

**Environmental Assessment Statement  
and  
Supplemental Report**

**for**

**350 East 88<sup>th</sup> Street  
Special Permit  
350 East 88<sup>th</sup> Street  
New York, NY**

**Prepared by:**

**Compliance Solutions Services, LLC  
175 West 60<sup>th</sup> Street  
New York, NY 10023**

**August 2017**

# **EAS FORM**



## City Environmental Quality Review

### ENVIRONMENTAL ASSESSMENT STATEMENT (EAS) FULL FORM

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

#### Part I: GENERAL INFORMATION

**PROJECT NAME** 350 East 88<sup>th</sup> Street Special Permit

#### 1. Reference Numbers

CEQR REFERENCE NUMBER (to be assigned by lead agency)  
18DCP008M

BSA REFERENCE NUMBER (if applicable)

ULURP REFERENCE NUMBER (if applicable)

OTHER REFERENCE NUMBER(S) (if applicable)  
(e.g., legislative intro, CAPA) Project ID P2016M0426

#### 2a. Lead Agency Information

NAME OF LEAD AGENCY  
NYC Department of City Planning

NAME OF LEAD AGENCY CONTACT PERSON  
Robert Dobruskin

ADDRESS 120 Broadway, 31st floor

CITY New York

STATE NY

ZIP 10271

TELEPHONE 212-720-3423

EMAIL  
rdobrus@planning.nyc.gov

#### 2b. Applicant Information

NAME OF APPLICANT  
Advantage Testing, Inc.

NAME OF APPLICANT'S REPRESENTATIVE OR CONTACT PERSON  
John J. Strauss, Compliance Solutions Services, LLC

ADDRESS 175 West 60th Street, # 30A

CITY New York

STATE NY

ZIP 10023

TELEPHONE 212-741-3432

EMAIL jstrauss-  
css@nyc.rr.com

#### 3. Action Classification and Type

##### SEQRA Classification

UNLISTED  TYPE I: Specify Category (see 6 NYCRR 617.4 and NYC Executive Order 91 of 1977, as amended): 617.4(b)(9)

**Action Type** (refer to [Chapter 2](#), "Establishing the Analysis Framework" for guidance)

LOCALIZED ACTION, SITE SPECIFIC  LOCALIZED ACTION, SMALL AREA  GENERIC ACTION

#### 4. Project Description

The Applicant, Advantage Testing Inc., is seeking a City Planning Commission (CPC) Special Permit pursuant to Zoning Resolution (ZR) Section 74-711 ("Landmark preservation in all districts") to modify the use regulations of ZR Section 22-10 in an R8B zoning district to allow a for-profit educational tutoring and test preparation service ("Commercial Educational Use," Use Group 6B) at its property at 350 East 88th Street (Block 1550, Lot 31) in Manhattan. The Special Permit would facilitate the Applicant's proposal to develop a Commercial Educational Use at its property at 350 East 88th Street (Block 1550, Lot 31) in Manhattan. The Applicant also seeks yard relief to permit the existing rear terraces within the required rear yard to be enclosed, which will require a modification of the 30-foot rear yard requirement of ZR 23-47 to permit the proposed terrace enclosure. The Applicant owns the building on the property, known as the Rhinelander Building (the "Building"), and plans to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity at 332 East 88th Street (Block 1550, Lot 34) in order to be eligible to apply for the Special Permit. The Applicant will complete a Landmarks Preservation Commission (LPC) approved historic restoration of the Rectory building which is located directly adjacent to the Rhinelander Building.

#### Project Location

BOROUGH Manhattan COMMUNITY DISTRICT(S) 8 STREET ADDRESS 332 & 350 East 88<sup>th</sup> Street

TAX BLOCK(S) AND LOT(S) Block 1550, Lots 31 & 34 ZIP CODE 10128

DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS Between 1<sup>st</sup> and 2<sup>nd</sup> Avenues

EXISTING ZONING DISTRICT, INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY R8B ZONING SECTIONAL MAP NUMBER 9a

#### 5. Required Actions or Approvals (check all that apply)

**City Planning Commission:**  YES  NO  UNIFORM LAND USE REVIEW PROCEDURE (ULURP)

CITY MAP AMENDMENT

ZONING CERTIFICATION

CONCESSION

ZONING MAP AMENDMENT

ZONING AUTHORIZATION

UDAAP

ZONING TEXT AMENDMENT

ACQUISITION—REAL PROPERTY

REVOCABLE CONSENT

SITE SELECTION—PUBLIC FACILITY

DISPOSITION—REAL PROPERTY

FRANCHISE

HOUSING PLAN & PROJECT

OTHER, explain:

SPECIAL PERMIT (if appropriate, specify type:  modification;  renewal;  other); EXPIRATION DATE:

SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION 22-10, 23-47, 74-711

**Board of Standards and Appeals:**  YES  NO

VARIANCE (use)  
 VARIANCE (bulk)  
 SPECIAL PERMIT (if appropriate, specify type:  modification;  renewal;  other); EXPIRATION DATE:  
 SPECIFY AFFECTED SECTIONS OF THE ZONING RESOLUTION

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**Department of Environmental Protection:**  YES  NO If "yes," specify:

**Other City Approvals Subject to CEQR** (check all that apply)

<input type="checkbox"/> LEGISLATION	<input type="checkbox"/> FUNDING OF CONSTRUCTION, specify:
<input type="checkbox"/> RULEMAKING	<input type="checkbox"/> POLICY OR PLAN, specify:
<input type="checkbox"/> CONSTRUCTION OF PUBLIC FACILITIES	<input type="checkbox"/> FUNDING OF PROGRAMS, specify:
<input type="checkbox"/> 384(b)(4) APPROVAL	<input type="checkbox"/> PERMITS, specify:
<input type="checkbox"/> OTHER, explain:	

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**Other City Approvals Not Subject to CEQR** (check all that apply)

<input type="checkbox"/> PERMITS FROM DOT'S OFFICE OF CONSTRUCTION MITIGATION AND COORDINATION (OCMC)	<input checked="" type="checkbox"/> LANDMARKS PRESERVATION COMMISSION APPROVAL
	<input checked="" type="checkbox"/> OTHER, explain: Dept. of Buildings building permit

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**State or Federal Actions/Approvals/Funding:**  YES  NO If "yes," specify:

**6. Site Description:** *The directly affected area consists of the project site and the area subject to any change in regulatory controls. Except where otherwise indicated, provide the following information with regard to the directly affected area.*

**Graphics:** *The following graphics must be attached and each box must be checked off before the EAS is complete. Each map must clearly depict the boundaries of the directly affected area or areas and indicate a 400-foot radius drawn from the outer boundaries of the project site. Maps may not exceed 11 x 17 inches in size and, for paper filings, must be folded to 8.5 x 11 inches.*

<input checked="" type="checkbox"/> SITE LOCATION MAP	<input checked="" type="checkbox"/> ZONING MAP	<input checked="" type="checkbox"/> SANBORN OR OTHER LAND USE MAP
<input checked="" type="checkbox"/> TAX MAP	<input type="checkbox"/> FOR LARGE AREAS OR MULTIPLE SITES, A GIS SHAPE FILE THAT DEFINES THE PROJECT SITE(S)	
<input checked="" type="checkbox"/> PHOTOGRAPHS OF THE PROJECT SITE TAKEN WITHIN 6 MONTHS OF EAS SUBMISSION AND KEYED TO THE SITE LOCATION MAP		

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**Physical Setting** (both developed and undeveloped areas)

Total directly affected area (sq. ft.): 6,310 Waterbody area (sq. ft.) and type: 0  
 Roads, buildings, and other paved surfaces (sq. ft.): 6,310 Other, describe (sq. ft.): 0

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**7. Physical Dimensions and Scale of Project** (if the project affects multiple sites, provide the total development facilitated by the action)

SIZE OF PROJECT TO BE DEVELOPED (gross square feet): 664  
 NUMBER OF BUILDINGS: 2 GROSS FLOOR AREA OF EACH BUILDING (sq. ft.): 18,657; 4,514  
 HEIGHT OF EACH BUILDING (ft.): 70'-10 & 9/16", 45'-8" NUMBER OF STORIES OF EACH BUILDING: 4 + cellar/basement, 3

Does the proposed project involve changes in zoning on one or more sites?  YES  NO  
 If "yes," specify: The total square feet owned or controlled by the applicant:  
 The total square feet not owned or controlled by the applicant:

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Does the proposed project involve in-ground excavation or subsurface disturbance, including, but not limited to foundation work, pilings, utility lines, or grading?  YES  NO  
 If "yes," indicate the estimated area and volume dimensions of subsurface disturbance (if known):  
 AREA OF TEMPORARY DISTURBANCE: sq. ft. (width x length) VOLUME OF DISTURBANCE: 1,799 cubic ft. (width x length x depth)  
 AREA OF PERMANENT DISTURBANCE: 635 sq. ft. (width x length)

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**8. Analysis Year** [CEQR Technical Manual Chapter 2](#)

ANTICIPATED BUILD YEAR (date the project would be completed and operational): 2018  
 ANTICIPATED PERIOD OF CONSTRUCTION IN MONTHS: 6

WOULD THE PROJECT BE IMPLEMENTED IN A SINGLE PHASE?  YES  NO IF MULTIPLE PHASES, HOW MANY?  
 BRIEFLY DESCRIBE PHASES AND CONSTRUCTION SCHEDULE:

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**9. Predominant Land Use in the Vicinity of the Project** (check all that apply)

<input checked="" type="checkbox"/> RESIDENTIAL	<input type="checkbox"/> MANUFACTURING	<input checked="" type="checkbox"/> COMMERCIAL	<input type="checkbox"/> PARK/FOREST/OPEN SPACE	<input checked="" type="checkbox"/> OTHER, specify: community facility
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**DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS**

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

	EXISTING CONDITION		NO-ACTION CONDITION		WITH-ACTION CONDITION		INCREMENT
<b>LAND USE</b>							
<b>Residential</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
Describe type of residential structures							
No. of dwelling units							
No. of low- to moderate-income units							
Gross floor area (sq. ft.)							
<b>Commercial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	
If "yes," specify the following:							
Describe type (retail, office, other)					office (for-profit educational tutoring and test preparation service)		+ office (for-profit educational tutoring and test preparation service)
Gross floor area (sq. ft.)					18,657		+ 18,657
<b>Manufacturing/Industrial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
Type of use							
Gross floor area (sq. ft.)							
Open storage area (sq. ft.)							
If any unenclosed activities, specify:							
<b>Community Facility</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
Type			pre-school (non-profit)				- pre-school (non-profit)
Gross floor area (sq. ft.)			17,993				- 17,993
<b>Vacant Land</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," describe:							
<b>Publicly Accessible Open Space</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify type (mapped City, State, or Federal parkland, wetland—mapped or otherwise known, other):							
<b>Other Land Uses</b>	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," describe:	vacant 17,993 sf building						
<b>PARKING</b>							
<b>Garages</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
No. of public spaces							
No. of accessory spaces							
Operating hours							
Attended or non-attended							
<b>Lots</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify the following:							
No. of public spaces							
No. of accessory spaces							
Operating hours							
<b>Other</b> (includes street parking)	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," describe:							
<b>POPULATION</b>							
<b>Residents</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	
If "yes," specify number:							

	EXISTING CONDITION	NO-ACTION CONDITION	WITH-ACTION CONDITION	INCREMENT
Briefly explain how the number of residents was calculated:				
<b>Businesses</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If "yes," specify the following:				
No. and type		non-profit pre-school	for-profit educational tutoring and test preparation service	- non-profit pre-school; + for-profit educational tutoring and test preparation service
No. and type of workers by business		24 administrative staff and teachers	15 full-time administrative staff, 16 full-time tutors	- 24 administrative staff and teachers; +15 full-time administrative staff, 16 full-time tutors
No. and type of non-residents who are not workers				
Briefly explain how the number of businesses was calculated:	Provided by Applicant			
<b>Other</b> (students, visitors, concert-goers, etc.)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If any, specify type and number:		300 students	372 students	+ 72 students
Briefly explain how the number was calculated:	Provided by Applicant			
<b>ZONING</b>				
Zoning classification	R8B	R8B	R8B	
Maximum amount of floor area that can be developed	residential FAR 4.0; community facility FAR 5.1	residential FAR 4.0; community facility FAR 5.1	residential FAR 4.0; community facility FAR 5.1	
Predominant land use and zoning classifications within land use study area(s) or a 400 ft. radius of proposed project	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	
Attach any additional information that may be needed to describe the project.				
If your project involves changes that affect one or more sites not associated with a specific development, it is generally appropriate to include total development projections in the above table and attach separate tables outlining the reasonable development scenarios for each site.				

**Part II: TECHNICAL ANALYSIS**

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

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

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

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



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


	YES	NO
(c) If the proposed project located in a <a href="#">separately sewerred area</a> , would it result in the same or greater development than that listed in Table 13-1 in <a href="#">Chapter 13</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Would the project involve development on a site that is 5 acres or larger where the amount of impervious surface would increase?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) If the project is located within the <a href="#">Jamaica Bay Watershed</a> or in certain <a href="#">specific drainage areas</a> , including Bronx River, Coney Island Creek, Flushing Bay and Creek, Gowanus Canal, Hutchinson River, Newtown Creek, or Westchester Creek, would it involve development on a site that is 1 acre or larger where the amount of impervious surface would increase?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) Would the proposed project be located in an area that is partially sewerred or currently unsewerred?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(g) Is the project proposing an industrial facility or activity that would contribute industrial discharges to a Wastewater Treatment Plant and/or contribute contaminated stormwater to a separate storm sewer system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(h) Would the project involve construction of a new stormwater outfall that requires federal and/or state permits?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(i) If "yes" to any of the above, conduct the appropriate preliminary analyses and attach supporting documentation.		
<b>11. SOLID WASTE AND SANITATION SERVICES:</b> <a href="#">CEQR Technical Manual Chapter 14</a>		
(a) Using Table 14-1 in <a href="#">Chapter 14</a> , the project's projected operational solid waste generation is estimated to be (pounds per week): 1,488		
o Would the proposed project have the potential to generate 100,000 pounds (50 tons) or more of solid waste per week?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project involve a reduction in capacity at a solid waste management facility used for refuse or recyclables generated within the City?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o If "yes," would the proposed project comply with the City's Solid Waste Management Plan?	<input type="checkbox"/>	<input type="checkbox"/>
<b>12. ENERGY:</b> <a href="#">CEQR Technical Manual Chapter 15</a>		
(a) Using energy modeling or Table 15-1 in <a href="#">Chapter 15</a> , the project's projected energy use is estimated to be (annual BTUs): 4,677,310		
(b) Would the proposed project affect the transmission or generation of energy?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>13. TRANSPORTATION:</b> <a href="#">CEQR Technical Manual Chapter 16</a>		
(a) Would the proposed project exceed any threshold identified in Table 16-1 in <a href="#">Chapter 16</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If "yes," conduct the appropriate screening analyses, attach back up data as needed for each stage, and answer the following questions:		
o Would the proposed project result in 50 or more Passenger Car Equivalents (PCEs) per project peak hour?	<input type="checkbox"/>	<input type="checkbox"/>
If "yes," would the proposed project result in 50 or more vehicle trips per project peak hour at any given intersection? <i>**It should be noted that the lead agency may require further analysis of intersections of concern even when a project generates fewer than 50 vehicles in the peak hour. See Subsection 313 of <a href="#">Chapter 16</a> for more information.</i>	<input type="checkbox"/>	<input type="checkbox"/>
o Would the proposed project result in more than 200 subway/rail or bus trips per project peak hour?	<input type="checkbox"/>	<input type="checkbox"/>
If "yes," would the proposed project result, per project peak hour, in 50 or more bus trips on a single line (in one direction) or 200 subway/rail trips per station or line?	<input type="checkbox"/>	<input type="checkbox"/>
o Would the proposed project result in more than 200 pedestrian trips per project peak hour?	<input type="checkbox"/>	<input type="checkbox"/>
If "yes," would the proposed project result in more than 200 pedestrian trips per project peak hour to any given pedestrian or transit element, crosswalk, subway stair, or bus stop?	<input type="checkbox"/>	<input type="checkbox"/>
<b>14. AIR QUALITY:</b> <a href="#">CEQR Technical Manual Chapter 17</a>		
(a) <i>Mobile Sources:</i> Would the proposed project result in the conditions outlined in Section 210 in <a href="#">Chapter 17</a> ?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) <i>Stationary Sources:</i> Would the proposed project result in the conditions outlined in Section 220 in <a href="#">Chapter 17</a> ?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the proposed project exceed the thresholds in Figure 17-3, Stationary Source Screen Graph in <a href="#">Chapter 17</a> ? (Attach graph as needed) See attached report.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Does the proposed project involve multiple buildings on the project site?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Does the proposed project require federal approvals, support, licensing, or permits subject to conformity requirements?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to air quality that preclude the potential for significant adverse impacts?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(f) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation.		
<b>15. GREENHOUSE GAS EMISSIONS:</b> <a href="#">CEQR Technical Manual Chapter 18</a>		
(a) Is the proposed project a city capital project or a power generation plant?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Would the proposed project fundamentally change the City's solid waste management system?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Would the proposed project result in the development of 350,000 square feet or more?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) If "yes" to any of the above, would the project require a GHG emissions assessment based on guidance in <a href="#">Chapter 18</a> ?	<input type="checkbox"/>	<input type="checkbox"/>
o If "yes," would the project result in inconsistencies with the City's GHG reduction goal? (See <a href="#">Local Law 22 of 2008</a> ; § 24-	<input type="checkbox"/>	<input type="checkbox"/>

	YES	NO
803 of the Administrative Code of the City of New York). Please attach supporting documentation.		
<b>16. NOISE:</b> <u>CEQR Technical Manual Chapter 19</u>		
(a) Would the proposed project generate or reroute vehicular traffic?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(b) Would the proposed project introduce new or additional receptors (see Section 124 in <u>Chapter 19</u> ) near heavily trafficked roadways, within one horizontal mile of an existing or proposed flight path, or within 1,500 feet of an existing or proposed rail line with a direct line of site to that rail line?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) Would the proposed project cause a stationary noise source to operate within 1,500 feet of a receptor with a direct line of sight to that receptor or introduce receptors into an area with high ambient stationary noise?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(d) Does the proposed project site have existing institutional controls (e.g., (E) designation or Restrictive Declaration) relating to noise that preclude the potential for significant adverse impacts?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(e) If "yes" to any of the above, conduct the appropriate analyses and attach any supporting documentation. See attached report.		
<b>17. PUBLIC HEALTH:</b> <u>CEQR Technical Manual Chapter 20</u>		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Air Quality; Hazardous Materials; Noise?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If "yes," explain why an assessment of public health is or is not warranted based on the guidance in <u>Chapter 20</u> , "Public Health." Attach a preliminary analysis, if necessary.		
<b>18. NEIGHBORHOOD CHARACTER:</b> <u>CEQR Technical Manual Chapter 21</u>		
(a) Based upon the analyses conducted, do any of the following technical areas require a detailed analysis: Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Open Space; Historic and Cultural Resources; Urban Design and Visual Resources; Shadows; Transportation; Noise?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If "yes," explain why an assessment of neighborhood character is or is not warranted based on the guidance in <u>Chapter 21</u> , "Neighborhood Character." Attach a preliminary analysis, if necessary.		
<b>19. CONSTRUCTION:</b> <u>CEQR Technical Manual Chapter 22</u>		
(a) Would the project's construction activities involve:		
o Construction activities lasting longer than two years?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Construction activities within a Central Business District or along an arterial highway or major thoroughfare?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Closing, narrowing, or otherwise impeding traffic, transit, or pedestrian elements (roadways, parking spaces, bicycle routes, sidewalks, crosswalks, corners, etc.)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Construction of multiple buildings where there is a potential for on-site receptors on buildings completed before the final build-out?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o The operation of several pieces of diesel equipment in a single location at peak construction?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Closure of a community facility or disruption in its services?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Activities within 400 feet of a historic or cultural resource?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
o Disturbance of a site containing or adjacent to a site containing natural resources?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
o Construction on multiple development sites in the same geographic area, such that there is the potential for several construction timelines to overlap or last for more than two years overall?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) If any boxes are checked "yes," explain why a preliminary construction assessment is or is not warranted based on the guidance in <u>Chapter 22</u> , "Construction." It should be noted that the nature and extent of any commitment to use the Best Available Technology for construction equipment or Best Management Practices for construction activities should be considered when making this determination. See attached report.		

**20. APPLICANT'S CERTIFICATION**

I swear or affirm under oath and subject to the penalties for perjury that the information provided in this Environmental Assessment Statement (EAS) is true and accurate to the best of my knowledge and belief, based upon my personal knowledge and familiarity with the information described herein and after examination of the pertinent books and records and/or after inquiry of persons who have personal knowledge of such information or who have examined pertinent books and records.

Still under oath, I further swear or affirm that I make this statement in my capacity as the applicant or representative of the entity that seeks the permits, approvals, funding, or other governmental action(s) described in this EAS.

APPLICANT/REPRESENTATIVE NAME John J. Strauss, Compliance Solutions Services, LLC	SIGNATURE 	DATE August 18, 2017
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**PLEASE NOTE THAT APPLICANTS MAY BE REQUIRED TO SUBSTANTIATE RESPONSES IN THIS FORM AT THE DISCRETION OF THE LEAD AGENCY SO THAT IT MAY SUPPORT ITS DETERMINATION OF SIGNIFICANCE.**

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

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

<p>1. For each of the impact categories listed below, consider whether the project may have a significant adverse effect on the environment, taking into account its (a) location; (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude.</p>	<p><b>Potentially Significant Adverse Impact</b></p>	
<p><b>IMPACT CATEGORY</b></p>	<p><b>YES</b></p>	<p><b>NO</b></p>
<p>Land Use, Zoning, and Public Policy</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Socioeconomic Conditions</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Community Facilities and Services</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Open Space</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Shadows</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Historic and Cultural Resources</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Urban Design/Visual Resources</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Natural Resources</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Hazardous Materials</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Water and Sewer Infrastructure</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Solid Waste and Sanitation Services</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Energy</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Transportation</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Air Quality</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Greenhouse Gas Emissions</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Noise</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Public Health</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Neighborhood Character</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Construction</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>2. Are there any aspects of the project relevant to the determination of whether the project may have a significant impact on the environment, such as combined or cumulative impacts, that were not fully covered by other responses and supporting materials?</p> <p>If there are such impacts, attach an explanation stating whether, as a result of them, the project may have a significant impact on the environment.</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>3. Check determination to be issued by the lead agency:</p>		
<p><input type="checkbox"/> <b>Positive Declaration:</b> If the lead agency has determined that the project may have a significant impact on the environment, and if a Conditional Negative Declaration is not appropriate, then the lead agency issues a <i>Positive Declaration</i> and prepares a draft Scope of Work for the Environmental Impact Statement (EIS).</p>		
<p><input type="checkbox"/> <b>Conditional Negative Declaration:</b> A <i>Conditional Negative Declaration</i> (CND) may be appropriate if there is a private applicant for an Unlisted action AND when conditions imposed by the lead agency will modify the proposed project so that no significant adverse environmental impacts would result. The CND is prepared as a separate document and is subject to the requirements of 6 NYCRR Part 617.</p>		
<p><input checked="" type="checkbox"/> <b>Negative Declaration:</b> If the lead agency has determined that the project would not result in potentially significant adverse environmental impacts, then the lead agency issues a <i>Negative Declaration</i>. The <i>Negative Declaration</i> may be prepared as a separate document (see <a href="#">template</a>) or using the embedded Negative Declaration on the next page.</p>		
<p><b>4. LEAD AGENCY'S CERTIFICATION</b></p>		
<p>TITLE Director, Environmental Assessment &amp; Review Division</p>	<p>LEAD AGENCY New York City Department of City Planning</p>	
<p>Robert Dobruskin</p>	<p>DATE August 18, 2017</p>	
<p>SIGNATURE <i>Robert Dobruskin</i></p>		

# **PROJECT DESCRIPTION**

## 350 East 88<sup>th</sup> Street Project Description

### **Introduction**

The Applicant, Advantage Testing Inc., is seeking a City Planning Commission (CPC) Special Permit pursuant to Zoning Resolution (ZR) Section 74-711 (“Landmark preservation in all districts”) to modify the use regulations of ZR Section 22-10 in an R8B zoning district to allow a for-profit educational tutoring and test preparation service (“Commercial Educational Use,” Use Group 6B). The Special Permit would facilitate the Applicant’s proposal to develop a Commercial Educational Use at its property at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) in Manhattan. The Applicant also seeks yard relief to permit the existing rear terraces within the required rear yard to be enclosed, which will require a modification of the 30-foot rear yard requirement of ZR 23-47 to permit the proposed terrace enclosure. The Applicant owns the building on the property, known as the Rhinelander Building (the “Building”), and plans to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34) in order to be eligible to apply for the Special Permit. The Applicant will complete a Landmarks Preservation Commission (LPC) approved historic restoration of the Rectory building which is located directly adjacent to the Rhinelander Building. The Development Site is located on East 88<sup>th</sup> Street between 1<sup>st</sup> and 2<sup>nd</sup> Avenues in Community District 8.

### **Proposed Actions**

The proposed actions include the following:

1. Special Permit pursuant to ZR Section 74-711 to modify the use regulations of ZR Section 22-10 in an R8B zoning district – The Special Permit would allow a proposal by the Applicant to operate a for-profit educational tutoring and test preparation service on the Development Site where such use is not currently allowed.
2. Modification of the rear yard requirement pursuant to ZR Section 23-47 - The Applicant seeks relief to permit the building’s existing rear terraces that are located within the required 30-foot rear yard to be enclosed.

### **Existing Conditions**

#### Description of the Surrounding Area

The proposed Development Site at 350 East 88<sup>th</sup> Street is located in Manhattan’s Yorkville neighborhood on the Upper East Side between 1<sup>st</sup> and 2<sup>nd</sup> Avenues. The area is predominantly residential, especially along the mid-block streets, with mixed-use residential and commercial buildings located along the avenues. The south side of East 88<sup>th</sup> Street in the vicinity of the Development Site primarily consists of the Church of the Holy Trinity and Rectory complex and the Rhinelander Building, both community facilities. The north side of the street across from the Affected Area primarily consists of 5-story multi-family residential buildings. A 46-story residential condominium tower with ground floor commercial use adjoins the Development Site to the east at the corner of 1<sup>st</sup> Avenue. The one-story Brearley School fronting on East 87<sup>th</sup> Street adjoins the Development Site to the south.

The Development Site and Affected Area are located within an R8B zoning district as is the area immediately to the west. To the east, the Development Site adjoins an R10 zoning district with a

C1-5 commercial overlay mapped along both sides of 1<sup>st</sup> Avenue between East 87<sup>th</sup> and East 88<sup>th</sup> Streets. The C1-5 overlay directly adjacent to the Development Site is mapped to an atypical depth of 125 feet from the street line of 1<sup>st</sup> Avenue.

#### Description of the Affected Area

The Affected Area consists of the Development Site at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) and the adjacent Rectory of the Church of the Holy Trinity at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34). All properties in the Affected Area are zoned R8B.

