HALIFAX
REGIONAL MUNICIPALITY
PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

10.1.1

Peninsula Community Council
July 11, 2005

TO: Chairman and Members of Peninsula Community Council

SUBMITTED BY: Paul Dunphy, Director of Planning & Development Services

DATE: July 4, 2005

SUBJECT: Case 00789: Amendment to an Existing Development Agreement - 5620 South Street, Halifax.

ORIGIN

Application by Amalthea Holdings Limited to amend an existing development agreement to permit a multiple unit residential development at 5620 South Street, Halifax.

RECOMMENDATION

It is recommended that **Peninsula Community Council**:

1. Move Notice of Motion for the amending agreement (see Attachment B) for 5620 South Street, Halifax and schedule the public hearing for September 12, 2005;

2. Approve the proposed amending development agreement to permit a single multiple unit residential building at 5620 South Street, Halifax as contained in Attachment B;

3. Require that the development agreement be signed and delivered within 120 days, or any extension thereof granted by Council on request of the applicant, from the date of final approval by Council and any other bodies as necessary, whichever is later; otherwise this approval will be void and obligations arising hereunder shall be at an end.

BACKGROUND

Zoning

The subject property, at 5620 South Street, is zoned R-3 (Multiple Dwelling Zone) and R-3V (Multiple Dwelling Zone within a view plane) (see Map 1). Development on the site is subject to a 100-foot height precinct (see Map 2) and a maximum density of 250 persons per acre, giving this site an "as of right" possibility of 211 persons calculated in terms of habitable rooms[1]. The site has been vacant for some time.

In addition to zoning provisions, there is an approved development agreement in effect for this property. The agreement was approved by Community Council in August, 2004 and permits162 apartment units within 3, 10-storey buildings with 3 levels of underground parking. In exchange for the developer not proceeding with plans for a taller building which he was permitted to construct, some concessions, in the form of more density, less open space, non compliance with angle controls, etc, were made in the development agreement in order to achieve a building that was more acceptable to community residents. An outline of the property's recent development history is provided as Attachment D.

Public Information Meeting and Property Notification

A public information meeting (PIM) was held on April 28, 2005, to present information and receive input on the proposed amendment to the existing development agreement. Questions and concerns raised by those attending were addressed at the meeting (see Attachment E).

Should Peninsula Community Council decide to proceed with a public hearing on this application, in addition to published newspaper advertisements accessible to the general public, property owners in the immediate area will be individually notified. The area of notification is shown on Map 1.

Current Proposal

The developer has determined that a new proposal for a single apartment building as opposed to the previously approved proposal for three apartment buildings would be a better project. A detailed proposal fact sheet is provided as Attachment A of this report and a copy of the previously-approved development agreement is provided as Attachment C. Highlights of the revised proposal are:

- a reduction in the total number of apartment units;
- a change in the unit mix to provide mostly one bedroom units;
- elimination of 3 levels of underground parking and a reduction in total parking spaces;
- provision of a decoratively-treated surface parking area for 17 vehicles;
- landscaped open space consistent with what was previously approved and enhanced;
- density and building height to remain unchanged;

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1 **"Habitable Room"** means any room in a dwelling house, multiple dwelling, or dwelling unit, with the exception of bathrooms, storage spaces with no windows, or kitchens with a floor area of less than one hundred square feet. Combined or undivided living spaces with floor areas greater than four hundred square feet shall be deemed to be two habitable rooms.

- increased setbacks to the properties on the east and west;
- an existing sewer easement would now fall outside the building envelope; and

With respect to compliance with the R-3 requirements, the proposed building complies with density, parking, setbacks and the height precinct. Angle controls are partially met .

DISCUSSION

It should be noted that, in response to this application, the existing approved development agreement would only be amended where warranted to allow the new proposal. All other conditions would remain in place, including clause (2.2 (c)), prohibiting dwelling units from containing non-habitable rooms which could be converted into habitable rooms. Also, clause 2.2 (j), limiting bachelor units to one bathroom and prohibiting "powder rooms" or similar facilities has been retained. Additionally, dens have now been included as part of this restriction as the applicant intends to construct non-habitable room within some units for use as dens or sitting rooms.

The draft amending agreement (Attachment B) and the replacement Schedules reflect the following changes to the existing agreement:

- one apartment building instead of three;
- reduction in the number of units from 162 units to 108 units;
- change in the unit mix from:
  - 120 studios/bachelor; 36 one-bedroom; and 6 two-bedroom units to:
  - a maximum of12 studios/bachelor; 90 one-bedroom; and 6 two-bedroom units;
- reduction in the parking provided from:
  - 124 spaces to:
  - 60 spaces (43 underground and 17 surface) - this meets the by-law requirement of 57 spaces.[2];
- additional minimum landscape requirements related to the surface parking area and planters;
- references to more than one building, and phased construction have been deleted.

Pursuant to the proposed amending agreement, the architectural requirements for the building would remain the same as would the landscaping requirements. Additional clauses related to the surface parking area are provided. Not more than a total of 12 bachelor units would be permitted. As provided in the earlier development agreement, the density (habitable room) limitation of 211 persons is to be maintained. Additional one and two-bedroom units may be permitted in exchange for a reduction on the number bachelor units.

The requirement for a live-in building superintendent is to be retained. The previously-approved three levels of underground parking would be reduced to a single parking level. The pervious-approved development agreement provides for construction of three apartment buildings within two, three and four years respectively. As it takes less time to construct a single building compared to three, the amending agreement provides for commencement of construction within two years of

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2 Required parking is calculated on the basis of one parking space for each dwelling unit exceeding 800 square feet and one parking space for every two dwelling units, having less than 800 square feet in floor area.

approval. Consequently, the new proposal should have less of an impact in the form of construction activity on the neighbouring community than the previously-approved project.

Summary and Conclusion

Staff find that the modifications to the previously approved proposal are acceptable in scale and appearance, provide a more appropriate unit mix and continue to provide on-site security. Staff believe that the integrity of the previous agreement has been maintained while allowing a more desirable building to be constructed on the site. Therefore, staff recommend that Peninsula Community Council approve the attached amending development agreement.

BUDGET IMPLICATIONS

None

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. **Peninsula Community Council** may approve the proposed amending agreement, presented in Attachment B, to permit a single multiple unit residential building at 5620 South Street. This is the staff recommendation.

2. **Peninsula Community Council** may refuse to enter into the amending agreement, and in doing so, must provide reasons based on conflict with existing MPS Policy. Staff does not recommend this alternative as the amended proposal complies with the policies of the Municipal Planning Strategy specifically adopted to permit this project.

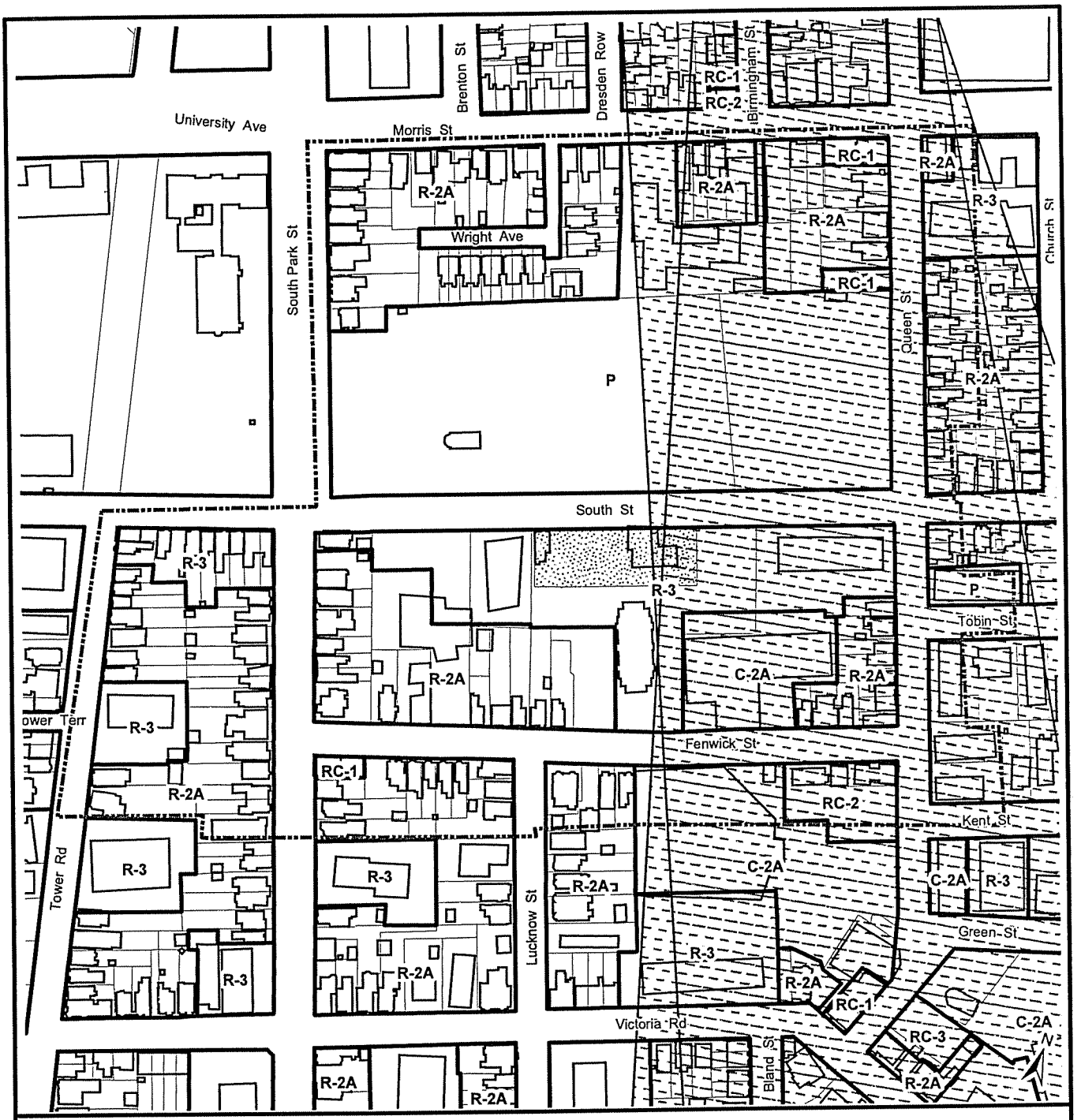
3. **Peninsula Community Council** may choose to request additional modifications to the amending agreement. Additional modifications may require further negotiations with the Developer. This alternative is not recommended as the attached agreement is consistent with adopted MPS policy for the area.

ATTACHMENTS

Map 1 - Zoning
Map 2 - Height Precinct
Attachment A - Proposal Fact Sheet
Attachment B - Draft Amending Agreement with Schedules
Attachment C - Existing Agreement
Attachment D - Recent Development History
Attachment E - Minutes of the Public Information Meeting held April 28, 2005

Additional copies of this report and information on its status can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report prepared by Randa Wheaton, Planning Services, 490-4499



Map 1 - Zoning

5620 South Street
Halifax

Subject property

Area of notification

Halifax Peninsula
Land Use By-Law Area

View plane

Zone

R-2A	General Residential Conversion
R-3	Multiple Dwelling
C-2A	Minor Commercial
RC-1	Neighbourhood Commercial
RC-2	Residential Minor Commercial
RC-3	High Density Residential Minor Commercial
P	Park and Institutional

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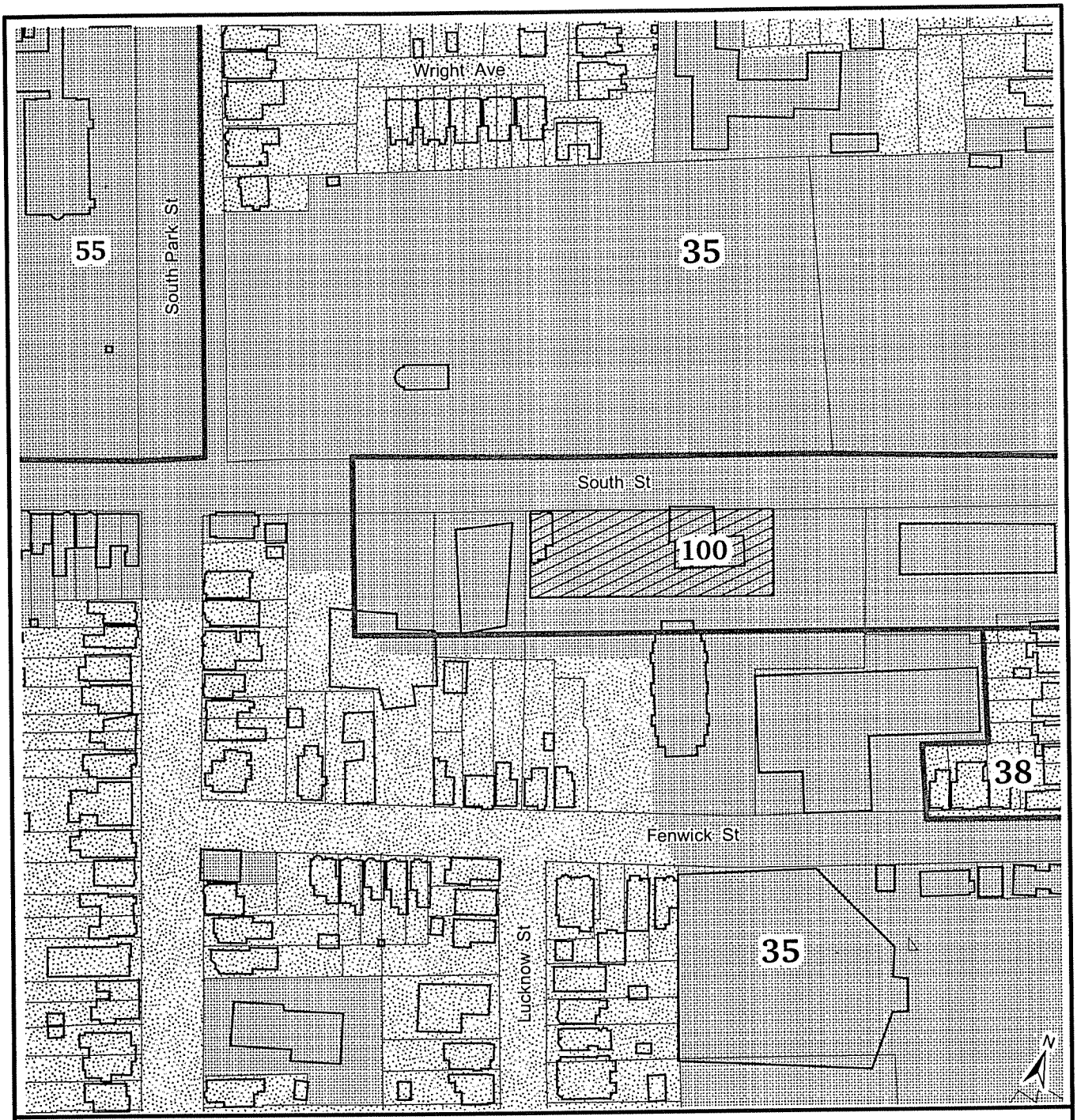
PLANNING AND
DEVELOPMENT SERVICES

0 20 40 m

This map is an unofficial reproduction of a portion of the Zoning Map for the Halifax Peninsula Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

27 June 2005 | Case 00789 | file: /data3/work/planning/hilary/casemaps/00789.mxd (HEC)



Map 2 - Height Precinct

5620 South Street
Halifax

Subject property

Halifax Peninsula
Land Use By-Law Area

Area where maximum permitted height is measured between the highest point of the roof and the mean grade of the finished ground adjoining the building

Area where maximum permitted height is measured between the commencement of the top storey of a building and the mean grade of the finished ground adjoining the building between the building and the fronting street

Allowable building height shown in feet

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0 20 40 m

This map is an unofficial reproduction of a portion of the Height Precinct Map for the Halifax Peninsula Land Use By-Law area.

HRM does not guarantee the accuracy of any representation on this plan.

27 June 2005 Case 00789 file: /data3/work/planning/hilary/casemaps/00789 mxd (HEC)

Attachment A

PROPOSAL FACT SHEET - 5260 SOUTH STREET **June 24, 2005**

Current D/A	**Proposed Amendment to D/A**
Unit Mix:	
120 Studios	12 Studios
36 One Bedroom	90 One Bedroom
6 Two Bedroom	6 Two Bedroom
162	**108**
Density	
120 x 1 =120	12 x 1 = 12
36 x 2 = 72	90 x 2 = 180
6 x 3 = 18	6 x 3 = 18
210 Persons	**210 Persons (Meets bylaw)**
Open Space (Landscaped) (48(2))	
11,500 sq. ft. provided	11,500 sq. ft. provided
Parking	
124 Spaces	60 Spaces (**Meets bylaw**)

	Current DA	Proposed Amending DA
Unit Mix (44c)	Does not meet bylaw	**Does not meet bylaw**
Angle Control (47(2)-(5))	Does not meet angles on the front of the building	**Does not meet bylaw**
Height	Meets bylaw	**Meets bylaw**

Attachment B

THIS AMENDING AGREEMENT made this day of , 2005,

BETWEEN:

AMALTHEA HOLDINGS LIMITED
A body corporate in Halifax Regional Municipality,
Province of Nova Scotia,
hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a municipal body corporate,
(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS the Developer is the registered owner of certain lands located at 5620 South Street (LRIS PID No. 41030727), Halifax and which said lands are more particularly described in Schedule A to this Agreement (hereinafter called the"Lands");

AND WHEREAS Peninsula Community Council of Halifax Regional Municipality approved an application (Case 00614) by the Developer to enter into a development agreement to allow for three apartment buildings on the Lands, which said development agreement was registered at the Registry of Deeds in Halifax as Document Number 81305303 (hereinafter called the"Existing Agreement");

AND WHEREAS the Developer has requested an amendment to the provisions of the Agreement;

AND WHEREAS the Peninsula Community Council of Halifax Regional Municipality, at its meeting on the day of 2005, approved the said agreement, referenced as Municipal Case Number 00789, to allow a single multiple unit building on the lands subject to the registered owner of the lands described herein entering into this agreement;

THEREFORE in consideration of the granting by the Municipality of the amending agreement requested by the Developer, the Developer agrees as follows:

1. Clause 2.1 of the existing agreement shall be deleted and replaced to read as follows:

   The Developer shall develop and use the lands for no purpose other than one apartment building on a single lot containing a maximum total of 108 dwelling units which, in the opinion of the Development Officer, is substantially in conformance with Plans No.00789-0012 to 00789-0023 inclusive filed with the Halifax Regional Municipality Planning and Development Services as Case 00789 and are attached as the following Schedules to this Agreement:

Schedule A	Legal Description of the Lands
Schedule B1	Site Plan (0022)
Schedule C1	Ground Floor Plan (0012)
Schedule D1	Second Floor Plan (0013)
Schedule E1	Third Floor Plan (0014)
Schedule F1	Fourth to Ninth Floor Plan (0015)
Schedule G1	Tenth Floor Plan (0016)
Schedule H1	Parking Level Plan (0017)
Schedule I1	South (Front) Elevation (0018)
Schedule J1	North (Rear) Elevation (0019)
Schedule K1	West Elevation (0020)
Schedule L1	East Elevations (0021)
Schedule M1	Material Details (0023)

2. Schedules B to M inclusive of the existing agreement are to be replaced by Schedules B1 to M1 inclusive.

3. Clauses 2.2(a) and 2.2(b) of the existing agreement shall be revised to change the Schedules references from 'Schedules J - N' to 'Schedules I1 to M1 inclusive'.

4. Clause 2.2(h) of the existing agreement shall be deleted and replaced to read as follows:

   (h) The underground parking structure shall contain a minimum of 43 spaces.

5. Clause 2.2(i) of the existing agreement shall be deleted and replaced to read as follows:

   (i) The building shall contain a maximum of 12 bachelor/studio units.

6. Clause 2.2(j) of the existing agreement shall be revised as follows:

   (j) Bachelor/studio units shall be limited to one bathroom and shall not include powder rooms, dens or similar facilities.

7. Clause 2.2(k) of the existing agreement shall be revised to change the Schedule reference from 'Schedule C' to 'Schedules B1 and H1 inclusive'.

8. Clause 2.4 of the existing agreement shall be deleted and replaced to read as follows:

   The total number of habitable rooms located in the building constructed on the land shall not exceed 210. Additional one and two bedroom units may be created in exchange for bachelor/studio units provided the density does not exceed 250 persons per acre and the parking provisions of the land use by-law are met.

9. Clause 2.5 of the existing agreement shall be shall be revised to change the Schedule reference from 'Schedules C - N' to 'Schedules C1 to M1 inclusive'.

10. The first sentence of Clause 2.9.6 of the existing agreement shall be deleted and replaced to read as follows:

    All landscaping shall be completed prior to the issuance of the occupancy permit.

11. Clauses 2.9.8 and 2.9.9 of the existing agreement shall be deleted and replaced by the following clauses:

    2.9.8 The surface parking area shall be constructed of decorative precast interlocking pavers, decorative stamped concrete or equivalent in a colour complementary to the building.

