



City of New York  
 Board of Standards and Appeals  
 40 Rector Street, 9<sup>th</sup> Floor  
 New York, NY 10006-1705  
 Phone: (212) 788-8500  
 Fax: (212) 788-8769  
 www.nyc.gov/bsa

ZONING (BZ) CALENDAR  
 Application Form

BSA APPLICATION NO. \_\_\_\_\_  
 CEQR NO. \_\_\_\_\_

**Section A**

Applicant/  
 Owner

Law Office of Fredrick A. Becker	28-30 Avenue A LLC
NAME OF APPLICANT	OWNER OF RECORD
122 East 42nd Street Suite 1200	22 West 27th Street
ADDRESS	ADDRESS
New York NY 10168	New York NY 10001
CITY STATE ZIP	CITY STATE ZIP
(212) 867-3820	TSI Avenue A LLC dba New York Sports Club
AREA CODE TELEPHONE	LESSEE / CONTRACT VENDEE
(212) 983-5276	5 Penn Plaza 4th Floor
AREA CODE TELEPHONE	ADDRESS
fbecker@fbeckerlaw.com	New York NY 10001
EMAIL	CITY STATE ZIP

**Section B**

Site  
 Data

28-30 Avenue A, New York, New York 10009  
 STREET ADDRESS (INCLUDE ANY A/K/A) ZIP CODE

East side of Avenue A 79.5' north of East 2nd Street  
 DESCRIPTION OF PROPERTY BY BOUNDING OR CROSS STREETS

398	2	Manhattan	3M	N/A
BLOCK	LOT(S)	BOROUGH	COMMUNITY DISTRICT	LANDMARK/HISTORIC DISTRICT
Hon. Rosie Mendez	C2-5 (R7A/R8B)		12C	
CITY COUNCIL MEMBER	ZONING DISTRICT (include special district, if any)		ZONING MAP NUMBER	

**Section C**  
 Dept of Building  
 Decision

BSA AUTHORIZING SECTION(S) 73-36 for  VARIANCE  SPECIAL PERMIT (Including 11-41)  
 Section(s) of the Zoning Resolution to be varied 32-31  
 DOB Decision (Objection/ Denial) date: 4/9/2013 Acting on Application No: 121511417

**Section D**  
 Description

(LEGALIZATION  YES  NO  IN PART)

Special permit to allow the operation of a physical culture establishment / health club on the second through fifth floors of a five story and basement commercial building.

**Section E**  
 BSA History  
 and  
 Related Actions

If "YES" to any of the below questions, please explain in the STATEMENT OF FACTS

	YES	NO
1. Has the premises been the subject of any previous BSA application(s)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PRIOR BSA APPLICATION NO(S): _____		
2. Are there any applications concerning the premises pending before any other government agency?....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. Is the property the subject of any court action?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Section F**  
 Signature

I HEREBY AFFIRM THAT BASED ON INFORMATION AND BELIEF, THE ABOVE STATEMENTS AND THE STATEMENTS CONTAINED IN THE PAPERS ARE TRUE.

Signature of Applicant, Corporate Officer or Other Authorized Representative: Fredrick A. Becker  
 Title: Attorney

SWORN TO ME THIS 11 DAY OF April 2013  
 Notary Public, State of New York  
 No. 31-4951303  
 Qualified in New York County  
 Commission Expires July 23, 2013

NOTARY PUBLIC



that the zoning lot existed prior to December 15, 1961, more than 50% of the zoning lot is within the permitted zoning district (100' of the 120'), and the portion that extends into the other zoning district does not exceed 25't (the portion is only 20'). Accordingly, the zoning district boundary may be "re-located" and the use is permitted on the entire site.

The site contains a five (5) story and basement commercial building. The current Certificate of Occupancy for the building, dated January 19, 1961, shows full commercial occupancy of the building and the building is currently occupied for commercial use. The subject PCE facility will be located on the second through fifth floors of the subject building with an entrance on the first floor. The facility will occupy 21,262 square feet of floor area. The PCE's FAR is 4.03 within the existing building which has a FAR of 4.79 and has a grandfathered non-conforming status. Handicapped access is achieved at a street level lobby with an elevator to the second floor.

#### Operational Plan

Proposed days and hours of operation for the facility are Monday to Thursday 5:30 a.m. to 11:00 p.m., Friday 5:30 a.m. to 9:00 p.m., and Saturday and Sunday 8:00 a.m. to 9:00 p.m. The facility offers classes and instruction and machines for physical exercise and improvement. There are approximately twenty (20) staff persons at the facility daily, several of whom such as trainers who work only for several hour periods, not full time. There are approximately 200 to 300 patrons per day. The peak period is 6:00 p.m. to 8:00 p.m. with approximately 35-40 patrons.

Fire Safety Measures

Fire safety measures at the facility are as follows:

An approved interior fire alarm system will be installed in the entire PCE space;

The system includes the following items:

- Area smoke detectors;
- Manual pull stations at each required exit;
- Local audible and visual alarms; and
- Connection of the interior fire alarm to a FDNY approved central station.

DOB and ECB Violations

There are no open Department of Buildings (DOB) violations or Environmental Control Board (ECB) violations at the subject premises.

DOB Objection

On April 9, 2013, the Department of Buildings issued the following objection, "Proposed Physical Culture and Health Establishment at the first (1<sup>st</sup>) through fifth (5<sup>th</sup>) floors is not permitted as of right in C2-5 within R7A and R8B zoning districts and is contrary to Z.R. 32-31 of the Zoning Resolution; BSA Special Permit for Physical Culture Establishments are permitted pursuant to the provisions of Sect. 73-36 of the Z.R. ."

Pursuant to Sections 73-36, 73-01 and 73-03 the Zoning Resolution, the Board has the power to grant special permit uses, and to impose appropriate conditions and safeguards in connection with these uses. A review of the instant application and the accompanying materials shows that the subject use qualifies as a physical culture establishment, and that it is appropriate for the site and surrounding community.

Compliance with Z.R. Section 73-36

(a) In C1-8X, C1-9, C2, C4, C5, C6, C8, M1, M2 or M3 Districts, and in certain special districts as specified in the provisions of such special district, the Board of Standards and Appeals may permit *physical culture or health establishments* as defined in Section 12-10, including gymnasiums (not permitted under Use Group 9), massage establishments other than *adult physical culture establishments*, for a term not to exceed ten years, provided the following findings are made:

(1) that such *use* is so located as not to impair the essential character or the future use of development of the surrounding area; and

(a) The subject physical culture establishment use will have no adverse impact on the block or to the area, but is in keeping with the mixed use residential and commercial character of the neighborhood. As with most health clubs and yoga centers, the majority of this facility's clientele will be drawn from the immediate vicinity. Under these circumstances, most of these people will walk to the premises. For those individuals who will not arrive by foot but will seek alternate means of transportation, the site is well served

by mass transit as it is located near several bus and subway lines. With regard to noise and vibration issues, the facility will occupy the majority of the building. The use is also a commercial use in a commercial building and will not adversely effect the single other tenant in the first floor of the building. No issues are anticipated and no attenuation measures have been put in place at this time as the aerobics studio and spinning studio are on the fourth and fifth floors, substantially removed from the first floor tenant. In sum, the proposed use is so located as not to impair the essential character or the future use or development of the surrounding area or the occupants within the subject building.

