



CITY OF NEW YORK
BOARD OF STANDARDS AND APPEALS
40 Rector Street, 9th Floor
New York, New York 10006-1705
Phone: (212) 788-8500
Fax: (212) 788-8769

AFFIDAVIT OF OWNERSHIP

State of New York
City of New York
County of New York } ss.:

Edward Mahoney, being duly sworn, deposes and says that (s)he
resides at c/o 633 Third Avenue - 4th floor in the City of
New York, in the County of New York, in the State of
New York; that S.K.I. Realty, Inc., a subsidiary of
Memorial Sloan-Kettering Cancer Center, 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 1456, Lot(s) 21,
Street and House Number 1133 York Avenue, a/k/a 437-443 East 61st Street; that (s)he
hereby authorizes Memorial Hospital for Cancer and Allied
Diseases and Friedman & Gotbaum, LLP to make the annexed application
in her/his behalf; and that the statements of fact contained in said application are true.

Signature of Owner

Print Name

Edward Mahoney

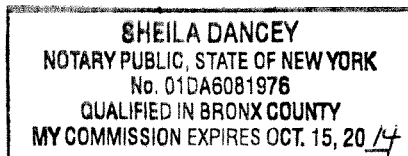
Print Title

Vice President, Facilities Management
Memorial Sloan-Kettering Cancer Center

(State if Partner, or give Title if Officer of Corporation)

Sworn to before me this 26th day

of September 2011

(Notary Public)



THE CITY OF NEW YORK
DEPARTMENT OF BUILDINGS
www.nyc.gov/buildings

MANHATTAN (1)
280 BROADWAY 3RD FLOOR
New York, NY 10007

BRONX (2)
1332 ARTHUR AVENUE
BRONX, NY 10457

BROOKLYN (3)
710 JORALEMON STREET
BROOKLYN, NY 11201

QUEENS (4)
120-55 QUEENS BLVD
QUEENS, NY 11424

STATEN ISLAND (5)
BORO HALL - ST. GEORGE
STATEN ISLAND, NY 10301

DOB Application # 120801365(BSA)	Examiner: Shauqat Shaikh	Date: 09/06/11
	Application Type: NB	Doc (s):
	Address / Location: 1133 York Ave	Block: 1456
	Zoning District: C1-9	Lot: 21

Examiner's Signature:

SHAUQAT SHAIKH

To discuss and resolve these objections, please call 311 to schedule an appointment with the Plan Examiner listed above. You will need the application number and document number found at the top of this objection sheet. To make the best possible use of the plan examiner's and your time, please make sure you are prepared to discuss and resolve these objections before arriving for your scheduled plan examination appointment.

Obj. #	Doc #	Section of Code	Objections	Date Resolv.	Comnt.
1.		ZR Sec 33-123	The proposal exceeds the maximum floor area ratio permitted for a community facility building in a C1-9 district as per this section.		
2.		ZR Sec 33-261	The proposal does not provide a rear yard in the interior portion of the zoning lot in a C1-9 district as per this section.		
3.		ZR Sec 33-432	The proposal does not comply with the maximum height of a front wall and the required front setback regulations applicable in a C1-9 district as per ZR Sec 33-432 on both York Avenue and East 61 st Street.		
4.		ZR Sec 13-142(a)	The proposal indicates a curb cut on a wide street and within 50' of an intersection which does not		
5.		and (b)	comply with ZR Sec 13-142(a) and (b).		
6.		ZR Sec 32-643 & 32-655	Proposed building signage size and location does not comply with ZR Sec. 32-643 and 32-655.		
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					
16.			Plan examination to continue.		

DENIED

FOR APPEAL TO BOARD OF STANDARDS AND APPEALS

DATE

11/22/11

PER

JED WEISS

JED WEISS

CHIEF ZONING SPECIALIST
NYC DEVELOPMENT HUB



City of New York
Board of Standards and Appeals
40 Rector Street, 9th Floor
New York, NY 10006-1705
Phone: (212) 788-8500
Fax: (212) 788-8769
www.nyc.gov/bsa

ZONING (BZ) CALENDAR
Application Form

RECEIVED
DEC 13 2011
BY COMMUNITY BOARD

BSA APPLICATION NO. 183-11-BZ
EQR NO. 12 BSA 045M

Section A

**Applicant/
Owner**

Memorial Hospital for Cancer and Allied Diseases by Friedman & Gotbaum, LLP by Shelly S. Friedman, Esq.			S.K.I. Realty, Inc.		
NAME OF APPLICANT			OWNER OF RECORD		
<u>568 Broadway - Suite 505</u>			<u>633 Third Avenue - 3rd Floor</u>		
ADDRESS			ADDRESS		
<u>New York</u>	<u>NY</u>	<u>10012</u>	<u>New York</u>	<u>NY</u>	<u>10017</u>
CITY	STATE	ZIP	CITY	STATE	ZIP
<u>212</u>	<u>925-4545</u>		<u>Memorial Hospital for Cancer and Allied Diseases</u>		
AREA CODE	TELEPHONE		LESSEE / CONTRACT VENDEE		
<u>212</u>	<u>925-5199</u>		ADDRESS		
AREA CODE	FAX		CITY		
<u>sfriedman@frigit.com; earistova@frigit.com</u>			STATE		
EMAIL			ZIP		

Section B

**Site
Data**

<u>1133 York Avenue, a/k/a 437-443 East 61st Street</u>				<u>10065</u>
STREET ADDRESS (INCLUDE ANY A/K/A)				ZIP CODE
Property is situated on the north side of East 61st Street, 0 ft westerly from the corner formed by the intersection of the northerly side of East 61st Street and the westerly side of York Avenue.				
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS				
<u>1456</u>	<u>21</u>	<u>Manhattan</u>	<u>8</u>	
BLOCK	LOT(S)	BOROUGH	COMMUNITY DISTRICT	LANDMARK/HISTORIC DISTRICT
<u>Jessica S. Lappin</u>	<u>C1-9; C8-4</u>		<u>8c/8d</u>	
CITY COUNCIL MEMBER	ZONING DISTRICT		ZONING MAP NUMBER	
(include special district, if any)				

Section C

**Dept of Building
Decision**

BSA AUTHORIZING SECTION(S) <u>72-21</u> for <input checked="" type="checkbox"/> VARIANCE <input type="checkbox"/> SPECIAL PERMIT (Including 11-41)
Section(s) of the Zoning Resolution to be varied <u>33-123; 33-261; 33-432; 32-643; 32-655; 13-142(a)&(b)</u>
DOB Decision (Objection/ Denial) date: <u>November 22, 2011</u> Acting on Application No: <u>120801365 (BSA)</u>

Section D

Description

(LEGALIZATION ☐ YES ☒ NO ☐ IN PART) The applicant seeks a variance pursuant to ZR § 72-21 with respect to construction of a new outpatient surgical center which exceeds the maximum floor area ratio permitted for a community facility building in a C1-9 district (ZR § 33-123); does not provide a rear yard in the interior portion of the zoning lot in a C1-9 district (ZR § 33-261) and does not comply with the maximum height of a front wall and the required front setback regulations applicable in a C1-9 district (ZR § 33-432) on both York Avenue and East 61st Street. The proposed project requires a waiver of ZR § 13-142(a)&(b) to permit a curb cut on York Avenue and a waiver of ZR § 32-643 & 32-655 to permit an illuminated sign at the top of the Proposed Building.

Section E

**BSA History
and
Related Actions**

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS		YES	NO
1. Has the premises been the subject of any previous BSA application(s)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRIOR BSA APPLICATION NO(S):			
2. Are there any applications concerning the premises pending before any other government agency?....		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is the property the subject of any court action?.....		<input type="checkbox"/>	<input checked="" type="checkbox"/>

Section F

Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.	
<u>Shelly S. Friedman</u>	SWORN TO ME THIS <u>2nd</u> DAY OF <u>December</u> 2011
Signature of Applicant, Counsel or Other Authorized Representative	
<u>Shelly S. Friedman, Esq.</u>	<u>Elena Aristova</u>
Counsel	Notary Public, State of New York
	No. 01AR8050323
	Qualified in Kings County
	Commission Expires 11/06/2016
	NOTARY PUBLIC

13. Conforming (As-of-Right) Plans (Drawings AOR-01A through AOR-27 dated November 28, 2011);
14. Proposed Conditions Plans (Drawings Z-01A through Z-27 dated November 28, 2011);
15. List of Affected Property Owners and Tenants.

Also enclosed are:

- A CD containing all materials listed above;
- Environmental Assessment Statement (one (1) original; two (2) copies; two (2) CDs);
- Internal Revenue Service 501(c)(3) letter issued to MSK;
- NYS Department of State printouts representing proof of Memorial Hospital's, MSK's and SKI's non-profit status;
- A check in the amount of Twelve Thousand One Hundred Dollars and 00/100 cents (\$12,100.00) payable to Board of Standards and Appeals which represents the BSA filing fee based on 138,253 sf of zoning floor area of the project;
- A check in the amount of Forty-Seven Thousand Eight Hundred Fifteen Dollars and 00/100 (\$47,815.00) payable to Board of Standards and Appeals which represents the CEQR filing fee based on 171,913 sf of gross floor area of the project.

Thank you for your cooperation. If you should have any questions please feel free to call me at (212) 925-4545.

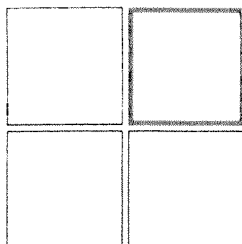
Very truly yours,



Shelly S. Friedman

Enclosures

cc: Hon. Jacqueline Ludorf, Chair, Manhattan CB 8
Hon. Jessica S. Lappin, NY City Council Member
Hon. Scott M. Stringer, Manhattan Borough President
Ms. Edith Hsu-Chen, Director, Manhattan Office, Department of City Planning
Mr. Christopher Holme, Zoning & Urban Design Division, Department of City Planning
Derek Lee, R.A., Manhattan Borough Commissioner, NYC Department of Buildings
Allison M. Coliskey, Executive Director, The Colonial Dames of America



FRIEDMAN & GOTBAUM LLP

568 BROADWAY SUITE 505
NEW YORK NEW YORK 10012
TEL 212.925.4545
FAX 212.925.5199

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DEC 13 2011

BY COMMUNITY BOARD 8

December 5, 2011

BY HAND

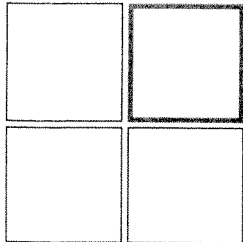
The Honorable Meenakshi Srinivasan
Chair
NYC Board of Standards and Appeals
40 Rector Street - 9th Floor
New York, New York 10006

Re: Bulk Variances Application
Memorial Hospital for Cancer and Allied Diseases
1133 York Avenue Block 1456 Lot 21, Manhattan (the "Site")
BSA Cal. No. CEQR No.

Dear Chair Srinivasan:

We are special land use counsel to Memorial Hospital for Cancer and Allied Diseases ("Memorial Hospital"), applicant in connection with the variance application referenced above, Memorial Sloan-Kettering Cancer Center ("MSK") and its subsidiary S.K.I. Realty Inc. ("SKI"), owner of the above-referenced premises. Memorial Hospital seeks a variance pursuant to ZR Sec. 72-21 with respect to construction of a proposed new Memorial Sloan Kettering Outpatient Surgical Center on the Site referenced above. Enclosed please find one (1) original and nine (9) copies of the following materials in connection with Memorial Hospital's ZR. Sec. 72-21 variance application:

1. BZ Application form;
2. Department of Buildings Objections dated November 22, 2011;
3. Affidavit of Ownership;
4. Statement of Facts;
5. Statement of Findings;
6. Certificate of Occupancy No. 102695861-T;
7. Tax Map;
8. Zoning Maps (8c/8d);
9. BSA Zoning Analysis;
10. Radius Diagram/Land Use Map;
11. Photographs 1 through 8;
12. Existing Conditions Plans (Drawings EX-01 dated November 28, 2011. Pursuant to our discussions with the Staff, only the Site Plan is being submitted because the existing building will be demolished and replaced with the Proposed Building);



FRIEDMAN & GOTBAUM LLP

568 BROADWAY SUITE 505
NEW YORK NEW YORK 10012
TEL 212.925.4545
FAX 212.925.5199

December 6, 2011

BY CERTIFIED MAIL/Returned Receipt Requested

Hon. Jacqueline Ludorf
Chair
COMMUNITY BOARD 8
505 PARK AVENUE - SUITE #620
NEW YORK, NY 10022

RECEIVED

DEC 13 2011

BY COMMUNITY BOARD 8

**Re: Memorial Hospital for Cancer and Allied Diseases
1133 York Avenue Block 1456 Lot 21, Manhattan (the "Site")
BSA Cal. No. 183-11-BZ CEQR No. 12-BSA-045M**

Dear Ms. Ludorf:

We are special land use counsel to Memorial Hospital for Cancer and Allied Diseases ("Memorial Hospital"), applicant for certain bulk variances pursuant to NYC Zoning Resolution Sec. 72-21 with respect to the proposed construction on the Site of a new Memorial Sloan Kettering Outpatient Surgical Center. The proposed 261 ft tall new building will exceed the maximum floor area ratio permitted for community facility building in a C1-9 district by FAR 1.97; does not provide a rear yard in the interior portion of the zoning lot; does not comply with the maximum height of a front wall and the required front setback regulations applicable in a C1-9 district on both York Avenue and East 61st Street; and does not comply with curb cut and signage regulations.

