LT1-5-2008037719-1

COMBINED LOT DEVELOPMENT COVENANT
(Covenant Number Five)

THIS COMBINED LOT DEVELOPMENT COVENANT (Covenant Number Five) ("**Covenant**") is made as of April 7, 2008 (the "**Effective Date**"), by and among (i) **MERIDIAN ON MASS. AVENUE, LLC,** a Delaware limited liability company (the "**Residential Owner**"), and its successors and assigns, (ii) **CONSORTIUM THREE – JUDICIARY SQUARE, LLC,** a District of Columbia limited liability company, (the "**Non-Residential Owner**"), and its successors and assigns; (iii) the **DISTRICT OF COLUMBIA**, a municipal corporation acting in its own name, or by and through its agencies, departments, instrumentalities, whether or not such agencies, departments or instrumentalities are specifically identified herein (collectively, the "**District**"); and **CONSORTIUM TWO-450 MASS AVE LLC**, a District of Columbia limited liability company ("**Consortium Two**"), for purposes of consent pursuant to Recital Q herein. The Residential Owner and the Non-Residential Owner sometimes may be referred to in this Covenant individually as the "Owner" and collectively as the "Owners", and the Owners and the District sometimes may be referred to in this Covenant individually as the "**Party**" and collectively as the "**Parties**." The Parties hereby ratify, affirm and agree to the following terms, conditions, covenants, warranties and obligations (including, but not limited to, all Recitals).

After Recording Return to:
LandAmerica Commercial Services
1015 15th Street, NW, Suite 300
Washington, DC 20005
File No. 08-00268/TJK

RECITALS: LT2-0-0-53

A. The Residential Owner is the owner of certain real property (including all land, buildings, and related improvements) in the District of Columbia (as legally described in the attached Exhibit A, "**Residential Lot**"), which is as of the Effective Date subject to a condominium regime in the District of Columbia, as per Plat and Plans of Condominium recorded among the records of the Office of the Surveyor of the District of Columbia in Book 48, Page 3 on September 15, 2003, as may be amended from time to time (the "**Condominium Regime**"). Because the Residential Lot has been made subject to the Condominium Regime, and divided into individual residential condominium units, all references in this Covenant to the "**Residential Lot**" and the "**Residential Lot Improvements**" shall mean the aggregate of all of the condominium units comprising the Residential Lot. As of the Effective Date, the Residential Owner is the owner of all of the condominium units established by the Condominium Regime. The Residential Owner has provided to the District of Columbia Office of Planning ("**Office of Planning**") an up-to-date title report evidencing that the Residential Owner has good and marketable title to the Residential Lot. The Residential Owner represents and warrants to the District that, as of the Effective Date, there are no persons or entities with an interest in the Residential Lot, other than Residential Owner, Metropolitan Life Insurance Company ("**MetLife**"), Consortium Two, the tenants leasing space at the Condominium Regime, and as otherwise provided herein and, with respect to such interests, no consent or release from such person or entity is required prior to entering this Covenant,

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other than the consent of Consortium Two, whose consent is evidenced by its signature hereto, and MetLife and its trustee under that certain Deed of Trust, Security Agreement and Fixture Filing, dated as of July 28, 2004 **("Residential Deed of Trust"),** which consent was obtained as noted by that certain Trustee's Joinder, Consent and Subordination appended hereto at Appendix A, executed by Keith J. Willner as its appointed trustee(s).

B. The Non-Residential Owner is the owner of certain real property (including all land, buildings, and related improvements) in the District of Columbia (as legally described in the attached Exhibit B, the **"Non-Residential Lot").** The Non-Residential Owner has provided to the Office of Planning an up-to-date title report evidencing that the Non-Residential Owner has good and marketable title to the Non-Residential Lot. The Non-Residential Owner represents and warrants to the District that there are no persons or entities with an interest in the Non-Residential Lot, which such interest either was recorded prior to the Effective Date or otherwise requires the Non-Residential Owner to obtain any consent from such person or entity prior to entering into this Covenant, other than the consent of the trustee under that certain Deed of Trust and Security Agreement from Non-Residential Owner to Michael S. Donovan, Eric A. Lawrence, and James R. Turley, Trustees, securing Chevy Chase Bank, F.S.B., dated June 7, 2006, and recorded in the Land Records (defined below) on June 27, 2006 as Instrument No. 2006084681 (the **"Non-Residential Deed of Trust"),** which consent and release was obtained as noted by that certain Joinder appended hereto at Appendix B, executed by its appointed trustee. The Residential Lot and the Non-Residential Lot are sometimes hereinafter referred to collectively as the **"Lots"** and individually the "Lot."

C. On January 18, 1991, the Zoning Commission for the District of Columbia **("Zoning Commission"),** pursuant to its authority under D.C. Official Code Section 6-641.01 et seq. (2001), enacted amendments to the Zoning Regulations of the District of Columbia, 11 DCMR **("Zoning Regulations")** in Zoning Commission Order 681, Case No. 89-25, as amended by Zoning Commission Order Nos. 681-A through 681-G and Zoning Commission Order No. 780, establishing and mapping a "Downtown Development District" **("DD District").** Such amendments have been codified at 11 DCMR §1700 to 1799, and are hereinafter referred to as the **"DD Regulations."** Except as used in paragraphs 5.1 and 5.3, any reference in this Covenant to the Zoning Regulations or the DD Regulations shall be deemed to be a reference to the Zoning Regulations or the DD Regulations, as applicable, in effect as of the Effective Date of this Covenant.

D. The purpose of the DD Regulations is to help accomplish the land use and development policies of the Comprehensive Plan of the National Capital relating to the affected sectors of the DD District (which purpose is further elaborated in Section 1700.2 of the Zoning Regulations).

E. The District has stated a goal of facilitating the production of housing and

residential uses in the DD District, and is desirous of taking actions to further that goal. To this end, pursuant to Section 1706.3 of the Zoning Regulations, the DD District contains three separate Housing Priority Areas, each of which prescribes certain preferred residential restrictions and uses.

F. As an incentive for creating and maintaining such preferred residential uses in the DD District, Section 1708 of the DD Regulations establishes the ability through linkage to transfer residential uses required on one or more lots (i.e., the "sending lot") to one or more eligible lots (i.e., the "receiving lot") on which such required residential uses otherwise are to be constructed, with the result that the entire residential requirement for the sending lot and the receiving lot are provided. Sections 1708.1(a) and 1708.1(c) of the DD Regulations further provide that the sending lot and the receiving lot must be in the same subarea of the DD District, but may be in the same or different squares.

G. The Residential Lot and the Non-Residential Lot each are located in Housing Priority Area B of the DD District. For purposes of this Covenant, (i) the Residential Lot is a "receiving lot" within the meaning of the DD Regulations, and (ii) the Non-Residential Lot is a "sending lot" within the meaning of the DD Regulations.

H. The Residential Lot has a land area of approximately 44,647 square feet. Pursuant to the Zoning Regulations applicable to lots located within a DD/C-2-C overlay zone district, any building on the Residential Lot is required to provide at least 200,911.5 square feet (i.e., 4.5 FAR) of Gross Floor Area (as defined in the Zoning Regulations) devoted to residential use.

I. The Residential Owner has constructed an apartment building on the Residential Lot that provides a total of approximately 455,830.5 square feet (i.e. 10.21 FAR) of Gross Floor Area devoted to residential use, which is 254,919 square feet more than required. The apartment building on the Residential Lot also contains approximately 1,700 square feet of retail uses. For purposes of this Covenant, the term "**Residential Lot Improvements**" shall mean improvements from time to time located on the Residential Lot containing not less than 455,830.5 square feet of Gross Floor Area devoted to residential use. For purposes of this Covenant, the term "**Allocable Gross Floor Area**" shall mean the 254,919 square feet of residential Gross Floor Area constructed on the Residential Lot in excess of the amount required to be devoted to residential uses.

J. At the time the Residential Lot improvements were constructed, there was an absolute density/FAR limitation of 8.0 for all uses. Therefore, the maximum amount of residential uses a lot could accept from another within matter of right limits was 3.0 FAR. However, the Residential Lot Improvements were constructed pursuant to a District of Columbia Board of Zoning Adjustment Order in Application No. 16603 (the "BZA Application") issued November 11, 2000, which authorized a maximum FAR of 10.36. Because the Zoning regulations did

not, at that time, impose a limit on the amount of residential requirements that a DD/C-2-C lot could accept, the increase in FAR approved also increased, by a like amount, the gross floor area of residential requirement that the Residential Lot Improvements could accept. On December 21, 2001, the Zoning Commission published Order 943-A, which eliminated FAR restrictions on DD/C-2-C residential properties that were subject to a residential requirement, but limited the amount of residential requirement that could be accepted by such properties to 3.0 FAR. The parties agree that as a result of the BZA Order, this limitation does not apply to the Residential Lot Improvements.

K. One or more certificates of occupancy have been issued for the Residential Lot Improvements, a copy of each of which is attached to this Covenant as Exhibit D (collectively, the "**Certificate of Occupancy**").

L. As a result of the issuance of the Certificate of Occupancy, the Allocable Gross Floor Area may be allocated and used as non-residential gross floor area on any eligible lots in Housing Priority Area B upon the recordation of a combined lot development covenant that complies with § 1708 of the Zoning Regulations.

M. As of the Effective Date and prior to the arrangement identified in this Covenant, the Residential Owner and Consortium Two have entered into the following combined lot development arrangements involving the Residential Lot: (1) with TST New York Avenue, L.L.C., as the owner of Lot 825 in Square 343, pursuant to that certain Combined Lot Development Covenant, dated and recorded October 7, 2005, as Instrument No. 2005144853, allocating 60,641 square feet of Gross Floor Area on the Residential Lot to Residential Uses; (2) with 1101 New York Holdings LLC, as the owner of Lot 841 in Square 317, pursuant to that certain Combined Lot Development Covenant, dated and recorded October 7, 2005, as Instrument No. 2005144856, allocating 7,798 square feet of Gross Floor Area from the Residential Lot to the Non-Residential Lot; (3) with Mount Vernon Methodist Episcopal Church, Washington, D.C., The Hotel & Restaurant Employees, Local 25, and 901 K Street Owner L.L.C., as the owners of Lots 814-818, 820, 822, and 823 in Square 371, pursuant to that certain Combined Lot Development Covenant, dated and recorded April 30, 2007, as Instrument No. 2007057936, allocating 86,127 square feet of Gross Floor Area on the Residential Lot to Residential Uses; and (4) with Square 452 Limited Partnership and GA Square 452 Associates LLC, as the owner of Lots 12, 13, 14, 813, 814, 825, 826, 830, 831, 832, and 833 (and portion of former public alley) in Square 452, pursuant to that Certain Combined Lot Development Covenant, dated January 11, 2008 and recorded February 8, 2008, as Instrument No. 2008015574, allocating 13,247 square feet of gross floor area on the Residential Lot to Residential Uses.

N. The Non-Residential Lot, as of the Effective Date, has a land area of approximately 13,359 square feet. Pursuant to the Zoning Regulations applicable to lots located within a DD/C-2-C overlay district, any building on the Non-Residential Lot is required to provide at least 60,115.5 square feet (i.e., 4.5 FAR)

devoted to residential uses, either on-site or through combined lot development. The Non-Residential Owner proposes to construct a commercial project on the Non-Residential Lot totaling approximately 118,350 square feet of non-residential Gross Floor Area. The commercial project does not contain any residential Gross Floor Area on-site and will exceed, by 11,478 square feet, the maximum non-residential Gross Floor Area permitted as a matter of right.

O. The Non-Residential Lot and Residential Lot are being combined to permit the Non-Residential Owner to: (i) allocate the entirety of the residential requirement for the Non-Residential Lot to the Residential Lot; and (ii) to construct more non-residential Gross Floor Area on the Non-Residential Lot than otherwise would be permitted in absence of the combined lot arrangement. Pursuant to the written interpretation of the Zoning Administrator for the District of Columbia (Exhibit C), individual lots within a combined lot development may exceed, and in other cases may be less, than the otherwise applicable maximum density for non-residential use provided that the individual buildings on the separate lots meet all other applicable requirements of the DD overlay and the underlying zoning of the respective lots. In circumstances when a building's proposed non-residential Gross Floor Area exceeds its maximum matter of right permitted density, the Zoning Administrator requires proof that such additional non-residential Gross Floor Area has been obtained through the acquisition of transferable development rights and/and or allocation pursuant to a combined lot development.

P. As of the Effective Date and prior to the arrangement identified in this Covenant, the Non-Residential Owner has not entered into any other combined lot development arrangements involving the Non-Residential Lot.

Q. Pursuant to that certain Combined Lot Development Agreement entered April 11, 2002, between the Residential Owner and Consortium Two (**"CLD Agreement"**), Residential Owner and Consortium Two agreed, acknowledged and confirmed that Consortium Two, the previous owner of the Residential Lot, has retained all rights to, and control over, the Allocable Gross Floor Area. Consortium Two joins in this Covenant to evidence its consent to the combined lot development established between the Residential Lot and Non-Residential Lot through this Covenant and to confirm that the maximum amount of Gross Floor Area to be allocated under the aforesaid CLD Agreement between Residential Owner and Consortium Two is 254,919 square feet; that 167,813 square feet of which has been, or is being, allocated by prior covenants; that 71,594 square feet is being allocated pursuant to this Covenant; and that the balance of 15,512 square feet of Allocable Gross Floor Area may be allocated through future combined lot developments.

R. The Office of Planning has certified in writing (as shown on the attached Exhibit D) (the **"Office of Planning Certification"**) that based upon the building as developed for residential uses containing 455,830.5 square feet of Gross Floor Area devoted to residential use, the Residential Owner may allocate a zoning

equivalent of 254,919 square feet (i.e. 5.71 FAR) of Gross Floor Area for non-residential development to lot or lots located in Housing Priority Area B in exchange for devoting an equivalent amount of Gross Floor Area to residential uses on the Residential Lot.

S. The Residential Owner desires to accept 60,115.5 square feet of Gross Floor Area of residential requirement from the Non-Residential Lot and to allocate 11,478 square feet of additional non-residential Gross Floor Area to the Non-Residential Lot by virtue of the Residential Lot forgoing an equivalent amount of non-residential development on the Residential Lot.

NOW, THEREFORE, in consideration of the mutual terms, conditions, obligations and covenants set forth herein, the receipt and sufficiency of which hereby are acknowledged, the Parties hereby agree as follows:

1. **Purpose.** *This Covenant shall constitute (a) a declaration of covenants* running in perpetuity with the Residential Lot and the Non-Residential Lot, which covenants shall be binding upon the Residential Owner (as to the Residential Lot) and the Non-Residential Owner (as to the Non-Residential Lot) and their respective successors and assigns (including, without limitation, any mortgagee at such time as such mortgagee becomes an owner of the Residential Lot or the Non-Residential Lot, as applicable), and the District; (b) an instrument by the District confirming that at least 254,919 square feet of Gross Floor Area devoted to residential uses in excess of the required residential Gross Floor Area constructed on the Residential Lot as provided for under the applicable provisions of the Zoning Regulations, has been constructed on the Residential Lot, of which 167,813 square feet has been allocated by prior covenants described in Recital M, leaving 87,106 square feet of Gross Floor Area remaining available for allocation; (c) an instrument, binding upon the owner of the Residential Lot, and its successors and assigns, which covenants that, pursuant to Section 1708.1(j) of the Zoning Regulations, such 254,919 square feet of Gross Floor Area on the Residential Lot is reserved, designed, constructed, caused to be occupied and maintained in perpetuity for residential uses, as such uses are defined in Section 1799.1 of the Zoning Regulations, (d) an instrument *confirming that 71,594 square feet of Gross Floor Area otherwise available to be devoted* to non-residential uses on the Residential Lot in accordance with the Zoning Regulations shall be, and hereby is, deemed allocated to the Non-Residential Lot pursuant to this Covenant; (e) an instrument confirming that the remaining 15,512 square feet of Allocable Gross Floor Area constructed on the Residential Lot in excess of the residential requirement established in the Zoning Regulations may be allocated through one or more other combined lot development arrangements consistent with the Combined Lot Development Agreement entered between the Residential Owner and Consortium Two upon the recordation of the covenant(s) that comply with Section 1708.1(j).

2. **Effective Date.** This Covenant shall become effective upon the date of its recordation in the Land Records.

3. **Representations, Warranties and Covenants of the Residential**

Owner.

3.1 The Residential Owner hereby represents and warrants to the District as of the Effective Date as follows:

(a) The Residential Owner has the full, unencumbered legal capacity and authority under the laws of the District of Columbia to enter into this Covenant.

(b) There are no restrictions or adverse claims of record on the use of, or otherwise relating to, the Residential Lot, nor are there any obligations or encumbrances of any kind, the requirements of which have not been waived and subordinated that would impair, delay, prevent or preclude in any manner whatsoever, now or in the future, the imposition of the restrictions, covenants, obligations, warranties, limitations and agreements contained in this Covenant on the Residential Owner and the Residential Lot.

(c) The existing Residential Lot Improvements create a total of 254,919 square feet of residential Gross Floor Area on the Residential Lot in excess of the residential Gross Floor Area required on the Residential Lot under the applicable provisions of the Zoning Regulations.

(d) One or more Certificates of Occupancy for the existing Residential Lot Improvements have been issued, a copy of which is/are attached to this Covenant as Exhibit E, thereby satisfying the requirement of Section 1706.13(a) of the Zoning Regulations.

(e) As to the Residential Lot, Exhibit F attached hereto accurately sets forth (i) the maximum permitted Gross Floor Area for all uses on the Residential Lot, and (ii) the minimum required Gross Floor Area for all uses on the Residential Lot. To the best of Residential Owner's knowledge, after giving effect to the allocation of Gross Floor Area evidenced by this Covenant, the Residential Lot and the Non-Residential Lot collectively conform to (1) the maximum permitted Gross Floor Area for all uses on the Residential Lot and the Non-Residential Lot, and (2) the minimum Gross Floor Area for all required uses on the Residential Lot and the Non-Residential Lot. Notwithstanding the foregoing representation and warranty in this Section 3.1(e), the Residential Owner acknowledges that the permitted, combined non-residential Gross Floor Area on the Residential Lot and on the Non-Residential Lot may be increased as described in Section 5 below.

