

November 2, 2021

Joel Koppel
San Francisco Planning Commission
49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
(Via email: joel.koppel@sfgov.org)



RE: OPPOSITION to 425 Broadway (Case No. 2017-15678CUA)

Dear President Koppel and Commissioners,

On behalf of the Telegraph Hill Dwellers (THD), we express our opposition to the mixed-use project at 425 Broadway as it is proposed. This project is comprised of two mixed-use buildings – one on Broadway and a second building on Montgomery Street, legally separated by Verdi Place, a 20-foot-wide public right of way from Montgomery, and a city-owned sewer easement reserved within the former extension of Verdi Place.

We are concerned about the size and design of the two buildings, their lack of compatibility with other nearby buildings in the Jackson Square Historic District Extension where the project site is located, and the failure to the Planning Department to analyze important health and safety impacts of the buildings (including geotechnical, structural, shadowing, and traffic) by declaring the project exempt from all CEQA review. We are also concerned that the project would not only impact the health and safety of the residents of the adjacent SRO hotel, but would also contribute to gentrification leading to the displacement of low-income and senior residents of multiple Single Room Occupancy (SRO) hotels in the immediate vicinity of the project.

In addition, we are concerned that the project's posted notice did not comply with the requirements of the Section 333 of the San Francisco Planning Code, which requires such notices to include the languages spoken by non-English speaking persons – here a substantial number of the residents of the nearby low-income SRO hotels and apartment buildings speak only Cantonese.

Also, we note that the draft motion for the project appears to authorize a “public parking garage” (see Draft Motion, Exhibit A, “Authorization”). No such garage is shown on the project sponsor's plans, nor has it been discussed earlier. If incorrect, the draft motion should be revised.

Health, Safety and Livability Impacts on Adjacent Low-Income and Senior Residents

Most importantly, we ask the Planning Commission to consider the project's adverse and direct impacts on the health, safety and liveability of the very low income and senior residents of the immediately adjacent SRO hotel at 401-407 Broadway (New Rex Hotel), home to 39 low-income households occupying rooms with limited exterior windows.

The height and bulk of the proposed Montgomery building, which would be located along Verdi Place, the 20-foot wide east-west facing public right-of-way, would block light and air to all south-facing windows of the New Rex Hotel, while the height and bulk of the proposed Broadway building, towering over the New Rex Hotel, would block light and air to its West-facing windows despite two proposed matching air wells.

The project sponsor's own shadow study (see **Figure 1**) provides substantial evidence that these windows would be in near-perpetual shade. These shadow impacts on the low-income and senior residents of the immediately adjacent New Rex SRO hotel are specific and direct adverse impacts on public health and safety and on the physical environment that would allow the Planning Commission to deny a requested incentive, concession, or waiver if it makes a written finding of such adverse impacts.

Gentrification and Displacement

Broadway is a major corridor for very low-income housing, including numerous SRO hotels and low rent apartments in addition to the New Rex Hotel. Other immediately adjacent SRO residence hotels (see **Figure 1** and the project sponsor's photos in **Figure 2**) include the Golden Eagle SRO residence hotel at 400 Broadway (118 rooms), On Lok SRO for seniors at 1000-1010 Montgomery (41 rooms), and the SRO residence hotel at 381-389 Broadway (49 rooms). While the construction of the proposed new market-rate housing development at 425 Broadway does not directly displace existing residents or community-serving businesses, the cumulative effect of creating high-end unaffordable housing at 425 Broadway, together with the market rate housing proposed nearby at 955 Sansome and 875 Sansome, will stimulate further real estate speculation almost certainly resulting in the gentrification of the Broadway Corridor, leading to the loss of affordable housing for the very poor and the displacement of very low-income, monolingual families from their homes.