This letter is to advise you formally that the enclosed application for the foregoing variances was filed yesterday with the Board of Standards and Appeals. We look forward to having the opportunity to discuss the application with the Community Board early in 2012.

Please feel free to contact me should you have any questions or comments about the project.

Very truly yours,


Shelly S. Friedman

Enclosure

STATEMENT OF FACTS IN SUPPORT
OF CERTAIN VARIANCES
FROM THE PROVISIONS OF
THE NEW YORK CITY ZONING RESOLUTION

Affected Premises:

1133 York Avenue
Block 1456 Lot 21
Manhattan

Filed: December 5, 2011

Applicant:

Friedman & Gotbaum LLP
568 Broadway - Suite 505
New York, New York 10012
(212) 925-4545
sfriedman@frigot.com
earistova@frigot.com

On behalf of:

Memorial Hospital for
Cancer and Allied Diseases
1275 York Avenue
New York, NY 10065

12/02/2011

A. The Application

This Statement of Facts is filed in support of the application of Friedman & Gotbaum LLP pursuant to Section 72-21 of the Zoning Resolution of the City of New York (the "Zoning Resolution" or "ZR") and Section 666 of the New York City Charter on behalf of Memorial Hospital for Cancer and Allied Diseases ("Memorial Hospital", or "Memorial"), a nonprofit hospital, research and educational facility in continuous operation since 1916.

The 11,547-sf project site at 1129-1133 York Avenue, identified as Lot 21 in Block 1456 on the Tax Map for the Borough of Manhattan (the "Site" or the "Zoning Lot"), is located on the northwest corner of the intersection of York Avenue and East 61st Street in Manhattan. Memorial Hospital proposes to build on the Zoning Lot a state of the art Outpatient Surgical Center (the "Proposed Building"). The Proposed Building will be entirely Use Group 3. It will be 261 ft tall, with fifteen stories and will contain 138,253 sf of zoning floor area (11.97 FAR). The Application seeks the following variances from the Zoning Resolution necessary for the construction of the Proposed Building:

1. ZR Sec. 33-123 because the Proposed Building exceeds by FAR 1.97 the maximum floor area ratio permitted (FAR 10) for a community facility building in a C1-9 district.
2. ZR Sec. 33-261 because the Proposed Building does not provide a rear yard in the interior portion of the Zoning Lot in a C1-9 district.
3. ZR Sec. 33-432 because the Proposed Building does not comply with the maximum height of the front walls and the required front setback regulations applicable in a C1-9 district on both York Avenue and East 61st Street.
4. ZR Sec. 13-142(a) and (b) for the York Avenue curb cut because York Avenue is a wide street and the curb cut is within 50 ft of the intersection.
5. ZR Sec. 32-643 & 32-655 because the Proposed Building's signage size and location do not comply with the signage size regulations of ZR Sec. 32-643 and with signage location regulations of ZR Sec. 32-655.

B. The Surrounding Neighborhood

a. Land Use and Building Context

The area within 400 ft of the Site contains an eclectic mix of uses and structures, with public infrastructure, including a major interborough bridge with subway tracks, a park, an arterial highway, a riverside esplanade and the Roosevelt Island tram overhead. Privately-owned sites are improved with institutional, buildings, residential buildings, parking garages, historic structures and commercial uses. On Block 1456, the north side of East 61st Street is occupied by the Site, and moving west is a 13-storey gray brick and glass contemporary

condominium with community facility, commercial and diplomatic uses, which is set back behind a 75 ft deep paved plaza and driveway that provides access to its below grade parking garage. To its west is the Mount Vernon Hotel Museum at 421 East 61st Street, a designated landmark. It is a stone manor house with a peaked roof and two porches, and sets back approximately 20 ft from East 61st Street at an angle to the street and is surrounded by gardens within a stone retaining wall. The remainder of the south side of East 61st Street is improved with two-to-seven-storey with a variety of uses built to a street wall. These include a two-storey stone clad building that echoes the design of the Mount Vernon Hotel and Garden that houses the offices of the Colonial Dames of America; a seven-storey commercial building with setbacks at the fifth floor; and a five-storey tenement. Completing the 400 ft radius, adjacent to the Site on York Avenue to the north is 1142 York Avenue, a 19-storey brick apartment building with street walls on York Avenue and East 62nd Street that setback at the 17th floor. The remainder of the radius of buildings along East 62nd Street west of York Avenue consists of the Weill Cornell Medical College's Iris Cantor Women's Health Center and a six-storey brick ministorage building built to the sidewalk.

On Block 1474, across York Avenue from the Site, the east side of York Avenue between East 61st and East 62nd Streets contains a paved area formerly occupied by a gas station and a hotel. The paved area occupies the full York Avenue frontage on the block. Rising directly behind it is the 20-storey Bentley Hotel, which is clad in a glass and metal curtain wall and rises without any setbacks. A two-storey extension at the south end of the building contains an entrance to a below grade parking garage, which is accessed from East 61st Street. Also on this block and fronting onto the FDR Drive is the Animal Medical Center, a nine-storey brick academic veterinary hospital building. This building is set on a two-storey base clad in metal panels that is supported on large piers, permitting parking beneath it along the FDR Drive access road. The building presents a blank unfenestrated façade on East 61st Street. South across East 61st Street and south-east of the Site is Twenty-Four Sycamores Park and Playground, an approximately 0.6-acre park that includes basketball and handball courts, a dog run, and play equipment.

Block 1455, the block immediately south of the Site and across East 61st Street, has undergone continual development since the 1990's. Within 400 ft of the Site, the westernmost lot at the corner of York Avenue between East 60th and 61st Streets is undergoing significant development for a new residential tower and is partially occupied by a below grade parking garage for the recently completed 41-storey residential building to its west. This newly constructed tower is clad in black glass and freestanding of any structures around it. This

narrow building rises without any setbacks and is set back from East 61st and East 60th Streets behind landscaped gardens. The remainder of this block along East 61st Street to First Avenue is developed with a modern 38-storey residential building. The building is set on a two-storey base built to the sidewalk, with the upper stories set back in a tower along First Avenue. The ground floor contains large storefront windows containing advertisements for the building's retail tenant, Bed, Bath & Beyond. On East 60th Street, the streetscape west of the 41-storey tower in the study area contains two buildings built to the sidewalk. These include a seven-storey brick tenement and a four-storey brick parking garage. The north side of East 60th Street contains the approach for the Queensboro Bridge. It is composed of a series of stone vaults. These vaults have been enclosed and converted to commercial use including a supermarket and a discount clothing store. There are also ground floor retail uses in some of the buildings on York Avenue.

On York Avenue, the blocks north of East 62nd Street contain large residential buildings. A 26-storey brick apartment building occupied the full block between York Avenue, East 62nd and East 63rd Streets, and the FDR Drive (Block 1475). Spanning over the southbound lanes of the FDR Drive is a Rockefeller University housing building of 36-stories. Most of the block across York Avenue to the west (Block 1457) is occupied by another residential development containing several 12 and 18-storey brick buildings. Within the study area on this block, a building is oriented fronting onto York Avenue, another parallel to it at the west end of the property, and another on East 63rd Street. The buildings rise without setbacks and have projecting balconies. Fronting onto East 62nd Street for much of its frontage is a tall, decorative brick wall that borders this residential development's garden. The garden's trees and other greenery project above the wall.

This eclectic collection of buildings defies any form of contextual analysis. However, the Proposed Building at 261 ft will be consistent with the height of other structures in the surrounding neighborhood and shorter than a number of them, including all of the more recently built buildings south, west and east of the Proposed Building. It is not as tall as the Koch Queensboro Bridge. According to NYC DOB records, the 32-storey building under construction at 1113 York Avenue immediately south of the Site is expected to raise 328 ft.

b. Underlying Zoning Regulations

The blockfront east of York Avenue on Block 1456 between East 61st and East 62nd Streets, which includes the largest portion of the Site and the property immediately adjacent to the Site on the north, is zoned C1-9; the remaining portion of the Site is located within a C8-4

district which extend east to First Avenue. Block 1455 south of the Site is zoned as follows: (east to west) C4-7; C6-3; C6-2 and C4-7. Midblock area of Block 1457 north of the Site is zoned R8; the remainder of this block west of York Avenue and Block 1475 north-east of the Site are zoned R10. Area east and south east of the Site (Block 1474) is zoned C8-4. The permitted development by zoning district is described in Table 1 below.

Table 1
Zoning Districts in the vicinity of the Site

Zoning District	Maximum FAR	Uses/Zone Type
R8	0.94-6.02 residential, 6.5 community facility	High density residential district
R10	10.0 residential ¹ , 10.0 community facility	High density residential district
C1-9	2.0 commercial, 10.0 community facility ³ , 10.0 residential ²	Local retail commercial district, predominantly residential in character
C4-7	10.0 commercial ⁴ , 10.0 community facility ³ , 10.0 residential ^{2,4}	High density commercial district
C6-2	6.0 commercial ⁴ , 6.5 community facility ³ , 0.94-6.02 residential ²	High density commercial district
C6-3	6.0 commercial ⁴ , 10.0 community facility ³ , 0.99-7.52 residential ²	High density commercial district
C8-4	5.0 commercial, 6.5 community facility	Heavy commercial and community facility district
Notes: 1. Up to 12.0 FAR with Inclusionary Housing bonus. 2. Increase with Inclusionary Housing bonus. 3. Up to 20% increase for a public plaza bonus 4. Public plaza FAR bonus up to 20% Source: <i>New York City Zoning Resolution</i>		

C. Memorial Hospital’s History

Memorial Hospital traces its history to the New York Cancer Hospital, founded in 1884 as the nation’s first cancer hospital. The hospital foundered in its early years due to the stigma associated with cancer and its treatment. Its name was changed to General Memorial Hospital for Cancer and Allied Diseases in 1899 and it was forced to begin accepting any and all patients.

The original vision remained in the minds of a few key board members and physicians—particularly William B. Coley, an early pioneer in the field now known as immunotherapy. Through Dr. Coley and his interest in the treatment of sarcoma, the Rockefeller family began

more than a century of involvement with Memorial Hospital. Contributions from James Douglas returned Memorial Hospital to its original mission—the treatment of cancer and research into its cure. He set three conditions for his contributions: affiliation with Cornell University, appointment of the noted Pathologist James Ewing as president of the medical staff, and removal of “General” from the name. By 1916, these conditions were met and within a few years the institution’s patient care and research programs had been revitalized. In 1927, John D. Rockefeller, Jr. endowed the nation’s first academic fellowship training program there.

In 1934, Mr. Rockefeller donated the land that would become Memorial Hospital’s main campus. A new hospital opened at York Avenue and 68th Street in 1939. Over the next six decades, Memorial Hospital witnessed enormous changes in response to the demands of cancer research and treatment. Buildings were built, renovated, or demolished in accordance with Memorial’s evolving mission and with the advances made relevant to that mission: progressive understanding, control and cure of cancer through patient care, research and education. The Sloan-Kettering Institute (SKI), dedicated to cancer research, much of it undertaken by the physicians of Memorial Hospital, was created in 1945.

Both the institution and its facilities continued to grow, and new buildings were added over time: James Ewing Hospital (1950) along First Avenue, since renamed the Arnold and Marie Schwartz International Hall of Science for Cancer Research (Schwartz Building), and renovated to house laboratories and offices; and the Tower Building (1951) on York Avenue between East 67th and 68th Streets for outpatient services. The next 13 years saw the construction of Sloan House and Winston House for staff, the Kettering Building on East 68th Street, and a 21-storey Memorial Hospital building on York Avenue on the site of the Tower Building, as well as ancillary buildings along the north side of East 67th Street housing outpatient services and Radiation Oncology. SKI and Memorial Hospital were eventually unified into a single entity in 1960 as subsidiaries to Memorial Sloan-Kettering Cancer Center (“MSK”). Demolition and reconstruction on the main campus continued well into the 1990’s. Winston House gave way to the new Rockefeller Laboratory Building, which opened in 1989. The Enid A. Haupt Pavilion on 67th Street, which gathered outpatient services, physician’s offices, Radiation Oncology, and same-day surgery facilities under one roof, opened in 1991. Just west of the main campus on East 68th Street, the Sidney Kimmel Center for Prostate and Urologic Cancers opened in 2002. The Claire Tow Pediatric Pavilion opened in 2004. In 2006, MSK opened a new 72,000-sf surgical center featuring 21 state-of-the-art operating rooms equipped for both minimally invasive and more traditional open surgery.

Also in 2006, with approvals provided by this Board, the 23-storey Mortimer B. Zuckerman Research Center (ZRC)—MSK's first new research facility in more than a decade—opened its doors. The ZRC provides laboratories designed to adapt to the evolving needs of researchers, integrate new technologies, and promote the multidisciplinary interactions vital to moving scientific discoveries into clinical applications.

In 2010, MSK opened the Center For Image-Guided Intervention (CIGI), a surgical day hospital that includes operating suites, a pre- and postsurgical care unit, and endoscopy procedure rooms. Occupying nearly 40,000 sf on the second floor of Memorial Hospital and adjoining buildings, the facility supports a range of technologies that will train the next generation of oncologists and advance the treatment of cancer in the coming decades.

