



250 Broadway, 29th Floor
 New York, NY 10007
 212-386-0009 - Phone
 646-500-6271 - Fax
 www.nyc.gov/bsa

SPECIAL ORDER CALENDAR (SOC)
 Application Form

BSA APPLICATION NO. 132-04-BZ

Section A

**Applicant/
 Owner**

Eric Palatnik, P.C. <small>NAME OF APPLICANT</small>	Paco East Houston, LLC <small>OWNER OF RECORD</small>
32 Broadway, Suite 114 <small>ADDRESS</small>	310 East Houston Street <small>ADDRESS</small>
New York NY 10004 <small>CITY STATE ZIP</small>	New York NY 10002 <small>CITY STATE ZIP</small>
212 425 4343 <small>AREA CODE TELEPHONE</small>	 <small>LESSEE / CONTRACT VENDEE</small>
212 968 7129 <small>AREA CODE FAX</small>	 <small>ADDRESS</small>
eric@ericpalatnikpc.com <small>EMAIL</small>	 <small>CITY STATE ZIP</small>

Section B

Site Data

310 East Houston Street 10002
STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

the southeast corner of the intersection of East Houston Street and Avenue B
DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

384	4, 40	Manhattan	3	n/a
<small>BLOCK</small>	<small>LOT(S)</small>	<small>BOROUGH</small>	<small>COMMUNITY DISTRICT</small>	<small>LANDMARK/HISTORIC DISTRICT</small>
Hon. Rosie Mendez	R7-2			12c
<small>CITY COUNCILMEMBER</small>	<small>ZONING DISTRICT</small> <small>(include special zoning district, if any)</small>			<small>ZONING MAP NUMBER</small>

Section C

Description

(LEGALIZATION YES NO IN PART)

This is an application for a re-opening of a variance and an amendment to permit the elimination of current tax lot 40 from the variance under Z.R. §72-21 to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15; on condition.

Section D

Actions

APPLICATION IS HEREBY MADE TO:

- Waive of the Rules of Practice and Procedure (Explain in your statement)
- Extension of Time to:
 - Complete construction Obtain a Certificate of Occupancy Expiration Date: _____
- Amendment to Previous Board Approval
- Extension of Term of the:
 - Variance Special Permit For a term of ____ years Expiration Date: _____
- Other (Explain in your statement)

Authorizing Section(s) of the Zoning Resolution:

§ 11-411 § 11-412 § 11-413 §§ 72-01 and 72-22 § 73-11 Other _____

ERIC PALATNIK, P.C.

ATTORNEY AT LAW
32 BROADWAY, SUITE 114
NEW YORK, NEW YORK 10004

(212) 425-4343
FAX (212) 968-7129
E-MAIL ERIC@ERICPALATNIKPC.COM

January 17, 2017

STATEMENT OF FACTS

***Calendar No. 132-04-BZ
310 East Houston Street
Block 384, Lots 4 and 40¹
New York, New York (the "Premises")***

Amendment of an existing zoning variance is respectfully requested for approval to permit the subdivision of the existing zoning lot and transfer of unused floor area development rights from the site through the zoning lot merger procedure established in the Zoning Resolution. The proposed subdivision will facilitate the transfer of a vacant portion of the original zoning lot, and the appurtenant development rights, to a contiguous parcel proposed to be developed with an as of right building, along with the current and/or future transfer of additional development rights appurtenant to the improved portion of the premises. The request to utilize unused rights is based on the rezoning (upzoning) of the property originally subject to the variance under Cal. No. 132-04-BZ, resulting in the creation of excess land and development rights no longer required to maintain the bulk of the building previously approved by the Board. Absent the presence of the existing non-conforming commercial use previously approved by the BSA (currently a UG 6-bank), the proposed subdivision and transfer of development rights would be as of right.

Existing Condition and History of the Premises:

The Premises consist of an irregularly shaped triangular lot, on the southeast corner of the intersection of East Houston Street and Avenue B. It is currently improved with a seven-story mixed use residential, community facility and commercial building, previously approved by the

¹ Lot 4 contains a condominium building, with individual condominium tax lot numbers, condo 1702)

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Board, situate on a 7,975 sq. ft. zoning lot², identified on the NYC Tax Maps as Block 384, Lots 4 and 40.³

On November 9, 2004, your Board granted a variance pursuant to ZR §72-21 to permit “within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed use development at the premises, contrary to ZR § 32-15.” Records in connection with the original approval indicated that the Premises were previously developed as a legally non-conforming gasoline service station. In granting the existing variance the Board determined that the irregular configuration of the lot created practical difficulties and unnecessary hardship in developing the Premises in conformity with the R7-2 district regulations existing at the time. The approved building included non-conforming commercial use on the first floor, limited to Use Group 6 commercial uses (excluding eating or drinking establishments), community facility space on the second floor and 29 dwelling units on the 3 through 6 and penthouse floors.

The relief was limited to the non-conforming commercial use, and in all other respects the proposed building conformed and complied with the underlying district regulations. The overall development complied with the underlying R7-2 floor area regulations, consisting of an FAR of 4.05 (2.85 residential FAR⁴, 0.7 community facility FAR and 0.5 commercial FAR. The total floor area of 32,040 sq. ft. was substantially less than the maximum permitted FAR of 6.5 (for a community facility or mixed-use building).

Following the BSA approval, the approved building was constructed and final Certificate of Occupancy #103673473 was issued on January 12, 2010, indicating the following uses:

Cellar	Recreation Area
Cellar	Accessory Storage
Cellar	Mechanical Room
1 st	Residential Lobby
1 st	Retail Store(s)
2 nd	Community Facility, Class Rooms, Acc. Office
2 nd	Mechanical Room
2 nd	Recreation Area
3 rd	Six (6) apartments
4 th	Six (6) apartments
5 th	Five (5) apartments
6 th	Five (5) apartments
Roof	Mechanical Room
Penthouse	One (1) apartment

² Please note that the lot area is indicated as 7,860 sq. ft. in the BSA resolution and 7,901 sq. ft. in the zoning computations previously submitted to the BSA, however, a recent survey which is included herein indicates a total lot area of 7,975 sq. ft. (Lot 4 – 7502 sq. ft. and Lot 40 – 473 sq. ft.)

³ The Premises was known as Lot 4 when approved by the BSA, however it was subsequently subdivided into tax lots 4 and 40, and, as noted, lot 4 was thereafter converted to condominium lots).

⁴ The zoning computation sheet approved by the BSA erroneously indicated the residential FAR as 3.05, and not the 2.85 actual figure, however the total of 4.05 indicated on the form is correct. If based on the actual zoning lot area of 7,975, the FARs were: Residential 2.82, Community Facility - .70 (no change), and Commercial 0.5 (no change), total 4.02 (4.05 total indicated on original computation sheet).

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The current total of 23 apartments was the result of the combination of some of the apartments originally approved by the Board from into single units.

On November 19, 2008, the Premises was rezoned to R8A pursuant to the East Village/Lower East Side Rezoning: ULURP No.: C080397(A)ZMM and N080398(A)ZRM. The actions included mapping of the subject property within an Inclusionary Housing Designated Area (Manhattan CD #3, Map 1, Appendix F to the Zoning Resolution). This resulted in maintenance of the overall maximum permitted FAR of 6.5 for a building including community facility uses, but increased the permitted residential FAR to 5.40 (7.20 with inclusionary housing). The result of the zoning change is that the existing building is that the existing building is substantially underdeveloped with respect to the permitted residential FAR and overall bulk. As a result of the variance, the first floor was occupied with a non-conforming commercial use (secured by a long-term lease) leaving the owner unable to modify the existing building in accordance with the new zoning.

On April 9, 2014, your Board issued a Letter of Substantial Compliance approving the following changes:

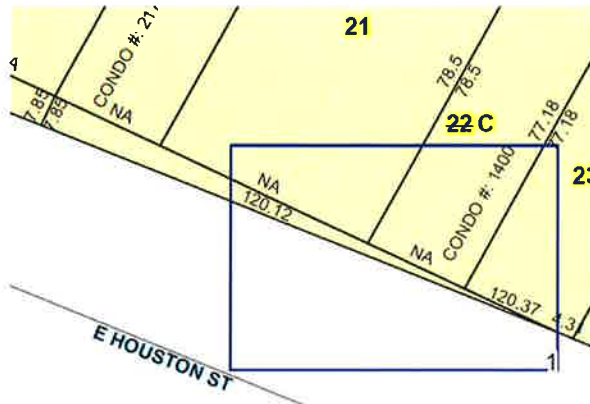
1. 463 square feet of new floor area for storage on the ground floor
2. 340 square feet of new floor area on the eighth floor
3. Conversion of 4,450 square feet of community facility floor area to residential floor area on the second floor.

Of the above approved changes, only the creation of 463 sq. ft. of storage space on the ground floor proceeded, and as noted in the current C of O, the second floor remains approved for community facility use. The addition to the eighth floor was never constructed.

Discussion and Requested Action by the Board:

Following approval of the original BSA variance, the owner of the property subdivided original Lot 4 into two separate tax lots, Lots 4 and 40, lot 40 consisting of the small, undeveloped triangular lot at the east side of the site. Lot 40 has a width of 7.85 ft. at its widest point on its west side, tapering to 0' in width, 120.12 feet to the east. (please see enlarged image of Lot 40 from the current Tax Map below and survey of the site included as part of the application materials).

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As noted, the proposed amendment is requested in order to permit the separation of Lot 40 from the previously approved zoning variance, which would include the ability to utilize the development rights appurtenant to that lot, for development on another site. It is currently anticipated that Lot 40 will be merged with Block 384, Lot 21 as part of development of a new building on Lot 21, utilizing the frontage and development rights of Lot 40. Based on the lot area of Lot 40 (473 sq. ft.), the current R8A district regulations with an FAR of 5.4/7.20 would produce 2,554.2/3,405.6 (inclusionary) sq. ft. of usable development rights. The remaining portion of Premises (Lot 4) will consist of 7,502 sq. ft., permitting a total of 48,763 sq. ft. of developable floor area (6.5 FAR) as opposed to the 34,002 sq. ft. (4.53 FAR) of existing floor area. When considered as a separate lot the residential floor area on lot 4, 25,730 sq. ft. (3.43 FAR) is substantially less than the 40,510 sq. ft. (5.40 FAR) permitted for a non-inclusionary housing building. It is additionally requested that the Board determine that the currently unused floor area development rights attributable to Lot 4, be available for transfer to qualifying zoning lots as well. In computing the rights available for future transfer, the existing commercial floor area (3,822 sq. ft.) would be subtracted from the permitted floor area attributable to the Premises.

The instant facts are substantially different than those considered by Board and the courts in *Bella Vista v. Bennett*, 89 N.Y.2d 565 (1997), in that the variance originally granted by the BSA in this instance involved the conversion of only a small amount of the permitted floor area from permitted residential use to non-conforming commercial use, so that the maximum permitted residential development was not a controlling issue, as opposed to feasible use of the first floor of the proposed building. The transfer of the excess rights does not in any way undermine the factors considered by the BSA in granting the original application, but are rather the result of an intervening upzoning that resulted in the creation of additional rights, that if available at the time, would arguably have been permitted by the BSA to be incorporated into the approved building (if feasible). In addition, in granting the original application, the Board found that the unique configuration of the Premises, limited the ability to construct additional residential floor area on the site due to setback requirements, and limited the commercial floor area to less than 4,000 sq. ft.

The proposed changes are consistent with the R8A zoning district regulations currently applicable to the site, and do not impact the nature of the relief previously granted by this Board (the commercial floor area will be subtracted from the total available bulk available for transfer). As discussed above, residential bulk waivers were not sought and as demonstrated in the

ERIC PALATNIK, P.C.

enclosed zoning computations, the remaining building and lot will comply with all applicable bulk regulations within the current R8A zoning district.

Respectfully submitted,

Eric Palatnik, Esq.

A handwritten signature in blue ink, consisting of several overlapping, slanted lines that form the name 'Eric Palatnik, Esq.'.



**Board of Standards
and Appeals**

250 Broadway, 29th Floor
New York, NY 10007
212-386-0009 - Phone
646-500-6271 - Fax
www.nyc.gov/bsa

AFFIDAVIT OF OWNERSHIP AND AUTHORIZATION

Affidavit of Ownership

PACO EAST HOUSTON LLC / c/o Adam Goed being duly sworn, deposes and says that (s)he resides at 275 Madison Ave, in the City of NY, in the County of NY, in the State of NY; that PACO EAST HOUSTON is the owner in fee of all that certain lot, piece or parcel of land located in the Borough of Manhattan, in the City of New York and known and designated as Block 384, Lot(s) 7503, Street and House Number 310 East Houston Street; and that the statement of facts in the annexed application are true.

Check one of the following conditions:

- Sole property owner of zoning lot
- Cooperative Building
- Condominium Building
- Zoning lot contains more than one tax lot and property owner

Owner's Authorization

The owner identified above hereby authorizes Eric Palatnik to make the annexed application in her/his behalf.

Signature of Owner

Print Name

Adam Goed

Print Title

COO

Sworn to before me this 20 day

of January 2 2012

ROBIN GONZALEZ
Notary Public, State of New York
No. 01GO6097433
Qualified in Kings County
My Commission Expires 08/18/2019



Department of Buildings
 280 Broadway
 New York, New York 10007
 (212) 566-5000 | TTY (212) 566-4769
 nyc.gov/buildings

MANHATTAN (1)
 280 BROADWAY 3RD FLOOR
 New York, NY 10007

BRONX (2)
 1932 ARTHUR AVENUE
 BRONX, NY 10457

BROOKLYN (3)
 210 JORALEMON STREET
 BROOKLYN, NY 11201

QUEENS (4)
 120-55 QUEENS BLVD
 QUEENS, NY 11424

STATEN ISLAND (5)
 BORO HALL- ST. GEORGE
 STATEN ISLAND, NY 10301

Notice of Objections

Applicant: Christopher Tartaglia
 High Point Engineering
 521 Conklin St
 Farmingdale, N.Y. 11735

Date: 01/20/2017
Job Application #: 122910449
Application type: A1
Premises Address: 1 Avenue B
Zoning District: R8A

Block: 384 **Lot:** 7503 **Doc(s):**

NYC Department of Buildings Examiner: Roseanne Di Maio R.A.

Jobs of limited scope: Alt. 2, Alt. 3, D14, SG, Subdivision, Etc, must reach approval in two appointments or the applicant must meet with the Chief Plan Examiner to determine how to move the job to completion. Larger jobs: NB and Alt. 1 projects must reach approval in 5 appointments or the applicant must meet with the Chief Plan Examiner to determine how to move the job to completion.

To discuss and resolve these objections "Please call 311 and request a manual appointment to address these objections" with the Plan Examiner listed above. You will need the application number and document number found at the top of this objection sheet. To make the best possible use of the Plan Examiner's and your time, please make sure you are prepared to discuss and resolve these objections before arriving for your scheduled plan examination appointment.

Examiner's Signature:

Obj. #	Doc #	Section of Code	Objections	Date Resolved	Comments
1.			BSA Denial "Proposed subdivision and reduction in lot area of development previously approved by the Board of Standards and Appeals is contrary to BSA resolution under Cal. No. 132-04-BZ and must be referred back to the Board"		
2.					

D E N I E D

FOR APPEAL TO BOARD OF STANDARDS AND APPEALS

DATE: 1/20/2017

PER: 
 Roseanne Di Maio, Commissioner

Chief Plan Examiner, Manhattan

**Premises: Calendar No. 132-04-BZ
310 East Houston Street
Block 384, Lot 7503
New York, New York (the "Premises")**

BOARD HISTORY

November 9, 2004

On November 9, 2004, the Board issued, under Calendar Number 132-04-BZ, a resolution to grant under Z.R. §72-21 a variance to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15 on condition.

Board Condition	Compliance?
THAT the premises shall be maintained free of debris and graffiti	Superseded
THAT any graffiti located on the premises shall be removed within 48 hours	Yes
THAT the ground floor commercial space shall not be occupied by an eating and drinking establishment or a bar	Yes
THAT the above conditions shall be noted in the Certificate of Occupancy	Superseded
THAT all signage shall comply with regulations applicable to a C1 zoning district	Yes

April 9, 2014

On April 9, 2014, the Board approved the following changes by Letter of Substantial Compliance:

1. 463 square feet of new floor area for storage on the ground floor
2. 340 square feet of new floor area on the eighth floor
3. Conversion of 4,450 square feet of community facility floor area to residential floor area on the second floor.

Certificate of Occupancy

CO Number: 103673473F

This certifies that the premises described herein conforms substantially to the approved plans and specifications and to the requirements of all applicable laws, rules and regulations for the uses and occupancies specified. No change of use or occupancy shall be made unless a new Certificate of Occupancy is issued. *This document or a copy shall be available for inspection at the building at all reasonable times.*

A.	Borough: Manhattan	Block Number: 00384	Certificate Type: Final
	Address: 310 EAST HOUSTON STREET	Lot Number(s): 4	Effective Date: 01/12/2010
	Building Identification Number (BIN): 1087568	Building Type: New	
<i>For zoning lot metes & bounds, please see BISWeb.</i>			
B.	Construction classification: 1-C	(1968 Code)	
	Building Occupancy Group classification: J2	(1968 Code)	
	Multiple Dwelling Law Classification: HAEA		
	No. of stories: 6	Height in feet: 70	No. of dwelling units: 23
C.	Fire Protection Equipment: None associated with this filing.		
D.	Type and number of open spaces: None associated with this filing.		
E.	This Certificate is issued with the following legal limitations: Board of Standards and Appeals - Recording Info: 132-04-BZ		
Borough Comments: None			



Borough Commissioner



Commissioner

Certificate of Occupancy

CO Number: 103673473F

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
CEL	30	OG	J-2		2	RECREATION AREA
CEL		OG	B-2		2	ACCESSORY STORAGE
CEL		OG	D-2		2	MECHANICAL ROOM.
001		100	J-2		2	RESIDENTIAL LOBBY
001	100	100	C		6	RETAIL STORE(S)
002	72	50	E		4	COMMUNITY FACILITY, CLASS ROOMS, ACCESSORY OFFICE
002			D-2		4	MECHANICAL ROOM
002	15	50	J-2		2	RECREATION AREA
003		40	J-2	6	2	SIX (6) APARTMENTS
004		40	J-2	6	2	SIX (6) APARTMENTS
005		40	J-2	5	2	FIVE (5) APARTMENTS
006		40	J-2	5	2	FIVE (5) APARTMENTS
ROF		40	D-2		2	MECHANICAL ROOM



Borough Commissioner



Commissioner

DOCUMENT CONTINUES ON NEXT PAGE

Certificate of Occupancy

CO Number: 103673473F

Permissible Use and Occupancy						
All Building Code occupancy group designations are 1968 designations, except RES, COM, or PUB which are 1938 Building Code occupancy group designations.						
Floor From To	Maximum persons permitted	Live load lbs per sq. ft.	Building Code occupancy group	Dwelling or Rooming Units	Zoning use group	Description of use
PEN		40	J-2	1	2	ONE (1) APARTMENT
<p>THIS IS A QUALITY HOUSING BUILDING NEW CODE I-C 29 UNITS NOTE: BSA CASE 132-04 BZ THE PREMIISES SHALL BE MAINTAINED FREE OF DEBRIS & GRAFFITI ANY GRAFFITI LOCATED ON PREMISES SHALL BE REMOVE WITHIN 48 HRS THE GROUND FL COMMERCIAL SPACE SHALL NOT BE OCCUPIED BY AN EATING & DRINKING ESTABLISHMENT OR A BAR..COMMUNITY FACILITY TO REMAIN AT ALL TIMES</p>						
END OF SECTION						



Borough Commissioner



Commissioner

END OF DOCUMENT



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NYC Department of Buildings
Property Profile Overview

1 AVENUE B

AVENUE B 1 - 7
EAST HOUSTON STREET 310 - 310

MANHATTAN 10009

Health Area : 7600
Census Tract : 22.02
Community Board : 103
Buildings on Lot : 1

BIN# 1087568

Tax Block : 384
Tax Lot : 7503
Condo : YES
Vacant : NO

[View DCP Addresses...](#) [Browse Block](#)

[View Zoning Documents](#) [View Challenge Results](#) [Pre - BIS PA](#) [View Certificates of Occupancy](#)

Cross Street(s): CLINTON STREET, EAST 2 STREET
DOB Special Place Name: 1 AVE B & 310 E HOUSTON ST ARE
DOB Building Remarks: 1 BLDG-PER CP 4/09; BLOCK 384 LOT 7503 (12/08)
Landmark Status: **Special Status:** N/A
Local Law: NO **Loft Law:** NO
SRO Restricted: NO **TA Restricted:** NO
UB Restricted: NO
Environmental Restrictions: N/A **Grandfathered Sign:** NO
Legal Adult Use: NO **City Owned:** NO
Additional BINs for Building: [1004566](#)

Special District: UNKNOWN

This property is not located in an area that may be affected by Tidal Wetlands, Freshwater Wetlands, Coastal Erosion Hazard Area, or Special Flood Hazard Area. [Click here for more information](#)

Department of Finance Building Classification: R0-CONDOMINIUMS

Please Note: The Department of Finance's building classification information shows a building's tax status, which may not be the same as the legal use of the structure. To determine the legal use of a structure, research the records of the Department of Buildings.

