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April 5, 2022

By Electronic Submission

Sarah Carroll
Chair, Landmarks Preservation Commission
Municipal Building
One Centre Street, 9th Floor North
New York, NY 10007

Re: West-Park Presbyterian Church
165 West 86th Street, Manhattan
(Block 1217, Lot 1) ("Property")

Dear Chair Carroll:

I am submitting an application for a Notice to Proceed to allow the demolition of the existing Church building on the Property on the basis of financial hardship, pursuant to NYC Administrative Code § 25-309 (2). This section is applicable to not-for-profit organizations under the Landmarks Law when there is contract for the sale of the Property that is contingent on demolition.

The application includes a detailed statement with exhibits outlining the condition of the Church building, the required costs for any restoration and renovation, a financial analysis of the returns that could be expected after the renovation, the contract for sale of the Church and describing the new building that would be constructed on the Property after demolition. The application materials also include an accompanying visual presentation.

Very truly yours,

Valerie Campbell

VC:at

cc: Roger Leaf- West Park Administrative Commission
Kenneth Horn- Alchemy Properties
Mark Silberman, Esq. – Landmarks Preservation Commission

Standard Application for work on landmark properties

Submission Tips

- Attach only ONE application per email submission.
- Attach all images and materials as individual files. Do not paste them into the body of the email.
- Image files must be JPG/ JPEG, GIF, or PNG formats.
- PDF files must be flattened.
- Large files of 10MB or more are not accepted by email and must be submitted using a file transfer service.
- Do not secure files or file transfer links with a password or other encryption.
- Compressed files (ZIP, RAR) are not accepted.
- SAVE completed application form before submitting.

Filing Instructions

You **MUST FILE** a complete application in order to obtain your permit. Follow the instructions below so that your application is complete upon submission.

1. Fill out **ALL SECTIONS** of this form.
2. Attach **ALL MATERIALS** that describe the existing conditions and the proposed work, like photos, architectural drawings, material samples, etc. Consult the LPC Permit Guidebook at www.nyc.gov/landmarks for a list of required materials for your work type.
3. Submit this form and all corresponding materials **BY EMAIL** to:

applications@lpc.nyc.gov

Note:

If you are filing for a Notice of Compliance (sign-off) for approved work, an amendment to an existing permit or submitting drawings for a Certificate of Appropriateness, use the **Post-Approval Application Form**.

For help:

Visit the LPC website: www.nyc.gov/landmarks, call LPC at 212-669-7817 or email info@lpc.nyc.gov.

Property Information

Address West-Park Presbyterian Church, 165 West 86 St Floor / Apt. No. _____
 Borough Manhattan Block 1217 Lot 1

Person Filing Application

This person will be considered the "applicant" and will receive all correspondence as the primary point of contact for the application.

Name Valerie Campbell
 Title Partner Organization Kramer Levin Naftalis & Frankel LLP
 Address 1177 Avenue of the Americas
 City New York State NY ZIP 10036
 Phone 212 715 9183 Email VCampbell@KramerLevin.com

Applicant's Statement

This check box must be marked by the applicant for the application to be considered complete.

- In submitting this application on behalf of the owner of the property, I hereby swear and affirm that I have been authorized by the owner to submit this application. I also understand that if the representations are not truthful, that the Landmarks Preservation Commission may treat the application as not submitted or filed or rescind any approval issued in reliance on them. I further understand that if anything in my verification is untrue that I may be subject to criminal and/or civil fines and penalties. Finally, I understand and agree that by checking this box I am electronically signing this document, and that this electronic signature shall have the same validity and effect as a signature affixed to each document and statement by hand.

Standard Application for work on landmark properties

Proposed Work

Check all that apply.

- Interior Alterations:** Altering or making changes to interior spaces
- Restoration and Other Facade Work, Roof Work:** Repairing or restoring the facade, roof or other architectural features
- Storefronts:** Installing, repairing or replacing storefronts
- Awnings and Canopies:** Installing or replacing awnings and canopies
- Signage:** Installing or replacing signs and related lighting
- Windows and Doors:** Installing, repairing or replacing windows and doors
- Additions and New Construction:** Making additions to existing buildings, and constructing new buildings
- Excavation:** Excavating in basements, cellars, yards and areaways
- Front, Side, Rear Yards and Areaways:** Making changes to the front, side or rear yards and areaways
- Barrier-Free Access:** Making changes to doors and entrances and installing or replacing ramps and lifts
- Sidewalks:** Installing, repairing or replacing sidewalks and vault lights
- Health, Safety, Utility Equipment:** Installing health, safety and utility equipment (e.g. security cameras, utility meters, light fixtures, etc.)
- Heating, Ventilation, Air Conditioning (HVAC), and Other Mechanical Equipment:** Installing or replacing HVAC equipment and other equipment (e.g. solar panels, generators, etc.)
- Fire Escapes:** Installing, replacing or repairing fire escapes
- Temporary Installations:** Installing temporary signs, artwork, banners, kiosks or making other temporary construction-related modifications
- Other:** (Describe) Application to demolish pursuant to NYC Admin.Code Sec. 25-309(2)

Additional Information

Answer yes or no.

Do you intend to fix work that was done without an LPC Permit? Yes No

If yes, provide the Warning Letter/Summons/Notice of Violation No. _____

Are you filing with any other NYC agencies? Yes No

If yes, check all that apply below

- Department of Buildings
- Board of Standards and Appeals
- City Planning
- Other

Standard Application for work on landmark properties

Owner's Information

In co-op or condominium buildings, the "owner" is the co-op corporation or condominium association. A condominium unit owner can act as the "owner" ONLY IF the work is limited to interior alterations or if the work is exterior and the unit owner states s/he has the authority to perform that work under the condominium plan.

