

**Anita Rubin**  
**15 West 55<sup>th</sup> Street, New York, NY 10019**

October 6, 2009

Tony Avella, Chairman and Council Members  
City Council Subcommittee on Zoning and Franchises  
250 Broadway, New York, NY 10007

Please do not approve the Moma-Hines special permit requests which would allow the developer to erect an inappropriately high skyscraper on a narrow city block and in a sliver-based footprint. The <sup>82</sup>75 story building is 3 times the size of the MOMA-Hines 25 story proposal made in March 2007. At 1,050 feet the building is near double the height of any of the other existing buildings in the neighborhood. Certainly it is discordant with the late 19<sup>th</sup> and early 20<sup>th</sup> century low story buildings, many of which have landmark status, on West 54<sup>th</sup> Street as well as others located on the surrounding blocks.

It is equivalent and even higher in elevation than the Chrysler Building. Undoubtedly the developer is interested in displacing the status of this iconic building.

The MOMA-Hines project has asked this committee for not one but several special permits all of which, if granted, will negate and override existing laws which have been put into effect to protect the integrity of neighborhoods, limit congestion levels and preserve the precious remaining light and sky of Midtown Manhattan.

Ostensibly, granting these special permits would support a legal fiction.

Allowing 411,000 square feet of air rights to be transferred from the University Club and St. Thomas Church situated on Fifth Avenue to the site which although close to 6<sup>th</sup> Avenue, is still located between West 53<sup>rd</sup> and West 54<sup>th</sup> Street, would be unconscionable.

In fact the Hines application to this committee lists the development at 53 West 53<sup>rd</sup> Street – NOT 6<sup>th</sup> Avenue. In reality, the project is a mid-block location. And so this is a legal fiction which must be so considered.

It would dwarf its neighbor buildings and doom others to shadow and darkness. It would send a clear message that the money and power of MOMA-Hines are more important than the current zoning laws. It sets a precedent for future developers to ask for unreasonable special permits. Haven't we seen and experienced enough GREED?

The design of the MOMA-Hines building sadly disregards standards of set-backs and public spaces. This monstrous size building abuts and juts to the sidewalk. It is not designed with setbacks, outdoor public seating or open-to-the-public ground floor facilities which so many other midtown projects have wisely incorporated into their design.

At the very least this City Council Subcommittee should insist that the project be

- Cut back so that it is no taller than any other building in the area, approximately 40 stories.
- Have considerable, open to the public, park-like setbacks on both West 53<sup>rd</sup> and West 54<sup>th</sup> Streets
- Provide for indoor deliveries with internal drive-in and drive-out underground loading docks.
- Contain extensive indoor parking facilities.

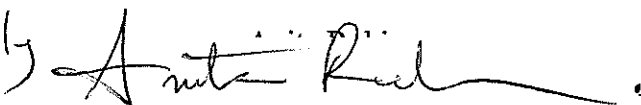
Don't allow MOMA-HINES to disregard the interests of the public.

I appeal to the common sense and integrity of this committee.

Please vote to protect the interests of those us who live, work and visit Midtown Manhattan.

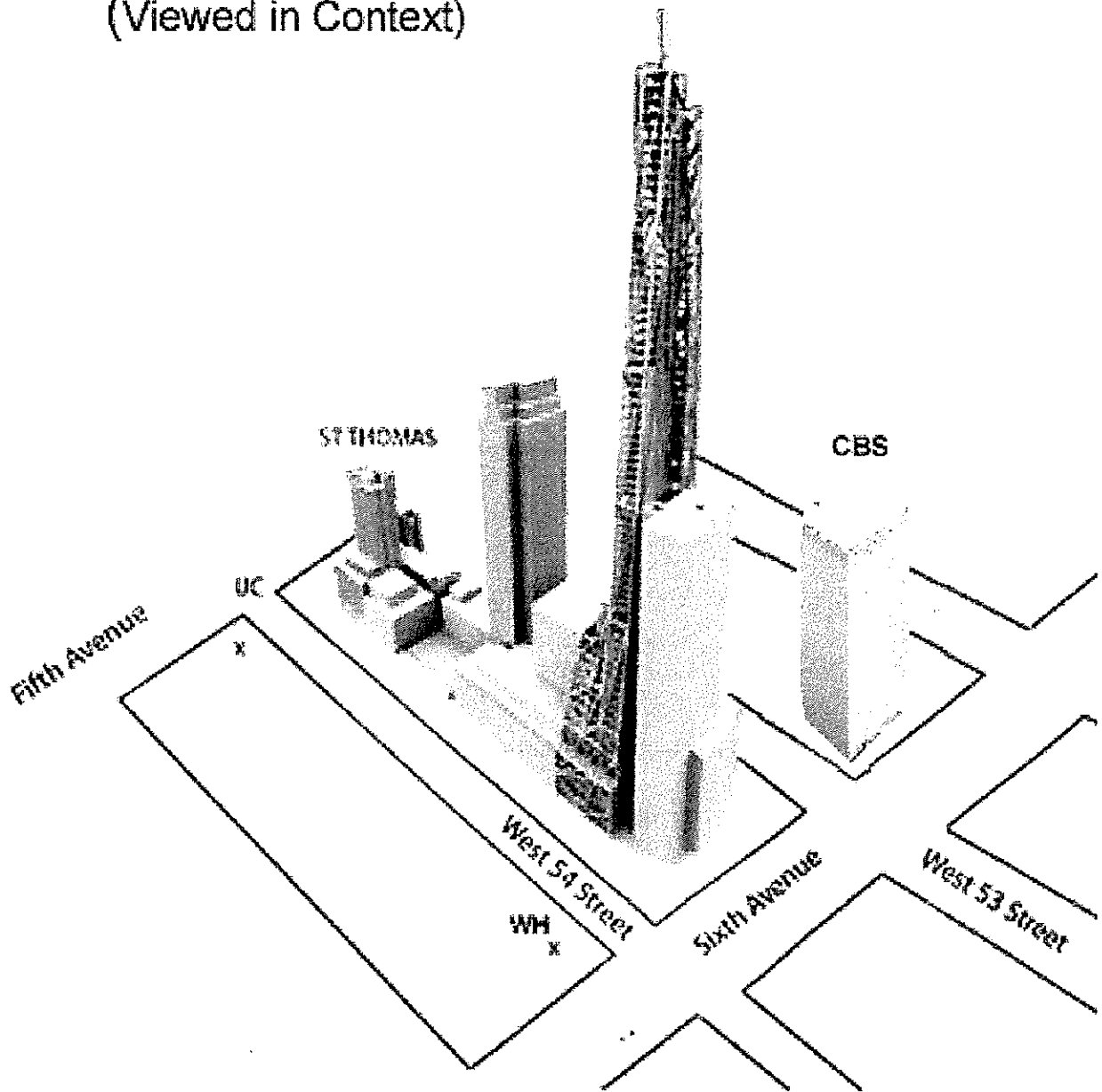
**Vote NO to this MOMA-HINES project.**

Thank you for your thoughtful consideration,

Sincerely,  


# Hines Tower

(Viewed in Context)



HINES TOWER REDUCED TO 1,050 FEET

# AIA New York Chapter

The Founding Chapter of The American Institute of Architects



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## Testimony before the New York City Council Subcommittee on Zoning and Franchises regarding 53 West 53<sup>rd</sup> Street/MoMA, October 6, 2009

On behalf of the New York Chapter of the American Institute of Architects and our 4,300 architect and public members, we are here today to express our support of the tower designed by Ateliers Jean Nouvel for the Museum of Modern Art on 53<sup>rd</sup> Street.

Through the maintenance agreement for the two landmark buildings in exchange for development rights, the developer and MoMA will enter a beneficial partnership unique in the city. The museum will gain a generous amount of new gallery space and generate revenue through the sale of the new residential units, while the landmark buildings will be assured funding for the continued restoration and repairs of their historic structures. New York gains architecturally in two ways: by more extensive landmark restoration than might have been undertaken in this challenging economic climate, and from having an example of Jean Nouvel's work so prominently displayed in the skyline.

The law allows transfer of development rights because every square foot of space in New York, including space above ground, is immensely valuable. The fact that the two buildings that are transferring rights are on the avenue is significant. If not landmarks, there would be pressure on them to be rebuilt much higher than their current form. The airspace not utilized by these buildings makes that part of the block relatively low-rise, and therefore the remainder of the block can theoretically sustain more mass.

Despite this fact, the tower is mid-block, and concerns have been expressed about the proposed height of the building. We feel that the design and materials are "light" enough that the height is not oppressive, and the tower culminates in an elegantly shaped spire and does "relate harmoniously" to the landmark buildings on the end of the block.

Since AIA New York last reviewed this project and asked for more information about how the building addresses the street, the design has been further developed. The ground floor now has more transparency, and the formerly blank facades of the lower floors are enlivened with faceted surfaces that will reflect back the activity of the street. In addition, the entry to residential tower has been moved to 54<sup>th</sup> Street, as a gesture to engage the street, provide more pedestrian activity, and give 54<sup>th</sup> a more comparable stature to that of 53<sup>rd</sup> Street.

We urge the Council to approve this application.

Sincerely yours,

Handwritten signature of Sherida Paulsen in black ink.

Sherida Paulsen, FAIA  
2009 Chapter President

Handwritten signature of Fredric Bell in black ink.

Fredric Bell, FAIA  
Executive Director

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## **FOR THE RECORD**

### **TESTIMONY OF THE REAL ESTATE BOARD OF NEW YORK, INC. BEFORE THE CITY COUNCIL IN SUPPORT OF AN APPLICATION RELATING TO 53 WEST 53<sup>rd</sup> STREET**

October 6, 2009

The Real Estate Board of New York, Inc. is a broadly based trade association of over 11,000 owners, developers, brokers, managers, and other real estate professionals active throughout New York City. We support the 53 West 53<sup>rd</sup> Street project and zoning applications based on Sections 74-711 and 74-79 of the Zoning Resolution. This proposal would allow the construction of a new mixed use building in Midtown, expansion of important arts space and the continued restoration and maintenance of landmarked buildings, St. Thomas church and the University Club.

The project is a wonderful example of how historic preservation and new development can work together to the benefit of everyone. Landmarks designation brings practical limitations on making enlargements to an existing building, even if the City's zoning regulations allow additional floor area to be built. When such additions and enlargements are proposed, there are sometimes conflicts between the bulk requirements of zoning and preferences of the Landmarks Commission based on landmarks appropriateness. To address these types of matters and to fairly compensate property owners for the effective prohibition of using their development rights on their landmark property, the City enacted these two special permits back in 1960's.

We believe that this application represents a proper and appropriate use of these special permits because they allow two landmarked properties to have an expanded opportunity to utilize their development rights in an area of Midtown which is zoned for high density buildings.

Midtown is certainly a place where we should welcome new creatively designed skyscrapers such as this building by the renowned architect Jean Nouvel. For quite a long time, New Yorkers have expressed a desire to have strong, world-class architecture here. This is an excellent location for this outstanding building and there's no need for any attempts to try to redesign it or reconfigure it. The architecture of new development in New York has



been criticized for lack of originality and creativity. Over the last decade, this has changed as world-renowned architects are designing buildings throughout our city. We now need the courage to accept bold designs that are the result of the call from many communities for better designed buildings.

The 53 West 53<sup>rd</sup> Street building is harmonious and will be an exciting and stunning addition to the area. The requested waivers will have very minimal impacts as compared to as-of-right designs and the proposal has the added benefit of moving bulk away from the midtown preservation zone.

The project will benefit four not-for-profit institutions: MoMA, the American Folk Art Museum, the University Club and St. Thomas church. It will also benefit the city through construction-related and permanent employment and new tax revenue.

The project meets the findings of both zoning special permits and has been approved by the Landmarks Preservation Commission in terms of the maintenance plans and the fact that the proposed new tower will not negatively impact the landmarked buildings. We urge you to approve the project as it was proposed in these applications in light of the many benefits it will bring to Midtown Manhattan and to the city as a whole.

Testimony to: City Council Subcommittee on Zoning and Franchises re: Moma Hines - 10/6/09

My name is David Schneiderman. I am a resident of West 55<sup>th</sup> St. for over 34 years & reside just north of the proposed 75 story Moma Hines tower.

Historically, the area has housed a significantly sized residential community. In fact, my wife & I raised our two sons in this neighborhood. Though over the years there has been commercial growth, there has never been a proposal to erect a monster skyscraper which would dwarf all the nearby buildings, limit light as well as cast serious shadows in the neighborhood & in Central Park.

I am particularly concerned that the enormous size of this edifice will create major safety & health problems & consequences. This will occur when emergency vehicles such as ambulances, fire trucks or police vehicles will have difficulty to transverse the West 53<sup>rd</sup> & 54<sup>th</sup> St. corridor. Their response time will be greatly impeded & delayed for routine & crisis situations. Will anyone in this room or the Moma Hines organization be responsible for the loss of life or destruction by fire that could occur on the block or in the neighborhood due to the lack of a timely response?

Moreover, the current sewer system is inadequate for our neighborhood's population. The arrival of a multi-story behemoth would further complicate & overtax our infrastructure. We should expect stopped up sewers, over flows & health & sanitation hazards.

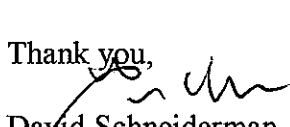
Furthermore, the design of the building is totally out of scale for this mid-block location. West 53<sup>rd</sup> & West 54<sup>th</sup> are cross-town streets with residential apartments, townhouses & many Landmark buildings. They are not major avenues with only commercial tenants which might be a better fit for a tower.

In addition, our public transportation system would suffer. Currently, the subways & buses that serve the area are over-crowded & slow moving. The population increase from this immense structure will further impact, complicate & delay our transportation network. No public transportation provisions are being made for the influx of many thousands of office workers, hotel guests, residents & visitors who would inhabit or visit this gigantic edifice.

The public will gain nothing positive from this misguided real estate venture. I therefore implore the City Council to carefully review the dangerous environmental impact of this project on the midtown area & the City of NY and deny the special permits for zoning lot mergers & air rights transfers.

Additionally all decisions concerning this tower should include something that has not been calculated in the final equation. That is, the impact & interaction of the current ill founded plan to tear down the Donnell Library which is located across the street from MOMA & to erect a multi story hotel on its site. The prospect of having two major construction projects at the same time & the implications of having two new skyscrapers on the exact same block is dangerous & a major blunder for the neighborhood.

Thank you,

  
David Schneiderman  
15 West 55<sup>th</sup> Street  
NY, NY 100

## FOR THE RECORD

### **City Council's Subcommittee on Zoning & Franchises Public Hearing about MoMA/Hines (53 W 53<sup>rd</sup> Street) October 6, 2009, City Hall**

My name is Hugo Hoogenboom; I live at 45 West 54<sup>th</sup> Street, directly across the street from the proposed development. I am president of the board of directors of my building.

I am here to urge you recommend to the City Council (1) that it deny the special permits and (2) that it reduce the size of proposed development by Museum of Modern Art (MoMA) and the Hines Interests. Instead of a 1050-foot-tall behemoth -- the height of the Chrysler Building -- on a mid-block site of less than half an acre at 53 West 53<sup>rd</sup> Street the size should be limited to less than 38 stories, the height of the CBS building.

A powerful array of interests -- including MoMA, Hines, St. Thomas Church, and the University Club -- is behind this development. These interests stand to gain hundreds of millions of dollars and have vastly more influence and financial strength than the citizens of the neighborhood that will be severely impacted by this development. An indication of this disproportionate strength is that the developers seem determined to squeeze the maximum gain out of this development and have offered the community no concessions, ameliorations or benefits.

As ordinary citizens, we have to rely on government to protect us against this exploitation of the preservation provisions of the Zoning Resolution (§74-79 and §74-11) by this alliance of developers and nonprofit organizations. We look to the City Council to protect us from a project that is designed to extract every last possible dollar out of the site, at enormous costs to the neighborhood and to the spirit of the zoning resolution.

First among these costs will be four or more years of noise, traffic problems, dirt, and danger from the construction. After that will come the long-term deleterious effect of this enormous development on: community facilities and services; historic resources; the streetscape; neighborhood character; on infrastructure; on solid waste and sanitation services; energy; traffic and parking; transit and pedestrians; air quality; noise; and public health. These effects are in effect a tax imposed on the neighborhood for the benefit of the developers and the institutions that stand to profit from the development. The last cost of this development would be that it would become a precedent for similar development that over time would gradually turn midtown into a series of dark canyons.

The grounds for drastically scaling back this project are clear: it is grossly out of scale and out of character with the Preservation Subdistrict on which it is being imposed; it unduly increases the bulk of development, the density of population and the intensity of use to the detriment of the surrounding area: it will adversely affect structures and open space by its scale, location, and its impact on light and air.

Thank you.

## FOR THE RECORD

Testimony

October 6, 2009

By: Meile Rockefeller, representing Manhattan Community Board Five

Good Morning. My name is Meile Rockefeller, and I am a member of Manhattan Community Board Five.

Our Community Board has been fortunate to have reviewed elements of this ULURP on two occasions; and twice has recommended disapproval. In fact, by overwhelming votes the Community Board twice concluded that the proposed tower is just too tall for its midblock location.

In March 2008, the Landmarks Committee evaluated whether the proposed development rights transfer would meet the requirements of the law, namely that the new building would “relate harmoniously with the ... landmark buildings”, whether the transfer would “not unduly increase the bulk of the new [building] to the detriment...of the surrounding area” and if the disadvantages to the surrounding area from the proposed building would be more than offset by the preservation of the landmarks – St. Thomas Church and the University Club.<sup>1</sup>

The Board concluded that, by any measure, the proposed building fails to meet these requirements. The two named landmarks, and the multiplicity of adjoining local landmarks will be overwhelmed by a towering 1,100 foot high structure; and a building built to an FAR of about 38, more than three times the underlying zoning, would create a public burden in the form of loss of light and air, increase of vehicular and pedestrian traffic and noise pollution.

Community Board Five understands that an air rights transfer is designed to preserve the public benefits of a low density landmark building at the expense of the public burden of a nearby high density building. To have any purpose, these buildings must not just “bear a reasonable relationship” but be in close enough proximity that the balance is evident. Placing the new tower so far it cannot be seen from the landmarks effectively puts the burdens on one group while allocating the benefits to another. CB5 concluded this development creates a public burden that far exceeds any public benefits.

Again in June of this year, Community Board Five looked at the Land Use and Zoning implications of the proposed air rights transfer. Again we concluded that “the proposed tower is simply too large for its site” and that the “transfer of development rights would unduly increase the bulk of the proposed building such that the benefits are outweighed by the burdens associated with such a tall new building on this midblock site”.<sup>2</sup>

I want to stress that the Community Board is supportive of MoMA’s expansion, and we would welcome it in a building closer to the original 25-story proposal or any building that is roughly the height of its neighbors on 53<sup>rd</sup> Street. However, we believe the building as proposed is completely inappropriate for its site and urge the Committee to deny the application.

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<sup>1</sup> Resolution of Manhattan Community Board Five, March 2008.

<sup>2</sup> Resolution of Manhattan Community Board Five, June 2009

**City Council's Subcommittee on Zoning & Franchises  
Public Hearing about MoMA/Hines (53 W 53<sup>rd</sup> Street)  
October 6, 2009, City Hall**

My name is Edith Hoogenboom. I live at 45 West 54<sup>th</sup> Street, directly across the street from the proposed development.

MoMA argues that it needs this development for additional gallery space. However, they don't need another Chrysler building to get the space they need. This is clear from the MoMA's statement to the Block Association in 2007-- when it sold the lot to the Hines interests -- that it planned a 25-26 story high as-of-right building that would have three floors of new MoMA galleries interconnected on floors 2, 4 & 5 with its existing galleries.

**The point is, whatever gets built on the lot, MoMA can still get its 40,000 square feet of new gallery space.** Most of us in this Midtown Preservation Subdistrict enjoy its cultural advantages and support the arts, music, theater, and opera. Most of us are members of MoMA and support responsible development. We accept the developer's right to build on the lot an already tall 25-26 story high building, and welcome new galleries. **However, 40,000 sq ft is even less than one tenth of the currently proposed 1,050 ft tall, 650,000 sq ft, 75 story building, which leaves 70 floors, 600,000 sq ft above the galleries for a hotel and condos** which encroach on our access to light and air, and would have major negative environmental impacts on our entire neighborhood and far beyond. This is what we want to scale back.

We also question MoMA's assertion that adding another 40,000 square feet in gallery space would not increase museum attendance. During MoMA's last expansion it added the same amount of new gallery space -- 40,000 sq ft -- and annual attendance went up by 700,000 visitors. The assumption that the new space wouldn't increase visitors led to a flawed Environmental Impact Statement, because it failed to make proper projections for increases in pedestrian and other traffic.

MoMA's new galleries do not need this out of scale building on a small midblock lot on a side street. Please deny the Special Permits and lower the size of the building.

Thank you.

City Council Public Hearing October 6, 2009

Re: Hines Tower Presentation by Anne G. Morris, Ph.D.

Director, Center for Logistics and Transportation,  
Baruch College/CUNY

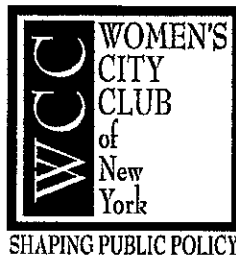


The efficient utilization of off-loading bays and freight elevators and a drive through operation in commercial buildings decreases congestion, turnaround time and emissions and increases security and productivity.

The cost of urban congestion in "the last mile," the pick-up /drop-off point in commercial properties, caused by inadequate off-loading facilities are significant for auto drivers, truckers and the economy due to lost productivity.

Research in NYC's Central Business District, beginning in 1996 at the late Sen. Moynihan's request, consistently identified inadequate off-loading facilities, an invisible obstacle, as a major contributor to congestion that decreased productivity and increased the cost of doing business in the city. The proposed Hines Tower, would heighten and expand congestion in adjacent areas and from river to river.

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*Copy to read aloud  
- another copy is in the folder  
for Avella*

October 5, 2009

## FOR THE RECORD

Chairman Avella and Members of the Subcommittee on Zoning and Franchises:

I am here today to read the following testimony on behalf of the Women's City Club of New York. Founded in 1915, the Women's City Club is a non-profit, non-partisan, multi-issue activist organization dedicated to improving the lives of all New Yorkers.

The Women's City Club urges you to vote to deny the special permits that would be required for the MoMA/Hines development on West 53rd Street to proceed.

The overriding reason the Women's City Club opposes this construction is that we respect and take seriously our shared responsibility to uphold the zoning laws. These regulations were carefully and thoughtfully crafted to achieve a harmonious relationship between the low-rise buildings of the mid-block and taller buildings on the avenue, allowing for appropriately scaled development.

Although the City Planning Commission has ruled that 200 feet be removed from the height of the MoMA/Hines development, the result would still be a tower the size of the Chrysler Building inappropriately wedged into an extremely small mid-block space. While we admire the architect's innovative work, a building of this height does not belong in a preservation sub-district on a 60-foot wide street.

The Council must also consider the impact on the surrounding area. Casting a long shadow, the proposed hotel-condominium with several gallery floors for the MoMA would bring increased pedestrian and vehicular traffic to an already congested street and overload current demands on the area's water supply and other city services.

The zoning regulations were enacted to preserve a livable city, not to be waived when a developer finds them inconvenient. Residents have worked diligently to point out how unsuitable the proposed building would be for their neighborhood and look to your committee to affirm their claim.

We ask that you and your fellow committee members act to deny these permits, because granting them would set a dangerous precedent that would compromise contextual zoning throughout the city. Thank you for your time and consideration.

RE: MOMA HINES

The wish to put up a huge overwhelming building in this residential enclave, is consistent with the shameful and damaging building practices of the last few years.

- Putting up something that is about three times the "as of right" status of the sight, and making a mockery of the zoning regulations and "F.A.R" restraints is shameful.

The manner air rights were granted leaves every citizen holding his nose.

- Add to this the destruction of the Donnell Library leaves one wondering.

Do this real estate pirates and the politicians they buy, have no compunctions about the long term damage they do?

- This is a sensitive region, and a residential oasis, that should be protected from the environmental disaster of CORE loading docks, traffic and noise as well as strains to the local infrastructure.

There are less delicate regions where MOMA HINES structure might have less negative impact on its neighborhood.



2  
Furthermore there is nothing in the plan to offer any public amenities such as exist throughout the city. They provide park-like passageways with trees, seating and air-space for the citizens and visitors of our city. These amenities were a trade-off in exchange for greater height.

None of this is offered to us on this project.

— What contempt they have for us.

Violetta Landek

VIOLETTA LANDEK

45 WEST 54<sup>th</sup> ST.

## FOR THE RECORD

My name is Leah Gordon and I live on the fifth floor of 45 West 54<sup>th</sup> Street, directly across from the Moma/Hines lot and in the building that will be most affected by the proposed 75 story tower.

Now let me state in the beginning, I am not against development or change. Development is necessary and good in order to keep New York vibrant, rich and unique.

Change, however, must be accomplished in a thoughtful, considerate way: thoughtful of the environment, considerate of the aesthetics of the neighborhood and most important safe for the local community and the city. The Moma/Hines proposed building, which may look good on blueprints, does not honestly consider the environment in which it will be built, nor the scale of the buildings in the surrounding neighborhood or the safety of the pedestrians, the emergency vehicles or the residents who live in the area.

Realistically, I know we will have something across the street and it won't be a park. But to build a high rise that is taller than the Empire State Building on a small midtown block, on a narrow cross town street is a terrible mistake. The developers have manipulated the zoning laws, misrepresented the environmental affects and put the neighborhood into jeopardy by putting a behemoth building on a 60 foot wide street when it should be on a 90 foot avenue.

I don't know how many of you watched Ken Burns documentary on the National Parks. In a sense, the lesson of the national parks applies to what we are talking about today. Without the devotion and determination of citizens like John Muir, Frederick Olmstead and ~~Charles~~ <sup>CALVERT</sup> Vaux who fought the mining, logging, railroad and real estate developers we would ~~have~~ <sup>NOT</sup> have a Yellowstone, a Grand Canyon or certainly our own Central Park.

We are asking you today to have the same foresight these people had --to preserve, not just the neighborhood where a few of us live, but the environment and the skyline of the entire city.

Mr. Nouvel is a first class architect. He has designed stunning buildings, some of which we are fortunate enough to have here in New York City. Surely the Moma/Hines structure could be redesigned into a more noble, more inspired building in keeping with the skyline of New York. I hope you will agree and send the project back to the drawing boards for a more thoughtful approach to the project.

Thank you.

# LANDMARK WEST!

THE COMMITTEE TO PRESERVE THE UPPER WEST SIDE

July 21, 2009

**FOR THE RECORD**

Hon. Amanda Burden  
Chair  
New York City Planning Commission  
22 Reade Street  
New York, New York 10007

RE: 53 West 53rd Street – Hines/MoMA

Dear Chair Burden:

Christopher Hitchens captured the essence of why people who care about different neighborhoods all over the city stand up for each other when major developments threaten one of our communities. In a July 2008 *Vanity Fair* article about a massive project in Greenwich Village, Hitchens wrote:

“Those who don’t live in such threatened districts nonetheless have a stake in this quarrel and some skin in this game, **because on the day when everywhere looks like everywhere else we shall all be very much impoverished**, and not only that but—more impoverishingly still—we will be unable to express or even understand or depict what we have lost.”<sup>1</sup>

The fact is, we *all* live in “such threatened districts”—any neighborhood where the unfettered right to develop property is valued above the integrity of the laws designed to protect the public welfare. LANDMARK WEST’s “skin in this game” is the fact that the proposed Hines/MoMA development is the very antithesis of the kind of development that the zoning and preservation regulations for this site were intended to produce.<sup>2</sup> And if the City Planning Commission approves this project there, you will undermine your authority to prevent incompatible projects elsewhere.

Many of the most credible voices in city planning today have criticized this project. Ada Louise Huxtable said, “**I am so weary of these stupid alliances between developers and cultural institutions in which the cultural institution is given a block of space and the developers overbuild the rest...I can’t help but view [MoMA’s] new Nouvel tower as the last destructive nail.**”<sup>3</sup> *Bloomberg News* architecture critic James S. Russell called

<sup>1</sup> “Last Call, Bohemia,” by Christopher Hitchens, *Vanity Fair*, July 2008.

<sup>2</sup> On the Upper West Side, LW! and others have worked diligently to prevent the transfer of development rights from institutional sites along Central Park West to adjacent, low-rise midblocks, which would essentially defeat the purpose of contextual zoning and undermine the integrity of the Upper West Side/Central Park West Historic District.

<sup>3</sup> “Her New York,” by Phillip Lopate, *New York Times*, November 7, 2008.

MoMA's use of 74-79 and 74-11 zoning provisions an "abuse".<sup>4</sup> Tom Wolfe labeled the project "the MONSTER of 54<sup>th</sup>".<sup>5</sup> Leading preservation organizations and elected officials object to such a grossly out-of-scale building in a zoning district created specifically to restrict overdevelopment on narrow side-street midblocks, with severely negative impacts on historic resources and minimal resulting preservation benefits.

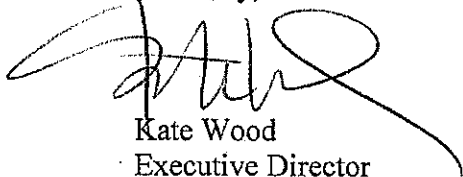
Special permits are requested for a project that

- 1) does not "conform with the existing scale and character of the Preservation subdistrict"<sup>6</sup>
- 2) does not "continue the historic patterns of relatively low building bulk in midblock locations"<sup>7</sup>
- 3) does not "preserve the midblock area north of the Museum of Modern Art for its special contributions to the historic continuity, function and ambience of Midtown"<sup>8</sup>
- 4) does not "have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air"<sup>9</sup>
- 5) does not meet the standard that special permits will not "unduly increase the bulk of any new development, density of population or intensity of use in any block to the detriment of the occupants of buildings on the block or nearby blocks, and that any disadvantages to the surrounding area caused by reduced access of light and air will be more than offset by the advantages of the landmark's preservation to the local community and the City as a whole"<sup>10</sup>

Approval of this project, which runs so strongly counter to the stated planning vision for this neighborhood, would send a clear message that zoning and other land-use regulations are groundless and that the standards for waivers from these laws are negotiable, a message with dire implications for neighborhoods throughout New York City.

For these reasons, LANDMARK WEST! urges the City Planning Commission to deny this application.

Sincerely,



Kate Wood  
Executive Director

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<sup>4</sup> "Nouvel's Super-Tall MoMA Tower Represents Ode to Zoning Abuse," by James S. Russell, *Bloomberg News*, January 9, 2008.

<sup>5</sup> Tom Wolfe, August 28, 2008 letter to the West 54-55<sup>th</sup> Street Block Association

<sup>6</sup> New York City Zoning Resolution, Section 81-90 "Special Regulations for Preservation Subdistrict" of Special Midtown District.

<sup>7</sup> Ibid, Section 81-00(f)

<sup>8</sup> Ibid, Section 81-00(m)

<sup>9</sup> Ibid, Section 74-711(b)(1)

<sup>10</sup> Ibid, Section 74-792(e)(1).

## FOR THE RECORD

My name is Elena Bruun. I am a therapist and I live at 17 West 54 Street.

When an architect from Nouvel's office presented Nouvel's design to the community at a meeting at MoMA, he said that Nouvel was inspired by the drawings of Hugh Ferriss. I decided to find out who Mr. Ferriss was.

In 1916, New York City had passed landmark zoning laws that regulated and limited the mass of buildings according to a formula. The reason was to counteract the tendency for buildings to occupy the whole of their lot and go straight up as far as was possible. Since many architects were not sure exactly what these laws meant for their designs, in 1922 the skyscraper architect Harvey Wiley Corbett commissioned Ferriss to draw a series of four step-by-step perspectives demonstrating the architectural consequences of the zoning law. These four drawings would later be used in his 1929 book "The Metropolis of Tomorrow".

Known chiefly as an architectural delineator, Ferriss would render buildings for clients as well as making drawings for the architectural publications of the time. He used his imagination to create unique visions of a possible future. From buildings that could dwarf any modern day skyscraper to bridge dwellings that could house thousands, Ferriss imagined them all. Buildings that would boggle the mind of any modern day futurist or science fiction writer.

Ferriss' thoughts on architecture are eloquent and at times touching. He speaks in a removed, often cold scientific tone, yet always with an undercurrent of passion for his subject. The real power of his work shines through in his renderings. Working mostly in charcoal, Ferriss made every building he drew epic in scale and grandeur. Huge megalithic structures rising out of seemingly self-created darkness. Buildings so monumental, they eclipsed everything in their shadow. Some renderings are savagely brutal with their simple blocked-in shadows and hard edges, others are full of such power, yet with an exquisitely delicate touch. With renderings of buildings both real and imagined, Ferriss gives us his view of the city as it is and as it could be. At times it is unclear as to what the metropolis will become: sinner or saint.

*This is a quote from Ferriss, "Going down into the streets of a modern city must seem -- to the newcomer, at least -- a little like Dante's descent into Hades. Certainly so unacclimated a visitor would find, in the dense atmosphere, in the kaleidoscopic sights, the confused noise and the complex physical contacts, something very reminiscent of the lower realms.*

From a review by David Middleton of *The Metropolis of Tomorrow* by Hugh Ferriss, new edition Published by Princeton Architectural Press

# FOR THE RECORD

**City Council's Subcommittee on Zoning & Franchises  
Public Hearing about MoMA/Hines (53 W 53<sup>rd</sup> Street)  
October 6, 2009, City Hall  
Testimony of Veronika Conant**

I am Veronika Conant, Pres. of the West 54 – 55 Street Block Association located North of MoMA in the Preservation Subdistrict of the Special Midtown District. I am here to speak against the MMA/Hines development plans.

As we have gone through the entire process about the now 1,050 feet, 75 story high MoMA/Hines building midblock on a narrow side street, still slightly taller than the Chrysler Building which is on an Avenue, we have become aware of major problems with the two landmark laws in existence since 1968.

- 1) Landmark Laws ZR Section 74-79 and 74-711 are used by developers on the pretense of helping preserve and maintain landmark buildings to move huge amounts of undeveloped "development rights" from landmarks at Avenue sites to development sites at distant locations.
- 2) For ZR Section 74-711, there is no limit on the number and size of adjacent lot mergers allowed to enable such a move.
- 3) Because the development site is several hundred feet away from the landmarks, the condition required by law, that the new building is harmonious with the landmark, can be defined as not applicable and be ignored by the developer.
- 4) No consideration is given to the fact that relatively low scale landmarks are at an Avenue location and they are allowed to sell large undeveloped development rights which go to a narrow street locations, resulting in very tall buildings. This process negates zoning regulations whose purpose is to make sure midblocks have access to light and air.
- 5) There is no limit on how much air rights landmarks can sell. They do not look at need, only at profit.
- 6) Environmental Impact Statements (EIS) measuring the impact of large developments are prepared by the developer, not by City Planning who are pro development. As a result they have no teeth, are often misleading and incorrect, are too long and studies are inappropriate for the need. We need legislation to correct this and City Planning to do EIS, not the developer, the fox should not guard the hen house.

*Please vote against the plans, deny the special permits - lower the height of the building. Thank you*

September 28, 2009

TO: City Council

As a long-time resident of 55 West 55<sup>th</sup> Street, I strongly object to the proposed Hines sky scraper going up on West 54<sup>th</sup> Street. The neighborhood is already exceedingly congested, dirty and loud with the existing infrastructure, as well as the near weekly parades and street fairs that close off major avenues and streets causing nightmarish pedestrian and driving traffic conditions. Please vote for a much smaller structure that respects the zoning laws and respects the neighborhood residents that care so deeply about preserving the quality of life in this Manhattan area.

### **Zoning**

1. Zoning too tall for a midblock narrow street. Zoning was created to prevent tall buildings on the mid of block so that light can get in. The higher you go the more sky that is obscured. The sky is our commons and MoMA has already done damage with the 53 story Museum Tower in the middle of the block.
2. A lower tower does not mean a bulkier tower; the sky exposure plane, setbacks and yard requirements must be followed; if not put the building on an Avenue. A small floor plate was not caused by the neighborhood.
3. The **purposes of the Special Midtown Zoning are violated** by the Hines Tower
  - a. The project does not conform with the existing scale & character of the Preservation Subdistrict "
  - b. The project does not "continue the historic patterns of relatively low building bulk in midblock locations"
  - c. does not "preserve the midblock area north of the MoMA for its special contributions to the historic continuity, function and ambience of Midtown"
  - d. does not "have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air"
  - e. does not meet the standard that special permits will not "unduly increase the bulk of any new development, density of population or intensity of use in any block to the detriment of the occupants of buildings on the block or nearby blocks, and that any disadvantages to the surrounding area caused by reduced access of light and air will

be more than offset by advantages of the landmark's preservation to the local community and the City as a whole."

- f. Approval of this project, which runs so strongly counter to the stated planning vision for this neighborhood, **would send a clear message that zoning and other land-use regulations are groundless and that the standards for waivers from these laws are negotiable**, a message with dire implications for neighborhoods through NYC.
  - g. Midblocks low, Avenues High – The Hines Tower on the midblock asks the residents to bear the burden of an oversized building next door when the burden should be shouldered by the transferring landmarks that are making all the money.
  - h. Residential interests must be balanced with Commercial interests**
  - i. Special historic contribution and continuity of residential Preservation Subdistrict
- 4. MoMA has opted out of the Preservation Subdistrict and turns its back on it.
  - 5. Zoning Abuse: A zoning lot merger between St Thomas Church and dozens of MoMA controlled lots in order to connect to the Hines zoning lot is a **subterfuge of the law and abuses the underlying intent of the zoning** to protect air and light from reaching the sidewalk and structures along the midblock.

#### **Landmark Preservation**

- 6. The preservation purpose is exaggerated; the landmarks are wealthy and well maintained and landmark transfers are a privilege not a right. The responsibility of maintenance and preservation rests with the private property owner –the members of the club and the church. Like-institutions around the USA must raise money for preservation from capital campaigns, not from selling out their neighbors. The transfers under 74-79 and 74-711 are not by law guarantees of 100% use of all unused development rights. The law calls for discretion and balance.
- 7. Transfers from landmarks presume movement of FAR next to Landmark in a harmonious and adjacent relationship such that the undersized scale of the landmark compensates the oversized result on the receiving site. The Hines proposal is 500' west of the landmarks. Other than monies exchanged for development rights the balancing of mass is not present in this case. This was not the spirit nor intent of the transfer law and constitutes zoning abuses by forcing the imbalance down the block and off the avenues on the midblock.



**Julia A. Labaton**  
**55 West 55<sup>th</sup> Street, Apt. 9D**  
**New York NY 10019**

8. The Hines Nouvel Tower overwhelms all the other landmarks on the adjacent blocks including looming 500+ feet over the CBS building and ridiculizing it. The developer's EIS fails to adequately address the projects impact on visual and historic resources. CPC recommended the neighborhood for landmarking as a historic district in 1979 though LPC took no action.
9. Waive the hotel loading dock as unnecessary since MoMA already has 3 that are under utilized as CB 5 has publicly cited.

**Urban design**

10. Replace the hotel loading dock with through block pedestrian arcade to relieve overflows and 700,000 more visitors from last same-sized expansion of galleries.
11. MoMA seals itself off from the residential preservation subdistrict with blank walls whereas we give them landmark buildings to view. Replace the corrugated wall around the MoMA garden so the sculpture can be seen from the sidewalk and make the garden a public space, free of charge.

**Environmental**

12. Traffic counts are 2 years old and pre-Broadway closing that is sending more cross town traffic above 47<sup>th</sup> Street .
13. MoMA/Museum Tower treats West 54<sup>th</sup> Street like its private service alley. Its deliveries are largely taken curbside by trucks parked in a no standing zone on W. 54<sup>th</sup> Street . The 3 docks built in 2000-2006 expansion are under utilized. There is no need for a 4<sup>th</sup> dock since the building will connect with MoMA.
14. MoMA must hire a dock master and be subject to fines for its deliveries taken from the no standing zone in front of its loading docks.
15. Pedestrian traffic increases are denied in the EIS which is incredible since a similar size increase in gallery space during the last MOMA expansion caused visits to rise by 700,000.
16. Noise pollution already above limits—4 more years of construction rather than two for the previously approved 285' building would constitute a significant reduction in noise.
17. Air quality measurements in the EIS need to be re-examined as apparently many samples were not taken in the neighborhood.

**Economic:**

18. Hines financial ability to complete any transaction here must be investigated since in 2009 his company has avoided foreclosure on mortgage loans on 3 office buildings in Northern California by giving the deeds back to his lenders.

**Julia A. Labaton**  
**55 West 55<sup>th</sup> Street, Apt. 9D**  
**New York NY 10019**

19. St Thomas and the University Club can sell half their air rights and enjoy a windfall in excess of any preservation needs. Must the citizens of the neighborhood pay for a new church organ with their sunlight?
20. MoMA should not be granted any tax incentives for this speculative venture as was done with Museum Tower under the Cultural Institutions Act. The City Council should audit MoMA's payments in lieu of real estate taxes since the move reported a net 97 million dollar gain in 2007 from the \$125 million sale of the proposed building lot to Hines/Goldman Sachs White Hall Fund.
21. The greed argument. Haven't we seen enough ills brought about by overleveraging in the real estate bubble?
22. The project is not financeable at break even condo prices in excess of \$2000 per square foot. Why are we being asked to consider a variance/special permit for a project that is not feasible?
- 23. Hines wants for his residential clients what he would rob from the neighborhood -- views and air and light!**
24. The CEQR laws were written so that real alternatives and their environmental impacts could be weighed by the City. Public purpose under this review does not include the real estate appraisal concept of highest and best use. There is no finding that must be made vis à vis highest profit to the developer. Hines paid \$125 million for the previously approved project for the true, as-of right 285-foot office building. If we are to believe the joint MOMA/HINES announcement to the public in 2007 it was to be win-win for the two with Glenn Lowry announcing a Christmas present to the museum's endowment. It seemed good enough for everyone then. But shortly thereafter the air rights deals were announced driving the building to 1050 and then on up to 1250'. We were lied to?
25. Nonetheless, the prudence of that investment decision is not for the City to judge since applicants for special permits are not required to submit financial projections unlike applicants for direct public subsidies.

**Miscellaneous**

26. Terrorism threat – at 1050 feet, the height of the Chrysler building, this tower would present a target twice as high as any building on the block and next to a residential neighborhood.
27. MoMA has subjected the area to six years of construction headaches and pollution from 2000-2006. The IND subway air shaft project has been going on the last 5 years in front of CBS. The 1050 foot Hines Tower as proposed would take 44 months. The previously approved project at 285' would take 24

**Julia A. Labaton  
55 West 55<sup>th</sup> Street, Apt. 9D  
New York NY 10019**

months. This is a significant difference in resident and business disruption to an important crossroads in midtown.

28. Community Board Five represents the Community and voted to deny the special permits for this project in its landmarks and city planning votes citing the inappropriate height and scale of the project. **Councilman Gardonick, and State legislators Krueger and Gottfried have roundly opposed the project. The CBS Corporation is concerned. The Warwick Hotel is against. Residents of Museum Tower are opposed. Thousands of residents in the neighborhood are opposed.**
29. We also face a 10 to 40 story tower on the site of our beloved Donnell library across the street from MoMA which the NYPL sold out from under the tax payers. Our neighborhood is for sale even if we pay 92% of the branch operating expenses. Where is the oversight for our neighborhood?
30. Nouvel can design just as significant a smaller building as a larger one – let him follow the underlying zoning.

