

2019-89-A & 2019-94-A

## Save Central Park NYC

I would like to refer to a letter, written by Gale Brewer, Corey Johnson and the entire Manhattan Delegation of the City Council dated August 16th of last year.

In it, they speak to the integrity of the Zoning Resolution and I quote:

"All across our borough, developers have found numerous novel workarounds to circumvent the limitations we commonly understood to apply to them under zoning"

"The Zoning Resolution is meant to provide consistency and predictability for both developers and residents. But again, we have seen buildings constructed that defy our expectations and long-held beliefs about what the rules are."

Usually appeals come to the BSA because clarity is needed where parties differ as to interpretation.

This case is different, in the Special Lincoln Square District, the regulations were defined and then clarified. It specified that when the rules are followed, buildings would not exceed 30- 33 stories - stories at that time were about 12'

The rules, that result in buildings of 33 stories or less, are the concurrent use of the Tower Coverage Rule and The Bulk Packaging Rule.

Extell is not confused by this. They submitted a 25-story, contextual building plans to proceed under false pretenses.

When Council Member Rosenthal asked them point blank about their plans, as it was clear to her how they would likely proceed, she was lied to. They pulled a “bait and switch.” If they were well and honestly intentioned, why the false narrative?

Following the underlying zoning and the Special Lincoln Square District overlay, matters to our quality of life. Zoning came about to protect our right to light and air. This tower, in its present form, will cast an afternoon shadow across Central Park - past Bethesda Fountain.

The cumulative effect of these massive towers is changing Central Park forever.

The BSA has a chance to tell developers that their need for profit does not “TRUMP,” the public good. And, lying to elected officials on the path to greater profits, should NOT be okay.

Respectfully,

Sheila Kendrick  
Save Central Park NYC  
SheilaKendrick@mac.com

**From:** [Holly R](#)  
**To:** [Submit \(BSA\)](#)  
**Subject:** Testimony Regarding the following Appeals on September 10, 2019  
**Date:** Monday, September 9, 2019 7:20:16 PM

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Attn: Chairperson Margery Perlmutter, R.A., Esq.

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

Subject: **Testimony Regarding the following Appeals on September 10, 2019**

**2019-89-A** 8/6/2019 City Club of New York **36 West 66th Street aka 50 West 66th Street, Manhattan** Appeal of a New York City Department of Buildings challenging the validity of a building permit dated April 11, 2019. C4-7, R8 Special Lincoln Square District.

**2019-94-A** 8/6/2019 Landmark West **36 West 66th Street aka 50 West 66th Street, Manhattan** Appeal of a New York City Department of Buildings challenging the validity of a building permit dated April 11, 2019. C4-7 and R8 Special Lincoln Square District.

Dear Ms. Perlmutter, Chairperson:

My name is Holly Rothkopf. I am a resident of the Lincoln Square Neighborhood, Board Member of W64th thru W67th Streets Block Association, Board Member of the Upper West Side Community Emergency Response Team, and a supporter of Save Central Park NYC, Landmark West!, and City Club.

On August 6th, you spoke a number of times about what happens in the event of a tie. After listening to both sides, I thought HOW could the arguments ever be interpreted as equal. The 25-story plan that the developer first submitted to the Department of Buildings (DOB) and promoted for two years, was consistent with the rules and intent of the Special District. The developer originally applied the bulk packaging and tower coverage rules together and it was that contextual building that they sold to the community.

The actual zoning, the intent of the zoning, and the public's right to protection should take precedence over the whim of a developer.

Nothing of this new proposed height is north of 60th Street nor mid-block in Manhattan. The language in the Special District says that as a result of the rules, buildings in the district would be no more than 30 stories (or about 330' in 1993). As CityClub and Landmark West! have shown, it is absurd to think that the developer didn't know that the Tower Coverage Rule and the Bulk Packaging Rule are always applied together.

Further the incorporation of so called “mechanical void” space to circumvent the zoning code and incorporate needless no-count space is absurd. The Department of City Planning itself called the incorporation of mechanical voids of 239' or 30% of the building obscene!

It is absurd to allow a developer to pull a “bait and switch” by submitting plans to the DOB for a building that they appear to have had no intention of executing and then developing a tower three times its height.

**The relief the developer is looking for is a problem of their own making!**

**We urge you to deny their request for relief and enforce the zoning code. “Protect health, safety, and life quality of all New Yorkers!”**

Sincerely,

Holly Rothkopf

**From:** [Lynne Glasner](#)  
**To:** [Submit \(BSA\)](#)  
**Subject:** BSA Calendar #: 2019-89-A& 2019-94-A  
**Date:** Monday, September 9, 2019 11:04:40 PM

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September 10, 2019

Bureau of Standards and Appeals  
250 Broadway, 29th Floor  
New York, NY 10007

Re: 66<sup>th</sup> Street Lincoln Square District  
BSA Calendar #: 2019-89-A & 2019-94-A

Dear Commissioner Perlmutter and Commissioners:

Having followed the convoluted path of this project and its various permutations, I find it hard to understand why this developer should be granted a waiver. What is so special about this project that it should not have to follow the zoning as specified in the Special Lincoln Square District? The rules set up for this district carved out a very special zone for the small area, which others have complied with for many years. Why do Extell's deep pockets and lofty ambitions override community concerns, findings of other city government agencies, and common sense?

The bait and switch tactics used by Extell and their colleagues in this project have been obvious from the beginning. Fact-based rebuttals to their claims have been voiced, litigated, and turned inside out to no avail. Plans approved for a 15-story building were turned into a 750-foot tower, overshadowing the park and all of the other surrounding buildings. Yet they still pass muster, though they violate both the letter and the spirit of the zoning laws for the district. To add insult to injury, according to the plans, this tower will have 239 feet of void space—a ruse for propping up the building and their prices of the condos within.

Not only have zoning codes been ignored and violated here, but fire codes clearly show that there are serious safety issues. Extell has acted with impunity, seeming to believe that they can rewrite the regulations to suit their needs. This is unacceptable for any party—and undemocratic.

In addition, I do not understand why an agency that is supposed to be a public arbiter should err on the side of the developer in case of a tie within the BSA. Given that one member of the commissions has been recused, there will be a tie. How do you justify this position?

I urge you to consider the costs of losing a vibrant neighborhood that has a history and a community, so that a very small number of very wealthy individuals can enjoy a spectacular view of a city that is moving the middle class out of Manhattan. The argument that the city needs housing is a red herring. There is no need for more luxury housing; in fact the market for luxury housing is overdeveloped, with landlords trying to entice buyers with lowered costs and free amenities to make the sale. And who will pick up the pieces when these building can't be filled and the developer starts losing money and is no longer a contributor to the tax base?

09/10/2019

2019-89 A & 2019-94 A  
NYSCEF DOC. NO. 44

RECEIVED NYSCEF: 02/16/2021

This project has already defied many norms. I urge you to reverse that trend and do the right thing by rejecting a permit that gives special treatment to an organization that has been dishonest in its filings and reports to the public.

Thank you.

Lynne Glasner  
27 West 96 St.  
New York, NY 10025

## BSA Sept 10 SCPNYC

I am Sheila Kendrick with Save Central Park NYC responding to the abusive tactics being implemented by developers around the Park.

**[L]  
[SEP]** We can already see the WALL of Supertall Towers across Central Park South and the resulting shadows -----the impact is both obvious and detrimental.

In the August 6<sup>th</sup> BSA hearing, it was stated that all things being equal the decision will favor the developer.

How can THIS be a result of a fair reading of the zoning code?

There seemed to be an argument for not having a thorough understanding of the Special Lincoln Square District's specifications and intent -----even though the language clearly says that construction would top out at no more than 30 stories. (1993 stories)

Did the developer, who is singularly "redefining the New York Skyline," not have the legal and zoning resources to understand every word of the underlying zoning when they have billions of dollars at stake?

Is it reasonable to think that they did not understand that the bulk distribution and tower coverage rules are ALWAYS applied together? **[L]  
[SEP]**

Or, is it more likely that they wanted to break into the neighborhood of the Upper West Side with a MIDBLOCK mega-tower and looked for a "work-around," in the law?

**Why did they create a rendering and submit plans that were compliant with the underlying zoning AND the Special Lincoln Square District overlay?**

**Did they really not understand the zoning?**

**Then, we ask -- since when is ignorance an excuse?**

**We might recall a beautiful art deco building on 5<sup>th</sup> Avenue that was destroyed under the cover of darkness by a developer who was intent on bending the rules to suit his needs --claiming ignorance. That resulted in Trump Tower.**

**The letter and intent of the Special Lincoln Square District is clear – to let it be obliterated, is to acknowledge that we are being TRUMPED.**



Testimony submission from Save Central Park NYC Sheila Kendrick



Regarding:  
2019-89-A 8/6/2019

**City Club of New York** 36 West 66th Street aka 50 West 66th Street, Manhattan  
Appeal of a New York City Department of Buildings challenging the validity of a building  
permit dated April 11, 2019. C4-7, R8 Special Lincoln Square District.

2019-94-A 8/6/2019

**Landmark West** 36 West 66th Street aka 50 West 66th Street, Manhattan Appeal of a  
New York City Department of Buildings challenging the validity of a building permit  
dated April 11, 2019. C4-7 and R8 Special Lincoln Square District.

