

38-42 WEST 18<sup>th</sup> STREET and 41-43 WEST 17<sup>th</sup> STREET

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DECLARATION

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Dated: As of \_\_\_\_\_, 20\_\_

Location: Block 819, Lots 14, 15 and 66  
New York County, New York

Record & Return to:

Kramer Levin Naftalis & Frankel LLP  
1177 Avenue of the Americas  
New York, New York 10036  
Attn: Valerie G. Campbell, Esq.

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SCHEDULE OF EXHIBITS

DECLARATION made as of the \_\_\_ day of \_\_\_\_\_, 20\_\_\_ by 42 West 18<sup>th</sup> St. Realty Corp., having an address at 42 West 18<sup>th</sup> Street, New York, New York 10022 (“Lot 14/15 Declarant”) and West 18 Realty Corp. , having an address at 42 West 18<sup>th</sup> Street, New York, New York 10022 (“Lot 66 Declarant”)(the Lot 14/15 Declarant and Lot 66 Declarant, collectively the “Declarants”).

W I T N E S S E T H:

WHEREAS, Lot 14/15 Declarant is the owner in fee of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 819, Lot 15 on the Tax Map of the City of New York (“Tax Map”) and by the street address 41-43 West 17<sup>th</sup> Street (the “Development Site”);

WHEREAS, Lot 14/15 Declarant is also the owner in fee of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 819, Lot 14 on the Tax Map and by the street address 42 West 18<sup>th</sup> Street (the “Lot 14 Landmark Property”), on which is located a 6-story commercial building (the “Lot 14 Designated Structure”);

WHEREAS, Lot 66 Declarant is the owner in fee of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 819, Lot 66 on the Tax Map and by the street address 40 West 18<sup>th</sup> Street (the “Lot 66 Landmark Property,” together with the Lot 14 Landmark Property, the “Landmark Properties”), on which is located a 4-story commercial building (the “Lot 66 Designated Structure,” together with the Lot 14 Designated Structure, the “Designated Structures”);

WHEREAS, in connection with the development of a new building on the Development Site, Declarants intend to utilize unused development rights from the Landmark Properties and propose to restore the facades of the Designated Structures, which are contributing buildings in the Ladies' Mile Historic District; and

WHEREAS, it is anticipated that the Development Site and Landmark Properties (together, the "Subject Premises," as more particularly described on Exhibit A attached hereto), will be merged into a single and separate zoning lot pursuant to a Declaration of Zoning Lot Restrictions;

WHEREAS, Old Republic National Title Insurance Company ("Title Company") has certified as of \_\_\_\_\_, 2016, that Declarants and Signature Bank ("Mortgagee") are the sole parties-in-interest ("Parties in Interest"), as that term is defined in the zoning lot definition in Section 12-10 of the Zoning Resolution (as hereinafter defined), to the Subject Premises, a copy of which certification is attached hereto as Exhibit B; and

WHEREAS, the sole Parties in Interest to the Subject Premises have therefore either executed this Declaration or waived their right to do so; and

WHEREAS, by the instrument attached hereto as Exhibit C, Title Company has determined that as of \_\_\_\_\_, 2016 there has been no change in the certification attached as Exhibit B, and Declarants represent and warrant that the Parties in Interest listed in Exhibit C are the only known Parties in Interest in the Subject Premises as of the date hereof; and

WHEREAS, the Mortgagee has executed a Waiver of Execution of Restrictive Declaration and Subordination to Declaration, a copy of which is attached hereto as Exhibit D and is to be recorded simultaneously with this Declaration; and

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

WHEREAS, pursuant to Application No. 160082 ZSM, dated October 21, 2015 (the “Application”), Declarants have applied to the City Planning Commission of the City of New York (the “CPC”) for a special permit pursuant to Section 74-711 of the Zoning Resolution (the “Special Permit”), to modify the bulk regulations of (i) ZR Section 23-532 (Required rear yard equivalents), (ii) ZR Section 35-24 (Special Street Wall Location and Height and Setback Regulations in Certain Districts), (iii) ZR Section 23-692 (Height limitations for narrow buildings or enlargements) and (iv) ZR Section 23-663 (Required rear setbacks for tall buildings in other districts) to permit the construction of a new mixed-use building on the Development Site (the “Special Permit Building”).

WHEREAS, at a public hearing held on September 23, 2014, Declarants requested that the LPC issue a report to the CPC in connection with the Application; and

WHEREAS, at the LPC public meeting held on November 25, 2014, following said public hearing, the LPC voted to issue the report to the CPC as requested in connection with the Application, and subsequently issued report MOU 17-7107, dated September 25, 2015 (the “LPC Report”) annexed hereto as Exhibit E; and

WHEREAS, at the public meeting on September 23, 2014, 2014, the LPC also voted to grant a Certificate of Appropriateness for the construction of the Special Permit

Building and subsequently issued COFA 16-5428, dated December 3, 2014 (the “COA”) annexed hereto as Exhibit F; and

WHEREAS, the LPC has also issued, in connection with the Lot 66 Landmark Property, a Certificate of No Effect on Protected Architectural Features (CNE 17-7108) for restorative work on the Designated Structures, dated September 25, 2015 (the “Lot 66 CNE”) annexed hereto as Exhibit G; and

WHEREAS, the LPC has also issued, in connection with the Lot 14 Landmark Property, a Certificate of No Effect on Protected Architectural Features (CNE 17-7109) for restorative work on the Designated Structures, dated September 25, 2015 (the “Lot 14 CNE,” together with the Lot 66 CNE, the “CNE”) annexed hereto as Exhibit H; and

WHEREAS, Section 74-711 of the Zoning Resolution requires, inter alia, that a program has been established for continuing maintenance (the “Continuing Maintenance Program”) that will result in the preservation of the Designated Structures; and

WHEREAS, Declarants have agreed to certain obligations and restrictions contained in this Declaration for the protection, preservation, repair and maintenance of the Designated Structures; and

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

WHEREAS, Declarants represent and warrant that there are no restrictions, liens, obligations, covenants, easements, limitations or encumbrances of any kind, the requirements of which have not been waived or subordinated, which would prevent or

preclude, presently or potentially, the imposition of the restrictions, covenants, obligations, easements and agreements of this Declaration;

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

## ARTICLE I

### DEFINITIONS

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

1.1 “Application” shall mean the application to the City Planning Commission for the Special Permit.

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

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

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

1.5 “City” shall mean the City of New York.

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

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

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

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

1.10 “Designated Structures” is defined in the second Whereas Clause set forth above.

1.11 “Effective Date” is defined in Section 4.1(a) hereof.

1.12 “Force Majeure” shall mean: strike, lockout or labor dispute(s); inability to obtain materials or reasonable substitutes therefore unless due to any act or failure to act by Declarant; acts of God; unforeseen governmental restrictions, regulations, omissions or controls; enemy or hostile government actions; civil commotion, insurrection, revolution or sabotage; fire or other casualty; inclement weather of such a nature as to make performance or completion of the Landmark Work not feasible unless due to any act or failure to act by Declarant; any damage to the Subject Premises of such

a nature as to make completion of the Landmark Work not feasible; a taking of the Subject Premises, or a portion thereof, by condemnation or eminent domain; failure of a public utility to provide power, heat or light; unusual delay in transportation; material delays by the City, State or United States Government, or any agency or instrumentality thereof, in the performance of any work or processing or approval of any applications required in order to permit Declarant to carry out its obligations pursuant to this Declaration unless due to any act or failure to act by Declarant; denial to Declarant by any owner of an enforceable interest in adjoining real property, including any private fee owner or ground lessee of adjoining real property, or any agency of the City or State having an enforceable interest in adjoining real property, including sidewalk or streets, of a right to access to such adjoining real property, if such access is required to accomplish the obligations of the Declarant pursuant to this Declaration; the pendency of a litigation not initiated by Declarant or similar proceeding which suspends or materially and adversely affects the ability of the Declarant to accomplish the obligations of the Declarant pursuant to this Declaration; or other conditions similar in character to the foregoing which are beyond the control of Declarant. No event shall constitute a Force Majeure unless Declarant complies with the procedures set forth in Sections 2.2 and 6.2 hereof.

1.13 “Landmark Work” is defined in Section 2.1(a) hereof.

1.14 “LPC” shall mean the Landmarks Preservation Commission of New York City or any successor to the jurisdiction thereof.

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

1.16 “PCO” is defined in Section 2.2(b) hereof.

1.17 “Special Permit” is defined in the recitals of this Agreement.

1.18 “Special Permit Space” shall mean the Special Permit Building and any additions to the rear of the Designated Structures. Notwithstanding the foregoing, no space within the Special Permit Building shall be deemed Special Permit Space if it is permitted as of right within the Subject Premises by the terms of the Zoning Resolution then in effect.

1.19 “Special Permit Building” is defined in the recitals of this Agreement.

1.20 “TCO” is defined in Section 2.2(b) hereof.

1.21 “Zoning Resolution” shall mean the Zoning Resolution of the City of New York, effective December 15, 1961, as amended.

## ARTICLE II

### DEVELOPMENT, PRESERVATION, REPAIR AND MAINTENANCE OF THE DESIGNATED STRUCTURES; PROJECT COMPONENTS RELATED TO THE ENVIRONMENT

2.1 Development of the Designated Premises. Declarant covenants and agrees to maintain the Subject Property substantially in accordance with the following plans prepared by Morris Adjmi Architects attached hereto as Exhibit I:

<u>Drawing Number</u>	<u>Title</u>	<u>Last Date Revised</u>
Z-030	Zoning Compliance Summary	06/21/16

Z-100	Site Plan	09/17/15
Z-140	Bulk Waiver Plan & Section	06/21/16
Z-141	Bulk Waiver Section	06/21/16

## 2.2 Certificate of Occupancy.

(a) The "Landmark Work" shall be a comprehensive exterior restoration program for the Designated Structures to bring them to sound, first-class condition:

### **42 West 18th Street**

#### ***West 18th Street Façade (North):***

- *Perform tests to determine most efficacious method for cleaning the buff-colored glazed terra cotta. Clean a minimum of ten units of terra cotta to determine the original range of glaze colors for replication purposes.*
- *Engage a structural engineer with extensive experience assessing the structural condition of historic terra-cotta construction to investigate the condition of the West 18th Street façade.*
- *Any terra cotta replacement shall match the historic in size, shape, ornament, profile, texture and glaze color. Replace any missing or severely deteriorated ornament or features based on historic photographs.*
- *Repair any deterioration to the backup masonry in kind based on recommendations by the structural engineer.*
- *Replace or repair any deteriorated steel substructure or terra-cotta hanging systems based on recommendations by the structural engineer.*
- *Replace all non-historic aluminum windows and severely deteriorated historic wood windows with new one-over-one double-hung wood window frames and sash. Profiles shall match the existing historic wood windows at the fifth story and the existing historic wood transoms at the third story. (Note: the operation of the replacement windows at the fifth story may need to be modified. The fifth-story windows are currently single-pane windows with horizontal or vertical center pivots. Casement windows may be an appropriate replacement configuration.)*
- *Install a new wood-and-glass storefront which recalls or reproduces conditions documented in historic photographs.*

#### ***Secondary Elevation (East):***

- *Perform tests to determine the most efficacious method for removing the graffiti, and the coating or parging from the brick masonry. Remove the graffiti from the brick masonry.*
- *If the coating or parging may be safely removed without damaging the brick substrate, remove the coating or parging from the brick. If the coating or parging may not be safely removed from the brick, remove any loose or delaminating coating or parging, repair the masonry as noted below, and recoat or reparse the brick.*

- *Engage a structural engineer with extensive experience assessing the structural condition of historic brick and terra cotta construction to investigate the vertical crack at the northeast corner of the east elevation.*
- *Repair the vertical crack at the northeast corner of the east elevation based on recommendations by the structural engineer. Replacement brick shall match the historic brick in size, shape, color and texture.*
- *Selectively repoint areas of open joints with new mortar matching the historic mortar in strength, permeability, color, texture and tooling.*
- *Repair any step cracks or through-brick cracks by removing the affected bricks and rebuilding the area in kind using new brick matching the original in size, shape, color and texture.*
- *Replace exfoliated brick at the parapet with new brick to match the original in size, shape, color and texture.*
- *Remove all metal embeds and patch the affected brick with a restoration patch mix matching the brick in color and texture, or replace the damaged brick with new brick matching the original in size, shape, color and texture.*
- *Replace the non-historic tripartite aluminum windows and all one-over-one aluminum windows with new metal windows matching the historic three-over-three double-hung kalamein sash.*
- *Remove all through-wall HVAC equipment, louvers, conduits, signs and light fixtures from the brick masonry. Replace missing or damaged brick to match the original in size, shape, color and texture.*
- *Remove the chain-link fence at the roof.*

***West 17th Street Façade (South):***

- *Perform tests to determine the most efficacious method for removing soiling and paint from the buff brick, limestone sills, and granite water table at the south elevation. Remove paint and soiling from the masonry based on tests.*
- *Engage a structural engineer with extensive experience assessing the structural condition of historic brick construction to investigate the vertical and horizontal cracks at the parapet.*
- *Repair the parapet based on recommendations by the structural engineer. Replacement brick shall match the historic brick in size, shape, color and texture.*
- *Repoint open joints in the brick masonry and limestone sills with new mortar matching the original in strength, permeability, color, texture and tooling.*
- *Replace deflected steel lintels at the window openings with new steel lintels. Install proper flashing and protective finishes to slow future deterioration of the new steel. Replacement of adjacent brick shall be performed with new brick matching the historic in size, shape, color and texture.*
- *Recreate the missing intermediate cornice above the fifth story, based on historic photographs.*
- *Replace all non-historic aluminum windows and severely deteriorated original wood windows with new wood one-over-one windows with transoms. Profiles shall match the original wood windows and mullions at the third story.*

- *Carefully remove paint from the first-floor cornice, based on tests. The copper cornice appears to have been originally pre-patinated a dark green color. Repair any patination that is removed during paint removal to match the original dark green color.*
- *Remove metal embeds, conduit, signs and banner poles from the brick piers at the first floor. Patch the affected brick with a restoration patch mix matching the color and texture of the adjacent brick, or replace the damaged brick in kind.*
- *Install a new wood-and-glass storefront which recalls or reproduces conditions documented in historic photographs.*

#### **40 West 18th Street**

##### ***West 18th Street Façade (North):***

- *Perform tests to determine the most efficacious method for removing soiling and paint from the buff-brick piers. Remove paint and soiling from the masonry based on tests.*
- *Engage a structural engineer with extensive experience assessing historic sheet-metal features to investigate the main building cornice and intermediate cornices.*
- *Repair the cornices based on recommendations by the structural engineer. Replacement sheet-metal panels shall match the historic in size, shape, profile and ornament.*
- *Replace non-matching, severely deteriorated, or severely deformed sheet-metal panels with new sheet metal to match the historic in size, shape, profile and ornament.*
- *Reattach loose sheet metal elements and fill all open joints.*
- *Remove the non-historic fire escape. Patch holes in the masonry using a restoration patch mix matching the cleaned masonry in color and texture. Patch holes in the sheet-metal panels using a metal filler sanded flush to the adjacent metal.*
- *Replicate the missing ornamental grille work above the eastern and western fourth-story windows, based on historic photographs and the remaining historic grille at the center of the fourth story.*
- *Replace all non-historic aluminum and kalamein windows, and all severely deteriorated historic wood windows with new wood windows. The fourth-story windows should be single-paned windows, and the second- and third-story windows should be three-over-three double-hung windows. Profiles shall match the original wood windows that remain.*
- *Perform a paint color investigation of the historic sheet-metal panels, and wood windows and mullions to determine the historic finish colors used on the building.*
- *Scrape any loose paint and remove any corrosion from the sheet-metal panels, and repaint the sheet-metal façade based on the historic finish color investigation.*
- *Install a new wood-and-glass storefront which will recall or reproduce the conditions documented in historic photographs. A new storefront cornice shall be reproduced based on historic photographs.*

***Secondary Elevation (East):***

- *Perform tests to determine the most efficacious method for removing the graffiti and the coating from the brick masonry. Remove the graffiti from the brick masonry.*
- *If the coating may be safely removed without damaging the brick substrate, remove the coating from the brick. If the coating may not be safely removed from the brick, remove any loose or delaminating coating, repair the masonry as noted below, and recoat the brick.*
- *Selectively repoint areas of open joints with new mortar matching the historic mortar in strength, permeability, color, texture and tooling.*
- *Repair any step cracks or through-brick cracks by removing the affected bricks and rebuilding the area in kind using new brick matching the original in size, shape, color and texture.*
- *Replace exfoliated brick with new brick to match the original in size, shape, color and texture.*
- *Remove all metal embeds and patch the affected brick with a restoration patch mix matching the brick in color and texture, or replace the damaged brick with new brick matching the original in size, shape, color and texture.*
- *Remove all through-wall HVAC equipment, grilles, conduits, signs and light fixtures from the brick masonry. Replace missing or damaged brick to match the original in size, shape, color and texture.*

***Rear Elevation (South):***

- *Perform tests to determine the most efficacious method for removing the graffiti, the coating and the mastic from the brick masonry. Remove the graffiti from the brick masonry.*
- *If the coating and mastic may be safely removed without damaging the brick substrate, remove both the coating and the mastic from the brick. If either the coating or the mastic may not be safely removed from the brick, remove any loose or delaminating coating, repair the masonry as noted below, and recoat the brick. If the mastic is an asbestos-containing material, abate the mastic and replace any damaged brick with new brick matching the original in size, shape, color and texture.*
- *Engage a structural engineer with extensive experience assessing the structural condition of historic brick and construction to investigate the vertical cracks at the southeast corner of the south elevation.*
- *Repair the vertical cracks at the southeast corner of the south elevation based on recommendations by the structural engineer. Replacement brick shall match the historic brick in size, shape, color and texture.*
- *Remove all HVAC equipment and dunnage from the setback roofs.*
- *Selectively repoint areas of open joints with new mortar matching the historic mortar in strength, permeability, color, texture and tooling.*
- *Replace exfoliated brick with new brick to match the original in size, shape, color and texture.*

- *Replace all non-historic aluminum windows with new wood windows. Profiles shall be based on surviving physical evidence, if any, or shall be historically appropriate.*
- *Remove all metal embeds and patch the affected brick with a restoration patch mix matching the brick in color and texture, or replace the damaged brick with new brick matching the original in size, shape, color and texture.*
- *Remove all through-wall HVAC equipment, grilles, conduits, signs and light fixtures from the brick masonry. Replace missing or damaged brick to match the original in size, shape, color and texture.*

The issuance of the Special Permit is premised on, inter alia, the agreement by Declarants to the performance of the Landmark Work in conformity with the CNE, the LPC Report, and the requirements thereof.