    2.9.9 The raised planters surrounding the surface parking area shall be a minimum of three feet in height and are to be constructed of decorative concrete such as precast units, stamped concrete, concrete faced with natural or man-made stone or equivalent. Wolmanized lumber construction shall not be permitted.

12. Clause 2.10(a) of the existing agreement shall be revised to change the Schedule reference from 'Schedules J - N' to 'Schedules I1 to M1 inclusive'.

13. Clause 2.10(b) of the existing agreement shall be revised to add the word 'and' to the end of the sentence after the semi-colon. Clause 2.10(c) of the existing agreement shall be revised to delete the semi-colon and the word 'and' at the end of the sentence and replace them with a period. Clause 2.10(d) of the existing agreement shall be deleted.

14. Clause 2.13 of the existing agreement shall be revised to delete the words 'in each building'.

15. Clause 3.3 of the existing agreement shall be deleted and replaced to read as follows:

    In the event that construction has not commenced within two years from the date of registration of this Agreement at the Registry of Deeds, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction.

16. **ALL OTHER TERMS AND CONDITIONS OF THE EXISTING AGREEMENT REMAIN IN FULL FORCE AND EFFECT.**

Time shall be of the essence of this amending agreement.

This Amending Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns.

IN WITNESS WHEREOF the parties hereto have properly executed this Amending Agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:) **AMALTHEA HOLDINGS LIMITED**

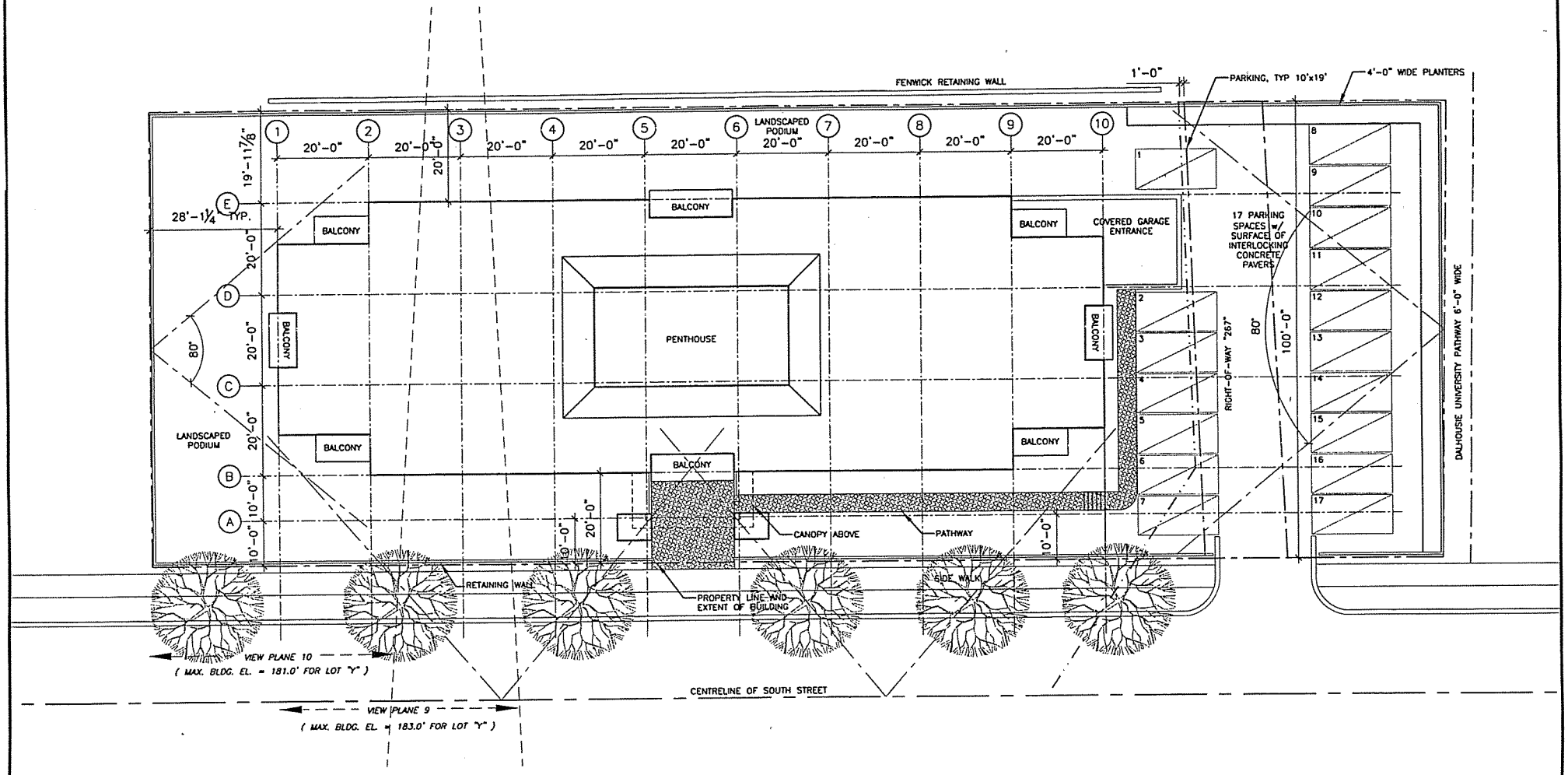
per: _____) per: _____

Sealed, Delivered and Attested by the proper signing officers of Halifax Regional Municipality duly authorized on their behalf in the presence of:) **HALIFAX REGIONAL MUNICIPALITY**

) per: _____
Mayor

per: _____) per: _____
Municipal Clerk

Schedule B1



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fax: 902.429.1672
email: studio1@studio-works.com
site: www.studio-works.ca

title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
SITE PLAN

location: HALIFAX, NS

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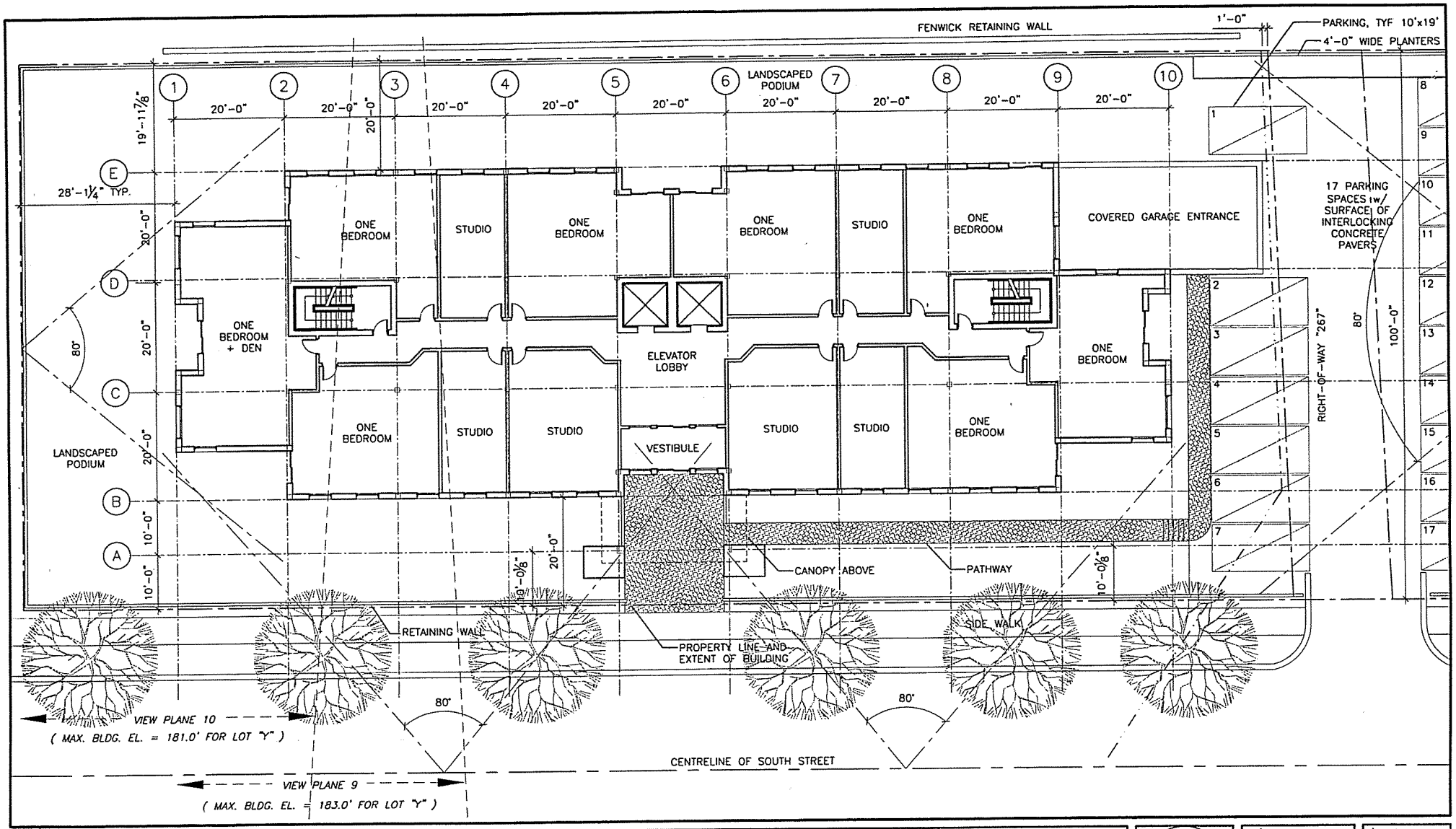
date	APRIL 2005
drawn	mg
proj.	ST0501

dwg no: A11
rev.

00789-0022

Schedule C1



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ARCHITECTS LIMITED HALIFAX, NOVA SCOTIA

title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
GROUND FLOOR PLAN

location: HALIFAX, NS

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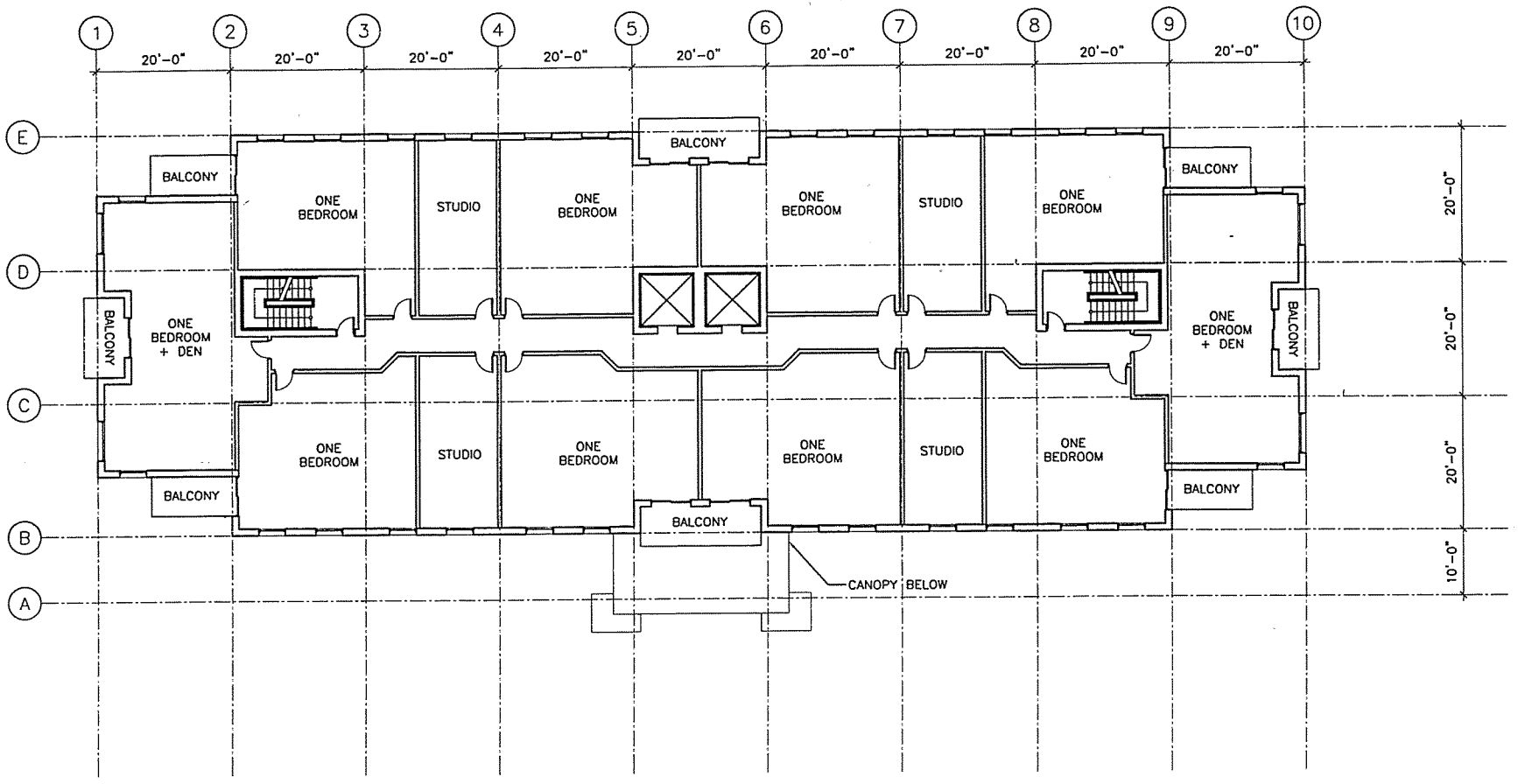
date	APRIL 2005
drawn	mg
proj.	ST0501
dwg no:	A1
rev.	

00789-0012

Schedule D1



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ARCHITECTS LIMITED HALIFAX, NOVA SCOTIA

title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
SECOND FLOOR PLAN

location: HALIFAX, NS

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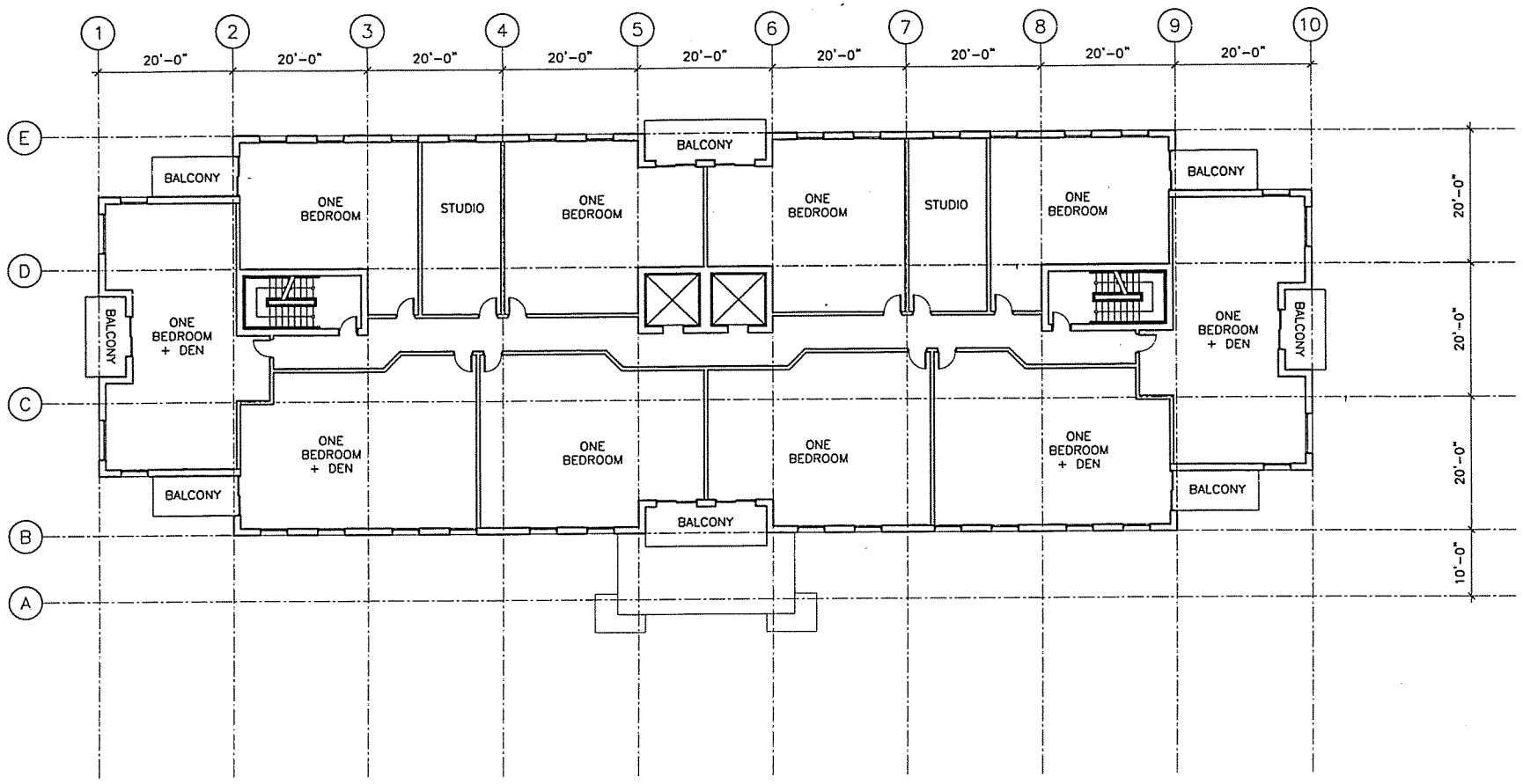
drawn: mg
proj.: ST0501

dwg no: A2
rev.

00789-0013

Schedule E1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
THIRD FLOOR PLAN

location: HALIFAX, NS

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drawn	mg
proj.	ST0501

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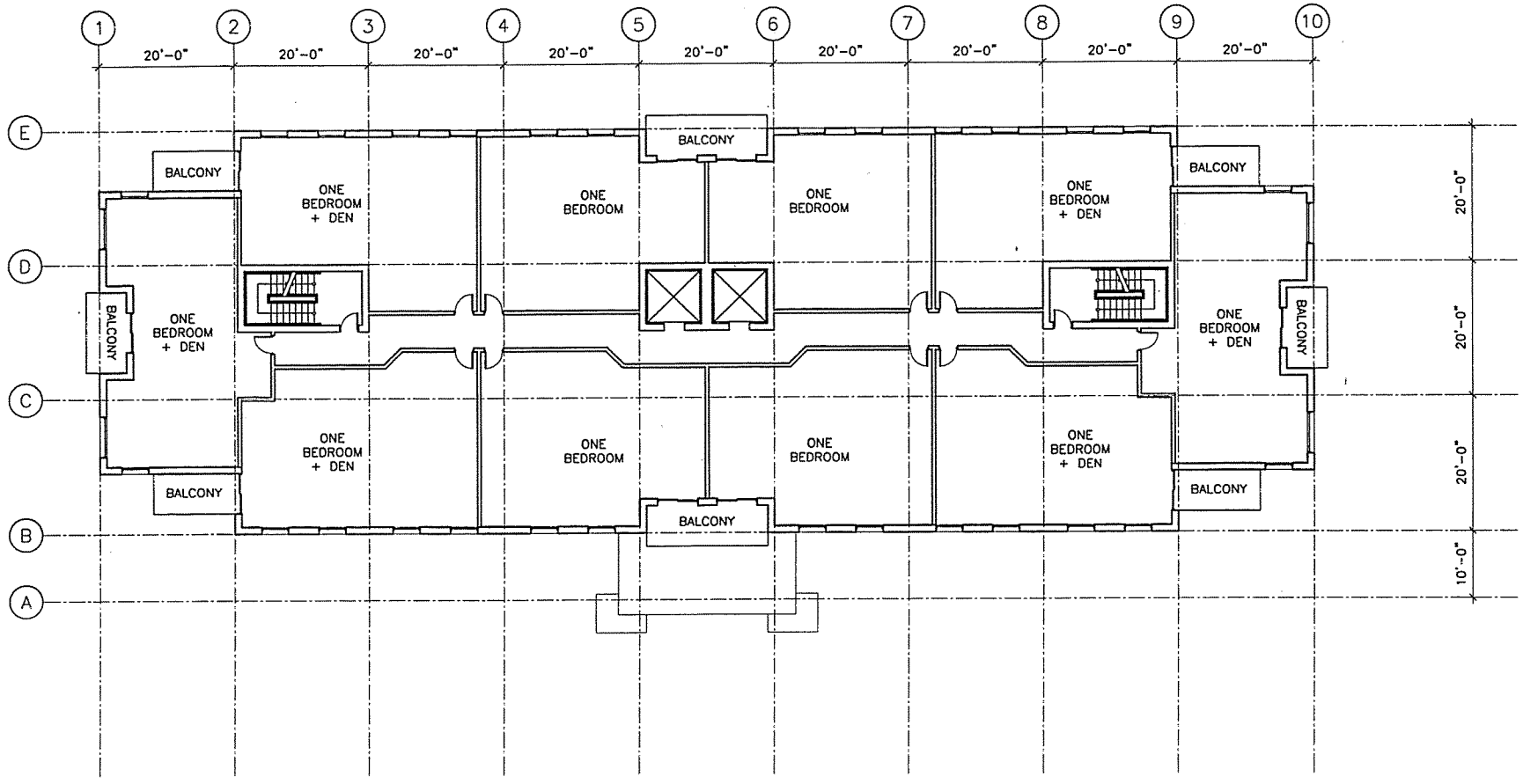
rev.

