

## **\*Revised Environmental Assessment Statement (EAS)**

# **The Windermere**

400-406 West 57th Street, New York NY

**CEQR No.** 19DCP016M

**ULURP No.** C 210202 ZSM

**prepared for:**  
Windermere Properties, LLC

**prepared by:**  
AKRF, Inc.  
440 Park Avenue South, 7th Flr.  
New York, NY 10016

This Revised EAS supersedes the EAS issued on April 2, 2021 for the Windermere project (CEQR # 19DCP016M). Since certification of the project's land use application (ULURP # C 210202 ZSM) on April 5, 2021, the Applicant has revised the application to include an enclosed restaurant in the proposed partial ninth floor in Scenario B-Office instead of office use in that space (the proposed modification). This Revised EAS incorporates an analysis of the proposed modification in Appendix C. As described in the Revised EAS Appendix C and stated in the corresponding revised Negative Declaration, the proposed modification would not alter the conclusions of the original EAS, which found no significant adverse impacts.

April 2, 2021

\*Revised August 12, 2021



## City Environmental Quality Review

### ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) FULL FORM

Please fill out and submit to the appropriate agency ([see instructions](#))

Part I: GENERAL INFORMATION					
<b>PROJECT NAME</b> The Windermere					
<b>1. Reference Numbers</b>					
CEQR REFERENCE NUMBER (to be assigned by lead agency) 19DCP016M			BSA REFERENCE NUMBER (if applicable)		
ULURP REFERENCE NUMBER (if applicable) 210202 ZSM			OTHER REFERENCE NUMBER(S) (if applicable) (e.g., legislative intro, CAPA)		
<b>2a. Lead Agency Information</b>			<b>2b. Applicant Information</b>		
NAME OF LEAD AGENCY Department of City Planning on behalf of the New York City City Planning Commission			NAME OF APPLICANT Windermere Properties LLC		
NAME OF LEAD AGENCY CONTACT PERSON Olga Abinader, Director Environmental Assessment and Review Division New York City Department of City Planning			NAME OF APPLICANT'S REPRESENTATIVE OR CONTACT PERSON James P. Power Kramer Levin Naftalis & Frankel, LLP		
ADDRESS 120 Broadway, 31st Floor			ADDRESS 1177 Avenue of the Americas		
CITY New York	STATE NY	ZIP 10271	CITY New York	STATE NY	ZIP 10036
TELEPHONE 212-720-3493	EMAIL oabinad@planning.nyc.gov		TELEPHONE 212-715-7839	EMAIL jpower@kramerlevin.com	
<b>3. Action Classification and Type</b>					
<b>SEQRA Classification</b>					
<input checked="" type="checkbox"/> UNLISTED <input type="checkbox"/> TYPE I: Specify Category (see 6 NYCRR 617.4 and NYC Executive Order 91 of 1977, as amended):					
<b>Action Type</b> (refer to <a href="#">Chapter 2</a> , "Establishing the Analysis Framework" for guidance)					
<input checked="" type="checkbox"/> LOCALIZED ACTION, SITE SPECIFIC <input type="checkbox"/> LOCALIZED ACTION, SMALL AREA <input type="checkbox"/> GENERIC ACTION					
<b>4. Project Description</b>					
See Page 1a for a full project description.					
<b>Project Location</b>					
BOROUGH Manhattan		COMMUNITY DISTRICT(S) 4		STREET ADDRESS 400-406 West 57th Street	
TAX BLOCK(S) AND LOT(S) Block 1066, Lot 32			ZIP CODE 10019		
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS The Project Site is located on the southwest corner of Ninth Avenue and West 57th Street					
EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY C1-8 district and the Other Subdistrict (Subarea C1) of the Special Clinton District; R8/C1-5 district and Preservation Area A of the Special Clinton District				ZONING SECTIONAL MAP NUMBER 8c	
<b>5. Required Actions or Approvals</b> (check all that apply)					
<b>City Planning Commission:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNIFORM LAND USE REVIEW PROCEDURE (ULURP)					
<input type="checkbox"/> CITY MAP AMENDMENT	<input type="checkbox"/> ZONING CERTIFICATION	<input type="checkbox"/> CONCESSION			
<input type="checkbox"/> ZONING MAP AMENDMENT	<input type="checkbox"/> ZONING AUTHORIZATION	<input type="checkbox"/> UDAAP			
<input type="checkbox"/> ZONING TEXT AMENDMENT	<input type="checkbox"/> ACQUISITION—REAL PROPERTY	<input type="checkbox"/> REVOCABLE CONSENT			
<input type="checkbox"/> SITE SELECTION—PUBLIC FACILITY	<input type="checkbox"/> DISPOSITION—REAL PROPERTY	<input type="checkbox"/> FRANCHISE			
<input type="checkbox"/> HOUSING PLAN & PROJECT	<input type="checkbox"/> OTHER, explain:				
<input checked="" type="checkbox"/> SPECIAL PERMIT (if appropriate, specify type: <input type="checkbox"/> modification; <input type="checkbox"/> renewal; <input type="checkbox"/> other); EXPIRATION DATE:					
SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION 74-711, 22-00, 33-432, 32-421, 35-32, 23-151, 23-851, 23-861, 23-863, 23-87					

## Project Description

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### A. INTRODUCTION

The applicant, Windermere Properties LLC, is seeking a special permit pursuant to Zoning Resolution (ZR) Section 74-711 (“Landmark preservation in all districts”) to facilitate the proposed conversion, alteration, and enlargement of the currently vacant Windermere apartment building, a New York City Landmark (NYCL). The Windermere building is located at 400-406 West 57th Street on the southwest corner of Ninth Avenue and West 57th Street in the Clinton neighborhood of Manhattan (Block 1066, Lot 32) (see **Figure 1**).

### PROPOSED ACTION

To facilitate the proposed project, the applicant is seeking a special permit pursuant to ZR Section 74-711 to allow for zoning modifications and waivers relating to bulk and use, which would allow for the conversion of the currently vacant Windermere building (the proposed action). The Applicant is planning to alter, reconstruct and enlarge the Windermere building and convert most of its space to either a Use Group 5 transient hotel (Scenario A) or Use Group 6B office use (Scenario B). A one-story wing at the southern end of the Windermere building would be extended westward and northward. Aside from the one-story wing in the southern portion, this portion of the building would remain unchanged. In the northern portion, the building would be enlarged to its pre-existing configuration, the 8<sup>th</sup> floor—which presently runs along Ninth Avenue—would be extended across the entire Building, and a new 9<sup>th</sup> floor penthouse would be constructed. The building’s central court would be divided into two smaller but more regular open areas, in the center and at the southwest corner of the project site, and the light well at the western property line would be reconstructed. Legally required windows would open on all three of the open areas. The previously existing inner court recess along the western lot line would also be reconstructed.

The proposed special permit would allow for the following:

- Modification of ZR Section 22-00, to allow Use Group 5 and 6 commercial use (hotel and restaurant in Scenario A and office in Scenario B) above the second story of the building;<sup>1</sup>
- Modification of ZR Section 32-421 to allow Use Group 6 office and restaurant uses above the first story of a building occupied by residential use on its upper stories;
- Waiver of ZR Section 35-32 and 23-151 to allow less open space than required;
- Waiver of ZR Section 33-432, to allow street wall height exceeding the maximum allowable 85 feet and the overall bulk to encroach upon the applicable 5.6-to-1 sky exposure plane in the C1-8 district;
- Waiver of ZR Sections 23-861 and 23-863 to allow windows that do not comply with the required minimum distance between legally required windows and walls or lot lines; and
- Waiver of ZR Section 23-87 to allow portions of the Building as permitted obstructions within an inner court.

A Certificate of Appropriateness (CofA) issued by the Landmarks Preservation Commission (LPC) for the proposed alterations to the Windermere building, which is a NYCL, is a condition of the approval of a 74-711 Special Permit. As described in the EAS screenings Section C, “Historic and Cultural Resources,” LPC issued a CofA (LPC-19-12919, COFA-

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<sup>1</sup> With the conversion, the hotel and retail uses would exceed the maximum permitted commercial floor area ratio (FAR) of 2.0 applicable to the project site, however, the building would contain less than the total permitted floor area.

19-12919) for design approval of the proposed alterations to the Windermere building on July 7, 2017, as shown in **Appendix B**.<sup>2</sup>

The proposed action is a discretionary action subject to City Environmental Quality Review (“CEQR”).

Upon completion, in Scenario A-Hotel, the Windermere building would include approximately 57,299 gross square feet (gsf) of hotel use (Use Group 5), approximately 7,589 gsf of retail and restaurant uses (Use Group 6) and approximately 29,098 gsf of affordable residential uses (20 units) (Use Group 2). Under Scenario B-Office, the Windermere building would include approximately 57,221 gsf of office use (Use Group 6), 7,667 gsf of retail uses (Use Group 6), and approximately 29,098 gsf of residential uses (20 units) (Use Group 2). The building is and will remain a single building for the purposes of the ZR.

## DESCRIPTION OF THE PROPOSED DEVELOPMENT SITE

The project site is located on the southwest corner of Ninth Avenue and West 57th Street in the Clinton neighborhood of Manhattan (Block 1066, Lot 32) (see **Figure 1**). The Clinton neighborhood is a primarily residential area containing large apartment buildings, including several recently constructed luxury apartment buildings. Many residential buildings in the area, particularly those on Ninth Avenue, also contain ground floor neighborhood retail uses, such as restaurants and banks. The surrounding area also contains several large hotels.

The project site is a corner lot with 100 feet of frontage along West 57th Street, 125.4 feet of frontage along Ninth Avenue, and a lot area of 12,542 square feet (sf). Most of the project site (approximately 10,000 sf) is located within a C1-8 zoning district. The southernmost portion of the project site (approximately 2,542 sf) is located in an R8/C1-5 district (see **Figures 4 and 7**). The C1-8 zoning district permits Use Groups 1 through 6, and a maximum residential floor area ratio (FAR) of 7.52. The R8/C1-5 zoning district permits Use Groups 1 through 6 and a maximum residential FAR of 4.2 (within the Preservation Area of the Special Clinton District, as described below). Both the C1-8 and C1-5 portions of the project site are subject to a maximum commercial FAR of 2.0.

In addition, the project site is located partially within the Other Area Subdistrict (Subarea C1) of the Special Clinton District and partially within Preservation Area A of the Special Clinton District (see **Figures 4 and 7**). The Special Clinton District was established in 1974 with the goals of preserving and strengthening the residential character of the Clinton community; restricting demolition of buildings suitable for development or rehabilitation; ensuring that the area is not adversely affected by new development and that development is appropriate for the area; and improving the built environment through the provision of amenities such as street trees in connection with development. The Special Clinton District is divided into three sub-areas: the Preservation Area, the Perimeter Area, and Other Areas.<sup>3</sup> The three sub-areas outline the locations where additional limitations or controls guide development in the District. Within the Preservation Area, development is restricted through additional bulk regulations; special lot coverage, yard, and height regulations also apply. Specifically, the Preservation Area applies a maximum building streetwall height of 66 feet and a maximum overall height of 85 feet. The regulations for the Preservation Area also include special limits on the demolition or alteration of existing residential buildings. In the “Other” areas, the regulations of the underlying zoning generally apply without additional limitations or controls, excepting R8, R8A, R9, and M2-4 districts. Because the “Other” area regulations do not include modifications to C1-8 regulations, the underlying zoning regulations in the C1-8 portion of the project site generally apply with only limited additional regulations provided through the District, such as the District-wide tree planting provisions.

The project site contains the seven- and eight-story Windermere apartment complex (the “Windermere building”), a grouping of three connected buildings constructed in the early 1880s. The building has addresses at: 400 West 57th Street at the corner of Ninth Avenue; 404 West 57th Street at the center of the building complex fronting on West 57th Street; and 406 West 57th Street at the westernmost portion of the project site, also fronting on West 57th Street (see **Figures 1, 7, and 8**). The building is currently vacant. The western portion of the building has seven stories with a height of approximately 81’-7”. The eastern and southern portion of the building has an L-shaped eighth floor, reaching a height of

<sup>2</sup> The Applicant is in the process of renewing this approval.

<sup>3</sup> Several sections of the District are designated as “excluded areas.” In excluded areas, the regulations of the District are limited, and some of the excluded areas are exempt from all District regulations.

approximately 92'-0". The building's approximately 12'-3" tall parapet obscures from view the building's existing partial eighth floor (see **Figures 1, 8, and 9**).

The Windermere was designated as a NYCL by LPC in 2005. Under a previous owner, the building had deteriorated to a state of extreme disrepair, and was determined by the City to be no longer fit for habitation and ordered that the building be vacated. The previous owner had also engaged in a lengthy effort to empty the building of its residential tenants. The building was vacated in 2007. In 2008, the City and LPC commenced an action in State Supreme Court against the former owner which sought an order requiring the former owner to bring the building up to a state of good repair as required by the Landmarks Law, and imposing civil penalties under the Landmarks Law for failing to adequately maintain the building. Although the Supreme Court issued a preliminary injunction ordering the former owner to repair the building, the former owner did not undertake any of the ordered repairs and instead entered into an agreement to sell the building to the applicant. The applicant purchased the building in 2009.

Following discussions with officials of the New York City Law Department and LPC, the applicant entered into a stipulation with the City in which it voluntarily agreed to be substituted for the previous owner as a defendant in the pending State Supreme Court action and to undertake the specified repairs to structural and exterior elements of the building. A substantial amount of the agreed-upon work has already been performed; this includes repairs to the building's façade (repairing and replacing stone and brickwork and brick repointing), removal of non-historic fire escapes, installing new, historically appropriate windows and a new cornice, stone restoration and structural work, cleaning the exterior of the building, masonry repairs and cleaning on both street façades at the ground floor level, and installing new entry doors. The remainder of the restoration work includes the restoration of two existing porticos and stoops and the reconstruction of the historic double portico and stoop. In response to the litigation brought by the City against the prior building owner to compel the building to be repaired and maintained in accordance with the Landmarks Law, the current owner is subject to a court-ordered stipulation that imposes deadlines for performance of certain work on the building, including the installation of new windows. LPC issued a Certificate of No Effect (LPC 15-9783, CNE 16-0897) on August 1, 2014 for "removing all remaining historic and non-historic windows, frames, and brickmolds" and installing all new windows. Subsequently, an amendment to the Certificate of No Effect was issued on November 3, 2014 in a "Miscellaneous/Amendments" letter (LPC-164379, MISC 16-4458) for a change to the configuration of the new windows, allowing for the new windows to have a one-over-one double-hung window configuration. All restoration work is expected to be complete by the end of 2021. The restorative work was reviewed and approved by LPC in Certificates of No Effect permits dated September 10, 2010, February 8, 2013, August 1, 2014, July 7, 2017, and July 13, 2017; in a Status Update Letter dated November 20, 2013; and in "Miscellaneous/Amendments" letters dated August 6, 2014, November 3, 2014, and March 3, 2017. Interior structural alterations, including "replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts" excavation, and underpinning of the foundation wall at the adjacent building were reviewed and approved by LPC and a Certificate of No Effect was issued on January 13, 2016 (LPC-18-0874, CNE-18-1043). In addition, building alterations, including combining the buildings internally, constructing a rooftop addition, and rooftop mechanical equipment, were reviewed and approved by LPC and a Certificate of Appropriateness was issued on July 7, 2017 (LPC-19-12919, COFA-19-12919). Further, in comments dated March 12, 2020, LPC indicated its acceptance of the Historic and Cultural Resources analysis (see LPC Consultation documents in **Appendix B**, "LPC Consultation"). These alterations would occur pending approval of this application from the CPC.

In addition, due to the long history of tenant harassment by the building's previous owner, the building is subject to the harassment cure provisions of the Special Clinton District (ZR Section 96-110), which require that affordable housing (80 percent of Area Median Income [AMI]) equal to at least 28 percent of the building's pre-existing residential floor area be incorporated into the project site (see Cure Agreement in **Appendix A**, "HPD Cure Agreement"). Under ZR Sections 96-108, 96-109, and 96-110, the New York City Department of Buildings may not issue any sort of demolition, construction, or alteration permit for a building within the Special Clinton Preservation Area, except a permit for minor, non-material alterations, unless the Department of Housing Preservation and Development (HPD) has issued a certification of no harassment or certified compliance with the harassment cure requirements. Therefore, any significant improvements to this property would require compliance with the harassment cure provision.

As noted above, the Windermere building has been vacant since 2007. As the building predates the current zoning regulations, there are several non-complying features. In the portion of the building located within the C1-8 district, the building exceeds the maximum street wall height of 85 feet and encroaches on the applicable 5.6-to-1 sky exposure plane

(ZR 33-432). In addition, the building has legally required windows that open onto two substandard inner courts: the courts do not comply with zoning requirements for minimum dimensions of inner courts (the courts have a total area of 58 sf and 635 sf, below the minimum of 1,200 sf pursuant to ZR Section 23-851) and minimum distance between legally required windows (approximately 6 feet and 25 feet, respectively, below the minimum of 30 feet pursuant to ZR Section 23-86) (see **Figures 7 and 10**). In addition, the building rises at the street line to a height of approximately 92 feet, exceeding the maximum streetwall height of 66 feet in the Preservation Area of the Special Clinton District (ZR 96-104). Although the building currently is not in compliance with the applicable height and setback regulations of the Preservation Area of the Special Clinton District (ZR 96-104), per ZR Section 96-10, all existing buildings within the Preservation Area are considered complying buildings.

Further, as part of the structural improvements and building stabilization work being undertaken, the applicant elected to perform a gut renovation that would replace all of the building's substandard wooden floors with new fireproof construction. While the Landmarks Law only requires repair and improvements to the exterior of this historic building and does not impose any specific obligations regarding interior renovations, the replacement of all of the building's wooden floors resulted in the demolition and replacement of more than 75 percent of the building's total floor area. Under the provisions of ZR Section 54-41 ("Permitted Reconstruction"), any non-complying building undergoing reconstruction must be brought into compliance with current zoning regulations if that reconstruction would affect more than 75 percent of the building's total floor area.

## **DESCRIPTION OF THE PROPOSED DEVELOPMENT**

The applicant proposes to alter and enlarge the currently vacant Windermere building by horizontally expanding the eighth floor along the building's frontage on West 57th Street by approximately 74 linear feet and constructing a new partial ninth floor (to approximately 103'-0" tall at the roof of the ninth floor) that would be located away from the building's street frontages (See **Figures 11 and 13**). A one-story wing at the southern end of the building would be extended westward and northward. The building's central court would be divided into two smaller but more regular open areas, in the center and at the southwest corner of the project site, and the light well at the western property line would be reconstructed. Legally required windows would open on all three of the open areas. The previously existing inner court recess along the western lot line would also be reconstructed.

Under Scenario A-Hotel, the majority of the building would be converted to a Use Group 5 transient hotel, with 174 rooms (approximately 57,299 gsf, including the cellar level), and would include an approximately 2,640 gsf enclosed restaurant located on the building's roof that would mostly occupy the proposed partial ninth floor. In addition, approximately 4,949 gsf of retail would be located on the ground floor along Ninth Avenue and in the cellar.

Under Scenario B-Office, the majority of the building would be converted to a Use Group 6 office with approximately 57,221 gsf of office use, including the cellar level, as well as approximately 7,667 gsf of retail on the ground floor along Ninth Avenue and in the cellar.

As noted above, the building is subject to a harassment cure under zoning: based on a Cure Agreement executed by HPD and the applicant on December 19, 2012, and recorded against the project site, approximately 25,098 gsf of space on floors two through nine of the westernmost portion of the Windermere building, at 406 West 57th Street, would be used for 20 affordable housing units under either scenario (including 4,000 gsf of accessory residential space in the cellar, the building would contain approximately 29,098 gsf of residential space total). It is anticipated that these affordable units would be leased to, and operated by, the Metropolitan Council on Jewish Poverty, which has extensive experience in the ownership and operation of affordable housing. Although not required by the Cure Agreement, the Metropolitan Council on Jewish Poverty has determined, in consultation with HPD, that the affordable units would be used for senior housing to be occupied by persons at least 55 years of age. The floor plans of the affordable units have been approved by HPD (see the Cure Agreement in **Appendix A**, "HPD Cure Agreement"). The affordable units would comprise ten studios (approximately 428 sf each), six one-bedroom units (approximately 616 sf each), and four two-bedroom units (approximately 937 sf each).

Because the Windermere is a NYCL, the proposed alterations and enlargement of the Windermere are subject to the review and approval of LPC. LPC issued a Certificate of Appropriateness (CofA) for design approval of the proposed alterations to the building (which includes the courtyard modifications and rooftop addition) on July 7, 2017 (see LPC Consultation documents in **Appendix B**, "LPC Consultation").

## B. FRAMEWORK FOR ANALYSIS

This document has been prepared in accordance with the guidelines presented in the 2020 *City Environmental Quality Review (CEQR) Technical Manual*. For each Environmental Assessment Statement (EAS) technical assessment, the analysis includes descriptions of existing conditions, conditions in the future without the proposed project (the “No Action” scenario), and conditions in the future with the proposed project (the “With Action” scenario). For each relevant technical area, the incremental difference between the No Action and With Action scenario is analyzed to determine the potential environmental effects of the proposed project. For each technical area, the more conservative scenario (hotel or office) will be analyzed. As noted above, a substantial amount of the agreed-upon restoration and repair work has already been performed. The conversion of the building and construction of the rooftop additions is expected to take approximately 24 months to complete. Assuming all approvals are in place in 2021, the proposed project is expected to be complete by 2023. Therefore, a future analysis year of 2023 is used to assess the potential impacts of the proposed project.

### NO ACTION SCENARIO

Absent the proposed special permit, the applicant would complete the exterior restoration of the Windermere building as well as the structural improvements and interior renovations necessary to bring the building into a state of good repair in compliance with the Supreme Court’s decision. As noted above, the building cannot be reoccupied in its current historic form, as the building features several non-complying features, and the required restoration work has resulted in the demolition and replacement of more than 75 percent of the building’s total floor area. Therefore, in order to restore the building to residential use and allow the building to be reoccupied as required by the HPD harassment cure, in the No Action scenario, the applicant would undertake substantial further alterations to the building in order to remove the non-complying features.

Specifically, in order to meet the streetwall and sky exposure plane requirements of the C1-8 portions of the project site, the building’s existing partial eighth floor and approximately 7 feet of the existing parapet height would be demolished in the No Action scenario (see **Figures 12 and 13**). Similarly, in order to create complying inner courts, a full reconstruction of the building would be required in order to provide the necessary structural changes. These alterations would require LPC approval (possibly through a hardship application), which is not a discretionary action subject to review under CEQR. As noted above, the building cannot be occupied without substantial additional alterations to bring the building into compliance with the current zoning regulations. The applicant would pursue the No Action scenario in the absence of the proposed project in order to reoccupy the building and make economic use of the building. However, the No Action scenario is not preferred as it would be more costly to reconstruct the building to create complying inner courts, would require demolition of one floor and a portion of the parapet of the landmarked building and the resulting loss of significant exterior architectural features, including: the ornamental corbelled brick parapet, ornamental coping, corbelled brick pier caps, and decorative parapet extension at the building’s Ninth Avenue and 57th Street facades; a decorative gable at the building’s 57th Street façade; an ornamental corbelled brick chimney flue at the building’s Ninth Avenue façade; an ornamental fire escape at the building’s seventh floor Ninth Avenue facade; and the brick party wall and parapet, wood windows, and bluestone lintels at the seventh floor’s south facade. The No Action scenario is also not preferred because it would utilize substantially less than the floor area available and would be limited to a substantially residential building. As described above, the Windermere building is subject to a Cure Agreement with HPD requiring that affordable housing (80 percent of Area Median Income [AMI]) equal to at least 28 percent of the building’s pre-existing residential floor area be incorporated into the project. This requirement applies to the building in both the No Action and With Action conditions. In order to satisfy the Cure Agreement, the segment of the Windermere building at 406 West 57 Street will be restored and retented with 20 HPD-approved affordable residential units and accessory residential space (a total of approximately 18,776 gsf). As described above, the Cure provisions of the Special Clinton district (ZR Section 96-110[a]) require the Cure residential units to comply with the standards for Inclusionary Housing set forth at ZR Section 23-90, et seq., as well as ZR Section 96-105 of the Special Clinton regulations. ZR Section 23-96 establishes a minimum size for Inclusionary Housing units and ZR Section 96-105 requires that 20 percent of the residential units contain at least two bedrooms. Twenty residential units is the maximum number of residential units that can be created within the required amount of Cure space in compliance with the foregoing requirements. These residential units will consist of ten studios (approximately 428 sf each), six one-bedroom units (approximately 616 sf each), and four two-bedroom units (approximately 937 sf each) and will be rented to households earning no more than 80 percent of the New York City AMI. This segment of the building had previously contained 28 units; therefore, the restoration of this area of the building pursuant to the Cure Agreement

would result in eight fewer residential units than existed in the building prior to its being vacated. Overall, in the No Action condition, the Windermere building would contain 65 units, compared to 184 previously existing units. In addition, the Windermere building's ground floor and cellar would be renovated and retenanted with retail space (approximately 14,700 gsf)<sup>4</sup>.

## WITH ACTION SCENARIO

With the proposed special permit pursuant to ZR Section 74-711, the applicant would alter, reconstruct, and enlarge the building and convert the majority of the Windermere building into either Use Group 5 transient hotel (Scenario A-Hotel) or Use Group 6 office use (Scenario B-Office). The proposed project would also enlarge the building by horizontally expanding the eighth floor (by approximately 74 linear feet) along the building's frontage on West 57th Street, which would create a uniform height of approximately 91'-0" along the building's street frontages. The proposed project would also construct a new partial ninth floor (approximately 103'-0" tall) that would be located away from the building's street frontages. The eighth and ninth floor expansions would increase the building's total floor area to approximately 93,986 gsf.<sup>5</sup> The building's mechanical systems and elevator would be upgraded as part of the project. The proposed project is expected to be complete and operational by 2023.

### SCENARIO A-HOTEL

Under Scenario A-Hotel, the transient hotel would have its primary entrance on Ninth Avenue and would contain 174 hotel units on floors 1 through 8. The partial ninth floor penthouse would be mostly occupied by an approximately 2,640 gsf enclosed rooftop restaurant (Use Group 6). The building's existing ground floor retail space would be modestly reduced from approximately 4,600 gsf in the building prior to being vacated to approximately 3,949 gsf; including retail space in the cellar, there would be approximately 4,949 gsf of retail space. This retail space would be retenanted with neighborhood retail uses (see **Figures 11, 14 and 15**).

The hotel use would occupy the building segments at 400 and 404 West 57th Street as well as the expanded eighth floor that would extend across the portions of the building at 404 and 406 West 57th Street. The restaurant would occupy the ninth floor addition, which extends horizontally across the three building segments. As with the No Action scenario, with the proposed action the applicant is required to provide within the building 20 affordable housing units at 80 percent of AMI (approximately 29,098 gsf of space) under the Cure Agreement with HPD. Therefore, in the future with the proposed action, the Windermere building would contain the same 20 affordable units in the building segment at 406 West 57th Street (up to the seventh floor) that will be introduced through the building's restoration in the No Action scenario. The affordable housing units will occupy floors two through seven of the portion of the Windermere building at 406 West 57th Street. As noted above, the building contains non-compliant courts that do not meet the requirements for minimum dimensions and minimum distance between legally required windows. Certain residential units will open onto these non-compliant courts—floors two through five would each have one three-room unit and one four-room unit opening onto the non-compliant courts; and floors six and seven would each have one three-room unit opening onto the non-compliant courts. The hotel rooms and associated commercial spaces would occupy the portion of the Windermere building at 400 and 404 West 57th Street. In addition, certain hotel rooms would open into the non-compliant courts, with seven hotel rooms on each of the first through seventh floors, and nine hotel rooms on the eighth floor.

### SCENARIO B-OFFICE

Under Scenario B-Office, the office use would consist of 57,221 gsf on floors 1 through 9. Approximately 7,667 gsf of ground floor retail space would be located along the building's Ninth Avenue frontage and in the cellar level. This would be more retail space than under Scenario A because there would be less lobby space for the other commercial uses in the building under this scenario than under Scenario A. As with the No Action scenario, with the proposed action the applicant is required to provide within the building 20 affordable housing units at 80 percent of AMI (approximately 29,098 gsf of

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<sup>4</sup> Under the no action scenario, the building would contain a total of 77,472 zoning square feet of floor area (5.12 FAR across the zoning lot), including 14,708 square feet of commercial floor area (.62 FAR) and 62,764 square feet of residential floor area (4.5 FAR).

<sup>5</sup> The proposed project would contain a total of 80,022 zoning square feet of floor area (6.43 FAR across the zoning lot), including 55,925 square feet of commercial floor area (4.46 FAR) and 24,097 square feet of residential floor area (1.92 FAR).



space) under the Cure Agreement with HPD. Therefore, in the future with the proposed action, the Windermere building would contain the same 20 affordable units in the building segment at 406 West 57th Street (up to the seventh floor) that will be introduced through the building's restoration in the No Action scenario. The affordable housing units will occupy floors two through seven of the portion of the Windermere building at 406 West 57th Street. As noted above, the building contains non-compliant courts that do not meet the requirements for minimum dimensions and minimum distance between legally required windows. Certain residential units will open onto these non-compliant courts—floors two through five would each have one three-room unit and one four-room unit opening onto the non-compliant courts; and floors six and seven would each have one three-room unit opening onto the non-compliant courts (**Figures 15 and 16**).

**Table 1**  
**Comparison of No-Action Scenario to With-Action Scenario A-Hotel**

Lot Number	Total gsf	Retail and Restaurant gsf	Hotel gsf	Hotel Rooms	Residential gsf	# Residential Units
No-Action	77,472	14,708	N/A	N/A	62,764	65 (including 20 affordable residential units)
With-Action	93,986	7,589 <sup>1</sup>	57,299	174	29,098	20
<b>Increment</b>	<b>16,514</b>	<b>-7,119</b>	<b>57,299</b>	<b>174</b>	<b>-33,666</b>	<b>-45</b>
<b>Note:</b> 1) Includes approximately 2,640 gsf of restaurant space and approximately 4,949 gsf of retail space.						

**Table 2**  
**Comparison of No-Action Scenario to With-Action Scenario B-Office**

	Total gsf	Retail gsf	Office gsf	Residential gsf	# Residential Units
No-Action	77,472	14,708	N/A	62,764	65 (including 20 affordable residential units)
With-Action	93,986	7,667	57,221	29,098	20
<b>Increment</b>	<b>16,514</b>	<b>-7,041</b>	<b>57,221</b>	<b>-33,666</b>	<b>-45</b>

### *LPC CERTIFICATION OF APPROPRIATENESS*

As noted above, the applicant is undertaking restoration and repair work to the building pursuant to an agreement with the City independent of the proposed project. In addition to the work that has already been performed, the applicant would complete the required work, which includes restoring two existing porticos and stoops and the reconstruction of the historic double portico and stoop in the future with or without the proposed project. All restoration work is expected to be complete by the end of 2021. Because the Windermere is a NYCL, the proposed alterations and enlargement have been reviewed and approved by LPC. As described above, LPC issued a CofA for design approval of the proposed alterations to the building, including the courtyard modifications and rooftop addition, on July 7, 2017.

### **C. PURPOSE AND NEED**

As noted above, the Windermere building, which predates zoning, includes several features that are not in compliance with current zoning regulations. In particular, the building has windows that open onto two inner courts that do not meet the requirements for minimum dimensions and minimum distance between legally required windows. In addition, the building exceeds the maximum street wall height and encroaches on the applicable sky exposure plane under the C1-8 regulations. The structural improvements and building stabilization work already completed, in particular the replacement of all of the building's wooden floors as necessary to bring the building into a state of good repair, has resulted in the demolition and replacement of more than 75 percent of the building's total floor area. Under the provisions of ZR Section 54-41 ("Permitted Reconstruction"), any non-complying building undergoing reconstruction must be brought into compliance with current zoning regulations if that reconstruction would affect more than 75 percent of the building's total floor area. Substantial further alterations to the building would be required to bring the building into compliance with the current zoning regulations and allow the building to be reoccupied. As a NYCL, the substantial alterations to the Windermere that would be necessary to bring the building into compliance with zoning would require LPC approval, possibly through a hardship application.

In particular, in order to meet the streetwall and sky exposure plane requirements of the C1-8 portions of the project site, the building's existing partial eighth floor and approximately 7 feet of the existing parapet height would need to be demolished. In addition, substantial interior alterations would be required in order to create complying inner courts. The applicant's goal is to maintain the building's historic character, comply with the Supreme Court's decision requiring that the applicant bring the building to a state of good repair (as required by the Landmarks Law), and restore it to a functional, economically viable use. Modifications to and waivers of several zoning regulations are required pursuant to a special permit under ZR Section 74-711 to achieve these goals, as described below:

- ZR Section 22-00: The Zoning Resolution allows Use Group 5 and 6 commercial use on the project site, but both the C1-8 and R8/C1-5 portions of the project site are subject to a commercial FAR of only 2.0. The altered and enlarged building would contain less than the maximum permitted floor area for residential use but most of the Building will be in commercial use. The use of the portions of the building above the second story for transient hotel and restaurant, in Scenario A, and for office, in Scenario B, will require modification of the use provisions of ZR Section 22-00.
- ZR Section 32-421: The supplementary use regulations of Section 32-421 provides that Use Group 6 uses are not permitted above the second story of a building occupied by residential use on its upper stories. However, the building would contain transient hotel and restaurant, in Scenario A, and office, in Scenario B, above the second story and therefore will require modification of Section 32-421.
- ZR Sections 35-32 and 23-151: Since the allowable commercial FAR is 2.0 in the C1-8 portion of the project site, this Application requests a waiver of the use and supplementary regulations to allow the floor area above the second floor to be used for commercial use. Thus, for bulk purposes, although the proposed project would contain mostly commercial uses, for purposes of this Application it is analyzed as a building that contains residential use, subject to height factor calculations, above the second story. Under ZR Section 23-151, in the C1-8 portion of the project site, which is an R9-equivalent district, in order to achieve a total FAR of 7.19, a height factor of at least 12 and an open space ratio of at least 5.4 are required. However, the proposed project does not have sufficient height relative to its lot coverage to achieve a height factor of 12, and it does not have sufficient open space – its actual open space is 706 square feet, for an open space ratio of 1.36. If 4,229 square feet of open space were provided, and the corresponding portion of the project site was considered not to constitute lot coverage, the proposed project would have both a complying amount of open space and the height factor required.
- ZR Section 33-432: Under ZR Section 33-432, the C1-8 portion of the project site is subject to a maximum street wall height of 85 feet or 6 stories, whichever is less, after which any building must set back 15 feet and observe a sky exposure plane of 5.6 to 1. The previously existing building rose at the street line to a height of about 91 feet and, in connection with the proposed alteration and enlargement, the building will reach a height of about 103 feet. A modification of the applicable height and setback regulations is therefore being requested. (The R8/C1-5 portion of the project site is located in the Preservation Area of the Special Clinton District and, pursuant to ZR Section 96-104, is subject to a minimum street wall height of 50 feet, maximum street wall height of 66 feet, initial setback distance of 10 feet and an overall height limit of 85 feet. Although one portion of the building would exceed the height limit applicable in the R8/C1-5 Preservation Area and another portion would not rise to the minimum street wall height, as discussed above, per ZR Section 96-10, the portion of the building in the Preservation Area is considered complying for all purposes, and it may be reconstructed to its prior bulk regardless of the extent of damage or destruction.)
- ZR Section 23-861 and Section 23-863: For residential uses, the foregoing sections provide that the minimum distance between a legally required window and any opposite facing wall is 30 feet. The building previously had legally required residential windows that opened onto two substandard inner courts that did not comply with ZR Section 23-86. One of these courts was an irregularly shaped court located at the center of the building and the other was a small light well at the western property line of the project site. The building also had a narrow inner court recess located along the western lot line of the building. In connection with this project, the building's central court would be divided into two smaller but more regular open areas, in the center and at the southwest corner of the project site, and the light well at the western property line would be reconstructed. Legally required windows would open on all three of the open areas. The previously existing inner court recess along the western lot line would also be reconstructed. Various windows opening on these open areas would not have the required 30 feet to opposing walls and/or lot lines. A modification of the ZR Section 23-861 and Section 23-863 is therefore being requested. For purposes of the zoning analysis for this

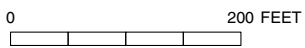
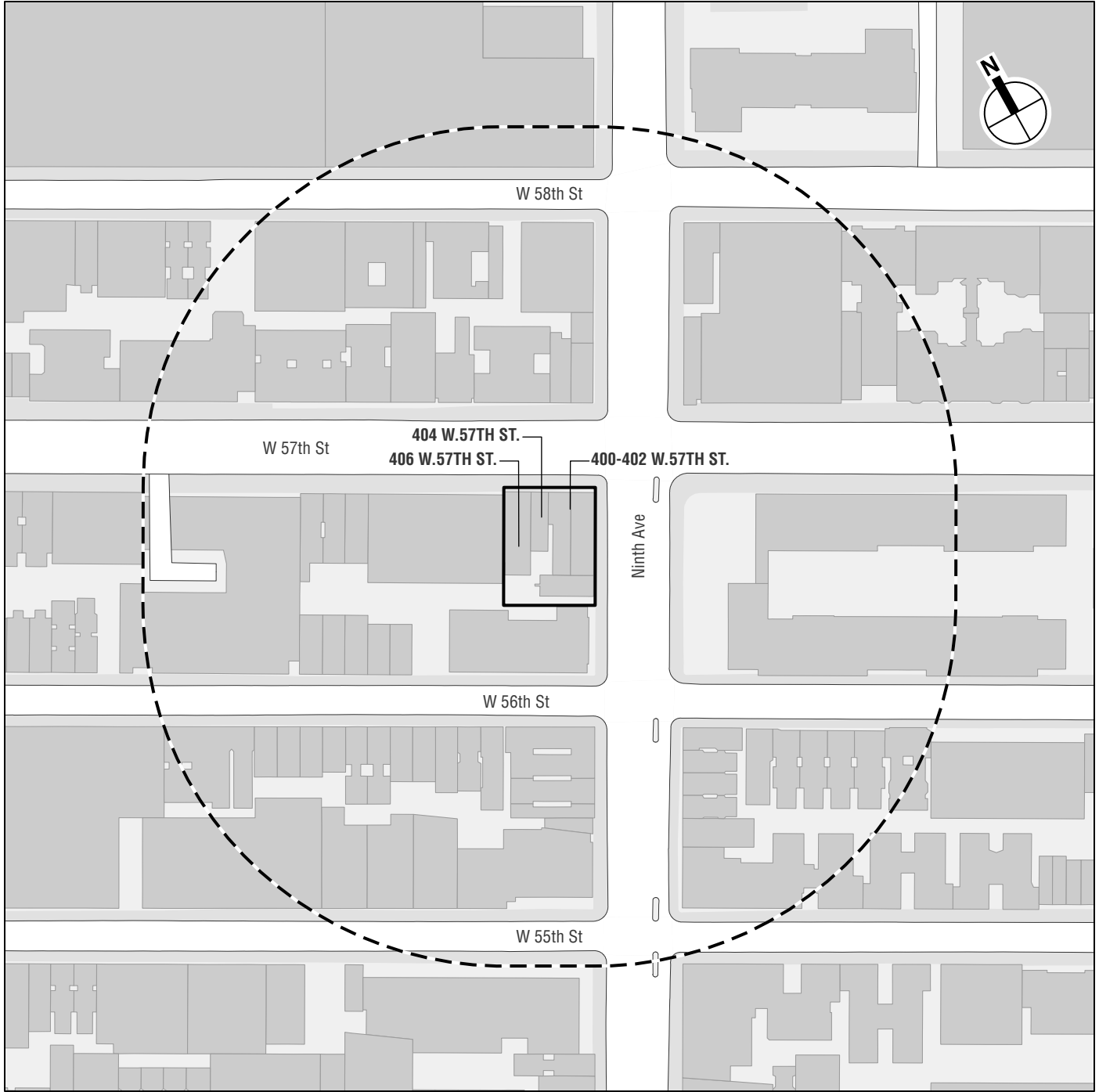
Application, the proposed court condition is treated as a single inner court, with a dimension of 84 feet 1 inch by 39 feet 9 inches, with an inner court recess of 31 feet 8 inches by 23 feet 6 inches.

- ZR Section 23-87: This section provides that obstructions within a court are limited to, inter alia, arbors, trellises, awnings, fences, open terraces and solar energy systems. For purposes of the zoning analysis for this Application, the proposed court condition is treated as a single inner court, with a dimension of 84 feet 1 inch by 39 feet 9 inches, with an inner court recess of 31 feet 8 inches by 23 feet 6 inches. The inner court would not comply with the permitted obstruction regulations of Section 23-87 because it is obstructed by portions of the building, as shown on the plans submitted with this Application.

The building would also contain transient hotel units with windows that open onto the reconfigured central court and the inner court recess. While the Zoning Resolution does not contain inner court and minimum distance between window and wall requirements for commercial uses, including transient hotels, Section 26 of the Multiple Dwelling Law (MDL) requires that a court that provides legal light and air to any dwelling unit, including a hotel unit, shall have a prescribed minimum size, “except as otherwise provided” under the Zoning Resolution. Although the court in the altered and enlarged Building will not meet the standards of MDL Section 26, a modification of the Zoning Resolution’s court requirements for the Building pursuant to ZR Section 74-711 will serve to render the court compliant with both the Zoning Resolution and the MDL.

<b>Board of Standards and Appeals:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> VARIANCE (use) <input type="checkbox"/> VARIANCE (bulk) <input type="checkbox"/> SPECIAL PERMIT (if appropriate, specify type: <input type="checkbox"/> modification; <input type="checkbox"/> renewal; <input type="checkbox"/> other); EXPIRATION DATE: SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION											
<b>Department of Environmental Protection:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," specify:											
<b>Other City Approvals Subject to CEQR</b> (check all that apply) <table style="width:100%; border:none;"> <tr> <td style="width:50%; border:none;"><input type="checkbox"/> LEGISLATION</td> <td style="width:50%; border:none;"><input type="checkbox"/> FUNDING OF CONSTRUCTION, specify:</td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> RULEMAKING</td> <td style="border:none;"><input type="checkbox"/> POLICY OR PLAN, specify:</td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> CONSTRUCTION OF PUBLIC FACILITIES</td> <td style="border:none;"><input type="checkbox"/> FUNDING OF PROGRAMS, specify:</td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> 384(b)(4) APPROVAL</td> <td style="border:none;"><input type="checkbox"/> PERMITS, specify:</td> </tr> <tr> <td style="border:none;"><input type="checkbox"/> OTHER, explain:</td> <td></td> </tr> </table>		<input type="checkbox"/> LEGISLATION	<input type="checkbox"/> FUNDING OF CONSTRUCTION, specify:	<input type="checkbox"/> RULEMAKING	<input type="checkbox"/> POLICY OR PLAN, specify:	<input type="checkbox"/> CONSTRUCTION OF PUBLIC FACILITIES	<input type="checkbox"/> FUNDING OF PROGRAMS, specify:	<input type="checkbox"/> 384(b)(4) APPROVAL	<input type="checkbox"/> PERMITS, specify:	<input type="checkbox"/> OTHER, explain:	
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<b>Other City Approvals Not Subject to CEQR</b> (check all that apply) <table style="width:100%; border:none;"> <tr> <td style="width:50%; border:none;"><input type="checkbox"/> PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION AND COORDINATION (OCMC)</td> <td style="width:50%; border:none;"><input checked="" type="checkbox"/> LANDMARKS PRESERVATION COMMISSION APPROVAL</td> </tr> <tr> <td style="border:none;"></td> <td style="border:none;"><input checked="" type="checkbox"/> OTHER, explain: Harassment "cure" plan under ZR Sec. 96-110, as approved by the Department of Housing, Preservation, and Development (HPD)</td> </tr> </table>		<input type="checkbox"/> PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION AND COORDINATION (OCMC)	<input checked="" type="checkbox"/> LANDMARKS PRESERVATION COMMISSION APPROVAL		<input checked="" type="checkbox"/> OTHER, explain: Harassment "cure" plan under ZR Sec. 96-110, as approved by the Department of Housing, Preservation, and Development (HPD)						
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	<input checked="" type="checkbox"/> OTHER, explain: Harassment "cure" plan under ZR Sec. 96-110, as approved by the Department of Housing, Preservation, and Development (HPD)										
<b>State or Federal Actions/Approvals/Funding:</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," specify:											
<b>6. Site Description:</b> <i>The directly affected area consists of the project site and the area subject to any change in regulatory controls. Except where otherwise indicated, provide the following information with regard to the directly affected area.</i> <b>Graphics:</b> <i>The following graphics must be attached and each box must be checked off before the EAS is complete. Each map must clearly depict the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. Maps may not exceed 11 x 17 inches in size and, for paper filings, must be folded to 8.5 x 11 inches.</i> <table style="width:100%; border:none;"> <tr> <td style="width:33%; border:none;"><input checked="" type="checkbox"/> SITE LOCATION MAP</td> <td style="width:33%; border:none;"><input checked="" type="checkbox"/> ZONING MAP</td> <td style="width:33%; border:none;"><input checked="" type="checkbox"/> SANBORN OR OTHER LAND USE MAP</td> </tr> <tr> <td style="border:none;"><input checked="" type="checkbox"/> TAX MAP</td> <td style="border:none;"><input type="checkbox"/> FOR LARGE AREAS OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S)</td> <td></td> </tr> <tr> <td colspan="3" style="border:none;"><input checked="" type="checkbox"/> PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP</td> </tr> </table>		<input checked="" type="checkbox"/> SITE LOCATION MAP	<input checked="" type="checkbox"/> ZONING MAP	<input checked="" type="checkbox"/> SANBORN OR OTHER LAND USE MAP	<input checked="" type="checkbox"/> TAX MAP	<input type="checkbox"/> FOR LARGE AREAS OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S)		<input checked="" type="checkbox"/> PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP			
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<input checked="" type="checkbox"/> PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP											
<b>Physical Setting</b> (both developed and undeveloped areas) Total directly affected area (sq. ft.): 12,542 Waterbody area (sq. ft.) and type: N/A Roads, buildings, and other paved surfaces (sq. ft.): 12,542 Other, describe (sq. ft.): N/A											
<b>7. Physical Dimensions and Scale of Project</b> (if the project affects multiple sites, provide the total development facilitated by the action) SIZE OF PROJECT TO BE DEVELOPED (gross square feet): 93,986 NUMBER OF BUILDINGS: 1 GROSS FLOOR AREA OF EACH BUILDING (sq. ft.): 93,986 HEIGHT OF EACH BUILDING (ft.): 8th floor roof: 92 ft.; partial 9th floor roof: 103 ft. NUMBER OF STORIES OF EACH BUILDING: 8 and 9 stories											
Does the proposed project involve changes in zoning on one or more sites? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO If "yes," specify: The total square feet owned or controlled by the applicant: The total square feet not owned or controlled by the applicant:											
Does the proposed project involve in-ground excavation or subsurface disturbance, including, but not limited to foundation work, pilings, utility lines, or grading? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO If "yes," indicate the estimated area and volume dimensions of subsurface disturbance (if known): AREA OF TEMPORARY DISTURBANCE: approx. 310 sq. ft. (width x length) VOLUME OF DISTURBANCE: approx. 1,588 cubic ft. (width x length x depth) AREA OF PERMANENT DISTURBANCE: approx. 310 sq. ft. (width x length)											
<b>8. Analysis Year</b> <a href="#">CEQR Technical Manual Chapter 2</a> ANTICIPATED BUILD YEAR (date the project would be completed and operational): 2023 ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: 24											
WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF MULTIPLE PHASES, HOW MANY? BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE:											
<b>9. Predominant Land Use in the Vicinity of the Project</b> (check all that apply) <table style="width:100%; border:none;"> <tr> <td style="width:25%; border:none;"><input type="checkbox"/> RESIDENTIAL</td> <td style="width:25%; border:none;"><input type="checkbox"/> MANUFACTURING</td> <td style="width:25%; border:none;"><input checked="" type="checkbox"/> COMMERCIAL</td> <td style="width:25%; border:none;"><input type="checkbox"/> PARK/FOREST/OPEN SPACE</td> <td style="width:25%; border:none;"><input checked="" type="checkbox"/> OTHER, specify: Public Facilities and Institutions</td> </tr> </table>		<input type="checkbox"/> RESIDENTIAL	<input type="checkbox"/> MANUFACTURING	<input checked="" type="checkbox"/> COMMERCIAL	<input type="checkbox"/> PARK/FOREST/OPEN SPACE	<input checked="" type="checkbox"/> OTHER, specify: Public Facilities and Institutions					
<input type="checkbox"/> RESIDENTIAL	<input type="checkbox"/> MANUFACTURING	<input checked="" type="checkbox"/> COMMERCIAL	<input type="checkbox"/> PARK/FOREST/OPEN SPACE	<input checked="" type="checkbox"/> OTHER, specify: Public Facilities and Institutions							

3.30.21

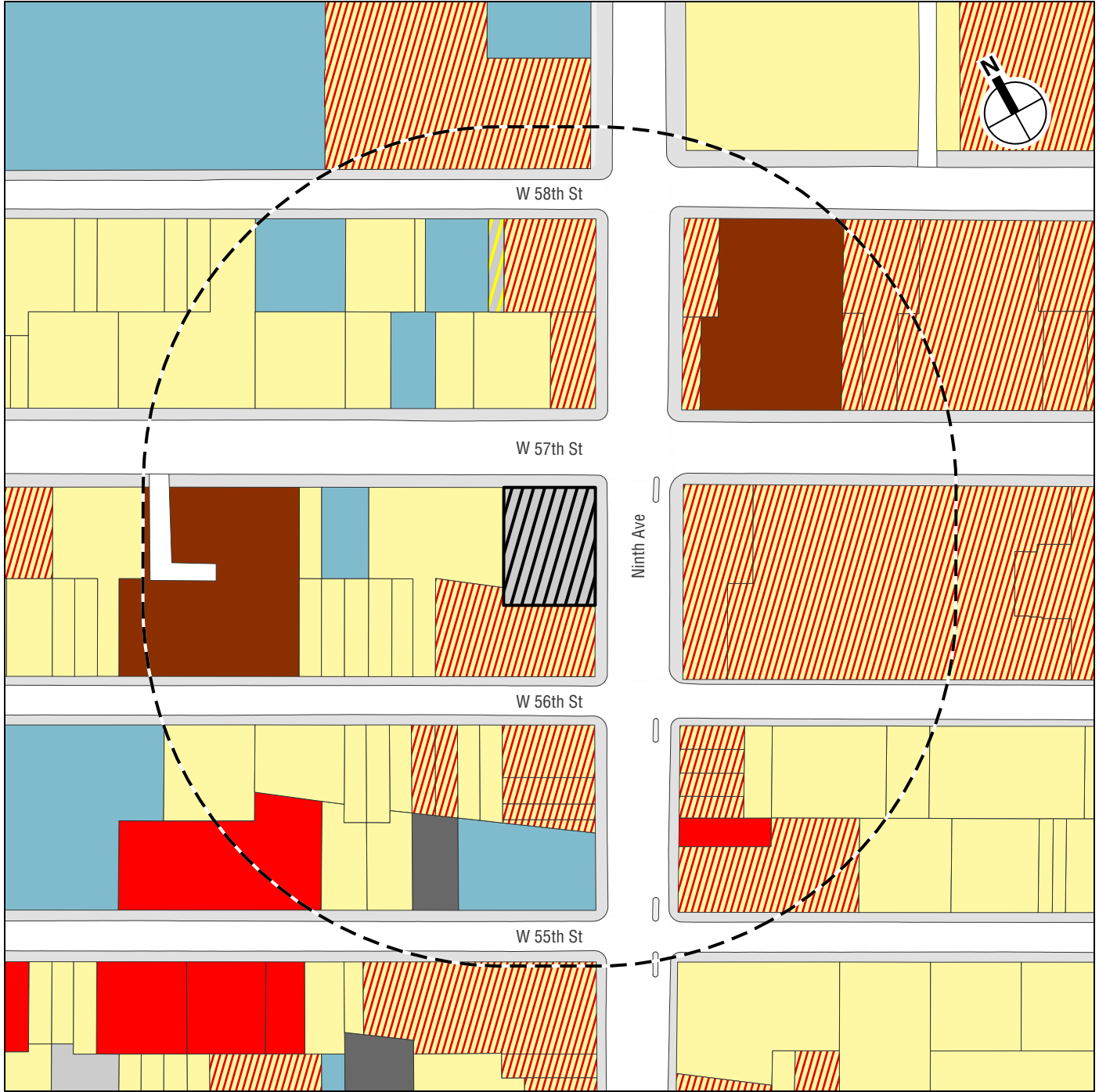


-  Project Site
-  Study Area (400-foot perimeter)



3.30.21

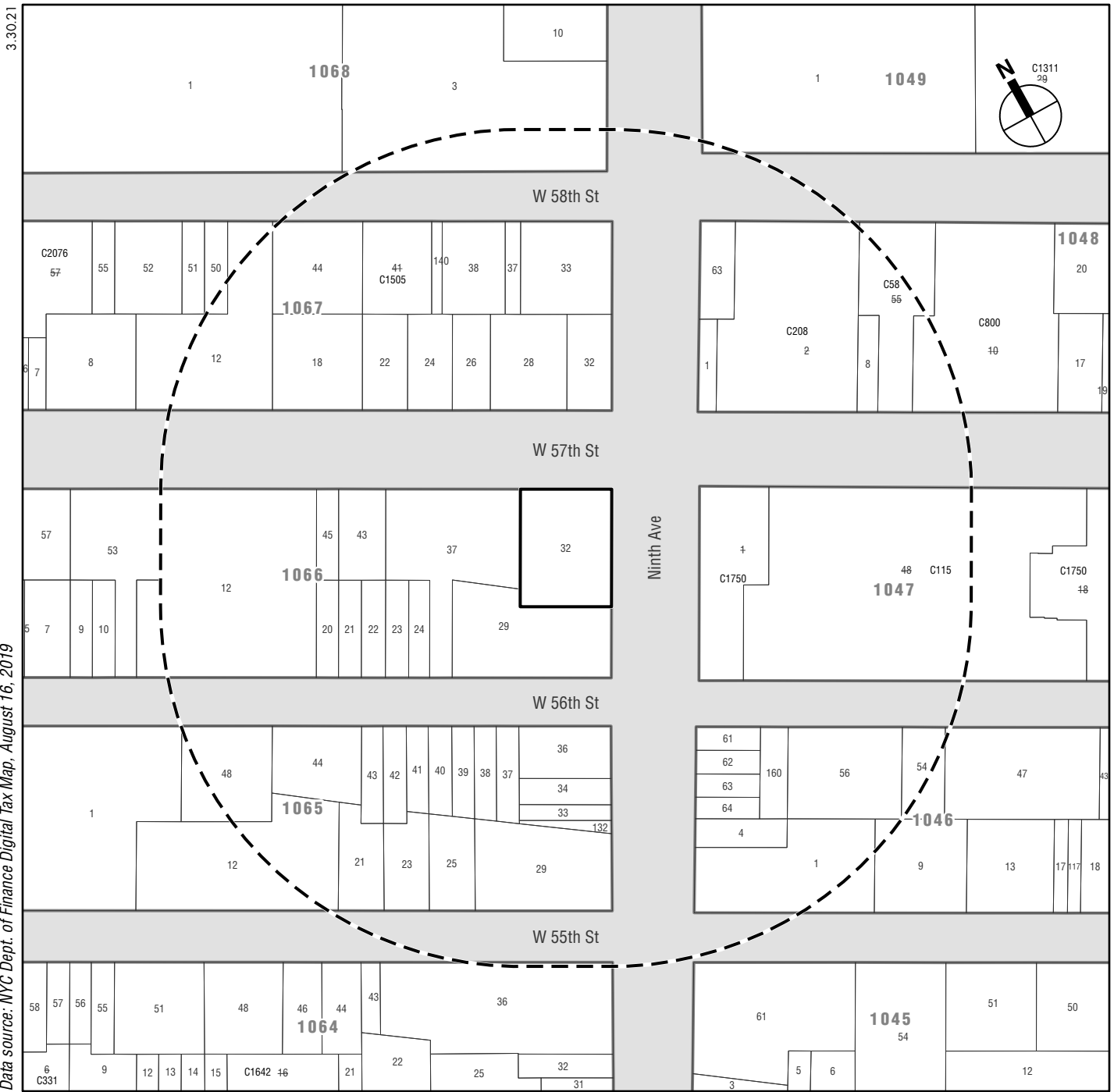
Data source: NYC Dept. of City Planning MapLUTO 20v3 and AKRF study area survey



- |  |   |  |  |
|--|---|--|--|
|  | <i>Project Site</i>                       |  | <i>Residential</i>                       |
|  | <i>Study Area (400-foot perimeter)</i>    |  | <i>Residential with Commercial Below</i> |
|  | <i>Commercial and Office Buildings</i>    |  | <i>Vacant Land</i>                       |
|  | <i>Hotels</i>                             |  | <i>Vacant Building</i>                   |
|  | <i>Parking Facilities</i>                 |  | <i>Under Construction</i>                |
|  | <i>Public Facilities and Institutions</i> |  |  |

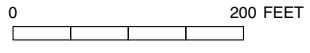
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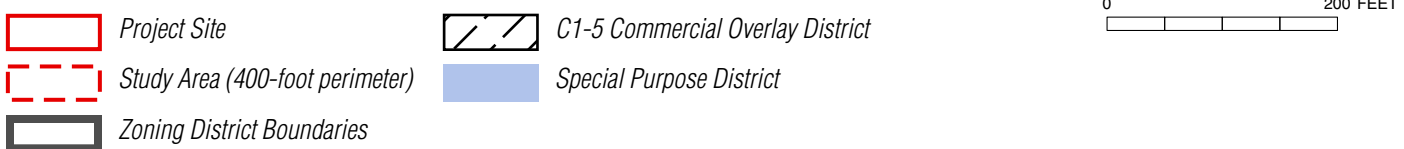
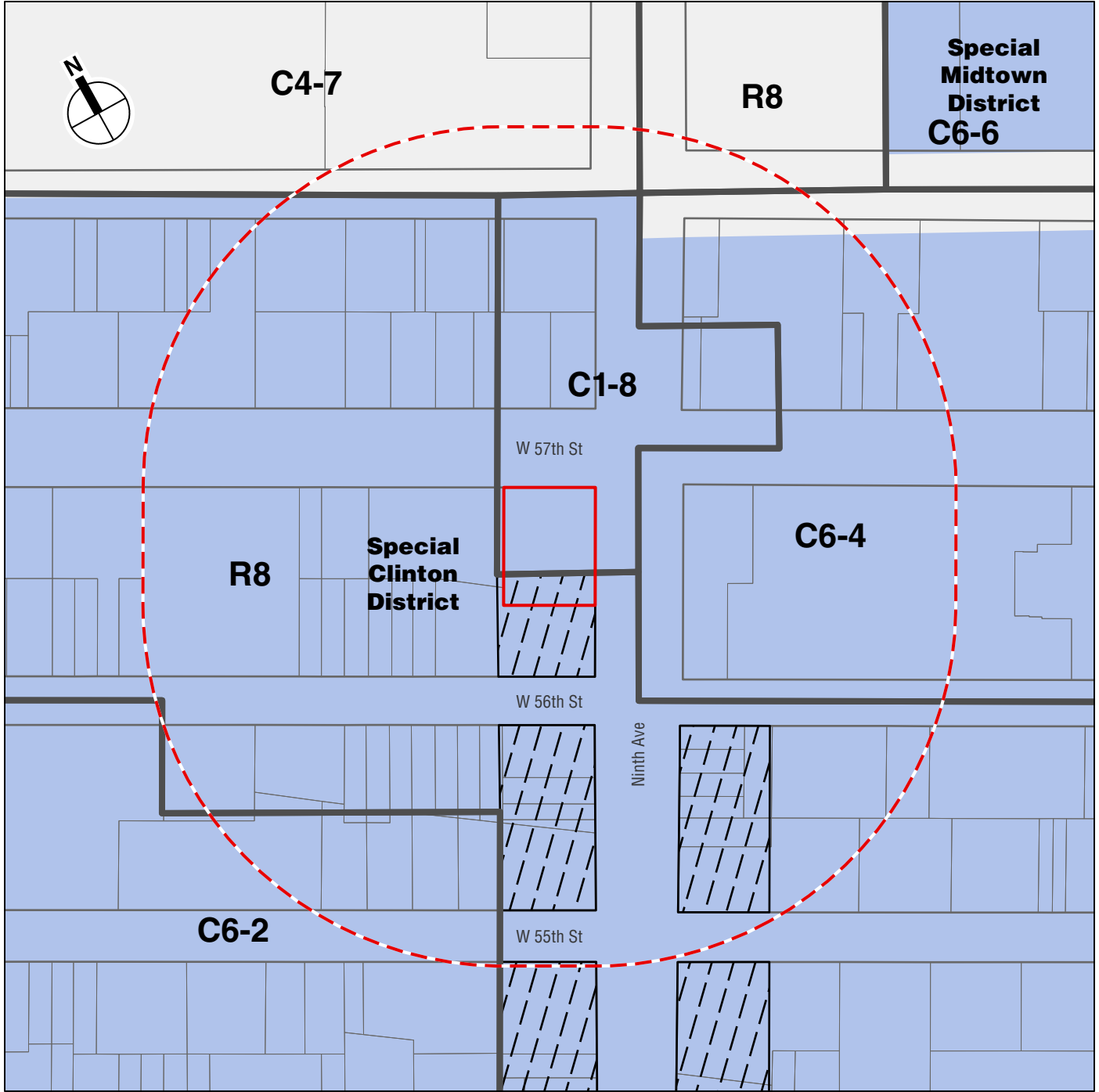
Existing Land Use  
**Figure 2**



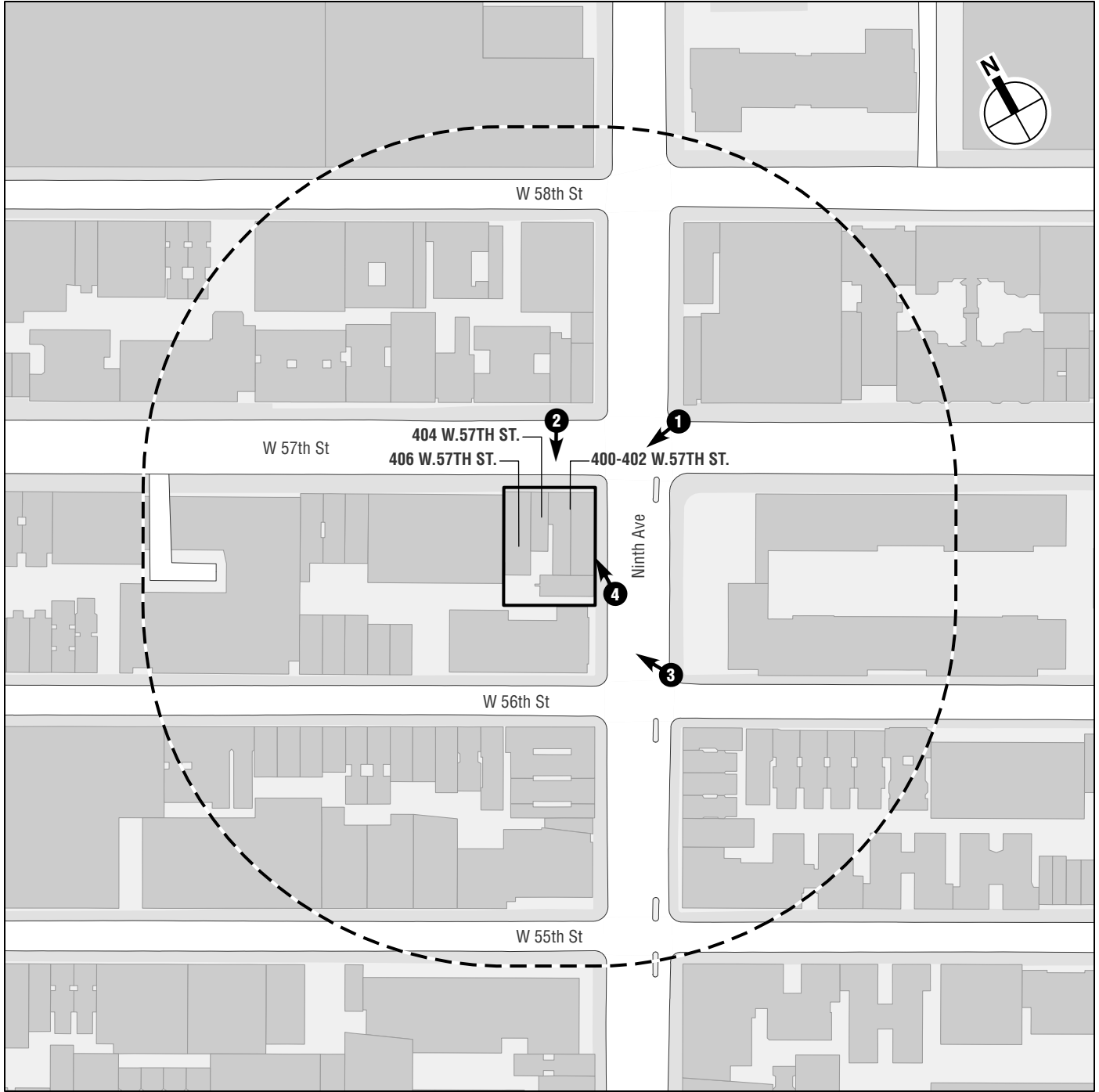
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Data source: NYC Dept. of Finance Digital Tax Map, August 16, 2019




- Project Site
- Study Area (400-foot perimeter)
- Tax Lot Boundary
- Tax Block Boundary

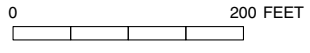








-  Project Site
-  Study Area (400-foot perimeter)
-  Photograph View Direction and Reference Number





View southwest to the Windermere from West 57th Street and Ninth Avenue 1



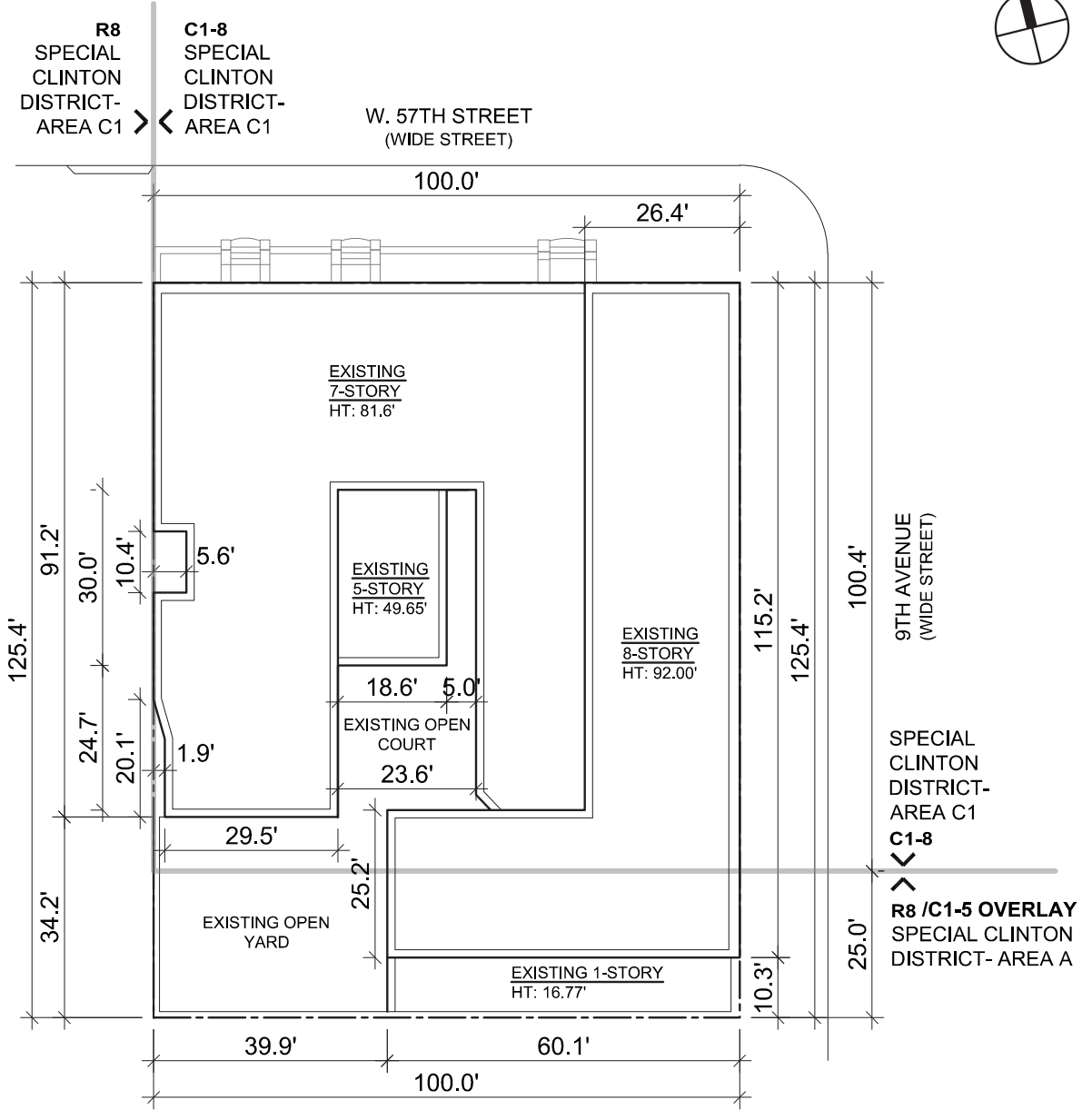
View south on West 57th Street to the Windermere's north facade 2



