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P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Halifax Regional Council
June 22, 2004

TO: His Worship Mayor Peter Kelly and
Members of Halifax Regional Council

FROM: *for* *Sue Uteck*
Councillor Sue Uteck, Chair
Peninsula Community Council

DATE: June 22, 2004

SUBJECT: **Case 00614 - Halifax Municipal Planning Strategy And Land Use By-law Amendment - 5620 South Street**

ORIGIN

Special meeting of Peninsula Community Council on June 22, 2004.

RECOMMENDATION

Peninsula Community Council recommend that:

1. Regional Council give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as contained in Attachment A of the June 10, 2004 staff report and schedule a joint public hearing with Peninsula Community Council.
2. Regional Council approve the amendments to the Halifax Municipal Strategy and the Halifax Peninsula Land Use By-law as contained in Attachment A of the June 10, 2004 staff report.

BACKGROUND

This matter was before Peninsula Community Council as the result of an application by Amalthea Holdings Limited to amend the Halifax Municipal Planning Strategy and Land Use By-law to enable a development agreement at 5620 South Street.

DISCUSSION

At the Special meeting on June 22, 2004 Peninsula Community Council gave Notice of Motion for the Development Agreement, as contained in Attachment B of the staff report dated June 10, 2004, to permit a 150-unit building and to schedule a joint public hearing with Regional Council.

BUDGET IMPLICATIONS

N/A

FINANCIAL MANAGEMENT/BUSINESS PLAN

N/A

ALTERNATIVES

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use Bylaw and schedule a public hearing.
2. Reject the recommendation of Peninsula Community Council and take no further action in this regard.

ATTACHMENTS

None - June 10, 2004 staff report re Case 00614: Halifax MPS and LUB Amendment - 5620 South Street was distributed in the Council agenda package.

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: Sherryll Murphy, Legislative Assistant 490-6517.



PO Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

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MEMORANDUM

TO: His Worship Mayor Kelly and Members of Halifax Regional Council


FROM: Sherryl Murphy, Legislative Assistant

DATE: June 17, 2004

**SUBJECT: CASE 00614 - HALIFAX MUNICIPAL PLANNING STRATEGY AND
LAND USE BY-LAW AMENDMENT - 5620 SOUTH STREET**

At the request of Councillor Uteck, Peninsula Community Council agreed that this item be deleted from their June 14, 2004 agenda, and that a special meeting of Peninsula Community Council be held on Tuesday, June 22, 2004 to consider the matter. This meeting is scheduled for 12:30 p.m., and we anticipate that a recommendation from Peninsula Community Council will be brought to Regional Council that evening.

To provide Council an opportunity to review the staff report a copy is attached.

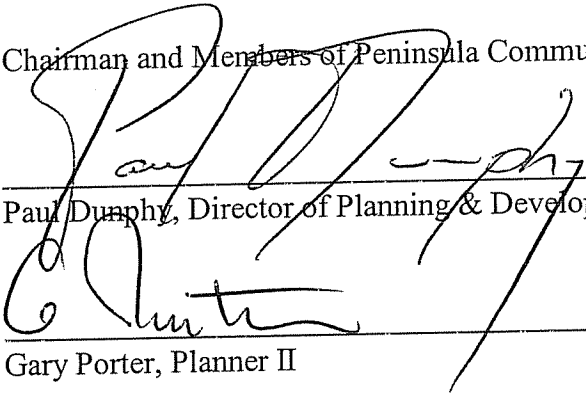

Sherryl Murphy
Legislative Assistant

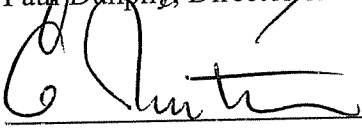
PENINSULA COMMUNITY COUNCIL

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Peninsula Community Council
June 14, 2004

To: Chairman and Members of Peninsula Community Council

Submitted by: 
Paul Dunphy, Director of Planning & Development Services


Gary Porter, Planner II

Date: June 10, 2004

Subject: Case 00614: Halifax MPS and LUB Amendment - 5620 South Street.

ORIGIN:

Request by Amalthea Holdings Limited to amend the Municipal Planning Strategy and Land Use By-law for Halifax to enable a development agreement at 5620 South Street.

RECOMMENDATION:

It is recommended that Peninsula Community Council recommend Regional Council:

1. Give First Reading to the proposed amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as contained in Attachment A and to schedule the public hearing.
2. Approve the amendments to the Halifax Municipal Planning Strategy and the Halifax Peninsula Land Use Bylaw as contained in Attachment A.

It is further recommended that Peninsula Community Council:

1. Move Notice of Motion for the development agreement, as contained in Attachment B, to permit three apartment buildings at 5620 South Street, and to schedule a joint public hearing with Regional Council
2. Contingent upon the approval by Regional Council of the above Municipal Planning Strategy and Land Use By-law amendments and the coming into effect of said amendments, approve the development agreement, as contained in Attachment B (Staff will bring this matter back to Peninsula Community Council for a decision at the appropriate time).
3. Require that the development agreement be signed 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:

Initiation

At the December 2, 2003 meeting of Regional Council staff was instructed to initiate a process to consider amending the Halifax Municipal Planning Strategy and Land Use Bylaw to enable a development agreement to permit an apartment building at 5620 South Street. The public participation meeting occurred on January 15, 2004. The minutes of that meeting are included as Attachment C

Zoning

The 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). The R-3 portion of the property is subject to a 190-foot height precinct, while the R-3V portion, in addition to the view plane limitation of approximately 100 feet, is subject to a 100-foot height precinct. The more restrictive of the two requirements, which in this case would be the view plane, would take precedent.

The property is located in an area where the permitted density is 250 persons per acre, giving this site an "as of right" possibility of 211 persons (i.e., habitable rooms¹). The site is currently vacant, being previously occupied by a service station.

History

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

- April 26, 2000 Development Permit issued for 85 unit apartment building (11 floors).
- September 7, 2000 Development Permit issued for 133 unit apartment building (11 floors).
- January 3, 2001 Development Permit issued for 152 unit apartment building (11 floors).
- March 9, 2001 Development Permit issued for 186 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 for 197 unit apartment building (10/23 floors).

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.

Summary of Recent Events

This request was made in August 2003. At that time the proposal was to construct a 200-unit apartment building comprising two towers of 9 and 13 storeys (400 habitable rooms) at 5620 South Street which did not comply with the provisions of the R-3 zone. Because of the severe degree to which this proposal did not meet the R-3 regulations, staff was not prepared to recommend initiation of an amendment to the Municipal Planning Strategy for this site to enable such building.

However, because of the public's concern over the possibility of a 190 foot high building, staff saw the developer's request for an amendment to the MPS as an opportunity to secure a building which would be more acceptable to the community. The developer expressed a willingness to negotiate something lower on the basis that he would be granted some concessions to the R-3 requirements (i.e., more density, less open space, non compliance with angle controls, etc.) to keep the project viable. Because of these circumstances, staff agreed to recommend initiation only on the basis that the 200-unit apartment building was not part of the request. Staff was prepared to consider *some* concessions in order to allow a building which is acceptable to the community and supported the concept that the owner should not be disadvantaged by changes to his proposal required to gain community acceptance.

Staff set the following guidelines as a basis for determining what is an acceptable apartment building on the site:

- acceptable in scale (height, bulk, site coverage)
- acceptable in appearance (building materials, landscaping)
- provides an appropriate unit mix
- provides security to ensure that concerns with respect to neighbourhood disturbance, should they arise, can be addressed.

Following the public information meeting, a proposal for 175 units (275 habitable rooms) in a ten storey building was made. However, the density of this proposal was still excessive (325.7 persons per acre, which exceeded the by-law limitation of 250 persons per acre), as well as deficient in a number of other areas. While staff was prepared to consider some concessions, the concessions necessary to permit this proposal were considered unjustified and staff was not prepared to recommend approval of this proposal.

Current Proposal

The developer has now submitted a proposal for three 10 storey apartment buildings on the site (see Attachment B, Schedules B - N). The three buildings will contain a total of 162 units (51, 51 and 60) and will have three levels of underground parking. The three buildings will contain a total of 120 bachelor units, 36 one bedroom units and 6 two bedroom units. The total project results in a density of 248.7 persons per acre. A complete comparison of the three proposed buildings with the R-3 requirements is provided in Attachment D.

DISCUSSION:

An amendment to the Municipal Planning Strategy generally requires two elements in order to be adopted; community acceptance and consistency with good planning principles.

Community Acceptance

The policies of the Municipal Planning Strategy are adopted only after consultation with the community to which they apply and should reflect the views of the majority of the community at the time of adoption. Requests to change the Municipal Planning Strategy by individuals are generally not supported by staff unless it can be shown that circumstances have changed since adoption which make the current designation or policy no longer appropriate. Site specific amendments to the MPS are not routine applications as is the case with rezoning and development agreement applications. The Municipal Government Act contemplates applications for rezoning and development agreements and sets out a procedure for a municipality to follow including an appeal period. While there is an ability for Council to amend its MPS, it is under no obligation to do so and there is no appeal on its decision to amend or not amend.

This proposed amendment to the Municipal Planning Strategy proceeded on the basis that there was or would be community support for change and such support would constitute a change in circumstance on which consideration of an amendment to the Municipal Planning Strategy could be based. This proposed amendment was tested before the public and the reaction was mixed. There is some level of support for the earlier proposals (i.e., 200 units, 175 units) from representatives of Fort Massey Church, some occupants of McKeen Manor and the owner of an adjacent apartment building. However, there was also a significant group of individuals in the community who opposed the larger proposal (i.e., 200 unit proposal) on the basis that trading density for height is not acceptable.

Now that the developer has further reduced the proposal to be more in keeping with the R-3 regulations respecting apartment buildings, particularly density, the major concern of the community has been addressed. While staff cannot guarantee community acceptance of this proposal, there is a reasonable expectation that this will be the case. A public hearing will be required, at which time members of the community will have an opportunity to express their opinion.

Consistency with Good Planning Principles

The initiation report set four guidelines as a basis for determining what is an acceptable apartment building on the site.

Scale (height, bulk, site coverage)

To put this proposal into context, the "as of right" scenario, permits two towers of 10 and 23 storeys. This proposal includes a 10 storey building (building A) which is similar to what could be built "as of right." However, in this proposal, the 23 storey tower is essentially split in two and constructed as two 10 storey buildings (buildings B and C).

In order to judge the acceptability of the scale of this proposal, reference is made to the R-3 zone which sets out the regulations to that an apartment building of more than five units must meet.

These are lot frontage, lot area, density, open space, parking, setbacks and angle controls. In the South End, there are also a unit mix requirement and height precincts. As can be seen in the analysis set out in Attachment D, this proposal has only four areas of non compliance with the land use by-law. Density, open space, parking, setbacks, angle controls, unit mix and the height precinct are discussed in detail below.

Density

Density is the key element of the R-3 regulations. A density requirement is based on the principle that the larger the property, the greater the number of people that can occupy it. It is the “yard stick” against which all R-3 developments are measured to ensure that properties under consideration for R-3 development are assessed fairly and equally. Therefore, it is important that the allowable density not be exceeded unless there are unusual and unique circumstances which would justify additional density.

As stated earlier, the maximum permitted density in this area is 250 persons per acre. As the number of people within a building cannot be regulated, density actually determines how many habitable rooms can be in a building. This is then used to arrive at the number of dwelling units that can be in a building.

5620 South Street will be divided into three separate lots. The area of the total property will allow up to 211 habitable rooms. The developer proposes 210 habitable rooms. Individually, each of the proposed buildings is within density.

Open space

An apartment building requires a certain amount of open space around it, based on the number and type of units it will contain. Most of this is required to be landscaped open space at grade. However, there is a provision for a portion of other areas, such as balconies or common tenant recreation areas, within the building to count toward the total amount of open space required.

Each of the three buildings is deficient in the minimum amount of open space required at grade. Collectively the three lots are 1,732 square feet deficient for a requirement of 12,840 square feet. However, this project also includes balconies. Although the land use by-law limits the amount of balcony space that can be counted toward the total open space which can be provided, which in this case would be 1,080 square feet, this proposal includes 9,720 square feet of balcony space.

Parking

The land use by-law requires that 103 parking spaces be provided for this building. One hundred and twenty-four spaces will be provided in three underground levels.

Setbacks

The land use by law requires minimum setbacks of 20 feet from the street line and 10 feet from other property lines. Under certain circumstances, portions of the building may be as close as 10 feet to the street line. These setbacks must increase as the height of the building increases. While the front of each building is setback sufficiently for the height proposed (meets 80 degree angle control), the remaining setbacks are typical of a two or three storey building.

Angle controls

The angle controls are a height to setback ratio that creates the building envelope. As stated above, much greater setbacks are required for the height of these building in order to achieve compliance with the requirements of the R-3 zone. While the front of each building meets the angle control, the remainder of each building is significantly deficient.

On May 13, 2003, Peninsula Community Council, on appeal by the applicant, granted a variance to the rear yard requirement for this site from 66.4 feet to 10 feet. This created an exemption to the angle control on the majority of the rear portion of a 12 storey, 211 bachelor unit (i.e., 211 habitable rooms) building which was proposed at the time. This building complied in all other respects with the R-3 zone.

The building now being proposed is significantly different from the building for which the variance was granted. It therefore has no application to the current request. However, the rear yard required for this proposal is similar to that required for the proposal for which the variance was granted, suggesting that this is acceptable to Council.

Unit mix

Within the "South End," "as of right" apartment buildings built pursuant to R-3 regulations must provide one unit which exceeds 800 square feet for every three which are less than 800 square feet. All units in this proposal are less than 800 square feet. However, the proposal includes 2 two bedroom units and 12 one bedroom units in each building. Overall, this provides a ratio of 1 one or two bedroom units for every 2.85 bachelor units.

The two bedroom units are in excess of 1,500 square feet, while the one bedroom units range from 740 square feet to 790 square feet. Some or all of these may vary once final drawings are prepared.

Height precinct

The height of any building on this site is limited by height precincts of 100 and 190 feet. View planes 9 and 10 limit the height on the east end of this site. View plane 10 is at elevation 181 feet above sea level. All three buildings will be constructed to this elevation. Because of the sloping grade of this site, this will mean that the heights of the three buildings will range from about 94 feet (east building) to approximately 102 feet (west building).

Summary with respect to zoning

With respect to compliance with the R-3 requirements, this building complies with density, parking, and the height precinct. Setbacks and angle controls are partially met.

It must be kept in mind that this site is zoned R-3 and this proposal meets the allowable density. This means that the proposed number of habitable rooms to be permitted on this site is no greater than the number of habitable rooms that would be allowed on a similar sized lot pursuant to "as of right."

There is also an existing height precinct on most of the western portion of the site of 190 feet. This will allow for a building in excess of 200 feet in height. Essentially, the east building

(building A) is similar to what could be built “as of right.” If the center building (building B) was stacked on the west building (building C), this would be similar to what could be built “as of right.” For concessions on open space, setbacks, angle controls and unit mix requirements, the “as of right” taller building will be cut in half and built as two shorter, ten storey buildings. This is a reasonable tradeoff.

Appearance (building materials, landscaping)

The proposed building will be clad in precast concrete. The lower two floors will replicate sandstone blocks while the remainder will appear as red brick with sandstone corner block details. Other architectural detailing is proposed, all of which will result in an upscale appearance.

No landscaping details have been provided. However, should the proposal be approved, the development agreement requires that a landscaping plan be provided as part of a building permit application and that approval be required by Peninsula Community Council as a non substantial amendment before that permit is issued.