	Total	Open	Elevator Records
Complaints	25	0	Electrical Applications
Violations-DOB	9	4	Permits In-Process / Issued
Violations-ECB (DOB)	4	0	Illuminated Signs Annual Permits
Jobs/Filings	52		Plumbing Inspections
ARA / LAA Jobs	1		Open Plumbing Jobs / Work Types
Total Jobs	53		Facades
Actions	22		Marquee Annual Permits
			Boiler Records
OR Enter Action Type:			DEP Boiler Information
OR Select from List: <input type="text" value="Select..."/>			Crane Information
AND <input type="button" value="Show Actions"/>			After Hours Variance Permits

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



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NYC Department of Buildings

DOB Violation Display for 033114EVCAT106653

Premises: 1 AVENUE B MANHATTAN

BIN: [1087568](#) **Block:** 384 **Lot:** 7503

Issue Date: 03/31/2014

Violation Category: V - DOB VIOLATION - ACTIVE

Violation Type: EVCAT1 - ELEVATOR ANNUAL INSPECTION / TEST

Violation Number: 06653

Device No.: [1P44443](#)

ECB No.:

Infraction Codes:

Description: VIOLATION ISSUED TO ELEVATOR-FAILURE TO FILE CATEGORY 1 2012 INSPECTION/TEST

Disposition:

Code:

Date:

Inspector:

Comments:

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



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NYC Department of Buildings

DOB Violation Display for 051514LBLVIO00013

Premises: 1 AVENUE B MANHATTAN

BIN: 1087568 Block: 384 Lot: 7503

Issue Date: 05/15/2014

Violation Category: V - DOB VIOLATION - ACTIVE

Violation Type: LBLVIO - LOW PRESSURE BOILER

Violation Number: 00013

Device No.: 00075708 - 01-RESIDENTIAL

ECB No.:

Infraction Codes:

Description: VIOLATION ISSUED FOR FAILURE TO FILE ANNUAL BOILER 2012 INSPECTION REPORT

Click [here](#) to view the Civil Penalty Chart.

Disposition:

Code: Date:

Inspector:

Comments:

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



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NYC Department of Buildings

DOB Violation Display for 051514LBLVIO00014

Premises: 1 AVENUE B MANHATTAN

BIN: [1087568](#) **Block:** 384 **Lot:** 7503

Issue Date: 05/15/2014

Violation Category: V - DOB VIOLATION - ACTIVE

Violation Type: LBLVIO - LOW PRESSURE BOILER

Violation Number: 00014

Device No.: 00075708 - 02-RESIDENTIAL

ECB No.:

Infraction Codes:

Description: VIOLATION ISSUED FOR FAILURE TO FILE ANNUAL BOILER 2012 INSPECTION REPORT

Click [here](#) to view the Civil Penalty Chart.

Disposition:

Code:

Date:

Inspector:

Comments:

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



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NYC Department of Buildings

DOB Violation Display for 061015EVCAT103330

Premises: 1 AVENUE B MANHATTAN

BIN: [1087568](#) **Block:** 384 **Lot:** 7503

Issue Date: 06/10/2015

Violation Category: V - DOB VIOLATION - ACTIVE

Violation Type: EVCAT1 - ELEVATOR ANNUAL INSPECTION / TEST

Violation Number: 03330

Device No.: [1P44443](#)

ECB No.:

Infraction Codes:

Description: VIOLATION ISSUED TO ELEVATOR-FAILURE TO FILE CATEGORY 1 2014 INSPECTION/TEST

Disposition:

Code: **Date:**

Inspector:

Comments:

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



250 Broadway, 29th Floor
 New York, NY 10007
 212-386-0009 - Phone
 646-500-6271 - Fax
 www.nyc.gov/bsa

BSA Cal. No.:	132-04-BZ		
Street Address:	310 East Houston Street		
Block:	384	Lot(s):	4, 40
Borough :	Manhattan		

CERTIFICATION OF INSPECTION & COMPLIANCE

Eric Palatnik, Esq.

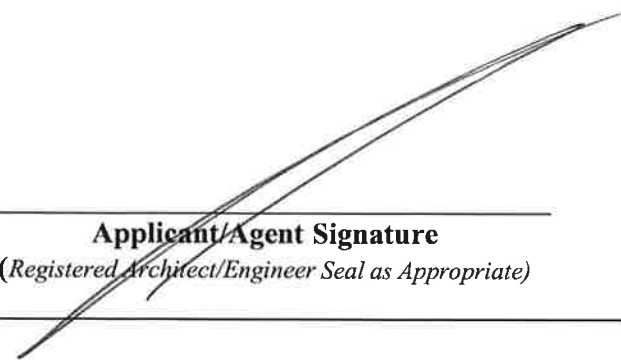
hereby states that I personally inspected the

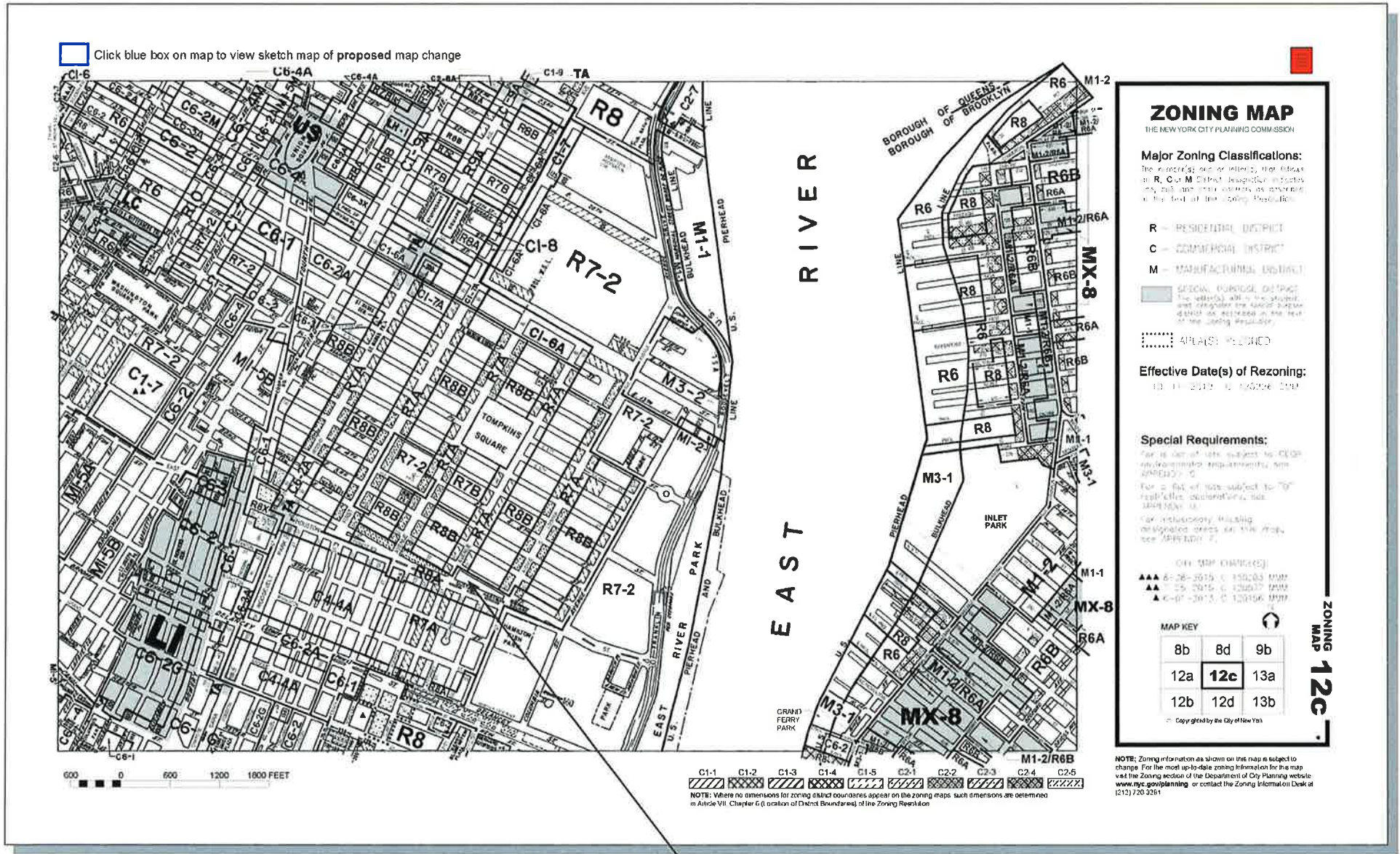
(Applicant, Agent, Registered Architect or Registered Engineer)

premises and surrounding area on January 17, 2017. In addition, I have
(Date of most recent inspection)
 researched all relevant BSA records related to the premises, including BSA-approved plans and resolutions. Each non-compliance with the terms, conditions and/or plans of the effective prior BSA grant is explained in detail below. The specific date or time frame on which compliance will be restored, where possible to ascertain, is listed.

[Note: A request to eliminate any prior condition must be part of the relief sought in the application; such request should not be made on this form]

- I confirm that the premises is developed and operates in accordance with the currently effective BSA-approved plans and resolution, submitted with this application.**
- The following deviation(s) from the currently effective BSA-approved plans and/or resolution exist on the site:**

Area(s) of non-compliance	Date(s) to achieve compliance.
 Applicant/Agent Signature <i>(Registered Architect/Engineer Seal as Appropriate)</i>	







Site Information

Block 384, Lot 40 & 7503

Zoning Map: 12c

Zoning District: R8A

Special District: n/a

Lot and Building Information

- Lot Numbers (within radius)

- Block Numbers

I, II, III - Story Height

Md - Multiple Dwelling

D - Dwelling

R - Retail

G - Garage

C - Commercial

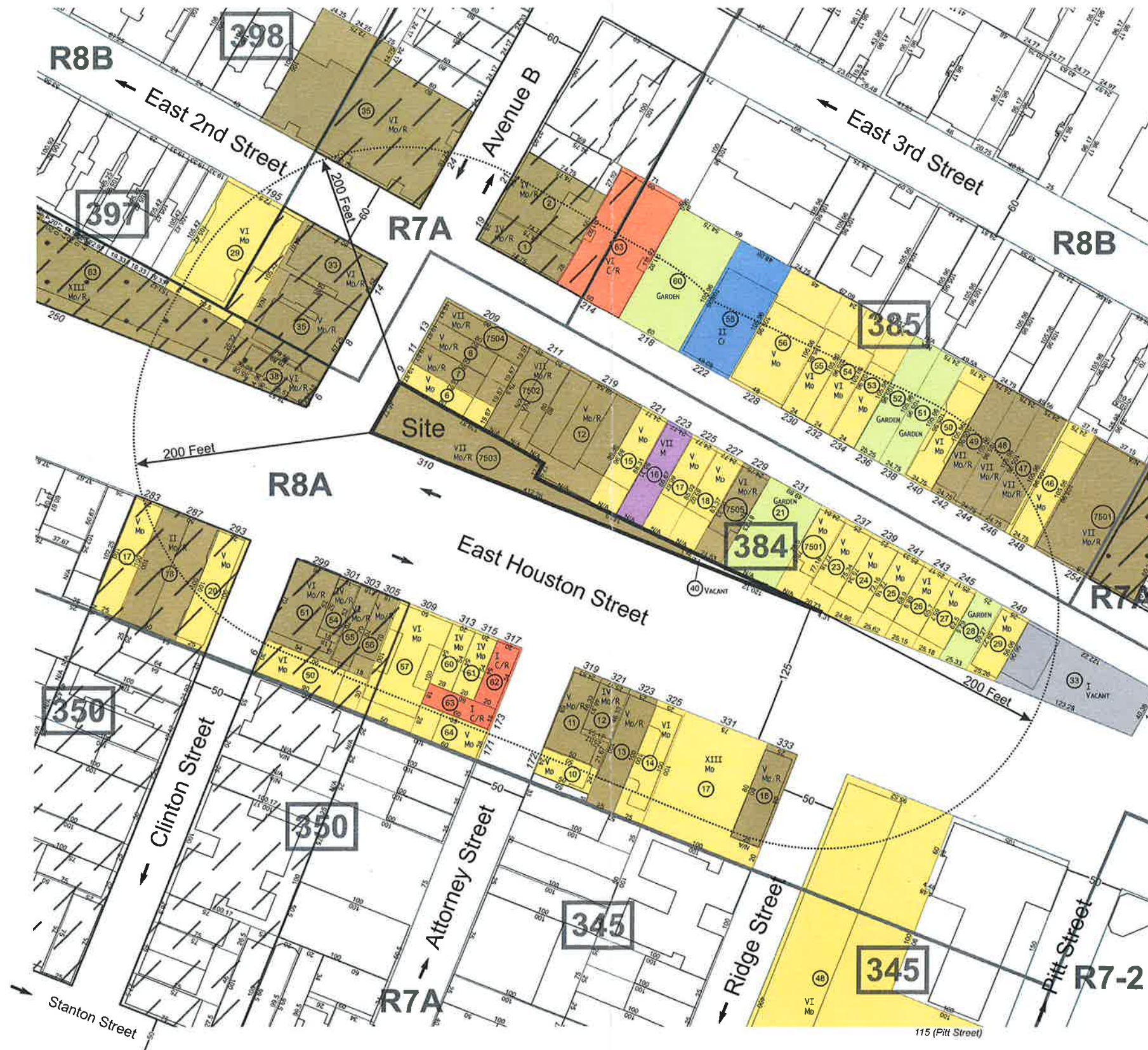
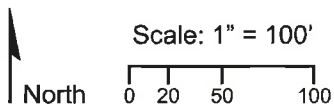
I - Industrial

M - Manufacturing

W - Warehouse

V - Vacant

Cf - Community Facility



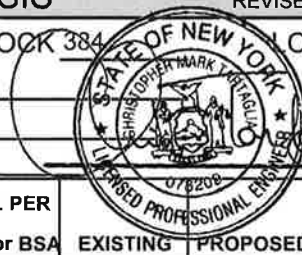
Zoning Districts and Commercial Overlays

- | | | | |
|------------|---------------------------|--|------|
| | C1-1 | | C2-1 |
| | C1-2 | | C2-2 |
| | C1-3 | | C2-3 |
| | C1-4 | | C2-4 |
| | C1-5 | | C2-5 |
| | Zoning District Boundary | | |
| | Special District Boundary | | |
| R7A | Zoning District Labels | | |

Land Uses

- One and Two-Family Homes
- Multiple Dwelling
- Commercial
- Mixed Use (Residential/Commercial)
- Manufacturing
- Open Space / Park Land
- Institutional / Community Facility
- Parking / Automotive
- Vacant

BSA CALENDAR NO. 132-04-BZ BLOCK 384 LOT 7503
 SUBJECT SITE ADDRESS 310 East Houston Street, New York, NY
 APPLICANT _____
 ZONING DISTRICT R8A PRIOR BSA # _____
 SPECIAL/HISTORIC DISTRICT _____
 COMMUNITY BOARD 103

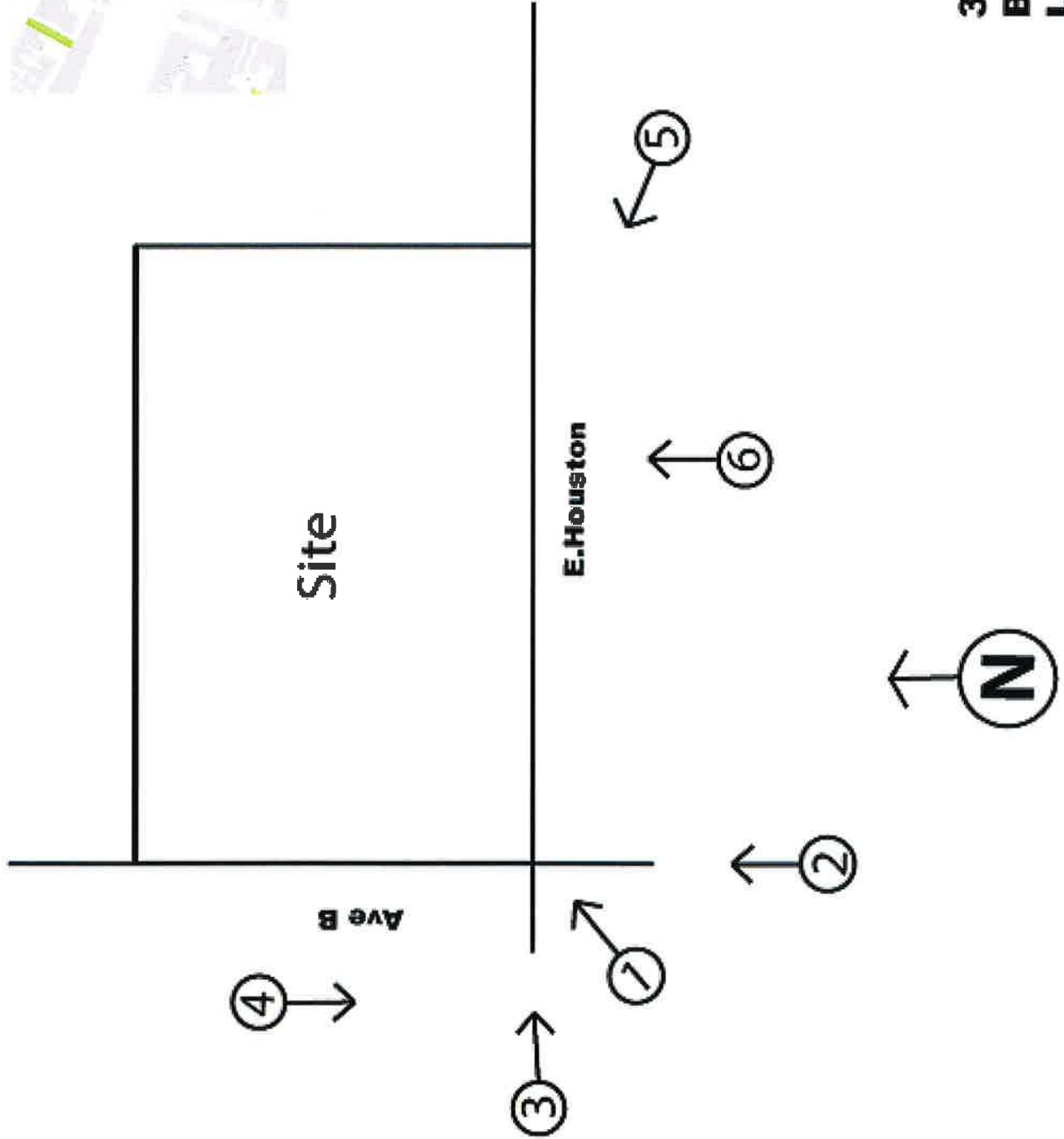


COMPLIANT: "Y"
 IF NOT: "N" and
 INDICATE AMT
 OVER/UNDER

	* APPLICABLE	MAXIMUM	MINIMUM	LEGAL PER	EXISTING / PROPOSED		INDICATE AMT OVER/UNDER
	ZR SECTION	PERMITTED	REQUIRED	C of O or BSA	EXISTING	PROPOSED	
LOT AREA	N/A		N/A	7975	7975	7502	Y
LOT WIDTH	N/A		N/A	48.89'	48.89'	48.89'	Y
USE GROUP (S)	22-10	---		2,4,6	2,4,6	2,4,6	Y
FA RESIDENTIAL	23-154*	40,510		25,730	25,730	25,730	Y
FA COMMUNITY FACILITY	24-11	48,763		4,450	4,450	4,450	Y
FA COMMERCIAL/INDUST.	By BSA	---		3,822	3,822	3,822	Y
FLOOR AREA TOTAL	24-11	48,763		34,002	34,002	34,002	Y
FAR RESIDENTIAL	23-154*	5.4		3.23	3.23	3.43	Y
FAR COMMUNITY FACILITY	24-11	6.5		0.56	0.56	0.59	Y
FAR COMMERCIAL/INDUST.	By BSA	---		0.48	0.48	0.51	Y
FAR TOTAL	24-11	6.5		4.27	4.27	4.53	Y
OPEN SPACE	N/A		0	1442	1442	1442	Y
OPEN SPACE RATIO	N/A		0	18.1	18.1	19.2	Y
LOT COVERAGE (%)	23-153**	100		81.8%	81.8%	80.8%	Y
NO. DWELLING UNITS	23-22	66		23	23	23	Y
WALL HEIGHT	23-642	85'		80'-8"***	80'-8"***	80'-8"***	Y
TOTAL HEIGHT	23-642	330'		80'-8"***	80'-8"***	80'-8"***	Y
NUMBER OF STORIES				7	7	7	Y
FRONT YARD	23-45		NONE	0'	0'	0'	Y
SIDE YARD	23-462		NONE	0'	0'	0'	Y
SIDE YARD	23-462		NONE	0'	0'	0'	Y
REAR YARD	23-541		> 100'	0'	0'	0'	Y
SETBACK (S)	23-642		> 85'	0'	0'	0'	Y
SKY EXP. PLANE (SLOPE)	23-642	7.6 to 1		N/A	N/A	N/A	Y
NO. PARKING SPACES	25-242	NONE	NONE	NONE	NONE	NONE	Y
LOADING BERTH (S)	25-72	NONE	NONE	NONE	NONE	NONE	Y
OTHER:	N/A	N/A	N/A	N/A	N/A	N/A	N/A

* In Applicable ZR Section column: For RESIDENTIAL developments in non-residential districts, indicate nearest R district, e.g., R4/23-141, and contrast compliance. For COMMERCIAL or MANUFACTURING developments in residential districts, contrast proposed bulk and area elements to **current R district requirements**, except for parking and loading requirements (contrast to nearest district where use is permitted). For COMMUNITY FACILITY uses in districts where not permitted, contrast to **nearest district where permitted**. For all applications, attach zoning map and highlight subject site. Be sure that all items noted in the DOB Denial/Objection are included. NOTES: * Assumes Inclusionary Housing Standards

