



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 150 – MOTION FORM

THIS FORM IS FOR PARTIES ONLY. IF YOU ARE **NOT** A PARTY PLEASE FILE A
FORM 153 – REQUEST TO ACCEPT AN UNTIMELY FILING OR TO REOPEN THE RECORD.

Before completing this form, please review the instructions on the reverse side. Print or type all information unless otherwise indicated. All information must be completely filled out.

CASE NO.: 19114

Motion of: ☐ Applicant ☐ Petitioner ☒ Appellant ☐ Party ☐ Intervenor ☐ Other _____

PLEASE TAKE NOTICE, that the undersigned will bring a motion to:

Waive 14-day filing deadline and reopen the record for submission of supplemental material in response to Owner's Motion to Dismiss Appeal.

Points and Authorities:

Please state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion, including relevant references to the Zoning Regulations or Map and where appropriate a concise statement of material facts. If you are requesting the record be reopened, the document(s) that you are requesting the record to be reopened for must be submitted separately from this form. No substantive information should be included on this form.

See attached.

CERTIFICATE OF SERVICE

I hereby certify that on this 1 9 day of November Month, 2015

I served a copy of the foregoing Motion to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of Planning

in the above-referenced ZC or BZA case via: ☐ Mailed letter ☐ Hand delivery ☐ E-Mail ☒ Other IZIS

Signature: William Sawicki

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Board of Zoning Adjustment
District of Columbia
CASE NO.19114
EXHIBIT NO.25

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Appeal of Advisory Neighborhood Commission 2B,
Dupont Circle Citizens Association, Rima Calderon,
and William Sawicki, et al.

Appeal No. 19114

**APPELLANTS' MOTION TO WAIVE THE TIME
REQUIREMENTS AND REOPEN THE RECORD**

Pursuant to 11 DCMR Section 3121.9, Appeal of Advisory Neighborhood Commission 2B, Dupont Circle Citizens Association, Rima Calderon, and William Sawicki, et al. ("Appellants"), respectfully request that this Board waive the time requirements and reopen the record in the above-referenced appeal. Specifically, Appellants request that this Board consider the attached "Response to Owner's Motion to Dismiss Appeal" and the associated Exhibits 1-7 submitted to the Board.

In response to new arguments and information submitted by Owner, on November 9, 2015, Appellants submit the referenced attached documents, which respond directly to Owner's Motion to Dismiss Appeal. Accordingly, there is good cause to waive the time requirements and allow Appellants to submit this Response and associated Exhibits for the Board's consideration in this matter.

The information contained therein offers, among other things, a timeline of events that supports Appellants' assertion that this Appeal action was filed in a timely manner. Further, the hearing in this matter is scheduled for November 24, 2015, so Owner and

DCRA will have sufficient time to consider these materials. Therefore, neither Owner nor DCRA will be prejudiced by the inclusion of these materials in the record.

Accordingly, Appellants request that the Board waive the time requirements and accept the referenced documents into the record for consideration in this matter.

Respectfully submitted,
On Behalf of the Appellants,



November 19, 2015

William Sawicki, Appellant
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	)	
Appeal of Dupont Circle Advisory Neighborhood	)	
Commission 2B, Dupont Circle Citizens Association, Rima	)	
Calderon, and William Sawicki, <i>et al.</i> , from issuance of	)	
Building Permit No. B1404913, for construction work at	)	
1731 New Hampshire Avenue NW	)	BZA Appeal No. 19114
	)	

This Response is submitted on behalf of the Appellants in opposition to the Owner's Motion to Dismiss Appeal as untimely.

The design for the Work was revised multiple times since the Owner started the Hotel renovation project and prior to the issuance of the Permit. The new commercial adjunct space only appears on the design seen on the Permit Drawings, which became available to the Appellants on June 18, 2015, upon issuance of the Permit. Previous designs seen by Appellants did not contain commercial adjunct spaces. Prior to the issuance of the Permit, Appellants tried on numerous occasions to obtain specific and final design information about the Work but were repeatedly told by the Owner's representative, Matt Wexler, that the plans were still being developed or that nothing had been finalized.

Further, prior to the issuance of the Permit, multiple representatives of the Hotel stated publicly – as late as May 28, 2015 – that the Owner was not moving forward with the rooftop work.

