

GEORGE M.
JANES &
ASSOCIATES

September 19, 2025

250 EAST 87TH STREET
NEW YORK, NY 10128

www.georgejanes.com

T: 646.652.6498
E: george@georgejanes.com

Jimmy Oddo
Commissioner
Department of Buildings
280 Broadway
New York, NY 10007

RE: Zoning Challenge
5 West 13th Street
Block 577, Lot 34
DOB Job Number: M01164499

Dear Commissioner Oddo:

At the request of a neighbor, our office has examined the accepted ZD1 for the proposed building at 5 West 13th Street (also known as 8 West 14th Street.) We are challenging both its zoning approval and ZD1 itself, based on DOB procedures and the Zoning Resolution.

Summary of challenged items

- 1) **The building does not comply with ZR 35-631.** The mixed building proposed does not comply with the streetwall requirement of 35-631. This is material because a building with the required streetwall would require a different height factor and building form. The building, as approved, is clearly not permitted.
- 2) **The building has too much floor area.** The enclosed residential open space counts as zoning floor area. It does not appear to be counted as such.
- 3) **The ZD1 is deficient.** The ZD1 is not complete and does not follow DOB's instructions for the construction of such a drawing. It has obvious errors and omissions and should never have been approved by the Department.

Project summary and background

The proposed building is located on a through lot between West 14th Street and West 13th Street that also has a small interior portion. The zoning lot and the tax lot are conterminous and there are no buildings to remain on the zoning lot. The zoning districts are C6-2 and C6-2M. For the purposes of new buildings such as this, the requirements of C6-2 and C6-2M are identical. C6-2 is an R8 equivalent district.

The applicant has elected to use the optional height factor bulk regulations. While the building will be primarily used for residences, it is designed with commercial and community facility uses on the first floor, which makes it a mixed building in a commercial district subject to Article III, Chapter 5. Due to missing information, creating a model of the building is difficult and requires assumptions. Nevertheless, my office modeled the proposed building as described in the ZD1. It is shown below, color coded by use, using traditional land use colors:

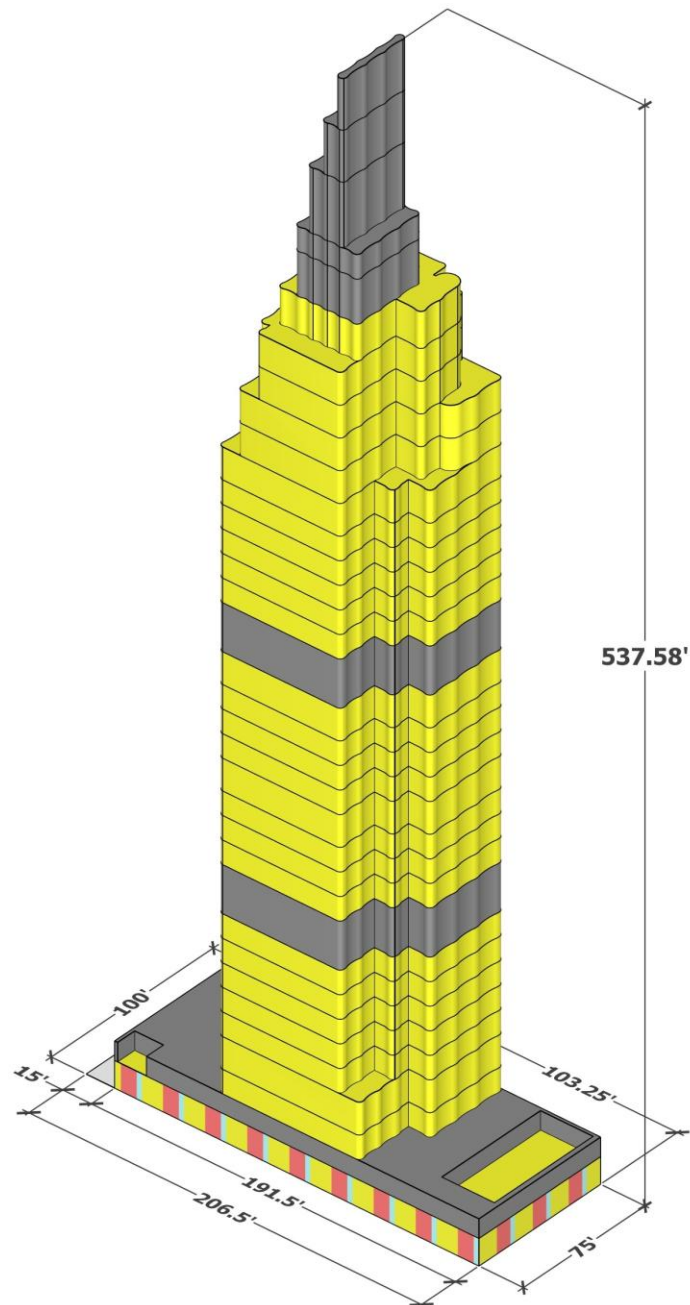


Figure 1: Axonometric view of the proposed building created by my office using traditional land use colors.

The ground floor is shown using multiple colors because the ZD1 does not show where the different uses are located.

1) The building does not comply with ZR 35-631

ZR 35-631(a)(1) applies to the wide street frontage along 14th Street

(a) Line-up rules

For *Commercial Districts* mapped within, or with a *residential equivalent* of, R8 through R12 Districts, when located within the *Manhattan Core*, the following *street wall* location provisions shall apply along *wide streets*:

1. The *street wall* shall be located on the *street line* and extend along the entire *street* frontage of the *zoning lot* up to at least the minimum base height specified in Section [23-432](#), or the height of the *building*, whichever is less. To allow articulation of *street walls* at the intersection of two *street lines*, the *street wall* may be located anywhere within an area bounded by the two *street lines* and a line connecting such *street lines* at points 15 feet from their intersection or, for *corner lots* with an angle of 75 degrees or less, at points 30 feet from their intersection.

This tells us that the streetwall needs to be located at the street line and extend to the height specified in 23-432, which is 60 feet.

The line up rules for 13th Street, which is a narrow street, are a little different, but are outlined in 35-631(b), which reads:

(b) Percentage-based rules

For all *buildings* that are not subject to the provisions of paragraph (a) of this Section the following shall apply:

At least 70 percent of the *aggregate width of street walls* shall be located within eight feet of the *street line* and shall extend to at least the minimum base height specified in Sections [23-432](#), or the height of the *building*, whichever is less. Up to 30 percent of the *aggregate width of street walls* may be recessed beyond eight feet of the *street line*, provided that any such recesses deeper than 10 feet along a *wide street* or 15 feet along a *narrow street* are located within an *outer court*.

There is a little more flexibility on the narrow street, but zoning requires a streetwall up to the minimum base height here too. In both streets, the proposed building does not have a streetwall up to the minimum base height and clearly does not comply with 25-631.

A streetwall at or near the streetline up to the minimum base height would create a building located on the required open space proposed by the applicant. Under the height factor regulations (23-73 and 35-81), the proposed massing would not

be permitted. The applicant will need a completely new building design that properly places the building at the streetline up to the minimum base height of sixty feet.

The streetwall requirement is no mere technicality. The Department of City Planning expressly stated that the text amendments were intended to make height factor buildings like this impractical in commercial districts in the Manhattan Core to prevent this very building. Let me explain:

As a part of an evaluation of the City of Yes zoning text amendments, the local community board asked my office to analyze how *this site* might be developed under the existing zoning and how it might be developed under City of Yes for Housing Opportunity. I found that the new zoning text would not allow a building like the one the applicant proposed because of 35-631's streetwall requirement and I presented that finding to the Community Board and the Department of City Planning at a public meeting on June 24, 2024. In response, John Mangin, the Director of Housing at the Department of City Planning stated:

“For anyone watching the video in the future **I do think George's example of 14th Street is a really good one. It shows how Housing Opportunity pushes away from height factor**, the old 1961 zoning, if you can't do height factor, if you can't do the tall buildings, that's a further disadvantage of condo, so away from height factor towards contextual . . . and so when you're thinking about how this proposal might affect Community District 2 think of 8 West 14th Street because that's the type of thing that we're trying to push toward.”¹

The continuous streetwall up to the minimum base height in commercial districts is intentional and purposely does not permit height factor buildings, like the one proposed by the applicant. Of course, an applicant can still design a “sky exposure plane building,” as they are now called in the Zoning Resolution, but it would look nothing like the one shown in the ZD1. Such a building would be much lower and smaller, with a streetwall at the streetline up to the minimum base height. More likely, a developer would find the height and setback building as described in 23-432 much easier to construct. Either way, we know that the new zoning does not permit a building anything like the one approved by the Department because of the requirements of 35-631.