(2) that such *use* contains:

(I) one or more of the following regulations size sports facilities: handball courts, basketball courts, squash courts, paddleball courts, racket ball courts, tennis courts; or

(ii) a swimming pool of a minimum 1,500 square feet; or

(iii) facilities for classes, instruction and programs for physical improvement, body building, or weight reduction, aerobics or martial arts; or

(iv) facilities for the practice of massage by New York State licensed masseurs or masseuses.

Therapeutic or relaxation services may be provided only as *accessory* to programmed facilities as described in paragraphs (a)(2)(I) through (a)(2)(iv) of this Section.

With regard to the operation of the physical culture establishment's activities, the plans show that the interior space is specifically arranged for a physical culture establishment with areas for machines and workout studios for classes, instruction and programs for physical improvement. The operator of the facility will be New York Sports Club, an established company.

(b) In C4-7, C5-2, C5-3, C5-4, C5-5, C-4, C5-7, C6-5, C6-6, C6-7, C6-8 or C6-9 Districts, the Board may permit *physical culture or health establishments* located on the roof of a *commercial building* or the commercial portion of a *mixed building*, provided the following additional findings are made:

- (1) that such *use* shall be an incidental part of a permitted *physical culture or health establishment* located within the same *commercial or mixed buildings*;
- (2) that such *use* shall be open and unobstructed to the sky;
- (3) that such *use* shall be located on a roof not less than 23 feet above *curb level*;
- (4) that the application for such *use* shall be made jointly by the owner of the *building* and the operator of such *physical culture or health establishment*; and
- (5) that the Board shall prescribe appropriate controls to minimize adverse impacts on the surrounding area, including but not limited to, requirements for the location, size and types of signs, limitations on the manner and/or hours of operation, shielding of floodlights,

adequate screening, and the control of undue noise including the amplification of sound, music or voices.

There is no portion of the physical culture establishment that is located on the roof of the premises, and therefore this section is not applicable to this application.

© No special permit shall be issued pursuant to this Section unless:

(1) the Board shall have referred the application to the Department of Investigation for a background check of the owner, operator and all principals having an interest in any application filed under a partnership or corporate name and shall have received a report from the Department of Investigation which the Board shall determine to be satisfactory; and

(2) the Board, in any resolution granting a special permit, shall have specified how each of the findings required by this Section are made.

The Board shall retain the right to revoke the special permit, at any time, if it determines that the nature or manner of operation of the permitted *use* has been altered from that authorized.

The Board may prescribe appropriate conditions and safeguards including locations of signs and limitations on the manner and/or hours of operation in order to minimize adverse effects on the character of the surrounding community.



Compliance with Z.R. Section 73-03

The Board of Standards and Appeals shall have the power, as authorized by Section 73-01 paragraph (a) or (b), and subject to such appropriate conditions and safeguards as the Board shall prescribe, to grant special permit *uses* or modifications of *use*, or *bulk* regulations as specifically provided in this Chapter, provided in each case:

(a) The board shall make all of the findings required in the applicable sections of this Chapter with respect to each such special permit *use* or modification of *use*, parking or *bulk* regulations shall find that, under the conditions and safeguards imposed, the hazards or disadvantages to the community at large of such special permit *use* or modification of *use*, parking or *bulk* regulations at the particular site are outweighed by the advantages to be derived by the community by the grant of such special permit. In each case the Board shall determine that the adverse effect, if any, on the privacy, quiet, light and air in the neighborhood of such special permit *use* or modification of *use*, parking or *bulk* regulations will be minimized by appropriate conditions governing location of the site, design and method of operation.

(a) The subject use will have no adverse impact on the community. There are no potential hazards that impact on the privacy, quiet, light and air of the neighborhood as the facility is located within an existing structure.

(b) In all cases the Board shall deny a special permit whenever such proposed special permit *use* or modification of *use*, parking or *bulk* regulations will interfere with any public improvement project (including housing, highways, public buildings or facilities, redevelopment or renewal

projects, or right-of-way for sewers, transit or other public facilities) which is approved by or pending before the Board of Estimate, Site Selection Board or the City Planning Commission as determined from the calendars of each such agency issued prior to the date of the public hearings before the Board of Standards and Appeals.

(b) The subject project will not interfere with any public improvement project.

(c) When the applicable findings the Board is required to determine whether the special permit *use* or modification of *use*, parking or *bulk* restrictions is appropriately located in relation to the *street* system, the Board shall in its discretion make such determination on the basis of the Master Plan of Arterial Highways and Major Streets on the official City Map. Whenever the Board is required to make a finding on the location of a proposed special permit *use* or modification of *use*, parking or *bulk* regulations in relation to secondary or local *streets* and such classification of *streets* is not shown on the Master Plan, the Board in its discretion shall request the City Planning Commission to establish a report on the appropriate classification of such *street*.

© The subject project will not interfere with the existing street system.

(d) For applications relating to Sections 73-243, 73-48 and 73-49, the Board in its discretion shall request from the Department of Transportation a report with respect to the anticipated traffic congestion resulting from such special permit *use* or modification of *use*, parking or *bulk* regulations in the proposed location. If such a report is requested, the Board shall in its decision or determination give due consideration to such report and further shall have the power to

substantiate the appropriate finding solely on the basis of the report of the Department of Transportation with respect to the issue referred.

(d) The subject project does not relate to Sections 73-243, 73-48 or 73-49, and therefore this provision is not applicable.

(e) If a term of years is specified in the applicable section, the Board shall establish a term of years not to exceed such maximum. For those special permit special permit *uses* or modification of *use*, parking or *bulk* regulations for which a maximum term has not been specified, the Board may fix an appropriate term for any such special permit *use* special permit *use* or modification of *use*, parking or *bulk* regulations.

(e) The applicable section, Section 73-36, sets forth a maximum ten (10) year term, and it is requested that the Board grant the subject special permit for a term of ten (10) years.

(f) On application for renewal of any such special permit authorized in the Chapter, the Board shall determine whether the circumstances warranting the original grant still obtain. In addition, the Board shall ascertain whether the applicant has complied with the conditions and safeguards theretofore described by the Board during the prior term. In the event that the Board shall find the applicant has been in substantial violation thereof, it shall deny the application for renewal.

(f) This is a new application, and therefore the renewal provisions of this item are not applicable.

(g) The board may permit the *enlargement* or *extension* of any existing *use*, which, if new, would be permitted by special permit in the specified districts under the provisions of Section 73-01 and other applicable provisions of this Chapter, provided that before granting any such permit for *enlargement* or *extension* within the permitted districts, the Board shall make all of the required findings applicable to the special permit *use*, except that:

(1) in the case of colleges or universities in R1 or R2 Districts, the Board may waive all such required findings set forth in Section 73-121 (Colleges and universities); and

(2) in the case of public utility *uses*, the Board may waive all such required findings set forth in Sections 73-14 (Public Service Establishments) or 73-16 (Public Transit, Railroad or Electric Utility Substations).

