

39-41 West 23<sup>rd</sup> Street  
City Council Zoning and Franchises Subcommittee Public Hearing  
April 23, 2015  
Testimony of Michael T. Sillerman

I am Michael T. Sillerman of Kramer Levin Naftalis & Frankel LLP, counsel to the applicant, 39 West 23<sup>rd</sup>, LLC and Anbau Enterprises, Inc. The application seeks two special permits:

In an M1-6 through lot from West 23<sup>rd</sup> – 24<sup>th</sup> Streets, a Section 74-711 special permit for use and bulk waivers for a 40-unit, 24-story residential building (105,615 square feet) with ground floor retail designed by CookFox Architects, and a Section 13-451 special permit for an automated 50-space accessory garage, restricted to monthly parking – on a site currently improved with a 42-car parking lot.

As illustrated, there is an existing prior 74-711 special permit approved in 2006 for a very different and controversial design (that had an unusual split vote with 4 dissents at LPC before it was approved).

It was approved with similar but slightly greater bulk waivers and the same use waivers as are requested here. That special permit is currently in effect and an application is pending to renew it one more time through January 2017.

Our client proposes to build instead the CookFox design which is more rectilinear, more sustainable and it believes more respectful of the surrounding context and appropriate to the Historic District. The current site is slightly larger by the addition on 24<sup>th</sup> Street of Lot 60, a demolished residential building (22 West 24<sup>th</sup> Street) that once housed Stanford White's "Girl on a Swing" studio." Lot 60 is a 19 x 80, 1,500 square feet parcel that adds approximately 15,000 square feet to the project.

The requested bulk waivers are minimal and less than the 2006 special permit building: height and setback waivers in order to match the taller streetwalls on both streets in the historic district; a 40-foot rear yard equivalent that it is not located within 5 feet of the centerline of the block; and a small rear yard waiver (4 feet 9 inches) against the adjacent commercial building to the west.

In approving the special permit, the CPC concluded that the use modifications would have minimal adverse effects on the conforming uses within the building and in the surrounding area.

The Commission noted in its Report 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 slow conversion of manufacturing space to residential uses. The proposed residential use is consistent with the land uses along Sixth Avenue between West 23rd Street and West 31st Street, which was rezoned in 1995 to allow for as-of-right residential use, with the 2004 Ladies Mile Rezoning which rezoned midblocks south of this site, and with the 2006 Madison Park West rezoning of Broadway between West 23rd and West 25th Streets. The Commission noted that there is already a presence of residential use on the block and that that the addition of the 43 units would not adversely affect the area.

Further, the site is narrow and given the required rear yard equivalent the Commission believed that it would be impossible for this site to have a building with a sufficiently large floor plate for office or manufacturing use. Also, since this site is a parking lot, there would be no displacement of commercial or manufacturing use as a result of this approval.

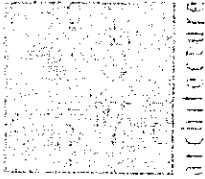
The Commission noted that Section 74-711 was created to offer owners of landmarks or buildings within historic districts an opportunity to develop a site despite the underlying district's use restrictions as a way to compensate the owner for design limitations and required maintenance associated with 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.

Under the current proposal, there would be no increase on West 24<sup>th</sup> Street of street frontage or lot area in residential use. And the amount of residential use on West 24<sup>th</sup> Street, compared to the 2006 special permit building, is increasing by less than 8,000 square feet. (The 22 West 24<sup>th</sup> Street "Girl on a Swing" Building had 8,000 square feet of residential use and the 2006 special permit building had 5,190 square feet of residential use, for a total of 13,190 square feet. There is 20,895 square feet of residential use on West 24<sup>th</sup> Street in the current proposal.)

With respect to the special permit for the parking garage under Section 13-451, the garage would be a below grade accessory parking facility with up to 50 spaces – as noted, the site is currently a parking lot with a capacity of 42 cars. The garage would have an innovative automated turntable system with three reservoir spaces.

As discussed in the CPC report approving the application, the applicant has agreed to include 4 affordable rental units in the building, a total of 3,800 square feet. The units represent an approximately 25% affordable commitment based on the additional floor area added to the proposal as a result of the addition of Lot 60. The units provided would be two two-bedroom units (to be located on the fourth floor of the 24<sup>th</sup> 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 23<sup>rd</sup>

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. There would be no separate entrance for the affordable units – they would be accessed by the same building entrances as all other units, and the affordable tenants would have the same access to building amenities as other tenants.