(b) The Declarants shall give written notice to the Chair of the LPC seven (7) days prior to applying to the Buildings Department for a temporary certificate of occupancy (“TCO”) or permanent certificate of occupancy (“PCO”) for the Special Permit Space. No TCO or PCO for the Special Permit Space shall be granted by the Buildings Department or accepted by Declarants until the Chairperson of the LPC shall have given written notice to the Buildings Department that the Landmark Work has been satisfactorily completed by Declarants or the Chairperson of the LPC has certified in writing, as provided in Section 2.2(d) hereof, that (a) a Force Majeure has occurred and (b) the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Premises. The Chairperson of the LPC shall issue said notice in the exercise of his or her reasonable judgment and reasonably promptly after Declarants have made written request to the Chairperson of the LPC and has provided documentation to support such request, and the Chairperson of the LPC shall in all events endeavor to issue such written notice to the Buildings Department, or inform Declarants in writing of the reason for not issuing said notice, within fourteen (14)

calendar days after Declarants have requested such written notice. Upon receipt of the written notice from the Chairperson of the LPC that (i) the Landmark Work has been satisfactorily completed or (ii) the Chairperson of the LPC has certified that a Force Majeure has occurred and that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO, the Buildings Department may grant, and Declarant may accept, a TCO or PCO for either of the Designated Structures. In the event that the Buildings Department shall grant to Declarant, or Declarant shall accept, a TCO or PCO for either of the Designated Structures in violation of the terms of this Declaration, the Declarants shall, after having received written notice of such violation and opportunity to cure as provided under Section 4.4 hereof, at the request of the Chair of the LPC promptly relinquish and forfeit such TCO or PCO. Notwithstanding anything to the contrary contained herein, the Chairperson of the LPC shall declare that the Landmark Work has been satisfactorily completed notwithstanding that minor and insubstantial details of construction or mechanical adjustment remain to be performed.

(c) Declarants shall permit inspection of the Designated Structures by the Chairperson of the LPC and representatives designated by the Chairperson of the LPC in connection with the notice described in Section 2.2(b) hereof.

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

(ii) In the event that Declarants reasonably believe that full performance of its obligations to complete the Landmark Work has been delayed as a result of a Force Majeure, Declarants shall so notify the Chairperson of the LPC promptly after Declarants learn of such circumstances. Declarants' written notice shall include a description of the condition or event, its cause (if known to Declarants), its probable duration, and in Declarant's reasonable judgment, the impact it is reasonably anticipated to have on the completion of the Landmark Work. The Chairperson of the LPC shall, within fourteen (14) calendar days of its receipt of Declarants' written notice, (A) certify in writing that a Force Majeure has occurred, including a determination of the expected duration of such delay (the "Delay Notice"), and grant Declarants appropriate relief for such delay, including certifying in writing to the Buildings Department that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Premises, or (B) notify Declarants that it does not reasonably believe a Force Majeure has occurred. With respect to any claim that a Force Majeure has delayed the Declarants' performance or completion of the Landmark Work, the LPC may require that Declarant post a bond or other security in a form and amount acceptable to the Chairperson of the LPC in order to ensure that the Landmark Work is completed. Such alternative security could include, without limitation, alternative or additional conditions on the issuance of any PCO or TCO. Any delay caused as the result of a Force Majeure shall be deemed to continue only as long as the Declarants shall be using reasonable efforts to minimize the effects thereof. Upon cessation of the events causing such delay, the Declarants shall promptly recommence the Landmark Work.

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

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

2.4 Continuing Maintenance Program. The Lot 14/15 Declarant, in its capacity as the owner of Lot 14 Landmark Property, shall comply with the obligations and restrictions of the continuing maintenance program (the "Continuing Maintenance Program") as set forth below in connection with the Lot 14 Landmark Property, and the Lot 66 Declarant shall comply with the obligations and restrictions of the Continuing Maintenance Program as set forth below in connection with the Lot 66, it being understood that in the event the Development Site comes under separate ownership, the new owner of the Development Site shall no longer be subject to the obligations and

restrictions under the Continuing Maintenance Program with respect to either of the Landmark Properties after the date of such transfer:

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

(i) At Declarants' expense, an inspection (the "Periodic Inspection") shall be made every five years, on or within thirty (30) days of the anniversary of the issuance by the LPC of the Notice of Compliance pursuant to the LPC Report, and thereafter, shall be made on or within thirty (30) days of the fifth anniversary of the date of such initial or subsequent inspection. In the event that Declarants have accepted a TCO or a PCO for the Special Permit Space without having first received the Notice of Compliance, the first periodic inspection shall be made on or within thirty (30) days of the fifth anniversary date of the issuance of such TCO or PCO and every five years thereafter. The Periodic Inspection shall be done by a preservation architect, engineer or other qualified person knowledgeable about the preservation of historic structures (the "Preservation Architect") selected by Declarants from a list prepared by Declarants and approved by the Chairperson of the LPC as to their credentials, which approval shall not be unreasonably withheld or delayed. Declarants shall update such listing upon the request of the Chairperson of the LPC. In addition, Declarants may periodically supplement the list of Preservation Architects, subject to the reasonable approval of the Chairperson of the LPC as to their credentials. The Preservation Architect shall make a thorough inspection of the exterior of the Designated Structures as well as those portions of the Designated Structures' interior that are accessible to the owner and, if not properly

maintained, could affect the condition of the exterior, including, but not limited to interior systems such as heating, plumbing and air conditioning. The Periodic Inspection shall include (but not be limited to) the following portions of the Designated Structures: [front façade, rear façade, and roof].

(ii) The Preservation Architect shall, at the expense of Declarants, submit a report on each Periodic Inspection (the “Periodic Report”) to Declarants and the LPC within forty-five (45) days after each Periodic Inspection. The Periodic Report shall outline the existing conditions of the Designated Structures and detail the work which should be performed in order to maintain the Designated Structures, including all architectural features and elements, in a sound, first-class condition.

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

(iv) Except as set forth below, Declarants shall perform all work which a Periodic Report, Facade Inspection Report or Emergency Incident Report (as defined below) identifies as necessary to maintain the Designated Structures, including architectural features and elements, in sound, first-class condition. No work shall be performed except pursuant to a permit from the LPC if a permit is required under the

Landmarks Preservation Law. If the LPC determines that a specific item of work or method of work as set forth in a Periodic Report, Facade Inspection Report or Emergency Incident Report would be inappropriate or inadequate, the determination of the LPC shall control and Declarants need not and shall not have such specific item performed. Declarants shall have the right to contest in a hearing before the LPC any work called for in a Periodic Report or Emergency Incident Report. Declarants' obligation to perform such contested work or to perform it by a method acceptable to the LPC shall be stayed pending a decision in any such proceeding at the LPC. Declarants shall proceed with all work that is uncontested during the stay pursuant to a permit.

(v) Unless Declarants have notified the LPC in writing that it contests any work as set forth in the preceding paragraph, Declarants shall apply for all necessary permits or certificates from the LPC within forty-five (45) days of receiving the completed report from the Preservation Architect. Declarants shall use their best efforts to assure that all repairs, rehabilitation, repointing and restoration work detailed in the Periodic Report or Emergency Incident Report shall be completed at the earliest possible date, but no later than within nine (9) months of the date of issue of the certificate or permit from the LPC, or, if no such certificate or permit is required, within nine (9) months of the date of the Periodic Report or Emergency Incident Report. If for reasons beyond Declarants' control, as determined by the Chairperson of the LPC, in the exercise of his or her reasonable judgment, such work cannot be completed within nine (9) months, Declarants shall apply to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time to be

related to the period of delay and shall not be unreasonably withheld, conditioned, or delayed.

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

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

(ii) Declarants shall give immediate written notice of such Emergency Incident to the LPC. Declarants shall also give timely notice to the LPC of the time or times when the New York City Departments of Buildings, Health and Fire will inspect

the Subject Premises following the Emergency Incident, in order that the LPC may have a representative present during such inspections.

(iii) Within sixty (60) days of such Emergency Incident, a Preservation Architect shall, at the expense of Declarants, make a thorough inspection of the Designated Structures and submit a report (an “Emergency Incident Report”) to Declarants and to the LPC outlining the condition of the structure, assessing the extent of damage, and recommending (A) work, if any, which must be undertaken immediately, upon receipt of proper permits, in order to stabilize and prevent further damage to the Designated Structures, and (B) work that should be performed to repair and restore the Designated Structures to a sound, first-class condition or, alternatively to (A) and (B), that Declarants make an application to the LPC for permission to demolish the remaining portions of the Designated Structures.

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

(v) With regard to the work to be performed pursuant to subparagraph (iii)(B), within ninety (90) days of receiving the report of the Preservation Architect, Declarants shall apply for all necessary permits and certificates from the LPC to repair and restore or to demolish. No work on the exterior of the Designated Structures, and no work on the interior of the Designated Structures which would affect the exterior or which would require the issuance of a permit from the Department of Buildings shall be

performed except pursuant to a permit from the LPC. If the LPC determines that a recommendation to demolish or to perform a specific item of work or method of work set forth in the Emergency Incident report would be inappropriate, using the criteria set forth in the Landmarks Preservation Law, the determination of the LPC shall control and the Declarants shall not have such specific work performed or be entitled to have the Designated Structures demolished unless Declarants are obligated to perform such work or demolish the Designated Structures in accordance with an “Immediate Emergency Declaration” issued by the Department of Buildings. All repairs, restoration, rehabilitation, repointing and other work provided for in a certificate or permit shall be completed within nine (9) months of the date of issue of such certificate or permit by the LPC. If such work cannot be completed within nine (9) months for reasons beyond Declarant’s control, as determined by the Chairperson of the LPC in the exercise of his or her reasonable judgment, Declarant shall apply in writing to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time that is related to the period of the delay and shall not be unreasonably withheld, conditioned, or delayed.

(c) Access to Designated Structures. Declarants agree to provide access to the Designated Structures to the LPC and its designated representatives at reasonable times and upon reasonable written notice, except in cases of emergency, in which event the LPC or its representatives shall have access, if feasible, immediately and without notice, in order to insure that the preservation, repair and maintenance of the Designated Structures is carried out in accordance with this Declaration.

(d) Failure to Perform. In the event that the preservation, repair, or maintenance of the Designated Structures is not performed in accordance with the provisions of this Article, the LPC shall give written notice of such failure to perform to the Declarants. Subject to the provisions of Section 4.4 hereof, in the event that Declarants, their successors or assigns, fails after sixty (60) days from receipt of written notice from the LPC to perform or shall commence to perform but fail diligently to prosecute to completion any such repair and/or maintenance, or any obligations of Declarants set forth in this Declaration, the City of New York may perform all of the necessary work at the sole cost and expense of the Declarants and shall have the right to enter onto the Subject Premises and to charge said Declarants for all the actual cost of such work, together with actual administrative and legal fees incurred in the collection thereof. The City's actual costs hereunder shall include, but not be limited to, payments by the City of New York to any lawyers, consultants, contractors, painters, engineers, architects and skilled artisans required to be hired to perform or supervise such work. To the extent such actual costs are expended by the City of New York, the LPC shall have a lien on the Subject Premises as if a lien had been filed, perfected and enforced for materials and labor under Article 2 of the Lien Law of the State of New York. Notwithstanding the foregoing, in the event that either of the Designated Structures is converted to a condominium, Declarants' right to notice and cure provided in this subsection shall apply only to the condominium board and to any owner of space occupied by retail uses in the Designated Structure; provided that the LPC has received notice by said parties in accordance with Section 6.2.

## ARTICLE III

### CONDOMINIUM BOARD

3.1 General. These provisions shall apply in the event that a Condominium is established in accordance with the New York State Real Property Law.

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

3.3 Condominium Declaration. Every deed conveying title to, or a partial interest in, the Subject Premises and every lease of all or substantially all of the Subject Premises shall contain a recital that the grantee is bound by the terms of the Condominium Declaration and By-laws which shall be amended to incorporate an obligation by Declarants to comply with the provisions of Article 3 of this Declaration.

## ARTICLE IV

### EFFECT AND ENFORCEMENT

#### 4.1 Effective Date.

(a) This Declaration shall have no force and effect unless and until the occurrence of one of the following, to be referred to as the “Effective Date”: (a) the expiration of twenty-one (21) days after the Special Permit has been approved if no review is undertaken by the City Council pursuant to Section 197-d of the New York City Charter or (b) the date of final approval of the Special Permit pursuant to Sections 197-c and 197-d of the New York City Charter. The Declaration shall become immediately effective upon the Effective Date. If, before the Effective Date, Declarants request or cause the application for the Special Permit to be withdrawn or abandoned, or if final

action has been taken having the effect of denying the Special Permit, then, upon notice to CPC and LPC, this Declaration shall not become effective, shall be automatically canceled and shall be of no force and effect.

(b) If the Special Permit is at any time declared invalid or is otherwise voided by final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such entry, as the case may be, this Declaration shall be automatically canceled without further action by Declarants and shall be of no further force or effect and the CPC shall, if requested by Declarants, provide Declarants with a letter in recordable form stating that the Declaration has been so canceled and is of no further force and effect.

(c) This Declaration is intended to supersede in all respects that certain Declaration dated March 4, 2005 and recorded in the Office of the City Register under CRFN 2005000267254.

4.2 Filing and Recordation. Declarants shall file and record at its sole cost and expense this Declaration in the Register's Office, indexing it against the Subject Property, immediately upon the Effective Date. Declarants shall promptly deliver to the CPC and the LPC duplicate executed originals, promptly following the Effective Date and, following recordation, a true copy of this Declaration as recorded, as certified by the Register. If Declarants fail to so record this Declaration, the City may record this Declaration, at the sole cost and expense of Declarants, who shall promptly pay to the

City such costs together with fees for purchase of a reasonable number of certified copies of the recorded Declaration.

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

4.4 Notice and Cure. (a) Before any agency, department, commission or other subdivision of the City of New York institutes any proceeding or proceedings to enforce the terms or conditions of this Declaration because of any violation hereof, it shall give Declarants forty-five (45) days written notice of such alleged violation, during which period Declarants shall have the opportunity to effect a cure of such alleged violation. If Declarants commence to effect a cure during such forty-five (45) day period and proceeds diligently towards the effectuation of such cure, the aforesaid forty-five (45) day period shall be extended for so long as Declarants continue to proceed diligently with the effectuation of such cure. In the event that title to the Subject Premises, or any part thereof, shall become vested in more than one party, the right to notice and cure provided in this subsection shall apply equally to all parties with a fee interest in the Subject Premises, or any part thereof, including ground lessees; provided the LPC has received notice by said parties in accordance with Section 6.2. Notwithstanding the

foregoing, in the event that either of the Designated Structures is or is converted to a condominium or cooperative, the right to notice and cure provided in this subsection shall apply only to the condominium or cooperative board and to any owner of space occupied by retail uses in the Designated Structures; provided that the LPC has received notice by said parties in accordance with Section 6.2.

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

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

4.5 Acknowledgment of Covenants. Declarants acknowledge that the restrictions, covenants, easements, obligations and agreements in this Declaration, which are an integral part of the Special Permit, will protect the value and desirability of the Subject Premises as well as benefit the City of New York and all property owners within a one-half mile radius of the Subject Premises. Those restrictions, covenants, easements, obligations and agreements shall be covenants running with the land, and shall bind Declarants and their successors, legal representatives, and assigns.

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

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

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

4.9 Applicability to Other City Agencies. Declarants covenant to include a copy of this Declaration as part of any application submitted to the LPC, CPC, Buildings Department, Board of Standards and Appeals (“BSA”), New York State Attorney General (in the event of a proposed conversion of either of the Designated Structures to condominium ownership) or any agency succeeding to their respective jurisdictions. The restrictions and obligations contained herein are a condition of any permit or Certificate of Occupancy to be issued by the Buildings Department and Declarants will take all reasonable steps to ensure that they are so listed. Failure to carry out such obligation beyond any applicable grace period shall constitute sufficient cause for the Commissioner of the Buildings Department to revoke any building permit issued pursuant to the Special Permit or to apply to the BSA or to a court of competent jurisdiction for revocation of the Certificate of Occupancy or any permit issued by the Buildings Department.

4.10 Limitation of Liability. (a) Declarants shall be liable in the performance of any term, provision or covenant in this Declaration, subject to the following sentences and subject to Section 4.12 below. Notwithstanding anything to the contrary contained in this Declaration, the City and any other party or person relying on the Declaration will look solely to the fee estate and interest of Declarants in the Subject Property, on an in rem basis only, for the collection of any money judgment recovered against Declarants, and no other property of Declarants shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration, and Declarants shall have no personal liability under this Declaration. The liability of any Unit Owner under this Declaration shall be limited to the amount of such Unit Owner’s prorated share, based on such Unit Owner’s

interest in the common elements of the Condominium, of the costs of compliance with this Declaration. For the purposes of this Section 4.10, "Declarant" shall mean "Declarant" as defined in Article I hereof, as well as any principals, disclosed or undisclosed, partners, affiliates, officers, employees, shareholders or directors of a Declarant.

