

Zoning Challenge and Appeal Form

(for approved applications)

Must be typewritten

Property Information Required for all challenges. BIS Job Number 121190497 BIS Document Number 7 Street Name West Broadway Borough Manhattan House No(s) 65 Challenger Information Optional. Note to all challengers: This form will be scanned and posted to the Department's website. Last Name Janes First Name George Middle Initial M Affiliated Organization Prepared for: Tribeca Trust E-Mail george@georgejanes.com Contact Number 917-612-7478 Description of Challenge Required for all challenges. Note: Use this form only for challenges related to the Zoning Resolution Initial challenge Appeal to a previously denied challenge (denied challenge must be attached) Indicate total number of pages submitted with challenge, including attachments: 23 (attachment may not be larger than 11" x 17") Indicate relevant Zoning Resolution section(s) below. Improper citation of the Zoning Resolution may affect the processing and review of this Every area measurement in the drawing is demonstratively wrong or highly suspect. Consequently, the building is out of FAR compliance with ZR 111-20 Describe the challenge in detail below: (continue on page 2 if additional space is required) Please see attached.

<u>Note to challengers:</u> An official decision to the challenge will be made available no earlier than 75 days after the Development Challenge process begins. For more information on the status of the Development Challenge process see the Challenge Period Status link on the Application Details page on the Department's website.

ADMINISTRATIVE USE ONLY		~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~		
Reviewer's Signature:	Date:	Time:	WO#:	

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January 28, 2018

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Rick D. Chandler, P.E., Commissioner Department of Buildings 280 Broadway

New York, NY 10007

RE: Zoning Challenge 65 West Broadway Block 133, Lot 15 Job No: 121190497

Dear Commissioner Chandler:

At the request of Tribeca Trust, a community-based organization that promotes responsible development in New York City, I have reviewed the zoning diagram and related materials for the new building to be constructed at 65 West Broadway. My firm regularly consults with land-owners, architects, community groups and Community Boards on the New York City Zoning Resolution, and I have been a member of the American Institute of Certified Planners for the past 20 years.

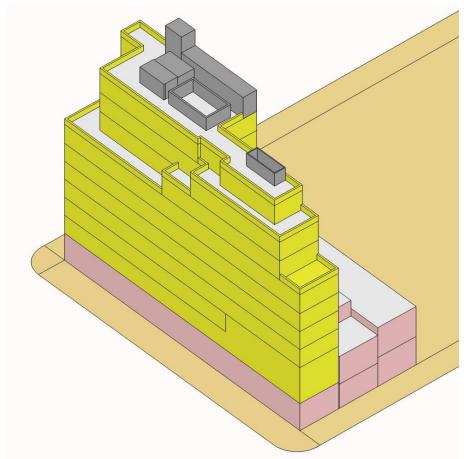
Summary of findings

The area measurements found in the drawing are either demonstrably incorrect, or are highly suspect. Consequently, the Department of Buildings ("DOB") should require a corrected ZD1 that demonstrates zoning compliance. This new ZD1 should include information that is missing on the current ZD1, including the zoning district, its maximum FAR, the special district and information on the two existing buildings that will stay on the zoning lot, which are not shown on the ZD1.

Both this drawing and the last drawing I challenged (249 East 62nd Street) have serious errors regarding the *arithmetic* found on the ZD1; all New Yorkers should all find these errors troubling. If professionals are stamping drawings, certifying their accuracy under threat of imprisonment, and they still have arithmetic errors, and these kinds of errors are pervasive, it is a threat to how we do business in NYC. I encourage the DOB to look into what happened here and perhaps consider steps beyond new drawings.

Project summary

The proposed building is on a corner lot along West Broadway and fronting both Warren Street and Murray Street. The building fronts the entire 175.72' along West Broadway, 49.36' along Warren Street, 25.1' along Murray Street. Lot 15 includes two existing buildings that will stay on the lot abutting the building on Murray Street. The zoning district is C6-2A in the Tribeca Special Mixed Use District. The district allows a maximum FAR of 5.0 (ZR 111-20).



The following shows an axonometric view of the building my office modeled:

Axonometric view of the building proposed in traditional land use colors

The building proposed is a quality housing building in a contextual building envelope with a maximum height of 120 feet (ZR 23-662). The proposed building is notable for the extensive amount of non-zoning floor area ("NZFA") being claimed. Excluding the cellar and below grade areas, the 58,121 SF building shows 11,344 SF of non-zoning floor area, or 19.5% of the total floor area.

Errors in application materials

The ZD1 has many errors ranging from the significant to the trivial. It will need to be remade to properly describe the building and DOB should instruct the applicant to correct all errors. Minor errors include:

- Zoning district/special district is not named.
- The wrong section of the zoning resolution is referenced throughout (the applicant means section 23 not 123).
- FAR compliance cannot be demonstrated with the information provided in the ZD1 alone because the maximum FAR of the zoning district is not shown, and there is no information provided on the buildings to remain on

the zoning lot.

