

Basic Form



Land Use Review Application

Department of City Planning

22 Reade Street, New York, NY 10007-1216

City Planning will assign and stamp reference numbers here

M830490AZSM

1. APPLICANT AND APPLICANT'S REPRESENTATIVES

APPLICATION NUMBER

Metropolitan Life Insurance Co.

APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION) *
10 Park Avenue

STREET ADDRESS

Morristown NJ 07962

CITY STATE ZIP

AREA CODE TELEPHONE # FAX#

APPLICATION NUMBER

Elise Wagner, Esq.

APPLICANT'S PRIMARY REPRESENTATIVE

Kramer Levin Naftalis & Frankel LLP

REPRESENTATIVE'S COMPANY/AGENCY OR OTHER ORGANIZATION

1177 Avenue of the Americas

STREET ADDRESS

New York NY 10036

CITY STATE ZIP

(212) 715-9189 (212) 715-8208

AREA CODE TELEPHONE # FAX#

* List additional applicants below:

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)

CO-APPLICANT (COMPANY/AGENCY OR OTHER ORGANIZATION)
ADDITIONAL APPLICANT REPRESENTATIVE:

NAME AND PROFESSIONAL AFFILIATION (ATTORNEY/ARCHITECT/ENGINEER ETC.) TELEPHONE # FAX #

2. SITE DATA (If the site contains more than one property complete the "LR Item 2, Site Data Attachment Sheet.")

571-577 Fifth Avenue **575 Fifth Avenue**

STREET ADDRESS PROJECT NAME (IF ANY)

Southeast corner of Fifth Avenue and East 47th Street

DESCRIPTION OF PROPERTY BY BOUNDING STREETS OR CROSS STREETS

C5-3 and C5-2.5 (Special Midtown District; Fifth Avenue Subdistrict) **8d**

EXISTING ZONING DISTRICT (INCLUDING SPECIAL ZONING DISTRICT DESIGNATION, IF ANY) ZONING SECTIONAL MAP NO(S).

Block 1282, Lot 65 **Manhattan** **5**

TAX BLOCK AND LOT NUMBER BOROUGH COMM. DIST.

URBAN RENEWAL AREA, HISTORIC DISTRICT OR OTHER DESIGNATED AREA (IF ANY)

IS SITE A NEW YORK CITY OR OTHER LANDMARK? NO YES IF YES, IDENTIFY

3. DESCRIPTION OF PROPOSAL

(If the entire project description does not fit in this space, enter "see attached description" below and submit description on a separate sheet, identified as "LR Item 3, Description of Proposal")

See attached description

4. ACTIONS REQUESTED AND FEES

(Check appropriate action(s) and attach supplemental form)

<input type="checkbox"/> CHANGE IN CITY MAP.....MM	\$ _____	<input checked="" type="checkbox"/> MODIFICATION	€ 830490 ZSM	\$ 937.50
<input type="checkbox"/> ZONING MAP AMENDMENT.....ZM	\$ _____	<input type="checkbox"/> FOLLOW-UP		\$ _____
<input type="checkbox"/> ZONING TEXT AMENDMENT.....ZR	\$ _____	<input type="checkbox"/> RENEWAL		\$ _____
<input type="checkbox"/> ZONING SPECIAL PERMIT.....ZS	\$ _____	<input checked="" type="checkbox"/> OTHER		\$ 20,700.00
<input type="checkbox"/> ZONING AUTHORIZATION.....ZA	\$ _____			
<input type="checkbox"/> ZONING CERTIFICATION.....ZC	\$ _____			
<input type="checkbox"/> PUBLIC FACILITY, SEL. JACQ.....PF	\$ _____			

2000 MAY -2 PM 12:53
DEPT OF CITY PLANNING

Attachment 11

Statement in Support of Application and Discussion of Findings

Re: 575 Fifth Avenue
New York, New York
Block 1282; Lot 65
(the "Subject Premises")

I. INTRODUCTION AND SUMMARY

The proposed project is a modification to the covered pedestrian space located on the concourse and ground levels in the 35-story building at 575 Fifth Avenue in Manhattan (Lot 65 in Block 1282) on the southeast corner of Fifth Avenue and East 47th Street (the "Subject Building"). The Subject Building is located partly in a C5-3 district and partly in a C5-2.5 district within the Fifth Avenue Subdistrict of the Special Midtown District. The zoning lot of the Subject Building includes both 575 Fifth Avenue and the adjacent property at 8-14 East 47th Street (Lot 64 in Block 1282) totaling 28,115 square feet in lot area. There are no proposed changes to Lot 64 as part of this application and all of the proposed changes to the Subject Building are within the existing building envelope.