#### Development Site

The Development Site consists of the Rhinelander Building. The property consists of an approximately 5,035 square foot lot with 50 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 100.67 feet. The Building, which was constructed in 1892, consists of four floors and a cellar/basement<sup>1</sup>, is 70'-10 9/16" feet tall, and contains approximately 17,993 gross square feet and 14,614 square feet of zoning floor area. The Building was built as a school for children living in tenement housing in order to teach them manual trades. The non-profit Children's Aid Society owned the Building and operated the Rhinelander Children's Center prior to the property being purchased by Advantage Testing Inc. in early 2016. The previous use as the Rhinelander Children's Center included a pre-school with approximately 477 children. The Building is currently vacant. The proposed Development Site is not an individually designated landmark and it is not located within a historic district. The property is zoned R8B and adjoins an R10 district with a C1-5 commercial overlay to the east along 1<sup>st</sup> Avenue.

The Rhinelander Building has two occupied terraces toward the rear of the Building. The second floor rear terrace, most recently used as an exterior play area, is 1,178 sf in size and also contains a 192 sf skylight and 134 sf of HVAC equipment. The fourth floor rear terrace is 192 sf (collectively, the "Rear Terraces"). These terraces do not contribute to the floor area of the building. The second and fourth floor Rear Terraces overlook the open sports field on the roof of the Brearley School to the south. The R8B zoning district permits a maximum residential FAR of 4.0, and within Manhattan Community District 8 in which the Affected Area is located, the maximum community facility FAR is 5.1. The 14,614 sf of community facility zoning floor area in the Rhinelander Building calculates to an FAR of 2.9.

A 312 sf portion of the second, third, and fourth floors within the interior of the Building is located in the required 30 foot rear yard. In addition, 951 sf of the exterior second floor Rear Terrace, containing both accessible terrace space and the skylight, is within the required 30-foot rear yard. Such portions of a building (and terrace) are not permitted within a rear yard and therefore are an existing non-compliance with respect to ZR 23-47 in that they do not observe the required 30 feet (the "Existing Rear Yard Non-Compliance").

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<sup>1</sup> The certificate of occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies the lower level as a "cellar." However, an inspection by the architect has determined that the rear approximately 20 feet of the floor is significantly raised, by between 14 and 22 inches above the remainder of the floor, such that this 977 sf portion is a "basement" pursuant to the ZR 12-10 definition.

The Building rises without setback to a peak height of 70'-10 9/16" (the CO states the height is 60 feet), which is below the allowable 75 foot height limit (ZR 23-662). Buildings in R8B districts are subject to a 10-foot setback requirement between a height of 55 and 65 feet and the Building is therefore non-complying. There are no curb cuts, driveways, or parking spaces on the Property and none are required.

#### Remainder of Affected Area

The property immediately west of the Development Site consists of the Rectory of the Church of the Holy Trinity. This building was designated as an individual landmark by the LPC on February 15, 1967. The property consists of an approximately 1,275 square foot lot with 23.83 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 53.5 feet. The Rectory building, which was constructed in 1897, consists of three floors, is 45'-8" tall, and contains approximately 4,514 gross square feet and approximately 3,441 zoning square feet of floor area. As a community facility building, the Rectory is below the maximum permitted FAR of 5.1, with an existing FAR of 2.70.

#### **Description of the Proposed Project**

The Applicant is planning to use the existing vacant Rhinelander Building on the Development Site as a for-profit educational tutoring and test preparation service (Commercial Educational Use). The establishment would be staffed by approximately 15 full-time administrative staff and 16 full-time tutors who would all be on the premises during regular business hours of 9 am to 6 pm Monday through Friday for one-on-one tutoring sessions. Advantage Testing has enrolled 372 students this year to work with the 16 tutors who are slated to occupy the offices within the Rhinelander Building. These 16 tutors meet with 3 students per day on average. The remainder of individual student meetings are conducted via Skype or telephone, or at a student's home.

A maximum of 16 students would arrive or depart the establishment every two hours and a maximum of 16 students would be in the Building at any one time. Approximately 85% to 90% of the students would be teenagers or individuals in their early twenties. It is anticipated that approximately 80% of the students and 50% of the staff will arrive at and depart from the facility on foot. The administrative staff would primarily occupy the ground and 2<sup>nd</sup> floor levels of the Building while the tutors would primarily occupy the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the Building.

The Applicant also has a registered 501(c)(3) non-profit foundation that they plan to operate from the Building. Approximately 10 percent of the activity in the Building would be for the Foundation, but such work will not occur within any designated portion of the Building. The foundation work would consist of tutoring students of modest means, but the primary use of the Building would be Use Group 6. Many functions occurring throughout the Building will support the work of the foundation.

The Applicant is seeking a ZR 74-711 Special Permit to allow the Commercial Educational Use to occupy the Rhinelander Building. This use is not specifically listed in the Zoning Resolution, but the Applicant believes it is appropriately designated within the Use Group 6B "Offices" category, because it does not meet the Zoning Resolution requirements for a Use Group 3 "School," which would be a permitted use in an R8B district. A "school" is defined in ZR 12-10 as "an institution providing full-time day instruction and a course of study that meets the requirements of Sections 3204, 3205, and 3210 of the New York State Education Law." Because Advantage Testing does not provide full-time day instruction, the service cannot qualify as a Use Group 3 school. While the foundation portion of the operation could alone qualify as a Use Group 4 "philanthropic or non-



profit institution without sleeping accommodations,” as listed in ZR 22-14 (a), the Applicant is seeking a 74-711 Special Permit to authorize Use Group 6 office use for the entire Building, as the primary activity in the Building will be for-profit tutoring and the non-profit foundation will not operate in a designated portion of the Building.

The Applicant believes that the proposed office use as operated by Advantage Testing will be similar to an as-of-right school use, except that it will have a lesser impact on the surrounding area than a school in nearly all respects, including foot traffic and noise. The Applicant is requesting a use modification to permit a for-profit educational tutoring and test preparation service that will not allow any other Use Group 6 uses. The Applicant proposes that if this very specific use were to cease operation in the Building, then the Rhinelander Building could only be occupied by an as-of-right use, a condition that is proposed to be memorialized in a Restrictive Declaration.

In addition to interior alterations necessary to make the Building compatible with the Commercial Educational Use, the Applicant proposes to enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building. The enclosure of the second floor Rear Terrace involves the removal of the 134 sf of HVAC equipment and replacement of the 192 sf skylight area with a floor. Once enclosed, the Rear Terraces will constitute 1,370 sf of new floor area. However, the overall total floor area of the Rhinelander Building will be reduced, because at the same time, the 704 sf fourth floor mezzanine will be demolished, and the floor of the 977 sf “basement” portion on the lower level will be lowered between 14 and 22 inches to match the remainder of the cellar level. These changes to the floor area of the Building along with minor alterations to the mechanical system will result in a 359 sf net reduction in the zoning floor area of the Building from 14,614 sf to 14,255 sf. See Zoning Floor Area and Use table below.

**ZONING FLOOR AREA (SF) AND USE**

FLOOR OF RHINELANDER	USE		ZONING FLOOR AREA	
	Existing	Proposed	Existing	Proposed
Basement	UG 3	UG 6	977	0
Street Level	UG 3	UG 6	256	183
1st Floor	UG 3	UG 6	4069	4017
2nd Floor	UG 3	UG 6	2948	4160
3rd Floor	UG 3	UG 6	3000	2982
4th Floor	UG 3	UG 6	2660	2913
4th Floor Mezz.	UG 3	UG 6	704	0
		TOTAL:	14,614	14,255
<b>RECTORY</b>	UG 3	UG 3	3,441	3,441
PERMITTED FA: 32,183 sf			TOTAL FA:	17,696
PERMITTED FAR: 5.1			TOTAL FAR:	2.80

951 sf of the 1,178 sf second floor terrace enclosure will be located within the required rear yard. The total area of the Existing Rear Yard Non-Compliance would not be increased by the new glass enclosure but the volume of the Rear Yard Non-Compliance would be increased. In addition, in order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure.

In conjunction with the actions to occur on the proposed Development Site as described above, the application seeks to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the 74-711 Special Permit. The Applicant will complete an LPC-approved historic restoration of the Rectory building. The LPC-approved restoration consists of a comprehensive plan to protect the Rectory from water penetration. As further detailed in the attached Restrictive Declaration, the Applicant will perform the following:

- Replace all roof gutters and leaders; replace metal (copper) flashing.
- Repair and replace terra cotta, stone sills and caps, brickwork and brownstone, including replacement of decorative terra cotta on dormers.
- Strategic replacement of historic roof slate where compromised.
- Replacement of roof vent pipes with new cast iron vent pipes and drain.
- Restore decorative copper roof cresting.
- Scrape and repair structural steel where rusted; remove and replace corroded steel and ties at window jambs.
- Replace cracked brick, repoint chimneys and masonry walls.

The Restrictive Declaration also sets forth obligations for the Church for future inspections and repairs under a continuing maintenance program for the Rectory, and establishes a requirement that the second floor terrace enclosure must be demolished prior to the primary occupancy of the Rhineland Building for a conforming use by Advantage or any successor entity.

On October 16, 2016, the Manhattan Community Board 8 "Full Board" voted to adopt a recommendation of approval for the project as documented in the October 20, 2016 letter from the Board. At a public meeting held on November 1, 2016 by LPC that immediately followed a public hearing on the project, the LPC voted to approve the Applicant's request that a report be issued to CPC pursuant to ZR 74-711 in support of the proposed application. LPC issued a Modification of Use (MOU) letter to the NYC Planning Commission dated 07-06-17 CPC verifying that the Proposed Actions serves a preservation purpose as required by Section 74-711 and similar sections of the Zoning Resolution. LPC also issued a Certificate of No Effect (CNE-19-04446) dated 7/14/17 finding that the proposed restoration of the Rectory building relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building.

## **Build Year**

Based on an estimated 7-month approval process and a 6-month construction period for the terrace enclosures and the restoration of the Rectory building, the Build Year is assumed to be 2018.

## **Purpose and Need**

A ZR 74-711 Special Permit is needed to allow the proposed use and rear yard modifications. The Applicant plans to merge the zoning lot on which the proposed Development Site is located with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the Special Permit. The 74-711 Special Permit is applicable to zoning lots containing a landmark designated by the LPC or containing existing buildings located within LPC designated historic districts.

The Applicant seeks to use the existing vacant Rhinelander Building on the Development Site for the Commercial Educational Use, proposed to be categorized as Use Group 6B "offices." The requested use is not permitted as-of-right under the property's R8B zoning. The Applicant also seeks to enclose the second and fourth floor Rear Terraces in glass in order to create additional space for tutoring and test preparation, and to permit screened HVAC equipment atop the new enclosure. The use request will modify the uses permitted as-of-right in a residential district per ZR 22-10. The rear yard request will modify the provisions of ZR 23-47, which establish a 30-foot rear yard requirement to permit the Rear Terrace enclosure within the 30-foot required rear yard.

## **Future No-Action Scenario**

Under the No-Action Scenario for the Project Build Year of 2018, the proposed use change to the Commercial Educational Use would not occur, and the existing rear terraces would not be enclosed. The zoning lot would not be merged with the adjacent property containing an individually landmarked building. It is assumed that the Rhinelander Building would be sold to another party for occupancy as a permitted community facility similar to the non-profit pre-school which previously occupied the Premises. The Certificate of Occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies a maximum occupancy of 324 persons. For Reasonable Worst Case Development Scenario (RWCDs) purposes, the No-Action Scenario assumes that the non-profit pre-school would serve approximately 300 pre-school children with 24 teachers and other staff.

The 5,035 square foot site is currently developed with 17,993 gsf and 14,614 zoning square feet of community facility floor area which represents an FAR of 2.9. The property's R8B zoning permits a maximum residential FAR of 4.0 and a community facility FAR of 5.1. No additional floor area would be developed on the site.

## **Future With-Action Scenario**

The With-Action scenario would be the same as the proposed development project described above. Under the With-Action Scenario for the Project Build Year of 2018, the Applicant would obtain a CPC Special Permit pursuant to ZR Section 74-711 to convert the Rhinelander Building on the proposed Development Site to the Commercial Educational Use primarily for teenagers and students in their early twenties. A portion of Advantage's proposed use would also operate as a non-profit educational tutoring and test preparation facility for students of modest means. The Applicant plans to merge the zoning lot on which the proposed Development Site is located

with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the Special Permit. The Applicant will complete an LPC-approved historic restoration of the Rectory building.

In addition to interior alterations necessary to make the Building compatible with the Commercial Educational Use, the Applicant would enclose with glass the two Rear Terraces that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building. The enclosure of the second floor Rear Terrace involves the removal of the 134 sf of HVAC equipment and replacement of the 192 sf skylight area with a floor. Once enclosed, the Rear Terraces will constitute 1,370 sf of new floor area. However, the overall total floor area of the Rhinelander Building will be reduced, because at the same time, the 704 sf fourth floor mezzanine will be demolished, and the floor of the 977 sf "basement" portion on the lower level will be lowered between 14 and 22 inches to match the remainder of the cellar level. These changes to the floor area of the Building along with minor alterations to the mechanical system will result in a 359 sf net reduction in the zoning floor area of the Building from 14,614 sf to 14,255 sf representing an FAR of 2.80 on the merged lot together with the 3,441 sf Rectory of the Church of the Holy Trinity. The gross floor area of the building would increase from 17,993 gsf under the existing/no-action conditions to 18,657 gsf under the with-action condition due to the addition of the enclosed Rear Terraces as floor area minus the fourth floor mezzanine to be demolished.

951 sf of the 1,178 sf second floor terrace enclosure will be located within the required rear yard. The total area of the Existing Rear Yard Non-Compliance would not be increased by the new glass enclosure but the volume of the Rear Yard Non-Compliance would be increased. In addition, in order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure.

### **Increment**

The proposed use in the With-Action scenario is similar to that of the No-Action scenario. There will be a change of use from a non-profit pre-school in the No-Action scenario to an office use (for-profit educational tutoring and test preparation service) in the With-Action scenario. The subject building will be increased in size by 664 gsf from 17,993 gsf in the No-Action scenario to 18,657 gsf in the With-Action scenario.

**DESCRIPTION OF EXISTING AND PROPOSED CONDITIONS**

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

	EXISTING CONDITION		NO-ACTION CONDITION		WITH-ACTION CONDITION		INCREMENT	
<b>LAND USE</b>								
<b>Residential</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify the following:								
Describe type of residential structures								
No. of dwelling units								
No. of low- to moderate-income units								
Gross floor area (sq. ft.)								
<b>Commercial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO		
If "yes," specify the following:								
Describe type (retail, office, other)					office (for-profit educational tutoring and test preparation service)		+ office (for-profit educational tutoring and test preparation service)	
Gross floor area (sq. ft.)					18,657		+ 18,657	
<b>Manufacturing/Industrial</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify the following:								
Type of use								
Gross floor area (sq. ft.)								
Open storage area (sq. ft.)								
If any unenclosed activities, specify:								
<b>Community Facility</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify the following:								
Type			pre-school (non-profit)					- pre-school (non-profit)
Gross floor area (sq. ft.)			17,993					- 17,993
<b>Vacant Land</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," describe:								
<b>Publicly Accessible Open Space</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify type (mapped City, State, or Federal parkland, wetland—mapped or otherwise known, other):								
<b>Other Land Uses</b>	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," describe:	vacant 17,993 sf building							
<b>PARKING</b>								
<b>Garages</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify the following:								
No. of public spaces								
No. of accessory spaces								
Operating hours								
Attended or non-attended								
<b>Lots</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify the following:								
No. of public spaces								
No. of accessory spaces								
Operating hours								
<b>Other</b> (includes street parking)	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," describe:								
<b>POPULATION</b>								
<b>Residents</b>	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO		
If "yes," specify number:								

	EXISTING CONDITION	NO-ACTION CONDITION	WITH-ACTION CONDITION	INCREMENT
Briefly explain how the number of residents was calculated:				
<b>Businesses</b>	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If "yes," specify the following:				
No. and type		non-profit pre-school	for-profit educational tutoring and test preparation service	- non-profit pre-school; + for-profit educational tutoring and test preparation service
No. and type of workers by business		24 administrative staff and teachers	15 full-time administrative staff, 16 full-time tutors	- 24 administrative staff and teachers; +15 full-time administrative staff, 16 full-time tutors
No. and type of non-residents who are not workers				
Briefly explain how the number of businesses was calculated:	Provided by Applicant			
<b>Other</b> (students, visitors, concert-goers, etc.)	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
If any, specify type and number:		300 students	372 students	+ 72 students
Briefly explain how the number was calculated:	Provided by Applicant			
<b>ZONING</b>				
Zoning classification	R8B	R8B	R8B	
Maximum amount of floor area that can be developed	residential FAR 4.0; community facility FAR 5.1	residential FAR 4.0; community facility FAR 5.1	residential FAR 4.0; community facility FAR 5.1	
Predominant land use and zoning classifications within land use study area(s) or a 400 ft. radius of proposed project	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	Residential, commercial, community facility; R8B, R10,C1-5, C2-8, C2-8A	
Attach any additional information that may be needed to describe the project.				
If your project involves changes that affect one or more sites not associated with a specific development, it is generally appropriate to include total development projections in the above table and attach separate tables outlining the reasonable development scenarios for each site.				

# **FIGURES & PHOTOGRAPHS**







1. View of the Site facing southwest from East 88th Street.



2. View of East 88th Street facing east from the Site.



3. View of East 88th Street facing west (Site at left).





4. View of the Site facing south from East 88th Street.



5. View of the Site facing southeast from East 88th Street.



6. View of East 88th Street facing west from the Site.





7. View of East 88th Street facing east (Site at right).



8. View of the sidewalk along the south side of East 88th Street facing east (Site at right).



9. View of the side of East 88th Street facing northwest from the Site.





10. View of the sidewalk along the south side of East 88th Street facing west (Site at left).



11. View of the side of East 88th Street facing northeast from the Site.



Site Information

Affected Area: Block 1550, Lots 31 & 34

Project Site: Block 1550, Lot 31

Zoning Map: 9a

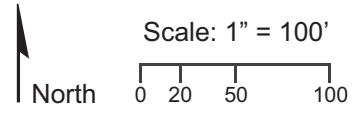
Zoning District: R8B

Special District: n/a

Lot and Building Information

# - Lot Numbers (within radius)

### - Block Numbers

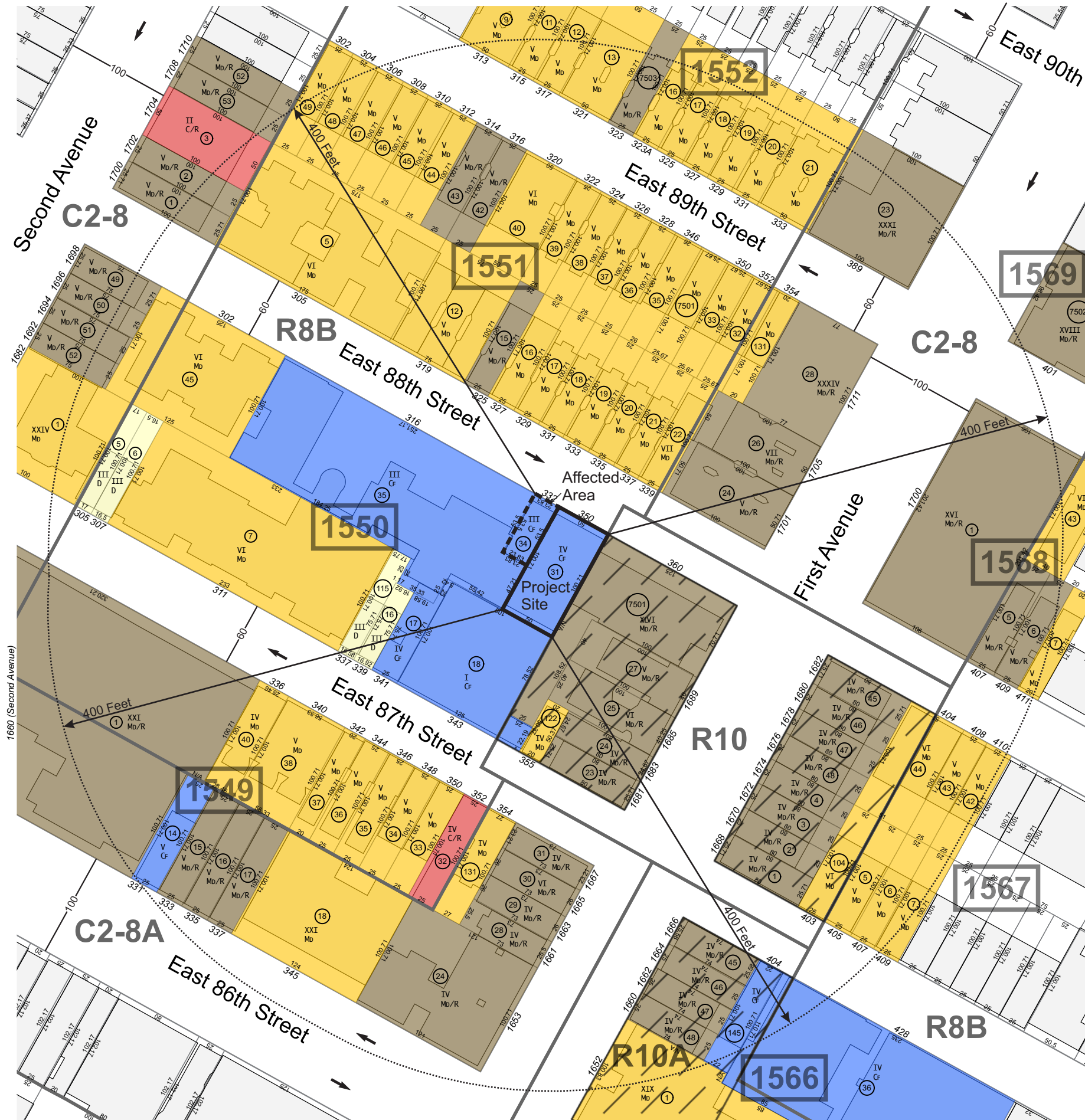
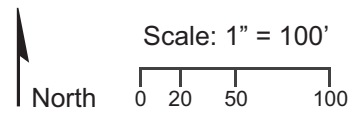


Site Information

Affected Area: Block 1550, Lots 31 & 34  
 Project Site: Block 1550, Lot 31  
 Zoning Map: 9a  
 Zoning District: R8B  
 Special District: n/a

Lot and Building Information

- # - Lot Numbers (within radius)
- ### - Block Numbers
- I, II, III - Story Height
- Md - Multiple Dwelling
- D - Dwelling
- R - Retail
- G - Garage
- C - Commercial
- I - Industrial
- M - Manufacturing
- W - Warehouse
- A - Auto
- Cf - Community Facility



Zoning Districts and Commercial Overlays

- C1-1
- C1-2
- C1-3
- C1-4
- C1-5
- Zoning District Boundary
- Special District Boundary
- R8A Zoning District Labels
- C2-1
- C2-2
- C2-3
- C2-4
- C2-5

Land Uses

- One and Two-Family Homes
- Multiple Dwelling
- Commercial
- Mixed Use (Residential/Commercial)
- Manufacturing
- Open Space / Park Land
- Institutional / Community Facility
- Parking / Automotive
- Vacant

