Appropriate unit mix

As elaborated on earlier, the proposed unit mix does not meet with the standard set out in the land use by-law of one dwelling unit of a minimum of 800 square feet in floor area for every three dwelling units, each of which is less than 800 square feet in floor area. Concern was expressed about the earlier proposals which were for all bachelor units. In this proposal, 42 of the 162 units will be one or two bedroom units. This provides a ratio of 1 one or two bedroom unit for every 2.85 bachelor units.

The development agreement requires that a minimum of 12 one bedroom units and 2 two bedroom units be constructed in each building. Provided that the density (habitable room) limitation of 211 is not exceeded, more one and two bedroom units are permitted in exchange for bachelor units. No more than 120 bachelor units are permitted (37 on the east and center lots and 46 on the west lot).

Security

The developer advises that, with the reduction in size of the building from what was originally proposed (i.e., 200 units) it is not feasible to provide an on site security person in the building for supervision of tenants. This is not a matter which can be regulated by zoning.

Staff understands that there will be a live in superintendent for the building.

Summary and Conclusion

While a decision on a development agreement or rezoning must be based on existing policies contained in the Municipal Planning Strategy, an amendment to the MPS relies heavily on community support for such amendment. An apartment building (or buildings) is a permitted

land use for this site. The residents have indicated a desire for a lower building than the 190 feet (or slightly greater because of how height is measured) that is allowed provided that density is maintained. The owner has agreed to reduce the height to 100 feet ± and keep within the permitted density, provided that exemptions to the angle controls, open space, setback and unit mix requirements are permitted.

Taking all of the circumstances into consideration and acknowledging that not all of the concerns have been addressed, the current proposal is reasonable in order to reduce the height of development on this site. The proposed amendments to the Municipal Planning Strategy and land use by-law which will enable a development agreement to permit three apartment buildings at 5620 South Street are included in Attachment A. These amendments also include changing the height precinct for 5620 South Street from 190 feet to 100 feet.

The proposed development agreement is included in Attachment B. Highlights include:

- Height limit for entire site to allowable height under View Plane 10 (approximately 100 feet).
- Maximum of 211 habitable rooms
- Minimum of 124 underground parking spaces
- Architectural controls
- Landscaping requirements
- Commencement of the first building and the complete parking structure within two years
- Completion of the entire project in five years.

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. **Regional Council** may approve the requested amendments to the Municipal Planning Strategy and land use by-law as contained in Attachment A and **Peninsula Community Council** may approve the development agreement as contained in Attachment B to permit three apartment buildings at 5620 South Street. This is the recommended course of action.
2. **Regional Council** could refuse the requested amendments to the Municipal Planning Strategy. A request to amend its Municipal Planning Strategy is completely at the discretion of Council. A decision not to amend the MPS cannot be appealed. Should Regional Council not adopt the proposed amendments to the Municipal Planning Strategy, the matter is at an end and there is no action required of Peninsula Community Council

3. **Peninsula Community Council** may refuse to enter into the development agreement, and in doing so, must provide reasons based on conflict with MPS Policy. Staff does not recommend this alternative, as the proposed amendments to the MPS have been drafted to permit this development agreement.

4. **Peninsula Community Council** may choose to request modifications to the development agreement. Such modifications may require further negotiations with the developer. This alternative is not recommended as the attached agreement is consistent with MPS policies proposed to be adopted by Regional Council to allow this development.

ATTACHMENTS:

- A Proposed Amendments to the Halifax Municipal Planning Strategy and Peninsula Land Use By-law
 - B Draft Development Agreement
 - C Minutes of the January 15, 2004 public participation meeting.
 - D Comparison of buildings proposed for 5620 South Street to the as of right provisions of the land use bylaw for an R-3 use.
- Map 1 Plan showing lot in relation to View Plane and height precinct

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: Gary Porter, Planner II, 490-4403

Attachment A

Proposed Amendments to the Halifax Municipal Planning Strategy

- 1 Add Policy 7.6.6 to Section V of the Halifax Municipal Planning Strategy to read as follows:

For the property designated as High Density Residential known as LRIS PID No. 41030727 South Street, the Municipality may permit a maximum of three apartment buildings by development agreement.

- 2 Add Policy 7.6.6.1 to Section V of the Halifax Municipal Planning Strategy to read as follows:

Any development permitted pursuant to Policy 7.6.6 shall be compatible with the surrounding area and this shall be achieved by attention to a variety of factors for which conditions may be set out in the development agreement, such as but not limited to:

- a) the adequacy of the servicing capacity of the site;
- b) architectural design of both the exterior and interior
- c) the scale, and massing of the building;
- d) the location and amount of parking provided;
- e) accesses to the site and building
- f) site landscaping including buffering;
- g) building materials

3. Add Policy 7.6.6.2 to Section V of the Halifax Municipal Planning Strategy to read as follows:

Notwithstanding the generality of Policy 7.6.6.1, any development permitted pursuant to Policy 7.6.6 shall not:

- a) be higher than View Plane 10
- b) penetrate a view plane
- c) contain more than 210 habitable rooms provided that, if the property is subdivided, each building shall not exceed a density of 250 persons per acre.

Proposed Amendments to the Peninsula Land Use By-law:

- 1 Amend Zoning Map ZM-17 by changing the height precinct from 190 feet to 100 feet for that portion of the property known as LRIS P.I.D. 41030727 South Street described as follows; beginning at a point on the southeastern boundary of South Street where it is intersected by the western boundary of View Plane 9; thence southwesterly along the

southeastern boundary of South Street 165 feet to a point; thence southeasterly along a line perpendicular to South Street for a distance of 100 feet to the southeastern boundary of P.I.D. 41030727 South Street; thence northeasterly along the southeastern boundary of P.I.D. 41030727 South Street 171 feet to the western boundary of View Plane 9; thence northerly 100 feet along the western boundary of View Plane 9 to the point of beginning.

- 3 Add subsection (r) to section 94(1) of the Halifax Peninsula Land Use Bylaw to read as follows:

5620 South Street

permit an apartment building in accordance with Policy 7.6.6

Attachment B

THIS AGREEMENT made this day of , 2004,

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")

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 the day of 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 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.

2.3 Height

Any building constructed on the lands shall not exceed 181 feet 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

The building shall include designated space for three stream (refuse, recycling and composting) source separation services. This designated space for source separation services 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 Certification

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 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.

2.10 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
- (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, 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.

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;

- (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

) **AMALTHEA HOLDINGS LIMITED**

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) Per _____

)

) **HALIFAX REGIONAL MUNICIPALITY**

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) Per _____

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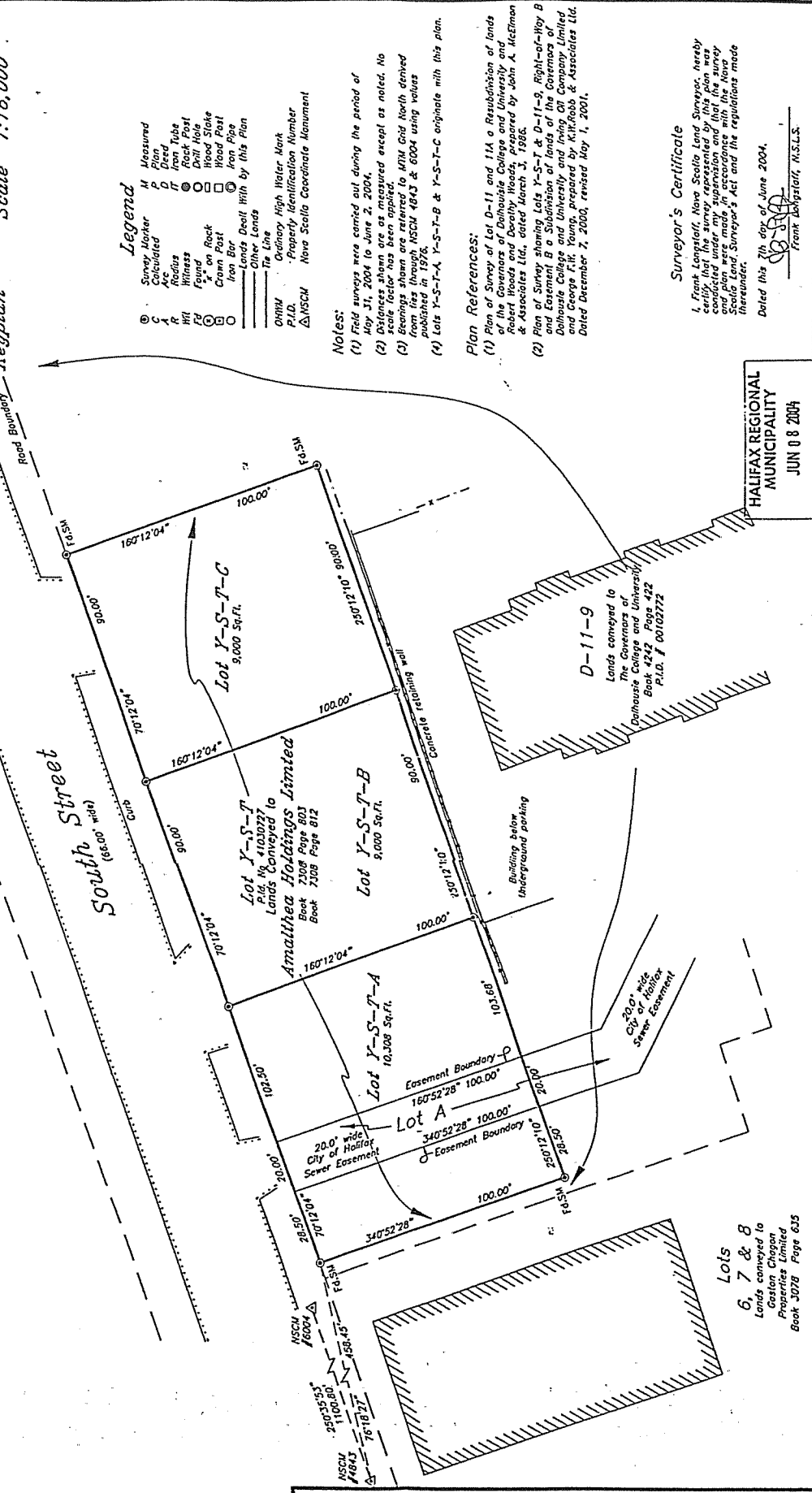
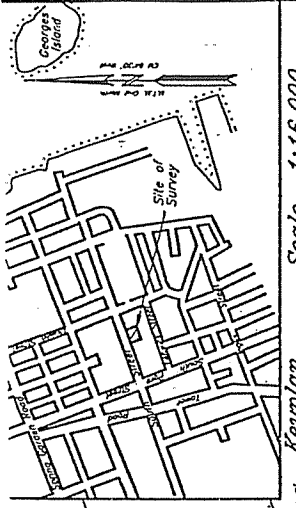
Mayor

)

)

) Per _____

Municipal Clerk



- Legend**
- Survey Marker
 - Calculated
 - Radius
 - Witness
 - Survey
 - Iron Rod
 - Iron Tube
 - Rock Post
 - Wood Stake
 - Crown Post
 - Iron Pipe
 - Lands Dealt with by this Plan
 - Other Lands
 - The Line
 - Ordinary High Water Mark
 - Property Identification Number
 - P.I.D.
 - NSCM Nova Scotia Coordinate Monument

Notes:

- (1) Field surveys were carried out during the period of May 31, 2004 to June 2, 2004.
- (2) All bearings and distances are referred to as noted. No scale factor was applied.
- (3) Bearings shown are referred to N/M and North derived from files through NSCM 4843 & 6004 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 Hood and Dorothy Hood, prepared by John A. McElman & Associates Ltd, dated March 2, 1986.
- (2) Plan of Survey showing Lots Y-S-T & D-11-9, Right-of-Way B and C and the lands of the Governors of Dalhousie College and University, prepared by K.H. Robb & Associates Ltd. Dated December 2, 2000, revised May 1, 2001.

Surveyor's Certificate

I, Frank Longstaff, Nova Scotia Land Surveyor, hereby certify that this plan was prepared by me or 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.

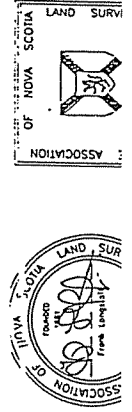
Dated this 7th day of June 2004.

Frank Longstaff, N.S.L.S.

Longstaff - Parker
Plan of Survey
Showing
Lots Y-S-T-A, Y-S-T-B, Y-S-T-C
Lands Conveyed to
Amalthea Holdings Limited
at
South Street, Halifax
Halifax County, Nova Scotia

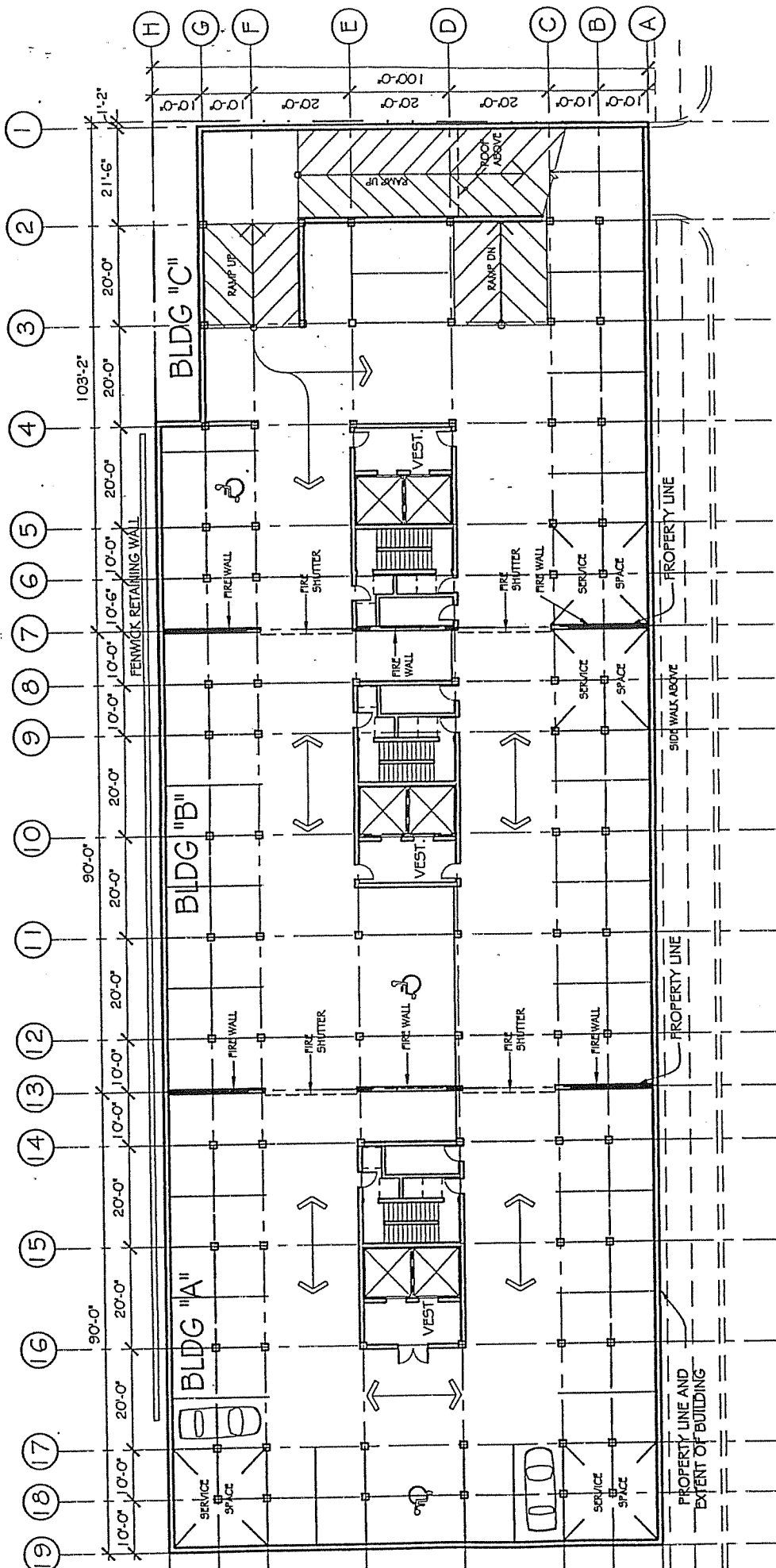
HALIFAX REGIONAL MUNICIPALITY
JUN 08 2004
PLANNING SERVICES
WEST END MALL OFFICE