(f) The Residential Lot Improvements located on the Residential Lot constitute a new building within the meaning of Section 1700.5 of the Zoning Regulations, and the construction thereof satisfies the residential use requirements under the Zoning Regulations applicable to the Residential Lot.

(g) The Residential Owner has not subjected the Residential

Lot to any other combined lot development arrangements as provided for in Chapter 17 of the Zoning Regulations other than has been disclosed above in the Recitals of this Covenant.

3.2 The Residential Owner hereby agrees that the Residential Lot shall be subject to the following affirmative and negative conditions, covenants and restrictions in favor of the District as of the Effective Date:

(a) The Residential Owner declares that no less than 254,919 square feet of Gross Floor Area on the Residential Lot has been designed, constructed, and reserved for Residential Uses (as that term is defined in Section 1709.1 of the Zoning Regulations) in excess of the residential Gross Floor Area required on the Residential Lot under the applicable provisions of the Zoning Regulations, and covenants that all of which shall be reserved, caused to be occupied, and maintained for residential uses in perpetuity on the Residential Lot. Notwithstanding the above declaration regarding perpetual maintenance, nothing in this Covenant shall require Residential Owner to reconstruct the Residential Lot Improvements in the event said Residential Lot Improvements are destroyed, demolished, or otherwise removed from the Residential Lot, provided that any future construction on the Residential Lot, if any, must satisfy the conditions, covenants, and restrictions established herein.

(b) The Residential Owner hereby agrees, subject to the provisions of Section 26 herein, to indemnify the District and each of its agencies, departments and instrumentalities from and against any and all loss, cost, harm or damage (including, without limitation, attorneys' fees) arising from or related in any way to the assertion of any adverse claim to the combined lot development rights established pursuant to this Covenant or from the provision of the existing Residential Lot Improvements pursuant to the Zoning Regulations (except for any gross negligence or willful misconduct on the part of the District). Any indemnification obligation established herein shall not apply to MetLife unless and until MetLife becomes an owner of the Residential Lot. The District recognizes that Residential Owner is proceeding with this Covenant in reliance upon the Zoning Regulations in effect on the Effective Date.

(c) The restrictions, covenants, obligations and agreements contained in this Covenant will protect the value and desirability of the Residential Lot as well as benefit the District. As such, the Residential Owner and the District each hereby consents to the enforcement solely by the District or the Residential Owner, as applicable, administratively, at law or at equity, of the restrictions, covenants, obligations, easements and agreements contained in this Covenant, and nothing contained in this Covenant shall be deemed to vest any rights in any third party. The Residential Owner and the District each also represents and warrants to the other that the remedies set forth in this Covenant are not exclusive, and that (i) the District and any agency, department or instrumentality thereof and (ii) the Residential Owner may each pursue other remedies not specifically set forth herein.

(d) The obligations of the Residential Owner under this

Covenant shall be considered covenants running with the Residential Lot, and shall be binding in perpetuity upon the successors and assigns of the Residential Owner's interest in the Residential Lot and/or the existing or any future Residential Lot Improvements (including, but not limited to, the purchaser at any foreclosure sale and any mortgagees at such time as such mortgagee becomes an owner of the Residential Lot, and their respective successors and assigns). References in this Covenant to the "Residential Owner" or to any "successor" or "assign" thereof shall be deemed to refer to the party then holding title to any or all of the Residential Lot and/or such Residential Lot Improvements. If a party no longer holds title to the Residential Lot and/or the Residential Lot Improvements, such party shall have no further obligations under this Covenant, including with regard to any representations and warranties made previously by such party, provided however that should any such party no longer hold title to the Residential Lot and/or the Residential Lot Improvements and such party shall have an unsatisfied monetary obligation to the District under this Covenant, then such party shall remain liable to the District for satisfaction of such obligation from and after the date that such party conveyed title to the Residential Lot and/or the Residential Lot Improvements until such time as that obligation is satisfied or relieved pursuant to District law. References in this Covenant to agencies, departments or instrumentalities of the District shall be deemed to include agencies, departments or instrumentalities proceeding to the jurisdiction thereof pursuant to the laws of the District.

(e) The Residential Owner shall maintain the Residential Lot Improvements in a manner consistent with this Covenant, the Zoning Regulations and all applicable District of Columbia laws, rules and regulations.

4. **Representations, Warranties and Covenants of the Non-Residential Owner.**

4.1 The Non-Residential Owner hereby represents and warrants to the District as of the Effective Date as follows:

(a) The Non-Residential Owner has the full, unencumbered legal capacity and authority under the laws of the District of Columbia to enter into this Covenant.

(b) There are no restrictions or adverse claims of record on the use of or otherwise relating to the Non-Residential Lot or any other obligation or encumbrance of any kind, the requirements of which have not been waived or subordinated, that would impair, delay, prevent or preclude in any manner whatsoever, now or in the future, the performance by the Non-Residential Owner of its obligations under this Covenant.

(c) As to the Non-Residential Lot, Exhibit F attached hereto accurately sets forth (i) the maximum permitted Gross Floor Area for all uses on the Non-Residential Lot and (ii) the minimum required Gross Floor Area for all uses on the Non-Residential Lot pursuant to this Covenant. To the best of the Non-Residential Owner's

knowledge, after giving effect to the allocation of Gross Floor Area evidenced by this Covenant, the Residential Lot and the Non-Residential Lot collectively conform to (1) the maximum permitted Gross Floor Area for all uses on the Residential Lot and the Non-Residential Lot, and (2) the minimum Gross Floor Area for all required uses on the Residential Lot and the Non-Residential Lot. Notwithstanding the foregoing representation and warranty in this Section 4.1(c), the Non-Residential Owner acknowledges that the permitted, combined non-residential Gross Floor Area on the Residential Lot and on the Non-Residential Lot may be increased as described in Section 5 below.

(d) The Non-Residential Owner has not subjected the Non-Residential Lot to any other combined lot development arrangements as provided for in Chapter 17 of the Zoning Regulations other than as has been disclosed above in Recital N of this Covenant.

4.2 The Non-Residential Owner hereby agrees that the Non-Residential Lot shall be subject to the following affirmative and negative conditions, covenants and restrictions as of the Effective Date:

(a) The Non-Residential Owner acknowledges the benefits to and burdens upon the Non-Residential Owner and upon the Non-Residential Lot that are conferred and created by this Covenant. As such, the Non-Residential Owner consents to enforcement solely by the District, administratively, at law or at equity, of the restrictions, covenants, obligations and agreements on the part of the Non-Residential Owner contained in this Covenant, and nothing contained in this Covenant that apply to the Non-Residential Owner shall be deemed to vest any rights in any other party. The Non-Residential Owner also represents and warrants that the remedies set forth in this Covenant are not exclusive and that the District and any agency, department or instrumentality thereof may pursue other remedies not specifically set forth herein. Notwithstanding the foregoing, the District acknowledges and agrees that, except with respect to (i) the Non-Residential Owner's obligations hereunder to allocate the required residential Gross Floor Area described herein, (ii) the representations, warranties and covenants of the Non-Residential Owner set forth in this Section 4.2, and (iii) the obligations of the Non-Residential Owner set forth in Section 5 below, the Non-Residential Owner shall have no liability or obligation under or pursuant to this Covenant.

(b) The obligations of the Non-Residential Owner under this Covenant shall be considered covenants running with the Non-Residential Lot, and shall be binding in perpetuity upon the successors and assigns of the Non-Residential Owner's interest in the Non-Residential Lot and/or the existing or any future Non-Residential Lot Improvements (including, but not limited to, the purchaser at any foreclosure sale and any mortgagees at such time as such mortgagee becomes an owner of the Non-Residential Lot, and their respective successors and assigns). References in this Covenant to the "Non-Residential Owner" or its "successors" or "assigns" shall be deemed to refer to the party then holding title to the Non-Residential Lot and/or any

improvements thereon. If a party no longer holds title to the Non-Residential Lot and/or improvements thereon, it shall have no further obligations under this Covenant, including any representations and warranties made previously by such party. References in this Covenant to agencies, departments or instrumentalities of the District shall be deemed to include agencies, departments or instrumentalities succeeding to the jurisdiction thereof pursuant to the laws of the District.

5. **Allocation; Effect of Allocation.** The Residential Owner hereby does recognize and accept an allocation from the Non-Residential Lot to the Residential Lot of 60,115.5 square feet of Gross Floor Area that otherwise would be required to be devoted to residential uses on the Non-Residential Lot (**"Residential Development Obligations"**). In turn, the Non-Residential Owner hereby does recognize and accept an allocation from the Residential Lot to the Non-Residential Lot of an equivalent 60,115.5 square feet of Gross Floor Area, plus an additional 11,478 square feet of Gross Floor Area from the Residential Lot to the Non-Residential Lot that otherwise would be available for non-residential uses on the Residential Lot absent this Covenant and the arrangements referenced in Recital M (**"Non-Residential Development Rights"**). The District does hereby confirm and agree that the Residential Development Obligations, shall be, and hereby are deemed satisfied by virtue of the Residential Lot Improvements and this Covenant.

5.1 The District confirms that, by virtue of this Covenant, the Non-Residential Owner may elect to construct and use on the Non-Residential Lot, in accordance with applicable provisions of the Zoning Regulations, the Non-Residential Development Rights. The Non-Residential Development Rights may be utilized on and incorporated into any improvements now or from time to time hereafter constructed on the Non-Residential Lot. The Non-Residential Development Rights may not be transferred to any other lot not located on the Non-Residential Lot without the termination or amendment of this Covenant.

5.2 The non-District parties agree that the remaining 15,512 square feet of Allocable Gross Floor Area available for future combined lot development shall be allocated consistent with the CLD Agreement entered between Residential Owner and Consortium Two, such allocation(s) effective upon recordation of covenant(s) that comply with Section 1708.1(j) of the Zoning Regulations. The District is not liable for any breach of the CLD Agreement that might result in the District sanctioning a combined lot development that is inconsistent the provisions of the CLD Agreement.

5.3 Nothing in this Covenant shall modify, alter or amend in any way whatsoever the availability or applicability of any other provisions of the current or future Zoning Regulations to the Residential Lot or the Non-Residential Lot, respectively (including, without limitation, any provisions concerning transferable development rights and housing buy-down provisions).

5.4 The Residential Owner and the Non-Residential Owner acknowledge that either may engage in subsequent combined lot developments. Each

Owner agrees that the combined size of the land area and structures included in the instant combined lot development, and the amount of residential and commercial uses contained therein, will increase as a result of subsequent combined lot developments. Should any property included in a future combined lot development engage in a subsequent combined lot development, the size of the previous combined lot will also increase in the same manner, and any subsequent combined lot development covenants involving either of the lots in this Covenant shall include in its calculation of minimum required uses, maximum non-residential uses, and maximum permitted density all of the structures and land area involved in this Covenant plus the area of the land and structures that have been added to this combined lot by virtue of all subsequent combined lot developments that can be traced back to this combined lot development. The Residential Owner and the Non-Residential Owner further acknowledge that the affected lots, when combined, must provide the minimum required residential uses, contain no more than the maximum amount of permitted non-residential uses, and comply with the overall applicable density and bulk limitations.

5.5 The District confirms that (a) all of the Non-Residential Development Rights allocated to the Non-Residential Lot pursuant to this Covenant shall automatically be vested in the Non-Residential Lot on and as of the date upon which this Covenant is recorded in the Land Records, and (b) by virtue of the issuance of one or more Certificates of Occupancy for the Residential Lot, the Non-Residential Owner shall be entitled to obtain all necessary permits and certificates of occupancy for the construction, use and occupancy of the improvements to be located on the Non-Residential Lot notwithstanding and independent of any circumstance, condition or development related to the Residential Lot or the existing or any future Residential Lot Improvements, including without limitation revocation of one or more of the Residential Lot Certificates of Occupancy.

5.6 The covenants contained in this Covenant are and shall be construed as real covenants and shall run with the land that comprises each of the Residential Lot and the Non-Residential Lot in perpetuity and shall bind the parties hereto, and their successors, heirs, administrators or assigns; provided, however, that (i) the covenants that run to the Residential Lot and the zoning requirements applicable thereto (A) are not and shall not be binding on the Non-Residential Lot (or any other lot or lots of which the Non-Residential Lot (or any portion thereof) is or subsequently may be a part), (B) may not be enforced against the Non-Residential Lot and/or otherwise used as grounds for denying, limiting, and/or otherwise affecting any permit, certificate of occupancy, and/or any other approval in connection with the development, operation, and/or ownership of the Non-Residential Lot (or any other lot or lots of which the Non-Residential Lot (or any portion thereof) is or may subsequently be a part), and (C) shall not otherwise have any effect whatsoever on the Non-Residential Lot (or any other lot or lots of which the Non-Residential Lot (or any other lot or lots of which the Non-Residential Lot (or any portion thereof) is or may subsequently be a part); and (ii) the covenants that run to the Non-Residential Lot and the zoning requirements applicable thereto (A) are not and shall not be binding on the Residential Lot (or any other lot or lots of which the Residential Lot is or subsequently may be a part), (B) may not be enforced

against the Residential Lot and/or otherwise used as grounds for denying, limiting, and/or otherwise affecting any permit, certificate of occupancy, and/or any other approval in connection with the development, operation, and/or ownership of the Residential Lot (or any other lot or lots of which the Residential Lot is or subsequently may be a part), and (C) shall not otherwise have any effect whatsoever on the Residential Lot (or any other lot or lots of which the Residential Lot is or subsequently may be a part).

5.7 Attached hereto as Exhibit D is a true and accurate copy of the written statement required of the Office of Planning pursuant to the final sentence of Section 1708.1(n) of the Zoning Regulations.

5.8 If either or both of the Residential Lot and/or the Non-Residential Lot hereafter is consolidated with or into one or more other lots through a lawful subdivision, then the rights and obligations created by this Covenant as to the Residential Development Obligations and the Non-Residential Development Rights, and the benefits and burdens evidenced by this Covenant related thereto, shall attach to all of the real property contained within such consolidated lot(s) within the same Housing Priority Area (as described in the Zoning Regulations from time to time) so long as the combined lot, when the additional lot area and structures thereon are taken into account, continues to comply with all of the Zoning Regulations, including, but not limited to, requirements for minimum residential uses and the limitation on non-residential uses.

6. **Prohibited Liens.** Except as provided in Section 26 of this Covenant:

6.1 The Residential Owner shall use commercially reasonable efforts not to permit any governmental or statutory liens (including tax and mechanic's and materialmen's liens) to be filed against the said Unit Owner's condominium unit(s) that would take priority over this Covenant, except for real estate taxes and assessments not yet due and payable and other inchoate liens.

6.2 The Residential Owner shall use commercially reasonable efforts not to default at any time under any liens affecting said Unit Owner's condominium unit(s) that have legal priority over this Covenant and that have not been subordinated to this Covenant.

6.3 The use of a "commercially reasonable efforts" standard in this Section 6 shall not modify or affect any obligation of the Residential Owner to perform any obligation otherwise required to be performed under applicable law.

6.4 Nothing contained in this Section 6 shall limit, restrict or impair the right (or be deemed to have done so) of the Residential Owner and the District to contest any such lien. On the reasonable written request of the District, the Residential Owner shall furnish the District reasonable evidence of payment of these items with regard to the Residential Lot reasonably satisfactory to District.

7. **Payment of Taxes and Other Encumbrances.** Except as provided in

Section 26 of this Covenant:

7.1 The Residential Owner shall use commercially reasonable efforts to pay real estate taxes, any assessments and other public charges for the Residential Lot and the Residential Lot Improvements at any time prior to delinquency; provided however that nothing contained herein shall in any way lessen, modify, or otherwise affect in any manner whatsoever any petition for or claim of any current or future exemption that may be available under law to relieve the Residential Lot from such payment, in whole or in part, of real estate taxes, assessment, or other public charges or of the right of the Residential Owner or its successors or assigns to pursue the application of any such exemption from or appeal of any assessment or the application of any taxes assessed against the Residential Lot.

7.2 Further, nothing contained in this Section 7 shall limit, restrict, or impair the right (or be deemed to have done so) of the Residential Owner to contest any lien for taxes, assessment, or charge. On the reasonable written request of the District, the Residential Owner shall furnish the District reasonable evidence of payment of these items with regard to the Residential Lot satisfactory to District.

7.3 The use of a "commercially reasonable efforts" standard in this Section 7 shall not modify or affect any obligation of the Residential Owner to perform any obligation otherwise required to be performed under applicable law.

8. **District's Right to Protect.** Subject to and except as provided in Section 26, (A) the District may commence, appear in and defend any action or proceeding that may affect the rights or powers of the District with respect to provision, maintenance, or reservation of residential uses on the Residential Lot and the Non-Residential Lot pursuant to this Covenant, and (B) if either the Residential Owner or the Non-Residential Owner fails to do any act required of it under this Covenant, the District may (but shall not be required), after demand upon the applicable Owner and without releasing such Owner from any obligations under this Covenant, cause such Owner to perform the act required in such a manner and to such extent as the District may deem necessary to protect the rights and powers of the District and put the applicable Owner in compliance with such Owner's obligations under this Covenant. The District is authorized to enter the Residential Lot and the Non-Residential Lot as applicable for such purposes.

9. **Sale, Mortgage or Transfer.** Except as provided in Section 26 of this Covenant:

9.1 Each purchaser or other transferee of all or part of the Residential Lot shall be deemed to take subject to the Residential Owner's obligations under this Covenant, and the interest of any mortgagee shall be subject and subordinate to the covenants set forth in this Covenant.

