments of Buildings, Health, Fire or Police, or as an action taken in response to a life-threatening situation, the Declarant shall not remove any other debris or otherwise clear the Subject Premises without the approval of the LPC or its Chairperson.

(ii) Declarant shall give immediate written notice of such Emergency Incident to the LPC. Declarant shall also give timely notice to the LPC of the time or times when the New York City Departments of Buildings, Health and Fire will inspect the Subject Premises following the Emergency Incident, in order that the LPC may have a representative present during such inspections.

(iii) Within sixty days of such Emergency Incident, a Preservation Architect shall, at the expense of Declarant, make a thorough inspection of the Designated Structure and submit a report (an “Emergency Incident Report”) to Declarant and to the LPC outlining the

condition of the structure, assessing the extent of damage, and recommending (A) work, if any, which must be undertaken immediately, upon receipt of proper permits, in order to stabilize and prevent further damage to the Designated Structure, and (B) work that should be performed to repair and restore the Designated Structure to a sound, first-class condition or, alternatively to (A) and (B), that Declarant make an application to the LPC for permission to demolish the remaining portions of the Designated Structure.

(iv) With regard to the work to be performed pursuant to subparagraph (iii)(A), Declarant shall immediately upon receipt of the Emergency Incident Report request and vigorously pursue all necessary permits and upon their issuance, shall undertake all such work with alacrity. If no permits are required, work shall be undertaken as soon as possible after receipt of the Emergency Incident Report.

(v) With regard to the work to be performed pursuant to subparagraph (iii)(B), within ninety days of receiving the report of the Preservation Architect, Declarant shall apply for all necessary permits and certificates from the LPC to repair and restore or to demolish. No work on the exterior of the Designated Structure, and no work on the interior of the Designated Structure which would affect the exterior or which would require the issuance of a permit from the Department of Buildings shall be performed except pursuant to a permit from the LPC. If the LPC determines that a recommendation to demolish or to perform a specific item of work or method of work set forth in the report would be inappropriate, using the criteria set forth in the Landmarks Preservation Law, the determination of the LPC shall control and the Declarant shall not have such specific work performed or be entitled to have the Designated Structure demolished unless Declarant is obligated to perform such work or demolish the structure in accordance with an "Immediate Emergency Declaration" issued by the Department of Buildings.

All repairs, restoration, rehabilitation, repointing and other work provided for in a certificate or permit shall be completed within nine months of the date of issue of such certificate or permit by the LPC. If such work cannot be completed within nine months for reasons beyond Declarant's control, as determined by the Chairperson of the LPC in the exercise of his or her reasonable judgment, Declarant shall apply in writing to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time that is related to the period of the delay and shall not be unreasonably withheld.

(c) Access to Designated Structure. Declarant agrees to provide access to the Designated Structure to the LPC and its designated representatives at reasonable times and upon reasonable written notice, except in cases of emergency, in which event the LPC or its representatives shall have access, if feasible, immediately and without notice, in order to insure that the preservation, repair and maintenance of the Designated Structure is carried out in accordance with this Declaration.

(d) Failure to Perform. In the event that the preservation, repair, or maintenance of the Designated Structure is not performed in accordance with the provisions of this Article, the LPC shall give written notice of such failure to perform to the Declarant. Subject to the provisions of Section 4.4 hereof, in the event that Declarant, its successors or assigns, fails after sixty days from receipt of written notice from the LPC to perform or shall commence to perform but fail diligently to prosecute to completion any such repair and/or maintenance, or any obligations of Declarant set forth in this Declaration, the City of New York may perform all of the necessary work at the sole cost and expense of the Declarant and shall have the right to enter onto the Subject Premises and to charge said Declarant for all the actual cost of such work, together with actual administrative and legal fees incurred in the collection thereof. The City's

actual costs hereunder shall include, but not be limited to, payments by the City of New York to any lawyers, consultants, contractors, painters, engineers, architects and skilled artisans required to be hired to perform or supervise such work. To the extent such actual costs are expended by the City of New York, the LPC shall have a lien on the Subject Premises as if a lien had been filed, perfected and enforced for materials and labor under Article 2 of the Lien Law of the State of New York. Notwithstanding the foregoing, in the event that the Designated Structure is converted to a condominium, Declarant's right to notice and cure provided in this subsection shall apply only to the condominium board and to any owner of space occupied by retail uses in the Designated Structure; provided that the LPC has received notice by said parties in accordance with Section 6.2.

ARTICLE III

CONDOMINIUM BOARD

3.1 General. These provisions shall apply in the event that a Condominium is established in accordance with the New York State Real Property Law.

3.2 Board. Declarant shall require that each owner of a condominium unit (the "Unit Owner") appoint Declarant as his or her Attorney-in-Fact with respect to modification, amendment, or cancellation of the Declaration.

3.3 Condominium Declaration. Every deed conveying title to, or a partial interest in, the Subject Premises and every lease of all or substantially all of the Subject Premises shall contain a recital that the grantee is bound by the terms of the condominium declaration and By-laws which shall be amended to incorporate an obligation by Declarant to comply with the provisions of Article 3 of this Declaration.