Name Roger W. Leaf
 Title Chair, West Park Administrative Commission Organization West-Park Presbyterian Church of New York City
 Address 165 West 86th Street
 City New York State NY ZIP 10025
 Phone 347-407-1754 Email rwleaf@gmail.com

Facade Easement

If there is a facade easement, the easement holder must consent to the work.

Is there a facade easement on the property? Yes No

If yes, provide easement holder's information below

Name _____

Phone _____ Email _____

Owner's Consent and Signature

In co-op or condominium buildings, the "owner" is the co-op corporation or condominium association. A condominium unit owner can act as the "owner" ONLY IF the work is limited to interior alterations or if the work is exterior and the unit owner states s/he has the authority to perform that work under the condominium plan.

In submitting this form electronically, I hereby swear and I affirm that I am the owner of the property. I am familiar with the work proposed to be carried out on my property. I hereby give my consent for this application to be filed electronically with LPC. The information provided herein, including all supplemental materials is correct and complete to the best of my knowledge. I also understand that if the signature is not authentic, or representations are not truthful, that the Landmarks Preservation Commission may treat the application as not submitted or fled or rescind any approval issued in reliance on them. I further understand that if anything in my verification is untrue that I may be subject to criminal and/or civil fines and penalties.

Digital signatures may be placed using Adobe Acrobat Fill & Sign or other third-party software signature features, or by clicking the prompt on the signature line to create and sign with a Digital ID.

Signature *Roger W. Leaf* Date 4/5/22
The signature of the Owner or Authorized Representative may be an original or digital signature

Printed Name Roger W. Leaf Title Chair, West Park Administrative Commission

West Park Presbyterian Church
165 West 86th Street, Manhattan
Block 1217, Lot 1

Application to Landmarks Preservation Commission
Pursuant to Administrative Code § 25-309 for a Notice to Proceed
Authorizing Demolition on the Grounds of Insufficient Return

I. Introduction

This is an application by the West Park Administrative Commission (“West Park AC”), the governing body for the West-Park Presbyterian Church of New York City, a New York religious corporation (“West Park” or the “Church”). The Church seeks approval of a Notice to Proceed to allow the demolition of the existing building (the “Building”) on the property located at 165 West 86th Street (the “Property”) on the basis of financial hardship, pursuant to NYC Administrative Code § 25-309(2).

The Building was built in 1890 and was designated as an individual landmark in 2010 (LP-2338). The Building is severely deteriorated and has been in need of immediate repair to its sandstone façade, roof, structural elements, and its building systems for years. These conditions were evident at the time of designation but have only grown worse over time. A sidewalk bridge was erected in 2000 to protect pedestrians from falling pieces of the facade, and has been in place ever since. The deterioration of the sandstone façade is expected to continue to grow worse with the passage of time, and with increasingly severe weather events in the future.

The Church has exhausted all of its financial resources in maintaining the Building. As a result, the West Park AC, a special commission established by the Presbytery of New York City (the “Presbytery”), was established to assist West Park with the sale of Church property and related matters. The Presbytery has authority over 89 congregations and 14 worshipping communities located within the five boroughs of New York City.

The West Park AC has entered into a Purchase and Sale Agreement with an affiliate of Alchemy Properties for the sale of the Property (the “Sales Contract”). Alchemy intends to demolish the Building and construct in its place a mixed-use residential building as permitted by the Property’s current zoning that will include ground floor retail space and an approximately 10,000-square-foot community and arts space that will be retained by the Church (the “New Building”). The Sales Contract is contingent on the demolition of the Building, and Alchemy intends to construct the New Building following the demolition.

Even if fully renovated, the Building would not be able to earn sufficient income to generate a “reasonable return,” as defined in the Landmarks Law.¹ As demonstrated in the appraisal submitted with this application, the Building in fact generates a negative return. The Building does not serve the religious mission of the Church, and the burdens associated with maintaining

¹ NYC Administrative Code § 25-301, *et seq.*

the Building have completely depleted West Park's resources. The entirety of the Presbytery's resources for all of the congregations in New York City would not meet the estimated costs to restore the Building, and even if fully restored, the sandstone façade would require on-going repair and maintenance given the fragile nature of the historic fabric. Moreover, no other congregation or worshipping community has expressed any interest in acquiring the Building, given its condition and the extraordinary costs that would be required to create a safe and usable space. After years of trying, the Church has been unable to find another entity with a viable financial plan to take over the Building and restore it. Accordingly, the Church requests the Commission's approval of a Notice to Proceed on the grounds of financial hardship.

II. Background

The West Presbyterian Church was founded in 1852 and was originally located on 84th Street and West End Avenue. It purchased the Property for a new, larger church in 1882. Park Presbyterian Church was founded in Greenwich Village in 1829, moved to Midtown in 1860, and in 1911 merged with West Presbyterian Church to form West Park.

The Church first constructed a small brick chapel on the eastern end of the site, designed by Leopold Eidlitz, in 1885. The current structure was designed by architect Henry Kilburn, and was officially completed in 1890. Kilburn incorporated and redesigned the Eidlitz chapel building with a unified façade of red sandstone, in the Romanesque Revival style. The new church had 900 seats within the 10,000-square-foot sanctuary, and included an adjacent 6,000-square-foot community house to the east. In addition to its red sandstone façade, the Building is distinguished by a red sandstone bell tower that rises above the roof level at the corner of West 86th Street and Amsterdam Avenue.

