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July 24, 2019

Honorable Members of the Board
NYC Board of Standards and Appeals
250 Broadway, 29th Floor
New York, NY 10007

Re: Cal. No. 2019-89-A; 2019-94-A
Premises: 36 West 66th Street

Dear Honorable Members of the Board:

We are land use counsel to West 66th Sponsor LLC, the owner of the property at 36 West 66th Street. We are submitting the enclosed Statement on behalf of West 66th Sponsor LLC, in response to the referenced appeal applications by Landmark West! and the City Club of New York et al.

This appeal challenges the Department of Buildings' April 5, 2019 approval of Post-Approval Amendments to permit 121190200-01-NB. For the reasons set forth in the enclosed Statement, we respectfully request that the Board affirm the Department of Buildings' determination.

We thank you in advance for your attention to this matter.

Sincerely,


David Karnovsky

Enclosures

cc: Michael Zoltan, Assistant General Counsel, NYC Department of Buildings
John Low-Beer, Esq. (On Behalf of the City Club of New York)
Stuart A. Klein, Esq. (On Behalf of Landmark West!)
Susan Amron, General Counsel, NYC Department of City Planning
Ellen V. Lehman, Esq., Fried Frank Harris Shriver & Jacobson LLP

Date: July 24, 2019Examiner's Name: Toni MatiasBSA Calendar #: 2019-89-A and 2019-94-AElectronic Submission: ☒ Email ☐ CD

Subject Property/

Address: 36 West 66th Street, ManhattanApplicant Name John Low-Beer on behalf of City Club of New York and Klein Slowick, PLLC on behalf of Landmark West!Submitted by (Full Name): David Karnovsky, Fried, Frank, Harris, Shriver & Jacobson LLP on behalf of West 66th Sponsor LLC

A) The material I am submitting is for a case currently **IN HEARING**, scheduled for 8/6/19.
The reason I am submitting this material:

- ☐ Response to issues/questions raised by the Board at prior hearing
- ☐ Response to request made by Examiner
- ☒ Other: _____

Brief Description of submitted material: Letter on behalf of West 66th Sponsor LLC

List of items that are being voided/superseded: _____

B) The material I am submitting is for a **PENDING** case. The reason I am submitting this material:

- ☐ Response to BSA Notice of Comments
- ☐ Response to request made by Examiner
- ☐ Dismissal Warning Letter

Brief Description of submitted material: _____

List of items that are being voided/superseded: _____

MASTER CASE FILE INSTRUCTIONS

- ***Bind one set of new materials in the master case file***
- ***Keep master case file in reverse chronological order (all new materials on top)***
- ***Be sure to VOID any superseded materials (no stapling!)***
- ***Handwritten revisions to any material are unacceptable***

BSA Cal. No. 2019-89-A; BSA Cal. No. 2019-94-A
Statement of West 66th Sponsor LLC

I. Introduction

This Statement of Law and Facts is submitted on behalf of West 66th Sponsor LLC (“Owner”) in opposition to the appeals filed by City Club of New York, James C.P. Berry, Jan Constantine, Victor A. Kovner, Agnes C. McKeon, and Arlene Simon and by Landmark West! (the “Appellants”) with the Board of Standards and Appeals (the “Board”) challenging the issuance of a building permit by the Department of Buildings (“DOB”) for a new development at 36 West 66th Street (the “Project”).

Disappointed by the fact that new regulations that for the first time regulate the height of mechanical spaces were enacted after the Project was lawfully vested in accordance with the Zoning Resolution,¹ Appellants advance two arguments why the building permit is invalid:

First, Appellants argue that heights of the Project’s mechanical spaces are nevertheless prohibited under now superseded regulations. This argument flies in the face of the fact that the Zoning Resolution was amended in May 2019 precisely in order to address the absence of any restriction upon the height of mechanical spaces, as was recognized by DOB, the Board, the Department of City Planning (“DCP”), the City Planning Commission (“CPC”), and the City Council.

Second, Appellants argue that DOB erred in calculating the bulk distribution requirements of ZR Section 82-34 based on the entire zoning lot, in accordance with the plain language of that provision. Quite simply, Appellants would prefer that ZR Section 82-34 read and apply differently than it does. However, Appellants are not entitled to have the Board or a court rewrite the plain language of the Zoning Resolution. See Raritan Dev. Corp. v. Silva, 91 N.Y.2d 98, 107 (1997).

For these and other reasons described herein, the DOB determination should be upheld and the appeals denied.

II. Issues Presented

1. Did DOB correctly determine that the floor-to-ceiling heights of the mechanical spaces in the Project were permitted under the provisions of the Zoning Resolution in effect prior to May 29, 2019?
2. Did DOB correctly apply the bulk distribution rule of ZR Section 82-34, a regulation of the Special Lincoln Square District, to the zoning lot?

¹ References to the “Zoning Resolution” or “ZR” shall mean the Zoning Resolution of the City of New York, effective December 15, 1961, as amended from time to time.

III. Brief Response

1. The Zoning Resolution in effect at the time the building permit for the Project was issued did not regulate the floor-to-ceiling height of mechanical spaces, as was both confirmed by the Board in 2017 and recognized by CPC and the City Council in 2019. On May 29, 2019, the City amended the Zoning Resolution to regulate the height of these spaces, but the Project was vested under the prior regulations as of April 15, 2019 and the new rule does not apply.
2. DOB correctly applied the bulk distribution rule of the Special District to the zoning lot because the zoning lot is entirely within the Special District and the rule applies without exception to all zoning lots within the Special District with no exceptions and irrespective of the underlying zoning district designation.

IV. Project History

The Project is a 39-story residential and community facility development located on a zoning lot comprised of Manhattan Block 1118, Lots 14, 45-48, and 52 (such zoning lot, the “Project Site”). Owner originally sought to obtain permits to develop a residential building on a smaller zoning lot consisting of Lots 45-48 (the “Initial Project”). Owner obtained approval from DOB for foundation work for the Initial Project on October 25, 2016, and obtained a new building permit for a 25-story building on June 7, 2017 (Exhibit 1 hereto). Thereafter, Owner acquired an additional parcel (Tax Lot 14) as well as unused development rights from an adjacent parcel (Tax Lot 52). Those acquisitions enabled Owner to expand the development site and increase the amount of floor area in the planned development. On November 17, 2017, after securing those additional development rights, Owner filed Post-Approval Amendments with DOB, seeking approval of plans for a 39-story building at the Project Site.²

On July 26, 2018, DOB issued a foundation permit for the Project based on an approved Zoning Diagram (a “ZD-1” form) (Exhibit 2 hereto) showing how the Project as a whole complies with applicable zoning regulations.

On or about September 8, 2018, the cooperative located at 10 West 66th Street, together with Landmark West! (one of the Appellants), submitted a challenge (Exhibit 3 hereto) to the ZD-1 on various grounds pursuant to DOB procedure. The challengers did *not* challenge the calculation of the Project’s compliance with ZR Section 82-34—their primary argument before the Board in this Appeal. In that regard, Landmark West! acknowledged that Owner and DOB had *properly* calculated the area to which ZR Section 82-34 (Bulk Distribution) applied, by applying that rule to the entire Project Site. We explain in more detail below why the challengers were correct in this particular regard. See discussion in Section VI, infra.

² Appellants complain that this evolution from a smaller building to a larger building was somehow improper or deceptive; however, Owner did not own the requisite parcels and development rights needed to file plans for the larger project until it negotiated and closed on those acquisitions. No City law, rule or regulation required Owner to provide advance notice that it was pursuing opportunities to expand the size of the development footprint and add floor area through the acquisition of an additional parcel and a zoning lot merger.

On November 19, 2018, DOB issued a “ZRD2” form setting forth a detailed response to each of the objections, rejecting the challenge made by Landmark West! and others and reaffirming DOB’s approval of the ZD-1. (Exhibit 4 hereto.) In December 2018, Landmark West! initiated an appeal to the Board from DOB’s rejection of its challenge to the Project.

Subsequently, on January 14, 2019, DOB issued a notice of its intention to revoke its approval of the ZD-1 on the ground that the height of the mechanical spaces was improper unless Owner provided “sufficient information . . . to demonstrate that the approval should not be revoked.” (Exhibit 5 hereto.) Under the terms of that notice, DOB also revoked its prior ZRD2 determination, thereby rendering Landmark West!’s appeal to the Board moot.

By letter dated January 25, 2019 (Exhibit 6 hereto), Owner responded to DOB’s notice and explained why the mechanical spaces comply with the Zoning Resolution and, moreover, that the position articulated in DOB’s January 14 notice was inconsistent with a recent decision of the Board and prior determinations of DOB itself. DOB took no further action thereafter to revoke its approval of the ZD-1.³

On January 28, 2019, CPC reviewed and referred to 13 community boards an application by DCP for a zoning text amendment to modify the residential tower regulations to require mechanical spaces of a certain height to be calculated as residential floor area. A public hearing was held on February 27, 2019.

During this period, Owner revised the plans for the Project in a number of ways, including but not limited to (i) providing fire rated corridors and staging areas between various forms of egress within the mechanical spaces, (ii) providing for elevator access for FDNY personnel to all levels within the mechanical spaces, (iii) constructing a steel catwalk within the mechanical spaces to allow unobstructed access to the entire building perimeter, and (iv) making the transformer room a separate fire-rated enclosure. By letter dated March 7, 2019 (Exhibit 7 hereto), FDNY confirmed to Owner that, “[b]ased on the submitted drawings” and consultation with DOB, FDNY “has **no further objection** to the proposed design” of the Project (emphasis in original).

In response to these submissions, and based on a detailed review of all plans and drawings, DOB approved the architectural plans for the Project on April 4, 2019, and approved the structural, mechanical, plumbing and fire and life safety plans on April 5, 2019. (Exhibit 8 hereto.) Accordingly, as of April 5, Owner’s Post-Approval Amendments to the New Building permit issued on June 7, 2017 were fully approved and Owner held a New Building permit for

³ Appellants attach significance to the fact that in its January 14, 2019 Notice of Intent to Revoke, DOB identified “accessory use” as a possible grounds for revocation of the July 26, 2018 ZD-1 issued for the Project, and express surprise that DOB later “reversed itself” and approved the Project. (CC SOFL at 24; LW! SOF at 16.) DOB did not “reverse itself.” The letter expressly reserved decision and permitted Owner to submit additional information. DOB determined not to proceed with a revocation following later receipt of the letter setting forth the several reasons why there was no basis for doing so under the Zoning Resolution.

the Project. On April 15, 2019, DOB was advised that the foundation had been completed and the Project was therefore vested pursuant to ZR Section 11-331.⁴

Also on April 4, 2019, a new ZD-1 was approved for the Project (Exhibit 9 hereto), and the January 14, 2019 Letter of Intent to Revoke was rescinded (Exhibit 10 hereto). From a zoning perspective, the Project shown on the new ZD-1 differs only in limited respects from the building shown on the July 26, 2018 ZD-1. One difference is the configuration of the Project's mechanical spaces, which were modified to consist principally of three spaces located at the 17th, 18th and 19th floors, having floor-to-ceiling heights of 64, 64 and 48 feet, respectively. On April 11, 2019, DOB renewed and reissued the new building permit (Exhibit 11 hereto).

On April 10, 2019, CPC voted to adopt the zoning text amendment. (CPC Report N 190230 ZRY, Exhibit 12 hereto.) The City Council adopted the zoning text amendment with modifications on May 29, 2019. (Council Resolution 0916-2019, Exhibit 13 hereto.)

On April 25, 2019, the City Club of New York, the cooperative located at 10 West 66th Street, and several local residents commenced an action in New York Supreme Court seeking declaratory relief annulling the building permit issued on April 11. City Club of New York v. Extell Development Company, No. 154205/2019 (Sup. Ct. filed April 24, 2019). The court denied a motion for a temporary restraining order and scheduled oral argument on the plaintiffs' application for a preliminary injunction. On May 21, 2019, Owner filed a cross motion to dismiss the complaint, on multiple grounds, including that the plaintiffs had failed to exhaust their administrative remedies by forgoing an appeal to the Board. Following oral argument, the court issued a decision and order on June 11, 2019, granting the cross motion to dismiss. The plaintiffs appealed this decision to the Appellate Division on July 5, 2019.

V. Mechanical Space Objection

Appellants object to the floor-to-ceiling heights of the Project's mechanical spaces as allegedly inconsistent with use and floor area regulations. The objection fails because, as of April 15, 2019, the date the Project was vested under ZR Section 11-331 (the "Project Vesting Date"), the Zoning Resolution did not contain any limitation on the floor-to-ceiling heights of mechanical spaces. The Board decided this exact issue in BSA Cal. No. 2016-4327-A (2017), upholding determinations made by DOB and supported by DCP. Following the Project Vesting Date, the City Council voted on May 29, 2019, to amend the Zoning Resolution to regulate the heights of mechanical spaces by requiring, among other things, that mechanical spaces with a height above 25 feet be included in the calculation of residential floor area. It is undisputed that these new regulations do not apply to the Project, yet Appellants persist in asserting that the heights of the Project's mechanical spaces are unlawful under the regulations in effect prior to the May 29, 2019, amendments.

⁴ ZR Section 11-331 of the Zoning Resolution generally provides that an owner may continue construction of a building pursuant to zoning regulations no longer in effect provided that two conditions are met: (a) a new building permit was lawfully issued pursuant to the regulations in effect prior to amendment; and (b) building foundations have been completed.

In BSA Cal. No. 2016-4327-A, challengers contended that the mechanical spaces proposed for a building at 15 East 30th Street, which would have a combined height of 132 feet, were unlawful. DOB rejected an initial zoning challenge, stating that “the Zoning Resolution does not regulate the floor-to-ceiling height of a building’s mechanical spaces.” BSA Cal. No. 2016-4327-A, 1. In a letter to the Board dated July 20, 2017, the Director of the Zoning Division of DCP stated “there are no regulations in the Zoning Resolution controlling the height of mechanical floors.” (Exhibit 14 hereto). The Board agreed with DOB and DCP in full and ruled:

[B]ased upon its review of the record, the definition of “floor area” set forth in ZR § 12-10 and the Zoning Resolution as a whole, the Board finds that the Zoning Resolution does not control the floor-to-ceiling height of floor space used for mechanical equipment.

BSA Cal. No. 2016-4327-A, 4.

The Board explained that “insofar as Appellant or members of the community take issue with provisions of the Zoning Resolution—or absence thereof—as enacted, that grievance falls outside the scope of the Board’s authority to review this appeal.” *Id.* at 5. That is, “the Board does not have the power to zone.” *Id.* The Board thus recognized that it had no authority to determine that the height of a mechanical space was unlawful.

In 2018, one year following the Board’s decision in BSA Cal. No. 2016-4327-A, Landmark West! and others raised concerns about the floor-to-ceiling heights of the mechanical spaces proposed for the Project and advocated for changing the Zoning Resolution to address their grievance. One of the obvious and clear goals of this effort was to have new restrictions adopted as quickly as possible so that they would apply to the Project. Although the City Council did adopt a new provision on May 29, 2019, it did so after the Project Vesting Date. It is therefore undisputed that this new provision restricting the heights of the mechanical spaces does not apply to the Project.

There is no better evidence that the floor-to-ceiling heights of the Project’s mechanical spaces are lawful than the fact that, on May 29, 2019, more than one month after the Project Vesting Date, the City approved an amendment to the text of the Zoning Resolution that for the first time regulates the heights of mechanical spaces. “We must assume that the Legislature in enacting the section intended that it should effect change in the existing law and accomplish some useful purpose.” Raritan Dev. Corp., 91 N.Y.2d at 103 (quoting Mabie v. Fuller, 255 N.Y. 194, 201 (1931)).

In its report for the text amendment, CPC recognized that the zoning text amendment was intended to address an absence of regulation in this area, stating that “[t]he [Zoning] Resolution does not specifically identify a limit to the height of such [mechanical] spaces.” (Exhibit 12, at 1.) Equally to the point, the CEQR Environmental Assessment Statement for the text amendment prepared by DCP stated that in the “No-Action scenario” (i.e., the future without the proposed amendment), developments could be built with mechanical spaces with heights ranging from 80’-190’, whereas under the “With-Action Scenario” (i.e., the future with the proposed amendment), the heights of mechanical spaces would be limited to a height range of 10’-25’.

(Residential Tower Mechanical Voids Text Amendment: Revised Environmental Assessment Statement CEQR No. 19DCP110Y (April 9, 2019), Exhibit 15 hereto, at 4–9.) It was thus clearly understood that the zoning text amendment would change the law and generally serve to reduce the potential heights of mechanical spaces,⁵ and was not a “clarification” regarding previously existing height limits, as Appellants now assert.⁶ (CC SOFL at 27; LW! SOF at 20.)⁷

Indeed, CPC noted that the seven examples of sites with tall mechanical spaces identified in a survey it had conducted in preparing the zoning text amendment were permitted under existing zoning regulations, DOB interpretations, and BSA Decisions. (Exhibit 12, at 15.) These seven examples included the Project.⁸ CPC thus clearly understood that the Project’s mechanical spaces were lawful under the law then in effect.⁹

In the face of this clear history, Appellants argue that the Project’s mechanical spaces are unlawful because the heights are not “customarily found in connection with” mechanical spaces within the meaning of the ZR Section 12-10 definition of “accessory use.” (CC SOFL at 23; LW! SOF at 16.) At the outset, we believe that mechanical spaces are neither a “use” nor an “accessory use.”

⁵ The text amendment creates a new framework that discourages but does not prohibit tall mechanical spaces. ZR Section 23-16 as amended requires that, in non-contextual R9 and R10 residential districts and their equivalent commercial districts, floors occupied predominantly by mechanical space taller than 25 feet are counted as floor area. Every additional 25 feet of height of the mechanical floor counts as an additional floor of floor area. Further, any mechanical spaces located within 75 feet of one another that, in the aggregate, add up to more than 25 feet in height similarly count as floor area. Appellants’ current argument that there was an implied height limit prior to the zoning text amendment is at odds with the zoning framework that the City ultimately adopted—a set of disincentives to increasing the height of mechanical spaces that does not impose any absolute limits. Incredibly, Appellants’ argument would mean that, in this respect, the prior law was more stringent than the new law adopted in the May 29, 2019, amendments.

⁶ This is further demonstrated by CPC’s rejection of a proposal made by real estate industry representatives that projects in the pre-development phase and under development with mechanical spaces that exceeded the proposed new limitations should be grandfathered. CPC’s discussion of the grandfathering proposal (Exhibit 12, at 15-16) evidences CPC’s clear understanding that then-current law did not restrict the height of mechanical spaces, and that adopting a grandfathering provision would perpetuate the absence of height restrictions for projects that were under development. At the City Council, the zoning text amendment was in fact modified to add a new ZR Section 11-341, which expressly grandfathers a particular development, described as “a development on a corner lot with a lot area of less than 5,000 square feet, located in a C5-2 District in Community District 5.” ZR § 11-341. However, the grandfathering of mechanical floors in this development is expressly conditioned upon mechanical spaces being limited to a height of 80 feet. *Id.* Accordingly, the City Council similarly recognized that grandfathering of a project would allow for tall mechanical spaces and only allowed this for a particular project, subject to a restriction of its mechanical floors to a height of 80 feet.

⁷ Citations to “CC SOFL” refer to City Club of New York’s Statement of Facts and Law, BSA Cal. No. 2019-89-A. Citations to LW! SOF refer to Landmark West!’s Statement of Facts, BSA Cal. No. 2019-94-A.

⁸ See CPC review session presentation (January 28, 2019), presentation at <https://www.youtube.com/watch?v=wna5xmtqroc&feature=youtu.be>.

⁹ Landmark West! recognized this as well, and submitted testimony to CPC that without further amendments to the zoning text it desired, the proposed text amendment would effectively only curb the Project, thereby acknowledging that the Project could proceed unimpeded without it. (Exhibit 16 hereto.)

A “use” is defined under ZR Section 12-10 as “(a) any purpose for which a building or other structure or an open tract of land may be designed, arranged, intended, maintained or occupied; or (b) any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure or on an open tract of land.” The uses of the Project within the meaning of this definition are residential and house of worship. Plainly, a boiler, HVAC or other mechanical equipment is not the “purpose” of the Project or the business or occupation intended to be carried on in the Project. Likewise, an “accessory” use is a “use which is clearly incidental” to another use, such as a gift shop (Use Group 6C) in a museum (Use Group 3) or a small convenience store (Use Group 6A) at a gas station (Use Group 16B).¹⁰

Mechanical space is therefore not an accessory use any more than it is a principal use. Rather, it is building infrastructure used for the operation of any type of building, whether for residential, commercial or manufacturing use. Mechanical space is, in this way, similar to many other areas within a building, such as elevator shafts or stairwells, elevator or stair bulkheads, or exterior wall thickness. Like these spaces, mechanical space is not a distinct use but part and parcel to the uses in the building.

Even assuming *arguendo* that mechanical space is an “accessory use,” the Board determined in BSA Cal. No. 2016-4327-A, that the floor-to-ceiling height of a particular mechanical space is not relevant to determining if it is a legal accessory use. In its letter to the Board, DCP had stated that “regardless of its floor-to-ceiling height, any space which is devoted to accessory residential mechanical equipment is considered to be a legal accessory use.” (Exhibit 14, at 1.) The Board agreed and applied the “accessory use” test by considering only whether the “the amount of floor space used for mechanical equipment” and “the proposed mechanical equipment” were clearly incidental to and customarily found in connection with the principal use of the Project. BSA Cal. No. 2016-4327-A, 4.¹¹

¹⁰ An “accessory use” is defined under ZR Section 12-10 in relevant part as a “use” that:

- (a) ... is conducted on the same zoning lot as the principal use to which it is related...
- (b) ... is clearly incidental to, and customarily found in connection with, such principal use; and
- (c) ... is either in the same ownership as such principal use, or is operated and maintained on the same zoning lot substantially for the benefit or convenience of the owners, occupants, employees, customers, or visitors of the principal use.

¹¹ The case law that the Appellants cite is not to the contrary. In N.Y. Botanical Garden v. Bd. of Standards and Appeals, 91 N.Y. 2d 413 (1998), the Court of Appeals decided whether a tall radio transmission tower proposed for construction at Fordham University was an “accessory use.” The Court of Appeals noted that, unlike other types of accessory uses such as “home occupations,” radio and television towers are not subject to any size restriction under the Zoning Resolution. *Id.* at 422–3. For that reason, the court looked to the signal strength and not the height of Fordham’s proposed radio tower to determine if it was a use customarily found in connection with a college or university. *See id.* at 421–2. In BSA Cal. No. 14-11-A (2011), cited by Appellant Landmark West!, the Board upheld a DOB determination that a cellar space was not accessory to a residential use due to its size, under standards set forth in a Buildings Bulletin that limited the area of floor space of accessory non-habitable cellars. The standard promulgated in the Bulletin was not based on the volume of space occupied by a cellar, but the floor space of a cellar as a percentage of the floor space of the residential dwelling. Further, as noted by the Board in a subsequent case, BSA Cal. No. 151-12-A (2012), BSA Cal. No. 14-11-A involved a single, objective and universally applicable standard memorialized in a Buildings Bulletin. By contrast, in Cal. No. 151-12-A itself, which involved the accessory use status of an amateur radio tower, the Board stated that it considered the lack of an objective standard for determining whether an amateur radio tower of a given height is accessory “to be problematic and prone to arbitrary results” and “recognize[d] that establishing a bright line standard for the permissible height of accessory

Appellants argue that the survey of mechanical space heights subsequently conducted by DCP in connection with the zoning text amendment supplies evidence that the tall mechanical spaces at the Project are not customary, thereby allowing the Board to determine that they are not “customarily found in connection with” residential or other uses.¹² (CC SOFL at 25; LW! SOF at 17.) But whether tall mechanical spaces are common in residential buildings (and the record before the Board in Cal. No. 2016-4327-A showed that they have proliferated) is irrelevant. As discussed above, DCP conducted the study with the clear understanding that tall mechanical spaces could be built without restriction with regard to height, recognizing that the Board had correctly determined that the issue could be addressed only by legislative amendment.

Appellants’ other argument that the tall mechanical spaces do not qualify for a floor area exemption because “the space must actually be ‘used for mechanical equipment’” similarly misses the point. (CC SOFL at 26 (quoting ZR § 12-10); LW! SOF at 18 (quoting ZR § 12-10).) The exclusion from the calculation of floor area set forth in ZR Section 12-10 is for “*floor* space used for mechanical equipment.” (Emphasis added). In effect, Appellants are asking the Board to improperly graft onto the floor area exclusion “an addendum of its own,” Raritan Dev. Corp., 91 N.Y.2d at 104, relating to the volume of space in which the mechanical floor space is located.

In short, having successfully advocated for a zoning text amendment to limit the height of the Project’s mechanical spaces but disappointed that the zoning text amendment was enacted after the Project Vesting Date, Appellants now remarkably contend that a legislative change was unnecessary to prohibit or restrict tall mechanical spaces. This objection to DOB’s approval should be rejected, consistent with the clear determinations and conclusions reached by DOB, DCP and the Board in 2017 and consistent with the clear understanding of CPC and the City Council in their adoption of the recent amendments.

VI. Special District Rule Objection

Appellants’ second objection is to DOB’s approval of a new building permit for the Project on the basis of DOB’s application of ZR Section 82-34, a regulation of the Special Lincoln Square District (the “SLSD” or “Special District”), the special zoning district in which the Project Site is located. The provision reads in relevant part:

radio towers may require an amendment to the Zoning Resolution or the promulgation of a Buildings Bulletin, as was the case in BSA Cal. No. 14-11-A.” BSA Cal. No. 151-12-A, 9. Appellants also cite New York City Educ. Constr. Fund v. Verizon NY Inc., 981 N.Y.S.2d 11 (Sup. Ct. 2012), *aff’d*, 981 N.Y.S.2d (1st Dep’t 2014), in which the Supreme Court determined that an opinion issued by DOB was not a final agency determination and that therefore a challenge to such determination was premature. The case is not relevant to the present appeal.

¹² We note that, although the Appellants argue before the Board that this survey provides evidence that was unavailable to the Board in BSA Cal. No. 2016-4327-A and therefore warrants a different result, in its brief appealing the decision of the Supreme Court, the City Club of New York states that the Board in BSA Cal. No. 2016-4327 “decisively rejected” their argument regarding mechanical voids and argue that, as a result, a requirement to exhaust remedies at the Board is futile. Brief for Plaintiffs-Appellants at 35, City Club of New York v. Extell Development Company, No. 154205/19 (1st Dep’t July 5, 2019).

Within the Special District, at least 60 percent of the total floor area permitted on a zoning lot shall be within stories located partially or entirely below a height of 150 feet from curb level.

The total floor area permitted on the Project Site is 548,543 square feet, which includes 421,260 square feet permitted in the C4-7 district (12 FAR) and 127,283 square feet permitted in the R8 district (6.5 FAR). Under ZR Section 82-34, 60% of the total floor area permitted on the zoning lot (329,125.8 square feet), must be located below a height of 150 feet. With the construction of the Project, 329,131.92 square feet of floor area would be located below a height of 150 feet. (Exhibit 9, at 2). The Project thus fully complies with this provision.

Appellants argue that the phrase “[w]ithin the Special District” somehow means in only certain portions of the Special District, but not within the entire Special District. But those select portions to which Appellants claim ZR Section 82-34 applies (i.e., C4-7 districts) or to which Appellants claim ZR Section 82-34 does not apply (i.e., R8 districts) are nowhere identified in the text of the regulation. Appellants therefore ask the Board to “interpolate exceptions in a statute,” something which it may not do. Ocean Hill-Brownsville Governing Board v. Board of Education, 30 A.D. 447, 451 (2nd Dep’t 1968).

Appellants would prefer that ZR Section 82-34 read and be applied differently, and they therefore make various arguments why the plain language of the statute should be ignored. For the reasons stated below, Appellants’ request to have the Board rewrite the terms of the plain language of the Zoning Resolution should be rejected.

A. ZR Section 82-34 Applies to All Zoning Lots in the SLSD, Including All Portions of the Project Site

The SLSD, set forth in Article VIII, Chapter 2 of the Zoning Resolution, was established in 1969 to guide new growth and uses in the area surrounding the Lincoln Center campus and Fordham University developed pursuant to the 1957 Lincoln Square Urban Renewal Plan. Among other things, the Special District as originally enacted regulated ground floor uses and urban design elements, and made floor area bonuses available by CPC Special Permit in exchange for the provision of certain public amenities. CP-20365A. Amendments made in 1984 eliminated most bonus-able public amenities, CPC Report N 840235 ZRY, while a 1987 amendment substituted the new as-of-right inclusionary housing program for a prior lower income housing bonus, CPC Report N 850487 ZRY(A). In 1993, a comprehensive set of amendments to the SLSD was adopted which included: (1) limiting the amount of commercial floor area allowed in certain areas to 3.4 FAR, (2) imposing a limit of 1 FAR for entertainment uses in the Special District, with limited exception only, (3) mandating retail continuity and transparency requirements at the ground level, (4) creating urban design controls to regulate building form throughout the district and providing special controls for specific sites, (5) establishing requirements for subway stair relocation or access on certain sites, (6) reducing the bonus amount for arcades, and (7) modifying parking and loading requirements. CPC Report N 940127(A) ZRM, December 20, 1993 (Exhibit 17 hereto), approved by the City Council under Resolution No. 130, February 9, 1994 (Exhibit 18 hereto). ZR Section 82-34 was among the many provisions added to the SLSD regulations at that time.