More seriously, the total "Building Code Gross Floor Area" shown below is not the sum of all Gross Floor Area ("GFA") numbers in the table:

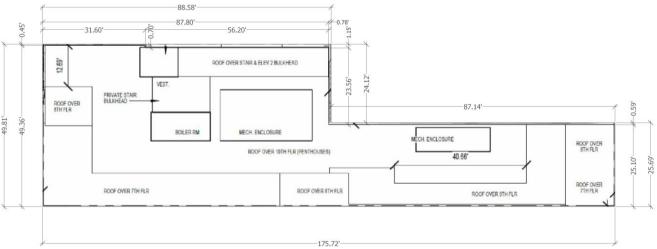
	Building Code Gross		Zoning Floor Area (sq. ft.)				
Floor Number	Floor Area (sq. ft.)	Use Group	Residential	Community Facility	Commercial	Manufacturing	FAR
SUB	5715	2, 6					
CEL	4069	2, 6					
001	6281	2, 6	877		4910		.52
002	6354	2	3964				.36
003	5136	2	4341				.39
004	6349	2	5266				.48
005	6344	2	5257				.48
006	6345	2	5258				.48
007	6344	2	5265				.48
800	5056	2	4348				.39
009	4674	2	4030				.36
010	3601	2	3150				.29
ROF	1637	2	111				.01
Totals	58,121		41,867		4,910		4.24
				Total Zoning F	loor Area	46,777	

Detail of Proposed Floor Area table from ZD1. The number circled is not the sum of the column

When these numbers are added, the actual GFA number is 67,905 SF, a difference of 9,784 SF! It appears that the applicant omitted the cellar and the sub-cellar when tallying this column of numbers. This might seem like a relatively harmless error since this area is not counted as zoning floor area, but consider: Had this column been properly summed and the GFA read 67,905 SF while the Zoning Floor Area ("ZFA") read 46,777 SF for a 10-story quality housing building, the plan examiner might have asked questions about how the dimensions were drawn and how the area was calculated. And I speculate that the applicant did not want the plan examiner to ask these questions because every area measurement we checked appears to be wrong, and every case favors the developer's interest.

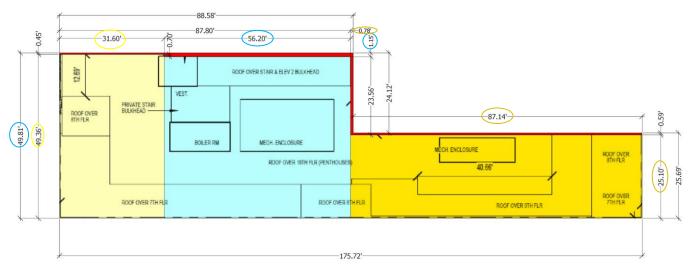
Gross floor area of the ground floor

We started by checking the gross floor area of the ground floor. The following is the detail of the plan found in the ZD1.



Detail of ZD1 plan view

My office then segmented the plan into rectangles where the area can be easily calculated using simple geometry (e.g. length * width) rather than CAD. The yellow, blue and mustard areas are rectangles covering the entire ground floor of the building. The thin red area is open and not counted in gross building floor area.



Detail of ZD1, overlain with rectangles to demonstrate the actual GSF of this floor

Yellow = 49.36*31.6 =	1,559.78
Blue = (49.81-1.15)*56.2 =	2,734.69
Mustard =25.1*(87.14+0.78) =	2,206.79
Gross Floor Area ground floor =	6,501.26
Gross Floor Area claimed in ZD1=	6,281.00

Amount ground floor understated = 220.26 GSF

Please note that this arithmetic is using the dimensions shown on the applicant's drawing (and circled in drawing), and can be done by anyone without computer tools; the 220 GFA understatement of the ground floor is in plain sight. A similar discrepancy is seen on almost every floor, resulting in a building that is about 1,600 GSF larger on floors 1 through 10 than what is shown in the ZD1 table. Considering that ZFA is calculated by deducting exempt areas from the GSF number, this is a significant and material error and will require a new drawing.

But how did such a serious and obvious mistake happen? I am sure that the area calculations were done using CAD and I doubt that the program made an error. It is my speculation that the architect made an error; an error that could have even bigger consequences on the compliance of the building.

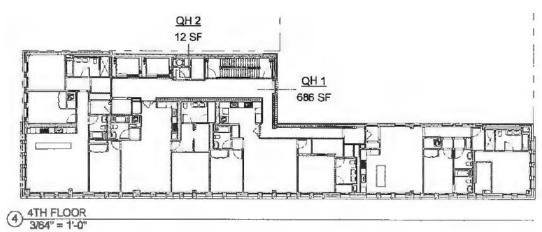
Where do you draw the line?

As a part of the Zone Green text amendments of 2012, up to eight inches of the exterior wall may be excluded from zoning floor area. To account for this in the design process, I have been told that some architectural offices will off-set exterior walls six or eight inches when calculating floor area, so that this eventual non-zoning floor area would be excluded from the calculations. And indeed, when the floor plate for the ground floor is drawn in CAD and then off-set six inches (i.e. made six inches smaller in all dimensions), the GSF produced for the ground floor is within a few feet of the GSF number reported in the ZD1. While this might explain how this error was made, it does beg the question: Was this erroneous practice used anywhere else? This building has an extensive amount of non-zoning floor area. How was that area calculated?

