

July 12, 2017

Judith M. Gallent
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VIA EMAIL & BY HAND

Ms. Sara Avila
Central Intake
Manhattan Office
New York City Department of City Planning
120 Broadway, 31st Floor
New York, NY 10271

Re: 19 East 72nd Street
Block 1387, Lot 14. Borough of Manhattan
ULURP No. 170452ZSM

Dear Sara:

Enclosed for filing are fourteen copies of the following revised materials (dated July 12, 2017) in connection with the above-referenced application:

1. LR Item 3 – Description of Proposal
2. Attachment 11(b) – Discussion of Findings

These materials supersede the prior versions, which were filed through Central Intake on June 8, 2017. I have also enclosed one copy of a revised draft Declaration, which I have emailed to Mary Bruch in DCP Counsel's Office.

Please contact me with any questions regarding this submission. Thank you for your assistance.

Sincerely,



Judith M. Gallent
Enclosures

DRAFT: 7/10/17

19 EAST 72nd STREET CORPORATION

DECLARATION

Dated: _____, 201_

Location:

19 East 72nd Street
Block 1387, Lot 14
New York County, New York

Record & Return to:

Bryan Cave LLP
1290 Avenue of Americas
New York, NY 10104
Attn: Judith M. Gallent, Esq.

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DECLARATION made as of the ____ day of _____, 2016 by 19 East 72nd Street Corporation (the "Declarant"), having an address c/o Brown Harris Stevens, LLC, 770 Lexington Avenue, New York, NY 10065.

WITNESSETH:

WHEREAS, Declarant is the owner in fee simple of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 1387, Lot 14 on the Tax Map of the City of New York and by the street address 19 East 72nd Street, New York, NY 10021, and is more particularly described on Exhibit A attached hereto (the "Subject Property") and on which is located a 17-story building (the Designated Structure"); and

WHEREAS, Declarant proposes to renovate the Designated Structure; and

WHEREAS, the Subject Property together with the Designated Structure(s) constitute(s) the Subject Premises (the "Subject Premises"); and

WHEREAS, _____ ("_____"), a title company, has certified as of _____, 20__ that Declarant and _____, as mortgagor, are the sole parties in interest ("Parties in Interest"), as that term is defined in the zoning lot definition in Section 12-10 of the Zoning Resolution of the City of New York (the "Zoning Resolution"), to the Subject Premises, a copy of which certification is attached hereto as Exhibit B; and

WHEREAS, _____, as mortgagee has executed an instrument waiving its right to execute, and subordinating its lien of interest in the Subject Premises to, this Declaration, a copy of which is attached as Exhibit C hereto; and

WHEREAS, all Parties in Interest to the Subject Property have therefor either executed this Declaration or waived their rights to execute this Declaration;

WHEREAS, Declarant represents and warrants that the Parties in Interest listed in

Exhibit B are the only known Parties in Interest in the Subject Premises as of the date hereof; and

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

WHEREAS, Declarant at the public hearing on July 26, 2016 requested that the LPC issue a report to the City Planning Commission of the City of New York (the "CPC") for application 170452ZSM under Section 74-711 of the Zoning Resolution for a special permit (the "Special Permit") to modify Section 22-10 of the Zoning Resolution, with respect to conforming uses within an R10 zoning district, so that commercial uses in Use Group 6, with the exception of eating and drinking establishments, may occupy a portion of the ground floor of the Designated Structure located in the R10 zoning district in which such uses are not permitted as-of-right (the "Application"); and

WHEREAS, at the public meeting on July 26, 2016, following said public hearing, the LPC voted to issue the report to the CPC (the "LPC Report") as requested for the special permit application (the "Application"), and to grant a Certificate of Appropriateness ("C of A"), which allows the alteration of the Designated Structure in the Upper East Side Historic District in accordance with Section 25-307 of the Administrative Code of the City of New York. A copy of the LPC Report and C of A is annexed hereto as Exhibit D; and

WHEREAS, the LPC has also issued Certificate of No Effect (CNE 19-5997) for restorative work on the Designated Structure, dated January 18, 2017, annexed hereto as Exhibit E;

WHEREAS, Section 74-711 requires, inter alia, that a program has been

established for continuing maintenance (the "Continuing Maintenance Program") that will result in preservation of the Designated Structure by Declarant; and

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

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

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

NOW, THEREFORE, Declarant does hereby declare and agree that the Subject Premises shall be held, sold, transferred, conveyed and occupied subject to the following restrictions, covenants, obligations, easements, and agreements, all of which are for the purpose of protecting the Subject Premises, which shall inure to the benefit of the City of New York, and which shall run with the Subject Premises and bind Declarant and its heirs, successors and assigns so long as they have a right, title or interest in the Subject Premises or any part thereof.

ARTICLE I

DEFINITIONS

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

- 1.1 "Application" shall mean the application to the City Planning Commission

for the Special Permit.

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

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

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

1.5 "City" shall mean the City of New York.

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

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

1.8 "Declarant" shall mean the named Declarant and the heirs, successors and assigns of the named Declarant including, without limitation, any owner of a condominium unit within the Designated Structure, except that Declarant shall not be deemed to include (i) a mortgagee of all or any portion of the Subject Property until it succeeds to the interest or obligation of Declarant by purchase, assignment, foreclosure or otherwise, or (ii) a tenant of the Subject Premises, unless such tenant holds a lease to all or substantially all of the Subject Premises.

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

1.10 "Designated Structure" is defined in the Whereas Clauses set forth above.

1.11 "Force Majeure" shall mean: strike, lockout or labor dispute(s); inability to obtain materials or reasonable substitutes therefor unless due to any act or failure to act by Declarant; acts of God; unforeseen governmental restrictions, regulations, omissions or controls; enemy or hostile government actions; civil commotion, insurrection,

revolution or sabotage; fire or other casualty; inclement weather of such a nature as to make performance or completion of the Landmark Work not feasible unless due to any act or failure to act by Declarant; any damage to the Subject Premises of such a nature as to make completion of the Landmark Work not feasible; a taking of the Subject Premises, or a portion thereof, by condemnation or eminent domain; failure of a public utility to provide power, heat or light; unusual delay in transportation; material delays by the City, State or United States Government, or any agency or instrumentality thereof, in the performance of any work or processing or approval of any applications required in order to permit Declarant to carry out its obligations pursuant to this Declaration unless due to any act or failure to act by Declarant; denial to Declarant by any owner of an enforceable interest in adjoining real property, including any private fee owner or ground lessee of adjoining real property, or any agency of the City or State having an enforceable interest in adjoining real property, including sidewalk or streets, of a right to access to such adjoining real property, if such access is required to accomplish the obligations of the Declarant pursuant to this Declaration; the pendency of a litigation not initiated by Declarant or similar proceeding which suspends or materially and adversely affects the ability of the Declarant to accomplish the obligations of the Declarant pursuant to this Declaration; or other conditions similar in character to the foregoing which are beyond the control of Declarant. No event shall constitute a Force Majeure unless Declarant complies with the procedures set forth in Sections 2.3 and 6.2 hereof.

1.12 "Landmark Work" shall refer to the restoration work on the Designated Structure as described in the CNE, which is attached hereto as Exhibit E.

1.13 "LPC" shall mean the Landmarks Preservation Commission of New York City or any successor to the jurisdiction thereof.

1.14 "Mortgagee" shall mean (a) the institutional first mortgagee of all or substantially all of the Subject Premises listed in Exhibit B or (b) the first mortgagee of a condominium unit within the Designated Structure.

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

1.16 "Special Permit" is defined in the Whereas Clauses set forth above.

1.17 "Special Permit Use" shall mean Use Group 6 commercial uses, with the exception of eating and drinking establishments, located in the R10 portion of the Subject Premises. Notwithstanding the foregoing, no use shall be deemed a Special Permit Use if it is permitted as-of-right within the Subject Premises by the terms of the Zoning Resolution then in effect.

1.18 "Zoning Resolution" shall mean the Zoning Resolution of the City of New York.