** Assumes Quality Housing Standards ***Total Mechanical Room Height = 90'-8".



310 E. Houston
Block: 384
Lot: 7503
NY, NY



site

Ave B

E. Houston

View 1

Shot: 8-22-16

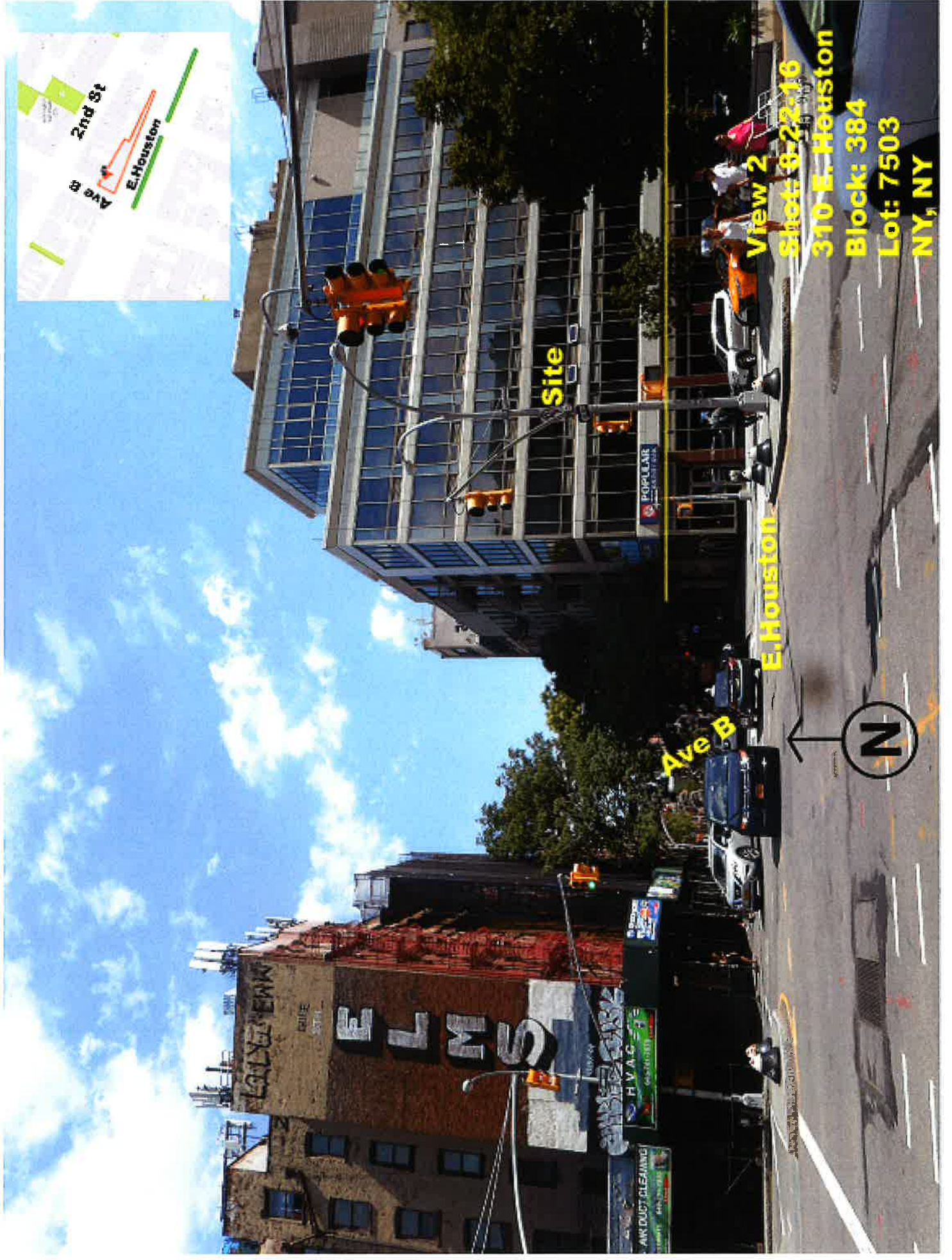
310 E. Houston

Block: 384

Lot: 7503

NY, NY





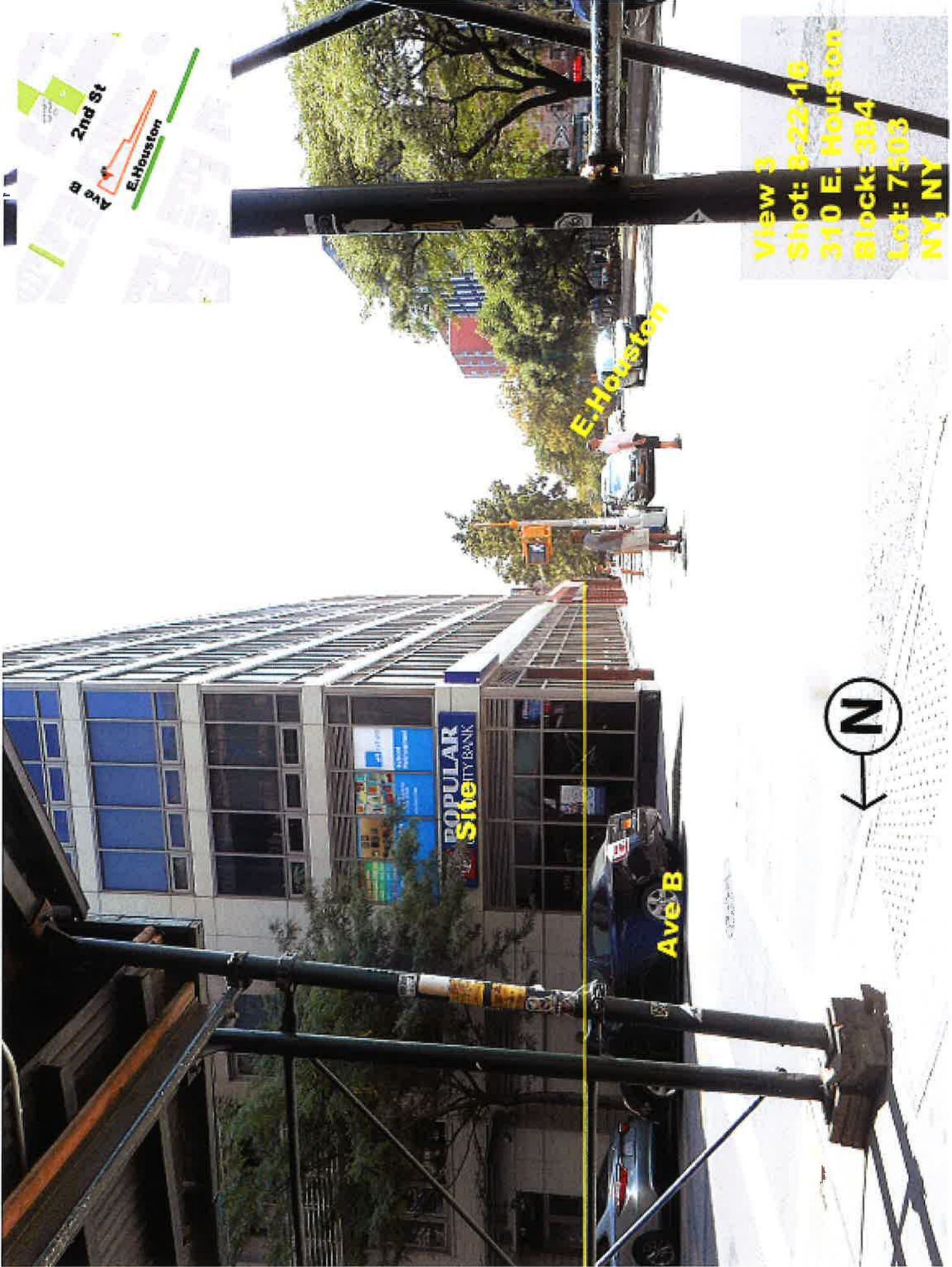
Ave B

E. Houston

Site



View 2
Sheet 6-22-16
310 E. Houston
Block: 384
Lot: 7503
NY, NY



View 3
Shot: 8-22-16
310 E. Houston
Block: 384
Lot: 7503
NY, NY



Ave B

E. Houston

POPULAR CITY BANK
Site



Site

E. Houston

View 4

Shot: 8-22-16

310 E. Houston

Block: 384

Lot: 7503

NY, NY



Ave B

BEER SHOP



Site

View 5

Shot: 8-22-16

310 E. Houston

Block: 384

Lot: 7503

NY, NY

E. Houston



Victory





View 6
Shot: 8-22-16

310 E. Houston
Block: 384
Lot: 7503
NY, NY

E. Houston

Site



132-04-BZ

CEQR #04-BSA-144M

APPLICANT - Eric Palatnik, P.C. of Counsel to Charles Foy, Esq., for Malu Properties, Inc., owner.

SUBJECT - Application March 15, 2004 - under Z.R. §72-21 to permit within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15.

PREMISES AFFECTED - 310 East Houston Street, southeast corner of Avenue "P", Block 384, Lot 4, Borough of Manhattan.

COMMUNITY BOARD #3M

APPEARANCES - None.

ACTION OF THE BOARD - Application granted on condition.

THE VOTE TO GRANT -

Affirmative: Chair Srinivasan, Vice-Chair Babbar, Commissioner Miele and Commissioner Caliendo...4

Negative:.....0

Absent: Commissioner Chin.....1

THE RESOLUTION -

WHEREAS, the decision of the Borough Commissioner, dated February 23, 2004, acting on Department of Buildings Application No. 103673473, reads:

"Proposed retail store (UG6) is not permitted as of right in R7-2 district and it is contrary to ZR 32-15"; and

WHEREAS, a public hearing was held on this application on September 28, 2004 after due publication in *The City Record*, and then to decision on November 9, 2004; and

WHEREAS, the premises and surrounding area had a site and neighborhood examination by a committee of the Board, consisting of Chair Srinivasan and Vice-Chair Babbar; and

WHEREAS, this is an application under Z.R. §72-21, to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. §32-15; and

WHEREAS, Community Board 3, Manhattan recommended approval of this application; and

WHEREAS, the premises is a triangular shaped zoning lot located at the southeast corner of East Houston Street and Avenue B, and has a total lot area of 7,860 sq. ft.; and

WHEREAS, the lot is currently improved upon with an existing automotive service station (Use Group 16); and

WHEREAS, the proposal contemplates a six-story plus penthouse, mixed-use building containing storage at the cellar level, commercial use of 3,992 sq. ft on the ground floor, community facility space of 5,558 sq. ft. at the second floor, and residential space of 22,490 sq. ft. and 29 dwelling units on floors 3 through 6 and the penthouse; and

WHEREAS, the applicant states that the following are unique physical conditions, which

create practical difficulties and unnecessary hardship in developing the subject lot in conformity with underlying district regulations: (1) the subject lot is oddly configured and contains an irregular triangular shape, which at various points is shallow and narrow in depth; (2) the site has a history of non-conforming development; and (3) there is underground environmental contamination at the site; and

WHEREAS, the Board finds that the aforementioned unique physical conditions, when considered in the aggregate, create unnecessary hardship and practical difficulties in developing the site in conformity with the current zoning; and

WHEREAS, the applicant submitted a feasibility study showing that an as-of-right residential scenario resulted in an unreasonable rate of return; and

WHEREAS, at the Board's request, the applicant explained why a full build-out Quality Housing scenario at 4.0 FAR or a full build-out mixed-use community facility/residential building would not work, stating that the building would have to rise higher, and thereby trigger setback requirements that would result in smaller, inefficient, and less viable floor plates, with rent insufficient to offset the increased construction costs; and

WHEREAS, the applicant also explained why residential use was not feasible at the first floor, stating that ground floor residential does not generate revenue sufficient to offset construction costs, whereas ground floor commercial would; and

WHEREAS, the Board reviewed the study, as well as the additional explanations, and finds them credible and sufficient; and

WHEREAS, therefore, the Board has determined that because of the subject lot's unique physical conditions, there is no reasonable possibility that development in strict conformity with zoning will provide a reasonable return; and

WHEREAS, the applicant represents that the proposed variance will not affect the character of the neighborhood and is compatible with the mixed-use commercial and residential uses in the surrounding area; and

WHEREAS, the applicant states that numerous buildings located on Avenue B, East Houston Street and Second Avenue contain ground floor commercial use and residential use on the higher floors, similar to the proposed building; and

WHEREAS, the applicant further states that the proposed ground floor commercial use is more in keeping with the character of the surrounding area than the existing automotive service station; and

WHEREAS, the commercial space on the ground floor will be limited to 3992 square feet, and the space will be occupied only Use Group 6 uses, except for bars and restaurants; and

WHEREAS, therefore, the Board finds that this

132-04-BZ

CEQR #04-BSA-144M

the action will not alter the essential character of the surrounding neighborhood nor impair the use or development of adjacent properties, nor will it be detrimental to the public welfare; and

WHEREAS, the Board finds that the hardship herein was not created by the owner or a predecessor in title; and

WHEREAS, the Board finds that this proposal is the minimum necessary to afford the owner relief; and

WHEREAS, the Board has determined that the evidence in the record supports the findings required to be made under Z.R. §72-21; and

WHEREAS, the project is classified as an Unlisted action pursuant to 6NYCRR, Part 617; and

WHEREAS, the Board has conducted an environmental review of the proposed action and has documented relevant information about the project in the Final Environmental Assessment Statement (EAS) CEQR No. 04-BSA-144M dated June 1, 2004; and

WHEREAS, the EAS documents that the project as proposed would not have significant adverse impacts on Land Use, Zoning, and Public Policy; Socioeconomic Conditions; Community Facilities and Services; Open Space; Shadows; Historic Resources; Urban Design and Visual Resources; Neighborhood Character; Natural Resources; Hazardous Materials; Waterfront Revitalization Program; Infrastructure; Solid Waste and Sanitation Services; Energy; Traffic and Parking; Transit and Pedestrians; Air Quality; Noise; Construction Impacts; and Public Health; and

WHEREAS, the applicant's environmental consultants have examined through various studies (the Phase II report dated September 1, 2000, the Project Status Report dated January 7, 2002, and the Hazardous Materials Update document dated May 24, 2004) the existing petroleum contamination in the groundwater due to prior gasoline spills at the site; and

WHEREAS, no other significant effects upon the environment that would require an Environmental Impact Statement are foreseeable; and

WHEREAS, the Board has determined that the proposed action will not have a significant adverse impact on the environment.

Therefore it is Resolved that the Board of Standards and Appeals issues a Negative Declaration prepared in accordance with Article 8 of the New

York State Environmental Conservation Law and 6 NYCRR Part 617, the Rules of Procedure for City Environmental Quality Review and Executive Order No. 91 of 1977, as amended and makes each and every one of the required findings under Z.R. §72-21 and grants a variance to permit, within an R7-2 zoning district, commercial use on the ground floor of a proposed six-story, mixed-use development at the premises, contrary to Z.R. § 32-15; on condition that any and all work shall substantially conform to drawings as they apply to the objections above noted, filed with this application marked "Received October 26, 2004"- (3) sheets; and on further condition:

THAT the premises shall be maintained free of debris and graffiti;

THAT any graffiti located on the premises shall be removed within 48 hours;

THAT the ground floor commercial space shall not be occupied by an eating and drinking establishment or a bar;

THAT the above conditions shall be noted in the Certificate of Occupancy;

THAT all signage shall comply with regulations applicable to a C1 zoning district;

THAT this approval is limited to the relief granted by the Board, in response to specifically cited and filed DOB/other jurisdiction objection(s) only;

THAT the approved plans shall be considered approved only for the portions related to the specific relief granted; and

THAT the Department of Buildings must ensure compliance with all other applicable provisions of the Zoning Resolution, the Administrative Code and any other relevant laws under its jurisdiction irrespective of plan(s) and/or configuration(s) not related to the relief granted.

Adopted by the Board of Standards and Appeals, November 9, 2004.

A true copy of resolution adopted by the Board of Standards and Appeals, November 9, 2004.
Printed in Bulletin No. 45-46, Vol. 89.

Copies Sent

To Applicant

Fire Com'r.

Borough Com'r.

BSA Approved Plans and Resolution

BSA CALENDAR NO. _____
 SUBJECT SITE ADDRESS 310 EAST HOUSTON STREET
 APPLICANT _____
 ZONING DISTRICT _____
 SPECIAL DISTRICT _____
 COMMUNITY BOARD _____

BLOCK 384 EALSLOT 4

PRIOR BSA # 23-16 1:16

COMPLIANT: "Y"
 IF NOT: "N" and
 INDICATE AMT
 OVER/UNDER

	* APPLICABLE ZR SECTION	MAXIMUM PERMITTED	MINIMUM REQUIRED	LEGAL PER C of O or BSA	EXISTING	PROPOSED	
LOT AREA	-	-	-	-	7,901	7,901	-
LOT WIDTH	-	-	-	-	48'-9 1/4"	48'-9 1/4"	-
USE GROUP (S)	22-12 23-12	-	-	-	16	24,6	Y-Y-N
FA RESIDENTIAL	24-162 23-142	24,098	-	-	-	22,490*	Y
FA COMMUNITY FACILITY	24-11	27,298	-	-	-	5,558*	Y
FA COMMERCIAL/INDUST.	BSA-APPROV.	-	-	-	1,720	3,992*	N-3,992
FLOOR AREA TOTAL	24-11	51,357	-	-	1,720	32,040	Y
FAR RESIDENTIAL **	24-162 23-142	3.05	-	-	-	3.05*	Y
FAR COMMUNITY FACILITY **	24-11	3.45	-	-	-	0.7*	Y
FAR COMMERCIAL/INDUST. **	BSA-APPROV.	-	-	-	0.22	0.8*	N-0.5
FAR TOTAL **	24-11	6.5	-	-	0.22	4.05	Y
OPEN SPACE	24-11	-	2,370	-	6181	2,691	Y
OPEN SPACE RATIO **	24-11	-	30	-	28	34	Y
LOT COVERAGE (%) **	24-11	5,531	-	-	1,720	5,210	Y
NO. DWELLING UNITS **	23-22	35	-	-	0	29	Y
WALL HEIGHT **	23-632	60'	-	-	16'-6"	60'	Y
TOTAL HEIGHT	23-632	330'	-	-	16'-6"	80'-8"***	Y
NUMBER OF STORIES	-	-	-	-	-	7	Y
FRONT YARD	23-45	-	NONE	-	-	NONE	Y
SIDE YARD	23-462	-	NONE	-	-	NONE	Y
SIDE YARD	23-462	-	NONE	-	-	NONE	Y
REAR YARD	23-541	-	AT 100'	-	-	AT 100'	Y
SETBACK (S)	23-632	-	AT 60'	-	-	AT 60'	Y
SKY EXP. PLANE (SLOPE)	23-632	5.11/27.1	-	-	-	5.61/27.1	Y
NO. PARKING SPACES	25-242	-	NONE	-	-	NONE	Y
LOADING BERTH (S)	25-72	-	NONE	-	-	NONE	Y
OTHER:							

Be sure that all elements noted in the DOB Denial/Objection are consistently and accurately reflected in the BSA analysis. If no category listed above corresponds to the DOB Denial/Objection, indicate in OTHER; or explain in NOTES; or attach explanation.

* In Applicable ZR Section column, if proposed use does not conform to the district's use regulations, thereby making the bulk requirements inapplicable, indicate "NA," and where ** is noted, instead of "NA," indicate the EQUIVALENT DISTRICT in which that use is permitted, considering the bulk

NOTES: * COLLAR FLOOR SPACE NOT INCLUDED IN THESE CALCULATIONS - NOT APPLICABLE
 ** TOTAL BULK HIGH OF MECH. ROOM = 90'-8"

132-04BZ

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BY: [unclear] & APPEALS

2009 OCT 26 P 1:46

L.L. 113.



25 West 21st Street, New York, NY 10011
E-Mail: TMC@TheMarinGroup.com
Phone: (212) 463-8460
Fax: (212) 464-9000

CONSULTING ENGINEERS

SEAL:

10/20/04	REVISED FOR BSA
5/24/04	REVISED FOR BSA
DATE	REVISION

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KEY PLAN



EAST HOUSTON RESIDENCE

310 EAST HOUSTON ST.
NEW YORK, NY 10002

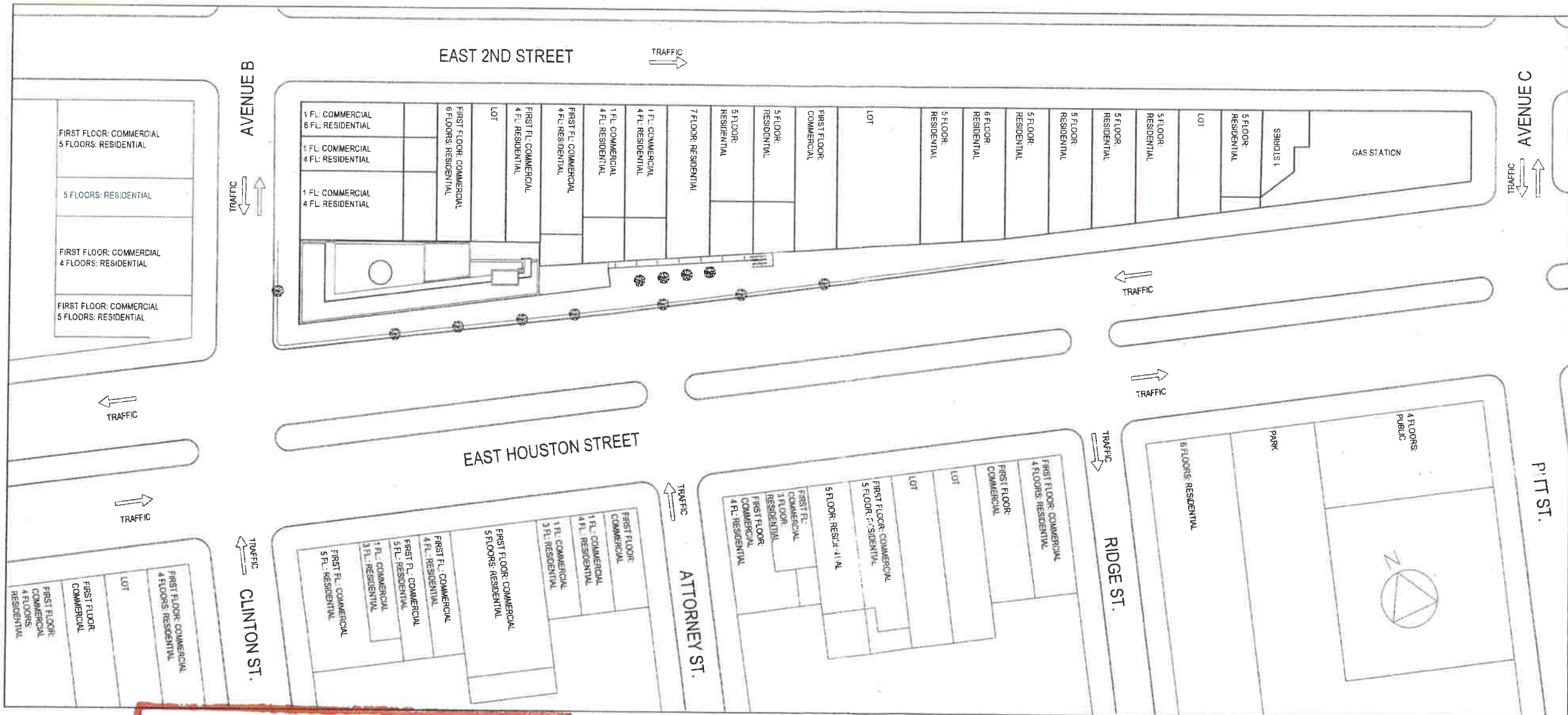
SCHEME 1

AREA:
SHEET TITLE:

SITE PLAN PROPOSED

PROJECT NO.	29639
SCALE:	AS NOTED
DATE:	12/05/03
DRAWN BY:	
REVIEWED BY:	
SHEET NO.	