9.2 This provision shall apply to each and every sale, mortgage, transfer, conveyance or encumbrance, recorded or unrecorded, regardless of whether or

not the District has waived its rights to notice, whether by action or non-action, in connection with any previous sale, mortgage, transfer, conveyance or encumbrance, whether one or more.

10. **Liability.** If there is more than one owner of the Residential Lot and/or the Residential Lot Improvements, their respective obligations under this Covenant shall be several (and not joint). If there is more than one owner of the Non-Residential Lot and/or the non-residential improvements on the Non-Residential Lot, their respective obligations under this Covenant shall be joint and several. Notwithstanding the foregoing, neither the Residential Owner nor its successors and assigns shall have any personal liability for the payment and performance of the obligations of the Non-Residential Owner under this Covenant, it being understood that the District's recourse in the event of a breach by the Non-Residential Owner shall be enforcement against the Non-Residential Owner, the Non-Residential Lot and the Non-Residential Lot Improvements only. Notwithstanding the foregoing, neither the Non-Residential Owner nor its successors or assigns shall have any personal liability for the payment and performance of the obligations of the Residential Owner under this Covenant, it being understood that the District's recourse in the event of a breach by the Residential Owner shall be enforcement against the Residential Lot and the Residential Lot Improvements *only, subject to the provisions of Section 26.*

11. **Non-Waiver of Terms and Conditions.** Time is of the essence with respect to the performance of the obligations owed to the District under this Covenant. The District's failure to require prompt enforcement of any required obligation shall not constitute a waiver of the obligation owed or any subsequent required performance of the obligation. No term or condition of this Covenant may be waived or modified except as set forth in Section 12 below.

12. **Modifications, Amendments and Termination.** This Covenant may be modified, amended or terminated only with the approval of the Zoning Commission after public hearing and only upon a finding by the Zoning Commission that the proposed modification, amendment or termination is fully justified and consistent with the purposes of the DD Regulations. In the event the Zoning Commission grants its approval in accordance with the preceding sentence, then such modification, amendment or termination shall be evidenced by written instrument approved by the Office of Planning and signed by those Parties affected by such modification, amendment or termination and the District. Any modification, amendment or termination of this Covenant shall be in a form and content approved in writing by the Office of the Attorney General for the District of Columbia, which approval shall include a finding that the parties hereto have sufficient legal authority to make such modification or amendment and such modification or amendment is consistent with the Zoning Regulations. Any such modification or amendment shall be promptly recorded in the Land Records against title to the Residential Lot, with copies of such recorded instruments to be sent to the Zoning Administrator of the District and the Office of Planning.

13. **Effect of Repeal or Amendment of Zoning Regulations.** Nothing

herein shall restrict or impair the Zoning Commission for the District of Columbia from exercising its legal power to amend or repeal the Zoning Regulations of the District of Columbia. Nothing contained herein shall prevent the Non-Residential Owner or the Residential Owner from challenging, contesting or supporting such repeal or amendment.

14. **Default; Remedies.**

14.1 Failure by the Residential Owner or the Non-Residential Owner, as applicable, to comply with any terms, covenants, obligations or conditions of this Covenant applicable to it shall constitute a default by such Party, and the District may pursue all enforcement actions authorized under this Covenant (which, in the case of the Residential Owner shall be limited as provided in Section 26), provided however if the same relates to any obligation under this Covenant of that Party, then, except as otherwise provided for below, the District shall first provide such defaulting Owner written notice of a default and afford a reasonable period of time, but not less than thirty (30) days, to cure, correct or satisfy the noticed default. In the event that such default is not cured or corrected after notice thereof and the lapse of the period to cure, correct or satisfy, then the District may pursue all enforcement actions authorized under this Covenant without any requirement created by the Covenant for written notice of default or a period to cure the default. Notwithstanding the foregoing, if such failure would constitute a violation of the Zoning Regulations or other law or regulation of the District enforceable by the District under the provisions of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, as amended from time to time, or as such law may be superseded from time to time to permit enforcement of such law or regulations, then any action by the District under such law or regulation to enforce such law or regulation shall not be subject to the notice provisions provided for above in this Section 14.1.

14.2 In the event a District-initiated enforcement action under this Covenant is adjudicated pursuant to a final judgment by a court of competent jurisdiction in favor of the District, then the defaulting Owner (or Unit Owner, as applicable to the Residential Lot in the event there is more than one owner of the Residential Lot and Residential Lot Improvements) shall pay all reasonable costs and expenses actually incurred by the District (including reasonable attorneys' fees).

14.3 Notwithstanding any provision of this Covenant to the contrary, following the recordation of this Covenant, it is understood and agreed by the Parties and the District that any and all defaults by the Residential Owner under this Covenant shall not affect in any way (a) the entitlement of the Non-Residential Owner to develop and maintain, unconditionally and perpetually, the Non-Residential Development Rights on the Non-Residential Lot, or (b) any other rights of the Non-Residential Owner with regard to the Non-Residential Lot, and accordingly the Non-Residential Owner shall have no enforcement rights against the Residential Owner under this Covenant. Furthermore any and all defaults by the Non-Residential Owner under this Covenant shall not affect in any way the rights of the Residential Owner related to use and development of the Residential Lot, and accordingly, the Residential Owner shall have no enforcement rights against the Non-Residential Owner under this Covenant.

15. **Condemnation and Insurance Proceeds.** The Residential Owner shall give immediate notice to District of any condemnation proceeding (including change of grade) or loss or damage to the Residential Lot Improvements or any right therein. The District authorizes the Residential Owner to make a claim for and to enter into compromise or settlement with respect to any proceeds payable as a result of any condemnation proceeding, loss or damage, and the District acknowledges it has no condemnable or insurable interest in the Residential Lot or the Residential Lot Improvements and shall have no right to any condemnation proceeding or insurance proceeds from loss or damage to the Residential Lot Improvements as a result of any condemnation proceeding or casualty loss.

16. **Exhibits/Appendices.** All exhibits and appendices referred to in this Covenant hereby are incorporated herein and made an integral part of this Covenant.

17. **Severability.** If any provision of this Covenant or its application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Covenant or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

18. **Notice.** All notices, demands, requests, consents, approvals, and other communications which may be or are required to be given hereunder shall be in writing and shall be sent by mail or delivery as follows:

If to Residential Owner:	Meridian on Mass. Avenue, LLC c/o Paradigm Development Co. 1415 N. Taft Street, Suite 100 Arlington, VA 22201 Attention: Stanley Sloter
with a copy to:	Bingham McCutchen LLP 2020 K Street, NW Washington, DC 20006 Attention: Barry Rosenthal
and:	Metropolitan Life Insurance Company 10 Park Avenue Morristown, NJ 07960 Attn: Senior Vice-President, Real Estate Investments
and:	Metropolitan Life Insurance Company 10 Park Avenue Morristown, NJ 07960

Attn: Associate General Counsel,
Real Estate Investments

and: Mayer Brown LLP
1909 K Street, NW
Washington, DC 20006
Attn: Keith J. Willner

If to Non-Residential Owner: Consortium Three – Judiciary Square, LLC
c/o The Bernstein Companies
3299 K Street, NW, Suite 700
Washington, DC 20006
Attention: Adam Bernstein

If to Consortium Two: Consortium Two-450 Mass Ave LLC
c/o The Bernstein Companies
3299 K Street, NW, Suite 700
Washington, DC 20006
Attention: Adam Bernstein

If to the District: Zoning Administrator
Office of the Zoning Administrator
Second Floor
941 North Capitol Street, NE
Washington, DC 20002

with a copy to: Director, Office of Planning
801 North Capitol Street, NE
4th Floor
Washington, DC 20002

and:

Chief, Land Use and Public Works Section
Commercial Division
Office of Attorney General for the
District of Columbia
1100 15th Street, NW
Suite 800
Washington, DC 20005

Any party may change any address for the purposes of this Covenant by giving notice in accordance with this Section 18 and without complying with Section 12 above.

Each notice, demand, request, consent, approval, or other communication shall be either (i) sent by registered or certified mail, postage prepaid, return receipt requested, or (ii) delivered by hand, or recognized overnight courier, receipt requested, and shall be

deemed sufficiently given if mailed, the date of acceptance or refusal of delivery as indicated by the appropriate receipt/delivery document.

19. **Rules of Construction.** This Covenant shall be construed so that, whenever applicable, the use of the singular shall include the plural, the use of the plural shall include the singular, and the use of any gender shall be applicable to all genders and shall include corporations, partnerships, limited partnerships and limited liability companies.

20. **Section Headings.** The headings to the various sections have been inserted for convenience of reference only and shall not be used to construe this Covenant.

21. **Entire Agreement.** This Covenant, including any exhibits and appendices referred to herein and any rules and regulations of the District relating to the subject matter hereof, contains the entire agreement and understanding of the parties with respect to the subject matter of this Covenant, and any prior understandings, agreements, restrictions, promises, warranties, representations, covenants or other undertakings between the parties with respect to the subject matter of this Covenant hereby are revoked.

22. **Choice of Law.** This Covenant shall be construed and enforced in accordance with and be governed by the laws of the District of Columbia (without regard to conflicts of laws principles).

23. **Mortgagee Protection.** In the event the holder of any mortgage, deed of trust or other security instrument encumbering the Residential Lot, the Non-Residential Lot or both notifies the District in writing of the existence of such security instrument, stating the recordation information relating thereto and providing an address to which notices should be sent, (i) the District shall provide such holder with a copy of any notice of default given under this Covenant by the District to the Owner in default whose Lot is so encumbered, (ii) such holder shall have the right, but not the obligation, to cure such default within the time periods set forth in this Covenant for the cure thereof by the Owner, provided if possession of such Owner's Lot is necessary to cure such default, and such holder shall promptly undertake and diligently pursue measures to obtain possession, such cure period shall be extended for such period of time as shall be reasonably necessary to permit such holder to obtain possession of such Owner's Lot and cure such default.

24. **Recitals.** The Recitals hereinabove stated are incorporated by reference into the body of this Covenant as if fully set forth herein.

25. **Benefits and Burden/Enforcement.** Each of the Residential Owner, the Non-Residential Owner and the District acknowledge the respective benefits to and burdens upon them conferred and created by this Covenant. Each of the Residential Owner, the Non-Residential Owner, and the District consents to enforcement solely by

the other administratively, at law or at equity, of the restrictions covenants, obligations, easements, and agreements contained herein, and nothing contained herein shall be deemed to vest any rights in a third party. Each party also represents and warrants to the other that the remedies set forth in this Covenant are not exclusive and that the Residential Owner, the Non-Residential Owner and the District, and any agency, department, or instrumentality of the District, may pursue other remedies not specifically set forth herein.

26. **Condominium Regime.** Notwithstanding any other provisions of this Covenant to the contrary, for so long as the Residential Lot is under a condominium regime, and divided into individual, residential condominium units (and other condominium units), all references in this Covenant to the "Residential Lot" and the "Residential Lot Improvements" shall mean, with respect to any residential condominium unit owner (including Meridian on Mass, LLC, to the extent it owns any or all of such units) the individual residential condominium unit or units owned by such condominium unit owner. For so long as the Residential Lot remains subject to a condominium regime, the sole obligation of this Covenant encumbering any residential condominium unit in the Condominium Regime and the sole obligation of the owners thereof shall be the obligation that said unit be reserved for residential use, caused to be occupied for residential use and maintained as residential use in accordance with the provisions of the Zoning Regulations. Any failure of the unit owner to do so shall afford the District the opportunity to take action against such owner for violation of the Zoning Regulations. The District may not take action against any complying owner of a condominium unit within the Condominium Regime for the failure of any other owner to maintain his/her/its residential condominium unit in residential use in accordance with the Zoning Regulations. Additionally any indemnification obligation to the District and all of its agencies, departments and instrumentalities otherwise specified in this Covenant shall not apply to the owner(s) of any of the individual condominium units in the condominium regime, directly or indirectly. At such times as the Residential Lot is not subject to a condominium regime, the "Residential Lot" and the "Residential Lot Improvements" shall have the meaning as defined elsewhere in this covenant.

27. **Counterparts.** This Covenant may be executed in counterparts, each of which shall be deemed an original and all counterparts together shall constitute one and the same Covenant.

[signatures on following pages]

SIGNATURE OF THE RESIDENTIAL OWNER

IN WITNESS WHEREOF, on the day and year first above written, Meridian On Mass Avenue, LLC, a Delaware limited liability company, has caused these presents to be executed by Stanley W. Sloter, President of Paradigm Meridian on Mass. Avenue, Inc., Manager of Paradigm Meridian on Mass Avenue, LLC, Manager of Meridan on Mass Avenue, LLC, and said Stanley W. Sloter hereby is appointed as its true and lawful attorney-in-fact to acknowledge and deliver these presents as its act and deed.

MERIDIAN ON MASS AVENUE, LLC, a Delaware limited liability company

By: Paradigm Meridian on Mass Avenue, LLC, its Manager

By: Paradigm Meridian on Mass. Avenue, Inc., its Manager

By: _____
Stanley W. Sloter, President

)
) ss:
)

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date Stanley Sloter, personally well known (or satisfactorily proven by the oath of credible witnesses) to me to be the person whose name is subscribed to the foregoing and annexed Combined Lot Development Covenant ("Covenant") who being by me first duly sworn, did depose and state that he is the President of Paradigm Meridian on Mass. Avenue, Inc., Manager of Paradigm Meridian on Mass Avenue, LLC, Manager of Meridian on Mass. Avenue, LLC, a Delaware limited liability company, and the duly appointed attorney-in-fact for said company in the foregoing and annexed Covenant, and that he, being duly authorized so to do, executed and delivered the foregoing and annexed instrument in the name and on behalf of said company and acknowledged the same to be its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this 1st day of April, 2008.

Faith Korbel
Notary Public

[Notarial Seal]

My Commission Expires: Nov 30, 2008

FAITH KORBEL
NOTARY PUBLIC
REGISTRATION # 345986
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES NOVEMBER 30, 2008

SIGNATURE OF CONSORTIUM THREE-JUDICIARY SQUARE, LLC

IN WITNESS WHEREOF, Consortium Three–Judiciary Square, LLC, a District of Columbia limited liability company, has caused this Instrument to be executed and delivered in its name by Marc N. Duber, Vice President of Bernstein Consortium Capital Three, L.L.C., Managing Member of Consortium Capital Three, L.L.C., General Partner of Consortium Three, L.P., its duly authorized Managing Member, as of the day and year first set forth above.

CONSORTIUM THREE–JUDICIARY SQUARE, LLC, a District of Columbia limited liability company

By: Consortium Three, L.P., its Managing Member

By: Consortium Capital Three, L.L.C., its General Partner

By: Bernstein Consortium Capital Three, L.L.C., its Managing Member

By: _____
Marc N. Duber
Vice President

District of Columbia, to wit:

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date Marc N. Duber, personally well known (or satisfactorily proven by the oath of credible witnesses) to me to be the person whose name is subscribed to the foregoing and annexed Combined Lot Development Covenant, who, being by me first duly sworn, did depose and state that he is the Vice President of Bernstein Consortium Capital Three, L.L.C., Managing Member of Consortium Capital Three, L.L.C., General Partner of Consortium Three, L.P., Managing Member of Consortium Three-Judiciary Square, LLC, a District of Columbia limited liability company, in the foregoing and annexed Combined Lot Development Covenant, and that he, being duly authorized so to do, executed and delivered the foregoing and annexed Combined Lot Development Covenant in the name and on behalf of said limited liability company, and acknowledged the same to be its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this 7 day of April, 2008.

Linda Mann
Notary Public

[Notarial Seal]

Linda Mann
Notary Public, District of Columbia
My Commission Expires 10/14/2011

My Commission Expires: _____

SIGNATURE OF CONSORTIUM TWO - 450 MASS AVE, LLC

IN WITNESS WHEREOF, Consortium Two – 450 Mass Ave, LLC, a District of Columbia limited liability company, has caused this Instrument to be executed and delivered in its name by Joseph S. Galli, Vice President of Bernstein Consortium Capital, L.L.C., Managing Member of Consortium Capital, L.L.C., General Partner of Consortium Two, L.P., its Managing Member.

CONSORTIUM TWO - 450 MASS AVE, LLC, a District of Columbia limited liability company

By: Consortium Two, L.P., its Managing Member

By: Consortium Capital L.L.C., its General Partner

By: Bernstein Consortium Capital, L.L.C., its Managing Member

By: _____
Joseph S. Galli
Vice President

District of Columbia, to wit:

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date Joseph S. Galli, personally well known (or satisfactorily proven by the oath of credible witnesses) to me to be the person whose name is subscribed to the foregoing and annexed Combined Lot Development Covenant, who, being by me first duly sworn, did depose and state that he is the Vice President of Bernstein Consortium Capital, L.L.C., Managing Member of Consortium Capital, L.L.C., General Partner of Consortium Two, L.P., Managing Member of Consortium Two – Mass Ave, LLC, a District of Columbia limited liability company, in the foregoing and annexed Combined Lot Development Covenant, and that he, being duly authorized so to do, executed and delivered the foregoing and annexed Combined Lot Development Covenant in the name and on behalf of said limited liability company, and acknowledged the same to be its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this 7 day of April, 2008.

Linda Mann

Notary Public

[Notarial Seal]

My Commission Expires: 10/14/2011

Linda Mann
Notary Public, District of Columbia
My Commission Expires 10/14/2011

SIGNATURE OF THE DISTRICT

IN WITNESS WHEREOF, the Mayor of the District of Columbia, having first considered and approved the foregoing and annexed Combined Lot Development Covenant, has directed the execution thereof in the name of said District of Columbia, by the Secretary of the District of Columbia, who has hereunder set his/her hand and affixed the seal of the District of Columbia under the authority of the Act of Congress entitled "An Act to Relieve the Commissioners of the District of Columbia of Certain Ministerial Duties," approved February 11, 1932.