View northwest to the Windermere from Ninth Avenue 3



View to the Windermere's ground floor façade 4

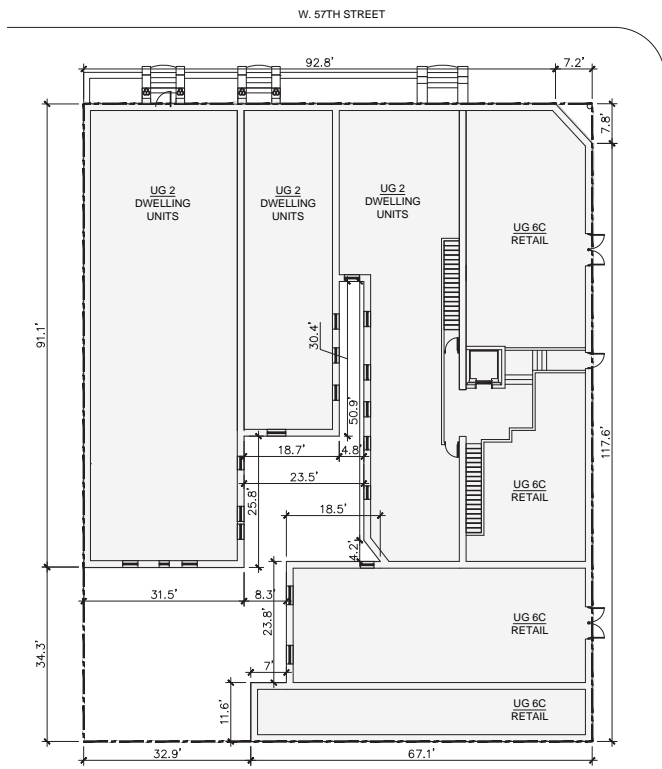




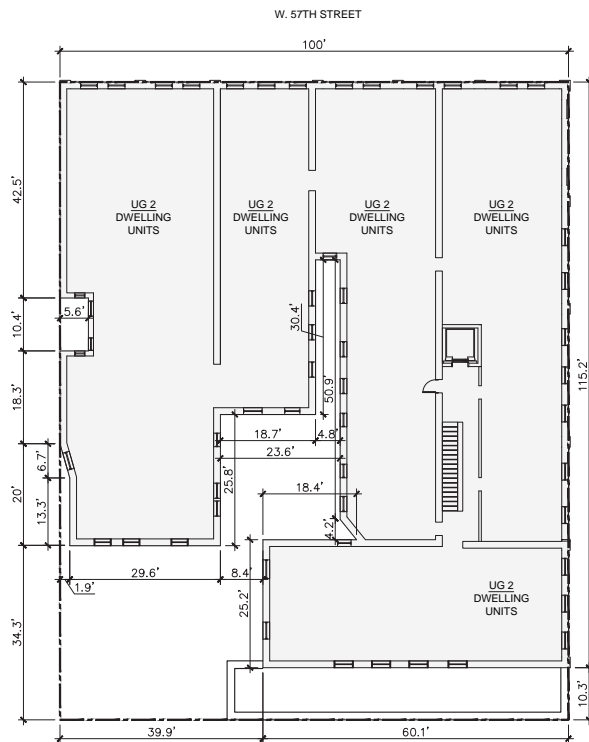
EXISTING NORTH ELEVATION



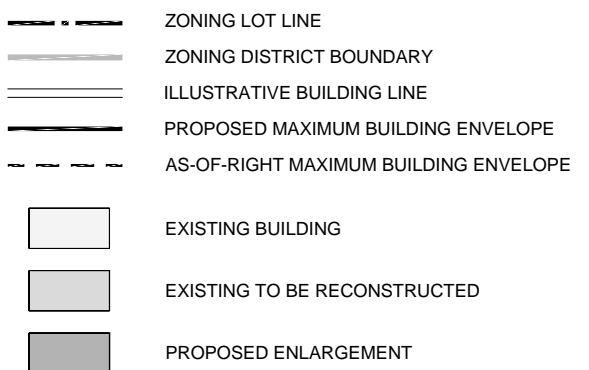
EXISTING EAST ELEVATION

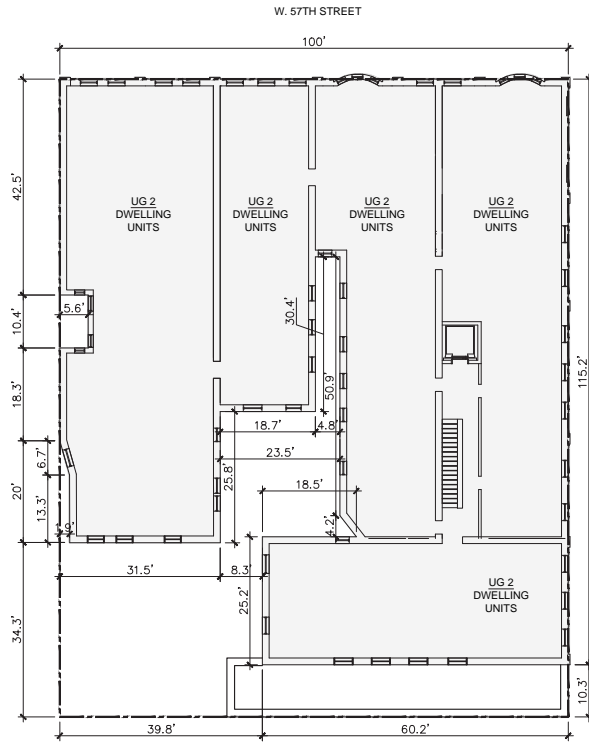


2 FIRST FLOOR PLAN

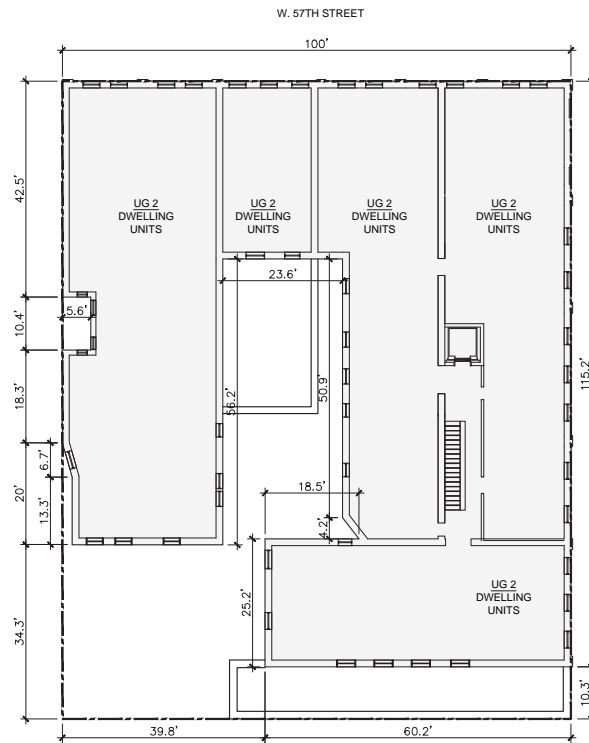


3 2ND-3RD FLOOR PLAN



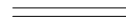









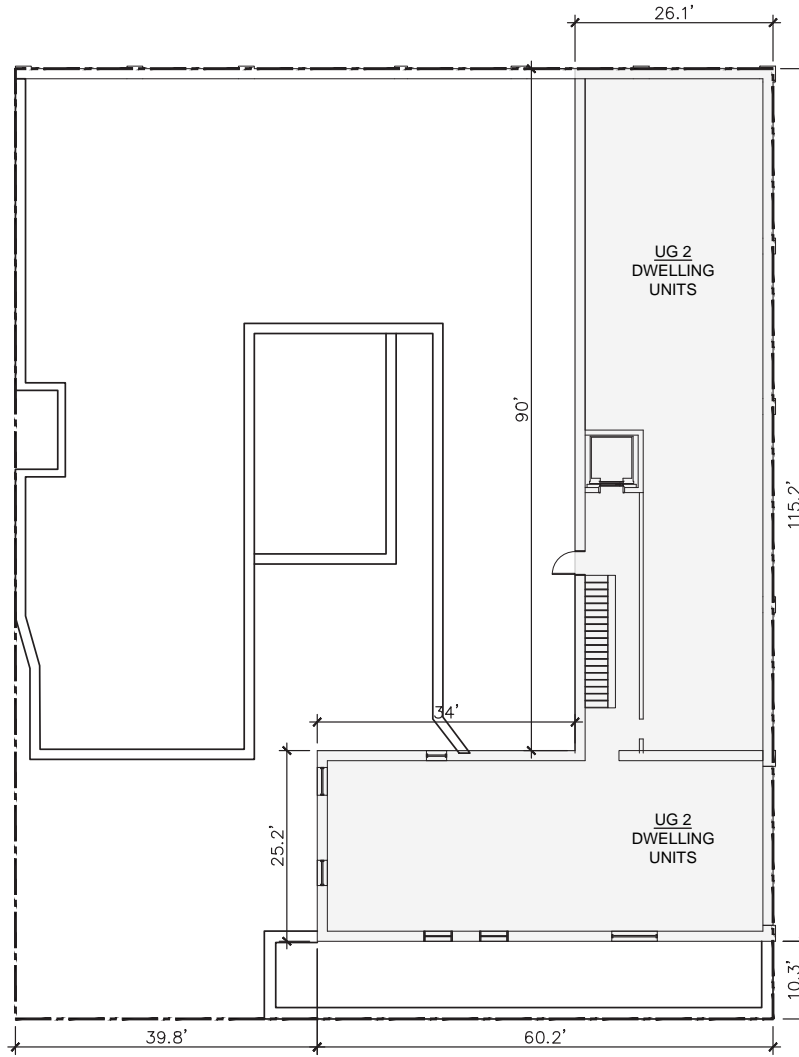
4 4TH-5TH FLOOR PLANS



1 6TH-7TH FLOOR PLANS



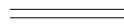





-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

W. 57TH STREET



9TH AVENUE

2 8TH FLOOR PLAN

-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT





1. COURTYARD FACADES



2. COURTYARD FACADES



3. COURTYARD FACADES



4. COURTYARD FACADES



5. COURTYARD FACADES



6. SOUTH FACADE

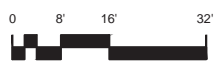
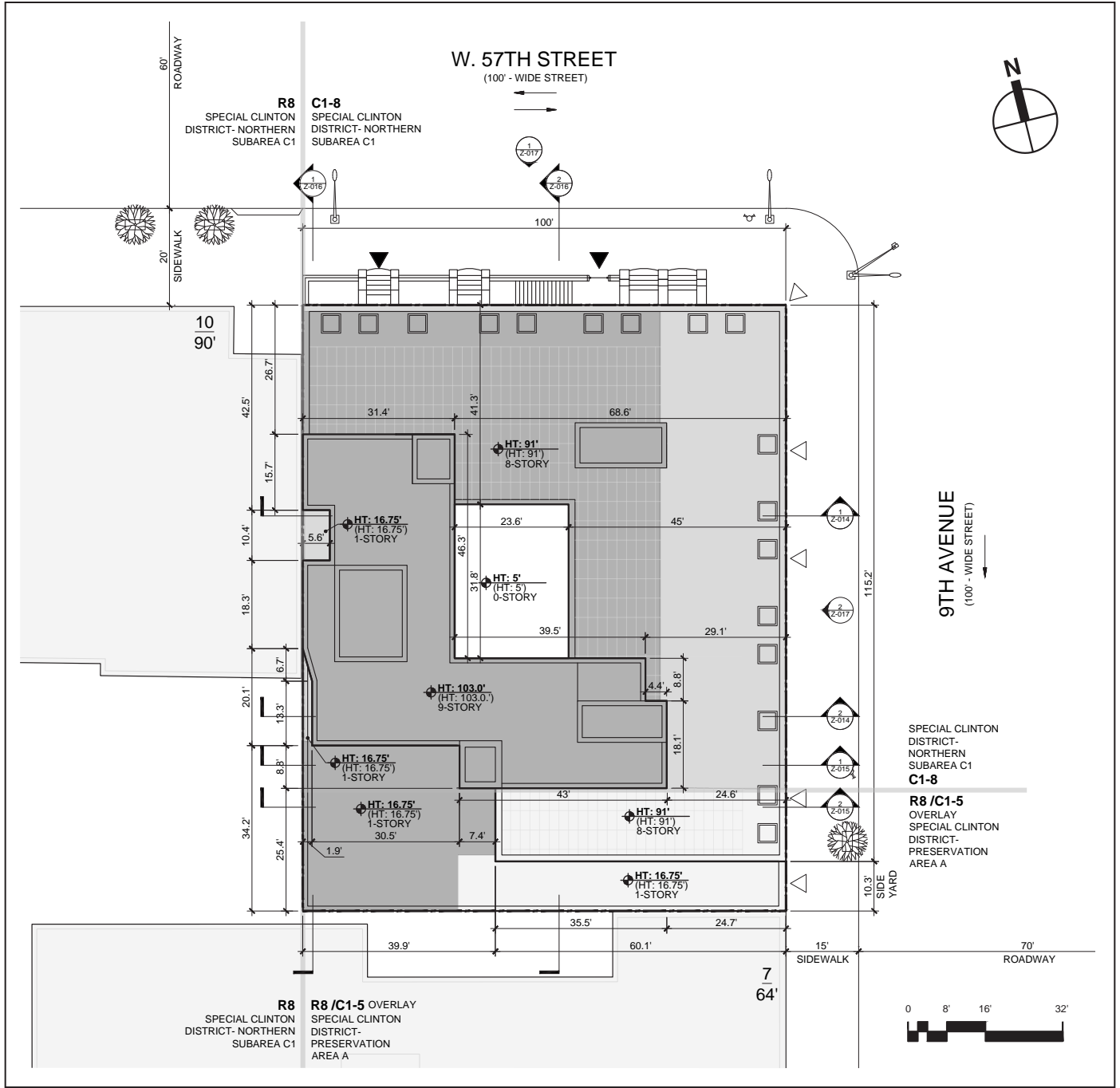


7. SOUTH FACADE

SOURCE: MORRIS ADJMI ARCHITECTS

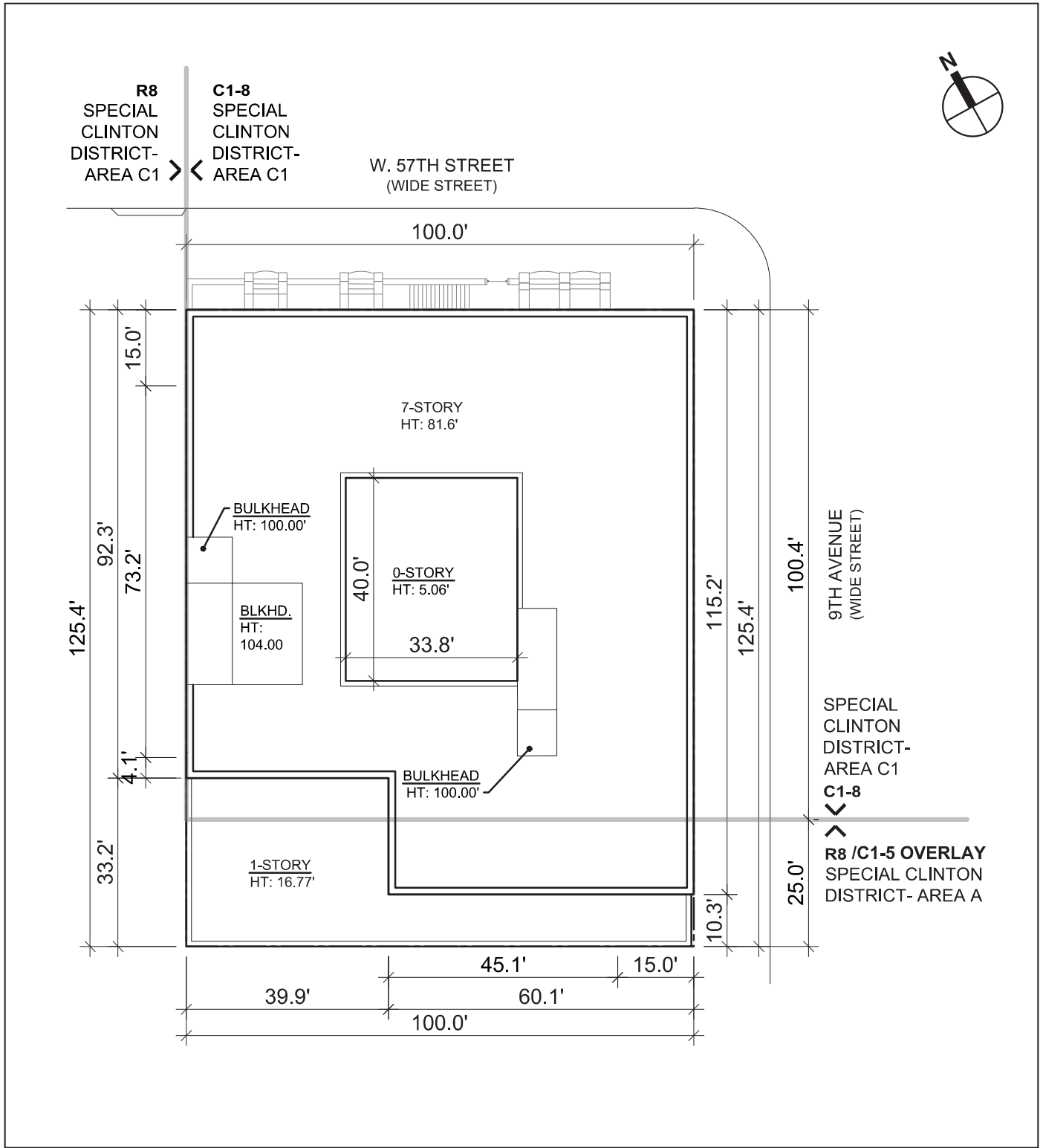
NOTE: FOR ILLUSTRATIVE PURPOSES ONLY

# Existing Conditions - South Facade and Courtyard Facade Window Openings Figure 10



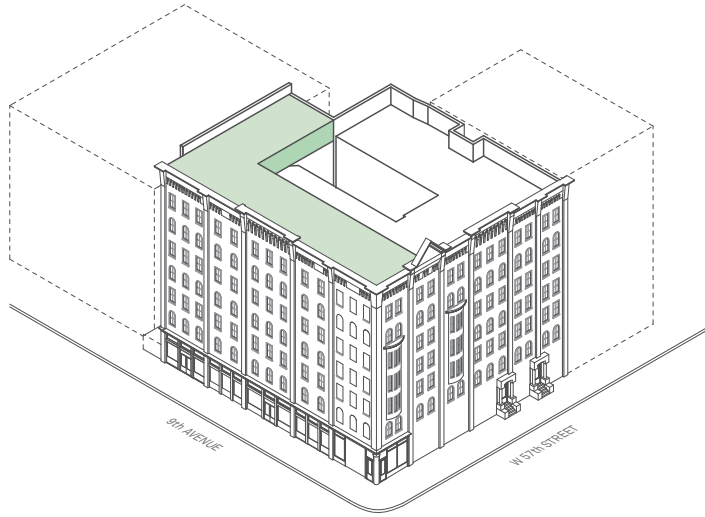
NOTE: FOR ILLUSTRATIVE PURPOSES ONLY

- COMMERCIAL ACCESS POINT
- RESIDENTIAL ACCESS POINT (BUILDING ENTRANCE POINTS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY)
- R8 / C1-5** ZONING DISTRICT
- 8** # STORIES
- 90'** BUILDING HEIGHT
- ROAD DIRECTION
- ZONING LOT LINE
- ZONING DISTRICT BOUNDARY
- ILLUSTRATIVE BUILDING LINE
- PROPOSED DEVELOPMENT ENVELOPE
- AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
- STREET LAMP
- TRAFFIC LIGHT
- STREET LAMP WITH TRAFFIC LIGHT
- FIRE HYDRANT
- EXISTING STREET TREE
- HT: 16.75' (HT: 16.75') # STORIES DEVELOPMENT ENVELOPE HEIGHT ILLUSTRATIVE BUILDING HEIGHT DESCRIPTION
- EXISTING BUILDING
- EXISTING TO BE RECONSTRUCTED
- PROPOSED ENLARGEMENT

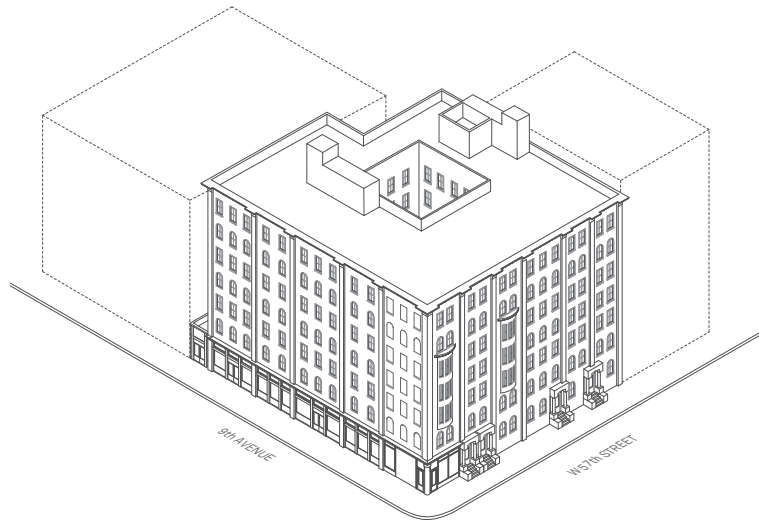


NOTE: FOR ILLUSTRATIVE PURPOSES ONLY

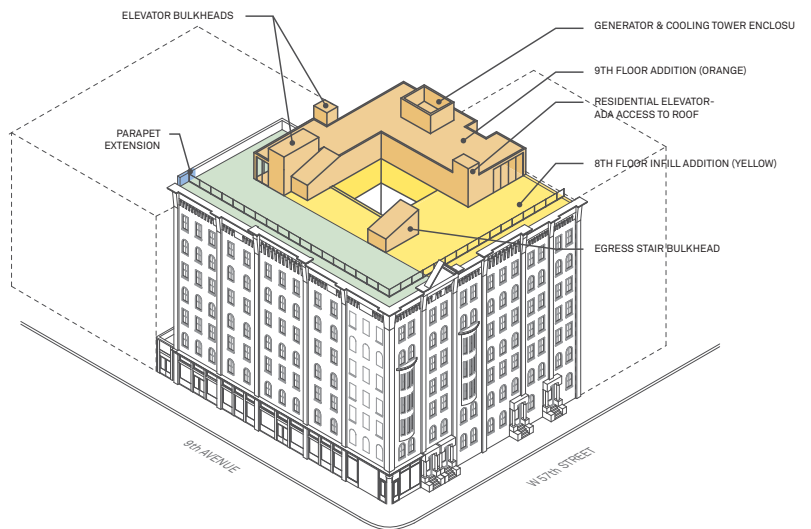
Existing



No Action

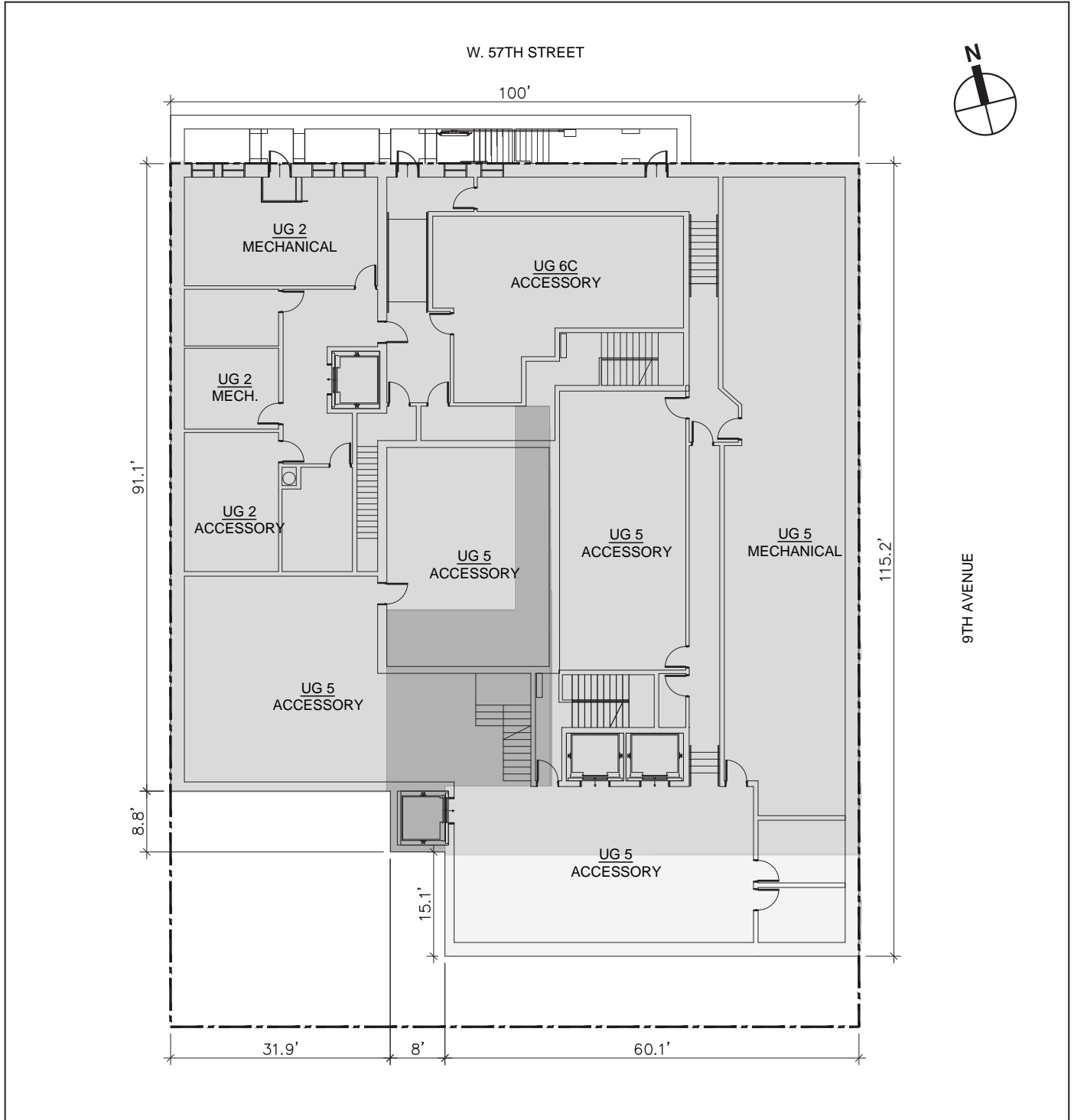






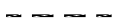



Proposed



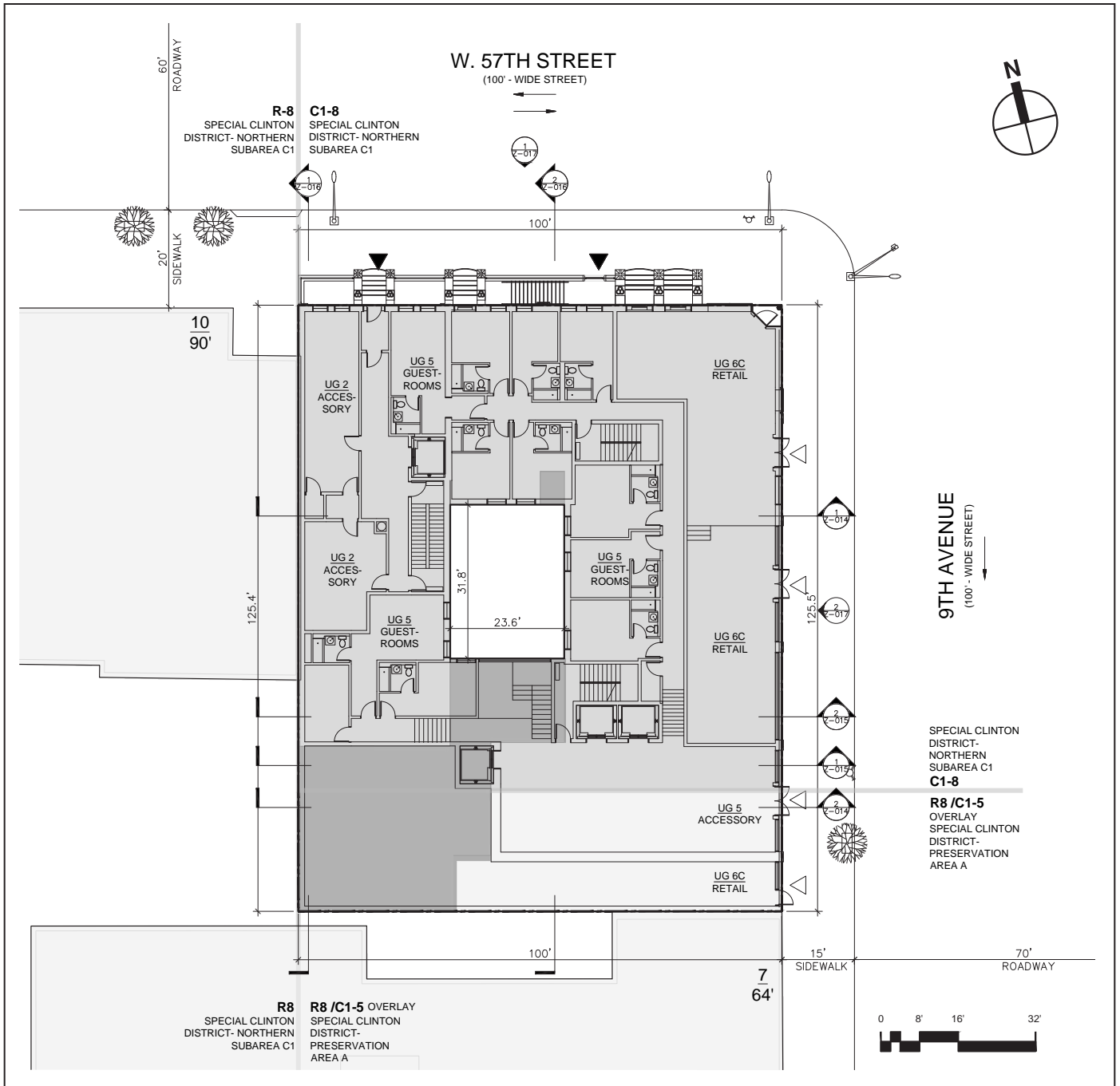
NOTE: FOR ILLUSTRATIVE PURPOSES ONLY

Existing, No Action Scenario, and Proposed Axonometric Views  
Figure 13



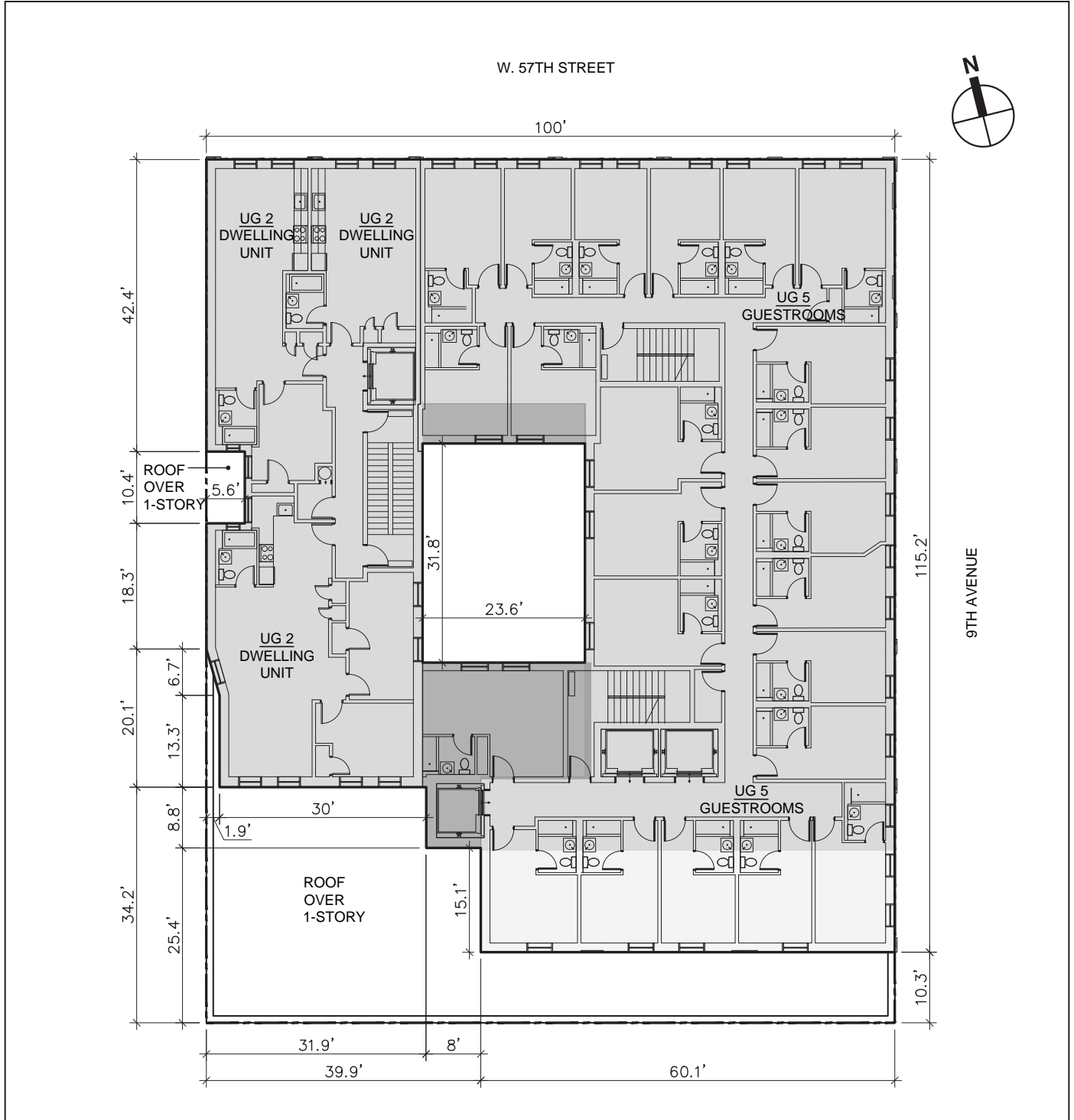
-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT





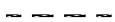



Scenario A-Hotel:  
Proposed Floor Plans - Cellar  
**Figure 14a**



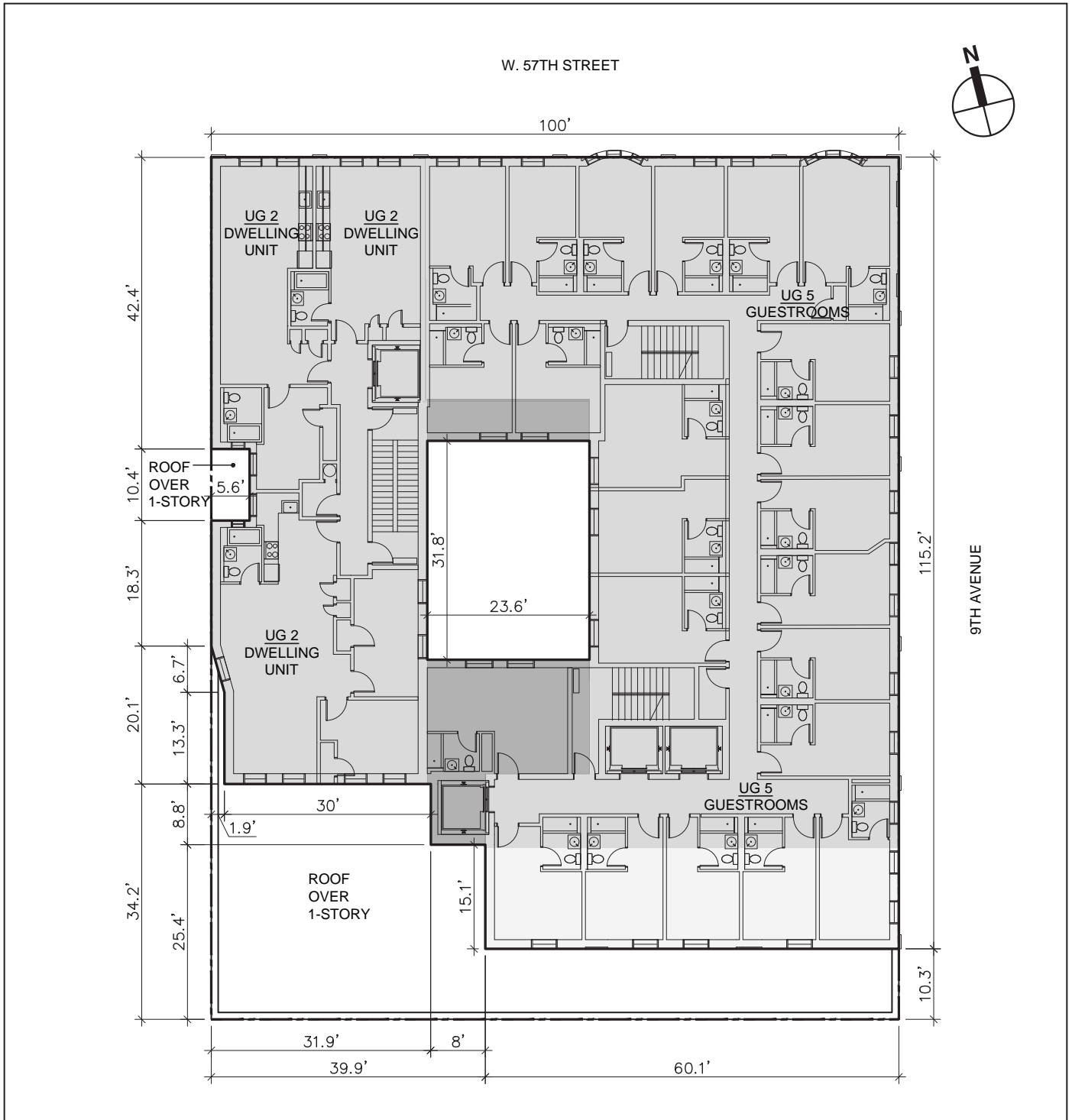
- COMMERCIAL ACCESS POINT
- RESIDENTIAL ACCESS POINT (BUILDING ENTRANCE POINTS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY)
- R8 / C1-5** ZONING DISTRICT
- 8** # STORIES
- 90'** BUILDING HEIGHT
- ROAD DIRECTION
- ZONING LOT LINE
- ZONING DISTRICT BOUNDARY
- ILLUSTRATIVE BUILDING LINE
- PROPOSED DEVELOPMENT ENVELOPE
- AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
- STREET LAMP
- TRAFFIC LIGHT
- STREET LAMP WITH TRAFFIC LIGHT
- FIRE HYDRANT
- EXISTING STREET TREE
- HT: 16.75' - DEVELOPMENT ENVELOPE HEIGHT  
HT: 18.75' - ILLUSTRATIVE BUILDING HEIGHT  
# STORIES - DESCRIPTION
- EXISTING BUILDING
- EXISTING TO BE RECONSTRUCTED
- PROPOSED ENLARGEMENT



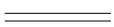

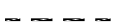



Scenario A-Hotel:  
Proposed Floor Plans - First Floor  
**Figure 14b**



-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

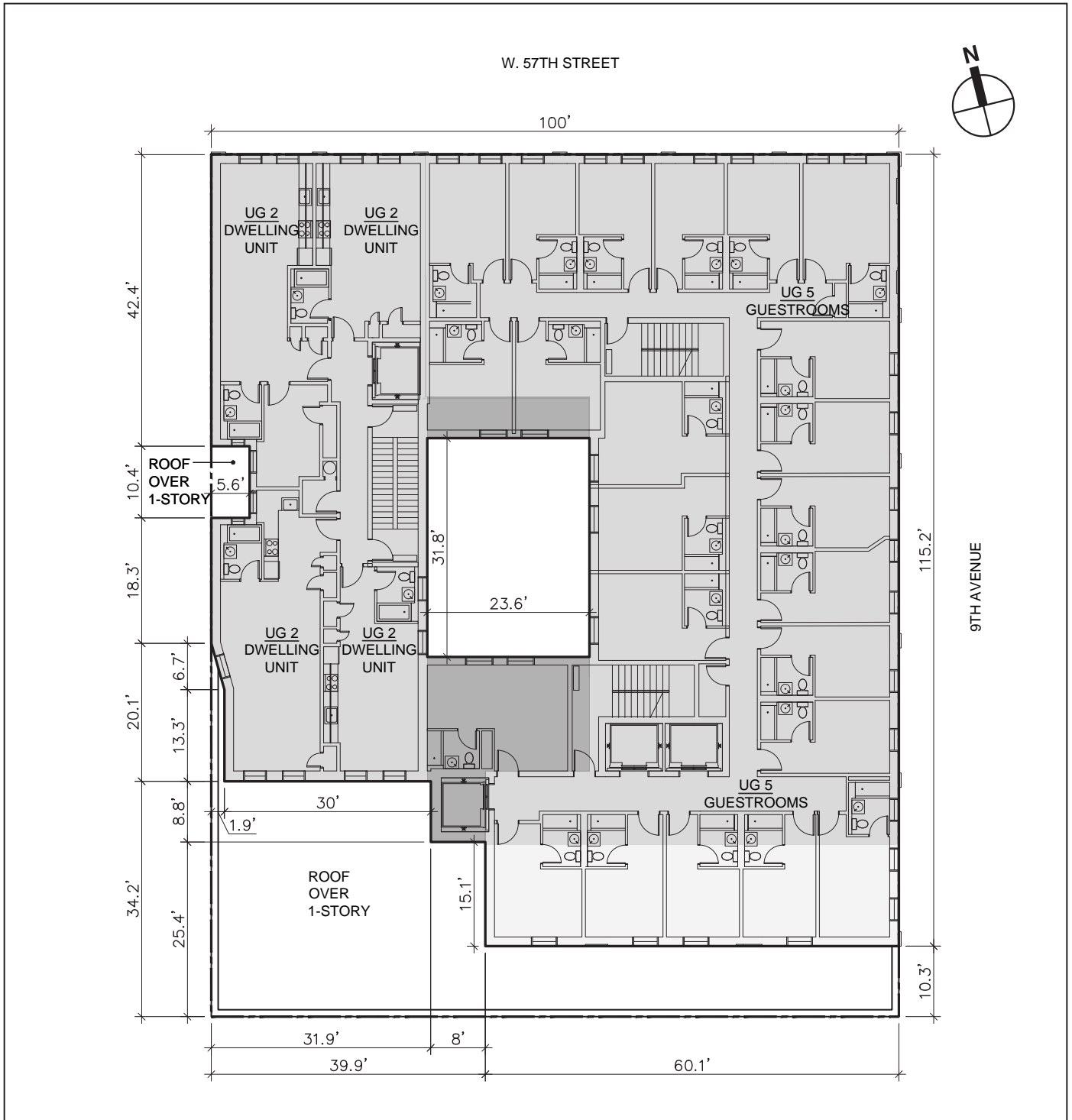
Scenario A-Hotel:  
Proposed Floor Plans - Second Floor  
**Figure 14c**











-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

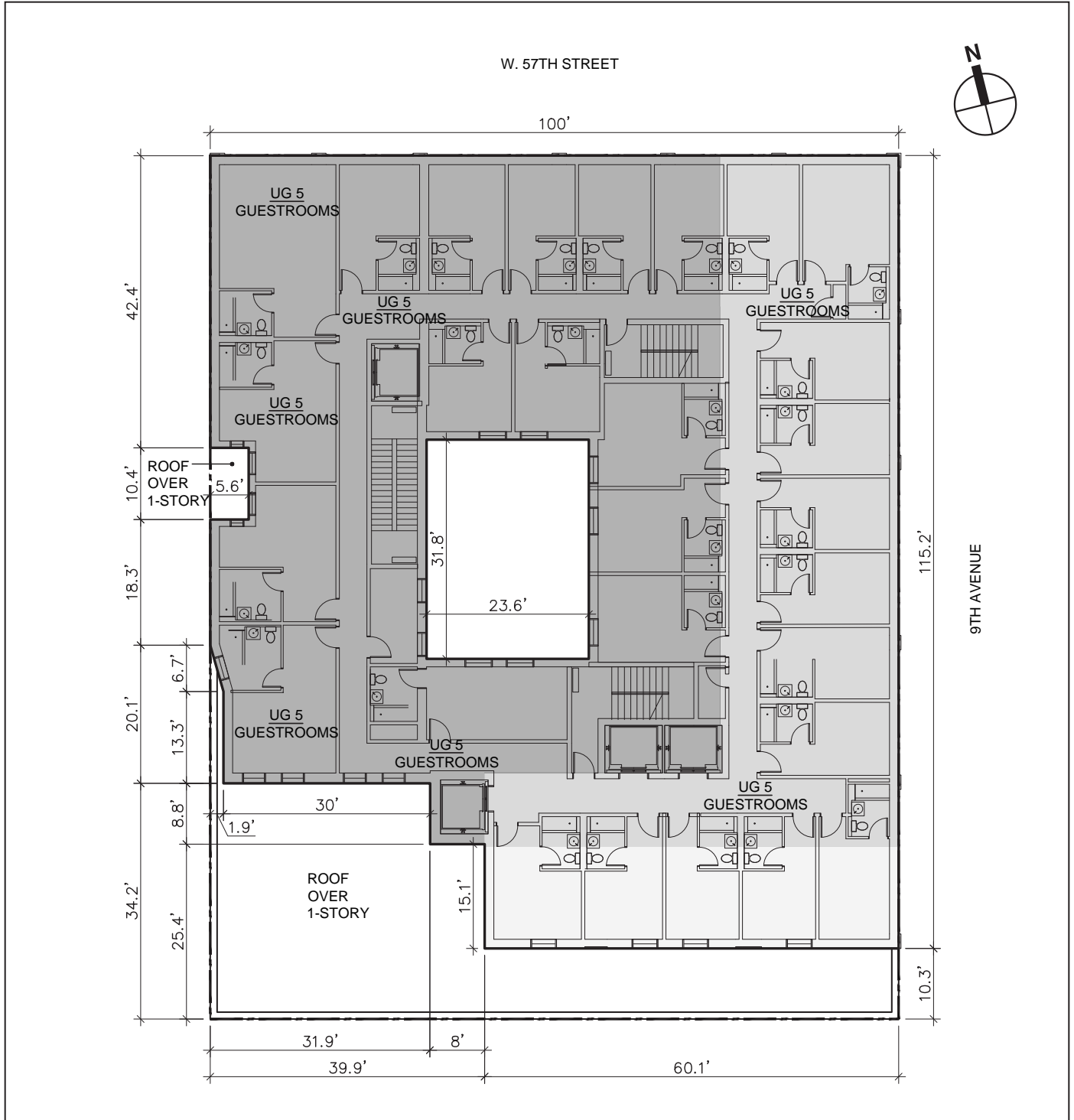
Scenario A-Hotel:  
Proposed Floor Plans - Third Floor to Fifth Floor  
**Figure 14d**





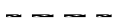







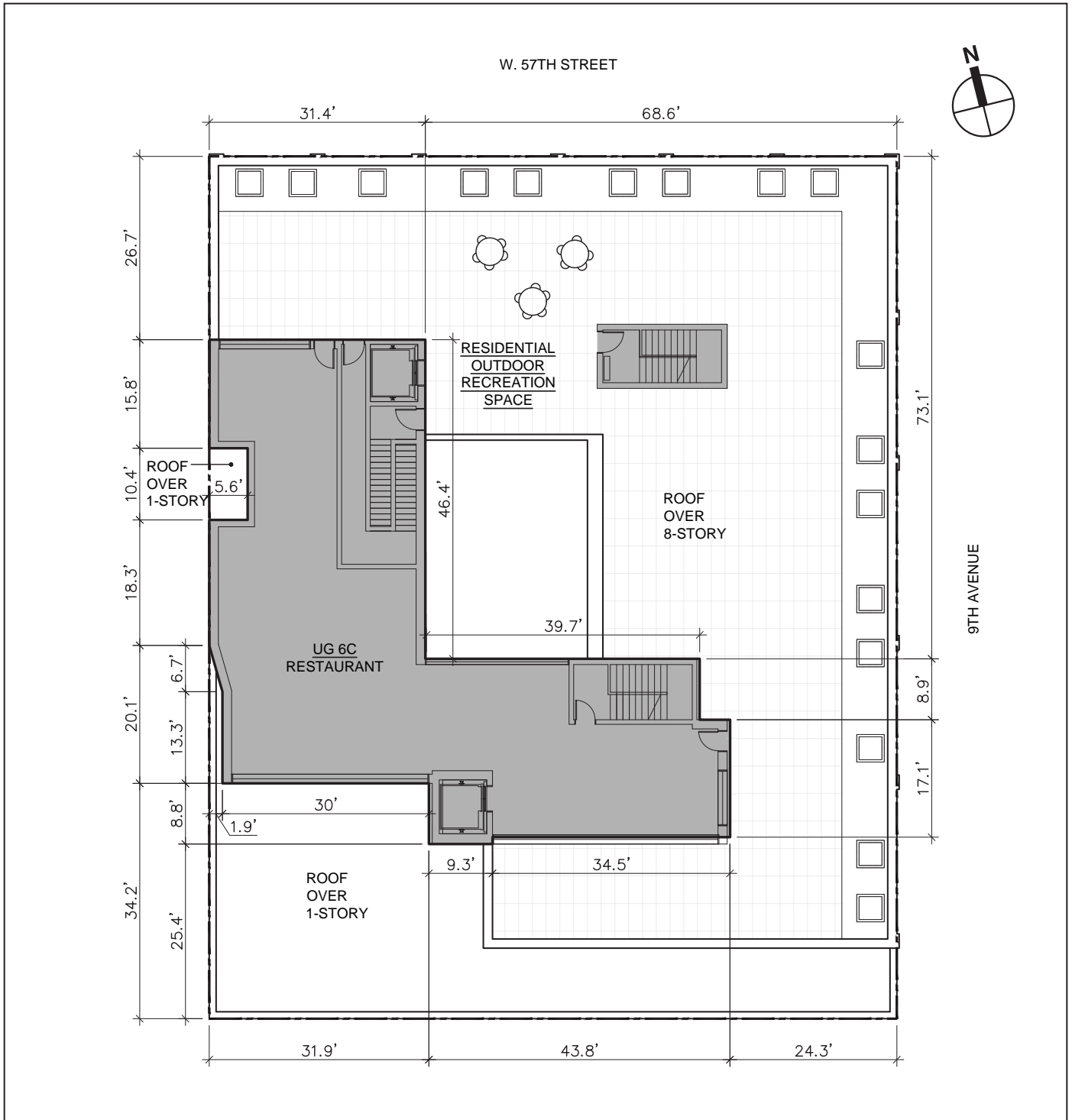
-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT



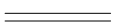

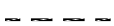



Scenario A-Hotel:  
Proposed Floor Plans - Sixth Floor to Seventh Floor  
Figure 14e



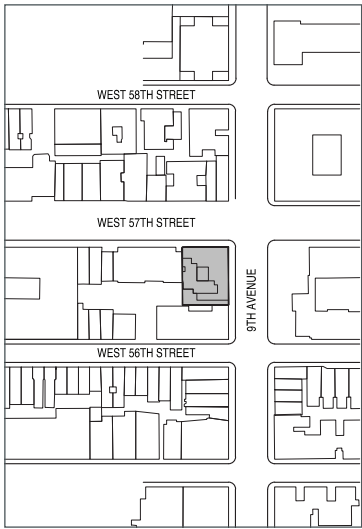
-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

Scenario A-Hotel:  
Proposed Floor Plans - Eighth Floor  
**Figure 14f**

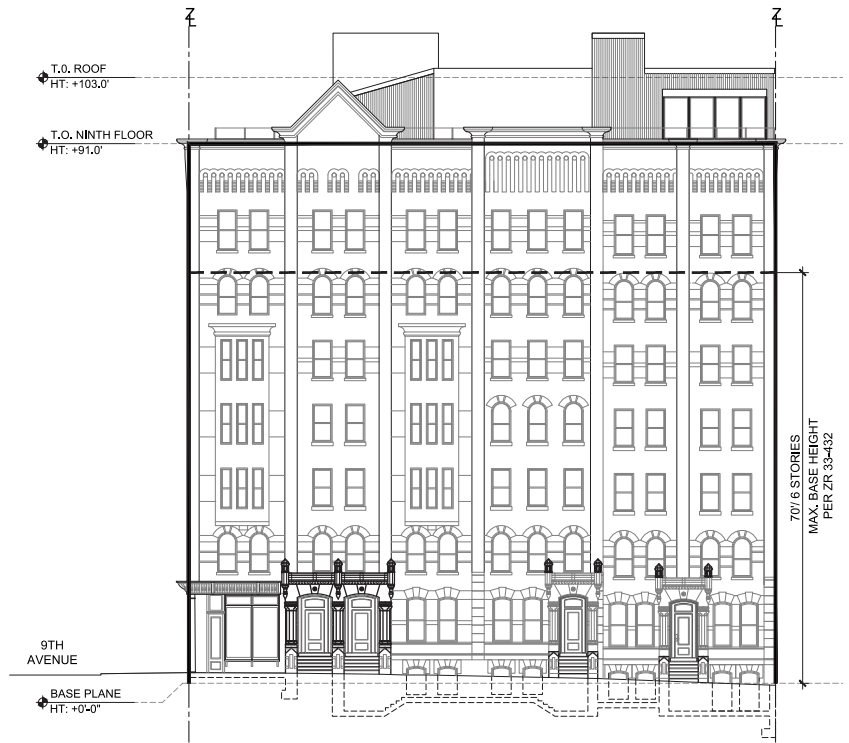


-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

Scenario A-Hotel:  
Proposed Floor Plans - Ninth Floor  
**Figure 14g**



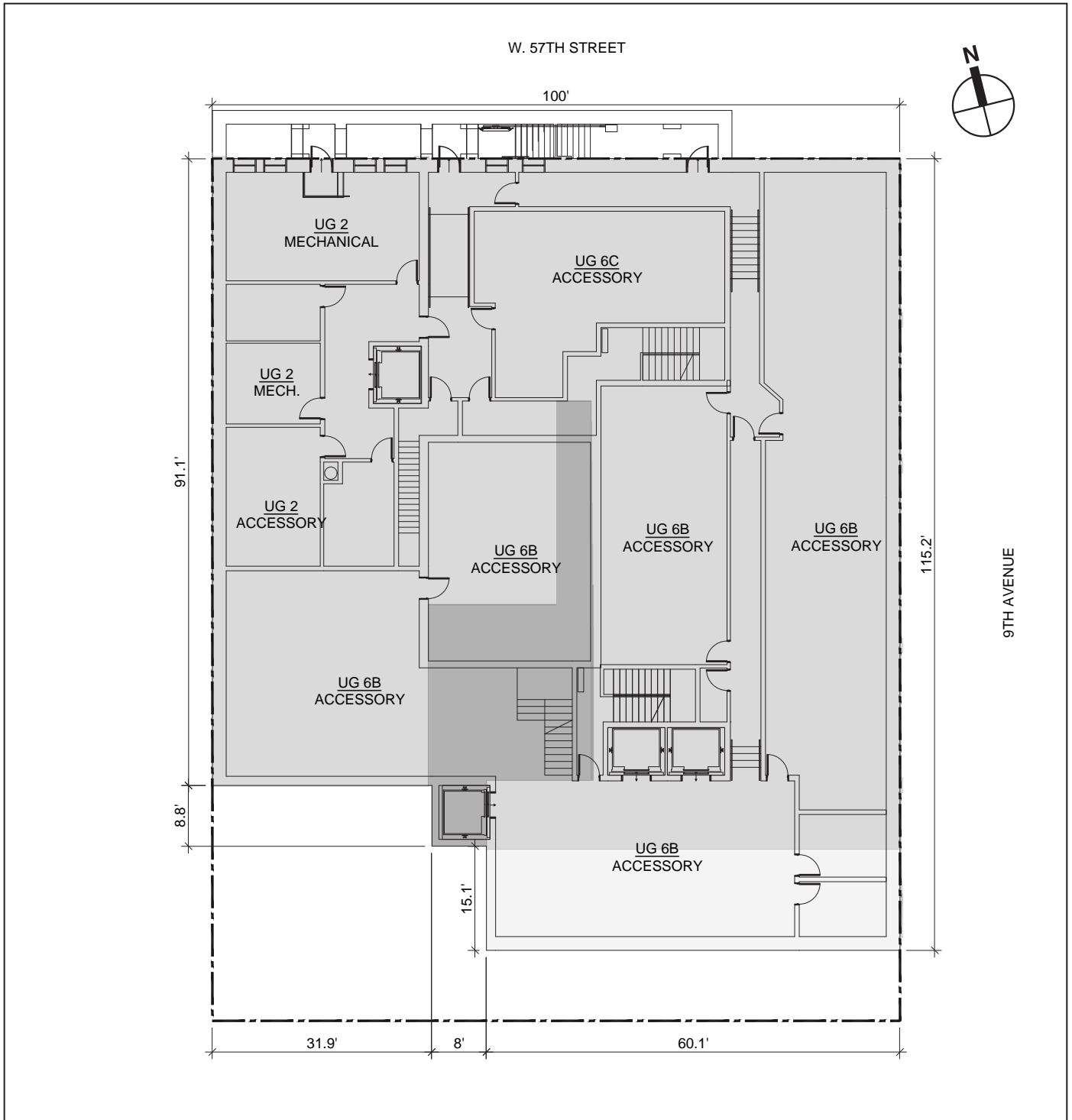
AREA LOCATION











NORTH ELEVATION - WEST 57TH STREET



EAST ELEVATION - 9TH AVENUE

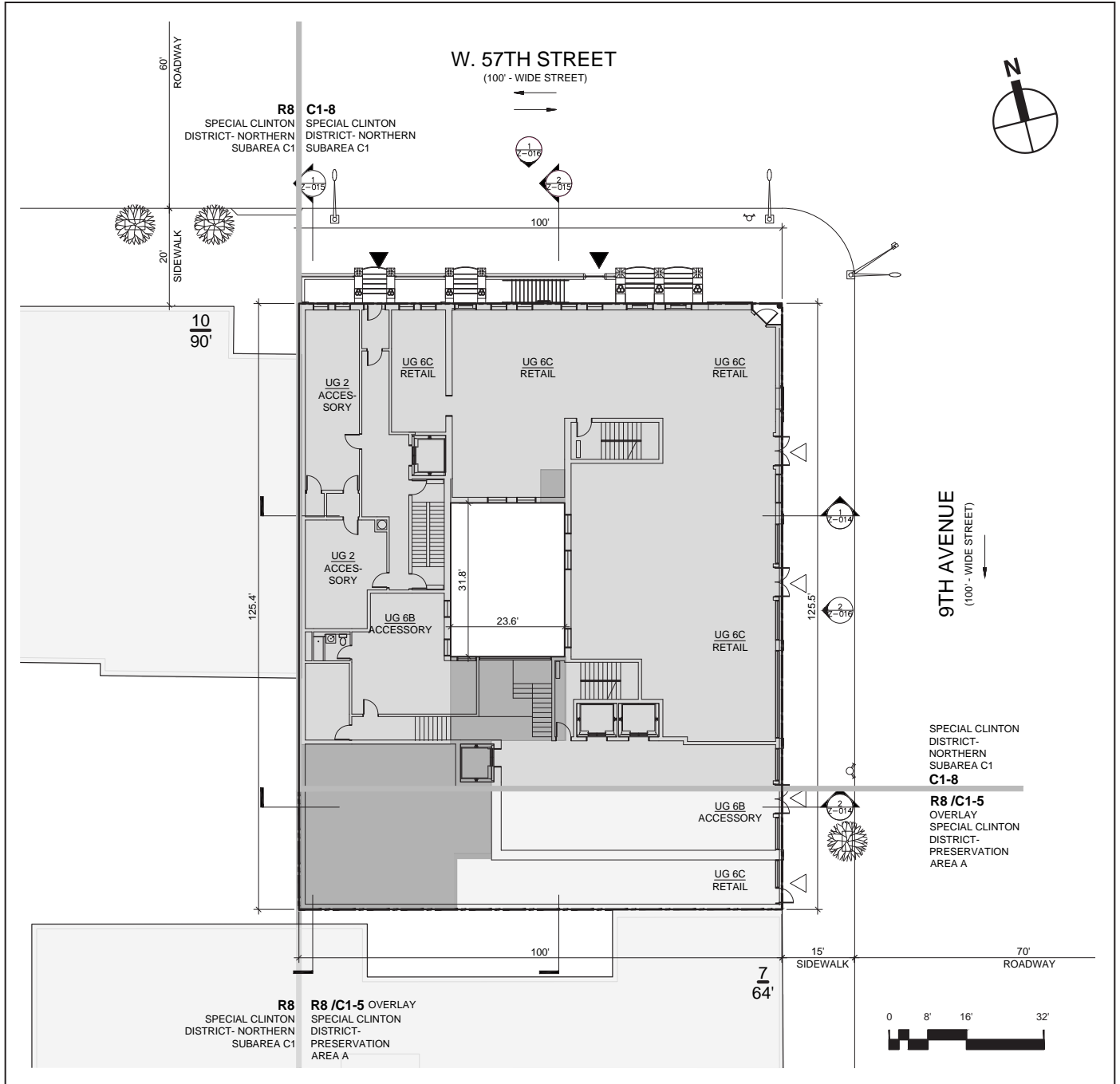


-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

Scenario B-Office:  
Proposed Floor Plans - Cellar  
**Figure 16a**

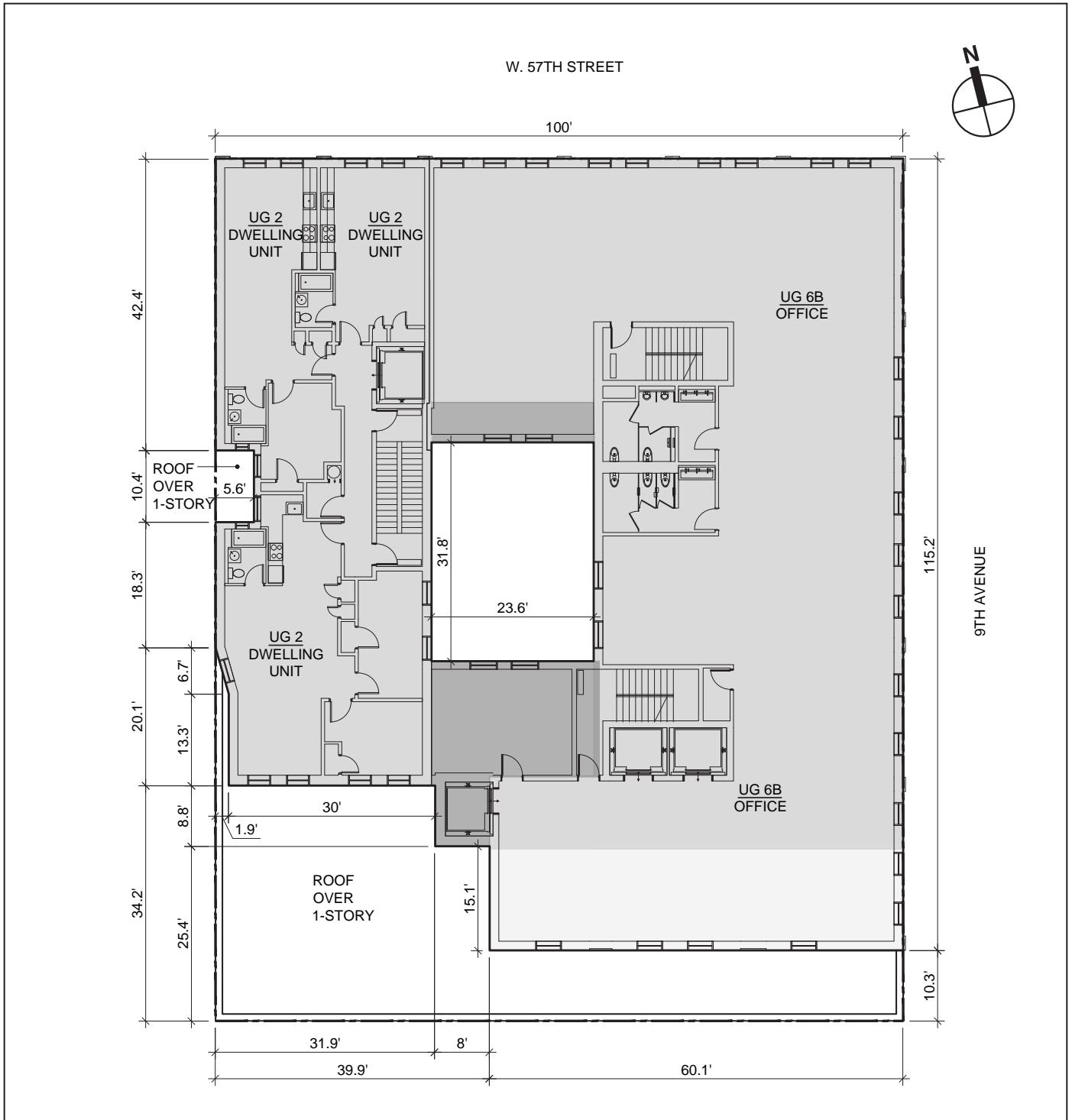
3.30.21









SOURCE: MORRIS ADJMI ARCHITECTS



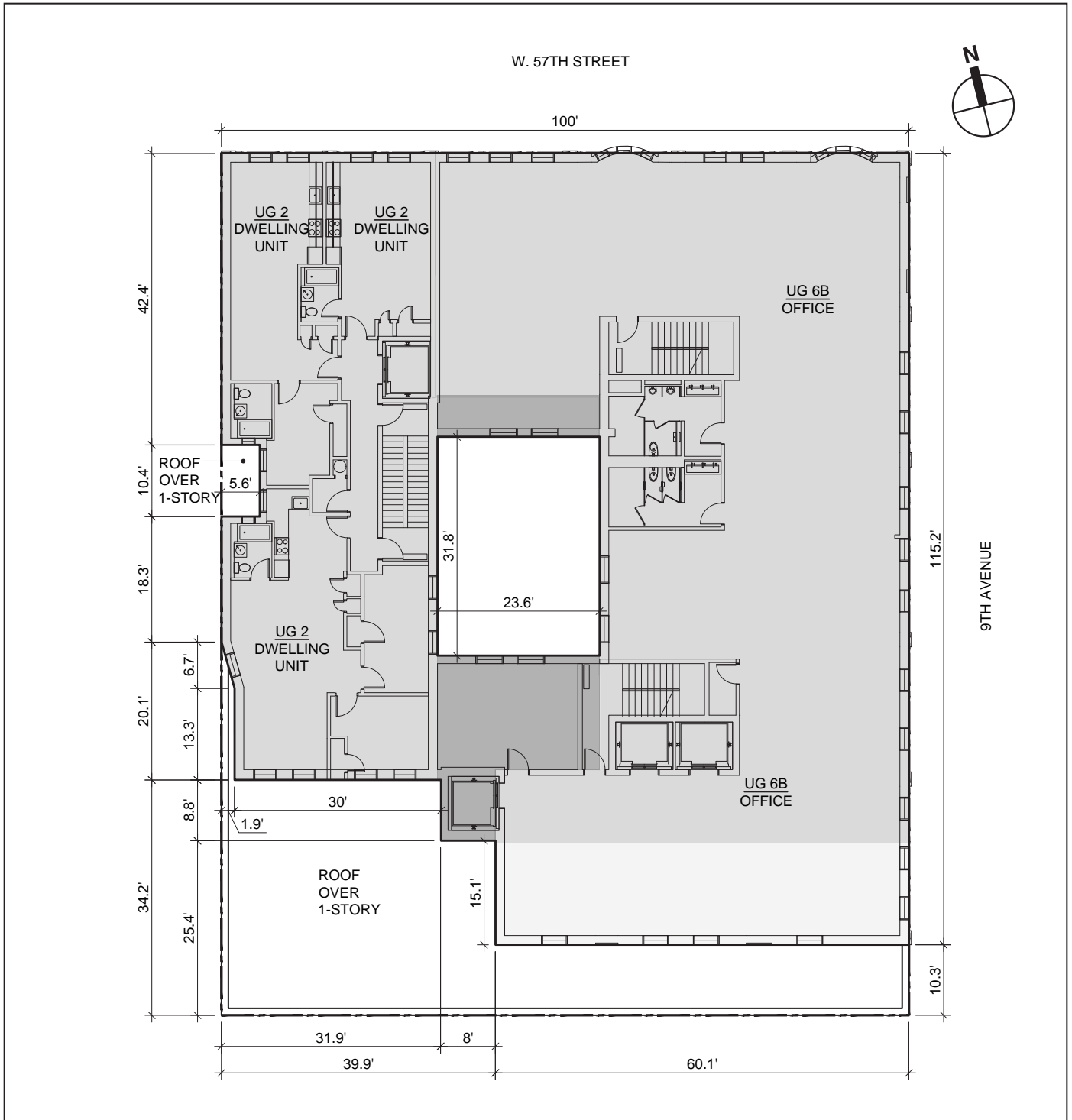
- COMMERCIAL ACCESS POINT
- RESIDENTIAL ACCESS POINT (BUILDING ENTRANCE POINTS SHOWN FOR ILLUSTRATIVE PURPOSES ONLY)
- R8 / C1-5** ZONING DISTRICT
- 8** # STORIES
- 90'** BUILDING HEIGHT
- ROAD DIRECTION
- ZONING LOT LINE
- ZONING DISTRICT BOUNDARY
- ILLUSTRATIVE BUILDING LINE
- PROPOSED DEVELOPMENT ENVELOPE
- AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
- STREET LAMP
- TRAFFIC LIGHT
- STREET LAMP WITH TRAFFIC LIGHT
- FIRE HYDRANT
- EXISTING STREET TREE
- HT: 16.75'** DEVELOPMENT ENVELOPE HEIGHT (HT: 16.75')
- # STORIES** ILLUSTRATIVE BUILDING HEIGHT
- DESCRIPTION**
- EXISTING BUILDING
- EXISTING TO BE RECONSTRUCTED
- PROPOSED ENLARGEMENT









Scenario B-Office:  
Proposed Floor Plans - First Floor  
**Figure 16b**



-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

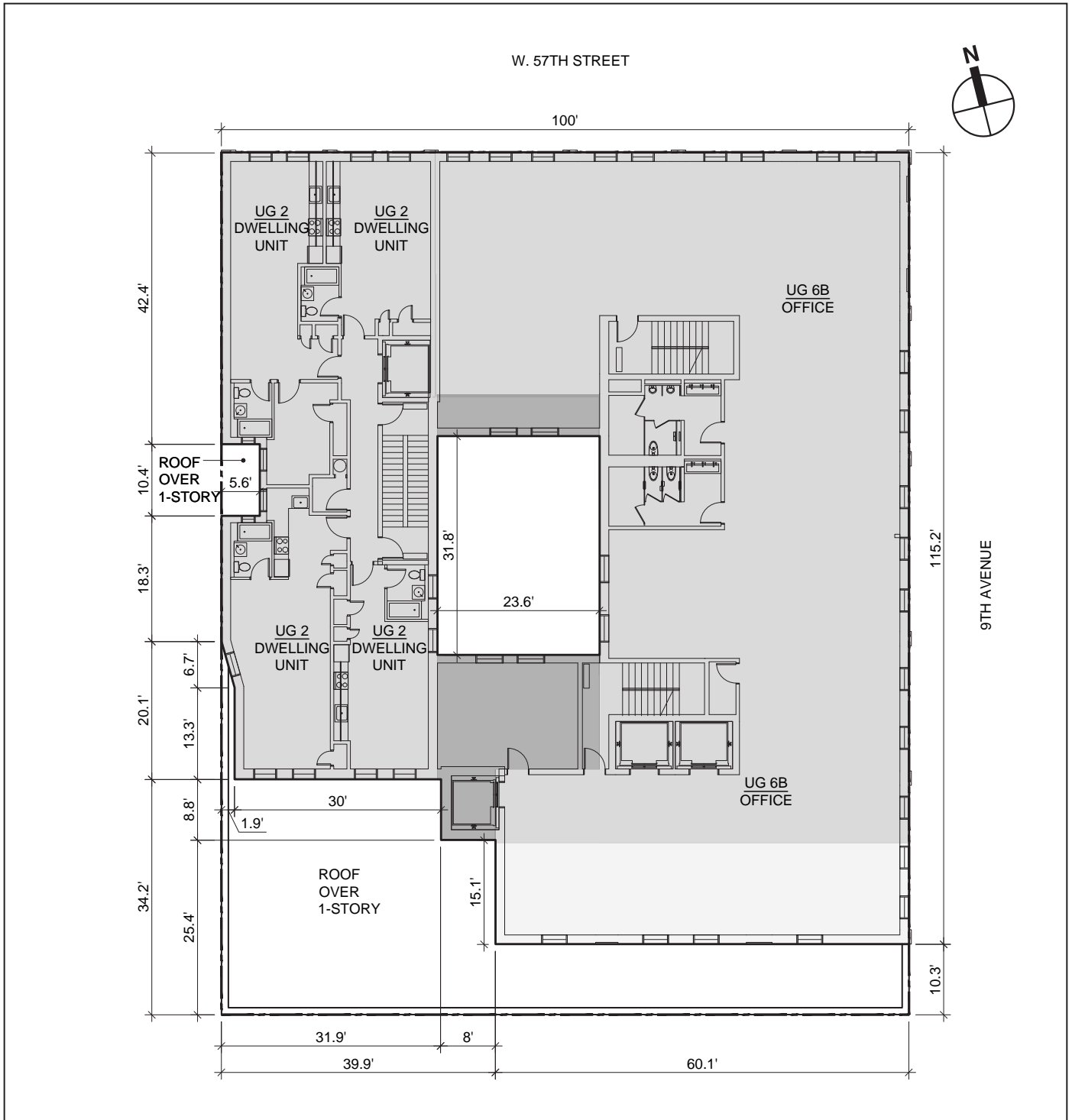
Scenario B-Office:  
Proposed Floor Plans - Second Floor  
**Figure 16c**



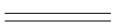

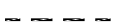





-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

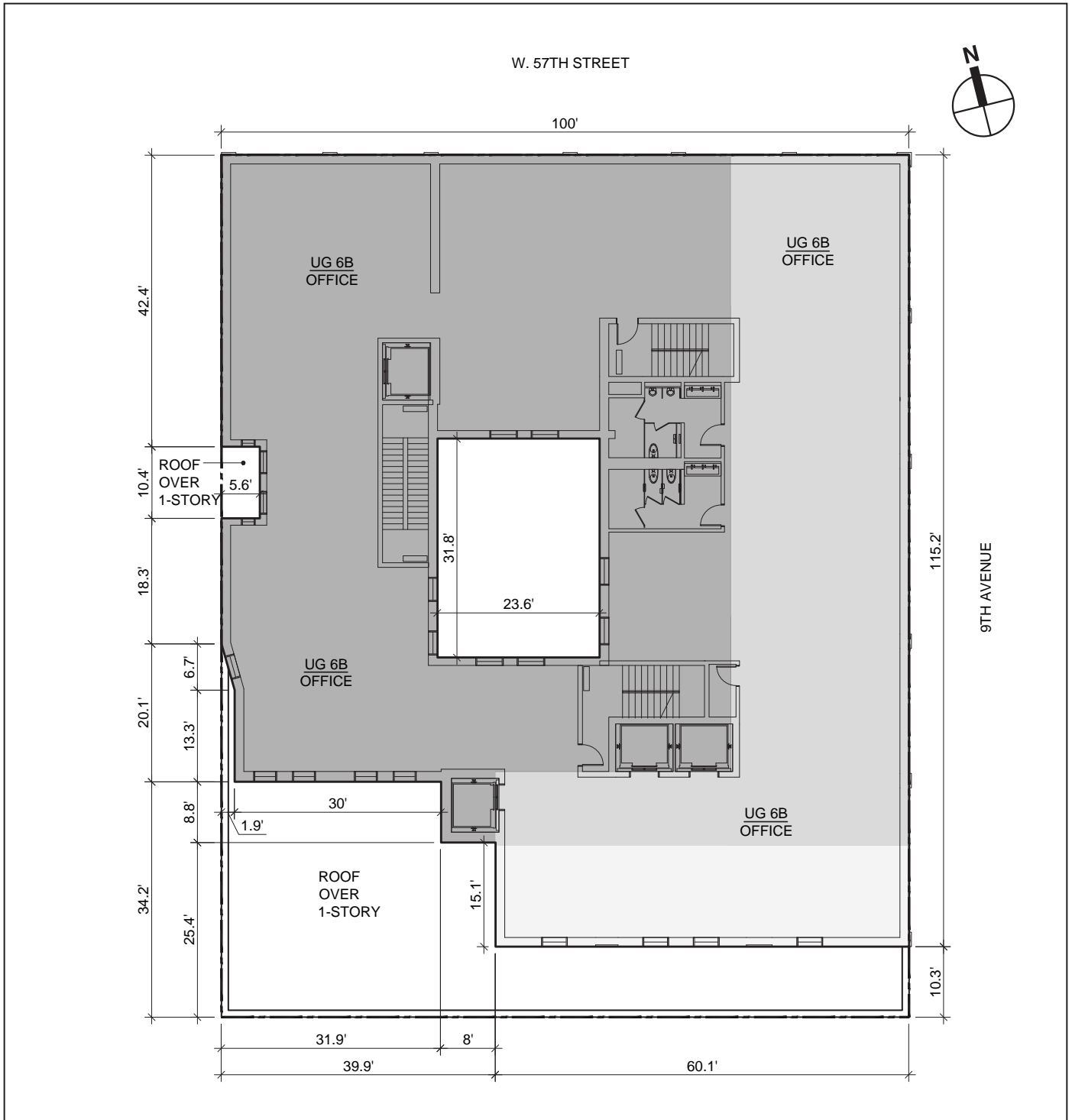
Scenario B-Office:  
Proposed Floor Plans - Third Floor to Fifth Floor  
**Figure 16d**



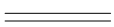

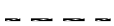







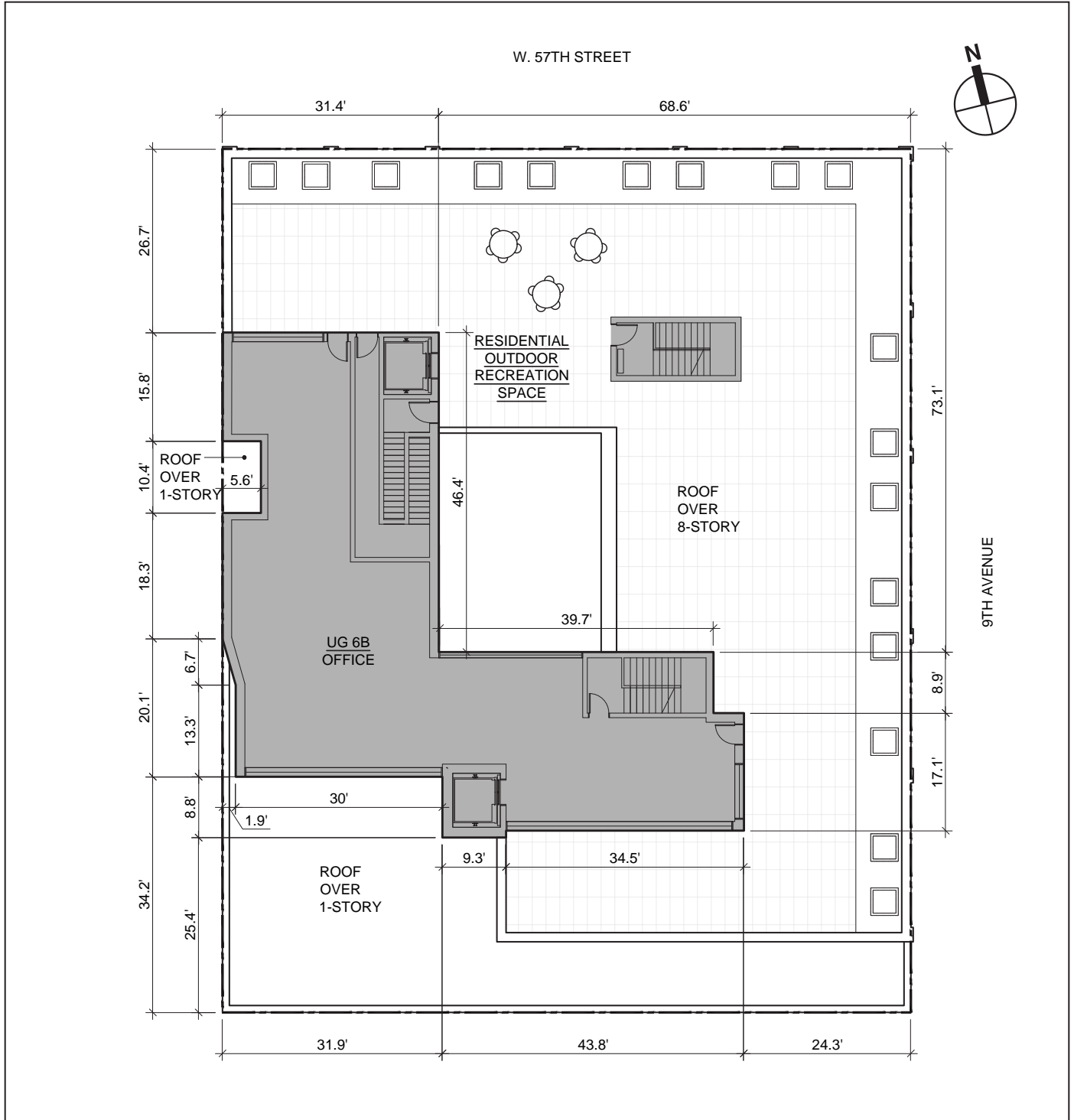
-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT





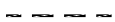



Scenario B-Office:  
Proposed Floor Plans - Sixth Floor to Seventh Floor  
**Figure 16e**



-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

Scenario B-Office:  
Proposed Floor Plans - Eighth Floor  
Figure 16f



-  ZONING LOT LINE
-  ZONING DISTRICT BOUNDARY
-  ILLUSTRATIVE BUILDING LINE
-  PROPOSED MAXIMUM BUILDING ENVELOPE
-  AS-OF-RIGHT MAXIMUM BUILDING ENVELOPE
-  EXISTING BUILDING
-  EXISTING TO BE RECONSTRUCTED
-  PROPOSED ENLARGEMENT

Scenario B-Office:  
Proposed Floor Plans - Ninth Floor  
**Figure 16g**

**DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS**

The information requested in this table applies to the directly affected area. The directly affected area consists of the project site and the area subject to any change in regulatory control. The increment is the difference between the No-Action and the With-Action conditions.