A-1.5



**APPROVED PLANS
BOARD OF STANDARDS AND APPEALS**

The approval of these plans is limited solely to the relief granted by the BSA. All plans are subject to Department of Buildings review for compliance with all other applicable laws rules and regulations.

Refer to the Certified Resolution language for the scope and specific description of the BSA Approval.



1 PROPOSED SITE PLAN
1/32" = 1'-0"

132-04BZ

**APPROVED PLANS
BOARD OF STANDARDS AND APPEALS**

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Refer to the Certified Resolution language for the scope and specific description of the BSA Approval.

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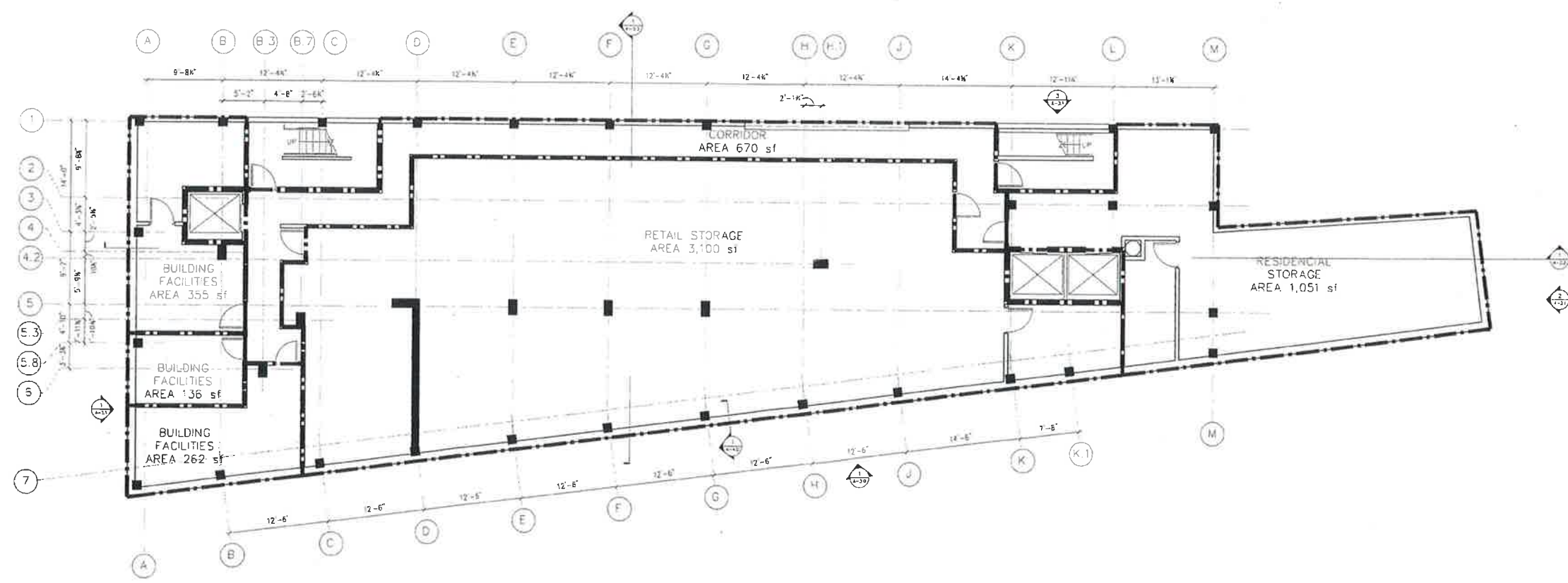
2011 JUN 26 P 1:46

NO.

THE MARIN GROUP
28 West 23rd Street, New York, NY 10010
E-mail: TMG@themaringroup.com
Phone: (212) 464-9340
Fax: (212) 464-9340

CONSULTING ENGINEERS

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5/24/04	REVISED FOR BSA
DATE	REVISION

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KEY PLAN

1 CELLAR FLOOR PLAN - STORAGE
1/8" = 1'-0"

132-04BZ

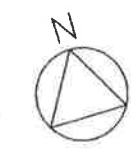
EAST HOUSTON RESIDENCE
310 EAST HOUSTON ST.
NEW YORK, NY 10002
SCHEME 1

AREA:
SHEET TITLE:

CELLAR FLOOR PLAN
PROPOSED

PROJECT NO. 0303
SCALE: AS NOTED
DATE: 10/09/07
DRAWN BY:
REVIEWED BY:
SHEET NO.

A-1.6



**APPROVED PLANS
BOARD OF STANDARDS AND APPEALS**

The approval of these plans is limited solely to the relief granted by the BSA. All plans are subject to the Department of Buildings review for compliance with all other applicable laws rules and regulations.

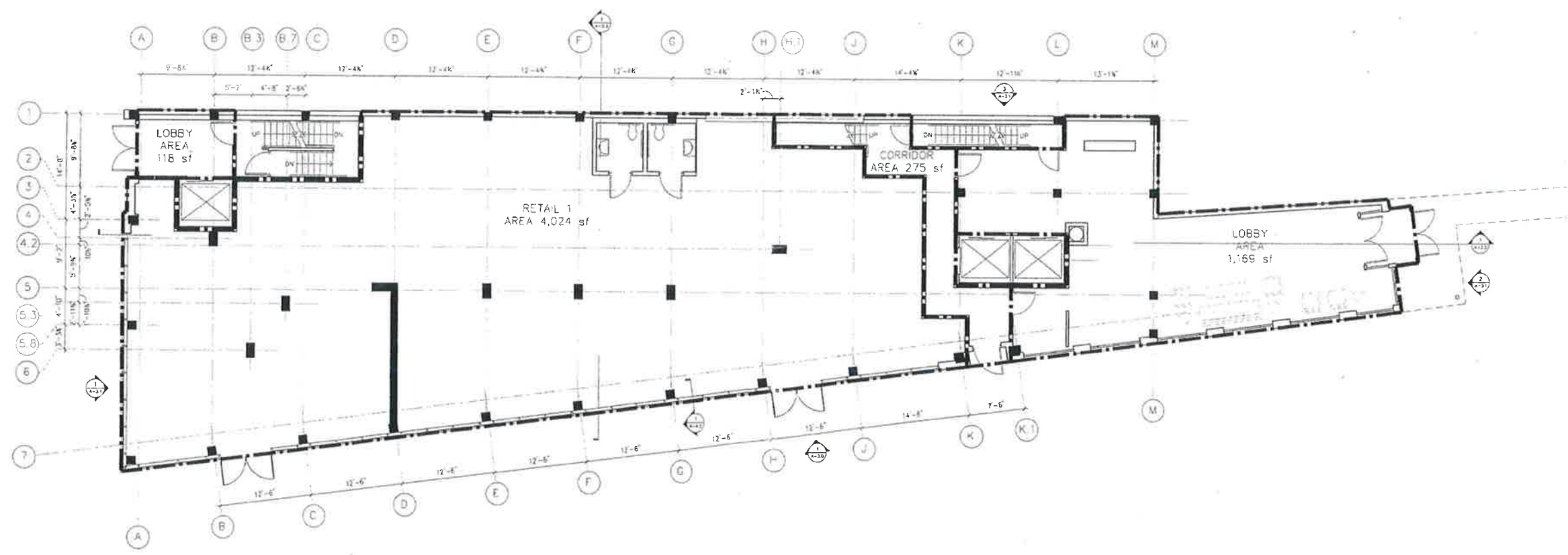
Refer to the Certified Resolution language for the scope and specific description of the BSA Approval.

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BOARD OF STANDARDS AND APPEALS
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Phone: (212) 463-8400
Fax: (212) 464-9040

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DATE	REVISION
10/20/04	REVISED FOR BSA
5/24/04	REVISED FOR BSA

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KEY PLAN

EAST HOUSTON RESIDENCE
310 EAST HOUSTON ST.
NEW YORK, NY 10002
SCHEME 1

AREA:
SHEET TITLE:

**FIRST FLOOR PLAN
PROPOSED**

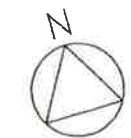
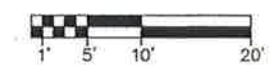
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SCALE: ARCHITECT
DATE: 10/04/04
DRAWN BY:
REVIEWED BY:
SHEET NO.

A-1.7

132-04BZ

2 FIRST FLOOR PLAN - RETAIL
1/8" = 1'-0"

1 FIRST FLOOR PLAN AT BRIDGE
1/8" = 1'-0"



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1977 SEALS

NOV 26 P 1:45

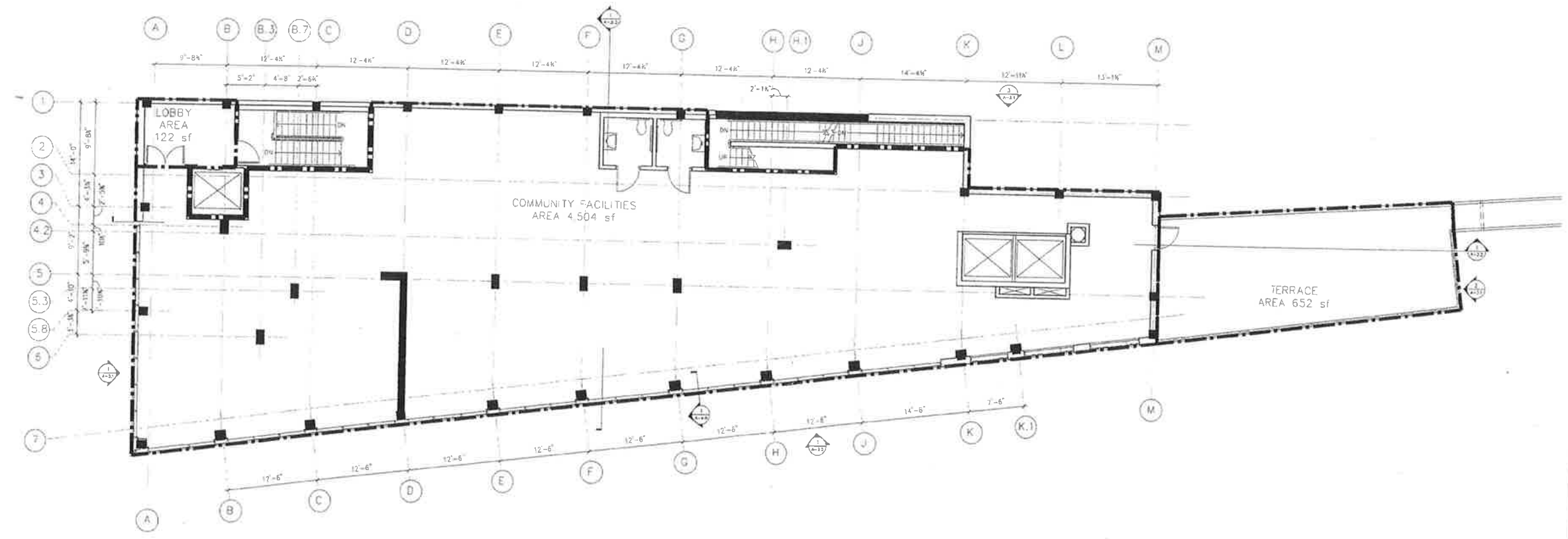
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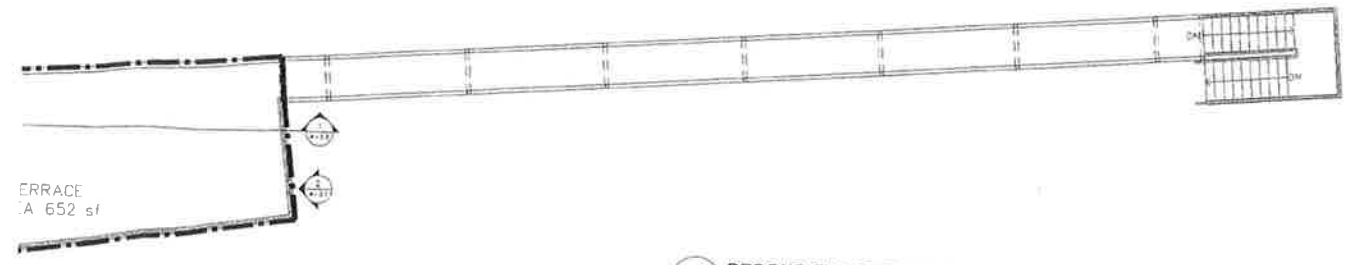
26 West 23rd Street, New York, NY 10010
E-mail: TMC@TheMarinGroup.com
Phone: (212) 464-9400
Fax: (212) 464-9440

CONSULTING ENGINEERS

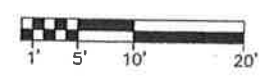
SEAL:



2 SECOND FLOOR PLAN - COMMUNITY FACILITIES
1/8" = 1'-0"



1 SECOND FLOOR PLAN AT BRIDGE
1/8" = 1'-0"



KEY PLAN



10/20/04	REVISED FOR BSA
5/24/04	REVISED FOR BSA
DATE	REVISION

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EAST HOUSTON RESIDENCE

310 EAST HOUSTON ST.
NEW YORK, NY 10002

SCHEME 1

AREA:
SHEET TITLE:

SECOND FLOOR PLAN
PROPOSED

PROJECT NO. 00679
SCALE: AS NOTED
DATE: 12/01/03
DRAWN BY:
REVIEWED BY:
SHEET NO.

A-1.8

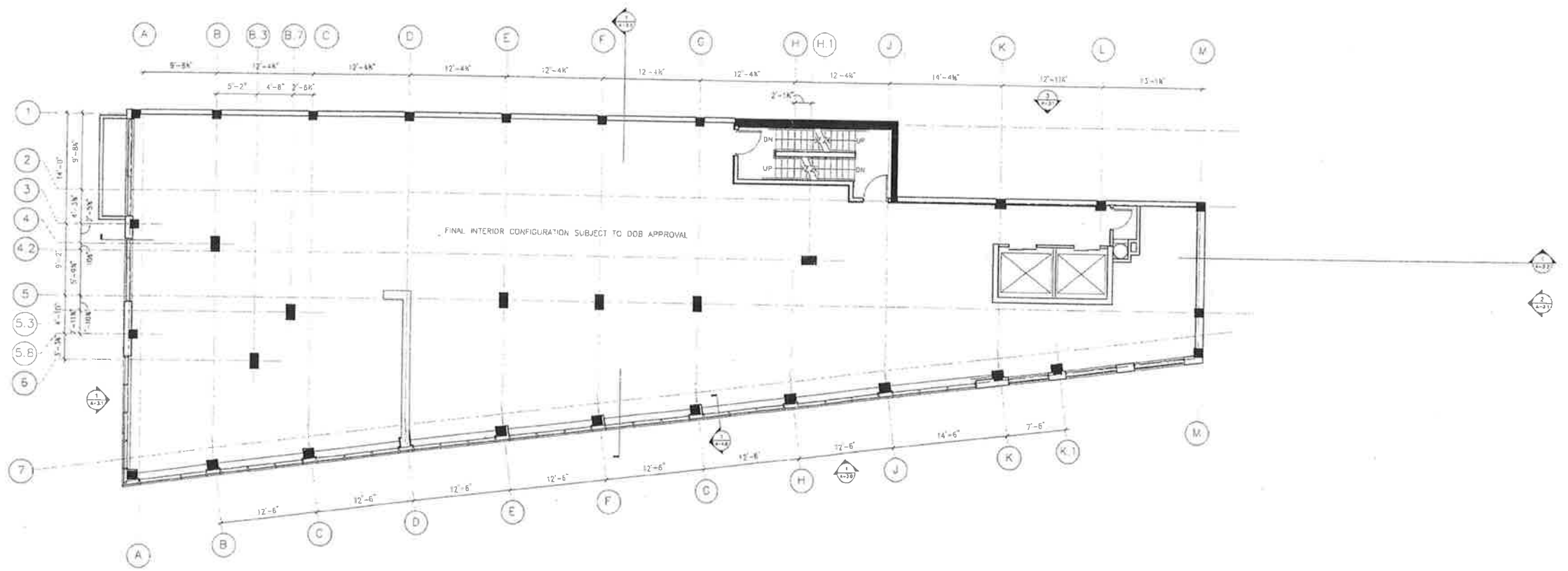
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 12/13/06 P 1:46
 P.L.S.

THE MARIN GROUP
 28 West 52nd Street, New York, NY 10019
 Email: TMG@TheMarinGroup.com
 Phone: (212) 463-6400
 Fax: (212) 464-0040

CONSULTING ENGINEERS

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5/24/04	REVISED FOR BSA
DATE	REVISION

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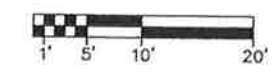
KEY PLAN

132-04BZ

1 THIRD THROUGH SIXTH FLOORS PLAN - RESIDENTIAL
 1/8" = 1'-0"

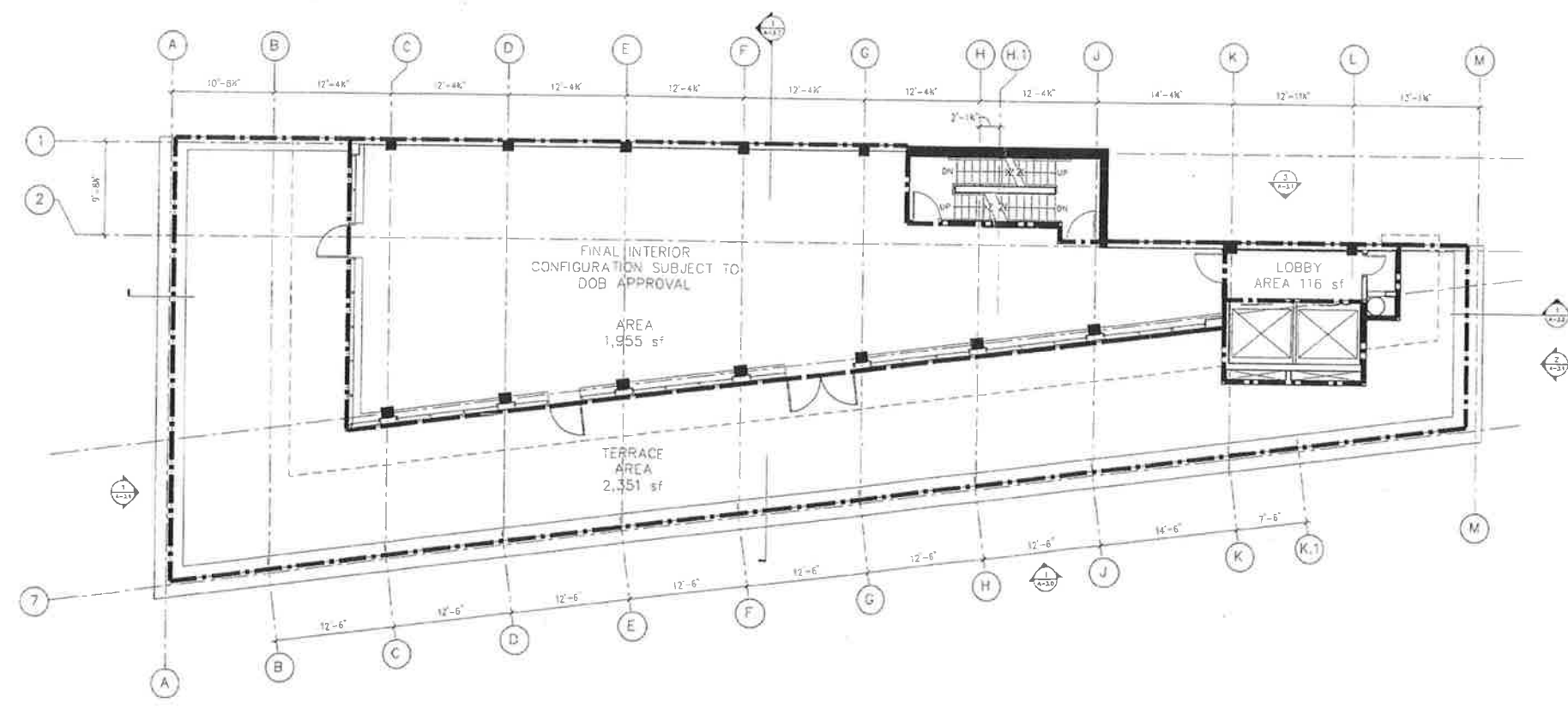
EAST HOUSTON RESIDENCE
 310 EAST HOUSTON ST.
 NEW YORK, NY 10002
 SCHEME 1

AREA:
 SHEET TITLE:
 THIRD THROUGH SIXTH FLOORS PLAN PROPOSED
 PROJECT NO. 03038
 SCALE: AS NOTED
 DATE: 12/05/02
 DRAWN BY:
 REVIEWED BY:
 SHEET NO.



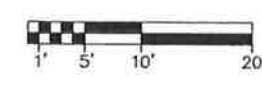
A-1.9

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132-04BZ

1 PENTHOUSE LEVEL ONE FLOOR PLAN - RESIDENTIAL
 1/8" = 1'-0"



THE MARIN GROUP
 20 West 23rd Street, New York, NY 10011
 E-mail: TMG@TheMarinGroup.com
 Phone: (212) 485-0400
 Fax: (212) 485-0500

CONSULTING ENGINEERS

SEAL:

10/20/04	REVISED FOR BSA
5/24/04	REVISED FOR BSA
△	DATE REVISION

THESE DRAWINGS ARE AN INSTRUMENT OF SERVICE AND ARE THE PROPERTY OF THE ARCHITECT. ARRANGEMENTS WILL BE PROSECUTED.