April 23, 2015

City Council Daniel R. Garodnick  
212 east 43<sup>rd</sup> Street Suite 1205  
New York, NY 10017

Re: Sidewalk Café Agreement Letter  
Pacap LLC  
181 east 78<sup>th</sup> Street  
New York, NY 10075

Dear Council Member Garodnick,

SWA Architecture PLLC, as an authorized representative of Pacap LLC, in connection with their application for an unenclosed sidewalk café and, on behalf of Pacap LLC, hereby commit to the City Council in light of the concerns of the Community Board:

- 1) We agree to comply with Community Board 8 comments and the application is for four (4) tables and eight (8) seats.

If there are any questions please call my office. Thank you.

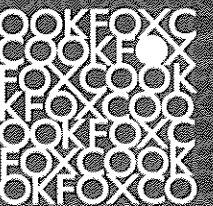
Sincerely,

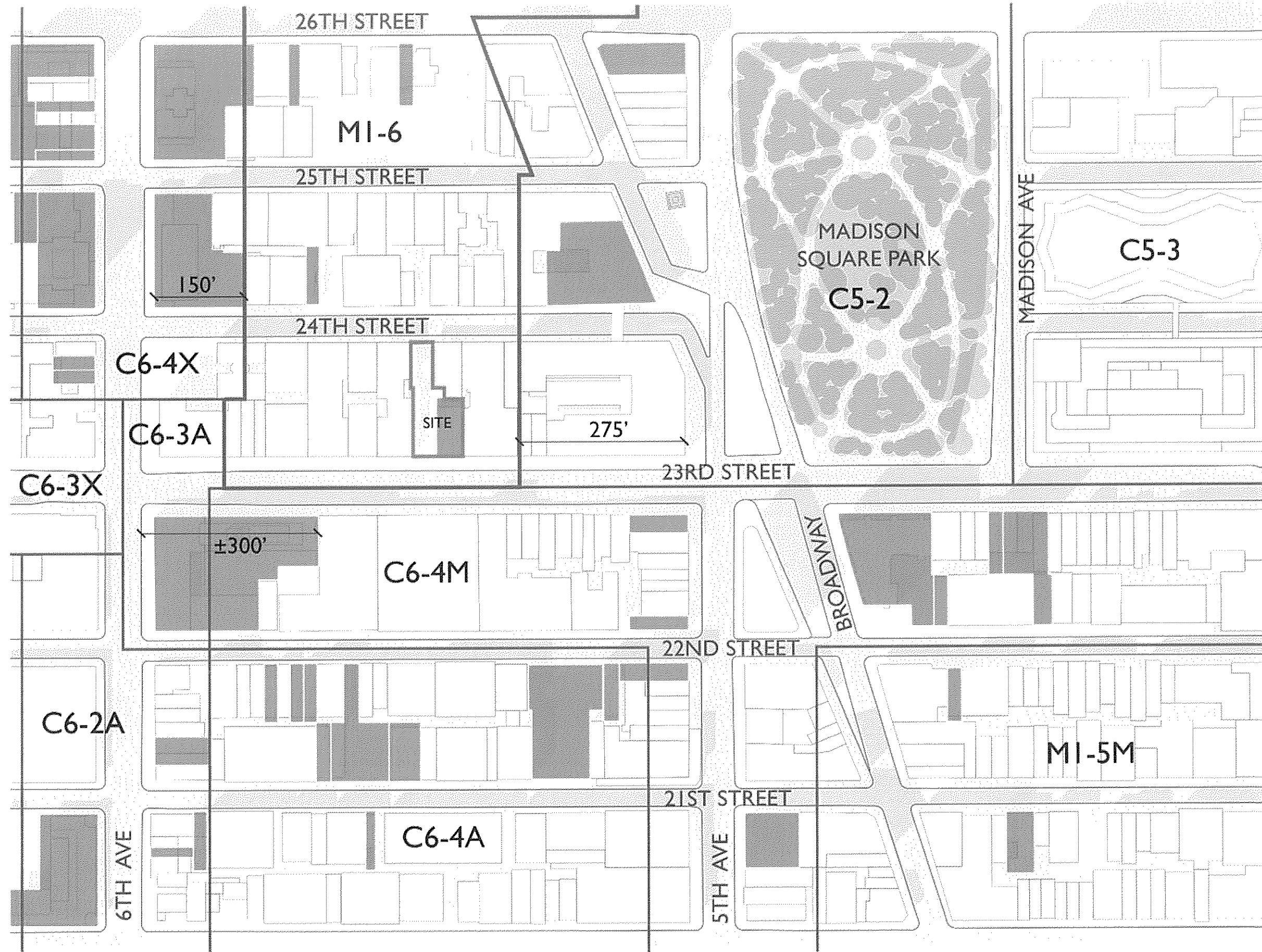
A handwritten signature in black ink, appearing to read "Steve Wygoda".

