

**ZRD2: Zoning Challenge  
with response**



Must be typewritten.

**DECISION (To be completed by a Buildings Department official)**

Review Decision: ☒ Challenge Denied ☐ Challenge Accepted, Follow-Up Action(s) Required (Indicate below)  
☐ Issue notice of intent to revoke  
☐ Issue stop work order

Applicable Zoning Section(s): ZR 12-10(Definitions) Floor Area, ZR 82-34, ZR 82-36, ZR 77-02, ZR 23-851(b)(2)

Comments:  
Page 1 of 3

The current approved and permitted application is for a 25 story residential, mixed use new building with Community Facility on an interior zoning lot located entirely within C4-7 and the Special Lincoln Square District. The referenced posted ZD1 form (scan dated 7/26/2018), is associated with proposed post approval amendment (PAA) Document 16. It shall be noted that PAA Document 16 remains in disapproved status as there are unresolved Department issued objections. This scope is not yet accepted as part of the currently permitted application.

The amended scope in PAA document 16 proposes a 775 foot tall, 41 story building containing residential and community facility uses located on an enlarged zoning lot containing an existing 2-story landmark building (air-rights parcel). The proposed new zoning lot is split between an R-8 district and C4-7 district within the Special Lincoln Square District. The lot area is 19,582sf in the R-8 portion and 35,105 sf in the C4-7 portion. The challenger's reference the proposed scope in PAA Document 16 and the challenge points and Department response are below.

1. The Challenger cites errors in the Zoning Diagram (ZD1), such as the number of floors indicated in the chart under Item 4 (Proposed Floor area), etc.

Response to Item 1: No ZR Section is cited in this portion of the Challenge. However, the applicant will be advised to make any necessary corrections to the zoning diagram (ZD1).

2. The Challenger states that the project in the posted ZD1 includes "oversized inter-building voids" used for accessory mechanical space.

Response to Item 2: No ZR Section is cited in this portion of the Challenge. However, it is assumed the challenger is referring to floor 18, as indicated in the ZD1. Floor 18 is proposed mechanical space with a vertical distance of approximately 160 feet to the top of floor 19. The Zoning Resolution does not prescribe a height limit for building floors.

This portion of the Challenge is denied.

Name of Authorized Reviewer (please print):

Title (please print):

Authorized Signature:

**REVIEWED BY**  
**Scott D. Pavan, RA**  
Borough Commissioner

Date:

Time:

Issuers: write signature, date, and time on each page of the challenge forms; and attach this form.

**Challenge  
Denied**

Date: 11/19/2018

6/09

*Must be typewritten.*

**DECISION (To be completed by a Buildings Department official)**

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Comments:

Page 2 of 3

3. The Challenger states that Tower Coverage (ZR Section 82-36) and Bulk distribution (ZR Section 82-34) are incorrectly calculated using portions of the zoning lot and not the entire zoning lot. The Challenger also states the applicant's incorrect interpretation of ZR 77-02 contributes to this error.

Response to Item 3: The proposed new zoning lot in the referenced ZD1 is located entirely within the Special Lincoln Square District, and is also split by a district boundary line between an R-8 district and C4-7 district (R10 equivalent). The portion of the proposed building that qualifies as a tower is located within the C4-7 portion of the zoning lot.

Section 82-34 (Bulk Distribution) states that "within the Special District, at least 60% of the total floor area on the zoning lot be located partially or entirely below a height of 150 feet from curb level."

A review of the proposed PAA Document 16 indicates compliance with this requirement, as Section 82-34 would be applicable to all portions of a zoning lot located within the Special District regardless of zoning district designations. Per Section 82-35 (Height and Setback Regulations) "all buildings [in the Special District] shall be subject to height and setback regulations of the underlying districts." As part of the height and setback regulations of the underlying districts, Section 33-48 (Special Provisions for Zoning Lots Divided by District Boundaries) addresses the specific issue of split lot conditions, and states in part, "...whenever a zoning lot is divided by a boundary between a district to which the provisions of Section 33-45 (Tower Regulations) apply and a district to which such provisions do not apply, the provisions set forth in Article VII, Chapter 7 shall apply." Section 77-02 (Zoning Lots not Existing Prior to Effective Date or Amendment of Resolution) states in part, "Whenever a zoning lot is divided by a boundary between two or more districts..., each portion of such zoning lot shall be regulated by all the provisions applicable to the district in which such portion of the zoning lot is located." As such, Section 33-45, a provision that is applicable to C4-7 district is to be applied to the portion of the zoning lot within the C4-7 district.

Name of Authorized Reviewer (please print):

Title (please print):

Authorized Signature:

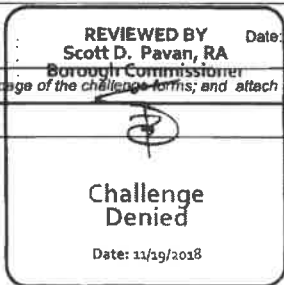
Time:

Issuers: write signature, date, and time on each page of the challenge and response to this form.



*Must be typewritten.*

DECISION (To be completed by a Buildings Department official)	
Review Decision: <input checked="" type="checkbox"/> Challenge Denied	<input type="checkbox"/> Challenge Accepted, Follow-Up Action(s) Required (Indicate below) <input type="checkbox"/> Issue notice of intent to revoke <input type="checkbox"/> Issue stop work order
Applicable Zoning Section(s): <u>ZR 12-10(Definitions) Floor Area, ZR 82-34, ZR 82-36, ZR 77-02, ZR 23-851(b)(2)</u>	
Comments: Page 3 of 3  Section 82-36 (Special Tower Coverage and Setback Regulations) states in part, "the requirements of Sections 33-45 (Tower Regulations) or 35-64 (Special Tower Regulations for Mixed Buildings) for any building, or portion thereof, that qualifies as a "tower" shall be modified as follows:... a tower shall occupy in the aggregate:...not more than 40 percent of the lot area of a zoning lot...; and ...not less than 30 percent of the lot area of a zoning lot." Section 82-36 specifically modified Section 33-45 to include specific tower regulations for the Special Lincoln Square District, but did not negate the need to comply with the rest of the regulations of the underlying district as per Section 82-35. As such, Section 33-48 remains applicable, and the "zoning lot" referenced in Section 82-36 pertains only to the portion of the zoning lot within the C4-7 district. A review of the proposed PAA Document 16 indicates compliance with tower coverage because the special tower coverage regulations would only be applicable in those portions of the Special District where towers are permitted, in this case the C4-7 portion of the zoning lot. Therefore based on the above, this portion of the challenge is denied. 4. The Challenger claims that "Areas claimed for mechanical exemptions should be proportionate to their mechanical use." Response: No ZR Section is cited in this portion of the Challenge. A review of the proposed PAA Document 16 indicates the proposed mechanical deductions are substantially compliant. This portion of the Challenge is denied. 5. The Challenger claims that pursuant to Section 23-851 (b) the small inner court [along the northeast edge of the C4-7 portion of the zoning lot] is too small." Response: A review of the proposed PAA Document 16 indicates an open area located along this side lot line. Per ZR Sections 33-51 and 24-61, minimum dimensions of courts and minimum distance between windows and walls or lot lines shall apply only to portions of buildings used for community facility use containing living accommodations with required windows. The portion of the proposed building in question will contain a house of worship (UG 4 Community Facility). Therefore, the above court regulations do not apply. The proposed open area along the northeast edge of the C4-7 portion of the zoning lot complies with Section 33-25(a)(Minimum Required Side Yards). In addition, the one-story portion of the building located in the rear yard equivalent along the front lot line is a permitted obstruction pursuant to Section 33-23. This portion of the Challenge is denied.	
Name of Authorized Reviewer (please print):	
Title (please print):	
Authorized Signature:	<div style="border: 1px solid black; padding: 5px; display: inline-block;"> REVIEWED BY  <b>Scott D. Pavan, RA</b>  Borough Commissioner </div> Date: _____ Time: _____
Issuers: write signature, date, and time on each page of the challenge forms; and attach this form.	



**Zoning Challenge  
and Appeal Form**  
(for approved applications)

*Must be typewritten*

<b>1</b>	<b>Property Information</b> <i>Required for all challenges.</i>
BIS Job Number 121190200 <span style="float: right;">BIS Document Number 18</span>	
Borough Manhattan <span style="margin-left: 100px;">House No(s) 36</span> <span style="float: right;">Street Name West 66th Street</span>	
<b>2</b>	<b>Challenger Information</b> <i>Optional.</i>
<i>Note to all challengers: This form will be scanned and posted to the Department's website.</i>	
Last Name Janes <span style="margin-left: 100px;">First Name George</span> <span style="float: right;">Middle Initial M</span>	
Affiliated Organization Prepared for: Landmark West! & 10 West 66th Street Corporation	
E-Mail george@georgejanes.com <span style="float: right;">Contact Number 917-612-7478</span>	
<b>3</b>	<b>Description of Challenge</b> <i>Required for all challenges.</i>
<i>Note: Use this form only for challenges related to the Zoning Resolution</i>	
Select one: <input checked="" type="checkbox"/> Initial challenge <input type="checkbox"/> Appeal to a previously denied challenge (denied challenge must be attached)	
Indicate total number of pages submitted with challenge, including attachments: 38 <i>(attachment may not be larger than 11" x 17")</i>	
Indicate relevant Zoning Resolution section(s) below. <i>Improper citation of the Zoning Resolution may affect the processing and review of this challenge.</i>	
12-10 Floor Area, 82-34, 82-36, 77-02 and 23-851(b)(2)	

Describe the challenge in detail below: (continue on page 2 if additional space is required)  
Please see attached.