Deterioration of the Building

The West Park congregation had a membership of nearly 250 members in the 1980s. During this period, the Church was home to the pre-eminent nuclear disarmament groups SANE and FREEZE. The More Light movement, which welcomed the gay and lesbian community into full participation in Church life began at West Park, and God's Love We Deliver began using the kitchen at West Park to prepare its meals in 1987. West Park congregants served in the formation of West Side Campaign Against Hunger. The Church also served as a hub for services to deliver aid and support following the tragedy of September 11, 2001. The Church participated in the formation and continuation of Westside Federation of Senior and Supportive Housing, the Interfaith Assembly on Housing and Homelessness, and Manhattan Together, an affiliate of the nationwide Industrial Areas Foundation.

But during the 1970s and 1980s, the Building fell into disrepair, particularly its façade. Like many churches, it began to face declining membership and rising facilities maintenance costs, exacerbated, in this case, by the sandstone construction of the Church. During the crack epidemic of the 1980s, the Building was broken into and vandalized several times, and the façade began to show serious signs of disrepair. Between 1995 and 1998, over \$650,000 was spent on roof and façade repairs. The Church's financial condition began to suffer from

declining membership, in part due to the declining condition of the Building. West Park had become hamstrung by the demands of maintaining a building that no longer supported the mission of the Church.

In 2000 pieces of the Building's façade started falling on the surrounding sidewalk, creating a serious safety hazard. A scaffolding was erected to protect pedestrians, and has been in place ever since. A study conducted in 2001 by LZA Technology revealed significant façade and structural damage, as well as ceiling leaks that had led to significant water damage (report excerpts attached here as Exhibit A). The study recommended 100% replacement of the roof and flashing due to chronic leaking.

A study completed by Professor Martin E. Weaver, dated March-April 2001, evaluated the condition of the sandstone façade and found inherent deficiencies in the stone (attached here as Exhibit B). Professor Weaver determined that “[a] significant quantity of sandstone is in an advanced state of deterioration[,]” particularly the red sandstone (he noted that the façade includes both red “Maynard” sandstone² used for decorative work and a dark purple-brown “Worcester” sandstone used for plain walls). The report states that “[t]he red Maynard sandstone has deteriorated very badly where it has been subjected to prolonged penetration and saturation with large quantities of water.” Importantly, the report found that “[t]he red Maynard sandstone used here was clearly an unsuitable choice for use in New York City with its polluted, urban maritime environment.” The red sandstone thus appears to have inherent deficiencies that contribute to its deterioration. The report also notes that “[t]he stone deterioration situation has apparently been made worse by the application of a water repellent and surface paint layers that have not been sufficiently vapor permeable and have retained moisture within the stone.” The report recommended cutting out and replacing the most severely damaged stones.

When the Building was designated as an individual landmark in 2010, it was already significantly deteriorated. The Church appeared in opposition to the designation, arguing that there were no funds available for the restoration and that designation would complicate and delay the restoration effort (see testimony attached as Exhibit C). Indeed, after the Building was calendared, a potential development partner, with a plan to retain and restore portions of the Building, walked away from the deal, as further described below.

When the Church was designated as a landmark, the membership had already dropped to about 80 members. By 2015 membership had dropped to fewer than 30 as its efforts to advance its ministry and grow its congregation were displaced by a preoccupation with building maintenance issues. Today, Church membership is approaching single digits.

In July 2010, with the help of the Landmarks Conservancy, West Park engaged Sciamé Construction to prepare a budget to restore just the exterior of the Church and community house. Sciamé estimated that this exterior restoration would cost \$11.6 million. In July 2011 Sciamé conducted a more comprehensive assessment by a team of top restoration specialists from six firms, and concluded that a phased restoration plan for the exterior would cost \$14.6 million.

² Despite Professor Weaver's identification of the decorative masonry as Red Maynard, it is identified as Lake Superior Sandstone from Portage, Michigan in Building Stone of New York, John C. Smock, (1890) p. 314. g

Since the designation, the Church has raised money for façade and other repairs primarily by selling its property, specifically a former minister's residence. The Church has spent approximately \$1 million over the last seven years on these façade repairs, including over \$77,000 on scaffolding and sidewalk protection and over \$329,000 in additional insurance costs. These repairs were the minimum necessary to stabilize the Building, and were all that the Church could afford at the time, but were not nearly the total amount of work necessary. These costs are expected to continue to burden the Church into the future, even if the most deteriorated portions of the sandstone façade are restored, given the general condition of the sandstone.

Fundraising Efforts

With declining membership and rapidly increasing building maintenance costs, exacerbated by the accelerated façade deterioration due to more severe and frequent weather events, the Church has struggled to raise money to repair and restore the Building. With the help of the Landmarks Conservancy, West Park applied in 2001 for listing on the State and National Register of Historic Places, in the hope of qualifying for grants to help maintain the Building, and the Building was determined to be eligible for listing.

The Church has also resorted to selling its property to raise money for repairs. As noted above, the Church sold a manse (a former minister's residence) located at 124 West 93rd Street in 2013 for \$1,355,000. The proceeds were initially invested in a Pastor Housing Fund, but were quickly diverted to the maintenance of the Building when the Church was unable to support a full-time pastor. The Church has been unable to generate revenue from selling its unused development rights due to a lack of available receiving sites, either to adjacent properties or to those across the street, as might be available through a Section 74-79 special permit.

