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Eugene C. Travers

March 27, 2013

N130238ZRM

BY HAND

Mr. Maurice Spreiregen
Director of Central Intake
New York City Department of City Planning
22 Reade Street
New York, NY 10007

**Re: 945 Second Avenue
Manhattan, New York
Application for a Text Amendment**

CITY PLANNING COMMISSION
2013 MAR 27 PM 2:55
DEPT. OF CITY PLANNING

Dear Mr. Spreiregen:

This firm represents 945 Realty Holdings LLC, the owner of the captioned premises, in connection with an application for a text amendment to Section 32-421 of the Zoning Resolution (Limitations on floors occupied by commercial uses). Approval of the application would allow an existing ground-floor restaurant at the premises to occupy the second floor.

Submitted herewith are eight (8) copies of the following documents in connection with an application:

- (1) Land Use Application Form (Form LR);
- (2) Supplemental Form ZS;
- (3) Project Description (LR Item 3);
- (4) Proposed Zoning Text;
- (5) Text Amendment Impact Map & Sample Sites Map;
- (6) Photographs; and
- (7) Owner's Authorization Form.

Also enclosed is one (1) copy of a Doing Business Form, as well as a check in the amount of \$5,445.00 for the filing fee and a check in the amount of \$460.00 for the CEQR fee.

Please let us know if you require any additional information in this regard.

Very truly yours,



Enc.



City Planning will assign and stamp reference numbers here

Land Use Review Application

Department of City Planning

22 Reade Street, New York, NY 10007-1216

N130233ZRM

DEPT. OF CITY PLANNING
2013 MAR 27 PM 2:55
CITY PLANNING COMMISSION

1. APPLICANT AND APPLICANT'S REPRESENTATIVES

APPLICATION NUMBER

APPLICATION NUMBER

APPLICATION NUMBER

APPLICATION NUMBER

Howard Goldman¹

APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION) *
945 Second Avenue¹

APPLICANT'S PRIMARY REPRESENTATIVE

GoldmanHarris LLC¹

STREET ADDRESS

REPRESENTATIVE'S COMPANY/AGENCY OR OTHER ORGANIZATION

New York¹ NY¹ 10022¹
CITY STATE ZIP

475 Park Avenue South, 28th Floor¹
STREET ADDRESS

(646) 895-9585¹ ¹
AREA CODE TELEPHONE # FAX#

New York¹ NY¹ 10010¹
CITY STATE ZIP

(212) 935-1622¹ (212) 935-2651¹
AREA CODE TELEPHONE # FAX#

* List additional applicants below:

¹

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

¹

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

¹

¹

¹

NAME AND PROFESSIONAL AFFILIATION (ATTORNEY/ARCHITECT/ENGINEER ETC.)

TELEPHONE #

FAX #

945 Second Avenue¹
STREET ADDRESS

945 Second Avenue Text Amendment¹
PROJECT NAME (IF ANY)

West side of Second Avenue between 50th and 51st Streets.¹
DESCRIPTION OF PROPERTY BY BOUNDING STREETS OR CROSS STREETS

C1-9¹
EXISTING ZONING DISTRICT (INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY)

8d¹
ZONING SECTIONAL MAP NO(S).

Block 1324, Lot 23¹
TAX BLOCK AND LOT NUMBER

Manhattan¹
BOROUGH

6¹
COMM. DIST.

None.¹

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

¹

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")

Amendment to the text of Section 32-421 of the Zoning Resolution (Limitations on floors occupied by commercial uses) to allow a ground floor eating and drinking establishment to occupy the second floor of an existing building within a C1-9 zoning district. Please see attached description.

4. ACTIONS REQUESTED AND FEES

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

* No supplemental form required

<input type="checkbox"/>	CHANGE IN CITY MAP.....MM	\$ ¹
<input type="checkbox"/>	ZONING MAP AMENDMENT.....ZM	\$ ¹
<input checked="" type="checkbox"/>	ZONING TEXT AMENDMENT.....ZR	\$ 5,445 ¹
<input type="checkbox"/>	ZONING SPECIAL PERMIT.....ZS	\$ ¹
<input type="checkbox"/>	ZONING AUTHORIZATION.....ZA	\$ ¹
<input type="checkbox"/>	ZONING CERTIFICATION.....ZC	\$ ¹
<input type="checkbox"/>	PUBLIC FACILITY, SEL./ACQ.....PF	\$ ¹
<input type="checkbox"/>	DISPOSITION OF REAL PROP.....PD	\$ ¹
<input type="checkbox"/>	URBAN DEVELOP=T ACTION.....HA	\$ ¹
<input type="checkbox"/>	URBAN RENEWAL PROJECT.....*	\$ ¹
<input type="checkbox"/>	HOUSING PLAN & PROJECT.....*	\$ ¹
<input type="checkbox"/>	FRANCHISE.....*	\$ ¹
<input type="checkbox"/>	REVOCABLE CONSENT.....*	\$ ¹
<input type="checkbox"/>	CONCESSION.....*	\$ ¹
<input type="checkbox"/>	LANDFILL.....*	\$ ¹
<input checked="" type="checkbox"/>	OTHER (Describe) CEQR ¹	\$ 460 ¹

<input type="checkbox"/>	MODIFICATION	¹	\$ ¹
<input type="checkbox"/>	FOLLOW-UP	¹	\$ ¹
<input type="checkbox"/>	RENEWAL	¹	\$ ¹
<input type="checkbox"/>	OTHER	¹	\$ ¹
	TOTAL FEE (For all actions)		\$ 5,905 ¹

Make Check or Money Order payable to Department of City Planning.