Steve Wygoda, RA

# 39-41 WEST 23RD STREET

COOKFOX ARCHITECTS  
ANBAU ENTERPRISES INC  
04.23.2015





ZONING MAP: ZONING DISTRICT & ADJACENT RESIDENTIAL BUILDINGS



**Existing Special Permit Approval: View of 23rd Street**

LPC Approval 07/19/2005

CPC Approval 12/06/2006

(image Credit: Carlos Zapata Studio/Gruzen Samton LLP)



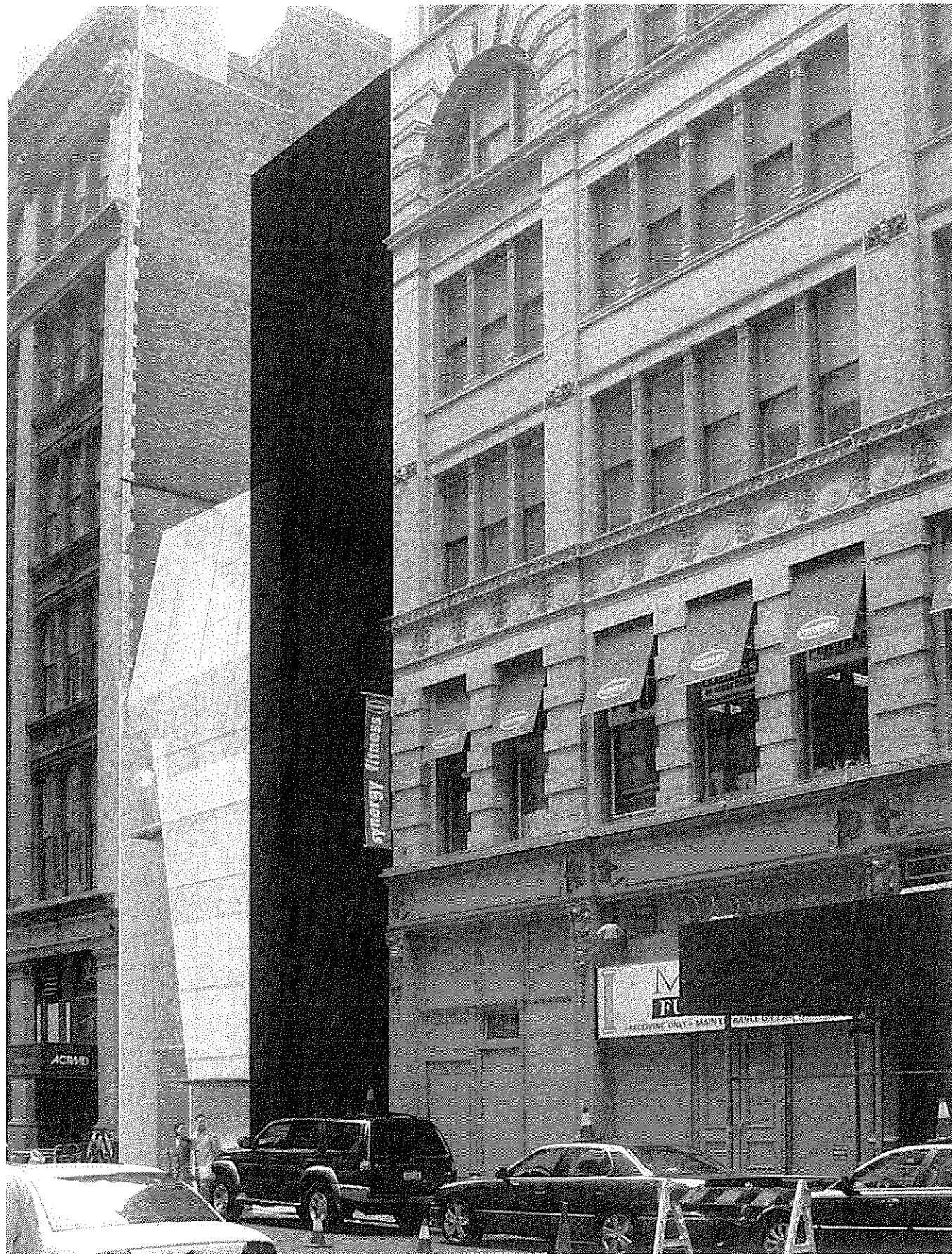
**Proposed Design: View of 23rd Street**

