



George M. Janes

& Associates

250 E. 87<sup>th</sup> Street

New York, NY 10128

Tel: 646.652.6498

[george@georgejanes.com](mailto:george@georgejanes.com)

# Enhanced Commercial Districts

## Next steps

Prepared for:



George M. Janes, AICP

5/8/2019

# Last month, we went through the existing Enhanced Commercial Districts regulations



A change of use from a 20' retail store to a 40' retail store would be permitted



A change of use from a 20' retail store to 60' retail store would NOT be permitted

ECDs are a series of regulations that apply to only certain areas and regulate the following:

More applicable to CB3

- Minimum % commercial use on ground floor
- Limitations on ground floor residential
- At least two establishments for 50 feet of frontage
- Limits on the size of banks on ground floors
- Limits on the size of other non-residential spaces
- Limits on lobbies
- Transparency

Less applicable to CB3

- Mandatory sidewalk widening (for elevated trains)
- Limitation on curb cuts (already have limits)
- Limits on location of parking (already have some limits)

**Which ones make sense in CB3? What other regulations should the CB be considering?**



You asked for more detail on how other jurisdictions regulate Formula Retail. I detail three:

### Hudson, NY

- A tiny city of 2.3 square miles and about 7,000 residents on the Hudson River about 125 miles north of NYC
- Beautiful, historic, quaint, tiny, but relevant as a city in New York State
- Adopted Formula Retail restrictions in 2018



# Hudson's regulations are really simple

## 1) Define it:

Formula Retail is a type of retail sales or service establishment that has **four or more** other retail sales establishments in operation located anywhere in the world. In addition to the four establishments the business maintains two or more of the following features: **a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a service mark.**

## 2) Prohibit it:

Formula retail uses **are prohibited in all districts** within the City except as otherwise expressly set forth in § 325-45. No site plan approval shall issue from the Planning Board, nor variance issue from the Zoning Board of Appeals, nor shall the Code Enforcement Officer issue any permit, including a certificate of occupancy, for any formula retail use within the City.

## 3) Provide for exceptions:

- A. Banks;
- B. Pharmacies and drugstores;
- C. (Whole Foods, or similar type grocery store);
- D. Convenience stores that also sell gasoline



# Jersey City is closer to home but in a different state

- A substantial city with 15 square miles and about 250,000 residents across the Hudson
- Adopted formula retail restrictions in 2015



# Jersey City is more complicated

## 1) Define it

A Formula Business is a type of business establishment that is obligated to maintain two or more standardized characteristics such as: array of merchandise, menu items, facade design, decor, color scheme, uniform apparel, signage, trademark, or servicemark; and where **10 or more other** establishments that are similarly obligated to the same corporate entity are in operation within **300 miles of Jersey City**.

- Standardized array of merchandise and menu items shall be defined as 50% or more of items from a single distributor bearing uniform markings.
- Trademark or Servicemark shall be defined as a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods or service from one party from those of others.
- Decor shall be defined as the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- Color Scheme shall be defined as selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- Uniform Apparel shall be defined as standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.

# Jersey City is not a prohibition, but a limitation

## 2) Limit it

All commercial retail areas within each structure or within a single tax lot shall **limit** formula business establishments to a **maximum of 30% of ground floor** gross leasable commercial area.

- Retail sales of goods and services.
- Restaurants, all categories.
- Bars.
- Financial service facilities and banks.