ARTICLE II

DEVELOPMENT, PRESERVATION, REPAIR AND MAINTENANCE OF THE DESIGNATED STRUCTURE

2.1 Landmark Work. The "Landmark Work" shall include, but not be limited to: repairing cracks in brickwork on parapet and main building walls (all elevations including bulkheads and chimneys); repairing cracks in limestone on building and parapet walls on main street facades; replacing spalled bricks at parapets, rear walls and chimneys; repointing brick and stone masonry with new mortar (all facades); performing a color study to determine, as practicable, original color of stucco on ground floor, courtyard garden and associated areas and repairing cracks and failures in same; replacing cracked window sill at first floor northwest corner; replacing failed pitch pocket with new flashings; surveying cracked and displaced stone units at corner parapets and repairing in place or rebuilding as necessary; re-sealing coping stone cross joints with new sealant matching original appearance, color and profile; surveying railings and repairing unsafe conditions; investigating and replacing damaged through-wall air

condition vent sleeves, if required, with new sheet metal sleeves as specified in the master plan at 12th through 15th floors (south, west and north elevations); modifying existing Master Plan (LPC Docket #0357934) to remove 15 of the 16 approved locations for additional through-wall air conditioner penetrations; surveying lintels in brick masonry facades (north and west elevations) and replacing any rusting or deteriorated lintels and associated masonry; repairing in place concrete beam at 8th floor, west elevation; surveying displaced stones at 12th floor, east elevation and repoint, repair and/or replace as necessary; replacing boiler room flat roof membrane and paving system at first floor, northwest corner with new roofing materials and concrete paving system matching original; amend master plan for replacement of louvers on primary facades at 5th through 16th floors, south and east elevations, excluding setbacks and penthouse portions of such facades, with grilles to be detailed and colored to reduce contrast with surrounding masonry (replacement with master plan-approved louvers to occur when apartments are transferred to new owners or substantially renovated); cleaning coping stones at parapets of 14th floor to roof (south and east elevations) and applying clear silicate water repellent to coping stones; performing *ad hoc* repairs at service entrance (ground floor east elevation), including repainting fencing to match original, removing barbed wire and security camera, and repositioning thermostatic sensor to less visible location. The issuance of the Special Permit is premised on, inter alia, the performance of the Landmark Work in conformity with the CNE, the LPC Report and the requirements thereof.

2.2 Certificate of Occupancy. Written notice that the Declarant is seeking a temporary certificate of occupancy ("TCO") or permanent certificate of occupancy ("PCO") for a Special Permit Use shall be provided to the LPC seven days prior to the Declarant applying for such TCO or PCO. No temporary certificate of occupancy ("TCO") or permanent certificate of occupancy ("PCO") which permits a Special Permit Use shall be granted by the Buildings Department or accepted by Declarant until the

Chairperson of the LPC shall have given written notice to the Buildings Department that the Landmark Work has been satisfactorily completed by Declarant or the Chairperson of the LPC has certified in writing, as provided in Section 2.3(b) hereof, that (a) a Force Majeure has occurred, and (b) the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Property. The Chairperson of the LPC shall issue said notice reasonably promptly after Declarant has made written request to the Chairperson of the LPC and has provided documentation to support such request, and the Chairperson of the LPC shall in all events endeavor to issue such written notice to the Buildings Department, or inform Declarant in writing of the reason for not issuing said notice, within twenty-one (21) calendar days after Declarant has requested such written notice. Upon receipt of the written notice from the Chairperson of the LPC that (i) the Landmark Work has been satisfactorily completed or (ii) the Chairperson of the LPC has certified that a Force Majeure has occurred and that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO, the Buildings Department may grant, and Declarant may accept, a TCO or PCO for the Designated Structure.

(a) Declarant shall permit inspection of the Designated Structure by the Chairperson of the LPC and representatives designated by the Chairperson of the LPC in connection with the notice described in Section 2.3 hereof.

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

(ii) In the event that Declarant reasonably believes that full performance of its obligations to complete the Landmark Work has been delayed as a result of a Force Majeure, Declarant shall so notify the Chairperson of the LPC as soon as Declarant learns of such circumstances. Declarant's written notice shall include a description of the

condition or event, its cause (if known to Declarant), its probable duration, and in Declarant's reasonable judgment, the impact it is reasonably anticipated to have on the completion of the Landmark Work. The Chairperson of the LPC shall, within twenty-one (21) calendar days of its receipt of Declarant's written notice, (A) certify in writing that a Force Majeure has occurred, including a determination of the expected duration of such delay (the "Delay Notice"), and grant Declarant appropriate relief for such delay, including certifying in writing to the Buildings Department that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Property, or (B) notify Declarant that it does not reasonably believe a Force Majeure has occurred. With respect to any claim that a Force Majeure has delayed the Declarant's performance or completion of the Landmark Work, the LPC may require that Declarant post a bond or other security in a form and amount acceptable to the Chairperson of the LPC in order to ensure that the Landmark Work is completed. Such alternative security could include, without limitation, alternative or additional conditions on the issuance of any PCO or TCO. Any delay caused as the result of a Force Majeure shall be deemed to continue only as long as the Declarant shall be using reasonable efforts to minimize the effects thereof. Upon cessation of the events causing such delay, the Declarant shall promptly recommence the Landmark Work.

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

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

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

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

(i) At Declarant's expense, an inspection (the "Periodic Inspection") shall be made every five years, on or within two weeks of the anniversary of the issuance by the LPC of the Notice of Compliance pursuant to the C of A, and thereafter, shall be made every five years on or within two months of the anniversary date of such initial or subsequent inspection. In the event that Declarant has accepted a TCO or PCO that permits a special permit use without having first received the Notice of Compliance, the first periodic inspection shall be made on or within the fifth anniversary date of the issuance of such TCO or PCO and every five years thereafter. The Periodic Inspection shall be done by a preservation architect, engineer or other qualified person knowledgeable about the preservation of historic structures (the "Preservation Architect") selected by Declarant from a list prepared by Declarant and approved by the Chairperson of the LPC as to their credentials, which approval shall not be unreasonably withheld or delayed. Declarant shall update such listing upon the request of the Chairperson of the LPC. In addition, Declarant may periodically supplement the list of Preservation

Architects, subject to the approval of the Chairperson of the LPC as to their credentials. The Preservation Architect shall make a thorough inspection of the exterior of the Designated Structure and those portions of the interior, as well as those portions of the mechanical systems that are accessible to and under the control of building management, which, if not properly maintained, could affect the condition of the exterior. The Periodic Inspection shall include (but not be limited to) the following portions of the Designated Structure: all primary facades, windows and the roof .

(ii) The Preservation Architect shall, at the expense of Declarant, submit a report on each Periodic Inspection (the "Periodic Report") to Declarant and the LPC within 45 days after each Periodic Inspection. The Periodic Report shall outline the existing conditions of the Designated Structure and detail the work which should be performed in order to maintain the Designated Structure, including all architectural features and elements, in a sound first-class condition, including but not limited to caulking, painting, cleaning, repair of architectural features and elements, checking for rust and repointing of masonry.

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

(iv) Except as set forth below, Declarant shall perform all work which a Periodic Report, Facade Inspection Report or Emergency Incident Report (as defined below) identifies as necessary to maintain the Designated Structure, including architectural features and elements, in sound first-class condition. No work shall be

performed except pursuant to a permit from the LPC if a permit is required under the Landmarks Preservation Law. If the LPC determines that a specific item of work or method of work as set forth in a Periodic Report, Facade Inspection Report or Emergency Incident Report would be inappropriate or inadequate, the determination of the LPC shall control and Declarant need not and shall not have such specific item performed.

Declarant shall have the right to contest in a hearing before the LPC any work called for in a Periodic Report or Emergency Incident Report. Declarant's obligation to perform such contested work or to perform it by a method acceptable to the LPC shall be stayed pending a decision in any such proceeding at the LPC. Declarant shall proceed with all work which is uncontested during the stay pursuant to a permit.