00789-0014

Schedule F1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
FOURTH TO NINTH FLOOR PLANS

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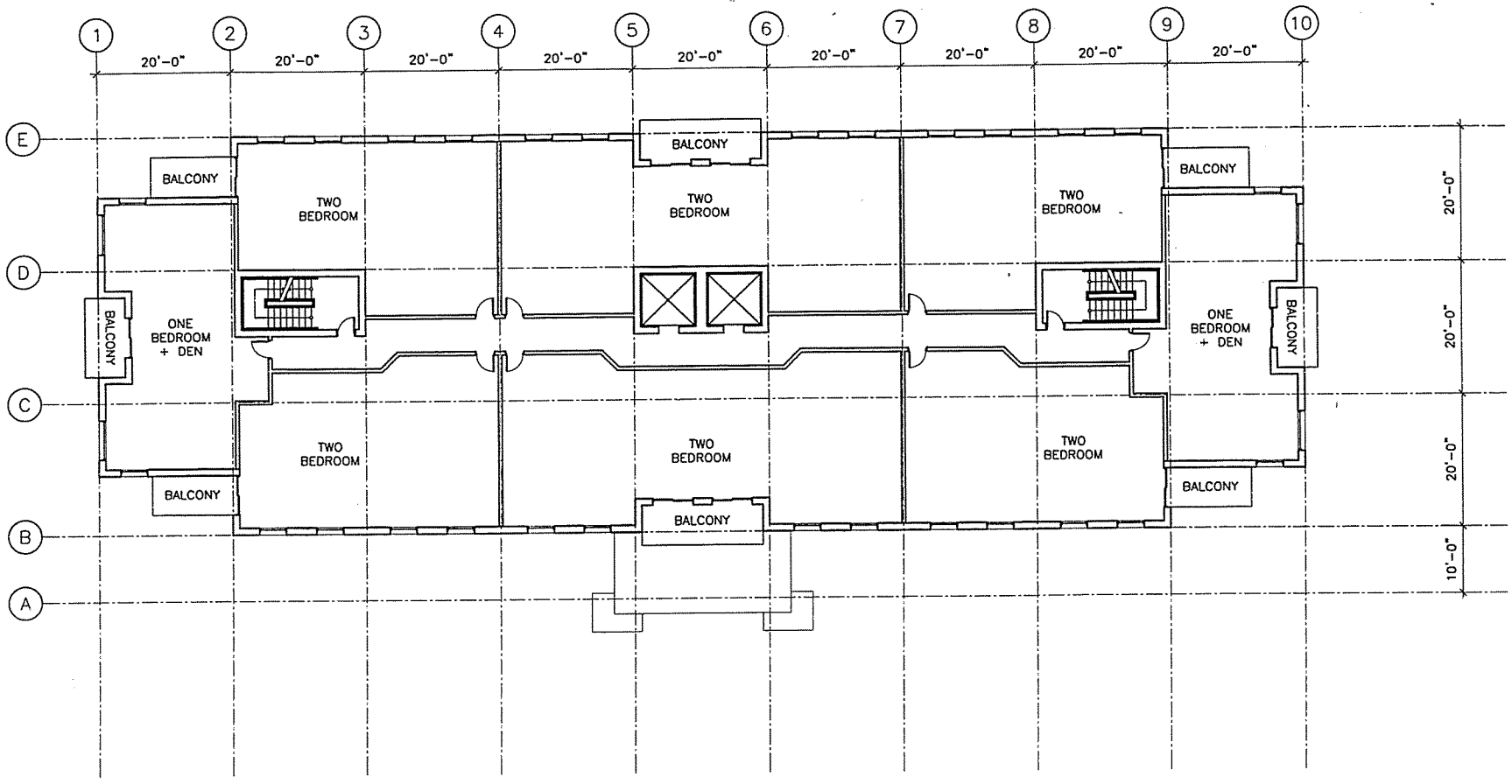
proj. ST0501
rev.

dwg no: A4

00789-0015

Schedule G1



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site: 5820 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.

TENTH FLOOR PLAN

location: HALIFAX, NS

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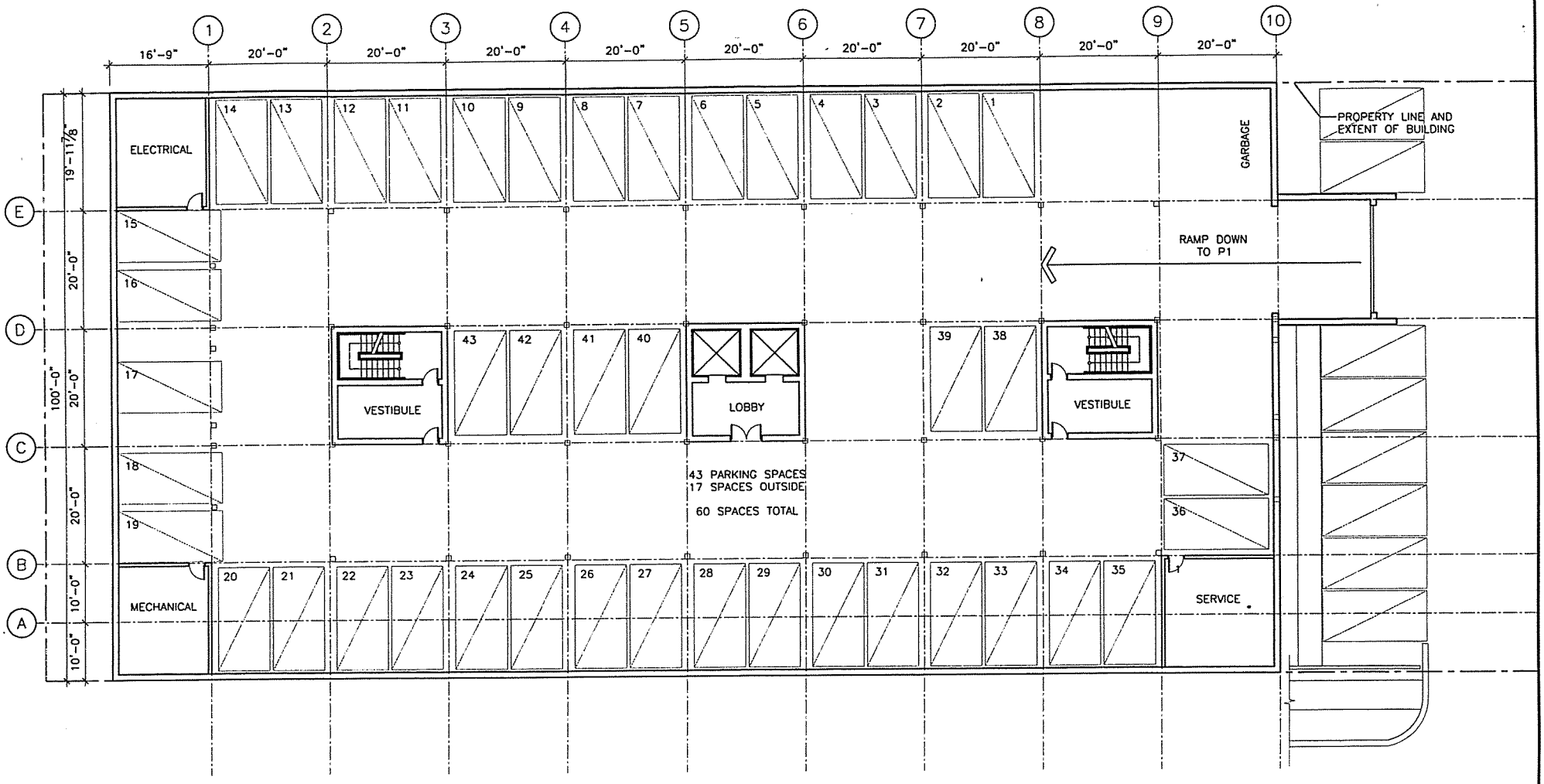
drawn	mg
proj.	ST0501

dwg no: A5

rev.

00789-0016

Schedule H1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
PARKING LEVEL PLAN

location: HALIFAX, NS

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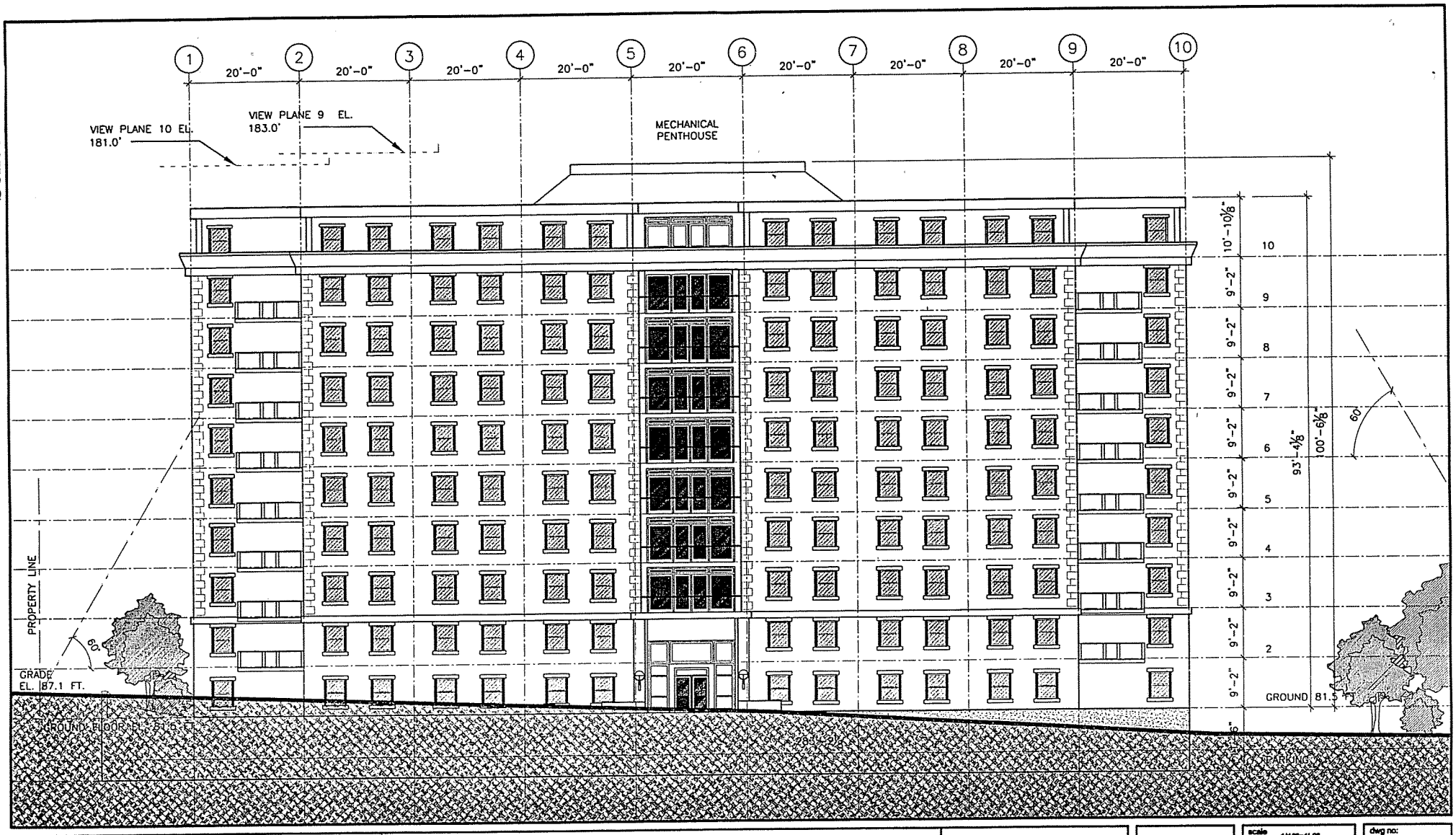
rev.

00789-0017

Schedule I1



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5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.

SOUTH ELEVATION

HALIFAX, NS

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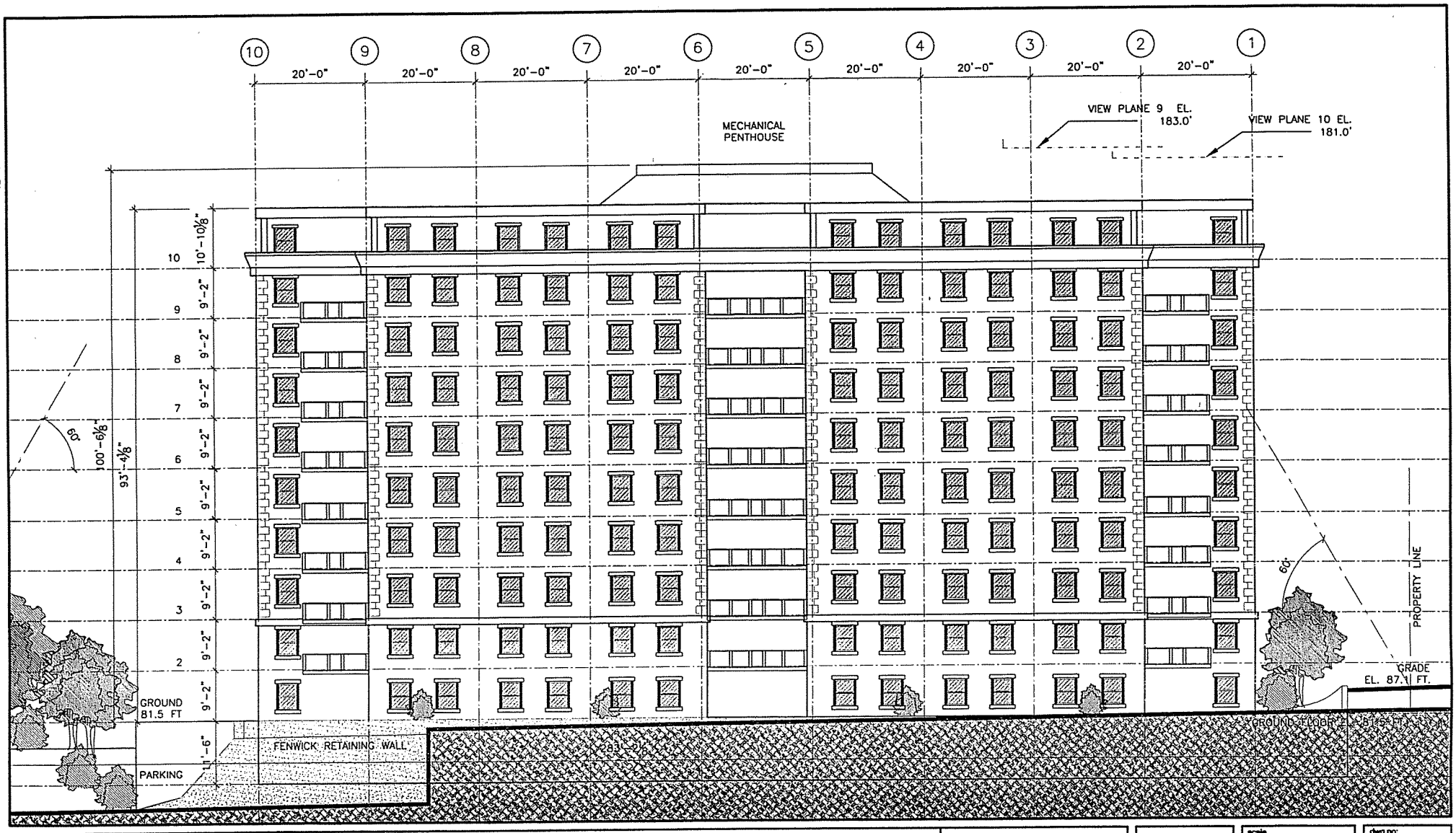
rev.

00789-0018

Schedule J1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
NORTH ELEVATION

location: HALIFAX, NS

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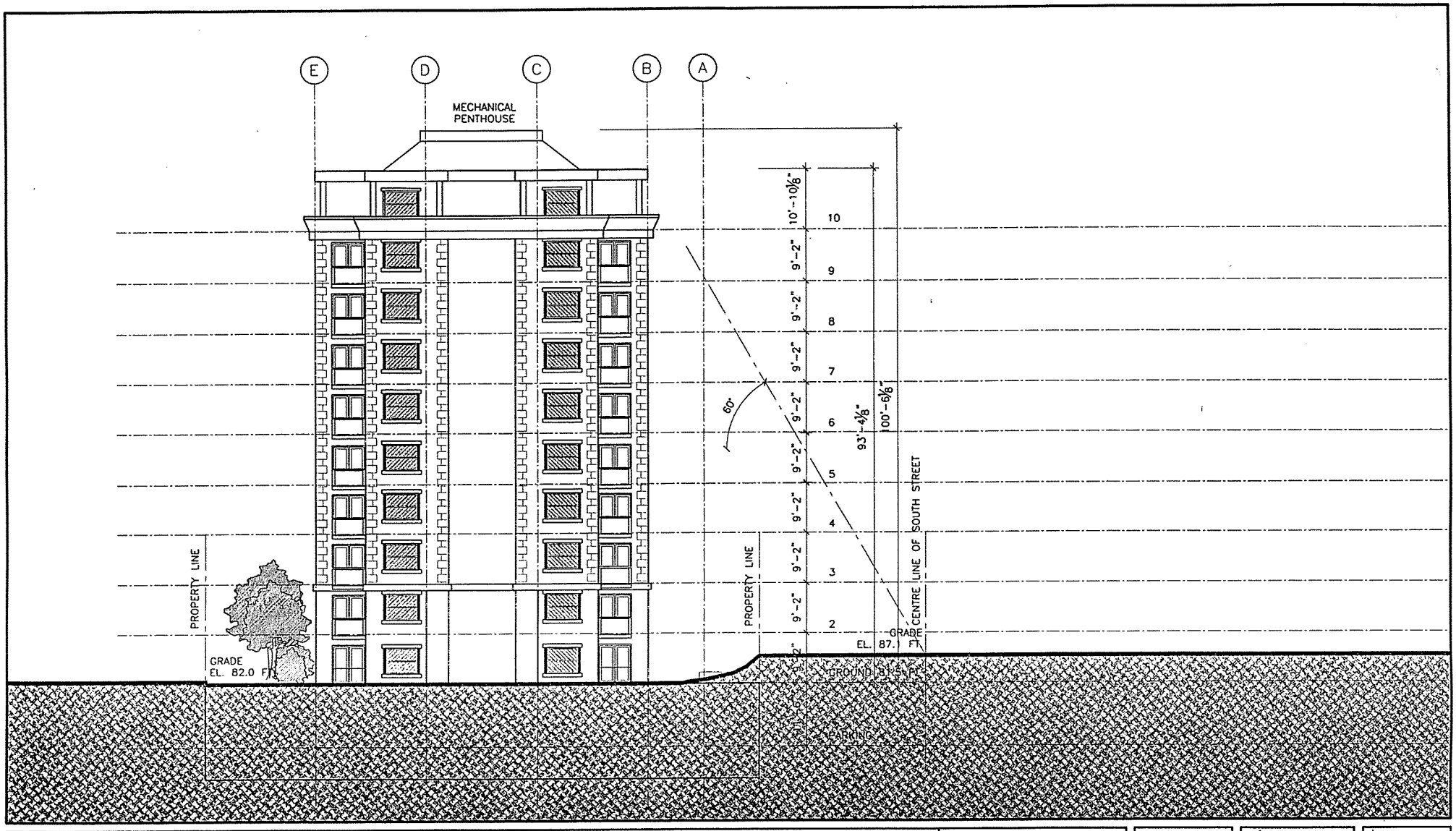
drawn: mg
proj.: ST0501

dwg no: A8
rev.