## 3) Exceptions:

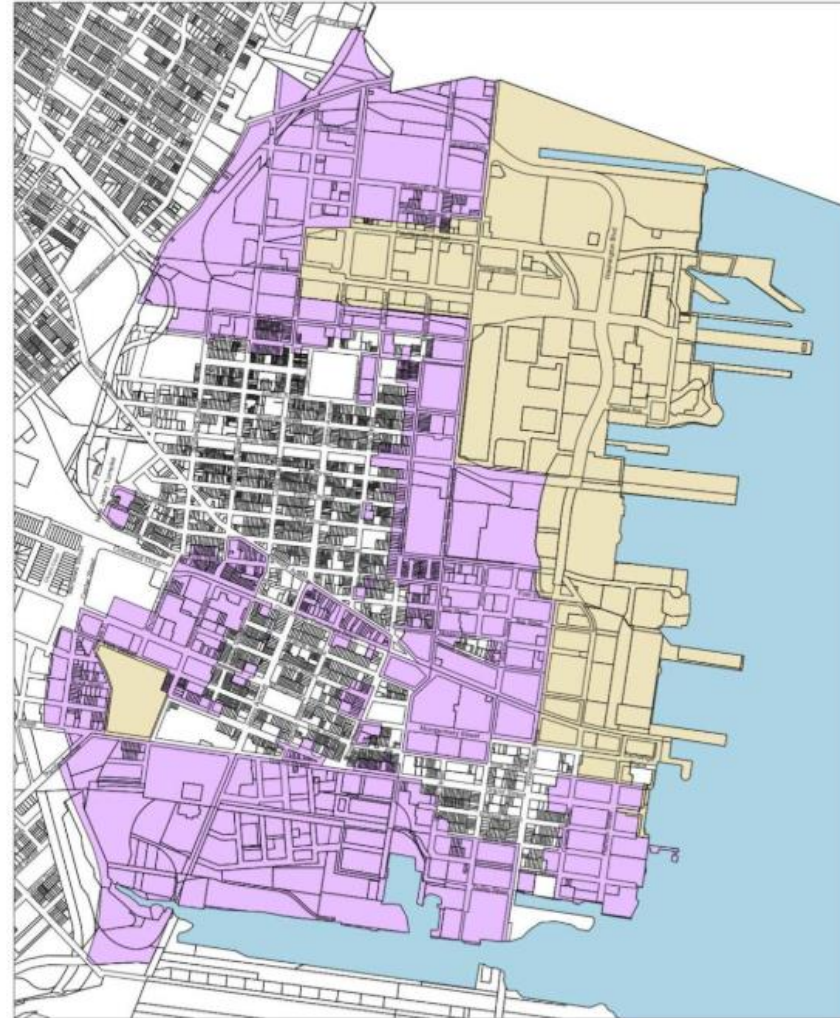
- Grocery stores greater than 15,000 square feet may exceed 30%, but shall be the only formula business within such structure.
- Only applies in purple area on right

Loopholes exist (e.g. Krispy Kreme got an exception because it is a “factory”)

PROPOSED FORMULA BUSINESS RESTRICTION ORDINANCE AMENDMENT

- Redevelopment Areas to be amended for Formula Business Restrictions
- Areas not to be amended

MAP NO. 605





# A legal challenge was filed just three weeks ago

Home > Jersey City > Lawsuit Hopes to Repeal Downtown Jersey City's Chain Store Ban

Jersey City | Lawsuit | Retail

## Lawsuit Hopes to Repeal Downtown Jersey City's Chain Store Ban

By Chris Fry - April 22, 2019

4



Telco Lofts | Photo courtesy of GRID Real Estate

A legal challenge has officially been brought against Jersey City's nearly four-year-old ordinance limiting chain stores in Downtown neighborhoods, as a local developer is claiming the rules infringe on his civil rights.

AND an ordinance has been introduced to repeal it entirely

A similar ordinance was introduced in 2017 and failed

# Cold Spring, NY

- A microscopic village of less than 1 square mile and 2,000 residents on the Hudson River about 60 miles north of NYC
- Beautiful, historic, quaint, tiny. Relevant as a village in New York State
- Adopted Formula Retail restrictions in 2014



# Cold Spring's regulations are the simplest

## 1) Define It:

FORMULA RESTAURANT - A restaurant with ten or more other restaurants located in the United States, required to have standardized menus, ingredients, food preparation or uniforms and required to have, or having, two or more of the following: (1) the same name, trade name or trademark; (2) distinctive and/or exterior or interior signage, design and/or architecture; (3) pre-prepared food in a ready to consume state; or (4) food sold over the counter in disposable containers and wrappers.

FORMULA RETAIL BUSINESS - Any retail business with ten or more other retail businesses located in the United States and required to have two or more of the following: (1) the same name, trade name, or trademark; (2) distinctive and/or standardized architecture and/or exterior or interior signage; (3) the same or standardized uniforms; or (4) merchandise or an array of standardized merchandise.