No such *enlargement* or *extension* shall create a new *non-compliance* or increase the existing degree of *non-compliance* with the applicable *bulk* regulations, except as may be permitted in accordance with the provisions of Sections 73-62 to 73-68, inclusive, relating to Modification of Bulk Regulations.

(g) The enlargement or extension provisions relating to an existing use are not applicable, as this is a new use.

Conclusion

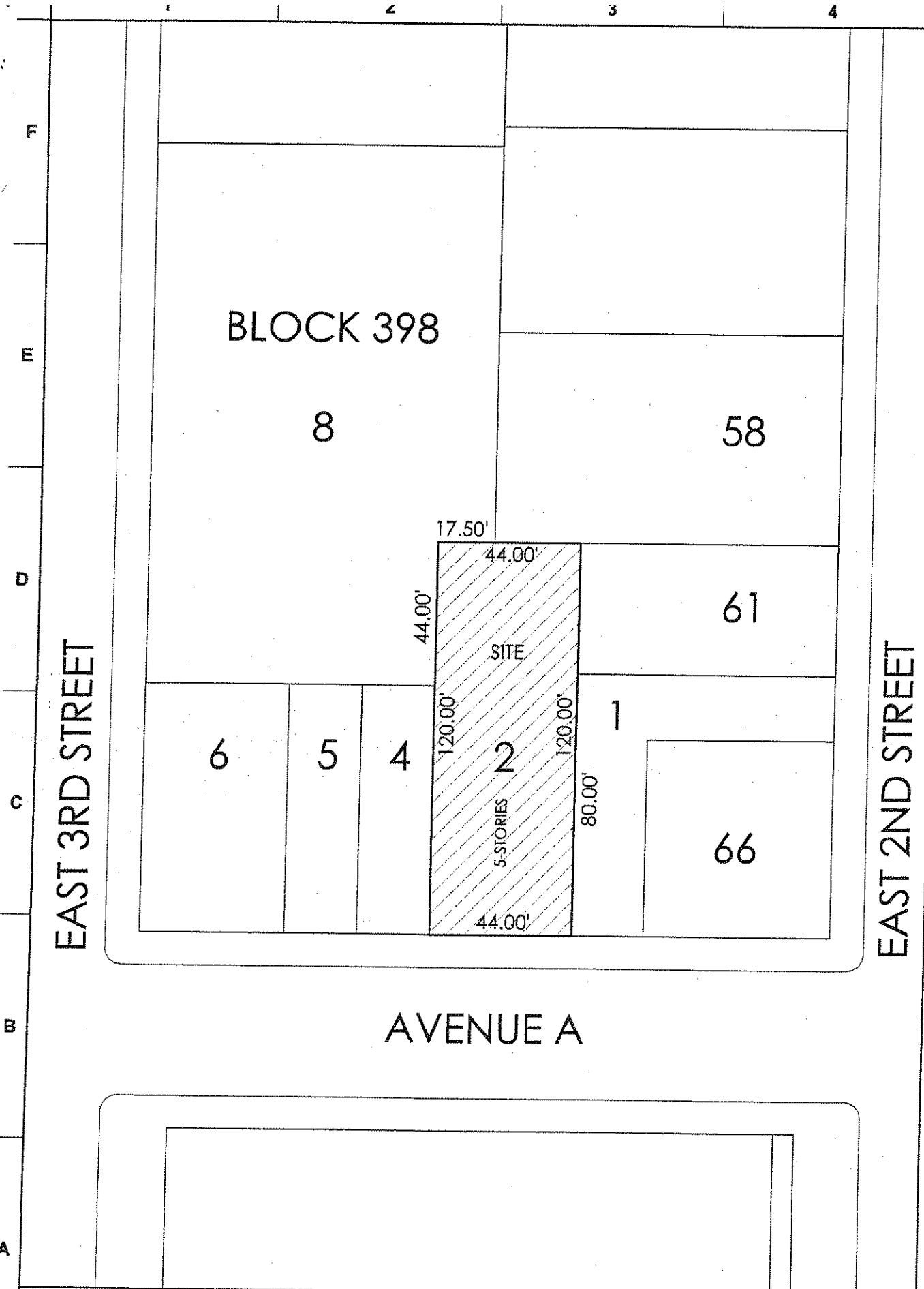
It is submitted that the instant application meets the criteria of Sections 73-03 and 73-36. We therefore respectfully request that the Board of Standards and Appeals grant this special permit to allow the operation of a physical culture establishment / health club at the subject premises. The use is in keeping with the character of the neighborhood, will create no adverse impacts, and will be of positive benefit to the community.

Respectfully,



Fredrick A. Becker

FAB:dl



FLOOR AREA CALCULATIONS		
FLOOR LEVEL	GROSS EXISTING SF	PROPOSED NYSC GROSS SF
First Floor	5,057 SF	677 SF
Second Floor	5,057 SF	5,057 SF
Third Floor	5,057 SF	5,057 SF
Fourth Floor	5,057 SF	5,057 SF
Fifth Floor	5,057 SF	5,057 SF
Total	25,285 SF	20,905 SF
TOTAL AREA (LOT)	5,280 SF	

BIN# 1004962  
 Block 398  
 Lot 2  
 Zoning MAP 12C  
 Zoning District C2-5 (R7A/R8B)

**C5** Proposed Zoning Information  
 NTS

BSA Cal. No. \_\_\_\_\_

Mark S. Carelli  
 Architect, LLC  
 697 Valley St., Suite 2C  
 Maplewood, NJ 07040  
 (973) 378-9188  
 msc@mscarchitect.com



PROJECT APPLICANT / OWNER



**new york sports clubs**

PROJECT TITLE

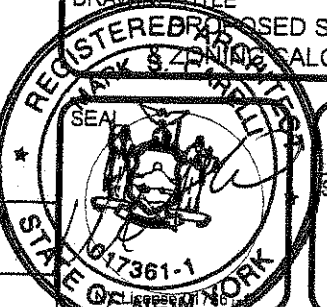
**New York Sports Clubs**  
 28-30 Avenue A  
 New York, NY

**GENERAL NOTES:**

- MINIMUM 3'-0" WIDE EXIT PATHWAYS SHALL BE PROVIDED LEADING TO THE REQUIRED EXITS. PATHWAY SHALL ALWAYS BE MAINTAINED UNOBSTRUCTED INCLUDING FROM ANY GYMNASIUM EQUIPMENT.
- THE SPACE INCLUDES THE FOLLOWING ITEMS:
  - MANUAL PULL STATIONS AT EACH REQUIRED EXIT
  - LOCAL AUDIBLE AND VISUAL ALARMS
  - AREA SMOKE DETECTORS
  - CONNECTION OF THE INTERIOR FIRE ALARM TO A FDNY APPROVED CENTRAL STATION
  - LOCAL LAW 58/87 SHALL BE COMPLIED WITH AS APPROVED BY THE DEPARTMENT OF BUILDINGS
  - ALL INTERIOR PARTITIONS AND EXITS SHALL BE AS APPROVED BY THE DEPARTMENT OF BUILDINGS.