Sincerely,

*Julia Labaton*

Charles Isaacs's testimony  
25W 54 Street

If we live in a country and city founded on the rule of law – laws that exist to protect the general population – then one must ask: why does the Hines tower merit exemption from virtually every zoning law that is in place? One must ask why the interests of the Museum of Modern Art and the Hines organization supercede those of the greater mid-town community?

Approval of the project before this council requires that the very laws that were enacted to protect existing neighborhoods from harmful over-development and other abuses be completely ignored. The mid-town community insists that the zoning laws for this property be obeyed.

It is possible to build smaller, distinguished buildings that are profitable and yet fit within the community. Surely the Museum of Modern Art, the Hines organization, and M. Nouvel can construct a smaller but still extraordinary building. The only reason to build higher is avarice, ego, and greed. Not only does this project reject community standards by inserting an ill-conceived behemoth in midblock, but it also risks becoming an economic boondoggle in a time of failed projects, including the ill-fated Donnell Library development on 53<sup>rd</sup> Street.

As they currently exist, the intent of the “Special Midtown Zoning” laws is to require new projects to “conform with the existing scale & character of the Preservation Subdistrict” and to “continue the historic patterns of relatively low building bulk in midblock locations.” It further specifies that new projects must be sensitive to the continuity and ambience of Midtown and must have minimal adverse effects on nearby structures, open space and access to light and air. Moreover, the bulk of a new project must not unduly increase the density of population or intensity of use in any block to the detriment of the occupants of buildings on the block or nearby blocks.

Approval of this project, which runs so obviously counter to the stated planning vision for this neighborhood, would send a clear message that zoning and other land-use regulations are groundless and that waivers from these laws can be bought by the most powerful, monied interests -- a message with dire implications for neighborhoods throughout NYC.

MoMA has already been allowed to build a 53 story tower in the middle of the block and been granted tax abatements to do so. It is outrageous to disregard legitimate zoning laws and common sense to allow another midblock building that is nearly twice as tall. Moreover, if tax abatements are granted for this project, their effect is not only to force current residents and businesses to endure the ensuing congestion and loss of quality of life, but also to fund this objectionable building with their un-abated taxes.

It will be injurious to the entire city if this precedent is allowed. The expansion of the Museum can easily be accommodated in the "as-of-right" building they are entitled to for this property. The citizens of mid-town ask the entire city council to represent the best interests of their voting constituents and to live up to their duty to enforce compliance with the city's laws.



THE ADVOCATE FOR NEW YORK CITY'S HISTORIC NEIGHBORHOODS

232 East 11<sup>th</sup> Street New York NY 10003

tcl (212) 614-9107 fax (212) 614-9127 email hdc@hdc.org

## Statement of the Historic Districts Council

53 West 53<sup>rd</sup> Street, Manhattan

HDC is the citywide advocate for New York's historic neighborhoods – representing a constituency of over 150 community-based preservation groups.

A vast amount of air rights has been bought, shifted and twisted to create what could be the third tallest building in the city, three times the size of an as-of-right building for this slim plot of land, mid-block on a relatively small side street. We have seen this assemblage technique before and it seems to be undergoing a revival, with a different developer but many of the same consultants advising on a project site on West 57<sup>th</sup> Street, between Broadway and Eighth Avenue, currently before the Landmarks Preservation Commission at the proposed BF Goodrich Buildings.

One often thinks of mid-town Manhattan as a place of large office buildings, and over the last century that is what much of the area has become. However, this section of midtown is the one of the last pieces of an elegant, residential neighborhood from the turn of the last century. Its relatively low scale is a refreshing break from the hustle and bustle of the surrounding area, a feature for which the Special Midtown Zoning was adopted to protect, and numerous designations by the Landmarks Commission, both in the past and recently, have also recognized and sought to preserve.

The Special Midtown Zoning specifically seeks among other things to “continue the historic patterns of relatively low building bulk in midblock locations.” The proposed tower at 1050 feet does not work in this context. In fact, it does not even fit the model of a skyscraper here or elsewhere in the city. Buildings of such a great height are found along the avenues, sometimes taking up an entire city block, not a slim plot of land, mid-block on a relatively small side street.

New York's skyline, known throughout the world, is a reflection of the city's shared history – the forces that have changed it have also shaped the lives of New Yorkers. A new building could be a welcomed addition, but not something that will overshadow some of our most iconic landmarks. The Department of City Planning reduced the tower by 200 feet so that the proposed is now slightly shorter than the Empire State Building, but it is still exceedingly tall, taller than the Chrysler Building, taller than the Special Midtown District ever intended, taller than a mid-block site should be. HDC requests that the City Council recognize the real context to this development and require this building be further reduced.

I am RitaSue Siegel, vice president of the West 54-55 Street Block Association and the Coalition for Responsible Midtown Development.

Commissioner Burden opened the City Planning hearing on the Nouvel building with, "I am in love with this project." This was hardly an auspicious beginning for what we assumed was intended to be an impartial hearing of the arguments for and against the project. As the hearing progressed, she described the Hines Tower as 'invisible.' She chose not to consider the balance of the invisible building's benefits and burdens on the neighborhood because the developers' EIS, which she believed is true, found that Nouvel's design would have no adverse effects on the neighborhood. This is at best wishful thinking.

We expected something more profound from City Planning considering the scale of this project. At least they cut 200 ft off the top of it perhaps because we are the Empire State although Nouvel by challenging the Empire State building for the position as tallest, had in mind that New York would become the Nouvel State.

In 1916, New York City adopted the first zoning regulations to apply city-wide as a reaction to The Equitable Building. It towered over neighboring residences, completely covering all available land area within the property boundary, blocking windows of neighboring buildings and diminishing the availability of sunshine for the people in the affected area.

Does this sound familiar?

The US Supreme Court upheld the zoning ordinances. Zoning defenders argued that zoning extended and improved on nuisance law. It provided advanced notice that certain types of uses were incompatible with other uses in a particular district, and that zoning was a necessary municipal-planning instrument.

How can City Planning be blind to the zoning abuses being advocated for by the developer? Are they so keen to be thought of as design mavens? Why is MoMA trying so hard to get us to ignore these basic zoning tenants? Does MoMA have an interest in establishing a precedent to use to their advantage in their next expansion? Do you want a 1,050 ft building in the middle of your block? Hines is paying their lawyer to establish a precedent to allow abuses of zoning laws so that a 1050 ft tower can be built, and if they get away with it, you may have one of your own someday.

Why would the City Council want to rubber stamp City Planning's fantasies about this project or zoning law abuse?

Why has no one at any phase of the ULURP process asked the representatives of MoMA why they are trying so hard to persuade us at every touch point that a

person of Nouvel's stature should be allowed to build a completely inappropriate and out of scale building in the middle of the block on a narrow side street? Isn't MoMA misusing its influence? Isn't this like film buffs and French intellectuals asking US lawmakers to not punish Roman Polanski for raping a 13 year old because he is a person of some stature?

The City Council should say no to fantasy and supporting the delusions of grandeur of some of the players here.



Testimony of Justin Peyser of The Coalition for Responsible Midtown  
Development to the Zoning and Franchises Subcommittee of the NY City Council  
on the MoMA/Hines Tower

Public Hearing, October 6, 2009

I'm Justin Peyser, a resident of West 54<sup>th</sup> Street, and member of the Coalition for Responsible Midtown Development.

I hope this subcommittee will act responsibly and deny the permits for this overwhelming skyscraper. This is just lousy planning dressed in fancy clothes. Why must we bend over backwards for Hines? Was it not a Texan who first said you can't fit a square peg into a round whole? Well that Texan didn't have lawyers like this one. With Kramer Levin all the waivers and modifications in the world can be had. Yes, they need those waivers because Mr. Hines' floors plates have to be just so, and if they don't rise over the park he won't be able to sell them at high enough prices to recover his \$125 million paid at the height of the real estate bubble. So it's up to us to bail him out. Sound familiar? Too big to fail?

Hines would build three times the capacity of the lot or some 38 FAR—among the densest around and denser than the 30 FAR Equitable Bldg that instigated our zoning back in 1916. All of this is justified by a veiled threat that if rejected they will build just as high as-of-right, only it will be an ugly box. The fact is they can't build without waivers, just ask them. That is because it doesn't fit. I'm prepared to call their bluff.

As to MoMA employees, who come to all these hearings praising the project and how important it is to them and how wonderful Mr. Nouvel is. I say to them that we want the museum to have their new galleries and we don't think Nouvel is half bad. (By the way is Nouvel still on board as we've heard some rumors that he's fled?) I'm sure he can design a beauty at 38 stories if he sticks around.

Unless there's something we ought to know, MoMA gets the same size gallery space no matter what size tower is approved. So whether the Tower is 25 stories as you originally told us in 2007, or as tall as the Empire State building, MoMa gets the same four floors of galleries. Again, we want you to have that new space.

While I'm at it, and before all your "volunteers" go home, would somebody explain why you are bothering to expand when you expect no new visitors from all this investment? That's what your EIS says. It's puzzling to me, since the last time you expanded, visitors reportedly increased by 700,000 per year, and from about the same sized expansion. So save your breath today. Have the developer himself come up here alone explain why the City should subsidize a 38FAR project and kill our view of the sky, in the name of landmark preservation.

I heard zoning was invented to eliminate nuisance. Well I have to tell you the Museum has made quite a nuisance of itself over the years, and has turned West 54<sup>th</sup> Street into its private service alley. I beckon the committee to understand how our neighborhood now functions and why we want to improve it. This area is already besieged with noise, traffic congestion, parades, street fairs, UN visits, MoMA' pink catering trucks, garden parties til 1am with music blaring, Friday night lines, midnight garbage grinding, honking taxi's etc. We've suffered six previous years of MoMA construction this decade and five years of IND subway ventilation still going. We need thoughtful mitigation before this project even starts. It's so loud here at times I sometimes fantasize about losing my hearing.

These are just a few reasons to reject this application. Remember, MoMA has already created one midblock tower, the 600+ foot Museum Tower in defiance of special midtown zoning. Now they support another tower on the midblock of a side street twice as high and tell us there are no impacts. Send Hines back to the drawing board and let them come back with something reasonable that embraces its neighbors and the context of these blocks.

Oh, Mr. Lowry, please stop sending us tote bags and those smiling p.r. people and hire a veterans or off duty cops to get those trucks off the streets and inside your loading docks. Thank you.

**Hearing on October 6th regarding Landuse Committee**

Friday, October 2, 2009 3:40 PM

**From:** "Diana Bahn" <djbahn@earthlink.net>  
**To:** tavella@council.nyc.gov  
**Cc:** "Veronika Conant" <vaconant@yahoo.com>

Dear Mr. Avella,

I am Vice President of the Board of Directors of my residential building, 45 West 54<sup>th</sup> Street . I will not be able to attend the meeting on October 6<sup>th</sup> that will be looking further into the MoMA/Hines project regarding "zoning and franchises". The issues are close to my heart and I felt I had better take a little time to address them to you in the hopes that you will listen!

My biggest apprehension about this "monolithic new neighbor" (I live directly across the street from the 'empty lot') is that my building and neighbors will be impacted very negatively for years while the "monstrosity" (sorry, but that's how I see it) is going up. What really worries me is that my building is just 60 feet from the site and my understanding is that if we were a land marked building and were just less than 90 feet away from the MoMA/Hines site we would be getting special studies done to ensure that our foundation isn't threatened by the subsequent shifts that inevitably accompany a huge new building's construction. We aren't land marked but we have a very unique post war building that has been deemed land marked material by at least one Columbia University Professor of Architecture. I can not understand how not to be concerned by our non status. No one is going to look out for our building and we are just too close to the site for comfort. Is there anything you can do to help us feel safe given this unpalatable reality?

Next, and also very close to my heart, is that my building is facing having yet another loading dock smack down on 54<sup>th</sup> Street as a consequence of the MoMA/Hines building. Why in God's name this dock can't be placed on 53<sup>rd</sup> Street and not 54<sup>th</sup> Street is the biggest "Watergate-like" paradox yet of the MoMA/Hine's "deal". I believe we now have five loading docks on 54<sup>th</sup> Street that are between Fifth and Sixth Avenue . This means we are going to have six loading docks when the building is up. Meanwhile, our proposed "other" street to house the loading dock, namely 53<sup>rd</sup> Street, is never considered when we neighbors bring it up even though there are at most two loading docks on 53<sup>rd</sup> Street and even Museum Tower's (which happens to be on 53<sup>rd</sup> Street) loading dock was somehow vented onto our 54<sup>th</sup> Street years ago. Again, I feel like my hands are tied here because I want to help my neighbors (and, yes, myself) out here and I keep having doors shut in my face. Why do you think that the loading dock can not go on 53<sup>rd</sup> Street and is the MoMA/Hines excuse a legal one or one of convenience? Just to emphasize my point, every time a loading dock is added to our street we face more noise, traffic and overall stress. Isn't it only right to balance things out here and get the loading dock onto 53<sup>rd</sup> Street ?

I need to wrap this up as I am leaving NYC shortly. I want to thank you personally for being there as a representative for the people. I have to say that as I get older I keep realizing the importance of setting things up for those who follow. What I mean here is that if we keep allowing New York City to grow these giant buildings in the name of progress but forget the "little people" who live near them we will lose sight of the forest for the trees. And if we lose all our trees we really can't have a forest!

I hope my neighbors are heard next Tuesday morning and that some changes are made in favor of the people who live across from and all around the MoMA.

Thanks for listening!  
Sincerely,

Diana Bahn, Vice President of 45 West 54<sup>th</sup> Street

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**Carole Lazio**  
55 West 55th St.-#11 (PHS)  
New York, NY 10019  
(212) 581-2992

October 5, 2009

Council Member Tony Avella, Chairman  
City Council Subcommittee on Zoning & Franchises  
250 Broadway  
New York, NY 10007

Subject: Statement *against* the proposed MoMA/Hines Project

Dear Council Member Avella,

I live two blocks from the site of the proposed skyscraper desired by MoMA and designed by the celebrated architect Jean Nouvel. Although I have participated in training sessions run by staff of Speaker Quinn and Manhattan Borough President Stringer, I am not a zoning specialist. However, I was trained as an archaeologist and years ago worked for many years on sites in the city of Paris and the historic town of Senlis. In many ways I'm a Francophile.

From all these perspectives, I have testified about my alarm that the city might permit the developer to build this skyscraper in spite of understandings and objectives set out in 1982 following the City Planning Commission's 1979-1982 study, defining Midtown Zoning principles in 1982 and recommending preservation of existing scale and character in a proposed Special Midtown Preservation District, and of 1913 zoning concerning air and light that a ground floor MoMA display claims inspired Mr. Nouvel's design. (According to the first page of the Department of City Planning's *Zoning Handbook*, the City's first Zoning Resolution was actually created in 1916 in response to the seven acre shadow cast over its neighborhood by the 42-story Equitable Building when it was erected between 1913 and 1915.)

In July, at the City Planning hearing, I had the opportunity to hear Mr. Nouvel's own description of his design and understood that any inspiration he took from local principles concerning air and light concerned only the impression from *inside* his tower, and that an equal -- possibly more significant -- inspiration for him was making an indelible mark on New York City's skyline.

The 200 ft reduction required by the City Planning Commission has blunted his objective on the latter point. But it's still an inadequate response from a local resident's perspective.

The renderings Mr. Nouvel showed of his building's interior reminded me of the interior view ascending the Eiffel Tower. However, as everyone knows, the Eiffel Tower is approached by a huge esplanade with lots of space around the whole monument. There's no room on this site for space around the building proposed, which really needs the

offset. So putting it on this site with just a 200 ft height reduction, would not only be an insult to local land-use regulations and to community ambience, but would actually be an insult to the building's own present design.

I'm less interested in additions to the skyline or in the interiors of buildings I don't live in. What I care about is my daily experience walking among buildings in my neighborhood and how any new intrusions of bulk or any new shadows affect its everyday atmosphere. I believe visitors and people working daily for local businesses feel the same way.

Why should neighborhood residents and local businesses be victimized by a potentially excessive transfer of air rights that would seriously undermine the spirit and intent of the law governing the transfer of these rights? Why should tenants in the proposed skyscraper have the benefit of light and air ultimately stolen from their business and residential neighbors? If local input doesn't really matter, what's the point of the training Speaker Quinn and Borough President Stringer have helped provide?

If MoMA and Hines refuse to alter the intrusive bulk of the present design, let them erect the building somewhere else in New York perhaps, *but not on this site!*

But surely an architect of Mr. Nouvel's stature can design a building that, in conformity with Preservation district objectives, integrates better into its midblock location and (instead of causing such disruption to the existing community and its visual fabric) falls within the size and mass of the as-of-right project previously approved. A building which would still – consistent with his and MoMA's reputations -- be an exciting contribution to New York architecture

So I ask the members of the Council not to be swayed by MoMA's power, the mere evocation of Mr. Nouvel's name, and the misguided development impulses that over the past 8 years have turned vast tracts of real estate throughout the City, particularly in Manhattan, into faceless Alphavilles. Please acknowledge the importance of preserving a precious part of what remains of this City's history and local character by insisting that the scale of this project be reduced to one better adapted to its location on the block it would occupy.

Sincerely,

Carole Lazio

cc: West 54-55 St. Block Association, c/o Veronika Conant, President



**re MoMaHines tower**

Monday, October 5, 2009 6:49 PM

**From:** "Naomi Koncius" <enjaykay38@verizon.net>  
**To:** tavella@council.nyc.gov  
**Cc:** "Vera Conant" <vaconant@yahoo.com>

**As residents of 45 West 54th Street, we find it difficult to understand why this project has gone forward. This neighborhood cannot support such an enormous edifice to be constructed on such a small footprint. Our street is already congested with delivery trucks, sanitation trucks, commercial traffic, etc.. To add this tower to this scenario really disregards the human element involved, namely the residents that live here. We ask that you reconsider and weigh those human values against the commercial aspects of this building, and come up with a better plan. We look forward to a positive response. Naomi and David Koncius 45 West 54 Street, Apt 9E.**

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**MOMA/Hines**

Sunday, October 4, 2009 11:20 AM

**From:** "amarilyn105@aol.com" <amarilyn105@aol.com>  
**To:** tavella@council.nyc.gov  
**Cc:** vaconant@yahoo.com

I am very concerned and opposed to the construction of this mammoth building that is being proposed mid-block on 54th Street between 5th and 6th Avenues for various reasons -- none of which are trivial:

1. It is much too tall for this narrow block - MOMA has turned its back on the commercial and residential wants and needs of the neighborhood. I don't believe it is MOMA's artistic interest for this endeavor, but its monetary greed.
2. The addition of a fourth loading dock is inconceivable. We are not MOMA/Museum Towers private service alley.
3. The noise, traffic, and pollution will be far above what is do-able.
4. The threat of terrorism to a building 1,050 feet would certainly be heightened.
5. I have lived at 45 West 54th Street for 33 years, but the years between 2000 and 2006 of construction and pollution that I have endured at the behest of MOMA was a terrible disruption to the residents as well as businesses.

I urge the Council to reconsider this project.

Sincerely,

Marilyn Abraham

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**RE: MoMA/Hines: City Council Public Hearing Tue Oct 6 @ 9:30 A.M. City Hall**

Monday, October 5, 2009 12:49 PM

**From:** "chirivah@MSKCC.ORG" <chirivah@MSKCC.ORG>  
**To:** vaconant@yahoo.com  
**Cc:** norman.bauman@gmail.com, jgesman@hotmail.com

Vera,

I just sent the following letter (with corresponding addressee filled in) to all 9 CC members of the subcommittee on Zoning & Franchises.

Honorable Council Member \_\_\_\_\_ :

I am writing to express my concern about the scale, as well as the design and societal implications, of the planned Tour Nouvel, which is slated to be constructed on West 53rd Street between Fifth and Sixth Avenues. New York City is currently in the depths of one of the greatest business downturns since the Great Depression. Per news reports, the poverty rate has jumped in the Bronx and Queens. In the Bronx, it is said that approximately 1/3 of all residents of Hispanic origin are living below the poverty line. The number of jobs lost in New York City is in the tens of thousands, and the job losses continue. To tide over the thousands who continue to lack employment, Governor Patterson has implemented 59 weeks of unemployment benefits. The State and City budgets are under tremendous stress because of the slow-down of economic activity as well as the necessity to maintain the social safety net for all New Yorkers.

I do not think at this juncture, it is right and proper to approve the construction of a luxury condo tower, which will approach in size the Empire State Building, or even the Chrysler Building, while millions of New Yorkers today are struggling to maintain life under the poverty line. I think the days of speculative real estate investments intended to benefit the very few that can either invest in the project or purchase multimillion dollar luxury-laden apartments overlooking miles of residences of New Yorkers who are struggling, the days of approving waivers and granting permissions so that New York City can have more extravagant (and in this particular case, odd-looking) condo towers, these days are over. Approving such a blatant and obvious symbol of the "go-go" past, of the irresponsible ways that led to the economic downturn, is not in the best interests of our City.

A far more modest building could be constructed on the small size lot that the Hines Corporation has purchased for development, and Hines could still make a reasonable profit. What would be even more responsible and realistic would be if this modest building could also include set-aside apartments of affordable housing – which is sorely needed in New York City in this time of economic distress – as well as provision for a publicly accessible park/plaza area.

Thank you so much for your attention to this matter.

Sincerely,

Helen M. Chirivas  
Tel. W 212-639-5827  
H 212-644-0985

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# MoMA/HINES PROJECT is in DENIAL OF PEOPLES' SAFETY

Public Hearing, City Council's Subcommittee on Zoning & Land Uses, Oct 6, 2009

Francis P. Conant  
Resident, 45 West 54<sup>th</sup> St.  
NYC, NY 10019

## Denials:

1. Structural, 2. Cladding, 3. Traffic, 4. Emergency vehicles 5. Pedestrian safety.

1. From the first announcement of the project questions to have arisen about the below-grade structure of the MoMA/Hines "needle skyscraper." This building would be the tallest on the smallest plot, possibly even world-wide, and certainly in this City. What evidence is there that earthquake events, large or small, would not affect the safety of above-grade constructions? This question has been asked several times at previous hearings, but not one answer has been given.

2. Glass? Glass? *Glass?* What has been the experience with this material? Where else has it been used? Boston? Germany? Dubai? And what has been the experience of pedestrians at ground level? Any shelters offered? No answers given.

3. Traffic: MoMA dumps on 54<sup>th</sup> Street, and Hines would also if there is no re-design of their plans. Attached is a photograph of MoMA's dumping. More pictures available. Like just one more? Turn over, please.

4. Emergency vehicles have been blocked from rescuing someone mid-block on 54<sup>th</sup> Street and beyond. Has been to unload their equipment and carry it to where it is needed. Police seem helpless with this situation. One strategy is to drive on the sidewalks. But trucks and buses also are parking there! MoMA's loading docks are dead-ends. If the trucks get in they can't get out. See the same photo overleaf.

5. And finally Pedestrian traffic. Problems? Not according to MoMA/Hines. "We need more gallery space," according to MoMA. "Will this increase pedestrian traffic?" we ask (three times). MoMA: "No." Is pedestrian crowding MoMA's concern? Ask me! I use a cane. There are many others like myself who must carry a big stick. Crutches? No matter. Wheel chairs? Easy. Wait for a break in the crowds of tourists, office workers, visitors to MoMA **AND** the "needle in the sky" Hines hopes to build.

WW2 combat veteran, only 40% disabled



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October 5, 2009

# Surveillance Will Expand To Midtown, Mayor Says

By [KAREEM FAHIM](#)

A network of private and public surveillance cameras, license plate readers and weapons sensors already established in Lower Manhattan as an electronic bulwark against terrorist attacks will soon expand to a large patch of Midtown Manhattan, Mayor [Michael R. Bloomberg](#) and Police Commissioner [Raymond W. Kelly](#) said Sunday as they announced the allocation of \$24 million in Homeland Security grants toward the effort.

Mr. Bloomberg said the expanded monitoring network would cover the areas between 30th and 60th Streets, from the Hudson to the East River.

"We cannot afford to be complacent," he said, noting that Midtown includes landmarks like Grand Central Terminal, the Empire State Building and the [United Nations](#).

Like the system downtown, the expanded surveillance network would feed streams of data for analysis to a coordination center at 55 Broadway. Mr. Bloomberg, who made the announcement at the center with Mr. Kelly, said work on the Midtown system would begin next year and be completed in 2011.

Behind the mayor, a 40-foot video wall displayed maps, incoming data from a police precinct and more than a dozen video streams, many of them showing tourists taking photographs on a sunny day.

The plan devised to protect downtown Manhattan, known as the Lower Manhattan Security Initiative, was introduced by Mr. Kelly in 2005. That raised concern among civil liberties groups, which have called for more public discussion as the police peer, with greater intensity, at more corners of the city.

Asked Sunday about criticism of the increased surveillance, Mr. Bloomberg said: "We live in a world where we have to have a balance. We can't just say everybody can go everywhere and do anything they want."

He added, "Do you really want to work in a building that doesn't have security?"

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Updated 10/04/2009 04:17 PM

## City To Expand Counterterrorism 'Ring'

By: NY1 News

The city's high-tech counterterrorism monitoring system is being expanded from Lower Manhattan into Midtown.

The network of security cameras, license plate readers and weapons sensors known as the "Ring of Steel" will now cover Penn Station, Grand Central Terminal and Times Square.

The system began last year and currently covers two square miles downtown and includes the New York Stock Exchange and the World Trade Center site.

"Most times, you will either prevent it because you'll catch somebody or you'll prevent it because you're scaring people away. If people know, if people read about this system, they might very well decide to take their nefarious affairs elsewhere or just not do it," said Mayor Michael Bloomberg.

"This system here will build uses and will build on predictive software. Let's say a truck goes around the block three times. Well, you can set off an alarm at that level," said Police Commissioner Ray Kelly.

The city plans to add the technology to key spots between 30th and 60th streets.

The expansion is projected to cost about \$24 million in federal money.

Meanwhile, police chiefs from big cities across the nation are backing an anti-terrorism program that educates people on when to report suspicious behavior.

It comes after a store clerk expressed concern and curiosity as to why terror suspect Najibullah Zazi bought large quantities of beauty supply products.

Officials say that type of civilian vigilance is needed in the collective effort to fight terrorism.

Authorities are now pushing to adopt an i-Watch program that would educate and encourage civilians on what they should be looking out for.

Federal authorities allege Zazi tried to make a homemade explosive from ingredients he bought at Denver-area stores.

Zazi is being held without bail on charges of conspiracy to detonate a weapon of mass destruction.

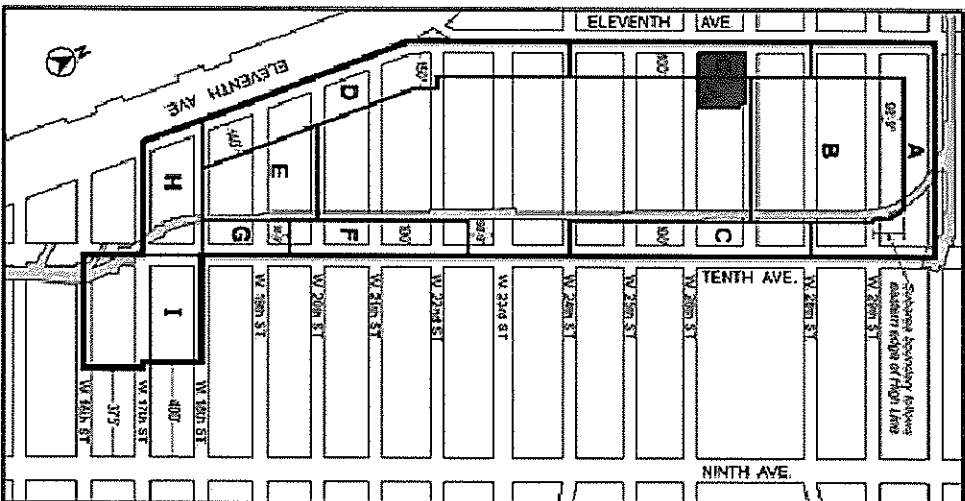
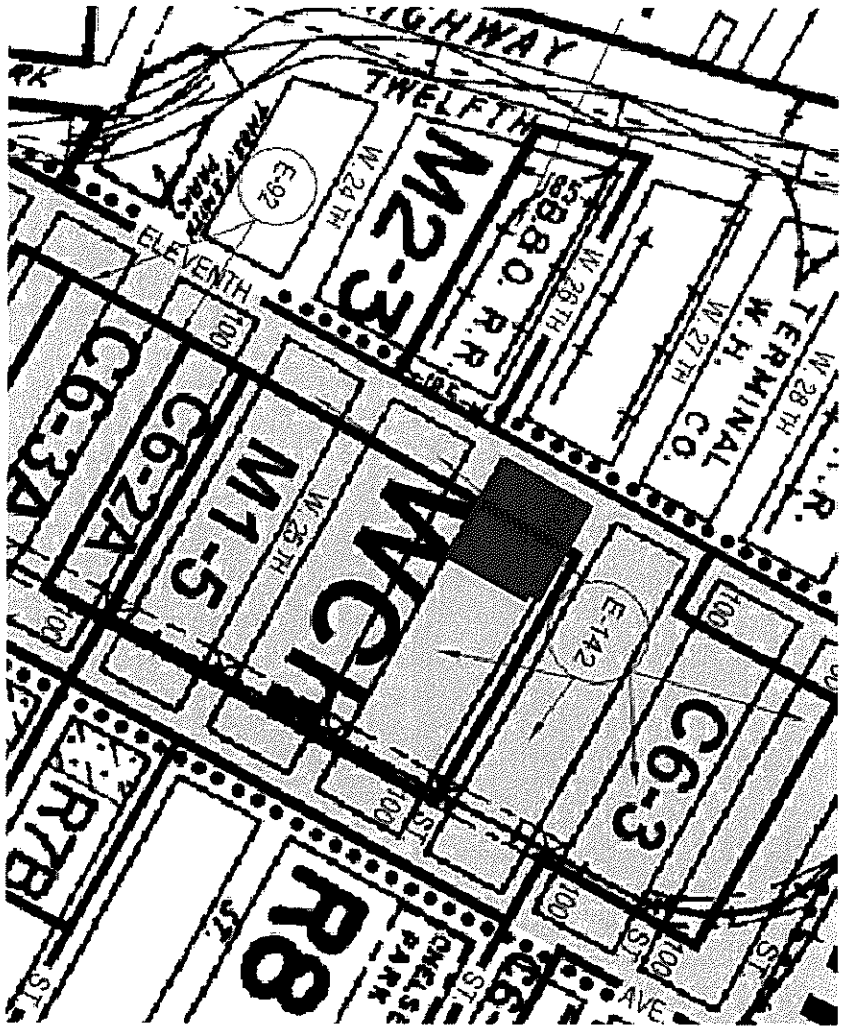
He has pleaded not guilty to the charges.



# 246 Eleventh Avenue

ULURP No. 090243 ZRM  
New York City Council  
Zoning & Franchises Subcommittee  
Oct 6, 2009





- Special West Chelsea District boundary
- Subarea boundary
- High Line
- Site

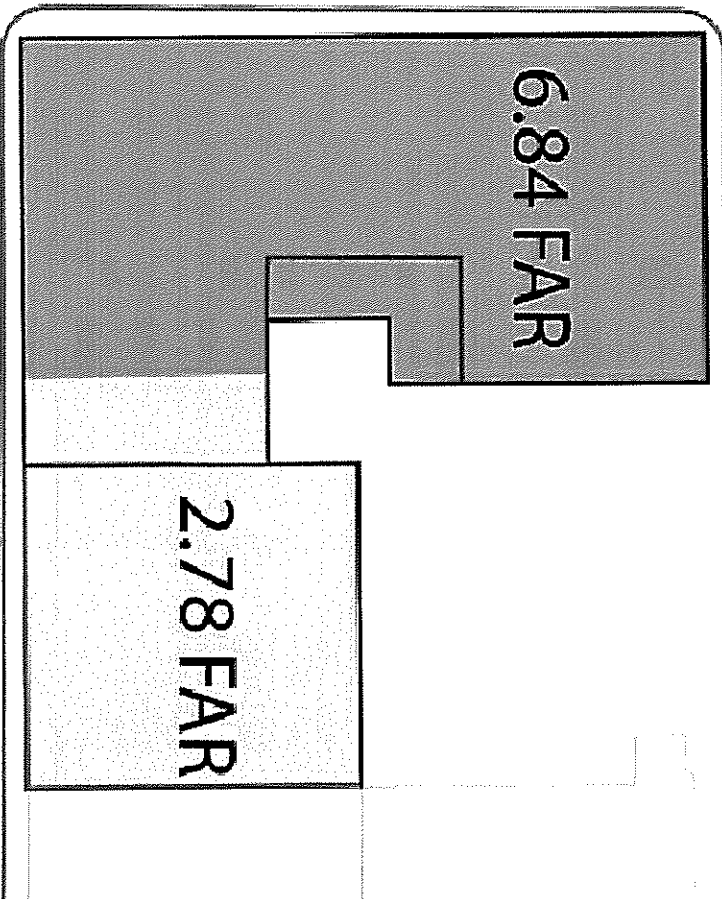


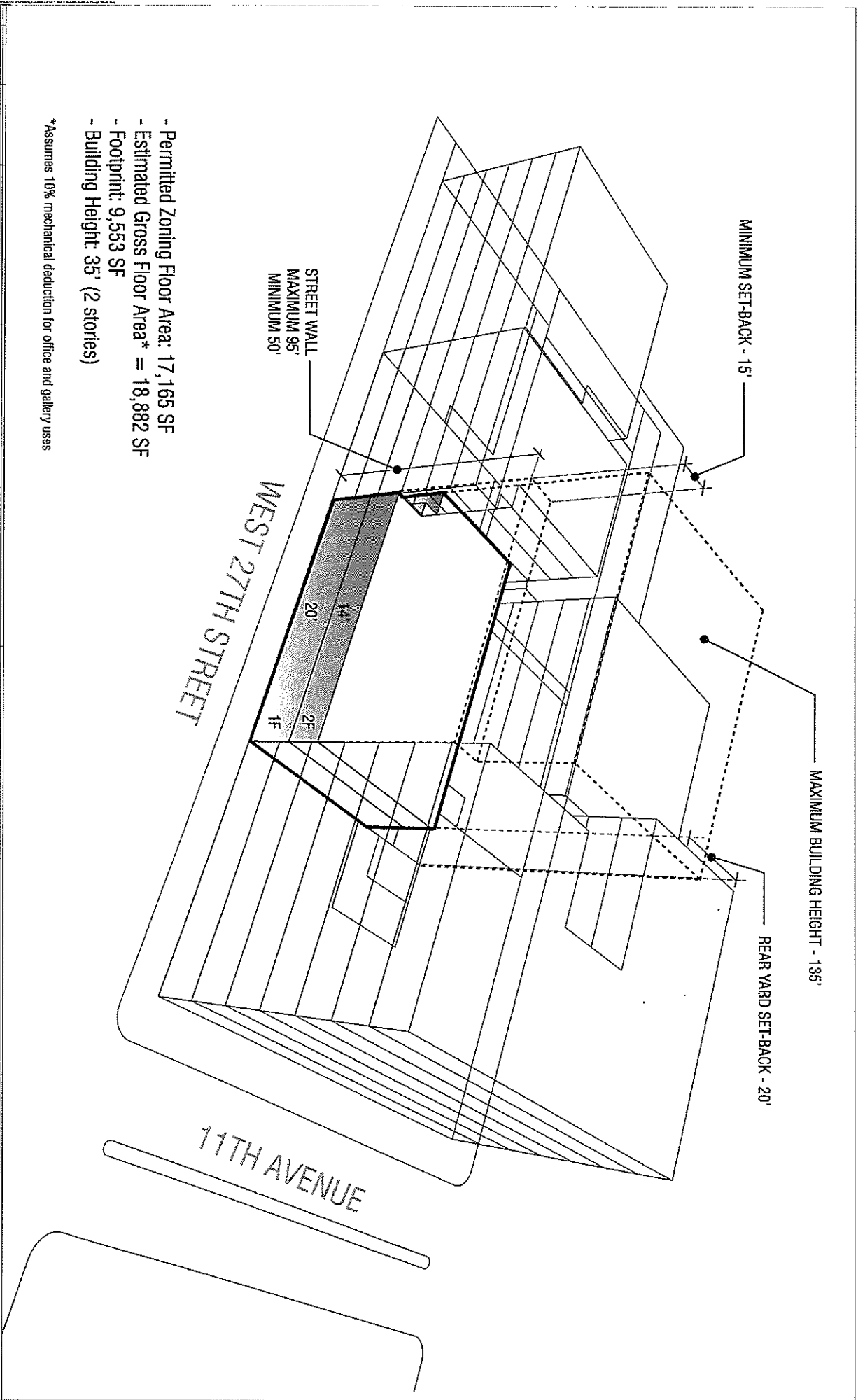
| Permissible Floor Area Under Existing Zoning and Proposed Zoning Text |   |  |                                 |
|---|---|--|---------------------------------|
|   | Portion of site within C6-3 District                  | Portion of site within M1-5 District                 | Total                           |
| Lot Area  | 19,750 sf   | 24,490 sf  | 44,240 sf                       |
| Base FAR/ZSF (w/o High Line Transfer)                                 | 5 FAR/<br>98,750 zsf                                  | 5 FAR/<br>122,415 zsf                                | 221,165 zsf                     |
| Maximum FAR/ZSF (w/ High Line Transfer )                              | 7.5 FAR/<br>148,125 sf                                | 5 FAR/<br>122,415zsf                                 | 270,540 zsf                     |
| Existing Buildings ZSF/FAR (approx.)                                  | 136,000 zsf/<br>6.84 FAR                              | 68,000 zsf/<br>2.78 FAR                              | 204,000 zsf/<br>4.61 FAR        |
| Zoning Floor Area Available Under Current Zoning                      | (existing floor area exceeds basic FAR by 37,250 zsf) | 54,415 zsf   | 17,165 zsf<br>(54,415 - 37,250) |
| Zoning Floor Area Available Under Proposed Zoning Text                | 0 zsf   | 54,415 zsf   | 54,415 zsf**                    |
| Proposed Zoning Floor Area Pursuant to Zoning Text Amendment          | 139,000 zsf   | 122,415 zsf<br>(includes 54,415 zsf new development) | 258,415 zsf                     |

\*\* Undeveloped parking lot approximately 12,100 s.f. within M1-5 zone  
 \*\* Floor area above 17,165 zsf allowed through contribution to the High Line Fund.