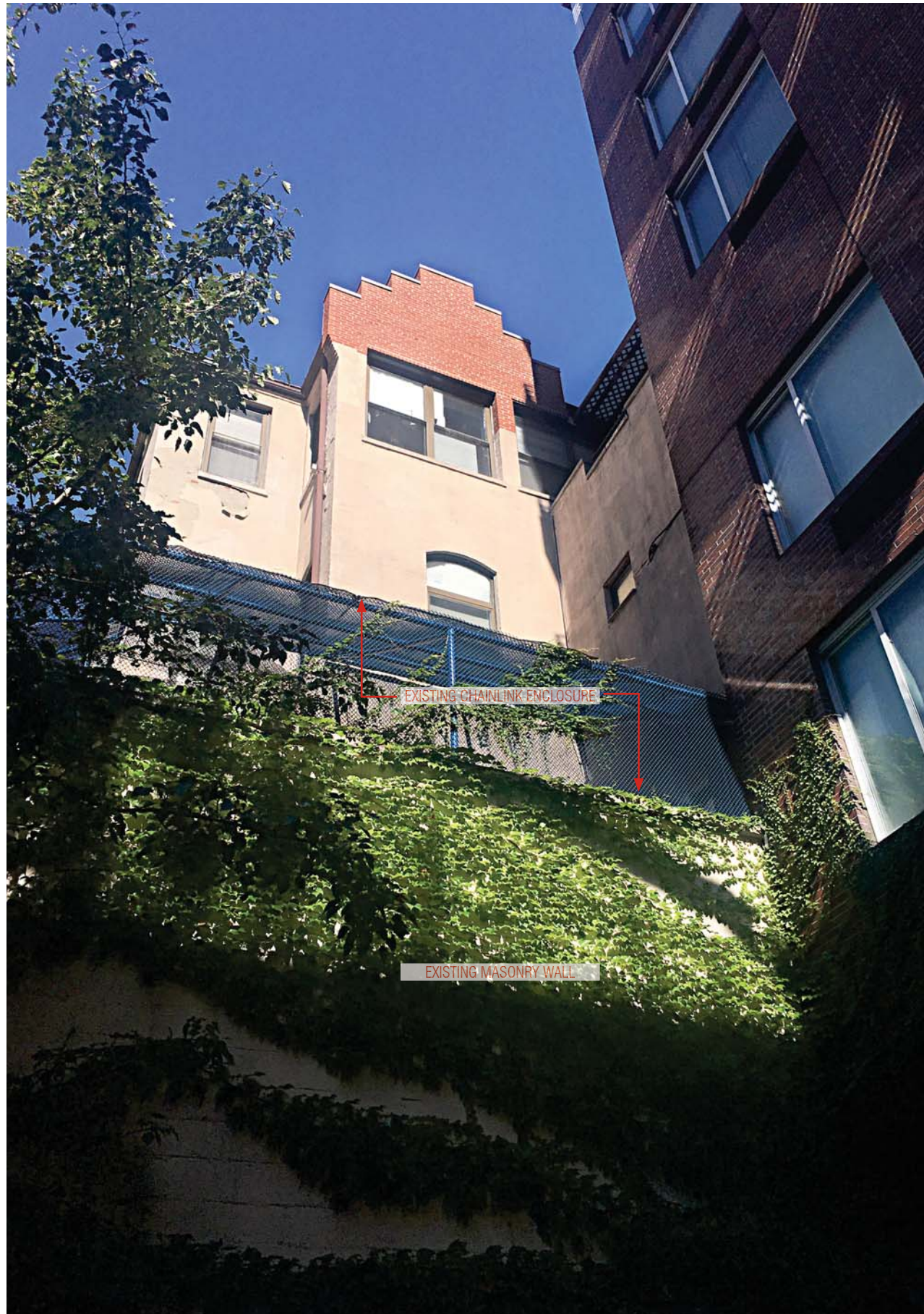












EXISTING VIEW FROM LEIGHTON HOUSE RESIDENCE COURTYARD TO TERRACE

**PROPOSED ENCLOSURE ELEVATION VIEW FROM EAST**



PROPOSED VIEW FROM LEIGHTON HOUSE RESIDENCE COURTYARD TO NEW ENCLOSURE

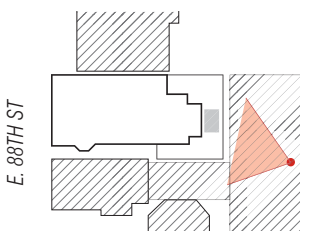


*EXISTING VIEW FROM BREARLEY FIELD TO TERRACE*



*PROPOSED VIEW FROM BREARLEY FIELD TO ENCLOSURE*

**PROPOSED ENCLOSURE VIEW FROM SOUTH**

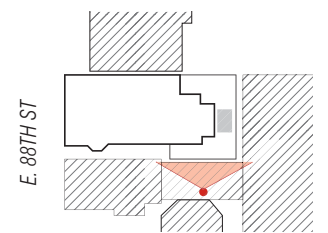




EXISTING VIEW FROM CHURCH ROOF TO TERRACE



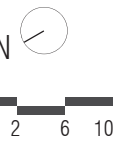
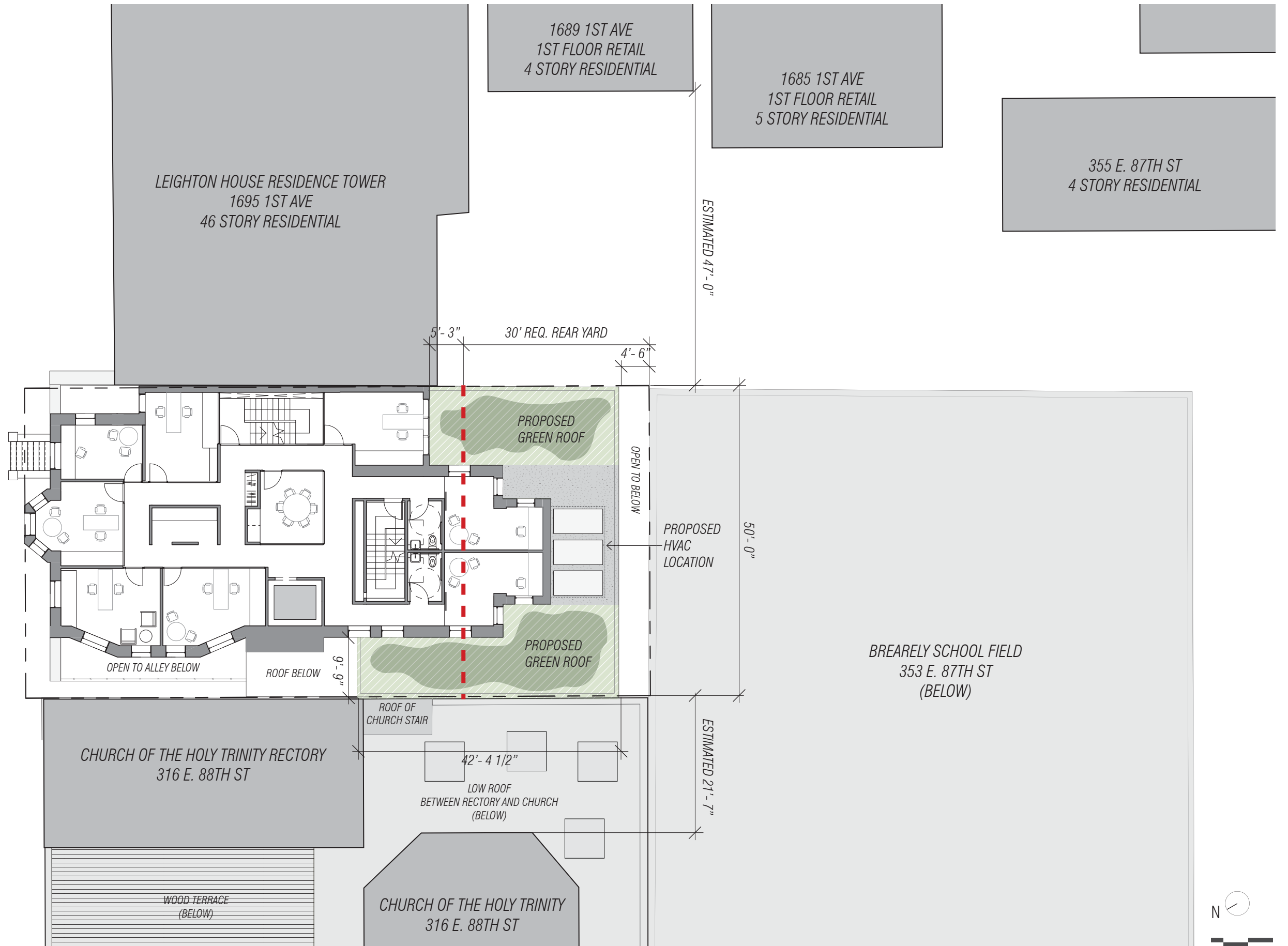
PROPOSED VIEW FROM CHURCH ROOF TO ENCLOSURE



**PROPOSED ENCLOSURE ELEVATION VIEW FROM WEST**



E. 88TH ST



# **SUPPLEMENTAL REPORT**

## EAS NARRATIVE ATTACHMENT

### 350 EAST 88<sup>TH</sup> STREET - CPC SPECIAL PERMIT

## ENVIRONMENTAL ASSESSMENT STATEMENT

### INTRODUCTION

Based on the analysis and the screens contained in the Environmental Assessment Statement (EAS) Full Form, the analysis areas that require further explanation include land use, zoning, and public policy (required for all EAS applications); historic and cultural resources; air quality; noise; and construction as further detailed below. Although not required on the basis of the EAS screens, an urban design section is also included for explanatory purposes. The section numbers below correspond to the relevant chapters of the 2014 *CEQR Technical Manual*.

## **4. LAND USE, ZONING, AND PUBLIC POLICY**

### INTRODUCTION

The appropriate study area for land use, zoning, and public policy is related to the type and size of the project being proposed as well as the location and neighborhood context of the area that could be affected by the project. According to the *CEQR Technical Manual*, unless the project involves a large scale, high density development or is a generic project, the study area should generally include at least the Development Site and the area within 400 feet of the site's boundaries. Due to the relatively small size of the project, a 400-foot radius project study area around the Affected Area has been chosen for the Proposed Actions.

### EXISTING CONDITIONS

#### **Land Use**

##### Affected Area

The Affected Area consists of the Development Site at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) and the adjacent Rectory of the Church of the Holy Trinity at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34) located in Manhattan's Yorkville neighborhood on the Upper East Side between 1<sup>st</sup> and 2<sup>nd</sup> Avenues.

##### Development Site

The Development Site at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) consists of the Rhinelander Building. The property consists of an approximately 5,035 square foot lot with 50 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 100.67 feet. The Building, which was constructed in 1892, consists of four floors and a cellar/basement<sup>1</sup>, is 70'-10 9/16" feet tall, and contains approximately

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<sup>1</sup> The Certificate of Occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies the lower level as a "cellar." However, an inspection by the architect has determined that the rear approximately 20 feet of the floor is significantly raised, by between 14

17,993 gross square feet of floor area. The Building was built as a school for children living in tenement housing in order to teach them manual trades. The non-profit Children's Aid Society owned the Building and operated the Rhinelander Children's Center prior to the property being purchased by Advantage Testing Inc. in early 2016. The previous use as the Rhinelander Children's Center included a pre-school with approximately 477 children. The Building is currently vacant. Unlike the adjacent property discussed below, the proposed Development Site is not an individually designated landmark. It is also not located within a historic district.

#### Remainder of Affected Area

The property at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34), immediately west of the Development Site, consists of the Rectory of the Church of the Holy Trinity. This building was designated as an individual landmark by the Landmarks Preservation Commission (LPC) on February 15, 1967. The property consists of an approximately 1,275 square foot lot with 23.83 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 53.5 feet. The Rectory building, which was constructed in 1897, consists of three floors, is 45'-8" tall, and contains approximately 4,514 gross square feet and approximately 3,441 zoning square feet of floor area.

#### Study Area

The primary study area extends approximately 400 feet in all directions from the affected area. The study area is roughly bounded by an area between East 89<sup>th</sup> and East 90<sup>th</sup> Streets to the north, East 86<sup>th</sup> Street on the south, an area between 1<sup>st</sup> and York Avenues to the east, and an area slightly to the east of Second Avenue to the west. In order to assess existing land use conditions for the proposed development, a parcel by parcel inventory was undertaken within the 400-foot radius study area surrounding the site. The inventory included a survey of ground floor uses and upper floors by predominant use. The surrounding 400-foot radius area is predominantly residential, especially along the mid-block streets, with mixed-use residential and commercial buildings located along the avenues.

The Affected Area is located on Block 1550 bounded by East 87<sup>th</sup> and East 88<sup>th</sup> Streets between 1<sup>st</sup> and 2<sup>nd</sup> Avenues. The south side of East 88<sup>th</sup> Street between 1<sup>st</sup> and 2<sup>nd</sup> Avenues primarily consists of the Church of the Holy Trinity and Rectory complex and the Rhinelander Building, both community facilities. It also contains a six-story multiple dwelling and a row of five-story mixed residential/commercial buildings along the 2<sup>nd</sup> Avenue frontage of the block. A 46-story residential condominium tower with ground floor commercial use adjoins the Development Site to the east at the corner of 1<sup>st</sup> Avenue while the remainder of the 1<sup>st</sup> Avenue frontage of the block is primarily developed with four- to six-story mixed residential/commercial buildings. The one-story Brearley School fronting on East 87<sup>th</sup> Street adjoins the Development Site to the south and the remainder of the East 87<sup>th</sup> Street frontage of the block is developed with three- to six-story multiple dwellings and a 24-story multiple dwelling at the corner of 2<sup>nd</sup> Avenue.

Block 1551 immediately to the north of the Affected Area is predominantly occupied by five-story townhouses and multiple dwellings at the midblock, with five-story pre-war mixed buildings containing ground floor retail use along 2<sup>nd</sup> Avenue and higher density mixed buildings along 1<sup>st</sup> Avenue. At the corner of East 89<sup>th</sup> Street and 1<sup>st</sup> Avenue is a 34-story residential condominium

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and 22 inches above the remainder of the floor, such that this 977 sf portion is a "basement" pursuant to the ZR 12-10 definition.

tower. Block 1552 to the north and Block 1549 to the south are of similar character, with the exception of 305 East 86<sup>th</sup> Street on Block 1549, where the 21-story “Yorkshire Towers” mixed building occupies nearly half of the block. The eastern portion of the project study area includes the western ends of Blocks 1566, 1567, and 1568. The included portions of Blocks 1566 and 1567 are primarily developed with four-story mixed buildings containing ground floor retail use along 1<sup>st</sup> Avenue. Block 1567 also includes five- to six-story multiple dwellings further to the east. The included portion of Block 1566 also includes a 19-story multiple dwelling along 1<sup>st</sup> Avenue and a four-story church and school complex further to the east. The western end of Block 1568 is developed with a 26-story residential building with ground floor commercial space along 1<sup>st</sup> Avenue and five- to six-story multiple dwellings and mixed buildings further to the east.

## ZONING

### Affected Area

The New York City Zoning Resolution shows that the Development Site and Affected Area are located within an R8B residential zoning district. The R8B zoning district is a contextual zone that usually presents the same unified blocks of “brownstone” rowhouses as R5B and R6B districts but the higher permitted residential and community facility FAR of 4.0 creates a taller building that is commonly found on the narrow side streets of Manhattan’s Upper West and Upper East Sides. Within Manhattan Community District 8 in which the Affected Area is located, the maximum community facility FAR is 5.1. The mandatory Quality Housing bulk regulations encourage new six-story apartment buildings, with a setback at the top story, that fit in well with the rows of 19<sup>th</sup> century houses. The maximum building height is 75 feet. Parking is required for 50% of dwelling units, and can be waived if 15 or fewer parking spaces are required.

### Development Site

The Rhinelander Building has two occupied terraces towards the rear of the Building. The second-floor rear terrace, most recently used as an exterior play area, is 1,178 sf in size and also contains a 192 sf skylight and 134 sf of HVAC equipment. The fourth-floor rear terrace is 192 sf (collectively, the “Rear Terraces”). These terraces do not contribute to the floor area of the building. The second and fourth floor Rear Terraces overlook to the south the open sports field on the roof of the Brearley School to the south. The 14,614 sf of community facility zoning floor area in the Rhinelander Building calculates to an FAR of 2.9 which is well below the maximum permitted community facility zoning floor area of 5.1.

A 312 sf portion of the second, third, and fourth floors within the interior of the Building is located in the required 30-foot rear yard. In addition, 951 sf of the exterior second floor Rear Terrace, containing both accessible terrace space and the skylight, is within the required 30-foot rear yard. Such portions of a building (and terrace) are not permitted within a rear yard and therefore are an existing non-compliance with respect to ZR 23-47 in that they do not observe the required 30 feet (the “Existing Rear Yard Non-Compliance”).

The Building rises without setback to a peak height of 70’-10 9/16” (the CO states the height is 60 feet), which is below the allowable 75-foot height limit (ZR 23-662). Buildings in R8B districts are subject to a 10-foot setback requirement between a height of 55 and 65 feet and the Building is therefore non-complying. There are no curb cuts, driveways, or parking spaces on the Property and none are required.

### Remainder of Affected Area

The Rectory building contains approximately 4,514 gross square feet and approximately 3,441 zoning square feet of floor area. As a community facility building, the Rectory is below the maximum permitted FAR of 5.1, with an existing FAR of 2.66.

The Department of City Planning (DCP) and the New York City Council have approved two zoning text amendments that have implications for actions currently undergoing environmental review: the Zoning for Quality and Affordability (ZQA) text amendment and the Mandatory Inclusionary Housing (MIH) text amendment. The ZQA text amendment affects residential developments in community districts throughout the city, while the MIH text amendment only affects residential developments in areas that are designated for inclusionary housing. Because this application is for a special permit that does not include any residential floor area, these text amendments would not apply to this project.

### Study Area

Most of the area within 400 feet to the north, south, and west of the Affected Area shares the area's R8B zoning. Therefore, the zoning use and bulk provisions relevant to the Affected Area also apply to this portion of the project study area.

Several other zoning districts are located within 400 feet of the affected area. To the east, the Development Site adjoins an R10 zoning district with a C1-5 commercial overlay mapped along both sides of 1<sup>st</sup> Avenue between East 87<sup>th</sup> and East 88<sup>th</sup> Streets. The C1-5 overlay directly adjacent to the Development Site is mapped to an atypical depth of 125 feet from the street line of 1<sup>st</sup> Avenue. Further to the east, the project study area is zoned R8B. A C2-8A district is mapped to the south of the Affected Area along both sides of East 86<sup>th</sup> Street. C2-8 districts are mapped along both sides of First Avenue north of East 88<sup>th</sup> Street and again along both sides of Second Avenue north of the C2-8A district along East 86<sup>th</sup> Street. The southeast corner of the project study area is zoned R10A with a C1-5 commercial overlay mapped along the east side of 1<sup>st</sup> Avenue along East 86<sup>th</sup> Street.

R10 districts allow the highest residential density in the city. The permitted FAR for residential and community facility uses is 10.0 and development may occur under Quality Housing or tower regulations; height factor regulations are not applicable. Residential and mixed buildings can receive a residential floor area bonus for the creation or preservation of affordable housing, pursuant to the Inclusionary Housing Program. Off-street parking is not required in the Manhattan Core.

R10A zoning districts typically produce large apartment buildings set on the avenues and wide cross streets of Manhattan. The Quality Housing program is mandatory in R10A districts. Typical buildings are 22-story apartment houses with high lot coverage and street walls set at the street line. The maximum residential and community facility FAR is 10.0, which can be increased to 12.0 with inclusionary housing. In the Manhattan core, no parking is required.

The C2-8 and C2-8A zones are commercial districts that are predominantly residential in character. They are mapped along major thoroughfares in medium and higher density areas of the city. Typical retail uses include grocery stores, small dry cleaners, restaurants, and local clothing stores that cater to the daily needs of the immediate neighborhood. The C2 zone permits

a wider range of local retail and service establishments than C1 districts and is intended to serve a wider neighborhood. The maximum commercial FAR is 2.0 and the districts have a residential district equivalent to the R10 and R10A districts, respectively, which allow a maximum residential FAR of 10.0 or 12.0 with inclusionary housing. No parking is required.

The C1-5 overlay district accommodates the retail and personal service shops needed in residential neighborhoods, and are generally mapped along major avenues. The maximum commercial FAR for the C1-5 overlay district in the R10 district in which it is mapped within the project study area is 2.0. Residential uses are permitted within these overlays with residential bulk being governed by the provisions of the surrounding residential zone. Parking requirements vary by use.

## **PUBLIC POLICY**

### Affected Area

The Rectory of the Church of the Holy Trinity building was designated as an individual landmark by the LPC on February 15, 1967. This portion of the Affected Area is therefore subject to New York City landmarks preservation regulations.

The Affected Area is not located within the City's Coastal Zone Boundary and is therefore not subject to the provisions of the New York City Waterfront Revitalization Program. The Affected Area is not covered by any 197-a or other community plans, and it is not within an urban renewal area and is therefore not subject to the provisions of an urban renewal plan.

### Study Area

Holy Trinity Church and St. Christopher House at 316 East 88<sup>th</sup> Street (Block 1550, Lot 35) adjoins the Rectory building on the west and was designated as an individual landmark by the LPC on February 15, 1967. This building is therefore subject to New York City landmarks preservation regulations. No other individually designated properties or Historic Districts are located within the 400-foot radius project study area.

The 400-foot radius project study area is not located within the City's Coastal Zone Boundary and is therefore not subject to the City's Waterfront Revitalization Program. No other public policy documents would apply to the project study area.

## **THE FUTURE WITHOUT THE PROJECT**

### **Land Use**

#### Affected Area

In the future without the action, the Reasonable Worst Case Development Scenario (RWCDS) for the Project Build Year of 2018 in the Affected Area assumes that the Rhinelander Building would be sold to another party for occupancy as a permitted community facility similar to the non-profit pre-school which previously occupied the Premises. The Certificate of Occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies a maximum occupancy of 324 persons. For RWCDS purposes, the No-Action Scenario assumes that the non-profit pre-school would serve approximately 300 pre-school children with 24 teachers and other staff. The proposed use change to the Commercial Educational Use would not occur, and the existing rear terraces would not be enclosed. In addition, the zoning lot would not be merged with the adjacent landmarked Rectory of the Church of the Holy Trinity property.

### Study Area

No development plans are known to exist for the 400-foot radius project study area by the project build year of 2018. No recent new development projects (filed in 2010 or later) have been identified for the 400-foot radius project study area based on a review of the CEQR listings of the NYC Department of City Planning's (DCP) Land Use & CEQR Application Tracking System (LUCATS) for Manhattan Community District 8. The study area is fully developed primarily with buildings of substantial size where limited new development potential exists.

### **Zoning and Public Policy**

#### Affected Area

As described in the land use section above, in the future without the action, the RWCDs in the Affected Area assumes that the Rhinelander Building would be sold to another party for occupancy as a permitted community facility similar to the non-profit pre-school which previously occupied the Premises. Under the No-Action Scenario for the Project Build Year of 2018, the proposed use change to the Commercial Educational Use would not occur, and the existing rear terraces would not be enclosed. The 5,035-square foot Development Site is currently developed with 17,993 gsf and 14,614 zoning square feet of community facility floor area which represents an FAR of 2.9. The property's R8B zoning permits a maximum residential FAR of 4.0 and a community facility FAR of 5.1. No additional floor area would be developed on the site.

#### Study Area

Based on a review of the CEQR listings of the DCP's LUCATS list for Manhattan Community District 8, no rezonings are proposed for the 400-foot radius project study area by the project build year of 2018. In addition, the DCP website does not indicate any proposed changes to the zoning districts and zoning regulations or to any public policy documents relating to the Development Site or the surrounding study area in the near future.

### **THE FUTURE WITH THE PROJECT**

#### **Land Use**

Under the With-Action RWCDs for the Project Build Year of 2018, the Applicant would obtain a CPC Special Permit pursuant to ZR Section 74-711 ("Landmark preservation in all districts") to modify the use regulations of ZR Section 22-10 in an R8B zoning district to allow a for-profit educational tutoring and test preparation service ("Commercial Educational Use," Use Group 6B). The Special Permit would facilitate the Applicant's proposal to develop a Commercial Educational Use at its property at 350 East 88th Street (Block 1550, Lot 31) in Manhattan. The currently vacant Rhinelander Building on the proposed Development Site would be converted to Commercial Educational Use primarily for teenagers and students in their early twenties as discussed in detail below. A portion of Advantage's proposed use would also operate as a non-profit educational tutoring and test preparation facility for students of modest means.

The Applicant is planning to use the existing vacant Rhinelander Building on the Development Site as a for-profit educational tutoring and test preparation service (Commercial Educational Use). The establishment would be staffed by approximately 15 full-time administrative staff and 16 full-time tutors who would all be on the premises during regular business hours of 9 am to 6 pm Monday through Friday for one-on-one tutoring sessions. Advantage Testing has enrolled



372 students this year to work with the 16 tutors who are slated to occupy the offices within the Rhinelander Building. These 16 tutors meet with 3 students per day on average. The remainder of individual student meetings are conducted via Skype or telephone, or at a student's home.

A maximum of 16 students would arrive or depart the establishment every two hours and a maximum of 16 students would be in the Building at any one time. Approximately 85% to 90% of the students would be teenagers or individuals in their early twenties. It is anticipated that approximately 80% of the students and 50% of the staff will arrive at and depart from the facility on foot. The administrative staff would primarily occupy the ground and 2<sup>nd</sup> floor levels of the Building while the tutors would primarily occupy the 2<sup>nd</sup> and 3<sup>rd</sup> floors of the Building.

The Applicant also has a registered 501(c)(3) non-profit foundation that they plan to operate from the Building. Approximately 10 percent of the activity in the Building would be for the Foundation, but such work will not occur within any designated portion of the Building. The foundation work would consist of tutoring students of modest means, but the primary use of the Building would be Use Group 6. Many functions occurring throughout the Building will support the work of the foundation.

In addition to interior alterations necessary to make the Building compatible with the Commercial Educational Use, the Applicant proposes to enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building. This is further discussed in the Zoning section below.

In conjunction with the actions to occur on the proposed Development Site as described above, the application seeks to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the 74-711 Special Permit. The Applicant will complete an LPC-approved historic restoration of the Rectory building. The LPC-approved restoration consists of a comprehensive plan to protect the Rectory from water penetration. The Applicant will perform the following:

- Replace all roof gutters and leaders; replace metal (copper) flashing.
- Repair and replace terra cotta, stone sills and caps, brickwork and brownstone, including replacement of decorative terra cotta on dormers.
- Strategic replacement of historic roof slate where compromised.
- Replacement of roof vent pipes with new cast iron vent pipes and drain.
- Restore decorative copper roof cresting.
- Scrape and repair structural steel where rusted; remove and replace corroded steel and ties at window jambs.
- Replace cracked brick, repoint chimneys and masonry walls.

No adverse impact to land use patterns in the area is expected to arise as a result of the proposed project, and further assessment of land use is not warranted.

## **Zoning**

The Applicant is seeking a ZR 74-711 Special Permit to allow the Commercial Educational Use to occupy the Rhinelander Building. This use is not specifically listed in the Zoning Resolution, but

the Applicant believes it is appropriately designated within the Use Group 6B "Offices" category, because it does not meet the Zoning Resolution requirements for a Use Group 3 "School," which would be a permitted use in an R8B district. A "school" is defined in ZR 12-10 as "an institution providing full-time day instruction and a course of study that meets the requirements of Sections 3204, 3205, and 3210 of the New York State Education Law." Because Advantage Testing does not provide full-time day instruction, the service cannot qualify as a Use Group 3 school. While the foundation portion of the operation could alone qualify as a Use Group 4 "philanthropic or non-profit institution without sleeping accommodations," as listed in ZR 22-14 (a), the Applicant is seeking a 74-711 Special Permit to authorize Use Group 6 office use for the entire Building, as the primary activity in the Building will be for-profit tutoring and the non-profit foundation will not operate in a designated portion of the Building.

The Applicant believes that the proposed office use as operated by Advantage Testing will be similar to an as-of-right school use, except that it will have a lesser impact on the surrounding area than a school in nearly all respects, including foot traffic and noise. The Applicant is requesting a use modification to permit a for-profit educational tutoring and test preparation service that will not allow any other Use Group 6 uses. The Applicant proposes that if this very specific use were to cease operation in the Building, then the Rhinelander Building could only be occupied by an as-of-right use, a condition that is proposed to be memorialized in a Restrictive Declaration.

As noted in the Land Use discussion above, in addition to interior alterations necessary to make the Building compatible with the Commercial Educational Use, the Applicant proposes to enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building. The enclosure of the second floor Rear Terrace involves the removal of the 134 sf of HVAC equipment and replacement of the 192-sf skylight area with a floor. Once enclosed, the Rear Terraces will constitute 1,370 sf of new floor area. However, the overall total floor area of the Rhinelander Building will be reduced, because at the same time, the 704 sf fourth floor mezzanine will be demolished, and the floor of the 977 sf "basement" portion on the lower level will be lowered between 14 and 22 inches to match the remainder of the cellar level. These changes to the floor area of the Building along with minor alterations to the mechanical system will result in a 359-sf net reduction in the zoning floor area of the Building from 14,614 sf to 14,255 sf representing an FAR of 2.80 on the merged lot together with the 3,441 sf Rectory of the Church of the Holy Trinity discussed below. The gross floor area of the building would increase from 17,993 gsf under the existing/no-action conditions to 18,657 gsf under the with-action condition due to the addition of the enclosed Rear Terraces as floor area minus the fourth floor mezzanine to be demolished. See Zoning Floor Area and Use table below.

**ZONING FLOOR AREA (SF) AND USE**

FLOOR OF RHINELANDER	USE		ZONING FLOOR AREA	
	Existing	Proposed	Existing	Proposed
Basement	UG 3	UG 6	977	0
Street Level	UG 3	UG 6	256	183
1st Floor	UG 3	UG 6	4069	4017
2nd Floor	UG 3	UG 6	2948	4160
3rd Floor	UG 3	UG 6	3000	2982
4th Floor	UG 3	UG 6	2660	2913
4th Floor Mezz.	UG 3	UG 6	704	0
		TOTAL:	14,614	14,255
<b>RECTORY</b>	UG 3	UG 3	3,441	3,441
PERMITTED FA: 32,183 sf			TOTAL FA:	17,696
PERMITTED FAR: 5.1			TOTAL FAR:	2.80

951 sf of the 1,178 sf second floor terrace enclosure will be located within the required rear yard. The total area of the Existing Rear Yard Non-Compliance would not be increased by the new glass enclosure but the volume of the Rear Yard Non-Compliance would be increased. In addition, in order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure.

In conjunction with the actions to occur on the Development Site as described above, the application seeks to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity. The Applicant will complete an LPC-approved historic restoration of the Rectory building which will be enforced through a Restrictive Declaration (see Historic and Cultural Resources Appendix). The Restrictive Declaration also sets forth obligations for the Church for future inspections and repairs under a continuing maintenance program for the Rectory, and establishes a requirement that the second-floor terrace enclosure must be demolished prior to the primary occupancy of the Rhinelander Building for a conforming use by Advantage or any successor entity.

A ZR 74-711 Special Permit is needed to allow the proposed use and rear yard modifications. The Applicant plans to merge the zoning lot on which the proposed Development Site is located with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the Special Permit. The 74-711 Special Permit is applicable to zoning lots containing a landmark designated by the LPC or containing existing buildings located within LPC designated historic districts.