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

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

(i) If a fire, the elements or any other cause whatsoever damages or

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

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

(iii) Within sixty days of such Emergency Incident, a Preservation Architect shall, at the expense of Declarant, make a thorough inspection of the Designated Structure and submit a report (an "Emergency Incident Report") to Declarant and to the LPC outlining the condition of the structure, assessing the extent of damage, and recommending (A) work, if any, which must be undertaken immediately, upon receipt of proper permits, in order to stabilize and prevent further damage to the Designated Structure, and (B) work that should be performed to repair and restore the Designated Structure to a sound, first-class condition or, alternatively to (A) and (B), that Declarant make an application to the LPC for permission to demolish the remaining portions of the Designated Structure.

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

(v) With regard to the work to be performed pursuant to subparagraph (iii)(B), within ninety days of receiving the report of the Preservation Architect, Declarant shall apply for all necessary permits and certificates from the LPC to repair and restore or to demolish. No work on the exterior of the Designated Structure, and no work on the interior of the Designated Structure which would affect the exterior or which would require the issuance of a permit from the Department of Buildings shall be performed except pursuant to a permit from the LPC. If the LPC determines that a recommendation to demolish or to perform a specific item of work or method of work set forth in the report would be inappropriate, using the criteria set forth in the Landmarks Preservation Law, the determination of the LPC shall control and the Declarant shall not have such specific work performed or be entitled to have the Designated Structure demolished unless Declarant is obligated to perform such work or demolish the structure in accordance with an "Unsafe Building Notice" issued by the Department of Buildings. All repair, restoration, rehabilitation, repointing, and other work provided for in a certificate or permit shall be completed within nine months of the date of issue of such certificate or permit by the LPC. If such work cannot be completed within nine months for reasons beyond Declarant's control, as determined by the Chairperson of the LPC, Declarant shall apply in writing to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time which is related to the period of the delay and shall not be unreasonably withheld.

(c) Access to Designated Structure. Declarant agrees to provide access to the Designated Structure to the LPC and its designated representatives at

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

(d) Failure to Perform. In the event that the preservation, repair, or maintenance of the Designated Structure is not performed in accordance with the provisions of this Article, the LPC shall give written notice of such failure to perform to the Declarant. In the event that Declarant, its successors or assigns, fails after sixty days from receipt of written notice from the LPC to perform or shall commence to perform but fail diligently to prosecute to completion, any such repair and/or maintenance, or any obligations of Declarant set forth in this Declaration, the City of New York may perform all of the necessary work at the sole cost and expense of the Declarant and shall have the right to enter onto the Subject Property and to charge said Declarant for all the actual cost of such work, together with actual administrative and legal fees incurred in the collection thereof. Such actual costs shall include, but not be limited to, payments by the City of New York to any lawyers, consultants, contractors, painters, engineers, architects and skilled artisans required to be hired to perform or supervise such work. To the extent such actual costs are expended by the City of New York, the LPC shall have a lien on the Subject Premises as if a lien had been filed, perfected and enforced for materials and labor under Article 2 of the Lien Law of the State of New York. Notwithstanding the foregoing, in the event that the Designated Structure is converted to a condominium, Declarant's right to notice and cure provided in this subsection shall apply only to the condominium board and to any owner of space occupied by retail uses in the Designated Structure; provided that the LPC has received notice by said parties in accordance with Section 6.2.

ARTICLE III

CONDOMINIUM BOARD

3.1 General. In the event that the Designated Structure is converted to a condominium in accordance with Article 9B of the New York State Real Property Law ("RPL"), the condominium board ("Board") shall have the responsibility to carry out all of Declarant's obligations and the authority to exercise all of Declarant's rights under this Declaration and upon such assumption, 19 East 72nd Street Corporation shall be released from its liability thereunder.

The following provisions of this Article 3 shall be operative only in the event that the Board is formed as described in this Section 3.1.

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

3.3 Condominium Declaration. Every deed conveying title to, or a partial interest in, the Subject Premises, every lease of all or substantially all of the Subject Premises, shall contain a recital that the grantee is bound by the terms of the Condominium Declaration and By-laws which shall incorporate an obligation by the Board to comply with the provisions of Article 3 of this Declaration. **In addition, every deed, lease, the offering plan, and by-laws shall include the following language: This building is obligated by a restrictive declaration to be maintained in a sound, first-class condition in perpetuity. This obligation includes a thorough inspection of the building every five years and the preparation of an existing conditions report that shall be submitted to the Landmarks Preservation Commission. All work identified in the existing conditions report as necessary to maintain this building in a sound, first-class condition must be expeditiously undertaken.**

ARTICLE IV

EFFECT AND ENFORCEMENT

4.1 Effective Date

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

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

4.2 Filing and Recordation. Declarant shall file and record at its sole cost and expense this Declaration in the Register's Office, indexing it against the Subject Property, immediately upon the Effective Date. Declarant shall promptly deliver to the CPC and the LPC duplicate executed originals, promptly following the Effective Date and, following recordation, a true copy of this Declaration as recorded, as certified by the Register. If Declarant fails to so record this Declaration, the City may record this Declaration, at the sole cost and expense of Declarant, who shall promptly pay to the City such costs together with fees for purchase of a reasonable number of certified copies of the recorded Declaration.

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

4.4 Notice and Cure.

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

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

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

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

4.5 Acknowledgement of Covenants. Declarant acknowledges that the restrictions, covenants, easements, obligations and agreements in this Declaration, which

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

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

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

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

4.9 Applicability to Other City Agencies. Declarant covenants to include a copy of this Declaration as part of any application submitted to the LPC, CPC, Buildings Department, Board of Standards and Appeals ("BSA"), New York State Attorney General (in the event of a proposed conversion of the Designated Structure to condominium ownership) or any agency succeeding to their respective jurisdictions. The restrictions and obligations contained herein are a condition of any permit or Certificate of Occupancy to be issued by the Buildings Department and Declarant will take all

reasonable steps to ensure that they are so listed. Failure to carry out such obligation beyond any applicable grace period shall constitute sufficient cause for the Commissioner of the Buildings Department to revoke any building permit issued pursuant to the Special Permit or to apply to the BSA or to a court of competent jurisdiction for revocation of the Certificate of Occupancy or any permit issued by the Buildings Department.

4.10 Limitation of Liability.

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

(b) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon the Declarant and any successor-in-interest thereto only for the period during which Declarant and any successor-in-interest is the holder of a fee interest in or is a party-in-interest of the Subject Premises and only to the extent of such fee interest or the interest rendering Declarant or any success-in-interest a party-in-interest. At such time as the named Declarant has no further fee interest in the Subject

Premises and is no longer a party-in-interest of the Subject Premises, Declarant's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of Declarant's interest and Declarant's successors-in-interest in the Subject Premises by acceptance of such conveyance automatically shall be deemed to assume Declarant's obligations and liabilities here-under to the extent of such successor-in-interest's interest.

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

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

ARTICLE V

AMENDMENTS, MODIFICATIONS AND CANCELLATIONS

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

5.2 Minor Modification. The Chairperson of the LPC and the Chairperson of the CPC may, by express written consent, administratively approve modifications to the Declaration that the CPC has determined to be minor. Such minor modifications shall not be deemed amendments requiring the approval of the CPC, the LPC, the City Council or any other agency or department of the City of New York.

5.3 Recording and Filing. Any modification, amendment or cancellation of this Declaration, except pursuant to paragraph 5.4, shall be executed and recorded in the same manner as this Declaration. Following any modification, amendment or cancellation, Declarant shall immediately record it and provide one executed and certified true copy thereof to each of the CPC and the LPC and upon failure to so record, permit its recording by the CPC or the LPC at the cost and expense of Declarant.