The SLSD regulations include numerous provisions which apply only to certain subdistricts or other specially designated areas of the SLSD, to specific street frontages or other locations, or to certain of the underlying zoning districts mapped within the Special District, reflecting the fine-grained and carefully tailored application of the SLSD provisions to portions of the Special District. These include, by way of example, the following use and bulk regulations:

- ZR § 82-11: Special provisions for optional arcades in developments which coincide with street lines on the east side of Broadway between West 61st and West 65th Streets or the east side of Columbus Avenue between West 65th and West 66th Streets;
- ZR § 82-21: Restrictions on street level uses within 30 feet of Broadway, Columbus Avenue or Amsterdam Avenue street lines;
- ZR § 82-23: Streetwall transparency provisions for buildings located on Broadway, Columbus Avenue or Amsterdam Avenue;
- ZR § 82-24: Supplementary sign regulations for Subdistrict B of the SLSD;
- ZR § 82-31: Restriction upon the maximum permitted commercial floor area “[w]ithin Subdistrict A, for any building in a C4-7 District ”;
- ZR § 82-32: Floor area bonus subway improvements for zoning lots adjacent to the West 59th Street or the West 66th Street subway stations; and
- ZR § 82-37: Regulation of street wall height, length and location on specified frontages along Broadway and Columbus Avenues and within certain blocks identified in the District Plan.

Other SLSD provisions apply to the Special District as a whole, subject to certain identified exceptions:

- ZR § 82-35: “Within the Special District, all buildings shall be subject to the height and setback regulations of the underlying districts, except as set forth in [ZR Section 82-37 (a)-(d) under certain conditions].”
- ZR § 82-50: “The regulations of Article I, Chapter 3 (Comprehensive Off-street Parking and Loading Regulations in the Manhattan Core) and the applicable underlying district regulations of Article III, Chapter 6, relating to Off-Street Loading regulations, shall apply in the Special Lincoln Square District except as otherwise provided in this Section”

In contrast to all of the above, ZR Section 82-34 applies with no delineated exceptions—that is, it applies within the Special District irrespective of subdistrict, street frontage or other designated location. Unlike other provisions of the SLSD, see, e.g., ZR § 82-31, discussed infra, ZR Section

82-34 therefore applies irrespective of the underlying zoning district designation(s) on a zoning lot. It therefore applies equally and fully to: (a) a zoning lot mapped with an R8 district only; (b) a zoning lot mapped with a C4-7 district only; and (c) a zoning lot, such as the Project Site, which is split between C4-7 and R8 districts.

Appellants' argument that ZR Section 82-34 applies only within a C4-7 district flies in the face of the language and structure of the SLSD, and flouts the admonition that "[a] court must consider a statute as a whole, reading and construing all parts of an act together." Friedman v. Connecticut Gen. Life Ins. Co., 9 N.Y.3d 105, 115 (2007). As discussed above, each provision of the SLSD that does not apply throughout the Special District as a whole identifies the specific subdistrict, street frontage, underlying zoning district or other specific location to which it applies. Moreover, where the phrase "within the Special District" is utilized but the rule contains exceptions, the SLSD regulations are careful to describe those exceptions with precision. See, e.g., ZR § 82-35, discussed infra. By contrast, ZR Section 82-34 states that its rule applies "within the Special District" without *any* qualifications or exceptions. It thus means exactly what it says: this rule applies throughout the Special District.

Appellants argue that even though it doesn't say so, ZR Section 82-34 must be read to apply only within a C4-7 district because tower development is not allowed in an R8 district. (CC SOFL at 2; LW! SOF at 2.) But that is plainly incorrect, since ZR Section 24-54 allows for towers consisting of community facility use to be developed in an R8 district under the standard tower regulations of ZR Section 23-652.¹³ Regardless, the plain language of ZR Section 82-34 applies the rule to developments in the Special District without exception—and thus irrespective of whether a development is being built under standard height and setback regulations or tower regulations.

B. DOB's Application of ZR Section 82-34 to the Project Site is Fully Consistent With the Split Lot Rules

Ignoring the plain language of ZR Section 82-34, Appellants assert that DOB's calculation of bulk distribution under that section based on the entire Project Site is prohibited by the "split" lot rules of the Zoning Resolution which govern zoning lots that straddle a zoning district boundary. (CC SOFL at 18, LW! SOF at 12.) That is also wrong. To the contrary, DOB's straightforward application of ZR Section 82-34 is fully consistent with the "split" lot rules.

This conclusion follows directly from the language of the Zoning Resolution and the fundamental principles applicable to "split" lots. As the Appellate Division recognized in Beekman Hill Ass'n v. Chin, 274 A.D.2d 161 (1st Dep't 2000), the Zoning Resolution provisions governing "split" lots work "on a regulation-by-regulation basis," id. at 175, such that

¹³ Exhibit 19 hereto illustrates two scenarios involving development of a community facility tower within the R8 portion of the Project Site. Drawing SK-1 illustrates that if, as Appellants argue, ZR Section 82-34 did not apply to the R8 district, a 30-story, 470-foot tower could be built on the zoning lot depicted. Drawing SK-2 illustrates that application of ZR Section 82-34, as mandated by the language of that provision, would result in a 22-story, 350-foot tower.

(1) compliance with statutory requirements is determined and measured on the basis of the zoning lot as a whole where both parts of the zoning lot are subject to the same rule, and (2) a zoning lot is “treated as a split-lot only with respect to the application of individual use or bulk regulations that do not apply to both portions of the zoning lot,” *id.* at 175.

Here, unable to point to any language in ZR Section 82-34 which limits the applicability of that provision to one portion of the Project Site only, Appellants instead point to another provision altogether—ZR Section 82-36—and argue that that provision somehow limits the application of ZR Section 82-34 to the C4-7 portion of the Project Site, excluding the R8 portion. (CC SOFL at 11; LW! SOF at 8.)

However, in contrast to ZR Section 82-34, the SLSD provision governing tower coverage set forth in ZR Section 82-36 applies only to those portions of the Special District in which towers are permitted under commercial zoning district regulations (i.e., the C4-7 district). ZR Section 82-36 (Special Tower Coverage and Setback Regulations) sets forth how the underlying requirements for tower development in commercial districts set forth in ZR Section 33-45 (Tower Regulations) or ZR Section 35-64 (Special Tower Regulations for Mixed Buildings) apply in the SLSD, with certain modifications related to, *inter alia*, the calculation of tower lot coverage. The referenced provisions, ZR Sections 33-45 and 35-64, apply in a C4-7 district but not in an R8 district. The Project Site is therefore a “split” lot for purposes of the tower rules set forth in ZR Section 82-36. This result is in accord with the provisions of ZR Section 33-48 which state, in relevant part, that “whenever a zoning lot is divided by a boundary between a district to which the provisions of ZR 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 (Special Provisions for Zoning Lots Divided by District Boundaries), shall apply.”

As discussed above (*see* Section I) nothing in ZR Section 82-34 sets forth a similar limitation restricting its applicability to a C4-7 district only. Nor does ZR Section 82-36, whether by cross-reference or otherwise, purport to provide that the bulk distribution calculation rules set forth in ZR Section 82-34 are limited to the C4-7 portion of a split zoning lot. Under the “regulation-by-regulation” approach pronounced by the *Beckman* court, the Project Site is not a “split” lot for purposes of application of ZR Section 82-34, and in the absence of statutory language limiting its application, that provision must be applied across the entire zoning lot without differentiating between zoning districts.

DOB precedent is consistent with this result. In 2002, DOB approved a residential tower within the Special District, located at 1930 Broadway. The 1930 Broadway zoning lot is divided between a C4-7 district (28,765 square feet) and an R8 district (9 square feet), for a total of 28,774 square feet. As shown on Drawing Z-01 (1930 Broadway Drawings, Exhibit 20 hereto), the bulk distribution calculation under ZR Section 82-34 approved by DOB was based on the amount of floor area provided on the entire zoning lot (345,196 square feet), including 345,180 square feet in the C4-7 district and 16 square feet in the R8 district. By contrast, as shown on Drawing Z-02, the calculation of minimum and maximum tower coverage under ZR Section 82-36 approved by DOB was based on the lot area of the C4-7 portion of the zoning lot only (28,765 square feet).

In fact, Appellants themselves have recognized that the plain language of the bulk distribution rule set forth in ZR Section 82-34 applies to the entire Project Site and that the calculation cannot be limited to the C4-7 district within the zoning lot. In its September 8, 2018, Zoning Challenge to the ZD-1 issued by DOB on July 26, 2018, Landmark West! stated “ZR 82-34 instructs that floor area under 150 feet should be calculated on the entire zoning lot.” (Exhibit 3, at 8.) In this appeal, Landmark West! has reversed course, now arguing—in defiance of the plain language of the regulation—that ZR Section 82-34 does not apply to the entire Project Site, but instead only to the C4-7 portion of the zoning lot.

At the time of their initial challenge, Appellant Landmark West! argued that the tower lot coverage requirements of ZR Section 82-36 are calculated over the entire zoning lot, failing to recognize that the tower coverage rules apply only to the C4-7 portion of the Project Site. Having realized that fact, they now reverse course because they do not like the outcome associated with applying the regulations as written. Landmark West!’s initial position (in its 2018 challenge) that the calculation of tower lot coverage under ZR Section 82-36 is based on the entire Project Site was as untethered from the plain language of the Zoning Resolution and the “split” lot rules as the argument it now makes in this appeal seeking to calculate the bulk distribution rule on the basis of the C4-7 portion alone. ZR Sections 82-34 and 82-36 are simply different in their scope, the former applying to the Project Site as a whole and the latter to the C4-7 portion of the Project Site only. Appellants’ insistence on trying to conflate one with the other—either by arguing that both apply to the Project Site as a whole or to the C4-7 portion of the Project Site alone—are necessarily divorced from the plain language of one of the two provisions, and is an attempt to rewrite the statutory framework at issue.

C. The Phrase ‘Within the Special District’ Is Not A Reference to ZR Section 23-651

Appellants argue that the phrase “within the Special District” means something different altogether than what the plain language provides, specifically, that it is intended only to highlight that ZR Section 82-34 differs in what they characterize as “minor” respects from the “Bulk Packing” rule set forth ZR Section 23-651(a)(3).¹⁴ (CC SOFL 11, 18-19; LW! SOF at 7, 12-13.) According to this convoluted logic, the term “within the Special District” signifies in four short words that “[t]he general version [of the Bulk Packing rule in ZR Section 23-651(a)(3)] differs from the Special District version [in ZR Section 82-34] in that it is slightly less demanding, and also more complex: the required percentage of floor area below 150 feet [under ZR Section 23-651(a)(3)] starts at 55 percent and increases to 59.5 percent as tower lot coverage decreases from 40 percent to 31 percent.” (CC SOFL at 19; LW! SOF at 12-13.)

The pretext for Appellants’ fanciful argument regarding ZR Section 82-34 is that the 1993 amendments to the SLSD which include ZR Section 82-34 and the Tower-on-a-Base regulations (which include ZR Section 23-651(a)(3)) were adopted through separate actions on the same day. (CC SOFL at 18-19; LW! SOF at 12.) In effect, Appellants conjecture that CPC

¹⁴ ZR Section 23-651(a)(3) states: “At least 55 percent of the total floor area permitted on the zoning lot shall be located in stories located either partially or entirely below a height of 150 feet. When the lot coverage of the tower portion is less than 40 percent, the required 55 percent of the total floor area distribution, within a height of 150 feet, shall be increased in accordance with the following [table].”

must have wanted to convey to readers of the Zoning Resolution that the two provisions differ only in “minor” respects. Of course, if CPC wanted to say that ZR Section 23-651(a)(3) applies in the SLSD, subject to certain modifications, it easily could have done so.¹⁵ And ZR Section 82-34 plainly says nothing of the kind. The characterization of the phrase “within the Special District” as a mere “explanatory note” included in the text of the statute is, simply put, nonsensical. A statute must be “construed ‘according to its natural and most obvious sense, without resorting to an artificial or forced construction.’” Schmidt v. Roberts, 74 N.Y.2d 513, 520 (1989) (quoting McKinney’s Cons Laws of NY, Book 1, Statutes § 94).

Appellants’ tortured reading of the phrase “within the Special District” carries with it an underlying, albeit transparent agenda: by reading the phrase out of the statute and relegating it to an explanatory note that ZR Section 82-34 varies from Tower-on-a-Base regulations in only a “minor” respect (i.e., with respect to the percentage of floor area subject to bulk distribution), Appellants are seeking to rewrite the method for calculation of bulk distribution under ZR Section 82-34 to function in the exact same manner as the rules set forth in ZR Section 23-651(a)(3) apply with respect to a “split” lot that includes a portion in an R8 district. That is because, as detailed below, ZR Section 23-651(a)(3) applies to floor area generated within R9 or R10 zoning districts only, such that the R8 portion of a zoning lot split between an R9 or R10 district and an R8 district is not included in the calculation. But that of course is not the rule that applies in the SLSD.

This attempt to characterize the Special District rule as another version of the Tower-on-a-Base regulations that apply outside the SLSD fails for several reasons:

First, the Tower-on-a-Base regulations apply only in R9 and R10 districts, or in C1-8, C1-9, C2-7 and C2-8 districts. See ZR §§ 23-651, 35-64(a). They do not apply in C4-7 districts, such as that mapped on the Project Site (and, except as discussed further below, therefore have no application in any portion of the SLSD, whether zoned R8 or C4-7).

Second, the differences between the Tower-on-a-Base regulations and the SLSD regulations are not “minor” at all; they are many. As just one prime example, the Tower-on-a-Base regulations apply only to a zoning lot with wide street frontage. See ZR § 23-65(a)(1). Consequently, if the Tower-on-a-Base regulations applied in the Special District, no bulk distribution requirement whatsoever would apply to the Project Site, since it lacks any wide street frontage.¹⁶

¹⁵ See, e.g., ZR Section 86-23 (Special Forest Hills District) (“Buildings or other structures **within the Special District** shall comply with the height and setback regulations of Section 35-65, except as modified by this Section.”); ZR Section 91-111 (Special Lower Manhattan District) (“[T]he use regulations for C5 Districts **within the Special Lower Manhattan District** are modified to permit the following uses”); ZR Section 97-30 (Special 125th Street District) (“Signs for all uses **within the Special 125th Street District** shall be subject to the applicable sign requirements in Section 32-60, inclusive, subject to the modifications of Sections 97-31 through 97-34, inclusive.”); ZR Section 98-422 (Special West Chelsea District) (“The provisions of Section 33-42 (Permitted Obstructions) shall apply to all buildings or other structures **within the Special West Chelsea District**, except that dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c)(1) of Section 23-621 (Permitted obstructions in certain districts).”).

¹⁶ A more detailed listing of the differences between the Tower-on-a-Base regulations and the SLSD regulations is attached as Exhibit 21 hereto.

Third, had CPC intended to apply the Tower-on-a-Base regulations in the SLSD, it easily could have done so. This is illustrated by ZR Section 35-64(a) (adopted in 1993 as part of the Tower-on-Base zoning), which expands the locations to which Tower-on-a-Base regulations apply beyond the R9 and R10 districts specified in ZR Section 23-651. ZR Section 35-64(a) provides that the Tower-on-a-Base regulations apply to specified commercial districts (not including C4-7 districts), subject to certain modifications.¹⁷ By contrast, ZR Section 82-34 does nothing of the sort—it makes no cross-reference to ZR Section 23-651 and does not otherwise incorporate the provisions of that section by reference, either with or without modifications.

Fourth, Appellants ignore that there are in fact provisions of the SLSD which specifically incorporate the Tower-on-a-Base regulations by reference, again demonstrating that where CPC wished the Tower-on-a-Base regulations to apply, it knew how to do so. ZR Section 82-36(c), provides that: “In Subdistrict A, the provisions of paragraph (a) of Section 35-64, as modified by paragraphs (a) and (b) of this Section, shall apply to any mixed building.”¹⁸

In contrast to ZR Section 82-36(c), ZR Section 82-34 is devoid of any cross-reference to ZR Section 23-651 and cannot even remotely be considered a slightly modified version of that provision, as Appellants argue. ZR Section 82-34 is instead a Special District rule distinct from ZR Section 23-651.

As a result, ZR Section 82-34 and the provisions of ZR Section 23-651(a)(3) operate differently where a “split” lot includes a portion mapped with an R8 district. Under the Tower-on-a-Base regulations, the tower coverage requirement of ZR Section 23-651(a)(1) and the bulk packing requirement of ZR Section 23-651(a)(3) are two subparts of the same provision of the Zoning Resolution, ZR Section 23-65, which applies *only* in R9 and R10 zoning districts. Accordingly, where a Tower-on-a-Base building is built on a zoning lot split by an R9 or R10 district and another district such as an R8 district, the bulk packing calculation is based on the floor area of the portion of the zoning lot within the R9/R10 district only, consistent with the express terms of ZR Section 23-65. By contrast, within the SLSD, ZR Sections 82-34 and 82-36 are two separate provisions each of which applies consistent with its plain language; they are not subparts of one provision nor provisions that cross-reference one another. The provisions of ZR Section 82-34 expressly apply to all development within the Special District, whereas the provisions of ZR Section 82-36 governing the calculation of tower lot coverage apply *only* to the

¹⁷ Section 35-64(a) applies to C1 or C2 districts mapped with R9 or R10 districts and C1-8, C1-9, C2-7 or C2-8 districts and provides, in relevant part, that in such districts “a mixed building that meets the location and floor area criteria of paragraph (a) of Section 23-65 (Tower Regulations) shall be governed by the provisions of Section 23-651 (Tower-on-a-base)” with certain modifications and exceptions.

¹⁸ The effect of this provision is to apply ZR Section 35-64 and, by extension, the provisions of ZR Section 23-651, to buildings located within the C4-7 portion of Subdistrict A of the Special District, where, as provided in ZR Section 35-64, the “location and floor area criteria of paragraph (a) of Section 23-65” are met (i.e., the building has more than 25 percent of its total floor area in residential use, is located on a zoning lot that fronts upon a wide street, and satisfies other specific locational requirements). ZR Section 82-36(c) does not apply to the Project Site, but a mixed-use building on a zoning lot within the SLSD with frontage on Broadway or Columbus Avenues that meets all the location and floor area criteria of ZR Section 23-65(a) and other requirements of ZR Section 35-64(a) *would* be governed by Tower-on-a-Base regulations.

C4-7 district governed by that section. Accordingly, where (as here) a tower is built within the Special District on a zoning lot split between a C4-7 district and an R8 district, the bulk distribution calculation is based on the floor area of the zoning lot as a whole, consistent with the express terms of ZR Section 82-34.

The further arguments made by Appellants that ZR Section 82-34 must operate the same way as ZR Sections 23-651(a)(3) because these provisions were adopted on the same day (December 20, 1993) are illogical. The opposite is true. The Special District amendments and Tower-on-a-Base regulations were adopted through separate actions, are different in their language and structure, and apply to different locations.

D. Appellants' Arguments Based on Legislative History Fail to Override the Plain Meaning of ZR Section 82-34

Unable to ground their preferred interpretation in the language or structure of the SLSD provisions, Appellants turn to the legislative history of the 1993 amendments. In a further attempt to rewrite the plain language of ZR Section 82-34, they make various assertions regarding how the provisions of ZR Sections 82-34 and 82-36 "must" operate together. However, Appellants fail to identify an ambiguity that requires interpretation by way of reference to extrinsic evidence (see discussion in Subsections A-C, *infra*), and there is no warrant for examination of the legislative history: "[W]here the legislative language is clear, as in the instant appeal, there is no occasion for examination into extrinsic evidence to discover legislative intent." BSA Cal. No. 136-08-A (2008); *see also* BSA Cal. No. 153-06-A (2007) ("legislative history is unnecessary" where the applicability of a zoning provision is clear).

The legislative history does not in any event support Appellants' position that the plain language of ZR Section 82-34 should be cast aside. Appellants' further assertions regarding how the rules "must" work do not reflect the language or legislative history of the SLSD, but instead their preferences for how CPC should have drafted and adopted the regulations.

1. DCP's Study of Potential Development Sites

The CPC Report for the 1993 SLSD amendments describes the background to the proposal, including the land use trends which led to development of the zoning proposal. (Exhibit 17, at 2-6.) As discussed in the Report, DCP identified six remaining development sites in the Special District for study, in order to evaluate how they might develop under the then-existing SLSD regulations and the proposed amendments. (*Id.* at 6.) Each of these sites is located entirely in a C4-7 district. In explaining how the newly proposed bulk distribution and tower coverage regulations would operate on these six sites, CPC stated that "[t]his would produce building heights ranging from the mid-20 to the low-30 stories (including penthouse floors) on the remaining development sites." (*Id.* at 19.)

Because "[n]one of the sites identified for potential development was located in the R8 portion of the Special District," Appellants insist that ZR Section 82-34 must therefore apply only to the C4-7 portion of the Project Site. (CC SOFL at 3.) However, ZR Section 82-34 plainly does not apply to only those six study sites, but rather to the entire Special District, and

there is no support for the proposition that a regulation be narrowly construed to apply only where the characteristics of a site match those of the potential development sites that were selected for a planning study. Put simply, development on the Project Site is governed by the rules that apply to the site, and the extent to which it is similar or different from sites used for a planning study before CPC adopted the broader regulations is irrelevant. Cf. CPC Report N 190180(A) ZRM, 12 (explaining that additional environmental analysis is not necessary for a development at 270 Park Avenue, which was not identified as a projected development site in the EIS for the Greater East Midtown plan, because “an EIS is not meant to foresee the exact future of development but rather . . . provide a reasonable analysis concerning possible impacts”). Thus, while CPC may not have specifically studied how ZR Section 82-34 would apply in a “split-lot” condition, that is no basis for ignoring the plain language of the provision CPC enacted.¹⁹

The legislative record in fact shows that CPC understood that ZR Section 82-34 would apply beyond the six study sites it had considered and that it would apply on a district-wide basis. Rejecting a proposal by Manhattan Community Board 7 and others to impose a district-wide height limit of 275 feet, CPC stated its belief 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.” (Exhibit 17, at 19.)

CPC’s views regarding the predictability of how bulk distribution under ZR Section 82-34 would apply within the Special District were in fact strongly disputed by Manhattan Community Board 7. In its November 3, 1993 Resolution recommending disapproval of the 1993 amendments, Community Board 7 stated:

City Planning’s proposal to limit building height with “packing the bulk” (requiring 60% of the bulk below 150 feet) has not been tested on actual buildings, and is therefore unpredictable. . . . A straightforward height limit of 275 feet would achieve the height goal of “packing” . . . with a predictability which would be beneficial to both private developers and the general public.

(Exhibit 22 hereto, at 3)

Others made similar comments at CPC’s November 17, 1993, public hearing.²⁰

¹⁹ In adopting the 1993 amendments CPC was fully aware that the SLSD contains an R8 district: “A small area of the district is zoned R8, which permits mid-density residential and community facility development.” (Exhibit 17, at 4). Had it wished to exclude R8 districts from the calculation of bulk distribution under ZR Section 82-34, it could have done so.

²⁰ See, e.g., Testimony of Congressman Jerrold Nadler before the City Planning Commission Hearing on the Special Lincoln Square District (November 17, 1993) (“[t]he notion of ‘packing the bulk’ in order to limit building height is an idea that has not seen practice [sic] application.”). (Exhibit 23 hereto, at 2.)

The legislative history thus illustrates that while CPC conducted planning studies on six potential development sites, it (and various stakeholders) well understood that the new rules would not be limited to those sites only. The legislative history further confirms that CPC's view regarding the predictability of how the rules would function at sites within the SLSD other than the six study sites themselves was a disputed issue, with Community Board 7 taking the position that this had not been adequately studied and that the results would be uncertain.

At most, the legislative history indicates that the results of applying ZR Section 82-34 to a zoning lot split between a C4-7 and an R8 district was not specifically studied at the time. That is no basis for rewriting the plain language of ZR Section 82-34. "[N]o rule of construction gives the court discretion to declare the intent of the law *when the words are unequivocal*. Lastly, the courts are not free to legislate and if any unsought consequences result, the Legislature is best suited to evaluate and resolve them." Raritan Dev. Corp., 91 N.Y.2d at 107.

2. Appellants' Own "Rules" Have No Basis In The Legislative History

Appellants nevertheless make numerous categorical assertions about how ZR Sections 82-34 and 82-36 "must" interrelate and apply in all circumstances, insisting that these have a basis in the legislative history. These include, among others:

- "When applied correctly, these two rules ensure that the number of stories in the tower portion of the building (i.e., the portion above 150 feet) remains constant regardless of lot size." (CC SOFL at 12; LW! SOF at 8.)
- "[T]his mechanism can only work if the total allowable floor area, bulk below 150 feet, and tower coverage are all calculated based on the same area." (CC SOFL at 12-13; LW! SOF at 8.)
- "[T]his mechanism can work only if the total allowable floor area, tower coverage and bulk packing are calculated based on a common denominator: one lot size, one FAR and one set of rules applicable to the entire envelope. Only in this way can it keep the number of tower floors constant even as lot size varies." (CC SOFL at 15; LW! SOF at 10.)
- "To work right, the calculation must be zero-sum: the total square footage of the tower and base must add up to the total allowed on [sic] C4-7 portion of the lot." (CC SOFL at 15; LW! SOF at 10.)

Nothing in the SLSD regulations incorporates any of these formulas or categorical requirements. Moreover, Appellants' version of how the SLSD regulations "must" work is also nowhere to be found in the 1993 CPC Report. ZR Sections 82-34 and 82-36 are instead described in the CPC Report as follows:

- Section 82-34 would establish envelop controls to govern the massing and height of new buildings by requiring a minimum of 60 percent of a development's total floor area to be located below an elevation of 150 feet.

- Section 82-36 would establish minimum tower coverage standards, and allow for the penthouse provision at the top of buildings.²¹

(Exhibit 17, at 8.)

The CPC Report thus characterizes the two provisions as separate requirements that, while complementary, are not linked in the manner described by Appellants. (See id. at 19.)

Appellants then make a further leap and argue that results that depart from their preferred scenario are unlawful:

The result of Extell's mix-and-match approach is that instead of 60/40, the ratio of the base to the tower is a 48/52 ratio. Only 48 percent of the bulk is in the base and a majority, 52 percent, is in the tower. This is an inversion of the correct ratio.

(CC SOFL at 16; see LW! SOF at 11.)

Appellants calculate the 48/52 ratio based on the floor area permitted in the C4-7 district only.²² What they fail to acknowledge, however, is that nothing in the SLSD regulations or its legislative history dictate a "correct ratio" of 60/40 on a *portion* of the Project Site, i.e., the portion within in the C4-7 district.

The apparent purpose of Appellants' argument is to suggest that the 48/52 ratio of floor area within the C4-7 portion renders ZR Section 82-34 a nullity ("an inversion of the correct ratio"). (CC SOFL at 16; LW! SOF at 11.) But that is wrong. The DOB's application of ZR Section 82-34 to the Project functioned to significantly reduce the amount of floor area within the tower and its height relative to what could be developed absent the bulk distribution requirement. Exhibit 24 hereto illustrates that a 43-floor, 839-foot tower could be developed on the Project Site absent ZR Section 82-34. This contrasts with the 39-floor, 775-foot tower approved by DOB through application of ZR Section 82-34 to the entire zoning lot.

Appellants elsewhere acknowledge that the difference between their preferred method for applying ZR Section 82-34 to the Project Site and how it has been applied by DOB amounts to only an approximately 5-story difference. (CC SOFL at 17; LW! SOF at 11.) Exhibit 24 demonstrates that the difference is six floors: that is, a 33-floor, 679-foot tower (under

²¹ Appellants make much of the fact that this description of ZR Sections 82-34 and 82-36 in the CPC Report falls under a heading of "Urban Design" provisions which "would apply throughout the District." (Exhibit 17, at 7.) Since it is undisputed that ZR Section 82-36 applies only in those portions of the SLSD mapped C4-7, Appellants argue that it is not necessarily the case that the phrase "throughout the district" means that ZR Section 82-34 applies to portions of the SLSD mapped R8. (CC SOFL at 20; LW! SOF at 14.) The differences between the plain language of ZR Section 82-34, which applies "[w]ithin the Special District" without any exception or qualification, and that of ZR Section 82-36, which modifies regulations applicable in the C4-7 district only, are addressed in detail above (see discussion in Subsections A-C).

²² To clarify, the 48/52 ratio to which the Appellants refer is the ratio of the floor area located in the tower of the Project (219,403 square feet) to the floor area permitted within C4-7 district (421,260 square feet), removing from the denominator the 127,283 square feet of floor area permitted in the R8 district.

Appellants' interpretation of ZR Section 82-34) as opposed to a 39-floor, 775-foot tower (as approved by DOB).²³

Appellants cannot point to anything in the language ZR Section 82-34 or its legislative history that suggests that this difference is impermissible. Perhaps realizing this, Appellants resort to arguing that applying ZR Section 82-34 as written could, in theory, given a large enough portion of the zoning lot mapped R8, result in the Project being built as a 40-story tower of 1,019 feet. (CC SOFL at 17; LW! SOF at 11-12.) Based on this purely hypothetical scenario, Appellants urge the Board to disregard the plain language of ZR Section 82-34 in order to avoid what they term an "absurd" result (CC SOFL at 14; LW! SOF at 9), albeit by way of reference to a non-existent project that does not remotely correspond to the Project approved by DOB.

Appellants' invented scenario cannot be the basis for a determination that the plain language of ZR Section 82-34 should be disregarded on the basis of the "absurdity" doctrine. "If the result proffered in the case being adjudged would be fair, concluding that the statute bespeaks absurd results based upon an atypical hypothetical is not an intellectually compelling claim. . . . that 'a' result may in a court's view be absurd is not by itself sufficient to permit a court not to follow the legislative direction." People v. Pena, 169 Misc. 2d 75, 84-85 (Sup. Ct. 1996).