00789-0019

Schedule K1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
WEST ELEVATION

location: HALIFAX, NS

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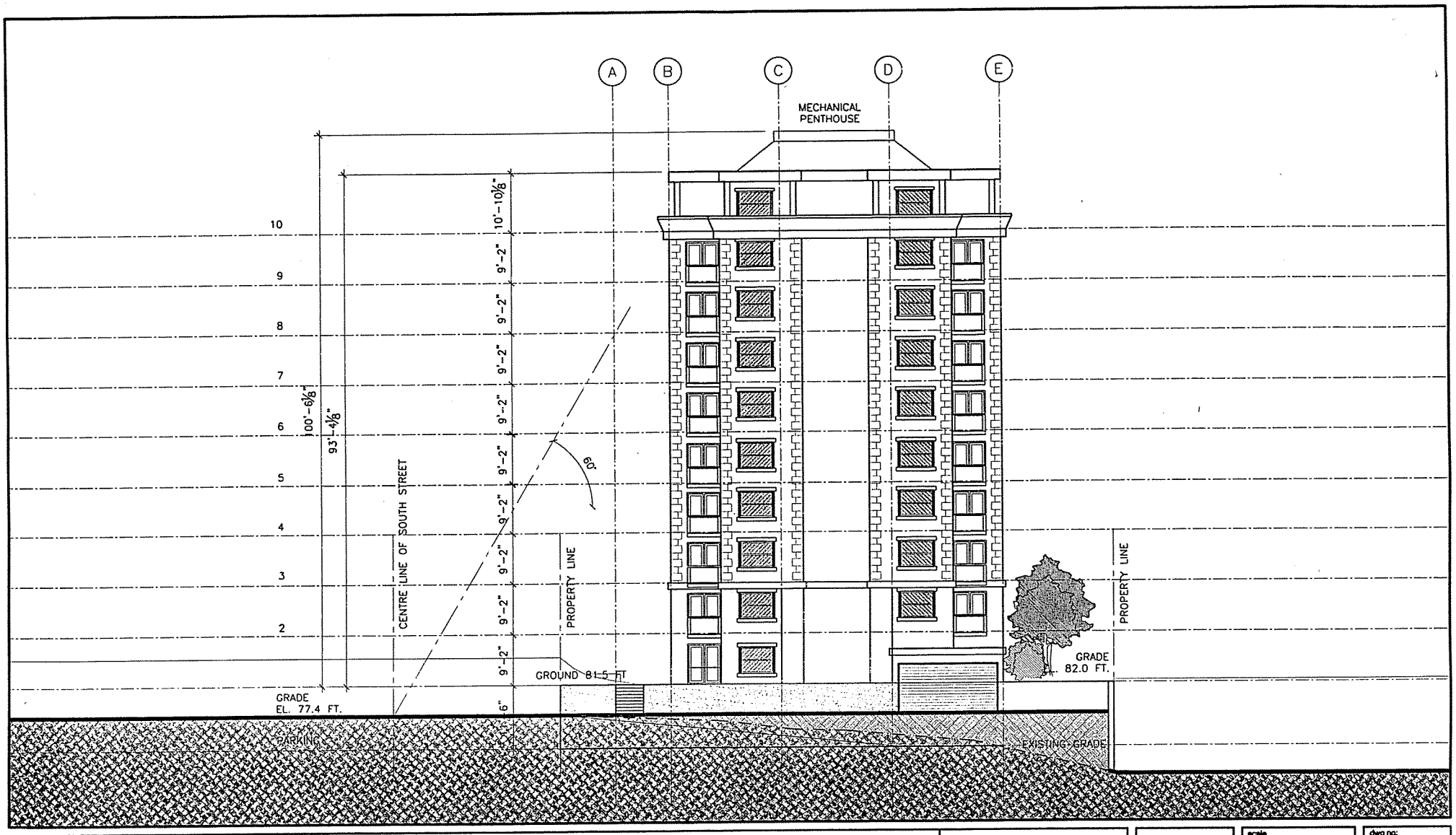
drawn: mg
proj.: ST0501

dwg no: A9
rev.

00789-0020

Schedule L1



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title: 5620 SOUTH STREET DEVELOPMENT - AMALTHEA HOLDINGS LTD.
EAST ELEVATION

location: HALIFAX, NS

0 5' 10' 20' 30'

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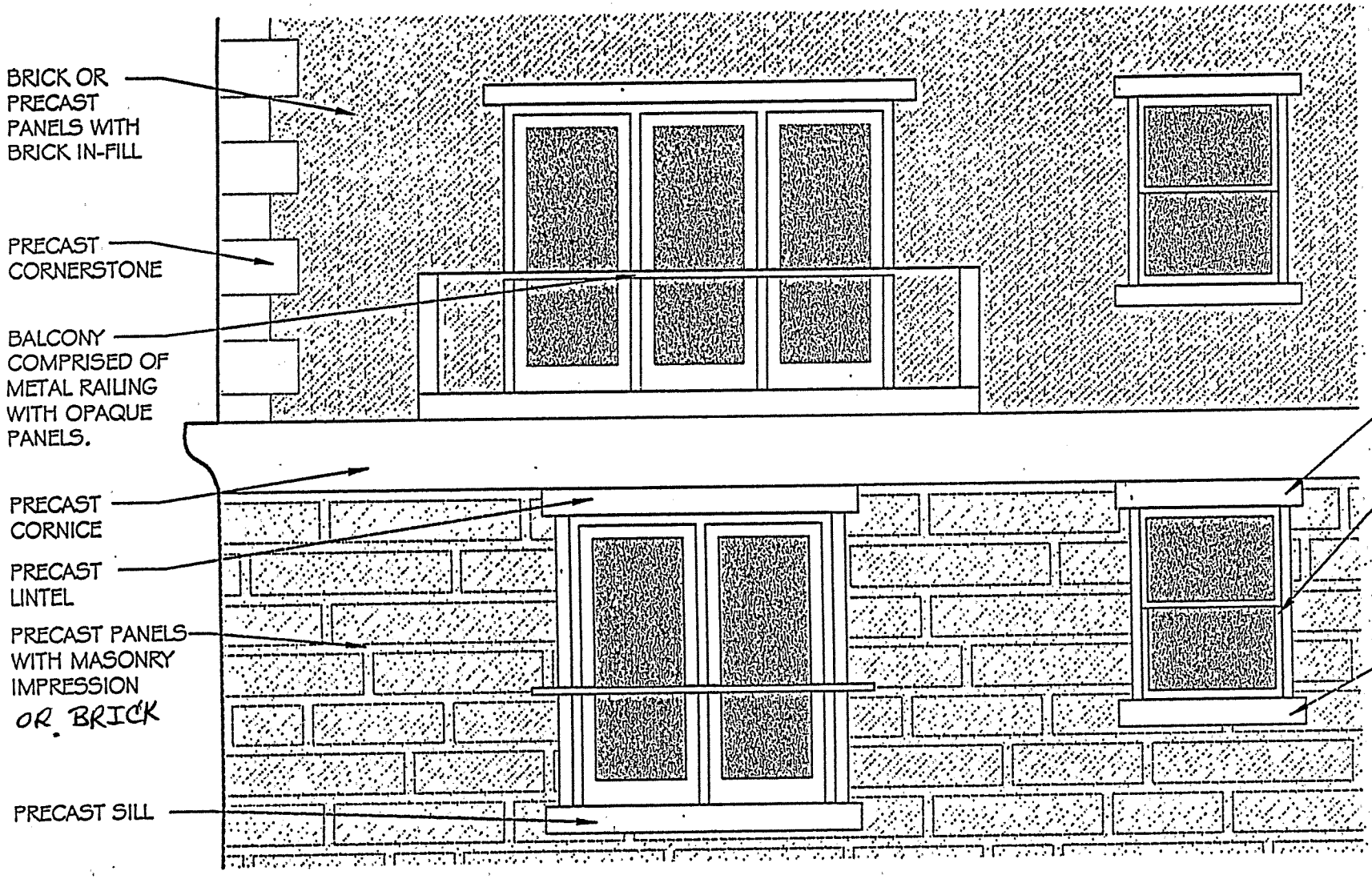
date	APRIL 2005
drawn	mg
proj.	ST0501

dwg no: A10

rev.

00789-0021



Schedule M1

5620 South Street
MATERIAL DETAILS

SCALE: 1/4" = 1'-0"

00789-0023

May 19, 2004

Property Owner: Amalthea Holdings Ltd

Development Agreement Proposal
5620 South Street

00614

Attachment C

THIS AGREEMENT made this 10 day of January, 2005

BETWEEN:

AMALTHEA HOLDINGS LIMITED
(hereinafter called the "Developer")

OF THE FIRST PART

-and-

HALIFAX REGIONAL MUNICIPALITY,
a body corporate, in the County of
Halifax, Province of Nova Scotia
(hereinafter called the "Municipality")

APPROVED
AS TO FORM
Municipal Solicitor

OF THE SECOND PART

WHEREAS the developer wishes to obtain permission to construct a three apartment buildings at 5620 South Street (LRIS PID No. 41030727), pursuant Policy 7.6.6 to Section V of the Halifax Municipal Planning Strategy and Section 94(1) of the Halifax Peninsula Land Use By-law;

AND WHEREAS the Developer warrants that it is the registered owner of the lands described in Schedule A hereto (hereinafter called the"Lands")

AND WHEREAS a condition of the granting of approval of Council is that the Developer enter into an agreement with the Halifax Regional Municipality;

AND WHEREAS the Peninsula Community Council of Halifax Regional Municipality, at its meeting on the13th day of September 2004, approved the said agreement to allow three apartment buildings on the lands subject to the registered owner of the lands described herein entering into this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting by the Municipality of the development agreement requested by the Developer, the Developer agrees as follows:

PART 1: GENERAL REQUIREMENTS AND ADMINISTRATION

1.1 Applicability of Agreement

The Developer agrees that the Lands shall be developed and used only in accordance with and subject to the terms and conditions of this Agreement.

1.2 Applicability of Land Use By-law and Subdivision By-law

Except as otherwise provided for herein, the development and use of the Lands shall comply with the requirements of the Halifax Peninsula Land Use By-law and the Subdivision By-law, as may be amended from time to time.

1.3 Applicability of Other Bylaws, Statutes and Regulations

Further to Section 1.2, nothing in this Agreement shall exempt or be taken to exempt the Developer, lot owner or any other person from complying with the requirements of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement), or any statute or regulation of the Province of Nova Scotia, and the Developer or lot owner agrees to observe and comply with all such laws, by-laws and regulations in connection with the development and use of the Lands.

1.4 Conflict

Where the provisions of this Agreement conflict with those of any by-law of the Municipality applicable to the Lands (other than the Land Use By-law to the extent varied by this Agreement) or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

1.5 Costs, Expenses, Liabilities and Obligations

The Developer shall be responsible for all costs, expenses, liabilities and obligations imposed under or incurred in order to satisfy the terms of this Agreement and all federal, provincial and municipal regulations, by-laws or codes applicable to any lands owned by the Developer.

1.6 Provisions Severable

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

PART 2: USE OF LANDS AND DEVELOPMENT PROVISIONS

2. 1 Schedules / Use of Lands

The Developer shall develop and use the lands for no purpose other than three apartment buildings on three lots containing a maximum total of 162 dwelling units which, in the opinion of the Development Officer, is substantially in conformance with Plans No.024-035 filed in the Halifax Regional Municipality Planning and Development Services as Case 00614 and are attached as the following Schedules to this Agreement:

Schedule "A"	Legal Description of the Lands
Schedule "B"	Survey Plan (024)
Schedule "C"	Parking level 1 (025)
Schedule "D"	Parking level 2 (026)
Schedule "E"	Parking level 3 (027)
Schedule "F"	Ground Floor Plan (028)
Schedule "G"	Levels 2-7 (029)
Schedule "H"	Level 8-9 (030)
Schedule "I"	Level 10 (031)
Schedule "J"	North Elevation (032)
Schedule "K"	Rear Elevation (033)
Schedule "L"	East Elevations (034)
Schedule "M"	West and Typical Elevations (035)
Schedule "N"	Material Details

2.2 Architectural Requirements

(a) The building shall be clad in precast concrete simulating sandstone and red brick or a combination of precast and traditional masonry construction provided that the appearance of the building as shown on Schedules J - N is unaltered and red brick is used.

(b) Detailing as shown on Schedules J - N shall be required.

(c) The dwelling units shall not contain any non-habitable rooms, which in the opinion of the Development Officer, could be converted to or used as habitable rooms.

(d) Balconies and podium fencing shall have decorative steel or aluminium rails and balustrades or equivalent. No exposed wolmanized lumber is to be used.

(e) The exposed parking garage faces shall be grey architecturally textured concrete or finished in coloured stucco or equivalent.

(f) There will be no vinyl or aluminum siding on the building.

(g) A separation wall or fence shall be constructed on the lands along the front lot line. The developer shall submit a plan of the separation wall or fence to the Development Officer for approval as part of the development permit application and shall be subject to a non-substantial amendment to this agreement before a development permit may be issued.

(h) The complete underground parking structure containing a minimum of 124 spaces shall be built as part of the first building.

(i) Each building shall contain a minimum of 12 one bedroom units and 2 two bedroom units.

(j) Bachelor units shall be limited to one bathroom and shall not include powder rooms or similar facilities.

(k) For greater certainty, access to the site shall be from South Street only as shown on Schedule C.

2.3 Height

Any building constructed on the lands shall not exceed 181feet in height above sea level nor penetrate a view plane.

2.4 Density

The total number of habitable rooms located in all buildings constructed on the lands shall not exceed 210. Building A, as shown on Schedule F, may contain no more than 67 habitable rooms. Building B, as shown on Schedule F, may contain no more than 67 habitable rooms. Building C, as shown on Schedule F, may contain no more than 76 habitable rooms. Additional one and two bedroom units may be created in exchange for bachelor units provided the density does not exceed 250 persons per acre and the parking provisions of the land use by law are met.

2.5 Land Use By-law

For greater certainty, the provisions of the peninsula land use by-law shall apply with the exception of unit mix (44C), setbacks and angle controls (47(2)-(5)) and open space (48(2)) which are altered only to the extent indicated on Schedules C - N or as specifically indicated in this agreement.

2.6 Solid Waste Facilities

Designated space within the building shall be included for three stream (refuse, recycling and composting) source separation services and storage. This designated space for source separation services and storage shall be shown on the building plans and approved by the Development Officer and Building Inspector in consultation with the General Manager of Solid Waste Resources.

2.7 Signs

Signs shall be limited to those permitted by the R-3 zone.

2.8 Surveyor and Engineering Certification

2.8.1 Prior to the issuance of a Development Permit for Building A, the Developer shall provide to the Development Officer written certification from a professional surveyor that the development does not violate section 24 of the Halifax Peninsula Land Use By-law. Prior to the issuance of an Occupancy Permit for Building A, the Developer shall provide to the Development Officer written certification from a professional surveyor that the development does not violate section 24 of the Halifax Peninsula Land Use By-law.

2.9 Landscaping

2.9.1 The developer shall submit a landscape plan for the lands including a cost estimate, prepared and sealed by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects, to the Development Officer for approval as part of the first development permit application and shall be subject to a non-substantial amendment to this agreement before any development permit may be issued. The intent of the landscaping is to provide aesthetic enhancement.

2.9.2 Landscaping shall be provided consisting of a minimum of upright shrubs with a minimum height of 60 cm. (2 ft.) in continuous planting beds and groundcover. The developer shall ensure that all soft landscape areas not planted with shrubs are to be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications. The developer shall ensure that all plant material is to conform to the Canadian Nursery Trades Association Metric Guide Specifications and Standards.

2.9.3 Landscaping shall be provided on the podium in order to provide some screening for the users. The shrub material is to be a minimum of 50% coniferous for year round cover. The podium may include sufficient and appropriate decorative seating.

2.9.4 It is the responsibility of the developer to ensure that the underground parking structure is to be capable of supporting loads for drainage gravel or an appropriate drainage system over the extent of the landscape podium plus topsoil for sod, shrubs and flowers, all of which is in addition to the anticipated mature weight of the plant material.

2.9.5 Landscaping may include containers planted with ornamental trees, shrubs and perennials/annuals.

2.9.6 All landscaping, including any interim landscaping required by clause 2.9.8, shall be completed for each lot prior to the issuance of the occupancy permit for such lot. Proof of completion shall be in the form of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement. An occupancy permit may be issued where the Developer supplies a security deposit in the amount of 120 per cent of the estimated cost to complete the landscaping. The security shall be in favour of the Municipality and may be in the form of a certified cheque or irrevocable letter of credit, with an automatic renewal clause, issued by a chartered bank. The security shall be returned to the Developer only upon completion of the work and receipt of certification by a Landscape Architect in good standing with the Atlantic Provinces Association of Landscape Architects indicating that the landscaping has been done in accordance with the landscape plan approved as a non-substantial amendment to this agreement.

2.9.7 Where an occupancy permit has been issued prior to completion of the landscaping, the Developer shall complete the said landscaping within six months of issuance of the occupancy permit or by September 1 of the year in which the occupancy permit was issued, whichever is earlier. If the Developer fails to complete the said landscaping within the specified period, the Municipality may use the security deposit to complete the landscaping as set out in this section of this agreement. The Developer shall be responsible for all costs in this regard exceeding the deposit. The security deposit or unused portion of the security deposit shall be returned to the Developer upon completion of the work.

2.9.8 In the event that the three buildings are not constructed at the same time, the landscape plan required by clause 2.9.1 shall show how each of the lot(s) which will not be built on, will be landscaped in the interim. At a minimum the unbuilt lots shall be sodded and the sod is to conform to the Canadian Nursery Sod Growers' Specifications or equivalent landscaping.

2.9.9 The interim landscaping required by clause 2.9.6 shall not be required for the lot(s) upon which construction has commenced. For the purpose of this section, commencement of construction shall mean the pouring of the second floor slab of the building.

2.10 Non-Substantial Amendments

The following items are considered by both parties to be non-substantial matters and may be amended by resolution of the Peninsula Community Council:

(a) changes to the architectural detailing as shown on Schedules J - N;

(b) approval of a landscape plan;

(c) approval of the separation wall or fence along the front of the lands abutting South Street; and

(d) changes to the order of construction of the buildings provided that the complete underground parking structure shall be built at part of the first building.

2.11 Substantial Amendments

Amendments to any matters not identified under section 2.10 shall be deemed substantial and may only be amended in accordance with the approval requirements of the Municipal Government Act.

2.12 Maintenance

The Developer shall maintain and keep in good repair all portions of the development on the Lands, in accordance with the terms of this agreement, including but not limited to, the interior and exterior of the building, fencing, walkways, recreational amenities, parking areas and driveways, and any landscaping as well as be responsible for litter control, garbage removal and snow removal/salting of walkways and driveways.

2.13 Superintendent

A live-in superintendent shall be provided in each building.

PART 3: REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

3.1 Registration

A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Halifax, Nova Scotia and the Developer shall pay for the registration cost incurred in recording such documents.

3.2 Subsequent Owners

This Agreement shall be binding upon the parties thereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent owners, and shall run with the land which is the subject of this Agreement.

3.3 Commencement of Development

In the event that construction of:

Building C, as shown on Schedule F has not commenced within two years
Building B, as shown on Schedule F has not commenced within three years
Building A, as shown on Schedule F has not commenced within four years

from the date of registration of this Agreement at the Registry of Deeds, the Municipality may, by resolution of Council, either discharge this Agreement whereupon this Agreement shall have no further force or effect, or upon the written request of the Developer, grant an extension to the date of commencement of construction of each building. For the purpose of this section, commencement of construction of Building C shall mean the pouring of the footing and foundation for the development. For the purpose of this section, commencement of construction of Buildings A and B shall mean the pouring of the second floor slab of each building.

3.4 Completion of Development

Upon the completion of the development or portions thereof, or within five years from the date of registry of this Agreement with the Registry of Deeds, whichever time period is less, Council may review this Agreement, in whole or in part, and may:

(a) retain the Agreement in its present form;
(b) negotiate a new Agreement in accordance with clause 2.11;
(c) discharge this Agreement on the condition that for those portions of the development that are deemed complete by Council, the Developer's rights hereunder are preserved and the Council shall apply appropriate zoning pursuant to the Municipal Planning Strategy and Land Use By-law, as may be amended.

3.5 Issuance of Permits

The Municipality shall issue the necessary permits for the development upon the expiration of the fourteen day appeal period under Section 249 of the Municipal Government Act, as the same may be amended from time to time, or upon the withdrawal or dismissal of any appeal which may be taken; provided, however, that the Municipality shall not issue any occupancy permit for the development unless and until the development specified in the plans referred to in Part 2 hereof has been completed substantially in accordance with the said plans and the requirements of this Agreement have been met.

PART 4: ENFORCEMENT AND RIGHTS AND REMEDIES ON DEFAULT

4.1 Access

The Developer agrees that any officer appointed by the Municipality to enforce this Agreement shall be granted access onto the lands during all reasonable hours without obtaining consent of the Developer. The Developer further agrees that, upon receiving written notification from an officer of the Municipality to inspect the interior of any building located on the lands, the Developer agrees to allow for such an inspection during any reasonable hour within seven (7) days of receiving such a request.

4.2 Failure or Default

If the Developer fails to observe or perform any covenant or condition of this Agreement after the Municipality has given the Developer thirty (30) days written notice of the failure or default, then in each such case:

a. the Municipality shall be entitled to apply to any court of competent jurisdiction for injunctive relief including an order prohibiting the Developer from continuing such default and the Developer hereby submits to the jurisdiction of such Court and waives any defence based upon the allegation that damages would be an adequate remedy;

b. the Municipality may enter onto the Property and perform any of the covenants contained in this Agreement whereupon all reasonable expenses whether arising out of the entry onto the lands or from the performance of the covenants may be recovered from the Developer by direct suit and such amount shall, until paid, form a charge upon the Property and be shown on any tax certificate issued under the Assessment Act.

c. the Municipality may by resolution discharge this Agreement whereupon this Agreement shall have no further force or effect and henceforth the development of the Lands shall conform with the provisions of the Land Use By-law; and/or

d. in addition to the above remedies the Municipality reserves the right to pursue any other remediation under the Municipal Government Act or Common Law in order to ensure compliance with this Agreement.