2) The building has too much floor area

While the ZD1 lacks much of the detail necessary to critically evaluate their assumptions, the floor area table shows zero zoning floor area on the second floor. This is clearly wrong, as the ZD1 shows that there is zoning floor area on the

¹ The quote can be found on YouTube here: <https://youtu.be/i95zxB7CDMQ?t=5476> . It was transcribed by me and omits “ums” and other filler words.

second floor. The following is a detail of “NW AXONOMETRIC DIAGRAM A” from the ZD1:

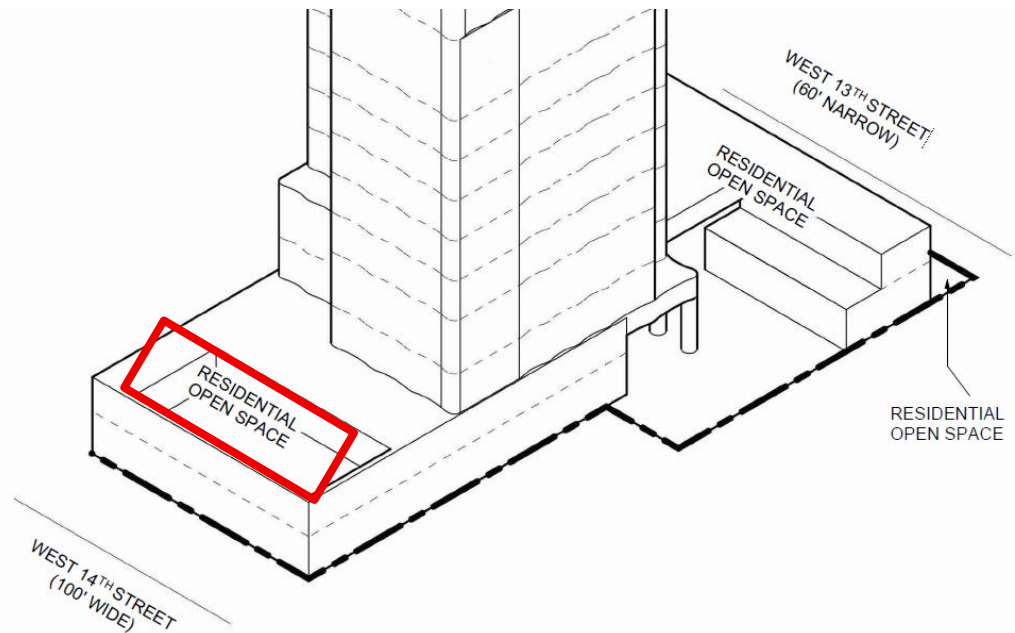


Figure 2: Detail of an axonometric view found on the ZD1.

The area marked in red above with the label RESIDENTIAL OPEN SPACE appears to be a space on the roof of the first floor. It is enclosed on all sides by walls that form the second floor and has no roof. As you know, floor space enclosed by walls is zoning floor area under ZR 12-10. The fact that it has no roof does not matter for the purposes of defining zoning floor area. The proposed building completely builds out its residential floor area, and so any additional floor area added from this area will push this building out of compliance. Of course, as stated in Item 1, the building as designed is clearly not permitted, but if it were, it would be too large because this space would count as floor area.

3) The ZD1 is deficient. The building needs a new ZD1.

Regardless of the errors identified herein, the project needs a new ZD1 because it omits critically important details necessary to demonstrate zoning compliance.

The Department has published a [Zoning Diagram Guide](#), which contains instructions on how to complete a ZD1.² This ZD1 substantially varies from those instructions and does not show information required by the Zoning Diagram Guide, which are necessary to demonstrate compliance.