ARTICLE IV
EFFECT AND ENFORCEMENT

4.1 Effective Date.

(a) This Declaration shall have no force and effect unless and until the occurrence of one of the following, to be referred to as the “Effective Date”: (a) the expiration of 21 days after the Special Permit has been approved if no review is undertaken by the City Council pursuant to Section 197-d of the New York City Charter or (b) the date of final approval of the Special Permit pursuant to Sections 197-c and 197-d of the New York City Charter. The Declaration shall become immediately effective upon the Effective Date. If, before the Effective Date, Declarant requests or causes the application for the Special Permit to be withdrawn or abandoned, or if final action has been taken having the effect of denying the Special Permit, then, upon notice to CPC and LPC, this Declaration shall not become effective, shall be automatically canceled and shall be of no force and effect.

(b) If the Special Permit is at any time declared invalid or is otherwise voided by final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such entry, as the case may be, this Declaration shall be automatically canceled without further action by Declarant and shall be of no further force or effect and the CPC shall, if requested by Declarant, provide Declarant with a letter in recordable form stating that the Declaration has been so canceled and is of no further force and effect.

4.2 Filing and Recordation. Declarant shall file and record at its sole cost and expense this Declaration in the Register’s Office, indexing it against the Subject Property, immediately

upon the Effective Date. Declarant shall promptly deliver to the CPC and the LPC duplicate executed originals, promptly following the Effective Date and, following recordation, a true copy of this Declaration as recorded, as certified by the Register. If Declarant fails to so record this Declaration, the City may record this Declaration, at the sole cost and expense of Declarant, who shall promptly pay to the City such costs together with fees for purchase of a reasonable number of certified copies of the recorded Declaration.

4.3 Additional Remedies. Declarant acknowledges that the City is an interested party to this Declaration, and consents to enforcement by the City, administratively or at law or equity, of the restrictions, covenants, easements, obligations and agreements contained herein. Declarant also acknowledges that the remedies set forth in this Declaration are not exclusive, and that the City and any agency thereof may pursue other remedies not specifically set forth herein including, but not limited to, the seeking of a mandatory injunction compelling Declarant, its heirs, successors or assigns, to comply with any provision, whether major or minor, of this Declaration.

4.4 Notice and Cure. (a) Before any agency, department, commission or other subdivision of the City of New York institutes any proceeding or proceedings to enforce the terms or conditions of this Declaration because of any violation hereof, it shall give Declarant forty-five (45) days written notice of such alleged violation, during which period Declarant shall have the opportunity to effect a cure of such alleged violation. If Declarant commences to effect a cure during such forty-five (45) day period and proceeds diligently towards the effectuation of such cure, the aforesaid forty-five (45) day period shall be extended for so long as Declarant continues to proceed diligently with the effectuation of such cure. In the event that title to the Subject Premises, or any part thereof, shall become vested in more than one party, the right to

notice and cure provided in this subsection shall apply equally to all parties with a fee interest in the Subject Premises, or any part thereof, including ground lessees; provided the LPC has received notice by said parties in accordance with Section 6.2. Notwithstanding the foregoing, in the event that the Designated Structure is or is converted to a condominium or cooperative, the right to notice and cure provided in this subsection shall apply only to the condominium or cooperative board and to any owner of space occupied by retail uses in the Designated Structure; provided that the LPC has received notice by said parties in accordance with Section 6.2.

(b) If Declarant fails to observe any of the terms or conditions of this Declaration, and the Declarant fails to cure such violation within the applicable grace period provided in subparagraph 4.4(a) of this Declaration, then prior to the institution by any agency or department of the City of any action, proceeding, or proceedings against Declarant in connection with such failure, a Mortgagee who has given written notice of its name and address to the CPC and the LPC shall be given thirty (30) days written notice of such alleged violation, during which period such Mortgagee shall have the opportunity to effect a cure of such alleged violation. If such Mortgagee commences to effect a cure during such thirty (30) day period and proceeds diligently towards the effectuation of such cure, the aforesaid thirty (30) day period shall be extended for so long as such Mortgagee continues to proceed diligently with the effectuation of such cure.

(c) If after due notice as set forth in this Section 4.4, Declarant and the Mortgagee fail to cure such alleged violations, the City may exercise any and all of its rights, including those delineated in this Section and may disapprove any amendment, modification, or cancellation of this Declaration on the sole grounds that Declarant is in default of any material obligation under this Declaration.

4.5 Acknowledgment of Covenants. Declarant acknowledges that the restrictions, covenants, easements, obligations and agreements in this Declaration, which are an integral part of the Special Permit, will protect the value and desirability of the Subject Premises as well as benefit the City of New York and all property owners within a one-half mile radius of the Subject Premises. Those restrictions, covenants, easements, obligations and agreements shall be covenants running with the land, and shall bind Declarant and its successors, legal representatives, and assigns.