00614-024



Point	Northing	Easting	Description

Lots 6, 7 & 8
Lands conveyed to
Gaston Chagnon
P.I.D. # 00102772
Book 3078 Page 615

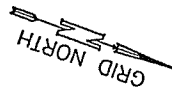


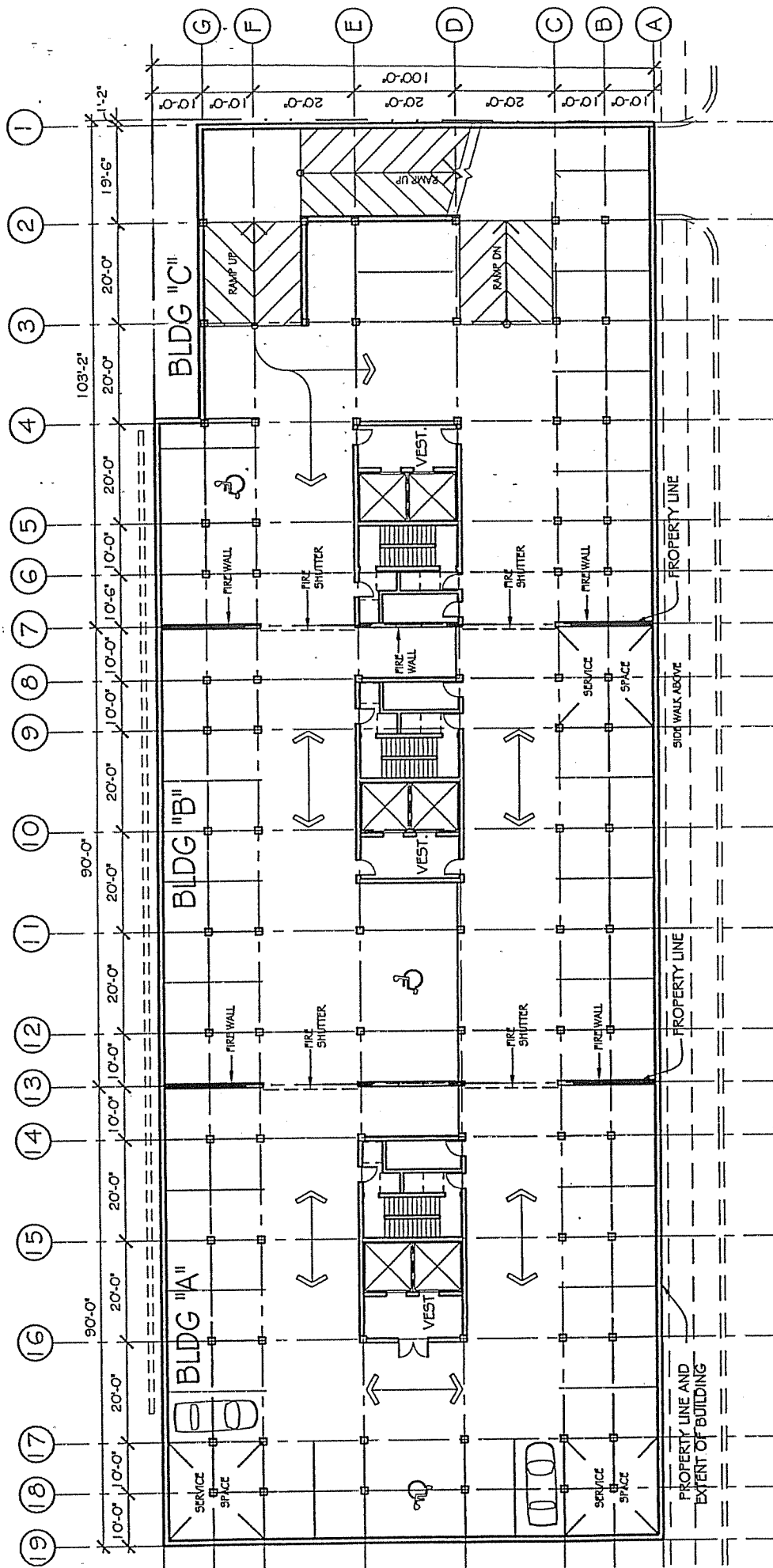
LEVEL P1
 JUNE 7, 2004

BLDG "C" P1 - 14 CARS
 (TOTAL 3 LEVELS 44 CARS)

BLDG "B" P1 - 20 CARS
 (TOTAL 2 LEVELS 40 CARS)

BLDG "A" P1 - 20 CARS
 (TOTAL 2 LEVELS 40 CARS)





BLDG "C" P2 - 16 CARS

(TOTAL 3 LEVELS 44 CARS)

BLDG "B" P2 - 20 CARS

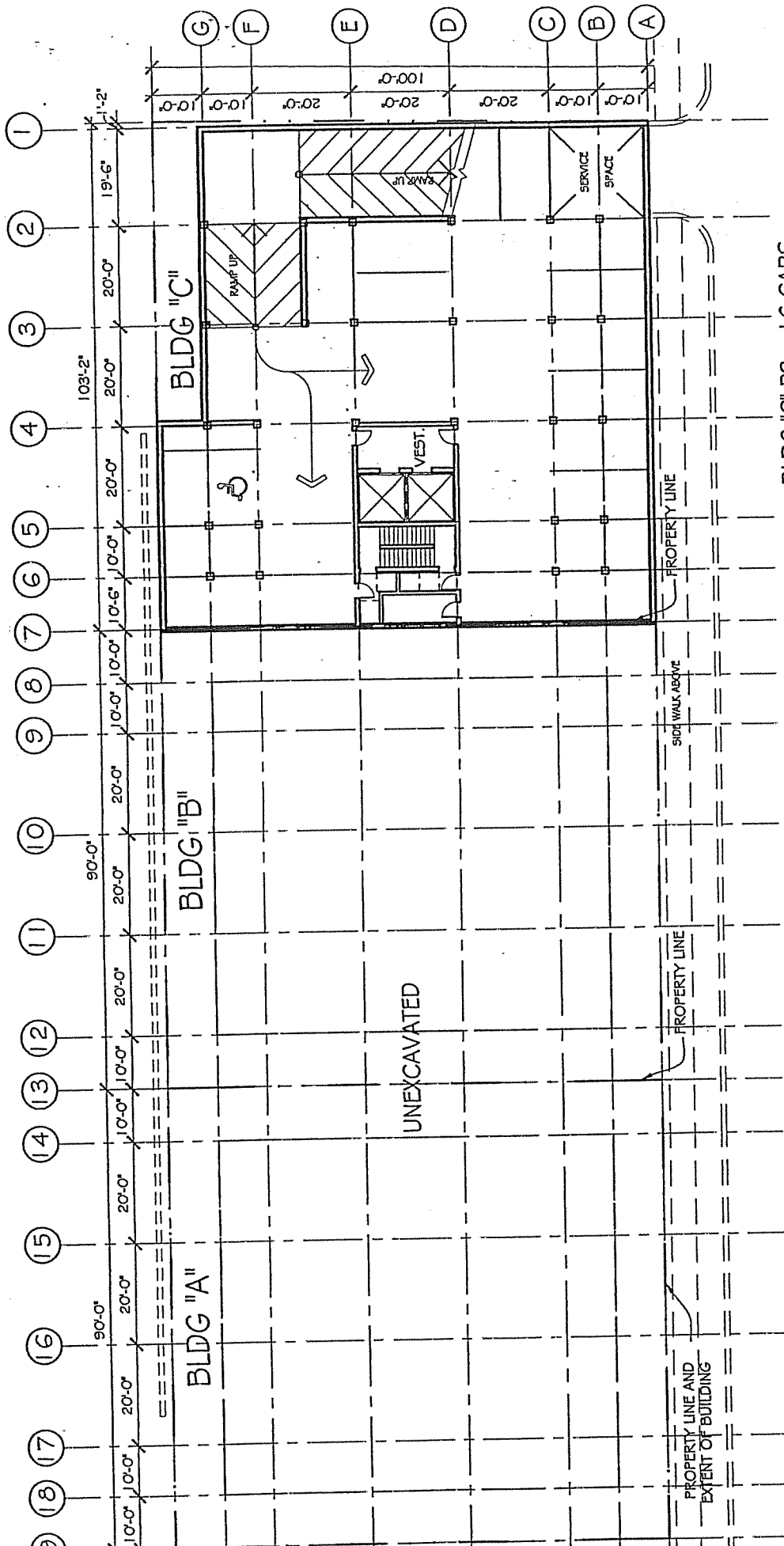
(TOTAL 2 LEVELS 40 CARS)

BLDG "A" P2 - 20 CARS

(TOTAL 2 LEVELS 40 CARS)

P2 LEVEL
JUNE 7, 2004

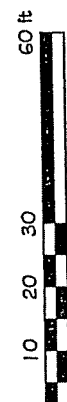


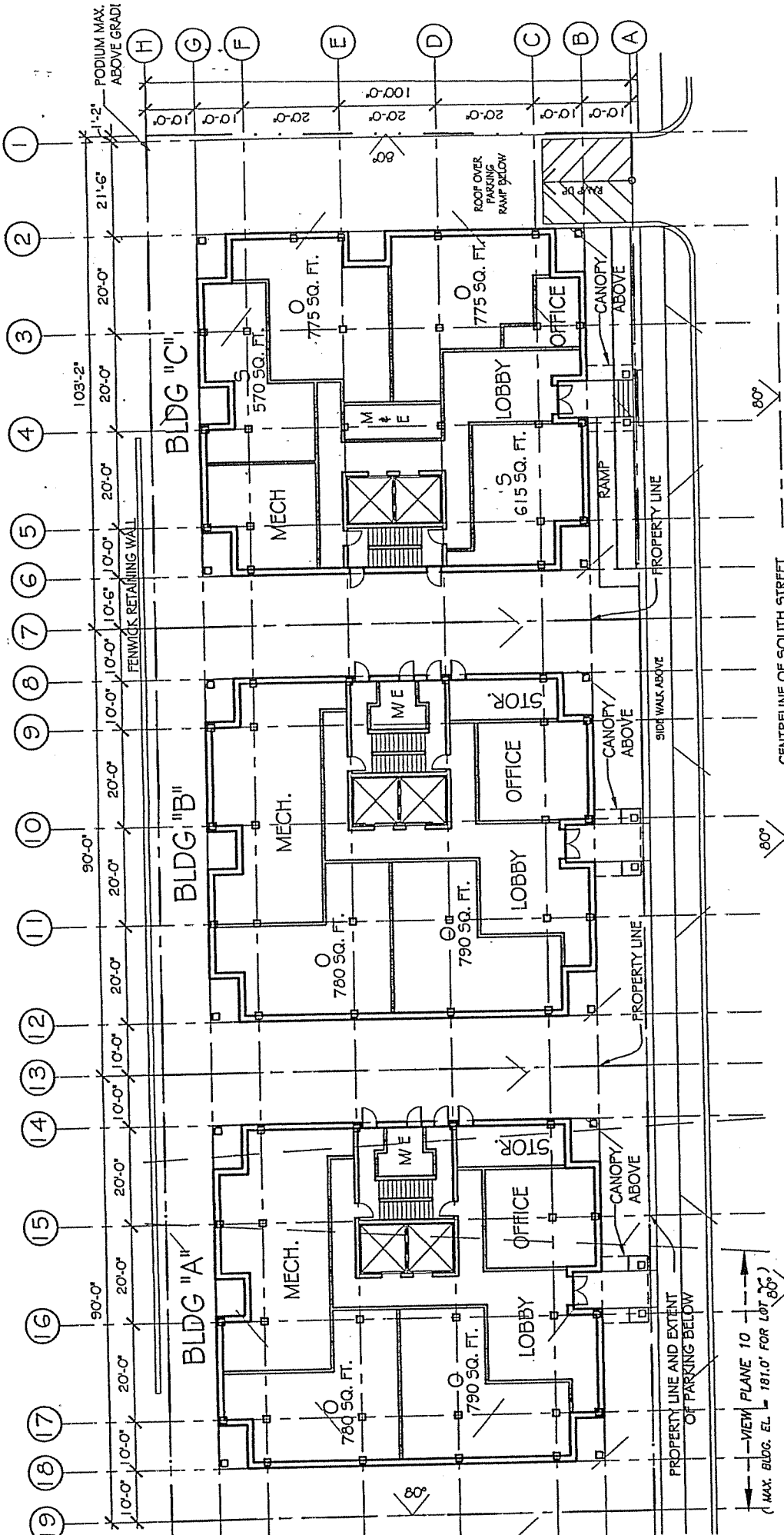


BLDG "C" P3 - 16 CARS

(TOTAL 3 LEVELS 44 CARS)