3. The Board Should Reject Appellants' Request to Rewrite the Zoning Resolution

As demonstrated above, Appellants' desired outcome in this proceeding is inconsistent with the plain language, structure and history of the SLSD regulations, and can only be achieved by amending the Zoning Resolution. To do so, an amendment of ZR Section 82-34 similar to the following would be required:

Within a C4-7 district in the Special District, at least 60 percent of the total floor area Permitted on a zoning lot (and not including the floor area of a portion of a zoning lot located within an R8 district where such zoning lot is divided between a C4-7 district and an R8 district) shall be within stories located partially or entirely below a height of 150 feet from curb level.

Alternatively, consistent with Appellants' view that ZR Section 82-34 is simply a variant of ZR Section 23-651(a)(3), ZR Section 82-34 could be rewritten to cross-reference ZR Section 23-651 with any necessary "minor" exceptions. Finally, ZR Section 82-34 could be relocated to be made a subpart of ZR Section 82-36, thereby limiting its application to tower development located in the C4-7 district.

There are undoubtedly other ways that the SLSD regulations could be amended to produce the result that Appellants desire, and Appellants are free to propose them. However, this is a matter for CPC and the City Council, rather than the Board, to consider.²⁴ For this reason, Appellants' second objection should be rejected.

²³ The 39 stories in the Project include four floors of mechanical space. There are 35 floors of residential use/community facility use.

²⁴ If CPC were disposed to support such an amendment, it would likely want to consider other ancillary questions: Should community facility towers in the R8 district continue to be subject to the bulk distribution rule? Should the

VII. Conclusion

Appellants fail to establish that the Project approved by DOB contravenes provisions of the Zoning Resolution. We respectfully request that the Board expeditiously deny the appeals.

rule apply if a building is developed in a C4-7 district under standard height and setback rather than the tower regulations? Should the provisions of Section 82-36(c) continue to apply Tower-on-a-Base rules via Section 35-64(a) to zoning lots which meet the locational criteria of Section 23-65(a)? And so on.

BSA Cal. No. 2019-89-A; BSA Cal. No. 2019-94-A
Statement of West 66th Sponsor LLC
Index of Exhibits and Appendices

- Exhibit 1 — New Building Permit (June 7, 2017)
- Exhibit 2 — ZD-1 Form (July 26, 2018)
- Exhibit 3 — DOB Challenge (September 8, 2018)
- Exhibit 4 — ZRD2 (November 19, 2018)
- Exhibit 5 — Notice of Intention to Revoke (January 14, 2019)
- Exhibit 6 — Letter re Notice of Intention to Revoke (January 25, 2019)
- Exhibit 7 — FDNY Letter (March 7, 2019)
- Exhibit 8 — Plan Exam Approval (April 4 and April 5, 2019)
- Exhibit 9 — ZD-1 (April 4, 2019)
- Exhibit 10 — Rescission of Intent to Revoke (April 4, 2019)
- Exhibit 11 — New Building Permit (April 11, 2019)
- Exhibit 12 — CPC Report N 190230 ZRY (April 10, 2019)
- Exhibit 13 — Council Resolution 0916-2019 (May 29, 2019)
- Exhibit 14 — DCP Letter (July 20, 2017)
- Exhibit 15 — Residential Tower Mechanical Voids Text Amendment: Revised
Environmental Assessment Statement CEQR No. 19DCP110Y (April 9,
2019)
- Exhibit 16 — Testimony of Landmark West! on the Residential Tower Mechanical
Voids Text Amendment (March 12, 2019)
- Exhibit 17 — CPC Report N 940127(A) ZRM (December 20, 1993)
- Exhibit 18 — Council Resolution No. 130 (February 9, 1994)
- Exhibit 19 — Zoning Diagrams - Community Facility Towers (July 23, 2019)

Exhibit 20 — 1930 Broadway Drawings (January 20, 2002)

Exhibit 21 — Zoning Comparison Table

Exhibit 22 — Community Board 7 Resolution (November 3, 1993)

Exhibit 23 — Testimony of Congressman Nadler on the Special Lincoln Square District (November 17, 1993)

Exhibit 24 — Zoning Diagrams - Bulk Distribution Rules (July 23, 2019)

Appendix A — Cited Case Law

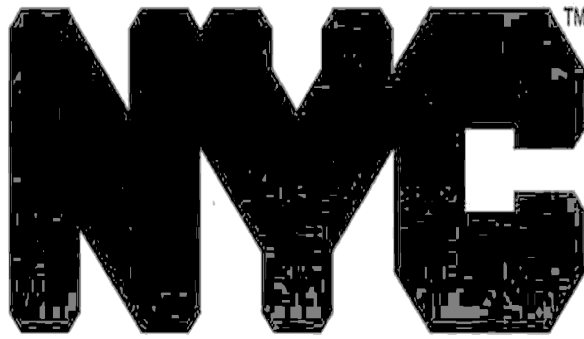
- Raritan Dev. Corp. v. Silva, 91 N.Y.2d 98 (1997).
- N.Y. Botanical Garden v. Bd. of Standards and Appeals, 91 N.Y. 2d 413 (1998).
- New York City Educ. Constr. Fund v. Verizon NY Inc., 981 N.Y.S.2d 11 (Sup. Ct. 2012), *aff'd*, 981 N.Y.S.2d (1st Dep't 2014).
- Ocean Hill-Brownsville Governing Board v. Board of Education, 30 A.D.2d 447 (2nd Dep't 1968).
- Friedman v. Connecticut Gen. Life Ins. Co., 9 N.Y.3d 105 (2007).
- Beekman Hill Ass'n v. Chin, 274 A.D.2d 161 (1st Dep't 2000).
- Schmidt v. Roberts, 74 N.Y.2d 513 (1989).
- People v. Pena, 169 Misc. 2d 75 (Sup. Ct. 1996).

Appendix B — Cited BSA Decisions

- BSA Cal. No. 2016-4327-A (2017)
- BSA Cal. No. 14-11-A (2011)
- BSA Cal. No. 151-12-A (2012)
- BSA Cal. No. 136-08-A (2008)
- BSA Cal. No. 153-06-A (2007)

Appendix C — Select Zoning Resolution Sections

- Article VIII, Chapter 2 (Special Lincoln Square District)
- ZR § 11-331
- ZR § 11-341
- ZR § 12-10 (p/o) (definitions of “use,” “accessory use” and “floor area”)
- ZR § 23-65
- ZR § 24-54
- ZR § 33-45
- ZR § 33-48
- ZR § 35-64



Work Permit Department of Buildings

Permit Number: 121190200-01-NB

Issued: 06/07/2017

Expires: 10/01/2017

Address: MANHATTAN 36 WEST 66TH STREET

Issued to: RALPH ESPOSITO

Business: LEND LEASE (US) CONSTRUCT

Contractor No: GC-16836

Description of Work:

NEW BUILDING - NEW BUILDING



Review is requested under Building Code: 2014

SITE FILL: ON-SITE

To see a Zoning Diagram (ZD1) or to challenge a zoning approval filed as part of a New Building application or Alteration application filed after 7/13/2009, please use "My Community" on the Buildings Department web site at www.nyc.gov/buildings.

Emergency Telephone Day or Night: 311 SITE SAFETY PHONE : 212 669-7043

Borough Commissioner:

A stylized signature of the Borough Commissioner, appearing as a large, flowing "A" shape.

Commissioner of Buildings:

A signature of the Commissioner of Buildings, appearing as "Rick Chandler" in a cursive script.

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment or both.

01 06/07/2017

R000567(5/10)

ZONING CALCULATIONS

SITE PLAN

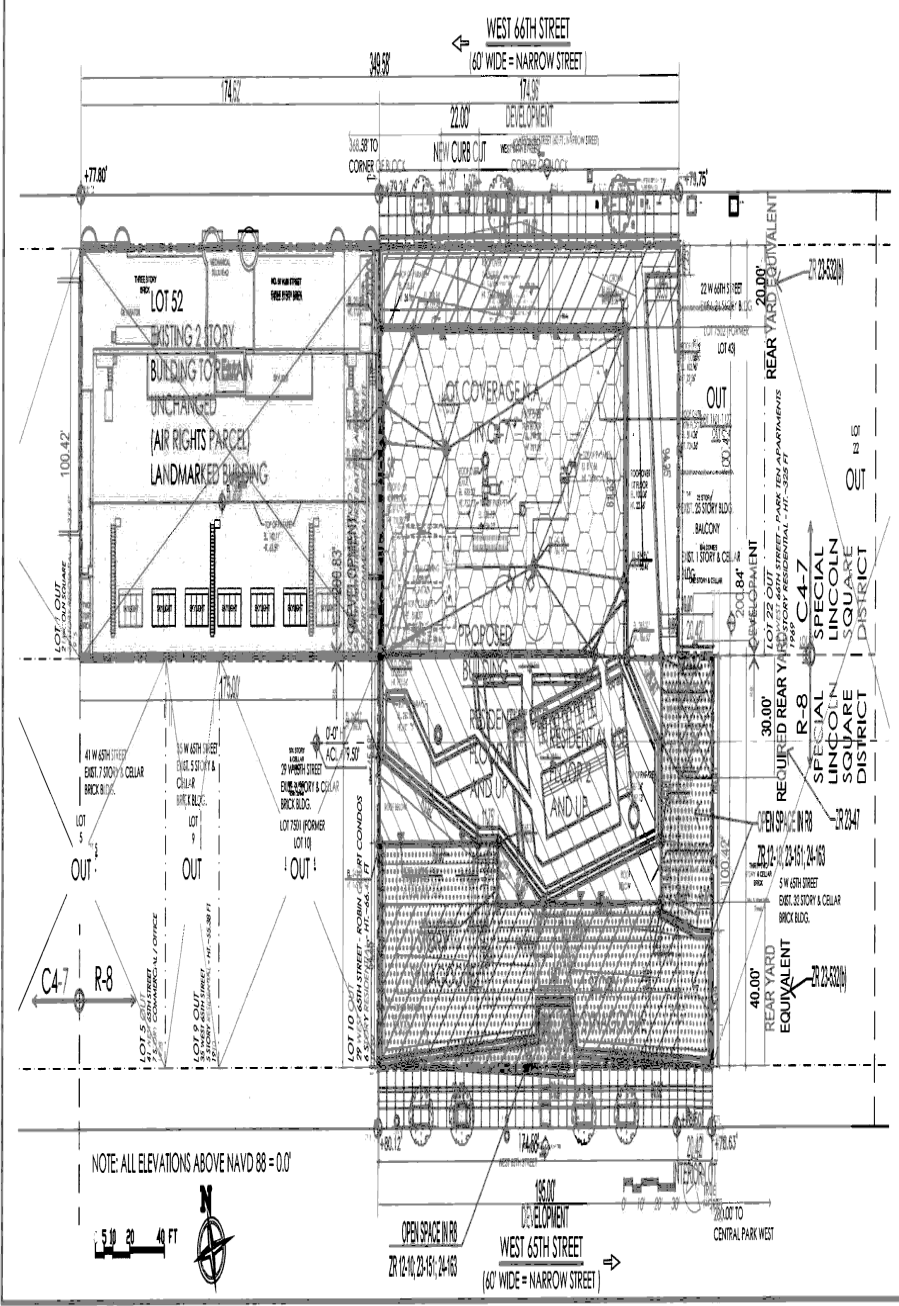
Scale: 1/64" = 1'-0"

ZONING DISTRICT : C-4-7 (R-10 EQUIVALENT)
R8
SPECIAL LINCOLN SQUARE DISTRICT
SUBDISTRICT A
MAP: 8C
BLOCK: 1118
LOT: 14, 45, 46, 47, 48 & 52
LOT AREA: C-4-7 DISTRICT = 35,105 SF
R8 DISTRICT = 19,582 SF
TOTAL LOT AREA = 54,687 SF
NO PARKING REQUIRED WITHIN MANHATTAN CORE AS PER ZR 13-10, NONE PROVIDED
STREET TREE PLANTING AS PER ZR 26-41 & 33-03

4) ZONING FLOOR AREA				
a. Floor Area Permitted				
C-4-7 District (R10 equivalent)				
33-122	Commercial	10 FAR	351,050.00 SF	
33-123	Community Facility	10 FAR	351,050.00 SF	
23-152, 23-16	Residential	10 FAR	351,050.00 SF	
23-154	Inclusionary Bonus (see below)	2 FAR	70,210.00 SF	
35-31	Res. with inclusionary (see below)	12 FAR	421,260.00 SF	
	Max. Total		421,260.00 SF	
R8 District				
23-151	Community Facility	6.5 FAR	127,283.00 SF	
24-11	Residential (See HF Calcs. Z-013)	5.92 FAR	115,925.44 SF	
	Max. Total	6.5 FAR	127,283.00 SF	
Total All Districts				
	Commercial		351,050.00 SF	
	Community Facility		478,333.00 SF	
	Residential w/ Inclusionary		537,185.44 SF	
	Max. Total		548,543.00 SF	

b. Inclusionary Housing Bonus in C-4-7				
23-154	Base Residential	10 FAR	351,050.00 SF	
	Max. Inclusionary Bonus	2 FAR	70,210.00 SF	
	Max. Residential with Inclusionary	12 FAR	421,260.00 SF	
	Low Income Floor Area Provided		70,210.00 SF	
	Off-site, see HPD Certificates and Table 1 on Z-001			
	Base Residential		351,050.00 SF	
	Actual Inclusionary Bonus		70,210.00 SF	
	Actual Residential with Inclusionary		421,260.00 SF	

c. Floor Area Proposed				
C-4-7 District (R10 equivalent)				
Existing Lot 52				
	Commercial		43,053.00 SF	
	(See Alt. 1 #120422729)			
Proposed				
	Community Facility		6,350.89 SF	
	Residential		371,855.27 SF	
	Total		378,206.16 SF	
C-4-7 Total				
	Commercial		43,053.00 SF	
	Community Facility		6,350.89 SF	
	Residential		371,855.27 SF	
	Total		421,259.16 SF	
R8 District				
	Proposed / R8 Total			
	Community Facility		16,054.60 SF	
	Residential		111,227.78 SF	
	Total		127,282.38 SF	
Total both Zones				
	Commercial		43,053.00 SF	
	Community Facility		22,405.49 SF	
	Residential		483,083.05 SF	
	Total		548,541.54 SF	



RESIDENTIAL FAR CALCULATIONS IN R8				
12-10	Open Space shall not be included in Lot Coverage			
23-151	Residential			
	Height Factor for Residential FAR			
	a. H.F. for FAR = Total Floor Area / Total Lot Coverage			
	H.F. for FAR = 127,282 SF / 8,899 SF = 14			
	F.A.R. @ H.F. 14 = 5.92			
OPEN SPACE CALCULATIONS IN R8				
23-151	a. Height Factor for OSR			
24-163	H.F. for OSR = Residential FA/ Residential Lot Coverage			
	H.F. for OSR = 111,228 SF / 8,899 SF = 12			
	b. Required Open Space			
	Open Space Ratio @ H.F. 12 = 9.2 %			
	Min. Open Space = 111,228 X 0.092 = 10,233 SF			
	c. Open Space Provided = 10,635 SF		Complies	
	d. Open Space at Grade			
12-10	Open space at grade shall be accessible and usable by all residential occupants.			
	e. Open Space on Roof			
12-10	- Open Space on roof in R8 need not be accessible			
12-10	- No dimension less than 25' except that area adjoining street line or rear yard min. depth 9' and max. length min. 2 times depth (or full width of zoning lot or 50', whichever is less).			
24-16	Open Space permitted on roof of community facility			
COMMUNITY FACILITY COVERAGE IN R8				
24-11	Max. 65% Community Facility Coverage in R8 Zone			
	19,582 SF X 65 % = 12,728 SF			
	Provided 0 SF		Complies	
24-12	Community Facility use below 23' may be excluded from Lot Coverage			

- LEGEND
- EXISTING BUILDING
 - PROPOSED BUILDING
 - REAR YARD EQUIVALENT
 - REQUIRED REAR YARD
 - OPEN SPACE AT ROOF IN R8
 - OPEN SPACE AT GRADE IN R8
 - RESIDENTIAL COVERAGE IN R8
 - TOWER COVERAGE IN C-4-7
 - ZONING LOT LINE
 - STREET TREE
 - SKY EXPOSURE PLANE
 - PROPERTY LINE
 - TOP OF BEAM WITHIN NON-OCCUPIABLE SPACE



ZD1 Zoning Diagram

Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.
☐ YES ☒ NO

Location Information

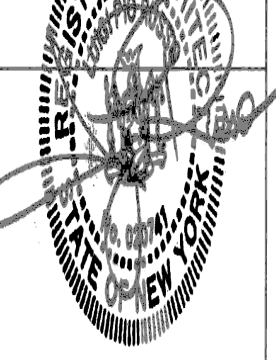
House No(s) 36
Street Name West 66th Street
Borough Manhattan
Block 1118
Lot 45
Bin 1028168

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 understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

NAME (PLEASE PRINT)

Luigi P. R...

SIGNATURE DATE



P.E.R.A. SEAL (APPLY SEAL; SIGN AND DATE OVER SEAL)

Internal Use Only

BIS Doc #

PLAN EXAMINERS SIGN AND DATE
R. 000956

ZONING CALCULATIONS

HEIGHT & SETBACK IN BOTH ZONES

35-21

Maximum Height of Wall and Required Setbacks

23-641

20' minimum setback above 85'
2.7:1 Sky Exposure Plane

TOWER IN C4-7

a.

Lot Area in C4-7

35,105.00 SF

82-36 (a)

b.

Max. Tower Coverage Permitted

35,105.00 SF X 0.4 =

14,042.00 SF

c.

Min. Tower Coverage Permitted

35,105.00 SF X 0.3 =

10,531.50 SF

d.

Proposed Tower at floors 7-15

11,579.52 SF

Complies

Proposed Tower at floor 16

10,644.64 SF

Complies

Proposed Tower at floor 17

10,770.86 SF

Complies

Proposed Tower at floor 18

11,092.68 SF

Complies

Proposed Tower at floor 19

11,208.99 SF

Complies

Proposed Tower at floors 20-33

11,208.57 SF

Complies

Proposed Tower at floors 34

11,208.51 SF

Complies

Proposed Tower at floors 35

11,183.32 SF

Complies

Proposed Tower at floors 36

11,156.28 SF

Complies

Proposed Tower at floors 37

11,127.40 SF

Complies

Proposed Tower at floor 38

11,097.02 SF

Complies

Proposed Tower at floor 39

11,064.13 SF

Complies

Proposed Tower at floor 40

11,028.24 SF

Complies

Proposed Tower at floor 41

10,538.00 SF

Complies

e.

Minimum Setback 20' above 85'

Complies

TOP 40' OF TOWER

82-36 (a)

The highest 4 stories of the tower or 40 feet, whichever is less, may cover less than 30% of the lot area if the GFA of each story does not exceed 80% of GFA of the story directly below it.

Proposed tower at 42nd Floor, Bulkhead (Ht. 752.73')

8,311.00 SF

Max. 80% of 41st Floor

80% x 10,538 SF =

8,430.40 SF

Complies

BULK DISTRIBUTION BELOW 150' IN HEIGHT

82-34

Total Permitted Floor Area

548,543.00 SF

Min. Required ZFA Below 150'

548,543.00 SF X 0.6 =

329,125.80

14th Floor - Finished Floor

Floor Elevation

228.98 Ft

Floor Height in C4-7/ Through Lot Portion 1

149.48 Ft

Floor Height in R8/ Through Lot Portion 2

148.67 Ft

Provided:

Existing Building

43,053.00 SF

New Building Floors 1-14 (See Floor Area Table)

286,076.04 SF

Total Below 150'

329,129.04 SF

Complies

AXONOMETRIC DIAGRAM

Scale: NTS

SECTION DIAGRAM

Scale: NTS

NYC Buildings

Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.

YES

NO

Location Information

House No(s)

36

Street Name

West 66th Street

Borough

Manhattan

Block

1118

Lot

45

Bin

1028168

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 understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

NAME (PLEASE PRINT)

Luigi P. Russo

SIGNATURE

DATE

P.E.R.A. SEAL (APPLY SEAL: SIGN AND DATE OVER SEAL)

Internal Use Only

BIS Doc #

PLAN EXAMINERS SIGN AND DATE

R. 000959



ZD1 Zoning Diagram

Must be typewritten.
Sheet 2 of 2

1 Applicant Information Required for all applications.

Last Name Russo		First Name Luigi		Middle Initial	
Business Name SLCE Architects, LLP			Business Telephone (212) 979-8400		
Business Address 1359 Broadway, 14th Floor			Business Fax (212) 979-8387		
City New York		State NY	Zip 10018	Mobile Telephone	
E-Mail lrusso@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 CPC Approval for Subject Application Required as applicable.

Board of Standards & Appeals (BSA)

<input type="checkbox"/> Variance	Cal. No. _____	Authorizing Zoning Section 72-21
<input type="checkbox"/> Special Permit	Cal. No. _____	Authorizing Zoning Section _____
<input type="checkbox"/> General City Law Waiver	Cal. No. _____	General City Law Section _____
<input type="checkbox"/> Other	Cal. No. _____	

City Planning Commission (CPC)

<input type="checkbox"/> Special Permit	ULURP No. _____	Authorizing Zoning Section _____
<input type="checkbox"/> Authorization	App. No. _____	Authorizing Zoning Section _____
<input type="checkbox"/> Certification	App. No. _____	Authorizing Zoning Section _____
<input type="checkbox"/> Other	App. 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	9,391.64	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

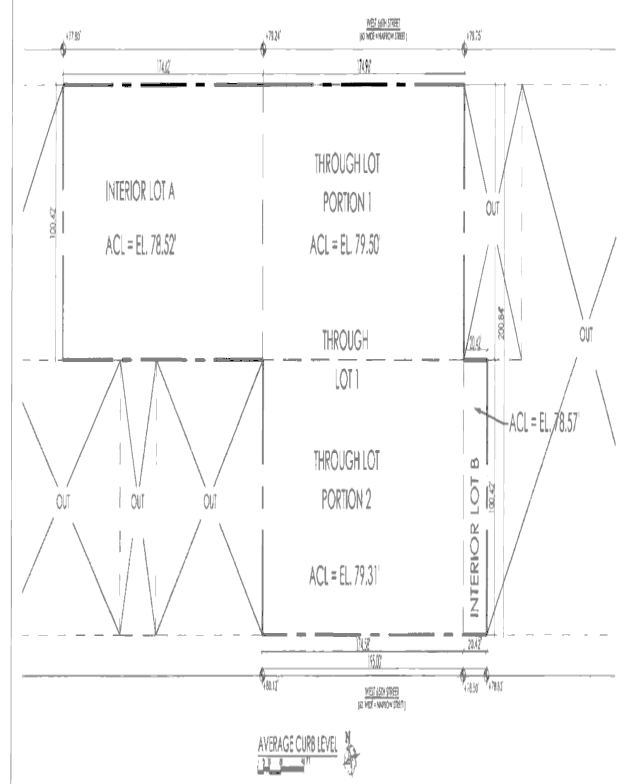
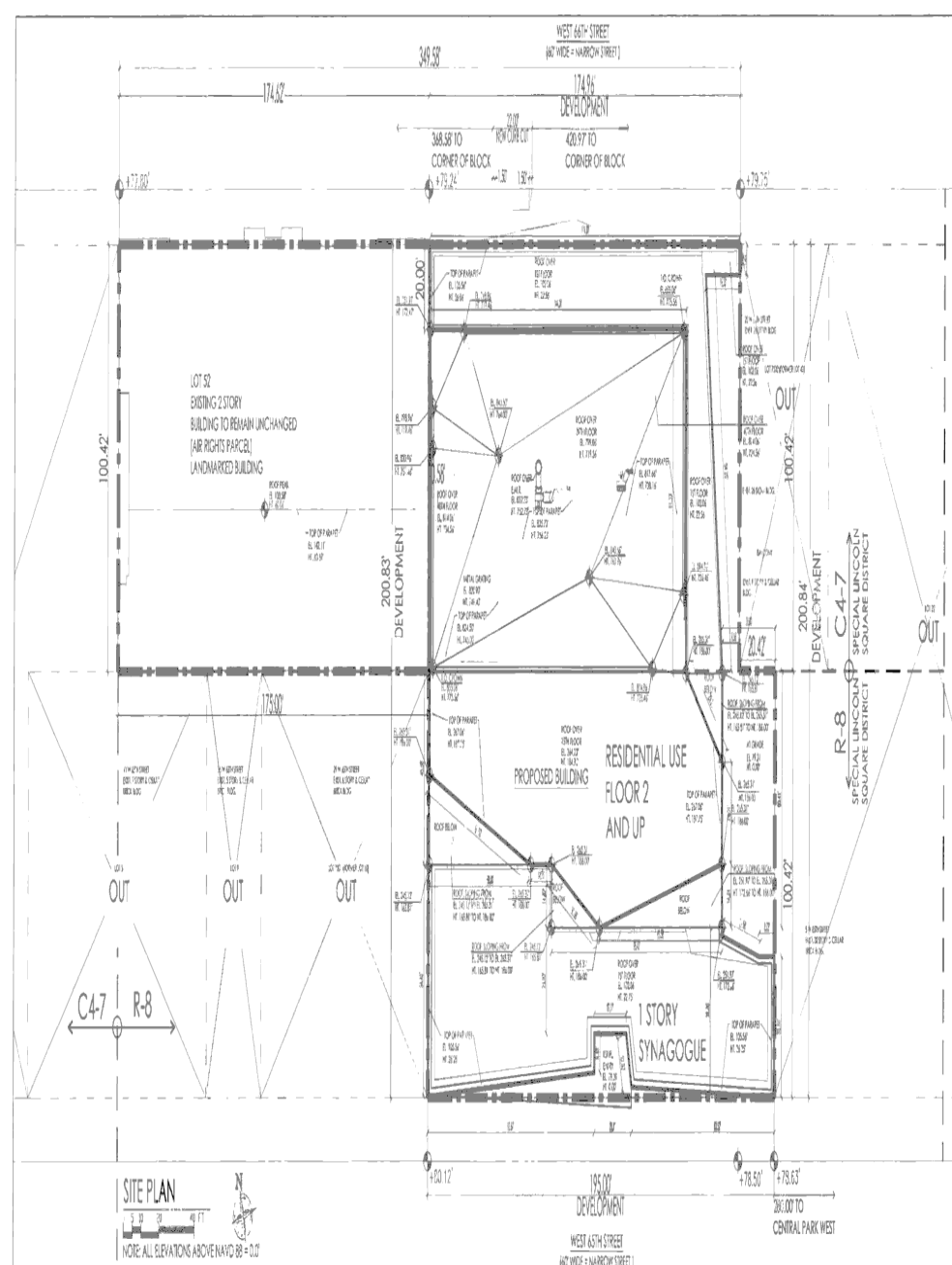
ZD1

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	40,956.60	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	7,746.54				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	10,916.98	2	0				0
020-026	78,459.99	2	75,739.86				1.38
027-031	56,042.85	2	54,076.90				0.99
032-033	22,417.14	2	21,631.76				0.40
034	11,208.58	2	10,883.73				0.20
035	11,183.38	2	10,858.54				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	10,626.00	2	4,756.95				0.09
040	928.55	2	0				0
041	927.82	2	0				0
Totals	658,286.81		483,083.05	22,405.49			9.24

Total Zoning Floor Area	505,488.54
-------------------------	------------



AVERAGE CURB LEVEL CALCULATIONS		
THROUGH LOT	DIMENSIONS	TOTAL
THROUGH LOT 1	79.24' + 79.75'	79.50'
THROUGH LOT 2	80.12' + 79.50'	79.31'
THROUGH LOT 3	77.80' + 79.24'	78.52'
INTERIOR LOT A	78.50' + 78.83'	78.67'
INTERIOR LOT B	78.50' + 78.83'	78.67'

NOTE:
ALL ELEVATIONS REFER TO NAVD83 DATUM
HEIGHTS ARE ABOVE A.C.L.

FLOOR	USE	C4-7		R-8		TOTAL BOTH ZONES	
		GROSS FLOOR AREA (SF)	REDUCTIONS (SF)	GROSS FLOOR AREA (SF)	REDUCTIONS (SF)	TOTAL GROSS FLOOR AREA (SF)	TOTAL REDUCTIONS (SF)
1	COMMUNITY FACILITY	543.00	543.00	-	0.00	543.00	543.00
2	RESIDENTIAL ACCESSORY	14,000.00	14,000.00	-	0.00	14,000.00	14,000.00
3	TOTAL SUB-CELLAR	17,543.00	17,543.00	-	0.00	17,543.00	17,543.00
4	COMMUNITY FACILITY	543.00	543.00	-	0.00	543.00	543.00
5	RESIDENTIAL ACCESSORY	14,000.00	14,000.00	-	0.00	14,000.00	14,000.00
6	MECHANICAL	6,807.71	6,807.71	-	0.00	6,807.71	6,807.71
7	TOTAL CELLAR	17,543.00	17,543.00	-	0.00	17,543.00	17,543.00
8	COMMUNITY FACILITY	543.00	543.00	-	0.00	543.00	543.00
9	RESIDENTIAL ACCESSORY	14,000.00	14,000.00	-	0.00	14,000.00	14,000.00
10	TOTAL NET FLOOR	18,724.40	18,724.40	-	0.00	18,724.40	18,724.40
11	RESIDENTIAL ACCESSORY	1,891.40	1,891.40	-	0.00	1,891.40	1,891.40
12	COMMUNITY FACILITY	2,800.00	2,800.00	-	0.00	2,800.00	2,800.00
13	TOTAL NET FLOOR	5,711.71	5,711.71	-	0.00	5,711.71	5,711.71
14	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
15	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
16	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
17	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
18	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
19	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
20	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
21	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
22	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
23	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
24	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
25	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
26	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
27	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
28	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
29	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
30	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
31	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
32	RESIDENTIAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
33	MECHANICAL	11,579.00	684.41	10,894.59	341.40	22,473.59	1,025.80
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DWELLING SCHEDULE	
FLOORS # OF D.U.	# OF D.U.
1	0
2	3
3	3
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7	4
8	4
9	4
10	4
11	4
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14	4
15	0
16	0
17	0
18	0
19	0
20	3
21	3
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ZONING CALCULATIONS	
Applicable Zoning	1) ZONING DISTRICT: C4-7 (R-10 EQUIVALENT) 2)



Zoning Challenge
and Appeal Form
(for approved applications)

Must be typewritten

1 Property Information Required for all challenges.

BIS Job Number 121190200

BIS Document Number 18

Borough Manhattan

House No(s) 36

Street Name West 66th Street

2 Challenger Information Optional.

Note to all challengers: This form will be scanned and posted to the Department's website.