For example, below is the plan from the ZD1:

² Dated July 13, 2009, and found online here:
https://www.nyc.gov/assets/buildings/pdf/zd1_guide.pdf

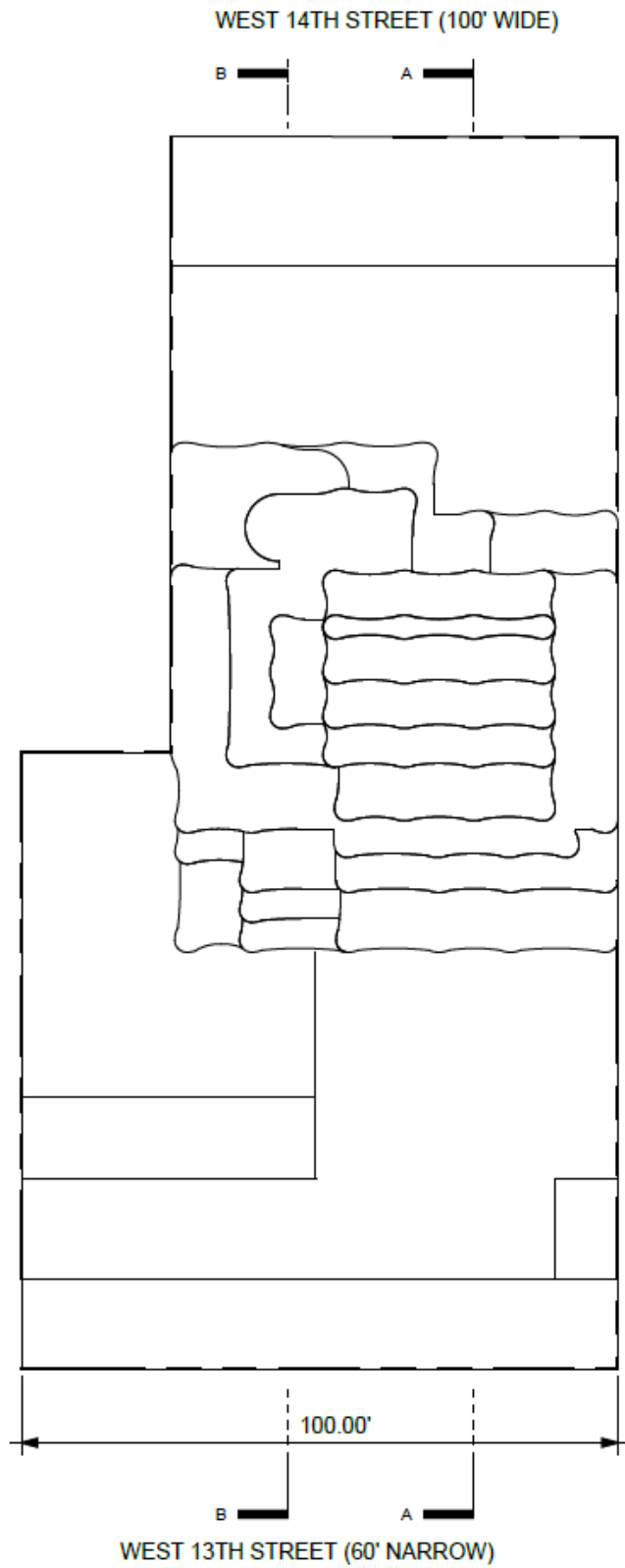


Figure 3: The only site plan found on the ZDI. It shows exactly one dimension.

Most obviously, only one dimension is shown: the width of the lot on 13th Street. The ZD1 guide instructs that all lot dimensions and building dimensions should be shown. Further, the Zoning Diagram Guide instructs users to provide basic zoning measures that have simply been omitted. The following is captured from page 3 of the Zoning Diagram Guide:

Site Plan Diagram Requirements

The items listed below must be included and notated as 'existing' or 'proposed.' Additionally, a citation of the appropriate Section of the New York City Zoning Resolution (ZR) is required for the **bold faced terms** (#1-4).