(b) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon a Declarant, and any successors-in-interest thereto only for the period during which such party is the holder of a fee interest in or is a party-in-interest of the Subject Premises and only to the extent of such fee interest or the interest rendering such party a party-in-interest. At such time as a Declarant has no further fee interest in the Subject Premises and is no longer a party-in-interest of the Subject Premises, such party's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of such party's interest and such party's successors-in-interest in the Subject Premises by acceptance of such conveyance automatically shall be deemed to assume such party's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

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

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

## ARTICLE V

### AMENDMENTS, MODIFICATIONS AND CANCELLATIONS

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

5.2 Minor Modification. The Chairperson of the LPC and the Chairperson of the CPC may, by express written consent, administratively approve modifications to the Declaration that the CPC has determined to be minor. Such minor modifications shall not be deemed amendments requiring the approval of the CPC, the LPC, the City Council or any other agency or department of the City of New York. In the event that the Landmark Work is modified by the LPC, a Notice of Landmark Work documenting such modification, subject to approval by the LPC, shall be recorded in the City Register's Office, in lieu of a modification of this Declaration. Such recordation shall be in accordance with section 5.3 hereof, and proof of recordation shall be provided to the CPC and LPC.

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

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

## ARTICLE VI

### MISCELLANEOUS

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

6.2 Notices. All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent, if intended for Declarants, Project Operation LLC, having an address at c/o Thomas

F. Harrison, Principal, Colony Capital, LLC, 2450 Broadway Boulevard, 6th Floor, Santa Monica, CA 90404, with a copy to Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New York, New York 10036, Attn: Valerie G. Campbell, Esq., if intended for the CPC, to the CPC at 22 Reade Street, New York, New York 10007 (or then-official address), Attn: Chairperson, if intended for the LPC, to the LPC at One Centre Street, Municipal Building, New York, New York 10007 (or then-official address), Attn: Chairperson and (d) if intended for the City Council, to the City Council at the Office of the Speaker, City Council, City Hall, New York, New York 10007. Declarants, or their representatives, by notice given as provided in this paragraph 6.2, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed, or, if delivered by hand, when actually received.

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

[SIGNATURE PAGE FOLLOWS]

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

42 WEST 18<sup>th</sup> ST. REALTY CORP.

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

WEST 18 REALTY CORP.

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



## SCHEDULE OF EXHIBITS

<u>Exhibit A</u>	Metes and Bounds Description of the Subject Property
<u>Exhibit B</u>	Certificate of Parties-in-Interest
<u>Exhibit C</u>	Update Certificate
<u>Exhibit D</u>	Waiver and Subordination
<u>Exhibit E</u>	LPC Report (MOU)
<u>Exhibit F</u>	Certificate of Appropriateness
<u>Exhibit G</u>	Lot 66 Certificate of No Effect
<u>Exhibit H</u>	Lot 14 Certificate of No Effect
<u>Exhibit I</u>	Plans

EXHIBIT A

Metes and Bounds of Subject Property

**Lot 66**

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, of the City of New York, in the County and State of New York, bounded and described as follows:

BEGINNING at a point of the southerly side of West 18th Street, distant 285 feet easterly from the corner formed by the easterly side of 6th Avenue and the southerly side of West 18th Street;

THENCE easterly along the southerly side of West 18th Street, 25 feet;

THENCE southerly at right angles to West 18th Street, 92 feet;

THENCE westerly parallel with the southerly side of West 18th Street, 25 feet;

THENCE northerly at right angles to West 18th Street, 92 feet to the point or place of BEGINNING.

**Lot 14**

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of West 17th Street, distant 260 feet easterly from the corner formed by the intersection of the said northerly side of West 17th Street and the easterly side of Avenue of the Americas (formerly Sixth Avenue);

RUNNING THENCE northerly parallel with Avenue of the Americas, 184 feet to the southerly side of West 18<sup>th</sup> Street;

THENCE easterly along said southerly side of West 18th Street, 25 feet;

THENCE southerly again parallel with Avenue of the Americas, 184 feet to the northerly side of West 17th Street;

THENCE westerly along said northerly side of West 17th Street, 25 feet to the point or place of BEGINNING.

**Lot 15**

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of West 17th Street distant 285 feet easterly from the corner formed by the intersection of the northerly side of West 17th Street and the easterly side of Avenue of the Americas;

RUNNING THENCE northerly parallel with the easterly side of Avenue of the Americas 92 feet to the center line of the block;

THENCE easterly along said center line of the block 25 feet;

THENCE northerly parallel with the easterly side of Avenue of the Americas 92 feet to the southerly side of West 18th Street;

THENCE easterly along said southerly side of West 18th Street, 25 feet;

THENCE southerly parallel with the easterly side of Avenue of the Americas 184 feet to the northerly side of West 17th Street;

THENCE westerly along said northerly side of West 17th Street, 50 feet to the point or place of BEGINNING.

EXHIBIT B

Certification of Parties-in-Interest

N.B. # \_\_\_\_\_

Or

ALT # \_\_\_\_\_

## EXHIBIT II

### Old Republic National Title Insurance Company

#### **CERTIFICATION PURSUANT TO ZONING LOT SUBDIVISION (D) OF SECTION 12-10 OF THE ZONING RESOLUTION OF DECEMBER 15, 1961 OF THE CITY OF NEW YORK – AS AMENDED EFFECTIVE AUGUST 18, 1977.**

Old Republic National Title Insurance Company, a title insurance company licensed to do business in the State of New York and having an office at 400 Post Avenue, Suite 310, Westbury, NY 11590, hereby certifies that as to the land hereinafter described being a tract of land, either un-subdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest constituting a "party in interest" as defined in Section 12-10, Subdivision (D) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

<u>NAME</u>	<u>ADDRESS</u>	<u>NATURE OF INTEREST</u>
West 18 Realty Corp.	42 West 18th Street New York, NY 10011	Fee owner Lot 66
42 West 18th St. Realty Corp.	42 West 18th Street New York, NY 10011	Fee owner Lots 14 and 15
Signature Bank	68 South Service Road Melville, NY 11747	Mortgage Holder Lots 66 and 14

**The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid is known as Tax Lots 66, 14 and 15 Block 819 as shown on the Tax Map of the City of New York, New York County, and more particularly described as follows:**

Lot(s) 66

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, of the City of New York, in the County and State of New York, bounded and described as follows:

BEGINNING at a point of the southerly side of West 18th Street, distant 285 feet easterly from the corner formed by the easterly side of 6th Avenue and the southerly side of West 18th Street;

THENCE easterly along the southerly side of West 18th Street, 25 feet;

THENCE southerly at right angles to West 18th Street, 92 feet;

THENCE westerly parallel with the southerly side of West 18th Street, 25 feet;

THENCE northerly at right angles to West 18th Street, 92 feet to the point or place of BEGINNING.

Lot(s) 14

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of West 17th Street, distant 260 feet easterly from the corner formed by the intersection of the said northerly side of West 17th Street and the easterly side of Avenue of the Americas (formerly Sixth Avenue);

RUNNING THENCE northerly parallel with Avenue of the Americas, 184 feet to the southerly side of West 18th Street;

THENCE easterly along said southerly side of West 18th Street, 25 feet;

THENCE southerly again parallel with Avenue of the Americas, 184 feet to the northerly side of West 17th Street;

THENCE westerly along said northerly side of West 17th Street, 25 feet to the point or place of BEGINNING.

Lot(s) 15

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, City, County and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of West 17th Street distant 285 feet easterly from the corner formed by the intersection of the northerly side of West 17th Street and the easterly side of Avenue of the Americas;

RUNNING THENCE northerly parallel with the easterly side of Avenue of the Americas 92 feet to the center line of the block;

THENCE easterly along said center line of the block 25 feet;

THENCE northerly parallel with the easterly side of Avenue of the Americas 92 feet to the southerly side of West 18th Street;

THENCE easterly along said southerly side of West 18th Street, 25 feet;

THENCE southerly parallel with the easterly side of Avenue of the Americas 184 feet to the northerly side of West 17th Street;

THENCE westerly along said northerly side of West 17th Street, 50 feet to the point or place of BEGINNING.

**That the said premises are known as and by the street addresses of:**

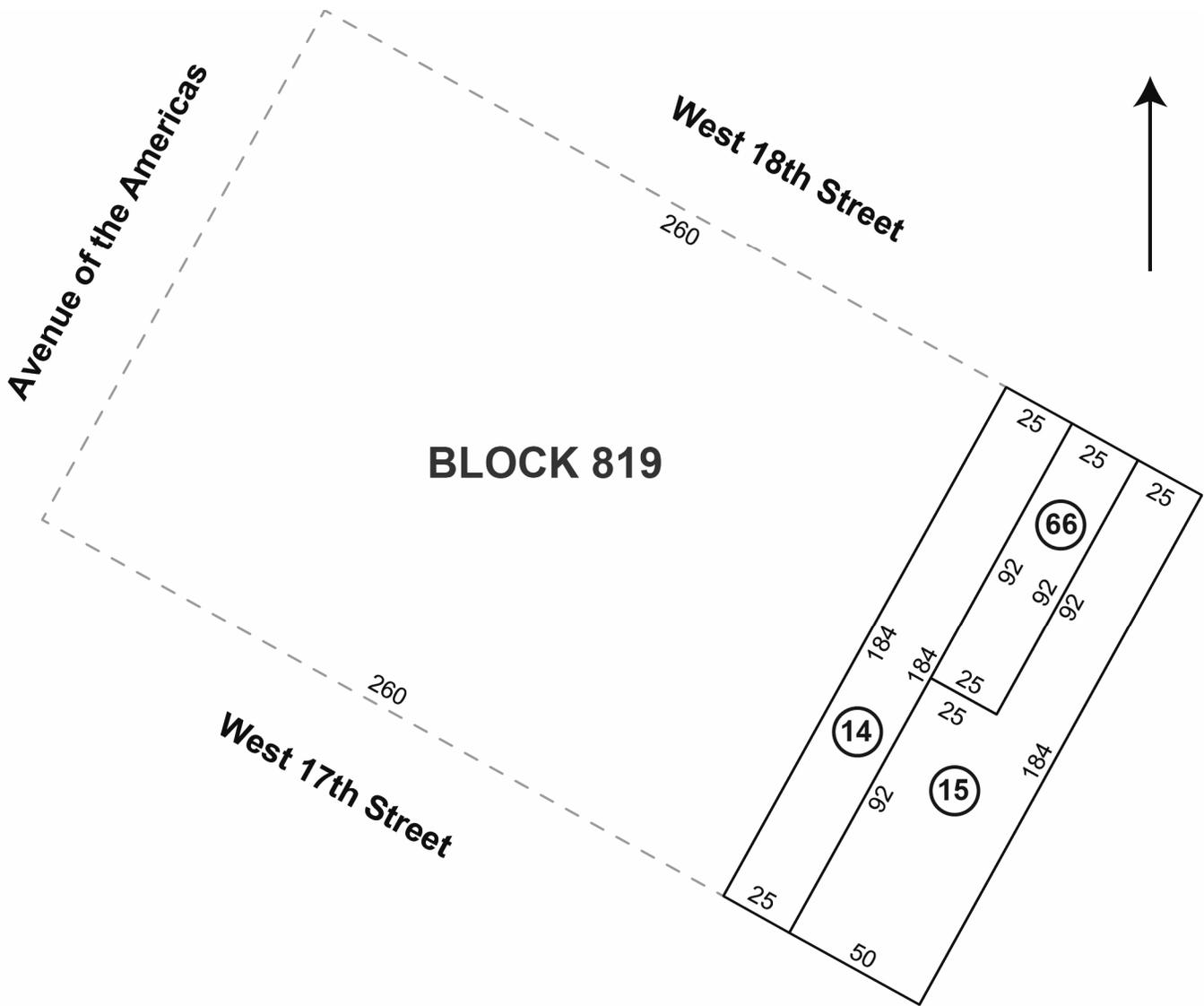
Address: 40 West 18th Street, New York, NY 10011 (Block 819, Lot(s) 66), as shown on the following diagram

Address: 42 West 18th Street, New York, NY 10011 (Block 819, Lot(s) 14), as shown on the following diagram

Address: 41 West 17th Street, New York, NY 10001 (Block 819, Lot(s) 15), as shown on the following diagram

1. Show Distance from corner )
2. Show Block and Lot Numbers )  
and dimensions of each lot )  
The north point of the diagram must agree with the arrow.

SEE ATTACHED DIAGRAM



**NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may be subdivided into two or more zoning lots provided all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the Zoning Lot Resolution.**

THIS CERTIFICATE IS MADE AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND (\$1,000.00) DOLLARS.

DATED:

BY: Old Republic National Title Insurance Company

BY: \_\_\_\_\_  
James H. Lee Esq., Counsel  
Madison Title Agency, LLC, agent for  
Old Republic National Title Insurance Company

STATE OF NEW YORK ) : SS.:

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ 20\_\_ , before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(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 and that such individual made such appearance before the undersigned in the \_\_\_\_\_, State of New York

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

EXHIBIT C

Update Certificate

EXHIBIT D

Waiver and Subordination

**WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION  
AND SUBORDINATION OF MORTGAGE**

WAIVER OF EXECUTION OF RESTRICTIVE DECLARATION AND  
SUBORDINATION OF MORTGAGE, made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by  
Signature Bank, a New York corporation (the "Mortgagee"), having its principal place of business at 68  
South Service Road, Melville, New York, 11747.

**WITNESSETH:**

WHEREAS, the Mortgagee is the lawful holder of that certain mortgage, dated as of  
\_\_\_\_\_, 20\_\_ (the "Mortgage") made by 42 West 18th St. Realty Corp., a New  
York corporation and West 18 Realty Corp., a New York corporation (collectively, the "Mortgagor")  
in the principal amount of Three Million Two Hundred Fifty Thousand and 00/100 (\$3,250,000.00)  
Dollars recorded in the Office of the Register/Clerk of the City of New York, County of New York, on  
\_\_\_\_\_, 20\_\_ as CRFN \_\_\_\_\_; and

WHEREAS, the Mortgage encumbers all or a portion of the property (the "Premises") known  
as Block 819, Lots 66 and 14 on the Tax Map of the City of New York, County of New York, and  
more particularly described in Schedule A attached hereto and made a part hereof, and any  
improvements thereon (such improvements and the Premises are collectively referred to herein as the  
"Subject Property"), which Subject Property is the subject of a restrictive declaration dated  
\_\_\_\_\_, 20\_\_ (the "Declaration"), made by 42 West 18<sup>th</sup> St. Realty Corp. and  
West 18 Realty Corp.; and

WHEREAS, Mortgagee represents that the Mortgage represents its sole interest in the Subject  
Property; and

WHEREAS, the Declaration, which is intended to be recorded in the Office of said  
Register/Clerk simultaneously with the recording hereof, shall subject the Subject Property and the sale,  
conveyance, transfer, assignment, lease, occupancy, mortgage and encumbrance thereof to certain  
restrictions, covenants, obligations, easements and agreements contained in the Declaration; and

WHEREAS, the Mortgagee agrees, at the request of the Mortgagor, to waive its right to  
execute the Declaration and to subordinate the Mortgage to the Declaration.

NOW, THEREFORE, the Mortgagee (i) hereby waives any rights it has to execute, and  
consents to the execution by the Mortgagor of, the Declaration and (ii) hereby agrees that the  
Mortgage, any liens, operations and effects thereof, and any extensions, renewals, modifications and

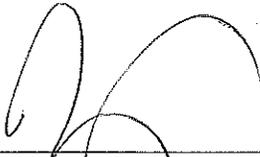
consolidations of the Mortgage, shall in all respects be subject and subordinate to the terms and provisions of the Declaration.

This Waiver of Execution of Restrictive Declaration and Subordination of Mortgage shall be binding upon the Mortgagee and its heirs, legal representatives, successors and assigns.

*[Signature on following page]*

IN WITNESS WHEREOF, the Mortgagee has duly executed this Waiver of Execution of Restrictive Declaration and Subordination of Mortgage as of the date and year first above written.

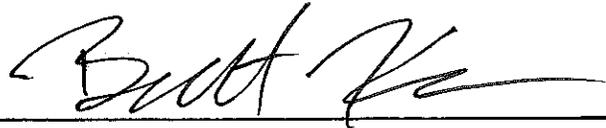
MORTGAGEE:  
SIGNATURE BANK.

By:   
Name: Zachary Bermudez  
Title: Vice President

**ACKNOWLEDGMENT**

State of New York  
County of Suffolk

On the 8th day of August in the year 2016 before me, the undersigned, a notary public in and for said state, personally appeared Zachary Bermudez, 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 upon behalf of which the individual(s) acted, executed the instrument.



A handwritten signature in black ink, appearing to read "Brett Hoffman", is written over a horizontal line.

**Brett David Hoffman**  
Notary Public, State of New York  
No. 01HO6294129  
Qualified in Queens County  
Commission Expires 12/16/20 17

Schedule A

Legal Description of the Premises

Block 819, Lot 66

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, of the City of New York, in the County and State of New York, bounded and described as follows:

BEGINNING at a point of the southerly side of West 18th Street, distant 285 feet easterly from the corner formed by the easterly side of 6th Avenue and the southerly side of West 18th Street;

THENCE easterly along the southerly side of West 18th Street, 25 feet;

THENCE southerly at right angles to West 18th Street, 92 feet;

THENCE westerly parallel with the southerly side of West 18th Street, 25 feet;

THENCE northerly at right angles to West 18th Street, 92 feet to the point or place of BEGINNING.

Block 819, Lot 14

All that certain Lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Borough of Manhattan, County of New York, City and State of New York, bounded and described as follows:

BEGINNING at a point on the northerly side of West 17th Street, distant 260 feet easterly from the corner formed by the intersection of the said northerly side of West 17th Street and the easterly side of Avenue of the Americas (formerly Sixth Avenue);

RUNNING THENCE northerly parallel with Avenue of the Americas, 184 feet to the southerly side of West 18th Street;

THENCE easterly along said southerly side of West 18th Street, 25 feet;

THENCE southerly again parallel with Avenue of the Americas, 184 feet to the northerly side of West 17th Street;

THENCE westerly along said northerly side of West 17th Street, 25 feet to the point or place of BEGINNING.