To ensure timeliness of their Appeal, Appellants met with Richard Nero, Deputy Director of Operations for the District of Columbia Office of Zoning, to confirm the BZA Appeal process. Mr. Nero informed Appellants, and Appellants confirmed with Mr. Nero, that an appeal cannot be filed until DCRA issues a building permit.

The District of Columbia Code authorizes separate appeals of decisions granting building permits, or administrative decisions based on the District's Zoning Regulations. Thus, Appellants were not required to appeal the Zoning Administrator's Determination Letter.

Appellants' filing of the Appeal was within the 60-day period specified in the Rules of Practice and Procedure of the Board of Zoning Adjustment and was therefore timely. Consequently, the Owner's Motion to Dismiss Appeal should be denied.

I. FACTS

A. Introduction of Commercial Adjunct Spaces

The issuance of the Permit on June 18, 2015, and the associated release of the Permit Drawings, represents the first time it was disclosed that the rooftop Work would include commercial adjunct spaces.

As documented below, since the Appellants first learned in September 2013 about the proposed renovations to the Hotel starting (Exhibit 1, ¶ 2; Exhibit 2, ¶ 2; Exhibit 3, ¶ 3; Exhibit 4, ¶ 2; and Exhibit 5, ¶ 2), the design of the rooftop Work has undergone multiple revisions. As a result, nearly twenty-one (21) months passed between the time Appellants

first learned of the Hotel's intentions for the Work on the roof and when they received a copy of the final design of the Work.

The first design shown to Appellants was in October 2013, at a series of public presentations convened by the ANC and given by Hotel representatives. This design indicated the Hotel's intent to construct an open-air deck and a series of new enclosed structures on the roof. [Exhibit 6, Page 5] While this design indicated the extent of the new construction, it did not indicate the proposed uses for any of the enclosed structures.

When questioned during the presentations, representatives of the Hotel stated that the proposed roof deck would be used for "things like yoga and sunbathing for Hotel guests." They also indicated their intentions to host events on the roof. When asked to clarify, they stated "events like Sunday brunch, wedding receptions, business luncheons and the like." [Exhibit 1, ¶ 3]

On November 6, 2013, the Development, Planning, and Zoning committee of ANC 2B held a public meeting, Hotel representatives once again presented their plans for the renovations, which included the rooftop work. [Exhibit 3, ¶ 6] The floor plan presented at this meeting identified the rooms within the enclosed rooftop structures as storage, bathrooms, lobby, elevator, and stair. [Exhibit 6, Page 8]

On December 5, 2013, the Hotel presented its proposed renovations before HPRB. The design presented to HPRB was similar to the design shown to Appellants at the October presentations. [Exhibit 6, Pages 4-7] At the hearing, HPRB issued a directive to the Hotel that "the aspects [of the Hotel's exterior design] that affect the volume, mass, the perception of height, and the relationship to the existing structure be reexamined with

staff.”¹ Based on this directive, Appellants were led to believe that the proposed rooftop design was not yet finalized and would likely change.

Then on March 30, 2015, Appellants received from the office of the Zoning Administrator a copy of the drawings that served as the basis for the Determination Letter (Exhibit 6, Pages 1-3). [Exhibit 1, ¶ 8] These drawings (dated June 21, 2013) differed significantly from the drawings shown at the public meetings in October 2013: the roof deck was larger; the enclosed roof structures were larger; and the rooms within the structures were labeled (Incidental Roof Deck Storage, Lobby, Stair #2, and Restrooms). It was evident that the project had undergone meaningful revisions since its inception in June 2013. In light of the HPRB directive mentioned above, Appellants anticipated that further design revisions would be forthcoming, since this directive was yet to be addressed.

Then on June 18, 2015, Building Permit No. B1404913 was issued by DCRA for the rooftop work. Appellants acquired a copy of the drawings associated with the Permit from DCRA on July 6, 2015. [Exhibit 1, ¶ 9] Contrary to the HPRB directive issued on December 5, 2013, the scale (“volume, mass, and height”) of the now-approved rooftop structures remained nearly identical to that of the design presented to HPRB. [Exhibit 6; Compare Pages 5 and 7 with Pages 9 and 10]

Furthermore, room designations differed from those shown on the Determination Drawings. The design approved by the Permit now included rooms designated as bar, kitchen, and coat check. [Exhibit 6, Pages 9 and 12-17] §199.1 of the Regulations defines commercial adjunct as:

¹ Refer to the video record of the hearing, which is available on the HPRB official website, at <http://view.earthchannel.com/PlayerController.aspx?PGD=dczoning&eID=241>. The directive to the Hotel can be found at time stamp 02:17:30 of the video.