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

ARTICLE VI

MISCELLANEOUS

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

6.2 Notices. All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent (a) if intended for Declarant to 19 East 72nd Street Corporation, c/o Brown Harris Stevens, 770 Lexington Avenue, New York, NY 10065, Attn: Toni Hanson, with a copy to Bryan Cave LLP, 1290 Avenue of Americas, New York, New York 10104, Attn: Judith M. Gallent, Esq.; (b) if intended for the CPC, to the CPC at 120 Broadway, New York, New York 10271 (or then-official address), Att: Chairperson; (c) if intended for the LPC, to the LPC at One Centre Street, New York, New York 10007(or then-official address), Att: Chairperson; and (d) if intended for the City Council, to the City Council at the Office of the Speaker, City Council, City Hall, New York, New York 10007.

Declarant, or its representatives, by notice given as provided in this paragraph 6.2, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed, or, if delivered by hand, when actually received.

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

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

19 EAST 72ND STREET CORPORATION

By: _____

Name:

Position:

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the ____ day of _____, 201_ before me, the undersigned, a notary in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity and that by his/her/their signature(s) on the instrument, the individual, or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

SCHEDULE OF EXHIBITS

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

EXHIBIT A

Metes and Bounds of Subject Property

EXHIBIT B

Certificate as to Parties in Interest

EXHIBIT C

Waiver and Subordination

EXHIBIT D

LPC Report and Certificate of Appropriateness

EXHIBIT E

Certificate of No Effect

Revised
July 12, 2017

**LR Item 3. Description of Proposal
19 East 72nd Street, Manhattan
Block 1387, Lot 14**

1. Introduction

19 East 72nd Street Corporation (the “Applicant”) seeks a special permit pursuant to Zoning Resolution (“ZR”) §74-711 to modify ZR §§22-10 and 22-30 to allow Use Group 6 retail use and accessory signage, with the exception of Use Group 6 eating and drinking establishments, in a residentially-zoned 1,836 square foot portion of the ground floor (the “Development Site”) of the building located on the northwest corner of East 72nd Street and Madison Avenue (Block 1387, Lot 14 with an address at 19 East 72nd Street, Manhattan) (the “Project Area”), which is divided by a zoning district boundary line. A C5-1 district within the Special Madison Avenue Preservation District (“MP”) is mapped to a depth of 100 feet from Madison Avenue, while the remainder of the Project Area is located in an R10 district within the Special Park Improvement District (“PI”) in which Use Group 6 is not otherwise permitted. Both the Development Site and the Project Area are located within the Upper East Side Historic District.

2. Background

Based on publicly available information, there are no planned, pending or recently approved land use actions by either CPC or the Landmarks Preservation Commission (“LPC”) that would affect the Project Area or the area within a 600 foot radius beyond the Project Area (“the Surrounding Area”).

3. Description of the Surrounding Area

The Project Area is located at the intersection of East 72nd Street and Madison Avenue in Manhattan Community District 8. The Surrounding Area was largely developed in the late 19th century following the construction of Central Park, which is located less than 400 feet to the west of the Project Area. In particular, the area along Fifth Avenue attracted the City's wealthiest industrialists who built residences near the park. The buildings adjacent to the Project Area along

the north side of East 72nd are two landmarked buildings: the Oliver Gould Jennings Residence and the Henry T. Sloane Residence, located at 7 and 9 East 72nd Street, respectively. Across the street at the southeast corner of the intersection of Madison Avenue and East 72nd Street is the landmarked Gertrude Rhinelanders Waldo House. While some of the remaining townhouses nearby have remained single-family residences, several have been replaced with multi-family apartment buildings. The remainder of the Surrounding Area contains a similar mix of historic single-family or multi-family townhouses in midblock areas and along the narrow streets, with larger apartment buildings with non-residential use on the ground floor located along the wide street frontages. The apartment buildings (from 12 to 20 stories), including the Project Area, were largely developed later in the 20th century when apartment living became more popular among wealthy New Yorkers.

In addition to residential uses, the Surrounding Area contains a number of commercial uses, particularly along Madison Avenue. High-end fashion stores and boutiques are particularly prominent in the area and are located on the lower floors of apartment buildings. A few stores are located in repurposed historic mansions, including the Gertrude Rhinelanders Waldo House located at 867 Madison Avenue which, along with a recently built French Beaux Arts-style building across the street at 888 Madison Avenue, contain the flagship stores of the Ralph Lauren fashion line. The Surrounding Area also contains St. James' Church, located at East 71st Street and Madison Avenue, a Gothic Revival-style house of worship originally built in the 1880s, which is located next to the Waldo House.

East 72nd Street is a 100 foot-wide major crosstown street that supports four moving traffic lanes and two parking lanes. East 72nd Street is also one of the main entrances to Central Park, leading into Terrace Drive, one of four Central Park transverse roads that remain open to pedestrian and, at certain times, vehicular traffic. Due to the heavy visitor traffic it receives, the East 72nd Street entrance to Central Park is also one of only three locations in all of Central Park that has an Information Kiosk, which is staffed seasonally to provide visitors directions, maps and information.

East 72nd Street is characterized by multiple dwelling buildings with scattered ground floor non-residential uses such as large medical offices that occupy significant portions of the ground floors of 905 and 910 Fifth Avenue (a plastic surgeon and dermatologist's office, respectively). Across Madison Avenue to the east along East 72nd Street, a three-story bank building is located approximately 56 feet from the Madison Avenue intersection. Fifth Avenue, also 100 feet wide, is primarily developed with multiple dwellings and acclaimed museums.¹

The Surrounding Area is well-served by public transportation. The M72 bus runs crosstown along 72nd Street in front of the Project Area, with stops at the northeast corner of East 72nd Street at Madison Avenue, the southeast corner of East 72nd Street at Madison Avenue, and at the southwest corner of East 72nd Street on Fifth Avenue. The M1, M2, M3 and M4 buses run uptown along Madison Avenue and downtown along Fifth Avenue. The closest subway stations to the Project Area are both outside the Surrounding Area as the No. 6 line makes stops along Lexington Avenue at East 68th and East 77th streets.

With respect to publically accessible open space, a prominent entrance (Terrace Drive) to Central Park is located on the west side of East 72nd Street and Fifth Avenue. Central Park is the only public park in the Surrounding Area. While no hospitals are located in the Surrounding Area, Lenox Hill Hospital, at East 77th Street between Park and Lexington avenues, is the closest hospital to the Project Site.

There are two houses of worship in the Surrounding Area. Madison Avenue Presbyterian Church is located at 917 Madison Avenue on the northeast corner of Madison Avenue and East 73rd Street in a Gothic Revival building. St. James' Church is located at 865 Madison on the northeast corner of Madison Avenue and East 71st Street. Originally built in 1885 as a Romanesque style building, this house of worship was substantially altered in 1924 and changed to a neo-Gothic building.

¹ The west side of Fifth Avenue is entirely occupied by Central Park with the exception of Terrace Drive which allows two-way vehicular traffic from East 72nd Street through the park to Central Park West and south to East 59th Street and Seventh Avenue after it splits into West Drive.

The Henry Clay Frick House, located at 1 East 70th Street (on the northeast corner of Fifth Avenue and East 70th Street) contains both the Frick Collection museum and the Frick Art Reference Library. Completed in 1914 in the Louis XVI style, this three-story, former Gilded Age mansion, is now an internationally recognized art institution.

The Project Area is split by a zoning district boundary line between a C5-1 district within the Special Madison Avenue Preservation district that is mapped along the Madison Avenue frontage to a depth of 100 feet along East 72nd Street and an R10 district within the Special Park Improvement District (PI) that begins 100 feet west of Madison Avenue. C5 is a central commercial district with continuous retail frontage intended for offices and retail establishments that serve the entire metropolitan region. In general, C5-1 districts encourage mixed buildings with ground floor retail in lieu of commercial office use as commercial floor-area-ratio (“FAR”) is limited to 4.0 (whereas other C5 districts permit commercial FAR’s ranging from 10 to 15). As the C5-1 is also an R10 equivalent (with a base maximum residential FAR of 10), large apartment houses with retail or art gallery space on the lower level(s) is prevalent. R10 is a high density general residential zoning district that permits residential and community facility uses.