KEY PLAN

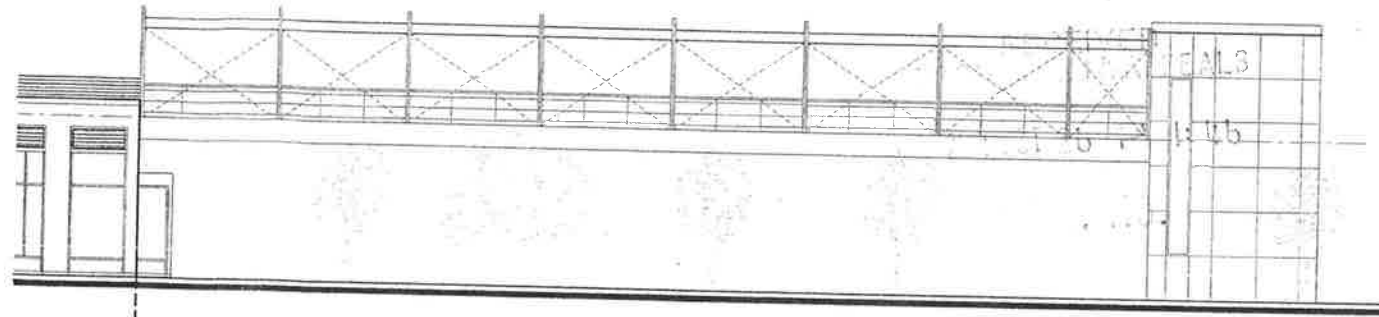
EAST HOUSTON RESIDENCE
 310 EAST HOUSTON ST.
 NEW YORK, NY 10002
 SCHEME 1

AREA:
 SHEET TITLE:

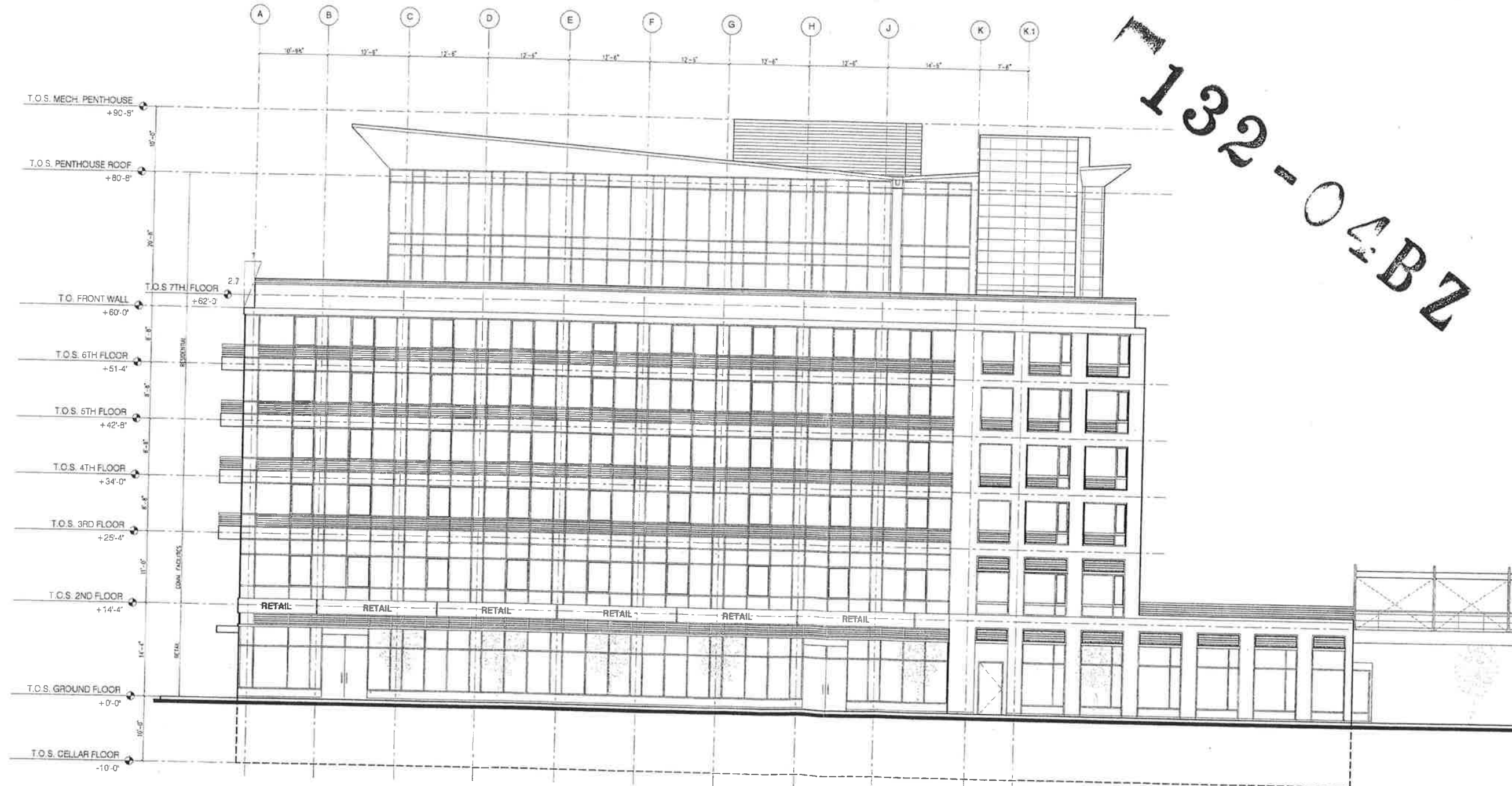
PENTHOUSE FLOOR PLAN
 PROPOSED

PROJECT NO. 09519
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 DRAWN BY:
 REVIEWED BY:
 SHEET NO.

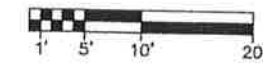
A-1.10



2 HOUSTON STREET BRIDGE ELEVATION (NORTH)
1/8" = 1'-0"



1 HOUSTON STREET ELEVATION (NORTH)
1/8" = 1'-0"



THE MARIN GROUP
ENGINEERS
28 West 23rd Street, New York, NY 10011
E: M | T | G | @ | TheMarinGroup.com Phone: (212) 453-8800 Fax: (212) 464-8640

CONSULTING ENGINEERS

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KEY PLANO
[Signature]

EAST HOUSTON RESIDENCE
310 EAST HOUSTON ST.
NEW YORK, NY 10002

SCHEME 1

AREA:
SHEET TITLE:

NORTH ELEVATION
PROPOSED

PROJECT NO. 0969
SCALE: AS NOTED
DATE: 12/04/02
DRAWN BY:
REVIEWED BY:
SHEET NO.

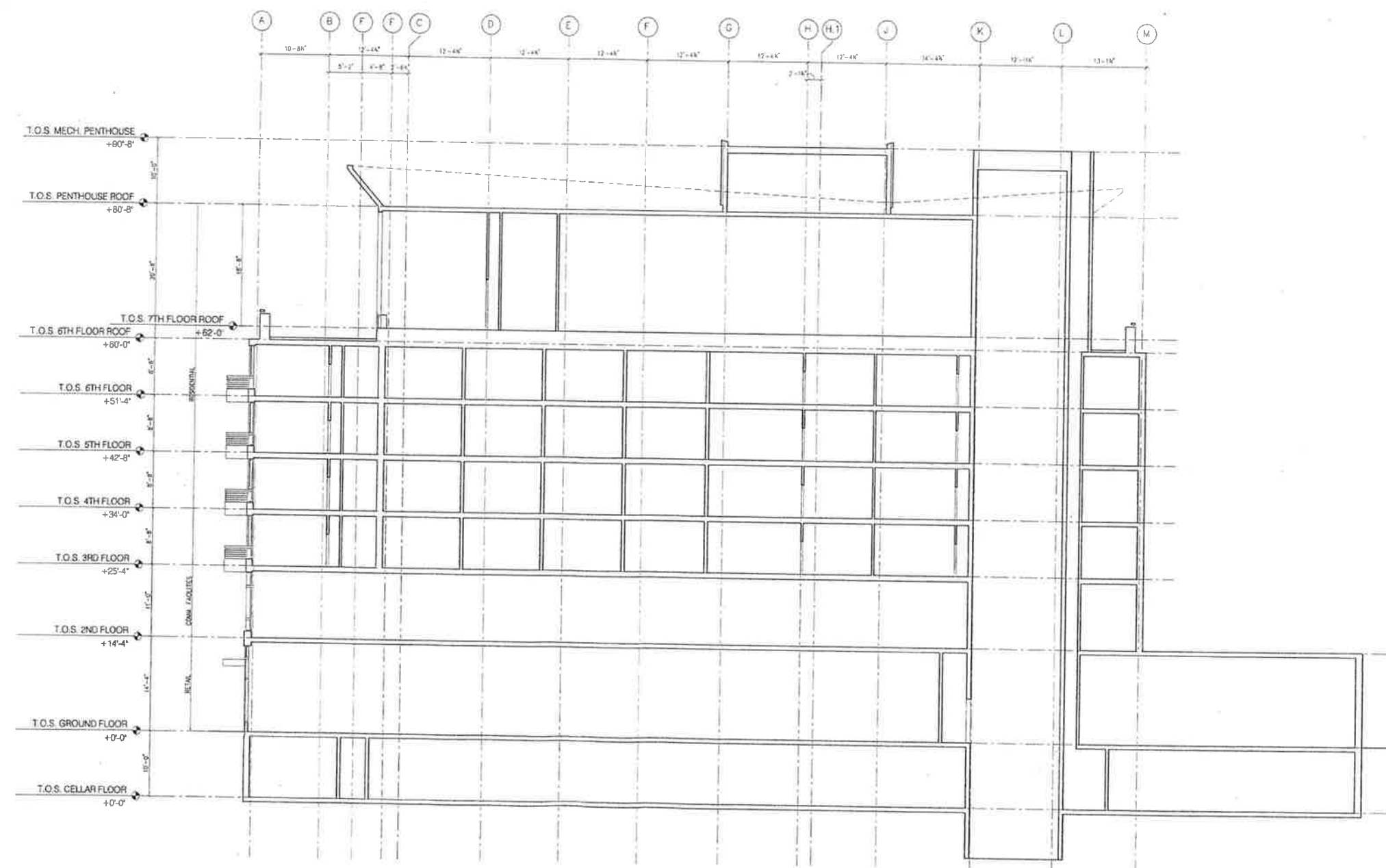
A1.11

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THE MARIN GROUP
 26 West 23rd Street, New York, NY 10011
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 Fax: (212) 464-8042

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SEAL:



10/20/04	REVISED FOR BSA
5/24/04	REVISED FOR BSA
△	DATE REVISION

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KEY PLAN

EAST HOUSTON RESIDENCE
 310 EAST HOUSTON ST.
 NEW YORK, NY 10002
 SCHEME 1

AREA:
 SHEET TITLE:

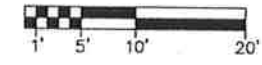
BUILDING SECTION PROPOSED

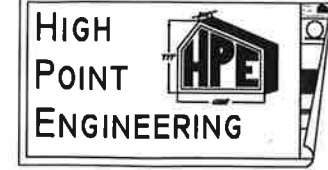
PROJECT NO. 0209
 SCALE: AS NOTED
 DATE: 12/01/03
 DRAWN BY:
 REVIEWED BY:
 SHEET NO.

A-1.13

132-04BZ

1 BUILDING SECTION
 1/8" = 1'-0"





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FARMINGDALE, NY 11735
(516) 777-4320 FAX: (516) 777-4321

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PROFESSIONAL ENGINEER
NEW YORK LICENSE No. 078209

LAWRENCE D. O'BRIEN

PROFESSIONAL ENGINEER
NEW YORK LICENSE No. 082537

UNLESS APPROVED BY ALL AGENCIES HAVING JURISDICTION, THESE PLANS ARE NOT TO BE UTILIZED FOR CONSTRUCTION. OWNER/CONTRACTOR ARE RESPONSIBLE FOR OBTAINING ALL REQUIRED AGENCY APPROVALS. HAVE BEEN SECURED PRIOR TO COMMENCEMENT OF WORK, WHETHER DESCRIBED ON THESE PLANS OR OTHERWISE.

REVISIONS		
REV. NO.	DATE	REVISION

THE EDUCATION LAW OF THE STATE OF NEW YORK PROHIBITS ANY PERSON ALTERING ANYTHING ON THESE DRAWINGS AND/OR THE ACCOMPANYING SPECIFICATIONS, UNLESS IT IS UNDER THE DIRECTION OF A LICENSED PROFESSIONAL ENGINEER, WHOSE SIGN AND SEAL ARE MADE. THE PROFESSIONAL ENGINEER MUST SIGN AND SEAL, AND INDICATE THE FULL EXTENT OF THE ALTERATION ON THE DRAWING AND/OR IN THE SPECIFICATIONS. (ENY EDUCATION LAW SECTION 7206-3)

SITE ADDRESS:
EAST HOUSTON RESIDENCE

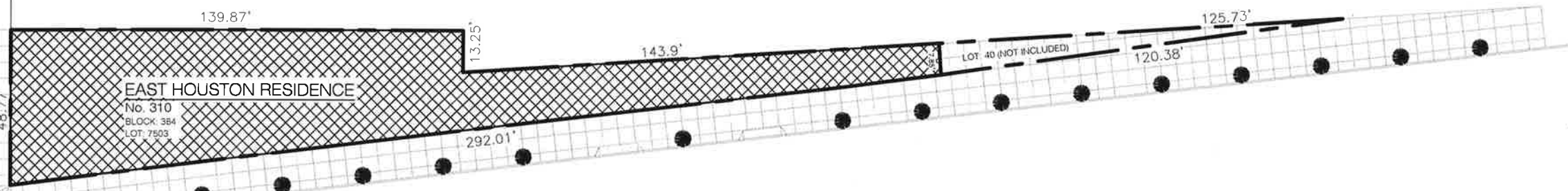
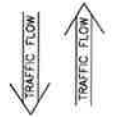
310 EAST HOUSTON STREET
NEW YORK, NY 10002

BLOCK: 384 ZONE: RBA
LOT: 7503 BSA CAL. # 132-04-BZ MAP: 12C
SCALE: AS SHOWN HPE # LARG13-03
DATE: 1/19/17 DATE: LARG13-03-2-001.00
DRAWN BY: LD CHECKED BY: CT

TITLE:
SITE PLAN
SHEET NO:
Z-001.00
REV. 1 OF 1



AVENUE B



EAST HOUSTON STREET



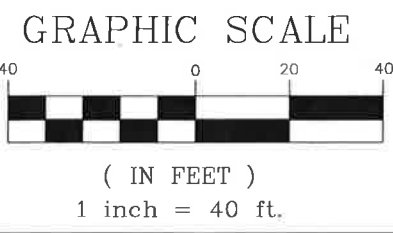
EXIST. STREET TREE TO REMAIN (TYP.)

EXIST. RAISED CONC. MEDIAN

NOTE:
THIS FILING HAS NO CHANGE TO THE USE, EGRESS, OR OCCUPANCY OF THE BUILDING.

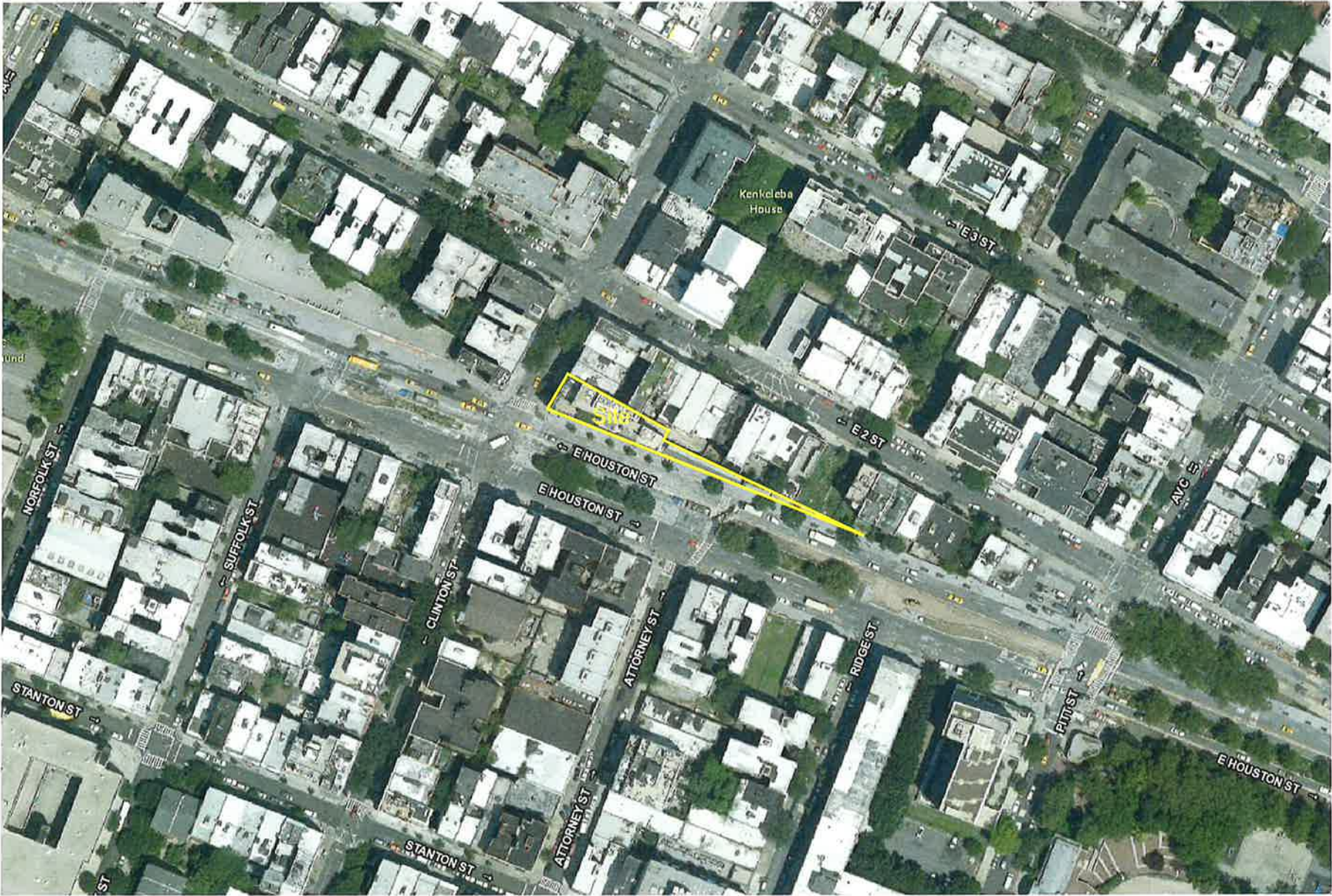
ENERGY WAIVER NOTE:
TO THE BEST OF MY KNOWLEDGE, BELIEF AND PROFESSIONAL JUDGMENT, ALL WORK UNDER THIS APPLICATION IS EXEMPT FROM THE NYCECC.
- THE SCOPE OF WORK DOES NOT AFFECT THE ENERGY USE OF THE BUILDING.

TABULAR ANALYSIS		
ENERGY ANALYSIS		
WORKSCOPE: NO WORK APPLICATION FOR CONVERSION OF SPACE FROM COMMERCIAL USE TO RESIDENTIAL USE.		
EXEMPT: NO SUPPORTING DOCUMENTATION REQUIRED.		
ITEM DESCRIPTION	PROPOSED DESIGN VALUE	CODE-PRESCRIBE VALUE AND CITATION
NO WORK APPLICATION FOR CONVERSION OF SPACE FROM COMMERCIAL USE TO RESIDENTIAL USE	N/A	N/A
- PRESCRIPTIVE ANALYSIS INCLUDES ALL ENERGY-RELATED DISCIPLINES AND PROJECT COMPLIES WITH NYCECC.		



