

DEC 23 2010

Jonathan A. Grippo
212-216-8031 Direct Dial
jgrippo@tarterkrinsky.com

December 21, 2010

Via Federal Express

Community Board 8
505 Park Avenue, Suite 620
New York, New York 10022

**Re: *Extension of Term of Physical Culture Establishment*
 330 East 61 Street, New York, New York (the "Property")
 *Calendar No.: 516-75-BZ***

Dear Sir/Madam:

Pursuant to Section 1-05(j) of the City of New York Board of Standards and Appeals' (the "Board") Rules of Practice and Procedure, enclosed please find a copy, with supporting documentation, of the Special Order Calendar Application for, among other relief, an extension of term of the Physical Culture Establishment located at the Property (collectively, the "Application"). The Application was filed with the Board on December 17, 2010.

If you have any questions, please feel free to call.

Thank you for your attention to this matter.

Sincerely,



Jonathan A. Grippo

NEW YORK OFFICE:

1350 BROADWAY
NEW YORK, NY 10018
TEL: 212. 216. 8000
FAX: 212. 216. 8001

NEW JERSEY OFFICE:

475 WALL STREET
PRINCETON, NJ 08540
TEL: 609. 683. 9494
FAX: 609. 683. 7490

MAIL@TARTERKRINSKY.COM
WWW.TARTERKRINSKY.COM

{Client\003650\CON194\00311079.DOC;1}

DEC 23 2010

Aaron Abraham, Partner
212-216-8065 Direct Dial
aabraham@tarterkrinsky.com

December 15, 2010

By Hand

City of New York
Board of Standards and Appeals
40 Rector Street, 9th Floor
New York, New York 10006

Statement of Facts

In support of SOC Application

Calendar No.: 516-75-BZ

This application is being filed for an extension of term of the Physical Culture Establishment ("PCE") permit granted by the New York City Board of Standards and Appeals (the "Board") on October 17, 2000 under Board Calendar No. 516-75-BZ, which permit expired on October 17, 2010.

The subject property, located at 330 East 61st Street, New York, New York in New York City's Upper Eastside neighborhood ("Property"), is currently leased by MP Sports Club Upper Eastside LLC ("MPSC"), and owned by Vertical Projects LLC. The Property originally received a variance from the Board for bulk waivers on May 4, 1976, under the same calendar number. Prior to the grant of the PCE permit in October 2000, the Board's resolution was previously amended on January 4, 1983 to permit a change in use on a portion of the first floor of the Property, and on July 18, 1995 to permit a change in use of the third floor from tennis, handball, racquetball courts and lounge to an exercise room. Copies of the Board's resolutions are included in this application.

The Property is located in a C8-4 Zoning District, one of the districts wherein the Board may permit a health club, such as the Property described herein. The Property has been maintained as a PCE for the duration of the original grant on October 17, 2000.

MPSC is the owner and operator of The Sports Club/LA-New York Upper Eastside (the "Club"), which is currently located at the Property. MPSC is an experienced provider of exercise and gym services throughout the country, including two (2) others in New York City. Since 1976, the Property operated to provide various exercise activities, including tennis, handball and racquetball. Immediately prior to MPSC's use and operation of the Property, a Bally's Total Fitness gym was located at the Property.

{Client\003650\CON194\00305736.DOC;2}

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NEW YORK, NY 10018
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The Club is open from 5 am to 11 pm, Monday through Thursday, 5 am to 10 pm on Friday, and 7 am to 7 pm on Saturday and Sunday. The Club offers several amenities, including a basketball court, swimming pool and a massage parlor, with licensed massage therapists, namely: Rosemary Topar (Lic. No. 27 0239761); Ford Tan (Lic. No. 27 023322); Veronica Sanabria (Lic. No. 27 016989); Kerry Counihan (Lic. No. 27 005797); Charles Fienga (Lic. No. 27 003877); Ivette Cancel (Lic. No. 27 023606); and Karen Garzon (Lic. No. 27 014722). The Club provides the residents of the Upper Eastside of Manhattan an accessible location for leisure and health-related activities. Notably, there are no foreseeable hazards or disadvantages to the community, nor any foreseeable adverse effect on the privacy, quiet, light and air in the neighborhood attendant to such PCE use. It is respectfully submitted that the Club is, and will continue to be, an asset to the surrounding community, totally within the confines of the existing building.

Plans have not been filed with the New York City Department of Buildings ("DOB") because currently there is no intention on the part of MPSC to perform any permitted work/alterations to the Property. The previous Board-approved Plans were filed with the Board in April 2000, and are included in this application.

Currently, there are 24 DOB and Environmental Control Board ("ECB") violations issued against the Property. While descriptions and explanations for such violations are provided herein, it should first be noted that MPSC has retained Milrose Consultants, Inc. ("Milrose"), a leading expeditor and building code consultant in New York City, to track, investigate and assist MPSC in curing such violations.

Regarding the DOB violations, 15 concern the operation of the elevators located at the Property, two (2) concern construction-related issues and one (1) concerns a plumbing violation. The elevator violations concern minor issues such as lighting and other housekeeping items and an elevator maintenance company has been retained by MPSC to correct these violations. Milrose is currently assisting MPSC to cure the construction-related violations and the plumbing violation.

Regarding the ECB violations, there are a total of six (6) such violations against the Property. The first one was issued on April 11, 2009, and concerned the failure to maintain fire rated ceilings, by way of exposed floor joists. However, this violation was issued prior to MPSC's operation of the Property. Two violations were served on July 26, 2007 and concerned containers, water bottles and other obstructions left in the hallway on several floors and an obstruction in the rear of the third floor. A third ECB violation, claiming the same obstruction of several floors, was issued on September 9, 2009. However, the items noted in the foregoing violations were promptly removed. The fifth ECB violation, also issued on September 9, 2009, concerned the failure to list the floor number for the cellar and floors 1 through 5. This violation is currently pending, as MPSC submitted a Certificate of Compliance to ECB on October 26, 2009 addressing the alleged violation. Finally, the sixth ECB

violation was issued on October 14, 2009, because the Property was being operated without a current certificate of operations. Milrose is in the process of addressing and curing this violation.

Lot 37, the adjacent property to the Club, remains a part of the PCE and no change in that status is sought herein. Lot 37 was included in the PCE application in 2000, and no material changes have occurred to the Property since that time.