10 West 66th Street, Apt 11G

New York, NY 10023

September 10, 2019

Chairperson Margery Perlmutter, R.A., Esq.  
NYC Board of Standards and Appeals  
250 Broadway, 29th Floor  
New York, NY 10007

Subject: **Testimony Regarding the following Appeals on September 10, 2019**

**2019-89-A** 8/6/2019 City Club of New York **36 West 66th Street aka 50 West 66th Street, Manhattan** Appeal of a New York City Department of Buildings challenging the validity of a building permit dated April 11, 2019. C4-7, R8 Special Lincoln Square District.

**2019-94-A** 8/6/2019 Landmark West **36 West 66th Street aka 50 West 66th Street, Manhattan** Appeal of a New York City Department of Buildings challenging the validity of a building permit dated April 11, 2019. C4-7 and R8 Special Lincoln Square District.

Dear Ms. Perlmutter:

My name is John Day. I support Save Central Park NYC, am a member of Landmark West and City Club. My wife, and I are neighbors of the disputed 50 West 66<sup>th</sup> Street project. For 21 years we've loved living in the Special Lincoln Square District.

We support both the appeals before you. They contest the merged zoning lots and the absurd massive "mechanical void" loopholes for the planned mid-block 775 foot building, three times taller than any others in the area.

It will cast shadows as far as Bethesda Fountain across Central Park and across our neighborhoods.

Safety is our greatest concern.

Please record this Uniformed Firefighters Association of Greater New York Memorandum. The firefighters' statement "strongly opposes construction methods that are inherently dangerous (and) for no valid reason increase the threat to the lives of the public and our members."

Today on the eve of 9/11, can we forget the firefighters' lives lost then or their continuing heroism?

I was three blocks away on the street when I felt the sonic boom, saw the first and second towers hit, and neighboring buildings destroyed when they fell.

Our brave public servants' warnings merit our most serious concern.

Enormous vertical voids, like the ones planned are far greater than in any other NY building and I believe unknown globally. They are untested and potentially deadly.

During Super Storm Sandy, friends were ripped from their homes in a three block radius of 153 W. 57<sup>th</sup> when the multi-ton crane atop that project blew over risking the area's destruction. The crane would have hit a major gas main if it fell.

The developer and contractor on that project are the same as on 50 W. 66<sup>th</sup>. OK. Do you get our fear?

The project architects appear creative, well regarded, and even designed the 9/11 Museum. Yet their website indicates they've not completed a building of this height nor do we know of any architect incorporated voids this high or with this potential risk.

Yes, we are afraid for our and our community's safety.

In your own words, the BSA should consider the "health, safety and life quality of all New Yorkers". We implore you to do that now.

Sincerely,

John Day



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CITYREALTY

New Renderings of AvalonBay's 1865 Broadway, JLL Tapped to Market its 70K of Retail Space

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## Features

Show [Future New York](#)

From [Future New York](#)

### New Renderings of AvalonBay's 1865 Broadway, JLL Tapped to Market its 70K of Retail Space



By CityRealty Staff  
Wednesday April 11 2018



1865 Broadway renderings

On Broadway, between Columbus Circle and Lincoln Center rises AvalonBay Communities' latest project: a 33-floor, 172-unit building to host condos, rentals and more than 70,000 square feet of retail in its podium. Addressed at 1865 Broadway, the Skidmore Owings & Merrill-designed tower anchors the southwest corner of West 61st Street, a block north from The Shops at Columbus Circle and a half-block west of Central Park. The tower replaces the 12-story former headquarter building of the American Bible Society, which AvalonBay purchased for \$300M in early 2015.

Late last year, we announced that the building topped out its 416-foot superstructure. As crews begin to enclose its concrete frame, new signage has been installed over the sidewalk scaffolding announcing that 70,000 square feet of retail are up for grabs on the building's lower floors. JLL has been tapped to market the spaces which span four levels: the first and second floors in addition to two underground floors.



**50**  
UNITED  
NATIONS  
PLAZA



THE ULTIMATE  
GLOBAL ADDRESS

IMMEDIATE OCCUPANCY

THE TOP  
SELLING BUILDING  
IN BROOKLYN



**BROOKLYN  
POINT**  
LUXURY RESIDENCES  
FROM \$850,000  
25 YEAR TAX ABATEMENT  
[EXPLORE](#)

R. 001834

**LOCATION INFORMATION**

1865 BROADWAY, NEW YORK, NY 10023  
BLOCK: 1114  
LOT: 9  
ZONING DISTRICT: C4-7 (R10 EQUIVALENT)  
1 - SPECIAL LINCOLN SQUARE DISTRICT

COMMUNITY BOARD: 7, MANHATTAN  
ZONING MAP: BC  
PROPOSED USE: GROUP 2 - RESIDENTIAL  
GROUP 6 - RETAIL  
GROUP 10 - RETAIL

**ZONING CALCULATIONS**

LOT AREA: 22,583 SF

MAXIMUM ALLOWABLE RESIDENTIAL FAR: 10.0 (ZR 23-15)  
MAXIMUM ALLOWABLE COMMERCIAL FAR: 10.0 (ZR 33-122)

MAXIMUM ALLOWABLE RESIDENTIAL ZFA:  
 $22,580 \text{ SF} \times 10.0 = 225,580 \text{ SF}$   
MAXIMUM ALLOWABLE COMMERCIAL ZFA:  
 $22,580 \text{ SF} \times 10.0 = 225,580 \text{ SF}$

MAXIMUM ALLOWABLE RESIDENTIAL FAR  
WITH INCLUSIONARY BONUS: 12.0 (ZR 82-32(a))

**ZONING BONUSES**

14,184 SF, TRANSFERRED FROM 210 WEST 102ND STREET, MANHATTAN  
24,772 SF, TRANSFERRED FROM 33 WEST END AVENUE, MANHATTAN  
5,800 SF, TRANSFERRED FROM 424 WEST 55TH STREET, MANHATTAN

TOTAL ZONING BONUS = 44,756 SF

MAXIMUM ALLOWABLE RESIDENTIAL ZFA  
WITH ZONING BONUSES:  
 $(22,580 \text{ SF} \times 10.0) + 44,756 \text{ SF} = 270,556 \text{ SF} (11.98 \text{ FAR})$

PROPOSED RESIDENTIAL ZFA: 237,135 SF < 270,556 SF; COMPLIANT.  
PROPOSED COMMERCIAL ZFA: 33,320 SF < 225,580 SF; COMPLIANT.

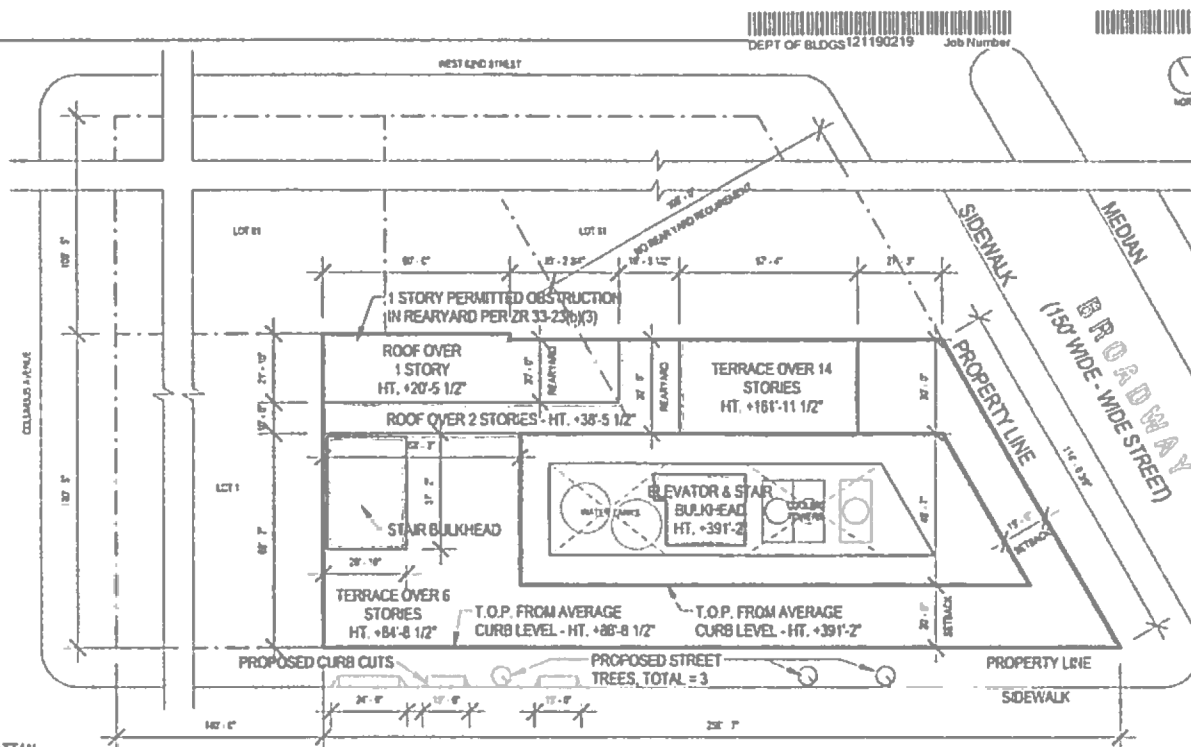
TOTAL PROPOSED ZFA: 270,455 SF < 270,556 SF; COMPLIANT.