4.6 No Other Enforceable Restrictions. Declarant represents and warrants that there are no enforceable restrictions of record on the use of the Subject Property or the Designated Structure, nor any present or presently existing future estate or interests in the Subject Property or the Designated Structure, nor any lien, obligation, enforceable covenant, limitation or encumbrance of any kind which precludes, directly or indirectly, imposition on the Subject Premises of the restrictions, covenants, easements and obligations of this Declaration.

4.7 Governance. This Declaration shall be governed by and construed in accordance with the laws of the State of New York.

4.8 Severability. In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction and the judgment of such court shall be upheld on final appeal, or the time for further review of such judgment on appeal or by other proceeding has lapsed, such provision shall be severable, and the remainder of this Declaration shall continue to be of full force and effect.

4.9 Applicability to Other City Agencies. Declarant covenants to include a copy of this Declaration as part of any application submitted to the LPC, CPC, Buildings Department, Board of Standards and Appeals (“BSA”), New York State Attorney General (in the event of a

proposed conversion of the Designated Structure to condominium ownership) or any agency succeeding to their respective jurisdictions. The restrictions and obligations contained herein are a condition of any permit or Certificate of Occupancy to be issued by the Buildings Department and Declarant will take all reasonable steps to ensure that they are so listed. Failure to carry out such obligation beyond any applicable grace period shall constitute sufficient cause for the Commissioner of the Buildings Department to revoke any building permit issued pursuant to the Special Permit or to apply to the BSA or to a court of competent jurisdiction for revocation of the Certificate of Occupancy or any permit issued by the Buildings Department.

4.10 Limitation of Liability. (a) Declarant shall be liable in the performance of any term, provision or covenant in this Declaration, subject to the following sentences and subject to Section 4.12 below. Notwithstanding anything to the contrary contained in this Declaration, the City and any other party or person relying on the Declaration will look solely to the fee estate and interest of Declarant in the Subject Property, on an in rem basis only, for the collection of any money judgment recovered against Declarant, and no other property of Declarant shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration, and Declarant shall have no personal liability under this Declaration. The liability of any Unit Owner under this Declaration shall be limited to the amount of such Unit Owner's prorated share, based on such Unit Owner's interest in the common elements of the Condominium, of the costs of compliance with this Declaration. For the purposes of this Section 4.10, "Declarant" shall mean "Declarant" as defined in Article I hereof, as well as any principals, disclosed or undisclosed, partners, affiliates, officers, employees, shareholders or directors of Declarant.

(b) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon Declarant, and any successors-in-interest thereto only for the period during which such party is the holder of a fee interest in or is a party-in-interest of the Subject Premises and only to the extent of such fee interest or the interest rendering such party a party-in-interest. At such time as Declarant has no further fee interest in the Subject Premises and is no longer a party-in-interest of the Subject Premises, such party's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of such party's interest and such party's successors-in-interest in the Subject Premises by acceptance of such conveyance automatically shall be deemed to assume such party's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

4.11 Subordination. Declarant shall cause every individual, business organization or other entity that between the date hereof and the date of recordation of this Declaration becomes a Party-in-Interest to the Subject Property, to execute this Declaration or to subordinate such interest to the Declaration and waive its right to execution. Any mortgage or other lien encumbering the Subject Property after the recording date of this Declaration shall be subject and subordinate hereto.

4.12 Right to Convey. Nothing contained herein shall be construed as requiring the consent of the CPC, the LPC, the City, any agency thereof or any other person or entity to any sale, transfer, conveyance, mortgage, lease or assignment of any interest in the Subject Property or the Designated Structure.

ARTICLE V

AMENDMENTS, MODIFICATIONS AND CANCELLATIONS

5.1 Amendment or Cancellation. Except as provided in paragraph 4.1 above, this Declaration may be amended or canceled only upon application by LPC on behalf of Declarant and only with the express written approval of the CPC and of the City Council, but only in the event that the City Council reviewed the Special Permit pursuant to Section 197-d, and no other approval or consent shall be required from any public body, private person or legal entity of any kind; provided, however, that no such approval shall be required in the case of any cancellation pursuant to paragraph 5.4.

5.2 Minor Modification. The Chairperson of the LPC and the Chairperson of the CPC may, by express written consent, administratively approve modifications to the Declaration that the CPC has determined to be minor. Such minor modifications shall not be deemed amendments requiring the approval of the CPC, the LPC, the City Council or any other agency or department of the City of New York. In the event that the Landmark Work is modified by the LPC, a Notice of Landmark Work documenting such modification, subject to approval by the LPC, shall be recorded in the City Register's Office, in lieu of a modification of this Declaration. Such recordation shall be in accordance with section 5.3 hereof, and proof of recordation shall be provided to the CPC and LPC.

5.3 Recording and Filing. Any modification, amendment or cancellation of this Declaration, except pursuant to paragraph 5.4, shall be executed and recorded in the same manner as this Declaration. Following any modification, amendment or cancellation, Declarant shall immediately record it and provide one executed and certified true copy thereof to each of

the CPC and the LPC and upon failure to so record, permit its recording by the CPC or the LPC at the cost and expense of Declarant.