**C6-3**  
 Base FAR = 5.0  
 Max FAR = 7.5

**M1-5**  
 Max FAR = 5.0

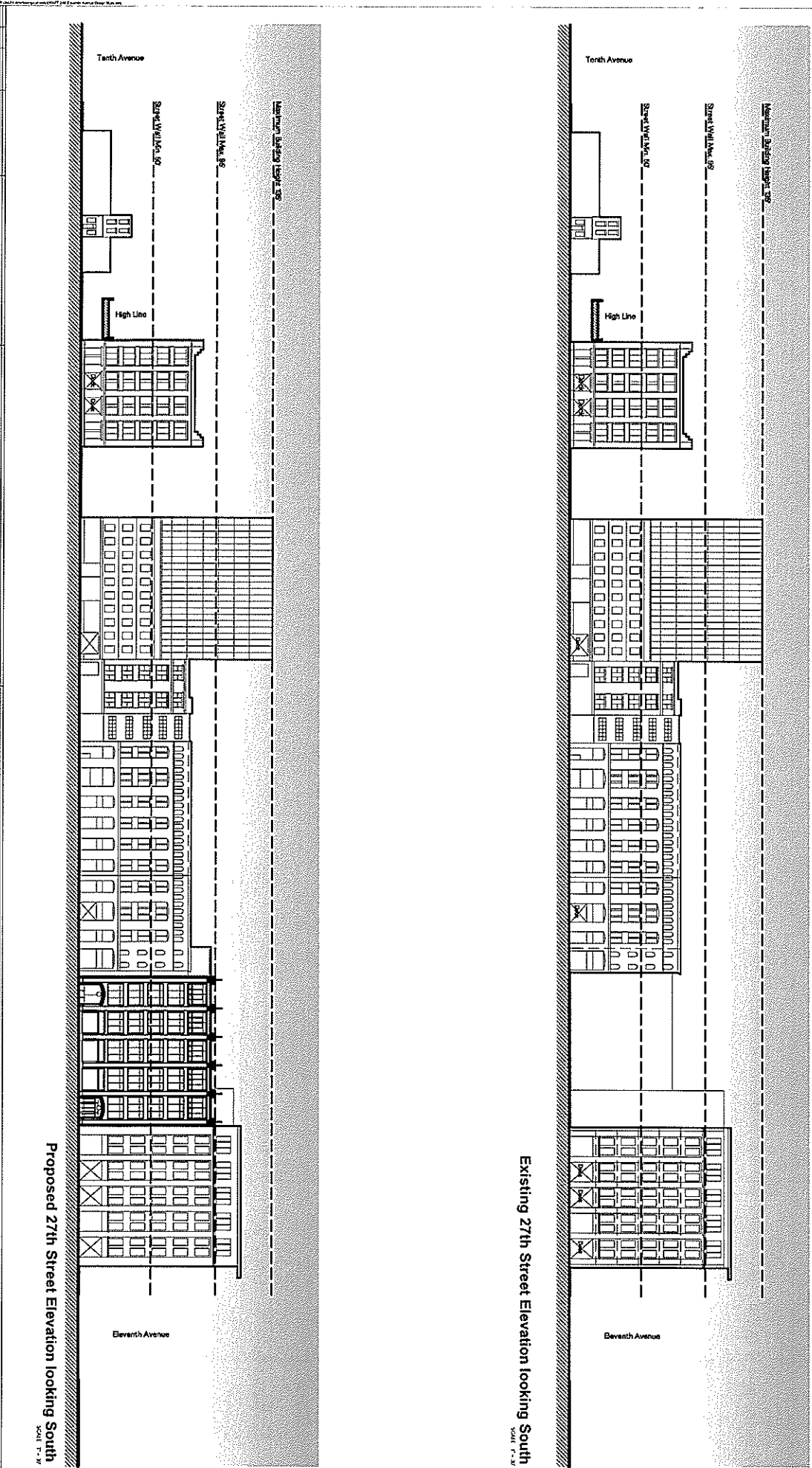




- Permitted Zoning Floor Area: 17,165 SF
- Estimated Gross Floor Area\* = 18,882 SF
- Footprint: 9,553 SF
- Building Height: 35' (2 stories)

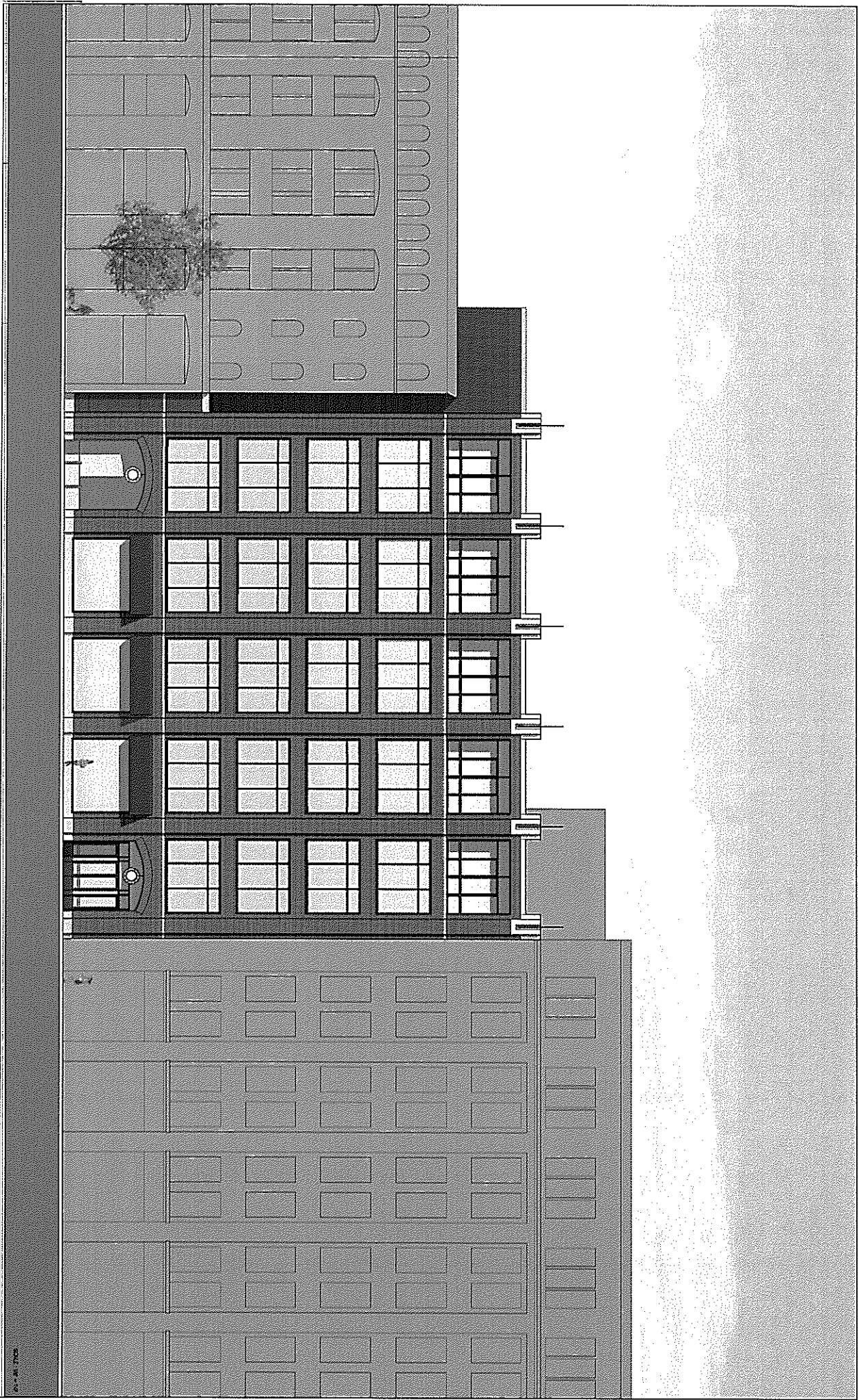
\*Assumes 10% mechanical deduction for office and gallery uses





Existing 27th Street Elevation looking South  
Scale 1" = 12'

Proposed 27th Street Elevation looking South  
Scale 1" = 12'



G & R 11th Avenue  
Associates, LLC

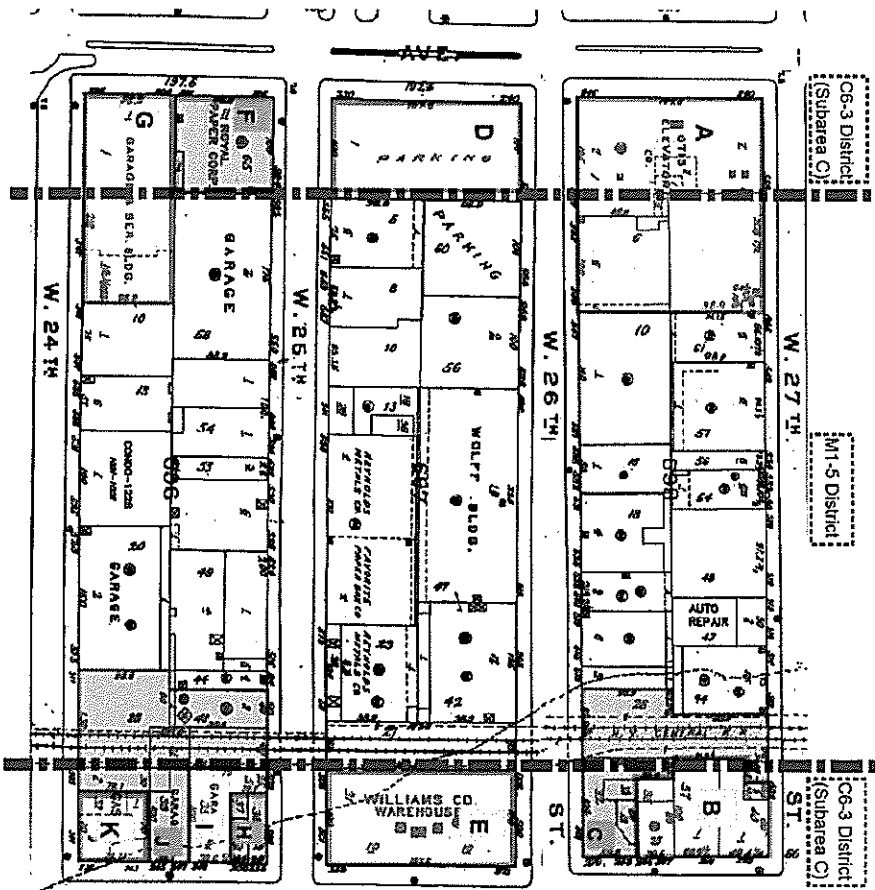
246 ELEVENTH AVENUE DESIGN STUDY

Front Elevation

Cooper, Robertson & Partners  
Architects, Urban Design  
MAY 2010

246 Eleventh Avenue Zoning Lots within Subarea C of Special West Chelsea District Eligibility for Increased Floor Area under proposed ZR Section 98-27

| Map Label | Block | Zoning Lot                                     | Eligibility for floor area increase under proposed text amendment   |
|-----------|-------|--|---|
| A         | 698   | 1 & 6  | Eligible : As of 6/23/05, Otis Elevator Building at 246 7th Avenue built to greater than 5.0 FAR and less than 7.5 FAR within current C6-3 district |
| B         | 698   | 35, 37, 40                                     | N/A : Zoning lot does not include M1-5 district; buildings existing 6/23/05 are less than 5.0 FAR   |
| C         | 698   | 28 & 32  | N/A : Buildings within C6-3 district less than 5.0 FAR on 6/23/05   |
| D         | 697   | 1  | N/A : Zoning lot does not include M1-5 district; no buildings on zoning lot as of 6/23/05   |
| E         | 697   | 31   | N/A : Zoning lot does not include M1-5 district; buildings within C6-3 district greater than 7.5 FAR on 6/23/05                                     |
| F         | 696   | 65   | N/A : Zoning lot does not include M1-5 district; buildings within C6-3 district greater than 7.5 FAR on 6/23/05                                     |
| G         | 696   | 1  | N/A : Building within C6-3 district less than 5.0 FAR on 6/23/05  |
| H         | 696   | 37 & 38  | N/A : Zoning lot does not include M1-5 district   |
| I         | 696   | 35   | N/A : Zoning lot does not include M1-5 district   |
| J         | 696   | Condo Lot 1982 (former lot 33), 26, 28, 40, 42 | N/A : Building within C6-3 district less than 5.0 FAR on 6/23/05  |
| K         | 696   | 32   | N/A : Zoning lot does not include M1-5 district   |



**Testimony of Glenn D. Lowry, Director, The Museum of Modern Art**

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Chairman Avella, it's my pleasure to address you and the City Council members of the Zoning and Franchises Subcommittee during your review of the project proposed for 53 West 53<sup>rd</sup> Street – and to share with you the Museum's full support of the exhilarating steel and glass tower designed by Pritzker-prize winning architect Jean Nouvel to be developed on the site to the west of the Museum by an affiliate of Hines Interests.

MoMA selected Hines as the developer for the project site because we strongly believe in the integrity of the firm based upon their exemplary history of development, in New York City, in particular. The Museum was very pleased that Hines selected Jean Nouvel who has created designs of the highest caliber around the world.

MoMA has always embraced world-class architects throughout its history and in 1932, created the first museum curatorial department devoted entirely to architecture and design.

In its last 80 years, MoMA has organized dozens of groundbreaking exhibitions about modern architecture. I can't think of a more fitting architectural milestone in the Museum's evolution than to be a neighbor to one of the world's most iconic and forward-looking new buildings.

...and this building will be a great benefit to our visitors. As part of the project, MoMA's gallery space will expand on the 2<sup>nd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> floors connecting seamlessly to our existing permanent collection galleries on these floors. In total, the Museum will gain 70,000 square feet of which approximately 40,000 square feet will be new gallery space. The balance will be for mechanical and storage space.

This gallery expansion will enable us to show even more of our magnificent collection to the public. Since the added space on the 2<sup>nd</sup> floor is a double-height space, this affords us an even greater opportunity to exhibit many of our monumental works of contemporary art, such as those by Richard Serra and Martin Puryear. In fact, the contemporary galleries will double in size with this addition.

More gallery space will address the crowding in our current galleries and provide an improved experience for our current level of attendance. With more room to show more works of art, MoMA will continue to thrive and to garner the attention and support of future generations of the museum-going public, reinforcing the Museum's mission of being the foremost museum of modern art in the world and our commitment to reaching diverse audiences.

Since we reopened in 2004, school group attendance has quadrupled in the Museum and every year we serve over 30,000 public school students in groups from every borough of New York City – free of charge. In total, nearly 3 million people have visited MoMA for free through our various free admission programs including Target Free Friday Night, free admission for children 16 and under, and free admission for all CUNY and SUNY students.

**Testimony of Glenn D. Lowry, Director, The Museum of Modern Art**

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The proposed new building also benefits the Museum in other critically important ways – both financially and programmatically. The proceeds of the sale and transference of air rights will help the Museum reduce its debt and increase the Museum’s endowment which, in turn, supports Museum operations including all of our exhibitions and education efforts. This is critical because MoMA does not receive direct support from either the city or the state for operations.

I also wish to take this opportunity to express our commitment to working with our midtown neighbors on issues that affect us all, including, for example...

...managing the visitor entry process in the most effective and least disruptive way possible as visitors sometimes use the neighborhood sidewalks as a place to line-up,

...improving the efficiency and lessening the impact upon our neighbors of truck deliveries and school bus drop offs and pick-ups by collaborating with the NYPD to enforce traffic rules,

...and responding to the community’s concerns regarding the wall of the Abby Aldrich Rockefeller Sculpture Garden. To that end, MoMA has begun to explore design concepts with its architects to improve the appearance of the wall facing 54th Street, making it a more attractive and appealing facade, and to allow a greater sense of openness into the Garden from the sidewalk and street through the two gates.

MoMA is dedicated to being a good neighbor and we stand ready to continue our dialogue with the community and to work together on reaching solutions.

In closing, let me state again how excited the Museum is to be associated with an architectural project of such significance to the City and to the world. Jean Nouvel’s magnificent addition to the New York skyline and the streetscape of midtown Manhattan will be a vibrant addition among the rich architectural heritage of its neighbors. I hope the City Council will join with me and The Museum of Modern Art in their support of this project. Thank you.

**Testimony of Michael T. Sillerman  
to the New York City Council Subcommittee on Zoning and Franchises  
October 6, 2009  
Application for a Section 74-79 and 74-711 Special Permit  
53 West 53<sup>rd</sup> Street**

W2005/Hines West Fifty-Third Realty, LLC proposes to construct an 82-story mixed-use building at 53 West 53<sup>rd</sup> Street, designed by 2008 Pritzker Prize winner Jean Nouvel, which will contain 51,949 square feet of new space for the Museum of Modern Art, including 39,500 square feet of new gallery space on the building's 2<sup>nd</sup> through 5<sup>th</sup> floors, a hotel on the 7<sup>th</sup> through 18<sup>th</sup> floors, and a residential condominium on the building's upper floors.

The development site is located on a zoning lot that also includes the existing MoMA complex, St. Thomas Church, the American Folk Art Museum, and the Museum Tower condominium. The zoning lot is located in four separate zoning districts – C5-3, C6-6, C5-2.5, and the C5-P Preservation Subdistrict – within the Special Midtown District. The development site is located very close to 6<sup>th</sup> Avenue, with approximately 43% of its total lot area located in the C6-6 (15 FAR) zoning district along 6<sup>th</sup> Avenue.

The project involves the utilization of floor area from two designated landmarks: (i) 136,000 square feet from the University Club, which would be transferred by means of a §74-79 special permit, and (ii) approximately 275,000 square feet from St. Thomas Church, which would be utilized through a §74-711 special permit to enable certain zoning modifications. The project also involves the utilization of 31,389 square feet from the Folk Art Museum site. Therefore, the project will provide substantial benefits to four important not-for-profit institutions: MoMA, St. Thomas Church, Folk Art, and the University Club.

The building as proposed would be 1,250 feet in height. Although the building is tall, it has relatively few units –150 residential units and 120 hotel units – which is smaller than many

of the residential and hotel buildings on this block and on the surrounding blocks. The building would contain 658,306 square feet of total floor area, which is comparable in size to many mid-sized buildings in Midtown, and is roughly the same size as the building located just across the street from MoMA to the south, at 31 West 52<sup>nd</sup> Street, which is a 30-story, midblock office building that was also developed by Hines.

Given the modest number of units in the building, the project's Final Environmental Impact Statement determined that the building would have no significant environmental impacts in terms of the traffic, loading activity, or pedestrian trips generated by the building. The project's environmental consultant is here to answer any questions about the traffic flow on West 53<sup>rd</sup> and West 54<sup>th</sup> Streets, the operation of the loading docks, bus drop-off activities, and visitor queuing.

The Proposed Building will continue the long-standing approach to development of this block that has concentrated development in the southern half of the block and has underbuilt the portion of the block in the Preservation Subdistrict. The construction of the Museum Tower in 1984, MoMA's recent expansion in 2004, and now the Proposed Building, all involve the shifting of floor area on the zoning lot to the south and west, away from the landmark buildings and away from the MoMA Garden along West 54<sup>th</sup> Street, which has been preserved and expanded throughout the development of the MoMA campus.

The requested zoning waivers would facilitate this movement of bulk to the south and west, and would allow for the unique asymmetrical design of the building. The project meets the findings of the §74-79 and §74-711 special permits regarding land use impacts, because the building largely complies with the height and setback regulations for the zoning districts in

which it is located, with waivers necessary only to establish a functional floor plate on the upper floors and distribute floor area away from the landmarks and the Preservation Subdistrict.

The developer and MoMA have worked hard to resolve the issues raised by the Community Board regarding loading dock activities, bus idling, visitor queuing, and the need for communication during construction. Based on this feedback, the developer has committed to work as part of a construction task force to respond to construction impacts and issues, and to maintain a single point of contact during construction. MoMA has committed to explore solutions to pedestrian and traffic concerns, and has already taken measures to encourage visitor arrivals at nonpeak hours, to dedicate staff to monitor deliveries and truck and bus idling, and to engage with the Midtown North Police Precinct on traffic-related issues. In recognition of these commitments, the Manhattan Borough President recommended conditional approval of the project.

We were disappointed that the City Planning Commission voted to reduce the height of the building by 200 feet, to 1,050 feet. This height reduction is problematic on many levels: it threatens the economic viability of the project, it reduces the benefits to the not-for-profit institutions, and it undermines the architectural integrity of the building. Therefore, we are respectfully requesting that the City Council restore the height of the building to 1,250', as originally proposed.



October 1, 2009

Hon. Christine C. Quinn  
City Council Speaker  
250 Broadway, 16<sup>th</sup> Floor  
New York, NY 10007

Re: 53 West 53rd Street (ULURP Nos. 090431 ZSM, 090432 ZSM)

Dear Speaker Quinn:

Thank you again for the opportunity to meet with you on September 25<sup>th</sup> to discuss the 53 West 53<sup>rd</sup> Street project. We are providing you with this letter to respond to the issues raised by the West 54 – 55 Street Block Association in the letter to you dated September 24, 2009 (the “Block Association Letter”). The Block Association Letter asserts, specifically, that: (i) the height of the proposed building should be restricted to 490 feet; (ii) a through-block pedestrian passageway should be provided in the new building; (iii) the building’s loading dock should be eliminated and a through-block vehicular passageway should be provided; and (iv) greater visual access should be provided into the MoMA Garden from West 54<sup>th</sup> Street. Each of these positions is discussed in detail below.

### 1. Building Height

The Block Association Letter states that the height of the 53 West 53<sup>rd</sup> Street building should be limited to 490 feet. A height limit of 490 feet would make the proposed building nearly 100 feet shorter than Museum Tower (588 feet), which is located on the same block, and less than half the height of the 1,089-foot as-of-right building that could be built on this site, which is analyzed in the project’s Final Environmental Impact Statement. A 490-foot building could not accommodate all of the proposed floor area in the building, and therefore would significantly reduce the amount of floor area purchased from – and the benefits to – the nearby not-for-profit institutions.

A height limit of 490 feet is unreasonably low for this dense Midtown neighborhood, where there are already several taller buildings – including buildings located in the midblock – in the immediate vicinity. Notably, the 9 West 57<sup>th</sup> Street building, three blocks to the north, is 687 feet tall, and the 30 Rockefeller Center building, three blocks to the south, is 850 feet tall. Moreover, the development site is not a typical “midblock” site because it is located very close to 6<sup>th</sup> Avenue, with approximately 43% of its total lot area located in the C6-6 (15 FAR) zoning district along 6<sup>th</sup> Avenue. On West 53<sup>rd</sup> Street, 52’ of the site’s 87’ feet of total frontage is

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located in the C6-6 zoning district, and 32.5' out of a total 108' of frontage on West 54<sup>th</sup> Street frontage is located in the C6-6 zoning district. Similarly, over 56% of the proposed building's floor area is located in the C6-6 district. The proposed building largely complies with the height and setback regulations of the Special Midtown District, including the C5-P Preservation Subdistrict, with waivers necessary only to establish a functional floor plate on the upper floors and distribute floor area away from the landmarks and the C5-P.

The City Planning Commission voted on September 9, 2009 to reduce the height of the building by 200 feet, to 1,050 feet. The project developer is requesting that the City Council restore the originally proposed 1,250-foot height. The Commission's action has been criticized by the New York Times architectural critic Nicolai Ouroussoff in a September 10, 2009 article (see Attachment A to this letter), in which he worries that "one of the most enchanting skyscraper designs of recent memory, may well be lost because some people worry that nothing in our current age can measure up to the past." Ouroussoff writes of the proposed building, "The soaring height and slender silhouette of Mr. Nouvel's tower not only captured the spirit of Midtown – the energy and hubris that transformed this island into a monument to American cosmopolitanism – it also brought that spirit forcefully into the present."

## **2. Through-block pedestrian passageway**

The Block Association Letter requests a "through-block pedestrian passageway" between West 53<sup>rd</sup> and West 54<sup>th</sup> Streets. The project will contain a through-block hotel lobby, and the project developer has committed to the Manhattan Borough President that the hotel will have an entrance on both streets and that the hotel lobby will be open to the public in the same manner as a typical hotel lobby. This commitment is included as a condition of the Borough President's recommendation.

It should also be noted that MoMA already has a through-block lobby space, located only approximately 200 feet to the east of the development site, which provides a convenient point of access from West 54<sup>th</sup> Street to West 53<sup>rd</sup> Street in a location close to the middle of the block. As a condition of MoMA's 2000 special permit, this lobby is required to be open to the public for free passage on days the museum is also open, at least one hour before the galleries are open and until the galleries close. The Museum lobby is also open on Tuesdays, the day the Museum galleries remain closed.

The management of pedestrian and vehicular traffic around the MoMA campus is governed by the "Transportation Management Plan" contained in the October 2000 Environmental Impact Statement for the Museum's previous expansion, completed in 2004 (CEQR No. 00DCP007M, dated October 6, 2000, Appendix G), and adopted by the City Planning Commission in connection with the MoMA special permit in 2000. The Transportation Management Plan ("TMP") is attached here for your reference, as Attachment B.

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The Museum opens at 10:30 a.m. every day (except Tuesdays) and generally closes at 5:30 p.m.. As a requirement of the 2000 special permit, MoMA's through-block lobby always opens one hour earlier – at 9:30 a.m. – in order to accommodate visitors indoors at the ticketing and information desks as well as the coat checkroom. This requirement is embodied in Section 3 of the restrictive declaration recorded against the property in connection with the 2000 special permit, attached here as Attachment C. The through-block lobby is open every day, even on Tuesday when the Museum is closed.

MoMA experiences peak visitation during summer weekends and holiday periods such as the weeks of Christmas and Thanksgiving. Last year, for eleven days during the Christmas and New Year's holidays (December 26, 2008 through January 5, 2009), MoMA opened both its lobby and galleries at 9:30 a.m. to accommodate visitors and to minimize sidewalk queuing.

Since reopening in Midtown on November 20, 2004, typical weekday attendance has averaged approximately 6,800 (approximately 971 visitors per hour, based on a 7-hour period of operation for typical weekdays). There is space within the Museum lobby to accommodate just over 1,200 people. As set forth in the TMP, this internal space is utilized for visitor queues and circulation until the lobby is at capacity.

On an average weekday, outdoors queues that form before the Museum opens typically extend down West 53<sup>rd</sup> Street as far as the vacant development parcel, at their longest. During peak visitation periods the visitor queue may reach as far as the 1330 Sixth Avenue building along West 53<sup>rd</sup> Street, but usually does not round the corner onto Sixth Avenue. During observations of the main MoMA entrance on a typical weekday in November 2008, morning queuing to enter the Museum had completely dissipated and had been contained within the MoMA lobby by about 10:30 am. The average attendance during days of peak visitation has been approximately 10,700 (approximately 1,338 visitors per hour, based on an extended 8 hour period of operation). Even during peak visitation, days, any ticketing queues are able to move within the lobby in less than an hour.

Visitation can sometimes be high during Target Free Friday Nights (TFFN), which is a free admission program that started upon the Museum's reopening in 2004, and which takes place every Friday between 4:00 p.m. and 8:00 p.m. TFFN permits City residents and visitors from all over the world to enter the Museum without paying any admission charge. As a result of TFFN, approximately 1.5 million people have visited MoMA for free since 2004. On average, over 330,000 people enjoy free access to the Museum every year.

Visitation patterns and queue efficiency were studied in detail during the TFFN on Friday, July 3, 2009, which was attended by 9,220 people—one of the highest attendance levels ever. The outdoor queue wrapped around the block to Sixth Avenue and then onto the south

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side of West 54<sup>th</sup> Street. The end of the line at its longest was on the westernmost part of the street, near the parking garage entrance and the fence of the vacant lot on West 54<sup>th</sup> Street. The line moved very quickly and was completely contained inside the lobby by 5:55 p.m. Most Friday nights, the line begins forming between 3:00 p.m. and 3:15 p.m., and is contained within the building by 6:15 p.m. The diagram included below illustrates the movement of the queue during the typical TFFN.<sup>1</sup>

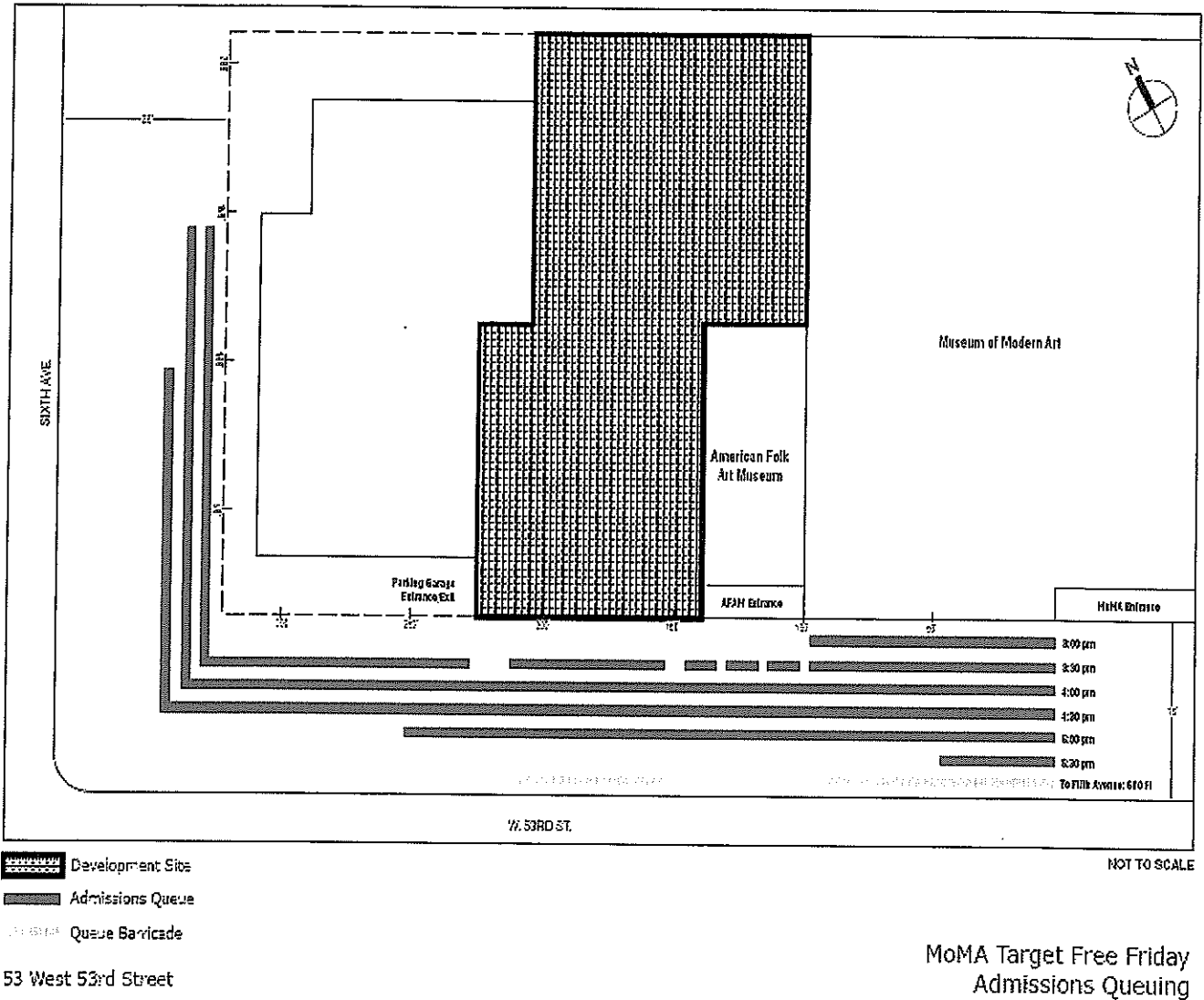
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<sup>1</sup> We are aware that there have been some reports that the line has reached farther east along West 54<sup>th</sup> Street on certain Friday nights – on August 8, 2008, in particular. The long line on that night can be explained by the presence of the temporary “Home Delivery” show on the vacant lot, which opened in July 2008. In order to manage the queues for both TFFN and the outdoor architecture show, MoMA created two separate lines, with a dedicated queue for the outdoor architecture exhibit. This use of two separate lines was an anomaly, developed only for that exhibit. Despite the length of the line, it was entirely contained within the Museum lobby within 60 minutes. We also note that the attendance on August 8, 2008 was 8,633 visitors between 4 and 8 p.m., which is lower than the attendance on July 3, 2009 of 9,220 visitors, when the line did not reach as far, which attests to MoMA’s improving management of its visitor queues.

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The TMP requires the following measures, when necessary, to manage visitors effectively and safely as they arrive and leave the Museum:

- Timed ticketing:** Since reopening in 2004, the Museum has offered visitors the ability to purchase general admission tickets online in advance. This online service was upgraded in January 2008 and all fees associated with purchasing a ticket in advance were eliminated. Printing tickets at home is also an option that is encouraged. Over the past year, a number of Museum ticket buyers used this option to purchase their tickets and therefore did not need to wait in any queues when they arrived at MoMA on the day

of their visit. The Museum hopes to grow this number over the next 12 months. In addition, as required by the TMP, for “blockbuster” exhibitions, the Museum uses a full timed ticketing plan. For instance, this was employed during the “Van Gogh and the Colors of the Night” exhibition (9/21/08 – 1/5/09) to even the flow of visitors in to and out of the Museum and exhibition and improve the overall experience. The timed ticketing operation for the Van Gogh exhibition was contained entirely indoors, on an upper floor, and through advanced online ticket sales.

- **Queue Capacity and Design:** There are designated areas inside the Museum where visitors can wait to purchase tickets, purchase Museum memberships, and request information. These areas, as noted, can accommodate up to 1,200 people, which is the authorized capacity of the public assembly permit for this lobby space. A structured ticketing queue with stanchions and ropes is put in place every morning inside the Lobby near the ticketing desk and can accommodate up to 200 visitors waiting to purchase tickets. The area in front of the Member services desk can accommodate 75 people, the area near the Information desk can accommodate approximately 200 visitors in six separate lines, and the area near the ticket scanning stations and audio tour desk can accommodate up to 400 visitors. The balance of the lobby’s visitor capacity is accommodated within the general circulation areas, in group assembly and reception areas, and in seating areas. In those circumstances when the designated controlled queuing areas inside the lobby are filled, the visitor queue to purchase tickets moves outdoors onto the sidewalk and west towards Sixth Avenue. As outlined in the TMP, the outdoor queue is always managed by Museum staff to monitor pedestrian safety and the distribution of useful information to Museum visitors. This staffing includes an end of line greeter and control of entry/exit to the through block lobby on both the north and south sides, as the TMP mandates.
- **Queue Equipment:** As the TMP mandates, the Museum uses specialized outdoor and indoor queue equipment including stanchion poles, ropes, and barricades whenever there is an outdoor queue. As noted above, visitation is typically highest during Target Free Friday Nights.
- In addition, MoMA recently updated its website – [www.moma.org](http://www.moma.org) – to add a new feature to the *Visit - Tips for Visiting* section called “Wait Times,” and language was also added to the Target Free Friday Night section suggesting that visitors arrive after 6 p.m. Also, the “Buy Tickets” button directing website users to purchase their tickets online includes the text “purchase your tickets and skip the line.” Also, additional ticket types are now available for “print-at-home” convenience with the aim of further reducing any outdoor visitor queues through the convenience of being able to print your ticket before visiting. Adult, Student, Senior, and Child tickets can all be printed at home.

### 3. Loading Docks

The Block Association Letter requests the elimination of the new loading dock, and also the provision of a through-block vehicle passageway, presumably as an alternative to a loading dock. Both requests reflect a perception that an additional loading dock will add to loading activity which is already too heavy, and the Block Association desires it to be shifted to West 53<sup>rd</sup> Street.

Moving the loading dock to West 53<sup>rd</sup> Street is problematic because West 53<sup>rd</sup> Street has greater levels of traffic than West 54<sup>th</sup> Street. AKRF prepared a memo on July 13, 2009, in response to questions raised by Manhattan Community Board 5, the Manhattan Borough President, and City Council members, addressing project vehicle trip generation, loading dock activity, and deliveries (the "AKRF Memo"), which is attached here as Attachment D. As described in the AKRF Memo, overall, traffic flows more favorably on West 54<sup>th</sup> Street than on West 53<sup>rd</sup> Street and better than on other nearby cross-town streets in this area. The proposed project was estimated to generate only up to three deliveries in an hour, which would also occur with the possible as-of-right buildings on the site. At the Warwick hotel across the street from the project site, only one delivery during the morning peak hour was recorded, which has three times as many rooms as what the proposed building would provide. One can conclude that while our traffic analysis suggests conservatively the potential for three deliveries in the peak hour, operational realities might be more similar to the Warwick, with one such delivery.

Nevertheless, in order to address the neighbors' concerns about truck deliveries on West 54<sup>th</sup> Street, as well as bus traffic, MoMA has committed to dedicate staff to monitor deliveries and implement strategies to minimize traffic and pedestrian conflicts, truck and bus idling, and other quality of life impacts. This commitment is stated as a condition of the Borough President's recommendation in favor of the project.

It also should be noted that a loading dock is required in this project under Section 36-62 of the New York City Zoning Resolution, for a hotel with greater than 100,000 square feet. Elimination of the loading dock would require a new zoning action, which would be out-of-scope of the ULURP application.

Similarly, shifting the loading dock to West 53<sup>rd</sup> Street would also be out-of-scope, because new curb cuts are prohibited on West 53<sup>rd</sup> Street without a zoning authorization. Section 81-44 of the Zoning Resolution explicitly prohibits curb cuts for loading berths or parking facilities on West 53<sup>rd</sup> Street within the Special Midtown District, including on the block between 5<sup>th</sup> and 6<sup>th</sup> Avenue. Such curb cuts may be permitted pursuant Section 81-44(a) by the Department of Buildings, where there is "no alternative means of access" to a loading berth from another street; this provision is not applicable here because there is access to the site from 54<sup>th</sup> Street. Alternatively, the City Planning Commission could authorize curb cuts where needed for

such loading berths. This authorization requires referral to the Department of Transportation for its comments.

This curb cut restriction is one of the mandatory district plan elements required by the Special Midtown District, which requirements are designed to improve pedestrian circulation on certain key streets in Midtown. The City Planning Commission acknowledged the special character of this block of West 53<sup>rd</sup> Street in its report establishing the Special Midtown District in 1982 (N 820253 ZRM, N 820253 ZRM (A), March 16, 1982 / Cal. No. 1), which report noted the importance of West 53<sup>rd</sup> Street as a "museum block," and discussed the need to preserve the street's character. Similarly, a report by the Department of City Planning in June 1981 entitled "Midtown Development," which report formed the basis for the enactment of the Special Midtown District, noted, with regard to 53<sup>rd</sup> Street, that:

"[t]he combination of the Independent subway which crosses Manhattan under 53<sup>rd</sup> Street east of Broadway, with stations at Seventh Avenue, Fifth Avenue and Lexington-Third Avenues, and the museums and institutions on the street provides an unusual opportunity to improve pedestrian movement and subway access."

This 1989 "Midtown Development" report states that the curb cut restriction of Section 81-44, which also applies to 57<sup>th</sup>, 42<sup>nd</sup>, and 34<sup>th</sup> Streets, "reflects a concern for the disruptive and potentially dangerous conflict between pedestrians and vehicles at the sidewalk of these important Midtown streets." Exceptions were to be made only "where site configuration or other extenuating conditions preclude existing curb cuts on alternate streets bordering a development site."

Relocating the loading activity to West 53<sup>rd</sup> Street would impact nearly as many residents as are impacted by locating these activities on West 54<sup>th</sup> Street. The Museum Tower, located on West 53<sup>rd</sup> Street, contains approximately 242 apartments – nearly equivalent to the approximately 251 apartments contained in the multiple residential buildings on West 54<sup>th</sup> Street.<sup>2</sup> Any curb cut on West 53<sup>rd</sup> Street would also need to be located to avoid the existing E/V subway vents and emergency exits, which would be difficult.

The provision of a through-block vehicle passageway, also suggested by the Block Association Letter, would present the same curb cut problem and traffic problems on West 53<sup>rd</sup> Street discussed above. A through-block driveway would also destroy the ground floor program of the building, which must accommodate both the hotel lobby and residential lobby, together with the separate elevator banks for these uses, on a very small site.

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<sup>2</sup> The Rockefeller Apartments extends from West 54<sup>th</sup> to West 55<sup>th</sup> Streets, and has entrances on both streets, so it is assumed that its 208 units are divided evenly between the streets.



#### 4. MoMA Garden Wall

The Block Association Letter requests that the MoMA Garden be opened up to the sidewalk. Physical alteration of the MoMA Garden Wall is impractical for a number of reasons.

By way of background, the Abby Aldrich Rockefeller Sculpture Garden, designed by Philip Johnson, and originally dedicated in 1953, is an outdoor gallery and serves as a central unifying element for the Museum. As such, it requires strict adherence to collection object security and display guidelines in the same way as works displayed indoors.

The Garden was enlarged during the 2004 Taniguchi expansion and construction project and re-opened to the public in November 2004. Pursuant to the expansion in 2004, after the Special Permit process and study by the Museum's architects, the Garden wall was reduced in size to the fullest acceptable extent. The height of the wall prior to the 2004 expansion was 15'. It had two gates opening to the Garden which totaled 27' - 6" in length, which were also 15' high. The Museum's current Garden wall is only 13' high. It also has two gates opening to the Garden which total 32' - 0" in length and are only 10' high. The wall height accords with the placement of Museum sculptures, and traffic circulation patterns for visitors in the outdoor Garden space. For the "Summergarden" concert series, visitors are permitted to enter and leave the concerts in the Garden from these two gates. In addition, the Garden wall materials were selected by the architect, in part, to respond to concerns expressed by our neighbors about graffiti which occurred on the previous wall. The wall of the present Garden along West 54<sup>th</sup> Street was designed with two gates towards the east and west ends of the Garden for the purpose of moving large objects in and out, as well as for fire safety and visitor egress. Visually, the gates provide breaks in the wall due to their lower height and open slatted construction. Philip Johnson's concept for an outdoor gallery was predicated on the spatial organization of the garden into various zones or outdoor rooms whereby the wall serves as a necessary backdrop and support for the display of various kinds of sculpture to maximize and enhance the visitor experience.

Pursuant to the expansion in 2004, after the Special Permit process and study by the Museum's architects, the Garden wall was reduced in size to the fullest acceptable extent. The height of the wall prior to the 2004 expansion was 15'. It had two gates opening to the Garden which totaled 27' - 6" in length, which were also 15' high. The Museum's current Garden wall is only 13' high. It also has two gates opening to the Garden which total 32' - 0" in length and are only 10' high.

Notwithstanding these architectural and programmatic limitations on altering the wall, MoMA has begun to explore design concepts with its architects, curators, and other stakeholders to improve the appearance of the wall facing 54<sup>th</sup> Street, making it a more attractive and appealing façade, and to allow a greater sense of openness into the Garden from the street.

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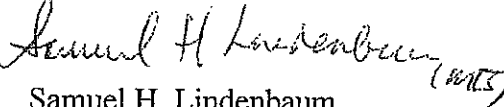
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MoMA is also willing to offer free Museum memberships to the West 54th Street neighbors, in order to ensure that these residents will enjoy unfettered access to the Garden whenever the Museum is open.

Thank you again for your consideration of this important project. Please contact us if you have any questions or comments.

Very truly yours,

  
Samuel H. Lindenbaum

Enclosures

cc: Chuck Meara  
Gail Benjamin  
Danielle DeCerbo  
Kate Seely-Kirk

Attachment A

THE NEW YORK TIMES

Architecture

Off With Its Top! City Cuts Tower to Size

By NICOLAI OUROUSSOFF

Does Manhattan have a future as a great metropolis?

If you hope the answer is yes, you will be disheartened by the City Planning Department's decision on Wednesday to chop off 200 feet from the top of a proposed tower next door to the Museum of Modern Art on 53rd Street in Manhattan.

Designed by Jean Nouvel, the building would have been as tall as the Empire State Building minus its antenna, a fact that probably made planners tremble. Amanda Burden, the city planning commissioner, said the tower's top, which culminates in three uneven peaks, did not meet the aesthetic standards of a building that would compete in height with the city's most famous towers. And who, after all, wants to be responsible for ruining the most famous skyline in the world?

Still, the notion of treating the Midtown skyline as a museum piece is more disturbing. The desire of each new generation of architects and builders to leave its mark on the city, to contribute its own forms, is essential to making New York what it is. The soaring height and slender silhouette of Mr. Nouvel's tower not only captured the spirit of Midtown — the energy and hubris that transformed this island into a monument to American cosmopolitanism — it also brought that spirit forcefully into the present.

Mr. Nouvel's design was conceived as a giant spire, like the Empire State's but without the boxy building. Supported by a matrix of interwoven steel beams reminiscent of a spider's web, it tapers jaggedly as it rises, evoking a shard of glass. The beams are flush with the building's glass surface, giving it a taut muscular appearance; an underground restaurant and lounge, visible from the sidewalk, root the structure to the site.

The design's beauty stemmed from its elegant proportions, particularly the exaggerated relationship between its small footprint and enormous height. Seen from the street, its receding facades would have induced a delicious sense of vertigo.

Ms. Burden's objections were directed at the top of the building. "Members of the commission had to make a decision based on what was in front of them," she said. "The development team had to show us that they were creating something as great or even greater than the Empire State Building and the design they showed us was unresolved."

It's true that aspects of the design had yet to be developed fully. The three peaks were too symmetrical, which gave them a slightly static appearance. And they could have been sharpened to finer points. But Mr. Nouvel, one of the profession's most creative forces, would have been more than capable of dealing with these issues.

With the new height restriction in place, though, his original design concept will surely be diminished. And the loss of as much as 150,000 square feet of floor space could also lead to cuts in the design budget, which could mean cheaper materials and more cramped interiors. Or, just as bad, it could push Hines, the building's developer, into finding a way to pack more space onto the lower floors, which could further distort the building's proportions.

But the greater sadness here has to do with New York and how the city sees itself. Both the Empire State and Chrysler buildings, built during the Great Depression, were celebrated in their time as emblems of the city's fortitude. The Freedom Tower, our era's most notable contribution to the skyline, is a symbol of posturing and

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political expediency. And now a real alternative to it, one of the most enchanting skyscraper designs of recent memory, may well be lost because some people worry that nothing in our current age can measure up to the past. It is a mentality that, once it takes hold, risks transforming a living city into an urban mausoleum.

<http://www.nytimes.com/2009/09/10/arts/design/10building.html? r=1&ref=arts>

**Attachment B**

Transportation Management Plan

## Museum of Modern Art Expansion Transportation Management Study

### INTRODUCTION

This Transportation Management Study (TMS) focuses on projected pedestrian and vehicle operations and has been prepared to support the proposed expansion of the Museum of Modern Art (MoMA). The expansion would increase the floor area from its current 410,000 gross square feet to approximately 633,050 gross square feet. The project would provide additional space for Museum functions by creating new galleries, an expanded education program, an additional theater, and a larger restaurant. These additional facilities are expected to increase the annual number of visitors from 1.8 million to 2.5 million placing additional service demands on the surrounding transportation and pedestrian facilities. The purpose of this study is to develop a conceptual pedestrian circulation and vehicle management plan that will meet the expected needs of the museum visitors, while also minimizing impacts to the surrounding community.