**ZR 82-21****RESTRICTIONS ON STREET LEVEL USES**

WITHIN 30'-0" OF BROADWAY, GROUND FLOOR USE GROUPS LIMITED TO 3A, 3B, 6A, 6C, 8A, 10A AND EATING AND DRINKING ESTABLISHMENTS LISTED IN 12A AND 12B. COMPLIANT.

**ZR 82-22****LOCATION OF FLOORS OCCUPIED BY COMMERCIAL USES**

IN NO EVENT SHALL SUCH COMMERCIAL USE BE LOCATED DIRECTLY OVER ANY DWELLING UNIT. COMPLIANT.



**SITE PLAN DIAGRAM**  
SCALE: 1" = 40'-0"

**WEST 61ST STREET**  
(60' WIDE - NARROW STREET)

**ZR 33-26 / 33-261****MINIMUM REQUIRED REAR YARDS**

A REAR YARD WITH A DEPTH OF NOT LESS THAN 20 FEET SHALL BE PROVIDED AT EVERY REAR LOT LINE.

FOR CORNER LOTS, PORTIONS BEYOND 100 FEET OF THE STREET LINE SHALL BE CONSIDERED A REAR YARD.

COMPLIANT.

NO FRONT OR SIDE YARDS REQUIRED PER ZR 33-20.  
NO LOT COVERAGE REQUIREMENTS FOR R10 PER ZR 23-14.

**ZR 82-36****SPECIAL TOWER COVERAGE AND SETBACK REGULATIONS**

TOWER SHALL NOT OCCUPY MORE THAN 40% AND NOT LESS THAN 30% OF TOTAL LOT AREA

LOT COVERAGE OF TOWER = 7,297 SF  
TOTAL LOT AREA = 22,580 SF  
 $7,298 \text{ SF} / 22,580 \text{ SF} = 32.32\%$ ; COMPLIANT.

**ZR 82-38****RECESSES IN STREET WALL**

RECESSES IN THE STREET WALL REQUIRED BETWEEN 15-30% OF ENTIRE WIDTH OF STREET WALLS FRONTING UPON BROADWAY BETWEEN THE GROUND FLOOR AND 65 FEET ABOVE CURB LEVEL

PROVIDED RECESS = 21'-9"  
BROADWAY STREET WALL LENGTH = 114  
 $21'-9" / 114'-0" = 19.1\%$ ; COMPLIANT.

**ZR 26-41****STREET TREE PLANTING**

1 TREE REQUIRED PER 25'-0" OF STREET FRONTAGE OF THE ZONING LOT.

STREET FRONTAGE: 370'-7 1/4"  
REQUIRED TREES:  $370'-7 1/4" / 25'-0" = 15$  TREES

PROVIDED: 3 TREES  
(PAYMENT TO BE MADE FOR PLANTING OF 12 TREES AT ALTERNATE SITE)

**ZR 34-62****REQUIRED ACCESSORY OFF STREET LOADING BERTHS**

FOR RESIDENTIAL USE:  
230,000 SF: 0 REQUIRED BERTHS

FOR COMMERCIAL USE:  
FIRST 25,000 SF: 0 BERTHS  
NEXT 15,000 SF: 1 BERTHS  
NEXT 60,000 SF: 1 BERTHS  
68,207 SF: 2 REQUIRED BERTHS

2 BERTHS REQUIRED

2 BERTHS PROVIDED; COMPLIANT.

**ZD1 Zoning Diagram**

Must be typewritten.

Check and fill in job number label box

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): 1865  
Street Name: BROADWAY  
Borough: MANHATTAN  
Block: 1114  
Lot: 9  
BIN: 1027362

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 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):

KENNETH LEWIS

Signature:

Date: 5-8-2019



P.E. / R.A. Seal (Apply over signature and date over seal)

Internal Use Only

BIS Doc #

PLAN EXAMINER SIGN AND DATE

07/09



**SECTION DIAGRAMS**  
SCALE: 1" = 80'-0"

**ZR 82-34**  
**SPECIAL TOWER COVERAGE AND SETBACK REGULATIONS**

ABOVE 85'-0":  
15'-0" SETBACK AT BROADWAY  
12'-0" SETBACK AT NARROW STREET

**82-34**  
**BULK DISTRIBUTION**

AT LEAST 60 PERCENT OF THE TOTAL FLOOR AREA PERMITTED SHALL BE WITHIN STORIES LOCATED PARTIALLY OR ENTIRELY BELOW A HEIGHT OF 150 FEET FROM CURB LEVEL.

LEVEL 1 - 13 (EL: +149' 11 1/2") = 162,410 SF  
TOTAL ZFA = 270,537 SF  
162,410 SF / 270,537 SF = 60%, COMPLIANT.

**ZONING AXON**  
SCALE: 1" = 80'-0"

**NYC**  
Buildings

**ZD1 Zoning Diagram**  
Must be typewritten.

☐ Orient and after BLS job number listed here
 ☒

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) 1655  
 Street Name BROADWAY  
 Borough MANHATTAN  
 Block 1114  
 Lot 9  
 BIN 1027362

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 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) KENNETH LEWIS  
 Signature Date 5-6-2019  
 REGISTERED ARCHITECT  
 STATE OF NEW YORK  
 No. 021336  
 P.E. / R.A. Seal (print, red, then sign and date over seal)

**Internal Use Only**

BLS Doc #

PLAN EXAMINE SIGN AND DATE 07/09

09/23/2019



## ZD1 Zoning Diagram

Must be typewritten.  
Sheet 1 of 1

## 1 Applicant Information Required for all applications.

Last Name LEWIS First Name KENNETH Middle Initial A  
 Business Name SKIDMORE OWINGS & MERRILL LLP-NY Business Telephone (212) 298-9300  
 Business Address 14 WALL STREET Business Fax (212) 298-9500  
 City NEW YORK State NY Zip 10005 Mobile Telephone \_\_\_\_\_  
 E-Mail LEWIS License Number 023335

## 2 Additional Zoning Characteristics Required as applicable.

Dwelling Units 172 Parking area 0 sq. ft. Parking Spaces Total 0 Enclosed 0

## 3 BSA and/or GPC Approval for Subject Application Required as applicable.

## Board of Standards &amp; 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	
01	14,449	10			13,619		0.603
01	830	6			830		0.037
01	6,818	2	5,035				0.223
NEZZ	2,613	2	786				0.035
02	18,871	10			12,666		0.561
02	6,205	6			6,205		0.275
02	1,320	2	533				0.023
03	18,853	2	16,212				0.718
04	18,901	2	17,145				0.758
05	18,538	2	17,324				0.767
06	18,900	2	16,850				0.746
07	9,886	2	8,532				0.380
08	8,380	2	7,791				0.345

## ZD1

Sheet \_\_\_\_\_ of \_\_\_\_\_

## 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	
09	8,380	2	7,791				0.345
10	8,380	2	7,791				0.345
11	8,380	2	7,791				0.345
12	8,360	2	7,791				0.345
13	8,380	2	7,791				0.345
14	6,532	2	5,049				0.224
15	6,532	2	5,030				0.223
16	6,532	2	6,018				0.267
17	6,532	2	6,018				0.267
18	6,532	2	6,018				0.267
19	6,532	2	6,018				0.267
20	6,532	2	6,018				0.267
21	6,532	2	6,018				0.267
22	6,532	2	6,018				0.267
23	6,532	2	6,018				0.267
24	6,532	2	6,018				0.267
25	6,532	2	6,018				0.267
26	6,532	2	6,018				0.267
27	6,532	2	6,018				0.267
28	6,532	2	6,018				0.267
29	6,532	2	6,018				0.267
30	6,532	2	6,046				0.258
31	6,532	2	6,046				0.258
32	4,295	2	1,420				0.063
33	734	2	129				0.006
SC	14,280	10			0		0.000
SC	8,121	2	0				0.000
C	20,627	10			0		0.000
C	1,754	2	0				0.000
Totals	346,802		237,135		33,320		11.98