*Note to challengers: An official decision to the challenge will be made available no earlier than 75 days after the Development Challenge process begins. For more information on the status of the Development Challenge process see the Challenge Period Status link on the Application Details page on the Department's website.*

<b>ADMINISTRATIVE USE ONLY</b>	REVIEWED BY Scott [Signature] Borough [Blank]
Reviewer's Signature:	Date: [Blank] Time: [Blank] WOF: [Blank]

Challenge  
Denied

Date: 11/19/2018

GEORGE M.  
JANES &  
ASSOCIATES

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September 9, 2018

Rick D. Chandler, P.E., Commissioner  
Department of Buildings  
280 Broadway  
New York, NY 10007

RE: Zoning Challenge  
36 West 66<sup>th</sup> Street  
Block 1118, Lot: 45  
Job No: 121190200

Dear Commissioner Chandler:

At the request of the 10 West 66<sup>th</sup> Street Corporation and Landmark West!, a community-based organization that promotes responsible development on the Upper West Side, I have reviewed the zoning diagram and related materials for the new building under construction at 36 West 66<sup>th</sup> Street (AKA 50 West 66<sup>th</sup> Street). My firm regularly consults with land owners, architects, community groups and Community Boards on the New York City Zoning Resolution and I have been a member of the American Institute of Certified Planners for the past 21 years.

**Summary of findings**

There are several deficiencies in the drawings and design. Review of issue 2 should be expedited, as it relates to building safety.

- 1) The ZD1 is not current and has errors. A new ZD1 or ZD1A should be filed.
- 2) The FDNY has unanswered questions regarding the safety of interbuilding voids. The Commissioner should not approve an unsafe building.
- 3) Tower coverage and bulk packing are calculated on different parts of the zoning lot. They must be linked.
- 4) Areas claimed for mechanical exemptions should be proportionate to their mechanical use.
- 5) The small inner court is too small.

**Summary of the July 26, 2018 ZD1**

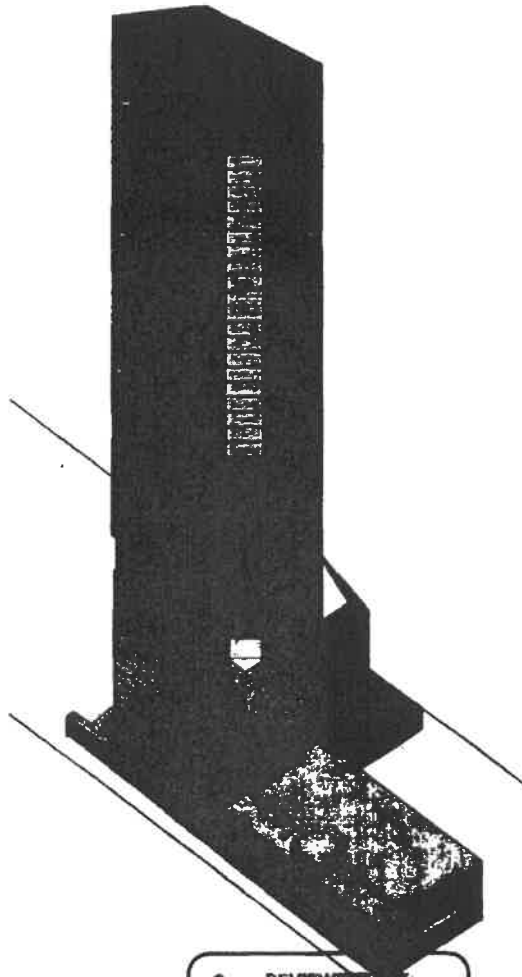
The building is proposed in the midblock between Central Park West and Columbus Avenue on a zoning lot that is part through and part interior between West 66<sup>th</sup> and West 65<sup>th</sup> Streets. The entire lot is in the Special Lincoln Square District (SLSD). The northern part of the zoning lot is zoned C4-7 (an R10 equivalent) and the southern part is zoned R8. The northern portion contains the Armory, a commercial building (a New York City landmark) that is proposed to stay. The proposed development includes a residential tower with a community

Challenge  
Denied

Date: 11/19/2018

facility in the first floor. The southern portion is developed with an R8 height factor building, also with a community facility in the first floor.

The proposed building has an atypically large mechanical void. The following is a 3D model of the proposed building and the building to stay on the zoning lot, based upon information provided in the ZD1:



*Approximate building*

REVIEW  
Scott D. [Signature]  
[Signature]  
H: [Signature]  
GEORGE M. JAMES & ASSOCIATES  
**Challenge  
Denied**  
Date: 11/19/2018

The mechanical portions of the proposed building are shown in gray, residential in yellow, commercial in pink, and community facility in blue. A large interbuilding void starts on the 18<sup>th</sup> floor and extends 161 feet to the next story, the use of which is claimed to be accessory building mechanical. While there may be some mechanical equipment placed on the floor of this space, it appears that the primary use of the floor is to increase the height of the tower floors above it. There are also mechanical floors on the 17<sup>th</sup> and 19<sup>th</sup> floors but these have more typical floor-to-floor heights.

The building is also notable for the large size of the base below the tower. At over 20,000 SF with a maximum dimension of 165 by 140 feet, it leaves about 1/3 of the floor area of each residential floor more than 30 feet from any possible window. We engaged an expediter to get more detailed building plans so that we could examine how this space, and the spaces claimed as mechanical are being used. The expediter was informed that no more detailed plans regarding the above grade portion of the building were publicly available. Therefore these comments are limited to that information which is available, the ZD1 and the PW1A.

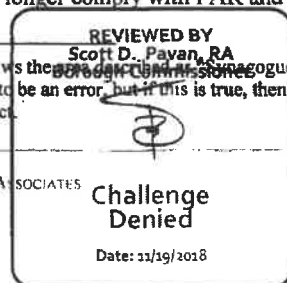
**1. The ZD1 is inconsistent and either incorrect or out of date**

The ZD1 section drawing shows a 42<sup>nd</sup> floor, which appears to be a roof level. There is neither a 42<sup>nd</sup> floor, nor a roof level shown in the Proposed Floor Area table. Further, the Proposed Floor Area table reads that the project proposed is 9.24 FAR. This is an error, as it omits all existing floor area to remain on the zoning lot while counting the lot area of the entire zoning lot. The actual proposed FAR is 10.03 (548,541 ZFA proposed / 54,687 SF of lot area). The difference is not trivial and amounts to over 43,000 ZFA that is missing from the table.

More substantially, however, a PW1A (dated August 28, posted August 30) describes changes to the building that are material to the ZD1 and the zoning approval. These changes include the elimination of the 40<sup>th</sup> and 41<sup>st</sup> floors and changes to the configuration of the synagogue portion of the 1<sup>st</sup> floor mezzanine. The previous PW1 identified this mezzanine as mechanical space accessory to the community facility use and the ZD1 shows this space as having no zoning floor area. This new PW1A identifies it as "vacant" space. As defined by ZR12-10, zoning floor area would include vacant space, while accessory mechanical space is not. Accordingly, the MEZ1 4A line of the Proposed Floor Area table in the ZD1 is incorrect and the ZD1 understates the amount of zoning floor area being proposed.<sup>1</sup> Considering the proposal is using all the floor area generated by the zoning lot, any exempt gross floor area reclassified as zoning floor area will cause the building to no longer comply with FAR and be out of compliance.

<sup>1</sup> The PW1A also shows the area designated "Synagogue Mezzanine" (page 4) has six dwelling units, which appears to be an error, but if this is true, then the zoning floor area reported in the ZD1 is vastly incorrect.

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At minimum, a new ZD1 (or a ZD1A) that demonstrates FAR compliance with this additional zoning floor area, corrects the mezzanine in the table, removes the 40<sup>th</sup> and 41<sup>st</sup> floors, adjusts floor area sums in the Proposed Floor Area table, includes existing floor area to remain in the Proposed Floor Area table, updates the section, plan and elevation to describe the building being proposed, and incorporates any other changes not detailed herein, is required. Alternatively, if the DOB agrees that the floor area in the synagogue mezzanine should be classified as zoning floor area, then it should issue an intent to revoke the zoning approval.

**2. The FDNY has unanswered questions regarding the safety of interbuilding voids. The Commissioner should not approve any unsafe building.**

The proposed building has an "interbuilding void,"<sup>2</sup> which is a large empty area that may be nominally used for accessory building mechanical purposes, but which is mostly empty space not intended for habitation. In the past, both the Department and the BSA have approved such spaces, which according to those interpretations may be of unlimited size.

Interbuilding voids are still a novel construction technique and at 161 feet floor-to-floor this one is the largest ever proposed. When the Special Lincoln Square District was adopted in 1993, such a concept was never considered because it was inconceivable. There is a substantial record regarding the design and adoption of the Special Lincoln Square District, which tells us that the district regulations were adopted, in part, to "control height" "in response to the issues raised by the height and form of recent developments."<sup>3</sup> The tallest of these "recent developments" was 545 feet,<sup>4</sup> which is over 200 feet shorter than the current proposal. New York City codes do not directly address interbuilding voids or their use, and developers, the DOB and the BSA have interpreted them just as they would any other mechanical floor.