Required Commission Actions

For the project to proceed the Commission must: (1) adopt findings to approve requested Conditional Use Authorizations; and (2) adopt findings that the requested State Density Bonus waivers and incentives will result in actual cost reductions for the affordable housing in the project, and that the requested waivers and incentives will not negatively impact public health, safety, or historic property. In addition, the Commission must adopt the Department's determination that the project is exempt from the California Environmental Quality Act (CEQA).

1. Please Deny the Project's Requested Conditional Use Authorizations.

To grant a CUA, Section 303 requires the Commission to find *that the proposed use, at the size and intensity contemplated, is necessary or desirable for, and compatible with, the neighborhood or the community; and that the proposed use size will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity.*

o Please Deny the Office Space CUA.

Non-residential use sizes in the Broadway NCD are limited to **2,999 sq. ft.** unless the Commission grants a CUA. Here the project is requesting a total of **23,675 sq. ft.** of non-residential use, of which **18,735 sq. ft. is for office use**, more than six times the 2,999 square feet non-residential use limit for this district. As shown on the project sponsor's plans (**Figure 3**), the inclusion of the proposed non-residential office use would substantially increase the height of each of the buildings. This excessive amount of office space unnecessarily expands the size of each of the two buildings, while millions of square feet of office space in the City go unused.

Given the project's significant impact on the health, safety and liveability of the low income and senior residents in the immediately adjacent SRO hotel due to the project's size and height, together with the project's role in fuelling the gentrification of the Broadway Corridor leading to displacement of low-income, monolingual families, we believe the Commission cannot make the required findings to

grant this CUA. The request to exceed the non-residential use limit as proposed is not necessary or desirable for or compatible with the neighborhood and will be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity. Please deny the CUA to allow the project to exceed the non-residential use limit in the Broadway NCD.

○ **Please Deny the CUA to exceed 40 feet in height in the Broadway NCD.**

The project sponsor has requested a CUA to allow each of the two buildings to exceed 40 feet in height. Planning Code Section 253.1 requires the Commission to make specific findings before a CUA can be approved for a new building in the Broadway NCD that would exceed 40 feet in height and prohibits the Commission from approving any new building that exceeds 65 feet.

In addition to the Section 303 findings listed above, the Commission is required by Section 253.1 to find that “*The height of the new or expanding development will be compatible with the individual neighborhood character and the height and scale of the adjacent buildings.*”

The project is located within the Jackson Square Historic District Extension, which is listed on the California Register of Historic Places. The buildings in this historic district are characterized by 2- to 3-story brick regular building forms with string courses, cornices, and deep window and door openings. By a significant margin, the proposed Montgomery building would be the tallest building in the historic district, rising 76 feet above its base on Montgomery Street. As illustrated by the project sponsor’s own rendering reproduced in **Figure 4**, the project sponsor’s characterization of the Montgomery building as 64 feet in height is substantially misleading. The figure clearly shows that the Montgomery building is actually 76 feet above Montgomery Street. There are two separate buildings proposed on this downward sloping site, separated by a strip of land that cannot be built upon – a public right of way (Verdi Place) and a city-owned sewer easement. By all logic, the height of each of these buildings should be calculated separately. If so, the Montgomery building would exceed the 65-foot height limit for this site and, therefore, could not be approved by the Commission.

Given that the height of the proposed new buildings would not be compatible with the character of the Jackson Square Historic District Extension and would exceed the height and scale of the adjacent historic buildings on Broadway, we do not believe that the findings required by Planning Code 253.1 to grant a CUA for heights above 40 feet can be made. Further, as discussed above, granting a CUA for the heights of these buildings would be *detrimental to the health and safety and general welfare of persons residing in the vicinity* – specifically to the low-income residents in the adjacent New Rex Hotel.

Further, the material of the buildings is incompatible with the character of the historic buildings in the surrounding historic district. The “thin brick tile” as specified on the plans is incompatible with the district, as is the dark black color of the Broadway building and a significant portion of the Montgomery building. Please deny the CUA to allow the project to exceed 40 feet.