The Special Madison Avenue Preservation District extends along Madison Avenue from East 61st Street to East 96th Street. The MP District was created in 1973 to preserve and reinforce the unique retail and residential character of Madison Avenue and the Surrounding Area from East 61st to East 96th Streets. Retail continuity is ensured for the famed specialty shops by mandating that the ground floor of buildings on Madison Avenue must be occupied by selected uses. With respect to use regulations, the MP’s “Special Use Regulations” contain a group of commercial establishments selected to promote and strengthen the character of the neighborhood. Such uses are required on the ground floor of buildings with Madison Avenue frontage.² The R10 (PI) district permits only Use Groups 1 and 2 (residential) and Use Groups 3 and 4 (community facility).³

² See ZR §§99-03 and 99-031. The uses specified in Table A and B in ZR §99-031 are uses that satisfy the ground floor retail requirement of ZR §99-03 in a C5-1(MP) district.

³ Use Groups 1, 2, 3 and 4.

With respect to FAR, while the C5-1 (MP) district is an R10 equivalent and the remainder of the Project Area is zoned R10 (PI), both the Madison Avenue Special Preservation District and Park Improvement District preclude the use of any floor area bonus that would otherwise be applicable. Thus both districts limit residential and total FAR to 10.0. As noted above, the C5-1 (MP) limits commercial FAR to 4.0. Commercial use is not permitted-as-of-right in the R10 (PI) district. Both special purpose districts modify the underlying height regulations to limit the maximum height of all buildings to 19 stories or 210 feet, whichever is less.⁴

There is an R8B district within a Limited Height District (LH-1A) mapped to the north and south of the Project Area on the midblocks between Fifth and Madison Avenues and Madison and Park Avenues. R8B is a contextual residential district that permits a maximum FAR of 4.0 for residential (UG 1 and 2) and community facility (UG 3 and 4) uses.⁵ The LH-1A District is superimposed on portions of the Upper East Side Historic District and limits the maximum building height to 60 feet, notwithstanding the underlying district regulations.⁶ An R10A district with a C1-5 commercial overlay (not within any special district) is mapped along East 72nd Street east of Park Avenue to a depth of 125 feet. R10A districts permit residential and community facility uses at a maximum FAR of 10 and limit building heights to 210 feet on a wide street and 185 feet on a narrow street.⁷ C1-5 districts are mapped along streets that serve local retail needs and permit commercial uses at 2 FAR.

Both the Project Area and the Surrounding Area are located within the Upper East Side Historic District, established by the New York City Landmarks Preservation Commission (“LPC”) in 1981, which is composed largely of the mansions, townhouses, apartment houses, private carriage houses and garages, and institutional buildings erected by or for New York City’s wealthiest citizens in the first decades of the 20th century. The Upper East Side Historic District is listed on the State/National Registers of Historic Places.

⁴ ZR §99-054 allows a height of 210’ provided that the gross area of each story located above 170’ does not exceed 80 percent of the gross area of the story directly below it.

⁵ Within Community District 8, R8B districts permit a maximum community facility FAR of 5.1. *See* ZR §24-10.

⁶ *See* ZR §23-691.

⁷ The increased heights permitted when a “qualifying ground floor” is provided, are not applicable within the “Manhattan Core.”

4. Description of the Project Area

The Project Area is coterminous with Lot 14 on Manhattan Block 1387, which is a single zoning lot located at the northwest corner of East 72nd Street and Madison Avenue within Manhattan Community District 8 and the Upper East Side Historic District.

The Project Area is developed with a 17-story mixed building containing approximately 106,836 zsf located at 19 East 72nd Street (the “Building”). The Building, which was designed by Rosario Candela and Mott Schmidt and completed in 1937, occupies the entire street frontage of Lot 14 (140 feet along the north side of East 72nd Street and 104.42 feet along the west side of Madison Avenue). The Building’s initial streetwall is substantially located on the streetline up to a height of approximately 136 feet and 14 stories. Above multiple setbacks that occur at the 15th, 16th and 17th stories, the building’s total height is approximately 178 feet, notwithstanding permitted obstructions.

The Building contains a total of 36 dwelling units. With the exception of the Building superintendent’s apartment located on the ground floor fronting on East 72nd Street, all other dwelling units are located above the first story. The remainder of the ground floor is occupied by a residential lobby on East 72nd Street, an art gallery that fronts on both Madison Avenue and East 72nd Street with its entrance on Madison Avenue, a perfume store located on Madison Avenue, and a former doctor’s office that has been vacant for three years fronting on East 72nd Street.⁸

The Project Area is divided by a zoning district boundary line and is thus subject to the provisions of Article VII, Chapter 7. A C5-1 (MP) district is mapped along the Madison Avenue frontage to a depth of 100 feet along East 72nd Street. The remaining 40 feet of East 72nd Street frontage is located within an R10 district within the Special Park Improvement District (PI) that begins 100 feet west of Madison Avenue. Commercial use is permitted along the entire Madison Avenue frontage (Use Group MP)⁹ and along East 72nd Street for 100 feet from Madison Avenue

⁸ While the current Certificate of Occupancy lists the doctor’s offices as Use Group MP, a non-conforming use in the R10 (MP) lot portion, the use may also be listed in Use Group 4 as an ambulatory diagnostic and treatment health care facility and is a conforming use.

⁹ See ZR §99-031.

(uses permitted in a C5 district).¹⁰ For buildings that contain at least 100 feet of street frontage on Madison Avenue, ZR §99-03 requires that at least 75 percent of the Madison Avenue frontage contain MP uses. Within the portion of the Project Area that is mapped as R10 (PI) (the Development Site), commercial use is not permitted and thus is the subject of this Application.

With respect to existing ground floor uses, the Building contains (i) a Use Group (“UG”) 6 commercial art gallery, which occupies approximately 60 feet of frontage on both Madison Avenue and East 72nd Street with its entrance on Madison Avenue; (ii) a perfume store in UG MP which, with exception of the service entry, occupies the remainder of the Madison Avenue frontage (approximately 35 feet); (iii) a residential lobby, located on East 72nd Street and begins approximately 60 feet from the corner; (iv) a former doctor’s office containing approximately 41.25 feet of frontage on East 72nd Street (23 feet is located in the C5-1 (MP) district and 18.25 feet is located in the R10 (PI) district); and (v) the superintendent’s apartment, to the west of the doctor’s office, occupies approximately 21.75 feet of frontage, all of which is located in the R10 (PI) district.

With respect to on-street parking regulations along the Project Area’s East 72nd Street frontage, alternate-side parking regulations apply for 57 feet from the intersection of Madison Avenue. Further to the east, parking is not permitted anytime for a distance of 94 feet to 57 feet from Madison Avenue. Beyond 94 feet from Madison Avenue, alternate-side parking regulations resume. Along the Madison Avenue frontage, two-hour metered parking is permitted with the exception of street sweeping times, which occur during the morning hours.

Adjacent to the Project Area to the west at 15 East 72nd Street (Lot 11) is a single-family residence owned by the Kingdom of Morocco.¹¹ Further west of the Project Area are the Oliver Gould Jennings House and Henry T. Sloan House at 7 and 9 East 72nd Street, respectively. Constructed as single-family mansions, these individually designated landmark four-story Beaux Arts buildings were purchased by the Lycée Français de New York in 1964 and used as a school

¹⁰ Pursuant to ZR §32-10, Use Groups 1 through 6 and Use Groups 9 through 11 are permitted as-of-right in the C5-1 (MP) district portion that does not front on Madison Avenue.

¹¹ Per Department of Finance records; there is no Certificate of Occupancy for 15 East 72nd Street on the Department of Buildings *Building Information System*.

servicing approximately 300 elementary school children until 2003, when the Lycée sold them to the emir of Qatar. Although the two buildings have been converted into a single 45,000 sf private residence, it is designed for functions or parties and not as a permanent residence,¹² and the Certificate of Occupancy lists the lawful occupancy as a school. On the northeast corner of Fifth Avenue and East 72nd Street is 910 Fifth Avenue, a 16-story apartment building with a medical office occupying the entirety of the ground floor with the exception of the residential lobby.