	EXISTING CONDITION		NO-ACTION CONDITION		WITH-ACTION CONDITION		INCREMENT
<b>LAND USE</b>							
<b>Residential</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	
If "yes," specify the following:							
Describe type of residential structures			Apartment building		Affordable units in mixed commercial and residential building		
No. of dwelling units			65		20		-45
No. of low- to moderate-income units			20		20		No change
Gross floor area (sq. ft.)			62,764		29,098		-33,666
<b>Commercial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	
If "yes," specify the following:							
Describe type (retail, office, other)			Ground floor and cellar retail		Scenario A-Hotel: Ground floor and cellar retail; 9th floor restaurant; 174-room hotel Scenario B-Office: Ground floor and cellar retail; office		Scenario A-Hotel: 174 hotel rooms Scenario B-Office: Office Use
Gross floor area (sq. ft.)			Retail: 14,708		Scenario A-Hotel Retail: 4,949 Restaurant: 2,640 Hotel: 57,299 Total: 64,888 Scenario B-Office Retail: 7,667 Office: 57,221 Total: 64,888		Scenario A-Hotel Retail: -9,759 Restaurant: +2,640 Hotel: +57,299 Total: +50,180 Scenario B-Office Retail: -7,041 Office: +57,221 Total: +50,180
<b>Manufacturing/Industrial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
Type of use							
Gross floor area (sq. ft.)							
Open storage area (sq. ft.)							
If any unenclosed activities, specify:							
<b>Community Facility</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
Type							
Gross floor area (sq. ft.)							
<b>Vacant Land</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," describe:							
<b>Publicly Accessible Open Space</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify type (mapped City, State, or Federal parkland, wetland—mapped or otherwise known, other):							
<b>Other Land Uses</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," describe:							
<b>PARKING</b>							
<b>Garages</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
No. of public spaces							
No. of accessory spaces							

	EXISTING CONDITION	NO-ACTION CONDITION	WITH-ACTION CONDITION	INCREMENT
Operating hours				
Attended or non-attended				
<b>Lots</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
If "yes," specify the following:				
No. of public spaces				
No. of accessory spaces				
Operating hours				
<b>Other</b> (includes street parking)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
If "yes," describe:				
<b>POPULATION</b>				
<b>Residents</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If "yes," specify number:		107	33	-74
Briefly explain how the number of residents was calculated:	Based on 2010 Census Avg. Household Size of 1.65 for CB 4			
<b>Businesses</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If "yes," specify the following:				
No. and type		TBD ground floor retail	Scenario A-Hotel: hotel, ground floor retail, and restaurant  Scenario B-Office: office, ground floor retail	
No. and type of workers by business		47 (including 3 residential workers)	Scenario A-Hotel: 89  Scenario B-Office: 253  (including 1 residential worker in each scenario)	Scenario A-Hotel: +42  Scenario B-Office: +206
No. and type of non-residents who are not workers				
Briefly explain how the number of businesses was calculated:	Worker estimates based on: one worker per 333 sf of retail/restaurant, one worker per 2.67 hotel rooms, four workers per 1,000 gsf office; and one worker per 25 residential units			
<b>Other</b> (students, visitors, concert-goers, etc.)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If any, specify type and number:			Scenario A-Hotel: 313 hotel guests	Scenario A-Hotel: +313 hotel guests
Briefly explain how the number was calculated:	Estimated number of hotel guests based on 174 hotel rooms, assuming 90 percent occupancy rate and two guests per room.			
<b>ZONING</b>				
Zoning classification	Special Clinton District: C1-8 (Other Area Subdistrict); R8/C1-5 (Preservation Area Subdistrict)	Special Clinton District: C1-8 (Other Area Subdistrict); R8/C1-5 (Preservation Area Subdistrict)	Special Clinton District: C1-8 (Other Area Subdistrict); R8/C1-5 (Preservation Area Subdistrict)	No change
Maximum amount of floor area that can be developed	C1-8 (Other Area Subdistrict): 7.52 FAR residential; 2.0 FAR commercial R8/C1-5 overlay (Preservation Area Subdistrict): 4.2 FAR residential; 2.0 FAR commercial	C1-8 (Other Area Subdistrict): 7.52 FAR residential; 2.0 FAR commercial R8/C1-5 overlay (Preservation Area Subdistrict): 4.2 FAR residential; 2.0 FAR commercial	C1-8 (Other Area Subdistrict): 7.52 FAR residential; 2.0 FAR commercial R8/C1-5 overlay (Preservation Area Subdistrict): 4.2 FAR residential; 2.0 FAR commercial	No change
Predominant land use and zoning classifications within land use study area(s) or a 400 ft. radius of proposed project	Residential (R8); Commercial (C1-8, C4-7, C6-2, C6-4, C1-5 overlay)	Residential (R8); Commercial (C1-8, C4-7, C6-2, C6-4, C1-5 overlay)	Residential (R8); Commercial (C1-8, C4-7, C6-2, C6-4, C1-5 overlay)	No change
Attach any additional information that may be needed to describe the project.				
If your project involves changes that affect one or more sites not associated with a specific development, it is generally appropriate to include total development projections in the above table and attach separate tables outlining the reasonable development scenarios for each site.				

**Part II: TECHNICAL ANALYSIS**

**INSTRUCTIONS:** For each of the analysis categories listed in this section, assess the proposed project’s impacts based on the thresholds and criteria presented in the CEQR Technical Manual. Check each box that applies.

- If the proposed project can be demonstrated not to meet or exceed the threshold, check the “no” box.
- If the proposed project will meet or exceed the threshold, or if this cannot be determined, check the “yes” box.
- For each “yes” response, provide additional analyses (and, if needed, attach supporting information) based on guidance in the CEQR Technical Manual to determine whether the potential for significant impacts exists. Please note that a “yes” answer does not mean that an EIS must be prepared—it means that more information may be required for the lead agency to make a determination of significance.
- The lead agency, upon reviewing Part II, may require an applicant to provide additional information to support the Full EAS Form. For example, if a question is answered “no,” an agency may request a short explanation for this response.


	YES	NO
<b>1. LAND USE, ZONING, AND PUBLIC POLICY:</b> <a href="#">CEQR Technical Manual Chapter 4</a>		
(a) Would the proposed project result in a change in land use different from surrounding land uses?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project result in a change in zoning different from surrounding zoning?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Is there the potential to affect an applicable public policy?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) If “yes,” to (a), (b), and/or (c), complete a preliminary assessment and attach. See Attachment B		
(e) Is the project a large, publicly sponsored project?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If “yes,” complete a PlaNYC assessment and attach.		
(f) Is any part of the directly affected area within the City’s Waterfront Revitalization Program boundaries?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If “yes,” complete the <a href="#">Consistency Assessment Form</a> .		
<b>2. SOCIOECONOMIC CONDITIONS:</b> <a href="#">CEQR Technical Manual Chapter 5</a>		
(a) Would the proposed project:		
o Generate a net increase of more than 200 residential units or 200,000 square feet of commercial space?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ If “yes,” answer both questions 2(b)(ii) and 2(b)(iv) below.		
o Directly displace 500 or more residents?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ If “yes,” answer questions 2(b)(i), 2(b)(ii), and 2(b)(iv) below.		
o Directly displace more than 100 employees?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ If “yes,” answer questions under 2(b)(iii) and 2(b)(iv) below.		
o Affect conditions in a specific industry?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
▪ If “yes,” answer question 2(b)(v) below.		
(b) If “yes” to any of the above, attach supporting information to answer the relevant questions below. If “no” was checked for each category above, the remaining questions in this technical area do not need to be answered.		
<b>i. Direct Residential Displacement</b>		
o If more than 500 residents would be displaced, would these residents represent more than 5% of the primary study area population?	<input type="checkbox"/>	<input type="checkbox"/>
o If “yes,” is the average income of the directly displaced population markedly lower than the average income of the rest of the study area population?	<input type="checkbox"/>	<input type="checkbox"/>
<b>ii. Indirect Residential Displacement</b>		
o Would expected average incomes of the new population exceed the average incomes of study area populations?	<input type="checkbox"/>	<input type="checkbox"/>
o If “yes:”		
▪ Would the population of the primary study area increase by more than 10 percent?	<input type="checkbox"/>	<input type="checkbox"/>
▪ Would the population of the primary study area increase by more than 5 percent in an area where there is the potential to accelerate trends toward increasing rents?	<input type="checkbox"/>	<input type="checkbox"/>
o If “yes” to either of the preceding questions, would more than 5 percent of all housing units be renter-occupied and unprotected?	<input type="checkbox"/>	<input type="checkbox"/>
<b>iii. Direct Business Displacement</b>		
o Do any of the displaced businesses provide goods or services that otherwise would not be found within the trade area, either under existing conditions or in the future with the proposed project?	<input type="checkbox"/>	<input type="checkbox"/>
o Is any category of business to be displaced the subject of other regulations or publicly adopted plans to preserve, enhance, or otherwise protect it?	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO
<b>iv. Indirect Business Displacement</b>		
o Would the project potentially introduce trends that make it difficult for businesses to remain in the area?	<input type="checkbox"/>	<input type="checkbox"/>
o Would the project capture retail sales in a particular category of goods to the extent that the market for such goods would become saturated, potentially resulting in vacancies and disinvestment on neighborhood commercial streets?	<input type="checkbox"/>	<input type="checkbox"/>
<b>v. Effects on Industry</b>		
o Would the project significantly affect business conditions in any industry or any category of businesses within or outside the study area?	<input type="checkbox"/>	<input type="checkbox"/>
o Would the project indirectly substantially reduce employment or impair the economic viability in the industry or category of businesses?	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. COMMUNITY FACILITIES: <a href="#">CEQR Technical Manual Chapter 6</a></b>		
<b>(a) Direct Effects</b>		
o Would the project directly eliminate, displace, or alter public or publicly funded community facilities such as educational facilities, libraries, health care facilities, day care centers, police stations, or fire stations?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>(b) Indirect Effects</b>		
<b>i. Child Care Centers</b>		
o Would the project result in 20 or more eligible children under age 6, based on the number of low or low/moderate income residential units? (See Table 6-1 in <a href="#">Chapter 6</a> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the project result in a collective utilization rate of the group child care/Head Start centers in the study area that is greater than 100 percent?	<input type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the project increase the collective utilization rate by 5 percent or more from the No-Action scenario?	<input type="checkbox"/>	<input type="checkbox"/>
<b>ii. Libraries</b>		
o Would the project result in a 5 percent or more increase in the ratio of residential units to library branches? (See Table 6-1 in <a href="#">Chapter 6</a> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the project increase the study area population by 5 percent or more from the No-Action levels?	<input type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the additional population impair the delivery of library services in the study area?	<input type="checkbox"/>	<input type="checkbox"/>
<b>iii. Public Schools</b>		
o Would the project result in 50 or more elementary or middle school students, or 150 or more high school students based on number of residential units? (See Table 6-1 in <a href="#">Chapter 6</a> )	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the project result in a collective utilization rate of the elementary and/or intermediate schools in the study area that is equal to or greater than 100 percent?	<input type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the project increase this collective utilization rate by 5 percent or more from the No-Action scenario?	<input type="checkbox"/>	<input type="checkbox"/>
<b>iv. Health Care Facilities</b>		
o Would the project result in the introduction of a sizeable new neighborhood?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the project affect the operation of health care facilities in the area?	<input type="checkbox"/>	<input type="checkbox"/>
<b>v. Fire and Police Protection</b>		
o Would the project result in the introduction of a sizeable new neighborhood?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the project affect the operation of fire or police protection in the area?	<input type="checkbox"/>	<input type="checkbox"/>
<b>4. OPEN SPACE: <a href="#">CEQR Technical Manual Chapter 7</a></b>		
<b>(a)</b> Would the project change or eliminate existing open space?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>(b)</b> Is the project located within an under-served area in the <a href="#">Bronx</a> , <a href="#">Brooklyn</a> , <a href="#">Manhattan</a> , <a href="#">Queens</a> , or <a href="#">Staten Island</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>(c)</b> If "yes," would the project generate more than 50 additional residents or 125 additional employees?	<input type="checkbox"/>	<input type="checkbox"/>
<b>(d)</b> Is the project located within a well-served area in the <a href="#">Bronx</a> , <a href="#">Brooklyn</a> , <a href="#">Manhattan</a> , <a href="#">Queens</a> , or <a href="#">Staten Island</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>(e)</b> If "yes," would the project generate more than 350 additional residents or 750 additional employees?	<input type="checkbox"/>	<input type="checkbox"/>
<b>(f)</b> If the project is located in an area that is neither under-served nor well-served, would it generate more than 200 additional residents or 500 additional employees?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>(g)</b> If "yes" to questions (c), (e), or (f) above, attach supporting information to answer the following:		
o If in an under-served area, would the project result in a decrease in the open space ratio by more than 1 percent?	<input type="checkbox"/>	<input type="checkbox"/>
o If in an area that is not under-served, would the project result in a decrease in the open space ratio by more than 5 percent?	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO
<ul style="list-style-type: none"> <li>o If "yes," are there qualitative considerations, such as the quality of open space, that need to be considered? Please specify:</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<b>5. SHADOWS:</b> <a href="#">CEQR Technical Manual Chapter 8</a>		
(a) Would the proposed project result in a net height increase of any structure of 50 feet or more?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project result in any increase in structure height and be located adjacent to or across the street from a sunlight-sensitive resource?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) If "yes" to either of the above questions, attach supporting information explaining whether the project's shadow would reach any sunlight-sensitive resource at any time of the year. See Attachment C		
<b>6. HISTORIC AND CULTURAL RESOURCES:</b> <a href="#">CEQR Technical Manual Chapter 9</a>		
(a) Does the proposed project site or an adjacent site contain any architectural and/or archaeological resource that is eligible for or has been designated (or is calendared for consideration) as a New York City Landmark, Interior Landmark or Scenic Landmark; that is listed or eligible for listing on the New York State or National Register of Historic Places; or that is within a designated or eligible New York City, New York State or National Register Historic District? (See the <a href="#">GIS System for Archaeology and National Register</a> to confirm)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) Would the proposed project involve construction resulting in in-ground disturbance to an area not previously excavated?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) If "yes" to either of the above, list any identified architectural and/or archaeological resources and attach supporting information on whether the proposed project would potentially affect any architectural or archeological resources. See Attachment D		
<b>7. URBAN DESIGN AND VISUAL RESOURCES:</b> <a href="#">CEQR Technical Manual Chapter 10</a>		
(a) Would the proposed project introduce a new building, a new building height, or result in any substantial physical alteration to the streetscape or public space in the vicinity of the proposed project that is not currently allowed by existing zoning?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) Would the proposed project result in obstruction of publicly accessible views to visual resources not currently allowed by existing zoning?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) If "yes" to either of the above, please provide the information requested in <a href="#">Chapter 10</a> . See Attachment A		
<b>8. NATURAL RESOURCES:</b> <a href="#">CEQR Technical Manual Chapter 11</a>		
(a) Does the proposed project site or a site adjacent to the project contain natural resources as defined in Section 100 of <a href="#">Chapter 11</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," list the resources and attach supporting information on whether the project would affect any of these resources.		
(b) Is any part of the directly affected area within the <a href="#">Jamaica Bay Watershed</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," complete the <a href="#">Jamaica Bay Watershed Form</a> and submit according to its <a href="#">instructions</a> .		
<b>9. HAZARDOUS MATERIALS:</b> <a href="#">CEQR Technical Manual Chapter 12</a>		
(a) Would the proposed project allow commercial or residential uses in an area that is currently, or was historically, a manufacturing area that involved hazardous materials?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to hazardous materials that preclude the potential for significant adverse impacts?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Would the project require soil disturbance in a manufacturing area or any development on or near a manufacturing area or existing/historic facilities listed in <a href="#">Appendix 1</a> (including nonconforming uses)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Would the project result in the development of a site where there is reason to suspect the presence of hazardous materials, contamination, illegal dumping or fill, or fill material of unknown origin?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Would the project result in development on or near a site that has or had underground and/or aboveground storage tanks (e.g., gas stations, oil storage facilities, heating oil storage)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(f) Would the project result in renovation of interior existing space on a site with the potential for compromised air quality; vapor intrusion from either on-site or off-site sources; or the presence of asbestos, PCBs, mercury or lead-based paint?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(g) Would the project result in development on or near a site with potential hazardous materials issues such as government-listed voluntary cleanup/brownfield site, current or former power generation/transmission facilities, coal gasification or gas storage sites, railroad tracks or rights-of-way, or municipal incinerators?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Has a Phase I Environmental Site Assessment been performed for the site?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
o If "yes," were Recognized Environmental Conditions (RECs) identified? Briefly identify: No RECs were identified; see Attachment A	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) Based on the Phase I Assessment, is a Phase II Investigation needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>10. WATER AND SEWER INFRASTRUCTURE:</b> <a href="#">CEQR Technical Manual Chapter 13</a>		
(a) Would the project result in water demand of more than one million gallons per day?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If the proposed project located in a combined sewer area, would it result in at least 1,000 residential units or 250,000 square feet or more of commercial space in Manhattan, or at least 400 residential units or 150,000 square feet or more of commercial space in the Bronx, Brooklyn, Staten Island, or Queens?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) If the proposed project located in a <a href="#">separately sewered area</a> , would it result in the same or greater development than that	<input type="checkbox"/>	<input type="checkbox"/>



	YES	NO
listed in Table 13-1 in <a href="#">Chapter 13</a> ?	<input type="checkbox"/>	<input type="checkbox"/>
(d) Would the project involve development on a site that is 5 acres or larger where the amount of impervious surface would increase?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) If the project is located within the <a href="#">Jamaica Bay Watershed</a> or in certain <a href="#">specific drainage areas</a> , including Bronx River, Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek, would it involve development on a site that is 1 acre or larger where the amount of impervious surface would increase?	<input type="checkbox"/>	<input type="checkbox"/>
(f) Would the proposed project be located in an area that is partially sewered or currently unsewered?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a Wastewater Treatment Plant and/or contribute contaminated stormwater to a separate storm sewer system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) If "yes" to any of the above, conduct the appropriate preliminary analyses and attach supporting documentation.		
<b>11. SOLID WASTE AND SANITATION SERVICES:</b> <a href="#">CEQR Technical Manual Chapter 14</a>		
(a) Using Table 14-1 in <a href="#">Chapter 14</a> , the project's projected operational solid waste generation is estimated to be (pounds per week): 7,512		
o Would the proposed project have the potential to generate 100,000 pounds (50 tons) or more of solid waste per week?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the proposed project comply with the City's Solid Waste Management Plan?	<input type="checkbox"/>	<input type="checkbox"/>
<b>12. ENERGY:</b> <a href="#">CEQR Technical Manual Chapter 15</a>		
(a) Using energy modeling or Table 15-1 in <a href="#">Chapter 15</a> , the project's projected energy use is estimated to be (annual BTUs): ~18,300,000 mbtu		
(b) Would the proposed project affect the transmission or generation of energy?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>13. TRANSPORTATION:</b> <a href="#">CEQR Technical Manual Chapter 16</a>		
(a) Would the proposed project exceed any threshold identified in Table 16-1 in <a href="#">Chapter 16</a> ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) If "yes," conduct the appropriate screening analyses, attach back up data as needed for each stage, and answer the following questions:		
o Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "yes," would the proposed project result in 50 or more vehicle trips per project peak hour at any given intersection? **It should be noted that the lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour. See Subsection 313 of <a href="#">Chapter 16</a> for more information.	<input type="checkbox"/>	<input type="checkbox"/>
o Would the proposed project result in more than 200 subway/rail or bus trips per project peak hour?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "yes," would the proposed project result, per project peak hour, in 50 or more bus trips on a single line (in one direction) or 200 subway/rail trips per station or line?	<input type="checkbox"/>	<input type="checkbox"/>
o Would the proposed project result in more than 200 pedestrian trips per project peak hour?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "yes," would the proposed project result in more than 200 pedestrian trips per project peak hour to any given pedestrian or transit element, crosswalk, subway stair, or bus stop?	<input type="checkbox"/>	<input type="checkbox"/>
<b>14. AIR QUALITY:</b> <a href="#">CEQR Technical Manual Chapter 17</a>		
(a) <i>Mobile Sources:</i> Would the proposed project result in the conditions outlined in Section 210 in <a href="#">Chapter 17</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) <i>Stationary Sources:</i> Would the proposed project result in the conditions outlined in Section 220 in <a href="#">Chapter 17</a> ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the proposed project exceed the thresholds in Figure 17-3, Stationary Source Screen Graph in <a href="#">Chapter 17</a> ? (Attach graph as needed) See Attachment A	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Does the proposed project involve multiple buildings on the project site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Does the proposed project require federal approvals, support, licensing, or permits subject to conformity requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to air quality that preclude the potential for significant adverse impacts?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation. See Attachment A		
<b>15. GREENHOUSE GAS EMISSIONS:</b> <a href="#">CEQR Technical Manual Chapter 18</a>		
(a) Is the proposed project a city capital project or a power generation plant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project fundamentally change the City's solid waste management system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Would the proposed project result in the development of 350,000 square feet or more?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) If "yes" to any of the above, would the project require a GHG emissions assessment based on guidance in <a href="#">Chapter 18</a> ?	<input type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the project result in inconsistencies with the City's GHG reduction goal? (See <a href="#">Local Law 22 of 2008</a> ; § 24-803 of the Administrative Code of the City of New York). Please attach supporting documentation.	<input type="checkbox"/>	<input type="checkbox"/>

		YES	NO
<b>16. NOISE:</b> <a href="#">CEQR Technical Manual Chapter 19</a>			
(a) Would the proposed project generate or reroute vehicular traffic?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) Would the proposed project introduce new or additional receptors (see Section 124 in <a href="#">Chapter 19</a> ) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation. See Attachment A			
<b>17. PUBLIC HEALTH:</b> <a href="#">CEQR Technical Manual Chapter 20</a>			
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Air Quality; Hazardous Materials; Noise?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If "yes," explain why an assessment of public health is or is not warranted based on the guidance in <a href="#">Chapter 20</a> , "Public Health." Attach a preliminary analysis, if necessary.			
<b>18. NEIGHBORHOOD CHARACTER:</b> <a href="#">CEQR Technical Manual Chapter 21</a>			
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Shadows; Transportation; Noise?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If "yes," explain why an assessment of neighborhood character is or is not warranted based on the guidance in <a href="#">Chapter 21</a> , "Neighborhood Character." Attach a preliminary analysis, if necessary.			
<b>19. CONSTRUCTION:</b> <a href="#">CEQR Technical Manual Chapter 22</a>			
(a) Would the project's construction activities involve:			
o Construction activities lasting longer than two years?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Construction activities within a Central Business District or along an arterial highway or major thoroughfare?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
o Closing, narrowing, or otherwise impeding traffic, transit, or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, etc.)?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
o Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
o The operation of several pieces of diesel equipment in a single location at peak construction?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Closure of a community facility or disruption in its services?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Activities within 400 feet of a historic or cultural resource?		<input checked="" type="checkbox"/>	<input type="checkbox"/>
o Disturbance of a site containing or adjacent to a site containing natural resources?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Construction on multiple development sites in the same geographic area, such that there is the potential for several construction timelines to overlap or last for more than two years overall?		<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If any boxes are checked "yes," explain why a preliminary construction assessment is or is not warranted based on the guidance in <a href="#">Chapter 22</a> , "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology for construction equipment or Best Management Practices for construction activities should be considered when making this determination. See Attachment A			
<b>20. APPLICANT'S CERTIFICATION</b>			
I swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmental Assessment Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and familiarity with the information described herein and after examination of the pertinent books and records and/or after inquiry of persons who have personal knowledge of such information or who have examined pertinent books and records.			
Still under oath, I further swear or affirm that I make this statement in my capacity as the applicant or representative of the entity that seeks the permits, approvals, funding, or other governmental action(s) described in this EAS.			
APPLICANT/REPRESENTATIVE NAME Connor Lacefield AKRF, Inc.	SIGNATURE 	DATE August 12, 2021	
<b>PLEASE NOTE THAT APPLICANTS MAY BE REQUIRED TO SUBSTANTIATE RESPONSES IN THIS FORM AT THE DISCRETION OF THE LEAD AGENCY SO THAT IT MAY SUPPORT ITS DETERMINATION OF SIGNIFICANCE.</b>			

**Part III: DETERMINATION OF SIGNIFICANCE (To Be Completed by Lead Agency)**

**INSTRUCTIONS:** In completing Part III, the lead agency should consult 6 NYCRR 617.7 and 43 RCNY § 6-06 (Executive Order 91 or 1977, as amended), which contain the State and City criteria for determining significance.

1. For each of the impact categories listed below, consider whether the project may have a significant adverse effect on the environment, taking into account its (a) location; (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude.

IMPACT CATEGORY	Potentially Significant Adverse Impact	
	YES	NO
Land Use, Zoning, and Public Policy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Socioeconomic Conditions	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Community Facilities and Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Open Space	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Shadows	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Historic and Cultural Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Urban Design/Visual Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Natural Resources	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Hazardous Materials	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Water and Sewer Infrastructure	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Solid Waste and Sanitation Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Energy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transportation	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Air Quality	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Greenhouse Gas Emissions	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Noise	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Public Health	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Neighborhood Character	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Construction	<input type="checkbox"/>	<input checked="" type="checkbox"/>

2. Are there any aspects of the project relevant to the determination of whether the project may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials?

If there are such impacts, attach an explanation stating whether, as a result of them, the project may have a significant impact on the environment.


3. Check determination to be issued by the lead agency:

**Positive Declaration:** If the lead agency has determined that the project may have a significant impact on the environment, and if a Conditional Negative Declaration is not appropriate, then the lead agency issues a *Positive Declaration* and prepares a draft Scope of Work for the Environmental Impact Statement (EIS).

**Conditional Negative Declaration:** A *Conditional Negative Declaration* (CND) may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements of 6 NYCRR Part 617.

**Negative Declaration:** If the lead agency has determined that the project would not result in potentially significant adverse environmental impacts, then the lead agency issues a *Negative Declaration*. The *Negative Declaration* may be prepared as a separate document (see [template](#)) or using the embedded Negative Declaration on the next page.

**4. LEAD AGENCY'S CERTIFICATION**

TITLE Deputy Director, Environmental Assessment and Review Division	LEAD AGENCY Dept of City Planning on behalf of the City Planning Commission
NAME Stephanie Shellooe, AICP	DATE August 13, 2021
SIGNATURE 	

**REVISED NEGATIVE DECLARATION – supersedes the Negative Declaration issued April 5, 2021\***

**Statement of No Significant Effect**

Pursuant to Executive Order 91 of 1977, as amended, and the Rules of Procedure for City Environmental Quality Review, found at Title 62, Chapter 5 of the Rules of the City of New York and 6 NYCRR, Part 617, State Environmental Quality Review, the Department of City Planning acting on behalf of the City Planning Commission assumed the role of lead agency for the environmental review of the proposed actions. Based on a review of information about the project contained in this environmental assessment statement (EAS) and any attachments hereto, which are incorporated by reference herein, the lead agency has determined that the proposed actions would not have a significant adverse impact on the environment.

**Reasons Supporting this Determination**

The above determination is based on information contained in this revised EAS, which finds the proposed actions sought before the City Planning Commission would not have a significant adverse impact on the environment. Reasons supporting this determination are noted below.

**Land Use, Zoning, and Public Policy**

A detailed analysis of land use, zoning, and public policy is included in the EAS. The applicant, Windermere Properties LLC, is seeking a special permit pursuant to Zoning Resolution (ZR) Section 74-711 to facilitate the proposed conversion, alteration, and enlargement of the currently vacant Windermere apartment building, a New York City Landmark (NYCL). The Windermere building is located at 400-406 West 57th Street on the southwest corner of Ninth Avenue and West 57th Street in the Clinton neighborhood of Manhattan (Block 1066, Lot 32). The proposed action would facilitate the conversion and expansion of the vacant Windermere building to mixed commercial and residential use. The Windermere building, which predates zoning, includes several features that are not in compliance with current zoning regulations; therefore, the proposed project requires a special permit pursuant to ZR Section 74-711 to allow for zoning modifications and waivers relating to bulk and use. The proposed project would retain existing ground-floor retail space within the Windermere building plus the other commercial and residential uses would be consistent with existing land uses in the study area and would not result in any significant adverse land use impacts. It is not feasible to bring the building into compliance with zoning without significantly affecting certain components of the Windermere building's historic character. Therefore, in keeping with ZR Section 74-711, the proposed zoning waivers would facilitate the continuing maintenance and protection of the landmarked Windermere building, and the proposed project would not result in any significant adverse impacts related to zoning. The proposed alterations and enlargement to the Windermere building are subject to the review and approval of the Landmarks Preservation Commission (LPC); furthermore, the proposed project would support citywide and local policies focused on preserving residential space, particularly in the Clinton neighborhood, and providing new affordable residential units. Therefore, the proposed project would not result in any significant adverse public policy impacts. Overall, the proposed project would not result in significant adverse impacts to land use, zoning, or public policy.

**Shadows**

A detailed analysis related to shadows is included in this EAS. The proposed action would result in new shadow cast on two resources, Balsley Park and the Catholic Apostolic Church. Balsley Park would be cast in new shadow in the afternoon on June 21. The duration and geographic extent of new shadow on the resource would be short and relatively small compared with the total size of the affected resource. The new shadow would not result in a substantial reduction of sunlight availability to vegetation within the park and would not substantially reduce the usability of its features. The sunlight-sensitive features on the southern-facing façade of the Catholic Apostolic Church would be cast in new shadow on the morning of December 21. The short duration of shadow cast by the proposed project would not substantially reduce the quantity of direct sunlight on the façade and would not significantly alter enjoyment of the sunlight-sensitive architectural features. The analysis concludes that the new shadow cast by the proposed project would not be long enough in duration to result in a significant adverse shadow impact on any sunlight-sensitive resources.

**Historic and Cultural Resources**

A detailed analysis related to historic and cultural resources is included in this EAS. Historic and cultural resources include both archaeological and architectural resources. Landmarks Preservation Commission (LPC) was consulted as part of this environmental review and they determined that the project site has no archaeological significance; therefore, this analysis focuses on architectural resources only. The Windermere building was designated as a New York City Landmark (NYCL) in 2005 and has been vacant since 2007. The Windermere building is also eligible for listing on the State and National Registers of Historic Places. As required by the Landmarks Law, the applicant has undertaken restoration and repair work on the building since taking ownership of the property so to bring the building to a state of good repair; this work has been done under oversight by LPC through a series of LPC-issued Certificates of No Effect. Furthermore, because the Windermere is a NYCL, the proposed alterations and enlargement of the Windermere are subject to the review and approval of LPC through Certificate of Appropriateness (CofA) approval process. LPC issued a CofA to the applicant for design approval of the proposed alterations to the building (which includes the courtyard modifications and rooftop addition) on July 7, 2017; the applicant is in the process of renewing this CofA approval. Therefore, no direct adverse impacts to the Windermere building would be expected with the proposed project.

\*This Revised Negative Declaration (prepared in accordance with a Revised EAS) supersedes the Negative Declaration issued on April 5, 2021. Since certification of the project's land use application on April 5, 2021, the Applicant has revised the application to include an enclosed restaurant in the proposed partial ninth floor in Scenario B-Office instead of office use in that space (the proposed modification). The Revised EAS incorporates an analysis of the proposed modification in Appendix C. As described in the Revised EAS Appendix C, the proposed modification would not alter the conclusions of the original environmental review, which found no significant adverse impacts.


**Project Name: The Windermere**

**CEQR # 19DCP016M**

**SEQRA Classification: Unlisted**

The proposed project would not result in any physical impacts to study area historic architectural resources as there are no such resources within 90 feet of the project site. The former Catholic Apostolic Church is located in close proximity of the Windermere building and, with the proposed project in place, it would substantially improve the context of the church as the Windermere building would be fully restored and returned to active use. The Parc Vendome Condominiums, a second nearby historic resource, would not be adversely affected by the proposed project, as the buildings' primary facades are not oriented toward the Windermere building. Therefore, the proposed project would not result in any significant adverse impacts to any architectural resources in the area. With regard to shadows, as indicated above, the proposed project would result in new shadow cast on the Catholic Apostolic Church; however, the new shadow would not be long enough in duration to result in a significant adverse shadow impact on any sunlight-sensitive architectural features of the church. Overall, the proposed project would not result in any significant adverse impacts to historic and cultural resources.

*No other significant effects upon the environment that would require the preparation of a Draft Environmental Impact Statement are foreseeable. This revised Negative Declaration has been prepared in accordance with Article 8 of the New York State Environmental Conservation Law (SEQRA). Should you have any questions pertaining to this revised Negative Declaration, you may contact DIANE MCCARTHY at +1 212-720-3417.*

TITLE Deputy Director, Environmental Assessment and Review Division	LEAD AGENCY Department of City Planning on behalf of the City Planning Commission 120 Broadway, 31 <sup>st</sup> Fl. New York, NY 10271   212.720.3493
NAME Stephanie Shellooe, AICP	DATE August 13, 2021
SIGNATURE 	
TITLE Chair, City Planning Commission	
NAME Marisa Lago	DATE August 16, 2021
SIGNATURE	

## **Attachment A: Supplemental Screening Analyses for EAS Part II**

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This attachment provides supplemental screening analyses in support of the information provided in the EAS Part II. All analyses were performed in accordance with the 2020 *City Environmental Quality Review (CEQR) Technical Manual*.

### **A. URBAN DESIGN AND VISUAL RESOURCES**

Based on the *CEQR Technical Manual*, a preliminary assessment of urban design and visual resources is appropriate when there is the potential for a pedestrian to observe, from the street level, a physical alteration beyond that allowed by existing zoning. Examples include projects that permit the modification of yard, height, and setback requirements, and projects that result in an increase in built floor area beyond what would be allowed “as-of-right” or in the No Action condition.

The proposed building waivers are primarily related to inner courts, the 8th floor expansion would be constructed behind a parapet, and the 9th floor addition would be set back from the street. The proposed rooftop additions would be consistent with the appearance of the original buildings as an architecturally unified complex. Furthermore, the rooftop additions would be minimally visible, except when seen from the south along Ninth Avenue. From this vantage point, the proposed additions would be partially screened by raising a portion of the masonry parapet and set back and would not substantially alter the pedestrian experience. Therefore, the proposed project would not result in significant adverse impacts to urban design or visual resources.

### **B. HAZARDOUS MATERIALS**

In the future with the proposed project (With Action scenario), from a hazardous materials standpoint, the proposed project would be substantially similar to the No Action scenario. Both the No Action and With Action scenarios require interior and exterior restoration work to alter, reconstruct, and enlarge the building and convert most of its space to either hotel or office use. Further, in the With Action scenario, ground disturbance would be limited to excavation for new elevator bulkheads, which would also occur in the No Action scenario. Excavation would occur in substantially the same limited area and at the same depth as in the No Action Scenario. Therefore, the With Action Scenario would not result in any new or incremental ground disturbance.

The building additions in the With Action scenario could entail additional disturbance of asbestos containing materials (ACM) (roofs frequently contain ACM layers) and/or lead-based paint (LBP) beyond the disturbance that would occur under the No Action scenario. However, the potential for impacts would be avoided through the use of the same measures, i.e., compliance with existing regulatory requirements for ACM, LBP, petroleum contamination (in the unlikely event that it is encountered during the limited excavation work) and soil disposal.

## C. TRANSPORTATION

### INTRODUCTION

This section examines the potential effects of the proposed project on the study area transportation systems. Specifically, it compares conditions in the future with the proposed project (the With Action condition) against conditions in the future without the proposed project (the No Action condition) to determine the potential for significant adverse impacts to transportation systems. The travel demand projections and screening assessments presented in this attachment were conducted pursuant to the methodologies outlined in the *CEQR Technical Manual*.

### BACKGROUND

As described in the Project Description on page 1a of the EAS, in With Action Scenario A, the existing vacant Windermere building would be redeveloped with 174 hotel rooms, 20 affordable housing units, approximately 4,949 gsf of local retail, and approximately 2,640 gsf of restaurant use. In With Action Scenario B, the existing Windermere building would be redeveloped with approximately 63,430 gsf of office,<sup>1</sup> 20 affordable housing units, and approximately 7,667 gsf of local retail. In the No Action scenario, the existing Windermere building will be repaired and renovated in order for the building’s existing residential units to be retenanted with approximately 65 residential units and 14,708 gsf of local retail. Trip-making characteristics associated with this No Action project will be the baseline against which potential transportation-related impacts of the proposed project would be compared. **Table A-1** provides a comparison of the development program assumptions under the future No Action and With Action conditions.

**Table A-1**

**Future No Action and With Action Development Program Assumptions**

Components	Future No Action	Future With Action			
		Scenario A – Hotel	Increment	Scenario B – Office	Increment
Residential (dwelling units)	65	20	-45	20	-45
Local Retail (gsf)	14,708	4,949	-9,759	7,667	-7,041
Restaurant (gsf)	0	2,640	2,640	0	0
Hotel (rooms)	0	174	174	0	0
Office (gsf)	0	0	0	63,430	63,430

### PRELIMINARY ANALYSIS METHODOLOGY

The *CEQR Technical Manual* recommends a two-tier screening procedure for the preparation of a “preliminary analysis” to determine if quantified analyses of transportation conditions are warranted. As discussed below, the preliminary analysis begins with a trip generation analysis (Level 1) to estimate the volume of person and vehicle trips attributable to the proposed project. If the proposed project is expected to result in fewer than 50 peak hour vehicle trips and fewer than 200 peak hour transit or pedestrian trips, further quantified analyses are not warranted. When these thresholds are exceeded, detailed trip assignments (Level 2) are performed to estimate the incremental trips at specific transportation elements and to identify potential locations for further analyses. If the trip

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<sup>1</sup> The office gsf used in this transportation screening assessment is slightly larger than the anticipated office gsf for the proposed project under Scenario B. This provides for a conservative assessment of project-generated trips.

assignments show that the proposed project would result in 50 or more peak hour vehicle trips at an intersection, 200 or more peak hour subway trips at a station, 50 or more peak hour bus trips in one direction along a bus route, or 200 or more peak hour pedestrian trips traversing a pedestrian element, then further quantified analyses may be warranted to assess the potential for significant adverse impacts on traffic, transit, pedestrians, parking, and vehicular and pedestrian safety.

### **LEVEL 1 SCREENING ASSESSMENT**

A Level 1 trip generation screening assessment was conducted to estimate the numbers of person and vehicle trips by mode expected to be generated by the proposed project during the weekday AM, midday, and PM peak hours. These estimates were then compared to the *CEQR Technical Manual* thresholds to determine if a Level 2 screening and/or quantified operational analyses would be warranted.

#### *TRANSPORTATION PLANNING ASSUMPTIONS*

Trip generation factors for the proposed project were developed based on information from the *CEQR Technical Manual*, U.S. Census Data, the 2014 *606 West 57th Street FEIS*, the 2015 *Vanderbilt Corridor and One Vanderbilt FEIS*, the 2020 *Lenox Terrace FEIS*, and travel demand surveys conducted by the New York City Department of Transportation (DOT) in Manhattan for hotel use—as summarized in **Table A-2**.

#### *Residential*

The daily person trip rate and temporal distribution are from the *CEQR Technical Manual*. Journey-to-Work (JTW) data from the 2013–2017 U.S. Census Bureau American Community Survey (ACS) for Manhattan census tracts 131, 133, 135, 137, 139, 145, and 147 were used for residential modal splits. The directional distribution for all peak periods and the taxi vehicle occupancy rate are from the *606 West 57th Street FEIS*. The auto vehicle occupancy rate is from the 2013–2017 U.S. Census. The daily delivery trip rate and temporal and directional distributions are from the *CEQR Technical Manual*.

#### *Local Retail*

The daily person trip rate for the local neighborhood retail component is from the *CEQR Technical Manual*, and a 25-percent linked trip credit was applied. The modal split, vehicle occupancy, and directional distribution factors for all peak periods are from the *Lenox Terrace FEIS*. The temporal distribution factors for all peak periods and the daily delivery trip factors (rate and temporal and directional distribution) are from the *CEQR Technical Manual*.

#### *Hotel*

The daily person trip rate and temporal distribution for the hotel use in With Action Scenario A are from the *CEQR Technical Manual*. The directional distribution as well as the daily delivery trip rate and temporal and directional distributions, are from the *606 West 57th Street FEIS*. The modal split and vehicle occupancy factors are based on DOT travel demand surveys in Manhattan for hotel use.



**Table A-2  
Travel Demand Factors**

Use	Residential			Local Retail			Hotel			Restaurant			Office			
<b>Total Daily Person Trip</b>	(1) Weekday 8.075 Trips / DU			(1) Weekday 205.00 Trips / KSF			(1) Weekday 9.40 Trips / Room			(6) Weekday 173.00 Trips / KSF			(1) Weekday 18.00 Trips / KSF			
<b>Trip Linkage</b>	0%			25%			0%			0% 25% 15%			0%			
<b>Net Daily Person Trip</b>	Weekday 8.075 Trips / DU			Weekday 153.75 Trips / KSF			Weekday 9.40 Trips / Room			Weekday 173.0 129.8 147.1 Trips / KSF			Weekday 18.00 Trips / KSF			
<b>Temporal</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	
	(1)			(1)			(1)			(6)			(1)			
	10.0%	5.0%	11.0%	3.0%	19.0%	10.0%	8.0%	14.0%	13.0%	0.0%	6.2%	8.3%	12.0%	15.0%	14.0%	
<b>Direction</b>	(2)			(4)			(2)			(6)			(6)			
	In	16%	50%	67%	50%	50%	50%	39%	54%	65%	50%	50%	67%	96%	48%	5%
	Out	84%	50%	33%	50%	50%	50%	61%	46%	35%	50%	50%	33%	4%	52%	95%
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	
<b>Modal Split</b>	(3)			(4)			(5)			(6)			(6)(7)			
	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	
Auto	7.0%	7.0%	7.0%	2.5%	2.5%	2.5%	6.0%	6.0%	6.0%	10.0%	10.0%	10.0%	11.0%	2.0%	11.0%	
Taxi	6.0%	6.0%	6.0%	0.5%	0.5%	0.5%	32.0%	32.0%	32.0%	15.0%	15.0%	15.0%	2.0%	3.0%	2.0%	
Subway	42.0%	42.0%	42.0%	16.5%	16.5%	16.5%	18.0%	18.0%	18.0%	26.5%	26.5%	26.5%	53.0%	6.0%	53.0%	
Railroad	1.0%	1.0%	1.0%	0.0%	0.0%	0.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	14.0%	0.0%	14.0%	
Bus	5.0%	5.0%	5.0%	4.0%	4.0%	4.0%	2.0%	2.0%	2.0%	2.0%	2.0%	2.0%	12.0%	6.0%	12.0%	
Walk	39.0%	39.0%	39.0%	76.5%	76.5%	76.5%	40.0%	40.0%	40.0%	44.5%	44.5%	44.5%	8.0%	83.0%	8.0%	
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	
<b>Vehicle Occupancy</b>	(2)(3)			(4)			(5)			(6)			(6)(7)			
	Weekday			Weekday			Weekday			Weekday			Weekday			
Auto	1.14			2.00			1.80			2.20			1.12			
Taxi	1.40			2.00			2.00			2.30			1.40			
<b>Daily Delivery Trip Generation Rate</b>	(1) Weekday 0.06 Delivery Trips / DU			(1) Weekday 0.35 Delivery Trips / KSF			(2) Weekday 0.06 Delivery Trips / Room			(4) Weekday 3.60 Delivery Trips / KSF			(1) Weekday 0.32 Delivery Trips / KSF			
<b>Delivery Temporal</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	<b>AM</b>	<b>MD</b>	<b>PM</b>	
	(1)			(1)			(2)			(6)			(1)			
	12.0%	9.0%	2.0%	8.0%	11.0%	2.0%	12.0%	9.0%	1.0%	0.0%	6.0%	1.0%	10.0%	11.0%	2.0%	
<b>Delivery Direction</b>	(1)			(1)			(2)			(6)			(1)			
	In	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
	Out	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	50%	
<b>Total</b>	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	
<b>Sources:</b>	(1) 2020 CEQR Technical Manual (2) 606 West 57th Street FEIS (2014) (3) U.S. Census American Community Survey 2013-2017 Journey to Work Data for Manhattan Tracts 131, 133, 135, 137, 139, 145, and 147 (4) Lenox Terrace FEIS (2020) (5) Based on DOT travel demand surveys for hotel in Manhattan (transit zone). Airport shuttle and other mode added to walk mode. (6) Vanderbilt Corridor and One Vanderbilt FEIS (2015) (7) U.S. Census American Community Survey 2012-2016 Reverse Journey to Work Data for Manhattan Tracts 131, 133, 135, 137, 139, 145, and 147															

*Restaurant*

The travel demand assumptions for the restaurant use in With Action Scenario A are from the *Vanderbilt Corridor and One Vanderbilt FEIS*.

*Office*

The daily person trip rate and temporal distribution and the delivery trip rate and temporal and directional distributions for the office use in With Action Scenario B are from the *CEQR Technical Manual*. The weekday AM and PM peak hour modal splits and the auto occupancy are from the 2012-2016 U.S. Census Bureau ACS Reverse Journey-to-Work (RJTW) data for Manhattan

**Attachment A: Supplemental Screening Analyses for EAS Part II**

census tracts 131, 133, 135, 137, 139, 145, and 147. The weekday midday peak hour modal split and the taxi occupancy are from the *Vanderbilt Corridor and One Vanderbilt FEIS*.

**TRIP GENERATION SUMMARY**

As shown in **Table A-3**, in the No Action Scenario, a total of 121, 456, and 284 person trips would be generated during the weekday AM, midday, and PM peak hours. Approximately 10, 14, and 14 vehicle trips would be generated during the same respective peak hours.

**Table A-3  
Trip Generation Summary: No Action Scenario**

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential 65 DU	AM	In	1	1	4	0	0	3	9	1	2	0	3
		Out	3	3	19	0	2	17	44	3	2	0	5
		Total	4	4	23	0	2	20	53	4	4	0	8
	Midday	In	1	1	6	0	1	5	14	1	1	0	2
		Out	1	1	6	0	1	5	14	1	1	0	2
		Total	2	2	12	0	2	10	28	2	2	0	4
	PM	In	3	2	16	0	2	15	38	3	1	0	4
		Out	1	1	8	0	1	7	18	1	1	0	2
		Total	4	3	24	0	3	22	56	4	2	0	6
Local Retail 14,708 SF	AM	In	1	0	6	0	1	26	34	1	0	0	1
		Out	1	0	6	0	1	26	34	1	0	0	1
		Total	2	0	12	0	2	52	68	2	0	0	2
	Midday	In	5	1	35	0	9	164	214	3	1	0	4
		Out	5	1	35	0	9	164	214	3	1	0	4
		Total	10	2	70	0	18	328	428	6	2	0	8
	PM	In	3	1	19	0	5	86	114	2	1	0	3
		Out	3	1	19	0	5	86	114	2	1	0	3
		Total	6	2	38	0	10	172	228	4	2	0	6
Total	AM	In	2	1	10	0	1	29	43	2	2	0	4
		Out	4	3	25	0	3	43	78	4	2	0	6
		Total	6	4	35	0	4	72	121	6	4	0	10
	Midday	In	6	2	41	0	10	169	228	4	3	0	7
		Out	6	2	41	0	10	169	228	4	3	0	7
		Total	12	4	82	0	20	338	456	8	6	0	14
	PM	In	6	3	35	0	7	101	152	5	3	0	8
		Out	4	2	27	0	6	93	132	3	3	0	6
		Total	10	5	62	0	13	194	284	8	6	0	14

As shown in **Table A-4**, in With Action Scenario A, a total of 169, 401, and 336 person trips would be generated during the weekday AM, midday, and PM peak hours. Approximately 44, 65, and 60 vehicle trips would be generated during the same respective peak hours.

As shown in **Table A-5**, in With Action Scenario B, a total of 190, 403, and 292 person trips would be generated during the weekday AM, midday, and PM peak hours. Approximately 21, 18, and 23 vehicle trips would be generated during the same respective peak hours.

**LEVEL 1 SCREENING**

The net incremental trips generated by the No Action and With Action Scenario A are shown in **Table A-6**, and the net incremental trips generated by the No Action and With Action Scenario B are shown in **Table A-7**. Level 1 screening analyses were prepared for both scenarios as detailed below.

**Table A-4**  
**Trip Generation Summary: With Action Scenario A**

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential 20 DU	AM	In	0	0	1	0	0	1	2	0	1	0	1
		Out	1	1	6	0	1	5	14	1	1	0	2
		Total	1	1	7	0	1	6	16	1	2	0	3
	Midday	In	0	0	2	0	0	2	4	0	0	0	0
		Out	0	0	2	0	0	2	4	0	0	0	0
		Total	0	0	4	0	0	4	8	0	0	0	0
	PM	In	1	1	5	0	1	5	13	1	1	0	2
		Out	0	0	2	0	0	2	4	0	1	0	1
		Total	1	1	7	0	1	7	17	1	2	0	3
Local Retail 4,949 SF	AM	In	0	0	2	0	0	9	11	0	0	0	0
		Out	0	0	2	0	0	9	11	0	0	0	0
		Total	0	0	4	0	0	18	22	0	0	0	0
	Midday	In	2	0	12	0	3	55	72	1	0	0	1
		Out	2	0	12	0	3	55	72	1	0	0	1
		Total	4	0	24	0	6	110	144	2	0	0	2
	PM	In	1	0	6	0	2	29	38	1	0	0	1
		Out	1	0	6	0	2	29	38	1	0	0	1
		Total	2	0	12	0	4	58	76	2	0	0	2
Hotel 174 Room	AM	In	3	16	9	1	1	20	50	2	17	1	20
		Out	5	26	14	2	2	32	81	3	17	1	21
		Total	8	42	23	3	3	52	131	5	34	2	41
	Midday	In	7	40	22	2	2	49	122	4	27	0	31
		Out	6	34	19	2	2	42	105	3	27	0	30
		Total	13	74	41	4	4	91	227	7	54	0	61
	PM	In	8	44	25	3	3	55	138	4	23	0	27
		Out	4	24	13	1	1	30	73	2	23	0	25
		Total	12	68	38	4	4	85	211	6	46	0	52
Restaurant 2,640 SF	AM	In	0	0	0	0	0	0	0	0	0	0	0
		Out	0	0	0	0	0	0	0	0	0	0	0
		Total	0	0	0	0	0	0	0	0	0	0	0
	Midday	In	1	2	3	0	0	5	11	0	1	0	1
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	2	4	6	0	0	10	22	0	2	0	2
	PM	In	2	3	6	0	0	10	21	1	1	0	2
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	3	5	9	0	0	15	32	1	2	0	3
Total	AM	In	3	16	12	1	1	30	63	2	18	1	21
		Out	6	27	22	2	3	46	106	4	18	1	23
		Total	9	43	34	3	4	76	169	6	36	2	44
	Midday	In	10	42	39	2	5	111	209	5	28	0	33
		Out	9	36	36	2	5	104	192	4	28	0	32
		Total	19	78	75	4	10	215	401	9	56	0	65
	PM	In	12	48	42	3	6	99	210	7	25	0	32
		Out	6	26	24	1	3	66	126	3	25	0	28
		Total	18	74	66	4	9	165	336	10	50	0	60

**Table A-5  
Trip Generation Summary: With Action Scenario B**

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential 20 DU	AM	In	0	0	1	0	0	1	2	0	1	0	1
		Out	1	1	6	0	1	5	14	1	1	0	2
		Total	1	1	7	0	1	6	16	1	2	0	3
	Midday	In	0	0	2	0	0	2	4	0	0	0	0
		Out	0	0	2	0	0	2	4	0	0	0	0
		Total	0	0	4	0	0	4	8	0	0	0	0
	PM	In	1	1	5	0	1	5	13	1	1	0	2
		Out	0	0	2	0	0	2	4	0	1	0	1
		Total	1	1	7	0	1	7	17	1	2	0	3
Local Retail 7,667 SF	AM	In	0	0	3	0	1	14	18	0	0	0	0
		Out	0	0	3	0	1	14	18	0	0	0	0
		Total	0	0	6	0	2	28	36	0	0	0	0
	Midday	In	3	1	18	0	4	86	112	2	2	0	4
		Out	3	1	18	0	4	86	112	2	2	0	4
		Total	6	2	36	0	8	172	224	4	4	0	8
	PM	In	1	0	10	0	2	45	58	1	0	0	1
		Out	1	0	10	0	2	45	58	1	0	0	1
		Total	2	0	20	0	4	90	118	2	0	0	2
Office 63,430 SF	AM	In	14	3	70	18	16	11	132	13	1	1	15
		Out	1	0	3	1	1	0	6	1	1	1	3
		Total	15	3	73	19	17	11	138	14	2	2	18
	Midday	In	2	2	5	0	5	68	82	2	2	1	5
		Out	2	3	5	0	5	74	89	2	2	1	5
		Total	4	5	10	0	10	142	171	4	4	2	10
	PM	In	1	0	4	1	1	1	8	1	1	0	2
		Out	17	3	80	21	18	12	151	15	1	0	16
		Total	18	3	84	22	19	13	159	16	2	0	18
Total	AM	In	14	3	74	18	17	26	152	13	2	1	16
		Out	2	1	12	1	3	19	38	2	2	1	5
		Total	16	4	86	19	20	45	190	15	4	2	21
	Midday	In	5	3	25	0	9	156	198	4	4	1	9
		Out	5	4	25	0	9	162	205	4	4	1	9
		Total	10	7	50	0	18	318	403	8	8	2	18
	PM	In	3	1	19	1	4	51	79	3	2	0	5
		Out	18	3	92	21	20	59	213	16	2	0	18
		Total	21	4	111	22	24	110	292	19	4	0	23

Table A-6

Trip Generation Summary: With Action Scenario A Net Incremental Trips

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential -45 DU	AM	In	-1	-1	-3	0	0	-2	-7	-1	-1	0	-2
		Out	-2	-2	-13	0	-1	-12	-30	-2	-1	0	-3
		Total	-3	-3	-16	0	-1	-14	-37	-3	-2	0	-5
	Midday	In	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Out	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Total	-2	-2	-8	0	-2	-6	-20	-2	-4	0	-6
	PM	In	-2	-1	-11	0	-1	-10	-25	-2	-1	0	-3
		Out	-1	-1	-6	0	-1	-5	-14	-1	-1	0	-2
		Total	-3	-2	-17	0	-2	-15	-39	-3	-2	0	-5
Local Retail -9,759 SF	AM	In	-1	0	-4	0	-1	-17	-23	-1	0	0	-1
		Out	-1	0	-4	0	-1	-17	-23	-1	0	0	-1
		Total	-2	0	-8	0	-2	-34	-46	-2	0	0	-2
	Midday	In	-3	-1	-23	0	-6	-109	-142	-2	-1	0	-3
		Out	-3	-1	-23	0	-6	-109	-142	-2	-1	0	-3
		Total	-6	-2	-46	0	-12	-218	-284	-4	-2	0	-6
	PM	In	-2	-1	-13	0	-3	-57	-76	-1	-1	0	-2
		Out	-2	-1	-13	0	-3	-57	-76	-1	-1	0	-2
		Total	-4	-2	-26	0	-6	-114	-152	-2	-2	0	-4
Hotel 174 Room	AM	In	3	16	9	1	1	20	50	2	17	1	20
		Out	5	26	14	2	2	32	81	3	17	1	21
		Total	8	42	23	3	3	52	131	5	34	2	41
	Midday	In	7	40	22	2	2	49	122	4	27	0	31
		Out	6	34	19	2	2	42	105	3	27	0	30
		Total	13	74	41	4	4	91	227	7	54	0	61
	PM	In	8	44	25	3	3	55	138	4	23	0	27
		Out	4	24	13	1	1	30	73	2	23	0	25
		Total	12	68	38	4	4	85	211	6	46	0	52
Restaurant 2,640 SF	AM	In	0	0	0	0	0	0	0	0	0	0	0
		Out	0	0	0	0	0	0	0	0	0	0	0
		Total	0	0	0	0	0	0	0	0	0	0	0
	Midday	In	1	2	3	0	0	5	11	0	1	0	1
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	2	4	6	0	0	10	22	0	2	0	2
	PM	In	2	3	6	0	0	10	21	1	1	0	2
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	3	5	9	0	0	15	32	1	2	0	3
Total	AM	In	1	15	2	1	0	1	20	0	16	1	17
		Out	2	24	-3	2	0	3	28	0	16	1	17
		Total	3	39	-1	3	0	4	48	0	32	2	34
	Midday	In	4	40	-2	2	-5	-58	-19	1	25	0	26
		Out	3	34	-5	2	-5	-65	-36	0	25	0	25
		Total	12	74	-7	4	-10	-123	-55	1	50	0	51
	PM	In	6	45	7	3	-1	-2	58	2	22	0	24
		Out	2	24	-3	1	-3	-27	-6	0	22	0	22
		Total	8	69	4	4	-4	-29	52	2	44	0	46

Table A-7

Trip Generation Summary: With Action Scenario B Net Incremental Trips

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential -45 DU	AM	In	-1	-1	-3	0	0	-2	-7	-1	-1	0	-2
		Out	-2	-2	-13	0	-1	-12	-30	-2	-1	0	-3
		Total	-3	-3	-16	0	-1	-14	-37	-3	-2	0	-5
	Midday	In	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Out	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Total	-2	-2	-8	0	-2	-6	-20	-2	-4	0	-6
	PM	In	-2	-1	-11	0	-1	-10	-25	-2	-1	0	-3
		Out	-1	-1	-6	0	-1	-5	-14	-1	-1	0	-2
		Total	-3	-2	-17	0	-2	-15	-39	-3	-2	0	-5
Local Retail -7,041 SF	AM	In	-1	0	-3	0	0	-12	-16	-1	0	0	-1
		Out	-1	0	-3	0	0	-12	-16	-1	0	0	-1
		Total	-2	0	-6	0	0	-24	-32	-2	0	0	-2
	Midday	In	-2	0	-17	0	-5	-78	-102	-1	1	0	0
		Out	-2	0	-17	0	-5	-78	-102	-1	1	0	0
		Total	-4	0	-34	0	-10	-156	-204	-2	2	0	0
	PM	In	-2	-1	-9	0	-3	-41	-56	-1	-1	0	-2
		Out	-2	-1	-9	0	-3	-41	-56	-1	-1	0	-2
		Total	-4	-2	-18	0	-6	-82	-112	-2	-2	0	-4
Office 63,430 SF	AM	In	14	3	70	18	16	11	132	13	1	1	15
		Out	1	0	3	1	1	0	6	1	1	1	3
		Total	15	3	73	19	17	11	138	14	2	2	18
	Midday	In	2	2	5	0	5	68	82	2	2	1	5
		Out	2	3	5	0	5	74	89	2	2	1	5
		Total	4	5	10	0	10	142	171	4	4	2	10
	PM	In	1	0	4	1	1	1	8	1	1	0	2
		Out	17	3	80	21	18	12	151	15	1	0	16
		Total	18	3	84	22	19	13	159	16	2	0	18
Total	AM	In	12	2	64	18	16	-3	109	11	0	1	12
		Out	-2	-2	-13	1	0	-24	-40	-2	0	1	-1
		Total	10	0	51	19	16	-27	69	9	0	2	11
	Midday	In	-1	1	-16	0	-1	-13	-30	0	1	1	2
		Out	-1	2	-16	0	-1	-7	-23	0	1	1	2
		Total	-2	3	-32	0	-2	-20	-53	0	2	2	4
	PM	In	-3	-2	-16	1	-3	-50	-73	-2	-1	0	-3
		Out	14	1	65	21	14	-34	81	13	-1	0	12
		Total	11	-1	49	22	11	-84	8	11	-2	0	9

SCENARIO A - HOTEL

Traffic

As shown in **Table A-6**, With Action Scenario A would generate 34, 51, and 46 incremental vehicle trips during the weekday AM, midday, and PM peak hours, respectively. Although the number of weekday midday peak hour incremental vehicle trips is projected to slightly exceed the *CEQR Technical Manual* Level 1 screening threshold of 50 peak hour vehicle trips, further quantified traffic analysis is not warranted. The weekday midday incremental vehicle trips would be dispersed throughout the surrounding street network, which consists mostly of one-way streets and avenues, which reduces the potential for trips to overlap at the same intersections. As such, no single intersection is anticipated to incur 50 or more incremental vehicle trips during this peak hour. Furthermore, the weekday AM and PM peak hour incremental vehicle trips do not exceed the *CEQR Technical Manual* threshold of 50 peak hour vehicle trips. Therefore, a detailed traffic analysis is not warranted and the proposed project is not expected to result in any significant adverse traffic impacts.

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### *Parking*

The *CEQR Technical Manual* states that if a quantified traffic analysis is not required, an assessment of parking supply and utilization is also not warranted. Based on the conclusions described above for traffic, an on- and off-street parking analysis is not required and the proposed project is not expected to result in any significant adverse parking impacts.

### *Transit*

As shown in **Table A-6**, the incremental subway trips generated by With Action Scenario A would be -1, -7, and 4 person trips during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour trips made by subway, a detailed analysis of subway facilities is not warranted and the proposed project is not expected to result in any significant adverse subway impacts.

Also as shown in **Table A-6**, the incremental bus trips generated by With Action Scenario A would be 0, -10, and -4 person trips during the weekday AM, midday, and PM peak hours, respectively. Since the incremental bus trips would be fewer than the *CEQR Technical Manual* threshold of 50 or more peak hour bus riders in a single direction, a detailed bus line-haul analysis is also not warranted and the proposed project is not expected to result in any significant adverse bus line-haul impacts.

For incremental rail trips, With Action Scenario A would generate 3, 4, and 4 incremental person trips during the three weekday AM, midday, and PM peak hours, respectively, as shown in **Table A-6**. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour trips made by rail, a detailed rail analysis is not warranted and the proposed project is not expected to result in any significant adverse rail impacts.

### *Pedestrians*

All person trips generated by With Action Scenario A would traverse the pedestrian elements surrounding the project site. As shown in **Table A-6**, the incremental pedestrian trips generated by With Action Scenario A would be 48, -55, and 52 during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour pedestrian trips, a detailed pedestrian analysis is not warranted and the proposed project is not expected to result in any significant adverse pedestrian impacts.

## *SCENARIO B - OFFICE*

### *Traffic*

As shown in **Table A-7**, With Action Scenario B would generate 11, 4, and 9 incremental vehicle trips during the weekday AM, midday, and PM peak hours, respectively. Since these incremental vehicle trips do not exceed the *CEQR Technical Manual* threshold of 50 peak hour vehicle trips, a detailed traffic analysis is not warranted and the proposed project is not expected to result in any significant adverse traffic impacts.

### *Parking*

The *CEQR Technical Manual* states that if a quantified traffic analysis is not required, an assessment of parking supply and utilization is also not warranted. Based on the conclusions described above for traffic, an on- and off-street parking analysis is not required and the proposed project is not expected to result in any significant adverse parking impacts.

### *Transit*

As shown in **Table A-7**, the incremental subway trips generated by With Action Scenario B would be 51, -32, and 49 person trips during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour

trips made by subway, a detailed analysis of subway facilities is not warranted and the proposed project is not expected to result in any significant adverse subway impacts.

Also as shown in **Table A-7**, the incremental bus trips generated by With Action Scenario B would be 16, -2, and 11 person trips during the weekday AM, midday, and PM peak hours, respectively. Since the incremental bus trips would be fewer than the *CEQR Technical Manual* threshold of 50 or more peak hour bus riders in a single direction, a detailed bus line-haul analysis is also not warranted and the proposed project is not expected to result in any significant adverse bus line-haul impacts.

For incremental rail trips, With Action Scenario B would generate 19, 0, and 22 person trips during the weekday AM, midday, and PM peak hours, respectively, as shown in **Table A-7**. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour trips made by rail, a detailed analysis of rail facilities is not warranted and the proposed project is not expected to result in any significant adverse rail impacts.

#### *Pedestrians*

All person trips generated by With Action Scenario B would traverse the pedestrian elements surrounding the project site. As shown in **Table A-7**, the incremental pedestrian trips generated by With Action Scenario B would be 69, -53, and 8 during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour pedestrian trips, a detailed pedestrian analysis is not warranted and the proposed project is not expected to result in any significant adverse pedestrian impacts.

### **D. AIR QUALITY**

The potential for air quality impacts associated with the proposed project is assessed in this attachment. The proposed project includes the conversion of the Windermere building at 400-406 West 57th Street to retail, affordable residential, and either hotel or office uses. Since the proposed project would include fossil fuel-fired heat and hot water systems, a stationary source analysis was conducted to evaluate the potential impact from these sources on air quality.

The proposed project is not expected to significantly alter traffic conditions. , the maximum hourly increase in traffic volume due to the proposed project would not exceed the carbon monoxide (CO) or the particulate matter (PM) emission screening thresholds defined in the 2020 *CEQR Technical Manual* (170 auto trips for peak hour trips at nearby intersections in the study area for CO and PM emission equivalent to 12 to 23 heavy duty vehicles, depending on roadway type.) Therefore, no mobile source analysis is required.

State and Federal permit databases were reviewed to identify any large or major sources within 1,000 feet of the proposed project, and no sources requiring evaluation were identified. Land use and City permits were reviewed to identify any industrial sources within 400 feet of the proposed project, and no sources requiring evaluation were identified.

As discussed in detail below, the proposed project would not result in any significant adverse impacts on air quality.

### **METHODOLOGY FOR PREDICTING POLLUTANT CONCENTRATIONS**

#### *HEAT AND HOT WATER SYSTEMS*

Stationary source analyses were conducted using the methodology described in the *CEQR Technical Manual* to assess air quality impacts associated with emissions from the proposed project's heat and hot water systems. For the purpose of this analysis, it was conservatively



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assumed that No. 2 fuel oil would be used. The primary pollutant of concern when burning fuel oil is sulfur dioxide (SO<sub>2</sub>). An initial screening analysis was undertaken using the methodology described in Chapter 17, Section 322.1 of the *CEQR Technical Manual*. This analysis determines the threshold of development size below which the action would not have a significant adverse impact relative to CO, particulate matter less than 10 micrometers in diameter (PM<sub>10</sub>), 3-hour average sulfur dioxide (SO<sub>2</sub>), and annual average NO<sub>2</sub> NAAQS levels. The screening procedure uses information regarding the type of fuel to be burned, the development type and maximum size, and the exhaust stack height to evaluate whether or not a significant impact is possible.

The initial screening was based on a 94,077-gross square feet (gsf) building, with the nearest receptor of similar or greater height at a distance of 153 feet. This gross square footage is slightly larger than the anticipated gross square footage for the proposed project, and therefore provides for a conservative assessment of potential pollutant concentrations.

### *NEARBY LARGE SOURCES*

The *CEQR Technical Manual* requires an analysis of the potential impact on projects in cases where the project may result in sensitive uses being located near a “large” or “major” emissions source. Major sources are defined as those located at facilities that have a NYSDEC Title V or Prevention of Significant Deterioration air permit, while large sources are defined as those located at facilities that require a state facility permit.

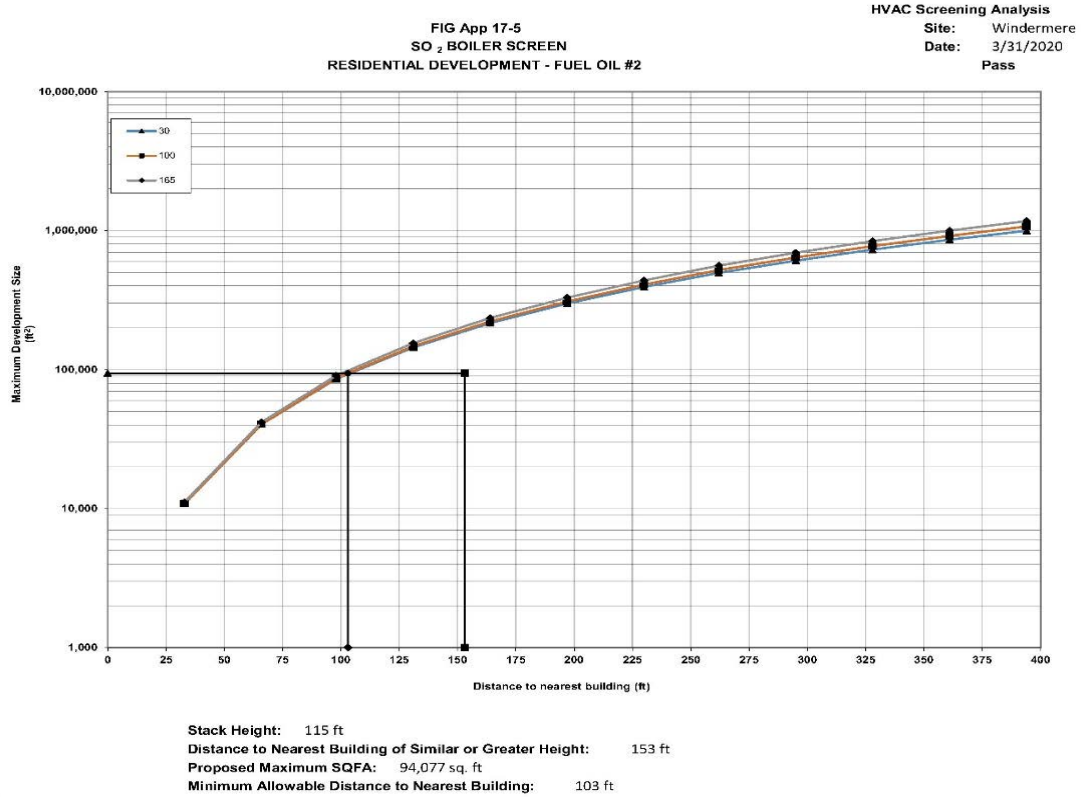
To assess the potential effects of these types of existing sources on the proposed project, a review of existing permitted facilities was conducted. Within a 1,000-foot study area boundary (the distance referenced in the *CEQR Technical Manual*), sources permitted under the NYSDEC’s Title V and state facility permits programs were considered. One facility with a state facility permit was identified: the CBS Broadcast Center, located at 524 West 57th Street. However, while this address was partially within the 1,000-foot distance from the proposed project lot line, examination of the facility identified the exhaust stack located at a distance of approximately 1,260 feet from the site, and therefore, per the *CEQR Technical Manual*, requires no additional analysis.

### **POTENTIAL IMPACTS OF THE PROPOSED PROJECT**

As described above, since nearby large sources screened out, the analysis focuses on emissions from proposed project building systems. The results of the screening analysis are presented in **Figure A-1**. The distance below which impacts might occur on buildings of similar height was calculated at 103 feet. The distance to the nearest building of similar height would be 153 feet. Burning fuel oil would not result in any significant stationary source air quality impacts, based on the screening methodologies in the *CEQR Technical Manual*, because the site is below the maximum size determined using Figure 17-5 of Air Quality Appendix of the *CEQR Technical Manual*.

Overall, based on the analysis presented, the proposed project’s heating and hot water system would not result in any significant adverse air quality impacts.

**Figure A-1**  
**Basic Screening Results**



## E. NOISE

Several unique factors inform the application of CEQR noise attenuation requirements to the proposed project:

- As discussed in the “Project Description” section of the EAS Form, in response to the litigation brought by the City against the prior building owner to compel the building to be repaired and maintained in accordance with the Landmarks Law, the current owner is subject to a court order that imposes deadlines for performance of certain work on the building, including the installation of new historically appropriate windows independent of and prior to the proposed action.
- For the purposes of street wall and window location, the project is effectively an existing building subject to minor exterior changes at the 8th and 9th floors. It is classified as a new building only because the current owner is replacing wooden floors with concrete floors to greatly improve the building’s fire safety.
- The newly added ninth floor would not be occupied with a noise-sensitive use.
- The proposal would facilitate new transient hotel and/or office uses within a building that could otherwise be occupied with residential uses in the absence of the proposed discretionary approvals.

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Given the circumstances presented above, the proposed project does not warrant a noise analysis as per the guidance presented in the 2020 *CEQR Technical Manual*.

Additionally, the proposed project would not generate enough vehicle trips to warrant a detailed analysis of traffic, and consequently would not have the potential to result in a doubling of Noise Passenger Car Equivalent (Noise PCEs) on the adjacent heavily trafficked roadways, which would be necessary to cause a significant increase in noise levels (i.e., a 3 dBA increase).

### F. CONSTRUCTION

The proposed project would result in construction activities on the project site. Like all construction projects, work at the project site would result in temporary disruptions to the surrounding community. These activities would occur over approximately 24 months. Construction during this time would be coordinated to minimize disruption to the existing uses on the project site. Construction activities for the proposed project would normally take place Monday through Friday, although the delivery or installation of certain critical equipment could occur on weekend days. The permitted hours of construction are regulated by the New York City Department of Buildings, apply in all areas of the city, and are reflected in the collective bargaining agreements with major construction trade unions. In accordance with those regulations, work would begin at 7 AM on weekdays, although some workers would arrive and begin to prepare work areas between 6 and 7 AM. Normally, work would end by 6 PM.