“retail and service establishments customarily incidental and subordinate to hotel use, such as *restaurant, dining room, cocktail lounge*, coffee shop, dry cleaning, laundry, pressing or tailoring establishment, florist shop, barber shop, beauty parlor, cigar or news stand, and other similar uses.”

The “bar,” “kitchen,” and “coat check” room designations had *not* appeared in previous versions of the rooftop design. Rather, these areas had been designated as “Incidental Roof Deck Storage” on both the Determination Drawings and the design submitted to HPRB. [Exhibit 6, Pages 2 and 5]

The Permit Drawings also included a rooftop seating layout that covers the entirety of the roof deck, suggesting restaurant-style dining and bar-style entertaining – not the “passive recreation” uses of “yoga and sunbathing” that the Hotel and the Determination Letter had previously indicated as the primary use of the roof deck. [Exhibit 6, Page 11; Exhibit 3, ¶ 5]

Appellants were unable to determine the final design of the Work – and learn of the increase in space allocated to commercial adjuncts within the Hotel² – until the issuance of the Permit Drawings. Prior to this point, the design for the rooftop Work was still evolving.

In Owner’s Motion to Dismiss Appeal, the Owner cites an article in *Washington Business Journal* (August 5, 2013) in an attempt to prove that Appellants should have known about the proposed rooftop as early as August 5, 2013. The referenced article, however, concludes with the statement “Matt Wexler of Foxhall Partners declined to elaborate on the company’s plans for the hotels, but did say nothing has been finalized at

² On October 27, 2015, the BZA put forth a 3-0 vote in favor of BZA Appeal No. 19027. This ruling confirmed that DCRA erred in the issuance of Building Permit No. B1504436, which allowed an increase in the space within the Carlyle Hotel dedicated to commercial adjunct and function rooms in violation of the Regulations. Therefore the addition of *any* commercial adjunct space allowed by Building Permit No. B1404913 is equally in violation of the Regulations.

this point.” As the Owner was unsure of their plans for the Hotel at this point – and for a significant period thereafter – there is no way Appellants could have known.

As outlined above, rooftop commercial adjunct spaces were not indicated in previous design iterations; they only became evident with the issuance of the Permit on June 18, 2015. As our Appeal was filed sixty days later – on August 17, 2015 – this Appeal is timely, and Owner’s Motion to Dismiss Appeal should be denied.

B. Confirmation of Construction

In October 2013, the Owner presented the proposed Hotel renovations as a single project to include upgrades to the guest rooms, renovation of the ground- and lower-level public spaces, and the addition of a roof deck. [Exhibit 1, ¶ 3] When the Hotel received its first building permit and commenced construction on the guest room portion of the renovations in the fall of 2014, Appellants began questioning Hotel representatives on the status of the proposed rooftop work. [Exhibit 3, ¶ 8; Exhibit 4, ¶ 6; and Exhibit 5, ¶ 2]

On numerous occasions, representatives of the Hotel stated that the rooftop Work was “on hold,” or “the roof deck had been placed on hold [with] declarations that no plans existed regarding next steps,” or “the roof deck is no longer under consideration,” or “the hotel no longer planned to build the roof deck.” [Exhibit 3, ¶ 8; Exhibit 4, ¶¶ 6, 8 and 9; and Exhibit 5, ¶ 5] This was a consistent theme in numerous interactions between individual Appellants and various Hotel representatives, signaling a consistent message that the future of the rooftop Work was in question. This pattern continued until June 10, 2015.

On June 10, 2015, at a monthly ANC public meeting, the Hotel was on the agenda for an item unrelated to the rooftop Work. During public exchange relating to this agenda item,

an audience member inquired about the status of the rooftop Work. Mr. Wexler replied that the Hotel was proceeding with the rooftop Work.