DRAWING TITLE

**REGISTERED PROPOSED SITE PLAN**  
**MARK & ZONING CALCULATIONS**

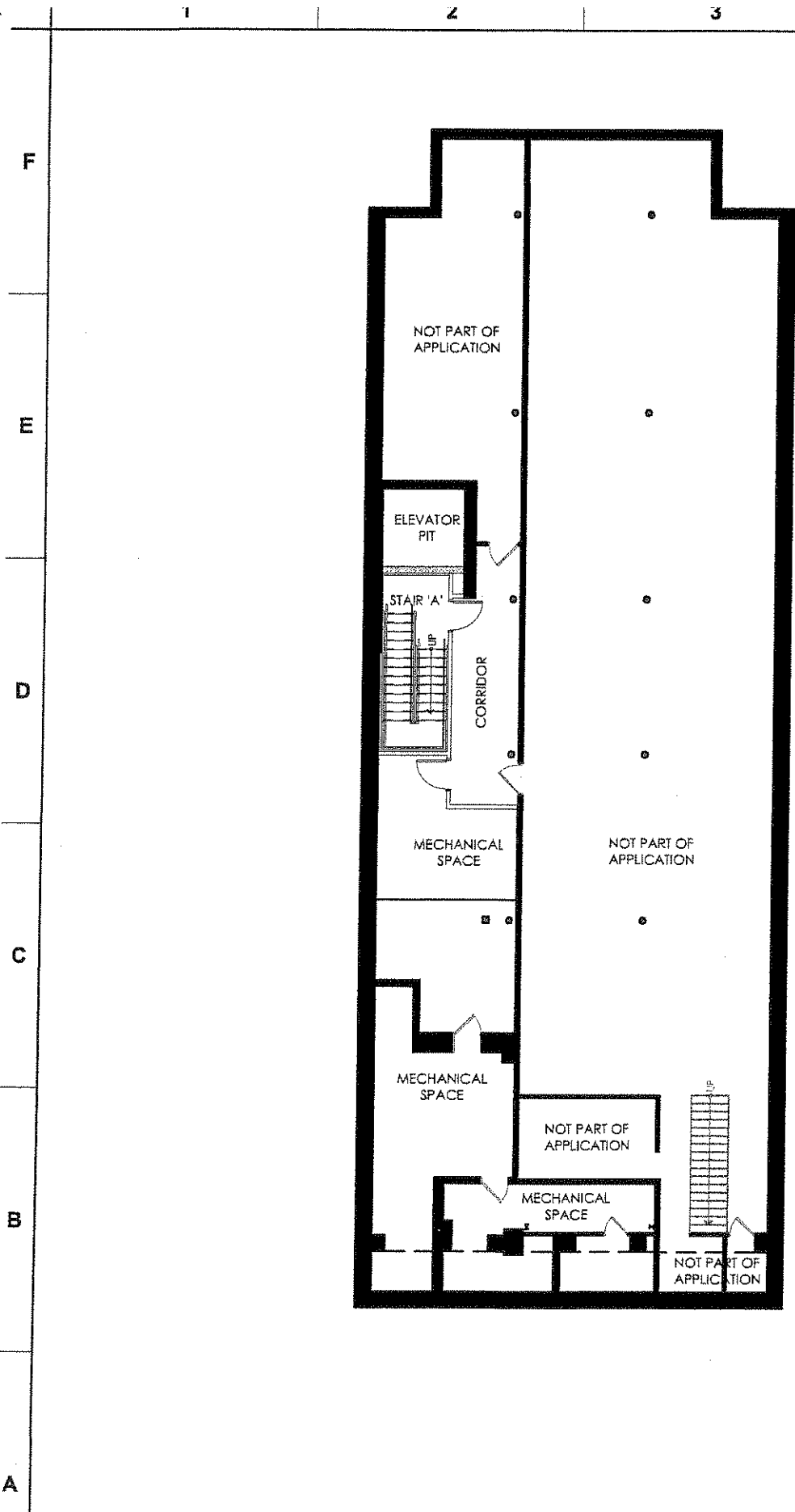


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 PROJ. # DATE  
 SHEET NUMBER

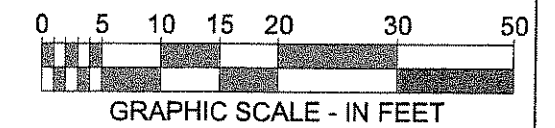
**P.00**

**A1** Proposed Site Plan  
 1" = 40'-0"

**A5** Proposed Zoning Information  
 NTS



- GENERAL NOTES:**
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PROJECT APPLICANT / OWNER