## 2) Prohibit it:

Formula retail businesses and formula restaurants are expressly prohibited in all districts

## 3) Provide for exceptions:

Grocery stores

In New York City, it is theoretically possible to do something similar

- Define it (Formula retail/business)
- Limit it (geographic, location in building, amount)
- Exceptions and relief
- May involve a special permit (à la San Francisco)

The City of New York has no appetite for this, and it would likely have to wait for another administration

But that would mean a lot of time to get it right . . .



# Back to existing ECDs

## Applicable to CB3

- Minimum % commercial use on ground floor
- Limitations on ground floor residential
- At least two establishments for 50 feet of frontage
- Limits on the size of banks on ground floors
- Limits on the size of other non-residential spaces
- Limits on lobbies
- Transparency

## Less applicable to CB3

- Mandatory sidewalk widening (for elevated trains)
- Limitation on curb cuts (already have limits)
- Limits on location of parking (already have some limits)

## **What else should we be looking at?**

# Selected slides from 4/3/2019 for reference . . .

The regulations that make up ECDs are mostly a la carte and broken into categories

	<b>Mandatory Ground Floor <i>Use</i> Regulations</b>			
	1 Minimum Percentage of Commercial Uses (132-22(a))	2 Mandatory Non-Residential Uses (132-22(b))	3 Other Permitted Uses (limits size of lobbies and parking) (133-22(c))	4 Minimum Number of Establishments (132-23)
EC – 1 (Fourth Avenue, Brooklyn)	X		X	
EC – 2 (Columbus & Amsterdam, UWS)				X
EC – 3 (Broadway, UWS)				
EC – 4 (Broadway, Bed-Stuy)		X	X	
EC – 5 (Atlantic/ Pitkin Avenue, ENY)		X	X	
EC – 6 (Fulton, ENY)		X	X	

The regulations that make up ECDs are mostly a la carte and broken into categories

	<b>Supplemental Ground Floor <i>Use</i> Regulations</b>			
	5 Limits on Banks and Loan Offices (132-24(a))	6 Limits on other Non-Residential Establishments (132-24(b))	7 Limits on Lobbies (37-33(a)(1))	8 Ground Floor Transparency (132-32)
EC – 1 (Fourth Avenue, Brooklyn)			X	X
EC – 2 (Columbus & Amsterdam, UWS)	X	X	X	X
EC – 3 (Broadway, UWS)	X		X	X
EC – 4 (Broadway, Bed-Stuy)			X	X
EC – 5 (Atlantic/ Pitkin Avenue, ENY)			X	X
EC – 6 (Fulton, ENY)			X	X