IN WITNESS WHEREOF the parties hereto have properly executed this Agreement as of the day and year first above written.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

per: _____

per: _____

Sealed and delivered and attested by the proper signing officers of Halifax Regional Municipality duly authorized on that behalf in the presence of

per: _____

per: _____

AMALTHEA HOLDINGS LIMITED

Per _____

HALIFAX REGIONAL MUNICIPALITY

Per _____
Mayor

_____
Municipal Clerk

SCHEDULE "A"

ALL THAT CERTAIN Lot of land, shown as Lot Y-S-T on a Plan prepared by K.W.Robb & Associates Ltd., Nova Scotia Land Surveyors and signed by K.W.Robb, Nova Scotia Land Surveyor, which said Plan is dated the 7th day of December, 2000. and revised to date the 1st. day of May, 2001; which said Plan is titled: "Plan of survey showing Lots "Y-S-T" & "D-11-9", Right-of-Way "B" and Easement "B"; a Subdivision of Lands of the Governors of Dalhousie College & University and Irving Oil Company Limited and George F. W. Young, South Street and Fenwick Street at Halifax, Halifax County, Nova Scotia", and which said Lot "Y-S-T" may be more particularly described as follows:

COMMENCING at Nova Scotia Control Monument No. 4843, as shown on said Plan.

THENCE N76°-23'-18E, a distance of 452.48 feet unto the north-eastern corner of Civic 5644 South Street.

THENCE N70°-12'-04"E along the southern street-line of South Street, a distance of 6.00 unto the **PLACE OF BEGINNING** of Lot "Y-S-T" under description.

THENCE to continue N70°12'-04"E along said southern street-line of South Street, a distance of 282.50 feet.

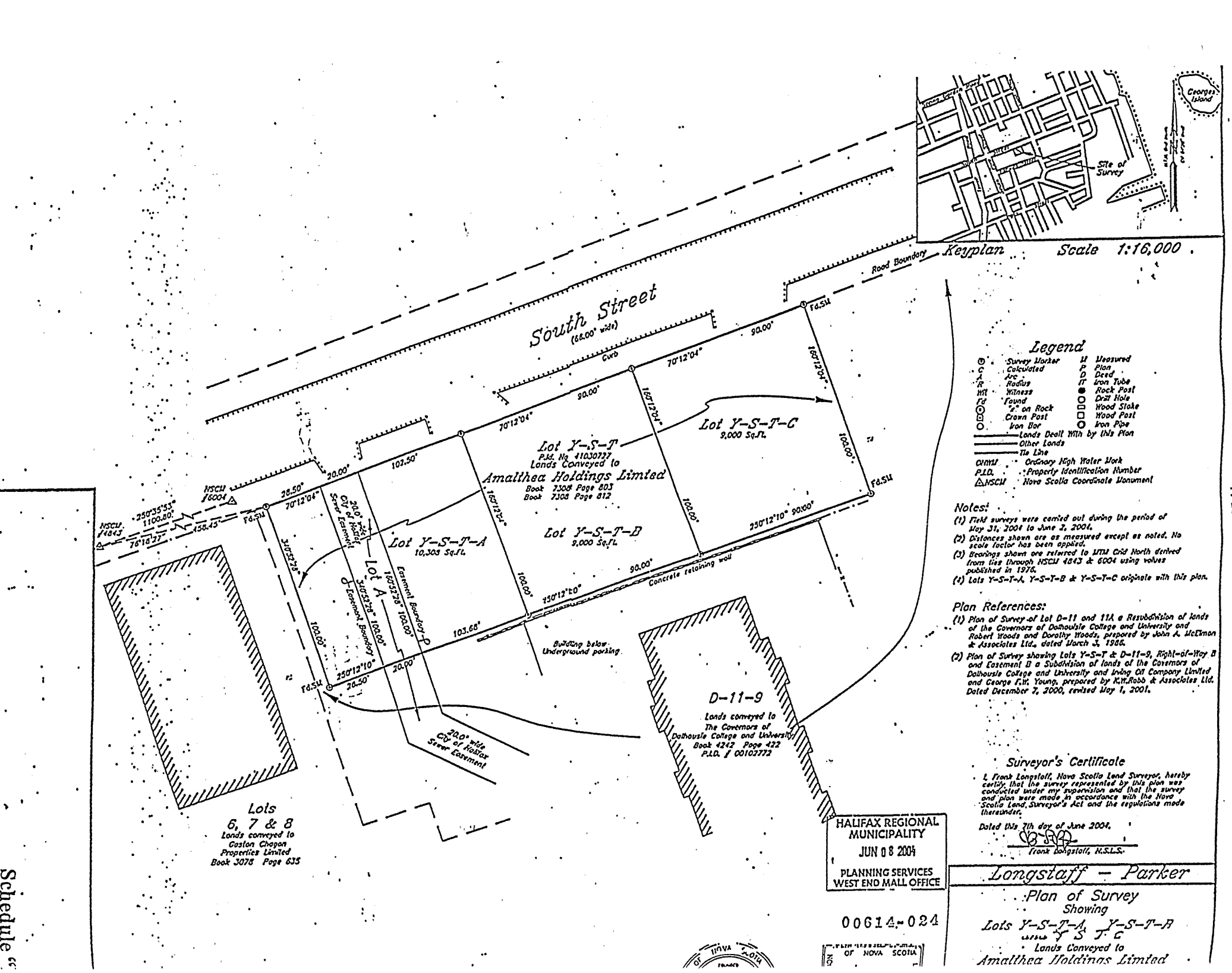
THENCE S19°-47'-56"E, bounded on the east by Lot D-11-9, Lands of the Governors of Dalhousie College and University, a distance of 100.00 feet.

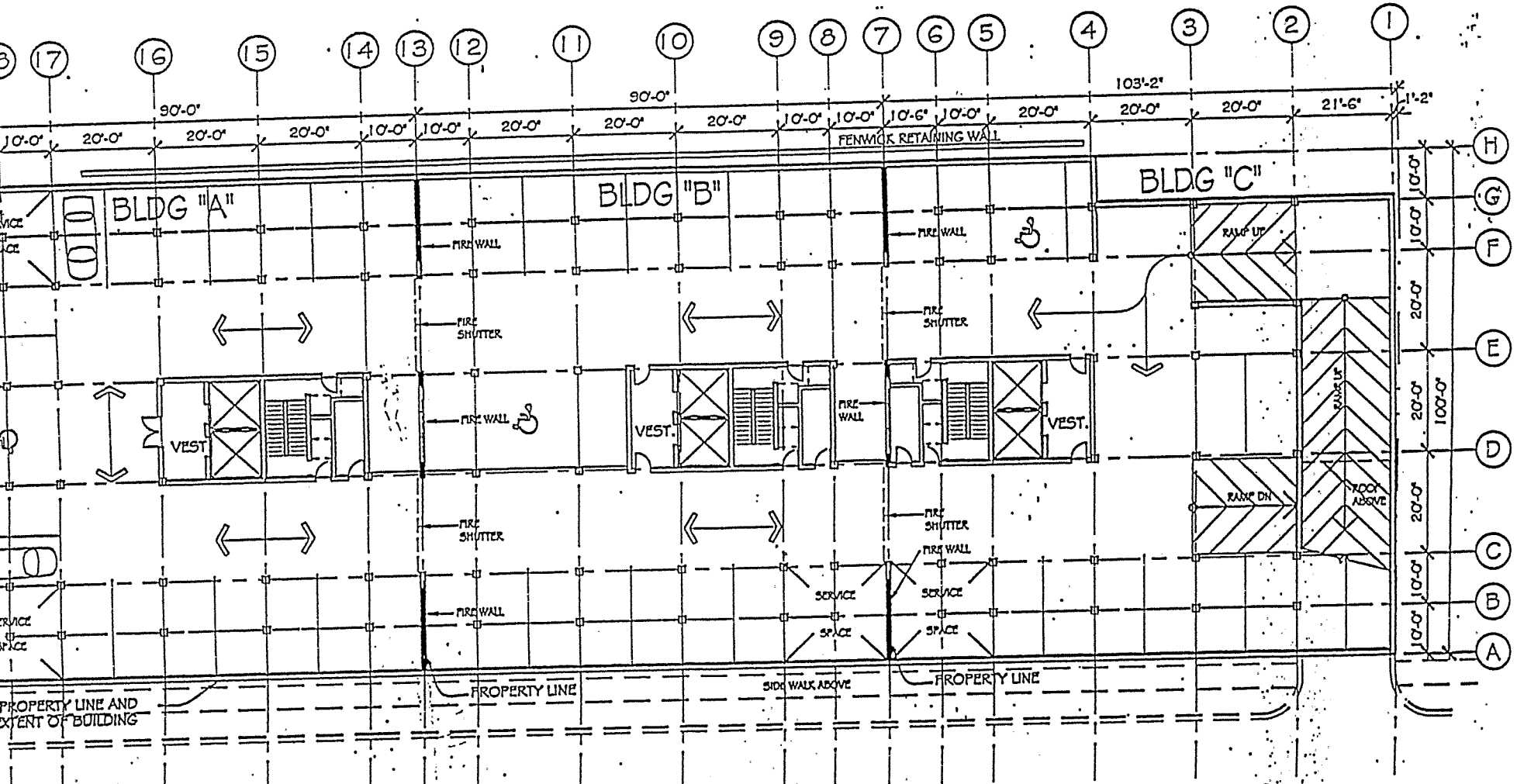
THENCE S70°-12'-10"W, bounded on the south by said Lot D-11-9, a distance of 283.68 feet.

THENCE N19°-07'-32"W, bounded on the west by said Lot D-11-9, a distance of 100.00 feet unto the **PLACE OF BEGINNING** of Lot "Y-S-T" under description.

CONTAINING: 28,308 square feet.

BEARINGS are referred to the Nova Scotia 3° Modified Transverse Mercator Grid, 1976 adjustment, Zone 5, Central Meridian 64°-30'W.


South Street
(66.00' wide)
Curb
Road Boundary
Keyplan
Scale 1:16,000
George's Island
Site of Survey
Lot Y-S-T-A
10,303 Sq.Ft.
Lot Y-S-T-B
9,000 Sq.Ft.
Lot Y-S-T-C
9,000 Sq.Ft.
Lot Y-S-T
P.I.d. No. 41030727
Lands Conveyed to
Amalthea Holdings Limited
Book 7308 Page 803
Book 7308 Page 812
Lot A
Easement Boundary-P
Easement Boundary-B
20.0' wide City of Halifax Sewer Easement
Building below Underground parking
Concrete retaining wall
D-11-9
Lands conveyed to
The Governors of Dalhousie College and University
Book 4242 Page 422
P.I.D. # 00102772
Lots 6, 7 & 8
Lands conveyed to
Gaston Chagon Properties Limited
Book 3078 Page 635
NSCU 14643
NSCU 16004
Fd.SU
Legend
Survey Marker
Calculated
Arc
Radius
Witness
Found
"x" on Rock
Crown Post
Iron Bar
Measured
Plan
Deed
Iron Tube
Rock Post
Drill Hole
Wood Stake
Wood Post
Iron Pipe
Lands Dealt With by this Plan
Other Lands
Tie Line
OHWM - Ordinary High Water Mark
P.I.D. - Property Identification Number
NSCU - Nova Scotia Coordinate Monument
Notes:
(1) Field surveys were carried out during the period of May 31, 2004 to June 2, 2004.
(2) Distances shown are as measured except as noted. No scale factor has been applied.
(3) Bearings shown are referred to UTM Grid North derived from ties through NSCU 14643 & 16004 using values published in 1976.
(4) Lots Y-S-T-A, Y-S-T-B & Y-S-T-C originate with this plan.
Plan References:
(1) Plan of Survey of Lot D-11 and 11A a Resubdivision of lands of the Governors of Dalhousie College and University and Robert Woods and Dorothy Woods, prepared by John A. McElmon & Associates Ltd., dated March 3, 1986.
(2) Plan of Survey showing Lots Y-S-T & D-11-9, Right-of-Way B and Easement B a Subdivision of lands of the Governors of Dalhousie College and University and Irving Oil Company Limited and George F.W. Young, prepared by K.W.Robb & Associates Ltd. Dated December 7, 2000, revised May 1, 2001.
Surveyor's Certificate
I, Frank Longstaff, Nova Scotia Land Surveyor, hereby certify that the survey represented by this plan was conducted under my supervision and that the survey and plan were made in accordance with the Nova Scotia Land Surveyor's Act and the regulations made thereunder.
Dated this 7th day of June 2004.
Frank Longstaff, N.S.L.S.
HALIFAX REGIONAL MUNICIPALITY
JUN 08 2004
PLANNING SERVICES
WEST END MALL OFFICE
00614-024
Longstaff — Parker
Plan of Survey
Showing
Lots Y-S-T-A, Y-S-T-B and Y-S-T-C
Lands Conveyed to
Amalthea Holdings Limited



BLDG "A" P1 - 20 CARS

OTAL 2 LEVELS 40 CARS)

BLDG "B" P1 - 20 CARS

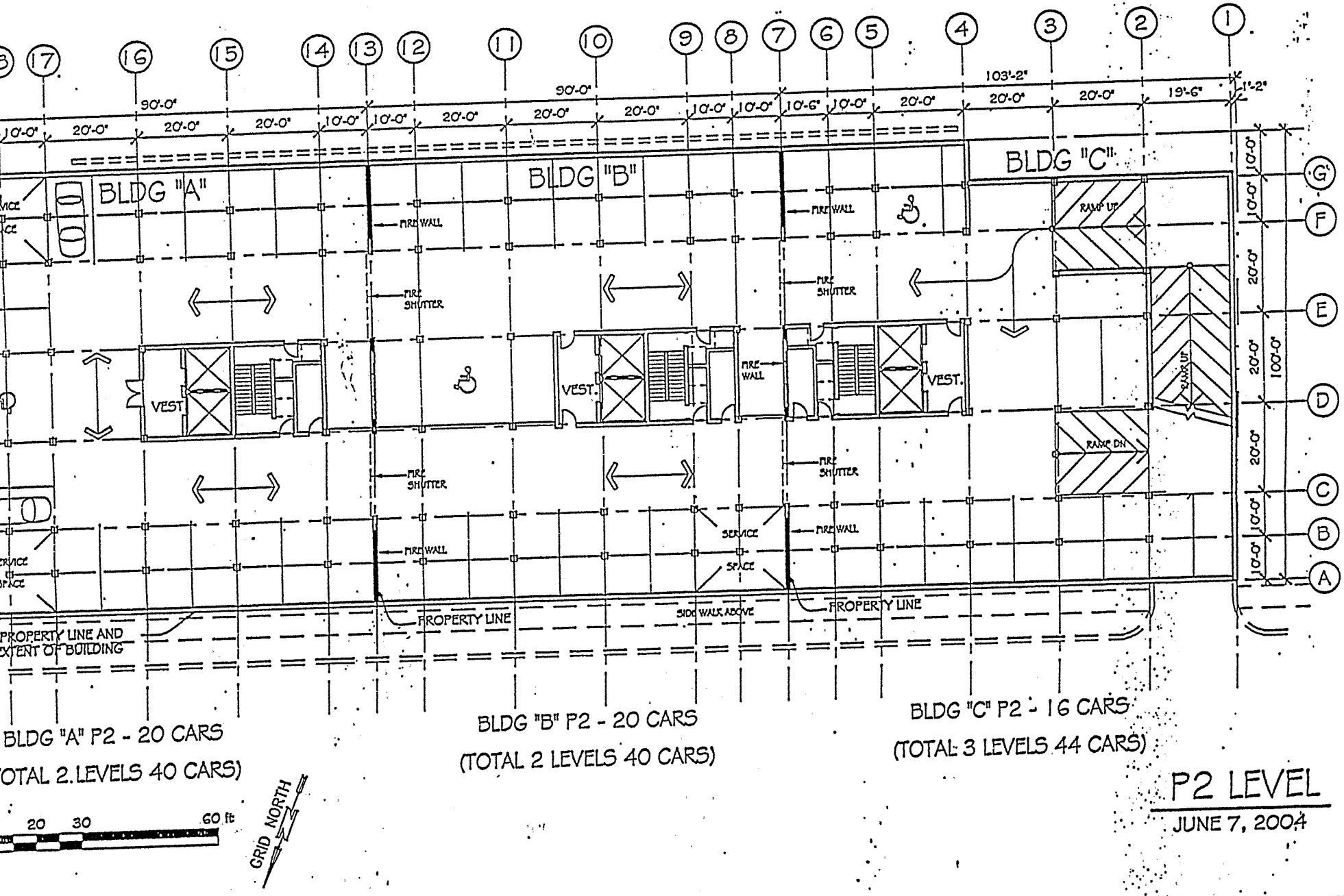
(TOTAL 2 LEVELS 40 CARS)

BLDG "C" P1 - 14 CARS

(TOTAL 3 LEVELS 44 CARS)

LEVEL P1

JUNE 7, 2004



BLDG "A" P2 - 20 CARS

TOTAL 2 LEVELS 40 CARS)

BLDG "B" P2 - 20 CARS

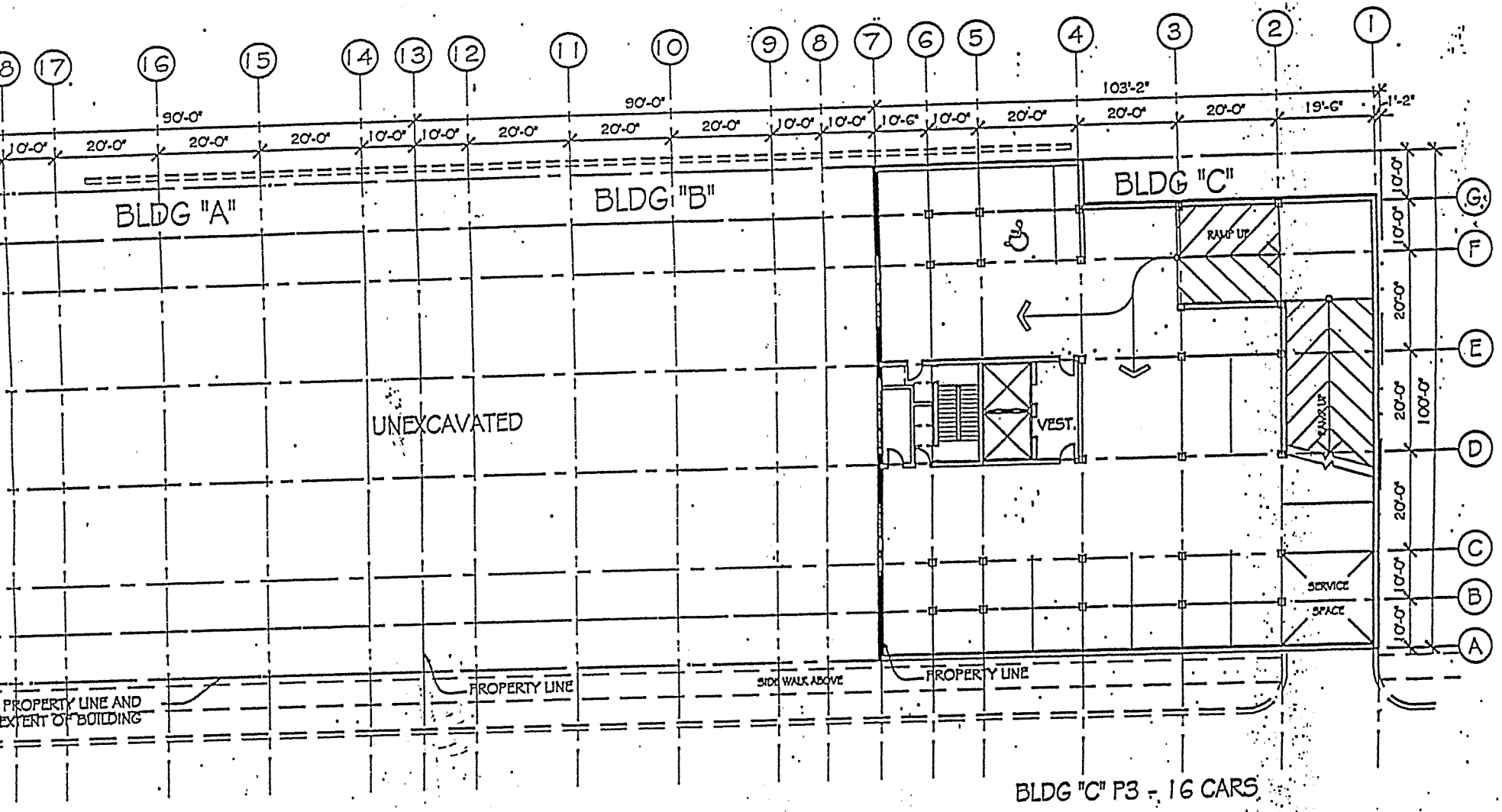
(TOTAL 2 LEVELS 40 CARS)

BLDG "C" P2 - 16 CARS

(TOTAL 3 LEVELS 44 CARS)