This TMS looks at two scenarios. The "Typical Day" analysis considers the pedestrian and vehicular conditions anticipated for a day when the museum is operating under normal conditions with a regular program of permanent and temporary exhibitions. Transportation conditions when the temporary galleries are utilized at maximum capacity and the permanent galleries are in general use have been modeled as the "Extreme Day" analysis. Projections of future demand for the expanded space are based on the studies prepared for the Museum's Preliminary Draft Environmental Impact Statement (PDEIS) and historical attendance figures compiled by MoMA's Department of Visitor Services. The PDEIS looked at only the Extreme Day conditions. The Museum expects to hold between one and three shows per year that may result in the Extreme Day scenario. Blockbuster-type exhibitions (such as Jackson Pollock or Matisse/Picasso), which may occur every two to three years, will operate under extreme day conditions. The preliminary Transportation Management Plan (TMP) discussed below has been designed to respond to the concerns expressed during the June 29, 2000 meeting held by the sub-committee of Community Board 5 established to review this project. As discussed at the meeting, the TMP must meet the following two goals in order to respond to the concerns of the Community Board:

1. Minimize and control the amount of on-street pedestrian queuing, and
2. Provide organized curbside utilization to assure that vehicles dropping off and picking up visitors at the museum entrances do not interfere with through traffic movements on West 53rd and 54th Streets.

This study identifies the magnitude of the projected demand for the expanded museum facilities and describes a plan that Museum staff can implement to manage sidewalk queuing and facilitate drop-offs from passenger vehicles, taxis, and buses.

### MUSEUM ATTENDANCE PROJECTIONS

The daily trip estimates utilized in the PDEIS were based on field survey data of existing conditions and estimates of the increased utilization of the expanded museum facilities. Transportation surveys were conducted over a 3-day period between Thursday, November 12, and Saturday, November 14, 1998. The busiest day occurred on Friday, November 13, 1998, which corresponded with the opening of a new exhibit (the Jackson Pollock exhibit), which was one of the most active days in MoMA's recent history. Figure 1 compares the average daily attendance figures for the Museum's Fiscal Year 1999 with the

## Museum of Modern Art

attendance measured during the survey periods. As shown in the Figure 1, the PDEIS baseline counts were taken during a period of extreme Museum use. Normal attendance is between 30% and 60% lower than the figures analyzed in the PDEIS.

Survey values collected for the Jackson Pollock opening have been used as the baseline to project the transportation conditions for the Extreme Day event by multiplying the measured Friday volumes by a growth rate that correlates to the expected increase in annual attendance. To model conditions during a Typical Day, the existing daily attendance figures, when the Museum is operating under normal conditions, have been adjusted upward to reflect the yearly increase to 2.5 million visitors. Existing temporal distributions were taken from historical data collected by the Department of Visitor Services and adjusted to account for the number of people arriving at the Museum prior to its official opening at 10:30 AM. Figure 2 shows the projected hourly arrivals for both the Extreme Day and Typical Day conditions once the expansion is open to the public. Both events follow the same basic pattern with the majority of visitors arriving between 11:30 AM and 2:30 PM. During this time period more than 1,400 visitors per hour are expected on an Extreme Day, while just over 1,000 visitors per hour are expected on a Typical Day.

Figure 2 also plots the maximum processing rate of the temporary and permanent gallery areas combined. The regular galleries can accommodate up to 1,350 people on floors one through six. It is anticipated that the average stay would be approximately 1-1/2 hours. During high traffic periods, the Museum anticipates allowing 90 people every 5 minutes into the general space, with staff within the galleries to monitor attendance volumes. The temporary gallery space on the seventh floor can accommodate 900 people and it is expected that one hour will be sufficient time to view the exhibition galleries. The loading rate into the seventh floor space can be as high as 75 people every 5 minutes. As shown in Figure 2, on a Typical Day, the processing rate of the permanent galleries exceeds the projected demand during all portions of the day. In the peak hour periods of the Extreme Day, the demand exceeds the combined processing rate of both the regular and special event areas. Methods of accommodating these high demand periods are discussed below.

### PEDESTRIAN QUEUING CONDITIONS

Figure 3 plots the cumulative attendance projections and processing rates for the Typical Day, while Figure 4 shows the expected conditions during an Extreme Day event. Under the Typical Day scenario, pedestrian queuing is only anticipated during the time periods prior to and immediately following the 10:30 AM opening. As shown in Figure 5, a total of approximately 200 people are expected when the doors open at 10:30 AM, with the number of people in queue reaching approximately 450 people by 11:00 AM and then diminishing to zero by 3:00 PM. In an effort to improve conditions on the surrounding sidewalks, the Museum's new through-block lobby and bookstore will be open at 9:30 AM. The combined floor area of these facilities can comfortably accommodate all of the waiting visitors and there should be no need for on-street queuing during Typical Day events.

Figure 5 shows that over 1,100 people may be waiting to enter the Museum gallery area during the peak activity periods on the limited occasions when Extreme Day conditions occur. The queuing study for the Extreme Day analysis utilized a reduced processing rate for the temporary galleries to account for the number of people that visit both the general exhibits and the special event. The capacity of the through-block lobby, accessory ground floor museum spaces, and seventh floor queuing areas can safely and comfortably handle just over 1,000 people, leaving approximately 100 people waiting on the adjacent West 53rd Street sidewalk area. The queue would be contained entirely in front of the Museum building. This is a considerable improvement over existing high demand events, where the line to enter the museum can at times contain over 1,000 people and can run past the church and onto Fifty Avenue.

With the proposed ticketing areas and bookstore entrances located on West 53rd Street, the TMP (discussed below) will use the Museum staff to form the on-street queues near the West 53rd Street entrance when the

lobby area is at capacity. In addition, the TMP discusses the use of timed ticketing, which has the potential to eliminate the need for any on-street queuing.

#### VEHICLE OPERATIONS - VISITORS

Modal split percentages and vehicle occupancy rates are also based on surveys collected during the November 12-14, 1998 field program. Application of the modal split percentages to the increased attendance projections indicates that during the extreme event conditions over 200 vehicle trips and 225 trips by taxi will occur during the peak activity hours. In addition to vehicular drop-offs, groups will also be arriving by bus. School groups will come to the new Education Center along West 54th Street with arrival and departure times scheduled so as no more than four buses will arrive at the Museum at any one time. Adult tours will continue to use the West 53rd Street entrance and will be scheduled in 15-minute intervals so only one bus at a time is loading and unloading passengers. Based on these travel demand characteristics, and the existing travel patterns of the current Museum audience, the following peak demand loadings are anticipated at the various drop-off locations during the Extreme Day conditions at any one time:

*Passenger Automobiles and Taxis:* A total of three to four vehicles loading and unloading passengers at both the West 53rd and West 54th Street entrances.

*School Buses:* Up to four buses at the new West 54th Street entrance to the Education Center.

*Charter Buses:* One bus loading or unloading passengers at the West 53rd Street entrances.

#### VEHICLE OPERATIONS - TRUCKS

Deliveries to MoMA are also part of the traffic flow on the local street network. The Museum receives most of its deliveries by small trucks and vans to the loading dock on West 54th Street. Large tractor trailers are normally only used to transport artwork and display materials during the setup and breakdown of shows and exhibits. All tractor trailer deliveries are scheduled by the Museum. Currently truck loading and unloading generally occurs at the curb. During peak delivery times, usually in the late morning and afternoon, up to three vans and/or small trucks are lined up along the curbside of West 54th Street as packages and materials are brought to and from the loading dock entrance. In addition, sanitation trucks queue along the curbside of West 54th Street to collect garbage from the Museum and adjacent residences.

The Museum expansion is expected to result in an additional four deliveries during the midday periods of the day. As part of the project, the Museum's truck dock and the Museum Tower's truck dock would be shifted west of their current location on West 54th Street. There would also be an additional truck dock for the Museum. All three of the loading areas have been sized to be twice as large as conventional truck docks allowing for all Museum delivery trucks to park inside the facility. The installation of the oversized truck docks is expected to improve traffic on West 54th Street by assuring that all deliveries occur inside the garage, thereby freeing up valuable curb space and minimizing the amount of double parking. The new truck docks have been designed so that Museum related trucking operations could occur within the garage and the dock area will be staffed to direct deliveries to their appropriate location.

The location of the new truck docks would be closer to the existing MGM truck dock on the north side of West 54th Street. However, approximately 75 feet will still separate the MGM and the MoMA facilities, providing sufficient room for trucks to enter and exit both the MoMA and the MGM building's truck dock areas without interfering with each other's turning movements.



## TRANSPORTATION MANAGEMENT PLAN

A conceptual TMP has been prepared for both the Typical Day and Extreme Day operating conditions. The plan seeks to accommodate the needs of the Museum, while also minimizing adverse impacts on pass-by activity so that Museum Expansion can be a vital and successful addition to the surrounding community. The principal elements of the operating plan relate to ticketing, queue capacity and design, equipment requirements, and staffing and will be employed by MoMA on an as-needed basis.

**Timed Ticketing.** When necessary for Blockbuster events, advance ticketing or pre-ticketing will be utilized to reduce queuing and congestion. This system restricts demand so that it does not exceed Museum gallery and/or lobby capacity, and avoids spill-over into pedestrian flow areas. The entrance for ticketed visitors will be on West 53rd Street. Timed ticketing levels the peaking characteristics found in the Extreme Day temporal distribution. The net result of the timed ticketing system is an evenly spaced demand for the special events that can eliminate the need for any on-street queuing by keeping the waiting visitors entirely within the MoMA building.

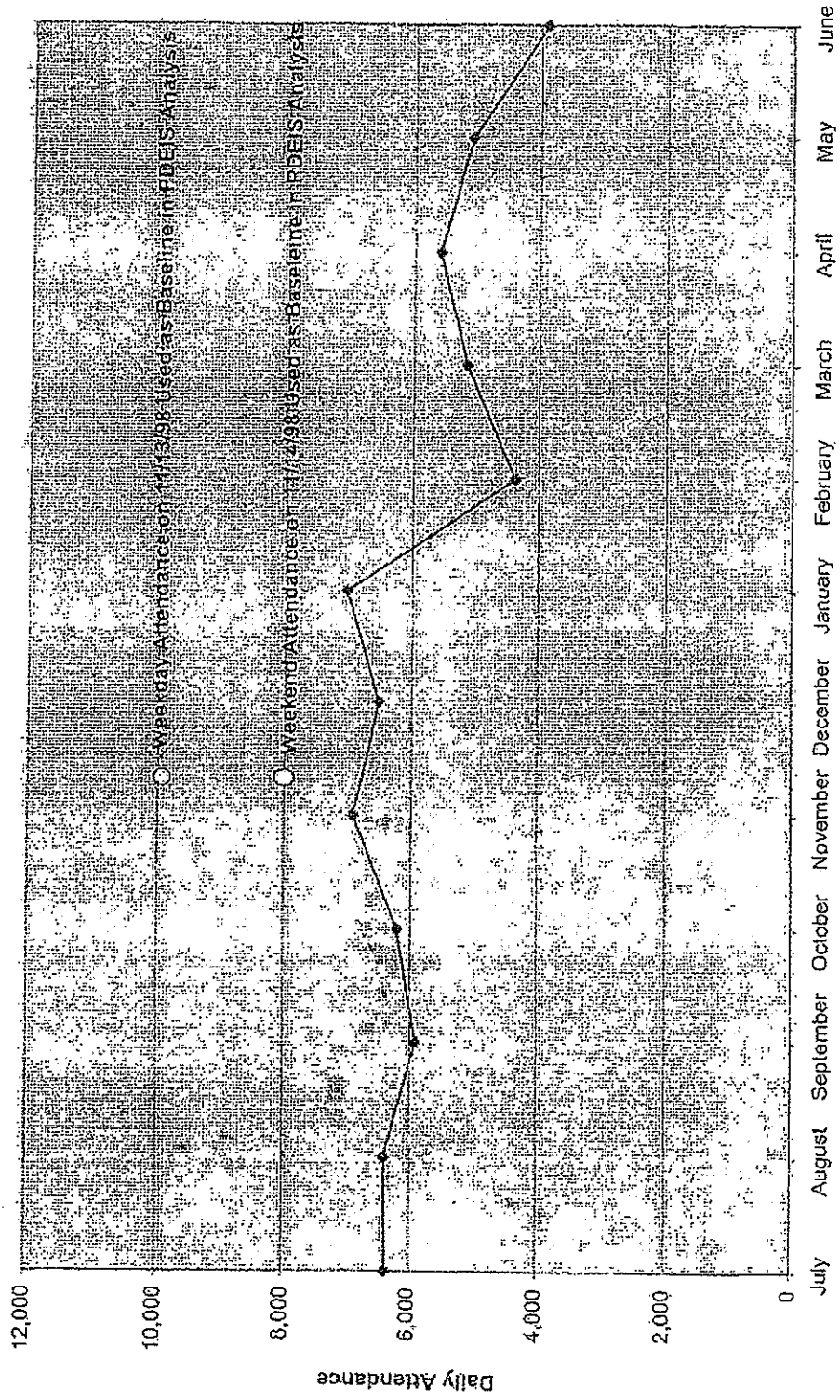
**Queue Capacity And Design.** Provision of a ticket queue area in order to provide for guest management and maintenance of flow through and around the lobby area. As indicated above, the ticket queue for the Blockbuster event will be located on West 53rd Street, while visitors to the general exhibit area can enter from either West 53rd or West 54th Street. An on-street queue will only be permitted once the lobby area is at capacity, with the tail of the queue extending onto the West 53rd Street sidewalk. As previously discussed, an on-street queue is only expected on rare occasions and can be contained entirely in front of the Museum building.

**Queue Equipment.** On the rare occasions that on-street queuing is necessary, removable stanchions with breakaway rope are recommended for defining the on-street queue areas. The stanchions are light and easy to set up and remove, requiring only a few minutes for setup and breakdown.

**Staffing.** Dedicated staff will provide for implementation of the operating plan. Specific operating functions are ticket taking, queue set-up and breakdown, end of line greeter, control of public entry/exit to the through block lobby, and supervision of flow at the public viewing area. The staffing requirements will vary by scenario. Figure 6 depicts an illustrative staffing scenario during Extreme Day conditions, where up to seven staff members are dedicated to controlling pedestrian and vehicular operations along West 53rd and West 54th Streets. During Typical Day conditions staff from the Education and Visitor Services Center will be used to monitor and control the lobby and curbside areas. The Museum will maintain a regular liaison with the New York Police Department, and will provide notification and request assistance for any Extreme events requiring outside support. TMP will provide a designated contact person that NYPD, the Community Board, and the New York City Department of Transportation (NYCDOT) can contact on an as-needed basis.

**Changes to On-Street Parking Regulations.** Discussions with NYCDOT will be held to initiate changes to parking regulations along West 54th Street. By relocating the truck docks to their new position, a No Standing anytime zone will be required to allow the trucks unrestricted access to the loading and unloading areas. This No Standing Zone should be extended to cover the new West 54th Street lobby entrance and should be at least 80 feet long to accommodate the peak period vehicles and taxis dropping off and picking up passengers at this location. A separate No Standing Zone will also be needed in front of the new Education Center and should be approximately 160 feet long. This space will be utilized for school bus dropoffs and pickups and would provide sufficient area for the buses to stay outside of the traveled way. On West 53rd Street, the current No Standing Zone in front of the existing entrance should be extended to provide sufficient room for autos, taxis and the occasional bus that needs to unload and load passengers.

Figure 1 - Existing Average Daily Attendance By Month



Fiscal Year 1999

Figure 2 - Temporal Distribution Comparison

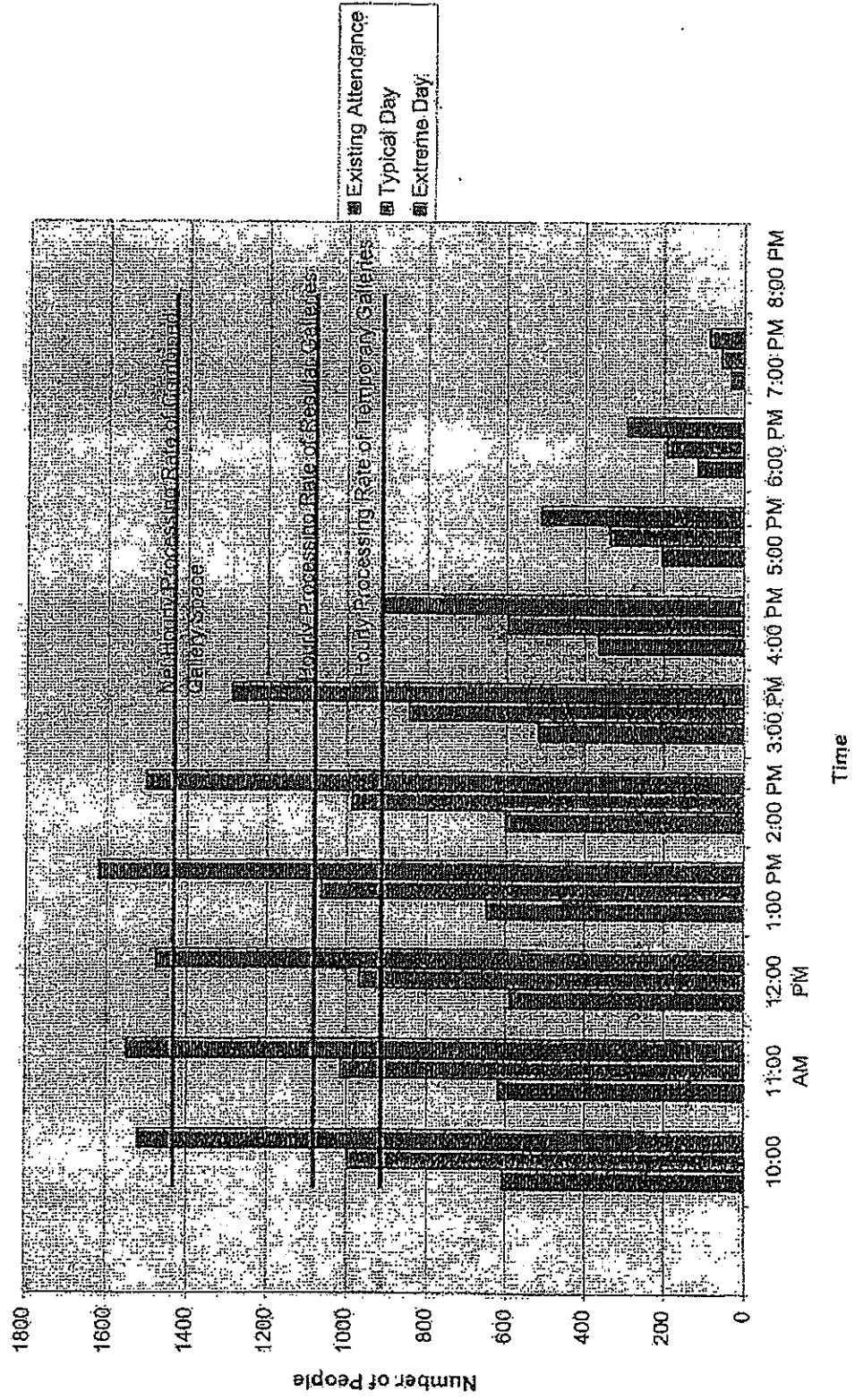


Figure 3 - Future Attendance Projections & Processing Rates for a Typical Day

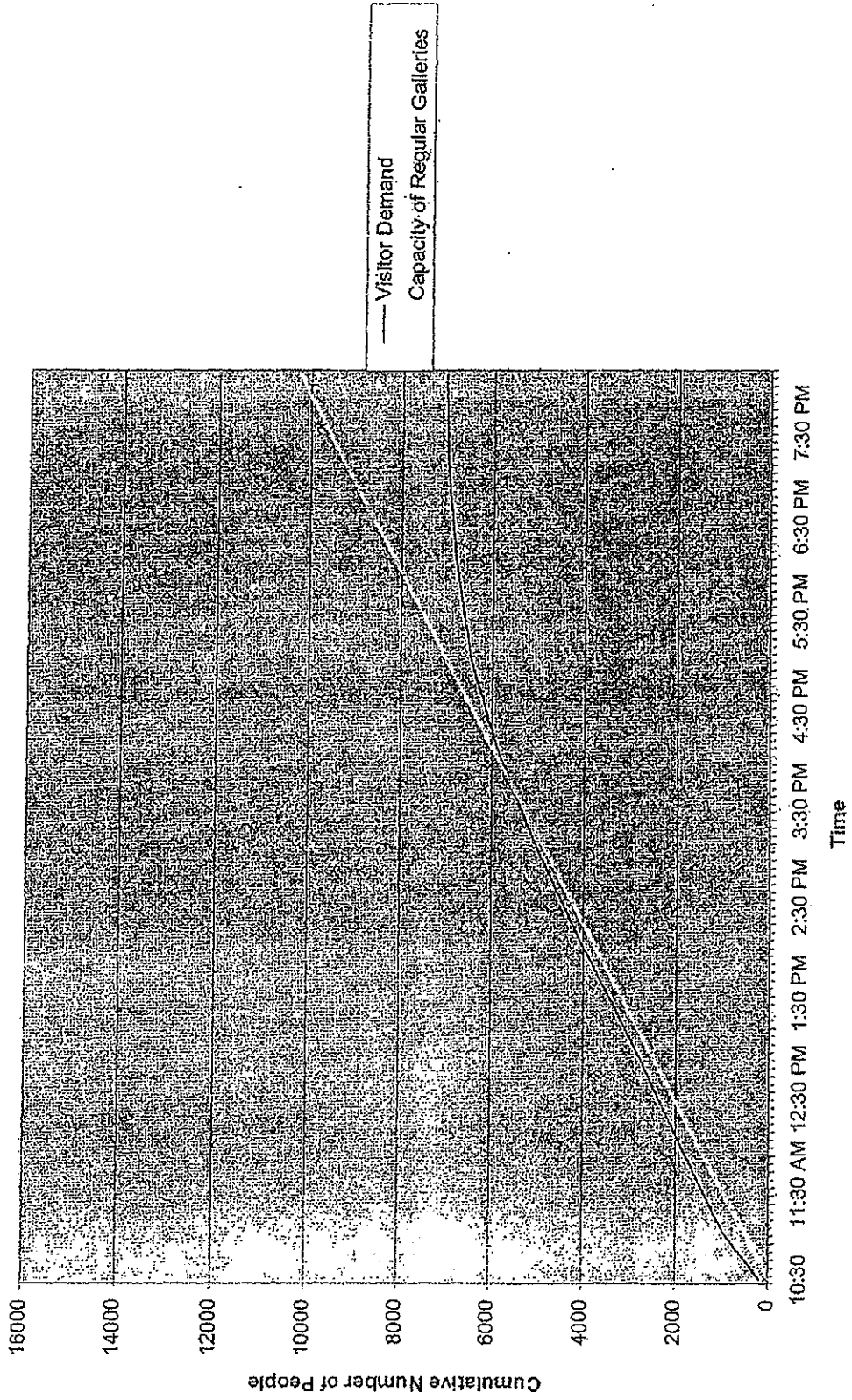


Figure 4.- Future Attendance Projections & Processing Rates for an Extreme Day

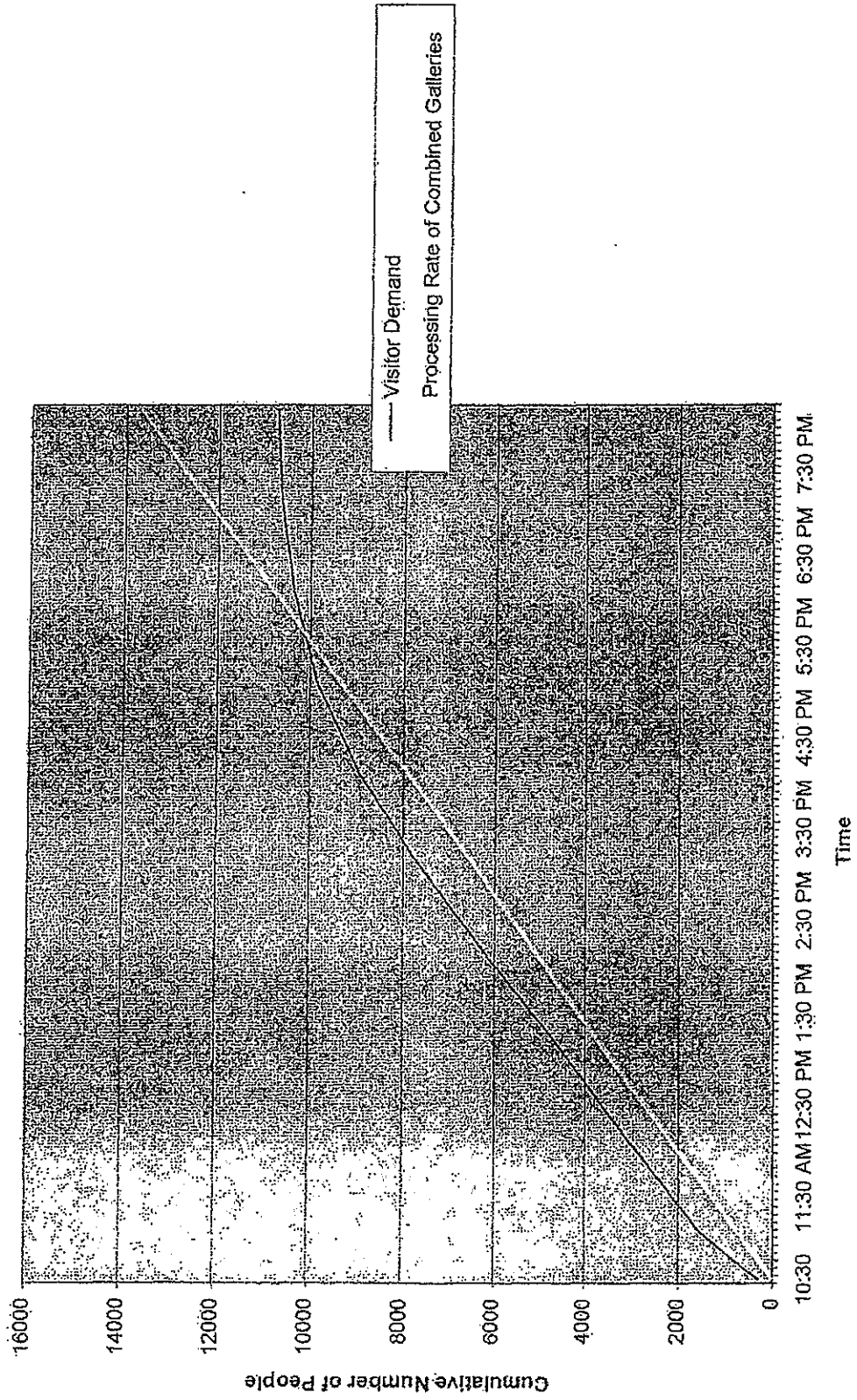
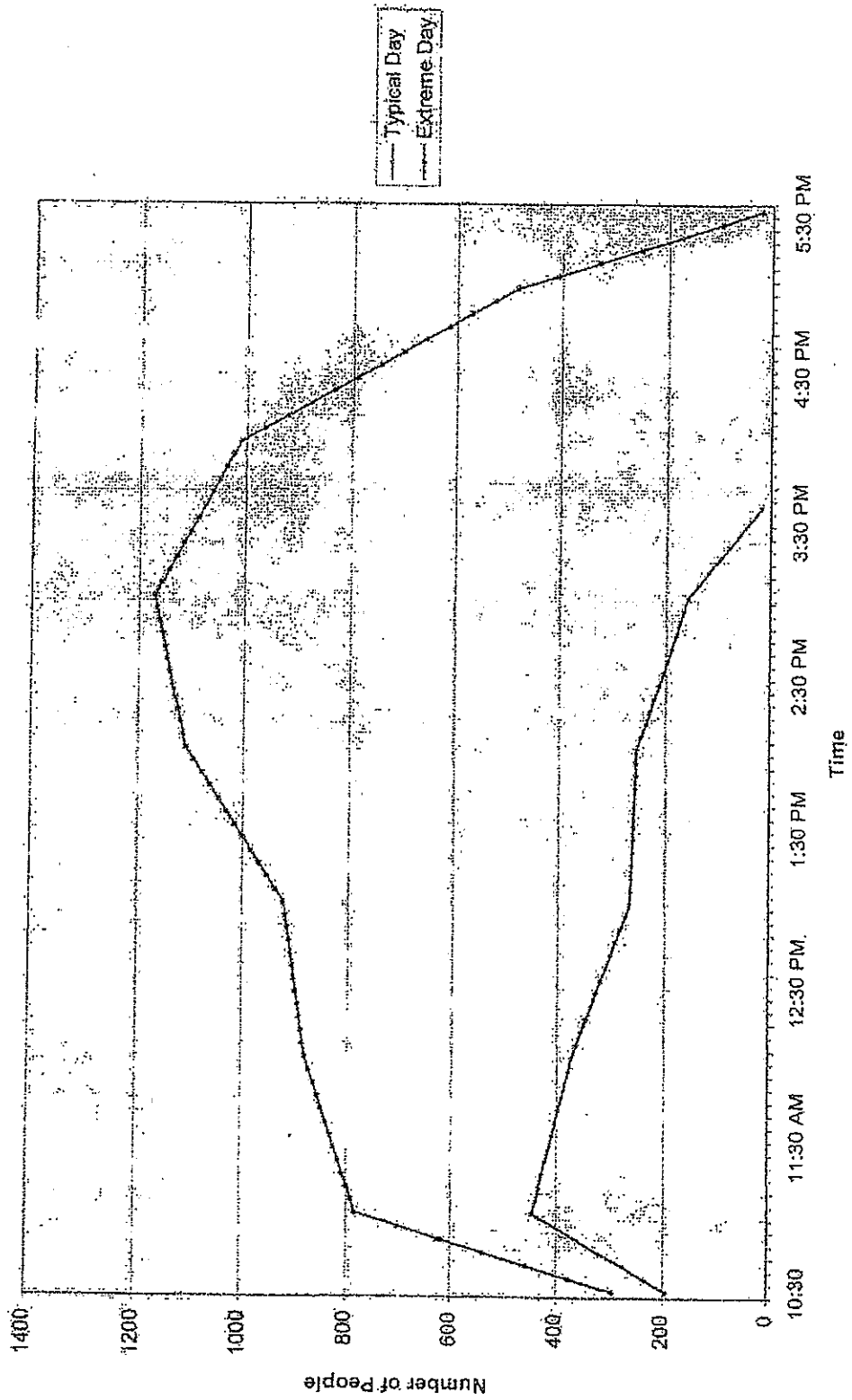
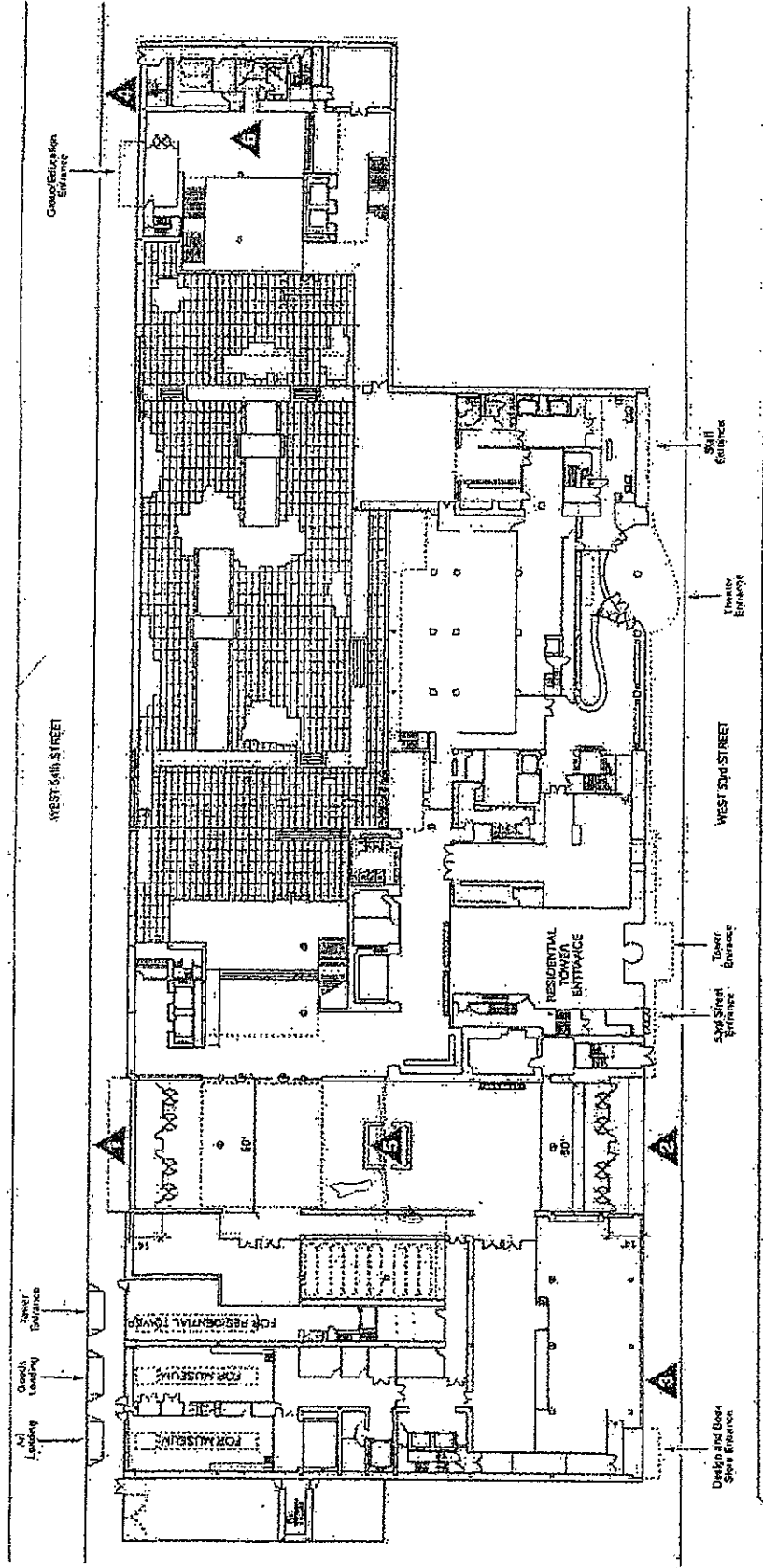


Figure 5 - Future Projections of People Waiting to Enter Galleries





7-00

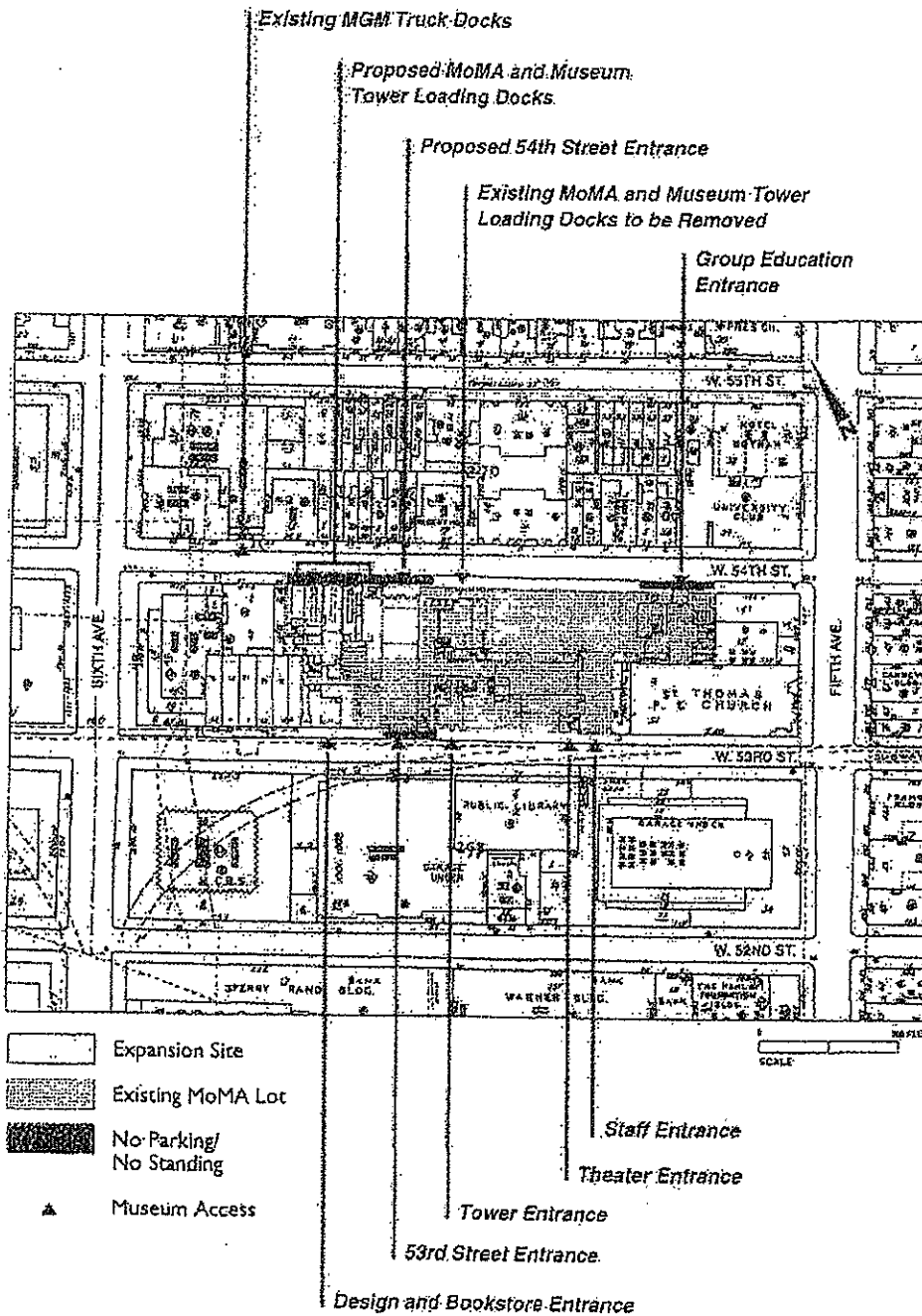


- A** Entrance Control Operator for Pedestrians and Visitor Drop-off at West 54th Street Entrance
- A** Vehicular Control Monitor at West 53rd Street Entrance
- A** Entrance Control Operator for Pedestrians at West 53rd Street Entrance
- A** Education Center Control Monitor
- B** Exhibit Ticketing Services and Control Monitor - Will float through the lobby to direct visitors
- B** Education Center Desk

Example of Staffing Positions  
 Extreme Day Event  
 Figure 6

**MoMA Expansion**

**Figure 7  
Loading and Unloading Areas**





Attachment C

2000 Restrictive Declaration

3214-0237b

CITY REGISTER RECORDING AND ENDORSEMENT PAGE

COUNTY OF > New York

TOTAL NUMBER OF PAGES IN DOCUMENT INCLUDING THIS PAGE > 16

THIS PAGE FORMS PART OF THE INSTRUMENT

|                     |  |                           |
|---------------------|--|---------------------------|
| Block > <u>1269</u> | Lots - ONLY IF ENTIRE LOT > <u>11, 12, 13, 14, 20, 58, 165</u> | Partial Lots > <u>P/O</u> |
|---------------------|--|---------------------------|

Premises > 11, 21-35, 37, 39, 41-43 W. 53rd St., 26-40, 42 W. 54th Street

|                               |   |
|-------------------------------|---|
| <b>RECORD &amp; RETURN TO</b> | NAME > <u>Michael T. Sillerman, Esq. Rosenman &amp; Colin LLP</u> |
|                               | ADDRESS > <u>575 Madison Avenue, Rm. 1722</u>                     |
|                               | CITY > <u>New York</u> STATE > <u>NY</u> ZIP > <u>10022</u>       |
|                               | TITLE AGENT COMPANY NAME > _____                                  |

Title/Agent Company Name > \_\_\_\_\_  
Title Company Number > \_\_\_\_\_

|                |   |
|----------------|---|
| NAME & ADDRESS | PARTY 1 > <u>The Museum of Modern Art, 11 West 53rd Street, New York,</u> |
|                | ADDITIONAL PARTY 1 > <u>New York 10019</u>                                |
|                | PARTY 2 > _____   |
|                | ADDITIONAL PARTY 2 > _____  |

FOLD

CHECK THIS BOX IF THERE ARE MORE THAN 2 OF EITHER PARTY...

CITY REGISTER USE ONLY - DO NOT WRITE BELOW THIS LINE

Examined by (s): WJ

Mortgage Tax Serial No. \_\_\_\_\_  
Mortgage Amount \$ \_\_\_\_\_  
Taxable Amount \$ \_\_\_\_\_

Exemption (✓) YES  NO

Type: [owner] [lease] [other] \_\_\_\_\_

Dwelling Type: [1-2] [3] [4-8] [over 8] \_\_\_\_\_

TAX RECEIVED ON ABOVE MORTGAGE >

|                |    |
|----------------|----|
| County (basic) | \$ |
| City (Addtl)   | \$ |
| Spec Addtl     | \$ |
| TASF           | \$ |
| MTA            | \$ |
| NYCTA          | \$ |
| TOTAL TAX      | \$ |

Apportionment Mortgage (✓) YES  NO

City Register Serial Number > 58409

Indexed By (s): \_\_\_\_\_ Verified By (s): \_\_\_\_\_

Block(s) and Lot(s) recorded by (s): 1269

Address  Tax Map

Extra Block(s) \_\_\_\_\_ Lot(s) 6

Recording Fee B/N/C \$ \_\_\_\_\_  
Affidavit Fee (C) \$ \_\_\_\_\_  
RPTT Fee (R) \$ \_\_\_\_\_

HPD-A  HPD-C

New York State Real Estate Transfer Tax > \$ \_\_\_\_\_

Serial Number > \_\_\_\_\_

New York City Real Property Transfer Tax Serial Number > \_\_\_\_\_

OTHER CONVEY 0485 0.00  
LO/TL CSHR RECPT DATE TIME  
1-2 1 95479 Dec 29-00 15:55

RECORDED IN THE OFFICE OF THE CITY REGISTER OF THE CITY OF NEW YORK

DEC 2000 -29 A 9 50



*[Handwritten Signature]*

City of New York

EXH 32 10 2000

DECLARATION

DECLARATION, made as of the 18th day of October, 2000, by The Museum of Modern Art, a corporation organized and existing pursuant to the Education Law of the State of New York and having an address at 11 West 53<sup>rd</sup> Street, New York, New York 10019 (the "Declarant").