The Applicant seeks to use the existing vacant Rhinelander Building on the Development Site for the Commercial Educational Use, proposed to be categorized as Use Group 6B "offices." The

requested use is not permitted as-of-right under the property's R8B zoning. The Applicant also seeks to enclose the second and fourth floor Rear Terraces in glass in order to create additional space for tutoring and test preparation, and to permit screened HVAC equipment atop the new enclosure. The use request will modify the uses permitted as-of-right in a residential district per ZR 22-10. The rear yard request will modify the provisions of ZR 23-47, which establish a 30-foot rear yard requirement to permit the Rear Terrace enclosure within the 30-foot required rear yard.

The requested Special Permit is required in order to modify use and bulk regulations applicable to zoning lots containing a landmark designated by the LPC. The Proposed Actions would meet all the required CPC conditions and findings as detailed in the zoning application filed in conjunction with this EAS.

The zoning provisions and findings related to the proposed Special Permit (ZR Section 74-711 - Landmark preservation in all districts) and the compliance of the proposed project with these provisions and findings are detailed below:

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

(a) *The following conditions are met:*

(1) *any application pursuant to this Section shall include a report from the Landmarks Preservation Commission stating that a program has been established for continuing maintenance that will result in the preservation of the subject #building# or #buildings#, and that such #use# or #bulk# modifications, or restorative work required under the continuing maintenance program, contributes to a preservation purpose;*

This Application includes a Modification of Use (MOU) letter from the Landmarks Preservation Commission ("LPC") dated 07/06/17 (the "Report") addressed to the NYC Planning Commission, and attached in the Historic and Cultural Resources Appendix. The MOU states that "the LPC found that the applicant has agreed to undertake work to restore the Designated Building and bring it up to a sound condition, including restorative work at primary and secondary facades, and roofs; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound condition; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. These requirements are relied upon by the CPC to find that a preservation purpose is being met as required by Section 74-711 and similar sections of the Zoning Resolution."

The details of the program for continuing maintenance are set forth in a Restrictive Declaration, a copy of which is included in the Historic and Cultural Resources Appendix, to be executed by the Applicant and all other parties-in-interest in the property that have not waived such rights, upon approval of this application, in anticipation of filing and recording with the Office of the Register of the City of New York, in accordance with the guidelines and specifications of the LPC.

- (2) *any application pursuant to this Section shall include a Certificate of Appropriateness, other permit, or report from the Landmarks Preservation Commission stating that such #bulk# modifications relate harmoniously to the subject landmark #building# or #buildings# in the Historic District, as applicable; and*

The Report finds that the proposed restoration of the Rectory building as described in the Certificate of No Effect from LPC (CNE-19-04446), dated 7/14/17 (the "Certificate"), relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building. A copy of the Certificate is included in the Historic and Cultural Resources Appendix.

- (3) *the maximum number of dwelling units shall be as set forth in Section 15-111 (Number of permitted dwelling units).*

This condition is not applicable. Neither the Rectory nor the Rhinelander Building will contain dwelling units.

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

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

The requested modification to the rear yard requirement of ZR 23-47 would allow for the enclosure of the second floor Rear Terrace with a one-story glass enclosure that would rise 10'-8.5" above the existing solid parapets that are 4'-5" above the existing terrace floor. The top of the enclosure would match the 14'-2" height of the remainder of the existing second floor. The enclosure would replace the chain-link cage and sports netting which covers roughly half of the terrace.

The maximum height of the new enclosure will be 34'-0 7/8" above base plane, and the HVAC equipment above the center of the enclosure would rise another 6'-0"; these heights are consistent with those of surrounding structures within this interior portion of the block. The 34'-0 7/8" height of the enclosure can be compared to the roof of the eastern end of the Church located at an elevation of 20'-3" above base plane, and compared to the surface of the adjacent Brearley School field (the "Playfield"), with an elevation of 26'-9". The 40'-6" height of the enclosure plus HVAC equipment would remain lower than the top of the Brearley School field fence at approximately 42 feet above base plane.

The new structures would be seen from a distance of 47 feet by residents of 1689 1<sup>st</sup> Avenue looking to the rear of their property. The portion of the enclosure visible by such residents would be an area approximately 11 feet high and 30 feet wide. The area of the HVAC equipment viewable would be approximately 6 feet high by 11 feet wide. Together, the new structures would rise 16'-9" above the existing parapet. The second floor Rear Terrace enclosure would displace the existing blue steel cage of chain link fencing, occupying largely the same space within the rear yard and representing a significant aesthetic improvement to those who may view it from surrounding properties.

The only portion of the new enclosure that would be visible from East 88<sup>th</sup> Street is an approximately 70 sf rectangle, 6.5 feet wide and 11 feet high, located along the western side lot line at a height between 23 and 34 feet above grade. Further, the view of the enclosure from the street will be limited to a 10-foot section of the East 88<sup>th</sup> Street frontage, from where it is possible to look 54 feet into the lot between the Rhinelander Building and the Rectory to where the enclosure is located.

There is no open space in the vicinity of the Building that would be impacted by the proposal.

The Playfield is 3'-6" higher than the top of the second floor Rear Terrace parapets and is surrounded by a 15-foot high fence. The Rear Terrace enclosure would rise to a height of 7'-3" above the Playfield surface and remain 7'-10" below the top of the fence. The existing approximately 6 feet between the Playfield and parapet would be maintained by the new enclosure and HVAC equipment. While the enclosure would be adjacent to the Playfield for a length of 50 feet, it is limited to the eastern half of the 100-foot wide Playfield. Because there would continue to be 6 feet of separation between the Rhinelander Building and the Playfield, and because the Rhinelander Building already rises 45 feet higher than the Playfield, the Rear Terrace enclosure, which will rise to only 7'-3" above the Playfield surface, would not diminish light received by the Playfield from the north. The relocated HVAC equipment would be adjacent to, but set back 6 feet from, the Playfield for a distance of 17'-6", and will also not diminish the amount of light received by the Playfield from the north due to its alignment with the portions of the 3rd and 4th stories of the Rhinelander Building closest to the Playfield.

The sanctuary of the Church is separated from the edge of the enclosure by 21'-7" and the amount of light entering the sanctuary should not be affected by the enclosure. The three large stained glass windows would obscure any direct sight lines from within the sanctuary to the enclosure. By locating new HVAC equipment above the enclosure at a distance of 36 feet from the Church sanctuary, the existing HVAC equipment along the western side lot line can be eliminated, which is currently 22 feet from the sanctuary and directly adjacent to the Rectory. The amount of HVAC noise perceivable from the Church and Rectory is expected to be significantly reduced as a result of the replacement and reconfiguration of HVAC equipment.

The second floor Rear Terrace enclosure is designed to create a bright and well-ventilated space - with glass walls on all sides. A green roof above the enclosure and plantings to obscure the screened mechanical enclosure would further soften the appearance of the new structure from all adjacent properties.

For all of the foregoing reasons, the Applicant submits that the Rear Terrace enclosure will have no adverse effect upon the structures or open spaces in the vicinity of the Building in terms of scale, location, and access to light and air.

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

The Commercial Educational Use will not affect conforming uses within the Building because Advantage Testing will occupy the entire Building.

The proposed use modification will have minimal adverse effects on the conforming uses in the surrounding area due to the similarity of the Commercial Educational Use to an as-of-right school use. Advantage Testing would likely be a less intensive use than a school would be because one-on-one tutoring generates significantly less foot traffic, less vehicular drop off activity, and less demand for bicycle or stroller parking. Further, the potential for noise occurring on the open Rear Terraces will be eliminated, with the Rear Terraces fully contained within the enclosure.

*The City Planning Commission may prescribe appropriate additional conditions and safeguards which will enhance the character of the #development# and #buildings# on the #zoning lot#.*

The Applicant believes no special conditions are needed.

### Conclusions

The proposed development would not result in significant adverse zoning impacts. The proposed office use as operated by Advantage Testing will be similar to an as-of-right school use, except that it will have a lesser impact on the surrounding area than a school in nearly all respects, including foot traffic and noise. This use would therefore be compatible with the existing occupancies in the immediately surrounding buildings. The proposed Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south. The proposed Rear Terrace enclosures would therefore also be compatible with surrounding development and would not result in adverse impacts related to access to light and air. The Proposed Actions would not have a significant impact on the extent of conformity with the current zoning in the surrounding area, and it would not adversely affect the viability of conforming uses on nearby properties.

Potentially significant adverse impacts related to zoning are not expected to occur as a result of the Proposed Actions, and further assessment of zoning is not warranted.

### **Public Policy**

No adverse impacts to public policies would occur as a result of the Proposed Actions as the proposed development would be compatible with the New York City landmarks preservation regulations applicable to the Affected Area and the immediately surrounding area (see the Historic and Cultural Resources section below). On October 16, 2016, the Manhattan Community Board 8 "Full Board" voted to adopt a recommendation of approval for the project. This vote is documented in the October 20, 2016 letter from the Board in the Project Correspondence Appendix to this document. At a public meeting held on November 1, 2016 by LPC that immediately followed a public hearing on the project, the LPC voted to approve the Applicant's request that a report be issued to CPC pursuant to ZR 74-711 in support of the proposed application.

Advantage Testing is an important educational asset to the community where the majority of their students live and the requested modifications would not have an adverse impact on the Building or surrounding properties as the Commercial Educational Use is similar to a Use Group 3 school, but less intensive. The Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south. At a time

when many houses of worship have experienced steep declines in attendance and resources for the maintenance of facilities are extremely limited, this application presents what may be the only opportunity for the Church to restore the landmarked Rectory building, which has experienced significant water damage due to roof leaks. Without the Special Permit, the Applicant would sell the Rhinelander Building to a party that is likely to occupy the Building for a conforming use and the restoration of the Rectory would not take place.

No potentially significant adverse impacts related to public policy are anticipated to occur as a result of the Proposed Actions, and further assessment of public policy is not warranted.



## **9. HISTORIC AND CULTURAL RESOURCES**

### **INTRODUCTION**

For projects that may affect historic resources, the first step in evaluating a project's potential effects on historic resources is to consider what area the project might affect and then identify historic resources—whether officially recognized or eligible for such recognition—within that area.

#### *Archaeological Resources*

The *CEQR Technical Manual* indicates that archaeological resources should be assessed for projects that would result in any in-ground disturbance. In-ground disturbance is any disturbance to an area not previously excavated, including new excavation that is deeper and/or wider than previous excavation on the same site.

The area of subsurface work for the proposed project is considered the impact area. To assess whether the impact area may contain significant archaeological resources, data must be gathered from the surrounding area to predict the likelihood of archaeological resources existing in the impact area. For prehistoric resources, it is appropriate to determine whether there are known prehistoric archaeological resources within a half-mile radius of the site. For historic archaeological resources, it is appropriate to determine if there are known historic archaeological resources in the nearby area, such as on the present-day full tax lot or within the boundaries of the nearest adjacent mapped streets.

#### *Architectural Resources*

The *CEQR Technical Manual* indicates that architectural resources should be surveyed and assessed if the proposed project would result in any of the following, whether or not any known historic resources are located near the site of the project:

- New construction, demolition, or significant physical alteration to any building, structure, or object.
- A change in scale, visual prominence, or visual context of any building, structure, or object or landscape feature.
- Construction, including but not limited to, excavating vibration, subsidence, dewatering, and the possibility of falling objects.
- Additions to or significant removal, grading, or replanting of significant historic landscape features.
- Screening or elimination of publicly accessible views.
- Introduction of significant new shadows or significant lengthening of the duration of existing shadows on an historic landscape or on an historic structure if the features that make the structure significant depend on sunlight.

For architectural resources, the study area is the area in which any resources may be affected by the project. The size of the study area directly relates to the anticipated extent of the project's potential impacts, and should be large enough to permit examination of the relationships between the proposed project and the existing historic resources. For most proposals, a study area defined by the radius of 400 feet from the borders of the project site is adequate.

## EXISTING CONDITIONS

### Affected Area

The Affected Area consists of the Development Site at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) and the adjacent Rectory of the Church of the Holy Trinity at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34) located in Manhattan's Yorkville neighborhood on the Upper East Side between 1<sup>st</sup> and 2<sup>nd</sup> Avenues.

### Development Site

The Development Site at 350 East 88<sup>th</sup> Street (Block 1550, Lot 31) consists of the Rhinelander Building. The property consists of an approximately 5,035 square foot lot with 50 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 100.67 feet. The Building, which was constructed in 1892, consists of four floors and a cellar/basement<sup>2</sup>, is 70'-10 9/16" feet tall, and contains approximately 17,993 gross square feet of floor area. The Building was built as a school for children living in tenement housing in order to teach them manual trades. The non-profit Children's Aid Society owned the Building and operated the Rhinelander Children's Center prior to the property being purchased by Advantage Testing Inc. in early 2016. The previous use as the Rhinelander Children's Center included a pre-school with approximately 477 children. The Building is currently vacant. Unlike the adjacent property discussed below, the proposed Development Site is not an individually designated landmark. It is also not located within a historic district.

### Remainder of Affected Area

The property at 332 East 88<sup>th</sup> Street (Block 1550, Lot 34), immediately west of the Development Site, consists of the Rectory of the Church of the Holy Trinity. This building was designated as an individual landmark by the Landmarks Preservation Commission (LPC) on February 15, 1967. The property consists of an approximately 1,275 square foot lot with 23.83 feet of frontage along East 88<sup>th</sup> Street and a lot depth of 53.5 feet. The Rectory building, which was constructed in 1897, consists of three floors, is 45'-8" tall, and contains approximately 4,514 gross square feet. See Historic Districts and Landmarks graphic.

The LPC designation report states the following about the Rectory:

*The dignified three-story French Renaissance Parsonage of Holy Trinity Church is one of the three separate entities comprising this unusual ecclesiastical complex. This building is constructed of the same materials as Holy Trinity Church and St. Christopher House - brown tinted Roman brick, with terra-cotta decorative details and a red tile roof; consequently it blends harmoniously with the overall ensemble. Skillfully wedded to the plan of the church, this handsome structure might appear to be part of the church, were it not for the fact that it stands on its own architectural merit and has solid individuality and distinction.*

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<sup>2</sup> The Certificate of Occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies the lower level as a "cellar." However, an inspection by the architect has determined that the rear approximately 20 feet of the floor is significantly raised, by between 14 and 22 inches above the remainder of the floor, such that this 977 sf portion is a "basement" pursuant to the ZR 12-10 definition.

In correspondence dated 7/27/17 to the Department of City Planning, included in the Historic and Cultural Resources Appendix, LPC's Environmental Review division states that 350 East 88<sup>th</sup> Street (the Development Site) is adjacent to a State and National Register designated landmark, that being 332 East 88<sup>th</sup> Street (the Remainder of Affected Area), which has an LPC designated exterior and is a State and National Register listed property. This letter further states that "Properties that are individually LPC designated or in LPC historic districts require permits from the LPC Preservation department. Properties that are S/NR listed or S/NR eligible require consultation with SHPO if there are State or Federal permits or funding required as part of the action."

#### Study Area

There is one individually designated historic resource located within the 400-foot radius project study area. There are no Historic Districts located within 400 feet of the affected area. Holy Trinity Church and St. Christopher House at 316 East 88<sup>th</sup> Street (Block 1550, Lot 35) adjoins the Rectory building on the west and was designated as an individual landmark by the LPC on February 15, 1967. The LPC designation report states the following about the Holy Trinity Church and St. Christopher House:

*The Commission further finds that, among its important qualities, this complex of Ecclesiastical buildings, Holy Trinity Church and St. Christopher House (Rhineland Memorial), presents a most interesting and homogeneous group, admirably unified in its architectural distinction, that the placing of the church parallel to the street is most unusual, that the church tower; as it dominates the entire composition, is an outstanding example of the French Gothic spirit, adapted to the late Nineteenth Century building materials of brick and terra-cotta and that this group is an impressive memorial which continues to serve the religious purpose for which it was built.*

#### **FUTURE NO-ACTION CONDITIONS**



##### Affected Area

In the future without the action, it is assumed that the Rhineland Building would be sold to another party for occupancy as a permitted community facility similar to the non-profit pre-school which previously occupied the Premises. The Certificate of Occupancy for the Rhineland Building, #99728 issued December 13, 1991 (the "CO"), identifies a maximum occupancy of 324 persons. For Reasonable Worst Case Development Scenario (RWCDS) purposes, the No-Action Scenario assumes that the non-profit pre-school would serve approximately 300 pre-school children with 24 teachers and other staff. The proposed use change to the Commercial Educational Use would not occur, and the existing rear terraces would not be enclosed. The zoning lot would not be merged with the adjacent landmarked Rectory of the Church of the Holy Trinity property.



##### Study Area

No development plans are known to exist for the 400-foot radius project study area by the project build year of 2018. No recent new development projects (filed in 2010 or later) have been identified for the 400-foot radius project study area based on a review of the CEQR listings of the NYC Department of City Planning's (DCP) Land Use & CEQR Application Tracking System (LUCATS) for Manhattan Community District 8. The study area is fully developed primarily with buildings of substantial size where limited new development potential exists.



Site Information

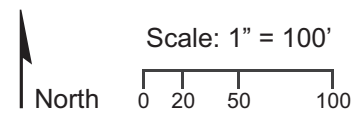
-  Affected Area:  
Block 1550, Lots 31 & 34
-  Project Site:  
Block 1550, Lot 31

Lot and Building Information

-  - Lot Numbers (within radius)
-  - Block Numbers

Historic Districts and Landmarks

-  - Historic Districts (n/a)
-  - Landmarks



### FUTURE WITH-ACTION CONDITIONS

The Applicant is seeking a CPC Special Permit pursuant to ZR Section 74-711 in order to use the existing vacant Rhinelander Building on the Development Site as a for-profit educational tutoring and test preparation service (Commercial Educational Use). In addition to interior alterations necessary to make the Building compatible with the Commercial Educational Use, the Applicant proposes to enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building.

The enclosure of the second floor Rear Terrace involves the removal of the 134 sf of HVAC equipment and replacement of the 192 sf skylight area with a floor. Once enclosed, the Rear Terraces will constitute 1,370 sf of new floor area. However, the overall total floor area of the Rhinelander Building will be reduced, because at the same time, the 704 sf fourth floor mezzanine will be demolished, and the floor of the 977 sf "basement" portion on the lower level will be lowered between 14 and 22 inches to match the remainder of the cellar level. These changes to the floor area of the Building along with minor alterations to the mechanical system will result in a 359 sf net reduction in the zoning floor area of the Building from 14,614 sf to 14,225 sf representing an FAR of 2.80 on the merged lot together with the 3,441 sf Rectory of the Church of the Holy Trinity discussed below. The gross floor area of the building would increase from 17,993 gsf under the existing/ no-action conditions to 18,657 gsf under the with-action condition due to the addition of the enclosed Rear Terraces as floor area minus the fourth-floor mezzanine to be demolished.

951 sf of the 1,178 sf second floor terrace enclosure will be located within the required rear yard. The total area of the Existing Rear Yard Non-Compliance would not be increased by the new glass enclosure but the volume of the Rear Yard Non-Compliance would be increased. In addition, in order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure.

The proposed Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south.

In conjunction with the actions to occur on the proposed Development Site as described above, the application seeks to merge the zoning lot with the adjacent landmarked property of the Rectory of the Church of the Holy Trinity in order to be eligible to apply for the 74-711 Special Permit. The Applicant will complete an LPC-approved historic restoration of the Rectory building which will be enforced through a Restrictive Declaration (see Historic and Cultural Resources Appendix). The LPC-approved restoration consists of a comprehensive plan to protect the Rectory from water penetration. The Restrictive Declaration also sets forth obligations for the Church for future inspections and repairs under a continuing maintenance program for the Rectory, and establishes a requirement that the second floor terrace enclosure must be demolished prior to the primary occupancy of the Rhinelander Building for a conforming use by Advantage or any successor entity. The Applicant will perform the following:

- Replace all roof gutters and leaders; replace metal (copper) flashing.
- Repair and replace terra cotta, stone sills and caps, brickwork and brownstone, including replacement of decorative terra cotta on dormers.
- Strategic replacement of historic roof slate where compromised.
- Replacement of roof vent pipes with new cast iron vent pipes and drain.
- Restore decorative copper roof cresting.
- Scrape and repair structural steel where rusted; remove and replace corroded steel and ties at window jambs.
- Replace cracked brick, repoint chimneys and masonry walls.

At a public meeting held on November 1, 2016 by LPC that immediately followed a public hearing on the project, the LPC voted to approve the Applicant's request that a report be issued to CPC pursuant to ZR 74-711 in support of the proposed application.

LPC issued a Modification of Use (MOU) letter to the NYC Planning Commission dated 07-06-17, included in the Historic and Cultural Resources Appendix. The MOU states that "the LPC found that the applicant has agreed to undertake work to restore the Designated Building and bring it up to a sound condition, including restorative work at primary and secondary facades, and roofs; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound condition; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. These requirements are relied upon by the CPC to find that a preservation purpose is being met as required by Section 74-711 and similar sections of the Zoning Resolution."

Finally, LPC issued a Certificate of No Effect (CNE-19-04446) dated 7/14/17, included in the Historic and Cultural Resources Appendix. The CNE finds that the proposed restoration of the Rectory building relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building.

### Archaeological Resources

The *CEQR Technical Manual* indicates that archaeological resources should be assessed for projects that would result in any in-ground disturbance if the proposed project would result in any of the conditions noted in italics below. In-ground disturbance is any disturbance to an area not previously excavated, including new excavation that is deeper and/or wider than previous excavation on the same site. Examples of projects that typically require assessment are:

*- Above-ground construction resulting in-ground disturbance, including construction of temporary roads and access facilities, grading, or landscaping.*

*- Below-ground construction, such as installation of utilities or excavation, including that for footings or piles.*

An assessment of archaeological resources is not required for projects that would result in the conditions noted in italics below:

*- Projects that would not result in ground disturbance.*

*- Projects that would result in disturbance only of areas that have already been recently excavated for other purposes, such as basements, concourses, sunken plazas, etc. However, if the area proposed to be excavated exceeds the previous disturbance in depth or footprint, archaeological assessment may be appropriate.*

As the floor of the 977 square foot “basement” portion on the lower level of the Rhineland building will be lowered between 14 and 22 inches to match the remainder of the cellar level, some subsurface ground disturbance would occur to accommodate the Proposed Actions. However, it is believed that at least a portion of this area was previously disturbed as follows. It appears that the existing foundation wall is deeper than the slab on grade, so that some previous excavation would have occurred to permit this foundation wall to be installed. The likely excavation technique would have been an open cut, so a 3-foot or 4-foot wide strip of soil would have been disturbed around the rear, side, and interior walls of the building. It is estimated that 635 square feet and 1,799 cubic feet of subsurface disturbance would occur to accommodate the Proposed Actions as described above. In correspondence dated 7/27/17 to the Department of City Planning, included in the Historic and Cultural Resources Appendix, LPC’s Environmental Review division determined that the Development Site and the Affected Area do not have any archaeological sensitivity.

#### Historic Resources

The proposed project would not result in any alterations to the LPC designated Rectory of the Church of the Holy Trinity in the Affected Area other than those required to repair damaged elements of the structure as described above. Therefore, the Proposed Actions would not result in any direct impact on historic resources.

The Development Site, the Rhineland Building, located adjacent to the LPC designated Rectory of the Church of the Holy Trinity, is not a designated historic resource. However, as it is located directly adjacent to a designated historic resource, proposed exterior alterations to this building could potentially be of concern. As described above, the Applicant proposes to enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) of the Building in order to create additional interior tutoring space. Existing exterior HVAC equipment will also be replaced with new equipment that will be screened as required by the ZR. As stated above, the proposed Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south. It is therefore concluded that the Proposed Actions would not result in any indirect impact on historic resources.

As discussed above, it should be noted that LPC voted to approve the Applicant’s request that a report be issued to CPC pursuant to ZR 74-711 in support of the proposed application. LPC issued an MOU letter to the NYC Planning Commission dated 07-06-17 CPC verifying that the Proposed Actions serves a preservation purpose as required by Section 74-711 and similar sections of the Zoning Resolution. The MOU states that “the LPC found that the applicant has agreed to undertake work to restore the Designated Building and bring it up to a sound condition,

including restorative work at primary and secondary facades, and roofs; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound condition; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity." LPC also issued a Certificate of No Effect (CNE-19-04446) dated 7/14/17 finding that the proposed restoration of the Rectory building relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building.

As the proposed exterior alterations to the Development Site constitute a change from the existing condition on the property and would be occurring adjacent to an individually designated property, potential impacts on historic resources would be of concern. The *CEQR Technical Manual* indicates that architectural resources should be surveyed and assessed if the proposed project would result in any of the conditions noted in italics below.

- *New construction, demolition, or significant physical alteration to any building, structure, or object.*

As stated above, the proposed project would not result in any alterations to the LPC designated Rectory of the Church of the Holy Trinity in the Affected Area other than those required to repair damaged elements of the structure as described above. Therefore, the Proposed Actions would not result in any direct impact on this historic resource.

As described above, the Applicant proposes to conduct exterior alterations of the adjacent Rhinelander Building, which is not a designated historic resource. The action would enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) of the Building. Existing exterior HVAC equipment will also be replaced with new equipment that will be screened as required by the ZR. The proposed Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south. It is therefore concluded that the Proposed Actions would not result in any indirect impact on the LPC designated Rectory of the Church of the Holy Trinity.

At a public meeting held on November 1, 2016 by LPC that immediately followed a public hearing on the project, the LPC voted to approve the Applicant's request that a report be issued to CPC pursuant to ZR 74-711 in support of the proposed application. As explained above, LPC issued an MOU letter to the NYC Planning Commission dated 07-06-17 CPC verifying that the Proposed Actions serves a preservation purpose. LPC also issued a Certificate of No Effect (CNE-19-04446) dated 7/14/17 finding that the proposed restoration of the Rectory building relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building.

Based on the above, it is concluded that the Proposed Actions would have no significant adverse affect on the historic character of the Rectory of the Church of the Holy Trinity property or the surrounding area.



- *A change in scale, visual prominence, or visual context of any building, structure, or object or landscape feature. Visual prominence is generally the way in which a building, structure, object, or landscape feature is viewed. Visual context is the character of the surrounding built or natural environment. This may include the following: the architectural components of an area's buildings (e.g., height, scale, proportion, massing, fenestration, ground-floor configuration, style), streetscapes, skyline, landforms, vegetation, and openness to the sky.*

The action would not result in any alterations to the LPC designated Rectory of the Church of the Holy Trinity in the Affected Area other than those required to repair damaged elements of the structure as described above. The Applicant proposes to conduct exterior alterations of the adjacent Rhinelander Building, which is not a designated historic resource. The action would enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) of the Building. Existing exterior HVAC equipment will also be replaced with new equipment that will be screened as required by the ZR.

The project would not result in a change in scale, visual prominence, or visual context relative to the surrounding area. The proposed Rear Terrace enclosure will be minimally visible from the street and will be an attractive enclosure when viewed from the Church, from the rear of the residential buildings along 1<sup>st</sup> Avenue, and from the Brearley School immediately to the south. As explained above, LPC issued an MOU letter to the NYC Planning Commission dated 07-06-17 CPC verifying that the Proposed Actions serves a preservation purpose. LPC also issued a Certificate of No Effect (CNE-19-04446) dated 7/14/17 finding that the proposed restoration of the Rectory building relates harmoniously to the Parsonage of Holy Trinity Church Individual Landmark, returning the Rectory closer to its original appearance and reinforcing the architectural and historic character of the building.