The previous PCE application covered a total area of 100,272 square feet. The current application covers an area of 101,646 square feet. The slight increase in area in the current application is due to the fact that the previous application did not take into account certain areas of the Property that were considered "unoccupied" because they were used for the building's mechanical equipment. Such areas are located at Level 2 Mezzanine and Level 3 Equipment Floor. This renewal application includes these areas, thus increasing the occupied square footage of the building to 101,646 square feet, as noted in the Zoning Analysis form, included herein. Accordingly, this application also seeks an amendment of the previous grant of the PCE. Included herein is a DOB Objection, required for the amendment. Such objection is dated with thirty (30) days of the filing of this application.

At Level 2 Mezzanine, the area now occupied increased by 214 square feet. At Level 3 Equipment floor, the proposed change concerns 1,160 square feet, which will house two offices and an open storage area for the building's maintenance team. However, the proposed occupant load would be 5 persons and would not cause any change in the egress for this floor. In addition, this proposed increase in area is still less than the original PCE grant of a maximum allowable area of 102,646 square feet.

Finally, at the time of the original grant of the PCE permit, MPSC was not the lessee. MPSC became the lessee on January 13, 2006, almost six (6) years after the original grant, and a temporary Certificate of Occupancy was obtained and successfully renewed by MPSC. In addition, MPSC is making and will continue to make diligent and good faith efforts to obtain a Certificate of Occupancy while this application is pending. To this end, Milrose has been retained by MPSC to assist in obtaining the Certificate of Occupancy.


Based on the foregoing, in addition to the application fee for the extension of term for the PCE (\$6,060), included herein are fees for (i) a waiver to extend the term of the PCE permit (\$1,180), (ii) an amendment to the previous grant of the PCE (\$2,110), and (iii) an extension of time to obtain a Certificate of Occupancy (\$1,200).

City of New York
Board of Standards and Appeals
December 15, 2010
Page 4 of 4

SPECIAL ORDER CASE (SOC)

If you have any questions, or wish to discuss this application in greater detail, please feel free to call me or my associate, Jon Grippo.

Sincerely,


Aaron Abraham



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

SPECIAL ORDER CALENDAR (SOC)
 Application Form

BSA APPLICATION NO. 516-75-BZ

Section A

**Applicant/
Owner**

Tarter Krinsky & Drogin LLP

NAME OF APPLICANT

1350 Broadway

ADDRESS

New York

NY

10018

CITY

STATE

ZIP

212

216-8000

AREA CODE

TELEPHONE

212

216-8001

AREA CODE

FAX

aabraham@tarterkrinsky.com

EMAIL

Vertical Projects LLC

OWNER OF RECORD

5 East 59th Street

ADDRESS

New York

NY

10022

CITY

STATE

ZIP

MP Sports Club Upper Eastside LLC

LESSEE / CONTRACT VENDEE

330 East 61st St

ADDRESS

New York

NY

10065

CITY

STATE

ZIP

Section B

Site Data

330 East 61 Street (aka 328 East 61 Street)

10065

STREET ADDRESS (INCLUDE ANY A/K/A)

ZIP CODE

btwn First Avenue & Ramp of Queensboro Bridge (NYS Rte 25)

DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

1435

16 & 37

Manhattan

8

No

BLOCK

LOT(S)

BOROUGH

COMMUNITY DISTRICT

LANDMARK/HISTORIC DISTRICT

Jessica S. Lappin

C8-4

8(c)

CITY COUNCILMEMBER

ZONING DISTRICT

ZONING MAP NUMBER

(include special zoning district, if any)

Section C

Description

(LEGALIZATION ☐ YES ☒ NO ☐ IN PART)

To extend the term of Physical Establishment Permit, originally granted on October 17, 2000, and which expires on October 17, 2010.

Section D

Actions

APPLICATION IS HEREBY MADE TO:

1. ☒ Waive of the Rules of Practice and Procedure (Explain in your statement)

2. ☒ Extension of Time to:

☐ Complete construction ☒ Obtain a Certificate of Occupancy

Expiration Date: 12/15/10

3. ☒ Amendment to Previous Board Approval

4. ☒ Extension of Term of the:

☒ Variance ☐ Special Permit For a term of 10 years

Expiration Date: 10/17/10

5. ☐ Other (Explain in your statement)

Authorizing Section(s) of the Zoning Resolution:

☐ § 11-411 ☐ § 11-412 ☐ § 11-413 ☐ §§ 72-01 and 72-22 ☒ § 73-11 ☐ Other _____

Section EDepartment
Of
Buildings
Information

- | | YES | NO |
|---|-------------------------------------|-------------------------------------|
| 1. Have plans been filed? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Have plans been approved? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (If Yes, Date Approved | | |
| 3. Has a permit been obtained? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (If Yes, Permit No. Date Issued | | |
| 4. Is work in progress? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (If Yes, Percentage of work completed%) | | |
| 5. Has a temporary or permanent Certificate of Occupancy been obtained? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (If Yes, Expiration Date <u>December 15, 2010</u> Attach a copy) | | |

If you have answered "No" to any of these questions, include a paragraph in your statement describing the reason(s) for delay and the projected schedule of completion.

Section FBoard
History

List all prior Board actions associated with the subject Zoning Lot and attach one copy of each resolution:

On October 17, 2000, when the Zoning District was C8-4, an application was granted by the Board under Section 72-01 & 73-11 to permit:

the use of the subject premises as a Physical Culture Establishment ("PCE") on condition that the PCE use be limited to a term of 10 years, to expire on October 17, 2010. See Exhibit 4.

Section GInspection
and
Compliance

- | | YES | NO |
|--|-------------------------------------|-------------------------------------|
| 1. Have you reviewed the Board's case file? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Have you recently inspected the premises and surrounding area? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (If Yes, date of most recent site inspection <u>September 1, 2010</u>) | | |
| 3. Did you find: | | |
| a. Compliance with the terms and conditions of the Board's resolution? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Attach a completed Certificate of Inspection and Compliance | | |
| b. Any significant condition changes (e.g. rezoning, city map amendments, recent developments) within the affected area since the Board's last action on this application? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| If the answer is "yes" to any of the questions below, explain further in your statement. | | |
| 4. Is there currently a proposal before the City Planning Commission to change the subject Zoning District, or any other action which includes the premises? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (File / CP No.) | | |
| 5. Are there any outstanding violation(s) on the premises? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (If Yes, submit a DOB BIS printout) | | |
| 6. Is there any other application before the Board which affects the premises? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (If Yes, Cal No.) | | |
| 7. Is there any other application at any government agency which affects the premises? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Section H

Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.