Total Zoning Floor Area 270,455

07/09

**ZR 82-36**

**SPECIAL TOWER COVERAGE AND SETBACK REGULATIONS**

**TOWER SHALL NOT OCCUPY MORE THAN 40 % AND NOT  
LESS THAN 30% OF TOTAL LOT AREA**

**LOT COVERAGE OF TOWER = 7,297 SF**

**TOTAL LOT AREA = 22,580 SF**

**$7,298 \text{ SF} / 22,580 \text{ SF} = 32.32\%$  ; COMPLIANT.**

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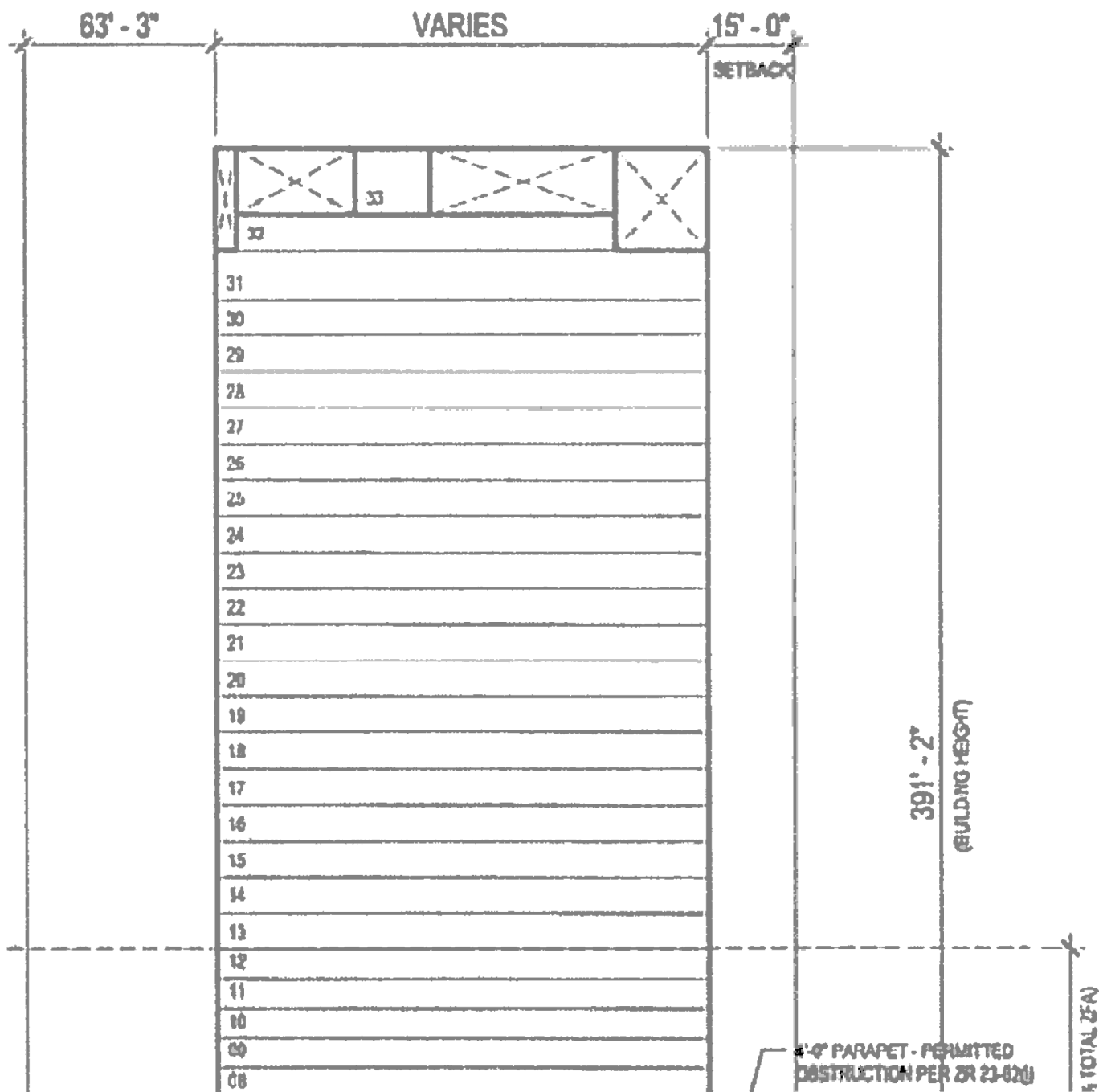
2019-89-A  
09/23/2019

ZD1

**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:		
			Residential	Community Facility	Cor
09	8,380	2	7,791		
10	8,380	2	7,791		
11	8,380	2	7,791		
12	8,380	2	7,791		
13	8,380	2	7,791		
14	6,532	2	5,049		
15	6,532	2	5,030		
16	6,532	2	6,018		
17	6,532	2	6,018		
18	6,532	2	6,018		
19	6,532	2	6,018		
20	6,532	2	6,018		
21	6,632	2	6,018		
22	6,532	2	6,018		
23	6,532	2	6,018		
24	6,532	2	6,018		
25	6,532	2	6,018		
26	6,532	2	6,018		
27	6,532	2	6,018		
28	6,532	2	6,018		

09/23/2019



**1 Maximum height of tower in Special Lincoln Square District (zoning floor area = non-zoning floor area)**

<b>2</b>	Maximum zoning floor area	270,960	Assumptions	
<b>3</b>	Area under 150	162,576	Taper	80% Lot area 22,580 SF
<b>4</b>	Max over 150	108,384	FAR	12 Coverage tower 29%
	Floor area per floor		Max Penthouse	
<b>5</b>	Excluding penthouse	6,530	floors	4 Floor area under 150 60%
	Floors above 150'			
<b>6</b>	With no penthouse	16.6	Floors below 150	14
<b>7</b>	Floors below 150	14.0		
<b>8</b>	Total floors, no penthouse	30.6		
<b>9</b>				
<b>10</b>				
<b>11</b>	With penthouse			
<b>12</b>	Non-penthouse floors	14.2		
<b>13</b>	Max penthouse floors	4.0		
<b>14</b>	Floors above 150 feet	18.2		
<b>15</b>	Floors below 150	14.0		
<b>16</b>	Total floors, with penthouse	32.2		

**19 Maximum building height in Special Lincoln Square District (with NZFA deductions in portion over 150)**

<b>20</b>	GFA Max over 150	117,055	Assumptions	
	Gross floor area per floor			
<b>21</b>	Excluding penthouse	6,530	NZFA	8%
	Floors above 150'			
<b>22</b>	With no penthouse	17.9	Gross up	108%
<b>23</b>				
<b>24</b>	With penthouse			
<b>25</b>	Non-penthouse floors	15.6		
<b>26</b>	Max penthouse floors	4.0		
<b>27</b>	Floors above 150 feet	19.6		
<b>28</b>	Floors below 150	14.0		
<b>29</b>	Total floors	33.6		

09/23/2019

	A	B	C	D	E	F	G	H	I
1	<b>Maximum height of tower in Special Lincoln Square District (zoning floor area = non-zoning floor area)</b>								
2	Maximum zoning floor area	240,000				<b>Assumptions</b>			
3	Area under 150	144,000		Taper		80% Lot area		20,000	SF
4	Max over 150	96,000		FAR		12 Coverage tower		30%	
	Floor area per floor			Max Penthouse					
5	Excluding penthouse	6,000		floors		4 Floor area under 150		60%	
	Floors above 150'								
6	With no penthouse	16.0		Floors below 150	14				
7	Floors below 150	14.0							
8	Total floors, no penthouse	30.0							
9									
10									
11	With penthouse								
12	Non-penthouse floors	13.6							
13	Max penthouse floors	4.0							
14	Floors above 150 feet	17.6							
15	Floors below 150	14.0							
16	Total floors, with penthouse	31.6							
17									
18									
19	<b>Maximum building height in Special Lincoln Square District (with NZFA deductions in portion over 150)</b>								
20	GFA Max over 150	100,800				<b>Assumptions</b>			
	Gross floor area per floor								
21	Excluding penthouse	6,000				NZFA		5%	
	Floors above 150'								
22	With no penthouse	16.8				Gross up		105%	
23									
24	With penthouse								
25	Non-penthouse floors	14.4							
26	Max penthouse floors	4.0							
27	Floors above 150 feet	18.4							
28	Floors below 150	14.0							
29	Total floors	32.4							