# The regulations that make up ECDs are mostly a la carte and broken into categories

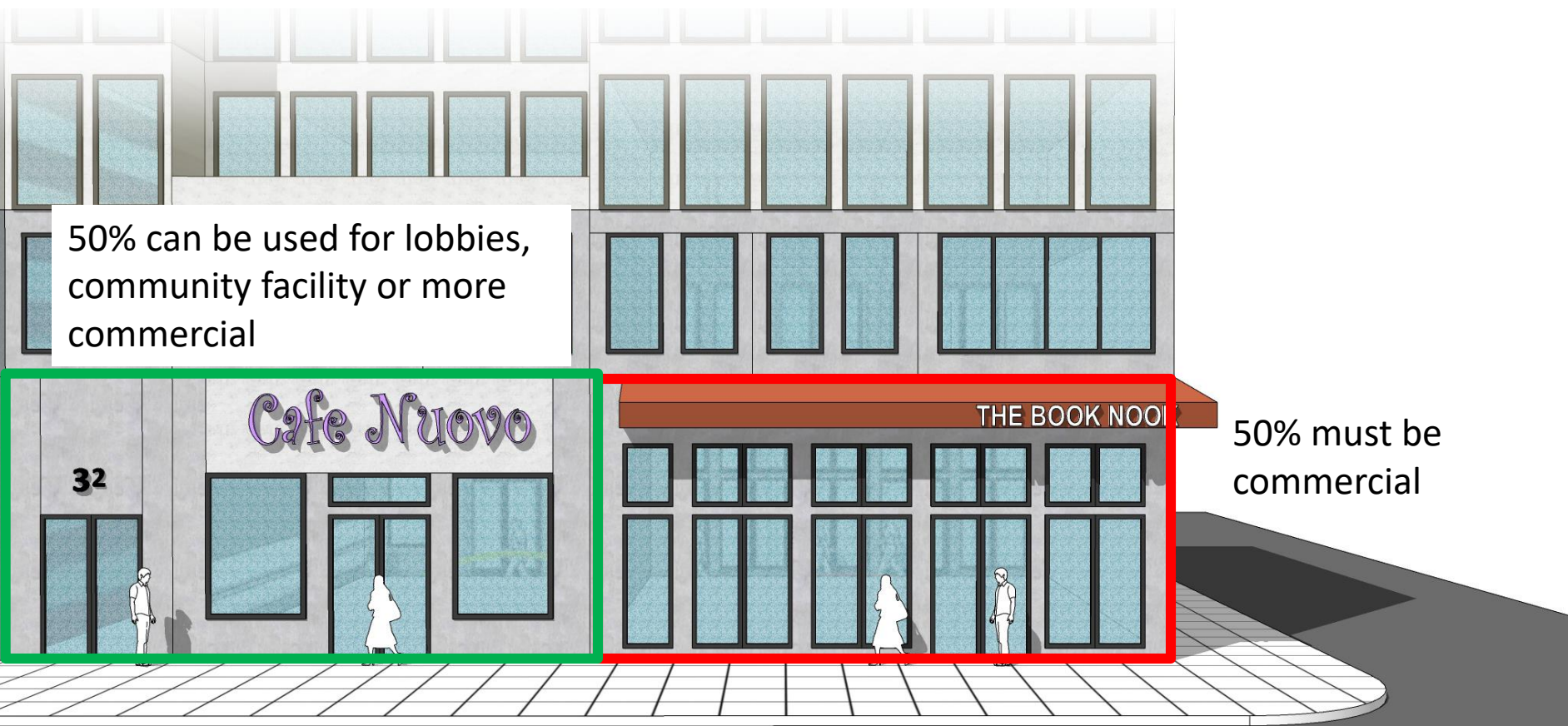
		Parking Regulations	
		10 Location of Parking Spaces (132-42)	11 Curb Cuts (132-43)
EC – 1 (Fourth Avenue, Brooklyn)		X	X
EC – 2 (Columbus & Amsterdam, UWS)			
EC – 3 (Broadway, UWS)			
EC – 4 (Broadway, Bed-Stuy)		X	X
EC – 5 (Atlantic/ Pitkin Avenue, ENY)		X	X
EC – 6 (Fulton, ENY)	X	X	X