**new york sports clubs**

PROJECT TITLE

**New York Sports Clubs**  
28-30 Avenue A  
New York, NY

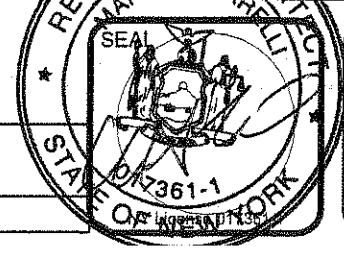
DRAWING TITLE

REGISTERED PROFESSIONAL ARCHITECT

MARK S. CARELLI

REGISTERED PROFESSIONAL ARCHITECT

STATE OF NEW YORK

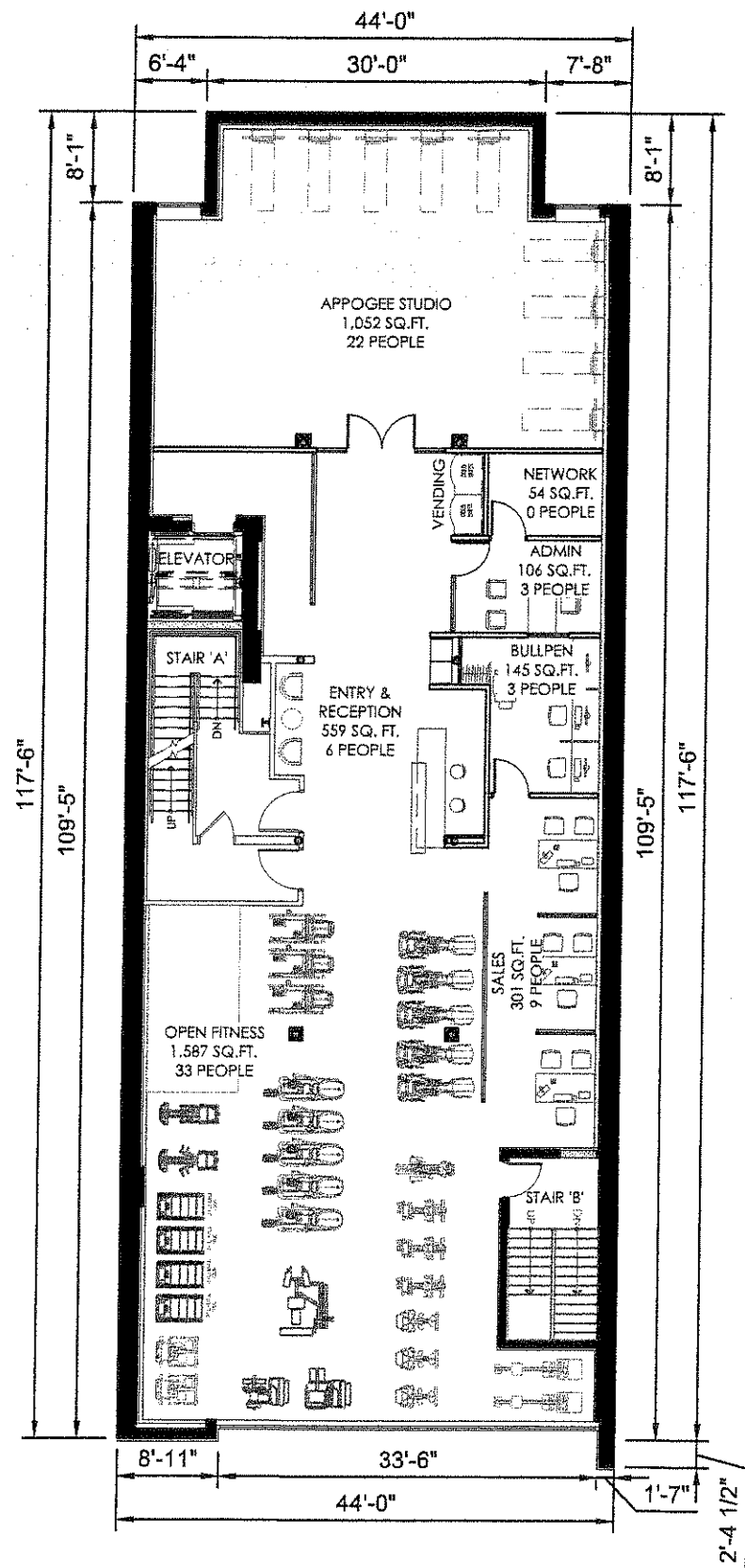


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PROJ. #	DATE
SHEET NUMBER	

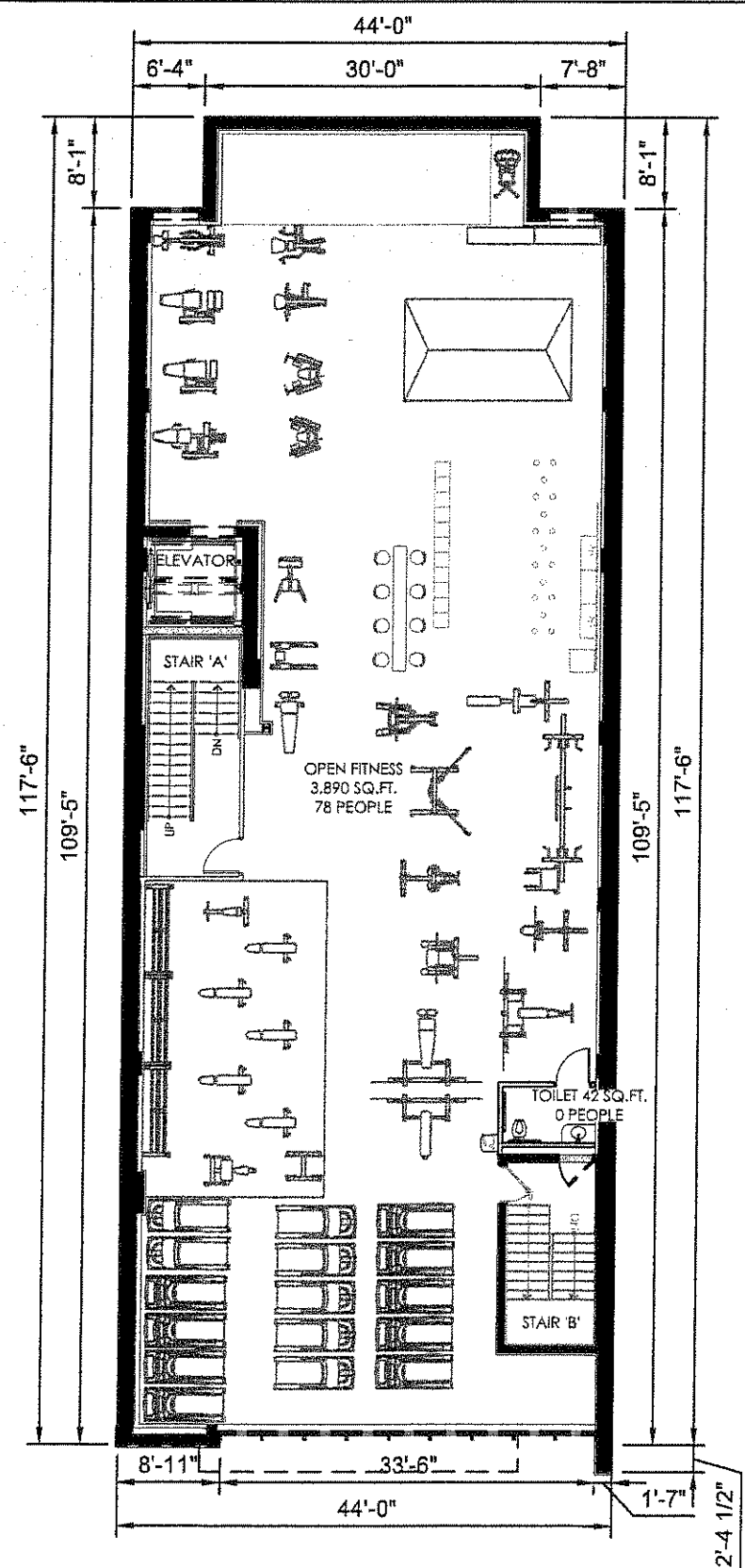
P.01

**A1** Proposed Basement Floor Plan  
1/16" = 1'-0"

**A5** Proposed First Floor Plan  
1/16" = 1'-0"



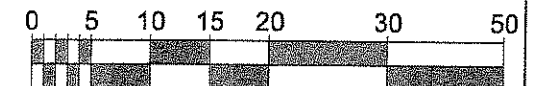
SECOND FLOOR AREA = 5,057 SQ. FT.



THIRD FLOOR AREA = 5,057 SQ. FT.