The construction of the proposed project would be required to comply with applicable control measures for construction noise. Construction noise is regulated by the New York City Noise Control Code and by noise emission standards for construction equipment issued by the U.S. Environmental Protection Agency. These local and federal requirements mandate that certain classifications of construction equipment and motor vehicles meet specified noise standards; that, except under exceptional circumstances, construction activities be limited to weekdays between the hours of 7 AM and 6 PM; and that construction material be handled and transported in such a manner as to not create unnecessary noise. Compliance with those noise control measures would be ensured by including them in the contract documents as materials specification and by directives to the construction contractors. No significant adverse noise impacts are expected to occur as a result of the construction.

Dust emissions can occur from hauling debris and traffic over unpaved areas. All necessary measures would be implemented to ensure that the New York City Air Pollution Control Code regulating construction-related dust emissions is followed. As a result, no significant air quality impacts from dust emissions would be expected.

Construction of the proposed project involves the adaptive reuse of the Windermere building. Unlike typical ground-up construction, the proposed project would not involve extensive demolition, foundation, or superstructure construction activities, which often generate the highest levels of air emissions and noise. Instead, the majority of the construction activities would occur within the Windermere structure, and the walls of the building would act as barriers to the transport of air pollutants and noise to nearby areas. Furthermore, extensive construction activity has already been undertaken to stabilize the building and bring it into a state of good repair pursuant to an agreement with the City. All restoration work is expected to be complete by the end of 2021.

Overall, the construction effects of the project would be temporary, and would not be considered significant. A detailed construction analysis is not warranted and no significant adverse impacts are expected. \*

**A. INTRODUCTION**

The proposed project would convert the vacant Windermere building, a designated New York City Landmark (NYCL) located at 400-406 West 57th Street (Block 1066, Lot 32; the “project site”), to either hotel, retail, and residential uses (Scenario A-Hotel) or office, retail and residential uses (Scenario B-Office). The Windermere building, which predates zoning, includes several features that are not in compliance with current zoning regulations; therefore, to facilitate the conversion and expansion of the building, the proposed project requires a special permit from the City Planning Commission (CPC) pursuant to Zoning Resolution (ZR) Section 74-711 (the “proposed action”). The following analysis considers the potential impacts of the proposed project (With Action condition) on land use, zoning, and public policy for the project site and the surrounding study area as compared with conditions without the proposed action (No Action condition). As described below, this analysis concludes that the proposed project would be compatible with existing land uses in the surrounding area, and that the proposed action would not result in any significant adverse impacts to land use, zoning, or public policy.

**METHODOLOGY**

This analysis of land use, zoning, and public policy examines the area within 400 feet of the project site. Due to the type and size of the proposed project as well as the location and neighborhood context of the surrounding area, it was determined that 400 feet encompasses the area that the proposed project could reasonably be expected to cause potential effects. The study area is generally bounded by West 58th Street to the north, West 55th Street to the south, the midblock area between Eighth and Ninth Avenues to the east, and the midblock area between Ninth and Tenth Avenues to the west (see Figure 1 in the EAS Form). The project site and study area are located in the Clinton neighborhood of Manhattan, and are within the boundaries of Manhattan Community District 4 (CD4).

The analysis begins by considering existing conditions in the study area in terms of land use, zoning, and public policy. The analysis then considers land use, zoning, and public policy in the No Action scenario in the 2023 analysis year by identifying developments and potential policy changes expected to occur within that time frame. Probable impacts of the proposed project are then identified by comparing conditions in the With Action scenario with those conditions anticipated in the No Action scenario.

## **B. EXISTING CONDITIONS**

### **LAND USE**

#### *PROJECT SITE*

The project site is located on the southwest corner of Ninth Avenue and West 57th Street in the Clinton neighborhood of Manhattan (Block 1066, Lot 32). The project site contains the seven- and eight-story Windermere apartment complex (the “Windermere building”), a grouping of three connected buildings constructed in the early 1880s. The building has addresses at: 400 West 57th Street at the corner of Ninth Avenue; 404 West 57th Street at the center of the building complex fronting on West 57th Street; and 406 West 57th Street at the westernmost portion of the project site, also fronting on West 57th Street. The building is currently vacant and under construction. The western portion of the building has seven stories with a height of approximately 81’-7”. The eastern and southern portion of the building has an L-shaped eighth floor, reaching a height of approximately 92’-0”. The building’s approximately 12’-3” tall parapet obscures from view the building’s existing partial eighth floor

The Windermere building’s existing envelope is a legally non-complying condition under the Zoning Resolution and the Multiple Dwelling Law. The building’s existing retail space is located on Ninth Avenue and is also vacant.

The Windermere building was designated as a NYCL by the New York City Landmarks Preservation Commission (LPC) in 2005. Work that has been done to date to stabilize the building includes certain structural improvements and extensive façade and parapet repairs.

#### *STUDY AREA*

As shown on Figure 2 in the EAS Form, the study area primarily contains high-density residential buildings with ground floor retail uses and a few hotels, offices, and public facilities. Large apartment buildings are located on West 57th Street and Ninth Avenue, including seven- and ten-story apartment buildings located adjacent to the project site and the 19-story Parc Vendome, located across Ninth Avenue from the project site. Several of these residential buildings are recently constructed luxury apartment buildings, including the Colonnade Condominium at 347 West 57th Street and One Columbus Place on the west side of Ninth Avenue between West 58th and West 59th Streets. The midblock areas within the study area generally contain smaller (four- to seven-story) apartment buildings. Many residential buildings in the study area, particularly those on Ninth Avenue, also contain ground-floor neighborhood retail space, such as restaurants and banks. Existing office uses within the study area are located along West 55th Street between Ninth and Tenth Avenues.

Two large hotels are also located in the study area: the 24-story Hudson Hotel at 356 West 58th Street and the 17-story Watson Hotel at 440 West 57th Street. Institutional facilities within the study area include the Alvin Ailey American Dance Theater at West 55th Street and Ninth Avenue, and two churches (the Church for All Nations [the former Catholic Apostolic Church] and Trinity Presbyterian Church) located on West 57th Street to the west of the project site.

## ZONING

### *PROJECT SITE*

Most of the project site (approximately 10,000 sf) is located within a C1-8 zoning district. C1-8 districts are commercial districts that permit a mix of uses, typically mapped along major commercial corridors in predominantly residential areas. C1-8 regulations permit residential development up to a maximum floor area ratio (FAR) of 7.52 (equivalent to an R9 higher-density residential district) and neighborhood retail facilities such as grocery stores, restaurants, or local services up to maximum FAR of 2.0. C1-8 districts typically contain mixed-use buildings with residential space and ground-level retail space. The southernmost portion of the project site (approximately 2,542 sf) is located within an R8 zoning district with a C1-5 commercial overlay. While residential districts such as the R8 district are limited to residential and community facility uses, commercial overlay districts, which are typically mapped along major streets in residential districts, permit local retail and services. Therefore, the R8/C1-5 district permits a similar mix of uses when compared to the C1-8 district, although it permits a lower residential density (a maximum FAR of 4.2). The C1-8 zoning district permits Use Groups 1 through 6, and a maximum residential floor area ratio (FAR) of 7.52. The R8/C1-5 zoning district permits Use Groups 1 through 6 and a maximum residential FAR of 4.2 (within the Preservation Area of the Special Clinton District, as described below). Both the C1-8 and C1-5 portions of the project site are subject to a maximum commercial FAR of 2.0.

In addition, the project site is located partially within the Other Area Subdistrict (Subarea C1) of the Special Clinton District and partially within Preservation Area A of the Special Clinton District (see Figure 4 in the EAS Form). The regulations of the Special Clinton District are described below.

### *STUDY AREA*

In addition to the C1-8, R8, and C1-5 commercial overlay districts described above, the study area contains high-density commercial districts (C6-2 and C6-4) located to the south of West 58th Street. C6 districts are typically mapped in commercial centers, and contain large-scale commercial uses that serve the entire metropolitan region such as large office buildings, hotels, department stores, and entertainment facilities. C6-4 districts are typically located in central business districts (maximum commercial FAR of 10.0), while C6-2 districts are typically located in areas outside of the city's commercial cores (maximum commercial FAR of 6.0). Residential uses are permitted in C6 districts through the application of equivalent residential district regulations (R8 in the C6-2 district and R10 in the C6-4 district). Another high-density commercial district (C4-7) is located north of West 58th Street and west of Ninth Avenue. C4 districts are also typically mapped in commercial centers outside of the city's commercial cores, and contain commercial uses that serve a larger region than local neighborhood retail facilities; C4-7 districts permit commercial and residential development up to a maximum FAR of 10.0.

The zoning districts located within the study area are shown on Figure 4 in the EAS Form, and summarized in **Table B-1**.

**Table B-1**  
**Zoning Districts in the Study Area**

Zoning District	Maximum FAR <sup>1</sup>	Uses/Zone Type
<b>Residential Districts</b>		
R8	0.94 to 6.02 residential 6.5 community facility	General residence district, high-density housing
<b>Commercial Districts</b>		
C1-8	2.0 commercial 0.99 to 7.52 residential 10.0 community facility <sup>2</sup>	Commercial district, predominantly residential in character  R9 residential equivalent
C4-7	10.0 commercial <sup>2</sup> 10.0 residential <sup>2</sup> 10.0 community facility <sup>2</sup>	Medium-density general commercial (such as department stores and theaters), high-density residential and community facility  R10 residential equivalent
C6-2	6.0 commercial <sup>2</sup> 0.94 to 6.02 residential 6.5 community facility <sup>2</sup>	General commercial district outside central business district, wide range of commercial uses, as well as residential and community facility uses  R8 residential equivalent
C6-4	10.0 commercial <sup>2</sup> 10.0 residential <sup>2</sup> 10.0 community facility	General office district, wide range of high-bulk commercial uses requiring a central location  R10 residential equivalent
C1-5 overlay	2.0 commercial (in R8 districts) Residential and community facility bulk follows regulations of mapped residential district	Local shopping and services
<p><b>Notes:</b>  <sup>1</sup> FAR is a measure of density establishing the amount of development allowed in proportion to the base lot area. For example, a lot of 10,000 sf with a FAR of 1 has an allowable building area of 10,000 sf. The same lot with an FAR of 10 has an allowable building area of 100,000 sf.  <sup>2</sup> Up to 20 percent increase for plaza bonus and up to 7.2 FAR for Inclusionary Housing (IH) in R8 districts, 8.0 FAR for IH in R9 districts, and 12.0 FAR for IH in R10  <b>Source:</b> <i>New York City Zoning Resolution.</i></p>		

*Special Clinton District*

The project site and the portion of the study area south of West 58th Street are located within the Special Clinton District. The Special Clinton District was established in 1974 with the goals of preserving and strengthening the residential character of the Clinton community; restricting demolition of buildings suitable for development or rehabilitation; ensuring that the area is not adversely affected by new development and that development is appropriate for the area; and improving the built environment through the provision of amenities such as street trees in connection with development. The special district encompasses the area bounded by West 59th Street, Eighth Avenue, West 41 Street, and Twelfth Avenue.

The Special Clinton District is divided into three sub-areas: the Preservation Area, the Perimeter Area, and Other Areas.<sup>1</sup> The Preservation Area is the eastern half of the District and the Perimeter Area is at the southern, eastern, and northeastern edges of the District. The remaining western and northern portions of the District are designated “Other.” As noted above, the project site is located

<sup>1</sup> Several sections of the Special Clinton District are designated as “excluded areas.” In excluded areas, the regulations of the Special Clinton District are limited, and some of the excluded areas are exempt from all Special Clinton District regulations.

partially within the Other Area Subdistrict (Subarea C1) and partially within the Preservation Area Subdistrict (Preservation Area A). A portion of the study area located north of West 58th Street and east of Ninth Avenue is within a Perimeter Area.

The three sub-areas outline the locations where additional limitations or controls guide development in the District. Within the Preservation Area, development is restricted through additional limited bulk regulations; special lot coverage, yard, and height regulations also apply. Specifically, the Preservation Area applies a maximum building streetwall height of 66 feet and a maximum overall height of 85 feet. The regulations for the Preservation Area also include special limits on the demolition or alteration of existing residential buildings. Within the Perimeter Area, special urban design and residential tenant relocation regulations apply. In the “Other” areas, the regulations of the underlying zoning generally apply without additional limitations or controls, excepting R8, R8A, R9, and M2-4 districts. Because the “Other” area regulations do not include modifications to C1-8 regulations, the underlying zoning regulations in the C1-8 portion of the project site generally apply with only limited additional regulations provided through the District, such as the District-wide tree planting provisions.

## **PUBLIC POLICY**

### *NEW YORK CITY LANDMARKS LAW*

The Windermere building is a NYCL that was designated by LPC in 2005. The former Catholic Apostolic Church (now the Church for All Nations), located at 417 West 57th Street northwest of the project site within the study area, is also a NYCL. Pursuant to the New York City Landmarks Law, all projects affecting a designated NYCL are subject to the review and approval of LPC for consistency with the architectural and historic character of the landmark. A full discussion of LPC’s review of the proposed project is provided in Section C, “Historic and Cultural Resources.”

### *ONENYC*

In April 2015, the de Blasio administration released OneNYC, a plan for growth, sustainability, resiliency, and equity. OneNYC is the update for the sustainability plan started under the Bloomberg administration, previously known as *PlaNYC 2030: A Greener, Greater New York*. While OneNYC still centers on growth, sustainability, and resiliency, the de Blasio administration added equity as a core principle to address the high poverty rate and rising income inequality. The new plan also addresses pressing issues such as population growth, aging infrastructure, and global climate change. This plan is being fulfilled through multiple programs and initiatives, such as creating and preserving affordable housing.

### *HOUSING NEW YORK: A FIVE-BOROUGH, TEN-YEAR PLAN*

On May 5, 2014, the de Blasio administration released *Housing New York: A Five-Borough, Ten-Year Plan (Housing New York)*, a plan intended to build and preserve 200,000 affordable dwelling units (DUs) over the coming decade to support New Yorkers with a range of incomes. To achieve this goal, the plan aims to double the New York City Department of Housing Preservation and Development (HPD)’s capital budget, target vacant and underused land for new development, protect tenants in rent-regulated apartments, streamline rules and processes to unlock new development opportunities, contain costs, and accelerate affordable construction. The plan details the key policies and programs for implementation, including developing affordable housing on underused public and private sites. In October 2017, the de Blasio administration announced that



the target of building and protecting 200,000 affordable DUs would be achieved by 2022, and increased the goal to 300,000 DUs by 2026.

## **C. FUTURE NO ACTION SCENARIO**

### **LAND USE**

#### *PROJECT SITE*

In the No Action condition, absent the proposed special permit, the Windermere building's existing envelope and structural elements will be preserved and the exterior restoration work currently underway will be completed. The Windermere building would be retenanted with 65 residential units, compared to 184 previously existing units, and the ground floor and cellar would be renovated and retenanted with retail space. In order to satisfy the Cure Agreement, the building at 406 West 57 Street will be restored and retenanted with 20 HPD-approved affordable residential units and accessory residential space (a total of approximately 18,776 gsf).

The building cannot be reoccupied in its current historic form, as it includes several non-complying features, and the required restoration work has resulted in the demolition and replacement of more than 75 percent of the building's total floor area. Therefore, in order to restore the building to residential use and allow the building to be reoccupied as required by the HPD harassment cure, in the No Action scenario, the applicant would undertake substantial further alterations to the building in order to remove the non-complying features.

Specifically, in order to meet the streetwall and sky exposure plane requirements of the C1-8 portions of the project site, the building's existing partial eighth floor and approximately 7 feet of the existing parapet height would be demolished in the No Action scenario. Similarly, in order to create complying inner courts, a full reconstruction of the building would be required in order to provide the necessary structural changes. These alterations would require LPC approval (possibly through a hardship application), which is not a discretionary action subject to review under City Environmental Quality Review. As noted above, the building cannot be occupied without substantial additional alterations to bring the building into compliance with the current zoning regulations. The applicant would pursue the No Action scenario in the absence of the proposed project in order to reoccupy the building and make economic use of the building. However, the No Action scenario is not preferred as it would be more costly to reconstruct the building to create complying inner courts, would require demolition of one floor and a portion of the parapet of the landmarked building and the resulting loss of significant exterior architectural features, including: the ornamental corbelled brick parapet, ornamental coping, corbelled brick pier caps, and decorative parapet extension at the building's Ninth Avenue and 57th Street facades; a decorative gable at the building's 57th Street façade; an ornamental corbelled brick chimney flue at the building's Ninth Avenue façade; an ornamental fire escape at the building's seventh floor Ninth Avenue facade; and the brick party wall and parapet, wood windows, and bluestone lintels at the seventh floor's south facade. The No Action scenario is also not preferred because it would utilize substantially less than the floor area available, and would be limited to a substantially residential building.

#### *STUDY AREA*

There are two projects currently under construction within the study area. A three-story former art gallery building at 408 West 58th Street on the block north of the project site is being expanded

with a three-story addition as part of its conversion into a single-family residence. At 432 West 58th Street, Mt. Sinai Hospital is developing an ambulatory care facility affiliated with the Mt. Sinai West Hospital directly north on West 58th Street. Therefore, in the No Action condition, the study area is expected to remain a primarily residential area with a large commercial component, particularly local retail uses and large hotels.

## **ZONING**

No changes to zoning regulations on the project site or in the study area are expected to be enacted by 2023 in the No Action condition. Zoning is expected to remain a mix of medium- and high-density commercial and residential districts within the Special Clinton District.

## **PUBLIC POLICY**

No changes affecting public policy on the project site or in the study area are expected to be enacted by 2023 in the No Action condition.

## **D. FUTURE WITH ACTION SCENARIO**

### **LAND USE**

#### *PROJECT SITE*

As described on Page 1a of the EAS, “Project Description,” with the proposed special permit pursuant to ZR Section 74-711, the applicant would convert the majority of the Windermere building into either a Use Group 5 transient hotel (Scenario A-Hotel) or Use Group 6 office use (Scenario B-Office). Under both scenarios, the building’s existing ground floor retail space would be retained and reconfigured. This retail space would be retenanted with neighborhood retail uses.

As with the No Action scenario, with the proposed action the applicant is required to provide within the building 20 affordable housing units at 80 percent of AMI (approximately 29,098 gsf of space) under the Cure Agreement with HPD. Therefore, in the future with the proposed action under either scenario, the Windermere building would contain the same 20 affordable units that will be introduced through the building’s restoration in the No Action scenario.

#### *STUDY AREA*

The proposed action would only apply to the project site and would not result in any new development or alterations to existing buildings on other sites within the study area. The retail, affordable residential, and hotel or office uses in the Windermere building facilitated by the proposed action would be similar to existing uses within the study area. In particular, the proposed 174-room hotel within the Windermere building would be similar to other large hotels located on West 57th Street near the project site. The proposed office uses would be consistent with the commercial uses in the study area, including existing office uses along West 55th Street between Ninth and Tenth Avenues. The proposed project would retenant existing ground-floor retail space within the Windermere building, which is a common ground-floor use in the study area, particularly along Ninth Avenue. The new affordable residential space would also be in keeping with the study area’s predominantly residential character. Therefore, in the With Action condition, the proposed project would be consistent with existing land uses in the study area and would not result in any significant adverse land use impacts.

**ZONING**

*PROJECT SITE*

The proposed action would not affect the underlying zoning regulations on the project site. The Windermere building, which predates zoning, includes several features that are not in compliance with current zoning regulations. The structural improvements and building stabilization work already completed, in particular the replacement of all of the building's wooden floors as necessary to bring the building into a state of good repair, has resulted in the demolition and replacement of more than 75 percent of the building's total floor area. Under the provisions of ZR Section 54-41 ("Permitted Reconstruction"), any non-complying building undergoing reconstruction must be brought into compliance with current zoning regulations if that reconstruction would affect more than 75 percent of the building's total floor area. Substantial further alterations to the building would be required to bring the building into compliance with the current zoning regulations and allow the building to be reoccupied.

Therefore, as described below, modifications to and waivers of several zoning regulations are required pursuant to a special permit under ZR 74-71. The proposed special permit would allow for zoning waivers relating to bulk and use that would facilitate the conversion of the majority of the Windermere building into a Use Group 5 transient hotel (Scenario A-Hotel) or Use Group 6B office use (Scenario B-Office). The proposed action would also allow for the alteration and enlargement of the Windermere building by horizontally extending the eighth floor and constructing a new partial ninth floor, and converting the building to hotel, retail, and residential uses or office, retail, and residential uses (including the required affordable residential units as per the Cure agreement).

In particular, the proposed special permit would waive the commercial bulk regulations applicable in both the C1-8 and R8/C1-5 overlay districts (ZR Sections 33-122 and ZR 96-101) to permit the hotel, office, and retail uses, which would exceed the maximum permitted commercial FAR of 2.0. The bulk of the altered and enlarged building would also exceed the maximum street wall height of 85 feet and encroach on the applicable 5.6-to-1 sky exposure plane under the C1-8 regulations (ZR Section 33-432). In addition, the proposed special permit would waive the zoning requirements relating to inner courts (ZR Sections 23-861, 23-863, and 23-87): the building has windows that open onto two substandard inner courts. The Windermere building would not comply with the 30-foot minimum distance between a legally required window and any opposite facing wall, and the inner court would not comply with the permitted obstruction regulations of Section 23-87.

The proposed zoning waivers would only apply to the Windermere building on the project site, and are necessary in order to bring the building to a state of good repair, as required by the Landmarks Law and in compliance with the Supreme Court's decision requiring the restoration of the building. In the With Action condition, the proposed project would restore the Windermere building to functional, economically viable uses. It is not feasible to bring the building into compliance with zoning without significantly affecting certain components of the Windermere building's historic character. Although the building would contain either hotel or office and residential uses with windows that open onto substandard inner courts, based on the size of those rooms, the design for the proposed interior renovations provides sufficient light and air ventilation. Therefore, in keeping with ZR Section 74-711, the proposed zoning waivers would facilitate the continuing maintenance and protection of the landmarked Windermere building, and the proposed project would not result in any significant adverse impacts related to zoning.

*STUDY AREA*

In the With Action condition the underlying zoning of the study area would remain unchanged. The proposed special permit is specific to the project site and would not apply to any other locations. The proposed project would be compatible with many of the surrounding hotel and residential uses, and ground floor retail components. Further, as described above, the proposed hotel and retail uses that would be implemented at the Windermere building would be similar to other existing uses within the study area, and the building would continue be of a scale similar to the surrounding buildings. Therefore, the proposed project would not result in any significant adverse zoning impacts on the study area.

**PUBLIC POLICY**

As described in Section C, “Historic and Cultural Resources,” because the Windermere building is a NYCL, the proposed alterations and enlargement to the Windermere building are subject to the review and approval of LPC. LPC has issued Certificates of No Effect permits for restorative work and a Status Update Letter. A Certificate of Appropriateness (CofA) would be issued for design approval only and would be issued for the Commission level alterations to the building (which include the courtyard modifications and rooftop addition). The CofA can only be issued when a Certificate of No Effect is issued for the restorative work related to the storefronts and porticos. LPC issued a CofA on July 7, 2017 (LPC-19-12919, COFA-19-12919) (see **Appendix B**, “LPC Consultation”).<sup>2</sup> The proposed project would not affect any other public policy applicable to the project site or study area. Further, the proposed project would support citywide and local policies focused on preserving residential space, particularly in the Clinton neighborhood, and providing new affordable residential units. Therefore, the proposed project would not result in any significant adverse public policy impacts.

Overall, the proposed project would not result in significant adverse impacts to land use, zoning, or public policy. \*

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<sup>2</sup> The Applicant is in the process of renewing this approval.

**A. INTRODUCTION**

This attachment examines whether the proposed action would result in a significant adverse shadows impact on any sunlight-sensitive resources. According to the 2020 *City Environmental Quality Review (CEQR) Technical Manual*, sunlight-sensitive resources of concern include public open space, sunlight-dependent features of historic architectural resources, and natural resources that depend on sunlight to support their microclimate. A shadow assessment is required for actions that would result in new structures or additions to existing structures at least 50 feet in height or when the structure or addition is located adjacent to a sunlight-sensitive resource.

The proposed actions would facilitate the alteration and enlargement of the currently vacant Windermere apartment building. With the proposed project (With Action condition), the Windermere building would be approximately 103 feet tall to the roof of the ninth story and approximately 114 feet tall to the top of the rooftop cooling tower. Without the proposed project (No Action condition), the exterior restoration of the Windermere building would be completed and would include a rooftop addition that would be approximately 82 feet to the roof of the seventh story and approximately 104 feet tall to the top of the rooftop bulkhead. The overall maximum height under the No Action condition would be 10 feet less than what would be developed in the With Action condition. Although the proposed project would not result in a vertical addition of at least 50 feet compared to the No Action condition, the Windermere is located near two sunlight-sensitive resources, Balsley Park and the Catholic Apostolic Church, and requires a shadows assessment.

**PRINCIPAL CONCLUSIONS**

The proposed action would result in new shadow cast on two resources, Balsley Park and the Catholic Apostolic Church. Balsley Park would be cast in new shadow in the afternoon on June 21. The duration and geographic extent of new shadow on the resource would be short and relatively small compared with the total size of the affected resource. The new shadow would not result in a substantial reduction of sunlight availability to vegetation within the park and would not substantially reduce the usability of its features. The sunlight-sensitive features on the southern-facing façade of the Catholic Apostolic Church would be cast in new shadow on the morning of December 21. The short duration of shadow cast by the proposed project would not substantially reduce the quantity of direct sunlight on the façade and would not significantly alter enjoyment of the sunlight-sensitive architectural features.

The analysis concludes that the new shadow cast by the proposed project would not be long enough in duration to result in a significant adverse shadow impact on any sunlight-sensitive resources.

**B. DEFINITIONS AND METHODOLOGY**

This analysis has been prepared in accordance with CEQR procedures and follows the guidelines of the *CEQR Technical Manual*.

### DEFINITIONS

**Incremental shadow** is the additional, or new, shadow that a structure resulting from a proposed project would cast on a sunlight-sensitive resource.

**Sunlight-sensitive resources** are those resources that depend on sunlight or for which direct sunlight is necessary to maintain the resource's usability or architectural integrity. Such resources generally include:

- *Public open space* such as parks, beaches, playgrounds, plazas, schoolyards (if open to the public during non-school hours), greenways, and landscaped medians with seating. Planted areas within unused portions of roadbeds that are part of the Greenstreets program are also considered sunlight-sensitive resources.
- *Features of architectural resources that depend on sunlight for their enjoyment by the public.* Only the sunlight-sensitive features need be considered, as opposed to the entire resource. Such sunlight-sensitive features might include design elements that depend on the contrast between light and dark (e.g., recessed balconies, arcades, deep window reveals); elaborate, highly carved ornamentation; stained glass windows; historic landscapes and scenic landmarks; and features for which the effect of direct sunlight is described as playing a significant role in the structure's importance as a historic landmark.
- *Natural resources* where the introduction of shadows could alter the resource's condition or microclimate. Such resources could include surface waterbodies, wetlands, or designated resources such as coastal fish and wildlife habitats.

**Non-sunlight-sensitive resources** include, for the purposes of CEQR:

- *City streets and sidewalks* (except Greenstreets);
- *Private open space* (e.g., front and back yards, stoops, vacant lots, and any private, non-publicly accessible open space);
- *Project-generated open space* cannot experience a significant adverse shadow impact from the project, according to CEQR, because without the project the open space would not exist.

A significant adverse shadow impact occurs when the incremental shadow added by a proposed project falls on a sunlight-sensitive resource and substantially reduces or completely eliminates direct sunlight, thereby significantly altering the public's use of the resource or threatening the viability of vegetation or other resources. Each case must be considered on its own merits based on the extent and duration of new shadow and an analysis of the resource's sensitivity to reduced sunlight.

### METHODOLOGY

Following the guidelines of the *CEQR Technical Manual*, a preliminary screening assessment is first conducted to ascertain whether shadow cast by the proposed project could reach any sunlight-sensitive resources at any time of year. The preliminary screening assessment consists of three tiers of analysis. The first tier determines a simple radius around the proposed project representing the longest shadow that it could cast throughout the year. If there are sunlight-sensitive resources within this radius, the analysis proceeds to the second tier, which reduces the area that could be affected by new shadow by accounting for the fact that shadows can never be cast between a certain range of angles south of the project site due to the path of the sun through the sky at the latitude of New York City.

If the second tier of analysis does not eliminate the possibility of new shadows on sunlight-sensitive resources, a third tier of screening analysis further refines the area that could be reached by new shadow by determining the maximum extent of shadow on four representative analysis days.

If the third tier of analysis does not eliminate the possibility of new shadows on sunlight-sensitive resources, a detailed shadow analysis is required to determine the extent and duration of the incremental shadow resulting from the proposed project. The detailed analysis provides the data needed to assess the shadow impacts. The effects of the new shadows on the sunlight-sensitive resources are described, and their degree of significance is considered. The results of the analysis and assessment are documented with graphics, a table of incremental shadow durations, and narrative text.

## C. PRELIMINARY SCREENING ASSESSMENT

A base map was developed using Geographic Information Systems (GIS)<sup>1</sup> showing the location of the project site and the surrounding street layout (see **Figure C-1**). In coordination with the land use assessment presented in Attachment A, “Supplemental Screening Analyses for EAS Part II,” of this Environmental Action Statement (EAS), potential sunlight-sensitive resources were identified and shown on the map.

### TIER 1 SCREENING ASSESSMENT

For the Tier 1 assessment, the longest shadow cast throughout the year by the proposed project was calculated and, using this length as the radius, a perimeter is drawn around the project site. Anything outside this perimeter could never be affected by new shadow, while anything inside the perimeter needs additional assessment.

According to the *CEQR Technical Manual*, the longest shadow that a structure can cast at the latitude of New York City occurs on December 21 (the winter solstice), at the start of the analysis day at 8:51 AM, and is equal to 4.3 times the height of the structure.

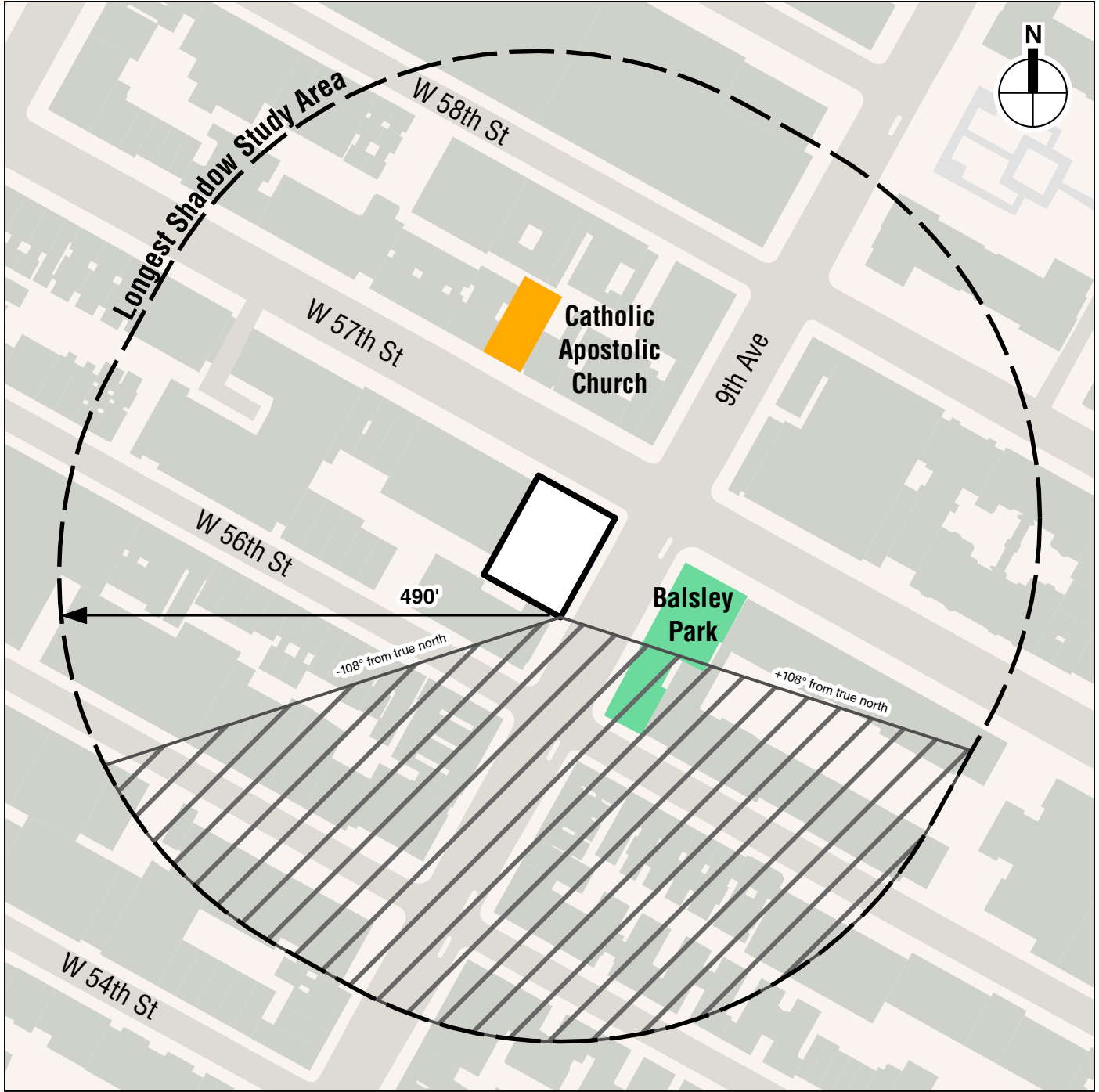
The proposed action would allow the Windermere to reach a maximum height of 114 feet, including rooftop mechanical equipment, and would cast shadows up to 4.3 times its height, or up to 490 feet. Using this length as radii, a perimeter was drawn around the Windermere (see **Figure C-1**). Two sunlight-sensitive resources are located within the longest shadow study area: Balsley Park and the Catholic Apostolic Church. Therefore, a Tier 2 assessment was required.






### TIER 2 SCREENING ASSESSMENT

In the northern hemisphere, no shadow can be cast in a triangular area south of any given structure. In New York City and within the analysis day timeframe, this area lies between -108 and +108 degrees from true north. **Figure C-1** illustrates this triangular area south of the development sites. The complementing area to the north within the longest shadow study area represents the remaining area that could potentially experience new shadow from the proposed rooftop addition to the Windermere. Within the longest shadow study area, two sunlight-sensitive resources could be potentially cast in new shadow. Therefore, a Tier 3 assessment was prepared to model shadows that could be cast by the proposed project on specific representative days of the year.

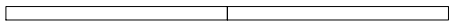
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<sup>1</sup> Software: Esri ArcGIS 10.3; Data: New York City Department of Information Technology and Telecommunications (DoITT) and other City agencies, and AKRF site visits.



-  Project Site
-  Tier 1: Longest shadow study area
-  Tier 2: Area south of site that could never be shaded by proposed building
-  Sunlight-Sensitive Open Space Resource
-  Historic Resources with Sunlight-Sensitive Features

0 400 FEET



Tier 1 and Tier 2 Assessments  
**Figure C-1**



### TIER 3 SCREENING ASSESSMENT

The direction and length of shadows vary throughout the course of the day and also differ depending on the season. Shadows move constantly but more quickly at the start and the end of the day than they do in the middle of the day. In order to determine whether shadow generated by the proposed project could fall on a sunlight-sensitive resource, three-dimensional computer mapping software is used in the Tier 3 assessment to calculate and display the incremental shadows originating from the proposed project on 4 representative days of the year. A computer model was developed containing three-dimensional representations of the elements in the base map used in the preceding assessments, the topographic information of the study area, and the massing of the proposed project.

#### *REPRESENTATIVE DAYS FOR ANALYSIS*

Following the guidance of the *CEQR Technical Manual*, shadows on the summer solstice (June 21), winter solstice (December 21), and spring and fall equinoxes (March 21 and September 21, which are approximately the same in terms of shadow patterns) are modeled, to represent the range of shadows over the course of the year. An additional representative day during the growing season is also modeled, the day halfway between the summer solstice and the equinoxes, i.e., May 6 or August 6, which have approximately the same shadow patterns.

#### *TIMEFRAME WINDOW OF ANALYSIS*

The shadow assessment considers shadows occurring between 90 minutes after sunrise and 90 minutes before sunset. Within the 90 minutes after sunrise and the 90 minutes before sunset, the sun is low on the horizon, producing shadows that are long, move fast, and generally blend with shadows from existing structures. Consequently, shadows occurring in these two 90-minute periods are not considered significant under CEQR, and their assessment is not required.

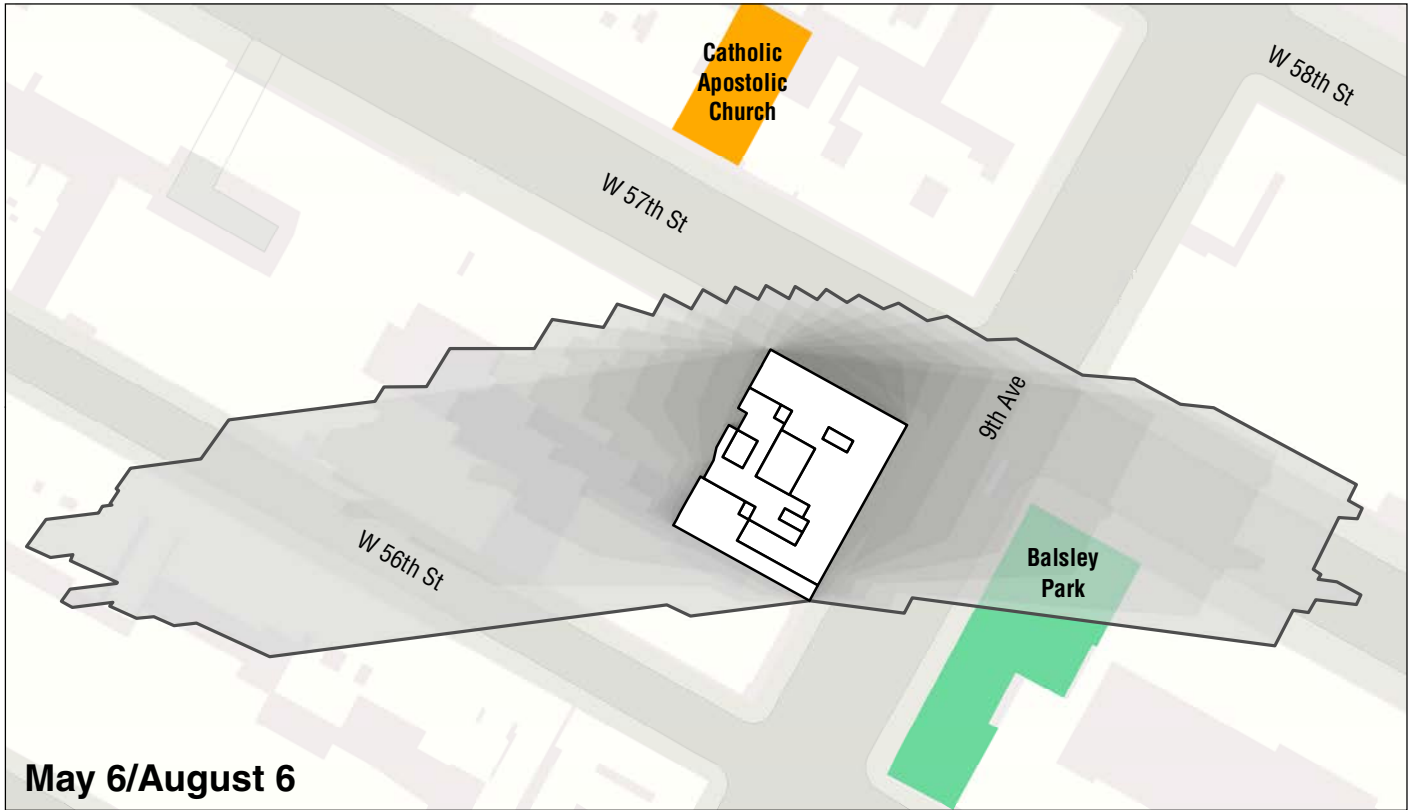
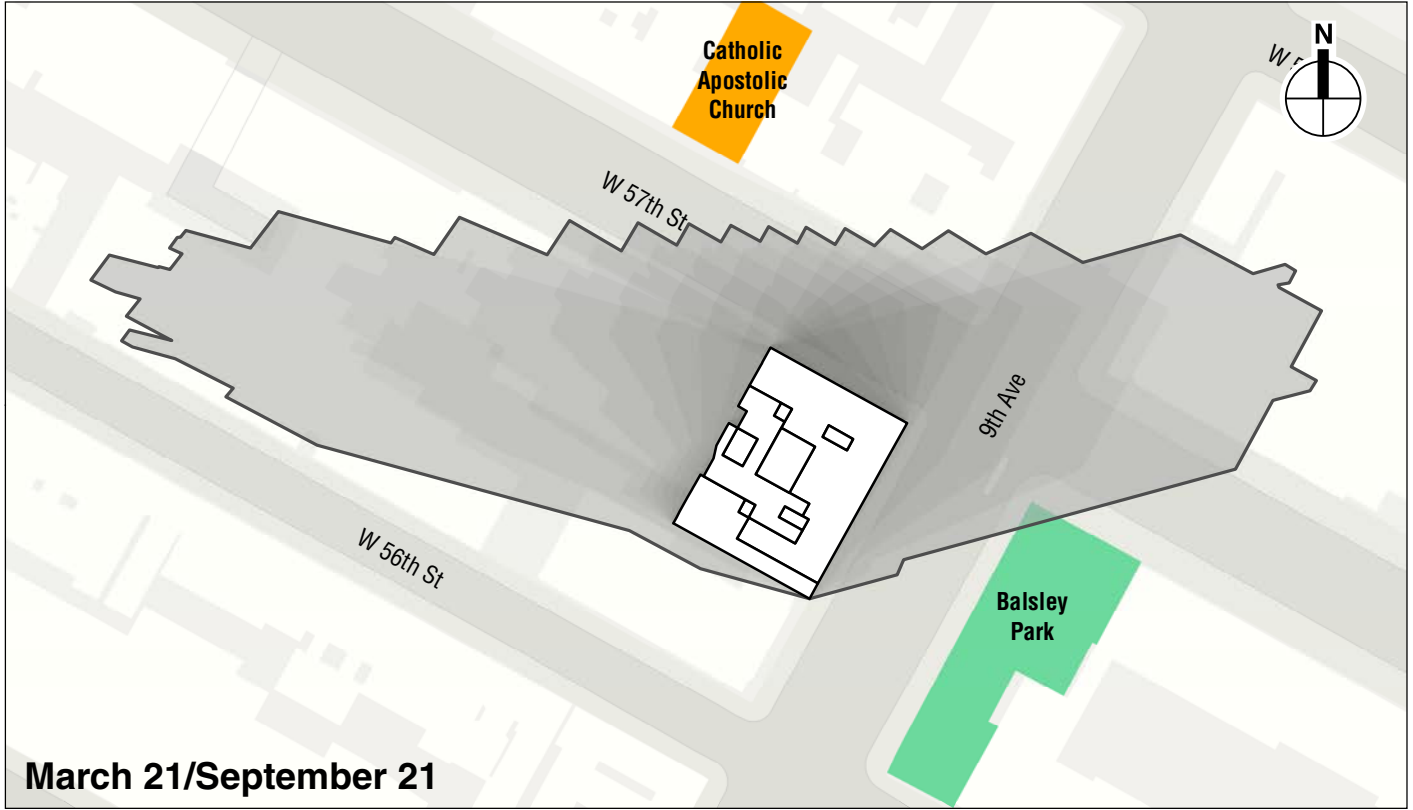
#### *TIER 3 SCREENING ASSESSMENT RESULTS*

**Figures C-2 and C-3** illustrate the range of shadows that would occur, in the absence of intervening buildings, from the proposed project on the four representative analysis days. The extent of shadow is shown between the start of the analysis day (90 minutes after sunrise) to the end of the analysis day (90 minutes before sunset).

The Tier 3 assessment finds that on the four analysis days and in the absence of other existing and planned structures, shadows cast by the proposed project would reach two sunlight-sensitive resources: Balsley Park and the Catholic Apostolic Church. Therefore, the extent and duration of incremental shadows that may fall on the resources identified in the Tier 3 assessment are determined with a detailed shadow analysis.

### **D. DETAILED ANALYSIS**

The purpose of the detailed shadow analysis is to determine the extent and duration of incremental shadow that could fall on the two sunlight-sensitive resources identified in the Tier 3 assessment as a result of the proposed project and to assess its potential effects. To complete the analysis, three-dimensional representations of the existing buildings and planned future developments were added to the Tier 3 assessment model. The shadows that would be cast in the No Action condition are then be compared with those cast in the With Action condition.

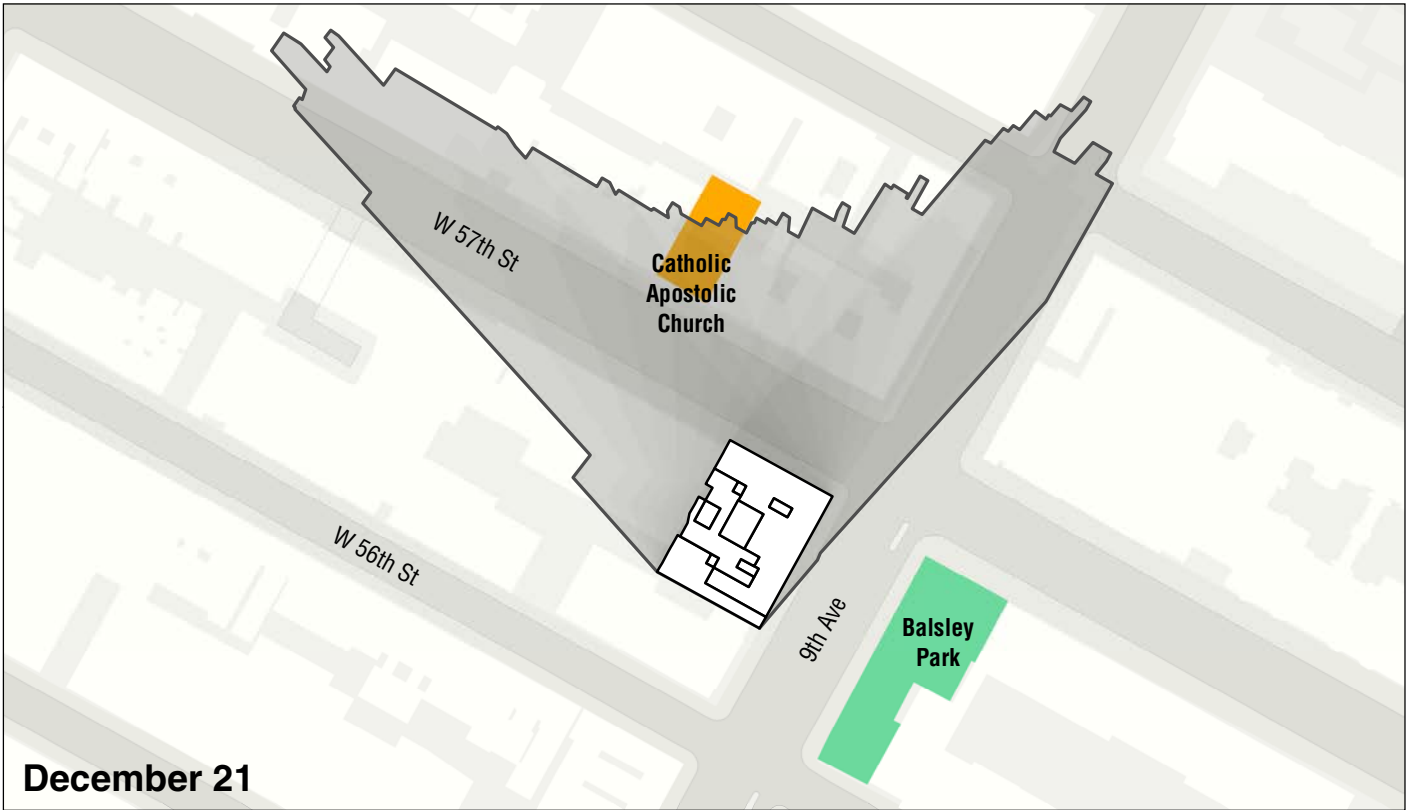
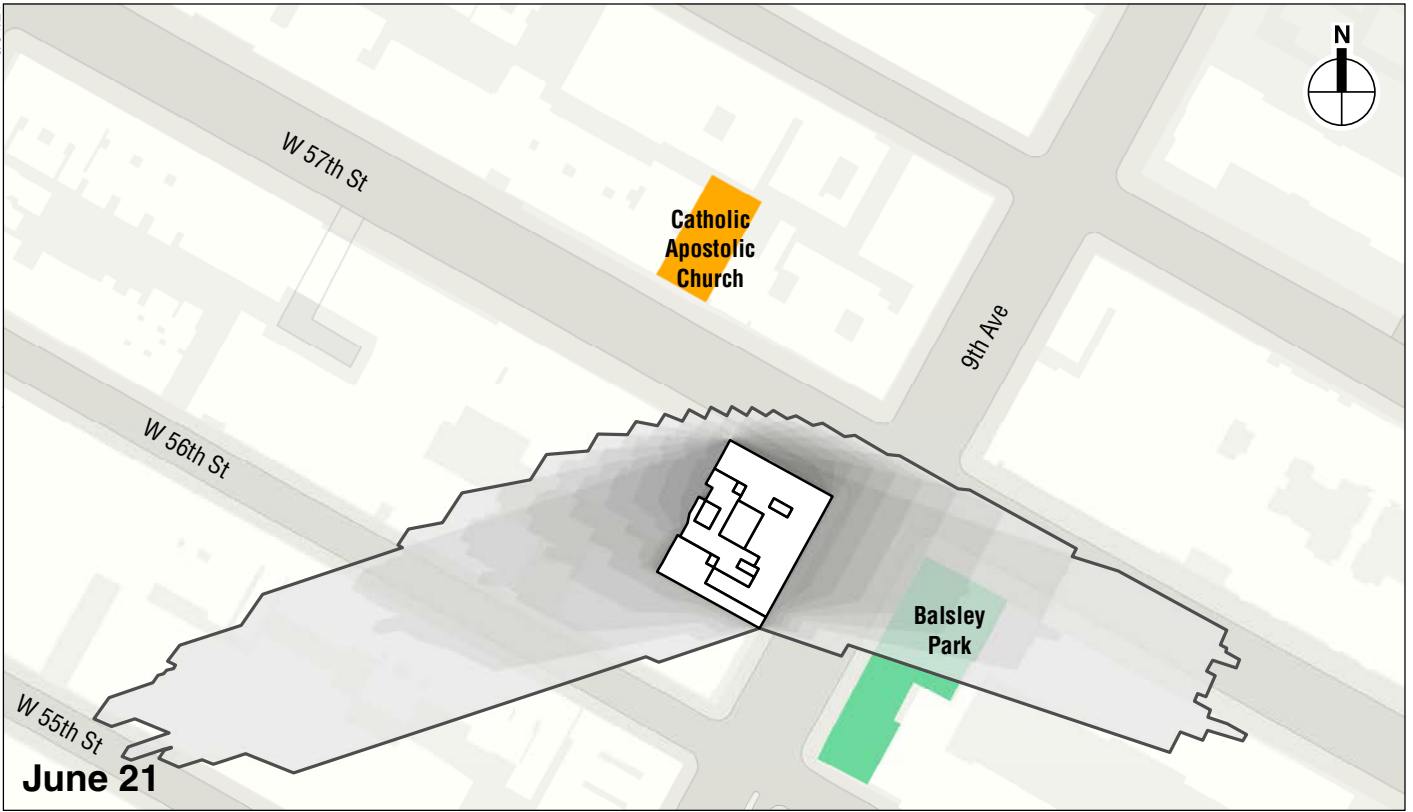


Project Site

Notes:  
 1. Daylight Saving Time not used.  
 2. Shadows are shown occurring at approximately one hour intervals from the start of the analysis day (one and a half hours after sunrise) to the end of the analysis day (one and a half hours before sunset). The Tier 3 assessment serves to illustrate the daily path or "sweep" of the proposed project's shadow across the landscape, without accounting for any existing buildings and their shadows.

0 100FEET

3/3/21



 Project Site

Notes:

1. Daylight Saving Time not used.
2. Shadows are shown occurring at approximately one hour intervals from the start of the analysis day (one and a half hours after sunrise) to the end of the analysis day (one and a half hours before sunset). The Tier 3 assessment serves to illustrate the daily path or "sweep" of the proposed project's shadow across the landscape, without accounting for any existing buildings and their shadows.

0 150FEET

The With Action condition would result in additional rooftop bulk than under the No Action condition. The building under the With Action condition would reach a maximum height of 114 feet above grade compared to a maximum height of 104 feet in the No Action condition.

**ANALYSIS RESULTS**

The detailed shadows analysis found that incremental shadow would fall on two sunlight-sensitive resources: Balsley Park, located across Ninth Avenue from the project site and the Catholic Apostolic Church, located across West 57th Street from the project site. **Table C-1** shows the entry and exit times and total duration of incremental shadow on the affected resources.

**Table C-1  
Incremental Shadow Durations**

Analysis day and timeframe window	March 21 / Sept. 21 7:36 AM–4:29 PM	May 6 / August 6 6:27 AM–5:18 PM	June 21 5:57 AM–6:01 PM	December 21 8:51 AM–2:53 PM
Balsley Park	-	-	4:30 PM–4:55 PM Total: 0 hr 25 min	-
Catholic Apostolic Church	-	-	-	9:15 AM–11:35 AM Total: 2 hr 20 min
<b>Notes:</b> Table indicates entry and exit times and total duration of incremental shadow for each sunlight-sensitive resource. Daylight saving time is not used—times are Eastern Standard Time, per <i>CEQR Technical Manual</i> guidelines. However, as Eastern Daylight Time is in effect for the March/September, May/August, and June analysis periods, add one hour to the given times to determine the actual clock time.				

**Figures C-4 and C-5** illustrate the duration and geographic extent of new shadow on the affected resources. The area of the resources affected by incremental shadow is illustrated in red. Below is a description of the resources and new shadow duration and extent.

**AFFECTED RESOURCES**

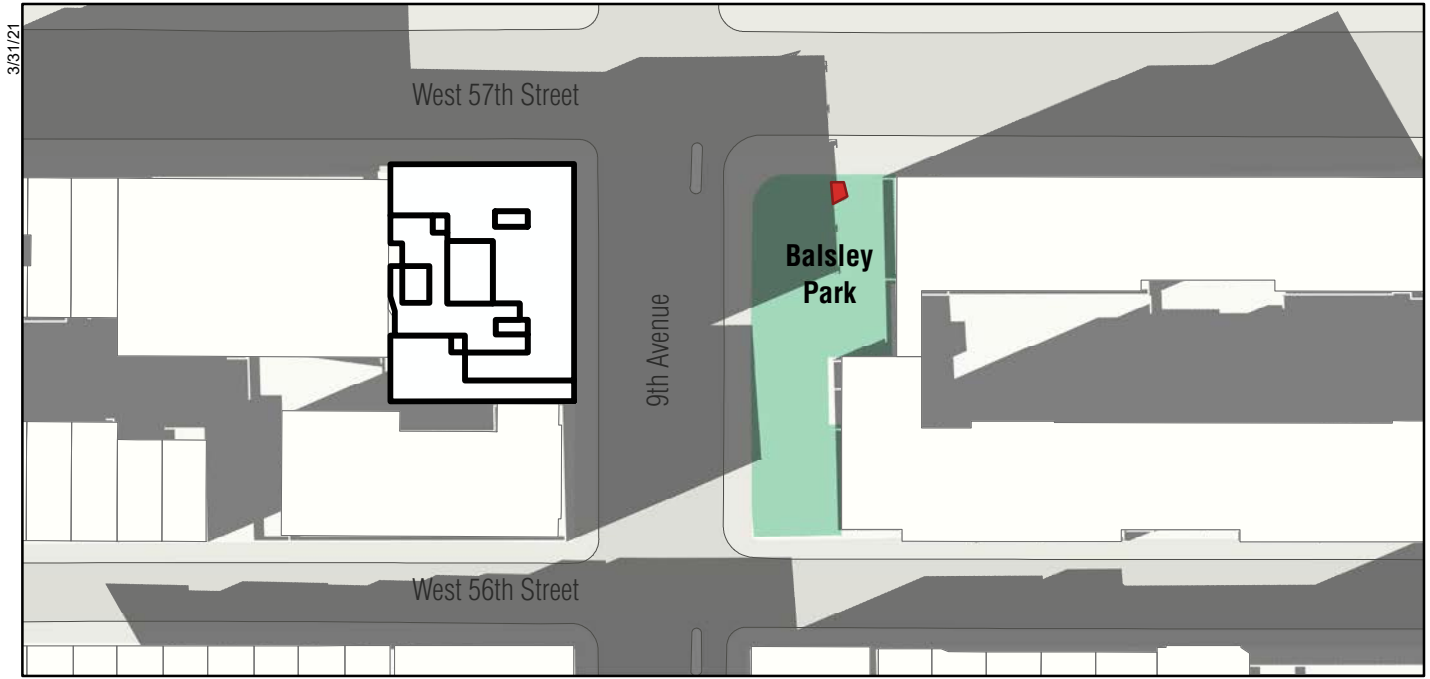
*BALSLEY PARK*

Balsley Park is located on southeast corner of West 57th Street and Ninth Avenue, across from the project site. This small park contains a grassy lawn, paved meandering walkways, seating areas, and a corner kiosk café.

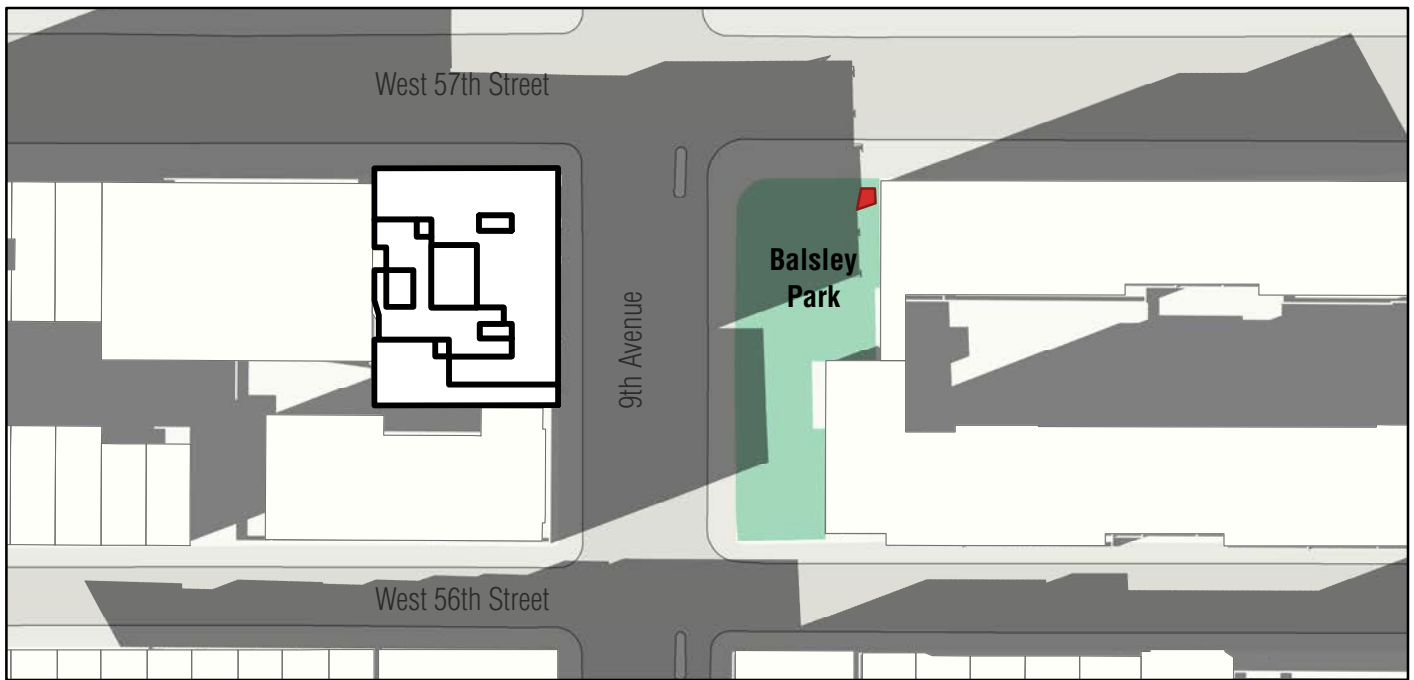
Balsley Park would be cast in new shadow in the afternoon from 4:30 PM to 4:55 PM on one of the four analysis days, June 21 (see **Figure C-4**). On this day, shadow would be cast on small portions of the park closest to West 57th Street; this is an area of the park that includes seating and vegetation. With the proposed project, the areas of the park cast in new shadow would continue to receive enough direct sunlight during the rest of the day to support a variety of plant species. There would also be enough direct sunlight to prevent the new shadow from significantly reducing the usability of the seating. Therefore, Balsley Park would not be significantly impacted by new shadow cast with the proposed project.

*CATHOLIC APOSTOLIC CHURCH*

The Catholic Apostolic Church, a landmark designated by the New York City Landmarks Preservation Commission and a sunlight-sensitive historic resource, is located at 417 West 57th Street. The church’s West 57th Street façade includes a large stained glass rose window with a pointed arched surround that opens above smaller rounded arched windows. Most windows have



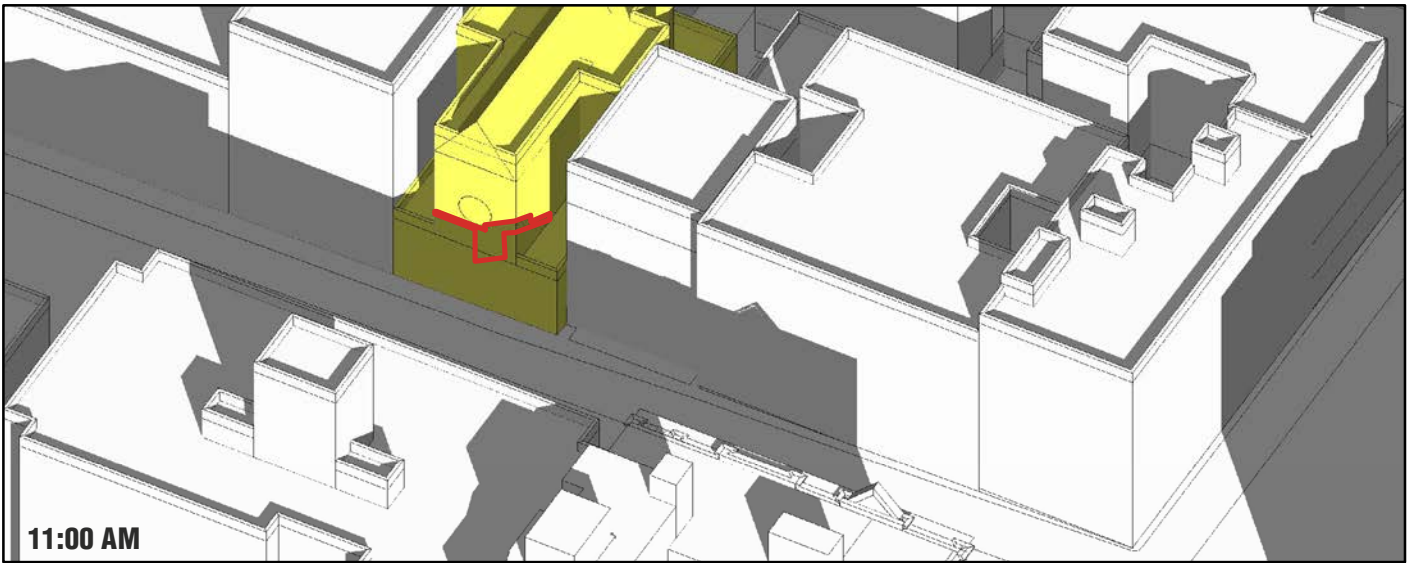
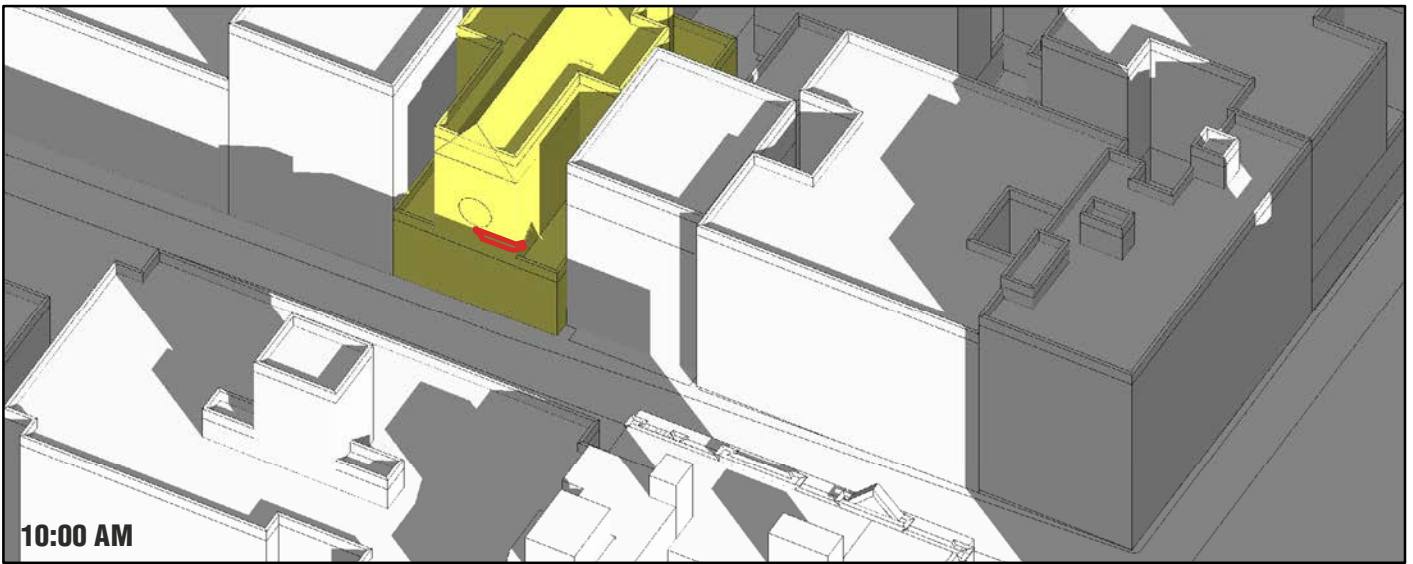
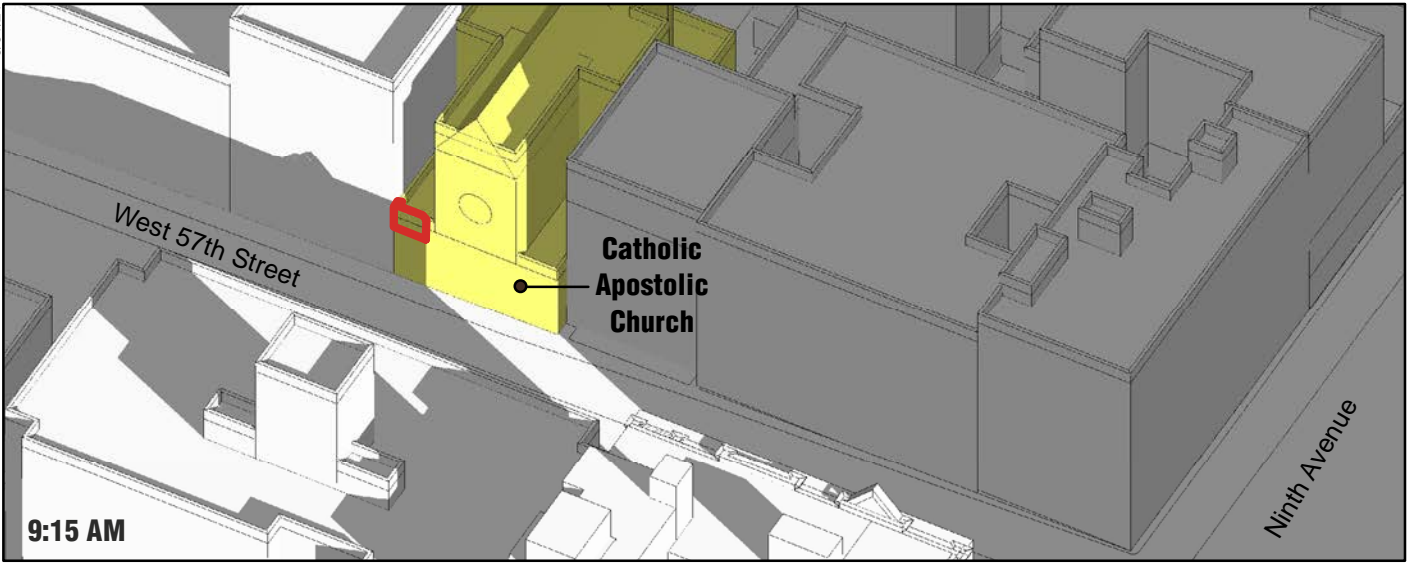
4:40 PM



4:50 PM

 Project Site

 Incremental Shadow on Sunlight-Sensitive Resource



 Incremental Shadow on Sunlight-Sensitive Features

## The Windermere

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leaded glass divided lite panes and are deeply recessed within rounded arched openings. The windows have plastic protective coverings, including the rose window (see Section B, “Historic and Cultural Resources” in Attachment A, “Supplemental Screening Analyses for EAS Part II,” of this EAS). This analysis conservatively considers the architectural features of entire West 57th Street façade to be sunlight sensitive.

The sunlight-sensitive architectural features on the church’s West 57th Street façade would be partially cast in new shadow on the December 21 analysis day from 9:15 AM to 11:35 AM (see **Figure C-5**). New shadow would fall mainly on the second-story windows, including a small portion of the large rose window. The affected façade would receive less direct sunlight on December 21 than on the majority of days of the year, but the short duration and geographic extent of shadow cast by the proposed project would not substantially reduce the quantity of direct sunlight on the façade and would not significantly alter enjoyment of the sunlight-sensitive features. Therefore, the sunlight-sensitive architectural features of the Catholic Apostolic Church would not be significantly impacted by new shadow cast with the proposed project. \*

**A. INTRODUCTION**

This analysis considers the potential of the proposed project to affect historic and cultural resources on the project site and in the surrounding area. The project site contains the seven- and eight-story Windermere apartment complex (the “Windermere building”), a grouping of three connected buildings constructed in 1880–1881. The Windermere building, which is described in detail below, was designated as a New York City Landmark (NYCL) in 2005 and has been vacant since 2007. The Windermere building is also eligible for listing on the State and National Registers of Historic Places (S/NR-eligible).

Historic and cultural resources include both archaeological and architectural resources. The study area for archaeological resources is the area that would be disturbed for project construction, the project site itself. In a comment letter dated November 23, 2015, the New York City Landmarks Preservation Commission (LPC) determined that the project site has no archaeological significance (see **Appendix B**, “LPC Consultation”). Therefore, this analysis focuses on architectural resources only.

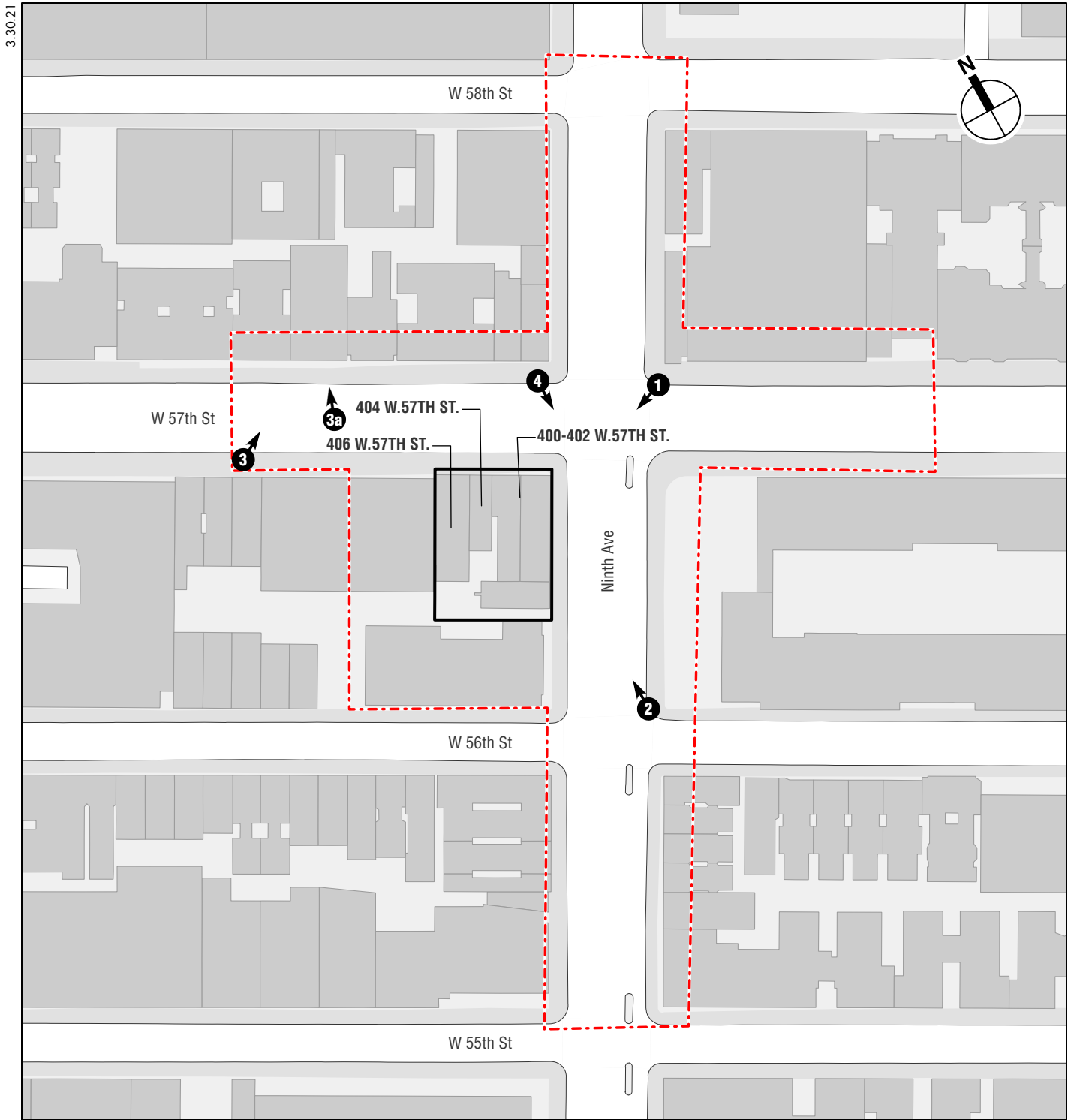
In general, potential impacts to architectural resources can include both direct physical effects and indirect, contextual effects. Direct impacts include demolition of a resource and alterations to a resource that cause it to become a different visual entity. A resource could also be damaged from vibration (i.e., from construction blasting or pile driving) and additional damage from adjacent construction that could occur from falling objects, subsidence, collapse, or damage from construction machinery. As defined in the New York City Department of Building (DOB) *Technical Policy and Procedure Notice (TPPN) #10/88*, adjacent construction is any construction activity that would occur within 90 feet of a historic resource.<sup>1</sup> Chapter 33 of the New York City Building Code outlines measures to ensure protection of adjoining property and includes additional safeguards for historic structures located within 90 feet. Contextual impacts can include the isolation of a property from its surrounding environment, or the introduction of audible, visual, or atmospheric elements that are out of character with a property or that alter its setting. The architectural resources study area for this project has been defined as the area within 90 feet of the project site to account for potential construction-related impacts. The study area also includes certain areas on the east side of Ninth Avenue and on the north side of West 57th Street that are within visual range of the project site, as shown in **Figure D-1**.