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Untitled	3



## Table of Contents

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### Sheets and Views

1865 bulk study-revised

2

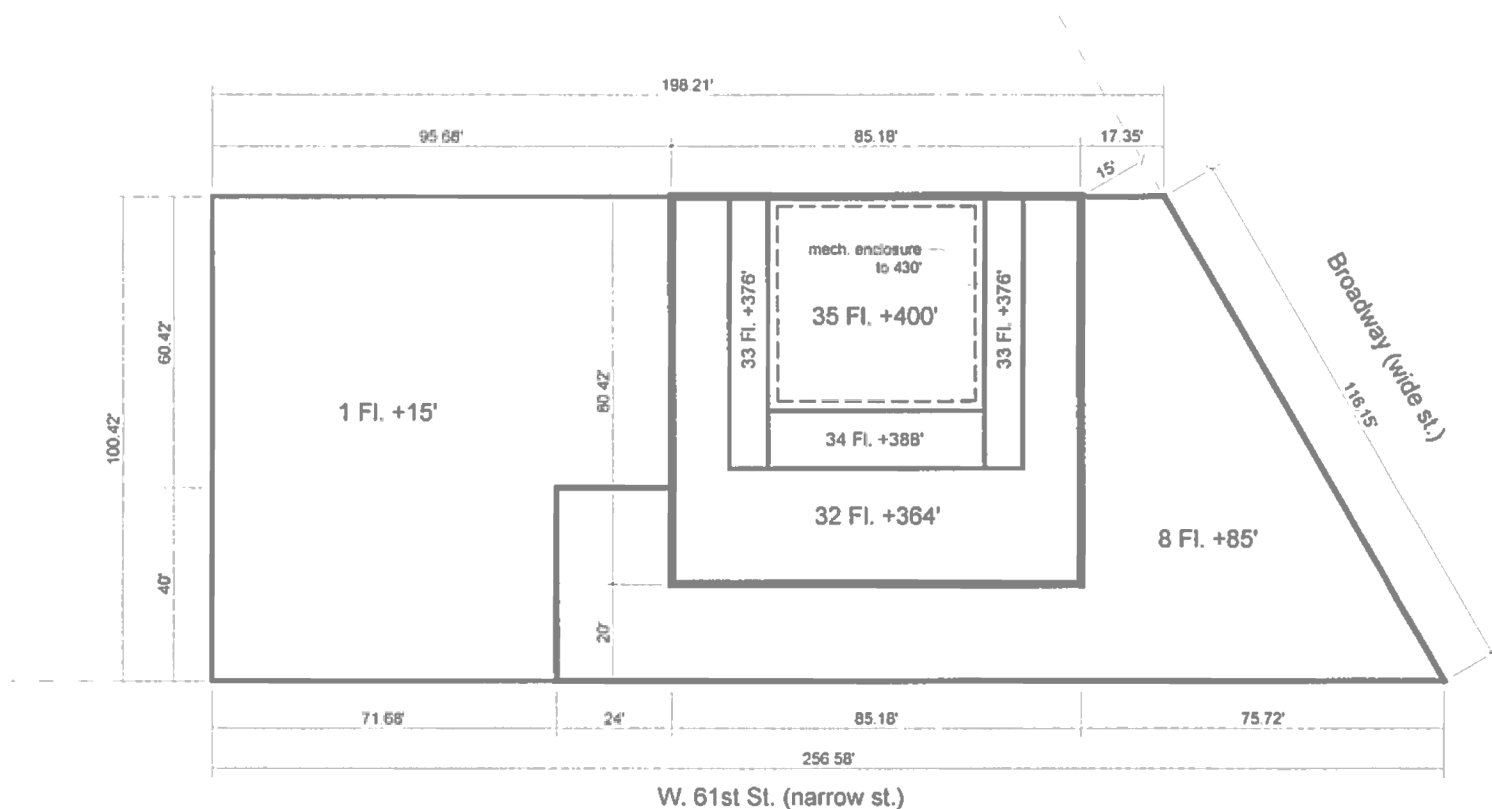
Untitled

2

## 1865 Broadway

Block 1114, Lot 9

Scheme 1: Residential tower above ground floor retail



**Zone:** C4-7  
Special Lincoln Square District

**Lot Area:** 22,835 SF

**Maximum Permitted Floor Area:**

Commercial @ 10 FAR	228,350 ZSF
Residential @ 10 FAR	228,350 ZSF
Inclusionary @ 2 FAR	45,670 ZSF
Maximum total @ 12 FAR	274,020 ZSF

**Used This Scheme:**

Retail	14,000 ZSF
Residential	260,020 ZSF
Total	274,020 ZSF

**Floor-to-floor Heights:**

1	15'	Retail & lobby
2-8	10'	Residential
9-15	10.7'	Residential
16	12'	Residential
17-35	12'	Residential
400'		Building Height (430' w mech. enclosure)

150' "measure" ↑

**Floor sizes:**

1	22,835 GSF	Retail & lobby
2-8	14,187 GSF	Residential
9-32	6,850* GSF	Residential
33	3,407 GSF	Residential
34	2,726 GSF	Residential
35	2,044 GSF	Residential
Total	294,721	Gross Square Feet

\*Min tower size 30% (6,850 SF)

1865 bulk study.dwg

© Development Consulting Services, Inc.

Note: Lot areas and floor areas are estimates subject to survey verification.

1

Date: 08/23/19

Scale: 1" = 40'

Drawing No:

Development  
Consulting  
Services, Inc.

330 West 42nd Street  
16th Floor  
New York, NY 10036  
212 714-0280R. 001845

CHAIRMAN MAJORITY MEMBER  
JUDICIARY

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FAX (518) 426-6846e-mail:  
hoylman@nysenate.govwebsite:  
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**Testimony re: Items 2019-89-A and 2019-94-A: the appeal of a New York City  
Department of Buildings challenge on the validity of a building permit dated April  
11, 2019 in the C4-7 and R8 Special Lincoln Square District**

Dear Commissioners:

I write to oppose the currently planned building at 36 West 66th Street (AKA 50 West 66th Street). Building a 775-foot tower on this site is not only inappropriate for this neighborhood, the design of this building flies in the face of zoning text in the Special Lincoln Square District. As was written in the September 2018 letter in support of our challenge by George Janes, a certified planner, "There are several deficiencies in the drawings and designs" of the proposed building. Despite a revised ZD1, I remain concerned about the use of interbuilding voids, shadows cast on neighboring buildings and Central Park, and incongruent zoning approvals with the Special Lincoln Square District.

I would like to reiterate some concerns with the proposed building:

1) The FDNY has unanswered questions regarding the safety of the currently proposed interbuilding voids. 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. 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 the City's regulations and the Commissioners have the ability to override this approval if safety of occupants is at risk. The FDNY has also raised concerns about the accessibility of void space that may contain mechanical equipment for operations.

2) 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. I believe this is the case with the proposed building.

3) The proposed design would cast a shadow across almost the entire width of Central Park in the early evenings. This shadow will impact neighbors, park-goers, and historic resources. This building's impact on additional public spaces in the area has not been fully studied or considered during the zoning approval process.

4) Tower coverage and bulk packing are calculated on different parts of the zoning lot. They must be linked. 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. 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 has led to absurd results. For these reasons and with the support of the community, I ask the Board of Standards of Appeals to uphold our challenge to the Department of Building's zoning approvals for 36 West 66th Street.

Thank you for the opportunity to testify today and for your consideration on this important issue.

Sincerely,



Brad Hoylman  
State Senator  
27th District



LINDA B. ROSENTHAL  
Assemblymember 67<sup>th</sup> District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

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Task Force on Women's Issues

Legislative Women's Caucus

**Testimony of Assemblymember Linda B. Rosenthal Before the New York City Board of Standards and Appeals in Support of Landmark West's Zoning Challenge of the Validity of the Building Permit at 36 West 66th Street**

September 10, 2019

I am Assemblymember Linda B. Rosenthal and I represent the Upper West Side and Hell's Kitchen in the New York State Assembly. Thank you for the opportunity to testify today in opposition to Extell Development's (Extell) proposal to construct a 775-foot tower at 36 West 66th Street. As a long-time opponent of overdevelopment, an outspoken critic of the zoning lot mergers that have heretofore allowed the construction at 200 Amsterdam Avenue to continue in my district and the author of state legislation (A.5026) to close the mechanical void loophole, I strongly urge the New York Board of Standards and Appeals (BSA) to appeal NYCDOB reject Extell's proposal at 36 West 66th Street.

Extell has reserved an astounding and excessive 161 feet of interbuilding space for mechanical infrastructure. Knowing that mechanical void space is not counted toward the total building floor area ratio (FAR), Extell is attempting to circumvent the letter of the law to stretch the building height so that the units above the void will have access to better views and thereby fetch higher prices on the market. Extell has not proven that this mechanical space is necessary to their operation and it is clearly only in place to boost their building height.

Earlier this year, the New York City Council passed a local law to clarify the law on void space and set clear limits on the amount of space within a building that could be used for void space before being counted toward total FAR.

While I and more than 40 of my colleagues in the New York State Legislature who represent parts of New York City believe that that the Council effort did not go far enough, the effort did clarify the intent of local lawmakers to circumscribe this kind of development. The BSA cannot possibly allow plans for a development so contrary to the spirit of the zoning resolution to move forward; doing so would signal to developers that they could calculatedly flout zoning rules so long as plans are filed within a certain timeline.

As if it weren't enough to add 160 additional feet of empty space to the building, Extell also proposed to use a series of other developer tricks to do an end-run around the zoning rules. The zoning lot merger that Extell utilizes to cobble together development rights enabling it to achieve its current 775-foot height violates the rules of the Lincoln Square Special District, which limits building height to approximately 30 stories by controlling FAR. By merging zoning lots and selectively applying the Special District rules to different lots, Extell is constructing a building much taller than would be permitted if it followed the rules of the Special District.

In addition to the obvious developer overreach, this building represents the kind of short-sighted urban planning that the New York City must abandon. The zoning rules are in place not just to protect our access to light and air, two precious commodities in our concrete jungle, but also to ensure that all new development is contextual. A 775-foot tower may make sense for Midtown, but not for the middle of the much more residential Upper West Side. Development of this scale will have tremendous and unplanned-for impacts on local infrastructure, such as local schools, transportation, supermarkets and sidewalks, just to name a few.

Rubberstamping the plans for this development now doesn't just allow construction at this site to move forward, it broadcasts to developers citywide that BSA is weak and when challenged, will stand with developers who have violated the letter and spirit of the law and not the people in the communities it should serve.

All across the City, people are rising up against the kind of system of broken government where the wealthy and well-connected continue to chart their path like manifest destiny, while the rest of us are left holding the bag full of consequences. New York City has been struggling through an affordable housing crisis that has left more than 60,000 people – and so many children - living on the streets every single night, while thousands of others struggle to pay their rent and put food on the table.

And despite these grim statistics, we are here today fighting to stop a building with 16 stories of empty space. This space could be used to provide homes to hardworking New Yorkers, but instead, it's being used so the residents in the top floors can literally look down on the rest of us from their penthouses in the clouds.

There are few dichotomies that more clearly and sadly embody the tale of two cities narrative that City Hall has sworn to fight against. I thank you again for the opportunity to testify again and renew my request that the BSA reject Extell's proposal at 36 West 66th Street.