If fee exemption is claimed check box below and explain

☐

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

If yes
Dominick Answini¹
DCP Office/Representative

January 31, 2012-
Date of meeting

5. ENVIRONMENTAL REVIEW

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

LEAD AGENCY Department of City Planning¹ CEQR NUMBER 1

TYPE OF CEQR ACTION:

☐ TYPE II Type II category: 1 Date determination was made: 1

☒ TYPE I } Has EAS been filed? Yes ☐ No ☒

☐ UNLISTED } If yes, Date EAS filed: 1

Has CEQR determination been made? Yes ☐ No ☒

If yes, what was determination? Negative Declaration ☐ } Date determination made: 1 (Attach Copy)
CND ☐
Positive Declaration ☐

If Positive Declaration, has PDEIS been filed? 1

Has Notice of Completion (NOC) for DEIS been issued? 1 If yes, attach copy.

If PDEIS has not been filed, has final scope been issued? 1 If yes, date issued: 1

6. COASTAL ZONE MANAGEMENT

IS 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
<u>1</u>	<u>1</u>	<u>1</u>
<u>1</u>	<u>1</u>	<u>1</u>

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
<u>1</u>	<u>1</u>	<u>1</u>
<u>1</u>	<u>1</u>	<u>1</u>

9. FUTURE ACTIONS REQUIRED

LIST ALL FUTURE CITY, STATE OR FEDERAL ACTIONS REQUIRED TO IMPLEMENT THE PROPOSED ACTION:		
<u>1</u>		
<u>1</u>		

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

Howard Goldman¹ 3.27.13
NAME AND TITLE OF APPLICANT OR AUTHORIZED REPRESENTATIVE SIGNATURE OF APPLICANT DATE

GoldmanHarris LLC¹
APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION (IF ANY)

11. CO-APPLICANTS

(Attach authorizing resolution(s), if applicable)

<u>1</u>	NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE	SIGNATURE OF CO-APPLICANT	DATE
<u>1</u>	CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION		
<u>1</u>	STREET ADDRESS	CITY	STATE ZIP TEL.NO. FAX
<u>1</u>	NAME AND TITLE OF CO-APPLICANT OR AUTHORIZED REPRESENTATIVE	SIGNATURE OF CO-APPLICANT	DATE
<u>1</u>	CO-APPLICANT'S COMPANY/AGENCY OR OTHER ORGANIZATION		
<u>1</u>	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.

N130233ZRM N130233ZRM

City Map Change

MM

PROPOSED CITY MAP CHANGE
(Check appropriate boxes)

APPLICATION NO

1. ESTABLISH NEW..... STREET PARK PUBLIC PLACE GRADE

2. ELIMINATE EXISTING..... STREET PARK PUBLIC PLACE GRADE

3. CHANGE EXISTING STREET..... WIDTH ALIGNMENT GRADE

4. EASEMENT
Delineate New..... Remove Existing..... Modify Existing.....

5. RELATED ACQUISITION OR DISPOSITION OF PROPERTY.....

Zoning Map Change

ZM

PROPOSED ZONING MAP CHANGE(S)

APPLICATION NO

(If more than five changes are being requested, enter "see attached" below and list ALL PROPOSED ZONING CHANGES in the same format as below on a separate sheet titled "Proposed Zoning Map Changes")

CHANGE #1 FROM: EXISTING TO: PROPOSED

CHANGE #2 FROM: EXISTING TO: PROPOSED

CHANGE #3 FROM: EXISTING TO: PROPOSED

CHANGE #4 FROM: EXISTING TO: PROPOSED

CHANGE #5 FROM: EXISTING TO: PROPOSED

Zoning Text Amendment

ZR

N130233ZRM

AFFECTED ZONING RESOLUTION (ZR) SECTIONS

APPLICATION NO.

If more than five sections are proposed to be amended, enter "see attached" below, and list ALL PROPOSED TEXT AMENDMENTS in the same format as below on a separate sheet titled "Proposed Zoning Text Amendments.")

ZR SECTION NUMBER

ZONING RESOLUTION SECTION TITLE

32-421 Limitations on floors occupied by commercial uses

CITY PLANNING COMMISSION
2013 MAR 27 PM 2:56
DEPT. OF CITY PLANNING

N130233ZRM

LR Item 3: Description of Proposal

945 Second Avenue Text Amendment 945 Second Avenue, Manhattan

Introduction

N130233ZRM

This application is submitted on behalf of 945 Realty Holdings, LLC (the "Applicant") to amend Section 32-421 of the Zoning Resolution (Limitations on floors occupied by commercial uses) to permit second floor commercial use in certain buildings located in C1 or C2 districts mapped within R9 or R10 districts, or in C1-8, C1-9, C2-7 and C2-8 districts, where such use is an established component of the area's land use pattern. This amendment would allow an existing restaurant located on the first floor of 945 Second Avenue, Manhattan (Block 1324, Lot 23; the "Development Site") to enlarge its operation to the second floor. The Development Site is located within a C1-9 zoning district in Manhattan Community District 6.

Under the current zoning text, within C1 or C2 districts mapped within R9 or R10 districts, and in C1-8, C1-9, C2-7 and C2-8 districts, commercial use of the second floor is permitted in buildings constructed after September 17, 1970. However, commercial use of the second floor is not permitted within buildings constructed prior to September 17, 1970, unless such second floor use is an existing, legal non-conforming use. The underlying purpose of this limitation was to protect and preserve second floor residential and community facility uses in older buildings. Under the proposed text amendment, commercial use would be permitted on the second floor of any building if such second floor is not occupied by residential or community facility use at the time that this application is referred for public review by the City Planning Commission, and provided that the subject building is located on the same block frontage of at least one other building with a second floor occupied by a use listed in Use Groups 6, 7, 8, 9 or 14. Other regulations governing commercial use, such as commercial floor area, supplemental use regulations, and the regulations of the underlying zoning districts, would not be changed by the text amendment.