Architectural resources include properties that are National Historic Landmarks (NHLs), properties listed on the State/National Registers of Historic Places (S/NR) or that have been determined eligible for such listing (S/NR-eligible), and properties that have been designated as

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<sup>1</sup> *TPPN #10/88* was issued by DOB on June 6, 1988, to supplement Building Code regulations with regard to historic structures. *TPPN #10/88* outlines procedures for the avoidance of damage to historic structures resulting from adjacent construction, defined as construction within a lateral distance of 90 feet from the historic resource.





-  Project Site
-  Study Area
-  Photograph View Direction and Reference Number

Project Location  
 Architectural Resources  
**Figure D-1**

## **The Windermere**

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NYCLs and Historic Districts (NYCHDs), properties determined eligible for landmark status or calendared for NYCL designation (NYCL-eligible) (“known architectural resources”). In addition to identifying known architectural resources in the study area, a survey of the study area was conducted to identify any previously undesignated properties that appeared to meet S/NR or NYCL eligibility criteria (“potential architectural resources”).

## **B. EXISTING CONDITIONS**

### **PROJECT SITE**

#### *ARCHITECTURAL RESOURCES*

The Windermere building (NYCL) was designed by architect Theophilus G. Smith and was built in 1880–1881 as a large apartment complex in an area that later became one of the first apartment-house districts in Manhattan. The Queen Anne-style building has High Victorian Gothic-style brickwork and banding and Romanesque-style round-arched windows. The building comprises a grouping of three connected buildings with addresses at: 400 West 57th Street at the corner of Ninth Avenue; 404 West 57th Street at the center of the building complex fronting on West 57th Street; and 406 West 57th Street at the westernmost portion of the project site, also fronting on West 57th Street. The eastern and southern portion of the building at 400 West 57th Street has an L-shaped eighth floor, reaching a height of approximately 92'-0". The seven-story western portions of the building at 404 and 406 West 57th Street has a height of approximately 81'-7". The building's approximately 12'-3" tall parapet obscures from view the building's partial eighth floor (see views 1 and 2 of **Figure D-2**). The three adjoining buildings are visually unified by similar massing, materials, and design features including decorative brickwork and detailing. On the West 57th Street façade, the buildings' original functional independence is identified with brick pilasters. In addition, each building originally had a separate entrance portico and stoop. Portions of these features remain at 404 and 406 West 57th Street. The building's Ninth Avenue façade is similar to the West 57th Street façade's ornamentation, decorative features, and fenestration. The Ninth Avenue façade also has ground floor commercial frontages.

The Windermere building, including the ground floor retail on Ninth Avenue, has been vacant since 2007. The building's street-facing façades are largely obscured from view by plywood at the ground floor, and scaffolding and netting on the upper floors, which were installed in 2010.

As described in “Project Description,” the applicant entered into a stipulation with the City in which it voluntarily agreed to be substituted for the previous owner as a defendant in the pending State Supreme Court action and to undertake specified repairs to structural and exterior elements of the building. A substantial amount of the agreed-upon work has already been performed; this includes structural work to stabilize the building, repairs to the building's façades (repairing and replacing stone and brickwork and brick repointing), removal of non-historic fire escapes, installing new, historically appropriate windows and a new cornice, stone restoration and structural work, cleaning the exterior of the building, masonry repairs and cleaning on both street façades at the ground floor level, and installing new entry doors.



View southwest to the Windermere from West 57th Street and Ninth Avenue 1



View northwest to the Windermere from Ninth Avenue 2

## STUDY AREA

### *KNOWN ARCHITECTURAL RESOURCES*

The former Catholic Apostolic Church (S/NR-eligible, NYCL) at 417 West 57th Street, now known as the Church for All Nations, is a small, mid-block church designed by Francis A. Kimball in the Victorian Gothic style. It was built in 1885–1886 (see View 3 of **Figure D-3**). It is faced in red brick, with red terra cotta detailing above a brownstone base. The church has a square central tower that has a peaked roof and a large stained glass rose window with a pointed arched surround that opens above smaller rounded arched windows. Each of the church's two side wings has an entrance with pointed arched surrounds. Most windows have leaded glass divided lite panes and are deeply recessed within rounded arched openings. The windows have plastic protective coverings.

### *POTENTIAL ARCHITECTURAL RESOURCES*

The area surrounding the project site is developed with a mix of five- and six-story tenement buildings, six- to eight-story apartment buildings, and the former Catholic Apostolic Church, an architectural resource described above. Some residential buildings on Ninth Avenue and West 57th Street have ground floor retail. Most study area buildings have had substantial alterations to their storefronts, have had their windows replaced, or do not appear to meet criteria for S/NR listing or NYCL designation.

Just outside the study area east of Ninth Avenue are the Parc Vendome Condominiums at 340 West 57th Street. Designed by Farrar & Watmough for Henry Mandel and built between circa 1929-1932, the condominiums comprise two long, rectangular buildings set parallel to each other and separated by a courtyard. The buildings have street frontages on both East 56th and East 57th Streets. The buildings' short facades are recessed from Ninth Avenue by Balsley Park. The 19-story building fronting on East 57th Street has a two-story rusticated base with ground floor retail. Above the base, the building is faced in buff-colored brick with rectangular window openings, some of which have pedimented lintels. The wide facades are separated into bays by modest brick pilasters. The upper floors are characterized by alternating projected and recessed bays, with the uppermost floors terminating with mansard roofs (see View 4 of **Figure D-4**). In a comment letter dated September 21, 2018, LPC identified the Parc Vendome Condominiums as S/NR-eligible and NYCL-eligible (see **Appendix B**, LPC Consultation).

## C. FUTURE NO ACTION SCENARIO

### PROJECT SITE

In the future without the proposed project (No Action scenario), the applicant would complete the exterior restoration of the Windermere building as well as the structural improvements and interior renovations necessary to bring the building into a state of good repair in compliance with the Supreme Court's decision. The building cannot be reoccupied in its current historic form, as the building features several non-complying features. Further, the required restoration work has resulted in the demolition and replacement of more than 75 percent of the building's total floor area, and therefore, under the Zoning Resolution, the building is required to be brought into compliance with current zoning regulations. In order to restore the building to residential use and allow the building to be reoccupied as required by the HPD harassment cure, in the No Action scenario, the applicant would undertake substantial further alterations to the building in order to remove the non-complying features.



**3a** Detail



Former Catholic Apostolic Church at 417 West 57th Street **3**



Parc Vendome Condominiums 4

## The Windermere

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Specifically, in order to meet the streetwall and sky exposure plane requirements of the C1-8 portions of the project site, the building's existing partial eighth floor and approximately 7 feet of the existing parapet height would be demolished in the No Action scenario (see Figures 14 and 15 in the EAS Form). Similarly, in order to create complying inner courts, a full reconstruction of the building would be required in order to provide the necessary structural changes. These alterations would require LPC approval (possibly through a hardship application), which is not a discretionary action subject to review under CEQR. As noted above, the building cannot be occupied without substantial additional alterations to bring the building into compliance with the current zoning regulations. The applicant would pursue the No Action scenario in the absence of the proposed project in order to reoccupy the building and make economic use of the building. However, the No Action scenario is not preferred as it would be more costly to reconstruct the building to create complying inner courts, would require demolition of one floor and a portion of the parapet of the landmarked building and the resulting loss of significant exterior architectural features, including: the ornamental corbelled brick parapet, ornamental coping, corbelled brick pier caps, and decorative parapet extension at the building's Ninth Avenue and 57th Street facades; a decorative gable at the building's 57th Street façade; an ornamental corbelled brick chimney flue at the building's Ninth Avenue façade; an ornamental fire escape at the building's seventh floor Ninth Avenue façade; and the brick party wall and parapet, wood windows, and bluestone lintels at the seventh floor's south façade. The No Action scenario is also not preferred because it would utilize substantially less than the floor area available, and would be limited to a substantially residential building.

Provisions of the 2014 New York City Building Code provide protection measures for all properties against accidental damage from adjacent construction by requiring that all buildings, lots, and service facilities adjacent to foundation and earthwork areas be protected and supported. Further, Building Code Chapter 3309.4.4 requires that "historic structures that are contiguous to or within a lateral distance of 90 feet...from the edge of the lot where an excavation is occurring" be monitored during the course of excavation work. In addition, DOB's *TPPN #10/88* requires a monitoring program to reduce the likelihood of construction damage to adjacent New York City Landmarks and National Register-listed properties (within 90 feet) and to detect at an early stage the beginnings of damage so that construction procedures can be changed.

### STUDY AREA

There are no projects planned or under construction in the historic and cultural resources study area that are expected to be completed by the 2023 analysis year. Further, there are no architectural resources within 90 feet of the project site so there is no potential for construction-related damage to any study area architectural resources from project site construction activities.

The status of architectural resources could change in the No Action scenario. S/NR-eligible architectural resources could be listed on the S/NR, NYCL-eligible properties could be calendared for a designation hearing, and properties pending designation as NYCLs could be designated. Changes to the architectural resources identified above or to their settings could occur irrespective of the proposed actions. Architectural resources that are listed on the National Register or that have been found eligible for listing are given a measure of protection from the effects of federally sponsored or assisted projects under Section 106 of the National Historic Preservation Act. Although preservation is not mandated, federal agencies must attempt to avoid adverse impacts on such resources through a notice, review, and consultation process. Properties listed on the State Register are similarly protected against impacts resulting from state-sponsored or state-assisted projects under the State Historic Preservation Act (SHPA). Private property owners using private

funds can, however, alter or demolish their properties without such a review process. Privately owned properties that are NYCLs, within New York City Historic Districts, or pending designation as NYCLs, are protected under the New York City Landmarks Law, which requires LPC review and approval before any alteration or demolition permits can be issued, regardless of whether the project is publicly or privately funded. Publicly owned resources are also subject to review by LPC before the start of a project. However, LPC's role in projects sponsored by other City or State agencies generally is advisory only.

## **D. FUTURE WITH ACTION SCENARIO**

### **PROJECT SITE**

As described in "Project Description," the special permits under ZR Section 74-711 are necessary in order for the applicant to comply with the Supreme Court's decision requiring that the applicant bring the building to a state of good repair, as required by the Landmarks Law, and restore the Windermere building to functional, economically viable use. With the proposed special permit pursuant to ZR Section 74-711, the applicant would enlarge the Windermere building by horizontally expanding the eighth floor across the portions of the building at 404 and 406 West 57th Street and would construct a new partial ninth floor that would extend horizontally across the southern portion of the three building segments. The majority of the Windermere building would be converted into a Use Group 5 transient hotel (Scenario A-Hotel) or Use Group 6B office use (Scenario B-Office). The building's mechanical systems and elevator would be upgraded as part of the project. Under Scenario A-Hotel, the hotel would occupy the building segments at 400 and 404 West 57th Street, and the expanded eighth floor. The partial ninth floor, which would be located away from the building's street frontages, would be mostly occupied by an enclosed rooftop restaurant. Under Scenario B-Office, office use would be located on floors 1 through 9. Under both scenarios, the building's existing ground floor retail space would be retented with neighborhood retail uses. Because the Windermere is a NYCL, the proposed alterations and enlargement of the Windermere are subject to the review and approval of LPC. LPC issued a Certificate of Appropriateness (CofA) for design approval of the proposed alterations to the building (which includes the courtyard modifications and rooftop addition) on July 7, 2017 (see **Appendix B**, "LPC Consultation").<sup>2</sup>

In both the No Action and With Action condition, the building segment at 406 West 57th Street (up to the seventh floor) would be retented with 20 affordable housing units, as required under the Cure Agreement with HPD. Therefore, in the future with the proposed action, the Windermere building would contain the same 20 affordable units that will be introduced in the No Action scenario. The affordable housing units will occupy floors two through seven of the portion of the Windermere building at 406 West 57th Street.

As described in "Project Description," the applicant is undertaking restoration and repair work to the building pursuant to an agreement with the City independent of the proposed project. In addition to the work that has already been undertaken, the applicant would complete the required work, which includes restoring two existing porticos and stoops and the reconstruction of the historic double portico and stoop in the future with or without the proposed project. In response to the litigation brought by the City against the prior building owner to compel the building to be repaired and maintained in accordance with the Landmarks Law, the current owner is subject to a

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<sup>2</sup> The Applicant is in the process of renewing this approval.



## The Windermere

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court-ordered stipulation that imposes deadlines for performance of certain work on the building, including the installation of new windows. LPC issued a Certificate of No Effect (LPC 15-9783, CNE 16-0897) on August 1, 2014 for “removing all remaining historic and non-historic windows, frames, and brickmolds” and installing all new windows. Subsequently, an amendment to the Certificate of No Effect was issued on November 3, 2014 in a “Miscellaneous/Amendments” letter (LPC-164379, MISC 16-4458) for a change to the configuration of the new windows, allowing for the new windows to have a one-over-one double-hung window configuration. All restoration work is expected to be complete by the end of 2021. The restorative work was reviewed and approved by LPC in Certificates of No Effect permits dated September 10, 2010, February 8, 2013, August 1, 2014, July 7, 2017, and July 13, 2017; in a Status Update Letter dated November 20, 2013; and in “Miscellaneous/Amendments” letters dated August 6, 2014, November 3, 2014, and March 3, 2017. Interior structural alterations, including “replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts” excavation, and underpinning of the foundation wall at the adjacent building were reviewed and approved by LPC and a Certificate of No Effect was issued on January 13, 2016 (LPC-18-0874, CNE-18-1043). In addition, building alterations, including combining the buildings internally, constructing a rooftop addition, and rooftop mechanical equipment, were reviewed and approved by LPC and a Certificate of Appropriateness was issued on July 7, 2017 (LPC-19-12919, COFA-19-12919) (see LPC Consultation documents in **Appendix B**, “LPC Consultation”).<sup>3</sup>

In both the No Action and With Action scenarios, the condition and appearance of the Windermere building would be improved by removing the scaffolding, sidewalk sheds, and plywood panels from the building’s façades, restoring many elements of the building’s original design and exposing the restored façades, and returning the long-vacant building to active use. The proposed eighth floor horizontal expansion would not be visible due to the high parapet and the ninth floor rooftop addition would have a low height and would be setback from the north and east façades, further limiting its visibility. Further, the rooftop modifications would not remove any significant features of the building. In addition, the rooftop modifications would not substantially alter the context of the Windermere building, nor would the proposed façade modifications. Therefore, the proposed project would not result in any adverse contextual or visual impacts on the project site building. The proposed restoration and alterations to the Windermere building have been reviewed and approved by LPC, with several permits having been issued. Further, in comments dated March 12, 2020, LPC indicated its acceptance of the Historic and Cultural Resources analysis (see LPC Consultation documents in **Appendix B**, “LPC Consultation”). Therefore, no adverse impacts to the Windermere building would be expected with the proposed project.

### *STUDY AREA*

The proposed project would not result in any physical impacts to study area historic architectural resources as there are no such resources within 90 feet of the project site. The former Catholic Apostolic Church is located approximately 115 feet northwest of the project site, across West 57th Street. Although the church and the Windermere building are in close proximity to each other, the proposed project would substantially improve the context of the church as the Windermere building would fully restored and returned to active use. The rooftop addition would be low in height and located away from the Windermere building’s street frontages limiting its visibility. Therefore, this change to the Windermere building that would occur in the With Action scenario would not adversely affect the church. The Parc Vendome Condominiums, located just outside

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<sup>3</sup> The Applicant is in the process of renewing this approval.

the study area, would not be adversely affected by the proposed project, as the buildings' primary facades are not oriented toward the Windermere building. While the buildings' west facades face the Windermere building, the proposed project would not result in adverse visual or contextual changes to the Parc Vendome Condominiums. The façade repair and restoration, rooftop addition, and retenanting of the Windermere building would improve the visual and contextual relationship between these two historic architectural resources.

Overall, the proposed façade repair and restoration, rooftop addition, and retenanting of the Windermere building with hotel or office, residential units, and ground floor retail would improve the overall character of the Windermere building by returning this long-vacant NYCL building to active use. The proposed project would not result in any significant adverse impacts to the Windermere building or any architectural resources in the study area.

With regard to shadows, as indicated in "Attachment B, Shadows," the proposed project would result in new shadow cast on the Catholic Apostolic Church. The sunlight-sensitive features on the southern-facing façade of the Catholic Apostolic Church would be cast in new shadow on the morning of December 21. The short duration of shadow cast by the proposed project would not substantially reduce the quantity of direct sunlight on the façade and would not significantly alter enjoyment of the sunlight-sensitive architectural features. The analysis concludes that the new shadow cast by the proposed project would not be long enough in duration to result in a significant adverse shadow impact on any sunlight-sensitive resources.

Therefore, the proposed project would not result in any significant adverse impacts to historic and cultural resources. \*

**APPENDIX A**

**HPD CURE AGREEMENT**



MATHEW M. WAMBUA  
Commissioner  
RUTHANNE VISNAUSKAS  
Deputy Commissioner  
MIRIAM COLÓN  
Assistant Commissioner

Office of Development  
Housing Incentives  
100 Gold Street  
New York, N.Y. 10038

January 4, 2013

Martin Rebholz, R.A., Borough Commissioner  
Manhattan Borough Office  
New York City Department of Buildings  
280 Broadway, 3rd Fl.  
New York, NY 10007

Re: 400 West 57<sup>th</sup> Street, Manhattan  
Block 1066, Lot 32 ("Property")  
Clinton Cure Certificate Request

Dear Borough Commissioner Rebholz:

On December 19, 2012, the City of New York, acting by and through its Department of Housing Preservation and Development ("HPD"), Windermere Properties LLC ("Owner") and Windermere Housing Development Fund Corporation ("HDFC") executed the Cure Agreement ("Cure Agreement") attached hereto as **Exhibit A**. The Cure Agreement was recorded on December 26, 2012 in the Office of the City Register, New York County as CRFN 2012000503339.

HPD hereby certifies Owner's compliance with the cure provisions of Zoning Resolution §96-110(d)(2)(i).

In accordance with §96-110(d)(2)(ii), the Department of Buildings shall not issue any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the cure requirement lot, other than any low income housing located on the cure requirement lot, until: (a) HPD certifies that the low income housing required by the Cure Agreement has been completed in compliance with the Cure Agreement; and (b) the Department of Buildings has issued a temporary or permanent certificate of occupancy for each unit of such low income housing.

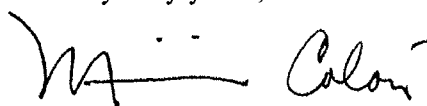
In accordance with §96-110(d)(2)(iii), the Department of Buildings shall include the occupancy restrictions of the Cure Agreement in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the cure compliance lot. Failure to comply with the terms and conditions set forth in the Cure Agreement shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

In accordance with §96-110(d)(2)(iv), the Department of Buildings shall include the occupancy restrictions of the Cure Agreement in any temporary or permanent certificate of occupancy for any



new or existing structure or portion thereof on the cure requirement lot. Failure to comply with the terms and conditions set forth in the Cure Agreement shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.

Very truly yours,

A handwritten signature in black ink, appearing to read "Miriam Colón". The signature is stylized with a large initial "M" and a long horizontal stroke.

Miriam Colón

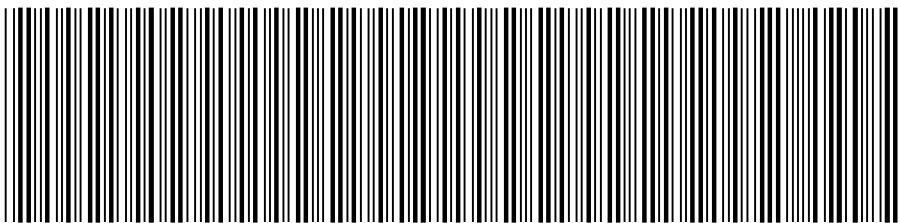
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**NYC DEPARTMENT OF FINANCE  
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**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 51**

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**PROPERTY DATA**

Borough	Block	Lot	Unit	Address
MANHATTAN	1066	32	Entire Lot	869 9 AVENUE

**Property Type:** APARTMENT BUILDING

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or Document ID \_\_\_\_\_ or Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**PARTY 1:**

WINDERMERE PROPERTIES LLC  
419 CEDAR BRIDGE AVENUE  
LAKEWOOD, NJ 08701

**PARTY 2:**

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND  
DEVELOPMENT, 100 GOLD STREET  
NEW YORK, NY 10038

x Additional Parties Listed on Continuation Page

**FEES AND TAXES**

Mortgage		Filing Fee:	
Mortgage Amount:	\$ 0.00	\$	0.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	\$ 0.00
Exemption:		NYS Real Estate Transfer Tax:	\$ 0.00
TAXES: County (Basic):	\$ 0.00		
City (Additional):	\$ 0.00		
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
<b>TOTAL:</b>	<b>\$ 0.00</b>		
Recording Fee:	\$ 282.00		
Affidavit Fee:	\$ 0.00		



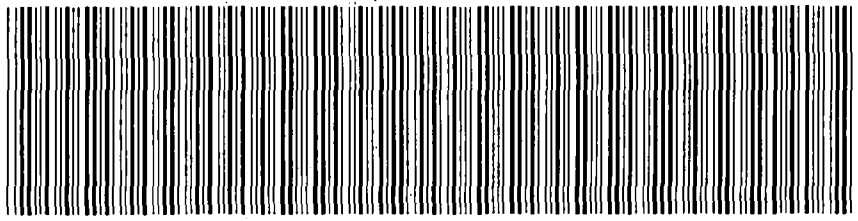
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CITY OF NEW YORK**

Recorded/Filed 12-26-2012 10:39  
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*Annette McMill*

*City Register Official Signature*

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



2012122001488001001CA155

**RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION) PAGE 2 OF 51**

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Preparation Date: 12-20-2012

Document Type: SUNDRY MISCELLANEOUS

**PARTIES**

**PARTY 1:**

WINDERMERE HOUSING DEVELOPMENT FUND  
CORPORATION  
C/O METROPOLITAN COUNCIL ON JEWISH  
POVERTY, 80 MAIDEN LANE, 21ST FLOOR  
NEW YORK, NY 10038

**THIS CURE AGREEMENT** ("Agreement") is made as of this 19<sup>th</sup> day of Dec, 2012 between **WINDERMERE PROPERTIES LLC**, a limited liability company organized and existing under the laws of the State of New York, having an office at 419 Cedar Bridge Avenue, Lakewood, New Jersey 08701 ("Owner"), **WINDERMERE HOUSING DEVELOPMENT FUND CORPORATION**, a corporation formed pursuant to Article XI of the Private Housing Finance Law and the Not-For-Profit Corporations Law, having its principal office at c/o Metropolitan Council on Jewish Poverty, 80 Maiden Lane, 21<sup>st</sup> Floor, New York, New York 10038 ("HDFC"), and **THE CITY OF NEW YORK** ("City"), a municipal corporation acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having its principal office at 100 Gold Street, New York, New York 10038 ("HPD").

**Whereas**, Owner holds fee simple title to certain real property situated, lying, and being in the County, City and State of New York, and all buildings or improvements situated thereon, which premises are described in **Exhibit A** annexed hereto and made a part hereof ("Property"); and

**Whereas**, Owner and HDFC shall enter into a Master Lease (defined below), pursuant to which HDFC shall lease the Low Income Unit (defined below) on the Property; and

**Whereas**, it is intended that Owner shall cause to be prepared and recorded with the Office of the City Register a declaration of condominium establishing a multiple-unit condominium ("Declaration"), one or which shall contain the Low Income Housing, and which Declaration shall contain terms and conditions acceptable to HPD and HDFC; and

**Whereas**, the Property constitutes a single zoning lot ("Zoning Lot") and is located in the Special Clinton District established pursuant to Chapter 6 of Article IX ("Special Clinton District Provisions") of the New York City Zoning Resolution, as the same may be amended from time to time ("Zoning Resolution" or "ZR") and subject to the requirements thereof; and

**Whereas**, Owner, in lieu of seeking a Certification Of No Harassment which would otherwise be required, has elected to seek a certification of compliance with the cure provisions of Zoning Resolution §96-110(d) ("Clinton Cure") by entering into this Agreement; and

**Whereas**, pursuant to the requirements of Zoning Resolution §96-110, Owner has entered into this Agreement and agreed to subject the Zoning Lot to the restrictions and provisions hereof; and

**Whereas**, Owner has filed with HPD plans and specifications for work to be performed on the Property ("Plan") in accordance with the requirements of Zoning Resolution §23-90 for Rental Affordable Housing provided without Public Funding as amended by Zoning Resolution §96-110(a)(11)(ii) ("Section 23-90") and Owner and HDFC have agreed to enter into this Agreement; and

**Whereas**, HPD has reviewed and conditionally approved the Plan, subject to Owner's obtaining certain City approvals and waivers of the Plan from CPC, DOB, and LPC, as described in Section 5(e); and

**Whereas**, Owner intends to undertake Material Alterations and/or substantial rehabilitation on the Property ("Project"); and

**Whereas**, the Project will provide Low Income Housing as defined in Zoning Resolution §96-110(a)(9), in accordance with Section 23-90, the Inclusionary Housing Program Guidelines and



any addenda and amendments thereto from time to time ("Guidelines"), and the Special Clinton District Provisions; and

**Whereas**, HPD has been duly authorized to administer Section 23-90, the Guidelines, and the Special Clinton District Provisions (collectively, "Program") and enter into this Agreement; and

**Whereas**, the Floor Area of the Low Income Housing to be provided under the Project will satisfy the Cure Requirement set forth in Zoning Resolution §96-110(a)(3); and

**Whereas**, in accordance with Zoning Resolution §96-110(b), after Owner has entered into this Agreement and caused this Agreement to be recorded in the Office of the City Register and indexed against each tax lot within the Zoning Lot, HPD will certify compliance with Zoning Resolution §96-110(d); and

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein and other good consideration, the receipt and sufficiency whereof is hereby acknowledged, and in compliance with the Clinton Cure, the parties hereto hereby covenant and agree as follows:

1. **Definitions.** All capitalized terms used in this Agreement and not expressly defined herein shall have the meanings ascribed to such terms in the Zoning Resolution. As used herein:

"Administering Agent" shall mean Windermere Housing Development Fund Corporation.

"Administering Agent Agreement" shall have the meaning set forth in Section 13.

"Agreement" shall have the meaning first set forth above.

"Annual Income" shall mean, in accordance with C.F.R. 5.609 or any successor regulations, the anticipated total income from all sources to be received by the household head and spouse and by each additional member of the household, including all net income derived from assets, for the twelve (12) month period following the initial determination of income. The Administering Agent also shall retain all records and documents relating to income determination for a minimum of three (3) years after the date a tenant commences occupancy in a Low Income Unit.

"Building" shall mean a building which will contain Low Income Units that will be altered or substantially rehabilitated, as applicable, on the Zoning Lot.

"Certification Of No Harassment" shall have the meaning set forth in Zoning Resolution §96-01.

"City" shall have the meaning first set forth above.

"Clinton Cure" shall have the meaning first set forth above.

"CPC" or "DCP" shall mean the City's City Planning Commission.

"Cure Compliance Lot" shall have the meaning set forth in Zoning Resolution §96-110(a)(2).

"Cure Requirement" shall have the meaning set forth in Zoning Resolution §96-110(a)(3). For the purpose of such definition, the total Residential Floor Area and Hotel Floor Area of the Multiple Dwelling(s) to be altered or demolished in which Harassment has occurred shall be deemed to be 64,406 square feet.

"Cure Requirement Lot" shall have the meaning set forth in Zoning Resolution §96-110(a)(4).

"DOB" shall mean the City's Department of Buildings.

"Floor Area" shall have the meaning set forth in the Zoning Resolution.

"Floor Area Ratio" shall have the meaning set forth in the Zoning Resolution.

"Guidelines" shall have the meaning first set forth above.

"Harassment" shall have the meaning set forth in Zoning Resolution §96-01.

"HDFC" shall have the meaning first set forth above. All references to "HDFC" in this Agreement shall include HDFC's successors, assigns, grantees and sublessees.

"Hotel Floor Area" shall have the meaning set forth in the Zoning Resolution.

"HPD" shall have the meaning first set forth above.

"Initial Occupancy" shall have the meaning set forth in the Zoning Resolution.

"Low Income Floor Area" shall have the meaning set forth in the Zoning Resolution.

"Low Income Housing" shall have the meaning set forth in Zoning Resolution §96-110(a)(9).

"Low Income Unit" shall mean the condominium unit in the Building comprised of the following dwelling units to be used as Low Income Housing: 2A, 2B, 2C, 3A, 3B, 3C, 4A, 4B, 4C, 5A, 5B, 5C, 6A, 6B, 6C, 6D, 7A, 7B, 7C and 7D in the plans for such Building.

"Master Lease" shall mean the long-term lease of the Low Income Unit, satisfactory in form, scope and substance to HPD and HDFC, pursuant to which HDFC shall operate and manage the Low Income Housing and ancillary space.

"LPC" shall mean the City's Landmarks Preservation Commission.

"Monthly Rent" shall have the meaning set forth in the Zoning Resolution.

"Multiple Dwelling" shall have the meaning set forth in Zoning Resolution §96-01.

"Operating Accounts" shall mean all bank accounts established with respect to the management and operation of the Low Income Units by Owner, HDFC, and/or the Administering Agent, as applicable.

"Owner" shall have the meaning first set forth above. All references to "Owner" in this Agreement shall include Owner's successors, assigns, grantees and lessees.

"Plan" shall have the meaning first set forth above.

"Program" shall have the meaning first set forth above.

"Project" shall have the meaning first set forth above.

"Property" shall have the meaning first set forth above.

"Rent Stabilization Laws" shall mean the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974 and all regulations promulgated in connection thereto.

"Rent Stabilization Standard" shall mean the then-current fair rent for any Low Income Housing plus all increases permitted under the Rent Stabilization Laws, subject to Section 10 (d).

"Rent-Up" shall have the meaning set forth in the Zoning Resolution.

"Rent-Up Date" shall have the meaning set forth in the Zoning Resolution.

"Residential Floor Area" shall have the meaning set forth in the Zoning Resolution.

"Restrictive Declaration" shall have the meaning set forth in Zoning Resolution §96-110(a)(11).

"Regulatory Agreement" shall have the meaning set forth in Zoning Resolution §23-911.

"Section 23-90" shall have the meaning first set forth above.

"SMSA Limits" shall mean the rent limits established from time to time by U.S. Department of Housing and Urban Development for the New York Standard Metropolitan Statistical Area.

"Special Clinton District Provisions" shall have the meaning first set forth above.

"Zoning Lot" shall have the meaning first set forth above.

"Zoning Resolution" shall have the meaning first set forth above.

2. Restrictive Declaration; Regulatory Agreement. This Agreement is both a Restrictive Declaration and a Regulatory Agreement.
3. Cure Requirement Lot; Cure Compliance Lot. The Zoning Lot is both the Cure Requirement Lot and the Cure Compliance Lot.
4. Low Income Housing. Low Income Housing in an amount not less than the Cure Requirement shall be provided in a Multiple Dwelling on the Cure Compliance Lot. Such Low Income Housing shall comply with the requirements of Section 23-90.

5. Permits, Approvals, Waivers, and Certificates of Occupancy.

- a. Owner and HDFC shall not seek or obtain any permit from DOB for any construction, alteration, or demolition work on the Zoning Lot, except a permit for an alteration which is not a Material Alteration and does not require a Certification Of No Harassment, unless this Agreement has been recorded in the Office of the City Register and indexed against each tax lot within the Zoning Lot.
- b. Neither Owner nor HDFC shall apply for or accept any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the Zoning Lot, other than any Low Income Housing located on the Zoning Lot, until (i) HPD certifies that the Low Income Housing required by this Agreement has been completed in compliance with this Agreement; and (ii) DOB has issued a temporary or permanent certificate of occupancy for each unit of such Low Income Housing.
- c. Owner shall request that DOB include the occupancy restrictions of this Agreement in any temporary or permanent certificate of occupancy for any new or existing structure or portion thereof on the Zoning Lot, except where the management and operation of the Zoning Lot is wholly controlled by, and this Agreement requires that management and operation of the Zoning Lot remain wholly controlled by, an independent not-for-profit administering agent that is not affiliated with the owner of the Zoning Lot. Owner shall not accept any temporary or permanent certificate of occupancy which does not contain such restrictions. Failure to comply with the terms and conditions set forth in this Agreement shall constitute a violation, and a basis for revocation, of any certificate of occupancy containing such restriction.
- d. The Owner shall construct and operate or cause HDFC to operate, the improvements described herein in accordance with the terms hereof. After completing such improvements, the Owner and/or the HDFC shall neither obtain permits from the City's DOB for any construction, alteration, or demolition work on the Zoning Lot that would result in a change in the Floor Area located on the Zoning Lot, nor actually commence any such work, without first entering into an amendment to this Agreement with HPD.
- e. Owner shall ensure that the Plan is in full compliance with the design requirements of all applicable laws, and with all requirements to obtain approvals and/or waivers from CPC, LPC, and DOB as set forth in the HPD Schematic Design Requirements annexed hereto as Exhibit B and made a part hereof. Failure to comply with the HPD Schematic Design Requirements by 24 months from the date of this Agreement shall constitute a violation, and a basis for revocation, of any certificate of occupancy and the Cure Completion Certificate described in Section 11. Any schematic design changes made subsequent to the date of this Agreement as a result of determinations by CPC, LPC or DOB shall be submitted to HPD's Division of Building & Land Development Services ("BLDS") with a written explanation, for further HPD review and approval.
- f. Owner and HDFC shall complete an application for tax exemption under Article XI of the Private Housing Finance Law for the benefit of the Low Income Unit. In the

event that either HPD or the New York City Council do not approve the Article XI exemption due to fee title of the Low Income Unit not being vested in the HDFC, then Owner shall convey title to the Low Income Unit to the HDFC in consideration of the sum of \$1.00, and the Master Lease shall be terminated, whereupon the Article XI tax exemption application shall, provided that the Owner is in compliance with the terms and conditions of this Agreement, be appropriately amended and resubmitted to the New York City Council for approval.

Owner shall be responsible for the payment of any and all real estate taxes imposed on the Low Income Unit until the commencement of the tax exemption under Article XI of the Private Housing Finance Law.

6. **No Bonus or Tax Benefit.** No portion of the Low Income Housing developed on the Zoning Lot shall qualify to (i) increase the Floor Area Ratio pursuant to Zoning Resolution §96-21, Zoning Resolution §96-22, or Zoning Resolution §23-90; or (ii) satisfy an eligibility requirement of any real property tax abatement or exemption program with respect to any Multiple Dwelling that does not contain such Low Income Housing.
7. **The Project.** The Project to be undertaken by Owner and HDFC is described in the Plan submitted to HPD and DOB and approved by HPD subject to the requirements set forth in **Exhibit B** and made a part hereof. The Project will provide 20 Low Income Units in the Building.
8. **Cure Requirement.** Upon completion, the Low Income Units will comprise a Floor Area in the amount of 18,742 square feet in conformance with the Cure Requirement.
9. **Representations.** Owner, and HDFC (with respect to subparagraph 9[d] below only) hereby represent that:
  - (a) the site of the Low Income Units is eligible for the preservation or substantial rehabilitation, as applicable, of Low Income Housing pursuant to the Program;
  - (b) the proposed preservation, or substantial rehabilitation, as applicable, of the Low Income Units, as described in the Plan, conforms to the Guidelines, HPD's design guidelines, and any construction guidelines issued in conjunction with such design guidelines, and upon completion the Low Income Units shall conform to the building plans submitted to and approved by HPD and DOB;
  - (c) the preservation, or substantial rehabilitation, as applicable, of the Low Income Units shall be completed within three (3) years of the date of this Agreement; and
  - (d) the Project shall at all times and in all respects comply with the Program.
10. **Rents.**
  - (a) The initial rents charged by Owner and/or HDFC for the Low Income Units shall not exceed the rents set forth in the schedule annexed hereto as **Exhibit C** and made a part hereof.

- (b) For tenants in place rents for Low Income Units shall be the lesser of (a) the rents permitted under the Rent Stabilization Laws, or (b) 30% of 80% of the SMSA Limits.
- (c) The rent for any Low Income Unit that becomes vacant after Initial Occupancy shall be the lesser of 30% of 80% of SMSA Limits or the Rent Stabilization Standard.
- (d) Notwithstanding anything to the contrary contained herein, Owner and/or HDFC shall not utilize any exemption or exclusion from any requirement of the Rent Stabilization Laws to which Owner and/or HDFC might otherwise be or become entitled with respect to one or more Low Income Units, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease requirements, registration requirements, or other provisions of the Rent Stabilization Laws due to (i) the vacancy of a unit where the rent exceeds a prescribed maximum amount, (ii) the fact that tenant income and/or unit rent exceed prescribed maximum amounts, (iii) the nature of the tenant, or (iv) any other factor.
- (e) Owner and/or HDFC shall grant all tenants the same rights that they would be entitled pursuant to Rent Stabilization. In addition, Owner and/or HDFC shall register the Low Income Units with DHCR pursuant to Rent Stabilization, and such units shall be subject to Rent Stabilization without regard to whether such Low Income Units are otherwise statutorily subject to Rent Stabilization. Owner and/or HDFC shall ensure that these rights are stated in each lease for a Low Income Unit. If any court declares that Rent Stabilization is statutorily inapplicable to a Low Income Unit, such unit shall remain subject to all requirements of Rent Stabilization in accordance with this Agreement and the lease for such Low Income Unit for so long as this Agreement shall remain in effect.

In the event that any of the foregoing laws and regulations expire or are no longer enforced in substantially the same manner as on the date hereof, HPD may designate or establish an alternate regulatory mechanism in substitution thereof.

11. Certifications.

Upon the request of Owner following recordation of this Agreement against the Property, and provided that the Owner and/or HDFC are in compliance with this Agreement, the Plan, and the Program, and solely for the purpose of allowing DOB, CPC, or LPC to issue the permit(s), approvals, waivers, or special permit(s) required for the Project, HPD will certify to DOB or CPC, as applicable, compliance with the cure provisions of Zoning Resolution §96-110(d) ("Cure Certificate"), and in particular that the Plan has been submitted and approved in compliance with the Program and that the square footage of the Floor Area of the Low Income Units, when completed in accordance with the Plan and this Agreement, will satisfy the Cure Requirement.

Following recordation of this Agreement against the Property and completion of the Low Income Units in accordance with the Plan and this Agreement, and for the purpose of allowing DOB to issue the temporary certificate of occupancy or permanent certificate of occupancy required in connection with the Project for the proposed new or existing structure, or portion thereof, on the Cure Requirement Lot, other than for the Low Income Housing on the Cure Requirement Lot, HPD shall issue a certificate of

completion ("Cure Completion Certificate") certifying the Project's compliance with the cure provisions of Zoning Resolution §96-110(d) within fourteen (14) business days after the last to occur of the following:

- (a) certification from DOB that each Low Income Unit that is subject to the occupancy restrictions contained in this Agreement, in accordance with Zoning Resolution §96-110(d)(2), is eligible to receive its C of O or TC of O upon HPD's issuance of the Cure Certificate; and
- (b) a site inspection which establishes to HPD's satisfaction that the Low Income Units have been completed in accordance with this Agreement, the Plan, the Program, HPD's design guidelines and construction guidelines issued in conjunction with such design guidelines, and the building plans previously submitted to and approved by HPD; and
- (c) funding of the Special Reserve Fund in accordance with Section 17; and
- (d) commencement of and progress with Rent-Up of the Low Income Units satisfactory to HPD in accordance with Section 13; and
- (e) HPD's receipt of certificates of insurance required by Section 14, together with satisfactory evidence that all premiums for the current year are fully paid; and
- (f) HPD's receipt of (i) a true copy of Owner's policy of fee title insurance dated on or after the date that the Owner or HDFC (pursuant to Section 5.f above) acquired title to the Low Income Unit, where such policy (A) has been issued by a title company in good standing licensed to issue title insurance in New York State and contains the Standard New York Endorsement (Owner's Policy) in substantially the form that appears as **Exhibit D** annexed hereto and made a part hereof, and (B) evidences fee simple ownership in the Owner and the absence of liens and other encumbrances on the Zoning Lot other than those approved by HPD, (ii) written title continuation report(s) by the title company setting forth the state of title for the Zoning Lot from the date of the fee title policy to the date of submission of such title policy to HPD, and confirming the absence of liens and encumbrances thereon other than this Agreement and any other lien or encumbrance approved by HPD, and (iii) satisfactory proof of payment of all premiums and fees for the title policy and continuations; and
- (g) HPD's receipt of an executed contract between the Applicant and Administering Agent and, if applicable, an executed contract of sale between Applicant and Administering Agent in accordance with Section 13 hereof; and
- (h) submission of an affidavit stating that Owner or HDFC shall complete multiple dwelling registration of the Building on the Property that contains the Low Income Unit and proof that such Building is entirely free of violations of record issued by any City or State agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and the Program; and
- (i) Owner's, and, as applicable, HDFC's certification that the representations, covenants, warranties and statements made by Owner and, as applicable, by HDFC that are contained in this Agreement and all other documents executed in

connection with this Agreement remain true and correct as of the date on which the foregoing conditions have been satisfied; and

- (j) submission of zoning calculations that show the Cure Requirement as approved by the DOB provided, however, that if such approved zoning calculations differ from those set forth in the plans referenced in Exhibit D, HPD's issuance of the Cure Completion shall be based upon such approved calculations; and
- (k) HPD's receipt of evidence that the Master Lease, if applicable and sufficient for purposes of the real estate tax exemption pursuant to Article XI of the Private Housing Finance Law, remains in full force and effect; and
- (l) HPD's receipt of all CPC, LPC, and DOB approvals and/or waivers pursuant to the HPD Schematic Design Requirements; and
- (m) proof satisfactory to HPD that the Declaration has been recorded; and
- (n) proof satisfactory to HPD that an Article XI real estate tax exemption is in full force and effect for the Low Income Unit; and
- (o) proof satisfactory to HPD that no real estate taxes are due and owing for the Low Income Unit.

12. Warranties. Owner shall obtain and retain commercially reasonable warranties of the work on the Low Income Units from the general contractor and all subcontractors performing such work.

13. Renting Low Income Units. Owner or HDFC has contracted with Administering Agent, a not-for profit organization qualified by HPD to participate in the Program, to act as administering agent for the Low Income Units. A copy of the contract is annexed hereto as Exhibit E and made a part hereof. The Administering Agent shall ensure that the Low Income Units are rented at Rent-up and each subsequent vacancy, in compliance with the Plan and all of the requirements of the Program. Within (60) sixty days of the Rent-up Date, the Administering Agent shall submit an affidavit to HPD attesting that the Monthly Rent registered and charged for each Low Income Unit, complied with the Monthly Rent requirements for such unit, at Initial Occupancy. Each year after Rent-up, in the month of March, the Administering Agent shall submit an affidavit to HPD attesting that each lease or sublease of a Low Income Unit or renewal thereof, during the preceding year, complied with the applicable Monthly Rent requirements of the Program. A contract between the Administering Agent and HPD ("Administering Agent Agreement") is annexed hereto as Exhibit F and made a part hereof. HPD reserves the right to replace the Administering Agent in the event that the Low Income Units are not managed and operated in compliance with the Program.

14. Insurance.

- (a) Owner shall obtain and maintain in force all-risk casualty insurance, including broad form extended coverage that, in the event of a casualty to the Building containing the Low Income Units, will pay an amount of insurance equal to full replacement value of the Low Income Units. In the event of a casualty, (i) Owner



or Administering Agent shall promptly notify HPD thereof, and (ii) the proceeds of the insurance and the Special Reserve Fund established pursuant to Section 17 of this Agreement or Owner's cash shall be utilized for the reconstruction of the Low Income Units.

- (b) Owner shall obtain and maintain in force commercial general liability insurance and other insurance of commercially reasonable types and amounts with respect to the Building containing the Low Income Units.
15. Construction Monitoring. HPD may monitor the construction of the Low Income Units in any reasonable manner, including inspection of the Property. Upon request of HPD (a) Owner shall give HPD notice of planning and construction meetings by telephone or in writing and (b) HPD may (i) participate in planning and construction progress meetings, (ii) review construction contracts, plans, specifications and materials samples and (iii) review proposed changes to the foregoing. After HPD's request for any such documents or materials, Owner shall give to HPD (x) notice of any and all proposed changes to such documents or materials, and (y) notice of any casualty to or other material event concerning the work on the Low Income Units. In no event shall the approved building plans for the Low Income Units be altered, modified or revised in any respect without the prior written approval of HPD.
16. Disclosure of Financial Arrangements. Upon the request of HPD, Owner shall fully disclose the financial terms and arrangements relating to the Low Income Units and use by Owner of the Cure Completion Certificate. In the event that HPD obtains information pursuant hereto, HPD shall thereafter disclose such information to third parties only as required by law, except that such data may be used and disclosed with attribution to Owner as part of an analysis of the Program.
17. Special Reserve Fund. Simultaneous with or prior to the issuance of the Cure Completion Certificate, Owner will fund a special operating reserve fund (the "Special Reserve Fund") in the amount of either: (1) forty-two thousand one hundred seventy dollars (\$42,170) which represents \$2.25 per square foot of Low Income Floor Area as stated in the architect's schematic drawings submitted to HPD on April 19, 2012 and received by HPD's division of Building & Land Services on April 24, 2012 or (2) if, in accordance with Section 11(j), the DOB approves zoning calculations that differ from such schematic drawings, then \$2.25 per square foot of Low Income Floor Area as stated on DOB approved zoning calculations, which shall be placed in a blocked reserve account to be administered by HPD or its designee. The Special Reserve Fund and the interest accrued thereon shall belong to the Low Income Units and the owner of such Low Income Units and shall be used solely for the benefit of the Low Income Units. The Special Reserve Fund is separate from the Building reserve fund built into the rent roll that will accumulate over time. The proceeds of the Special Reserve Fund shall be available to pay for unanticipated increases in the cost of operating and maintaining the Low Income Housing (including, but not limited to, escalating real estate taxes), or for capital repairs or improvements, the cost of which cannot be covered by the Building's capital reserve fund. Expenditures from the Special Reserve Fund shall be made solely at the discretion of HPD and may be made by HPD on behalf of Owner.

If, HPD authorizes any expenditures to be made from the Special Reserve Fund, Owner shall replenish the Special Reserve Fund in the amount of the total sum of all such authorized expenditures by applying the excess of collected rents over actual operating

expenses until all such repayments have been made. Such repayments into the Special Reserve Fund shall be made prior to the payment of any unpaid developer, syndication or partnership fees. In addition, such repayments shall be supported by the most recent financial statements, an independent auditor's report and a rent roll for the Property. Owner may choose to replenish such Special Reserve Fund on a calendar year basis or on a fiscal year basis. In addition, upon sale, transfer or other disposition of the Low Income Units or any interest therein, Owner shall repay, in full, all amounts withdrawn from and owed to the Special Reserve Fund.

18. Inspection.

- (a) HPD shall have full authority to inspect the Property without prior notice during business hours and Owner, HDFC and the Administering Agent shall cooperate fully with HPD in any such inspection. HPD shall have authority to inspect the Property other than during business hours on three (3) days prior notice.
- (b) HPD shall have full authority to inspect the books and records of Owner, HDFC and Administering Agent without prior notice during business hours and Owner, HDFC and the Administering Agent shall cooperate fully with HPD in any such inspection. Owner, HDFC and the Administering Agent shall furnish copies of all books and records to HPD, without cost to HPD, upon five (5) days prior written request.

19. Operating Accounts. Owner, HDFC and Administering Agent shall provide HPD with the names and locations of all Operating Accounts. All such accounts shall confer plenary authority on HPD to freeze such accounts, which authority HPD shall exercise subject to Section 20. Furthermore, Owner, HDFC and Administering Agent shall provide HPD with annual operating statements for the Low Income Units.

20. Remedies of HPD.

- (a) If Owner or HDFC violates any term, covenant or provision of this Agreement, or if any representation made by Owner or HDFC herein is determined by HPD to be false or misleading, then HPD may declare a default under this Agreement.
- (b) Upon declaration of a default under this Agreement, HPD shall give Owner and/or the Administering Agent, as applicable, notice thereof by facsimile, hand delivery or reputable overnight courier and a reasonable opportunity to cure (if HPD determines that such default can be cured). If at the end of the cure period (if any) the default has not been cured, then HPD shall provide Owner and the Administering Agent, as applicable, notice thereof and shall provide Owner and the Administering Agent, as applicable, an opportunity to be heard on not less than three (3) days prior written notice. Following such hearing, if HPD finds that a default has occurred under this Agreement, HPD may (i) provide for management of the Property directly or through a third party designated by it, (ii) freeze the Operating Accounts, (iii) seek specific performance of this Agreement or an injunction against its violation, (iv) seek monetary damages against Owner and/or Administering Agent, as applicable, and/or (v) terminate this Agreement.
- (c) The remedies set forth in Section 20(a) and Section 20 (b) hereof shall be cumulative with any other remedies available to HPD under this Agreement, or at

law or in equity and exercise of one or more remedies set forth in Section 20(a) or Section 20(b) hereof shall not limit HPD in the exercise of one or more other remedies set forth therein or otherwise available to HPD under this Agreement, or at law or in equity.

- (d) HPD may exercise the remedies set forth in Section 20(a) and Section 20(b) hereof without the notice, opportunity to cure or hearing provided therein if HPD determines that exigent circumstances require immediate action to protect the Low Income Units or the tenants thereof. HPD will provide notice and a hearing as provided in Section 20(b) hereof promptly following exercise of its remedies pursuant to this Section 20(d).
- (e) If HPD elects to provide for management of the Low Income Units or terminate this Agreement pursuant to this Section 20, Owner shall (and shall cause the Administering Agent and/or HDFC to) immediately deliver possession of the Low Income Units and all books and records kept in connection therewith to HPD or the person or entity designated by HPD and shall cooperate fully in effectuating the smooth transfer of management and control of the Low Income Units, including execution of written instruments and provision of notice to third parties.
- (f) Owner, HDFC and the Administering Agent hereby grant HPD and its designees an irrevocable license, coupled with an interest, to enter and remain on the Property for the purpose of managing the Low Income Units as provided in this Agreement. Owner and HDFC hereby agrees that HPD or its designees shall not be liable in any event except for gross negligence or willful misconduct.

Whether or not HPD declares a default hereunder, a violation of this Agreement shall constitute a violation, and a basis for the revocation, of any permit, temporary certificate of occupancy or permanent certificate of occupancy for the Project in accordance with Zoning Resolution §96-110(d)(2)(iii) or (iv).

- 21. Debt. In accordance with Zoning Resolution §23-96(f), Owner shall not mortgage or otherwise encumber the Low Income Housing or this Agreement without the prior written consent of HPD. Furthermore, if HPD consents to a mortgage loan, the lender must enter into a subordination and non-disturbance agreement with HPD in form and substance satisfactory to HPD substantially in the form annexed hereto as Exhibit G that subordinates the loan to all of the terms and conditions of this Agreement. Owner shall cause such subordination agreement to be recorded against the Property in the Office of the City Register for the county in which the Property is located, and shall pay all required fees and taxes in connection therewith.
- 22. Marketing of Low Income Units. The Administering Agent and HDFC shall be required to market the Low Income Units under the supervision of HPD's Division of Planning, Marketing and Sustainability, or successor, in accordance with its tenant selection procedures, as the same may be amended from time to time. Furthermore, each lease for a Low Income Unit shall provide that such lease may be terminated and such tenant may be evicted if such tenant falsely or fraudulently certifies household income or household composition to the Administering Agent, Owner, HDFC, or HPD.
- 23. Initial Occupancy Certification. The Low Income Units shall be occupied by persons or families having an Annual Income at the time of Initial Occupancy equal to or less than

- eighty percent (80%) of the median income for the New York primary metropolitan statistical area, as determined by the United States Department of Housing and Urban Development or its successors from time to time for a family of four, as adjusted for family size. Within sixty (60) days following the Rent-up Date, the Administering Agent shall submit to HPD an affidavit attesting that each household occupying a Low Income Unit complied, at Initial Occupancy, with the annual income eligibility requirements of the Program and that the Monthly Rent registered and charged for each Low Income Unit, complied with the Monthly Rent requirements for such unit, at Initial Occupancy.
24. Covenants Running With The Land. The restrictions, covenants and provisions set forth in this Agreement shall run with the land, bind Owner, HDFC and all other parties in interest to the Cure Requirement Lot and the Cure Compliance Lot and their respective successors and assigns, and be perpetual in duration.
25. Recordation. Owner, at the sole expense of Owner, shall promptly after execution of this Agreement submit this Agreement for recordation against all tax lot(s) of the Zoning Lot in the Office of the City Register, and deliver satisfactory evidence of such recordation to HPD.
26. Subordination. All parties in interest to the Zoning Lot other than the Owner and HDFC have entered into this Agreement for the sole purpose of subordinating their respective interests in the Zoning Lot to this Agreement.
27. Incorporation By Reference.
- a. The terms of Zoning Resolution §96-110(d) and the relevant definitions contained in Zoning Resolution §96-110(a) and Zoning Resolution §12-10 are incorporated herein by reference. If any requirement of the Clinton Cure contained in such provisions is not expressly included in this Agreement, such requirement shall be deemed to be included herein.
- b. Each exhibit to this Agreement is hereby made a part of this Agreement and all of its terms are incorporated herein by reference.
28. No Third Party Beneficiaries. The provisions of this Agreement are solely and exclusively for the benefit of the City, HDFC and Owner and no other person shall be a beneficiary thereof.
29. No Waiver. No failure or delay on the part of the City to exercise any right, power or remedy under this Agreement or available at law or in equity shall operate as a waiver thereof, or limit or impair the City's right to take any action or to exercise any such right, power or remedy, or prejudice its rights against Owner and/or HDFC in any respect.
30. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assignees. Owner shall not, without HPD's prior written consent, sell, transfer, or otherwise convey the Low Income Units or any part thereof or interest therein, directly or indirectly, whether beneficial or legal, voluntarily or involuntarily, or agree to do any of the foregoing. HPD shall not unreasonably withhold its consent to any such sale, transfer, or other conveyance, provided the transferee thereof delivers to HPD a duly executed assumption agreement in recordable form and in all respects satisfactory to HPD under which the transferee assumes and

agrees to be subject to and comply with the obligations, covenants, restrictions, and provisions of this Agreement. The transferee at its sole expense shall promptly record such agreement against the Property in the aforesaid Office of the City Register, and promptly deliver satisfactory evidence of such recordation to HPD. HPD's consent to any one such occurrence shall not be deemed consent to any other occurrence.

31. Investigation Clause. Owner and Administering Agent shall be bound by and comply with the provisions of the Investigation Clause annexed hereto as Exhibit H and made a part hereof.

32. Modifications.

(a) No provision of this Agreement may be extended, modified, waived, or terminated orally, but only by an instrument in writing signed by the party against whom enforcement is sought.

(b) In the event of modification to the Program, any subsequent modification in reporting requirements may be imposed retroactively. Owner and/or the Administering Agent, as applicable, shall comply with all modifications to Program reporting requirements as set forth in the Guidelines, of which the Owner and/or Administering Agent, as applicable, shall be deemed to have constructive notice, concerning: (i) the type of documents to be retained; (ii) the length of time for which such documents must be retained; and (iii) the form and method of submitting such documents to HPD.

33. Change in Floor Area. After completing the Low Income Units, the Owner shall neither obtain permits from DOB or special permits from CPC for any construction, alteration, or demolition work on the Zoning Lot that would result in a change in the Floor Area located on the Zoning Lot, nor actually commence any such work, without first entering into an amendment to this Agreement with HPD, which amendment, among other things, shall ensure the continued satisfaction of the Cure Requirement with respect to the Zoning Lot.

34. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed one and the same instrument.

35. Notices. All notices, approvals, requests, waivers, consents or other communications given or required to be given under this Agreement shall be in writing and sent or transmitted as follows:

If to Owner:

Kramer Levin Naftalis & Frankel LLP  
1177 Avenue of the Americas  
New York, New York 10036  
Attn: Albert Fredericks, Esq.  
Facsimile (212) 715-8159

If to Administering Agent:

Windermere HDFC  
C/o Metropolitan Council on Jewish Poverty  
80 Maiden Lane, 21<sup>st</sup> Floor  
New York, New York 10038  
Attn: Gary Gutterman

**Facsimile**

**If to the HDFC:**

**Windermere HDFC  
C/o Metropolitan Council on Jewish Poverty  
80 Maiden Lane, 21<sup>st</sup> Floor  
New York, New York 10038  
Attn: Gary Gutterman**

**If to HPD:**

**NYC Department of Housing Preservation and  
Development  
100 Gold Street  
Attn: Director, Inclusionary Housing  
Facsimile (212) 863-7274**

**with a copy to:**

**NYC Department of Housing Preservation and  
Development  
100 Gold Street  
New York, NY 10038  
Attn: General Counsel  
Facsimile (212) 863-8377**


**Notices must be hand delivered, transmitted via facsimile or sent by certified or registered U.S. mail, return receipt requested. Notice shall be deemed to have been received (i) upon delivery if sent by hand delivery, (ii) two days after deposit in U.S. mail, and (iii) upon confirmed receipt, if sent by facsimile, to both the addressee and the person entitled to receive a copy thereof.**

- 36. The annexed Exhibits A, B, C, D, E, F, G, and H are hereby made part hereof.**

IN WITNESS WHEREOF, the parties hereto and all parties in interest to the Zoning Lot have executed this Agreement as of the date first set forth above.

**THE CITY OF NEW YORK**

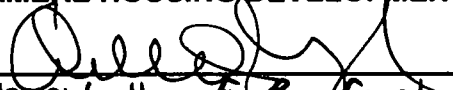
By: **Department of Housing Preservation and Development**

By:   
Miriam Colón, Assistant Commissioner

**Owner: WINDERMERE PROPERTIES LLC**

By:   
Name: Moshe Tress  
Title: Sole Member

**HDFC: WINDERMERE HOUSING DEVELOPMENT FUND CORPORATION**

By:   
Name: William E. Rapfogel  
Title: Vice Pres.

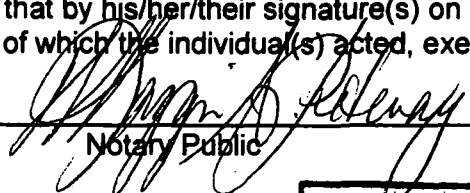
**APPROVED AS TO FORM**

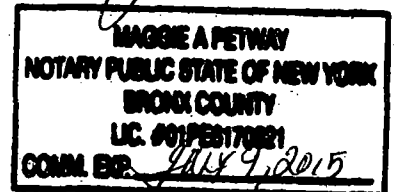
By: /s/ Steven Stein Cushman  
Steven Stein Cushman  
Acting Corporation Counsel

HDFC'S ACKNOWLEDGEMENT

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

On the 19 day of Dec in the year 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared William E. Rappfogel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

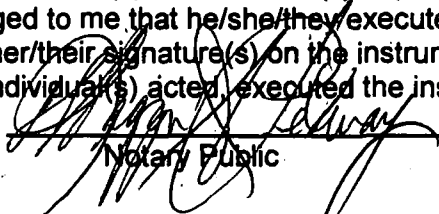
  
\_\_\_\_\_  
Notary Public

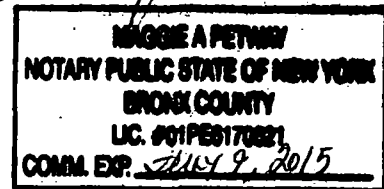


OWNER'S ACKNOWLEDGEMENT

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

On the 19 day of Dec in the year 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared Moshe Tress, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

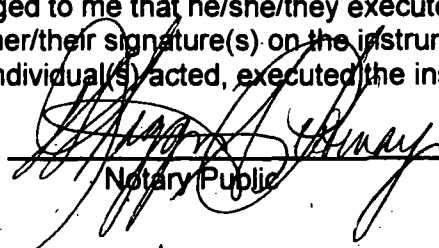
  
\_\_\_\_\_  
Notary Public

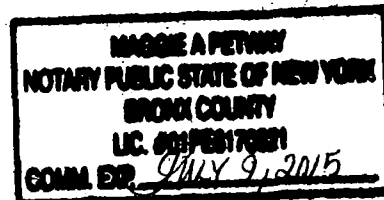


HPD'S ACKNOWLEDGEMENT

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

On the 19<sup>th</sup> day of DECEMBER in the year 2012 before me, the undersigned, a Notary Public in and for said State, personally appeared Miriam Colón, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person on behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public





**EXHIBIT A**

**DESCRIPTION OF PROPERTY**

**Street Address(es):** 400 West 57<sup>th</sup> Street

**Tax Map of the City of New York:**

**County:** New York

**Block(s):** 1066

**Lot(s):** 32

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## EXHIBIT B

### HPD SCHEMATIC DESIGN REQUIREMENTS

Owner shall comply with the design requirements of all applicable laws, including, but not limited to, the New York City Zoning Resolution ("ZR"), the New York City Building Code, the New York City Housing Maintenance Code, the New York State Multiple Dwelling Law, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973.

Based on Project plans and drawings ("Proposal") submitted by Owner to HPD's Division of Building & Land Development Services ("BLDS") on April 19, 2012, HPD has determined that Owner must obtain the following waivers and approvals from CPC, DOB or the LPC (any capitalized terms not defined herein shall have the meaning described or set forth in the Proposal):

#### Zoning Analysis:

##### Lot Coverage

As per ZR 96-102, the maximum Lot Coverage is 70%; the Proposal reflects 80% lot coverage. A waiver permitting the excess lot coverage must be obtained from DCP.

#### Building Expansion

Expansion of the Building with two additional floors above the residential building is contemplated. The existing buildings are landmark designated; therefore, the Owner must obtain approval from LPC for proposed expansion:

##### Size and height

##### Location and setbacks

##### Appearance of extension.

#### Inner Court

As per ZR 23-85, (23-851): the minimum dimensions of the Inner Court shall not be less than 30 feet and the area of the Inner Court shall not be less than 1,200 square feet.

As per ZR 23-86, (23-863) the minimum distance between legally required windows and any wall in an inner court shall not be less than 30 feet.

The proposed Inner Court illustrates an approximately 25 ft. by 30 ft. court (750 sq. ft. Only, which is less than required), therefore a waiver from DCP for these non-compliant issues is required.

#### Building Code:

##### Handicap Lift..

The Proposal included a plan to meet the accessibility standards by providing a Handicap Accessible lift. at the sidewalk level to provide access to the cellar.

LPC must approve the proposed addition of the apparatus at the street level.

Approval by DOB must also be obtained.

#### Apartment Planning:

##### Unit C (2-BR) from 2nd to 5th floor: 4 units

As stated under the Inner Court section, the regulations for legally required windows for compliance with light and air requirements are not met; therefore the viability of the secondary bedroom is contingent upon DCP approving the proposed distances of legally required windows from the walls of the Inner Court.

#### Elevations:

The existing buildings are landmark designated; therefore, the Owner must obtain approval from LPC for any façade work, finishes or improvements.

**Commercial:**

Owner must obtain waivers from DCP for non-compliance with the Maximum Floor Area Ratio for the commercial portion of the Building exceeding the total permitted floor area.

**Commercial Floor Area Regulations:**

ZR 96-101 (Clinton District) and

ZR 33-122.

[Disapproval by DCP of the excess commercial area in the Proposal may affect the entire Project's viability.]

**EXHIBIT C**

**SCHEDULE OF RENTS**

**Low Income Housing – Rents\***

<u>BR Size</u>	<u># of Units</u>	<u>AMI Level</u>	<u>Legal Regulated Rent</u>
0	10	80% AMI	\$ 939/mo
1	6	80% AMI	\$1,187/mo
2	<u>4</u>	80% AMI	\$1,433/mo
Total	20		

\* Tenants pay electric

**EXHIBIT D**

**STANDARD NEW YORK ENDORSEMENT  
TITLE INSURANCE POLICY  
(OWNER'S POLICY)**

1. The following is added to the insuring provisions on the face page of this policy:

"\_\_\_. Any statutory lien for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereafter gain priority over the estate or interest of the insured as shown in Schedule A of this policy."

2. The following is added to Paragraph \_ of the Conditions and Stipulations of this policy:

"\_\_ If the recording date of the instruments creating the insured interest is later than the policy date, such policy shall also cover intervening liens or encumbrances, except real estate taxes, assessments, water charges and sewer rents."

Nothing herein contained shall be construed as extending or changing the effective date of the policy unless otherwise expressly stated.

This endorsement, when countersigned below by a validating signatory, is made a part of the policy and is subject to the Exclusions from Coverage, Schedules, Conditions and Stipulations therein, except as modified by the provisions hereof.

IN WITNESS WHEREOF, \_\_\_\_\_ Insurance Company of New York has caused this Endorsement to be signed and sealed on its date of issue set forth herein.

DATED:

COUNTERSIGNED \_\_\_\_\_  
Authorized Signatory

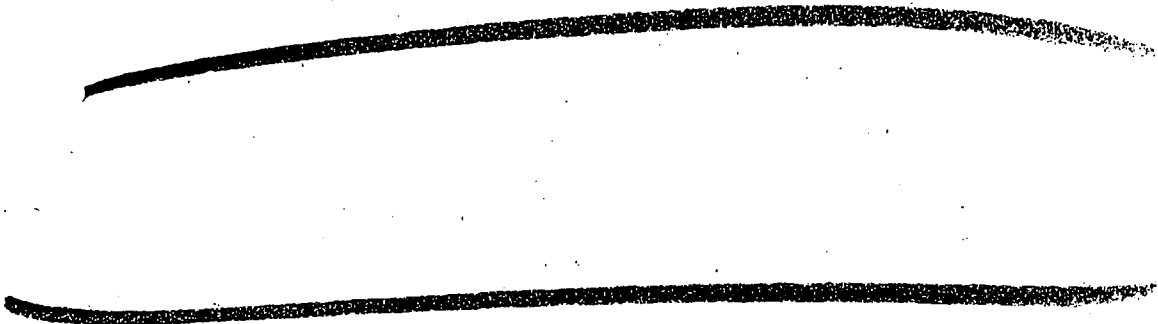
Company

\_\_\_\_\_ Insurance

BY: \_\_\_\_\_

**EXHIBIT E**

**CONTRACT BETWEEN OWNER AND ADMINISTRATIVE AGENT**



## PRIVATE ADMINISTERING AGENT AGREEMENT

THIS PRIVATE ADMINISTERING AGENT AGREEMENT ("Agreement") is made as of December 9, 2012 by and between WINDERMERE PROPERTIES, LLC, a New York limited liability company, having an address at 419 Cedar Bridge Avenue, Lakewood, New Jersey 08701 ("Owner") and WINDERMERE HOUSING DEVELOPMENT FUND CORPORATION, a corporation formed pursuant to Article XI of the Private Housing Finance Law and Section 402 of the Not-For-Profit Corporation Law of the State of New York, having an office at c/o Metropolitan Council on Jewish Poverty, 80 Maiden Lane, 21<sup>st</sup> Floor, New York, New York 10038 ("Agent").

### RECITALS

WHEREAS, Owner is the owner of the land and building located at 400-406 West 57<sup>th</sup> Street, New York, New York and designated as Block 1066, Lot 32 on the Tax Map of the City of New York, County of New York (the "Property"); and

WHEREAS, Agent is a New York not-for-profit corporation that, among other things, operates, leases, manages and maintains affordable housing in the New York metropolitan area; and

WHEREAS, the Property has been designated as a "Landmark Site" pursuant to a duly constituted meeting of the City of New York Landmarks Preservation Commission (the "LPC") on June 28, 2005; and

WHEREAS, the Property is subject to that certain Notice of Designation (the "Notice of Designation") Pursuant to Chapter 74, Section 3020 of the New York City Charter and Chapter 3 of Title 25 of the Administrative Code of the) pursuant to which all construction, reconstruction, alteration or demolition, with the exception of ordinary repairs and maintenance as defined in Section 25-302r of the N.Y.C. Administrative Code, must be approved by LPC prior to the commencement of such work; and

WHEREAS, the Property is subject to that certain Decision and Order (the "Order") dated November 6, 2009 of the Civil Court of the City of New York, County of New York under Index No. L & T 006378/07, as modified by a Stipulation and Order dated August 5, 2010, which required the prior owners of the Building to commence and complete certain repairs to the Building (the "Court Ordered Work"), including, without limitation, the shoring and bracing and exterior repairs and restoration of the Building as set forth in plans approved by LPC, on the terms and conditions set forth in the Order; and

WHEREAS, Owner, as the current owner of the Property, intends to perform material alterations to the existing building (the "Building") on the Property pursuant to plans and specifications (collectively, the "Plans") approved or to be approved by the appropriate governmental authorities (each a "Governmental Authority", and collectively, the "Governmental Authorities") having jurisdiction over Owner, the Property or the Alterations (as hereinafter defined), including, without limitation, the LPC, the New York City Department of

Buildings and the New York City Department of Housing Preservation and Development (“HPD”), such alterations to include the construction of a transient hotel and affordable housing units and the Court Ordered Work pursuant to the terms and conditions of the Order (collectively, the “Alterations”);

WHEREAS, the Property is located partly in the Preservation Area of the Special Clinton District (“Special Clinton District Preservation Area”) established pursuant to Chapter 6 of Article IX of the New York City Zoning Resolution, as the same may be amended from time to time (the “Zoning Resolution”); and

WHEREAS, Section 96-109 of the Zoning Resolution provides that, prior to the issuance of an alteration permit for a material alteration of a multiple dwelling located within the Special Clinton District Preservation Area, HPD shall have certified that (i) it has issued a Certificate of No Harassment (as defined in Section 96-01 of the Zoning Resolution) pursuant to Section 96-110(c) of the Zoning Resolution or (ii) the applicant has complied with the certification of cure for harassment requirements pursuant to Section 96-110(d) of the Zoning Resolution (the “Cure Certification”); and

WHEREAS, Owner, in lieu of seeking a Certificate of No Harassment from HPD pursuant to Section 96-110(c) of the Zoning Resolution, has elected to seek the Cure Certification from HPD pursuant to Section 96-110(d) of the Zoning Resolution; and

WHEREAS, Owner has filed with HPD a plan for creating affordable housing in the building (the “Building”) on the Premises (the “Cure Plan”) to comply with the Clinton Cure Requirements, and HPD has approved the Cure Plan, a copy of which is attached hereto as Exhibit A; and

WHEREAS, as set forth in the Cure Plan, Owner intends to construct twenty (20) affordable housing units on floors two through seven in the Building and ancillary space to comply with the Clinton Cure Requirements (collectively, the “Cure Housing Units” and individually, a “Cure Housing Unit”); and

WHEREAS, Owner intends to enter into a regulatory agreement (the “Regulatory Agreement”) with HPD and Agent that will set forth the rights and obligations of Owner, HPD and Agent concerning the Cure Housing Units and will constitute a “restrictive declaration” (as defined in Section 96-110(a)(ii) of the Zoning Resolution) under the Clinton Cure Requirements; and

WHEREAS, Owner wishes to engage Agent as Administering Agent (as defined in Section 23-911 of the Zoning Resolution), to perform the duties of an Administering Agent as set forth in the Zoning Resolution, Chapter 41 of Title 28 of the Rules of the City of New York (the “Guidelines”), the Regulatory Agreement and this Agreement with respect to the Cure Housing Units, and Agent has agreed to accept such engagement and enter into the Regulatory Agreement with Owner and HPD, subject to and upon the terms and conditions set forth herein; and



WHEREAS, the Regulatory Agreement shall provide, as a condition to HPD's issuance of the Cure Certification, that Owner and Agent will enter into a lease (the "Lease") pursuant to which Owner shall lease to Agent, and Agent shall lease from Owner, the space in the Building constituting the Cure Housing Units, upon the terms and conditions to be mutually agreed upon by Owner, Agent and HPD; and

WHEREAS, Owner intends to create a two unit condominium (the "Condominium") on the Property pursuant to which one unit will constitute the Cure Housing Units (the "Low Income Unit") and the other unit will constitute the transient hotel (the "Hotel") which Owner intends to construct in the remainder of the space in the Building, together with event space (the "Event Space") to be located on the roof of the Building (the Hotel and the Event Space hereinafter sometimes referred to collectively as the "Hotel Unit"); and

WHEREAS, the Regulatory Agreement shall provide, as a condition to HPD's issuance of the Cure Certification, that Owner has created the Condominium by the recording of a declaration of condominium on terms and conditions to be mutually agreed upon by Owner, Agent and HPD; and

WHEREAS, Owner has agreed to complete and submit an application for a real estate tax exemption under Article XI of the Private Housing Financing Law (the "Article XI Exemption") for the benefit of the Low Income Unit; and

WHEREAS, Owner has agreed that if the application for the Article XI Exemption is denied by HPD and/or the New York City Council on the basis that the Low Income Unit is leased and not owned by Agent, Owner shall, within fifteen (15) days from the date of such declination, convey the Low Income Unit to Agent for a consideration of One (\$1.00) Dollar, in which event the Lease shall automatically terminate and be of no further force or effect; and

WHEREAS, upon the conveyance of the Low Income Unit by Owner to Agent, Owner shall immediately amend and resubmit the application for the Article XI Exemption on behalf of the Low Income Unit; and

WHEREAS, Owner and Agent wish to enter into this Agreement to set forth the understanding and rights and obligations of the parties hereto with respect to the Regulatory Agreement, the Lease, the Condominium, the Article XI Exemption and the conveyance of the Low Income Unit to Agent.

NOW, THEREFORE, in consideration of the promises hereinafter set forth, and subject to performance of the terms and conditions hereinafter set forth, the parties hereby agree as follows:

1. **DEFINITIONS.** All capitalized terms used herein which are not separately defined shall have the same meaning given to those terms in the Zoning Resolution, the Guidelines or the Regulatory Agreement (collectively, the "IH Program").

2. **APPOINTMENT OF AGENT.** Owner hereby engages Agent as Administering Agent, and Agent hereby accepts engagement as Administering Agent, with respect to the Cure Housing Units, for the Term and on the terms and conditions hereinafter provided.

3. **TERM.**

3.01 The term of this Agreement (the "Term") shall commence on the date the Regulatory Agreement commences (the "Commencement Date") and shall terminate upon the earlier of a termination of the Regulatory Agreement or a termination of this Agreement in accordance with Sections 3.02, 3.03, 3.04, and 3.06 below.

