NYC Buildings

Zoning Challenge and Appeal Form

(for approved applications)

Must be typewritten

1 Property Information *Required for **all** challenges.*

BIS Job Number 121208326 BIS Document Number 1

Borough Manhattan House No(s) 264 Street Name West 46th 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 The Committee for Environmentally Sound Development

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: 16 ***(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.*

ZR 12-10 (Floor Area, Transient Hotel, Accessory Use), 32-02(d). Also ZD1 errors.

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#:

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May 26, 2023

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

RE: 264 West 46th Street
Block: 1017. Lot 1
Job number: 121208326

Dear Commissioner Oddo:

At the request of the Committee for Environmentally Sound Development and a neighboring resident, I have reviewed the zoning diagram and related documents for the new building proposed at 264 West 46th Street (740 Eighth Ave). The following documents were reviewed:

- ZD1 amended on 04/12/2023
- ZRD1 70387 approved 3/09/2022
- CCD1 73182 approved 03/31/2023

Full building plans were not available prior to the closing of the challenge window, and so were not reviewed. Nevertheless, I make the following challenges to the application.

1) UG 15 or Coney Island-style rides are not accessory uses to hotels. (12-10 "Accessory Use" and "Transient Hotel," BSA Appeal 128-14-A)
2) There are "mechanical" floors that do not use all of the floor area for mechanical purposes. (12-10 "Floor Area," BSA Appeal 315-08-A)
3) The application requires a CPC special permit (32-02(d)).
4) The proposal is unclear because there are basic errors in the ZD1.

Each of these topics is discussed below after a summary of the project.

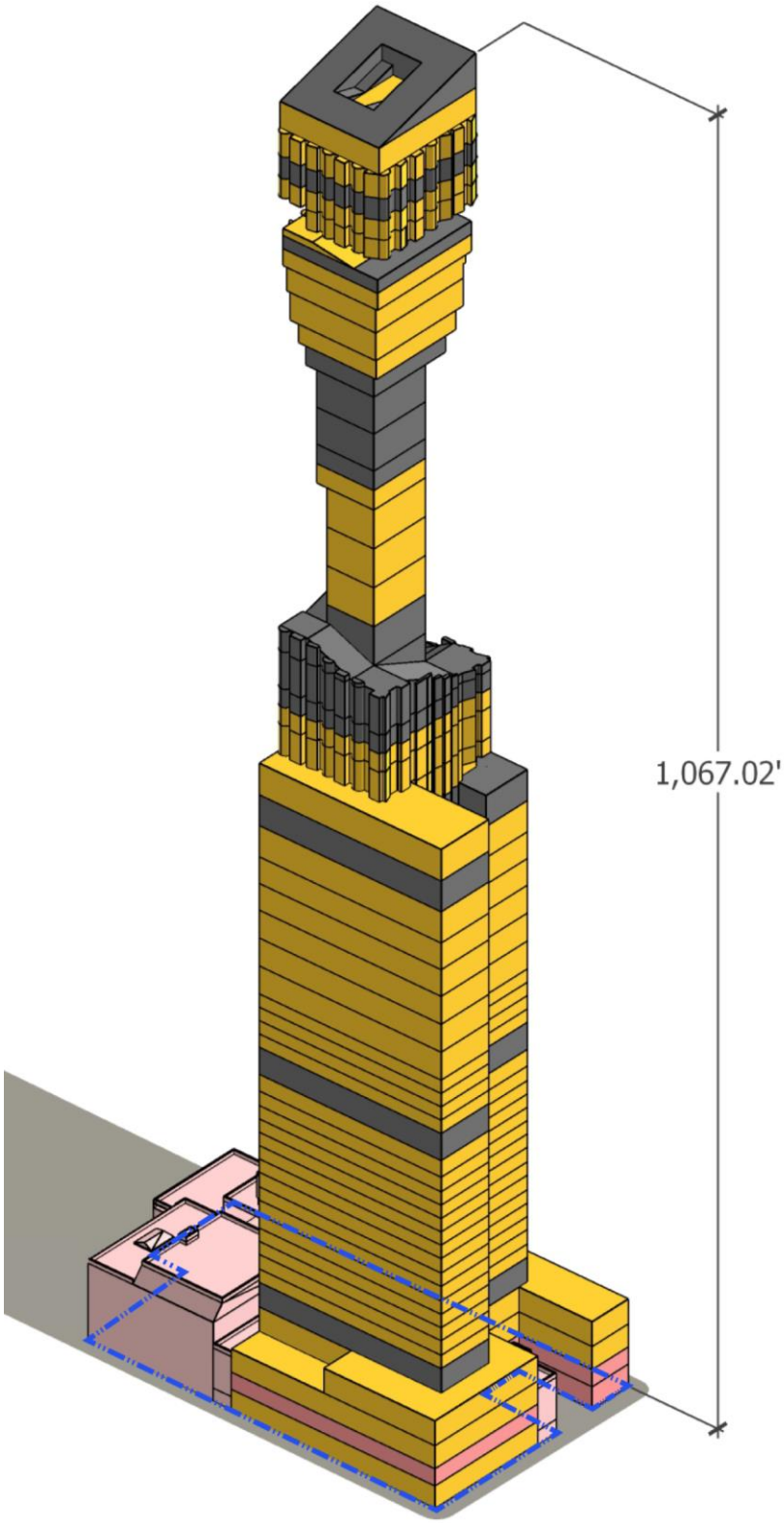
Job 121208326 summary
The job describes a transient hotel and related accessory uses on the zoning lot located on the east side of Eighth Avenue between West 45th and 46th Streets. The zoning lot is split between a C6-4 and a C6-5 zoning district in the Special Midtown Zoning District. The C6-4 district is in the Eighth Avenue Corridor

Subdistrict, while the mid-block C6-5 district is in the Theater Subdistrict Core. The zoning lot contains four other buildings to stay (on tax lots 4, 10, 11, and 57).