This application is being made in order to facilitate the renovation of both the public space and adjoining retail areas in the Subject Building and to address certain of the design and operational problems associated with the covered pedestrian space and retail space. The proposed redesign of the covered pedestrian space (the "Proposed CPS") will achieve the following objectives: (1) enhance the visibility of the public space from East 47th Street by eliminating the arcade, extending the covered pedestrian space to the street line, and locating the Proposed CPS entirely at ground level in order to attract more users; (2) locate all of the bonused

public space on the first floor so that it will be directly accessible from the enhanced entry on East 47th Street; (3) provide moveable tables and chairs and fixed-bench seating to provide a level of amenity that will attract more users to the public space, which will also be significantly upgraded in terms of finishes, lighting and artwork; (4) eliminate the existing secondary entrance from Fifth Avenue in order to upgrade the retail space and increase its visibility along the Fifth Avenue frontage; and (5) improve vertical transportation on the first through third floors so as not to interfere with use and enjoyment of the Proposed CPS.

By authorization in 1981, the City Planning Commission (the "Commission") approved a 3,575 square-foot covered pedestrian space in the Subject Building that generated an as-of-right floor area bonus pursuant to the regulations of the Special Fifth Avenue District, former ZR Section 87-00 et seq., which predated the Special Midtown District. The authorization approved a modification of height and setback regulations and permitted encroachments along both the Fifth Avenue and the East 47th Street frontages, in part to accommodate the increased lot coverage that was allowed because of the provision of additional retail space in the Subject Building. Based on the as-of-right bonus and the transfer of air rights from the adjacent lot to the east (Lot 64), the proposed building at 575 Fifth Avenue was permitted to contain a maximum of 442,450 square feet of zoning floor area.

In 1982, after the Subject Building had vested its rights under the prior zoning but before it was complete, the Special Midtown District was created, absorbing certain regulations of the former Special Fifth Avenue District as a subdistrict of the new special district. The design of the covered pedestrian space was revised and a special permit under the Special Midtown District regulations was obtained from the Commission in September 1983. The Commission

determined that the revised design would provide a greater public benefit despite the reduction in the size of the covered pedestrian space to 3,339 square feet.

II. THIS APPLICATION

This application, which is being filed as Application N 830490 (A) ZSM (the “Application”), seeks a modification in the design and arrangement of the covered pedestrian space that was provided in connection with the development of the Subject Building. The covered pedestrian space, which generated an as-of-right floor area bonus at the time of the initial approval by the Commission on November 23, 1981 (application No. N 810450 ZAM) has been altered pursuant to subsequent approvals by the Commission on March 21, 1983 (Application No. N 810450(A) ZAM) and on September 21, 1983 (Application No. C 830490 ZSM), as described later in this narrative. This Application seeks approval of a further modification to the covered pedestrian space in order to facilitate a renovation of the public space and adjoining retail areas.

The existing design and arrangement of the covered pedestrian space suffers from a lack of visibility from the adjoining streets that has significantly hindered its ability to support retail uses and attract casual users to the public space. The visibility of the primary entrance to the covered pedestrian space from East 47th Street is compromised by the dark and uninviting recess of the 15-foot deep arcade and does not have a separate identity from the office lobby.

The covered pedestrian space is dominated by the escalators that visually and physically bisect the atrium. The public space at the first floor is approximately 1510 square feet in area and essentially consists of a pair of benches and vertical circulation to the concourse and the upper levels. The public space on the concourse level, which totals approximately 1,829 square

feet, is relatively inaccessible and has minimal natural light. Because of its isolated location and limited seating, which is clustered around the escalators, the public space is not widely used by the public.

