CITY PLANNING COMMISSION

March 30, 2015, Calendar No. 7 C 140404 ZSM

IN THE MATTER OF an application submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711 of the Zoning Resolution to modify:

1. the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors; and

2. the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks);

of a proposed mixed use building with a 10-story segment and a 24-story segment, on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20, 60 and 1001-1005), in an M1-6 District, within the Ladies' Mile Historic District, Borough of Manhattan, Community District 5.

This application for a special permit was filed by 39 West 23rd Street, LLC on May 21, 2014 to facilitate the development of an approximately 105,615 square foot, 278 foot tall residential building with a 50-space automated accessory parking garage on a through block site in the Ladies Mile Historic District.

RELATED ACTION

In addition to the special permit which is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following application, which is being considered concurrently with this application:

C 140405 ZSM	A Special Permit pursuant to Sections 13-45 and 13-451 to allow an accessory parking garage containing up to 50 spaces to be located within the building.

BACKGROUND

39 West 23rd Street, LLC proposes two special permits to facilitate construction of a 24-story and 10-story, approximately 105,615 square foot mixed-use building (the "building') at 39-41 West 23rd Street (Block 825, Lots 20, 60, 1001-1005) on a through-block between Fifth and Sixth Avenues in the Midtown South neighborhood in Manhattan Community District 5. The building would be located at 39-41 West 23rd Street on lots 20 and 60 (the "development site") and is proposed to contain 39 market rate dwelling units, 4 affordable rental units, approximately 800 square feet of ground floor retail space, and 50 parking spaces. The building would have a built FAR of approximately 10.0 and will utilize approximately 24,000 square feet of excess development rights conveyed from Lots 1001-1005 pursuant to a 2005 zoning lot merger.

The development site has a combined lot area of 8,061 square feet and currently contains a public parking lot with approximately 42 spaces, 42 feet of frontage on West 23rd Street and 38 feet of frontage on West 24th Street. The development site and adjacent Lots 1001-1005 together comprise a single zoning lot (the "project area"). The project area has a lot area of 12,480 square feet, with approximately 86 feet of frontage on West 23rd Street and approximately 38 feet of frontage on West 24th Street. Lots 1001-1005, located adjacent to Lot 20 on West 23rd Street, measures approximately 4,419 square feet and contains a five-story, 15,000 square feet residential building to remain.

The project area is located entirely within an M1-6 zoning district, which is bordered by a C6-4M district across West 23rd Street to the south, a C5-2 district in the midblock to the east and C6-3A and C6-4X districts in the midblock to the west. Residential uses are not allowed in the M1-6

district and community facility uses are limited to Use Group 4 facilities. The maximum FAR within the district is 10.0.

One of the requested special permits (C 140404 ZSM) would be pursuant to Section 74-711 ("Landmark preservation in all districts") to modify (i) the rear yard equivalent regulations of Section 43-28, the rear yard regulations of Section 43-313 and the street wall height and sky exposure plane regulations of Section 43-43, and (ii) the regulations of Section 42-10 to allow Use Group 2 residential use in the building. The related special permit (C 140405 ZSM) would be granted pursuant to ZR Section 13-45 and 13-451 to allow an accessory parking garage containing up to 50 spaces to be located within the building.

Previously for a portion of the development site (lots 20 and 1001-1005) the applicant obtained a special permit approved by the Commission pursuant to Section 74-711 on December 6, 2006 (ULURP No. C 060310 ZSM) and adopted by the City Council on February 1, 2007. That 2006 special permit waived (i) the use regulations of Section 42-10 to allow Use Group 2 residential use; and (ii) the height and setback regulations of Section 43-43 and the rear yard regulations of Sections 43-26 and 43-28. The 2006 project would have facilitated a building similar to the proposed building, as it would have had a 21-story tower fronting on West 23rd Street and a 3-story building fronting on West 24th Street. The special permit was renewed in 2012 for a three-year term terminating on March 26, 2015 and currently has an application pending to renew for another three-year term. The project approved under this 2006 Special Permit was never built.

In 2011, the applicant acquired Lot 60 and proposed to modify the proposed building design which would require a new special permit which is the subject of this application. The Landmarks Preservation Commission (LPC) approved a Certificate of Appropriateness No. 15-0399 for the proposed building on October 29, 2013 (expiration date Oct. 15, 2019) under Docket No. 15-0045.

The area surrounding the project area consists generally of commercial, industrial and mixed-use developments. From north to south along Broadway and Fifth Avenue, between West 26th Street and West 23rd Street, the dominant use is commercial and consists primarily of office tenants. Ground floor retail is a dominant feature throughout the neighborhood.

Open space within the area includes Worth Square and Madison Square Park to the northeast of the project area. New residential projects in the neighborhood include the 60-story One Madison Park building and a 6-story addition to the formerly 16-story International Toy Center building at 1107 Broadway (also known as Ten Madison Square West). Public facilities and institutions located within the area include the Masonic Temple at 71 West 23rd Street, the Cathedral of St. Sava at 20 West 26th Street, Touro College, at 27-33 West 23rd Street, and the American Institute of Graphic Arts, at 164 Fifth Avenue, and the Flatiron Building, at 175 Fifth Avenue. The area surrounding the project area is dominated by loft buildings that were previously used for manufacturing uses but are now largely commercial in use.

The building to the west of the proposed project, 43-47 West 23rd Street, is an eight-story, through-lot, office building. The building to the east with frontage on West 24th Street, 14-18 West 24th Street, is a six-story brick industrial loft building. The building to the east with frontage on West 23rd Street, 27 West 23rd Street, is a six-story industrial building built on a through-lot.

Description of the Proposed Building

The building will contain residential and retail floor area as well as a below-grade parking garage. The two portions would be connected by a shared ground floor level and have one entrance on West 23rd Street and one entrance on West 24th Street. The retail space and main residential lobby would be located on the West 23rd Street frontage. The gate to the parking facility would be located on the ground floor of the 24th Street portion of the building and would exit via a 22-foot wide curb cut.

The 23rd Street portion of the building would have an 18-story street wall, which would rise to a height of 195 feet 9 inches (including a 10-foot 3-inch screen wall at the 18th floor). It would then set back 15 feet before rising to its full height of 24 stories and 278 feet. On its eastern façade, the building would cantilever at the 14th floor up to approximately 12 feet over the building located on Lots 1001-1005 to the east (at 61 feet 10.5 inches above the roof of the adjacent building).

The ground floor of the 23rd Street portion would contain the 800-square foot retail space, with an entrance at the western end of the West 23rd Street frontage, the residential lobby, with an entrance at the eastern end of the West 23rd Street frontage, back of house uses, and a connection to the 24th Street portion of the building and the open area accessible to tenants. Floors 2 through 24 of the 23rd Street portion would contain 35 residential units, 2 of which would be affordable.
The 24th Street portion of the building would have a 10-story street wall, which would rise to a height of 117 feet 0 inches (including a 10-foot 6-inch screen wall at the 10th floor). It would then set back 11 feet before rising to its full height of 130 feet 8 inches, with a mechanical bulkhead above.

The ground floor of the 24th Street portion would contain the accessory parking garage on the eastern side and a secondary residential entrance on the western side and a connection to the 23rd Street portion of the building and the open area accessible to tenants. The garage would exit to West 24th Street via a 22-foot wide curb cut. Floors 2 through 10 of the 24th Street portion would contain 8 residential units, 2 of which would be affordable.

The ground floor of the building would include a tenant-accessible open yard in the property, adjacent to the connection between the two building portions. There would also be a terrace between the building portions accessible from the amenity space on the second floor of the 23rd Street portion. Private terraces would be located on the 18th floor of the 23rd Street portion and on the 2nd and 10th floors of the 24th Street portion.

The cellar and sub-cellar areas would contain the parking spaces for the garage, 29 bicycle parking spaces for the tenants in the Building, and other accessory residential space. Tenants would access the bicycle parking spaces via the residential tenant elevator and a key FOB system.

The building would also include a below-grade accessory parking garage with up to 50 parking spaces, accessed by an existing curb cut on West 24th Street. The parking facility would utilize an automated turntable system for drop-off and pick-up of automobiles.

Tenants would access the garage via the entrance on West 24th Street and they would have access via a garage door opening device that they would keep in their cars. Upon entering, they would wait to access the turntable via one of the two reservoir spaces. The turntable would be in an enclosed and secured area that has a door that can be mechanically opened by the resident with the use of a FOB or key code (depending on the system that is specified). The gate will open when the entry port is ready to receive the car entering the parking system or when it is ready for a user to drive away a car that has just been retrieved. The gates remain closed while the system is in operation.

The resident would drive to the entrance and enter the code which will open the gate to the turntable. After the gate is open the resident would be able to pull the vehicle forward to the open parking palette, turn off the engine and exit the turntable room. Once the turntable room is unoccupied the gate would close and a sensor system would scan the vehicle to ensure that there are no people or animals in the car and will confirm vehicle make and model. Once confirmed, the turntable will begin its automated operation. The average cycle time for this system is 4 minutes. The garage would also include pedestrian safety measures such as a speed bump and a stop sign at the egress, and a pedestrian warning system at both the entrance and the egress.

The applicant proposes the following actions to facilitate the project:

Special Permit for Use and Bulk Waivers (C 140404ZSM)

The applicant requests a special permit pursuant to Section 74-711 to waive the following sections of the Zoning Resolution:

- The use regulations of Section 42-10 (Use) to allow Use Group 2 residential use in the Building, which is not allowed as-of-right in the M1-6 zoning district;
- The rear yard regulations of Section 43-28 (Special Provisions for Through Lots) and Section 43-313 (For Zoning Lots With Multiple Rear Lot Lines).
    - On the portion of the zoning lot located between the West 23rd and West 24th Street portions of the building, a 40-foot rear yard equivalent is required midway (or within five feet of being midway) between West 23rd Street and West 24th Street (Section 43-28(a)). The building would provide a rear yard equivalent that ranges in depth from 48 feet 9 inches in the eastern portion, to 46 feet 6 inches in the western portion, with the unobstructed portion throughout equal to at least 40 feet 0 inches. While this condition satisfies the 40-foot rear yard equivalent requirement, the centerline of the proposed rear yard equivalent would not be located within five feet of the centerline of the site.
    - A 20-foot rear yard is required where the lot line of the Building abuts the rear lot line of 22 West 24th Street, the five-story commercial structure west of the Project Area (Section 43-313). The portion of the Building located on West 24th Street extends 4 feet 9 inches into the 20-foot required rear yard.
- The height and setback regulations of Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks), as the proposed development penetrates the maximum street wall height and sky exposure planes on both West 23rd and West 24th Streets. As discussed above, the 23rd Street portion of the building would have an 18-story street wall, which would rise to a height of 195 feet 9 inches (including a 10-foot 3-inch screen wall at the 18th floor). The 23rd Street portion would then set back 15 feet before rising to its full height of 24 stories and 278 feet. The portion of the 23rd Street portion above 85 feet and within 15 feet of the street line, or below the 5.6 to 1 sky exposure plane, requires modification of the height and setback regulations. The 24th Street portion of the building would have a 10-story street wall, which

would rise to a height of 117 feet 0 inches (including a 10-foot 6-inch screen wall at the 10th floor). The 24th Street portion would then set back 11 feet before rising to its full height of 10 stories and 130 feet, eight inches, with a mechanical bulkhead above. The portion of the 24th Street portion above 85 feet and within 20 feet of the street line or below the sky exposure plane of 2.7 to 1 would require modification of the height and setback regulations.

Special Permit for Parking (C140405ZSM)

The applicant requested a special permit pursuant to Sections 13-45 and 13-451 to allow an accessory parking garage containing up to 50 spaces to be located in the cellar of the building.

In order for the Commission to permit the public parking garage it shall make certain findings pursuant to Section 13-45 (generally relating to the facility, the location of its entrances and how they affect traffic flow, and whether the facility is consistent with the character of the streetscape) and pursuant to Section 13-451 (relating to whether the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility).

In order to address the findings for Section 13-451(a), the applicant, using methodology provided by the Department of City Planning (DCP), examined the change in residential units and residential parking spaces between 2003 and 2016 ("the lookback period", which includes the expected completion date of the project in 2016) to show that the proposed parking garage of 50 spaces would not be excessive. Using data from the Department of Buildings (DOB), the Department of Consumer Affairs (DCA), and additional research performed by the applicant, the study found that during the lookback period there was and would be an increase (without the project) of 4,406 residential units and an increase (without the project) of 493 residential parking spaces within 1/3 mile of the site for a ratio of 11.3% of new parking spaces to new residential units. Generally, DCP staff has seen a ratio of 20% or above as "excessive in relation to recent trends". With the proposed 50 parking spaces and 43 residential units on the site, the ratio of new

parking spaces to new residential units would increase to 12.1%. The applicant's study also took into account a recently approved application for the site located at 7 West 21st Street (C 150077 ZSM) and in consideration of that proposal the ratio would increase to 14.2%.

ENVIRONMENTAL REVIEW

This application (C 140404 ZSM) in conjunction with the applications for the related action C 140405 ZSM was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 14DCP167M. The lead is the City Planning Commission.

On March 27, 2015, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes modifications to the Proposed Actions. The Revised EAS concluded that the proposed actions with modifications would not result in any new or different significant adverse environmental impacts not already identified in the previous Negative Declaration. A Revised Negative Declaration was issued on March 30, 2015. The Revised Negative Declaration reflects the modified application.

On March 27, 2015, a Revised Environmental Assessment Statement (EAS) was issued which describes and analyzes changes to the Proposed Project. The Revised EAS concluded that the proposed changes to the project as proposed would not result in any new or different significant adverse environmental impacts not previously analyzed under the conclusions of the October 2014 EAS. A Revised Negative Declaration was issued on March 30, 2015. The Revised Negative Declaration reflects the modified application.

UNIFORM LAND USE REVIEW

This application, along with the related ULURP application (C 140405 ZSM), were certified as complete by the Department of City Planning on October 20, 2014, and were duly referred to Manhattan Community Board 5 and the Manhattan Borough President, in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Manhattan Community Board 5 held a public hearing on this and the related action on November 5, 2014 and, on December 11, 2014, by a vote of 32 in favor, 0 opposed, and 1 abstaining, adopted a resolution recommending approval of the bulk modifications special permit. On the same date, by a vote of 18 in favor, 15 opposed, and 1 abstaining, the Board adopted a resolution recommending approval of the parking special permit. On the same date, by a vote of 23 in favor, 10 opposed, and 1 abstaining, the Board adopted a resolution recommending disapproval of the use modifications special permit. The Board's resolution on the use modification noted that:

- This immediate area has been traditionally a manufacturing and commercial district and CB5 has consistently advocated for the importance of supporting commercial uses (allowed as of right in the M1-6) and not allowing piecemeal encroachment of residential inside an M1-6 district;
- The 1990s rezoning along 6th Avenue from M1-6 to C6-4X allowing for as-of-right residential use was carefully developed and considered and did not include the midblock between 23rd Street and 24th St because CB5, the City Council and the City Planning Commission believed it was essential to encourage commercial uses;
- In keeping with CB5's policy of supporting a vibrant mixed-use community district, CB5 opposed the 2006 application for a special permit that would have allowed residential use on the Development Site at 39-41 West 23rd Street;
- This area has been traditionally a manufacturing and commercial district, but between 2003 and 2013 there have been 31 new residential developments within a ½ mile radius; and each addition of residential unit (though individually not meeting the environmental threshold for adverse impact) has an accretive impact on educational, community and

transportation resources of the district and special permit applications for residential use reflect a piecemeal approach, rather than careful consideration of the entire neighborhood that is required for sound urban planning consistent with CB5's Statement of District Needs;

- We are concerned that ZR 74-711 will be used to allow for conversion of the remaining Class B and C office space in Ladies Mile Historic District into residential which would threaten the currently mixed-use nature of the Historic District;
- The application for a discretionary special permit to allow for residential would result in the development of full floor luxury condos and would include no provision of units affordable to low- or moderate-income households;
- A commercially viable building with conforming uses can, without question, be developed on this site with the bulk modifications sought pursuant to 74-711 by the Applicant and supported by CB5; and
- Because commercially viable conforming uses are feasible on this site, a waiver to allow for residential use to facilitate a luxury condo development furthers NEITHER a landmark preservation interest NOR goals of equitable economic development or inclusionary housing;

Borough President Recommendation

This application (C 140404 ZSM) and the related action were considered by the Manhattan Borough President, who issued a recommendation on January 27, 2015 approving the special permit for bulk modifications, and disapproving the special permit for use modifications and the special permit for parking with the following comments:

- The Borough President has previously raised serious concerns about using special permits as a means of piece-meal rezoning of an area to permit a non-conforming use and supports CB5's concern in the present instance. Here, the mid-blocks of West 23rd and West 24th Streets, as well as blocks north, have been maintained as part of an M1-6 manufacturing district and has provided a supply of Class B and Class C office space to firms.
- The present proposal, while immeasurably more contextual and aesthetically appealing than the subject of the 2006 special permit, will provide substantially fewer residences - a total of 40 residents on 32 floors. According to the application, the apartments will average approximately 2,800 square feet each. This raises an important policy issue of whether the landscape and uses of an area should be changed for the benefit of so few.

- In the case of the waiver to allow residential use in the proposed development, the Borough President is not convinced that the proposed development would not have an adverse impact on the character of the neighborhood and Historic District and therefor on conforming uses.
- The Borough President agrees with the concerns raised by the Community Board with the piecemeal rezoning by special permit to residential of districts in which residential use is prohibited. The Ladies' Mile Historic District is known for its commercial character. The mid- block buildings on West 23rd Street have a substantial amount of commercial use above the first and second floor. As stated in previous recommendations criticizing the use of Special Permits pursuant to ZR Section 74-711 to change uses from manufacturing and Joint Live Workspace for Artists in SoHo into residential uses (102 Greene Street C 140353 ZSM), if the CPC and Community Board believe these mid-block manufacturing areas should be rezoned a proposal should be put forward and discussed. And such a proposal should include a plan for affordable housing where new residential units are being created where none were previously permitted.

The letter also explained, with regards to the parking special permit:

- (w)hile automated designs can be more efficient in allocating garage space for parking, the proposed design does not describe any space being available to load or unload commercial or personal vehicles of their cargo or passengers. It is conceivable that a vehicle containing fully mobile people could be expected to quickly exit and leave the turntable to file the vehicle away, but loading or unloading a person who is has a physical disability or is fragile will create a bottleneck to the system. The same can be said for vehicles that are being loaded with a great deal of cargo such as a personal car with luggage or a commercial vehicle with merchandise.

City Planning Commission Public Hearing

On January 21, 2015 (Calendar No. 4) the City Planning Commission scheduled February 4, 2015 for a public hearing on this application (C 140404 ZSM). The hearing was duly held on February 4, 2015 (Calendar No. 20) in conjunction with the public hearings on the application for the related action (C 140405 ZSM).

There were two speakers in favor of the application and two in opposition.

The attorney for the applicant described the 2006 approval, the differences between that proposal and the current one, and the addition of Lot 60. He noted that the site wasn't feasible for office construction but it could possibly be the site of a hotel. He explained that the applicant was in discussions with DCP and HPD to find a way for this proposal to contribute to the provision of affordable housing. He also stated that this development would not take a large useful site off the market because a viable commercial site would need to have a lot width wider than this one. The architect for the project spoke regarding the neighborhood's built environment and the proposed design in relation to that environment. He also stated that the building was designed to improve the health of the residents via daylight exposure, filtered air, storm water collection and that the building would at a minimum achieve LEED Silver.

A representative of the Manhattan Borough President's Office spoke reiterating his office's support for the bulk modifications but not the use waiver nor the parking special permit. A representative of Manhattan Community Board 5 also attended and reiterated the rationale, expressed in their recommendation to the Commission, as to why the Board did not support the use waiver.

CONSIDERATION

The Commission believes that the grant of this special permit (C 140404 ZSM), in conjunction with the application (C 140405 ZSM), is appropriate.

Section 74-711 Special Permit – C 140404 ZSM

To grant the special permit, the Commission must find that such bulk modifications have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access

to light and air; and that such use modifications have minimal adverse effects on the conforming uses within the building and in the surrounding area.

Bulk Modification

The Commission believes that the building would have minimal adverse impacts. The building is proposed to be 278 feet tall and with regards to its height the Commission believes that the building is compatible with other taller buildings in the area, including the 292-foot tall Masonic Temple at the western end of the block at West 23rd Street and Sixth Avenue and the 180-foot tall former Toy Center building located on the eastern end of the block at West 23rd Street and Fifth Avenue. Other taller buildings located nearby include the 300-foot tall Flatiron Building and the 345-foot tall Madison Green Building, both at East 23rd Street and Broadway, and the 621-foot tall One Madison Park at East 23rd Street and Madison Avenue. With regards to the heights of buildings specifically on West 24th Street, the Building would complement the built form of the block but for the buildings on the Avenues (the Masonic Temple and the Toy Center building) which are much taller than the proposed 130 foot, eight inch tall West 24th Street portion.

The Commission believes that the encroachment into the sky exposure plane for both sides of the building is appropriate. The maximum streetwall height in this district is 85 feet and the 23rd Street portion rises sheer to 195 feet, six inches while the 24th Street portion building rises sheer to 117 feet. The Commission notes that both buildings penetrate the sky exposure plane as well. The Commission believes, however, that the encroachment beyond the street wall height limitation and the penetration of the sky exposure plane does not produce a building that is unusual for this part of Midtown South in that buildings in this neighborhood generally rise sheer with little or no setback. This can be seen particularly on West 23rd Street and West 24th Streets between Fifth and Sixth Avenues. The Commission also notes that the sky exposure plane penetration is not egregious, with a very slight penetration above 85 feet on the 24th Street portion while on the 23rd Street portion about half of the penetration volume occurs above the point (at 195 feet 9 inches) where the building is set back 15 feet from the streetwall.

The Commission also believes that the penetration into the rear yard equivalent between the two portions is minimal and should not affect the residential uses in the building. The Commission notes that the only residential windows that will face onto the rear yard are those in the building. The Commission acknowledges that the waiver is required because the 40 feet between the two portions is not centered between the two street lines as per the rear yard equivalent regulations, but the Commission notes that at all points of the building there would be at least 40 feet between the two portions and this distance will ensure that residents will have sufficient light and air. The Commission also believes that the rear yard waiver is appropriate in that the area lacking the full rear yard is approximately 4.5 feet wide and the building facing the rear yard is an office building, ensuring that there would not be a loss of light and air for a neighboring residential building.

Use Modification

The Commission believes that such use modifications have minimal adverse effects on the conforming uses within the building and in the surrounding area and, therefore, the use waiver is appropriate.

The Commission believes that while there is still some presence of manufacturing in the M1-6 district in which the proposed building is located, there is virtually none on West 23rd Street and the trend for this neighborhood has been a very slow conversion of some of the manufacturing space to residential uses. The proposed residential use is consistent with the land uses south of the site, along West 23rd Street, and north along Sixth Avenue between West 23rd Street and West 31st Street, which was rezoned from an M1-6 to a C6-4X in 1995 to allow for as-of-right residential use. Additionally, the residential use proposed for this site would be consistent with the 2004 Ladies Mile Rezoning which rezoned midblocks south of this site from West 17th Street to West 22nd Street M1-6M to C6-4A and the 2006 Madison Park West rezoning of Broadway between West 23rd and West 25th Streets from M1-6 to C5-2 which included the Toy Center buildings. The Commission notes that there is already a presence of residential use on the block where the

Development Site is located with 40 West 24th Street (24 units) and a larger presence of residential on the block immediately to the north, including 1107 Broadway (165 units), 7 West 24th Street (7 units), 15 West 24th Street (12 join work/live units), 41 West 24th Street (12 units), and 736 Sixth Avenue (301 units). The Commission believes that the addition of the 43 units would not adversely affect the area, especially given the fact that the area already has an appreciable residential component.

The Commission respectfully acknowledges the concerns of the Community Board and the Borough President regarding preservation of office and manufacturing floor area in this manufacturing district. However, the site is narrow and given the required rear yard equivalent the Commission believes that it would be impossible for this site to have a building with a sufficiently large floor plate of the type demanded by office and/or manufacturing tenants. The Commission also notes that this site is a parking lot and so there would be no displacement of commercial or manufacturing use as a result of this approval. The Commission also acknowledges the Community Board's and Borough President's concerns regarding a "piecemeal" conversion of this area to residential uses. However, the Commission notes that Section 74-711 was created to offer owners of landmarks or buildings within historic districts an opportunity to develop a site despite the underlying district's use restrictions as a way to compensate the owner for design limitations and required maintenance associated with modifying/enlarging a landmark or constructing a building in a historic district. The applicant's site is being built as per an LPC approved Certificate of Appropriateness and the building to remain on the site will have a maintenance plan paid for by the developer. Lastly, the Commission acknowledges the Community Board's and Borough President's concerns about the waiver not furthering a landmark preservation interest, however, as noted above, the building would be constructed as per the Certificate of Appropriateness and there would be a preservation plan.

Affordable Housing

The Commission is pleased that the applicant has voluntarily agreed to include 4 affordable rental units in the building for a total of 3,800 square feet. The units represent an approximately 25% affordable commitment on the additional floor area added to the proposal as a result of added Lot 60 (approximately 15,200 square feet). The units provided would be two two-bedroom units (to be located on the third floor of the 24th Street portion), one one-bedroom unit, and one studio (the one bedroom unit and the studio are to be located on the second floor of the 23rd Street portion). The two-bedroom units would be rented at 80% of Average Monthly Income (AMI) and the other units would be rented at 40% of AMI. The Commission notes that the affordable housing would be accessed by the same building entrances as all other housing. The Commission also notes that the restrictive declaration to this special permit will contain language detailing these affordable housing commitments.

Sections 13-45 and 13-451(a) Special Permit – C 140405 ZSM

The Commission believes that the inclusion in the building of a 50–space accessory automated garage is appropriate.

The Commission believes that the proposed parking garage meets the findings of Section 13-45, which require that the location of the vehicle entrances and exits will not unduly interrupt the flow of pedestrian traffic, or interfere with the efficient functioning of streets including any lanes designated for specific types of users such as bicycles or buses.

The Commission notes that parking facilities that do not increase parking spaces by more than eighty-five spaces (such as this) are not subject to review under the CEQR or SEQR and have been determined not to have a significant adverse environmental impact. With regards to automobile traffic that may interfere with the garage, the Commission notes that eastbound West 24th Street, where the parking facility entrance would be located, terminates at Fifth Avenue as that is the

location of Madison Square Park so lower traffic volumes prevail on this segment of this street. The Commission also believes that as an accessory facility with 50 spaces there would be a low number of entering and exiting vehicles compared to a public facility or one that would be larger. With regards to the operations of the facility, the Commission notes that the proposed procedure for parking or retrieving a car is expected to take only four minutes and the facility will have the requisite number of reservoir spaces for its size. The Commission notes that currently the project site has a 42-space public parking lot, and while the accessory facility is proposed to contain 8 additional spaces, as an accessory facility it would contribute less to hourly traffic volume on this street. The Commission believes that the facility would not be inconsistent with the character of the neighborhood as there is an existing parking lot on this block at the corner of West 24th Street and Sixth Avenue as well as three other loading curb cuts on West 24th Street between Fifth and Sixth Avenues.

The Commission believes that the proposed parking garage meets the findings of Section 13-451 (Special Permit for Additional parking spaces for residential growth) through the parking study analysis provided by the applicant. The findings require that the increase in the number of off-street parking spaces in the building be reasonable and not excessive in relation to recent trends in proximity to the proposed facility with regard to the increase in the number of dwelling units and the number of off-street parking spaces.

The applicant documented the new and eliminated residential units and off-street parking spaces within one-third of a mile from the development site between 2003 and 2016, the project's expected build year, to demonstrate that the request for 50 public parking spaces is reasonable and not excessive in regard to recent trends in residential development and the provision of parking. Using data from the DOB and the DCA the applicant, the applicant demonstrated that between 2003 and 2016, the ratio of the change in off-street parking spaces to the change in residential units without the proposed 50 public parking spaces and 43 residential units is 11.3%. With the proposed 50 public parking spaces and 43 residential units, that ratio would increase to 12.1%. The

Commission notes that the ratio is well-below 20%, the DCP's expected growth ratio of new off-street parking spaces to new residential units for Manhattan Community District 5.

FINDINGS

The City Planning Commission hereby makes the findings pursuant to Section 74-711(b) of the Zoning Resolution:

(1) such #bulk# modifications have minimal adverse effects on the structures or #open space# in the vicinity in terms of scale, location and access to light and air; and

(2) such #use# modifications shall have minimal adverse effects on the conforming #uses# within the #building# and in the surrounding area.

RESOLUTION

RESOLVED, that the City Planning Commission finds that the action described herein will have no significant impact on the environment; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter, that based on the environmental determination, and the consideration and findings described in this report, the application submitted by 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-711(b) of the Zoning Resolution to modify the use regulations of Section 42-00 to allow residential uses (Use Group 2 uses) on portions of the ground floor, cellar and sub-cellar, and on the 2nd – 24th floors; and the bulk regulations of Section 43-28 (Special Provisions for Through Lots), Section 43-313 (For zoning lots with multiple rear lot lines), and Section 43-43 (Maximum Height of Front Wall and Required Front Setbacks); to facilitate the construction of a 10-story and 24-story mix use building on property located at 39-41 West 23rd Street a.k.a. 20-22 West 24th

Street (Block 825, Lots 20, 60, and 1001-1005), in an M1-6 District, within the Ladies' Mile Historic District, Borough of Manhattan, Community District 5, is approved, subject to the following terms and conditions:

1. The property that is the subject of this application (C 140404 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following approved plans, prepared by Cook Fox Architects, LLP, filed with this application and incorporated in this resolution:

Drawing No.	Title	Last Date Revised
A-005	Zoning Analysis	3/24/15
A-006	Site Plan	9/5/14
A-007	Building Encroachment Plan Diagram	9/5/14
A-100	Floor Plan Subcellar Cellar	9/5/14
A-101	Ground Floor Plan	9/5/14
A-200	Building Section	9/5/14
A-201	Building Section	9/5/14
A-202	Building Section	9/5/14
A-203	Building Section	9/5/14

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. Development pursuant to this resolution shall be allowed after the restrictive declaration, executed by 39 West 23rd Street, LLC and the Board of Managers of the 35 West 23rd Street Condominium, the terms of which are hereby incorporated in this resolution, shall have

been recorded and filed in the Office of the Register of the City of New York, County of New York.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution and the restrictive declaration whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted or of the restrictive declaration.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution, duly adopted by the City Planning Commission on March 30, 2015 (Calendar No. 7), is filed with the Office of the Speaker, City Council, and the Borough President together with a copy of the plans of the development, in accordance with the requirements of Section 197-d of the New York City Charter.

CARL WEISBROD, Chairman
KENNETH J. KNUCKLES, *Esq., Vice-Chairman*
RAYANN BESSER, IRWIN G. CANTOR, P.E., ALFRED C. CERULLO, III,
MICHELLE R. DE LA UZ, JOSEPH I. DOUEK, RICHARD W. EADDY,
CHERYL COHEN EFFRON, BOMEE JUNG, ANNA HAYES LEVIN,
ORLANDO MARIN, LARISA ORTIZ, Commissioners

Manhattan Community Board Five

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

December 12, 2014

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: 39-41 West 23rd Street, application for special permit to construct a new 10- and 24-story building

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, December 11, 2014, the Board passed the following resolution with a vote of 32 in favor, 0 opposed, 1abstaining:

WHEREAS, 39 West 23rd Street LLC ("the Applicant") is applying for a special permit pursuant to Zoning Resolution Section 74-711 to modify the bulk regulations of ZR Sections 43-28, 43-313 and 43-43 to allow the construction of a new building; and

WHEREAS, ZR Sections 74-711 is in place as a mechanism that can facilitate development of contributing buildings that further the objectives of landmarks preservation; and

WHEREAS, 39 West 23rd Street LLC ("the Applicant") is applying for a special permit pursuant to Zoning Resolution Section 74-711 to modify the bulk regulations of ZR Sections 43-28, 43-313 and 43-43 to allow the construction of a new building; and

WHEREAS, The proposed building would consist of a new 10- and 24-story building designed by CookFox; and

WHEREAS, The new development would incorporate floor area acquired from the adjacent building located on lots 1001-1005, a contributing building within the Historic District, and together with the development site would comprise a single zoning lot; and

WHEREAS, A similar application for zoning waivers for building envelope pursuant to ZR Section 74-711 for a portion of this site came before Community Board Five in 2006 that would have allowed for a new 22-story, 278-foot high, mid-block building designed by Carlos Zapata; and

WHEREAS, Community Board Five voted in September 2006 to recommend denial of the previously proposed development, citing, among other factors that the design has "negative impact on the surrounding buildings in the immediate vicinity of the site by the substantial encroachment [and] will result in diminished access to light and air" and "is uncharacteristic for the district"; and

WHEREAS, The previous design was approved by City Council in 2007, and the previous special permit was renewed in 2012 and remains in effect until it expires in 2015; and

WHEREAS, The applicant was able to incorporate neighboring lot 60 into the development site, which was not part of the 2006 proposal, and subsequently undertook a redesign of the project, which with additional buildable square feet allows would result in a significantly larger building; and

WHEREAS, The new proposed development has a more contextual design and the design was approved by CB5 after which the Landmarks Preservation Commission approved a Certificate of Appropriateness for it in October 2013; therefore be it

RESOLVED, Community Board Five recommends **approval** of a special permit pursuant to Zoning Resolution Section 74-711 to modify the bulk regulations of ZR Sections 43-28, 43-313 and 43-43 to allow for development of a building that is contributing to the historic district.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero
Chair

Eric Stern
Chair, Land Use, Housing and Zoning Committee

Manhattan Community Board Five

Vikki Barbero, Chair
450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628
Wally Rubin, District Manager

December 12, 2014

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: 39-41 West 23rd Street, application for special permit to construct accessory parking below-grade

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, December 11, 2014, the Board passed the following resolution with a vote of 18 in favor, 15 opposed, 1abstaining:

WHEREAS, 39 West 23rd Street LLC ("the Applicant") is applying for a special permit pursuant to Zoning Resolution Section 13-451 to allow for an accessory parking garage containing up to 50 spaces in the proposed building; and

WHEREAS, The 50 spaces would be a net increase from the 42 that are currently on the present development site; and

WHEREAS, This development site is located in a transit-rich neighborhood, with two subway stops within 600 feet (the 23rd Street Station of the F and M trains and the 23rd Street Station of the N and R trains) and question whether the City Planning formula for seeking special permits for new parking is appropriate; and

WHEREAS, CB5 supported a special permit to allow for a 200 space off-street parking garage in our November 2014 Board Meeting for a new development on West 21st Street in an attempt to help fill the gap quantified by applicants between residential growth and growth of off-street parking; and

WHEREAS, CB5 in the past has espoused the need for more off-street parking in this area; therefore be it

RESOLVED, Community Board Five **recommends approval** of applications for a special permit to allow an accessory parking garage containing up to 50 spaces in the proposed building.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero
Chair

Eric Stern
Chair, Land Use, Housing and Zoning Committee

Manhattan Community Board Five

Vikki Barbero, Chair

450 Seventh Avenue, Suite 2109
New York, NY 10123-2199
212.465.0907 f-212.465.1628

Wally Rubin, District Manager

December 12, 2014

Hon. Carl Weisbrod
Chair of the City Planning Commission
22 Reade Street
New York, NY 10007

Re: 39-41 West 23rd Street, application for special permit to waive the zoning requirements and allow for non-conforming residential use

Dear Chair Weisbrod:

At the monthly meeting of Community Board Five on Thursday, December 11, 2014, the Board passed the following resolution with a vote of 23 in favor, 10 opposed, 1abstaining:

WHEREAS, 39 West 23rd Street LLC ("the Applicant") is applying for a special permit pursuant to Zoning Resolution Section 74-711 to modify the use regulations of ZR Section 42-10 to allow residential use in an M1-6 district that prohibits residential use; and

WHEREAS, ZR Sections 74-711 is in place as a mechanism that can facilitate development of contributing buildings that further the objectives of landmarks preservation; and

WHEREAS, The proposed building would consist of a new 10- and 24-story residential building containing 40 dwelling units (105,615 square feet of residential use), 800 square feet of ground floor retail; and

WHEREAS, This immediate area has been traditionally a manufacturing and commercial district and CB5 has consistently advocated for the importance of supporting commercial uses (allowed as of right in the M1-6) and not allowing piecemeal encroachment of residential inside an M1-6 district; and

WHEREAS, The 1990s rezoning along 6th Avenue from M1-6 to C6-4X allowing for as-of-right residential use was carefully developed and considered and did not include midblock between 23rd Street and 24th St because CB5, the City Council and the City Planning Commission believed it was essential to encourage commercial uses; and

WHEREAS, In keeping with CB5 policy of supporting a vibrant mixed-use community district, CB5 opposed the 2006 application for a special permit that would have allowed residential use on the Development Site at 39-41 West 23rd Street; and

WHEREAS, Though CB5 objected in 2006 to a waiver allowing for residential use on this site, the City Planning Commission and City Council approved a special permit for a development allowing residential use in 2007 on this site;

WHEREAS, This area has been traditionally a manufacturing and commercial district, but between 2003 and 2013 there have been 31 new residential developments within a ½ mile radius; and

WHEREAS, Each addition of residential unit (though individually not meeting the environmental threshold for adverse impact) has an accretive impact on educational, community and transportation resources of the district and special permit applications for residential use reflect a piecemeal approach, rather than careful consideration of the entire neighborhood that is required for sound urban planning consistent with CB5's Statement of District Needs; and

WHEREAS, We are concerned that ZR 74-711 will be used to allow for conversion of the remaining Class B and C office space in Ladies Mile Historic District into residential which would threaten the currently mixed-use nature of the Historic District; and

WHEREAS, The application for a discretionary special permit to allow for residential would result in the development of full floor luxury condos and would include no provision of units affordable to low- or moderate-income households; and

WHEREAS, A commercially viable building with conforming uses can, without question, be developed on this site with the bulk modifications sought pursuant to 74-711 by the Applicant and supported by CB5; and

WHEREAS, Because commercially viable conforming uses are feasible on this site, a waiver to allow for residential use to facilitate a luxury condo development furthers NEITHER a landmark preservation interest NOR goals of equitable economic development or inclusionary housing; therefore be it

RESOLVED, Community Board Five **recommends denial** of a special permit pursuant to Zoning Resolution Section 74-711 to allow for residential use at 39-41 West 23rd Street/20-22 West 24th St.

Thank you for the opportunity to comment on this matter.

Sincerely,

Vikki Barbero
Chair

Eric Stern
Chair, Land Use, Housing and Zoning Committee

Borough President Recommendation

City Planning Commission

22 Reade Street, New York, NY 10007
Fax # (212) 720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant's representative as indicated on the Notice of Certification.

Application: C 140404 ZSM, C 140405 ZSM

Docket Description:

C 140404 ZSM
C 140405 ZSM

IN THE MATTER OF an application submitted 39 West 23rd Street, LLC pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Zoning Resolution Section 74-711 to modify the bulk regulations of ZR sections 43-28, 43-313 and 43-43 to allow the construction of a new mixed-use building and to modify the use regulations of ZR Section 42-10 to allow Use Group 2 residential to facilitate the construction of a mixed use building; and for the grant of a special permit pursuant to ZR Section 13-451 to permit an accessory parking facility containing up to 50 spaces in the proposed mixed-use building on property located at 39-41 West 23rd Street/20-22 West 24th Street (Block 825, Lots 20, 60 & 1001-1005), in an M1-6 District, Borough of Manhattan, Community District 5.

Borough of Manhattan, Community District 5.

(See Continued)

COMMUNITY BOARD NO: 5 BOROUGH: Manhattan

RECOMMENDATION

- [ ] APPROVE
- [ ] APPROVE WITH MODIFICATIONS/CONDITIONS (List below)
- [x] DISAPPROVE
- [ ] DISAPPROVE WITH MODIFICATIONS/CONDITONS (Listed below)

EXPLANATION OF RECOMMENDATION – MODIFICATION/CONDITIONS (Attach additional sheets if necessary)
The Manhattan Borough President recommends disapproval of ULURP Application No. C 140404 ZSM, Special Permit pursuant to ZR Section 74-711, as it relates to the change of use to allow Use Group 2 residential, and approval as it relates to height and bulk waivers; and recommends disapproval of ULURP Application No. C 140405 ZSM to permit residential parking spaces.

Gale A. Brewer

BOROUGH PRESIDENT

1/27/2015
DATE

OFFICE OF THE PRESIDENT
BOROUGH OF MANHATTAN
THE CITY OF NEW YORK

1 Centre Street, 19th floor, New York, NY 10007
(212) 669-8300 p (212) 669-4306 f
163 West 125th Street, 5th floor, New York, NY 10027
(212) 531-1609 p (212) 531-4615 f
www.manhattanbp.nyc.gov

Gale A. Brewer, Borough President

January 27, 2015

Recommendation on ULURP Application Nos. C 140404 ZSM and C 140405 ZSM – 39 West 23rd Street by 39 West 23rd Street, LLC

PROPOSED ACTION

39 West 23rd Street, LLC ("the applicant") seeks two special permits to facilitate the construction of a new mixed-use building on a vacant through-block lot with the address 39-41 West 23rd Street a.k.a. 20-22 West 24th Street (Block 825, Lots 20 and 60) (the "Project Site").[1] The building consists of two residential segments, one 10-floors and one 24-floors, with retail use on the ground floor and an underground accessory parking lot. The first special permit is pursuant to Section 74-711 of the Zoning Resolution ("ZR") to modify the rear yard equivalent regulations of Section 43-28, the rear yard regulations of Section 43-313 and the street wall height and sky exposure plane regulations of Section 43-43, and to modify the use regulations of Section 42-10 to permit Use Group 2 residential. The second special permit is pursuant to ZR Sections 13-45 and 13-451 to permit an accessory parking garage with a maximum capacity of 50 spaces. The project site is located in an M1-6 District in the Ladies Mile Historic District in Community Board 5, Manhattan.

Pursuant to ZR § 74-711, applicants may request a special permit to modify the use regulations and bulk regulations (except floor area) of zoning lots that contain landmarks or are within Historic Districts as designated by the Landmarks Preservation Commission ("LPC"). In order for the City Planning Commission ("CPC") to grant use modifications, the applicant must first meet the following conditions:

1) LPC has issued a report stating that the applicant will establish a continuing maintenance program for the preservation of the building and that such modification or restorative work will contribute to a preservation purpose;[2]
2) The application shall include a Certificate of Appropriateness, other permit, or report from LPC stating that such bulk modifications relate harmoniously to the subject landmark building or buildings in the Historic District[3]; and
3) The maximum number of permitted dwelling units is as set forth in ZR § 15-111.

Further, in order to grant a special permit, the CPC must find for bulk modifications that:

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[1] The project site is part of a larger zoning lot that includes an existing to remain building.
[2] The LPC issued a report dated April 1, 2014.
[3] The LPC issued a Report , Number 155585, dated April 9, 2013.

1) The modifications shall have minimal adverse effects on the structures or open space in the vicinity in terms of scale, location and access to light and air; and

for use modifications that:

2) Such modifications shall have minimal adverse effects on the conforming uses within the building and in the surrounding area.

The applicant also seeks a special permit pursuant to ZR § 13-45 and 13-451. The special permit requires that all of the applicable conditions of ZR § 13-20 (SPECIAL RULES FOR MANHATTAN CORE PARKING FACILITIES) be met and that the findings of §13-45 and 13-451 have been met. These findings are as follows:

(1) the location of the vehicular entrances and exits to such parking facility will not unduly interrupt the flow of pedestrian traffic associated with uses or public facilities, including access points to mass transit facilities in close proximity thereto, or result in any undue conflict between pedestrian and vehicular movements, due to the entering and leaving movement of vehicles;
(2) the location of the vehicular entrances and exits to such parking facility will not interfere with the efficient functioning of streets, including any lanes designated for specific types of users or vehicles, due to the entering and leaving movement of vehicles;
(3) such use will not create or contribute to serious traffic congestion and will not unduly inhibit surface traffic and pedestrian flow;
(4) for public parking garages, that where any floor space is exempted from the definition of floor area, such additional floor space is needed in order to prevent excessive on-street parking demand and relieve traffic congestion;
(5) such parking facility will not be inconsistent with the character of the existing streetscape; and
(6) the number of off-street parking spaces in such proposed parking facility is reasonable and not excessive in relation to recent trends in close proximity to the proposed facility with regard to:
    (a) the increase in the number of dwelling units; and
    (b) the number of both public and accessory off-street parking spaces, taking into account both the construction, if any, of new off-street parking facilities and the reduction, if any, in the number of such spaces in existing parking facilities.

PROJECT DESCRIPTION

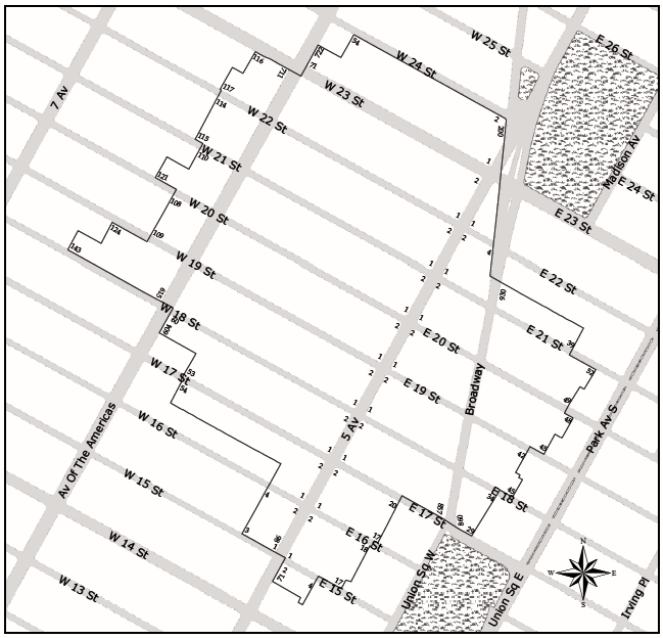
The applicant proposes construction of a 24 and 10 story mixed-use building located on a through block site which has frontage on the north side of West 23rd Street and on the south side of West 24th Street in the Ladies Mile Historic District. The building would be predominantly residential, containing approximately 40 units with retail on the ground floor and accessory parking below grade. This would break down to 119,173 gross square feet of residential space, 2,500 gross square feet of retail space and 50 parking spaces. The proposed development would use approximately 24,000 square feet of development rights conveyed from the building on Lots

1001-1005 directly adjoining the building site to its east on West 23rd Street. That building will be restored and will have a continuing maintenance plan.

Background

The project site lies within the Ladies Mile Historic District and the Flatiron-23rd Street Business Improvement District. The Landmark's Preservation Commission ("LPC") established the Ladies Mile Historic District (or "Historic District") in 1989. The Historic District generally covers the blocks between Broadway and Avenue of the Americas, from 15th Street to West 24th Street, with some portions east of Broadway and some west of Avenue of the Americas. The Ladies' Mile Historic District gets its name from the stretch of Broadway from East 9th Street to East 23rd Street that was famous for shopping in the late 19th Century. It now consists of a mix of low and mid-rise buildings, some loft buildings originally built for manufacturing or as warehouses, tall buildings on large lots, and taller thin buildings on small lots. Many of the loft buildings in the district were built prior to the 1916 Zoning Resolution and are characterized by high street walls and no setbacks. In its Certificate of Appropriateness for the proposed development, the LPC notes that the neighborhood's many phases of development have resulted in a variety of building heights and widths adjacent to each other and that many of the early residential buildings on narrower lots were replaced with tall, thin buildings.

Ladies Mile Historic District



Landmarks Preservation Commission

According to the applicant, it acquired the property in June 2011 at which point there was an existing special permit pursuant to ZR § 74-711 for Lot 20 and Lots 1000-1005 to amend the use regulations of the Zoning Resolution to allow residential use Group 2 and to waive the height and setback, and rear yard regulations. The special permit had been approved by CPC in 2006 and by the City Council on February 1, 2007 (C 060310 ZSM). The special permit was to facilitate the construction of a 21-story (West 23rd Street frontage) and 3 story (West 24th Street frontage) mixed use building and the restoration of the five-story building on Lots 1001 through 1005.

The design of that previously-approved building was controversial. Approved by a narrow margin by the LPC and disapproved by the Community Board, the building would have had a 21 floor, glass faceted tower on West 23rd Street, cantilevered over the adjacent historic building

and a three story, single family townhouse on West 24th Street.[4] The LPC found that most of the buildings on the north side of West 23rd Street on the block (except for the ends of the block) were relatively low scale and predominantly loft and store buildings. However, the majority of the LPC members believed that the contemporary building was appropriate to the character of the Historic District. The tower would have contained 63 residential units.[5] The proposed building has never been constructed but in 2012 the special permit was renewed (N 110196 CCM).

Area Context

The site is located in the southern portion of an M1-6 district which extends from West 23rd Street to West 31st Street in the mid-blocks between Fifth and Sixth Avenues. M1-6 districts allow manufacturing and commercial uses as of right. Residential use is not permitted in an M1-6 district. M1-6 districts, mapped only in Manhattan, are the highest density manufacturing districts allowing an FAR of 10. Height and setbacks are governed by the sky exposure plane. Rear yards of 20 feet or more are required unless within 100 feet of a corner. Parking is not required. The area of the development is bordered on the south across West 23rd Street by a C6-4M district, to the west by a C5-2 district and to the east by C6-3A and C6-4X districts. The mid-block area between Sixth and Seventh Avenues from West 24th Street to West 31st Street are also zoned M1-6.

The area is generally commercial office, industrial, and mixed-use development. There are three significant residential developments with retail on 6th Ave between West 26th Street and West 23rd Street, and commercial office buildings along Broadway and Fifth Avenue. Throughout the neighborhood ground floor retail is a prevailing trend, significantly along Fifth Avenue and Avenue of the Americas. There have been a number of recent rezonings (1995, 1998, and 2006) in the area that have also increased the number of residential units through new construction and conversion.

In addition to Madison Square Park, other neighborhood markers include a number of Individual Landmarks such as the Flatiron Building, the Scribner Building (now the United States Synagogue), Church of the Holy Communion Complex, the Gorham Manufacturing Company Building, and the Lord & Taylor Store. There are three other nearby Historic Districts as well; to the north, Madison Square North Historic District, and to the east, Gramercy Park and Stuyvesant Square historic districts.

The site is well served by public transit. The F and M lines stop at West 23rd Street and Avenue of the Americas, a block and a half to the north and west of the site, and the N and R lines stop at East 23rd and Broadway, less than a full block away to the east and north. In addition, the site is

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[4] This is according to the current application; the LPC Certificate of Appropriateness (LPC 06-5335) characterized the West 23rd Street building as a 17 story (22 stories in total) metal and glass tower on a five story base and a 5 story metal and glass clad townhouse on West 24th Street.

[5] The CPC Report dated December 6, 2006 stated that the tower would have contained 63 residential units (C 060310ZSM). The application's EAS states that the tower would have contained 77 units with a single family townhouse on West 24th Street.

within easy walking distance to the 23rd Street and 18th Street stations for the 1 line at Seventh Avenue, and the 23rd Street PATH station on Sixth Avenue. Nine bus lines also serve the immediate area.

Site Description

The proposed building would be constructed on two lots: Lot 20, a through-block lot, is the current site of a surface parking lot containing 42 spaces; and lot 60, adjacent to lot 20 on West 24th Street, is vacant. The lot area of these two lots is approximately 12,538 square feet.

Adjacent to Lot 20 on West 23rd Street are lots 1001-1005 containing a five story Neo-Grec/Queen Anne style brick building which is a contributing building to the Ladies Mile Historic District and which the applicant proposes to restore, as well as to use approximately 24,000 square feet of excess development rights conveyed by those lots to the proposed mixed use development. The entire zoning lot, consisting of lots 20 and 60 and lots 1001-1005, is in an M1-6 zoning district within the Historic District.

Proposed Project

The applicant proposes to construct a 24- and 10-story mixed-use building with the 24-story portion located on West 23rd Street and the ten story building segment located on the south side of West 24th Street. The building would be predominantly residential, containing a total of 40 residential units. The two building segments would be connected by a shared ground floor containing the shared lobby and retail space - both of which would be located on the West 23rd Street side. In total the building would contain 800 square feet of ground floor retail space and approximately 105,615 square feet of residential floor space. The gate to the parking facility would be on the ground floor of the West 24th Street side of the building and would exit to this street via a 22-foot wide curb cut.

The West 23rd Street portion of the building ("Southern Portion") would have an 18-story street wall, with a height of approximately 196 feet that includes a 10 foot screen wall at the 18th floor. The Southern Portion of the building would then set back 15 feet and rise an additional 6 stories to the full building height of 24 stories or 278 feet. The facades of this would be constructed primarily of corrugated terra cotta and limestone and would include decorative metal balcony guardrails to evoke architectural elements found in the surrounding historic buildings. The ground floor of this portion of the building would contain the 800 square feet of retail space at the western end of the West 23rd Street frontage and the shared residential lobby entrance at the eastern end of the West 23rd Street frontage. The lobby would connect to the West 24th Street building portion. The West 23rd Street portion of the building would contain 33 residential units on floors 2 through 24. Landscaped balconies would be located on the setback at the 18th floor.

The ground floor would include an open yard next to the connection between the two building portions accessible to all residents. The second floor would include a terrace between the two building portions accessible from amenity space on the second floor of the 24th Street portion of the building.

The West 24th Street segment ("Northern Portion") of the building would have a ten-story street wall rising to a height of 117 feet that includes a 10 foot 6 inch screen wall at the top floor. The building then would set back 11 feet and a mechanical bulkhead would top the 10th story for a total building height of 130 feet. The northern façade would also be constructed with limestone - clad façade with a double height expression and set in glass balconies and glass balcony railings facing West 24th Street. Landscaped balconies would be located on the setback at the 10th floor of this portion of the building. Seven residential units would be located in this Northern Portion on floors 2 through 10.

Finally, the cellar and sub-cellar would contain the below grade accessory parking garage with up to 50 parking spaces and 29 bicycle parking spaces for building tenants. The design of the garage is for an automated system. Although the garage is unattended, it will feature a turntable that allows the driver to exit the vehicle while the turntable files the car into an empty pallet space. The reverse operation will involve the vehicle operator or driver requesting the automobile via fob or keycode and the system will deliver the car or truck onto the turntable for use by the vehicle's operator.

The LPC voted to grant a Certificate of Appropriateness for the proposed building on October 15, 2013. The LPC found that the proposed building would be appropriate to the streetscapes and to the Ladies' Mile Historic District. Specifically, the LPC found that the design of the development as two distinct but architecturally related buildings allowed each component to relate successfully to each streetscape. LPC found that the height of the West 23rd Street component of the development will relate to the taller buildings on the north side of that street and that the massing, design and materials of this portion of the building are "a contemporary interpretation of the robust, highly articulated primary facades and exposed, planar secondary facades of a darker material palette of the buildings found in the Ladies' Mile Historic District." With regard to the West 24th Street component, the LPC found that its façade evoked the typical composition of the early 20th Century commercial buildings on West 24th Street, that the open grid at the top of this component evoked a cornice and that the decorative grilles over the ground floor windows related well to the narrow street containing smaller, less transparent storefronts than those found on West 23rd Street. The LPC determined that the palette for both buildings of white and bronze terra cotta, limestone, painted metal and decorative metalwork would relate well to buildings in the Ladies' Mile Historic District.

Also on October 15, 2013, the LPC voted to issue a favorable report to the CPC in support of the Special Permit pursuant to ZR 74-711 based upon the agreement of the applicant to restore the 5 story building on the adjacent lot located at 35-37 West 23rd Street and to establish and maintain a program for continued maintenance of the building. The LPC notes that the building, a neo-Grec/Queen Anne style store building would be restored to a sound, first class condition with new wood and glass ground floor infill, the installation of new display and upper floor windows, cleaning repair and repointing of the masonry; repair or replacement in kind of the cast iron and sheet metal features, fire shutters, roofing and leaders and gutters. LPC determined that this work would restore the building to its historic appearance and prevent further deterioration.

PROPOSED ACTIONS

The applicant seeks a special permit pursuant to ZR § 74-711 (C 140404 ZSM) to construct the primarily residential development within an M1-6 zoning district in the Historic District. As stated, the preservation and maintenance of the historic building being undertaken is of the 5 story loft building located on Lots 1001-1005 adjacent to the proposed development.

The special permit would permit the waiver of the height and setback requirements of ZR Section 43-43 and the special provisions for rear yard regulations for through lots contained in ZR Section 43-28 and zoning lots with multiple rear yard lot lines contained in Section 43-313. These waivers are described in more detail below.

The applicant also seeks a special permit pursuant to Sections 13-45 and 13-451 (C 140405 ZSM) of the Zoning Resolution to allow an automated parking garage with stackers with a maximum capacity of 50 spaces to be located on portions of the ground floor and cellar of the proposed mixed-use building. 8 residential spaces would be permitted as of right if the related special permit to allow residential use was granted.

Bulk Waivers – Height and Setback

The proposed development would require a height and setback waivers because the West 23rd Street or Southern portion of the building would not set back from the street at 85 feet but rather would rise to a height of almost 196 feet before setting back 15 feet and rising to its height of 278 feet. The West 24th Street or Northern portion of the building would similarly rise above the allowed 85 feet to 117 feet before setting back 11 feet and rising to its 130 foot height. Both the West 23rd and West 24th Street components of the building would pierce their respective sky exposure planes for those portions of each component rising above 85 feet and not meeting the stated setback requirements..