WITNESSETH

WHEREAS, Declarant is the fee owner of that certain real property located in the Borough of Manhattan, City and State of New York, designated as Tax Block 1269, Lots 11, 12, 13, and 20, the lessee of that certain real property located in the Borough of Manhattan, City and State of New York, designated as Tax Block 1269, Lot 14, and an affiliate of Modern and Contemporary Art Support Corp., which is the lessee of that certain real property located in the Borough of Manhattan, City and State of New York, designated as Tax Block 1269, Lots 58 and 165;

WHEREAS, the above-referenced real property, designated as Tax Block 1269, Lots 11, 12, 13, 14, 20, 58 and 165 is more particularly described in Exhibit A hereto (the "Premises");

WHEREAS, Declarant's Museum of Modern Art existing facility (the "Museum") is comprised of 237,638 square feet of floor area developed on that portion of the Premises designated as Tax Block 1269, Lots 14 and 20;

WHEREAS, Declarant has determined, among other things, that the Museum requires expanded gallery space and other space to accommodate more visitors and school groups and to display more of its collection and larger, more contemporary works of art, additional classroom

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and auditorium space to allow more lectures and other educational programs, a dedicated space for teacher workshops and mentoring, enhanced technological capabilities to facilitate the use of the Internet for education, and a throughblock entry hall to accommodate visitors as they queue for tickets and entry;

WHEREAS, Declarant desires to renovate and expand the Museum to accommodate its programmatic needs and to use that portion of the Premises designated as Tax Block 1269, Lots 11, 12, 13, 58 and 165 (the "Expansion Site") for the expansion;

WHEREAS, although under the existing Zoning Resolution of the City of New York (the "Zoning Resolution") Declarant could have developed the Expansion Site with approximately 234,400 square feet of floor area, Declarant has proposed a renovation and expansion that would require no more than 230,411 square feet of additional floor area for the Museum, for a total of 937,411 square feet of floor area on the Premises, but which would better accommodate its programmatic needs, would use its floor area more efficiently, and would relocate some of the additional bulk from the 54<sup>th</sup> Street side of the Premises to the 53<sup>rd</sup> Street side (the "Proposed Project");

WHEREAS, Declarant has applied to the City Planning Commission (the "CPC"), under land use application numbers C 0000649ZMM, N 000650ZRM and C 000651ZSM, for a series of zoning actions to accommodate the Proposed Project, including 1) the rezoning of a portion of the midblock of the north side of West 53rd Street from zoning district C5-P to zoning district C5-2.5; 2a) a zoning text amendment to the Special Midtown District (Appendix A of Zoning Resolution Section 81-00) to modify the district map to reflect the elimination of the proposed rezoning area from the Preservation Subdistrict; 2b) a zoning text amendment to Zoning

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Resolution Section 81-066 (Special Permit Modification of Section 81-40 and Section 77-00) to allow certain bulk modifications in the Special Midtown District by special permit; 3) a special permit pursuant to the proposed Zoning Resolution Section 81-066 to allow the transfer of bulk across a district boundary and the waiver of a portion of a required rear yard; 4) and an authorization pursuant to Zoning Resolution Section 81-90 to modify streetwall requirements (the "Land Use Application");

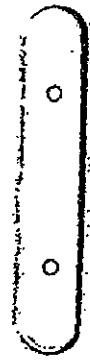
WHEREAS, if the Land Use Application is approved by the CPC, the Premises will have a total of 1,023,491 square feet of allowable floor area, leaving 86,080 square feet of floor area that are allowable on the Premises but which Declarant does not intend to use for the Museum (the "Excess Floor Area");

WHEREAS, Declarant desires to restrict the development and use of the Excess Floor Area on the Premises or elsewhere;

WHEREAS, Declarant represents and warrants that there is no restriction of record on the use of the Premises, nor any present or presently existing estate or interest in the Premises; nor any lien, obligation, covenant, limitation or encumbrance of any kind that would prevent or preclude the imposition of the restrictions, covenants, obligations and agreements of this Declaration or the development of the Premises in accordance herewith;

WHEREAS, the terms "floor area", "develop/development", "use/uses" and "zoning lot" shall have the meanings set forth in Section 12-10 of the Zoning Resolution;

NOW, THEREFORE, Declarant does hereby declare that the Premises shall be held, sold, transferred, conveyed and occupied subject to the following restrictions, covenants,



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obligations and agreements which shall run with the Premises and be binding upon Declarant, its successors and assigns:

1. Restriction on Development and Use of Excess Floor Area. Declarant covenants that it shall not develop or use the Excess Floor Area on the Premises or on any zoning lot that includes the Premises.
2. Restriction on Sale of Excess Floor Area. Declarant covenants that it shall not sell, transfer, convey or assign in any manner whatsoever the Excess Floor Area for development on another zoning lot.
3. Maintenance of Through-Block Lobby. Declarant covenants that it shall maintain the through-block lobby to be constructed in connection with the Proposed Project (the "Through-Block Lobby") and more particularly described on the Ground Floor Plan, Drawing Z-6, dated October 10, 2000, submitted with the Land Use Application and attached hereto as Exhibit B (the "Ground Floor Plan"), open to the public on all days that the Museum galleries are open to the public, beginning one hour before the galleries open to the public and until the galleries close to the public. Notwithstanding the foregoing, Declarant may close the Through-Block Lobby to the public and use it for its own purposes six times per calendar year, each time for no more than one calendar day, provided that Declarant shall provide written notice to the Department of City Planning, Attention: General Counsel, at least three days prior to such closing, indicating the date, time, and duration of such closing, and provided that for each such closing Declarant shall for the three days immediately preceding the closing, post a sign at each public entrance to the Through-Block Lobby giving notice of such closing. However, no such closing of the Through-Block Lobby shall occur during hours in which any Museum Special

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Event is open to the public. For this purpose, a "Museum Special Event" means an event that generates more than 1,400 visitors per hour between the hours of 11:30 a.m. and 2:30 p.m.

4. Effective Date and Enforcement. This Declaration and the provisions hereof shall become effective upon the approval by the City Council of C 0000649ZMM, except that Paragraph 3 hereof shall not become effective unless and until the City Council approves C 000651ZSM. The Declarant covenants to file and record this Declaration in the Office of the Register of the City of New York, County of New York (the "Register"), indexing it against the Premises, within five (5) business days of approval. The Declarant shall, following the recordation of this Declaration, promptly deliver to the CPC a true copy hereof, as recorded, and certified by the Register. If the Declarant fails to so record and deliver this Declaration, the CPC or any other agency of the City may cause this Declaration to be recorded and request certified copies of the recorded Declaration, all at the sole cost and expense of the Declarant, and the Declarant shall immediately upon request pay to the CPC the costs of having this Declaration recorded and purchasing a reasonable number of certified copies of the recorded Declaration, as applicable.

5. Applications to City Agencies. The Declarant shall include a copy of this Declaration as part of any application to the Department of Buildings or any other agency of the City relating to the Premises or any portion thereof.

6. Remedies: The City shall have the sole right to exercise any and all of its administrative, legal and equitable remedies in the event Declarant fails to perform any of its obligations under this Declaration. Declarant consents to enforcement by the City, administratively at law or at equity, of the covenants, obligations, restrictions and agreements



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contained herein. Notwithstanding anything to the contrary contained in this Declaration, the City will look solely to the estate and interest of Declarant in the Premises, on an in rem basis only, for the collection of any money judgment recovered against Declarant, and no other property of Declarant shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City with respect to this Declaration, and Declarant shall have no personal liability under this Declaration.

7. Cooperative or Condominium Development. If the Declarant files a copy of this Declaration with the Attorney General of the State of New York in connection with any application for a cooperative or condominium development on the Premises, it shall unless prohibited by applicable law, include in the offering plan or prospectus associated therewith a true copy or summary of the material terms of this Declaration, in addition to any reporting requirements set forth in applicable provisions of state or local law.

8. Amendment, Modification and Cancellation. This Declaration may be amended, modified or cancelled only upon the approval of the CPC or its successor agency. No other approval or consent shall be required from any other public body, private person, or legal entity of any kind. Notwithstanding the foregoing, as to anything contained in this Declaration, the Chairperson of the CPC may administratively approve what are deemed by him or her to be minor modifications to this Declaration, which shall not be deemed modifications or amendments requiring the approval of the CPC or any other governmental agency. An amendment to or modification of Paragraph 1 or 2 hereof shall not be considered a minor modification. A signed statement certifying the Chairperson's approval of the minor modification shall be included at the end of the modified or amended Declaration. Following



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approval of a modification, amendment or cancellation of this Declaration, Declarant shall immediately file and record it, supply the CPC with one (1) copy, and permit its filing and recording in the manner described in the last two sentences of Paragraph 4 hereof.

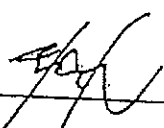
Notwithstanding the foregoing, Declarant covenants that it shall not seek or accept any amendment or modification of this Declaration that would allow for development or use of the Excess Floor Area within that portion of the Premises known as the Abby Aldrich-Rockefeller Sculpture Garden as more particularly described on the Ground Floor Plan.

9. Covenants Running with the Land: The provisions of this Declaration shall be considered covenants running with the land, and shall inure to the benefit of and be binding upon all heirs, successors, assigns, legal representatives, and mortgagees in possession of Declarant's interest in the Premises and any improvements thereon. However, notwithstanding the foregoing, the restrictions, covenants, and obligations of this Declaration shall be binding upon Declarant or any other individual or entity only for the period during which Declarant or said individual or entity is a party in interest in the Premises. References to "Declarant" shall be deemed to refer to the named Declarant, its heirs, successors, assigns, legal representatives and mortgagees in possession, each to the extent of their respective interest in the Premises. References in this Declaration to agencies or instrumentalities of the City of New York shall be deemed to include agencies or instrumentalities succeeding to the jurisdiction thereof, pursuant to the laws of the State of New York and the City of New York.

REF 32 11 70 2 3 11

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

THE MUSEUM OF MODERN ART

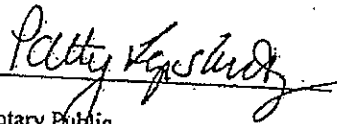
By:   
Name: Glenn D. Lowry  
Title: Director

3210782745

State of New York, County of New York

ss:

On the 16th day of October in the year 2000 before me, the undersigned, personally appeared Glenn D. Lowry, 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.

  
Notary Public

PATTY LIPSHUTZ  
Notary Public, State of New York  
No. 31-463665  
Qualified in New York County  
Permission Expires December 31, 2000

REEL 3214702305

EXHIBIT A  
LEGAL DESCRIPTION

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

PARCEL A (Block 1269, Lot 11):

BEGINNING at a point on the northerly side of West 53rd Street, distant 225 feet easterly from the corner formed by the intersection of the easterly side of Avenue of the Americas (formerly known as Sixth Avenue) with the northerly side of West 53rd Street;

RUNNING THENCE northerly and part of the way through the center of a party wall and parallel with Avenue of the Americas, 100 feet 5 inches to the center line of the block;

THENCE easterly along the center line of the block and parallel with West 53rd Street, 38 feet;

THENCE southerly parallel with Avenue of the Americas and part of the way through a party wall, 100 feet 5 inches to the northerly side of West 53rd Street; and

THENCE westerly along the northerly side of West 53rd Street, 38 feet to the point or place of BEGINNING.

Being also known as 41-43 West 53<sup>rd</sup> Street, New York, New York.

PARCEL B (Block 1269, Lot 12):

BEGINNING at a point on the northerly side of West 53rd Street, distant 263 feet easterly from the corner formed by the intersection of the northerly side of West 53rd Street and the easterly side of Avenue of the Americas (formerly known as Sixth Avenue);

RUNNING THENCE northerly parallel with Avenue of the Americas and part of the way through a party wall, 100 feet by 5 inches to the center line of the block;

THENCE easterly along said center line of the block, 22 feet;

THENCE southerly and parallel with Avenue of the Americas, 100 feet 5 inches to the northerly side of West 53rd Street; and

THENCE westerly along the northerly side of West 53rd Street, 22 feet to the point or place of BEGINNING.

Being also known as 39 West 53<sup>rd</sup> Street, New York, New York.

REEL 32 1 11 70 2 3 11 1

PARCEL C (Block 1269, Lot 13):

BEGINNING at a point on the northerly side of West 53rd Street, distant 285 feet easterly from the corner formed by the intersection of the northerly side of West 53rd Street and the easterly side of Avenue of the Americas (formerly known as Sixth Avenue);

RUNNING THENCE northerly parallel with Avenue of the Americas and part of the way through a party wall, 100 feet by 5 inches to the center line of the block;

THENCE easterly along said center line of the block, 21 feet 9 inches;

THENCE southerly and parallel with Avenue of the Americas, 100 feet 5 inches to the northerly side of West 53rd Street; and

THENCE westerly along the northerly side of West 53rd Street, 21 feet 9 inches to the point or place of BEGINNING.

Being also known as 37 West 53rd Street, New York, New York.

PARCEL D (Block 1269, Lot 14):

BEGINNING at a point on the northerly side of West 53rd Street distant 306 feet 9 inches easterly from the northeasterly corner of West 53rd Street and Avenue of the Americas (formerly known as Sixth Avenue);

RUNNING THENCE northerly and parallel with the easterly side of Avenue of the Americas, 100 feet 5 inches to the center line of the block between West 53rd and West 54th Streets;

THENCE easterly along said center line of the block, 103 feet 3 inches;

THENCE northerly and parallel with said easterly side of Avenue of Americas, 15 feet 7 inches;

THENCE easterly and parallel with the southerly side of West 54th Street, 73 feet;

THENCE southerly and parallel with said easterly side of Avenue of Americas, 116 feet to the northerly side of West 53rd Street; and

THENCE westerly along said northerly side of West 53rd Street, 176 feet 3 inches to the point and place of BEGINNING.

EXCEPTING AND RESERVING THEREFROM so much as was conveyed by the Trust for Cultural Resources of the City of New York to Museum Tower Corporation by Deed dated 12/20/79 and recorded 12/24/79 in Reel 507, Page 437 in the Office of the City Register of the City of New York, New York County, which Premises are now known as the Museum Tower Condominium.

Being also known as 21-35 West 53rd Street, New York, New York.

PARCEL E (Block 1269, Lot 20):

BEGINNING at a point on the southerly side of West 54th Street, distant 410 feet easterly from the corner formed by the intersection of the southerly side of West 54th Street and the easterly side of Avenue of the Americas (formerly known as Sixth Avenue);

REEL 321 11 73 7 30 B

RUNNING THENCE easterly along the southerly side of West 54<sup>th</sup> Street, 387 feet 6 inches;  
THENCE southerly parallel with the westerly side of Fifth Avenue, 100 feet 5 inches to the center line of the block;  
THENCE westerly along the center line of the block, 137 feet 6 inches;  
THENCE southerly parallel with the westerly side of Fifth Avenue, 100 feet 5 inches to the northerly side of West 53<sup>rd</sup> Street;  
THENCE westerly along the northerly side of West 53<sup>rd</sup> Street, 177 feet;  
THENCE northerly parallel with the easterly side of Avenue of the Americas, 116 feet;  
THENCE westerly and parallel with the southerly side of West 54<sup>th</sup> Street, 73 feet; and  
THENCE northerly parallel with the easterly side of Avenue of the Americas, 84 feet 10 inches to the point or place of BEGINNING.  
Being also known as 11 West 53<sup>rd</sup> Street, New York, New York.

PARCEL F (Block 1269, Lot 58):

BEGINNING at a point on the southerly side of West 54<sup>th</sup> Street, distant 215 feet 4-1/2 inches easterly from the corner formed by the intersection of the southerly side of West 54<sup>th</sup> Street with the easterly side of Avenue of the Americas (formerly known as Sixth Avenue), which point of beginning is opposite the center of a party wall;  
RUNNING THENCE southerly parallel with the easterly side of Avenue of the Americas and part of the way through a party wall, 100 feet 5 inches;  
THENCE easterly parallel with the southerly side of West 54<sup>th</sup> Street, 194 feet 7-1/2 inches to a line drawn parallel with Avenue of the Americas and distant 410 feet easterly from the easterly side of Avenue of the Americas;  
THENCE northerly again parallel with the easterly side of Avenue of the Americas, 100 feet 5 inches to the southerly side of West 54<sup>th</sup> Street; and  
THENCE westerly along the southerly side of West 54<sup>th</sup> Street, 194 feet 7-1/2 inches to the point or place of BEGINNING.  
Being also known as 26-40 West 54<sup>th</sup> Street, New York, New York.

PARCEL G (Block 1269, Lot 165):

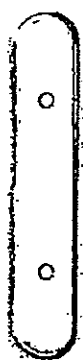
BEGINNING at a point on the southerly side of West 54<sup>th</sup> Street, distant 200 feet easterly from the corner formed by the intersection of the southerly side of West 54<sup>th</sup> Street with the easterly side of Avenue of the Americas (Sixth Avenue);  
RUNNING THENCE southerly and parallel with Avenue of the Americas and part of the way through a party wall, 100 feet 5 inches to the center line of the block between West 53<sup>rd</sup> and West 54<sup>th</sup> Streets;  
THENCE easterly along said center line of the block, 15 feet;

#1321H 62349  
2349

THENCE northerly parallel with Avenue of the Americas and part of the way through a party wall, 100 feet 5 inches to the southerly side of West 54th Street; and

THENCE westerly the said southerly side of West 54th Street, 15 feet to the point or place of BEGINNING.

Being also known as 42 West 54<sup>th</sup> Street, New York, New York.



SEAL 3218 207 350

EXHIBIT B

GROUND-FLOOR PLAN







Attachment D

AKRF Memo



**Environmental and Planning Consultants**

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New York, NY 10016  
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fax: 212 213-3191  
[www.akrf.com](http://www.akrf.com)

## Memorandum

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**To:** 53 West 53rd Street Project File  
**From:** AKRF  
**Date:** July 13, 2009  
**Re:** Summary of Transportation Issues

---

### INTRODUCTION

This memorandum addresses concerns raised by Manhattan Community Board 5, the Manhattan Borough President and council members regarding the proposed 53 West 53rd Street development. The proposed project consists of an approximately 786,562 gross-square-foot (gsf) building, which would provide approximately 68,097 gsf for The Museum of Modern Art (MoMA), including gallery, storage, and mechanical space; between 518,645 and 618,465 gsf of residential space; and between 100,000 and 200,000 gsf of hotel space. The DEIS provided a conservative worst-case estimate of project-generated trips for 167 hotel rooms and 300 residential units, while the intended development encompasses only 100 hotel rooms and 150 residential units.

Absent approval of the proposed actions, the applicant would develop either of two as-of-right developments, which could be built without any discretionary approvals:

- The **Previously Approved Project** would be a 250,000-gsf building located on Lots 5, 6, 7, 8, 66, and 69 of Block 1269, and a smaller infill building on Lot 165 and a portion of Lot 58. Together, these buildings would contain 68,097 gsf of museum-related space, 180,000 gsf of commercial office use, and 10,000 gsf of ground-floor retail space.
- The **Expanded Development Scenario** would result in the construction of a 508,012-gsf building containing 68,097 gsf of museum-related space, 105 hotel rooms, and 300 residential units.

The transportation issues raised in discussions of the proposed project are addressed below, and include projected vehicle trip generation, loading dock activity and deliveries, and projected museum attendance.

### VEHICLE TRIP GENERATION FOR THE PROPOSED PROJECT

The projected trips were compared to the two as-of-right development scenarios for CEQR screening of required transportation analyses, as presented in Table 1.

**Table 1**  
**DEIS Trip Generation Summary**

| Peak Hour Vehicle Trip   | AM         |           |           | Midday    |           |           | PM        |            |           |
|--|------------|-----------|-----------|-----------|-----------|-----------|-----------|------------|-----------|
|  | In         | Out       | Total     | In        | Out       | Total     | In        | Out        | Total     |
| <i>The Proposed Project (Reasonable Worst-Case Development Scenario)</i>       |            |           |           |           |           |           |           |            |           |
| Auto   | 5          | 15        | 20        | 10        | 9         | 19        | 19        | 9          | 28        |
| Taxi   | 21         | 21        | 42        | 20        | 20        | 40        | 24        | 24         | 48        |
| Delivery   | 3          | 3         | 6         | 3         | 3         | 6         | 0         | 0          | 0         |
| <b>Total</b>   | <b>29</b>  | <b>39</b> | <b>68</b> | <b>33</b> | <b>32</b> | <b>65</b> | <b>43</b> | <b>33</b>  | <b>76</b> |
| Peak Hour Vehicle Trip   | AM         |           |           | Midday    |           |           | PM        |            |           |
|  | In         | Out       | Total     | In        | Out       | Total     | In        | Out        | Total     |
| <i>Net Project Increments as Compared to the Previously Approved Project</i>   |            |           |           |           |           |           |           |            |           |
| Auto   | -33        | 13        | -20       | 4         | 3         | 7         | 16        | -36        | -20       |
| Taxi   | 14         | 14        | 28        | 7         | 7         | 14        | 13        | 13         | 26        |
| Delivery   | 0          | 0         | 0         | 0         | 0         | 0         | -2        | -2         | -4        |
| <b>Total</b>   | <b>-19</b> | <b>27</b> | <b>8</b>  | <b>11</b> | <b>10</b> | <b>21</b> | <b>27</b> | <b>-25</b> | <b>2</b>  |
| Peak Hour Vehicle Trip   | AM         |           |           | Midday    |           |           | PM        |            |           |
|  | In         | Out       | Total     | In        | Out       | Total     | In        | Out        | Total     |
| <i>Net Project Increments as Compared to the Expanded Development Scenario</i> |            |           |           |           |           |           |           |            |           |
| Auto   | 1          | 1         | 2         | 3         | 2         | 5         | 3         | 1          | 4         |
| Taxi   | 4          | 4         | 8         | 5         | 5         | 10        | 5         | 5          | 10        |
| Delivery   | 0          | 0         | 0         | 1         | 1         | 2         | 0         | 0          | 0         |
| <b>Total</b>   | <b>5</b>   | <b>5</b>  | <b>10</b> | <b>9</b>  | <b>8</b>  | <b>17</b> | <b>8</b>  | <b>6</b>   | <b>14</b> |

Compared to the as-of-right development scenarios, the proposed project would yield 2 to 21 incremental peak hour vehicle trips. Since these increments are below the CEQR minimum analysis threshold of 50 peak hour vehicle trips, no further detailed traffic analyses are required and the proposed project was deemed to not have the potential for significant adverse traffic impacts.

#### **CURBSIDE AND CURB CUT ACTIVITIES**

In response to community concerns on traffic-related issues, traffic data were collected and presented to the community board at recent meetings. Specifically, peak hour traffic volumes and curbside and off-street driveway activities along West 53rd and West 54th Streets between Fifth and Sixth Avenues were summarized.

West 53rd and West 54th Streets are both NYCDOT-designated Thru Streets in Manhattan. The morning peak hour was determined to serve the highest traffic volumes, with 675 vehicles on West 53rd Street and 540 vehicles on West 54th Street between Fifth and Sixth Avenues on a typical weekday, counted in November, 2007. Overall, traffic flows more favorably on West 54th Street than on West 53rd Street and other nearby cross-town streets in this area.

The curbside and driveway counts were conducted on a typical weekday in May, 2009 from 7 AM to 7 PM. West 53rd Street currently has five driveways, including three to loading docks and two to garages. West 54th Street has eight driveways, including six to loading docks and two to garages. As with on-street traffic volumes, curbside and driveway vehicular activities were summarized for the morning peak hour, as presented in Figure 1.

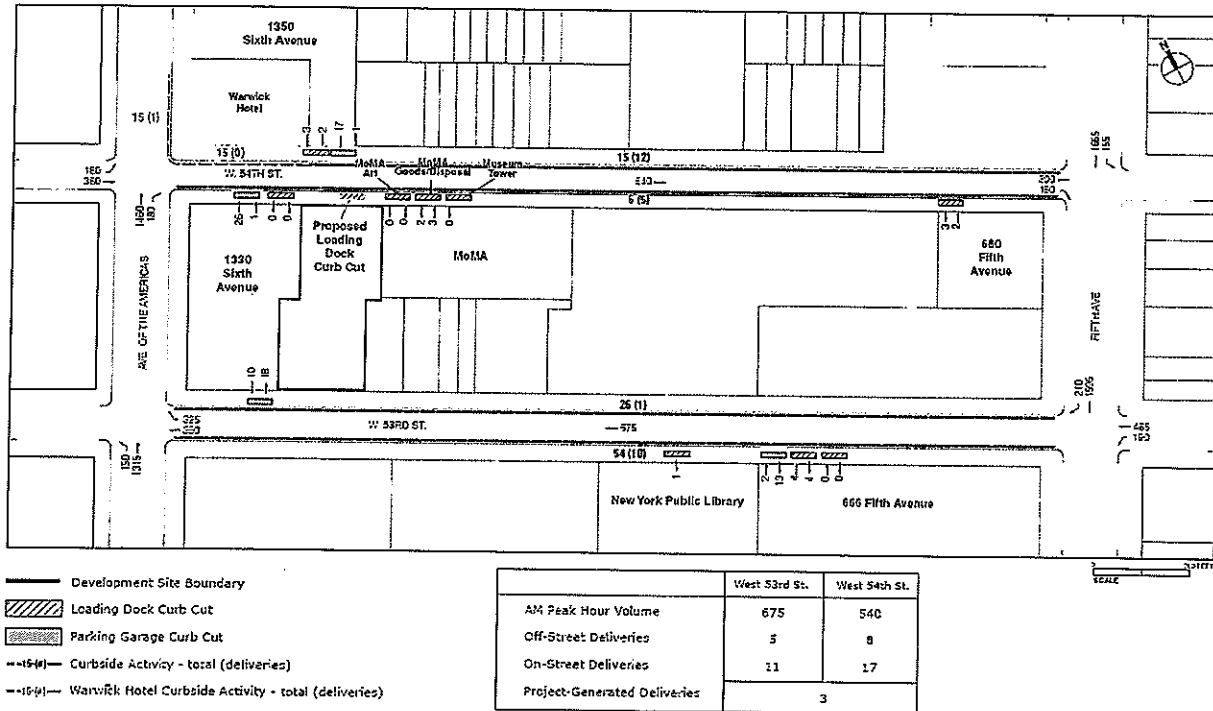


Figure 1

Existing AM Peak Hour Traffic Volumes and Driveway/Curb Side Counts

During the morning peak hour, entry/exit traffic at the garage driveways totaled approximately 45 on both streets. There were twice as many total curbside pick-up/drop-off/deliveries on West 53rd Street than on 54th Street, with approximately 80 and 40, respectively. In terms of goods deliveries, five off-street deliveries on West 53rd Street and eight off-street deliveries on West 54th Street during the morning peak hour were recorded. There were also 11 and 17 on-street deliveries on West 53rd and West 54th Streets, respectively.

As shown above in Table 1, the proposed project was conservatively estimated to generate up to three deliveries in an hour, while realistically with the planned building (about half the unit/room counts), only one to two deliveries an hour would likely be realized. These deliveries would also occur with the as-of-right buildings (Table 1 shows net hourly deliveries ranging from -4 to 2). The collected data further support the validity of the projections presented in the DEIS, as only one delivery during the morning peak hour was recorded across from the project site at the Warwick hotel, which has three times as many rooms as what the proposed building would provide.

These deliveries at the project site, which are expected to occur up to once every half hour could take place curbside or within the loading dock proposed on West 54th Street. The loading dock is required per NYC zoning law for the proposed hotel, which is greater than 100,000 square feet in size. Based on numerous prior observations at midtown loading berths, a delivery truck backing into the proposed loading dock would generally take 30 seconds to a minute to complete the maneuvers. Because both sides of West 54th Street at the project site have No Standing Anytime regulations, leaving more space for traffic to pass, the duration of traffic disruption could be even less.

Considering that West 54th Street is the more free-flowing street, as compared to West 53rd Street, the anticipated disruptions to street traffic would be minimal, and there are already other similar activities along the block, providing off-street loading on West 54th Street as proposed and as could occur with either as-of-right building, is appropriate.

The New York Times

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September 10, 2009

ARCHITECTURE

## Off With Its Top! City Cuts Tower to Size

By NICOLAI OUROUSSOFF

Does Manhattan have a future as a great metropolis?

If you hope the answer is yes, you will be disheartened by the City Planning Department's decision on Wednesday to chop off 200 feet from the top of a proposed tower next door to the Museum of Modern Art on 53rd Street in Manhattan.

Designed by Jean Nouvel, the building would have been as tall as the Empire State Building minus its antenna, a fact that probably made planners tremble. Amanda Burden, the city planning commissioner, said the tower's top, which culminates in three uneven peaks, did not meet the aesthetic standards of a building that would compete in height with the city's most famous towers. And who, after all, wants to be responsible for ruining the most famous skyline in the world?

Still, the notion of treating the Midtown skyline as a museum piece is more disturbing. The desire of each new generation of architects and builders to leave its mark on the city, to contribute its own forms, is essential to making New York what it is. The soaring height and slender silhouette of Mr. Nouvel's tower not only captured the spirit of Midtown — the energy and hubris that transformed this island into a monument to American cosmopolitanism — it also brought that spirit forcefully into the present.

Mr. Nouvel's design was conceived as a giant spire, like the Empire State's but without the boxy building. Supported by a matrix of interwoven steel beams reminiscent of a spider's web, it tapers jaggedly as it rises, evoking a shard of glass. The beams are flush with the building's glass surface, giving it a taut muscular appearance; an underground restaurant and lounge, visible from the sidewalk, root the structure to the site.

The design's beauty stemmed from its elegant proportions, particularly the exaggerated relationship between its small footprint and enormous height. Seen from the street, its receding facades would have induced a delicious sense of vertigo.

Ms. Burden's objections were directed at the top of the building. "Members of the commission had to make a decision based on what was in front of them," she said. "The development team had to show us that they were creating something as great or even greater than the Empire State Building and the design they showed us was unresolved."

It's true that aspects of the design had yet to be developed fully. The three peaks were too symmetrical, which gave them a slightly static appearance. And they could have been sharpened to finer points. But Mr. Nouvel, one of the profession's most creative forces, would have been more than capable of dealing with these issues.

With the new height restriction in place, though, his original design concept will surely be diminished. And the loss of as much as 150,000 square feet of floor space could also lead to cuts in the design budget, which could mean cheaper materials and more cramped interiors. Or, just as bad, it could push Hines, the building's developer, into finding a way to pack more space onto the lower floors, which could further distort the building's proportions.

But the greater sadness here has to do with New York and how the city sees itself. Both the Empire State and Chrysler buildings, built during the Great Depression, were celebrated in their time as emblems of the city's fortitude. The Freedom Tower, our era's most notable contribution to the skyline, is a symbol of posturing and political expediency. And now a real alternative to it, one of the most enchanting skyscraper designs of recent memory, may well be lost because some people worry that nothing in our current age can measure up to the past. It is a mentality that, once it takes hold, risks transforming a living city into an urban mausoleum.

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## **About 53 West 53<sup>rd</sup> Street and The Museum of Modern Art**

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The project developer is W2005/Hines West Fifty-Third Realty, LLC, an affiliate of Hines Interests Limited Partnership, one of the world's most respected private real estate firms, and its financial partner. The proposed project is an iconic, eighty-two-story tower to be located at 53 West Fifty-third Street between Fifth and Sixth avenues. Following is more information about the proposed project:

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### **JEAN NOUVEL'S TOWER**

- After an extensive search, the project developer selected Jean Nouvel, one of the world's most honored architects to design its proposed tower at 53 West 53<sup>rd</sup> Street, adjacent to MoMA near Sixth Avenue between 53<sup>rd</sup> and 54<sup>th</sup> streets.
- Nouvel is widely recognized as one of the world's greatest architects, a reputation cemented by his receipt in 2008 of the Pritzker Prize, architecture's most prestigious honor.
- In announcing the award, the Pritzker jury cited "persistence, imagination, exuberance, and, above all, an insatiable urge for creative experimentation" as qualities abundant in Nouvel's work.
- Nouvel has designed a tower that, while rooted in the rules of growth, takes on an exciting form on the skyline.
- Nouvel has designed a slender 82-story glass-clad tower, with a dynamic structural steel diagrid, that will soar above a narrow parcel of vacant land and taper before ultimately culminating in a distinctive spire.
- After viewing the Jean Nouvel's design, esteemed architectural critic Nicolai Ouroussoff of The New York Times proclaimed that the tower "promises to be the most exhilarating addition to the skyline in a generation," and praised Nouvel as "a master at balancing conflicting urban forces."
- Veteran architecture critic Justin Davidson of New York Magazine called it "Jean Nouvel's spectacular, soul-strengthening design" and an "ecstatic reproach to Manhattan's regularity. It would be to the skyline what Broadway is to the street grid: an indispensable violation and a sagging flourish."
- British architectural critic Edwin Heathcote suggested, "If it is built, it will arguably be the most radical skyscraper in New York since the Chrysler Building."

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### **EXPANDED MUSEUM SPACE IN THE PROPOSED JEAN NOUVEL TOWER**

- Even after the recent expansion, it is clear that The Museum of Modern Art needs additional space to showcase more of its works and continue enhancing the visitor experience.



- Jean Nouvel's design of the 53 West 53 tower includes the addition of 39,500 square feet of new gallery space for MoMA, representing a more than a 30 percent increase over existing gallery space.
- By connecting directly to MoMA's existing galleries on the 2<sup>nd</sup>, 4<sup>th</sup> and 5<sup>th</sup> floors, the new space will be seamlessly integrated into the Museum's current layout, allowing MoMA to put significantly more works on view, thereby further enhancing the visitor experience. The 2<sup>nd</sup> floor contemporary galleries will double in size, and the painting and sculpture galleries on the 4<sup>th</sup> and 5<sup>th</sup> floors will grow in size by over one-half.
- To put the expansion in perspective, the 39,500 square feet of new gallery space is comparable to the entire square footage of other large free-standing museum buildings in New York City.
- Overall, the tower project will generate 70,000 square feet of new space for MoMA: 39,500 square feet devoted to expanded galleries, 18,250 square feet for mechanical spaces including stairs and elevator shafts, and 12,250 square feet for other non-public Museum uses including storage.
- There will be no change to the existing Museum lobby or entrances.

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## **MIDTOWN CONTEXT**

- Midtown Manhattan is defined by its decorated skyline and for being home to the world's highest concentration of tall skyscrapers.
- The Nouvel tower aspires to join the Empire State Building and the Chrysler Building, acting as the third side of a Midtown triangle of iconic skyscrapers, each of which speaks to the era in which they were realized.
- Nouvel's tower will augment a corridor along 53<sup>rd</sup> Street with a rich architectural heritage, including Philip Johnson's "Lipstick Building;" Hugh Stubbins's Citicorp Building; Mies van der Rohe's Seagram Building; Gordon Bunshaft's Lever House; the renovated MoMA complex with buildings by Philip Goodwin and Edward Durell Stone, Philip Johnson, and Yoshio Taniguchi; Cesar Pelli's Museum Tower; Tod Williams and Billie Tsien's American Folk Art Museum; and Eero Saarinen's CBS Building "Blackrock."

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## **ECONOMIC BENEFITS OF THE PROJECT**

### **Job Creation**

- The Nouvel tower at 53 West 53<sup>rd</sup> Street offers an opportunity to create thousands of new jobs during construction and hundreds more permanent jobs upon completion.

- Once financing for the project is obtained, construction of the building will generate approximately 6,000 jobs and over \$600 million in employee wages and compensation annually. Of those, 3,865 are direct construction jobs.
- Once complete, the project will generate 256 permanent jobs and \$11.75 million in employee compensation statewide. These permanent jobs include 144 jobs within the hotel, retail store, restaurant and residential space, plus an additional 61 ancillary jobs created in New York City and another 51 ancillary jobs throughout the rest of the State.

#### **Economic and Tax Impacts**

- Construction and development of the Nouvel tower at 53 West 53<sup>rd</sup> Street will generate significant new government revenues, primarily through increased income tax revenues and mortgage recording fees.
- Once open, the tower will generate millions in direct economic output annually.

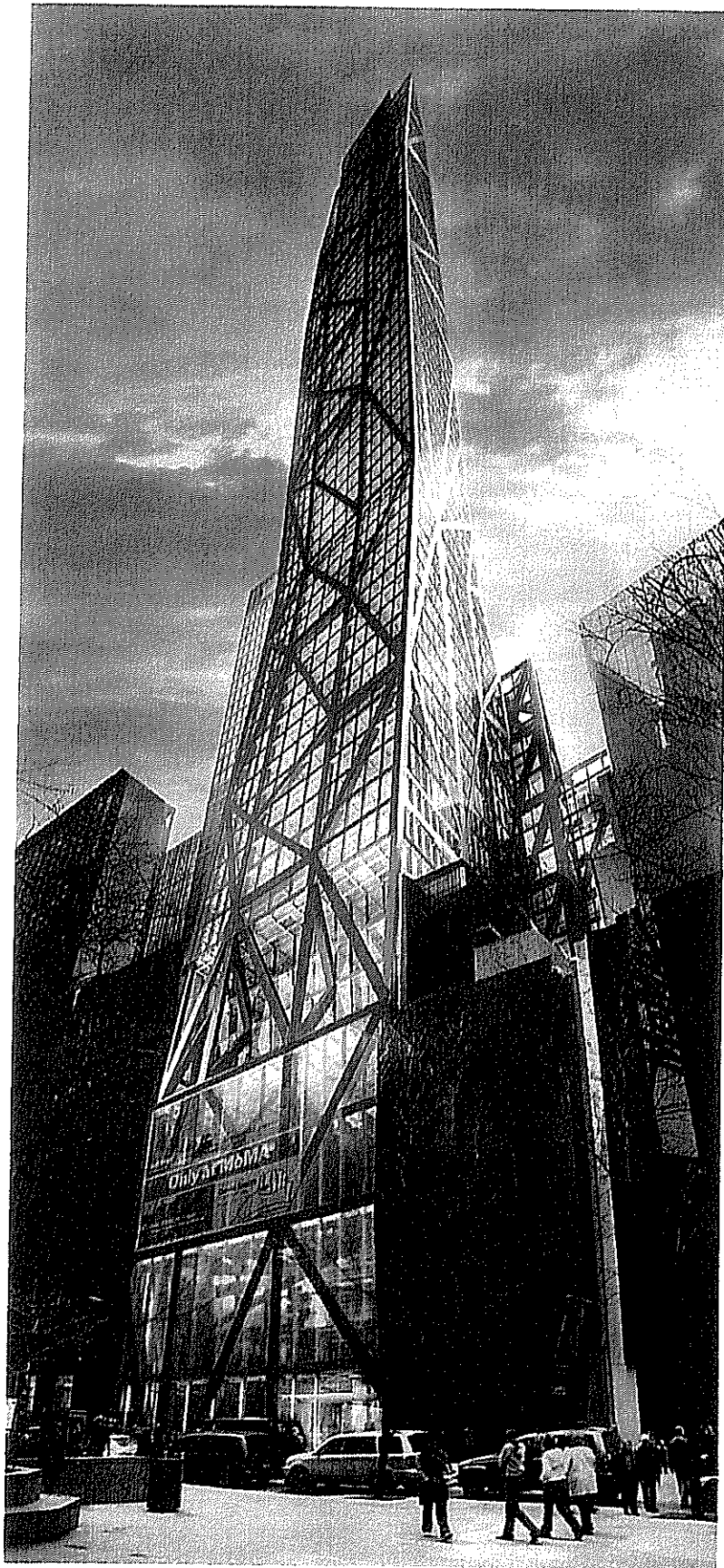
#### **ECONOMIC BENEFITS OF CULTURE**

- In 2005 alone, the arts industry generated \$21.2 billion in economic impact to New York City, as well as 160,300 jobs and \$904 million in taxes to the City.
- That same year, 11.1 million visitors from outside New York made 20 million visits to New York's cultural venues or activities. These visitors were responsible for \$5.4 billion in overall economic impact, 55,700 jobs and \$369 million in local taxes.
- New York City's museums alone generated \$710 million in overall economic impact in 2005.
- New York City's nonprofit cultural facilities are expected to spend \$1.7 billion on its facilities between 2006 and 2010, with an economic impact to the City of \$2.2 billion.
- Despite the economic downturn, MoMA continues as a major New York City attraction with visitation holding steady at about 2.5 million annually.

#### **POSITIVE IMPACTS OF ENLARGED AND ENHANCED GALLERY SPACE AT MoMA**

- By adding gallery space in the Nouvel tower, the Museum's 2.5 million visitors annually will enjoy seeing even more of MoMA's world-renowned permanent collection on view at the time of their visit, further enhancing their overall experience at the Museum.
- In utilizing the additional gallery space in the Nouvel tower, the many Education programs already available to the public will be further enhanced by offering visitors and participants access to more works of art on view at the time of their visit.

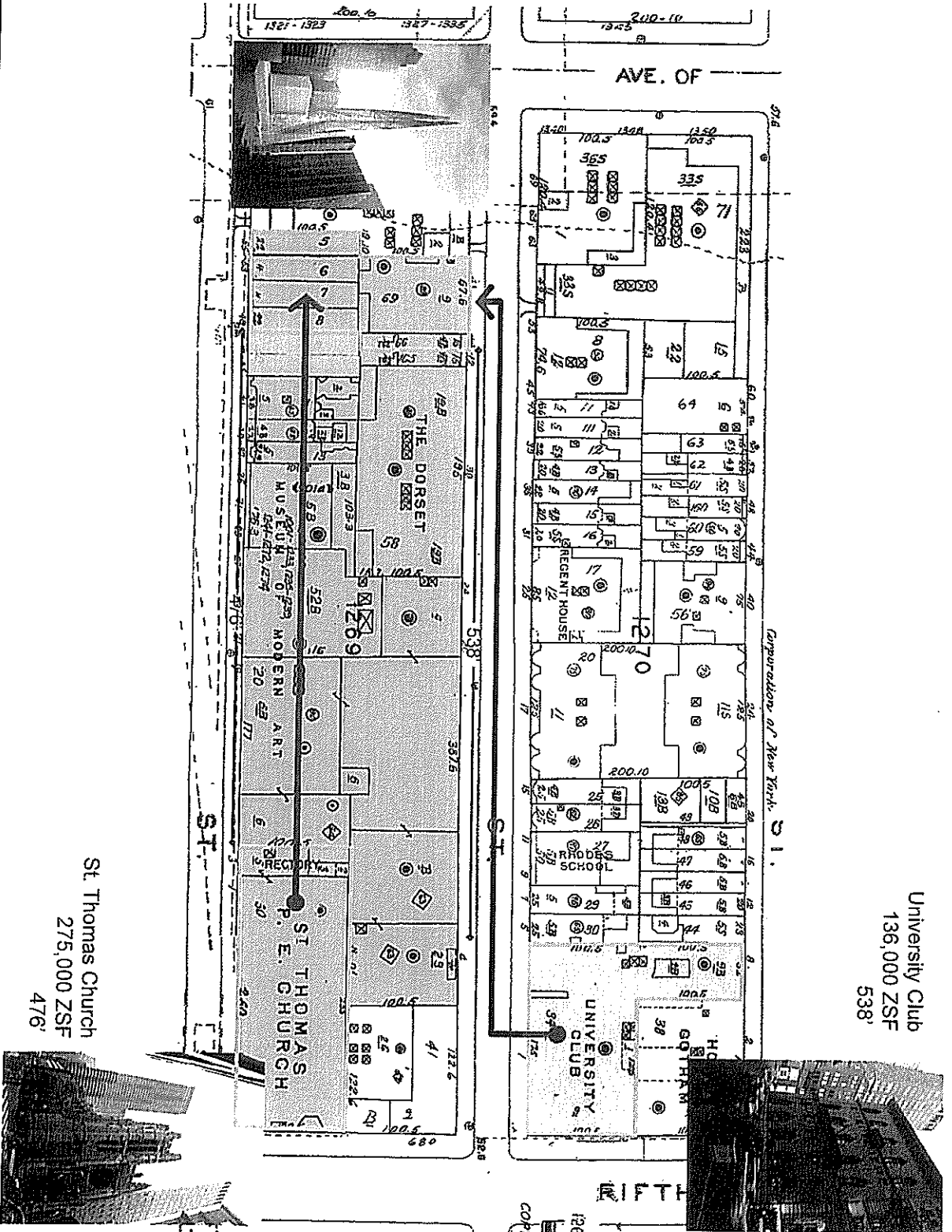
- MoMA is deeply committed to ensuring that New York City children have access to the City's tremendous cultural resources and that the arts are an integral part of their lives, regardless of their backgrounds. Students who attend the Museum's Education Programs number over 50,000 annually and the majority are New York City public school students who visit for free or at a reduced rate. They include children in grades K-12 and participate in one, two, and three-part programs including Museum and school visits, Art Studios including a Museum visit with an art-making activity, and Partnership Programs including Museum and school visits and professional development. For all programs, MoMA educators collaborate with teachers to develop lesson plans that complement their curricular needs and lessons meet City and State standards. In addition, another 100,000 children (aged 16 and under) visit the Museum on their own or with family and friends every year.
  