5.4 Surrender or Nullification. Notwithstanding the provisions of Section 4.1(a) and 4.1(b), in the event that Declarant does not use the Subject Premises pursuant to the Special Permit, Declarant may surrender the Special Permit to the CPC and proceed with any use or development of the Subject Premises permitted by the Zoning Resolution and in accordance with the Landmarks Preservation Law as if such Special Permit had not been granted. This Declaration shall be rendered null and void upon recordation of an instrument filed by Declarant discharging it of record, with copies to LPC and CPC, the recordation of which instrument shall constitute a waiver of the right to use the Subject Premises pursuant to the Special Permit.

ARTICLE VI

MISCELLANEOUS

6.1 Exhibits. Any and all exhibits, appendices, or attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

6.2 Notices. All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent, if intended for Declarant, Project Operation LLC, having an address at c/o Thomas F. Harrison, Principal, Colony Capital, LLC, 2450 Broadway Boulevard, 6th Floor, Santa Monica, CA 90404, with a copy to Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn: Valerie G. Campbell, Esq., if intended for the CPC, to the CPC at 22 Reade Street, New York, New York 10007 (or then-official address), Attn: Chairperson, if intended for the LPC, to the LPC at One Centre Street, Municipal Building, New York, New York 10007 (or

then-official address), Attn: Chairperson and (d) if intended for the City Council, to the City Council at the Office of the Speaker, City Council, City Hall, New York, New York 10007. Declarant, or its representatives, by notice given as provided in this paragraph 6.2, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed, or, if delivered by hand, when actually received.

6.3 Indemnification. Provided that Declarant is found by a court of competent jurisdiction to have been in default in the performance of its obligations under this Declaration after having received written notice of such default and opportunity to cure as provided above, and such finding is upheld on final appeal, or the time for further review of such finding on appeal or by other proceeding has lapsed, Declarant shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out of or in connection with the City's enforcement of Declarant's obligations under this Declaration.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and
year first above written.

PROJECT OPERATION LLC

By: _____
Name:
Title:

STATE OF _____)
) ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 20____ before me, the undersigned,
personally appeared _____, personally known to me or proved to me
on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are)
subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the
instrument, the individual(s), or the person upon behalf of which the individual(s) acted,
executed the instrument.

Notary Public

SCHEDULE OF EXHIBITS

<u>Exhibit A</u>	Metes and Bounds Description of the Subject Property
<u>Exhibit B</u>	Certificate as to Parties-in-Interest
<u>Exhibit C</u>	Waiver and Subordination
<u>Exhibit D</u>	LPC Report (MOU)
<u>Exhibit E</u>	Certificate of Appropriateness
<u>Exhibit F</u>	Certificate of No Effect

EXHIBIT A

Metes and Bounds of Subject Property

EXHIBIT B

Certification of Parties-in-Interest

EXHIBIT C

Waiver and Subordination

EXHIBIT D

LPC Report (MOU)



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



November 3, 2014

ISSUED TO:

Carl Weisbrod, Chair
City Planning Commission
22 Reade Street
New York, NY 10007

Re: LPC - 160984
MOU 16-4453
20 EAST 71ST STREET
HISTORIC DISTRICT
UPPER EAST SIDE
Borough of Manhattan
Block/Lot: 1385 / 57

At the Public Meeting of May 13, 2014, following the Public Hearing and Public Meeting of April 29, 2014, the Landmarks Preservation Commission voted to issue a report to the City Planning Commission ("CPC") in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution for modifications of bulk regulations at the building located at 20 East 71st Street. The Designated Building consists of a building designed in the neo-Italian Renaissance by C.P.H. Gilbert and built in 1922-23. The Designated Building is located in the Upper East Side Historic District.

In voting to issue a favorable report to the CPC, the LPC found that the applicant has agreed to undertake facade work to restore the Designated Building and bring it up to a sound, first-class condition, including cleaning and repairs to limestone and brick masonry, cleaning and refinishing of decorative metalwork and ironwork, repointing, window replacement, and repairs to the copper mansard roof and other sheet-metal elements; that the restorative work will bring the building up to a sound, first-class condition, aid in its long-term preservation, and reinforce the architectural and historic character of the building, the streetscape, and the historic district; that the owner of the building has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound, first-class condition; and that a Restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. The Declaration will be recorded at the New York County Registrar's Office.

The Declaration requires the Declarant to commission a qualified preservation professional, whose credentials are to be approved by LPC, to undertake inspections every four years of the Designated Building's exterior

and such portions of the interior, which, if not properly maintained, would cause the Designated Building to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Building in a sound, first-class condition within the stated time periods.

Please note that the restoration work must be completed and approved by the Landmarks Preservation Commission before the owners may apply for or accept a temporary Certificate of Occupancy or a permanent Certificate of Occupancy from the Department of Buildings for the area of the buildings and the vacant that are the subject of this special permit.