But interbuilding voids are not just another mechanical floor. They are a new building technique that are not well addressed in any of our regulations. Just because they contain a nominal amount of mechanical equipment does not mean that they should be treated as any other mechanical floor. This is especially true since the Fire Department of the City of New York (FDNY) has expressed questions regarding the safety of this new construction technique. Once those concerns were expressed, all approvals of buildings using the technique should have been suspended until the FDNY questions were answered and stop work orders for buildings under construction should have been issued.

<sup>2</sup> "Intra-building void" would likely be a more accurate term, but the phrase "interbuilding void" now appears to be common parlance and the Department continues its use.

<sup>3</sup> N 940127 (A) ZRM, December 20, 1993.

<sup>4</sup> The Millennium Tower at 101 West 67<sup>th</sup> Street.

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**Challenge  
Denied**

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It does not matter that the technique may be legal under zoning. The New York City Building Code clearly grants the Commissioner the powers to override an approval if there is an issue of "safety or health":

Any matter or requirement essential for the fire or structural safety of a new or existing building or essential for the safety or health of the occupants or users thereof or the public, and which is not covered by the provisions of this code or other applicable laws and regulations, shall be subject to determination and requirements by the commissioner in specific cases.<sup>5</sup>  
[Emphasis added]

***The FDNY's concerns***

In 2017, I brought the concept of interbuilding voids to the attention of the FDNY. At that time, the Bureau of Operations - Office of City Planning was unfamiliar with this new building technique. I provided drawings in the hope that these drawings could be examined with a consideration for both fire safety and fire operations. Later, on May 3, 2018, the FDNY expressed the following concerns about a building with a large interbuilding void on East 62<sup>nd</sup> Street:

The Bureau of Operations has the following concerns in regards to the proposed construction @ 249 East 62 street ("dumbbell tower"):

- Access for FDNY to blind elevator shafts... will there be access doors from the fire stairs.
- Ability of FDNY personnel and occupants to cross over from one egress stair to another within the shaft in the event that one of the stairs becomes untenable.
- Will the void space be protected by a sprinkler as a "concealed space."
- Will there be provisions for smoke control/smoke exhaust within the void space.
- Void space that contain mechanical equipment... how would FDNY access those areas for operations.

These concerns and questions appear informal because they were sent out as an email by the FDNY Office of Community Affairs rather than a formal memorandum from the FDNY. I contacted the Bureau of Operations to confirm their accuracy, which that office did.

On August 31, 2018, I called Captain Simon Ressler, the person who put the FDNY's safety concerns in writing, asking him the status of the FDNY's concerns regarding interbuilding voids. He informed me that the FDNY has had no communication with the DOB since the DOB was informed of the FDNY's safety concerns. He also said that the FDNY had some communication with the Department of City Planning, where the FDNY's concerns were acknowledged, but no answers were provided.

<sup>5</sup> §28-103.8

GEORGE M. JAMES & ASSOCIATES

REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner

Challenge  
Denied

Date: 11/19/2018

Further, Captain Ressler told me that the FDNY had not been asked to comment on the West 66<sup>th</sup> Street building, and, indeed, only knew of its existence because I sent the ZD1 to him. When asked about the parts of the ZD1 for West 66<sup>th</sup> Street labeled "FDNY access," he informed me that he could not make a determination as to the adequacy of these spaces based upon so little information. He would need to see full building plans, which, according to our expediter, are not available to the public.

As a citizen of the City of New York, I have to say that this lack of communication or concern over FDNY's questions is shocking. All New Yorkers expect our City agencies to be working together and sharing information, but in this case it appears that the following is true:

1. A new building technique (the void) is introduced;
2. No one from the DOB informs the FDNY;
3. A private citizen brings this to the FDNY's attention;
4. FDNY expresses concern and asks several questions, in writing, regarding the safety of fire operations within the void;
5. Those questions are met with silence from the DOB;
6. DOB continues to approve buildings with the same technique, which are even larger and more extreme.

Most issues involving zoning challenges are technical and esoteric, impacting an element of form or use. While these issues are important, they almost never involve possible physical harm. The FDNY's questions rise to a completely different level. This is a question of building safety, a fundamental role of government, which has been left unanswered. The DOB should have never granted an approval to a building where the FDNY has expressed questions regarding fire safety and operations.

Building code §28-103.8 anticipates situations that are not well addressed in the Zoning Resolution, Building Code, and/or Construction Code and provides the Commissioner of Buildings the ability, indeed the obligation, to make a determination on this construction technique as an issue of public safety. Simply, safety trumps zoning, as it should.

Other agencies are also recognizing that interbuilding voids are a problem but not for the same reasons the FDNY has expressed. In a January 2018 town hall event, the Mayor and Chair of CPC Marissa Lago stated that interbuilding voids were a problem and that DCP was working with the Department of Buildings to find a solution. In May and September of 2018, I met with the head of the Manhattan office of DCP and her staff to discuss voids, what they are, and where they become problematic from an urban design and bulk perspective, and I understand that City Council had used similar meetings and concerns. All agree that vast, oversized voids in the West 66<sup>th</sup> Street are a problem and that they undermine the intent of the bulk regulations in the Zoning Resolution, while not

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providing any public benefit. Council Member Rosenthal and Manhattan Borough President Brewer have both repeatedly and publicly voiced their concern about this technique as a loophole around zoning's bulk regulations that does nothing to improve the quality or amount of housing in the City.

But most importantly, this novel technique may not be safe. Our codes give Commissioner Chandler the authority to act to protect safety, and act he must.

**3. Tower coverage and bulk packing are calculated on different parts of the zoning lot. They must be linked.**

While the tower portion of a building constructed under the tower-on-base regulations has no height limit, height is *effectively* regulated by linking tower coverage to the "bulk packing" rule. We know this because the City Planning Commission (CPC) stated as much in their approval of the tower-on-base regulations:

"The height of the tower would be effectively regulated by using a defined range of tower coverage (30 to 40%) together with a required percentage of floor area under 150 feet (55 to 60%)."<sup>6</sup>

The Special Lincoln Square District has its own flavor of the tower-on-base regulations but it is clear that the intent of the regulations is the same:

"Furthermore, in order to control the massing and height of development, envelope and floor area distribution regulations should be introduced throughout the district. These proposed regulations would introduce tower coverage controls for the base and tower portions of new development and require a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet. This would produce building heights ranging from the mid-20 to the low-30 stories (including penthouse floors) on the remaining development sites.

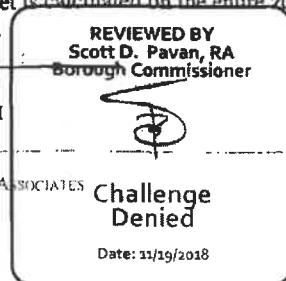
In response to the Community Board's concern that a height limit of 275 feet should be applied throughout the district, the Commission believes that specific limits are not generally necessary in an area characterized by towers of various heights, and that the proposed mandated envelope and coverage controls should predictably regulate the heights of new development. The Commission also believes that these controls would sufficiently regulate the resultant building form and scale even in the case of development involving zoning lot mergers."<sup>7</sup>

The key components of the tower-on-base regulations (tower coverage and floor area under 150 feet (the so-called bulk packing rule)) only function as intended when they are applied over the same lot area. Because this zoning lot is split by a zoning district boundary, the applicant, relying upon ZR 77-02, decided that tower coverage is calculated on the C4-7 portion of the zoning lot (35,105 SF), while the area under 150 feet ~~is calculated on the entire zoning lot~~ (54,687 SF), regardless of zoning district.

<sup>6</sup> N 940013 ZRM

<sup>7</sup> N 940127 (A) ZRM

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The applicant's reading of 77-02 is in error. While ZR 82-34 instructs that floor area under 150 feet should be calculated on the entire zoning lot, it does not also follow that tower coverage (82-36) should be calculated on a different portion of the zoning lot, as such a reading is contrary to the purpose of the tower-on-base regulations and leads to absurd results.

A basic principle of statutory construction is that the same phrase or term should be given a consistent meaning when interpreting a statute. In the applicant's interpretation, the term "zoning lot" means a large area (54,687 SF) under 82-34 (bulk packing) and a small area (35,105 SF) under 82-36 (tower coverage). Not only does this interpretation violate this basic principle that the same words should have the same meaning, it is also in conflict with the intent of the statute as detailed in the CPC findings.

Another bedrock principle of legislative construction, going back over 100 years,<sup>8</sup> is that legislatures do not intentionally act irrationally or promote absurd results.

"The Legislature is presumed to have intended that good will result from its laws, and a bad result suggests a wrong interpretation. . . . Where possible a statute will not be construed so as to lead to . . . absurd consequences or to self-contradiction."  
(McKinney's Statutes § 141); *City of Buffalo v. Roadway Transit Co.*, 303 N.Y. 453, 460-461 (1952); *Flynn v. Prudential Ins. Co.*, 207 N.Y. 315 (1913).

It bears repeating: "A bad result suggests a wrong interpretation." In the context of the tower-on-base building form, the interpretation the applicant has proposed produces a bad result which goes against the intent of the regulations. Perhaps the best evidence for the bad result is the current application, which produces a building over 200 feet taller than the Millennium Tower, the 545-foot tower that created the impetus to adopt the amendments to the Special District. These amendments were, in part, intended to control building height and to prevent additional buildings like Millennium Tower. But more than that, if the applicant's interpretation was actually correct, and all floor area under 150 feet on the zoning lot counts as area under 150 feet, while tower coverage only counts in the R10 equivalent portion of the zoning lot, then this building could have easily been more absurd and more contrary to the intent of the special district regulations; the applicant appears to be showing restraint by not fully exploiting the loophole their interpretation creates.