EXHIBIT E

LPC Report (MOU)



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



September 25, 2015

ISSUED TO:

**Carl Weisbrod, Chair**  
**City Planning Commission**  
 22 Reade Street  
 New York, NY 10007

Re: LPC - 176168  
 MOU 17-7107  
 38 WEST 18TH STREET  
aka 41-43 West 17th Street  
 LADIES' MILE  
 Borough of Manhattan  
 Block/Lot: 819 / 15

November 25, 2014, following the Public Hearing and Public Meeting of September 23, 2014, the Landmarks Preservation Commission ("LPC") voted to issue a report to the City Planning Commission ("CPC") in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution for modifications of bulk regulations at the buildings located at 38-42 West 18th Street. The Designated Buildings consist of a building originally built in 1858 and redesigned in 1898 in a commercial style by John R. Hutchinson (no. 40); an early 20th century commercial style store and loft building designed by George A. Crawley and built in 1907-08 (no. 42); and a vacant lot. The Designated Buildings are located in the Ladies' Mile Historic District.

In voting to issue a favorable report to the CPC, the LPC found that the applicant has agreed to undertake facade work to restore the Designated Buildings and bring them up to a sound, first-class condition, that the owner of the building has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Buildings are maintained in a sound, first-class condition; and that a Restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. The Declaration will be recorded at the New York County Registrar's Office.

Specifically, at the Public Meeting of November 25, 2014, following the Public Hearing and Public Meeting of September 23, 2014, the Commission approved a proposal for the restoration of the masonry and metal facades, including the replacement in kind of the terra cotta cladding at 42 West 18th Street, the restoration of the missing metal cornice at 45 West 17th Street, the removal of metal windows and the installation of wood

windows, and the removal of non-historic storefront infill and the installation of new wood storefront infill.

In reaching a decision to issue a favorable report to the CPC, the LPC found that the proposed restorative work approved pursuant to Certificate of No Effect 17-7108 (LPC 17-6064) and Certificate of No Effect 17-7109 (LPC 17-6073) will help return the building closer to its original appearance; and will reinforce the architectural and historic character of the building, streetscape, and Ladies' Mile Historic District; that the restorative work, including the restoration of the brick, limestone, and terra cotta masonry facades; repair and or replacement in kind of deteriorated sheet-metal facade elements and replication of missing decorative features; replacement of windows; and installation of wood storefront infill, will bring the buildings up to a sound, first-class condition, aid in their long-term preservation; that the implementation of a cyclical maintenance plan will ensure the continued maintenance of the building in a sound, first class condition; and that the owners of the building have committed themselves to establishing a perpetual cyclical maintenance plan which will bind all heirs, successors and assigns and subsequent owners of the building and which will be legally enforceable by the Landmarks Preservation Commission under the provisions of a Restrictive Declaration, and will be recorded against the property.

The Declaration requires the Declarant to commission a qualified preservation professional, whose credentials are to be approved by LPC, to undertake inspections every four years of the Designated Buildings' exteriors and such portions of the interior, which, if not properly maintained, would cause the Designated Buildings to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Buildings in a sound, first-class condition within the stated time periods.

Please note that the restoration work must be completed and approved by the Landmarks Preservation Commission before the owners may apply for or accept a temporary Certificate of Occupancy or a permanent Certificate of Occupancy from the Department of Buildings for the area of the buildings and the vacant lot that are the subject of this special permit.

Please note that this Modification of Use is being issued in conjunction with Certificate of No Effect 7108 (LPC 17-6064) for facade restoration at 40 West 18th Street and Certificate of No Effect 7109 (LPC 17-6073) for facade restoration at 42 West 18th Street.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Olivia Brazee.



Meenakshi Srinivasan  
Chair

cc: Carly Bond, Deputy Director of Preservation/LPC; John Weiss, LPC; Eugene Mendlowits, Owner

EXHIBIT F

Certificate of Appropriateness



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> 12/03/14	<b>EXPIRATION DATE:</b> 11/25/2020	<b>DOCKET #:</b> 158949	<b>COFA #:</b> COFA 16-5428
<b>ADDRESS:</b> 38-42 WEST 18TH STREET <u>HISTORIC DISTRICT</u> LADIES' MILE		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 819 / 14

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

ISSUED TO:

**Eugene Mendlowits**  
**42 West 18th Street Corp.**  
**42 West 18th Street, 4th Floor**  
**New York, NY 10011**

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 25, 2014, following the Public Hearing and Public Meeting of September 23, 2014, voted to grant a Certificate of Appropriateness for the construction of a new building, and to restore the facades and replace windows and storefront infill at 40 and 42 West 18th Street, as put forward in your application completed on August 28, 2014.

The proposal, as approved, consists of constructing a new building with a sixteen-story frontage on West 17th Street and a seventeen-story frontage on West 18th Street and featuring a metal-mesh facade with a base-shaft-capital composition and classically inspired elements on West 17th Street and a facade composed of a grid of brick panels tapering upwards from solid to void, with stepped window frames, on West 18th Street. The approved work at the existing buildings consists of the restoration of the masonry and metal facades, including the replacement in kind of the majority of the terra cotta cladding at 42 West 18th Street, the restoration of the missing metal cornice at 45 West 17th Street, the removal of metal windows and the installation of wood windows, and the removal of non-historic storefront infill and the installation of new wood storefront infill. The proposal, as initially presented, called for an eighteen-story frontage on West 17th Street and a facade composed of a grid of cast-concrete panels on West 18th Street. The proposal was shown in physical models and in digital presentation slides labeled 1 through 47, dated September 23, 2014, and prepared by Morris Adjmi Architects, and revised physical models and digital presentation slides labeled 1 through 17, and dated November 25, 2014, submitted as components of the application, and presented at the Public Hearing and Public Meetings.

In reviewing this proposal, the Commission noted that the Ladies' Mile Historic District designation report describes the site as a vacant lot; and describes 40 West 18th Street as a building originally built in 1858 and redesigned in 1898 in a commercial style by John R. Hutchinson; and 42 West 18th Street as an early 20th century commercial style store and loft building designed by George A. Crawley and built in 1907-08. The Commission also noted that the historical development of the Ladies' Mile Historic District occurred in several phases, resulting in a variety of building heights and widths adjacent to each other, including early 19th-century residential development which included residences and stable buildings; early commercial development which included mid-rise building and the commercial adaptation of some residential buildings and stables; large turn-of-the-century department stores; large 20th-century loft buildings and older buildings converted to manufacturing use; and that many streets combine buildings from several or all of these periods, with taller buildings facing the avenues and the major cross-town streets, such as West 14th and West 23rd Streets; and that the facades of the taller buildings frequently feature a strongly articulated base, shaft, and capital composition as well as classically inspired ornament. The staff further notes that West 17th and West 18th Streets comprise a combination of mid-scale and large early 20th-century commercial buildings and small scale 19th-century rowhouses with punched masonry openings and converted commercial ground floors. The Commission further noted that Notice of Violation 99-0497 and Notice of Violation 99-0498 were both issued July 6, 1999 for the "installation of fixed awning ("Adorama") and neon signage at ground floor shopfront without permit(s)"; that Notice of Violation 08-0122 was issued September 6th, 2007, for the "installation of signage and billboards without permit(s)"; that Certificate of No Effect 02-0492 was issued July 23, 2001, for window replacement, facade repairs, replacement of the storefront infill and the installation of signage; that Modification of Use and Bulk 02-0505 was issued August 2, 2001 for modifications of use at the buildings located at 40-42 West 18th Street and the vacant lot located at 38 West 18th Street; that Certificate of Appropriateness 02-0504 was issued August 2, 2001, for the construction of a new building on vacant lot; the construction of rooftop additions at 40 and 42 West 18th Street, and the installation of a flagpole at 42 West 18th Street; that Miscellaneous/Amendments 04-5232 was issued February 26, 2004 for enlarging the interior courtyard from 40 feet to 50 feet by reducing the footprint at the rear of 38 and 40 West 18th Street, and slightly increasing the footprint at the rear of the West 17th Street side of the new building; and that Certificate of Appropriateness 08-8225 was issued April 24, 2008, for the construction of a new building on the vacant lot; the construction of rooftop additions at 40 and 42 West 18th Street, and the replacement of storefront infill.

With regard to this proposal, the Commission found that the construction of a new building on the site will complete the streetwall on West 17th and West 18th Streets and will reinforce the continuity of the streetwall on two streets, which is currently disrupted on both West 17th and 18th Streets by a through-block parking lot; that the careful massing of the building into two distinct parts allows the facades to relate successfully to the streetscape on both West 17th and 18th Streets; that the height and scale of both facades relate well to the context of the surrounding buildings in the streetscapes; that the proposed West 17th Street facade is articulated as a base, shaft and capital, recalling the typical facade composition of early 20th-century commercial buildings located throughout the historic district; that the proposed West 17th Street façade, composed of a structural-glass curtain wall overlaid by metal-mesh panels, is an innovative evocation of classical architectural features and ornament; that the proposed West 18th Street façade, composed of a grid of brick panels tapering upwards from solid to void, is evocative of the progression from traditional load-bearing masonry construction to steel-skeleton construction that shaped the development of the historic district during the late-19th and early-20th centuries; that the detailing of this brick façade, featuring strong orthogonal lines and recessed, stepped window frames, is a contemporary interpretation of the robust facade articulation and ornament characteristic of masonry buildings found within the historic district; that both façade designs incorporate an interplay of façade planes and smooth and textured surfaces, and will therefore display a level of depth and articulation comparable to what is found on historic buildings

within this historic district; that the proposed building will enhance the special architectural and historic character of the historic district; and that the restorative work to be approved pursuant to LPC 15-8949 will return the building closer to its original appearance; that the restorative work, including restoration of the brick, limestone, and terra cotta masonry facades; repair and or replacement in kind of deteriorated sheet-metal façade elements and replication of missing decorative features; replacement of windows; and installation of wood storefront infill, will bring the building up to a sound, first-class condition, aid in its long-term preservation, and reinforce the architectural and historic character of the building, the streetscape, and the historic district; that the owners of the building have committed themselves to establishing a cyclical maintenance plan; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. Based on these findings, the Commission determined the proposed work to be appropriate to the Ladies' Mile Historic District and voted to approve it. Therefore, Certificate of Appropriateness 16-5428 is being issued.

The Commission notes that the applicant is applying to the Board of Standards and Appeals for certain variances. Any changes to the design required by the Board of Standards and Appeals approval must be submitted to the Landmarks Preservation Commission for review and approval prior to the issuance of the final approval letter.

PLEASE NOTE: 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 when they become available.

Also, as the approved work consists of subsurface work, the applicant is required to strictly adhere to the Department of Buildings TPPN 10/88 governing in-ground construction adjacent to historic buildings. It is the applicant's obligation at the time of applying for their permit to inform the Department of Buildings that the TPPN applies.

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 Olivia Brazee.

Meenakshi Srinivasan  
Chair

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

Page 3

Issued: 12/03/14

DOCKET #: 158949

Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

**cc:** Jared Knowles, Deputy Director, Preservation/LPC; Katie Rice, Enforcement/LPC

EXHIBIT G

Lot 66 Certificate of No Effect



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION  
 1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007  
 TEL: 212 669-7700 FAX: 212 569-7730



# PERMIT

## CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 09/25/15	<b>EXPIRATION DATE:</b> 9/25/2019	<b>DOCKET #:</b> 176064	<b>CNE #:</b> CNE 17-7108
<b>ADDRESS:</b> 40 WEST 18TH STREET <u>HISTORIC DISTRICT</u> LADIES' MILE		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 819 / 66

Display This Permit While Work Is In Progress

ISSUED TO:

Eugene Mendlowits  
 42 West 18th Street Corp.  
 42 West 18th Street, 4th Floor  
 New York, NY 10011

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 25, 2015.

The approved work consists of facade restoration, including the removal of non-historic metal storefront infill, security roll-down gates, awnings, and signage; the removal of the non-decorative metal fire escape at the second through fourth floors; the installation of new wood storefront infill featuring a dark-green painted finish (Sherwin Williams "Jasper", SW-6216), a projecting central bay flanked by recessed entries with single glazed doors and transoms; the application of painted signage ("The Photography People") at the glass transom above the projecting storefront; the restoration of the pressed-metal storefront cornice, and the installation of white metal sign letters ("Adorama") at the fascia of the cornice; the restoration of the cast-iron piers flanking the storefronts; the installation of two (2) recessed downlights at the soffit above the storefront entries; at the second, third, and fourth floors, the removal of through-wall HVAC louvers and vents; the repair and or replacement in-kind of deteriorated sheet-metal facade elements, including panels, pilasters, pilaster capitals, cornices, and window grillework, and the replication of missing decorative features; painting the restored sheet-metal facade elements a dark green color (Sherwin Williams "Jasper", SW-6216); selective repointing and rebuilding of the brick back-up; selective repairs to or replacement of deteriorated face brick; repointing and cleaning of the brick piers; the removal of all deteriorated historic and replacement metal and wood windows, and two doors at the second and third floors; and the installation of new wood windows, including two (2) one-over-one double-hung windows flanking a fixed single-pane

window at the second and third floors; the installation of five (5) single-pane casement windows at the fourth floor, within the existing decorative metal frames; the installation of two attic windows with decorative metal grilles at the eastern and western facade bays on the fourth floor; at the rear facade, the removal of a non-historic one-story extension; the removal of mastic from the fourth-floor setback facade, and repairs to the underlying brick; repointing and sealing of coping units; and the installation of a metal guardrail at the rear roof; as described in an exterior finish color investigation and mortar analysis replication report dated January 8, 2007 and prepared by Jablonski Berkowitz Conservation Inc.; and as described in written specifications and elevation drawings labeled G-000.00, A-100.00, A-200.00, A-201.00, A-202.00, A-203.00, A-204.00, A-205.00, A-206.00, A-207.00, A-300.00, A-301, A-401, A-402.00, A-403.00, A-404.00, A-405.00, A-406.00, and A-407.00, dated August 12, 2015, prepared by Morris Adjmi, R.A., and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Ladies' Mile Historic District Designation Report describes 40 West 18th Street as a building originally built in 1858 and redesigned in 1898 in a commercial style by John R. Hutchinson; and that the building's style, scale, materials and details are among the features contributing to the special architectural and historic character of the Ladies' Mile Historic District. The Commission further notes that Certificate of Appropriateness 16-5428 (LPC 15-8949) was issued on December 3, 2014, approving the construction of a new building on the vacant portion of the site and the restoration of the two historic buildings on the site.

With regard to this proposal, the Commission finds, in accordance with the provisions of RCNY, Title 63, Section 2-13, that the fire escape is not a significant protected feature on the building; that the fire escape is not original to the building; that the fire escape does not have architectural merit in itself; that any damage to the facade will be repaired to match the adjacent fabric; that the removal of the fire escape will not leave gaps, holes, or unsightly conditions on the facade. The Commission further finds 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 cleaning of the brick piers will be done in the gentlest effective method without causing damage to the masonry; that the water pressure will not exceed 500 psi; and that the proposed work will protect the building's facade and structure from future damage due to water infiltration and aid in the long term preservation of the building; and, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-17(c) that the replacement of the existing infill will not cause the removal of significant historic fabric that may have been added over time, which is evidence of the history and development of a building, structure, or site; that the design of the infill is based on historic storefront prototypes and details within the historic district for buildings of similar age, type and style; that the configuration of replacement infill will be consistent with the proportions of display window, transom, and bulkhead of historic storefront infill; that the storefront framing will feature a molding profile that recalls the articulation of historic storefront framing; that the placement of the display window, transom, and bulkhead will maintain the building street wall; that the bulkhead will be between eighteen (18) inches and two (2) feet six (6) inches in height, including a curb; that the recessed entrance will have splayed returns; that the material of the new infill will match the historic infill; that the finish will recall the finish of historic storefronts; that no interior partitions will be closer than eighteen (18) inches to the glass of the display window; that the design will include restoration of the original size of the storefront opening; that the historic storefront surround, revealed by probes, will be restored as part of the application for new storefront; and, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-20 (c), that the installation of signage will not damage, destroy or obscure significant architectural features or material of the building or storefront; that the sign will be installed in a signage band above a storefront; that the signage consists of letters and logos applied directly on wood, metal, or opaque glass

panels mounted flat with the signband or painted directly onto the ground floor signband and lintels; that the sign panel will project no more than 3 inches from the façade, and pin-mounted letters on the sign panels will project no more than 1 inch beyond the panel for a total projection of 4 inches from the façade; that the pin-mounted letters are not installed directly into cast iron; that the sign will be proportional to the signband, but in no event exceed 90 percent of the area of the signband; that the letters will not be higher than 18 inches; that the installation of painted or vinyl signage will not exceed more than 20 percent of storefront glazing, and therefore will not substantially reduce the transparency of the display window, doors, or transom; that the signage will not be internally illuminated, nor feature neon strips outlining the display window; and that the overall amount of signage is not excessive and will not detract from the architectural features of the building, the adjacent buildings, or the streetscape; and, in accordance with the provisions set forth in RCNY, Title 63, Section 3-04 (c), that the new windows at the primary façade will match the historic windows in terms of configuration, operation, details, material and finish. Finally, the Commission finds that the basis for the design of the proposed restoration's authenticity is documented by photographic evidence and physical evidence at the building; that the restoration will not cause the removal of significant historic fabric that may have been added over time and that are evidence of the history and development of a building, structure or site; that the proposed sheet-metal facade elements will match the historic facade elements in terms of placement, material, dimension, design, and details.