Bulk Waivers – Rear Yard Requirements

On through lots in manufacturing districts, such as this, a 40 foot rear yard equivalent is required. For analyzing rear yard requirements, only a portion of the zoning lot is considered a through-block lot. The West 23rd Street portion of the proposed development would encroach into the required rear yard equivalent by 2.5 feet beginning at the 3rd story and this encroachment would increase to a maximum of 9 feet at the 15th floor. This is a substantially smaller encroachment than that which would be caused by development under the current special permit approved in 2006 which would have resulted in an encroachment over a substantial portion of the rear yard.

In zoning lots with multiple rear lot lines, ZR Section 43-313 requires a rear lot with a 20 foot minimum depth to be provided where this rear lot line coincides with an adjoining zoning lot's rear lot line. The West 23rd Street or Southern Portion of the building would encroach 4 feet 9 inches into the required 20 foot rear yard.

COMMUNITY BOARD RECOMMENDATION

On December12, 2014, Manhattan Community Board 5 ("CB5") adopted three resolutions relating to this application approving the special permit pursuant to ZR § 74-711 to modify the rear yard equivalent regulations of § 43-28, the rear yard regulations of § 43-313 and the street wall height and sky exposure plane regulations of § 43-43; disapproving the special permit pursuant to ZR Section 74-711 to modify the use regulations of § 42-10 to allow Use Group 2 residential in the proposed development; and approving the special permit pursuant to §§ 13-45 and 13-451 to allow an accessory parking garage with up to 50 spaces to be located in the building.

The first resolution approves the special permit pursuant to ZR § 74-711 to modify rear yard equivalent and rear yard regulations, and the street wall height and sky exposure plane regulations, stating that the proposed building has a more contextual design than the already approved special permit for the site which CB5 had disapproved in 2006. The height and bulk waivers were approved by a vote of 32 in favor, 0 opposed and 1 abstention.

The second resolution disapproves the special permit pursuant to ZR § 74-711 to modify the use regulations of Section 42-10 to allow Use Group 2 residential use in the proposed development by a vote of 23 in favor, 10 opposed and 1 abstention. The resolution points out that the immediate area has been traditionally a manufacturing and commercial district because during its rezoning in the 1990s and since that time, CB5 has consistently advocated for the importance of supporting commercial uses in this mid-block area and not permitting the "piecemeal encroachment of residential inside an M1-6 district."

The third resolution approves the special permit pursuant to ZR § 13-45 and 13-451 for an accessory parking facility by a vote of 18 in favor, 15 opposed and 1 abstention. The resolution notes that the proposed development is in a mass transit rich area and questions the appropriateness of the formula for granting special permits for off-street parking facilities, but notes that CB5 has approved such special permits based upon the residential growth in the area and the need to accommodate the need for more off-street parking in the area.

BOROUGH PRESIDENT'S COMMENTS

ZR § 74-711 is typically used to achieve a use change, or bulk waivers in conjunction with the restoration of the same building for which such change or waivers are sought. In this case the applicant seeks a use change and bulk waivers for a new development in conjunction with the restoration of an adjacent building on the same zoning lot. A preservation purpose is fulfilled with the restoration and continuing maintenance plan of the adjacent, contributing building that sits on the expanded zoning lot. However, no waivers or relief associated with that restoration are being sought for the historic building. Instead, relief is being sought for a new building, and that relief may be an unintended increase of scope for the purpose of the ZR § 74-711 special permit. The findings of this permit are more broadly permissive findings than that of ZR § 74-712, which would have been used instead for the vacant lot had it no building to preserve.

The Borough President has previously raised serious concerns about using special permits as a means of piece-meal rezoning of an area to permit a non-conforming use and supports CB5's concern in the present instance. Here, the mid-blocks of West 23rd and West 24th Streets, as well as blocks north, have been maintained as part of an M1-6 manufacturing district and has provided a supply of Class B and Class C office space to firms. Moreover, the present proposal, while immeasurably more contextual and aesthetically appealing than the subject of the 2006 special permit, will provide substantially fewer residences - a total of 40 residents on 32 floors. According to the application, the apartments will average approximately 2,800 square feet each. This raises an important policy issue of whether the landscape and uses of an area should be changed for the benefit of so few.

There is no question that the proposed development, as designed, fits in with the character of the Historic District in a much clearer manner than the subject of the already approved special permit does. The building portions on the north side of West 23rd Street and the south side of West 24th Street would bring continuity to the street walls by replacing vacant lots and as the LPC has determined have features and use materials that relate well to each respective streetscape. While the size of the West 23rd Street building portion is significantly taller than other mid-block buildings on this particular street, it is consistent with other streets in the Historic District, which does contain a variety of building heights.

The height and setback controls of the M1-6 district would lead to a taller, more slender tower, which is less in keeping with buildings in the Historic District. The LPC found that the height and bulk of the building as proposed restored the continuity of the street walls and fit well with the character of historic buildings on each respective block front. The Borough President believes that the effect of the height and setback requirements is minimal, and in fact much less significant than the impacts that would result from the current 2006 special permit, and agrees that the height and bulk of the proposed development is in keeping with the context of the neighborhood and Historic District.

The Borough President also believes that the waivers of the rear yard regulations sought in the application will have a minimal impact on light and air and, again, that any impact is less than that which would occur pursuant to the current 2006 special permit.

In the case of the waiver to allow residential use in the proposed development, the Borough President is not convinced that the proposed development would not have an adverse impact on the character of the neighborhood and Historic District and therefor on conforming uses.

CB5 noted that there have been 31 new residential developments within a half mile of the project site between 2003 and 2013 and expressed concern that the ZR Section 74-711 Special Permit would be used to convert the remaining Class B and C office space in the Historic District into residential use, thus jeopardizing the mixed use character of the neighborhood and stretching the demand on educational and transportation resources beyond their capacity. It also noted that the piecemeal change of use neither takes these cumulative effects into account nor addresses the need for affordable housing in the area.

The Borough President agrees with the concerns raised by the Community Board with the piecemeal rezoning by special permit to residential of districts in which residential use is prohibited. The Ladies' Mile Historic District is known for its commercial character. The mid-block buildings on West 23rd Street have a substantial amount of commercial use above the first and second floor. As stated in previous recommendations criticizing the use of Special Permits pursuant to ZR Section 74-711 to change uses from manufacturing and Joint Live Workspace for Artists in SoHo into residential uses (102 Greene Street C 140353 ZSM), if the CPC and Community Board believe these mid-block manufacturing areas should be rezoned a proposal should be put forward and discussed. And such a proposal should include a plan for affordable housing where new residential units are being created where none were previously permitted.

The parking facility is described as an automated, below-grade garage. The 50 accessory spaces could be used by the residential or commercial building tenants. If residential use is not appropriate for this site, then the need for parking spaces serving that use should be re-examined. Regardless, while automated designs can be more efficient in allocating garage space for parking, the proposed design does not describe any space being available to load or unload commercial or personal vehicles of their cargo or passengers. It is conceivable that a vehicle containing fully mobile people could be expected to quickly exit and leave the turntable to file the vehicle away, but loading or unloading a person who is has a physical disability or is fragile will create a bottleneck to the system. The same can be said for vehicles that are being loaded with a great deal of cargo such as a personal car with luggage or a commercial vehicle with merchandise.

BOROUGH PRESIDENT'S RECOMMENDATION

Therefore, the Manhattan Borough President recommends disapproval of ULURP Application No. C 140404 ZSM as it relates to the change of use to allow Use Group 2 residential, and approval as it relates to height and bulk waivers; and disapproval of ULURP Application No. C 140405 ZSM to permit residential parking spaces.

Gale A. Brewer
Manhattan Borough President

35-41 WEST 23rd STREET

AMENDED AND RESTATED DECLARATION

Dated: As of _____, 2015

Location: Block 825, Lots 20, 60 and 1001-1005
New York County, New York

Record & Return to:

Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, New York 10036
Attn: Michael T. Sillerman, Esq.

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SCHEDULE OF EXHIBITS

AMENDED AND RESTATED DECLARATION made as of the ___ day of _____, 2015 by 39 West 23rd Street, LLC ("Developer Declarant"), a Delaware limited liability company having an address at c/o Anbau Enterprises, Inc., 11 East 26th Street, Suite 1300, New York, NY 10010 and the Board of Managers of the 35 West 23rd Street Condominium ("Landmark Declarant"), having an address at 35-37 West 23rd Street, New York, NY 10010 (each, a "Declarant" and together, the "Declarants").

W I T N E S S E T H:

WHEREAS, Developer Declarant is the owner in fee of certain real property located in the Borough of Manhattan, City, County and State of New York, which property is designated as Block 825, Lots 20 and 60 on the Tax Map of the City of New York and by the street addresses 39-41 West 23rd Street and 22 West 24th Street, respectively (the "Development Site"); and

WHEREAS, in connection with the development of a new building on the Development Site, Developer Declarant has purchased development rights from the adjacent lot located at 35-37 West 23rd Street, which property is designated as Block 825, Lots 1001-1005 (the "Landmark Property") and on which is located a five-story mixed commercial and residential condominium building (the "Designated Structure"); and

WHEREAS, Lot 20 and the Landmark Property were merged into a single and separate zoning lot pursuant to a Declaration of Zoning Lot Restrictions dated September 19, 2005 and recorded in the Office of the City Register, New York County, under CRFN 2006000018147, and it is anticipated that Lot 60 will be merged therewith by a Declaration of Zoning Lot Restrictions to create a single and separate zoning lot comprising the

Development Site and the Landmark Property (together, the "Subject Premises," as more particularly described on Exhibit A attached hereto); and

WHEREAS, the Subject Premises are located in an M1-6 zoning district within the Ladies' Mile Historic District; and

WHEREAS, First American Title Insurance Company ("Title Company") has certified as of February 9, 1015, that Declarants, Goldman Sachs Bank USA ("Mortgagee"), 37 W 23 Retail LLC, Lisa Liqun Lee and Xiaotong Zhou, Jane Dodd and Thomas Jessell, Michael J. Spano, Patrick Montgomery and Jerilyn Tabor Montgomery, Signature Bank, JP Morgan Chase Bank, N.A., UST Mortgage Company, The Trustees of Columbia University in the City of New York, JRRJ LLC, Coburg Capital and Pali Capital Inc. are the sole parties-in-interest ("Parties-in-Interest"), as that term is defined in the zoning lot definition in Section 12-10 of the Zoning Resolution of the City of New York (the "Zoning Resolution"), to the Subject Premises, a copy of which certification is attached hereto as Exhibit B; and

WHEREAS, Landmark Declarant has been granted power of attorney, pursuant to a declaration establishing a plan for condominium ownership of the Designated Structure, dated March 25, 1983 and recorded in the Office of the City Register of the City of New York on April 28, 1983, at Reel 682, Page 1181, to execute this Declaration on behalf of the unit holders of the Designated Structure (the "Unit Holders") and such power of attorney is binding upon any other person having an interest or estate in such Units; and

WHEREAS, Title Company has determined that as of the date hereof there has been no change in the certification attached as Exhibit B, and Declarants represent and

warrant that the Mortgagee is the only known Party-in-Interest, other than the Unit Holders, other persons having an interest or estate in such units, and Declarants, in the Subject Premises as of the date hereof; and

WHEREAS, the Mortgagee has executed a Waiver of Execution of Restrictive Declaration and Subordination of Mortgage, a copy of which is attached hereto as Exhibit C, and is to be recorded simultaneously with this Declaration; and

WHEREAS, pursuant to the provisions of Section 3020 of the New York City Charter and Title 25, Chapter 3 of the Administrative Code of the City of New York (the "Landmark Preservation Law"), the Landmarks Preservation Commission (the "LPC") has designated an area which includes the Designated Structure as the Ladies' Mile Historic District because of its special character or historical or aesthetic interest or value; and

WHEREAS, pursuant to Application No. 140404 ZSM, dated May 21, 2014 (the "Application"), Developer Declarant has applied to the City Planning Commission of the City of New York (the "CPC") for a special permit ("Special Permit") pursuant to Section 74-711 of the Zoning Resolution (the "Special Permit") to modify the requirements of Sections 42-10, 43-28, 43-313 and 43-43 of the Zoning Resolution to permit the construction of a new mixed-use building on the Development Site which cantilevers over the Designated Structure (the "New Building"); and

WHEREAS, pursuant to Docket No. 15-5585, at a public hearing held on September 24, 2013, Developer Declarant requested that the LPC issue a report to the CPC in connection with the Application; and

WHEREAS, at the public meeting on October 15, 2013, following said public hearing, the LPC voted to issue the report to the CPC as requested in connection with the Application, and subsequently issued Memorandum of Understanding 15-5954, dated April 9, 2014 (the "MOU") annexed hereto as Exhibit D; and

WHEREAS, pursuant to Docket No. 15-0045, at the public meeting on October 15, 2013, following said public hearing, the LPC also voted to grant a Certificate of Appropriateness to construct the New Building as approved under the Special Permit, and subsequently issued Certificate of Appropriateness 15-0399, dated October 29, 2013 (the "COA") annexed hereto as Exhibit E; and

WHEREAS, pursuant to Docket No. 14-8519, the LPC issued Certificate of No Effect 15-5956, dated April 1, 2014 (the "CNE"), annexed hereto as Exhibit F, for restoration work required in order to restore and preserve the Designated Structure; and

WHEREAS, Section 74-711 requires, inter alia, that a program has been established for continuing maintenance (the "Continuing Maintenance Program") that will result in preservation of the Designated Structure by the Declarants; and

WHEREAS, Declarants have agreed to certain obligations and restrictions contained in this Declaration for the protection, preservation, repair and maintenance of the Designated Structure; and

WHEREAS, the portion of the Subject Premises consisting of Lots 20 and 1001-1005 was previously the subject of a special permit pursuant to Zoning Resolution Section 74-711, under CPC Cal. No. C060370ZSM, dated December 6, 2006, which was

approved by the City Council by Resolution 0710-2007, dated February 1, 2007 (the "Prior Special Permit"), and which was memorialized by that certain Restrictive Declaration made by Declarants, dated as of August 14, 2012, and recorded in the Office of the City Register, New York County, under CRFN 21012000381581 (the "Prior Declaration"); and

WHEREAS, Declarant desires to amend and restate the Prior Declaration to reflect that the Special Permit will supersede the Prior Special Permit; and

WHEREAS, Declarants desire to restrict the manner in which the Subject Premises may be developed, restored, and operated in order to assure the protection, preservation, repair and maintenance of the Designated Structure; and

WHEREAS, Declarants represent and warrant that there are no restrictions, liens, obligations, covenants, easements, limitations or encumbrances of any kind, the requirements of which have not been waived or subordinated, which would prevent or preclude, presently or potentially, the imposition of the restrictions, covenants, obligations, easements and agreements of this Declaration;

NOW, THEREFORE, Declarants do hereby declare and agree that the Subject Premises shall be held, sold, transferred, conveyed and occupied subject to the following restrictions, covenants, obligations, easements, and agreements, all of which are for the purpose of protecting the Subject Premises, which shall inure to the benefit of the City of New York, and which shall run with the Subject Premises and bind Declarants and their heirs, successors and assigns so long as they have a right, title or interest in the Subject Premises or any part thereof.

I. DEFINITIONS

The following words, when used in this Declaration, shall have the following meanings:

1.1. "Application" shall mean the application to the City Planning Commission for the Special Permit.

1.2. "Buildings Department" shall mean the New York City Department of Buildings, or any successor to the jurisdiction thereof.

1.3. "Chairperson of the CPC" shall mean the Chairperson of the City Planning Commission of the City of New York or any successor to the jurisdiction thereof.

1.4. "Chairperson of the LPC" shall mean the Chairperson of the Landmarks Preservation Commission of the City of New York or any successor to the jurisdiction thereof.

1.5. "City" shall mean the City of New York.

1.6. "City Council" shall mean the New York City Council or any successor to the jurisdiction thereof.

1.7. "CPC" shall mean the New York City Planning Commission, or any successor to the jurisdiction thereof.

1.8. "Declarants" shall mean the named Declarants and the heirs, successors and assigns of the named Declarants, except that Declarants shall not be deemed to include (i) a mortgagee of all or any portion of the Subject Premises until it succeeds to the interest or obligation of Declarants by purchase, assignment, foreclosure or otherwise, or (ii) a tenant of the Subject Premises, unless such tenant holds a lease to all or substantially all of the Subject Premises.

1.9. "DCP" shall mean the New York City Department of City Planning or any successor to the jurisdiction thereof.

1.10. "Designated Structure" shall mean the structure located on Tax Block 825, Lots 1001-1005 in Manhattan, which is a contributing structure in the Ladies' Mile Historic District.

1.11. "Effective Date" is defined in Section 4.1(a) hereof.

1.12. "Force Majeure" shall mean: strike, lockout or labor dispute(s); inability to obtain materials or reasonable substitutes therefore unless due to any act or failure to act by Declarant; acts of God; unforeseen governmental restrictions, regulations, omissions or controls; enemy or hostile government actions; civil commotion, insurrection, revolution or sabotage; fire or other casualty; inclement weather of such a nature as to make performance or completion of the Landmark Work (hereinafter defined) not feasible unless due to any act or failure to act by Declarants; any damage to the Subject Premises of such a nature as to make completion of the Landmark Work not feasible unless due to any act or failure by Declarant; a taking of the Subject Premises, or a portion thereof, by condemnation or eminent domain; failure of a public utility to provide power, heat or light; unusual delay in transportation; material delays by the City, State or United States Government, or any agency or instrumentality thereof, in the performance of any work or processing or approval of any applications required in order to permit Declarants to carry out their obligations pursuant to this Declaration unless due to any act or failure to act by Declarants; denial to Declarants by any owner of an enforceable interest in adjoining real property, including any private fee owner or ground lessee of adjoining real property, or any agency of the City or State having an enforceable interest in adjoining real property,

including sidewalk or streets, of a right to access to such adjoining real property, if such access is required to accomplish the obligations of the Declarants pursuant to this Declaration; the pendency of a litigation not initiated by Declarants or similar proceeding which suspends or materially and adversely affects the ability of Declarants to accomplish the obligations of Declarants pursuant to this Declaration; or other conditions similar in character to the foregoing which are beyond the control of Declarants. No event shall constitute a Force Majeure unless Declarants comply with the procedures set forth in Sections 2.2(d) and 6.2 hereof.

1.13. "Landmark Work" shall refer to the restoration work on the Designated Structure as described in the MOU, the COA and the CNE, which are attached hereto as Exhibit D, Exhibit E, and Exhibit F, respectively.

1.14. "LPC" shall mean the Landmarks Preservation Commission of New York City or any successor to the jurisdiction thereof.

1.15. "New Building" shall mean the new residential building located on the Development Site as approved under the Special Permit.

1.16. "Party(ies)-in-Interest" shall mean any party-in-interest listed in Exhibit B.

1.17. "PCO" is defined in Section 2.2(b) hereof.

1.18. "Special Permit" shall mean the special permit described on page 3 hereof.

1.19. "Special Permit Restricted Space" shall mean any portion(s) of the New Building used for the Special Permit Use.

1.20. "Special Permit Use" shall mean use of the Special Permit Restricted Space for residential use (Use Group 2) and accessory uses thereto. Notwithstanding the

foregoing, no use shall be deemed a Special Permit Use if it is permitted as-of-right within the Subject Premises by the terms of the Zoning Resolution then in effect.

1.21. "TCO" is defined in Section 2.2(b) hereof.

1.22. "Zoning Resolution" shall mean the Zoning Resolution of the City of New York.

II. DEVELOPMENT, PRESERVATION, REPAIR AND MAINTENANCE OF THE DESIGNATED STRUCTURE

2.1. Drawings. Developer Declarant covenants and agrees to develop the Development Site substantially in accordance with the following drawings prepared by Cook + Fox Architects, attached hereto as Exhibit G:

Dwg. No.	Title	Last Revised
A-005	Zoning Analysis	9/5/15
A-006	Site Plan	9/5/15
A-007	Building Encroachment Plan Diagram	9/5/15
A-100	Floor Plan SubCellar Cellar	9/5/15
A-101	Ground Floor Plan	9/5/15
A-200	Building Section	9/5/15
A-201	Building Section	9/5/15
A-202	Building Section	9/5/15
A-203	Building Section	9/5/15

2.2. Certificate of Occupancy.

(a) The issuance of the Special Permit is premised on, inter alia, the performance of the following restoration work on the Designated Structure in conformity with the MOU and CNE and/or other approvals by the LPC and the requirements thereof (which

restoration work, as may be amended by LPC, shall be referred to as the "Landmark Work"):

West 23rd Street Elevation:

(i) Brick Masonry

(1) Undertake tests to determine feasibility of removing the paint and coating from the brick masonry. If it is feasible to remove the coating, it should be removed without causing damage to the brick or stone. If it is not feasible to remove the coating, it should be left on the brick surface and a polychrome scheme should be considered for the upper floors that distinguishes the materials and reflects the historic configuration based on photographs.

(2) Clean all brick masonry based on tests.

(3) Rake and repoint all (100%) of the open joints. Finish joints to match the surrounding joints in color, size and texture.

(4) Remove all metal embeds and patch resulting voids with restoration patching mortar to match the color, texture and strength of the existing coating, or the façade stone surface below if the coating is cleaned to from the façade.

(5) Replace all cracked or otherwise damaged brick masonry in kind to match the color, texture and strength of the existing coating, or the brick surface below if the coating is cleaned to from the façade.

(ii) Stone Masonry

(1) Undertake tests to determine feasibility of removing the paint and coating from the stone masonry. If it is feasible to remove the coating, it should be removed without causing damage to the brick or stone. If it is not feasible to remove the coating, it should be left on the masonry surface and a polychrome scheme should be considered for the upper floors that distinguishes the materials and reflects the historic configuration based on photographs.

(2) Rake and repoint all (100%) of the open stone joints. Finish the joints to match the surrounding joints in color and texture.

(3) Patch any damaged façade stone.

(iii) Cast Iron

(1) Remove the existing paint and coating from the cast-iron surface with methods based on tests.

(2) Undertake tests to determine the original and subsequent paint colors and composition.

(3) Prepare and paint all cast iron to match the historic color.

(iv) Second Story Storefront

(1) Return to the historic second-floor storefront condition. Remove all non-original plywood and replace with a higher quality wood, color to be based on historic photographs.

(2) Replace second story storefront windows to match the historic windows.

(3) Undertake tests to determine the original and subsequent paint color and composition of the sheet metal colonnettes and cornice.

(4) Prepare paint all sheet metal elements based on tests and historic photographs.

(5) Repair damaged or missing elements of the sheet metal cornice in kind.

(v) Storefront

(1) Provide new wood storefront, which is based on historic photos and recalls the dimension, proportions and details of the historic storefront.

(vi) Sheet Metal Cornice

(1) Undertake tests to provide the original and subsequent paint colors and paint composition of the cornice.

(2) Prepare and paint the cornice based on tests.

(3) Replace in-kind the missing and damaged A1879 ornament.

(4) Repair and replace the missing and damaged sections of the cornice to match the historic condition.

(5) Replicate and replace the pediment based on historic photographs.

(vii) Windows

(1) Remove all non-original windows (third through fifth floors).

(2) Provide new wood windows; new windows to match the historic windows in configuration, dimension, profile, detail and color. Color to be based on historic photographs.

Rear façade:

(i) Restorative Work

(1) Rake and repoint all (100%) of the open joints. Finish joints to match the surrounding joints in color, size and texture.

(ii) Replace any damaged masonry in kind.

(iii) Repair existing iron cornice and shutters.

(iv) Replace existing damaged metal gutter and downspout system in kind.

(v) Undertake any repairs needed at roof.

(b) Developer Declarant shall give written notice to the Chair of the LPC seven (7) days prior to applying to the Buildings Department

for a temporary certificate of occupancy ("TCO") or permanent certificate of occupancy ("PCO") for the Special Permit Restricted Space. No TCO or PCO for the Special Permit Restricted Space shall be granted by the Buildings Department or accepted by Developer Declarant until the Chairperson of the LPC shall have given written notice to the Buildings Department that the Landmark Work has been satisfactorily completed by Declarants or the Chairperson of the LPC has certified in writing, as provided in Section 2.2(d) hereof, that (a) a Force Majeure has occurred and (b) the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the New Building. The Chairperson of the LPC shall issue said notice in the exercise of his or her reasonable judgment and reasonably promptly after Declarants have made written request to the Chairperson of the LPC and has provided documentation to support such request, and the Chairperson of the LPC shall in all events endeavor to issue such written notice to the Buildings Department, or inform the Declarants in writing of the reason for not issuing said notice, within fourteen (14) calendar days after Declarants have requested such written notice. Upon receipt of the written notice from the Chairperson of the LPC that (i) the Landmark Work has been satisfactorily completed or (ii) the Chairperson of the LPC has certified that a Force Majeure has occurred and that the Chairperson of the LPC has

no objection to the issuance of a TCO or PCO, the Buildings Department may grant, and Developer Declarant may accept, a TCO or PCO for the Designated Structure. In the event that the Buildings Department shall grant to Developer Declarant, or Developer Declarant shall accept, a TCO or PCO for the New Building in violation of the terms of this Declaration, Developer Declarant shall, at the request of the Chair of the LPC, immediately relinquish and forfeit such TCO or PCO. Notwithstanding anything to the contrary contained herein, the Chairperson of the LPC shall declare that the Landmark Work has been satisfactorily completed notwithstanding that minor and insubstantial details of construction or mechanical adjustment remain to be performed.

(c) Declarants shall permit inspection of the Designated Structure by the Chairperson of the LPC and representatives designated by the Chairperson of the LPC in connection with the notice described in Section 2.2(b) hereof.

(d) (i) Upon application by Declarants, notwithstanding anything contained in any other provision of this Declaration, the Chairperson of the LPC, in the exercise of his or her reasonable judgment, may certify that the performance or completion of the Landmark Work is delayed due to a Force Majeure as provided in paragraph (ii) below.

(ii) In the event that Declarants reasonably believe that full performance of its obligations to complete the Landmark Work has been delayed as a result of a Force Majeure, Declarants shall so notify the Chairperson of the LPC as soon as Declarants learn of such circumstances. Declarants' written notice shall include a description of the condition or event, its cause (if known to Declarants), its probable duration, and in Declarants' reasonable judgment, the impact it is reasonably anticipated to have on the completion of the Landmark Work. The Chairperson of the LPC shall, within fourteen (14) calendar days of its receipt of Declarants' written notice, (A) certify in writing that a Force Majeure has occurred, including a determination of the expected duration of such delay (the "Delay Notice"), and grant Declarants appropriate relief for such delay, including certifying in writing to the Buildings Department that the Chairperson of the LPC has no objection to the issuance of a TCO or PCO for, as appropriate, all or part of the New Building, or (B) notify Declarants that it does not reasonably believe a Force Majeure has occurred. With respect to any claim that a Force Majeure has delayed Declarants' performance or completion of the Landmark Work, the LPC may require that Declarants post a bond or other security in a form and amount acceptable to the Chairperson of the LPC in order to ensure that the Landmark Work is completed. Such alternative security could include, without limitation, alternative or additional conditions on the issuance of any PCO or TCO. Any delay caused as the result of a Force Majeure shall be deemed to continue only as long as the Declarants shall be using reasonable efforts to minimize the effects thereof. Upon cessation of the events causing such delay, Declarants shall promptly recommence the Landmark Work.

(e) Notwithstanding anything else to the contrary contained herein, this Declaration shall not be deemed to prohibit or restrict Developer Declarant from (i) applying for or receiving a TCO or a PCO for any floor area in the New Building which is not within the Special Permit Restricted Space; or (ii) obtaining permits or building notices from the Buildings Department to perform work, including tenant work, in the New Building prior to the completion of the Landmark Work; or (iii) entering into agreements affecting all or any portions of the space in the New Building prior to completion of the Landmark Work.

2.3. Preservation, Repair and Maintenance. Declarants hereby covenant and agree to preserve, repair and maintain the Designated Structure in sound first-class condition, at its own cost and expense, in accordance with this Declaration, the MOU and the Landmarks Preservation Law. It is understood that certain obligations and duties set forth in this Declaration are above and beyond the requirements of the Landmarks Preservation Law and do not in any way diminish Declarants' obligation and responsibility to comply with all provisions of the Landmarks Preservation Law.

2.4. Continuing Maintenance Program. Declarants shall comply with the obligations and restrictions of the continuing maintenance program (the "Continuing Maintenance Program") as set forth below:

(a) Periodic Inspections. Declarants shall establish and carry out a cyclical inspection and maintenance program for the Designated Structure which shall include, without limitation, the following:

(i) At Declarants' expense, an inspection (the "Periodic Inspection") shall be made every five years, on or within thirty (30) days of the anniversary of the issuance by the LPC of the Notice of Compliance pursuant to the MOU, and thereafter, shall be made on or within thirty (30) days of the fifth anniversary of the date of such initial or subsequent inspection. In the event that Developer Declarant has accepted a TCO or a PCO for the Special Permit Restricted Space without having first received the Notice of Compliance, the first periodic inspection shall be made on or within thirty (30) days of the fifth anniversary date of the issuance of such TCO or PCO and every five years thereafter. The Periodic Inspection shall be done by a preservation architect, engineer or other qualified person knowledgeable about the preservation of historic structures (the "Preservation Architect") selected by Declarants from a list prepared by Declarants and approved by the Chairperson of the LPC as to their credentials, which approval shall not be unreasonably withheld or delayed. Declarants shall update such listing upon the request of the Chairperson of the LPC. In addition, Declarants may periodically supplement the list of Preservation Architects, subject to the reasonable approval of the Chairperson of the LPC as to

their credentials. The Preservation Architect shall make a thorough inspection of the exterior of the Designated Structure and those portions of the interior, which, if not properly maintained, could affect the condition of the exterior, including, but not limited to, interior systems such as heating, plumbing and air conditioning. The Periodic Inspection shall include (but not be limited to) the following portions of the Designated Structure:

(A) All masonry portions of the building, including but not limited to:

a. All walls;

b. Foundations;

c. All brick, and mortar joints;

d. Stone sills;

e. Paved areas, sidewalks, entrance areaway;

f. Parapet, coping and corbelling;

g. All chimneys and flues;

h. Stonework (existing and new);

i. Caulking where necessary, with particular reference to joints between terra cotta and ironwork;

(B) All metal work;

(C) All areas of the roof, flashing, drainage, and rainwater systems;

(D) All skylights;

(E) All mechanical systems and equipment, including but not limited to:

a. Plumbing;

b. Electrical and lighting fixtures;

c. Heating and air conditioning;

d. Sprinkler system;

e. Elevators.

(ii) The Preservation Architect shall, at the expense of Declarants, submit a report on each Periodic Inspection (the "Periodic Report") to Declarants and the LPC within 45 days after each Periodic Inspection. The Periodic Report shall outline the existing conditions of the Designated Structure and detail the work which should be performed in order to maintain the Designated Structure, including all architectural features and elements, in a sound first-class condition, including but not limited to painting, cleaning, repair of architectural features and elements, resurfacing of walls, repointing of masonry and waterproofing.

(iii) Submission of Local Law 10 & 11 Facade Inspection Report. If the Designated Structure is subject to the Facade Inspection Report requirements of Title 1 RCNY §32-03 et seq., a copy of any such Facade Inspection Report which is submitted to the New York City Department of Buildings, shall also be provided at the same time to the Landmarks

Preservation Commission. In the event that the building is found to be unsafe pursuant to such inspection, Declarants shall notify the Landmarks Preservation Commission simultaneously with the Department of Buildings, pursuant to Title 1 RCNY §32-03(b)(2)(vii).

(iv) Except as set forth below, Declarants shall perform all work which a Periodic Report, Facade Inspection Report or Emergency Incident Report (as defined below) identifies as necessary to maintain the Designated Structure, including architectural features and elements, in sound first-class condition. No work shall be performed except pursuant to a permit from the LPC if a permit is required under the Landmarks Preservation Law. If the LPC determines that a specific item of work or method of work as set forth in a Periodic Report, Facade Inspection Report or Emergency Incident Report would be inappropriate or inadequate, the determination of the LPC shall control and Declarants need not and shall not have such specific item performed. Declarants shall have the right to contest in a hearing before the LPC any work called for in a Periodic Report or Emergency Incident Report. Declarants' obligation to perform such contested work or to perform it by a method acceptable to the LPC shall be stayed pending a decision in

any such proceeding at the LPC. Declarants shall proceed with all work that is uncontested during the stay pursuant to a permit.

(v) Unless Declarants have notified the LPC in writing that they contest any work as set forth in the preceding paragraph, Declarants shall apply for all necessary permits or certificates from the LPC within 45 days of receiving the completed report from the Preservation Architect. Declarants shall use their best efforts to assure that all repairs, rehabilitation, repointing and restoration work detailed in the Periodic Report or Emergency Incident Report shall be completed at the earliest possible date, but no later than within nine months of the date of issue of the certificate or permit from the LPC, or, if no such certificate or permit is required, within nine months of the date of the Periodic Report or Emergency Incident Report. If for reasons beyond Declarants' control, as determined by the Chairperson of the LPC, in the exercise of his or her reasonable judgment, such work cannot be completed within nine months, Declarants shall apply to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of

time to be related to the period of delay and shall not be unreasonably withheld.

(b) Emergency Protection Program. Declarants shall establish and be prepared to carry out an emergency protection program for the Designated Structure which shall include at the minimum, the following:

(i) If a fire, the elements or any other cause whatsoever damages or destroys the Designated Structure or any part thereof (the "Emergency Incident"), Declarants shall use all reasonable means to save, protect and preserve the Designated Structure at the time of and following the Emergency Incident, including, but not limited to, acting with an approval from the Chairperson of the LPC or his or her designated representatives to stabilize and prevent further damage to or deterioration of the structure, and to secure the Subject Premises from unauthorized access. Declarants shall not remove from the Subject Premises any debris consisting of exterior features of the Designated Structure without an approval from the Chairperson of the LPC or his or her designated representative. Unless necessitated as a safety precaution as ordered by the Departments of Buildings, Health, Fire or Police, or as an action taken in response to a life-threatening situation,

Declarants shall not remove any other debris or otherwise clear the Subject Premises without the approval of the LPC or its Chairperson.

(ii) Declarants shall give immediate written notice of such Emergency Incident to the LPC. Declarants shall also give timely notice to the LPC of the time or times when the New York City Departments of Buildings, Health and Fire will inspect the Subject Premises following the Emergency Incident, in order that the LPC may have a representative present during such inspections.

(iii) Within sixty days of such Emergency Incident, a Preservation Architect shall, at the expense of Declarants, make a thorough inspection of the Designated Structure and submit a report (an "Emergency Incident Report") to Declarants and to the LPC outlining the condition of the structure, assessing the extent of damage, and recommending (A) work, if any, which must be undertaken immediately, upon receipt of proper permits, in order to stabilize and prevent further damage to the Designated Structure, and (B) work that should be performed to repair and restore the Designated Structure to a sound, first-class condition or, alternatively to (A) and (B), that Declarants

make an application to the LPC for permission to demolish the remaining portions of the Designated Structure.

(iv) With regard to the work to be performed pursuant to subparagraph (iii) (A), Declarants shall immediately upon receipt of the Emergency Incident Report request and vigorously pursue all necessary permits and upon their issuance, shall undertake all such work with alacrity. If no permits are required, work shall be undertaken as soon as possible after receipt of the Emergency Incident Report.

(v) With regard to the work to be performed pursuant to subparagraph (iii) (B), within ninety days of receiving the report of the Preservation Architect, Declarants shall apply for all necessary permits and certificates from the LPC to repair and restore or to demolish. No work on the exterior of the Designated Structure, and no work on the interior of the Designated Structure which would affect the exterior or which would require the issuance of a permit from the Department of Buildings shall be performed except pursuant to a permit from the LPC. If the LPC determines that a recommendation to demolish or to perform a specific item of work or method of work set forth in the report would be inappropriate, using the criteria set forth in the Landmarks Preservation Law, the determination of the LPC shall

control and Declarants shall not have such specific work performed or be entitled to have the Designated Structure demolished unless Declarants are obligated to perform such work or demolish the structure in accordance with an "Immediate Emergency Declaration" issued by the Department of Buildings. All repair, restoration, rehabilitation, repointing, and other work provided for in a certificate or permit shall be completed within nine months of the date of issue of such certificate or permit by the LPC. If such work cannot be completed within nine months for reasons beyond Declarants' control, as determined by the Chairperson of the LPC in the exercise of his or her reasonable judgment, Declarants shall apply in writing to the LPC for an extension of time within which to complete such work. Such extensions shall be for a stated additional period of time that is related to the period of the delay and shall not be unreasonably withheld.

(c) Access to Designated Structure. Declarants agree to provide access to the Designated Structure to the LPC and its designated representatives at reasonable times and upon reasonable written notice, except in cases of emergency, in which event the LPC or its representatives shall have access, if feasible, immediately and without notice, in order to insure that the preservation, repair and

maintenance of the Designated Structure is carried out in accordance with this Declaration.

(d) Failure to Perform. In the event that the preservation, repair, or maintenance of the Designated Structure is not performed in accordance with the provisions of this Article, the LPC shall give written notice of such failure to perform to Declarants. Subject to the provisions of Section 4.4 hereof, in the event that Declarants, their successors or assigns, fail after sixty days from receipt of written notice from the LPC to perform or shall commence to perform but fail diligently to prosecute to completion any such repair and/or maintenance, or any obligations of Declarants set forth in this Declaration, the City of New York may perform all of the necessary work at the sole cost and expense of the Declarants and shall have the right to enter onto the Subject Premises and to charge said Declarants for all the actual cost of such work, together with actual administrative and legal fees incurred in the collection thereof. The City's actual costs hereunder shall include, but not be limited to, payments by the City of New York to any lawyers, consultants, contractors, painters, engineers, architects and skilled artisans required to be hired to perform or supervise such work. To the extent such actual costs are expended by the City of New York, the LPC shall have a lien on the Landmark Property as if a lien had been filed, perfected and enforced for materials and labor under

Article 2 of the Lien Law of the State of New York.

Notwithstanding the foregoing, if the Landmark Property remains a condominium and/or in the event the Development Site is converted to a condominium, Declarants' right to notice and cure provided in this subsection shall apply only to the applicable condominium board(s) and to any owner of space occupied by retail uses on the Subject Premises, provided that the LPC has received notice by said parties in accordance with Section 6.2.

2.5. Regulatory Agreement. Developer Declarant has indicated that it intends to provide in the New Building to be constructed on the Development Site four rental units, 3,800 square feet in sum, two of which will be affordable to households with an income of up to 40 percent of Area Mean Income ("AMI"), and two of which will be affordable to households with an income of up to 80 percent of AMI, pursuant to a Regulatory Agreement to be entered into with the Department of Housing Preservation and Development.

III. CONDOMINIUM BOARD

3.3. General. In the event that the New Building is converted to a condominium in accordance with Article 9B of the New York State Real Property Law ("RPL"), the condominium board ("Board") shall have the responsibility to carry out all of Developer Declarant's obligations and the authority to exercise all of Developer Declarant's rights under this Declaration and upon such conversion, Developer Declarant shall be released from its liability thereunder.

The following provisions of this Article 3 shall be operative only in the event that the Board is formed as described in this Section 3.1.

3.2 Board. The Board shall require that each owner of a condominium unit ("New Building Unit Owner") appoint the Board as his Attorney-in-Fact with respect to modification, amendment, or cancellation of the Declaration.

3.3 Condominium Declaration. Every deed conveying title to, or a partial interest in, the Development Site and every lease of all or substantially all of the Development Site shall contain a recital that the grantee is bound by the terms of the condominium declaration and by-laws which shall be amended to incorporate an obligation by Developer Declarant to comply with the provisions of Article 3 of this Declaration. Every deed conveying title shall explicitly state that the grantee shall comply with the provisions of Article 3 of this Declaration.

IV. EFFECT AND ENFORCEMENT

4.1. Effective Date.

(a) This Declaration shall have no force and effect unless and until the occurrence of one of the following, to be referred to as the "Effective Date": (a) the expiration of 21 days after the Special Permit has been approved if no review is undertaken by the City Council pursuant to Section 197-d of the New York City Charter or (b) final approval of the Special Permit pursuant to Section 197-d of the New York City Charter. The Declaration shall become immediately effective upon the Effective Date. If, before the

Effective Date, Developer Declarant requests or causes the application for the Special Permit to be withdrawn or abandoned, or if final action has been taken having the effect of denying the Special Permit, then, upon notice to CPC and LPC, this Declaration shall not become effective, shall be automatically canceled and shall be of no force and effect.

(b) If the Special Permit is at any time declared invalid or is otherwise voided by final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such entry, as the case may be, this Declaration shall be automatically canceled without further action by Developer Declarant and shall be of no further force or effect and the CPC shall, if requested by Developer Declarant, provide Developer Declarant with a letter in recordable form stating that the Declaration has been so canceled and is of no further force and effect. In the event that Developer Declarant has obtained a certificate of occupancy allowing any occupancy of the Special Permit Restricted Space, Developer Declarant shall promptly, after receipt of such letter, obtain a revised certificate of occupancy from the Buildings Department reflecting the cessation of any such occupancy of the Special Permit Restricted Space.

4.2. Filing and Recordation. Developer Declarant shall file and record at its sole cost and expense this Declaration in the Register's Office, indexing it against the Subject Property, immediately upon the Effective Date. Developer Declarant shall promptly deliver to the CPC and the LPC duplicate executed originals, promptly following the Effective Date and, following recordation, a true copy of this Declaration as recorded, as certified by the Register. If Developer Declarant fails to so record this Declaration, the City may record this Declaration, at the sole cost and expense of Declarant, who shall promptly pay to the City such costs together with fees for purchase of a reasonable number of certified copies of the recorded Declaration.

4.3. Additional Remedies. Declarants acknowledge that the City is an interested party to this Declaration, and consent to enforcement by the City, administratively or at law or equity, of the restrictions, covenants, easements, obligations and agreements contained herein. Declarants also acknowledge that the remedies set forth in this Declaration are not exclusive, and that the City and any agency thereof may pursue other remedies not specifically set forth herein including, but not limited to, the seeking of a mandatory injunction compelling Declarants, their heirs, successors or assigns, to comply with any provision, whether major or minor, of this Declaration.

4.4. Notice and Cure.

(a) Before any agency, department, commission or other subdivision of the City of New York institutes any proceeding or proceedings to enforce the terms or conditions of this Declaration because of any violation hereof, it shall give Declarants forty-five (45) days written

notice of such alleged violation, during which period Declarants shall have the opportunity to effect a cure of such alleged violation. If Declarants commence to effect a cure during such forty-five (45) day period and proceed diligently towards the effectuation of such cure, the aforesaid forty-five (45) day period shall be extended for so long as Declarants continue to proceed diligently with the effectuation of such cure. The right to notice and cure provided in this subsection shall apply equally to all parties with a fee interest in the Subject Premises, or any part thereof, including ground lessees; provided the LPC has received notice by said parties in accordance with Section 6.2. Notwithstanding the foregoing, if the Landmark Property remains a condominium and/or in the event the Development Site is converted to a condominium, Declarants' right to notice and cure provided in this subsection shall apply only to the applicable condominium board(s) and to any owner of space occupied by retail uses in the Subject Premises; provided that the LPC has received notice by said parties in accordance with Section 6.2.

(b) If after due notice as set forth in this Section 4.5, Declarants fail to cure such alleged violations, the City may exercise any and all of its rights, including those delineated in this Section and may disapprove any amendment, modification, or cancellation of this

Declaration on the sole grounds that Declarants are in default of any material obligation under this Declaration.

4.5. Acknowledgment of Covenants. Declarants acknowledge that the restrictions, covenants, easements, obligations and agreements in this Declaration, which are an integral part of the Special Permit, will protect the value and desirability of the Subject Premises as well as benefit the City of New York and all property owners within a one-half mile radius of the Subject Premises. Those restrictions, covenants, easements, obligations and agreements shall be covenants running with the land, and shall bind Declarants and their successors, legal representatives, and assigns.

4.6. No Other Enforceable Restrictions. Declarants represent and warrant that there are no enforceable restrictions of record on the use of the Subject Premises or the Designated Structure, other than those contained in the Previous Declaration (defined in Section 5.5), which has been cancelled subject to a separate Notice of Cancellation being recorded simultaneously herewith, nor any present or presently existing future estate or interests in the Subject Premises or the Designated Structure, nor any lien, obligation, enforceable covenant, limitation or encumbrance of any kind which precludes, directly or indirectly, imposition on the Subject Premises or the Designated Structure of the restrictions, covenants, easements and obligations of this Declaration.

4.7. Governance. This Declaration shall be governed by and construed in accordance with the laws of the State of New York.

4.8. Severability. In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent

jurisdiction and the judgment of such court shall be upheld on final appeal, or the time for further review of such judgment on appeal or by other proceeding has lapsed, such provision shall be severable, and the remainder of this Declaration shall continue to be of full force and effect.

4.9. Applicability to Other City Agencies. Declarants covenant to include a copy of this Declaration as part of any application submitted to the LPC, CPC, Buildings Department, Board of Standards and Appeals ("BSA"), New York State Attorney General (in the event of a proposed conversion of the New Building to condominium ownership) or any agency succeeding to their respective jurisdictions. The restrictions and obligations contained herein are a condition of any permit or Certificate of Occupancy to be issued by the Buildings Department and Declarants will take all reasonable steps to ensure that they are so listed. Failure to carry out such obligation beyond any applicable grace period shall constitute sufficient cause for the Commissioner of the Buildings Department to revoke any building permit issued pursuant to the Special Permit or to apply to the BSA or to a court of competent jurisdiction for revocation of the Certificate of Occupancy or any permit issued by the Buildings Department.

4.10. Limitation of Liability.

(a) Declarants shall be liable in the performance of any term, provision or covenant in this Declaration, subject to the following sentences and subject to Section 4.12 below. Notwithstanding anything to the contrary contained in this Declaration, the City and any other party or person relying on the Declaration will look solely to the fee estate

and interest of Declarants in the Subject Premises, on an in rem basis only, for the collection of any money judgment recovered against Declarant, and no other property of Declarants shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration, and Declarants shall have no personal liability under this Declaration. Notwithstanding the foregoing, nothing herein shall be deemed to preclude, qualify, limit or prevent the City's exercise of any of its governmental rights, powers or remedies, including, without limitation, with respect to the satisfaction of the remedies of the City, under any laws, statutes, codes or ordinances. The liability of any Unit Owner under this Declaration shall be limited to the amount of such Unit Owner's prorated share, based on such Unit Owner's interest in the common elements of the Condominium, of the costs of compliance with this Declaration. For the purposes of this Section 4.10, "Declarants" shall mean "Declarants" as defined in Article I hereof, as well as any principals, disclosed or undisclosed, partners, affiliates, officers, employees, shareholders or directors of the respective Declarants.

(b) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon Declarants, and any successors-in-interest thereto only for the period during which such party is the holder of a fee interest in or is a party-in-interest of the

Subject Premises and only to the extent of such fee interest or the interest rendering such party a party-in-interest. At such time as either Declarant has no further fee interest in the Subject Premises and is no longer a party-in-interest of the Subject Premises, such party's obligations and liability with respect to this Declaration shall wholly cease and terminate from and after the conveyance of such party's interest and such party's successors-in-interest in the Subject Premises by acceptance of such conveyance automatically shall be deemed to assume such party's obligations and liabilities hereunder to the extent of such successor-in-interest's interest.

4.11. Subordination. Declarants shall cause every individual, business organization or other entity that between the date hereof and the date of recordation of this Declaration becomes a Party-in-Interest to the Subject Premises, to execute this Declaration or to subordinate such interest to the Declaration and waive its right to execution. Any mortgage or other lien encumbering the Subject Property after the recording date of this Declaration shall be subject and subordinate hereto.

4.12. Right to Convey. Nothing contained herein shall be construed as requiring the consent of the CPC, the LPC, the City, any agency thereof or any other person or entity to any sale, transfer, conveyance, mortgage, lease or assignment of any interest in the Subject Premises or the Designated Structure.

V. AMENDMENTS, MODIFICATIONS AND CANCELLATIONS

5.1. Amendment or Cancellation. Except as provided in paragraph 4.1 above, this Declaration may be amended or canceled only upon application by LPC on behalf of Declarants and only with the express written approval of the CPC and of the City Council, but only in the event that the City Council reviewed the Special Permit pursuant to Section 197-d, and no other approval or consent shall be required from any public body, private person or legal entity of any kind; provided, however, that no such approval shall be required in the case of any cancellation pursuant to paragraph 5.4.

5.2. Minor Modification. The Chairperson of the LPC and the Chairperson of the CPC may, by express written consent, administratively approve modifications to the Declaration that the CPC has determined to be minor. Such minor modifications shall not be deemed amendments requiring the approval of the CPC, the LPC, the City Council or any other agency or department of the City of New York.

5.3. Recording and Filing. Any modification, amendment or cancellation of this Declaration, except pursuant to paragraph 5.4, shall be executed and recorded in the same manner as this Declaration. Following any modification, amendment or cancellation, Declarants shall immediately record it and provide one executed and certified true copy thereof to each of the CPC and the LPC and upon failure to so record, permit its recording by the CPC or the LPC at the cost and expense of Declarants.

5.4. Modification of Landmark Work. In the event that the Landmark Work is further modified, pursuant to a future approval by the LPC, a notice indicating such modification, subject to approval by the LPC, shall be recorded in the City Register's

Office, in lieu of a modification of the Declaration. Such recordation shall be in accordance with Section 5.3 of the Declaration, and proof of recordation shall be provided to CPC and LPC.

5.5. Surrender or Nullification. Notwithstanding the provisions of Section 4.1(a) and 4.1(b), in the event that Declarants do not use the Subject Premises pursuant to the Special Permit, Developer Declarant may surrender the Special Permit to the CPC and proceed with any use or development of the Development Site permitted by the Zoning Resolution and in accordance with the Landmarks Preservation Law as if such Special Permit had not been granted. This Declaration shall be rendered null and void upon recordation of an instrument filed by Declarants discharging it of record, with copies to LPC and CPC, the recordation of which instrument shall constitute a waiver of the right to use the Subject Premises pursuant to the Special Permit.

VI. MISCELLANEOUS

6.1. Exhibits. Any and all exhibits, appendices, or attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

6.2. Notices. All notices, demands, requests, consents, waivers, approvals and other communications which may be or are permitted, desirable or required to be given, served or deemed to have been given or sent hereunder shall be in writing and shall be sent, if intended for Developer Declarant, to 39 West 23rd Street, LLC, having offices c/o Anbau Enterprises, Inc., 11 East 26th Street, Suite 1300, New York, NY 10010, Attn: Mr. Stephen L. Glascock, with a copy to Kramer Levin Naftalis & Frankel LLP, 1177, Avenue of the

Americas, New York, New York 10036, Attn: Michael T. Sillerman, Esq.; if intended for Landmark Declarant, to President, Board of Managers, 35 West 23rd Street Condominium, 35 West 23rd Street, New York, NY 10010; if intended for the CPC, to the CPC at 22 Reade Street, New York, New York 10007 (or then-official address), Attn: Chairperson; if intended for the LPC, to the LPC at One Centre Street, Municipal Building, New York, New York 10007 (or then-official address), Att: Chairperson; and, if intended for the City Council, to the City Council at the Office of the Speaker, City Council, City Hall, New York, New York 10007. Each Declarant, or its representatives, by notice given as provided in this paragraph 6.2, may change any address for the purposes of this Declaration. Each notice, demand, request, consent, approval or other communication shall be either sent by registered or certified mail, postage prepaid, or delivered by hand, and shall be deemed sufficiently given, served or sent for all purposes hereunder five (5) business days after it shall be mailed, or, if delivered by hand, when actually received.

6.3. Indemnification. Provided that Declarants are found by a court of competent jurisdiction to have been in default in the performance of its obligations under this Declaration after having received written notice of such default and opportunity to cure as provided above, and such finding is upheld on final appeal, or the time for further review of such finding on appeal or by other proceeding has lapsed, Declarants shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out of or in connection with the City's enforcement of Declarants' obligations under this Declaration.

6.4. This Amended and Restated Declaration modifies and supersedes in all respects the terms, conditions, rights and provisions of the Prior Declaration.

IN WITNESS WHEREOF, Declarants have executed this Declaration as of the day and year first above written.

Board of Managers of the 35 West 23rd Street Condominium

By:_____
Name: PATRICK MONTGOMERY
Title: PRESIDENT

39 West 23rd Street, LLC

By:_____
Name: Stephen Glascock
Title: President

KL3 2941268.92941268.10
KL3 3008571.1

MARIA BUN
Notary Public - State of New York
NO. 01BU6203697
Qualified in Kings County
My Commission Expires 04/13/2017

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 24 day of March in the year 2015 before me, the undersigned, personally appeared Patrick Montgomery, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Maria Bun
Notary Public

KL3 2941268.92941268.10
KL3 3008571.1

MARIA BUN
Notary Public - State of New York
NO. 01BU6203697
Qualified in Kings County
My Commission Expires 04/13/2017

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On the 24 day of March in the year 2015 before me, the undersigned, personally appeared Stephen Glascock, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Maria Bun
Notary Public

KL3 2941268.92941268.10
KL3 3008571.1

SCHEDULE OF EXHIBITS

Exhibit A	Metes and Bounds of Subject Premises
Exhibit B	Certificate as to Parties-in-Interest
Exhibit C	Waiver and Subordination
Exhibit D	LPC Report (MOU)
Exhibit E	Certificate of Appropriateness
Exhibit F	Certificate of No Effect
Exhibit G	Drawings

EXHIBIT A

Metes and Bounds of Subject Premises

Tax Lot 20

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST 23RD STREET DISTANT 433 FEET 2-1/2 INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY 98 FEET 9 INCHES TO A POINT IN A LINE DRAWN AT RIGHT ANGLES TO AND DISTANT 433 FEET 2 INCHES WEST OF 5TH AVENUE;

THENCE EASTERLY PARALLEL WITH WEST 23RD STREET 12 FEET 1-1/2 INCHES;

THENCE NORTHERLY ON A LINE FORMING ON ITS WESTERLY SIDE AN ANGLE OF 89 DEGREES 36 MINUTES 50 SECONDS WITH THE PRECEDING COURSE 18 FEET 9 INCHES;

THENCE WESTERLY PARALLEL WITH WEST 23RD STREET 19 FEET 7 INCHES TO A POINT IN A LINE DISTANT 440 FEET 9 INCHES WESTERLY FROM AND PARALLEL WITH 5TH AVENUE;

THENCE NORTHERLY ALONG SAID PARALLEL LINE 80 FEET TO THE SOUTHERLY SIDE OF WEST 24TH STREET;

THENCE WESTERLY ALONG THE SAME 19 FEET 1/2 INCH TO A POINT IN A LINE 4 FEET 9 INCHES EASTERLY FROM AND PARALLEL WITH THE WESTERLY LINE OF LOT 51 ON MAP OF PROPERTY OF MARY STRIKER;

THENCE SOUTHERLY ALONG SAID LINE WHICH FORMS AN ANGLE OF 90 DEGREES 23 MINUTES 10 SECONDS ON ITS WESTERLY SIDE WITH THE SOUTHERLY SIDE OF WEST 24TH STREET 80 FEET;

THENCE WESTERLY PARALLEL WITH WEST 24TH STREET 15 FEET 5-1/2 INCHES;

THENCE SOUTHERLY PARALLEL WITH 5TH AVENUE, 117 FEET 6 INCHES TO THE NORTHERLY SIDE OF WEST 23RD STREET;

THENCE EASTERLY ALONG THE SAME 41 FEET 6 INCHES TO THE POINT OR PLACE OF BEGINNING.

Tax Lot 60

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

Borough of Manhattan of the City of New York, in the County and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of 24th Street distant 459 feet 9 inches and 10/18th of an inch westerly from the point of intersection of the westerly side or line of 5th Avenue with the southerly side or line of 24th Street;

THENCE westerly along said side of 24th Street 19 feet and 11/18th of an inch;

THENCE southerly on a lone parallel or nearly so with the easterly side of line of 5th Avenue, 80 feet;

THENCE easterly parallel with southerly side of 24th Street 19 feet 11/18th of an inch;

THENCE northerly and parallel or nearly so with the easterly side of 5th Avenue 80 feet to the point or place of BEGINNING.

Tax Lots 1001-1005

AS TO BLOCK 825 LOT 1001

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 1 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1001 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 25% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

AS TO BLOCK 825 LOT 1002

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 2 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1002 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

Lots 1001-1005, con.

AS TO BLOCK 825 LOT 1003

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 3 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1003 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

AS TO BLOCK 825 LOT 1004

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 4 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1004 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

AS TO BLOCK 825 LOT 1005

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 5 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1005 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

THE LAND UPON WHICH THE AFOREMENTIONED TAX LOTS 1001 THROUGH 1005 ARE SITUATED IS MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

ALL THOSE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF 23RD STREET, DISTANT 388 FEET 2-1/2 INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE SAID NORTHERLY SIDE OF 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY ON A LINE AT RIGHT ANGLES TO 23RD STREET, 98 FEET 9 INCHES;

THENCE WESTERLY ON A LINE PARALLEL WITH 23RD STREET, 44 FEET 10 INCHES;

THENCE SOUTHERLY ON A LINE AT RIGHT ANGLES TO 23RD STREET, 98 FEET 9 INCHES; AND

THENCE EASTERLY ALONG SAID STREET 44 FEET 10 INCHES TO THE POINT OR PLACE OF BEGINNING.