The text amendment would allow Crave Fishbar, an existing restaurant occupying the first floor of the Development Site, to occupy 1,280 square feet on the second floor. The additional space would increase the capacity of the restaurant from 46 to 74 seats.

Previously, the restaurant (formerly known as Crave Ceviche Bar) was located at the first floor of 946 Second Avenue until March 15, 2008, when a fatal construction crane collapse at 303 East 51st Street partially destroyed 946 Second Avenue and forced the restaurant to cease operations. When it initially opened for business at 946 Second Avenue, the restaurant fronted on Second Avenue. After a positive response from the neighborhood, patrons, and food critics, the restaurant expanded to the rear of the building so that it had an entrance on both Second Avenue and East 50th Street. Unfortunately, about two weeks after the expansion, the crane collapsed and the restaurant was forced to close. Subsequently, the Applicant purchased a vacant four-story building at the Development Site, located across the street from 946 Second Avenue, with the intention of re-opening the restaurant. The existing building located at the Development Site was renovated by the Applicant and the first floor is now occupied by the Crave Fishbar restaurant. The upper two floors are occupied by residential uses, while the second floor remains vacant pending consideration of the proposed text amendment.

The original restaurant was located on a 2,829 square-foot corner lot, with entrances on Second Avenue and East 50th Street. Due to the current location's small footprint (1,400 square feet at the first floor), operation of an economically viable restaurant of this kind at the Development Site requires occupancy of the first and second floors. Currently, the restaurant includes 46 seats on the first floor. Use of the second floor would provide an additional 28 seats for a total of 74 seats. Such occupancy would be consistent with nearby buildings on Second Avenue, most or all of which contain restaurants occupying two stories. Examples include the Press Box Restaurant & Pub (932 Second Avenue), the Pig 'n' Whistle Irish Pub & Restaurant (951 Second Avenue), Socarrat Paella Bar (953 Second Avenue), Pescatore Restaurant (955 Second Avenue), Turtle Bay Grill & Lounge (987 Second Avenue), Traffic Bar & Restaurant (986

Second Avenue), and Tenzan Japanese Restaurant (988 Second Avenue). These second floor spaces have been used commercially since prior to September 1970, and therefore are legal non-conforming uses under the existing zoning regulations.

Description of Surrounding Area and Project Area

The Project Area refers to all property that would be subject to the proposed action. In this case, the text amendment would allow commercial uses to occupy second floor space of pre-1970 buildings within the following zoning districts: C1 or C2 districts mapped in R9 or R10 districts, and in C1-8, C1-9, C2-7 or C2-8 districts. These districts are widely mapped in higher density areas of Manhattan, primarily along the avenues.

I. Surrounding Area

The character of the Turtle Bay neighborhood surrounding the Development Site is predominately mixed-use. Four- to five-story residential buildings with first floor commercial uses dominate the avenues, with larger luxury residential buildings (20+ stories) located at the corners. The intersecting streets are primarily residential in character and typically feature low-rise (four- to five-story) and larger (up to ten stories) residential buildings. Community facility uses are scattered throughout, including certain diplomatic missions located toward the southern end of the neighborhood.

Mass Transit within the vicinity includes the 51st Street Station of the 6 train to the west and the Lexington-53rd Street of the E and M trains to the north. The Development Site is located two blocks north of the midblock Turtle Bay Gardens Historic District. The Second Avenue subway is scheduled to reach this area in its third phase of construction, with a station planned at 55th Street, approximately four blocks to the north of the Development Site.

The majority of Second Avenue within the surrounding area is zoned C1-9, with R8B districts mapped on the midblocks east and west of Second Avenue.

II. Proposed Project Area

As stated above, the proposed zoning text amendment would allow commercial uses to occupy second floor space of pre-1970 buildings within the following zoning districts: C1 or C2 districts mapped in R9 or R10 districts, and in C1-8, C1-9, C2-7 or C2-8 districts. These districts are widely mapped in higher density areas of Manhattan, primarily along the avenues.

C1 or C2 districts mapped in R9 or R10 districts comprise "commercial overlays" and are generally mapped along streets that serve local retail needs. They are found throughout the City's lower- and medium-density areas and occasionally in higher-density areas. Typical retail uses include neighborhood grocery stores, restaurants, and beauty parlors. C2 districts mapped in R9 or R10 districts permit a slightly wider range of uses, such as funeral homes and repair services. In mixed-use buildings, commercial uses are limited to two floors (up to 2.0 FAR) and must always be located below the residential use. A typical building form found in such commercial overlays is a mixed-use building with ground and second floor commercial use and residential units located on the upper floors.

C1-8, C1-9, C2-7 and C2-8 districts are commercial districts that are predominantly residential in character. They are mapped along major thoroughfares in medium- and higher-density areas of the city, such as Second and Lexington Avenues on the Upper East Side or Columbus and Amsterdam Avenues on the Upper West Side. Similar to C1 or C2 commercial overlay districts, typical retail uses include grocery stores, dry cleaners, drug stores, restaurants, and local clothing stores that cater to the daily needs of the immediate neighborhood. The C2-7 and C2-8 districts permit a slightly wider range of uses than the C1-8 and C1-9 districts, such as funeral homes and local repair services. In mixed buildings, commercial uses are limited to two floors and must always be located below the residential use. A typical building form found in such commercial districts is a mixed-use building with ground and second floor commercial use and residential units located on the upper floors.

Description of Development Site

The Development Site, 945 Second Avenue, is located on a block bounded by East 51st Street to the north, East 50th Street to the south, Second Avenue to the east, and Third Avenue to the west. The Development Site comprises an approximately 1,400 square-foot lot, with 20 feet of frontage on Second Avenue.