September 10, 2019

Margery Perlmutter  
Chair  
New York City Board of Standards and Appeals  
250 Broadway, 29<sup>th</sup> Floor  
New York, NY 1007

**RE: Testimony of Congressman Jerrold Nadler on the Continued Hearings for 2019-89-A and 2019-94-A regarding 36 West 66<sup>th</sup> Street aka 50 West 66<sup>th</sup> Street on September 10, 2019**

Dear Chair Perlmutter,

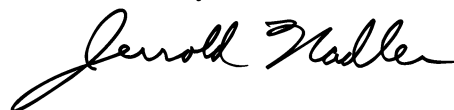
I write to urge to the Board of Standards and Appeals (BSA) to oppose Extell Development's (Extell) construction of the high-rise tower at 36 West 66<sup>th</sup> Street aka 50 West 66<sup>th</sup> Street (36 West 66<sup>th</sup> Street). Extell's proposed 775-foot building is out of character in this Upper West Side neighborhood and continues to pose threats to residents' ability to access the public goods of light and air in their communities.

In its current design, the Extell development would allow for 176 feet of mechanical floors. Taken together with the proposed structural voids, about 229 feet (or a third of the building's height) would be utilized simply to increase the height of the structure, without providing additional units or potential amenities for its Upper West Side residents. The New York City Council recently passed an amendment to the zoning laws to prevent the use of mechanical voids as a work-around to build to excessive heights. Allowing this development is inconsistent with the intention of our local lawmakers to curb the proliferation of "super-tall" buildings such as this.

Additionally, the development sits in two zoning districts, including the Lincoln Square Special District, which has specific zoning requirements, such as limiting building heights to 25 – 30 feet. Extell's plan contravenes the Special District's zoning regulations.

I stand with my fellow elected officials, advocates, neighbors and community members who have been working tirelessly to make sure that developers adhere to the zoning rules and regulations. Thank you for the opportunity to testify today and encourage the BSA to revoke the building permits at 36 West 66<sup>th</sup> Street.

Sincerely,

A handwritten signature in black ink, reading "Jerrold Nadler". The signature is fluid and cursive, with the first name "Jerrold" and last name "Nadler" clearly distinguishable.

JERROLD NADLER  
Member of Congress





OFFICE OF THE PRESIDENT  
BOROUGH OF MANHATTAN  
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007  
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Gale A. Brewer, Borough President

September 10, 2019

**Testimony of Manhattan Borough President Gale A. Brewer  
BSA Cal. No: 2019-89-A and 2019-94-A - 50 West 66<sup>th</sup> Street**

Good morning Chair Perlmutter and Commissioners. I am Manhattan Borough President Gale Brewer and I am here once again to talk about 50 West 66<sup>th</sup> Street.

Given the robust discussion at the August 6, 2019 hearing, I have only a few items to add to my previous testimony. The first has to do with the “ambiguity” of the Zoning Resolution that pertains to regulating building heights in the Special Lincoln Square District. I understand that the *intent* to ensure that building heights do not exceed 30 stories is in the CPC report—not the Zoning Resolution. Even if we assume that the developer and his team of highly experienced consultants were not aware of the *specific heights* that the Special District intended to ensure, the Zoning Resolution itself is clear on other points. The General Purposes of the Special Lincoln Square District text include:

- Promoting a **desirable** use of the land: this building does not achieve that goal;
- **Complementing and enhancing** the existing neighborhood: this building does not achieve that goal; and
- **Preserving the character of the district:** this building does not achieve that goal.

Instead, this is a building that towers over all of the other buildings nearby, destroying the urban fabric of this area. Given the purposes I just cited, I believe that the proposed building fails to observe or abide by the guidelines specified in the Zoning Resolution.

The second point is that despite the building’s requirement to provide 70,210 square feet of affordable housing, DOB records show that the developer has only obtained certificates for 36,743 square feet. Yet, the developer is still claiming a 2 FAR bonus. My office is working with Landmark West! to ensure that this developer abides by this requirement as well. I am also working to ensure that the 55 affordable housing units that the developer owes the community are, in fact, built.

I expect that the BSA will say that this matter is one that DOB must resolve—and I will be in contact with them. The community’s concerns are not front and center on these matters, and they should be. 50 West 66<sup>th</sup> Street must follow the rules, comply with the Zoning Resolution, fulfil its obligations, and fully address the concerns of the community. To permit this development to move forward as proposed is an affront to the letter and spirit of the Zoning Resolution.

Thank you for your time and consideration.



RICHARD N. GOTTFRIED  
75TH ASSEMBLY DISTRICT

CHAIR  
COMMITTEE ON HEALTH

## NEW YORK STATE ASSEMBLY

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### REVOKE THE BUILDING PERMIT FOR 36 WEST 66 STREET (A/K/A 50 WEST 66 STREET)

Assembly Member Richard N. Gottfried  
Testimony before the New York City Board of Standards and Appeals  
on Calendar Items #2019-89-A  
and 2019-94-A  
Tuesday, September 10, 2019

My name is Richard N. Gottfried. I represent the 75th Assembly District, which includes the supertall building currently under construction at 36 West 66, also known as 50 West 66 Street. I oppose the construction because of the impact it would have on the community and the precedent it would set.

The Board of Standards and Appeals should revoke the building permit for the building issued by the New York City Department of Buildings on April 11, 2019.

The project uses large mechanical voids dispersed through the building. There is a cumulative 239 feet of void space in this tower, comparable to 24 stories. The developer's attempts to exempt the voids from counting as equivalent floor area should be rejected. The developer has failed to prove that such an unprecedented, oversized void is required for proper mechanical functioning of the structure. The New York City Department of Buildings has failed to verify the locations and spacing of any mechanical equipment on these floors and therefore cannot justify their existence.

These voids – like those being included in some other supertall buildings – serve no functional purpose. They are used to increase the developer's profit by increasing the altitude, and thus the market value, of upper-floor apartments. They do this at the expense of imposing more visual pollution and loss of light on the surrounding community. If the volume of the voids were counted as if it were divided into ordinary floors, the building's floor area ratio would plainly violate the applicable zoning. The City should not tolerate this abuse of the zoning and building codes.

At the State level, I co-sponsor Assembly Member Linda Rosenthal's bill, A.5026-A. This bill would provide that if the height of a floor exceeds 12 feet, the additional increments of height would count as additional floors for the purpose of calculating floor area ratio.

This building's floor area calculations are contrary to the Zoning Resolution. The "Bulk Packing" rule states that 60 percent of a building's floor area must be below 150 feet and the "Tower Coverage" rule states that the lot area of a zoning lot higher than 85 feet must be between 30 and 40 percent of the lot area. In tandem, these tower-on-base rules are in place to

limit the height of building development. Buildings in the neighborhood that abide by these rules average 20 to 30 stories. These rules were put in place to preserve the context of the neighborhood and limit the height of buildings to an appropriate level.

Because the building's site involves two different zoning districts – a C4-7 and an R8 – the developer is choosing to selectively apply portions of the Zoning Resolution to the zoning district that the developer asserts would allow for a larger and taller building. Both rules must apply to this building; the developer cannot be allowed to pick and choose which rules he wants to abide by.

The 36 West 66 Street development is an abuse of zoning regulations, is contextually out of scale, and would set a terrible precedent for future proposed developments.

I strongly urge the BSA to revoke the permits for this supertall tower.

Thank you.



**THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
SCOTT M. STRINGER**

**TESTIMONY OF NEW YORK CITY COMPTROLLER'S OFFICE**

**TESTIMONY TO THE BOARD OF STANDARDS AND APPEALS  
REGARDING  
50 WEST 66<sup>th</sup> STREET aka BSA CALENDAR 2019-94-A**

**September 10, 2019**

Thank you Chair Perlmutter and Commissioners for the opportunity to testify today. I believe the proposed building permit issued for this building by the Department of Buildings (Permit No. 121190200-01—NB) was simply issued incorrectly and must be revoked.

This is not simply a case of a developer exploiting zoning loopholes to produce a building larger than expected. This is a case of a developer *creating* zoning loopholes to produce a building whose height is unsafe, grossly out-of-contract with the surrounding community and blatantly contrary to intent of the zoning resolution and the associated environmental studies, as adopted for the Lincoln Square Special District in 1993.

If the commission allows these loopholes to be codified into law through their decision, it would represent a backdoor rezoning whose impacts on the community and the environment have not been studied.

In 1993, New York City adopted changes to the Lincoln Square Special District by implementing Bulk Packing and Tower Coverage rules. These rules were explicitly intended to regulate height and limit new building's ability to exceed 40 stories. In the rezoning Report, the Commission stated its belief that the regulations "should predictably regulate heights of new development" and "produce buildings heights ranging from the mid-20 to low 30 building stories."

By misinterpreting these rules and creating new loopholes, the Developer has proposed a building rising to a farcical 776 feet, nearly three times the height that was intended.

The developer is able to achieve this height in two ways, first by misapplying Zoning Resolution Sections 82-34 and 77-02 and secondarily by allowing large, unsafe mechanical voids in the building.

The Lincoln Square Special District requires, through 82-34 that 60% of all the bulk in a building be located below 150 feet in height. The zoning lot is a split between two zoning districts, a C4-7 and a R8 zoning district. If these lots were developed individually, then both sites would need to comply with 82-34 and any other bulk provision.

The owner has interpreted that density in both districts should count towards the requirement that 60% of the bulk must be below 150 feet in height, but otherwise chosen to interpret bulk provisions, such as tower coverage and set back regulations, to only be analyzed based on their C4-7 or R8 zoning districts respectively.