DISTRICT OF COLUMBIA, *a municipal* corporation

By: Stephanie D Scott [SEAL]
Secretary of the District of Columbia

District of Columbia, to wit:

BEFORE ME, a Notary Public in and for the jurisdiction aforesaid, personally appeared this date April 4, 2008 personally well known to me to be the individual who executed the foregoing and annexed Combined Lot Development Covenant ("Covenant") on behalf of the District of Columbia, and who acknowledged the same to be its free act and deed for the uses and purposes therein contained.

WITNESS my hand and official seal this 4 day of April, 2008.

Notary Public

[Notarial Seal]

My Commission Expires: 1/14/2013.

Abby Frankson
Notary Public, District of Columbia
My Commission Expires 1/14/2013

Approved as to form and content:

By: _____
Assistant Attorney General,
District of Columbia

By: _____
Director, Office of Planning,
District of Columbia

By: _____
Office of the Zoning Administrator

Approved as to form and content:

By: _____
Assistant Attorney General,
District of Columbia

By: _____
Director, Office of Planning,
District of Columbia

By: _____ 3-14-08
Office of the Zoning Administrator

Approved as to form and content:

By: Alan Beyster
Assistant Attorney General,
District of Columbia

By: [signature] for
Director, Office of Planning,
District of Columbia

By: [signature] 3-14-08
Office of the Zoning Administrator

LIST OF EXHIBITS

Exhibit A: Residential Lot
Exhibit B: Non-Residential Lot
Exhibit C: Zoning Administrator Letter
Exhibit D: District of Columbia Office of Planning Certification
Exhibit E: Certificate(s) of Occupancy
Exhibit F: Section 1708.1(j)(5) Certification

LIST OF APPENDICES

Appendix A: Trustee's Joinder, Consent and Subordination (Residential Lot)

Appendix B: Trustee's Joinder, Consent and Subordination (Non-Residential Lot)

EXHIBIT A

Residential Lot

ALL THOSE CERTAIN units of condominium situate, lying and being in the District of Columbia, and more particularly described as follows:

Unit Nos. 102 through 110, 112 through 117, 124 through 127, 130 through 133, 201 through 235, 301 through 335, 401-through 435, 501 through 535, 601 through 635, 701 through 735, 801 through 835, 901 through 935, 1001 through 1035, 1101 through 1135, 1201 through 1206, 1208 through 1235, 1301 through 1303, 1310 through 1335, 1401 through 1403, 1411 through 1417 and 1420 through 1435, all inclusive, Meridian on Mass. Avenue Condominium, as created by Declaration of Meridian on Mass. Avenue Condominium recorded August 19, 2003, as Instrument No. 2003107297, and Condominium Plat recorded in Plat Book 48 at Page 3.

Together with a one hundred percent (100%) undivided interest in the appurtenant common elements, as set forth in said Declaration. Bylaws of Meridian on Mass. Avenue Condominium recorded August 19, 2003, as Instrument No. 2003107298.

NOTE: See attached Exhibit A-1 for Assessment and Taxation Lot numbers in Square numbered 517.

AND BEING the same property conveyed to Meridian On Mass. Avenue, LLC, a Delaware limited liability company, by Special Warranty Deed from Consortium Two - 450 Mass Ave, LLC, a District of Columbia limited liability company, recorded April 17, 2002, as Instrument Number 2002044790, known also as Lot 50 in Square 517 as the same is shown on a plat of subdivision made by Kalian N.V. in Book 174 at Page 6 in the records of the Office of the Surveyor of the District of Columbia.

EXHIBIT A-1

Meridian on Mass. Avenue Condominium

Assessment and Taxation Lot Numbers in Square 517:

2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462

EXHIBIT B

Non-Residential Lot

Legal Description

All of those lots or parcels of land located in the District of Columbia and more particularly described as follows:

PARCEL A:

Part of Original Lot 2 in Square 529 bounded and described as follows:

BEGINNING for the same on G Street at the Southeast corner of said Lot and running thence; North 69 feet; thence West 15 feet 6 inches; thence South 69 feet; thence East 15 feet 6 inches to the point of beginning.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Lot 802 in Square 529.

PARCEL B:

Part of Original Lot 2 in Square 529, bounded and described as follows:

BEGINNING at the Southwest corner of said Lot 2 and running thence East along the North line of G Street, 15 feet 6 inches; thence North 69 feet; thence West 15 feet 6 inches; thence South along the West line 69 feet to G Street and the point of beginning.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Lot 803 in Square 529.

PARCEL C:

All of Original Lot 1 and part of Original Lot 2 in Square 529; said lot and said part of lot being bounded and described as follows:

BEGINNING for the same on the SOutheast corner of said Lot 1 and of said Square and running thence North along the line of Third Street, West, 150 feet; thence West 62 feet 9 inches; thence South 81 feet; thence East 31 feet; thence South 69 feet to the North line of North G Street; thence East 31 feet 9 inches to the place of beginning.

AND

The East 24 feet front on G Street by the full depth thereof of Original Lot 3 in Square 529.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Lot 845 in Square 529.

PARCEL D

Part of Original Lots 3 and 4 in Square 529 bounded and described as follows:

BEGINNING for the same at a point distant 85.60 feet, more or less, from the Southwest corner of said Square 529, and running thence North 19.95 feet; thence West, 0.42 feet; thence North 3.80 feet; thence East, 14.82 feet; thence South 23.75 feet to the North line of G Street N.W.; and thence West along the North line of said Street, 14.40 feet, more or less to the point of beginning.

NOTE: At the date hereof the above described land is designated on the Records of the Assessor of the District of Columbia for assessment and taxation purposes as Lot 847 in Square 529.

EXHIBIT C

Zoning Administrator Letter

[SEE ATTACHED]

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Building and Land Regulation Administration
Office of the Zoning Administrator

November 15, 2004

Mr. Norman M. Glasgow, Jr.
Mr. Steven B. Sher
Director of Zoning and Land Use Services
Holland & Knight LLP
2099 Pennsylvania Avenue, NW – Suite 100
Washington, DC 20006

Re: Downtown Development District
Combined Lot Development Provisions

Gentlemen:

This is to confirm, upon your request, the substance of our discussion on October 27, 2004, concerning the interpretation and applicability of the combined lot development provisions of the Downtown Development District. Our discussion specifically centered on Section 1708.1(g), which provides as follows:

> The maximum permitted gross floor area for all uses, the minimum required gross floor area for preferred uses, and bonus density, if applicable, shall each be calculated as if the combined lots were one lot, and the total project shall conform to the maximum and minimum gross floor area requirements.

You indicated that the properties in question would all be in Housing Priority Area B, south of Massachusetts Avenue. Taken as a whole, all of the properties in the combined lot development would provide at least the minimum amount of residential use required and the properties taken as a whole would not exceed the maximum amount of commercial density permitted, including bonus density allowed under §§ 1706.3 and 1706.7(a). Individual lots within the overall combined lot would, in some cases, exceed and in other cases be less than the otherwise applicable maximum density for commercial use, noting that there is no specified maximum density for residential use.

Provided that the individual buildings on the separate lots meet all of the other applicable requirements of the DD and underlying zoning (e.g., height, rear yard, setbacks, etc.), I conclude that the regulations allow the variations in density described above.

Sincerely,

Toye Bello
Zoning Administrator

941 North Capitol Street, N.E., Suite 2000 Washington, D.C. 20002 Phone: (202) 442-4576 Fax: (202) 442-4871

EXHIBIT D

District of Columbia
Office of Planning Certification

[SEE ATTACHED]

EXHIBIT D
(Section 1708.1(n) Certification)

This certification is identified as Exhibit D to the Combined Lot Development Covenant ("Covenant") between (i) Meridian on Mass Ave, LLC, a Delaware limited liability company ("Meridian" or "Residential Lot"), (ii) Consortium Three – Judiciary Square, LLC, a District of Columbia limited liability company ("Judiciary Square" or "Non-Residential Lot"), (iii) the District of Columbia, a municipal corporation, and (iv) Consortium Two-450 Mass Ave, a District of Columbia limited liability company ("450 Mass Ave").

The purpose of this certification is to certify the amounts of residential and commercial gross floor area that are allocated between the Residential Lot and the Non-Residential Lot (each as defined in the Covenant) pursuant to the provisions of the Downtown Development District ("DD District") set forth in 11 D.C.M.R. Chapter 17 (1996), as amended ("DD Regulations"). Section 1706 of the DD Regulations sets forth requirements for residential development in specified locations in Downtown as well as provisions for flexibility in providing residential uses and development.

The Non-Residential Lot is zoned DD/C-2-C, and is located in Housing Priority Area B of the DD District. The DD/C-2-C zoning district allows a maximum density of 8.0 FAR for mixed-use projects and 11 DCMR 1706.6 requires that each building shall provide on-site or account for off-site in a combined lot development no less than 4.5 FAR of residential use. The land area of the Non-Residential Lot is 13,359 square feet. The minimum residential use required on the Non-Residential Lot is 60,115.5 square feet of gross floor area. Judiciary Square proposes to acquire from Meridian, pursuant to the Covenant, 60,115.5 square feet of such minimum residential use to fully satisfy the minimum residential use requirement on the Non-Residential Lot. Judiciary Square also proposes to send to Meridian, pursuant to the Covenant, 11,478 square feet of additional gross floor area in excess of what is permitted as a matter-of-right by virtue of the Residential Lot forgoing an equivalent amount of non-residential development on the Residential Lot. Pursuant to the Covenant, a total of 71,594 square feet is being sent from the Non-Residential Lot to the Residential Lot.

The Residential Lot is zoned DD/C-2-C, and is located in Housing Priority Area B of the DD District. 11 DCMR 1706.6 requires that each building shall provide on-site or account for off-site in a combined lot development no less than 4.5 FAR of residential use. The land area of the Residential Lot is 44,647 square feet, resulting in minimum requirement for residential development of 200,911.5 square feet of gross floor area. Meridian has constructed 455,830.5 square feet of gross floor area of residential use on the Residential Lot and, pursuant to the Combined Lot Development provisions contained in Section 1708 of the DD Regulations and the Covenant, has proposed to transfer 60,115.5 square feet of commercial gross floor area, as well as an additional 11,478 square feet of commercial gross floor area, to the Non-Residential Lot by means of the Covenant. The total gross floor area allocated from the Residential Lot to the Non-Residential Lot that would otherwise be available for non-residential uses on the Residential Lot is 71,594 square feet. The residential building was constructed prior to the establishment of limits on maximum allowable amounts of FAR for combined lot transfer. Upon recordation of the Covenant, Meridian will have 15,512 square feet of residential gross floor area available for

allocation to other lots in the DD District.

The Office of Planning hereby certifies that the Non-Residential Lot and the Residential Lot comply in all respects with the applicable DD Regulations pertaining to combined lot developments involving the quantities of residential and commercial development as indicated in this memorandum and as set forth in the Covenant to which this Exhibit D is attached.

Certified:

Office of Planning

Date: 3/10/08

EXHIBIT E

Copy of Certificate of Occupancy for Residential Lot Improvements

[SEE ATTACHED]

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration
941 North Capitol Street N.E. Room 2100
Washington D.C. 20002
Tel: (202) 442-4670 Fax: (202) 442-4462

C of O

CERTIFICATE OF OCCUPANCY

PERMIT NO.
CO 76671

THIS PERMIT IS VALID ONLY FOR THE PREMISES OF THE PROJECT ADDRESS

DATE: 5/25/2004

ADDRESS	FLOOR(S)	PRCLID	
450 MASSACHUSETTS AVE NW	BASEMENT P1,P2,P3 AND 1ST THROUGH 14TH	WARD	ZONE

PERMISSION IS HEREBY GRANTED TO:
CORPORATION / MERIDIAN ON MASS. AVENUE, LLC
ID No.: L10951

TRADING AS:
MERIDIAN AT GALLERY PLACE

APPROVED USES:
APARTMENT BUILDING

PREVIOUS USES:
APARTMENT BUILDING

TYPE:	BZA NO.	OCCUPIED SQ. FOOTAGE:	OCCUP. LOAD:	EXPIRATION DATE:
NEW C/O		588,689	462	NONE

DESCRIPTION OF USE:
APARTMENT BUILDING-462 APARTMENTS, MANAGEMENT OFFICE, EXERCISE ROOM, CLUB ROOM, SWIMMING POOL/LOCKER ROOMS AND SUNDECKS

FEE: $1,140.00

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is added, VALID ONLY for the premise at the above address or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE (whether person or premises under any condition). ANY CHANGE in the type of business, ownership of business, or part of premises upon therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

David A. Clark
DIRECTOR

PERMIT CLERK
LEON PAUL

COPY COPY COPY COPY

EXHIBIT F

Copy of Section 1708.1(j)(5) Certification

[SEE ATTACHED]

EXHIBIT F TO
COMBINED LOT DEVELOPMENT COVENANT NO. 4 AMONG MERIDIAN ON MASS. AVENUE, LLC, CONSORTIUM THREE - JUDICIARY SQUARE, LLC, AND THE DISTRICT OF COLUMBIA

Property	Square/Lot	Lot Area	Zone	Minimum Required Residential FAR	Minimum Required Residential GFA	Actual Residential GFA (as limited for CLD per §1706.7, where applicable)	Maximum Permitted Non-Residential FAR	Maximum Permitted Non-Residential GFA	Additional FAR with TDRs	Additional GFA with TDRs	Maximum Permitted Non-Residential GFA with TDRs	Actual Non-Residential GFA
450 Mass (fn. 1,2, 15, 16, 21)	517/50	44,647	DD/C-2-C	4.5	200,912	455,831	5.75 (per FAR variance granted)	254,919	-	-	254,919	1,700
901 11th (fn.1, 20)	343/831 (former Lot 825)	17,326	DD/C-3-C	3.5	60,641	0	6.0	103,956	0.5	8,663	112,619	183,610
1101 NY/ 1150 K (fn. 2,4,5)	517/27	47,308	DD/C-3-C	3.5	165,578	142,189	6.0	283,848	0.5	23,654	307,502	370,075
300 Mass (fn. 3,4)	529/35	40,431	DD/C-2-C	4.5	181,939.5	354,297 (323,448)	3.5	141,508.5	-	-	141,508.5	4,372
777 6th (fn 3,8)	486/ 10-13, 36, 804-808	19,125	DD/C-2-C	4.5	86,063	0	3.5	66,937.5	0.5	9,563	76,500	177,015
Avalon at Gallery Place (fn 8)	486/ 831	23,842.5	DD/C-2-C	4.5	107,291	215,172 (213,740)* *includes 23,000sf per Allocation of Development Rights Agreement	3.5	83,449	-	-	83,449	9,398
JBG 715 6th (fn.7)	486/41	6,375	DD/C-2-C	4.5	28,687.5	70,809 (51,000)	3.5	22,312.5	-	-	22,312.5	0
JBG 1101 K – portion (fn 5,6,7)	316/ Portion of Lot 35	8,301	DD/C-2-C	4.5	37,354.5	0	3.5	29,053.5	0.5	4,120.5	33,204	77,299
JBG 1101 K - Portion (fn. 5,6,7)	316/ Portion of Lot 35	20,621	DD/C-3-C	3.5	72,173.5	0	6.0	123,726	0.5	10,310.5	134,036.5	196,166
JBG 12th & Mass (fn 6)	283/50	14,477	DD/C-2-C	4.5	65,146.5	148,702 (115,816)	3.5	50,669.5	-	-	50,669.5	750
Mather Lofts (fn 9, 10)	376/75 (former Lot 802)		DD/C-4	0	0.0	70,678	6.0	70,678	-	-	70,678	6,421
K11 Partners (fn 9, 11)	343/11, 13-16, 21, 808, 823, 829	15,574	DD/C-3-C	3.5	47,509	0	6.0	81,444	0.5	6,787	88,231	146,538
DRI 611 Mass (fn 10, 13, 14)	484W/801	1,229	DD/C-3-C	3.5	4,302	0	6.0	7,374	0.5	614.5	7,988.5	20,733 (incl 8,443 sf allocated to NAEYC (fn 14)
National Public Radio, Inc. (fn 12,13)	484W/ 23,24,814,815, 819,821,822,823	17,799	DD/C-3-C	3.5	62,297	0	6.0	106,794	0.5	8,897	115,691	177,988
Quincy Court (fn 12)	369/ 69	19,807	DD/C-2-C	4.5	89,134	157,256	3.5	69,324.5	-	-	69,324.5	8,735
901 K St (fn 15)	371/ 820 (portion), 822	8,953	DD/C-2-C	4.5	40,289	0	3.5	31,335.5	0.5	-	31,335.5	232,373
901 K St (fn 15)	371/ 820(portion), 814, 815, 816, 817, 818, 823	16,934	DD/C-3-C	3.5	59,269	0	6.0	101,604	0.5	-	101,604	(included above)
Square 452 LP (fn 16, 17, 18)	452/ 12-14, 813, 814, 825, 826, 830-833 + portion of alley to be closed	21,987 + 3,104 alley	DD/C-3-C	3.5	87,819	0	6.0	150,546	0.5	12,545.5	163,091.5	250,910.5
CF 1010 Mass (fn 17)	342/ 59	19,686	DD/C-2-C	4.5	88,587	212,593 (157,488)	3.5	68,901	-	-	68,901	8,746
Jefferson at Penn Quarter (fn 18)	457/ ___ (portion) *former lot 826	1,582	DD/C-4	0* *per §1707.4	0	4,995	6.0	11,892	-	-	11,892	0