The Development Site is improved with a 40-foot tall, four-story building constructed in 1962. The building's 1963 Certificate of Occupancy (No. 57914) permits an eating and drinking establishment on the first floor with residential apartments on the upper stories.

The first floor space is built full and is currently occupied by the Crave Fishbar restaurant, which is seeking to expand its operation to the second floor pursuant to the proposed text amendment. The upper two floors are each occupied by a single residential unit, while the second floor remains vacant pending consideration of the proposed text amendment. Each of the second, third and fourth floors comprise approximately 1,280 square feet. There are no curb cuts associated with the Development Site.

The Development Site is zoned C1-9. The maximum allowable FAR is 2.0 for commercial uses and 10.0 for residential uses. The Development Site currently contains 5,240 square feet of floor area (or a floor area ratio of 3.74 FAR, of which 1.0 FAR is used for commercial use on the first floor).

Description of Proposed Development

The proposed text amendment would facilitate the second floor occupancy of the existing restaurant at the Development Site. As stated above, the restaurant's prior location was located across the street at 946 Second Avenue until March 15, 2008, when a construction crane collapse at 303 East 51st Street destroyed the building that housed the restaurant. Subsequently, the Applicant purchased the Development Site,

across the street from the former location, with the intention of re-opening the restaurant.

The first floor restaurant occupies 1,400 square feet of floor area, and the proposed text amendment would facilitate the expansion of the restaurant to the second floor, for an additional 1,280 square feet. Therefore, including the second floor, the restaurant would comprise 2,680 total square feet. The restaurant currently includes approximately 46 seats in the first floor space. The second floor would allow the restaurant an additional 28 seats, for a total of 74 seats.

The expansion of the restaurant to the second floor would not change the existing floor area ratio of the Development Site, and the total commercial use would comprise approximately 1.91 FAR, within the maximum of 2.0 FAR permitted for commercial use under the C1-9 district regulations.

Action Necessary to Facilitate the Project

The Development Site is located within a C1-9 zoning district. Although 2.0 FAR of commercial floor area is permitted in this district, the location restriction of Section 32-421 of the Zoning Resolution (Limitations on floors occupied by commercial uses) prohibits achievement of the permitted commercial FAR in older buildings constructed prior to September 17, 1970. The proposed text amendment would allow second floor commercial occupancy of such older buildings on the same basis as newer buildings, subject to the zoning limitations on commercial floor area. To prevent the displacement of existing second-floor residential or community facility uses, commercial use would be permitted only in second floor space that is not occupied by residential or community facility uses at the time the zoning text is referred for public review by the City Planning Commission, and provided that the subject building is located on the same block frontage of at least one other building with a second floor occupied by a use listed in Use Groups 6, 7, 8, 9 or 14.

Essentially, only vacant space could be changed to commercial use under the zoning amendment, since existing residential and community facility space could not be changed to commercial use, and existing commercial space would not experience any change. Therefore, the text amendment would facilitate commercial development at the density permitted by the underlying zoning without regard to the age of a building.

The proposed text amendment is appropriate because the underlying goal of preserving and protecting second-floor residential and community facility use will be maintained under the revised text. The limited applicability of the proposed text amendment to buildings with vacant second floors at the time of referral and those located on the same block frontage as another building with second floor commercial use will safeguard against the eviction of second floor residential or community facility tenants during the public review process.

Furthermore, the potential impact of the proposed text amendment on buildings with vacant second floors is extremely limited. Sites that could potentially take advantage of the proposed text are only those occupied by buildings constructed prior to 1970 where such buildings are at least partially within the affected C1 or C2 zoning districts. Based on the City's PLUTO database, there are approximately 2,100 properties containing pre-1970 buildings that are at least partially within one of the affected C1 or C2 zoning districts. These sites are located predominantly within Manhattan Community Districts 6, 7, and 8, with a small number of sites located within Manhattan Community Districts 3, 4, 10 and 11. Out of this potential universe, the only sites that would be affected are those with second floor space that is not occupied by residential or community facility use at the time that the text amendment is referred for public review, and further, only if those sites are located on the same block frontage as at least one other building with a second floor occupied by a use listed in Use Groups 6, 7, 8, 9 or 14.

To gather further information on the characteristics of the affected sites, a representative sample of 120 sites was generated using the Department of City Planning's online resources, and a field investigation was conducted of the sample

sites. Of these 120 sites, 100 contain residential use of the second floor, and therefore would not be affected by the proposed text amendment (of these 100, for fourteen of them it was not possible to determine definitely if they were presently occupied). Fifteen of the sites already have second floor commercial use, with one of the spaces appearing to be unoccupied. One sample site includes a one-story building and a determination of the remaining six sample sites could not be made due to construction activity (2 sites), diplomatic security restrictions (1 site), or a lack of an occupancy directory (1 site). With an expectation that the vacancy rate of second floor residential space in pre-1970 buildings in the affected zoning districts is comparable to the current Manhattan residential vacancy rate of approximately one percent, and if it is conservatively assumed that the two sites under construction could take advantage of the proposed zoning text, then about two or three (1.6 to 2.5 percent) of the 120 sites could experience new second-floor commercial activity under the proposed zoning text. Extrapolating from this sampling effort, it is conservatively estimated that of the 2,100 potential sites, approximately 40 to 60 sites may be in a position to take advantage of the proposed text based on second floor vacancy at the time of referral. However, this universe is further limited due to the requirement that buildings seeking to take advantage of the text be located on the same block frontage as another building that second-floor commercial use. Out of the 120 sites sampled, only 24 (or 20 percent) are located on block frontages that contain buildings with second floor commercial use. Extrapolating from this additional limitation, it is estimated that approximately twelve sites out of the universe of 2,100 potential sites may be able to take advantage of the proposed text amendment. Note that the sample sites are generally small, with an average lot size of 4,825 square feet. If it is assumed that lots are generally 100 feet in depth, and that a 30-foot rear yard is required above the level of the first floor, the average second floor space potentially available for commercial occupancy within each of the twelve sites would be 70% of 4,825 square feet, or 3,378 square feet.