Last Name Janes

First Name George

Middle Initial M

Affiliated Organization Prepared for: Landmark West! & 10 West 66th Street Corporation

E-Mail george@georgejanes.com

Contact Number 917-612-7478

3 Description of Challenge Required for all challenges.

Note: Use this form only for challenges related to the Zoning Resolution

Select one: ☒ Initial challenge ☐ Appeal to a previously denied challenge (denied challenge must be attached)

Indicate total number of pages submitted with challenge, including attachments: 38 (attachment may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

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.

ADMINISTRATIVE USE ONLY			
Reviewer's Signature:	Date:	Time:	WO#:

GEORGE M.
JANES &
ASSOCIATES

September 9, 2018

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NEW YORK, NY 10128

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E: george@georgejanes.com

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

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

Dear Commissioner Chandler:

At the request of the 10 West 66th 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 66th Street (AKA 50 West 66th 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.

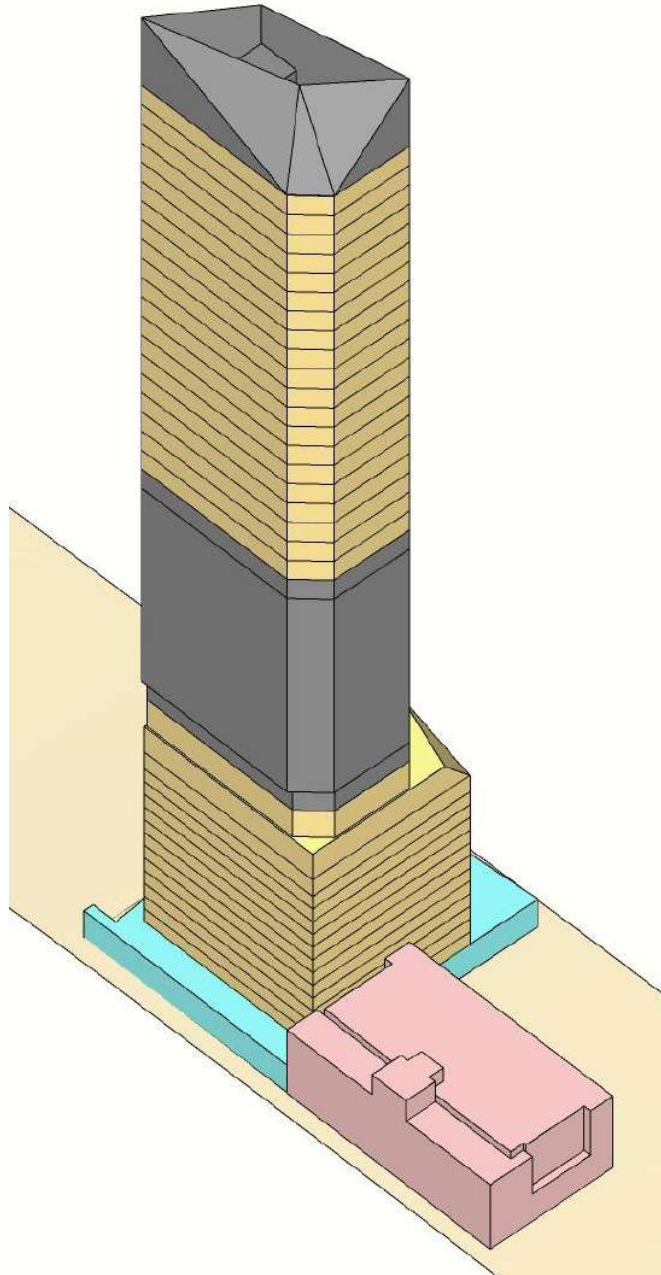
Summary of the July 26, 2018 ZD1

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 66th and West 65th 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

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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 massing annotated by use

GEORGE M. JANES & ASSOCIATES

R. 000964

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 18th 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 17th and 19th 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 42nd floor, which appears to be a roof level. There is neither a 42nd 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 40th and 41st floors and changes to the configuration of the synagogue portion of the 1st 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.¹ 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.

¹ The PW1A also shows the area described as “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.

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 40th and 41st 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,”² 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.”³ The tallest of these “recent developments” was 545 feet,⁴ 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.

² “Intra-building void” would likely be the more accurate term, but the phrase “interbuilding void” now appears to be commonly used and this challenge continues its use.

³ N 940127 (A) ZRM, December 20, 1993.

⁴ The Millennium Tower at 101 West 67th Street.

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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.**⁵
[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 62nd 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.

⁵ §28-103.8

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Further, Captain Ressler told me that the FDNY had not been asked to comment on the West 66th 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 66th 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 land use staff have had similar meetings and concerns. All agree that vast, oversized voids like West 66th 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%)."⁶

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."⁷

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.

⁶ N 940013 ZRM

⁷ 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,⁸ 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

⁸ This concept has been repeatedly affirmed in more recent years in both land use and other contexts. For example, in *Matter of Jamie J.*, 30 N.Y.3d 275 (2017), decided less than one year ago, the Court of Appeals wrote, "courts should not adopt 'vacuum-like' readings of statutes in 'isolation with absolute literalness' if such 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.'"

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,⁹ which would have added approximately 45,000 SF of existing floor area under 150 feet.¹⁰ 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.¹¹

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.]

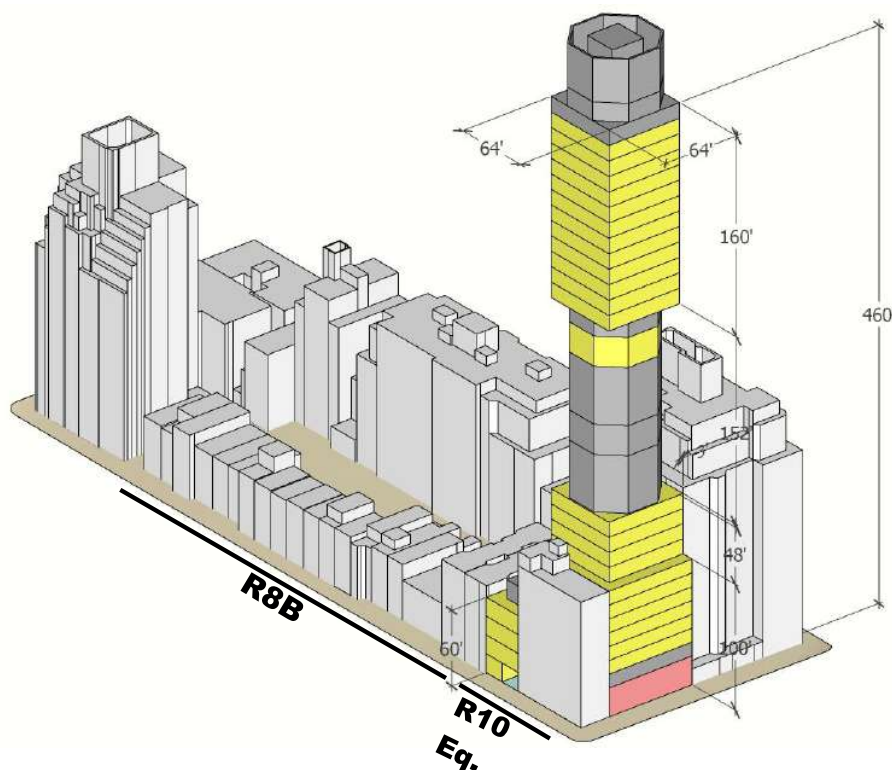
If the applicant's interpretation were correct, then there is no way that this CPC belief could be accurate. To demonstrate an even more absurd example of the applicant's interpretation, consider the following tower-on-base building proposed at 249 East 62nd Street.

⁹ With the consent of the owners of lots 9 and 10.

¹⁰ 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.

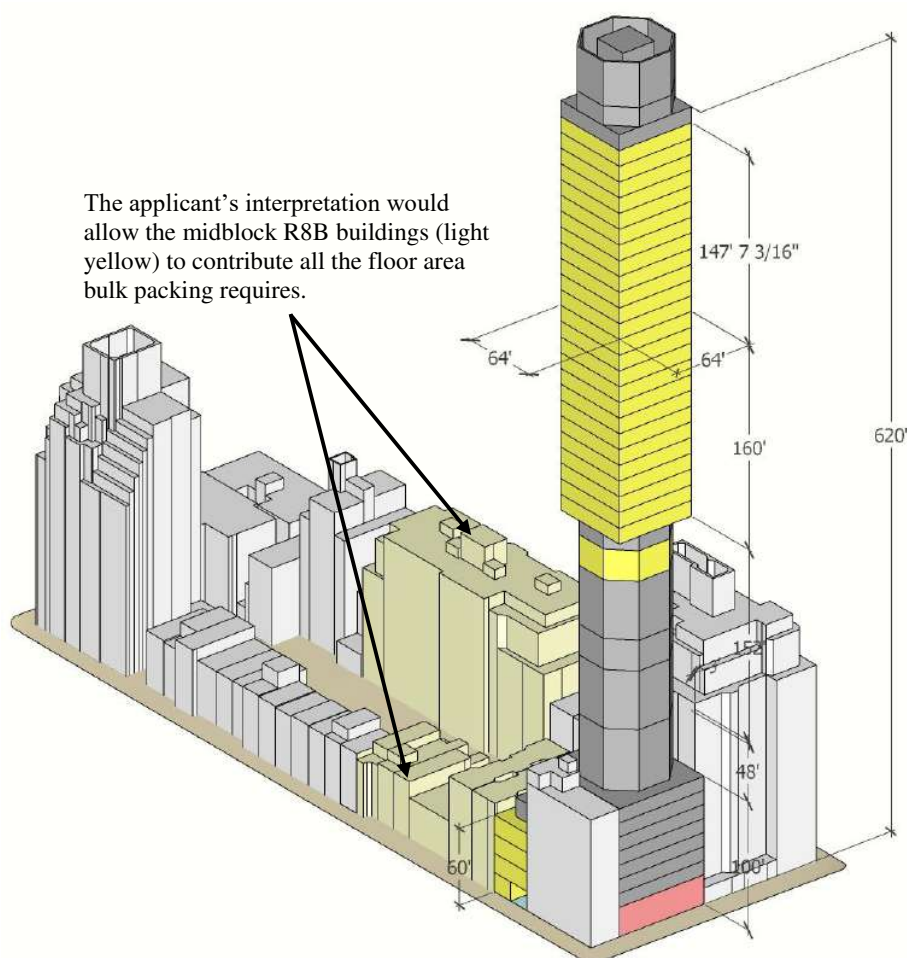
¹¹ A 45,000 SF increase in area under 150 feet would mean that 40% of that area, or 18,000 SF, could be moved from the base of the proposed building into the tower over 150 feet, effectively allowing the tower to increase another two floors or 32 feet using 16 feet FTF heights. The height of the base can be maintained by shrinking 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.

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Actual tower-on-base proposal at 249 E. 62nd 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 18th floor of their building.

While the absurdity of the results of this interpretation is self-evident, it must also be said that there is no reasonable planning or design rationale for zoning text to be read as such. The 30% minimum tower coverage standard came out of DCP

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studies from 30 years ago¹² 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 66th 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 18th 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 Plummey. This document is the result of a DOB Notice of Objections dated 1/12/2010¹³ 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.

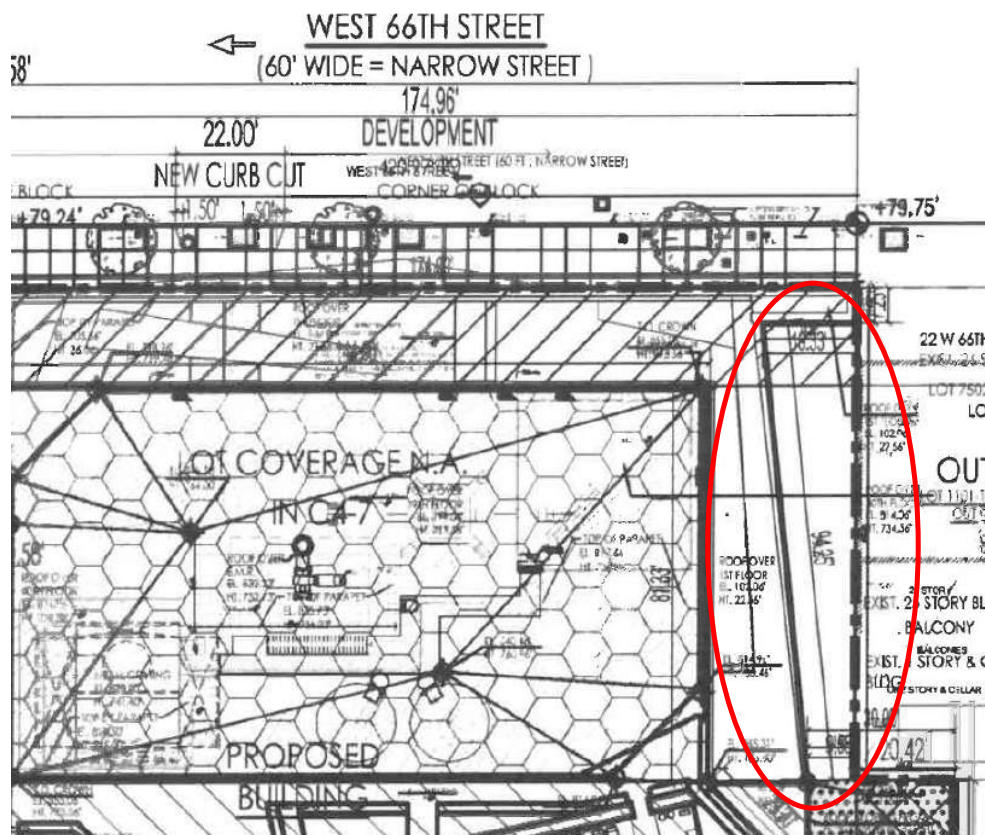
¹² Regulating Residential Towers and Plazas: Issues and Options, 1989; and Special Lincoln Square District Zoning Review, 1993.

¹³The 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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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

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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 65th 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, however, the substantial progress the applicant made on construction is entirely due 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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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.

Sincerely,



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

For



Sean Khorsandi, Executive Director, Landmark West!

And



John Waldes, President, 10 West 66th Street Corporation

With support from:



Gale Brewer, Manhattan Borough President



Helen Rosenthal, New York City Council Member

GEORGE M. JANES & ASSOCIATES

R. 000977

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Brad Hoylman, New York State Senator



Richard N. Gottfried, Member of New York State Assembly

Attachments: ZD1, PW1A for 36 West 66th 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



DEPT OF BLDGS 121190200 Job Number

ES555372378 Scan Code

ZONING CALCULATIONS

ZONING DISTRICT: C4-7 (R-10 EQUIVALENT)
 18
 SPECIAL LINCOLN SQUARE DISTRICT
 SUBDISTRICT A
 MAP: 82
 BLOCK: 1118
 LOT: 45, 46, 47, 48 & 52
 LOT AREA C4-7 DISTRICT = 35,035 SF
 18 DISTRICT = 19,382 SF
 TOTAL LOT AREA = 54,417 SF

NO PARKING ASSURED WITHIN MANHATTAN CORE AS PER 18
 13-16 NONE PROVIDED

STREET TRSF PAVING AS PER 18 24-11 & 24-12

4) ZONING FLOOR AREA

a. Floor Area Permitted

C4-7 District (R-10 equivalent)			
33-122	Commercial	10 FAR	351,050.00 SF
33-123	Community Facility	10 FAR	351,050.00 SF
23-152, 23-16	Residential	10 FAR	351,050.00 SF
23-151	Inclusionary Bonus (see below)	2 FAR	70,210.00 SF
33-31	Res. with Inclusionary (see below)	12 FAR	421,260.00 SF
Max. Total			421,260.00 SF

b. Floor Area Permitted

R8 District			
23-151	Community Facility	6.5 FAR	127,283.00 SF
24-11	Residential (See H-F Cals 2-012)	5.92 FAR	118,525.44 SF
Max. Total			127,283.00 SF

Total All Districts

Commercial	351,050.00 SF
Community Facility	478,333.00 SF
Residential w/ Inclusionary	537,165.44 SF
Max. Total	546,543.44 SF

c. Inclusionary Housing Bonus in C4-7

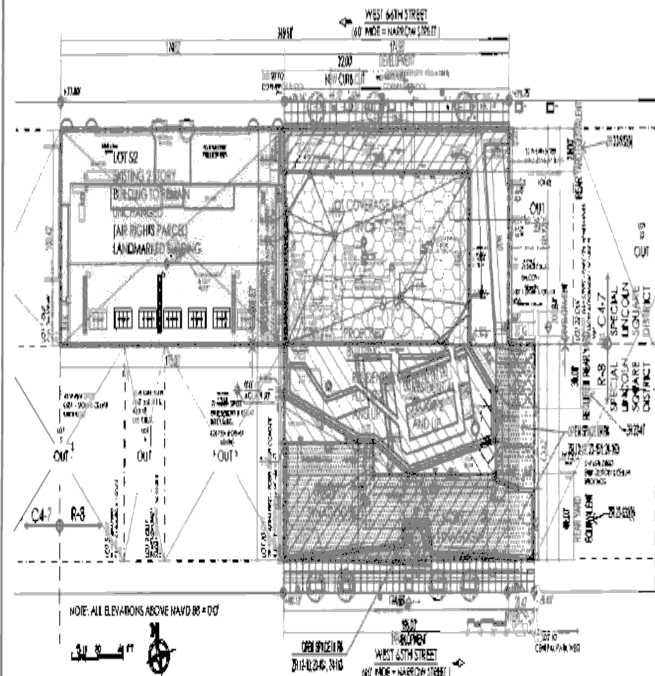
23-151	Base Residential	10 FAR	351,050.00 SF
	Max. Inclusionary Bonus	2 FAR	70,210.00 SF
	Max. Residential with Inclusionary	12 FAR	421,260.00 SF
Low Income Floor Area Provided			
Details, see HFO Certificate and Table 1 on 2-001			
	Base Residential		351,050.00 SF
	Actual Inclusionary Bonus		70,210.00 SF
	Actual Residential with Inclusionary		421,260.00 SF

c. Floor Area Proposed

C4-7 District (R-10 equivalent)			
Existing Lot 52			
Commercial (See At. 11180422759)			
			43,053.00 SF
Proposed			
Community Facility			6,381.05 SF
Residential			371,855.27 SF
Total			378,236.32 SF
C4-7 Total			
Commercial			43,053.00 SF
Community Facility			6,381.05 SF
Residential			371,855.27 SF
Total			421,289.32 SF
R8 District			
Proposed / R8 Total			
Community Facility			16,054.83 SF
Residential			111,227.79 SF
Total			127,282.62 SF
Total both Zones			
Commercial			48,053.00 SF
Community Facility			22,465.49 SF
Residential			483,083.05 SF
Total			548,541.54 SF

SITE PLAN

Scale: 1/8" = 1'-0"



RESIDENTIAL FAR CALCULATIONS IN R8

12-10	Open Space shall not be included in Lot Coverage		
23-151	Residential		
Height Factor for Residential FAR			
a. H.F. for FAR = Total Floor Area / Total Lot Coverage			
H.F. for FAR =		127,282 SF /	8,899 SF = 14
FAR @ H.F. 14 =			5.92

OPEN SPACE CALCULATIONS IN R8

23-151	a. Height Factor for OSR		
24-163	H.F. for OSR = Residential FM Residential Lot Coverage		
H.F. for OSR =		111,228 SF /	8,899 SF = 12
b. Required Open Space			
Open Space Ratio @ H.F. 12			9.2 %
Min. Open Space =		111,228 X	0.092 = 10,233 SF
c. Open Space Provided =			
			10,635 SF
			Complies

12-10	d. Open Space at Grade		
Open space at grade shall be accessible and usable by all residential occupants.			

12-10	e. Open Space on Roof		
- Open Space on roof in R8 need not be accessible			
- No dimension less than 25' except that area adjoining street line or rear yard min. depth 8' and max. length min. 2 times depth (or full width of zoning lot or 50', whichever is less)			

24-16	Open Space permitted on roof of community facility		
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COMMUNITY FACILITY COVERAGE IN R8

24-11	Max. 65% Community Facility Coverage in R8 Zone		
19,382 SF X 65 % =			12,738 SF
Provided			0 SF
			Complies
24-12	Community Facility use below 22' may be excluded from Lot Coverage		

LEGEND

- EXISTING BUILDING
- PROPOSED BUILDING
- REAR YARD EQUIVALENT
- REQUIRED REAR YARD
- OPEN SPACE AT ROOF IN R8
- OPEN SPACE AT GRADE IN R8
- RESIDENTIAL COVERAGE IN R8
- TOWER COVERAGE IN C4-7
- ZONING LOT LINE
- STREET TREE
- SKY EXPOSURE PLANE
- PROPERTY LINE
- TOP OF BEAM WITHIN NON-OCCUPY SPACE



ZD1 Zoning Diagram



Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.
☐ YES ☒ NO

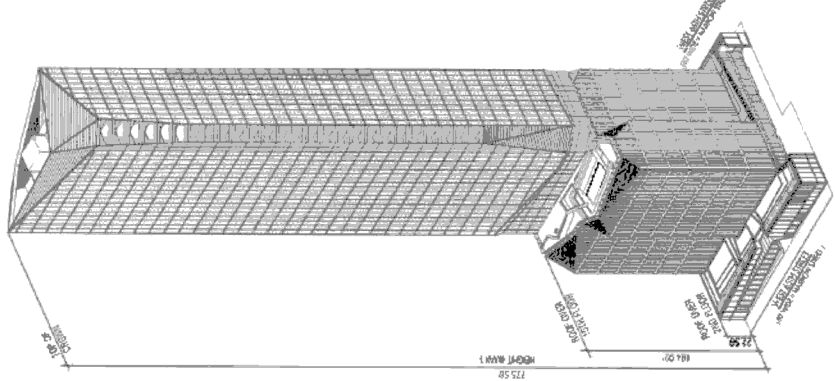
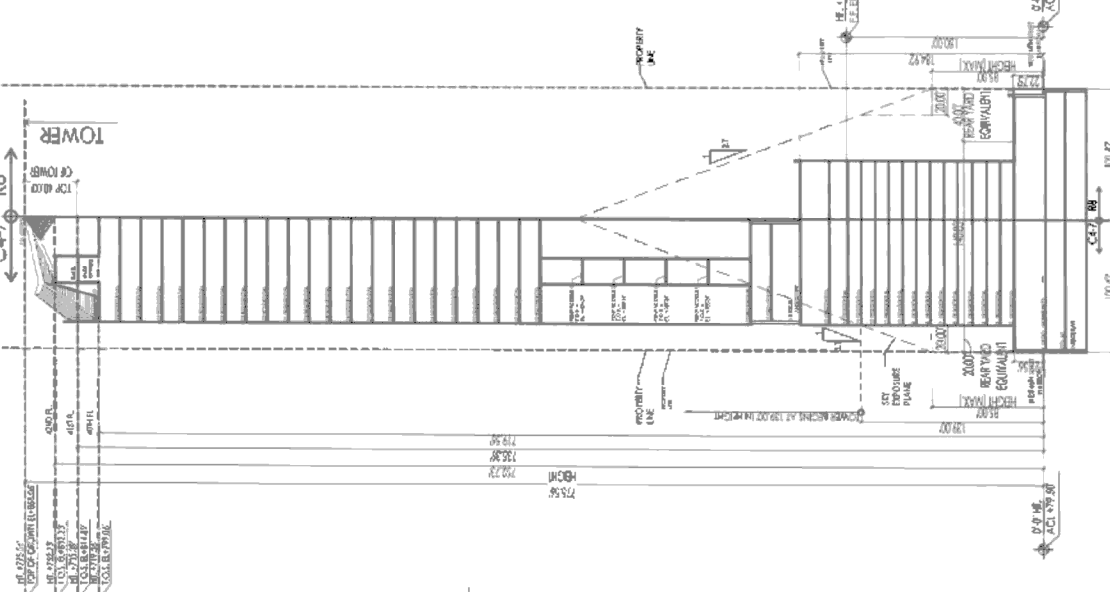
Location Information

House No(s) 36
 Street Name West 85th Street
 Borough Manhattan
 Block 1118
 Lot 45
 Br. 1028168

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 property performing the job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the completion of a violation required under the provisions of this code or of a rule of any agency, I may be barred from filing further applications or documents with the Department.

NAME (PLEASE PRINT)
 Luigi P. F...
 SIGNATURE
 DATE
 PER A. SEAL (APPLY SEAL SIGN AND DATE OVER SEAL)
 Internal Use Only
 BIS Doc #
 PLAN EXAMINER SIGN AND DATE

 Buildings		ZD1 Zoning Diagram	
Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15. <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
Location Information House No(s) 36 Street Name West 66th Street Borough Manhattan Block 1118 Lot 45 Bin 1028168			
Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both. It is unlawful to give to a person any benefit, monetary or otherwise, either as a gratuity for property performed, or as a reward for property performed, or as a job or in exchange for special consideration. Violation is punishable by imprisonment or fine or both. I understand that if I am found after hearing to have knowingly or negligently made false statement or to have knowingly or negligently falsified or signed statement, application, report or certification of the connection of this code or a rule of any agency, I may be barred from filing further applications or documents with the Department.			
NAME (PLEASE PRINT) Luigi P. Ruffino		DATE 02/16/2021	
SIGNATURE 		Internal Use Only BIS Doc #	
PLAN EXAMINER SIGN AND DATE			

ZONING CALCULATIONS Scale: NTS	AXONOMETRIC DIAGRAM Scale: NTS 	SECTION DIAGRAM Scale: NTS 
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HEIGHT & SETBACK IN BOTH ZONES 35-21 29-41 Medium Height of Wall and Recessed Subsets 20' minimum setbacks above 80' 2.7:1 Sky Exposure Ratio	TOWER IN C4-7 a. Lot Area in C4-7 36,105.00 SF X 0.4 = 14,042.00 SF 36,105.00 SF X 0.3 = 10,831.50 SF d. Proposed Tower at floor 7-15 11,278.52 SF - Complete 10,644.94 SF - Complete 10,779.56 SF - Complete 11,092.88 SF - Complete 11,208.69 SF - Complete 11,208.57 SF - Complete 11,208.51 SF - Complete 11,163.32 SF - Complete 11,169.28 SF - Complete 11,27.46 SF - Complete 11,091.02 SF - Complete 11,029.24 SF - Complete 10,536.06 SF - Complete e. Minimum Setback 27' above 80' Complete	TOP OF TOWER The height of a structure of the tower or 40 feet, whichever is less, may cover less than 50% of the lot area if the CSA of each story does not exceed 60% of CFA or the story directly below it Proposed tower at 42nd Floor, Basement (RT. 752.73) Min. 60% of 42nd Floor 80% x 10,536 SF = 8,428.80 SF - Complete b. Total Permitted Floor Area 548,543.00 SF X 0.6 = 329,125.80 Min. Required 25% Below 150' 14th Floor - Finished Floor Floor Elevation 228.89 ft Floor Height in C4-7 Through Last Portion 1 148.48 ft Floor Height in R8 Through Last Portion 2 148.67 ft c. Existing Existing Building New Building Floors 1-14 (Same Floor Area Table) 49,063.00 SF 285,076.04 SF Total Below 150' 329,125.80 SF - Complete
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ZD1 Zoning Diagram

Must be typewritten.
Sheet 2 of 2

1 Applicant Information Required for all applications.

Last Name Russo First Name Luigi Middle Initial
Business Name SLCE Architects, LLP Business Telephone (212) 979-8400
Business Address 1359 Broadway, 14th Floor Business Fax (212) 979-8387
City New York State NY Zip 10018 Mobile Telephone
E-Mail lrusso@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 CPC Approval for Subject Application Required as applicable

Board of Standards & Appeals (BSA)

☐ Variance Cal. No. _____ Authorizing Zoning Section 72-21
☐ Special Permit Cal. No. _____ Authorizing Zoning Section
☐ General City Law Waiver Cal. No. _____ General City Law Section
☐ Other Cal. No. _____

City Planning Commission (CPC)

☐ Special Permit ULURP No. _____ Authorizing Zoning Section
☐ Authorization App. No. _____ Authorizing Zoning Section
☐ Certification App. No. _____ Authorizing Zoning Section
☐ Other App. 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	9,391.64	4A		0			0
001	9,370.60	2	8,923.74				0.18
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

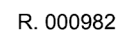
4 Proposed Floor Area Required for all applications. One Use Group per line.

Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
007-008	40,956.60	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	10,916.98	2	0				0
020-028	78,459.99	2	75,739.56				1.38
027-031	56,042.85	2	54,078.90				0.99
032-033	22,417.14	2	21,631.76				0.40
034	11,208.58	2	10,883.73				0.20
035	11,183.36	2	10,858.54				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	10,626.00	2	4,756.95				0.09
040	928.55	2	0				0
041	927.82	2	0				0
Totals	658,286.81		483,083.05	22,405.49			9.24

Total Zoning Floor Area

505,488.54

07/09



07/29/2019

DEPT OF BLDGS 121190200 Job Number

ES673992433 Scan Code



PW1A: Schedule A - Occupancy / Use

Online and enter BIS job number label here

25291A

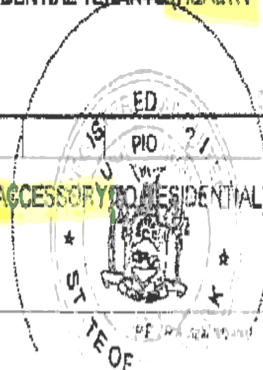
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121190200

Sheet 1 of 13

R. 000983

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)	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)
SUB-SUB 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						SEWER EJECTOR, OIL TANK/FUEL OIL, POOL EQUIPMENT, BOWLING EQUIPMENT ROOM					
SUB-SUB UB			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				68	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description						ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (POOL & DECK, SPA)					
SUB-SUB B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				118	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description						ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (GAMING LOUNGE, BOWLING ALLEY, CHILDREN'S PLAYROOM, SCREENING ROOM & GOLF SIMULATOR)					
SUB-SUB B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				60	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description						ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (HEALTH CLUB, STUDIO, PILATES STUDIO)					
SUB-SUB B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				63	OG	<input checked="" type="checkbox"/> Yes	R-2		
	Description						BASKETBALL COURT, SQUASH COURT (ACCESSORY TO RESIDENTIAL)					



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)
Luigi DeSeno
Signature

Date
8/28/18

2019-89-A and 2019-94-A



Buildings
25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.
Sheet 2 of 13

Check and enter BIS
job number below
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)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designation (if only)	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
SUB-B			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				469	OG	<input checked="" type="checkbox"/> Yes	A-3		4
SYNAGOGUE (VACANT SPACE AT SUBCELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)												
SU-B-SUB			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				1	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
RECEPTION AREA & LOUNGE (ACCESSORY TO RESIDENTIAL)												
SUB-SUB			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				47	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (LOCKER ROOM, STEAM ROOMS, SAUNAS)												
CEL-L			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				51	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
ACCESSORY TO RESIDENTIAL (BUILDING SUPER SHOP, RES. MANAGER'S OFFICE, STAFF LOUNGE, WOMEN'S LOCKER, MEN'S LOCKER, COMPACTOR, TENANT STORAGE, LAUNDRY, STORAGE ROOM, REFUSE ROOM & WINE CELLAR)												

Justification 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 property 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 not owner)
Lilia Russo
Signature
Date
2/20/18
FILED



PW1A: Schedule A - Occupancy / Use
Must be typewritten.

Sheet 3 of 15

Check and mark BLS
job number label here
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 (RC)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designation	Building Code Occupancy Group(s)	Dwelling/Rooming Units (RC)	Zoning Use Group(s)
CEL			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				3	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
BIKE STORAGE ROOM (467 SF, 66 BIKES PROVIDED)												
CEL			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				31	OG	<input checked="" type="checkbox"/> Yes	S-1		2B
STORM WATER TANK, FIRE PUMP & WATER METER ROOM, GAS METER ROOM, ELECTRICAL SWITCHGEAR ROOM, TELEPHONE & IT SERVER, DOMESTIC HOT WATER ROOM, SATELLITE TERMINAL, FIRE PUMP, ATS ROOM, DAS ROOM, MEP ROOM.												
CEL			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				6	OG	<input checked="" type="checkbox"/> Yes	A-3		4
SYNAGOGUE MECHANICAL CELLAR (VACANT SPACE AT CELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)												
CEL			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				8		<input checked="" type="checkbox"/> Yes	A-3		4
HABONIM (MEP ROOM)												
CEL			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				706	100	<input checked="" type="checkbox"/> Yes	A-3		4
SYNAGOGUE (VACANT SPACE AT FIRST FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)												

Applicant Name (Print)
Signature
Date





Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 4 of 13



121190200

Existing Legal Use						Proposed Use <i>*Use 2008 Code equivalents only even for older Codes.</i>					
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)
001-001			<input type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No					<input checked="" type="checkbox"/> Yes			
Description						Delete Existing MZ-1 line and Add next two lines MZ-1					
MZ1-MZ1			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			3	40	<input checked="" type="checkbox"/> Yes	A-3		4
Description						MEP ROOM (ACCESSORY TO RESIDENTIAL) (BETWEEN 1ST AND 2ND FLOOR)					
MZ1-MZ1			<input type="checkbox"/> Yes <input checked="" 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 BETWEEN 1ST AND 2ND FLOOR)					
002-005			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes	R-2		
Description						SIX (6) CLASS A DWELLING UNITS PER FLOOR					

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Applicant's Name

Luigi Russo

Signature

Date

8/28/18

12/14



PW1A: Schedule A - Occupancy / Use
 Must be typewritten.
 Sheet 5 of 13

Order and after BIS
 Job number label here
 121190200

Existing Legal Use						Proposed Use									
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation?	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation? (res only)	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								<input checked="" type="checkbox"/> Yes		R-2		2
PRIVATE DWELLING UNIT TERRACES (NORTH)															
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						6	40	<input checked="" type="checkbox"/> Yes		R-2		2
TENANT STORAGE ROOM ACCESSORY TO RESIDENTIAL PER FLOOR															
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							40	<input checked="" type="checkbox"/> Yes		R-2		2
PRIVATE DWELLING UNIT TERRACES (SOUTH)															
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								<input checked="" type="checkbox"/> Yes				
Delete M2a															
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								<input checked="" type="checkbox"/> Yes				
Delete M2a															
002-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No								<input checked="" type="checkbox"/> Yes				
Delete M2a															

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 (Signature)
 LUIS J. BUSSO
 Signature
 2/24/20





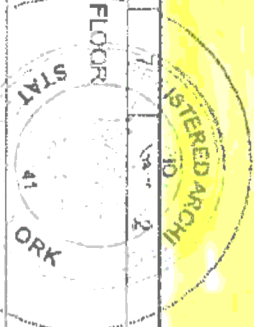
PW1A: Schedule A - Occupancy / Use

Must be typewritten.
 Sheet 6 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)	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 type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
006-			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2		
006												

Verification 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 person)
 L. RUSSELL
 Signature
 8/28/18





Buildings
25291A
PW1A: Schedule A - Occupancy / Use
Must be typewritten.
Street 7 of 13

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job number label here
121190200

Existing Legal Use					Proposed Use					Use 2006 Code equivalents only even for older Codes.				
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designation?	Building Code Occupancy Group(s)	Dwelling/ Rooming Units (R/C)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designation only	Building Code Occupancy Group(s)	Dwelling/ Rooming Units (R/C)	Zoning Use Group(s)		
007-008			<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									
009-014			<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									
015-015			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					28	<input checked="" type="checkbox"/> Yes	S-2, F-2, S-1			2B	
Description					STORM WATER DETENTION TANK, POOL EQUIPMENT ROOM, MECHANICAL 1 & 2, GENERATOR ROOM, TELEPHONE ROOM, ATS ROOM, ELECTRICAL ROOM									
016-016			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					80	<input checked="" type="checkbox"/> Yes		R-2		2	
Description					ACCESSORY AMENITY SPACE FOR RES. TENANTS (LOUNGE ROOM, CONFERENCE ROOM, SERVING PANTRY)									

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Applicant's Name (please print):
Signature: [Signature]
Date: 2/22/16



25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 8 of 13

Order and affix BLS
121190200

Existing Legal Use						Proposed Use								
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)	Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)
016-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					88	40	<input checked="" type="checkbox"/> Yes		R-2		2
LOBBY/VESTIBULES_1 & 2 (ACCESSORY TO RESIDENTIAL)														
016-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					9		<input checked="" type="checkbox"/> Yes				2
MECHANICAL ROOM														
016-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					160	40	<input checked="" type="checkbox"/> Yes		A-3		2
GREAT ROOM (ACCESSORY TO RESIDENTIAL)														
016-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					68	40	<input checked="" type="checkbox"/> Yes		R-2		2
POOL, POOL TERRACE & SPA, WALKWAY, EXTERIOR TERRACE(ACCESSORY TO RESIDENTIAL)														
017-			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					19	40	<input checked="" type="checkbox"/> Yes		S-1		2
ELECTRICAL ROOM, MECHANICAL ROOM, BOILER ROOM, LOW RISE EM.R., AV ROOM														

Re-write description →

Applicant's Name: LUIGI RUSSO
Signature: [Signature]
Date: 2/25/18

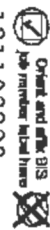


Building
25291A

PW1A: Schedule A - Occupancy / Use

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Sheet 9 of 13

Print and ink 319
121190200



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

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Applicant's Name: [Signature]
Date: 2/25/18

STEREADARK

07/29/2019

R. 000992



PW1A: Schedule A - Occupancy / Use

Must be typewritten.



121190200

25291A

Sheet 10 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)	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)
027-033			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2		2
	Description						Description					
							PRIVATE DWELLING UNIT LOGGIA'S (3)					
034-037			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2	1	2
	Description						Description					
							ONE (1) CLASS A DWELLING UNIT PER FLOOR					
034-037			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2	0	2
	Description						Description					
							PRIVATE DWELLING UNIT LOGGIA'S (2)					
038-038			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2	0.5	2
	Description						Description					
							ONE-HALF (1/2) CLASS A DUPLEX DWELLING UNIT					
039-039			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes		R-2	0.5	2
	Description						Description					
							ONE-HALF CLASS A DWELLINGS PER FLOOR					

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Applicant's Name (please print)

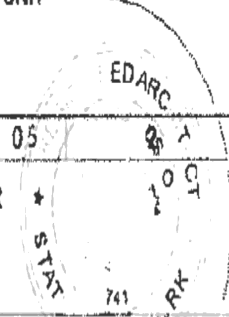
Luigi Russo

Signature

Applicant's Title (please print)

OWNER

Signature



2019-89-A and 2019-94-A



25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.
 Sheet 11 of 13

121190200
 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 (BCU)	Zoning Use Group(s)	Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BCU)	Zoning Use Group(s)
039			<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				5	12	40	<input checked="" type="checkbox"/> Yes	S-1		2
						PLUMBING, TELEPHONE, ELECTRICAL ROOM #1, ELECTRICAL ROOM #2, FIRE PUMP ROOM, MECHANICAL							
038			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes	R-2			2
						PRIVATE DWELLING UNIT LOGGIA'S (2)							
039			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes	R-2			2
						PRIVATE DWELLING UNIT LOGGIA'S (1)							
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes				
						Delete 040-040							
						Delete 041-041							

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Applicant's Name (if different from owner)
 Lili H. USO
 Signature
 Date 2/18/15





PW1A: Schedule A - Occupancy / Use
Must be typewritten.

Sheet 12 of 13

121190200
Check and file this
job number also have

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

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Applicant's Name (please print): Luigi Russo
Signature: [Signature]
Date: 2/20/18

12/14

PW1A

Sheet 13 of 13

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).

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

18/18/18

Internal Use Only

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

12/14

07/29/2019

RECEIVED NYSCEF: 02/16/2021



ZRD1/CCD1 Response Form

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

House No(s): 143

Street Name: West 57th Street

Borough: Manhattan

Block: 1010

Lot: 7503

BIN: 1023723

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 Plumey, FAIA

Title (please print): Deputy Borough Commissioner

Authorized Signature:

Date: 04-02-10

Time: 4:30 PM

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

Note: Determination will expire if construction document approval is not obtained within 12 months of issuance.

PG. 1 OF 4

5/09



ZRD1: Zoning Resolution
Determination Form

110463418

9631

☒ Orient and affix BLS
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 SECE Architects

Business Telephone 212-979-8400

Business Address 841 Broadway, 7th Floor

Business Fax

City New York

State NY

Zip 10003

Mobile Telephone

E-Mail

License Number 014019

License Type ☐ P.E. ☒ 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: ☒ Filing Representative ☐ Attorney ☐ 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: ☒ Borough Commissioner's Office ☐ Technical Affairs

Job associated with this request? ☒ Yes (provide job#/doc#/examiner name below) ☐ No

Job Number: 120011182

Document Number: 4

Examiner: K. Flayden

Has this request been previously denied? ☐ Yes (attach all denied request form(s) and attachment(s)) ☒ 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

PC 2 OF 4

609

ZRD1

PAGE 2

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 serve 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.

GENERAL 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: 3:30 PM

PG. 3 OF 4

6/09

R. 000998

ZRD1

PAGE 3

6 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.

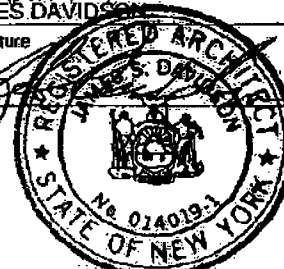
Name (please print)

JAMES DAVIDSON

Signature

Date

FEB. 17 2020



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

CONTROL NO. 1631

ADMINISTRATIVE USE ONLY

Reviewed By:

[Signature]

Date

02/12/20

Time

3:30 PM

PG. 4 OF 4

6/09



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

R. 001000

ZRD2: Zoning Challenge
with response**Scan sticker will be affixed
by Department staff**

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 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 attach this form.

**Challenge
Denied**

Date: 11/19/2018

6/09

R. 001001

ZRD2: Zoning Challenge
with response**Scan sticker will be affixed
by Department staff**

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 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:

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

R. 001002



Zoning Challenge and Appeal Form

(for approved applications)

Must be typewritten

1 Property Information *Required for all challenges.*

BIS Job Number 121190200

BIS Document Number 18

Borough Manhattan

House No(s) 36

Street Name West 66th Street

2 Challenger Information *Optional.*

Note to all challengers: This form will be scanned and posted to the Department's website.

Last Name Janes

First Name George

Middle Initial M

Affiliated Organization Prepared for: Landmark West! & 10 West 66th Street Corporation

E-Mail george@georgejanes.com

Contact Number 917-612-7478

3 Description of Challenge *Required for all challenges.*

Note: Use this form only for challenges related to the Zoning Resolution

Select one:



Initial challenge



Appeal to a previously denied challenge (denied challenge must be attached)

Indicate total number of pages submitted with challenge, including attachments: 38 (attachment may not be larger than 11" x 17")

Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this challenge.

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.

ADMINISTRATIVE USE ONLY	REVIEWED BY Scott [Signature] Borough of Manhattan
Reviewer's Signature:	Date: [Signature] Time: _____ WO#: _____

**Challenge
Denied**

Date: 11/19/2018

6/09

R. 001003

GEORGE M.
JANES &
ASSOCIATES

September 9, 2018

250 EAST 87TH STREET
NEW YORK, NY 10128

www.georgejanes.com

T: 646,652,6498
F: 801,457,7154
E: george@georgejanes.com

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

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

Dear Commissioner Chandler:

At the request of the 10 West 66th 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 66th Street (AKA 50 West 66th 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 66th and West 65th 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

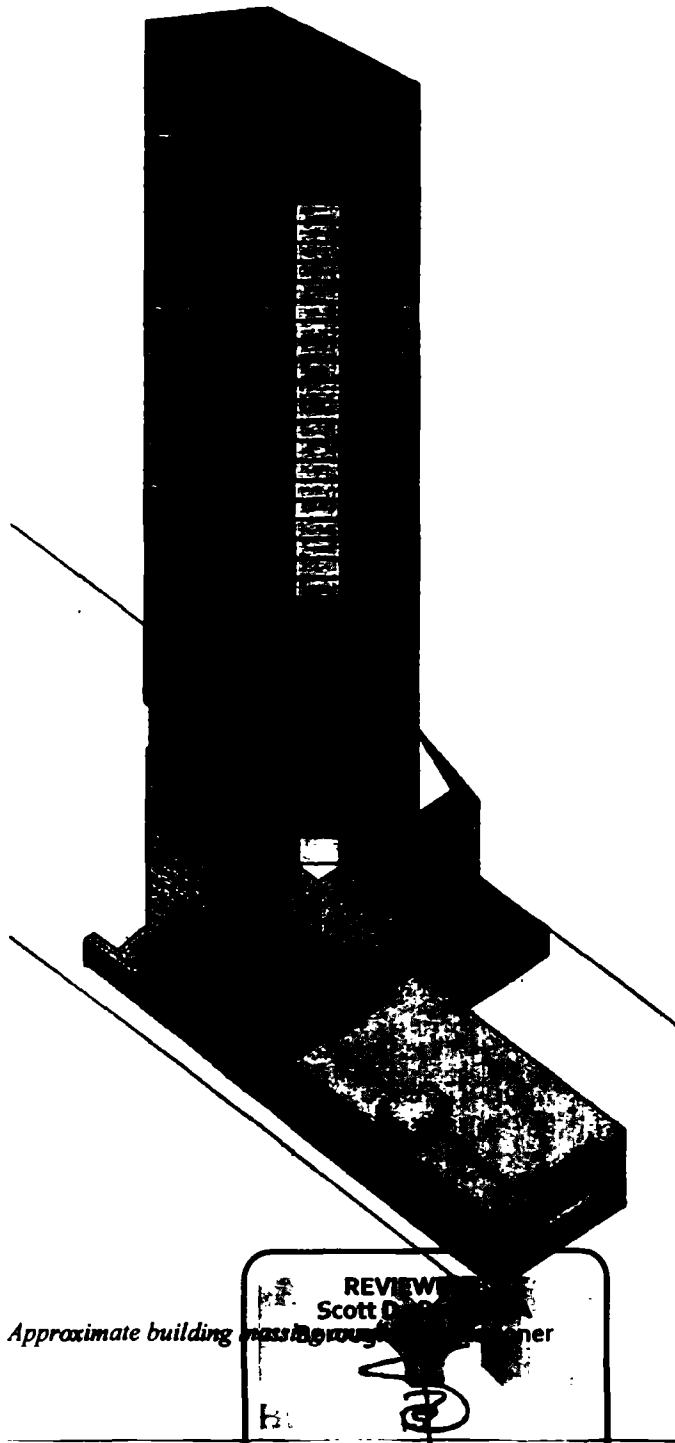
Challenge
Denied

Date: 11/19/2018

R. 001004

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 massing rough sketch

GEORGE M. JAMES & ASSOCIATES

Challenge
Denied

Date: 11/19/2018

R. 001005

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 18th 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 17th and 19th 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 42nd floor, which appears to be a roof level. There is neither a 42nd 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 40th and 41st floors and changes to the configuration of the synagogue portion of the 1st 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.¹ 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.

¹ The PW1A also shows the area identified as "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.

GEORGE M. JAMES & ASSOCIATES

Challenge
Denied

Date: 11/19/2018

R. 001006

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 40th and 41st 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,”² 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.”³ The tallest of these “recent developments” was 545 feet,⁴ 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.

² “Intra-building void” would likely be a more accurate term, but the phrase “interbuilding void” now appears to be commonly used and the Commission continues its use.

³ N 940127 (A) ZRM, December 20, 1993.

⁴ The Millennium Tower at 101 West 67th Street.

GEORGE M. JAMES & ASSOCIATES

**Challenge
Denied**

Date: 11/19/2018

R. 001007

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.⁵
[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 62nd 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.

⁵ §28-103.8

GEORGE M. JAMES & ASSOCIATES

REVIEWED BY
Scott D. Pavan, RA
Borough Commissioner

Challenge
Denied

Date: 11/19/2018

R. 001008

Further, Captain Ressler told me that the FDNY had not been asked to comment on the West 66th 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 66th 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 and use of the City Council in similar meetings and concerns. All agree that vast, oversized voids in the West 66th Street are a problem and that they undermine the intent of the bulk regulations in the Zoning Resolution, while not

GEORGE M. JAMES & ASSOCIATES

**Challenge
Denied**

Date: 11/19/2018

R. 001009

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%)."⁶

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."⁷

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.

⁶ N 940013 ZRM
⁷ N 940127 (A) ZRM

GEORGE M. JAMES & ASSOCIATES

REVIEWED BY
Scott D. Pavan, RA
Borough Commissioner



Challenge
Denied

Date: 11/19/2018

R. 001010

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,⁸ 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

⁸ 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 175 (2017), decided less than one year ago, the Court of Appeals wrote REVENUE, not without 'vacuum-like' readings of statutes in 'isolation with absolute disregard for the context in which the statute 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."

GEORGE M. JAMES & ASSOCIATES

Challenge
Denied

Date: 11/19/2018

R. 001011

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,⁹ which would have added approximately 45,000 SF of existing floor area under 150 feet.¹⁰ 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.¹¹

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 62nd Street.

⁹ With the consent of the owners of lots 9 and 10.

¹⁰ 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.

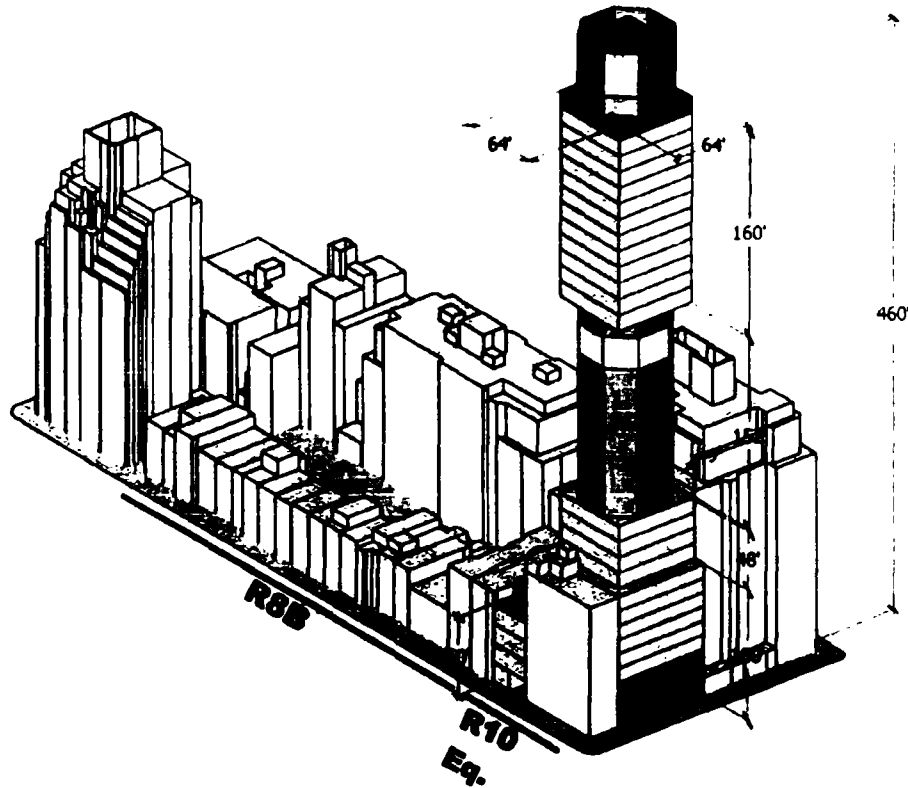
¹¹ A 45,000 SF increase in area under 150 feet would mean that 40% of that area, or 18,000 SF, could be moved from the base of the proposed building into the tower over 150 feet, effectively allowing the tower to increase another two floors or 32 feet using 16 feet FTF heights. The height of the base 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.~~

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Challenge
Denied

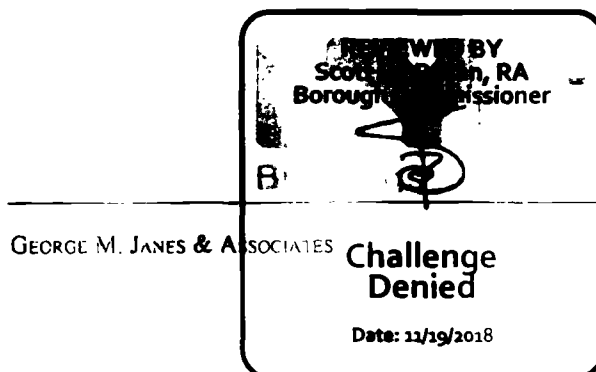
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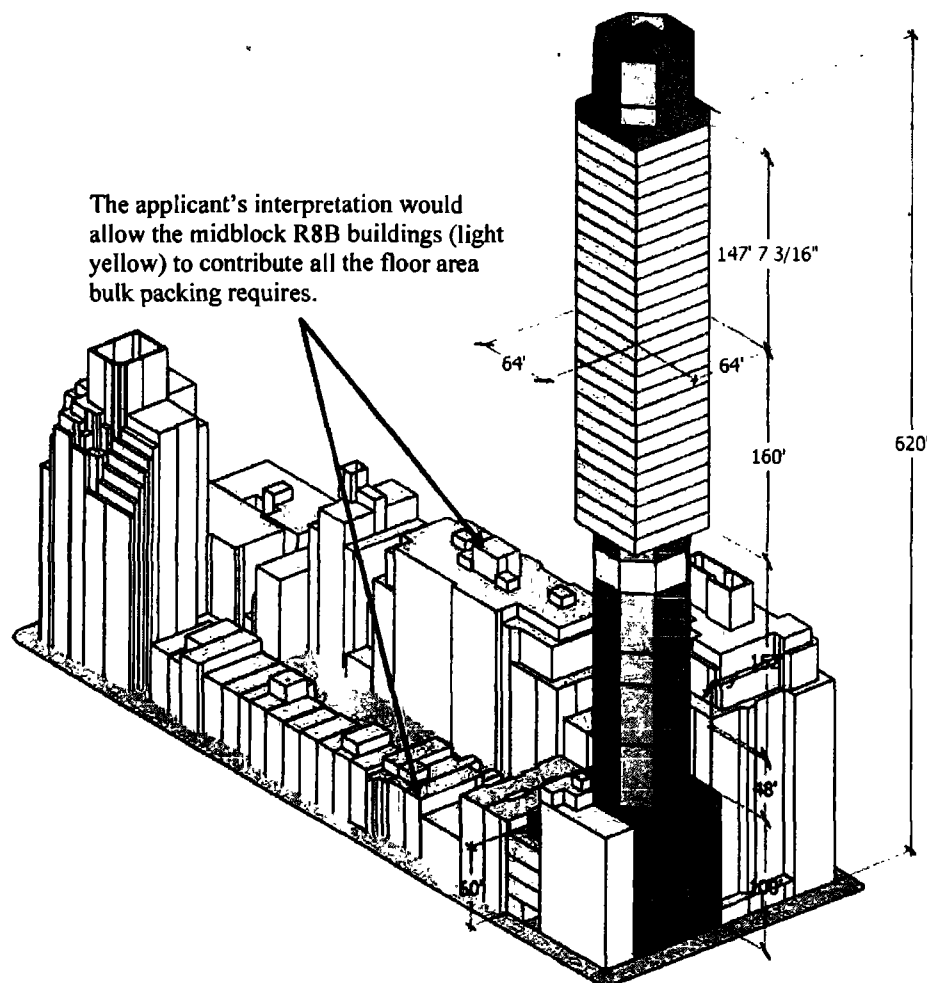
R. 001012



Actual tower-on-base proposal at 249 E. 62nd 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 18th floor of their building.

While the absurdity of the results of this interpretation is self-evident, it must also be said that there is no reasonable planning 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

R. 001014

studies from 30 years ago¹² 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 66th 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 18th 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 Plumney. This document is the result of a DOB Notice of Objections dated 1/12/2010¹³ 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.