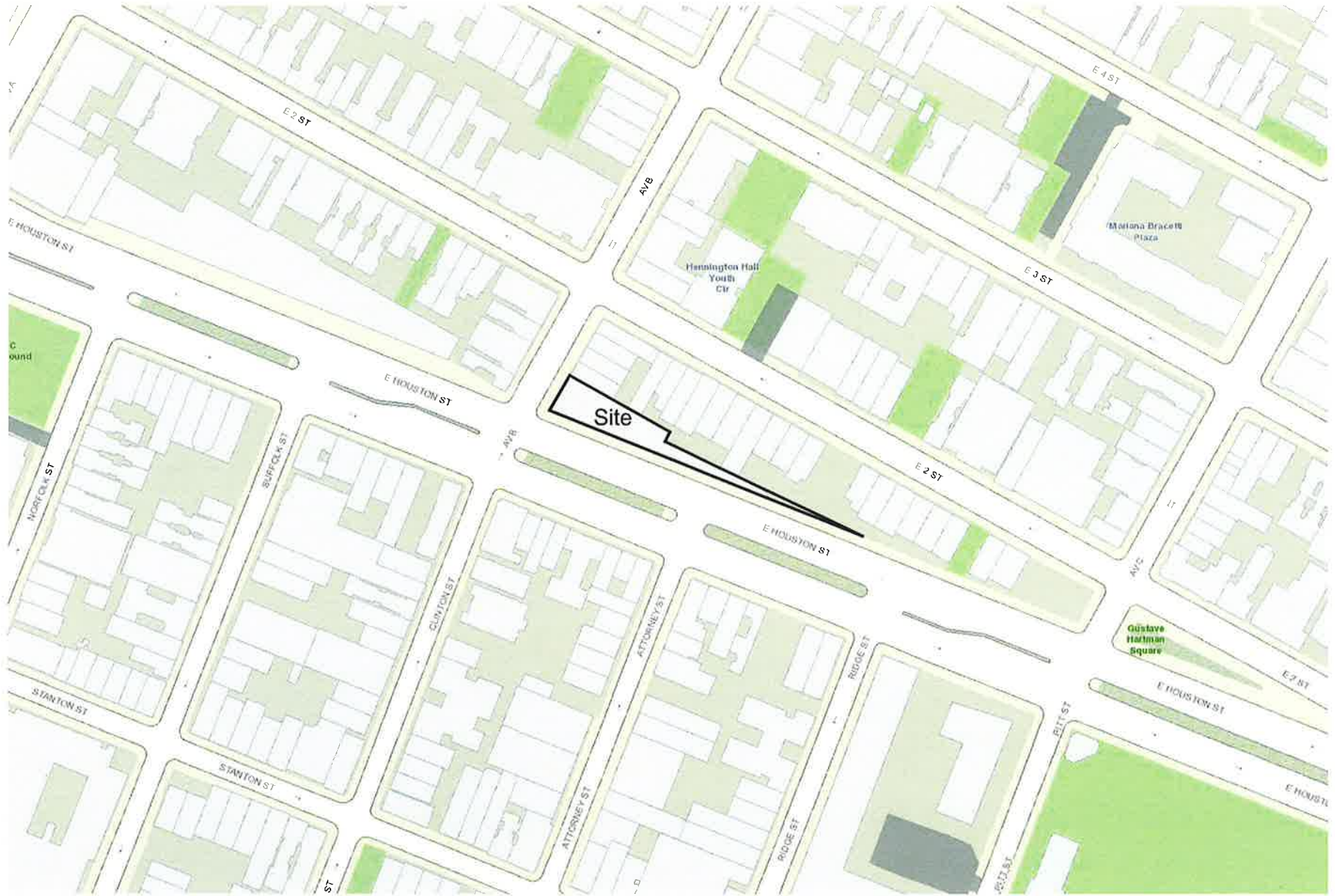
132-04-BZ











Survey



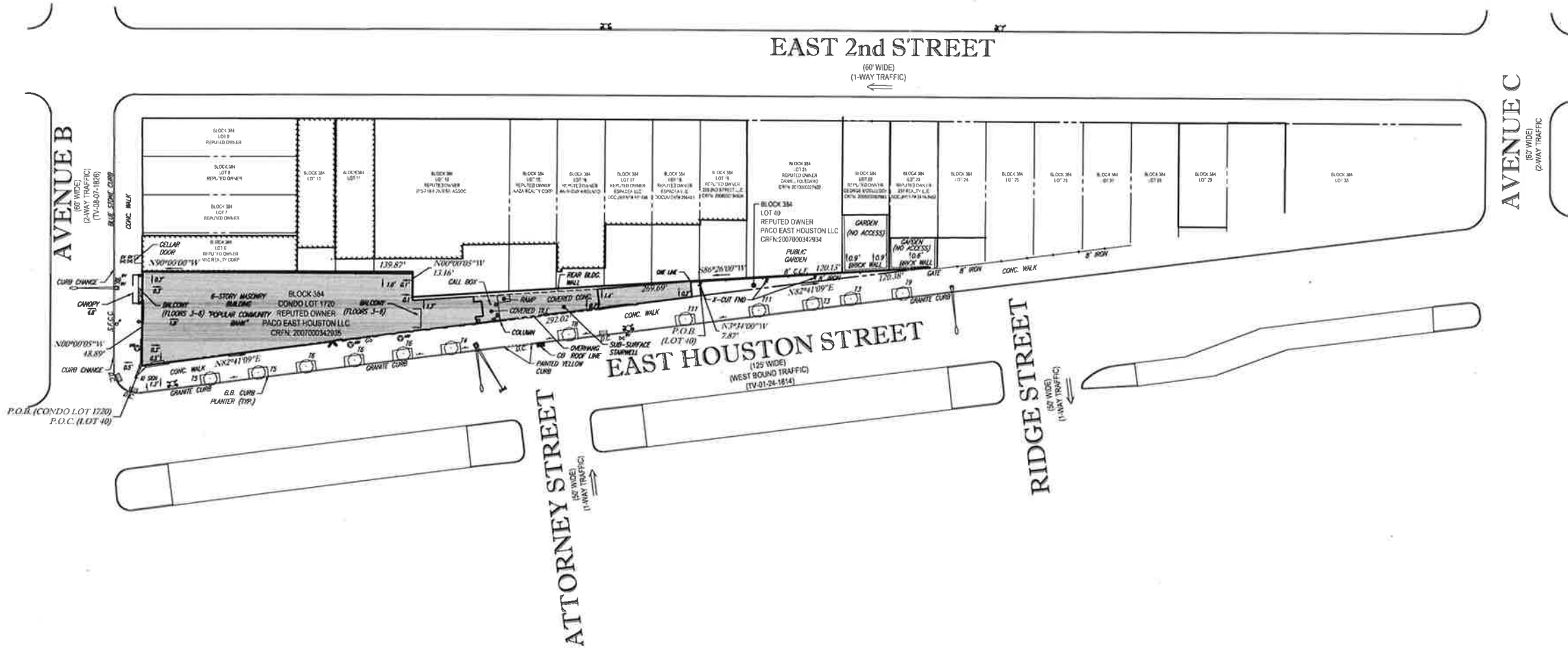
VICINITY MAP
© 2018 DeLorme Street Atlas USA

NOTES:

1. PROPERTY KNOWN AS CONDO LOT 1720 & LOT 41, BLOCK 384, AS SHOWN ON THE NEW YORK CITY DIGITAL TAX MAP OF THE BOROUGH OF MANHATTAN, CITY AND STATE OF NEW YORK
2. AREA (CONDO LOT 1720)= 7,502 S.F. OR .172 AC
AREA (LOT 40)= 473 S.F. OR .011 AC
3. THE LOCATION OF UNDERGROUND UTILITIES HAVE NOT BEEN SHOWN. UTILITY INFORMATION SHOWN IS LIMITED TO VISIBLE UTILITY HARDWARE AND UTILITY MARKOUTS AT THE SURFACE AND DOES NOT INCLUDE SUCH ITEMS AS SUBSURFACE PIPING, UTILITY LINES, ETC. BEFORE ANY EXCAVATION IS TO BEGIN, UNDERGROUND UTILITIES SHOULD BE VERIFIED BY THE PROPER UTILITY COMPANIES. CONTROL POINT ASSOCIATES, INC. DOES NOT GUARANTEE THE UTILITIES SHOWN COMPRISE SUCH UTILITIES IN THE AREA EITHER IN SERVICE OR ABANDONED.
4. THIS PLAN IS BASED ON INFORMATION PROVIDED BY A SURVEY PREPARED IN THE FIELD BY CONTROL POINT ASSOCIATES, INC. AND OTHER REFERENCE MATERIAL AS LISTED HEREON.
5. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO THE RESTRICTIONS, COVENANTS AND EASEMENTS THAT MAY BE CONTAINED THEREIN.
6. BY GRAPHIC PLOTTING ONLY PROPERTY IS LOCATED IN FLOOD HAZARD ZONE X (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER REF. #2
7. THE EXISTENCE OF UNDERGROUND STORAGE TANKS, IF ANY, WAS NOT KNOWN AT THE TIME OF THE FIELD SURVEY.
8. THERE WERE NO NATURAL STREAMS OR WATERCOURSES VISIBLE AT THE TIME OF THE FIELD SURVEY.
9. ENCROACHMENTS, BASEMENT AREAS, AND VAULTS, IF ANY, BELOW SURFACE NOT SHOWN HEREON.
10. THE OFFSETS SHOWN ARE NOT TO BE USED FOR THE CONSTRUCTION OF ANY STRUCTURE, FENCE, PERMANENT ADDITION, ETC.

REFERENCES:

1. THE NEW YORK CITY DIGITAL TAX MAP OF THE BOROUGH OF MANHATTAN, CITY AND STATE OF NEW YORK
2. MAP ENTITLED "NATIONAL FLOOD INSURANCE PROGRAM, FIRM, FLOOD INSURANCE RATE MAP, CITY OF NEW YORK, NEW YORK, BRONX, RICHMOND, NEW YORK, QUEENS AND KINGS COUNTIES," PANEL 201 OF 457, MAP NUMBER 3004970201F, MAP REVISED, SEPTEMBER 5, 2007
3. FINAL SECTION MAP NUMBER 24
4. BOROUGH SURVEY MAP NUMBER 19
5. MAP ENTITLED "EAST HOUSTON RESIDENCE, SITE PLAN," PREPARED BY THE MARIN GROUP, DATED 04-28-2005



LEGEND

	DEPRESSED CURB
	HYDRANT
	WATER VALVE
	GAS VALVE
	SECURITY CAMERA
	FIRE DEPT CONNECTION
	BOLLARD LAMP
	BUILDING AREA LIGHT
	VENT
	STREET LIGHT
	TRAFFIC SIGNAL POLE
	SIGN
	BOLLARD
	MONITORING WELL
	CATCH BASIN OR INLET
	DECIDUOUS TREE & TRUNK SIZE
	STEEL FACE CONC. CURB
	CHAIN LINK FENCE
	DEPRESSED CURB
	BUILDING

PREPARED BY:

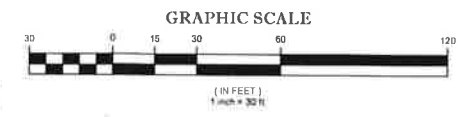
CONTROL POINT ASSOCIATES, INC.
 35 TECHNOLOGY DRIVE
 WARREN, NJ 07059
 908.668.0099 - 908.668.9595 FAX
 M.T. LAUREL, NJ 609.857.2099
 CHALFONT, PA 215.712.0800
 SOUTHBOROUGH, MA 508.948.3000
 MANHATTAN, NY 646.780.0411

NO.	DATE	BY	DESCRIPTION	APPROVED
REVISIONS				

PROJECT NAME
310 EAST HOUSTON STREET
 CONDO LOT 1720 & LOT 40, BLOCK 384
 BOROUGH OF MANHATTAN
 CITY, COUNTY, AND STATE OF NEW YORK

DRAWING TITLE
BOUNDARY & TOPOGRAPHIC SURVEY

SEAL & SIGNATURE	FIELD DATE:	08-14-2015
	FIELD BK:	15-16
NOT VALID UNTIL SEALED	F. B. PAGE:	148
	DATE:	08-26-2015
DATE	SCALE:	1"=30'
	PROJECT No.:	01-150411
	DRAWING BY:	J.P.J.
	CHK BY:	C.C.B.
DATE	APPROVED BY:	P.J.
	DWG No.:	V-001.0.0
DATE	JAMES C. WEED	
DATE	NEW YORK PROFESSIONAL LAND SURVEYOR #6075	
DATE	CAD FILE No.:	01-150411
DATE	PAGE No.:	1 OF 1



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 ONLY COPIES FROM THE ORIGINAL OF THIS SURVEY MARKED WITH AN ORIGINAL OF THE LAND SURVEYOR'S EMBOSSED SEAL SHALL BE CONSIDERED TO BE VALID TRUE COPIES

THE SURVEYOR HAS BEEN ADVISED OF THE PROVISIONS OF THE SURVEYING AND MAPPING LAW OF THE STATE OF NEW YORK, AND HAS ADVISED THAT HE OR SHE IS A LICENSED LAND SURVEYOR AND IS NOT PROVIDING ANY PROFESSIONAL SERVICE OR OPINION IN ANY MANNER THAT WOULD BE IN VIOLATION OF THE SURVEYING AND MAPPING LAW OF THE STATE OF NEW YORK.

Historic Tax Map



SEE PAGE 2

SEE PAGE 8

SEE VOL. 1

AVENUE B

E.

E.

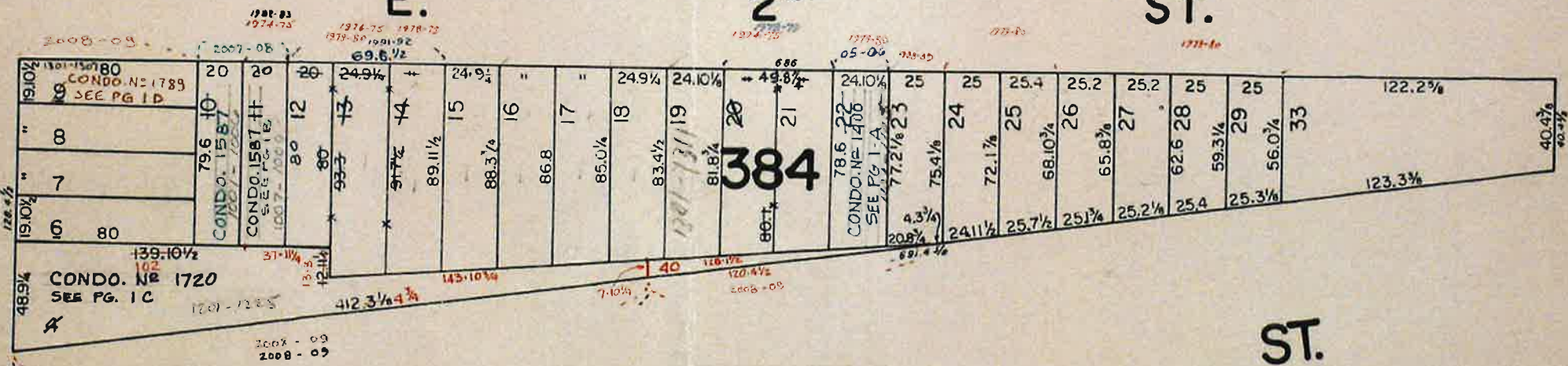
2ND

ST.

HOUSTON

ST.

AVENUE C
LOISAIDA AVE.



SEE VOL. 1

BSA Letter of Substantial Compliance

NYC
**Board of Standards
and Appeals**

Meenakshi Srinivasan
Chair/Commissioner

250 Broadway, 29th Fl.
New York, NY 10007

212-386-0009 tel
646-500-6271 fax

www.nyc.gov/bsa

April 9, 2014

Martin Rebholz, R.A.
Manhattan Borough Commissioner
NYC Department of Buildings
280 Broadway, 3rd Floor
New York, N.Y. 10007

Re: BSA Cal. No. 132-04-BZ
310 East Houston Street
Block 384, Lot 7503

Dear Borough Commissioner Rebholz:

On November 9, 2004, under BSA calendar number 132-04-BZ, the Board granted a variance to permit ground floor commercial use in a new residential building in an R7-2 zoning district.

By letter dated March 19, 2014, Eric Palatnik, a representative of the owner, proposes a minor modification to the approved plans. Mr. Palatnik explains that the property was rezoned in 2009 from R7-2 to R8A and that as a result of the rezoning, the permitted FAR for residential use has increased to 5.4. Mr. Palatnik proposes an increase in residential floor area as follows:

- (1) 463 square feet of new floor area for storage on the ground floor
- (2) 340 square feet of new floor area on the eighth floor
- (3) Conversion of 4,450 square feet of community facility floor area to residential floor area on the second floor.

Mr. Palatnik explains that the residential floor area will increase from 2.85 to 3.82 FAR, which is less than the 5.4 FAR permitted in the R8A zoning district. The commercial floor area will remain at .5 FAR. The total floor area for the building will increase from 4.05 to 4.30 FAR. These changes are illustrated on the revised plans, labeled SK-1.0, SK-1.1 and SK-1.2, dated "April 9, 2014".

The Board has reviewed the applicant's request and has determined that the proposed changes are in substantial compliance with the Board's prior grant. Therefore, the Board has no objection to the proposed changes, on condition that the Department of Buildings will ensure compliance with all applicable provisions of the Zoning Resolution, Building Code or any other relevant law. To the extent that the proposed changes trigger such non-compliance, then the Board's determination herein will have no effect. Two copies of the revised building plans have been retained by the Board.

Sincerely,


Meenakshi Srinivasan
Chair/Commissioner

Encl.

c: Jeff Mulligan
Becca Kelly
Eric Palatnik

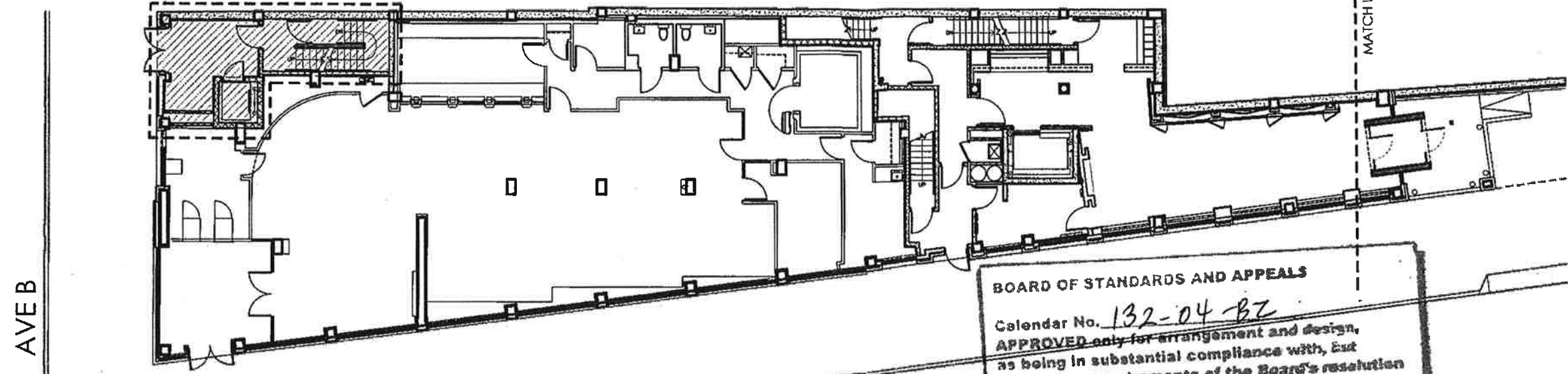
1 AVE B
 (AKA: 310 EAST HOUSTON)

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 2014 MAR 20 P 1:47
 CAL. NO.

SK-1.0
 DATE: 03.18.2014

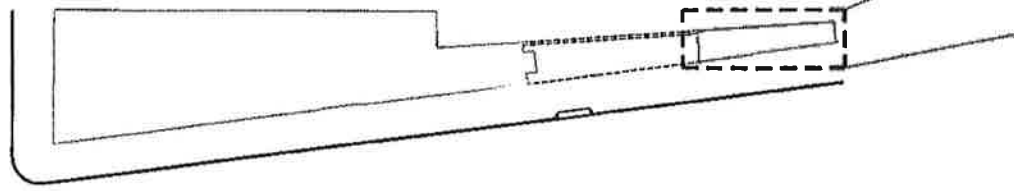


CONVERSION OF COMMUNITY FACILITY TO RESIDENTIAL USE: 431 SQ.FT

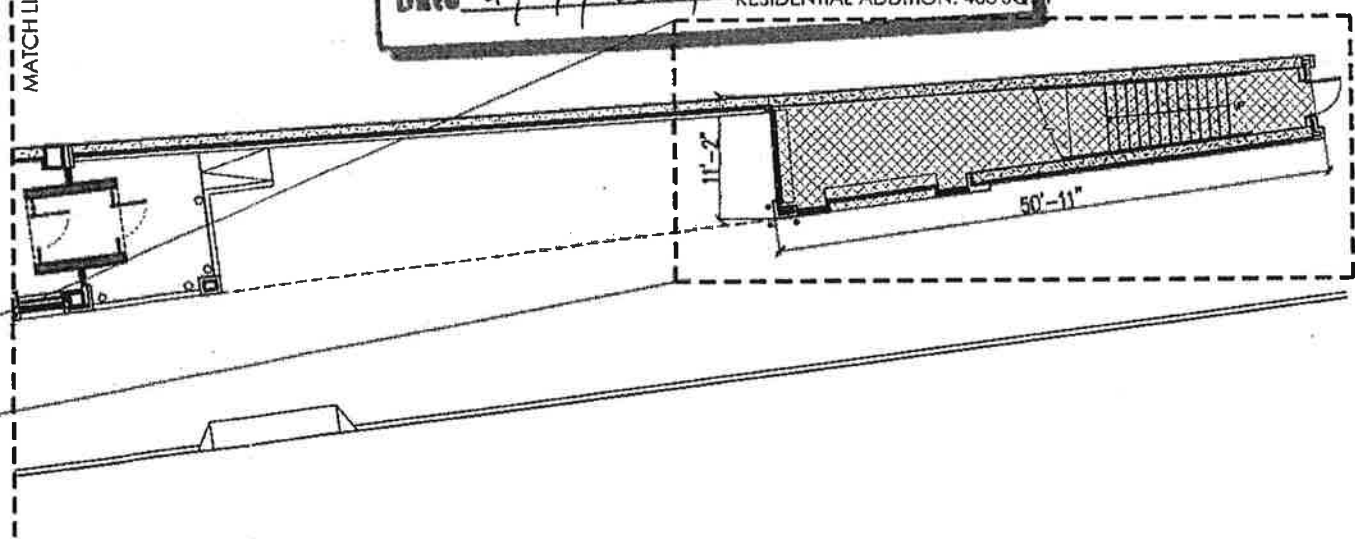


BOARD OF STANDARDS AND APPEALS
 Calendar No. 132-04-BZ
 APPROVED only for arrangement and design,
 as being in substantial compliance with, but
 waiving no requirements of the Board's resolution
 adopted M. Burman
 CHAIR/COMMISSIONER
 Date 4/9/2014 RESIDENTIAL ADDITION: 463 SQ.FT

GROUND FL PLAN
 NTS



KEY PLAN
 NTS



GROUND FL PLAN
 NTS

- LEGEND
- CONVERSION OF COMMUNITY FACILITY (UG 4) TO RESIDENTIAL USE (UG 2)
 - ADDITION OF RESIDENTIAL USE (UG 2)