The Proposed CPS will achieve the following objectives: (1) enhance the visibility of the public space from East 47th Street by eliminating the arcade, extending the covered pedestrian space to the street line, and locating the Proposed CPS entirely at ground level in order to attract more users; (2) locate all of the bonused public space on the first floor so that it will be directly accessible from the enhanced entry on East 47th Street; (3) provide moveable tables and chairs and fixed-bench seating to provide a level of amenity that will attract more users to the public space, which will also be significantly upgraded in terms of finishes, lighting and artwork; (4) eliminate the existing secondary entrance from Fifth Avenue in order to upgrade the retail space and increase its visibility along the Fifth Avenue frontage; and (5) improve vertical transportation on the first through third floors so as not to interfere with use and enjoyment of the Proposed CPS. Filed as part of this Application are Drawings ZN.01 through ZN.08, prepared by Gensler and issued on April 27, 2007, that detail the proposed changes to the covered pedestrian space, as discussed in the following sections.

III. PRIOR LAND USE APPROVALS

The Subject Building was developed in 1981 pursuant to the regulations of the Special Fifth Avenue District, ZR Section 87-00 et seq., which predated the Special Midtown District. The zoning calculations prepared by Emory Roth & Sons PC and dated 12/2/81 (the "Original Zoning Drawings") for the original building indicate that the zoning lot of the Subject Building includes both Lot 65 (the footprint lot) and Lot 64 (the air rights parcel) and totals 28,115 square

feet in lot area. The zoning lot was within a C5-3 district, part of which was within the Special Fifth Avenue District, which permitted a basic maximum FAR of 15. In addition to the basic maximum floor area of 421,725 square feet, the original building was to provide a covered pedestrian space of 3,575 square feet that generated (as-of-right) a floor area bonus of 50,050 square feet and a 275 square feet arcade at the East 47th Street entrance. Subtracting the existing floor area contained in the building to remain on Lot 64 (29,325 square feet) from the total permitted floor area on the zoning lot (471,775 square feet) resulted in a maximum floor area permitted in the Subject Building of 442,450 square feet.

On November 23, 1981, the Commission approved an application (N 810450 ZAM), pursuant to ZR Section 87-101(d) that modified the height and setback regulations and permitted encroachments along both the Fifth Avenue and the East 47th Street frontages, in part to accommodate the increased lot coverage that was achieved by providing an additional 10,688 square feet of Use Group "F" uses beyond that required by the underlying regulations of the Special Fifth Avenue District. Both the increased lot coverage and the floor area bonus for the covered pedestrian space were permitted on an as-of-right basis pursuant to ZR Sections 87-091 and 87-092, respectively. The authorization was approved on condition that "1. The premises shall be developed in size and arrangement substantially as proposed and as indicated on the plans filed with the application."

On May 13, 1982, the Special Midtown District (the "Special District") was created, absorbing certain regulations of the former Special Fifth Avenue District as a subdistrict of the Special District. Among the provisions of the Special Fifth Avenue District that were not carried forward in the subdistrict were those provisions that permitted the height and setback modifications, the increased tower coverage and the floor area bonus for a covered pedestrian

space. However, since the Subject Building had vested under the prior regulations, its construction was permitted to continue in accordance with the approved plans.

On January 3, 1983, an application (N 810450(A)ZAM) was filed with the Department of City Planning requesting modifications to the bonused covered pedestrian space that did not involve exterior changes to the building. The Department of City Planning determined that the proposed revisions did not constitute a substantial change from the plans as originally approved. Therefore, the revised drawings (prepared by Emory Roth & Sons PC and dated March 2, 1983) were approved as substitute drawings by the Department of City Planning and transmitted to the Department of Buildings on March 21, 1983.

Concurrent with the review and approval on the above minor modification and the continuing construction of the Subject Building, the Department of City Planning and the owner were discussing more extensive changes to the covered pedestrian space, pursuant to the regulations of the Special Midtown District. ZR Section 81-232 allowed an existing public amenity that had generated a floor area bonus under previous regulations to be eliminated or reduced in size provided that the Commission found "that the proposed change will provide a greater public benefit in light of the public amenity's purpose and the purposes of the Special Midtown District." The application for the special permit was required since the proposed design relocated an escalator that resulted in a reduction in the area of the covered pedestrian space and extended a pedestrian bridge on the second floor, which was not a permitted obstruction within 30 feet of the entry but could be waived by special permit.