To double-check the NZFA deductions, my office acquired the latest set of filed Z-series plans from the DOB. This set is dated 3/27/2017 and does not match the last ZD1, which is undated, but posted 12/11/2017. The changes in the interim mostly related to changes to the dormers and rooftop and I believe are unrelated to the standards used for the quality housing deductions on the lower floors. These plans show that the building is taking a substantial 6,102 SF of quality housing deductions. I have no complaint with any of the deductions taken, but I have a major complaint with how they are measured.

The following is a detail from "Quality Housing Deductions" Sheet 10.

¹ There is a major discrepancy on the roof, which may not be due to the same reason as the habitable floors, so it has been omitted from these calculations.



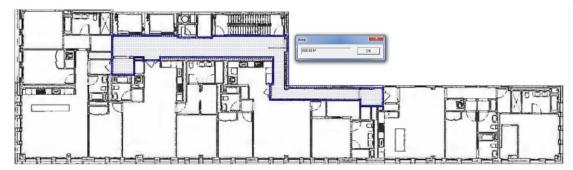
Detail of sheet 10, showing the 4th Floor QH deductions

This 4th floor hallway shows the hallway, labeled QH1 686 SF, as a quality housing deduction. It has a window and so qualifies for the deduction for a day-lit hallway. In addition, because of the number of apartments on the floor, it also qualifies for the density deduction. Both of these deductions are 50%, and when taken together, means that the entire hallway will be removed from zoning floor area. My office has measured the hallway below in CAD:



Detail of sheet 10, delineating the hallway from wall-to-wall. My office shows it as 543 SF.

The blue shaded area shows the area of the hallway according to our delineation, and the area is calculated at 543 SF when the area of the hallway is measured wall-to-wall. The applicant, however, is showing this hallway at 686 SF, which is 143 SF larger than it actually is. How did this happen? It all depends on where the line for the hallway is drawn. When calculating gross floor area, measurements are taken to the very edge of the exterior wall. However, when calculating deductions for things like hallways, shafts, and chases, the measurements must be made wall-to-wall, excluding the wall thicknesses. If we redo the hallway measurement done above to include all abutting wall thicknesses, as shown in the drawing below, we get a different result:



Detail of sheet 10, delineating the hallway from including all walls: the area nearly exactly matches the deduction claimed.

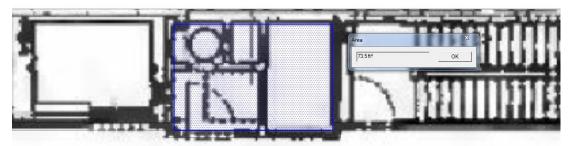
To be clear, this is not the correct way to measure this deduction, but it does produce nearly the result the applicant is claiming. The quality housing deductions claimed for the hallways are substantially overstated. Unfortunately, this measurement error for the deductions are not only limited to the quality housing deductions. The mechanical deductions also suffer from serious overstatement. For example, consider area M-3, which appears to be a small chase and is detailed on sheet 9 of the aforementioned Z-series plans. The chase is outlined in blue below using two different methods.



Detail of sheet 9, showing M-3 in blue. The left is measured to produce the applicant's deduction. The right shows M-3 as it should have been measured.

On the left, we have measured the chase using all the exterior walls. This equals the 14 SF deduction claimed for it. On the right, the chase is measured as it should have been measured, which shows it as less than half the size: 6 SF.

Another and even more extreme example is M-7, a 74 SF deduction claimed in and around the refuse room, shown below:



Detail of sheet 9, showing the area necessary to claim the 74 SF deduction for M-7. This includes the refuse room for which a 12 SF QH deduction is already taken.

The only way we could get to the 74 SF claimed is to include the entire area marked in blue above, which includes the refuse room, for which the applicant is already claiming a 12 SF quality housing credit as QH2. Every area measurement in this drawing is either demonstrably wrong, or should be viewed with suspicion, not because the computer generated calculations are in error, but because the lines delineating spaces were drawn incorrectly.

Are these differences material?

While we cannot evaluate the ZD1 for FAR compliance due to the lack of information on the buildings that will remain on the zoning lot, the Z-series plans include a building survey for the buildings that will remain. These buildings have 8,303.4 ZSF. When this is added to the 46,777 ZSF that the ZD1 lists, the proposal is 55,080.4 ZSF. With a zoning lot of 11,017 SF and 5.0 maximum FAR allowed in this district, only 55,085 SF is allowed here. Just the one hallway puts the entire building out of compliance, to say nothing of the other errors. Clearly, these errors are material to the legality of the building proposed. When the underrepresentation of GFA is combined with the overrepresentation of deducted areas, the in the low thousands of square feet of ZFA overbuilt according to the 5.0 maximum FAR allow under ZR 111-20.

What's next?

As demonstrated, the building proposed is larger than what the ZD1 states and larger than zoning allows; the DOB must require new plans and a new ZD1. Because there was such a clear and extensive measurement error, which would require new building plans, I stopped my review of these plans. Consequently, there may be other significant errors that I did not yet identify.

But other than requiring new plans, should anything else be done? The last zoning drawing my office challenged (249 East 62nd Street, job number 122975995) also had serious errors regarding the *arithmetic* found on the ZD1. And now I am concerned that I did not double-check any of the area measurements found in that drawing. Frankly, these last two drawings have me concerned. Our system only works when we can have confidence in the information found in the drawing and that we are not wondering if that long column of numbers is added correctly!