400 Mass (fn 19, 20)	517/ 51	27,150	DD/C-2-C	4.5	126,745* *per ZC Order 940	311,934 (212,630)	3.5	90,455*	-		95,025	22,700
450 H (fn 19)	518/ 103	3,834	DD/C-2-C	4.5	17,253	0	3.5	13,419	-		13,419	31,685
Consortium 3-Judiciary Square (fn 21)	529/ 802, 803, 845, 847	13,359	DD/C-2-C	4 5	60,115 5	0	3.5	46,756.5	-	-	46,756.5	118,350
TOTAL					**1,689,106 sf Residential GFA Required**	**2,144,456sf (1,904,801 sf) Residential GFA Provided**		**2,010,903 sf Maximum Permitted Non-Residential GFA**		**85,155 sf TDRs**	**2,096,058 sf Maximum Non-Residential with TDRs**	**2,045,564.5 sf Actual Non-Residential GFA**

(1) Combined Lot Development Covenant (No. 1) among Meridian on Mass. Avenue, L L.C , TST New York Avenue, L L C. and the District of Columbia dated October 7, 2005, and recorded October 7, 2005, as Instrument No. 2005144853

(2) Combined Lot Development Covenant (No. 2) among Meridian on Mass Avenue, LLC, 1101 New York Holdings LLC and the District of Columbia dated October 7, 2005, and recorded October 7, 2005, as Instrument No. 2005144856

(3) Combined Lot Development Covenant (No. 1) among Massachusetts Court Apartments, L.L C , Massachusetts Court Apartments Condominium, 777 6th Street LLC and the District of Columbia dated August 26, 2004 and recorded May 17, 2005 as Instrument No. 2005067564

(4) Combined Lot Development Covenant among Massachusetts Court Apartments, L L.C, Massachusetts Court Apartments Condominium, 1101 New York Holdings LLC and the District of Columbia dated September 14, 2004 and recorded May 25, 2005 as Instrument No 2005072101

(5) Combined Lot Development Covenant among 1108 K Street Limited Liability Company, JJR Residential LLC, JBG/Rockwood 1101 K, L.L.C. and the District of Columbia dated March 8, 2004 and recorded October 12, 2004 as Instrument No 2004142309

(6) Combined Lot Development Covenant among EQR-JBG 12th & Massachusetts, L L C., JBG/Rockwood 1101 K, L.L.C. and the District of Columbia dated March 31, 2004 and recorded October 12, 2004 as Instrument No. 2004142310

(7) Combined Lot Development Covenant among JBG/6th Street Residential, L.L C., JBG/Rockwood 1101 K, L.L C. and the District of Columbia dated March 31, 2004 and recorded October 12, 2004 as Instrument No 2004142311

(8) Combined Lot Development Covenant (No 1) among AvalonBay Communities, Inc., 777 6th Street LLC and the District of Columbia dated January 23, 2004 and recorded July 23, 2004 as Instrument No. 2004102674

(9) Combined Lot Development Covenant among K11 Limited Partnership, Mather Building Lofts, L L C., and the district of Columbia dated September 18, 2003 and recorded May 13, 2004 as Instrument No. 2004467292

(10) Combined Lot Development Covenant among Geoffrey W Washburn, Karen M. Washburn, Mather Building Lofts, L.L.C., DRI 611 Mass. Ave. LLC (through Joinder) and the District of Columbia dated November 14, 2003 and recorded June 1, 2004 as Instrument No. 2004075578

(11) Combined Lot Development Covenant among AvalonBay Communities, Inc., K11 Limited Partnership, and the District of Columbia dated February 28, 2005 and recorded May 19, 2006 as Instrument No. 2006067119.

(12) Combined Lot Development Covenant among Quincy Court LLC, National Public Radio, Inc., and the District of Columbia dated December 5, 2005 and recorded March 30, 2006 as Instrument No. 2006041649.

(13) Combined Lot Development Covenant among. DRI 611 Mass Ave. LLC, National Public Radio, Inc, and the District of Columbia dated April 13, 2006 and recorded April 13, 2006 as Instrument No 2006049016

(14) Combined Lot Development Covenant among DRI 611 Mass. Ave LLC., National Association for the Education of Young Children, and the District of Columbia dated January 6, 2006 and recorded April 27, 2006 as Instrument No. 2006055260.

(15) Combined Lot Development Covenant (No 3) among Meridian on Mass Avenue, LLC, Mount Vernon Place United Methodist Church, The Hotel and Restaurant Employees, Local 25, 901 K Street Owner L L.C.. dated and recorded April 30, 2007 as Instrument No. 2007057936

(16) Combined Lot Development Covenant (No 4) among Meridian on Mass Avenue, LLC , Square 452 Limited Partnership, GA Square 452 Associates LLC, and the District of Columbia., dated January 11, 2008 and recorded February 8, 2008, as Instrument No 2008015574

(17) Combined Lot Development Covenant among Square 452 Limited Partnership, GA Square 452 Associates LLC, CF 1010 Mass. L L.L.P.., and the District of Columbia., dated February 28,2005 and recorded February 1, 2006 as Instrument No.2006015097.

(18) Combined Lot Development Covenant among Square 452 Limited Partnership, GA Square 452 Associates LLC, Jefferson at Penn Quarter, L P., and the District of Columbia., dated April 15, 2005 and recorded February 1, 2006 as Instrument No 2006014834.

(19) Combined Lot Development Covenant (No 1) among 400 Massachusetts, A Master Condominium Association, Inc., BREOF 450H REO LLC, Jemal's Golub I L L.C. , and the District of Columbia dated February 21, 2007 and recorded March 2, 2007 as Instrument No. 2007029519

(20) Combined Lot Development Covenant (No. 2) among 400 Massachusetts, A Master Condominium Association, Inc , TST New York Avenue, L.L.C., Jemal's Golub I L.L.C and the District of Columbia dated February 21, 2007 and recorded March 14, 2007 as Instrument No 2007035927.

(21) Combined Lot Development Covenant (No 5) among Meridian on Mass. Avenue, LLC, Consortium Three-Judiciary Square, LLC, and the District of Columbia to which this table is attached

APPENDIX A
TO
COMBINED LOT DEVELOPMENT COVENANT

LOT 50, SQUARE 517

TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION

THIS TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION (this "Subordination") is made as of this 2nd day of April, 2008, by Keith J. Willner, as sole acting trustee ("Trustee") for the benefit of Metropolitan Life Insurance Company ("Beneficiary").

RECITALS

A. Trustee is the sole acting trustee, and Beneficiary is the beneficiary, under that certain Deed of Trust, Security Agreement and Fixture Filing made by Meridian on Mass. Avenue, LLC, ("Owner"), dated as of July 28, 2004, and recorded in the Land Records of the District of Columbia on July 30, 2004, as Instrument No. 2004105150 (as amended from time to time, the "Deed of Trust"), encumbering certain real property and the improvements thereon known as Lot 50, Square 517, Washington, D.C., as more particularly described in Exhibit "A" attached hereto (the "Property") as well as other property.

B. Owner and the District of Columbia, a municipal corporation ("District"), have entered into that certain Combined Lot Development Covenant (the "Covenant"), dated April 7, 2008, to which this Subordination is attached as Appendix A.

C. As a condition to its execution of the Covenant, the District has required that the lien of any deeds of trust against the Property, including the Deed of Trust, be subordinated to the Covenant.

NOW, THEREFORE, in consideration of the foregoing premises, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the party hereto declares as follows:

1. At the request of Beneficiary, the Trustee hereby (i) subordinates the lien of the Deed of Trust to the Covenant, and (ii) agrees that in the event of any sale or sales of the Property as a result of a default under the Deed of Trust, such sale shall be subject to the Covenant in all respects.

2. Pursuant to Section 23 of the Covenant, Beneficiary hereby advises the District to send a copy of any notice of default of Owner under the Covenant to:

Metropolitan Life Insurance Company, 10 Park Avenue, Morristown, NJ 07960,

Attn: Senior Vice-President, Real Estate Investments.

Metropolitan Life Insurance Company, 10 Park Avenue, Morristown, NJ 07960 Attn: Associate General Counsel, Real Estate Investments

Mayer Brown LLP, 1909 K Street, NW, Washington, DC 20006 Attn: Keith J. Willner

By its signature to the Covenant, to which this Subordination is Appendix A, the District thereby agrees to comply with the provisions of Section 23 of the Covenant.

IN WITNESS WHEREOF, Trustee has executed this Subordination as of the date first above written.

WITNESS:

Keith J. Willner, Sole Acting Trustee

DISTRICT OF)
) ss:
COLUMBIA)

I, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Keith J. Willner who is personally well known to me as the person named as Sole Acting Trustee in foregoing instrument, personally appeared before me in said jurisdiction, and acknowledged same to his act and deed as Sole Acting Trustee, and that he delivered the same as such.

WITNESS my hand and official seal this 2nd day of April 2008.

Notary Public

[Notarial Seal]

My Commission Expires: _____

JOAN HUMPHREYS
Notary Public, District of Columbia
My Commission Expires March 14, 2011

EXHIBIT A
To
Appendix A

TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION

LEGAL DESCRIPTION

ALL THOSE CERTAIN units of condominium situate, lying and being in the District of Columbia, and more particularly described as follows:

Unit Nos. 102 through 110, 112 through 117, 124 through 127, 130 through 133, 201 through 235, 301 through 335, 401-through 435, 501 through 535, 601 through 635, 701 through 735, 801 through 835, 901 through 935, 1001 through 1035, 1101 through 1135, 1201 through 1206, 1208 through 1235, 1301 through 1303, 1310 through 1335, 1401 through 1403, 1411 through 1417 and 1420 through 1435, all inclusive, Meridian on Mass. Avenue Condominium, as created by Declaration of Meridian on Mass. Avenue Condominium recorded August 19, 2003, as Instrument No. 2003107297, and Condominium Plat recorded in Plat Book 48 at Page 3.

Together with a one hundred percent (100%) undivided interest in the appurtenant common elements, as set forth in said Declaration. Bylaws of Meridian on Mass. Avenue Condominium recorded August 19, 2003, as Instrument No. 2003107298.

NOTE: See attached Exhibit A-1 for Assessment and Taxation Lot numbers in Square numbered 517.

AND BEING the same property conveyed to Meridian On Mass. Avenue, LLC, a Delaware limited liability company, by Special Warranty Deed from Consortium Two - 450 Mass Ave, LLC, a District of Columbia limited liability company, recorded April 17, 2002, as Instrument Number 2002044790, known also as Lot 50 in Square 517 as the same is shown on a plat of subdivision made by Kalian N.V. in Book 174 at Page 6 in the records of the Office of the Surveyor of the District of Columbia.

EXHIBIT A-1

Meridian on Mass. Avenue Condominium

Assessment and Taxation Lot Numbers in Square 517:

2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462

APPENDIX B
TO
COMBINED LOT DEVELOPMENT COVENANT

LOTS 802,803,845,847, SQUARE 529

TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION

THIS TRUSTEE'S JOINDER, CONSENT AND SUBORDINATION (this "Subordination") is made as of this 10th day of March, 2008, by JAMES R. TURLEY as trustee for the benefit of CHEVY CHASE BANK F.S.B. ("Beneficiary").

RECITALS

A. Michael S. Donovan, Eric A. Lawrence and James R. Turley (collectively, "Trustees" and individually "Trustee"), as trustees, (any of whom is authorized and may act for the benefit of Beneficiary) are the Trustees, and Beneficiary is the beneficiary, under that certain Deed of Trust and Security Agreement made from Consortium Three – Judiciary Square, LLC, a District of Columbia limited liability company ("Owner"), dated as of June 7, 2006, and recorded in the Land Records of the District of Columbia on June 27, 2006 as Instrument No. 2006084681 (as amended from time to time, the "Deed of Trust"), encumbering Lots 802, 803, 845, and 847 in Square 529 in Washington, DC, and the improvements thereon (the "Property").

B. Owner, Meridian on Mass. Avenue, LLC, a District of Columbia limited liability company, Consortium Two – 450 Mass Ave LLC, a District of Columbia limited liability company, and the District of Columbia, a municipal corporation (the "District"), have entered into that certain Combined Lot Development Covenant (Covenant No. 5) (the "Covenant"), dated April 7, 2008, to which this Subordination is attached as an Appendix.

C. As a condition to its execution of the Covenant, the District has required that the lien of any deeds of trust against the Property, including the Deed of Trust, be subordinated to the Covenant.

NOW, THEREFORE, in consideration of the foregoing premises and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the party hereto declares as follows:

1. At the request of Beneficiary, and as authorized in Appendix B-1 attached hereto, the Trustee hereby (i) subordinates the lien of the Deed of Trust to the Covenant, (ii) agrees that in the event of any sale or sales of the Property as a result of a default under the Deed of Trust, such sale shall be subject to the Covenant in all respects.

2. Pursuant to Section 23 of the Covenant, Beneficiary hereby advises the District to send a copy of any notice of default of Owner under the Covenant to Beneficiary as follows:

BENEFICIARY'S AUTHORIZATION TO TRUSTEE

On this 11th day of March, 2008, CHEVY CHASE BANK F.S.B. ("Beneficiary") under that certain Deed of Trust and Security Agreement (as amended from time to time, the "Deed of Trust") dated as of June 7, 2006, and recorded in the Land Records of the District of Columbia on June 27, 2006 as Instrument No. 2006084681, hereby authorizes and directs James R. Turley, as trustee, to execute the annexed Trustee's Joinder, Consent and Subordination for the purposes set forth therein.

IN WITNESS WHEREOF, Beneficiary has caused this instrument to be executed by Carlos L. Heard its V.P. and Manager, and does hereby appoint said Carlos L. Heard as its attorney-in-fact for purposes of executing, acknowledging and delivering this instrument, for and on behalf of Beneficiary, all as of the day and year first hereinabove written.

Witness:

CHEVY CHASE BANK F.S.B.,
A federal savings bank

By: _____
Name: Carlos L. Heard
Title: Vice President & Manager

Maryland State)
) ss:
Anne Arundel County)

I, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that Carlos L. Heard, who is personally well known to me as the person named in foregoing instrument as Vice President & Manager and attorney-in-fact of Chevy Chase Bank, F.S.B. personally appeared before me in said jurisdiction, and acknowledged the same to be the act and deed of Chevy Chase Bank, F.S.B, and that s/he delivered the same as such.

IN WITNESS WHEREOF, I set my hand and notarial seal this 11 day of March, 2008.

[Notarial Seal]
My Commission Expires:

PERGIA L. MITCHELL
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires June 12, 2011

Notary Public

Chevy Chase Bank
Real Estate Division
7501 Wisconsin Avenue, 12th Floor
Bethesda, MD 20814

IN WITNESS WHEREOF, Trustee has executed this Subordination as of the date first above written.

WITNESS:

James R. Turley
Trustee

MARYLAND STATE)
) ss:
ANNE ARUNDEL COUNTY)

I, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that James R. Turley, who is personally well known to me as the person named as Trustee in the foregoing instrument, personally appeared before me in said jurisdiction, and acknowledged same to his act and deed as Trustee, and that he delivered the same as such.

WITNESS my hand and official seal this 10TH day of MARCH 2008.

Notary Public

[Notarial Seal]
My Commission Expires:

PERGIA L. MITCHELL
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires June 12, 2011

Doc# 2008037719 Fees:$383.50
04/08/2008 2:12PM Pages 53
Filed & Recorded in Official Records of
WASH DC RECORDER OF DEEDS LARRY TODD

RECORDING	$	377.00
SURCHARGE	$	6.50

Exhibit B

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR

April 18, 2011

By US Mail and Email PDF

John T. Epting
Goulston & Storrs
1999 K Street, NW, 5th Floor
Washington, DC 20006

Re: 443 – 459 I Street, NW (Square 516, Lots 812 – 815 and 876) (collectively, the "Property") – Applicability of the Downtown Development Regulations

Dear Mr. Epting:

The purpose of this letter is to confirm the applicability and implications of the Downtown Development ("**DD**") Overlay District regulations, and in particular, § 1706.4(b) of the Zoning Regulations, relating to the potential renovation of the Property. It is my understanding that the potential purchaser of the Property is investigating the possibility of constructing a residential and retail project on the Property. As discussed in further detail below, I have concluded that: (i) the potential renovation of the Property will not trigger the housing requirements of § 1706.4 of the DD Regulations for the portions of the project on Lots 812, 813, and 876, (ii) the Combined Lot Development rights ("**CLDs**") generated by the portions of the project on Lots 812, 813, and 876 may be transferred to any Housing Priority Area under § 1708.1(d), and (iii) a rear yard is not required at the Property for the proposed development under § 1707.6.

Property Description

The Property is located in the **DD Overlay/C-2-C** Zone District. It is also located in Housing Priority Area A. The DD Overlay went into effect in 1991. The Property is also in the Mount Vernon Triangle Historic District (the "**Historic District**") which was established in 2005. Three of the four buildings on the Property are contributing buildings in the Mount Vernon Triangle Historic District. The Property consists of 20,614 square feet of land area.

Residential Requirement

Under § 1706.4(b), the Property would be required to "provide on-site or account for off-site in a combined lot development no less than 4.5 FAR of residential use". However, the DD regulations include a provision that exempts the Property from having to satisfy such housing requirement. §§ 1706.20 and 1707.2-1707.4 provide that the residential requirements do not

apply to any lot that is restricted in its development because of its location in the Downtown Historic District, the Pennsylvania Avenue Historic District, or because it is designated a historic landmark.

The purpose of § 1706.20 is to recognize that historic landmarks and properties located in the two original historic districts in the DD Overlay are prohibited from the additional development opportunities that the DD regulations provide. Thus, such historic buildings and properties are not required to provide residential use.

The Mount Vernon Triangle Historic District was established in 2005, with three of the buildings on the Property noted in the description of the historic district and deemed contributing to the Historic District. The only reason why the Mount Vernon Triangle Historic District is not listed in § 1707.2 or the Property is not listed in § 1707.4, is that the Mount Vernon Triangle Historic District was not in existence at the time these sections were created in 1991. § 1707.5 notes that a project in the historic districts is not eligible to construct bonus density on-site but may transfer bonus density to other sites both if the building is a landmark or it is "a building within the Downtown Historic District or the Pennsylvania Avenue Historic Site that has been preserved in whole or in part pursuant to the Historic Landmark and Historic District Protection Act of 1978 (the "**Act**")." Therefore, such exemption applies to landmarks and contributing buildings within a historic district in the DD Overlay preserved under the Act alike. I agree that the intent of the DD Regulations is that historic properties in the DD Overlay should not be subject to the housing requirements of § 1706.4. Therefore, the portions of the Property containing the structures to be preserved under the Act (which are subject to the same historic constraints as the properties listed in §§ 1707.2 and 1707.4) should not be subject to the housing requirements of § 1706.4(b).