Signature of Applicant, Corporate Officer or Other Authorized Representative

Aaron Abraham

Print Name

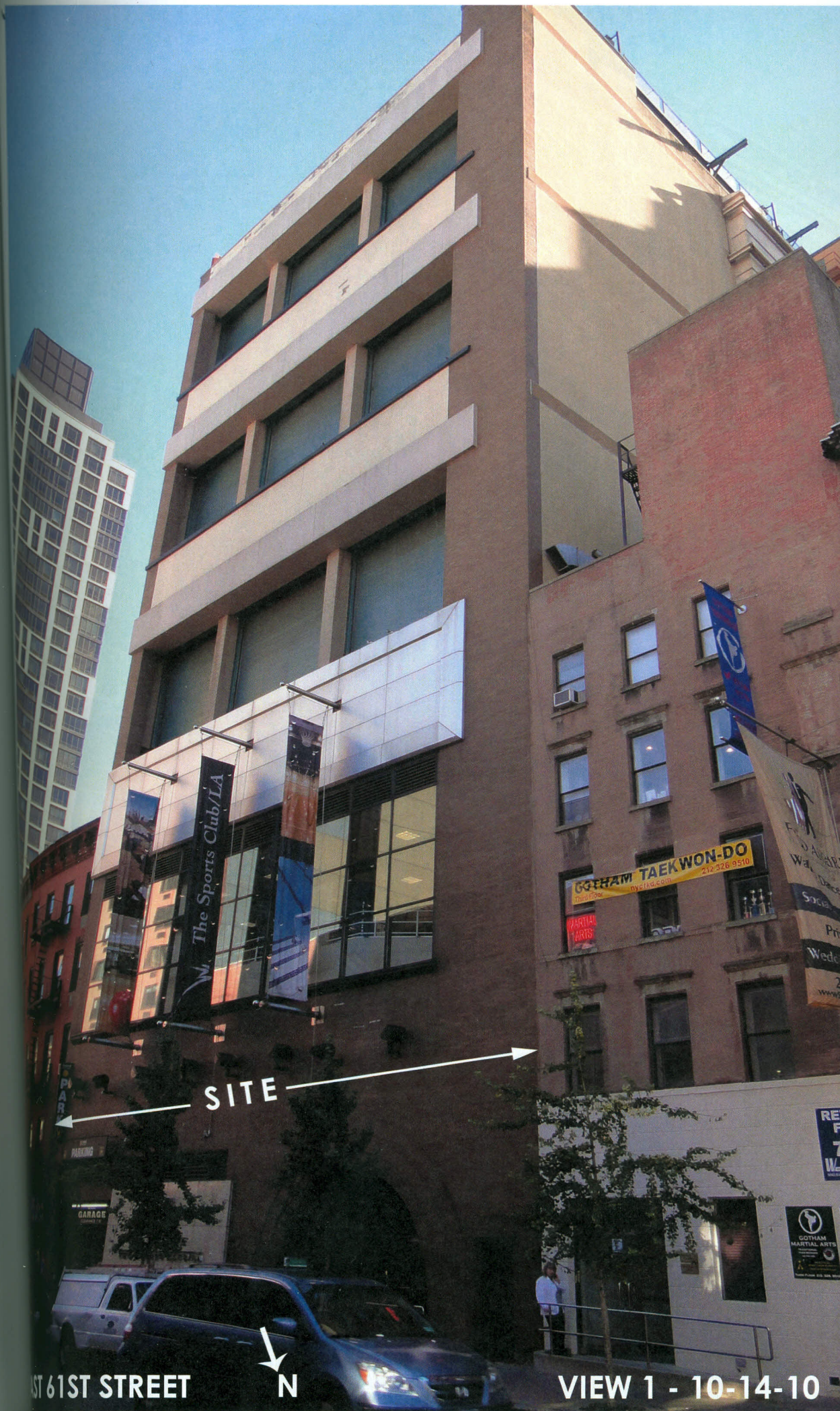
Partner

Title

SWORN TO ME THIS 16th DAY OF December 2010

EDWARD H. FINKELSTEIN

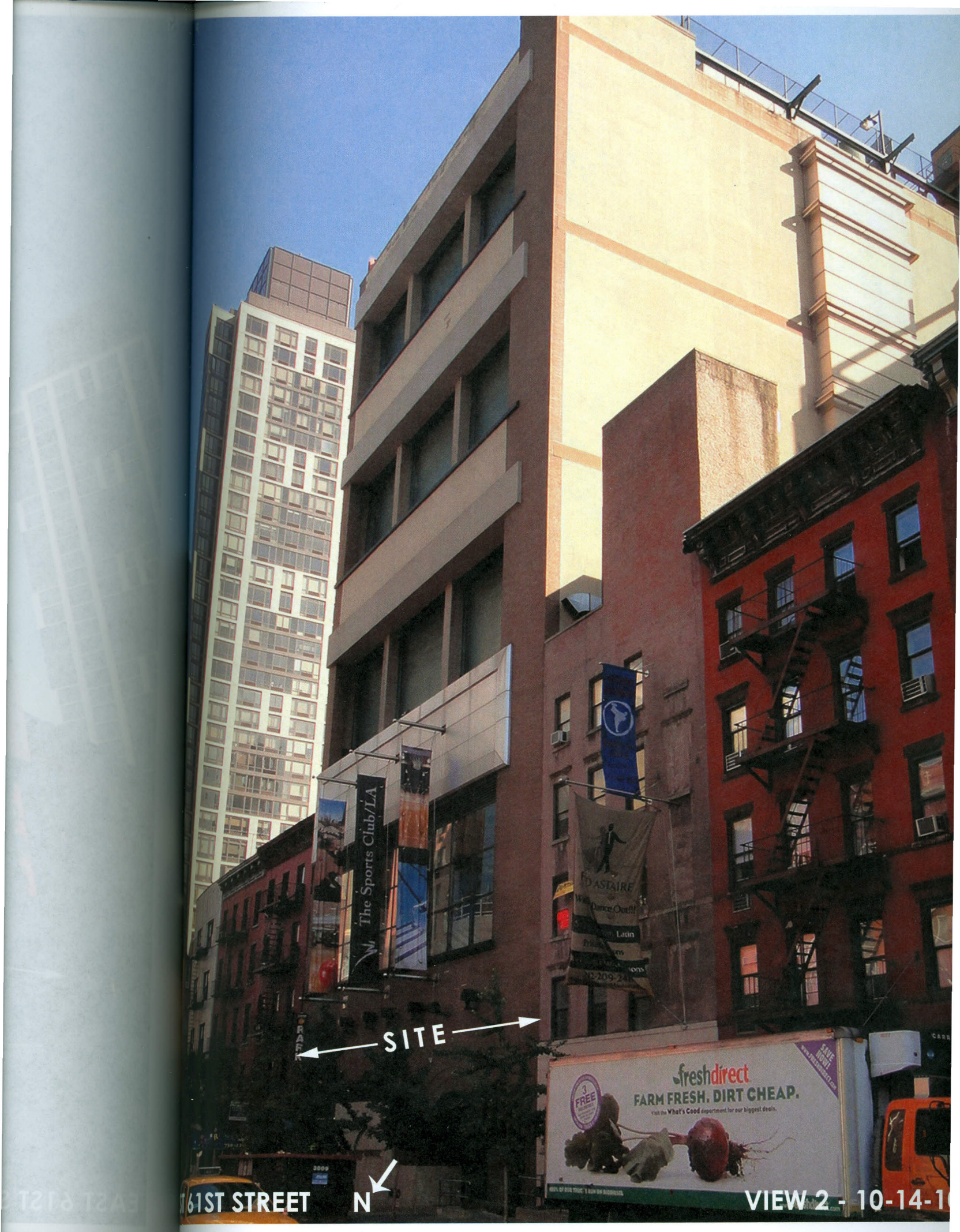
NOTARY PUBLIC, State of New York
No. 02F14949626
Qualified in Richmond County