It is therefore concluded that the proposed exterior alterations to the Rhinelander Building under the Proposed Actions would be relatively minor and appropriate to the surroundings. The proposed Rear Terrace enclosure would therefore be appropriate in the context of the surrounding neighborhood.

- *Construction, including but not limited to, excavating vibration, subsidence, dewatering, and the possibility of falling objects.*

LPC-approved construction procedures would be followed to protect the Rectory of the Church of the Holy Trinity from damage from vibration, subsidence, dewatering, or falling objects as part of the proposed repairs to the building as well as from work conducted on the adjacent Rhinelander Building. It is not likely that construction of the proposed Rear Terrace enclosure and the replacement of existing HVAC equipment on the adjacent Rhinelander Building would result in any such impacts. Construction procedures would comply with the NYC Department of Buildings Memorandum Technical Policy and Procedure Notice # 10/88 (TPPN # 10/88) and with the site safety requirements of the 2008 NYC Building Code, as amended, which stipulate that certain procedures be followed for the avoidance of damage to historic and other structures resulting from construction. TPPN # 10/88 pertains to any structure which is a designated NYC Landmark or located within a historic district, or listed on the National Register of Historic Places and is contiguous to or within a lateral distance of 90 feet from a lot under development or alteration.

- *Additions to or significant removal, grading, or replanting of significant historic landscape features.*

Not applicable to the Proposed Actions.

- *Screening or elimination of publicly accessible views.*

Not applicable to the Proposed Actions.

- *Introduction of significant new shadows or significant lengthening of the duration of existing shadows on an historic landscape or on an historic structure if the features that make the structure significant depend on sunlight.*

The proposed repairs to the Rectory of the Church of the Holy Trinity and the proposed exterior alterations to the adjacent Rhinelander Building would not result in an increase in height of either building. In addition, the proposed Rear Terrace enclosure and the installation of new HVAC equipment and screening on the adjacent Rhinelander Building would occur at the rear of the Building and would therefore not cast any new shadows on the façade of the designated Rectory of the Church of the Holy Trinity or the Holy Trinity Church and St. Christopher House. Therefore, on the basis of the *CEQR Technical Manual* criteria above, the project would not result in significant shadows impacts on historic resources.

Based on the above analysis, it is concluded that the proposed repairs to the Rectory of the Church of the Holy Trinity and the proposed exterior alterations to the adjacent Rhinelander Building would be compatible with the historic context provided by the individually designated Rectory of the Church of the Holy Trinity and the Holy Trinity Church and St. Christopher House. No impact to these historic resources would be expected as a result of the Proposed Actions.

The proposed project would not result in any significant adverse impacts to historic or archaeological resources.

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

An assessment of urban design is needed when a project may have effects on any of the elements that contribute to the pedestrian experience of public space. A preliminary assessment is appropriate when there is the potential for a pedestrian to observe, from the street level, a physical alteration beyond that allowed by existing zoning, including the following:

1. Projects that permit the modification of yard, height, and setback requirements;
2. Projects that result in an increase in built floor area beyond what would be allowed 'as-of-right' or in the future without the proposed project.

### Floor Area

The R8B zoning in Manhattan Community District 8 mapped on the Development Site at 350 East 88<sup>th</sup> Street permits a maximum community facility zoning floor area ratio (FAR) of 5.1. The existing Rhineland Building on the property, which is considered to be a community facility use, consists of 14,614 sf of community facility zoning floor area which calculates to an FAR of 2.9. As further explained below, the zoning floor area of the building would decrease to 14,255 sf under the Proposed Actions, resulting in an FAR of 2.80 on the merged lot together with the 3,441 sf Rectory of the Church of the Holy Trinity. (The gross floor area of the building would increase from 17,993 gsf under the existing/no-action conditions to 18,657 gsf under the with-action condition. However, for the purposes of determining an as-of-right development on the site, only zoning floor area is relevant). Therefore, the project would not result in an increase in built floor area beyond what would be allowed as-of-right or in the future without the proposed project.

The Proposed Actions includes the enclosure with glass of two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) that are currently accessible, but not included in the floor area of the building. Such new enclosures would create additional interior tutoring space in the Building. The enclosure of the second floor Rear Terrace involves the removal of the 134 sf of HVAC equipment and replacement of the 192 sf skylight area with a floor. Once enclosed, the Rear Terraces will constitute 1,370 sf of new floor area. However, the overall total floor area of the Rhineland Building will be reduced, because at the same time, the 704 sf fourth floor mezzanine will be demolished, and the floor of the 977 sf "basement" portion on the lower level will be lowered between 14 and 22 inches to match the remainder of the cellar level. These changes to the floor area of the Building along with minor alterations to the mechanical system will result in a 359 sf net reduction in the zoning floor area of the Building from 14,614 sf to 14,255 sf representing an FAR of 2.80 on the merged lot together with the 3,441 sf Rectory of the Church of the Holy Trinity.

### Yard, Height, and Setback Requirements

The Proposed Actions would not result in the modification of any height or setback requirements but would modify yard requirements as follows.

A 312 sf portion of the second, third, and fourth floors within the interior of the Building is located in the required 30-foot rear yard. In addition, 951 sf of the exterior second floor Rear Terrace, containing both accessible terrace space and the skylight, is within the required 30-foot rear yard. Such portions of a building (and terrace) are not permitted within a rear yard and therefore are an existing non-compliance with respect to ZR 23-47 in that they do not observe the required 30 feet (the "Existing Rear Yard Non-Compliance").

The Applicant seeks yard relief to permit the existing rear terraces within the required rear yard to be enclosed, which will require a modification of the 30-foot rear yard requirement of ZR 23-47. 951 sf of the proposed 1,178 sf second floor terrace enclosure (discussed under the Floor Area section above) will be located within the required rear yard. The total area of the Existing Rear Yard Non-Compliance would not be increased by the new glass enclosure but the volume of the Rear Yard Non-Compliance would be increased. In addition, in order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure.

A small portion of the proposed second floor Rear Terrace glass enclosure would be visible along the East 88<sup>th</sup> Street frontage of the property as shown on the attached Drawing Z 200.00 - Exterior Elevations-Proposed (see North Elevation - Proposed) in the Proposed Architectural Plans Appendix. However, this would not be contrary to existing zoning on the property and has been approved by the LPC as further discussed in the Historic and Cultural Resources section above. In addition, the Proposed Actions would not result in the obstruction of publicly accessible views to visual resources that are not allowed by the existing zoning of the property.

Based on the above, an urban design assessment would not be required and the Proposed Actions would not result in significant adverse impacts to urban design or visual resources.

## **17. AIR QUALITY**

### **Introduction**

Under *CEQR*, two potential types of air quality impacts are examined. These are mobile and stationary source impacts. Potential mobile source impacts are those which could result from an increase in traffic in the area, resulting in greater congestion and higher levels of carbon monoxide (CO). Potential stationary source impacts are those that could occur from stationary sources of air pollution, such as the heat and hot water boiler of a proposed development which could adversely affect other buildings in proximity to the proposed development.

### **Proposed HVAC System**

There is an existing antiquated HVAC system that is beyond its serviceable life that is being replaced with a new variable refrigerant system. The existing system consists of one main unit per floor and one thermostatic control zone per floor. The existing system is water cooled and requires a cooling tower. The new system is air cooled and requires no cooling tower. The new system consists of more units that provide more control zones throughout, allowing a thermostat to be provided for each room, as opposed to one thermostat serving multiple rooms on one floor. The units will provide both heating and cooling. The specification sheets for the new condensers (two 16-ton, two 28-ton, and one 30-ton) are included in the Air Quality Appendix to this document. The existing natural gas fired boiler, which vents at the east side of the parlor level of the building and not on the roof, will be used for hot water only.

### **Mobile Source**

Under guidelines contained in the 2014 *CEQR Technical Manual*, and in this area of New York City, projects generating fewer than 170 additional vehicular trips in any given hour are considered as highly unlikely to result in significant mobile source impacts, and do not warrant detailed mobile source air quality studies.

The Applicant is planning to use the existing Rhineland Building on the Development Site as a for-profit educational tutoring and test preparation service (Commercial Educational Use). The establishment would be staffed by approximately 15 full-time administrative staff and 16 full-time tutors who would all be on the premises during regular business hours of 9 am to 6 pm Monday through Friday for one-on-one tutoring sessions. Advantage Testing has enrolled 372 students this year to work with the 16 tutors who are slated to occupy the offices within the Rhineland Building. These 16 tutors meet with 3 students per day on average. The remainder of the individual student meetings are conducted via Skype or telephone, or at a student's home.

A maximum of 16 students would arrive or depart the establishment every two hours and a maximum of 16 students would be in the Building at any one time. Approximately 85% to 90% of the students would be teenagers or individuals in their early twenties. It is anticipated that approximately 80% of the students and 50% of the staff will arrive at and depart from the facility on foot.

On the basis of the above, the Proposed Actions would not result in the generation of anything close to 170 additional vehicular trips in any given hour. The action would enclose with glass the two Rear Terraces (the 2<sup>nd</sup> and 4<sup>th</sup> floor Rear Terraces) of the Rhineland Building in order create additional interior tutoring space in the Building. The action would also repair the damaged

elements of the LPC designated Rectory of the Church of the Holy Trinity in the affected area. Neither of these actions would result in the generation of additional vehicle trips.

No significant adverse mobile source air quality impacts would be generated by the project.

### **Stationary Source**

A stationary source analysis would not be required for the Proposed Actions as the proposed Commercial Educational Use of the Rhinelander Building would be replacing a permitted community facility similar to the non-profit pre-school which previously occupied the Premises (No-Action Scenario). No significant physical changes would occur to the building with the exception of interior alterations necessary to make the Building compatible with the Commercial Educational Use and enclosing the two Rear Terraces with glass. The gross floor area of the building would increase from 17,993 gsf under the existing/no-action conditions to 18,657 gsf under the with-action condition due to the addition of the enclosed Rear Terraces as floor area minus the fourth floor mezzanine to be demolished. The increase of 664 gsf of floor area would represent a nominal increase which would not generate significant additional boiler emissions. In effect, in regards to potential stationary source air quality impacts, the Future with Action condition would be substantially the same as the existing and Future No-Actions conditions on the property.

The potential for significant adverse impacts due to boiler stack emissions from the proposed project is unlikely, and a detailed analysis of stationary source impacts is not required.

### **Conclusion**

The proposed project would not create any significant adverse mobile or stationary source air quality impacts relative to the surrounding area. The sensitive receptor to be developed as the proposed project would not experience any significant adverse air quality impacts from existing development in the surrounding area.

## **19. NOISE**

### **Introduction**

Two types of potential noise impacts are considered under CEQR. These are potential mobile source and stationary source noise impacts. Mobile source impacts are those which could result from a proposed project adding a substantial amount of traffic to an area. Potential stationary source noise impacts are considered when a proposed action would cause a stationary noise source to be operating within 1,500 feet of a receptor, with a direct line of sight to that receptor, if the project would include unenclosed mechanical equipment for building ventilation purposes, or if the project would introduce receptors into an area with high ambient noise levels. The 2014 *CEQR Technical Manual* requires an assessment of a proposed project's potential effects on sensitive noise receptors, including in this instance, the effects on the interior noise levels of education related uses in the subject Rhinelander Building.

### **Mobile Source**

Relative to mobile source impacts, a noise analysis would only be required if a proposed project would at least double existing passenger car equivalent (PCE) traffic volumes along a street on which a sensitive noise receptor (such as a residence, a park, a school, etc.) is located. East 88<sup>th</sup> Street between 1<sup>st</sup> and 2<sup>nd</sup> Avenues would provide vehicular access to the affected area. Multi-family residential uses in buildings ranging from five- to 46-stories, a church and rectory, and the proposed educational use are located along East 88<sup>th</sup> Street between 1<sup>st</sup> and 2<sup>nd</sup> Avenues. East 88<sup>th</sup> Street would therefore be of concern relative to mobile source noise impacts.

A detailed mobile source analysis is typically conducted when PCE values are at least doubled between the no-action and with-action conditions during the worst case expected hour at receptors most likely to be affected by the proposed action. Under the no-action condition, it is assumed that the Rhinelander Building would be sold to another party for occupancy as a permitted community facility similar to the non-profit pre-school which previously occupied the Premises. The Certificate of Occupancy for the Rhinelander Building, #99728 issued December 13, 1991 (the "CO"), identifies a maximum occupancy of 324 persons. Therefore, the No-Action Scenario assumes that the non-profit pre-school would serve approximately 300 pre-school children with 24 teachers and other staff.

Under the with-action condition, the Applicant is planning to use the existing Rhinelander Building on the Development Site as a for-profit educational tutoring and test preparation service (Commercial Educational Use). The establishment would be staffed by approximately 15 full-time administrative staff and 16 full-time tutors who would all be on the premises during regular business hours of 9 am to 6 pm Monday through Friday for one-on-one tutoring sessions. Advantage Testing has enrolled 372 students this year to work with the 16 tutors who are slated to occupy the offices within the Rhinelander Building. These 16 tutors meet with 3 students per day on average. The remainder of the individual student meetings are conducted via Skype or telephone, or at a student's home.

A maximum of 16 students would arrive or depart the establishment every two hours and a maximum of 16 students would be in the Building at any one time. Approximately 85% to 90% of the students would be teenagers or individuals in their early twenties. It is anticipated that approximately 80% of the students and 50% of the staff will arrive at and depart from the facility on foot.

Based on the above, PCE values would decrease between the no-action and the with-action condition during the worst case expected hour at receptors most likely to be affected by the Proposed Actions. In addition, due to the small number of persons who would travel to and from the facility by vehicle and the significant amount of traffic already generated by the existing residential development along East 88<sup>th</sup> Street, it is not anticipated that PCE values on East 88<sup>th</sup> Street or other streets surrounding the Affected Area would be doubled under the Proposed Actions. Therefore, a detailed mobile source analysis is therefore not warranted. No significant adverse mobile source noise impacts would be generated by the project.

### **Stationary Source**

#### *Potential Impacts of Proposed Project on Surrounding Development*

In order to modernize the Building and to serve the new interior space at the rear of the Building, the existing HVAC equipment in the western portion of the second floor Rear Terrace would be removed and new HVAC equipment would be located atop the new second story terrace enclosure within the center of the rear yard. The relocated HVAC equipment would be screened on all sides as required in the ZR, within an 11-foot by 17-foot enclosure that rises approximately 6 feet above the roof of the new terrace enclosure. The building's new HVAC system would be designed to meet all applicable noise regulations (i.e., Subchapter 5, §24-227 of the New York City Noise Control Code, the New York City Department of Buildings Code) and would avoid producing noise that would result in any significant increase in ambient noise levels. The amount of HVAC noise is expected to be significantly reduced as a result of the replacement and reconfiguration of HVAC equipment. In addition, the proposed project would not include any active outdoor recreational space that could result in stationary source noise impacts to the surrounding area.

Therefore, the proposed project would not result in potential stationary source noise impacts to any other buildings in the vicinity of the Development Site.

#### *Potential Impacts of Surrounding Development on the Proposed Project*

The project's for-profit educational tutoring and test preparation service (Commercial Educational Use) is considered to be a Use Group 6 office use for the purposes of this application but due to its educational nature, it would be considered to be a noise sensitive use which could potentially be adversely affected by existing ambient noise in the surrounding area. Per *CEQR Technical Manual* guidance, a stationary source/ambient noise analysis would not be required for the Proposed Actions as the proposed Commercial Educational Use of the Rhinelander Building would be replacing a permitted community facility similar to the non-profit pre-school which previously occupied the Premises (No-Action Scenario).

It should also be noted that the Development Site, the Rhinelander Building, is located in the middle of the block adjacent to church related uses and across the street from five-story multiple dwellings. The Building is screened from noise generated by higher traffic volumes along First Avenue by a 46-story building directly adjacent to it to the east. It is therefore assumed that ambient noise levels in the immediate vicinity of the Development Site are relatively low. Therefore, it is not anticipated that ambient noise levels in the vicinity of the Development Site would result in significant adverse stationary source noise impacts to the proposed development.



## **Conclusion**

The Proposed Actions would not result in any potentially significant adverse stationary or mobile source noise impacts, and further assessment is not warranted.

## **22. CONSTRUCTION**

Based on *CEQR Technical Manual* guidelines, where the duration of construction is expected to be short-term (less than two years), any impacts resulting from construction generally do not require detailed assessment. Construction of the proposed project is expected to be completed within six months. However, a preliminary screening of construction impacts resulting from the project is potentially required because construction activities on the site would be occurring within 400 feet of historic and cultural resources, as identified in the Historic and Cultural Resources section above.

The *CEQR Technical Manual* indicates that construction impacts may occur to historic and cultural resources if in-ground disturbances or vibrations associated with project construction could undermine the foundation or structural integrity of nearby resources. The project would not involve any in-ground disturbance and minimal if any vibrations are anticipated to occur as part of project construction.

A construction assessment may be needed for historic and cultural resources if the project involves construction activities within 400 feet of a historic resource. LPC-approved construction procedures would be followed to protect the Rectory of the Church of the Holy Trinity from damage from vibration, subsidence, dewatering, or falling objects as part of the proposed repairs to the building as well as from work conducted on the adjacent Rhinelander Building. It is not likely that construction of the proposed Rear Terrace enclosure and the replacement of existing HVAC equipment on the adjacent Rhinelander Building would result in any such impacts. Construction procedures would comply with the NYC Department of Buildings Memorandum Technical Policy and Procedure Notice # 10/88 (TPPN # 10/88) and with the site safety requirements of the 2008 NYC Building Code, as amended, which stipulate that certain procedures be followed for the avoidance of damage to historic and other structures resulting from construction. TPPN # 10/88 pertains to any structure which is a designated NYC Landmark or located within a historic district, or listed on the National Register of Historic Places and is contiguous to or within a lateral distance of 90 feet from a lot under development or alteration. No adverse construction impacts would occur to any historic resources within 400 feet of the Development Site.

On the basis of the above analysis, the Proposed Actions would not have any potentially significant adverse construction impacts, and further analysis would not be warranted.

# **APPENDIX**

# **Architectural Plans**























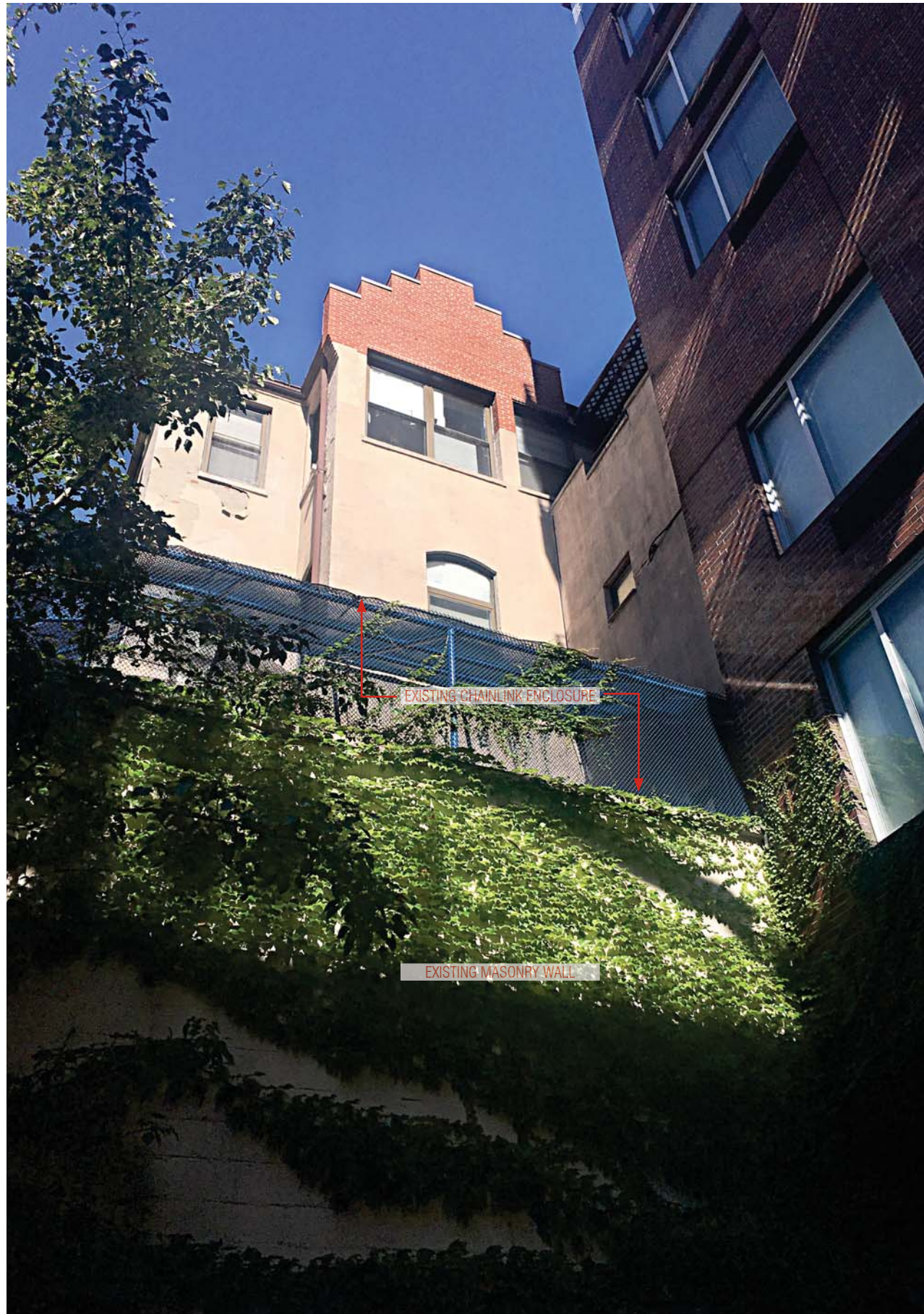












EXISTING VIEW FROM LEIGHTON HOUSE RESIDENCE COURTYARD TO TERRACE

**PROPOSED ENCLOSURE ELEVATION VIEW FROM EAST**



PROPOSED VIEW FROM LEIGHTON HOUSE RESIDENCE COURTYARD TO NEW ENCLOSURE

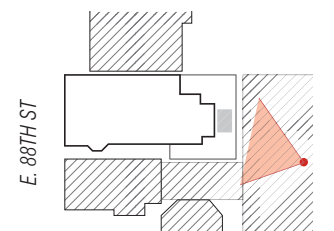


EXISTING VIEW FROM BREARLEY FIELD TO TERRACE



PROPOSED VIEW FROM BREARLEY FIELD TO ENCLOSURE

**PROPOSED ENCLOSURE VIEW FROM SOUTH**

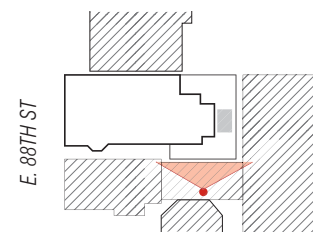




EXISTING VIEW FROM CHURCH ROOF TO TERRACE

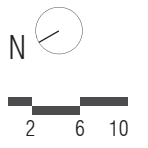
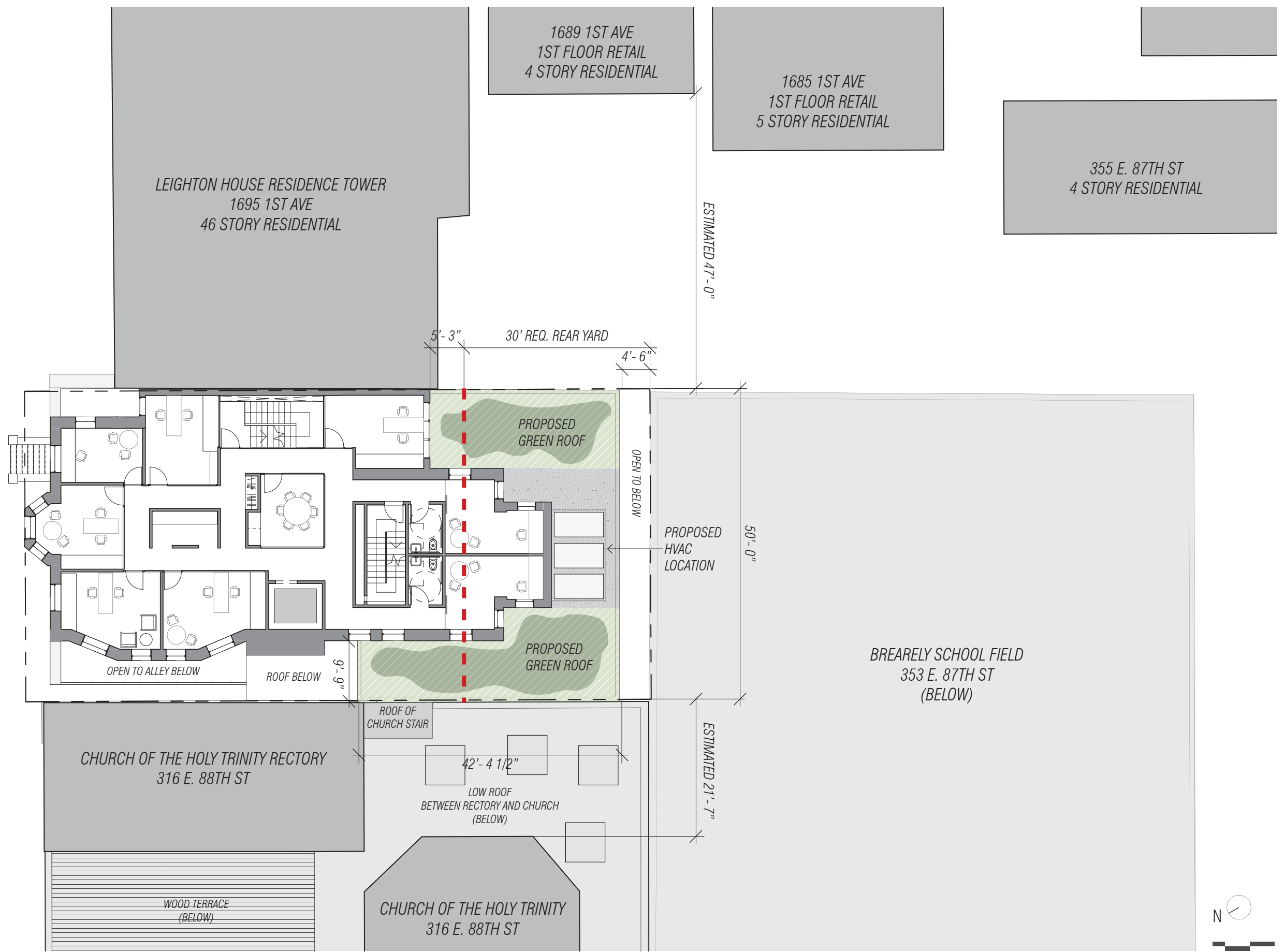


PROPOSED VIEW FROM CHURCH ROOF TO ENCLOSURE



**PROPOSED ENCLOSURE ELEVATION VIEW FROM WEST**

E. 88TH ST



**HISTORIC AND CULTURAL  
RESOURCES APPENDIX**



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



July 6, 2017

ISSUED TO:

**Marisa Lago, Chair**  
**NYC Planning Commission**  
**120 Broadway**  
**31st Floor**  
**New York, NY 10271**

Re: LPC-19-3688  
MOU  
332 EAST 88TH STREET  
Parsonage of the Holy Trinity Church  
Parsonage of Holy Trinity Church, Individual Landmark  
Manhattan  
Block/Lot: 1550 / 34

At the Public Meeting of November 1, 2016, following the Public Hearing of the same date, the Landmarks Preservation Commission ("LPC") voted to issue a report to the City Planning Commission ("CPC") in support of an application for the issuance of a Special Permit, pursuant to Section 74-711 of the Zoning Resolution to permit the Modification of Use for the building at 350 East 88th Street, block 1550, lot 31, which is the neighboring building west of the Holy Trinity Church parsonage, the "Designated Building," as put forward in your application completed on October 6, 2016.