The three historically significant portions of the Property described in the Historic District application are Lots 812 (453 I Street), 813 (455 I Street), and 876 (443-451 I Street). These parcels comprise 14,199 square feet of lot area. Therefore, such portion of the Property does not have a residential requirement, although such area is limited to 6.0 FAR.

This approach has recently been confirmed by the District several times. For example, the letter from the Zoning Administrator, dated September 25, 1998 (attached as Exhibit A) concludes that a historic landmark located outside of the area described in § 1707.4 is entitled to an exemption from the residential requirements of the DD Overlay pursuant to § 1706.20. In addition, a second letter from the Zoning Administrator, dated May 13, 2008, relating to 457 Massachusetts Avenue, NW, is attached as Exhibit B. Such letter concludes that historic properties in the DD Overlay (such as the Property) do not require residential use under § 1706.4, even though such properties were not specifically enumerated in § 1707.4. Similarly, the Office of Planning notes in its Large Tract Review report for the Yale Laundry project, dated June 5, 2000 (attached as Exhibit C), that the portion of the Yale project that was part of the historic landmark is not subject to the residential requirement. The vacant portion of such site was subject to such residential requirement.

Combined Lot Development Rights

Since Lots 812 (453 I Street), 813 (455 I Street), and 876 (443-451 I Street) have no residential requirement, all residential use constructed on such properties may be transferred as CLDs up to a limit of 6.0 FAR. Further, under § 1708.1(d), CLDs created by a historic property under § 1707.4 can be transferred to any Housing Priority Area. § 1708.1(d) states that:

> Notwithstanding the requirements of paragraph (c) of this subsection and of § 1706.9, a historic property that is identified and governed by § 1707.4 is eligible to serve as the location of required residential uses within a combined lot development, even if the historic properties are located outside the Housing Priority Area established in § 1706.2.

This approach has also been confirmed by the District several times. For example, such approach is described in the Combined Lot Development Covenant between National Public Radio, Inc., and GIBG YL Partners, LLC, dated February 20, 2008 and recorded as Instrument Number 2008023539 (the "**Covenant**"). Pages 3 and 32 of such Covenant indicate that the CLD-generating Yale Steam Laundry Condos East project, as a historic property in the DD Overlay, even though not listed in § 1707.2 since it was in the Mount Vernon Triangle Historic District, did not have a residential requirement. Other CLD Covenants utilizing the same conclusion have been recorded for the same CLD-generating property. Further, two CLD Covenants were fully-reviewed and executed by the District but never recorded for the Yale Steam Laundry Condos West project that bifurcated the property into a residual portion of the Yale Steam Laundry historic landmark and the vacant remainder of the site. Those CLD Covenants concluded that no residential requirement existed for the portion of the historic landmark on such property.

Rear Yard Requirement

Similar to the above, under § 1707.6, since the property is in a Historic District now located in the DD Overlay, no rear yard is required for the property. That Section states that the rear yard requirements shall not apply in the Downtown Historic District or Pennsylvania Avenue Historic Site. As mentioned above, at the time of the creation of the DD Regulations, the Mount Vernon Triangle Historic District was not in existence. The Mount Vernon Triangle Historic District was created in 2005. Therefore, § 1707.6 should be applied to the Property and no rear yard should be required, regardless of the structures existing thereon currently.

If you have any questions about this matter, please do not hesitate to contact me.

Sincerely, Matthew Le Grant

Matthew Le Grant, Zoning Administrator

Attachments – A, B, C

cc: Stephen Cochran, Office of Planning

File: Determination Ltr re 443-459 I St NW on DD Regs to Epting 4-18-2011

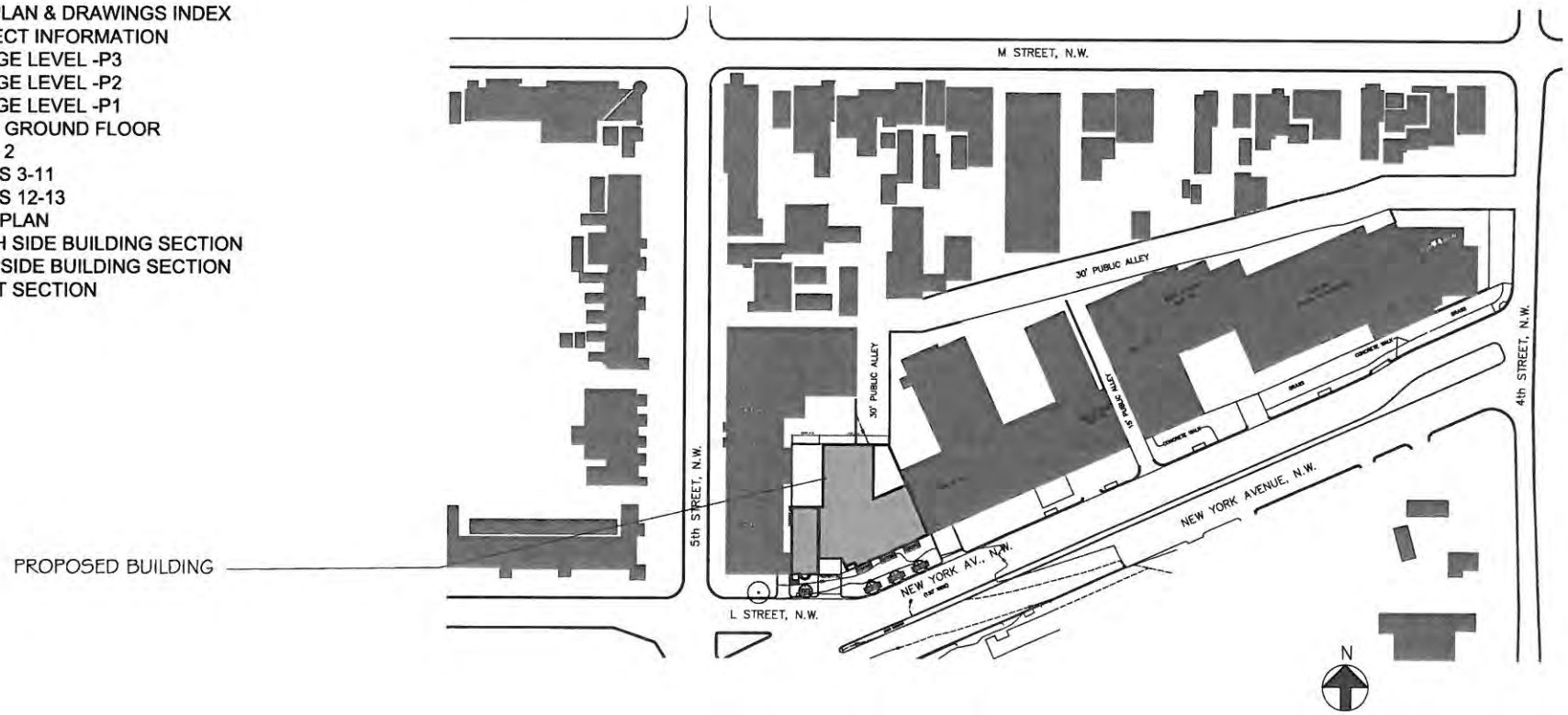
Exhibit C

NEW YORK AVENUE N.W, WASHINGTON, DC

DRAWING INDEX:

CVR-01	SITE PLAN & DRAWINGS INDEX
CVR-02	PROJECT INFORMATION
A-01	GARAGE LEVEL -P3
A-02	GARAGE LEVEL -P2
A-03	GARAGE LEVEL -P1
A-04	LEVEL GROUND FLOOR
A-05	LEVEL 2
A-06	LEVELS 3-11
A-07	LEVELS 12-13
A-08	ROOF PLAN
A-09	NORTH SIDE BUILDING SECTION
A-10	WEST SIDE BUILDING SECTION
A-11	COURT SECTION

SITE PLAN:



CVR-01

SITE PLAN

JULY 21, 2011
SCALE: 1/64" = 1'-0"

BBG BBGM

PROJECT INFORMATION:

ZONING:

SITE DD/R-5-B ZONE
FAR =1.8
SITE AREA=3,029.8 SF
LOT OCCUPANCY= 60%
BUILDING HEIGHT= 50'-0" max
PARKING = 1 per 2 units

PROVIDED: RELOCATED EXISTING HISTORIC BUILDING
LOT OCUPANCY = 51%
FAR=1.55
BUILDING HEIGHT: 42'-0"
PARKING= 3 parking spaces

SITE DD/C-2-C ZONE
FAR= 8
SITE AREA= 9,152 SF
LOT OCCUPANCY= 100%
BUILDING HEIGHT= 130'-0" max.
PARKING = 1 per 2 rooms= 108 parking spaces
= 1 per 150 SF Meeting Rm space= 3 parking spaces
= 111 parking spaces

PROVIDED:
LOT OCCUPANCY= 82%
FAR= 10
BUILDING HEIGHT= 128'-0"
PARKING= 111 parking spaces

ALLOWED- TOTAL GROSS AREA: 96,974 SF
PROPOSED- TOTAL GROSS AREA: 96,974 SF

GROSS BUILDING AREA:

FLOOR	GARAGE	R-5-B GROSS AREA	C-2-C GROSS AREA	TOTAL GROSS AREA
13TH FLOOR		-	6,921 SF	6,921 SF
12TH FLOOR		-	6,921 SF	6,921 SF
TYPICAL FLOOR (3RD-11TH)		-	7,431x9=66,879 SF	66,879 SF
MEZZANINE (2-3)		1,566x2= 3,132 SF	-	3,132 SF
2ND FLOOR		-	8,413 SF	8,413 SF
MEZZANINE 1		1,566 SF	-	1,566 SF
GROUND FLOOR		-	3,142 SF	3,142 SF
P-1	12,153 SF	-	-	
P-2	12,153 SF	-	-	
P-3	6,395 SF	-	-	
	30,701 SF	4,698 SF	92,296 SF	96,974 SF

COURT CALCULATIONS:

WEST COURT:

UPPER COURT
BOTTOM ELEVATION: 106.00'
TOP PARAPET: 190.50'
UPPER WIDTH: 84.5' x 3 inch/ft= 21.125 required
28.5' provided
AREA: 21.13'² x 2= 893 SF required
1,600 SF provided

LOWER COURT
LOWER WIDTH: 70.50'
106.00'
35.5' x 4 inch/ft=11.7/ min. 15.00' req.
27.5' provided
AREA: min. 350 SF required
1,500 SF provided

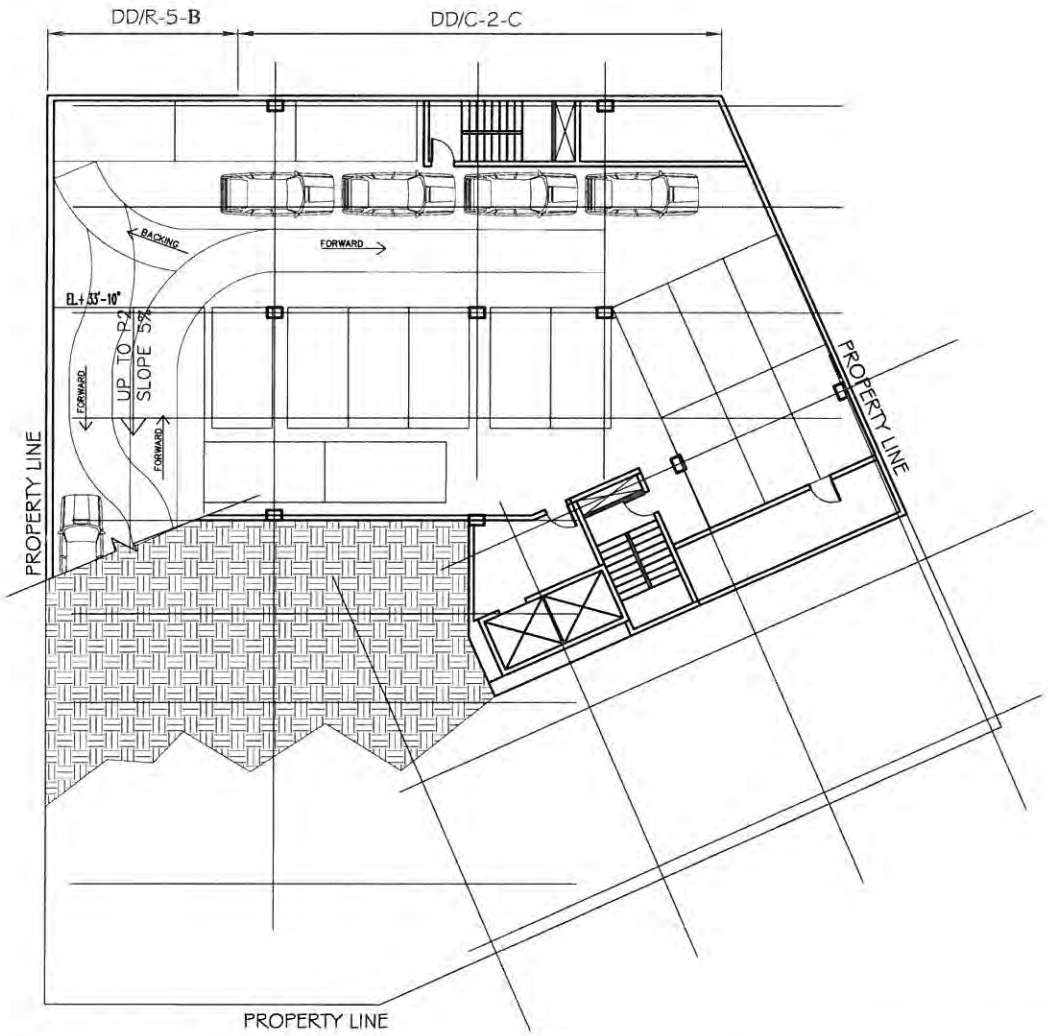
EAST COURT:

BOTTOM ELEVATION: 86.00'
TOP PARAPET: 190.50'
WIDTH: 104.50' x 3 inch/ft=
26.12' required/provided

GUESTROOMS:

FLOOR	GUESTROOMS
13TH FLOOR	17
12TH FLOOR	17
TYPICAL FLOOR (3RD-11TH)	19 x9= 171
MEZZANINE (2-3)	-
2ND FLOOR	17
MEZZANINE 1	-
GROUND FLOOR	-
TOTAL	216