For example, directly to the west and south of the subject zoning lot, there are lots 9 and 10, which contain existing buildings that are both entirely below 150 feet

<sup>8</sup> This concept has been repeatedly affirmed in more recent years in both land use and other contexts. For example, in *Matter of Jamie L.*, 30 N.Y.3d 475 (2017), decided less than one year ago, the Court of Appeals wrote, "It is not enough to read statutes in 'vacuum-like' readings of statutes in 'isolation with absolute disregard of their context.' . . . Interpretation is 'contrary to the purpose and intent of the underlying statutory scheme and would conflict with other operative features of the statute's core overview procedures.'"

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**Challenge  
Denied**

Date: 11/19/2018

and are in the R8 zoning district. Using the applicant's logic and interpretation of the SLSD and 77-02, the applicant could have expanded their zoning lot to include these sites,<sup>9</sup> which would have added approximately 45,000 SF of existing floor area under 150 feet.<sup>10</sup> This zoning lot merger would have required no transfer of floor area, or "air rights," and would not change anything about these existing buildings or materially impair their development potential, other than keeping any future development to less than 150 feet. Their existing floor area would just be used in the tower-on-base calculations, which would have allowed the applicant to construct an even taller building.

Such a paper transaction would have allowed the 45,000 SF floor area in these existing buildings to be counted as being below 150 feet in the bulk packing calculations. The net effect of such an action would be to allow the tower to increase by two stories or 32 feet.<sup>11</sup>

Using the applicant's interpretation, the larger the zoning lot with existing buildings under 150 feet, the taller the tower can go, as long as those existing buildings are in a non-tower zoning district (not R9 or R10, or their commercial equivalents). Yet the CPC wrote in their findings about the impact of zoning lot mergers on the tower-on-base form in Lincoln Square:

"The Commission also believes that these controls would sufficiently regulate the resultant building form and scale *even in the case of development involving zoning lot mergers.*" [Emphasis added.]

If the applicant's interpretation were correct, then there is no way that this CPC belief could be accurate. To demonstrate an even more absurd example of the applicant's interpretation, consider the following tower-on-base building proposed at 249 East 62<sup>nd</sup> Street.

<sup>9</sup> With the consent of the owners of lots 9 and 10.

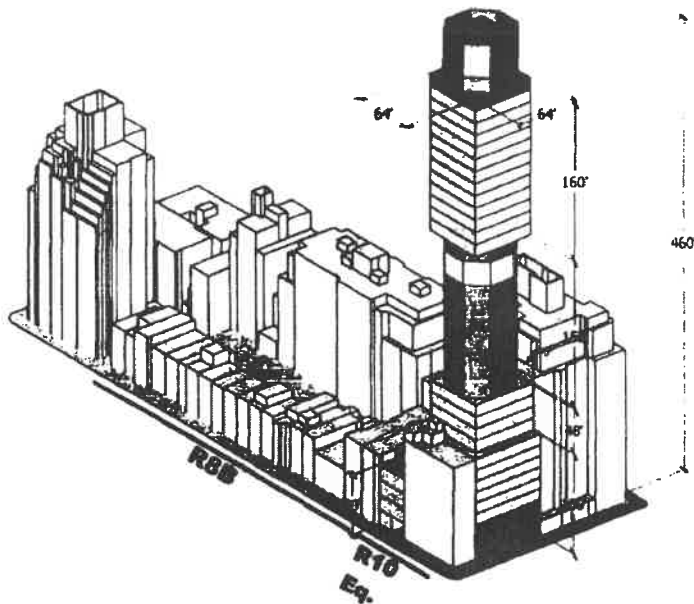
<sup>10</sup> The ZD1 interprets the 60% rule as 60% of the maximum allowable floor area on the lot, not the floor area permitted. The text of 82-34, however, instructs "60 percent of the total #floor area# permitted," which is not necessarily the maximum floor area allowed, and less floor area may be permitted than the maximum allowed. In the case of this building, the applicant's interpretation, while in error, is not material since the building is proposed at the maximum floor area allowed. In this hypothetical scenario, however, floor area permitted would require a literal interpretation of the text: the total floor area for which a permit is, or will be, granted.

<sup>11</sup> A 45,000 SF increase in area under 150 feet would mean that 40% of that area, or 18,000 SF, could be moved from the base of the proposed building into the tower over 150 feet, effectively allowing the tower to increase another two floors or 32 feet using 16 feet FTF heights. The height of the base can be maintained by reducing the floor plate of the base, which would result in a better floor plate for residential use or by keeping the same floor plate and raising floor-to-floor heights by less than one foot per floor in the base.

GEORGE M. JAMES & ASSOCIATES

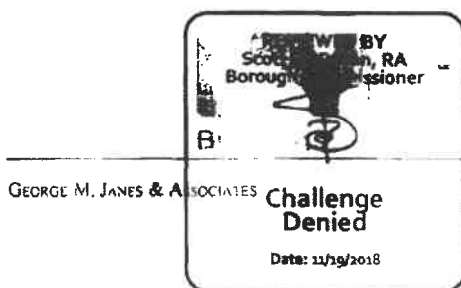
Challenge  
Denied

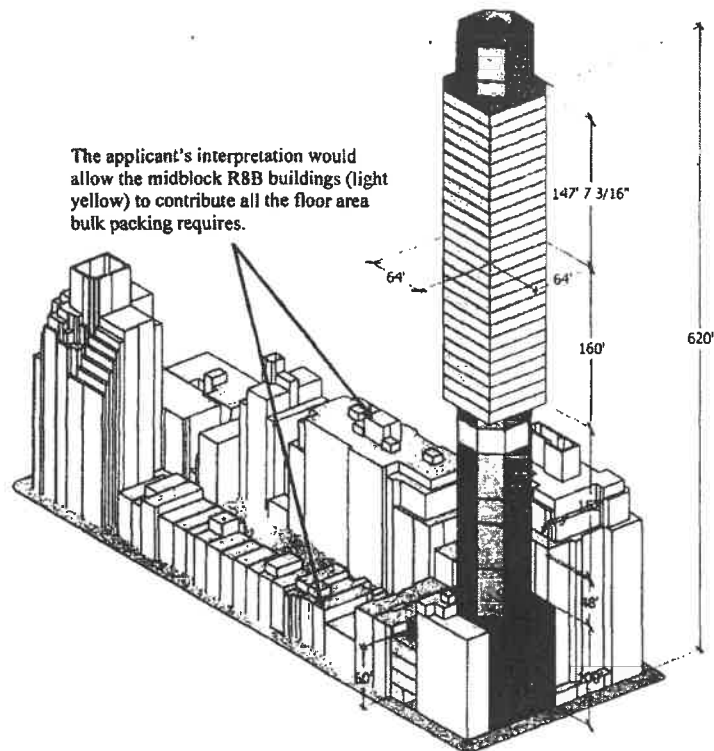
Date: 11/19/2018



*Actual tower-on-base proposal at 249 E. 62<sup>nd</sup> Street*

This is another R10 equivalent tower-on-base building with a massive void. Here, the R10 equivalent portion of the lot extends only 100 feet from the wide street the tower faces. If all floor area on the zoning lot under 150 feet can be counted for bulk packing outside the R10 equivalent portion of the lot, and the tower is only counted on the R10 equivalent portion of the zoning lot, then the zoning lot can be expanded to cover much of the block. If that is done, then *all* floor area under 150 feet, with the exception of the ground floor of the new building will be in buildings to stay on the lot. This zoning lot would require no transfer of development rights and would not impair the future development potential of the existing developments in the height limited mid-blocks. The following shows how such a building might be massed out:





*Possible tower on base massing if the area for tower coverage is divorced from the area for bulk packing*

The existing buildings added to the zoning lot are shown in light yellow in the midblock. They contribute substantially all the floor area under 150 feet that this new building needs so that the floor area generated on its own lot can be placed at levels higher than 150 feet. In the prior example there were 13 residential floors over 150 feet. With this interpretation and large zoning lot, 26 residential floors in the main portion of the building are over 150 feet. This example shows expanded mechanical floors acting as a platform to raise the building to 150 feet so that the height can be maintained. It could have just as easily been a single floor designed to be 150 feet floor-to-floor, which while sounding absurdly unrealistic, is actually 11 feet shorter than what the applicant is actually proposing on the 18<sup>th</sup> floor of their building.

While the absurdity of the ~~REVIEWED BY~~ interpretation is self-evident, it must also be said that there is no ~~SCOTT D. PAVAN, BA~~ or design rationale for zoning text to be read as such. The 30% ~~minimum tower coverage~~ standard came out of DCP

GEORGE M. JAMES & ASSOCIATES

**Challenge  
Denied**

Date: 11/19/2018

studies from 30 years ago<sup>12</sup> that found that older towers from the 1960s and 70s were largely at or near the 40% maximum coverage. Towers from the 1980s were smaller, averaging just 27% with some extreme cases as low as 20%. The record shows the 30% minimum on tower coverage, linked with "bulk packing," was intended to act as a control on tower height. At its largest (11,580 SF), the tower proposed on West 66<sup>th</sup> Street has a coverage of 21% on its zoning lot. At its smallest, it covers just 19%. It must cover between 30% and 40% of the zoning lot, which means it should be between 16,406 SF and 21,875 SF. The tower coverage is too small; the approval should be revoked.