FLOOR CALCULATIONS

BLOCK: 384 ZONE DISTRICT: R8A
 LOT: 7503 ZONING MAP: 12C

LOT AREA: 7,901 SQ.FT

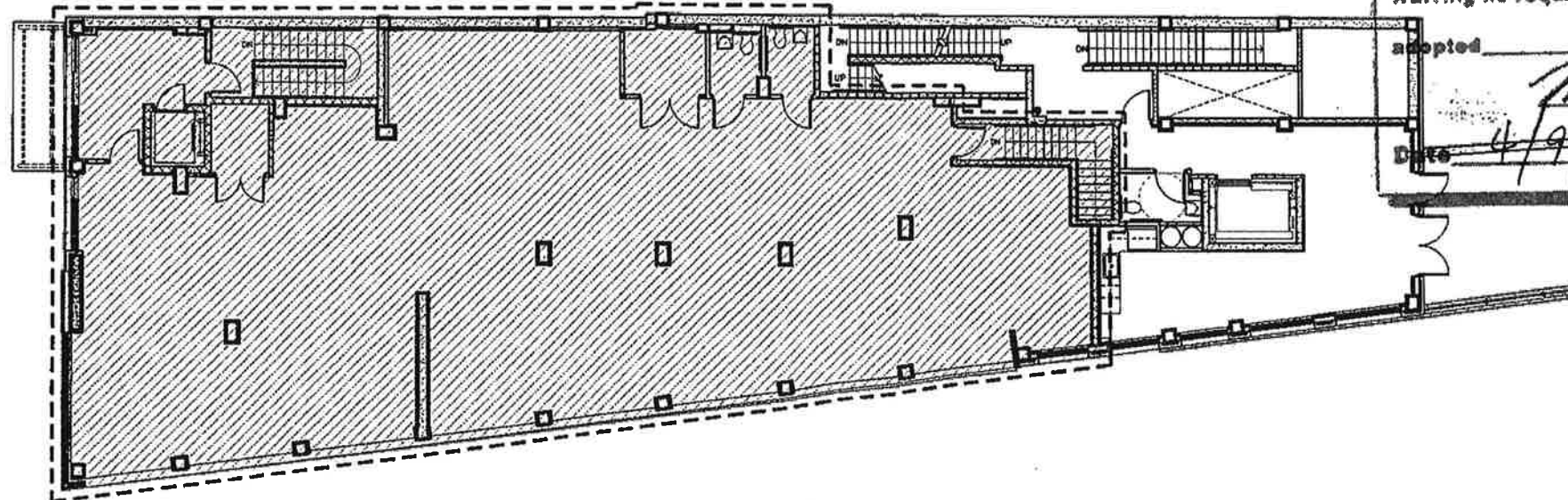
EXISTING FLOOR AREA BREAKDOWN: R7-2

FLOOR	USES			ZONING FLOOR AREA
	RESIDENTIAL	COMMUNITY FACILITY	COMMERCIAL	
CELLAR				6,032 SQ.FT
GROUND FL	1,473 SQ.FT	431 SQ.FT	3,822 SQ.FT	5,726 SQ.FT
2ND FLOOR	734 SQ.FT	4,019 SQ.FT		4,753 SQ.FT
3RD FLOOR	4,902 SQ.FT			4,902 SQ.FT
4TH FLOOR	4,902 SQ.FT			4,902 SQ.FT
5TH FLOOR	4,902 SQ.FT			4,902 SQ.FT
6TH FLOOR	4,902 SQ.FT			4,902 SQ.FT
7TH FLOOR	2,403 SQ.FT			2,403 SQ.FT
MEZZANINE	709 SQ.FT			709 SQ.FT
TOTAL	24,927 SQ.FT	4,450 SQ.FT	3,822 SQ.FT	33,199 SQ.FT

PROPOSED FLOOR AREA BREAKDOWN: R8A

FLOOR	USES				ZONING FLOOR AREA
	RESIDENTIAL (EXISTING)	RESIDENTIAL (CONVERSION)	RESIDENTIAL (ADDITION)	COMMERCIAL	
CELLAR					6,032 SQ.FT
GROUND FL	1,473 SQ.FT	431 SQ.FT	463 SQ.FT	3,822 SQ.FT	6,189 SQ.FT
2ND FLOOR	734 SQ.FT	4,019 SQ.FT			4,753 SQ.FT
3RD FLOOR	4,902 SQ.FT				4,902 SQ.FT
4TH FLOOR	4,902 SQ.FT				4,902 SQ.FT
5TH FLOOR	4,902 SQ.FT				4,902 SQ.FT
6TH FLOOR	4,902 SQ.FT				4,902 SQ.FT
7TH FLOOR	2,403 SQ.FT				2,403 SQ.FT
8TH FLOOR	709 SQ.FT		340 SQ.FT		1,049 SQ.FT
TOTAL	24,927 SQ.FT	4,450 SQ.FT	803 SQ.FT	3,822 SQ.FT	34,002 SQ.FT

CONVERSION OF COMMUNITY FACILITY TO RESIDENTIAL USE: 4,019 SQ.FT



SECOND FL PLAN

NTS

LEGEND

- CONVERSION OF COMMUNITY FACILITY (UG 4) TO RESIDENTIAL USE (UG 2)
- ADDITION OF RESIDENTIAL USE (UG 2)

BOARD OF STANDARDS AND APPEALS

Calendar No. 132-04-B2
 APPROVED only for arrangement and design, as being in substantial compliance with, but waiving no requirements of the Board's resolution.

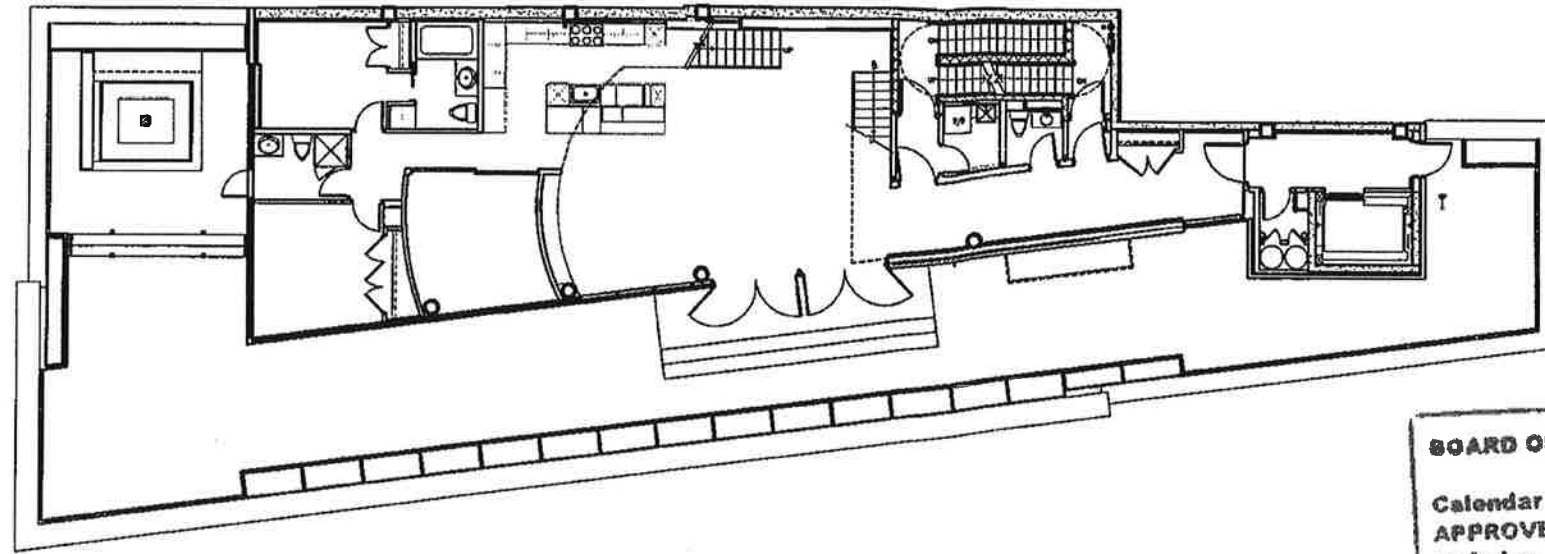
adopted _____
 Date 4/9/2014
 CHAIR/COMMISSIONER



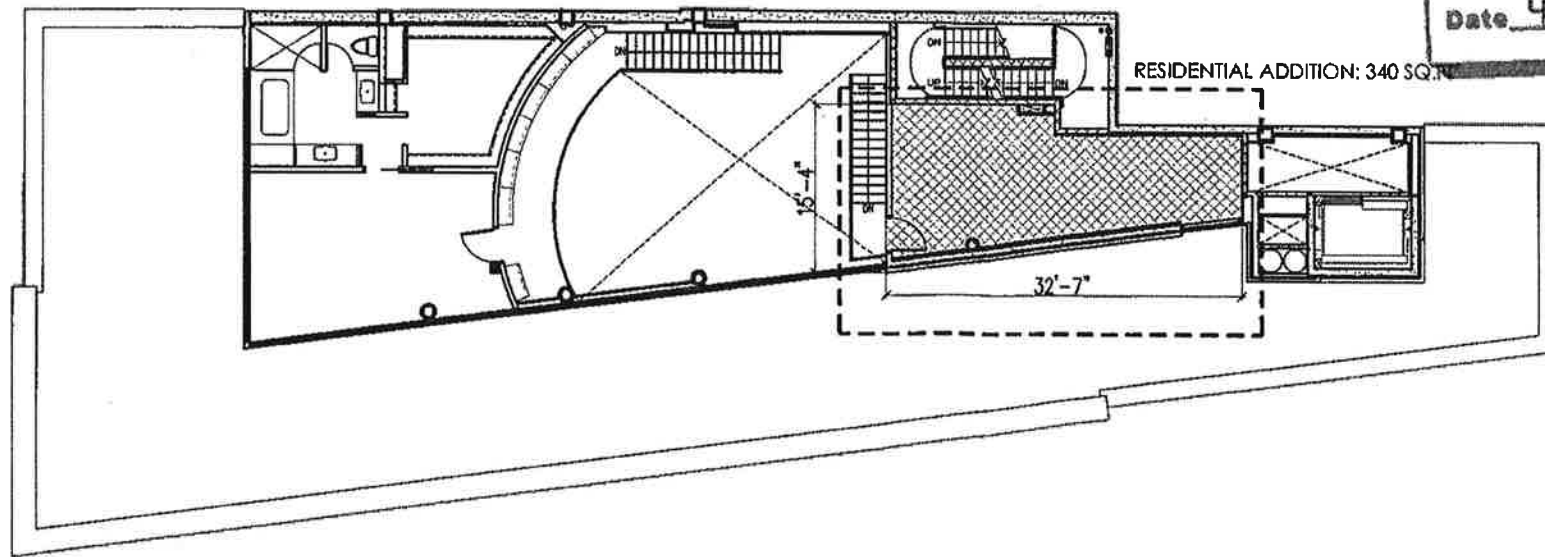
RECEIVED BOARD STANDARDS AND APPEALS
 AVE B
 (AKA: 310 EAST HOUSTON)

SK-1.1

DATE: 03.18.2014



7TH FL PLAN
NTS



8TH FL PLAN (DUPLX)
NTS

LEGEND

- CONVERSION OF COMMUNITY FACILITY (UG 4) TO RESIDENTIAL USE (UG 2)
- ADDITION OF RESIDENTIAL USE (UG 2)

BOARD OF STANDARDS AND APPEALS
 Calendar No. 132-04-BZ
 APPROVED only for arrangement and design,
 as being in substantial compliance with, but
 waiving no requirements of the Board's resolution
 adopted _____
M. Sunnaran
 CHAIR/COMMISSIONER
 Date 4/9/2014

CAL. NO.

2014 MAR 20 P 1417

BO. STANDARDS AND APPEALS

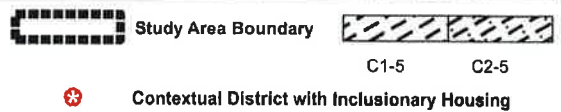
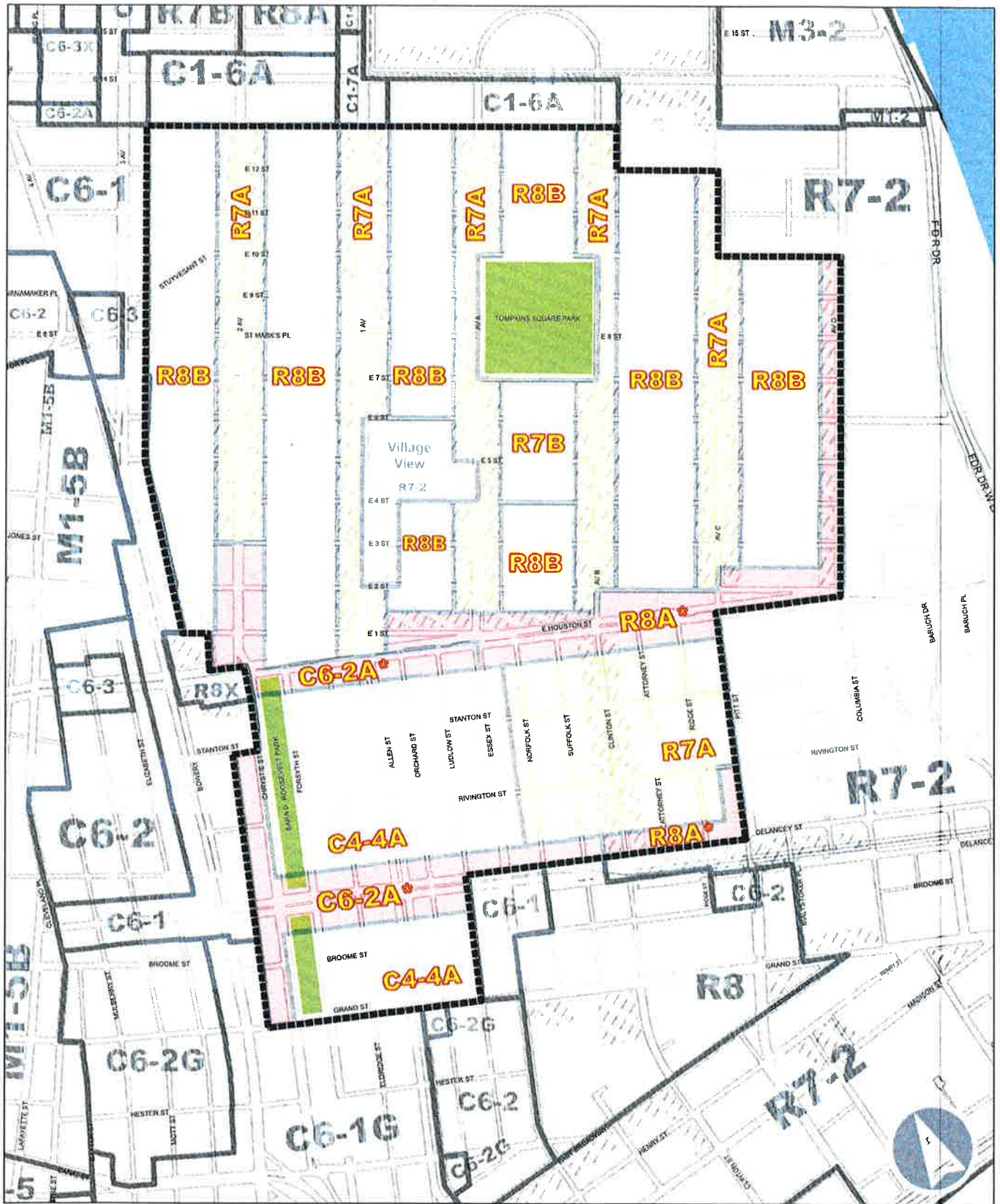


1 AVE B
(AKA: 310 EAST HOUSTON)



SK-1.2
DATE: 03.18.2014

Lower East Side Rezoning



East Village/Lower East Side Rezoning

Proposed Zoning

DEPARTMENT OF CITY PLANNING New York City MANHATTAN OFFICE

Base Map: DCP Tax Block/Lot Release 05B, May 2005 Map Generated: May 2008

East Village / Lower East Side Rezoning - **Approved!** Proposed Zoning

[Overview](#) | [Existing Context and Zoning](#) | [Proposed Zoning](#) | ["A" Applications Environmental Review](#) | [Public Review](#)

The proposal would change the rezoning area's existing zoning to contextual zoning districts (R7A, R7B, R8B, C4-4A, R8A, C6-2A). Contextual districts have street wall and total building height limits and require that buildings be constructed at or near the street line. These controls would help ensure that new development throughout the rezoning area relates to the existing scale and character of the East Village and Lower East Side. Additionally, rezoning much of the existing C6-1 area to C4-4A would limit the allowable commercial uses to those more commonly found in regional centers, rather than the broader range of commercial uses currently allowed in C6 districts. The areas proposed for the higher density R8A and C6-2A districts are located near mass transit along the area's widest streets, where higher densities and taller buildings would be appropriate. The proposed rezoning actions would meet the Department's goals of preserving the established neighborhood scale and character, and fostering opportunities for the creation of [affordable housing](#).



Proposed Zoning Map
[View a larger image.](#)

View the [East Village / Lower East Side Zoning Comparison Chart](#).

R7A

An R7A district, which permits residential and community facility uses at an FAR of 4.0, is proposed for the avenues A, B and C and First and Second avenues, north of Houston Street and the blocks generally east of Norfolk Street, between Delancey and Houston streets. The proposal would replace these existing R7-2 districts as well as four blocks on Second Avenue from East 3rd to East 7th Street which are currently zoned C6-1.



Prototypical Buildings:
R7-2 to R7A
[View a larger image.](#)

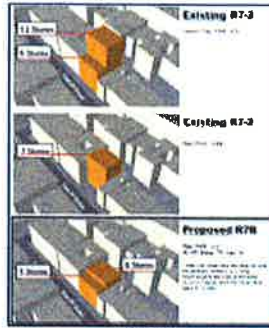
The R7A district is a contextual district that requires a street wall between 40 and 65 feet high and limits overall building height to 80 feet. The bulk regulations would ensure that new development reflects the consistent, low- to mid-rise character found throughout the area.

R7B

An R7B district, which permits residential and community facility uses at an FAR of 3.0, is proposed for the midblocks between Avenue A and Avenue B, from East 4th Street to East 7th Street south of Tompkins Square Park, replacing a portion of an existing R7-2 district.

The R7B district is a contextual district that

requires a street wall between 40 and 60 feet high and limits overall building height to 75 feet. The bulk regulations would ensure that new development reflects the consistent, low-rise character found throughout the area.

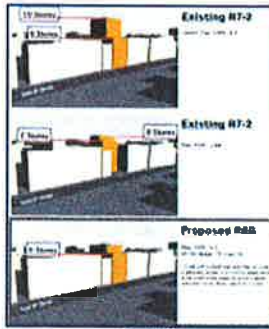


Prototypical Buildings:
R7-2 to R7B
[View a larger image.](#)

R8B

An R8B district, which permits residential and community facility uses at an FAR of 4.0, is proposed for the remaining midblock areas north of Houston Street, replacing existing R7-2 districts.

The R8B district is a contextual district that requires a street wall between 55 and 60 feet high and limits overall building height to 75 feet. The bulk regulations would ensure that new development reflects the consistent, low-to mid-rise character found throughout the area.

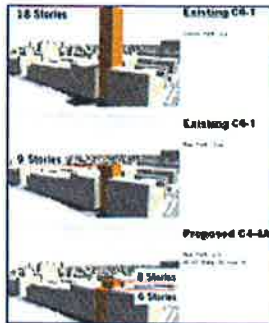


Prototypical Buildings:
R7-2 to R8B
[View a larger image.](#)

C4-4A

The blocks generally between Houston Street, Grand Street, Forsyth and Norfolk streets, are proposed to be zoned C4-4A, a contextual district that permits an FAR of 4.0 for residential, commercial and community facilities uses. The C4-4A district would replace much of the existing C6-1 district in this area.

A C4-4A district (like the R7A) requires a street wall between 40 and 65 feet high and limits maximum building heights to 80 feet. The bulk regulations would ensure that new development is consistent with the predominant built form.. Uses currently allowed in the existing C6-1 district but which would no longer be permitted include certain types of home maintenance and repair service establishments, bicycle rental and repair shops and certain types of relatively low-volume custom manufacturing activities.



Prototypical Buildings:
C6-1 to C4-4A
[View a larger image.](#)

R8A and C6-2A

R8A

R8A is proposed for the north side of Delancey Street between Clinton and Pitt streets, the west side of Pitt Street between Delancey and Rivington streets, Houston Street between Avenue A and Avenue D, and the west side of Avenue D from Houston to E 10th Street , areas that are currently zoned R7-2. In conjunction with the proposed zoning text amendment described below, the R8A district would permit a maximum

FAR of 7.2 for residential use, if affordable housing units were provided. For residential development that does not include any affordable housing units, the maximum FAR would be limited to 5.4. Community facility uses would be limited to a maximum 6.5 FAR. R8A is a contextual district that requires a street wall between 60 and 85 feet high and limits overall building height to 120 feet. The contextual building envelope regulations would apply to all types of development, regardless of use or density.

C6-2A

C6-2A is proposed for Delancey Street west of the midblock between Clinton and Suffolk street, Houston Street west of Essex Street, Second Avenue between Houston and East 3rd streets, and the west side of Chrystie Street between grand and Stanton streets. These areas are currently zoned C6-1. In conjunction with the proposed zoning text amendment described below, the C6-2A district --like the R8A-- would permit a maximum FAR of 7.2 for residential use if affordable housing units were provided, 6.0 for commercial use, and 6.5 for community facility use. For residential development that does not include any affordable housing units, the maximum FAR would be limited to 5.4. C6-2A is a contextual district that requires a street wall between 60 and 85 feet and limits maximum building height to 120 feet. The contextual building envelope regulations would apply to all types of development, regardless of use or density.



Prototypical Buildings:
C6-1 to C6-2A

[View a larger image](#)

Commercial Overlays

Along four block fronts of Second Avenue (from East 3rd Street to East 7th Street) currently zoned C6-1 and proposed to be rezoned to R7A, a C2-5 overlay is proposed, to reflect the local character of the existing commercial uses. The existing C1-5 and C2-5 overlays elsewhere within the rezoning area would not be changed.

Proposed Zoning Text Amendment

The East Village/Lower East Side rezoning proposal would apply the [Inclusionary Housing Program](#) to the R8A and C6-2A districts proposed along selected wide streets within the rezoning area, establishing incentives for the creation and preservation of affordable housing in conjunction with development of new housing.

For residential development without an affordable housing component, the maximum FAR within the selected areas would be limited to a base FAR of 5.4. Under the Inclusionary Housing program, developments providing affordable housing are eligible for a floor area bonus, within contextual height and bulk regulations tailored to this area. Developments could qualify for a maximum FAR of 7.2 (within the 60'-85' street wall limit and the 120-foot overall building height limit) in the designated districts by providing 20 percent of the residential floor area in the development as permanently affordable housing for low- and moderate-income households, or by constructing or preserving off-site affordable units for low-income households. Off-site units must be located within Community District 3, or within one half-mile of the bonused development if outside of Community District 3. Other city, state and federal housing finance programs may be used to provide further assistance in creating affordable units.