- MoMA's galleries also serve as the unique venue for other world-recognized educational programs for diverse audience needs including families, adults, and visitors in groups. The expanded galleries in the Nouvel tower will enable the Museum to provide and achieve an even higher standard of visitor experience for all who already attend the following programs:
  - "Meet me at MoMA", a monthly program tailored to support engagement with the Museum's collection for people living with Alzheimer's and other dementias, along with their caregivers.
  - Free Family programs including "Tours for Fours", "Closer Look for Kids", and "Tours for Tweens."
  - "Art insight" and "Touch Tours", monthly programs that engage blind and partially-sighted visitors to experience a selection of sculptures and design objects from the collection in the galleries.
  - "Interpreting MoMA", a program for Deaf adults featuring sign language-interpreted gallery talks.



53 WEST 53RD STREET  
New York, NY

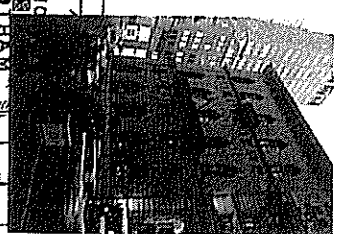
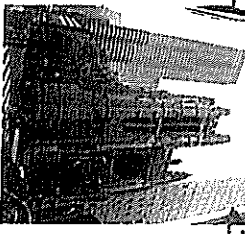
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**AJN ALBUKES JEAN NOUVEL**  
175 WEST 57TH STREET  
NEW YORK, NY 10019  
TEL: 212-245-1800  
FAX: 212-245-1800



St Thomas Church  
275,000 ZSF  
476'

University Club  
136,000 ZSF  
538'



| NO. | DESCRIPTION      | DATE     | BY          |
|-----|------------------|----------|-------------|
| 1   | PRELIMINARY PLAN | 12/10/50 | W.P. CAHOON |
| 2   | REVISED PLAN     | 1/10/51  | W.P. CAHOON |
| 3   | FINAL PLAN       | 2/10/51  | W.P. CAHOON |

UNIVERSITY CLUB  
136,000 ZSF  
538'

ST. THOMAS R.E. CHURCH  
275,000 ZSF  
476'

UNIVERSITY CLUB  
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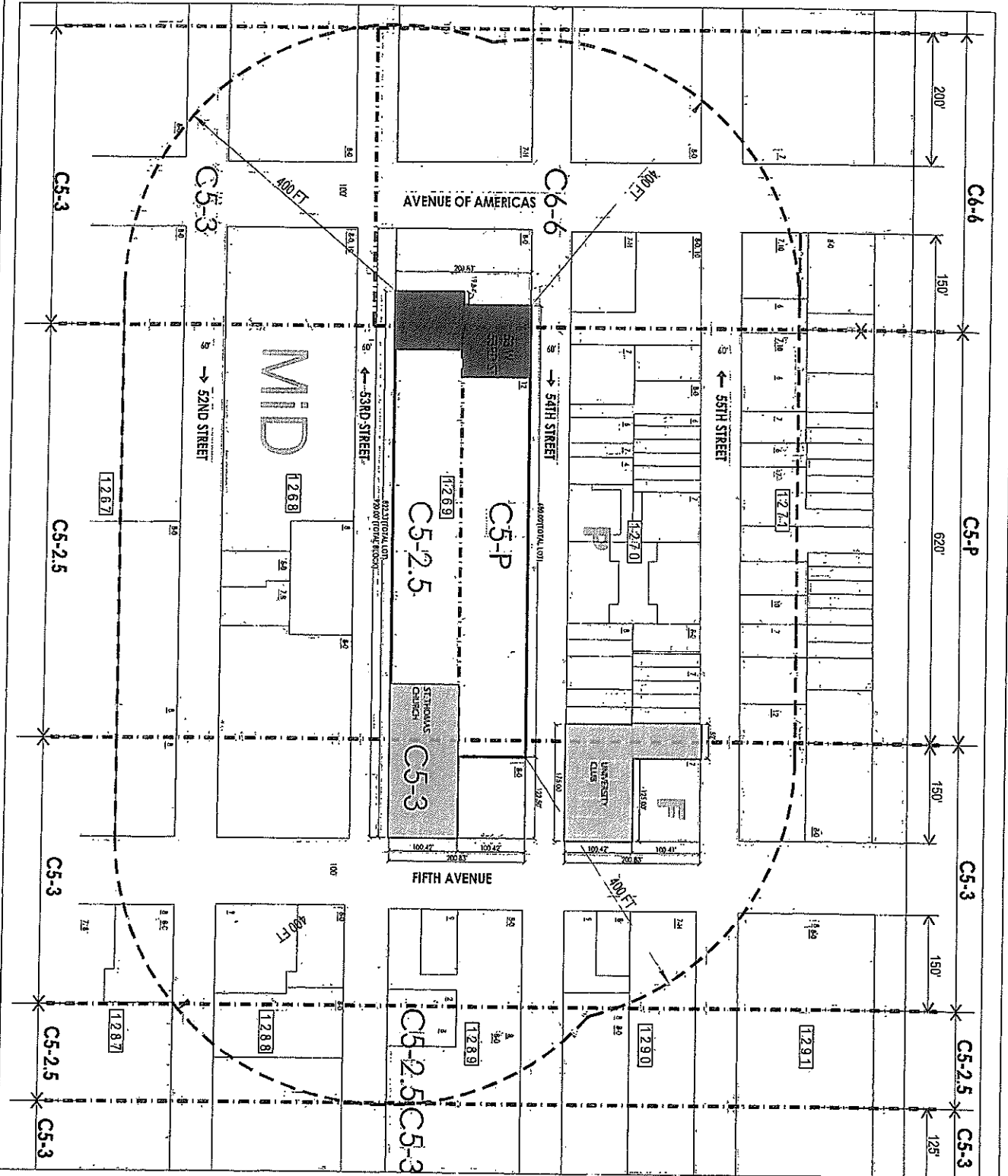
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136,000 ZSF  
538'

ST. THOMAS R.E. CHURCH  
275,000 ZSF  
476'



| ZONINGS     |            | LAND USES   |            |
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| COMMERCIAL  | INDUSTRIAL | COMMERCIAL  | INDUSTRIAL |
| ...         | ...        | ...         | ...        |

2700488

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 FAX: (212) 512-4001

GENERAL WALL CONSULTANT:  
**REXEL BERGER & ASSOCIATES, INC.**  
 333 MADISON AVENUE  
 NEW YORK, NY 10017  
 TEL: (212) 687-4444  
 FAX: (212) 687-4444

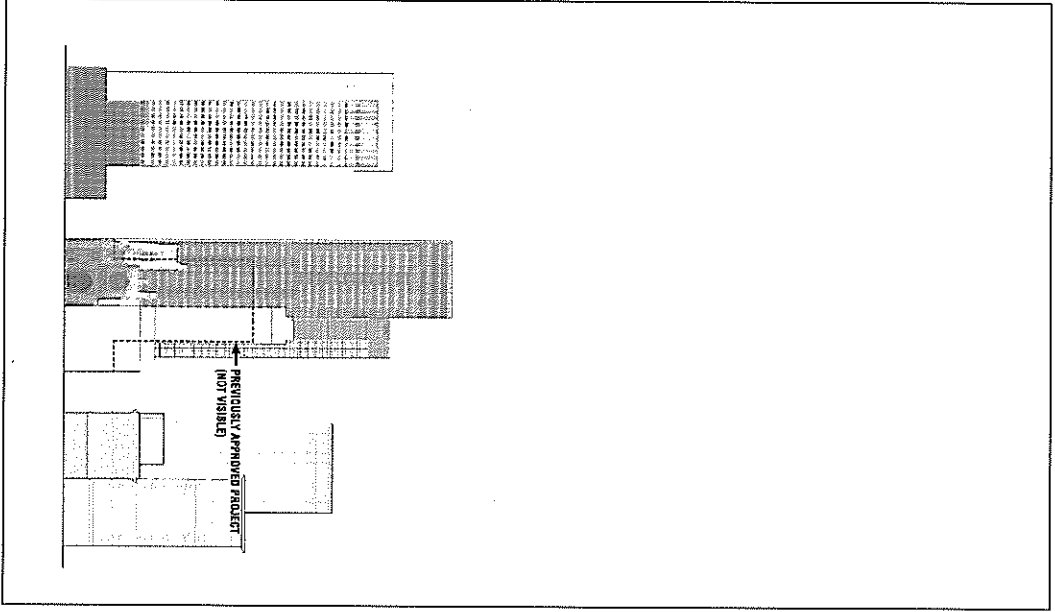
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 SHEET: 1-2

PROJECT:  
**33 WEST 53RD STREET**  
 NEW YORK, NY

AREA AND ZONING MAPS

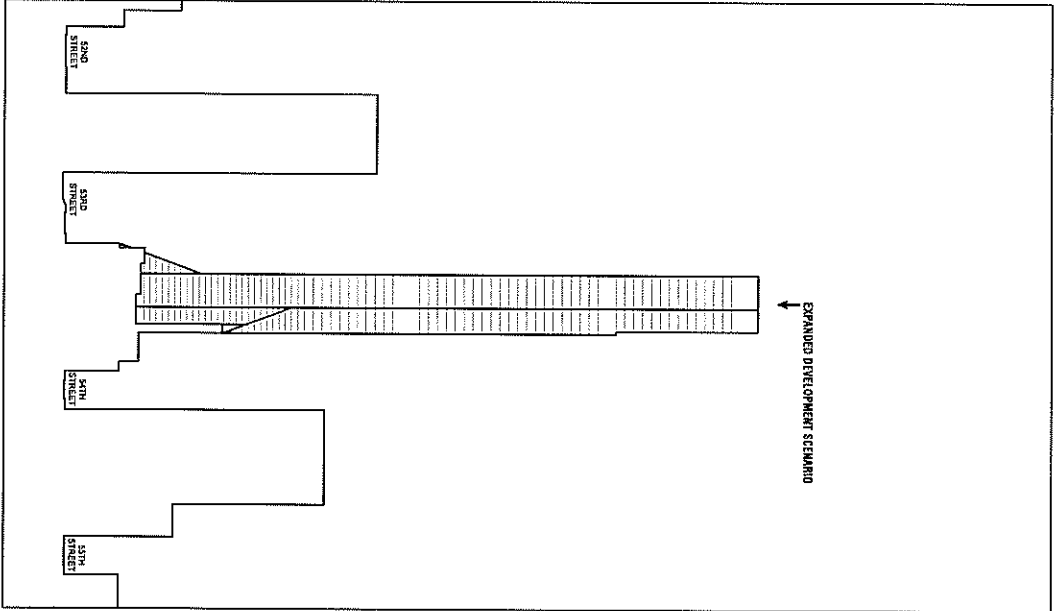
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Source: Kohn Pedersen Fox Associates P.C.



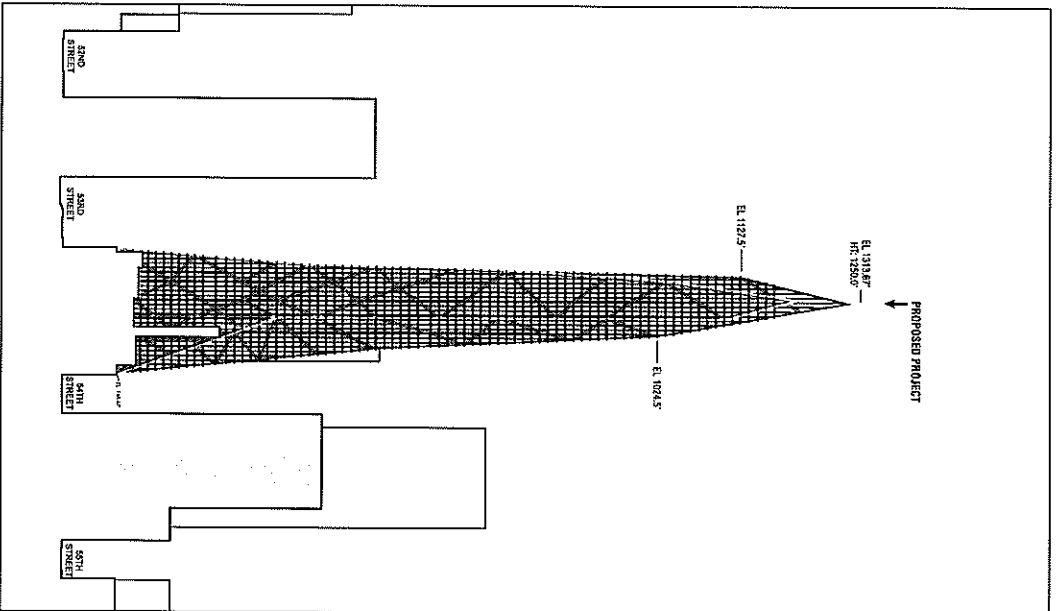
Previously Approved Project

Source: SLCE Architects



Expanded Development Scenario

Source: SLCE Architects



Building Materials shown for illustrative purposes only

Proposed Project





53 WEST 53RD STREET  
New York, NY

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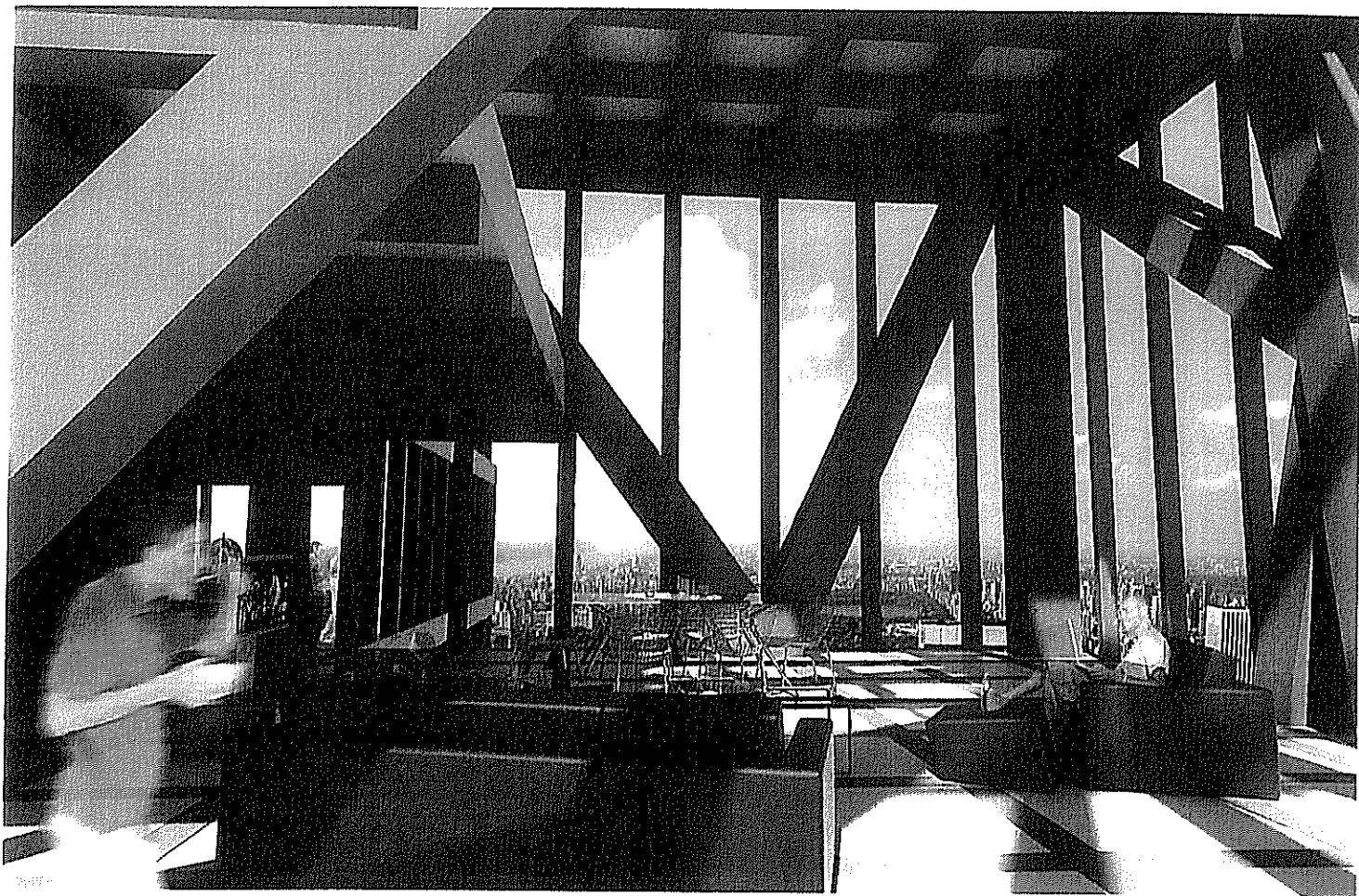




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Testimony of Albert K. Butzel, Counsel for the West 54 – 55 Street Block Association and Coalition for Responsible Midtown Development, to the Zoning and Franchises Subcommittee of the New York City Council on the Hines Tower

Public Hearing, October 6, 2009

My name is Albert Butzel. I am testifying today as counsel for the West 54 -55 Street Block Association and the Coalition for Responsible Midtown Development. We oppose the overwhelming 1,050 foot high tower that the City Planning Commission has approved, but have offered a compromise that would allow a building as tall as 490 feet, which is the height of the landmarked CBS Building directly across 53<sup>rd</sup> Street from the tower site. We ask the City Council to reject the current configuration of the Tower and require the Hines Group to redesign the Tower with that limitation.

I have prepared and attach to my testimony a legal analysis regarding the role and authority of the City Council. Without going into detail, the central point of that analysis is that the Council not only has the authority to overturn City Planning's decision and deny the application – in the circumstances of this case, it should do so under the standards of the Zoning Resolution and the State Environmental Quality Review Act. The massive Tower that the Planning Commission treated as invisible will have a devastating impact on the adjoining area along and north of 54<sup>th</sup> Street. Twice the height of any neighboring building, it will rise like a sore thumb over the area, cast into insignificance the landmarked CBS Building and forever change the character of this historic residential neighborhood, which includes seven individual New York City landmarks and many other structures eligible for landmarking. The burdens of the proposal clearly outweigh the benefits of the Tower as proposed.

the University Club to make money on air rights they pay no taxes on and would never use themselves. Moreover, a "smaller" 490 foot building – or indeed, the 285 foot high structure that City Planning originally approved for the site – would still provide the Museum of Modern Art with the expansion space it is seeking. The difference would be a building that at least had some contextual coherence with the neighborhoods that surround it.

One final point. No one should shed tears for MoMA. It has already been paid \$125 million for the project site, as contrasted to the \$20 million it laid out to acquire it. And it will get the space it wants. Yet to what end? With the \$100 million it has made, it can buy maybe 10 new canvases, when it already has hundreds, if not thousands, of paintings and drawings that are never displayed. Moreover, according to the disgraceful EIS, the new expansion space will not attract a single additional visitor, so it is hard to understand what benefits will flow to the City.

I submit that it is time for the Council to draw the line. I urge it do so here by overriding City Planning and rejecting the application, with an invitation to the Hines Interests to come back with a revised design reducing the height of the Tower to no more than 490 feet.

  
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To: Council Member Dan Garodnick  
Other Interested Council Members  
From: Albert K. Butzel, Counsel for the West 54-55 Street Block  
Association & Coalition for Responsible Midtown Development  
Date: October 5, 2009  
Re: Legal Bases for Rejection of Hines Tower

The proposed Hines Tower, as it comes before the City Council, would be 1,050 feet tall, with approximately 650,000 square feet of floor area. The Tower would be sited on a *midblock* lot of 17,000 square feet resulting in an effective FAR of 38.4. Hines Tower would be twice as tall as any surrounding building and more than twice as high as the landmarked CBS Building directly across 53<sup>rd</sup> Street from the site of the Tower. The Tower would be located on two narrow streets in a Preservation Sub-district. It would overhang a neighborhood that is largely residential along 54<sup>th</sup> Street and contains many historic buildings, including seven individual City landmarks.

The original proposal was for a building 1,250 high. However, the height has been cut back by the City Planning Commission, which otherwise gave its approval for a tower that would exceed the height of the Chrysler Building. The matter is now before the City Council for review. *The West 54-55 Street Block Association and the Coalition for Responsible Midtown Development are asking the Council to reject the application.* This memorandum discusses the legal bases for the Council doing so.

At the outset, it is clear that under the City Charter, the Council has plenary authority to reject the City Planning Commission's findings and to reach its own conclusions regarding the appropriateness of the Hines Tower, as limited by the Planning Commission decision. *This is no different than in the case of landmarks designated by the Landmarks Preservation Commission. The Council has the right to reject such designations and has done so on five occasions, most recently in the case of the Austin Nichols Warehouse on the Williamsburg waterfront.* Similarly, in this instance, the Council is empowered to reject the City Planning Commission decision on the basis of the Council's own evaluation of the case. In making that evaluation, the Council will be generally guided by the standards set forth in the Zoning Ordinance and under the State Environmental Quality Review Act (SEQRA), but it is in no way limited by the Planning Commission decision.

As a preliminary matter, it is important to emphasize that the Council's rejection of the proposed Tower would raise NO issue of property rights or of an illegal "taking" of property. This is because the development is not as-of-right. But even if it were, there is absolutely no evidence that the developer would be denied all viable use of its property. No landowner has the right to the most profitable use of its property, see *Penn Central Transportation Co. v. New York City*, 438 U.S. 104 (U.S. Supreme Court,

1978); and in a case like this, where the purchase price was totally speculative, an owner has no basis to complain if he guessed wrong and loses money.

Turning to the standards that should guide, but not constrain, the Council's decision in this case, the following discussion focuses, first, on the Zoning Resolution, second, on SEQRA, and third, on the misuse of the zoning ordinance in this case.

A. Standards Under the Zoning Ordinance and Their Application

The Council would be on firm legal grounds in rejecting the application under the standards set forth in the Zoning Resolution. These standards are largely defined by the approvals the applicant seeks under Sections 74-79 and 74-711 of the Zoning Resolution and the bulk and other waivers it requests under Sections 81-27, 81-90, 81-45 37-50 and 23-532.

These sections require a balancing of any historic preservation advantages against the disadvantages to the surrounding area resulting from the increased bulk, and further require that any bulk modifications resulting from a transfer of development rights "have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air." *The findings required by these sections cannot be limited by a faulty EIS under SEQRA, but call for the Council's separate, objective evaluation of the benefits and the burdens.* The Council is obligated to look at the facts with a fresh eye and decide whether a 1,050 foot high Tower will have no discernible impact on the adjoining areas, as the Planning Commission implicitly concluded, or rather that the impacts are out of proportion to the claimed benefits resulting from the transfer of development rights.

In our view, the City Planning Commission played the role of the general populace who applauded the emperor for his magnificent clothes when his majesty was, in fact, naked. In a similar, if opposite, vein, the Commission viewed the Hines Tower as invisible, when it will rise twice as high as any neighbor, tower over the residences to the north and cast into obscurity the landmarked CBS Building. Taking this tack, it was impossible for the Commission to balance the benefits and burdens involved in the transfer of development rights, because it recognized no burdens, no adverse impacts flowing from the immense size of the Tower, nothing visibly out of joint. This was, at best, an exercise in wishful thinking by the Commission and defies the reality of the situation.

The Council is not obligated to defer to such an ill-founded conclusion. To the contrary, it must judge for itself, from the practical experience of its members, whether a 1,050 foot high structure will be effectively invisible; and if it concludes that this is not the case, it must then weigh the negative impacts in the balance, as the City Planning Commission failed to do. Should it decide, as we believe it must, that any benefits are outweighed by the burdens imposed by the Tower, it should reject the application, just as



it has rejected landmark designations when, in its judgment, the structures are not worthy.

B. Standards under SEQRA and Their Application

SEQRA is more than a procedural statute – it has substantive content that is incorporated in the findings required under the law. At the same time, it mandates that the adverse impacts of a proposal be fully and fairly disclosed so that the decision makers will clearly understand that magnitude of the impacts and can reach an informed decision on the proposal.

The Environmental Impact Statement for the Hines Tower does not begin to meet these requirements of SEQRA. Indeed, it was so lacking in its disclosure as to have made it impossible for the City Planning Commission to act on an informed basis. In addition, the requisite analysis of alternatives was completely skewed, using a straw man to justify the proposed action and thereby standing the alternative requirements of SEQRA on its head, in violation of the law.

The following is a partial listing of the major failings in SEQRA compliance:

1. Excessive Height; Impacts on Light and Air. One scours the EIS in vain to find *any* mention of these impacts. This failure invalidates the EIS and any decisions based on it. See, e.g., *Matter of Pyramid Co. v. Planning Board of Town of Washington*, 24 A.D.3d 1312 (4<sup>th</sup> Dept 2005); *Matter of Kahn v. Pasnik*, 90 N.Y.2d 599 (1997). The City Planning Commission appears to have relied on the EIS in concluding that the size of the Tower would not result in any negative impacts. To the extent that it did, the Commission not only failed of its responsibility to evaluate the impact independently of SEQRA – it also relied on an EIS that, having never addressed the impacts of size, itself had no basis in reality.
2. Impacts on the CBS Building and Other Historic Structures. The EIS totally ignores these. Reading the EIS, one would never know that historic structures as close as 150 feet (e.g., the CBS Building, the Rockefeller Apartments) will be impacted in the slightest way by the 1,050 foot high Tower that would rise above them, doubling the height of the largest surrounding buildings. Insofar as the City Planning Commission relied on the EIS to support its conclusion of no significant negative impacts, the reliance was unsupportable. It also violated the Commission's duty under the Zoning Resolution to validate its balancing of benefits and burdens independently of the EIS, which was largely prepared by the developer's consultants.
3. Traffic and Pedestrian Impacts. The existing traffic and pedestrian congestion along 53<sup>rd</sup> and 54<sup>th</sup> Streets is notorious. The project would add 40,000 square feet of new MoMA exhibition space. Yet the EIS asserts that this expansion will not result in additional visitors to the Museum and will have no impact whatever on pedestrian and vehicle congestion. This is absurd. The latest MoMA addition has

resulted in 700,000 new visitors annually, but magically, the EIS says another equivalent expansion will add no one. This unsupported conclusion should be rejected out of hand by the Council. In addition, the Hines Tower will include as many as 167 hotel rooms, which are notorious generators of taxi and other vehicle trips; and like any hotel, the congestion at the entrances will often block already overtaxed streets. The failure of the EIS to take these realities, among others, into account invalidated that document and the reliance of the City Planning Commission on the document.

4. The Misuse of Alternatives. The EIS for the project presents as its principal basis for comparison with the proposed project what it describes as an "as-of-right" expanded development scenario. This is the building that could supposedly be built as-of-right on the Tower site assuming the transfer of development rights on the merged zoning lot and without waivers of any kind. In fact, such a building could not be built as-of-right because it would require waivers, and the EIS is defective on this basis alone. But even if the expanded development scenario were as-of-right, that had no bearing on the issues the City Planning Commission was required to address under the Zoning Resolution; and, equally importantly, it violated SEQRA. The mandate of the statute required a comparison of *reasonable alternatives* and the minimization of negative impacts. One obvious reasonable alternative was a building of substantially reduced height that still provided much of the FAR that the developer is seeking. But nothing of this sort was presented or analyzed. By using the false "expanded development scenario" to justify the negative impacts the Tower proposal will generate, the EIS departs from both the purpose and the letter of the law. The Planning Commission was wrong in following that path. The Council should not make the same error.

The West 54-55 Street Block Association and the Coalition for Responsible Midtown Development have proposed a compromise alternative that would limit the height of the Tower to 490 feet. Since this alternative was not evaluated in the EIS, a supplemental EIS might be required. However, that should be relatively simple manner, since impacts would be further reduced over the scenarios analyzed in the EIS. Equally important, this would also provide an opportunity to correct the major deficiencies in the current document

C. The Misuse of the Zoning Resolution in the Case

As noted, the Tower proposal would pile some 650,000 square feet of floor area on a 17,000 square foot site – and FAR of 38.4. This – and the tremendous height of the building – is only possible because of what is called a zoning lot merger, in which, in this case, some 11 separate building lots are being treated as one because the many separate owners have agreed to this scheme. As a result, St. Thomas Church is deemed to be part of the same lot as MoMA and Museum Tower and the Folk Art Museum and the building site occupy, and FAR can be shifted to any location on this lot. In this case, the FAR above St. Thomas and University Club, as well as additional FAR from above the Folk Art, are being aggregated and plunked

down on the building site, even though much of this FAR comes from distances in excess of 500 feet.

The concept of zoning lot merger is a construct, devised to allow several relatively small zoning lots to be assembled, thereby allowing for a better planned project than would likely result if the small lots had to be developed separately. But it was never intended to support a project such as the Tower proposed in this case. If there is any doubt about this, the City Planning Commission made this point in a 1999 report that it issued titled "Unified Bulk Program." Commenting on the inappropriate use of zoning lot mergers, the Commission wrote:

" . . . [Current] zoning periodically yields unexpected and undesirable results in the form of buildings that are so big they violate the character of the neighborhoods around them. . . . Additional controls must be placed on zoning lot mergers . . . to avoid the transfer of excessive amounts of floor area to a development site from the already developed portion of a merged zoning lot. Transfers of floor area that go too far have produced buildings out-of-scale with their neighbors."

This observation goes to the heart of the problem with the Hines Tower, which is made feasible only by the most strained reading of the Zoning Ordinance and which runs directly counter to the concerns articulated by City Planning in the "Unified Bulk Program." As proposed, the Hines Tower will be "so big that [it] violates the character of the neighborhoods around [it]," and transfer of development rights that underlie the plan "goes too far . . . produc[ing] a building out-of-scale with [its] neighbors."

The situation here, moreover, is compounded by the fact that the Tower will be located in and adjacent to a "Preservation Subdistrict" along and north of 54<sup>th</sup> Street that was established in 1982 in an effort to protect the historic residential neighborhood, with its many historic buildings, that is found here. Indeed, that same year, the Planning Commission recommended that the area be designated as a historic district due to the richness of its heritage. In these circumstances, the application of the concept of zoning lot merger, together with the Planning Commission's approval of the air rights transfer that make the extraordinary height of the Tower possible, run all the more counter to the intent of the Zoning Ordinance and the concerns expressed in the Unified Bulk Report. In our view, the Council should not allow such an outcome. It should not allow what we believe is a clear abuse of the Zoning Resolution contrary to the intent and goals of the land use regulations it contains.

There is another serious failing in the way the Zoning Resolution has been applied in this case – involving a further misuse of a zoning lot merger concept and a misapplication of the provisions of the Zoning Resolution authorizing the transfer of development rights from landmarked properties. The idea underlying such transfers was that landmarked buildings should be able to realize value from the building rights they were unable to use by transferring them to adjacent properties. This would result

in a larger than "as-of-right" building on the adjacent lot, but this would be offset by the low-rise structure of the landmark – the one would compensate for the other. In this case, however, due to the extended zoning lot merger Hines is proposing to use in this case, the larger than as-of-right structure will not be adjacent to either of the landmarks involved, but will rather be more than 500 feet away opposite a residential neighborhood that does not enjoy the advantages of the lower rise St. Thomas Church or University Club. This totally subverts the intention of the Zoning Ordinance regarding the transfer of air rights from landmarks.

Equally important, if the Tower were the adjacent property to St. Thomas and the University Club, the proposal would have had to pass muster with the Landmarks Preservation Commission as harmonious with those landmarked structures; and it is impossible to believe that a 1,050 foot high glassy tower next to Church or a Stanford White building would be found appropriate. However, by transferring the air rights to a lot 500 feet away, the Hines Interests avoided this "inconvenience." At that distance, and largely screened from the landmarks by MoMA and Museum Tower, the LPC could not find the building failed to harmonize with St. Thomas and the University Club – they were simply too far away. So in the end, the fiction of a single zoning lot, combined with a non-compensated transfer of development rights, has eradicated the protections that would otherwise be applicable under the Landmarks Preservation Law and under the Zoning Resolution. In our view, this violates the law and requires that the current application be rejected. Intent on approving the Tower, the City Planning Commission did not even consider these points. We ask the Council not to follow suit.

We believe that the legal points discussed above not only empower the Council to override City Planning's decision and reject the Tower, as currently proposed – we submit that they require the Council to do so. We respectfully ask the Council to turn the Tower proposal down and invite the developer to submit an application that conforms to both the spirit and the substance of the law.

**LIZ KRUEGER  
SENATOR, 26TH DISTRICT**

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**Testimony of State Senator Liz Krueger**

**Before the New York City Council Subcommittee on Zoning on the  
MoMA/Hines West Fifty-Third Realty, LLC  
Applications for Special Permits at 53 West 53<sup>rd</sup> Street**

**October 6, 2009**

My name is Liz Krueger and I am the State Senator representing the 26th State Senate District, which includes the MoMA/Hines West Fifth-Third Realty property located at 53 West 53rd Street. I appreciate this opportunity to comment on the applications for the special permits for the property, a project known as Tower Verre, planned as a mixed use building.

Tower Verre, which has been described as an 85-story asymmetrical, twisting, glass, needle rising over 1,000 feet in the air is to be situated mid-block in an already densely populated area. Tower Verre would be grossly out of scale with the other buildings in the area, including the landmarked Rockefeller Apartments on West 54th Street as well as the landmarked Eero Saarinen designed CBS building on 53rd Street. As currently designed, Tower Verre would also overwhelm the area's infrastructure and services.

On March 13, 2008, and more recently on June 11, 2009, Manhattan Community Board 5 overwhelmingly passed a resolution urging both the Landmarks Preservation Commission and the Department of City Planning to deny the transfer of 275,000 square feet of development rights from St. Thomas Church, under section 74-711 of the zoning resolution, as well as the 136,000 square feet of development rights from the University Club, under section 74-79 of the zoning resolution, to the proposed Tower Verre.

I continue to support Community Board 5's resolutions. It is my belief that neither of the preservation plans for the landmarked properties, as described in the applications, alleviates the public burden of the proposed development. The Land Use and Landmarks committees as well as the full board of Community Board 5 have given this project considerable and thorough review. I have been very impressed with the careful consideration of the Board and its deliberative process during the hearings about this project. Both committees unanimously, and the full board overwhelmingly,

recommended denial of application for two Special Permits under Sections 74-79 and 74-711 of the Zoning Resolution.

As neighbors of MoMA and the Tower Verre project, the West 54-55th Street Association has tirelessly researched and documented inconsistencies in the application for the two Special Permits and the Draft Environmental Impact Statement. Their dedication to protecting one of New York City's most historically significant blocks is to be applauded.

I would like to reiterate comments I made regarding Tower Verre in testimony delivered to the Landmarks Preservation Commission on April 8, 2008 and more recently to the City Planning Commission on July 22, 2008.

I am not opposed to well planned, functional, urban development and I appreciate the desire of MoMA and Hines Realty to proceed with *reasonable* plans for the development site. MoMA and Hines Realty together have an opportunity in Tower Verre to forge a partnership to design a superb, well-planned urban development if they are willing to take into consideration the legitimate concerns of the surrounding community and the comments of Community Board 5. However, if not planned carefully, this project will overwhelm the scale and services of the surrounding neighborhood. The construction of such a large tower mid-block would also establish a dangerous zoning precedent for the entire community. While many people think of Midtown simply as a commercial Central Business District, the area also has numerous thriving residential communities that must be protected.

I understand that on September 9, 2009 the City Planning commission issued its approval of the application with the condition that "to minimize the adverse effects on the character of the surrounding area the Commission is modifying the application to reduce the height of the building to 1,050 feet.....or as-of-right according to existing zoning." While this reduction of 200 feet is an improvement, Tower Verre's design would still not relate harmoniously with the neighborhood, nor will the materials, design, scale and location of bulk in the building relate to the adjacent landmark buildings.

Following are comments on several aspects of the Tower Verre project that still are of particular concern and importance to my constituents.

### **Traffic & Parking**

53rd and 54th Streets, which encompass the Tower Verre project, are designated as Midtown THRU Streets due to their high traffic volumes by the New York City Department of Transportation. The capacity of both streets is already severely stretched by existing development and institutions.

West 54th Street already has six loading docks with a seventh anticipated to accommodate the hotel in the new building. Although every proposed design alternative for the seventh loading dock has been met with reasons why they are not feasible, I am

still concerned about another loading dock being added on a block already heavily taxed with delivery and through traffic. The existing loading docks are not currently used by MoMA with the museum insisting that a full complement of security is needed each time a loading dock is used. Trucks are usually parked on the street while they are loaded or unloaded. The six existing loading docks need to be used more efficiently and a sharing agreement with Tower Verre should be explored.

### *Transit & Pedestrians*

After MoMA's last expansion of 40,000 square feet, attendance grew from 1.8 million to 2.5 million visitors. The proposed expansion would be of a similar size. The City Planning Commission's statement this expansion of MoMA is not likely to increase attendance is simply inconceivable. While I am a strong supporter of MoMA, and fully understand its desire to display more of its collection, I am concerned about the ability of the surrounding streets to handle the increased pedestrian traffic. Tower Verre will also have a steady stream of hotel and restaurant patrons, residents and tourists coming and going. In accordance with the Borough President's recommendations, MoMA should be prepared to explore ways to help alleviate visitor traffic.

There is a lot of concern that 54<sup>th</sup> street is turning into a "back of operations" street for the museum and Tower Verre thereby changing the nature of a once residential block. Residents of both 53<sup>rd</sup> and 54<sup>th</sup> streets have recommended that Tower Verre create a public pass through as has been created in a number of buildings on 57<sup>th</sup> street and which will help enliven the block.

The New York City Council should consider these issues as well as the other concerns and proposals of my constituents, Community Board 5, affected neighborhood organizations and advocacy groups, and my fellow elected officials. I strongly encourage the City Council to ensure that any and all development at 53 West 53rd Street reflects the area's character and positively contributes to the community.

Thank you for your consideration of my views.



RICHARD N. GOTTFRIED  
75TH ASSEMBLY DISTRICT

CHAIR  
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### **MoMA/Hines Development: REJECT PROPOSAL FOR 1,050 FOOT TOWER**

Assembly Member Richard N. Gottfried  
Testimony before the New York City Council, Subcommittee on Zoning & Franchises  
City Hall  
Tuesday, October 6, 2009

I am Assembly Member Richard N. Gottfried. I represent the 75th Assembly District in Manhattan, which includes Chelsea, Hell's Kitchen, Murray Hill, and parts of the Upper West Side and Midtown, including the area where the MoMA/Hines building at 53 West 53rd Street is proposed.

A building of this magnitude on a mid-block location immediately adjacent to a historic residential neighborhood violates the basic principles of New York City zoning and good urban planning. It should not be allowed.

In order to permit the transfer of development rights to 53 West 53rd Street from the two landmarks, the University Club and St. Thomas Church, the City Planning Commission has approved special permits under §74-711 and §74-79.

St. Thomas Church, an individual landmark in good condition, applied for a special permit under §74-711 to sell all 275,000 square feet of its air rights, arguing that the preservation plan it is currently undertaking satisfies the findings required by the zoning code. If St. Thomas Church wants to upgrade the building, it should do what congregations do, and turn to its members.

The University Club applied for a special permit under §74-79 to sell all 136,000 square feet of its air rights, presenting a preservation plan which also falls short of demonstrating financial need. Neither landmark is in danger of deterioration, or has a stated lack of resources. It is wrong for the church and the University Club to finance their operations by imposing the burden of the MoMA/Hines building on its neighbors.

Community Board 5 reports that both are currently in good condition with ongoing maintenance plans. There is no "burden" that needs to be relieved and no landmark preservation purpose to be served by the air rights sale.

However, there is substantial *public* burden resulting from the excessive height and density, shadows, traffic, and other impacts the proposed tower will impose on the community.



While the Environmental Impact Study asserts no "significant adverse effect" of shadows from the MoMA/Hines tower, that is preposterous.

The building, as originally proposed, would have been 1250 feet high. The City Planning Commission has required that the height be reduced by 200 feet to 1,050 feet. However, the proposed tower remains far too tall – indeed, as tall as the Chrysler Building, making it one of the tallest buildings in New York City. Unlike other skyscrapers, the MoMA/Hines site is not on a wide avenue or a wide cross-town street; it is mid-block on a narrow mixed-use side street with its back on a residential street.

A §74-711 permit also required a finding that the building will relate harmoniously to the transferring landmark. Some might claim that because of the distance between the development site and the landmark, the harmoniousness standard was met.

The harmful impact the tower will have on St. Thomas Church and the surrounding area is substantial despite the distance between the tower and the landmark. It is shocking to think that a building of this size can be put up near this landmark church simply because, when standing next to the church, you cannot see the top of the tower without craning your neck. That is not the limit of the adverse impacts. The proposed Tower would dwarf the landmarked CBS Building and would loom above the eight individually landmarked historic buildings on 54<sup>th</sup> Street.

With respect to the University Club, the zoning text is clear. There must be a preservation plan that benefits the landmark without adding burden on the community. Fifty-third Street is characterized by low-rise mixed-use development. The MoMA/Hines plan is inconsistent with and degrades this character.

Traffic and pedestrian impacts are important and relevant to the weighing of advantages and disadvantages under Section 74-711, and they should be taken into account under the State Environmental Quality Review Act and the City regulations implementing that statute.

A building of this magnitude will dramatically increase vehicular and pedestrian traffic. If the permits are approved, MoMA/Hines must present a substantial plan for significant mitigation for this increased traffic.

Currently, the MoMA foot patrol and line regulators cannot do enough to moderate the throng of pedestrians that clog the sidewalk, thus preventing residents from easily accessing their homes and others from using the street. With an increase in tourist traffic at MoMA, especially Friday evenings when the museum offers free admission, more queuing should take place inside the building.

The adverse impacts need not be so traumatic. The community has indicated that it would be willing to live with a tower up to the height of the CBS Building – 490 feet. This would provide the developer with much of the FAR it is seeking while also allowing significant financial benefits to flow to St. Thomas and the University Club through the transfers of a

portion of their air rights. The return would be a more contextual building: still massive, but no longer overhanging and overwhelming the adjacent neighborhoods.

Not-for-profit organizations and cultural institutions are increasingly trying to make use of their air rights to build residential or commercial towers that undermine landmark, historic district, and zoning regulations. This trend is detrimental to communities and should be resisted by community boards, City agencies, and the City Council.

I urge the Council to reject the proposed 1,050 foot tower.

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**LR ITEM 3 - DESCRIPTION OF PROPOSAL**

The requested rezoning, from R3-2 to R6A encompasses an area bounded by the prolongation of the centerline of 72<sup>nd</sup> Avenue on the west, a line 500 feet south of and parallel to the Grand Central Parkway South Service Road to the south, the prolongation of the centerline of 247<sup>th</sup> Street to the east and the existing R4, R4-1 and R2A district lines along the Grand Central Parkway to the north.

The total area included in the rezoning is 469,686 square feet. The proposed zoning lines were chosen to enclose as tightly as possible the two zoning lots involved in the rezoning, lots 550 and 600. The applicant owns both lot 600 (152,417 square feet) and lot 550 (55,015 square feet) for a total of 207,432 square feet. The remaining area of the proposed rezoning, 71,614 square feet, is under NY State control under the jurisdiction of the N.Y.S. Department of Health and under the control of the United Cerebral Palsy.