With the shift towards outpatient cancer treatment, MSK has looked beyond the immediate campus. The Evelyn H. Lauder Breast Center and the Iris Cantor Diagnostic Center opened at 205 East 64th Street in 1992. The Rockefeller Outpatient Pavilion, located at 160 East 53rd Street, opened in 1999. The Breast and Imaging Center, at 300 East 66th Street, opened in October 2009.

To make MSK's expert care accessible and convenient for patients, a network of community based cancer treatment centers has been developed throughout a wider geographical region. At these treatment centers, patients can receive outpatient radiotherapy, chemotherapy, surgical consultation, and dermatologic services. Additional services offered at some of the regional sites include diagnostic imaging, integrative medicine programs, psychosocial support, and neurology consultations. Patients at the regional sites also have access to many of the clinical trials offered at the main campus. Treatment centers include three on Long Island (Commack, Rockville Centre, and Hauppauge), one each in Westchester (Sleepy Hollow) and New Jersey (Basking Ridge), and the Brooklyn Infusion Center. These centers provide state-of-the-art services, but they cannot provide the newest concepts in ambulatory surgery that will be developed and taught in the Outpatient Surgical Center requested in this Application. Like other treatment facilities world-wide, these centers will ultimately be the institutional beneficiaries of the work programmed for the Outpatient Surgical Center.

In 2010, MSK, one of the Nation's 26 officially designated Cancer Centers, had more than 11,000 employees, including approximately 800 Memorial Hospital attending staff and 140 SKI members. In 2010, more than 24,000 patients were admitted to Memorial Hospital, and MSK accommodated more than 500,000 outpatient visits at its Manhattan and regional sites combined.

D. Need for the New Outpatient Surgical Center

Surgery remains, whether individually or in conjunction with other treatments such as chemotherapy and irradiation, the most prevalent form of cancer treatment. Whereas complex surgical procedures and relatively simple “day surgery” operations are well-established, a new middle band of surgical procedures is being pioneered at Memorial Sloan Kettering and other national cancer centers, where more sophisticated and complex surgical procedures are being performed in an ambulatory setting. When conducted by specially trained, highly experienced surgical, anesthesia and nursing teams, these new operations can be carried out expeditiously and safely, allowing patients to leave the facility within 23 hours rather than spend several nights in a hospital recovering. These complex, more invasive ambulatory surgical procedures serve several important purposes. First, surgical patients recover better and faster in a home environment. Post-surgical complications, both physiological and psychological, are substantially reduced when the patient can go home rather than be admitted. Second, the rapid escalation of the costs of long-term post-surgical hospitalization demands the development of more efficient means for delivering critical cancer treatment. And third, patients report greater satisfaction with care when it is convenient and when they recover more quickly and return to their normal activities sooner.

The proposed project will establish a new Outpatient Surgical Center devoted totally to furthering the effectiveness of advances in ambulatory surgery for cancer patients. In addition to increasing the availability of these surgical procedures to Memorial’s patients, the Proposed Building will provide an academic, research and training platform with important consequences for cancer treatment in medical centers throughout the world. One of Memorial Hospital’s distinctive missions is to “export” its pioneering work in medical and technological advancements in cancer treatments for adoption by other medical centers. The surgical fellows who will be trained as surgical oncologists within this new Outpatient Surgical Center will also “export” the advances made possible by the Proposed Building through their post-graduate careers, through their own practice, research and teaching. The Proposed Building will also serve other important mission-related goals. First, demand for surgical procedures within Memorial Hospital is very high and outstripping its current facilities. In order to meet this increasing demand, Memorial Hospital has been required to schedule its current operating rooms late into the night and on weekends. In addition, there are significant differences between the design and operation of standard surgical suites and ambulatory surgical suites. Accordingly, the construction and operation of a purpose-built outpatient surgical center will not only accommodate the anticipated growth in demand for operating suites, it will also allow

Memorial Hospital to increasingly focus its research and educational missions toward this new approach to cancer care.

The new Outpatient Surgical Center will accomplish a number of Memorial Hospital's important programmatic goals and objectives by providing the opportunity to:

- Shift the majority of outpatient operative cases from its main Hospital location to the new Outpatient Surgical Center, thereby freeing up space on the main campus for higher-intensity cases and critical post-surgical care and recovery.
- Create within the Outpatient Surgical Center a short stay recovery unit to allow for recovery of patients who do not require inpatient stay, but cannot be discharged as quickly as routine outpatient surgery patients.
- Foster a robotic and laparoscopic surgery program by creating twelve state-of-the-art, appropriately sized operating rooms for specialized equipment and advanced procedures with supporting pre-operative assessment and post-anesthesia recovery space. Important modern advances in the treatment of cancer, such as minimally invasive laparoscopic and robotic surgery, have unique spatial requirements and operational characteristics that would be met by the specialized layout of the Proposed Building.
- Optimize the facility to serve as an academic center through which Memorial Hospital can train its oncology students, fellows and residents in outpatient surgical procedures.
- Accommodate Clinical Lab and Pathology Departments; and provide administrative office space, ancillary support spaces and central sterile processing space.

Operationally, the Outpatient Surgical Center has been designed to provide program adjacencies and connectivity for ambulatory surgical procedures currently unavailable within Memorial Hospital. The proposed design ensures efficient patient and staff movement throughout the Proposed Building, which will have floorplates large enough to accommodate the proper layout of the desired number of operating rooms, surgical support areas, day-patient recovery areas and, equally important, a first-class educational setting for the training of future surgical oncologists.

While there is no doubt that these design and operation benefits of the Outpatient Surgical Center will bring advances in cancer treatments and improve patient outcomes, the Proposed Building also serves another important function: decreasing the current cost structure for surgical care of patients with cancer. Memorial Hospital is a leader in the surgical treatment of patients with complex, high-risk cancers and maintains an excellent record for procedures it offers, but it does so as an institution with a very expensive cost structure due to the commitment it makes to not only practice medicine at an extremely high level, but to do so in a way that leads to constant improvement in care through new programs, development of new treatments, research and education. Accordingly, the Outpatient Surgical Center as requested in this Application will provide Memorial with an opportunity to introduce to its program a new, more efficient model for the surgical care of many patients with cancer, a model particularly suitable for common but complex operations that can be performed on a day surgery or a short stay (23 hour) basis. Perfecting this model is entirely consistent with Memorial's mission: demonstrating and exporting to hospitals and physicians around the world the knowledge and experience gained through this new program, showing that complex, cancer surgery can be performed in a safe and highly efficient manner, at lower costs to the patient and healthcare system but with excellent and constantly improving outcomes.

Memorial Hospital's new Outpatient Surgical Center program is expected to accommodate 60 patients daily and will have 450 employees, eighty percent of which will be working during the hours of 6 am to 8 pm.

E. The Zoning Lot

The Site is located on the northwest corner of the intersection of York Avenue and East 61st Street, a frontage of 100.42 ft on York Avenue and 115 ft on East 61st Street. It is presently improved with a four-storey former automotive showroom building which occupies the entire Zoning Lot and is now used primarily for storage and accessory parking. A zoning district boundary runs north/south through the Site at 100 ft west of York Avenue, dividing the Zoning Lot into a 100 ft by 100.42 ft C1-9 (87 percent) portion and a 15 ft by 100.42 ft C8-4 (13 percent) portion. Accordingly, pursuant to ZR Sec. 77-211, the C1-9 bulk regulations may be applied to the entire Zoning Lot because (1) more than 50 percent of the Zoning Lot is located within the C1-9 district; and (2) the distance from the C8-4 district boundary to the Site's western lot line is less than 25 ft (15 ft). C1-9 district permits an FAR of 2 for commercial development and FAR 10 for residential and community facility development. The maximum permissible zoning floor area for residential and community facility may be increased by as

much as 20 percent (to a maximum of FAR 12) through a qualifying plaza or arcade and for a residential development it may also be developed to a maximum of FAR 12 pursuant to the Inclusionary Housing Program.

F. Site History

The relevant Site history begins in 1892.¹ The Site was part of the York Avenue Manufactured Gas Plant (MGP) operated by the Consolidated Gas Company. Between 1882 and 1907, a 25 foot tall above-grade gas holding tank was constructed on the Site; no MGP operations other than as storage for gas delivered to it from a gas production facility in Queens via under-River pipes are known to have been located at the Site. The use of the gas holding tanks was reduced between 1928 and 1950, when the tank on the Site was removed from the property altogether. However the buried foundation that supported it remains beneath the Site². According to research, surrounding the remaining foundation is a caisson ring-wall, probably 3 to 5 ft thick, which was necessary to support the gas holding tank and to serve as a sea wall against the waters of the East River to the Site’s east.³ In 1950, the Site was developed with the current four-storey automotive showroom, leaving in place the buried holding tank foundation and ring-wall. The Site was purchased by MSK⁴ in December 2008 and is currently used for storage and accessory parking. Until purchased by the Applicant, the Site was under active development by a private developer, who secured the current C1-9 zoning and certificates for a FAR 2 bonus pursuant to the Inclusionary Housing Program⁵, for an FAR 12 residential building.

¹ July 2011 Phase I Environmental Site Assessment prepared by GZA GeoEnvironmental of New York at MSK’s request, page 5.

² The existence of foundation was discovered after the acquisition of the Site by MSK.

³ August 2011 Draft Conceptual Foundation Engineering and Subsurface Exploration Report prepared by GZA GeoEnvironmental of New York at the request of MSK (the “GZA Report”) page 6.

⁴ Through its subsidiary, S.K.I. Realty, Inc.

⁵ In 2005, the previous owner applied for a re-zoning of the majority of the Site currently from C8-4 to C1-9. In approving the application, the City Planning Commission’s report stated: “The applicant intends to develop a new 26-story, 138,576 sf (FAR 12) mixed use residential building containing 120 units and a retail space of approximately 6,171 sf using the Inclusionary Housing Program.” Emphasis supplied. (C 040488 ZMM dated August 24, 2005/Calendar No. 13) The Applicant is in receipt of HPD documentation evidencing that the previous owner had satisfied its obligations under the Inclusionary Housing Program such that the Zoning Lot can be developed to FAR 12 as a residential building. (Certificate of Eligibility for Zoning Bonus LIH # 05-02 dated December 15, 2008.)

Concurrent with the rezoning, the previous owner received approval for a ZR Sec. 13-562 special

G. Proposed New Outpatient Surgical Center and Development Alternative

As noted above, the Applicant proposes to build on the Site a new, 15-storey Outpatient Surgical Center containing 138,253 sf of zoning floor area. The Proposed Building will be 261 ft tall and will include a covered patient drop-off area accessed from York Avenue, with departures exiting via an East 61st Street curb cut. Pedestrian access to the Proposed Building will be provided from both York Avenue and East 61st Street. The covered patient drop-off area will lead to the lobby entrance on the northern portion of the Proposed Building. At the base of the Proposed Building, the first floor will include the central entrance lobby and elevator core, the oxygen farm and loading, service and storage areas. As currently planned, the cellar and second levels will contain mechanical and support spaces. Most of the second floor uses, including Con Edison electrical equipment that Con Edison has indicated it cannot place below grade due to the water conditions, would typically be located below grade were it not for the water conditions and the abandoned foundation and ring-wall installed for the gas holding tank that occupied the site from 1892 through 1950.

The third floor will house the reception and waiting areas, as well as administrative space. The fourth, fifth, and sixth floors will each contain short stay beds, a nurse's station, and work room/staff lounge for short stay, PACU, and Pre-Op uses. The seventh, eighth, and ninth floors will each have four operating rooms and support space. Surgical pathology uses, with laboratory and support space will be located on the tenth floor. The tenth floor will also include a satellite pharmacy. Locker rooms, general stores, storage, and support space will be located on the eleventh floor of the Proposed Building. The twelfth and thirteenth floors will house surgical support space and more lockers. Conference space, dining and food service uses, and a business center will be located on the fourteenth floor. The fifteenth floor will house mechanical equipment.

The proposed project is expected to be complete and operational in 2015.

The Environmental Assessment Statement prepared by the AKRF concludes that the Proposed Building is not expected to have any significant environmental impacts.

Absent the proposed action, the Memorial Hospital considers the development of a lower functioning outpatient surgical center still necessary to its mission. The program would be

permit to facilitate an attended parking garage with a maximum capacity of 100 spaces. (C 040489 ZSM dated August 24, 2005/Calendar No. 14) The subgrade conditions render it impossible for the Applicant to pursue an attended parking garage.

compromised and challenging and would not meet several of its educational and research objectives, but it would serve as a surgical center that could function at Memorial's exacting standards. It would require three subgrade levels, therefore generating significant costs (estimated at \$12 million) associated with removing the current foundations, reported to include, in certain portions of the Site, a 29 ft-thick concrete slab, and ring-wall and replacing them with a new ring-wall and foundation designed to combat the significant amount of water beneath the Site.

Accordingly, an outpatient surgical center that complied fully with the Zoning Resolution would permit a building with 115,429 sf of zoning floor area (FAR 10) (the "Complying Building"). In order to comply with C1-9 height and setback regulations, the Complying Building would rise 336.5 ft, or twenty stories with setbacks at the 6th and 8th floors on East 61st Street and the setbacks at the 6th and 12th floors on York Avenue. The Complying Building would include a covered pedestrian entrance (without vehicle drop-off area) that would be accessed from both East 61st Street and York Avenue. Compared to the Proposed Building, the design of the Complying Building would result in an inefficient layout. Typically in health care planning, large contiguous floor plates are desirable for programmatic functionality as well as staffing efficiencies. The required setbacks impose extremely small floor plates at the upper levels where a large proportion of the available floor area is dedicated to elevator and shafts.