P2 LEVEL

JUNE 7, 2004



BLDG "C" P3 - 16 CARS

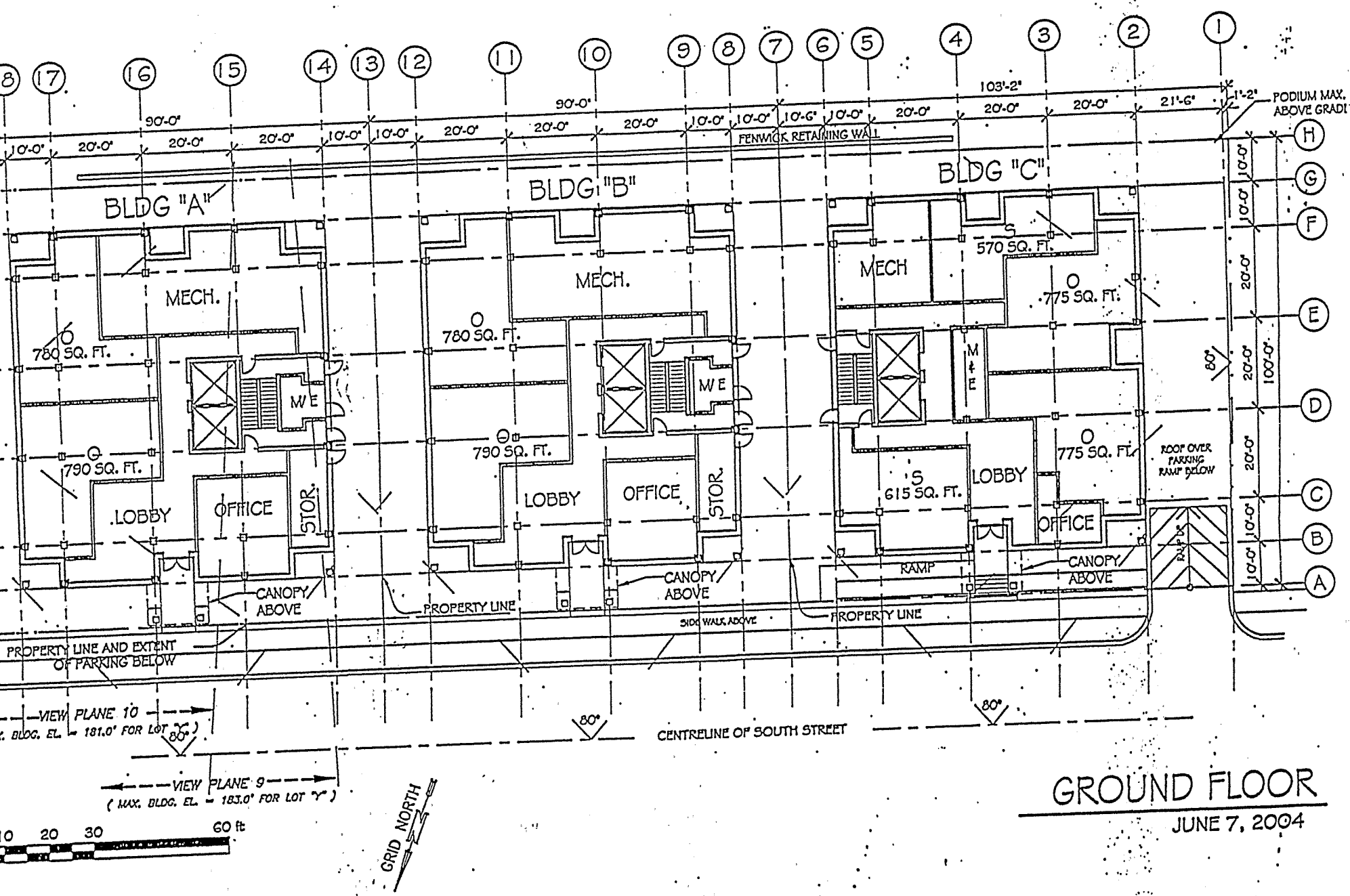
(TOTAL 3 LEVELS 44 CARS)

0 20 30 60 ft.