3.02 Prior to the date the Lease commences (the "Lease Commencement Date"), either Owner or Agent may terminate this Agreement by giving the other sixty (60) days prior written notice ("Notice of Termination") of its intent to terminate this Agreement. In the event Owner terminates this Agreement pursuant to the terms of this Section 3.02, this Agreement shall terminate within sixty (60) days from the date of the Notice of Termination (the "60 Day Period"), subject to Sections 3.03 and 3.04 below, provided that Owner's Notice of Termination is accompanied by payment of a termination fee in the amount of Fifty Thousand and 00/100 (\$50,000.00) Dollars, payable by certified or bank check to the order of Agent. In the event Agent terminates this Agreement pursuant to the terms of this Section 3.02, this Agreement shall terminate on the expiration of the 60 Day Period, subject to Sections 3.03 and 3.04 below. In the event either Owner or Agent terminates this Agreement pursuant to this Section 3.02, Owner shall pay all outstanding legal fees and disbursements incurred by Agent and due and payable to Seiden & Schein, P.C ("S&S") pursuant to that certain Retainer Agreement dated January 30, 2012 executed by Owner, Agent and S&S.

3.03 Notwithstanding the giving of the Notice of Termination pursuant to Section 3.02 above or any termination or expiration of the Lease, this Agreement shall not terminate and no termination of this Agreement shall be effective pursuant to the terms of Section 3.02 above or Section 3.06 below until the date that all of the following has occurred (the "Effective Termination Date"): (i) Owner has replaced Agent with a new Administering Agent; (ii) such new Administering Agent has been approved by HPD; (iii) this Agreement has been terminated by written agreement between Owner and Agent or assigned to and assumed by Agent to the new Administering Agent pursuant to an Assignment and Assumption Agreement in form and substance mutually acceptable to Owner and Agent; and (iv) the Administering Agent Agreement to be executed by HPD and Agent pursuant to the Regulatory Agreement has been terminated or assigned to and assumed by the new Administering Agent pursuant to an Assignment and Assumption Agreement in form and substance satisfactory to HPD and Agent. The Assignment and Assumption Agreement referenced in subparagraph (iii) above shall contain a provision releasing Agent from all obligations and liability under this Agreement as of the date of the Assignment and Assumption Agreement.

3.04 Owner shall, by no later than the expiration of the 60 Day Period, engage a new Administering Agent to replace Agent as set forth in Section 3.03 and obtain HPD's approval for such new Administering Agent. Agent agrees to cooperate with Owner in finding a replacement Administering Agent and obtaining HPD approval for such new Administering Agent and to execute such documents, including, without limitation, the terminations and the

Assignment and Assumption Agreements referenced in clauses (iii) and (iv) in Section 3.03 above, and to furnish such information as may be reasonably requested by Owner and HPD in connection therewith.

3.05 On the later to occur of the expiration of the 60 Day Period or the Effective Termination Date, Agent shall (i) deliver to Owner all original books, records, reports and other documents kept and maintained by Agent in the performance of Agent's obligations hereunder, it being understood and agreed that Agent shall have the right to retain copies of all such books, records, reports and other documents delivered to Owner pursuant to this Section 3.05, and (ii) execute such documents as Owner shall reasonably require to remove Agent from any other agreements relating to the Cure Housing Units, including, without limitation, the terminations and Assignment and Assumption Agreements referenced in Section 3.03 above.

3.06 After the Lease Commencement Date, neither Owner nor Agent may terminate this Agreement, unless the Lease expires or terminates pursuant to its term, in which event this Agreement shall terminate on the later to occur of the expiration of the 60 Day Period or the Effective Termination Date.

3.07 Notwithstanding anything to the contrary contained in this Section 3 or elsewhere in this Agreement, this Agreement shall automatically terminate and be of no further force or effect in the event HPD removes Agent as Administering Agent.

**4. DUTIES OF AGENT.** During the Term, Agent shall perform the duties of the Administering Agent with respect to the Cure Housing Units as specifically set forth in the IH Program and this Agreement, including, without limitation:

(a) Agent shall market the Cure Housing Units in compliance with Section 22 of the Regulatory Agreement.

(b) Agent shall take commercially reasonable steps to ensure that the Cure Housing Units are rented at Rent-up and each subsequent vacancy in compliance with the Cure Plan and all other requirements of the IH Program, including Sections 10 and 23 of the Regulatory Agreement.

(c) Within sixty (60) days of the Rent-up Date, Agent shall submit an affidavit to HPD attesting that the Monthly Rent registered and charged for each Cure Housing Unit complied with the Monthly Rent requirements for such Cure Housing Unit at Initial Occupancy.

(d) By March 31 of each year after Rent-up, Agent shall submit an affidavit to HPD attesting that each lease or sublease of a Cure Housing Unit or renewal thereof during the preceding year complied with the applicable Monthly Rent requirements of the Program.

**5. THE ALTERATIONS**

5.01 Owner shall complete the Alterations at Owner's sole cost and expense and in accordance with the Plans approved by all Governmental Authorities and in compliance with any federal, state or local law, statute, rule, regulation, ordinance, order, decree, directive, requirement, code, notice of violation or rule of common law, now or hereafter in effect, and in each case as amended, and any judicial or administrative interpretation thereof by a Governmental Authority or otherwise, including any judicial or administrative order, determination, consent decree or judgment (collectively, "Laws"). Owner shall obtain all permits, licenses and temporary and/or permanent certificates of occupancy in connection therewith.

5.02 Owner shall equip each of the dwelling units to be located in the Low Income Unit with air conditioning, closed circuit TV, video intercoms, wiring for cable or satellite television service, bathroom grab bars and emergency pull cords connected to both an illuminated panel in the building lobby and emergency lights above each apartment door.

5.03 As set forth in the Plans, the Low Income Unit shall include (a) community space and (b) recreation facilities. The Low Income Unit shall also include (i) an area in the cellar or first floor of the Building for the storage of supplies and equipment for the operation of the Low Income Unit, which shall include a slop sink; and (ii) a stacked washer/dryer in the cellar of the Building for the use of the occupants of the Low Income Unit, which shall satisfy all applicable City, State and Federal accessibility requirements. In addition, the Low Income Unit shall include a storage area for the use of the occupants of the Low Income Unit if, after completion of the Alterations, there is unused space in the cellar of the Building. Owner shall be responsible for constructing all of the aforementioned facilities at its sole cost and expense.

5.04 Owner shall be responsible for correcting, at Owner's sole cost and expense, all defects in the construction of the Alterations, the Low Income Unit and/or any common areas or common elements that service the Low Income Units, or in the installation or operation of any mechanical equipment therein in the Low Income Unit due to improper workmanship or any of the Alterations at variance with the Plans. The provisions of this Section 5.04 shall survive the expiration or earlier termination of this Agreement.

5.05 Owner hereby indemnifies and agrees to protect, defend and hold harmless Agent and any member, officer, director, official, agent or employee and their respective heirs, administrators, executors, successors and assigns (the "Indemnified Parties") from and against any and all losses, damages, expenses or liabilities of any kind or nature and from any suits, claims or demands, including reasonable attorneys' fees incurred in investigating or defending such claim, suffered by any of them and caused by, relating to, arising out of, resulting from, or in any way connected with the Alterations (unless determined by a final judgment of a court of competent jurisdiction to have been caused solely by the gross negligence or willful misconduct of the Indemnified Parties), any claim for compensation for work performed by any professional hired by Owner to perform the Alterations, any notice of violation and fine with respect to the Alterations, and the ownership, construction, occupancy, operation, use or maintenance of the Hotel Unit and/or any common areas or common elements that service the Hotel Unit.

5.06 Following construction of the Cure Housing Units in accordance with the Plans, Owner shall not make any substantial alterations to the Low Income Unit or any common areas or common elements of the Building that service the Low Income Unit without receiving the prior written consent of Agent, which consent shall not be unreasonably withheld or delayed.

5.07 During the construction of the Alterations, Owner shall maintain the following insurance coverage in full force and effect: (i) all risk or extended coverage against such hazards as Owner and Agent shall mutually agree upon; (ii) comprehensive general liability insurance and (iii) all risk completed value builder's risk insurance. The casualty and liability insurance coverage shall name Agent as an additional insured.

## 6. THE LEASE.

6.01 Owner and Agent agree that the Regulatory Agreement will provide that, as a condition to Owner obtaining the Cure Certificate, Owner and Agent shall enter into the Lease on terms and conditions to be mutually agreed upon by Owner and Agent.

6.02 Owner and Agent agree that the Lease shall contain, among other things, the following terms:

(a) The term of the Lease shall be for ninety-nine (99) years, commencing on the date of HPD's issuance of the Cure Certificate.

(b) The demised Premises shall be the Low Income Unit.

(c) The base rent under the Lease shall be Ten (\$10.00) Dollars per year.

(d) The Low Income Unit shall be used to provide Low Income Housing in accordance with the terms of the Regulatory Agreement.

(e) Owner shall be responsible for the payment of all real estate taxes assessed or imposed against the Low Income Unit until such date as HPD and/or the New York City Council approves the Article XI Exemption for the Low Income Unit.

(f) Owner shall complete and submit an application for the Article XI Exemption for the benefit of the Low Income Unit and shall submit any documentation required by HPD and/or the City Council pertaining to the application for the Article XI Exemption.

(g) If the City Council denies the application for the Article XI Exemption on the basis that title to the Low Income Unit is not in the name of Agent, Owner shall, within fifteen (15) days from the date of the declination, convey title to the Low Income Unit to Agent for the consideration of One (\$1.00) Dollar pursuant to the terms of Article 8 of this Agreement, and upon such conveyance, the Lease shall automatically terminate and be of no further force or effect.

(h) Upon the conveyance of the Low Income Unit to Agent, Owner shall, at Owner's sole cost and expense, immediately amend the application for the Article XI Exemption to reflect ownership of the Low Income Unit in the name of Agent and shall re-submit the amended application for Article XI Exemption to HPD and/or the City Council, together with any and all documentation required by HPD and/or the New York City Council.

(i) At all times during the term of the Lease, Agent shall be responsible for operating, managing, marketing and leasing the Low Income Unit in accordance with Section 22 of the Regulatory Agreement.

(j) Owner shall be responsible for making all repairs and replacements to the structure of the Building, the foundation, roof, the façade and exterior of the Building and the Low Income Unit, and all building systems shared by the Low Income Unit and the Hotel Unit, at Owner's sole cost and expense. Owner shall be responsible for repairs, maintenance and replacements relating to the Alterations and the Court Ordered Work at Owner's sole cost and expense. The provisions of this Section 6.02(j) shall survive the expiration or earlier termination of this Lease.

(k) Agent shall be responsible for normal non-structural repairs and maintenance to the interior of the Low Income Unit.

(l) Owner shall be responsible for correcting all defects in the construction of the Alterations, the Low Income Unit and/or any common areas or common elements that service the Low Income Unit, or in the installation or operation of any mechanical equipment therein in the Low Income Unit due to improper workmanship or any Alterations at variance with the Plans. The provisions of this Section 6.02(l) shall survive the expiration or earlier termination of the Lease.

(m) Owner shall indemnify and agrees to protect, defend and hold harmless the Indemnified Parties from and against any and all losses, damages, expenses or liabilities of any kind or nature and from any suits, claims or demands, including reasonable attorneys' fees incurred in investigating or defending such claim, suffered by any of them and caused by, relating to, arising out of, resulting from, or in any way connected with the Alterations (unless determined by a final judgment of a court of competent jurisdiction to have been caused solely by the gross negligence or willful misconduct of the Indemnified Parties), any claim for compensation for work performed by any professional hired by Owner to perform the Alterations, any notice of violation and fine with respect to the Alterations, and the ownership, construction, occupancy, operation, use or maintenance of the Hotel Unit and/or any common areas or common elements that service the Hotel Unit.

(n) Agent shall be entitled to retain all rents paid by tenants under leases of the Low Income Unit or by subtenants under subleases of the Cure Housing Units.

(o) The tenants under leases of the Low Income Unit shall have the right to use the Event Space with the permission of Owner under reasonable terms and conditions which shall be set forth in the Lease.

(p) Owner covenants and agrees that under no circumstances shall the patrons, guests or invitees of the Hotel Unit have the right to use the elevator that services the Low Income Unit for any purpose, including, without limitation, obtaining access to the Event Space.

(q) Owner shall maintain (i) all-risk casualty insurance which, in the event of a casualty to the Building, will pay an amount of insurance equal to the full replacement value of the Low Income Unit, (ii) commercial general liability insurance and (iii) other insurance of commercially reasonable types with respect to the Building in amounts to be mutually agreed upon by Owner and Agent.

## **7. THE CONDOMINIUM.**

7.01 Owner and Agent agree that the Regulatory Agreement will provide that, among other things, as a condition to Owner obtaining the Cure Certificate, Owner will create the Condominium by recording a declaration of condominium (the "Declaration") on terms and conditions mutually acceptable to Owner, Agent and HPD.

7.02 The Declaration shall provide, among other things, that the tenants of the Low Income Unit shall have the right to occasionally request and obtain from Owner a binding reservation for tenants' use of the Event Space in accordance with terms and conditions set forth in the Lease.

7.03 The Declaration shall provide, among other things, that under no circumstances shall the patrons or invitees of the Hotel Unit have the right to use the elevator that services the Low Income Unit for any purpose, including, without limitation, obtaining access to the Event Space.

## **8. CONVEYANCE OF THE LOW INCOME UNIT TO AGENT.**

8.01 If the City Council denies the application for the Article XI Exemption on the basis that title to the Low Income Unit is not in the name of Agent, Owner shall, within fifteen (15) days from the date of the declination, execute and deliver to Agent a deed in proper recordable form transferring and conveying all of Owner's right, title and interest in and to the Low Income Unit to Agent for the consideration of One (\$1.00) Dollar, together with all transfer tax returns, title affidavits and other customary closing documents as shall be necessary for the conveyance of the Low Income Unit to Agent convey title to the Low Income Unit to Agent. Owner shall also pay the cost for Agent to obtain a title insurance policy insuring Agent's ownership interest in and to and Low Income Unit, free and clear of all encumbrances and liens, except for the Regulatory Agreement. Upon such conveyance, the Lease shall automatically terminate and be of no further force or effect.

8.02 At the time of the conveyance of the Low Income Unit by Owner to Agent, Owner shall execute and deliver to Agent an agreement whereby Owner agrees that (i) it shall be responsible for correcting, at Owner's sole cost and expense, all defects in the

construction of the Alterations, the Low Income Unit and/or any common areas or common elements that service the Low Income Unit, or in the installation or operation of any mechanical equipment therein in the Low Income Unit due to improper workmanship or any Alterations at variance with the Plans, and (ii) it shall indemnify and agrees to protect, defend and hold harmless the Indemnified Parties from and against any and all losses, damages, expenses or liabilities of any kind or nature and from any suits, claims or demands, including reasonable attorneys' fees incurred in investigating or defending such claim, suffered by any of them and caused by, relating to, arising out of, resulting from, or in any way connected with the Alterations (unless determined by a final judgment of a court of competent jurisdiction to have been caused solely by the gross negligence or willful misconduct of the Indemnified Parties) and the ownership, construction, occupancy, operation, use or maintenance of the Hotel Unit and/or any common areas or common elements that service the Hotel Unit.

## 9. MISCELLANEOUS.

9.01 This Agreement may not be assigned by the parties hereto.

9.02 This Agreement supersedes all prior negotiations, discussions, understandings and agreements heretofore had between the parties, whether oral or written, and shall constitute the entire Agreement between the parties.

9.03 This Agreement shall not be amended, modified, changed, supplemented, or terminated, nor may any obligations hereunder be waived without the prior written consent of the parties (or their successors and/or assigns as applicable).

9.04 This Agreement and all rights and obligations set forth herein shall binding upon and inure to the benefit of the heirs, executors, successors, legal representatives and assigns of the respective parties hereto.

9.05 If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect to which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

9.06 This Agreement shall be construed and governed in accordance with the laws of the State of New York.

9.07 If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect to which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.

9.08 The captions and headings of various sections of this Agreement are for purposes of reference only and are not to be construed as confining or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular



shall include the plural, the plural shall include the singular, and the masculine, feminine and neuter shall be freely interchangeable.

9.09 This Agreement may be executed in one or more counterparts, each of which so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument. This Agreement may be executed by facsimile signature and such facsimile signature shall be deemed to be an original signature.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date and year first above written.

OWNER:

**WINDEMERE PROPERTIES, LLC,**  
a New York limited liability company

By: \_\_\_\_\_

Name: Moshe Tress

Title: Member

AGENT:

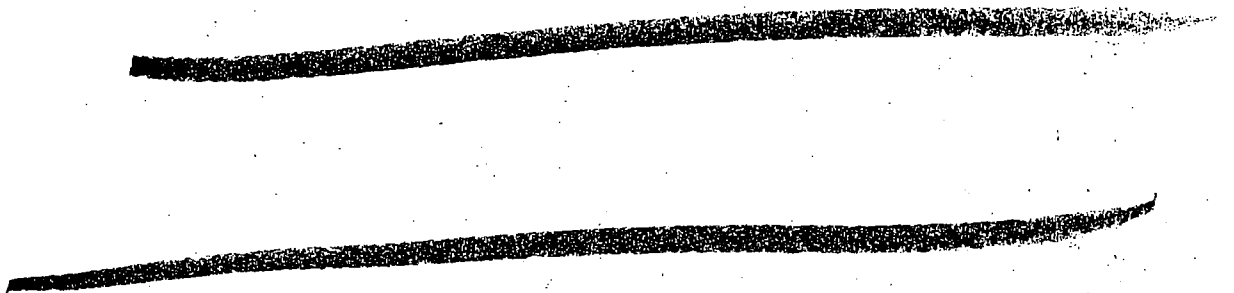
**WINDERMERE HOUSING  
DEVELOPMENT FUND CORPORATION,**  
a New York not-for-profit corporation

By: \_\_\_\_\_

Name: William Rapfoses

Title: Vice President

**EXHIBIT A**



## HPD SCHEMATIC DESIGN REQUIREMENTS

Owner shall comply with the design requirements of all applicable laws, including, but not limited to, the New York City Zoning Resolution ("ZR"), the New York City Building Code, the New York City Housing Maintenance Code, the New York State Multiple Dwelling Law, the Fair Housing Act, and Section 504 of the Rehabilitation Act of 1973.

Based on Project plans and drawings ("Proposal") submitted by Owner to HPD's Division of Building & Land Development Services ("BLDS") on April 19, 2012, HPD has determined that Owner must obtain the following waivers and approvals from CPC, DOB or the LPC (any capitalized terms not defined herein shall have the meaning described or set forth in the Proposal):

### Zoning Analysis:

#### Lot Coverage

As per ZR 96-102, the maximum Lot Coverage is 70%; the Proposal reflects 80% lot coverage. A waiver permitting the excess lot coverage must be obtained from DCP.

### Building Expansion

Expansion of the Building with two additional floors above the residential building is contemplated. The existing buildings are landmark designated; therefore, the Owner must obtain approval from LPC for proposed expansion:

#### Size and height

#### Location and setbacks

#### Appearance of extension.

### Inner Court

As per ZR 23-85, (23-851): the minimum dimensions of the Inner Court shall not be less than 30 feet and the area of the Inner Court shall not be less than 1,200 square feet.

As per ZR 23-86, (23-863) the minimum distance between legally required windows and any wall in an inner court shall not be less than 30 feet.

The proposed Inner Court illustrates an approximately 25 ft. by 30 ft. court (750 sq. ft. Only, which is less than required), therefore a waiver from DCP for these non-compliant issues is required.

### Building Code:

#### Handicap Lift.

The Proposal included a plan to meet the accessibility standards by providing a Handicap Accessible lift. at the sidewalk level to provide access to the cellar.

LPC must approve the proposed addition of the apparatus at the street level.

Approval by DOB must also be obtained.

### Apartment Planning:

#### Unit C (2-BR) from 2nd to 5th floor: 4 units

As stated under the Inner Court section, the regulations for legally required windows for compliance with light and air requirements are not met; therefore the viability of the secondary bedroom is contingent upon DCP approving the proposed distances of legally required windows from the walls of the Inner Court.

### Elevations:

---

The existing buildings are landmark designated; therefore, the Owner must obtain approval from LPC for any façade work, finishes or improvements.

**Commercial:**

Owner must obtain waivers from DCP for non-compliance with the Maximum Floor Area Ratio for the commercial portion of the Building exceeding the total permitted floor area.

**Commercial Floor Area Regulations:**

ZR 96-101 (Clinton District) and

ZR 33-122.

[Disapproval by DCP of the excess commercial area in the Proposal may affect the entire Project's viability.]

## EXHIBIT F

### ADMINISTERING AGENT AGREEMENT

**THIS ADMINISTERING AGENT AGREEMENT ("AA Agreement")** made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between \_\_\_\_\_ ("Administering Agent"), having an office at \_\_\_\_\_, and The City of New York, acting through its Department of Housing Preservation and Development ("HPD"), having an office at 100 Gold Street, New York, New York 10038.

WHEREAS, Windermere Properties LLC ("Owner"), a limited liability company formed pursuant to the laws of the State of New York, having its principal office at c/o Feder Kaszovitz LLP, 845 Third Avenue, New York, New York 10022-6601, Windermere Housing Development Fund Corporation, a New York corporation formed pursuant to Article XI of the Private Housing Finance Law and the Not-For-Profit Corporations Law, having its principal office at c/o Metropolitan Council on Jewish Poverty, 80 Maiden Lane, 21<sup>st</sup> Floor, New York, New York 10038 ("HDFC"), and HPD have entered into that certain Cure Agreement dated \_\_\_\_\_ ("Cure Agreement") to provide Low Income Units (defined in the Cure Agreement) at the property ("Property") described in Exhibit A attached to the Cure Agreement, in accordance with the Low Income Housing Plan ("Plan") attached as Exhibit B to the Cure Agreement, Zoning Resolution §96-110 (Section 96-110), as amended from time to time ("Section 96-110"), Zoning Resolution §23-90 for Rental Affordable Housing provided without Public Funding as amended by Section 96-110 ("Section 23-90"), and the Inclusionary Housing Program Guidelines and any addenda and amendments thereto from time to time ("Guidelines"); and

WHEREAS, Administering Agent has agreed to ensure that the Low Income Units are rented in compliance with the Cure Agreement at Rent-up and each subsequent vacancy and has signed an agreement with the Owner and the HDFC to that effect; and

WHEREAS, Administering Agent has been qualified to act as an Administering Agent by HPD;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Administering Agent shall ensure that each Low Income Unit is rented, and upon vacancy re-rented, in compliance with the Cure Agreement.
2. Administering Agent shall (1) maintain records setting forth the facts that form the basis of any affidavit submitted to HPD by Administering Agent; (2) maintain such records as HPD may require at the office of Administering Agent or such other location as may be approved by HPD; and (3) make all records and facts of the operation of Administering Agent available for HPD's inspection.
3. Notwithstanding any other remedy contained herein, HPD may commence an action against Administering Agent to require specific performance of the obligations of Administering Agent hereunder.

4. HPD may replace Administering Agent at any time if the Low Income Units are not rented in compliance with Section 96-110, Section 23-90, and the Guidelines at the Rent-up Date and each subsequent vacancy thereafter.
5. This AA Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this AA Agreement as of the date first set forth above.

The City of New York

By: Department of Housing Preservation and Development

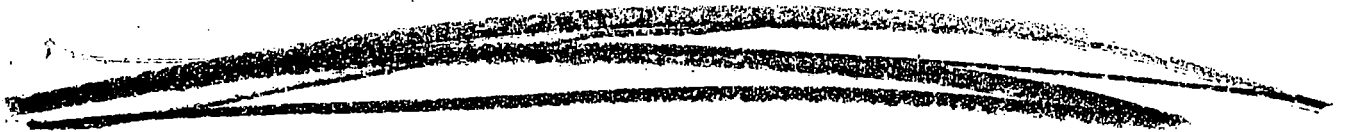
By: \_\_\_\_\_  
Miriam Colón, Assistant Commissioner

Administering Agent: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**EXHIBIT G**

**AFFORDABLE HOUSING SUBORDINATION AGREEMENT**





**THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT** ("Agreement"), made as of this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by [LENDER], a [national banking association], having an office at \_\_\_\_\_, ("Mortgagee" or "Lender"), in favor of **THE CITY OF NEW YORK**, (the "City") a municipal corporation acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having an office at 100 Gold Street, New York, New York 10038 ("HPD").

**WHEREAS**, Mortgagee holds a certain mortgage or mortgages dated of even date herewith, as follows: (a) [*Construction Loan Mortgage, Assignment of Leases and Rents and Security Agreement, dated of even date herewith*], in the principal amount of \$ \_\_\_\_\_; (b) [*describe all subordinate mortgages, if any*], in the principal amount of \$ \_\_\_\_\_ and each made by [Borrower], a [*describe type of entity*] ("Applicant" or "Borrower") [and describe owner if different than applicant ("Owner")] in favor of Lender to secure, among other things, the aggregate principal sum of \_\_\_\_\_ DOLLARS AND \_\_\_\_\_ CENTS (\$ \_\_\_\_\_), or so much thereof as may be advanced pursuant thereto, and interest, (the "Mortgage(s)") covering the premises described in **Schedule A** annexed hereto and incorporated herein ("Premises");

[Where applicant and owner are different add the appropriate choice:

**WHEREAS**, Owner is the owner of the legal interest and Applicant is owner of the beneficial interest, pursuant to the [*Declaration of Interest and Nominee Agreement*], dated as of \_\_\_\_\_, between Owner and Applicant, in the Premises, [add recording information if appropriate];

OR

**WHEREAS**, Owner, as lessor, and Applicant, as lessee, have entered into that certain [*Ground Lease*] of the Premises for a term of \_\_\_\_\_ years, dated as of \_\_\_\_\_, and recorded in the office of the City Register for the County of \_\_\_\_\_ on \_\_\_\_\_ as CFRN \_\_\_\_\_, as the same may have been or may be further amended or modified as hereinafter provided ("*Ground Lease*"); and]

**WHEREAS**, HPD, [Owner] and Applicant have entered into a certain Affordable Housing Plan Regulatory Agreement ("*Regulatory Agreement*") dated of even date herewith, which Regulatory Agreement is intended to be recorded against the Premises immediately following execution and delivery thereof;

**WHEREAS**, the Regulatory Agreement was entered into under the Inclusionary Housing Program, which is governed by Sections 23-90 [and 62-352 (GW) or 93-25 (Hudson Yards) or (or 98-261 (West Chelsea)] of the New York City Zoning Resolution (the "*Resolution*") and the Guidelines for Affordable Housing Plans (the "*Guidelines*") (the Guidelines and the Resolution are collectively referred to as the "*Program*");

**WHEREAS**, the Regulatory Agreement provides that [*Applicant shall not*] or [*neither Applicant nor Owner shall*] mortgage or otherwise encumber [*its interest in*] the Premises or the Regulatory Agreement without the prior written consent of HPD and that, if HPD consents to a mortgage loan, the lender must subordinate the loan to all of the terms and conditions of the Regulatory Agreement;

**WHEREAS**, Applicant [*and/or Owner*] has entered into the Mortgage and other instruments evidencing or securing obligations of the Premises to Mortgagee (collectively, "Other Loan Documents"; the Mortgage and the Other Loan Documents are referred to collectively as the "Loan Documents"); and

**WHEREAS**, HPD has consented to the Loan Documents on the condition that Mortgagee subordinate the Loan Documents to all the terms and conditions of the Regulatory Agreement in the manner hereinafter described.

**NOW THEREFORE**, for good and valuable consideration, the receipt whereof is hereby acknowledged, Mortgagee hereby represents to and agrees with HPD, notwithstanding any contrary term, provision, agreement, covenant, warranty, and/or representation contained or implied in any Loan Documents of any other document executed in connection with the Premises, that:

1. The Loan Documents are and shall continue to be subject and subordinate to the terms, covenants, agreements, and conditions of the Regulatory Agreement.
2. As used in this Agreement (a) the term "Mortgage" shall refer to any amendments, replacements, substitutions, extensions, modifications, or renewals thereof, and (b) the term "Mortgagee" shall include the Mortgagee's successors and assigns.
3. As used in this Agreement, the phrase "subject and subordinate" means that:
  - (a) to the extent there are any inconsistencies between the provisions of the Regulatory Agreement and any provisions of the Loan Documents, the provisions of the Regulatory Agreement shall take priority over the inconsistent provisions of the Loan Documents, except as provided herein; and
  - (b) if Mortgagee or if any person or entity becomes the owner of the Premises (including, if the Premises is defined as a leasehold interest as well as a fee interest, the owner of such leasehold interest) by foreclosure, conveyance in lieu of foreclosure, or otherwise ("New Owner"), (i) the Regulatory Agreement shall continue in full force and effect and the Mortgagee and New Owner shall have no right to disturb the rights of HPD under the Regulatory Agreement, (ii) HPD shall not be named as a defendant in any action or proceeding to foreclose the Mortgage or otherwise enforce the Mortgagee's or New Owner's rights thereunder, except as set forth below, and (iii) the Premises shall be subject to the Regulatory Agreement in accordance with the provisions thereof; provided, however, that Mortgagee and New Owner shall not be liable for any act or omission of Applicant or bound by any subsequent amendment of or modification to the Regulatory Agreement without its written consent. Subject to the foregoing, nothing contained herein shall prevent the Mortgagee or New Owner from naming HPD in any foreclosure or other action or proceeding initiated by the Mortgagee or New Owner pursuant to the Mortgage to the extent necessary under applicable law in order for the Mortgagee or New Owner to avail itself of and complete the foreclosure or other remedy.
4. Upon a declaration of default under the Regulatory Agreement, HPD shall give Mortgagee notice thereof by facsimile, hand delivery or reputable overnight courier and a reasonable

opportunity to cure (if such default can be cured), provided, however, that Mortgagee shall have no obligation to cure any such default. If Mortgagee cures the default during such cure period (if any) or has commenced to cure the specified default within such period and is diligently pursuing completion of such cure, or has commenced the exercise of remedies under the Loan Documents within such period, HPD shall not exercise any of the remedies under Section 18(b) of the Regulatory Agreement by reason of such default. Nothing herein shall limit HPD's right to consent to a replacement manager pursuant to Paragraph 6 herein.

5. If HPD freezes the Operating Account(s) pursuant to Paragraph 18(b) of the Regulatory Agreement, HPD will allow Mortgagee to use funds therein to make payments due under the Loan Documents, provided that there are sufficient funds in the Operating Account(s) to pay for reasonable and customary operating expenses for the Premises. Mortgagee hereby acknowledges that it has no interest in or rights to any funds held in the Special Reserve Fund Accounts pursuant to the Regulatory Agreement.
6. Notwithstanding anything contained in the Regulatory Agreement or the Loan Documents, neither HPD nor Mortgagee may assume responsibility for management of the Premises or designate a third party to manage the Premises without the consent of the other. If, in the exercise of its remedies under the Regulatory Agreement, HPD notifies Mortgagee of its intention to install a replacement manager of the Premises, then Mortgagee's consent to such manager shall not be unreasonably withheld or delayed. If, in the exercise of its remedies under the Loan Documents, Mortgagee notifies HPD of its intention to install a replacement manager of the Premises, then HPD's consent to such manager shall not be unreasonably withheld or delayed.
7. Upon a casualty to a building on the Premises,
  - (a) where the repair or reconstruction cost is more than thirty-five percent (35%) of the replacement value of a building on the Premises, Mortgagee shall have the right to determine whether insurance proceeds are applied for the reconstruction or repair of the Premises or towards repayment of the Mortgage, and
  - (b) where the repair or reconstruction cost is less than or equal to thirty-five percent (35%) of the replacement value of the Premises, HPD shall have the right to determine how insurance proceeds shall be applied. HPD shall make such determination within sixty (60) days after HPD is notified of the occurrence of the casualty. If HPD determines in such case not to apply the insurance proceeds for the reconstruction or repair of the Premises, the insurance proceeds shall be retained by Mortgagee to the extent of sums then due under the Mortgage.

This paragraph supersedes any contrary provisions in the Regulatory Agreement or Loan Documents.

8. No failure to exercise and no delay in exercising, on the part of HPD, of any right, power or privilege under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege operate as a waiver of any other right, power or privilege under this Agreement.

9. The covenants, provisions and terms of this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York, and shall be binding upon and inure to the benefit of Mortgagee, HPD, and their respective successors, transferees, and assigns.
10. Neither this Agreement nor any provision hereof (including this paragraph) may be changed, modified, amended, waived, supplemented, discharged, abandoned, or terminated orally except by an instrument in writing signed by the party against whom enforcement of the change, modification, amendment, waiver, discharge, abandonment, or termination is sought.
11. **Notices.** All notices, approvals, requests, waivers, consents or other communications given or required to be given under this Agreement shall be in writing and sent or transmitted as follows:

If to HPD, in duplicate, to: Department of Housing Preservation and Development

100 Gold Street  
New York, NY 10038  
Attn: Director, Inclusionary Housing Program  
Facsimile (212) 863-5899

and:

Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038  
Attn: General Counsel  
Facsimile (212) 863-8375

If to Bank, in duplicate, to:

Notices must be hand delivered, transmitted via facsimile, or by overnight delivery (e.g., FEDEX) or sent by certified or registered U.S. mail, return receipt requested. Notice shall be deemed to have been given upon (i) delivery if sent by hand delivery, U.S. mail or overnight delivery, and (ii) confirmed receipt, if sent by facsimile, to both the addressee and the person entitled to receive a copy thereof.

12. **Recordation.** This Agreement shall be recorded against the Premises immediately after the execution hereof, in the Office of the City Register for the County in which the Premises are located and the Applicant [and/or Owner] shall pay all required fees and taxes in connection therewith.

13. **Counterparts.** This Subordination Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

**[No further text - signatures on the next page]**

IN WITNESS WHEREOF, the City of New York, acting by and through its Department of Housing Preservation and Development has caused this Subordination Agreement to be signed by its duly authorized commissioner, and Lender has caused this Subordination Agreement to be duly signed by a duly authorized officer, as of the day and year first above written.

**THE CITY OF NEW YORK**  
Acting by and through its **DEPARTMENT OF HOUSING  
PRESERVATION AND DEVELOPMENT**

By: \_\_\_\_\_  
[add name]  
Assistant Commissioner

**[LENDER]**

By: \_\_\_\_\_  
Print Name  
Print Title

APPROVED AS TO FORM BY  
STANDARD TYPE OF CLASS  
UNTIL: February 9, 2013

By: Howard Friedman  
Acting Corporation Counsel

## EXHIBIT H

### INVESTIGATION CLAUSE RIDER

- (a) The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contracts, lease, permit, or license that is the subject of the investigation, audit or inquiry.
- (b) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witness and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or;
- (c) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witness and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;
- (d) The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.
- (e) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph (g) below without the City incurring any penalty or damages for delay or otherwise.
- (f) The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:
  - (1) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was

sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and /or

(2) The cancellation or termination of any and all such existing City contracts, leases, permit, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; moneys lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

(g) The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (3) and (4) below in addition to any other information which may be relevant and appropriate:

(1) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(2) The relationship of the person who refuses to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(3) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

(4) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under (f) above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in (d) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

(h)

(1) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

- (2) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
  - (3) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives moneys, benefits, licenses, leases, or permits from or through the city or otherwise transacts business with the City.
  - (4) The term "member" as used herein shall be defined as any person in association with another person or entity as a partner, officer, principal or employee.
- (i) In addition to and notwithstanding any other provisions of this Agreement the Commissioner or agency head may in his or her sole discretion terminate this Agreement upon not less than three (3) days written notice in the in the event the contractor fails to promptly report in writing to the Commissioner of Investigation of the City of New York any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.



**APPENDIX B**  
**LPC CONSULTATION**

## ENVIRONMENTAL REVIEW

**Project number:** DEPARTMENT OF CITY PLANNING / LA-CEQR-M  
**Project:** THE WINDERMERE  
**Address:** 400 W. 57 STREET, **BBL:** 1010660032  
**Date Received:** 11/19/2015

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No architectural significance

No archaeological significance

Designated New York City Landmark or Within Designated Historic District

Listed on National Register of Historic Places

Appears to be eligible for National Register Listing and/or New York City Landmark Designation

May be archaeologically significant; requesting additional materials

No archeological concerns.

*Gina Santucci*

11/23/2015

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SIGNATURE  
Gina Santucci, Environmental Review Coordinator

DATE

**File Name:** 30996\_FSO\_GS\_11232015.doc



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



August 6, 2014

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road, Ste 900**  
**Lakewood, NJ 08701**



Re: **MISCELLANEOUS/AMENDMENTS**  
 LPC - 160990  
 MISC 16-1121  
 400-406 WEST 57TH STREET  
HISTORIC DISTRICT  
 INDIVIDUAL LANDMARK  
 Borough of Manhattan  
 Block/Lot: 1066 / 32

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission issued Certificate of No Effect 14-0633 (LPC 14-0558) on February 8, 2013, for removing non-historic fire escapes, replacing in kind if required, and removing and/or repairing attachment points with new masonry to match existing, at select locations at the 9th Avenue and West 57th Street facades; repairing historic fire escapes as required at select locations at the 9th Avenue and West 57th Street facades; and replacing historic sheet metal cornices in kind, including matching the original color and finish, at select locations at the parapets at the 9th Avenue and West 57th Street facades

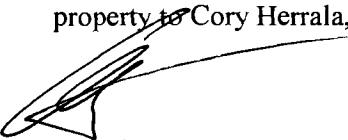
Subsequently, on August 4, 2014, the Commission received a proposal for an amendment to the work approved under that permit. The proposed amendment consists of submitting updated DOB filing drawings for the same scope of work, with additional clarification regarding the existing condition of historic fire escapes to remain, and for the permanent removal of select non-historic fire escapes, foregoing possible in kind replacement; as shown in drawings A-001.00, A-100.00, A-201.00 and A-202.00, dated 9/4/13, prepared by Morris Adjmi, RA, S-302.01, and submitted as components of the application.

Accordingly, the Commission reviewed the drawings and finds that the scope of work is in keeping with the intent of the original approval. Based on these findings, Certificate of No Effect 14-0633 is hereby amended.

This amendment is issued on the basis of the building and the site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission

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

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The approved work is limited to what is contained in the perforated documents. Other work on this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, prominently displayed at the site while work is in progress. Any additional work or further amendments must be reviewed and approved separately. Please direct inquiries regarding this property to Cory Herrala, Senior Technical Advisor.



Cory Scott Herrala

cc: John Weiss, LPC Deputy Counsel



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



# PERMIT

## CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 08/01/14	<b>EXPIRATION DATE:</b> 8/1/2018	<b>DOCKET #:</b> 159783	<b>CNE #:</b> CNE 16-0897
<b>ADDRESS:</b> 400 WEST 57TH STREET <u>The Windermere</u> INDIVIDUAL LANDMARK		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 1066 / 32

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road, Ste 900**  
**Lakewood, NJ 08701**



Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on July 30, 2014.

The approved work consists of removing all remaining historic and non-historic windows, frames and brickmolds in their entirety at the basement through 7th floors, and installing new arch-headed and straight-headed one-over-one and two-over-two double-hung wood windows and profiled brickmolds with a yellowish-brown finish (Benjamin Moore 248 "Mansfield Tan"), at the 9th Avenue and West 57th Street facades; as shown in historic photographs and existing condition photographs, a written statement, dated 7/30/14, prepared by Higgins Quasebarth & Partners, and drawings A-001.00, A-201.00, A-202.00 and A-203.00, dated 7/25/14, prepared by Morris Adjmi, RA, and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also notes that the oculus windows at the attic floor are not included in the current scope of work; and that the new windows will be finished to match the approximate historic color that was determined by a previously submitted paint analysis report, dated 8/11/10, prepared by Jablonski Building Conservation, Inc., and will also match the color of the new metal cornice. Furthermore, staff notes that the Commission voted to approve a proposal to construct rooftop and rear yard additions, install rooftop

mechanical equipment, alter the facades, install new windows, install new storefronts, alter the areaways and install a barrier-free access lift, pursuant to SUL 15-1190 (LPC 14-8487) issued on 11/20/13, and to issue a report to the City Planning Commission relating to an application for a Modification of Use and Bulk pursuant to Section 74-711 of the Zoning Resolution, which cited replacement of the windows as noted in the current scope of work as part of the overall restoration of the facade; and that the Certificate of Appropriateness permit and Modification of Use and Bulk report have not yet been issued.

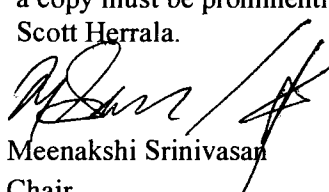
With regard to this proposal the Commission finds, in accordance with the provisions set forth in RCNY, Title 63, Section 3-04 (c), that the new windows at the primary facade will match the historic windows in terms of configuration, operation, details, material and finish. Based on these findings, the Commission determined the proposed work to be appropriate to the building. The work, therefore, is approved

Please note that pursuant to the Stipulation and Order dated June 23, 2014 in the matter of the City of New York et al. vs. Windermere Properties, LLC, et al., Index No. 400584/08, all work authorized by this permit must be completed by December 31, 2014.

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

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

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



Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Lester Katz, Morris Adjmi Architects

cc: John Weiss, LPC Deputy Counsel



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION  
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007  
TEL: 212 659-7700 FAX: 212 659-1780



November 3, 2014

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road, Ste 900**  
**Lakewood, NJ 08701**

Re: **MISCELLANEOUS/AMENDMENTS**  
LPC - 164379  
MISC 16-4458  
400 WEST 57TH STREET  
The Windermere  
INDIVIDUAL LANDMARK  
Borough of Manhattan  
Block/Lot: 1066 / 32

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission issued Certificate of No Effect 16-0897 (LPC 15-9783) on August 1, 2014, for removing all remaining historic and non-historic windows, frames and brickmolds in their entirety at the basement through 7th floors, and installing new arch-headed and straight-headed one-over-one and two-over-two double-hung wood windows and profiled brickmolds with a yellowish-brown finish (Benjamin Moore 248 "Mansfield Tan"), at the 9th Avenue and West 57th Street facades.

Subsequently, on October 30, 2014, the Commission received a proposal for an amendment to the work approved under that permit. The proposed amendment consists of revising the scope of work, including installing all windows with one-over-one double-hung configurations to match the original window configurations; as described in a written statement, dated 9/19/14, and shown in existing condition photographs, prepared by Higgins Quasebarth & Partners, and as shown in revised drawings A-001.00, A-201.00, A-202.00 and A-203.00, dated 10/27/14, prepared by Morris Adjmi, RA, and submitted as components of the application.

Accordingly, the Commission reviewed the drawings and conducted a site inspection, and finds that the material evidence of the remaining intact historic arched windows strongly suggests that they are from different eras; that the arched sashes without muntins appear to be from the earliest era and likely original to the building, based on the unmodified arched paneling in the upper sashes matching the arched exterior opening and brickmold framing; that the technology for producing larger, undivided panels of glass was

Page 1

Issued: 11/3/14

DOCKET #: 164379

available at the time the building was constructed, and the resulting configuration is also consistent with the style of the building; and that revised scope of work is in keeping with the intent of the original approval. Based on these findings, Certificate of No Effect 16-0897 is hereby amended.

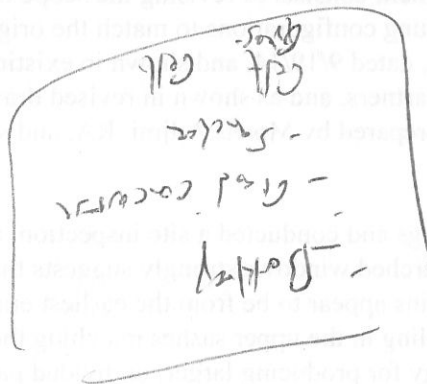
This amendment is issued on the basis of the building and the site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if actual building or site conditions vary or if original or historic building fabric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

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The approved work is limited to what is contained in the perforated documents. Other work to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, prominently displayed at the site while work is in progress. Any additional work or further amendments must be reviewed and approved separately. Please direct inquiries regarding this property to Cory Herrala, Senior Technical Advisor.



Cory Scott Herrala

cc: John Weiss, LPC Deputy Counsel



Handwritten notes in a rounded rectangle:

- 9/10
- Call
- 5/1/14
- 12/1/14





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



November 20, 2013

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**419 Ceder Bridge Avenue**  
**Lakewood, NJ 08701**

Re: **STATUS UPDATE LETTER**  
LPC - 148447  
SUL 15-1190  
400-406 WEST 57TH STREET  
The Windermere  
INDIVIDUAL LANDMARK  
Borough of Manhattan  
Block/Lot: 1066 / 32

This letter is to inform you that at the Public Meeting of November 12, 2013, following the Public Hearing of the same date, the Landmarks Preservation Commission voted to approve a proposal to construct rooftop and rear yard additions, install rooftop mechanical equipment, alter the facades, install new windows, install new storefronts, alter the areaways and install a barrier-free access lift, at the subject premises, as put forward in your application completed October 17, 2013. The approval will expire November 12, 2019.

However, the Commission made its determination subject to the stipulation that the visibility of the penthouse as seen from the south and southeast of the building be substantially reduced, in consultation with staff. No work can begin until a Certificate of Appropriateness is issued. Upon receipt, review and approval of two signed and sealed copies of the final Department of Buildings filing drawings for the approved work, a Certificate of Appropriateness will be issued.

Please note that all drawings, including amendments which are to be filed at the Department of Buildings, must be approved by the Landmarks Preservation Commission. Thank you for your cooperation.

  
Cory Scott Herrala

**Please Note: THIS IS NOT A PERMIT**



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



# PERMIT

## CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 02/08/13	<b>EXPIRATION DATE:</b> 02/08/2017	<b>DOCKET #:</b> 140558	<b>CNE #:</b> CNE 14-0633
<b>ADDRESS</b> 400-406 WEST 57TH STREET <u>The Windermere</u> INDIVIDUAL LANDMARK		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 1066 / 32

**Display This Permit While Work Is In Progress**

**ISSUED TO:**

**Mark Tress**  
**Windermere Properties LLC**  
**419 Ceder Bridge Avenue**  
**Lakewood, NJ 08701**

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on February 8, 2013.

The approved work consists of removing non-historic fire escapes, replacing in kind if required, and removing and/or repairing attachment points with new masonry to match existing, at select locations at the 9th Avenue and West 57th Street facades; repairing historic fire escapes as required at select locations at the 9th Avenue and West 57th Street facades; and replacing historic sheet metal cornices in kind, including matching the original color and finish, at select locations at the parapets at the 9th Avenue and West 57th Street facades; as shown in a written statement, dated 2/8/13, and drawings A-001.00, A-201.00 and A-202.00, dated 2/1/13, prepared by Morris Adjmi, RA, and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), the Windermere, as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also notes that CNE 11-2309 (LPC 11-2403), issued 9/10/10, approved a scope of restorative work that included masonry repairs similar to the repairs noted above; that samples for new brick and stone and new pointing mortar were approved by LPC staff, and used for similar repairs at select locations at the primary facades; and that the same approved samples will be used for the new repairs noted above. Furthermore, the Commission

notes that the replacement cornices will be finished to match the historic color that was determined by a previously submitted paint analysis report.

With regard to the proposal, the Commission finds, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-13, that the fire escapes to be removed are not a significant feature on the building; that the fire escapes to be removed are not original to the building; that the fire escapes to be removed do not have architectural merit; that any damage to the facade will be repaired to match the adjacent fabric; and that removal of the fire escapes will not leave gaps, holes, or unsightly conditions on the facade. Furthermore, the Commission finds that the proposed replacement cornices will match the historic sheet metal cornices in terms of material, color, texture, dimensions, details and profile; that the new brick and stone will match the existing in terms of size, color, texture and coursing, and that the new mortar will match the historic mortar in strength, color, texture, and tooling; and that the work will aid in the long term preservation of the building. Based on these findings, the work is approved.

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

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

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



Robert B. Tierney  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:  
Moshe Weinberg, Cross River Zoning**

cc: John Weiss/LPC Deputy Counsel



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



# PERMIT

## CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 09/10/10	<b>EXPIRATION DATE:</b> 09/10/2014	<b>DOCKET #:</b> 112403	<b>CNE #:</b> CNE 11-2309
<b>ADDRESS</b> 400-406 WEST 57TH STREET <u>The Windermere</u> INDIVIDUAL LANDMARK		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 1066 / 32

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**869-875 9th Avenue**  
**New York, NY 10019**

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on September 8, 2010.

The approved work consists of cutting deteriorated mortar joints 100% by hand and repointing with new red and cream colored mortar to match the original at the 9th Avenue façade and West 57th Street façades; replacing missing, broken or cracked red, orange and cream colored face brick as required with new brick to match the original at the 9th Avenue façade and West 57th Street façades; patching deteriorated sandstone units with proprietary cementitious repair mortar (Jahn M70) to match the original at the 9th Avenue façade and West 57th Street façades; replacing missing, broken or cracked sandstone as required with new sandstone to match the original at the 9th Avenue façade and West 57th Street façades; cleaning the masonry facades with a low-pressure water rinse and mild detergents or restoration cleaners as required, in a sequential manner so that only the portions of the facades about to be repointed will be cleaned in advance, at the 9th Avenue façade and West 57th Street façades and secondary rear facades; removing the deteriorated metal cornice and installing a new fiberglass cornice (FRP) to match the original at the 9th Avenue façade and West 57th Street façades; cutting deteriorated mortar joints as required and repointing with new mortar to match the original at the secondary courtyard facades; replacing missing, broken or cracked common face brick as required with new brick to match the original at the secondary courtyard facades; rebuilding masonry parapets and masonry chimneys as required with new masonry to match the original at the secondary courtyard facades; repairing

fire escapes and attachments to the masonry wall as required and repainting to match existing at the 9th Avenue façade and West 57th Street façades and secondary rear facades; removing abandoned anchors, conduits and other miscellaneous penetrations as required and replacing with new masonry to match the original at the 9th Avenue façade and West 57th Street façades and secondary rear facades; performing investigative probes by removing select portions of the non-historic cladding materials at the 1st floor at the 9th Avenue and West 57th Street facades; as shown in existing condition photographs, specifications, a field report, dated 8/20/10, prepared by Morris Adjmi Architects, a mortar analysis and paint finish report, dated 8/11/10, prepared by Jablonski Building Conservation, Inc., and drawings S-001.00, S-002.00, S-003.00, S-004.00, S-101.00, S-102.00, S-103.00, S-104.00, S-105.00, S-105.00 and S-601.00, dated 9/7/10, prepared by Michael Guilfoyle, PE, GACE PC, and submitted as components of the application. The Commission notes that a scope of work for potential repairs to the decorative ceramic tiles, occurring at the 5th floor at the West 57th Street façade, and for the granite columns, occurring at the 1st floor porticos at the West 57th Street façade, has not been determined; and that any proposed work at these locations will require LPC review and an amendment to this permit.

In reviewing this proposal, the Commission notes that the Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), the Windermere, as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81.

With regard to this proposal, the Commission finds that the new brick will match the original in terms of size, color, texture and coursing, and that the new mortar will match the historic mortar in strength, color, texture, and tooling; that the new sandstone or sandstone patches will replicate the original texture, color, profiles and details of the original sandstone; that the cleaning of the masonry will be done in the gentlest effective method without causing damage to the masonry; that the new FRP cornice will replicate the profiles, details and color of the original metal cornice; that the probes will allow investigation of underlying conditions and will facilitate a future proposal for the restoration of the ground floor of the building; and, that the work will aid in the long term preservation of the building. The work, therefore, is approved.

PLEASE NOTE: This permit is contingent upon the Commission's review and approval of new cream colored pointing mortar, new red, orange and cream colored face brick and red common brick, sandstone repair mortar and new sandstone replacement units, and submission of shop drawings and a finish sample for the new fiberglass cornice, prior to the commencement of work. The Commission has reviewed and approved samples of masonry cleaning, red colored pointing mortar and mortar joint cutting technique, pursuant to a site visit on 8/20/10 by LPC staff. Please contact Cory Herrala to schedule a site visit once the additional samples and shop drawings are available for review.

NO WORK SHALL COMMENCE until all necessary approvals have been obtained from the N.Y.C. Department of Buildings and other relevant City agencies.

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

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

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

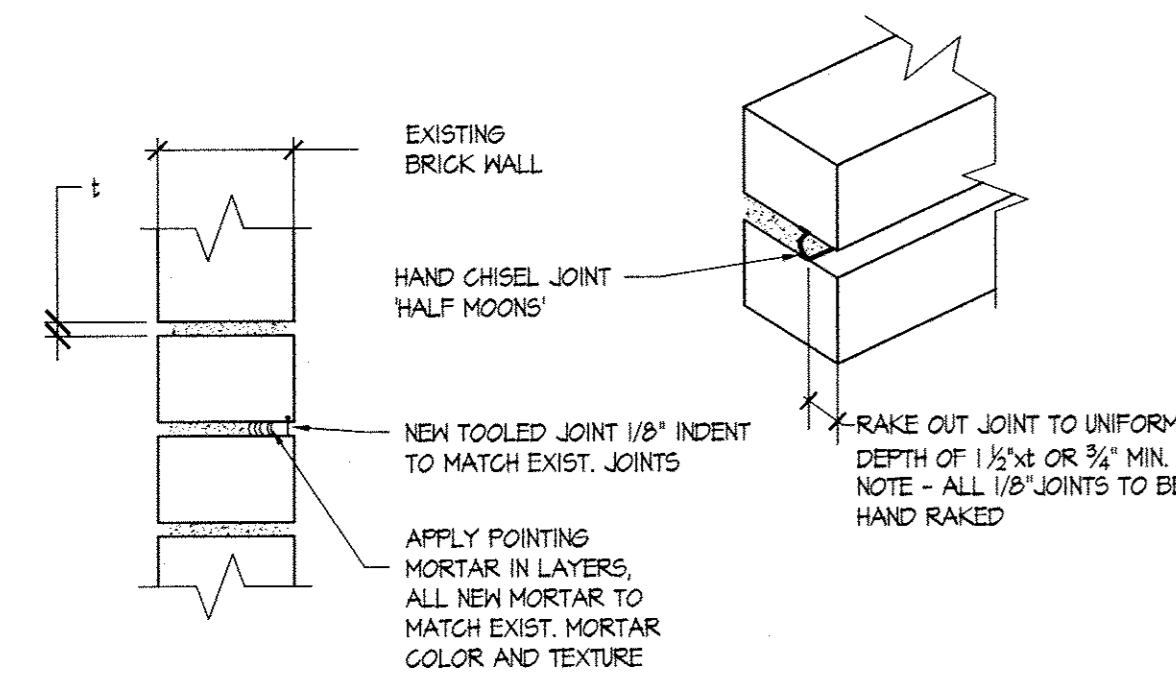


Robert B. Tierney  
Chair

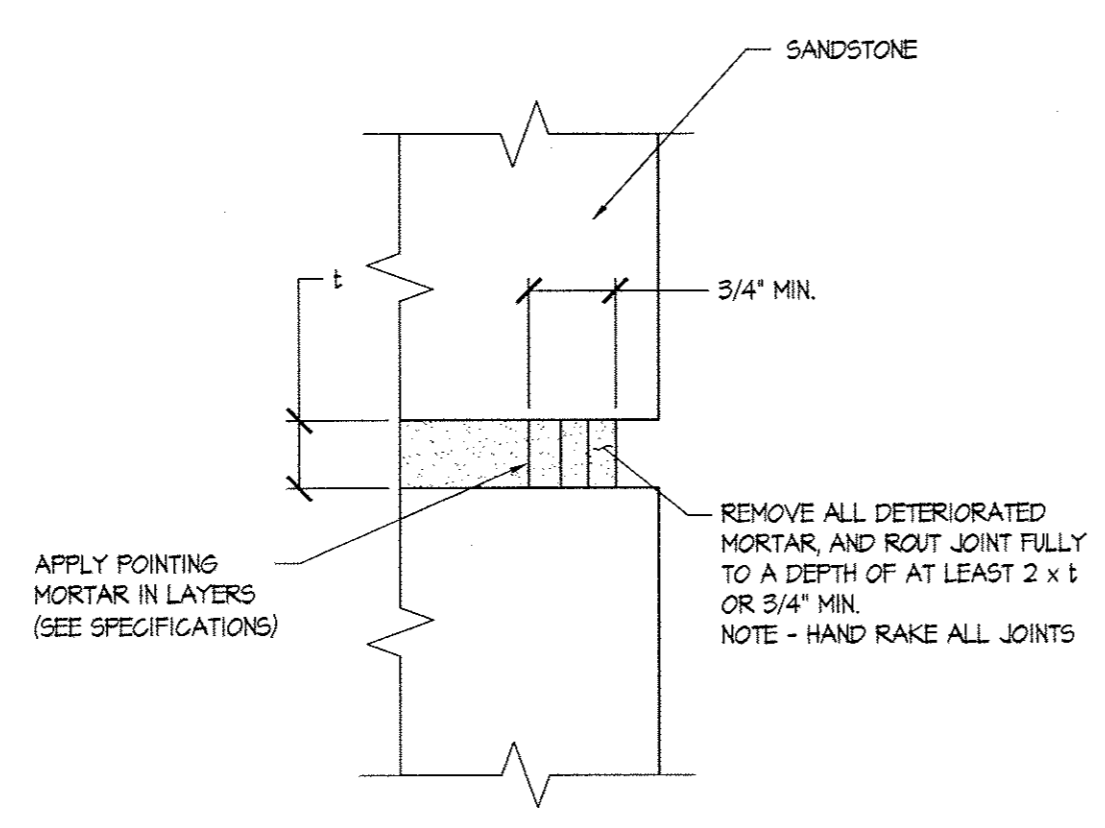
**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:  
Morris Adjmi, Morris Adjmi Architects**

cc: John Weiss/LPC Deputy Counsel

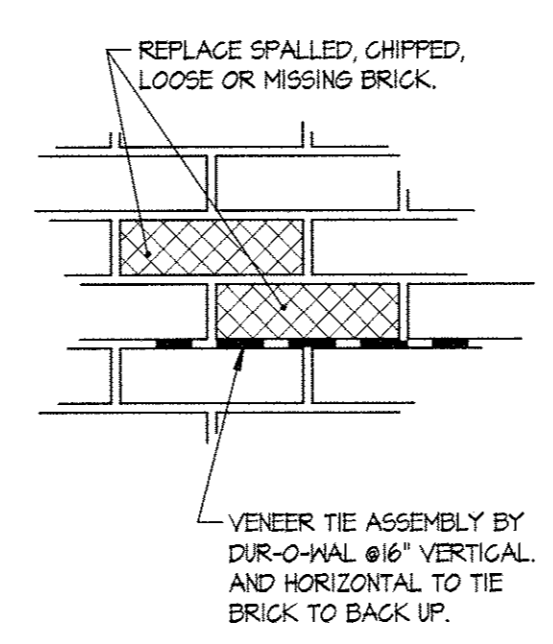




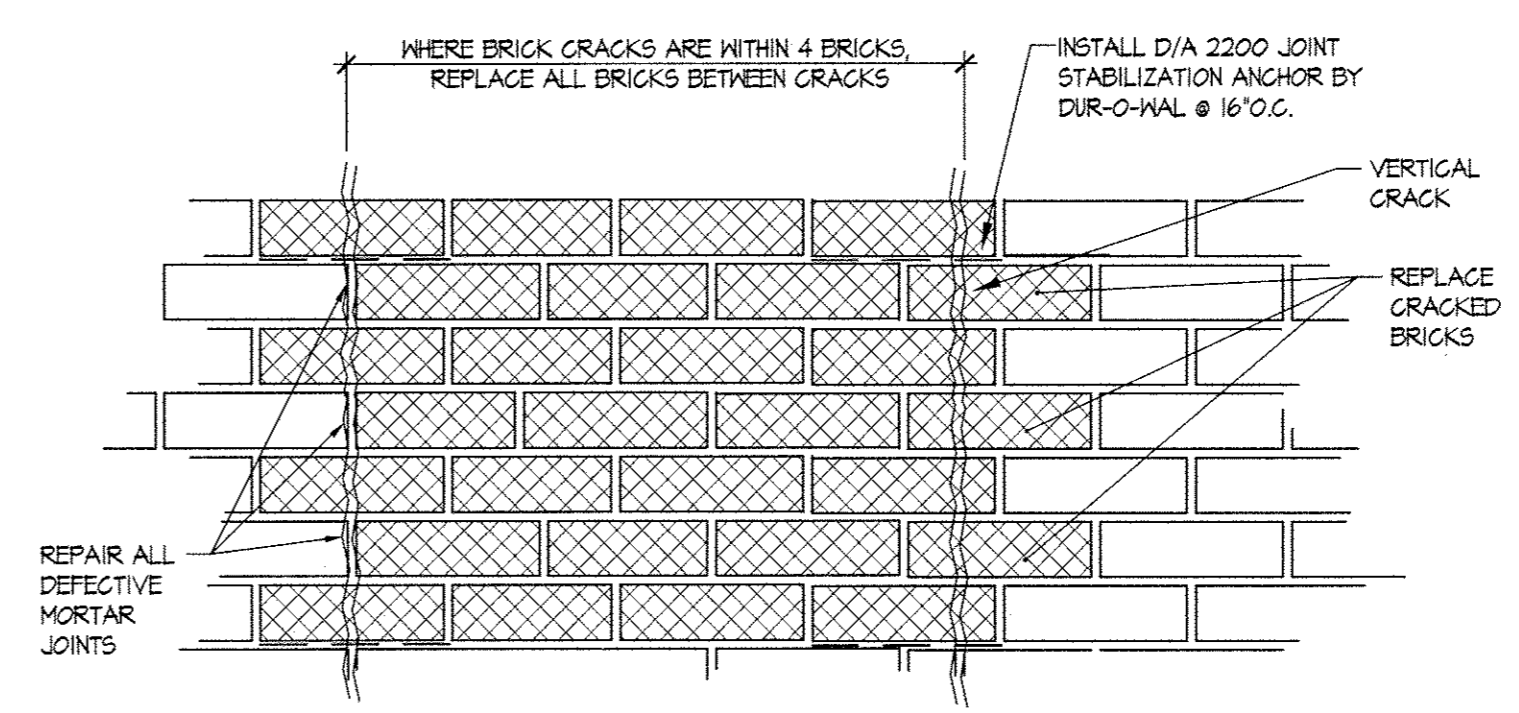
1A TYPICAL DEFECTIVE MORTAR JOINT REPOINTING  
3/4" = 1'-0"



1B STONE OR T.C. JOINT REPAIR  
SCALE: N.T.S.

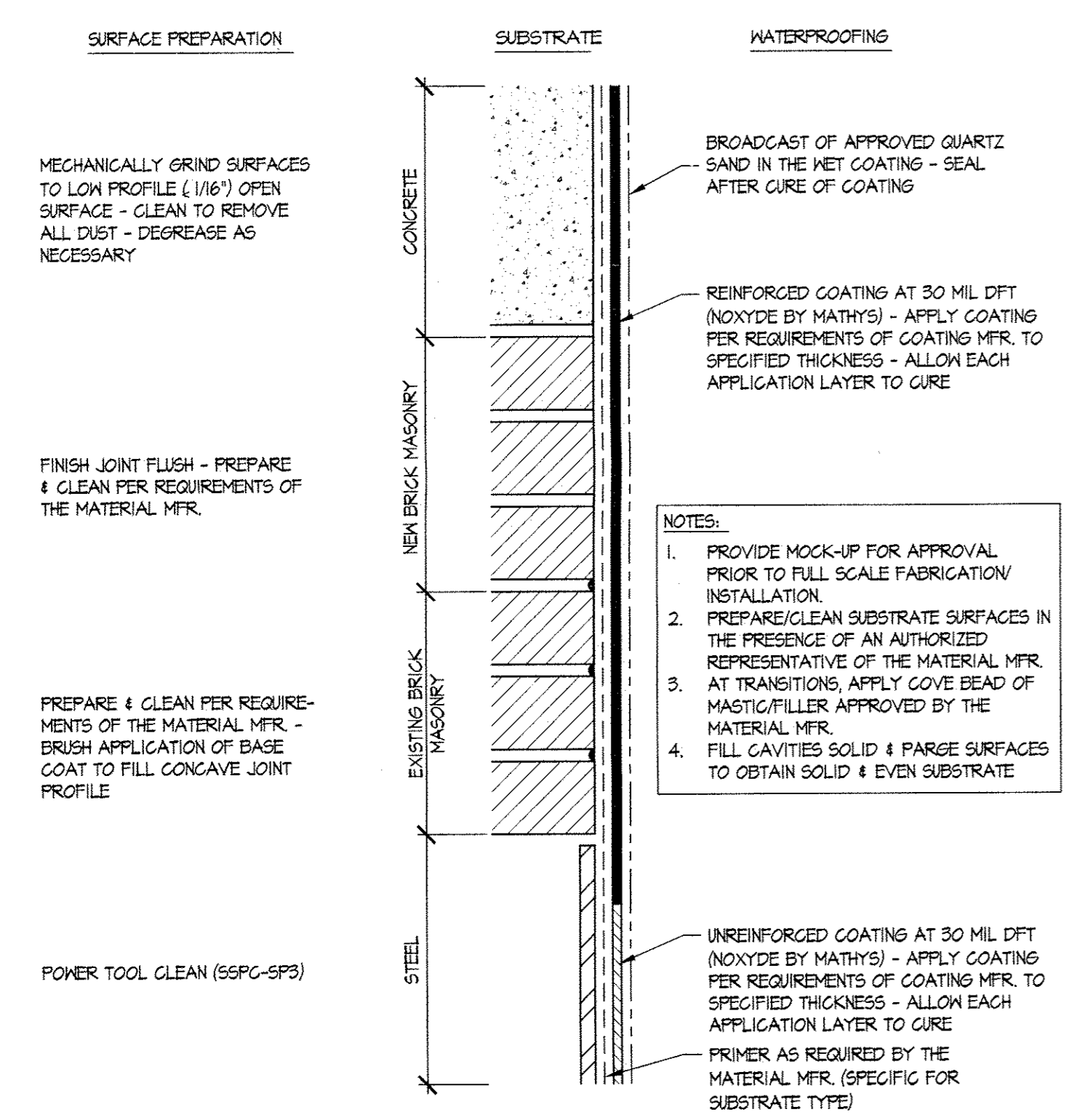


2 TYPICAL DETERIORATED OR MISSING BRICK REPLACEMENT  
3/4" = 1'-0"

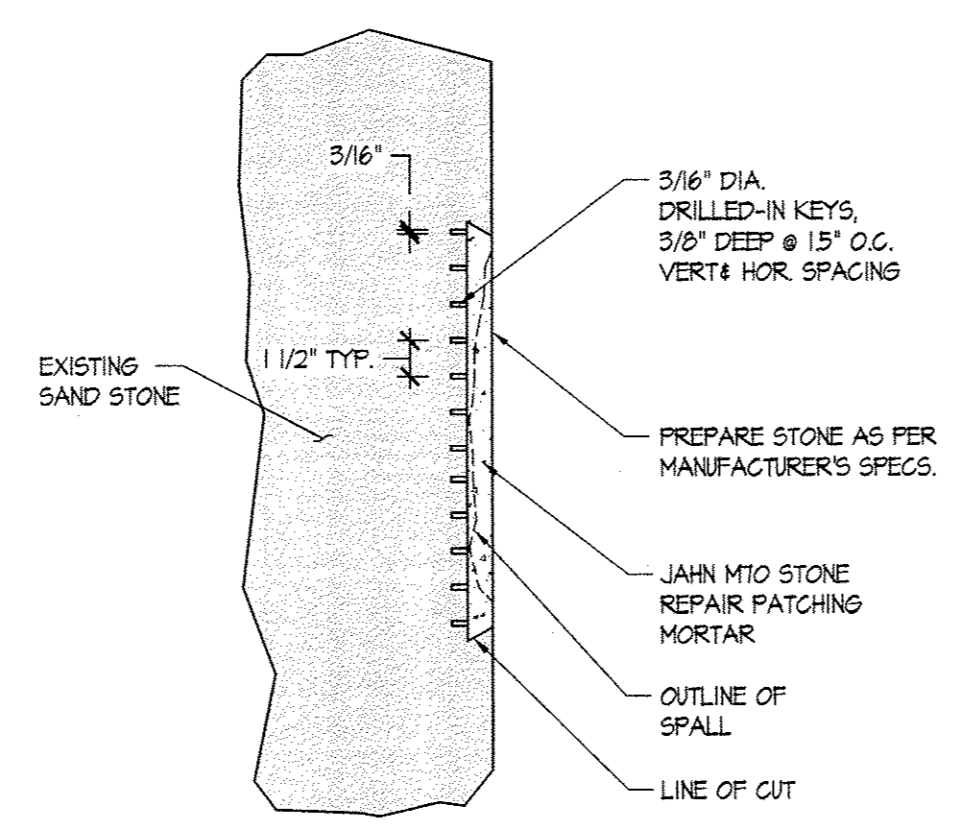


3 TYPICAL CRACKED BRICK REPAIR DETAIL  
3/4" = 1'-0"

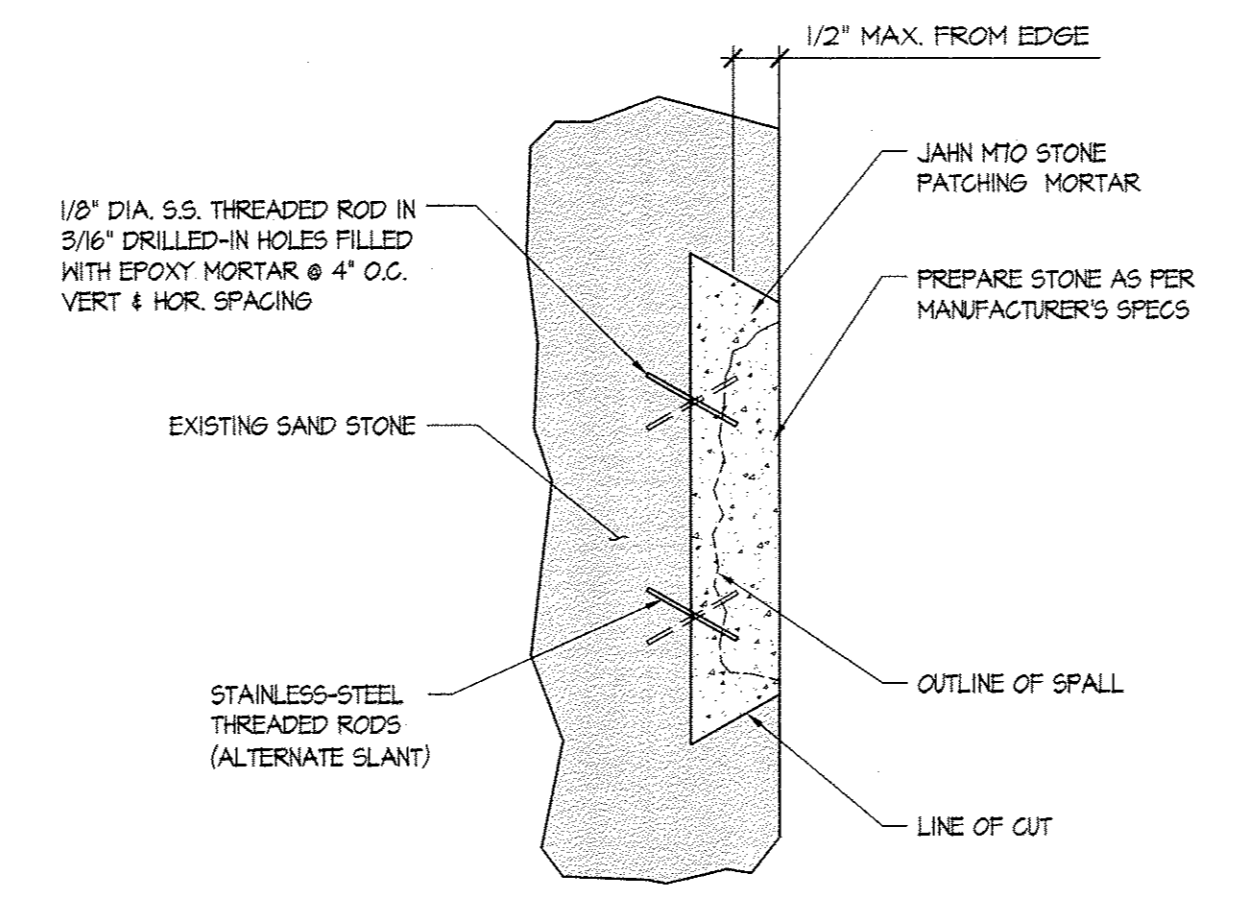
1 MORTAR JOINT POINTING DETAILS  
SCALE: AS NOTED



4 TYPICAL CONCEALED WATERPROOFING ASSEMBLY  
N.T.S.

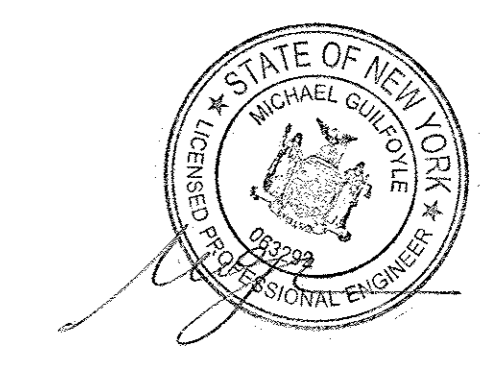


5 TYPICAL SMALL PIT/ SPALLED STONE  
N.T.S.



6 TYPICAL LARGE SPALLED STONE  
N.T.S.

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FAÇADE FILING SET -- SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK, NY 10003  
T 212 982 2020  
F 212 674 4511

GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK, NY 10001  
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F 212 545 8222

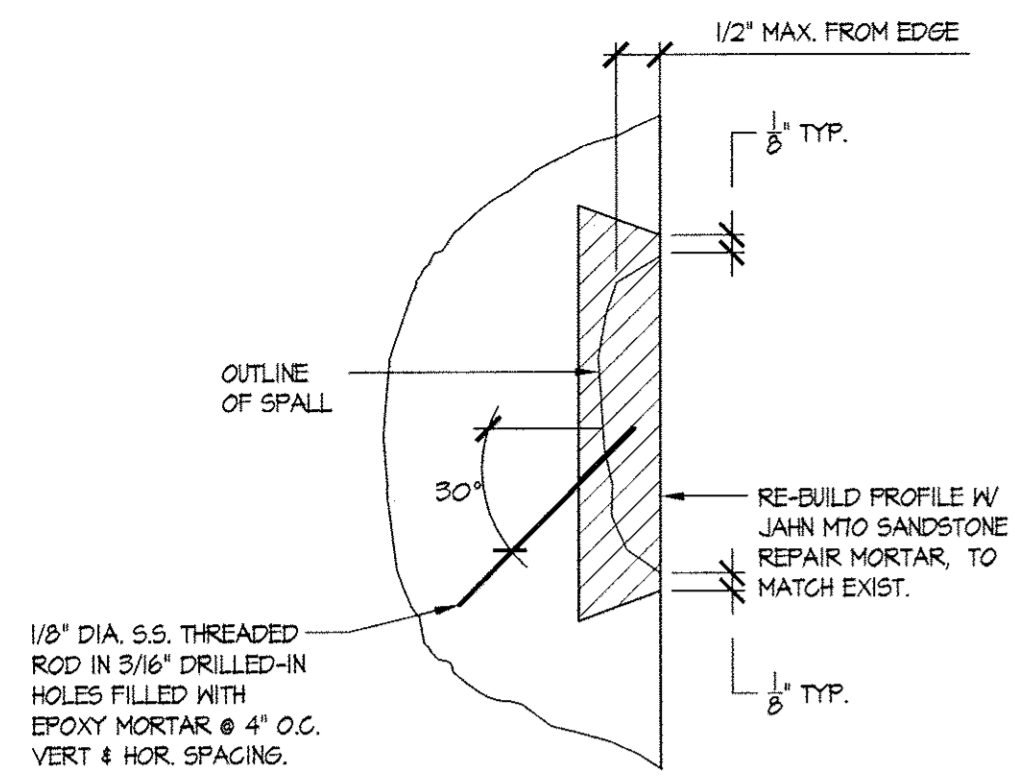
NO.	REVISION	DATE

NO. REVISION DATE

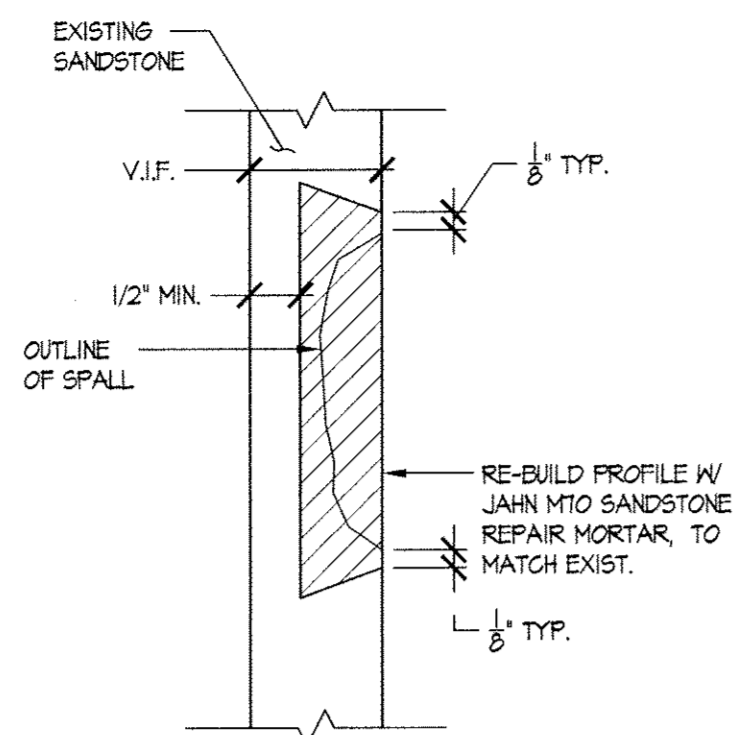
SHEET TITLE:  
TYPICAL DETAILS

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
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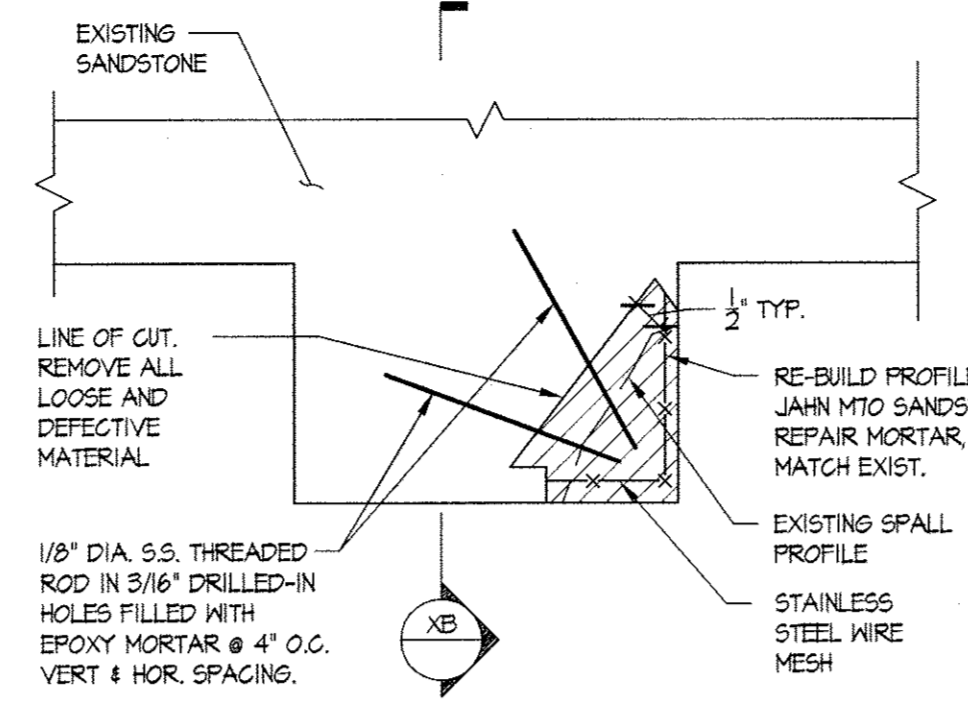




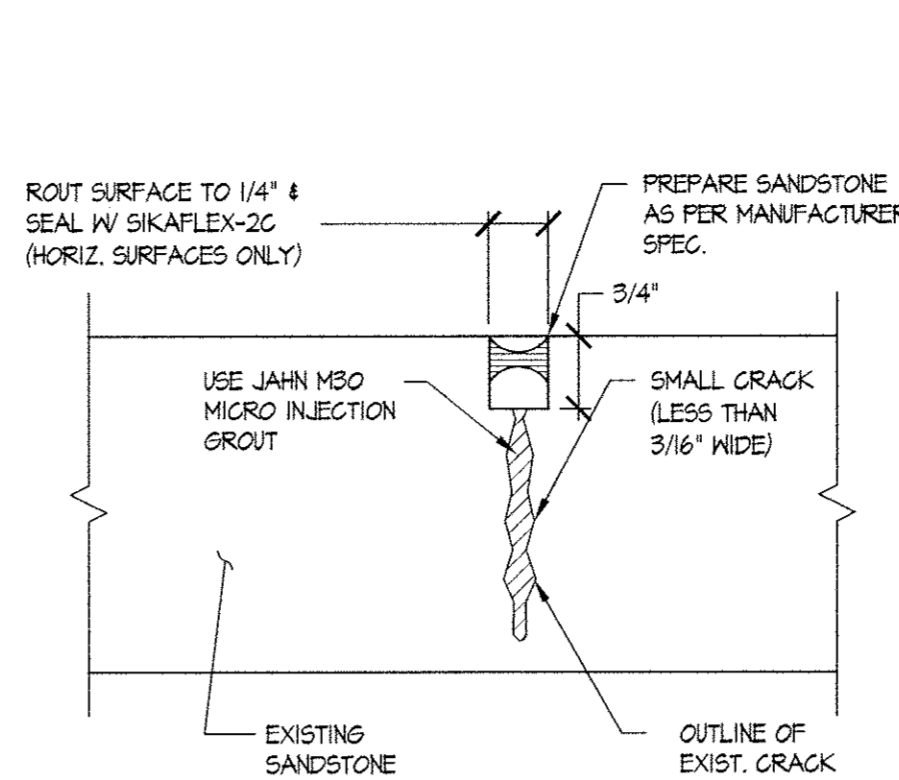
**1A SECTION @ SPALL IN SOLID ORNAMENT**  
SCALE: N.T.S.