In comparison with the Proposed Building, the Complying Building would be significantly less efficient for the following reasons:

Less program space could be accommodated within the Complying Building, particularly on the upper floors where significantly more area will be dedicated to circulation and infrastructure. In addition, maintaining the rear yard would restrict the amount of core elements that can be located against the north and west walls, and infrastructure elements such as shafts and electric/telephone rooms would be forced towards the center of the Complying Building, limiting the amount of contiguous space available for program elements. The smaller floor plates will accommodate 2 less patient recovery modules which will limit the number of cases that can be accommodated and will result in extreme inefficiencies for staffing and duplication of support spaces (e.g., work rooms) on every floor. The smaller floor plates will also limit space for patient visitors on the uppermost floors.

The lack of large floor plates in the Complying Building requires that three levels below grade be constructed to accommodate the necessary surgical support and academic space. Because of subsurface geotechnical conditions, extensive rock excavation will be necessary, and

thick secant walls will be required to retain the high groundwater levels, thus extending the construction time by 7 months and construction costs by \$12 Million. In addition, the thickness of the secant walls necessary for construction of three below-grade levels will significantly reduce the size of these subsurface floorplates, thus resulting in a loss of 9 percent of below grade floor area.

H. Need for Variances Requested

ZR Sec. 33-123 Floor Area Ratio Waiver

This Application requests FAR 11.97⁶ for the new Outpatient Surgical Center. It was the Applicant’s original intent to develop the Site to FAR 10, requesting the waivers cited below to provide the requested adequate floorplates, curb cuts and signage requested in this Application. The plans for the 10 FAR building included three full sub-surface levels. Were three full subsurface levels feasible, all of the objectives of the Outpatient Surgical Center could have been met within an FAR 10 building. However, as studies for the 10 FAR building progressed, the Applicant discovered the following sub-surface conditions:

Groundwater. Due to the Site’s proximity to the East River the groundwater will be encountered at approximately El. +1. Given the likely environmental concerns with pumping groundwater, any structures that are installed below the groundwater table will require permanent waterproofing. Deep excavation will be open for an extended period of time so the pumping of groundwater on a “temporary” basis will not be feasible. An earth support system capable of excluding groundwater will be required.⁷ In addition, due to the presence of groundwater condition Con Edison requires that its equipment generally installed below grade be installed above the first storey at the 2nd storey level.

Existing Foundation. The estimated base slab or the buried foundation that supported the previously existing gas holding tank at the Site ranges in thickness from 1 to 5 feet. In addition, boring reports done previously indicate that within certain portions of the Site there is 29 vertical feet of concrete from top of the former slab extending down to the top of bedrock.⁸

⁶ Pursuant to ZR Sec. 37-80 & 33-14(b), the Applicant is entitled to a 2,502 sf floor area bonus for providing an 834-sf arcade within the Proposed Building, therefore the extent of the variance requested amounts to 20,281 sf or 1.76 FAR.

⁷ GZA Report, pages 6-7.

⁸ GZA Report, page 6.

The impact of these subsurface conditions on the overall construction budget for the Complying Building has been analyzed by Turner Construction Company. They have concluded that these subsurface conditions will extend the estimated period for extensive excavation and construction of foundation by 7 months: from 6 months for the Proposed Building to 13 months for the Complying Building as it will be necessary to completely excavate the Site to 45 to 50 ft below existing York Avenue grade (approximate El. -34 to -39 ft) in order to provide for three subgrade levels. They also estimate that these measures will generate a premium of at least \$12 million over the construction costs of the Proposed Building.

In providing foundation design recommendations, the GZA Report concluded that construction of the Complying Building will require that the Site be maintained as open excavation for an estimated 13 months. Given the extent of overburden soils, depth of groundwater, environmental groundwater concerns, and relative proximity of the Site to the East River, dewatering the Site for a long duration would not be feasible. Therefore, temporary earth support systems will need to be installed so that the entire Site during excavation remains watertight and capable of withstanding hydrostatic pressures. The Applicant has evaluated various options and believe that one of the following options will be necessary:

1. *Secant Wall Piling:* Secant walls, such as those incorporated into the World Trade Center reconstruction, will require closely-spaced, drilled, cast-in-place concrete columns that overlap to form a wall of tangent columns. Every other column is reinforced with a steel core beam to carry vertical and horizontal loads. Secant piles are advanced from the ground surface after demolition of the existing structures. When fully excavated, secant walls for this Site will require at least one level of internal cross bracing.

Secant walls are typically constructed to become part of the final structure such that they will function as the permanent foundation walls. The primary advantage is that no temporary walls are constructed and the excavation is made water-tight. The primary disadvantage particular to this project is that several feet of internal floor space is lost due to the thickness of the walls. The proximity to which secants may be installed on lot lines that abut neighboring structures due to a concrete guide wall constructed to pilot the secant holes and the "crowd" of the drill head is also limited. Additional floor space would be lost on the inside finish face of the wall in order to allow drainage space for water seeps, since positive-side waterproofing cannot be installed on the exterior of the columns. The least floor space would be lost along site perimeters abutting sidewalks

where guide walls and drill crowd are not a concern. As much as 1,035 sf, or 9 percent, of the available lot area below grade will be lost to accommodate the secant walls.

Secant piles may extend to the bottom of the final excavation, or only some depth into bedrock. Drilling to final depth will require a substantial amount of rock drilling which could become costly and time consuming. As an alternate, the secants may be drilled to only some depth into the rock required to temporarily laterally support the secants until excavations advance at which time the secant toes can be laterally rock anchored. In this case, the foundation walls below the toe of the secants would further set into the site footprint causing even further loss of footprint.

2. *Ground Freeze Walls:* Ground freezing may be required along the 61st Street and York Avenue Site perimeters to provide groundwater cut-off. A traditional soldier pile system may then be installed to form a hybrid earth support. Although untraditional, ground freezing technology is gaining popularity in urban construction and was previously used by MSK during the excavation of the MRC on East 68th Street. Ground freezing requires the installation of closely spaced (5-10 feet) drilled-in cooling loops and cycling refrigerant for several months until a curtain of frozen ground is made.

The frozen ground prevents groundwater flow and is structurally stable to make vertical cuts during the installation of traditional soldier pile and lagging excavation supports. The system can be installed and operated during demolition of the existing structure so that it is near complete by the time earthworks are ready to begin. Earth supports along these site perimeters would be traditional soldier pile and lagging with toe support in the rock installed immediately outside the property line. Temporary thermal blankets would be used to protect the frozen ground, until permanent positive side water proofing and concrete is installed. The overall thickness of the foundation wall will be controlled by the hydrostatic water pressures.

The disadvantages to this system is that it cannot be used on all site perimeters, only those exposed to the street, and that operation of the refrigeration compressor is often governed by the local labor unions and will require a full-time Operator on-site 24 hours a day, 7 days a week.

Design of foundation walls and floor slabs should account for full hydrostatic water pressures from approximate El. +1 ft. For traditionally constructed foundation walls (non-secant walls) tie back anchors may be utilized to take the lateral soil/rock forces.

Tie down anchors may be used under slabs. Such anchors would need to be permanent double corrosion protected anchors.

In addition to the secant walls and possible ground freezing, bedrock excavation will be required for the Complying Building and may entail extensive mechanical excavation by chipping with hydraulic hoe-ram/breakers, ripping, and/or rock drilling/splitting/blasting. We anticipate that drilling and chipping will be the method of choice although blasting for bulk excavation could also be done depending on local regulatory parameters.

In contrast, the Proposed Building requested in this Application should require excavations of only 15 ft below York Avenue grade and will require an open excavation for an estimated 6 months. In this case, temporary excavations may extend up to 5 ft below groundwater levels. Excavations would be made utilizing traditional methods including sheet piling or soldier-pile-and-lagging around sidewalk site perimeters and underpinning walls along neighboring structures. Underpinning would be performed primarily for lateral soil support purposes. Temporary dewatering systems will be required to maintain a dry excavation. Groundwater removed from the site will require treatment, but the duration of the open excavation will be significantly less than that required for the construction of the Complying Building. The final subgrade foundation structure would be designed to be watertight including positive-side waterproofing systems. Little to no rock excavation is anticipated.

Due to both natural subsurface conditions and conditions introduced by a previous industrial owner in the late 19th Century, the Applicant cannot build the usual amount of floor area below grade where such floor area is not counted against the Zoning Lot's maximum permissible zoning floor area. The Applicant has therefore been forced to re-locate these typically sub-grade functions to upper floors of the Proposed Building, where they count against the Zoning Lot's permitted zoning floor area, resulting in the FAR variance request. If approved, the variance will permit a building that has no more floor area than the fully permitted FAR 12 residential building proposed by the previous owner. In addition, the amount of gross floor area will not be any larger than that of the Complying Building.

ZR Sec. 33-432 Front Wall Height and Front Setback & ZR Sec. 33-261 Rear Yard Waivers

The Applicant's medical, educational and research mission requires floor plates and floor heights that make it impossible to comply with the ZR Sec. 33-432 front wall height and front setback and ZR Sec. 33-261 rear yard provisions.

In considering the design and programmatic requirements for a new form of healthcare facility, the Applicant has carefully analyzed the suitability of the Complying Building. In this case, due to height and setback regulations and necessary floor-to-ceiling heights for medical buildings, the Complying Building, a 20-storey, 336.5 ft tall building as portrayed in the AOR plans submitted with this Application, provides five floors above grade with floorplates of approx. 11,200 sf, then above them two floors of approx. 7,500 sf, then four floors of approx. 6,000 sf and then nine floors of approx. 5,500 sf. This staggered envelope is at odds with the most rudimentary concepts of health care planning, which strives for large contiguous floorplates for programmatic functionality as well as staffing efficiencies. Accordingly, the Applicant has concluded that building an outpatient surgical center in a Complying Building would seriously undermine its mission objectives as a provider of cancer treatment, a research investigator and an educator for future doctors. The practical difficulties and unnecessary hardships imposed on the Applicant in constructing and operating an outpatient surgical center are significant:

- The Complying Building does not provide a sufficient number of large floorplates for the Operating Rooms. Only the third, fourth and fifth floors have large enough floorplates to accommodate four operating rooms and their required adjacent program areas. This vertical arrangement compromises the Complying Building's connectivity for both patients and staffs and places unacceptable stress on the elevators, thereby requiring at the expense of program space one more patient elevator than the Proposed Building.
- The upper floors of the Complying Building, which are smaller due to the height and setback regulations, contain too little usable space due to the high proportion of floor area necessarily dedicated to elevators and shafts. While the Proposed Building and the Complying Building have approximately the same gross floor area, the Proposed Building contains over 14,000 net sf more of usable program space than the Complying Building.
- The upper floors of the Complying Building are not large enough for the proper siting of the medical laboratories. Because of the Complying Building's increasingly smaller upper floorplates, the medical laboratories critical to operating rooms need to be located on the second lowest level of the building. This requires dedicated laboratory exhaust ductwork to pass through twenty-one floors of the Building to exit through the roof. The layout also provides unsatisfactory adjacencies between the operating rooms and their laboratories.

- The upper floors of the Complying Building are not large enough for the proper siting and design of patient floors. The prep, PACU and short stay floors are spread over eight floors rather than the five in the Proposed Building. This extended arrangement of patient floors creates extreme inefficiencies for staffing and equipment, as for instance clean and soiled work rooms must be provided on eight floors rather than five. Moreover, the Complying Building accommodates only 52 of the required 54 patient care modules. Even the provided modules are compromised, as the reduction in available depth on the smaller floors precludes the inclusion of decentralized nurse stations and adjacent staff areas. The smaller floorplates also limit the amount of available space for visiting and waiting families.
- Support areas in the Complying Building for staff, which includes medical staff, surgeons, surgical professors and their surgical fellows and administrators, are severely compromised. With the shortage of prime high-functioning floorplates, support areas have of necessity been distributed wherever space allows. The conference center, essential as a lecture hall to the outpatient surgical center's role as an academic center, is located below grade and distant from other staff centers, such as the dining area and the business center on the 16th floor. Surgical staff lockers are spread over multiple floors. These dispersed staff locations put considerable stress on the building's elevators. This discontinuity limits the opportunity for informal discourse among surgical staff, researchers and surgical fellows, which is an important form of workplace communications in healthcare and hospitals.
- By providing a rear yard in the interior portion of the Zoning Lot, a notch has been taken out of each floor above the first floor of the Complying Building. The loss of rectangular symmetry restricts the core elements that can be located against the north and west walls of the Complying Building. This forces infrastructure elements such as shafts and electrical and electronic services into the center of the building. The need to provide for central cores for such services are generally considered sub-optimal because they limit the amount and availability of contiguous space available for program elements.
- The mechanical floorplates at the top of the building and on the 7th floor of the Complying Building are too small. As a result, the Complying Building has a floor dedicated entirely to air handlers. Other mechanical and electrical components are distributed among several below grade levels and the 2nd floor of the building, creating inappropriate adjacencies with medical program areas and inefficiencies for building plant operation staff.