The transient hotel is planned with Use Group (UG) 6 commercial uses in the lower stories and cellar, as well as commercial uses that are accessory to the hotel. All accessory uses are classified as the same use group as a transient hotel, which is UG 5. The hotel rooms are in the lower half of the building up to the 31st floor. Above the 31st floor, all proposed uses are accessory to the hotel use or space required by FDNY. These spaces in the upper half include the following uses: restaurant, bar, spa, observation deck, mechanical space, and a space labeled VIP. Finally, the hotel plans to include a Coney Island-style, UG 15 ride, which is described in detail in ZRD1 70387.

The building has 13 floors that are claimed as mechanical floors. These 13 floors account for nearly 300 feet of the building's 1,067-foot height. Non-zoning floor area above the cellar—which is mostly exempt accessory mechanical space—accounts for 160,675 SF, a little more than half of which is located in the 13 mechanical floors. Nearly 23% of the above grade floor area is exempted from zoning floor area.

The following shows an axonometric view of the proposed hotel, colored according to use, along with the existing buildings to stay on the zoning lot, as described in the ZD1 and the CCD1.



Axonometric of proposed building and existing buildings to stay on the zoning lot using traditional land use colors and predominate use. Entirely mechanical floors are shown in gray.

As can be seen in the above image, the building is roughly broken into two parts: the bottom half of the building, which contains the vast majority of the floor area and all of the hotel rooms, and the top half of the building, which has uses that are accessory to the hotel.

1) UG 15 or Coney Island-style rides are not accessory uses to hotels (12-10 "Accessory Use" and "Transient Hotel")

The proposal includes a Coney Island-style amusement ride, which normally is classified as UG 15. The proposed ride is called an "amusement drop ride" and is described at length in the ZRD1. In the ZRD1, the Applicant argues that a UG 15 amusement ride is an accessory use to a hotel. That argument is not supported by the plain meaning of the Zoning Resolution or by the facts.

UG 15 is described in the Zoning Handbook as "Large commercial amusement establishments, including typical amusement park attractions such as Ferris wheels and roller coasters." UG 15 is only permitted as-of-right in C7 districts. Only 39 acres in New York City is zoned C7, and over 90% of that is Coney Island.[1] The applicant fails to point to a single example of a UG 15 use permitted as an accessory use to a hotel in the City of New York.

Both "accessory use" and "transient hotel" are defined terms in the Zoning Resolution. Section 12-10 defines "accessory use" as, among other things, "a #use# which is clearly incidental to, and customarily found in connection with, such principal #use#." Thus, for an amusement ride to be deemed an accessory use, the Applicant needed to demonstrate that the amusement drop ride was both clearly incidental to and customarily found in connection with a hotel use in a C6 zoning district.

"Transient hotel" is one of the few uses defined in the Zoning Resolution. There is no reference in the definition to amusement rides. There is a list of permitted uses that are accessory to a hotel as follows: "Permitted #accessory uses# include restaurants, cocktail lounges, public banquet halls, ballrooms, or meeting rooms."

The ZRD1 argues that a ~300 foot[2] indoor drop ride is "commonly found" at other destination hotels, in an apparent attempt to cast the use as one "that is clearly incidental to, and customarily found in connection with," a hotel. However, there is not a single hotel in New York City that includes a UG 15, Coney Island-style ride, indoors or outdoors. Not even the Applicant identifies one in its ZRD1. Thus, it was entirely irrational and a distortion of the plain,

[1] The two other areas are found in Sheepshead Bay and next to near Co-Op City, neither of which currently houses a UG 15 use.
[2] The ZRD1 states that it is a 260-foot drop ride, but when it is measured from the drawing found in the CCD1 it is 300.17 feet, including the ride's winch.

unambiguous meaning of the Zoning Resolution for the Applicant to argue and the DOB to agree that the proposed amusement drop ride meets the definition for an accessory use. Never and customarily are opposites, not equivalents.

The BSA's 128-14-A decision

The Board of Standards and Appeals (BSA) has already clarified the meaning of accessory use, upholding the Department's previously narrow interpretation of the term and exposing the absurdity of the reading urged here. In 2014, an applicant proposed to construct a loading berth that was accessory to an ambulatory diagnostic facility. The Department denied the application, writing that a "[l]oading berth is not clearly incidental to, and not customarily found in connection with ambulatory diagnostic facilities (ZR 12-10) [and, therefore] is not permitted as accessory use to ambulatory diagnostic facility (ZR 36- 61);"[3]

The applicant appealed the decision to the BSA. The BSA upheld the Department's denial, writing:

> WHEREAS, the Board notes that in order to qualify as a use which is customarily found in connection with its principal use, a purported accessory use must, as a general rule, be commonly, habitually and by long practice established as associated with such principal use (see e.g., Gray v Ward, 74 Misc2d 50 (Sup. Ct., Nassau Co. 1973), aff'd 44 Ad2d 597 (2d Dept 1974)); and
>
> WHEREAS, the Board further notes that a purported accessory use need not be common where the principal use to which it is accessory is uncommon, but maintains that in order to meet the "customarily found in connection with" requirement, a purported accessory use must have a well-established and relatively frequent association with the principal use;

The BSA made this determination even when provided with examples of medical offices with accessory loading berths in New York City, but not in the same neighborhood. In other words, even in a case where the proposed accessory use existed in a few instances, it concluded the use was not appropriately deemed accessory because it was not "well-established and [in] relatively frequent association with the principal use."