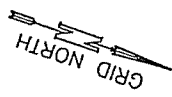
P3 LEVEL
 JUNE 7, 2004





GROUND FLOOR

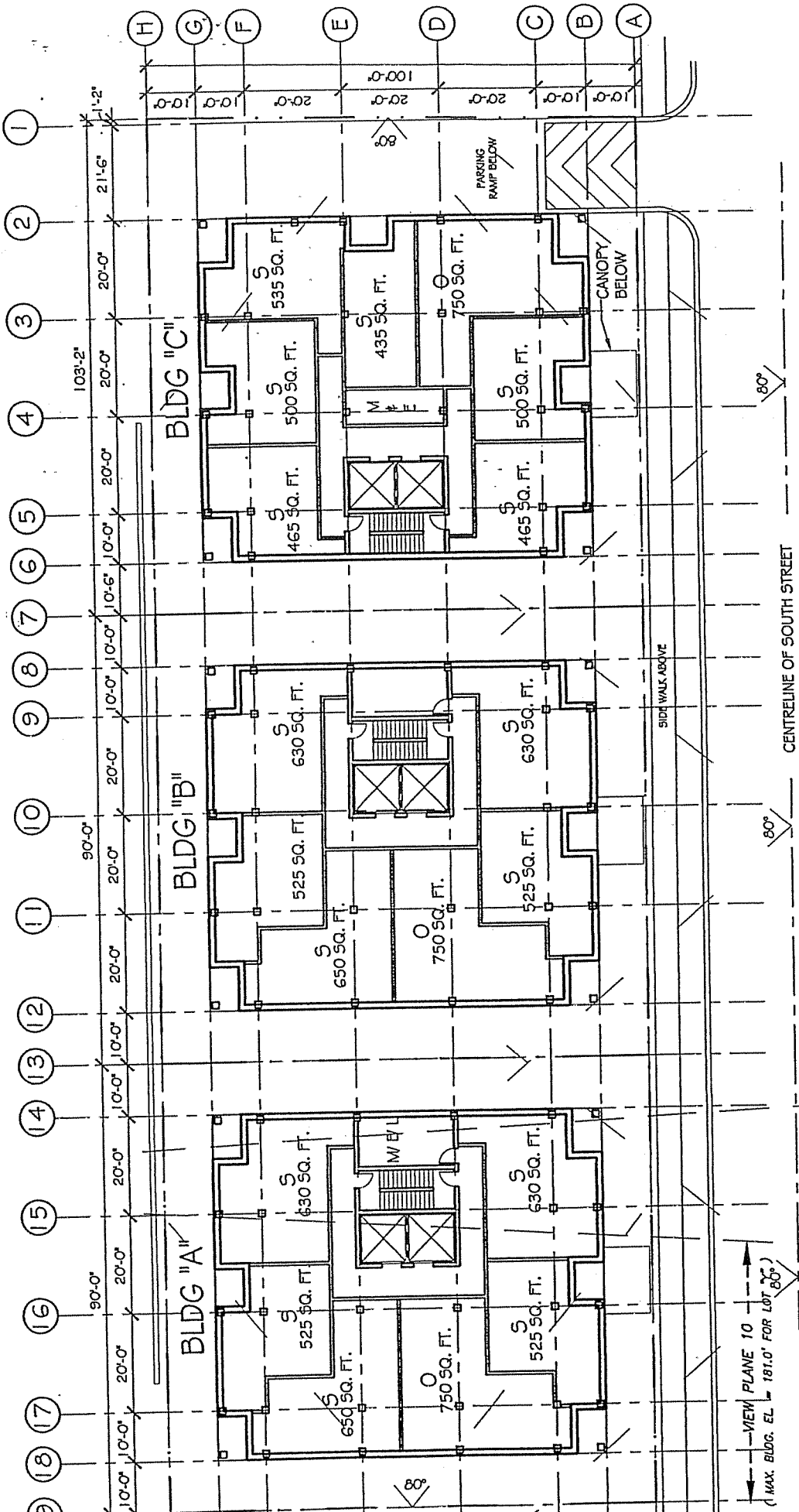
JUNE 7, 2004



VIEW PLANE 9
(MAX. BLDG. EL. = 183.0' FOR LOT "Y")

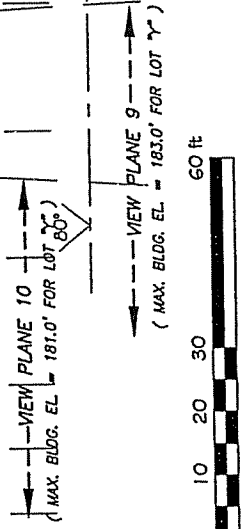
VIEW PLANE 10
(MAX. BLDG. EL. = 181.0' FOR LOT "X")

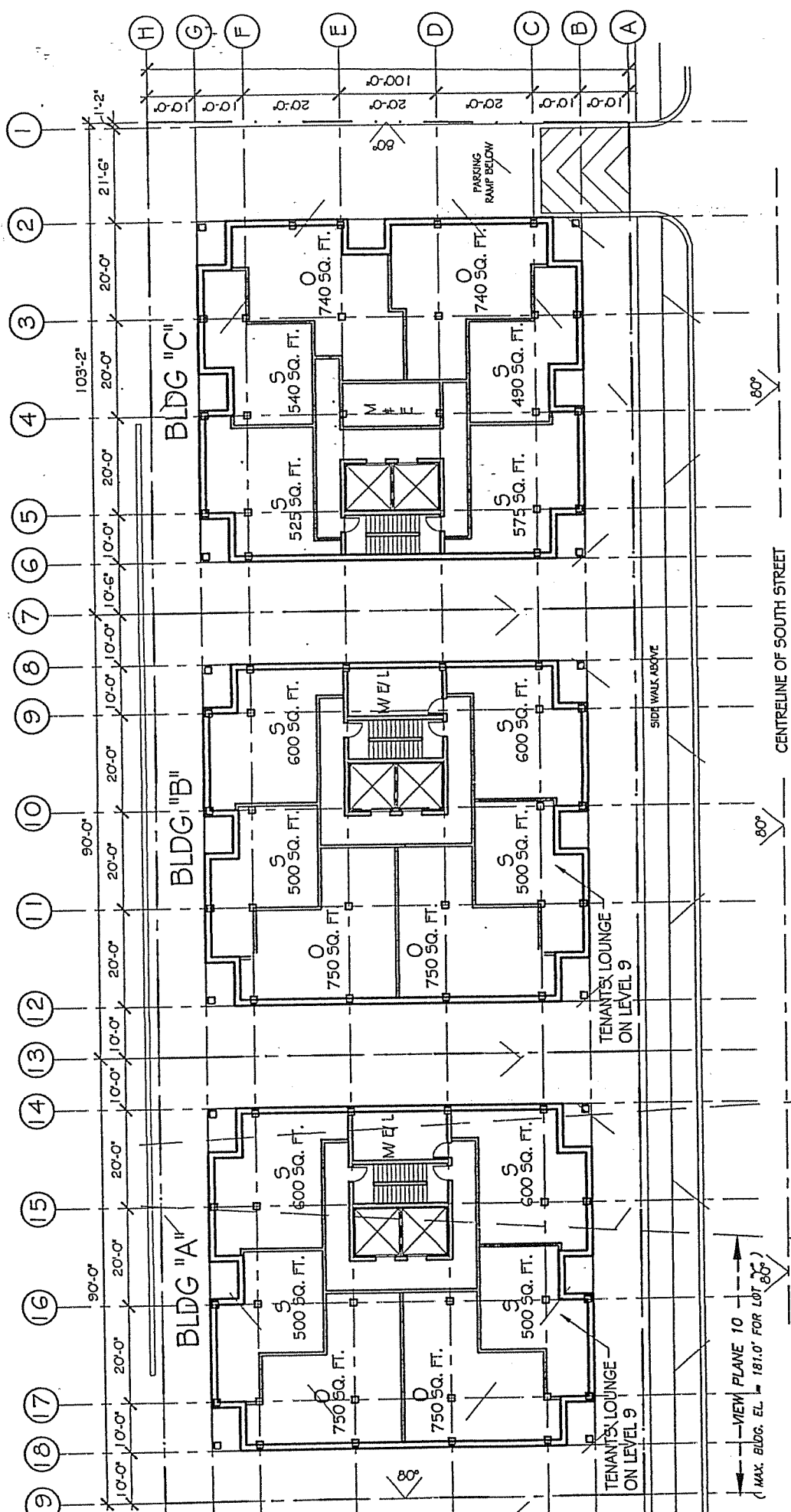




FLOORS 2-7

JUNE 7, 2004





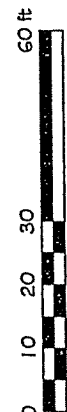
FLOORS 8-9

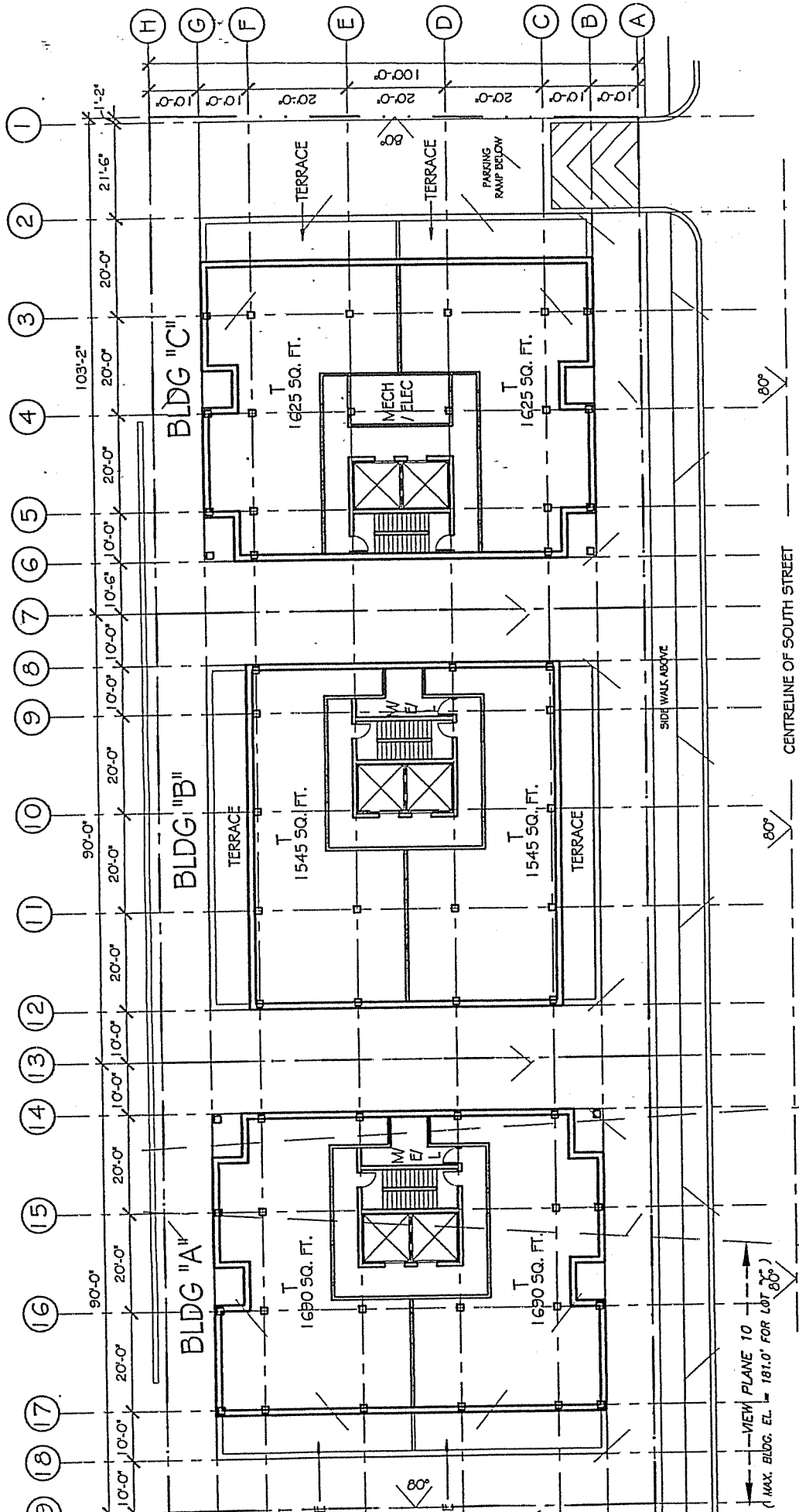
JUNE 7, 2004



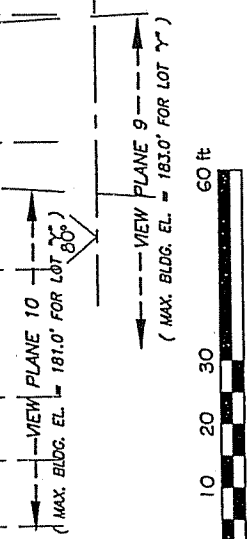
VIEW PLANE 10
(MAX. BLDG. EL. = 181.0' FOR LOT 80)

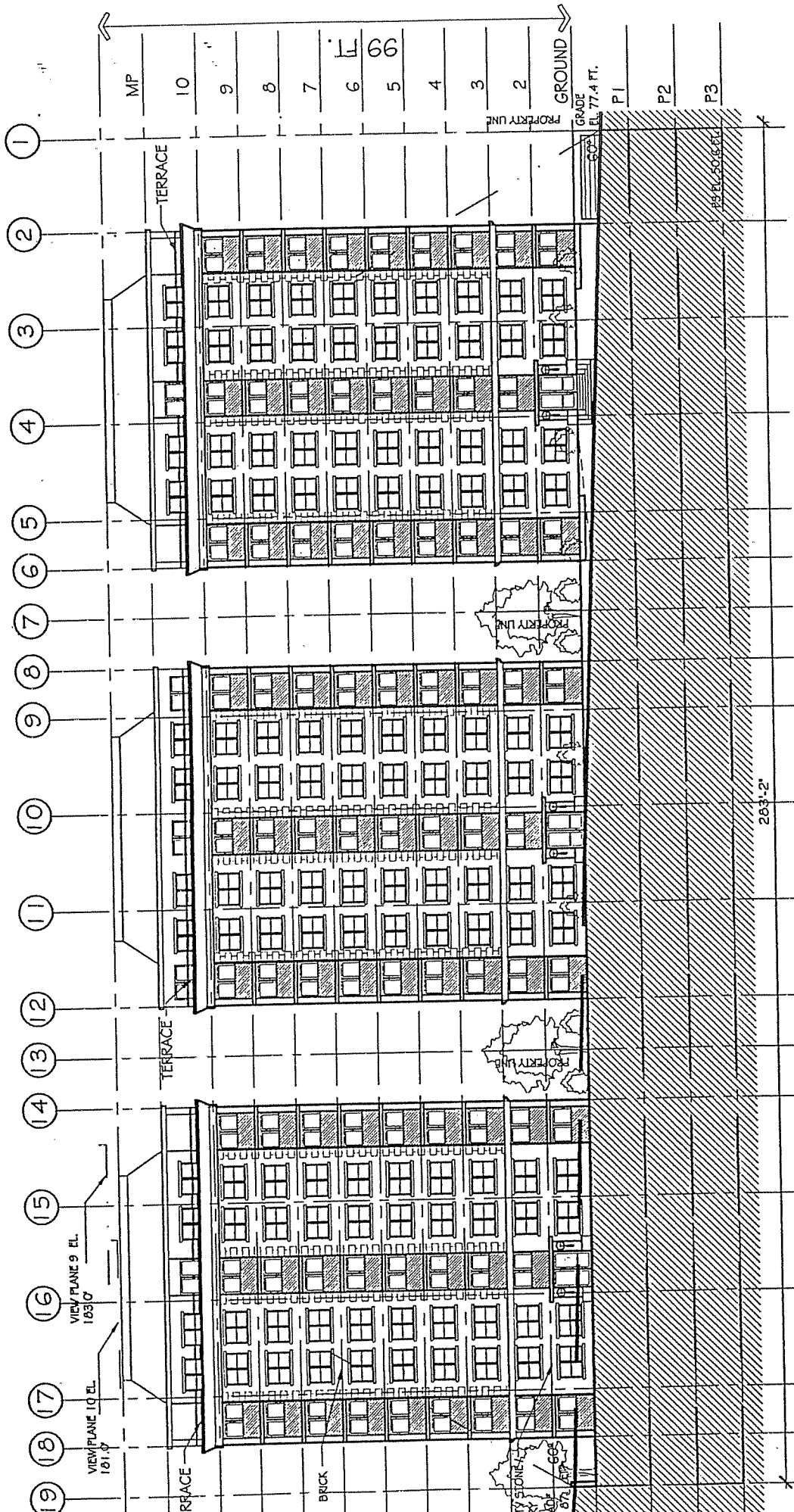
VIEW PLANE 9
(MAX. BLDG. EL. = 183.0' FOR LOT 7)