GRID NORTH

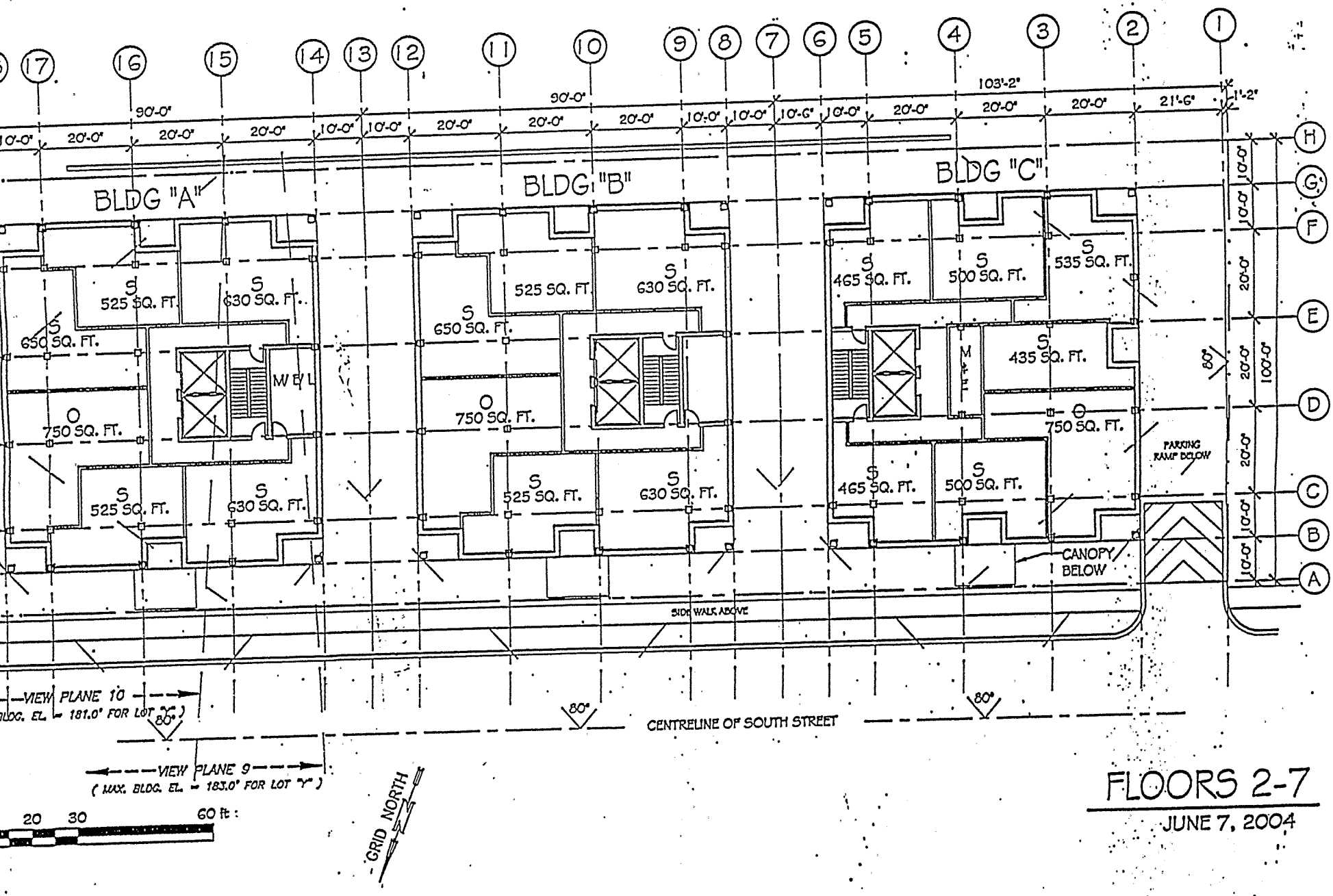
P3 LEVEL

JUNE 7, 2004



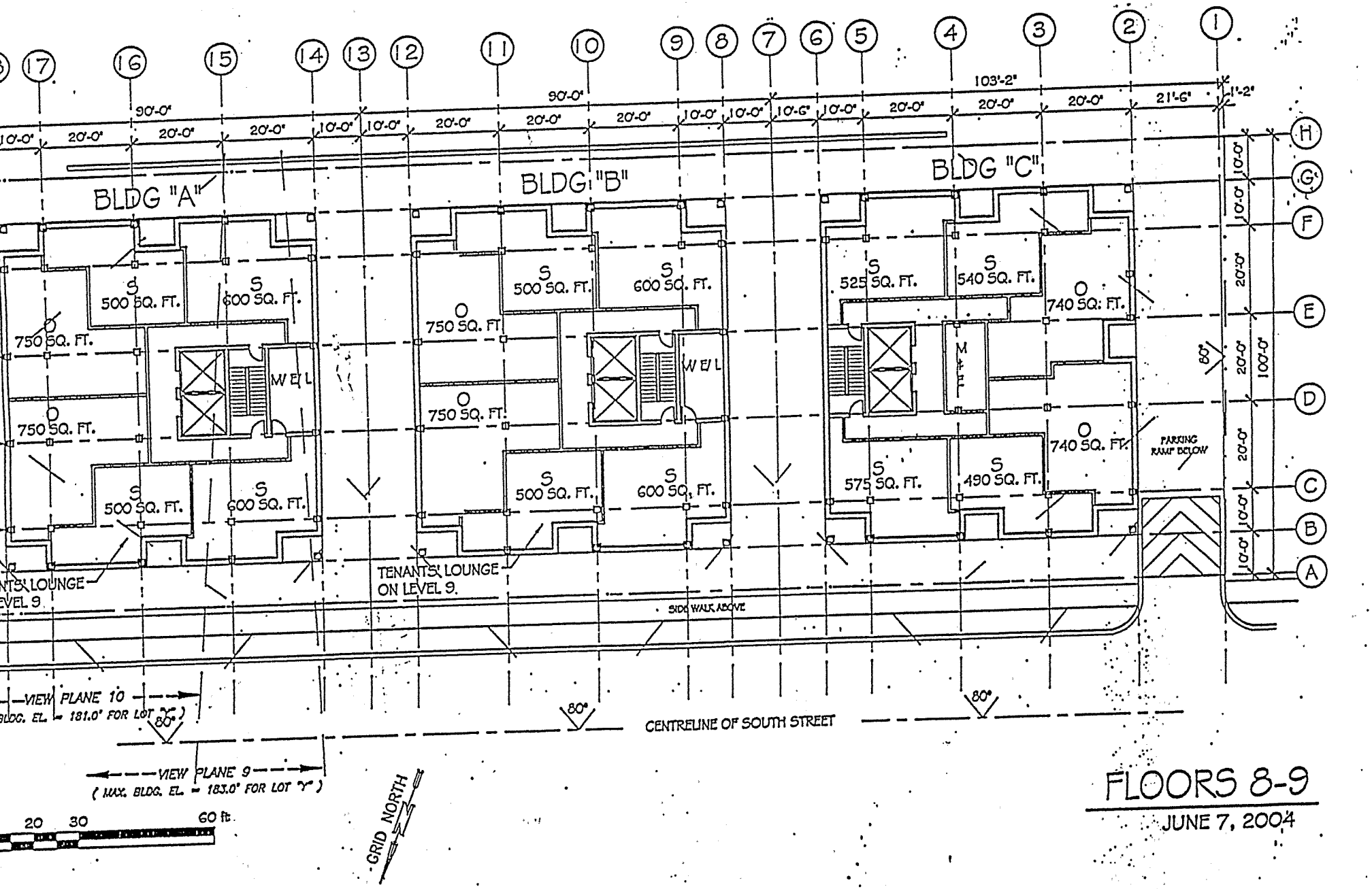
GROUND FLOOR

JUNE 7, 2004



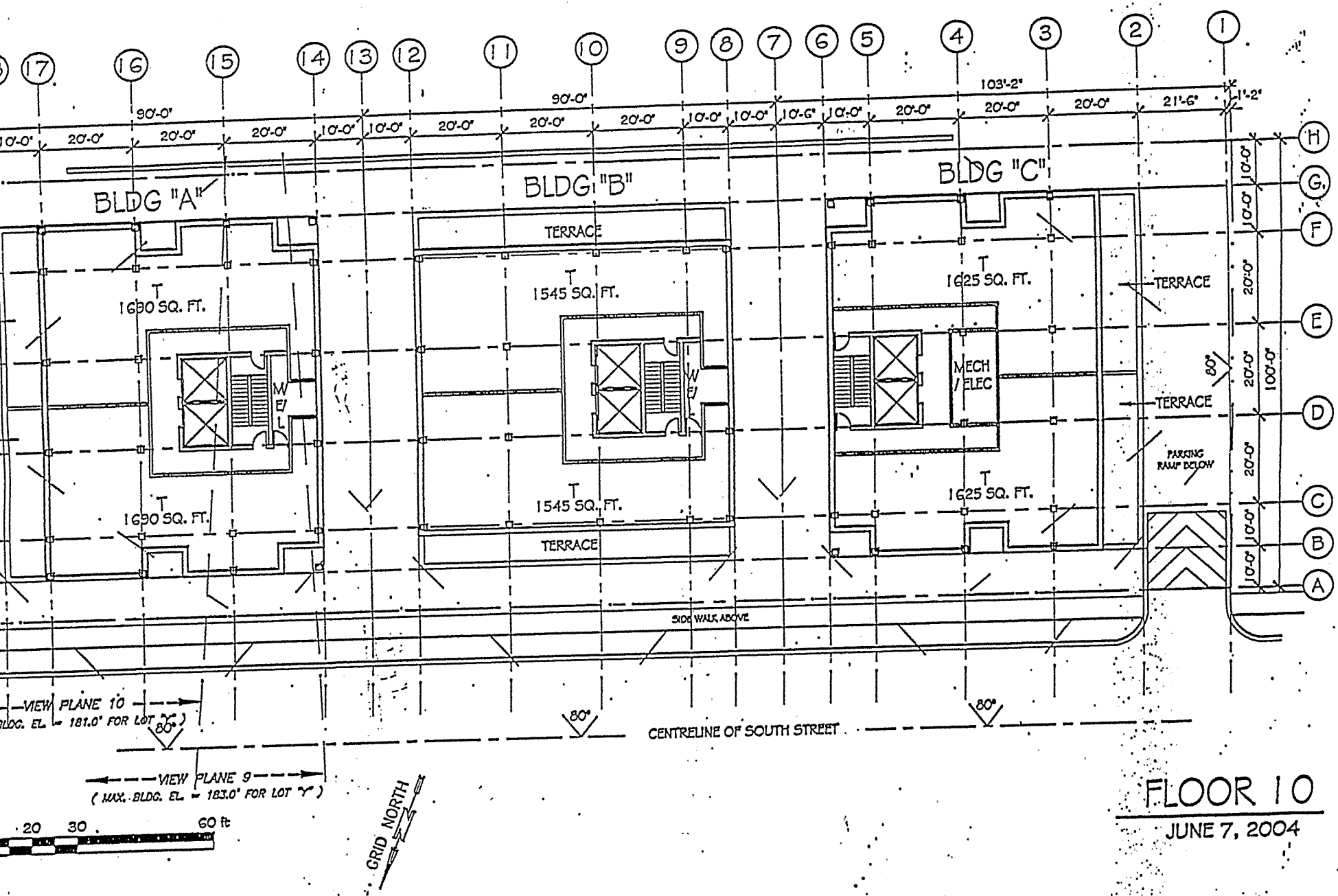
FLOORS 2-7

JUNE 7, 2004



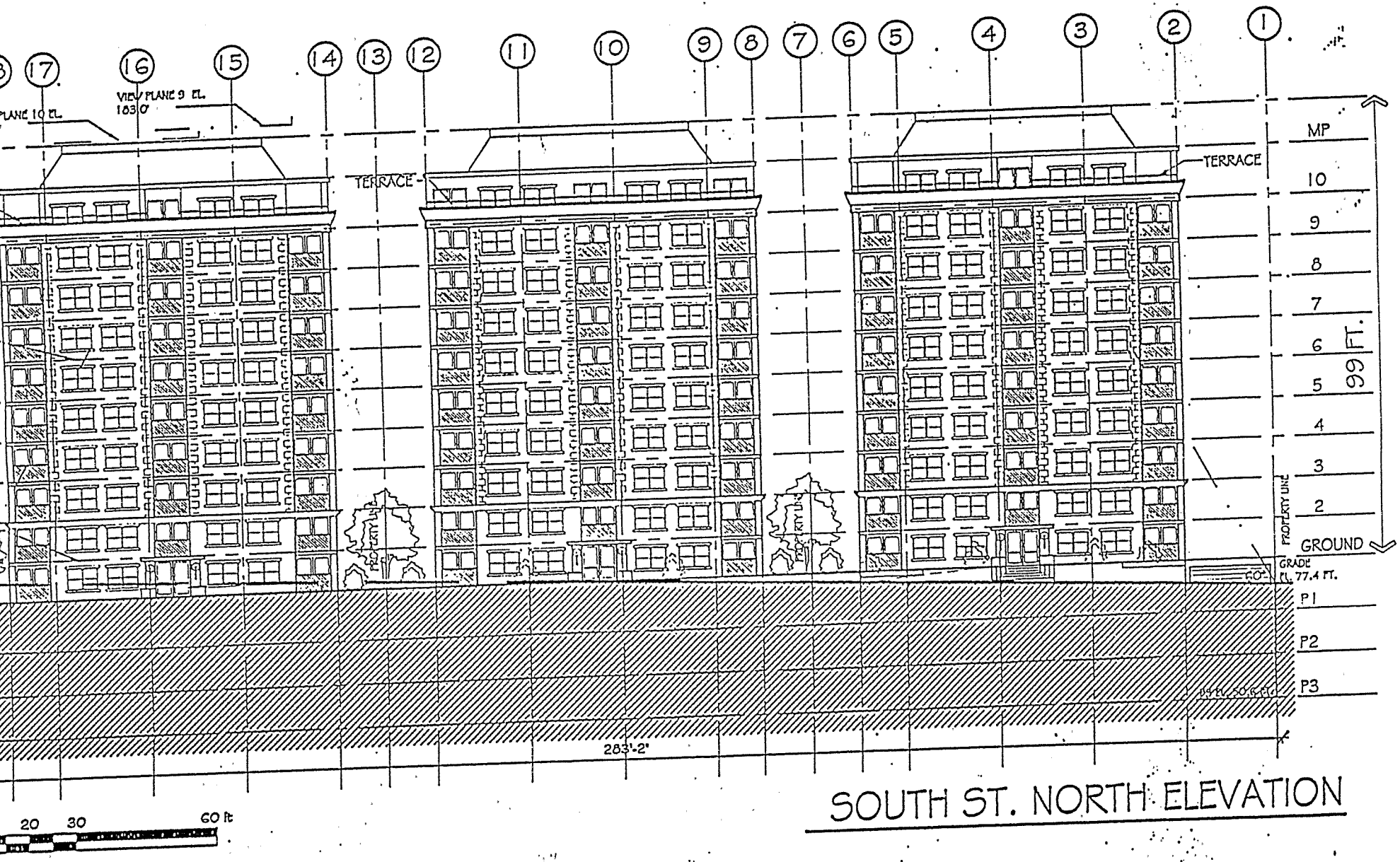
FLOORS 8-9

JUNE 7, 2004

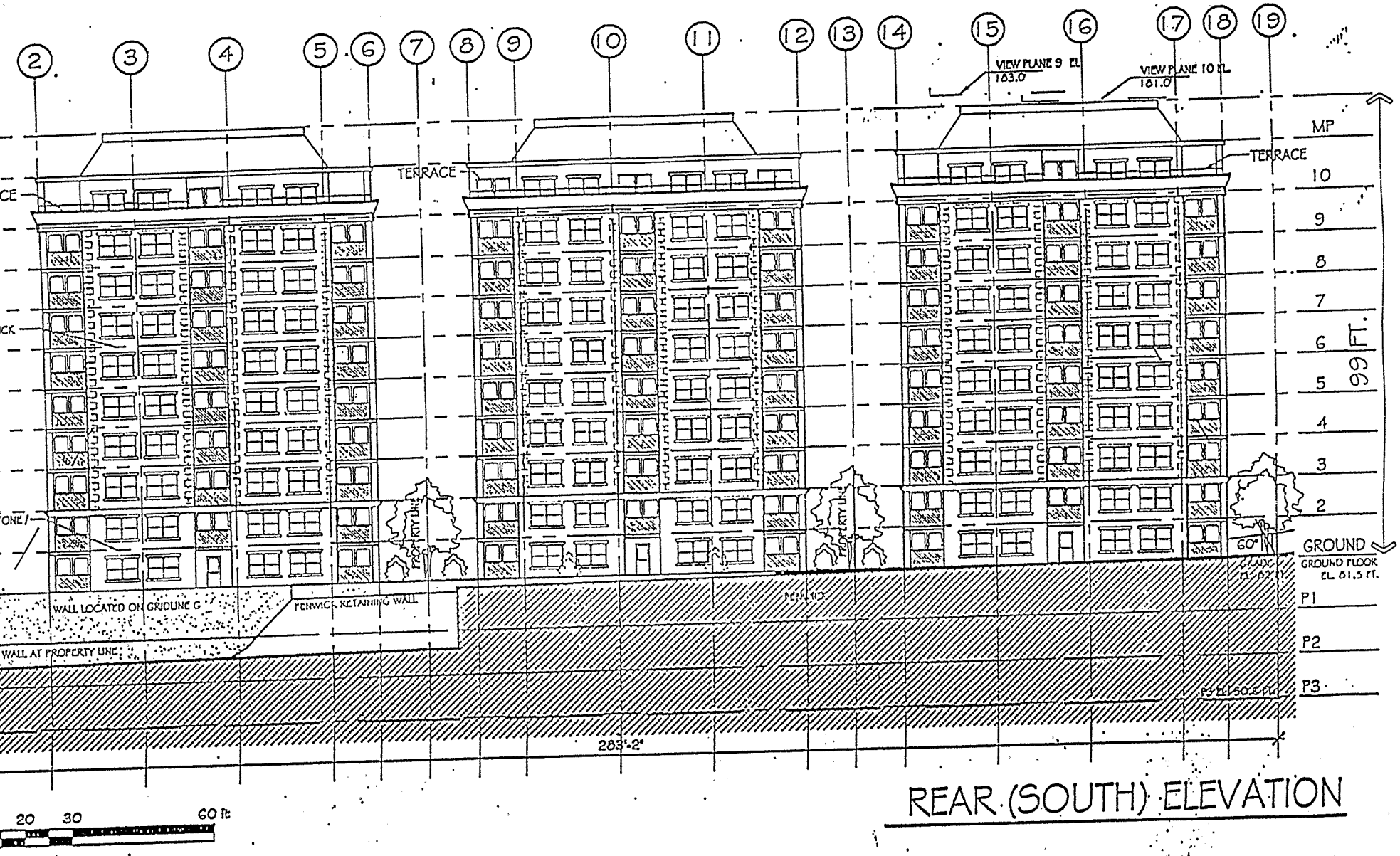


FLOOR 10

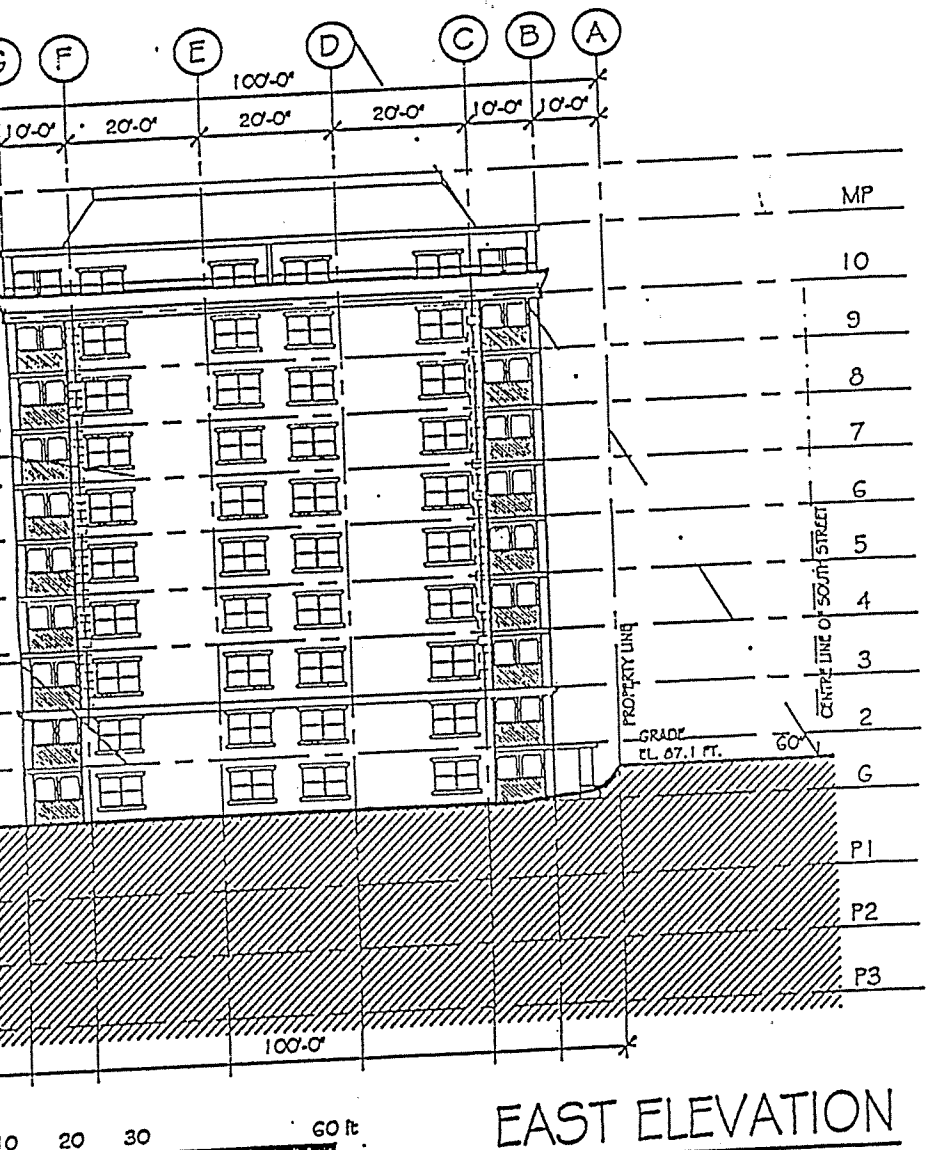
JUNE 7, 2004



SOUTH ST. NORTH ELEVATION

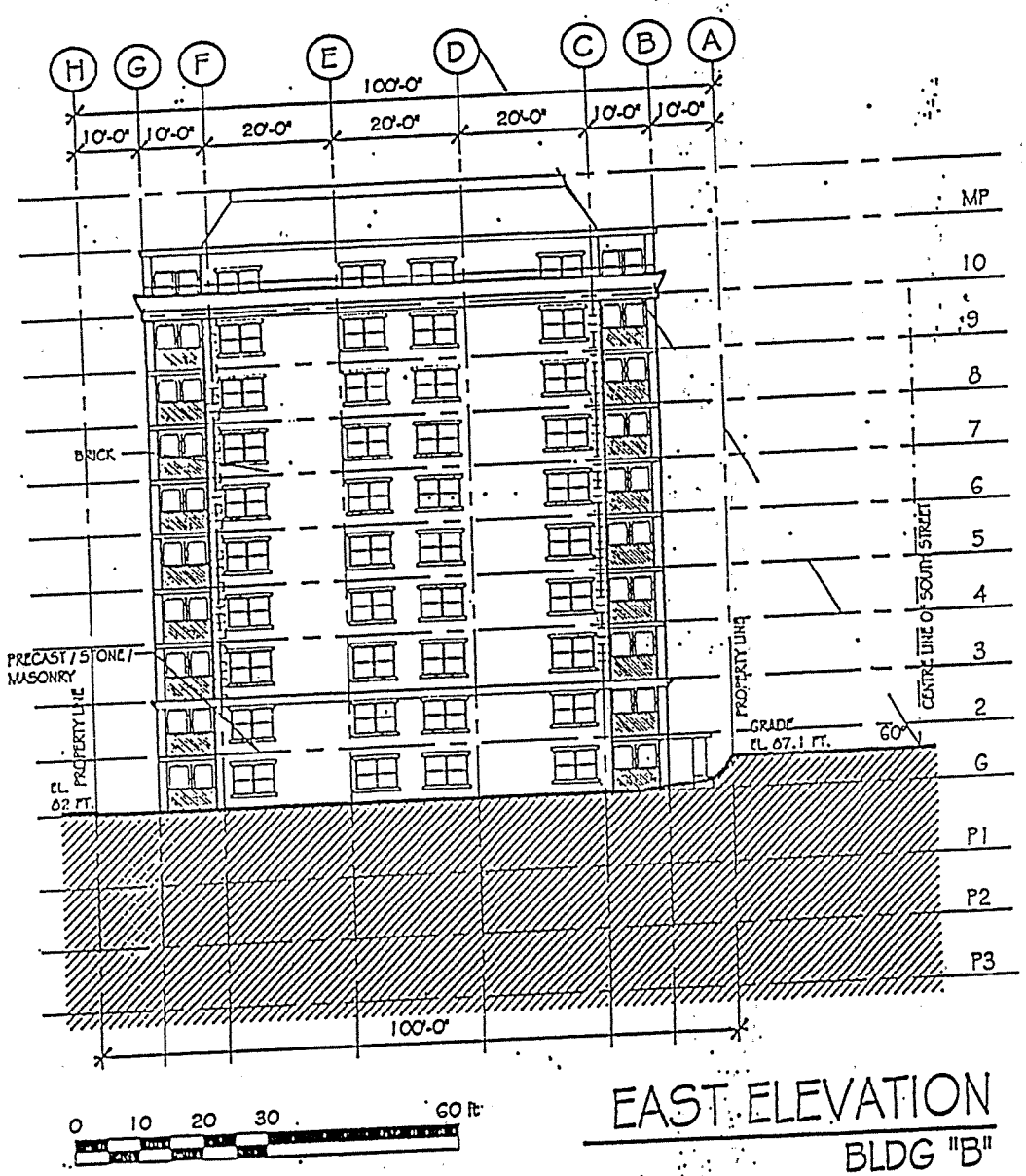


REAR (SOUTH) ELEVATION



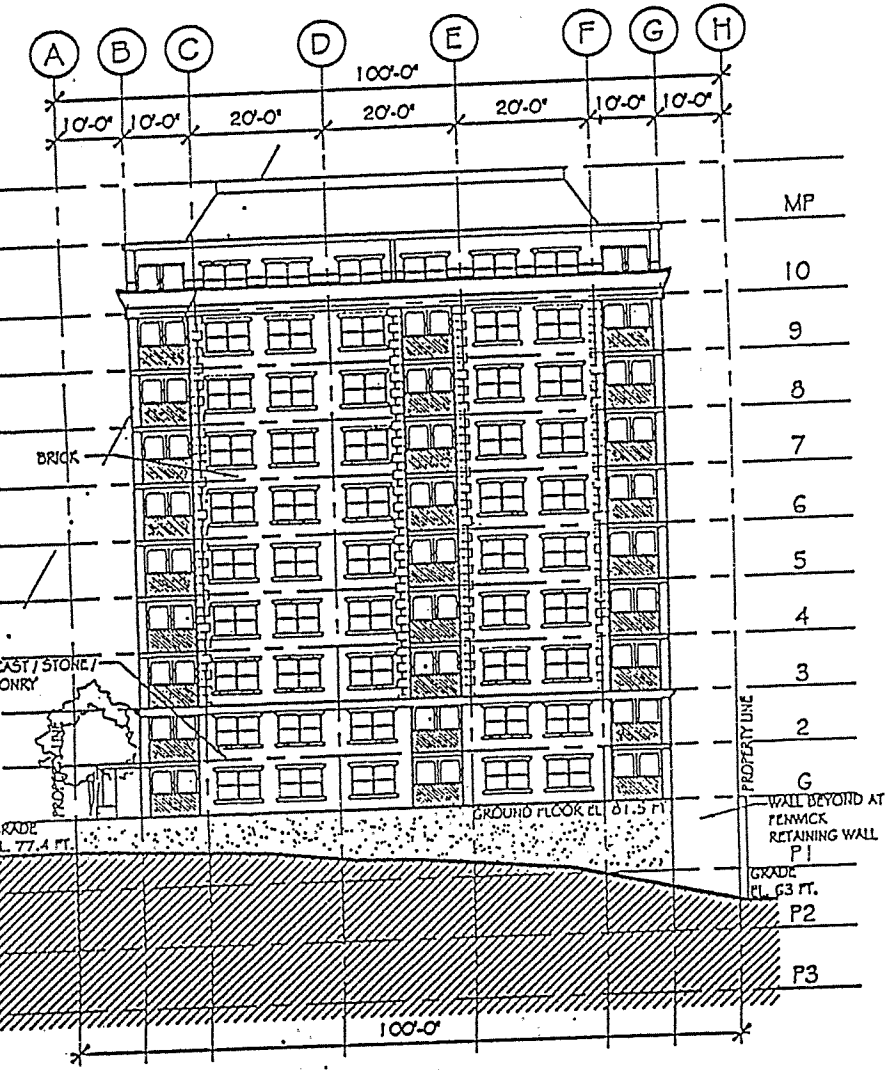
0 10 20 30 60 ft

EAST ELEVATION
BLDG "A"



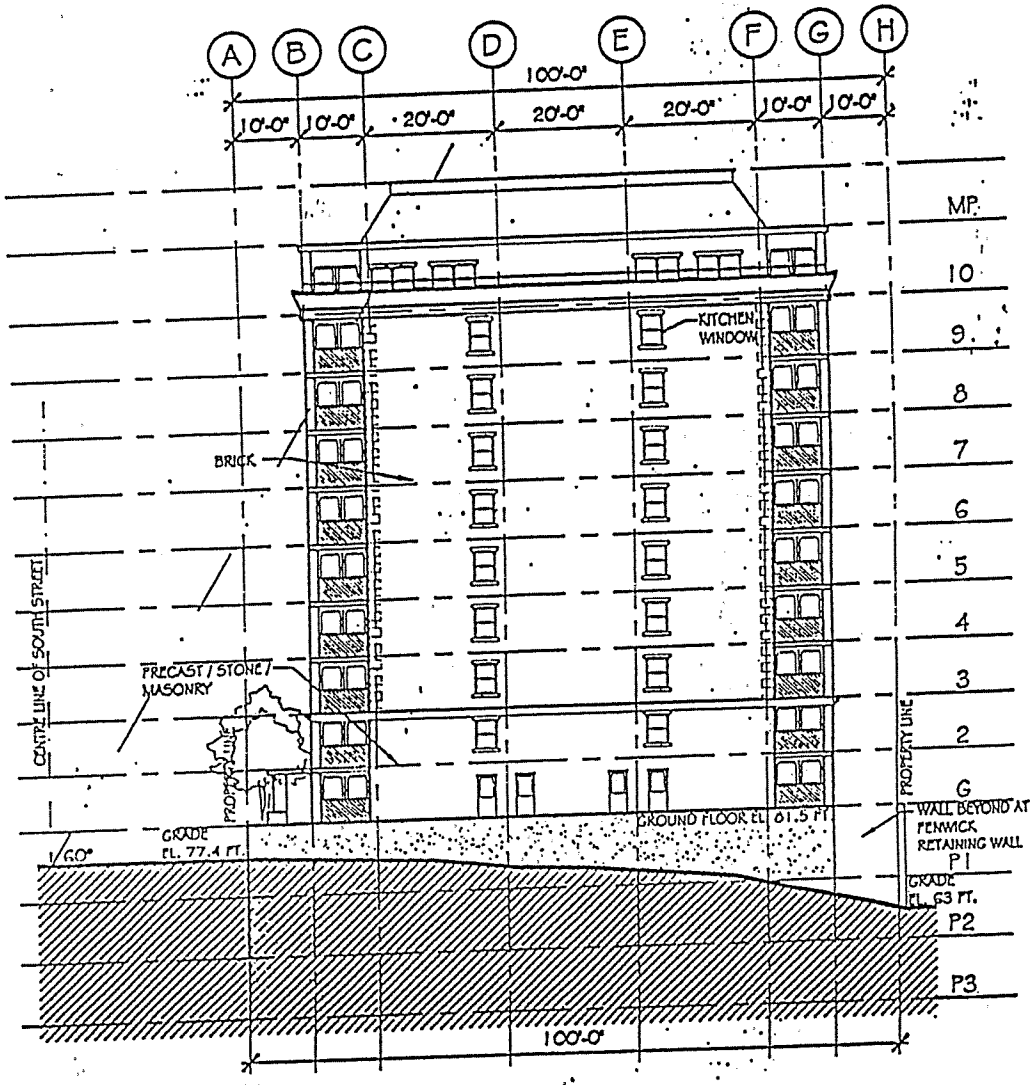
0 10 20 30 60 ft

EAST ELEVATION
BLDG "B"



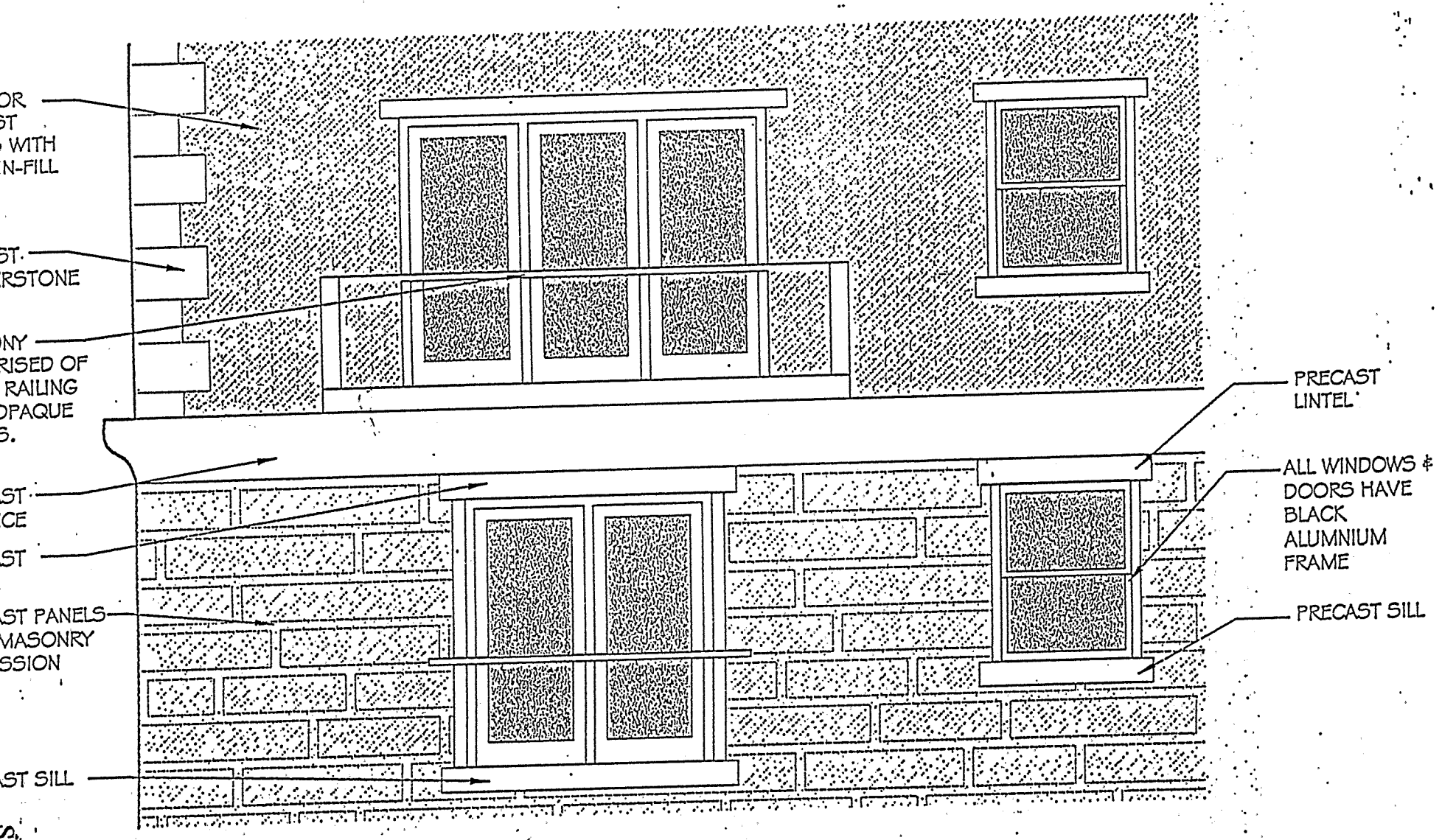
0 30 60 ft

WEST ELEVATION
BLDG "C"



0 10 20 30 60 ft

TYPICAL ELEVATION
WEST WALL BLDG "A" & "B"
& EAST WALL BLDG "C"



Schedule "N"

5620 South Street
MATERIAL DETAILS

SCALE: 1/4" = 1'-0"

May 19, 2004

Property Owner: Amalthea Holdings Ltd

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 6th day of JANUARY A.D., 2005, before me, the subscriber personally came and appeared MICHAEL C. MOORE a subscribing witness to the within and foregoing Indenture, who, having been by me duly sworn, made oath and said that **AMALTHEA HOLDINGS LIMITED,** one of the parties thereto, signed, sealed and delivered the same in his presence.

A ~~Commissioner~~ of the Supreme Court
of Nova Scotia

PAUL THOMAS
A Barrister of the Supreme
Court of Nova Scotia

PROVINCE OF NOVA SCOTIA
COUNTY OF HALIFAX, NOVA SCOTIA

ON THIS 10th day of January, A.D., 2005, before me, the subscriber personally came and appeared Gail Cluett & Ken Berrit a subscribing witness to the within and the foregoing Indenture, who, having been by me duly sworn, made oath and said that the Halifax Regional Municipality, one of the parties thereto, caused the same to be executed and its Corporate Seal to be thereunto affixed by the hands of Peter Kelly, its Mayor, and Jan Gibson, its Municipal Clerk, its duly authorized officers in his presence.

A Commissioner of the Supreme Court
of Nova Scotia

SHERRYLL MURPHY
A Commissioner of the
Supreme Court of Nova Scotia

Attachment D

Recent Development History

The following is a chronology of events relating to the property under the current application.