In reviewing this proposal, the Commission noted that the designation report describes 332 East 88th Street, aka the Parsonage of the Holy Trinity Church, as a French Renaissance style parsonage building designed by Barney & Chapman and built in 1897, as part of the Holy Trinity Church complex.

In voting to issue the report, the LPC found that the applicant has agreed to undertake work to restore the Designated Building and bring it up to a sound condition, including restorative work at primary and secondary facades, and roofs; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure that the Designated Building is maintained in a sound condition; and that a restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity. These requirements are relied upon by the CPC to find that a preservation purpose is being met as required by Section 74-711 and similar sections of the Zoning Resolution.

Page 1

Issued: 07/6/17

DOCKET #: LPC-19-3688



Specifically, at the same Public Meeting, the Commission approved certain restorative work as described in LPC 19-4446, including replacing existing copper gutters and leaders in-kind; repairing internal leaders, replacing selective roof slates, replacing selective terra cotta in-kind, repointing chimneys, terra cotta and brick, patching damaged masonry, replacing cast iron vent pipes and drainage pipes in-kind, and replacing missing decorative cresting

In reaching a decision to issue a favorable report to the CPC, the Commission reviewed the application and found that the restorative work will be approved pursuant to LPC 19-4446, will be returning the building closer to its historic appearance; that the restorative work will reinforce the architectural and historic character of the building; that the restorative work will address significant, long-standing water infiltration issues and other preservation issues, and aid in its long term preservation; that the implementation of a cyclical maintenance plan will ensure the continued maintenance of the building in a sound condition; and that the owners of the designated building have committed themselves to establishing a cyclical maintenance plan that will be legally enforceable by the Landmarks Preservation Commission under the provisions of a Restrictive Declaration, which will bind all heirs, successors and assigns, and which will be recorded at the New York County Registrar's Office.

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

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

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



Meenakshi Srinivasan  
Chair

cc: Caroline Kane Levy, Deputy Director; Deirdre A. Carson, Greenberg Traurig, LLP



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



# PERMIT CERTIFICATE OF NO EFFECT

<b>ISSUE DATE:</b> 07/14/17	<b>EXPIRATION DATE:</b> 7/14/2021	<b>DOCKET #:</b> LPC-19-4446	<b>CNE</b> CNE-19-04446
<b>ADDRESS:</b> 332 EAST 88TH STREET		<b>BOROUGH:</b> Manhattan	<b>BLOCK/LOT:</b> 1550 / 34
Parsonage of Holy Trinity Church, Individual Landmark			

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

ISSUED TO:

**Arun Alagappan, President**  
**Advantage Testing, Inc.**  
**210 East 86th Street**  
**New York, NY 10028**

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on July 05, 2017.

The approved work consists of restorative work at all elevations and roof, including removal and in-kind replacement of terra-cotta, brownstone, and brick masonry where required; selective removal and in-kind replacement of decorative roof copper cresting; removal and in-kind replacement of existing copper gutters, leaders, roof flashing, and cast-iron vent and drainage pipes; selective removal and in-kind replacement of slate roof tiles; repairing internal leaders; cutting and repointing of the chimneys, and terra cotta and brick masonry using a Portland cement and lime based mortar; and patching any cracked and damaged masonry with a repair mortar (Jahn); as shown in existing condition photographs, specifications, a conditions report, and drawings G-000.00, through G-004.00, A-100.00, A-200.00, A-201.00, and A-300.00 through A-305.00 dated February 6, 2017, prepared by Judith Saltzman, R.A., and submitted as components of the application.

In reviewing this proposal, the Commission notes that the Parsonage of the Holy Trinity Church Individual Landmark Designation Report describes 332 East 88th Street, as a French Renaissance style parsonage building, designed by Barney & Chapman and built in 1897, as part of the Holy Trinity Church complex. The Commission further notes that this permit is being issued in conjunction with MOU 19-03688, issued on

July 7, 2017 for the Modification of Use for the building at 350 East 88th Street, block 1550, lot 31, the neighboring building west of the Holy Trinity Church parsonage, the site benefitting from the special permit, and that 332 East 88th Street is subject to the Continuing Maintenance Plan obligations of the special permit.

With regard to this proposal, the Commission finds that the proposed work is restorative in nature and will aid in the long-term preservation of the building; that the proposed work will protect the building's structure from future damage due to water infiltration; that replacement terra-cotta, brick, and stone masonry units will match the historic masonry in terms of material, dimensions, design, color, texture, and coursing; that the replacement copper and cast-iron units will match the historic masonry units in terms of material, dimensions, design, and color; that the pointing will be compatible with the historic masonry in terms of composition, and will match the original mortar in terms of color, texture, and tooling; and that the repair mortar will match the historic masonry in terms of design, color, and texture; and that the work will not result in the damage to any significant architectural or historic features of the building. The work, therefore, is approved.

**PLEASE NOTE:** This permit is contingent upon the Commission's review and approval of terra cotta, brick, and brownstone masonry samples, pointing and repair mortar, and cast-iron and copper units prior to the commencement of work. Samples should be installed adjacent to clean, original surface(s) being repaired; allowed to cure; and cleaned of residue. Submit digital photographs of all samples to [estolk@lpc.nyc.gov](mailto:estolk@lpc.nyc.gov) for review. This permit is also contingent on the understanding that the work will be performed by hand and when the temperature remains a constant 45 degrees Fahrenheit or above for a 72 hour period from the commencement of the work.

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

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

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

Meenakshi Srinivasan  
Chair

**PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:**  
Deirdre A. Carson, Greenberg Traurig, LLP

**cc:** Caroline Kane Levy, Deputy Director; Deirdre A. Carson, Greenberg Traurig, LLP

---

RESTRICTIVE DECLARATION

BY

THE CHURCH OF THE HOLY TRINITY

AND

ADVANTAGE TESTING EAST 88<sup>TH</sup>, LLC

---

Dated: \_\_\_\_\_, 201\_

Location: Block 1550, Lots 31 and 34  
New York County, New York

Record & Return to:

Deirdre A. Carson, Esq.  
Greenberg Traurig, LLP  
200 Park Avenue  
New York, New York 10166

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DECLARATION (this "Declaration") made as of the \_\_\_\_ day of \_\_\_\_\_, 201\_ by **THE CHURCH OF THE HOLY TRINITY (Church)**, a religious not-for-profit corporation, having an office at 316 East 88<sup>th</sup> Street, New York, New York 10128 and **ADVANTAGE TESTING EAST 88<sup>TH</sup>, LLC**, a Delaware limited liability company having an office at 210 East 86<sup>th</sup> Street, New York, New York 10028 ("Advantage") (Church and Advantage, collectively, the "Declarant");

WITNESSETH:

WHEREAS, Church is the owner in fee simple of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 1550, Lot 34 on the Tax Map of the City of New York and by the street address 332 East 88<sup>th</sup> Street, and is more particularly described on Exhibit A attached hereto (the "Subject Property") and on which is located a three-story rectory that is accessory to a church building on an adjacent lot (the "Designated Structure");

WHEREAS, the Designated Structure is on the same zoning lot (the "Zoning Lot") as an existing four-story building (the "Benefitted Structure") located on the property at 350 East 88<sup>th</sup> Street, New York, New York, Block 1550, Lot 31 (the "Advantage Property"), more particularly described in Exhibit B attached hereto;

WHEREAS, the Benefitted Structure is not a designated structure and is under separate ownership by Advantage;

WHEREAS, Declarant proposes to renovate the Designated Structure;

WHEREAS, \_\_\_\_\_ (the "Title Company"), a title company, has certified as of \_\_\_\_\_ in the certification that is attached hereto as Exhibit C, that Declarant is the sole party in interest ("Party in Interest"), as that term is defined in the zoning lot definition in Section 12-10 of the Zoning Resolution of the City of New York (the "Zoning Resolution"), to the Subject Property, except for those Parties in Interest, including Advantage, that have waived the

right to execute this Declaration and agreed to subordinate their interests hereto;

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

WHEREAS, as of the date hereof, the Title Company has determined there has been no change in the certification attached as Exhibit C and Declarant represents and warrants that the Parties in Interest listed in the certification are the only known Parties in Interest in the Subject Property as of the date hereof; and

WHEREAS, pursuant to the provisions of Section 3020 of the New York City Charter and Title 25, Chapter 3 of the Administrative Code of the City of New York (the "Landmarks Preservation Law"), the Landmarks Preservation Commission (the "LPC") has designated the Designated Structure;

WHEREAS, Declarant submitted an application (the "Application"), designated No. \_\_\_\_\_, and dated \_\_\_\_\_, to the City Planning Commission of the City of New York (the "CPC") for a special permit (the "Special Permit") under Section 74-711 of the Zoning Resolution to modify the permitted uses within the R8B district in which the Zoning Lot is located to permit the use of the Benefitted Structure for office uses, Use Group 6:

WHEREAS, a public hearing was held on November 1, 2016, and following the public hearing, the LPC voted to issue a report (the "Report") to the CPC as requested for the Application, and a copy of the Report, dated \_\_\_\_\_, is attached hereto as Exhibit D; and

WHEREAS, Section 74-711 requires, inter alia, that a program has been established for continuing maintenance (the "Continuing Maintenance Program") that will result in preservation of the Designated Structure by Declarant; and

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

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

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

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

## **ARTICLE I**

### **DEFINITIONS**

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

“Advantage Property” shall have the meaning given in the recitals to this Declaration.

“Application” shall have the meaning given in the recitals to this Declaration.

“Benefitted Structure” shall have the meaning given in the recitals to this Declaration.

“Buildings Department” shall mean the New York City Department of Buildings,



or any successor to the jurisdiction thereof.

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

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

“Certificate of No Effect” shall mean the Certificate of No Effect, dated as of \_\_\_\_\_, No. \_\_\_\_\_, issued by the LPC on \_\_\_\_\_, a copy of which is attached hereto as Exhibit E.

“City” shall mean the City of New York.

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

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

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

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

“Designated Structure” shall have the meaning given in the recitals to this Declaration.

“Force Majeure” shall mean: strike, lockout or labor dispute(s); inability to obtain materials or reasonable substitutes therefor unless due to any act or failure to act by

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

“Landmarks Preservation Law” shall have the meaning given in the recitals to this Declaration.

“Landmark Work” shall refer to the restoration work on the Designated Structure as described in the Certificate of No Effect that is attached hereto as Exhibit E.

“LPC” shall mean the Landmarks Preservation Commission of New York City or

any successor to the jurisdiction thereof.

“Mortgagee” shall mean (a) the institutional first mortgagee of all or substantially all of the Subject Property listed in Exhibit C or (b) the first mortgagee of a condominium unit within the Designated Structure.

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

“Special Permit” shall mean the special permit described on page \_\_ hereof.

“Special Permit Bulk Modification” shall mean the modification of the Benefitted Structure to permit an increase in the degree of a noncompliance consisting of a rear yard obstruction resulting from the enclosure of an existing terrace on the setback roof above the ground floor of the Benefitted Structure.

“Special Permit Use” shall mean the use of the Benefitted Structure for office use by an educational counseling and test preparation service, which is designated a Use Group 6 use by the Zoning Resolution. Notwithstanding the foregoing, no use shall be deemed a Special Permit Use if it is permitted as-of-right within the Subject Property by the terms of the Zoning Resolution then in effect.

“Zoning Lot” shall mean the zoning lot created by merger of the tax lot constituting the Subject Property with the tax lot occupied by the Benefitted Structure, in accordance with the procedures prescribed by Section 12-10 of the Zoning Resolution.

“Zoning Resolution” shall have the meaning given in the recitals to this Declaration.

## **ARTICLE II**

### **DEVELOPMENT, PRESERVATION, REPAIR AND MAINTENANCE OF THE SUBJECT PROPERTY**

2.1 **Special Permit Drawings**

(a) Declarant covenants and agrees to restore the Designated Structure in accordance with the drawings prepared by Li/Saltzman Architects, attached hereto as Exhibit F.

Title	Drawing Number	Last Revised Date
-------	----------------	-------------------

2.2 **Certificate of Occupancy.**

(a) The issuance of the Special Permit is premised on, inter alia, the performance and/or construction of the Landmark Work on the Designated Structure in conformity with the Certificate of No Effect and the requirements thereof as follows:

(i) Gutters and Leaders: replace all roof gutters located between the dormers and chimneys and at the base of the turret roof; replace all external leaders; internal leaders that are original to the building still functioning to remain.

(ii) Flashing: replace sheet metal flashing at chimney bases and where needed at dormer walls; reuse existing slate roof tiles where removed for flashing work; replace missing section of decorative copper roof cresting; install new wall flashing where leaders pass through terra cotta belt courses; install new sheet metal cap flashing at tops of chimneys; replace sheet metal roof flashing where roof vents are replaced;

(iii) Slate Roof: replace slate roofing tiles where existing tiles are damaged; salvage and reinstall slate tiles as need to install new gutter and roof flashing;

(iv) Terra Cotta: replace terra cotta units at gutter outlets and external leader heads; replace terra cotta units where external leaders pass through terra

cotta belt courses and at other locations where belt courses are damaged; replace damaged terra cotta units at dormers (repair locations as shown in approved plans); replace cracked and-or patched terra cotta at window lintels, jams and transom bars and at other miscellaneous locations; reset displaced third floor terra cotta belt course above main entrance; attach reset units to underlying building structure (steel beam in masonry wall) using stainless steel ties; repoint all terra cotta belt course and gutter course cross joints; repoint all terra cotta at dormer parapets;

(v) Brick Masonry: replace cracked bricks at turret wall and other miscellaneous locations; repoint brick chimneys and masonry walls where indicated on elevation drawings; repoint brick masonry joints where inappropriately repointed and where open or otherwise defective;

(vi) Stone Sills and Caps: Replace or repair damaged stone window sills at select locations; repoint coping stones at chimneys'

(vii) Structural Steel: Scrape and paint steel beam in wall where 3<sup>rd</sup> floor terra cotta is to be reset; scape and paint steel lintels at cracked terra cotta window lintels; remove corroded steel reinforcement and ties at cracked and/or patched terra cotta window jambs;

(viii) Cast Iron Vent and Drain Pipes: Replace roof vent pipes with new cast iron vent pipes, including associated roof flashing; replace cast iron drain pipes at base of leaders at ground level.

(b) Written notice that Advantage is seeking a temporary certificate of occupancy ("TCO") or permanent certificate of occupancy ("PCO") for the Benefitted Structure shall be provided to the LPC by Advantage seven (7) days prior to Advantage

applying for a TCO or PCO. No TCO or PCO which permits a Special Permit Use shall be granted by the Buildings Department or accepted by Advantage until the Chairperson of the LPC shall have given written notice to the Buildings Department that the Landmark Work has been satisfactorily completed by Declarant or the Chairperson of the LPC has certified in writing, as provided in Section 2.2(e) hereof, either that (a) (i) a Force Majeure has occurred and (ii) the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the Subject Property, or (b)(i) Declarant has completed ninety percent of the Landmark Work, including all of the work necessary to maintain the Designated Structure in a watertight condition, and (ii) the Chairperson of the LPC has no objection to the issuance of a TCO for the Property. The completion of the required percentage of the Landmark Work shall be certified to the LPC by the Declarant's Architect for the project. The Chairperson of the LPC shall issue said notice reasonably promptly after Declarant has made written request to the Chairperson of the LPC and has provided documentation to support such request, and the Chairperson of the LPC shall in all events endeavor to issue such written notice to the Buildings Department, or inform Declarant in writing of the reason for not issuing said notice, within twenty-one (21) calendar days after Declarant has requested such written notice. Upon receipt of the written notice from the Chairperson of the LPC that (i) the Landmark Work has been satisfactorily completed, (ii) the Chairperson of the LPC has certified that a Force Majeure has occurred and that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO, or (iii) the Chairperson of the LPC advises the Buildings Department that ninety percent of the Landmark Work has been completed, including all work necessary to maintain the Designated Structure in a watertight

condition, the Buildings Department may grant, and Advantage may accept, a TCO or PCO for the Benefitted Structure. In no event shall Declarant apply for or accept a PCO for the Benefitted Structure unless all Landmark Work has been satisfactorily completed as evidenced by issuance of a Notice of Compliance by the LPC staff. Church shall permit inspection of the Designated Structure by the Chairperson of the LPC and representatives designated by the Chairperson of the LPC in connection with the notices described in this Section 2.2(b).

(c) Upon application by Declarant, notwithstanding anything contained in any other provision of this Declaration, the Chairperson of the LPC, in the exercise of his or her reasonable judgment, may certify that the performance or completion of the Landmark Work is delayed due to a Force Majeure as provided in subparagraph (e) below. In the event that Declarant reasonably believes that full performance of its obligations to complete the Landmark Work has been delayed as a result of a Force Majeure, Declarant shall so notify the Chairperson of the LPC as soon as Declarant learns of such circumstances. Declarant's written notice shall include a description of the condition or event, its cause (if known to Declarant), its probable duration, and in Declarant's reasonable judgment, the impact it is reasonably anticipated to have on the completion of the Landmark Work. The Chairperson of the LPC shall, within twenty-one (21) calendar days of its receipt of Declarant's written notice, (A) certify in writing that a Force Majeure has occurred, including a determination of the expected duration of such delay (the "Delay Notice"), and grant Declarant appropriate relief for such delay, including certifying in writing to the Buildings Department that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for the

Benefitted Structure, or (B) notify Declarant that it does not reasonably believe a Force Majeure has occurred. With respect to any claim that a Force Majeure has delayed the Declarant's performance or completion of the Landmark Work, the LPC may require that Declarant post a bond or other security in a form and amount acceptable to the Chairperson of the LPC in order to ensure that the Landmark Work is completed. Such alternative security could include, without limitation, alternative or additional conditions on the issuance of any PCO or TCO. Any delay caused as the result of a Force Majeure shall be deemed to continue only as long as the Declarant shall be using reasonable efforts to minimize the effects thereof. Upon cessation of the events causing such delay, the Declarant shall promptly recommence the Landmark Work. Notwithstanding anything else to the contrary contained herein, this Declaration shall not be deemed to prohibit or restrict Advantage from (i) applying for or receiving a TCO or a PCO for any floor area in the Benefitted Structure which is not to be used for a Special Permit Use or is not affected by the Special Permit Bulk Modification; (ii) obtaining permits or building notices from the Buildings Department to perform work of any sort, including, without limitation, tenant work, in the Benefitted Structure prior to the completion of the Landmark Work; or (iii) entering into agreements affecting all or any portions of the space in the Benefitted Structure prior to completion of the Landmark Work.

### 2.3 **Preservation, Repair and Maintenance.**

Church hereby covenants and agrees to preserve, repair and maintain the Designated Structure in sound first-class condition, at its own cost and expense, in accordance with this Declaration, the Certificate of No Effect and the Landmarks Preservation Law. It is understood that certain obligations and duties set forth in this



Declaration are above and beyond the requirements of the Landmarks Preservation Law and do not in any way diminish Church's obligation and responsibility to comply with all provisions of the Landmarks Preservation Law.

2.4 **Continuing Maintenance Program.**

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

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

(i) At Church's expense, an inspection (the "Periodic Inspection") shall be made every ten years, on or within two weeks of the anniversary of the issuance by the LPC of the Notice of Compliance pursuant to the Certificate of Appropriateness attached as Exhibit G, and thereafter, shall be made on or within two weeks of every ten year anniversary from the date of such initial inspection. In the event that Advantage has accepted a TCO or a PCO that permits a Special Permit Use and/or Special Permit Bulk Modification without having first received the Notice of Compliance, the first periodic inspection shall be made on or within two weeks of the tenth anniversary date of the issuance of such TCO or PCO and every ten years thereafter. The Periodic Inspection shall be done by a preservation architect, engineer or other qualified person knowledgeable about the preservation of historic structures (the "Preservation Architect") selected by Church from a list prepared by Church and approved by the Chairperson of the LPC as to their credentials, which approval shall not be unreasonably withheld or delayed. Church shall update such listing upon the request of

the Chairperson of the LPC. In addition, Church may periodically supplement the list of Preservation Architects, subject to the approval of the Chairperson of the LPC as to their credentials. The Preservation Architect shall make a thorough inspection of the exterior of the Designated Structure and those portions of the interior, as well as those portions of the mechanical systems that are accessible to and under the control of building management, which, if not properly maintained, could affect the condition of the exterior. The Periodic Inspection shall include (but not be limited to) the following portions of the Designated Structure: masonry, stucco, ironwork, windows, cornice and roof, and mechanical systems including those for plumbing, HVAC, electric and elevators.

(ii) The Preservation Architect will, at the expense of Church, submit a report on each Periodic Inspection (the “Periodic Report”), an illustrative form of which is attached hereto as Exhibit H, to Church and the LPC within forty-five (45) days after each Periodic Inspection. The Periodic Report will outline the existing conditions of the Designated Structure and detail the work which should be performed in order to maintain the Designated Structure, including all architectural features and elements, in a sound first-class condition, including but not limited to caulking, painting, cleaning, repair of architectural features and elements, checking for rust and repointing of masonry.

(iii) Submission of Local Law 10 & 11 Facade Inspection Report. If the Designated Structure is subject to the Facade Inspection & Safety Program (“FISP”) requirements of Title 1 RCNY § 103-04 et seq., a copy of any such report completed pursuant to FISP which is submitted to the Buildings Department, shall also be provided at the same time to the Landmarks Preservation Commission. In the event that

the Designated Structure is found to be unsafe pursuant to such inspection, the Declarant shall notify the LPC simultaneously with the Buildings Department, pursuant to Title 1 RCNY § 103-04(b)(3).

(iv) Except as set forth below, Church shall perform all work which a Periodic Report, Facade Inspection Report or Emergency Incident Report (as defined below) identifies as necessary to maintain the Designated Structure, including architectural features and elements, in sound first-class condition. No work shall be performed except pursuant to a permit from the LPC if a permit is required under the Landmarks Preservation Law. If the LPC determines that a specific item of work or method of work as set forth in a Periodic Report, Facade Inspection Report or Emergency Incident Report would be inappropriate or inadequate, the determination of the LPC shall control and Church need not and shall not have such specific item performed. Church shall have the right to contest in a hearing before the LPC any work called for in a Periodic Report, report pursuant to FISP, or Emergency Incident Report. Church's obligation to perform such contested work or to perform it by a method acceptable to the LPC shall be stayed pending a decision in any such proceeding at the LPC. Church shall proceed with all work which is uncontested during the stay pursuant to a permit.

(v) Unless Church has notified the LPC in writing that it contests any work as set forth in the preceding paragraph, Church shall apply for all necessary permits or certificates from the LPC within forty-five (45) days of receiving the completed report from the Preservation Architect. Church shall use its best efforts to assure that all repairs, rehabilitation, repointing, repainting, and restoration work detailed in the Periodic Report or Emergency Incident Report shall be completed at the earliest

possible date, but no later than within nine (9) months of the date of issue of the certificate or permit from the LPC, or, if no such certificate or permit is required, within nine (9) months of the date of the Periodic Report or Emergency Incident Report. If, for reasons beyond Church's control, as determined by the Chairperson of the LPC, such work cannot be completed within nine (9) months, Church shall apply to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time to be related to the period of delay and shall not be unreasonably withheld.

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

(i) If a fire, the elements, or any other cause whatsoever, damages or destroys the Designated Structure or any part thereof (an "Emergency Incident"), Church shall use all reasonable means to save, protect and preserve the Designated Structure at the time of and following the Emergency Incident, including, but not limited to, acting with an approval from the Chairperson of the LPC or his or her designated representatives to stabilize and prevent further damage to or deterioration of the Designated Structure, and to secure the Subject Property from unauthorized access. Church shall not remove from the Subject Property any debris consisting of exterior features of the Designated Structure without an approval from the Chairperson of the LPC or his or her designated representative. Unless necessitated as a safety precaution as ordered by the Departments of Buildings, Health, Fire or Police, or as an action taken in

response to a life-threatening situation, Church shall not remove any other debris or otherwise clear the Subject Property without the approval of the LPC or its Chairperson.

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

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

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

(v) With regard to the work to be performed pursuant to subparagraph (iii)(B) above, within ninety (90) days of receiving the report of the Preservation Architect, Church shall apply for all necessary permits and certificates from the LPC to repair and restore or to demolish. No work on the exterior of the Designated Structure, and no work on the interior of the Designated Structure which would affect the exterior or which would require the issuance of a permit from the Buildings Department shall be performed except pursuant to a permit from the LPC. If the LPC determines that a recommendation to demolish or to perform a specific item of work or method of work set forth in the report would be inappropriate, using the criteria set forth in the Landmarks Preservation Law, the determination of the LPC shall control and the Church shall not have such specific work performed or be entitled to have the Designated Structure demolished unless Church is obligated to perform such work or demolish the structure in accordance with an "Unsafe Building Notice" issued by the Buildings Department. All repair, restoration, rehabilitation, repointing, and other work provided for in a certificate or permit shall be completed within nine (9) months of the date of issue of such certificate or permit by the LPC. If such work cannot be completed within nine (9) months for reasons beyond Church's control, as determined by the Chairperson of the LPC, Church shall apply in writing to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time which is related to the period of the delay and shall not be unreasonably withheld.

(c) Access to Designated Structure. Church agrees to provide access to the Designated Structure to the LPC and its designated representatives at reasonable times and upon reasonable written notice, except in cases of emergency, in which event

the LPC or its representatives shall have access, if feasible, immediately and without notice, in order to insure that the preservation, repair and maintenance of the Designated Structure is carried out in accordance with this Declaration.

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

## ARTICLE III

### CONDOMINIUM BOARD

#### 3.1 General.

In the event that either the Designated Structure or the Benefitted Structure is converted to a condominium in accordance with Article 9-B of the New York State Real Property Law, the condominium board (“Board”) shall have the responsibility to carry out all of Church’s and/or Advantage’s obligations, as the case may be, and the authority to exercise all of Church’s rights under this Declaration and upon such assumption, Church shall be released from its liability thereunder.

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

#### 3.2 Board.

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

#### 3.3 Condominium Declaration.

Every deed conveying title to all or a partial interest in either the Subject Property or Advantage Property, and every lease of all or substantially all of the Subject Property or Advantage Property, shall contain a recital that the grantee is bound by the terms of the Condominium Declaration and By-laws which shall incorporate an obligation by the Board to comply with the provisions of Article 3 of this Declaration. In addition, every deed, lease, the offering plan, and by-laws shall include the following language:

This building is obligated by a restrictive declaration to be maintained in a



sound, first-class condition in perpetuity. This obligation includes a thorough inspection of the building every ten years and the preparation of an existing conditions report that shall be submitted to the Landmarks Preservation Commission. All work identified in the existing conditions report as necessary to maintain this building in a sound, first-class condition must be expeditiously undertaken.