ZRD1 70387

In a strained effort to argue that amusement rides are customary accessory uses to hotels in the City of New York, the Applicant did three things: it pointed to jurisdictions far beyond New York; it pointed to two examples in New York that did not involve hotels or a permanent Certificates of Occupancy; and it pretended that traditional, long-established accessory uses, including theaters and swimming pools, were equivalent to amusement rides because both provide "entertainment"

[3] As quoted by the BSA in their decision 128-14-A.

and could be described as "theme parks." These arguments are overreaching and fall short of supporting the notion that a 300-foot drop ride is a customary accessory use to a hotel under the New York City Zoning Resolution.

a) *Hotels with amusements outside of New York City*

As noted above, the ZRD1 does not identify a single example of a hotel within New York City, in any district, let alone a C6 district, that includes an amusement ride of any kind. In the absence of New York City examples, the Applicant described other facilities where hotels and amusement rides are found in other states and even other countries. The Applicant's handful of examples fail in that (1) they do not establish that amusement rides accessory to hotels are "common" or in other words," relatively frequent;"[4] (2) they do not have any relevance for what should be considered "commonly, habitually and by long practice established as associated with" hotels in New York City; and (3) they include examples in jurisdictions where, unlike here, the local development regulations expressly permit amusement rides as accessory uses to hotels.

Even in New York City, amusement rides and hotels could be combined in C6 districts, if City decision-makers decided to change the zoning to expressly permit such uses. But instead of trying to change the zoning, the Applicant decided to ask the Department to reverse its previously narrow and rational interpretation of accessory uses that has been upheld by the BSA and effectively usurp the authority of the legislature to make new law. Respectfully, DOB lacks the discretion to grant that request and the approval should be revoked.

A few of the examples the Applicant provides in the ZRD1 are discussed below:

b) Las Vegas

The Applicant uses five examples in Las Vegas, Nevada. Each of the examples are "Resort Hotels," under the local development regulations. "Resort Hotels" is a defined term in Clark County, Nevada zoning. There are obvious physical and use differences between those examples and the proposal, including the fact that each of the examples are on campuses of over a dozen acres, and that they all include casino gambling. But the most important difference is that amusement rides are an explicitly permitted accessory use to Resort Hotels in the local code. Further, amusement rides are not an accessory use in all hotels because Clark County has at least three different types of hotels, yet only resort hotels permit this use.

Simply, hotels and rides mix in Las Vegas because the legislature made the decision to explicitly permit rides as an accessory use to a resort hotel. New York City has no similar enabling legislation.

[4] There are over 100,000 hotels in the United States. The fact that a handful, in places like Las Vegas and Orlando, have some form of amusement ride as an accessory use does not make them common.

c) Other non-New York State hotel examples

The Applicant uses examples from other jurisdictions including Macau, which is in the People's Republic of China. It is absurd to even suggest land use decision-making in China has any applicability to land use decision-making in New York City.

d) New York City amusements unrelated to hotels

The Applicant provides the example of a temporary outdoor Ferris wheel located previously in Times Square. That Ferris wheel was located within a mapped street. As you know, zoning governs activities on zoning lots. Mapped streets define the edges of zoning lots and are not parts of zoning lots. Zoning simply does not apply to them and so this is a completely irrelevant example.

The Applicant also puts substantial emphasis on the indoor Ferris wheel that was once located in the Toys 'R' Us in Times Square. The ZRD1 states that it was permitted as an accessory use to the UG 6 commercial space. The temporary C of O showing the Ferris wheel shows that, while it was listed as an accessory use, the zoning use group was left blank. More materially, it never had a permanent C of O. To obtain a permanent C of O, the applicant needs to show that the project is legal under zoning. According to the Department's records, job number 102814233 was filed in 2001 to change the use at the Toys 'R' Us. The job was never completed and it was withdrawn in 2016 shortly after Toys 'R' Us left the building.

The temporary C of O showed that the Ferris wheel was safe and could be occupied, but for 15 years. It only had a temporary C of O, presumably because it was NOT a legal accessory use in a UG 6 retail store. In sum, the Applicant fails to point to a single example of an amusement ride as a permanently permitted accessory use in a C6 district, to a hotel or otherwise.

e) The false equivalency of themed hotels and themed parks

The ZRD1 characterizes new developments nearby in Times Square as theme parks when they are clearly not. For example, the Margaritaville Resort at 560 Seventh Avenue is a hotel. It does not yet have a Certificate of Occupancy, but its Schedule A shows that it has hotel rooms, meeting halls, retail spaces, restaurants and bars, and other uses that are customarily found in hotels. In other words, it is an apples-to-oranges comparison.

The ZRD1 also references TSX, which has a complicated mix of uses, showing UGs 5, 6, 8, 10 and 12 in their approved ZD1. But the building can be described as a theater and a hotel, with associated accessory meeting rooms, galleries, bars restaurants and no UG 15 amusement rides. The fact that these buildings are or will be "themed" and may be called "resorts" is not relevant to zoning. It is relevant, however, that they do not have any Coney Island-style amusement rides.