The Commission determined that the proposed revisions to the covered pedestrian space would provide "a superior design with improved pedestrian circulation, greater visibility, more

prominent access and a more congenial public seating environment set off from passageways by ornamental fountains and plantings.” The Commission further noted that “the extension of the second story pedestrian bridge will provide a continuous pedestrian path and provide improved pedestrian circulation to the second floor retail stores.” In addition, the Commission noted that the applicant had agreed to provide three public toilets that would be accessible from the covered pedestrian space. The Commission approved the special permit to reduce the size of the covered pedestrian space (the “Reduced CPS”) on September 21, 1983.

The zoning calculations for the Reduced CPS, which are presented on Drawing CPR/1 prepared by Emory Roth & Sons PC and dated August 2, 1983, indicate that the Reduced CPS would generate a floor area bonus of 46,746 square feet (3,339 square feet of the Reduced CPS at the bonus rate of 14 times the area of the Reduced CPS) and that the arcade at the East 47th Street entry would generate a floor area bonus of 1,440 square feet (480 square feet of arcade at the bonus rate of 3 times the area of the arcade). The maximum floor area permitted in the Subject Building was 440,601 square feet, which was approximately 1,849 square feet less than had been approved with the original and larger covered pedestrian space.

IV. PROPOSED MODIFICATION TO COVERED PEDESTRIAN SPACE

This Application (N 830490(A)ZSM) seeks approval of a further modification of the covered pedestrian space in order to facilitate the renovation of both the public space and adjoining retail areas and address certain of the design and operational problems associated with the Reduced CPS. Since the intention is to retain the same total permitted floor area on the zoning lot, the Proposed CPS generates at least an equivalent amount of bonused floor area as is currently provided in the Subject Building.

The Proposed CPS consolidates all of the public space in the first floor in a way that enhances its visibility, identity and attractiveness to the public. The Proposed CPS totals 3,612 square feet in area¹ and provides a range of amenities designed to attract the public, including tables and moveable chairs for 72 persons and fixed-bench seating for 51 persons, a coffee bar or similar eating and drinking place of at least 530 square feet that is integrated in the design of the public space and attractive landscaping, lighting and other features.

The proposed curtain wall creates larger glazed openings in the lower three floors of the Subject Building's facade, which enhances the visual connectivity between the public space, the office lobby and East 47th Street. The Proposed CPS is framed by retail stores, and the escalators are relocated to the southern perimeter of the space and are designed to be a visual and active feature rather than an obstacle. Prominent public space signage is integrated into the architecture of the proposed design. A marquee is located at the entrance to the Proposed CPS on East 47th Street with signage visible from both Fifth and Madison Avenues. Supplemental public space signage is prominently located on the sign band both at the corner and elsewhere on the Fifth Avenue frontage.

V. REQUIRED FINDINGS

The Proposed CPS is designed to comply with the requirements of both ZR Section 12-10 and former ZR Section 87-062. ZR Section 12-10 requires that a "Covered Pedestrian Space" meet the following standards:

¹ The Proposed CPS that generates the floor area bonus is a portion of the 4,452 square foot publicly accessible space to be provided on the first floor of the Subject Building.

- **Has an area of at least 3,000 square feet and a minimum width at any point of 20 feet.**

The Proposed CPS encompasses an area of 3,612 square feet and has a minimum width in excess of the required 20-foot minimum.

- **Has a height of at least 30 feet.**

The Proposed CPS has a clear height of 3 stories (approximately 56 feet).

- **Has appropriate *uses* permitted in the district, such as, but not limited to, small stores and cafes, occupying the maximum feasible frontage along those bounding walls of the *covered pedestrian space* which do not abut *lot lines* or *street lines*. At least 50 percent of such frontage shall be developed with individual *uses* each of which has a frontage not exceeding 25 feet, and the frontage of any other single use may exceed 40 feet.**

Not applicable. This standard did not apply within the Special Fifth Avenue District. (See discussion under ZR Section 87-062 for substitute standard.)

- **Is adequately illuminated utilizing natural daylight wherever possible.**

Complies.

- **Is kept open to the public between 7 a.m. and 12 midnight or on a schedule suitable to meet the public need and is suitably maintained.**

Complies. The Proposed CPS is suitably maintained and is open to the public between 7 a.m. and 10 p.m., which meets the public need in the Fifth Avenue Subdistrict, where retail and office uses predominate.