This is fundamentally, a misinterpretation of Zoning Resolution 77-02, which states in part that: "Whenever a zoning lot is divided by a boundary between two or more districts and such zoning lot did not exist on December 15, 1961, or any applicable subsequent amendment thereto, 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." (emphasis added)

Simply put, when a zoning lot is split by two districts, each portion of the zoning lot must comply with all bulk regulations of that specific district, unless otherwise noted in zoning resolution. The tower portion

of the building does not comply with the requirements of the of the C4-7 District, which requires that 60% of the bulk in the C4-7 portion of the district be limited to below 150 feet.

This alone is grounds for revoking the permit.

However, the developer has further added large mechanical voids to artificially boost the height of the building. The owner has added a total of 196 feet of height dedicated to mechanical spaces, or nearly 25% of the building's total height, before one includes the roof-top mechanicals which add another 33 feet in height.

Zoning Resolution Section 12-10 stipulates that all accessory uses, such as mechanical uses, must be "clearly incidental and customarily found in conjunction with the principal use."

The owner originally proposed one 160 foot mechanical void. Once this void was found to not be "customarily found in connection with residential uses" by DOB and unsafe by the FDNY, the owner then divided the space into three mechanical floors with a total height of 176 feet and added a fourth mechanical space with 20 feet of height in the building.

The fact that one floor of floor space can be divided into four simply to subvert an objection by a city agency brings into deep question of whether these spaces are "*clearly* incidental and customarily found in conjunction with a principal use."

In addition, the recent Department of City Planning survey of mechanical spaces found that in equivalent R-10 zoning districts, mechanical floors' "typical height was 12-15 feet...". The proposed building at 50 West 66<sup>th</sup> Street has four mechanical floors all between 3 and 5 times larger than a typical building. This survey places further skepticism as to whether the proposed mechanical spaces meet the standard that they are "customarily found in conjunction with a primary use."

Simply put based on the all available evidence, the mechanical spaces the owner has proposed are both more numerous and larger than necessary.

Based on the proven previous subterfuge that the owner needed a 160 foot tall mechanical space and potential current subterfuge that they need four spaces at 196 feet tall, the owner must provide proof positive that these spaces meet the basic definition of mechanical space. This is supported by the New York County Supreme Court finding: "Since there is no specific definition of 'mechanical equipment' in the Zoning Resolution or any definitive finding by DOB on this issue, it demands administrative determination in the first instance."<sup>1</sup>

Given the owners silence on the specific designs for these spaces despite the objections by agencies and the community, it is reasonable to assume they cannot do so and this is another subterfuge to get additional height.

Based on this available evidence, all building permits should be revoked.

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<sup>1</sup> Educ. Constr. Fund. V. Verizon New York, 36 Misc.3d 1201(a) (Sup. Ct. N.Y. Co. 2012) *aff'd*, 133 A.D.2d 529 (1<sup>st</sup> Dep't 2014)

To: Chairperson Margery Perlmutter  
Board of Standards & Appeals  
250 Broadway, 29th Floor  
New York, NY 10007

September 9, 2019

My name is Susan Simon and I'm the founder of the Central Park West Neighbors Association. I am here today to fight for our community and all NY communities where developers with no real aim but to accumulate more and more money continue to exploit our neighborhoods.

Extell came to the Lincoln Square community with a proposal to build a complex of an entirely different kind. They applied to the DOB for permits for a 25 story building. I'm quite sure they did so because it was within the regulations of the Lincoln Square District zoning law of 1996, which stated that no taller than a 30 story building could be built within the special district. This was an easy way for Extell to get their project off the ground with little friction as it was within the law. But Extell's real intent was to build a nearly 800 foot tower and not be bound by the zoning law, but circumvent it. As if that were not enough, the developer has incorporated over 160 feet of empty space within this tower to prop up higher and more expensive views with a plan to build only a total of 127 apartments. Wow. I've wondered whether each apartment comes with its own 4 car garage?

But what's lost in this whole drama is while everyone seems to be reacting to some distracting part of the story, this "working around" the zoning law should not be thought of as normal, not by this body or anyone else. What it is a manipulation of the law and a way not to follow it. This is high stakes casino gambling with our communities. And when the developer takes the house, the community is left bereft. Robbed of essential light, air, and human scale. Robbed of sunlight in the magnificent Central Park, another assault on an entire ecosystem that would sit in shadow all the way to Bethesda Fountain. That's a price no one should be willing to pay.

The zoning laws were enacted to protect our communities from all sorts of potential predations. Yet routinely they are ignored, or obfuscated. The mandate of this body is to assure that doesn't happen. The mandate of this body is to read the clear language of the zoning law and not to slice and dice it and quibble about what the meaning of is, is.

I'm asking something really simple. I'm asking the BSA to do the job you were appointed to do. I'm asking you to consider that once upon a time a Robert Moses tried to divide the Village and Washington Square Park in half with a giant highway. And it was activists and neighborhood residents who fought and stopped one of the most powerful men in New York in his day, from destroying the Village. Just for a moment, imagine if they had not succeeded. We cannot allow greed to destroy the future of this great city.

Thank you.

Sincerely,

Susan Simon  
Central Park Neighbors Association  
370 Central Park West  
New York, NY 10025



Testimony Before the BSA  
Tuesday, September 10, 2019  
Roberta Semer, Chair CB7/Manhattan

Several weeks ago my testimony that CB7 has generated resolutions strongly opposing the erection of a 775' residential tower, at 36 West 66th, was presented.

Today I am here to discuss the effects on our UWS community. It will not only generate oversize shadows onto Central Park, it will deprive large swaths of the park and surrounding community of much needed sunlight and daylight. It will create major health consequences.

Community Boards are tasked with ensuring that their communities thrive, as Chair I take my responsibility to all members of the community seriously.

#### OPEN SPACE MUST BE PROTECTED

In many cities there is legislation to protect Park land  
Open space, trees, and other greenery are essential for the physical and mental health of residents, workers, and tourists

#### LIGHT AND AIR MUST BE PROTECTED

Residents and workers in neighboring buildings need light and air to thrive.

#### THE NEIGHBORHOOD MUST REMAIN RESILIENT

The proposed building will remove sunlight and daylight from surrounding buildings increasing the use of electricity (lighting) and gas (heating) and other resources. There will be a decrease in essential services for all members of the community and deleterious effects on the environment.

#### THE HEALTH OF RESIDENTS MUST BE PROTECTED

Tall buildings prevent air from circulating, and increase particulates in the air at street level leading to increased rates of asthma, bronchitis and other life threatening illnesses.

#### AFFORDABLE HOUSING IS ESSENTIAL

The proposed building stands in the way of much needed affordable housing being provided for our community. Every year we lose affordable housing.





To the Chair and members of the New York Board of Standards and Appeals:

Community Board 7, Manhattan, has, on several occasions in the past two years, generated resolutions strongly opposing the erection of a 775' residential tower at 36 West 66th street (see attached). We have noted that the proposed tower would generate oversized shadows onto Central Park, and would be dramatically out of character with the existing cityscape. We noted that the excessive height of the proposed tower provided no compensating benefits in terms of increased housing stock, as most of the excessive height would consist of voids or apartments with in some cases double-height ceilings. Certainly no affordable housing would be created. Indeed, because of the enhanced value (to the developer) of apartments on the highest floors the towers would be unaffordable even to most affluent New Yorkers.

We have read the Memorandum of Klein Slowik, attorneys for Landmarks West, opposing the proposed tower, and are fully in agreement with its conclusions and reasoning. The developer's cynical and sophistic reading the Zoning Resolution, reminiscent of Alice in Wonderland, is contrary to both its letter and its spirit.

1. Provisions in the Zoning Resolution governing bulk packing and tower coverage were enacted in response to the then anomalous

Millennium One building at 67th street between Broadway and Columbus Avenues. The clear and expressed intent of these rules was to require that at least 60% of the floor area of any building in an R10 or R9 zone in the Lincoln Square Special District, be located in the first 150' of elevation, and that the tower portion cover at least 40% of the lot . These requirements were obviously intended to restrict building heights. The Zoning Resolution allows for the merging of lots with different zoning designations, but requires each of the merged lots to conform to the zoning rules applicable to the lot. Here the developer is seeking to mix and match, applying bulk packing regulations to the merged lot and tower coverage rules as if there were no merger of lots. If the bulk of the base includes floor area in the adjacent lot, then the tower coverage rules should aptly to the merged lot. If the tower coverage in calculated only on the basis f the R10 lot area, then the base bulk packing requirement should also be calculated on that basis. The result of the developer's picking and choosing which rules to follow would be a grotesquely tall building, half again as high as the Millennium One building which generated the Zoning Resolution amendment intended to limit height.

2. In addition to perverting the bulk packing and tower coverage rules, the developer has achieved much of the height of its proposed building by the simple expedient of creating 196 vertical feet of essentially void spaces. Obviously, these spaces do not contribute the our housing stock but are intended to artificially heighten the tower to generate higher selling prices. The developer does not claim otherwise. It is our understanding that every structure in the city must comply with use group regulations contained in the Zoning Resolution. The only uses permitted in the tower portion of an R10 structure are residential or accessory to residential. There is no use group designated as "void". While necessary space for mechanical equipment is clearly accessory, unnecessary height of these space is not. From the standpoint of the surrounding community these voids constitute waste, whose only function is to reduce light and air and create an eyesore.