Amusements and the Zoning Resolution

The Zoning Resolution is rather restrictive when dealing with amusement uses. Not only are there only 39 acres in all of New York City where UG 15 can locate as-of-right, other amusements like Indoor Interactive Entertainment Facilities are only permitted by CPC special permit or by the special district regulations. Amusement arcades and children's amusement parks are permitted as-of-right in C7 districts, but they are only permitted in other districts by BSA or CPC special permits, or by special district regulations. To obtain such a special permit an applicant needs to demonstrate, for instance, "a minimum of four square feet of waiting area within the #zoning lot# shall be provided for each person permitted under the occupant capacity as determined by the New York City Building Code."[5] Requirements for the special permit and the findings that the agency must make recognize that amusement uses often need special attention to ensure safety and minimize external effects.

Further, most of the zoning lot is located in the Theater Subdistrict Core, which has regulations designed to "preserve and protect the character" of the district and has requirements that most developments include entertainment-related uses (ZR 81-724). As defined by the special district regulations, these entertainment-related uses do not include Coney Island-style amusements. If the legislature had intended such uses in the district, it would have included them in the special district regulations.

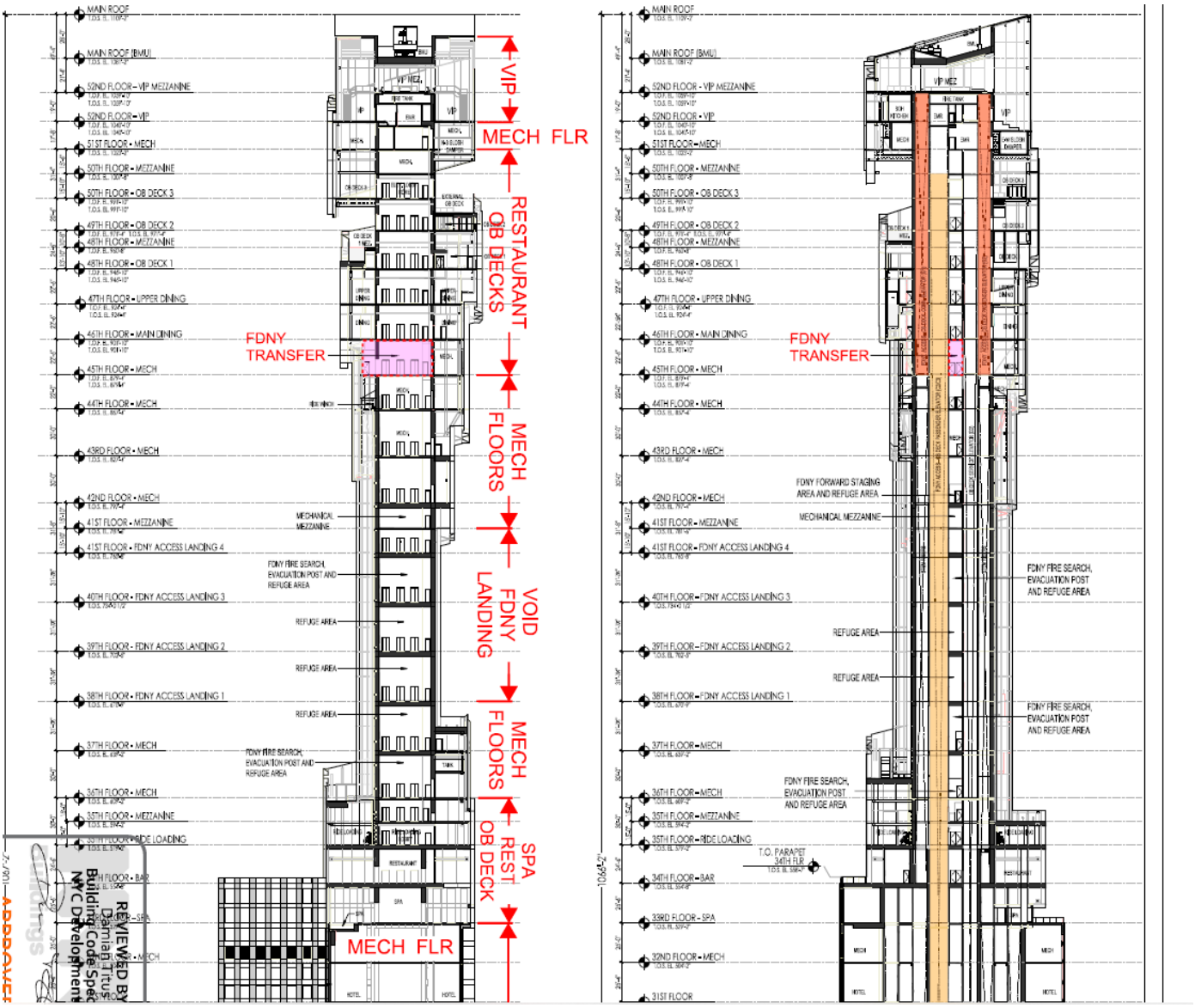
Legislative action vs interpretation

It is easy to be sympathetic to the Applicant's concern regarding uncertainty in the hotel industry in a post-pandemic world. It also makes sense that they are seeking additional sources of revenue and attractions that will drive customers to their establishment. However, mixing a ride and a hotel in Times Square should be explored through New York City's land use planning process, and if such a change is something the City wants to undertake, it should do so by following the standard land use process. Respectfully, the interpretation that the Department made, by answering the ZRD1 in the affirmative, effectively made new law, law that it had no authority to make. The Department should reconsider its decision in the ZRD1 and rescind its approval.