Please note that this Modification of Use is being issued in conjunction with Certificate of Appropriateness 16-4454 (LPC 16-1058), approving a proposal to install a guardrail at the rear roof of the building; and Certificate of No Effect 16-4455 (LPC 16-1311) approving façade repairs, window replacement, and roof work.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Olivia Braze.



Meenakshi Srinivasan
Chair

cc: Jared Knowles, Deputy Director, Preservation/LPC; Thomas Harrison, Owner

EXHIBIT E

Certificate of Appropriateness



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



PERMIT

CERTIFICATE OF APPROPRIATENESS

ISSUE DATE: 11/03/14	EXPIRATION DATE: 5/13/2020	DOCKET #: 161058	COFA #: COFA 16-4454
<u>ADDRESS:</u> 20 EAST 71ST STREET <u>HISTORIC DISTRICT</u> UPPER EAST SIDE		<u>BOROUGH:</u> MANHATTAN	<u>BLOCK/LOT:</u> 1385 / 57

Display This Permit While Work Is In Progress

ISSUED TO:

Thomas F. Harrison, Principal
Project Operation LLC
c/o Colony Capital, LLC
2450 Broadway Boulevard, 6th Floor
Santa Monica, CA 90404

Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of May 13, 2014, following the Public Hearing of April 29, 2014, the Landmarks Preservation Commission voted to approve a proposal to install a guardrail at the rear façade, as put forward in your application completed on April 3, 2014, and as you were notified in Status Update Letter 15-7952 (LPC 15-4492), issued on May 20, 2014.

The proposal, as approved, consists of the installation of a black-painted metal guardrail at the rear roof parapet, to match the design of the existing historic black-painted metal fence at the fifth-floor rear facade terrace, as shown in digital presentation slides labeled 1 through 17, dated April 2, 2014, prepared by Li / Saltzman Architects, PC, submitted as components of the application and presented at the Public Hearing and Public Meeting.

In reviewing the proposal, the Commission noted that the Upper East Side Historic District designation report describes 20 East 71st Street as a neo-Italian Renaissance style residence designed by C.P.H. Gilbert and built in 1922-23; and that the building's style, scale, materials, and details are among the features contributing to the special architectural and historic character of the Upper East Side Historic District. The Commission further noted that Notice of Violation 05-0300 was issued on February 10, 2005, for the "installation of flagpole at East 71st Street facade without permit(s)".

With regard to this proposal, the Commission found that the proposed guardrail will match the design.

details, and finish of the existing guardrail at the rear fifth-floor roof terrace; that the proposed guardrail will be visible only in context with the rear facade and the rear facades of adjacent buildings, and from a considerable distance; and that the proposed guardrail will not detract from the significant architectural features of the building or the Upper East Side Historic District. Based on these findings, the Commission determined the work to be appropriate to the building and to the Upper East Side Historic District and voted to approve this application.

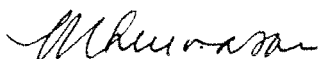
However, in voting to grant this approval, the Commission stipulated that two final signed and sealed Department of Buildings filing drawings showing the approved proposal be submitted to the Landmarks Preservation Commission for review and approval. Subsequently, on October 21, 2014, the Landmarks Preservation Commission received final drawings T-000.00, T-001.00, T-002.00, T-003.00, DM-100.00, DM-101.00, DM-102.00, DM-103.00, DM-104.00, DM-105.00, DM-106.00, DM-107.00, A-100.00, A-101.00, A-102.00, A-103.00, A-104.00, A-105.00, A-106.00, A-107.00, A-500.00, A-501.00, A-600.00, A-601.00, and A-610.00, dated October 15, 2014, prepared by Peter P. Marino, R.A.; and S-100.00, S-101.00, S-102.00, S-200.00 through S-206.00, M-100.00, M-101.00, M-150.00 through M-156.00, M-200.00 through M-207.00, M-300.00 through M-303.00, M-400.00, M-401.00, P-100.00 through P-105.00, P-200.00 through P-207.00, SP-100.00, and SP-200.00 through SP-207.00, dated October 15, 2014, and prepared by Edward J. Hanington, P.E.. Accordingly, the staff of the Commission reviewed the drawings, and found that the proposal approved by the Commission had been maintained. Based on this and the above findings, the drawings have been marked approved with a perforated seal, and Certificate of Appropriateness 16-4454 is being issued.

Please note that this Certificate of Appropriateness is being issued in conjunction with Modification of Use 16-4453 (LPC 16-0984), approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use; and Certificate of No Effect 16-4455 (LPC 16-1311) approving façade repairs, window replacement, and roof work.

Please note that NOV 05-0300 will remain in force against the property until the work approved under this permit is completed and inspected for compliance. Please submit photographs of the completed work to the Commission along with a letter from the building owner requesting a Notice of Compliance.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The work is limited to what is contained in the perforated document. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fine. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Olivia Brazee.