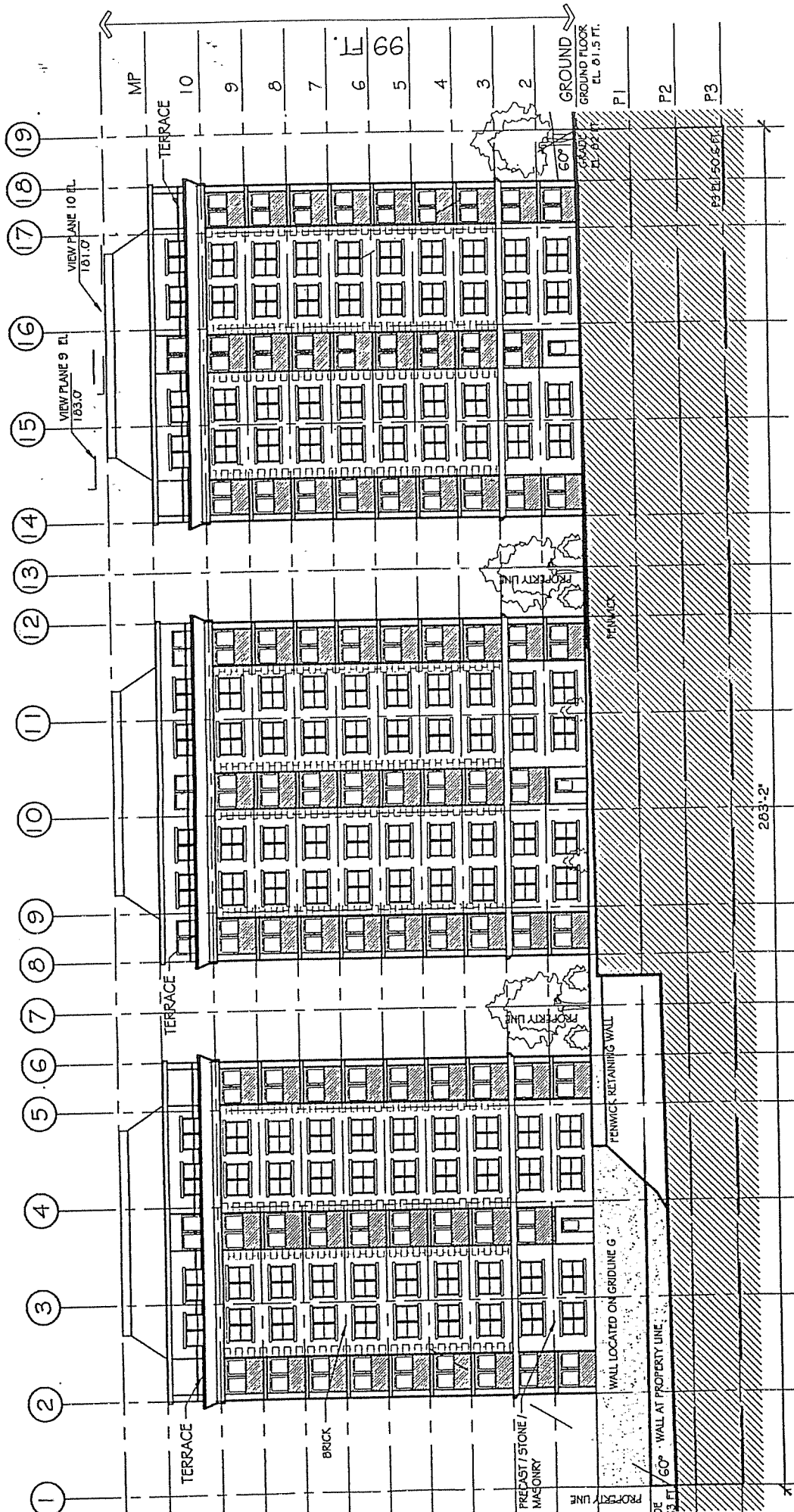


FLOOR 10
 JUNE 7, 2004

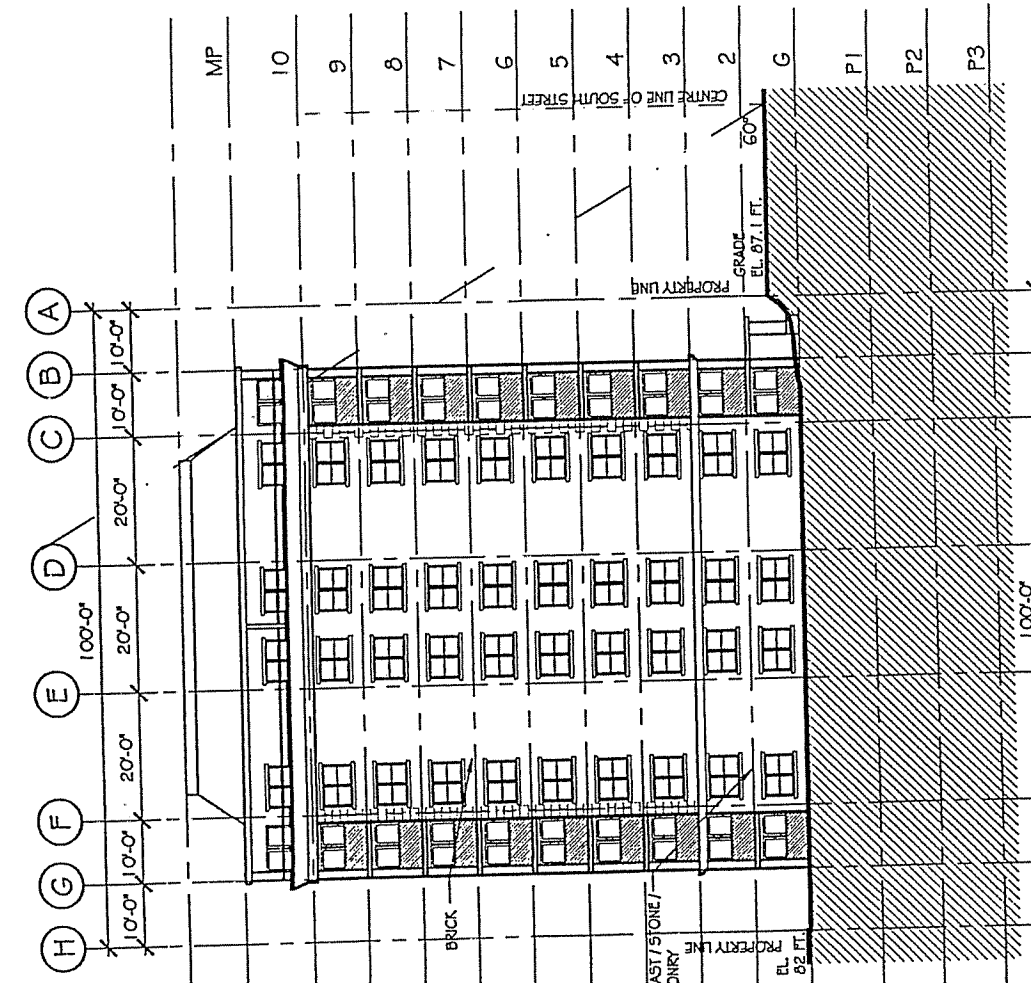
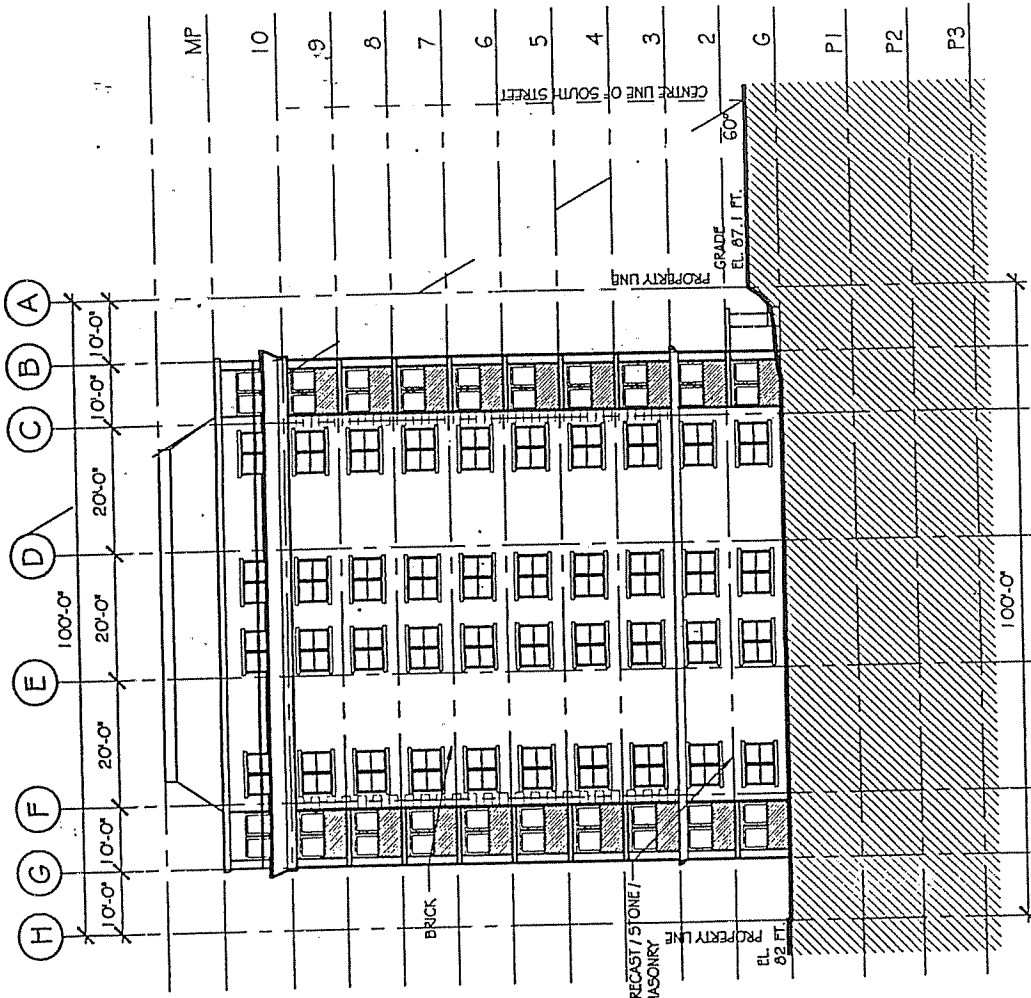


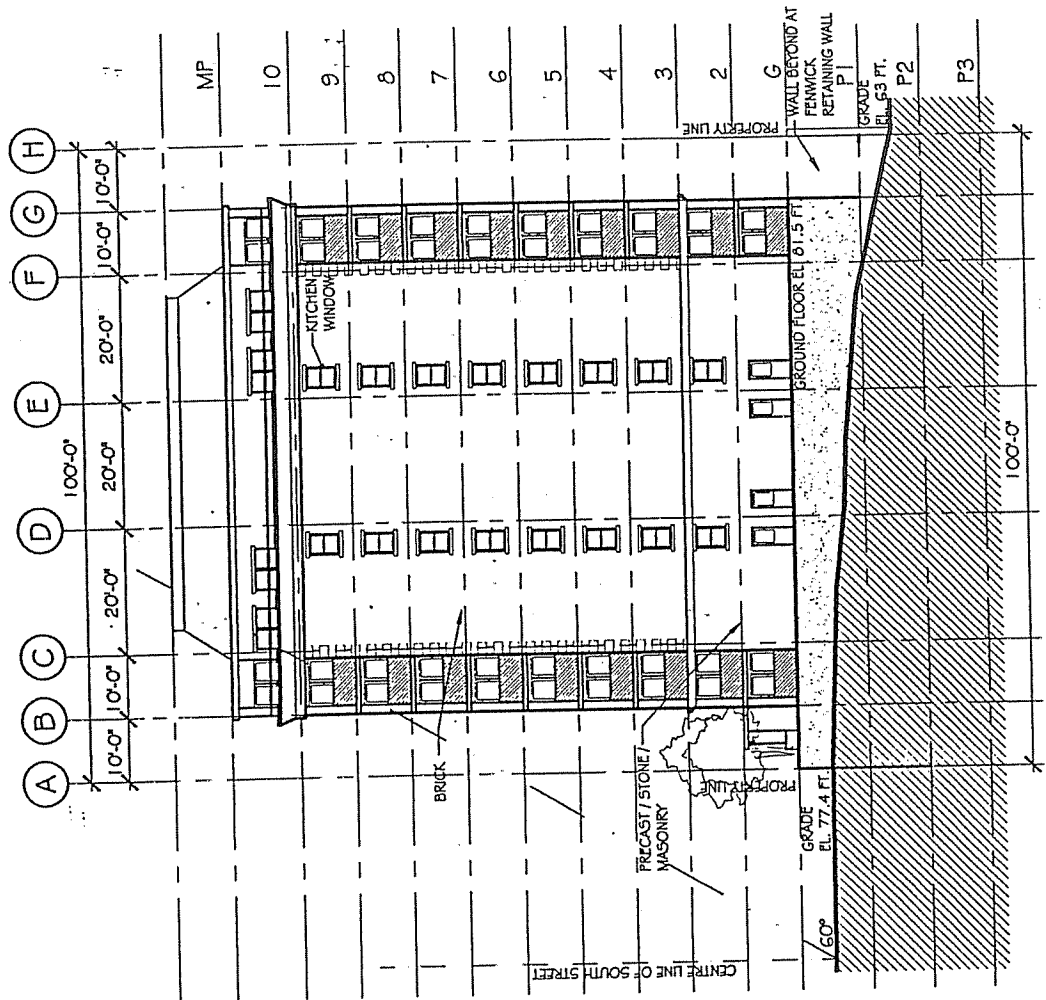


SOUTH ST. NORTH ELEVATION

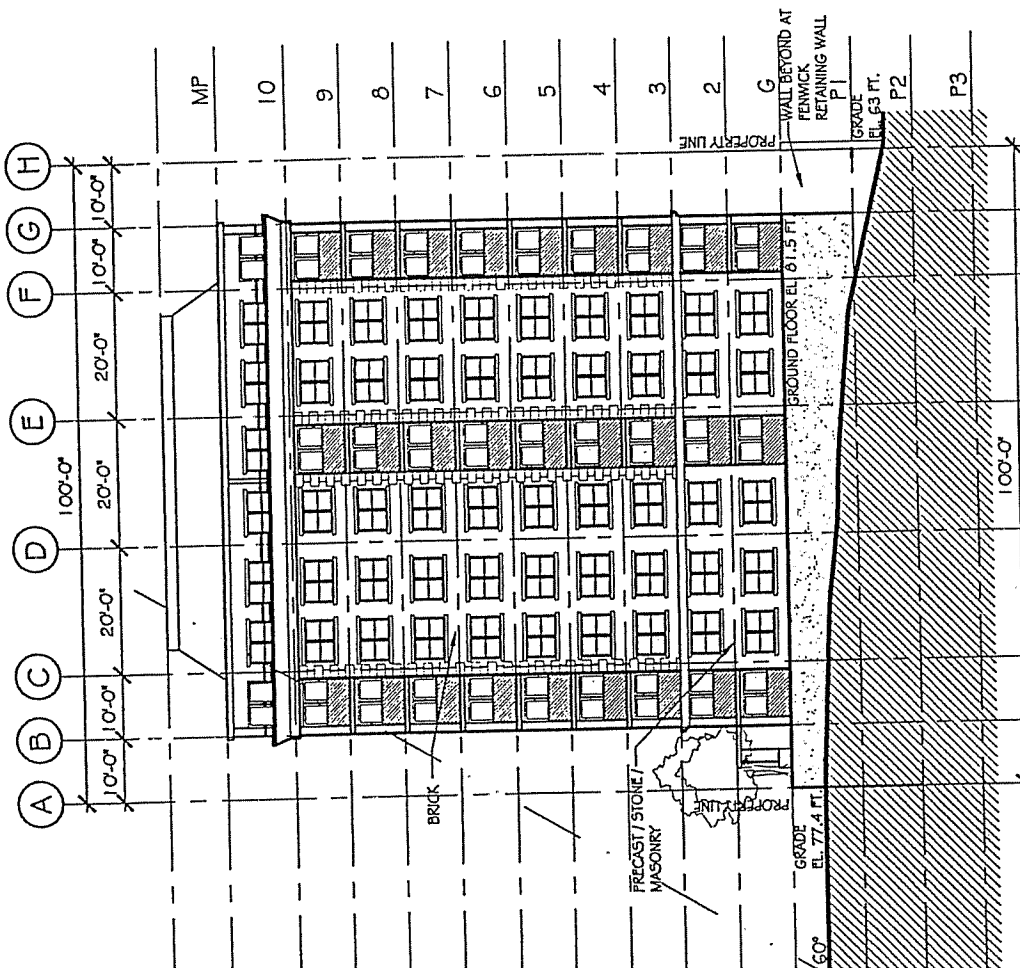
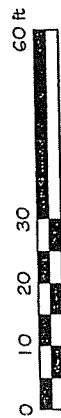