(with addition of Lot 60)

LPC Approval 10/29/2013

(Image Credit: CookFox Architects)





**Existing Special Permit Approval: View of 24th Street**

LPC Approval 07/19/2005

CPC Approval 12/06/2006

(image Credit: Carlos Zapata Studio/Gruzen Samton LLP)

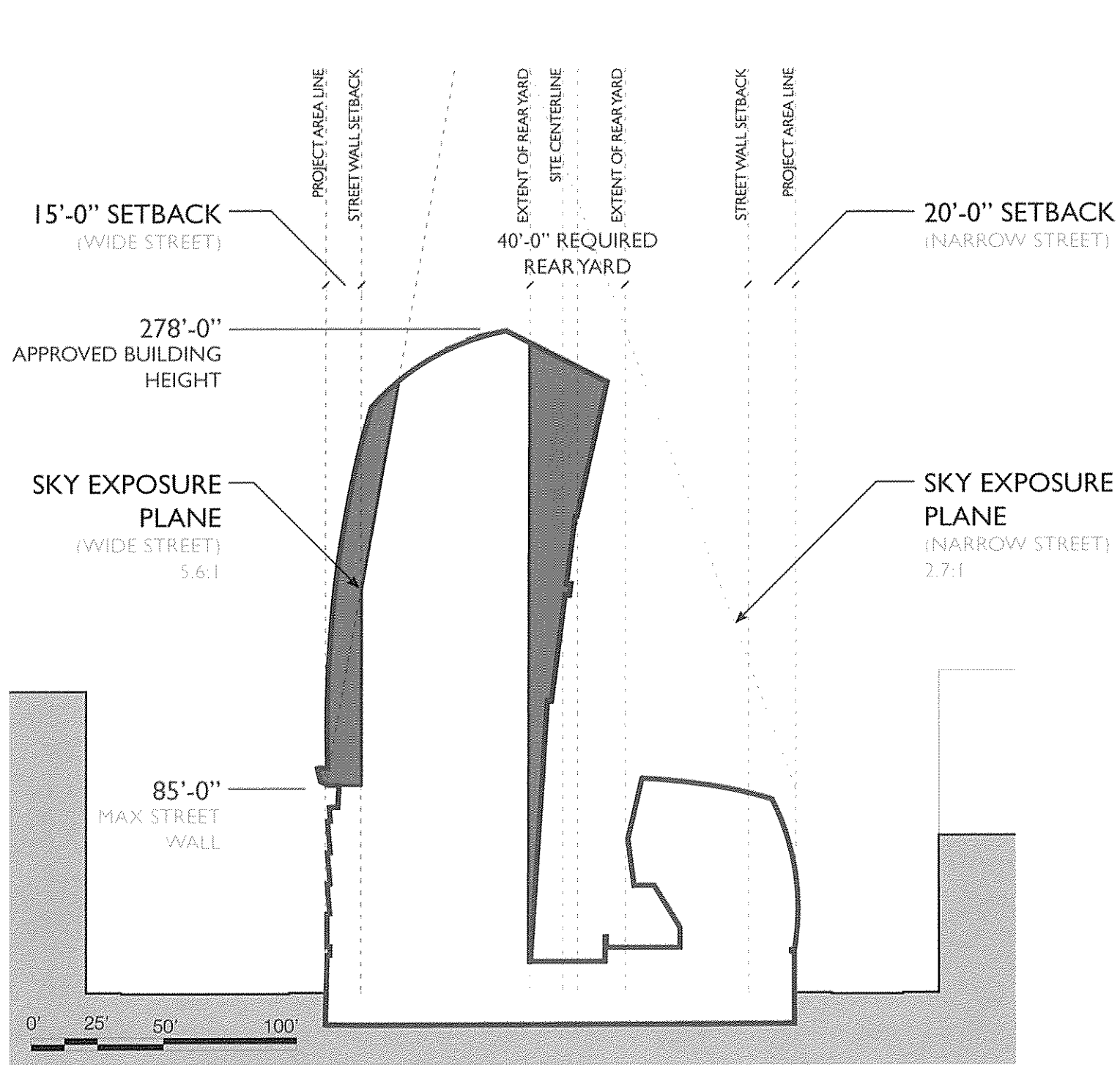


**Proposed Design: View of 24th Street**

(with addition of Lot 60)