Prior to the landmark designation in 2010, the Church had pursued redevelopment plans with potential development partners. In 2003 the Church entered discussions with the Related Company on a plan to demolish the Building and construct a new church and residential tower with market-rate apartments. After opposition to this plan emerged, the organization Friends of West Park was formed later that year. It worked with the Church to develop an alternative plan that would preserve the Building's exterior walls, but radically alter the roof lines. The plan added floor area within an altered building envelope that replaced the existing roof configuration as a way to offset the tremendous costs of restoring and maintaining the sandstone facade, but no institutional partner was found because it produced insufficient floor area to make the plan economical. By the end of 2004, both the Related and the Friends plans were deemed economically infeasible. In 2005, working with the Enterprise Foundation, the Church developed its own plan to construct a new church and a residential tower. Richman Housing Resources ("RHR") was selected as the developer of a 20-story residential tower, which included a plan to restore the sanctuary and corner tower at a cost of \$15 million. In May 2008 the Church vacated the Building in preparation for its demolition, but DOB issued a stop work order before demolition could begin. The Building was calendared for consideration as a landmark in 2009, causing RHR to drop out of the deal.

In January 2009, when the Building was vacant, water pipes in the unheated Building burst and flooded it for days. Insurance proceeds were well short of the full cost of repairs. In 2011 the Church attempted to move back into the Building, but it had no heat or hot water. In order to move back into the Building, the Church held a fundraiser to raise some of the \$25,000 needed for a new boiler.

In 2012, West Park engaged Cushman & Wakefield to lease and/or sell all or any portion of the Building to raise money for restoration. Cushman was not able to find any tenants or buyers through this effort, after a year of marketing. West Park also began partnering with leaders from the professional arts development field to develop a secular, not-for-profit arts center based in the Building that would help in fundraising. The Center at West Park (the “Center”) was incorporated in December 2016 and began operations in 2017.

In 2018, the Center signed a five-year lease with the Church for the entire Building except a small business office for the Church, and assumed responsibility for day-to-day management and maintenance. The Center has entered into short- and long-term rentals with arts groups, including for the use of the sanctuary as a performance space. According to the Center’s Form 990’s filed with the IRS, it paid rent totaling \$24,000 in 2017, \$27,192 in 2018, and \$34,709 in 2019. In 2020 the Center paid a reduced rent of \$22,949 due to COVID. Each year, the Center sponsors an annual benefit to support both programming and the restoration of the Building, and has committed to launch a long-term capital campaign, but to date, its fundraising has been limited.

Despite the Center’s efforts, it has not been able to raise sufficient funds for the restoration of the Building. In 2018, the Center approached the Church with a plan to purchase its unused air rights for \$2 million, the proceeds of which could be used to provide funds for basic repairs, but also foreclosing any potential future development on the site. The Center was not able to raise the \$2 million, which was far less than what was needed to address even basic repairs, and would have foreclosed any potential future development opportunities, so the Church rejected the offer.

The Center has more recently taken the position that it is very difficult to raise funds for a building that it does not own. In 2020, the Center proposed a revised approach in which it would enter into a land lease with the Church, purchase the Building for a nominal sum with seller financing, and assume responsibility for its restoration. The Center proposed that the land lease payments would be back-ended to allow the Center to focus on raising funds to restore the Building. The assumption would be that if the Center could not raise the funds needed to meet its obligations and defaulted on either the land lease or the seller financing, the Church could foreclose on the Center and take back the Building. Since the Center could not demonstrate the capacity both to be able to meet its obligations to the Church and to raise the funds that would be needed to restore the Building, even if it acquired the property for a dollar, the Church did not seriously consider this proposal.

To date, no other community facility user has demonstrated an interest in taking over the burden of renovating and maintaining this expensive building. Other congregations have rented the space for a few hours a week, but no house of worship has wanted to purchase or lease an over-a-hundred-year-old building with huge and growing deferred maintenance issues and design

elements that are extremely costly to maintain, especially given the complications added by the landmark designation.

Emergency Façade Condition

The Church faces an increasingly critical situation with the deterioration of the façade. The Church has recently received several DOB and ECB violations due to the condition of the Building. DOB Violation #21-01507, issued on November 10, 2021 noted “sections of façade spalling severely” and “roof ridge ornamental masonry with large crack with a potential to detach and fall onto . . . public roadway.” The Church also received a corresponding ECB violation for this condition (ECB Violation #39051002R issued on November 10, 2021), which was a Class 1 violation. These violations are attached as Exhibit D.

On November 19, 2021, the situation had become more urgent. DOB issued Violations # FEU10701XC and FEU10702XC on that day, stating that “Exterior wall in state of disrepair, out of plumb and leaning” and that “the apex of the gable has displaced approximately 3”. Potential of further movement affecting structural stability of wall and public safety.” DOB ordered the Church to provide temporary bracing immediately, and for all work to be performed under direct and continuous supervision. DOB issued a further violation for this same condition on December 9, 2021, ordering the Church to “immediately provide temporary bracing @ gable wall . . .” and a summons on January 24, 2022 (#35644126R) for failure to secure the building walls, noting the spalling of the façade. These violations are attached as Exhibit E. DOB also issued a civil penalty to the Church on February 2, 2022.