His public declaration came as a surprise to many in the audience, including an individual Appellant in attendance and Stephanie Maltz, the single-member-district commissioner for the Hotel (ANC 2B03). Upon hearing Mr. Wexler's statement, Ms. Maltz immediately proposed and the ANC voted in favor of a resolution requesting that DCRA not make a decision on issuance of the roof deck permit "until the ANC has had a chance to review it and the community has been adequately consulted." [Exhibit 7]

On June 12, 2015, Ms. Maltz responded to an email from Mr. Wexler regarding his statement at the ANC meeting:

"Please understand that given that conversation I had with several members of the Carlyle team at the recent open house you had for the neighbors in late May [2015] where I was told that there were no plans for a roof deck, this news certainly comes as a surprise."³

Thus, until this ANC meeting in June of 2015, it was unknown whether the Owner was proceeding with the rooftop Work. [Exhibit 4, ¶ 10; and Exhibit 5, ¶ 6] Upon learning this information, the Appellants sought to confirm the final design via the Permit Drawings to determine if an Appeal was warranted.

C. Timely Basis for a BZA Appeal

As the owner of one unit and part owner of a second unit on the top floor of The Whyland, which is located immediately to the northeast of the Hotel, Appellant William

³ As quoted in an email, dated June 12, 2015, and copied to two individual Appellants, among others. Ms. Maltz was replying to a message received from Mr. Wexler the day after the ANC meeting, which offered "some additional information regarding the Carlyle Hotel's renovation and the timeline of events to clarify a number of assertions made" at the ANC meeting.

Sawicki became concerned about the proposed roof deck after hearing of the Owner's intentions at the October 2013 public presentation. [Exhibit 1, ¶ 4]

On December 3, 2013, Mr. Sawicki and Appellant Steven Reichert (co-owner of the second unit with Mr. Sawicki) met with Richard Nero, deputy director of operations for the District's Office of Zoning, to discuss whether such uses were consistent with the Regulations. They also sought information on the BZA appeal process. [Exhibit 1 ¶ 5; Exhibit 2, ¶ 5]

Mr. Nero told Mr. Sawicki and Mr. Reichert that they should discuss the matter of permitted uses directly with Zoning Administrator Le Grant.⁴ Regarding the BZA appeal process, Mr. Nero stated – and reconfirmed later in the same meeting – that until there is an actual building permit, “you don't have anything to appeal.” *Id.* Mr. Nero explained that applicants for permits often abandon projects or make revisions; so an appeal needs to be based on an issued permit, because that's when DCRA knows “the project is real.” *Id.* He further stated that once a permit is issued, any appeal must be filed with 60 days. *Id.*

Our Appeal was filed on August 17, 2015, within 60 days of the issuance of the Building Permit on June 18, 2015. Therefore, BZA Appeal No. 19114 is timely and Owner's Motion to Dismiss Appeal should not be granted.

D. Clarifications to Owner's Motion to Dismiss Appeal

The Owner's Motion to Dismiss Appeal requires clarification on three (3) points.

First, on Page 2 of the Motion, Owner states that

“Zoning Administrator LeGrant advised Owner that, based on his review of submitted drawings, the proposed roof deck complied with the Zoning

⁴ Mr. Reichert engaged Mr. Le Grant in a discussion regarding the appropriateness of the proposed commercial uses in a residential district; he never received a direct response to his inquiries. [Exhibit 2, ¶¶ 6 and 7]

Regulations, including Section 350.4(e) and the requirements of the Dupont Circle Overlay [sic] District.”

Since the Determination Letter does not state that the Work complies with the requirements of the Dupont Circle Overlay, Owner’s statement is not accurate.

Second, at the top of Page 3 of the Motion, Owner states that

“Appellant ANC 2B held community forums concerning the proposed renovation at the Hotel in October and November 2013. During these community forums, the architect and hotel management team discussed the proposed renovations. The rooftop was open during these meetings, so interested parties could see the scope of the proposed renovations.”

As noted above and in the attached Declarations, at no time during these community forums did Hotel representatives share the intended uses for the individual spaces *within* the proposed enclosed rooftop structures. Their uses only became publicly known upon issuance of the Permit Drawings. Revealed at the community forums was a *partial* scope of the proposed renovations. The *full* scope was not revealed until issuance of the Permit.