2. Please Deny the Project’s Requested Incentives/Concessions and Waivers.

Because the project proposes to use the State Density Bonus Law, the Commission must adopt findings related to the requested waivers and incentives or concessions. According to the Department’s staff report for the November 4th hearing, the project is requesting an incentive to exceed the non-residential use limitation of 2,999 sq. ft. and three (3) waivers from Planning Code development standards including waivers from the minimum requirements for Rear Yard (Sec. 134), Dwelling Unit Exposure (Sec. 140), and Bulk Limits (Sec. 270).

○ **The Commission Lacks Information to Adopt Findings to Allow the Incentive.**

The State Law provides that an incentive is allowed if “*required to provide for affordable housing costs.*” CA Govt. Code Section 65915(k). The Planning Director’s Bulletin No.6 (updated June 2021) at page 5 provides that:

*“[T]he Planning Commission **must** adopt findings that the requested incentives will result in actual cost reductions for the project, and the requested waivers and incentives will not negatively impact public health, safety, or historic property.”*

We are aware of no financial proforma or other financial data available to the Commission as would be necessary for it to adopt the required findings. We therefore urge the Planning Commission to require an adequately detailed financial proforma and/or other financial data prior to adopting findings that the requested incentives will result in actual cost reductions for the affordable housing in the project.

○ **Please Deny the Requested Incentive and Waivers.**

The State Density Bonus Law allows the Commission to deny a requested incentive, concession, or waiver if it makes a written finding, based on substantial evidence, of any of the following:

- The concession, incentive, or waiver would have a **specific, adverse impact on public health and safety** or upon the physical environment,
- The concession, incentive, or waiver would have a **specific, adverse impact on a property listed on the California Register of Historic Places, or**
- The concession or incentive would not result in **identifiable and actual cost reductions required to provide for the affordable housing units.**

The project’s requested incentive would allow the inclusion of 18,735 square feet of “professional office” space in the proposed project. The Commission can deny a requested incentive, concession, or waiver if it makes a written finding, based on substantial evidence before it, that the concession, incentive, or waiver would have a **specific, adverse impact on public health and safety** or upon the physical environment. As discussed above, we believe there is substantial evidence, based on the project sponsor’s own shadow study, that the frequent shadows on the adjacent the SRO hotel at 401 Broadway (New Rex Hotel) that would result from the project’s requested incentive and waivers would have a **specific, adverse impact on public health and safety** of the residents of the hotel, allowing the Commission to deny the requested incentive as well as one or more waivers. The elimination of the office space from the proposed project would reduce the height of the buildings, mitigating the specific, adverse impact on public health caused by project’s shadow impacts as well as the specific, adverse impact on historic resources.

Unfortunately, there is inadequate financial information available to the Commission to make a finding that the incentive or a waiver would not result in identifiable and actual cost reductions required to provide for the five units of affordable housing in the project.

○ **Urgent Need to Develop, Adopt, and Apply Objective and Standardized Procedures for State Density Bonus Projects.**

We are concerned that there has not been a sufficient demonstration of the project's qualification for the incentive/concession or waivers requested by the project sponsor under the State Density Bonus Law and that the Department has not developed, adopted, or applied an objective, quantitative, and standardized procedure for making such demonstrations. As a result, the Commission has insufficient information before it to make the required findings.

And, as members of the public, we are also entitled to adequate and publicly available financial and other justification for the requested density bonus incentives and waivers, with more detailed and meaningful financial and other analyses submitted to the Commission to more fully demonstrate that the requested waivers will not negatively impact public health, safety, or historic property.