¹² Regulating Residential Towers, 1989; and Special Lincoln Square District Zoning Resolution, 1989; and Special Lincoln

¹³ 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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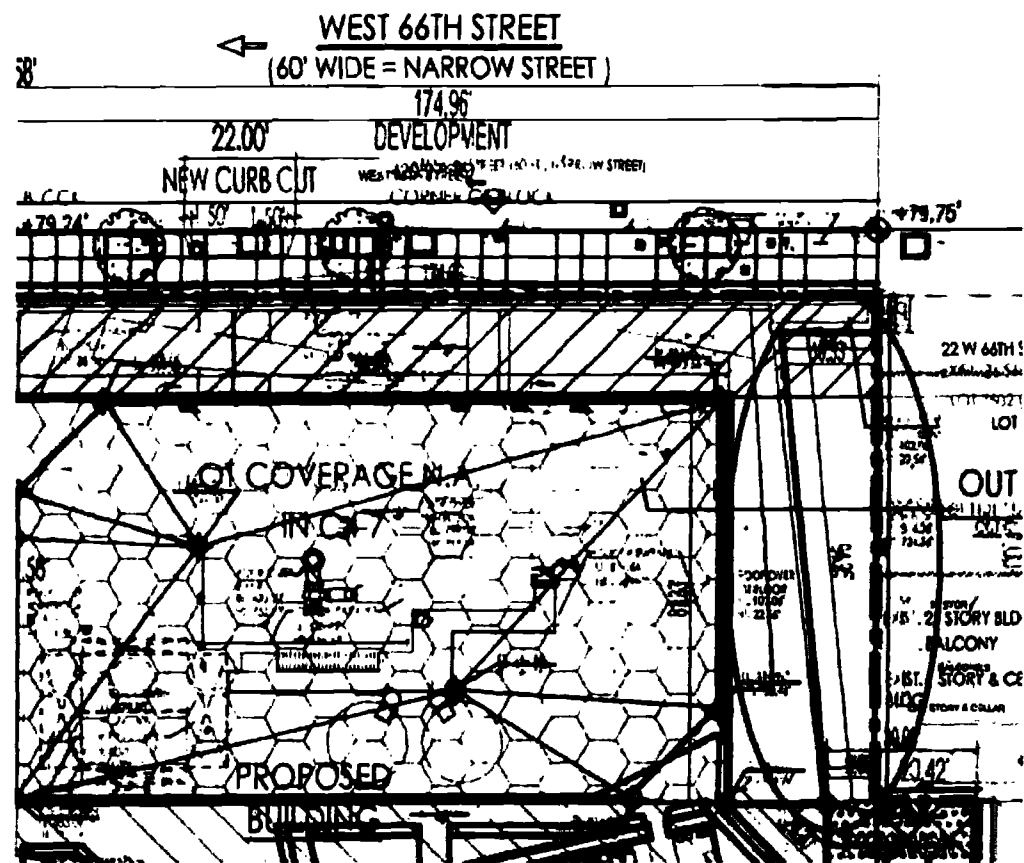
**Challenge
Denied**

Date: 11/19/2018

R. 001015

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

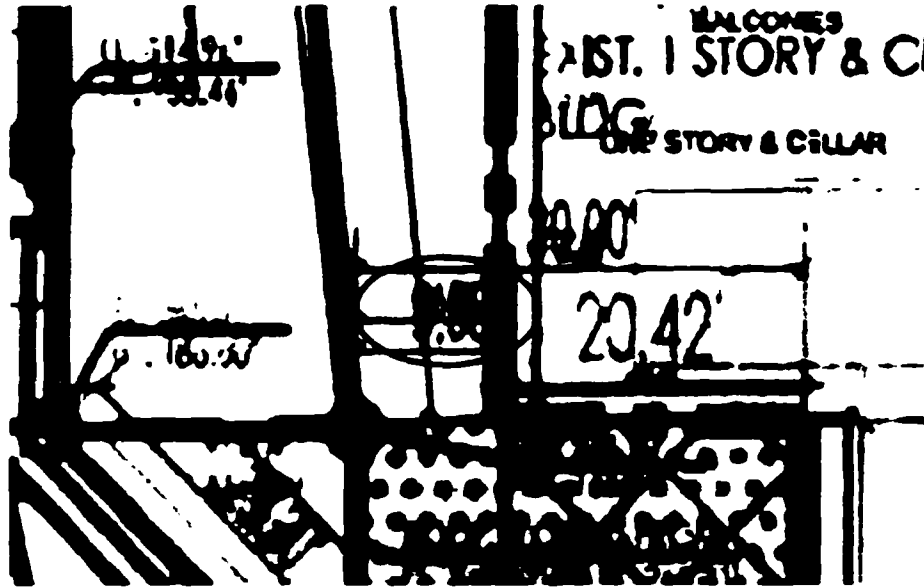


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Challenge
Denied

Date: 11/19/2018

R. 001016



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 65th 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 Board of Standards and Appeals has found that 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

GEORGE M. JAMES & ASSOCIATES

**Challenge
Denied**

Date: 11/19/2018

R. 001017

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.

Sincerely,



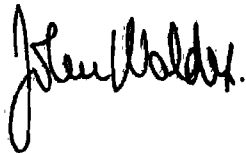
George M. Janes, AICP, George M. Janes & Associates

For



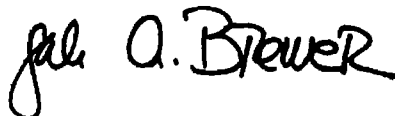
Sean Khorsandi, Executive Director, Landmark West!

And



John Waldes, President, 10 West 66th Street Corporation

With support from:



Gale Brewer, Manhattan Borough President



Helen Rosenthal, New York City Council Member

GEORGE M. JANES & ASSOCIATES

Challenge
Denied

Date: 11/19/2018

R. 001018

Brad Hoylman

Brad Hoylman, New York State Senator

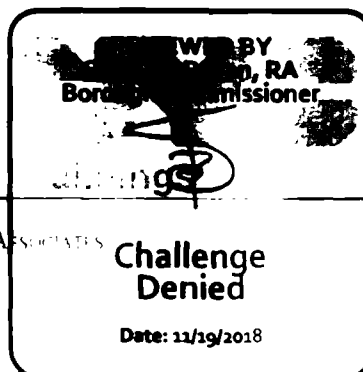
Richard N. Gottfried

Richard N. Gottfried, Member of New York State Assembly


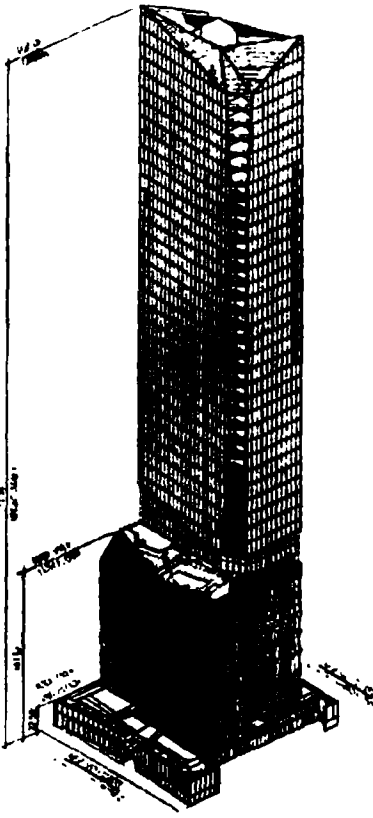
Attachments: ZD1, PW1A for 36 West 66th Street, ZRD1 9631

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



R. 001019

ZONING CALCULATIONS	AXONOMETRIC DIAGRAM	SECTION DIAGRAM	<div data-bbox="1804 240 2023 337">NYC Buildings</div> <div data-bbox="1804 362 2049 394">ZD1 Zoning Diagram</div> <div data-bbox="1804 508 2034 581">Submitting to resolve objection: stated in a notice of intent to require issued pursuant to rule 101.15 <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div> <div data-bbox="1804 597 1981 621">Location Information</div> <div data-bbox="1804 621 2002 662">House No. 36 Street Name West 64th Street</div> <div data-bbox="1804 686 1959 768">Borough Manhattan Block 1118 Lot 45 Rtn 102B168</div> <div data-bbox="1804 784 2034 1060">Fabrication of any statement is a crime and is punishable by a fine of \$500 or imprisonment in the county jail for 60 days or both, except any benefit or security of office or other as a gratuity or for special privilege the job or exchange for special privilege or violation is punishable by imprisonment or fine or both. Further, and that any person after having been warned by an authorized person, shall not knowingly or negligently allow or be labeled as a person, statement, or publication thereof, at the same time of a person, under the provisions of the or of state of any agency, shall be from filing further application agents with the Department.</div> <div data-bbox="1804 1060 1938 1084">NAME (PLEASE PRINT)</div> <div data-bbox="1804 1084 2034 1125">Luigi P. DATE</div> <div data-bbox="1804 1125 2034 1255"></div> <div data-bbox="1804 1287 1917 1304">Internal Use Only</div> <div data-bbox="1804 1320 2034 1344">This Drawing</div>																																																																																																																																																																																																																																																																							
<div data-bbox="183 240 400 264">ZONING CALCULATIONS</div> <div data-bbox="219 410 417 427">HEIGHT & SETBACK IN BOTH ZONES</div> <div data-bbox="165 435 463 475">2019-89 A and 2019-94 A NYSCEF DOC. NO. 37</div> <div data-bbox="219 500 304 516">TOWER IN C-4-7</div> <div data-bbox="165 524 719 816"><table border="1"><thead><tr><th>Item</th><th>Height</th><th>Setback</th><th>Comments</th></tr></thead><tbody><tr><td>1. Main Tower at 100th St</td><td>11,179.32 SF</td><td>14,427.40 SF</td><td>Complies</td></tr><tr><td>2. Main Tower at 101st St</td><td>11,179.32 SF</td><td>14,427.40 SF</td><td>Complies</td></tr><tr><td>3. Main Tower at 102nd St</td><td>11,179.32 SF</td><td>14,427.40 SF</td><td>Complies</td></tr><tr><td>4. Main Tower at 103rd St</td><td>11,179.32 SF</td><td>14,427.40 SF</td><td>Complies</td></tr><tr><td>5. Main Tower at 104th St</td><td>11,179.32 SF</td><td>14,427.40 SF</td><td>Complies</td></tr><tr><td>6. 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Challenge
Denied
Date: 11/9/2018



ZD1 Zoning Diagram
Must be typewritten
Sheet 2 of 2

1 Applicant Information Required for all applications

Last Name	Russo	First Name	Luigi	Middle Initial	
Business Name	SLCE Architects, LLP	Business Telephone (212)	979-8400		
Business Address	1359 Broadway, 14th Floor	Business Fax (212)	979-8387		
City	New York	State	NY	Zip	10018
E-Mail	lrusso@slcearch.com	Mobile Telephone		License Number	020741

2 Additional Zoning Characteristics Required as applicable

Dwelling Units	127	Parking area	sq. ft.	Parking Spaces Total	Enclosed
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3 RSA and/or CPC Approval for Subject Application Required as applicable

Board of Standards & Appeals (BSA)

Variance Call No. _____ Authorizing Zoning Section J2-21
Special Permit Call No. _____ Authorizing Zoning Section _____
General City Law Waiver Call No. _____ General City Law Section _____
Call No. _____

City Planning Commission (CPC)

Call No. _____
ULURP No. _____ Authorizing Zoning Section _____
App. No. _____ Authorizing Zoning Section _____
Call No. _____ Authorizing Zoning Section _____
App. 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	9,391.64	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

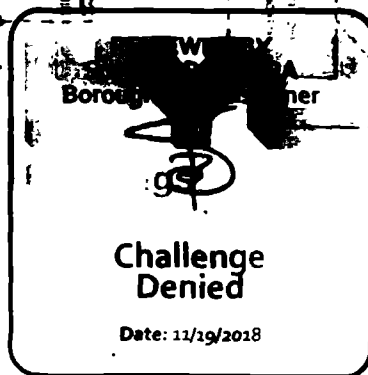
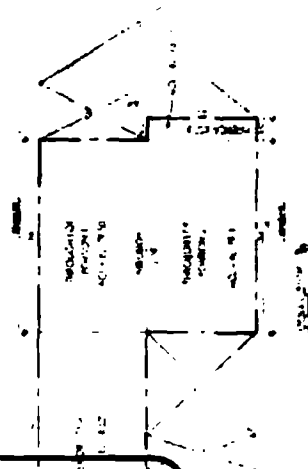
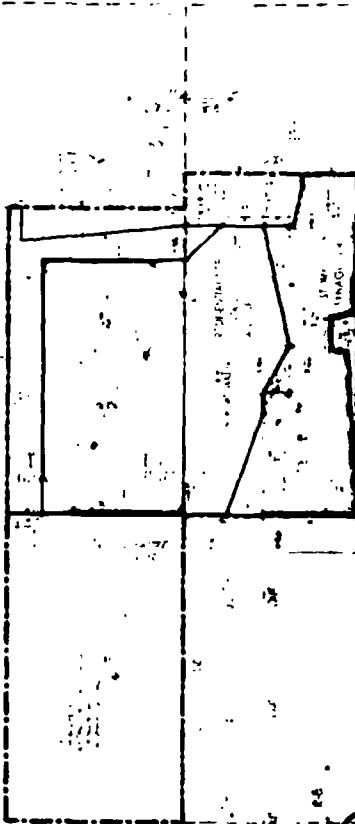
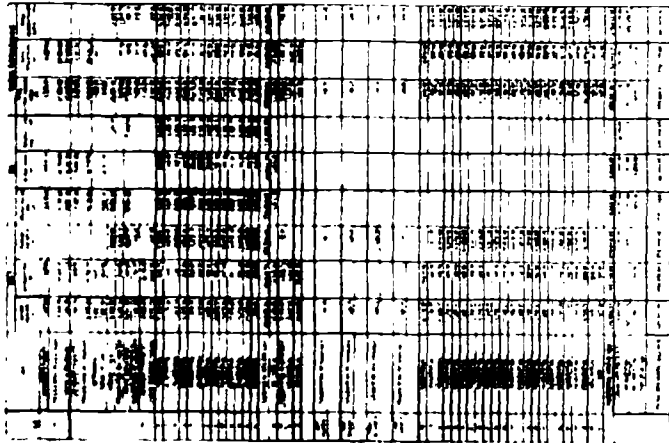
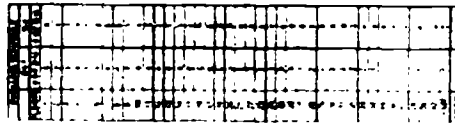
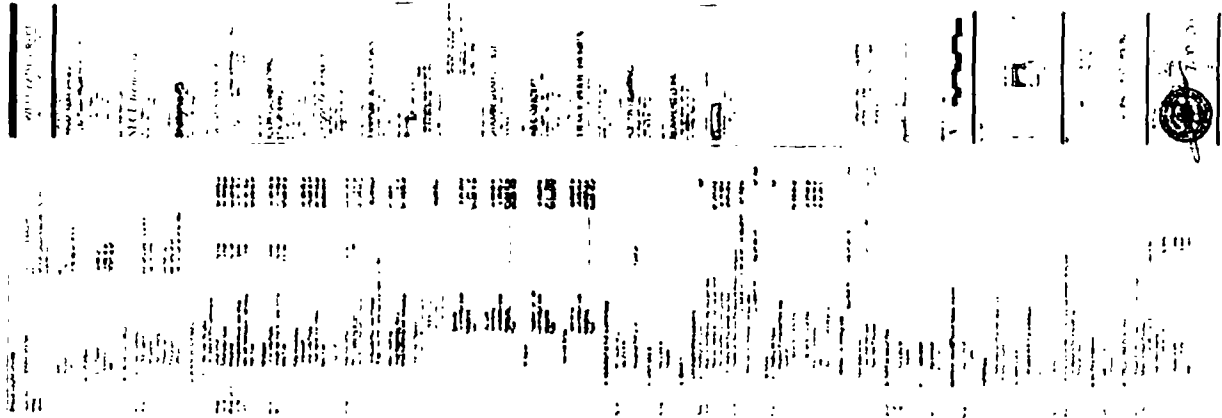
Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Zoning Floor Area (sq. ft.)				FAR
			Residential	Community Facility	Commercial	Manufacturing	
007-008	40,956.60	2	39,062.52				0.71
009-014	122,869.80	2	117,206.64				2.14
015	17,402.80	2	0				0
016	10,644.64	2B	7,746.54				0.14
017	6,637.02	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	10,916.98	2	0				0
020-026	78,459.99	2	75,739.86				1.38
027-031	56,042.85	2	54,076.90				0.99
032-033	22,417.14	2	21,631.76				0.40
034	11,208.58	2	10,883.73				0.20
035	11,183.38	2	10,858.54				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	10,626.00	2	4,756.95				0.09
040	928.55	2	0				0
041	927.82	2	0				0
Totals	658,286.81		483,083.05	22,405.49			8.24

Total Zoning Floor Area 505,488.54

07/08

Challenge
Denied
Date: 11/9/2018

REVIEWED BY
D. RAYAN
THROUGH
CONFIRMATION



Challenge
Denied

Date: 11/19/2018

R. 001023

DEPT OF BLDGS 121190200 Job Number

ES673992433 Scan Code

NYC

Buildings

25291A

PW1A: Schedule A - Occupancy / Use

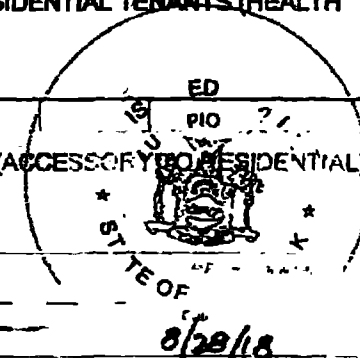
Must be typewritten.

Sheet 1 of 13

☒ Contact and affix this job number label here ☒
 121190200

Existing Legal Use							Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Group(s)	Occupancy	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	*Use 2008 Code equivalents only even for older Codes.						
								Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Group(s)	Occupancy	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
SUB -SU B			<input type="checkbox"/> Yes <input type="checkbox"/> No					7	OG	<input checked="" type="checkbox"/> Yes	S-1, F-2, S-2			2B
Description	SEWER EJECTOR, OIL TANK/FUEL OIL, POOL EQUIPMENT, BOWLING EQUIPMENT ROOM													
SUB -S UB			<input type="checkbox"/> Yes <input type="checkbox"/> No					68	OG	<input checked="" type="checkbox"/> Yes	R-2			2B
Description	ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (POOL & DECK, SPA)													
SUB -SU B			<input type="checkbox"/> Yes <input type="checkbox"/> No					118	OG	<input checked="" type="checkbox"/> Yes	R-2			2B
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 type="checkbox"/> No					69	OG	<input checked="" type="checkbox"/> Yes	R-2			2B
Description	ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (HEALTH CLUB, STUDIO, PILATES STUDIO)													
SUB -SU B			<input type="checkbox"/> Yes <input type="checkbox"/> No					63	OG	<input checked="" type="checkbox"/> Yes	R-2			2B
Description	BASKETBALL COURT, SQUASH COURT (ACCESSORY TO RESIDENTIAL)													

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 (p. 1)
 Luigi Russo




25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 2 of 13

121190200
Orlist and affix this job number label here

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?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
SUB-SUB			<input type="checkbox"/> Yes <input type="checkbox"/> No			469	OG	<input checked="" type="checkbox"/> Yes	A-3		4
	Description					SYNAGOGUE (VACANT SPACE AT SUBCELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMENDED CO IS OBTAINED)					
RSUB			<input type="checkbox"/> Yes <input type="checkbox"/> No			1	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description					RECEPTION AREA & LOUNGE (ACCESSORY TO RESIDENTIAL)					
RSUB			<input type="checkbox"/> Yes <input type="checkbox"/> No			47	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description					ACCESSORY AMENITY SPACE FOR RESIDENTIAL TENANTS (LOCKER ROOM, STEAM ROOMS, SAUNAS)					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			51	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
	Description					ACCESSORY TO RESIDENTIAL (BUILDING SUPER SHOP, RES. MANAGER'S OFFICE, STAFF LOUNGE, WOMEN'S LOCKER, MEN'S LOCKER, COMPACTOR, TENANT STORAGE, LAUNDRY, STORAGE ROOM, REUSE ROOM & WINE CELLAR)					

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Applicant's Name (Print Name)
Luis Russo

Signature

FMEW

Date

8/20/18

07/29/2019

2019-89 A and 2019-94 A
NYSCEF DOC. NO. 37

RECEIVED NYSCEF: 02/16/2021

NYC

Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 3 of 15

☒ Orient and enter BBS
job number label here ☒

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)
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			3	OG	<input checked="" type="checkbox"/> Yes	R-2		2B
CEL	Description					BIKE STORAGE ROOM (467 SF, 66 BIKES PROVIDED)					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			31	OG	<input checked="" type="checkbox"/> Yes	S-1		2B
CEL	Description					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	<input checked="" type="checkbox"/> Yes	A-3		4
CEL	Description					SYNAGOGUE MECHANICAL CELLAR (VACANT SPACE AT CELLAR FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMEDED CO IS OBTAINED)					
CEL			<input type="checkbox"/> Yes <input type="checkbox"/> No			6		<input checked="" type="checkbox"/> Yes	A-3		4
CEL	Description					HABONIM (MEP ROOM)					
001-001			<input type="checkbox"/> Yes <input type="checkbox"/> No			706	100	<input checked="" type="checkbox"/> Yes	A-3		
001-001	Description					SYNAGOGUE (VACANT SPACE AT FIRST FLOOR SHALL NOT BE OCCUPIED UNLESS AN AMEDED CO IS OBTAINED)					

Re-word entire line →

Date: 11/19/2018

Denied

REVIEWED BY
Scott D. Pavan, RA
Borough Commissioner

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)
Luigi Russo

Signature

STERED AR

UI

7/1/2021

FRE

6/28/18



25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 4 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)	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)
001-001			<input type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No						<input checked="" type="checkbox"/> Yes			
			<input type="checkbox"/> Yes <input checked="" 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 type="checkbox"/> Yes <input checked="" 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 WHEN 1ST AND 2ND FLOOR)											
002-005			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				40		<input checked="" type="checkbox"/> Yes	R-2	6	2
Description	SIX (6) CLASS A DWELLING UNITS PER FLOOR											

Delete Existing MZ1 line and
Add next two lines MZ1

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
Luigi H650

STAT 149 ORK

8/28/18

07/29/2019

NYSCEF DOC. NO. 37

RECEIVED NYSCEF: 02/16/2021



25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 5 of 13

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121190200

Existing Legal Use							Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Group(s)	Occupancy	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	*Use 2008 Code equivalents only even for older Codes.						
								Maximum Number of Persons	Live Load (psf)	2014 Code Designations only	Building Code Group(s)	Occupancy	Dwelling/Rooming Units (BC)	Zoning Use Group(s)
002-002			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2			2
Description	PRIVATE DWELLING UNIT TERRACES (NORTH)													
002-005			<input type="checkbox"/> Yes <input type="checkbox"/> No					6	40	<input checked="" type="checkbox"/> Yes		R-2		2
Description	TENANT STORAGE ROOM ACCESSORY TO RESIDENTIAL PER FLOOR													
002-002			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2			2
Description	PRIVATE DWELLING UNIT TERRACES (SOUTH)													
002-002			<input type="checkbox"/> Yes <input type="checkbox"/> No							<input checked="" type="checkbox"/> Yes				
Description	Delete M22													
002-002			<input type="checkbox"/> Yes <input type="checkbox"/> No							<input checked="" type="checkbox"/> Yes				
Description	Delete M22													

Add new line

Delete M22

Delete M22

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Applicant's Name (Please Print)

Luigi Russo

Signature

3/28/18

12/14

R. 001028

NYC

Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 6 of 13

☒ Orient and affix this job number label here ☒
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)	Existing Use Group(s)
			<input type="checkbox"/> Yes <input type="checkbox"/> No					<input checked="" type="checkbox"/> Yes			
	Delete Line 003-003										
			<input type="checkbox"/> Yes <input type="checkbox"/> No					<input checked="" type="checkbox"/> Yes			
	Delete Line 003-024										
			<input type="checkbox"/> Yes <input type="checkbox"/> No					<input checked="" type="checkbox"/> Yes			
	Delete Line 004-004										
			<input type="checkbox"/> Yes <input type="checkbox"/> No					<input checked="" type="checkbox"/> Yes			
	Delete Line 005-005 Delete Line 006-006 (duplicate)										
008-008			<input type="checkbox"/> Yes <input type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	7	12	2
	Description					SEVEN (7) CLASS A DWELLING UNITS PER FLOOR					

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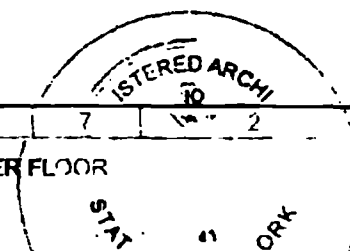
Applicant's Name (if present)

Luigi Russo

Signature

[Signature]

8/28/18



12/14

R. 001029

07/29/2019

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25291A

PW1A: Schedule A - Occupancy / Use

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Sheet 7 of 13

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121190200

Existing Legal Use							Proposed Use							
Floor	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)	*Use 2008 Code equivalents only even for older Codes.						
								Maximum Number of Persons	Live Load (psf)	2014 Code Designations only*	Building Code Group(s)	Occupancy	Dwelling/ Rooming Units (BC)	Zoning Use Group(s)
007-008			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2		7	2
Description								SEVEN (7) CLASS A DWELLING UNITS PER FLOOR						
009-014			<input type="checkbox"/> Yes <input type="checkbox"/> No					40	<input checked="" type="checkbox"/> Yes		R-2		7	2
Description								SEVEN (7) CLASS A DWELLING UNITS PER FLOOR						
015-015			<input type="checkbox"/> Yes <input type="checkbox"/> No					28	100	<input checked="" type="checkbox"/> Yes	S-2, F-2, S-1			2B
Description								STORM WATER DENTENTION TANK, POOL EQUIPMENT ROOM, MECHANICAL 1 & 2, GENERATOR ROOM, TELEPHONE ROOM, ATS ROOM, ELECTRICAL ROOM						
016-016			<input type="checkbox"/> Yes <input type="checkbox"/> No					80	40	<input checked="" type="checkbox"/> Yes		R-2		
Description								ACCESSORY AMENITY SPACE FOR RES. TENANTS (LOUNGE ROOM, CONFERENCE ROOM, SERVING PANTRY)						

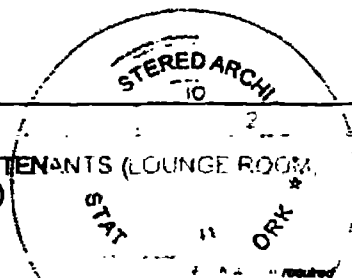
Delete M1-5

Re-write description →

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Applicant's Name (please print)

Luigi Russo



6/28/16

12/14

R. 001030



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 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)
016-016			<input type="checkbox"/> Yes <input type="checkbox"/> No				88	40	<input checked="" type="checkbox"/> Yes	R-2		2
016-016							LOBBY/VESTIBULES_1 & 2 (ACCESSORY TO RESIDENTIAL)					
016-016			<input type="checkbox"/> Yes <input type="checkbox"/> No				9		Yes			2
016-016							MECHANICAL ROOM					
016-016			<input type="checkbox"/> Yes <input type="checkbox"/> No				160	40	<input checked="" type="checkbox"/> Yes	A-3		2
016-016							GREAT ROOM (ACCESSORY TO RESIDENTIAL)					
016-016			<input type="checkbox"/> Yes <input type="checkbox"/> No				88	40	<input checked="" type="checkbox"/> Yes	R-2		2
016-016							POOL, POOL TERRACE & SPA, WALKWAY, EXTERIOR TERRACE(ACCESSORY TO RESIDENTIAL)					
017-017			<input type="checkbox"/> Yes <input type="checkbox"/> No				19	40	<input checked="" type="checkbox"/> Yes	S-1		2
017-017							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
2/28/18

07/29/2019

2019-89 A and 2019-94 A
NYSCEF DOC. NO. 37

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NYC

Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 9 of 13

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job number label here

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)										
018-019			<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										
020-026			<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)										
020-026			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<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	<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 Russo

Date

8/28/18

12/14

R. 001032

07/29/2019

NYSCEF DOC. NO. 37

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Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 10 of 13

☒ Orient and affix BUS
 Job Number label here

121190200

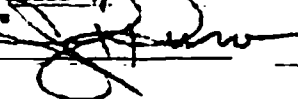
Floor	Existing Legal Use					Proposed Use				
	Maximum Number of Persons	Live Load (psf)	2014 Code Designations?	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	2014 Code Designations only*	Building Code Occupancy Group(s)	Dwelling/Rooming Units (BC)	Zoning Use Group(s)	
027-033			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	2	
Description	PRIVATE DWELLING UNIT LOGGIA'S (3)									
034-037			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	1 2	
Description	ONE (1) CLASS A DWELLING UNIT PER FLOOR									
034-037			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	0 2	
Description	PRIVATE DWELLING UNIT LOGGIA'S (2)									
038-038			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	0.5 2	
Description	ONE-HALF (1/2) CLASS A DUPLEX DWELLING UNIT									
039-039			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			40	<input checked="" type="checkbox"/> Yes	R-2	0.5 1	
Description	ONE-HALF CLASS A DWELLINGS 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 property 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)

Lily Russo

Signature



FINGERPRINTS

5/28/18

12/14

R. 001033



25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

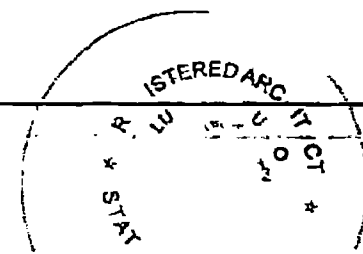
Sheet 11 of 13

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 (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)	
039-039			<input type="checkbox"/> Yes <input type="checkbox"/> No				12	40	<input checked="" type="checkbox"/> Yes	S-1		2	
Description							Description	PLUMBING, TELEPHONE, ELECTRICAL ROOM #1, ELECTRICAL ROOM #2, FIRE PUMP ROOM, MECHANICAL					
038-038			<input type="checkbox"/> Yes <input type="checkbox"/> No				40	<input checked="" type="checkbox"/> Yes	R-2			2	
Description							Description	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							Description	PRIVATE DWELLING UNIT LOGGIA'S (1)					
040-040			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes				
Description							Description						
041-041			<input type="checkbox"/> Yes <input type="checkbox"/> No						<input checked="" type="checkbox"/> Yes				
Description							Description						

Delete 040-040

Delete 041-041



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 (s)
Luigi Russo

Signature

PREPARED BY

Date

8/28/18



Buildings

25291A

PW1A: Schedule A - Occupancy / Use

Must be typewritten.

Sheet 12 of 13

☒ Consent and affix BBS job number label here ☒

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)
RO FR OF			<input type="checkbox"/> Yes <input type="checkbox"/> No			3	40	<input checked="" type="checkbox"/> Yes	S-1		2
	Description: ELECTRICAL ROOM & STORAGE ROOMS										
FR OF			<input type="checkbox"/> Yes <input type="checkbox"/> No					<input checked="" type="checkbox"/> Yes	S-1		2
	Description: MECHANICAL UNITS										
FR OF			<input type="checkbox"/> Yes <input type="checkbox"/> No			5		<input checked="" type="checkbox"/> Yes	S-1		2
	Description: EMR & SATELLITE TERMINAL ROOM										
			<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:										

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.