REAR (SOUTH) ELEVATION

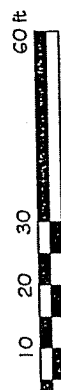


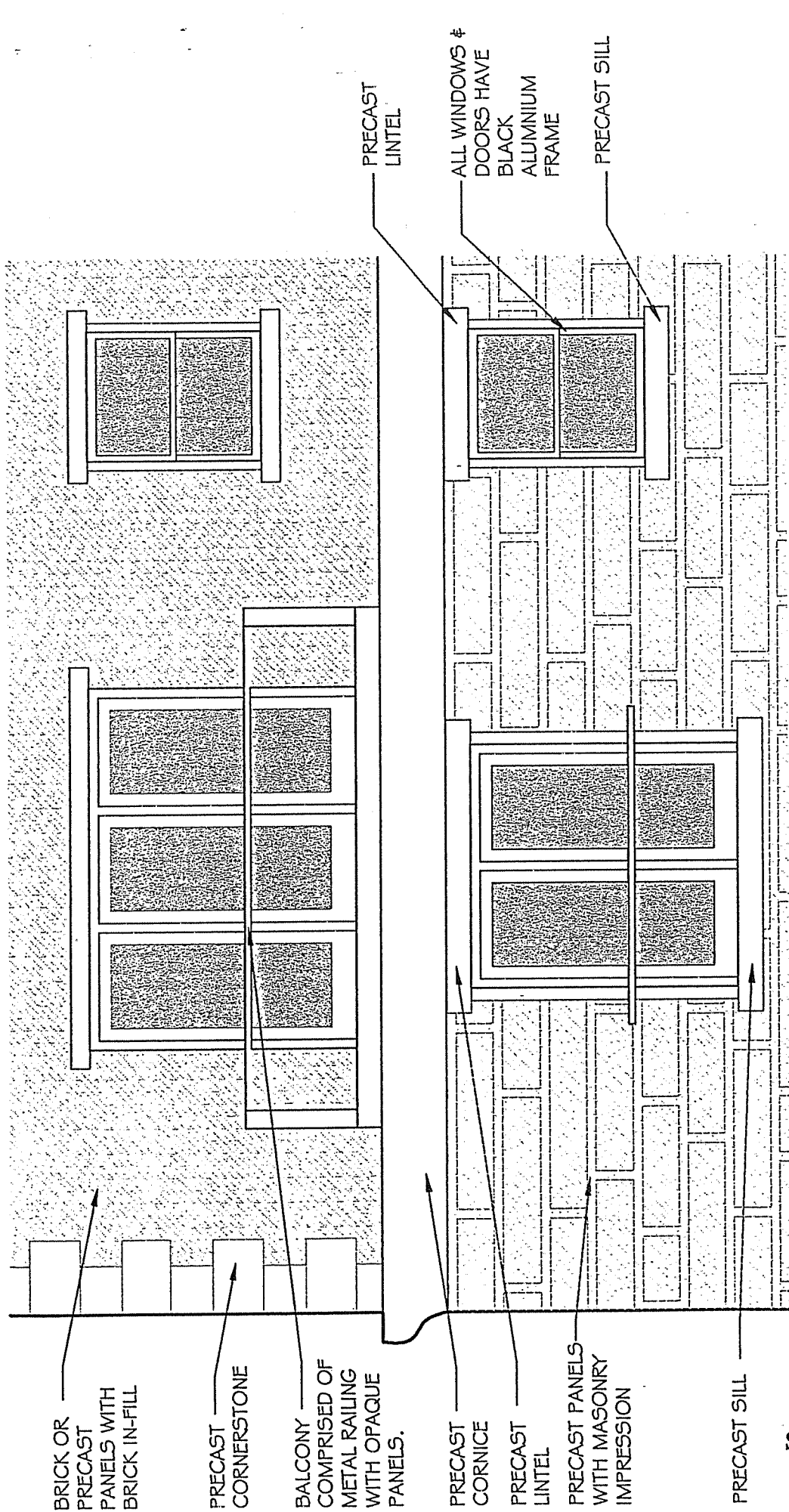


TYPICAL ELEVATION
WEST WALL BLDG "A" & "B"
& EAST WALL BLDG "C"



WEST ELEVATION
BLDG "C"





5620 South Street
 MATERIAL DETAILS

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

May 19, 2004
 Property Owner: Amatheia Holdings Ltd

Schedule "N"

Development Agreement Proposal
 5620 South Street

Attachment C

**Public Information Meeting
Case 00614
January 15, 2004**

In attendance:

- Councillor Uteck
- Gary Porter, Planner II
- Gail Harnish, Planning & Development Services
- Steve Tsimiklis, Applicant
- Chris Young, Architect
- Michael Moore, Lawyer

Mr. Gary Porter called the public information meeting to order at approximately 7:00 p.m. in Halifax Hall, noting the purpose was to discuss a possible amendment to the Halifax Municipal Planning Strategy (MPS).

Mr. Porter indicated that he would first go over the as-of-right ability and then what the MPS amendment is about and how that procedure works.

Mr. Porter advised the location of the property is 5620 South Street. It is the site of the former Irving gas station. The zoning is R-3 (Multiple Dwelling Zone) and R-3V (Multiple Dwelling Zone within a View Plane). The lot size is just over 28,000 sq.ft. Under the R-3 rules for apartment buildings, it allows a density of 211 persons. By definition, this is calculated on the basis of one person per habitable room in the dwelling. Any building permitted under the zone on this site is allowed to have 211 habitable rooms. A habitable room is any room with the exception of a kitchen under 100 square feet, a bathroom, and a storage room without a window.

Mr. Porter also advised there are two height precincts on the property. One portion under the view plane has a 100' height precinct and under the west end it is a 190' height precinct. In the South End, the definition of height allows the top storey of the building to protrude through the height precinct as long as it starts within the 190'. In other words, as long as the floor of the top storey starts below the height limit, then the by-law allows it to be completed. View planes 9 and 10 go over the east end of the property which limit the height to approximately 90-95'.

Mr. Chris Beaumont questioned whether the 190' height precinct is the result of an amendment.

Mr. Porter responded yes, noting there was an application a couple of years ago. There was a 100' limitation along South Street and it was extended for a portion of this property.

Mr. Porter reviewed the plan amendment process. Referencing a flow chart, he noted it starts by the proponent making a request. The request is evaluated by staff and a report is sent to Regional Council who has to endorse it before the MPS amendment process can proceed. Essentially the

building that the developer is proposing exceeds what staff feels is appropriate, however, we understand the concerns of the neighbourhood and feel this is an opportunity for some negotiation. We are perhaps prepared to give on some things if it results in a building more acceptable to the community than what might be permitted as-of-right. Normally the request is accompanied by a specific proposal which is not the case here. Staff has not agreed to any particular building.

Mr. Porter advised we are now at the public information meeting. A report with a staff recommendation would be prepared and tabled with Peninsula Community Council, who would make a recommendation to Regional Council. It is Regional Council who decides whether or not to schedule a public hearing. This is another opportunity for the public to come in, although more formal. Following the public hearing, Regional Council will either approve or reject the amendments. If approved, they are forwarded to Service Nova Scotia for review, although staff does not anticipate any Provincial interest in this case.

Mr. Porter indicated what could come out of the process is the ability to do a development agreement. Normally, when we have a project that we are endorsing, the agreement is brought along at the same time as the MPS amendments are being considered. Whether we can do that in this request, as there is no specific proposal that staff is prepared to recommend, or have a specific proposal considered after the plan amendment takes place remains to be seen. It depends on what comes out of tonight's meeting. If there appears to be some consensus on what you're willing to accept and the developer is willing to build, we could probably work on the development agreement at the same time.

Councillor Uteck noted that two informal meetings have been held and everyone has seen the drawing. She asked Mr. Porter to clarify why staff is not prepared to accept this proposal. In terms of this particular project, it looks like there is some agreement in the neighbourhood with some reservations.

Mr. Porter responded the building being proposed by the developer exceeds the permitted density. It does not meet any of the R-3 requirements with the exception that it has sufficient parking. In this area, the permitted density is 250 persons per acre (ppa). This proposal is for 473.7 ppa. The open space required for that number of people is 31,080 sq.ft. and this project only proposes 10,128 sq.ft. The building is closer to the edge of the property lines than it should for the height it has. We make reference to angle controls which most of the building fails to meet.

Ms. Beverley Miller questioned why an amendment to the MPS is necessary and why it could not be done by development agreement instead. It was responded that we are doing an amendment to the MPS so that a development agreement is possible for this property. The ability is not there at present.

Mr. Porter noted the MPS does not now include a policy which allows for a development agreement to be considered for 5620 South Street.

Ms. Miller questioned what changes are being proposed to be made to the MPS. Mr. Porter responded that in general terms, we are looking at a policy that would perhaps say “not withstanding the zoning of this property, an apartment building can be built at 5620 South Street by development agreement”.

Ms. Miller questioned what the zoning would become. Mr. Porter responded the zoning would remain the same.

Ms. Miller questioned what the MPS says at the moment. Mr. Porter responded the site is designated as High Density Residential and is zoned R-3 which allows a maximum of 211 persons. The developer wants more.

Ms. Rebecca Jamieson, 5670 Fenwick Street, questioned what sort of notification would be given to interested parties, in particular the neighbourhood, about any public meetings.

Mr. Porter advised that we have a mailing list. As well, those who sign the sign-up sheet being circulated will be added to the list. There will also be two public hearing ads in the newspaper. In terms of the radius for notification, it is generally 250' but we look at it and try to rationalize it.

Mr. Dave Faryniuk, 1122 Lucknow Street, noted there was reference in the comparison between as-of-right and this proposal to a density of 473 ppa versus 211 ppa. Mr. Porter clarified that 473 is the density that the developer wants, which compares to 250 persons per acre, which is allowed. 211 is the maximum number of habitable rooms which the 250 density would allow on this site.

Mr. Faryniuk questioned whether the theoretical population of the 473 density in terms of people was 400. Mr. Porter responded yes.

Mr. Faryniuk questioned what the comparison was in terms of parking. Mr. Porter advised that 125 parking spaces are shown which is what the by-law calls for. There is nothing to prevent more parking.

Mr. Chris Spencer, 5660 Fenwick Street, commented they see examples of development agreements coming forward on a regular basis which do not require an amendment to the MPS. These seem to require some level of variance. He questioned what is so special about this one that it could not proceed as-of-right.

Mr. Porter responded there is no legislation to allow a development agreement to be considered.

It was questioned why development agreements are on other properties.

Mr. Porter responded they would have gone through the same process. For instance, Louis Lowen's building on South Street and the Cathedral of All Saints Church property followed this

route. This is not an uncommon process and is what the developer has asked for. Regional Council agreed we should go to the public to see what they think.

Mr. Spencer commented he could recall development agreements where an MPS amendment was not necessary.

Mr. Porter responded it could have been for a registered heritage property. Legislation is in place which allows development agreements to be considered on registered heritage properties.

Ms. Miller questioned what determines whether an MPS amendment is required.

Mr. Porter responded when the MPS does not allow for something, that is when you need an MPS amendment.

Councillor Uteck commented that when there is a change like this, the developer is asking for concessions. The developer wants concessions - he wants more people, less open space, relaxation of the setback requirements, and relaxation of the angle controls. That is in exchange to lower the height of the building. For the building on Oxford Street, the people wanted a stoneface front, gated fences, storeys taken off the building, and a different style of balconies. The consensus was to give the developer twenty extra people onsite. A development agreement is essentially a trade-off.

Mr. Spencer questioned why an amendment to the MPS is required.

Councillor Uteck responded because they do not want to see a 190' building. The only way to get around that is to start bargaining. That will require an amendment to the MPS.

It was indicated this is a two-stage process. The first stage is to amend the MPS to include policies to allow us to say we can do a development agreement on this property.

Mr. Spencer questioned what is so special about this property.

Mr. Porter indicated that when the planning strategy for the South End was being prepared, there was an ability to do development agreements everywhere pursuant to Schedule C. Once the South End Secondary Planning Strategy was adopted, Schedule C was eliminated and the development agreement ability was removed. Now development agreements are only permitted to be considered when there are special circumstances, i.e., heritage buildings. The ability to have a development agreement can be created by an amendment to the Municipal Planning Strategy when there are special circumstances. In this case, we understand the building permitted as-of-right is not acceptable to the residents of the area. There is an opportunity to negotiate to get a building that is acceptable to the neighbours. In order to do that, you have to make concessions.

Reference was made to a development on Queen Street a number of years ago which went through a development agreement.

Mr. Porter responded that was a development agreement called a lot modification because the lot did not have enough frontage. That particular proposal met all the other zoning requirements, such as density, open space, setback, and angle controls etc. The South Street proposal does not meet density, open space, setback, and angle control requirements. The lot modification development agreement only deals with lot frontage and lot area.

Mrs. Faryniuk commented this site has already been through an MPS modification in order to increase the height from 100' to 190'.

Mr. Porter clarified that the change to the height precinct was not an MPS amendment. It was done as a by-law amendment because the policies in the MPS allowed the increase in height to be considered. At the time it was only a height precinct map amendment. Now, because of the numerous variations that are being requested, the MPS would have to be amended to accommodate it, so the developer's bargaining chip is the height for the other amendments.

Ms. Miller questioned the distinction between a development agreement and the change in the MPS.

Mr. Porter responded the change in the MPS is to add a policy which would say something to the effect that "notwithstanding the zoning and the height permitted on this site, the development of this property will be by development agreement and here are the criteria which it will have to meet". That is the same as Oxford Street. Regional Council approved certain conditions as part of the policy for that property. The development agreement for that property had to comply with the policies and Peninsula Community Council approved it.

Mr. Faryniuk referenced the comment that it is the volume of variations.

Mr. Porter indicated the MPS addresses the height in the South End. It gives certain conditions. The MPS provides for that possibly to be changed.

Mr. Spencer commented he did not think many of them were clear what concessions they were giving by approving the MPS amendment.

Mr. Porter responded none of us know that yet. That is why we are here tonight. For instance, "Are you prepared to accept 400 people in exchange for allowing the building to be half as high?" What could come out of this meeting is a policy that the neighbours agree to a building of so many feet in height and so much density. If that is what the community is willing to accept, it will be up to the developer if he can live with that. If not, he will probably go with the as-of-right proposal.

Mrs. Faryniuk indicated that if you are looking at the long-term implications of how they got here, it might be the 190' tower was permitted because of the viewplane allowances and because of it being adjacent to Fenwick Tower which is a non-conforming structure but not a non-conforming use. A 190' building could set a future precedent for other buildings along the strip to be higher.