1. **Dimensioned Zoning Lot** (demonstrate residential lot width compliance as per ZR 23-32)
2. **Lot Coverage**
3. **Lot Area** (demonstrate residential lot area compliance as per ZR 23-32)
4. **Street Trees**
5. **Yards**
 - Front / Side / Rear** (notate Rear Yard of adjoining property if applicable)
6. Wide and Narrow Street
7. Zoning District(s), Overlays and Special Districts
8. Open Space / Plaza / Arcades
9. Curb Cuts / Splays / Curbs
10. Designated Parking Area (Driveway, Parking Areas, etc.)
11. Garages / Sheds
12. Decks
13. Building Footprint and/or Building Segments
14. Distance to Nearest Corner
15. Swimming Pools
16. Retaining Walls
17. Fences

In addition to a site plan with almost no information, there is nothing regarding lot coverage, lot area, street trees, or yards. The plan shows that onsite parking will be provided. Where is the detail on the curb cuts and splays, as required by the Zoning Diagram Guide? There is no zoning district identified. This missing information is especially material because the job is still in objections and full building plans are not available. The only information accessible to the public showing the applicant's intent is this woefully incomplete ZD1.

The Department provides applicants with a guide to set expectations for what needs to be in a ZD1. This applicant ignored the guide and submitted a document that clearly does not meet the Department's minimum requirements. The zoning approval should be revoked and a new ZD1 required.

To be clear, there is also information in this ZD1 that is simply wrong. For example, if you sum the column of numbers to calculate the gross floor area, it does not sum to the total at the bottom of the column. The ZD1 shows that it has 169,070.63 SF of Gross Floor Area, but if the column of numbers above that sum is manually added, the building is actually 168,710.43 GSF. When we see basic errors like this it is often a sign that there are bigger issues.

My office modelled the building off the plan and axes in the ZD1. The resulting model does NOT match with the gross floor area shown in the floor area table.

For example, floors 5 through 10 are 5,586.12 GSF as measured in CAD according to the plan found in the ZD1, whereas the floor area table shown in the ZD1 shows 5,104.14 GSF. On floors 15–18, the floors are 5,504.19 GSF as measured in CAD, while the ZD1 reports 4,961.21 GSF. These are substantial differences of hundreds of square feet *per floor*. This is alarming, especially considering all the information missing from the ZD1.

While these differences could just be an honest error, or the result of drawings that are not to scale, or the sign of something more nefarious, the reason for these differences aren't material. They just shouldn't exist. The Department needs a ZD1 that is complete, accurate and internally consistent. Without one, the Department's zoning approval should be revoked.

Conclusion

I remind the applicant and the Department that these drawings require a stamp acknowledging that "Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment, or both." By stamping these drawings, the applicant is certifying that they are accurate and correct. They are not.

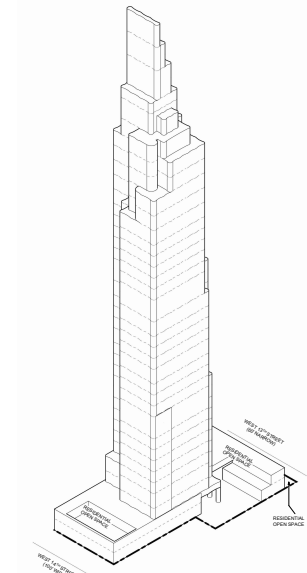
For the reasons outlined above, the Department should revoke its approval and require the applicant to submit internally consistent, zoning compliant plans.

Should you have any questions or would like to discuss, please feel free to contact me at george@georgejanes.com or 917-612-7478.

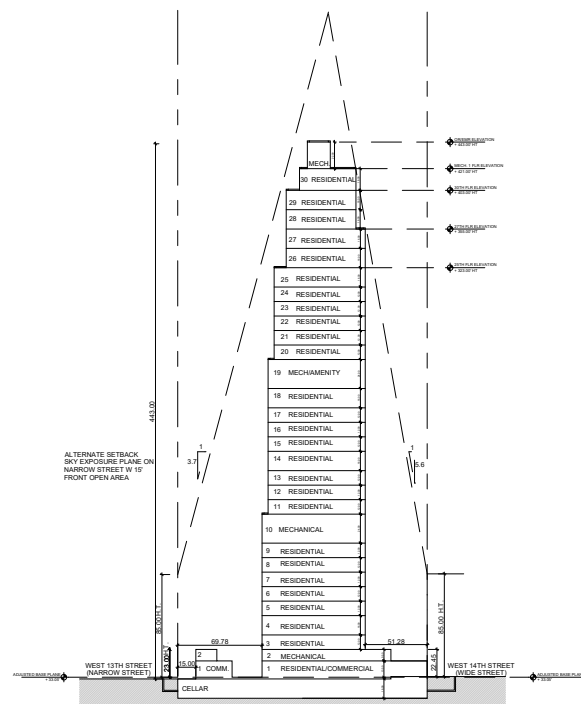
Sincerely,

A handwritten signature in black ink, appearing to read "G. Janes", written over a faint circular stamp.