3. Please Reject the Categorical Exemption and Require Environmental Review.

We urge the Commission to reject the project's flawed determination that the project is exempt from environmental review and to require an EIR. The Department's conclusion that this project is exempt from the California Environmental Quality Act (CEQA) effectively "scopes out" and bypasses without analysis the significance of the environmental impacts of this project and, where appropriate, their mitigation. Such impacts could include, without limitation:

- Geotechnical - impacts of building excavation and construction on adjoining older, particularly susceptible buildings, especially the SRO residence hotel at 401-407 Broadway, which was constructed in 1907 and that would be vulnerable to excavation and construction impacts on two of its four sides, as well the building at 435-443 Broadway, also constructed in 1906, located immediately to the west of the proposed Broadway building
- Health and safety - impacts of loss of light and air on low-income and senior tenants of nearby SRO residence hotels
- Displacement – impacts of the introduction of new market-rate luxury condominiums on the continuing availability and viability of nearby SRO residence hotels and other low-income housing in the project vicinity
- Historic resources – impacts of the proposed building scale, massing, and design on the California Register-listed Jackson Square Extension Historic District in which the project is located
- Cumulative effects – combined impacts of the proposed project and other currently proposed projects nearby, in particular the effect of the proposed project on shadowing of the John Yehall Chin Elementary School itself and on its two playgrounds combined with shadowing of those same locations from the proposed projects at 955 Sansome and 875 Sansome.

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Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Hayes". The signature is fluid and cursive, with the first name "Dan" and last name "Hayes" clearly distinguishable.

Co-Chair, Planning & Zoning Committee
Telegraph Hill Dwellers

cc: Kathrin Moore, Vice President kathrin.moore@sfgov.org
Deland Chan, Commissioner deland.chan@sfgov.org
Sue Diamond, Commissioner sue.diamond@sfgov.org
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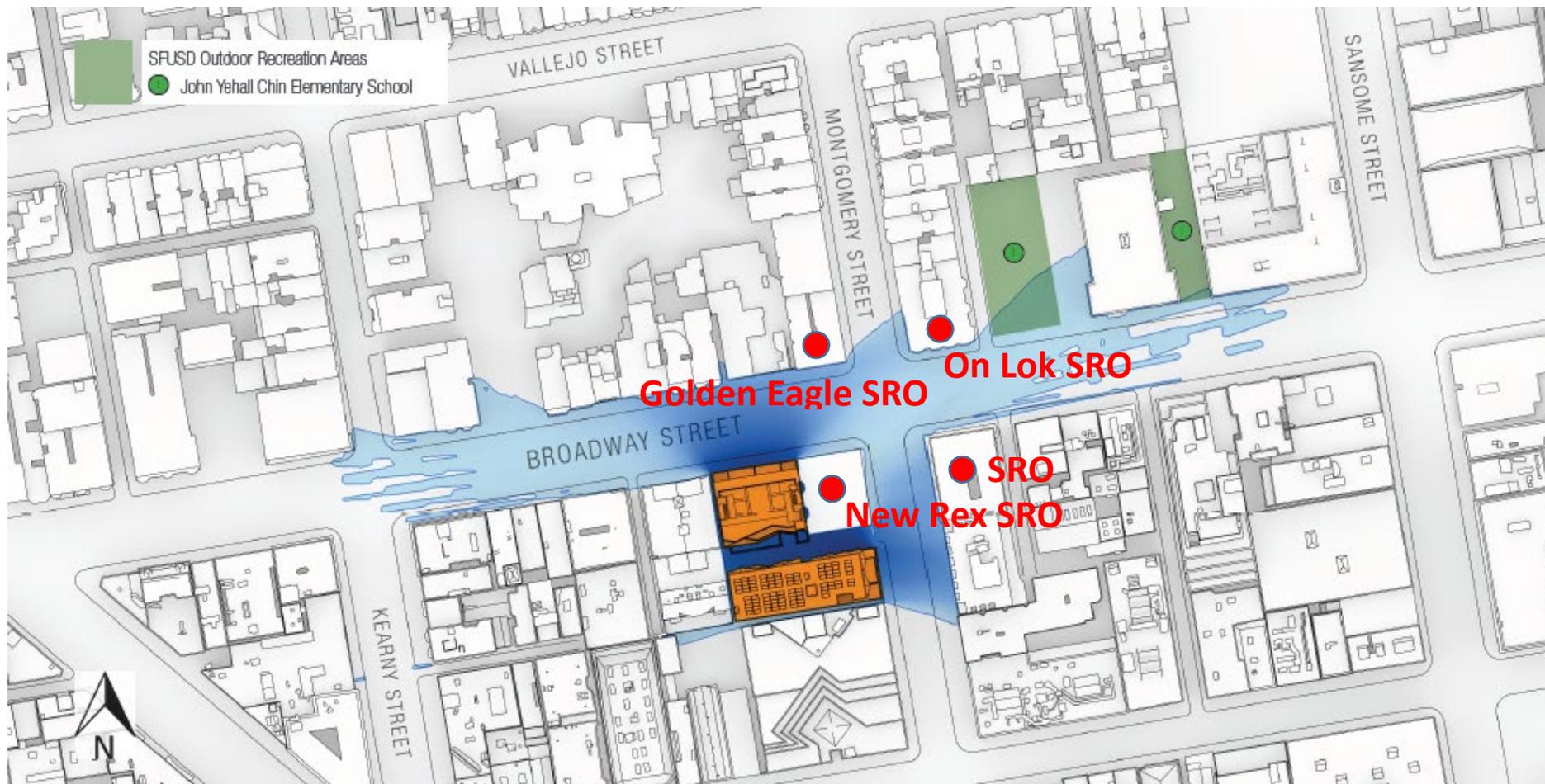