Mr. Porter responded not necessarily, because there is another process going on. We are in the process of amending the MPS to make the height in the South End part of the policy in the MPS so that it cannot be changed as easily as this particular one was. It would have to go through a full MPS amendment. It is not likely that would happen again.

Mrs. Faryniuk indicated they attended that meeting as well. There did not seem to be any actual proposal.

Mr. Porter advised the proposal is that the heights allowed in the South End should be entrenched in MPS policy. The consensus of that meeting was that the policy should be stronger and more specific so that you a height precinct amendment could not be done as a by-law amendment.

Mr. Michael Moore commented it was hardly easy to change anything. It was a long protracted process. Policy 1.1.3 says you can increase the height precinct based on certain criteria.

Mr. Faryniuk said he had a map which indicates the height precinct is 100'.

Mr. Moore indicated the map is part of the MPS but in the section dealing with the South End there is a policy which says you can increase the height precinct based on certain criteria. It is Policy 1.1.3 which gives that authority.

Mr. Porter stated there are a number of sites in the South End that have specific policies indicating that the height precinct on the map is only what is allowed without an amendment to the MPS. We are changing the whole South End to be that way.

Mr. Moore advised the bulk of their presentation would be made by Mr. Chris Young.

Mr. Moore indicated he went through a list of what he considered issues: height of the building, density, population, extra finish on the building, parking, human mix, onsite supervision of tenants, and control of the type of development that will be there.

Mr. Moore stated they are in compliance with the High Density Residential zoning. Also, the height precinct. It will be within the viewplane in the east end and it will be within the height precinct before the amendment. Also, they meet the parking requirements which fluctuate depending on the unit mix. Where there is non-compliance is: density, open space, angle controls, and setbacks. The developer is prepared to not proceed as-of-right. A development agreement runs with the property, not the developer. If there is an MPS amendment and a development agreement, they do not have to worry about a developer flipping it to somebody else. The

property owner is stuck with the terms in the development agreement. The enforceability of the development agreement is with HRM. He believed there are more controls under a development agreement than an as-of-right building. There is a financial inducement for the developer to go by way of an MPS amendment and a development agreement. This is an evolving process that has been going on for two years.

Mr. Chris Young, Architect with Duffus Romans, commented in lowering the building they have thirteen storeys with 100' on the right and down to nine storeys on the left hand side. The viewplane comes part ways across the site and limits the height. The height has been reduced. In terms of the mix of apartments, it was thought that having two bedroom, one bedroom and bachelor apartments would be a better mix and attract a variety of tenants and not just a concentration of students living in the area which has been a complaint relating to noise and privacy issues. They thought if there were additional units that were barrier free, they might be attractive to seniors. Adding two floors of barrier free units throughout would be of benefit to the project.

Mr. Young stated that in terms of monitoring the tenants, it is important to have twenty-four hour onsite supervision seven days a week.

Mr. Young indicated garbage collection is also a concern. It was important that storage be within the building and that there no garbage containers outside the building.

Mr. Young stated it was also important to have good exterior lighting all the way around the building.

Mr. Young indicated one of the requests was for all the parking to be underground. Also, one entrance and exit onto South Street.

Mr. Young noted there were a number of appearance considerations. The brick is a traditional material and is often associated with quality buildings. They propose red brick with masonry accents and features at the corners and top of the building. They would do this in a treatment that would be appropriate to a high quality residential project.

Mr. Young advised they comply with the parking requirements.

Mr. Young stated they are within the original 100' height precinct and the viewplane.

Mr. Young indicated they are looking for an increase in density. They increased the number of occupants on the site by virtue of the number and type of units.

Mr. Young noted they are looking for a relaxation on angle controls. On the property lines on the sides and back are some 60 degree angle controls which limit the height of the building. They are

a bit different on the front. There are 80 degree horizontal angles which allow you to go through the 60's.

Mr. Young indicated they are asking if it would be acceptable for a reduction in landscaped open space. With every apartment you are required to have a certain amount of open space which would include balconies and landscaped open space at grade and accessible to the tenants of the building. The amount depends on the type of building. A bachelor unit requires less open space than a one bedroom apartment, a one bedroom apartment requires less than a two bedroom apartment, and a two bedroom apartment requires less than a three bedroom apartment.

Mr. Young said they have a thirteen storey and a nine storey tower which are linked at the base. They will call them Tower 1 and Tower 2. They have 200 apartment units which comprise of 44- two bedroom units, 112 - one bedroom units, and 44 bachelor units. There would be 150 units in Tower 1 (the taller building) and 50 units in Tower 2. The larger of the two bedroom and one bedroom units are located in the lower building. The majority of the one bedroom and bachelor units are located in the taller building.

Councillor Uteck indicated she felt they were misleading the public in terms of the smaller building which is located within a viewplane and can go no higher than the 90'. She urged that they focus on the thirteen storey building versus the nine storey building.

Mr. Young confirmed they could not go higher with the nine storey building.

Ms. Miller commented the trade-off was the thirteen storeys versus nineteen storeys.

Mr. Young advised they are allowed to go as high as 190'. Within the 190' they can do a twenty-three storey building.

Mr. Faryniuk indicated he was more interested in the variances.

Mr. Young responded the new proposal has a better building. They established some common goals that the developer is pleased to provide to work with the neighbourhood. One of the concerns was monitoring of the building. If you have people having parties, the response from the police is slow.

Mr. Faryniuk questioned what is better about this proposal versus the old proposal. He asked if he was correct in saying there would be nobody at the front door if the new proposal is not accepted.

Mr. Young responded if it was very important to the neighbourhood to have twenty-four hour supervision of the building it should be written into the agreement. The condition was that there would be a live-in superintendent onsite and from 6 p.m. to 6 a.m. there would be a security guard on duty.

Mr. Faryniuk commented he was leaning towards the 190' high building because of parking. He questioned why he should go with the new proposal.

Mr. Steve Tsimiklis stated the reason we are here is he met with Councillor Uteck and Alan Hayman, as director of Fort Massey Church. They said they did not want balconies hanging out. He spent a great deal of time, money, and effort to try and make money but also to make the neighbourhood happy. There are a lot of apartments that are not supervised. They are recessing the balconies. They will not be the white precast type. The cornerstone would cost him extra money, as would the brick. The open space will be about the same.

Mr. Porter clarified that for the number of people he would like to have in the building, the required open space would be 30,000 sq.ft. There is enough open space for 211 people but not 400.

Mr. Tsimiklis stated the City has to be satisfied with the proposal as well. The security guard will cost extra money. There is no guard for the as-of-right proposal. It will be precast like on Garden Crest. A brick building costs more money. They want a lower building with red brick and white fencing out front. They want a quality building.

Ms. Jamieson stated she was concerned about density. They all agree when they talk about density they are talking about habitable rooms. It will be difficult to enforce how many people are in those rooms. The security guard might have something to say about this but she discovered in a conversation with a Dalhousie senior official that in Fenwick Tower, which is a controlled occupancy building, that following the evacuation of the building necessitated by Hurricane Juan and the pumps in the basement failing and the wind, a number of squatters were found to be living there and Dalhousie had to find money to put them up. They had an office by the main door. She thought they could say that if the density is 211 habitable rooms there will be 411 people.

Mr. Tsimiklis stated the floor plan will not change. Also, he could not control how many people will be in the rooms. The security guard will be there to stop too many people from going in with friends and throwing eggs from the building.

Ms. Miller commented she found it strange that Mr. Tsimiklis would want to build an ugly building and let his tenants have parties. He would not have control over the tenants in the building. It does not sound very plausible that he would want to do these things anyways.

Mr. Moore stated this is a business to a certain extent. You can address this with the architecture but to build a twenty to twenty-two storey building with brick costs money. It costs more money to build with brick and you have to repoint them in twenty years. The individual supervising from 6 p.m. to 6 a.m. will not be a rental agent. It will be a security guard with a uniform who will sit in the west tower with a security camera on the other one and doing rounds of the building and will be able to respond to issues in the building.

Mr. Dave Chaisson commented that the number of people in the bachelor units will triple. You can put at least three people in one of those units. If you attract quality tenants, it is far less likely that the numbers will double or triple. They could end up with as many people in the 211 bachelor units as in the other tower.

An individual stated they knew of two buildings on Summer Street that did not have any of these problems. They put a quality apartment building there so that students could not afford them. They are now putting five students to an apartment in Park Victoria. It was a quality building at one time. The price is too easy for students to get into these buildings.

Mr. Tsimiklis stated they cannot discriminate against students.

Mrs. Faryniuk commented they are two structures. She understood under the MPS that this lot can have one building and the glass link is sufficient to connect them to call them one building. It was responded that was correct.

Mrs. Faryniuk questioned why it is not one building with one entrance.

Mr. Young responded they talked about that. They thought rather than have them joined they would give them a rectangular slab. It was thought they would be more attractive as two towers. Also, in terms of planning they thought they could build the first tower before the second one so it made the construction sequence a bit easier.

Mr. Young advised that with regard to setbacks, they met the setback requirement at the front of the building which is a minimum of 10'. They have a 14' setback on one side and 10'3" on the other side. The by-law requires 20' on each side and in the back end they have 15' clearance. The density of 400 people is based on calculations for the various number of bedroom apartments versus 211 bachelor apartments.

Mr. Young indicated they had considerable discussion about the projecting balconies. The balcony issue relates to privacy and noise. It was proposed that they get rid of the balconies. They need the balconies to rent the apartments and to get financing to build the building. A french balcony is a rail in front of a balcony door but that is not perfect in terms of renting or financing. Another option was to recess the balconies which essentially pulls the balconies inside the building. The difficulty with doing that is you take space away from the apartment units. They cannot go any higher on Tower 1. One option they would bring forward if they recess the balconies, take Tower 2 which has the lesser number of two bedrooms and make this tower smaller by taking six off and adding that six to Tower 1. They will not change the height. They will make the floor plate larger. There is a 14'4" setback on the east side and they will make 10' and add that 4'4".

Mr. Young stated the general interest is to bring the height of the building down, change the mix of people by trying to attract a variety of tenants rather than a high concentration of students, they

have added twenty-four hour monitoring to the building, they have assured that garbage will be kept inside the building with no containers outside, they will put a fence around the property, there will be good lighting, and the building will be attractive and of a quality material and have an appropriate residential look. They are proposing that these items be a trade-off to release the angle controls and the inadequate amount of open space. The amount of open space is about the same as it would be for the 211 person, twenty-three storey tower.

Ms. Jamieson commented she preferred 100' to 190'. She questioned whether any study has been done on the suitability of this site from an engineering perspective.

Mr. Young responded quite a detailed study was done. They have met and talked about structural systems with a structural engineer from O'Halloran Campbell. There has been geo-technical assessment of the site. There was removal of oil and contaminants from the site. They are quite familiar with it. Part of the additional cost of having lower buildings is because the foundations are extensive. Rock is quite deep on this site.

Ms. Jamieson commented this is setting on the site of a former freshwater stream. The bedrock is really deep.

Mr. Young stated the cost of putting in a parking garage and foundation is extremely expensive.

Ms. Jamieson referenced Fenwick Tower where they had to pump out the lower levels and hoped this was taken into consideration.

Mr. Young indicated they are considerable higher. Having pumps running continuously is not unusual. There was quite a bit of investigation into designing the foundation. The engineer is from a well known engineering firm.

Ms. Jamieson expressed concern about the possible effects on Fenwick Tower which has subsided quite a bit and questioned whether that has been taken into consideration. She questioned whether it was possible for members of the public to access that report and ask questions of that firm about the geotechnical aspects.

Mr. Young noted those types of questions should go through the developer.

Mr. Young stated that general questions as to whether it is technically possible without disturbing Fenwick Tower is a question that can be asked. As-of-right they can put the foundations in and not discuss it further. Rather than run into technical difficulties, they have looked at the foundations and did costing and determined how to do it. If there are specific questions, and one of them is will it disturb Fenwick Tower they can ask that question and get the answer.

Ms. Jamieson questioned whether it was their intent to use piles. Mr. Young responded yes. They would put a series of piles to bedrock and build on top of those.

Mr. Spencer indicated he thought in terms of numbers. He questioned whether it was possible for Mr. Tsimiklis to pull together a financial evaluation of this proposal to indicate what he is benefiting with this concession for higher density. He questioned what the typical rents would be for the one and two bedroom apartments, how those rents would compare to average market rents, and what people may be paying on Fenwick Street and in Fenwick Tower. It will give him a better feeling of what that higher density will mean to him as a developer. He is talking about things like twenty-four hour security. If he put the two sites together and laid it out financially it would show if they equate and they get a fair rate of return.

Mr. Tsimiklis responded the biggest thing about this project is that it's big. It will be a project in excess of \$20,000,000. If he missed the market, he had to have the option of it going to condominiums. If you check the financial viability, he had to give himself as many options to make money and not lose it. He has checked it out with many realtors and they said if you are selling condominiums, the twenty-three storeys to a developer is a valuable asset. A thirteen storey building would get \$200 per square foot whereas a twenty-three storey building would get from \$300-350 per square foot.

Councillor Uteck commented that if Mr. Tsimiklis decided to do condominiums, they would shake his hand and go home. He is asking for major concessions. In exchange for concessions, he is looking at dollar value and getting a fair land value.

Mr. Tsimiklis stated that if the real estate goes up, he will have to sell as condominiums. The bank said this building will cost \$26,000,000 and is only worth \$18,000,000. He needed the height.

Mr. Tsimiklis advised he would make two financial analysis - from the apartment approach and from the condominium approach.

Ms. Miller suggested it would be useful for the planning department to convene a meeting of just the neighbours so they can come to some kind of consensus on this together without the developer so that they are united.

Councillor Uteck noted she was the vehicle if they want to have that meeting.

Mr. Spencer indicated that once they get a better understanding of what this is worth for the developer, then they can negotiate what they would like to get in terms of what they want for concessions. They are here because it is an apartment and would like to understand the financial aspects of those concessions.

Mr. Tsimiklis stated that the proposal before them is either a yes or no. He did not have time to say what it is costing. He had to think about the bank rate. He suggested they hook up with Mr. Porter or Councillor Uteck and make a decision. He could not go back to the table and keep on paying fees, etc.

Mr. Moore indicated that Mr. Tsimiklis will provide the information. He did not want to leave the impression that there is a lot of leeway because there is not. They attended a couple of meetings earlier and there was a consensus that they were on the right track.

Ms. Evelyn Cameron, McKeen Manor, said she attended the last meeting. This building with the two towers was presented. She was very pleased with it and wished that he would get his permit and get on with it. She felt this new building sounds terrific rather than nineteen storeys or twenty-three storeys. They saw all the pictures the last time.

Ms. Jamieson stated she was at those informal meetings and did not hear anything about approving the habitable room density. They were willing to consider increased density if the trade-off was for the kind of resident that would bring stability to the neighbourhood. They are concerned about an increased transient population and the neighbourhood. Students are not the only kind of short-term resident. That is what causes the problems. There was to be changes in the building to accommodate families and seniors, a more stable type of occupant. This is the first time they saw those details and that density sounds alarming.

Mr. Moore said he had notes from a meeting on October 16th and there was clear discussion on 200 units. He felt it was unfair to suggest that it is dramatically different than put forth at a meeting on October 16th. This proposal is in reaction to suggestions made at previous meetings.

