

VALERIE CAMPBELL  
SPECIAL COUNSEL  
PHONE: 212-715-9183  
FAX: 212-715-8252  
VCAMPBELL@KRAMERLEVIN.COM

April 26, 2016

By Email

Eric Stern, Chair, Land Use, Housing and  
Zoning Committee  
Layla Law-Gisiko, Chair, Landmarks  
Committee  
Wally Rubin, District Manager  
Manhattan Community Board 5  
450 Seventh Avenue, Suite 2109  
New York, NY 10123

Re: 41-45 West 17th Street & 38-42 West 18th Street

Dear Mr. Stern, Ms. Law-Gisiko and Mr. Rubin:

We appreciate the opportunity to present our application to Community Board 5's Land Use, Housing and Zoning Committee (the "Committee"). As requested by the Committee, we would like to provide more information on the following issues raised at the public hearing.

a. Mandatory Inclusionary Housing ("MIH"):

We have confirmed with the Department of City Planning ("DCP") that this particular Section 74-711 special permit application does not trigger a requirement to provide affordable housing under the MIH text. Section 74-32 of the MIH text provides that when a special permit application would "allow a significant increase in residential floor area" for a development that is not mapped within an MIH designated area, the Commission should apply the MIH requirements. In this regard, DCP's Zoning Division and Counsel's office, who are the authors of this recently enacted text, have concluded that this special permit application does not result in "a significant increase in residential floor area" because the bulk waivers requested under the ZR Section 74-711 Special Permit application simply facilitate the use of permitted residential floor area on a zoning lot encumbered by landmark buildings. Additionally, we would note that the proposed new building does not use all of available residential floor area and that a ZR Section 74-711 special permit will require significant and costly restoration work on the historic buildings.

1177 AVENUE OF THE AMERICAS NEW YORK NY 10036-2714 PHONE: 212.715.9100 FAX: 212.715.8000

990 MARSH ROAD MENLO PARK CA 94025-1949 PHONE: 650.752.1700 FAX: 650.752.1800

47 AVENUE HOCHET 75008 PARIS FRANCE PHONE: (33 1) 44 09 46 00 FAX: (33 1) 44 09 46 01

WWW.KRAMERLEVIN.COM

April 26, 2016

Page 2

b. Rear Yard Obstruction Waiver:

Upon further review and discussion with the staff of DCP, we have confirmed that the proposed commercial floor area in the rear yard condition is as-of-right pursuant to ZR Section 33-281. Accordingly, this waiver is not required and it will be removed from the application, as directed by DCP. An updated and revised Community Board Presentation is attached ("Revised Presentation"); please see pages 16, 18-19 listing and illustrating the bulk waivers.

c. Rear Yard Equivalent and Minimum Distance between Windows Waivers:

The underlying residential rear yard equivalent requirements do apply above the third floor where the new building becomes residential and the requested waiver of 10 feet from the required 60-foot deep rear yard equivalent is still required. This waiver will allow a rear yard equivalent of 50 feet and a minimum distance between the buildings of 50 feet. It will facilitate efficient building floorplates despite the lot depth of 184 feet. The five blocks that were rezoned pursuant to the Ladies Mile Rezoning have a lot depth of approximately 184 feet which is shallower than the usual depth of 200 feet. However, most new residential development in this area has occurred through the conversion of commercial and manufacturing buildings, for which these requirements do not apply. Few new residential buildings have been developed on these blocks and to our knowledge, no other residential developments were developed on zoning lots that include low-rise historic buildings. Here, the footprint of the new residential building is constrained by the preservation of the historic lower-rise buildings. Significantly, the residents of the proposed new building will have the most generous rear yards of any of the buildings on the block including the new building located at 30 West 18th Street.