• April 26, 2000	Development Permit issued for 85 unit apartment building (11 floors).
• September 7, 2000	Development Permit issued for133 unit apartment building (11 floors).
• January 3, 2001	Development Permit issued for 152 unit apartment building (11 floors).
• March 9, 2001	Development Permit issued for186 unit apartment building (11 floors).
• July 16, 2001	Peninsula Community Council approved an increase to the height precinct from 100' to 190' in order to permit a 19-storey +/- building.
• February 25, 2002	Utility and Review Board overturns Council's decision.
• May 13, 2002	Variance granted to allow 211 unit apartment building.
• August 9, 2002	Development Permit issued for 211 unit apartment building subject to lot consolidation (11/12 floors).
• February 26, 2003	Nova Scotia Court of Appeal reinstates Council's decision.
• February 23, 2004	Development Permit issued for197 unit apartment building (10/23 floors).
• July 13, 2004	Halifax Regional Council adopted amendments to the Halifax Municipal Planning Strategy and Peninsula Halifax Land Use By-law to permit three apartment buildings by development agreement under Case 00614;
• August 7, 2004	The amendments to the Halifax Municipal Planning Strategy and Peninsula Halifax Land Use By-law became effective having been reviewed by Service Nova Scotia and Municipal Relations as per Section 208 of the Municipal Government Act.
• September 13, 2004	Peninsula Community Council approved a modified version of the development agreement.
• November 9, 2004	Amendments to the Halifax MPS South End Area Height Precincts
• April 1, 2005	Application to amend the existing agreement.
• April 28, 2005	Public Information Meeting (see Attachment E).

Attachment E

Public Information Meeting Minutes
Case 00789
April 28, 2005

In attendance: Councillor Uteck
Randa Wheaton, Planner, Planning & Development Services
Jim Donovan, Manager, Planning Applications
Gail Harnish, Planning & Development Services
John Young, Lawyer
Chris Young, Architect
Steve Tsmiklis, Amalthea Holdings Limited

Ms. Randa Wheaton called the public information meeting (PIM) to order at approximately 7:00 p.m. at the Gorsebrook Junior High School. Tonight we are here to present an application for an amendment to an existing development agreement for three buildings to allow a single multiple residential building.

Ms. Wheaton noted the application for an amendment to a development agreement essentially goes through the same process as for a development agreement. She briefly reviewed the planning process:

- an application or a letter of request is received
- a preliminary review is done of the application within HRM to ensure there are no issues or problems that prevent the developer from proceeding
- the PIM is held early on in the process. The purpose is to get input from the public and we want to know the concerns or the issues about the application. In many instances as a result of the input we receive, it causes changes to occur to the agreement itself. We are here to understand your concerns and issues so that the developer and their representatives can try to respond and address them.
- we do a detailed review of the application. It is circulated to various agencies and departments for comment to ensure requirements such as servicing are met and other issues are reviewed and dealt with.
- Planning Services prepares a staff report and a draft development agreement. In this case it is an amendment to the existing development agreement but it still takes the form of a development agreement. It is still a contract between the developer and HRM. An amending agreement reflects the specific things that are being changed and the basis of the original agreement remains the same.
- the report goes forward to Community Council with a recommendation. Council would decide whether or not to set a date for a public hearing.
- the public hearing is held. This is an opportunity for the public to let Council know your concerns and issues. It is another opportunity to see what the developer is proposing. If there are minor changes, they would be identified at that point.
- Community Council would make a decision on whether to approve or reject the application
- there is the opportunity for an appeal to the N.S. Utility and Review Board

Mr. John Young stated they are talking about an amendment to the existing agreement. They have a development agreement which permits the construction of three towers on South Street. They are proposing to amend the agreement to reduce it to one building. The building will be the same height but it will be set back. The current buildings are 10' back and the new building will be 20' back. Currently they would be 10' away from the McKeen building but the new building will be 27' back. On this end of the street (pointed out), it would be 70' rather than 22' away. It is the same height but it is moved up the hill a bit so it is centered on the lot and away from the properties on this end (pointed out).

John Young indicated that all the material, quality and structural obligations contained in the development agreement, such as the style and the recessed balconies on the rear, remain. It is designed to be a quality building.

John Young advised that in refining the design, and looking at the market and the financing, one building became better than three because it can be constructed in twelve to sixteen months versus three years. The mix of units has changed. Previously the three buildings had 162 units. The new building will have 108 units. Previously they had 120 studios, 31one bedroom and 6 two bedroom units. The proposed amendment would see 12 studios, 90 one bedroom and 6 two bedroom units. It would be more suitable for married couples and professional couples as opposed to studios for young students. The density basically stays the same.

John Young indicated the number of parking spaces is reduced but it meets the by-law requirements. One change as a result of the amendment is that they would meet the angle by-law in the back whereas they did not before. Essentially other than that, everything stays the same.

John Young summarized they go from three buildings to one; the number of units is reduced from 162 to 108; the density remains the same; there is a smaller footprint on the ground (16,000 sq.ft. down to10,000 sq.ft.); and they pulled away from the surrounding properties.

John Young commented they think it makes for a more attractive building. They believe it is a more viable and economical building in the current environment. The detail in the development agreement concerning design criteria, materials, and colours remains the same. Other than that, they do not want to change anything but it is a big change because it goes from three buildings to one. Also, they are going from 162 to 108 units and will reduce the number of studios by 90% and increase the number of one bedroom units.

Mr. Dave Faryniuk, Halifax, asked if the as-of-right situation would go back to 100' if this proposed is accepted.

Ms. Wheaton advised there is no longer a 190' allowance in terms of height. There was an amendment to the height precincts for this area and the allowable height for this property was reduced to 100'. Through the as-of-right process, they can build no higher than 100'.

Councillor Uteck indicated that Gary Porter had included a clause relative to dens and questioned whether that would be written in the future agreement. It was responded absolutely.

Councillor Uteck asked about the balconies.

John Young indicated they are still recessed as they were in the original agreement. The fundamental changes are: one building instead of three and the number of units goes from 162 to 108. The density is the same and the square footage on the ground is less.

Councillor Uteck commented the market has changed and the conditions have changed so this will be the building and there will be no further amendments.

Mr. Ron Rose, Halifax, indicated he was concerned about the number of parking spaces. The number of units was reduced by one-third and the number of parking spaces has been reduced by one-half. There will be more than one car in some of these units. This would force a number of cars out on the street in the neighbourhood. He questioned what scope they have for retaining the original number of parking spots.

John Young responded that would be difficult. The ratio has been reduced so the underground parking is reduced from two levels to one.

Mr. Rose commented that with 120 studio apartments, they are likely to have 120 cars.

John Young responded that 90 of the 108 units are one bedroom units. The density is the same but there would be more couples so they would probably only have one car. It does meet the by-law requirements. They could have gone down to fifty-seven parking spaces. They think it is reasonable and appropriate given what exists in other apartment buildings in the vicinity in the south end of Halifax. To some extent car usage is not the same downtown as opposed to living in the suburbs. There is not a magic number but it does meet the by-law requirements.

Mr. Rose said he appreciated the parking meets the by-law but he wanted the minutes to reflect that a citizen was concerned about putting more cars onto the street.

Ms. Rebecca Jamieson, Halifax, indicated that the dens should be researched. It was said the building is the same height but it was moved uphill. She referenced the original height of 181' and questioned whether the new proposal conforms with that. Mr. Chris Young responded yes.

John Young advised there is a clause in the development agreement which states "The dwelling units shall not contain any non-habitable rooms which, in the opinion the development officer, could be converted to habitable rooms." They did not think the potential was there.

Chris Young indicated there are dens associated with about twelve of the one bedroom units. This is a marketing thing in the sense that it is more desirable to have an apartment with a den which could be used as a television or computer room. It gives you another living space. When you live in an apartment, it is nice to have more space particularly if you are a couple. It is nice to have an area where you can do separate hobbies. A den does not equate to a spare bedroom. Also, it is subject to review by the development officer. A den does not have a door. Usually it is in a space that is

adjacent to another room which can be used for an extension of the living room or another activity you might like to have.

Mr. Beaumont, Halifax, stated this has been a seriously contentious aspect of this development. The words were inserted to deal with internal conversions. Internal conversions have become a very contentious issue in the R-1 and R-2 neighbourhoods of Halifax. In this particular instance where we have a development agreement in a R-3 zone, they hope to prevent internal conversions. They must be well aware of the kind of problems occurring whereby people are converting R-1 residences for a large number of students. The potential for the conversion of rooms is something that the neighbours and others want addressed, and in fact it was dealt with very seriously by the former planner Gary Porter who introduced this clause. They call it the "powder room ploy".

John Young concurred it is a serious problem. It is more likely to happen in R-1 and R-2 structures than this kind of structure because this type of structure has to meet the requirements of the Building Code in terms of structural integrity. It also has to meet financial requirements which specify the type of units for rental. There are obligations in addition to the municipal by-laws. The City has serious obligations in this regard. The clause is included in the current development agreement and there is no intention to remove it.

Mr. Larry Haiven, Halifax, questioned the dimensions of the dens.

Chris Young responded they are in the process of doing the layouts. They would probably be in the area of 100 sq.ft. In Halifax, there are a number of rules they have to abide by so that they do not become a separate room. For instance, the opening has to be 40% of the wall that it is in. It is not a separate individual room.

Ms. Wheaton concurred. You can have an opening between two rooms of up to 40% of the wall space. You cannot enclose that space with a door to create a separate room but you can have a partial wall that leaves a 40% opening within the wall.

Mr. Faryniuk asked about a storage space.

Ms. Wheaton responded that if it has a door and an enclosed space, it is a separate room, but if there is a partial wall with a 40% or greater opening, then that is not considered an enclosed and separate room.

Mr. Hugh Pullen, Halifax, commented they did not seem to have all their facts and figures ready. They imply there is more information to come which will come after this meeting. He asked if the podium which was the parking for the original three buildings has shrunk.

Chris Young responded the green area on the side remains the same as in the previous development agreement. The building has shrunk. Where the building has shrunk, they are using unit pavers.

Mr. Pullen questioned whether this building conformed with By-law M-100 respecting standards for residential occupancies. He further questioned if the dens would have a window. He had no

confidence that the dens would not be a supplementary space. He also had no confidence that the residential character of this end of Halifax has changed or perhaps if it has, it has changed for the better. He did not see a den being all by itself and not containing a lion or a lioness.

John Young responded that he lived in a condominium with a den which he used. If you are going to get your economical value out of a building of this design, the criteria that has been accepted and agreed to is that the building has to be attractive to the tenants that are expecting it to be what it is. It is not a slum dwelling and it is not to become a rooming house. It if did, it would be an economical disaster. There are inspections and they need occupancy permits. You do not change the structure by changing the weight bearing loads. While he appreciated the concern about dens, that is not an issue in this building.

Ms. Marsha Parker, Halifax, asked what the minimum size of a bedroom was in terms of square footage. Ms. James responded she did not think there was a minimum.

Mr. Pullen referenced Section 27 of By-law M-100 which states that a dwelling room shall have a minimum floor area of 8 m^2.

Ms. Parker questioned whether the den met the requirements of the 8 m^2.

Chris Young responded so does the kitchen and the bathroom. In order to be a habitable room, it has to have ventilation, lighting and a door. There is a minimum ceiling height in the by-law mentioned by Mr. Pullen as well. There is also one in the National Building Code. He did not think there was a requirement in the Building Code for a minimum floor area. He has been up to Toronto and dens are very desirable in terms of marketing. This is not an unusual thing to be doing.

Ms. Jamieson indicated a big difference between the kind of building Mr. Young is referring to and this one is that this is rental accommodations and not condominiums. This is in a prime student area and is next to Fenwick Tower. The transient population is the biggest single threat to their neighbourhood. She worked with students and taught at Dalhousie. Students are incredibly bright and inventive. It would be no problem for a student to turn a den into a habitable room. She liked and worked with students but the push for more and more people in a building like this in the central and south end of the City is a considerable and growing problem. They want to be reassured that the dens will not be occupied by people.

Chris Young indicated that is why the "Porter clause" was put into the development agreement. The condominiums are routinely bought and rented out. The landlord would not want to have additional people squeezed into the building. The other thing asked for previously was to have a full time live-in superintendent so that there was somebody responsible in the building to address the issues immediately and that they be maintained.

Mr. Pullen questioned how many apartments would have dens. Chris Young advised that forty-five one bedroom apartments would have dens.

Ms. Joanne Faryniuk, Halifax, indicated she would like to reiterate the need for a security desk within the building so that the Municipality can enforce its own density rules. Since this is part of the peninsula strategy where they would like to go in the future with regional planning, they would like to start with this building. In August of 2003, they said they needed a security desk in order to enforce to some degree the density and who is residing within this building.

Ms. Faryniuk commented the parking is a problem because the by-law is a problem. Anybody who does not realize that all those transients come in some sort of motorized vehicles needs their heads re-examined. They all have cars. The by-law is archaic. It needs to reflect that if you have all these one bedroom units, plus two bedroom units, there should be a parking space for the one and two bedroom units.

Ms. Faryniuk asked about garbage disposal. Chris Young advised that the garbage will be kept inside the garage as is stipulated in the previous development agreement. He confirmed there will be forty-seven parking spaces.

Mr. Faryniuk questioned when they would design the apartments so they can see what they look like.

Chris Young displayed a plan, noting they will be doing some fine-tuning. Some floor laundry has to be added. The studios will average out to a more common size.

Mr. Faryniuk commented that some of the storage areas in the studios were as large as bedrooms.

Chris Young indicated the concern would be addressed by the "Porter clause". Most of the units are 800 sq.ft. Before they get to the public hearing, they will have to display the drawings.

Ms. Wheaton advised that the draft development is attached to the staff report. Attached to the development agreement would be the floor plans and the elevation drawings, so that information is available in advance of the public hearing.

Mr. Pullen indicated what they need is a PIM with the plans that are proposed to go to the public hearing. The testimony record for the PIM goes as evidence at the public hearing. They need another PIM. This is primarily a neighbourhood gathering where they are discussing what it will look like which is quite common in the south end. The developer should talk to the neighbours first to get their input and then have another PIM. Because there is no firm plan he found this hard to accept as a PIM.

Councillor Uteck commented that was a very good point. They looked at the general concept tonight. The onus is on the developer at this point. He should know because this is their eleventh meeting. He has six development permits on the go. This was her last meeting with this developer on this site. The onus will be on the developer from the comments here tonight to get those things right, otherwise it would get rejected at the public hearing. The developer knows he has a bit of homework to do.

Mr. Chris Beaumont, Halifax, indicated they have the opinion of the development officer versus what the public is saying. The "Gary Porter clause" was inserted because this has so much history

associated with it. What he found extremely difficult to deal with is the fact that the development officer seems to be implying there is an agreement in place. John Young responded that was not the case.

Mr. Beaumont questioned what the opinion of the development officer was in terms of the dens.

John Young advised that the development officer will provide an opinion once they design the dens. He thought Councillor Uteck properly explained the process. In doing the final design of the dens and looking at the question of the storage areas and the other issues, it is incumbent on them to satisfactorily respond to them if they wish to succeed in the process, otherwise Community Council may not approve their request. They recognize they need to pay attention to what is being said and to adequately respond to the concerns and issues.

Mr. Faryniuk questioned if they would have an opportunity to critique the final plan.

Councillor Uteck responded they have the opportunity to critique at the public hearing. It is incumbent on the developer, the lawyer and the architect to address the concerns. As a result of the concern about the dens, the "Porter clause" was inserted into the development agreement. What is positive about the development agreement is that the people have a say and changes can be made. If the residents are not satisfied with what is provided in the report, she encouraged that they contact her and provide her with their concerns.

Ms. Jamieson commented she misinformed Councillor Uteck. This is the twelfth proposal and there are six permits. She appreciated that the building is more in compliance with the setback and angle controls. They did ask that it be brought more in compliance with the land use by-law. She was concerned about the dens as well as the number of proposals. It is a waste of staff time and her time. They regarded the previous agreement as the "lesser of the evils". She questioned whether this would be the final proposal.

John Young advised they are hoping to start construction at the end of 2005. The reason they went back is because at the point of refining, it became apparent that this was more of an improvement. They understand they have to address the concerns raised. They believe the building will look like this (pointed out) and they will have more detail to satisfy the questions raised this evening. They want to start building soon - they need the revenue.

Mr. Murray Doehler, Halifax, commented he attended the last eleven meetings. He questioned what by-law provisions are not met in terms of the unit mix.

Ms. Wheaton advised there is a requirement in the by-law that a certain number of the units be one bedroom and two bedroom units. The previous proposal was for mainly studios so it did not meet that mix. This proposal, with its large predominance of one bedroom units, still does not meet that mix. The intent of the by-law is to have a larger component of family type units. They still have predominately small units so that requirement is not met.

Mr. Steve Tsmiklis advised the ratio is 3:1. They are about eight units off the mark.

Mr. Doehler commented they are within the 10% range.

Mr. Doehler noted the parking issue was raised. In terms of having units available with parking, he could rent them ten times over. There is a huge problem in the south end with parking. He realized they met the parking requirements but that was in days where public transit would take over, which is not the case. He felt the number of parking spaces has to be looked at. He questioned whether the City could enforce a requirement to have a superintendent or a security desk in the building.

Ms. Wheaton responded yes. The by-law enforcement officers can enforce whatever is written in the development agreement.

Mr. Doehler indicated they have heard the comment several times that it has to be economical or they cannot get financing, and noted that is not a concern for the residents.

John Young responded they could build the other buildings and finance them but they think it is more desirable to build this. He understood they did not care about his client's finances. They think this is a better project and they think it is more economically attractive to them.

Jon Eppel, Halifax, questioned the setback of the building relative to the building to the east (McKeen Manor).

It was responded it is 27' back from the Dalhousie parking lot which is between the McKeen building and the lot. The setback for the original building was 10'. This building does not go above the McKeen building.

Chris Young indicated he believed it was similar. McKeen Manor must be about 150'. The property line to the parking lot is probably about 45'.

Mr. Eppel commented noise is a significant issue where he lived because he was mid distance between Fenwick Tower and Park Victoria, especially in the spring, the summer and into October. The students love to get out on the balconies, and he would encourage that they restrict the balconies. If removing the balconies is not an option, then perhaps they could look at sliding glass doors where you cannot step out.

It was responded that all the balconies are recessed so they do not stick out.

Ms. Parker stated the noise issue is significant and is something they all deal with. On the ground, they have had noise coming from high rises. She could remember at a meeting where Mr. Tsmiklis was making a presentation and in the context of it he made the comment that security would be on the premises between 5 and 9 p.m. She could remember thinking security should be there between 9 p.m. and 6 a.m.

John Young commented legally that is a very difficult concept. Going from 168 to 108 units should reduce the amount of noise. They are still maintaining that there will be a live-in superintendent on

this site so they are capable of dealing with situations on the site all the time. That is significant in this context and allows them to respond to that issue.

John Young indicated they are dealing with an up-market residential building. This is not a slum. If tenants misbehave, it is in their best interest to get rid of them because they affect the market place for the residential tenants. He had a noise problem where he lived as well. There is no perfect answer to the noise problem. He thought this proposal carries less noise than the existing project they can build. They are looking for tenants who are more interested in the long-term.

Mr. Pullen commented he too would like to think it is an up-market. They all know what is behind this building. He had a hard time thinking they might be maintaining an up-market building when they have a down-market building behind them.

John Young stated this is not a student housing project. Some very good quality housing exists in south end Halifax very close to university properties.

Ms. Faryniuk indicated the recessed balconies are an improvement acoustically. Also, she felt this building is an improvement over the three independent buildings. She wished them luck with regard to the tenancy of that particular building because of where it is located and the struggle they will have to maintain it, which she did not think would happen with just a superintendent in place. There are superintendents in a number of buildings and they change-over once every year almost routinely because of the issues that are involved with these buildings. If Mr. Tsmiklis wants to prove to his tenants that he is serious about this, he will want security in the building and better security than Fenwick Towers.

Ms. Faryniuk indicated this building will abut a senior citizens complex. They were there first and little by little they tend to be fewer. They need to become part of the solution as opposed to part of the problem with regard to this type of development. In another five years it could be a student's residence in the south end of Halifax catering to Dalhousie, St. Mary's, and DalTech because it's within five minutes of walking distance to all of them.

Chris Young noted they would not solve the student housing issue in Halifax tonight. This is not a student housing project economically. It is in their interest to make sure that does not happen. Will they be perfect at it? Perhaps not.

Mr. Beaumont questioned whether they would be willing to give them assurances tonight that the dens will go away.

John Young responded no. They are not trying to skirt the development agreement. They are trying to abide to it. He hoped he would be satisfied when he saw the final product.

Mr. Beaumont questioned whether they could be assured of getting the information in a manner that allows them to look at it.

Councillor Uteck indicated they will hammer in the powder rooms and things they want. If they think something is wrong, they should contact her and she will call by-law enforcement. This is what they call a special red flag project because it has been around the block so many times. If they had started with this one in round four, they would not be here in round eleven. She would make every effort to have amendments included in the development agreement if it is reasonable. This has been the longest development agreement project in her history as being a councillor.

John Young thanked everyone for their patience. They are paying attention and hopefully they will respond in a manner that is more than adequate. It has been a long exercise and is hopefully coming to an end.

The meeting adjourned at approximately 8:20 p.m.