**GENERAL NOTES:**

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GRAPHIC SCALE - IN FEET

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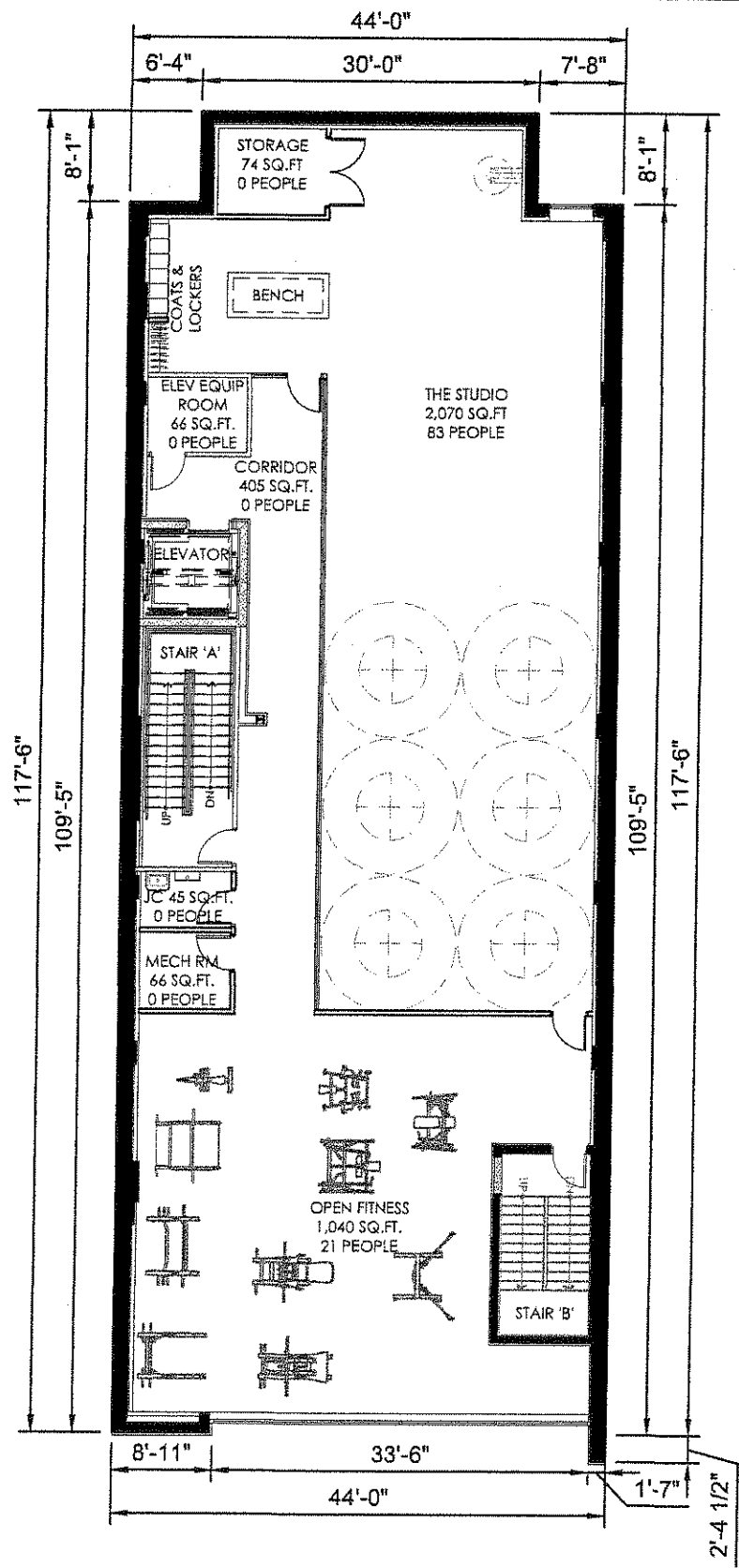
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**PROPOSED SECOND & THIRD FLOOR PLAN**

1211 3-11-2013  
 PROJ. # DATE  
 SHEET NUMBER

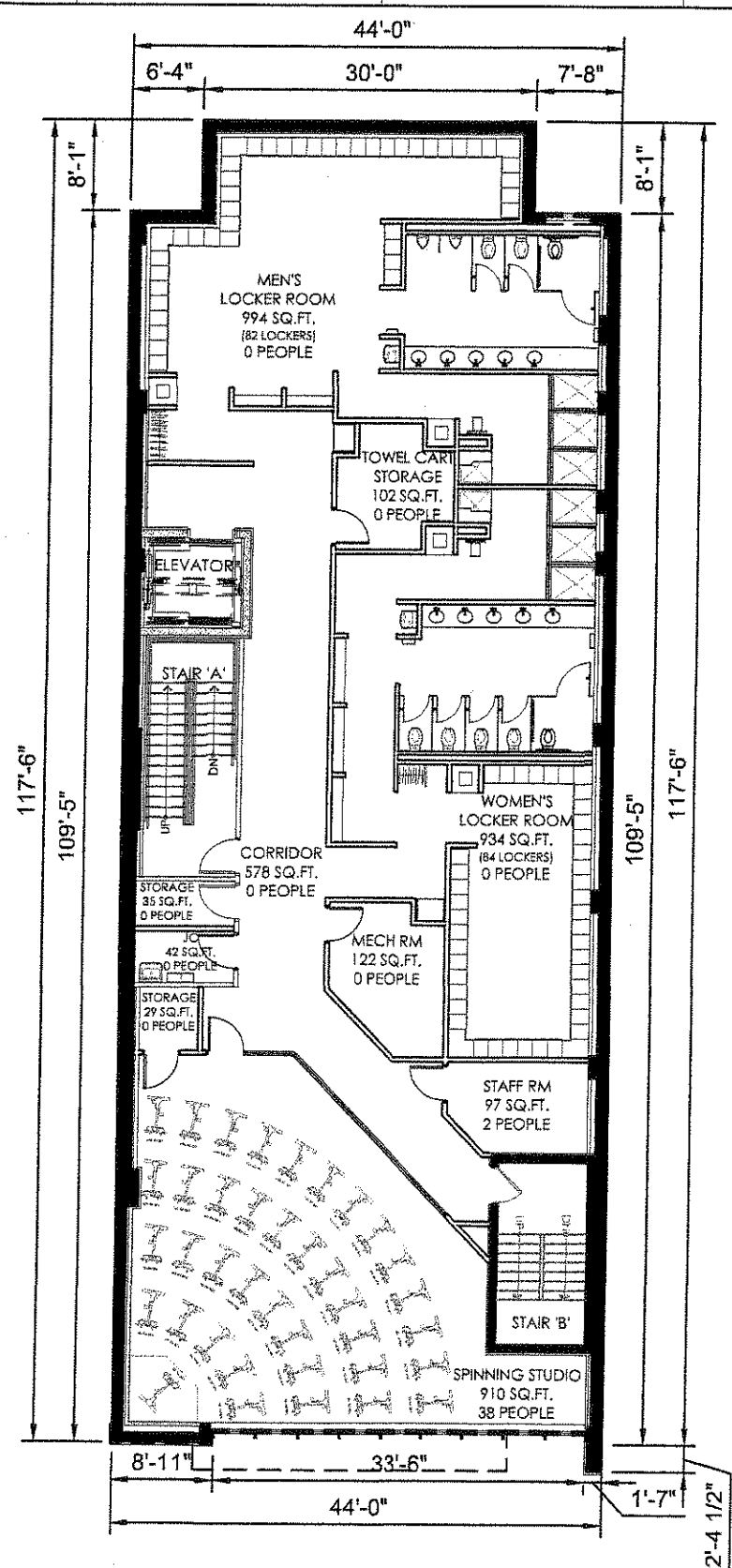
**A1** Proposed Second Floor Plan  
 1/16" = 1'-0"

**A5** Proposed Third Floor Plan  
 1/16" = 1'-0"





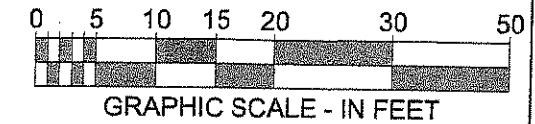
FOURTH FLOOR AREA = 5,057 SQ. FT.