Meenakshi Srinivasan
Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:
Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

EXHIBIT F

Certificate of No Effect



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780



PERMIT

CERTIFICATE OF NO EFFECT

ISSUE DATE: 11/03/14	EXPIRATION DATE: 5/13/2020	DOCKET #: 161311	CNE #: CNE 16-4455
<u>ADDRESS:</u> 20 EAST 71ST STREET <u>HISTORIC DISTRICT</u> UPPER EAST SIDE		<u>BOROUGH:</u> MANHATTAN	<u>BLOCK/LOT:</u> 1385 / 57

Display This Permit While Work Is In Progress

ISSUED TO:

Thomas F. Harrison, Principal
Project Operation LLC
c/o Colony Capital, LLC
2450 Broadway Boulevard, 6th Floor
Santa Monica, CA 90404

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on October 31, 2014.

The approved work consists of restorative work at the primary and secondary facades, including cleaning of the limestone cladding and trim; selective patching and pinning repairs to cracked or spalled limestone; the removal of a flagpole installed at the front entrance without Landmarks Preservation Commission permit(s), and associated patching of the façade at the removal; selective retooling of delaminated stone; selective repointing of deteriorated masonry mortar joints; cleaning, stripping, and refinishing or repainting of all metalwork, including the basement window and door security grilles, the bronze-and-glass main entry door, and the bronze balcony at the third floor, all on the front façade, and the fifth-floor fence at the rear facade; the application of caulking and/or the installation of lead weather caps at all skyward-facing masonry joints; the installation of waterproofing and drainage systems at the second-, third-, and fourth-floor balconies; the repair or replacement in kind of copper drip edges at the mansard roof; selective soldering repairs to the copper mansard roof; at the rear façade, the removal of paint coatings and selective repointing of brickwork; at the roof; replacement of the roofing membrane; selective repair and repointing of cracked and deteriorated brick parapets, stair bulkhead walls, and chimneys; selective repair or replacement in kind of sheet-metal cladding at the stair bulkhead; selective cleaning and repointing at the eastern limestone-clad parapet wall; scraping, priming, and repainting the metal security fan-grilles at the eastern and western rear roof parapets; at the front façade, the replacement in kind of the wood casement windows at the basement floor, the wood

casement windows with double transoms at the first, second, and third floors, and the single-pane wood casement windows at the fourth floor; in kind replacement of all wood brickmolds; with the new windows and brickmolds to be painted beige (Benjamin Moore "Shaker Beige" HC-45) to match the historic color, as determined by paint analysis; at the rear façade, the removal of the non-historic French doors with fanlight transoms and infill spandrels from the square-headed openings at the first floor, and the installation of wood casement windows with double transoms within the existing openings; the removal of wood casement windows with louvered transoms from the second- and third-floor window openings, and the installation of wood casement windows with double transoms within the existing openings; the removal of single-pane casement windows from the fourth floor; and the installation of one-over-one double-hung wood windows within the existing openings; with the new windows and brickmolds to be painted beige (Benjamin Moore "Shaker Beige" HC-45) to match the historic color, as determined by paint analysis; and related non-restorative work, including the removal of a non-historic gate at the secondary basement entrance on the East 71st Street façade; the replacement of the metal sidewalk hatch at the front of the building; the removal of a standpipe at the base of the building; the installation of an intercom panel at the main entrance; the removal of a two-story greenhouse enclosure at the basement and first floors of the rear façade; the enlargement of window openings at the basement floor of the rear façade for the installation of a window wall; the construction of retaining walls with stone balustrades at the eastern and western rear-yard property lines, and the construction of new concrete slabs at the basement level and at grade; the installation of translucent pavers at grade within the rear yard; the installation of light fixtures at the first and fifth floors of the rear façade; the replacement of skylights and the installation of mechanical equipment at the roof; and the installation of a metal security fence at a portion of the eastern parapet wall; the reconstruction of a brick and limestone chimney at northeast corner of the roof; and interior alterations at the basement through sixth floors, as described in existing conditions and recommendations report dated February 26th, 2014 and written specifications, and shown in photographs and drawings labeled T-000.00, T-001.00, T-002.00, T-003.00, DM-100.00, DM-101.00, DM-102.00, DM-103.00, DM-104.00, DM-105.00, DM-106.00, DM-107.00, A-100.00, A-101.00, A-102.00, A-103.00, A-104.00, A-105.00, A-106.00, A-107.00, A-500.00, A-501.00, A-600.00, A-601.00, and A-610.00, dated October 15, 2014, prepared by Peter P. Marino, R.A.; and S-100.00, S-101.00, S-102.00, S-200.00 through S-206.00, M-100.00, M-101.00, M-150.00 through M-156.00, M-200.00 through M-207.00, M-300.00 through M-303.00, M-400.00, M-401.00, P-100.00 through P-105.00, P-200.00 through P-207.00, SP-100.00, and SP-200.00 through SP-207.00, dated October 15, 2014, and prepared by Edward J. Hanington, P.E..

In reviewing the proposal, the Commission noted that the Upper East Side Historic District designation report describes 20 East 71st Street as a neo-Italian Renaissance style residence designed by C.P.H. Gilbert and built in 1922-23; and that the building's style, scale, materials, and details are among the features contributing to the special architectural and historic character of the Upper East Side Historic District. The Commission further noted that Notice of Violation 05-0300 was issued on February 10, 2005, for the "installation of flagpole at East 71st Street facade without permit(s)".