On the south side of 72nd Street, across from the Project Area, is a recently constructed five-story retail building in a Beaux Arts style¹³ (Ralph Lauren) located at 888 Madison Avenue at the intersection of Madison Avenue and East 72nd Street, with retail entrances on both Madison Avenue and East 72nd Street. Lots further west are primarily improved with five-story, one- and two-family residences, which include the Pope's New York City residence owned by the Holy See, located at 20 East 72nd Street.

5. Description of Proposed Development Site

The proposed Development Site consists of a 1,836 sf portion of the Building's ground floor located in the R10 (PI) portion of the Project Area where commercial retail use is not permitted along the 40 feet of street frontage beginning at a distance of 100 feet from the intersection of East 72nd Street and Madison Avenue. *See* Proposed Ground Floor Plan, Drawing 03, prepared by PBDW Architects, dated June 6, 2017. The Development Site currently consists of the superintendent's apartment with 21.75 feet of frontage and a portion of a now-vacant doctor's office with 18.25 feet of frontage. While the remaining portion of the doctor's office contains 23 feet of frontage (including three street-facing windows) in the C5-1 (MP) district, the only entrance to this space from the street is located in the R10 (PI) district in which retail use is not permitted as-of-right.

6. Description of the Proposed Development

The Applicant proposes to convert the 1,836 sf Development Site in the R10 (PI) district and 478 sf of floor area located adjacent to the east in the C5-1(MP) district to a single UG 6 retail space,

¹² "Renovated Mega Mansion Ready to Rule the Upper East Side", *Curbed NY*, July 21, 2010 at p.25. and "Stirrings of a Throwback Kind," *New York Times*, March 13, 2011 at p RE6

¹³ "A Grand Gesture," *Architectural Digest*, February, 2011.

but not a UG 6 eating and drinking establishment, containing 2,314 sf. Only the Development Site portion of the proposed retail space requires the requested use modification. While retail use is permitted in the adjacent 478 sf located in the C5-1 (MP) district, there is no door to access that space within the C5-1 (MP) district. The only access to this commercially zoned space, which has been vacant for three years, is the existing door located in the R10 (PI) zone. Without the proposed use modification, the only means of providing access to this area for commercial use would be to cut a door through the original limestone façade in the C5-1 (MP) portion of the building necessitating the removal of historic fabric, which would be possible only if LPC were to find the proposal appropriate, or accessing the space through the residential lobby. The proposed use modification is a less intrusive alternative that would obviate the need for any exterior demolition and would facilitate a more efficient use of the 23 foot-wide, 478 sf area in the C5-1 (MP) district. Additionally, as the Proposed Development contemplates the conversion of the 20 foot-wide superintendent's apartment to the west, it will eliminate a street-facing dwelling unit that is not well-suited to residential use as it is approximately 14 inches below grade¹⁴ on a heavily-trafficked wide street, making it very noisy and lacking in privacy.¹⁵ Moreover, the proposed use modification, which will facilitate a larger retail store (2,314 sf rather than 478 sf), will improve the store's commercial viability. Through the Application, the Applicant seeks to preserve the historically significant features of the Building and bring it into sound first-class condition using the rental income it would receive from the Proposed Development.

In conjunction with the proposed commercial use, a minimal amount of non-illuminated, accessory signage is proposed. As a point of comparison, a C1 district is the most restrictive commercial district with respect to maximum surface area, limiting signage to 150 sf for each street frontage. The proposed signage in the R10 (PI) district, consisting of non-illuminated copy on four windows, one door and one post sign, will measure 7.29 sf.¹⁶

¹⁴ Due to the change in grade, the superintendent's apartment and the former doctor's office are located in a basement within the meaning of ZR 12-10, which defines a basement as "a #story# (or portion of a #story#) partly below #curb level#, with at least one-half of its height (measured from floor to ceiling) above #curb level#."

¹⁵ In the event this application is granted, the Superintendent's apartment would be relocated within the Building.

¹⁶ An additional 3.75 sf of non-illuminated signage will be added on an as-of-right basis for the portion of the proposed retail establishment in the C5-1(MP) lot portion.

Deliveries to the proposed retail space would occur through the existing door to the Development Site on East 72nd Street (which has an address of 17 East 72nd Street) during non-peak shopping hours.¹⁷

7. Action(s) Necessary to Facilitate the Project

The Proposed Development would contain a retail use in Use Group 6 and associated accessory signage, with the exception of Use Group 6 eating and drinking establishments, in both the C5-1 (MP) district in which such use is permitted and in the R10 (PI) district in which such use is not permitted. Therefore, a special permit pursuant to ZR Section 74-711 is necessary to modify the applicable use regulations set forth in ZR §§22-10 and 22-30. Pursuant to Section 74-711, CPC may allow by special permit, among other things, modifications of use regulations for zoning lots with existing buildings within Historic Districts, provided that certain required conditions are met and certain findings are made. The requested waivers would affect an 1,836 sf portion of the ground floor of the Building located in the R10 portion of the Project Area, beginning 23 feet west of the Building entrance and extending to the Project Area's western lot line. The only other governmental actions required are a Certificate of Appropriateness and Certificate of No Effect from the New York City Landmarks Commission ("LPC") authorizing the work necessary for the Proposed Development, as well as a report from the LPC that satisfies the condition set forth in ZR 74-711(a)(1). These items are included in this Application.

8. Conclusion

The requested special permit pursuant to ZR §74-711 to modify ZR §§22-10 and 22-30 to allow Use Group 6 retail and accessory signage, with the exception of eating and drinking establishments, within an 1,836 square foot portion of the ground floor, which is located in an R10 (PI) district in which UG 6 is not permitted, would facilitate the development of a 2,314 sf retail store on the ground floor of the building. As explained in the Attachment 11b (Discussion of Findings), the proposed use modification will obviate the need to cut a door through the building's original limestone façade to provide access to the ground floor space located west of

¹⁷ While the building's service entrance is located on Madison Avenue, delivering goods to the proposed retail establishment through this entrance would result in a circuitous and possibly disruptive path to the East 72nd Street retail space. The corridor from the service entrance only provides access to the proposed retail space through the residential lobby or the garden in the rear yard. Due to furniture, sculptures and extensive landscaping, neither path is suitable for deliveries.

the lobby door, which is located in the C5-1 (MP) district in which such use is permitted. Retail is an appropriate use of the Development Site given its location (i) partially below grade, (ii) on a wide and busy street, (iii) split by a district boundary line, and (iv) directly adjacent to commercial use within a commercial district in the same building. As LPC has determined, the proposed use modification will result in the restorative work and ongoing maintenance that will result in the preservation of the Building. For the reasons set forth in the Discussion of Findings, the proposed use modification will not adversely impact conforming uses in the Building or in the surrounding area.

ATTACHMENT 11b

**19 East 72nd Street
(Block 1387, Lot 14)**

**DISCUSSION OF FINDINGS
FOR SECTION 74-711 SPECIAL PERMIT**

74-711

Landmark preservation in all districts

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

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

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

This finding is inapplicable because no bulk modifications are being requested as part of this application.

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

The requested special permit pursuant to Zoning Resolution Section 74-711 would affect Manhattan Block 1387, Lot 14, a single zoning lot located in Community District 8 and within the Upper East Side Historic District (the “Project Area”). Specifically, the proposed use modification would facilitate the conversion of an 1,836 sf portion of the ground floor (the “Development Site”) of the existing mixed building located at 19 East 72nd Street (the “Building”), which is located in an R10 district within the Special Park Improvement District (“PI”), to Use Group 6 retail use and associated signage, with the exception of Use Group 6 eating and drinking establishments (the “Proposed Development”). The Development Site would be used in conjunction with an adjacent 478 sf portion of the ground floor, which is located in a

C5-1 district within the Special Madison Avenue Preservation District (“MP”) in which retail use is permitted as-of-right. As demonstrated below, the proposed use modification will have minimal adverse effects on the conforming residential and retail uses in the building and in the surrounding area.