Since January the Church has expended approximately \$75,000 in emergency repairs to the south wall, including contractor’s fees, design fees, surveyor, and related costs, and also to remove a sandstone finial that was in danger of falling. The repair work was approved by LPC pursuant to CNE-22-06645 and CNE-22-06250 on January 26, 2022. To pay for repairs, the Church had to request a loan from the NYC Presbytery, which is expected to be repaid from the proceeds of the sale of the Property.

Effect on the Congregation

By 2017 the Church was no longer able to pay its pastor, and the staff of the Church was reduced to a part-time administrator-bookkeeper and a part-time sexton to oversee the Building. By 2020, the Church had essentially stopped using the Building for any of its activities. The congregation today has dwindled to approximately a dozen members. Currently, West Park is relying on a line of credit from the Presbytery to meet its financial obligations, and has had to apply for a second loan from the Presbytery to pay for immediately required emergency repairs to the Building. But the Presbytery itself has limited funds and oversees many churches throughout the city, several of which are landmarks or located in historic districts. Neither the Church nor the Presbytery can continue to maintain the Building—it is simply unsustainable.

III. Current Building Condition

Included with this application are several expert reports that evaluate the condition of the Building and identify the repairs necessary to remedy immediate hazards and bring the Building into a useable long-term condition. Cost estimates for these repairs are also included. As described below, these reports indicate that the total cost of repairing the Building is nearly \$50 million, which includes over \$17 million for the repair of the façade. The details of these estimates and report are described further below. Information on the experience and qualifications of these expert firms is included in Exhibit F.

- Façade / Sandstone Condition

The enclosed façade condition report prepared by Façade MD, dated December 2, 2021 (see Exhibit G), evaluated the condition of the façade in response to DOB Violation #21-01507. It found many stone cracks, spalling, and mortar deterioration, particularly of the ornamental stone, and also many broken and deteriorated windows. It recommended removal of loose and unsafe material and stabilization of remaining façade elements. The amount of material identified for removal would constitute a significant portion of the original façade of the Building, including approximately 80% of the Building's ornamentation, which Façade MD has identified as unsafe. This repair, therefore, would remove a large amount of the Building's historic fabric.

Also enclosed is a scope of work for façade and roof repair, prepared by Façade MD and dated December 13, 2021 (see Exhibit H). It includes the recommended quantities of stone, brick, mortar, slate tile, copper, window panes and frames, stained glass, and other materials that would be required for such repair.

- Structural Condition

The enclosed report by Severud, dated November 16, 2021 (see Exhibit I), assesses the condition of the Building's structure, and notes many serious issues, including the following:

- The bearing wall supporting the southernmost roof truss has a 20-foot-long crack, which indicates lateral movement of the wall. No continuous horizontal member exists to restrain the wall against the thrust of roof rafters.
- A section of façade facing West 86th Street is separated from the roof, allowing water to enter through the gap, and wood joists are detached from the wall. Severud identifies this condition as a public safety hazard that requires immediate attention.
- Deterioration is noted in the sandstone façade, including cracked, hollow, spalling, and delaminated stone. It also notes that hard cement mortar used in previously repairs is trapping moisture and accelerating deterioration. The report also identifies this condition as a public safety hazard.
- The brick façade is cracked and shows signs of trapped moisture. There are three voids in existing brick bearing walls, with a total area of approximately 25 square feet. Brick deterioration affects 5-10% of the surface of the north and east walls. This condition is a structural concern.

- There are cracks and water discoloration on the sanctuary ceiling and walls near the underside of wood trusses. This condition indicates excessive deformation of the truss and/or excessive lateral movement or settlement of brick, which is also a structural issue.
- A wood header and two joists supporting a stair and a storage room are severely cracked and deformed. There are cracks in the underside of an egress stair, which indicate excessive deflection of the floor.
- Brick on the interior side of the bell tower has cracked, deteriorated, or missing mortar, which condition affects 25% of the surface of the bell tower brick walls. These brick walls support the structure of the bell tower and serve as a backup to the sandstone façade.
- A sidewalk vault on 86th Street is covered with plywood and a small wood post, which is an unsafe condition.

- Fire Protection and Life Safety

The enclosed report by CCI, dated December 9, 2021 (see Exhibit J), evaluates the Building’s existing fire and life safety systems, and concludes that “The existing building does not comply with the 2014 Code and it is not feasible to comply with this code without significant upgrades.” The report identifies a series of fire and life safety improvements that would be necessary to bring the Building into compliance with current Fire Code requirements. Deficient conditions noted in the report include the following:

- Exit stairs are not enclosed, which could allow for smoke migration in the event of a fire.
- Only one stairway has direct egress to the street. Direct egress is not provided for the North exit stair.
- Egress from the chapel is through a “backstage” area, rather than directly to the street.
- Emergency lighting is not provided throughout the Building, and there is inadequate exit signage.
- Automatic sprinklers are not provided, and the standpipe system needs to be upgraded.

The report notes that a change of use of the Building would require compliance with current Fire Code requirements, and even if the Building remains in use as a church, a second egress stair would still be required.

- Accessibility

A report by CCI dated December 9, 2021 (see Exhibit K) identifies several areas in which the Building is not accessible to persons with disabilities, including that doorways are not accessible due to their width, thresholds, and type of hardware; that no accessible route connects the sanctuary to other levels of the Building; that toilet rooms are not accessible; that the stage is not accessible; that no wheelchair space is provided in the sanctuary; that handrails are missing; and

that floor material is improper. The report notes that making the Building accessible would be required for a change in dominant use or occupancy, or where the alteration cost exceeds 50 percent of the value of the existing building.