Mr. Hugh Pullen, 6262 Oakland Road, indicated his question revolves around the long-term development of Halifax. This building will be on the ground for at least twenty years. Right now they are concerned with a very young population which is really being generated by the universities. Further up South Street, Dalhousie is in the process of building a new student residence. He questioned whether they are looking at a bulge in the younger population. Also, whether they are looking at what he believed is the report from CMHC which says the senior population in Halifax is increasing? According to HRM, where are they going? Do you know what we should be planning for? His instinct was that eventually the younger population in this building is going to decrease and that the demand will be for people with gray and white hair because of the location. He felt the problem they are talking about will disappear. He was looking for some form of demographics and questioned whether we have those figures.

Mr. Porter responded that one of the planners in our office keeps on top of that and we could probably look into that. He thought he was probably right. It seems like the younger group is declining and the older group is increasing.

Mr. Pullen stated this is very german to the neighbourhood. He could not blame the developer for trying to build for the future.

Mr. Chris Beaumont indicated that Dalhousie is looking to bring in students. At the moment, it is around 15,700 and it is growing to 20,000 - 25,000.

Mr. Young said he recently attended a lecture. Presently we have the echo of the baby boomers. The children going through university are the children of baby boomers. Behind them will be a drop off in students. Mr. Pullen's observation is correct. The average age of the population seems to be increasing. That is not to say they might not be attracting more people from outside the province.

Mr. Beaumont stated that Dalhousie wants to grow. The university wants to increase its number of students by two-thirds.

Mrs. Faryniuk said she did not like the 411 density. It represents almost double what is permitted. However, there are aspects of this proposal that make some sense and they discussed them in terms of the better mix in the building. She would like it cast in stone that there is a percentage mix written into the agreement in terms of the amendment to the MPS. Although you cannot control how many are with those married people, at least they are married and have a family as opposed to just trying to beat the rent.

Mrs. Faryniuk indicated one of the things they talked about at the last meeting was that if it was a staged approval, after the first tower they might consider a second underground parking area or even an agreement with Fenwick Tower. She did not believe there was any extra space in the neighbourhood for a car.

Mrs. Faryniuk noted they talked about the balconies. She could not imagine having to deal with another 411 people in their one block radius who have access to outside balconies. They have access to outside balconies above street level, above their house levels, so they can scream down, throw down, or raise their arms to them. The balconies for her can become a sticking point for any development in the South End. They do not believe once you get above the height of other original residents in this neighbourhood, which is 35', that they should be able to have a balcony because people who go out on their balconies scream and yell and throw things off. They are a hazard and a nuisance. The Noise By-law is inadequate. What an intrusion on their neighbourhood balconies have become! They have porches and verandahs and never got to over people's houses. She was so sick and tired of them. They were going to come back with a proposals. So what if the french balconies are not inadequate - don't have balconies! She did not care about somebody having access to the space above her residence.

Mr. Gaston Chagnon, owner of the apartment building next to the proposed apartment building said he has been there for thirty years or more. In his building he had students, doctors, and nurses, and they all have balconies. He was very happy with his project. He felt the project if it was thirteen storeys would be an excellent project. Fenwick Tower is publicly owned. If he was the owner, it would be different.

An individual commented he hoped they would not consider the suggestion that they have a neighbourhood meeting. He has walked away from everyone of these meetings feeling as though they are not getting anywhere because they cannot agree. What is on the board is the result of at

least three meetings where they talked about the possibilities. If the developer is telling us tonight there is no more room to manoeuvre he believed that. He agreed about the balconies and did not want to talk about them. They have spent a lot of time and effort to come to this meeting. Let's get on with it. Now it looks like they are starting another series of neighbourhood meetings which he did not want to be a part of.

Mr. Chris Beaumont stated to some extent it is enshrined in the development agreement but they have had the experience whereby the City does not have the mechanisms for enforcement. They shake their heads that it may proceed. The City does not have the mechanism to properly enforce the by-laws which is a general problem. They write things down and there is a total failure to enforce them.

Mr. Faryniuk said they fought the as-of-right proposal and they lost. Now the developer wants more. He wants to trade-off for the height so he can have more people. At first he liked the height being lowered to 100' but now he was thinking it was either the 400 people or the height. There are some drawbacks. The traffic would be horrendous. He was thinking about going back to the 190' building but they will not get any concessions. There is a lot of pressure on them and questioned how they could make a decision right away.

Mr. Tsimiklis referenced the development agreement approved for the All Saints Cathedral Church down the road. He did not have a problem with the church but as a developer he had a problem that the land was park and institutional. Now all of a sudden that goes from a population of zero to 118 people. That was park for everyone.

Councillor Uteck noted the property in question was owned by the church.

Mr. Tsimiklis referenced Mr. Lowen's proposal where it went from 22 people to 90 people and the height was raised. They are trying to hold him down and letting everybody else increase their height.

Mr. Porter encouraged members of the public to submit written comments either through staff or through Councillor Uteck.

Mr. Tsimiklis said that he had to have an answer of where they are going within the next couple of weeks. He needed to know what he was doing and could not wait until the middle of March.

Councillor Uteck asked that they be given until the middle of February.

The meeting adjourned at approximately 8:50 p.m.

Attachment D

Comparison of Building A proposed for 5620 South Street to the as of right provisions of the land use bylaw for an R-3 use (apartment building) (excluding angle controls)

Item	Required ²	Provided	Comment
Lot frontage	90 feet	90 feet	meets bylaw
Lot area	8100 square feet	9,000 square feet	meets bylaw
Density	250 persons per acre	249.5 persons per acre	meets bylaw
Open space (at grade)	4,130 square feet	3,400 square feet ±	<i>does not meet bylaw</i>
Open space (total) ³	4,490 square feet	3,760 square feet ± ⁴	<i>does not meet bylaw</i>
Parking	33	40	meets bylaw
Setback (front)	10 feet	10 feet	meets bylaw
Setback ⁵ (east)	54.27 feet	10.5 feet	<i>does not meet bylaw</i>
Setback ⁶ (rear)	57 feet ±	10 feet	<i>does not meet bylaw</i>
Setback ⁷ (west)	57 feet ±	9.5 feet	<i>does not meet bylaw</i>
Unit mix ⁸	1 : 3	0 : 3	<i>does not meet bylaw</i>
Height precinct	100/190 feet	100 feet ±	meets bylaw

² All are minimum requirements except density and height precinct which are the maximum permitted.

³ Includes landscaped open space at grade, balconies and other common recreation areas

⁴ Although 3,060 square feet of balconies and other common recreation areas has been provided, the maximum that can be counted pursuant to S. 48(2)(a) of the land use by law is 360 square feet

⁵ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

⁶ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

⁷ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

⁸ Ratio of units required to be over 800 square feet for number under 800 square feet

Angle controls (Building A)

(building envelope control - maximum height permitted based on setback provided)

	Maximum permitted	Proposed	Comment
Angle control (front)	unlimited ⁹	100 feet ±	meets bylaw
Angle control (east)	18.36 feet	94 feet	<i>does not meet bylaw</i>
Angle control (rear)	17.32 feet	100 feet ±	<i>does not meet bylaw</i>
Angle control (west)	16.45 feet	100 feet ±	<i>does not meet bylaw</i>

Comparison of Building B proposed for 5620 South Street to the as of right provisions of the land use bylaw for an R-3 use (apartment building) (excluding angle controls)

Item	Required ¹⁰	Provided	Comment
Lot frontage	90 feet	90 feet	meets bylaw
Lot area	8100 square feet	9,000 square feet	meets bylaw
Density	250 persons per acre	249.5 persons per acre	meets bylaw
Open space (at grade)	4,130 square feet	3,400 square feet ±	<i>does not meet bylaw</i>
Open space (total) ¹¹	4,490 square feet	3,760 square feet ± ¹²	<i>does not meet bylaw</i>
Parking	33	40	meets bylaw
Setback (front)	10 feet	10 feet	meets bylaw
Setback ¹³ (east)	57 feet ±	10.5 feet	<i>does not meet bylaw</i>

⁹ As the entire front of this building is completely enclosed by the arms of the 80 ° angle control, there is no height limitation.

¹⁰ All are minimum requirements except density and height precinct which are the maximum permitted.

¹¹ Includes landscaped open space at grade, balconies and other common recreation areas

¹² Although 3,060 square feet of balconies and other common recreation areas has been provided, the maximum that can be counted pursuant to S. 48(2)(a) of the land use by law is 360 square feet

¹³ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60 ° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

Item	Required ¹⁴	Provided	Comment
Setback ¹⁵ (rear)	58 feet ±	10 feet	<i>does not meet bylaw</i>
Setback ¹⁶ (west)	58 feet ±	9.5 feet	<i>does not meet bylaw</i>
Unit mix ¹⁷	1 : 3	0 : 3	<i>does not meet bylaw</i>
Height precinct	190 feet	100 feet ±	meets bylaw

Angle controls (Building B)

(building envelope control - maximum height permitted based on setback provided)

	Maximum permitted	Proposed	Comment
Angle control (front)	unlimited ¹⁸	101 feet ±	meets bylaw
Angle control (east)	18.36 feet	100 feet ±	<i>does not meet bylaw</i>
Angle control (rear)	17.32 feet	101 feet ±	<i>does not meet bylaw</i>
Angle control (west)	16.45 feet	102 feet ±	<i>does not meet bylaw</i>

¹⁴ All are minimum requirements except density and height precinct which are the maximum permitted.

¹⁵ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

¹⁶ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

¹⁷ Ratio of units required to be over 800 square feet for number under 800 square feet

¹⁸ As the entire front of this building is completely enclosed by the arms of the 80 ° angle control, there is no height limitation.

Comparison of Building C proposed for 5620 South Street to the as of right provisions of the land use bylaw for an R-3 use (apartment building) (excluding angle controls)

Item	Required ¹⁹	Provided	Comment
Lot frontage	90 feet	102.5 feet	meets bylaw
Lot area	8100 square feet	10,308 square feet	meets bylaw
Density	250 persons per acre	247.4persons per acre	meets bylaw
Open space (at grade)	4,580 square feet	4,308 square feet ±	<i>does not meet bylaw</i>
Open space (total) ²⁰	4,940 square feet	4,668 square feet ± ²¹	<i>does not meet bylaw</i>
Parking	37	44	meets bylaw
Setback (front)	10 feet	10 feet	meets bylaw
Setback ²² (east)	58 feet ±	10.5 feet	<i>does not meet bylaw</i>
Setback ²³ (rear)	68 feet ±	10 feet	<i>does not meet bylaw</i>
Setback ²⁴ (west)	67 feet ±	21.5 feet	<i>does not meet bylaw</i>
Unit mix ²⁵	1 : 3	0 : 3	<i>does not meet bylaw</i>
Height precinct	100/190 feet	100 feet ±	meets bylaw

¹⁹ All are minimum requirements except density and height precinct which are the maximum permitted.

²⁰ Includes landscaped open space at grade, balconies and other common recreation areas

²¹ Although 3,600 square feet of balconies and other common recreation areas has been provided, the maximum that can be counted pursuant to S. 48(2)(a) of the land use by law is 360 square feet

²² The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

²³ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

²⁴ The minimum setback from a property line is 10 feet. The maximum height permitted based on the minimum setback and the 60° angle control is 17.32 feet. The minimum shown in the table is the minimum required for the proposed height.

²⁵ Ratio of units required to be over 800 square feet for number under 800 square feet

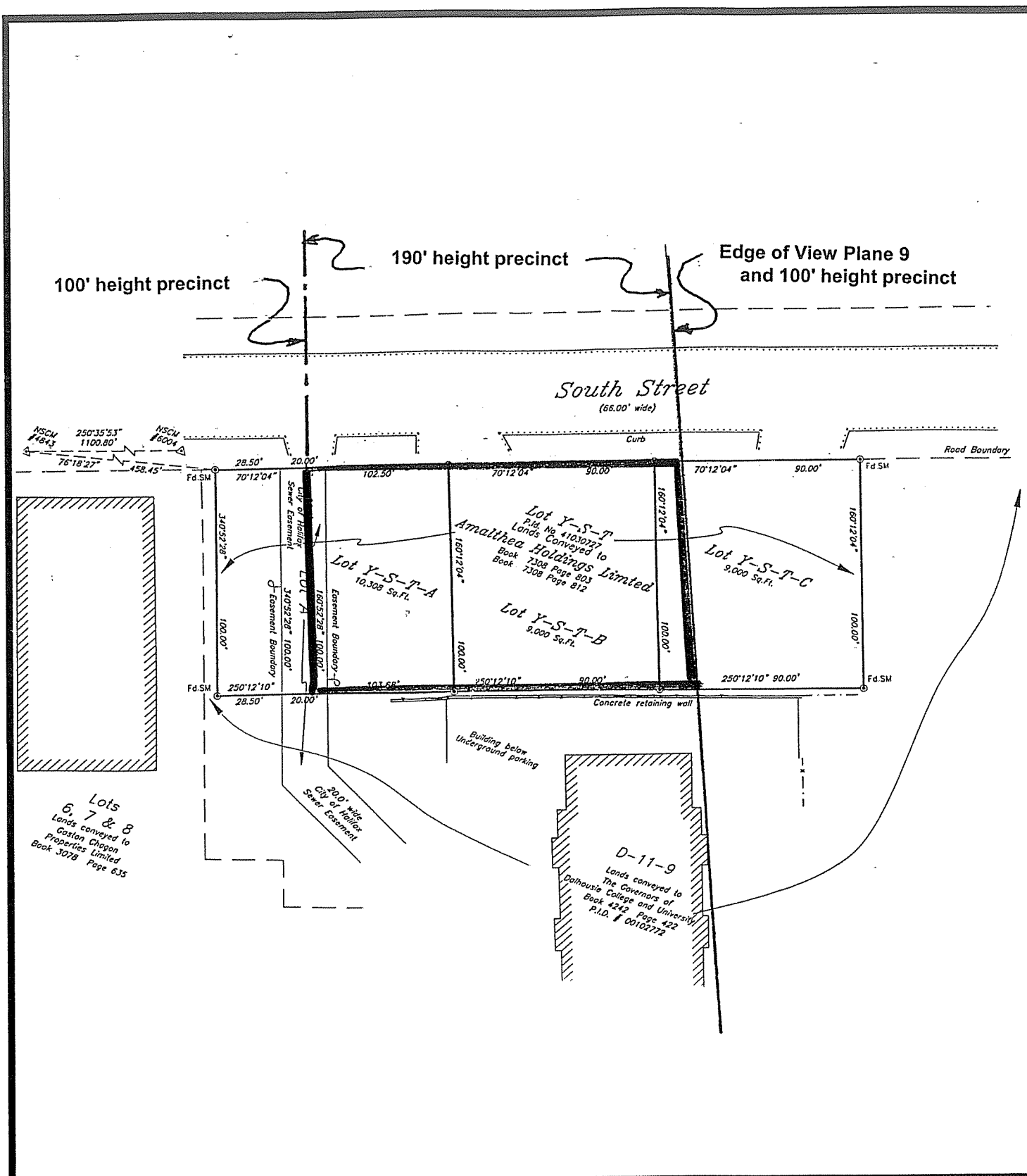
Angle controls (Building C)

(building envelope control - maximum height permitted based on setback provided)

	Maximum permitted	Proposed	Comment
Angle control (front)	unlimited ²⁶	103 feet ±	meets bylaw
Angle control (east)	18.36 feet	102 feet ±	<i>does not meet bylaw</i>
Angle control (rear)	17.32 feet	103 feet ±	<i>does not meet bylaw</i>
Angle control (west)	37.24 feet	104 feet ±	<i>does not meet bylaw</i>

²⁶

As the entire front of this building is completely enclosed by the arms of the 80 ° angle control, there is no height limitation.



Map 1
 Plan showing lot in relation to
 View Plane and height precinct



Planning and Development Services