d. Height and Setback Waivers: The requested height and setback waivers would allow the northern wing of the new building to rise above the 60 foot maximum building height applicable to narrow lots and would allow the south wing to rise without setback above the maximum base height of 125 feet. The LPC found the proposed building heights and street walls to be appropriate to the historic context of the Ladies Mile district (See LPC Certificate of Appropriateness, attached). The resultant new building massing is appropriate to both the 17th and 18th Street streetscapes and creates building envelopes that are very characteristic of the historic district. We note that Community Board 5 has approved a number of buildings with street walls exceeding 150 feet, including 7 West 21st Street, 27 West 17th Street, and 1162 Broadway. (See pages 28-30 of the Revised Presentation).

e. Other Issues:

In addition to specific land use issues discussed above, we would like to respond to certain community issues that came up during the Committee's discussion and public testimony. With respect to the ownership of the property, Acuity Capital Partners L.L.C., ("Acuity") owns the property and is the applicant for the special permit. Adorama Camera is the

April 26, 2016

Page 3

current anchor commercial tenant of 42 West 18th Street and is expected to remain in the existing commercial space.

Adorama has been a commercial and retail presence in Chelsea since 1974 and has been at its current location since 1979. Adorama moved to the neighborhood when it was largely a manufacturing district. Its presence helped bring stability and security long before it became a mixed-use neighborhood with residential neighbors, as encouraged by the 2004 rezoning. The proposed development will reflect and enhance the mixed use character established by the 2004 rezoning. As America's second largest camera retailer and rental outlet, Adorama is one of the most significant economic engines within the Ladies Mile Historic District. It employs over 500 people and 75 percent of its employees are Manhattan residents. It is a destination for camera and technology enthusiasts—both professional and amateur—and its customers support other local businesses. In addition, Adorama's hugely successful annual street fair each June provides an economic boost and promotional opportunity for all the area's local businesses.

The Acuity team has met on several occasions since 2014 with the residents of 32 West 18th Street, along with their legal and government relations representatives, to discuss neighborhood quality-of-life issues. As the result of these discussions, Adorama has:

- Established and enforced a policy of monitoring delivery trucks to reduce truck idling along 18th Street;
- Rearranged and relocated Adorama-related overnight parking along 18th Street to a nearby parking lot;
- Significantly reduced the volume on external speakers;
- Relocated Adorama Rentals into a new and efficient space at 50 West 17th Street, significantly reducing sidewalk congestion along West 18th Street;
- Due to the condition of the historic buildings' facades, sidewalk bridges are necessary in order to ensure pedestrian safety; once the facades are restored as mandated by the LPC approvals in connection with this development, the sidewalk bridges will be removed;
- In the interim, the sidewalk bridges have been maintained in full compliance with building codes and regulations.

In connection with the ZR Section 74-711 Special Permit, Acuity will commence a comprehensive, first-class restoration of the two historic buildings located at 40 & 42 West 18th Street and 45 West 17th Street. The completion of this restoration work will be assured because the new residential building will not be issued a temporary or permanent certificate of


April 26, 2016

Page 4

occupancy until LPC certifies to the Department of Buildings that the restoration work has been completed in accordance with LPC requirements. Thereafter, Acuity, and all future owners of the property will be required to maintain the historic properties in sound, first-class condition in perpetuity under a Continuing Maintenance Plan that is embodied in a deed restriction.

Thank you again for your thoughtful consideration of this application. We trust that this letter and any follow-up discussion will help address issues that were raised at our first presentation to the Committee. We would also be happy to schedule a conference call at a mutually-convenient time to respond to any questions you may have prior to the May 4th Land Use Committee meeting and we look forward to seeing you on May 4th.