Approval of this Application will address these programmatic deficiencies. The waivers requested will permit construction of a Proposed Building that will provide adequate floorplates with sufficient floor-to-ceiling heights for an Outpatient Surgical Center. The Proposed Building, which at 15 stories and a height of 261 ft is five stories less and 75.5 ft shorter than the Complying Building, as portrayed in the Proposed plans submitted with this Application, provides 13 floors above grade with floorplates of approx. 11,500 sf, then above them two floors of approx. 10,100 sf. This envelope is consistent with health care planning, which strives for large contiguous floorplates for programmatic functionality as well as staffing efficiencies. The envelope of the Proposed Building corrects the many significant deficiencies in the envelope of the Complying Building as follows:

- The Proposed Building provides the necessary number of operating rooms, suitably sized, on three floors rather than four floors. In addition, the three operating room floors can now be moved to the upper floors of the building so they can be nearer to the rooftop ventilation mechanicals. This relocation permits the elimination of the Complying Building's mechanical floor which was located on the 7th Floor over the three operating floors that of necessity had to be located in the base of the Complying Building. The Proposed Building can now be adequately serviced with one fewer elevator than the Complying Building.
- The efficiency of the Proposed Building is greater than the Complying Building. There is approx. 14,000 sf more net program space in the Proposed Building.
- The medical laboratories of the Proposed Building are now located closer to the operating room floors and the number of floors through which their dedicated exhaust ductwork must travel has been reduced.
- The number of patient floors have been reduced from eight in the Complying Building to three in the Proposed Building, yet at the same time the number of patient rooms has been increased. This reduction in vertical stacking will bring significant gains in staffing and equipment efficiencies.
- Support areas in the Proposed Building, including staff lockers, the business center, dining facilities and conference rooms are now adjacent to each other.
- The Proposed Building's 15th floor mechanical space is adequately sized for the upper half of the building and located on a single floor.

ZR Sec. 13-142 Curb Cut Waiver

Without a vehicle drop-off area patient access to the Complying Building is extremely limited. Unlike standard acute care hospitals, on many days the entire patient population of the Outpatient Surgical Center will arrive and depart on the same day. The smooth flow of patients' arrivals and departures is an essential program element of an outpatient surgical center. The fact that the Complying Building will not provide for a covered patient drop-off area will require cars, vans and cabs to pull over along East 61st Street and York Avenue to drop off or pick up their passengers. The patients will need to walk to the facility's entrance and return to the vehicles by foot. This will adversely affect the scheduling and operation of the Outpatient Surgical Center and impede the traffic flow along both streets adjoining the Site. It is also sub-optimal for patients leaving the Outpatient Surgical Center.

Patient access to the Proposed Building will be through a recessed covered drop-off area whose entrance will be on York Avenue (accessed only) from the southbound lanes of York Avenue and whose exit will be on East 61st Street. The flow of traffic under the entrance will be one-way, providing for a more efficient flow of vehicles at all hours of the day.

ZR Sec. 32-643 and 32-655 Signage Waivers

Without adequate signage, the Complying Building lacks the necessary identification as a medical center. An outpatient surgical center specializing in cancer surgeries will be a unique facility in New York City. By its nature, many of its patients will come from the region and farther. Reinforcing the need for strong destination identification, ambulatory patients come to the facility a very few times, in many cases just once. All arrive and depart by private means. It will be important for these patients to locate this facility. The Outpatient Surgical Center is physically remote from both Memorial Hospital and the MSK main campus and is in a vicinity of other large medical institutions. Many of these institutions have identifying names and logos, mostly located along or over the FDR Drive. The Site is also visible from the FDR Drive and the Edward Koch Queensboro Bridge, two roadways from which many of the Outpatient Surgical Center patients will arrive.

The new Outpatient Surgical Center provides the opportunity for a destination sign at its upper elevation directed out at the East River that will assist in identifying it for approaching patients and those accompanying them for their day surgeries. Such signage will also distinguish the Proposed Building as a Memorial Hospital facility in an area of many other institutional buildings. The position of the signage, visible mainly from the River, the FDR Drive and the Ed Koch Queensboro Bridge, assures that it will have minimal impacts on residents.

I. The DOB Objections

The Department of Buildings ("DOB"), acting on Application No. 120801365(BSA) has issued the Objections Sheet dated November 22, 2011, which contain the following objections:

1. ZR Sec. 33-123: The proposal exceeds the maximum floor area ratio permitted for a community facility building in a C1-9 district as per this section.
2. ZR Sec. 33-261: The proposal does not provide a rear yard in the interior portion of the zoning lot in a C1-9 district as per this section.
3. ZR Sec. 33-432: The proposal does not comply with the maximum height of a front wall and the required front setback regulations applicable in a C1-9 district as per ZR Sec. 33-432 on both York Avenue and East 61st Street.
4. ZR Sec. 13-142: The proposal indicates a curb cut on a wide street and within 50' of an intersection which does not comply with ZR Sec. 13-142(a) and (b).
5. ZR Sec. 32-643 & 32-655: Proposed building signage size and location does not comply with ZR Sec. 32-643 and 32-655.

J. Open Department of Buildings Violations

There are three open ECB/DOB violations and three open DOB violations, related to elevators and boilers. All three ECB violations are issued to the previous owner of the Site for "Occupancy contrary to that allowed by the Certificate of Occupancy/Building Department records". It is expected that all three will be cleared prior to the demolition of the existing building on the Site.

1. DOB Violation 123109LBLVIO02792 [Boiler]
2. DOB Violation 100810VCAT102001 [Elevator]
3. DOB Violation 080411E9027/393097 [Elevator]
4. ECB Violation 34533072M
5. ECB Violation 34505917R
6. ECB Violation 34505847K

CONCLUSION

The mission and program needs of Memorial Hospital require construction of a new, purpose-built 15-storey Outpatient Surgical Center. The variety of special spaces (*i.e.*, operating rooms, specialized recovery rooms, medical laboratories, special facilities for surgeon training and education) require specific square footages and floor-to-floor heights and tightly designed adjacencies.

With regard to minimal qualitative requirements in hospital design and programming, the design for the Outpatient Surgical Center is the most efficient design that provides the maximum number of operating rooms of adequate size and in a configuration consistent with hospital planning. In addition, the request for additional zoning floor area seeks the minimal amount of zoning floor area necessary to replace the below-grade floor area that cannot be provided due to a verified and significant subsurface condition.


These requested variances will permit Memorial Hospital to build a new Outpatient Surgical Center that will improve its patient outcomes, will further its mission of research and education and will permit the modeling and study of treatments in a new cost-effective format, all in furtherance of its educational mission.

On the basis of the foregoing, the Applicant respectfully requests that the Board make the requisite findings and grant the requested variances.

Respectfully submitted,

FRIEDMAN & GOTBAUM, LLP

By:


Shelly S. Friedman, Esq.

New York, New York
December 2, 2011



THE CITY OF NEW YORK

Temporary
Alt. 102695861DEPARTMENT OF BUILDINGS
CERTIFICATE OF OCCUPANCY

BOROUGH Manhattan

DATE: AUG 23 2001 NO. 102695861-T

This certificate supersedes C.O. NO.

ZONING DISTRICT CB-4

THIS CERTIFIES that the ~~XXX~~ altered ~~XXXXXX~~ building—premises located at

1133 York Ave

Block 1456 Lot 21

CONFORMS SUBSTANTIALLY TO THE APPROVED PLANS AND SPECIFICATIONS AND TO THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES, AND REGULATIONS FOR THE USES AND OCCUPANCIES SPECIFIED HEREIN.

PERMISSIBLE USES AND OCCUPANCY

STORY	LIVE LOAD LBS. PER SQ. FT.	MAXIMUM NO. OF PERSONS PERMITTED	ZONING SYLLABUS OR ROOMING UNITS	BUILDING CODE HABITABLE ROOMS	ZONING USE GROUP	BUILDING CODE OCCUPANCY GROUP	DESCRIPTION OF USE
Cellar	OG	2			16	D-2	Boiler/ Mechanical room.
First	OG	60			16 16	B-2 D-2	Equipment Storage Communications & Electrical Wiring Contractor's Establishment. Accessory Offices
Second	75	10			16	B-2	Commercial Vehicles Storage. (29) Spaces.
Third	50	10			16	B-2	Commercial Vehicles Storage. (30) Spaces.
Fourth	50	5			6 16	D-2 E	Communications Equipment Center. Accessory Office.
Roof	50	4			16	D-2	Mechanical Room.
Note: Vehicles to be stored less than 8' feet high and less than nine passengers.							
TEMPORARY CERTIFICATE OF OCCUPANCY							
TERMS NINETY (90) DAYS							
EXPIRES: NOVEMBER 23, 2001							
THIS CERTIFICATE OF OCCUPANCY MUST BE POSTED WITHIN THE BUILDING IN ACCORDANCE WITH THE RULES OF THE DEPARTMENT OF BUILDINGS, BUREAU OF BUILDINGS, 1901.							

OPEN SPACE USES

(SPECIFY—PARKING SPACES, LOADING DOCKS, OTHER USES, IF ANY)

NO CHANGES OF USE OR OCCUPANCY SHALL BE MADE UNLESS
A NEW AMENDED CERTIFICATE OF OCCUPANCY IS OBTAINEDTHIS CERTIFICATE OF OCCUPANCY IS ISSUED SUBJECT TO FURTHER LIMITATIONS, CONDITIONS AND
SPECIFICATIONS NOTED ON THE REVERSE SIDE.

BOROUGH COMMISSIONER

COMMISSIONER

☐ ORIGINAL☐ OFFICE COPY - DEPARTMENT OF BUILDINGS☐ COPY

11-30-01

JW

11-30-01

JW

THAT THE ZONING LOT ON WHICH THE PREMISES IS LOCATED IS BOUNDED AS FOLLOWS:

BEGINNING at a point on the West side of York Avenue
distant 0' feet from the corner formed by the intersection of
East 61st St and York Ave
running thence West 115' feet; thence North 100.5' feet;
thence East 115' feet; thence South 100.5' feet;
thence feet; thence feet;
thence feet; thence feet;
to the point or place of beginning,
102695861

XNNXALT, No. DATE OF COMPLETION
BUILDING OCCUPANCY GROUP CLASSIFICATION

CONSTRUCTION CLASSIFICATION 1 Hour Protected
HEIGHT, 4 STORIES, 53'-4" FEET

THE FOLLOWING FIRE DETECTION AND EXTINGUISHING SYSTEMS ARE REQUIRED AND WERE INSTALLED IN COMPLIANCE WITH APPLICABLE LAWS.

	YES	NO		YES	NO
STANDPIPE SYSTEM			AUTOMATIC SPRINKLER SYSTEM	X	
YARD HYDRANT SYSTEM					
STANDPIPE FIRE TELEPHONE AND SIGNALLING SYSTEM					
SMOKE DETECTOR					
FIRE ALARM AND SIGNAL SYSTEM	X				

- STORM DRAINAGE DISCHARGES INTO:
- A) STORM SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐
- SANITARY DRAINAGE DISCHARGES INTO:
- A) SANITARY SEWER ☐ B) COMBINED SEWER ☐ C) PRIVATE SEWAGE DISPOSAL SYSTEM ☐

LIMITATIONS OR RESTRICTIONS:
BOARD OF STANDARDS AND APPEALS OAL NO. _____
CITY PLANNING COMMISSION OAL NO. _____
OTHER: _____