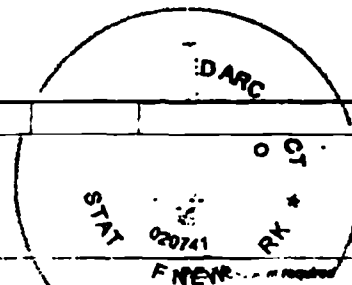
Applicant's Name (please print)

Luigi Russo

Signature

Date

8/29/19



12114

R. 001035

07/29/2019

2019-89 A and 2019-94 A
NYSCEF DOC. NO. 37

RECEIVED NYSCEF: 02/16/2021

PW1A

Sheet 13 of 13

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 MEMEBERSHIP 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.

Internal Use Only

Name (please print)

Luigi Russo

Signature

Date

8/28/18

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

12/14

R. 001036



ZRD1/CCD1 Response Form

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

House No. 103 Street Name 103rd Street
Borough Manhattan Block 1010 Lot 7503 BIN 1023723 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

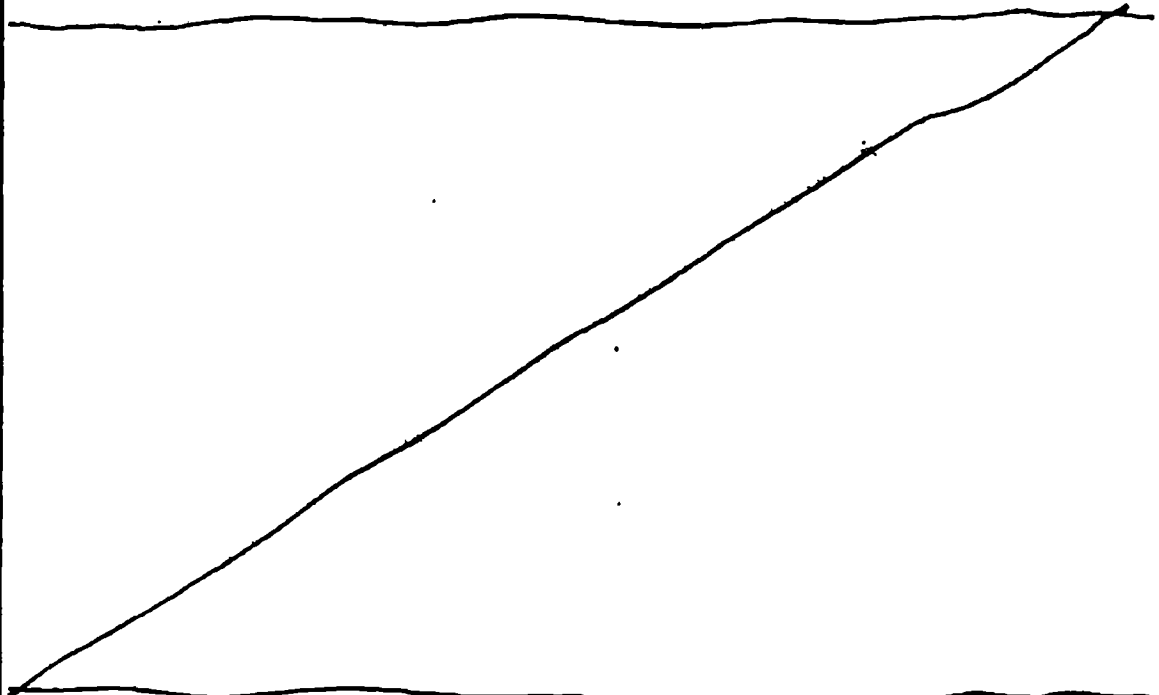
Primary Zoning Resolution or Code Section(s): ZR 12-10

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 18, 2010.



CONTROL NO. 9631

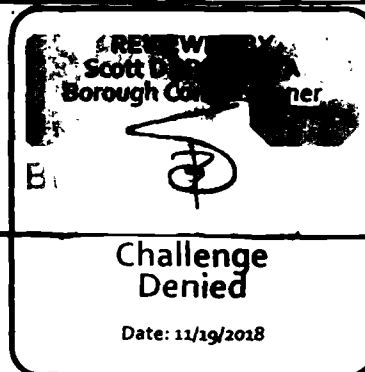
Name of Authorized Reviewer (please print): Raymond Plurney, FAIA

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 legal forms and attach this form.

Note: Determination will expire if construction document approval is not obtained within 12 months of issuance.



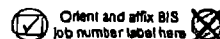
PG. 1 OF 4

6/09



ZRD1: Zoning Resolution
Determination Form

110463418



9631

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 212-979-8400
Business Address 841 Broadway, 7th Floor Business Fax
City New York State NY Zip 10003 Mobile Telephone
E-Mail License Number 014019
License Type ☐ P.E. ☒ 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: ☒ Filing Representative ☐ Attorney ☐ 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: ☒ Borough Commissioner's Office ☐ Technical Affairs
Job associated with this request? ☒ Yes (provide job#/doc#/examiner name below) ☐ No
Job Number: 120011192 Document Number: 4 Examiner: K. Flayden
Has this request been previously denied? ☐ Yes (attach all denied request form(s) and attachment(s)) ☒ 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] RA Date 03/12/10 Time: 3:30 PM

REVIEWED BY
Scott D. Pavan, RA
Borough Commissioner

Challenge
Denied

Date: 11/19/2018

6/09

R. 001038

ZRD1

PAGE 2

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:

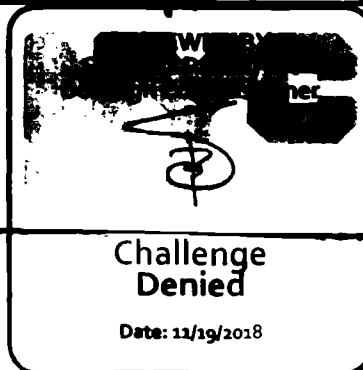
1. Subject application is for the construction of a High Rise Luxury Transient Hotel and Residential Condominium above, requiring larger diameter piping to properly ~~keep~~ the water and waste demands requiring thicker pipe shafts.
2. The hotel room arrangements require multiple pipe shafts because 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.

671006 NO. 9631

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

ADMINISTRATIVE USE ONLY	
Reviewed By: <i>[Signature]</i>	Date: 03/12/10 Time: 3:20 PM

PG. 3 OF 4



6/09

R. 001039

ZRD1

PAGE 3

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

[Large diagonal line across the description section]

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.

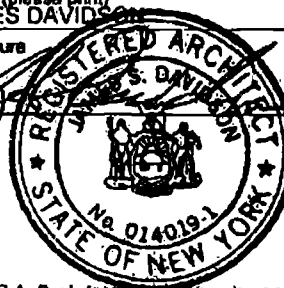
Name (please print)

JAMES DAVIDSON

Signature

Date

FEB. 17 2020



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

CONTROL NO. 1631

ADMINISTRATIVE USE ONLY

Reviewed By:

[Signature]

Date

02/12/10

Time:

3:30 PM

REVIEWED BY
Scott D. Pavan, RA
Borough Commissioner

[Signature]

16.40F4

6/09

Challenge
Denied

Date: 11/19/2018

R. 001040



Rick D. Chandler, P.E.
Commissioner

January 14, 2019

Martin Rebholz
Borough Commissioner
Manhattan Office

280 Broadway, 3rd Fl.
New York, NY 10007
x@buildings.nyc.gov

+1 212 393 2615 tel
+1 646 500 6170 fax

Luigi Russo (Applicant)
SLCE Architects, LLP
1359 Broadway
New York, NY 10018

David Rothstein (Owner)
West 66th Sponsor LLC
805 Third Avenue
New York, NY 10022

Re: INTENT TO REVOKE APPROVAL
36 West 66th Street, New York, NY 10023
Block: 1118, Lot 45
NB Job Application Number: 121190200 (the "Proposed Building")

To Whom It May Concern,

The Department of Buildings (the "Department") intends to revoke the approval of construction documents in connection with the NB job application referenced above, pursuant to Section 28-104.2.10 of the Administrative Code of the City of New York ("AC"), within fifteen calendar days of the posting of this letter by mail unless sufficient information is presented to the Department to demonstrate that the approval should not be revoked. Specifically, the Department intends to revoke the approval of the Zoning Diagram ("ZD1") approved and posted on the Department's website on July 26, 2018 (the "Subject ZD1"). The Subject ZD1 is in connection with Post Approval Amendments ("PAA") 15 through 18 for the Proposed Building which have not been approved.

Pursuant to AC § 28-104.2.10, the Department may revoke approval of construction documents for failure to comply with the provisions of the AC, other applicable laws or rules, or whenever a false statement or misrepresentation of material fact in the submittal documents upon the basis of which the approval was issued, or whenever any approval or permit has been issued in error.

The Department intends to revoke the approval of the Subject ZD1 for the following reasons set forth in the attached objections. The proposed mechanical space on the 18th floor of the Proposed Building does not meet the definition of "accessory use" of § 12-10 of the New York City Zoning Resolution. Specifically, the mechanical space with a floor-to-floor height of approximately 160 feet is not customarily found in connection with residential uses.



Accordingly, the ZRD2 issued on November 19, 2018, in response to a public challenge pursuant to 1 RCNY § 101-15, of the Subject ZD1, is hereby rescinded. An approved ZD1 shall be posted at the time of the approval of the associated PAA.

In order to prevent revocation of the approval upon the expiration of the fifteen-day notice period, you must contact the Development HUB office immediately to schedule an appointment to present information to the Department demonstrating that the ZD1 approval should not be revoked. Your response may be deemed unresponsive if the architect or engineer of record fails to attend the appointment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martin Rebholz", is written over a red printed name and title.
Martin Rebholz, R.A.
Borough Commissioner

MR/po

Cc: John Raine, Deputy Borough Commissioner
Calvin Warner, Chief Construction Inspector

Rodney Gittens, Deputy Borough Commissioner
Premises File

07/29/2019

RECEIVED NYSCEF: 02/16/2021



NYC Development Hub
Department of Buildings
80 Centre Street
Third Floor
New York, New York 10013
nycdevelopmenthub@buildings.nyc.gov

Notice of Comments

Owner: David Rothstein
West 66th Sponsor LLC
805 Third Ave. NY, NY 10022

Date: 01/14/19
Job Application #: 121190200
Application Type: NB
Premises Address: 36 West 66 St.

Applicant: Luigi Russo
SLCE Architects, LLP
1359 Broadway NY, NY 10018

Zoning District: C4-7
Block: 1118 **Lot:** 45 **Doc(s):**

Examiner's Signature: Marguerite Baril

Job Description: NB

Obj. #	Doc #	Section of Code	Comments	Date Resolved	Comments
1	16	ZR 12-10	The proposed mechanical space on the 18 th floor does not meet the definition of "accessory use" as per ZR 12-10 (b). Specifically, mechanical space with a floor-to-floor height of approximately 160 feet is not customarily found in connection with residential uses.		

Fried, Frank, Harris, Shriver & Jacobson LLP

FRIED FRANK

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New York, New York 10004-1980
Tel: +1.212.859.8000
Fax: +1.212.859.4000
www.friedfrank.com

Direct Line: +1.212.859.8927
Email: david.karnovsky@friedfrank.com

January 25, 2019

Via Email

Martin Rebholz, RA
Borough Commissioner
New York City Department of Buildings
280 Broadway, 3rd Floor
New York, NY 10007

Scott Pavan, RA
Borough Commissioner (Development Hub)
New York City Department of Buildings
80 Centre Street, 3rd Floor
New York, NY 10013

**Re: Intent to Revoke Approval
36-44 West 66th Street, Manhattan Block 1118, Lots 14, 45, 46, 47, and 48
Job No. 121190200**

Dear Commissioners Rebholz and Pavan:

This firm is special land use counsel to West 66th Sponsor LLC (the "Applicant") in connection with proposed development at 36-44 West 66th Street, New York, New York, identified as Block 1118, Tax Lots 14, 45, 46, 47, and 48 on the Tax Map of the Borough of Manhattan (the "Proposed Development"). We write in response to your letter dated January 14, 2019 stating the Department of Buildings' (the "Department") intention to revoke the July 26, 2018 Zoning Diagram ("ZD1") approved in connection with Post Approval Amendments 15 through 18 for the Proposed Development.

The "Notice of Comments" appended to the January 14 letter states that "[t]he proposed mechanical space on the 18th floor does not meet the definition of "accessory use" as per ZR 12-10(b)" on the basis that "mechanical space with a floor-to-floor height of approximately 160 feet is not customarily found in connection with residential uses." This objection has no basis in the text of the Zoning Resolution, and directly contradicts prior determinations of the Department as well as a recent decision by the Board of Standards and Appeals (the "BSA"). In effect, the Department's objection would establish a limitation upon the floor-to-floor height of mechanical

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spaces where none exists under the Zoning Resolution. Such action would be ultra vires, and arbitrary, capricious and an abuse of discretion.

The Department has officially determined that the Zoning Resolution does not govern the floor-to-floor heights of floors used for mechanical equipment, and those determinations were confirmed by the BSA last year in its decision in BSA Calendar No. 2016-4327-A (the "BSA Decision").

On July 21, 2016, the Department granted permits for a new building planned at 15 East 30th Street in Manhattan, for which the second, third and fourth stories will be used for mechanical equipment and have a total height of 132 feet. In a ZRD-2 dated June 29, 2016, the Department of Buildings issued a response to a zoning challenge to this determination stating that "[t]here is no prohibition in the Zoning Resolution on the height of building stories regardless of use or occupancy." (ZRD-2, p. 2). In a subsequent determination dated March 1, 2017, the Department stated that the second, third and fourth stories could be excluded from the building's floor area because "those stories contain mechanical equipment throughout each story, which supports the building's mechanical systems" and that "[t]he Zoning Resolution does not regulate the floor-to-ceiling height of a building's mechanical spaces." (BSA Decision, p. 1).

The Department's determinations were appealed to the BSA by the challengers. In a July 11, 2017 submission to the BSA made by the Department's Assistant General Counsel, the Department stated without any qualification that "the Zoning Resolution does not contain any regulations on the floor-to-ceiling height of a building's mechanical spaces." (July 11, 2017 Letter, p. 1).¹ The Department of City Planning submitted a letter dated July 20, 2017 from the Director of the Zoning Division that stated that "there are no regulations in the Zoning Resolution controlling the height of mechanical floors." (July 20, 2017 DCP Letter, p. 1). This position of both the Department of Buildings and the Department of City Planning was affirmed in full by the BSA. Its decision states:

[B]ased upon its review of the record, the definition of 'floor area' set forth in ZR § 12-10 and the Zoning Resolution as a whole, the Board finds that the Zoning Resolution does not control the floor-to-floor ceiling height of floor space used for mechanical equipment. (BSA Decision, p. 4)

Nothing in the Department's determinations or the BSA Decision supports the notion that there is a distinction between the floor-to-floor heights of the mechanical floors proposed at 15 East 30th Street (totaling 132 feet in height) and the floor-to-floor height of the mechanical space on the 18th floor of the Proposed Development.

The Department's January 14 letter nevertheless asserts that it may restrict the floor-to-floor heights for mechanical space where by claiming that the mechanical space on the 18th floor does not meet the definition of "accessory use" under ZR Section 12-10(b), on the purported

¹ We note that the prior statements of the Department refer to floor-to-ceiling heights and the current objection refers to floor-to-floor heights. For purposes of the issues discussed in this letter, there is no meaningful distinction between the floor-to-floor heights and floor-to-ceiling heights of mechanical spaces. The Zoning Resolution does not regulate either.

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basis that its floor-to-floor height of approximately 160 feet is not “customarily found in connection with residential uses.”

In the first instance, mechanical space is not a “use” and characterizing it as such is a plain misreading of the Zoning Resolution.

Under ZR Section 12-10, a “use” is defined as:

- (a) any purpose for which a #building or other structure# or an open tract of land may be designed, arranged, intended, maintained or occupied; or
- (b) any activity, occupation, business or operation carried on, or intended to be carried on, in a #building or other structure# or on an open tract of land.

Mechanical space is none of these things and is nowhere described or classified under the Zoning Resolution as a “use.” Instead, floor space used for mechanical equipment is part of the gross area of a building which is not included in the definition of “floor area” under the Section 12-10 definition of floor area, and forms part of the residential, commercial, or manufacturing use of a building. See ZR Section 12-10(8) definition of Floor Area.

Mechanical space is therefore no more a “use” under the Zoning Resolution than cellar space, elevator or stair bulkheads, attic space, floor space with stairwells, and all other forms of floor space included in a building which are excluded from the calculation of floor area. Stated simply: (i) the use of the Proposed Building is for residential use under Use Group 2 and community facility use under Use Group 3; and (ii) the residential and community facility uses will consist of floor space that either: (a) meets the definition of floor area, or (b) is excluded from the definition of floor area. The mechanical space on the 18th floor falls squarely within the category of floor space excluded from the definition of floor area. The Department’s assertion that mechanical space is instead a “use” is wholly unsupported by the Zoning Resolution.

Moreover, mechanical space cannot in any sense be characterized as an “accessory use,” a term defined under Section 12-10 of the Zoning Resolution as a use conducted on the same zoning lot as the principal use to which it is related and to which it is subordinate. See ZR Section 12-10 (a)-(c) definition of Accessory Use. The purpose of allowing accessory uses is to permit, subject to certain conditions, a use on a zoning lot which would not ordinarily be permitted in a building under the use regulations of the underlying zoning district on a stand-alone basis (e.g., a restaurant/cafeteria or a gift shop in a hospital located in a residential district which does not permit commercial uses). Unlike a restaurant/cafeteria or a gift shop, which meet the Section 12-10 definition of a “use” and are listed as uses classified under various use groups, including Use Group 6, there is no circumstance under which mechanical space in a residential building operates as a stand-alone use separate and apart from the residential use itself. Rather, mechanical space is an integral part of a building’s function as a residential use and quite plainly not an “accessory use.”

Even assuming that mechanical floor space within the Proposed Development could somehow be classified as an “accessory use,” the BSA has specifically rejected the argument that

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the floor-to-floor height dimension of a mechanical floor is susceptible to a determination whether or not it is “customarily found in connection” with such use.

In the proceeding before the BSA in Cal. No. 2016-4327-A, a number of organizations argued that the BSA should address the heights of the mechanical spaces at 12 East 31st Street in order to stem a proliferation of tall mechanical spaces at locations such as 220 Central Park West, 520 Park Avenue, 217 West 57th Street and 432 Park Avenue in Manhattan.

The BSA declined to ground its decision upon a determination that certain heights of mechanical spaces are customary and others are not. Instead it made clear that the request to restrict the heights of mechanical spaces was beyond its Charter authority to review and decide interpretations of the Zoning Resolution, stating that “insofar as Appellant or members of the community take issue with provisions of the Zoning Resolution—or absence thereof—as enacted, that grievance falls outside the scope of the Board’s authority to review this appeal.” (BSA Decision, p. 5). Quite simply, the Board determined that it was without authority to restrict the floor-to-floor heights of the mechanical spaces at issue in Cal. No. 2016-4327-A, *because this is not a subject matter regulated by the Zoning Resolution*. To do so would have the BSA exercise a power to enact zoning regulations which it does not have. The Department likewise has no power to zone and cannot adopt new zoning regulations.

The authority to adopt zoning regulations rests with the City Planning Commission and the City Council, and it is common knowledge that the Department of City Planning is developing a proposal for new regulations that would for the first time govern the floor-to-floor heights of mechanical spaces. This vividly illustrates that the objection asserted in the Department’s January 14 letter is without any basis in law. The Department cannot attempt to achieve indirectly that which can only be achieved by means of a zoning text amendment to the Zoning Resolution duly adopted in accordance with Section 200 of the City Charter, with due process afforded to affected parties through public hearings and opportunity to comment.

For all the reasons set forth above, the Department should not revoke approval of the ZD-1 approved and posted on the Department’s website on July 26, 2018. Likewise, the Department should reinstate the ZRD2 issued on November 19, 2018, in response to a public challenge made pursuant to 1 RCNY Sec. 101-15.²

Revocation of the ZRD-1 for the reasons stated in the Notice of Comments attached to the Department’s January 14 letter would be a violation of law, and arbitrary, capricious, and an abuse of discretion. Such a decision would be tantamount to the adoption of new zoning regulations, a power which the Department does not have. It would also be in direct disregard of the BSA Decision in Cal. No. 2016-4327-A. Finally, a revocation would flatly contradict the

² The public challenge raises questions regarding the mechanical space on the 18th floor, but does not make any zoning argument or cite any provision of the Zoning Resolution to support a claim that the proposed mechanical space does not comply with Zoning Resolution. Moreover, in its ZRD-2 determination the Department rejected the zoning-based arguments made by the challengers that the Proposed Development would violate certain provisions of the Lincoln Square Special District regulations (ZR § 82-30 *et seq.*), and that determination is currently the subject of an appeal filed by the challengers that is pending at the BSA. (Cal. No. 2018-199-A). Accordingly, the Department has no grounds to rescind the ZRD-2. Any rescission of the ZRD-2 is in any event premature at this time.

Fried, Frank, Harris, Shriver & Jacobson LLP

Department's own determinations that the floor-to-floor height of mechanical spaces are not regulated under the Zoning Resolution.

Respectfully submitted,



David Karnovsky

cc: A. Mannarino
B. Gillen
L. Russo
D. Rothstein



FDNY

THOMAS J. RICHARDSON

Chief of Operations
Bureau of Operations

fireops@fdny.nyc.gov

March 7, 2019

West 66th Sponsor LLC
805 Third Ave, 7th floor
New York, NY 10022
Attn: Mr. Gary Barnett

RE: 36 West 66th Street
N.B. #121190200
Block 1118
Lots 14, 45-48, and 52

Fire Prevention Index # 1901063
Fire Prevention FPIMS # 39012091

Dear Mr. Barnett:

The Fire Department's Bureau of Operations has reviewed drawings originally dated April 15th, 2015 with revisions indicated up to August 17, 2018 (DOB Filing Set).

Based on the submitted drawings, consultation with the NYC Department of Buildings the Fire Department has **no further objections** to the proposed design. Stamped approved plans are made part of this letter and must be included in the permanent Department of Buildings files.

NOTE:

- A. The requirements outlined in this document pertain **solely to the layout of 36 West 66th Street** and are not to be used or interpreted as the general methodology for providing proper Fire Operations features to any other building. Where the Department of Buildings and/or the Fire Department reviews buildings with unique design features the applicant shall submit a separate Plan Review application. Each building will be reviewed according to the features of their particular design.
- B. References made in this letter include designations shown on stamped plan A300.01 Building Sections and
- C. Building Department requirements for fire rated construction must be followed in construction of corridors, doors, and access.

Fire Department, City of New York

9 MetroTech Center, Brooklyn, NY 11201
nyc.gov/fdny | connect @fdny

In addition to complying with all applicable provisions in the NYC Construction Codes and the NYC Fire Code, the following are the requirements for the design of designated floors within the mechanical void space running from the 17th floor (T.O.S. Elev 303') through FDNY Access Level 8 (T.O.S. Elev 463').

For this Letter of No Objection (LNO) to be in force:

1. Corridors, stairway access, lobbies, and elevator access shall be as indicated and as dimensioned on stamped plans:
 - A-139.00-16th EMR Floor Plan
 - A-140.00-17th FLR-(MEP Slab) Plan
 - A-144.00-18th FLR (MEP Slab) Floor Plan
 - A-148.00-19th FLR (MEP Slab) Floor Plan
2. A five foot wide fire rated corridor shall connect the egress stair, service elevator lobby and the passenger elevator access doors on the south side of the central building core. This applies to:

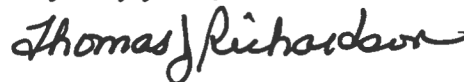
FDNY Access Levels 1,2,3,4,5,6,7, and 8 as shown on stamped plan A-300.01. The dimensions and arrangement shall be as shown on drawings

- A-141.00
 - A-142.00
 - A-143.00
 - A-145.00
 - A-146.00
 - A-147.00
 - A-149.00
 - A-150.00
3. All elevator cars shall be equipped with controls that permit Fire Department personnel to utilize a citywide standard key ('1620') as defined in Fire Code section 506.2 to bring the car to and access all levels within the mechanical void space. Access doors for the elevators as shown in the previously listed plans shall be openable from within the elevator car and each elevator lobby with a 1620 key. Call buttons are not required at these locations
 4. A steel catwalk as shown on A-150.00 FDNY Access 8 shall be installed unobstructed access to the entire perimeter of the building and equipped with either openable windows or access panels to permit use of the Fire Department high-rise nozzle. Signage shall be

- provided which indicates exactly which apartment and room are above the perimeter opening
5. Access to the entire perimeter of the building from the 16th floor to enable Fire Department personnel to deploy Fire Blankets to any window on the 14th floor
 6. The transformer room shall be a separate fire rated enclosure equipped with a code compliant fire suppression system and approved by the Fire Department's Technology Management unit
 7. Signage in all stairways indicating floor number, areas accessible at that level (MER, Apartment 26A, 26B, 26C, e.g.) and height (in feet) above street level
 8. A system designed in accordance with Chapter 9 of the NYC Building Code shall be provided to post fire purge operations of the entire void space

Finally, it is agreed that the owner will commit that if the NYC Fire Department decides that there may be other issues regarding life safety that arise in the future are deemed advisable to address that the owner will make all good faith efforts to accommodate and execute those requests.

Very truly yours,



Thomas J. Richardson
Chief of Operations



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NYC Department of Buildings

Application Details

The below information does not include work types submitted in DOB NOW; use the [DOB NOW Public Portal](#) to access DOB NOW records.

JUMP TO:

Premises: 36 WEST 66 STREET MANHATTAN
BIN: [1028168](#) Block: 1118 Lot: 45

Job No: 121190200
Document: 15 OF 18
Job Type: NB - NEW BUILDING

Document Overview	Items Required	Virtual Job Folder	All Permits	Schedule A	Schedule B
Fees Paid	Forms Received		All Comments	C/O Summary	Plumbing Inspections
Crane Information	Plan Examination			C/O Preview	
After Hours Variance Permits					

[DOB NOW: Inspections](#)

[Zoning Documents](#)

[Challenge Period Status](#)

[Challenge Results](#)

POST APPROVAL AMENDMENT FOR DOC 04

AUDIT: ACCEPTED 04/04/2019

Last Action: PLAN EXAM - APPROVED 04/05/2019 (P)

Application approved on: 05/09/2017

Pre-Filed: 12/05/2017 Building Type: Other Estimated Total Cost: \$0.00
Date Filed: 12/05/2017 Electronically Filed: No
Fee Structure: STANDARD
Review is requested under Building Code: Hub Job #: Yes

[Job Description](#) [Comments](#)

1 Location Information (Filed At)

House No(s): 36 Street Name: WEST 66TH STREET
Borough: Manhattan Block: 1118 Lot: 45 BIN: [1028168](#) CB No: 107
Work on Floor(s): SUB,CEL,MZ1,ROF 001 thru 039 Apt/Condo No(s): Zip Code: 10023

2 Applicant of Record Information

Name: BART SULLIVAN
Business Name: MCNAMARA SALVIA Business Phone: 212-246-9800
Business Address: 62 WEST 45TH STREET NEW NY 10036 Business Fax:
E-Mail: BSULLIVAN@MCSAL.COM Mobile Telephone:
License Number: 093540

Applicant Type: ☒ P.E. ☐ R.A. ☐ Sign Hanger ☐ R.L.A. ☐ Other

Directive 14 Applicant

Not Applicable

Previous Applicant of Record

Name: BART SULLIVAN
Business Name: MCNAMARA SALVIA Business Phone: 212-246-9800
Business Address: 62 WEST 45TH STREET NEW NY 10036 Business Fax:
E-Mail: BSULLIVAN@MCSAL.COM Mobile Telephone:

R. 001052

Applicant Type: PE

License Number: 093540

3 Filing Representative

Name: KIM/PALLAB/ADIE MARSHALL/KUNDU/RIVER

Business Name: CODE, LLC

Business Phone: 212-766-8100

Business Address: 40 WORTH STREET NEW YORK NY 10013

Business Fax: 212-766-1368

E-Mail: PKUNDU@CODENYC.COM

Mobile Telephone:

Registration Number: 005779

4 Filing Status

[Click Here to View](#)

5 Job Types

- ☐ Alteration Type 1 or Alteration Type 1 required to meet New Building requirements (28-101.4.5)
- ☐ Alteration Type 1, OT "No Work" ☒ New Building
- ☐ Alteration Type 2 ☐ Full Demolition
- ☐ Alteration Type 3 ☐ Subdivision: Improved
- ☐ Sign ☐ Subdivision: Condo
- Directive 14 acceptance requested? ☐ Yes ☒ No

6 Work Types

- ☐ BL - Boiler ☐ FA - Fire Alarm ☐ FB - Fuel Burning ☐ FS - Fuel Storage
- ☐ FP - Fire Suppression ☐ MH - Mechanical ☐ PL - Plumbing ☐ SD - Standpipe
- ☐ SP - Sprinkler ☐ EQ - Construction Equipment ☐ CC - Curb Cut
- ☒ OT - Other

7 Plans/Construction Documents Submitted

Plans Page Count: 0

8 Additional Information

Enlargement proposed?