**4. Areas claimed for mechanical exemptions should be proportionate to their mechanical use.**

The DOB has the responsibility to determine that spaces claimed as exempt from zoning floor area because they are used for mechanicals are, in fact, used for accessory building mechanicals and are reasonably proportionate to their use. If they are not, then the DOB must ask the applicant to redesign these spaces. Considering the size of the 18<sup>th</sup> floor, at 161 feet floor-to-floor, it seems unlikely that any such review took place.

We know that, in the past, the DOB required applicants to justify their mechanical exemptions and questioned the validity of these spaces. I am attaching a ZRD1 dated 3/12/2010 that was reviewed by then Manhattan Deputy Borough Commissioner Raymond Plunney. This document is the result of a DOB Notice of Objections dated 1/12/2010<sup>13</sup> where the DOB questioned the applicant's use of the mechanical exemption. This ZRD1 is notable because the building in question is what would become known as One Fifty Seven, the tallest residential building in Manhattan at the time.

The original Notice of Objections, as reported in the ZRD1, documents the DOB questioning mechanical spaces, requiring the applicant to justify the spaces they were claiming as exempt. It is evidence that the DOB at one time policed the exemption, to ensure that the spaces claimed as exempt from zoning floor area actually should be exempt and that mechanical spaces were sized proportionately to their mechanical purpose. This was a vital function that the DOB served in the past and there has been no statute that required a change in policy. As this building demonstrates, the DOB needs to police spaces that applicants are claiming are exempt to ensure that they are appropriate to the exemption. If it does not, the exemption is abused, which undermines the Zoning Resolution's bulk regulations. The DOB should reexamine the spaces claimed as exempt and require that they be proportionally sized for their mechanical purpose; if they are not, the DOB should revoke the approval.

<sup>12</sup> Regulating Residential Towers, 1989; and Special Lincoln Square District Zoning Resolution, 1989; and Special Lincoln

<sup>13</sup> The original Notice of Objections was requested under the Freedom of Information Law in October 2017. It has not yet been provided.

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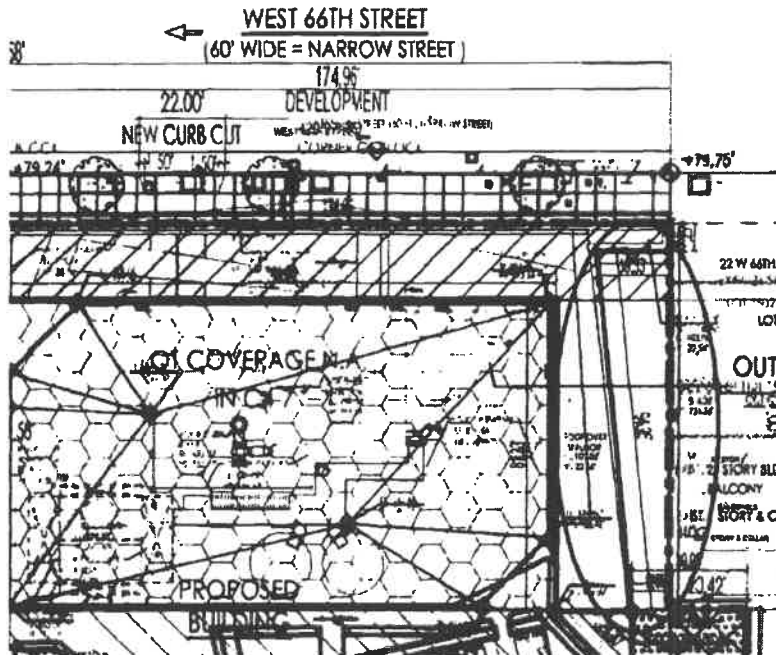
**Challenge  
Denied**

Date: 11/19/2018



**5. The small inner court is too small.**

The ground level open space shown below is not a side yard because it does not extend to the front yard line. It is surrounded by building walls and a lot line, so therefore, it must be an inner court. While the numbers are hard to read on the ZD1, it appears that the plan shows the narrowest dimension for this small inner court to be just over nine feet.



*Detail of plan showing the small inner court*

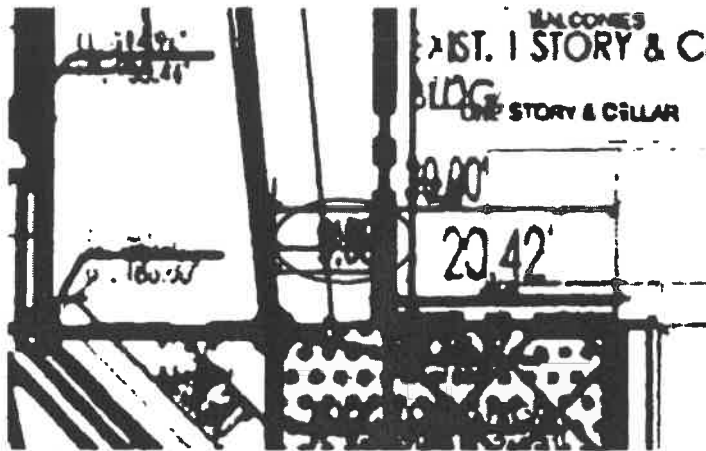
REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner



GEORGE M. JAMES & ASSOCIATES

Challenge  
Denied

Date: 11/19/2018



*Detail of plan with dimension circled*

The number shown appears to be 9.58 feet but that dimension is not taken at the narrowest location. ZR 23-851(b)(2) requires that this inner court be at least 10 feet wide. The zoning approval should be revoked.

**Final thought: a self-imposed hardship**

On October 24, 2016, the DOB gave this applicant an approval for a different building on the C4-7 portion of the zoning lot, which allowed the applicant to proceed with demolition and excavation. More than four months prior to DOB's 2016 approval, the Attorney General of the State of New York approved the sale of the Jewish Guild for the Blind (which is the former owner of the R8 portion of the zoning lot along West 65<sup>th</sup> Street) to the owner of this development. In November of 2017, a new design for the current zoning lot was announced to the public and shown to elected officials and neighbors. At this time, zoning approval was still not sought. During the 18 months between the initial zoning approval and the July 26, 2018 zoning approval, demolition, excavation and construction of the foundation continued, all based on an approval for a building no one intended to build. This clever exercise at obfuscation has allowed construction to progress far beyond what would be typical at this point in the approval process.

While not directly applicable to the Zoning Resolution, this issue matters because courts, the Board of Standards and Appeals, and perhaps the DOB, all care to varying degrees about the hardship their decisions can create, especially for developers who have already invested significant financial resources. If a building is substantially constructed and an error in the approval is found, the more likely the error and the building will be allowed to stand, especially if a court is involved. In this case, the substantial progress the applicant made on construction is attributable to the 18 months of construction activity between the DOB's initial approval of a building that was never intended to be

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**Challenge  
Denied**

**Date: 12/19/2018**

built, and its approval of this current proposal. Had the applicant filed for zoning approval in 2016 when the NYS Attorney General approved their acquisition, or even when the proposal was shown to the public in November 2017, this challenge would have been filed much earlier in the construction process. Any hardship created because of a correction of an error in the approval is entirely self-imposed and should not be a consideration for any administrative or legal entity.

**Close**

Thank you for consideration of these issues and your efforts to make New York City a better place. If you have any questions, please contact me directly at [george@georgejanes.com](mailto:george@georgejanes.com).

Sincerely,



George M. Janes, AICP, George M. Janes & Associates

For



Sean Khorsandi, Executive Director, Landmark West!

And



John Waldes, President, 10 West 66<sup>th</sup> Street Corporation

With support from:

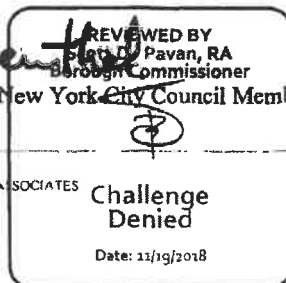


Gale Brewer, Manhattan Borough President



Helen Rosenthal, New York City Council Member

GEORGE M. JANES & ASSOCIATES



*Brad Hoylman*

Brad Hoylman, New York State Senator

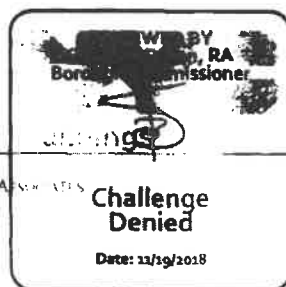
*Richard N. Gottfried*

Richard N. Gottfried, Member of New York State Assembly

Attachments: ZD1, PW1A for 36 West 66<sup>th</sup> Street, ZRD1 9631

CC: Bill de Blasio, New York City Mayor  
 Corey Johnson, New York City Council Speaker  
 Edith Hsu-Chen, Director, Manhattan DCP  
 Erik Botsford, Deputy Director, Manhattan, DCP  
 Beth Lebowitz, Director, Zoning Division, DCP  
 Captain Simon Ressler, Fire Department, City of New York  
 Raju Mann, Director, Land Use, New York City Council  
 Roberta Semer, Chair, Community Board 7

GEORGE M. JAMES & ASSOCIATES









## ZD1 Zoning Diagram

Must be typewritten  
Sheet 2 of 2

1 Applicant Information Required for all applications			
Last Name	First Name	Middle Initial	
Russo	SLCE Architects, LLP	Business Telephone (212) 979-8400	
Business Address	1358 Broadway, 14th Floor	Business Fax (212) 979-8387	
City New York	State NY	Zip 10018	Mobile Telephone
E-Mail	Russo@slcearch.com	License Number	020741

2 Additional Zoning Characteristics Required as applicable			
Dwelling Units	127	Parking area	sq. ft.
		Parking Spaces	Total
		Enclosed	

3 BSA AND/OR CFC Approval for Subject Application Required as applicable			
--	--	--	--

## Board of Standards &amp; Appeals (BSA)

Variance	Cell No.	Authorizing Zoning Section	J2.11
Special Permit	Cell No.	Authorizing Zoning Section	
General CFC Law Waiver	Cell No.	General CFC Law Section	
Cell No.			
City Planning Commission (CPC)	Cell No.	Authorizing Zoning Section	
Permit	Cell No.	Authorizing Zoning Section	
Cell No.			
Cell No.			
Cell No.			