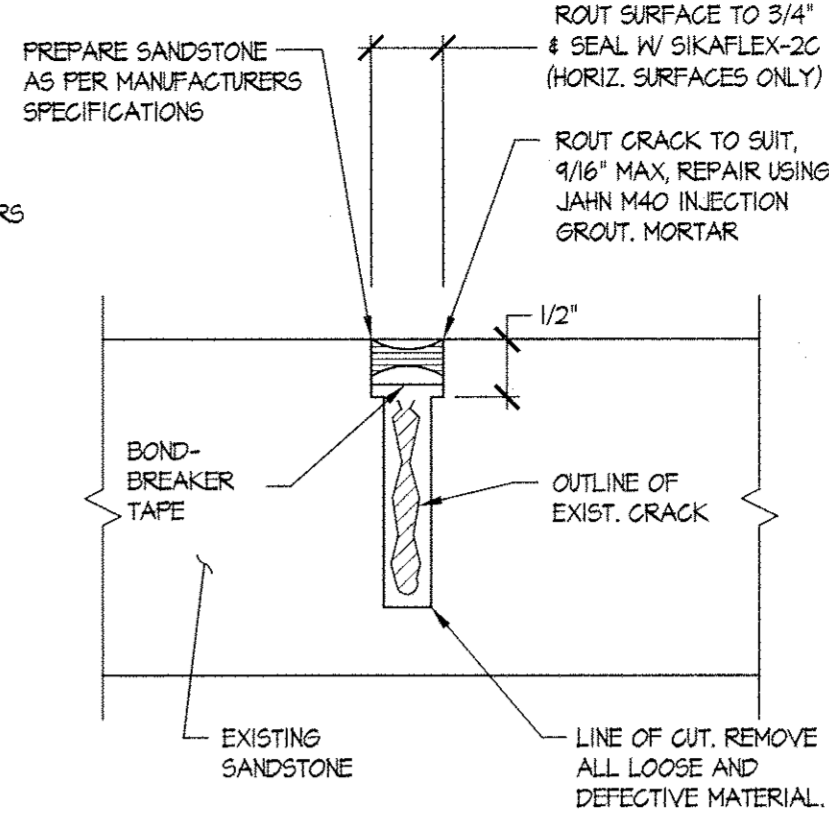
**1B SECTION @ SPALL IN HOLLOW ORNAMENT**  
SCALE: N.T.S.



**1C PLAN SECTION @ SPALL IN SOLID ORNAMENT**  
SCALE: N.T.S.



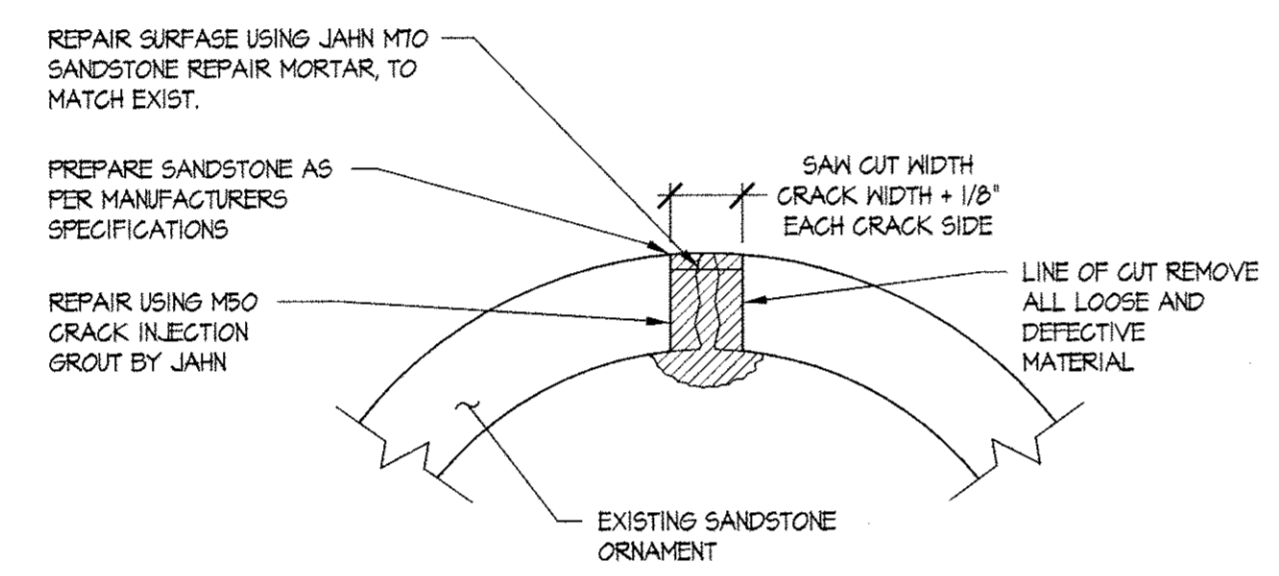
**4A SMALL CRACK REPAIR DETAIL**  
SCALE: N.T.S.



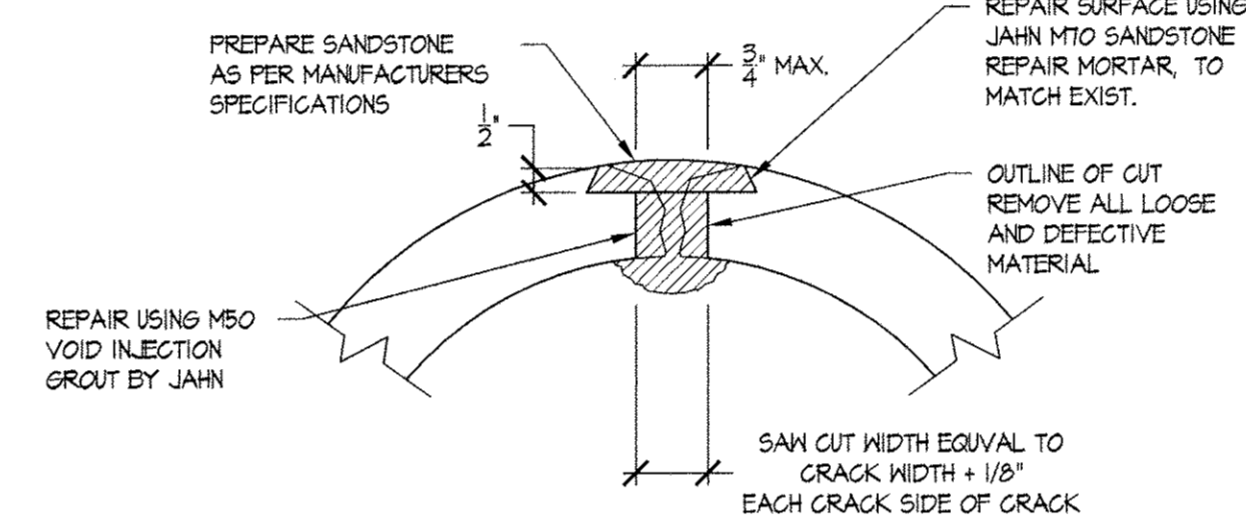
**4B MODERATE CRACK REPAIR DETAIL**  
SCALE: N.T.S.

**1 SANDSTONE ORNAMENT SPALL REPAIR DETAILS**  
SCALE: AS NOTED

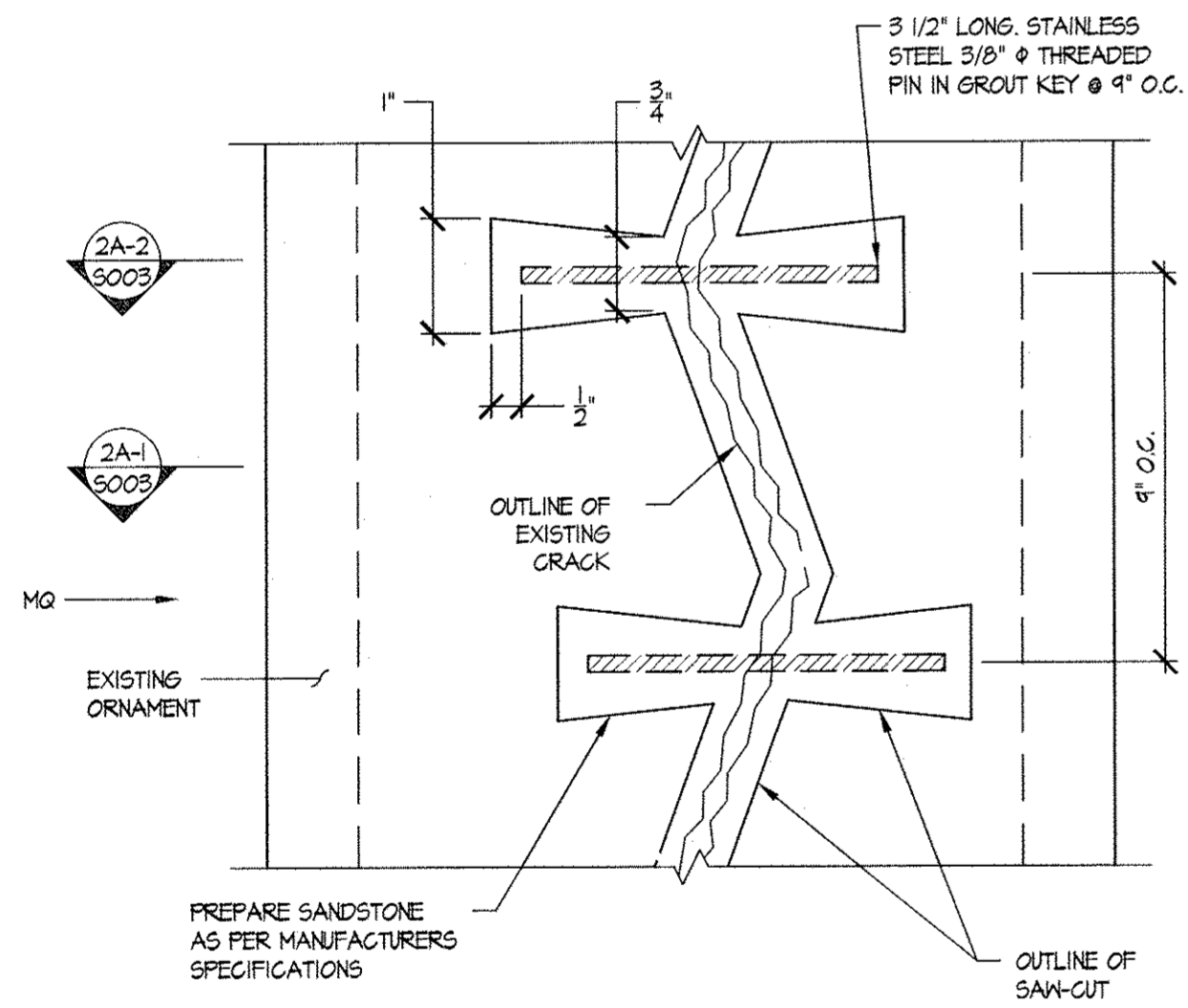
**4 PARTIAL PENETRATION CRACK REPAIR DETAILS**  
N.T.S.



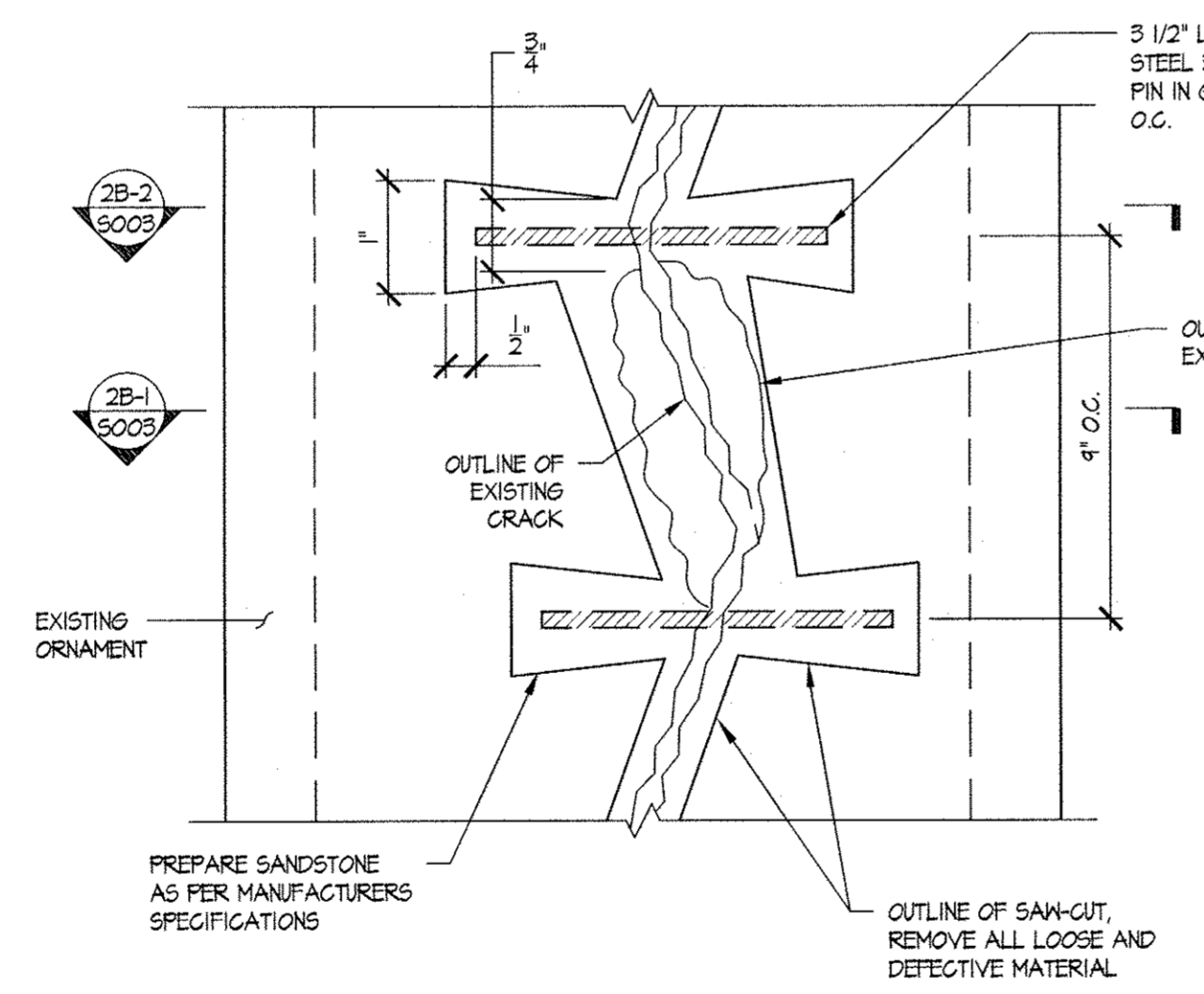
**2A-1 SECTION @ UN-KEYED PORTION**  
SCALE: N.T.S.



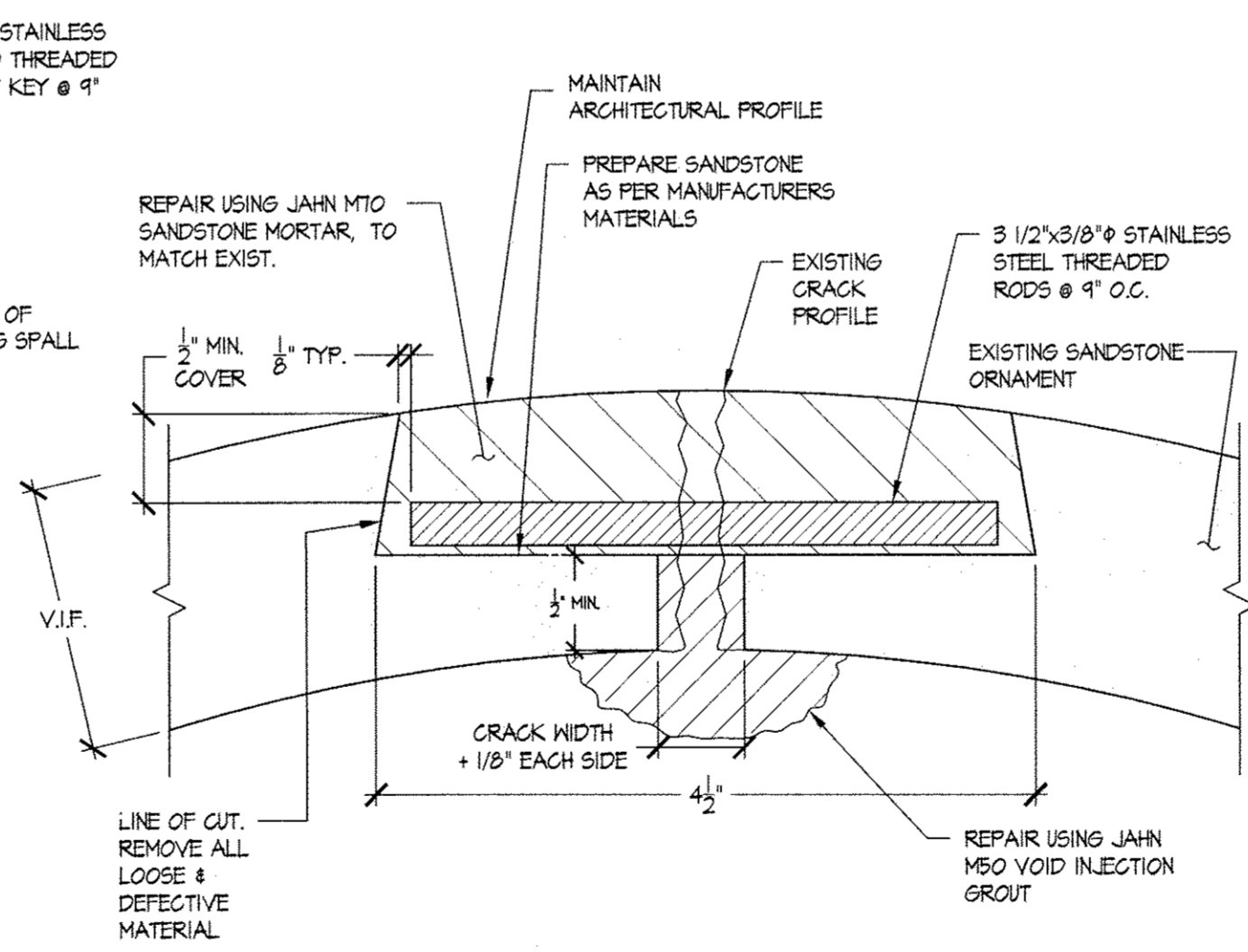
**2B-1 SECTION @ UN-KEYED PORTION**  
SCALE: N.T.S.



**2A CRACK W/OUT SPALLING REPAIR**  
SCALE: N.T.S.

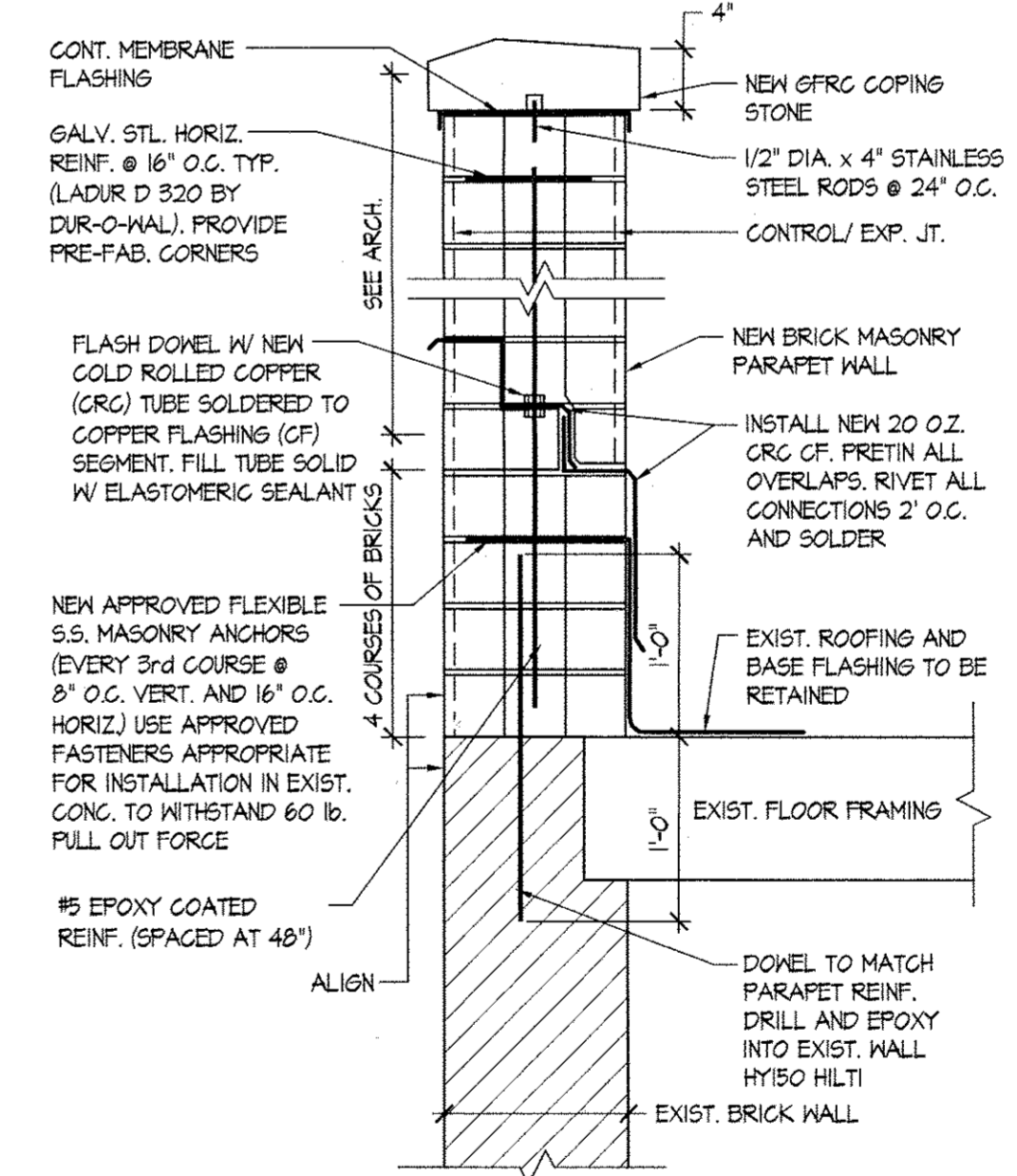


**2B CRACK W/ SPALLING REPAIR**  
SCALE: N.T.S.



**2A-2 SECTION @ KEYED PORTION**  
SCALE: N.T.S.

**2 LARGE CRACK @ SANDSTONE ORNAMENT REPAIR DETAILS**  
SCALE: AS NOTED  
NOTES:  
1. MATCH EXISTING ARCHITECTURAL PROFILES ON SURFACE OF SANDSTONE ORNAMENTS WHERE APPLICABLE



**3 TYPICAL PARAPET RECONSTRUCTION**  
1" = 1'-0" det94021

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

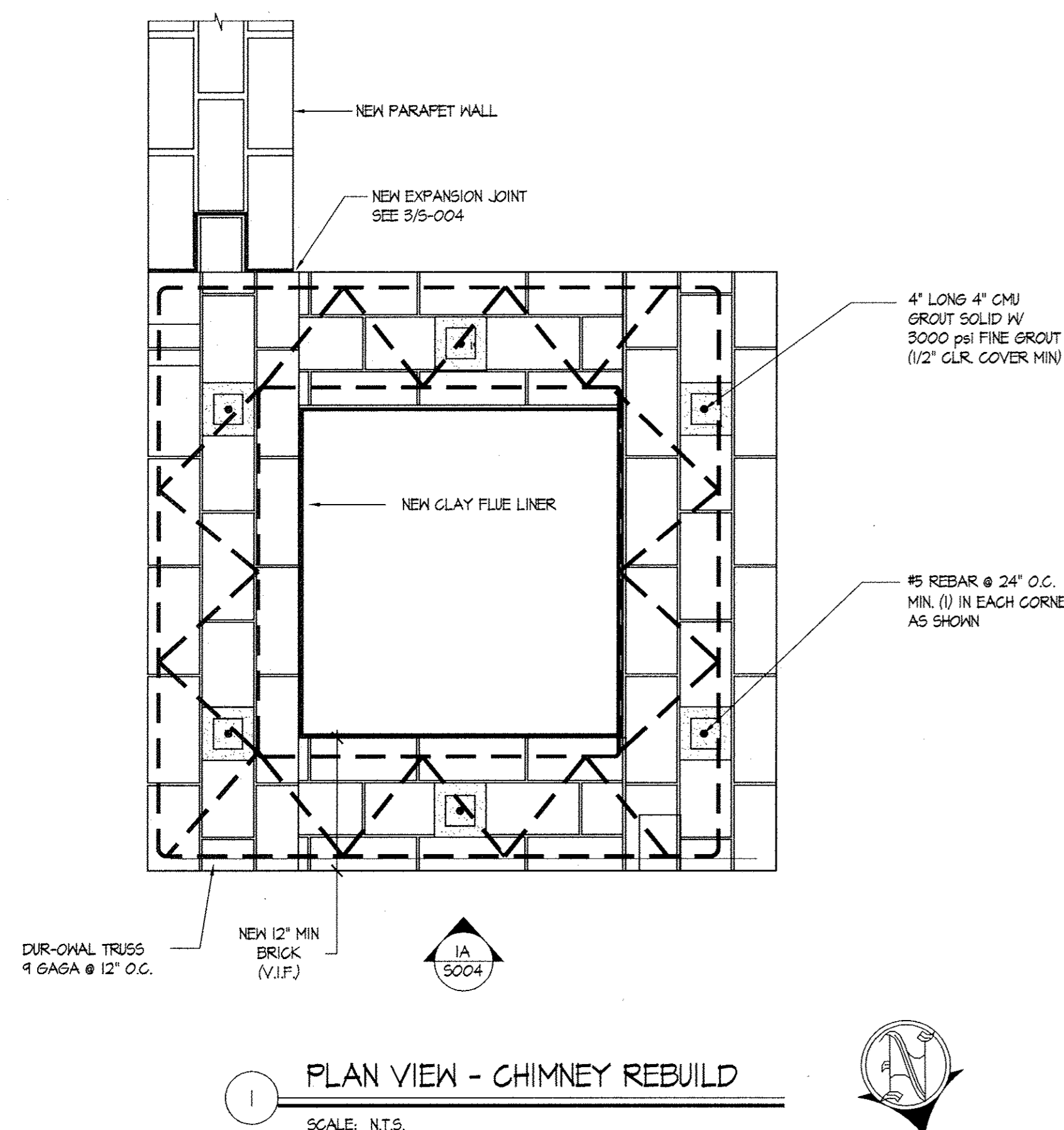
ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
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CONSULTING ENGINEERS  
31 WEST 27TH STREET  
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NO.	REVISION	DATE

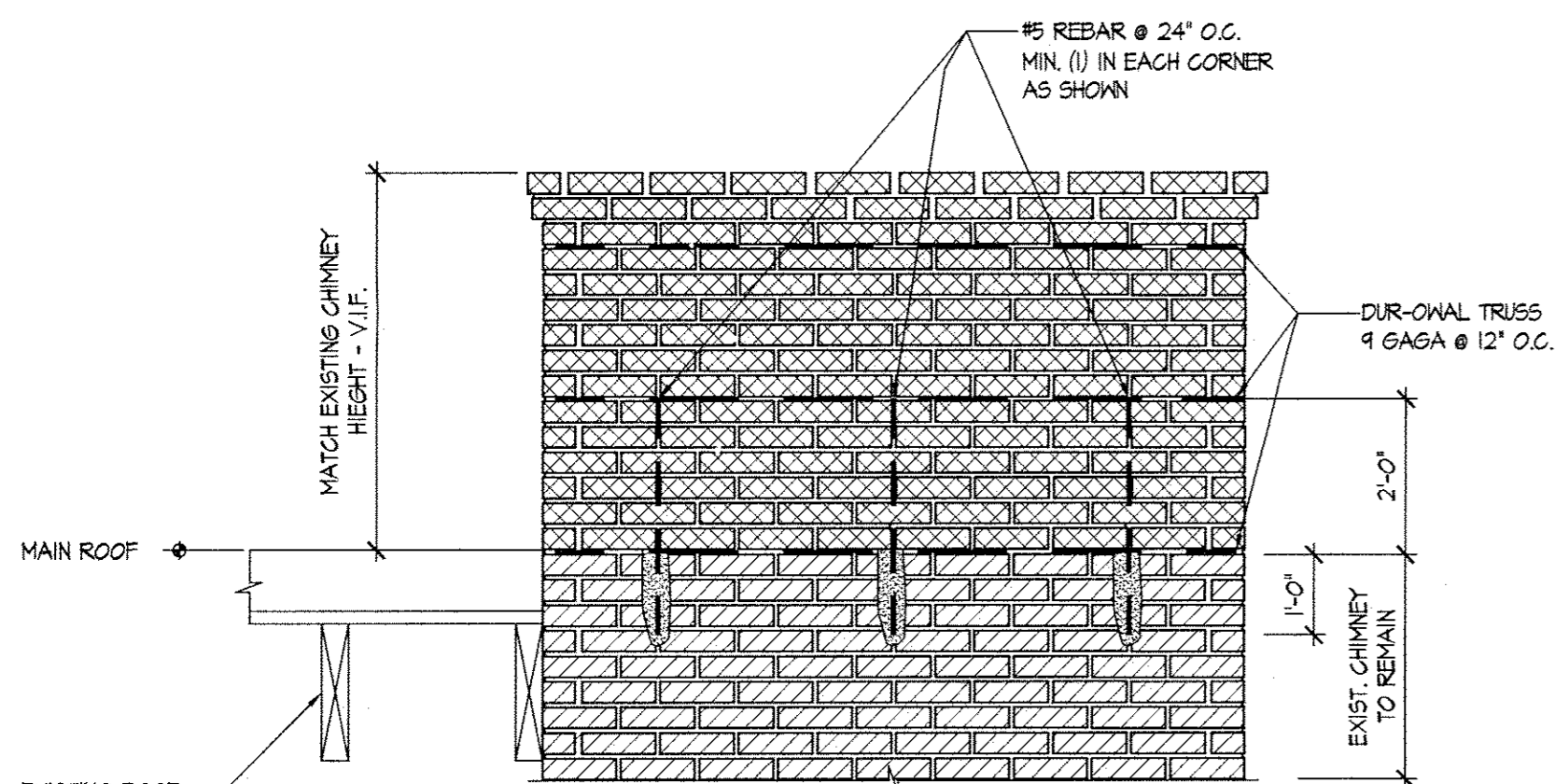
SHEET TITLE: TYPICAL DETAILS

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
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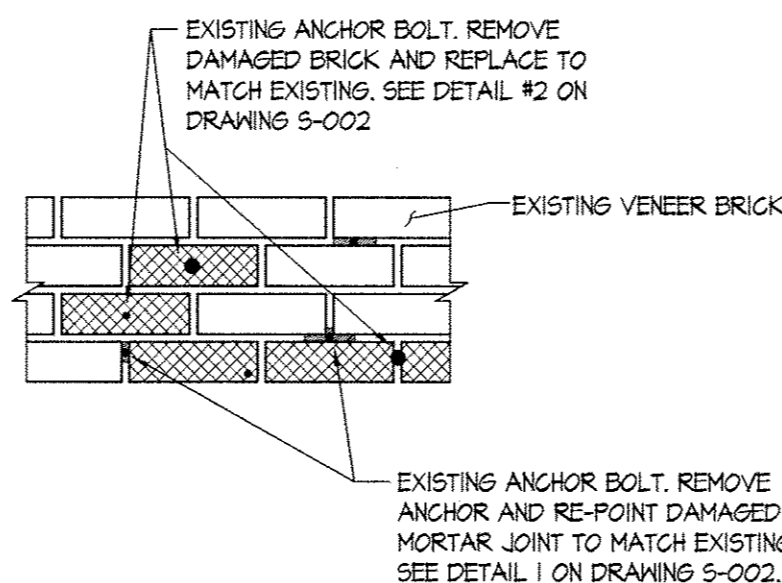
1 PLAN VIEW - CHIMNEY REBUILD

SCALE: N.T.S.



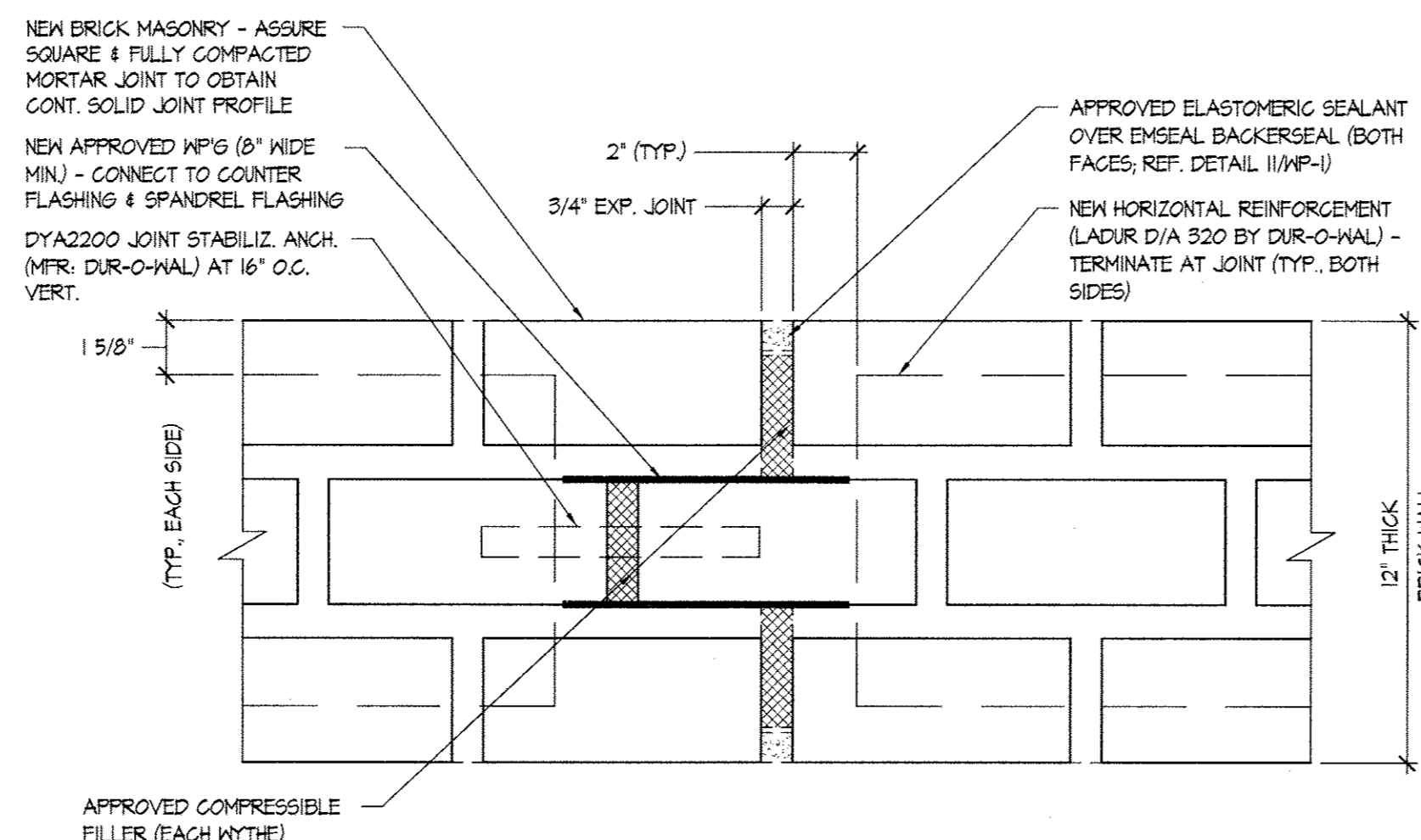
1A NORTH ELEVATION - FLUE REBUILD

SCALE: N.T.S.



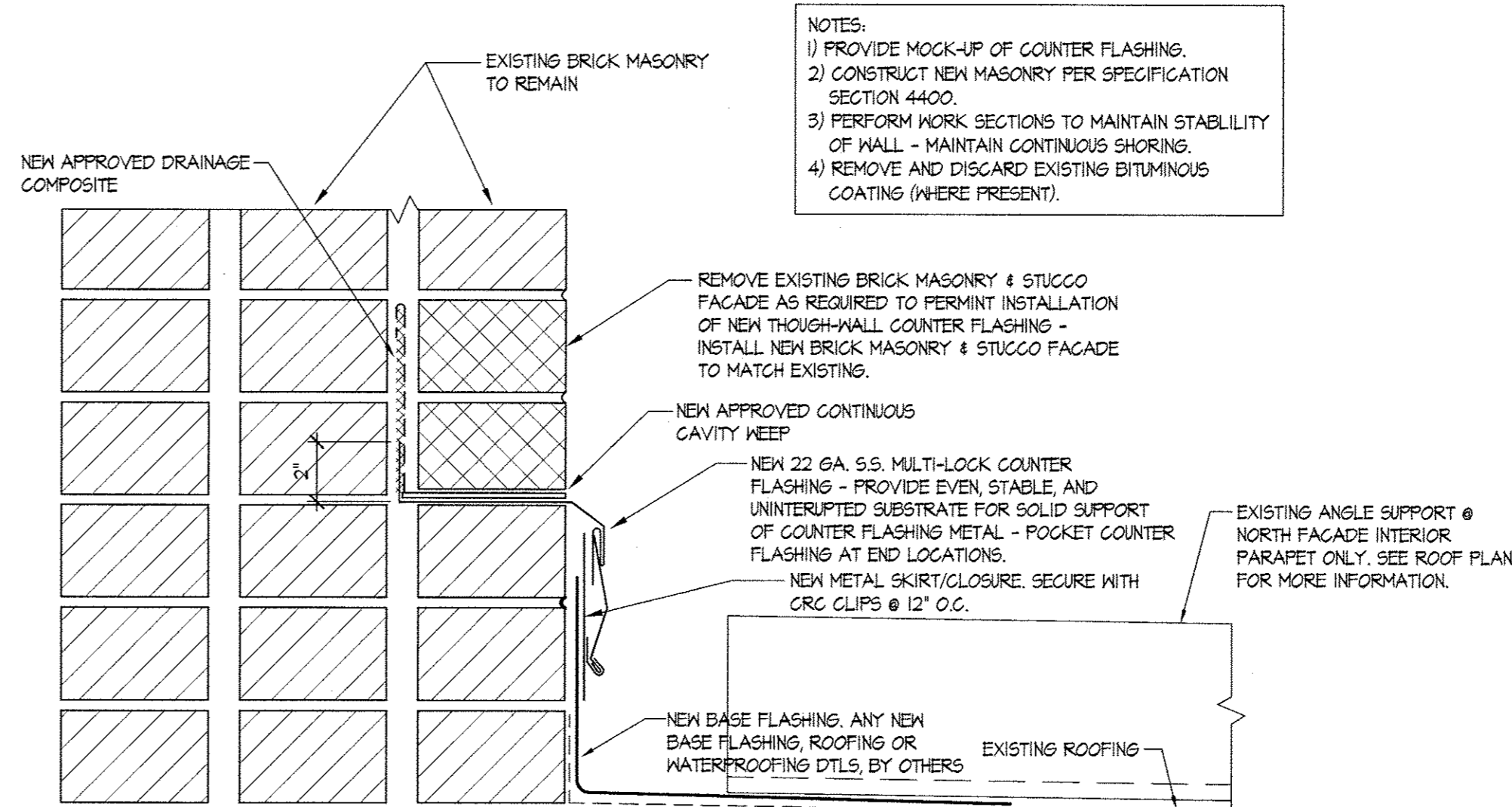
2 TYPICAL ANCHOR REMOVAL DETAIL

N.T.S.



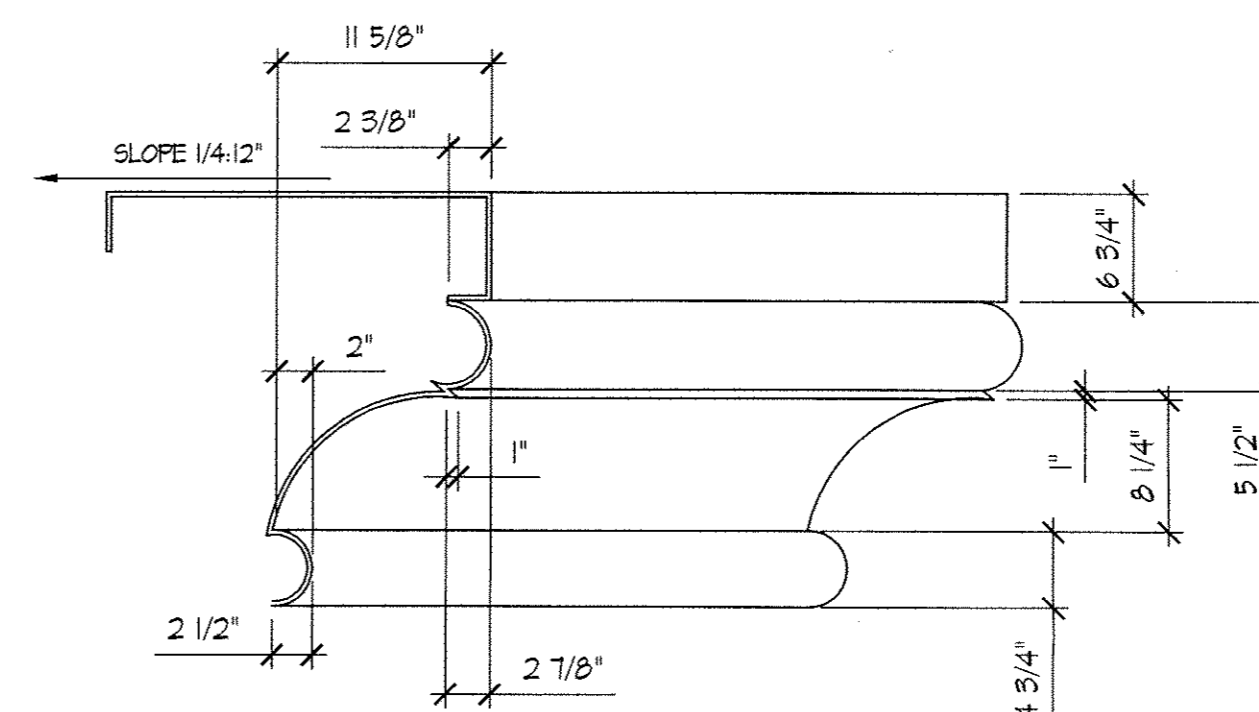
3 TYPICAL EXPANSION JOINT ASSEMBLY

N.T.S. 1 1/2\"/>



4 THROUGH-WALL COUNTER FLASHING ASSEMBLY

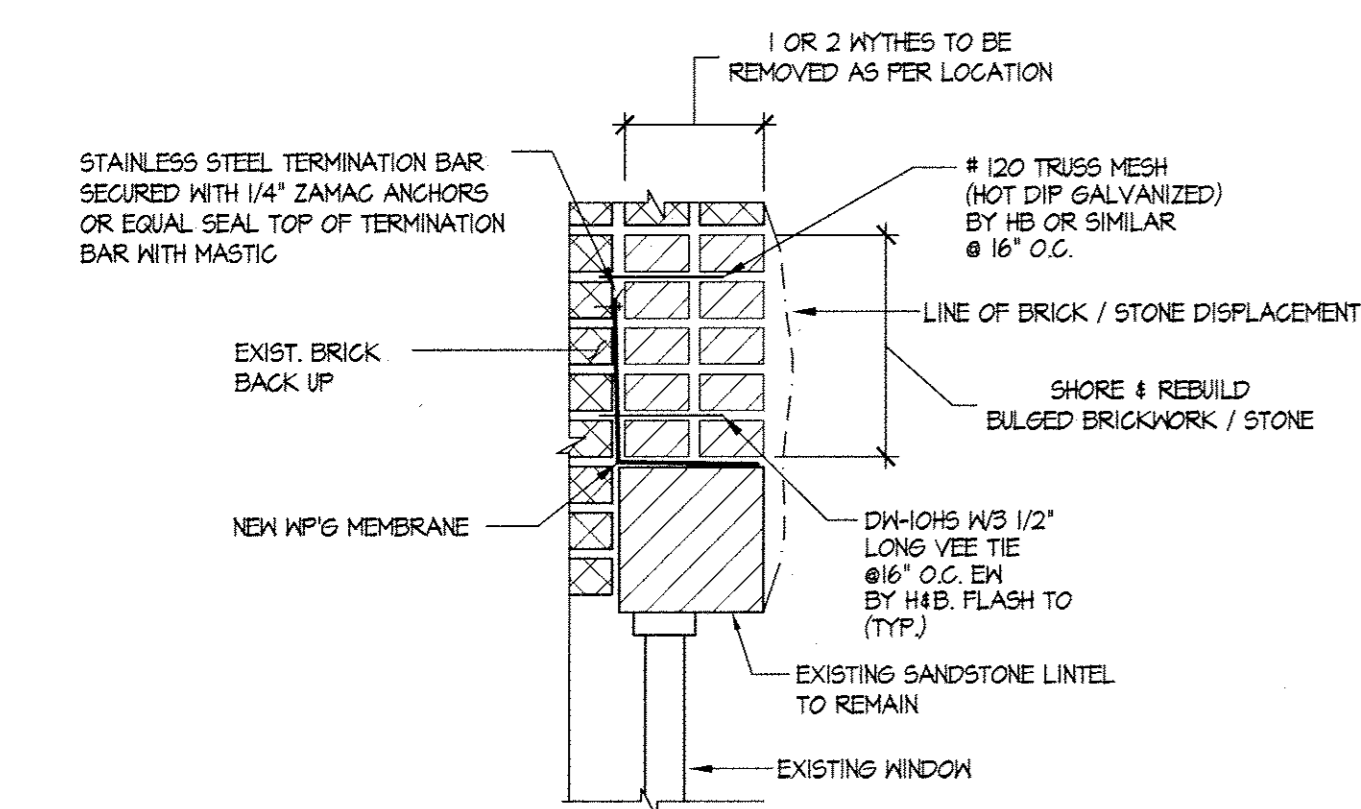
N.T.S.



5 CORNICE PROFILE - V.I.F.

1\"/>

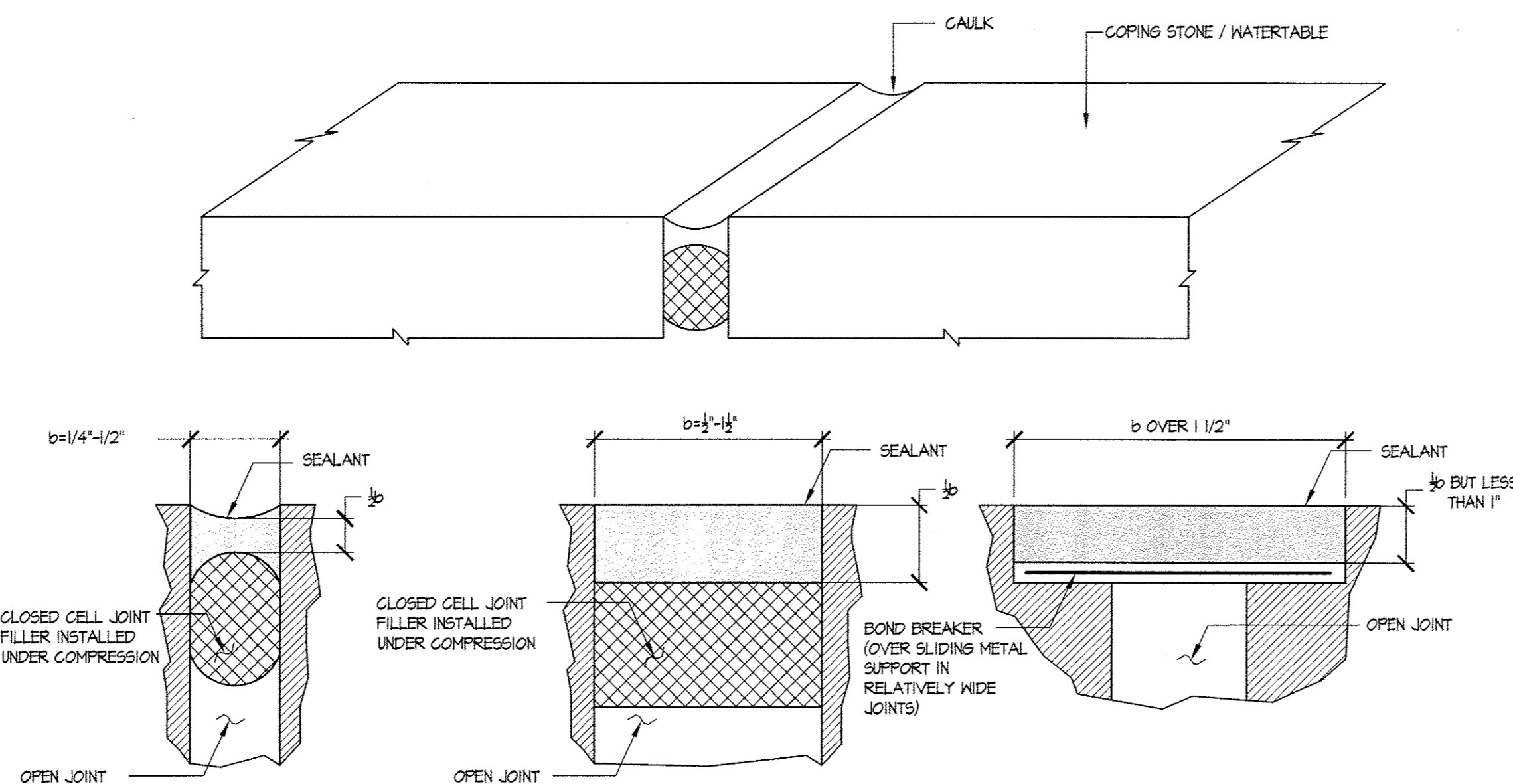
NOTE(S):  
 1) PROFILE MEASUREMENTS ARE PROVIDED FOR INFORMATION ONLY. FINAL MEASUREMENTS ARE TO BE TAKEN BY THE CONTRACTOR BEFORE THE MATERIAL IS ORDERED.  
 2) CONTRACTOR IS TO PROVIDE SHOP DRAWINGS, INCLUDING CORNICE ELEVATIONS, EXISTING AND PROPOSED.  
 3) CONTRACTOR MUST PROVIDE A MOCK-UP TO SHOW JOINT VISIBILITY.



6 BULGED BRICKWORK @ STONE / BRICK FACADE

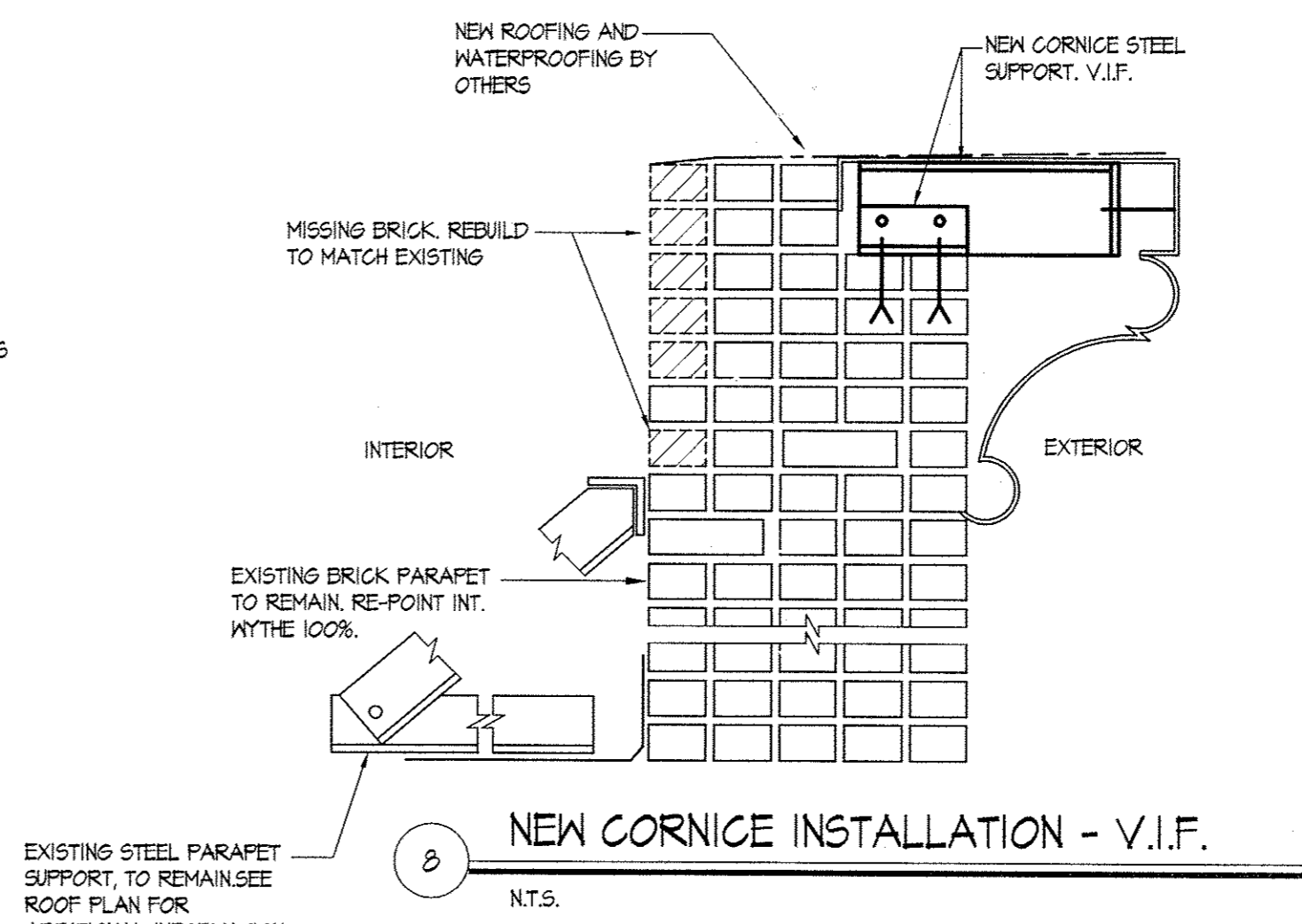
N.T.S.

NOTE:  
 1. ALL NEW BRICKWORK TO MATCH EXISTING IN SIZE, COLOR, AND BOND PATTERN.  
 2. REPAIR OR REPLACE FLASHING AND WEEPS AS REQ'D.



7 TYPICAL CAULKING JOINT

N.T.S.



8 NEW CORNICE INSTALLATION - V.I.F.

N.T.S.

NOTE(S):  
 1) CONTRACTOR IS TO PROVIDE SHOP DRAWINGS FOR NEW STEEL SUPPORT.  
 2) CONTRACTOR MUST PROVIDE A MOCK-UP.

THE WINDERMERE  
 400 WEST 57TH ST  
 NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
 WINDERMERE PROPERTIES, LLC

ARCHITECT:  
 MORRIS ADAMI ARCHITECTS  
 45 EAST 20TH STREET  
 11TH FLOOR  
 NEW YORK NY 10003  
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 F 212 674 4511

ENGINEER:  
 GACE  
 GOLDSTEIN ASSOCIATES PC  
 CONSULTING ENGINEERS  
 31 WEST 27TH STREET  
 6TH FLOOR  
 NEW YORK NY 10001  
 T 212 545 7878  
 F 212 545 8222

NO.	REVISION	DATE

SHEET TITLE:

TYPICAL DETAILS

DATE: AUGUST 23, 2010

SCALE: AS NOTED

PROJECT#: B0168.00

DRAWN BY: A.S.

CHECKED BY: J.K.

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DWG. No.:

S-004



CONDITION LEGEND	
CONDITION	DETAIL(S)
SC	STONE CRACK SEE DETAIL 2 ON DWG. 5-003 & DETAIL 4 ON DWG. 5-003
BC	BRICK CRACK TO BE STITCHED SEE DETAIL 3 ON DWG. 5-002
BS	BRICK SPALL SEE DETAIL 2 ON DWG. 5-002
BR	BRICK REMOVAL AND REPLACEMENT SEE DETAIL 2 ON DWG. 5-002
DC	DETERIORATED CORNICE
BP	BRICK RE-POINTING, INCLUDE ALL REVEALS & JAMB RETURNS AS INDICATED ON ELEVATIONS. SEE DETAIL 1A ON DWG. 5-002
RA	REMOVE ANCHORS, REMOVE DAMAGED BRICKS OR REPOINT DAMAGED MORTAR JOINTS. SEE DETAIL 2 ON DWG. 5-004
BB	BULGING BRICK/STONE SEE DETAIL 6 ON DWG. 5-004
SGP	STONE SPALL SEE DETAIL 6 ON DWG. 5-002 & DETAIL 7 ON DWG. 5-002
L	DETERIORATED LINTEL SEE DETAIL 5 ON DWG. 5-002
SPL	SCRAPE AND PAINT EXISTING STEEL LINTEL W/ (2) COATS OF TNEEG 135. FINISH COLOR TO BE CHOSEN BY CLIENT
SP	DENOTES STONE RE-POINTING SEE DETAIL 1B ON DWG. 5-002
- - -	DENOTES NEW (2) PIECE COPPER FLASHING. SEE DETAIL 4 ON DWG. 5-004
[Pattern]	DENOTES EXISTING STUCCO
[Pattern]	DENOTES SAND STONE
[Pattern]	DENOTES NO ACCESS TO THIS AREA DURING INSPECTION.
[Pattern]	DENOTES CORNICE - TO BE REMOVED AND REPLACED WITH FIBERGLASS, TO MATCH EXIST.
Px	NEW PROBE TO THE FACADE BENEATH THE EXISTING STUCCO, PROBE MADE @ THE EAST FACADE, 1ST FLOOR, 1'-0" x 1'-0"
[Pattern]	DENOTES EXISTING STONE FACADE

**EXISTING EAST FACADE ELEVATION**

- 1/8" = 1'-0"
- NOTES:
- 100% BRICK & STONE POINTING @ EAST FACADE. INCLUDE ALL RETURNS & REVEALS.
  - ALL FIRE ESCAPE STAIRS & LANDING TO BE SCRAPED & PAINTED W/ (2) COATS OF TNEEG 135. FINISH COLOR TO BE CHOSEN BY OWNER.
  - POWERMASH FACADE 100%

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK, NY 10003  
T 212 392 2020  
F 212 674 4511

ENGINEER:  
GAGE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEER'S  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK, NY 10001  
T 212 545 7878  
F 212 545 8222

NO.	REVISION	DATE

SHEET TITLE: **EXISTING FACADE EAST ELEVATION**

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
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DWG. No.:



EXISTING NORTH FACADE ELEVATION

1/8" = 1'-0"

NOTES:

1. 100% BRICK & STONE POINTING @ NORTH FACADE. INCLUDE ALL RETURNS & REVEALS.
2. ALL FIRE ESCAPE STAIRS & LANDING TO BE SCRAPPED & PAINTED W/ (2) COATS OF TENEK 135. FINISH COLOR TO BE CHOSEN BY OWNER.
3. POWERWASH FACADE 100%

CONDITION LEGEND		
CONDITION	DETAIL(S)	
SC	STONE CRACK	SEE DETAIL 2 ON DWG. 5-003 & DETAIL 4 ON DWG. 5-003
BC	BRICK CRACK TO BE STITCHED	SEE DETAIL 5 ON DWG. 5-002
BS	BRICK SPALL	SEE DETAIL 2 ON DWG. 5-002
BR	BRICK REMOVAL AND REPLACEMENT	SEE DETAIL 2 ON DWG. 5-002
DC	DETERIORATED CORNICE	
BP	BRICK RE-POINTING, INCLUDE ALL REVEALS & JAMB RETURNS AS INDICATED ON ELEVATIONS.	SEE DETAIL 1A ON DWG. 5-002
RA	REMOVE ANCHORS. REMOVE DAMAGED BRICKS OR REPOINT DAMAGED MORTAR JOINTS.	SEE DETAIL 2 ON DWG. 5-004
BB	BULGING BRICK/STONE	SEE DETAIL 6 ON DWG. 5-004
SSP	STONE SPALL	SEE DETAIL 6 ON DWG. 5-002 & DETAIL 7 ON DWG. 5-002
L	DETERIORATED LINTEL	SEE DETAIL 5 ON DWG. 5-002
SPL	SCRAPE AND PAINT EXISTING STEEL LINTEL W/ (2) COATS OF TENEK 135. FINISH COLOR TO BE CHOSEN BY CLIENT	
SP	DENOTES STONE RE-POINTING	SEE DETAIL 1B ON DWG. 5-002
---	DENOTES NEW (2) PIECE COPPER FLASHING.	SEE DETAIL 4 ON DWG. 5-004
STIPPLE	DENOTES EXISTING STUCCO	
DIAGONAL HATCH	DENOTES SAND STONE	
NO ACCESS	DENOTES NO ACCESS TO THIS AREA DURING INSPECTION.	
CORNICE	DENOTES CORNICE - TO BE REMOVED AND REPLACED WITH FIBERGLASS, TO MATCH EXIST.	
Fx	NEW PROBE TO THE FACADE BENEATH THE EXISTING STUCCO. PROBE MADE @ THE EAST FACADE, 1ST FLOOR: 1'-0" x 1'-0"	
BRICK	DENOTES EXISTING STONE FACADE	



A DECORATIVE TILE

N.T.S.

NOTES:

1. DECORATIVE TILE TO REMAIN WHILE CLEANING, TAKE CARE TO NOT DAMAGE EXIST. TILES.

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK, NY 10003  
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ENGINEER:  
GACE  
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CONSULTING ENGINEERS  
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6TH FLOOR  
NEW YORK, NY 10001  
T 212 545 7878  
F 212 545 8222

NO.	REVISION	DATE

SHEET TITLE:

EXISTING FACADE  
NORTH ELEVATION

DATE: AUGUST 23, 2010

SCALE: AS NOTED

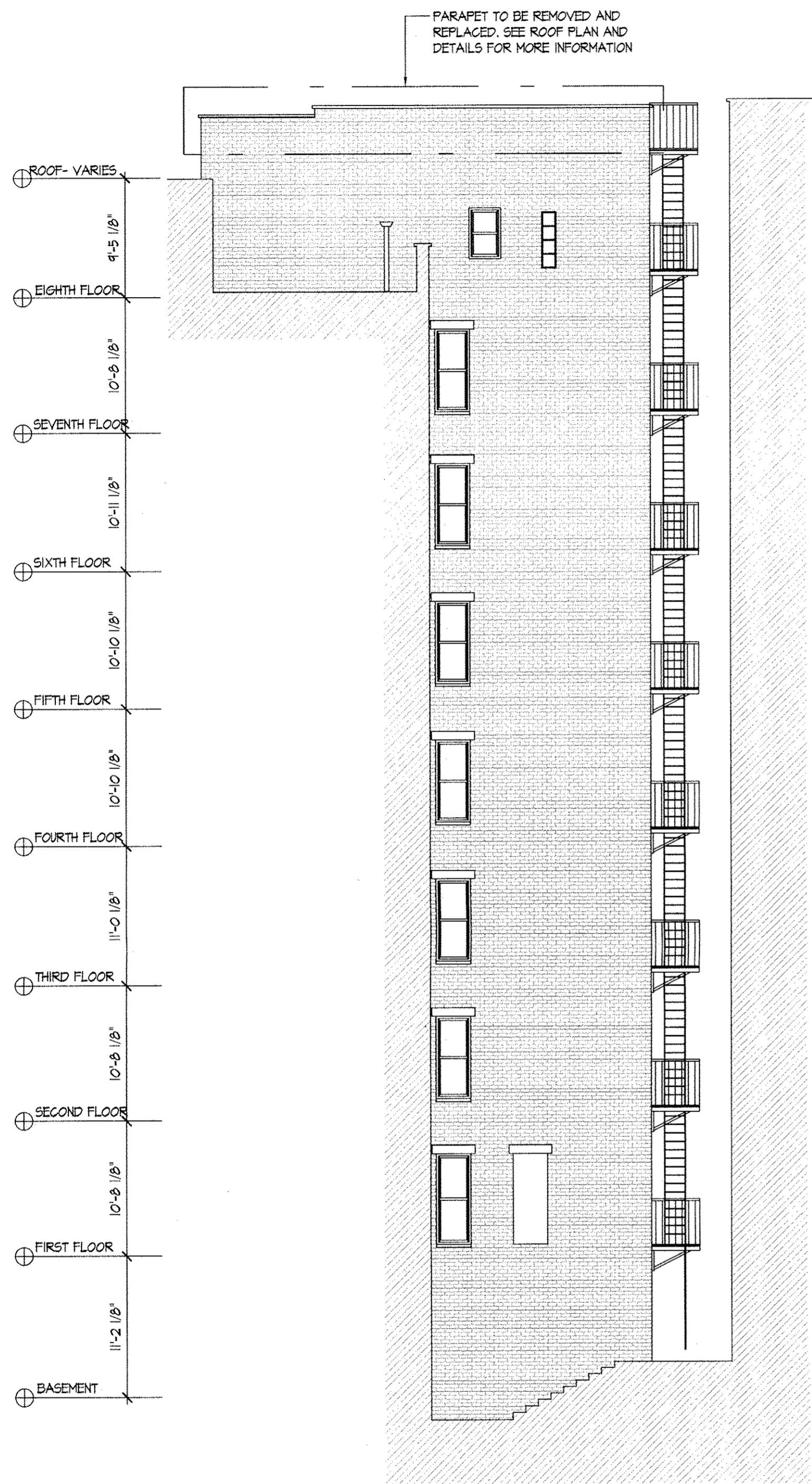
PROJECT#: B0168.00

DRAWN BY: A.S.

CHECKED BY: J.K.