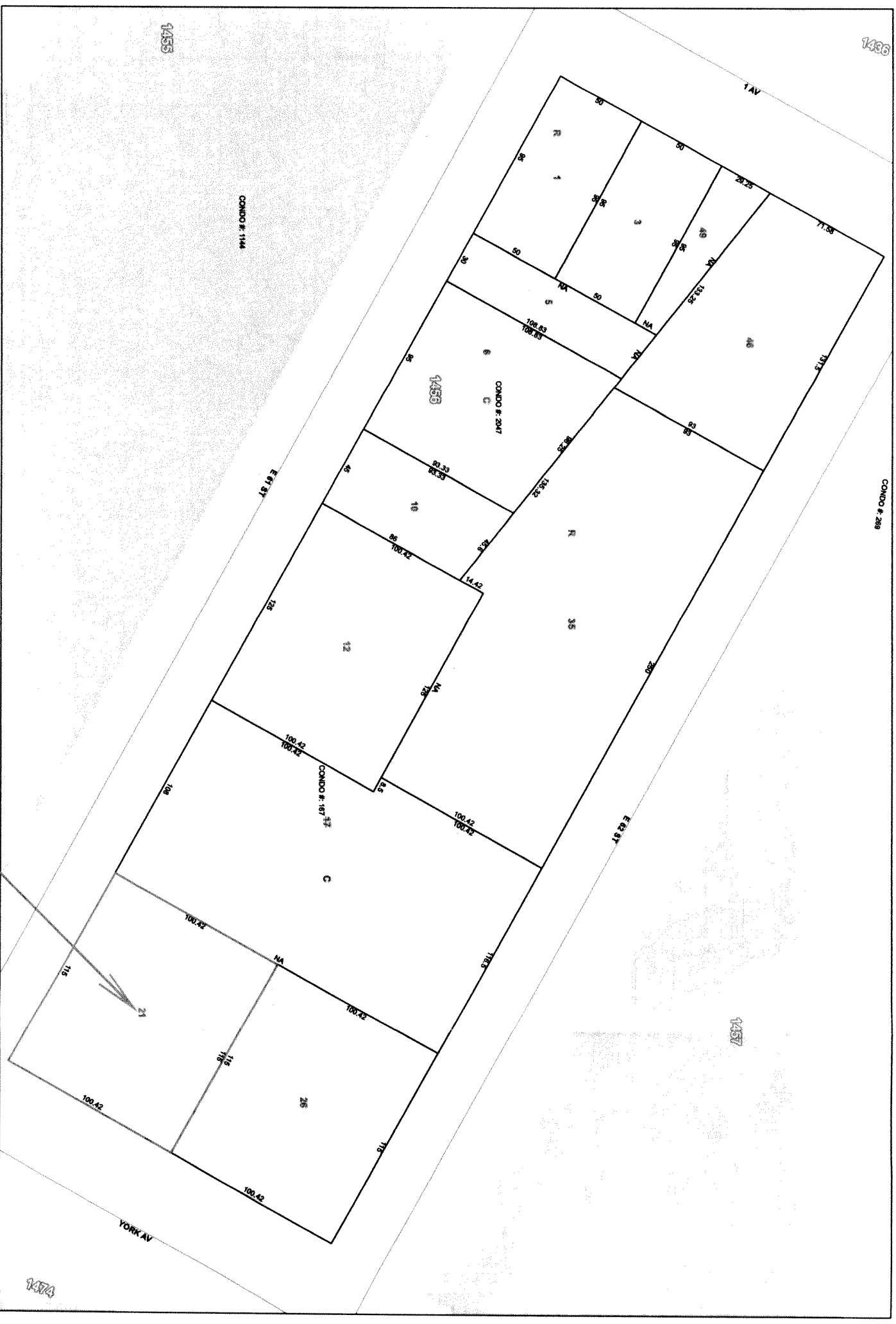


Effective Date : 06-19-2009 10:20:30
End Date : Current
Manhattan Block: 1456

Effective Date : 06-19-2009 10:20:30
End Date : Current

Manhattan Block: 1456

- Legend**
- STREET NAME
- Streets
- Miscellaneous Text
- Possession Hooks
- Boundary Lines
- Lat Face Possession Hooks
- Regular
- Underwater
- Tar Lat Polygon
- Canto Number
- Tar Block Polygon



1133 York Avenue, Manhattan. Tax map

SITE





ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

Major Zoning Classifications:
The number(s) and/or letter(s) that follows on R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

- R – RESIDENTIAL DISTRICT
- C – COMMERCIAL DISTRICT
- M – MANUFACTURING DISTRICT

SPECIAL PURPOSE DISTRICT
The letter(s) within the shaded area indicates the special purpose district as described in the text of the Zoning Resolution.

AREA(S) REZONED

Effective Date(s) of Rezoning:

* 06-14-2011 C 110177 ZMM
04-06-2011 C 110125 ZMM

Special Requirements:

For a list of lots subject to CEQR environmental requirements, see APPENDIX C.

For a list of lots subject to "d" restrictive declarations, see APPENDIX D.

For Inclusionary Housing designated areas on this map, see APPENDIX F.

ZONING MAP

8c

MAP KEY

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

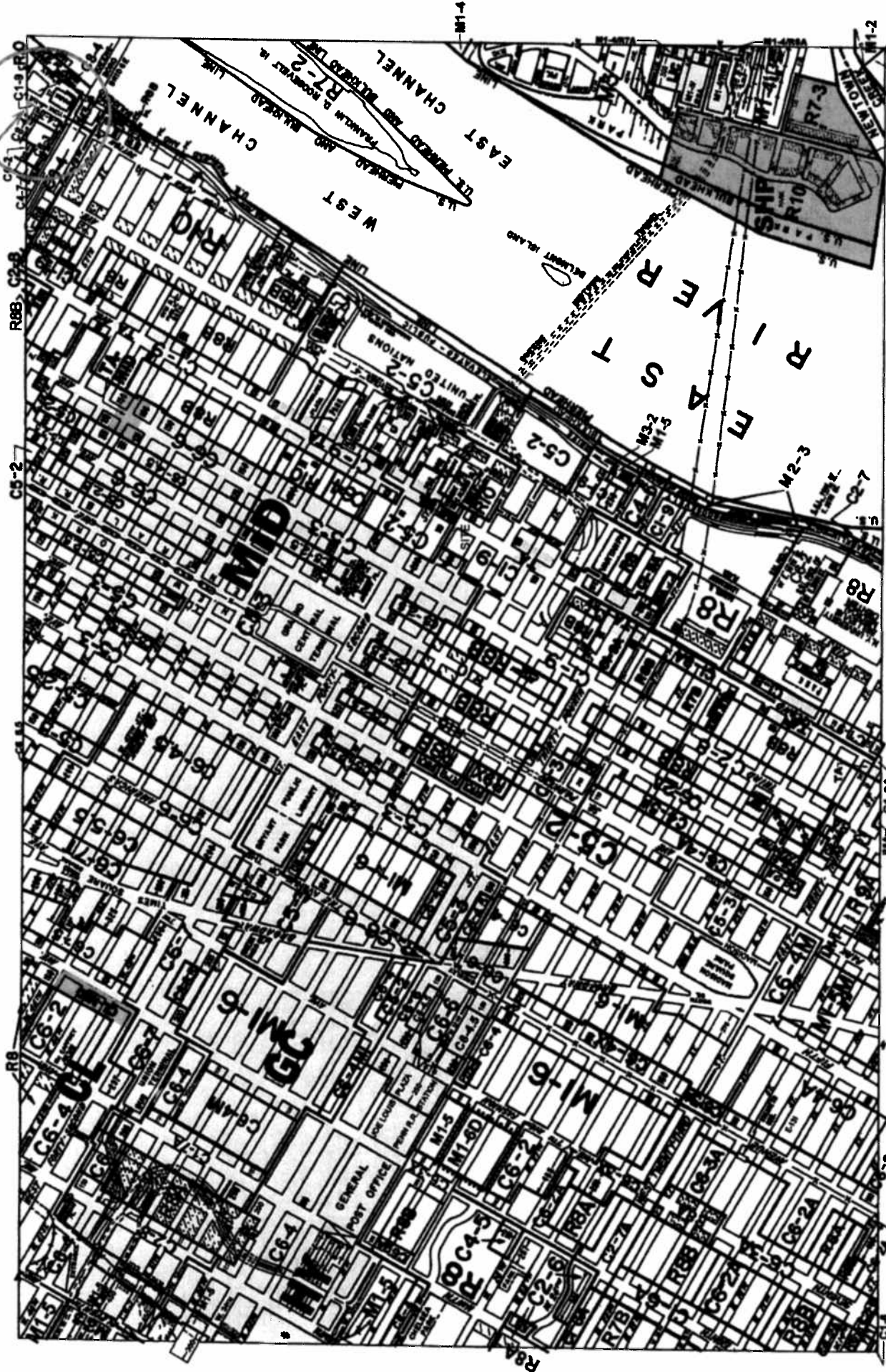
© Copyrighted by the City of New York

NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for the map, visit the Zoning section of the Department of City Planning website: www.dcp.nyc.gov/zoning or contact the Zoning Information Desk at (212) 720-3291.

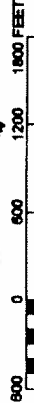
1133 York Avenue, Manhattan. Zoning Map [8c]

SITE

SITE



NOTE: STREETS FOR THE STREET MAP CHANGE. C CODES ARE SHOWN ON THIS MAP TO BECOME EFFECTIVE IN ORDER TO LOCATE ZONING DISTRICT BOUNDARIES.



NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 6 (Location of District Boundaries) of the Zoning Resolution.

ZONING MAP

THE NEW YORK CITY PLANNING COMMISSION

Major Zoning Classifications:

The number(s) and/or letter(s) that follows an R, C or M District designation indicates use, bulk and other controls as described in the text of the Zoning Resolution.

R - RESIDENTIAL DISTRICT

C - COMMERCIAL DISTRICT

M - MANUFACTURING DISTRICT

SPECIAL PURPOSE DISTRICT
The letter(s) within the shaded area designates the special purpose district as described in the text of the Zoning Resolution.

AREA(S) REZONED

Effective Date(s) of Rezoning:

09-21-2011 C 100063 ZMM

Special Requirements:

For a list of lots subject to CEOR environmental requirements, see APPENDIX C.

For a list of lots subject to "D" restrictive declarations, see APPENDIX D.

For Inclusionary Housing designated areas on this map, see APPENDIX F.

ZONING MAP

8d

MAP KEY

8a	8c	9a
8b	8d	9b
12a	12c	13a

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NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information, visit the Zoning section of the Department of City Planning, www.nyc.gov/dcp/zoning or contact the Zoning Information Desk at (212) 720-3391.

1133 York Avenue, Manhattan. Zoning Map [8d]

BSA CALENDAR NO.

BLOCK 1456

LOT 21

SUBJECT SITE ADDRESS

1133 YORK AVENUE, NEW YORK, NY 10065

APPLICANT

Memorial Hospital for Cancer and Allied Diseases by Friedman & Gotbaum, LLP

ZONING DISTRICT C1-9*, C8-4

PRIOR BSA # N/A

COMPLIANT: "Y"

SPECIAL/HISTORIC DISTRICT NONE

IF NOT: "N" and

COMMUNITY BOARD 8

INDICATE AMT

OVER/UNDER

LOT AREA

LOT WIDTH

USE GROUP (S)

FA RESIDENTIAL

FA COMMUNITY FACILITY

FA COMMERCIAL/INDUST.

FLOOR AREA TOTAL

FAR RESIDENTIAL

FAR COMMUNITY FACILITY

FAR COMMERCIAL/INDUST.

FAR TOTAL

OPEN SPACE

OPEN SPACE RATIO

LOT COVERAGE (%)

NO. DWELLING UNITS

WALL HEIGHT

TOTAL HEIGHT

NUMBER OF STORIES

FRONT YARD

SIDE YARD

SIDE YARD

REAR YARD

SETBACK (S)

SKY EXPOSURE (SLOPE)

NO. PARKING SPACES

LOADING BERTH (S)

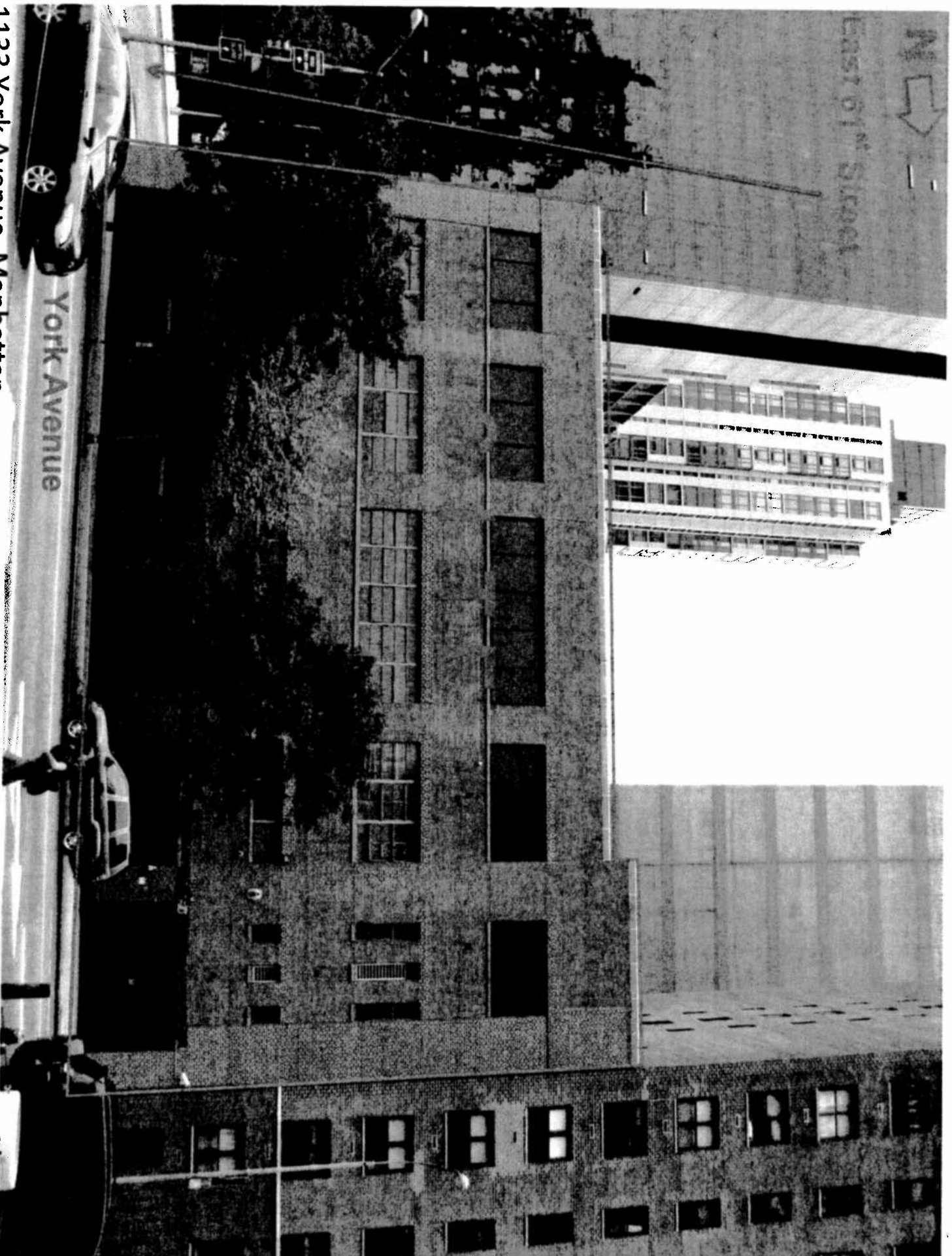
OTHER: SIGNAGE

* In Applicable ZR Section column: For RESIDENTIAL developments in non-residential districts, indicate nearest R district, e.g., R4/23-141, and contrast compliance. For COMMERCIAL or MANUFACTURING developments in residential districts, contrast proposed bulk and area elements to current R district requirements, except for parking and loading requirements (contrast to nearest district where use is permitted). For COMMUNITY FACILITY uses in districts where not permitted, contrast to nearest district where permitted. For all applications, attach zoning map and highlight subject site. Be sure that all items noted in the DOB Denial/Objection are included.