Third, continuing on Page 3 of the Motion, Owner states that

“On November 25, 2013, Appellant ANC 2B sent a letter to Zoning Administrator LeGrant expressing concern about the roof deck proposal. This letter specifically detailed the planned uses for the roof deck:

...[D]uring the public outreach meetings the applicant described a variety of likely uses for the space, including yoga classes (currently held in the basement), Sunday brunch (currently offered in their restaurant), private meetings/luncheons, and weddings and/or wedding receptions, in addition to its use by hotel guests in a less structured and more casual, passive manner.”

This statement by the ANC – and the response provided by Mr. Le Grant on March 12, 2014, addressed to Commissioner Maltz – specifically address the *roof deck’s* proposed uses. They both are silent, however, on the intended uses for the spaces contained within the enclosed rooftop structures. A critical distinction exists between allowed uses on the

roof deck, as evidenced in Mr. Le Grant's definition of "passive recreation," and allowed uses within the enclosed rooftop structures, which are subject to §411.1 of the Regulations.

A primary Argument made by this Appeal is the fact that proposed uses for the enclosed rooftop structures do not comply with the Regulations. An important distinction exists between *roof deck* and *enclosed rooftop structures*.

II. Argument

A. The Appellants Are Allowed to Appeal the Issuance of Building Permit No. B1404913 to the BZA

§6-641.07(f) of the DC. Code provides:

"Appeals to the Board of Adjustment may be taken by any person aggrieved ... by any decision of the Inspector of Buildings granting or refusing a building permit or granting or withholding a certificate of occupancy, or any other administrative decision based in whole or in part upon any zoning regulation or map adopted under this subchapter."

The Board of Zoning Adjustment, interpreting Section 6-641.07(f) in *Appeal No. 16998 of Advisory Neighborhood Commission 5B* (September 9, 2003), stated (p. 9) that the provision "recognizes three types of appealable zoning related decisions: (1) those granting or refusing building permits; (2) those granting or withholding certificates of occupancy; and (3) 'other administrative decisions.'"

The BZA held that "separate appeals are permitted" under each of these three categories. *Appeal No. 16998*, p. 9. Letters of the Zoning Administrator can be appealed as "other administrative decisions," but failure to appeal the letters, "even after notice, does not bar a subsequent appeal of the related building permit." *Id.* at p. 10. "The express authority granted by [Section 6-641.07(f)] to appeal a decision granting a building permit cannot be negated by the failure to appeal a related, but earlier decision." *Id.*

The DC Court of Appeals, affirming this decision, stated: “We agree with the BZA that each type of decision is separately appealable.” *Bannum, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 894 A.2d 423, 430 (DC 2006).

To the extent the BZA decisions cited in the Owner’s Motion to Dismiss Appeal can be interpreted as holding that the 60-day period for filing an appeal under § 3112.2(a) of the Regulations begins on the date a party has notice of a decision by the Zoning Administrator, and not on the date a building permit is issued, those decisions are contrary to the Court of Appeals decision in *Bannum*.

That decision was based on the language of § 6-641.07(f) of the DC Code, which refers to a “decision of the Inspector of Buildings,” the specific official who makes the decision granting or denying a building permit. A building permit is not issued until it has been authorized by the Director of DCRA’s Permit Operations Division, the official in the current regulatory system responsible for granting or denying building permits. An interlocutory decision by another official, such as a Determination Letter of the Zoning Administrator prior to the filing of an application for a building permit, or approval under the “Zoning Review Discipline” of an application for a building permit, is not a “decision of the Inspector of Buildings.”

Moreover, the BZA decisions cited in the Owner’s Motion to Dismiss Appeal involved different factual circumstances. In *BZA Appeal No. 18300 of Lawrence M. and Kathleen Ausubel* (November 8, 2011), which is cited on pp. 7-8 of the Motion to Dismiss, neighbors objecting to a property owner’s building permit application had several discussions with the Zoning Administrator, who determined that the application complied with the Zoning Regulations and sent an e-mail to the neighbors informing them of his decision.