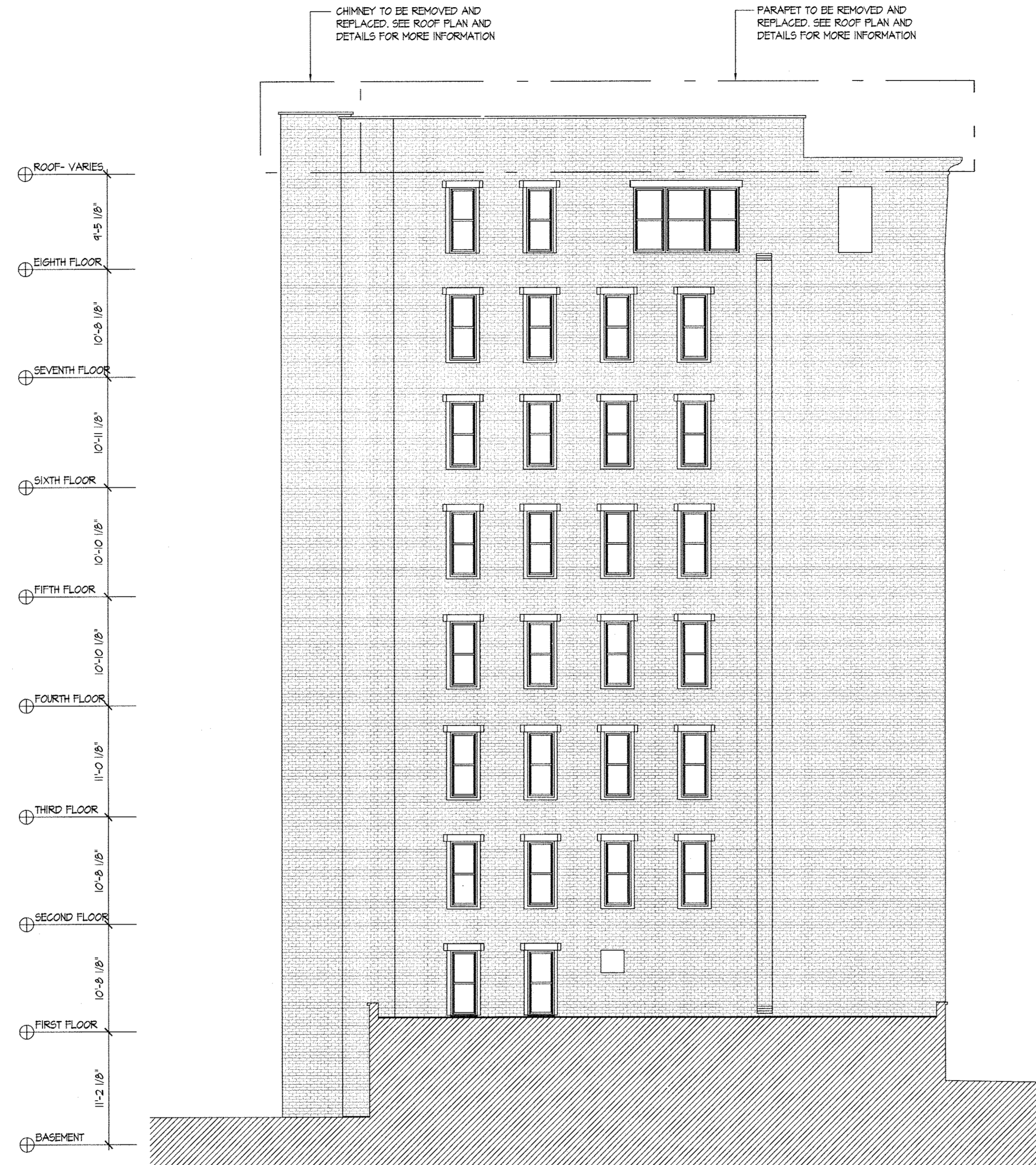
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DWG. No.:



EXISTING NORTH COURTYARD ELEVATION

1/8" = 1'-0"



EXISTING SOUTH SIDE YARD ELEVATION

1/8" = 1'-0"

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET -- SEPT. 7, 2010

OWNER:  
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ARCHITECT:  
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11TH FLOOR  
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T 212 982 2020  
F 212 674 4511

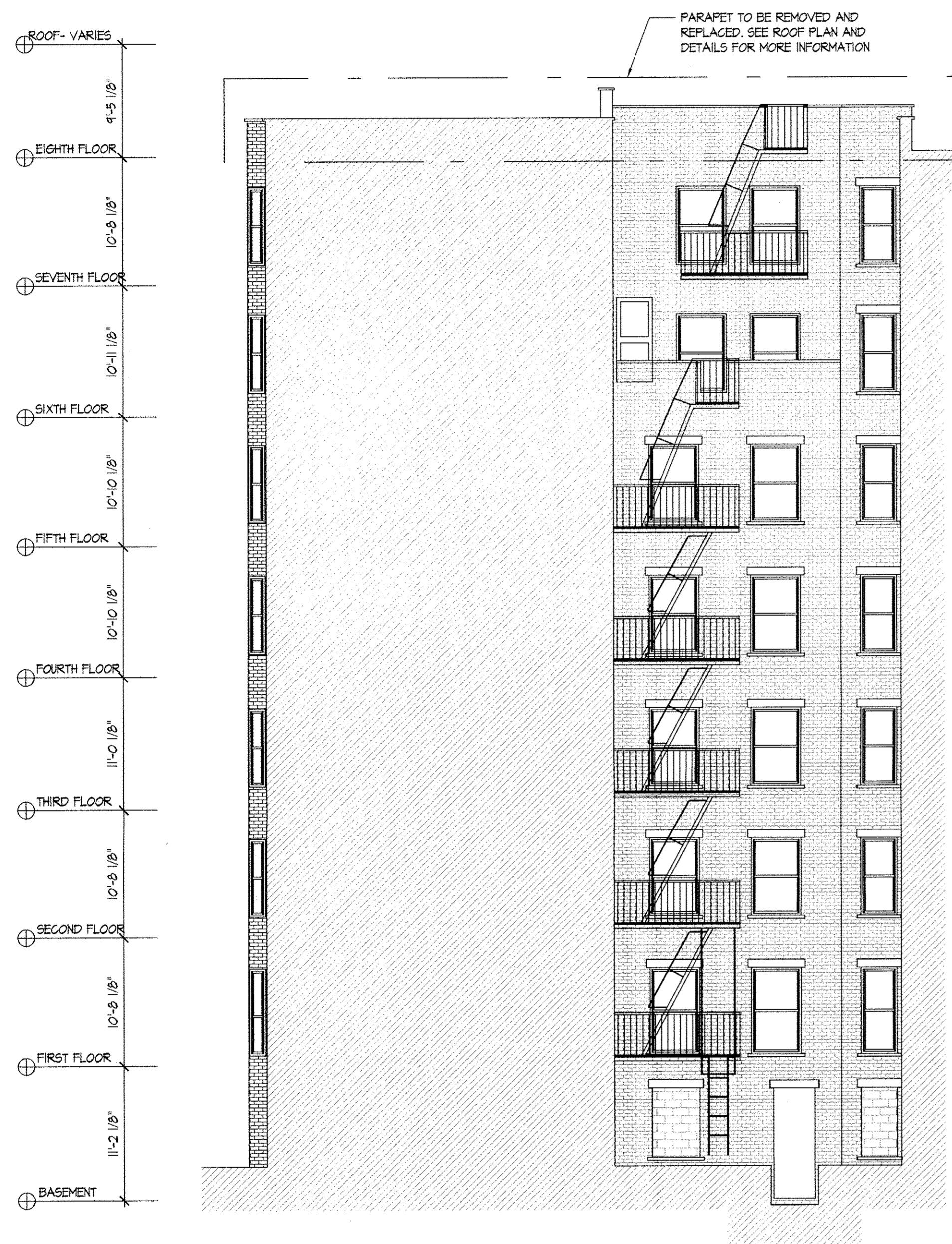
GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK, NY 10001  
T 212 545 7878  
F 212 545 8222

NO.	REVISION	DATE

SHEET TITLE:

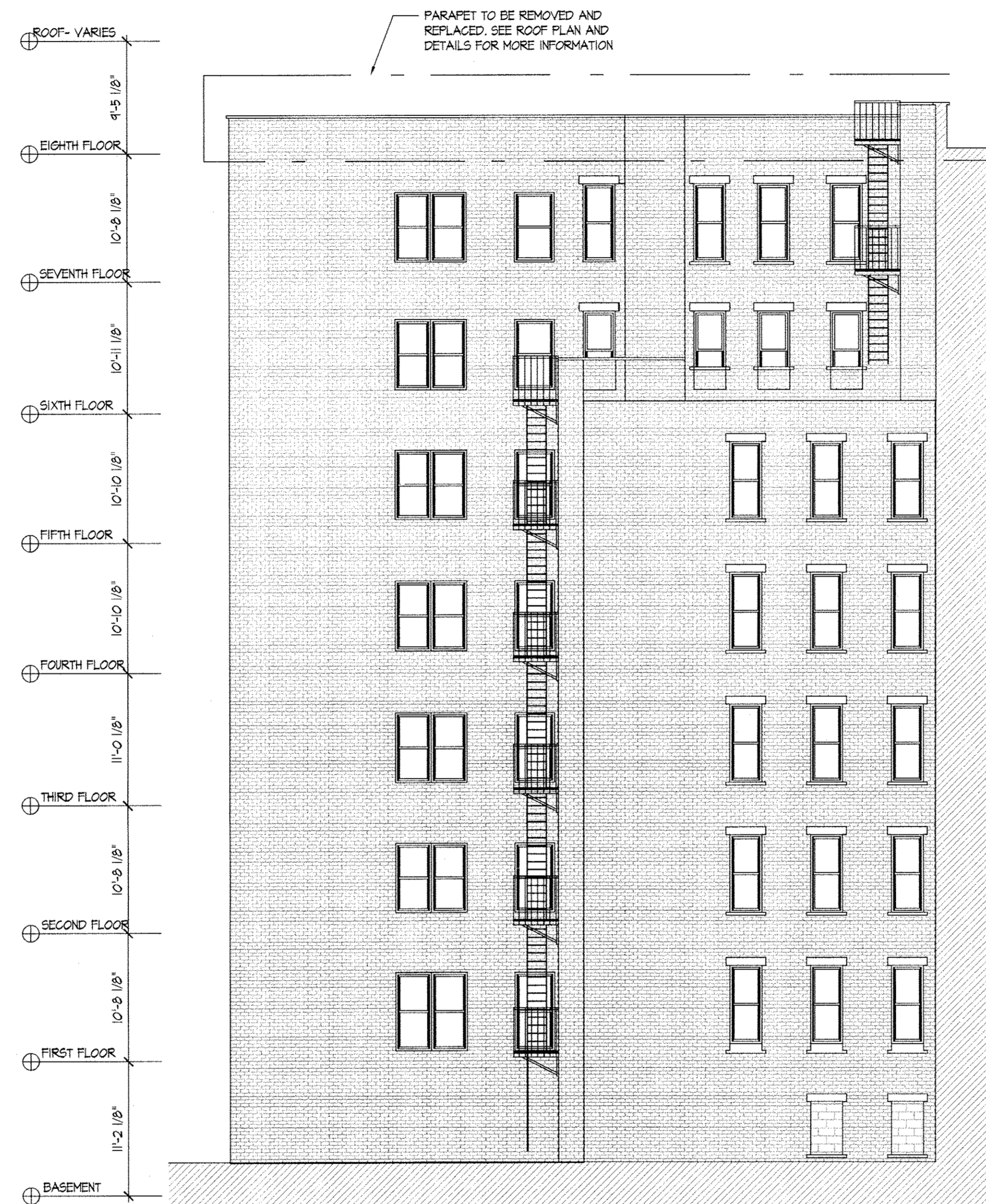
EXISTING NORTH  
COURTYARD & SOUTH  
SIDE YARD ELEVATION

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
©MA 2010  
DWG. No.:



EXISTING SOUTH COURTYARD ELEVATION

1/8" = 1'-0"



EXISTING EAST COURTYARD ELEVATION

1/8" = 1'-0"

THE WINDMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK, NY 10003  
T 212 982 2020  
F 212 674 4511

GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK, NY 10001  
T 212 545 7878  
F 212 545 8222

NO.	REVISION	DATE

SHEET TITLE:

EXISTING SOUTH &  
EAST COURTYARD  
ELEVATIONS

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
©MA 2010  
DWG. No.:



X EXISTING WEST COURTYARD ELEVATION  
1/8" = 1'-0"

THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK NY 10003  
T 212 382 2020  
F 212 674 4511

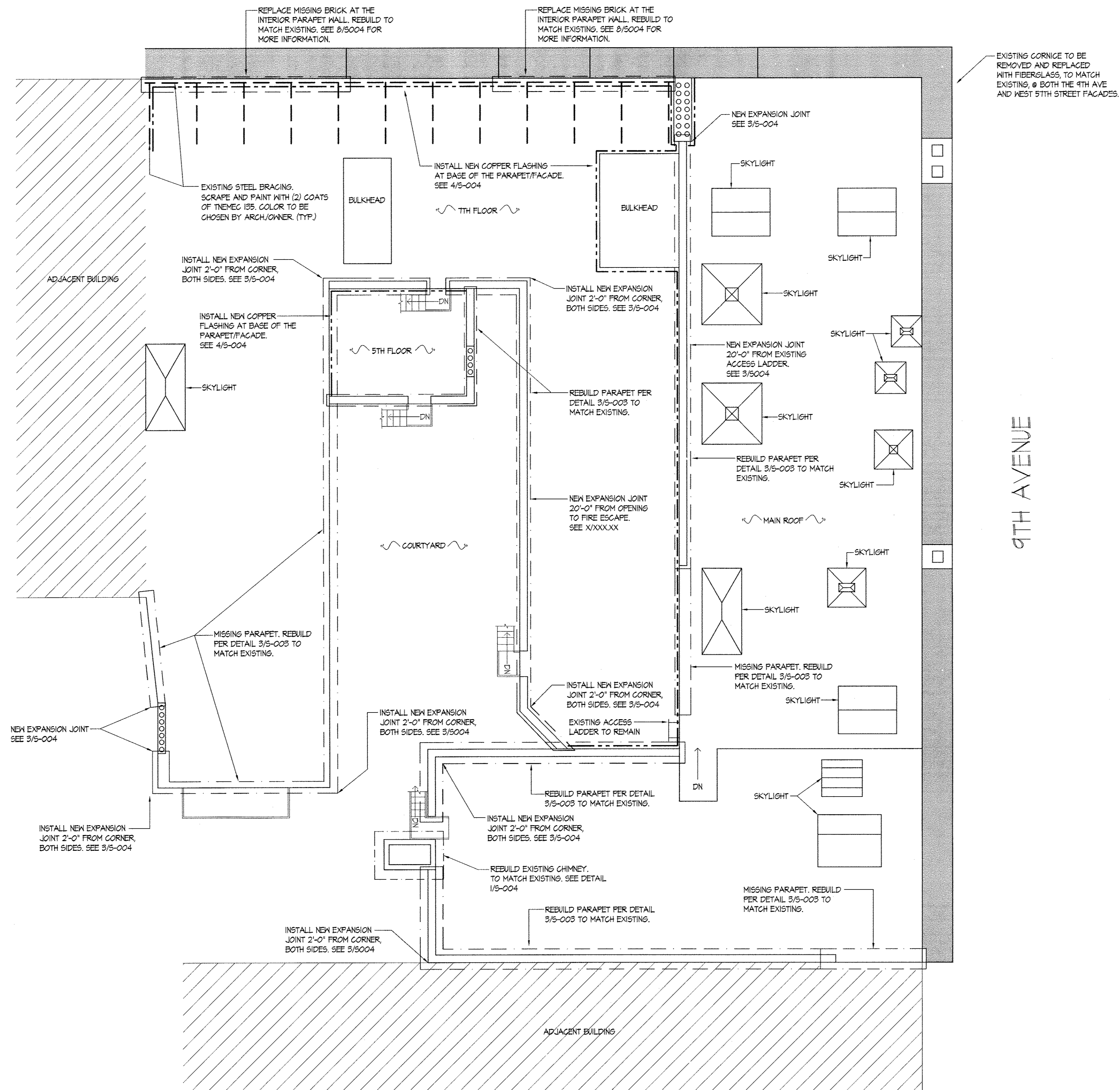
GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK NY 10001  
T 212 545 7878  
F 212 545 8222


NO.	REVISION	DATE

SHEET TITLE: EXISTING WEST COURTYARD ELEVATIONS

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
©MA 2010  
DWG. No.:

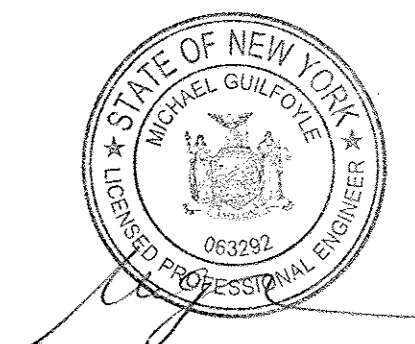
WEST 57TH STREET



1 ROOF PLAN  
N.T.S.



THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
45 EAST 20TH STREET  
11TH FLOOR  
NEW YORK, NY 10003  
T 212 982 2020  
F 212 674 4511

GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK, NY 10001  
T 212 545 7878  
F 212 545 8222

NO.	REVISION	DATE

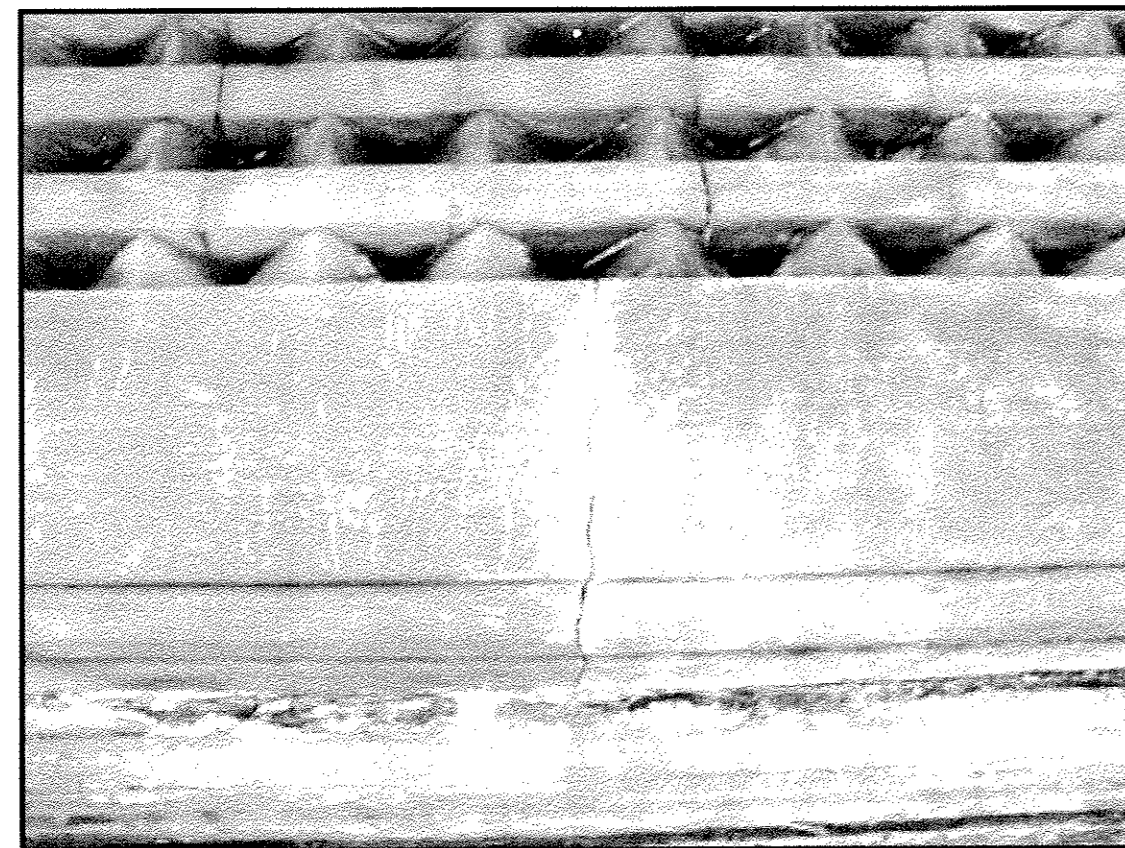
SHEET TITLE:

ROOF PLAN

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
©MA 2010  
DWG. No.:



THE WINDERMERE  
400 WEST 57TH ST  
NEW YORK, NY 10019



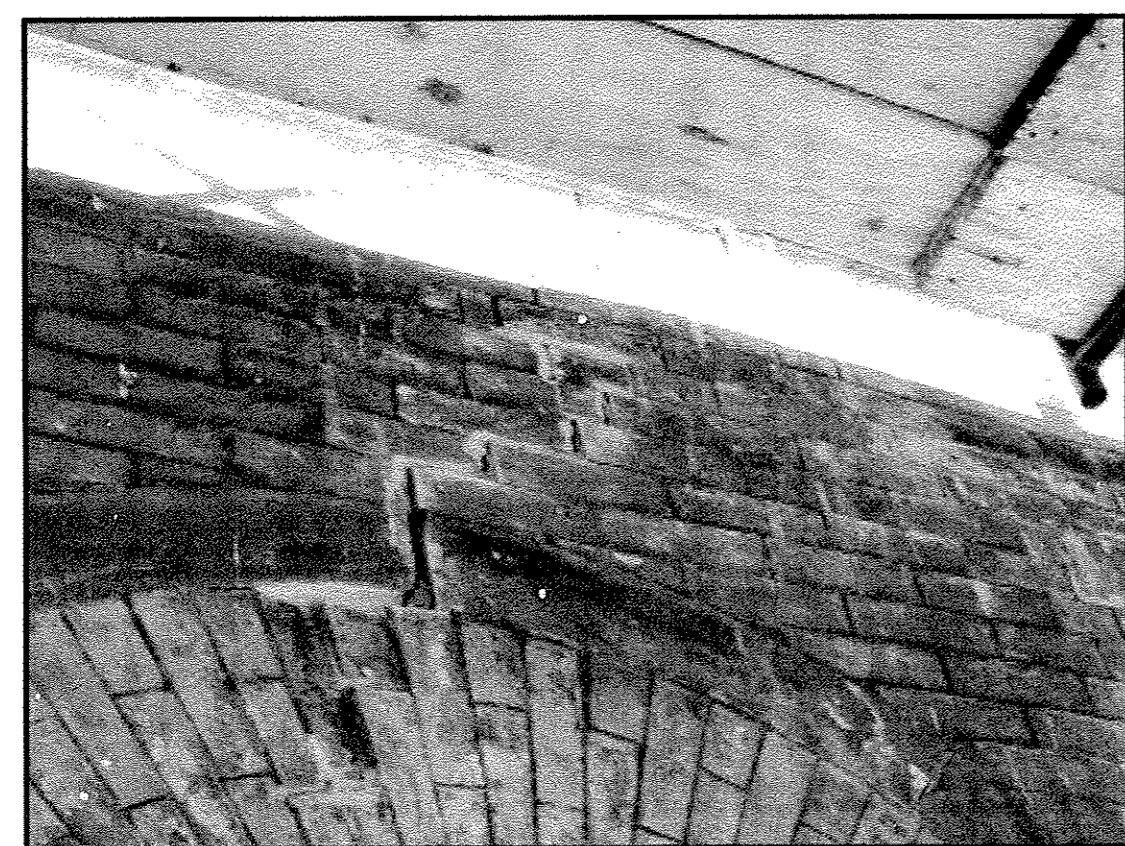
P1 TYPICAL STONE CRACK  
N.T.S.



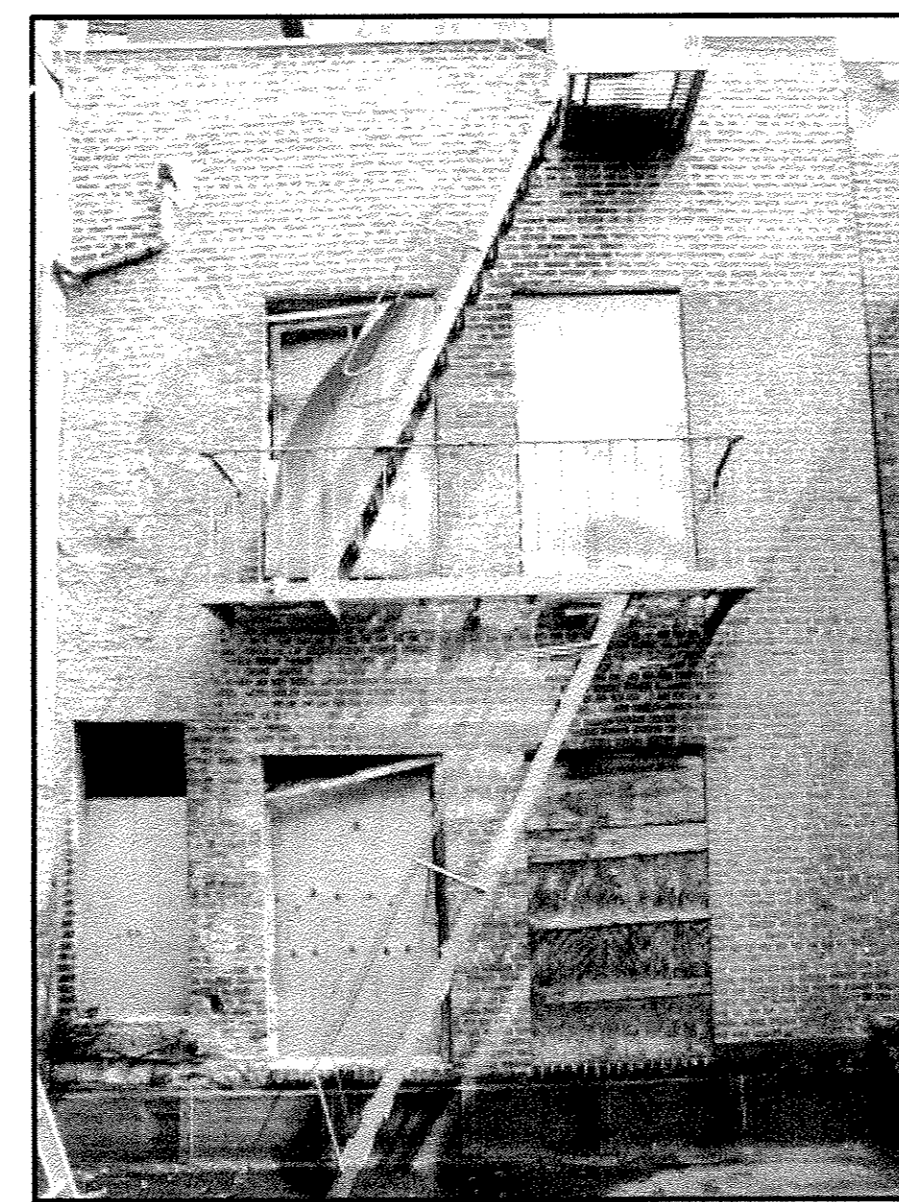
P2 TYPICAL OPEN MORTAR JOINT  
N.T.S.



P3 TYPICAL ANCHOR TO BE REMOVED  
N.T.S.



P4 TYPICAL BULGING BRICK & STONE  
N.T.S.



P5 TYPICAL FIRE ESCAPE  
N.T.S.



P6 EXISTING CHIMNEY TO BE REBUILT  
N.T.S.



FACADE FILING SET - SEPT. 7, 2010

OWNER:  
WINDERMERE PROPERTIES, LLC

ARCHITECT:  
MORRIS ADAMI ARCHITECTS  
48 EAST 20TH STREET  
11TH FLOOR  
NEW YORK NY 10003  
T 212 982 2020  
F 212 674 4511

GACE  
GOLDSTEIN ASSOCIATES PC  
CONSULTING ENGINEERS  
31 WEST 27TH STREET  
6TH FLOOR  
NEW YORK NY 10001  
T 212 545 7878  
F 212 545 8222


NO.	REVISION	DATE

SHEET TITLE: PHOTOS

DATE: AUGUST 23, 2010  
SCALE: AS NOTED  
PROJECT#: B0168.00  
DRAWN BY: A.S.  
CHECKED BY: J.K.  
©MA 2010  
DWG. No.:



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



# PERMIT CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 07/07/17	<b>EXPIRATION DATE:</b> 7/7/2021	<b>DOCKET #:</b> LPC-19-12918	<b>CNE</b> CNE-19-12918
<b>ADDRESS:</b> 400-406 WEST 57TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1066 / 32
The Windermere The Windermere, Individual Landmark			

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road**  
**Lakewood, NJ 08701**

**NOT ORIGINAL  
 COMPUTER-GENERATED COPY**

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on June 13, 2017.

The approved work consists of removing the non-decorative fire escape, and repairing attachment points with new brick and mortar to match the historic condition, at the West 57th Street facade; repointing mortar joints and replacing missing or cracked red and tan face brick as required with new brick and mortar to match the historic condition at the 9th Avenue facade and West 57th Street facades; replacing missing and broken ceramic tiles with new ceramic tiles and grout to match the historic condition at the West 57th Street facade; patching deteriorated sandstone units with cementitious repair mortar (Jahn M70) at the 9th Avenue facade and West 57th Street facades, porticos and stoops; removing non-historic stoop and areaway ironwork and masonry curbs; replacing brickwork in kind within the below-grade areaway at the West 57th Street facade; replacing missing or cracked sandstone and granite as required at the historic porticos and stoops, and constructing new porticos and stoops, with new cast stone and granite to match the historic condition, at the West 57th Street facade and areaway; cleaning the facades at the base of the building using a chemical cleaner and low-pressure water wash as required; repointing brickwork 100% at the secondary south facade; as shown in specifications and drawings T-001, G-001 through G-005, EG-001, DM-101, DM-

201, A-101, A-201 through A-203, A-401 through A-403, A-411 and A-801, 5/31/17, prepared by Morris Adjmi, RA, and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also notes that CNE 11-2309 (LPC 11-2403), issued 9/10/10, approved a scope of restorative work that included masonry repairs similar to certain repairs described in this permit, only portions of which were completed prior to the expiration of the permit on 9/10/14. Lastly the Commission notes that the Commission voted to approve a proposal to construct rooftop and rear yard additions, install rooftop mechanical equipment, alter the facades, install new storefronts and windows, alter the areaways and install a barrier-free access lift, pursuant to COFA 19-12919 (LPC 19-12919) issued on 7/7/17, and to issue a report to the City Planning Commission relating to an application for a Modification of Use and Bulk pursuant to Section 74-711 of the Zoning Resolution, pursuant to MOU 14-08803 (LPC 14-8803) issued on 7/7/17; and that the Certificate of Appropriateness permit and Modification of Use and Bulk report have not yet been issued. Lastly, the Commission notes that the scope of work described above is related to this approval.

With regard to the proposal, the Commission finds, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-13, the fire escape is not a significant protected feature on the building; that any damage to the facade will be repaired to match the adjacent fabric; and that removal of the fire escape will not leave gaps, holes, or unsightly conditions on the façade. Furthermore, the Commission finds that the new brick will match the original in terms of size, color, texture and coursing, and that the new mortar will match the historic mortar in strength, color, texture, and tooling; that the new ceramic tiles will match the original in terms of size, color, texture and coursing, and that the new grout will match the historic mortar in strength, color, texture, and tooling; that the original texture, color, profiles and details of the sandstone will be replicated using cast stone; that the original texture, color, profiles and details of the granite will be replicated in kind; and that the work will aid in the long term preservation of the building; that the façade cleaning will utilize the gentlest effective methods available and without damaging the masonry; that only low pressure water rinses, not to exceed 500 psi, will be used; and that the work will support the long term preservation of the building. The work, therefore, is approved.

Please note that this permit is being issued contingent upon the Commission's review and approval of joint cutting technique(s), brick and stone pointing, brick, cast stone, granite, ceramic tile and cleaning samples, and cast stone and granite shop drawings, prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Promptly submit the requested materials to the Commission staff. Digital photographs of all samples may be sent via e-mail to [cherrala@lpc.nyc.gov](mailto:cherrala@lpc.nyc.gov) for review. This permit is also contingent on the understanding that the work (be more specific, ex. masonry work, when some work is not temperature sensitive) will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

PLEASE NOTE: THIS PERMIT CONTAINS A COMPLIANCE DATE OF DECEMBER 31, 2018. Failure to complete the corrective work by this date may result in civil litigation in New York State Supreme Court or the issuance of a Notice of Violation (NOV) originating from the Environmental Control Board in accordance with Title 63 of the Rules of the City of New York, Section 7-02 (c). Second NOV's require a court appearance and a civil fine may be imposed. Once the corrective work is completed in compliance with this permit, promptly submit a written request for a Notice of Compliance from the building owner, along with a photograph documenting the finished work, to the Commission.

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

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

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

Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Nicholas Chelko, Morris Adjmi Architects

**cc:** Jared Knowles, Director; Nicholas Chelko, Morris Adjmi Architects; John Weiss, LPC Deputy Counsel



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



# PERMIT CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 07/13/17	<b>EXPIRATION DATE:</b> 7/13/2021	<b>DOCKET #:</b> LPC-19-13091	<b>CNE</b> CNE-19-13091
<b>ADDRESS:</b> 400 WEST 57TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1066 / 32
The Windermere, Individual Landmark			

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**150 Airport Road**  
**Suite 900**  
**Lakewood, NJ 08701**



Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on July 07, 2017.

The approved work consists of exterior alterations at the non-visible secondary south and east courtyard facades, including removing the existing windows and fire-escapes, demolishing the brick walls in their entirety, and reconstructing the façades in kind; and interior structural work, including replacing wood joists and subfloor building-wide with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors; as shown in existing conditions photographs and on drawings T-101.01, DM-100.02, DM-101.02, S-100.03 through S-105.00, and S-200.02 through S-202.01, dated June 9, 2017 and prepared by Anthony Gennaro, PE, all submitted as components of the application.

In reviewing this proposal, the Commission notes that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also notes that Certificate of Appropriateness 19-12919 was issued July 7, 2017, approving construction of rooftop and rear yard additions, installation of rooftop mechanical equipment, alteration of the facades, installation of new windows, installation of new storefronts, alteration of the

areaways and installation of a barrier-free access lift, among other work. The Commission further notes that Modification of Use and Bulk 14-8803 was issued July 7, 2017 to permit modification of Sections 33-122, 96-101, 96-104, 33-432, 23-851 and 23-86 of the Zoning Resolution with respect to allowing a hotel use in part of the landmark and waiving certain height, setback, inner court and minimum distance between window requirements.

With regard to this proposal the Commission finds, that the phased demolition and reconstruction of the secondary south and east courtyard facades, and at the interior of the building, will be consistent with the full scope of work approved under Certificate of Appropriateness 19-12919, for which final DOB filing drawings have not yet been reviewed or approved; that the proposed masonry units will match the historic masonry units in terms of size, color, texture and bond pattern; that the existing joints will be raked by hand or by a method that will not cause damage to the surrounding brick; that the proposed mortar will match the historic mortar in terms of size, color, texture and tooling; that the proposed work will protect the building's façade and structure from future damage due to water infiltration and aid in the long term preservation of the building; that the work will not be visible from public thoroughfares; that the work will not result in damage to or loss of any significant historic fabric; and that the work will not detract from the special architectural or historic character of the building. The work, therefore, is approved.

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

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

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

Meenakshi Srinivasan  
Chair

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

**cc:** Cory Herrala, Director of Technical Affairs, Sustainability, and Resiliency; Albert Faks,



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



# PERMIT CERTIFICATE OF APPROPRIATENESS

<b>ISSUE DATE:</b> 07/07/17	<b>EXPIRATION DATE:</b> 11/12/2019	<b>DOCKET #:</b> LPC-19-12919	<b>COFA</b> COFA-19-12919
<b>ADDRESS:</b> 400-406 WEST 57TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1066 / 32
The Windermere, Individual Landmark			

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road**  
**Lakewood, NJ 08701**



Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of November 12, 2013, following the Public Hearing of the same date, voted to grant a Certificate of Appropriateness for the proposed work at the subject premises, as put forward in your application completed on October 17, 2013, and as you were informed in Status Update Letter 15-1190 (LPC 14-8447), issued on November 20, 2013. This approval will expire on November 12, 2019.

The proposed work, as approved, consists of combining the buildings internally, and constructing a rooftop addition, including infill at the remainder of the partial 8th floor and a one (1) story penthouse, featuring gray metal cladding, window and door assemblies, and glass railings, and with elevator and stair bulkheads and a mechanical equipment enclosure above, all with gray metal cladding; removing non-historic storefronts, cladding and infill, exposing historic masonry and a cast iron column to remain, and installing ornamental cast iron piers with a gray finish, a bracketed wood cornice with a beige finish, and wood storefronts, featuring projecting and recessed display windows with paneled bulkheads and transoms, paneled wood doors and windows with transoms, all with profiled trim and a gray finish, at the ground floor at the 9th Avenue and West 57th Street facades; installing a descending stair with cast stone landing, treads and risers, and a wheelchair stair lift on rails, closing a portion of two (2) window openings concealed by the stair and installing partial height windows in the modified openings, and installing ornamental ironwork and

cast stone knee walls, all within the areaway at and below grade at the base of the West 57th Street façade; removing brickwork and installing oculus windows within the blind openings at select locations at the 8th floor at the West 57th Street façade; raising a portion of the masonry parapet and adding and closing window openings at the secondary south façade; demolishing secondary facades at the non-visible interior courtyards, and reconstructing the facades in a new configuration around a central courtyard, and constructing a one (1) story infill addition at the southwest courtyard. The presentations were shown in historic photographs and existing condition photographs, architectural renderings, and presentation drawings 1-29, dated 11/12/13, prepared by Morris Adjmi Architects, submitted as components of the application and presented at the Public Hearing and Public Meeting.

In reviewing this proposal, the Commission noted that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street, aka 869 9th Avenue and 871-877 9th Avenue, as an Eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also noted that Certificate of No Effect 14-0633 was issued 2/8/13 for removing non-historic fire escapes, repairing historic fire escapes and replacing the cornice; and Certificate of No Effect 10-7116 was issued 3/15/10 for restorative work and miscellaneous repairs building wide. Furthermore, the Commission noted that the application was filed in conjunction with an application for a request that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for Special Permit pursuant to Section 74-711 of the Zoning Resolution for a Modification of Use and Bulk.

With regard to this proposal, the Commission found that the changes to accommodate the adaptive use of these adjoined historic apartment houses, including combining the buildings internally and expanding upward with an overlapping rooftop addition and bulkheads to accommodate new residential and hotel uses will be consistent with the appearance of the original buildings as an architecturally unified complex; that the proposed penthouse addition will be set back from the 9th Avenue and West 57th Street façades, and will be minimally, or non-visible, over these facades, except for when seen from the east on 57th Street at a moderate distance away from the building; that the proposed penthouse addition and elevator bulkheads, while highly visible over the unadorned secondary south facade, will be partially screened by raising a portion of the masonry parapet, and will be set back far enough so that it will neither overwhelm nor detract from the 9th Avenue façade from vantage points to the south; that the proposed penthouse addition, bulkheads and mechanical enclosures, will be clad in gray corrugated metal, in keeping with the historic material palette of the building, including its cornice and other metalwork, and will otherwise be consistent with materials commonly used at utilitarian rooftop accretions; that the demolition of the secondary facades at the non-visible interior courtyards, and the reconstruction of these facades in a new configuration consisting of a central courtyard at grade and a inner corner courtyard above a 1-story full-lot extension, will not result in any damage to, or destruction of, any significant architectural features of the building; that the removal of the existing non-historic storefronts and ground floor infill will eliminate features that detract from the façade, and will not eliminate any significant historic fabric; that original masonry piers and wall segments and an original cast iron corner column at the ground floor will be retained and restored, and will define the configuration of the new storefront installations; that the proposed painted wood storefronts, including some that are projecting, featuring clear glass display windows with paneled bulkheads and transom windows, clear glass doors with paneled bases and transom windows, intermediate cast iron pilasters, and a continuous bracketed cornice, will be based in part on historic photographs as well as other historic buildings of a similar age, type and style; that the installation of a new gate and landing, descending stairs, and a barrier-free access chair lift behind the restored areaway wall, west of the storefront return along the West 57th Street façade, will not result in any damage to any significant architectural features of the building, and their location between the prominent portico stoops and below grade, will help minimize their presence; that the removal of brickwork and installation of oculus windows within the round openings



at the remainder of the West 57th Street façade, which will match the historic oculus windows found at the original attic floor at the 9th Avenue façade and return, will facilitate the expansion of the building behind the tall parapet at this façade; and that the restoration and proposed new work at the 9th Avenue and West 57th Street façades will enhance the special architectural and historic character of this Individual Landmark. Based on these findings, the Commission determined the proposed work to be appropriate to the building, and voted to approve this application. Based on these findings, the Commission determined the work to be appropriate to the building and voted to approve it with the stipulation that the visibility of the penthouse as seen from the south and southeast of the building be substantially reduced, in consultation with staff.

The Commission authorized the issuance of a Certificate of Appropriateness upon receipt, review and approval of two or more sets of signed and sealed Department of Building filing drawings showing the approved design.

Subsequently, on May 15, 2017, the Landmarks Preservation Commission received design intent drawings 1 through 29, dated 5/15/17, along with written correspondence, dated 1/4/17, and revised view study drawings 000 through 008, dated 1/3/17, all prepared by Morris Adjmi Architects. Staff reviewed the submitted materials and found that the penthouse addition has been set back approximately 16' from the secondary south façade, reducing its visibility from the south and southeast of the building. The submitted materials also show modifications to the approved work, including eliminating the full-height westward enlargement of the building at the southwest courtyard and extension of the secondary south façade; changing the configuration of the bulkheads, including relocating the easternmost elevator bulkhead to the southwest corner of the penthouse, adding one (1) additional elevator bulkhead at the northwest corner of the penthouse, and relocating the mechanical equipment enclosure from the 8th floor roof to the roof of the penthouse. The Commission found that the remaining work approved by the Commission has been maintained, and that the revised work is in keeping with the intent of the original approval. Based on this and the above findings, Certificate of Appropriateness 19-12919 (LPC 19-12919) is being issued.

Please note that this permit is being issued contingent upon the Commission's review and approval of cast stone, cast stone shop drawings and storefront and cornice shop drawings, prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Promptly submit the requested materials to the Commission staff. Digital photographs of all samples may be sent via e-mail to [cherrala@lpc.nyc.gov](mailto:cherrala@lpc.nyc.gov) for review. This permit is also contingent on the understanding that the work will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

PLEASE NOTE: Modification of Use and Bulk (MOU) 14-08803 (LPC 14-8803) and Certificate of No Effect 19-12918 (LPC 19-12918) are being issued in conjunction with this Certificate of Appropriateness (COFA).

PLEASE NOTE: This permit is being issued for work subject to the review of the Department of City Planning for a modification of use and bulk, pursuant to Section 74-711; and this permit is issued contingent upon the Commission's review and approval of the final Department of Building filing set of drawings. No work can begin until the final drawings have been marked approved by the Landmarks Preservation Commission with a perforated seal. Please submit these drawings to the Landmarks Preservation Commission staff as soon as they become available.

PLEASE NOTE: CERTAIN ASPECTS OF THIS PERMIT CONTAINS A COMPLIANCE DATE OF DECEMBER 31, 2018, including replacing or restoring existing and missing features at the base of the primary facades, including brick and stone, pointing, decorative ironwork, and installing wood storefronts and cornice, cast iron piers, and stone areaway walls, at the ground floor. Failure to complete the corrective

work by this date may result in civil litigation in New York State Supreme Court or the issuance of a Notice of Violation (NOV) originating from the Environmental Control Board in accordance with Title 63 of the Rules of the City of New York, Section 7-02 (c). Second NOV's require a court appearance and a civil fine may be imposed. Once the corrective work is completed in compliance with this permit, promptly submit a written request for a Notice of Compliance from the building owner, along with a photograph documenting the finished work, to the Commission.

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

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

Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Nicholas Chelko, Morris Adjmi Architects

**cc:** Jared Knowles, Director; Nicholas Chelko, Morris Adjmi Architects; Jared Knowles, LPC Director of Preservation; John Weiss, LPC Deputy Counsel



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



March 3, 2017

ISSUED TO:

**Mark Tress**  
**Windmere Properties**  
**150 Airport Road 900**  
**Lakewood, NJ 08701**

Re: **MISCELLANEOUS/AMENDMENTS**

LPC - 198243  
MISC 19-9597  
400 WEST 57TH STREET  
The Windmere  
INDIVIDUAL LANDMARK  
Borough of Manhattan  
Block/Lot: 1066 / 32



Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission issued Certificate of No Effect 18-1043 (LPC 18-0874) on January 13, 2016, approving a proposal for interior structural alterations, including replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors at the westernmost building (#406); and excavating a small area of the cellar floor and constructing a reinforced concrete elevator pit, including underpinning the foundation wall at the adjacent building (#404), at the subject premises.

Subsequently, on February 14, 2017, the Commission received a proposal for an amendment to the work approved under that permit. The proposed amendment consists of expanding the scope of interior structural work to include replacing wood joists and subfloor building-wide with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors, as shown in existing conditions photographs and on drawings T-101.00, DM-100.00, DM-101.00, S-100.02 through S-104.02, S-200.01, and S-201.00, dated (revised) February 2, 2017 and prepared by Anthony Gennaro, PE.

Accordingly, the Commission reviewed the drawings and finds that the revised scope of work is in keeping with the intent of the original approval. Based on these findings, Certificate of No Effect 18-1043 (LPC 18-0874) is hereby amended.

This amendment is issued on the basis of the building and the site conditions described in the application and

Page 1

Issued: 03/3/17

DOCKET #: 198243

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

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The approved work is limited to what is contained in the perforated documents. Other work to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fines. This letter constitutes the permit amendment; a copy must be prominently displayed at the site while work is in progress. Any additional work or further amendments must be reviewed and approved separately. Please direct inquiries regarding this property to Victor Tomanek at vtomanek@lpc.nyc.gov.

Victor Tomanek

**cc:** Cory Herrala, LPC Director of Technical Affairs, Sustainability and Resiliency

30996



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



# PERMIT CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 01/13/16	<b>EXPIRATION DATE:</b> 1/13/2020	<b>DOCKET #:</b> LPC-18-0874	<b>CNE</b> CNE-18-1043
<b>ADDRESS:</b> 400 WEST 57TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1066 / 32
The Windermere The Windermere, Individual Landmark			

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properites LLC**  
**150 Airport Road**  
**Suite 900**  
**Lakewood, NJ 8701**

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on January 07, 2016.

The approved work consists of interior structural alterations, including replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors at the westernmost building (#406); and excavating a small area of the cellar floor and constructing a reinforced concrete elevator pit, including underpinning the foundation wall at the adjacent building (#404); as shown in drawings T-100.00, S-100.00 through S-105.00, S-200.00 and S-201.00, dated 1/6/16, prepared by Eliezer Dubinsky, PE, and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street (aka 869 Ninth Avenue and 871-877 Ninth Avenue), as an eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also notes that the Commission voted to approve a proposal to construct rooftop and rear yard additions, install rooftop mechanical equipment, alter the facades, install new windows, install new storefronts, alter the areaways and install a barrier-free access lift, pursuant to SUL 15-1190 (LPC 14-

8487) issued on 11/20/13, and to issue a report to the City Planning Commission relating to an application for a Modification of Use and Bulk pursuant to Section 74-711 of the Zoning Resolution; and that the Certificate of Appropriateness permit and Modification of Use and Bulk report have not yet been issued. Lastly, the Commission notes that the scope of work described above is related to this approval.

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

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

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



Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Albert Faks, The Faks Group LLC

cc:



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



March 3, 2017

ISSUED TO:

**Mark Tress**  
**Windmere Properties**  
**150 Airport Road 900**  
**Lakewood, NJ 8701**

Re: **MISCELLANEOUS/AMENDMENTS**  
LPC-19-8243  
MISC-19-9597  
400 WEST 57TH STREET  
The Windmere  
The Windmere, Individual Landmark  
Manhattan  
Block/Lot: 1066 / 32

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission issued Certificate of No Effect 18-1043 (LPC 18-0874) on January 13, 2016, approving a proposal for interior structural alterations, including replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors at the westernmost building (#406); and excavating a small area of the cellar floor and constructing a reinforced concrete elevator pit, including underpinning the foundation wall at the adjacent building (#404), at the subject premises.

Subsequently, on February 14, 2017, the Commission received a proposal for an amendment to the work approved under that permit. The proposed amendment consists of expanding the scope of interior structural work to include replacing wood joists and subfloor building-wide with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors, as shown in existing conditions photographs and on drawings T-101.00, DM-100.00, DM-101.00, S-100.02 through S-104.02, S-200.01, and S-201.00, dated (revised) February 2, 2017 and prepared by Anthony Gennaro, PE.

Accordingly, the Commission reviewed the drawings and finds that the revised scope of work is in keeping with the intent of the original approval. Based on these findings, Certificate of No Effect 18-1043 (LPC 18-0874) is hereby amended.

Page 1

Issued: 03/3/17

DOCKET #: LPC-19-8243

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

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The approved work is limited to what is contained in the perforated documents. Other work to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fines. This letter constitutes the permit amendment; a copy must be prominently displayed at the site while work is in progress. Any additional work or further amendments must be reviewed and approved separately. Please direct inquiries regarding this property to Victor Tomanek at vtomanek@lpc.nyc.gov.

*Victor Tomanek*

Victor Tomanek

**cc:** Cory Herrala, LPC Director of Technical Affairs, Sustainability and Resiliency



30996



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



February 15, 2018

ISSUED TO:

**Mark Tress**  
**Windemere Properties**  
**150 Airport Rd**  
**Suite 900**  
**Lakewood, NJ 08701**

Re: **MISCELLANEOUS/AMENDMENTS**  
LPC-19-16352  
MISC-19-16352  
400 WEST 57TH STREET  
The Windermere, Individual Landmark  
Manhattan  
Block/Lot: 1066 / 32

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission issued Certificate of No Effect 18-1043 (LPC 18-0874) on January 13, 2016, approving a proposal for interior structural alterations, including replacing wood joists and subfloor with new steel beams and concrete decking with openings for elevator and stair shafts at the cellar through 7th floors at the westernmost building (#406); and excavating a small area of the cellar floor and constructing a reinforced concrete elevator pit, including underpinning the foundation wall at the adjacent building (#404), at the subject premises.

Subsequently, on August 29, 2017, the Commission received a proposal for an amendment to the work approved under that permit. The proposed amendment consists of expanding the scope of interior structural work to include replacing wood joists and subfloor at the 8th floor; as shown on drawings T-101.03, DM-100.03, DM-101.04, S-100.04 through S-107.00, and S-200.03 through S-202.02, dated August 15, 2017 and prepared by Anthony Gennaro, PE.

Accordingly, the Commission reviewed the drawings and finds that the revised scope of work is in keeping with the intent of the original approval. Based on these findings, Certificate of No Effect 18-1043 (LPC 18-0874) is hereby amended.

This amendment is issued on the basis of the building and the site conditions described in the application and

Page 1

Issued: 02/15/18

DOCKET #: LPC-19-16352

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

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of the approval. The approved work is limited to what is contained in the perforated documents. Other work to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fines. This letter constitutes the permit amendment; a copy must be prominently displayed at the site while work is in progress. Any additional work or further amendments must be reviewed and approved separately. Please direct inquiries regarding this property to Victor Tomanek at vtomanek@lpc.nyc.gov.

*Victor Tomanek*

Victor Tomanek

cc: Caroline Kane Levy, Deputy Director; Albert Faks, The Faks Group; John Weiss, LPC Deputy Counsel  
Cory Herrala, LPC Deputy Director



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



# PERMIT CERTIFICATE OF APPROPRIATENESS

<b>ISSUE DATE:</b> 07/07/17	<b>EXPIRATION DATE:</b> 11/12/2019	<b>DOCKET #:</b> LPC-19-12919	<b>COFA</b> COFA-19-12919
<b>ADDRESS:</b> 400-406 WEST 57TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1066 / 32
The Windermere, Individual Landmark			

**Display This Permit While Work Is In Progress**

ISSUED TO:

**Mark Tress**  
**Windermere Properties LLC**  
**150 Airport Road**  
**Lakewood, NJ 08701**

Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of November 12, 2013, following the Public Hearing of the same date, voted to grant a Certificate of Appropriateness for the proposed work at the subject premises, as put forward in your application completed on October 17, 2013, and as you were informed in Status Update Letter 15-1190 (LPC 14-8447), issued on November 20, 2013. This approval will expire on November 12, 2019.

The proposed work, as approved, consists of combining the buildings internally, and constructing a rooftop addition, including infill at the remainder of the partial 8th floor and a one (1) story penthouse, featuring gray metal cladding, window and door assemblies, and glass railings, and with elevator and stair bulkheads and a mechanical equipment enclosure above, all with gray metal cladding; removing non-historic storefronts, cladding and infill, exposing historic masonry and a cast iron column to remain, and installing ornamental cast iron piers with a gray finish, a bracketed wood cornice with a beige finish, and wood storefronts, featuring projecting and recessed display windows with paneled bulkheads and transoms, paneled wood doors and windows with transoms, all with profiled trim and a gray finish, at the ground floor at the 9th Avenue and West 57th Street facades; installing a descending stair with cast stone landing, treads and risers, and a wheelchair stair lift on rails, closing a portion of two (2) window openings concealed by the stair and installing partial height windows in the modified openings, and installing ornamental ironwork and

cast stone knee walls, all within the areaway at and below grade at the base of the West 57th Street façade; removing brickwork and installing oculus windows within the blind openings at select locations at the 8th floor at the West 57th Street façade; raising a portion of the masonry parapet and adding and closing window openings at the secondary south façade; demolishing secondary facades at the non-visible interior courtyards, and reconstructing the facades in a new configuration around a central courtyard, and constructing a one (1) story infill addition at the southwest courtyard. The presentations were shown in historic photographs and existing condition photographs, architectural renderings, and presentation drawings 1-29, dated 11/12/13, prepared by Morris Adjmi Architects, submitted as components of the application and presented at the Public Hearing and Public Meeting.

In reviewing this proposal, the Commission noted that the Windermere Individual Landmark Designation Report describes 400-406 West 57th Street, aka 869 9th Avenue and 871-877 9th Avenue, as an Eclectic style apartment complex consisting of three buildings designed by Theophilus G. Smith and built in 1880-81. The Commission also noted that Certificate of No Effect 14-0633 was issued 2/8/13 for removing non-historic fire escapes, repairing historic fire escapes and replacing the cornice; and Certificate of No Effect 10-7116 was issued 3/15/10 for restorative work and miscellaneous repairs building wide. Furthermore, the Commission noted that the application was filed in conjunction with an application for a request that the Landmarks Preservation Commission issue a report to the City Planning Commission relating to an application for Special Permit pursuant to Section 74-711 of the Zoning Resolution for a Modification of Use and Bulk.

With regard to this proposal, the Commission found that the changes to accommodate the adaptive use of these adjoined historic apartment houses, including combining the buildings internally and expanding upward with an overlapping rooftop addition and bulkheads to accommodate new residential and hotel uses will be consistent with the appearance of the original buildings as an architecturally unified complex; that the proposed penthouse addition will be set back from the 9th Avenue and West 57th Street façades, and will be minimally, or non-visible, over these facades, except for when seen from the east on 57th Street at a moderate distance away from the building; that the proposed penthouse addition and elevator bulkheads, while highly visible over the unadorned secondary south facade, will be partially screened by raising a portion of the masonry parapet, and will be set back far enough so that it will neither overwhelm nor detract from the 9th Avenue façade from vantage points to the south; that the proposed penthouse addition, bulkheads and mechanical enclosures, will be clad in gray corrugated metal, in keeping with the historic material palette of the building, including its cornice and other metalwork, and will otherwise be consistent with materials commonly used at utilitarian rooftop accretions; that the demolition of the secondary facades at the non-visible interior courtyards, and the reconstruction of these facades in a new configuration consisting of a central courtyard at grade and a inner corner courtyard above a 1-story full-lot extension, will not result in any damage to, or destruction of, any significant architectural features of the building; that the removal of the existing non-historic storefronts and ground floor infill will eliminate features that detract from the façade, and will not eliminate any significant historic fabric; that original masonry piers and wall segments and an original cast iron corner column at the ground floor will be retained and restored, and will define the configuration of the new storefront installations; that the proposed painted wood storefronts, including some that are projecting, featuring clear glass display windows with paneled bulkheads and transom windows, clear glass doors with paneled bases and transom windows, intermediate cast iron pilasters, and a continuous bracketed cornice, will be based in part on historic photographs as well as other historic buildings of a similar age, type and style; that the installation of a new gate and landing, descending stairs, and a barrier-free access chair lift behind the restored areaway wall, west of the storefront return along the West 57th Street façade, will not result in any damage to any significant architectural features of the building, and their location between the prominent portico stoops and below grade, will help minimize

theirs presence; that the removal of brickwork and installation of oculus windows within the round openings at the remainder of the West 57th Street façade, which will match the historic oculus windows found at the original attic floor at the 9th Avenue façade and return, will facilitate the expansion of the building behind the tall parapet at this façade; and that the restoration and proposed new work at the 9th Avenue and West 57th Street façades will enhance the special architectural and historic character of this Individual Landmark. Based on these findings, the Commission determined the proposed work to be appropriate to the building, and voted to approve this application. Based on these findings, the Commission determined the work to be appropriate to the building and voted to approve it with the stipulation that the visibility of the penthouse as seen from the south and southeast of the building be substantially reduced, in consultation with staff.

The Commission authorized the issuance of a Certificate of Appropriateness upon receipt, review and approval of two or more sets of signed and sealed Department of Building filing drawings showing the approved design.

Subsequently, on May 15, 2017, the Landmarks Preservation Commission received design intent drawings 1 through 29, dated 5/15/17, along with written correspondence, dated 1/4/17, and revised view study drawings 000 through 008, dated 1/3/17, all prepared by Morris Adjmi Architects. Staff reviewed the submitted materials and found that the penthouse addition has been set back approximately 16' from the secondary south façade, reducing its visibility from the south and southeast of the building. The submitted materials also show modifications to the approved work, including eliminating the full-height westward enlargement of the building at the southwest courtyard and extension of the secondary south façade; changing the configuration of the bulkheads, including relocating the easternmost elevator bulkhead to the southwest corner of the penthouse, adding one (1) additional elevator bulkhead at the northwest corner of the penthouse, and relocating the mechanical equipment enclosure from the 8th floor roof to the roof of the penthouse. The Commission found that the remaining work approved by the Commission has been maintained, and that the revised work is in keeping with the intent of the original approval. Based on this and the above findings, Certificate of Appropriateness 19-12919 (LPC 19-12919) is being issued.

Please note that this permit is being issued contingent upon the Commission's review and approval of cast stone, cast stone shop drawings and storefront and cornice shop drawings, prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Promptly submit the requested materials to the Commission staff. Digital photographs of all samples may be sent via e-mail to [cherrala@lpc.nyc.gov](mailto:cherrala@lpc.nyc.gov) for review. This permit is also contingent on the understanding that the work will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

PLEASE NOTE: Modification of Use and Bulk (MOU) 14-08803 (LPC 14-8803) and Certificate of No Effect 19-12918 (LPC 19-12918) are being issued in conjunction with this Certificate of Appropriateness (COFA).

PLEASE NOTE: This permit is being issued for work subject to the review of the Department of City Planning for a modification of use and bulk, pursuant to Section 74-711; and this permit is issued contingent upon the Commission's review and approval of the final Department of Building filing set of drawings. No work can begin until the final drawings have been marked approved by the Landmarks Preservation Commission with a perforated seal. Please submit these drawings to the Landmarks Preservation Commission staff as soon as they become available.

PLEASE NOTE: CERTAIN ASPECTS OF THIS PERMIT CONTAINS A COMPLIANCE DATE OF DECEMBER 31, 2018, including replacing or restoring existing and missing features at the base of the

primary facades, including brick and stone, pointing, decorative ironwork, and installing wood storefronts and cornice, cast iron piers, and stone areaway walls, at the ground floor. Failure to complete the corrective work by this date may result in civil litigation in New York State Supreme Court or the issuance of a Notice of Violation (NOV) originating from the Environmental Control Board in accordance with Title 63 of the Rules of the City of New York, Section 7-02 (c). Second NOV's require a court appearance and a civil fine may be imposed. Once the corrective work is completed in compliance with this permit, promptly submit a written request for a Notice of Compliance from the building owner, along with a photograph documenting the finished work, to the Commission.

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

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



Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Nicholas Chelko, Morris Adjmi Architects

cc: Jared Knowles, Director; Nicholas Chelko, Morris Adjmi Architects; Jared Knowles, LPC Director of Preservation; John Weiss, LPC Deputy Counsel

## ENVIRONMENTAL REVIEW

**Project number:** DEPARTMENT OF CITY PLANNING / 19DCP016M  
**Project:** THE WINDERMERE  
**Address:** 869 9 AVENUE, **BBL:** 1010660032  
**Date Received:** 8/21/2018

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No architectural significance

No archaeological significance

Designated New York City Landmark or Within Designated Historic District

Listed on National Register of Historic Places

Appears to be eligible for National Register Listing

May be archaeologically significant; requesting additional materials

**Comments:**

The LPC is in receipt of the EAS dated 7/18/18, which includes the Shadows section. The document appears acceptable for historic and cultural resources, including the Shadows section, with the following addenda.

The drawings in the EAS need to be updated. The current drawings to date are dated 5/15/17. They are design drawings only. The final LPC perforated set is not yet available.

The following LPC permits are missing from the Appendix and should be added: Docket numbers 19-6352, 18-0874, 19-8243, and 19-9597. They are attached as a separate .pdf scan. Also missing is the design approval Certificate of Appropriateness docket 19-12919, dated 7/7/17, also attached.

In the radius: Catholic Apostolic Church (417 West 57th Street) is LPC listed and S/NR eligible; Parc Vendome Condominiums (340 West 57th Street) LPC and S/NR eligible.

Cc: attachments



9/21/2018

---

SIGNATURE

Gina Santucci, Environmental Review Coordinator

DATE

**File Name:** 30996\_FSO\_GS\_09122018.doc





## ENVIRONMENTAL REVIEW

**Project number:** 19DCP016M (DEPARTMENT OF CITY PLANNING)  
**Project:** THE WINDERMERE  
**Address:** 869 9 AVENUE BBL: 1010660032  
**Date Received:** 2/13/2020

---

The LPC is in receipt of the EAS dated 2/13/20. The document appears acceptable for historic and cultural resources.



3/12/2020

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SIGNATURE  
Gina Santucci, Environmental Review Coordinator

DATE

**File Name:** 30996\_FSO\_GS\_03122020.docx

**APPENDIX C**  
**DESCRIPTION AND ANALYSIS OF PROPOSED MODIFICATION**

## **Appendix C: Description and Analysis of Proposed Modification**

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### **A. INTRODUCTION**

On April 5, 2021, the New York City Department of City Planning, as lead agency, issued a Negative Declaration for the Windermere project. The Windermere project (the proposed project) was analyzed in an Environmental Assessment Statement (EAS) dated April 2, 2021 (the original EAS). The proposed project involves the proposed conversion, alteration, and enlargement of the currently vacant Windermere apartment building, a New York City Landmark (NYCL). Under the proposed project, the Applicant, Windermere Properties LLC, would alter, reconstruct and enlarge the Windermere building and convert most of its space to either a Use Group 5 transient hotel (Scenario A) or Use Group 6B office use (Scenario B).

Since certification of the project's land use application (ULURP # C 210202 ZSM) on April 5, 2021, the Applicant has revised the application to include an enclosed restaurant in the proposed partial ninth floor in Scenario B-Office instead of office use in that space (the proposed modification). The proposed modification is described in more detail below.

This analysis concludes that the proposed modification would not alter the conclusions of the original EAS and, as such, the proposed modification would not result in any significant adverse environmental impacts.

### **B. DESCRIPTION OF THE PROPOSED MODIFICATION**

The proposed modification would result in the development of an enclosed restaurant in the proposed partial ninth floor in Scenario B-Office instead of office use in that space. As discussed elsewhere in this EAS, Scenario A-Hotel includes the same enclosed restaurant in the ninth floor space.

**Table 1** provides the development program and incremental development for the With-Action Scenario B-Office with the proposed modification. With the proposed modification, Scenario B-Hotel would include less office use than analyzed in the original EAS and more restaurant use. Under Scenario B-Office with the proposed modification, the office use would consist of 54,581 gsf on floors 1 through 8. Similar to Scenario A, the partial ninth floor penthouse would be mostly occupied by an approximately 2,640 gsf rooftop restaurant (Use Group 6). Approximately 7,667 gsf of ground floor retail space would be located along the building's Ninth Avenue frontage and in the cellar level. The residential floor area, number of residential units, and total floor area for Scenario B-Office would not change with the proposed modification. The building's height and bulk also would not change compared to that which was analyzed in the original EAS with the proposed modification.

**Table 1**  
**Comparison of No-Action Scenario to**  
**With-Action Scenario B-Office with the Proposed Modification**

	<b>Total gsf</b>	<b>Retail and Restaurant gsf</b>	<b>Office gsf</b>	<b>Residential gsf</b>	<b># Residential Units</b>
No-Action	77,472	14,708	N/A	62,764	65 (including 20 affordable residential units)
With-Action	93,986	10,307 <sup>1</sup>	54,581	29,098	20
<b>Increment</b>	<b>16,514</b>	<b>-4,401</b>	<b>54,581</b>	<b>-33,666</b>	<b>-45</b>

**Note:** 1) Includes approximately 2,640 gsf of restaurant space and approximately 7,667 gsf of retail space.

The proposed modification would result in an incremental increase of 203 workers in Scenario B-Office compared to the No-Action condition. In the original EAS, it was projected that Scenario B-Office would result in an incremental increase of 206 workers compared to the No-Action condition.

The proposed modification would not require any new land use actions compared those discussed in the original EAS.

**C. ENVIRONMENTAL ANALYSIS OF THE PROPOSED MODIFICATION**

The proposed modification would not introduce any land uses that were not evaluated in the original EAS, nor would it result in any changes to the building height or bulk, an increase in the total floor area, or any increase in the projected resident or worker populations.

With respect to land use, zoning, and public policy, the proposed modification would introduce restaurant use in Scenario B-Office. The proposed restaurant use was already considered in the original EAS as part of Scenario A-Hotel and would be consistent with existing land uses in the study area, which includes a variety of neighborhood retail uses such as restaurants. Therefore, the proposed modification would not alter the conclusions of the original EAS regarding land use, zoning, and public policy.

With respect to shadows, the proposed modification would not change the proposed building height or bulk and would not result in any additional shadows compared to that which was analyzed in the original EAS. Therefore, the proposed modification would not alter the conclusions of the original EAS regarding shadows.

With respect to historic and cultural resources, the proposed modification would not change the area of construction disturbance and therefore would not affect the conclusions of the original EAS with respect to archaeological resources. The proposed modification would result in the same restoration work at the building as analyzed in the original EAS and would not result in any physical impacts to study area historic architectural resources as there are no such resources within 90 feet of the project site. Therefore, the proposed modification would not affect the conclusions of the original EAS with respect to architectural resources.

Overall, the proposed modification would not alter the conclusions of the original EAS and would not result in significant adverse impacts related to land use, zoning, and public policy; socioeconomic conditions; community facilities; open space; shadows; historic and cultural resources; urban design and visual resources; natural resources; hazardous materials; water and

## **Appendix C: Description and Analysis of Proposed Modification**

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sewer infrastructure, solid waste and sanitation services; energy; air quality; greenhouse gas emissions; noise; public health; neighborhood character; or construction.

The proposed modification would introduce restaurant use in Scenario B-Office, which would result in different trip generation characteristics for this scenario than analyzed in the original EAS.

The net incremental trips generated by the No Action and With Action Scenario B with the proposed modification are shown in **Table 2**. The same travel demand factors as the restaurant use in Scenario A were used for the restaurant use in Scenario B. An updated Level 1 screening analysis was prepared for Scenario B with the proposed modification as detailed below.

### **LEVEL 1 SCREENING—SCENARIO B-OFFICE WITH PROPOSED MODIFICATION**

#### *TRAFFIC*

As shown in **Table 3**, With Action Scenario B would generate 9, 3, and 12 incremental vehicle trips during the weekday AM, midday, and PM peak hours, respectively. Since these incremental vehicle trips do not exceed the *CEQR Technical Manual* threshold of 50 peak hour vehicle trips, a detailed traffic analysis is not warranted and the proposed modification is not expected to result in any significant adverse traffic impacts.

#### *PARKING*

The *CEQR Technical Manual* states that if a quantified traffic analysis is not required, an assessment of parking supply and utilization is also not warranted. Based on the conclusions described above for traffic, an on- and off-street parking analysis is not required and the proposed modification is not expected to result in any significant adverse parking impacts.

#### *TRANSIT*

As shown in **Table 3**, the incremental subway trips generated by With Action Scenario B would be 40, -27, and 47 person trips during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour trips made by subway, a detailed analysis of subway facilities is not warranted and the proposed modification is not expected to result in any significant adverse subway impacts.

Also as shown in **Table 3**, the incremental bus trips generated by With Action Scenario B would be 14, -3, and 9 person trips during the weekday AM, midday, and PM peak hours, respectively. Since the incremental bus trips would be fewer than the *CEQR Technical Manual* threshold of 50 or more peak hour bus riders in a single direction, a detailed bus line-haul analysis is also not warranted and the proposed modification is not expected to result in any significant adverse bus line-haul impacts.

For incremental rail trips, With Action Scenario B would generate 17, 0, and 19 person trips during the weekday AM, midday, and PM peak hours, respectively, as shown in **Table 3**. Since these increments do not exceed the *CEQR Technical Manual* threshold of 200 peak hour trips made by rail, a detailed analysis of rail facilities is not warranted and the proposed modification is not expected to result in any significant adverse rail impacts.

Table 2

**Trip Generation Summary: With Action Scenario B with Proposed Modification**

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential 20 DU	AM	In	0	0	1	0	0	1	2	0	1	0	1
		Out	1	1	6	0	1	5	14	1	1	0	2
		Total	1	1	7	0	1	6	16	1	2	0	3
	Midday	In	0	0	2	0	0	2	4	0	0	0	0
		Out	0	0	2	0	0	2	4	0	0	0	0
		Total	0	0	4	0	0	4	8	0	0	0	0
	PM	In	1	1	5	0	1	5	13	1	1	0	2
		Out	0	0	2	0	0	2	4	0	1	0	1
		Total	1	1	7	0	1	7	17	1	2	0	3
Local Retail 7,667 SF	AM	In	0	0	3	0	1	14	18	0	0	0	0
		Out	0	0	3	0	1	14	18	0	0	0	0
		Total	0	0	6	0	2	28	36	0	0	0	0
	Midday	In	3	1	18	0	4	86	112	2	2	0	4
		Out	3	1	18	0	4	86	112	2	2	0	4
		Total	6	2	36	0	8	172	224	4	4	0	8
	PM	In	1	0	10	0	2	45	58	1	0	0	1
		Out	1	0	10	0	2	45	58	1	0	0	1
		Total	2	0	20	0	4	90	118	2	0	0	2
Office 54,581 SF	AM	In	12	2	60	16	14	9	113	11	1	1	13
		Out	1	0	2	1	1	0	5	1	1	1	3
		Total	13	2	62	17	15	9	118	12	2	2	16
	Midday	In	1	2	4	0	4	59	70	1	1	1	3
		Out	2	2	5	0	5	64	78	2	1	1	4
		Total	3	4	9	0	9	123	148	3	2	2	7
	PM	In	1	0	4	1	1	1	8	1	2	0	3
		Out	14	3	69	18	16	10	130	13	2	0	15
		Total	15	3	73	19	17	11	138	14	4	0	18
Restaurant 2,640 SF	AM	In	0	0	0	0	0	0	0	0	0	0	0
		Out	0	0	0	0	0	0	0	0	0	0	0
		Total	0	0	0	0	0	0	0	0	0	0	0
	Midday	In	1	2	3	0	0	5	11	0	1	0	1
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	2	4	6	0	0	10	22	0	2	0	2
	PM	In	2	3	6	0	0	10	21	1	1	0	2
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	3	5	9	0	0	15	32	1	2	0	3
Total	AM	In	12	2	64	16	15	24	133	11	2	1	14
		Out	2	1	11	1	3	19	37	2	2	1	5
		Total	14	3	75	17	18	43	170	13	4	2	19
	Midday	In	5	5	27	0	8	152	197	3	4	1	8
		Out	6	5	28	0	9	157	205	4	4	1	9
		Total	11	10	55	0	17	309	402	7	8	2	17
	PM	In	5	4	25	1	4	61	100	4	4	0	8
		Out	16	5	84	18	18	62	203	14	4	0	18
		Total	21	9	109	19	22	123	303	18	8	0	26

**Table 3**

**Trip Generation Summary: With Action Scenario B with Proposed Modification**  
**Net Incremental Trips**

Program	Peak Hour	In/Out	Person Trip							Vehicle Trip			
			Auto	Taxi	Subway	Railroad	Bus	Walk	Total	Auto	Taxi	Delivery	Total
Residential -45 DU	AM	In	-1	-1	-3	0	0	-2	-7	-1	-1	0	-2
		Out	-2	-2	-13	0	-1	-12	-30	-2	-1	0	-3
		Total	-3	-3	-16	0	-1	-14	-37	-3	-2	0	-5
	Midday	In	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Out	-1	-1	-4	0	-1	-3	-10	-1	-2	0	-3
		Total	-2	-2	-8	0	-2	-6	-20	-2	-4	0	-6
	PM	In	-2	-1	-11	0	-1	-10	-25	-2	-1	0	-3
		Out	-1	-1	-6	0	-1	-5	-14	-1	-1	0	-2
		Total	-3	-2	-17	0	-2	-15	-39	-3	-2	0	-5
Local Retail -7,041 SF	AM	In	-1	0	-3	0	0	-12	-16	-1	0	0	-1
		Out	-1	0	-3	0	0	-12	-16	-1	0	0	-1
		Total	-2	0	-6	0	0	-24	-32	-2	0	0	-2
	Midday	In	-2	0	-17	0	-5	-78	-102	-1	1	0	0
		Out	-2	0	-17	0	-5	-78	-102	-1	1	0	0
		Total	-4	0	-34	0	-10	-156	-204	-2	2	0	0
	PM	In	-2	-1	-9	0	-3	-41	-56	-1	-1	0	-2
		Out	-2	-1	-9	0	-3	-41	-56	-1	-1	0	-2
		Total	-4	-2	-18	0	-6	-82	-112	-2	-2	0	-4
Office 54,581 SF	AM	In	12	2	60	16	14	9	113	11	1	1	13
		Out	1	0	2	1	1	0	5	1	1	1	3
		Total	13	2	62	17	15	9	118	12	2	2	16
	Midday	In	1	2	4	0	4	59	70	1	1	1	3
		Out	2	2	5	0	5	64	78	2	1	1	4
		Total	3	4	9	0	9	123	148	3	2	2	7
	PM	In	1	0	4	1	1	1	8	1	2	0	3
		Out	14	3	69	18	16	10	130	13	2	0	15
		Total	15	3	73	19	17	11	138	14	4	0	18
Restaurant 2,640 SF	AM	In	0	0	0	0	0	0	0	0	0	0	0
		Out	0	0	0	0	0	0	0	0	0	0	0
		Total	0	0	0	0	0	0	0	0	0	0	0
	Midday	In	1	2	3	0	0	5	11	0	1	0	1
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	2	4	6	0	0	10	22	0	2	0	2
	PM	In	2	3	6	0	0	10	21	1	1	0	2
		Out	1	2	3	0	0	5	11	0	1	0	1
		Total	3	5	9	0	0	15	32	1	2	0	3
Total	AM	In	10	1	54	16	14	-5	90	9	0	1	10
		Out	-2	-2	-14	1	0	-24	-41	-2	0	1	-1
		Total	8	-1	40	17	14	-29	49	7	0	2	9
	Midday	In	-1	3	-14	0	-2	-17	-31	-1	1	1	1
		Out	0	3	-13	0	-1	-12	-23	0	1	1	2
		Total	-1	6	-27	0	-3	-29	-54	-1	2	2	3
	PM	In	-1	1	-10	1	-3	-40	-52	-1	1	0	0
		Out	12	3	57	18	12	-31	71	11	1	0	12
		Total	11	4	47	19	9	-71	19	10	2	0	12

*PEDESTRIANS*

All person trips generated by With Action Scenario B would traverse the pedestrian elements surrounding the project site. As shown in **Table 3**, the incremental pedestrian trips generated by With Action Scenario B would be 49, -54, and 19 during the weekday AM, midday, and PM peak hours, respectively. Since these increments do not exceed the *CEQR Technical Manual* threshold

of 200 peak hour pedestrian trips, a detailed pedestrian analysis is not warranted and the proposed modification is not expected to result in any significant adverse pedestrian impacts.

#### **D. CONCLUSION**

As discussed above, the proposed modification would not result in any significant adverse environmental impacts. Therefore, the proposed modification would not alter the conclusions of the original EAS.