EXHIBIT B

Certificate of Parties-in-Interest

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

EXHIBIT II

CERTIFICATION PURSUANT TO ZONING LOT SUBDIVISION D OF SECTION 12-10 OF THE ZONING RESOLUTION OF DECEMBER 15, 1961 OF THE CITY OF NEW YORK - AS AMENDED EFFECTIVE AUGUST 18, 1977

First American Title Insurance Company, a title insurance company licensed to do business in the State of New York and having its principal office at 633 THIRD AVENUE, NEW YORK, NEW YORK hereby certifies that as to the land hereinafter described being a tract of land, either un-subdivided or consisting of two or more lots of record, contiguous for a minimum of ten linear feet, located within a single block, that all the parties in interest constituting a "party in interest" as defined in Section 12-10, Subdivision (D) of the Zoning Resolution of the City of New York, effective December 15, 1961, as amended, are the following:

	NAME	ADDRESS	NATURE OF INTEREST
1.)	39 West 23rd Street, LLC	c/o Anbau Enterprises, Inc. 206 5th Avenue New York, NY 10010	Fee Owner of Lots 20 and 60 and holder of Development Rights acquired from Lots 1001, 1002, 1003, 1004 and 1005
2.)	Goldman Sachs Bank USA	200 West Street New York, NY 10282	Mortgagee of Lots 20 and 60 and Development Rights appurtenant to Lots 1001, 1002, 1003, 1004 and 1005
3.)	The Board of Managers of the 35 West 23rd Street Condominium	35 West 23rd Street New York, NY 10010	Designated representative of fee owners of Commercial Unit (Lot 1001) and Residential Units (Lots 1002, 1003, 1004 and 1005), signed as a party to that certain Declaration of Zoning Lot Restrictions dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018147, Enlarged Combined Zoning Lot (Lots 20, 1001, 1002, 1003, 1004, 1005)

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

	NAME	ADDRESS	NATURE OF INTEREST
4.)	37 W 23 Retail LLC	46 Trinity Place, 2nd Floor New York, NY 10006	Fee Owner of Lot 1001 (Unit 1), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
5.)	Lisa Liqun Lee and Xiaotong Zhou	196 Bowery, Apartment 3rd Floor New York, NY 10012	Fee Owner of Lot 1002 (Unit 2), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
6.)	Jane Dodd and Thomas Jessell	448 Riverside Drive, Apt 72 New York, NY 10027	Fee Owner of Lot 1003 (Unit 3), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
7.)	Michael J. Spano	160 West 66th Street New York, NY 10023	Fee Owner of Lot 1004 (Unit 4), signed as a party to that certain Declaration of Zoning Lot Restrictions dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018147, Enlarged Combined Zoning Lot (Lots 20, 1001, 1002, 1003, 1004, 1005)

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

	NAME	ADDRESS	NATURE OF INTEREST
8.)	Patrick Montgomery and Jerilyn Tabor Montgomery	35 West 23rd Street, Unit 5 New York, NY 10010	Fee Owner of Lot 1005 (Unit 5), signed as a party to that certain Declaration of Zoning Lot Restrictions dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018147, Enlarged Combined Zoning Lot (Lots 20, 1001, 1002, 1003, 1004, 1005)
9.)	Signature Bank	565 Fifth Avenue, 12th Floor New York, NY 10017	Mortgagee of Lot 1001 (Unit 1), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
10.)	JPMorgan Chase Bank, N.A.	601 Oakmont Lane Suite 300 Westmont, Illinois	Mortgagee of Lot 1002 (Unit 2), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

	NAME	ADDRESS	NATURE OF INTEREST
11.)	UST Mortgage Company	190 Congress Park Drive Suite 100 Delray Beach, FL 33445	Mortgagee of Lot 1003 (Unit 3)
12.)	JPMorgan Chase Bank, N.A.	1111 Polaris Parkway Columbus, OH 43240	Mortgagee of Lot 1003 (Unit 3), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
13.)	The Trustees of Columbia University in the City of New York	412 Low Memorial Library 535 West 116th Street New York, NY 10027	Mortgagee of Lot 1003 (Unit 3), waived pursuant to Section 16(D) of that certain Zoning Lot Development and Easement Agreement dated as of 09/19/2005 and recorded on 01/11/2006 as CRFN 2006000018146.
13.)	JRRJ LLC	c/o Guzzo & Castillo, LLP 6080 Jericho Turnpike, Suite 308 Commack, NY 11725	Mortgagee of Lot 1004 (Unit 4)

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

	NAME	ADDRESS	NATURE OF INTEREST
14.)	New York City Landmarks Preservation Commission	Municipal Building 1 Centre Street 9th Floor, North New York, NY 10007	Ladies' Mile Historic District, pursuant to notice recorded in the Office of the City Register, New York County on 10/13/1989 in Reel 1628 Page 1160.
15.)	Coburg Capital (Attorneys: Siller Wilk LLP, 675 Third Avenue, NY NY 10017)	35 The Parade St. Heller, Jersey, JE2,3QQ Bahamas	Mortgagee of Lot 1004 (Unit 4) and Judgment Creditor against Michael J. Spano (Judgment in Supreme Court of New York County for $15,000,265.00, filed 5/6/2008 in Index No. 106317/08)
16.)	Pali Capital Inc. (Attorneys: Siller Wilk LLP, 675 Third Avenue, NY NY 10017)	650 Fifth Avenue New York NY 10019	Judgment Creditor against Michael J. Spano (Judgment in Supreme Court of New York County for $15,000,265.00, filed 5/6/2008 in Index No. 106317/08)

First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

SCHEDULE A

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lot Number(s) **20, 60 and 1001-1005** in Block(s) **825** as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

PARCEL I (LOT 20)

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST 23RD STREET DISTANT 433 FEET 2-½ INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY 98 FEET 9 INCHES TO A POINT IN A LINE DRAWN AT RIGHT ANGLES TO AND DISTANT 433 FEET 2 INCHES WEST OF 5TH AVENUE;

THENCE EASTERLY PARALLEL WITH WEST 23RD STREET 12 FEET 1-½ INCHES;

THENCE NORTHERLY ON A LINE FORMING ON ITS WESTERLY SIDE AN ANGLE OF 89° 36' 50" WITH THE PRECEDING COURSE 18 FEET 9 INCHES;

THENCE WESTERLY PARALLEL WITH WEST 23RD STREET 19 FEET 7 INCHES TO A POINT IN A LINE DISTANT 440 FEET 9 INCHES WESTERLY FROM AND PARALLEL WITH 5TH AVENUE, AS IT FORMERLY EXISTED PRIOR TO WIDENING(S);

THENCE NORTHERLY ALONG SAID PARALLEL LINE 80 FEET TO THE SOUTHERLY SIDE OF WEST 24TH STREET;

THENCE WESTERLY ALONG THE SAME 19 FEET ½ INCH TO A POINT IN A LINE 4 FEET 9 INCHES EASTERLY FROM AND PARALLEL WITH THE WESTERLY LINE OF LOT 51 ON MAP OF PROPERTY OF MARY STRIKER;

THENCE SOUTHERLY ALONG SAID LINE WHICH FORMS AN ANGLE OF 90° 23' 10" ON ITS WESTERLY SIDE WITH THE SOUTHERLY SIDE OF WEST 24TH STREET 80 FEET;

THENCE WESTERLY PARALLEL WITH WEST 24TH STREET 15 FEET 5-½ INCHES;

THENCE SOUTHERLY PARALLEL WITH 5TH AVENUE, 117 FEET 6 INCHES TO THE NORTHERLY SIDE OF WEST 23RD STREET;

THENCE EASTERLY ALONG THE SAME 41 FEET 6 INCHES TO THE POINT OR PLACE OF BEGINNING.

TOGETHER WITH THE BENEFITS OF AN EASEMENT FOR LIGHT, AIR AND VIEW AND A NEGATIVE COVENANT NOT TO BUILD AS ARE CONTAINED AND LIMITED IN THAT CERTAIN ZONING LOT AND DEVELOPMENT AND EASEMENT AGREEMENT DATED AS OF 9/19/2005 MADE BY AND AMONG LOUIS & SONS INC., JAMES WOOLERY A/K/A JAMES C. WOOLERY, ELLEN PECKHAM, MICHAEL J. SPANO, PATRICK MONTGOMERY, JERILYN TABOR

First American Title Insurance Company National Commercial Services

MONTGOMERY, THE BOARD OF MANAGERS OF THE 35 WEST 23RD STREET CONDOMINIUM AND 23RD STREET DEVELOPMENT LLC AND RECORDED ON 1/11/2006 AS CRFN 2006000018146.

PARCEL II (LOT 60)

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN OF THE CITY OF NEW YORK, IN THE COUNTY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY SIDE OF 24TH STREET DISTANT 459 FEET 9 INCHES AND 10/18TH OF AN INCH WESTERLY FROM THE POINT OF INTERSECTION OF THE WESTERLY SIDE OR LINE OF 5TH AVENUE AS IT FORMERLY EXISTED PRIOR TO WIDENING(S) WITH THE SOUTHERLY SIDE OR LINE OF 24TH STREET;

RUNNING THENCE WESTERLY ALONG SAID SIDE OF 24TH STREET 19 FEET AND 11/18TH OF AN INCH;

THENCE SOUTHERLY ON A LINE PARALLEL OR NEARLY SO WITH THE EASTERLY SIDE OF LINE OF 5TH AVENUE, 80 FEET;

THENCE EASTERLY PARALLEL WITH SOUTHERLY SIDE OF 24TH STREET 19 FEET 11/18TH OF AN INCH;

THENCE NORTHERLY AND PARALLEL OR NEARLY SO WITH THE EASTERLY SIDE OF 5TH AVENUE 80 FEET TO THE POINT OF PLACE OF BEGINNING.

THE SAID PREMISES BEING ABOUT 4 FEET 8 INCHES AND 17/18THS OF AN INCH OF THE WESTERLY PART OF LOT NO. 51 ON A MAP OF PROPERTY OF MARY STRIKER DATED FEBRUARY, 1833 MADE BY EDWARD DOUGHTY FILED IN THE OFFICE OF THE REGISTER OF THE CITY AND COUNTY OF NEW YORK AND ABOUT 14 FEET 3 INCHES AND 12/18THS OF AN INCH OF THE EASTERLY PART OF LOT NO. 52 ON SAID MAP AND 80 FEET IN DEPTH OF SAID LOTS, BE THE SAID DIMENSIONS MORE OR LESS.

PERIMETER DESCRIPTION (LOTS: 20 AND 60)

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST 23RD STREET DISTANT 433 FEET 2½ INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY ON A LINE FORMING ON ITS EASTERLY SIDE AN ANGLE OF 89° 58' 40" WITH THE PRECEDING COURSE 98 FEET 9 INCHES TO A POINT IN A LINE DRAWN AT RIGHT ANGLES TO AND DISTANT 433 FEET 2 INCHES WEST OF 5TH AVENUE;

THENCE EASTERLY PARALLEL WITH WEST 23RD STREET 12 FEET 1½ INCHES;

THENCE NORTHERLY ON A LINE FORMING ON ITS WESTERLY SIDE AN ANGLE OF 89° 36' 50" WITH THE PRECEDING COURSE 18 FEET 9 INCHES;

THENCE WESTERLY PARALLEL WITH WEST 23RD STREET 19 FEET 7 INCHES TO A POINT IN A LINE DISTANT 440 FEET 9 INCHES WESTERLY FROM AND PARALLEL WITH 5TH AVENUE;

THENCE NORTHERLY PARALLEL WITH 5TH AVENUE 80 FEET TO THE SOUTHERLY SIDE OF WEST 24TH STREET;

THENCE WESTERLY ALONG SAID SOUTHERLY SIDE OF WEST 24TH STREET 38 FEET 1 2/18 INCHES;

THENCE SOUTHERLY PARALLEL WITH 5TH AVENUE 80 FEET;

THENCE EASTERLY PARALLEL WITH WEST 24TH STREET 4 FEET 2 12/18 INCHES;

THENCE SOUTHERLY PARALLEL WITH 5TH AVENUE 117 FEET 6 INCHES TO THE NORTHERLY SIDE OF WEST 23RD STREET;

THENCE EASTERLY ALONG THE NORTHERLY SIDE OF WEST 23RD STREET 41 FEET 6 INCHES TO THE POINT OR PLACE OF BEGINNING.

PARCEL III (LOT 1001)

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 1 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1001 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 25% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

PARCEL IV (LOT 1002)

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 2 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE

"DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1002 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

PARCEL V (LOT 1003)

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 3 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1003 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

PARCEL VI (LOT 1004)

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 4 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1004 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

First American Title Insurance Company National Commercial Services

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

PARCEL VII (LOT 1005)

THE CONDOMINIUM UNIT (HEREINAFTER REFERRED TO AS THE "UNIT") IN THE BUILDING (HEREINAFTER REFERRED TO AS THE "BUILDING") KNOWN AS THE 35 WEST 23RD STREET CONDOMINIUM AND BY THE STREET NUMBER 35-37 WEST 23RD STREET, BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, SAID UNIT BEING DESIGNATED AND DESCRIBED AS UNIT NO. 5 IN THAT CERTAIN DECLARATION DATED MARCH 25, 1983, MADE BY 35-37 WEST 23RD STREET PARTNERSHIP PURSUANT TO ARTICLE 9-B OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK (HEREINAFTER REFERRED TO AS THE "CONDOMINIUM ACT AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP OF THE BUILDING AND THE LAND (HEREINAFTER REFERRED TO AS THE "LAND") UPON WHICH THE BUILDING IS SITUATE (WHICH LAND IS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ANNEXED HERETO, AND BY THIS REFERENCE MADE A PART HEREOF), WHICH DECLARATION WAS RECORDED IN THE NEW YORK COUNTY OFFICE OF THE REGISTER OF THE CITY OF NEW YORK ON APRIL 20, 1983, IN REEL 680 PAGE 329, (HEREINAFTER REFERRED TO AS THE "DECLARATION"). THIS UNIT IS ALSO DESIGNED AS TAX LOT 1005 IN BLOCK 825 OF SECTION 3 OF THE BOROUGH OF MANHATTAN ON THE TAX MAP OF THE REAL PROPERTY ASSESSMENT DEPARTMENT OF THE CITY OF NEW YORK AND ON THE FLOOR PLANS OF THE BUILDING; CERTIFIED BY JOHN MCMAHON, ARCHITECT; AND FILED IN THE CITY REGISTER'S OFFICE ON APRIL 20, 1983, AS CONDOMINIUM PLAN NO. 92 AND AS FILED MAP NO. 4161;

TOGETHER WITH AN UNDIVIDED 18.75% COMMON INTEREST IN THE GENERAL COMMON ELEMENTS (AS SUCH TERMS ARE DEFINED IN THE DECLARATION).

THE LAND UPON WHICH THE AFOREMENTIONED TAX LOTS 1001 THROUGH 1005 ARE SITUATED IS MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS:

ALL THOSE CERTAIN LOTS, PIECES OR PARCELS OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF 23RD STREET, DISTANT 388 FEET 2-1/2 INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE SAID NORTHERLY SIDE OF 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY ON A LINE AT RIGHT ANGLES TO 23RD STREET, 98 FEET 9 INCHES;

THENCE WESTERLY ON A LINE PARALLEL WITH 23RD STREET, 44 FEET 10 INCHES;

THENCE SOUTHERLY ON A LINE AT RIGHT ANGLES TO 23RD STREET, 98 FEET 9 INCHES; AND

THENCE EASTERLY ALONG SAID STREET 44 FEET 10 INCHES TO THE POINT OR PLACE OF BEGINNING.

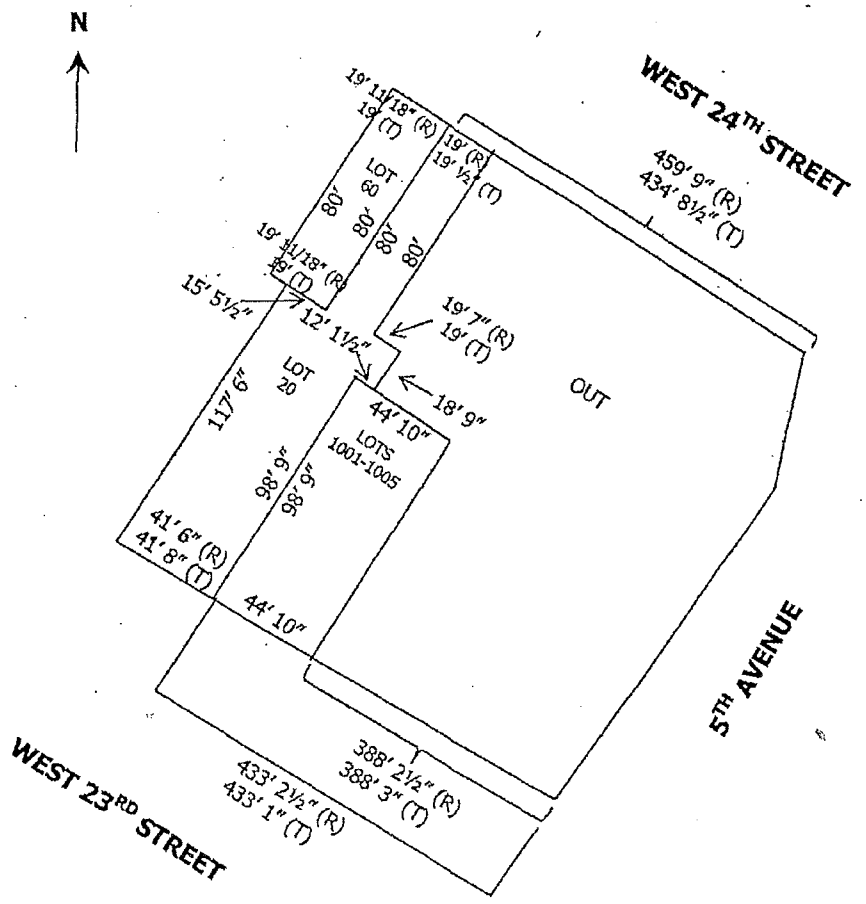
First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

That the said premises are known as and by street address(s): 39-41 West 23rd Street, 22 West 24th Street and 35-37 West 23rd Street, New York, NY 10010, as shown on the following DIAGRAM.

BLOCK(S): 825

LOT(S): 20, 60 and 1001-1005



First American Title Insurance Company National Commercial Services

Title No.: **3020-675035**

NOTE: A Zoning Lot may or may not coincide with a lot as shown on the Official Tax Map of the City of New York, or on any recorded subdivision plot or deed. A Zoning Lot may by subdivided into two or more zoning lots provided all the resulting zoning lots and all the buildings thereon shall comply with the applicable provisions of the zoning lot resolution.

THIS CERTIFICATE IS MADE FOR AND ACCEPTED BY THE APPLICANT UPON THE EXPRESS UNDERSTANDING THAT LIABILITY HEREUNDER IS LIMITED TO ONE THOUSAND ($1,000.00) DOLLARS.

Dated: 02/09/2015

FIRST AMERICAN TITLE INSURANCE COMPANY

BY: _____

VINCENT L. PLAIA
COUNSEL

State of New York, County of New York ss.:

On the 4th day of March in the year 2015 before me, the undersigned, personally appeared Vincent L. Plaia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Signature and Office of individual taking acknowledgment

CHARLES H. DAVIS
Notary Public, State of New York
No. 01DA6126386
Qualified in New York County
Commission Expires May 2, 2017

EXHIBIT C

WAIVER OF EXECUTION OF AMENDED AND RESTATED DECLARATION AND SUBORDINATION OF MORTGAGE

WAIVER OF EXECUTION OF AMENDED AND RESTATED DECLARATION AND SUBORDINATION OF MORTGAGE, made this _____ day of _____, 2015 by Goldman Sachs Bank USA, a State of New York chartered bank (the "Mortgagee"), having its principal place of business at 200 West Street, New York, New York 10282-2198.

WITNESSETH:

WHEREAS, the Mortgagee is the lawful holder of that certain mortgage, dated July 26, 2013 (the "Mortgage") made by 39 West 23rd Street, LLC, a Delaware limited liability company (the "Mortgagor"), in favor of the Mortgagee, in the original principal amount of $24,400,000.00, recorded in the Office of the Register/Clerk of the City of New York, County of New York, on August 16, 2013 at CRFN 2013000324858; and

WHEREAS, the Mortgage encumbers all or a portion of the property (the "Premises") known as Block 825, Lots 20 and 60 on the Tax Map of the City of New York, County of New York, and more particularly described in **Schedule A** attached hereto and made a part hereof, and any improvements thereon (such improvements and the Premises are collectively referred to herein as the "Subject Property"), which Subject Property is the subject of an Amended and Restated Declaration dated _____, (the "Declaration"), made by 39 West 23rd Street, LLC and the Board of Managers of the 35 West 23rd Street Condominium; and

WHEREAS, Mortgagee represents that the Mortgage represents its sole interest in the Subject Property; and

WHEREAS, the Declaration, which is intended to be recorded in the Office of said Register/Clerk simultaneously with the recording hereof, shall subject the Subject Property and the sale, conveyance, transfer, assignment, lease, occupancy, mortgage and encumbrance thereof to certain restrictions, covenants, obligations, easements and agreements contained in the Declaration; and

WHEREAS, the Mortgagee agrees, at the request of the Mortgagor, to waive its right to execute the Declaration and to subordinate the Mortgage to the Declaration.

NOW, THEREFORE, the Mortgagee (i) hereby waives any rights it has to execute, and consents to the execution by the Mortgagor of, the Declaration and (ii) hereby agrees that the Mortgage, any liens, operations and effects thereof, and any extensions, renewals, modifications and consolidations of the Mortgage, shall in all respects be subject and subordinate to the terms and provisions of the Declaration.

This Waiver of Execution of Restrictive Declaration and Subordination of Mortgage shall be binding upon the Mortgagee and its heirs, legal representatives, successors and assigns.

IN WITNESS WHEREOF, the Mortgagee has duly executed this Waiver of Execution of Amended and Restated Declaration and Subordination of Mortgage as of the date and year first above written.

MORTGAGEE:

GOLDMAN SACHS BANK USA

By: Tamara Harasewych
Name: Tamara Harasewych
Title: Vice President

ACKNOWLEDGMENT

State of New York
County of New York

On the 10th day of MARCH in the year 2015 before me, the undersigned, a notary public in and for said state, personally appeared TAMARA MARASEWYCH, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JESSE GOLDSTEIN
Notary Public, State of New York
No. 01GO6176964
Qualified in New York County
Commission Expires Nov. 5, 2015

KL3 3005826.1
8175206.1

Schedule A

Tax Lot 20

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF MANHATTAN, COUNTY, CITY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY SIDE OF WEST 23RD STREET DISTANT 433 FEET 2-1/2 INCHES WESTERLY FROM THE CORNER FORMED BY THE INTERSECTION OF THE NORTHERLY SIDE OF WEST 23RD STREET WITH THE WESTERLY SIDE OF 5TH AVENUE;

RUNNING THENCE NORTHERLY 98 FEET 9 INCHES TO A POINT IN A LINE DRAWN AT RIGHT ANGLES TO AND DISTANT 433 FEET 2 INCHES WEST OF 5TH AVENUE;

THENCE EASTERLY PARALLEL WITH WEST 23RD STREET 12 FEET 1-1/2 INCHES;

THENCE NORTHERLY ON A LINE FORMING ON ITS WESTERLY SIDE AN ANGLE OF 89 DEGREES 36 MINUTES 50 SECONDS WITH THE PRECEDING COURSE 18 FEET 9 INCHES;

THENCE WESTERLY PARALLEL WITH WEST 23RD STREET 19 FEET 7 INCHES TO A POINT IN A LINE DISTANT 440 FEET 9 INCHES WESTERLY FROM AND PARALLEL WITH 5TH AVENUE;

THENCE NORTHERLY ALONG SAID PARALLEL LINE 80 FEET TO THE SOUTHERLY SIDE OF WEST 24TH STREET;

THENCE WESTERLY ALONG THE SAME 19 FEET 1/2 INCH TO A POINT IN A LINE 4 FEET 9 INCHES EASTERLY FROM AND PARALLEL WITH THE WESTERLY LINE OF LOT 51 ON MAP OF PROPERTY OF MARY STRIKER;

THENCE SOUTHERLY ALONG SAID LINE WHICH FORMS AN ANGLE OF 90 DEGREES 23 MINUTES 10 SECONDS ON ITS WESTERLY SIDE WITH THE SOUTHERLY SIDE OF WEST 24TH STREET 80 FEET;

THENCE WESTERLY PARALLEL WITH WEST 24TH STREET 15 FEET 5-1/2 INCHES;

THENCE SOUTHERLY PARALLEL WITH 5TH AVENUE, 117 FEET 6 INCHES TO THE NORTHERLY SIDE OF WEST 23RD STREET;

THENCE EASTERLY ALONG THE SAME 41 FEET 6 INCHES TO THE POINT OR PLACE OF BEGINNING.

Tax Lot 60

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

Borough of Manhattan of the City of New York, in the County and State of New York, bounded and described as follows:

BEGINNING at a point on the southerly side of 24th Street distant 459 feet 9 inches and 10/18th of an inch westerly from the point of intersection of the westerly side or line of 5th Avenue with the southerly side or line of 24th Street;

THENCE westerly along said side of 24th Street 19 feet and 11/18th of an inch;

THENCE southerly on a lone parallel or nearly so with the easterly side of line of 5th Avenue, 80 feet;

THENCE easterly parallel with southerly side of 24th Street 19 feet 11/18th of an inch;

THENCE northerly and parallel or nearly so with the easterly side of 5th Avenue 80 feet to the point or place of **BEGINNING.**

KL3 3005826.1
8175206.1

EXHIBIT D

LPC Report (MOU)

THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK, NY 10007
TEL: 212 669-7700 FAX: 212 669-7780

ROBERT B. TIERNEY
Chair

April 9, 2014

ISSUED TO:

Carl Weisbrod, Chairman
NYC Planning Commission
22 Reade Street
New York, NY 10007

Re: LPC - 155585
MOU 15-5954
39-41 WEST 23RD STREET
HISTORIC DISTRICT
LADIES' MILE
Borough of Manhattan
Block/Lot: 825 / 20

At the Public Meeting of October 15, 2013, following the Public Meeting and Public Hearing of September 24, 2013, the New York City Landmarks Preservation Commission ("LPC") voted to issue a favorable report to the City Planning Commission ("CPC") in support of an application for the issuance of a Special Permit pursuant to Section 74-711 of the Zoning Resolution to modify the requirements of Section 42-10 and Section 43-43 of the Zoning Resolution to permit construction of a new mixed use building on the lot located at 39-41 West 23rd Street, Manhattan, Block 825, Lot 20 ("the Designated Site").

In reviewing this application, the Commission noted that the Designated Site is a parking lot located in the Ladies' Mile Historic District.

In voting to issue the report, the LPC found that the applicant has agreed to undertake facade work to restore the building on the adjacent lot located at 35-37 West 23rd Street, Manhattan, Block 825, Lot 7501 ("the Designated Building"), and bring it up to a sound, first class condition; that the Designated Building is a neo-Grec/Queen Anne style store building designed by D. and J. Jardine, and built in 1880; that the applicant has agreed to establish and maintain a program for continuing maintenance to ensure the continued maintenance of the Designated Building in a sound, first class condition; and that a Restrictive Declaration ("Declaration") will be filed against the property which will bind the applicants and all heirs, successors and assigns to maintain the continuing maintenance program in perpetuity.

Specifically, the Commission approved certain restorative work, including installing new wood and glass ground floor infill, cleaning and repairing facade masonry, cast iron, and sheet metal, installing new wood windows on the second through fifth floors, and repairs to the fire shutters and roofing at the rear, as described in Certificate of No Effect 15-5956 (LPC 14-8519), issued April 1, 2014. This work included the installation of new wood storefronts consisting of single-pane display windows with triple-light arched transoms, and paneled

double-doors; the installation of new wood single-pane windows on the second floor, and new wood one-over-one, double-hung windows on the third through fifth floors; removing paint from the façade masonry; cleaning the brick and stone; patching damaged stone; repointing stone and brick; repairing existing cast iron and sheet metal façade features; replacing missing pieces of the sheet metal cornice in kind; repairing or replacing in kind historic fire shutters on the rear elevation; and repairing or replacing in kind deteriorated roofing, leaders and gutters.

In reaching a decision to grant a Certificate of No Effect, the Commission reviewed the proposed work and found that the new ground floor infill and windows, the proposed cleaning, repair, and repointing of the masonry, and the repair or in kind replacement of the cast iron and sheet metal features, the fire shutters and roofing, leaders and gutters, will restore the building to its historic appearance; and that the proposed work will serve to prevent further deterioration and contribute to the long term preservation of the building. Based on these findings, the Commission determined the proposed work to be appropriate to the Designated Building and the Ladies' Mile Historic District.

In reaching a decision to issue a favorable report to the CPC, the LPC found that the restorative work will help return the building closer to its original appearance, and will reinforce the architectural and historic character of the building, the streetscape, and the Ladies' Mile Historic District: that the restorative work, including installing new ground floor infill and windows, and repairing cast iron, sheet metal and masonry features, will bring the building up to a sound first class condition and aid in its long term preservation; that the implementation of a cyclical maintenance plan will ensure the continued maintenance of the building in a sound, first class condition; and that the owners of the building have committed themselves to establishing a perpetual cyclical maintenance plan which will bind all heirs, successors and assigns and subsequent owners of the building and which will be legally enforceable by the Landmarks Preservation Commission under the provisions of a Restrictive Declaration that will be recorded against the property.

The Declaration requires the Declarant to commission a qualified preservation professional, whose credentials are to be approved by the LPC, to undertake inspections every five years of the Designated Building's exterior and such portions of the interior which, if not properly maintained, would cause the Designated Building to deteriorate. The Declarant is required to perform all work identified in the resulting professional reports as being necessary to maintain the Designated Building in sound, first class condition within the stated time periods.

The staff of the Commission is available to assist you with these matters. Please direct inquiries to Lisa Schaeffer.

Robert B. Tierney
Chair

cc: V. Campbell, Esq.

EXHIBIT E

Certificate of Appropriateness

THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK NY 10007
TEL: 212 669-7700 FAX: 212 669-7780

PERMIT

CERTIFICATE OF APPROPRIATENESS

ISSUE DATE:	EXPIRATION DATE:	DOCKET #:	COFA #:
10/29/2013	10/15/2019	15-0045	COFA 15-0399

ADDRESS	BOROUGH:	BLOCK/LOT:
39-41 WEST 23RD STREET HISTORIC DISTRICT LADIES' MILE	MANHATTAN	825/20

Display This Permit While Work Is In Progress

ISSUED TO:

Stephen Glascock
39 West 23rd Street LLC
c/o Anbau Enterprises, Inc.
206 Fifth Avenue, 4th fl.
New York, NY 10010

Pursuant to Section 25-307 of the Administrative Code of the City of New York, the Landmarks Preservation Commission, at the Public Meeting of October 15, 2013, following the Public Meeting and Public Hearing of September 24, 2013, voted to grant a Certificate of Appropriateness for the proposed work at the subject premises, as put forth in an application completed on August 29, 2013.

The work, as approved, consists of construction of a 24-story terra cotta, limestone and glass building with decorative metal balcony railings, with an 18-story street wall and a cantilever over the lot to the east at the 14th floor, on West 23rd Street; construction of a 10-story limestone and glass building with glass balcony railings on West 24th Street; and ground floor storefronts and entrance canopies on both buildings, as shown in a booklet labeled "39-41 West 23rd Street Landmarks Preservation Commission Design Book," dated October 15, 2013, prepared by CookFox Architects, submitted as components of the application, and presented at the Public Hearing and Public Meetings. The proposal as initially presented featured a lighter color of terra cotta above the West 23rd Street setback and on the side elevations; and a more complex massing for the West 23rd Street building, as shown in a booklet labeled "39-41 West 23rd Street Landmarks Preservation Commission," dated September 24, 2013, prepared by CookFox Architects.

In reviewing this proposal, the Commission noted that 39-41 West 23rd Street and 22-24 West 24th Street comprise a through-block vacant lot; that the historical development of the Ladies' Miles Historic District may be divided into several phases, which resulted in a variety of building heights and widths adjacent to each other, including: early 19th century residential development which included residences and stable buildings, early commercial development which included mid-rise buildings and the commercial adaptation of some residential buildings and stables, turn of the century large department stores, 20th century large loft buildings, and the conversion of older buildings to manufacturing use; and that many of the early residential buildings on narrow lots were replaced with tall thin buildings during the later phases of development. The Commission further noted

that many streets combine buildings from several or all of these periods, with taller buildings facing the avenues and the major cross-town streets, such as West 14th and West 23rd Streets; and that the facades of the taller buildings frequently feature a strongly articulated base, shaft, and crown and uniform materials (brick, stone and terra cotta), and classically inspired ornament. The Commission finally noted that Certificate of Appropriateness 06-6577 (LPC 06-5335) was issued May 8, 2006 for construction of a new building; that Modification of Use 06-4549 (LPC 06-3888) was issued December 16, 2005 in support of a Special Permit pursuant to Section 74-711 of the Zoning Resolution; and that Miscellaneous/Amendment 12-3799 (LPC 12-3082) was issued August 17, 2011 for modifying the design of the new building.

With regard to this proposal, the Commission found that the construction of a new building on these lots will restore the continuity of the street walls, thereby strengthening the streetscapes around the site; that the height of both of the streetwall facades will relate well to the character of each of their respective blockfronts, and will enhance the continuity of the streetwalls, which are currently disrupted by the vacant lots; that the careful massing of the building into two distinct, but architecturally related parts on each street allows the facades to relate successfully to the streetscape on both West 23rd Street and West 24th Street; that the Ladies' Mile Historic District features a combination of low and mid-rise buildings, tall buildings on large lots, and taller thinner buildings on smaller lots formerly occupied by residential buildings, and that the height and massing of the two sides of the proposed building will recall the variations in the height and massing of the historic buildings in this district; that because of the variety of building types, many undeveloped side facades are exposed and the streetscape is characterized by the juxtaposition of tall and short buildings and of robust primary facades and planar secondary facades, and the height, massing, design and materials of the proposed building express these juxtapositions; that the rotating massing, design and materials of the West 23rd Street building are a contemporary interpretation of the robust, highly articulated primary facades and exposed, planar secondary facades of a darker material palette of the buildings found in the Ladies' Mile Historic District; that the height of the streetwall portion of the West 23rd Street facade will relate to the taller buildings on this side of West 23rd Street, and the distribution of the massing into two interlocking forms, each of which independently relates to the diverse building heights seen in the district, allows for a taller building than is typically found in the district; that the portions of the facade that are expressed as secondary facades are composed of a delicately articulated bronze terra cotta scrim that relates to the scale of the brick side facades, but is carefully designed and detailed and allows the facade to relate harmoniously with the other street facing facades on West 23rd Street; that the proposed West 23rd Street and east facing primary facades are composed of a limestone grid created by vertical and horizontal elements creating a proportional grid that relates well to the proportions, details and materials of the stone front facades in this historic district; that the proposed cantilever is expressed in multiple layers that relate to the interlocking forms of the new building and therefore, does not associate itself with, or detract from, the lower adjacent building; that the proposed streetwall facades on both West 23rd Street and West 24th Street are composed of architectural elements that are harmonious with the proportions, materials, articulation, and streetwall of the other buildings in the streetscape; that the floor to ceiling heights of the new streetwalls of the building will be proportional to those found on the adjacent buildings, and will support a relationship between the new building and its neighbors; that the deeply recessed windows and decorative metal railings create depth and articulation in both the West 23rd and West 24th Street facades that are evocative of the depth and articulation found on the historic store and loft buildings in the Ladies' Mile Historic District; that the ground floor, featuring large windows and glazed doors, will recall the transparency of commercial ground floors of the buildings located with this historic district; that the West 24th Street facade is arranged with a base, shaft and termination recalling the typical composition of the early 20th Century commercial buildings located on this street; that the open grid at the top of the West 24th Street facade will successfully evoke a cornice; that the decorative grilles over the ground floor windows on the West 24th Street facade will relate well to this narrow street which features buildings with more intimately scaled, less transparent, storefronts than those on the wider West 23rd Street; that the primary and secondary vertical and horizontal elements within the West 24th Street facade will create a layered grid that relates well to the scale and proportions of historic buildings in the district; and that the material palette for both buildings consisting of white and bronze terra cotta, limestone, painted metal and decorative metalwork will relate well to the buildings in this historic district which typically feature these materials. Based on these findings, the Commission determined that the work is appropriate to the streetscapes and to the historic district, and voted to approve this application.

The Commission notes that the applicant is applying to the City Planning Commission for certain variances. Any changes to the design required by the City Planning Commission approval must be submitted to the Landmarks Preservation Commission for review and approval prior to the issuance of the final approval letter.

PLEASE NOTE: This permit is issued contingent upon the Commission's review and approval of the final Department of Building filing set of drawings. No work can begin until the final drawings have been marked approved by the Landmarks Preservation Commission with a perforated seal. Please submit these drawings to the Landmarks Preservation Commission staff when they become available.

Also, as the approved work consists of subsurface work, the applicant is required to strictly adhere to the Department of Buildings TPPN 10/88 governing in-ground construction adjacent to historic buildings. It is the applicant's obligation at the time of applying for their permit to inform the Department of Buildings that the TPPN applies.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of approval. The work is limited to what is contained in the perforated documents. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or civil penalties, including imprisonment and fines. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Lisa Schaeffer.

Robert B. Tierney
Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:

Valerie Campbell, Kramer Levin Naftalis & Frankel LLP

cc: V. Campbell, Esq.

EXHIBIT F

Certificate of No Effect

THE NEW YORK CITY LANDMARKS PRESERVATION COMMISSION
1 CENTRE STREET 9TH FLOOR NORTH NEW YORK, NY 10007
TEL: 212 669-7700 FAX: 212 669-7780

PERMIT

CERTIFICATE OF NO EFFECT

ISSUE DATE:	EXPIRATION DATE:	DOCKET #:	CNE #:
04/01/14	04/02/2018	148519	CNE 15-5956

ADDRESS	BOROUGH:	BLOCK/LOT:
35-37 WEST 23RD STREET HISTORIC DISTRICT LADIES' MILE	MANHATTAN	825 / 7501

Display This Permit While Work Is In Progress

ISSUED TO:

Patrick Montgomery, President
35 West 23rd Street Condominium Association
35 West 23rd Street
New York, NY 10010

Pursuant to Section 25-306 of the Administrative Code of the City of New York, the Landmarks Preservation Commission hereby approves certain alterations to the subject premises as proposed in your application completed on March 31, 2014.

The approved work consists of restoration of the building including the installation of new wood storefronts consisting of single-pane display windows with triple-light arched transoms, and paneled double-doors; the installation of new wood single-pane pivot windows on the second floor, and new wood one-over-one, double-hung-windows on the third through fifth floors of the front facade; removing a masonry coating from the façade (feasibility to be determined by testing paint removers in limited areas); cleaning the brick and stone with a mild acidic cleaner and a low pressure water rinse; patching damaged masonry units with a cementitious patching mortar; repointing stone and brick; replacing damaged brick in kind; repairing existing cast iron and sheet metal façade features; replacing missing pieces of the sheet metal cornice in kind; repairing or replacing in kind, the existing historic fire shutters at the 1st story of the rear extension; removing corrosion from and repainting the cast-iron gutter at the rear extension; and replacing the extension roof and deteriorated leaders in kind, as shown and described in drawings labeled "Enlarged Proposed Storefront Elevation and Partial Storefront Plan," "Section A Display Window," "Section B Entry," "Section C Restored Colonnette," and "Enlarged Plan at Entry," received at the Commission March 31, 2014, SK1, revised February 26, 2014, prepared by CTS Group, an existing conditions survey, dated November 2013, prepared by Higgins Quasebarth and Partners, and specifications for the restoration work, dated February 14,

2014.

In reviewing this proposal, the Commission notes that the designation report describes 35-37 West 23rd Street as a neo-Grec/Queen Anne style store building designed by D. and J. Jardine, and built in 1880. The Commission also notes that a request for a report to the City Planning Commission, pursuant to Section 74-711 of the Zoning Resolution for a Modification of Use, was approved on October 15, 2013, pursuant to MOU 15-5954 (LPC 15-5585); and that this Certificate of No Effect is being issued in conjunction with that report.

With regard to this proposal, the Commission finds in accordance with the provisions of Title 63 of RCNY, Sections 2-17 and 3, that the design for the new storefront infill is based on photographic evidence; that the restoration will not cause the removal of significant historic fabric that may have been added over time; and that the new second through fifth floor windows will match the operation, configuration, details, finish and material of the historic windows. The Commission further finds that removal of the coating from the masonry will restore the brick and stone to their natural colors; that the masonry will be cleaned using the gentlest effective method; that masonry patches will match the color, texture and details of the existing; that new mortar joints will match the color, texture, dimensions and tooling of the existing; that cast iron and sheet metal repairs will match the design, details and material of the existing; that new cornice pieces and fire shutters will match the design, details, material and dimensions of the existing; that replacing missing cornice elements will restore it to its original appearance; that replacing deteriorated roofing and leaders, and repairing the existing cast iron gutter, will prevent water damage to the building; and that the proposed work will restore the building closer to its historic appearance and contribute to its long term preservation.

This permit is issued contingent upon the Commission's review and approval of a paint analysis, paint samples for all metal work, the storefronts and new windows, samples of masonry patching material, repointing mortar, and new brick; and window and storefront shop drawings prior to the commencement of the work. In the event that test samples indicate that removal of the masonry coating is not feasible without damaging the brick and stone, a revised scope of work must be submitted to the Commission for review and approval.

Please note that this permit does not include approval for a bracket sign. Future tenants will be responsible for obtaining permits for all signage.

The Commission has reviewed the application and these drawings and finds that the work will have no effect on significant protected features of the building.

This permit is issued on the basis of the building and site conditions described in the application and disclosed during the review process. By accepting this permit, the applicant agrees to notify the Commission if the actual building or site conditions vary or if original or historic building fabric is discovered. The Commission reserves the right to amend or revoke this permit, upon written notice to the applicant, in the event that the actual building or site conditions are materially different from those described in the application or disclosed during the review process.

All approved drawings are marked approved by the Commission with a perforated seal indicating the date of approval. The work is limited to what is contained in the perforated documents. Other work or amendments to this filing must be reviewed and approved separately. The applicant is hereby put on notice that performing or maintaining any work not explicitly authorized by this permit may make the applicant liable for criminal and/or

civil penalties, including imprisonment and fines. This letter constitutes the permit; a copy must be prominently displayed at the site while work is in progress. Please direct inquiries to Lisa Schaefer.

Robert B. Tierney
Chair

PLEASE NOTE: PERFORATED DRAWINGS AND A COPY OF THIS PERMIT HAVE BEEN SENT TO:
Valerie Campbell, Kramer Levin Natfalis and Frankel, LLP

cc: V. Campbell, KLNF

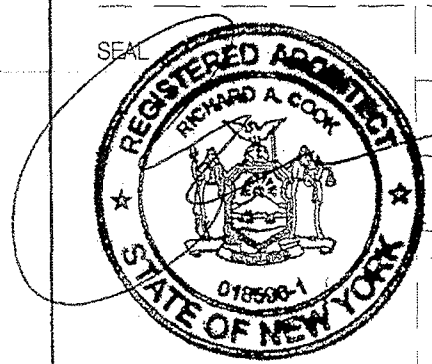
EXHIBIT G

Drawings

DRAWING TITLE

ZONING ANALYSIS

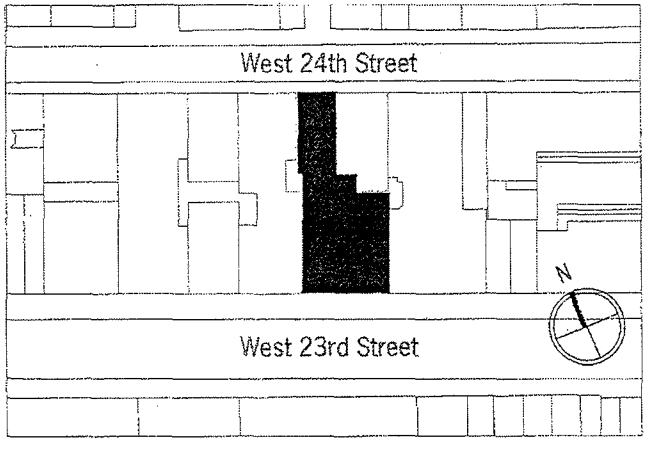
SEAL



PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-005

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION
05	03.24.2015	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

206 Fifth Avenue, 4th Floor
New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

URS CORPORATION — GEOTECHNICAL ENGINEER

1255 Broad St, Suite 201
Clifton, NJ 07013
T: 973.883.8500

BURO HAPPOLD CONSULTING ENGINEERS PC — MEP ENGINEER

100 Broadway, 23rd Floor
New York, NY 10005
T: 212.334.2025

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T: 212.652.2966

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104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

39-41

5

6

Does not Comply. The 40 foot rear yard does not comply with the midway (or within 5 feet of being midway) and requires a special permit pursuant to Section 74-711, Landmark Preservation in all districts.
Does not Comply. The multiple rear lot line requires a special permit pursuant to Section 74-711, Landmark Preservation in all districts.
Does not Comply. Requires special permit pursuant to Section 74-711
See ZR 13-45 and ZR 13-451
Does not Comply. Requires special permit pursuant to Section 13-451
Complies
Street tree location subject to approval by DOB + Department of Parks & Recreation
Complies
Complies
Complies

NOTES/COMPLIANCE
Use group 6 Complies. **Use Group 2, Residential, requires special permit pursuant to Section 74-711, Landmark Preservation in all districts.** **The number of residential units will not exceed 115.**

Complies
Existing to Remain
Complies

NOTES/COMPLIANCE

3

4

0	0	5,257	5,730
0	0	4,150	6,855
0	0	0	8,030
0	0	0	7,810
0	0	104,815	125,921

60

FICE ZSF	COMMUNITY FACILITY ZSF	RESIDENTIAL ZSF	PROJECT GSF
0	0	3,216	3,277
0	0	3,617	3,690
0	0	3,617	3,690
0	0	3,617	3,690
0	0	3,617	3,690
0	0	3,617	3,690
0	0	3,602	3,675
0	0	4,209	4,300
0	0	4,209	4,300
0	0	4,209	4,300
0	0	3,396	3,463
0	0	3,396	3,463
0	0	3,396	3,463
0	0	3,276	3,339
0	0	5,235	5,356
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,597	5,730
0	0	5,257	5,730

en area with a minimum lot depth of 40 feet midway (or within 5 feet of being midway) between the two lines upon which such through lot fronts.	Portions of the Building encroach into the Rear Yard. Rear Yard size varies from 48'-9" to 40'-0"	D co mi Se di
yard with a minimum depth of 20 feet shall be provided where such rear lot line coincides with a rear lot an adjoining zoning lot.	Rear Yard measuring 15'-3"	D a La
or 6 Stories, whichever is less xposure Plane is 2.7 to 1 on a narrow street xposure Plane is 5.6 to 1 on a wide street	Building facing W 23rd Street - Top of Street Wall: 195'-9" Building facing W. 24th Street - Top of Street Wall: 117'-0"	D to
required for development or enlargement; if included must comply with ZR 13-11, where accessory off-parking spaces may be provided for not more than 20% of the total number of new dwelling units (8 s) or 200 spaces, whichever is less.	Not Applicable. See ZR 13-45 and ZR 13-451	Se
ty Planning Commission may permit a parking facility listed in paragraph (a) of Section 13-45, where such g facility serves the parking needs of a predominantly residential development of enlargement.	50 accessory, off-street vehicular parking spaces proposed, refer to 13-451(a) (1-2)	D to
-711 requires 1 Bicycle parking space per every 2 dwelling units, 1 Bicycle space per 7,500 sq. ft. of 6B use and, where an enclosed accessory group parking facility is provided, the required number of e parking spaces for the use to which such facility is accessory of one for every ten automobile parking s, whichever is greater.. al bicycle parking spaces required	29 total parking spaces provided	C
treet tree, preexisting or newly planted, shall be provided for every 25 ft. of street frontage = 125 lf. er of trees required = 5 trees	2 trees provided, additional 3 trees to be located per Department of Parks and Recreations and DCP requirements.	St D
sed signage shall not exceed a surface area 6X the street frontage of the zoning lot (in feet) or a um of 750 SF for residences with a special permit, up to a maximum height of 40'.	23rd Street: 36 SF* 24th Street: 28.5 SF* *Signage program subject to change; will comply with applicable zoning regulations	C
ated signage complying with ZR 42-50: proposed signage shall not exceed a surface area of 5X the frontage of the zoning lot (in feet) and the surface area of each sign shall not be more than 500 SF, up to imum height of 40'.	23rd Street: 36 SF* 24th Street: 28.5 SF* *Signage program subject to change; will comply with applicable zoning regulations	C
cting signage complying with ZR 42-50: proposed signs on marquees shall not project more than 48" nor more than 12" below such marquee	No Projection Shown* *Signage program subject to change; will comply with applicable zoning regulations	C

TTED/REQUIRED	EXISTING TO REMAIN	PROPOSED	TOTAL	NC
14, 16, 17	Lot 1001-1005: UG2, UG6B	Lots 20, 60: UG6A,& **UG2**	UG2, UG 6A, UG6B	Us **Us pu in Th**

rea	Allowable Floor Area	Existing to Remain	Proposed	Total	
Maximum Permitted FAR: 10.0					
and 60: (780 SF + 7,371SF = 8,151 SF) Maximum Permitted FAR (8,151 x 10.0):	81,510 ZSF	N/A	105,615 ZSF (Including Floor Area Transfer of 24,105 ZSF from Lots 1001-1005)	105,615 ZSF	Co
01-1005: (4,387 SF) Maximum Permitted FAR (4,387 x10.0):	43,870 ZSF	19,765 ZSF	N/A	19,765 ZSF	Ex
Lot Total (Lots 20,60,1001-1005)	125,380 ZSF (10 FAR)	19,765 ZSF (1.6 FAR)	105,615 ZSF (8.4 FAR)	125,380 ZSF (10 FAR)	Co

ITTED/REQUIRED	PROPOSED	TOTAL	NC

2

3

LOT FRONTAGE:	86'-5.0" (W. 23rd Street) 38'-1.0" (W. 24th Street)	
LOT DEPTH	197'-6" (Through Block)	
LOT AREA:	LOT 20 & 60:	8,151 SF
	LOT 1001-1005:	4,387 SF
	TOTAL:	12,538 SF
EXISTING LOT COVERAGE:	LOT 20 & 60:	0%
	LOT 1001-1005:	100%
	TOTAL:	35%

ACTIONS REQUESTED

1. Special Permit pursuant to ZR 74-711
A. To modify the regulations of ZR Section 42-10 to allow Use Group 2 residential use; and
B. to modify the rear yard equivalent regulations of ZR Section 43-28, the rear yard regulations of ZR Sections 43-313 and the street wall height and sky exposure plane regulations of ZR Section 43-43;
to allow the construction of a new 10- and 24-story residential building with retail on the ground floor and accessory parking below-grade.
2. Special Permit pursuant to ZR Section 13-45 and 13-451 to allow an accessory parking garage containing up to 50 spaces to be located within the below-grade of the proposed building.