ST 61ST STREET

N

VIEW 1 - 10-14-10



SITE

61ST STREET

N

VIEW 2 - 10-14-1

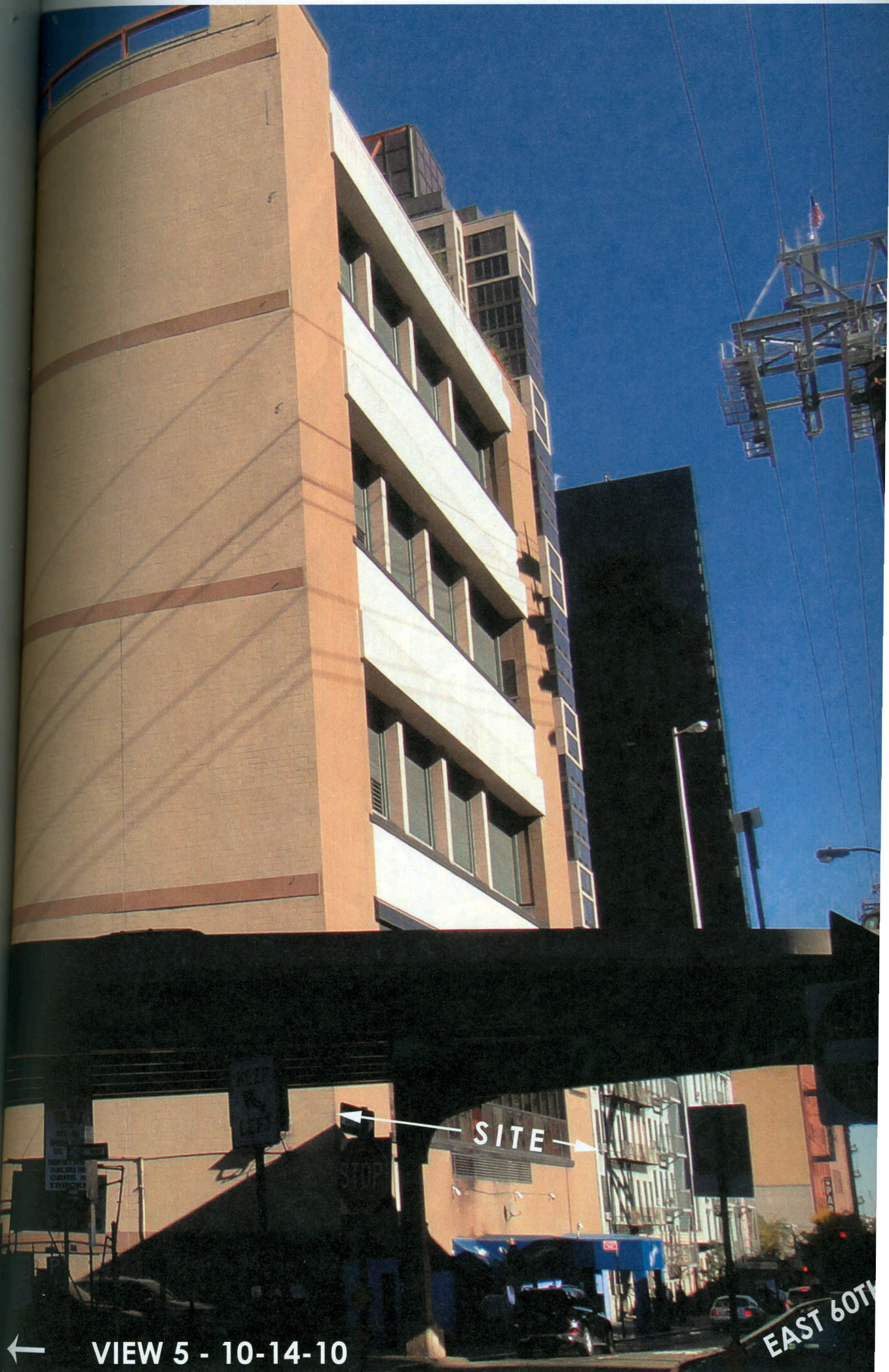




SITE

EAST 60TH STREET

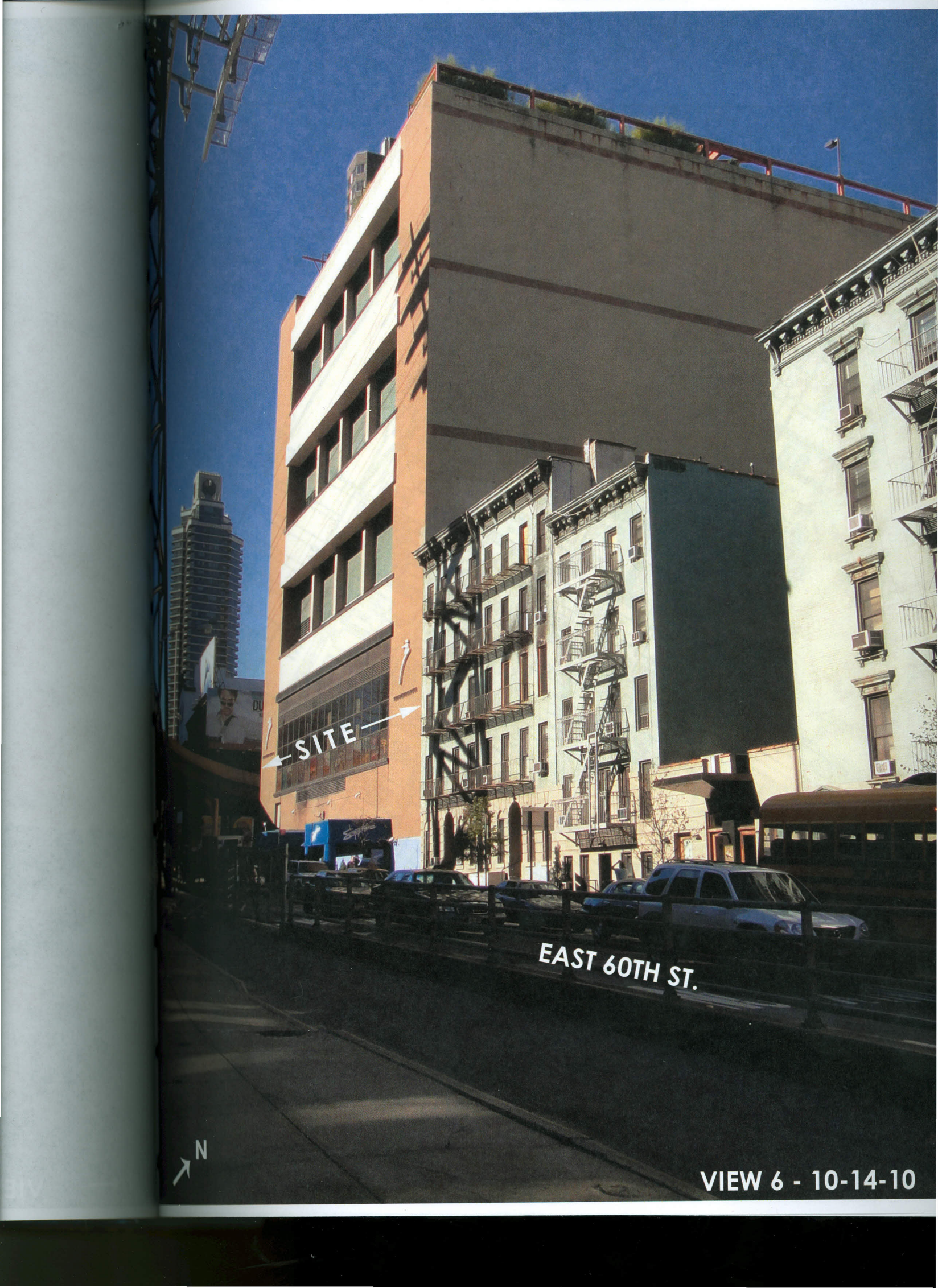
VIEW 4 - 10-14-10



SITE

EAST 60TH

VIEW 5 - 10-14-10



← SITE →

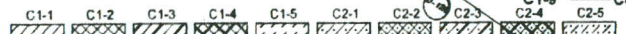
EAST 60TH ST.

↑ N

VIEW 6 - 10-14-10

600 0 600 1200 1800 FEET

BSA CAL# 516-75-BZ ZONING MAP



NOTE: Where no dimensions for zoning district boundaries appear on the zoning maps, such dimensions are determined in Article VII, Chapter 5 (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

AREA(S) REZONED

EFFECTIVE DATE(S) OF REZONING.

* 3-03-2010 C 100051 ZMM

12-21-2009 C 090430 ZMM

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

(D) - RESTRICTIVE DECLARATION

(E) - CITY ENVIRONMENTAL QUALITY
REVIEW DECLARATION

⑥1 - REFERS TO BLOCKS WITH LOTS SUBJECT TO CEQR DESIGNATION E-137. SEE 2.R. APPENDICES (CEQR DECLARATIONS) FOR LIST OF AFFECTED BLOCK AND LOTS.

IM - REFERS TO DISTRICTS OR PORTIONS THEREOF THAT ARE INCLUSIONARY HOUSING DESIGNATED AREAS. SEE APPENDIX F FOR BOUNDARIES OF DESIGNATED AREAS.

CITY MAP CHANGE(S):