4 Proposed Floor Area Required for all applications One Use Group per line			
--	--	--	--

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
SUB	27,751.62	2B	0				0
SUB	9,362.04	4A		0			0
CEL	27,721.93	2B	0				0
CEL	9,381.64	4A		0			0
001	9,370.60	2	8,923.74				0.16
001	22,405.49	4A		22,405.49			0.41
MEZ1	1,691.49	2	910.32				0.02
MEZ1	2,020.23	4A		0			0
002	20,478.30	2	19,507.39				0.36
003	20,478.30	2	19,509.56				0.36
004	20,478.30	2	19,509.56				0.36
005	20,478.30	2	19,509.56				0.36
006	20,478.30	2	19,531.26				0.36

## ZD1

Sheet 2 of 2

4 Proposed Floor Area Required for all applications One Use Group per line							
--	--	--	--	--	--	--	--

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
007-008	40,958.60	2	39,062.52				0.71
009-014	122,869.80	2	117,206.64				2.14
015	17,402.80	2	0				0
016	10,644.64	2B	7,748.54				0.14
017	6,637.02	2	0				0
018	10,240.55	2	0				0
FDNY AC 1	334.25	2	334.25				0.01
FDNY AC 2	334.25	2	334.25				0.01
FDNY AC 3	334.25	2	334.25				0.01
FDNY AC 4	334.25	2	334.25				0.01
019	10,816.98	2	0				0
020-026	78,459.89	2	75,739.86				1.38
027-031	56,042.85	2	54,076.90				0.98
032-033	22,417.14	2	21,631.78				0.40
034	11,208.58	2	10,883.73				0.20
035	11,183.38	2	10,858.64				0.20
036	11,156.28	2	10,831.50				0.20
037	11,127.40	2	10,802.62				0.20
038	11,097.02	2	10,747.10				0.20
039	10,628.00	2	4,758.95				0.09
040	928.55	2	0				0
041	927.82	2	0				0
Totals	658,286.81		483,083.05	22,405.49			0.24

Total Zoning Floor Area 505,488.54

07/08

Challenge  
Denied  
Date: 1/15/2018







25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 1 of 13

121190200

Existing Legal Use						Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	
SUB-SU-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				7	OG	<input checked="" type="checkbox"/> Yes	S-1, F-2, S-2		2B	
Description						Description	SEWER EJECTOR, OIL TANK/FUEL OIL, POOL EQUIPMENT, BOWLING EQUIPMENT ROOM						
SUB-SU-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				68	OG	<input checked="" type="checkbox"/> Yes	R-2		2B	
Description						Description	ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (POOL & DECK, SPA)						
SUB-SU-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				118	OG	<input checked="" type="checkbox"/> Yes	R-2		2B	
Description						Description	ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (GAMING LOUNGE, BOWLING ALLEY, CHILDREN'S PLAYROOM, SCREENING ROOM & GOLF SIMULATOR)						
SUB-SU-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				69	OG	<input checked="" type="checkbox"/> Yes	R-2		2B	
Description						Description	ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (HEALTH CLUB, STUDIO, PILATES STUDIO)						
SUB-SU-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				63	OG	<input checked="" type="checkbox"/> Yes	R-2		2B	
Description						Description	BASKETBALL COURT, SQUASH COURT (ACCESSORY TO RESIDENTIAL)						

REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner

Challenge  
Denied  
Date: 11/29/2018

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

Applicant's Name (if different)  
LUIGI FUSCO

Date: 8/20/18



25291A

**PW1A: Schedule A - Occupancy / Use**

### Mund des Typoverwärters

Sheet 2 of 13


 Classify and after 100  
 with number 121190200

121190200

Existing Legal Use				Proposed Use				*Use 2008 Code equivalents only even for older Codes.			
Minimum Number of Persons	Live Load (psf)	2014 Code Designation	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	Minimum Number of Persons	Live Load (psf)	2014 Code Designation	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
SUB-SUB B		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				469	OG	BY	A-3		4
Description						SYNAGOGUE (VACANT SPACE AT SUBCELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)					
00-00-00		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				1	OG	BY	R-2		2B
Description						RECEPTION AREA & LOUNGE (ACCESSORY TO RESIDENTIAL)					
00-00-00		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				47	OG	BY	R-2		2B
Description						ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (LOCKER ROOM, STEAM ROOMS, SAUNAS)					
00-00-00		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No									
Description											
00-00-00		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				51	OG	BY	R-2		2B
Description						ACCESSORY TO RESIDENTIAL (BUILDING SUPER SHOP, RES MANAGERS OFFICE, STAFF LOUNGE, WOMEN'S LOCKER, MEN'S LOCKER, COMPACTOR, TENANT STORAGE, LAUNDRY, STORAGE ROOM, REC. ROOM, MINUTE UNIT)					

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

Applicant's Name: Luboj Rus

**Keywords:**

Date:

**PW1A: Schedule A - Occupancy / Use**

Must be typewritten.

Sheet 3 of 15

Check and affix BBS job number label here  
121190200

Existing Legal Use						Proposed Use					
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			3	OG	Yes	R-2		2B
CEL						BIKE STORAGE ROOM (487 SF, 66 BIKES PROVIDED)					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			31	OG	Yes	S-1		2B
CEL						STORM WATER TANK, FIRE PUMP & WATER METER ROOM, GAS METER ROOM, ELECTRICAL SWITCHGEAR ROOM, TELEPHONE & IT SERVER, DOMESTIC HOT WATER ROOM, SATELITE TERMINAL, FIRE PUMP, ATS ROOM, DAS ROOM, MEP ROOM.					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			6	OG	Yes	A-3		4
CEL						SYNAGOGUE MECHANICAL CELLAR (VACANT SPACE AT CELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			6		Yes	A-3		4
CEL						HABONIM (MEP ROOM)					
001-001			<input type="checkbox"/> Yes <input type="checkbox"/> No			706	100	Yes	A-3		
001-001						SYNAGOGUE (VACANT SPACE AT FIRST FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)					

*Re-use entire line* →

REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner

Date: 11/13/2018

Denied

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

Applicant's Name (Print)  
Luis Russo

Signature

FILE

6/28/18



25291A

## PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 4 of 13

121190200

Printed and with job number listed here

Existing Legal Use						Proposed Use					
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)
001-001			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				16	100	<input checked="" type="checkbox"/> Yes	R-2	2
						Description	RES LOBBY, MAIL ROOM, PACKAGE ROOM, MECHANICAL ROOM, CART ROOM & DOG SPA (ACCESSORY TO RESIDENTIAL)				
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes		
						Description	Delete Existing ME 1 line and Add next two lines ME-1				
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				3	40	<input checked="" type="checkbox"/> Yes	A-3	4
						Description	MEP ROOM (ACCESSORY TO RESIDENTIAL) (BETWEEN 1ST AND 2ND FLOOR)				
			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes	R-2	6	2
						Description	SYNAGOGUE MEZZANINE (VACANT SPACE AT MZ1 FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED BY 1ST AND 2ND FLOOR)				
002-006			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes	R-2	6	2
						Description	SIX (6) CLASS A DWELLING UNITS PER FLOOR				

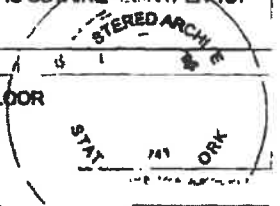
Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

Applicant's Name  
LUIJI KALISO

Signature

Date

8/28/18



**PW1A: Schedule A - Occupancy / Use**

Must be typewritten.

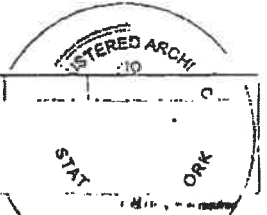
Sheet 6 of 13

Floor	Existing Legal Use					Proposed Use					
	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only*	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
002-002			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes		R-2		2
	Description					Description					
						PRIVATE DWELLING UNIT TERRACES (NORTH)					
002-005			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			6	40	<input checked="" type="checkbox"/> Yes	R-2		2
	Description					Description					
						TENANT STORAGE ROOM ACCESSORY TO RESIDENTIAL PER FLOOR					
002-002			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes		R-2		2
	Description					Description					
						PRIVATE DWELLING UNIT TERRACES (SOUTH)					
	Description					Description					
	Description					Description					

Add new line

Delete M22

Delete M22



Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

Applicant's Name (Please Print)

Luigi Russo

Signature



4/28/18



Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 6 of 13

Check and enter ESD  
job number below ☒ ☐  
121190200

Existing Legal Use					Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
Delete Line 003-003												
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
Delete Line 003-024												
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
Delete Line 004-004												
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
Delete Line 005-005 Delete Line 006-006 (duplicate)												
008-008			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2	7	2
Description					SEVEN (7) CLASS A DWELLING UNITS PER FLOOR							

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Applicant's Name (to be printed)

Livio Russo

Signature

8/28/10



25291A

## PW1A: Schedule A - Occupancy / Use

Must be typewritten.