3	5,597	0
2	5,257	0
1	4,950	800
C1	0	0
C2	0	0

TOTAL	105,615	800

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-005-ZONING ANALYSIS.dwg

FLOOR AREA CALCULATION - LOT 20 & 60

FLOOR	TOTAL ZSF	RETAIL ZSF	OFFIC
24	3,216	0	
23	3,617	0	
22	3,617	0	
21	3,617	0	
20	3,617	0	
19	3,617	0	
18	3,602	0	
17	4,209	0	
16	4,209	0	
15	4,209	0	
14	3,396	0	
13	3,396	0	
12	3,396	0	
11	3,276	0	
10	5,235	0	
9	5,597	0	
8	5,597	0	
7	5,597	0	
6	5,597	0	
5	5,597	0	
4	5,597	0	
3	5,597	0	
2	5,257	0	

B

ZONING RESOLUTION SECTION	ITEM	[illegible]
43-28(a)	Special Provisions for Through Lots	An open a street lines
43-313(a)	Zoning Lots with Multiple Rear Lot Lines.	A rear yar line of an a
43-43	Maximum Height of Front Wall and Required Front Setbacks	85'-0" or 6 Sky Expos Sky Expos
13-10, 44-022	Permitted Off-Street Parking in the Manhattan Core	None requ street park spaces) or
13-451	Additional parking spaces for residential growth	The City P parking fa
36-70, 36-711, 44-60,	Bicycle Parking	ZR 36-711 Group 6B bicycle pa spaces, w 21 total bi
43-02, 26-41	Street Trees	One street Number o
42-50, 42-532, 42-533, 42-542, 42-543	Signage	Proposed maximum Illuminate street fron a maximu Projectin above nor

HISTORIC DISTRICT:	Ladies Mile Historic District

ZONING ANALYSIS

ZONING RESOLUTION SECTION	ITEM	PERMITTE
42-10 42-12	Use Groups	3A, 4 - 14,

43-12		Floor Area
		M1-6 Maxi
		Lots 20 an Total Maxi
		Lot 1001-1 Total Maxi
		Zoning Lot

ZONING RESOLUTION	ITEM	PERMITTE

1

A

SITE DATA

LOCATION:	35 West 23rd Street 39-41 West 23rd Street 22 West 24th Street	LC LC
CROSS STREETS:	6th Avenue 5th Avenue	LC
COMMUNITY DISTRICT:	Manhattan 05	EX
BLOCK:	825	
LOTS:	20,60 (Development Site) 7501 (Existing Building)	
ZONING MAP: ZONING DISTRICT: HISTORIC DISTRICT:	8d M1-6 Ladies Mile Historic District	

SUBJECT TO APPROVAL BY
RKS AND RECREATION
RE SHOWN FOR ILLUSTRATIVE

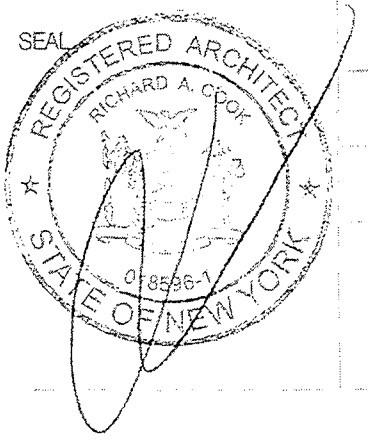
SEAL CORRESPONDS TO THE
THE DEVELOPMENT SITE, ZONING
CUTS. INFORMATION REGARDING
PERTIES IS FOR ILLUSTRATIVE

HOWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

SITE PLAN

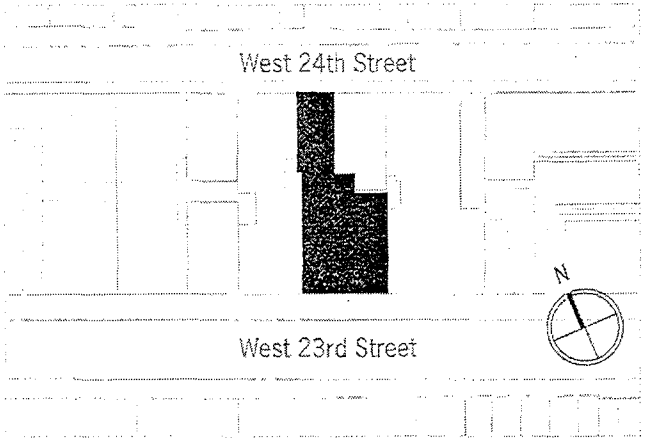
SEAL



PROJECT NO:	3302
SCALE:	1/8" = 1'-0"
SHEET SIZE:	36"x48"
DRAWING NO:	A-006

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

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New York, NY 10010
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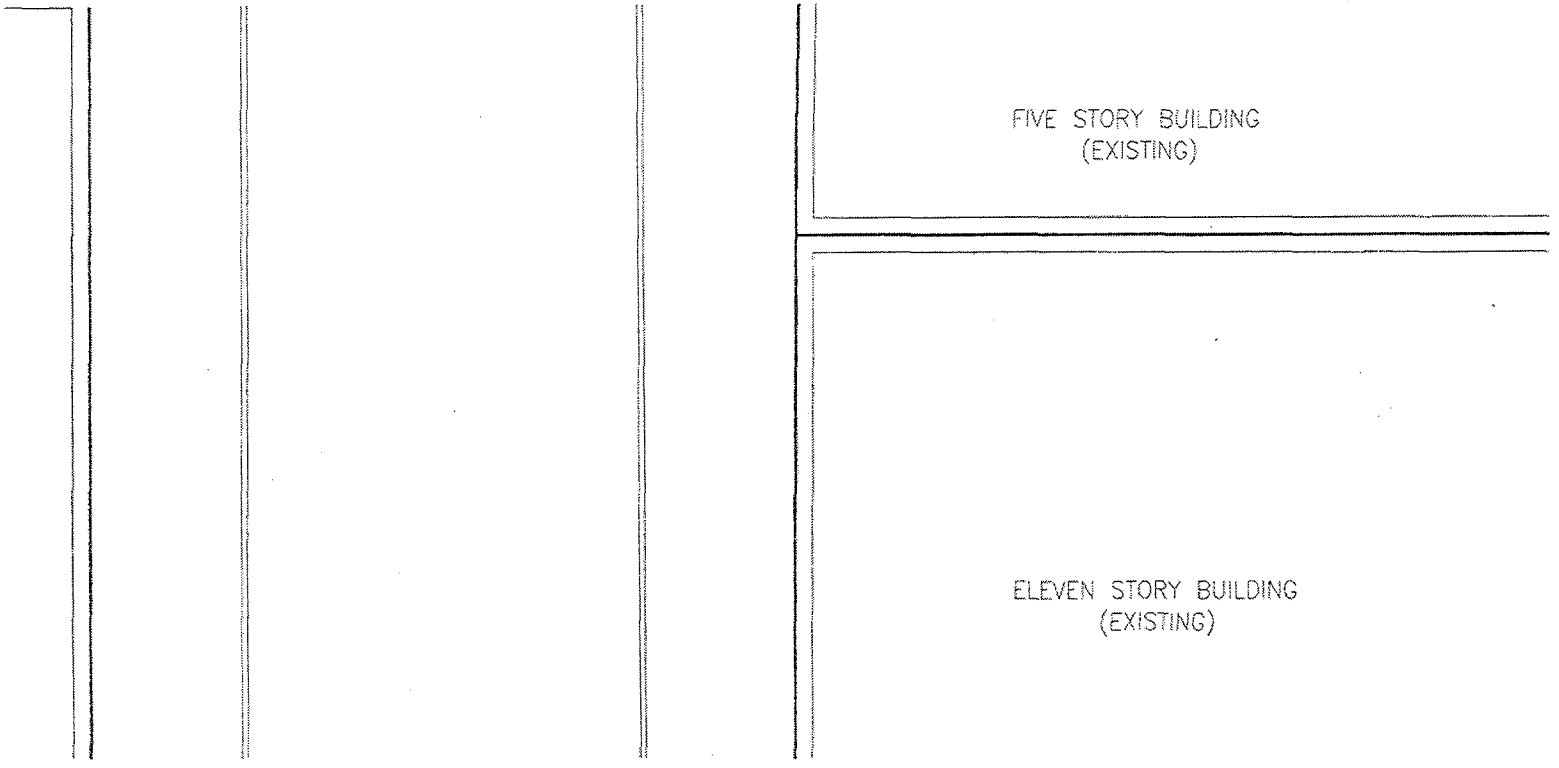
T: 212.244.4303

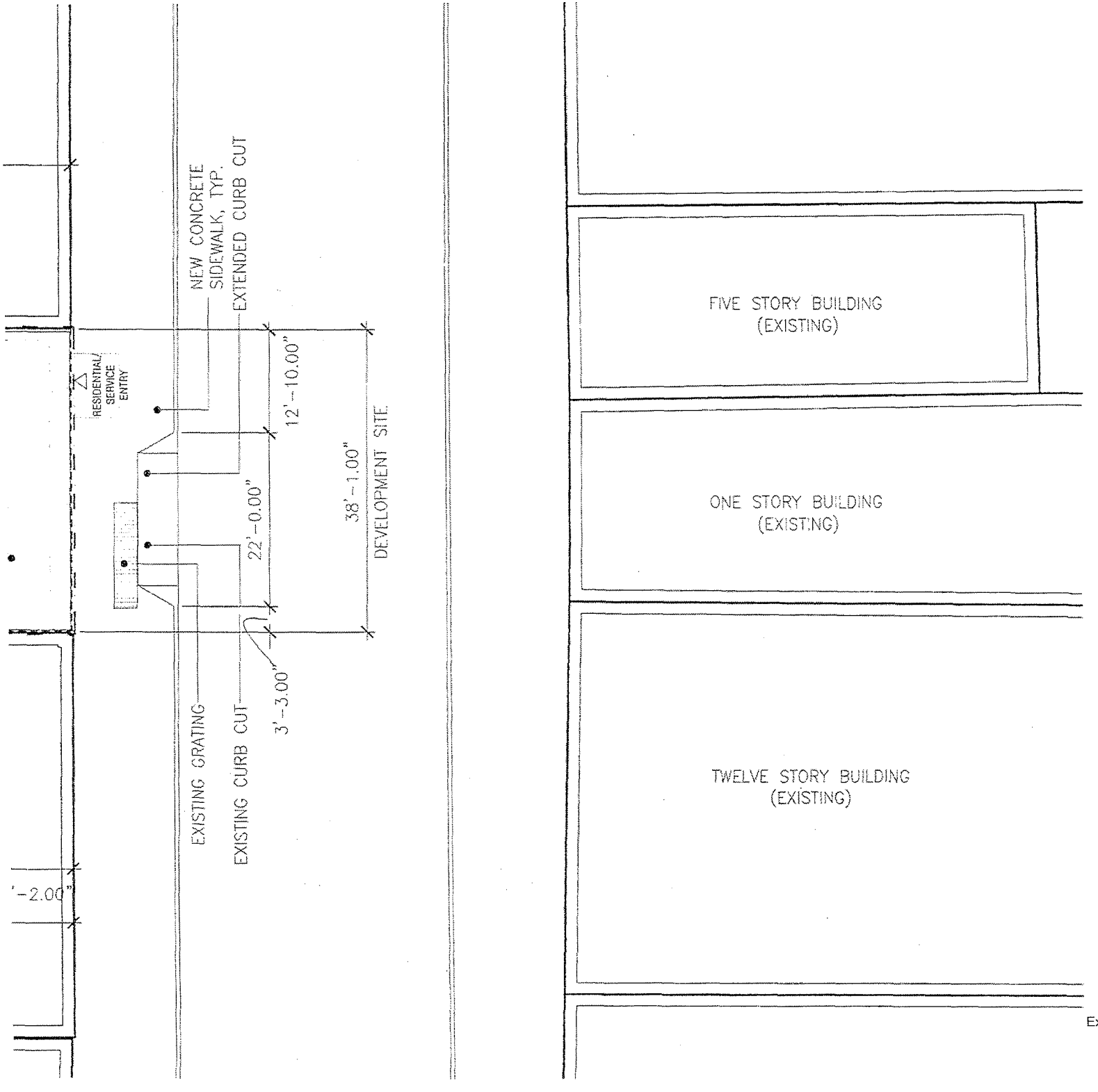
39-41
WEST 23RD

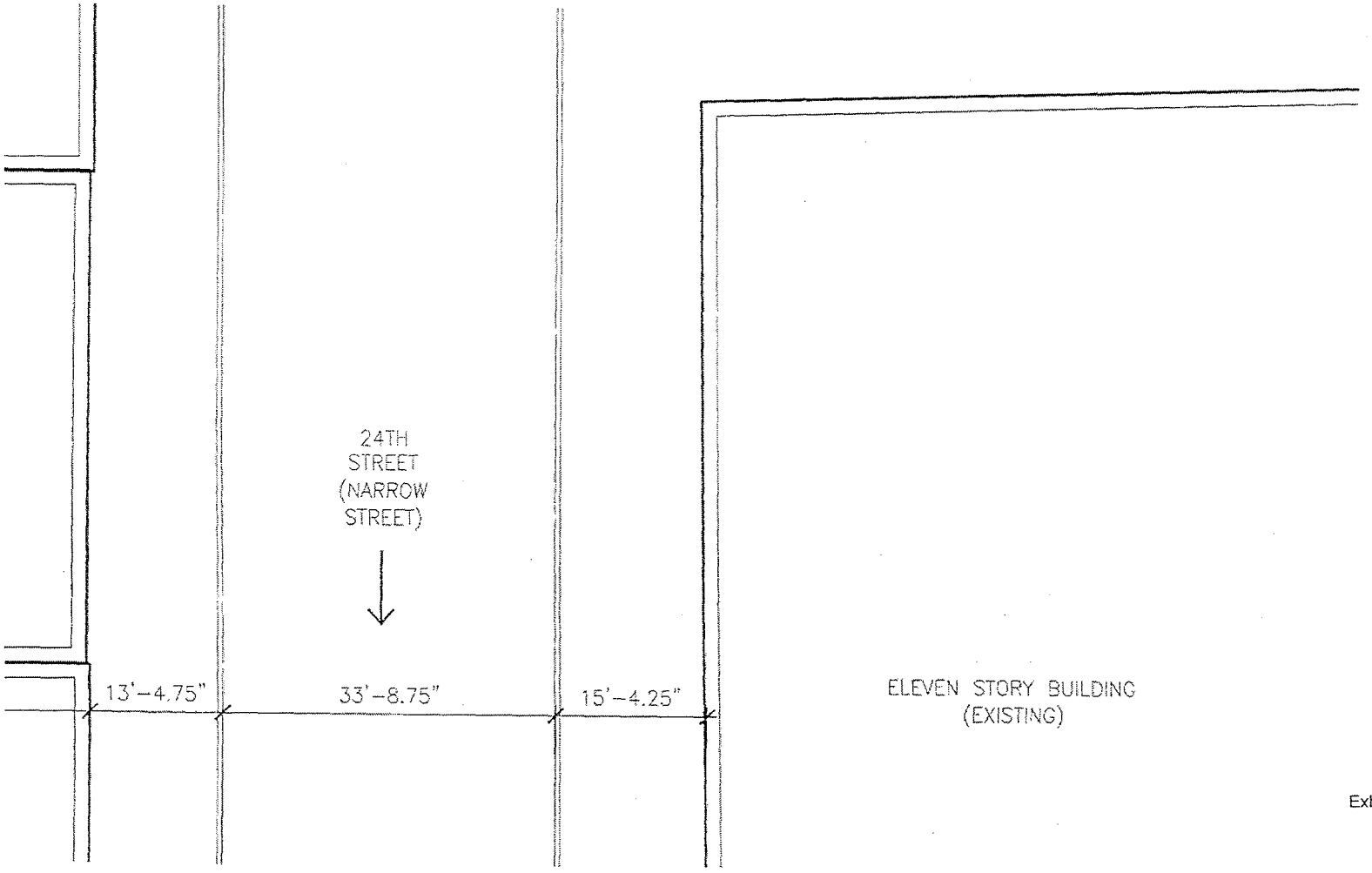
ENTRANCE :E	EXISTING GRATING NEW STREET TREE NEW LANDSCAPE	AREA OF DEVELOPMENT SITE

NOTES:

1. STREET TREE LOCATION SUE DOB AND DEPT. OF PARKS
2. BUILDING ENTRANCES ARE : PURPOSES ONLY
3. ARCHITECT STAMP AND SEA INFORMATION REGARDING TH LOT AND RELATED CURB CU THE SURROUNDING PROPER PURPOSES ONLY
4. INTERIOR PARTITIONS SHOW ONLY

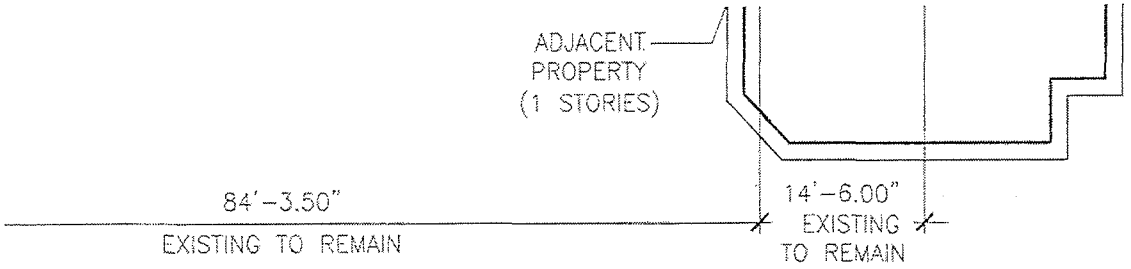

FIVE STORY BUILDING
(EXISTING)
ELEVEN STORY BUILDING
(EXISTING)


NEW CONCRETE SIDEWALK, TYP.
EXTENDED CURB CUT
RESIDENTIAL/ SERVICE ENTRY
12'-10.00"
38'-1.00"
DEVELOPMENT SITE
22'-0.00"
3'-3.00"
EXISTING GRATING
EXISTING CURB CUT
-2.00"
FIVE STORY BUILDING (EXISTING)
ONE STORY BUILDING (EXISTING)
TWELVE STORY BUILDING (EXISTING)


24TH
STREET
(NARROW
STREET)
13'-4.75"
33'-8.75"
15'-4.25"
ELEVEN STORY BUILDING
(EXISTING)

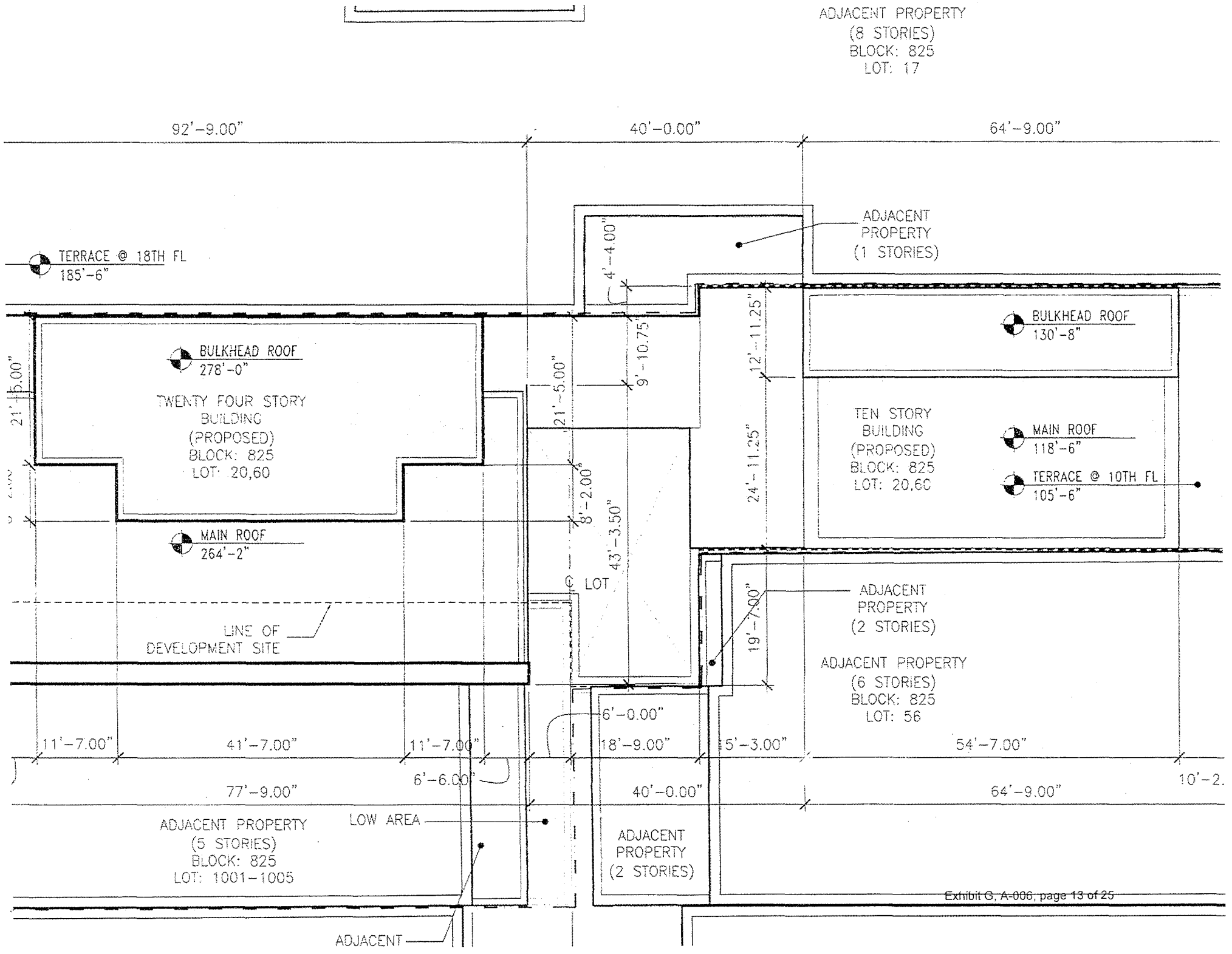
LEGEND

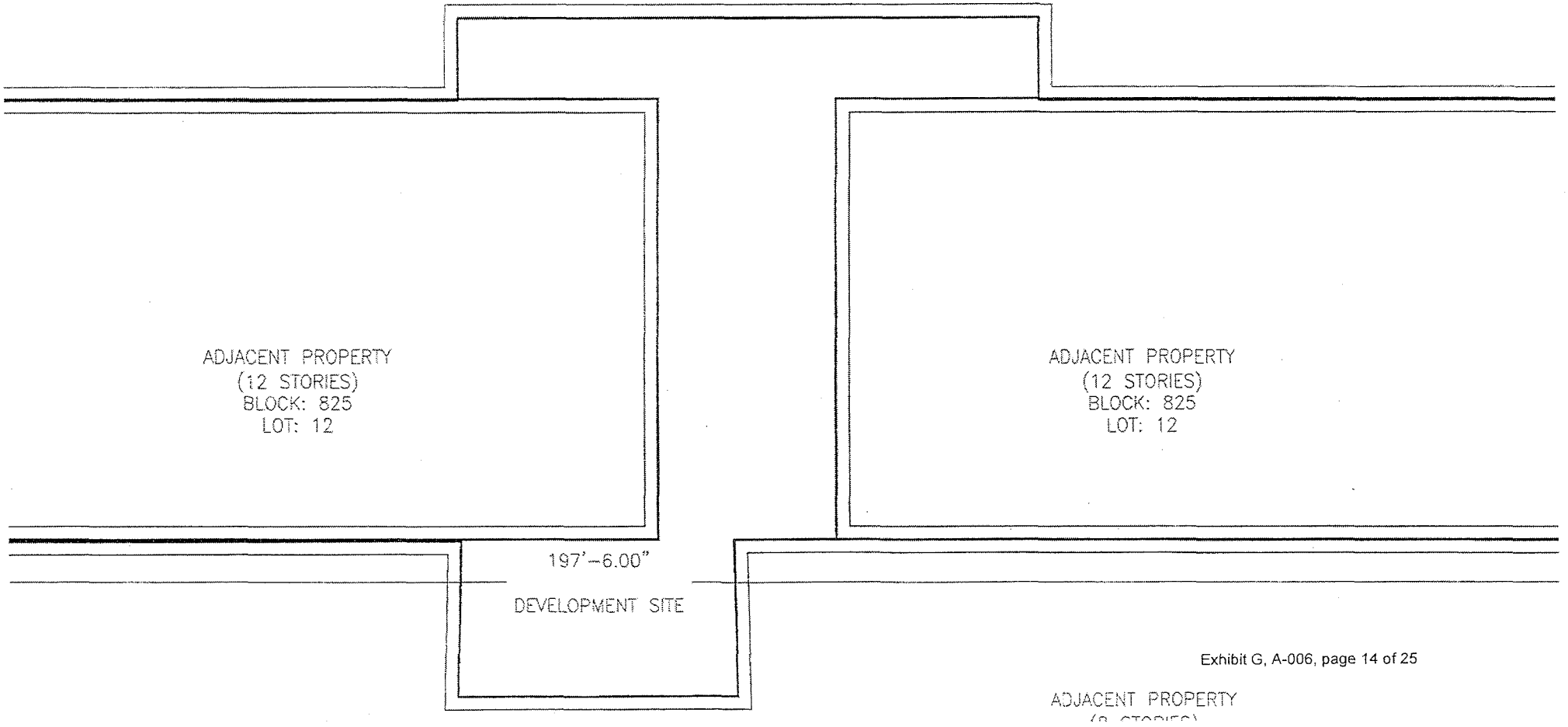
BUILDING ENVELOPE	MUNI METER	BUILDING ENTF
BUILDING ABOVE	LSA LANDSCAPE AREA	LIGHT POLE
CENTER LINE	UTILITY POLE	
ZONING LOT	FIRE HYDRANT	
DEVELOPMENT SITE		

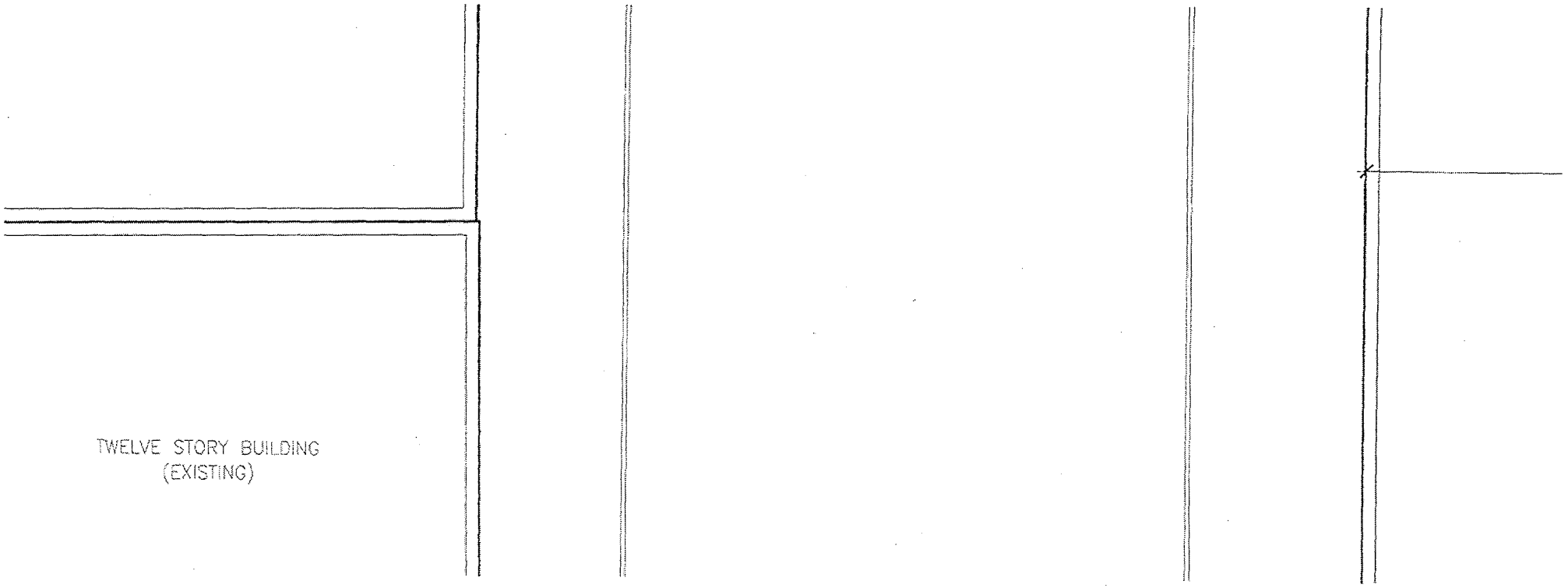


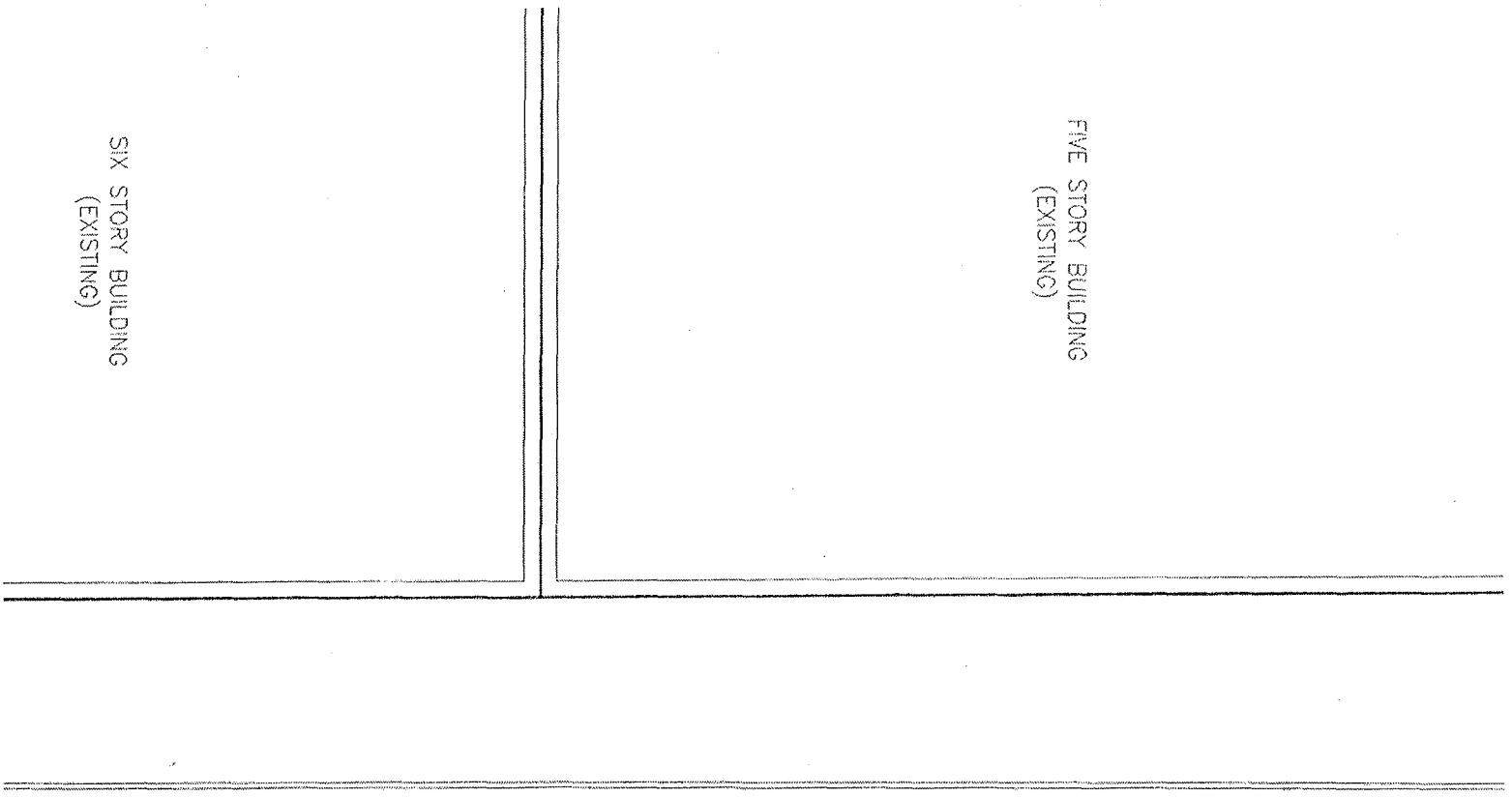
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24

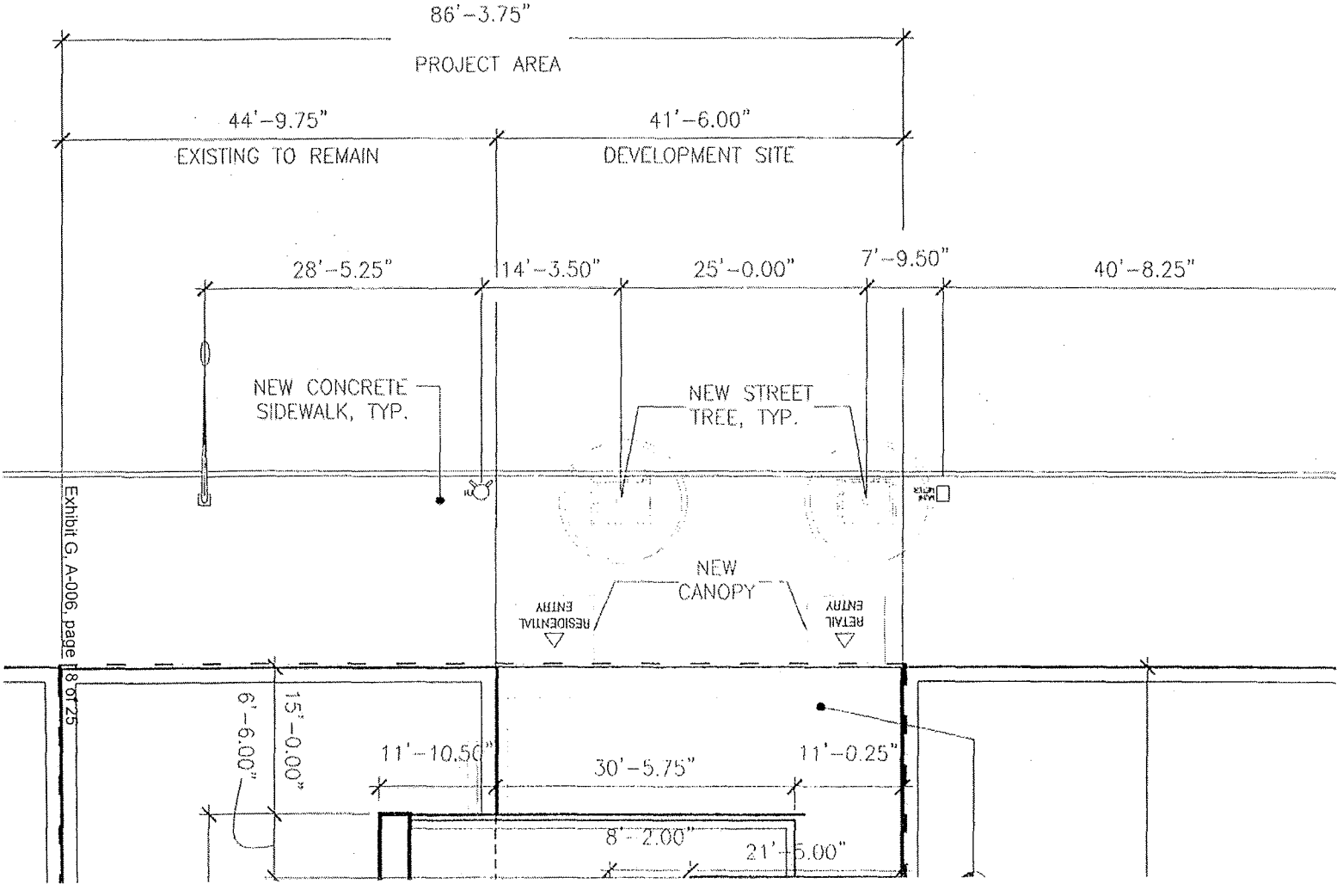
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24

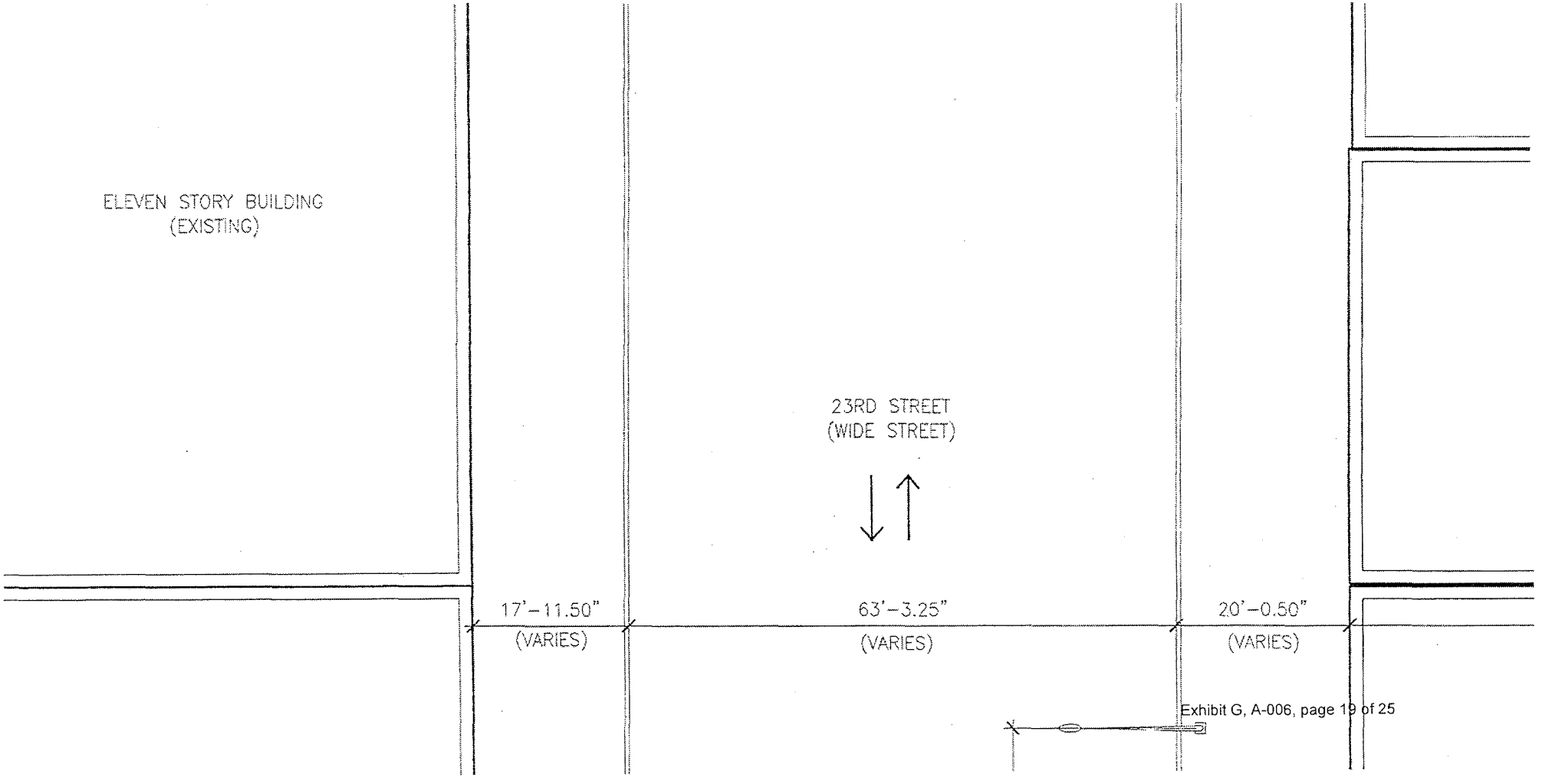

ADJACENT PROPERTY
(8 STORIES)
BLOCK: 825
LOT: 17
92'-9.00"
40'-0.00"
64'-9.00"
TERRACE @ 18TH FL
185'-6"
ADJACENT
PROPERTY
(1 STORIES)
4'-4.00"
BULKHEAD ROOF
278'-0"
TWENTY FOUR STORY
BUILDING
(PROPOSED)
BLOCK: 825
LOT: 20,60
21'-5.00"
9'-10.75"
12'-11.25"
BULKHEAD ROOF
130'-8"
TEN STORY
BUILDING
(PROPOSED)
BLOCK: 825
LOT: 20,60
MAIN ROOF
118'-6"
TERRACE @ 10TH FL
105'-6"
24'-11.25"
8'-2.00"
43'-3.50"
MAIN ROOF
264'-2"
LOT
LINE OF
DEVELOPMENT SITE
19'-7.00"
ADJACENT
PROPERTY
(2 STORIES)
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 56
6'-0.00"
11'-7.00"
41'-7.00"
11'-7.00"
18'-9.00"
15'-3.00"
54'-7.00"
6'-6.00"
77'-9.00"
40'-0.00"
64'-9.00"
LOW AREA
ADJACENT PROPERTY
(5 STORIES)
BLOCK: 825
LOT: 1001-1005
ADJACENT
PROPERTY
(2 STORIES)
ADJACENT


ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
197'-6.00"
DEVELOPMENT SITE
ADJACENT PROPERTY


TWELVE STORY BUILDING
(EXISTING)


SIX STORY BUILDING
(EXISTING)
FIVE STORY BUILDING
(EXISTING)


86'-3.75"
PROJECT AREA
44'-9.75"
EXISTING TO REMAIN
41'-6.00"
DEVELOPMENT SITE
28'-5.25"
14'-3.50"
25'-0.00"
7'-9.50"
40'-8.25"
NEW CONCRETE
SIDEWALK, TYP.
NEW STREET
TREE, TYP.
NEW
CANOPY
RESIDENTIAL
ENTRY
RETAIL
ENTRY
6'-6.00"
15'-0.00"
11'-10.50"
30'-5.75"
11'-0.25"
8'-2.00"
21'-5.00"


ELEVEN STORY BUILDING
(EXISTING)
23RD STREET
(WIDE STREET)
17'-11.50"
(VARIES)
63'-3.25"
(VARIES)
20'-0.50"
(VARIES)

N 01 SITE PLAN

1/16 = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-006-SITE PLAN.dwg

SUBJECT TO APPROVAL BY
KS AND RECREATION
E SHOWN FOR ILLUSTRATIVE

SEAL CORRESPONDS TO THE
THE DEVELOPMENT SITE, ZONING
CUTS. INFORMATION REGARDING
ERTIES IS FOR ILLUSTRATIVE

OWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

BUILDING ENCROACHMENT PLAN DIAGRAM

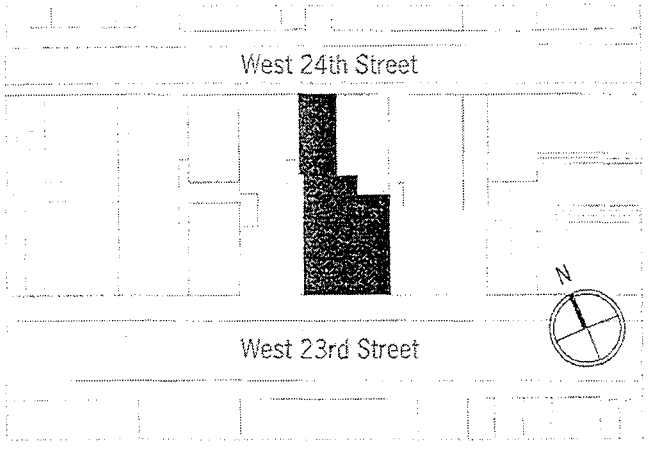
SEAL

REGISTERED ARCHITECT
RICHARD A. COOK
STATE OF NEW YORK

PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-007

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

206 Fifth Avenue, 4th Floor
New York, NY 10010
T: 212.741.1325

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641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

URS CORPORATION — GEOTECHNICAL ENGINEER

1255 Broad St, Suite 201
Clifton, NJ 07013
T: 973.883.8500

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100 Broadway, 23rd Floor
New York, NY 10005
T: 212.334.2025

DeSIMONE CONSULTING ENGINEERS — STRUCTURAL ENGINEER

18 WEST 18th Street, 10th Floor
New York, NY 10011
T: 212.532.2211

HEINTGES & ASSOCIATES — BUILDING ENVELOPE CONSULTANT

440 Park Avenue South, 15th Floor
New York, NY 10016
T: 212.652.2966

JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

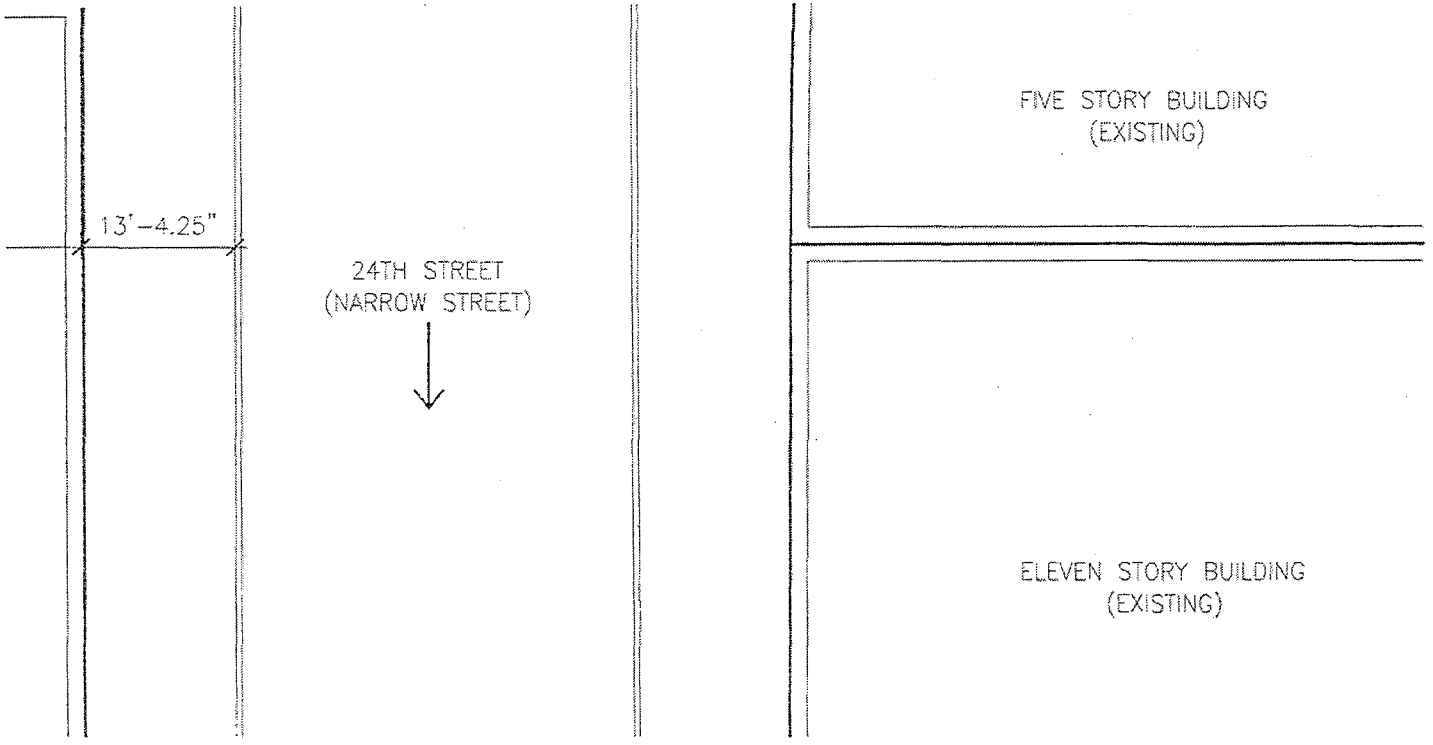
39-41
WEST 23RD

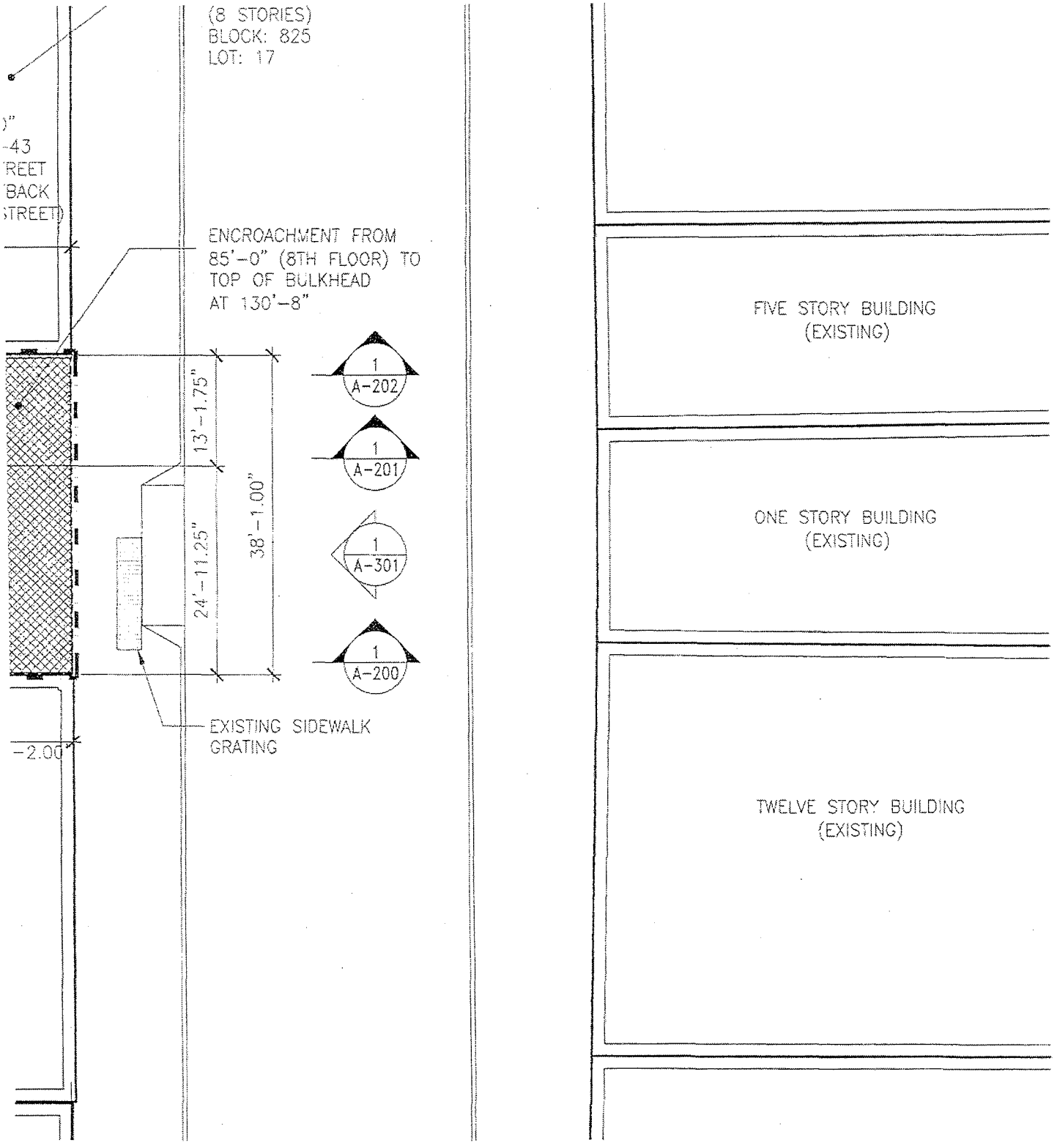
LEGEND

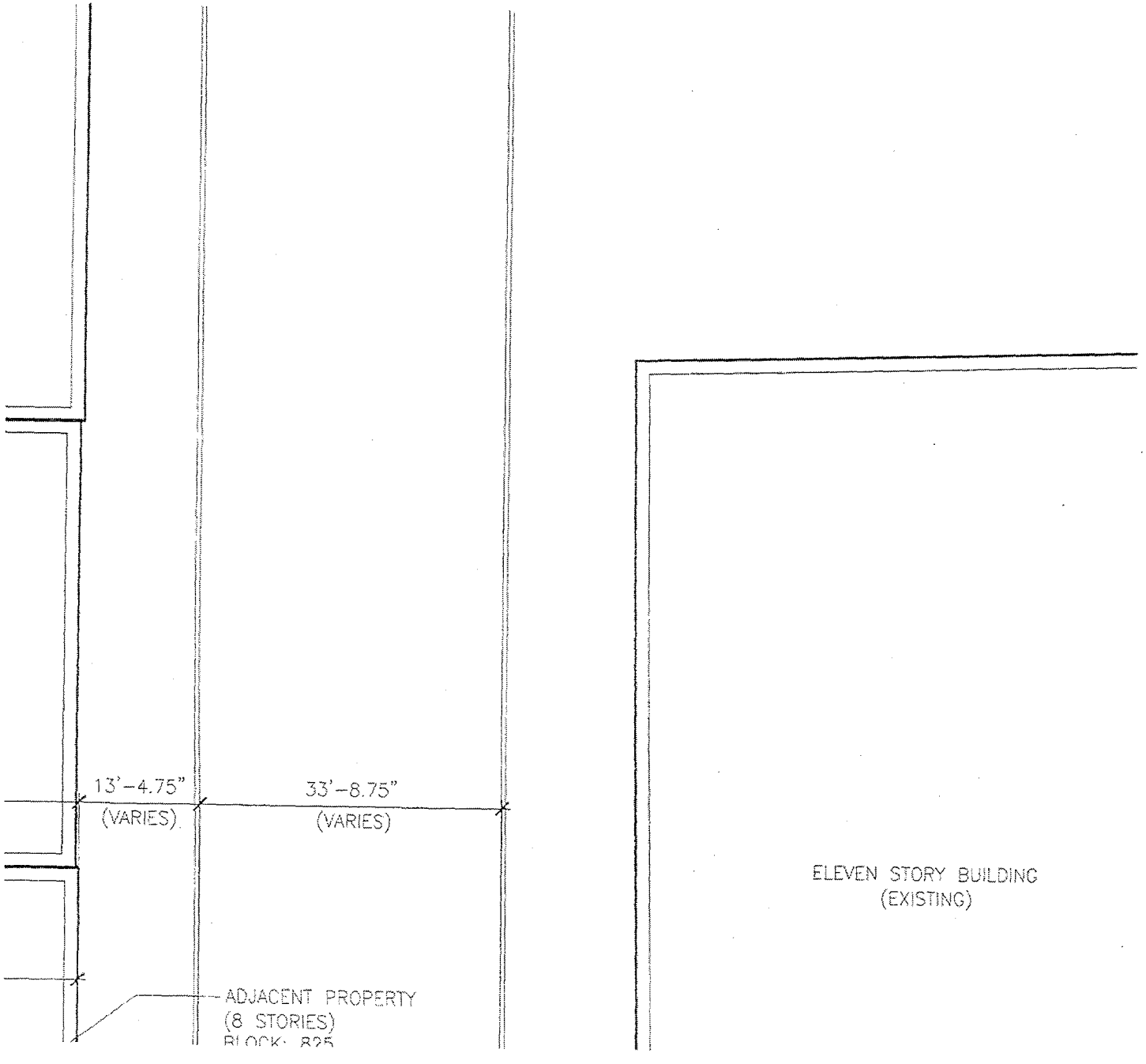
BUILDING ENVELOPE	PORTIONS OF BUILDING THAT ENCROACH INTO THE INITIAL SETBACK DISTANCE ABOVE 85 FEET & INTO THE SKY EXPOSURE PLANE REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74-711
BUILDING ABOVE	
CENTER LINE	PORTIONS OF BUILDING THAT ENCROACH INTO THE REAR YARD OR REAR YARD EQUIVALENT REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74-711
ZONING LOT	
DEVELOPMENT SITE	AREAS PROPOSED FOR USE GROUP 2, SUBJECT TO SPECIAL PERMIT PURSUANT TO ZR 74-711

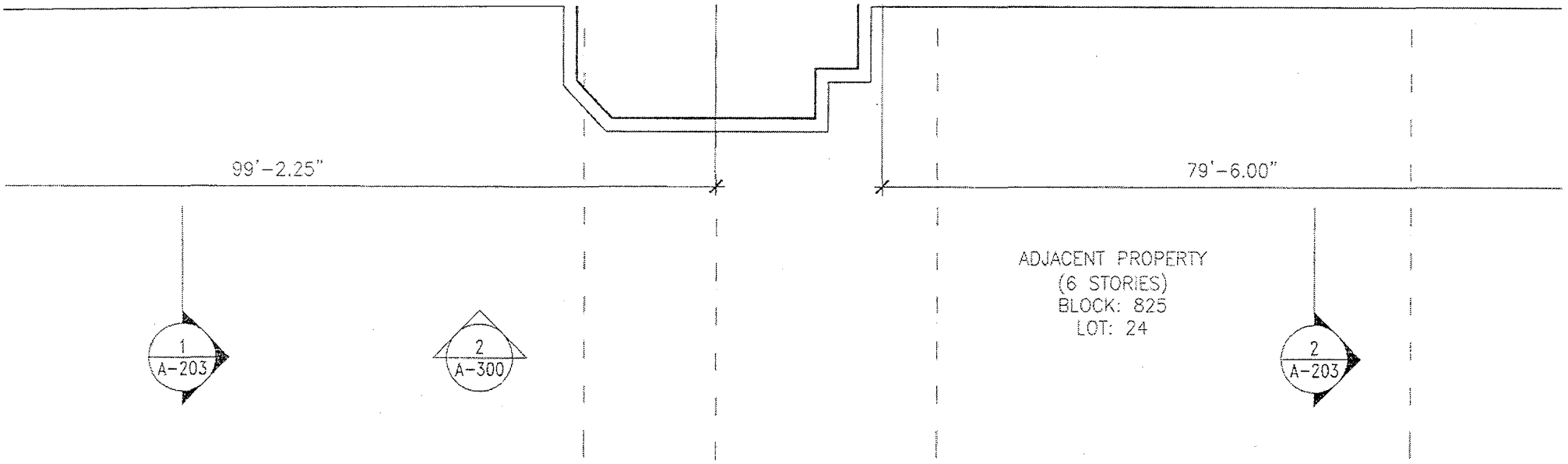
NOTES:

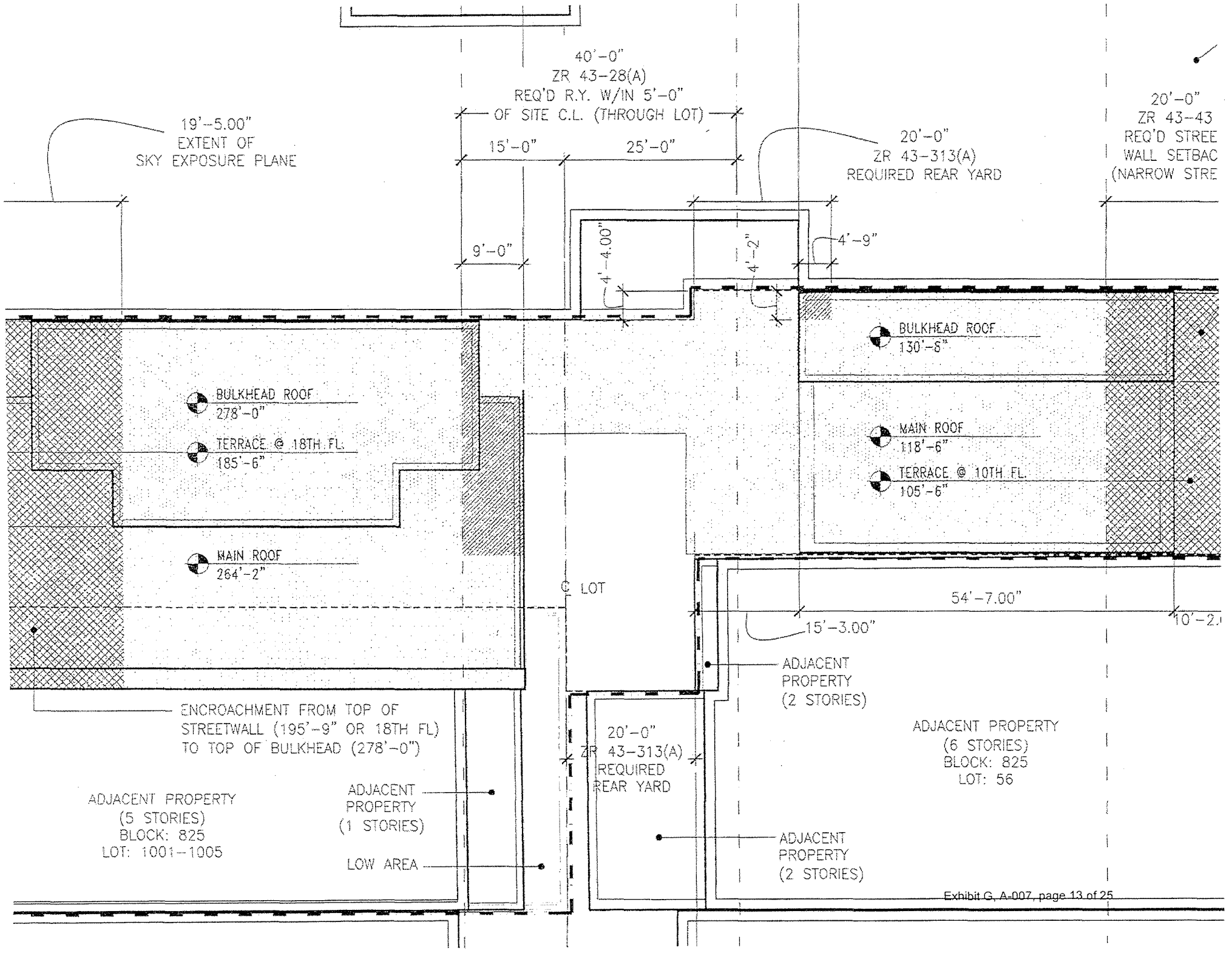
1. STREET TREE LOCATION SUB
   DOB AND DEPT. OF PARKS
2. BUILDING ENTRANCES ARE S
   PURPOSES ONLY
3. ARCHITECT STAMP AND SEAL
   INFORMATION REGARDING THE
   LOT AND RELATED CURB CU
   THE SURROUNDING PROPERT
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHOWN
   ONLY