#### **ARTICLE IV**

#### **EFFECT AND ENFORCEMENT**

##### **4.1 Effective Date.**

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

(b) If the Special Permit is at any time declared invalid or is otherwise voided by final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period

provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such entry, as the case may be, this Declaration shall be automatically canceled without further action by Declarant and shall be of no further force or effect and the CPC shall, if requested by Declarant, provide Declarant with a letter in recordable form stating that the Declaration has been so canceled and is of no further force and effect. In such event, if Advantage has obtained a PCO or TCO allowing the Special Permit Use in and/or the Special Permit Bulk Modification of the Benefitted Structure, Advantage shall promptly, after receipt of such letter, obtain a revised PCO or TCO from the Buildings Department, reflecting the cessation of any such Special Permit Use for the Benefitted Structure and the discontinuance of and plan for removal of the portion of the Benefitted Structure that received the benefit of the Special Permit Bulk Modification.

4.2 **Filing and Recording.**

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

4.3 **Additional Remedies.**

Declarant acknowledges that the City is an interested party to this Declaration,

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

4.4 **Notice and Cure.**

(a) Before any agency, department, commission or other subdivision of the City institutes any proceeding or proceedings to enforce the terms or conditions of this Declaration because of any violation hereof, it shall give Declarant forty-five (45) days written notice of such alleged violation, during which period Declarant shall have the opportunity to effect a cure of such alleged violation. If Declarant commences to effect a cure during such forty-five (45) day period and proceeds diligently towards the effectuation of such cure, the aforesaid forty-five (45) day period shall be extended for so long as Declarant continues to proceed diligently with the effectuation of such cure. The right to notice and cure provided in this subsection shall apply equally to all parties with a fee interest in the Zoning Lot, or any part thereof, including ground lessees; provided the LPC has received notice by said parties in accordance with Section 6.2. Notwithstanding the foregoing, in the event that the Designated Structure or Benefitted Structure is converted to a condominium, the right to notice and cure provided in this subsection shall apply only to the condominium board and to any owner of space occupied by Use Group

6 uses in the Benefitted Structure; provided that the LPC has received notice by said parties in accordance with Section 6.2.

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

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

#### 4.5 **Acknowledgment of Covenants.**

Each of Church and Advantage acknowledges that the restrictions, covenants, easements, obligations and agreements in this Declaration, which are an integral part of the Special Permit, will protect the value and desirability of the Subject Property as well

as benefit the City of New York and all property owners within a one-half mile radius of the Subject Property. The restrictions, covenants, easements, obligations and agreements shall be covenants running with the land enforceable by the City, and shall bind each of Church, Advantage and their respective successors, legal representatives, and assigns.

4.6 **No Other Enforceable Restrictions.**

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

Advantage represents and warrants that there are no other enforceable restrictions of record on the use of the Advantage Property or the Benefitted Structure, nor any present or presently existing future estates or interests in the Advantage Property or the Benefitted Structure, nor any lien, obligation, enforceable covenant, limitation or encumbrance of any kind which precludes, directly or indirectly, imposition on the Advantage Property of the restrictions, covenants, easements and obligations of this Declaration.

4.7 **Governance.**

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

4.8 **Severability.**

In the event that any provision of this Declaration shall be deemed, decreed,

adjudged or determined to be invalid or unlawful by a court of competent jurisdiction and the judgment of such court shall be upheld on final appeal, or the time for further review of such judgment on appeal or by other proceeding has lapsed, such provision shall be severable, and the remainder of this Declaration shall continue to be of full force and effect, provided that in no event shall this Declaration be deemed effective in the event that the Special Permit is deemed or decreed unlawful.

4.9 **Applicability to Other City Agencies.**

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

4.10 **Limitation of Liability.**

(a) Each of Church and Advantage shall be liable in the performance of any term, provision or covenant for which it is responsible under this Declaration, subject to the following sentences and subject to Section 4.12 below. The liability of any

Unit Owner under this Declaration shall be limited to the amount of such Unit Owner's prorated share, based on such Unit Owner's interest in the common elements of the Condominium, of the costs of compliance with this Declaration. For the purposes of this Section 4.10, "Declarant" shall mean "Declarant" as defined in Article I hereof, as well as any principals, disclosed or undisclosed, partners, affiliates, officers, employees, shareholders or directors of Declarant.

(b) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon each of Church and Advantage and any successor-in-interest only for the period during which Church or Advantage or any successor-in-interest is the holder of a fee interest in or is a Party-in-Interest of the Subject Property or the Benefitted Structure, as the case may be, and only to the extent of such fee interest or the interest rendering Church or Advantage a Party-in-Interest. At such time as the Church or Advantage has no further fee interest in a portion of the Zoning Lot and is no longer a Party-in-Interest of the Zoning Lot, such entity's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of its interest. The successors-in-interest in the Subject Property, in the case of the Church, or the Advantage Property, in the case of Advantage, by acceptance of such conveyance automatically shall be deemed to assume Church's or Advantage's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

4.11 **Subordination.**

Each of Church and Advantage shall cause every individual, business organization or other entity that between the date hereof and the date of recordation of this Declaration becomes a Party-in-Interest to the Subject Property, to execute this

Declaration or to subordinate such interest to the Declaration and waive its right to execution. Any mortgage or other lien encumbering the Subject Property after the recording date of this Declaration shall be subject and subordinate hereto.

4.12 **Right to Convey.**

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

**ARTICLE V**

**AMENDMENTS, MODIFICATIONS AND CANCELLATIONS.**

5.1 **Amendment or Cancellation.**

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

5.2 **Minor Modification.**

Notwithstanding Section 5.1 hereof, the Chairperson of the LPC and the Chairperson of the CPC may, by express written consent, administratively approve modifications to the Declaration that the CPC has determined to be minor. Such minor modifications shall not be deemed amendments requiring the approval of the CPC, the



LPC, the City Council or any other agency or department of the City of New York.

5.3 **Recording and Filing.**

Any modification, amendment or cancellation of this Declaration, except pursuant to paragraph 5.5 below, shall be executed and recorded in the same manner as this Declaration. Following any modification, amendment or cancellation, Declarant shall immediately record it and provide one executed and certified true copy thereof to each of the CPC and the LPC and upon failure to so record, permit its recording by the CPC or the LPC at the cost and expense of Advantage.

5.4 **Landmark Work Modification**

In the event that the Landmark Work is modified, pursuant to a future approval by the LPC, with no change to the Special Permit Drawings as described in Article 2 hereof, a notice indicating such modification, subject to approval by counsel for the LPC and CPC, may in lieu of a modification of the Declaration, be recorded in the City Register's Office. Such recordation shall be in accordance with section 5.3 of the Declaration, and proof of recordation shall be provided to CPC and LPC.

5.5 **Surrender or Nullification.**

In the event that Advantage does not use the Benefitted Structure for the Special Permit Use or does not build the configuration of the Benefitted Structure requiring the Special Permit Bulk Modification, or in the event that the Special Permit lapses under Section 11-42 of the Zoning Resolution, Church and Advantage may, together, surrender the Special Permit to the CPC and Advantage may proceed with any use permitted by the Zoning Resolution and in accordance with the Landmarks Preservation Law as if such Special Permit had not been granted. In either of such events, this Declaration shall be

rendered null and void upon recordation of an instrument filed by Declarant discharging them of record, with copies to LPC and CPC, the recordation of which instrument shall constitute a waiver of the right to use the Benefitted Structure pursuant to the Special Permit.

## **ARTICLE VI**

### **MISCELLANEOUS**

#### **6.1 Exhibits.**

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

#### **6.2 Notices.**

All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent, if intended for the Church, to The Church of the Holy Trinity, 316 East 88<sup>th</sup> Street, New York, New York 10128, with a copy to Carter Ledyard & Milburn LLP, 2 Wall Street, New York, New York 10005, Attn: Christopher Rizzo, Esq.; if intended for Advantage, to Advantage Testing East 88<sup>th</sup>, LLC, 210 East 86<sup>th</sup> Street, New York, New York, New York 10028, Attn: Arun Alagappan, with a copy to Greenberg Traurig, LLP, 200 Park Avenue, New York, New York 10166, Attn: Deirdre A. Carson, Esq.; if intended for the CPC, to the CPC at 120 Broadway, New York, New York 10271 (or then-official address), Attn: Chairperson; if intended for the LPC, to the LPC at 1 Centre Street, 9th Floor, New York, New York 10007 (or then-official address), Attn: Chairperson and (d) if intended for the City Council, to the City Council at the Office of the Speaker, City

Council, City Hall, New York, New York 10007. Church or Advantage, as the case may be, or their respective representatives, by notice given as provided in this paragraph 6.2, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, by commercial overnight delivery, or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed, or the following day if sent by overnight delivery, or, if delivered by hand, when actually received. Any notice which is refused or returned as undeliverable when properly addressed, shall be deemed received in accordance with the previous sentence.

6.3 **Indemnification.**

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

6.4 **Enforcement.**

Declarant acknowledges that the City of New York is an interested party to this Declaration and consents to enforcement solely by the City of New York, and by no other

party, administratively, or at law or equity, of the restrictions, covenants, obligations, easements and agreements contained herein.

[SIGNATURE PAGE FOLLOWS]

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

DECLARANT

**THE CHURCH OF THE HOLY TRINITY**

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

**ADVANTAGE TESTING EAST 88<sup>TH</sup>, LLC, a  
Delaware limited liability company**

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

*(Signature Page – Declaration)*



# **AIR QUALITY APPENDIX**

## Samsung DVM S Series, Heat Recovery Condensing Unit

Job Name \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Submitted to \_\_\_\_\_  
 Unit Designation \_\_\_\_\_

Location \_\_\_\_\_  
 Engineer \_\_\_\_\_  
 Reference \_\_\_\_\_ Approval \_\_\_\_\_ Construction \_\_\_\_\_  
 Schedule # \_\_\_\_\_

### System Specifications

Performance	US Ton (nominal)		16
	Capacity (Btu/h)	Nominal / Rated Cooling <sup>1</sup>	192,000 / 184,000
		Nominal / Rated Heating <sup>2</sup>	216,000 / 206,000
	Compressor Modulation Down to (Btu/h)		7,513
	EER	Ducted / Non-Ducted	10.60 / 10.60
	IEER	Ducted / Non-Ducted	21.00 / 23.00
	SCHE	Ducted / Non-Ducted	23.50 / 26.00
High Heat COP	Ducted / Non-Ducted	3.20 / 3.50	

Power	Voltage	(ø)V/Hz	3, 208-230, 60
	Maximum Circuit Breaker (MCCB/ELB/ELCB)		90
	Minimum Circuit Ampacity (MCA)		73
	SCCR	kA	5

Indoor Units	Total Capacity (%)		50 - 130% Of Outdoor Unit Capacity
	Maximum Indoor Unit Quantity		33

Compressor	Type	SSC Scroll X 2
	RLA (A)	28

Refrigerant	R410A Factory Charge (lbs.)	24.25
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Pipe Connections	Liquid X Suction X HP Gas (inches)	5/8 X 1 1/8 X 1 1/8
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Installation Limitation <sup>3</sup>	Max. Distance - ODU to IDU (feet)		656 (722 equivalent)
	Vertical Separation (feet)	ODU to IDU <sup>4</sup>	361
		Highest/Lowest IDU	49
	Total Refrigerant Pipe (feet)		3,280

Condenser Fan	Fan	Type	Propeller X 2
		Output (CFM)	10,948
	Motor	Type	DC
		Output (W)	620 X 2
		FLA (A)	3
	Max. External Static Pressure ("WC)		0.31

Dimensions	W X H X D	Inches	51 X 66 3/4 X 30 1/8
	Weight	lbs.	734.14
	Shipping Weight	lbs.	771.62

Sound Level	dB (A)	Max.	64
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Operating Temperatures	Cooling	*F <sup>5</sup>	5 - 120
	Heating	*F	-13 - 75

Safety Certifications	ETL & ETLc
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Protection Devices	Intelligent logic to ensure proper operation within unit design limitations and operational parameters.		
	High pressure sensor, low pressure sensor, over-voltage protection, compressor over-current protection, current transformer, fan motor voltage protection, fan motor thermal protection, overheat protection, phase detection protection, high voltage fuses		
	Inverter PCB cooling done with liquid refrigerant to maintain optimal and safe operating temperatures.		

### Accessories

Qty.	Model Number	Description
	WHG-T2	Top wind/hail guard (8 - 18 ton outdoor units)
	WHG-SL	Left side wind/hail guard (6 - 16 ton outdoor units)
	WHG-SR	Right side wind/hail guard (6 - 16 ton outdoor units)
	WHG-R2	Rear wind/hail guard (8 - 16 ton outdoor units)
	MIM-B14	External contact control interface module (operation and error output, night silent mode manual activation)

<sup>1</sup> Nominal cooling capacities are based on: Indoor temperature: 80°F DB, 67°F WB. Outdoor temperature: 95°F DB, 75°F WB.

<sup>2</sup> Nominal heating capacities are based on: Indoor temperature: 70°F DB, 60°F WB. Outdoor temperature: 47°F DB, 43°F WB.

<sup>3</sup> Other pipe restrictions and requirements exist. Please consult technical data book or installation manuals for full details regarding limitations and other requirements for vertical separation over 163 feet (outdoor to lowest indoor).

<sup>4</sup> When outdoor unit is lower than indoor units, and vertical separation is greater than 131 feet, additional conditions apply. Please refer to supporting documents at [www.SamsungHVAC.com](http://www.SamsungHVAC.com)

<sup>5</sup> Cooling operation range is 23 - 120°F as standard. Cooling down to 5°F is possible with a modified pipe design. Consult technical documents or Samsung HVAC for more details.



- The Heat Recovery system shall allow simultaneous heating and cooling (conditions apply, refer to technical data book for more information)

#### Compatibility

Only compatible with Samsung DVM S indoor units (AM\*\*\*\*N\*\*\*H\*\*).

#### Construction

The unit shall be galvanized steel with a baked on powder coated finish.

#### Heat Exchanger

The heat exchanger shall be mechanically bonded fin to copper tube.

The aluminum fins of the heat exchanger shall have a protective coating.

Salt spray test method: KS D 9502 (ASTM B117 equivalent) - the heat exchanger showed no unusual rust development to 2,000 hours.

#### Controls

The unit shall be operated via NASA Protocol with controls provided by Samsung

The outdoor unit shall have a removable EEPROM that stores unit serial number, startup information, system settings, system tag/name, and other information.

Controls shall integrate with a BMS system without additional interface modules

Control wiring shall be 16 AWG X 2 shielded wire.

#### Refrigerant System

The compressors shall be Samsung hermetically sealed, inverter driven, direct vapor injected, DC scroll type with soft-start capability.

Vapor injected compressors provide advanced low ambient heating performance.

Refrigerant flow shall be controlled by EEV (electronic expansion valve) throughout the system.

Subcooling devices in system maintain capacity at extreme system refrigerant pipe lengths and minimize refrigerant noise.

Must use with Mode Change Unit(s) for proper operation (MCU-S\*\*\*\*\*).

Optional rotational defrost capability to provide heating while performing defrost operation (modular systems only).

#### Other Features

Asymmetrical scroll design with rotating compressor operation/priority (where applicable).

Advanced oil recovery cycle logic (maximum duration in cool mode: 3 minutes, maximum duration in heat mode: 6 minutes, defrost cycles lasting over 3 minutes are considered oil recovery cycles). Oil recovery operation shall not interrupt heating or cooling operation.

Optional night quiet modes to reduce outdoor unit sound (4 levels) with automatic activation or manual activation (with MIM-B14).

Advanced intelligent defrost logic to significantly reduce defrost cycle frequency by monitoring air resistance across the condenser coil during heating operation to determine defrost operation initiation to prevent unnecessary defrost cycles.

Optional snow blowing logic to prevent snow accumulation on idle outdoor units

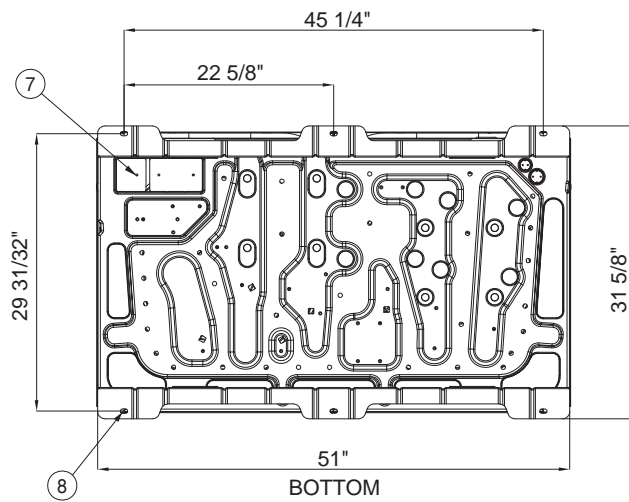
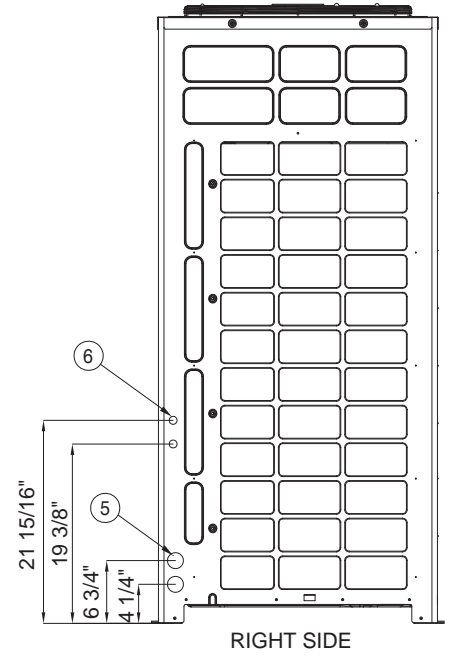
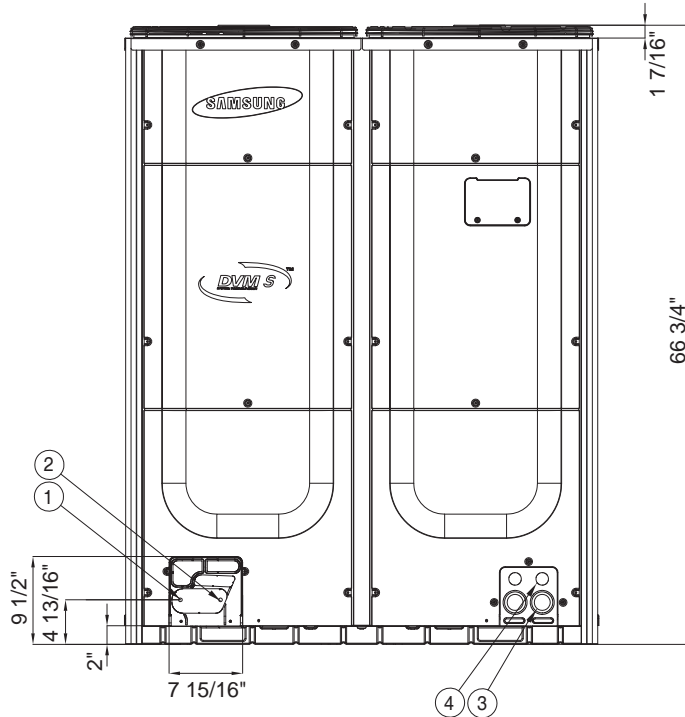
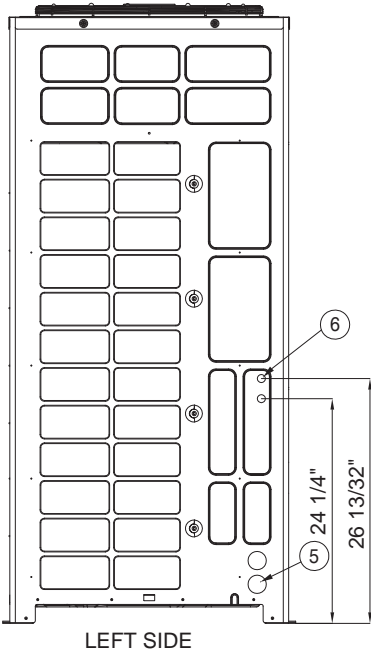
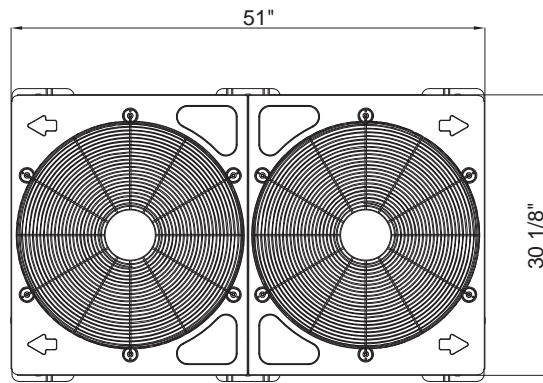
Continuous operation while outdoor unit(s) change between heating and cooling modes (conditions apply).

Maximum current control of outdoor unit(s) to limit current (50% - 100% of design current) adjustable at outdoor unit or central control devices: DMS 2 (MIM-D00AN), DMS 2.5 (MIM-D01AUN), BACnet Gateway (MIM-B17N, MIM-B17BN), LON Gateway (MIM-B18N, MIM-B18BN).

Energy savings options to reduce system energy consumption in heating mode when average indoor room temperatures are greater than average indoor set temperatures.

Samsung HVAC maintains a policy of ongoing development, specifications are subject to change without notice.





- ① Gas refrigerant pipe opening
- ② Liquid refrigerant pipe opening
- ③ Power conduit opening (2 X Ø1 3/4")
- ④ Communication conduit opening (2 X Ø1 3/8")
- ⑤ Power conduit opening (4 X Ø1 3/4")
- ⑥ Communication conduit opening (8 X Ø7/8")
- ⑦ Knock-out opening for refrigerant piping (7" X 3")
- ⑧ Anchor bolt hole (4 X Ø15/32")

## Samsung DVM S Series, Heat Recovery Condensing Unit

Job Name \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Submitted to \_\_\_\_\_  
 Unit Designation \_\_\_\_\_

Location \_\_\_\_\_  
 Engineer \_\_\_\_\_  
 Reference \_\_\_\_\_ Approval \_\_\_\_\_ Construction \_\_\_\_\_  
 Schedule # \_\_\_\_\_

### System Specifications

System	Modules Connected	Module 1 Module 2	AM168HXVAFR/AA AM168HXVAFR/AA
Performance	US Ton (nominal)	28	
	Capacity (Btu/h)	Nominal / Rated Cooling <sup>1</sup>	336,000 / 320,000
		Nominal / Rated Heating <sup>2</sup>	378,000 / 360,000
	EER	Ducted / Non-Ducted	9.80 / 9.80
	IEER	Ducted / Non-Ducted	19.40 / 20.30
	SCHE	Ducted / Non-Ducted	20.50 / 23.10
High Heat COP	Ducted / Non-Ducted	3.20 / 3.20	
Power	Voltage	(ø/V/Hz)	3, 208-230, 60
	Maximum Circuit Breaker (MCCB/ELB/ELCB)		80.0 + 80.0
	Minimum Circuit Ampacity (MCA)		66.0 + 66.0
Indoor Units	Total Capacity (%)	50 - 130% Of Outdoor Unit Capacity	
	Maximum Indoor Unit Quantity	58	
Refrigerant	R410A Factory Charge (lbs.)	48.5	
Pipe Connections	Liquid X Suction X HP Gas (inches)	3/4 X 1 3/8 X 1 1/8	
Installation Limitation <sup>3</sup>	Max. Distance - ODU to IDU (feet)	656 (722 equivalent)	
	Vertical Separation (feet)	ODU to IDU <sup>4</sup>	361
		Highest/Lowest IDU	49
	Total Refrigerant Pipe (feet)	3,280	
Sound Level	dB (A)	Max.	66
	Operating Temperatures	Cooling	*F <sup>5</sup> 5 - 120
Heating		*F -13 - 75	
Safety Certifications	ETL & ETLc		
Protection Devices	Intelligent logic to ensure proper operation within unit design limitations and operational parameters.		
	High pressure sensor, low pressure sensor, over-voltage protection, compressor over-current protection, current transformer, fan motor voltage protection, fan motor thermal protection, overheat protection, phase detection protection, high voltage fuses		
	Inverter PCB cooling done with liquid refrigerant to maintain optimal and safe operating temperatures.		



• The Heat Recovery system shall allow simultaneous heating and cooling (conditions apply, refer to technical data book for more information)

**Compatibility**  
 Only compatible with Samsung DVM S indoor units (AM\*\*\*\*N\*\*\*H\*\*\*).

**Construction**  
 The unit shall be galvanized steel with a baked on powder coated finish.

**Heat Exchanger**  
 The heat exchanger shall be mechanically bonded fin to copper tube.

The aluminum fins of the heat exchanger shall have a protective coating.

Salt spray test method: KS D 9502 (ASTM B117 equivalent) - the heat exchanger showed no unusual rust development to 2,000 hours.

**Controls**  
 The unit shall be operated via NASA Protocol with controls provided by Samsung

The outdoor unit shall have a removable EEPROM that stores unit serial number, startup information, system settings, system tag/name, and other information.

Controls shall integrate with a BMS system without additional interface modules

Control wiring shall be 16 AWG X 2 shielded wire.

**Refrigerant System**  
 The compressors shall be Samsung hermetically sealed, inverter driven, direct vapor injected, DC scroll type with soft-start capability.

Vapor injected compressors provide advanced low ambient heating performance.

Refrigerant flow shall be controlled by EEV (electronic expansion valve) throughout the system.

Subcooling devices in system maintain capacity at extreme system refrigerant pipe lengths and minimize refrigerant noise.

Must use with Mode Change Unit(s) for proper operation (MCU-S\*\*\*\*).

Optional rotational defrost capability to provide heating while performing defrost operation (modular systems only).

**Other Features**  
 Asymmetrical scroll design with rotating compressor operation/priority (where applicable).

Advanced oil recovery cycle logic (maximum duration in cool mode: 3 minutes, maximum duration in heat mode: 6 minutes, defrost cycles lasting over 3 minutes are considered oil recovery cycles). Oil recovery operation shall not interrupt heating or cooling operation.

Optional night quiet modes to reduce outdoor unit sound (4 levels) with automatic activation or manual activation (with MIM-B14).

Advanced intelligent defrost logic to significantly reduce defrost cycle frequency by monitoring air resistance across the condenser coil during heating operation to determine defrost operation initiation to prevent unnecessary defrost cycles.

Optional snow blowing logic to prevent snow accumulation on idle outdoor units

Continuous operation while outdoor unit(s) change between heating and cooling modes (conditions apply).

Maximum current control of outdoor unit(s) to limit current (50% - 100% of design current) adjustable at outdoor unit or central control devices: DMS 2 (MIM-D00AN), DMS 2.5 (MIM-D01AUN), BACnet Gateway (MIM-B17N, MIM-B17BN), LON Gateway (MIM-B18N, MIM-B18BN).

Energy savings options to reduce system energy consumption in heating mode when average indoor room temperatures are greater than average indoor set temperatures.

### Accessories

Qty.	Model Number	Description
1	MXJ-TA3819M	Outdoor unit tee (liquid and suction fittings, ≤ 461,000 Btu/h )
1	MXJ-TA3100M	Outdoor unit tee (HP gas fitting, ≤ 461,000 Btu/h)
	WHG-T2	Top wind/hail guard (8 - 18 ton outdoor units)
	WHG-SL	Left side wind/hail guard (6 - 16 ton outdoor units)
	WHG-SR	Right side wind/hail guard (6 - 16 ton outdoor units)
	WHG-R2	Rear wind/hail guard (8 - 16 ton outdoor units)
	MIM-B14	External contact control interface module (operation and error output, night silent mode manual activation)

<sup>1</sup> Nominal cooling capacities are based on: Indoor temperature: 80°F DB, 67°F WB. Outdoor temperature: 95°F DB, 75°F WB.