PLEASE NOTE: this permit is contingent upon the Commission's review and approval of samples of masonry cleaning, joint cutting method(s), pointing, painting or coating, and replacement sheet-metal architectural features, 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. Submit digital photographs of all samples to [obrazee@lpc.nyc.gov](mailto:obrazee@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 that this permit is being issued in conjunction with Certificate of No Effect 7109 (LPC 17-6073), approving facade restoration at 42 West 18th Street; and Modification of Use 17-7107 (LPC 17-6168) approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use.

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 Olivia Brazee.



Meenakshi Srinivasan  
Chair

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

Jeremy Reed, Morris Adjmi Associates

cc: Carly Bond, Deputy Director of Preservation/LPC

EXHIBIT H

Lot 14 Certificate of No Effect



THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION  
 1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007  
 TEL: 212 659-7700 FAX: 212 659-7780



# PERMIT

## CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 09/25/15	<b>EXPIRATION DATE:</b> 9/25/2019	<b>DOCKET #:</b> 176073	<b>CNE #:</b> CNE 17-7109
<b>ADDRESS:</b> 42 WEST 18TH STREET aka 45 West 17th Street LADIES' MILE		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 819 / 14

Display This Permit While Work Is In Progress

ISSUED TO:

Eugene Mendlowits  
 42 West 18th Street Corp.  
 42 West 18th Street, 4th Floor  
 New York, NY 10011

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 25, 2015.

The approved work consists of facade restoration at the north-facing (West 18th Street) facade, including the removal of non-historic metal storefront infill, security roll-down gates, awnings, and signage; the removal of a flagpole installed above the storefront; the removal of brick veneer from the masonry piers flanking the storefront; the restoration of the cast-iron storefront piers; the installation of new wood storefront infill featuring a dark-green painted finish (Sherwin Williams "Jasper", SW-6216), display windows and transoms above a molded transom bar, and a single-leaf glazed wood door with a transom above; the installation of a wood-framed metal signband above the storefront, and the installation of surface-mounted metal sign letters ("Adorama"); the installation of one (1) recessed downlight at the soffit above the storefront entry; the removal of all the terra cotta from the facade; structural repairs to the steel framing members; selective repointing and rebuilding of the brick back-up; the installation of new replica terra cotta units; the removal of metal replacement windows and deteriorated historic wood windows and wood transoms from the masonry openings at the second through sixth floors; the installation of new wood windows at the second through fourth floors, including a tripartite window composed of a fixed center pane flanked by single-pane casement sash and topped by a divided transom within the masonry opening in the center facade bay, and a single one-over-one-double hung sash topped by a transom at the flanking facade bays; the installation of new irregularly shaped wood windows at the fifth floor, within the monumental Tudor-arched masonry

opening, including a tripartite window and transoms within the center facade bay, flanked by paired single-pane fixed and casement sash; and the installation of three (3) new one-over-one double-hung wood windows within the existing masonry openings at the sixth floor; the installation of structural bracing at the parapet; selective masonry repairs at the interior lightwell facades; and facade restoration at the south-facing (West 17th Street) facade, including the removal of non-historic metal storefront infill; the installation of new wood storefront infill featuring a dark-green painted finish ("Jasper"), a paneled bulkhead, display window, and single-leaf glazed doors with sidelites and transoms; the installation of four (4) flush-mounted louvers with a dark-green finish ("Jasper") above the storefront transoms; the installation of a paneled metal fascia above the louvers; restoration of the decorative metal cornice at the second floor; selective repointing and replacement of face brick; selective cleaning of the brick facade; selective installation of Dutchman<sup>®</sup> repairs at the limestone trim; repointing of the limestone sills; selective patching of spalled stone; selective replacement of failed embedded steel lintels; restoration of the missing decorative metal cornice at the sixth floor; rebuilding of the brick parapet and the installation of new cast-stone coping units; the removal of metal replacement windows and deteriorated historic wood windows from the second through sixth floors; the installation of new wood windows, including five (5) one-over-one double-hung windows with fixed transoms separated by vertical wood mullions at each floor, within the existing window openings; at the roof, the replacement of the roofing membrane; the replacement of the metal cladding and roofing material at the stair and elevator bulkheads; the replacement in kind of two skylights; the replacement in kind of the coping stones at the lightwell; repointing and sealing of coping units; and the installation of a metal guardrail at the roof perimeter; as described in an exterior finish color investigation and mortar analysis replication report dated January 8, 2007, and prepared by Jablonski Berkowitz Conservation Inc.; and as described in written specifications and shown on drawings labeled G-000.00, A-100.00, A-200.00, A-201.00, A-202.00, A-203.00, A-204.00, A-205.00, A-206.00, A-207.00, A-300.00, A-301, A-401, A-402.00, A-403.00, A-404.00, A-405.00, A-406.00, and A-407.00, dated August 12, 2015, prepared by Morris Adjmi, R.A., and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Ladies' Mile Historic District Designation Report describes 42 West 18th Street (aka 45 West 17th Street) as an early 20th century commercial style store and loft building designed by George A. Crawley and built in 1907-08; and that the building's style, scale, materials and details are among the features contributing to the special architectural and historic character of the Ladies' Mile Historic District. The Commission further notes that documentation shows that the majority of the terra cotta units at the facade are in a severely deteriorated condition, warranting replacement; and that Certificate of Appropriateness 16-5428 (LPC 15-8949) was issued on December 3, 2014, approving the construction of a new building on the vacant portion of the site and the restoration of the two historic buildings on the site.

With regard to this proposal, the Commission finds that the proposed masonry units will match the historic masonry units in terms of size, color, texture and bond pattern; that the proposed mortar will match the historic mortar in terms of size, color, texture and tooling; and that the proposed work will protect the building's facade and structure from future damage due to water infiltration and aid in the long term preservation of the building. The Commission further finds, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-17(c) that the replacement of the existing infill will not cause the removal of significant historic fabric that may have been added over time, which is evidence of the history and development of a building, structure, or site; that the design of the infill is based on historic storefront prototypes and details within the historic district for buildings of similar age, type and style; that the configuration of replacement infill will be consistent with the proportions of display window, transom, and bulkhead of historic storefront infill; that the storefront framing will feature a molding profile that recalls the articulation of historic storefront framing; that the placement of the display window, transom, and bulkhead will maintain the building street wall; that the bulkhead will be between eighteen (18) inches and

two (2) feet six (6) inches in height, including a curb; that the recessed entrance will have straight returns; that the material of the new infill will match the historic infill; that the finish will recall the finish of historic storefronts; that no interior partitions will be closer than eighteen (18) inches to the glass of the display window; that the design will include the re-introduction of piers that recall the location, size and dimension of the historic piers which were previously removed; that the design will include restoration of the original size of the storefront opening; and, in accordance with the provisions set forth in Title 63 of the Rules of the City of New York, Section 2-20 (c), that the installation of signage will not damage, destroy or obscure significant architectural features or material of the building or storefront; that the sign will be installed in a signage band above a storefront; that the signage consists of letters and/or logos applied directly on wood, metal, or opaque glass panels mounted flat with the signband; that the sign panel will project no more than 3 inches from the façade, and letters on the sign panels will project no more than 1 inch beyond the panel for a total projection of 4 inches from the façade; that the sign will be proportional to the signband, but in no event exceed 90 percent of the area of the signband; that the letters will not be higher than 18 inches; that the installation of painted or vinyl signage will not exceed more than 20 percent of storefront glazing, and therefore will not substantially reduce the transparency of the display window, doors, or transom; that the signage will not be internally illuminated, nor feature neon strips outlining the display window; that the light fixtures will be installed in areas of plain masonry, metal, or wood, and the installation will not damage, destroy, or obscure significant architectural features of the building or storefront; that the lighting conduits will be concealed; that the proposed exterior light fixtures will only illuminate storefronts and related signage; and that the overall amount of signage is not excessive and will not detract from the architectural features of the building, the adjacent buildings, or the streetscape. Finally, 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 façade will match the historic windows in terms of configuration, operation, details, material and finish.

PLEASE NOTE: this permit is contingent upon the Commission's review and approval of samples of representative decorative and plain replacement terra cotta units prior to the commencement of work. Samples should be installed adjacent to clean, original terra cotta units. Submit digital photographs of all samples to [obrazee@lpc.nyc.gov](mailto:obrazee@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 that this permit is being issued in conjunction with Certificate of No Effect 7108 (LPC 17-6064), approving facade restoration at 40 West 18th Street; and Modification of Use 17-7107 (LPC 17-6168) approving a request that the Landmarks Preservation Commission issue a report to the City Planning Commission in support of an application for the issuance of a special permit, pursuant to Section 74-711 of the Zoning Resolution, for a Modifications of Use.

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 Olivia Brazee.



Meenakshi Srinivasan  
Chair

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

cc: Carly Bond, Deputy Director of Preservation/LPC

EXHIBIT I

Plans

# Exhibit I

## Plans

Order of Plan Segments:

6	4	2			
5	3	1	<table border="1"><tr><td>Title</td></tr><tr><td>No.</td></tr></table>	Title	No.
Title					
No.					





STREET FRONTAGE BEYOND 50 FEET FROM THE INTERSECTION OF A WIDE STREET, AT LEAST 70 FEET. STREET WALL SHALL BE LOCATED WITHIN EIGHT FEET OF THE STREETLINE AND SHALL EXTEND TO AT LEAST THE HEIGHT OF THE BUILDING, WHICHEVER IS LESS. FOR ZONING LOTS BOUNDED BY MORE THAN ONE STREET, STREET WALLS ARE MANDATORY ALONG ONLY ONE STREET LINE	17TH STREET FRONTAGE COMPLIES WITH THE STREETWALL PROVISION.
17TH STREET, ZR 23-692	17TH STREET NEW BUILDING BUILDING HEIGHT = 166' 18TH STREET NEW BUILDING BUILDING HEIGHT = 170'
17TH STREET & 18TH STREET 17TH STREET & 150'0" (DUE TO ADJACENT BLDG) 18TH STREET 150'0" = 15'0" FOR BOTH 17TH STREET & 18TH STREET	17TH STREET NEW BUILDING BASE HEIGHT = 166' 18TH STREET NEW BUILDING BASE HEIGHT = 170' NO SETBACK PROVIDED AT BASE HEIGHT
MINIMUM BASE HEIGHT PROVISIONS SHALL NOT APPLY ALONG ANY STREET FRONTAGE OF A ZONING LOT UNLESS ALL HEIGHTS OR WIDTHS SHALL REMAIN UNALTERED	18TH STREET (EXISTING BUILDINGS ONLY): STREET WALL UNALTERED BASE HEIGHT UNALTERED
COMMERCIAL USES ON A THROUGH LOT	THREE STORY (33 FEET HIGH) PORTION FOR COMMERCIAL USE
STREETS LESS THAN 45 FEET IN WIDTH SHALL NOT BE PERMITTED ABOVE THE FOLLOWING HEIGHTS; A STREET ON WHICH SUCH STREET WALLS FRONT (60') OR 100 FEET, WHICHEVER IS LESS. HEIGHT	18TH STREET BUILDING HEIGHT = 170'
MINIMUM SETBACK BETWEEN THE PORTION OF A BUILDING CONTAINING RESIDENCES AND ANY OTHER BUILDING ON THE LOT SHALL BE THE VALUES IN THIS SECTION. WINDOW TO WINDOW CONDITION FOR BUILDINGS > 50 FT TALL:	50 FT DISTANCE BETWEEN BUILDINGS

PERMITTED ONLY FOR DEVELOPMENTS OR ENLARGEMENTS CONTAINING RESIDENTIAL USE AS PERMITTED BY THE ZONING ORDINANCE. AND ITS PROLONGATIONS, THE NUMBER OF ACCESSORY OFF-STREET PARKING SPACES SHALL NOT EXCEED THE NUMBER OF DWELLING UNITS CONTAINED IN THE DEVELOPMENT OR 200 SPACES, WHICHEVER IS LESS. 4 SPACES PERMITTED	13 SPACES PROPOSED
PERMITTED FOR NON-RESIDENTIAL USES AS FOLLOWS: COMMERCIAL USES LISTED IN GROUP 6, THE MAXIMUM NUMBER OF ACCESSORY OFF-STREET PARKING SPACES PER 4,000 SF OF FLOOR AREA, OR 10 SPACES, WHICHEVER IS LESS. 4 SPACES < 10 MAX. 4 SPACES PERMITTED	4 SPACES PROPOSED
COMMERCIAL	17 TOTAL SPACES
STREET. CURB CUTS ARE PERMITTED ALONG NARROW STREETS PROVIDED THAT NO ZONING LOT EXCEEDS 100 FEET OF NARROW STREET FRONTAGE	1 EXISTING CURB CUT TO REMAIN ON WEST 17TH STREET (NARROW STREET); 1 EXISTING CURB CUT TO BE REMOVED ON WEST 18TH STREET. EXISTING CURB CUT ON WEST 17TH STREET REDUCED TO 10'-6"
PER 2 DWELLING UNITS, 66 DWELLING UNITS X .5 = 33 BICYCLE PARKING SPACES REQUIRED PER 10,000 SQUARE FEET, 50,734 SF U.G. 6 = 6 BICYCLE PARKING SPACES REQUIRED	39 TOTAL BICYCLE SPACES PROPOSED

PLANTED, SHALL BE PROVIDED FOR EVERY 25 FEET OF STREET FRONTAGE OF THE ZONING LOT.	1 NEW TREE PROPOSED ON SITE AND 5 TREES TO BE PLANTED AT ALTERNATIVE LOCATIONS
SHALL BE PROVIDED FOR CHANGES OR ENLARGEMENTS OF COMMERCIAL USES GREATER THAN 10,000 SF.	COMMERCIAL ENLARGEMENT = 16,179 SF. NO OFF-STREET LOADING BERTHS PROVIDED

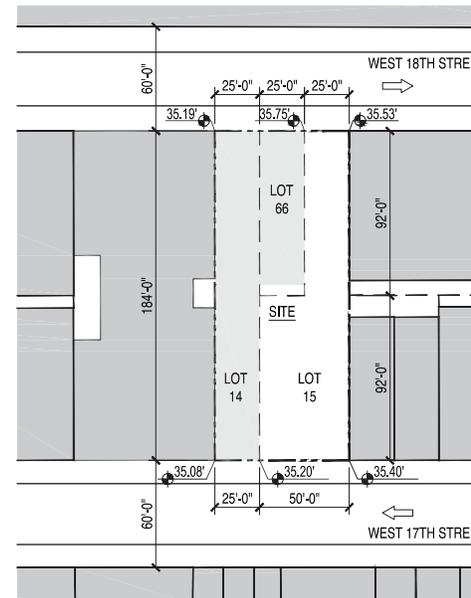
MINIMUM HEIGHT IN ZR SECTIONS 35-24 AND 23-633 MINIMUM HEIGHT IN ZR SECTION 23-663 MINIMUM HEIGHT IN ZR SECTION 23-44 MINIMUM HEIGHT PURSUANT TO ZR SECTION 23-692 MINIMUM SETBACK BETWEEN WINDOWS ON A ZONING LOT	
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EXISTING ZONING FLOOR AREA <sup>1</sup>						PROPOSED ZONING FLOOR AREA		
AREA BY USE			BUILDING SUB TOTAL	AREA BY USE				
RESIDENTIAL (UG 2)	COMMERCIAL (UG 6)			RESIDENTIAL (UG 2)	COMMERCIAL (UG 6)	BUILDING SUB TOTAL		
0 sf	26,534 sf	26,534 sf	0 sf	26,534 sf	26,534 sf			
0 sf	39 sf	39 sf	68,097 sf	15,926 sf	84,024 sf			
0 sf	7,982 sf	7,982 sf	0 sf	8,274 sf	8,274 sf			
0 sf	34,555 sf	34,555 sf	68,097 sf	50,734 sf	118,831 sf			

GROSS FLOOR AREAS CALCULATED USING SURVEY BY ROGUSKI DATED AUGUST 12, 2014.  
EXISTING BUILDINGS ASSUMES 2% MECHANICAL DEDUCTION.

PROPOSED ZONING, ZFA ASSUMES 3% MECHANICAL DEDUCTION TO GROSS FLOOR AREA  
EXISTING BUILDINGS ENLARGEMENT, ENLARGEMENT ASSUMES 2% MECHANICAL DEDUCTION TO GFA

**BASE PLANE CALCULATION**



	<b>PROPOSED</b>
	USE GROUPS 2 & 6
<p>EXISTING = 138,000 SF PROPOSED = 138,000 SF</p> <p>138,000 SF x .7 = 9,660 SF</p> <p>MAXIMUM NUMBER OF DWELLING UNITS OR ROOMING UNITS SHALL EQUAL THE MAXIMUM RESIDENTIAL UNITS ALLOWED DIVIDED BY THE APPLICABLE FACTOR IN THE FOLLOWING TABLE.</p> <p>ALLOWABLE DWELLINGS = 203</p> <p>50'-0", MIDWAY (OR WITHIN 10' OF BEING MIDWAY) BETWEEN THE TWO STREET LINES UPON</p>	<p>TOTAL: 118,831 SF (8.61 F.A.R.) RESIDENTIAL: 68,097 SF (4.93 F.A.R.) COMMERCIAL: 50,734 SF (3.68 F.A.R.)</p> <p>38% (5,188 SF)</p> <p>PROPOSED NUMBER OF DWELLING UNITS = 66</p> <p>50'-0"</p> <p>17TH STREET FRONTAGE BEYOND 50 FEET FROM THE INTERSECTION OF A WIDE STREET, AT LEAST 70 FEET FROM THE STREETWALL SHALL BE LOCATED WITHIN EIGHT FEET OF THE STREETLINE AND SHALL EXTEND TO AT LEAST THE HEIGHT OF THE BUILDING, WHICHEVER IS LESS. FOR ZONING LOTS BOUNDED BY MORE THAN ONE STREET</p>
	17TH STREET FRONTAGE COMPLIES WITH THE STREETWALL PROVISION.