Block 8401, Lot 600, which constitutes one zoning lot, contains a 240-unit, 3 building, six story apartment complex known as the "Monte Excelsior built in 1961 under the pre-61 Zoning Resolution. Lot 550, which comprises the zoning lot of the proposed development, is vacant and used for parking accessory to the Monte Excelsior development. The lot was purchased by the applicant from New York State at two auctions.

1/10/08

CPC # 030129ZMQ

**LR ITEM 3, DESCRIPTION OF PROPOSAL**

The proposed rezoning to R6A will serve the dual purpose of permitting the applicant to construct a 142-unit, 7 story apartment building similar in scale and style to the adjacent 240-unit "Monte Excelsior" and bring the adjacent "Monte Excelsior" into close compliance to the proposed R6A. The existing adjacent "Monte Excelsior" apartment house complex will fall within all the bulk requirements of an R6A district except for the street wall location which is 22'-1" from the street line and the height of the buildings which is 73.8 feet high (7.3 feet higher than the proposed building).

The proposed seven- story apartment house will have both a base height of 57 feet and total height of 66.5 feet. The proposed FAR is 3.0 and this project will contain 165,000 square feet of floor area and 142 DU's. The number of parking spaces housed in two underground garage levels will contain 156 spaces, more than double the required 71 spaces. Curbcuts for the garage and service entry/exit will be on the north side of the building along the Grand Central Parkway service road.

The proposed development will be constructed on a portion of the site which is currently used for 122 accessory parking spaces for the adjacent "Monte Excelsior" development which currently has a total of 343 spaces. 221 spaces are located on Lot 600. Of these spaces, 90 are located below grade, 40 are located on the roof of the garage, another 50 will be located on a yet to be built second roof, and 41 are located in outside on-grade parking lots. The remaining 122 spaces, temporarily located on Lot 550 will be eliminated when construction of the new building begins, leaving the final total of spaces for the Monte Excelsior at 221 spaces which exceeds the 158 parking spaces that would be required under R6A.

The R6A zoning district requires new development to be built to Quality Housing standards while limiting the height of the building to 70 feet with a maximum base height of 60 feet. The proposed building will fit into this envelope. The 142 DU's will contain one, two and three bedroom apartments.

Lot 550, the lot proposed for development, is located between the aforementioned adjacent Monte Excelsior and the Creedmore Psychiatric hospital complex. The area surrounding the site to the east, south and west is zoned R3-2 and contains two garden apartment complexes, a yeshiva and a Cerebral Palsy facility oriented to Little Neck Parkway to the east. The area north of the rezoning area is zoned R4-1, R4 and R2A, is developed with one- and two-family homes and the Douglaston Golf Course and is separated from the site by the Grand Central Parkway. The rezoning area is also physically separated from the surrounding lower-density development to the south by a great topographical difference between the level of the subject site and the adjacent developments. The area behind the subject site is approximately 20 feet lower. The proposed apartment building will be oriented to Grand Central Parkway and be more in scale with the immediate surroundings. It also responds to the urgent need for more market rate housing in this area of Queens.

# ***THE EXCELSIOR RESIDENCES***

245-10 GRAND CENTRAL PARKWAY S, QUEENS



ARCHITECTURE, DESIGN & PLANNING \* LANDMARKS & PRESERVATION

555 WEST 23RD STREET, #N8R, NEW YORK NY 10011

TEL. 212 219 2091 FAX 212 219 2904 E-MAIL: MSTUDIONY@AOL.COM

ANTHONY J. MORALI - ARCHITECT A.I.A.

JOSEPH P. MORSELLINO, ESQ. - ZONING ATTORNEY



## DRAWING LIST

- P-1 SITE PLAN-EXISTING CONDITION
- P-2 SITE PLAN-PROPOSED CONDITION
- P-3 SUB-CELLAR PLAN
- P-4 CELLAR PLAN
- P-5 FIRST FLOOR PLAN
- P-6 TYP (2-7) FLOOR PLAN
- P-6-1 ROOF BULKHEAD PLAN
- P-7 ENTRANCE FACADE ELEVATION
- P-8 SIDE ELEVATION
- P-9 PERSPECTIVE VIEWS
- P-10 OVERHEAD PERSPECTIVE VIEW
- Z-1 ZONING ANALYSIS SHEET
- Z-1A GENERAL COMPARISON SHEET
- Z-2 ZONING SECTIONS

SET FOR ILLUSTRATIVE PURPOSES ONLY  
REVISED 06-15-08

245-10 GRAND CENTRAL PARKWAY S, QUEENS

COVER SHEET

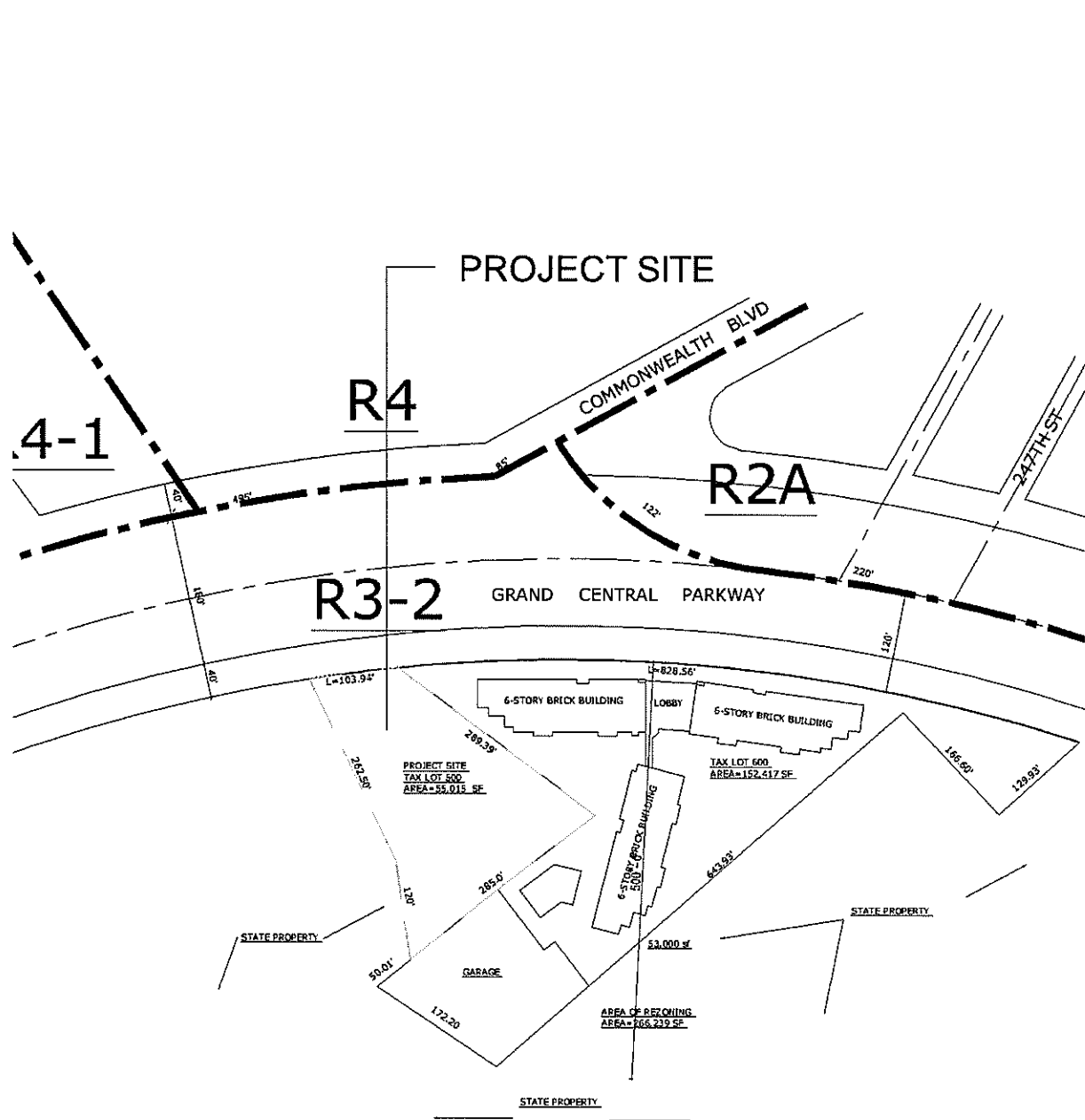
SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK

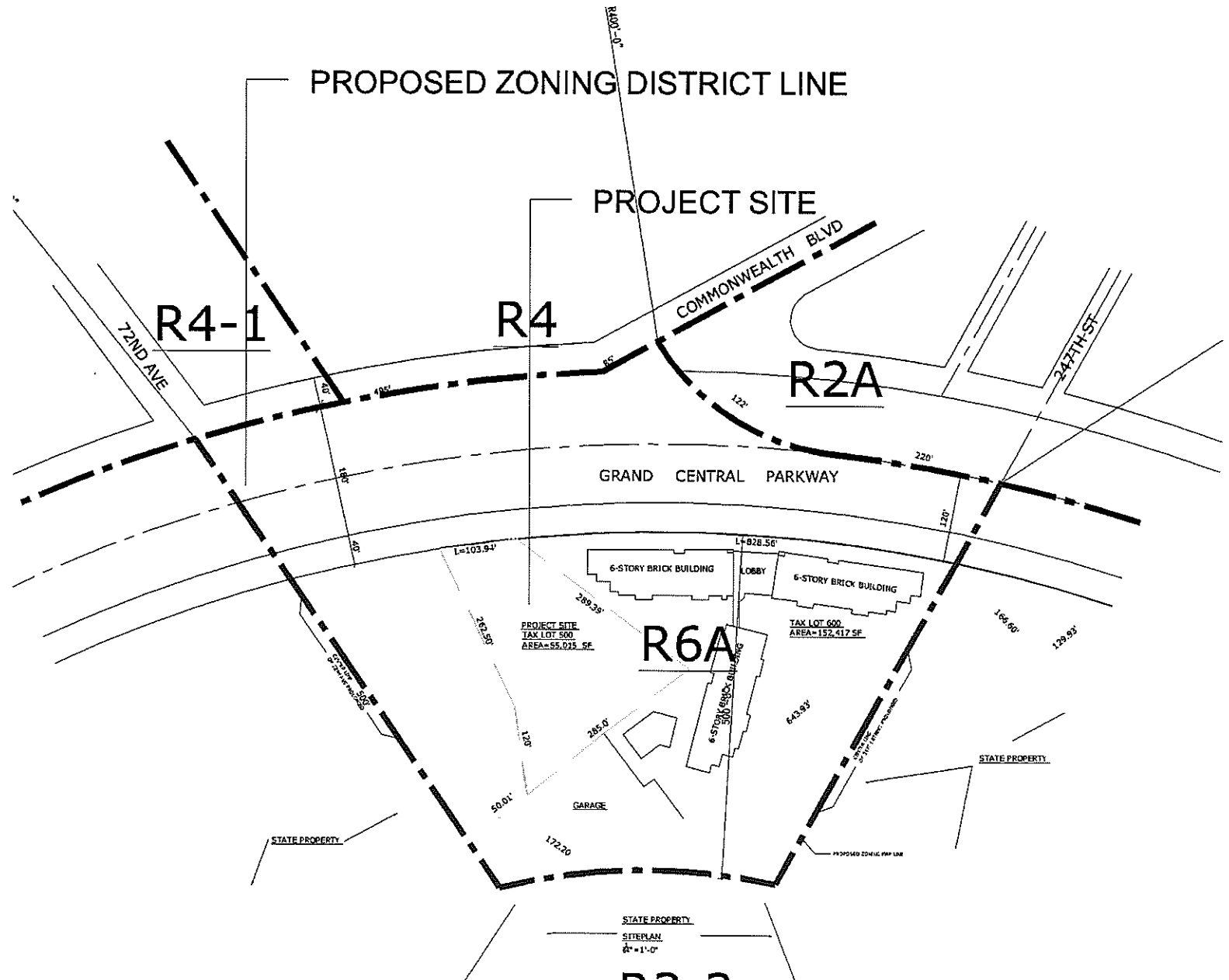
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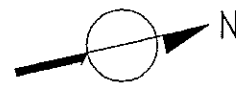
555 WEST 23RD STREET, #N8R, NEW YORK NY 10011  
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EXISTING ZONING



PROPOSED ZONING



LEGEND

-  ZONING DISTRICT LINE
-  PROPOSED R6 ZONING DISTRICT LINE
-  PROPERTY LINE

FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

EXISTING-PROPOSED ZONING MAPS

SUBMISSION: 245-10 GRAND CENTRAL PARKWAY SOUTH  
 QUEENS, NEW YORK  
 01-08-08  
 SITE PLAN-EXISTING CONDITION

**M** STUDIO  
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CP  
 1

R4

R 3-2

GRAND CENTRAL PARKWAY SOUTH

LOT #600  
LOT AREA=152,417 SF  
240 DWELL. UNITS TOTAL  
127 ACCES. OPEN+ 42 GARRAGE  
PARKING SPACES

EMPTY LOT #550  
55,015 SF

EXIST. 6-STORY  
RESIDENTIAL BUILDING

EXISTING  
PARKING

EXIST. 1-STORY

STATE PROPERTY

R3-2

EXIST. 6-STORY  
RESIDENTIAL BUILDING

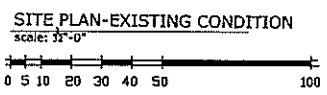
EXIST. 6-STORY  
RESIDENTIAL BUILDING

EXIST.  
OPEN POOL

STATE PROPERTY

EXTERIOR PARKING

STATE PROPERTY



FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

SITE PLAN-EXISTING CONDITION

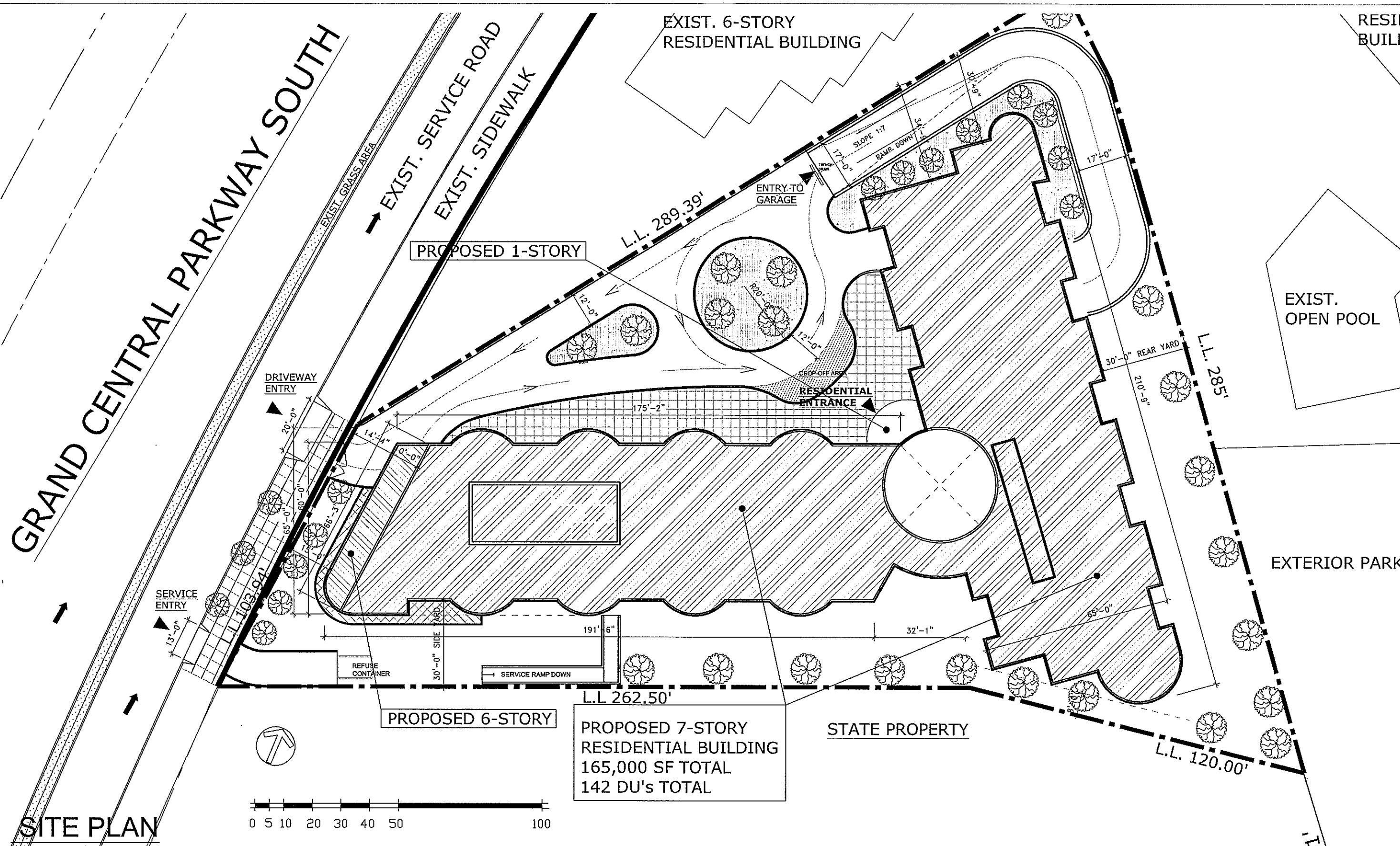
SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
SITE PLAN-EXISTING CONDITION

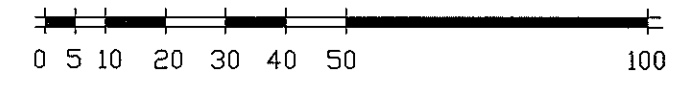


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**SITE PLAN**  
 SCALE: 1/32" = 1'-0"



**PROPOSED 7-STORY  
 RESIDENTIAL BUILDING**  
 165,000 SF TOTAL  
 142 DU's TOTAL

FOR ILLUSTRATIVE PURPOSES ONLY

**245-10 GRAND CENTRAL PARKWAY S, QUEENS**

SITE PLAN-PROPOSED CONDITION

SUBMISSION:  
 01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
 QUEENS, NEW YORK  
 SITE PLAN-PROPOSED CONDITION

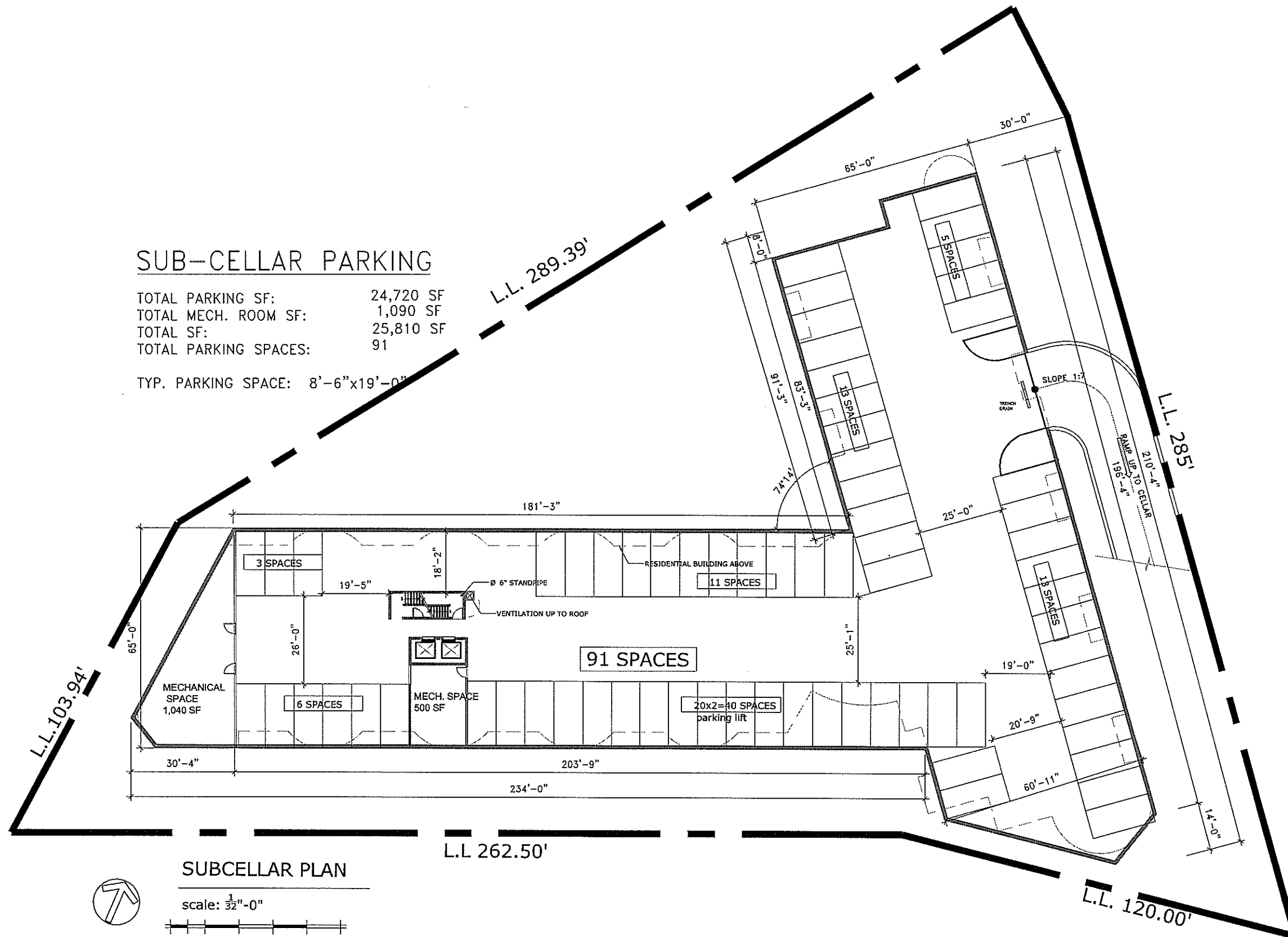
**M STUDIO**  
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P  
 2

# SUB-CELLAR PARKING

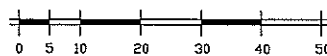
TOTAL PARKING SF: 24,720 SF  
 TOTAL MECH. ROOM SF: 1,090 SF  
 TOTAL SF: 25,810 SF  
 TOTAL PARKING SPACES: 91

TYP. PARKING SPACE: 8'-6" x 19'-0"



SUBCELLAR PLAN

scale: 1/32"=0'



FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

SUB-CELLAR PLAN

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK

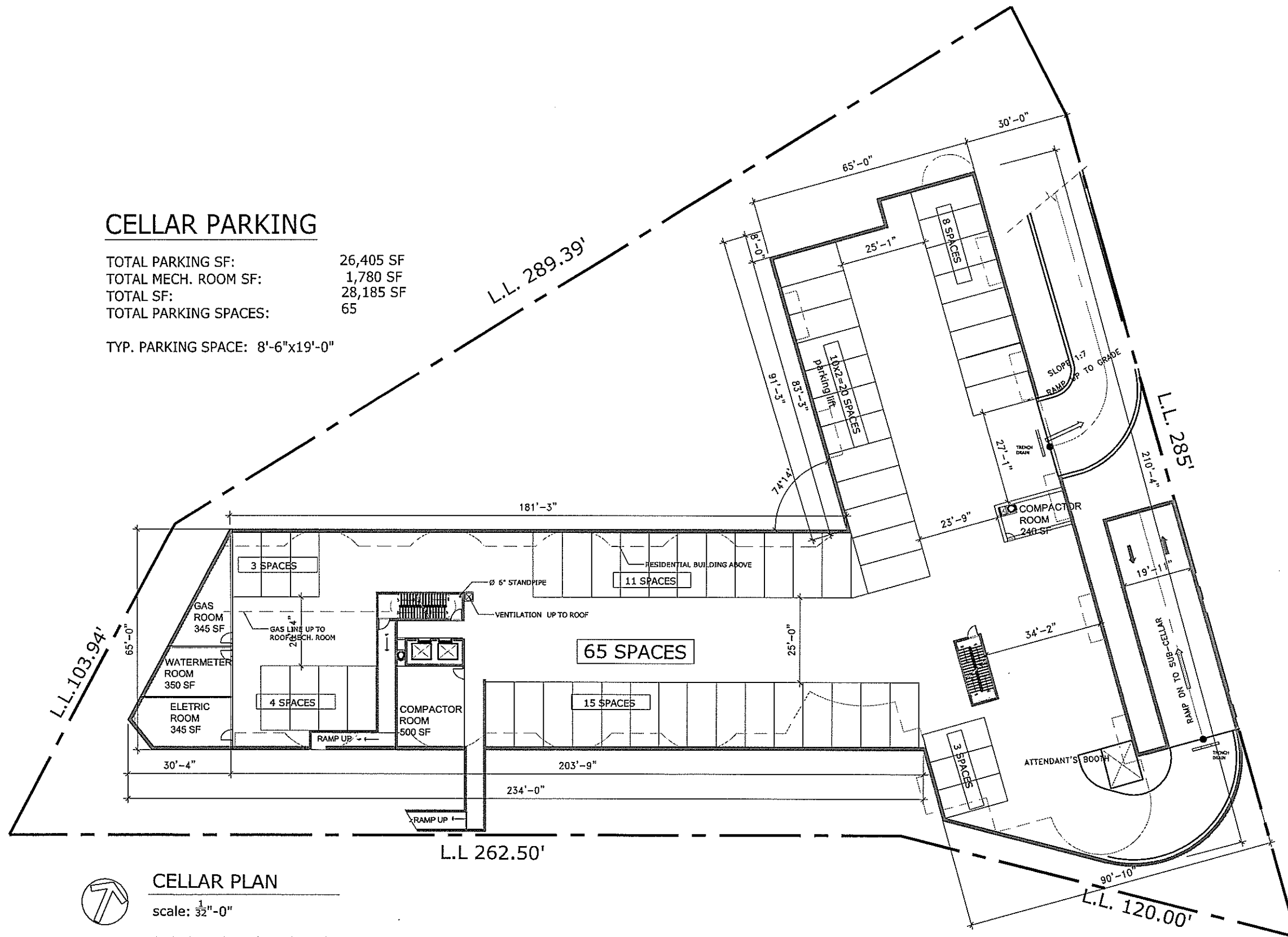
SUB-CELLAR PLAN

**M** STUDIO  
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P  
3

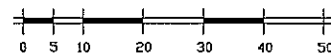
# CELLAR PARKING

TOTAL PARKING SF: 26,405 SF  
 TOTAL MECH. ROOM SF: 1,780 SF  
 TOTAL SF: 28,185 SF  
 TOTAL PARKING SPACES: 65  
 TYP. PARKING SPACE: 8'-6"x19'-0"



## CELLAR PLAN

scale: 1/32"=0"



FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

CELLAR PLAN

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK

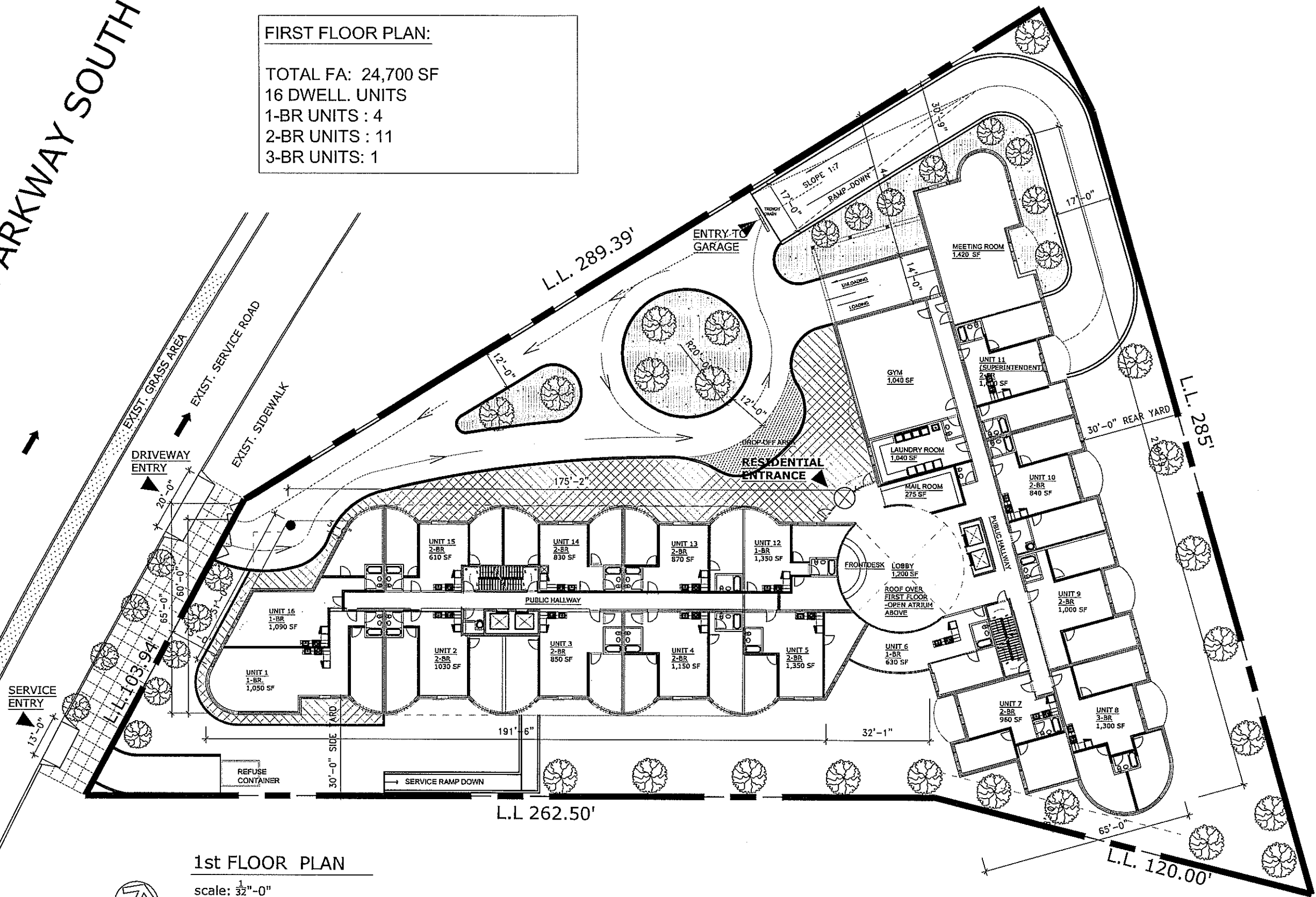
CELLAR PLAN

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4

GRAND CENTRAL PARKWAY SOUTH

FIRST FLOOR PLAN:

TOTAL FA: 24,700 SF  
 16 DWELL. UNITS  
 1-BR UNITS : 4  
 2-BR UNITS : 11  
 3-BR UNITS: 1



1st FLOOR PLAN  
 scale: 1/32"=0"  
 0 5 10 20 30 40 50

FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

FIRST FLOOR PLAN

SUBMISSION:  
 01-08-08

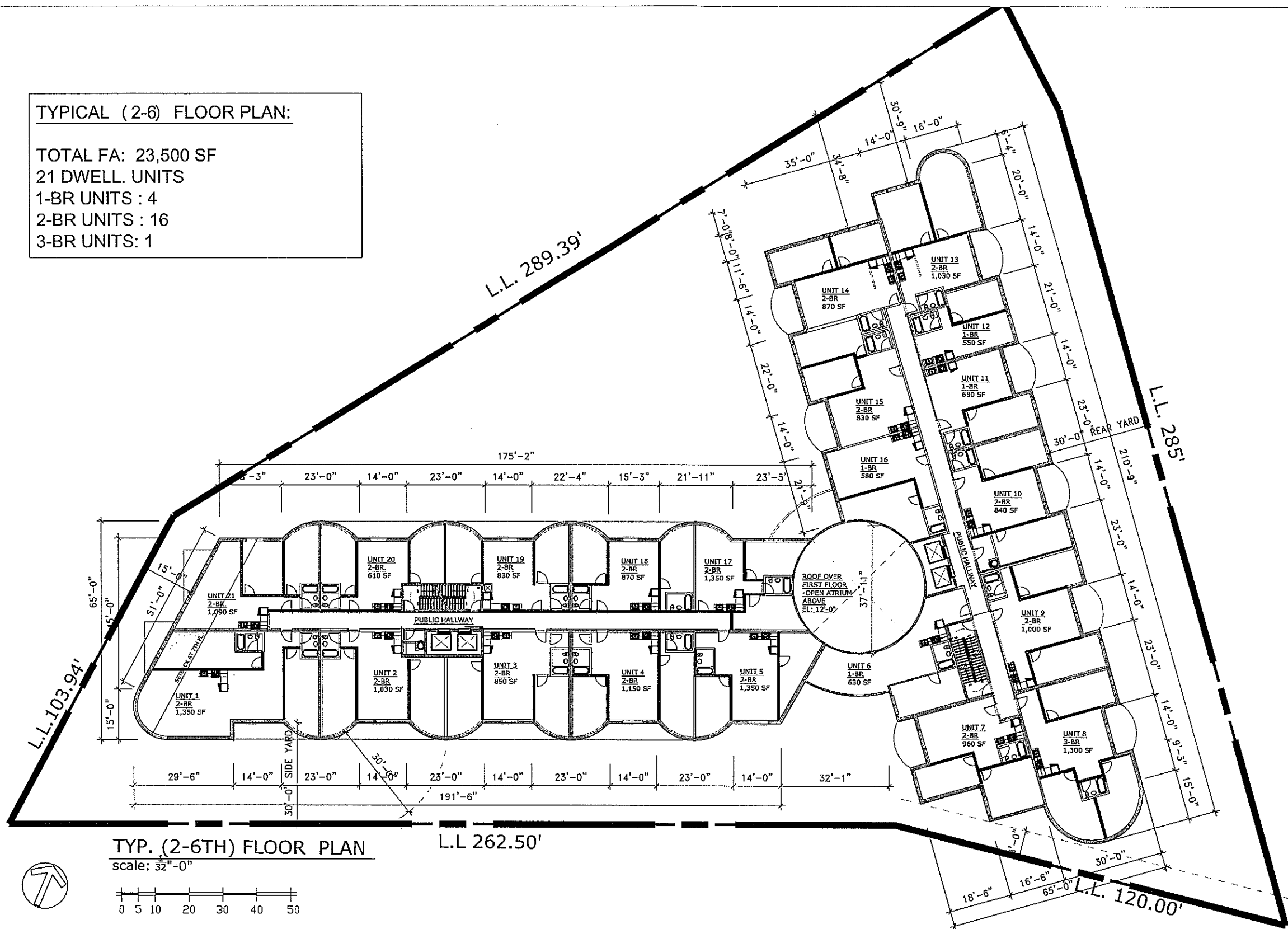
245-10 GRAND CENTRAL PARKWAY SOUTH  
 QUEENS, NEW YORK  
 FIRST FLOOR PLAN

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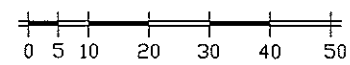
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 5

**TYPICAL (2-6) FLOOR PLAN:**

TOTAL FA: 23,500 SF  
 21 DWELL. UNITS  
 1-BR UNITS : 4  
 2-BR UNITS : 16  
 3-BR UNITS: 1



**TYP. (2-6TH) FLOOR PLAN**  
 scale: 1/32" = 1'-0"



**245-10 GRAND CENTRAL PARKWAY S, QUEENS**

**TYPICAL (2-6) FLOOR PLAN**

SUBMISSION:  
 01-08-08

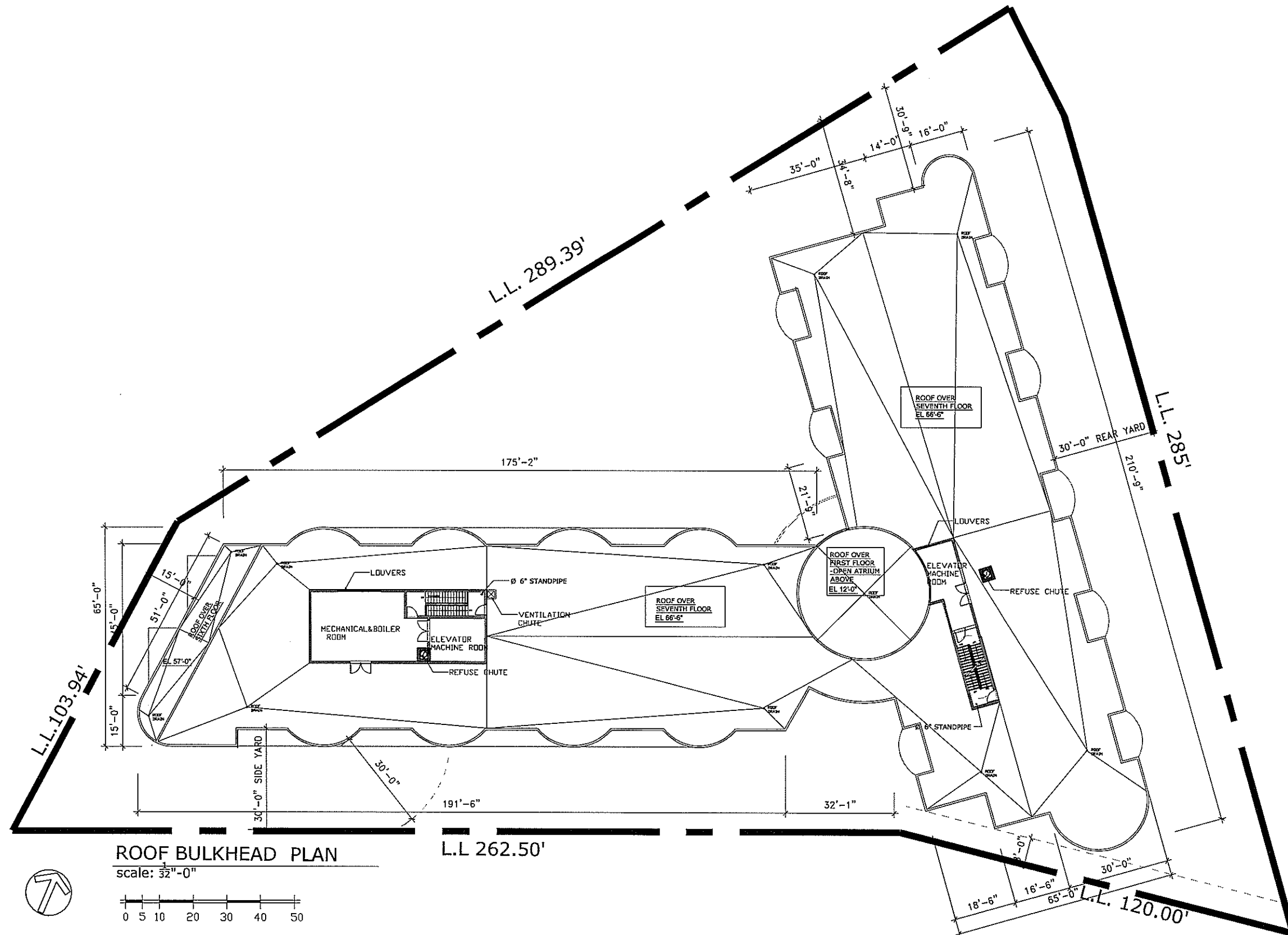
245-10 GRAND CENTRAL PARKWAY SOUTH  
 QUEENS, NEW YORK



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**6**

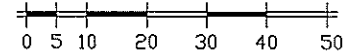
FOR ILLUSTRATIVE PURPOSES ONLY

TYPICAL (2-7) FLOOR PLAN



ROOF BULKHEAD PLAN

scale: 1/32" = 1'-0"



FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

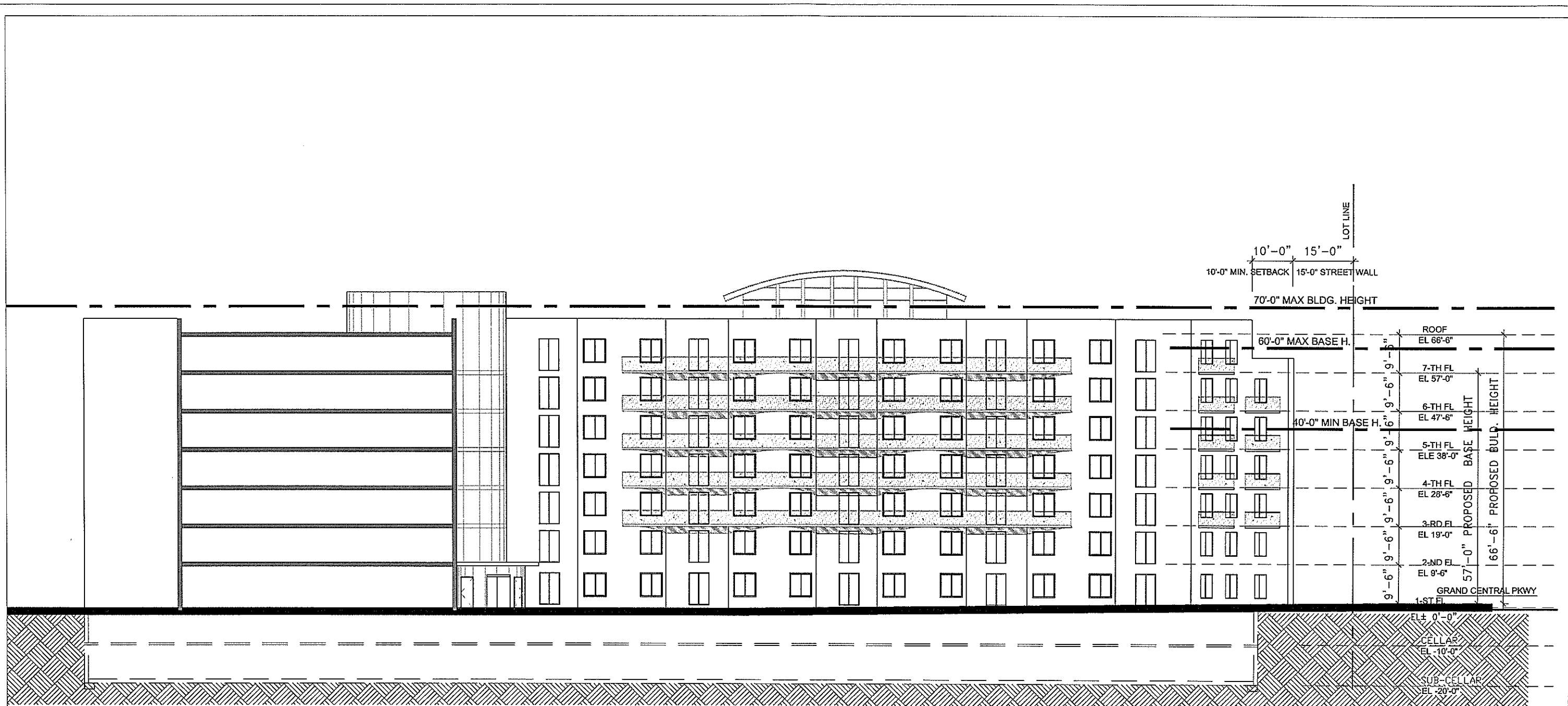
ROOF BULKHEAD PLAN

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
ROOF BULKHEAD PLAN



P  
6-1



NORTH (SIDE) ELEVATION

FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

ENTRANCE FACADE ELEVATION

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
ENTRANCE FACADE ELEVATION



P  
7

70'-0" MAX BLDG. HEIGHT



|       |            |            |                              |
|-------|------------|------------|------------------------------|
| 9'-6" | ROOF       | EL 66'-6"  | 66'-6" PROPOSED BULD. HEIGHT |
| 9'-6" | 7-TH FL    | EL 57'-0"  |                              |
| 9'-6" | 6-TH FL    | EL 47'-6"  |                              |
| 9'-6" | 5-TH FL    | ELE 38'-0" |                              |
| 9'-6" | 4-TH FL    | EL 28'-6"  |                              |
| 9'-6" | 3-RD FL    | EL 19'-0"  |                              |
| 9'-6" | 2-ND FL    | EL 9'-6"   |                              |
|       | 1-ST FL    | EL± 0'-0"  |                              |
|       | CELLAR     | EL -10'-0" |                              |
|       | SUB-CELLAR | EL -20'-0" |                              |

NORTH (SIDE) ELEVATION

FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

REAR ELEVATION

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
REAR ELEVATION

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P  
8





**PERSPECTIVE VIEW SOUTH**



**PERSPECTIVE VIEW EAST**

GRAND CENTRAL PARKWAY S.