CVR-02



A-01

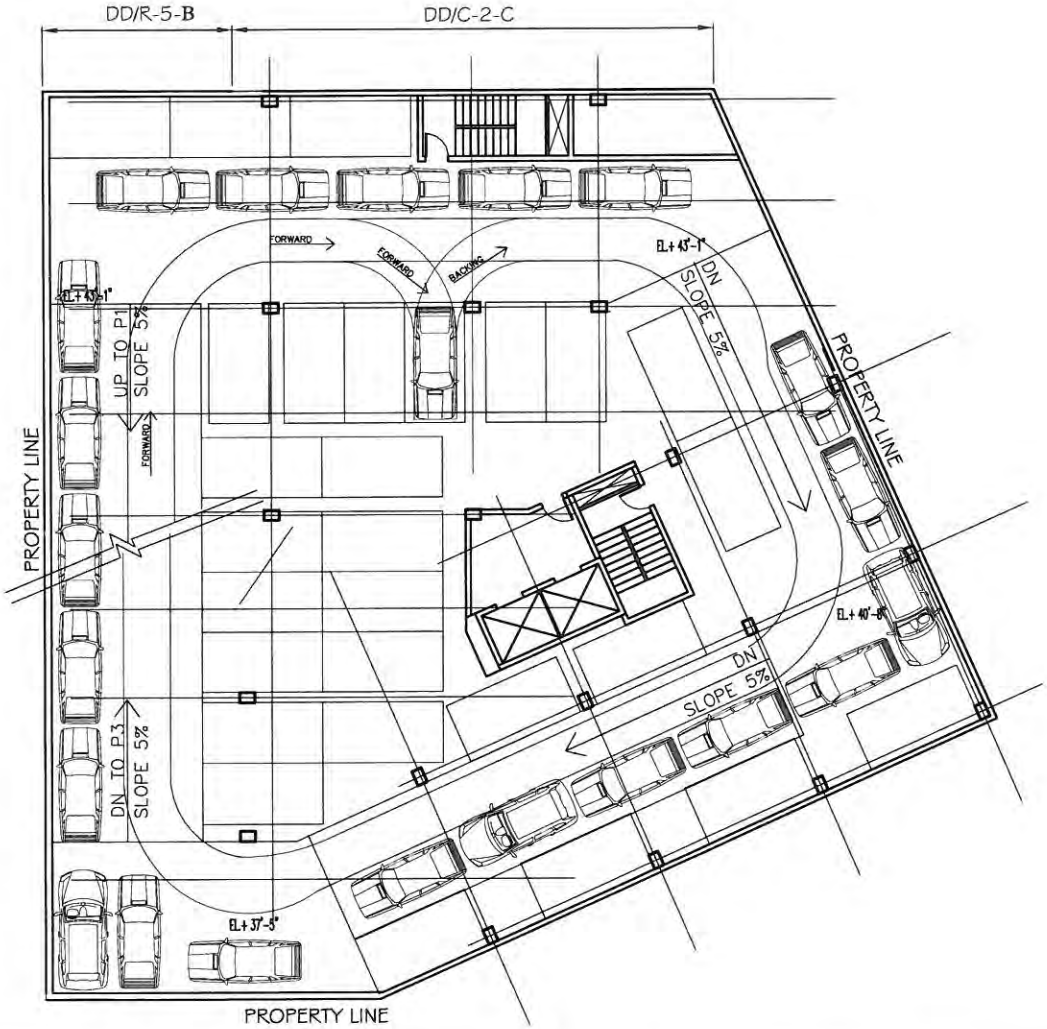
GARAGE LEVEL - P3

17 PARKING SPACES
4 STACKED CARS

TOTAL 69 PARKING SPACES
TOTAL 42 STACKED CARS
TOTAL 111 VALET PARKING SPACES

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM



A-02

GARAGE LEVEL - P2

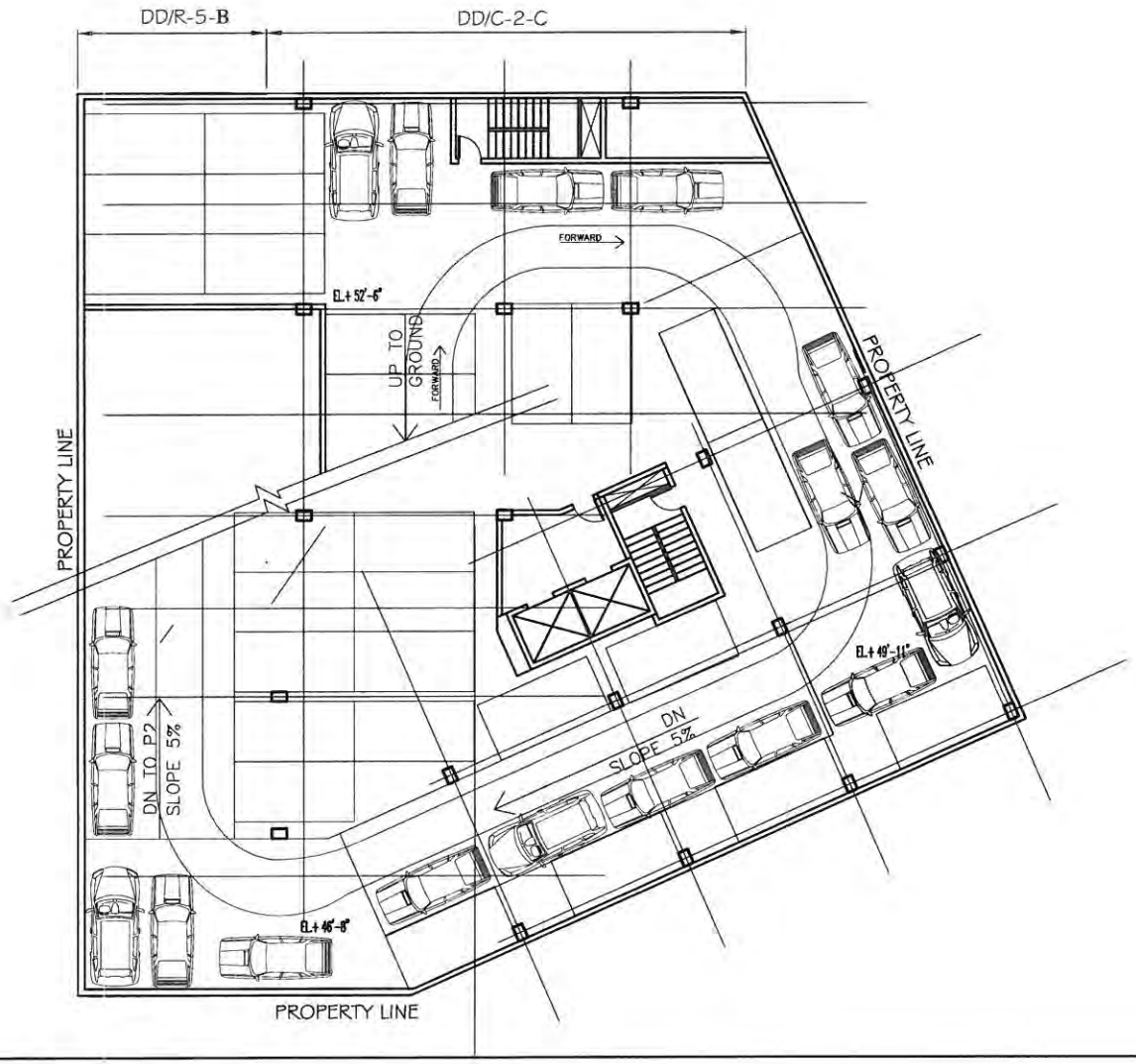
27 PARKING SPACES

21 STACKED CARS

JULY 21, 2011

SCALE: 1/16" = 1'-0"