	THROUGH LOT	WHICH SUCH THROUGH LOT FRONTS
ZR 35-651	HEIGHT & SETBACK REGULATIONS FOR QUALITY HOUSING BUILDINGS (STREET WALL LOCATION)	FOR ZONING LOTS WITH ONLY NARROW STREET FRONTS PERCENT OF THE AGGREGATE WIDTH OF STREETWALL SHALL BE AT LEAST THE MINIMUM BASE HEIGHT OR THE HEIGHT OF THE STREETLINE, THESE STREETWALL PROVISIONS ARE MANDATORY
ZR 35-652 ZR 23-662	MAXIMUM HEIGHT OF BUILDINGS AND SETBACK REGULATIONS	MAXIMUM BUILDING HEIGHT = 185' FOR 17TH STREET, NOT APPLICABLE FOR 18TH STREET DUE TO ZR 23-692
ZR 35-652 ZR 23-662(a) ZR 35-655(f)(2) ZR 23-662(c)	SETBACK REGULATIONS IN CERTAIN DISTRICTS (SETBACK REGULATIONS)	MINIMUM BASE HEIGHT = 60'0" FOR BOTH 17TH STREET & 18TH STREET MAXIMUM BASE HEIGHT = 125'0" FOR 17TH STREET & 18TH STREET FRONT SETBACK AT MAXIMUM BASE HEIGHT = 15'0" FOR 17TH STREET & 18TH STREET
ZR 35-655(c)	HEIGHT & SETBACK REGULATIONS IN CERTAIN DISTRICTS (ADDITIONAL REGULATIONS)	THE STREET WALL LOCATION AND MINIMUM BASE HEIGHT SHALL BE AS SHOWN ON THE MAP OCCUPIED BY BUILDINGS WHOSE STREET WALL HEIGHTS EXCEED 185 FEET
ZR 33-281	SPECIAL PROVISIONS FOR THROUGH LOTS / EXCEPTED DISTRICTS	NO REAR YARD REQUIRED FOR COMMERCIAL USES ON THROUGH LOTS
ZR 23-692	HEIGHT LIMITATIONS FOR NARROW BUILDINGS AND ENLARGEMENTS	PORTIONS OF BUILDINGS WITH STREETWALLS LESS THAN 45 FEET IN WIDTH SHALL HAVE A HEIGHT EQUAL TO THE WIDTH OF THE STREET ON WHICH THEY ARE LOCATED. LIMITATION = 60'
ZR 23-711	STANDARD MINIMUM DISTANCE BETWEEN BUILDINGS	THE REQUIRED MINIMUM DISTANCE BETWEEN THE PORTIONS OF BUILDINGS ON THE SAME ZONING LOT SHALL NOT BE LESS THAN THE VALUE SHOWN ON THE MAP. 60 FT

**ACCESSORY OFF-STREET PARKING AND BICYCLE REGULATIONS**

ZR 13-11	PERMITTED PARKING FOR RESIDENCES	ACCESSORY OFF-STREET PARKING SPACES ARE PERMITTED AS FOLLOWS: (a) FOR THE AREA SOUTH OF 60TH STREET AND ITS PRODUCTIONS, 13 SPACES PER 1,000 SF OF NEW DWELLING UNITS (b) FOR DEVELOPMENTS COMPRISING COMMERCIAL USES, 13 SPACES PER 10,000 SF OF NEW COMMERCIAL SF 66 DWELLINGS X 0.20 = 13.2, 13 SPACES PERMITTED
ZR 13-12	PERMITTED PARKING FOR NON-RESIDENTIAL USES	ACCESSORY OFF-STREET PARKING SPACES ARE PERMITTED AS FOLLOWS: (c) FOR DEVELOPMENTS COMPRISING COMMERCIAL USES, 13 SPACES PER 10,000 SF OF NEW COMMERCIAL SF (d) FOR DEVELOPMENTS COMPRISING RESIDENTIAL USES, 13 SPACES PER 10,000 SF OF NEW RESIDENTIAL SF SPACES PERMITTED SHALL NOT EXCEED 1 SPACE PER 4,000 SF OF NEW COMMERCIAL SF / 4,000 SF = 4 SPACES < 13 SPACES PERMITTED 16,179 SF NEW COMMERCIAL SF / 4000 SF = 4 SPACES < 13 SPACES PERMITTED 13 SPACES RESIDENTIAL + 4 SPACES COMMERCIAL
ZR 13-11, ZR 13-12	TOTAL PROPOSED PARKING SPACES	13 SPACES RESIDENTIAL + 4 SPACES COMMERCIAL
ZR 13-241	CURB CUT LOCATIONS	NO CURB CUTS ARE PERMITTED ON WIDE STREET. CURB CUTS ARE PERMITTED ON NARROW STREET. CURB CUTS SHALL NOT BE PERMITTED ON ANY NARROW STREET THAT HAS MORE THAN ONE CURB CUT ON ANY NARROW STREET
ZR 13-242	CURB CUT WIDTH	MAXIMUM CURB CUT = 22'-0"
ZR 36-711	ENCLOSED BICYCLE PARKING SPACES	USE GROUP 2 = 1 BICYCLE PARKING SPACE PER 2 DWELLING UNITS USE GROUP 6 = 1 BICYCLE PARKING SPACE PER 10,000 SF OF COMMERCIAL SPACE

**SPECIAL URBAN DESIGN GUIDELINES**

ZR 26-41	STREET TREE PLANTING	ONE STREET TREE, PRE-EXISTING OR NEWLY PLANTED, SHALL BE REQUIRED PER 150'-0" OF STREET FRONTAGE. 6 TREES REQUIRED (150'-0" / 25'-0" = 6)
ZR 36-62	REQUIRED OFF-STREET LOADING BERTHS	ACCESSORY OFF-STREET LOADING BERTHS SHALL BE PROVIDED AT A MINIMUM OF 25,000 SF.

**CPC WAIVERS REQUESTED**

- LOCATION OF A BUILDING NOT IN COMPLIANCE WITH THE APPLICABLE BASE AND SETBACK REGULATIONS SET FORTH IN ZR SECTION 23-651
- LOCATION OF A BUILDING NOT IN COMPLIANCE WITH THE APPLICABLE REAR SETBACK REGULATIONS SET FORTH IN ZR SECTION 23-652
- REAR YARD THAT DOES NOT COMPLY WITH ZR SECTION 23-532 DUE TO OBSTRUCTIONS THAT DO NOT COMPLY WITH ZR SECTION 23-532
- PORTION OF THE BUILDING WITH A STREET FRONTAGE OF LESS THAN 45 FEET IN WIDTH TO EXCEED PERMITTED MAXIMUM HEIGHT
- LOCATION OF BUILDING PORTIONS THAT DO NOT COMPLY WITH ZR SECTION 23-711 REGARDING MINIMUM DISTANCE BETWEEN BUILDINGS





LEGEND	
	RESIDENTIAL ENTRANCE
	COMMERCIAL ENTRANCE
	PARKING ENTRANCE
	CURB CUT
	NEW STREET TREE
	EXISTING STREET TREE
	ZONING LOT BOUNDARY
	TAX LOT BOUNDARY
	ZONING LOTS, EXISTING BUILDING
	ZONING LOT, NEW CONSTRUCTION
	EXISTING BUILDINGS

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# ADORAMA

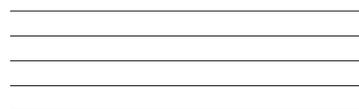
41-43 W.17th St &  
38-42 W.18th St  
New York, NY 10011

Manhattan  
Block 819  
Lots 14, 15, 66  
ULURP: P2014M0114



Morris Adjmi Architects  
[www.ma.com](http://www.ma.com)

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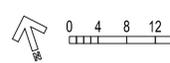
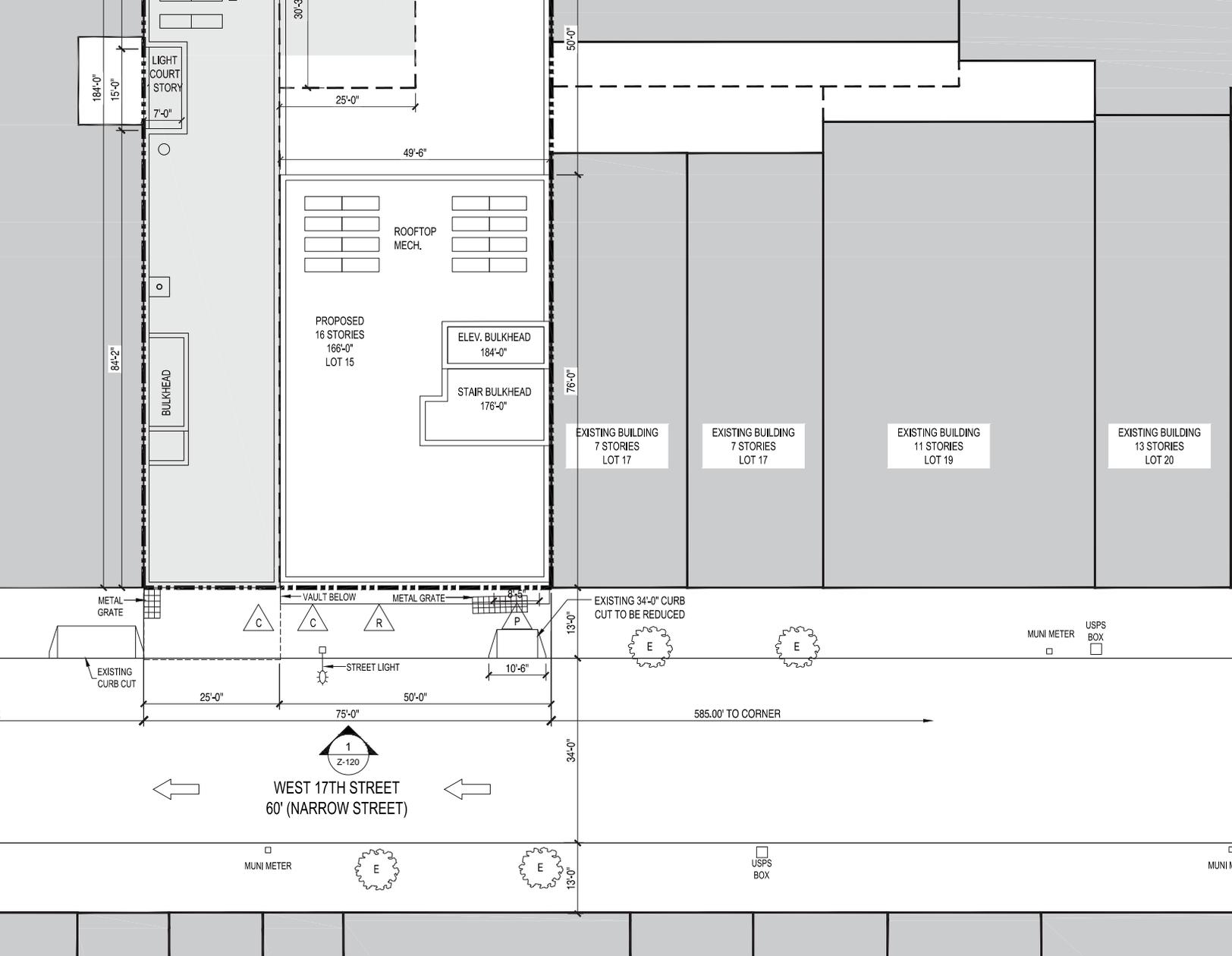
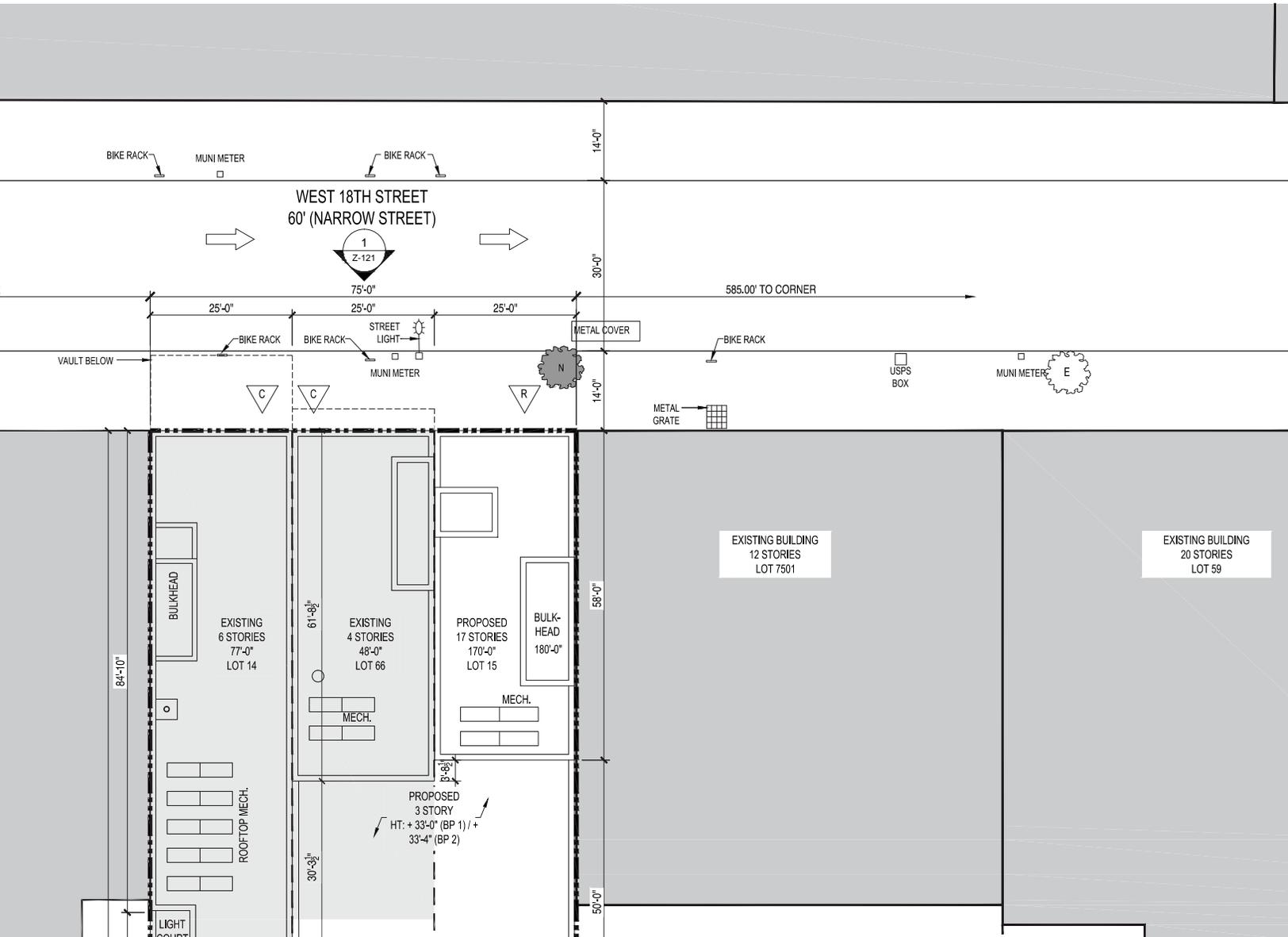
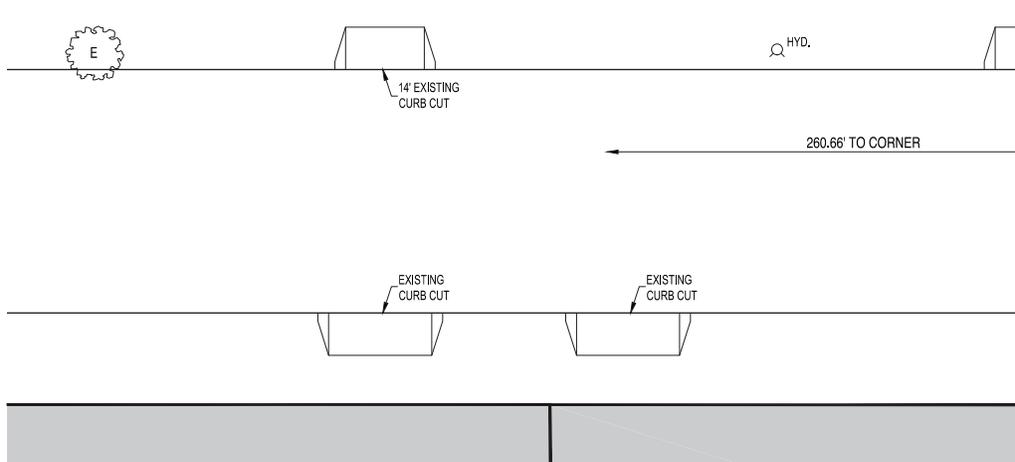
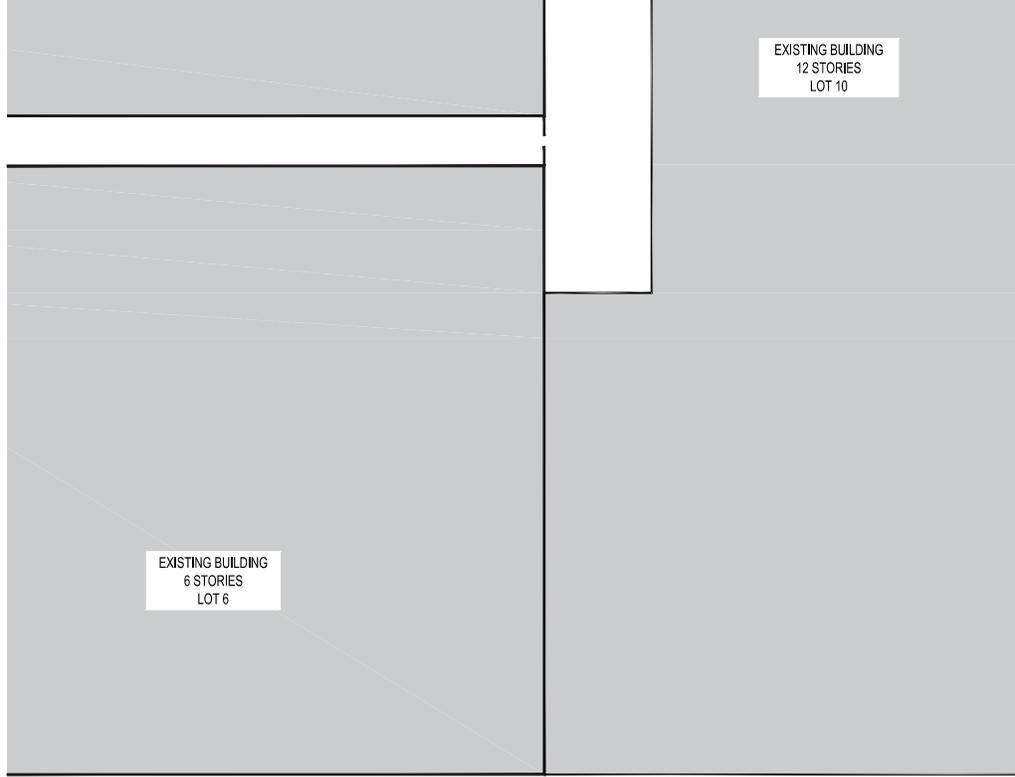