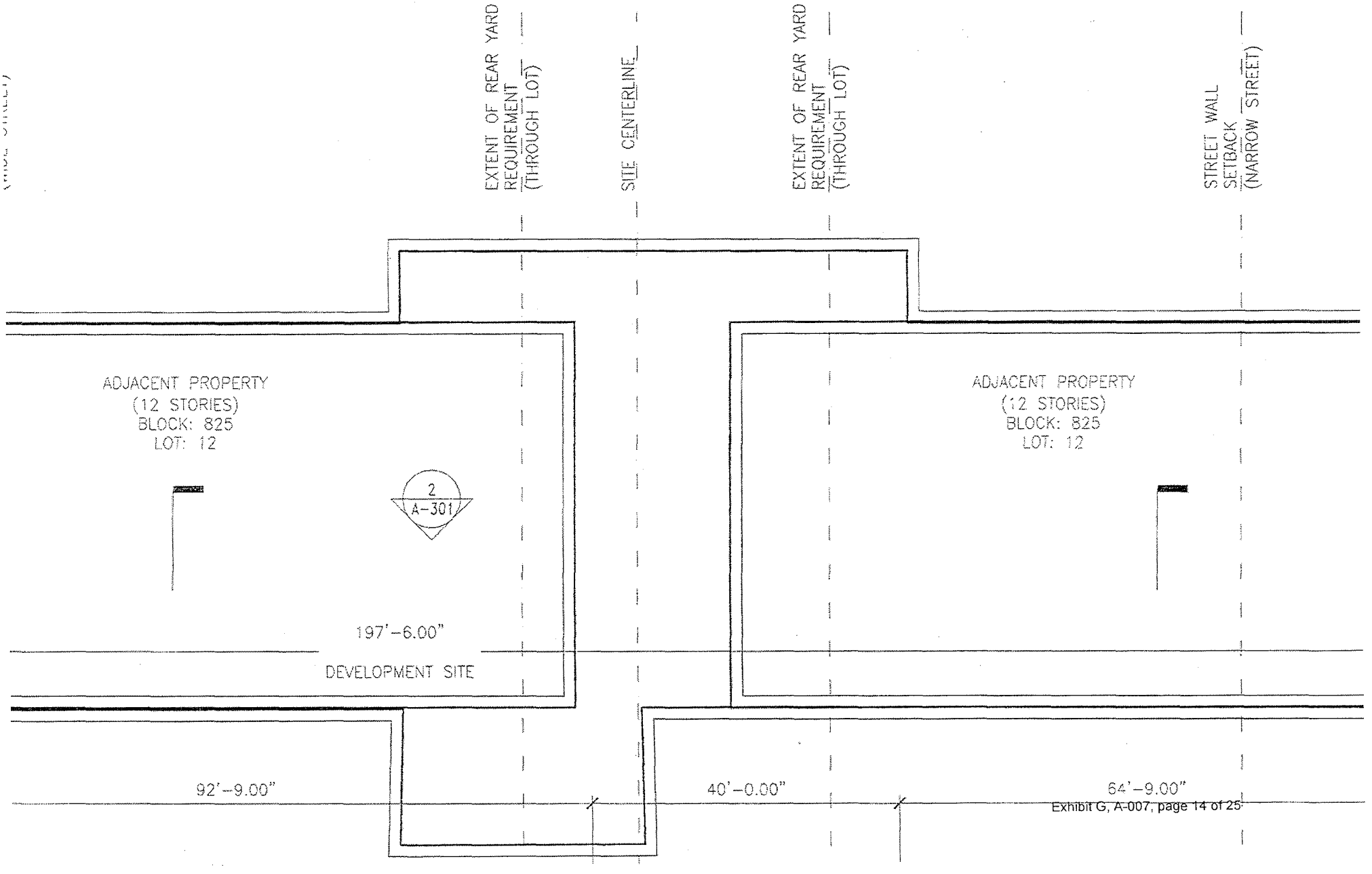

13'-4.25"
24TH STREET
(NARROW STREET)
FIVE STORY BUILDING
(EXISTING)
ELEVEN STORY BUILDING
(EXISTING)

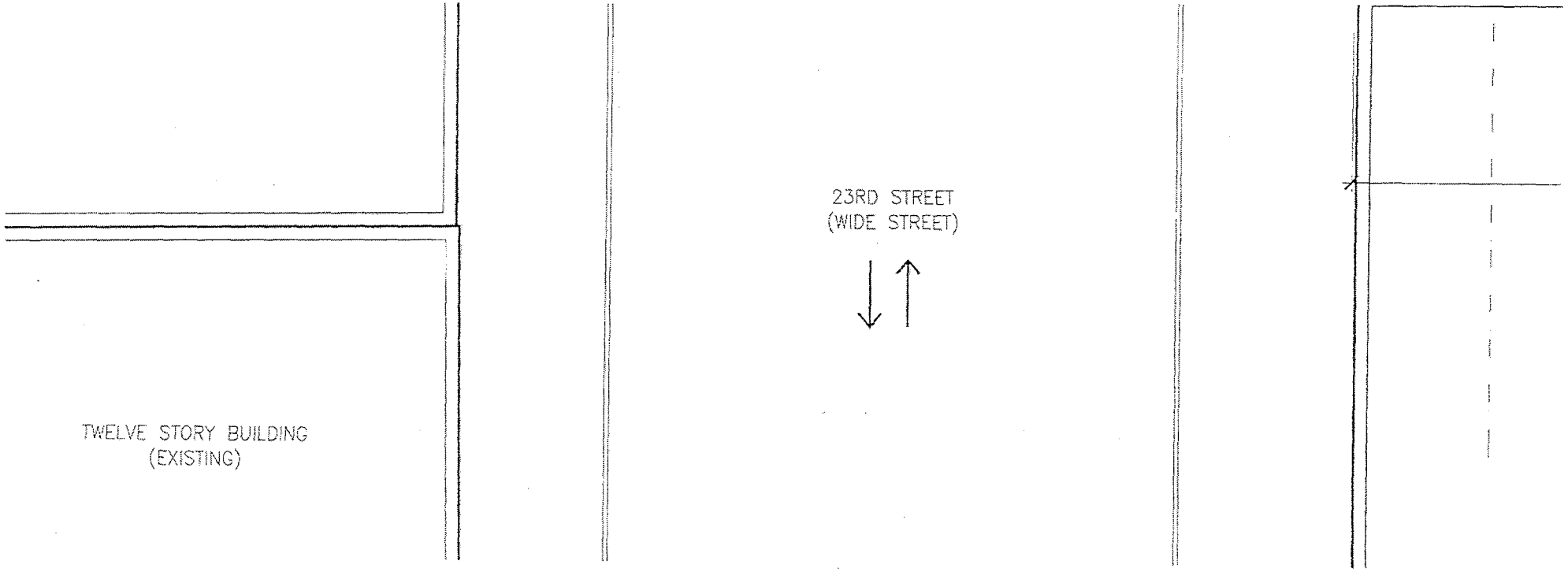

(8 STORIES)
BLOCK: 825
LOT: 17
ENCROACHMENT FROM
85'-0" (8TH FLOOR) TO
TOP OF BULKHEAD
AT 130'-8"
13'-1.75"
24'-11.25"
38'-1.00"
1
A-202
1
A-201
1
A-301
1
A-200
EXISTING SIDEWALK
GRATING
FIVE STORY BUILDING
(EXISTING)
ONE STORY BUILDING
(EXISTING)
TWELVE STORY BUILDING
(EXISTING)

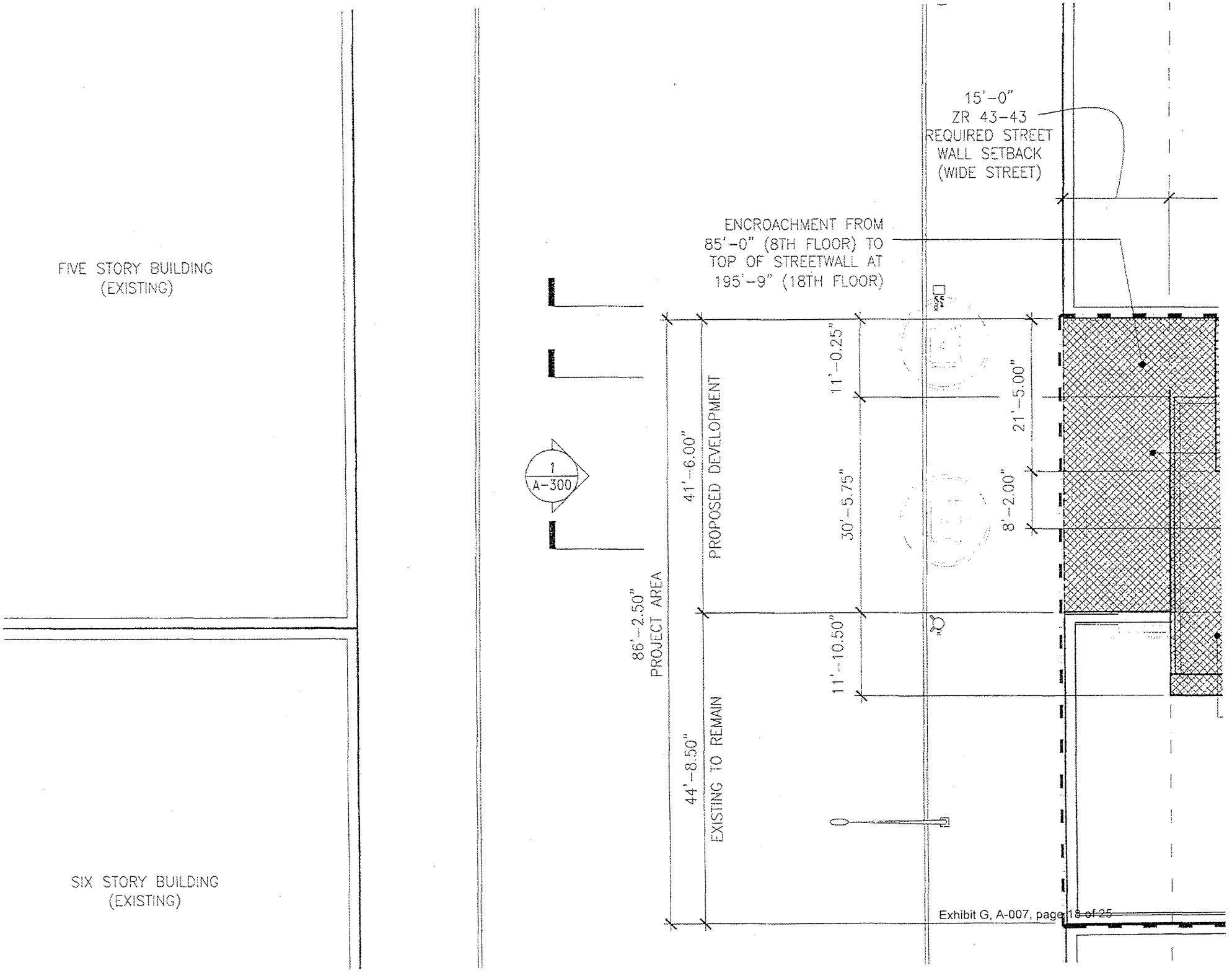

13'-4.75"
(VARIES)
33'-8.75"
(VARIES)
ELEVEN STORY BUILDING
(EXISTING)
ADJACENT PROPERTY
(8 STORIES)

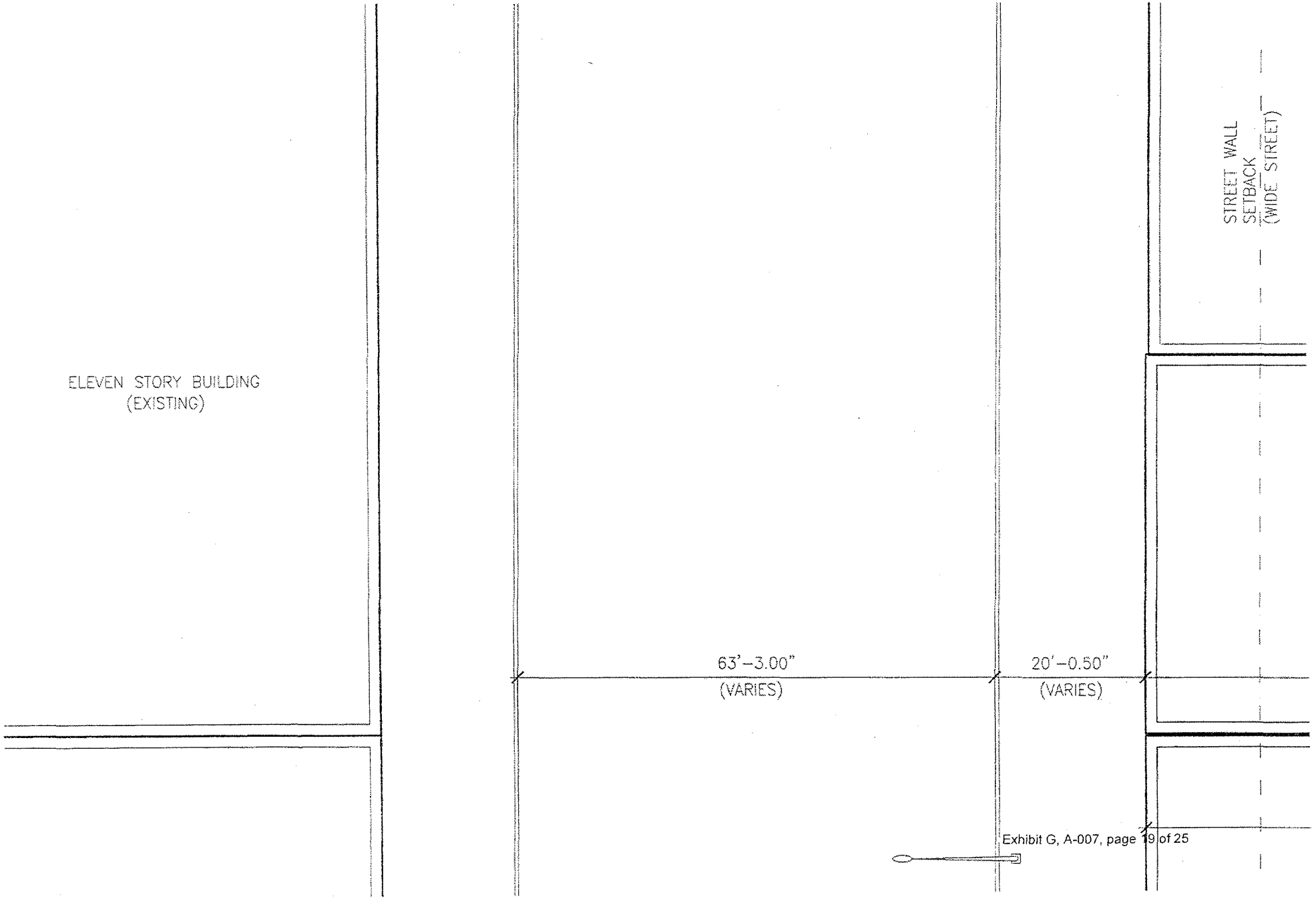

99'-2.25"
79'-6.00"
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24
1
A-203
2
A-300
2
A-203


40'-0"
ZR 43-28(A)
REQ'D R.Y. W/IN 5'-0"
OF SITE C.L. (THROUGH LOT)
15'-0"
25'-0"
19'-5.00"
EXTENT OF
SKY EXPOSURE PLANE
20'-0"
ZR 43-313(A)
REQUIRED REAR YARD
20'-0"
ZR 43-43
REQ'D STREE
WALL SETBAC
(NARROW STRE
9'-0"
4'-4.00"
4'-2"
4'-9"
BULKHEAD ROOF
278'-0"
TERRACE @ 18TH FL.
185'-6"
MAIN ROOF
264'-2"
BULKHEAD ROOF
130'-8"
MAIN ROOF
118'-6"
TERRACE @ 10TH FL.
105'-6"
℄ LOT
54'-7.00"
15'-3.00"
10'-2.
ADJACENT
PROPERTY
(2 STORIES)
ENCROACHMENT FROM TOP OF
STREETWALL (195'-9" OR 18TH FL)
TO TOP OF BULKHEAD (278'-0")
20'-0"
ZR 43-313(A)
REQUIRED
REAR YARD
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 56
ADJACENT PROPERTY
(5 STORIES)
BLOCK: 825
LOT: 1001-1005
ADJACENT
PROPERTY
(1 STORIES)
LOW AREA
ADJACENT
PROPERTY
(2 STORIES)


EXTENT OF REAR YARD REQUIREMENT (THROUGH LOT)
SITE CENTERLINE
EXTENT OF REAR YARD REQUIREMENT (THROUGH LOT)
STREET WALL SETBACK (NARROW STREET)
ADJACENT PROPERTY (12 STORIES) BLOCK: 825 LOT: 12
2
A-301
ADJACENT PROPERTY (12 STORIES) BLOCK: 825 LOT: 12
197'-6.00"
DEVELOPMENT SITE
92'-9.00"
40'-0.00"
64'-9.00"


TWELVE STORY BUILDING
(EXISTING)
23RD STREET
(WIDE STREET)


FIVE STORY BUILDING
(EXISTING)
SIX STORY BUILDING
(EXISTING)
15'-0"
ZR 43-43
REQUIRED STREET
WALL SETBACK
(WIDE STREET)
ENCROACHMENT FROM
85'-0" (8TH FLOOR) TO
TOP OF STREETWALL AT
195'-9" (18TH FLOOR)
1
A-300
86'-2.50"
PROJECT AREA
41'-6.00"
PROPOSED DEVELOPMENT
44'-8.50"
EXISTING TO REMAIN
11'-0.25"
30'-5.75"
11'-10.50"
21'-5.00"
8'-2.00"


ELEVEN STORY BUILDING
(EXISTING)
63'-3.00"
(VARIES)
20'-0.50"
(VARIES)
STREET WALL
SETBACK
(WIDE STREET)

01 WAIVER DIAGRAM

1/16" = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-007-WAIVER PLAN.dwg

N SUBJECT TO APPROVAL BY
'ARKS AND RECREATION
ARE SHOWN FOR ILLUSTRATIVE

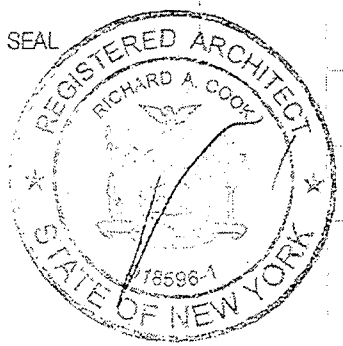
) SEAL CORRESPONDS TO THE
NG THE DEVELOPMENT SITE, ZONING
RB CUTS. INFORMATION REGARDING
ROPERTIES IS FOR ILLUSTRATIVE

SHOWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

FLOOR PLAN
SUB CELLAR
CELLAR

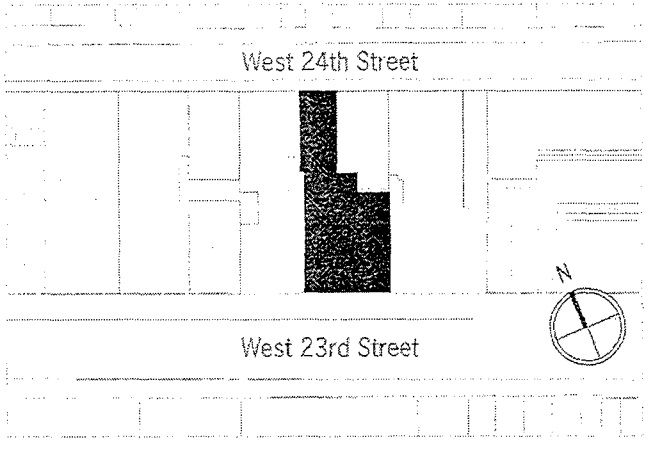
SEAL



PROJECT NO:	3302
SCALE:	1/16" = 1'-0"
SHEET SIZE:	36"x48"
DRAWING NO:	A-100

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

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New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

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1255 Broad St, Suite 201
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JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

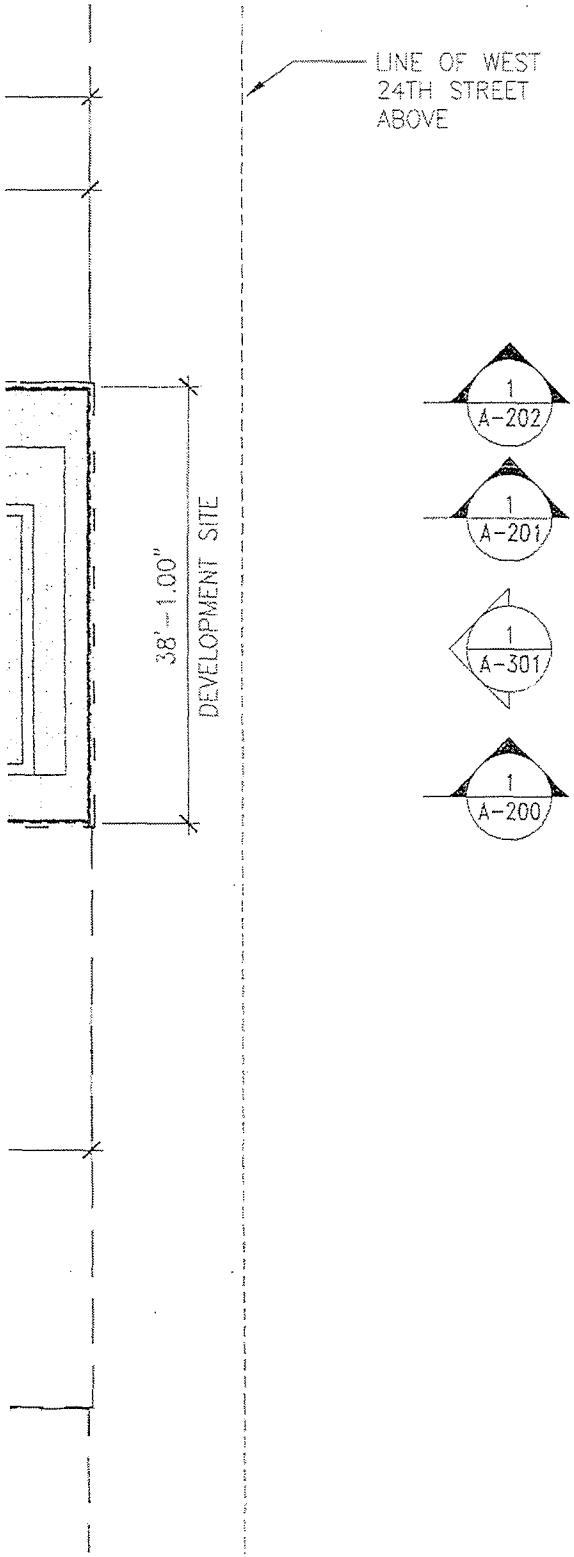
39-41
WEST 23RD

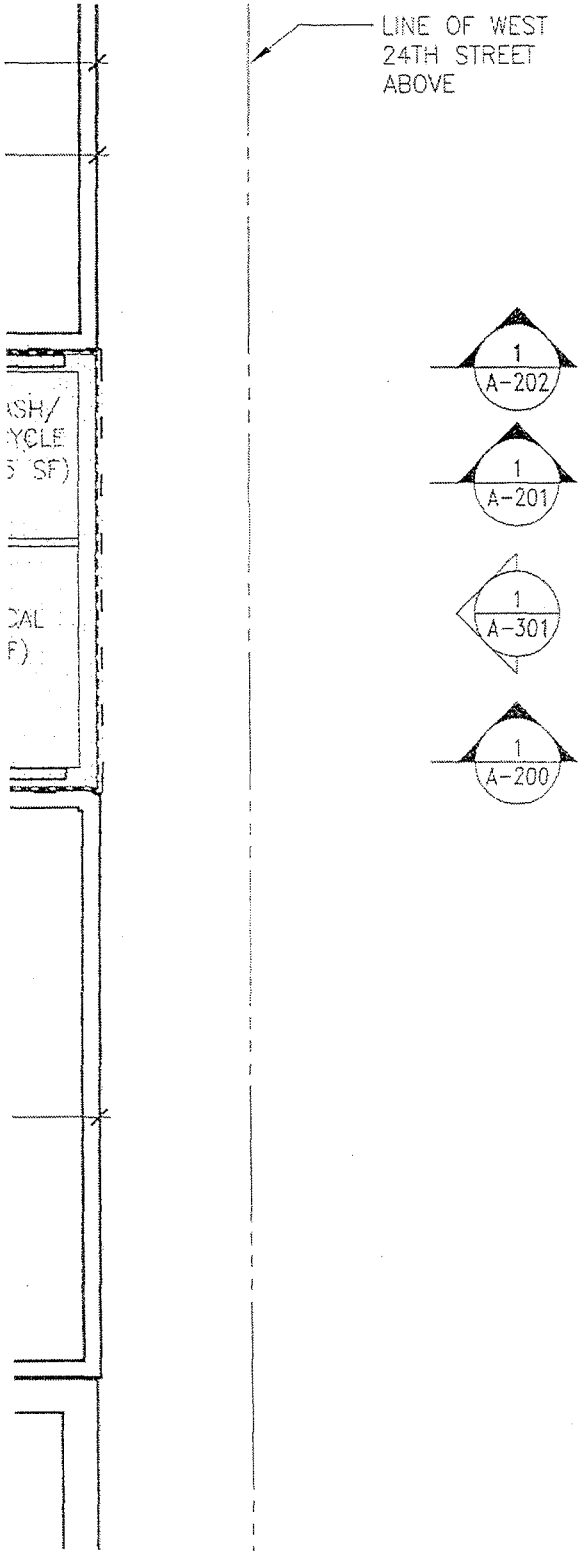
LEGEND

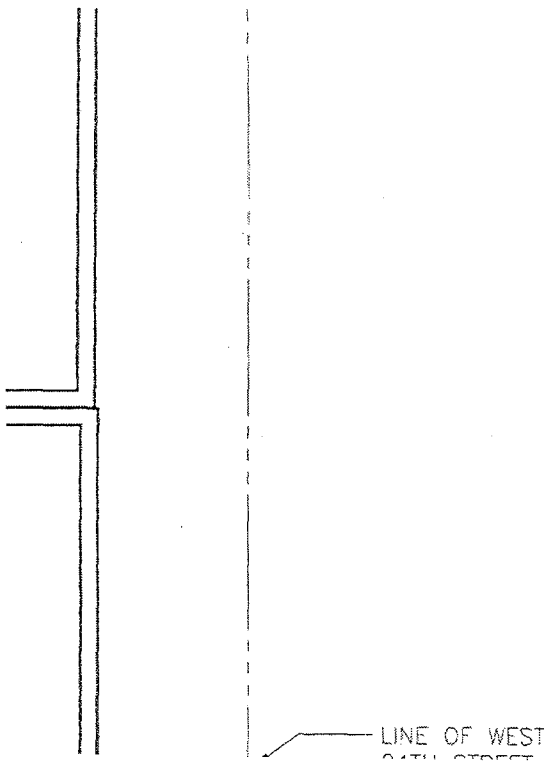
BUILDING ENVELOPE	AREAS PROPOSED FOR USE GROUP 2, SUBJEC TO SPECIAL PERMIT PURSUANT TO ZR 74-711
BUILDING ABOVE	
CENTER LINE	
ZONING LOT	
DEVELOPMENT SITE	
STREET LINE ABOVE	

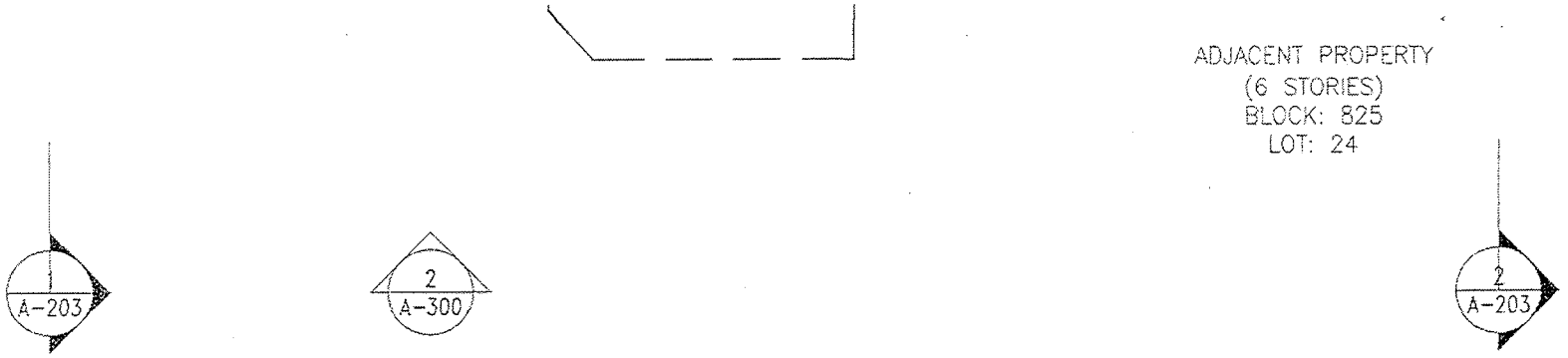
NOTES:

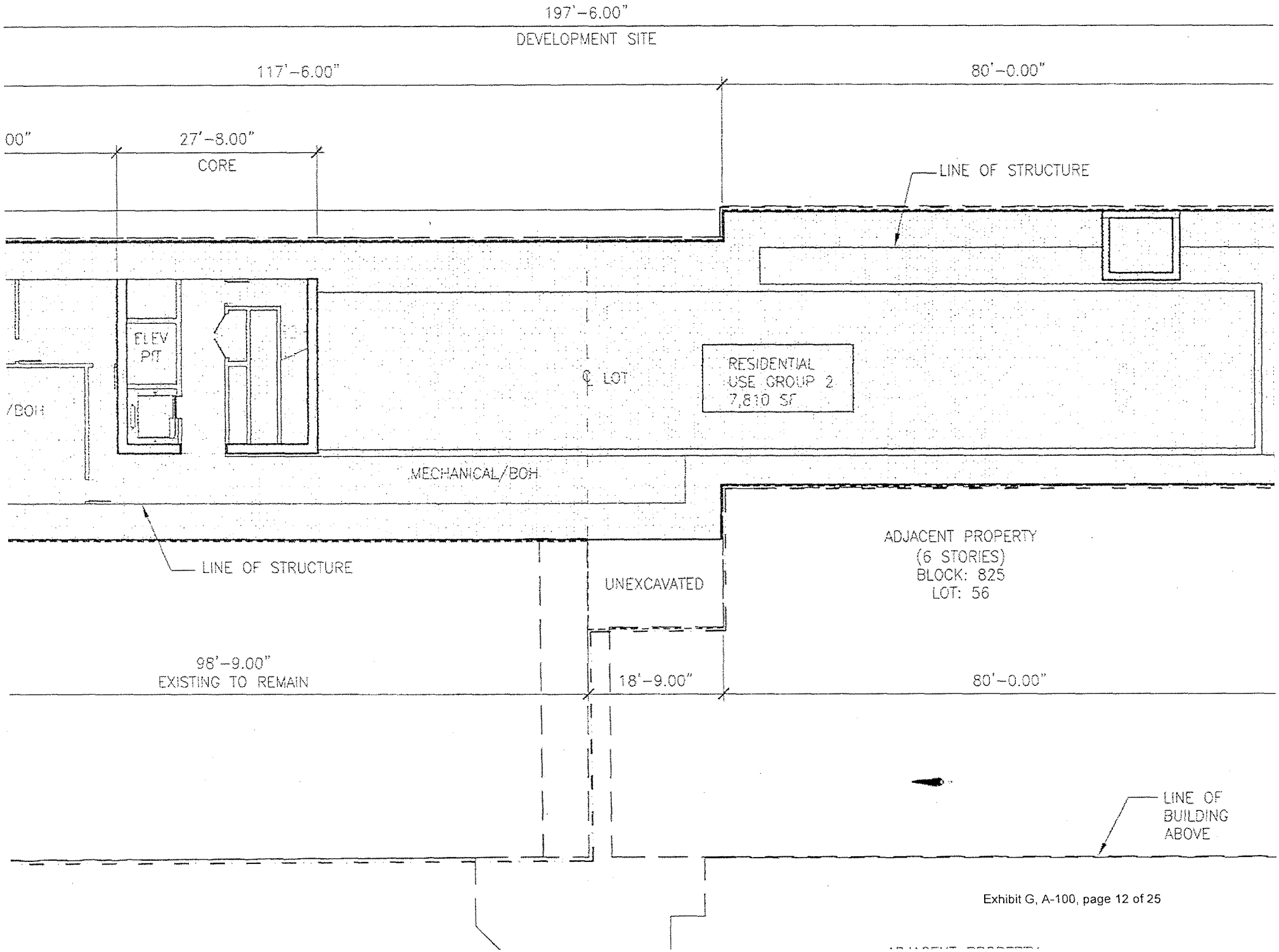
1. STREET TREE LOCATION S
   DOB AND DEPT. OF PARK
2. BUILDING ENTRANCES ARE
   PURPOSES ONLY
3. ARCHITECT STAMP AND SI
   INFORMATION REGARDING
   LOT AND RELATED CURB
   THE SURROUNDING PROPE
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHC
   ONLY

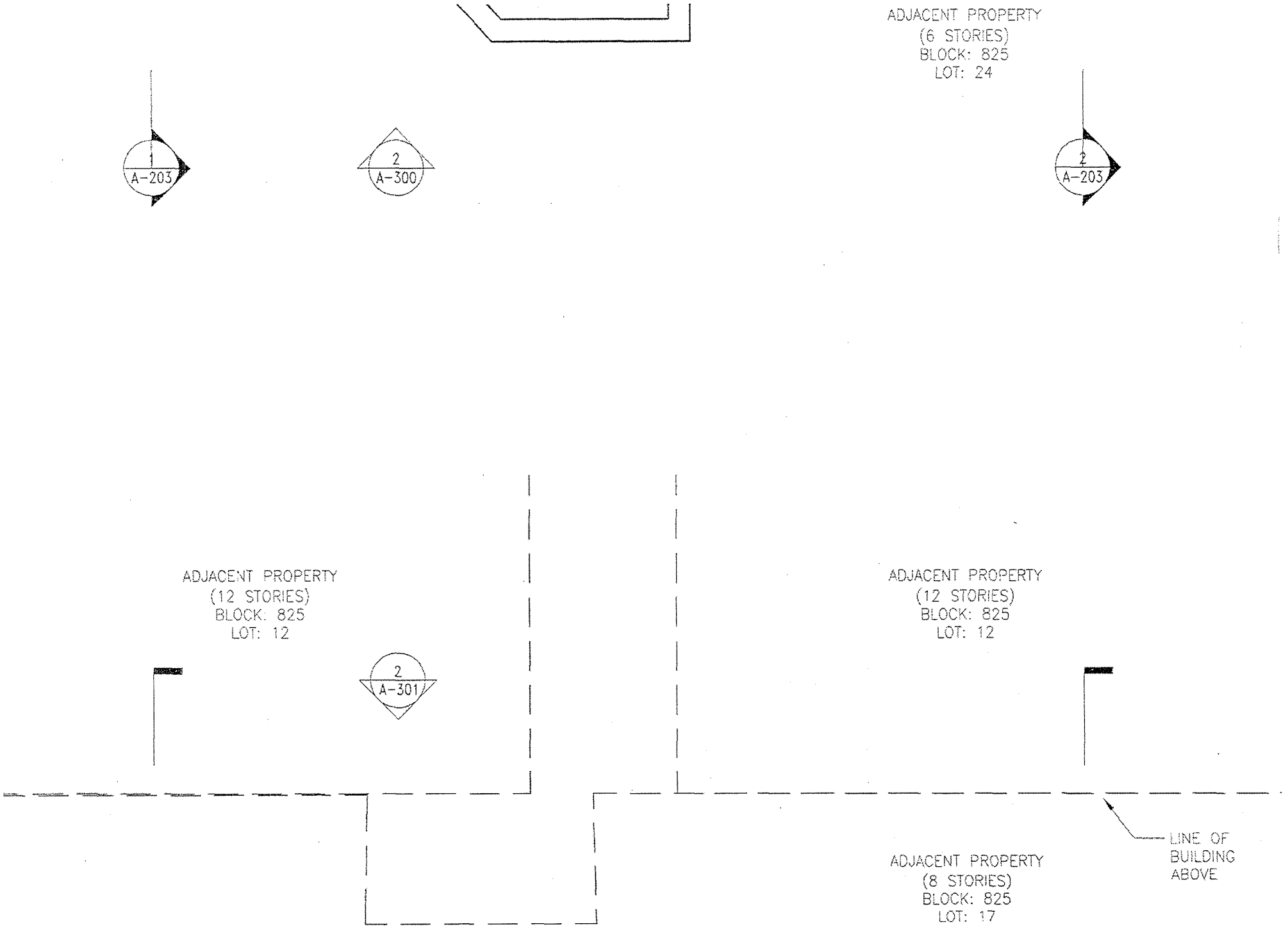

LINE OF WEST
24TH STREET
ABOVE
38'-1.00"
DEVELOPMENT SITE
1
A-202
1
A-201
1
A-301
1
A-200

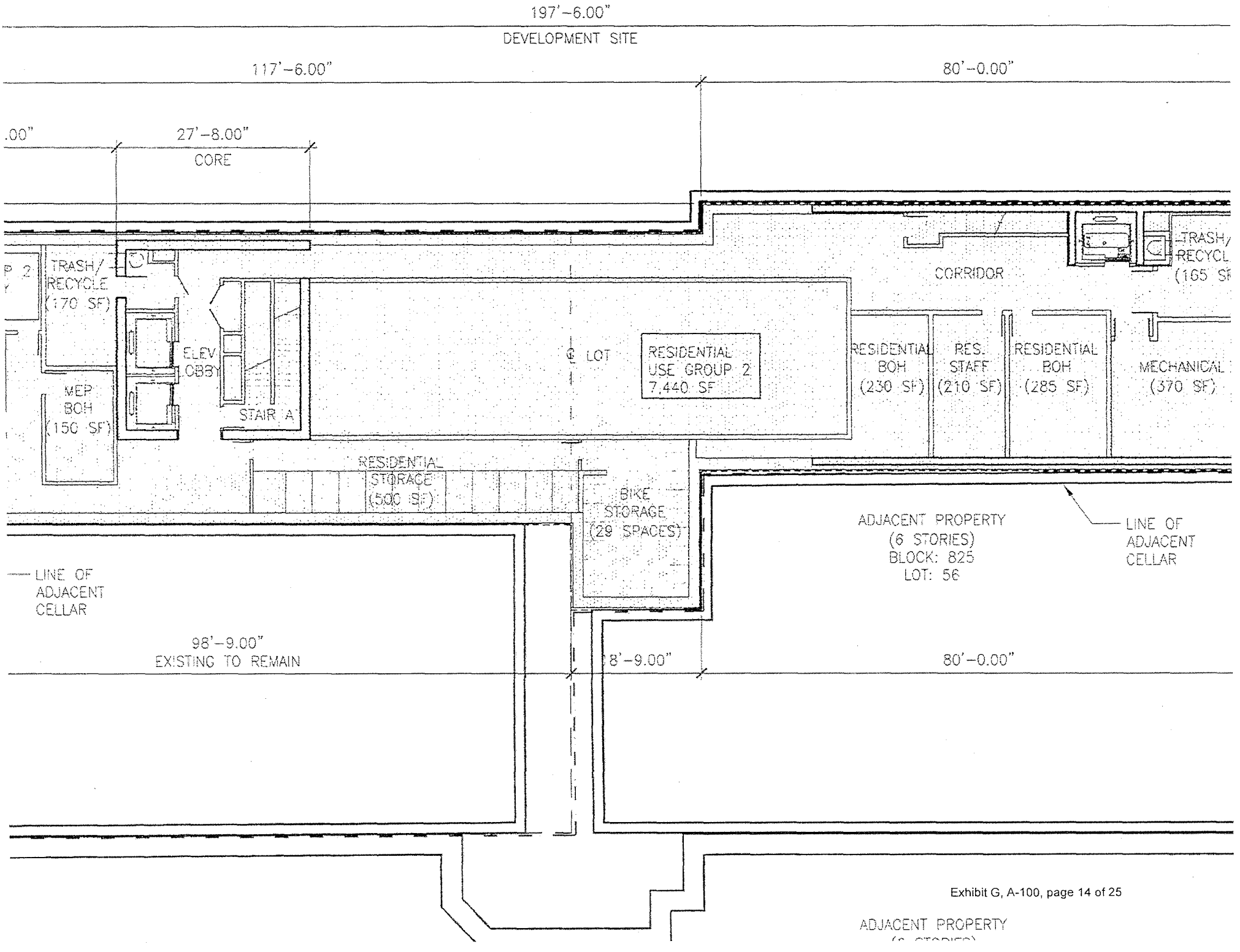

LINE OF WEST
24TH STREET
ABOVE
1
A-202
1
A-201
1
A-301
1
A-200

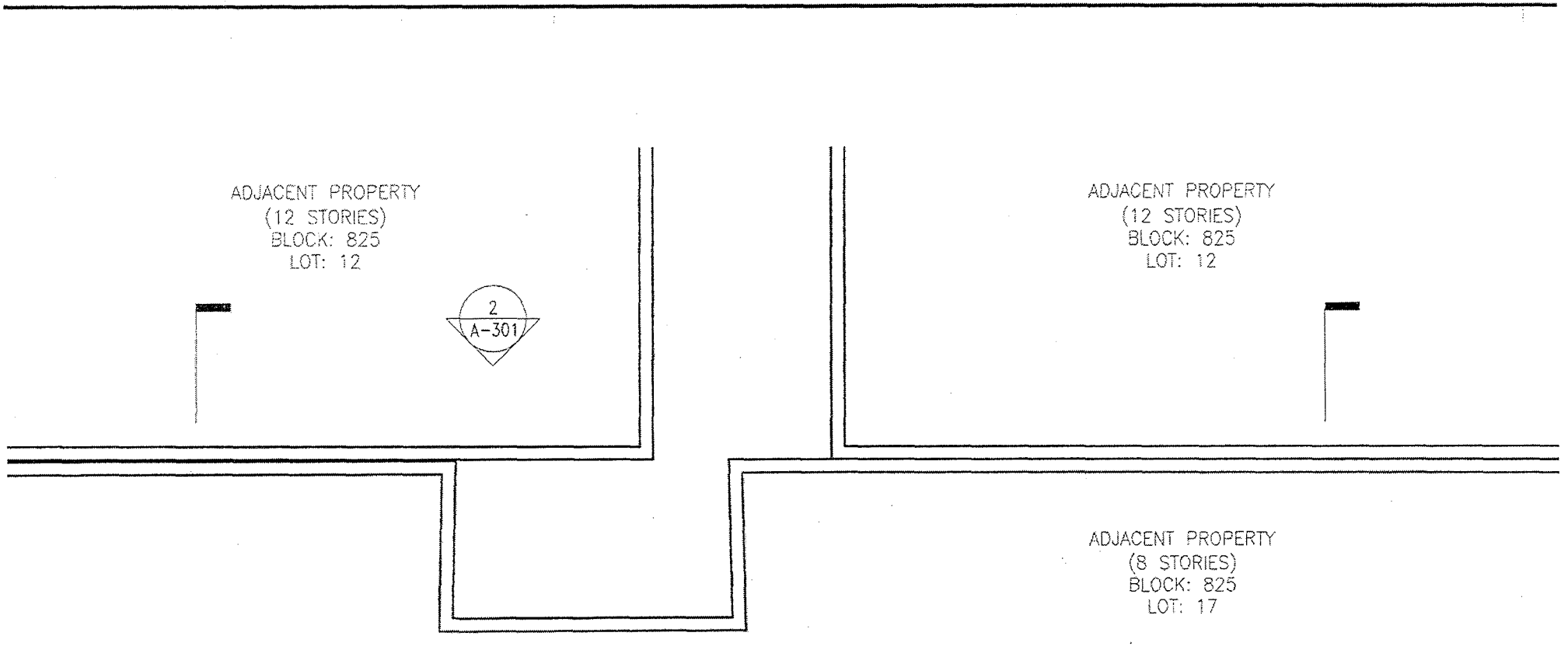

LINE OF WEST


ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24
A-203
2
A-300
2
A-203


197'-6.00"
DEVELOPMENT SITE
117'-6.00"
80'-0.00"
00"
27'-8.00"
CORE
LINE OF STRUCTURE
ELEV PIT
/BOH
℄ LOT
RESIDENTIAL USE GROUP 2 7,810 SF
MECHANICAL/BOH
LINE OF STRUCTURE
UNEXCAVATED
ADJACENT PROPERTY (6 STORIES) BLOCK: 825 LOT: 56
98'-9.00" EXISTING TO REMAIN
18'-9.00"
80'-0.00"
LINE OF BUILDING ABOVE


ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24
1
A-203
2
A-300
2
A-203
ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
2
A-301
ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
LINE OF
BUILDING
ABOVE
ADJACENT PROPERTY
(8 STORIES)
BLOCK: 825
LOT: 17


197'-6.00"
DEVELOPMENT SITE
117'-6.00"
80'-0.00"
27'-8.00"
CORE
TRASH/ RECYCLE (170 SF)
MEP BOH (150 SF)
ELEV LOBBY
STAIR A
℄ LOT
RESIDENTIAL USE GROUP 2 7,440 SF
CORRIDOR
RESIDENTIAL BOH (230 SF)
RES. STAFF (210 SF)
RESIDENTIAL BOH (285 SF)
MECHANICAL (370 SF)
RESIDENTIAL STORAGE (500 SF)
BIKE STORAGE (29 SPACES)
ADJACENT PROPERTY (6 STORIES) BLOCK: 825 LOT: 56
LINE OF ADJACENT CELLAR
LINE OF ADJACENT CELLAR
98'-9.00"
EXISTING TO REMAIN
8'-9.00"
80'-0.00"
ADJACENT PROPERTY

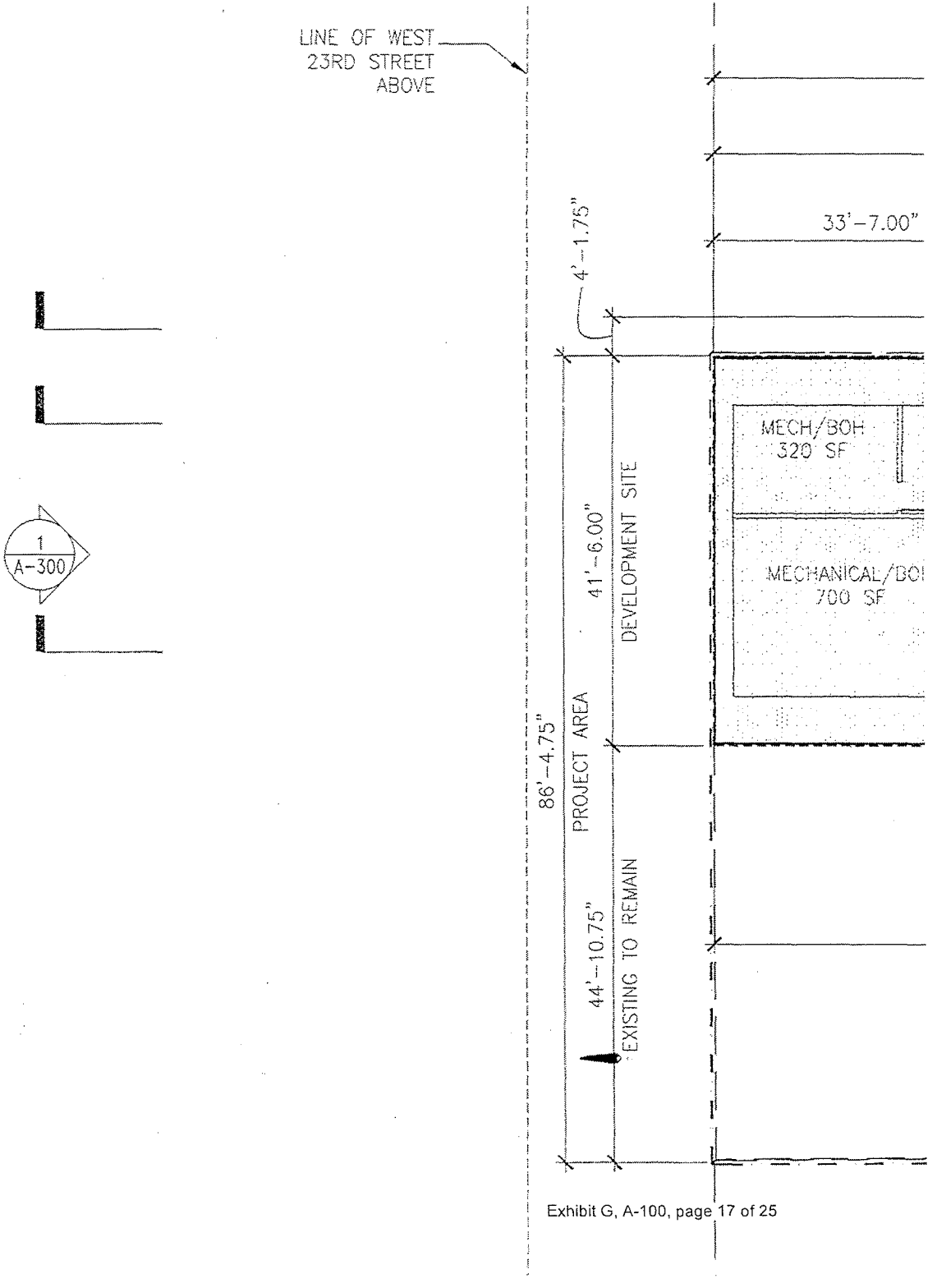

ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
2
A-301
ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
ADJACENT PROPERTY
(8 STORIES)
BLOCK: 825
LOT: 17

197'-6.00"

N

01 SUB-CELLAR FLOOR PLAN

1/16 = 1' - 0"

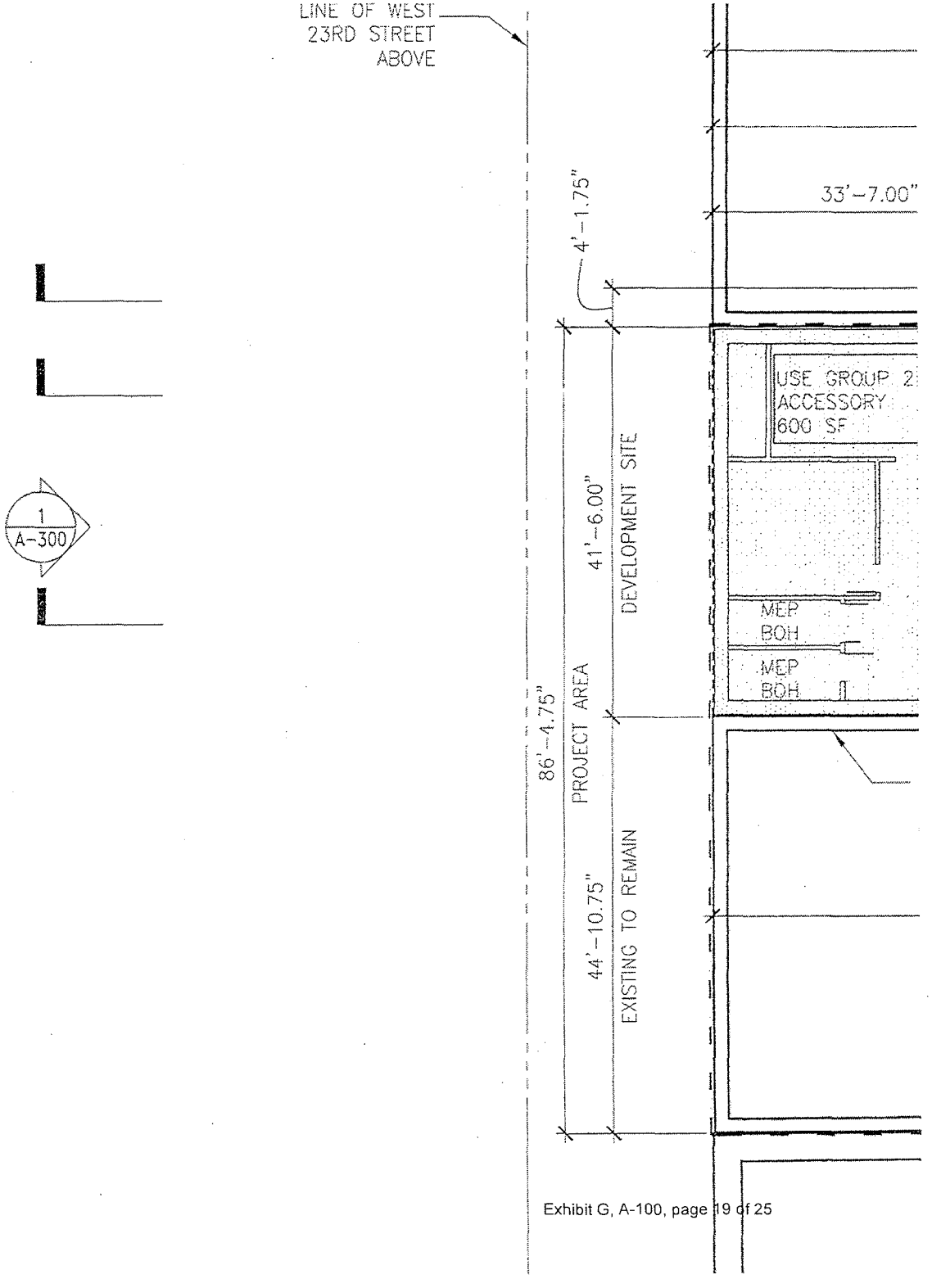

LINE OF WEST
23RD STREET
ABOVE
33'-7.00"
4'-1.75"
MECH/BOH
320 SF
MECHANICAL/BOI
700 SF
41'-6.00"
DEVELOPMENT SITE
86'-4.75"
PROJECT AREA
44'-10.75"
EXISTING TO REMAIN
1
A-300

N

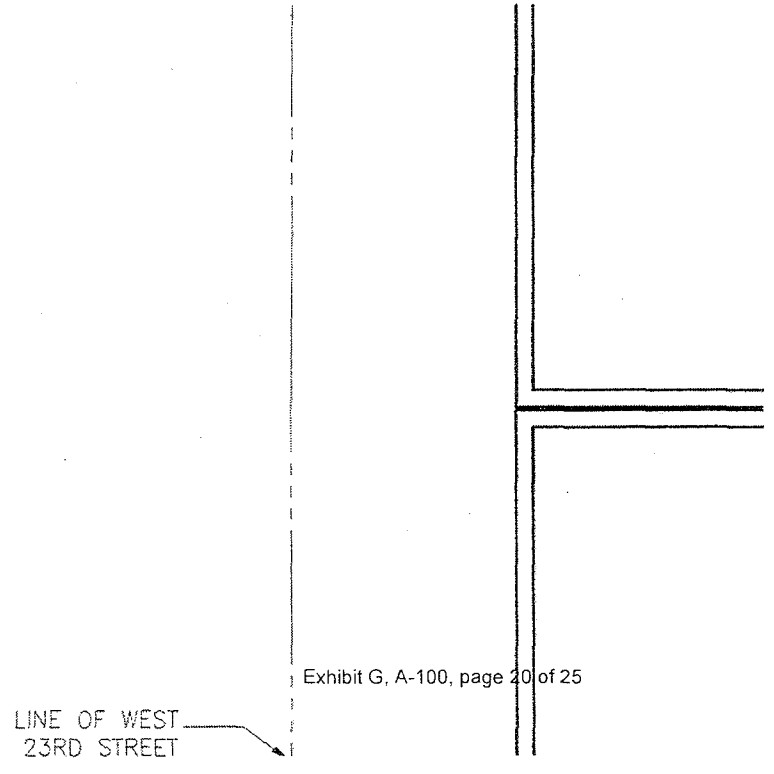
02 CELLAR FLOOR PLAN

1/16 = 1' - 0"

LINE OF WEST


LINE OF WEST
23RD STREET
ABOVE
33'-7.00"
4'-1.75"
USE GROUP 2
ACCESSORY
600 SF
1
A-300
41'-6.00"
DEVELOPMENT SITE
MEP
BOH
MEP
BOH
86'-4.75"
PROJECT AREA
44'-10.75"
EXISTING TO REMAIN

2



N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-100-SUB CELLAR FLOOR PLAN_no cars.dwg

SUBJECT TO APPROVAL BY
RKS AND RECREATION
ARE SHOWN FOR ILLUSTRATIVE

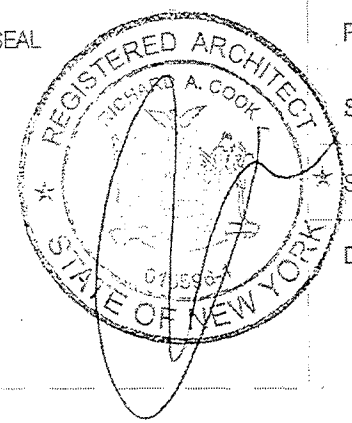
SEAL CORRESPONDS TO THE
G THE DEVELOPMENT SITE, ZONING
B CUTS. INFORMATION REGARDING
PERTIES IS FOR ILLUSTRATIVE

HOWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

GROUND FLOOR PLAN

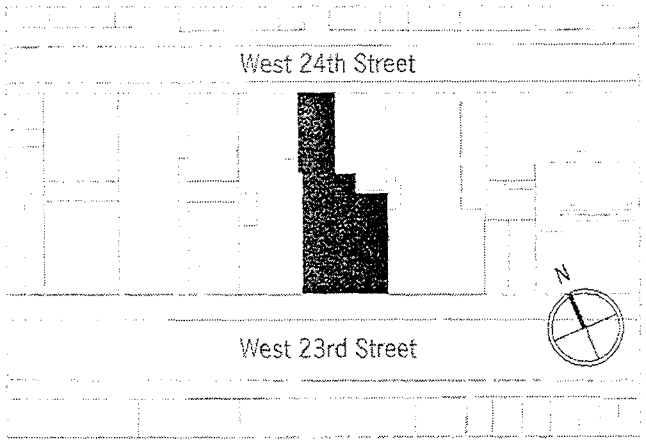
SEAL



PROJECT NO:	3302
SCALE:	1/16" = 1'-0"
SHEET SIZE:	36"x48"
DRAWING NO:	A-101

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

206 Fifth Avenue, 4th Floor
New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

URS CORPORATION — GEOTECHNICAL ENGINEER

1255 Broad St, Suite 201
Clifton, NJ 07013
T: 973.883.8500

BURO HAPPOLD CONSULTING ENGINEERS PC — MEP ENGINEER

100 Broadway, 23rd Floor
New York, NY 10005
T: 212.334.2025

DeSIMONE CONSULTING ENGINEERS — STRUCTURAL ENGINEER

18 WEST 18th Street, 10th Floor
New York, NY 10011
T: 212.532.2211

HEINTGES & ASSOCIATES — BUILDING ENVELOPE CONSULTANT

440 Park Avenue South, 15th Floor
New York, NY 10016
T: 212.652.2966

JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

39-41

WEST 23RD

DING ENTRANCE

IT POLE

EXISTING GRATING

NEW STREET TREE

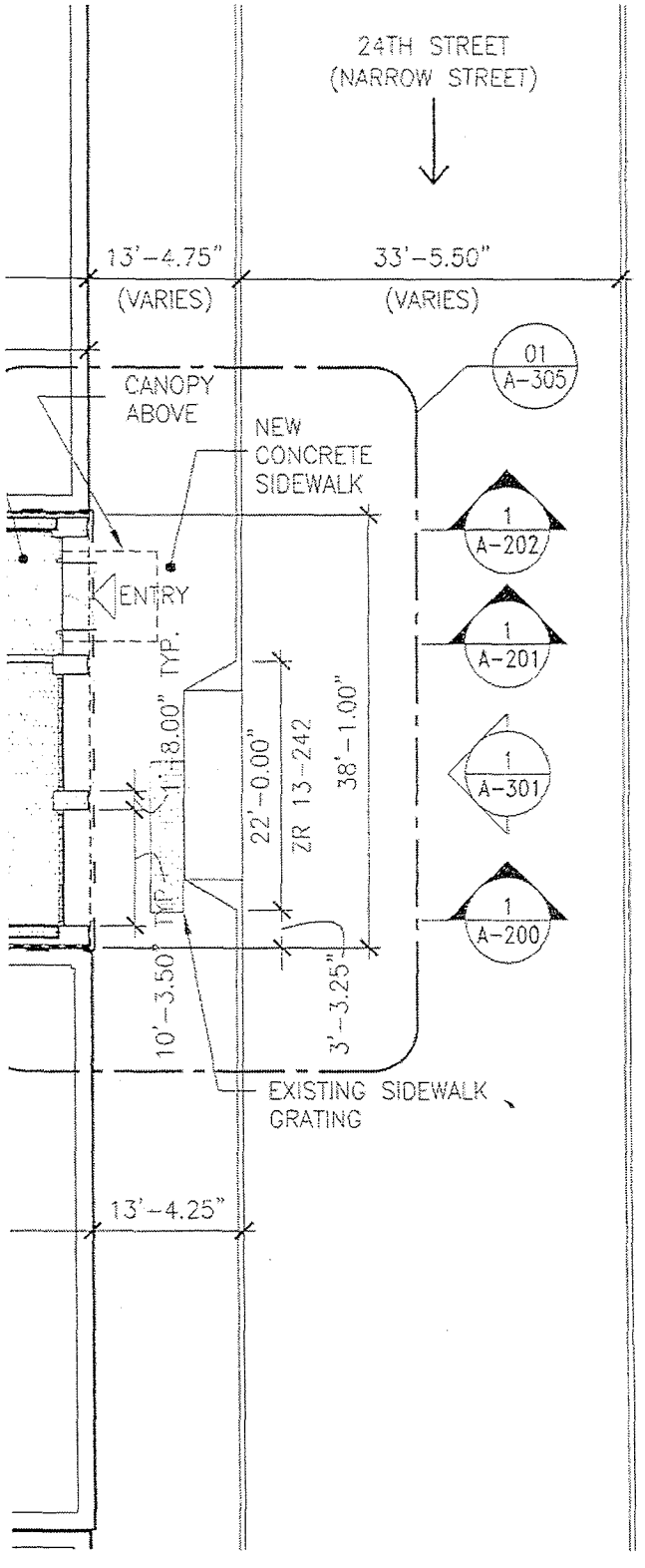
NEW LANDSCAPE

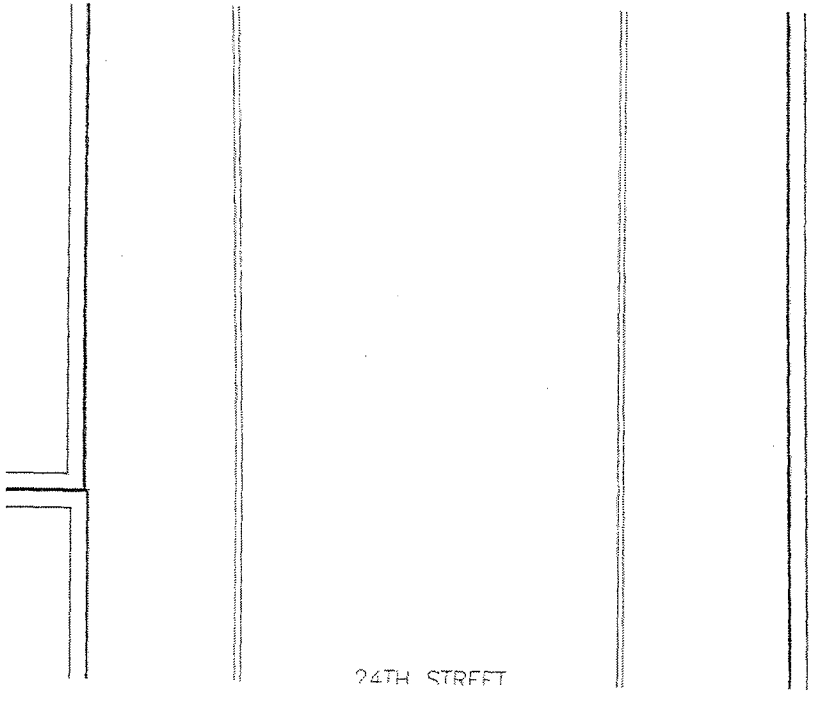
AREAS PROPOSED FOR USE GROUP 2, SUBJECT TO SPECIAL PERMIT PURSUANT TO ZR 74–711

AREAS PROPOSED FOR USE GROUP 6 AS–OF–RIGHT

NOTES:

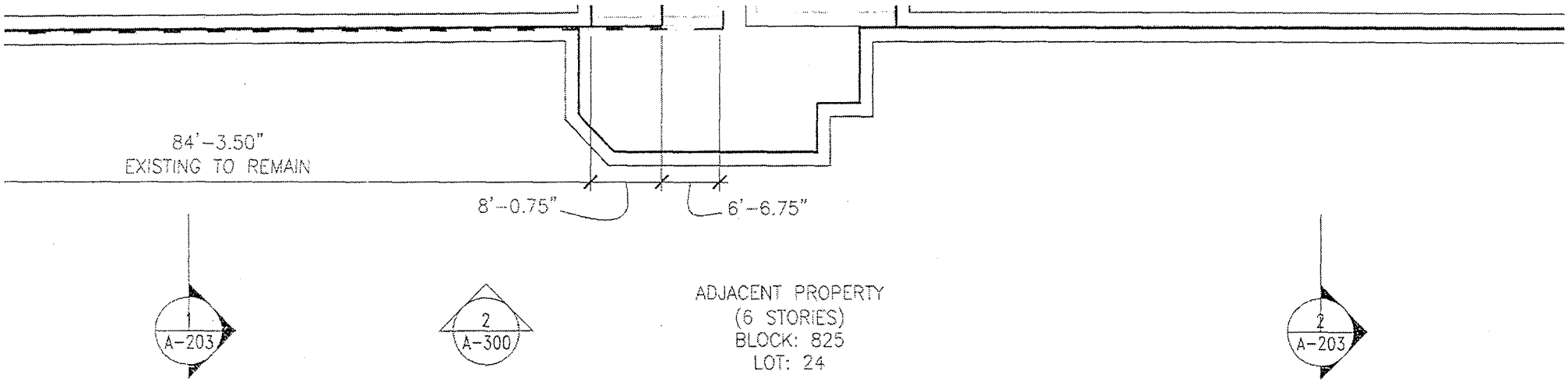
1. STREET TREE LOCATION SU
   DOB AND DEPT. OF PARKS
2. BUILDING ENTRANCES ARE
   PURPOSES ONLY
3. ARCHITECT STAMP AND SEA
   INFORMATION REGARDING TH
   LOT AND RELATED CURB C
   THE SURROUNDING PROPER
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHOW
   ONLY

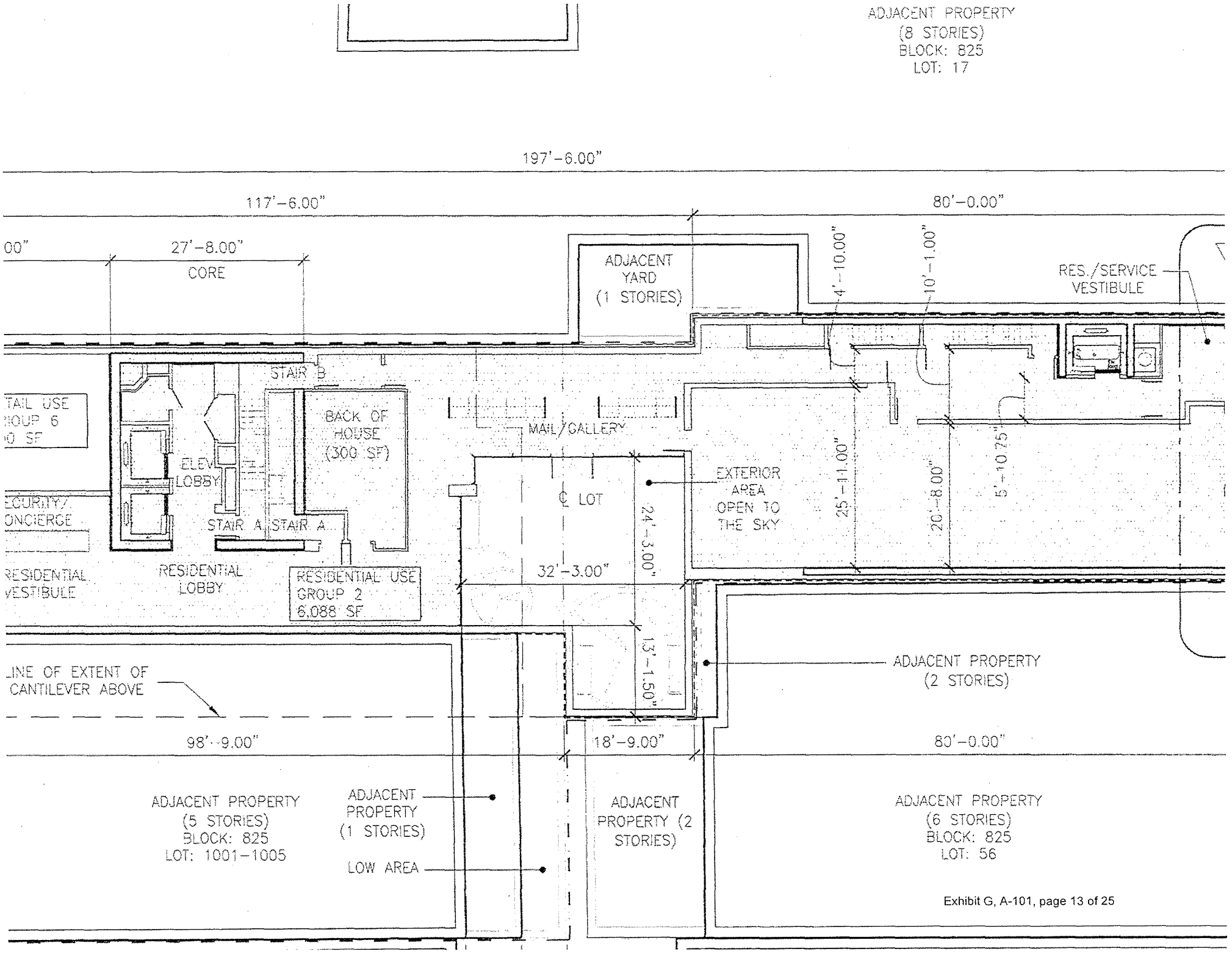

24TH STREET
(NARROW STREET)
13'-4.75"
(VARIES)
33'-5.50"
(VARIES)
01
A-305
CANOPY
ABOVE
NEW
CONCRETE
SIDEWALK
1
A-202
ENTRY
1
A-201
18.00" TYP.
22'-0.00"
ZR 13-242
38'-1.00"
1
A-301
1
A-200
10'-3.50"
3'-3.25"
EXISTING SIDEWALK
GRATING
13'-4.25"

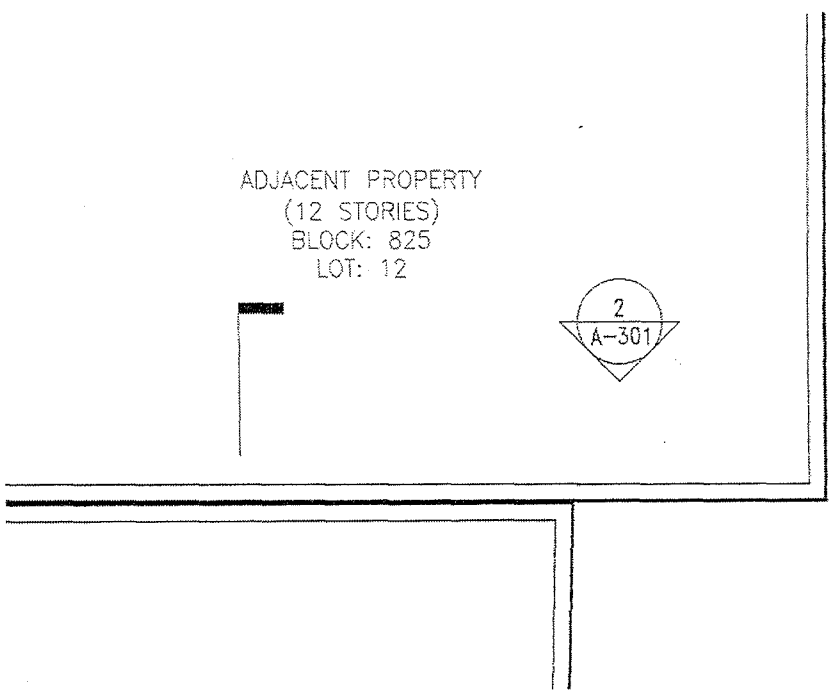

24TH STREET

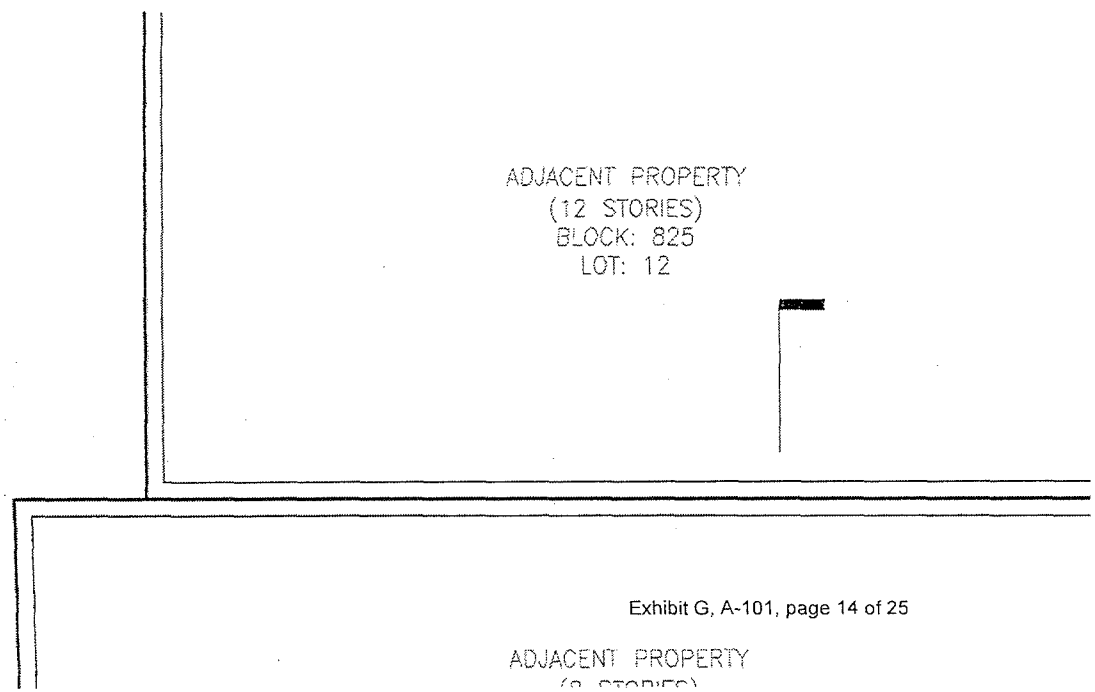
LEGEND

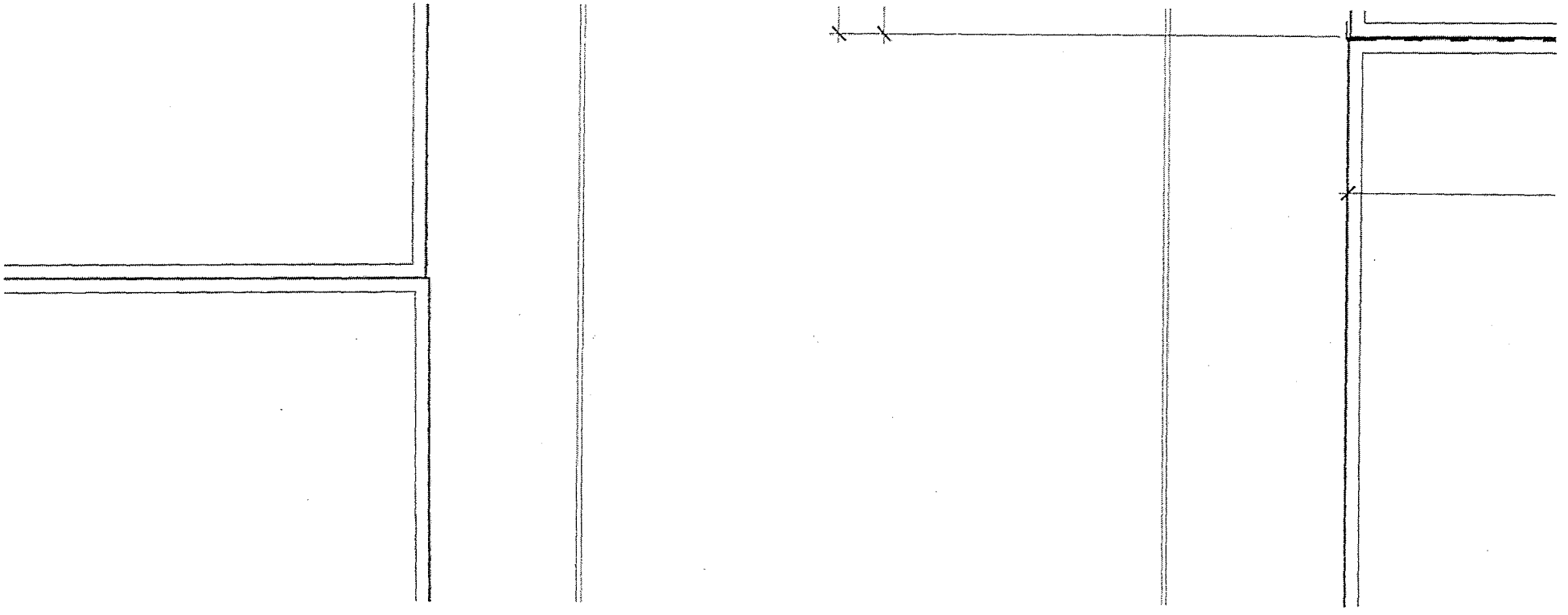
BUILDING ENVELOPE	MUNI METER	BUILDING
BUILDING ABOVE	UTILITY POLE	LIGHT P
CENTER LINE	FIRE HYDRANT	
ZONING LOT		
DEVELOPMENT SITE		

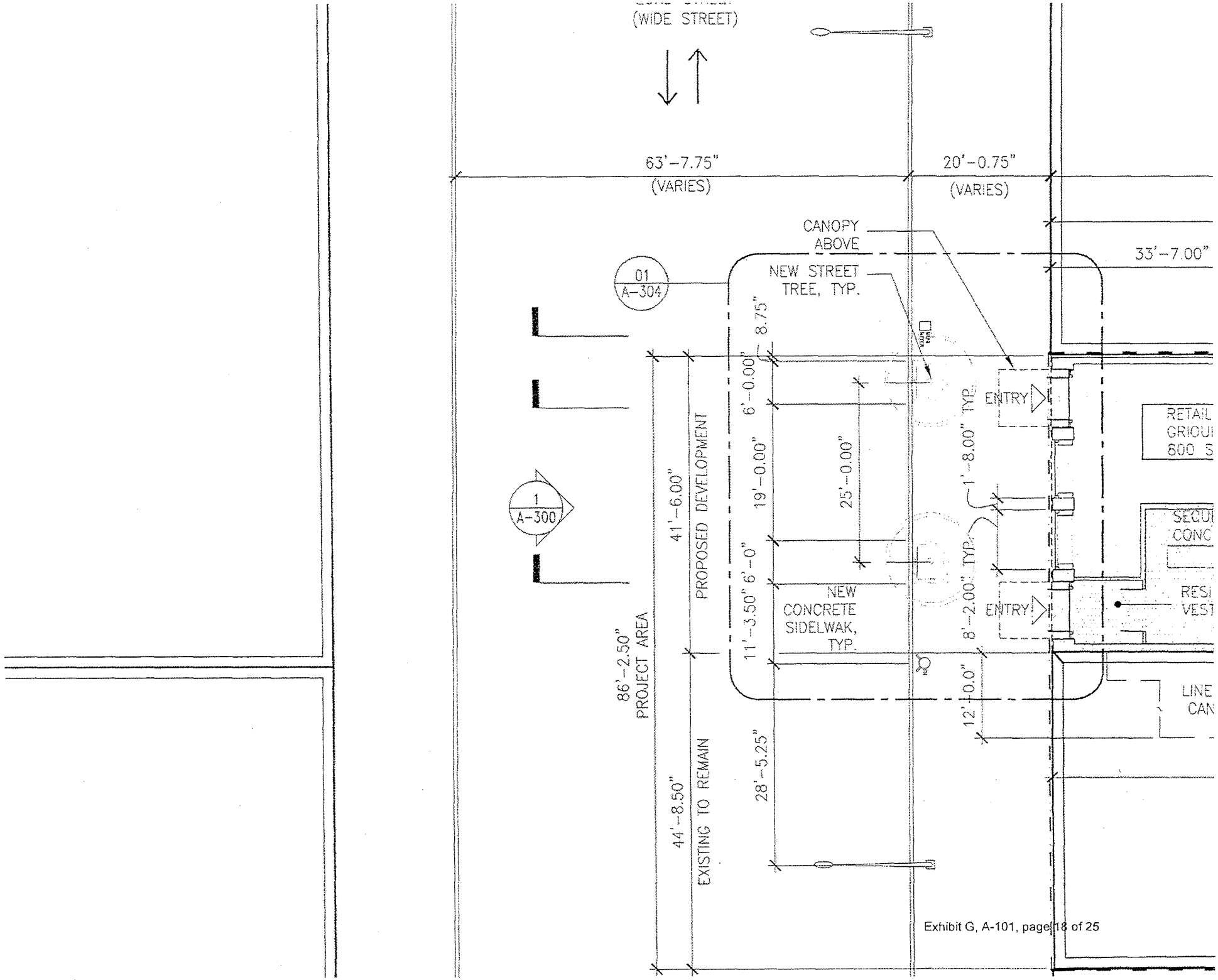

84'-3.50"
EXISTING TO REMAIN
8'-0.75"
6'-6.75"
1
A-203
2
A-300
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 24
2
A-203

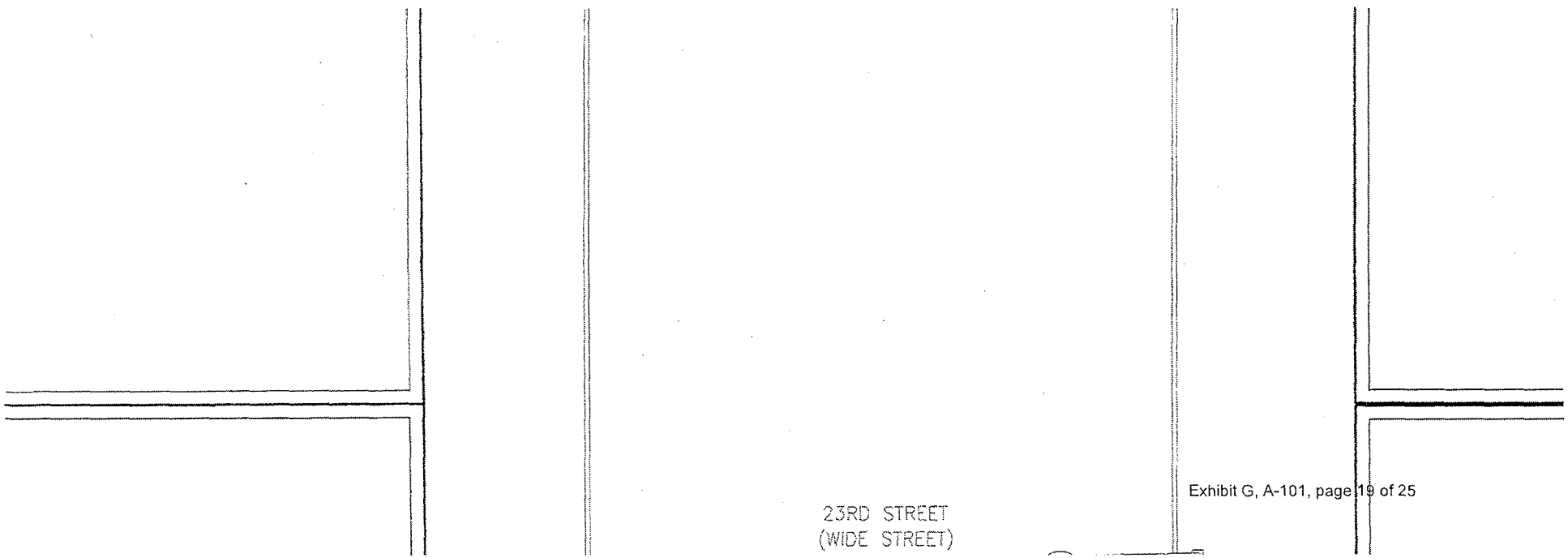

ADJACENT PROPERTY
(8 STORIES)
BLOCK: 825
LOT: 17
197'-6.00"
117'-6.00"
80'-0.00"
27'-8.00"
CORE
ADJACENT
YARD
(1 STORIES)
4'-10.00"
10'-1.00"
RES./SERVICE
VESTIBULE
STAIR B
BACK OF
HOUSE
(300 SF)
MAIL/GALLERY
ELEV
LOBBY
STAIR A
STAIR A
℄ LOT
24'-3.00"
EXTERIOR
AREA
OPEN TO
THE SKY
25'-11.00"
20'-8.00"
5'-10.75"
32'-3.00"
RESIDENTIAL
LOBBY
RESIDENTIAL USE
GROUP 2
6,088 SF
13'-1.50"
ADJACENT PROPERTY
(2 STORIES)
LINE OF EXTENT OF
CANTILEVER ABOVE
98'-9.00"
18'-9.00"
80'-0.00"
ADJACENT PROPERTY
(5 STORIES)
BLOCK: 825
LOT: 1001-1005
ADJACENT
PROPERTY
(1 STORIES)
LOW AREA
ADJACENT
PROPERTY (2
STORIES)
ADJACENT PROPERTY
(6 STORIES)
BLOCK: 825
LOT: 56


ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
2
A-301


ADJACENT PROPERTY
(12 STORIES)
BLOCK: 825
LOT: 12
ADJACENT PROPERTY




(WIDE STREET)
63'-7.75"
(VARIES)
20'-0.75"
(VARIES)
33'-7.00"
CANOPY ABOVE
NEW STREET TREE, TYP.
01
A-304
1
A-300
8.75"
6'-0.00"
19'-0.00"
25'-0.00"
1'-8.00" TYP.
ENTRY
ENTRY
6'-0"
11'-3.50"
NEW CONCRETE SIDELWAK, TYP.
8'-2.00" TYP.
12'-0.0"
28'-5.25"
41'-6.00"
PROPOSED DEVELOPMENT
86'-2.50"
PROJECT AREA
44'-8.50"
EXISTING TO REMAIN
RETAIL
GROUI
800 S
SECU
CONC
RESI
VEST
LINE
CAN


23RD STREET
(WIDE STREET)

01 GROUND FLOOR PLAN

1/16 = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-101-GROUND FLOOR PLAN.dwg

SUBJECT TO APPROVAL BY
RKS AND RECREATION
RE SHOWN FOR ILLUSTRATIVE

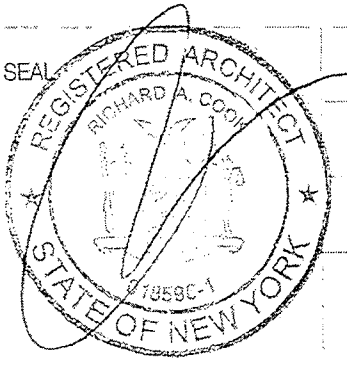
SEAL CORRESPONDS TO THE
G THE DEVELOPMENT SITE, ZONING
B CUTS. INFORMATION REGARDING
PERTIES IS FOR ILLUSTRATIVE

HOWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

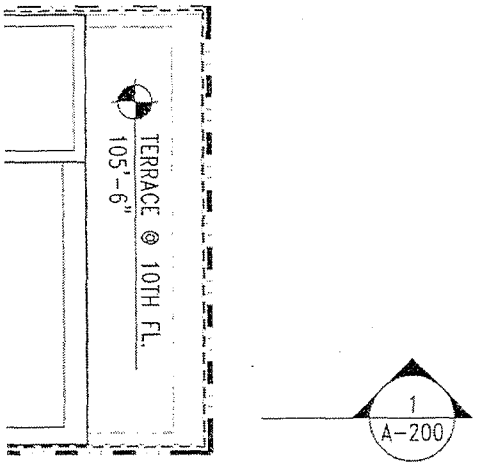
BUILDING SECTION

SEAL

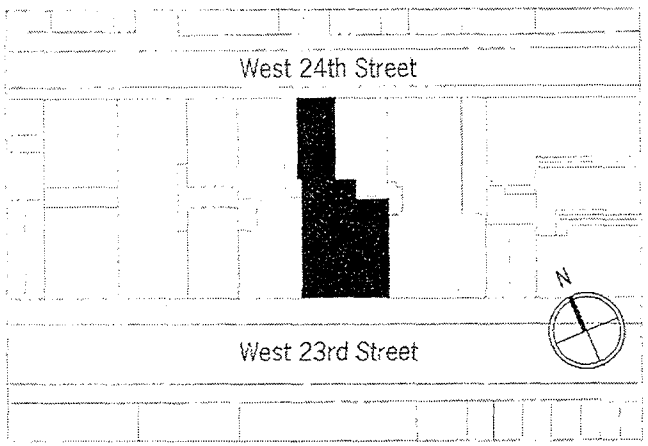


PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-200

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES



PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

206 Fifth Avenue, 4th Floor
New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

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1255 Broad St, Suite 201
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New York, NY 10005
T: 212.334.2025

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New York, NY 10011
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New York, NY 10016
T: 212.652.2966

JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

39-41

WEST 23RD

02 KEY PLAN

1/16 = 1'-0"

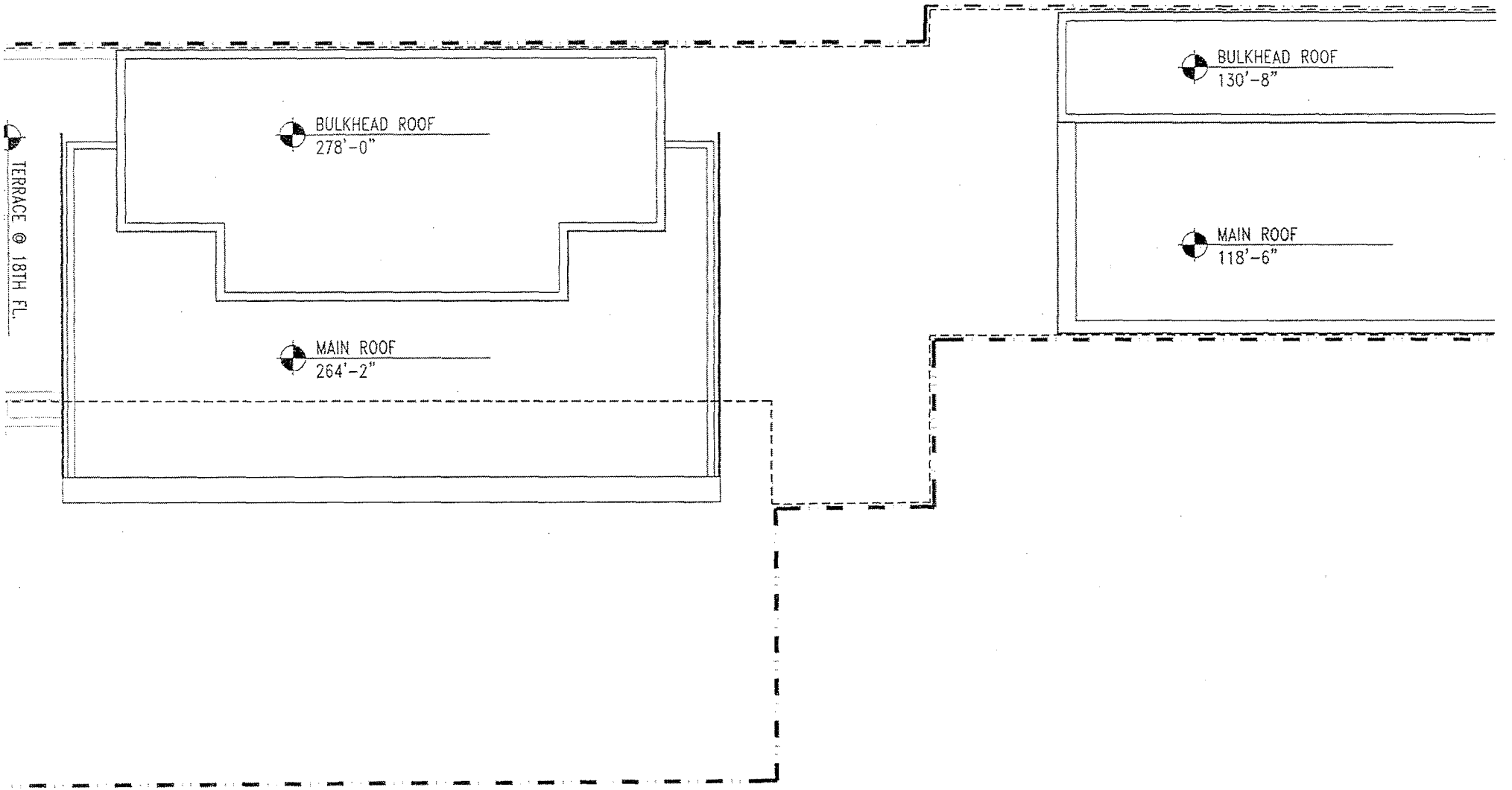
ROPOSED FOR USE GROUP 2, SUBJECT
AL PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE INITIAL SETBACK DISTANCE ABOVE 85 FEET & INTO THE SKY EXPOSURE PLANE REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE REAR YARD OR REAR YARD EQUIVALENT REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

NOTES:

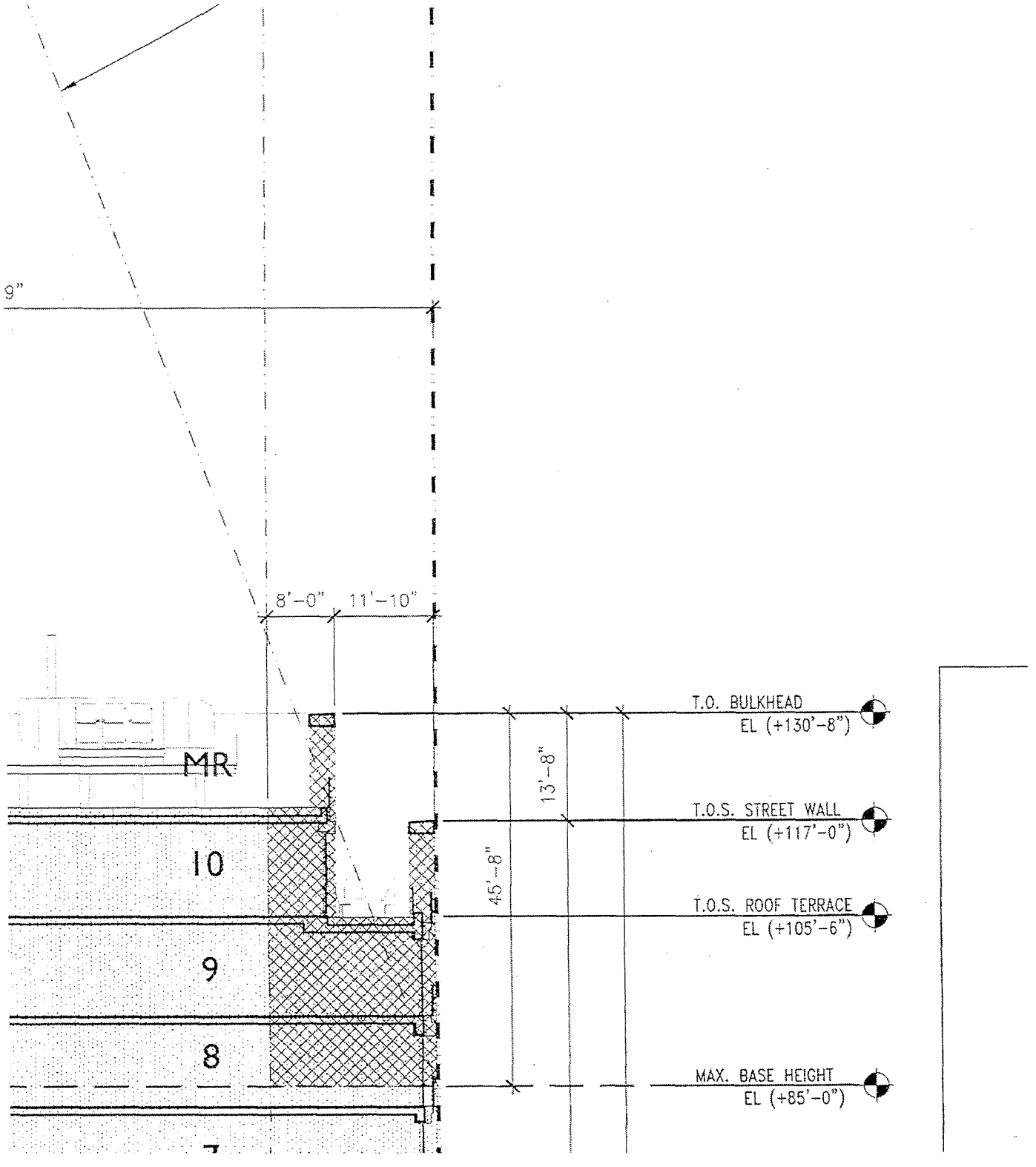
1. STREET TREE LOCATION SU
   DOB AND DEPT. OF PARKS
2. BUILDING ENTRANCES ARE
   PURPOSES ONLY
3. ARCHITECT STAMP AND SEA
   INFORMATION REGARDING TH
   LOT AND RELATED CURB CI
   THE SURROUNDING PROPER
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHOW
   ONLY

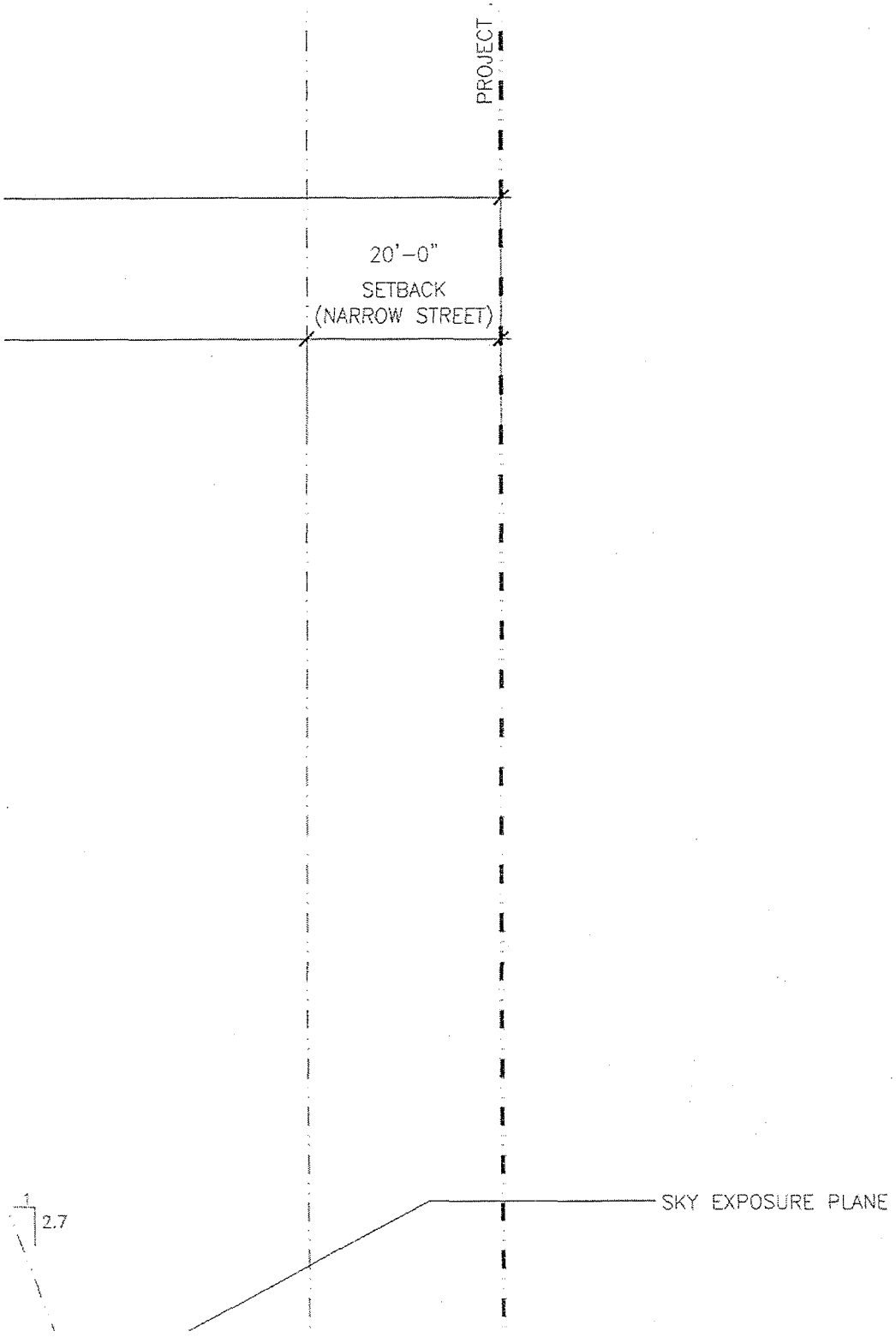

TERRACE @ 18TH FL.
BULKHEAD ROOF
278'-0"
MAIN ROOF
264'-2"
BULKHEAD ROOF
130'-8"
MAIN ROOF
118'-6"

LEGEND

BUILDING ENVELOPE	AREAS PROP(TO SPECIAL I
BUILDING ABOVE	
CENTER LINE	
ZONING LOT	
DEVELOPMENT SITE	

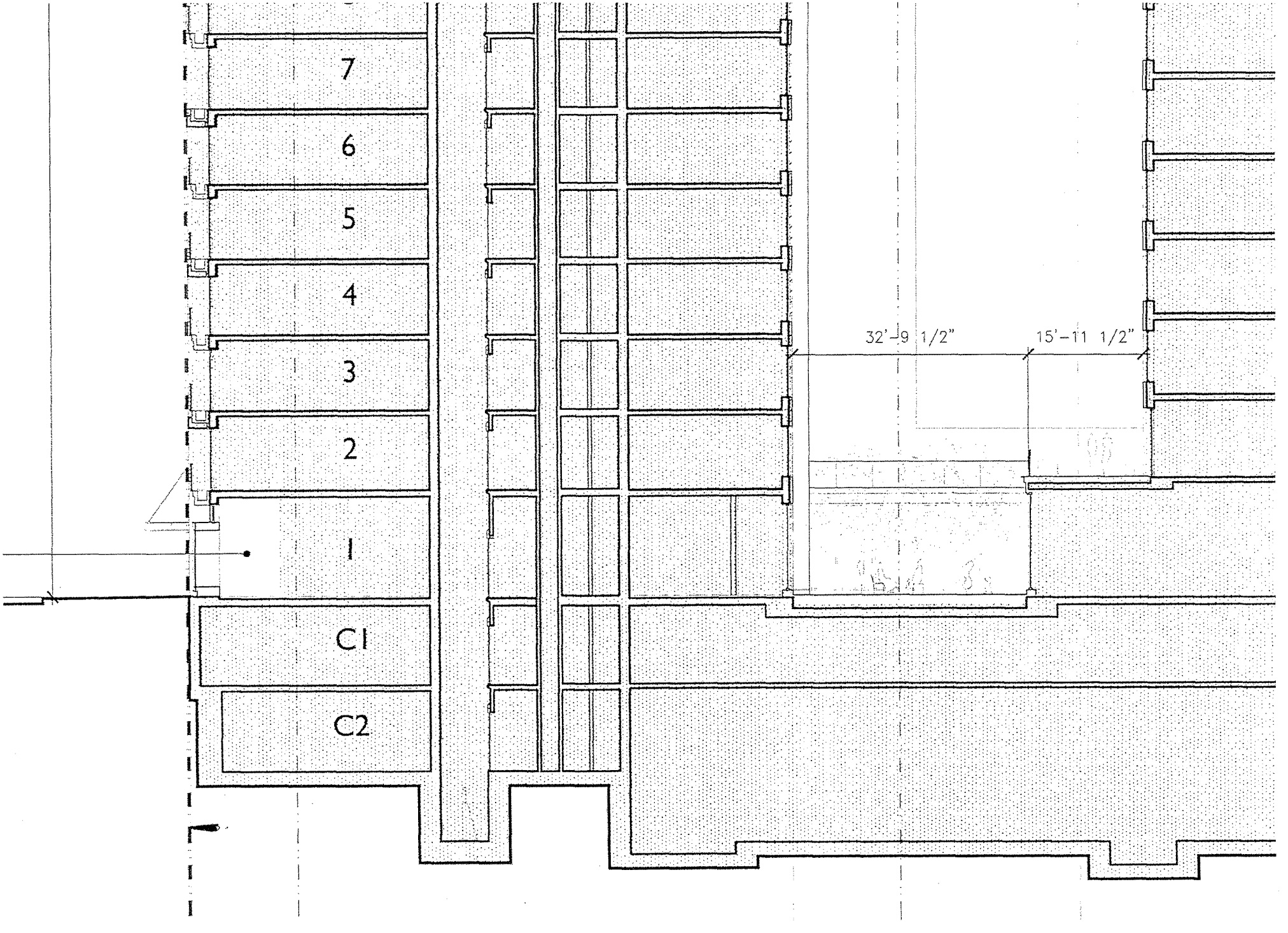
7
6
5
4
3
2
1
C1
117'-0"
118'-6"
24TH STREET
NARROW
TERRACE @ 18TH FL.
185'-6"

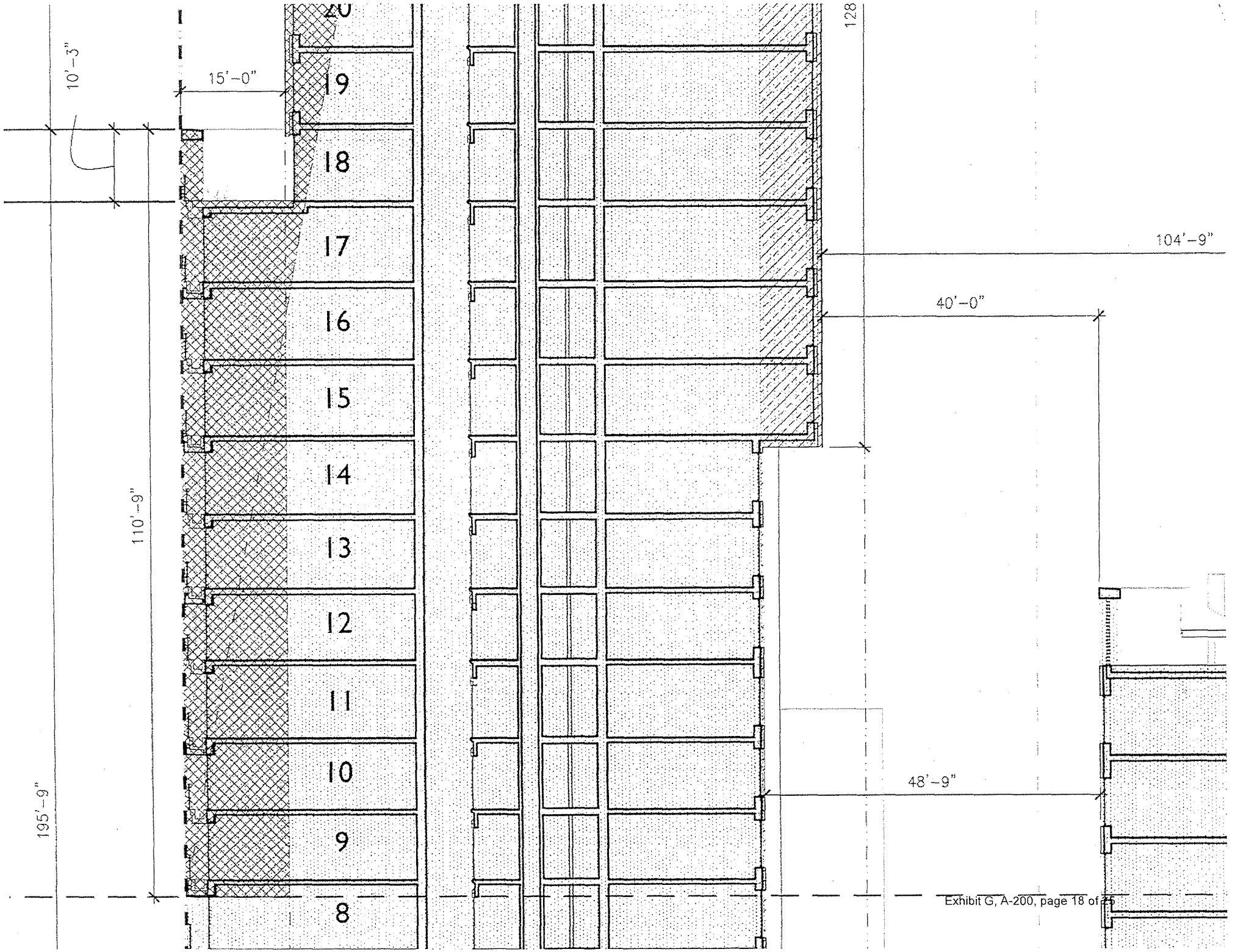

9"
8'-0"
11'-10"
MR
10
9
8
T.O. BULKHEAD
EL (+130'-8")
T.O.S. STREET WALL
EL (+117'-0")
T.O.S. ROOF TERRACE
EL (+105'-6")
MAX. BASE HEIGHT
EL (+85'-0")
13'-8"
45'-8"

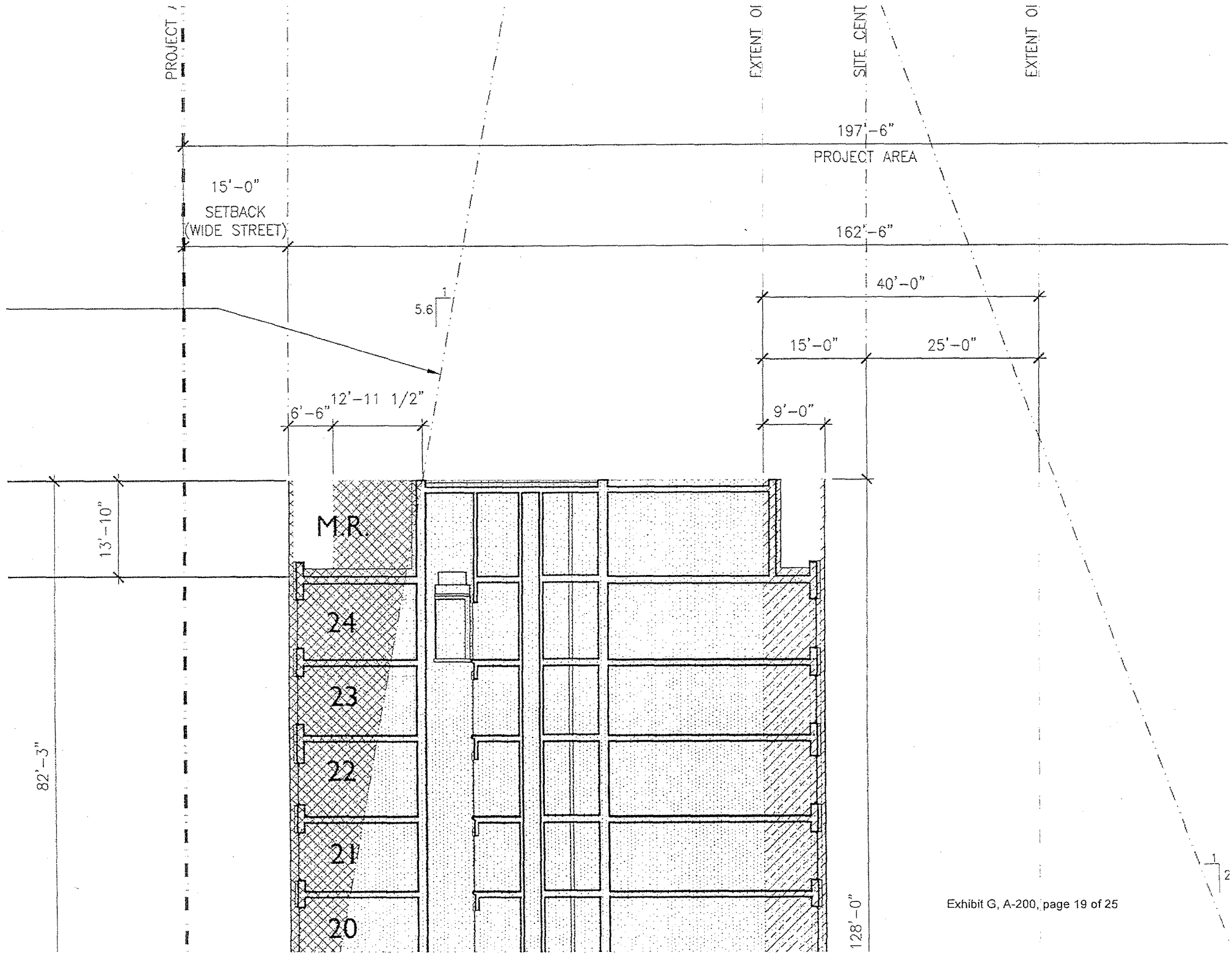

PROJECT
20'-0"
SETBACK
(NARROW STREET)
SKY EXPOSURE PLANE
1
2.7

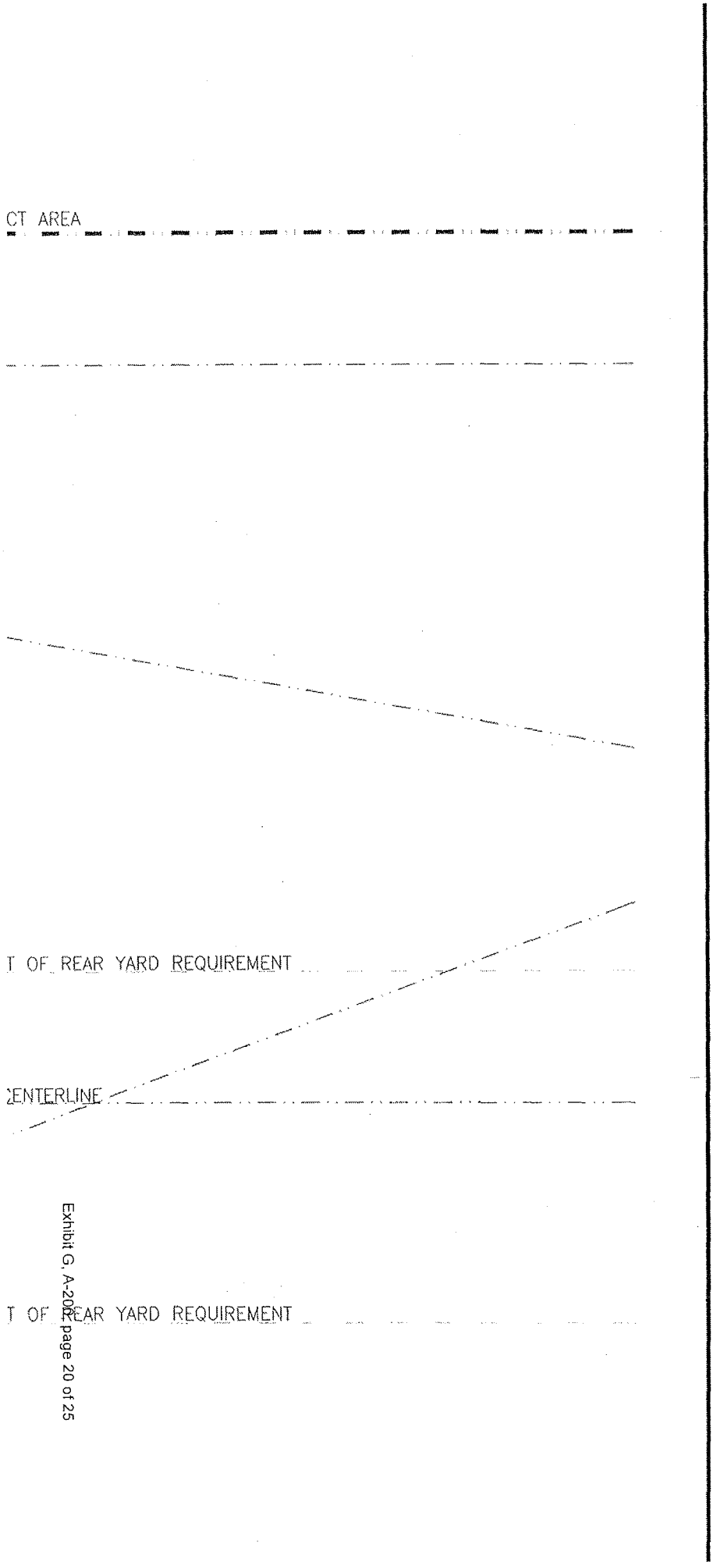
:CT AREA

BUILDING SECTION DIAGRAMS (SOUTH/NORTH)