2) Mechanical floors in the stem have floor area

CCD1 73182 includes detail on the uses of the floors in the tower's stem. The section found in that document is reproduced below:

[5] ZR 74-46(c).



Detail of section found in CCD1 73182

The stem alternates between mechanical floors, which the ZD1 shows as having zero zoning floor area, and "VOID FDNY LANDING," which are shown as having some zoning floor area.

The floors have multiple uses

The CCD1 shows FDNY uses on floors that have been deducted entirely for mechanical purposes. Floor 36 shows zero zoning floor area, but is labeled as "FDNY FIRE SEARCH, EVACUATION POST AND REFUGE AREA." Floor 37 has the same label and zero zoning floor area. Floor 40 has the same label, but has some zoning floor area. Floor 42 is shown as a mechanical floor with zero zoning floor area, but which also houses: "FDNY FORWARD STAGING AREA AND REFUGE AREA."

Further, even on the mechanical floors in the stem that do not have an FDNY use listed, these floors are 30+ feet floor-to-floor. As you know, FDNY requires buildings to provide exits from stairs or elevators on these floors so that users of the stairs and elevators can exit the elevators and move to stairs or move from staircase to staircase. At 36 West 66th Street, the original design was altered to create small floors within spaces that had very tall floor-to-floor heights to allow this movement from elevator to stairs or from staircase to staircase. These "mini-floors" were counted as zoning floor area because spaces used for egress, hallways elevators and stairs are explicitly included in zoning floor area.

The same must be true here. If there are spaces used in the floors labeled mechanical designed to permit passengers and first responders to exit and move between elevators and stairs, then the floor can no longer be deducted in its entirety as a mechanical floor. The elevator counts as floor area; the stairs count as floor area; and any passageway connecting them count as floor area.

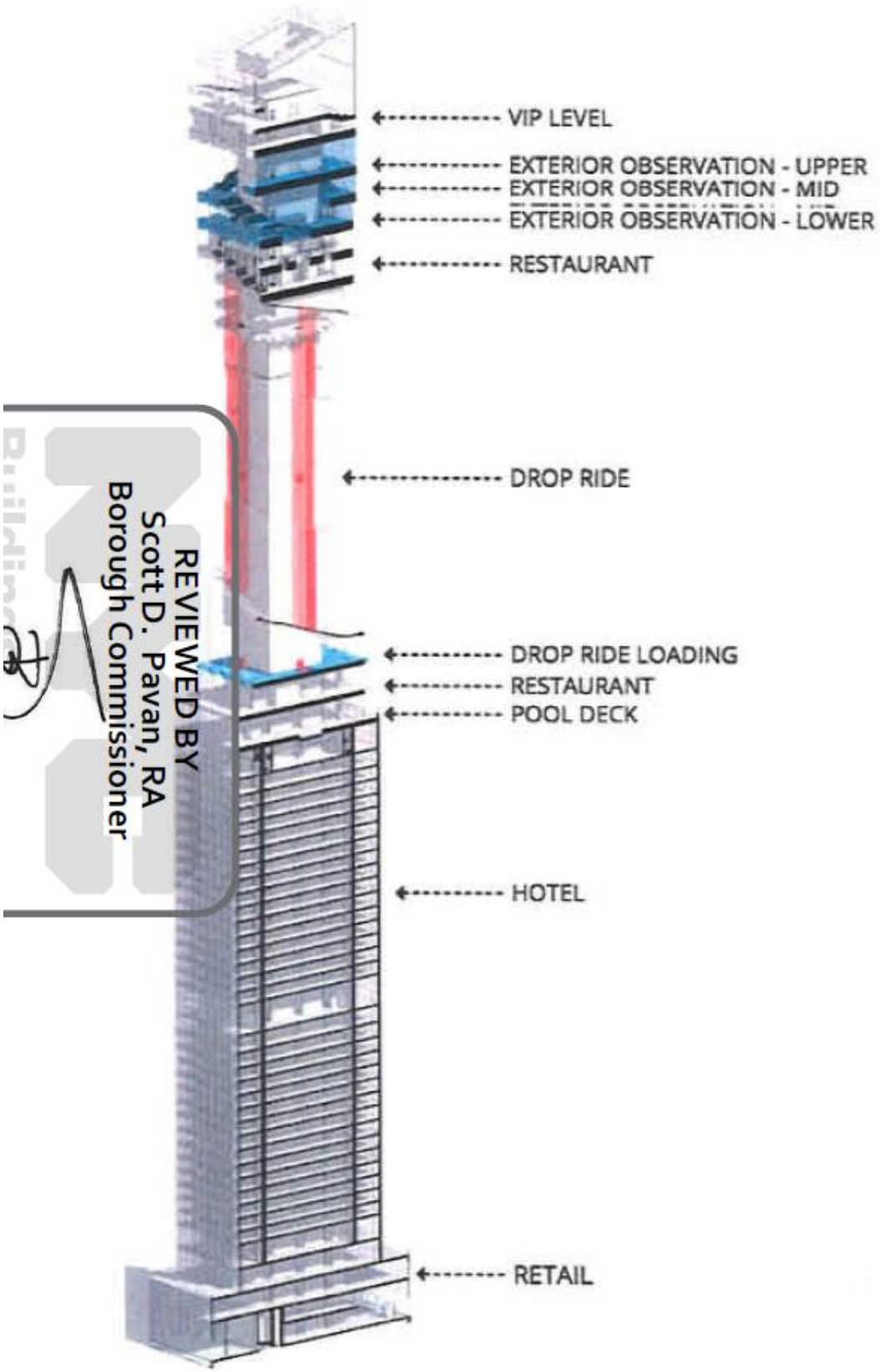
The BSA confirmed the Department's practice of permitting the floor area exemption of floors "devoted entirely to mechanical equipment." But that decision hinges on the *entire* use of the floor for mechanical equipment. The BSA wrote in Appeal 315-08-A: "if the floor space of a floor is devoted entirely to mechanical equipment the entire floor should be exempt, regardless of whether the floor includes elevator shafts and stairs which count towards floor area on other floors."[6] None of the floors in the "stem," with their 30+ foot floor-to-floor heights qualify as being "devoted entirely to mechanical equipment," and so the non-mechanical portions must count as zoning floor area, which means the building has much more zoning floor area than what is shown in the ZD1 and is too large for its zoning district.