FIFTH FLOOR AREA = 5,057 SQ. FT.

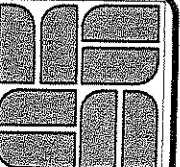
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PROJECT TITLE  
**New York Sports Clubs**  
 28-30 Avenue A  
 New York, NY

DRAWING TITLE  
**PROPOSED FOURTH & FIFTH FLOOR PLAN**

REGISTERED PROFESSIONAL ARCHITECT  
 MARK S. CARELLI

SEAL OF THE STATE OF NEW YORK  
 917361-1

1211	3-11-2013
PROJ. #	DATE
SHEET NUMBER	

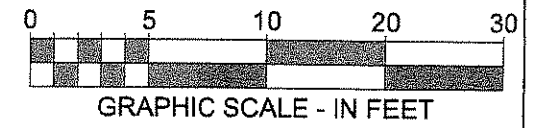
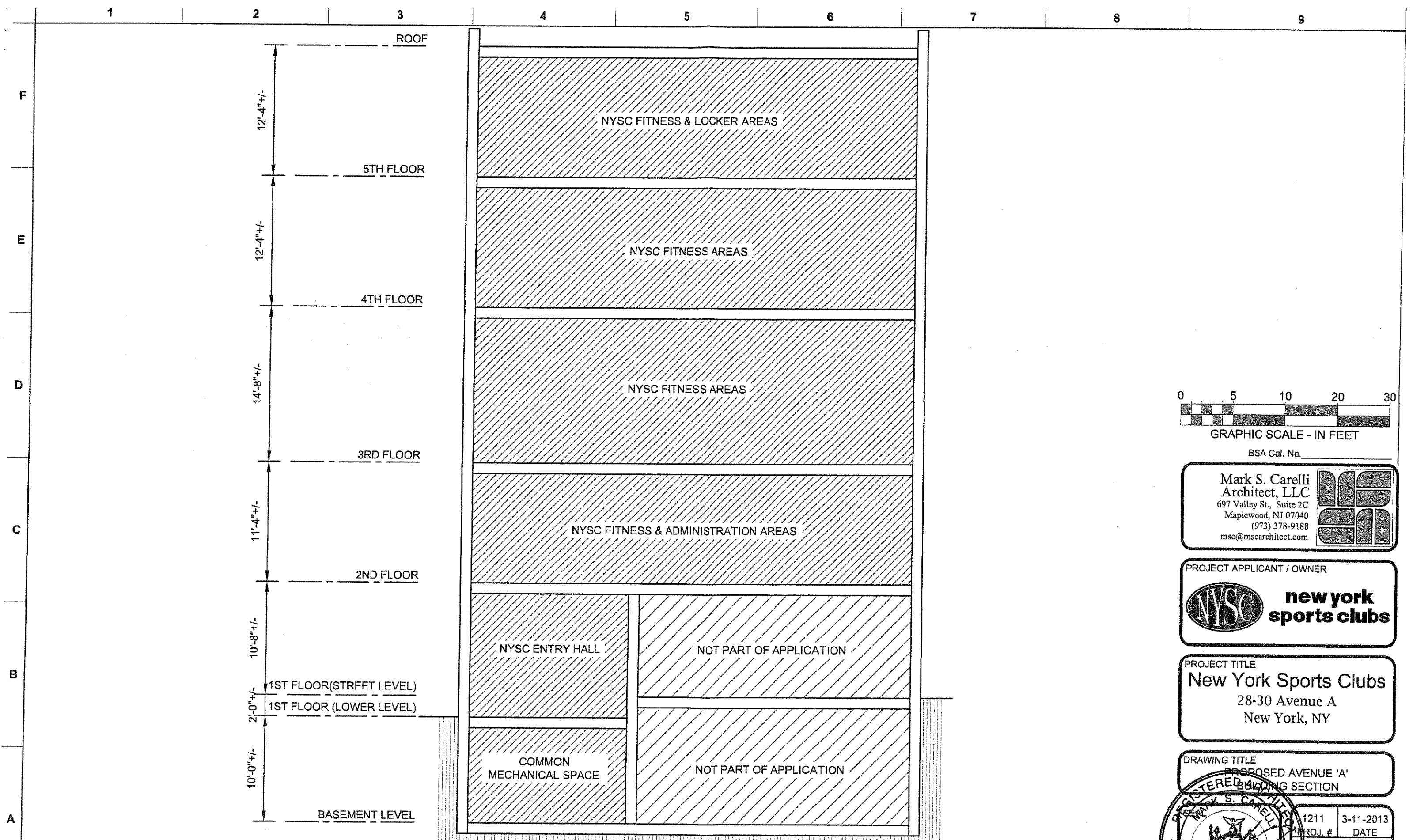
**P.03**

**A1 Proposed Fourth Floor Plan**

1/16" = 1'-0"

**A5 Proposed Fifth Floor Plan**

1/16" = 1'-0"