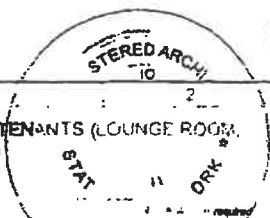
Sheet 7 of 13

Orient and info BLS  
job number add here  
121190200

Existing Legal Use							Proposed Use						
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	
007-008			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				40	80	Yes	R-2	7	2	
Description							Description	SEVEN (7) CLASS A DWELLING UNITS PER FLOOR					
009-014			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				40	80	Yes	R-2	7	2	
Description							Description	SEVEN (7) CLASS A DWELLING UNITS PER FLOOR					
015			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				28	100	80	Yes	S-2, F-2, S-1	2B	
Description							Description	STORM WATER DENTENTION TANK, POOL EQUIPMENT ROOM, MECHANICAL 1 & 2, GENERATOR ROOM, TELEPHONE ROOM, ATS ROOM, ELECTRICAL ROOM					
016-018			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				60	40	X	Yes	R-2	2	
Description							Description	ACCESSORY AMENITY SPACE FOR RES. TENANTS (LOUNGE ROOM, CONFERENCE ROOM, SERVING PANTRY)					

Delete M1-5

Re-write description →



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Applicant's Name (please print):

Luigi Russo

5/25/16



25291A

## PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 8 of 13

121190200

Existing Legal Use						Proposed Use					
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)
016-018			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			016-018	88	40	<input checked="" type="checkbox"/> Yes	R-2	2
Description						LOBBY/VESTIBULES_1 & 2 (ACCESSORY TO RESIDENTIAL)					
016-018			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			016-018	8		<input checked="" type="checkbox"/> Yes		2
Description						MECHANICAL ROOM					
016-018			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			016-018	160	40	<input checked="" type="checkbox"/> Yes	A-3	2
Description						GREAT ROOM (ACCESSORY TO RESIDENTIAL)					
016-018			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			016-018	88	40	<input checked="" type="checkbox"/> Yes	R-2	2
Description						POOL, POOL TERRACE & SPA, WALKWAY, EXTERIOR TERRACE(ACCESSORY TO RESIDENTIAL)					
017-017			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			017-017	19	40	<input checked="" type="checkbox"/> Yes	S-1	2
Description						ELECTRICAL ROOM, MECHANICAL ROOM, BOILER ROOM, E.M.R., AV ROOM					

Add new line

Re-write description →

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Applicant's Name  
Luigi Russo  
Signature

Date  
8/28/18





25291A

## PW1A: Schedule A - Occupancy / Use

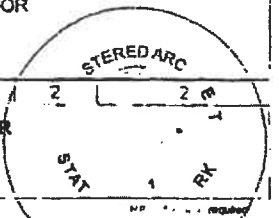
Must be typewritten.

Sheet 9 of 13

121190200

Floor	Existing Legal Use					Proposed Use					
	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
018-018			<input type="checkbox"/> Yes <input type="checkbox"/> No			30	100	<input checked="" type="checkbox"/> Yes	R-2		2
Description						MECHANICAL ROOMS & ELECTRICAL ROOM (2)					
019-019			<input type="checkbox"/> Yes <input type="checkbox"/> No			34	100	<input checked="" type="checkbox"/> Yes	S-1		2
Description						MECHANICAL ROOMS (4), ELECTRICAL ROOM, FIRE PUMP ROOM, FIRE RESERVE STORAGE TANK					
020-028			<input type="checkbox"/> Yes <input type="checkbox"/> No			0	40	<input checked="" type="checkbox"/> Yes	R-2	3	2
Description						PRIVATE DWELLING UNIT LOGGIA'S (3 PER FLOOR)					
020-028			<input type="checkbox"/> Yes <input type="checkbox"/> No			40	80	<input checked="" type="checkbox"/> Yes	R-2	3	2
Description						THREE (3) CLASS A DWELLINGS PER FLOOR					
027-033			<input type="checkbox"/> Yes <input type="checkbox"/> No			40	80	<input checked="" type="checkbox"/> Yes	R-2	2	2
Description						TWO (2) CLASS A DWELLINGS PER FLOOR					

Add new line



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Applicant's Name  
Luigi RussoDate  
8/24/18



**Must be typewritten.**

121190200

Sheet 10 of 13

EDARC  
05  
\* STAT  
741  
RX

Appendix 2's Notes (continued) 241

**Link! Busco**

**Keywords:**

1992-1993

1214



25291A

## PW1A: Schedule A - Occupancy / Use

Must be typewritten.

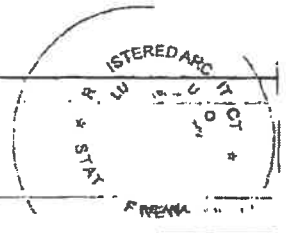
Sheet 11 of 13

121190200

Existing Legal Use						Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (SC)	Zoning Use Group(s)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only*	Building Code Occupancy Group(s)	Dwelling/Rooming Units (SC)	Zoning Use Group(s)
039-039			<input type="checkbox"/> Yes <input type="checkbox"/> No				12	40	<input checked="" type="checkbox"/> Yes		S-1		2
							Description						
			<input type="checkbox"/> Yes <input type="checkbox"/> No				PLUMBING, TELEPHONE, ELECTRICAL ROOM #1, ELECTRICAL ROOM #2, FIRE PUMP ROOM, MECHANICAL						
039-039			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2		2
							Description						
			<input type="checkbox"/> Yes <input type="checkbox"/> No				PRIVATE DWELLING UNIT LOGGIA'S (2)						
039-039			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2		2
							Description						
			<input type="checkbox"/> Yes <input type="checkbox"/> No				PRIVATE DWELLING UNIT LOGGIA'S (1)						
							Description						
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes				
							Description						
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes				
							Description						

Delete 040-040

Delete 041-041



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Applicant's Name (pt.)

LUIGI RUSSO

Signature

Date

8/28/10



Buildings

25291A

## PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 12 of 13

121190200

Existing Legal Use						Proposed Use					
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only*	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)
RO F-R OF			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				3	40	<input checked="" type="checkbox"/> Yes	S-1	2
						Description	ELECTRICAL ROOM & STORAGE ROOMS				
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes	S-1	2
						Description	MECHANICAL UNITS				
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				5		<input checked="" type="checkbox"/> Yes	S-1	2
						Description	EMR & SATELLITE TERMINAL ROOM				
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes		
						Description					
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes		
						Description					

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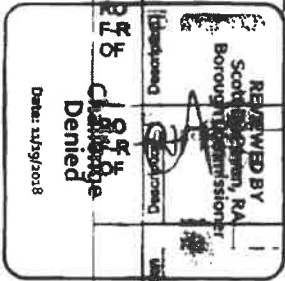
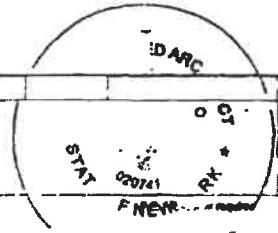
Applicant's Name (please print)

Luigi Russo

Signature

Date

8/28/14



**2 Building Notes to appear on the Certificate of Occupancy**

EXHIBIT 2: 2017000441503  
EXHIBIT 4: 2017000441504  
EXHIBIT 5: 2017000441505  
ZLDA: 2017000441506

ACCESSORY USES RESTRICTED TO RESIDENTIAL OCCUPANTS OF THE BUILDING AND THEIR GUESTS FOR WHOM NO ADMISSION OR MEMBERSHIP FEES MAY BE CHARGED (SUBCELLAR & 16TH FLOOR).

Date: 11/19/2018

Challenge  
DeniedREVIEWED BY  
Scott D. Pavan  
Borough Commissioner**3 Applicant's Statements and Signatures Required for all applications.**

Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a city employee, or for a city employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I hereby state all the above information is complete and correct to the best of my knowledge.