Finally, this is not a semantic argument. In NYC, spaces used for required egress and safety must be kept clear at all times. If a floor is a mechanical floor, but also has spaces devoted to egress safety, as a matter of practice, those spaces may be compromised by mechanical equipment over time. The BSA's ruling that these floors must be devoted entirely to mechanical equipment and their proposed use as emergency egress are in conflict and the Department must reexamine its exemption of these floors.

The floors in the stem are also used by the drop ride

In addition to floor area used for FDNY purposes, the mechanical floors in the stem are also used by the drop ride. The following drawing is included as Exhibit A of the ZRD1 that describes the drop ride. The drop ride is attached to every floor that is also labeled as a mechanical floor and exempted from zoning floor area in the ZD1.

[6] BSA 315-08-A page 639.



Reproduction of Exhibit A that appears in the ZRD1

In addition to floor area required by the FDNY, these floors also have the accessory ride use associated with them. They cannot be considered solely mechanical floors, and so they cannot be entirely deducted from zoning floor area. As a result, the building is too large. The Department should rescind their approval and require the Applicant to account for the zoning floor area used in these floors.

3) The application requires a CPC special permit. (ZR 32-02(d))

On December 9, 2021, a zoning text amendment was adopted to require a City Planning Commission Special Permit for any new transient hotel. Section 32-02(d) provides conditions for vesting of certain hotels that had Department approvals prior to the adoption of the new zoning text. That section in relevant part is reproduced below:

> (1) If, on or before May 12, 2021, an application for a development, enlargement or conversion to a transient hotel has been filed with the Department of Buildings, and if, on or before December 9, 2022, the Department of Buildings has approved an application for a foundation, a new building or an alteration based on a complete zoning analysis showing zoning compliance for such transient hotel, such application may be continued, and construction may be started or continued.

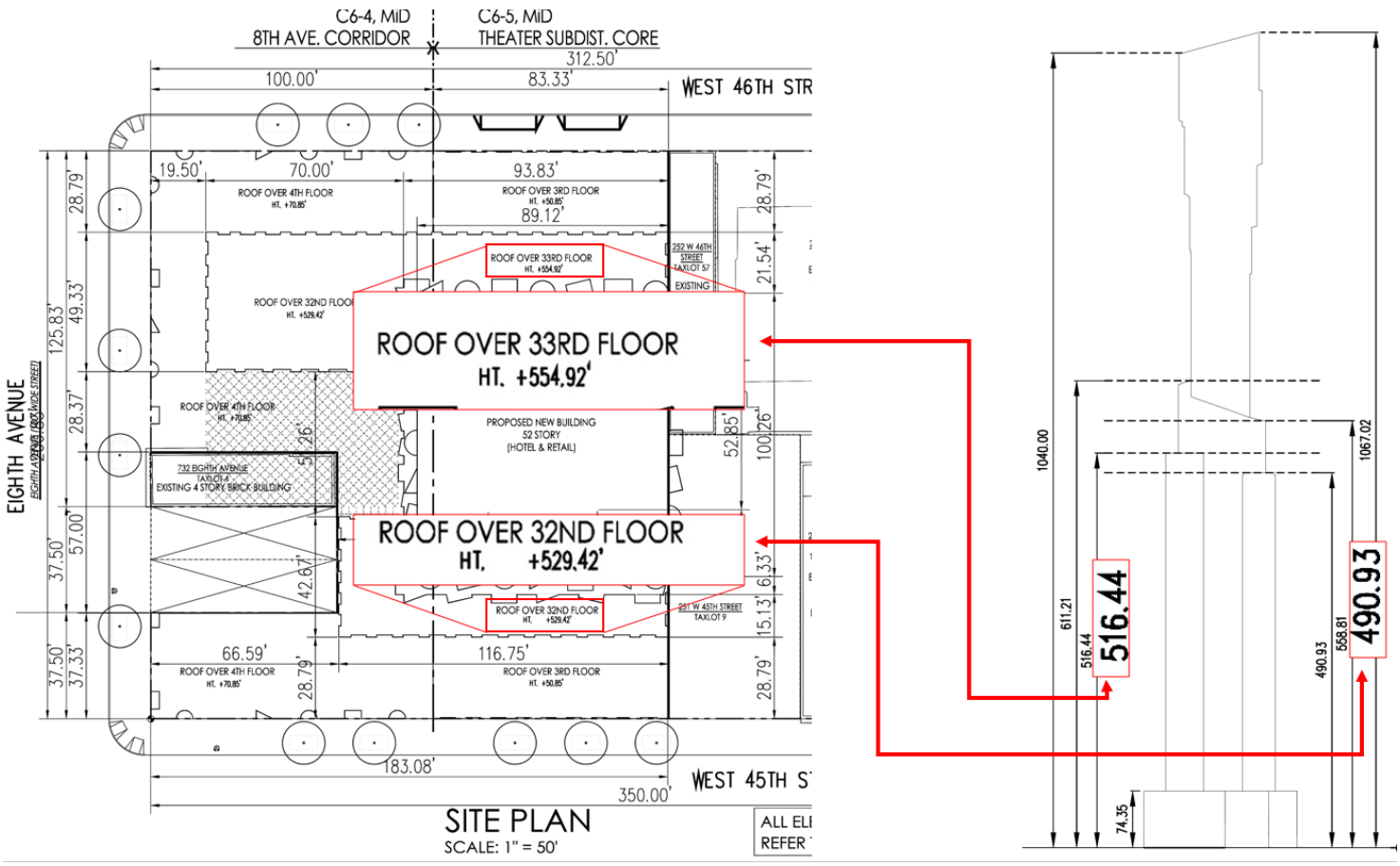
The applicant filed for a hotel use in April 2021 and got their first ZD1 approved in November 2021. To vest, the applicant needed to have "a complete zoning analysis showing zoning compliance for such transient hotel."