# 1 Minimum Percentage of Commercial Uses (132-22(a))

Applies only on Fourth Avenue

**50% of the space on a commercial street must be for commercial uses**



50% can be used for lobbies, community facility or more commercial

50% must be commercial

# 2 Mandatory Non-Residential Uses in ground level (132-22(b))

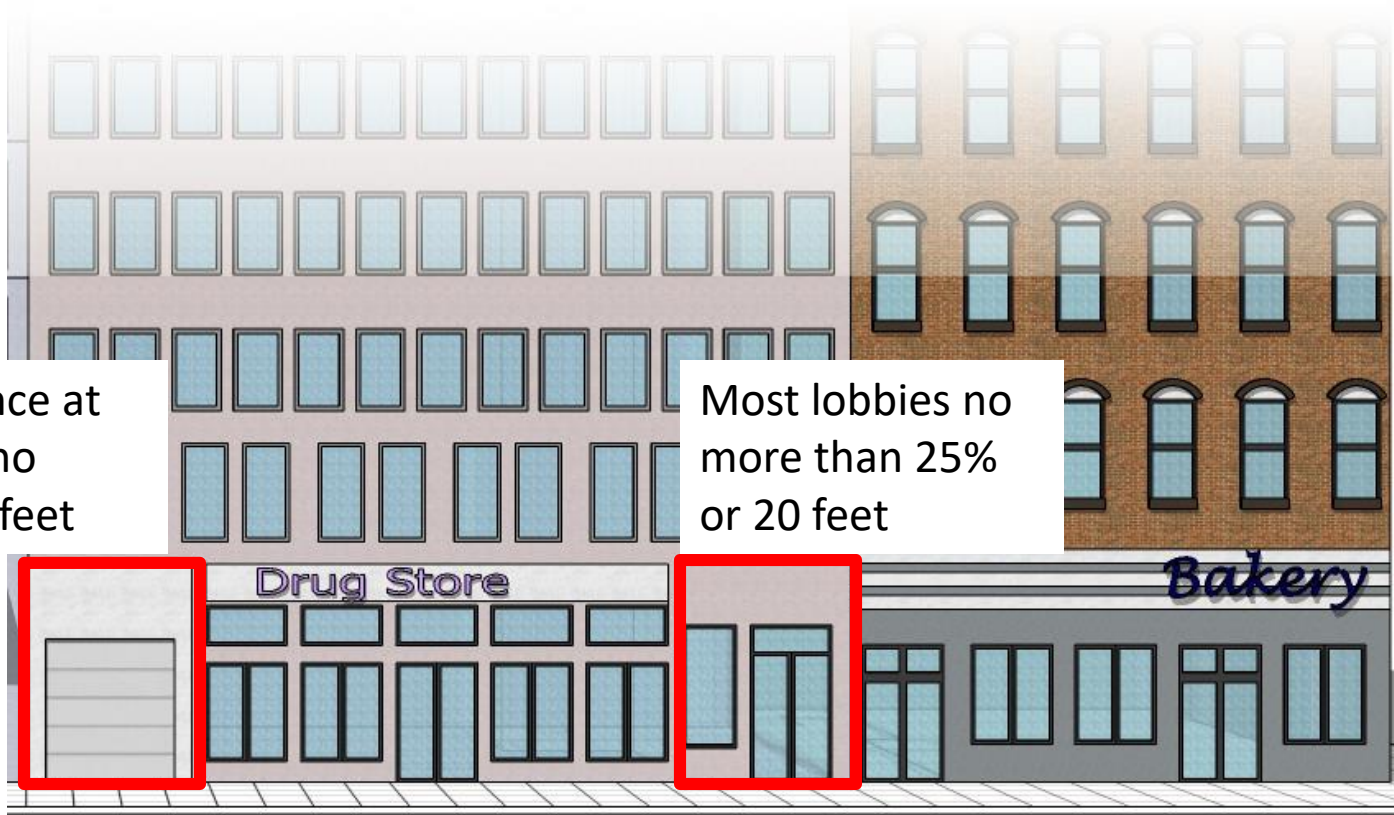
Applies only to Bed-Stuy and East NY

**Keeps dwelling units off the ground floor**



3 Other Permitted Uses (133-22(c))  
Applies only to Bed-Stuy, East NY & Fourth Ave

**Limits the size of most lobbies and parking entrances**



Parking entrance at least 12 feet, no more than 17 feet

Most lobbies no more than 25% or 20 feet



4 Minimum Number of Establishments (132-23)  
Applies only to Amsterdam and Columbus UWS

Requires at least 2 establishments for each 50 feet of frontage (excepts grocery stores)



A change of use from a 20' retail store to a 40' retail store would be permitted



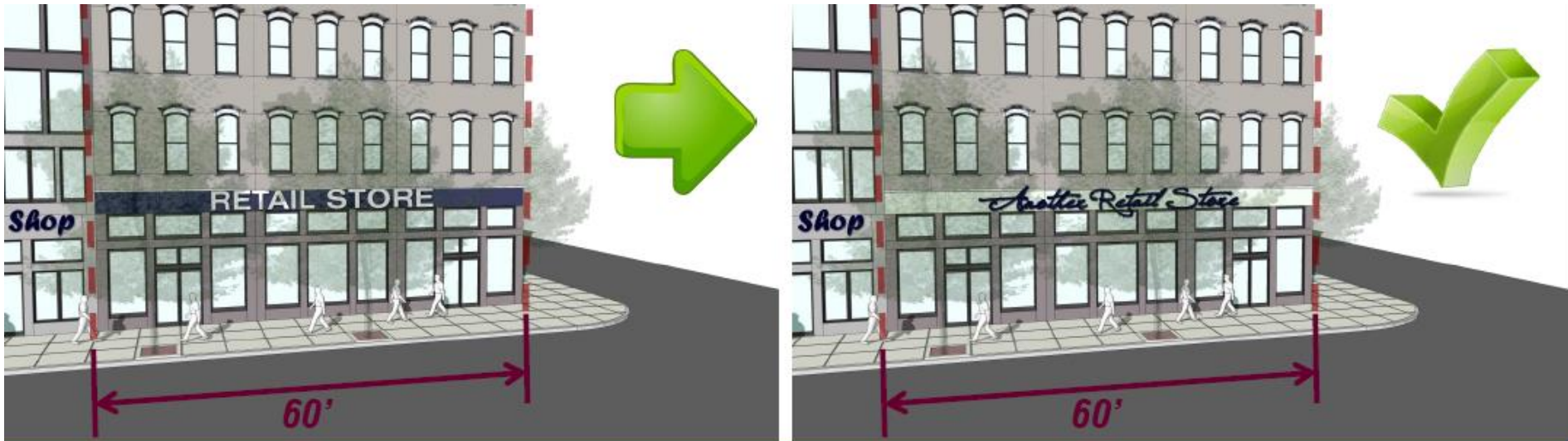
A change of use from a 20' retail store to 60' retail store would NOT be permitted