- Budget for Building Repairs

Enclosed are the preliminary budgets for repair and renovation work prepared by LBG, based on the enclosed conditions reports (see Exhibit L). The budget for a community facility renovation, dated February 18, 2022, shows a total repair cost of \$49,993,650. The budget for a residential conversion, dated March 23, 2022, shows a total repair cost of \$60,408,701.

The scope of work covered by these estimates includes limited demolition, abatement, limited excavation and foundation, concrete work, masonry work, façade restoration, structural steel, stairs and railings, repair of joists and floors, elevators and elevator shafts, bathrooms, ceilings, insulation, fireproofing, roofing and waterproofing, flooring and carpet, Code-required signage, scaffolding, plumbing, HVAC, electrical, and scaffolding. The LBG estimates incorporate an estimate prepared by Nova Construction Services, dated January 7, 2022, focused on façade, roof, and window repair in the amount of \$17,994,055 (see Exhibit M). The Nova estimate is based on the conditions reported in Façade MD's December 2nd report and December 13th scope of work.

The LBG estimates understate the true renovation costs for several reasons. First, they do not include an allowance for soft costs such as architectural fees and financing costs. They do not include costs for structural stabilization of the bell tower, which LBG notes was not included due to the limited information about the tower. And for the residential estimate, LBG further notes that additional foundation costs may be necessary due to the removal of a portion of the Building in the rear and the introduction of new load-bearing walls, but that there is not sufficient information to estimate those costs. Thus, the cost to renovate and repair the Building will likely be higher than these estimates.

IV. Requirements for Determination of a Hardship

Pursuant to Administrative Code § 25-309(a), the Commission may grant permission to demolish the improvement on a landmark site if the owner of the site establishes to the satisfaction of the Commission that the property is not capable of earning a reasonable return. Section 25-309(a)(2) sets forth the standard applicable to a property that is exempt from real property taxation. The Church is a religious corporation that is exempt pursuant to Section 420-a of the Real Property Tax Law. The applicable statutory requirements, and an explanation of how the Property meets these requirements, are set forth below.

- **The owner has entered into a bona-fide agreement to sell, which agreement is contingent on the issuance of a certificate of appropriateness or notice to proceed.**

The Church has entered into the Sales Contract with an affiliate of Alchemy Properties dated March 3, 2022 for sale of the Property (see Exhibit N). The Sales Contract is contingent on the issuance of a notice to proceed allowing the demolition of the Building. As described

below, the Sales Contract provides that the Church will receive an approximately 10,000-square-foot space in a new building to be constructed on the Property, to be owned as a separate condominium, which will be used by the Church for religious services and a variety of arts and community programming.

- **The improvement parcel which includes such improvement, as existing at the time of the filing of such request, would not, if it were not exempt in whole or in part from real property taxation, be capable of earning a reasonable return.**

The attached appraisal, prepared by Appraisers & Planners and dated April 1, 2022 (the “Appraisal”), concludes that the Property, as currently improved with the Building, is not capable of earning a reasonable return (see Exhibit O). A “reasonable return” is defined in the Landmarks Law as “[a] net annual return of six per centum of the valuation of an improvement parcel.” Admin. Code § 25-302(v)(1). The appraisal presents three adaptive reuse scenarios – renovation of the existing building for a community facility user, renovation for a community facility user with the construction of additional interior space, and conversion of the building to residential use – and finds that none of these scenarios is capable of earning a positive return, much less a six percent return.

The two key components of the “reasonable return” analysis are the property valuation and the net annual return. These components are described below.

i. Property Valuation

The valuation of property for the purpose of the reasonable return calculation is defined in the Landmarks Law as follows:

“Such valuation shall be the current assessed valuation established by the city, which is in effect at the time of the filing of the request for a certificate of appropriateness; provided that:

(a) The commission may make a determination that the valuation of the improvement parcel is an amount different from such assessed valuation where there has been a reduction in the assessed valuation for the year next preceding the effective date of the current assessed valuation in effect at the time of the filing of such request; and

(b) The commission may make a determination that the value of the improvement parcel is an amount different from the assessed valuation where there has been a bona fide sale of such parcel within the period between March fifteenth, nineteen hundred fifty-eight, and the time of the filing of such request, as the result of a transaction at arm's length, on normal financing terms, at a readily ascertainable price, and unaffected by special circumstances such as, but not limited to, a forced sale, exchange of property, package deal, wash sale or sale to a cooperative.”

Admin. Code § 25-302(v)(2).

Neither condition applies here: There has been no recent sale of the Property or reduction in the Property's assessed value in the year preceding the current year. Therefore, the current assessed value according to Department of Finance ("DOF") records should be used as the Property's valuation. The assessed value shown on the most recent DOF Notice of Property Value dated January 15, 2022 is \$3,463,650, based on a market value of \$7,697,000.

The Appraisal demonstrates that this assessment is in line with assessments for other, similar churches on the Upper West Side and Upper East Side, and is, in fact, higher on a per-square-foot basis than the assessments of comparable churches. Therefore, the current assessment is appropriate for use in the reasonable return analysis.

ii. Net Annual Return

"Net annual return" is defined in the Landmarks Law as follows:

"Net annual return shall be the amount by which the earned income yielded by the improvement parcel during a test year exceeds the operating expenses of such parcel during such year, excluding mortgage interest and amortization, and excluding allowances for obsolescence and reserves, but including an allowance for depreciation of two per centum of the assessed value of the improvement, exclusive of the land, or the amount shown for depreciation of the improvement in the latest required federal income tax return, whichever is lower" Admin. Code § 25-302(v)(3)(a).