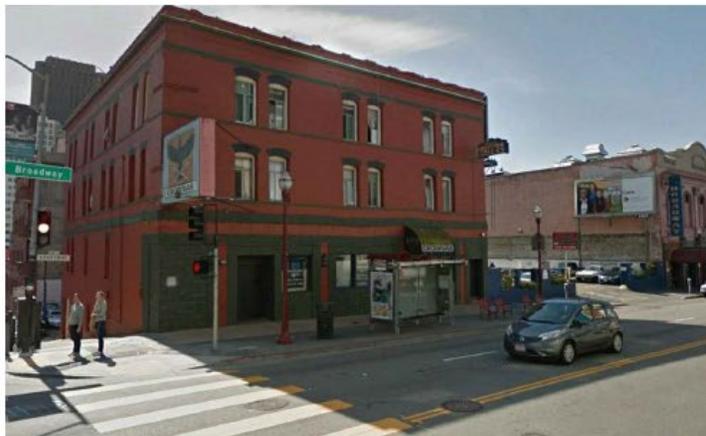
Figure 1. Shadowing caused by proposed project at 425 Broadway, also showing locations of SRO residence hotels – based on project sponsor’s shadow study (darkest blue shading is the most frequent shadowing).



5 BROADWAY - NORTH EAST CORNER



6 BROADWAY - NORTH WEST CORNER



7 BROADWAY - SOUTH WEST CORNER



8 BROADWAY - SOUTH EAST CORNER

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PROJECT _____

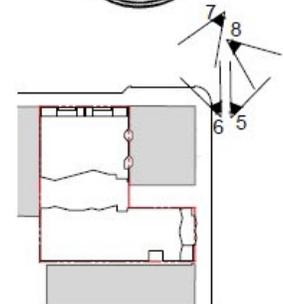
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SHEET NO. : _____ A-24,0 _____

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09/28/2021 _____ DRAWING SET- FOR CITY SUBMISSION _____



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Figure 2. Project sponsor's photos showing SRO residence hotels at the corner of Broadway and Montgomery, at 401-407 Broadway (New Rex, 39 rooms, SW corner), 400 Broadway (Golden Eagle, 118 rooms, NW corner), 1000-1010 Montgomery (On Lok, 41 rooms, NE corner), and 381-389 Broadway (49 rooms, SE corner)