#### 4 Minimum Number of Establishments (132-23) (continued)

Applies only to Amsterdam and Columbus UWS

**Requires at least 2 establishments for each 50 feet of frontage**

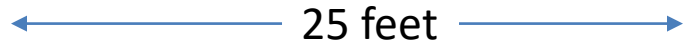


*A change of use from a 60' retail store to another 60' retail store would be permitted*

5 Banks and Loan Offices (132-24(a))

Applies only to UWS

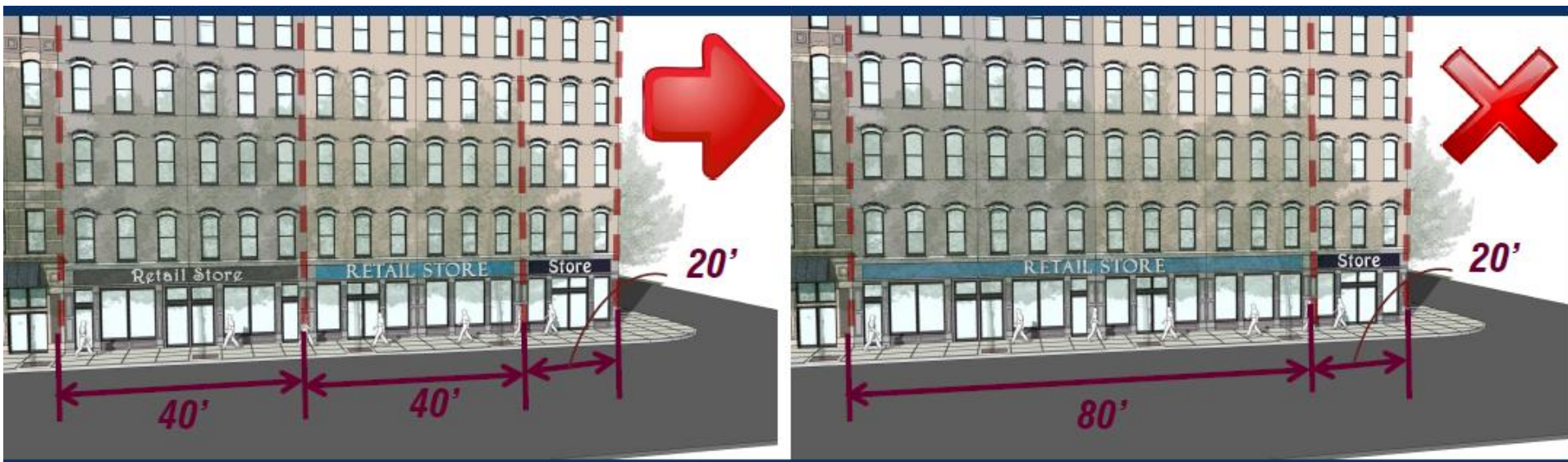
**Banks can only occupy 25 feet of frontage, but can have unlimited second story offices**



6 Other Non-Residential Establishments (132-24(b))

Applies only to Amsterdam and Columbus

**No establishments greater than 40 feet of frontage at ground floor (excepts grocery stores)**



*A change of use from a 40' retail store to an 80' retail store would NOT be permitted*