With regard to the proposed work, the Commission finds that the removal of the flagpole will remove an unsympathetic alteration; that the proposed patching mortar will match the color, texture, finish and details of the original stone; that the proposed work will protect the building's façade and structure from future damage due to water infiltration and aid in the long term preservation of the building; that the removal of the greenhouse enclosure will not result in any damage to, or demolition of, a significant architectural feature of the rear façade or rear yard; that the window and door openings at the basement floor of the rear façade have been altered over time, and are not visible from the street; and that therefore the introduction of a window wall at the basement level will not detract from the special architectural and historic character of the building. The Commission further finds that the installation of the light fixtures will not cause damage to, or loss of any significant historic fabric; that the light fixtures are well scaled to the façade; that the finish of

the proposed light fixtures will not call undue attention to their presence; that there will be no visible electrical conduit; and that the installation of the intercom will not cause damage to, or loss of any significant historic fabric; that the intercom is well sealed to the façade; that the finish of the proposed intercom will not call undue attention to their presence; that there will be no visible electrical conduit; and that the reconstructed chimney will match the existing original chimney in terms of materials, dimensions, profiles, details, and ornamentation. Finally, the Commission finds that the proposed masonry units will match the historic masonry units in terms of size, color, texture and bond pattern; that the existing joints will be raked by hand or by a method that will not cause damage to the surrounding brick; that the proposed mortar will match the historic mortar in terms of size, color, texture and tooling; that the proposed patching mortar will match the color, texture, finish and details of the original stone; that the cleaning of the façades will be done in the gentlest effective method without causing damage to the masonry; that the water pressure will not exceed 500 psi; and that the proposed work will protect the building's façade and structure from future damage due to water infiltration and aid in the long term preservation of the building.

PLEASE NOTE that this permit is contingent upon the Commission's review and approval of samples of masonry cleaning, joint cutting method(s), pointing, limestone patching, replacement brick and metal refinishing, prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Submit digital photographs of all samples to obrazee@lpc.nyc.gov for review.

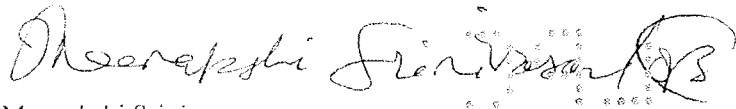
This permit is also contingent on the understanding that the work will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

PLEASE ALSO NOTE that this Certificate of No Effect is being issued in conjunction with Modification of Use 16-4453 (LPC 16-0984), approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use; and Certificate of Appropriateness 16-4454 (LPC 16-1058) approving a proposal to install a guardrail at the rear roof of the building.

The Commission has reviewed the application and these drawings and finds that the work will have no effect on significant protected features of the building.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The work is limited to what is contained in the perforated document. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fine. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Olivia Brazee.