- **Obstructions such as awnings, canopies, pedestrian bridges, escalators, stairs, balconies or other architectural elements above the floor level of the *covered pedestrian space* are prohibited unless it can be clearly demonstrated that they will enhance design or pedestrian circulation.**

Pedestrian bridges and escalators enhance pedestrian circulation to the retail spaces located on the second and third floors. These pedestrian bridges and escalators also enhance the design of the covered pedestrian space by providing direct and inviting pedestrian pathways that would not be available with the use of elevators only.

- **Planting, landscaping, ornamental fountains, statuary, bazaar furniture, kiosks, works of art, light-wells and other features may be permitted in a portion of the *covered pedestrian space*, but not to the extent of impeding pedestrian movement.**

Not applicable. This standard did not apply within the Special Fifth Avenue District. (See discussion under ZR Section 87-062 for substitute standard.)

- **Columns or similar elements may be permitted within a covered pedestrian space, but the aggregate area of such elements may not exceed 2 percent of the total pedestrian space.**

Not applicable. This standard did not apply within the Special Fifth Avenue District. (See discussion under ZR Section 87-062 for substitute standard.)

- **A portion of the *covered pedestrian space* shall be developed as public sitting areas with appropriate facilities such as cafes or other public seating arrangements.**

Complies. Moveable tables and chairs and fixed-bench seating are provided in a variety of settings designed to attract a wide range of uses.

- **Where the space is heated or air-conditioned, the standards for heating, ventilating and air-conditioning shall be at least equal to that of the lobby.**

Complies.

- **For the purpose of ensuring prominent public attention to the *covered pedestrian space*, the openings at the face of the *building* for entrances to the *covered pedestrian space* shall be at least 20 feet wide, 30 feet high and unobstructed for a depth of 30 feet.**

Complies.

In addition, ZR Section 87-062 of the Special Fifth Avenue District specified the

following additional requirements:

- **The covered pedestrian space shall be located in its entirety at least 50 feet from the Fifth Avenue street line.**

Complies. The secondary entrance from Fifth Avenue has been eliminated, and a continuous retail frontage is now provided in accordance with the current zoning regulations.

- **The covered pedestrian space has uses listed in Section 87-033 (Use Group F) occupying the maximum feasible frontage along the bounding walls of the covered pedestrian space which do not abut lot lines or street lines. Access to other uses within a building may be provided from the covered pedestrian space and at the same level.**

Complies. At the ground floor, the covered pedestrian space is bounded entirely by retail space and public restrooms, except at its east end, where it is adjacent to the office lobby. At the upper levels, the covered pedestrian space is bounded primarily by retail space except at the east end of the third floor, where it is bounded by office

space. This office area is unlikely to be successful as retail space because of its distance from the street.

- **Vertical circulation elements, columns, pedestrian bridges and balconies are permissible obstructions, provided (i) they do not cover in the aggregate more than 15 percent of the *floor area* of the *covered pedestrian space* except when escalators are provided, up to 20 percent is permitted, and (ii) the vertical circulation elements are so located that one passageway of at least a 15 foot width, either within or adjoining the *covered pedestrian space*, is maintained around the obstruction. Such obstructions may be permitted within the first 30 feet of depth, but not within 25 feet opposite an entrance.**

Complies. See drawings filed with this application.

- **A *covered pedestrian space* may include as permitted obstructions ornamental fountains, sculpture, displays, kiosks, or cafes occupying in the aggregate not more than one-third of the total *floor area* of such *covered pedestrian space* at any elevation.**

The covered pedestrian space is intended to include decorative elements such as sculpture and planters, but in no event shall such obstructions exceed one-third of the total floor area of the covered pedestrian space.

VI. FLOOR AREA COMPLIANCE

The Reduced CPS generated bonused floor area at the rate of 14 square feet of bonus for each square foot of qualifying covered pedestrian space. In addition, the arcade along East 47th Street generated bonused floor area at the rate of 3 square feet of bonus for each square foot of arcade. The total amount of bonused floor area of the Subject Building is 48,186 square feet.