Exhibit I  
 Z-100  
 Page 4 of 6



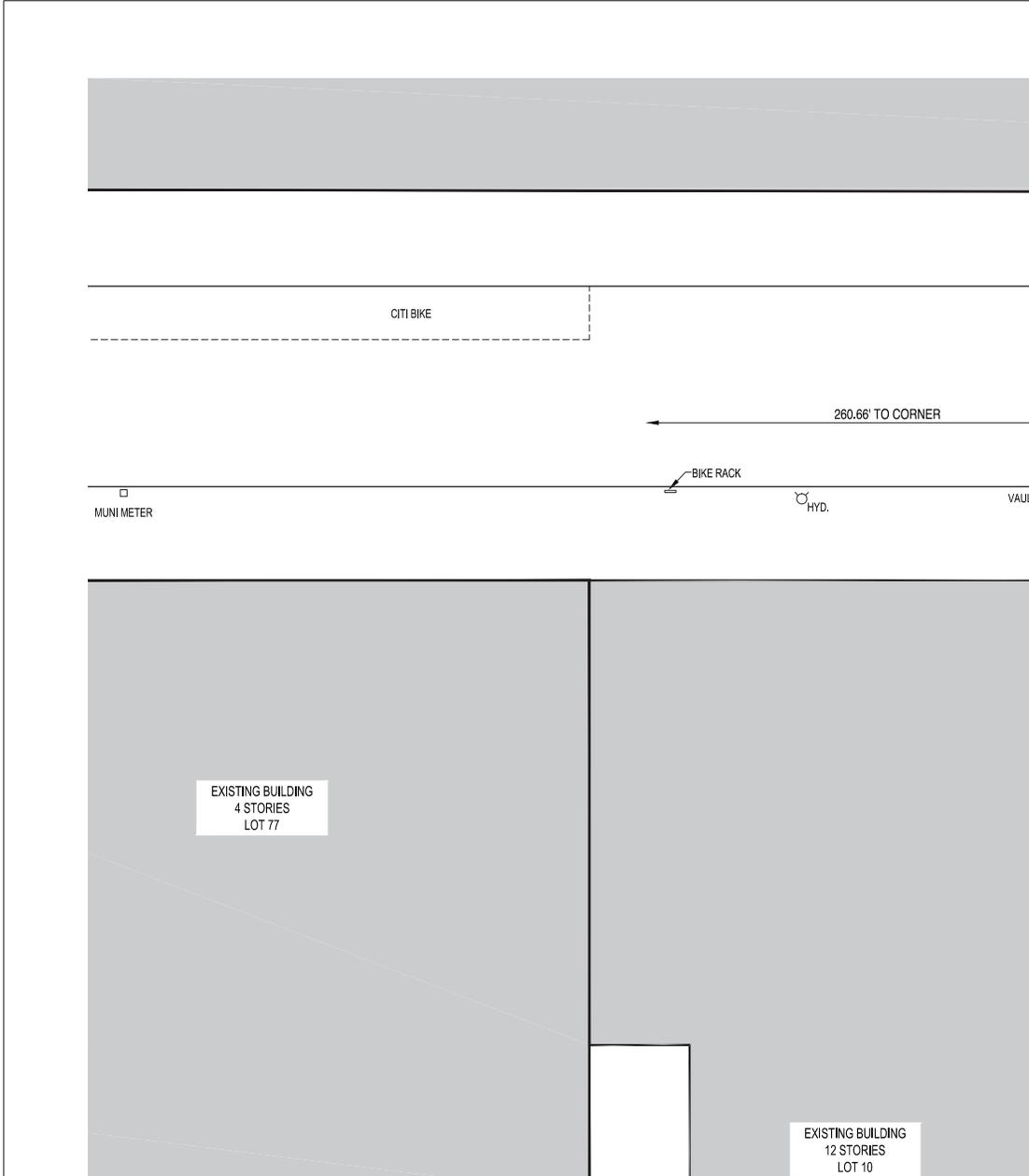


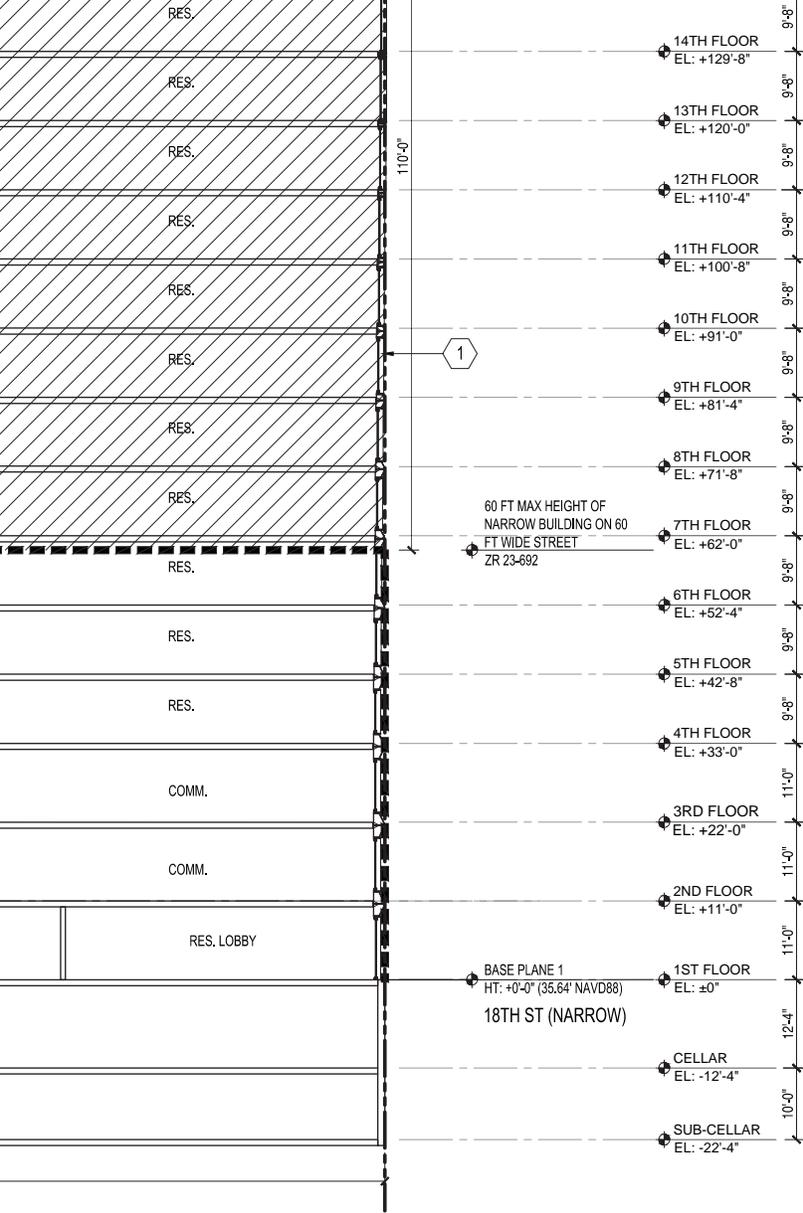
1 SITE PLAN  
1/16" = 1'-0"

Exhibit I

Z-100

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REVISION FOR DCP 06/21/2016

REVISION	ISSUE	REMARKS
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## ULURP SUBMISSION

**OWNER:**  
42 WEST 18TH REALTY CORP.  
42 WEST 18TH STREET, 4TH FLOOR  
BROOKLYN, NY 11218  
PHONE: 212-727-7495

**ARCHITECT:**  
MORRIS ADJMI ARCHITECTS  
45 EAST 20TH STREET  
NEW YORK, NY 10003  
PHONE: 212-982-2020

**ENVIRONMENTAL CONSULTANT:**  
PHILIP HABIB & ASSOCIATES  
102 MADISON AVE. #11  
NEW YORK, NY 10016  
PHONE: 212-929-5656

**LANDMARKS CONSULTANT:**  
HIGGINS QUASEBARTH & PARTNERS  
11 HANOVER SQUARE, 16TH FLOOR  
NEW YORK, NY 10005  
PHONE: (212) 274-9468  
FAX: 212-274-9380



DATE 09/17/2015

SCALE AS NOTED

## BULK WAIVER PLAN AND SECTION

# Z-140

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SHEET 12 OF 15

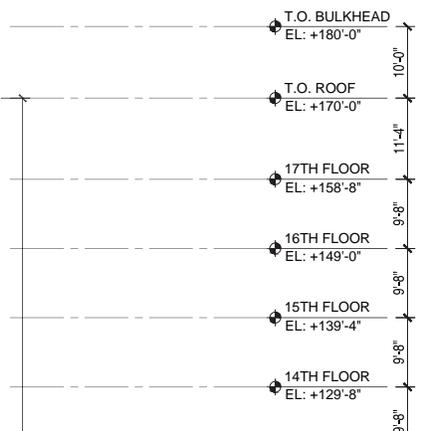
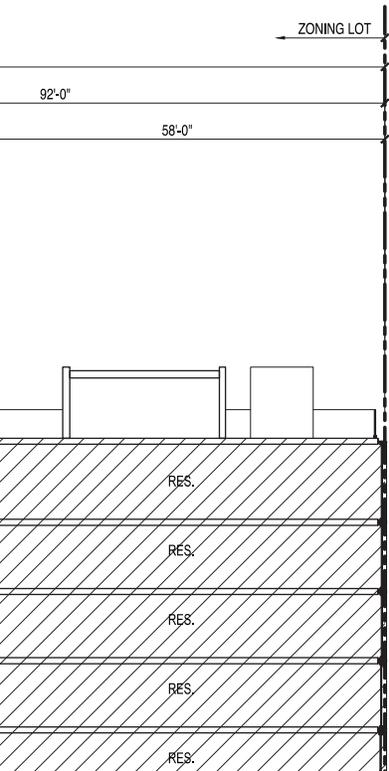
MA PROJECT # 1302

**LEGEND**

-  OUTLINE OF MAXIMUM ZONING ENVELOPE
-  ZONING LOT BOUNDARY
-  TAX LOT BOUNDARY
-  EXISTING BUILDING
-  NEW CONSTRUCTION

**WAIVERS REQUESTED**

-   FOR 17TH STREET BUILDING, LOCATION OF A BUILDING NOT IN COMPLIANCE WITH THE APPLICABLE BASE AND SETBACK REGULATIONS SET FORTH IN ZR SECTIONS 35-23 AND 23-662
-  NOT REQUIRED AS PER ZQA REGULATIONS
-   REAR YARD THAT DOES NOT COMPLY WITH ZR SECTION 23-533 DUE TO OBSTRUCTIONS THAT DO NOT COMPLY WITH ZR SECTION 23-44
-   LOCATION OF BUILDING PORTIONS THAT DO NOT COMPLY WITH ZR SECTION 23-711 REGARDING MINIMUM DISTANCE BETWEEN WINDOWS ON A ZONING LOT

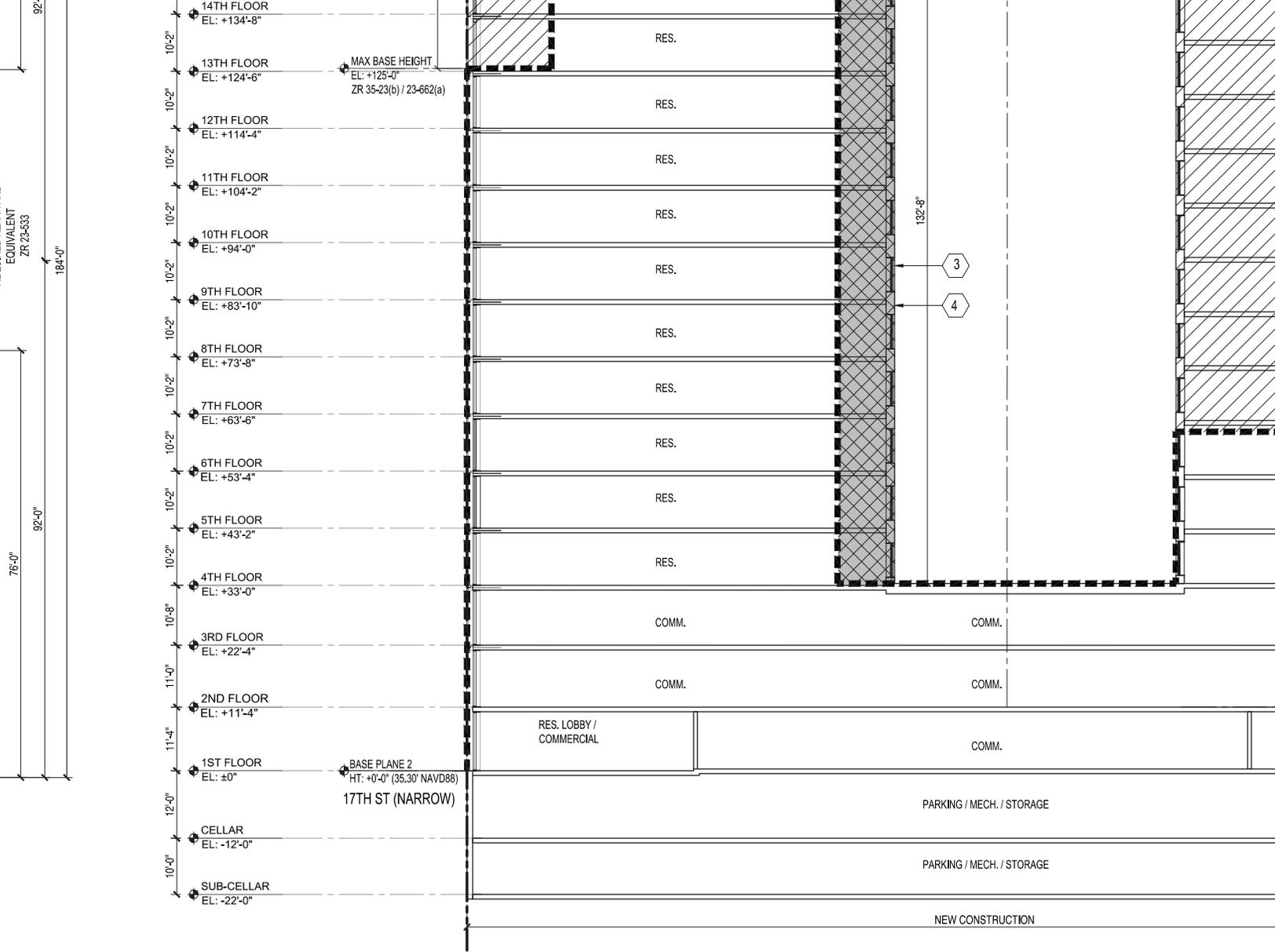


# ADORAMA

41-43 W.17th St &  
 38-42 W.18th St  
 New York, NY 10011

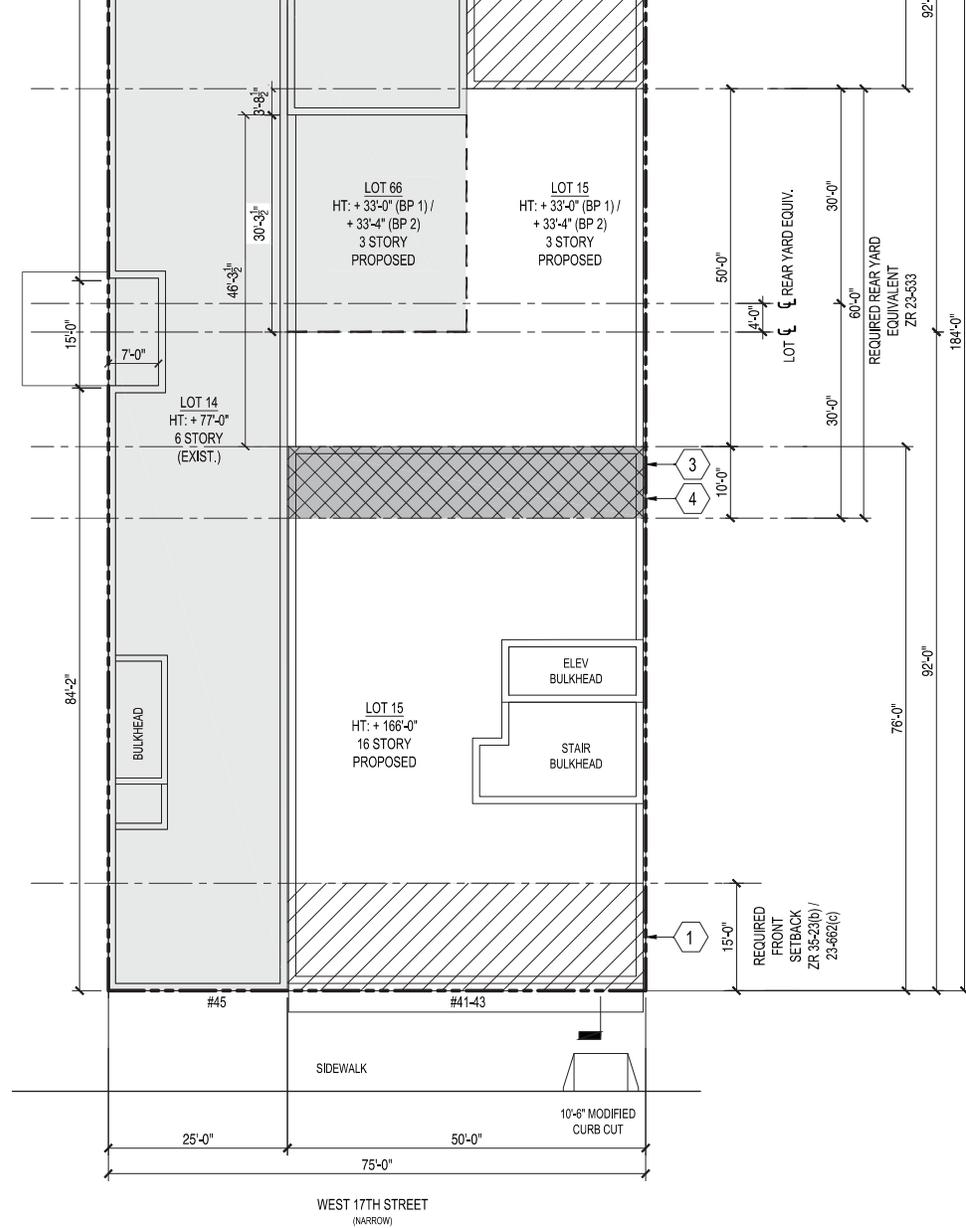
Manhattan  
 Block 819  
 Lots 14, 15, 66  
 ULURP: P2014M0114