The ZD1 includes some strong language regarding the consequences for submitting incorrect information, including: "Falsification of any statement is a misdemeanor and is punishable by a fine or imprisonment or both." Filing false information may result in the professional from being barred from filing other applications. Considering the materiality of the errors identified herein, I encourage the DOB to consider investigating what happened here. Was this just an error made by a draftsman improperly using standards? Or was there a willful attempt to take floor area that this property did not generate?

I will consult with my client who may very well be forwarding this on to other agencies. It would be more meaningful, however, if the DOB recognized the seriousness of these errors to our larger system and acted on its own.

Thank you for your attention and hard work to make New York City a better place. Should you have any questions or would like to discuss, please feel free to contact me at 917-612-7478 or george@georgejanes.com.

Sincerely,

George M. Janes, AICP

George M. Janes & Associates

Lynn Ellsworth

For:

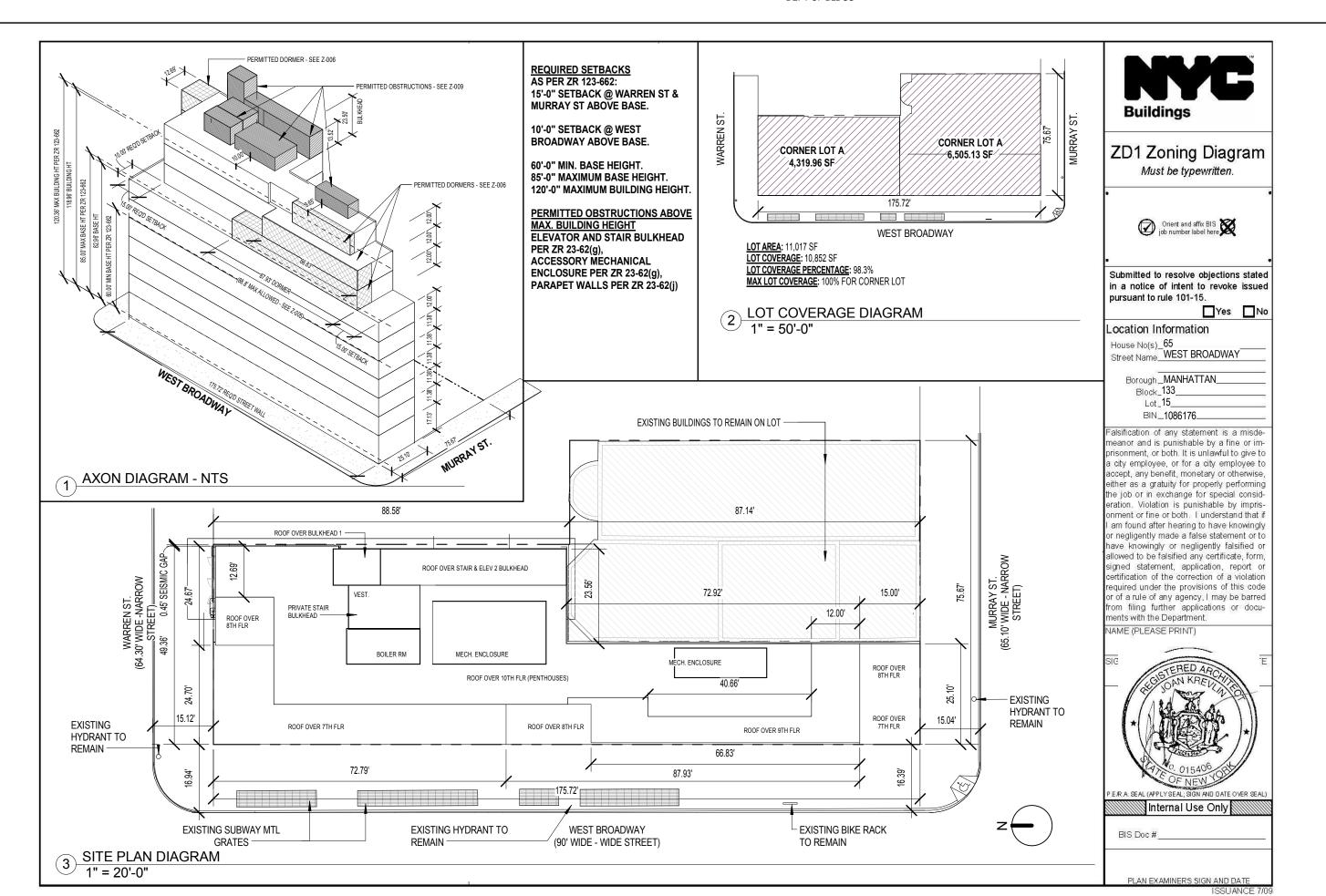
Lynn Ellsworth

Tribeca Trust

Attachments: ZD1 for 65 West Broadway

Z-Series plans for 65 West Broadway







ZD1 Zoning Diagram

Must be typewritten.
Sheet _____ of ____

	Applicant Information Required	• • •					
	Last Name First Name			Middle Initial			
	Business Name			Business Telephone			
	Business Address		Business Fax				