With respect to the conforming ground floor retail and upper story residential uses within the building, the Proposed Development will not impede access to the Building by residents or customers of the other retail uses on the ground floor. The proposed retail space would be accessed via the existing dedicated door located on East 72nd Street, which has an address of 17 East 72nd Street and is located approximately 33.65 feet west of the residential entrance to the Building. The entrances to the two existing retail establishments on the ground floor of the Building are located on Madison Avenue. Accordingly, there would be no conflicts between residents or existing retail customers and customers of the Proposed Development.

As described in detail below, East 72nd Street is a wide and busy thoroughfare containing four moving lanes and two parking lanes and is the route of the M72 crosstown bus. The addition of 1,836 sf of retail use in the R10 (PI) district portion of the Project Area will not have a significant impact on ambient noise. Any noise associated with the Proposed Development will not have an adverse effect on the residential units located above the store because the store windows would be fixed and fabricated with double-pane insulating glass. Because eating and drinking establishments would not be permitted by the requested special permit, residents would not be negatively impacted either by noise or odors that could emanate from such a use or by noise caused by patrons gathering or waiting outside the Proposed Development.

Moreover, Building residents would not be adversely affected by the proposed retail signage associated with the Proposed Development for several reasons. First, residents will not be disturbed by light emanating from the retail signage as there would be no illuminated signage associated with the Proposed Development. Second, the size and nature of the proposed signage is strictly circumscribed by the Certificate of Appropriateness (“C of A”) issued by the Landmarks Preservation Commission (“LPC”) so as to be appropriate in the Historic District and not visually overwhelming. Specifically, the C of A limits signage in the R10 district portion of the lot to painted decal lettering on two of the four store windows and the door, as well as a

freestanding post sign at the proposed retail entrance. The size of the LPC-approved decal lettering on each of the two store windows located in the R10 district on which such lettering is permitted is limited to an area measuring 10" x 2'3" inches (with a surface area per window of 1.87 sf and a total surface area of 3.75 sf on the two store windows located in the R10 district).¹ The LPC-approved lettering on the door in the R10 district is limited to 1' x 2.5' (with a total surface area is 2.5 sf). The size of the LPC-approved post sign is limited to 10" x 1'3" (with a surface area of 1.04 sf).² Accordingly, the total surface area of all signs associated with the proposed retail store that would be located in the R10 district would be limited to 9.29 sf (with a total of 11.04 sf of signage including the portion of the proposed retail store located in the C5-1 district), well below the 400 sf of non-illuminated signage that would be permitted on the building's East 72nd Street façade by the commercial district sign regulations set forth in ZR 32-642 (Non-illuminated signs) if they were applicable to the R10 district.

Nor will the addition of the 1,836 square feet of retail space facilitated by the requested use modification have an adverse effect on the surrounding area. The Development Site is located within an R10 district within the Special Park Improvement District and adjacent to a C5-1 district within the Special Madison Avenue Preservation District. R10 districts are the City's highest density residential districts mapped on major avenues and crosstown streets. The Special Madison Avenue Preservation District was established to preserve and reinforce the unique retail and residential character of Madison Avenue and the surrounding area from East 61st to East 96th Street. The Project Area is located in a busy, mixed-use area. East 72nd Street is a 100 foot wide major crosstown street that supports four moving traffic lanes and two parking lanes. The M72 crosstown bus, which has stops at the northeast corner of East 72nd Street at Madison Avenue, the southeast corner of East 72nd Street at Madison Avenue, and at the southwest corner of East 72nd Street on Fifth Avenue, runs in front of the Project Area. East 72nd Street is also one of the main entrances to Central Park, leading into Terrace Drive, one of four Central Park transverse roads that remain open to pedestrian and, at certain times, vehicular traffic. Due to the heavy visitor traffic it receives, the East 72nd Street entrance to Central Park is also one of only three locations in all of Central Park that has an Information Kiosk which is staffed seasonally to

¹ The C of A similarly limits signage in the C5-1 portion of the lot to decal lettering with a surface area of 1.875 sf each on two of the three proposed retail windows.

² The sign would stand 3'7" high.

provide visitors directions, maps and information. Directly across East 72nd Street from the entrance of the Project Area is the north side of Ralph Lauren's Women and Home Mansion (888 Madison Avenue), which has an entrance and large plate glass show windows on East 72nd Street that give the east end of the block a distinct retail character. While many of the retail uses along East 72nd Street are within 100 feet of Madison Avenue and are located within the C5-1 (MP) district, several establishments have entrances on East 72nd Street only, including the JPMorgan Chase Bank (35 East 72nd Street), Roundabout Couture (31 East 72nd Street), and the Nicholas Brawer Gallery (28 East 72nd Street).

The requested special permit would not allow eating and drinking establishments. Accordingly, there would be no odors or crowds associated with such uses. Given this restriction on use, the small scope of the proposed use modification, and the character of the surrounding area in which a mix of residential and non-residential uses co-exist in close proximity, the proposed use modification will have minimal adverse effects on the conforming uses in the area.

Although the specific retail tenant for the Development Site is not known at this time, it is expected to be a high-end boutique use similar to the existing high-end boutique retail uses characteristic of the surrounding area. Philip Habib & Associates ("PHA") conducted a transportation study (the "Study") in order to forecast pedestrian and vehicle trips associated with the proposed retail use. "). A summary of the Study, dated July 12, 2017, is attached as Exhibit A. As indicated in the Study, the mapped sidewalk width along the north side of East 72nd Street in front of the Project Area is 22' 6", with a functional width that varies between 17'-2" and 19'-8" due to planters along the front of the Project Area. The Study revealed that in the weekday midday (12:30 to 1:30 PM), weekday PM (5 PM to 6 PM), and Saturday midday (12:15 PM to 1:15 PM) peak hours, existing pedestrian volumes along the sidewalk adjoining the Project Area were 323, 449 and 374, respectively. Based on pedestrian traffic counts at existing high-end retail stores within the immediate vicinity of the Project Area, PHA forecasted that the proposed retail use would generate a net increment (as compared to as-of-right conditions, which was assumed to be a Use Group 4 medical office) of 13, 17, and 33 total pedestrian trips (consisting of ins and outs), and -4, -4 and 0 vehicle trips (consisting of ins and outs), in the midday, PM and Saturday midday peak hours, respectively. As a result, in the highest weekday peak period (5 PM to 6 PM), the pedestrian volume on the north side of East 72nd Street would

increase from the existing 449 persons per hour to 473 persons per hour. On Saturday, the existing 374 persons per hour would increase to 412 persons per hour during the midday peak hour. These very low pedestrian traffic volumes can be absorbed by the wide sidewalks in the vicinity of the Project Area, which would remain free-flow. Thus, the pedestrian traffic associated with the proposed retail store would result in no noticeable change to existing conditions. As the vehicle demand forecasted for the proposed retail use would be negligible, the PHA Study concludes that there would be fewer vehicle trips to the Development Site with the proposed retail store than with an as-of-right doctor's office. Accordingly, the proposed retail use, which is projected to be a very low pedestrian and vehicular traffic generator, will not negatively impact the conforming residential, community facility and commercial uses in the surrounding area.

As described in detail above, the LPC-approved non-illuminated proposed retail signage is limited in size to 9.29 sf of total surface area in the R10 district (and a total of 11.04 sf of surface area including the signage permitted in the C5-1 district). LPC concluded that the limited surface area and nature of the proposed signage "will be in keeping with the types of signage for secondary uses . . . [and] the cumulative effect of the sign post and lettering will be well scaled to their location and will not overwhelm the building. . . ." Accordingly, the proposed signage will not negatively impact the conforming residential, community facility and commercial uses in the surrounding.

The addition of the proposed retail use, with its small size, discrete LPC-approved non-illuminated signage, prohibition on eating and drinking establishments, and low pedestrian and vehicular traffic generation will have a minimal effect on the character and feel of the area, which is not a quiet street, but rather a major thoroughfare providing direct access to Central Park, adjacent to a busy shopping district with existing retail use in close proximity to the proposed retail space on both the north and south sides of East 72nd Street.