The proposal also includes revisions to the discontinuance of non-conforming uses provisions of Section 52-61. Non-conforming uses that have been discontinued for a period of two years can only be replaced by conforming uses. Section 52-61 generally does permit, in R5, R6 and R7 districts, the reactivation of most Use Group 6 (local retail) uses regardless of the two-year discontinuance provision. The proposed text would expand the applicability of the reactivation provision to "R8B districts in Manhattan Community District 3". This text change would foster commercial uses in these locations.

[Overview](#) | [Existing Context and Zoning](#) | [Proposed Zoning](#) | ["A" Applications](#)
[Environmental Review](#) | [Public Review](#)

 Items accompanied by this symbol require the [free Adobe Acrobat Reader](#).

Zoning Comparison Chart-
Removal of Lot 40

Zoning Comparison Chart-
Removal of Lot 40

Zoning Calculation Comparison

Current Lots (7503 and 40) Approved with BSA and new Zoning District

Block:	384		
Lots:	7503	40	
Lot Area (Square Feet):*	7,502	473	*as per Control Point Survey, 8-26-2015
Total Lot Area (Square Feet):	7,975		
Zoning District:	R8A		
Inclusionary Housing District:	Yes		

MAX FAR for Residential:	5.4	as per ZR23-145 as a Quality Housing Program and ZR23-952 (base FAR for no Inclusionary Housing)
Max Floor Area Allowed Residential:	43,065	
MAX FAR for Commercial:	0	
Max Floor Area Allowed Commercial:	3,922	as per BSA #132-04-BZ
MAX FAR for Community Facility	6.5	as per ZR24-11
Max Floor Area Allowed Community Facility:	51,838	
Max Total FAR	5.4	as per ZR24-161, ZR23-952
Max Floor Area Allowed	43,065	

Zoning Floor Area (as per Marin Architects 10-21-2013)

Floor	Residential	Commercial	Community Facility	Total Area
First Floor	1,816	3,822	431	6,069
Second Floor	734		4,019	4,753
Third Floor	4,902			4,902
Fourth Floor	4,902			4,902
Fifth Floor	4,902			4,902
Sixth Floor	4,902			4,902
Penthouse Level 1	2,283			2,283
Penthouse Level 2	893			893
Total Area Uses	25,334	3,822	4,450	33,606
Max Permitted Area	43,065	3,922	51,838	43,065
Conforming (Max Permitted > Total Area)	YES	YES	YES	YES

Analysis with Current Zoning District and Removal of Lot 40

Block:	384		
Lot:	7503		
Lot Area (Square Feet):*	7,502		*as per Control Point Survey, 8-26-2015
Total Lot Area (Square Feet):	7,502		
Zoning District:	R8A		
Inclusionary Housing District:	Yes		

MAX FAR for Residential:	5.4	as per ZR23-145 as a Quality Housing Program and ZR23-952 (base FAR for no Inclusionary Housing)
Max Floor Area Allowed Residential:	40,511	
MAX FAR for Commercial:	0	
Max Floor Area Allowed Commercial:	3,922	as per BSA #132-04-BZ
MAX FAR for Community Facility	6.5	as per ZR24-11
Max Floor Area Allowed Community Facility:	48,763	
Max Total FAR	5.4	as per ZR24-161, ZR23-952
Max Floor Area Allowed	40,511	

Zoning Floor Area (as per Marin Architects 10-21-2013)

Floor	Residential	Commercial	Community Facility	Total Area
First Floor	1,816	3,822	431	6,069
Second Floor	734		4,019	4,753
Third Floor	4,902			4,902
Fourth Floor	4,902			4,902
Fifth Floor	4,902			4,902
Sixth Floor	4,902			4,902
Penthouse Level 1	2,283			2,283
Penthouse Level 2	893			893
Total Area Uses	25,334	3,822	4,450	33,606
Max Permitted Area	40,511	3,922	48,763	40,511
Conforming (Max Permitted > Total Area)	YES	YES	YES	YES

**BELLA VISTA APT CO v. BENNETT-
89 N.Y.2d 465 (1997)**

◆ Positive

As of: January 15, 2016 2:04 PM EST

Bella Vista Apt. Co. v. Bennett

Court of Appeals of New York

January 7, 1997, Argued ; February 6, 1997, Decided

No. 12

Reporter

89 N.Y.2d 465; 678 N.E.2d 198; 655 N.Y.S.2d 742; 1997 N.Y. LEXIS 83

In the Matter of Bella Vista Apartment Co. et al., Respondents, v. Roger H. Bennett et al., Constituting the Board of Standards and Appeals of the City of New York, et al., Appellants.

Prior History: Appeal, by permission of the Court of Appeals, from an order of the Appellate Division of the Supreme Court in the Second Judicial Department, entered December 11, 1995, which affirmed a judgment of the Supreme Court (Herbert A. Posner, J.; opn [154 Misc 2d 579](#)), entered in Queens County in a proceeding pursuant to CPLR article 78, granting the petition to the extent of directing the New York City Department of Buildings to issue a building permit for a 14-story building provided that the permit application meets the standards of the Building Code of the City of New York, and otherwise denying the petition.

Matter of Bella Vista Apt. Co. v Bennett, 222 AD2d 502, reversed.

Disposition: Order reversed, with costs, and petition dismissed.

Core Terms

variance, zoning, development rights, use variance, Buildings, commercial use, rights, residential use, conformance, residential, adjoining, landowner, surplus, merger, bulk

Case Summary

Procedural Posture

Appellant board sought review of an order from the Appellate Division of the Supreme Court in the Second Judicial Department (New York), which directed appellant to issue respondent developer a building permit. Respondent, whose property had fallen short of

zoning specifications, sought the permit after purchasing, without obtaining appellant's approval, development rights of a neighboring lot which had secured a commercial use variance.

Overview

Respondent developer planned to build an apartment on a residentially zoned lot even though the lot fell short of zoning specifications. Without obtaining approval from appellant board, respondent sought to satisfy the shortfall by purchasing development rights from a neighboring lot that had secured for itself a commercial use variance. Thereafter, respondent sought a building permit, which appellant rejected. Following the rejection, respondent brought an action, and the appellate court ordered the permit's issuance. Accordingly, appellant sought review, and the court reversed. The court held that once the use variance had been granted, the owner of the neighboring lot had been able to either use the property in a manner authorized by the variance or revert the property back to its as-of-right use. However, the court held the neighboring property's excess residential use development rights that benefited from the variance could not be transferred to and tacked onto respondent's property without appellant's approval. The court held appellant's approval was required to preserve coherent land use determinations and adherence to the zoning plan itself.

Outcome

The court reversed an order directing appellant board to issue respondent developer a building permit after respondent, whose property fell short of zoning specifications, purchased the development rights of a neighboring lot which had secured a commercial use variance because appellant had not approved respondent's piggy-backing of the neighboring lot onto respondent's lot in order to eliminate the zoning shortcomings.

LexisNexis® Headnotes

Real Property Law > Encumbrances > Adjoining Landowners > General Overview

Real Property Law > Zoning > Variances

HN1 The excess residential use development rights enjoyed by property that specially benefits from a commercial use variance may not be transferred to and tacked onto an adjoining property even for an as-of-right use by that lot owner, without discrete approval from New York City's Board of Standards and Appeals.

Environmental Law > Land Use & Zoning > Conditional Use Permits & Variances

Real Property Law > Encumbrances > Adjoining Landowners > General Overview

Real Property Law > Zoning > Variances

HN2 Pursuant to § 72-21 of the New York City Zoning Resolution (Resolution), New York City's Board of Standards and Appeals must make the following findings before it may grant a variance: (a) that a lot has unique physical conditions, which create practical difficulties or unnecessary hardship when forced to comply strictly with the Resolution; (b) that the unique conditions of subject property preclude any reasonable possibility of a reasonable return, and a variance is therefore necessary to enable an owner to realize a reasonable return from such zoning lot; (c) that a variance will not alter the essential character of a neighborhood or substantially impair the appropriate use of development of adjacent property, and that it will not be detrimental to the public welfare; (d) that an owner does not create the difficulties or hardship leading to the necessity for a variance; and (e) that a variance be the minimum variance necessary to afford relief.

Real Property Law > Zoning > Variances

HN3 A landowner who seeks a use variance must demonstrate factually, by dollars and cents proof, an inability to realize a reasonable return under existing permissible uses.

Real Property Law > Zoning > Variances

HN4 If a landowner retains the bonus option to sell surplus development rights as those rights exist before a use variance is acquired, the variance might not be the minimum variance necessary to afford relief, and

the lack of any reasonable possibility of a reasonable return is retrospectively placed in considerable doubt.

Governments > Legislation > Statutory Remedies & Rights

Real Property Law > Zoning > General Overview

Real Property Law > Zoning > Variances

HN5 Prior variance grants cannot and do not take from an owner of property the owner's statutory right to use the property for any purpose permitted by the applicable zoning resolution. Rather, an owner retains the right to revert at any time to a conforming use.

Environmental Law > Land Use & Zoning > Conditional Use Permits & Variances

Real Property Law > Zoning > General Overview

Real Property Law > Zoning > Variances

HN6 Once a use variance is granted, the owner of a lot can only use the property in a manner authorized by the variance or revert completely back to its as-of-right use.

Governments > Local Governments > Administrative Boards

Real Property Law > Zoning > General Overview

Real Property Law > Zoning > Comprehensive Plans

Real Property Law > Zoning > Judicial Review

Real Property Law > Zoning > Variances

HN7 Allowing the combination of a use variance with a spinoff of as-of-right surplus development rights between adjoining properties, so that a deficient lot can then qualify even for a permitted use, might enable variance holders to manipulate and augment the generous benefit of variances. The New York City's Board of Standards and Appeals must retain the power of review over these kinds of proposals to preserve coherent land use determinations and adherence to the zoning plan itself.

Headnotes/Syllabus

Headnotes

Municipal Corporations - Zoning - Variance - Purchase of Development Rights Excess residential use development rights enjoyed by property that specially benefits from a commercial use variance may not be transferred to and tacked onto an adjoining property

even for an as-of-right use by that lot owner, without discrete approval by the Board of Standards and Appeals of the City of New York (BSA). Pursuant to section 72-21 of the New York City Zoning Resolution, the BSA must make five findings before it may grant a variance, including that the unique conditions of the subject property preclude any "reasonable possibility" of a "reasonable return," and the variance is "therefore necessary to enable the owner to realize a reasonable return from such zoning lot", and that the variance be "the minimum variance necessary to afford relief". If a landowner is permitted to retain the commercial use variance, and then also to sell off its as-of-right development rights under the original residential use authorization, the predicate findings by the BSA would be undermined as would the general over-all Zoning Resolution Plan, inasmuch as the variance might not have been the "minimum variance necessary to afford relief," and the lack of any "reasonable possibility" of a "reasonable return" is retrospectively placed in considerable doubt. Thus, the BSA must retain the power of review over these kinds of proposals to preserve coherent land use determinations and adherence to the zoning plan itself.

Counsel: *Paul A. Crotty, Corporation Counsel of New York City (Fay Ng and Pamela Seider Dolgow of counsel), for appellants.* The Court below erred in affirming the lower court's order directing the Department of Buildings to issue a building permit to petitioner Bella Vista without the Board of Standards and Appeals (BSA) first reviewing the lot merger proposal. Once a variance is granted for a zoning lot, the variance controls both the use and bulk of the lot while the lot is being used for the variance use. Thus, the owner of Lot 185 did not have any surplus bulk or development rights which could be transferred to the owner of the adjoining lot. Therefore, in this case, the proposed merger of part of Lot 185, which is subject to an existing variance, with another lot must be referred to the BSA for review. ([Matter of Cowan v Kern](#), 41 NY2d 591, 42 NY2d 910; [Matter of Fiore v Zoning Bd. of Appeals](#), 21 NY2d 393, 1040; [Conley v Town of Brookhaven Zoning Bd. of Appeals](#), 40 NY2d 309; [Matter of Revorg Realty Co. v Walsh](#), 225 App Div 774, 251 NY 516; [Matter of Long v Adirondack Park Agency](#), 76 NY2d 416; [Matter of Crossroads Recreation v Broz](#), 4 NY2d 39; [Matter of Village Bd. v Jarrold](#), 53 NY2d 254; [Matter of Wolfson v Curcio](#), 150 AD2d 586; [Matter of Ryan v Miller](#), 164 AD2d 968; [Matter of Herman v Fossella](#), 53 NY2d 730.)

No appearance for respondents.

Judges: Chief Judge Kaye and Judges Smith, Levine, Ciparick and Wesley concur; Judge Titone taking no part.

Opinion by: BELLACOSA

Opinion

[*466] [**198] [***742] Bellacosa, J.

Petitioner, Bella Vista Apartment Co., a real estate developer, planned to build a 14-floor apartment house on its residentially zoned Lot 186 in Queens. The lot fell short, however, of the requisite floor area ratio (FAR) and bulk zoning [*467] specifications (see, NY City Zoning Resolution § 23-141). The owner of the adjoining Lot 185 had secured for itself a commercial use variance from New York City's Board of Standards and Appeals (BSA) to build a movie theater. Thereafter, in 1986, Bella Vista purchased 120,000 feet of development rights, including 30,000 feet of air rights, from the owner of Lot 185, in an effort to satisfy the shortfall. Bella Vista allegedly paid \$ 1 million for these assertedly surplus development rights.

Without preliminary and discrete BSA review and approval, Bella Vista sought a building permit to erect the 14-story building, by piggy-backing Lot 185's FAR onto its own to eliminate the Lot 186 deficiency. The New York City Building Department rejected the application, premised on this creative combination, as did the BSA on review of that determination. Supreme Court and the Appellate Division disagreed and granted Bella Vista's CPLR article 78 petition, annulling the determination and directing issuance of the building permit. We granted leave to [**199] [***743] appeal and now reverse, dismiss the petition and hold that *HN1* the excess residential use development rights enjoyed by property that specially benefits from a commercial use variance may not be transferred to and tacked onto an adjoining property even for an as-of-right use by that lot owner, without discrete BSA approval. Appellants are the Board of Standards and Appeals of the City of New York, the Commissioner of Buildings of the City of New York and the Department of Buildings of the City of New York (collectively the City).

Central to this case is the fact that the owner of Lot 185, which was also zoned for residential use, had, in 1983, obtained a commercial use variance from the BSA to build a movie theater. The novel land use twist of this

case, therefore, is that Bella Vista sought to consolidate a portion of the surplus development FAR of Lot 185, "varianced" into a commercial use, with its own Lot 186 FAR, for the purpose of complying with the requisite bulk floor space specifications. It would, thus, construct a residential building albeit otherwise consistent with that lot's residential use.

Using this theory, Bella Vista filed an application in 1986 with the Department of Buildings, pursuant to New York City Zoning Resolution § 12-10, requesting approval of the zoning lot FAR merger and a permit for the construction of the proposed 14-story apartment house. The application was ultimately disapproved. In a letter dated November 7, 1990 [*468] and updated April 8, 1991, the Buildings Department rejected the proposed plan. On May 29, 1991, the BSA confirmed the Building Department's decision, stating:

"[I]n order to build the proposed fourteen (14) story building, a transfer of development rights from the variance site, lot 185 to lot 186 is needed which requires a zoning lot merger that results in an entirely new zoning lot; and ... the creation of this new zoning lot affects the basis of the Board's variance grant since its actions were based on a zoning lot which will now be significantly changed because of the zoning lot merger."

Next, Bella Vista turned to the courts for relief. It sued the City seeking to (1) annul the BSA's determination affirming the Building Department's declaration requiring the petitioners to obtain pre-BSA approval to use Lot 186 for residential purposes by conjoining the additionally acquired FAR development rights from Lot 185; and (2) compel the Department to issue a building permit for the proposed construction project.

In 1992, Supreme Court granted both prongs of Bella Vista's requested relief, provided that the permit application otherwise conformed to the Building Code's standards (*154 Misc 2d 579*). Supreme Court relied on *Matter of Clearview Gardens Pool Club v Foley* (*19 AD2d 905* [2d Dept 1963], *affd without opn 14 NY2d 809*) and stated that "[t]he existence of a variance on tax lot No. 185 does not require the transferor of unused development rights to obtain a new variance, as long as the acquirer is going to use those rights in conformance with the zoning resolution" (*154 Misc 2d, at 583*). The court added that the BSA irrationally juxtaposed "use and bulk" (*id., at 582*), reasoning that Bella Vista did not need a use variance, because the proposed apartment building was in conformance with the residential use

requirements; all it needed was either a bulk variance or additional FAR and it had lawfully obtained the surplus FAR (*id.*). The court characterized the situation as "a hybrid of the usual zoning lot merger in which a developer merges two *entire* lots," because "only the air rights of lot No. 185 [were] being merged with all of lot No. 186" (*id., at 583*). The Appellate Division, in 1995, affirmed for the reasons stated by *Supreme Court* (*222 AD2d 502*) and later denied leave to appeal. We granted the City leave to appeal.

The City argues that the commercial use variance granted to Lot 185, by regulatory discretion based on landowner representations [*469] and BSA findings, precludes using a transferred portion of its development rights, without further review by the BSA. The City adds that shifting rights appurtenant to [**200] [***744] Lot 185 for residential purposes, when that lot had already been beneficially converted to an authorized commercial use by variance, would undermine the factors considered and the prerequisite findings made by the BSA in connection with the grant of the use variance.

HN2 Pursuant to section 72-21 of the New York City Zoning Resolution, the BSA must make the following five findings before it may grant a variance:

- (a) That the lot has "unique physical conditions," which create "practical difficulties or unnecessary hardship" when forced to comply strictly with the Zoning Resolution;
- (b) That the unique conditions of the subject property preclude any "reasonable possibility" of a "reasonable return," and the variance is "therefore necessary to enable the owner to realize a reasonable return from such zoning lot;"
- (c) That the variance "will not alter the essential character of the neighborhood" or "substantially impair the appropriate use of development of adjacent property," and that it "will not be detrimental to the public welfare;"
- (d) That the owner did not create the difficulties or hardship leading to the necessity for the variance; and
- (e) That the variance be "*the minimum variance necessary to afford relief*" (NY City Zoning Resolution § 72-21 [emphasis added]).

Further expanding upon section 72-21 (b), the City points to this Court's "well-established rule that **HN3** a

landowner who seeks a use variance must demonstrate factually, *by dollars and cents proof*, an inability to realize a reasonable return under existing permissible uses" ([Matter of Village Bd. v Jarrold, 53 NY2d 254, 256](#) [emphasis added]).

It is undisputed that these findings were necessarily made at the time of, and as part of, the use variance grant for Lot 185, in 1983. The City correctly argues that if the owner of Lot 185 is permitted to retain the commercial use variance, and then [*470] also to sell off its as-of-right development rights under the original residential use authorization, the predicate findings by the BSA would be undermined as would the general over-all Zoning Resolution Plan. This is particularly so absent an updated review and ruling by the BSA to insure compliance with section 72-21, as Bella Vista and the adjoining owner would have it unprecedentedly applied to their arrangement. In other words, **HN4** if a landowner retains the bonus option to sell surplus development rights as they existed before the use variance is acquired, the variance might not have been the "minimum variance necessary to afford relief," and the lack of any "reasonable possibility" of a "reasonable return" is retrospectively placed in considerable doubt. This seems especially so in this case since the "residual development air rights" garnered a \$ 1 million sale price in the marketplace.

The City urges that the beneficiary of a variance, as well as the courts on judicial review of such matters, are bound by the explicit variance record and findings of the BSA. The City's argument would, therefore, require a landowner benefitted by a variance to seek additional authorizing relief from the BSA before effectively transferring prevariance rights and benefits to adjoining owners. Otherwise, the premium, on top of its acquired variance, from its sale of development rights, contradicts the no-reasonable-return predicate finding, necessary to have garnered the use variance in the first place.

[Matter of Clearview Gardens Pool Club v Foley \(19 AD2d 905, affd without opn 14 NY2d 809, supra\)](#) is plainly and significantly distinguishable. There, the Appellate Division concluded that **HN5** "the prior variance grants could not and did not take from the owner of the property his statutory right to use the property for any purpose permitted by the applicable zoning resolution" (19 AD2d, at 906). Rather, the Court

stated, "[t]he owner retained the right to revert at any time to a conforming use" ([id., at 906](#)).

Although in *Clearview* the court determined that a use variance did not prohibit an owner from reverting entirely to a conforming use, the reversion there was simply that, not some compound hybrid. That situation is far from the artful combination attempted [**201] [***745] in the instant case. Bella Vista's acquisition and piggy-backing of Lot 185's FAR to satisfy its Lot 186 bulk building deficiency might undermine the basis for the use variance grant and offend proper land use regulation and application. The fatal defect of this merger theory is that **HN6** once the use variance was granted, the owner of Lot 185 could [*471] only use the property in the manner authorized by the variance or revert completely back to its as-of-right use under *Clearview*. The precedent should not be expanded to allow landowners to garner commercial use by variance and then, by resourceful fusions, leverage assertedly residual residential development rights, without discrete BSA approval. The inherent contradictions and dangers to effective land use planning regulation and application dictate otherwise.

The lower courts thus erred in concluding that additional BSA consideration and approval were not necessary in this kind of circumstance. The determinations of the BSA and the Buildings Department were rational and within their justifiable range of discretion (see, [Conley v Town of Brookhaven Zoning Bd. of Appeals, 40 NY2d 309, 314](#); see also, [Matter of Cowan v Kern, 41 NY2d 591, 598](#)). **HN7** Allowing the combination of a use variance with a spinoff of as-of-right surplus development rights between adjoining properties, so that a FAR deficient lot could then qualify even for a permitted use, might enable variance holders to manipulate and augment the generous benefit of their variances. The BSA must retain the power of review over these kinds of proposals to preserve coherent land use determinations and adherence to the zoning plan itself.

Accordingly, the order of the Appellate Division should be reversed, with costs, and the petition dismissed.

Chief Judge Kaye and Judges Smith, Levine, Ciparick and Wesley concur; Judge Titone taking no part.

Order reversed, etc.