7
6
5
4
3
2
1
C1
C2
32'-9 1/2"
15'-11 1/2"


20
19
18
17
16
15
14
13
12
11
10
9
8
10'-3"
15'-0"
110'-9"
195'-9"
128
104'-9"
40'-0"
48'-9"

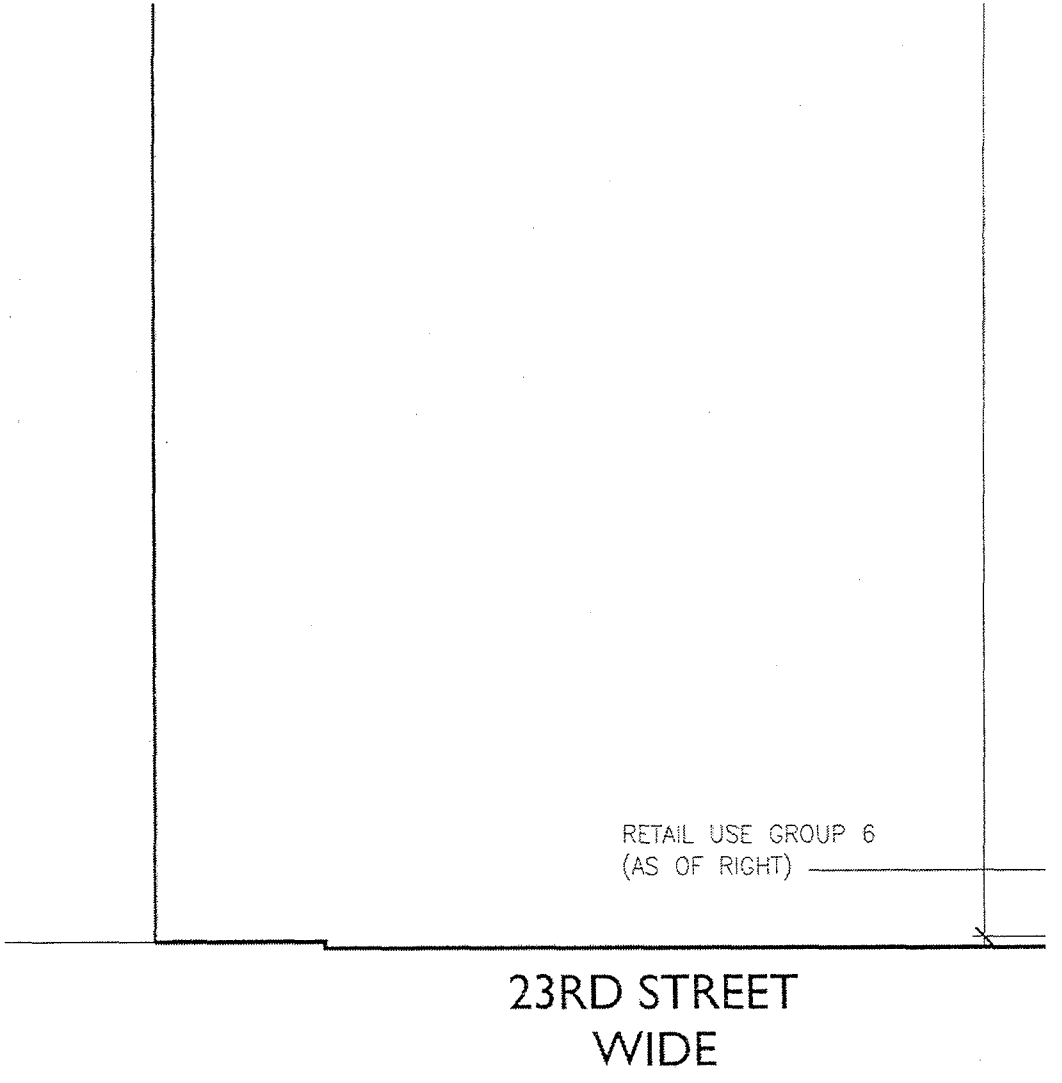

PROJECT
EXTENT OI
SITE ℄ENT
EXTENT OI
197'-6"
PROJECT AREA
15'-0"
SETBACK
(WIDE STREET)
162'-6"
40'-0"
5.6
1
15'-0"
25'-0"
12'-11 1/2"
6'-6"
9'-0"
13'-10"
M.R.
24
23
22
21
20
82'-3"
128'-0"
1
2

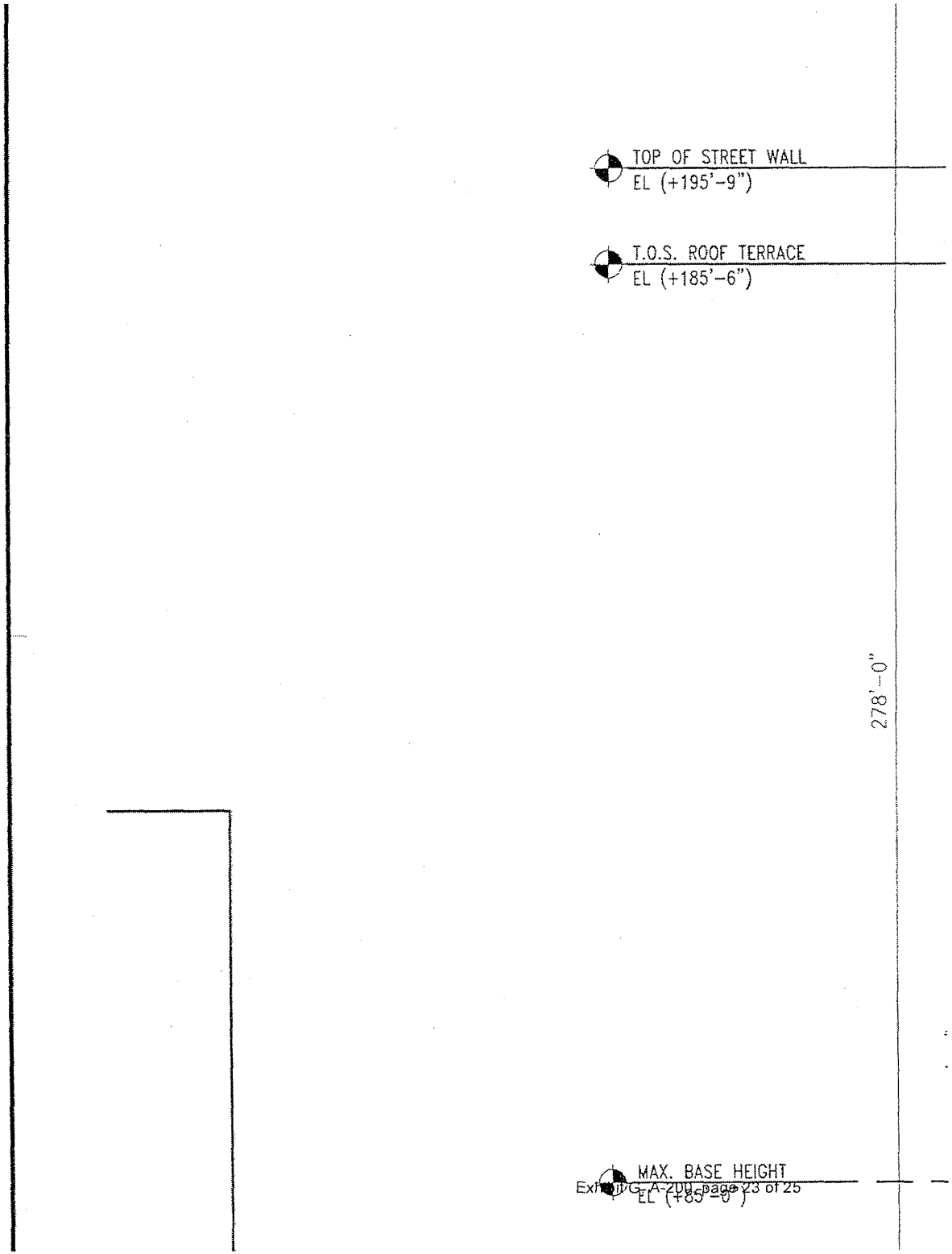

CT AREA
T OF REAR YARD REQUIREMENT
ENTERLINE
T OF REAR YARD REQUIREMENT

01 USE AND ENCROACHMENT BL

1/16 = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-200-SECTION DIAGRAM.dwg


RETAIL USE GROUP 6
(AS OF RIGHT)
23RD STREET
WIDE


TOP OF STREET WALL
EL (+195'-9")
T.O.S. ROOF TERRACE
EL (+185'-6")
278'-0"
MAX. BASE HEIGHT
EL (+85'-0")

SKY EXPOSURE PLANE

TOP OF SCREEN WALL
EL (+278'-0")

TOP OF MAIN ROOF
EL (+264'-2")

I SUBJECT TO APPROVAL BY
ARKS AND RECREATION
ARE SHOWN FOR ILLUSTRATIVE

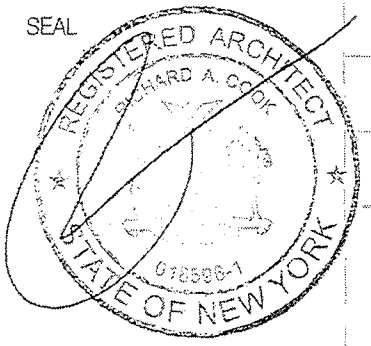
SEAL CORRESPONDS TO THE
IG THE DEVELOPMENT SITE, ZONING
RB CUTS. INFORMATION REGARDING
OPERTIES IS FOR ILLUSTRATIVE

SHOWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

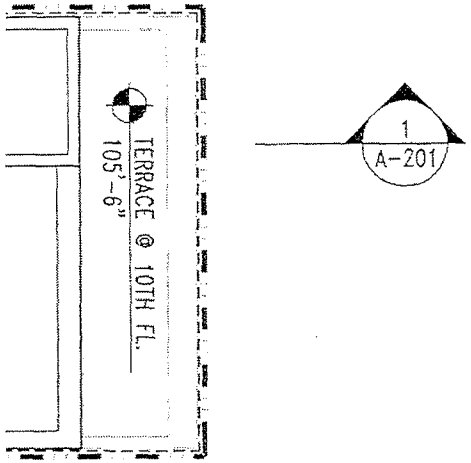
BUILDING SECTION

SEAL

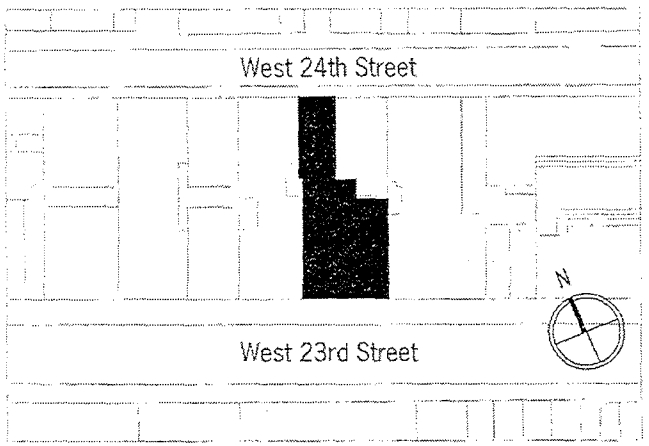


PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-201

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES



PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

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New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

URS CORPORATION — GEOTECHNICAL ENGINEER

1255 Broad St, Suite 201
Clifton, NJ 07013
T: 973.883.8500

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100 Broadway, 23rd Floor
New York, NY 10005
T: 212.334.2025

DeSIMONE CONSULTING ENGINEERS — STRUCTURAL ENGINEER

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HEINTGES & ASSOCIATES — BUILDING ENVELOPE CONSULTANT

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JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

COOK FOX

39-41

WEST 23RD

02 KEY PLAN

1/16 = 1' - 0"

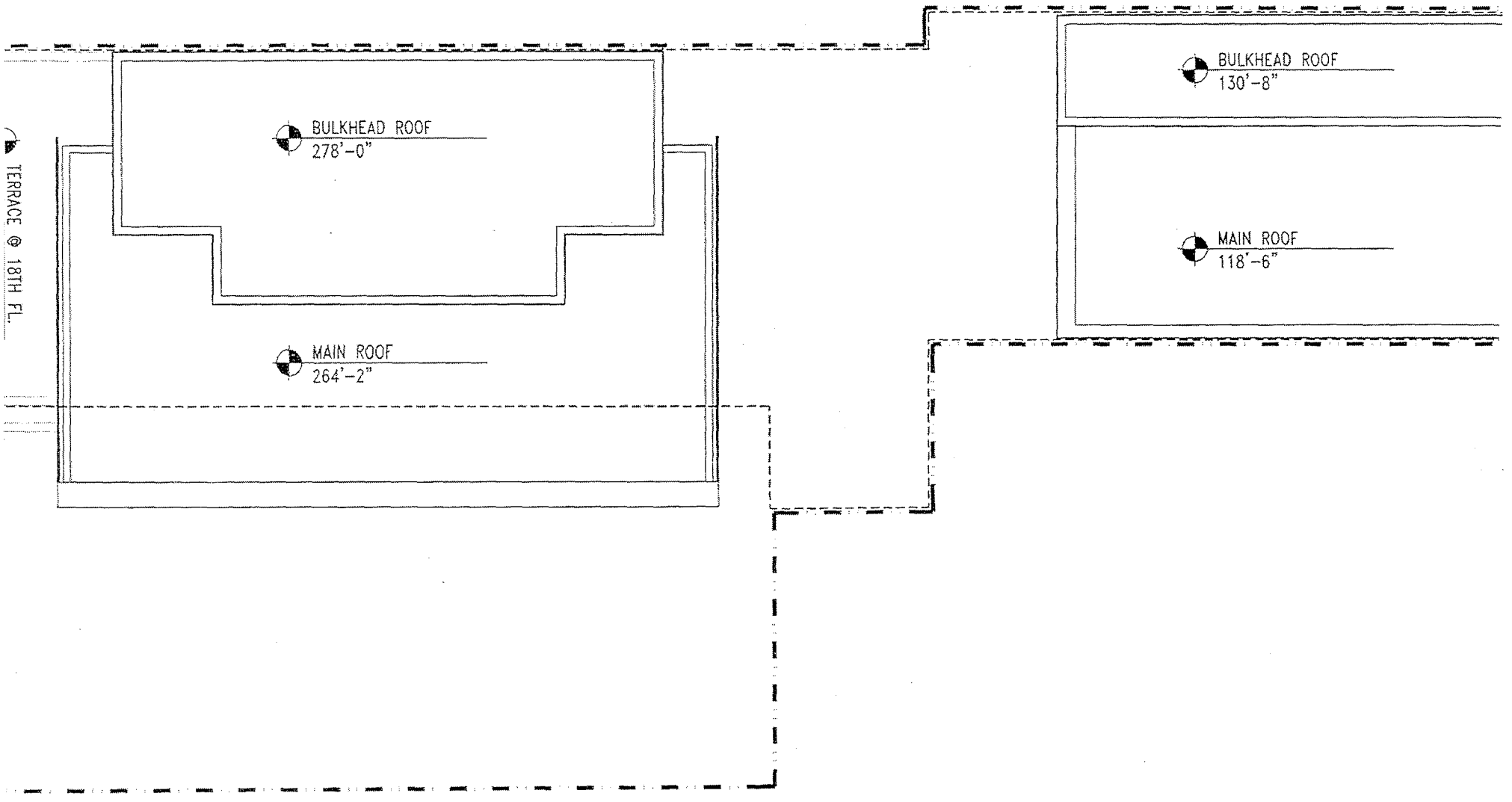
ROPOSED FOR USE GROUP 2, SUBJECT
IAL PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE INITIAL SETBACK DISTANCE ABOVE 85 FEET & INTO THE SKY EXPOSURE PLANE REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE REAR YARD OR REAR YARD EQUIVALENT REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

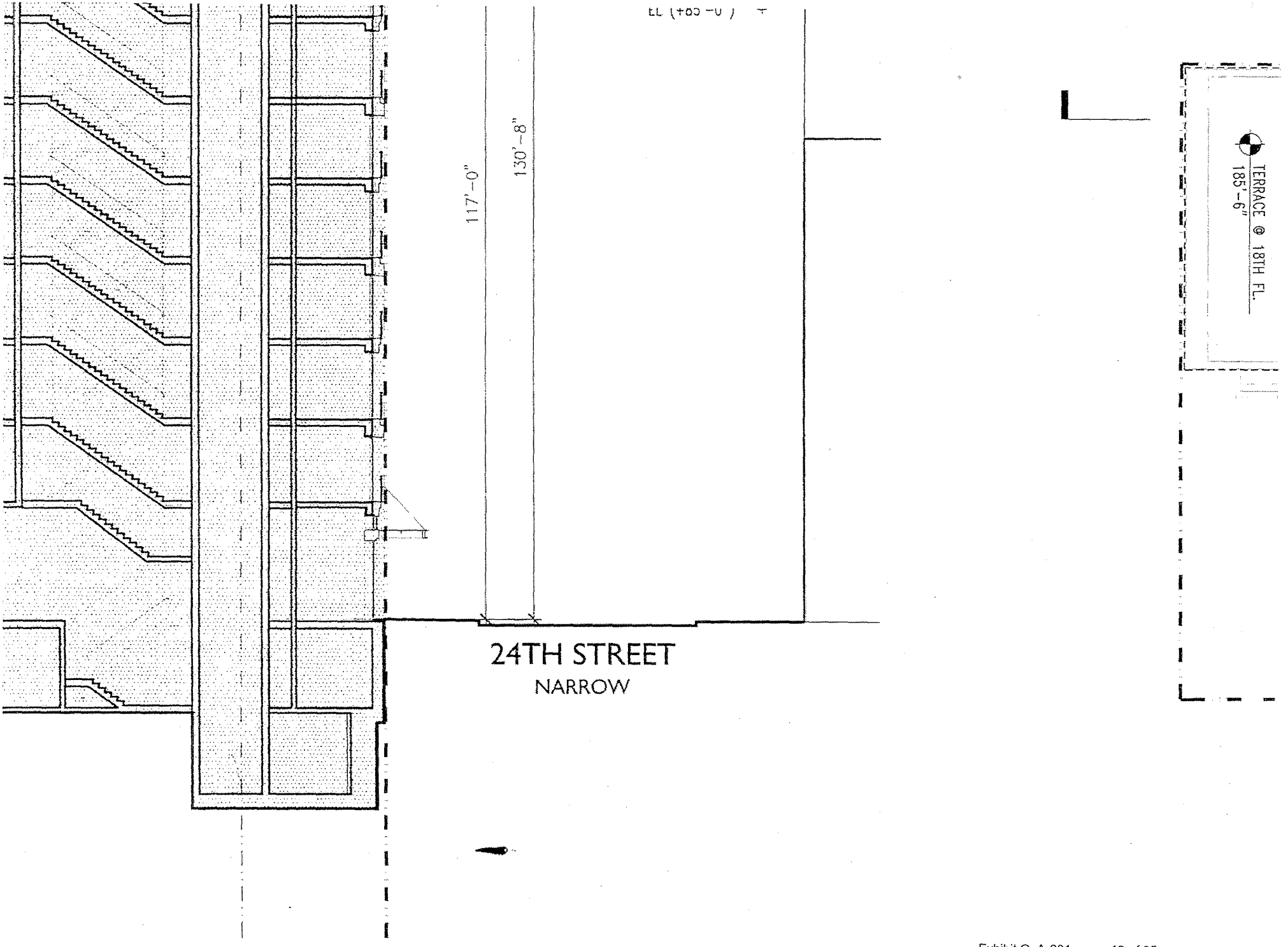
NOTES:

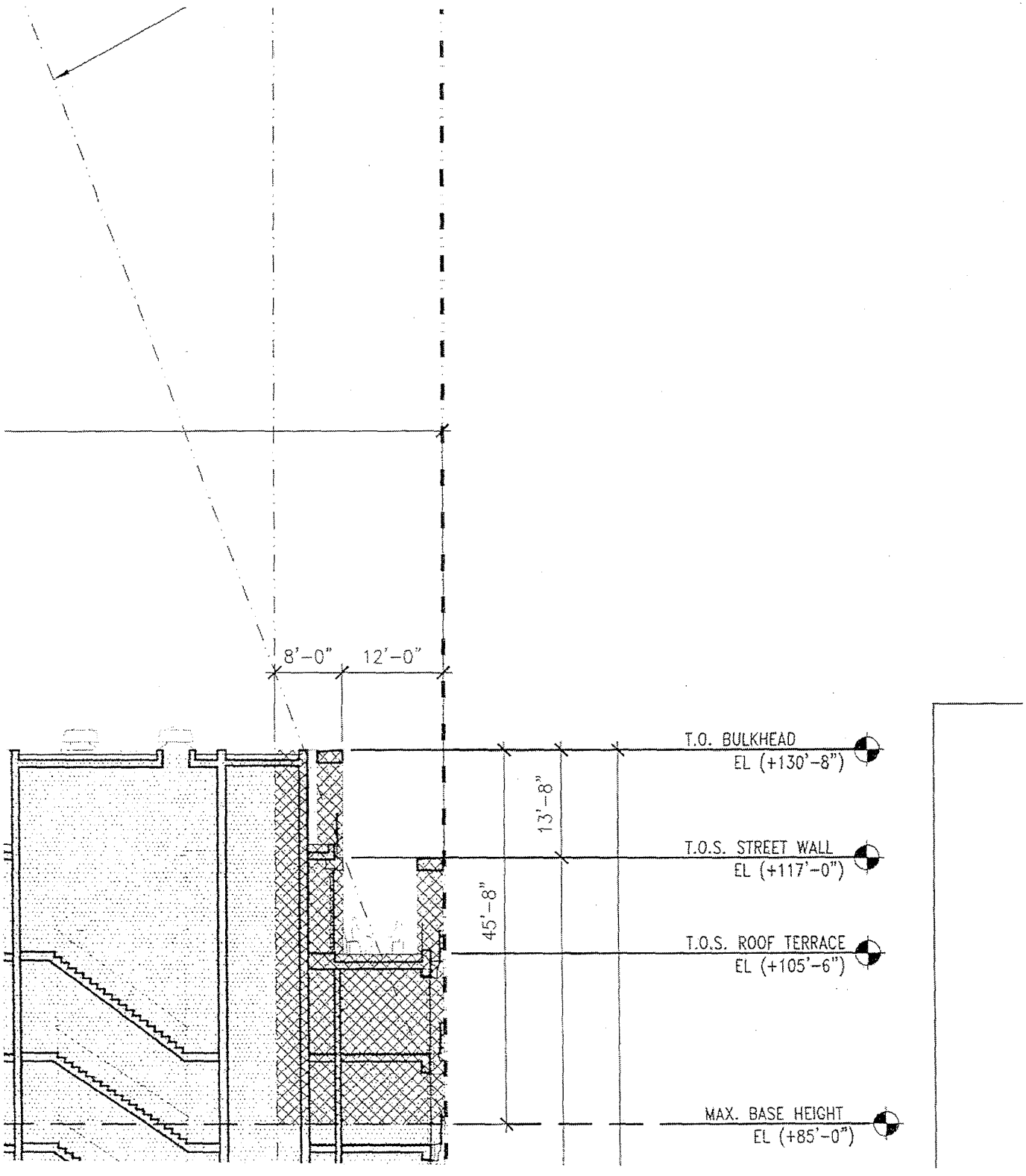
1. STREET TREE LOCATION SU
   DOB AND DEPT. OF PARKS
2. BUILDING ENTRANCES ARE
   PURPOSES ONLY
3. ARCHITECT STAMP AND SE
   INFORMATION REGARDING T
   LOT AND RELATED CURB C
   THE SURROUNDING PROPEI
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHOV
   ONLY

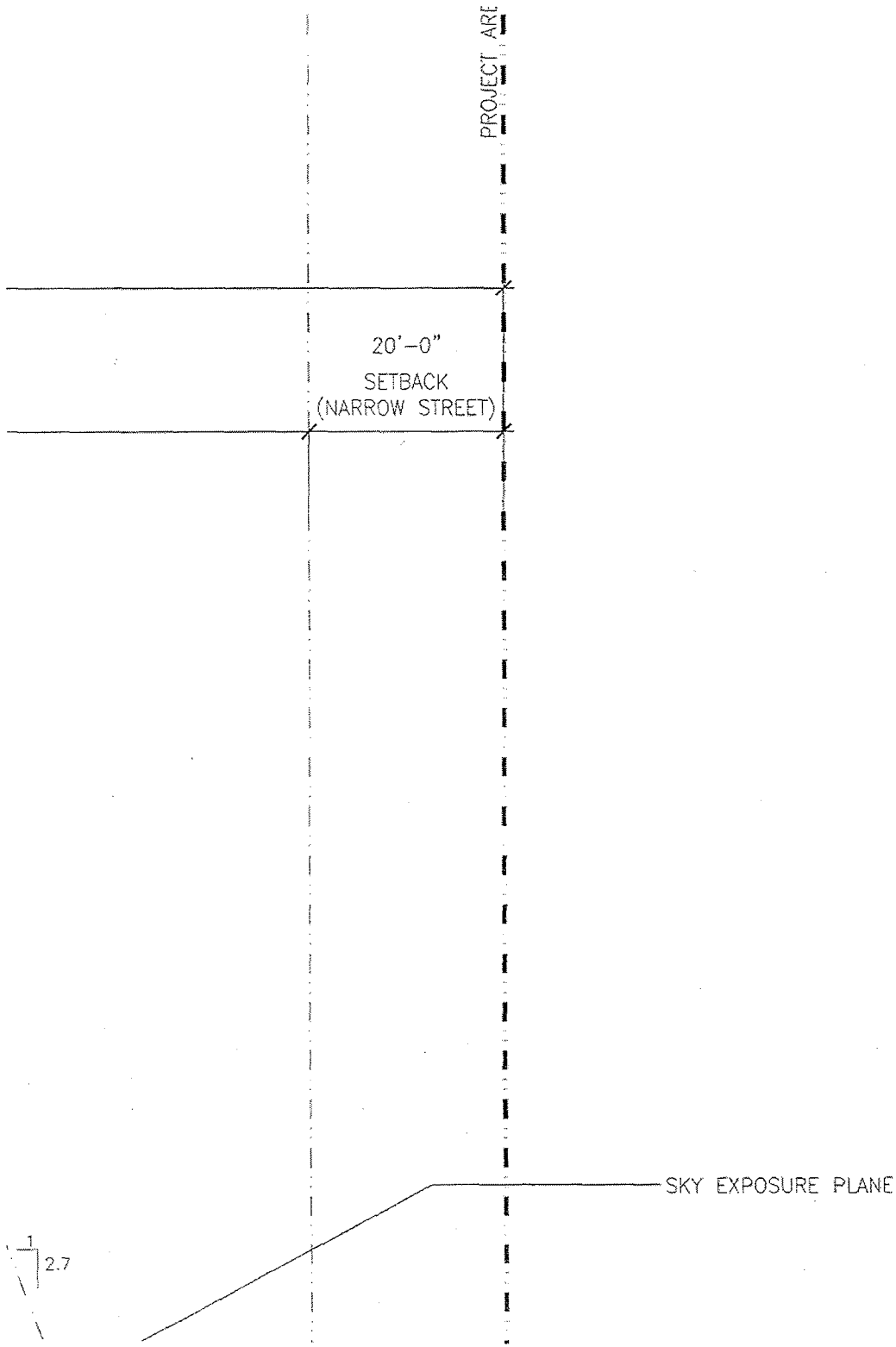

TERRACE @ 18TH FL.
BULKHEAD ROOF
278'-0"
MAIN ROOF
264'-2"
BULKHEAD ROOF
130'-8"
MAIN ROOF
118'-6"

LEGEND

BUILDING ENVELOPE	AREAS PROP TO SPECIAL
BUILDING ABOVE	
CENTER LINE	
ZONING LOT	
DEVELOPMENT SITE	

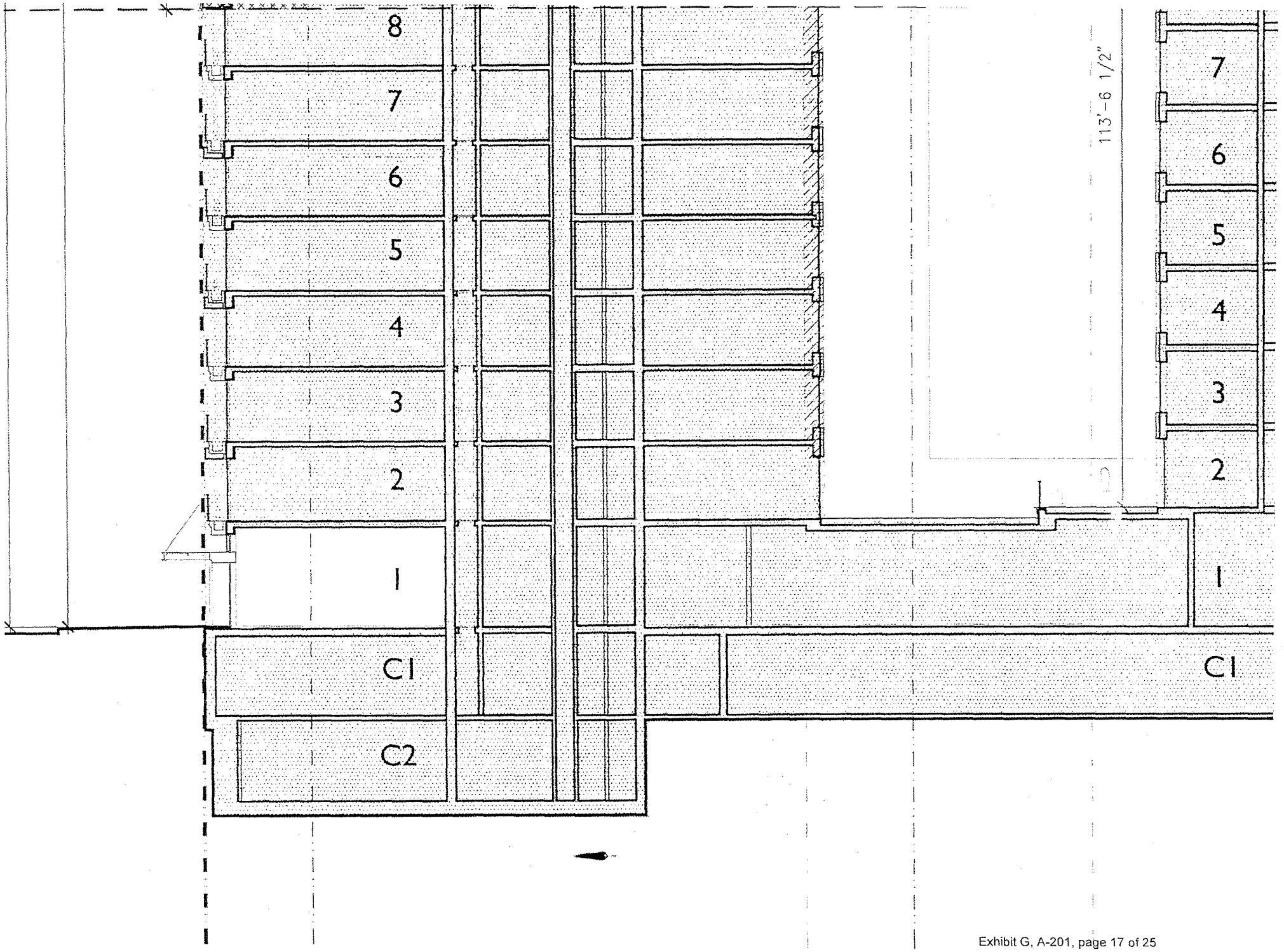

TERRACE @ 18TH FL.
185'-6"
117'-0"
130'-8"
24TH STREET
NARROW


8'-0"
12'-0"
T.O. BULKHEAD
EL (+130'-8")
13'-8"
T.O.S. STREET WALL
EL (+117'-0")
45'-8"
T.O.S. ROOF TERRACE
EL (+105'-6")
MAX. BASE HEIGHT
EL (+85'-0")


PROJECT ARE
20'-0"
SETBACK
(NARROW STREET)
SKY EXPOSURE PLANE
1
2.7

AREA

BUILDING SECTION DIAGRAMS (SOUTH/NORTH)


8
7
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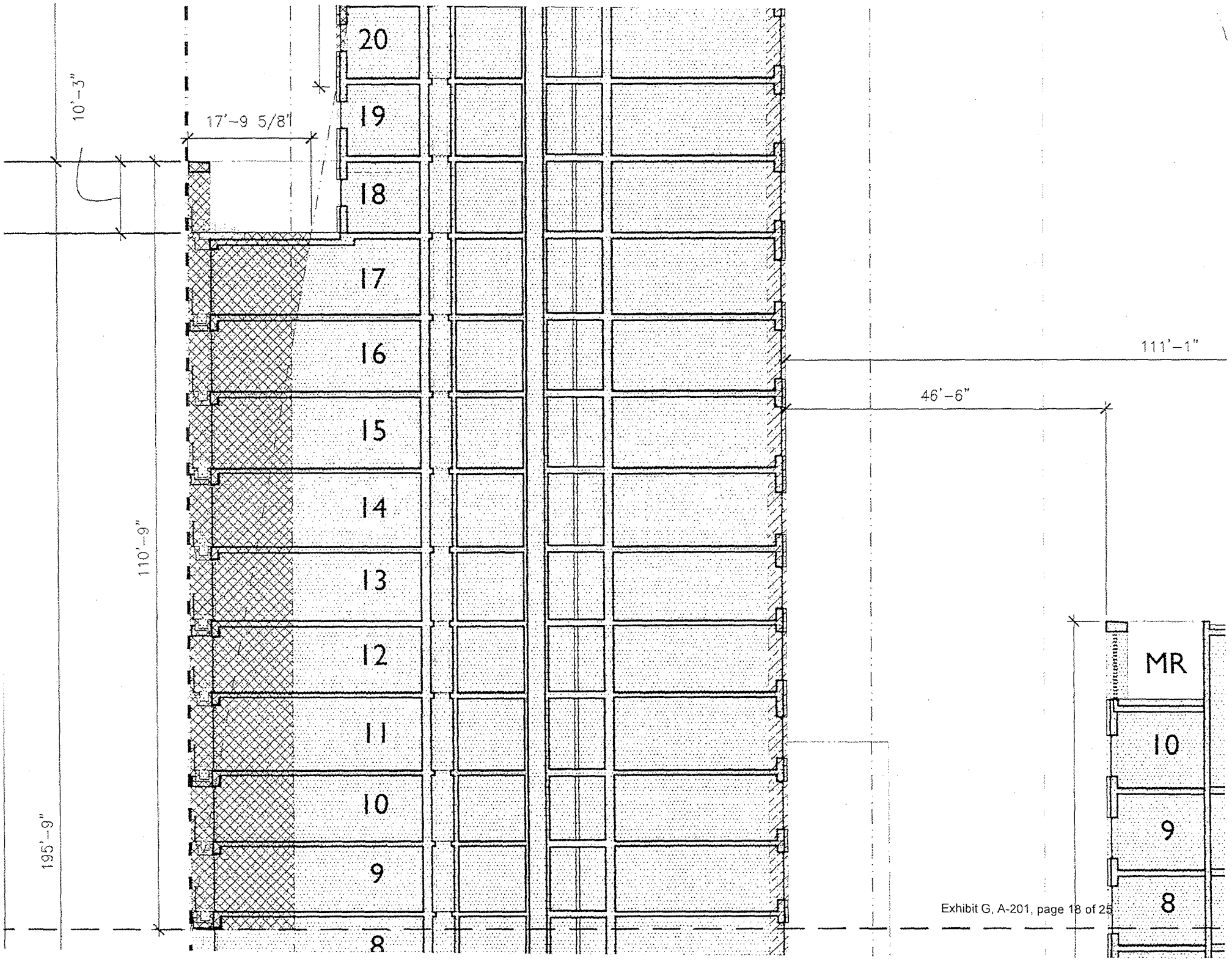
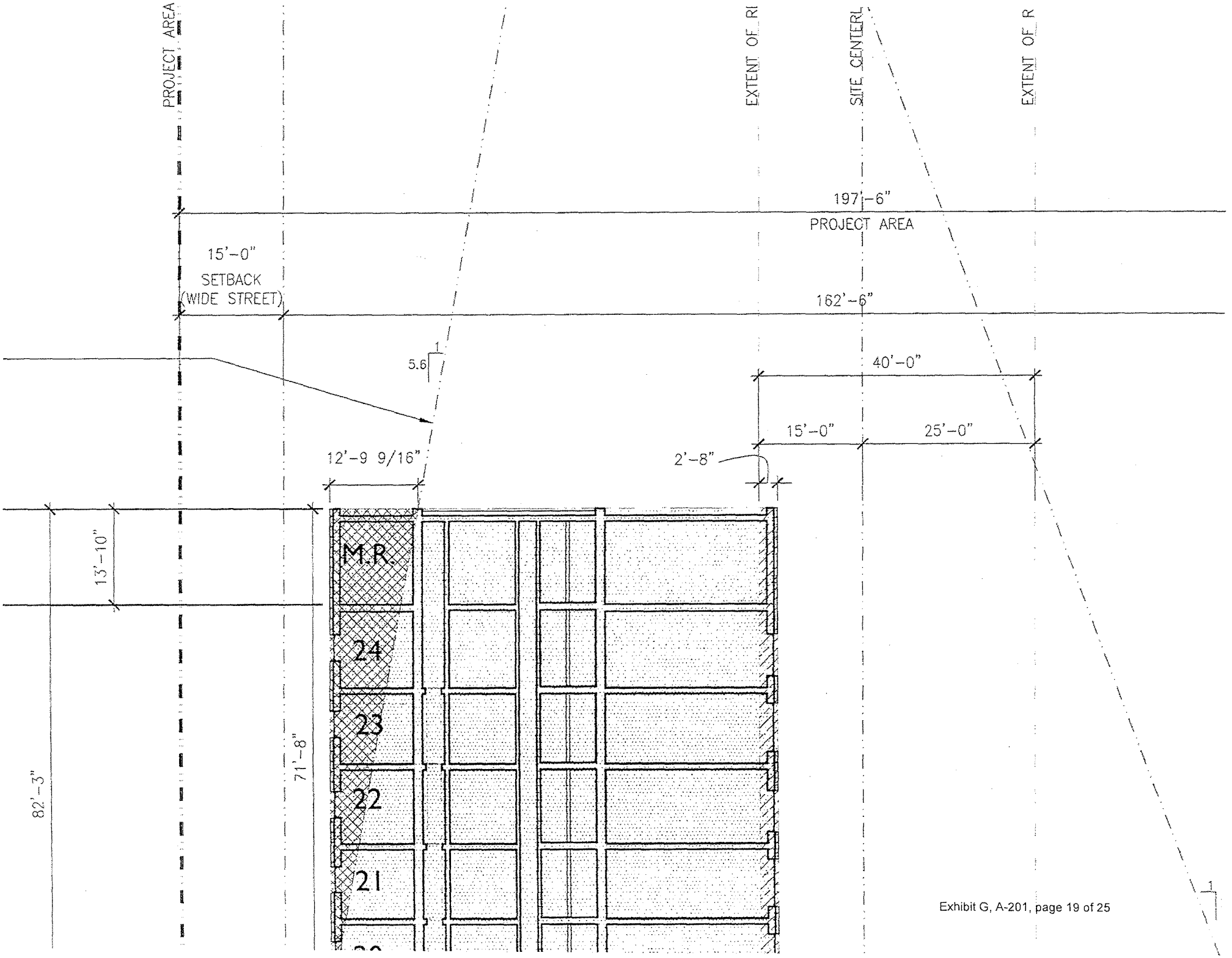
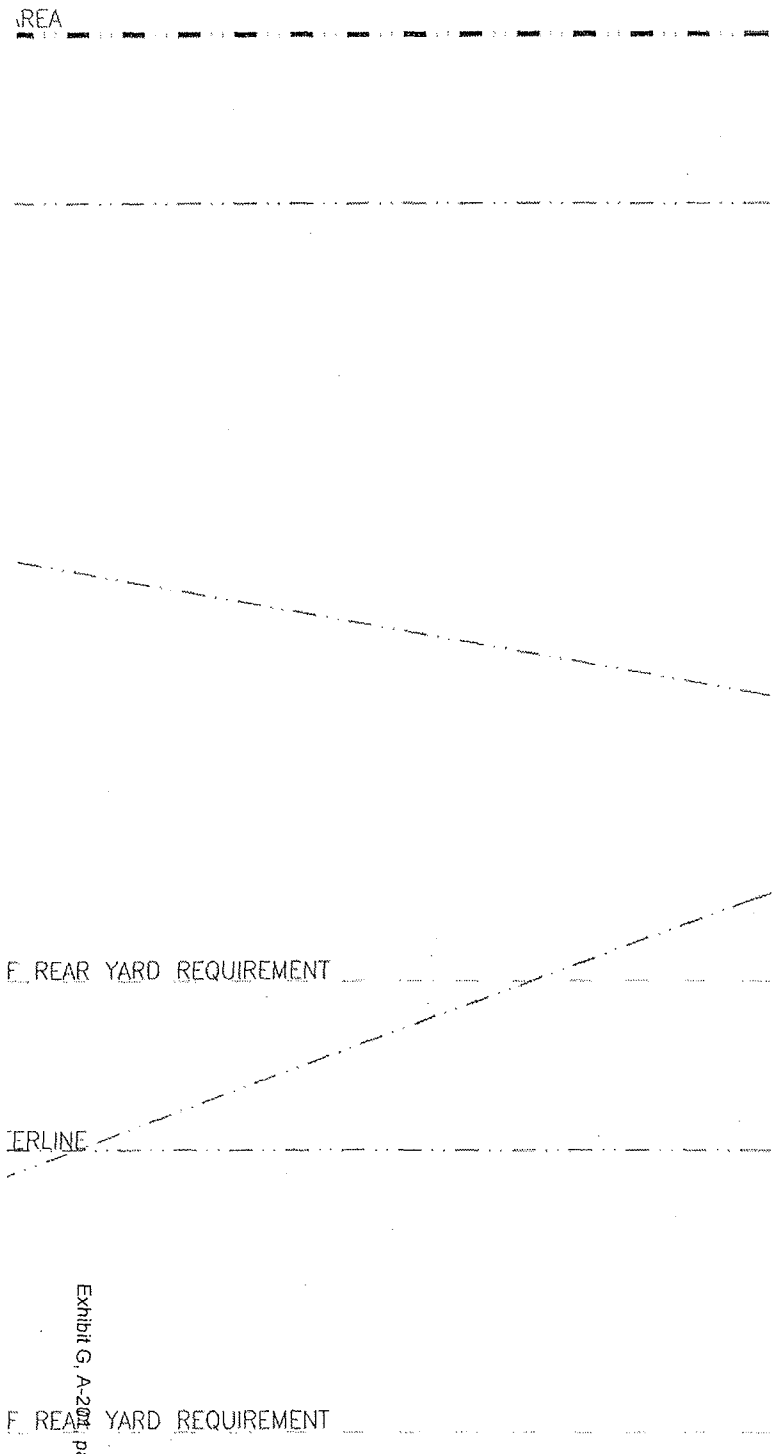
C1
C2
113'-6 1/2"
7
6
5
4
3
2
1
C1


10'-3"
17'-9 5/8"
20
19
18
17
16
15
14
13
12
11
10
9
8
110'-9"
195'-9"
111'-1"
46'-6"
MR
10
9
8

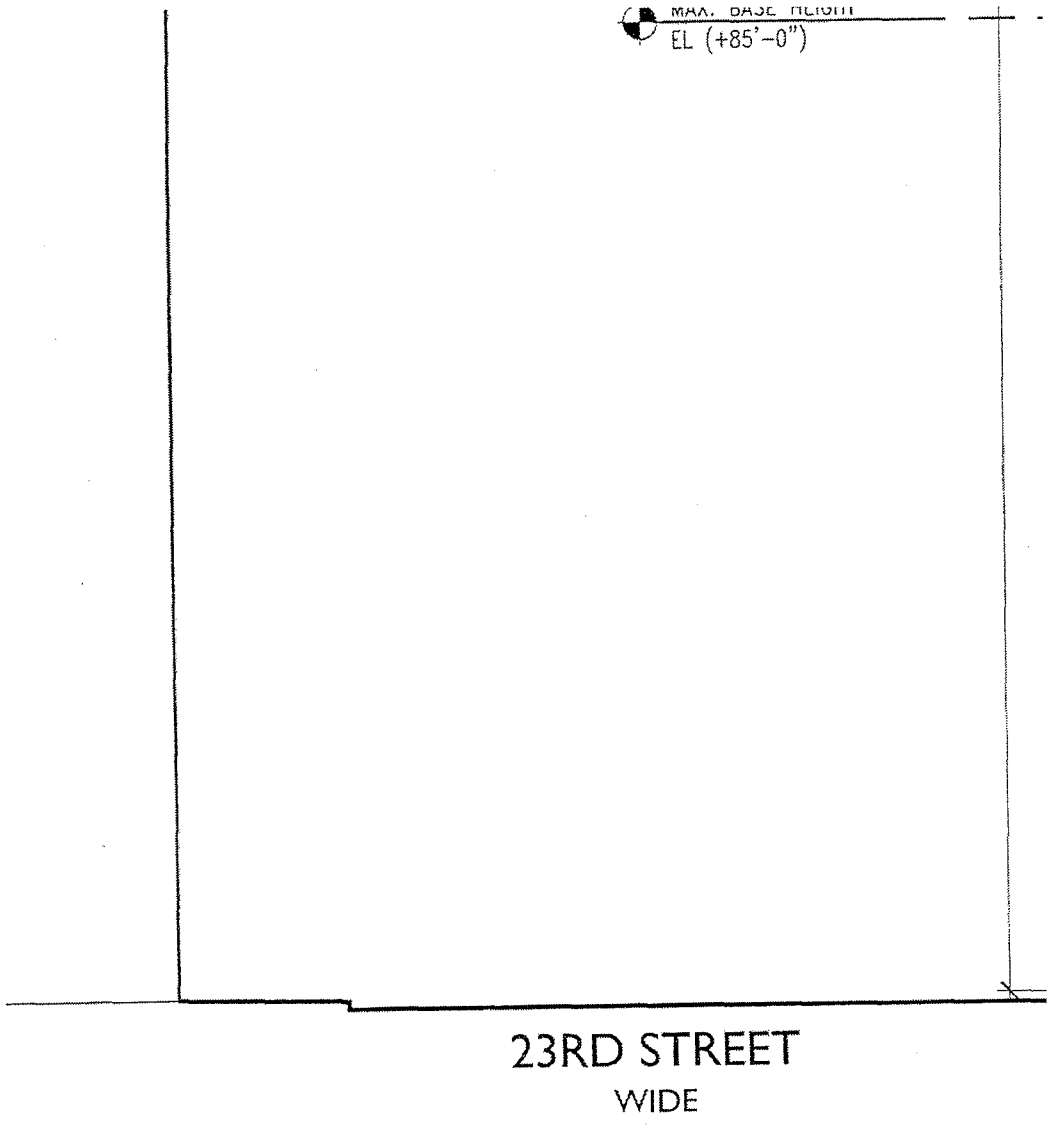

PROJECT AREA
EXTENT OF RI
SITE CENTERL
EXTENT OF R
197'-6"
PROJECT AREA
15'-0"
SETBACK
(WIDE STREET)
162'-6"
5.6
1
40'-0"
15'-0"
25'-0"
12'-9 9/16"
2'-8"
13'-10"
82'-3"
71'-8"
M.R.
24
23
22
21

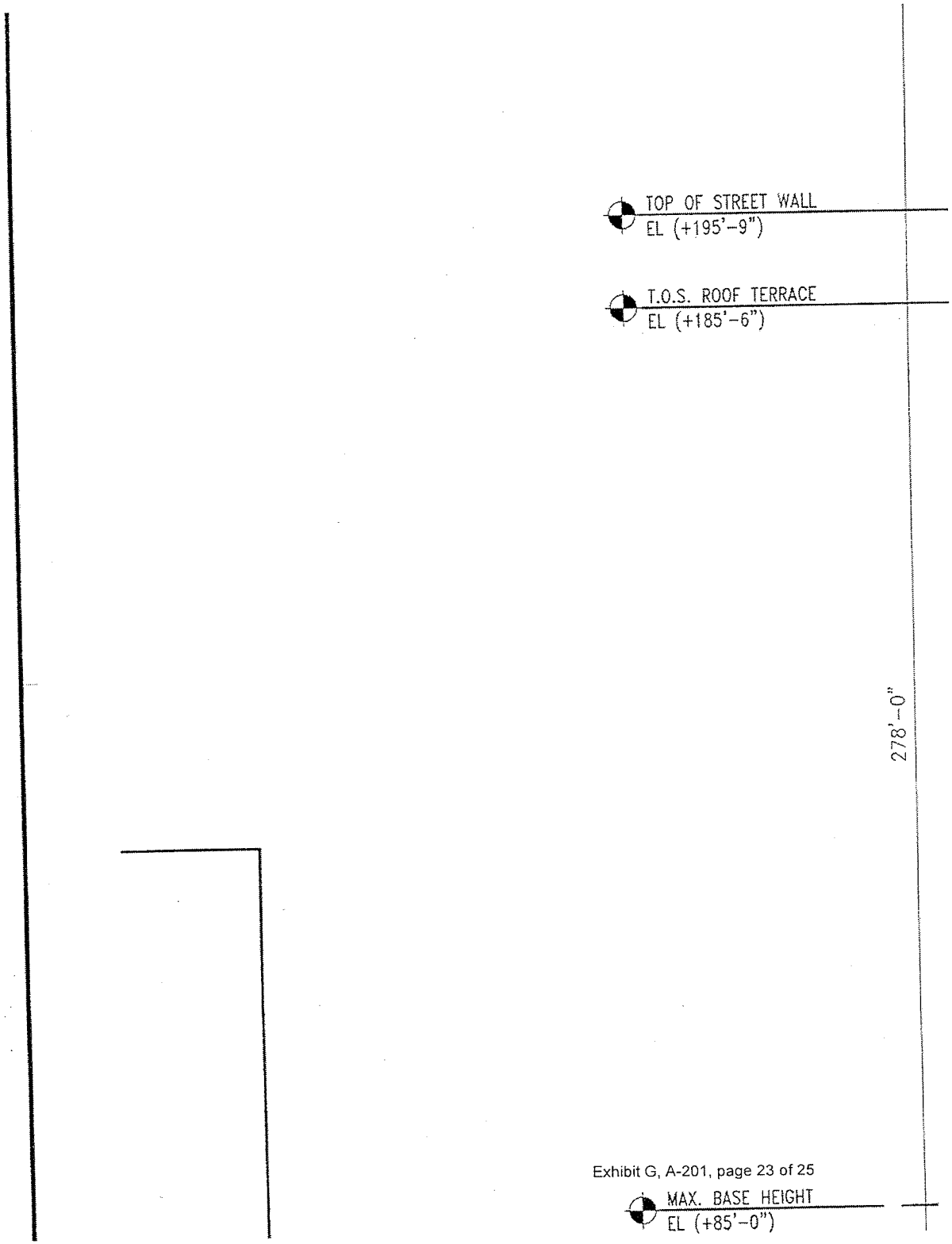

REA
F REAR YARD REQUIREMENT
ERLINE
F REAR YARD REQUIREMENT

01 USE AND ENCROACHMENT BU

1/16 = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-201-SECTION DIAGRAM.dwg


MAX. BASE HEIGHT
EL (+85'-0")
23RD STREET
WIDE


TOP OF STREET WALL
EL (+195'-9")
T.O.S. ROOF TERRACE
EL (+185'-6")
278'-0"
MAX. BASE HEIGHT
EL (+85'-0")

SKY EXPOSURE PLANE

TOP OF SCREEN WALL
EL (+278'-0")

TOP OF MAIN ROOF
EL (+264'-2")

SUBJECT TO APPROVAL BY
KS AND RECREATION
E SHOWN FOR ILLUSTRATIVE

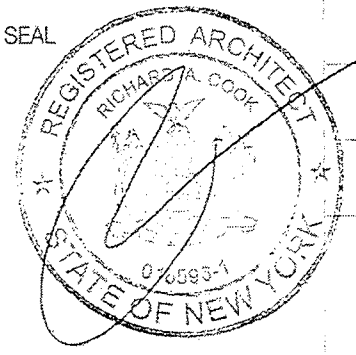
SEAL CORRESPONDS TO THE
THE DEVELOPMENT SITE, ZONING
CUTS. INFORMATION REGARDING
ERTIES IS FOR ILLUSTRATIVE

OWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

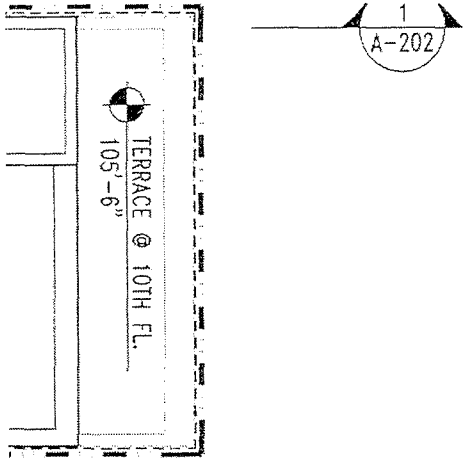
BUILDING SECTION

SEAL



PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-202

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES



PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005

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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

1
A-202

WEST 23RD STREET

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JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

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New York, NY 10001
T: 212.244.4303

39-41
WEST 23RD

02 KEY PLAN

1/16 = 1' - 0"

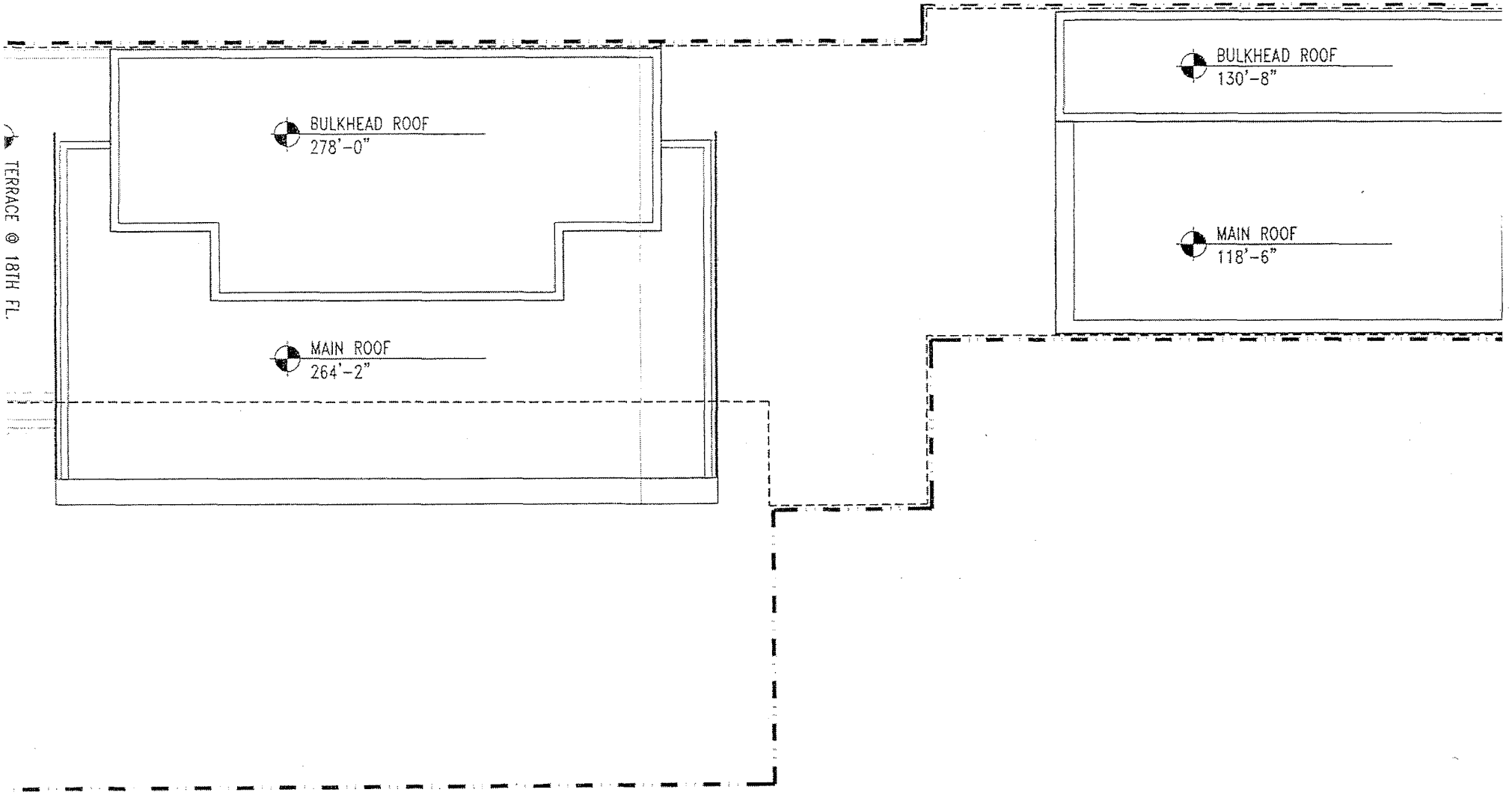
)POSED FOR USE GROUP 2, SUBJECT
_ PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE INITIAL SETBACK DISTANCE ABOVE 85 FEET & INTO THE SKY EXPOSURE PLANE REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