 Morris Adjmi Architects  
[www.ma.com](http://www.ma.com)



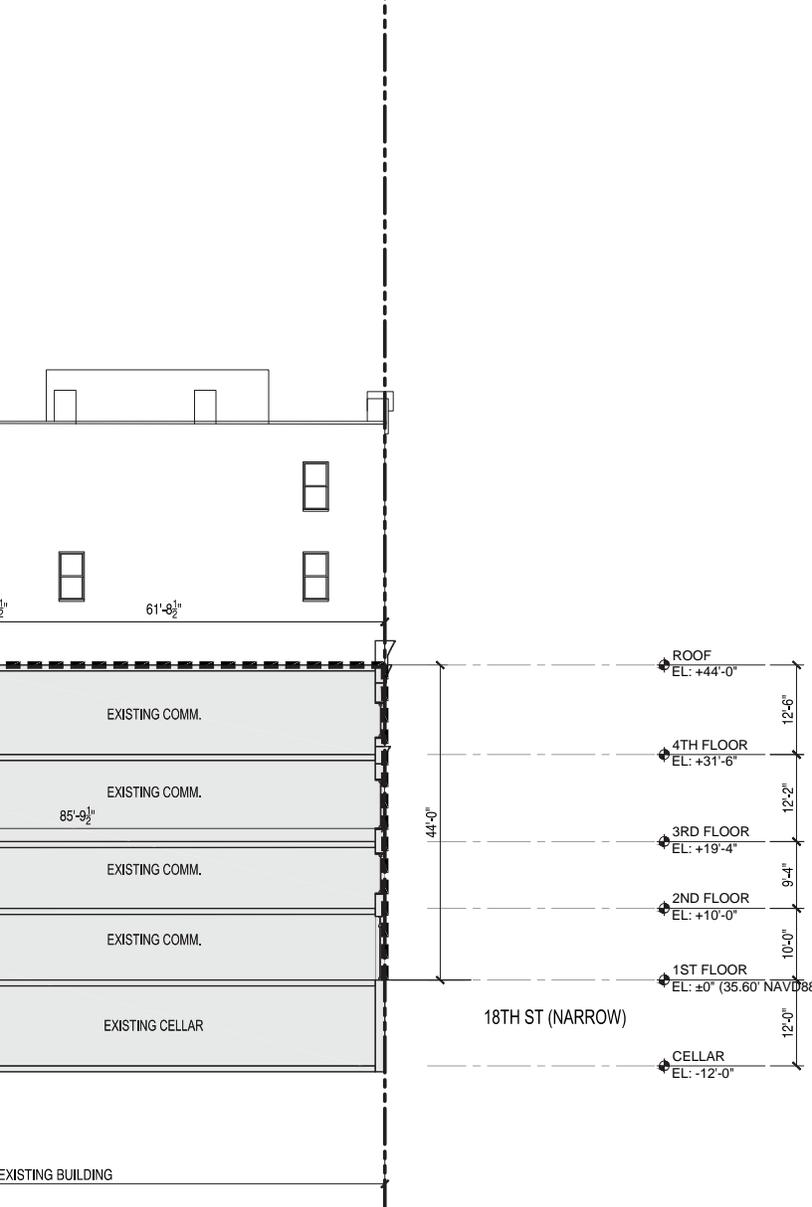
**1 BULK WAIVER SECTION**  
 1/16" = 1'-0"





**2 BULK WAIVER ROOF PLAN**  
 1/16" = 1'-0"





REVISION FOR DCP 06/21/2016

REVISION	ISSUE	REMARKS

## ULURP SUBMISSION

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 HIGGINS QUASEBARTH & PARTNERS  
 11 HANOVER SQUARE, 16TH FLOOR  
 NEW YORK, NY 10005  
 PHONE: (212) 274-9468  
 FAX: 212-274-9380



DATE 09/17/2015

SCALE AS NOTED

## BULK WAIVER SECTION

# Z-141

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SHEET 13 OF 15

MA PROJECT # 1302

**LEGEND**

-  OUTLINE OF MAXIMUM ZONING ENVELOPE
-  ZONING LOT BOUNDARY
-  TAX LOT BOUNDARY
-  EXISTING BUILDING
-  NEW CONSTRUCTION

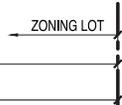
**WAIVERS REQUESTED**

- 

 FOR 17TH STREET BUILDING, LOCATION OF A BUILDING NOT IN COMPLIANCE WITH THE APPLICABLE BASE AND SETBACK REGULATIONS SET FORTH IN ZR SECTIONS 35-23 AND 23-662
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- 

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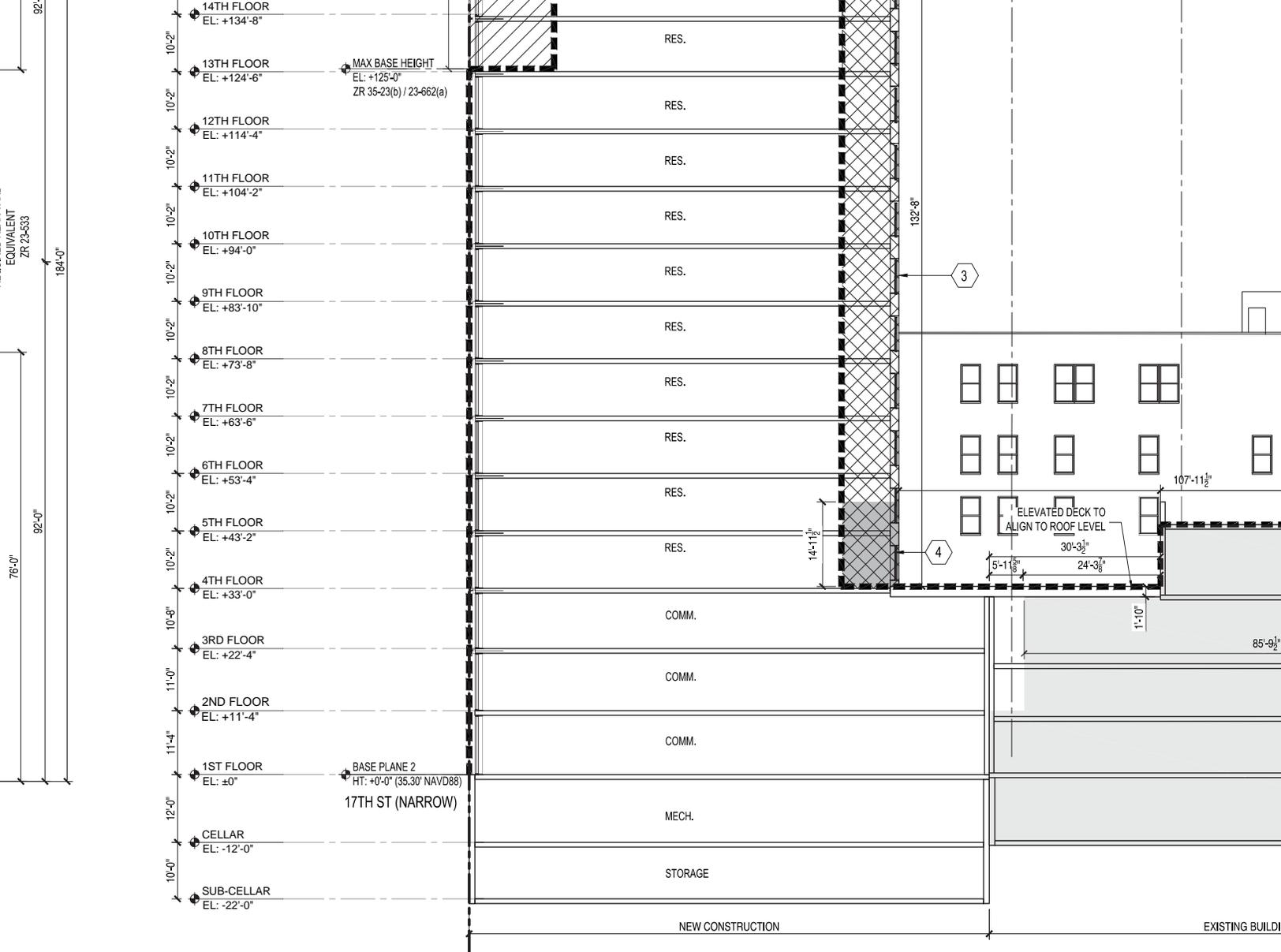
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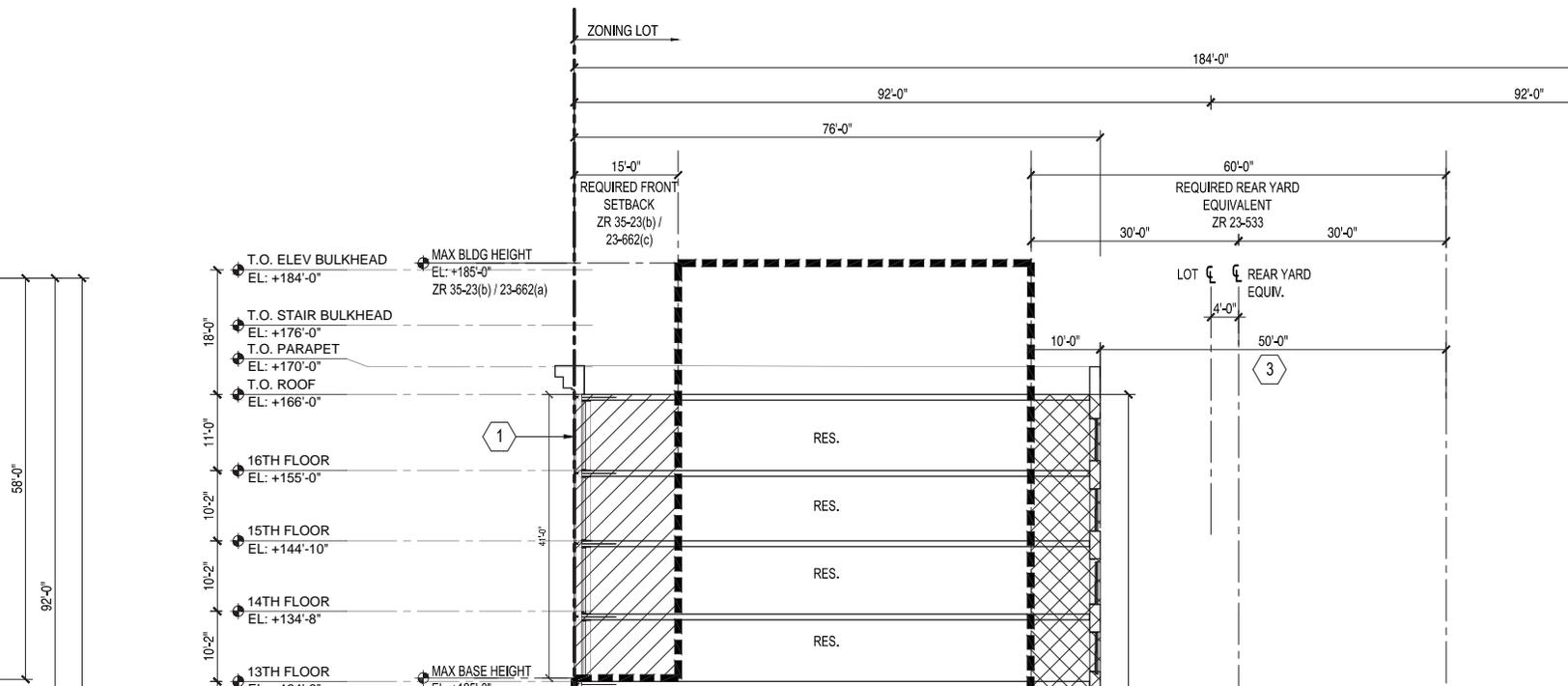


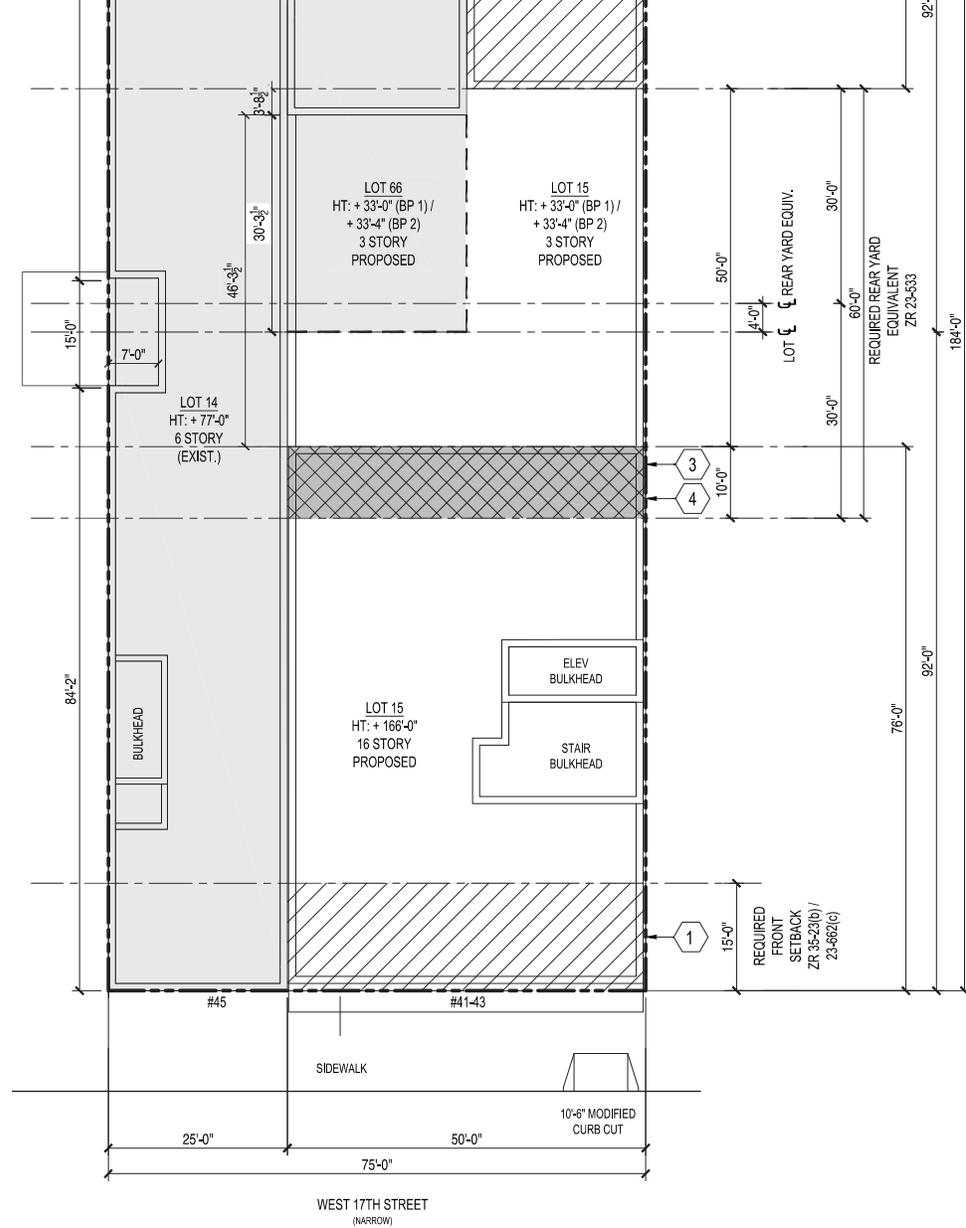
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**1 BULK WAIVER SECTION**  
1/16" = 1'-0"

Exhibit I  
 Z-141  
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**2 BULK WAIVER ROOF PLAN**  
1/16" = 1'-0"