LPC Approval 10/29/2013

(Image Credit: CookFox Architects)

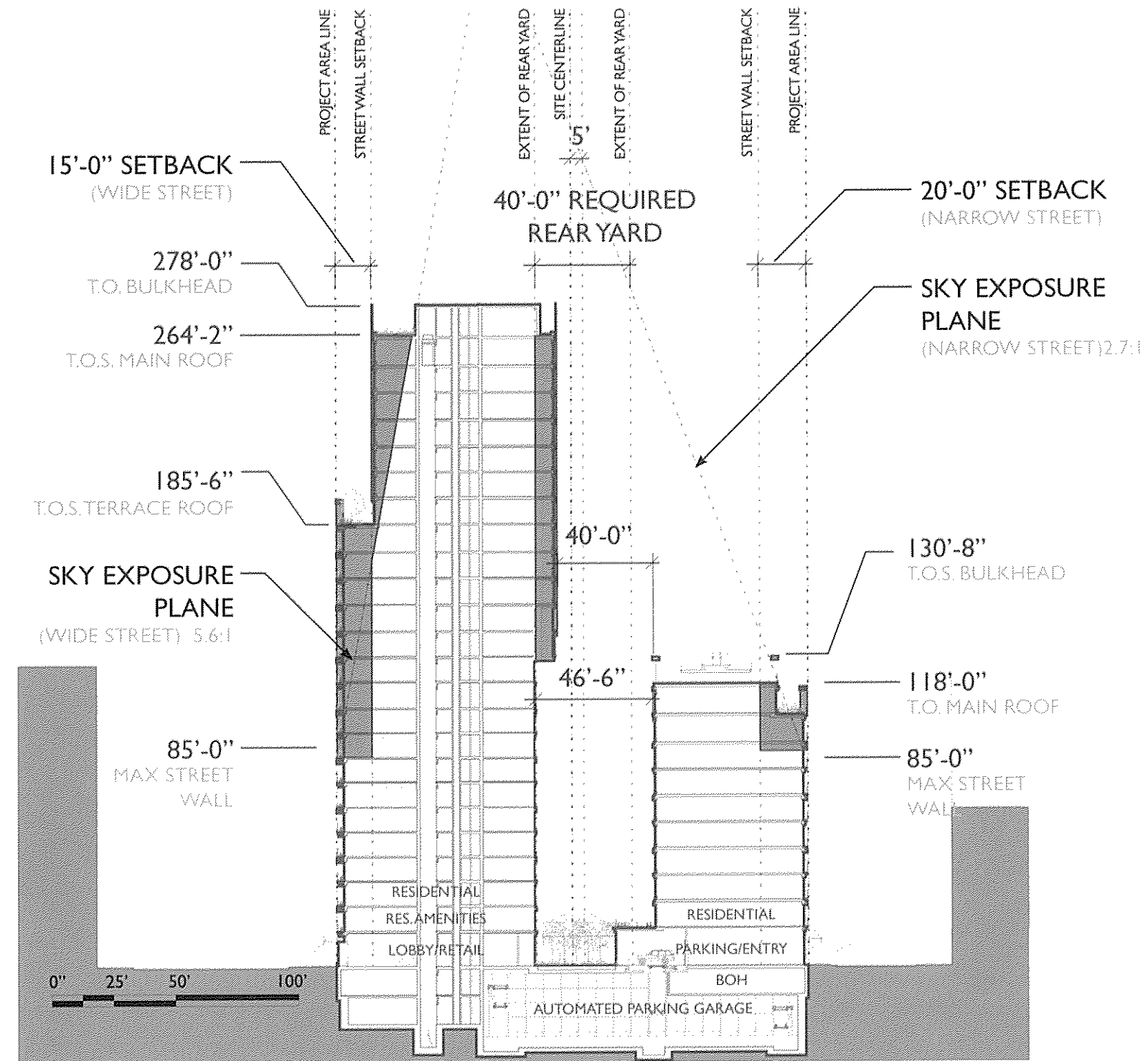


### Existing Special Permit Approval

LPC Approval 07/19/2005

CPC Approval 12/06/2006

(image Credit: Carlos Zapata Studio/Gruzen Samton LLP)



### Proposed Design (with addition of Lot 60)

LPC Approval 10/29/2013

(Image Credit: CookFox Architects)