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PROJECT APPLICANT / OWNER



**new york sports clubs**

PROJECT TITLE  
**New York Sports Clubs**  
28-30 Avenue A  
New York, NY

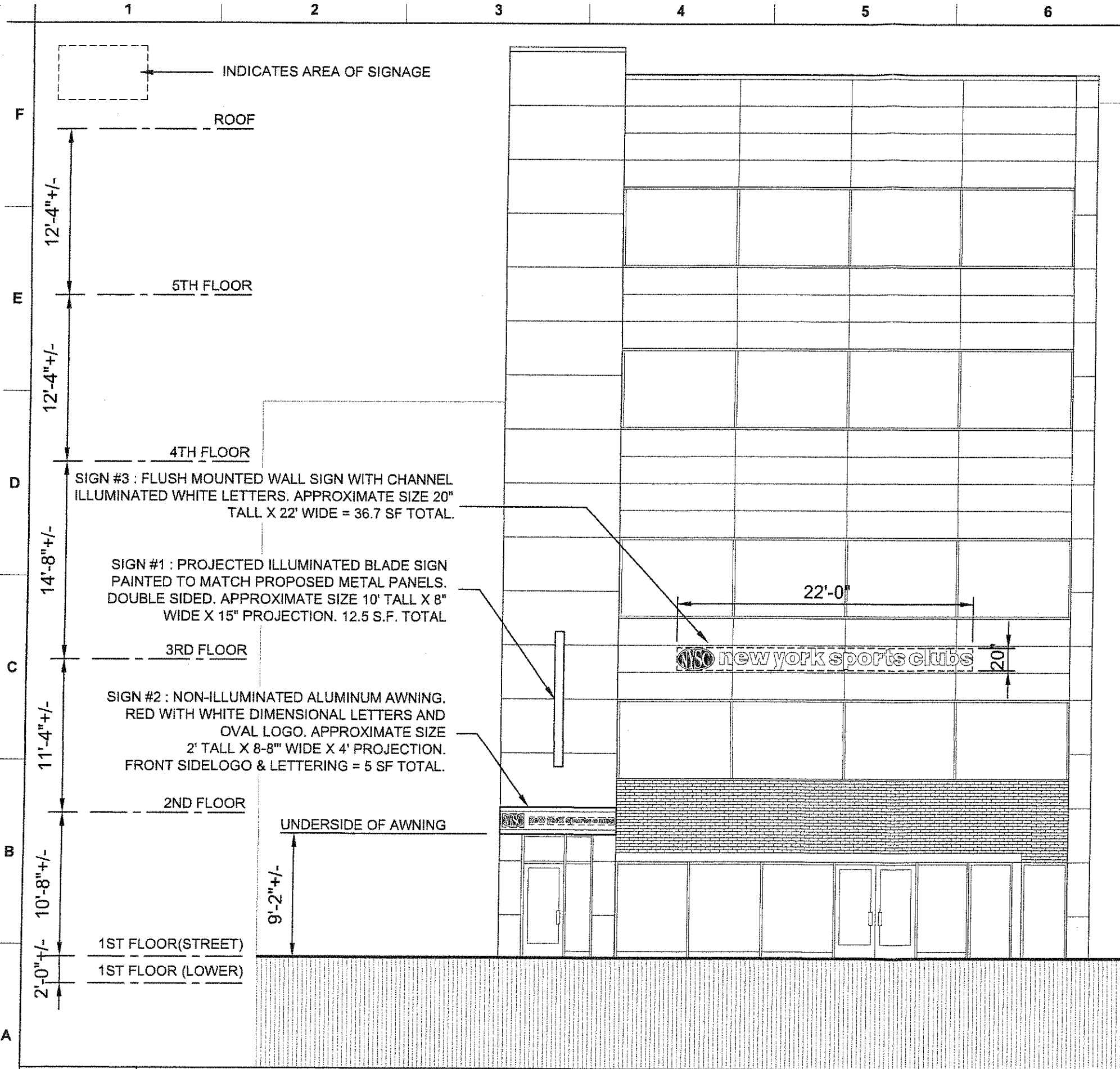
DRAWING TITLE  
PROPOSED AVENUE 'A'  
BUILDING SECTION



1211 3-11-2013  
PROJ. # DATE  
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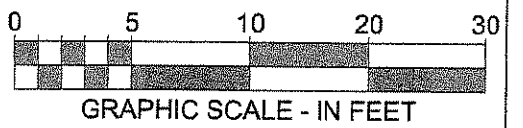
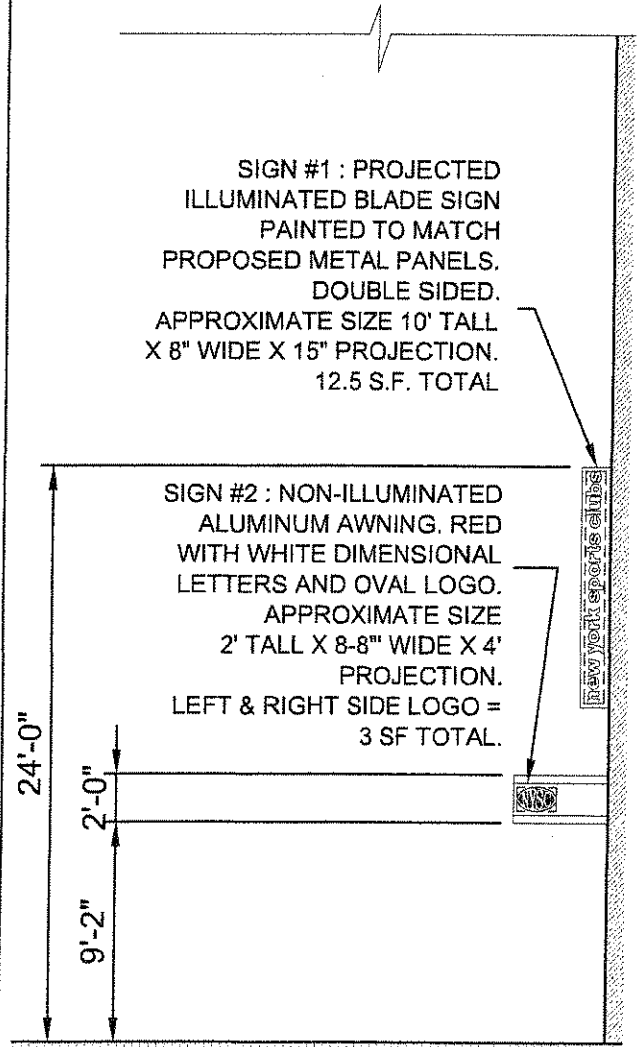
**A1** Proposed Building Section

1/8" = 1'-0"



AVENUE A SIGNAGE CALCULATIONS

Sign #	Area Of Illuminated Signage	Area Of Non-Illuminated Signage	Total Signage Area
1	12.5 SF	0 SF	18 SF
2 (SIDES)	0 SF	3 SF	3 SF
2 (FRONT)	0 SF	5 SF	5 SF
3	36.7 SF	0 SF	32 SF
<b>TOTAL</b>	<b>49.2 SF</b>	<b>8 SF</b>	<b>57.2 SF</b>



BSA Cal. No. \_\_\_\_\_

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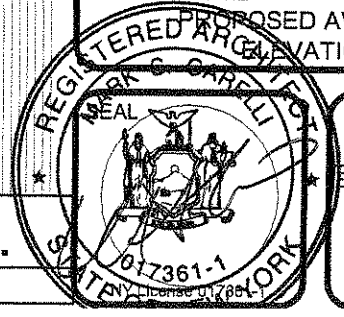
**NVSC new york sports clubs**

PROJECT TITLE

**New York Sports Clubs**  
 28-30 Avenue A  
 New York, NY

DRAWING TITLE

PROPOSED AVENUE 'A' ELEVATIONS



1211 3-11-2013  
 PROJ. # DATE  
 SHEET NUMBER

P.05

**A1** Proposed Avenue 'A' Elevation  
 1/8" = 1'-0"

**A7** Prop. Side Elev.  
 1/8" = 1'-0"