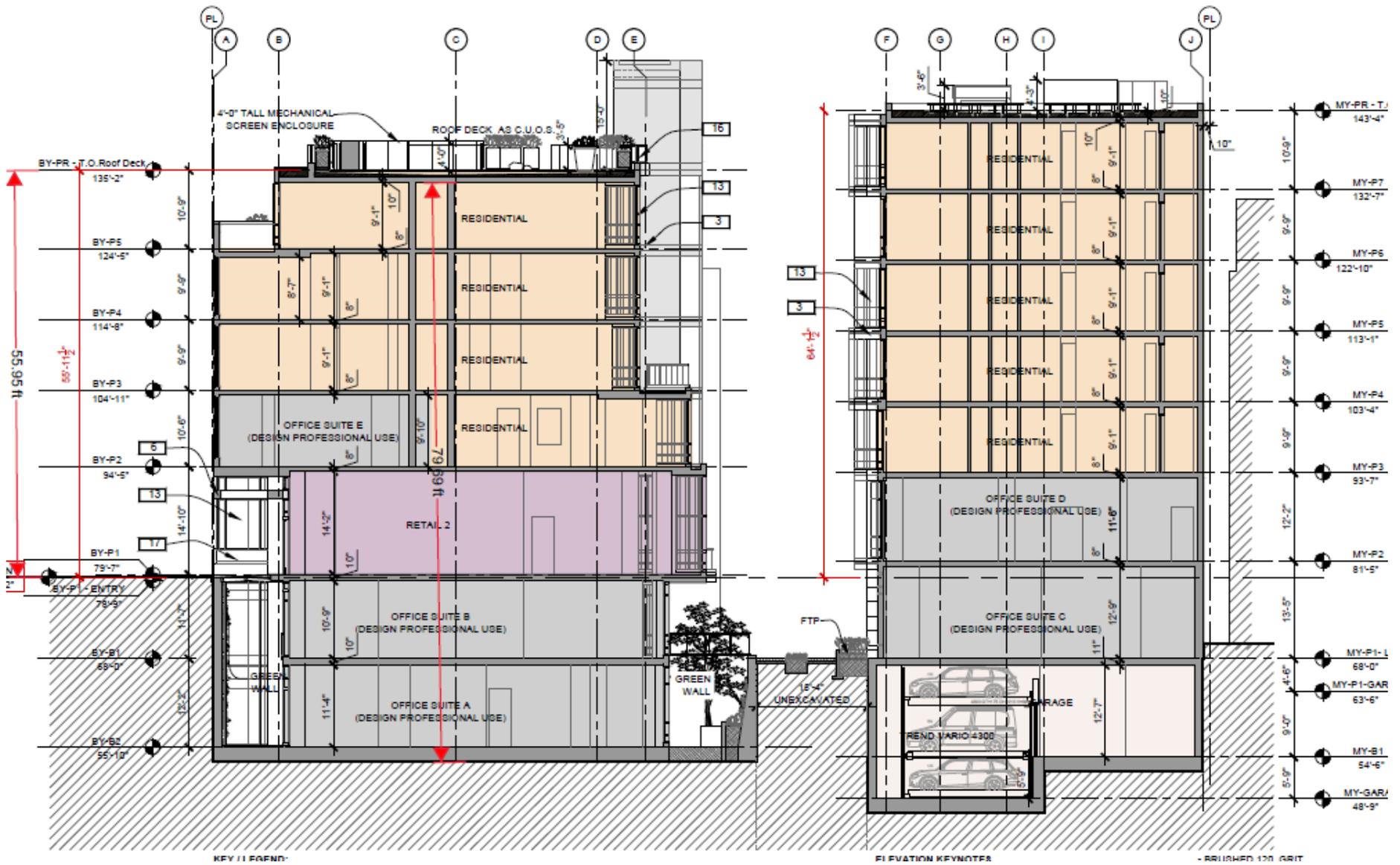


Figure 3. Section showing extent of proposed office space (gray shading), excerpted from project sponsor's plans



Figure 4. Physical height above Montgomery and Broadway for two proposed buildings at 425 Broadway (Montgomery building = 76 feet, Broadway building = 56 feet)