	City	State	Zip	Mobile Telephone			
_	E-Mail			License Number			
2	Additional Zoning Characteris	tics Required as a	pplicable.				
	Dwelling Units	Parking area	sq. ft.	Parking Spaces: Total	Enclosed		
3 1	BSA and/or CPC Approval for Subject Application Required as applicable.						
~ I .	BOA and/or CFC Approval for	Subject Applica	tion Required as	з аррисавіе.			
	Board of Standards & Appeals (B		tion Required as	з аррисаше.			
		SA)	o		_		
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	Board of Standards & Appeals (B	SA) Cal. No Cal. No	0	Authorizing Zoning Section72-21 Authorizing Zoning Section	_		
	Board of Standards & Appeals (B: Variance Special Permit	SA) Cal. No Cal. No Waiver Cal. No	o	Authorizing Zoning Section 72-21 Authorizing Zoning Section General City Law Section	_		
1	Board of Standards & Appeals (Bard of Standards & Appeals (Bardiance) Special Permit General City Law	SA) Cal. No Cal. No Waiver Cal. No	0 0	Authorizing Zoning Section 72-21 Authorizing Zoning Section General City Law Section	_		
1	Board of Standards & Appeals (B: Variance Special Permit General City Law Other	SA) Cal. No Cal. No Valiver Cal. No Cal. No	0 0	Authorizing Zoning Section 72-21 Authorizing Zoning Section General City Law Section	_		
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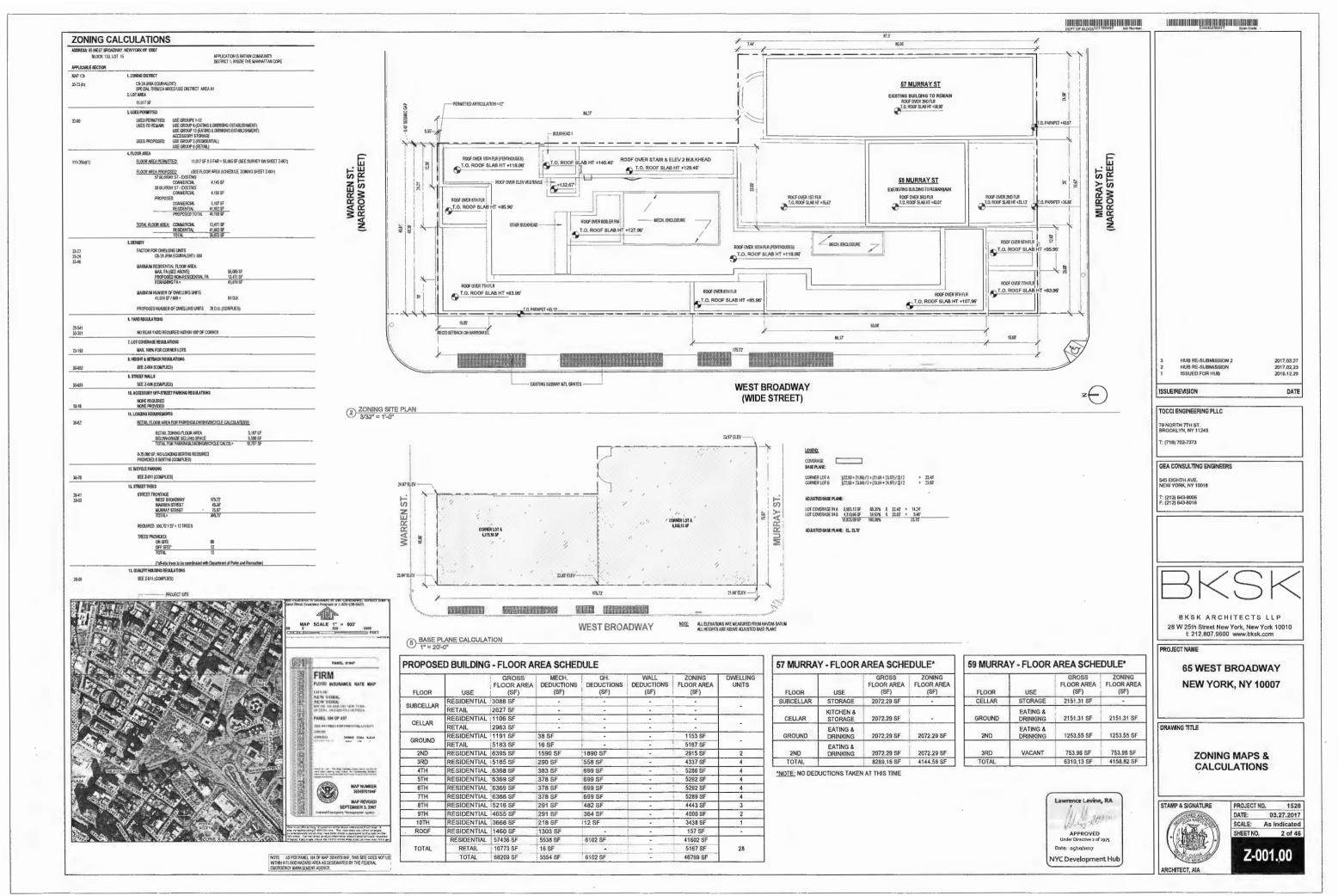
	Building Code Gross		Zoning Floor Area (sq. ft.)				
Floor Number	Floor Area (sq. ft.)	Use Group	Residential	Community Facility	Commercial	Manufacturing	FAR