We respectfully urge the Board of Standards and Appeals to disallow a building permit for 36 W. 66th Street, unless and until the developer submits plans that conform to the zoning Resolution.

Yours,

Community Board 7, Manhattan

By: Roberta Semer, Chair



10 September 2019

Dear Chair Perlmutter and Board,

As you know, our community came together in 1993 to create the Lincoln Square Special District Zoning Resolution.

At that time City Planning stated the controls in place "should predictably regulate the heights of new development" and "that these controls would sufficiently regulate the resultant building form and scale even in the case of development involving zoning lot mergers". City Planning stated the intention of the Zoning Resolution included limiting buildings to "mid-20 to 30 stories tall, which would complement the district's existing neighborhood character".

We don't take City Planning's words lightly. They promise predictability in zoning. They also told us in a meeting on September 4 of last year they find this building egregious, even obscene.

At the August 6 BSA hearing Extell's lawyers argued that the proposed 775-foot mid-block tower would not be an "absurd result" based on the intention of our Special District's Zoning Resolution. We were struck by the language, "absurd result". So, we built a model of the neighborhood so that we could share with you what it's like where we live.

Extell submitted designs for a 290-foot building in order to get permits to begin demolition. But it's a 775-foot building they intend to build.

Our community is here to ask you, does this look like what City Planning and the community intended in 1993 when the Lincoln Square Special District Zoning Resolution was created? Can you tell us that this is not an "absurd result"?

Thank you,

Chris Giordano  
President  
64<sup>th</sup> thru 67<sup>th</sup> Streets Block Association

GERARD FITZGERALD  
President ENG. 318

LeROY C. MCGINNIS  
Vice President ENG. 266

ROBERT C. EUSTACE  
Recording Secretary LAD. 27

EDWARD BROWN  
Treasurer LAD. 48

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Sergeant-at-Arms  
Health & Safety Officer LAD. 116



JOHN G. KELLY, JR.  
Brooklyn Trustee  
Chairman of the Board ENG. 201

MATTHEW DESJARDIN  
Queens Trustee ENG. 325

ERIC BISCHOFF  
Staten Island Trustee ENG. 161

VINCENT SPECIALE  
Manhattan Trustee ENG. 55

WILLIAM GRECO  
Bronx Trustee ENG. 68

JAMES J. EGAN  
Fire Marshal Representative

## **MEMORANDUM IN SUPPORT**

**S3820-A**

**A5026-A**

### **Relates to the definition of floor area**

The Uniformed Firefighters Association of Greater New York fully endorses and supports this proposed legislation.

This bill highlights the use by developers of “mechanical void spaces” in the construction of buildings in New York City. While the UFA has no position with regard to overall height regulations, we are extremely concerned about the safety issues to the public and Firefighters in connection with void spaces.

Void spaces, often entire floors in buildings put hazardous equipment such as High Voltage Air Conditioning and heating equipment in the middle of buildings, many floors above street level

These void floors bring fire hazards into areas of a building where it is most difficult for Firefighters to fight these types of equipment fires.

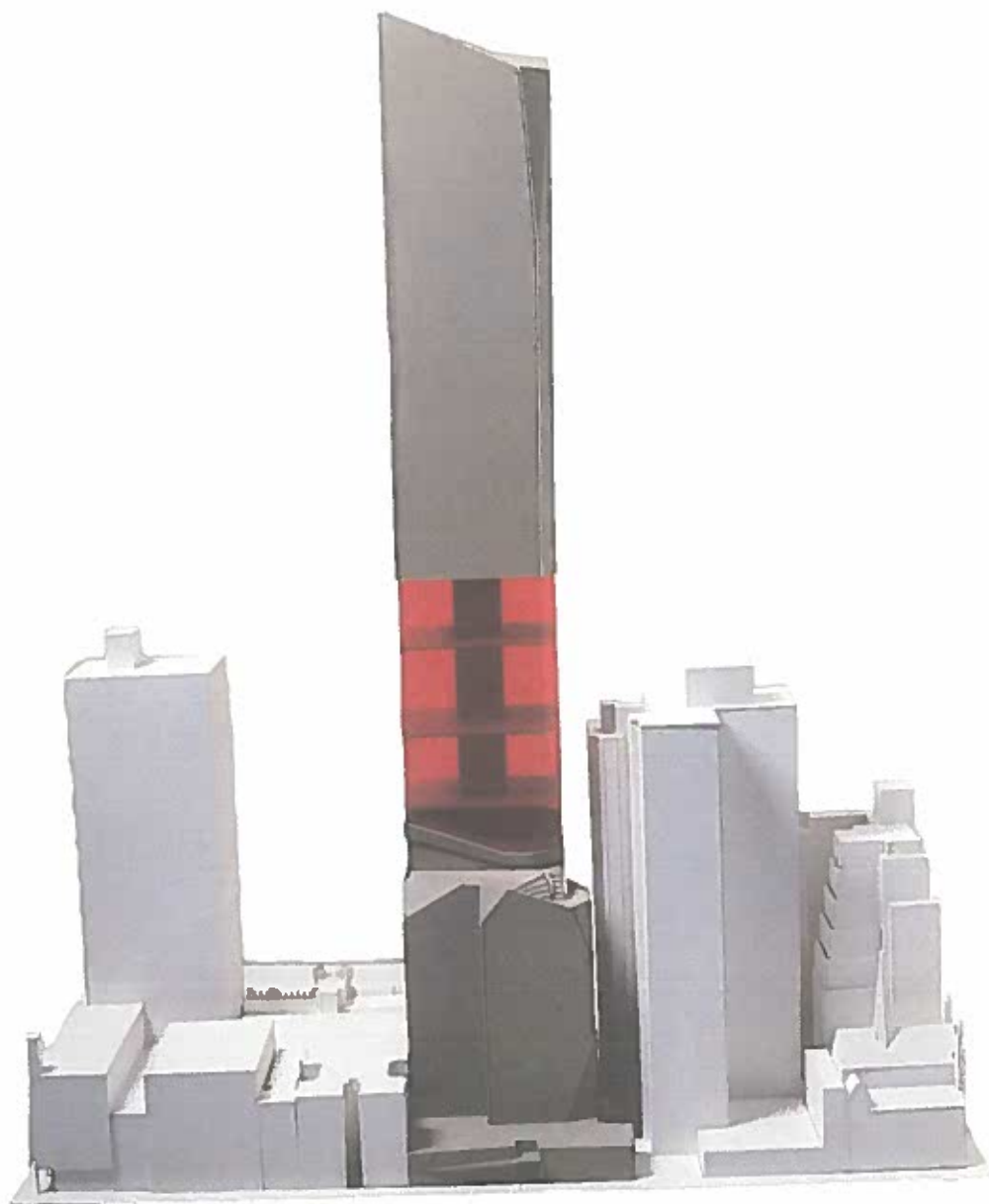
Large electrical equipment that is usually more easily accessible to our members will now be located in confined spaces in the midst of buildings where accessing equipment fires with hose lines and other firefighting equipment is most difficult. In other words, placing building equipment on random void space floors moves known fire hazards within a building to areas of the building where such equipment is not generally located, thereby increasing the life safety risks to tenants and Firefighters.

It is difficult enough for Firefighters operating inside of high-rise buildings. Access to the fire area and to whatever is on fire is paramount to save lives and to protect Firefighters operating at these fires.

While we acknowledge and accept the risks of our profession, we strongly oppose construction methods that are inherently dangerous that for no valid reason increase the threat to the lives of the public and our members.

For that reason, we strongly support this bill which would prohibit the creation of these dangerous phantom floors within buildings in New York.

# ABSURD RESULT





September 10, 2019

Bureau of Standards and Appeals  
250 Broadway, 29th Floor  
New York, NY 10007

Re: 66<sup>th</sup> Street Lincoln Square District  
BSA Calendar #: 2019-89-A & 2019-94-A

Dear Commissioner Perlmutter and Commissioners:

Having followed the convoluted path of this project and its various permutations, I find it hard to understand why this developer should be granted a waiver. What is so special about this project that it should not have to follow the zoning as specified in the Special Lincoln Square District? The rules set up for this district carved out a very special zone for the small area, which others have complied with for many years. Why do Extell's deep pockets and lofty ambitions override community concerns, findings of other city government agencies, and common sense?

The bait and switch tactics used by Extell and their colleagues in this project have been obvious from the beginning. Fact-based rebuttals to their claims have been voiced, litigated, and turned inside out to no avail. Plans approved for a 15-story building were turned into a 750-foot tower, overshadowing the park and all of the other surrounding buildings. Yet they still pass muster, though they violate both the letter and the spirit of the zoning laws for the district. To add insult to injury, according to the plans, this tower will have 239 feet of void space—a ruse for propping up the building and their prices of the condos within.

Not only have zoning codes been ignored and violated here, but fire codes clearly show that there are serious safety issues. Extell has acted with impunity, seeming to believe that they can rewrite the regulations to suit their needs. This is unacceptable for any party—and undemocratic.

In addition, I do not understand why an agency that is supposed to be a public arbiter should err on the side of the developer in case of a tie within the BSA. Given that one member of the commissions has been recused, there will be a tie. How do you justify this position?

I urge you to consider the costs of losing a vibrant neighborhood that has a history and a community, so that a very small number of very wealthy individuals can enjoy a spectacular view

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