NOTES:

* 87% OF THE SITE IS LOCATED WITHIN A C1-9 ZONING DISTRICT; C1-9 BULK REGULATIONS ARE APPLICABLE TO THE ENTIRE SITE

**INCLUDES ARCADE FLOOR AREA BONUS OF 2,502 SF (ZR 37-80): 834 SF ARCADE WITH BONUS @ 3 +SF/FT (ZR 33-14(b))=2,502 SF

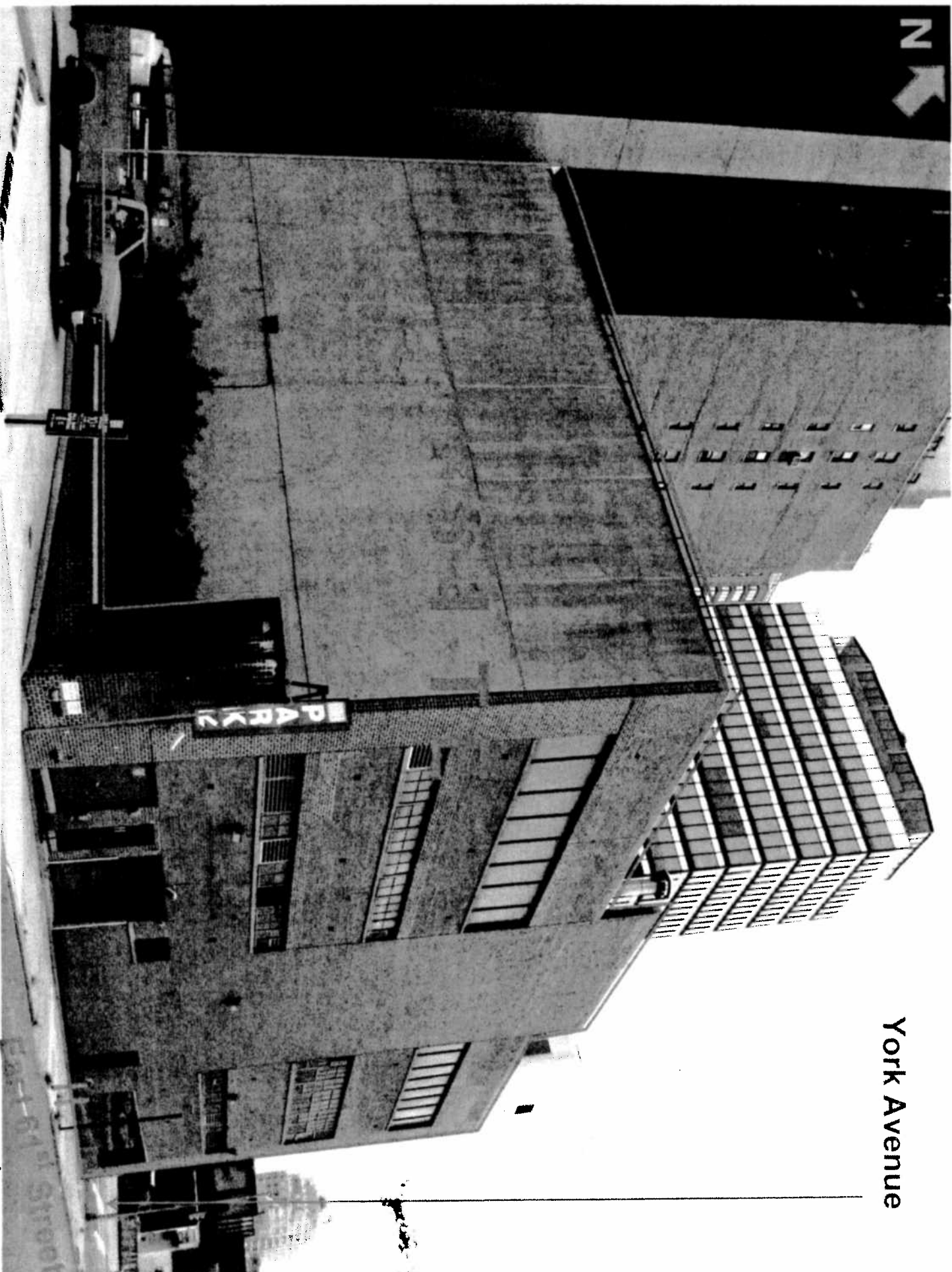


1133 York Avenue, Manhattan

Photo # 1

Date: August 6, 2011

York Avenue



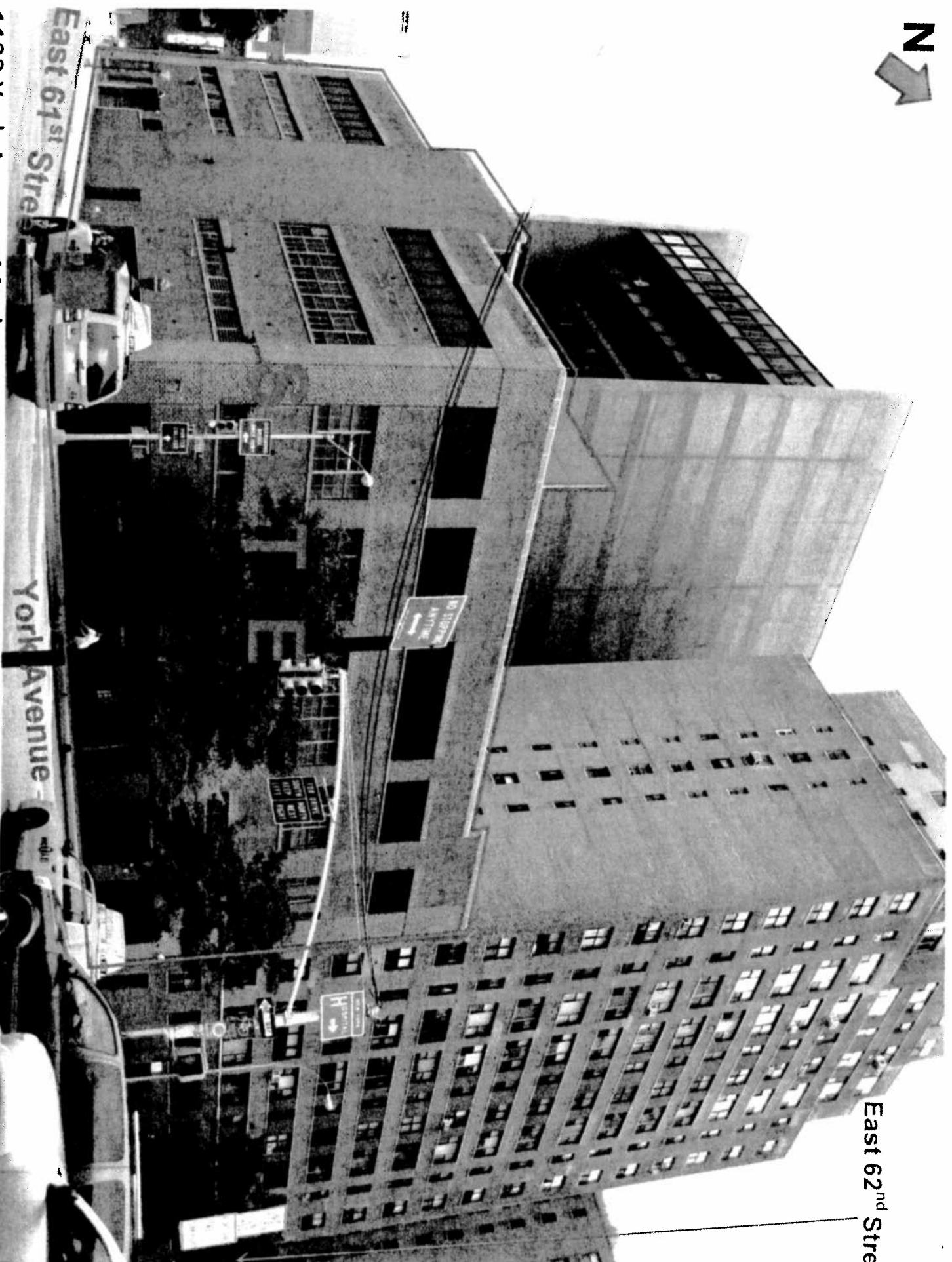
1133 York Avenue, Manhattan

Photo # 2

Date: August 6, 2011



East 62nd Street



1133 York Avenue, Manhattan

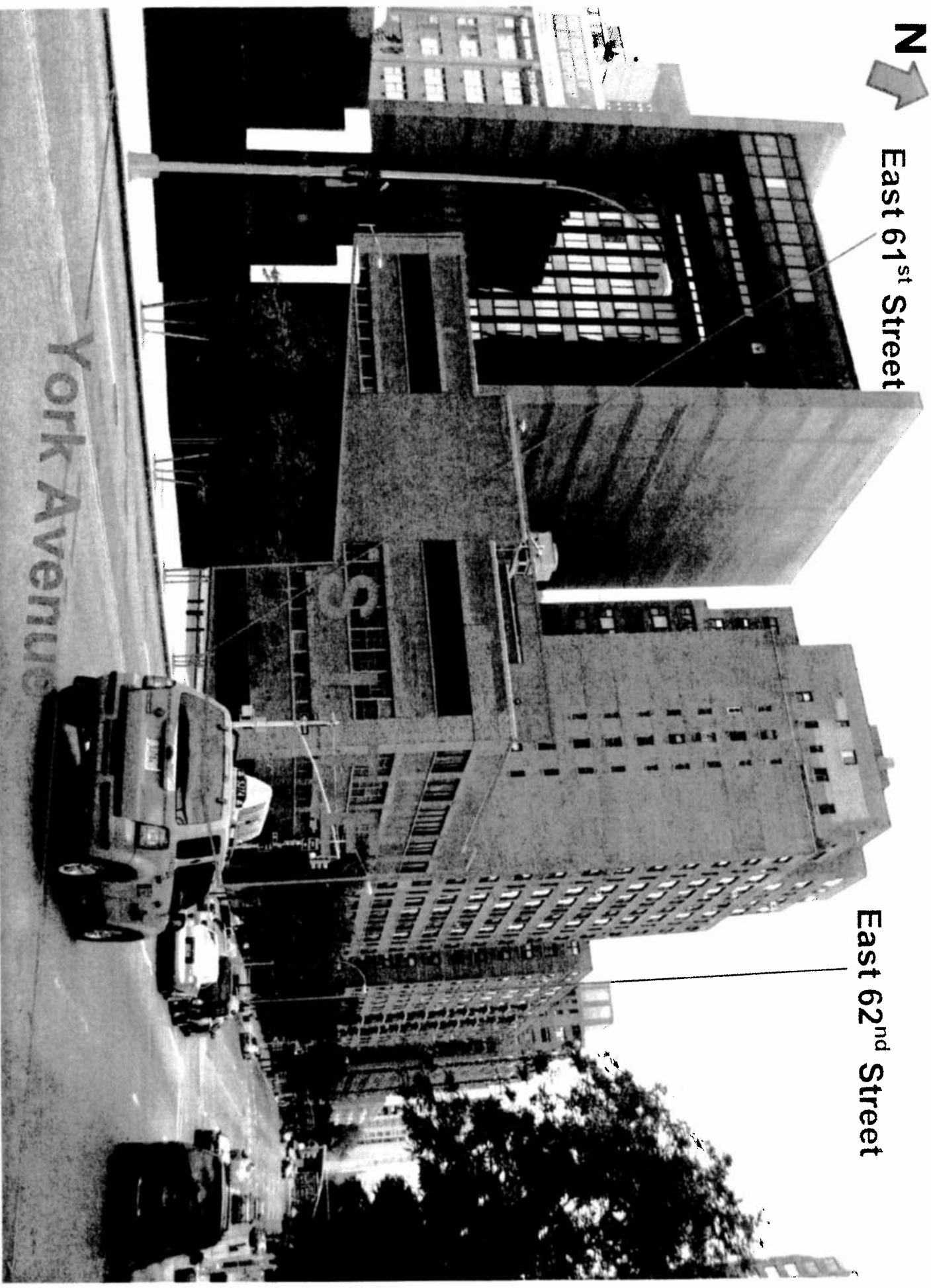
Photo # 3

Date: August 6, 2011



East 61st Street

East 62nd Street



1133 York Avenue, Manhattan

Photo # 4

Date: August 6, 2011



East 62nd Street

York Avenue

1133 York Avenue, Manhattan

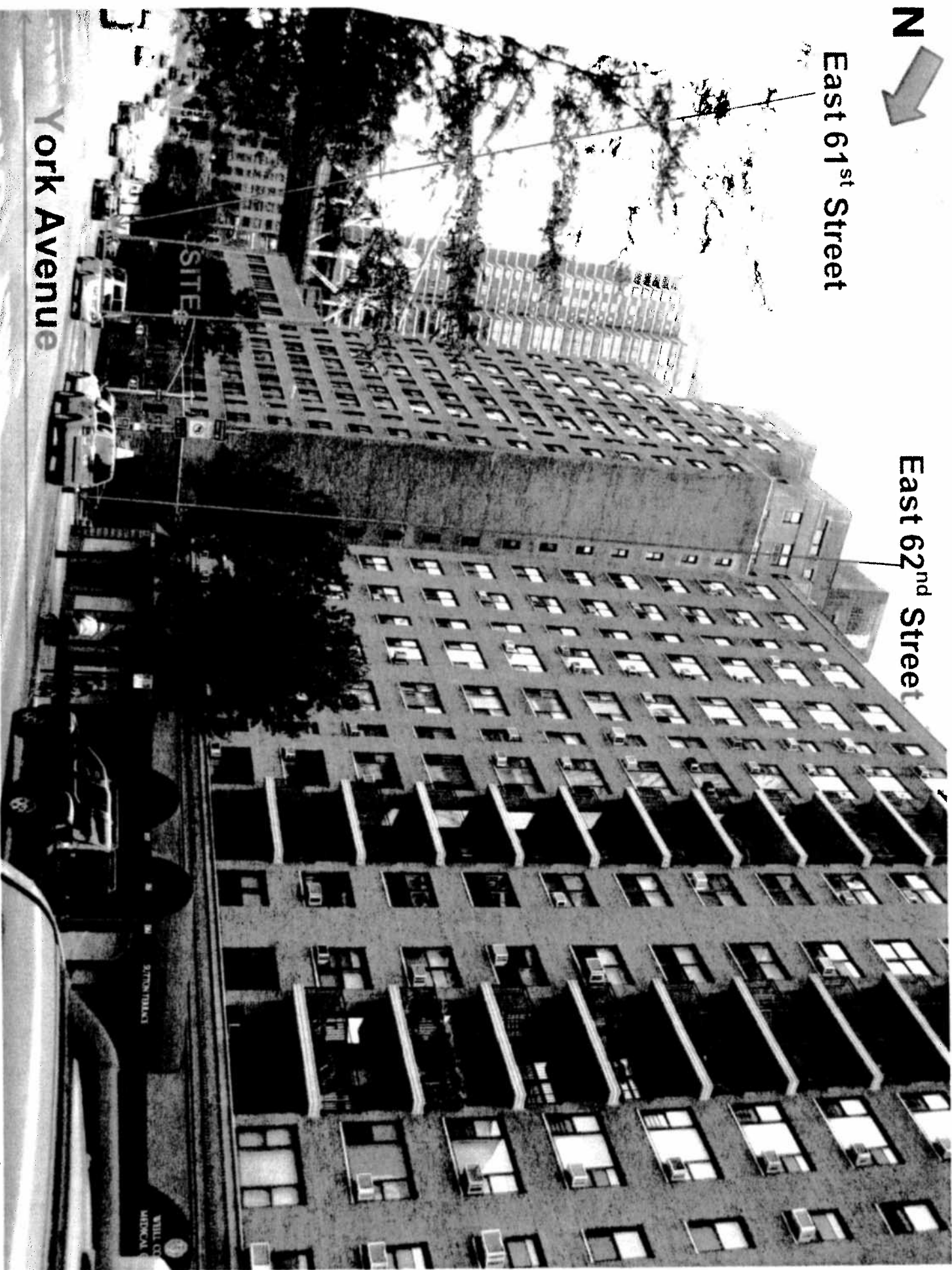
Photo # 5

Date: August 6, 2011



East 61st Street

East 62nd Street



1133 York Avenue, Manhattan

Photo # 6

Date: August 6, 2011



York Avenue

East 61st Street

1133 York Avenue, Manhattan

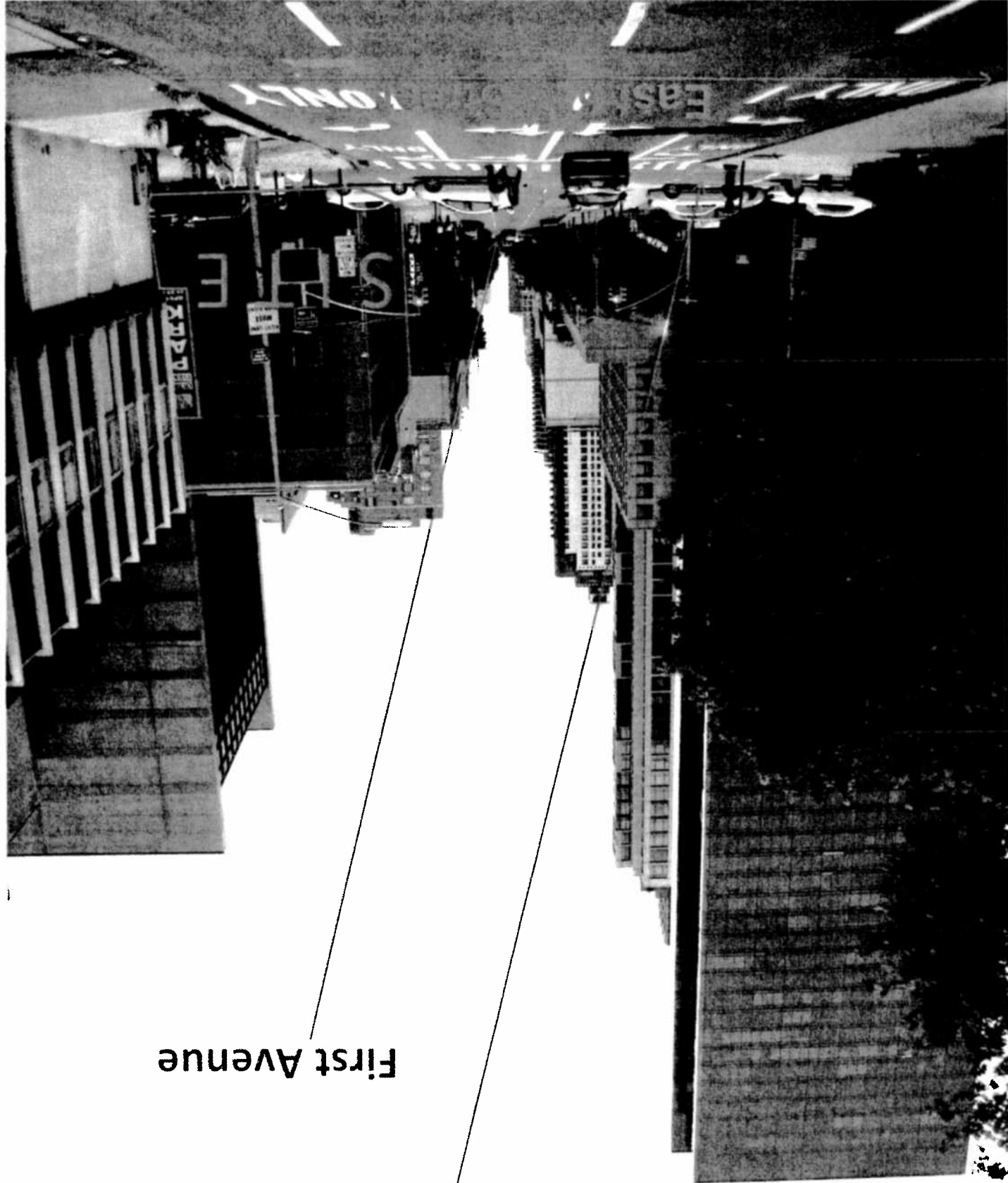
Photo # 7

Date: August 6, 2011