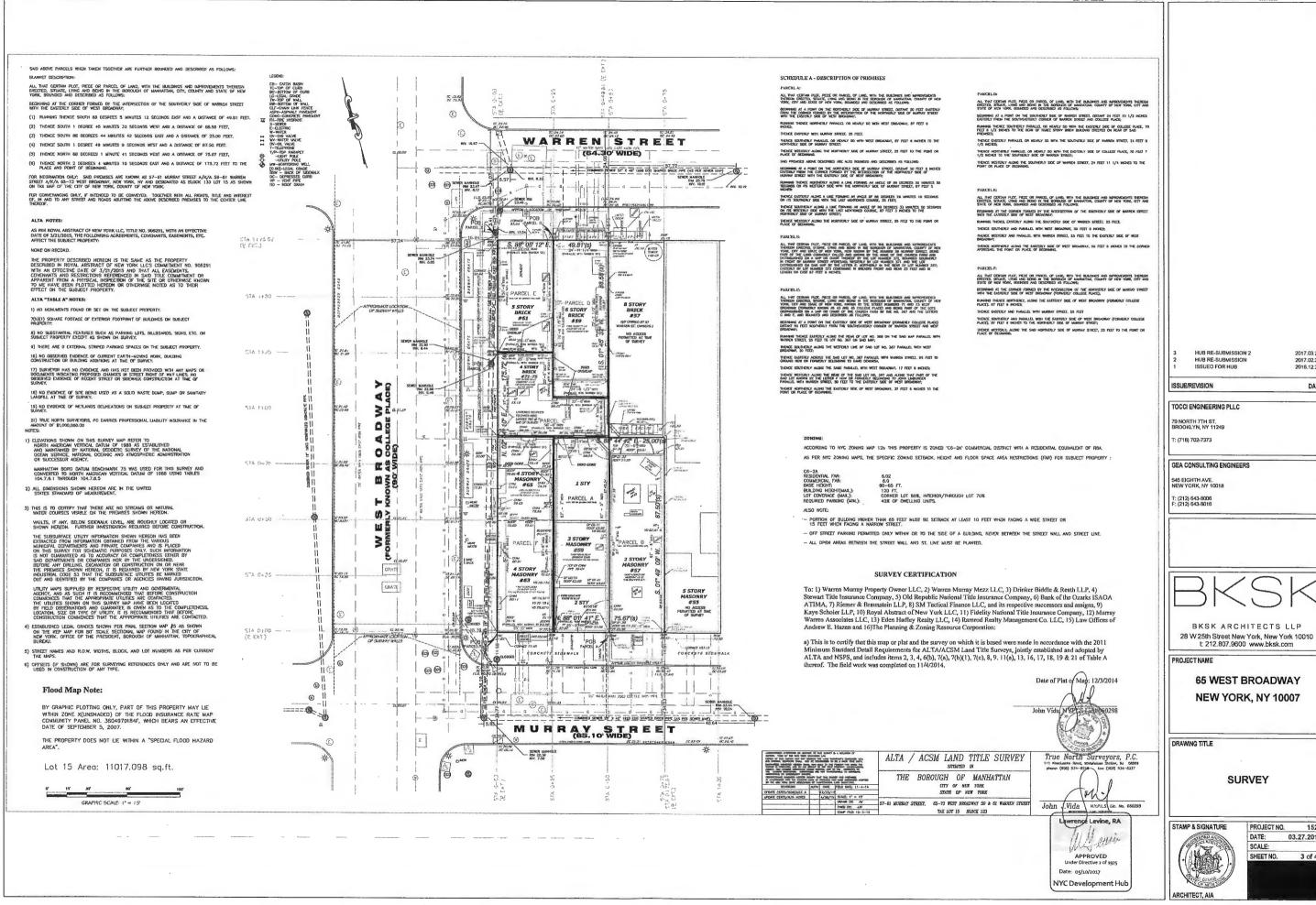
ZD1	Sheet of
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4 Proposed Floor Area Required for all applications. One Use Group per line.

	Building Code Gross		Zoning Floor Area (sq. ft.)				
Floor Number	Building Code Gross Floor Area (sq. ft.)	Use Group	Residential	Community Facility	Commercial	Manufacturing	FAR
_							
Totals							

Total Zoning Floor Area





2017 02 23

2016.12.29

SURVEY

PROJECT NO. DATE:

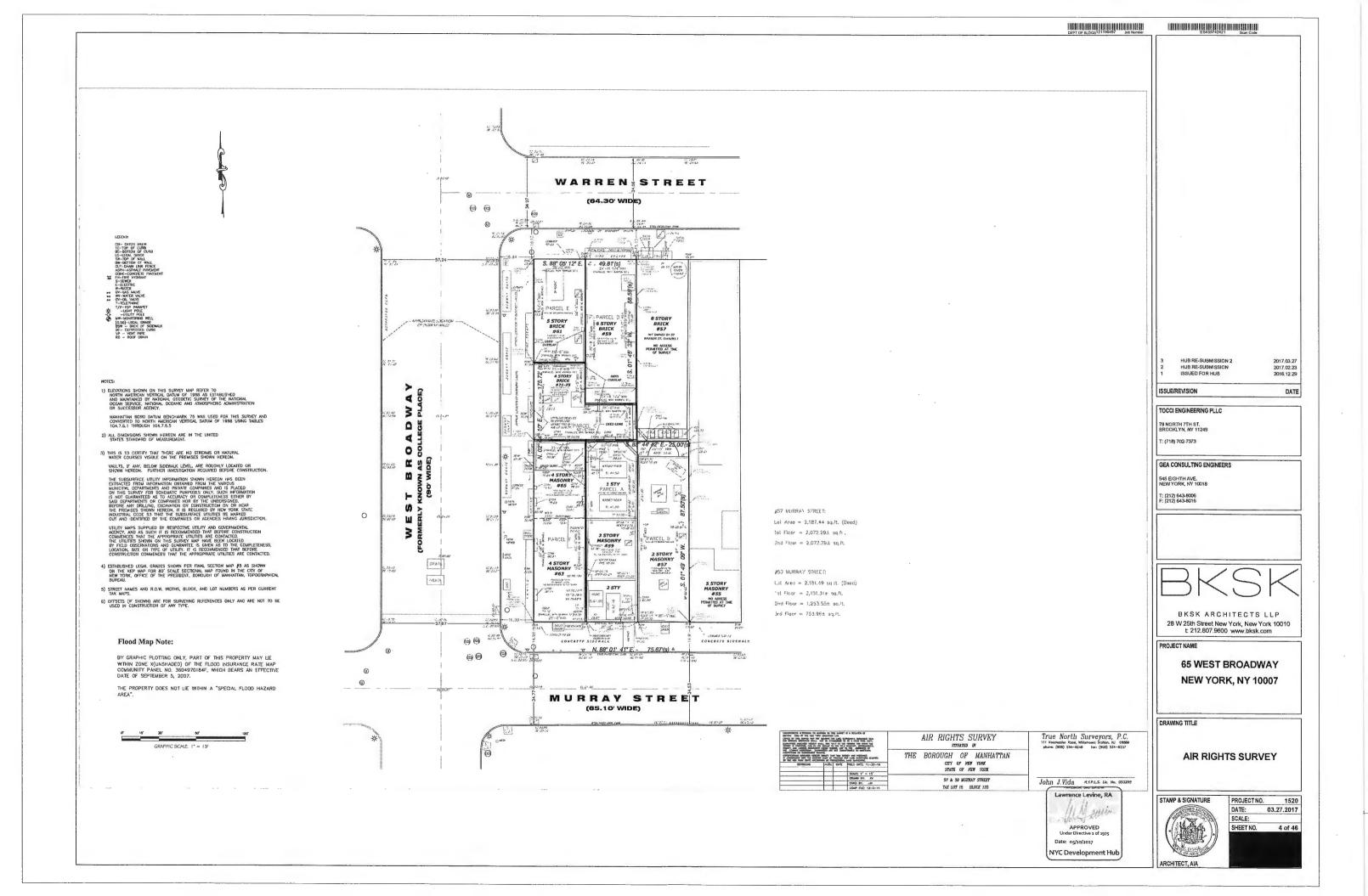
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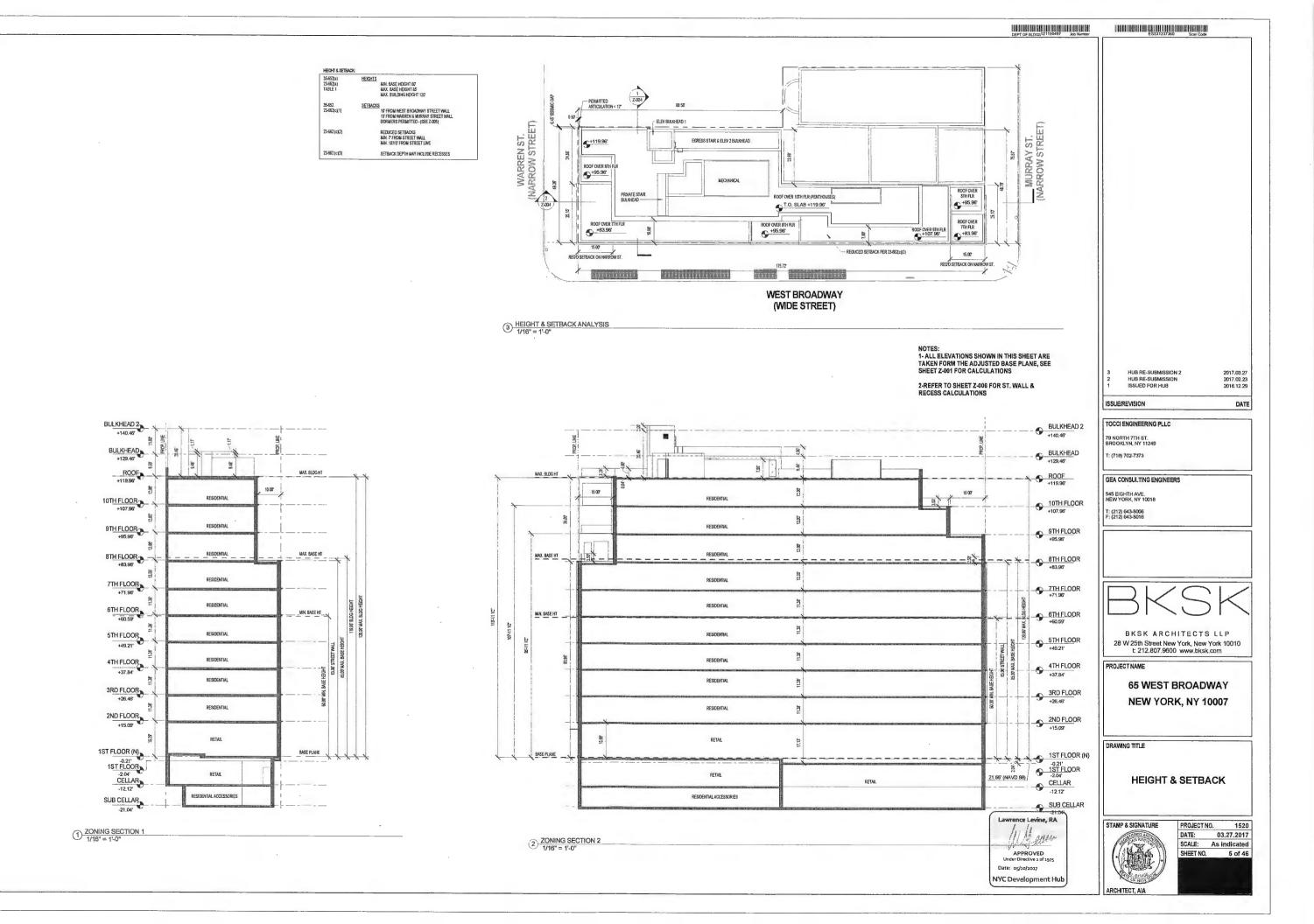
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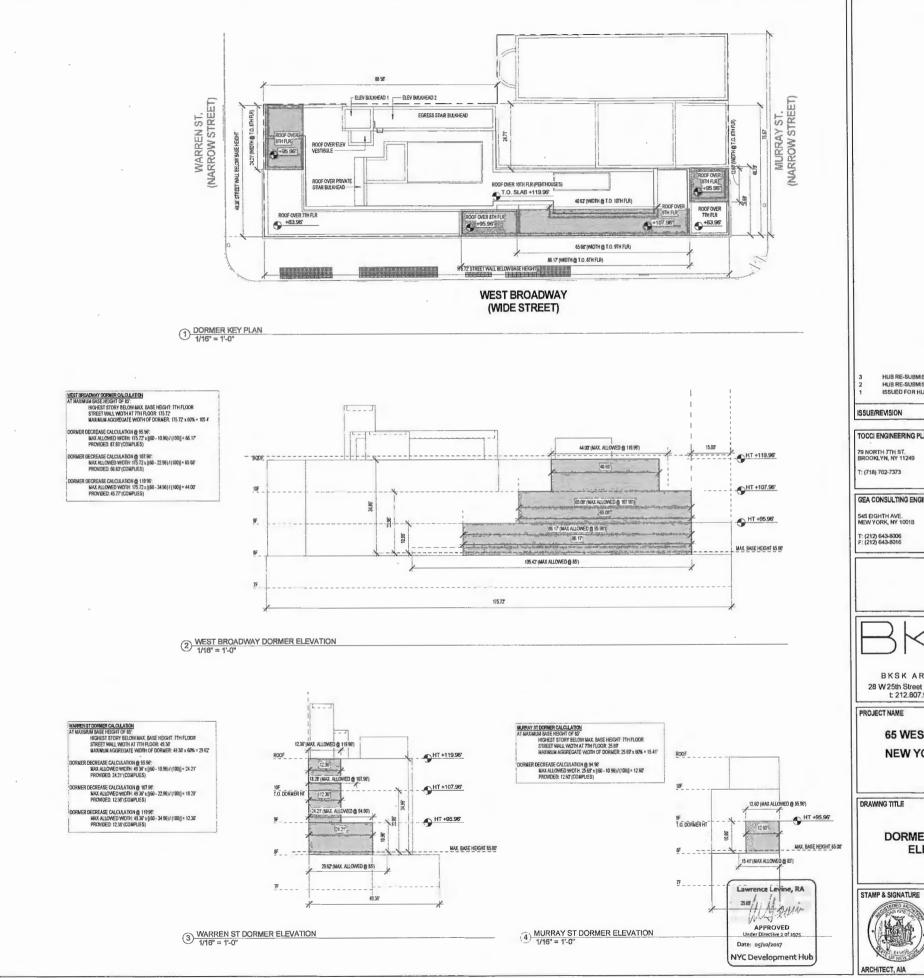
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DEPT OF BLDGS121190497 Job Number

2017.02.23 2015.12.29

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DRAWING TITLE

DORMER KEY PLAN & **ELEVATIONS**

1520 PROJECT NO. DATE: 03.27.2017 SCALE: 1/16" = 1'-0" SHEET NO. 6 of 46