Exhibit A

PHA Transportation Study



Philip Habib & Associates

Engineers and Planners • 102 Madison Avenue • New York, NY 10016 • 212 929 5656 • 212 929 5605 (fax)

TECHNICAL MEMORANDUM

To: Judy Gallent, Bryan Cave

From: Philip Habib
Christina Michaelian

Re: 19 East 72nd Street Transportation Study

Date: July 12, 2017

Introduction

The proposed action is the request for a use modification by special permit pursuant to Zoning Resolution Section 74-711 to permit retail use, with the exception of eating and drinking establishments, in a portion of the ground floor of the building located at 19 East 72nd Street (Block 1387, Lot 14) (the "project site"). The project site is located on the northwest corner of Madison Avenue and East 72nd Street (with approximately 104' of frontage on Madison Avenue and 140' feet of frontage on East 72nd Street) within the Upper East Side Historic District and Manhattan Community District 8. The project site is split by a zoning district boundary line between a C5-1 (MP) district, which is mapped along Madison Avenue to depth of 100' and an R10 (PI) district, which is mapped over the westernmost 40' of the project site along East 72nd Street.

The project site is developed with a 17-story mixed-use building with ground floor retail space to the east of the building entry and a vacant space that was formerly occupied by a doctor's office, as well as the super's apartment, to the west of the residential entrance along East 72nd Street. There is an existing 900 gsf high-end perfume store currently located in the existing building, along the Madison Avenue frontage. There is also a 2,500 gsf art gallery (by appointment only) located on the ground floor of the existing building at the northwest corner of Madison Avenue and East 72nd Street. The proposed action would facilitate the conversion to retail use of the space to the west of the residential entrance, along East 72nd Street, a portion of which is located within the R10 district in which commercial use is not permitted. Approximately 478 gsf of the proposed retail store is located within the existing C5-1 (MP) district and 1,836 gsf is located in the existing R10 (PI) district. The total proposed retail area would be approximately 2,314 gsf. While the specific retail

tenant is not known at this time, it would most likely be a high-end retail use similar to the existing high-end retail uses in the immediate area of the project site.

To forecast the pedestrian and vehicle demand of the proposed high-end retail use, a transportation study was conducted and is provided in detail in the following sections.

Existing Conditions and Data Collection

The project site is located in the Upper East Side neighborhood of Manhattan on a block bounded by Madison Avenue to the east, East 73rd Street to the north, Fifth Avenue to the west, and East 72nd Street to the south (see Figure 1). The project site is located on the northwest corner of Madison Avenue and East 72nd Street with frontage on both East 72nd Street and Madison Avenue. Madison Avenue has an 80 foot mapped width within the vicinity of the project site and accommodates one-way northbound traffic flow. The sidewalk width along the west side of Madison Avenue in front of the project site is 13 feet. East 72nd Street has a 100 foot mapped width and accommodates two-way eastbound and westbound traffic flow. The mapped sidewalk width along the north side of East 72nd Street in front of the project site is 22'-6", however, the actual functional width varies between 17'-2" and 19'-8" feet due to the existing plantings along the front of the building (see Figure 2).

Pedestrian volume data was collected on Tuesday October 27, 2016 and on Saturday October 29, 2016 along the south side of East 72nd Street between Madison and Fifth Avenues during the midday (12:30PM-1:30PM), PM (5PM-6PM), and Saturday midday (12:15PM-1:15PM) peak periods. Security camera footage from 19 East 72nd Street was also utilized to determine the pedestrian volumes along the north side of East 72nd Street between Madison and Fifth Avenues (from Wednesday October 15, 2016 and Saturday October 8, 2016) for the same peak periods described above.

Table 1 below shows the existing pedestrians volumes along these frontages for the peak hours.

Table 1: Existing Pedestrian Volumes

Time	Sidewalk	
	EB/WB North Side E. 72nd St.	EB/WB South Side E. 72nd St.
12:30PM-1:30PM	323	193
5PM-6PM	449	240
Saturday 12:15PM-1:15PM	374	344

To assist in forecasting the future new pedestrian and vehicle demand of the proposed project, a count of existing pedestrian ins/outs and vehicle drop-off/pick-up was conducted on Thursday, November 17, 2016 and Saturday, November 19, 2016 at two existing high-end retail stores within the immediate vicinity of the project site: Roundabout Couture, a 800 gsf high-end consignment store, located along the north side of East 72nd Street between Madison and Park Avenues (31 East 72nd Street); and Nicholas Brawer Gallery, a 1,000 gsf high-end antique store located on the south



19 East 72nd Street

Figure 1: Project Location



19 East 72nd Street

Figure 2: Frontage Along East 72nd Street

side of East 72nd Street between Madison and Park Avenues (28 East 72nd Street). As shown in Tables 2 and 3 below, both retail stores generate relatively low pedestrian and vehicle hourly demand.

Table 2: Existing Pedestrian and Vehicle Demand at Roundabout Couture

	Pedestrian In	Pedestrian Out	Pedestrian Total	Vehicle In	Vehicle Out	Vehicle Total
MD	6	5	11	1	1	2
PM	8	8	16	0	0	0
SAT MD	12	12	24	0	0	0

Table 3: Existing Pedestrian and Vehicle Demand at Nicholas Brawer Gallery

	Pedestrian In	Pedestrian Out	Pedestrian Total	Vehicle In	Vehicle Out	Vehicle Total
MD	2	2	4	0	0	0
PM	0	0	0	0	0	0
SAT MD	3	0	3	0	0	0

As shown in Table 2, the Roundabout Couture store generated a total of 11, 16, and 24 pedestrian trips in the midday, PM, and Saturday midday peak hours, respectively. This store generated a total of 2 vehicle trips during the midday peak hour only.

As shown in Table 3, the existing Nicholas Brawer Gallery generated a total of 4, 0, and 3 pedestrian trips and no vehicle trips in the midday, PM, and Saturday midday peak hours, respectively.

Travel Demand Forecast

The Future without the Proposed Action (No-Action Condition)

In the future without the proposed action, the 2,314 gsf project area could be developed with a permitted medical office use. As shown in Table 4 below, the combined number of pedestrian trips generated by a medical office in this No-Action condition would be 7, 7, and 5 in the midday, PM, and Saturday midday peak hours, respectively. The total number of vehicle trips would be 6, 4, and 0 in midday, PM, and Saturday midday peak hours, respectively.

The Future with the Proposed Action (With-Action Condition)

As discussed above, the proposed action would facilitate the development of a 2,314 gsf high-end retail store at the project site. Based on the average trips per square foot derived from the data collected, as detailed above, a travel demand forecast was prepared for the proposed high-end retail use. As shown below in Table 4, compared to the No-Action condition, the proposed retail use would generate a net increment of 13, 17, and 33 total pedestrian trips in the midday, PM, and Saturday midday peak hours, respectively. The proposed retail use would generate a net increment of -4, -4, and 0 vehicle trips in the midday, PM, and Saturday midday peak hours, respectively.

Table 4: Travel Demand Forecast for Proposed High-End Retail Store

	No-Action Condition		With-Action Condition		Increment	
	Medical Office 2,314 sf		High-End Retail 2,314 sf		Total	
	Pedestrian In/Out	Vehicle In/Out	Pedestrian In/Out	Vehicle In/Out	Pedestrian In/Out	Vehicle In/Out
MD (12:30PM- 1:30PM)	7	6	20	2	13	-4
PM (5PM-6PM)	7	4	24	0	17	-4
SAT MD (12:15PM- 1:15PM)	5	0	38	0	33	0

In the highest weekday PM period, Table 4 shows that the sidewalk pedestrian volume on the north side of East 72nd Street would increase from its existing 449 persons/hour to 473 persons/hour. On Saturday, the existing 374 persons/hour would increase to 412 persons/hour. These very low pedestrian volumes would continue to be free-flow and no noticeable change would occur. As also noted in Table 4, the overall future vehicle demand would be negligible and, compared to the No-Action condition, there would be fewer vehicles with the proposed project.