<sup>2</sup> Nominal heating capacities are based on: Indoor temperature: 70°F DB, 60°F WB. Outdoor temperature: 47°F DB, 43°F WB.

<sup>3</sup> Other pipe restrictions and requirements exist. Please consult technical data book or installation manuals for full details regarding limitations and other requirements for vertical separation over 163 feet (outdoor to lowest indoor).

<sup>4</sup> When outdoor unit is lower than indoor units, and vertical separation is greater than 131 feet, additional conditions apply. Please refer to supporting documents at [www.SamsungHVAC.com](http://www.SamsungHVAC.com)

<sup>5</sup> Cooling operation range is 23 - 120°F as standard. Cooling down to 5°F is possible with a modified pipe design. Consult technical documents or Samsung HVAC for more details.

Samsung HVAC maintains a policy of ongoing development, specifications are subject to change without notice.

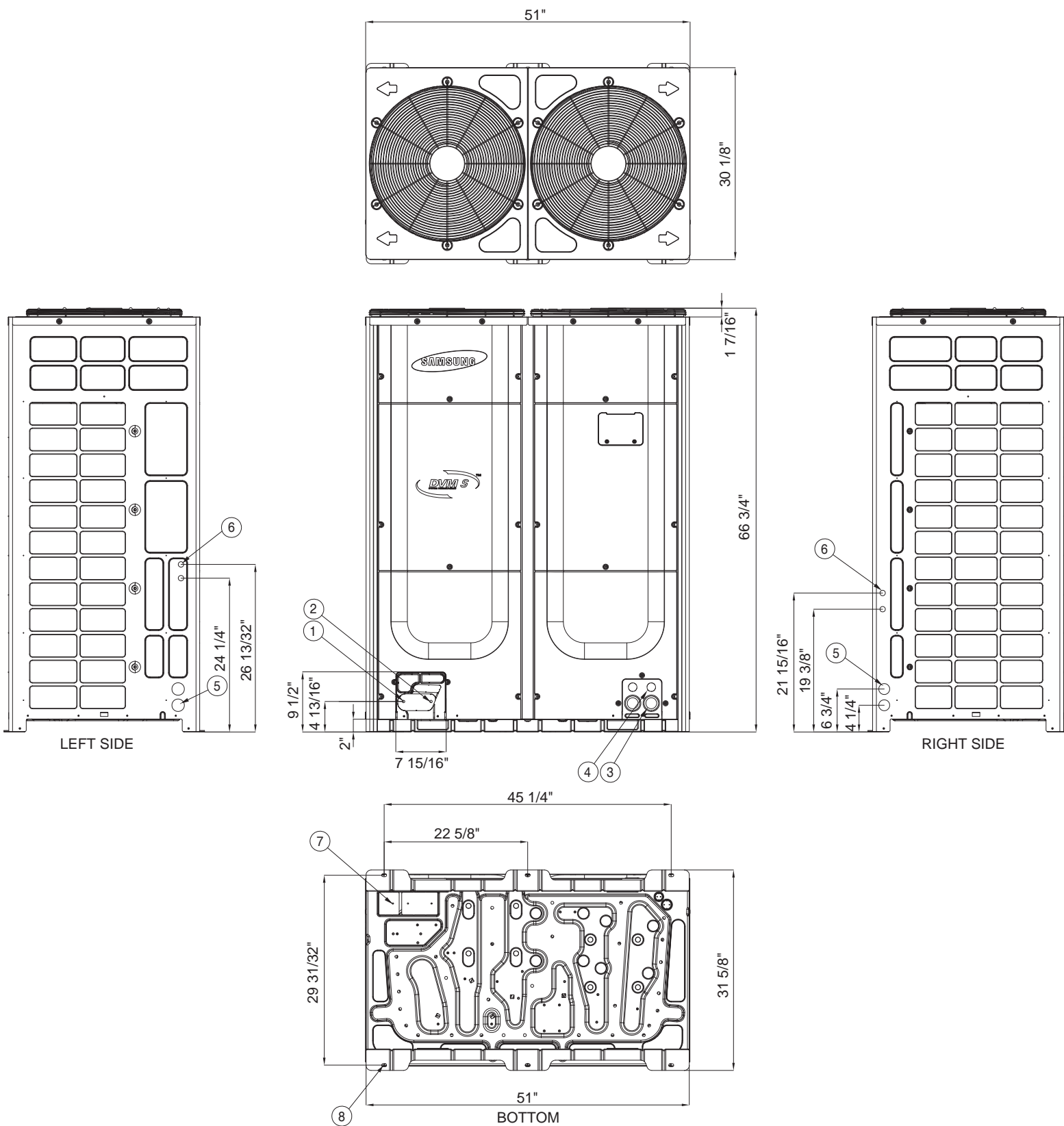
**Module Specifications**

Module Model Number			AM168HXVAFR/AA	AM168HXVAFR/AA
Performance	US Ton (nominal)		14	14
	Capacity (Btu/h)	Nominal / Rated Cooling <sup>1</sup>	168,000 / 160,000	168,000 / 160,000
		Nominal / Rated Heating <sup>2</sup>	189,000 / 180,000	189,000 / 180,000
	Compressor Modulation Down to	Btu/h	7,513	7,513
Power	Voltage	(ø)V/Hz	3,3,208 230,60	3,3,208 230,60
	Maximum Circuit Breaker (MCCB/ELB/ELCB)		80	80
	Minimum Circuit Ampacity (MCA)		66	66
	SCCR	kA	5	5
Compressor	Type		SSC Scroll X 2	SSC Scroll X 2
	RLA	A	24	24
Refrigerant	R410A Factory Charge	lbs.	24.25	24.25
Pipe Connections	Liquid X Suction X HP Gas (inches)	inches	5/8 X 1 1/8 X 7/8	5/8 X 1 1/8 X 7/8
Condenser Fan	Fan	Type	Propeller	Propeller
		Output (CFM)	10,948	10,948
	Motor	Type	DC	DC
		Output (W)	620 X 2	620 X 2
		FLA (A)	3.0	3.0
Max. External Static Pressure	"WC	0.31	0.31	
Dimensions	W X H X D	Inches	51 X 66 3/4 X 30 1/8	51 X 66 3/4 X 30 1/8
	Weight	lbs.	716.5	716.5
	Shipping Weight	lbs.	753.98	753.98
Sound Level	dB (A)	Max.	63	63

<sup>1</sup> Nominal cooling capacities are based on: Indoor temperature: 80°F DB, 67°F WB. Outdoor temperature: 95°F DB, 75°F WB.

<sup>2</sup> Nominal heating capacities are based on: Indoor temperature: 70°F DB, 60°F WB. Outdoor temperature: 47°F DB, 43°F WB.

Samsung HVAC maintains a policy of ongoing development, specifications are subject to change without notice.



- |   |  |
|---|--|
| ① Gas refrigerant pipe opening                | ⑤ Power conduit opening (4 X Ø1 3/4")                |
| ② Liquid refrigerant pipe opening             | ⑥ Communication conduit opening (8 X Ø7/8")          |
| ③ Power conduit opening (2 X Ø1 3/4")         | ⑦ Knock-out opening for refrigerant piping (7" X 3") |
| ④ Communication conduit opening (2 X Ø1 3/8") | ⑧ Anchor bolt hole (4 X Ø15/32")                     |

Samsung DVM S Series, Heat Pump Condensing Unit

Job Name \_\_\_\_\_  
 Purchaser \_\_\_\_\_  
 Submitted to \_\_\_\_\_  
 Unit Designation \_\_\_\_\_

Location \_\_\_\_\_  
 Engineer \_\_\_\_\_  
 Reference \_\_\_\_\_ Approval \_\_\_\_\_ Construction \_\_\_\_\_  
 Schedule # \_\_\_\_\_

**System Specifications**

System	Modules Connected	Module 1 Module 2	AM168HXVAFH/AA AM192HXVAFH/AA
Performance	US Ton (nominal)	30	
	Capacity (Btu/h)	Nominal / Rated Cooling <sup>1</sup>	360,000 / 344,000
		Nominal / Rated Heating <sup>2</sup>	405,000 / 386,000
	EER	Ducted / Non-Ducted	9.70 / 9.70
	IEER	Ducted / Non-Ducted	18.90 / 20.00
High Heat COP	Ducted / Non-Ducted	3.20 / 3.20	
Power	Voltage	(ø)V/Hz	3, 208-230, 60
	Maximum Circuit Breaker (MCCB/ELB/ELCB)	80.0 + 90.0	
	Minimum Circuit Ampacity (MCA)	66.0 + 73.0	
Indoor Units	Total Capacity (%)	50 - 130% Of Outdoor Unit Capacity	
	Maximum Indoor Unit Quantity	62	
Refrigerant	R410A Factory Charge (lbs.)	48.5	
Pipe Connections	Liquid X Suction (inches)	3/4 X 1 5/8	
Installation Limitation <sup>3</sup>	Max. Distance - ODU to IDU (feet)	656 (722 equivalent)	
	Vertical Separation (feet)	ODU to IDU <sup>4</sup>	361
		Highest/Lowest IDU	164
	Total Refrigerant Pipe (feet)	3,280	
Sound Level	dB (A)	Max.	66
Operating Temperatures	Cooling	*F	23 - 120
	Heating	*F	-13 - 75
Safety Certifications	ETL & ETLc		



**Compatibility**

Only compatible with Samsung DVM S indoor units (AM\*\*\*\*N\*\*\*H\*\*\*).

**Construction**

The unit shall be galvanized steel with a baked on powder coated finish.

**Heat Exchanger**

The heat exchanger shall be mechanically bonded fin to copper tube.

The aluminum fins of the heat exchanger shall have a protective coating.

Salt spray test method: KS D 9502 (ASTM B117 equivalent) - the heat exchanger showed no unusual rust development to 2,000 hours.

**Controls**

The unit shall be operated via NASA Protocol with controls provided by Samsung

The outdoor unit shall have a removable EEPROM that stores unit serial number, startup information, system settings, system tag/name, and other information.

Controls shall integrate with a BMS system without additional interface modules

Control wiring shall be 16 AWG X 2 shielded wire.

**Refrigerant System**

The compressors shall be Samsung hermetically sealed, inverter driven, direct vapor injected, DC scroll type with soft-start capability.

Vapor injected compressors provide advanced low ambient heating performance.

Refrigerant flow shall be controlled by EEV (electronic expansion valve) throughout the system.

Subcooling devices in system maintain capacity at extreme system refrigerant pipe lengths and minimize refrigerant noise.

**Other Features**

Asymmetrical scroll design with rotating compressor operation/priority (where applicable).

Advanced oil recovery cycle logic (maximum duration in cool mode: 3 minutes, maximum duration in heat mode: 6 minutes, defrost cycles lasting over 3 minutes are considered oil recovery cycles). Oil recovery operation shall not interrupt heating or cooling operation.

Optional night quiet modes to reduce outdoor unit sound (4 levels) with automatic activation or manual activation (with MIM-B14).

Advanced intelligent defrost logic to significantly reduce defrost cycle frequency by monitoring air resistance across the condenser coil during heating operation to determine defrost operation initiation to prevent unnecessary defrost cycles.

Optional snow blowing logic to prevent snow accumulation on idle outdoor units

Continuous operation while outdoor unit(s) change between heating and cooling modes (conditions apply).

Maximum current control of outdoor unit(s) to limit current (50% - 100% of design current) adjustable at outdoor unit or central control devices: DMS 2 (MIM-D00AN), DMS 2.5 (MIM-D01AUN), BACnet Gateway (MIM-B17N, MIM-B17BN), LON Gateway (MIM-B18N, MIM-B18BN).

Energy savings options to reduce system energy consumption in heating mode when average indoor room temperatures are greater than average indoor set temperatures.

Protection Devices	Intelligent logic to ensure proper operation within unit design limitations and operational parameters.		
	High pressure sensor, low pressure sensor, over-voltage protection, compressor over-current protection, current transformer, fan motor voltage protection, fan motor thermal protection, overheat protection, phase detection protection, high voltage fuses		
	Inverter PCB cooling done with liquid refrigerant to maintain optimal and safe operating temperatures.		

**Accessories**

Qty.	Model Number	Description
1	MXJ-TA3819M	Outdoor unit tee (liquid and suction fittings, ≤ 461,000 Btu/h )
	WHG-T2	Top wind/hail guard (8 - 18 ton outdoor units)
	WHG-SL	Left side wind/hail guard (6 - 16 ton outdoor units)
	WHG-SR	Right side wind/hail guard (6 - 16 ton outdoor units)
	WHG-R2	Rear wind/hail guard (8 - 16 ton outdoor units)
	LACH-2	Low ambient cooling hood (large chassis, 2 required)
	MCM-C200	Heat pump mode selector switch
	MIM-B14	External contact control interface module (operation and error output, night silent mode manual activation)

<sup>1</sup> Nominal cooling capacities are based on: Indoor temperature: 80°F DB, 67°F WB. Outdoor temperature: 95°F DB, 75°F WB.

<sup>2</sup> Nominal heating capacities are based on: Indoor temperature: 70°F DB, 60°F WB. Outdoor temperature: 47°F DB, 43°F WB.

<sup>3</sup> Other pipe restrictions and requirements exist. Please consult technical data book or installation manuals for full details regarding limitations and other requirements for vertical separation over 163 feet (outdoor to lowest indoor).

<sup>4</sup> When outdoor unit is lower than indoor units, and vertical separation is greater than 131 feet, additional conditions apply. Please refer to supporting documents at [www.SamsungHVAC.com](http://www.SamsungHVAC.com)

Samsung HVAC maintains a policy of ongoing development, specifications are subject to change without notice.



**Module Specifications**

Module Model Number			AM168HXVAFH/AA	AM192HXVAFH/AA
Performance	US Ton (nominal)		14	16
	Capacity (Btu/h)	Nominal / Rated Cooling <sup>1</sup>	168,000 / 160,000	192,000 / 184,000
		Nominal / Rated Heating <sup>2</sup>	189,000 / 180,000	216,000 / 206,000
	Compressor Modulation Down to	Btu/h	7,513	7,513
Power	Voltage	(ø)V/Hz	3,3,208 230,60	3,3,208 230,60
	Maximum Circuit Breaker (MCCB/ELB/ELCB)		80	90
	Minimum Circuit Ampacity (MCA)		66	73
	SCCR	kA	5	5
Compressor	Type		SSC Scroll X 2	SSC Scroll X 2
	RLA	A	24.0	28
Refrigerant	R410A Factory Charge	lbs.	24.25	24.25
Pipe Connections	Liquid X Suction (inches)	inches	5/8 X 1 1/8	5/8 X 1 1/8
Condenser Fan	Fan	Type	Propeller	Propeller
		Output (CFM)	10,948	10,948
	Motor	Type	DC	DC
		Output (W)	620 X 2	620 X 2
		FLA (A)	3.0	3.0
Max. External Static Pressure	"WC	0.31	0.31	
Dimensions	W X H X D	Inches	51 X 66 3/4 X 30 1/8	51 X 66 3/4 X 30 1/8
	Weight	lbs.	716.5	734.14
	Shipping Weight	lbs.	753.98	771.62
Sound Level	dB (A)	Max.	63	64

<sup>1</sup> Nominal cooling capacities are based on: Indoor temperature: 80°F DB, 67°F WB. Outdoor temperature: 95°F DB, 75°F WB.

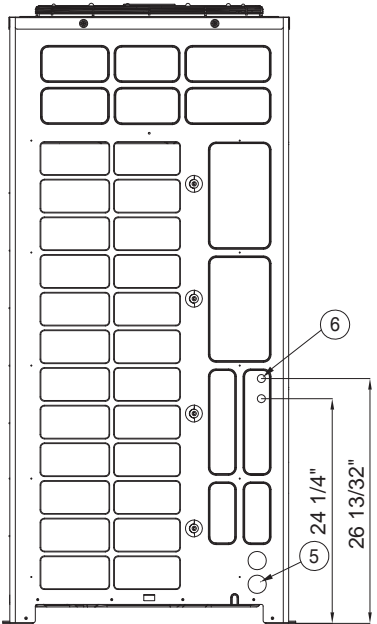
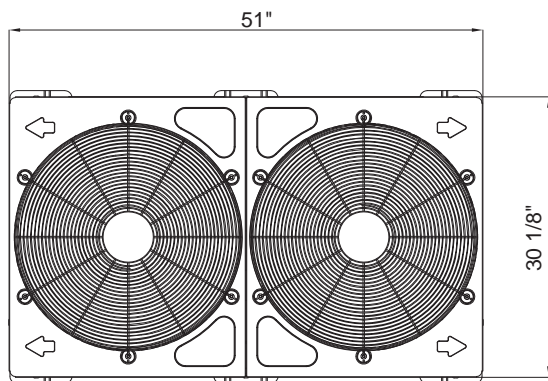
<sup>2</sup> Nominal heating capacities are based on: Indoor temperature: 70°F DB, 60°F WB. Outdoor temperature: 47°F DB, 43°F WB.

Samsung HVAC maintains a policy of ongoing development, specifications are subject to change without notice.

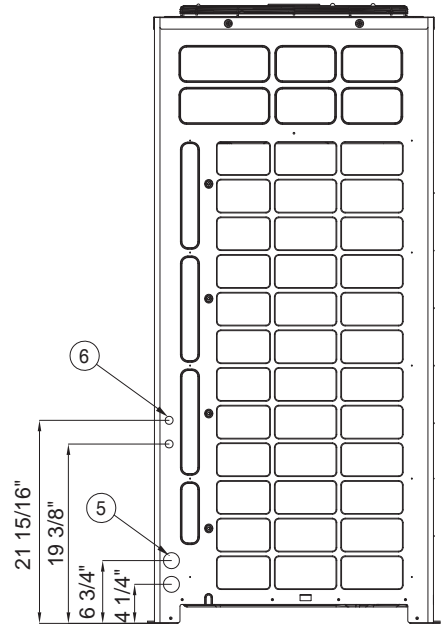
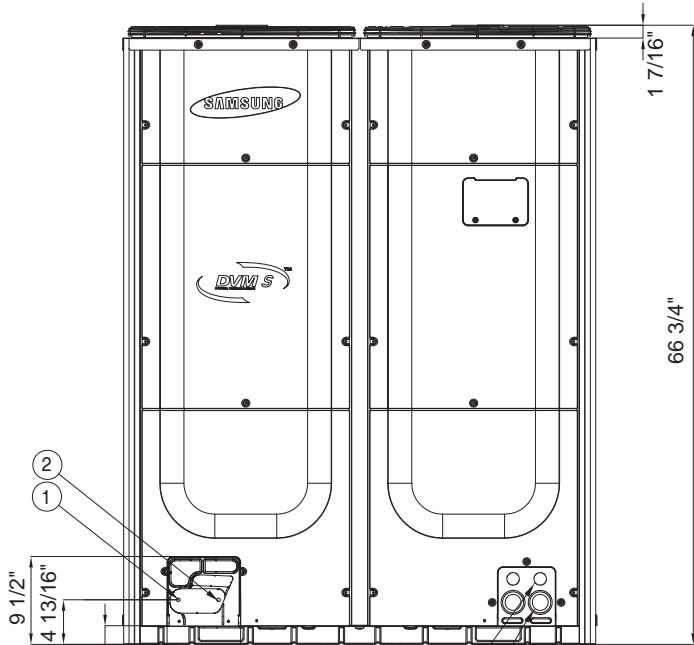
SUBMITTAL AM360JXVAFH/AA

Samsung DVM S Series, Heat Pump Condensing Unit

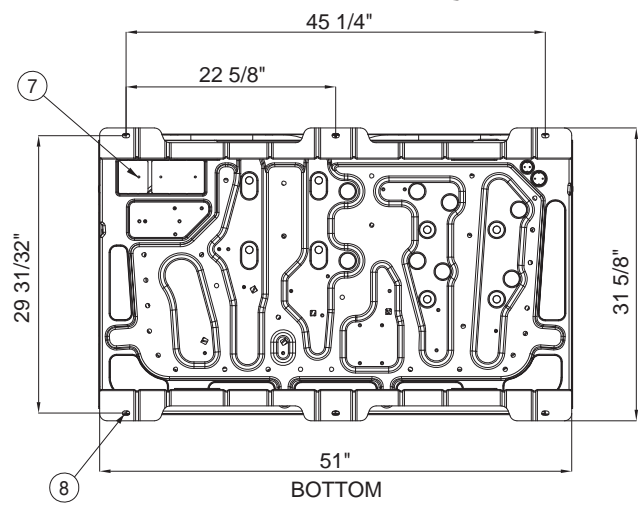
AM168HXVAFH/AA, AM192HXVAFH/AA Dimensional Drawing



LEFT SIDE



RIGHT SIDE



BOTTOM

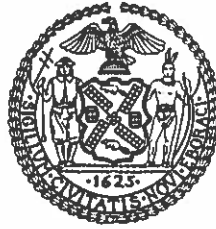
- ① Gas refrigerant pipe opening
- ② Liquid refrigerant pipe opening
- ③ Power conduit opening (2 X Ø1 3/4")
- ④ Communication conduit opening (2 X Ø1 3/8")
- ⑤ Power conduit opening (4 X Ø1 3/4")
- ⑥ Communication conduit opening (8 X Ø7/8")
- ⑦ Knock-out opening for refrigerant piping (7" X 3")
- ⑧ Anchor bolt hole (4 X Ø15/32")

**PROJECT  
CORRESPONDENCE  
APPENDIX**



James G. Clynes  
Chairman

Latha Thompson  
District Manager



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## The City of New York Manhattan Community Board 8

October 20, 2016

Hon. Meenakshi Srinivasan, Chair  
NYC Landmarks Preservation Commission  
Municipal Building  
One Centre Street, 9<sup>th</sup> Floor  
New York, NY 10007

**Re: 332 East 88th Street-Individual Landmark**

Dear Chair Srinivasan:

At the Full Board meeting on Wednesday, October 19, 2016, the board unanimously adopted the following resolution regarding **332 East 88th Street-(between First and Second Avenues)-Individual Landmark-Li Saltzman Architects**-French Renaissance style rectory building associated with The Church of the Holy Trinity, designed by Barney & Chapman and constructed in 1897. Application for the restoration of the exterior façades and roof, and application for a report pursuant to Section 74-711 of the Zoning Resolution for a change of use and modification of bulk to permit increase in degree of non-compliance of rear yard obstruction for 350 East 88th Street.

**WHEREAS** 350 East 88<sup>th</sup> Street is in an R8B zone;

**WHEREAS** Advantage Testing, a for-profit tutoring and counseling company, has purchased 350 East 88<sup>th</sup> Street, most recently the home of the Children's Aid Society;

**WHEREAS** Advantage Testing will continue the legacy of the educational entities that preceded it in the building by providing tutoring and counseling for students of high school and college age;

**WHEREAS** Advantage Testing has a 501C3 Foundation that provides scholarships and/or pro bono tutoring and counseling for students whose families cannot afford the tuition;

**WHEREAS** Advantage Testing requires a Special Permit to provide tutoring and counseling services in the R8B district because of its for-profit status;

**WHEREAS** there is an application for the restoration of the exterior facades and roof of the Rectory of the Church of the Holy Trinity;

**WHEREAS** Advantage Testing will fund the restoration of the exterior facades of the Rectory and partially fund the continuing maintenance program;

**WHEREAS** there are two components to the application for a report pursuant to Section 74-711 of the Zoning Resolution: a change of use to enable a for-profit tutoring and counseling service and a modification of bulk to permit an increase in the degree of non-compliance in the rear yard by replacing an outdoor space enclosed with a metal mesh to an indoor space enclosed with glass;

**WHEREAS** Advantage Testing and the Church of the Holy Trinity see this as a partnership from which both parties will benefit;

**WHEREAS** 51 percent of the work of Advantage Testing is with students from Community Board 8;

**WHEREAS** the Rectory provides space for a variety of meetings and community events;

**WHEREAS** The Rectory, which was built in 1897, has had ad hoc repairs to stop the leakage and the deterioration of the façade;

**WHEREAS** these repairs have only provided temporary relief;

**WHEREAS** the Rectory is an individual landmark separate and apart from the remainder of the Church;

**WHEREAS** the four facades of the Rectory have similar problems;

**WHEREAS** the materials of the facades are terra cotta, iron spot Roman brick, copper cornices; and red slate roofs;

**WHEREAS** the most serious water penetration is at the eaves where the terra cotta and copper have failed;

**WHEREAS** the original terra cotta gutters with copper linings now have tar covering membranes that have failed;

**WHEREAS** other problems include a loss of detail at the dormers; cracking in terra cotta sills; cracked terracotta units, and cracked brick masonry units;

**WHEREAS** leakage through the façade has caused unsightly conditions on the interior;

**WHEREAS** the condition of the façades has reached a critical juncture in that water that is penetrating the façades is causing the corrosion of the steel framing which, in turn, is causing portions of the façade to move outwards from the building;

**WHEREAS** the repairs to the façade and roof will be in kind in that the original materials will be replicated: for example, terracotta will be replaced with terracotta.

**WHEREAS** terracotta and brick will be removed to reveal steel that is corroding; whereas the steel will be cleaned and coated; whereas the terracotta and brick will be replaced; whereas those areas that enabled leakage will be rebuilt so that water can no longer penetrate the facades and attack the steel;

**WHEREAS** the agreement between the parties will include restrictive declarations against both properties to include the Special Permit allowing the educational use and the establishment of the continuing maintenance program;

**WHEREAS** if Advantage sells the building and the educational use continues, the terms of the agreement remain in force;

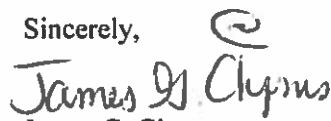
**WHEREAS** if Advantage or a subsequent owner sells the 350 East 88<sup>th</sup> Street building to an owner who will not continue the educational use, the Special Permit and the new non-compliance are revoked and the then current zoning will govern the use and bulk of the building.

**WHEREAS** the benefits of the 74-711 are balanced in that Advantage obtains a Special Permit for educational use and a non-compliance in the rear yard – and the Church of the Holy Trinity has the exterior of the Rectory restored and a maintenance program in place;

**THEREFORE** be it resolved that the application for the restoration of the exterior facades and roof of the Rectory of the Church of the Holy Trinity, and the application for a report pursuant to Section 74-711 of the Zoning Resolution for a change of use and modification of bulk to permit an increase in the non-compliance in the rear yard of the 350 East 88<sup>th</sup> Street Building are approved.

This recommendation was unanimously adopted.

Sincerely,

  
James G. Clynes  
Chairman

  
David Helpem and Jane Parshall  
Co-Chairs, Landmarks Committee

cc: Honorable Bill de Blasio, Mayor of the City of New York  
Honorable Gale Brewer, Manhattan Borough President  
Honorable Liz Krueger, NYS Senator, 26<sup>th</sup> Senatorial District  
Honorable Dan Quart, NYS Assembly Member, 73<sup>rd</sup> Assembly District  
Honorable Ben Kallos, NYC Council Member, 5<sup>th</sup> Council District  
Honorable Daniel Garodnick, NYC Council Member, 4<sup>th</sup> Council District