- ☐ No ☐ Yes ☐ Horizontal ☐ Vertical

9 Additional Considerations, Limitations or Restrictions

- | Yes | No | | Yes | No | |
|--------------------------|--------------------------|--|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Alt. required to meet New Building req's (28-101.4.5) | <input type="checkbox"/> | <input type="checkbox"/> | Alteration is a major change to exits |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Change in number of dwelling units |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Change in Occupancy / Use |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Change is inconsistent with current certificate of occupancy |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Change in number of stories |
| <hr/> | | | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Facade Alteration | <input type="checkbox"/> | <input type="checkbox"/> | Infill Zoning |
| <input type="checkbox"/> | <input type="checkbox"/> | Adult Establishment | <input type="checkbox"/> | <input type="checkbox"/> | Loft Board |
| <input type="checkbox"/> | <input type="checkbox"/> | Compensated Development (Inclusionary Housing) | <input type="checkbox"/> | <input type="checkbox"/> | Quality Housing |
| <input type="checkbox"/> | <input type="checkbox"/> | Low Income Housing (Inclusionary Housing) | <input type="checkbox"/> | <input type="checkbox"/> | Site Safety Job / Project |
| <input type="checkbox"/> | <input type="checkbox"/> | Single Room Occupancy (SRO) Multiple Dwelling | <input type="checkbox"/> | <input type="checkbox"/> | Included in LMCCC |
| <input type="checkbox"/> | <input type="checkbox"/> | Filing includes Lot Merger / Reapportionment | | | Work Includes: |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Prefab wood I-joists |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Structural cold-formed steel |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | Open-web steel joists |
| <hr/> | | | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Landmark | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Environmental Restrictions (Little E or RD) | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Unmapped/CCO Street | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Legalization | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Other, Specify: | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Filed to Comply with Local Law | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Restrictive Declaration / Easement | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Zoning Exhibit Record (I,II,III,etc) | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Filed to Address Violation(s) | | | |
| <hr/> | | | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Work includes lighting fixture and/or controls, installation or replacement. [ECC §404 and §505] | | | |
| <input type="checkbox"/> | <input type="checkbox"/> | Work includes modular construction under New York State jurisdiction | | | |

R. 001053

- ☐ ☐ Work includes modular construction under New York City jurisdiction
☐ ☐ Structural peer review required per BC §1627 Peer Reviewer License No.(P.E.):
☐ ☐ Work includes permanent removal of standpipe, sprinkler or fire suppression related systems
☐ ☐ Work includes partial demolition as defined in AC §28-101.5, or the raising/moving of a building
☐ ☐ Structural Stability affected by proposed work

BSA Calendar No.(s):

CPC Calendar No.(s):

10 NYCECC Compliance New York City Energy Conservation Code (Applicant Statement)

Not Provided

11 Job Description

Related BIS Job Numbers:

Primary application Job Number:

12 Zoning Characteristics

District(s): NONE

Overlay(s):

Special District(s):

Map No.:

Street legal width (ft.):

Street status: ☐ Public ☐ Private

Zoning lot includes the following tax lots: Not Provided

Proposed: Use	Zoning Area (sq.ft.)	District	FAR
Proposed Totals:		--	
Existing Total:		--	--

Proposed Lot Details: Lot Type: ☐ Corner ☐ Interior ☐ Through

Lot Coverage (%): Lot Area (sq.ft.): Lot Width (ft.):

Proposed Yard Details: ☐ No Yards Or

Front Yard (ft.): Rear Yard (ft.): Rear Yard Equivalent (ft.):

Side Yard 1 (ft.): Side Yard 2 (ft.):

Proposed Other Details: Perimeter Wall Height (ft.):

Enclosed Parking? ☐ Yes ☐ No No. of parking spaces:

13 Building Characteristics

Primary structural system: ☐ Masonry ☐ Concrete (CIP) ☐ Concrete (Precast) ☐ Wood
☐ Steel (Structural) ☐ Steel (Cold-Formed) ☐ Steel (Encased in Concrete)

Proposed

Structural Occupancy Category:

Seismic Design Category:

Occupancy Classification:

Construction Classification:

Multiple Dwelling Classification:

Building Height (ft.):

Building Stories:

Dwelling Units:

2014/2008 Code Designations?

☐ Yes ☐ No

☐ Yes ☐ No

Mixed use building? ☐ Yes ☐ No

14 Fill

☐ Not Applicable ☐ Off-Site ☐ On-Site ☐ Under 300 cubic yards

15 Construction Equipment

Not Applicable

16 Curb Cut Description

Not Applicable

17 Tax Lot Characteristics

Not Provided

18 Fire Protection Equipment

	Existing		Proposed			Existing		Proposed	
	Yes	No	Yes	No		Yes	No	Yes	No
Fire Alarm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sprinkler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

R. 001054

Fire Suppression ☐ ☐ ☐ ☐ Standpipe ☐ ☐ ☐ ☐

19 Open Spaces

Not Provided

20 Site Characteristics

Not Provided

21 Demolition Details

Not Applicable

22 Asbestos Abatement Compliance

Not Applicable

23 Signs

Not Applicable

24 Comments

Comments for PAA Document 15 Modifying Document 04

Description of Amendment

POST APPROVAL AMENDMENT FILED TO AMEND SECTIONS 1,2 & PLANS

25 Applicant's Statements and Signatures (See paper form or check [Forms Received](#))

Yes No

☐ ☐ For New Building and Alteration 1 applications filed under the 2008 or 2014 NYC Building Code only: does this building qualify for high-rise designation?

☐ ☐ Directive 14 applications only: I certify that the construction documents submitted and all construction documents related to this application do not require a new or amended Certificate of Occupancy as there is no change in use, exits, or occupancy.

26 Owner's Information

Name: ROTHSTEIN DAVID

Relationship to Owner: SIGNATORY

Business Name: WEST 66TH SPONSOR LLC

Business Phone: 212-712-6000

Business Address: 805 THIRD AVENUE NEW YORK NY 10022

Business Fax:

E-Mail: RMASTERS@EXTELL.COM

Owner Type:

Non Profit: ☐ Yes ☐ No

Yes No

☐ ☐ Owner's Certification Regarding Occupied Housing (Remain Occupied)

☐ ☐ Owner's Certification Regarding Occupied Housing (Rent Control / Stabilization)

☐ ☐ Owner DHCR Notification

☐ ☐ Owner's Certification for Adult Establishment

☐ ☐ Owner's Certification for Directive 14 (if applicable)

† [the-hub](#)

If you have any questions please review these [Frequently Asked Questions](#), the [Glossary](#), or call the 311 Citizen Service Center by dialing 311 or (212) NEW YORK outside of New York City.



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NYC Department of Buildings
Application Details

The below information does not include work types submitted in DOB NOW; use the [DOB NOW Public Portal](#) to access DOB NOW records.

JUMP TO:

Premises: 36 WEST 66 STREET MANHATTAN
BIN: [1028168](#) Block: 1118 Lot: 45

Job No: 121190200
Document: 16 OF 18

Job Type: NB - NEW BUILDING

Document Overview	Items Required	Virtual Job Folder	All Permits	Schedule A	Schedule B
Fees Paid	Forms Received		All Comments	C/O Summary	Plumbing Inspections
Crane Information	Plan Examination			C/O Preview	
After Hours Variance Permits					

[DOB NOW: Inspections](#)

[Zoning Documents](#)

[Challenge Period Status](#)

[Challenge Results](#)

POST APPROVAL AMENDMENT FOR DOC 01

AUDIT: ACCEPTED 04/04/2019

Last Action: PLAN EXAM - APPROVED 04/04/2019 (P)

Application approved on: 05/09/2017

Pre-Filed: 12/13/2017 Building Type: Other Estimated Total Cost: \$0.00
Date Filed: 12/13/2017 Electronically Filed: No
Fee Structure: STANDARD
Review is requested under Building Code: 2014 Hub Job [†]: Yes

[Job Description](#) [Comments](#)

1 Location Information (Filed At)

House No(s): 36 Street Name: WEST 66TH STREET
Borough: Manhattan Block: 1118 Lot: 45 BIN: [1028168](#) CB No: 107
Work on Floor(s): SUB,CEL,MZ1,ROF 001 thru 039 Apt/Condo No(s): Zip Code: 10023

2 Applicant of Record Information

Name: LUIGI RUSSO
Business Name: SLCE ARCHITECTS, LLP Business Phone: 212-979-8400
Business Address: 1359 BROADWAY NEW YORK NY 10018 Business Fax: 212-979-8387
E-Mail: LRUSSO@SLCEARCH.COM Mobile Telephone:
License Number: 020741

Applicant Type: ☐ P.E. ☒ R.A. ☐ Sign Hanger ☐ R.L.A. ☐ Other

Directive 14 Applicant

Not Applicable

Previous Applicant of Record

Not Applicable

3 Filing Representative

R. 001056

Name: KIM/PALLABI/ADI MARSHALL/KUNDU/RIVER

Business Name: CODE, LLC

Business Phone: 212-766-8100

Business Address: 40 WORTH STREET NEW YORK NY 10013

Business Fax: 212-766-1368

E-Mail: PKUNDU@CODENYC.COM

Mobile Telephone:

Registration Number: 006142

4 Filing Status

[Click Here to View](#)

5 Job Types

- ☐ Alteration Type 1 or Alteration Type 1 required to meet New Building requirements (28-101.4.5)
- ☐ Alteration Type 1, OT "No Work" ☒ New Building
- ☐ Alteration Type 2 ☐ Full Demolition
- ☐ Alteration Type 3 ☐ Subdivision: Improved
- ☐ Sign ☐ Subdivision: Condo
- Directive 14 acceptance requested? ☐ Yes ☒ No

6 Work Types

- ☐ BL - Boiler ☐ FA - Fire Alarm ☐ FB - Fuel Burning ☐ FS - Fuel Storage
- ☐ FP - Fire Suppression ☐ MH - Mechanical ☐ PL - Plumbing ☐ SD - Standpipe
- ☐ SP - Sprinkler ☒ EQ - Construction Equipment ☐ CC - Curb Cut
- ☒ OT - Other

7 Plans/Construction Documents Submitted

Plans Page Count: 354

8 Additional Information

Enlargement proposed?

☒ No ☐ Yes ☐ Horizontal ☐ Vertical

Total Building Square Footage: 669,012 sq.ft.

9 Additional Considerations, Limitations or Restrictions

Yes No

☐ ☒ Alt. required to meet New Building req's (28-101.4.5)

Yes No

- ☐ ☐ Alteration is a major change to exits
- ☐ ☐ Change in number of dwelling units
- ☐ ☐ Change in Occupancy / Use
- ☐ ☐ Change is inconsistent with current certificate of occupancy
- ☐ ☐ Change in number of stories

- ☐ ☐ Facade Alteration ☐ ☐ Infill Zoning
- ☐ ☐ Adult Establishment ☐ ☐ Loft Board
- ☐ ☐ Compensated Development (Inclusionary Housing) ☐ ☐ Quality Housing
- ☐ ☐ Low Income Housing (Inclusionary Housing) ☐ ☐ Site Safety Job / Project
- ☐ ☐ Single Room Occupancy (SRO) Multiple Dwelling ☐ ☐ Included in LMCCC
- ☐ ☐ Filing includes Lot Merger / Reapportionment

Work Includes:

- ☐ ☐ Prefab wood I-joists
- ☐ ☐ Structural cold-formed steel
- ☐ ☐ Open-web steel joists

- ☐ ☐ Landmark
- ☐ ☐ Environmental Restrictions (Little E or RD)
- ☐ ☐ Unmapped/CCO Street
- ☐ ☐ Legalization
- ☐ ☐ Other, Specify:
- ☐ ☐ Filed to Comply with Local Law
- ☒ ☐ Restrictive Declaration / Easement
- CRFN No.: 2017000441507
- ☒ ☐ Zoning Exhibit Record (I,II,III,etc)
- CRFN No.: 2017000441503 2017000441504 2017000441505 2019000106723
- ☐ ☒ Filed to Address Violation(s)

- ☐ ☐ Work includes lighting fixture and/or controls, installation or replacement. [ECC §404 and §505]
- ☐ ☐ Work includes modular construction under New York State jurisdiction
- ☐ ☐ Work includes modular construction under New York City jurisdiction
- ☐ ☐ Structural peer review required per BC §1627 Peer Reviewer License No.(P.E.):
- ☐ ☐ Work includes permanent removal of standpipe, sprinkler or fire suppression related systems
- ☐ ☐ Work includes partial demolition as defined in AC §28-101.5, or the raising/moving of a building
- ☐ ☐ Structural Stability affected by proposed work

BSA Calendar No.(s):

CPC Calendar No.(s):

10 NYCECC Compliance New York City Energy Conservation Code (Applicant Statement)☒ To the best of my knowledge, belief and professional judgment, this application is in compliance with the NYCECC.Code Compliance Path: ☐ NYCECC ☒ ASHAREEnergy Analysis: ☐ Tabular ☐ REScheck ☐ COMcheck ☒ Energy Modeling (EN1)**11 Job Description**

NEW BUILDING

Related BIS Job Numbers: [140550776](#) [140757465](#)

Primary application Job Number:

12 Zoning Characteristics

District(s): C4-7 - GENERAL COMMERCIAL DISTRICT

Overlay(s):

Special District(s): L - LINCOLN SQUARE

Map No.: 08c

Street legal width (ft.): 60

Street status: ☒ Public ☐ Private

Zoning lot includes the following tax lots: 00048 00047 00046 00045 00014 00052

Proposed: Use	Zoning Area (sq.ft.)	District	FAR
RESIDENTIAL	483,138	C4-7	8.83
COMMUNITY FACILITY	22,344	C4-7	0.41
Proposed Totals:	505,482	--	9.24
Existing Total:		--	--

Proposed Lot Details: Lot Type: ☐ Corner ☐ Interior ☒ Through

Lot Coverage (%): 95 Lot Area (sq.ft.): 54,687 Lot Width (ft.): 175

Proposed Yard Details: ☐ No Yards Or

Front Yard (ft.): Rear Yard (ft.): 60 Rear Yard Equivalent (ft.): 60

Side Yard 1 (ft.): Side Yard 2 (ft.):

Proposed Other Details: Perimeter Wall Height (ft.):

Enclosed Parking? ☐ Yes ☒ No No. of parking spaces:

13 Building Characteristics

Primary structural system: ☐ Masonry ☒ Concrete (CIP) ☐ Concrete (Precast) ☐ Wood

☐ Steel (Structural) ☐ Steel (Cold-Formed) ☐ Steel (Encased in Concrete)

Proposed

Structural Occupancy Category: II - OTHER THAN I, III OR IV

Seismic Design Category: CATEGORY B

Occupancy Classification: R-2 - RESIDENTIAL: APARTMENT HOUSES

Construction Classification: I-A: 3 HOUR PROTECTED - NON-COMBUST

Multiple Dwelling Classification: HAEA

Building Height (ft.): 775

Building Stories: 41

Dwelling Units: 127

2014/2008 Code Designations?☒ Yes ☐ No☒ Yes ☐ NoMixed use building? ☒ Yes ☐ No**14 Fill**

☐ Not Applicable ☐ Off-Site ☐ On-Site ☐ Under 300 cubic yards

15 Construction Equipment

☐ Chute ☐ Sidewalk Shed Construction Material: CONCRETE

☒

07/29/2019

2019-89 A and 2019-94 A
NYSCEF DOC. NO. 37

RECEIVED NYSCEF: 02/16/2021

Fence☐ Supported Scaffold**Size:** linear ft.☐ Other**BSA/MEA Approval No.:****16 Curb Cut Description**

Not Applicable

17 Tax Lot Characteristics**Original tax lots being merged or reapportioned(if applicable):** 00045 00046 00047 00048 00014**Tentative tax lot numbers (new tax lots only):** 00045**18 Fire Protection Equipment**

	Existing		Proposed			Existing		Proposed	
	Yes	No	Yes	No		Yes	No	Yes	No
Fire Alarm	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sprinkler	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fire Suppression	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Standpipe	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

19 Open Spaces

Not Provided

20 Site Characteristics

Not Provided

21 Demolition Details

Not Applicable

22 Asbestos Abatement Compliance

Not Applicable

23 Signs

Not Applicable

24 Comments

Comments for PAA Document 16 Modifying Document 01

Description of Amendment

PAA FILED HERewith TO AMEND SECTIONS 8 OF 9 OF PW1 AND SCHEDULE A

25 Applicant's Statements and Signatures (See paper form or check [Forms Received](#))

Yes No

- ☐ ☐ For New Building and Alteration 1 applications filed under the 2008 or 2014 NYC Building Code only: does this building qualify for high-rise designation?
- ☐ ☐ Directive 14 applications only: I certify that the construction documents submitted and all construction documents related to this application do not require a new or amended Certificate of Occupancy as there is no change in use, exits, or occupancy.

26 Owner's Information**Name:** DAVID ROTHSTEIN**Relationship to Owner:** SIGNATORY**Business Name:** WEST 66TH SPONSOR LLC**Business Phone:** 212-712-6000**Business Address:** 805 THIRD AVENUE NEW YORK NY 10022**Business Fax:****E-Mail:** RMASTERS@EXTELL.COM**Owner Type:** PARTNERSHIP**Non Profit:** ☐ Yes ☒ No

Yes No

- ☐ ☒ Owner's Certification Regarding Occupied Housing (Remain Occupied)
- ☐ ☒ Owner's Certification Regarding Occupied Housing (Rent Control / Stabilization)
- ☐ ☒ Owner DHCR Notification
- ☐ ☐ Owner's Certification for Adult Establishment
- ☐ ☐ Owner's Certification for Directive 14 (if applicable)

‡ [the-hub](#)

If you have any questions please review these [Frequently Asked Questions](#), the [Glossary](#), or call the 311 Citizen Service Center by dialing 311 or (212) NEW YORK outside of New York City.

R. 001059



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NYC Department of Buildings

Application Details

The below information does not include work types submitted in DOB NOW; use the [DOB NOW Public Portal](#) to access DOB NOW records.

JUMP TO:

Premises: 36 WEST 66 STREET MANHATTAN
BIN: [1028168](#) Block: 1118 Lot: 45

Job No: 121190200
Document: 17 OF 18
Job Type: NB - NEW BUILDING

Document Overview	Items Required	Virtual Job Folder	All Permits	Schedule A	Schedule B
Fees Paid	Forms Received		All Comments	C/O Summary	Plumbing Inspections
Crane Information	Plan Examination			C/O Preview	
After Hours Variance Permits					

[DOB NOW: Inspections](#)

[Zoning Documents](#)

[Challenge Period Status](#)

[Challenge Results](#)

POST APPROVAL AMENDMENT FOR DOC 03

AUDIT: ACCEPTED 04/04/2019

Last Action: PLAN EXAM - APPROVED 04/05/2019 (P)

Application approved on: 05/09/2017

Pre-Filed: 12/15/2017 Building Type: Other Estimated Total Cost: \$0.00
Date Filed: 12/15/2017 Electronically Filed: No
Fee Structure: STANDARD
Review is requested under Building Code: Hub Job #: Yes

[Job Description](#) [Comments](#)

1 Location Information (Filed At)

House No(s): 36 Street Name: WEST 66TH STREET
Borough: Manhattan Block: 1118 Lot: 45 BIN: [1028168](#) CB No: 107
Work on Floor(s): SUB,CEL,ROF,MZ1 001 thru 039 Apt/Condo No(s): Zip Code: 10023

2 Applicant of Record Information

Name: IGOR BIENSTOCK
Business Name: ICOR CONSULTING ENGINEERS Business Phone: 908-272-3300
Business Address: 485C ROUTE 1 SOUTH ISELIN NJ 08830 Business Fax: 908-272-4440
E-Mail: BIENSTOCK@ICORASSOCIATES.COM Mobile Telephone:
License Number: 071368

Applicant Type: ☒ P.E. ☐ R.A. ☐ Sign Hanger ☐ R.L.A. ☐ Other

Directive 14 Applicant

Not Applicable

Previous Applicant of Record

Not Applicable

3 Filing Representative

Name: KIM/PALLAB/ADIE MARSHALL/KUNDU/RIVER

R. 001060

Business Phone: 212-766-8100
Business Fax: 212-766-1368
Mobile Telephone:
Registration Number: 005779

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☐ ☐ Structural Stability affected by proposed work

BSA Calendar No.(s):

CPC Calendar No.(s):

10 NYCECC Compliance *New York City Energy Conservation Code* (Applicant Statement)

Not Provided

11 Job Description

Related BIS Job Numbers:

Primary application Job Number:

12 Zoning Characteristics

District(s): NONE

Overlay(s):

Special District(s):

Map No.:

Street legal width (ft.):

Street status: ☐ Public ☐ Private

Zoning lot includes the following tax lots: Not Provided

Proposed: Use	Zoning Area (sq.ft.)	District	FAR
Proposed Totals:		--	
Existing Total:		--	--

Proposed Lot Details: Lot Type: ☐ Corner ☐ Interior ☐ Through

Lot Coverage (%):

Lot Area (sq.ft.): Lot Width (ft.):

Proposed Yard Details: ☐ No Yards Or

Front Yard (ft.): Rear Yard (ft.): Rear Yard Equivalent (ft.):

Side Yard 1 (ft.): Side Yard 2 (ft.):

Proposed Other Details: Perimeter Wall Height (ft.):

Enclosed Parking? ☐ Yes ☐ No No. of parking spaces:

13 Building Characteristics

Primary structural system: ☐ Masonry ☐ Concrete (CIP) ☐ Concrete (Precast) ☐ Wood
☐ Steel (Structural) ☐ Steel (Cold-Formed) ☐ Steel (Encased in Concrete)

Proposed

Structural Occupancy Category:

Seismic Design Category:

2014/2008 Code Designations?

Occupancy Classification:

☐ Yes ☐ No

Construction Classification:

☐ Yes ☐ No

Multiple Dwelling Classification:

Building Height (ft.):

Building Stories:

Dwelling Units:

Mixed use building? ☐ Yes ☐ No

14 Fill

☐ Not Applicable ☐ Off-Site ☐ On-Site ☐ Under 300 cubic yards

15 Construction Equipment

Not Applicable

16 Curb Cut Description

Not Applicable

17 Tax Lot Characteristics

Not Provided

18 Fire Protection Equipment

	Existing		Proposed			Existing		Proposed	
	Yes	No	Yes	No		Yes	No	Yes	No
Fire Alarm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sprinkler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Suppression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standpipe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19 Open Spaces

Not Provided

R. 001062

20 Site Characteristics

Not Provided

21 Demolition Details

Not Applicable

22 Asbestos Abatement Compliance

Not Applicable

23 Signs

Not Applicable

24 Comments

Comments for PAA Document 17 Modifying Document 03

Description of Amendment

POST APPROVAL AMENDMENT FILED TO AMEND SECTION 1, 3, 26, SCHEDULE B & PLANS.

25 Applicant's Statements and Signatures (See paper form or check [Forms Received](#))

Yes No

- ☐ ☐ For New Building and Alteration 1 applications filed under the 2008 or 2014 NYC Building Code only: does this building qualify for high-rise designation?
- ☐ ☐ Directive 14 applications only: I certify that the construction documents submitted and all construction documents related to this application do not require a new or amended Certificate of Occupancy as there is no change in use, exits, or occupancy.

26 Owner's Information

Name: DAVID ROTHSTEIN

Relationship to Owner: SIGNATORY

Business Name: WEST 66TH SPONSOR LLC

Business Phone: 212-712-6000

Business Address: 805 THIRD AVENUE NEW YORK NY 10022

Business Fax:

E-Mail: RMASTERS@EXTELL.COM

Owner Type:

Non Profit: ☐ Yes ☐ No

Yes No

- ☐ ☐ Owner's Certification Regarding Occupied Housing (Remain Occupied)
- ☐ ☐ Owner's Certification Regarding Occupied Housing (Rent Control / Stabilization)
- ☐ ☐ Owner DHCR Notification
- ☐ ☐ Owner's Certification for Adult Establishment
- ☐ ☐ Owner's Certification for Directive 14 (if applicable)

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NYC Department of Buildings

Application Details

The below information does not include work types submitted in DOB NOW; use the [DOB NOW Public Portal](#) to access DOB NOW records.

JUMP TO: Doc 18 Go

Premises: 36 WEST 66 STREET MANHATTAN Job No: 121190200
BIN: 1028168 Block: 1118 Lot: 45 Document: 18 OF 18
Job Type: NB - NEW BUILDING

Document Overview	Items Required	Virtual Job Folder	All Permits	Schedule A	Schedule B
Fees Paid	Forms Received		All Comments	C/O Summary	Plumbing Inspections
Crane Information	Plan Examination			C/O Preview	
After Hours Variance Permits					

DOB NOW: [Inspections](#)

[Zoning Documents](#)

[Challenge Period Status](#)

[Challenge Results](#)

POST APPROVAL AMENDMENT FOR DOC 06

AUDIT: ACCEPTED 04/04/2019

Last Action: PLAN EXAM - APPROVED 04/05/2019 (P)

Application approved on: 05/09/2017

Pre-Filed: 12/15/2017 Building Type: Other Estimated Total Cost: \$0.00
Date Filed: 12/15/2017 Electronically Filed: No
Fee Structure: STANDARD
Review is requested under Building Code: Hub Job #: Yes

[Job Description](#) [Comments](#)

1 Location Information (Filed At)

House No(s): 36 Street Name: WEST 66TH STREET
Borough: Manhattan Block: 1118 Lot: 45 BIN: 1028168 CB No: 107
Work on Floor(s): SUB,CEL,MZ1,ROF 001 thru 039 Apt/Condo No(s): Zip Code: 10023

2 Applicant of Record Information

Name: IGOR BIENSTOCK
Business Name: ICOR CONSULTING ENGINEERS Business Phone: 908-272-3300
Business Address: 485C ROUTE 1 SOUTH ISELIN NJ 08830 Business Fax: 908-272-4440
E-Mail: BIENSTOCK@ICORASSOCIATES.COM Mobile Telephone:
License Number: 071368

Applicant Type: ☒ P.E. ☐ R.A. ☐ Sign Hanger ☐ R.L.A. ☐ Other

Directive 14 Applicant

Not Applicable

Previous Applicant of Record

Not Applicable

3 Filing Representative

Name: KIM/PALLAB/ADIE MARSHALL/KUNDU/RIVER

R. 001064

Business Phone: 212-766-8100
Business Fax: 212-766-1368
Mobile Telephone:
Registration Number: 005779

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☐ ☐ Structural Stability affected by proposed work

BSA Calendar No.(s):

CPC Calendar No.(s):

10 NYCECC Compliance New York City Energy Conservation Code (Applicant Statement)

Not Provided

11 Job Description

Related BIS Job Numbers:

Primary application Job Number:

12 Zoning Characteristics

District(s): NONE

Overlay(s):

Special District(s):

Map No.:

Street legal width (ft.):

Street status: ☐ Public ☐ Private

Zoning lot includes the following tax lots: Not Provided

Proposed: Use	Zoning Area (sq.ft.)	District	FAR
Proposed Totals:		--	
Existing Total:		--	--

Proposed Lot Details: Lot Type: ☐ Corner ☐ Interior ☐ Through

Lot Coverage (%): Lot Area (sq.ft.): Lot Width (ft.):

Proposed Yard Details: ☐ No Yards Or

Front Yard (ft.): Rear Yard (ft.): Rear Yard Equivalent (ft.):

Side Yard 1 (ft.): Side Yard 2 (ft.):

Proposed Other Details: Perimeter Wall Height (ft.):

Enclosed Parking? ☐ Yes ☐ No No. of parking spaces:

13 Building Characteristics

Primary structural system: ☐ Masonry ☐ Concrete (CIP) ☐ Concrete (Precast) ☐ Wood
☐ Steel (Structural) ☐ Steel (Cold-Formed) ☐ Steel (Encased in Concrete)

Proposed

Structural Occupancy Category:

Seismic Design Category:

2014/2008 Code Designations?

Occupancy Classification:

☐ Yes ☐ No

Construction Classification:

☐ Yes ☐ No

Multiple Dwelling Classification:

Building Height (ft.):

Building Stories:

Dwelling Units:

Mixed use building? ☐ Yes ☐ No

14 Fill

☐ Not Applicable ☐ Off-Site ☐ On-Site ☐ Under 300 cubic yards

15 Construction Equipment

Not Applicable

16 Curb Cut Description

Not Applicable

17 Tax Lot Characteristics

Not Provided

18 Fire Protection Equipment

	Existing		Proposed			Existing		Proposed	
	Yes	No	Yes	No		Yes	No	Yes	No
Fire Alarm	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Sprinkler	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fire Suppression	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Standpipe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19 Open Spaces

Not Provided

R. 001066

20 Site Characteristics

Not Provided

21 Demolition Details

Not Applicable

22 Asbestos Abatement Compliance

Not Applicable

23 Signs

Not Applicable

24 Comments

Comments for PAA Document 18 Modifying Document 06

Description of Amendment

POST APPROVAL AMENDMENT FILED TO AMEND SECTION 1, 3 SCHEDULE B & PLANS.

25 Applicant's Statements and Signatures (See paper form or check [Forms Received](#))

Yes No

- ☐ ☐ For New Building and Alteration 1 applications filed under the 2008 or 2014 NYC Building Code only: does this building qualify for high-rise designation?
- ☐ ☐ Directive 14 applications only: I certify that the construction documents submitted and all construction documents related to this application do not require a new or amended Certificate of Occupancy as there is no change in use, exits, or occupancy.

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Business Fax:

E-Mail: RMASTERS@EXTELL.COM

Owner Type: PARTNERSHIP

Non Profit: ☐ Yes ☒ No

Yes No

- ☐ ☒ Owner's Certification Regarding Occupied Housing (Remain Occupied)
- ☐ ☒ Owner's Certification Regarding Occupied Housing (Rent Control / Stabilization)
- ☐ ☒ Owner DHCR Notification
- ☐ ☐ Owner's Certification for Adult Establishment
- ☐ ☐ Owner's Certification for Directive 14 (if applicable)

† [the-hub](#)

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