Sincerely,



Valerie Campbell

VC:le

cc: Michele de Milly  
Morris Adjmi  
Marcie Kesner



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



# PERMIT

## CERTIFICATE OF APPROPRIATENESS

<b>ISSUE DATE:</b> 12/03/14	<b>EXPIRATION DATE:</b> 11/25/2020	<b>DOCKET #:</b> 158949	<b>COFA #:</b> COFA 16-5428
<b>ADDRESS:</b> 38-42 WEST 18TH STREET <b>HISTORIC DISTRICT</b> LADIES' MILE		<b>BOROUGH:</b> MANHATTAN	<b>BLOCK/LOT:</b> 819 / 10

Display This Permit While Work Is In Progress

ISSUED TO:

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

Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of November 25, 2014, following the Public Hearing and Public Meeting of September 23, 2014, voted to grant a Certificate of Appropriateness for the construction of a new building, and to restore the facades and replace windows and storefront infill at 40 and 42 West 18th Street, as put forward in your application completed on August 28, 2014.

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

PRELIMINARY APPROVAL ONLY  
 No work may proceed until DOB filing  
 reviewed and approved



In reviewing this proposal, the Commission noted that the Ladies' Mile Historic District designation report describes the site as a vacant lot; and describes 40 West 18th Street as a building originally built in 1858 and redesigned in 1898 in a commercial style by John R. Hutchinson; and 42 West 18th Street as an early 20th century commercial style store and loft building designed by George A. Crawley and built in 1907-08. The Commission also noted that the historical development of the Ladies' Mile Historic District occurred in several phases, resulting in a variety of building heights and widths adjacent to each other, including early 19th-century residential development which included residences and stable buildings; early commercial development which included mid-rise building and the commercial adaptation of some residential buildings and stables; large turn-of-the-century department stores; large 20th-century loft buildings and older buildings converted to manufacturing use; and that many streets combine buildings from several or all of these periods, with taller buildings facing the avenues and the major cross-town streets, such as West 14th and West 23rd Streets; and that the facades of the taller buildings frequently feature a strongly articulated base, shaft, and capital composition as well as classically inspired ornament. The staff further notes that West 17th and West 18th Streets comprise a combination of mid-scale and large early 20th-century commercial buildings and small scale 19th-century rowhouses with punched masonry openings and converted commercial ground floors. The Commission further noted that Notice of Violation 99-0497 and Notice of Violation 99-0498 were both issued July 6, 1999 for the "installation of fixed awning ("Adorama") and neon signage at ground floor shopfront without permit(s)"; that Notice of Violation 08-0122 was issued September 6th, 2007, for the "installation of signage and billboards without permit(s)"; that Certificate of No Effect 02-0492 was issued July 23, 2001, for window replacement, facade repairs, replacement of the storefront infill and the installation of signage; that Modification of Use and Bulk 02-0305 was issued August 2, 2001 for modifications of use at the buildings located at 40 and 42 West 18th Street and the vacant lot located at 38 West 18th Street; that Certificate of Appropriateness 02-0504 was issued August 2, 2001, for the construction of a new building on vacant lot; the construction of rooftop additions at 40 and 42 West 18th Street, and the installation of a flagpole at 42 West 18th Street; that Miscellaneous/Amendments 04-5232 was issued February 26, 2004 for enlarging the interior courtyard from 40 feet to 50 feet by reducing the footprint at the rear of 38 and 40 West 18th Street, and slightly increasing the footprint at the rear of the West 17th Street side of the new building; and that Certificate of Appropriateness 03-8225 was issued April 24, 2008, for the construction of a new building on the vacant lot; the construction of rooftop additions at 40 and 42 West 18th Street, and the replacement of storefront infill.

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



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

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

PLEASE NOTE: This permit is issued contingent upon the Commission's review and approval of the final Department of Building filing set of drawings. No work can begin until the final drawings have been marked approved by the Landmarks Preservation Commission with a perforated seal. Please submit these drawings to the Landmarks Preservation Commission staff when they become available.

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

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

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

*Meehakshi Srinivasan*  
Meehakshi Srinivasan  
Chair

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

DISSENT APPROVAL OML Final Drawing  
No work may proceed until DOB approved

DL

Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

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

DL

DL

DESIGN APPROVAL ONLY  
No work may proceed until DOB filing  
drawings are reviewed and approved