# 7 Ground Floor Lobbies (37-33(a)(1))

Applies everywhere

## Limits size of residential lobbies





# 8 Ground Floor Transparency (132-32)

Applies everywhere

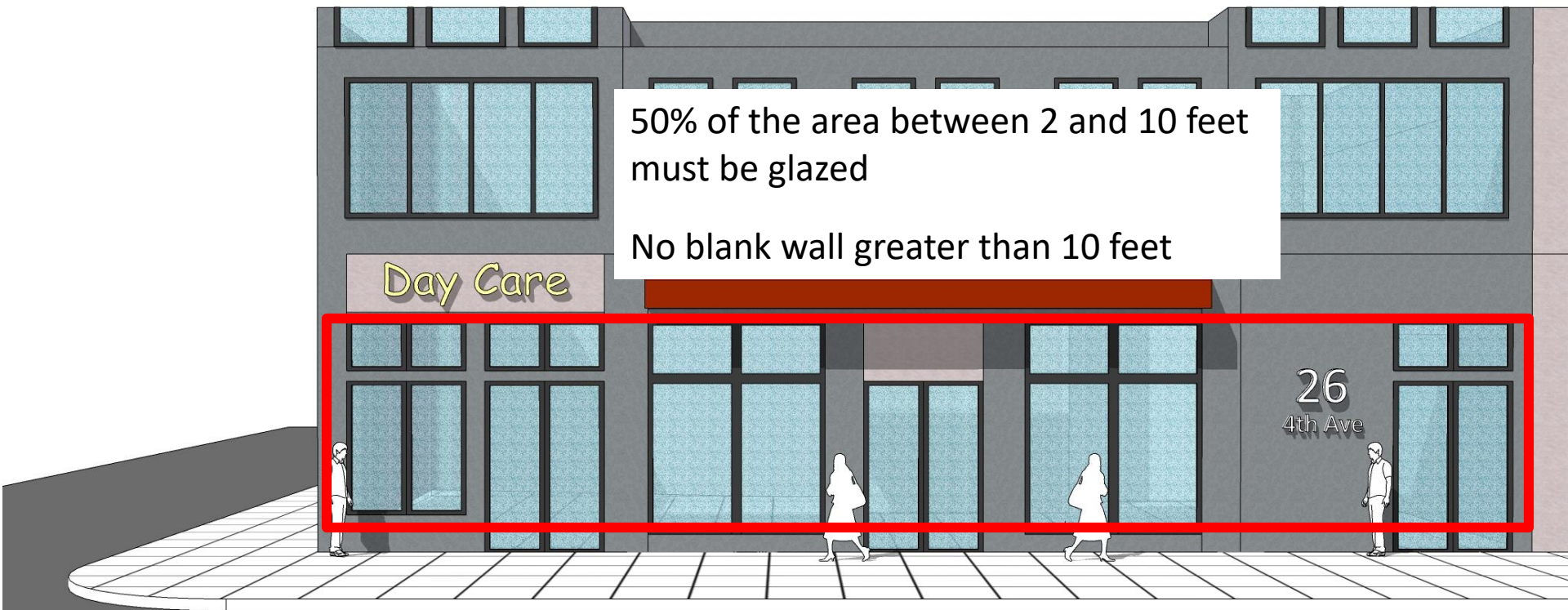
**Requires glass at street level and no blank walls**

50% of the area between 2 and 10 feet must be glazed

No blank wall greater than 10 feet

Day Care

26  
4th Ave



9 Street Wall Location (132-33)

Applies only on Fulton street in East New York

**Requires a widening of sidewalk and sets standards for improvements**

(For elevated subway on a narrow street)