▲ 12-08-2009 C 050098(A) MMM

MAP KEY

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











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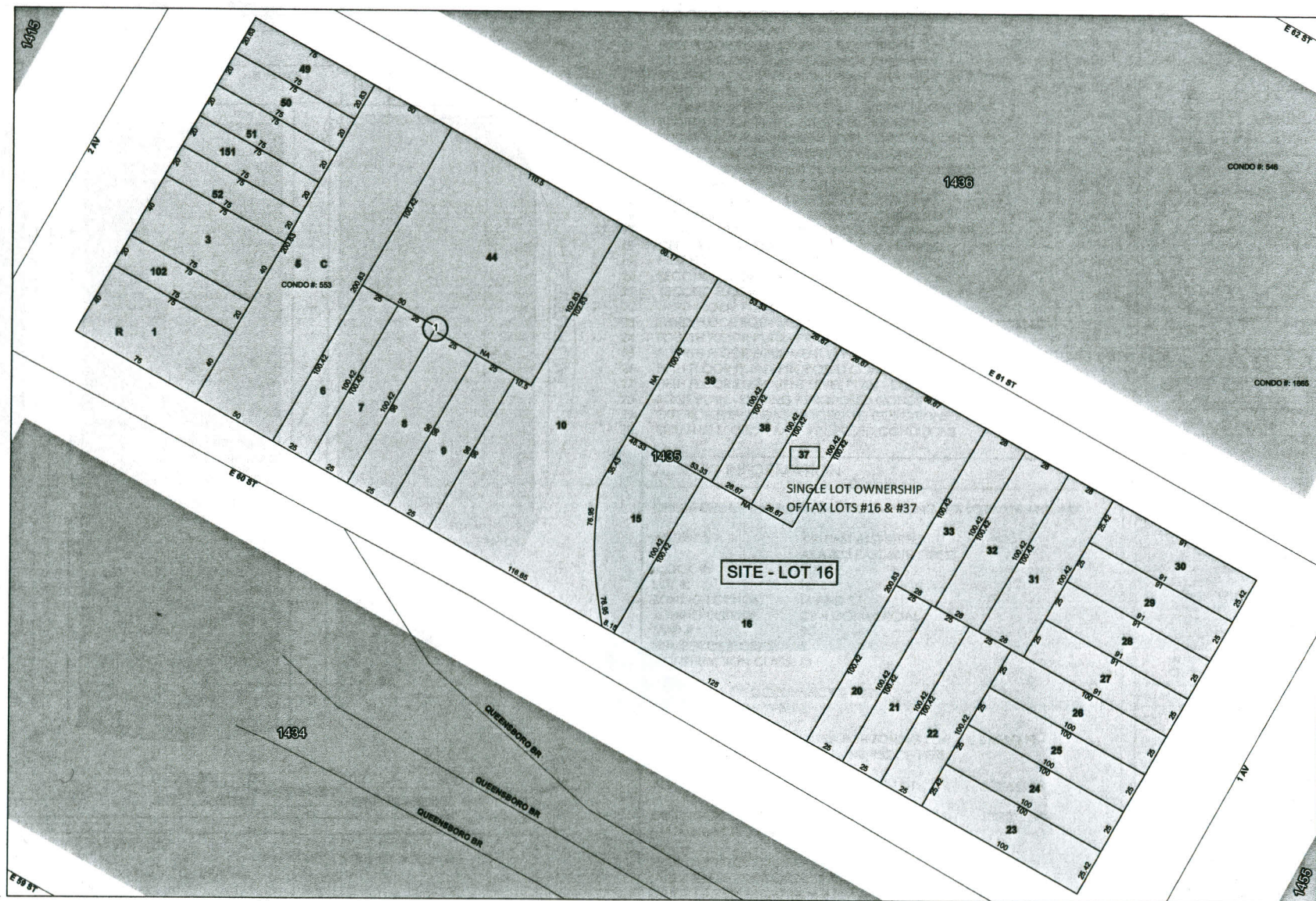
NOTE: Zoning information as shown on this map is subject to change. For the most up-to-date zoning information for this map, visit the Zoning section of the Department of City Planning website www.nyc.gov/planning or contact the Zoning Information Desk at (212) 720-3291.

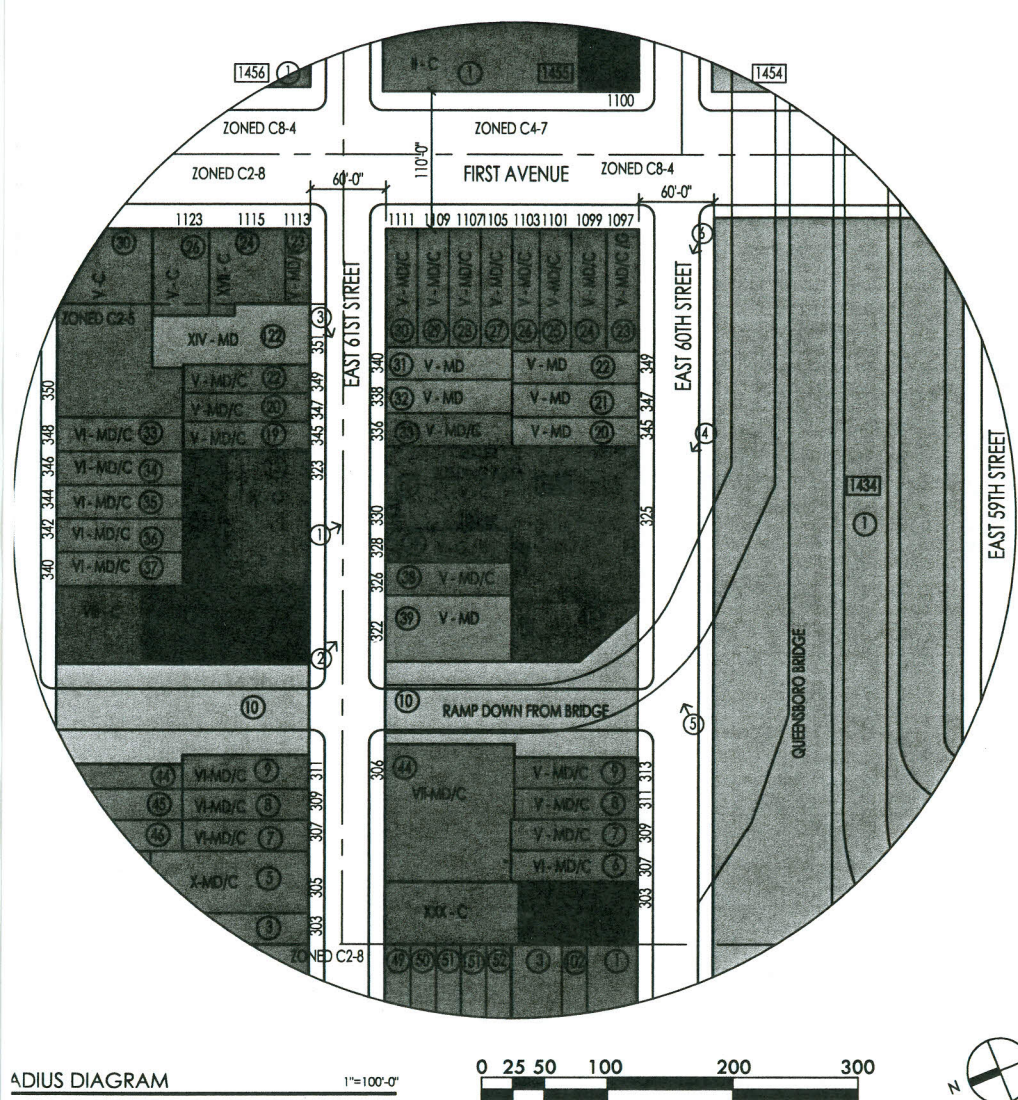
— SITE LOCATION- 330 EAST 61ST ST
BLOCK 1435 - LOTS 16 & 37