PORTIONS OF BUILDING THAT ENCROACH INTO THE REAR YARD OR REAR YARD EQUIVALENT REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

NOTES:

1. STREET TREE LOCATION SUB
   DOB AND DEPT. OF PARKS A
2. BUILDING ENTRANCES ARE SI
   PURPOSES ONLY
3. ARCHITECT STAMP AND SEAL
   INFORMATION REGARDING THE
   LOT AND RELATED CURB CUT
   THE SURROUNDING PROPERTI
   PURPOSES ONLY
4. INTERIOR PARTITIONS SHOWN
   ONLY


TERRACE @ 18TH FL.
BULKHEAD ROOF
278'-0"
MAIN ROOF
264'-2"
BULKHEAD ROOF
130'-8"
MAIN ROOF
118'-6"

LEGEND

BUILDING ENVELOPE

BUILDING ABOVE

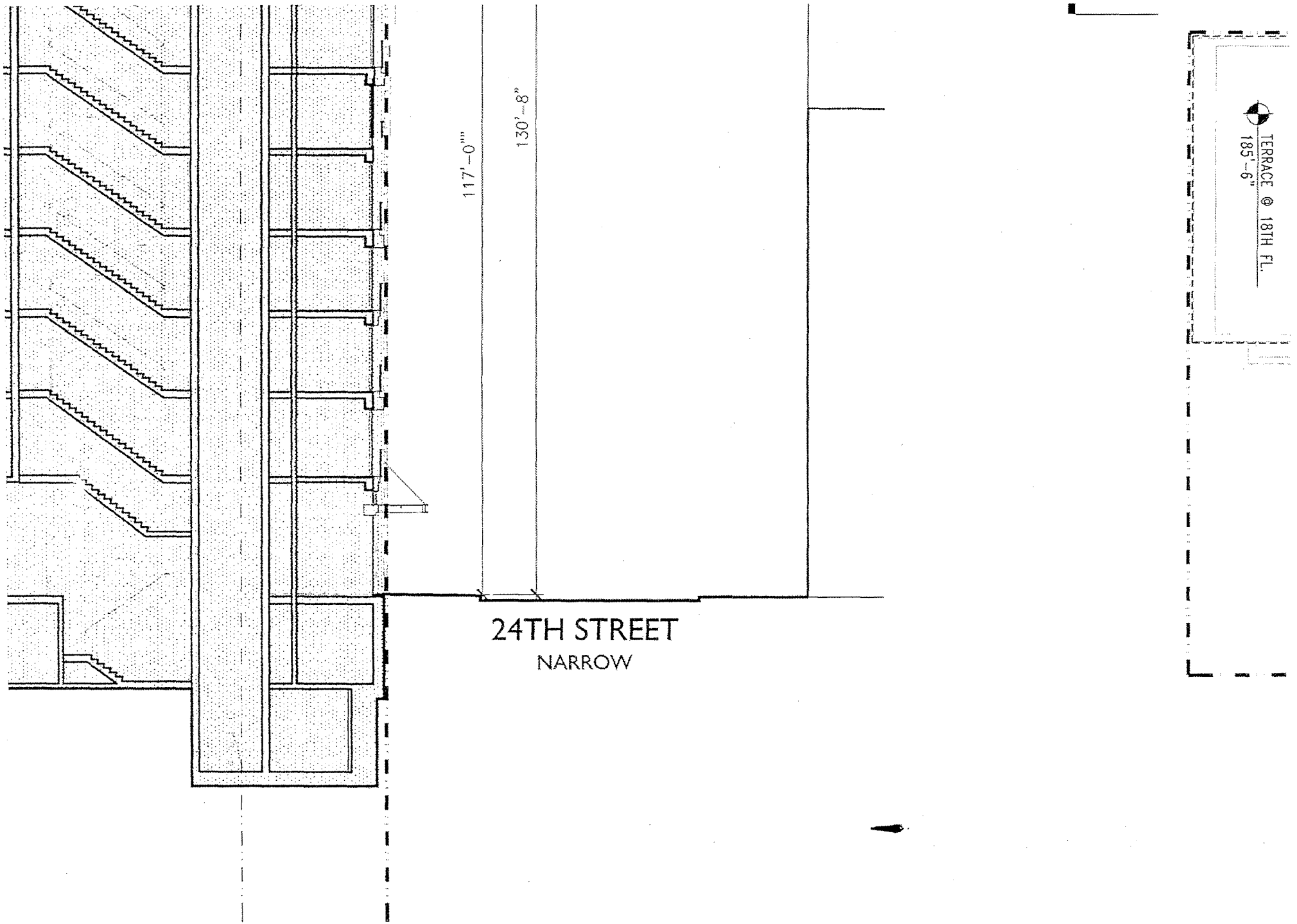
CENTER LINE

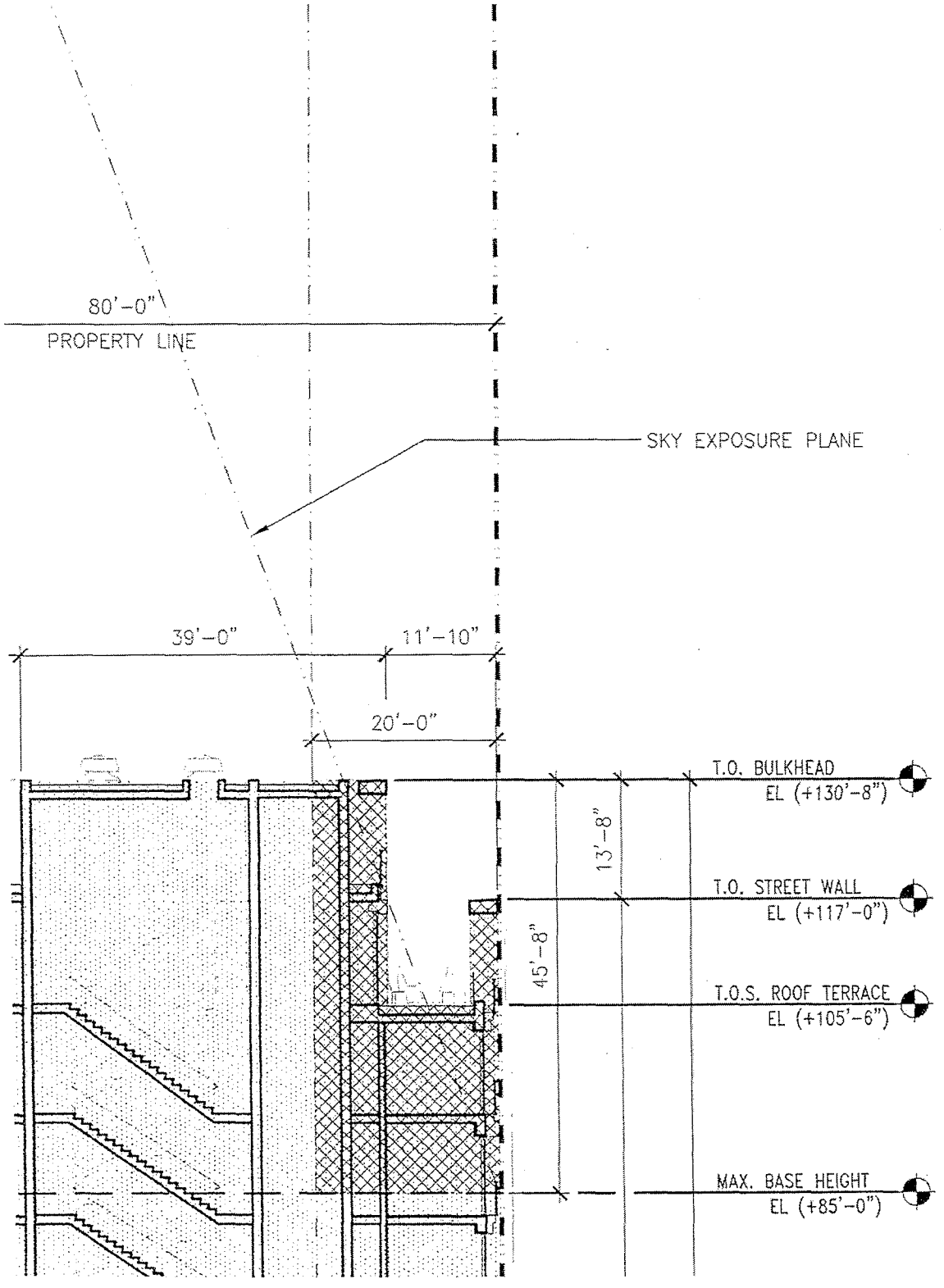
ZONING LOT

DEVELOPMENT SITE

LEGEND

AREAS PROPOS
TO SPECIAL PE

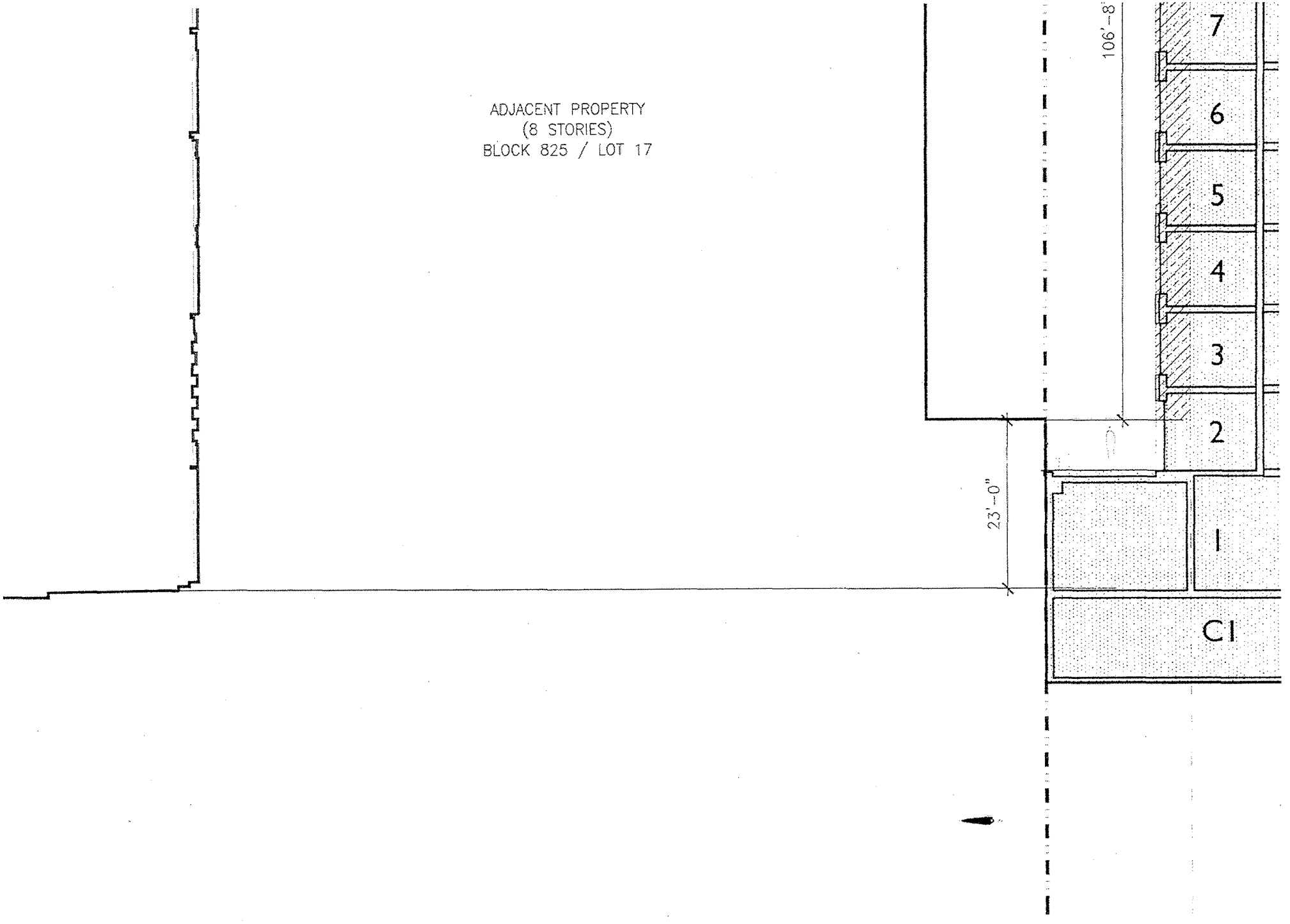

TERRACE @ 18TH FL.
185'-6"
130'-8"
117'-0""
24TH STREET
NARROW

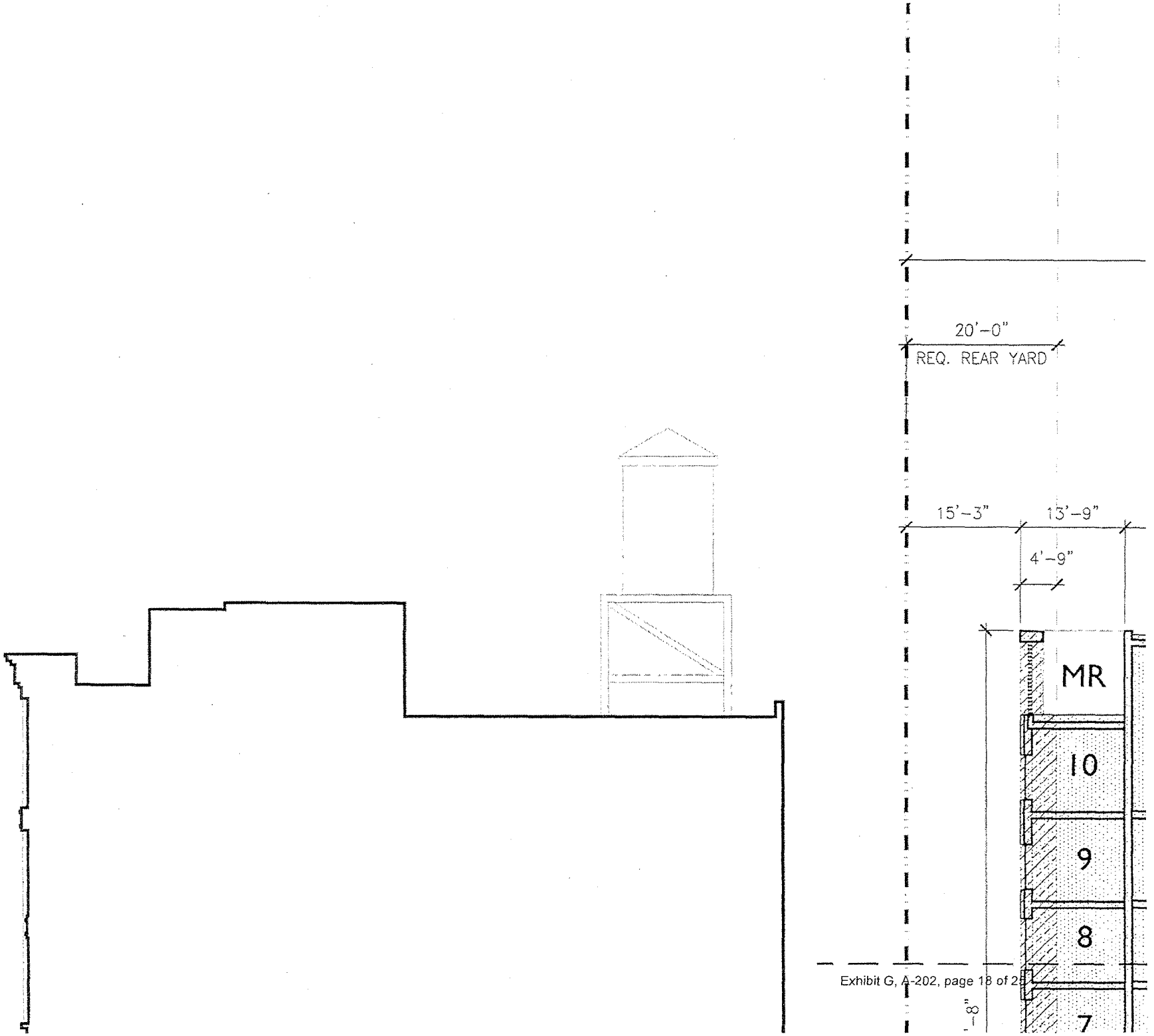

80'-0"
PROPERTY LINE
SKY EXPOSURE PLANE
39'-0"
11'-10"
20'-0"
T.O. BULKHEAD
EL (+130'-8")
13'-8"
T.O. STREET WALL
EL (+117'-0")
45'-8"
T.O.S. ROOF TERRACE
EL (+105'-6")
MAX. BASE HEIGHT
EL (+85'-0")

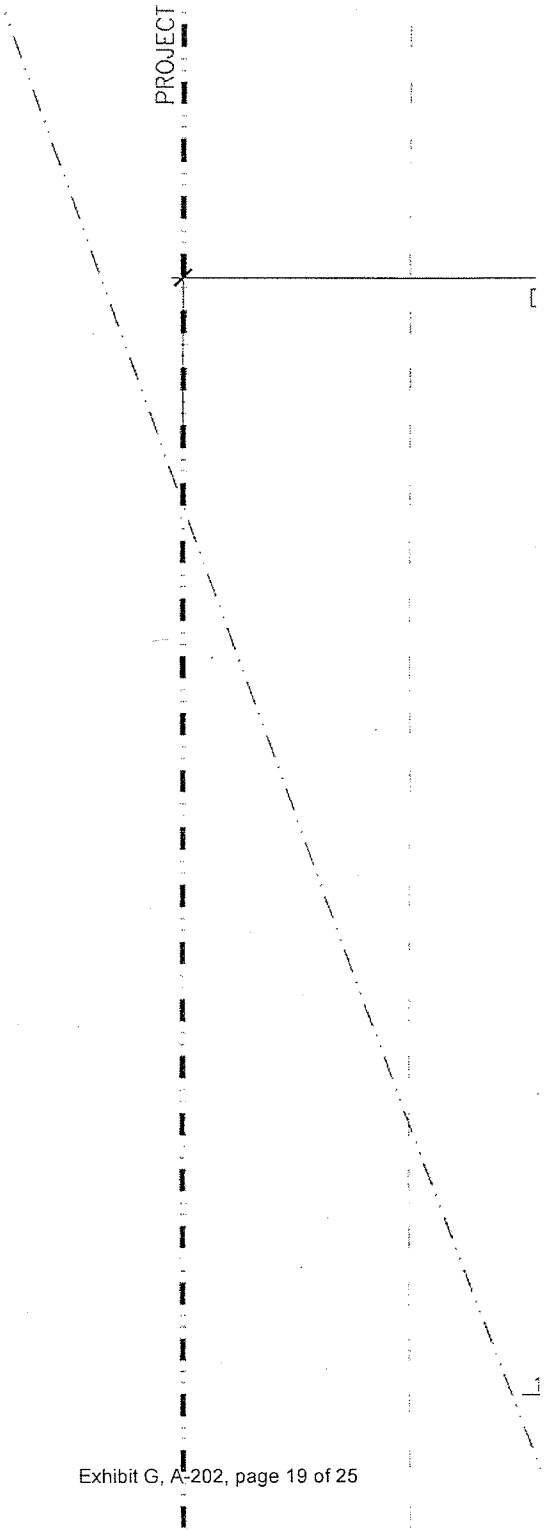
PROJECT
80'-0"
DEVELOPMENT SITE
20'-0"
SETBACK
(NARROW STREET)
1
2.7

ECT AREA

BUILDING SECTION DIAGRAMS (SOUTH/NORTH)


ADJACENT PROPERTY
(8 STORIES)
BLOCK 825 / LOT 17
106'-8"
23'-0"
7
6
5
4
3
2
1
C1


20'-0"
REQ. REAR YARD
15'-3"
13'-9"
4'-9"
MR
10
9
8
7
8"


PROJECT

2

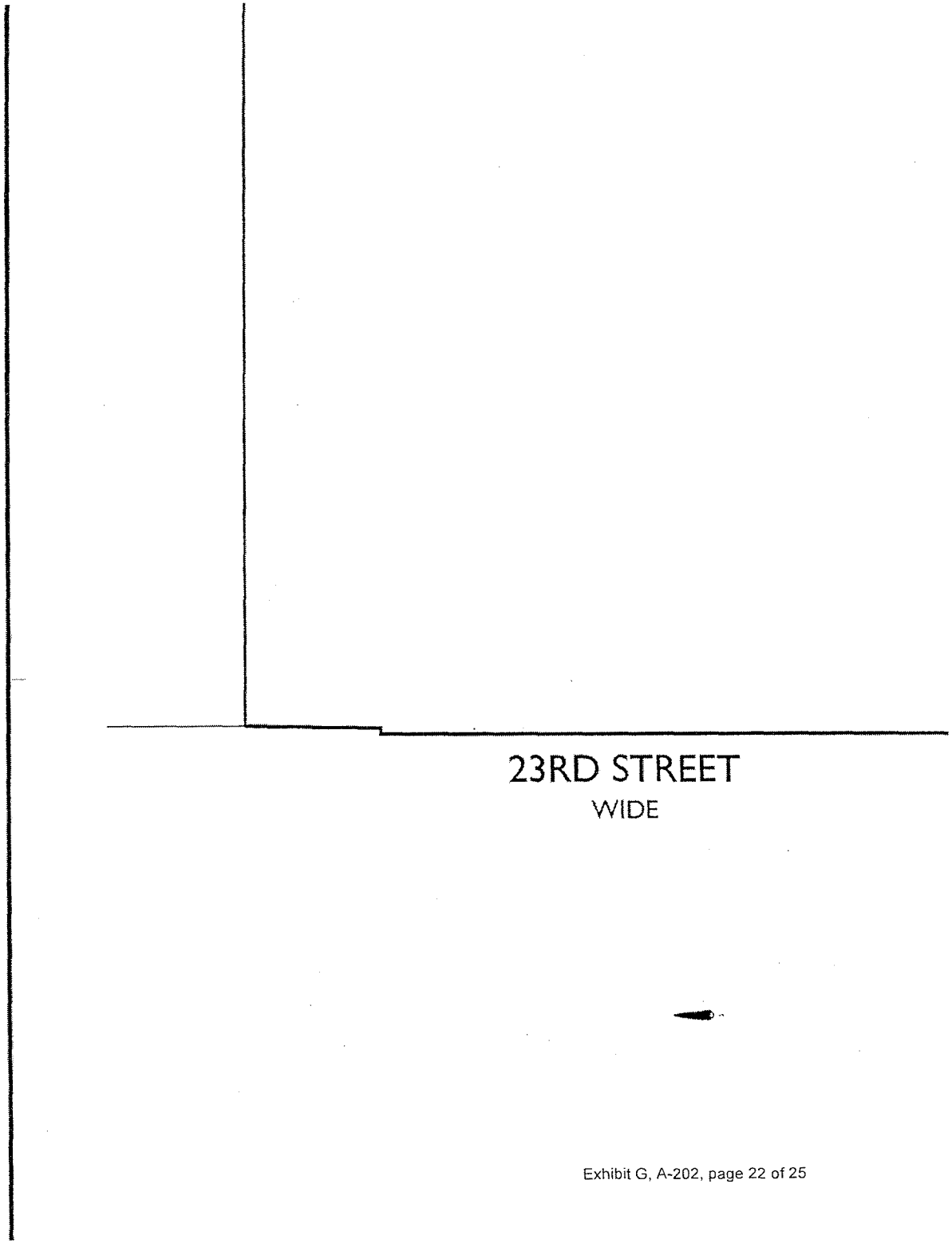
IECT AREA

D

01 USE AND ENCROACHMENT BUI

1/16 = 1' - 0"

N:\3302 - 39-41 West 23rd St\Dwg\Sheetfiles\Land Use Application 2\A-202-SECTION DIAGRAM.dwg


23RD STREET
WIDE

SUBJECT TO APPROVAL BY
KS AND RECREATION
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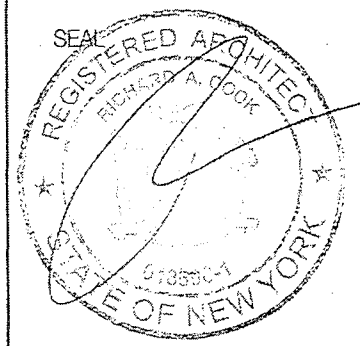
EAL CORRESPONDS TO THE
THE DEVELOPMENT SITE, ZONING
CUTS. INFORMATION REGARDING
ERTIES IS FOR ILLUSTRATIVE

OWN FOR ILLUSTRATIVE PURPOSES

DRAWING TITLE

BUILDING SECTION

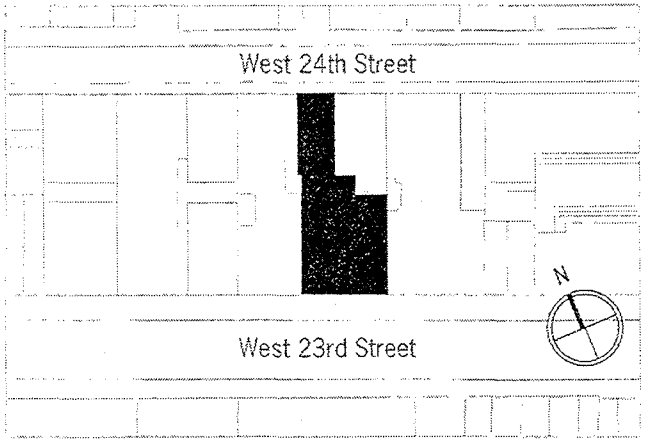
SEAL



PROJECT NO:	3302
SCALE:	AS NOTED
SHEET SIZE:	36"x48"
DRAWING NO:	A-203

INFORMATION OUTSIDE OF THE BOUNDARIES OF THE ZONING LOT IS FOR ILLUSTRATIVE PURPOSES ONLY. THE ARCHITECT BEARS NO RESPONSIBILITY FOR INACCURATE INFORMATION ON SURROUNDING PROPERTIES

PLOT PLAN (NTS): BLOCK 825/ LOTS: 20,60,1001-1005



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PROJECT:

39-41 WEST 23RD STREET

NEW YORK, NY 10010

LAND USE APPLICATION SET

NOT FOR CONSTRUCTION

COOKFOX

ISSUES:

NO:	DATE	DESCRIPTION
01	03.12.2014	DRAFT ULURP SUBMISSION
02	05.19.2014	ULURP SUBMISSION
03	07.31.2014	DRAFT ULURP SUBMISSION
04	09.05.2014	ULURP SUBMISSION

WEST 23RD STREET

ANBAU ENTERPRISES — CLIENT

206 Fifth Avenue, 4th Floor
New York, NY 10010
T: 212.741.1325

COOKFOX ARCHITECTS, LLP — ARCHITECT

641 Avenue of the Americas, Floor 8
New York, NY 10011
T: 212.477.0287 F: 212.477.4521

URS CORPORATION — GEOTECHNICAL ENGINEER

1255 Broad St, Suite 201
Clifton, NJ 07013
T: 973.883.8500

BURO HAPPOLD CONSULTING ENGINEERS PC — MEP ENGINEER

100 Broadway, 23rd Floor
New York, NY 10005
T: 212.334.2025

DeSIMONE CONSULTING ENGINEERS — STRUCTURAL ENGINEER

18 WEST 18th Street, 10th Floor
New York, NY 10011
T: 212.532.2211

HEINTGES & ASSOCIATES — BUILDING ENVELOPE CONSULTANT

440 Park Avenue South, 15th Floor
New York, NY 10016
T: 212.652.2966

JAM CONSULTANTS INC. — BUILDING CODE CONSULTANT

104 West 29th Street, 9th Floor
New York, NY 10001
T: 212.244.4303

39-41
WEST 23RD

02 24TH STREET BUILDING SECTION (WEST/EAST)

1/16 = 1' - 0"

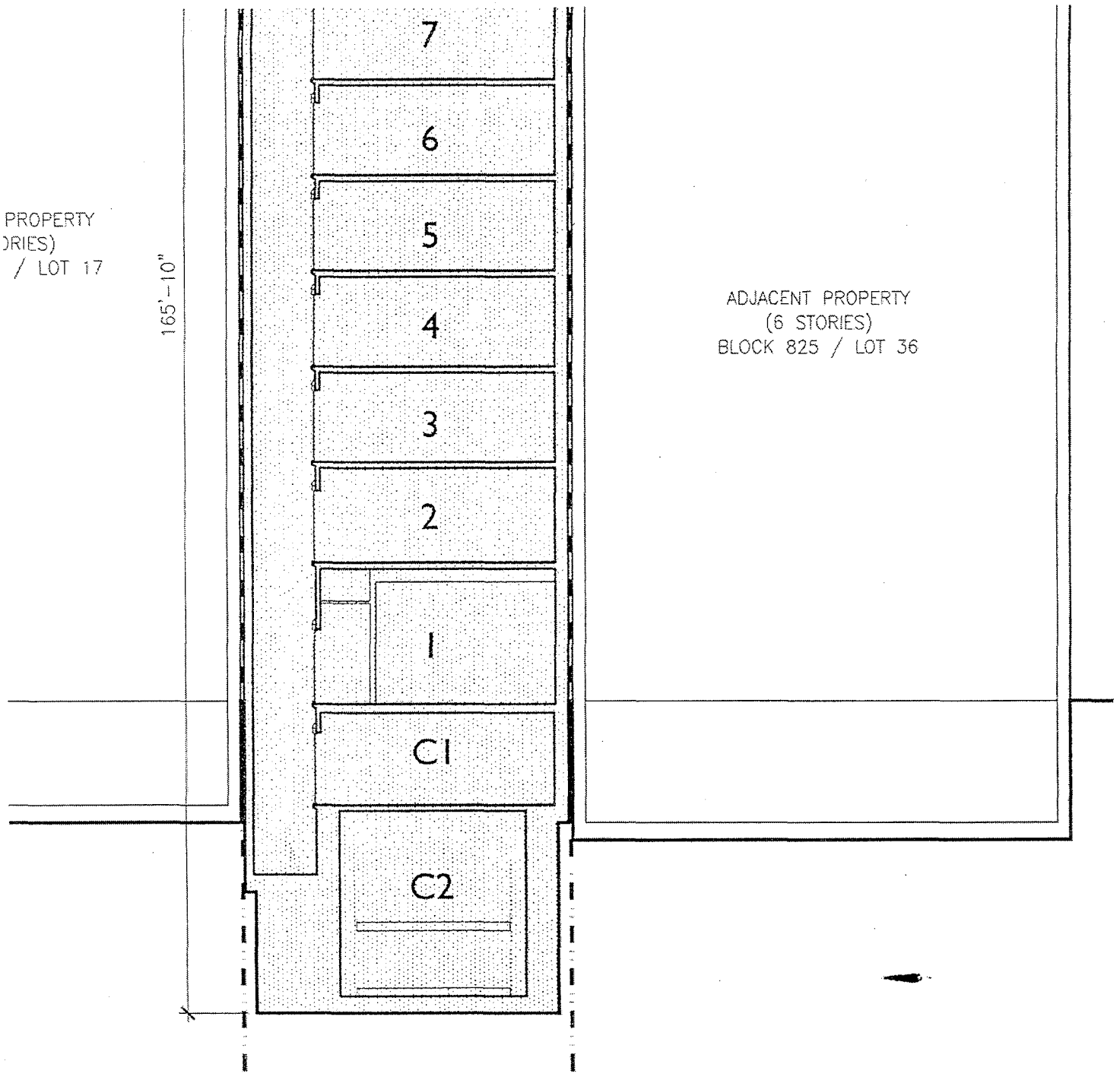
)POSED FOR USE GROUP 2, SUBJECT
_ PERMIT PURSUANT TO ZR 74–711

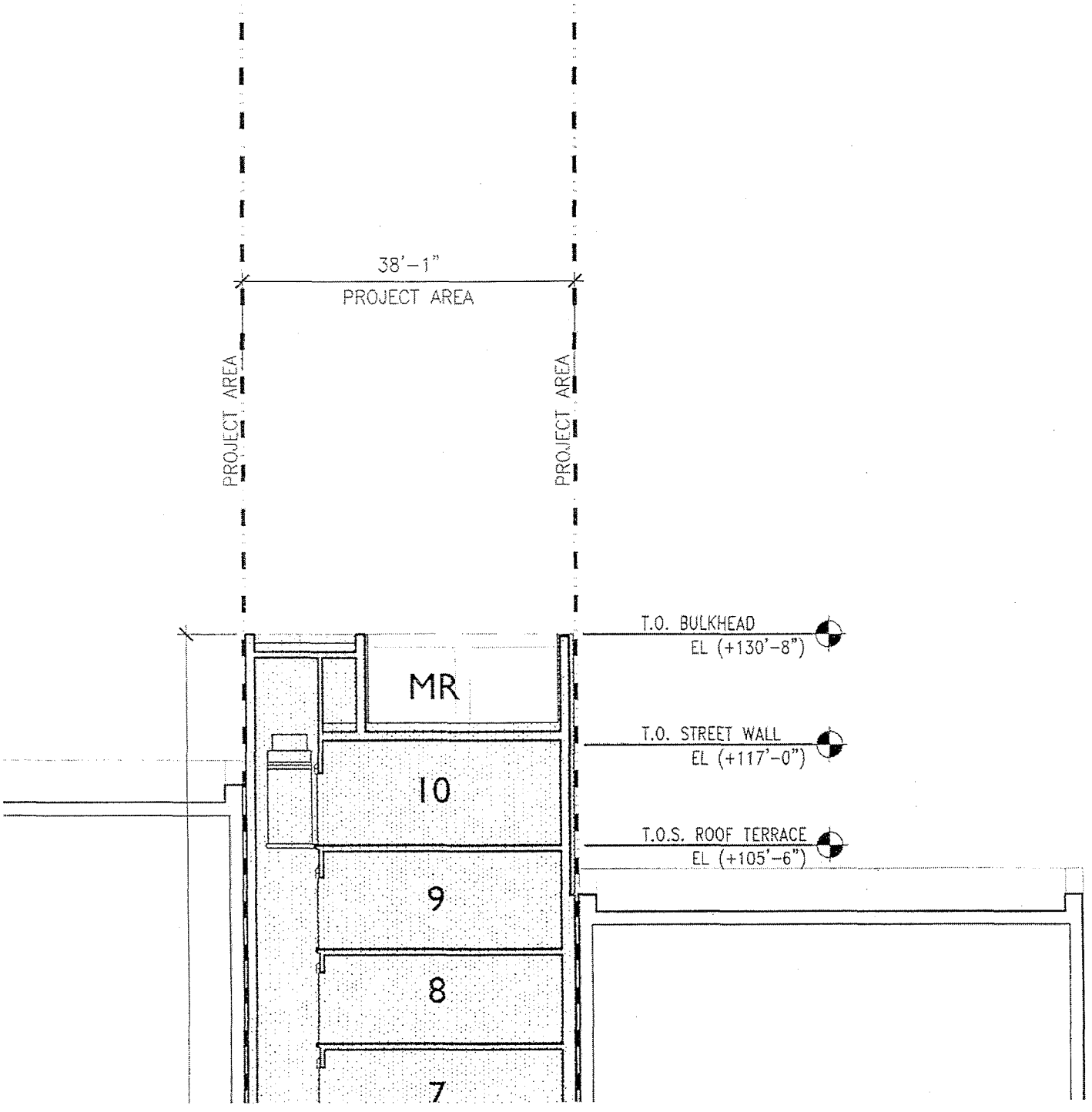
PORTIONS OF BUILDING THAT ENCROACH INTO THE INITIAL SETBACK DISTANCE ABOVE 85 FEET & INTO THE SKY EXPOSURE PLANE REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

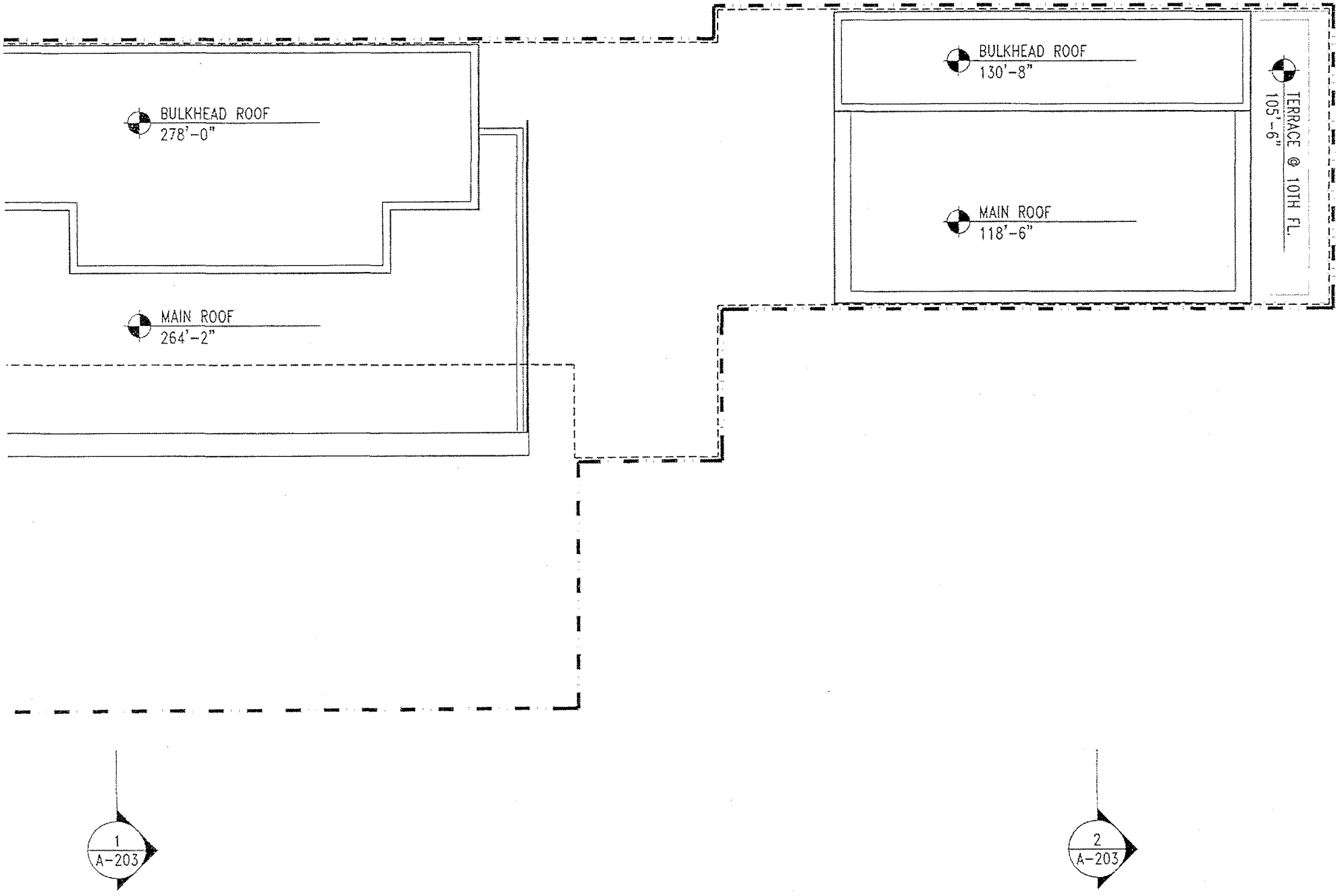
PORTIONS OF BUILDING THAT ENCROACH INTO THE REAR YARD OR REAR YARD EQUIVALENT REQUIRE SPECIAL PERMIT PURSUANT TO ZR 74–711

NOTES:

1. STREET TREE LOCATION SUB
DOB AND DEPT. OF PARKS A
2. BUILDING ENTRANCES ARE SI
PURPOSES ONLY
3. ARCHITECT STAMP AND SEAL
INFORMATION REGARDING THE
LOT AND RELATED CURB CUT
THE SURROUNDING PROPERTI
PURPOSES ONLY
4. INTERIOR PARTITIONS SHOWN
ONLY

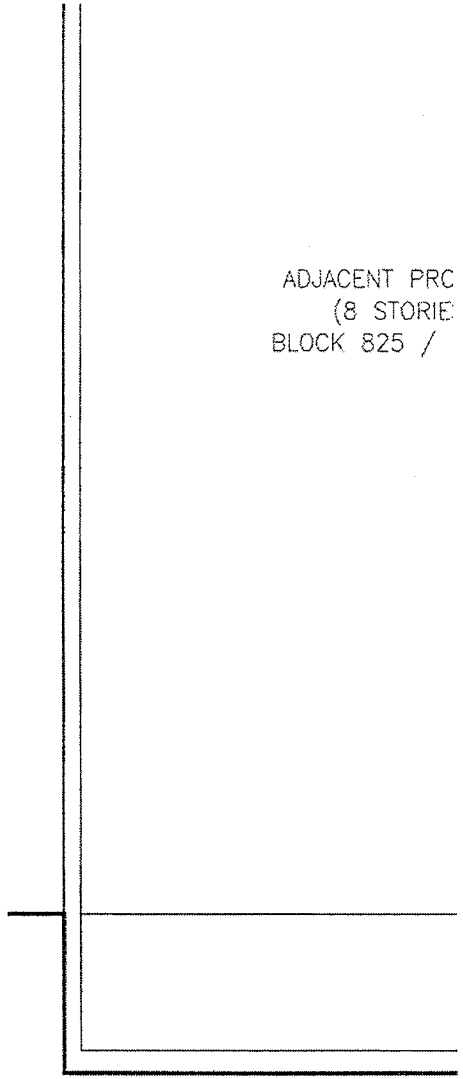

PROPERTY
)RIES)
/ LOT 17
165'-10"
7
6
5
4
3
2
1
C1
C2
ADJACENT PROPERTY
(6 STORIES)
BLOCK 825 / LOT 36

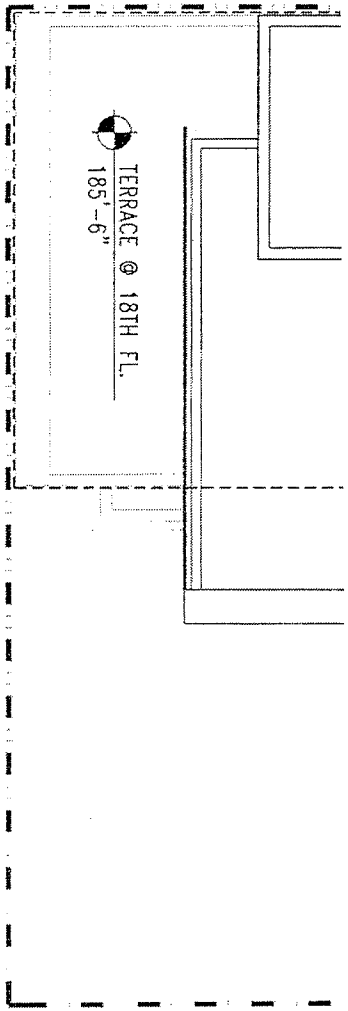

38'-1"
PROJECT AREA
PROJECT AREA
PROJECT AREA
T.O. BULKHEAD
EL (+130'-8")
T.O. STREET WALL
EL (+117'-0")
T.O.S. ROOF TERRACE
EL (+105'-6")
MR
10
9
8
7


BULKHEAD ROOF
278'-0"
MAIN ROOF
264'-2"
BULKHEAD ROOF
130'-8"
MAIN ROOF
118'-6"
TERRACE @ 10TH FL.
105'-6"
1
A-203
2
A-203

LEGEND

BUILDING ENVELOPE	AREAS PROPOS TO SPECIAL PE
BUILDING ABOVE	
CENTER LINE	
ZONING LOT	
DEVELOPMENT SITE	

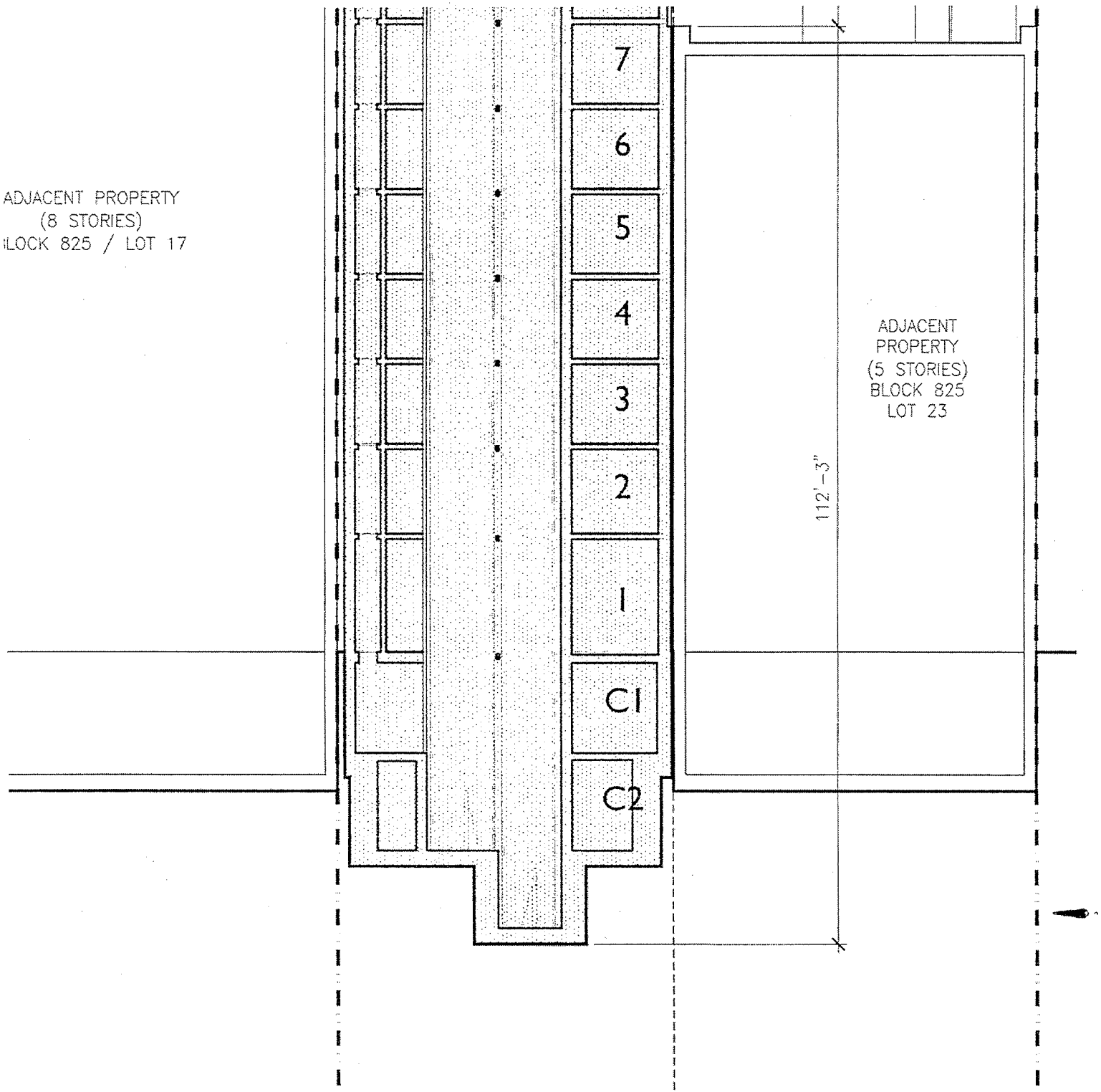

ADJACENT PRC
(8 STORIE
BLOCK 825 /

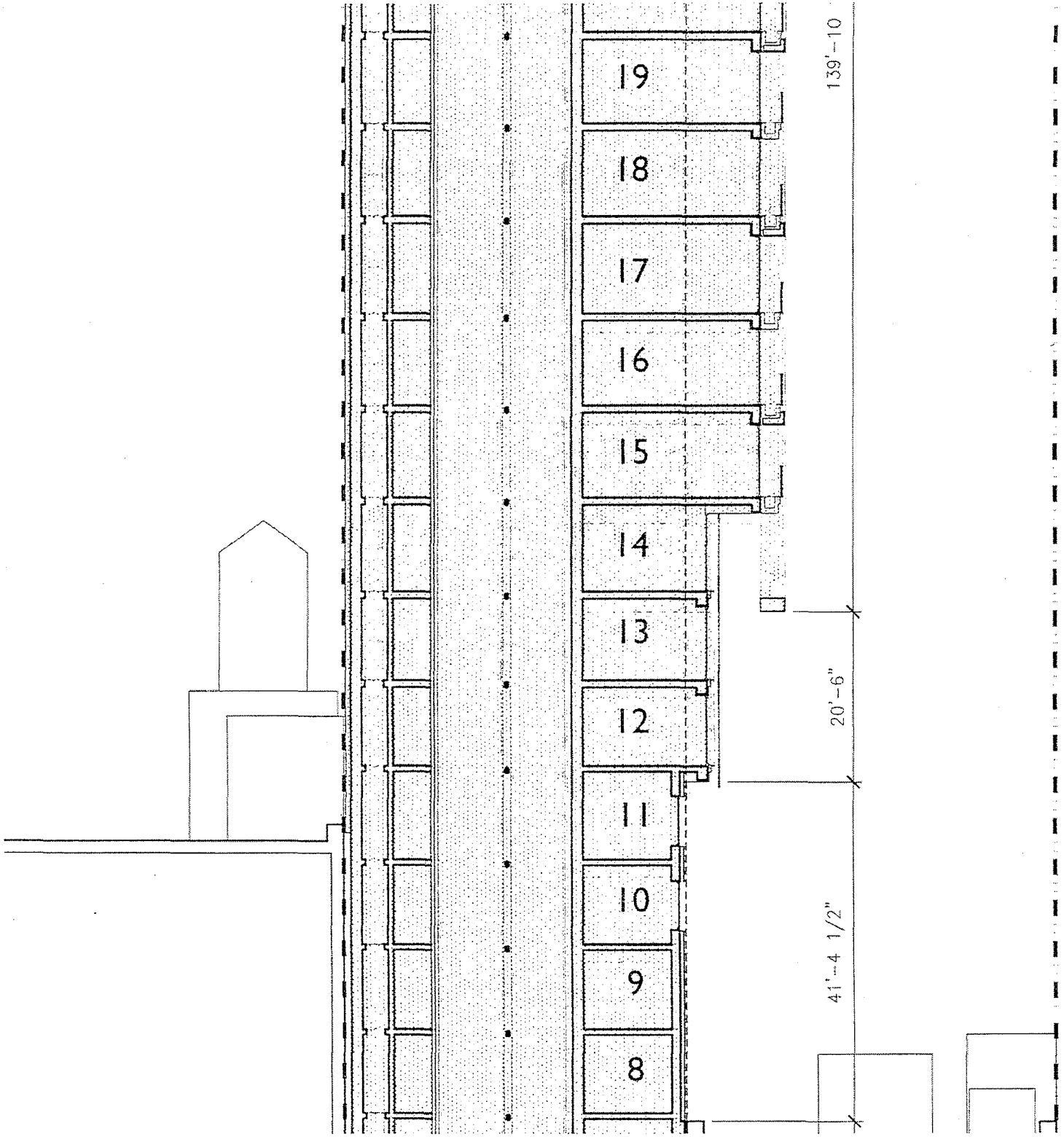


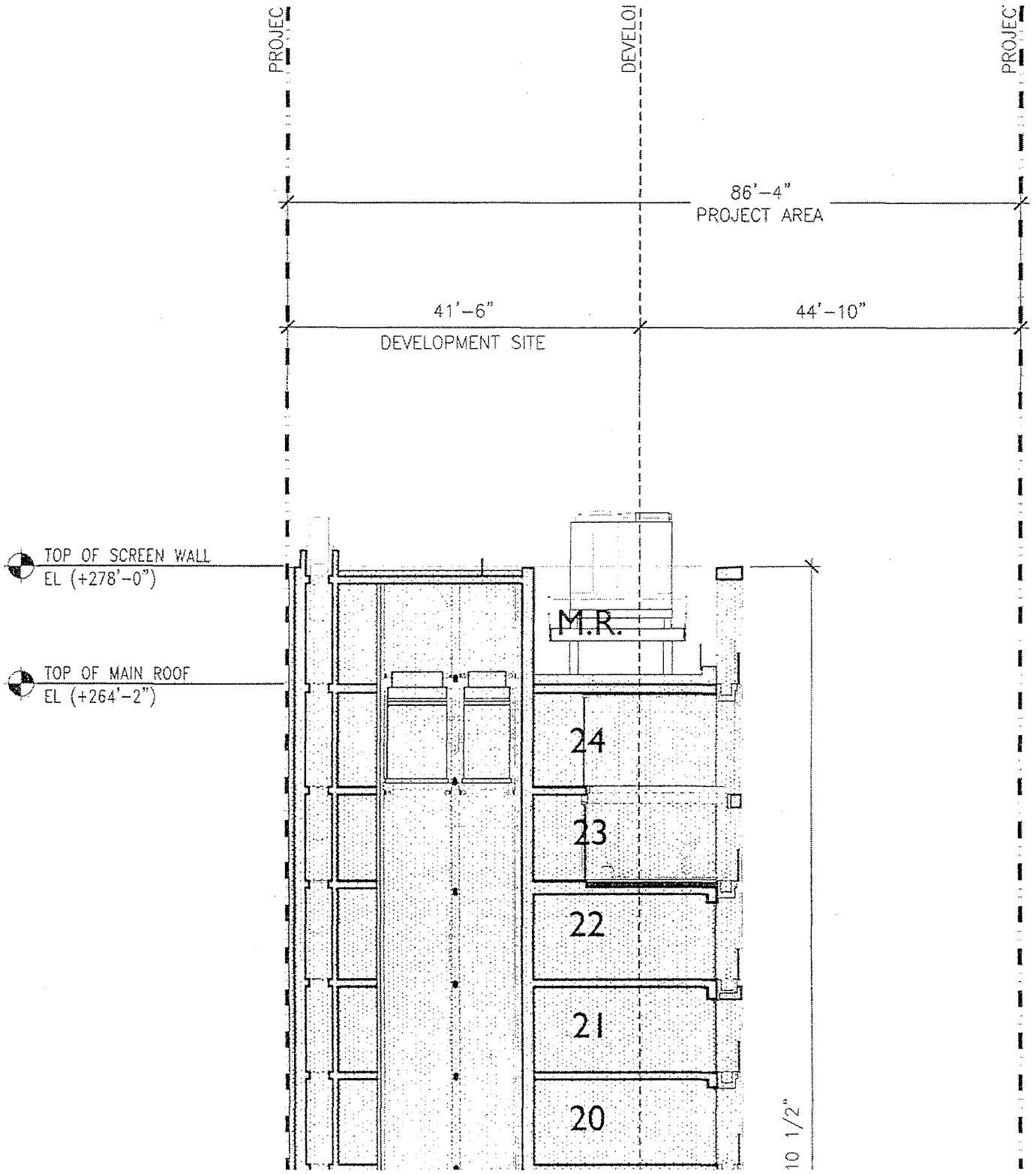
03 KEY PLAN

1/16 = 1' - 0"

TION (WEST/EAST)


ADJACENT PROPERTY
(8 STORIES)
BLOCK 825 / LOT 17
7
6
5
4
3
2
1
C1
C2
ADJACENT
PROPERTY
(5 STORIES)
BLOCK 825
LOT 23
112'-3"


19
18
17
16
15
14
13
12
11
10
9
8
139'-10
20'-6"
41'-4 1/2"


PROJEC
DEVELOI
PROJEC
86'-4"
PROJECT AREA
41'-6"
DEVELOPMENT SITE
44'-10"
TOP OF SCREEN WALL
EL (+278'-0")
TOP OF MAIN ROOF
EL (+264'-2")
M.R.
24
23
22
21
20
10 1/2"

JECT AREA

ELOPMENT SITE

JECT AREA

01 23RD STREET BUILDING SECTI(

1/16 = 1' - 0"

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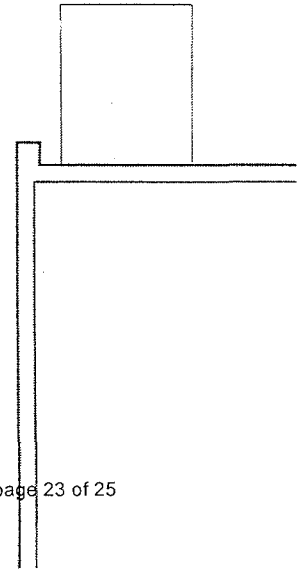
ADJ

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