Furthermore, only a fraction of these twelve sites would be likely to take advantage of the proposed zoning text in the foreseeable future, since in many cases the rent for second floor residential or community facility space would be greater than could be

achieved for commercial use. (It stands to reason that many retail uses, particularly those that rely on high traffic volume/patron turnover, require a ground floor location. Therefore the market for second floor commercial space is much more limited, and typical second floor commercial use, based on observation, tends to comprise offices, restaurant use that also occupies the ground floor, or personal services like nail salons.) In other cases, the building layout may not be conducive to second floor commercial occupancy, for example if there is no reasonable way of providing customer access to the second floor space.

Absent the existing restrictions on pre-1970 buildings, the use of the second floor of the Development Site by the existing restaurant would otherwise comply and conform the underlying C1-9 zoning district.

No other discretionary approvals are sought in connection with this action.

Conclusion

The proposed text amendment to Section 32-421 of the Zoning Resolution would allow the restaurant occupying the first floor of the Development Site to also occupy the second floor. This action would facilitate the recovery a popular neighborhood establishment that was forced to close for more than four years as a result of a tragic crane accident. Prior to its closing, the Zagat-rated restaurant received high marks from patrons and critics alike. The new restaurant at the Development Site has already revived this reputation, but to continue to be economically viable, it must expand.

The proposed use of the second floor by the restaurant is consistent with existing land uses in the area, most of which are low-rise buildings featuring eating and drinking establishments at the first and second floors. The proposed use is otherwise in compliance and conformance with the underlying C1-9 zoning regulations.

Finally, the proposed text amendment would have an extremely limited impact generally. It is estimated that there may be no more than twelve sites throughout the

entire Project Area (that is, every district that would possibly be impacted by the text amendment) where new second floor commercial use would be permitted under the proposed text amendment. Even then, only a fraction of these eligible sites would likely take advantage of the proposed zoning text, since in many cases the rent for second floor residential or community facility space would be greater than could be achieved for commercial use, and in other cases, the site's floor plan may not be conducive to second floor commercial occupancy.

Although limited in scope, the proposed text amendment would promote economic development at the potential development sites by removing an unnecessary zoning impediment that has prevented commercial corridors from reaching their full economic potential. Allowing second floor commercial uses at the potential development sites would incentive investment in the affected areas by local restaurateurs and other commercial users. This investment would in turn help to develop an inviting and engaging streetscape character for pedestrians while providing for the needs of the immediate residential population.

**PROPOSED ZONING TEXT AMENDMENT TO PERMIT COMMERCIAL USES ON
THE 2ND STORY IN CERTAIN DISTRICTS**

February 12, 2013 – 6:23 PM

DRAFT

Matter Underlined is new, to be added;
Matter in ~~Strikeout~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicate where unchanged text appears in the Zoning Resolution

32-421

Limitation on floors occupied by commercial uses

C1 C2 C3

In the districts indicated, in any #building#, or portion of a #building# occupied on one or more of its upper #stories# by #residential uses# or by #community facility uses#, no #commercial uses# listed in Use Group 6, 7, 8, 9 or 14 shall be located above the level of the first #story# ceiling, provided, however, that permitted #signs#, other than #advertising signs#, #accessory# to such #commercial uses# may extend to a maximum height of two feet above the level of the finished floor of the second #story#, but in no event higher than six inches below the lowest window sill of the second #story#. In any other #building#, or portion thereof, not more than two #stories# may be occupied by #commercial uses# listed in Use Group 6A, 6B, 6C, 6F, 7, 8, 9 or 14.

~~Non #residential uses# listed in Use Group 6, 7, 8, 9 or 14, where permitted by the applicable district regulations, may occupy the lowest two #stories# in any #building# constructed after September 17, 1970 in C1 or C2 Districts mapped within R9 or R10 Districts or in C1-8, C1-9, C2-7 or C2-8 Districts.~~

However, in C1 or C2 Districts mapped within R9 or R10 Districts or in C1-8, C1-9, C2-7 or C2-8 Districts, non-#residential uses# listed in Use Group 6, 7, 8, 9 or 14, where permitted by the applicable district regulations, may occupy the lowest two #stories# in any #building# constructed after September 17, 1970. For #buildings# constructed prior to September 17, 1970, such non-#residential uses# may occupy the lowest two #stories# in such #building# provided that:

- (a) the second #story#, on (date of referral), was not occupied by a #community facility use#, a #dwelling unit# or #rooming unit#; and
- (b) the second #story# of at least one other #building#, on the same #block# frontage as such #building#, is occupied by a #use# listed in Use Groups 6, 7, 8, 9, or 14.