FOR ILLUSTRATIVE PURPOSES ONLY

**245-10 GRAND CENTRAL PARKWAY S, QUEENS**

PERSPECTIVE VIEWS

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
PERSPECTIVE VIEWS

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P  
9



OVERHEAD PERSPECTIVE VIEW

245-10 GRAND CENTRAL PARKWAY S, QUEENS

OVERHEAD PERSPECTIVE VIEW

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK

OVERHEAD PERSPECTIVE VIEW



FOR ILLUSTRATIVE PURPOSES ONLY



# ZONING ANALYSIS CHART

ADDRESS: 245-10 GRAND CENTRAL PARKWAY S  
 CURRENT ZONE: R3-2  
 PROPOSED ZONE: R6A MAP: 11d  
 BLOCK: 8401  
 LOT AREA: 55,015 SF LOT: 550

|  | ZONING SECTION | R6A PROPOSED                           |                        |                       |
|--|----------------|--|------------------------|-----------------------|
|  |                | MAXIMUM PERMITTED                      | MINIMUM REQUIRED       | PROPOSED              |
| USE GROUPS PERMITTED                                     | 22-00          | 1,2,3,4                                |                        | 2                     |
| RESIDENTIAL F.A.R.                                       | 23-145         | 3.00                                   |                        | 3.00                  |
| RESIDENTIAL FLOOR AREA                                   | 23-145         | 55,015 SF x 3.0<br>= 165,045 SF        |                        | 165,000 SF            |
| LOT COVERAGE   | 23-145         | 65% ( INTERIOR LOT )<br>= 35,759.75 SF |                        | 44.89% =<br>24,700 SF |
| SIDE YARD  | 23-461         | N/A                                    | NONE OR 8'-0" MIN.     | 8'-0"/25'-0"          |
| FRONT YARD   | 23-45          | N/A                                    |                        | 15'-0"                |
| REAR YARD  | 23-47          |  | 30'-0"                 | 30'-0"                |
| MIN. DWELL. UNIT COUNT FACTOR PER RESIDENTIAL FLOOR AREA | 23-22          |  | 680 SF/ DU             | 1,162 SF              |
| MAX. DWELLING UNITS ALLOWED                              | 23-22          | 243                                    |                        | 142                   |
| MIN. BASE HEIGHT BEFORE SETBACK                          | 23-633         |  | 40'                    | 57'-0"                |
| MAX. BASE HEIGHT BEFORE SETBACK                          | 23-633         | 60'                                    |                        | 57'-0"                |
| MAXIMUM BUILDING HEIGHT                                  | 23-633         | 70'                                    |                        | 66'-6"                |
| MIN. SETBACK ON WIDE ST.                                 | 23-633         |  | 10'-0"                 | 10'-0"                |
| PARKING-RESIDENTIAL                                      | 25-23          |  | 50% OF 142 DU's<br>=71 | 156                   |

FOR ILLUSTRATIVE PURPOSES ONLY

**245-10 GRAND CENTRAL PARKWAY S, QUEENS**

**ZONING ANALYSIS**

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
ZONING ANALYSIS CHART



Z  
1

# GENERAL COMPARISON CHART

|  | ZR SECTION       | R3-2          |                | R6A           |                |
|--|------------------|---------------|----------------|---------------|----------------|
|  |                  | MIN. REQUIRED | MAX. PERMITTED | MIN. REQUIRED | MAX. PERMITTED |
| USE GROUP  | 22-00            |               | 1,2,3,4        |               | 1,2,3,4        |
| FAR RESIDENTIAL  | 23-141<br>23-145 |               | 0.6            |               | 3.0            |
| FAR COMMUNITY FACILITY                                   | 24-11            |               | 1.0            |               | 3.0            |
| OPEN SPACE RATIO   | 23-141           | 65 %          |                |               |                |
| MAX. LOT COVERAGE  | 23-141<br>23-145 |               | 35 %           |               | 70 %           |
| SIDE YARD  | 23-462           | 0' OR 8'-0"   |                | 0' OR 8'-0"   |                |
| FRONT YARD   | 23-45            | 15'-0"        |                |               |                |
| REAR YARD  | 23-47            | 30'-0"        |                | 30'-0"        |                |
| MIN. DWELL. UNIT COUNT FACTOR PER RESIDENTIAL FLOOR AREA | 23-22            | 870 SF/ DU    |                | 680 SF/ DU    |                |
| BASE HEIGHT BEFORE SETBACK                               | 23-631<br>23-633 |               | 21'            | 40'           | 60'            |
| MAXIMUM BUILDING HEIGHT                                  | 23-631<br>23-633 |               | 35'            |               | 70'            |
| MIN. SETBACK ON WIDE ST.                                 | 23-633           |               |                | 10'-0"        |                |
| PARKING-RESIDENTIAL                                      | 25-23            | 100% OF DU's  |                | 50% OF DU's   |                |
| RECREATION SPACE   | 28-31            |               |                | 3.30 %        |                |

FOR ILLUSTRATIVE PURPOSES ONLY

**245-10 GRAND CENTRAL PARKWAY S, QUEENS**

**ZONING ANALYSIS**

SUBMISSION:  
01-08-08

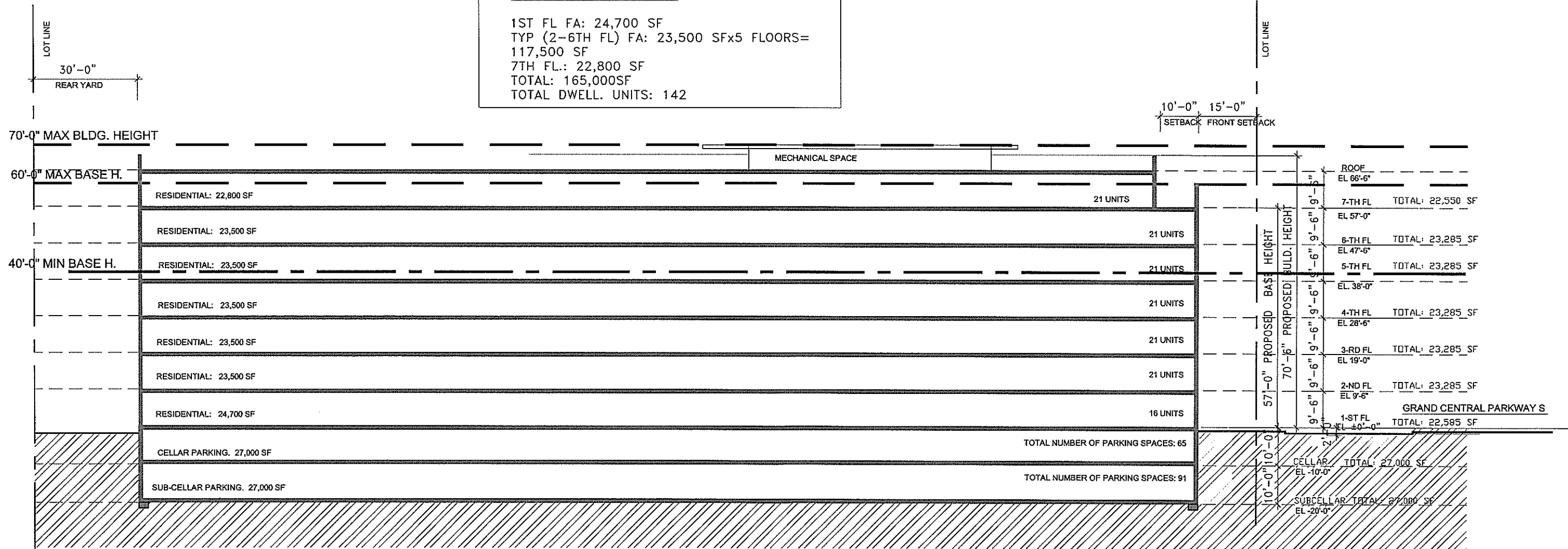
245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
GENERAL COMPARISON CHART



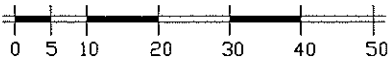
**Z  
1A**

**BUILDING AREA SUMMARY**

1ST FL FA: 24,700 SF  
 TYP (2-6TH FL) FA: 23,500 SFx5 FLOORS=  
 117,500 SF  
 7TH FL.: 22,800 SF  
 TOTAL: 165,000SF  
 TOTAL DWELL. UNITS: 142



**ZONING SECTION**



FOR ILLUSTRATIVE PURPOSES ONLY

245-10 GRAND CENTRAL PARKWAY S, QUEENS

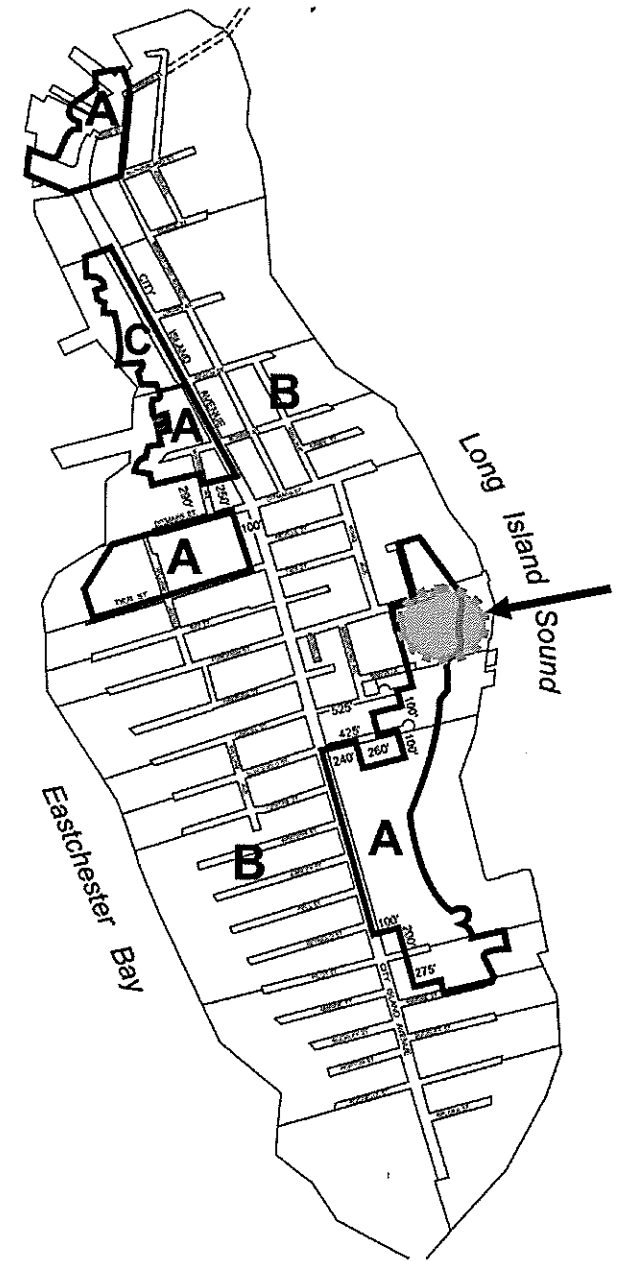
ZONING SECTION

SUBMISSION:  
01-08-08

245-10 GRAND CENTRAL PARKWAY SOUTH  
QUEENS, NEW YORK  
ZONING SECTION

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 ANTHONY J. MORALL, P.A. AIA R.Y. LIC: 17863 N.L.A. LIC: 1445

Z  
2



# ON THE SOUND AT CITY ISLAND

226 Fordham Place - Bronx Block 5643, Lots 225 & 226  
NYC Council Zoning & Franchises Committee – October 6, 2009



---

ON THE SOUND AT CITY ISLAND



LONG ISLAND S

FORDHAM STREET

FORDHAM PLACE

BANTA LANE

| PARKING TABULATION                       |      |
|--|------|
| Residence Parking                        | : 86 |
| Garage                                   | = 72 |
| Surface                                  | = 14 |
| Visitors Street Parking (private street) | : 38 |

LOT AREA : 224,790 SF  
 UNITS : 43 TOTAL  
 OPEN SPACE : 134,759 SF

ON THE SOUND AT CITY ISLAND  
 PROPOSED SITE PLAN

Plot 022 6/2/2009 Plot By: Moseley For Site: LAGOS CTR







FRONT ELEVATION  
FORDHAM PLACE PROTOTYPE 1



FRONT ELEVATION  
FORDHAM PLACE PROTOTYPE 2



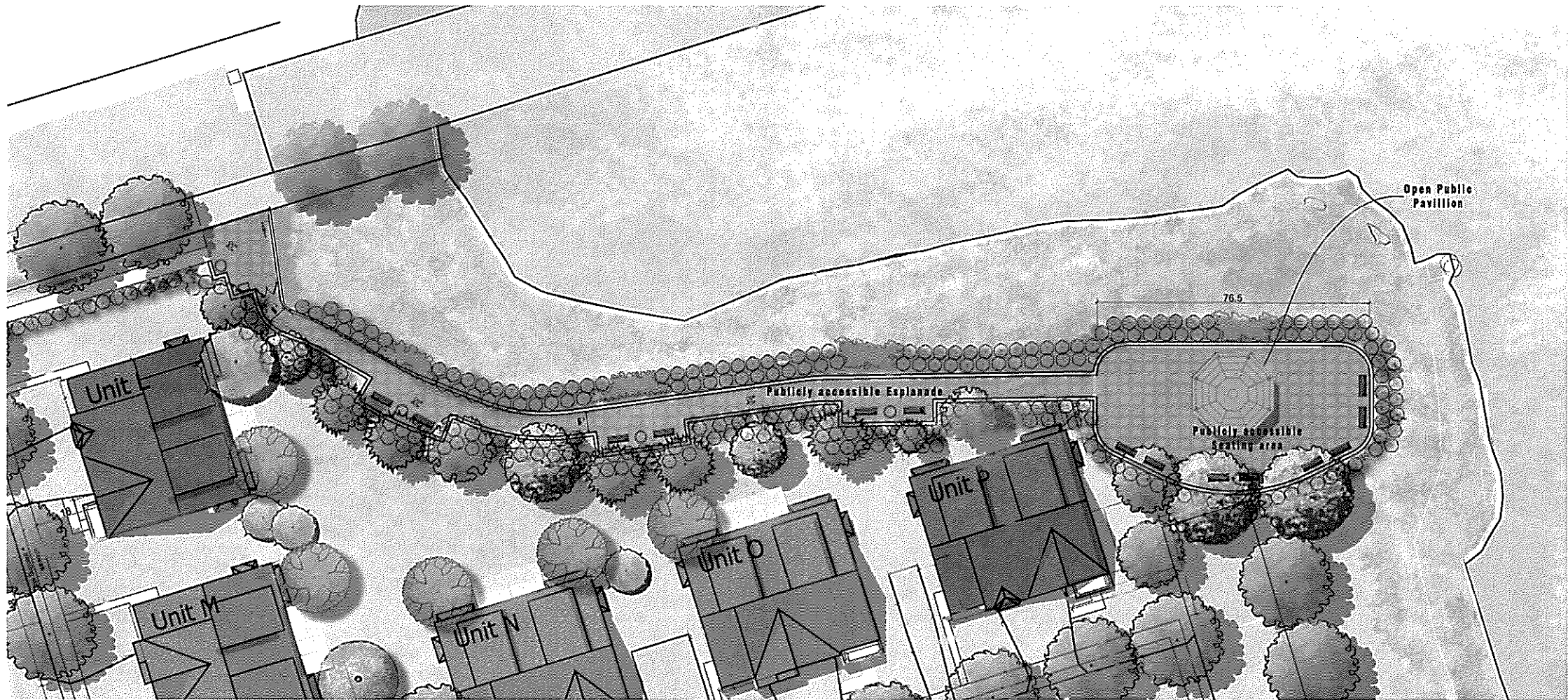
FRONT ELEVATION  
PROTOTYPE 3



FRONT ELEVATION  
PROTOTYPE 4

NOTE : Colors and materials are for illustrative purposes only

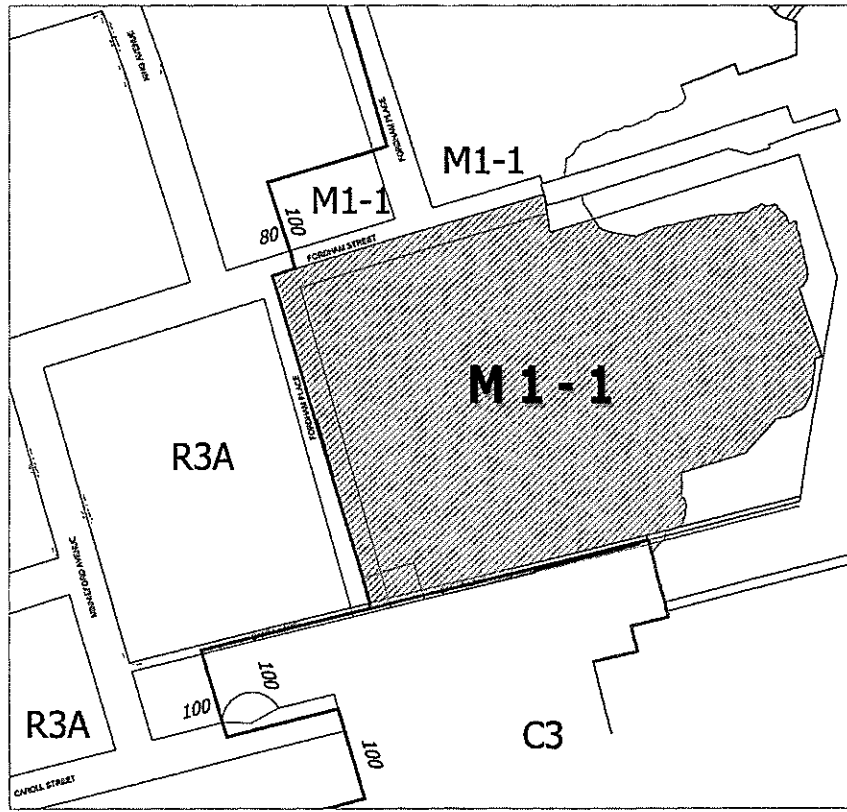
**ON THE SOUND AT CITY ISLAND**  
CPC Authorization: ZR 22-43  
( Detached and Semi-detached Two-family Residences )



Chairperson Certification:

ZR 62-711 ( Waterfront Public Access and Visual Corridor)  
ZR 112-14 ( Special Requirements for Waterfront Public Access)

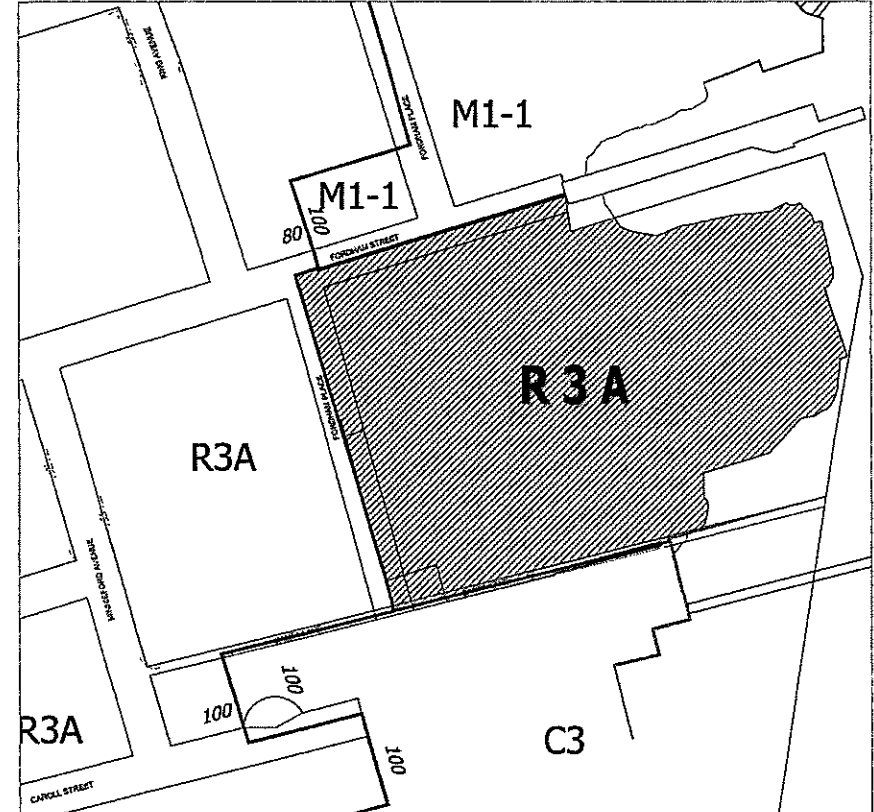
ON THE SOUND AT CITY ISLAND



boundary lines run to center of street unless otherwise dimensioned

 Area of Proposed Re-Zoning

EXISTING ZONING MAP

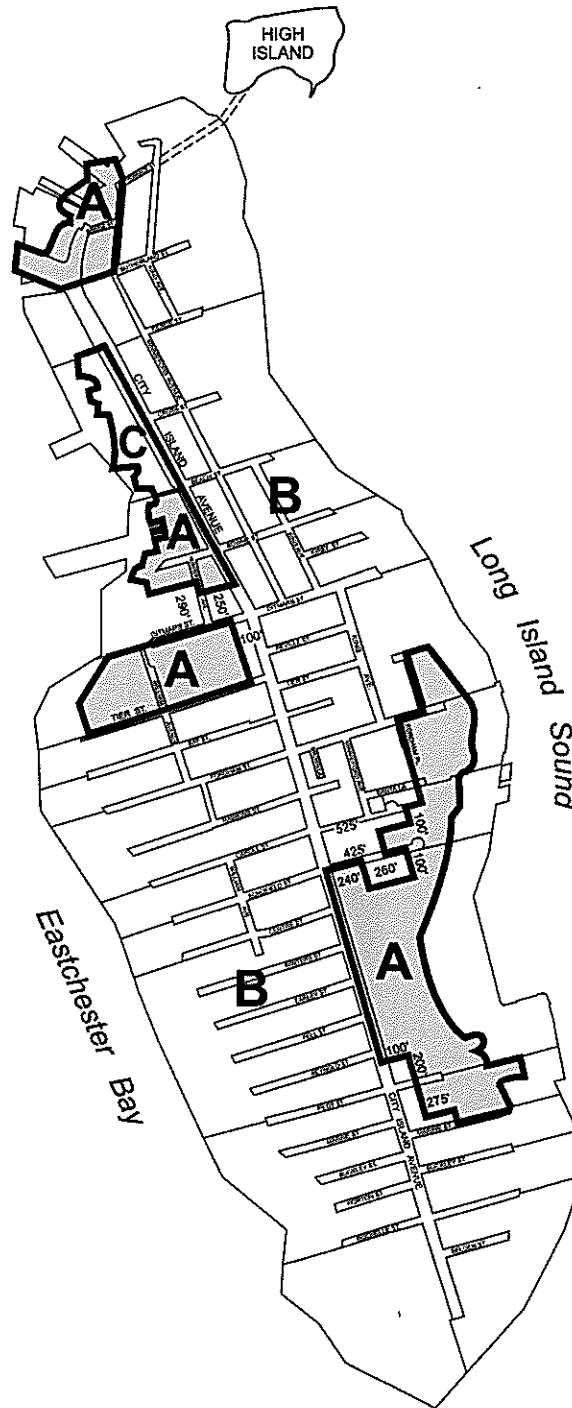


boundary lines run to center of street unless otherwise dimensioned

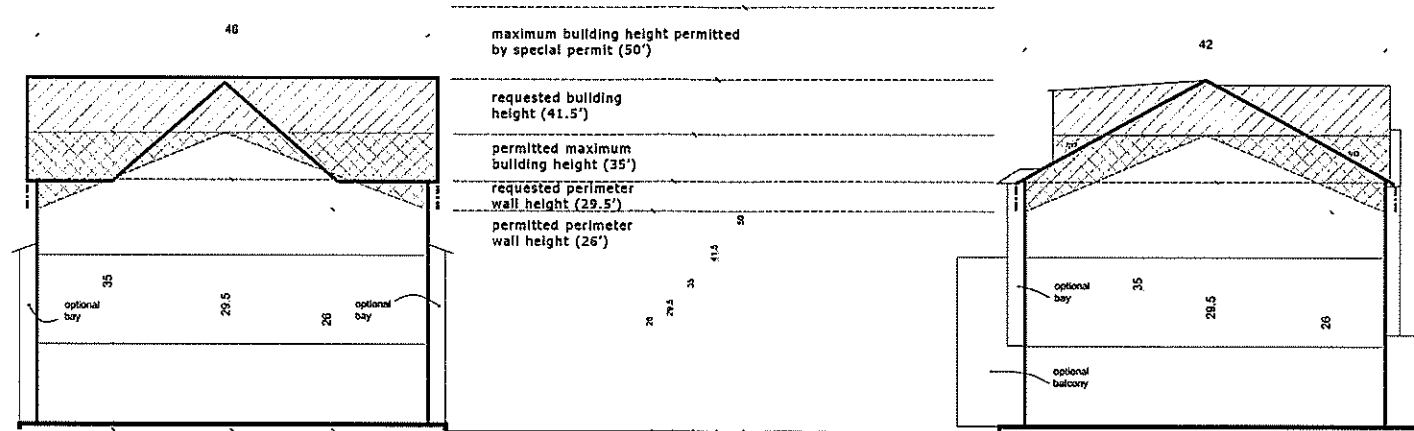
 Area of Proposed Re-Zoning

PROPOSED ZONING MAP

**APPENDIX A (1/20/77)**  
**Special City Island District—Height Areas**



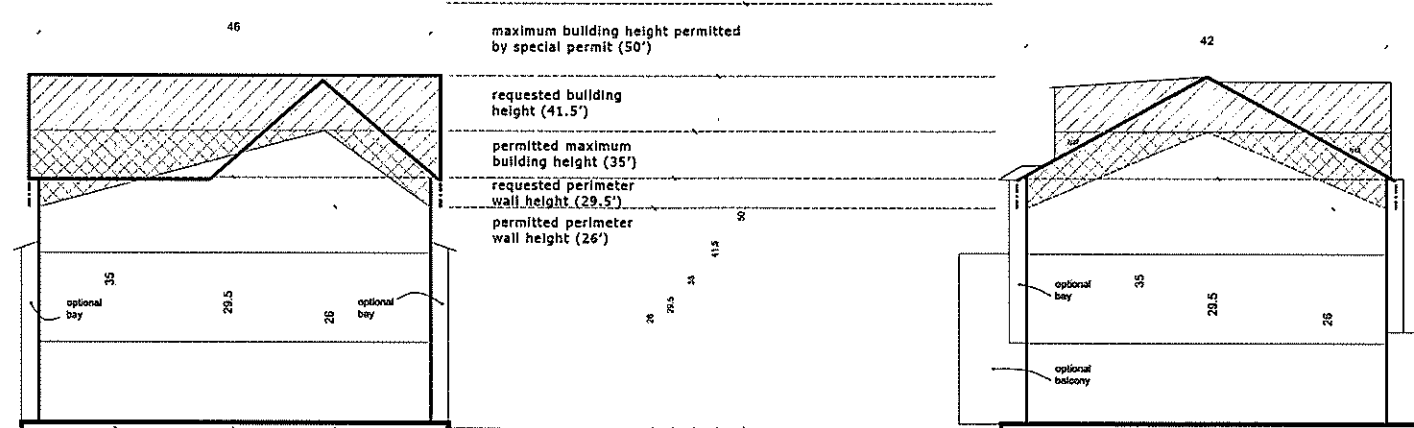
- Height Areas
- A** 35 ft./3 Story Limit or 50 ft./5 Story Limit by Special Permit
  - B** 35 ft./3 Story Limit
  - C** Existing Regulations



FRONT ENCROACHMENT SECTIONAL DIAGRAM

SIDE ENCROACHMENT SECTIONAL DIAGRAM

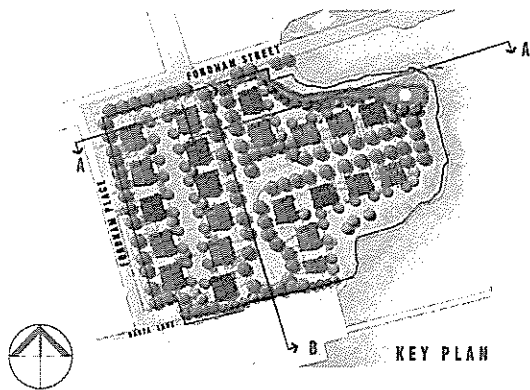
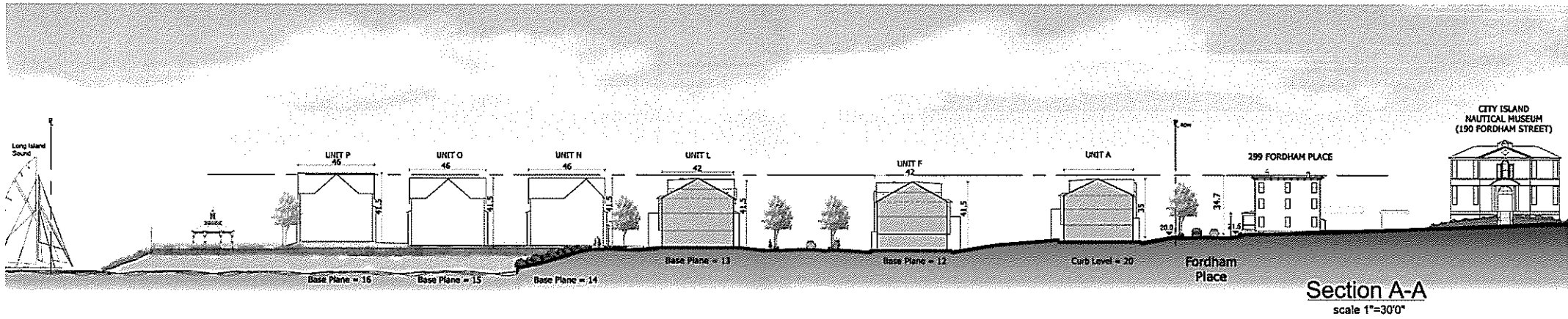
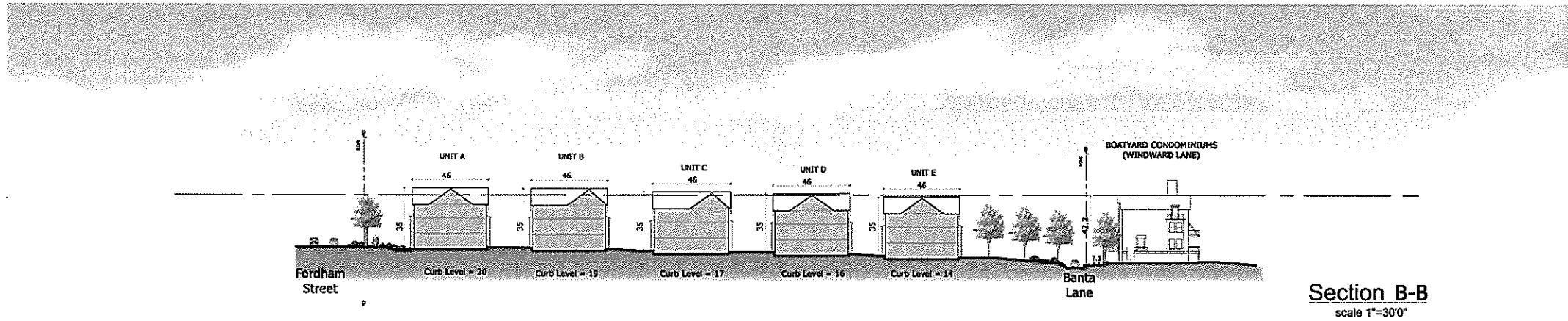
PROTOTYPE 3



FRONT ENCROACHMENT SECTIONAL DIAGRAM

SIDE ENCROACHMENT SECTIONAL DIAGRAM

PROTOTYPE 4



ON THE SOUND AT CITY ISLAND  
SITE SECTIONS

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 12 Res. No. 20  
 in favor  in opposition

Date: 10/06/09

(PLEASE PRINT)

Name: RENEE S. OSGOOD

Address: 157 AVE C. APT 2B NY, NY, 10009

I represent: MYSELF

Address: 17 W. 54TH ST

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card



I intend to appear and speak on Int. No. 1237 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: OCT 6, 2009

(PLEASE PRINT)

Name: Zachary Benjamin HARRISON

Address: One West 15th Street Apt 43

I represent: GST at the Hudson Park Garage

Address: 246 West 15th Street Apt 43

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1234/1235 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Melanie Weiss

Address: Fried Frank

I represent: City Island Estates LLC

Address: One NY Plaza

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor     in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Joan Stuart

Address: 56 W 56 Street, NYC

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor     in opposition

Date: Oct. 6, 2009

(PLEASE PRINT)

Name: James Stuart

Address: 56 W. 56th St. #5 N.Y. 10019

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)  
Name: DAVID SCHNEIDERMAN

Address: 75 W. 55 ST NY NY

I represent: W. 54-55 Bldg Association

Address: NYC

**THE COUNCIL  
THE CITY OF NEW YORK** LU1220

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)  
Name: JUSTIN PEYSER

Address: \_\_\_\_\_

I represent: COALITION FOR RESPONSIBLE MIDTOWN DEV

Address: 45 W 54

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. LU1220

in favor  in opposition

Date: 10/9/09

(PLEASE PRINT)  
Name: Charles Isaacs

Address: 25 W. 54 NY NY

I represent: SELF

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: A. JOHN HARRISON

Address: 27 WEST 55<sup>th</sup> ST AP#43

I represent: 55<sup>th</sup> ST APARTMENTS INC

Address: WEST 54 - 55<sup>th</sup> BLOCK ASSN  
AS ABOVE

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219 Res. No.

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Daly Reville

Address: 45 W 54th

I represent: Block Association

Address: W 54th St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Albert Butzel

Address: 249 West 34th St NYC 10001

I represent: Coalition for Responsible Midtown Dev

Address: 45 West 54th St NYC

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: BILI SAHA (PLEASE PRINT)

Address: 25 WEST 54 NYC

I represent: 54-55 Street Block Assoc

Address: 45 West 54 Street NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1217

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: DEREK SANDERS (PLEASE PRINT)

Address: 203 LAFAYETTE ST. NYC

I represent: 114 KENMARE ASSOC. LA ESQUINA

Address: 114 KENMARE CORNER DELL

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 60409

Name: RITASHE SIEGE (PLEASE PRINT)

Address: 17 W 54 ST, 9B

I represent: W54-55 ST BA COALITION FOR RESPONSIBLE

Address: MIDTOWN DANEL

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: ANITA RUBIN

Address: 15 WEST 55TH ST NY NY 10019

I represent: W 54 + W 55TH BLOCK ASSOCIATION

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. W 1234 + 1235 Res. No. \_\_\_\_\_

in favor  in opposition

Date: OCT 6 2009

(PLEASE PRINT)

Name: JOHN JENKINS

Address: 8521 LEBBURG PIKE, VIENNA VA

I represent: CITY ISLAND ESTATES

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

(PLEASE PRINT)

Name: Rev. Andrew Mead

Address: \_\_\_\_\_

I represent: St. Thomas

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

Name: John Dorman (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: University Club

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

Name: Maria Ann Connelly (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: American Folk Art

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

Name: Melanie Meyers (PLEASE PRINT)

Address: Fried, Frank

I represent: St. Thomas

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 601220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/06/09

(PLEASE PRINT)

Name: LEAH GORDON

Address: 45 West 54th St NY NY 10019

I represent: ~~NYC Planning Commission~~

Address: 45 West 54th St

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 12 Res. No. 020

in favor  in opposition

Date: 6 Oct 2009

(PLEASE PRINT)

Name: Senator Liz Krueger

Address: 211 E 43 St NYC 10017

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 601220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Hon. Amanda Bunden

Address: 22 Road St

I represent: NYC Planning Commission

Address: 22 Road Street

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 12 Res. No. 20

in favor  in opposition

Date: October 7, 2009

(PLEASE PRINT)

Name: HUGO HOOGENBOOM

Address: 45 W 54

I represent: Myself

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: DAVID ACHELIS

Address: 32 W 56 ST

I represent: 54th Block ASS.

Address: 54th

**THE COUNCIL** LU1220  
**THE CITY OF NEW YORK** 1219

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

(PLEASE PRINT)

Name: Michael Sillerman

Address: Kramer Levin

I represent: MOMA / Hines

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

(PLEASE PRINT)

Name: Jean Nouvel - Architect

Address: \_\_\_\_\_

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

(PLEASE PRINT)

Name: Glenn Lowry

Address: \_\_\_\_\_

I represent: Mo MA

Address: \_\_\_\_\_

THE COUNCIL  
THE CITY OF NEW YORK

LU 1219  
1220

Appearance Card

[ ]

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6

(PLEASE PRINT)

Name: David Penick

Address: \_\_\_\_\_

I represent: Hines

Address: \_\_\_\_\_



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1222 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-6-09

(PLEASE PRINT)

Name: GAIL CORNER

Address: 145 NASSAU ST, NY, NY

I represent: MOMA

Address: 53 rd. St. NY NY

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 12 Res. No. 20

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Anne Morris

Address: 350 E 77th St NYC 100

I represent: Center for Holocaust Studies (COSH)

Address: Borough College

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1222 Res. No. \_\_\_\_\_

in favor  in opposition

Date: October 6, 2009

(PLEASE PRINT)

Name: Ruth Nordentbrook

Address: 28 Old Fulton St. Brooklyn

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1211/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: OCT 6, 2009

(PLEASE PRINT)

Name: MYRBA HEDRICK

Address: 1209 West 134th St Apt 1000 C

I represent: Commissioner Responsible Midtown Dev

Address: 25 W 53rd St NYC

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-6-09

(PLEASE PRINT)

Name: MYRNA EZEASKY

Address: 160 EAST 65th ST #6D NY NY 10065

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

[ ]

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Vivian SCHWIMMER

Address: 25 Sutton Place So NY NY 10022

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: WENDY WALLS  
Address: 43-39 40th St SE SonnySide NY 11104

I represent: \_\_\_\_\_  
Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: LUC STORASS  
Address: 360 West 43rd St SE NY

I represent: MOMA  
Address: 11 W 53rd

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: MICHAEL REICHMAN  
Address: 10 HOLDER PLACE

I represent: MOMA  
Address: 11 W. 53ST.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Marian Imperatore

Address: 536 LaGuardia Pl. NYC

I represent: American Institute of Architects

Address: 536 LaGuardia NY Chapter

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 122 Res. No. 12320  
 in favor  in opposition

Date: 10/7/09, 2009

(PLEASE PRINT)

Name: FEDERICO HAGG KIMBOM

Address: 42 W 84th St

I represent: NYA

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

1232

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: Oct 6, 09

(PLEASE PRINT)

Name: ANTHONY MORALI ARCHITECT

Address: 197 GRAND STR

I represent: MONTI / GRAND CENTRAL EXCELLENCE

Address: GRAND CENTRAL PKING BRONX

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: John P. DORMAN (PLEASE PRINT)

Address: 272 Henderson Ave. SI. 14

I represent: The University Club

Address: One West 57 St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1213 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: RICHARD BASS (PLEASE PRINT)

Address: 2 PARK

I represent: BRIARWOOD

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1213 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

Name: Vincent Russo (PLEASE PRINT)

Address: 36-35 Bell Blvd Bayside

I represent: Owner

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-6-09

(PLEASE PRINT)

Name: Craig Schley

Address: 234 W. 128 St #3

I represent: VOTE People

Address: ~~234 W.~~ 331 W 57 St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 1236

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Donovan Richards

Address: \_\_\_\_\_

I represent: Councilman Smider's deputy chief

Address: 226 18 Merrick Boulevard

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

MOMA

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Michael Stettery

Address: 576 Lexington Ave

I represent: Real Estate Board of New York

Address: S/A

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1217 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Georgette Fleischer

Address: 19 Cleveland Pl. #4A NYC 10012

I represent: Friends of Patrosio Square

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1217 Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Robin Goldberg

Address: 376 Broome St. NY 10013.

I represent: Community Resident

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1219/1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/6/09

(PLEASE PRINT)

Name: Kathleen Murray

Address: West 55th Street btw. 5th & 6th

I represent: \_\_\_\_\_

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. LU1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/06/09

(PLEASE PRINT)

Name: Jacqueline Thompson

Address: 150 West End Ave

I represent: myself COALITION FOR RESPONSIBLE

Address: MIDTOWN DEVELOPMENT

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10-6-09

(PLEASE PRINT)

Name: John Horner

Address: 65 West 54th St.

I represent: Warwick Hotel

Address: 65 West 54th St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Adam Rothkrug

Address: 55 Watermill Ln. Great Neck NY

I represent: Parkway Properties

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Corey green

Address: \_\_\_\_\_

I represent: Assembly member gottfried

Address: \_\_\_\_\_

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: Oct 6th 2009

(PLEASE PRINT)

Name: Fabrizio Cenuallacci (Caffe Reggio)

Address: 119 Mac Douglas Street

I represent: (Caffe Reggio) Owner

Address: 119 Mac Douglas St.

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 18191220 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 10/06/09

(PLEASE PRINT)

Name: Mile Rockoff

Address: 159 West 53rd Street NY NY

I represent: Manhattan Community Board 5

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 12 Res. No. 20  
 in favor  in opposition

Date: \_\_\_\_\_

Name: Pea-ARNO (PLEASE PRINT)

Address: 45 W 54

I represent: Jackie Thompson

Address: West End Ave

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10/6/09

Name: Simeon Bankoff (PLEASE PRINT)

Address: \_\_\_\_\_

I represent: Historic Districts Council

Address: 232 E. 11 St NY 10003

THE COUNCIL  
THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 1220 Res. No. \_\_\_\_\_  
 in favor  in opposition

Date: 10-6-09

Name: Anthony MARGOJE (PLEASE PRINT)

Address: 65 W 54 St NYC

I represent: WARWICK NY HOTEL

Address: 65 W 54 St

Please complete this card and return to the Sergeant-at-Arms