The BZA explained in *Ausubel* that the Zoning Administrator had received information from the property owner, the Appellants, and the Urban Forestry Administration before he made his decision. “Having been fully briefed on the Owner’s proposal, his conclusion . . . ‘represented a decision on the very issue’ that the Appellants have asked this Board to review.” *Ausubel*, p. 8, quoting *Basken v. District of Columbia Bd. of Zoning Adjustment*, 946 A.2d 356, 370 (DC 2008).

Appeal No. 18469 of Susan L. Lynch (December 18, 2012), which is cited on p. 8 of the Motion to Dismiss, also involved a dispute over an application for a building permit in which the Zoning Administrator had the benefit of discussions with the Appellant and her counsel, and had sent them an e-mail informing them of his decision. *Lynch*, pp. 4-5. Again, the BZA stated that “the ZA made his decision after a full briefing of the facts from numerous sources and the email ‘gave the Appellants their first notice that such a decision had been made.’” *Id.*, p. 7.⁵

⁵ The other cases cited in the Motion to Dismiss in support of the argument that the Appellants should have filed the Appeal within 60 days of the date on which they had notice of the Determination Letter have no relevance at all to this appeal.

In *Basken v. District of Columbia Bd. of Zoning Adjustment*, 946 A.2d 356 (D.C. 2008), which is cited on p. 8 of the Motion to Dismiss, the Court of Appeals affirmed a BZA decision involving a dispute about a certificate of occupancy based on a building permit that was later determined by DCRA to have been issued in error. The DCRA director sent a letter to the ANC stating that the certificate of occupancy would be issued despite the error in the issuance of the building permit. *Appeal No. 17411 of Paul A. Basken and Joshua S. Meyer* (September 27, 2005), p. 3. The Appellants challenged the issuance of both the building permit and the certificate of occupancy. The BZA ruled that the error had occurred in the issuance the building permit. *Id.*, p. 5. The appeal of the building permit had been filed beyond the 60-day period established in § 3112.2(a). Because the building permit was ambiguous, however, the BZA determined that there were “exceptional circumstances” that warranted an extension of time under §3112.2(d), and allowed the appellants an additional 60 days, after they became aware of the DCRA director’s letter, to file their appeal. *Id.*, pp. 5-6. The BZA held that the appeal, which was filed more than 60 days from that date, was untimely. *Id.*, p. 5.

BZA Appeal No. 16849 of Robert Lehrman (May 8, 2003), which is cited on p. 8 of the Motion to Dismiss, involved an appeal of a Zoning Administrator’s decision, not an appeal of a building

Mr. Le Grant issued his Determination Letter on the Hotel's proposed changes based solely on information provided by the Owner, without the benefit of a full briefing. In addition, the Determination Letter was issued on July 24, 2013, prior to the Owner filing four initial applications for building permits for renovation of the Hotel. The proposed plans attached to the Determination Letter differ significantly from the plans that accompanied the applications for building permits.

B. Even If Appellants Were Required To Appeal the Determination Letter, the Appeal Was Timely

The Appellants were unable to determine the extent, if any, of the increase in gross square footage of the Hotel or increase in space devoted to commercial adjuncts without access to the final design. The final design was not available until the Permit was issued on June 18, 2015, and the Permit Drawings were received on July 6, 2015.

When Appellants reviewed the Permit Drawings, it was apparent that the Work included commercial adjunct spaces that were not specified on any prior version of the project's design. This progression of the Work design is described in greater detail above.

As explained in the Appellants' Prehearing Statement of Appeal (Page 3), the Permit allows the total amount of the Hotel's commercial adjunct space to increase by ± 590 square feet, and for the gross square footage of the Hotel to be increased by the same amount.

A principal basis for this Appeal is the fact that the Permit Drawings differ from the Determination Drawings, upon which the Mr. Le Grant relied to draw his conclusion that

permit. Mr. Lehrman sought a stop work order alleging that construction activity pursuant to the building permit violated the Zoning Regulations. The Zoning Administrator sent Mr. Lehrman a letter stating that the activity did not violate the Zoning Regulations. The BZA held that Mr. Lehrman's appeal, which was filed three months after the date of the Zoning Administrator's letter, was untimely.

the proposed changes would not increase the total floor area allocated to commercial adjuncts and function rooms and thus presented no violation of § 350.4(e).