The regulations of the Special Fifth Avenue District established a bonus rate for covered pedestrian spaces within a range between 11 and 14, depending on the provision of certain amenities. The Reduced CPS achieved the maximum bonus rate of 14 by providing escalators between the ground level and the concourse level (1.5 increase in bonus rate) and escalators between the ground level and the second floor (1.5 increase in bonus rate). The Proposed CPS would also achieve the maximum bonus rate of 14 by (1) providing escalators between the

Proposed CPS and the Second Floor retail (1.5 increase in bonus rate) and (2) increasing the height of the Proposed CPS by 16 feet above the 30-foot required minimum height (1.5 increase in bonus rate).

The existing arcade along East 47th Street is proposed to be incorporated into the Proposed CPS, which will be increased to 3,612 square feet. At the bonus rate of 14, the Proposed CPS will generate a floor area bonus of 50,568 square feet, which is in excess of the bonused floor area generated by the Reduced CPS and arcade combined (48,186 square feet). The fact that the Proposed CPS has been extended to the street line not only serves to enhance the visibility of the public space, but the expanded interior public space provides a greater level of amenity for the user than the existing exterior arcade.

The approved zoning calculations for the Subject Building indicate a total of 38,805 square feet of Use Group "F" uses on the concourse and floors one through three. This amount was more than sufficient to provide both the required 1 FAR for the portion of the zoning lot within the former Special Fifth Avenue District (20,000 square feet)² as well as the 10,688 square feet of additional Use Group "F" uses that was required to achieve the increased lot coverage, pursuant to the regulations of the former Special Fifth Avenue District that were in effect in 1981. The current regulations of the Fifth Avenue Subdistrict would require 15,000 square feet of Use Group "F" uses for the subject zoning lot (1 FAR for the part of the zoning lot in the Fifth Avenue Subdistrict).³ The total amount of Use Group "F" uses proposed on floors one through three in the Subject Building would be 26,201 square feet, which is more than

² Former ZR Sec. 87-032.

³ ZR Sec. 81-82.

sufficient to cover both the current requirement of 15,000 square feet and the previously approved supplement requirement of 10,688 square feet for the added tower coverage as originally approved.

We respectfully request, on behalf of the applicant, that the Commission grant the proposed modification.

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Real Estate Investments
10 Park Ave., 3rd Floor
Morristown, NJ 07960

MetLife®

April 30, 2007

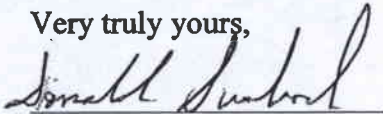
City Planning Commission
22 Reade Street
New York, NY 10007

Re: 575 Fifth Avenue
New York, New York
Block 1282, Lot 65
the "Subject Premises"

Dear Chair Burden:

Metropolitan Life Insurance Company, the owner of Tax Lot 65 in Block 1282, hereby authorizes Kramer Levin Naftalis & Frankel LLP to file the accompanying application for a modification to a special permit granted pursuant to former Section 87-232 of the New York City Zoning Resolution to renovate the covered pedestrian space located on the concourse and ground levels in the 35-story building at 575 Fifth Avenue in Manhattan.

Very truly yours,



Donald Svoboda
Director

LR Item 3

Description of Proposal

The proposed project is a modification to the bonused covered pedestrian space ("CPS") located on the concourse and ground levels in the 35-story building at 575 Fifth Avenue, Manhattan (Tax Lot 65 in Block 1282). The proposed redesign of the CPS will: (1) eliminate the arcade and extend the CPS to the street line; (2) locate all of the bonused public space on the first floor; (3) enhance the entry to the CPS on East 47th Street; (4) provide moveable tables and chairs and fixed-bench seating in the CPS; (5) improve the finishes, lighting and artwork in the CPS; (6) eliminate the existing secondary entrance to the CPS from Fifth Avenue; (7) upgrade the retail use along the Fifth Avenue frontage; and (8) improve vertical transportation on the first through third floors. All the proposed changes to the subject building are within the existing building envelope.

LR Item 7

Related Actions by City Planning

<u>Application No.</u>	<u>Description/Disposition</u>	<u>Calendar No.</u>	<u>Date</u>
N 810450 ZAM	Authorization/Approved	3	Nov. 23, 1981
N 810450(A)ZAM	Letter/Substantial compliance	--	March 21, 1983
C 830490 ZSM	Special Permit/Approved	44	Sept. 21, 1983