To determine the net annual return, the Appraisal follows the following methodology:

- A market rent for the Property, as renovated and restored, was estimated.
- The stabilized operating expenses for the Property, as renovated and restored, were estimated, exclusive of repairs and maintenance costs.
- Depreciation was calculated, in accordance with the Landmarks Law, as two percent of the estimated renovation costs, plus the value of the building, based on most recent DOF assessment.³
- Net Operating Income for the Property, as renovated and restored, was determined.
 - Note: Real Estate Taxes were not included as a stabilized operating expense, but are built into the "loaded" capitalization rate (described below).
- Stabilized Net Operating Income was capitalized into a figure for the Property's value using a loaded capitalization rate.

³ The Commission has previously accepted that depreciation in a hardship appraisal may include depreciation of renovation costs. See the matter of 351-353 Central Park West (1988) and 429 East 64th Street / 430 East 65th Street, City & Suburban Homes First Avenue Estate (LPC-127519) (2014).

- A six percent return based on this capitalized value was calculated, and compared to six percent of the actual assessment.

iii. Community Facility Scenarios

For the community facility scenario, the Appraisal describes two development scenarios, based on plans prepared by FX Collaborative Architects:

- a) The “Base Scenario,” in which the existing structure is restored and renovated for community facility use with a net usable area of 18,353± square feet and a gross building area of 24,688 ± square feet.
- b) The “Infill Scenario,” in which interior square footage is maximized through a 3,647± square foot infill of the auditorium, in order to create total gross building area of nearly 28,335± square feet and a net usable area of 22,014± square feet. This scenario involves both greater rent, from the larger amount of floor area, and greater costs, related to build out of the space.

The Appraisal estimates rent of \$50/sf for the renovated Building, based on comparables for similar buildings by churches, schools, and other uses. The Appraisal estimates only minimal annual expenses because it assumes that the tenant will pay for most maintenance. The only expenses are building insurance and some minimal maintenance. The estimated cost of renovating the Building, based on LBG’s analysis described above, is over \$49 million. With an allowance of \$100/sf for tenant fit-out, the estimated renovation cost is \$51,609,453 for the Base Scenario and \$53,958,710 for the Infill Scenario. Neither scenario includes soft costs, such as architectural fees and financing costs, or costs necessary for the structural bracing of the tower, so the cost estimates are conservatively lower than what would be expected. The Appraisal determines that neither of these community facility scenarios shows a positive return. The expected rental amount is not sufficient to cover the depreciated costs of the renovations.

iv. Residential Scenario

The Appraisal’s analysis of a residential conversion is also based on plans prepared by FX Collaborative Architects and cost estimates prepared by LBG. As discussed further below, FX’s analysis (attached as Exhibit P) indicates that extensive alteration of the Building would be necessary for a residential conversion, particularly in order to provide the necessary light and air for legal windows. FX determined that it would be necessary to cut additional windows into the street façade of the Building, and also to remove a large portion of the rear of the Building to create a complying, 30-foot by 40-foot court for legal light and air. This residential plan would have 20 apartments over four floors, and would require the addition of kitchens and bathrooms, as well as extensive life safety improvements. LBG estimates these renovation costs as \$60,408,701. As above, this estimate does not include soft costs, such as architectural fees and financing costs, nor costs for structural bracing of the tower, so actual costs would likely be higher. LBG also notes that there may be additional foundation costs related to the removal of the rear portion of the Building and the introduction of new load-

bearing walls, but that there is not enough information available to prepare an accurate estimate of those costs.

The Appraisal estimates apartment rents, based on neighborhood comparables, from a low of \$3,300 for an inner-facing studio to a high of \$12,000 for a street-facing three-bedroom unit. Total annual net operating income is estimated at \$1,243,346. After considering annual amortized development costs, however, this scenario also shows a negative return. The extraordinary renovation expenses, as above, outweigh the potential income from the Building.

Therefore, the Church has established that the Property, in any of these scenarios, is not capable of earning a reasonable return of at least six percent.

- **Such improvement has ceased to be adequate, suitable or appropriate for use for carrying out both (1) the purposes of such owner to which it is devoted and (2) those purposes to which it had been devoted when acquired unless such owner is no longer engaged in pursuing such purposes.**

The Building is no longer suitable for the Church's ministry because of the extraordinary costs of restoring the Building and addressing life-safety issues, and the burden of maintaining it into the future. As described above, the Church has spent nearly \$1 million over the last seven years to maintain the sandstone façade, and has spent an additional \$75,000 since January of this year in emergency expenditures to prevent the south wall of the Church from collapsing and to remove a sandstone finial that was in danger of falling. These expenditures have covered only the most immediately necessary work. To restore the façade fully would cost nearly \$18 million, as described in the enclosed cost estimates. These costs have been depleting the Church's resources and preventing it from pursuing its ministry. And even with restoration, the Building's sandstone façade would require expensive maintenance into the future. As noted above, the Church today has only about a dozen congregants, and operates with a part-time, two-person staff from a chapel and small office in the Building. Other, larger congregations have been willing to rent the sanctuary for occasional use, but none have been willing to take over the Building due to the tremendous repair and maintenance costs.