York Avenue

First Avenue



1133 York Avenue, Manhattan

Photo # 8

Date: August 6, 2011

Owner

MEMORIAL SLOAN-KETTERING
DESIGN + CONSTRUCTION DEPT
FACILITIES MANAGEMENT DIVISION

NO.

DATE

REVISION

Perkins Eastman

ARCHITECTS
1133 YORK AVENUE
NEW YORK, NY 10065

E 62 ST

E 61 ST

KEY PLAN

Special Design Consultant
1133 York Avenue, 18th Floor
New York, NY 10014-307

MSA Project Manager
Stanley Consulting Services
265 Fifth Avenue, 23rd Floor
New York, NY 10016

Structural
Robert Scharn Associates, PC
88 University Place, 10th Floor
New York, NY 10003

MEP/E&M
140 West 96th Street, 3rd Floor
New York, NY 10018

PROJECT TITLE

MEMORIAL
SLOAN-KETTERING
OUTPATIENT
SURGICAL CENTER

DRAWING TITLE

EXISTING CONDITIONS
SITE PLAN

PROJECT NO.

1133 YORK AVENUE
NEW YORK, NY 10065

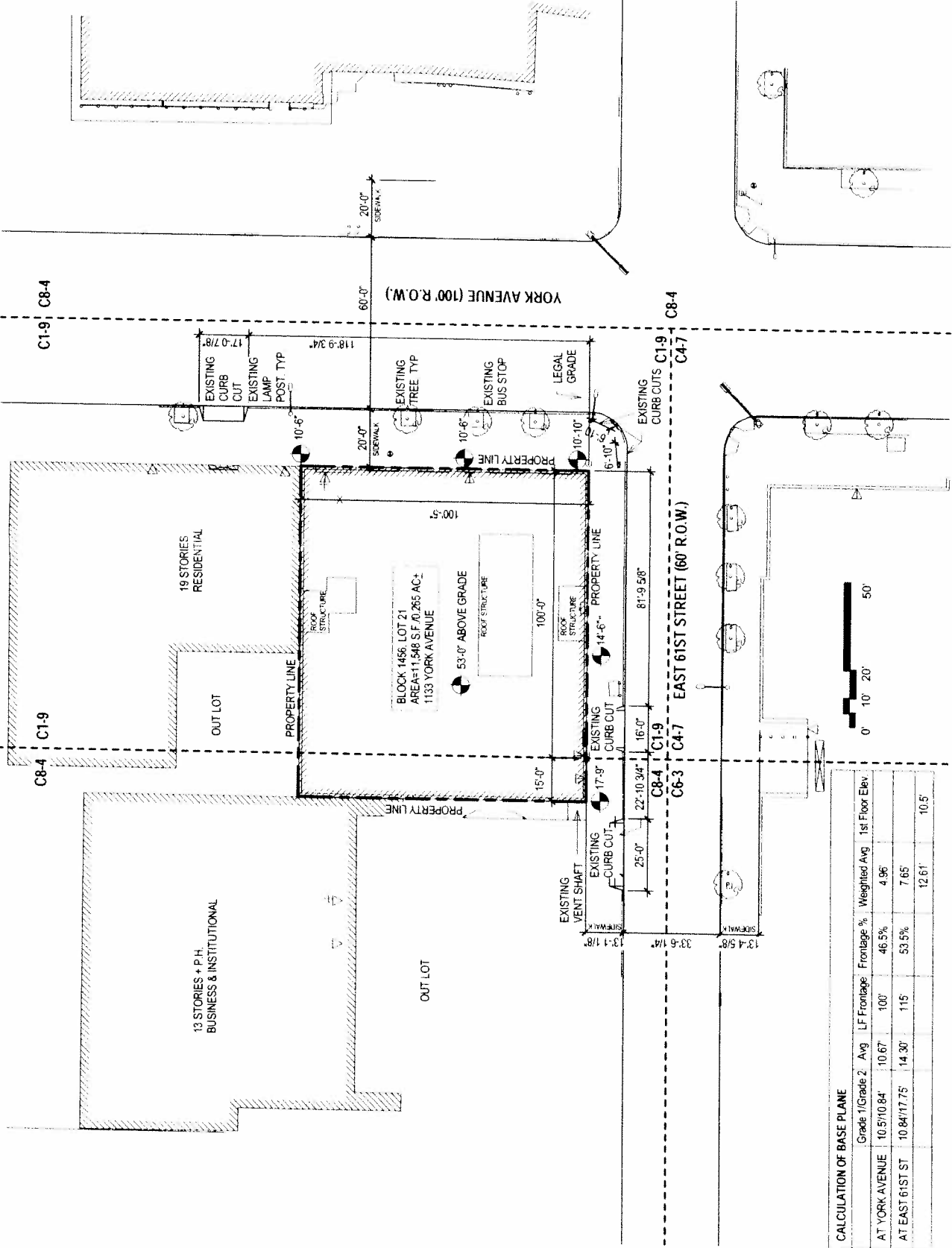
DRAWING NO.

45202-00

SCALE

1/32" = 1'-0"

EX-01



CALCULATION OF BASE PLANE				
Grade 1/Grade 2	Avg	LF Frontage	Frontage %	Weighted Avg
AT YORK AVENUE	10.67	100'	46.5%	4.96
AT EAST 61ST ST	14.30'	115'	53.5%	7.65'
				12.61'