BBG | BBGM



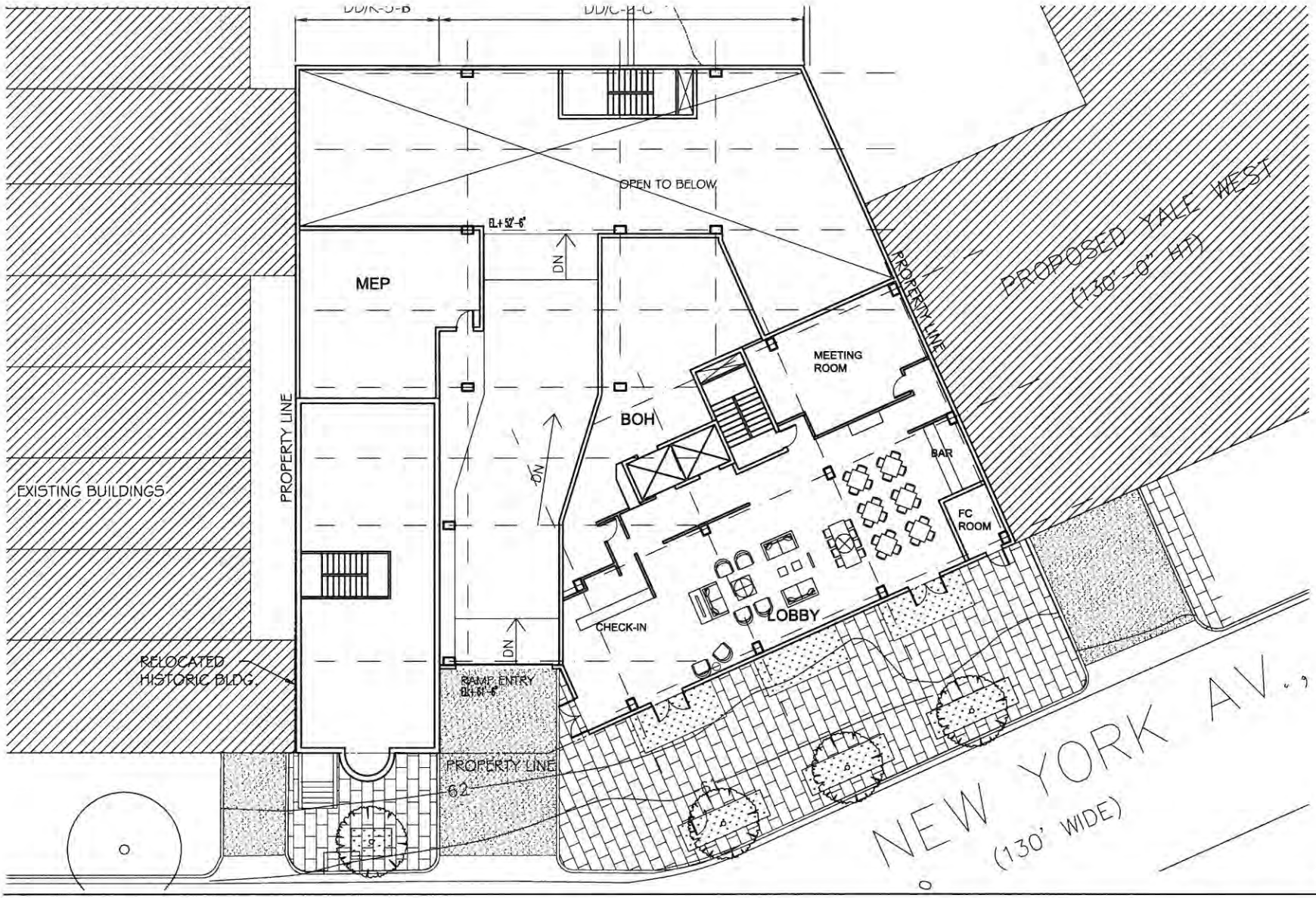
A-03

GARAGE LEVEL - P1

25 PARKING SPACES
17 STACKED CARS

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM



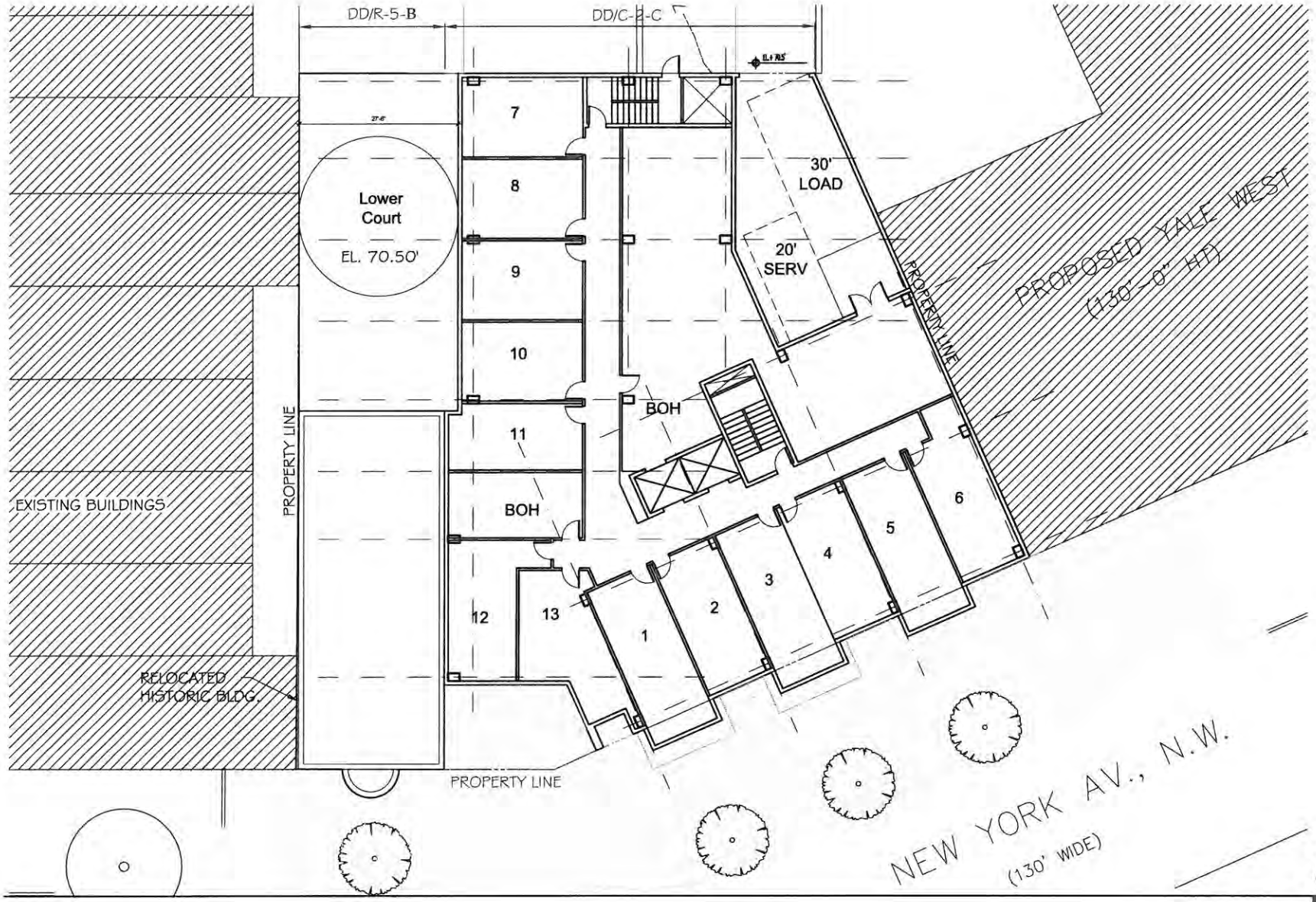
A-04

LEVEL GROUND FLOOR

FLOOR AREA 3,142 SF

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM



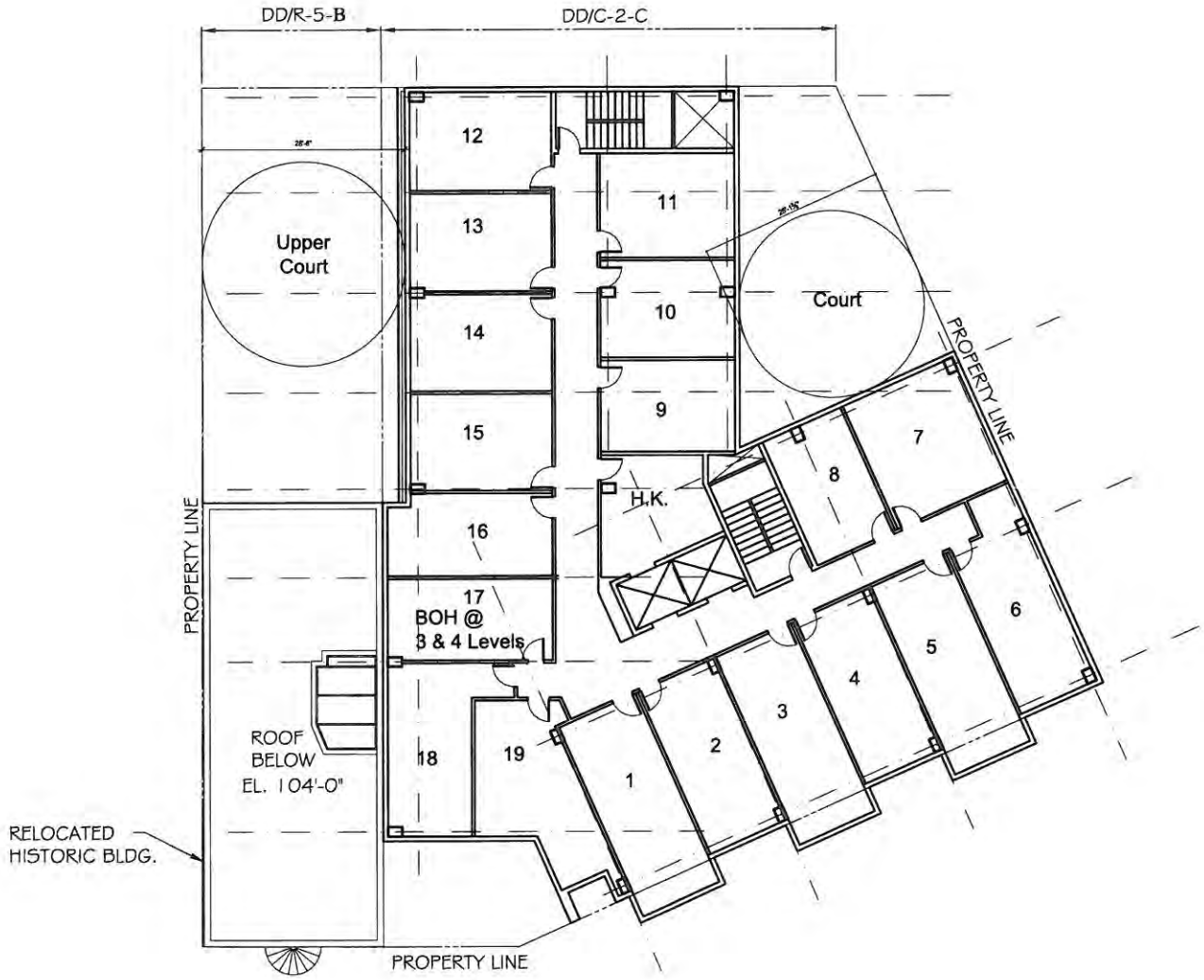
A-05

LEVEL 2

FLOOR AREA 8,413 SF

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM



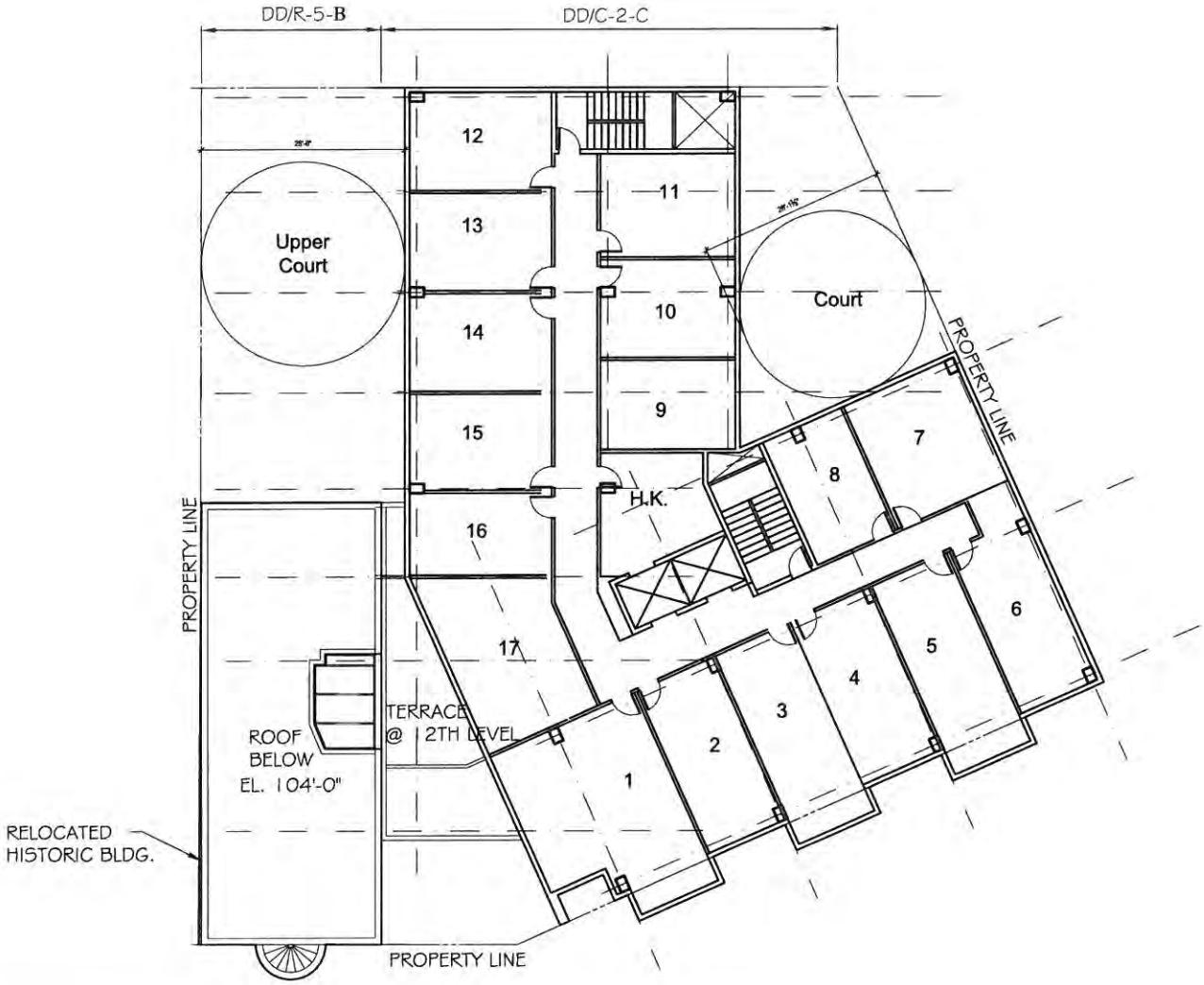
A-06

LEVELS 3-11

FLOOR AREA 7431 SF per floor
TOTAL 3-11 66,879 SF

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG BBGM



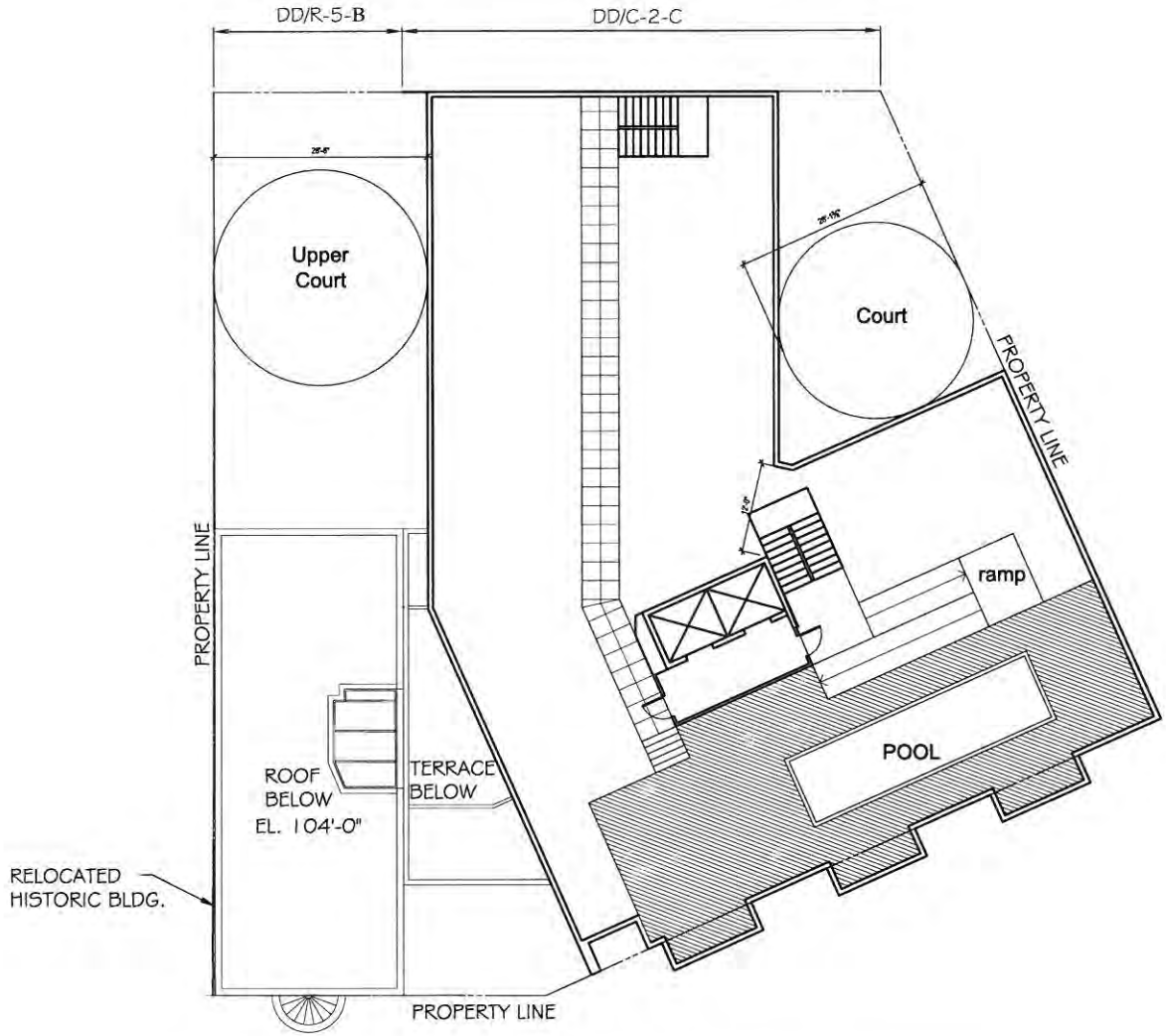
A-07

LEVELS 12-13

FLOOR AREA 6921 SF per floor
TOTAL 13842 SF

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG BBGM

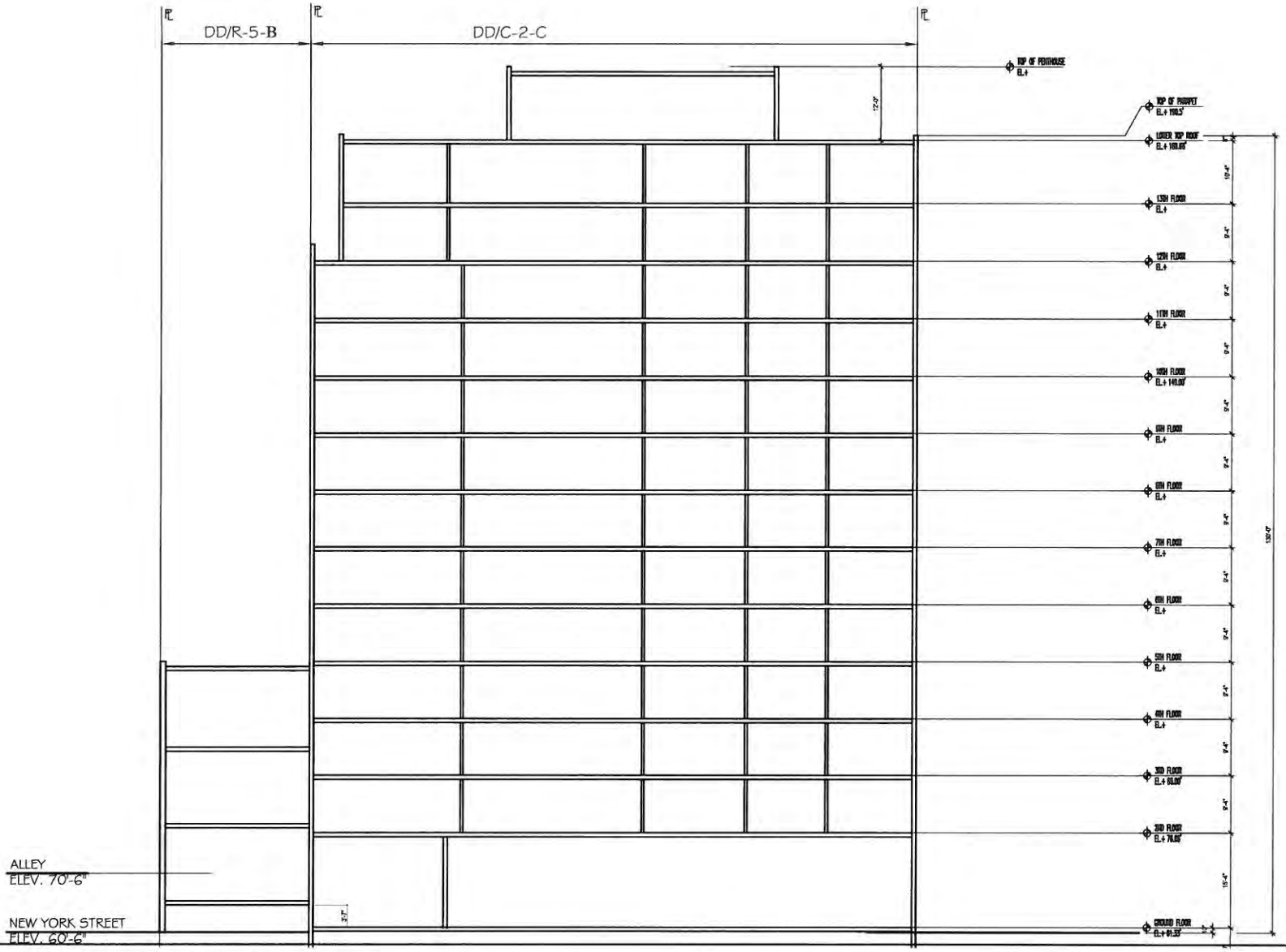


A-08

ROOF PLAN

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG BBGM

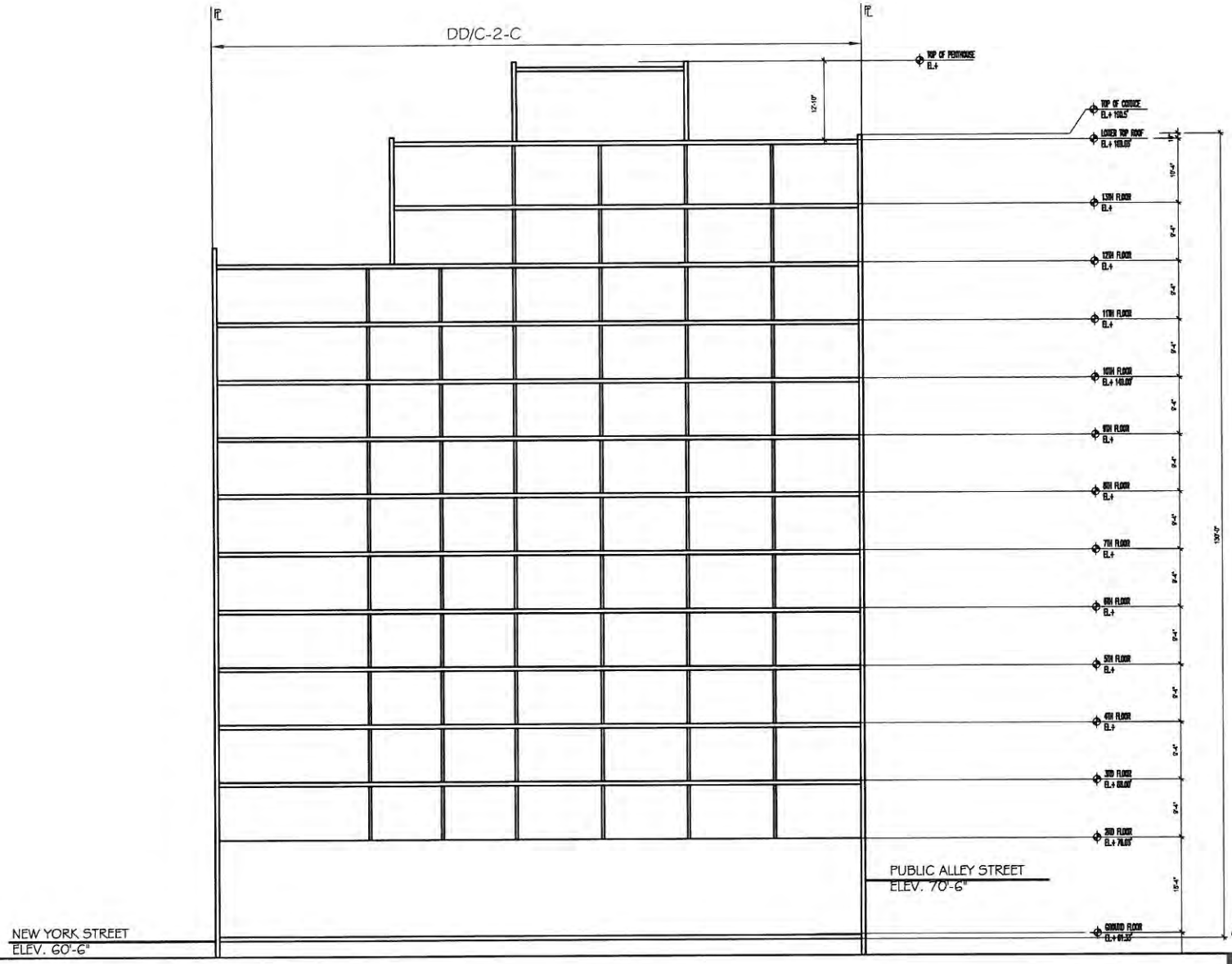


NORTH SIDE BUILDING SECTION

A-09

JULY 6, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM

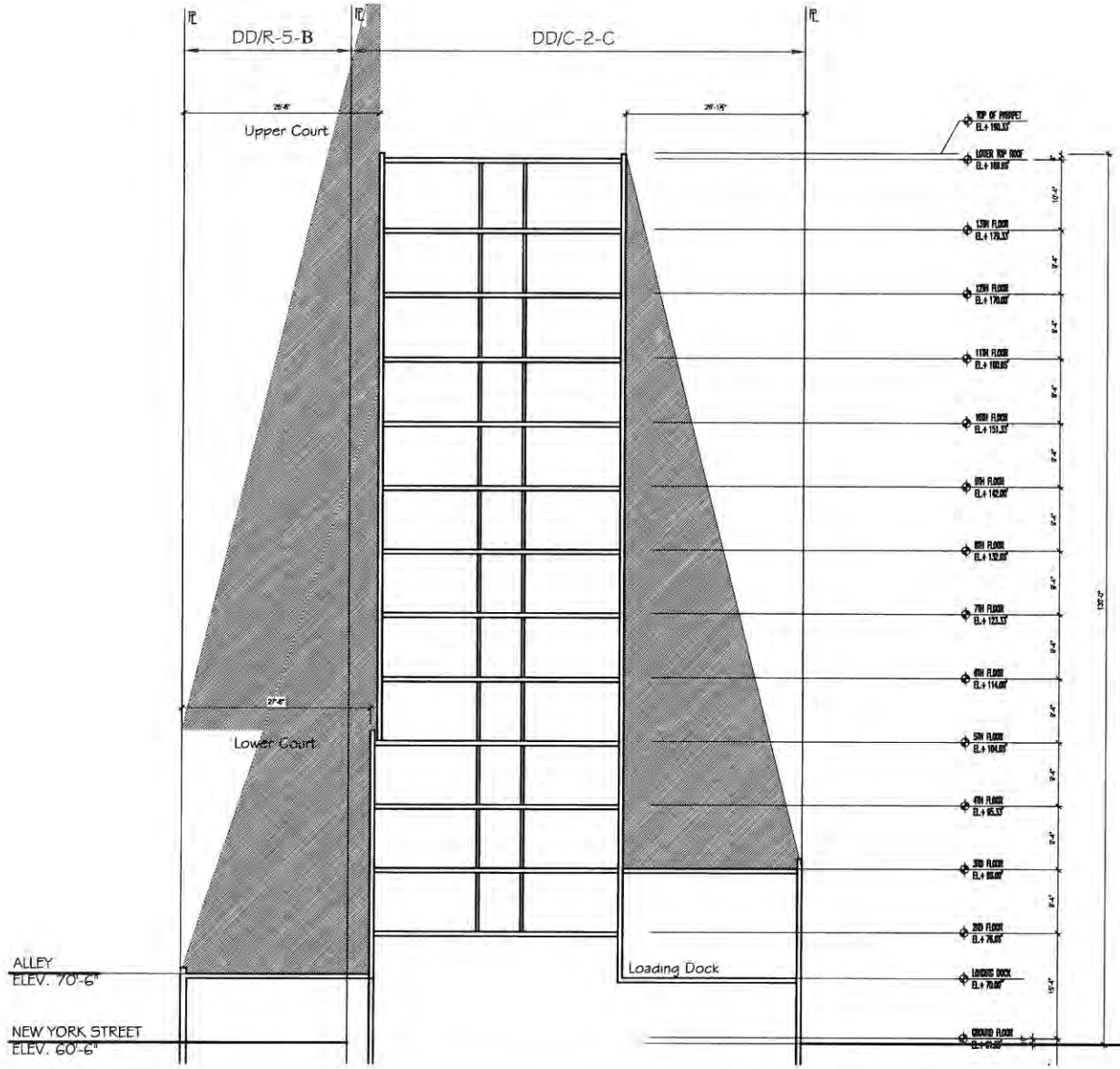


A-10

WEST SIDE BUILDING SECTION

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM



A-11

COURT SECTION

JULY 21, 2011
SCALE: 1/16" = 1'-0"

BBG | BBGM