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

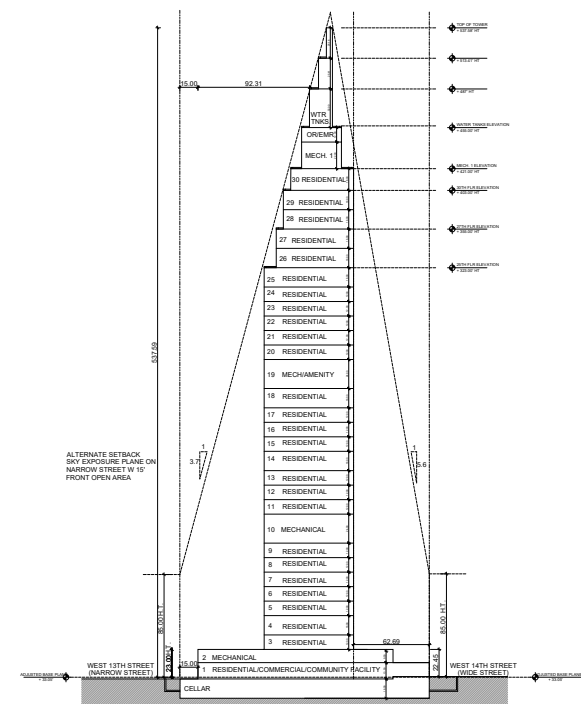


4 NW AXONOMETRIC DIAGRAM A
SCALE: NTS



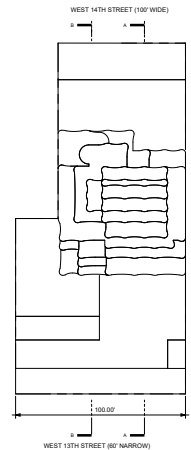
3 HEIGHT & SETBACK DIAGRAM - NORTH/SOUTH SECTION BB
SCALE: NTS

NOTE: ALL HEIGHTS (H1) ARE BASED UPON THE ADJUSTED BASE PLANE AT EL. +33.00'
NOTE: ALL ELEVATIONS TAKEN ABOVE NAVD 1988 DATUM + 4.00'
NOTE: ON 14TH STREET FRONTAGE, BUILDING COMPLIES WITH PARAGRAPH 8 OF 25 23-73b. MAX STREET ALL 75' - SKY EXPOSURE PLANE RISES A VERTICAL DISTANCE OF 3.1 TO HORIZONTAL DISTANCE OF 1.
NOTE: ON 13TH STREET FRONTAGE, BUILDING COMPLIES WITH PARAGRAPH 8 OF 25 23-73b. BECAUSE AN OPEN AREA IS PROVIDED ON THE ENTIRE LENGTH OF THE LOT LINE TO THE DEPTH OF 15', SKY EXPOSURE PLANE RISES A VERTICAL DISTANCE OF 5.8 TO HORIZONTAL DISTANCE OF 1.

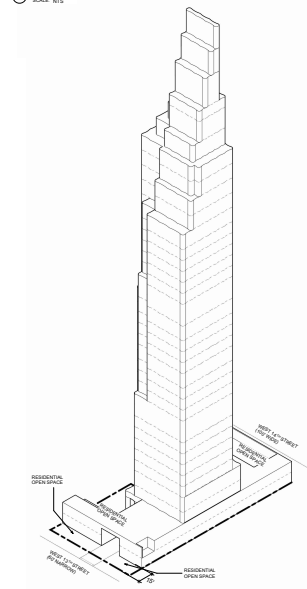


2 HEIGHT & SETBACK DIAGRAM - NORTH/SOUTH SECTION AA
SCALE: NTS

NOTE: ALL HEIGHTS (H1) ARE BASED UPON THE ADJUSTED BASE PLANE AT EL. +33.00'
NOTE: ALL ELEVATIONS TAKEN ABOVE NAVD 1988 DATUM + 4.00'



1 KEY SITE PLAN
SCALE: NTS



5 SE AXONOMETRIC DIAGRAM A
SCALE: NTS



ZD1 Zoning Diagram
Must be typewritten.