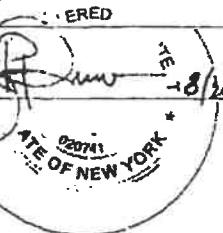
Name (please print)

Luigi Russo

Signature

Date

8/20/16



P.E. / R.A. Seal (apply seal, then sign and date over seal)



# ZRD1/CCD1 Response Form

Location Information (To be completed by a Buildings Department official if applicable)

House No. [redacted] Street Name [redacted]  
Borough Manhattan Block 1010 Lot 7503 BIN 1923723 Job No. 120011192

DETERMINATION (To be completed by a Buildings Department official)

Request has been: ☒ Approved ☐ Denied ☐ Approved with conditions  
Follow-up appointment required? ☐ Yes ☒ No

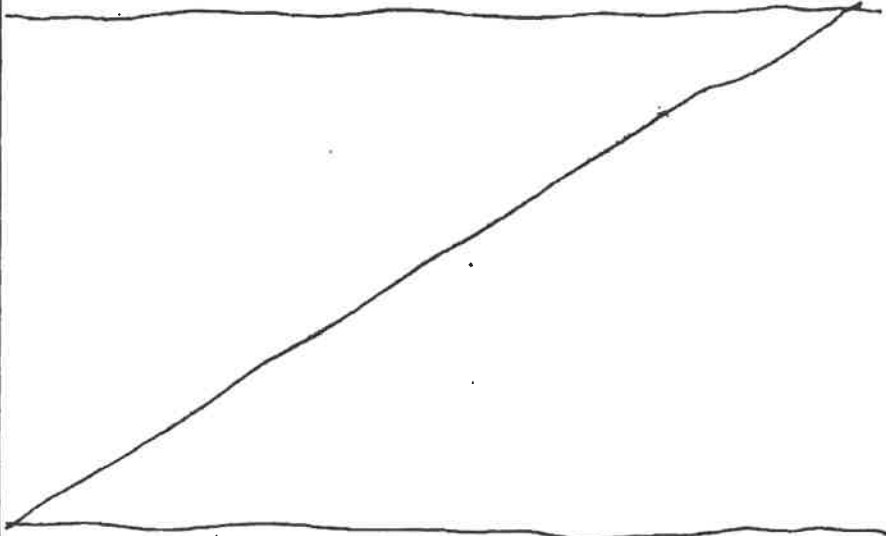
Primary Zoning Resolution or Code Section(s): ZR 12-10

Other secondary Zoning Resolution or Code Section(s): ZR 34-42 & ZR 34-422

Comments:

This CCD1 Response Form hereby supersedes the CCD1 previously issued on March 12, 2010.

Request for a determination to include the horizontal branches of the plumbing lines and their respective chases in calculating zoning mechanical deductions, under ZR 12-10, is hereby approved based on drawings submitted nos. Z-1, Z-10, Z-11 and Z-12, dated February 16, 2010.



CONTROL NO. 9631

Name of Authorized Reviewer (please print): Raymond Pluney, FAIA

Title (please print): Deputy Borough Commissioner

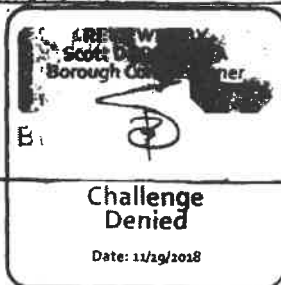
Authorized Signature: [Signature]

Date: 04-02-10

Time: 4:30 PM

Issuers: Write signature, date, and time on each page of the regular forms and attach this form.

Note: Determination will expire if construction does not proceed least elapsed within 12 months of issuance.



PG. 1 OF 4

5/09



ZRD1: Zoning Resolution  
Determination Form

110463418

9631

Print and affix this  
job number label here

Must be typewritten.

1	Location Information Required for all requests on filed applications.	05137 - obj -01.07
House No(s) 143 Street Name WEST 57TH STREET		
Borough MANHATTAN Block 1010 Lot 7503 BIN 1023723 CB No. 105		

2	Applicant Information Required for all requests on filed applications.		
Last Name Davidson First Name James Middle Initial			
Business Name SLCE Architects Business Telephone 212-879-8400			
Business Address 841 Broadway, 7th Floor Business Fax			
City New York State NY Zip 10003 Mobile Telephone			
E-Mail License Number 014019			
License Type <input type="checkbox"/> P.E. <input checked="" type="checkbox"/> R.A. DOB PENS ID # (if available)			

3	Attendee Information Required if different from Applicant in section 2 or no Applicant.		
Relationship to the property: <input checked="" type="checkbox"/> Filing Representative <input type="checkbox"/> Attorney <input type="checkbox"/> Other:			
Last Name Silberman First Name Nathan Middle Initial B.			
Business Name Construction Consulting Associates, Inc. Business Telephone 212-385-1818			
Business Address 100 CHURCH STREET, SUITE #1625 Business Fax 212-385-1911			
City New York State NY Zip 10007 Mobile Telephone			
E-Mail License/Registration # (if P.E./R.A./Attorney)			
DOB PENS ID # (if available)			

4	Nature of Request Required for all requests. Only one request may be submitted per form.		
Note: Use this form only to request Zoning Resolution determination (for all other requests, use CCD1 form)			
Determination request issued to: <input checked="" type="checkbox"/> Borough Commissioner's Office <input type="checkbox"/> Technical Affairs			
Job associated with this request? <input checked="" type="checkbox"/> Yes (provide job/doc/examiner name below) <input type="checkbox"/> No			
Job Number: 120011182 Document Number: 4 Examiner: K. Flayden			
Has this request been previously denied? <input type="checkbox"/> Yes (attach all denied request form(s) and attachment(s)) <input checked="" type="checkbox"/> No			
Indicate total number of pages submitted with this request, including attachments: (attachment may not be larger than 11" x 17")			
Indicate relevant Zoning Resolution section(s): 12-10 Z.R., 34-42 Z.R., 34-422 Z.R.			

Indicate all Buildings Department officials that you have previously reviewed this issue with (if any):

- ☐ Borough Commissioner ☐ Code & Zoning Specialist ☐ General Counsel's Office  
☐ Deputy Borough Commissioner ☐ Chief Plan Examiner ☒ Other: High Rise Exam

ADMINISTRATIVE USE ONLY		
Reference #: 0631	Appointment date:	Appointment time:
Appointment Scheduled With:		
Comments:		
Reviewed By: [Signature]	Date: 03/12/10	Time: 3:30 PM

REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner

Challenge  
Denied

Date: 11/19/2018

8/09

## 5 Description of Request (additional space is available on page 3)

**Note:** Buildings Department officials will only interpret or clarify the Zoning Resolution. Any request for variations of the Zoning Resolution must be filed with the Board of Standards and Appeals (BSA) or the Department of City Planning (DCP).

Please itemize all attachments, including plans/sketches, submitted with this form. If request is based on a plan examiner objection, type in the applicable objection text exactly as it appears on the objection sheet.

Respectfully request determination that objection #1 and #7 to PAA dated 1/12/10 which states:

- [1] SF Deductions – typical floors. The square footage taken for plumbing chases is excessive. Deductions have been taken where there appears to be no plumbing or ductwork. Correct zoning calculations.
- [7] The mechanical deductions submitted on 2/5/10 are still excessive. There are deductions taken in areas where there does not appear to be mechanical equipment/plumbing to support the deductions. Revise the mechanical deductions. Deductions can only be taken where there is slab penetration. There are NO deductions for areas where plumbing/mechanical ductwork is running horizontally!

The mechanical deductions taken for plumbing vertical & horizontal chase are in compliance with the definition and intent of exclusion from floor area as per Sec. 12-10 ZR. for the following reasons:

1. Subject application is for the construction of a High Rise Luxury Transient Hotel and Residential Condominium above, requiring larger diameter piping to properly keep the water and waste demands requiring thicker pipe shafts.
2. The hotel room arrangements require multiple pipe shafts because each unit has a full bath and in some units multiple bathrooms, thus increasing the typical percent of shaft deductions. Additionally the non typical luxurious hotel bathrooms often will have a shower in addition to a bathtub thus requiring additional horizontal and vertical pipe shafts. In many cases the showers are outfitted with shower heads in more than one wall of the shower requiring even more horizontal and vertical pipe runs/shafts.
3. The design of the residential condominium include many very large units with multiple bedrooms, many having their own bathroom, thus increasing the number of shafts and the percentage of plumbing and mechanical shaft deductions.
4. Many of the residential master bathrooms will have a shower in addition to the bathtub; these showers will have shower heads in more than one of the shower enclosure walls requiring additional horizontal and vertical shafts.
5. The residential kitchen designs call for fixtures on more than one or two walls to accommodate luxurious amenities i.e. more than one dishwasher, ice machine, separate cook tops and ovens, multiple sinks, etc. Thus the need for more than the typical number of wet horizontal or vertical shafts.
6. It is proposed to use vertical heat pumps to heat and cool the residential units and that fresh air is supplied to both the hotel and residential units, further increasing the percentage of mechanical (shaft) deductions.
7. It is important to note that spacial and construction cost economy has been sacrificed i.e. few back to back bathrooms or kitchens, to create luxurious layouts, all resulting in mechanical deductions at a higher range.

CHALLENGE NO. 9631

*Note: Buildings Department Determination will be issued on the ZRD1 Response Form*

## ADMINISTRATIVE USE ONLY

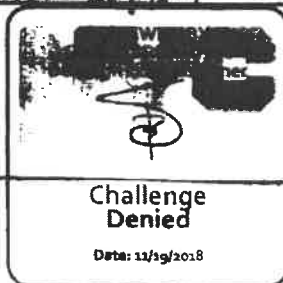
Reviewed By: *[Signature]*

Date: 03/12/10

Time: 3:20 PM

PG. 3 OF 4

6/09





Description of Request (use this section if additional space is required for description)

Note: Buildings Department Determination will be issued on the ZRD1 Response Form

## 7 Statements and Signature Required for all requests

I hereby state that all of the above information is correct and complete to the best of my knowledge. Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a City employee, or for a City employee to accept, any benefit, monetary or otherwise, either as a gratuity for properly performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine, or both.

Name (please print)

JAMES DAVIDSON

Signature

Date



P.E. / R.A. Seal (apply seal, then sign and date over seal - not required for Attorneys on unfilled applications)

CONTROL NO. 19631

ADMINISTRATIVE USE ONLY

Reviewed By: [Signature]

Date

02/12/10

Time

3:30 PM

REVIEWED BY  
Scott D. Pavan, RA  
Borough Commissioner

Challenge  
Denied

Date: 11/19/2018

Pg. 4 of 4

6/08