The proposed new building to be developed on the Property by Alchemy Properties will include a community facility space over approximately 10,000 square feet on the ground floor and lower levels, which will be retained by the Church as a separate condominium. This modern facility will include an arts space, which could include a fully-equipped, 150-seat theatre that will also be able to be used for religious services.

Sale of the Building will generate funds for the Presbytery to use to advance its ministry across the city, including its food banks, soup kitchens, shelters, affordable housing, and outreach programs. The Presbytery has long partnered with developers to create affordable housing at many of its properties. It will also fund deferred maintenance at many of the

Presbytery's churches. These churches include two others that are individually landmarked⁴ and twelve that are within historic districts.⁵

- **The prospective purchaser . . . (1) In the case of an application for a permit to demolish seeks and intends, in good faith either to demolish such improvement immediately for the purpose of constructing on the site thereof with reasonable promptness a new building or other facility.**

As described above, Alchemy Properties has entered into the Sales Contract with the Church for the acquisition of the Property, contingent on the issuance of a notice to proceed allowing the demolition of the Building. According to the letter from Alchemy Properties included as Exhibit Q, Alchemy is prepared to commence demolition of the Building and construction of a new building promptly upon issuance of the notice to proceed. Alchemy Properties has entered into a contract with Breeze National Inc., dated March 23, 2022, for the demolition of the Building (attached as Exhibit R), and with FX Collaborative Architects, dated March 29, 2022, for the construction of the new building (attached as Exhibit S).

The new building proposed by Alchemy would be built in accordance with the Property's current C1-5 and R10A zoning, which allow a base FAR of 10 for residential and community facility use and up to 2 FAR for commercial use. The new building, as currently designed, would include a space of approximately 10,000 square feet at the ground-floor and cellar level owned by the Church, a ground-floor retail space, and residential above. It would be built in compliance with the contextual height and setback envelope required in this zoning district, and would be approximately 19 stories in height. A preliminary rendering of the proposed new building and zoning summary are included in Exhibit T.

V. Partial Demolition Alternative

In addition to the community facility and residential conversion scenarios described above, the Church has also studied an alternative to demolish only the original chapel / Parish House portion of the Building, leaving the Sanctuary intact, and constructing a new residential building on the site of the current Parish House. This scenario is analyzed in the memorandum by FX Collaborative Architects dated April 1, 2022, attached as Exhibit P.

According to the FX memo, construction of a building on the Parish House site would be a complex structural operation, and would result in a building with limited floor area and a small, inefficient floorplate. After providing a 30-foot rear yard, the new building would have only a 33-foot by 70-foot floorplate and 13 stories. The building would contain approximately 23,200

⁴ Riverdale Presbyterian Church and Chapel, 4765 Henry Hudson Parkway West, Bronx, and Fort Washington Presbyterian Church, 21 Wadsworth Avenue, Manhattan, in addition to West-Park.

⁵ First Presbyterian Church, 124 Henry Street, Bedford Central Presbyterian, 1200 Dean Street, Lafayette Avenue Presbyterian, 85 S. Oxford Street, Memorial Presbyterian, 186 St. Johns Place, and Church of Gethsemane, 1012 8th Avenue, in Brooklyn; Brick Presbyterian, 62 East 92nd Street, First Presbyterian, 12 W. 12th Street, Church of the Covenant, 310 East 42nd Street, Rutgers Presbyterian, 236 West 73rd Street, Mt. Morris Ascension Presbyterian, 15 Mt. Morris Park West, Broadway Presbyterian, 601 West 114th Street, and Madison Avenue Presbyterian, 921 Madison Avenue in Manhattan.

square feet of floor area with full-floor units, or 20,400 square feet if there are multiple residences per floor (due to corridor space). Floor sizes would range from 2,285 square feet to 3,100 square feet, which is comparatively small for mid- and high-rise elevated buildings. Retaining the Sanctuary would mean that the Church would still face nearly all of the renovation costs for the Building noted above, yet would have only a small amount of floor area to generate revenue to cover these costs. It would also be limited in height by the “Sliver Law,” to the height of the adjacent building. FX’s proposed building massing includes a cantilever over the Sanctuary to add additional floor area, but the cantilever would be awkward in relation to the remaining portion of the Building.

The FX memo also discusses the difficulties with a potential residential conversion, described above. In particular, the alterations to the Building necessary to allow for sufficient light and air will be intrusive, and will result in compromised apartments and a limited overall floor area, in relation to the extensive work required. The conversion will require the introduction of extensive new windows in the façade, which will require LPC approval, in order to create suitable apartments with legal light and air. And the creation of a light court in the rear of the building will create structural complications, due to the introduction of new load-bearing walls in locations that the existing foundation was not designed to accommodate. The memo concludes that “The minimal yield of attractive, plannable residential floor area is out of proportion to the extensive - and most certainly costly and risky - modifications to the existing structure, which would leave very little of the historical fabric in place.”

Accordingly, neither of these scenarios is practical or feasible.

VI. Conclusion

Based on the factors described above, the Church has demonstrated that the Property is not capable of earning a reasonable return, as provided in the Landmarks Law, and the Church is therefore entitled to a hardship determination and notice to proceed for the demolition of the Building. The Church has no ability to fund the extensive work necessary to make the Building safe and usable, and after years of efforts, has not been able to find another user with a viable plan of restoration. In the meantime, the condition of the Building, particularly the sandstone façade, continues to deteriorate, and has resulted of late in the need for emergency repair work. Approval of this application will remedy the current public safety hazard of the Building and will allow the Presbytery to devote these funds to advancing its ministry.