Orient and affix BIS job number label here

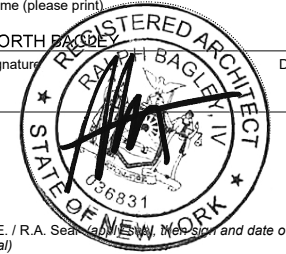
Submitted to resolve objections stated in a notice of intent to revoke issued pursuant to rule 101-15.
 Yes No

Location Information

House No(s) 5
Street Name WEST 13 STREET
Borough MANHATTAN
Block 577
Lot 34
BIN 1009716

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) FORTH RAOUL
Signature _____ Date _____



P.E. / R.A. Seal (affix in NW corner and date over seal)

Internal Use Only
BIS Doc # _____

PLAN EXAMINER SIGN AND DATE



ZD1 Zoning Diagram

Must be typewritten.
Sheet ___ of ___

1 Applicant Information Required for all applications.

Last Name BAGLEY		First Name FORTH		Middle Initial	
Business Name KPF		Business Telephone			
Business Address 11 WEST 42ND STREET				Business Fax	
City NEW YORK		State NY	Zip 10036	Mobile Telephone	
E-Mail FBAGLEY@KPF.COM				License Number 036831	

2 Additional Zoning Characteristics Required as applicable.

Dwelling Units **36** Parking area **2450.00** sq. ft. Parking Spaces: Total **7** Enclosed **7**

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	
CELLAR	17,198.38	II	0	0	0	0	0
001	7,704.31	II	4,509.44	0	0	0	0.25
001	2,494.86	VI	0	0	2,417.75	0	0.13
001	534.31	III	0	518.15	0	0	0.03
002	8,426.05	II	0	0	0	0	0
003	5,295.01	II	4,900.17	0	0	0	0.27
004	5,033.12	II	4,598.42	0	0	0	0.25
005	5,104.14	II	4,643.99	0	0	0	0.26
006	5,104.14	II	4,643.99	0	0	0	0.26
007	5,104.14	II	4,643.99	0	0	0	0.26
008	5,104.14	II	4,643.99	0	0	0	0.26
009	5,104.14	II	4,643.99	0	0	0	0.26
010	5,104.64	II	0	0	0	0	0

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	
011	4,866.91	II	4,404.17	0	0	0	0.24
012	4,866.91	II	4,404.17	0	0	0	0.24
013	4,866.91	II	4,404.17	0	0	0	0.24
014	4,866.91	II	4,404.17	0	0	0	0.24
015	4,961.21	II	4,520.43	0	0	0	0.25
016	4,961.21	II	4,520.43	0	0	0	0.25
017	4,961.21	II	4,520.43	0	0	0	0.25
018	4,961.21	II	4,520.43	0	0	0	0.25
019	4,966.49	II	1,298.94	0	0	0	0.07
020	4,655.36	II	4,244.58	0	0	0	0.23
021	4,655.36	II	4,244.58	0	0	0	0.23
022	4,655.36	II	4,244.58	0	0	0	0.23
023	4,655.36	II	4,244.58	0	0	0	0.23
024	4,655.36	II	4,244.58	0	0	0	0.23
025	4,655.36	II	4,244.58	0	0	0	0.23
026	3,481.32	II	3,460.77	0	0	0	0.19
027	3,480.48	II	3,105.26	0	0	0	0.17
028	3,565.26	II	3,168.71	0	0	0	0.18
029	3,472.03	II	3,115.08	0	0	0	0.17
030	1,974.99	II	1,668.08	0	0	0	0.09
ROOF	1,350.24	II	0	0	0	0	0
BLKHD	1,863.60	II	0	0	0	0	0
Total	169,070.63		114,210.70	518.15	2417.75		6.48
5% Ultra	Low Energy	Deductions	-5,438.70	-24.50	-114.80		
Totals	169,070.63		108,772.00	493.65	2302.95		6.17

Total Zoning Floor Area	111,568.60
-------------------------	------------