End text

ZONING TEXT AMENDMENT BASEMAP

AFFECTED SITES



MANHATTAN

UPPER WEST SIDE

UPPER EAST SIDE

MIDTOWN WEST

MIDTOWN EAST

LEGEND

LAND USE TYPE:

- RESIDENTIAL
- MULTI-FAMILY RESIDENTIAL
- MIXED COMMERCIAL & RESIDENTIAL

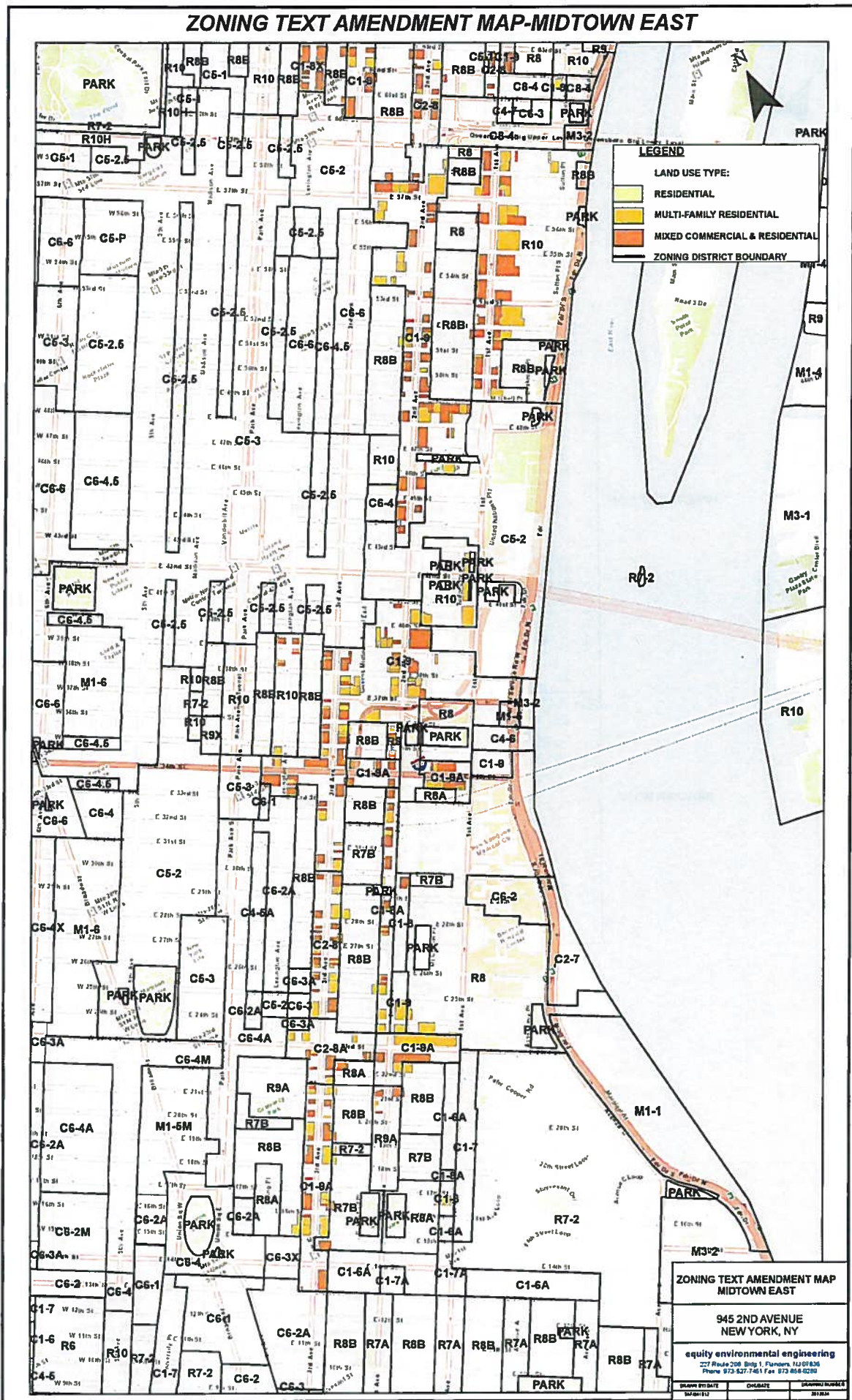
**ZONING TEXT AMENDMENT
BASEMAP**

**945 2ND AVENUE
NEW YORK, NY**

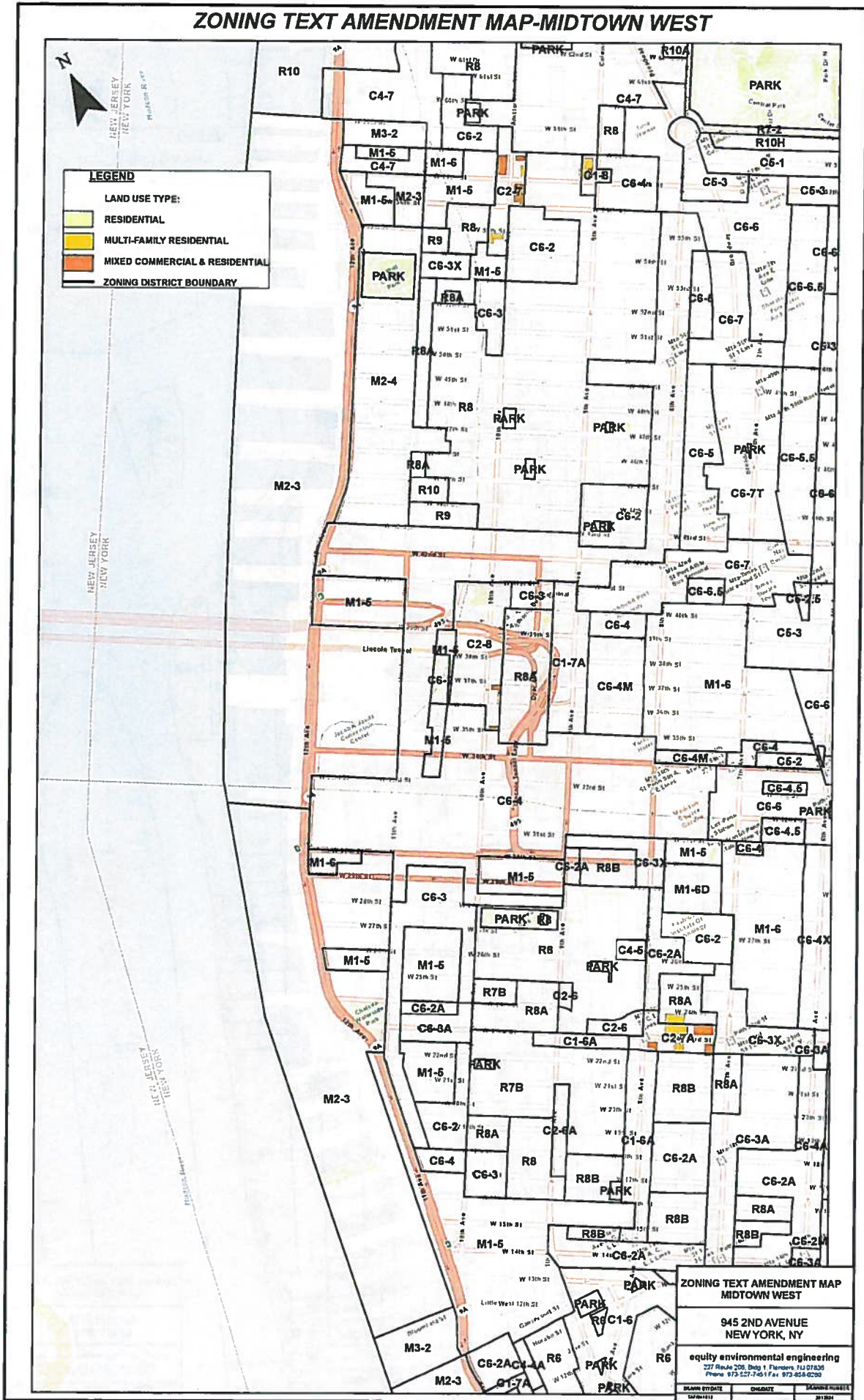
equity environmental engineering
227 Route 208, 2nd Fl, Flushing, NY 11355
Phone: 917-527-7421 Fax: 917-658-0230