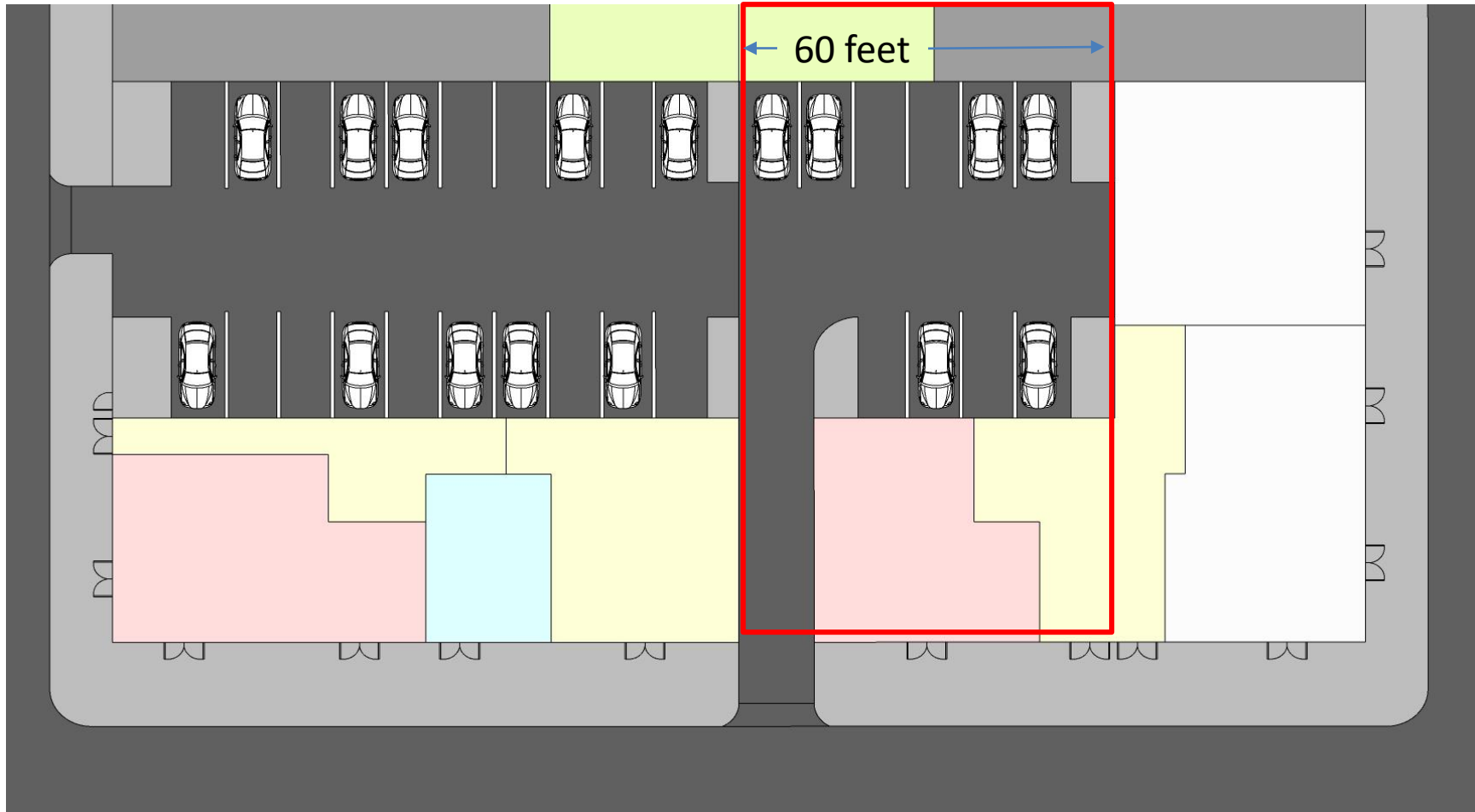


# 10 Location of Parking Spaces (132-42) and 11 Curb Cuts (132-43)

Everywhere except the UWS

**Requires parking be enclosed / hidden / wrapped**

**Curb cuts only allowed on interior lots more than 60 feet wide\***



\* Already requires a CPC authorization in Manhattan Core



# What ECD regulations make sense to explore for CB3?

- Minimum % commercial
- Limitations on ground floor residential
- At least 2 establishments for 50 feet of frontage
- Limits on the size of banks
- Limits on the size of other non-residential spaces
- Limits on lobbies
- Transparency
- Mandatory sidewalk widening
- Limitation on curb cuts
- Limits on parking

Do certain commercial streets have different needs?

What else does the CB want to see addressed in their ECD?



George M. Janes

& Associates

250 E. 87<sup>th</sup> Street

New York, NY 10128

Tel: 646.652.6498

[george@georgejanes.com](mailto:george@georgejanes.com)

# Enhanced Commercial Districts

## Next steps

Prepared for:



George M. Janes, AICP

5/8/2019