A CAL# 516-75-BZ
AX MAP

-  Streets
-  Miscellaneous Text
-  Possession Hooks
-  Boundary Lines
-  Lot Face Possession Hooks
-  Regular
-  Underwater
-  Tax Lot Polygon
-  Condo Number
-  Tax Block Polygon





RADIUS DIAGRAM

LEGEND:		LAND USE	
BLOCK#	1435	ORANGE: MULTIPLE DWELLING	III
LOT #:	14	RED: COMMERCIAL	MD
PHOTOGRAPH:	1→	BROWN: MIXED RESIDENTIAL / COMMERCIAL	D
		GREEN: OPEN SPACE / PARK LAN	R
		BLUE: INSTITUTIONAL	G
		DARK GREY: PARKING / AUTOMOBILE / UTILITY	C
		LIGHT GREY: VACANT / OPEN LOT	A
			STORY HEIGHT
			MULTIPLE DWELLING
			DWELLING
			RETAIL
			GARAGE
			COMMERCIAL
			AUTO

DRAWING SHEET INDEX

- 1 RADIUS DIAGRAM / COVER
- 2 SITE PLAN
- 3 SUB-CELLAR FLOOR PLAN - EXISTING CONDITIONS
- 4 CELLAR FLOOR PLAN - EXISTING CONDITIONS
- 5 FIRST FLOOR PLAN - EXISTING CONDITIONS
- 6 SECOND FLOOR PLAN - EXISTING CONDITIONS
- 7 SECOND FLOOR MEZZANINE PLAN - EXISTING CONDITIONS
- 8 THIRD FLOOR PLAN - EXISTING CONDITIONS
- 9 THIRD FLOOR EQUIPMENT LEVEL - EXISTING CONDITIONS
- 10 FOURTH FLOOR PLAN - EXISTING CONDITIONS
- 11 FOURTH FLOOR EQUIPMENT LEVEL - EXISTING CONDITIONS
- 12 FIFTH FLOOR PLAN - EXISTING CONDITIONS
- 13 FIFTH FLOOR EQUIPMENT PLAN - EXISTING CONDITIONS
- 14 ROOF PLAN - EXISTING CONDITIONS
- 15 EXTERIOR ELEVATIONS - EXISTING CONDITIONS
- 16 BUILDING SECTION A-A - EXISTING CONDITIONS
- 17 SUB-CELLAR FLOOR PLAN - PROPOSED CONDITIONS
- 18 CELLAR FLOOR PLAN - PROPOSED CONDITIONS
- 19 FIRST FLOOR PLAN - PROPOSED CONDITIONS
- 20 SECOND FLOOR PLAN - PROPOSED CONDITIONS
- 21 SECOND FLOOR MEZZANINE PLAN - PROPOSED CONDITIONS
- 22 THIRD FLOOR PLAN - PROPOSED CONDITIONS
- 23 THIRD FLOOR EQUIPMENT LEVEL PLAN - PROPOSED CONDITIONS
- 24 FOURTH FLOOR PLAN - PROPOSED CONDITIONS
- 25 FOURTH FLOOR EQUIPMENT LEVEL PLAN - EXISTING/PROPOSED CONDITIONS
- 26 FIFTH FLOOR PLAN - PROPOSED CONDITIONS
- 27 FIFTH FLOOR EQUIPMENT LEVEL PLAN - EXISTING/PROPOSED CONDITIONS
- 28 ROOF PLAN - EXISTING / PROPOSED CONDITIONS
- 29 EXTERIOR ELEVATIONS - PROPOSED CONDITIONS
- 30 BUILDING SECTION A-A - PROPOSED CONDITIONS

ZONING INFORMATION

SINGLE OWNERSHIP ZONING LOT COMPRISING TAX LOTS #16 AND #37

ADDRESS: 330 EAST 61ST STREET
AKA 333 EAST 60TH STREET
BLOCK #: 1435
LOT #: 16
ZONING LOT NOS. 16 AND 37
ZONING DISTRICT C8-4 COMMERCIAL
MAP #: 8C
NUMBER OF STORIES: 5
CONSTRUCTION CLASS: 1B

CERTIFICATE OF OCCUPANCY #105792
BSA CAL NO. 516-75-BZ

TOTAL PERMITTED FLOOR AREA FOR ZONING LOT: 102,646 SQ FT
(ESTABLISHED UNDER DOB APPL. NB #32 OF 1975)

ALLOWABLE FLOOR AREA FOR ZONING LOT: 102,646 SF

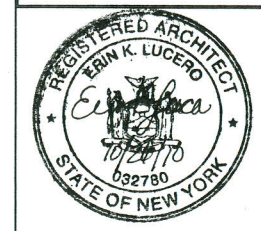
EXISTING OCCUPIED FLOOR AREA 100,272 SF
(HAD DEDUCTED MECHANICAL AREAS)

PROPOSED FLOOR AREA 101,646 SF
(ADDS 214 SF ADDITIONAL SPACE ON LEVEL 2M)
(ADDS 1,160 SF ADDITIONAL AREA ON 3RD FLOOR EQUIPMENT)

PROPOSED 101,646 SF < 102,646 SF

NNL
ARCHITECTURE
8520 ClaraBelle Dr
Arvada, CO 80002
720.206.5189
www.nnlarch.com