DRAWN BY/DATE	CHECKED BY/DATE	ISSUED BY/DATE
12/20/2014		01/15/2015

ZONING TEXT AMENDMENT MAP-MIDTOWN EAST



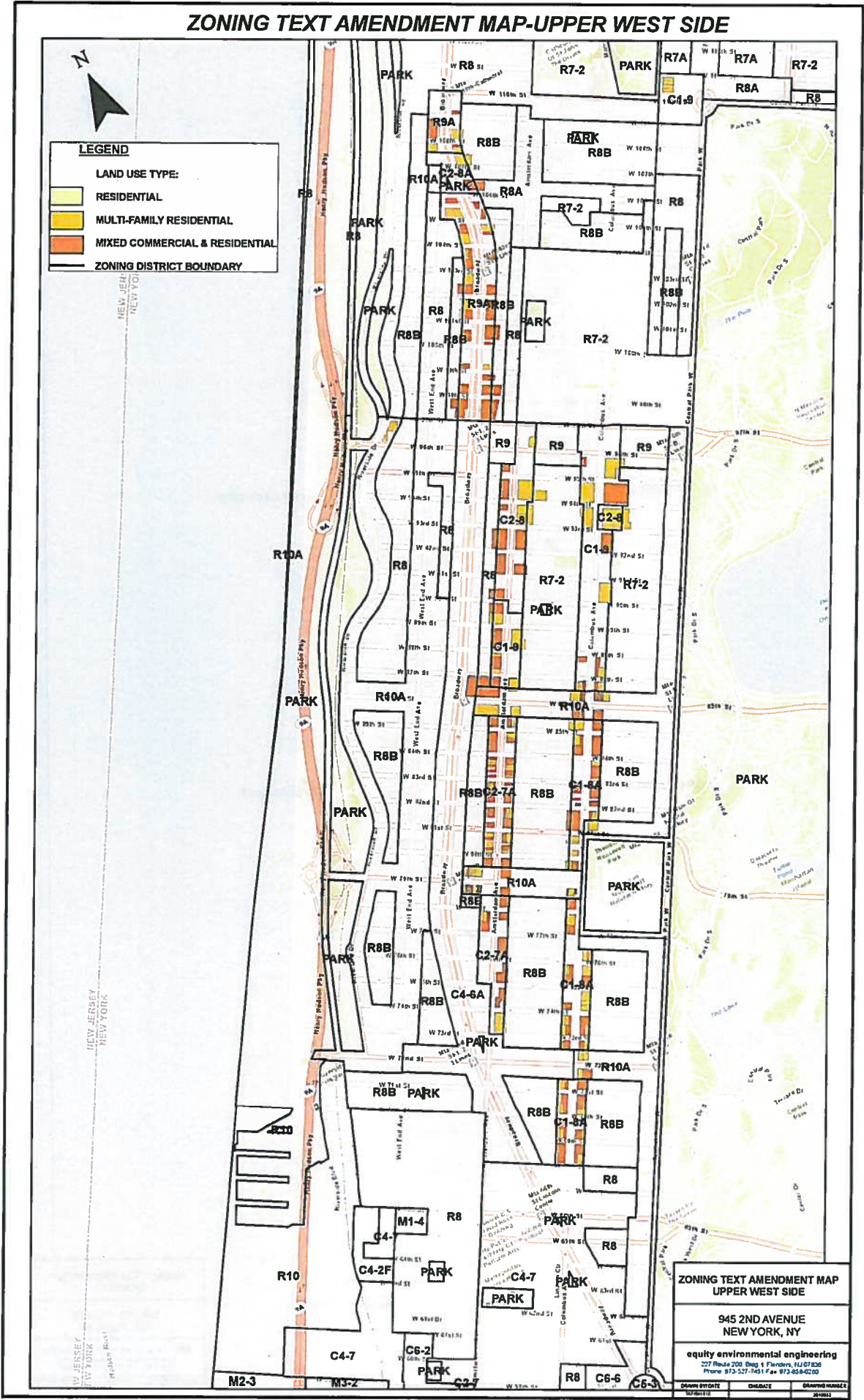
ZONING TEXT AMENDMENT MAP-MIDTOWN WEST



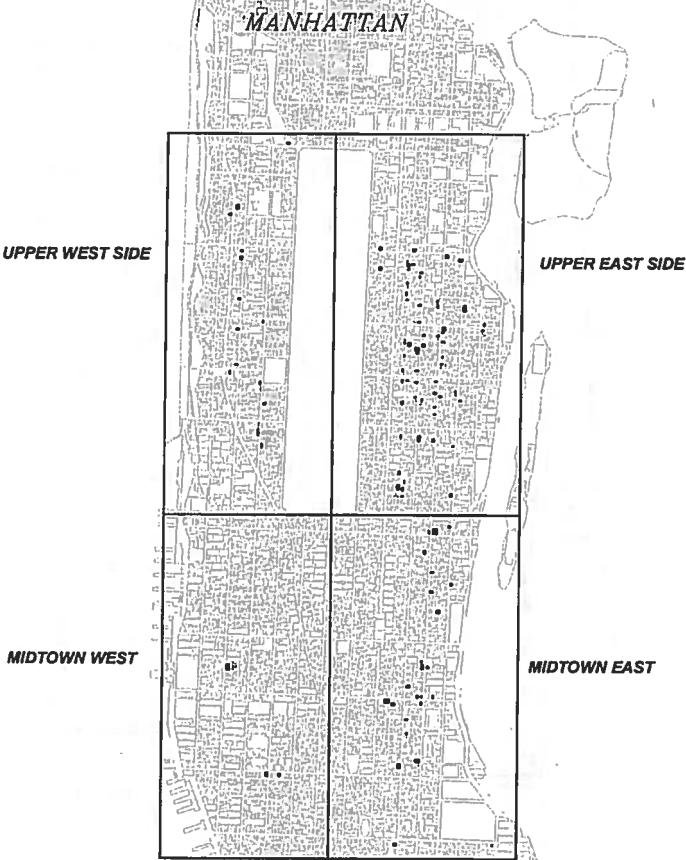
ZONING TEXT AMENDMENT MAP-UPPER EAST SIDE



ZONING TEXT AMENDMENT MAP-UPPER WEST SIDE



ZONING TEXT AMENDMENT BASEMAP 120 Site Sample



LEGEND
CRANE_120 SITES

ZONING TEXT AMENDMENT BASEMAP		
945 2ND AVENUE NEW YORK, NY		
equity environmental engineering 227 Route 208, Doug 1, Flinders 111 67838 Phone: 973-527-7451 Fax: 973-654-0290		
DRAWN BY/DATE	CHECKED	DRAWING NUMBER
SKM/10/11	SKM/11/11	01/10/11

945 2nd Avenue

Site Photographs



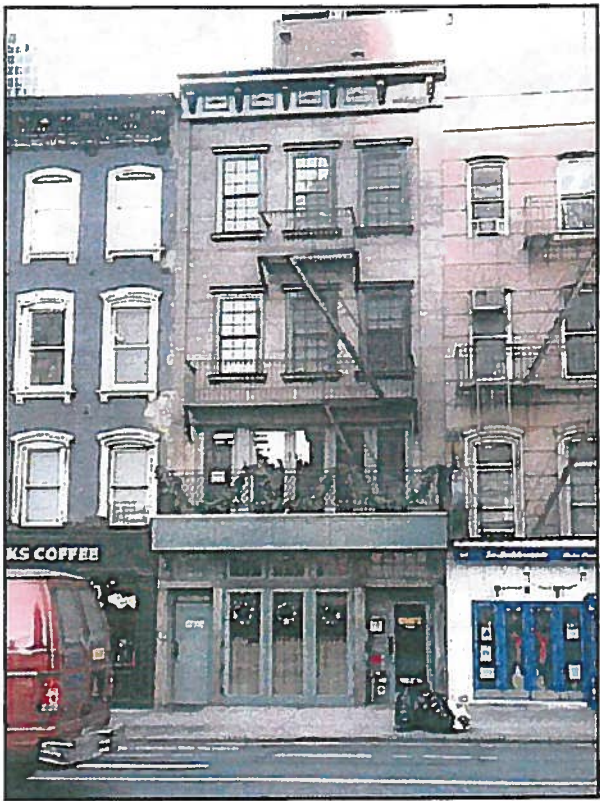
1. 945 2nd Avenue – ground floor restaurant



2: View of 945 2nd Avenue (center) from across 2nd Avenue

945 2nd Avenue

Site Photographs



3: 945 2nd Avenue



4: Second floor commercial uses – subject block front

945 2nd Avenue

Site Photographs



5. Subject block front of 2nd Avenue looking south from 51st Street

Owner's Authorization

Re: **ULURP Application – Text Amendment**
945 Second Avenue, New York, NY

BRIAN OWENS, being duly sworn, deposes and says that he resides at 130 Shore Road
Port Washington, in the City of Port Washington, in the County of Nassau, in
the State of New York; that 945 Realty Holdings LLC is the owner
in fee of all that certain lot, piece or parcel of land located in the Borough of Manhattan,
in the City of New York and known and designated as Block 1324, Lot 23, Street and
House Number 945 Second Avenue; and that the owner identified above is fully aware
of the actions concerning the property that are being requested.

The owner identified above hereby authorizes GOLDMANHARRIS LLC to make the
above-referenced ULURP application on his behalf.

Signature of Owner: _____

Print Name: _____

Brian Owens

Print Title: _____

President

Sworn to before me this _____
of December 2012

Eugene Travers
Notary Public