SITE

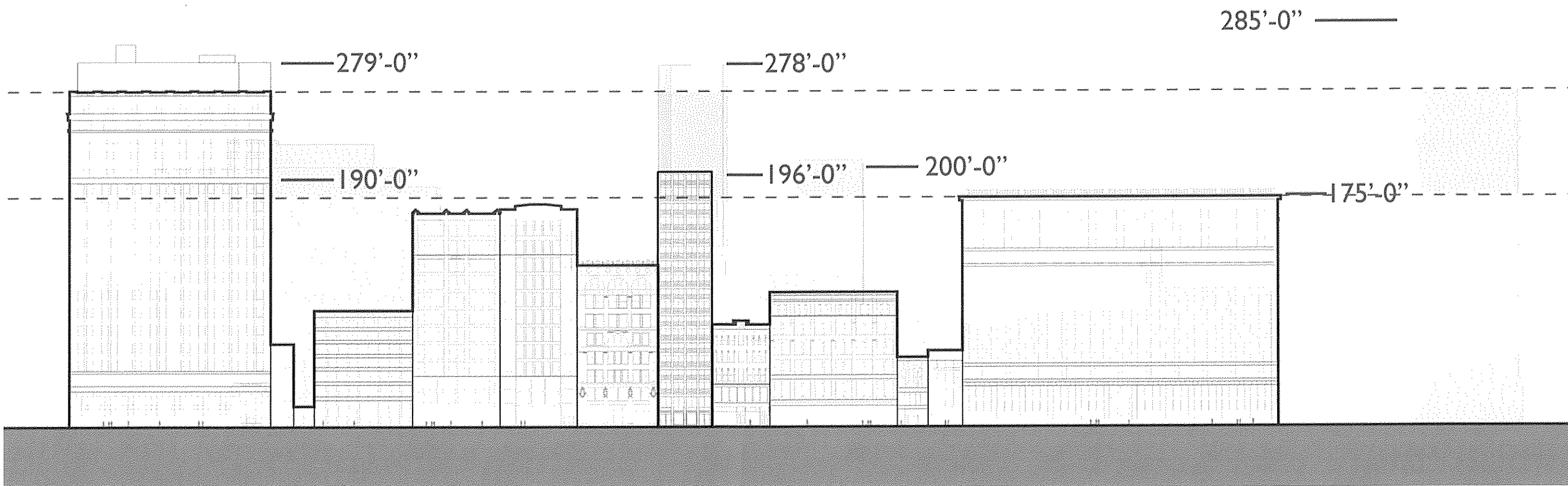
View from top of Masonic Building looking East

SPRING 2013

CONTEXT PRECEDENT



Side Wall of Stern Brothers Department Store on 23rd Street  
SPRING 2013



HETEROGENEOUS STREET WALL DIAGRAM

23RD STREET SOUTH OVERLAY





ARCHITECTURAL VIGNETTE

View on 23rd Street looking West



ARCHITECTURAL VIGNETTE

View on 23rd Street looking West



ARCHITECTURAL VIGNETTE

View on 23rd Street looking West



“Nature holds the key to our aesthetic, intellectual, cognitive and even spiritual satisfaction.”

-E.O.Wilson



ARCHITECTURAL VIGNETTE: SECTION PERSPECTIVE

ARCHITECTURAL VIGNETTE: 24TH STREET



Looking Southeast on 24th Street

STAIR AMEND  
**THE COUNCIL**  
**THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/23/2015

(PLEASE PRINT)

Name: EDWARDS FERRIER

Address: 9 METRO TECH Brooklyn

I represent: F.D.N.Y

Address: 9 METRO TECH

**THE COUNCIL**  
**THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: 4/23/2015

(PLEASE PRINT)

Name: Rick Cook

Address: 641 Avenue of the Americas

I represent: 39-41 W 23 Arden Properties: Applicant

Address:

**THE COUNCIL**  
**THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Michael T. Silverman

Address: Kramer Levin

I represent: applicant 39-41 W. 23<sup>rd</sup>

Address:

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. \_\_\_\_\_

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Paul Tran's

Address: 675 Third Avenue

I represent: Anbau Ent. 39-41 W. 23rd

Address: \_\_\_\_\_

Please complete this card and return to the Sergeant-at-Arms

**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. \_\_\_\_\_ Res. No. 208

in favor  in opposition

Date: \_\_\_\_\_

(PLEASE PRINT)

Name: Shlomo Wysocki

Address: 190 E. Mayo St.

I represent: Monte Carlo

Address: 181 E. 78

Please complete this card and return to the Sergeant-at-Arms