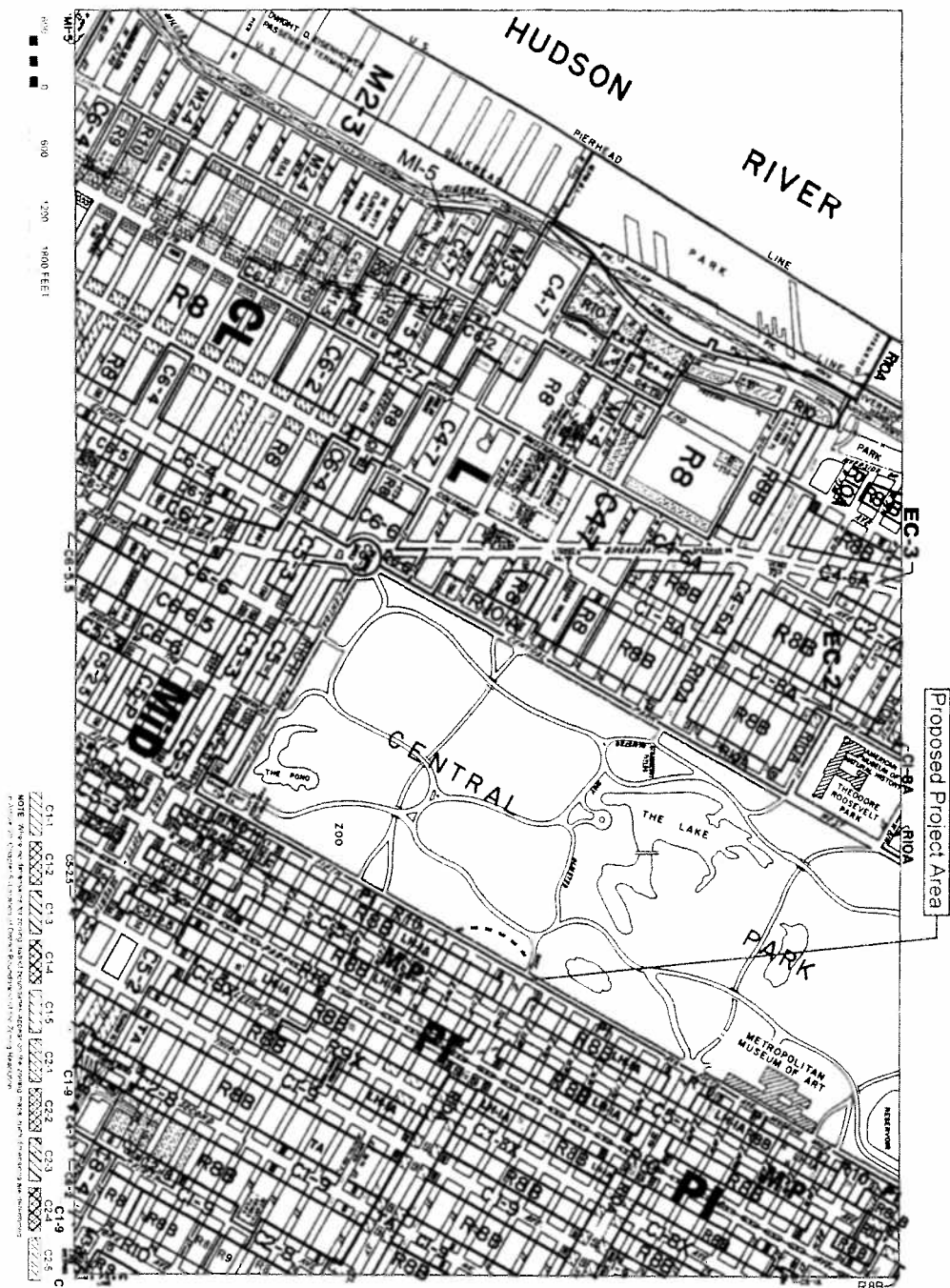
Meenakshi Srinivasan

Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COEY OF THIS PERMIT HAVE BEEN SENT TO:

Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

cc: Jared Knowles, Depouty Director, Preservation/LPC



ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

Major Zoning Classifications:

R C M

Effective Date(s) of Rezoning:

Special Requirements:

MAP KEY

5d 6b 8a 8c 9a 8b 8d 9b

NOTE: Zoning districts are shown on this map as they appear in the current zoning map. The map is not intended to show the results of any proposed rezoning. The map is not intended to show the results of any proposed rezoning. The map is not intended to show the results of any proposed rezoning.

Reference No.: 150213 ZSM

NOTE: Please use the reference number(s) on all correspondence concerning this application.

DEPARTMENT OF CITY PLANNING
22 Reade Street
New York, New York 10007

NOTICE OF RECEIPT OF STANDARD APPLICATION FORM

The attached application(s) was submitted to the Department of City Planning for processing under the Uniform Land Use Review Procedure and has been assigned the above referenced number(s). It is being forwarded to you for information purposes only.

IMPORTANT NOTICE

This is not a Notice of Certification. Do not schedule a public hearing or take other formal action on this application until you receive the Notice of Certification. Retain the attached application until you receive the certification notice and certified application.

After this application has been certified as complete by the Department of City Planning or the City Planning Commission, it will be referred for official action.

TYPE OF APPLICATION:

- | | | |
|-------------------------------------|------------------------------|-------------------|
| <input type="checkbox"/> | Change in the City Map | (MM) |
| <input type="checkbox"/> | Zoning Map Amendment | (ZM) |
| <input checked="" type="checkbox"/> | Zoning Special Permit | (ZS) |
| <input type="checkbox"/> | Revocable Consent | (GF) |
| <input type="checkbox"/> | Public Facility | (PS, PQ, PC) |
| <input type="checkbox"/> | Disposition of Real Property | (PP, PN, DL, DM) |
| <input type="checkbox"/> | Other | (ZC, ZA, ZR) |

Project Name: 20 East 71st Street

Project Address: 20-22 East 71st Street, Manhattan (Block 1385, Lot 57)

Community District: 8

Date: January 6, 2015

Borough: **Manhattan**

QUESTIONS ABOUT THIS APPLICATION SHOULD BE ADDRESSED TO THE FOLLOWING DCP OFFICE:

Manhattan Borough Office AT (212) 720-3377

Area Map

20 East 71st Street

Borough: Manhattan
Block: 1385
Lot: 57

PROJECT INFORMATION

- Project Area
- 600 Radius

ZONING

- Existing Zoning Districts
- Special District
- Limited Height District

PROPERTY DATA

- Block Number
- Building Height Number of Stories
- Tax Lots
- Building Footprints

TRANSPORTATION INFORMATION

- Street Direction
- Bus Lines

LAND USE

- One & Two Family Buildings
- Multi-Family Walk-Up Buildings
- Multi-Family Elevator Buildings
- Mixed Residential & Commercial Buildings
- Commercial & Office Buildings
- Public Facilities & Institutions
- Open Space & Outdoor Recreation
- Other Vacant Land/Buildings or Under Construction