The ZD1 we are challenging was posted on April 12, 2023, which is four months after December 9, 2022, the date to vest listed in the Zoning Resolution. Further, for the purposes of Departmental approvals, "a complete zoning analysis showing zoning compliance" can only be done with an approved set of Z-series plans. As of today, those plans are not available because the building does not yet have its final approvals. To move forward, the project must have a CPC Special Permit because it does not qualify for the vesting detailed in ZR 32-02(d)(1).

4) There are basic errors in the ZD1 that raise questions as to what is being proposed. A new document should be prepared

4a) The ZD1 plan does not match the ZD1 Section

The building shown in the plan on the ZD1 does not match the building shown in section. Simply, the plan shows the lower half of the building as being substantially taller than as it is shown in section. The following graphic demonstrates the error.

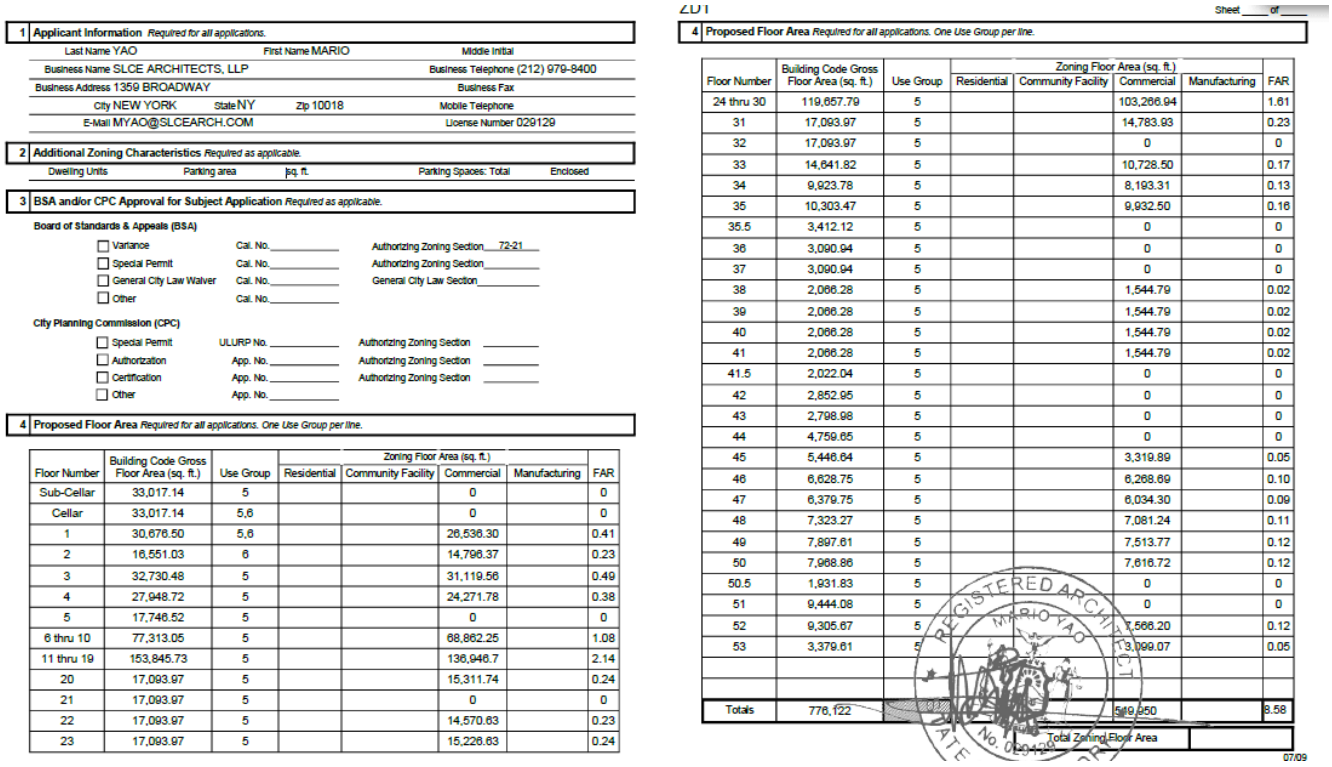


Annotated plan and section from ZD1 showing discrepancy; numbers should be identical

The roof over the 33rd floor is 554.92 feet in plan, but it is only 516.44 feet in section. Over the 32nd floor, the building is proposed to be 529.42 feet in plan, but just 490.93 feet in section. Which building is the Applicant proposing? The Department and the public shouldn't have to guess. A new ZD1 should be required.