THE SPORTS CLUB/LA
UPPER EAST SIDE



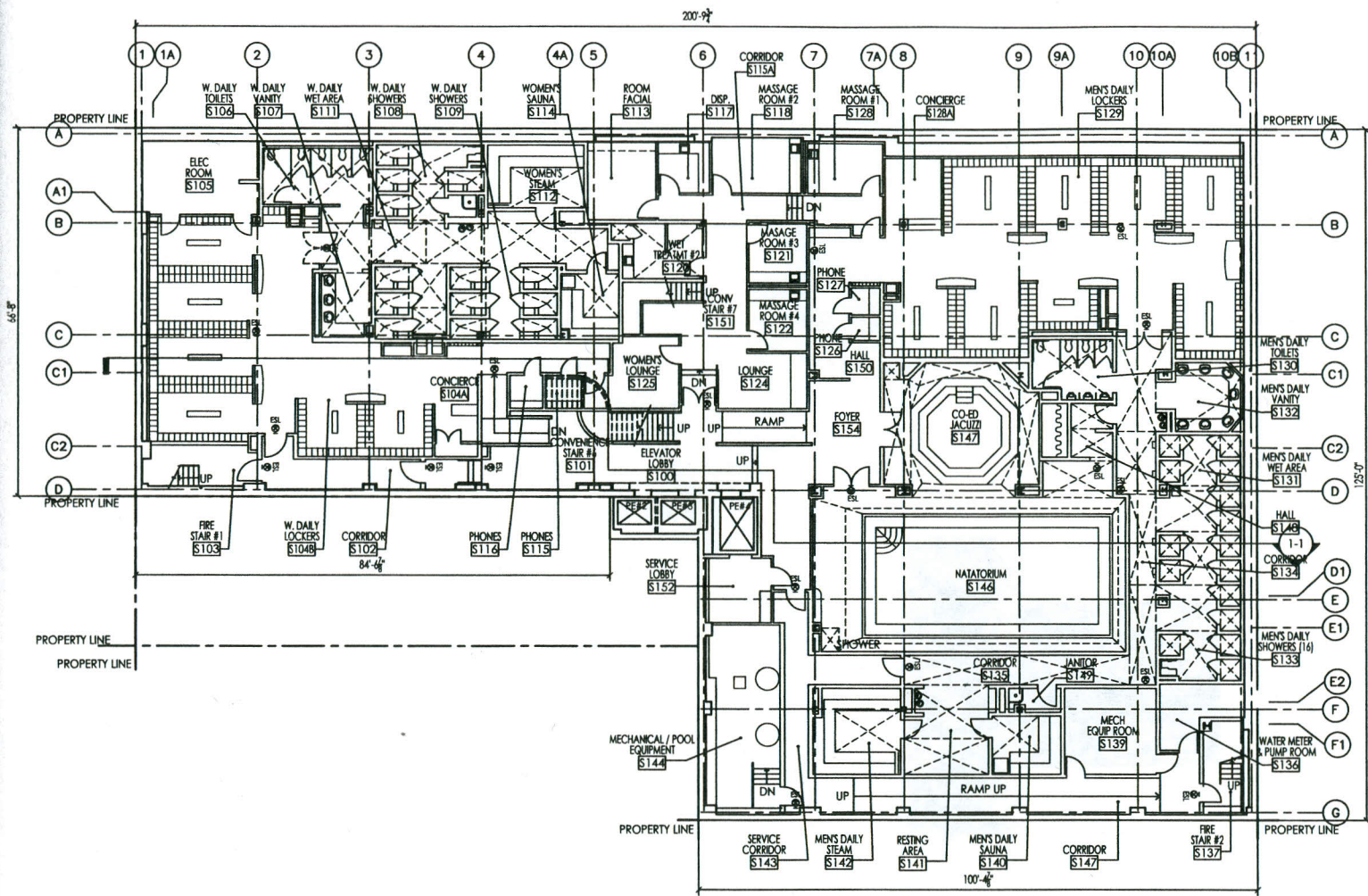
THE SPORTS CLUB/LA
UPPER EAST SIDE
330 EAST 61ST ST,
NEW YORK, NY

NOTES:
1. ALL PARTITIONS AND EXITS SHALL BE AS APPROVED BY DOB
2. MINIMUM 3'-0" WIDE EXIT PATHWAYS SHALL BE PROVIDED LEADING TO THE REQUIRED EXITS. PATHWAYS SHALL ALWAYS BE MAINTAINED UNOBSTRUCTED, INCLUDING FROM ANY GYMNASIUM EQUIPMENT.
3. AN APPROVED INTERIOR FIRE ALARM SYSTEM SHALL BE INSTALLED ON THE ENTIRE PCE SPACE. THE SYSTEM WILL INCLUDE THE FOLLOWING ITEMS:
- AREA SMOKE DETECTORS
- MANUAL PULL STATIONS AT EACH REQUIRED EXIT
- LOCAL AUDIBLE AND VISUAL ALARMS
- CONNECTION OF THE INTERIOR FIRE ALARM TO A FDNY APPROVED CENTRAL STATION
4. LOCAL LAW 58/87 SHALL BE COMPLIED WITH AS APPROVED BY DOB.

ISSUED FOR:	DATE:
ISSUED TO OWNER	10.04.10
BSA - PRELIMINARY	10.20.10
BSA PERMIT RENEWAL	10.26.10

PROJECT NO. :: MP.10.004
BSA CAL NO: 516-75-BZ

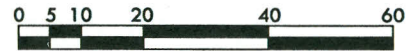
RADIUS DIAGRAM
/ COVER



TOTAL FLOOR OCCUPANCY = 320 PERSONS
TOTAL GROSS AREA = 19, 248 SF

SUB-CELLAR FLOOR PLAN
EXISTING CONDITIONS
BSA CAL# 516-75-BZ

1"=20'-0"



**THE SPORTS CLUB/LA
UPPER EAST SIDE**



**THE SPORTS CLUB/LA
UPPER EAST SIDE
330 EAST 61ST ST,
NEW YORK, NY**

- NOTES:
1. ALL PARTITIONS AND EXITS SHALL BE AS APPROVED BY DOB
 2. MINIMUM 3'-0" WIDE EXIT PATHWAYS SHALL BE PROVIDED LEADING TO THE REQUIRED EXITS. PATHWAYS SHALL ALWAYS BE MAINTAINED UNOBSTRUCTED, INCLUDING FROM ANY GYMNASIUM EQUIPMENT.
 3. AN APPROVED INTERIOR FIRE ALARM SYSTEM SHALL BE INSTALLED ON THE ENTIRE FLOOR SPACE. THE SYSTEM WILL INCLUDE THE FOLLOWING ITEMS:
 - AREA SMOKE DETECTORS
 - MANUAL PULL STATIONS AT EACH REQUIRED EXIT
 - LOCAL AUDIBLE AND VISUAL ALARMS
 - CONNECTION OF THE INTERIOR FIRE ALARM TO A FDNY APPROVED CENTRAL STATION
 4. LOCAL LAW 58/87 SHALL BE COMPLIED WITH AS APPROVED BY DOB.

ISSUED FOR:	DATE:
ISSUED TO OWNER	10.04.10
BSA - PRELIMINARY	10.20.10
BSA PERMIT RENEWAL	10.26.10

PROJECT NO. :: MP.10.004
BSA CAL NO: 516-75-BZ

**SUB-CELLAR FLOOR PLAN
EXISTING CONDITIONS**