4b) The columns of numbers in the proposed floor area table do not sum to the number shown at the bottom

The ZD1 has a proposed floor area table, reproduced below. The column of numbers shown in the table do not sum to the totals at the bottom.



1 Applicant Information *Required for all applications.*

Last Name YAO | First Name MARIO | Middle Initial

Business Name SLCE ARCHITECTS, LLP | Business Telephone (212) 979-8400

Business Address 1359 BROADWAY | Business Fax

City NEW YORK | State NY | Zip 10018 | Mobile Telephone

E-Mail MYAO@SLCEARCH.COM | License Number 029129

2 Additional Zoning Characteristics *Required as applicable.*

Dwelling Units | 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.) Residential	Community Facility	Commercial	Manufacturing	FAR
Sub-Cellar	33,017.14	5			0		0
Cellar	33,017.14	5,6			0		0
1	30,676.50	5,6			26,536.30		0.41
2	16,551.03	6			14,796.37		0.23
3	32,730.48	5			31,119.56		0.49
4	27,948.72	5			24,271.78		0.38
5	17,746.52	5			0		0
6 thru 10	77,313.05	5			68,862.25		1.08
11 thru 19	153,845.73	5			136,946.7		2.14
20	17,093.97	5			15,311.74		0.24
21	17,093.97	5			0		0
22	17,093.97	5			14,570.63		0.23
23	17,093.97	5			15,226.63		0.24

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.) Residential	Community Facility	Commercial	Manufacturing	FAR
24 thru 30	119,657.79	5			103,266.94		1.61
31	17,093.97	5			14,783.93		0.23
32	17,093.97	5			0		0
33	14,641.82	5			10,728.50		0.17
34	9,923.78	5			8,193.31		0.13
35	10,303.47	5			9,932.50		0.16
35.5	3,412.12	5			0		0
36	3,090.94	5			0		0
37	3,090.94	5			0		0
38	2,066.28	5			1,544.79		0.02
39	2,066.28	5			1,544.79		0.02
40	2,066.28	5			1,544.79		0.02
41	2,066.28	5			1,544.79		0.02
41.5	2,022.04	5			0		0
42	2,852.95	5			0		0
43	2,798.98	5			0		0
44	4,759.65	5			0		0
45	5,446.64	5			3,319.89		0.05
46	6,628.75	5			6,268.69		0.10
47	6,379.75	5			6,034.30		0.09
48	7,323.27	5			7,081.24		0.11
49	7,897.61	5			7,513.77		0.12
50	7,968.86	5			7,616.72		0.12
50.5	1,931.83	5			0		0
51	9,444.08	5			0		0
52	9,305.67	5			7,566.20		0.12
53	3,379.61	5			3,099.07		0.05
Totals	776,122				549,950		8.58

Total Zoning Floor Area

07/09

Proposed Floor Area Table found in the ZD1

The Building Code Gross Floor Area for the proposed building is shown as 776,122 SF, but when that column of numbers is summed, it adds up to 775,936 SF. Zoning Floor Area for the proposed building is shown as 549,950 SF. When that column is added with each number on the table, it sums up to 549,226 SF. These differences are not huge, but 724 SF of zoning floor area is not a rounding error. Even the sum of existing floor area and proposed floor area is wrong. When existing floor area (57,531.33 SF) is added to proposed area (549,950 SF), the sum is 607,481.33 SF, not the 607,581.33 SF shown in the ZD1.

Again, the errors are not large, but the fact that the Applicant fails on the basics, including simple arithmetic errors, demonstrates a sloppiness that the Department should find concerning, and it raises concerns about other potential errors. The building the Applicant has proposed is extremely complicated and contains a novel building form and mix of uses. This ZD1 is only three pages long, and it should be *perfect*, as we all want an Applicant proposing such a complicated building to be at least competent enough to describe it accurately.

The work you do, these documents, and the Department's approvals are important and this lack of quality and attention to detail show an indifference that should not be considered acceptable to the Department or the people of the City of New York. At minimum, the Department should require a corrected submission.

Close

The December 2021zoning change to require all transient hotels obtain a CPC special permit was the result of recognizing that hotel uses need the additional review CPC special permits bring as a ULURP action. Buildings as complicated as the Applicant's proposal, with this novel form and mix of uses, can benefit from the public review CPC special permits require. The Department should reconsider its approval of this building and the ZRD1 that permits the mix of uses proposed, and with that rejection, require a new plan subject to a CPC special permit and the City's land use process, just as any other transient hotel must undertake in 2023.

Thank you for the work you do to make New York City a better place. Should you have any questions or would like to discuss, please feel free to contact me at george@georgejanes.com.

Sincerely,

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