The Appeal was therefore timely when filed on August 17, 2015, which is sixty days from June 18, 2015, when the Permit was approved and the Permit Drawings were available for review by the Appellants.

C. Even if the Appeal of the Determination Letter Was Untimely, Appellants Still Can Appeal Other Violations

The Determination Letter only addresses whether the proposed changes to the Hotel would violate § 350.4(e) of the Zoning Regulations. The Owner's Motion to Dismiss Appeal states that the letter also covers "the requirements of the Dupont Circle Overlay [sic] District" (Page 2), but as indicated above, this is not an accurate statement.

In the discussion on Page 3 of the Determination Letter about parking, the Zoning Administrator states: "Notwithstanding the increase in the number of rooms, no additional parking is required because, pursuant to § 2120.3, the building is a historic resource contributing to the character of the Dupont Circle *Historic* District and there is no increase in the gross floor area" (emphasis added).

There is no discussion in the Determination Letter about whether the proposed changes to the Hotel violate § 1501.4(c) of the Regulations pertaining to the Dupont Circle Overlay District or to § 351.2(c) of the Regulations pertaining to commercial adjuncts as accessory uses to a hotel in an R-5 district, as alleged in the Owner's Motion to Dismiss Appeal. *Id.*

D. There Is No Substantial Prejudice to the Owner in Allowing the Appeal to Proceed, and Therefore the Doctrine of Equitable Estoppel Does Not Apply

The Owner claims the Appeal must be dismissed or they will otherwise be harmed, as they have “made expensive and permanent improvements in the reliance” of “affirmative acts of [the zoning authority.]”

The Owner has been aware of Appellants’ concerns regarding the commercial expansion of the Hotel since the public presentations they held in October 2013. [Exhibit 1, ¶ 3; Exhibit 3, ¶ 7] Furthermore, the Owner was aware of similar arguments against their earlier – yet related – work, which was challenged in BZA Appeal No. 19027 filed on April 17, 2015. Additionally, it seems logical to presume that the Owner researched the Regulations as part of the due diligence conducted prior to purchasing the Hotel and was aware of the restrictions placed on hotels located in R-5-D Districts. If the Owner chose to proceed with the Work associated with this Appeal in light of these known challenges, the Owner is responsible for bearing the consequences. Therefore, the doctrine of equitable estoppel does not apply in this situation.

The Owner may address this expressed concern by seeking damages for harm from the design professionals who incorrectly labeled various versions of the design documents and from the lawyers who incorrectly concluded that the new rooftop enclosures could be classified as “passive recreation” and not gross square footage classified as “commercial adjuncts.”

The Facts and Arguments presented in this Response refute each of the Owner’s claims as inaccurate, inapplicable, or invalid. Therefore the Motion to Dismiss Appeal cannot be supported and should be denied.

Respectfully Submitted,
On Behalf of the Appellants,

A handwritten signature in black ink, appearing to read "William Sawicki", with a horizontal line drawn underneath it.

November 18, 2015

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EXHIBITS TO APPELLANTS' RESPONSE TO OWNER'S MOTION TO DISMISS APPEAL

Exhibit 1 – Declaration of William Sawicki

Exhibit 2 – Declaration of Steven Reichert

Exhibit 3 – Declaration of Ralston Cox

Exhibit 4 – Declaration of Stacie G. Goffin

Exhibit 5 – Declaration of Rima Calderon

Exhibit 6 – History of Rooftop Design Revisions Between July 2013 and June 2015

Exhibit 7 – ANC Request to DCRA to Hold Rooftop Permit

Exhibit 1

Declaration of William Sawicki

1. I own unit 83 and 50% of unit 82 at The Whyland, 1724 17th Street NW, Washington, DC. On the top floor of the building, both of these condominium units have direct, multiple sightlines of the roof of the Carlyle Hotel, immediately to the southwest.
2. On October 11, 2013, I was informed by a communique from the Whyland's building manager of upcoming public meetings being held to describe impending renovations at the Hotel.
3. On October 24, 2013, I attended one of the meetings held at the Hotel. Presentations were made by a representative of the Hotel and the Hotel's architect. The Hotel representative stated that they were embarking on a construction project that would consist of a renovation of the guest rooms and restaurant and the addition of a rooftop deck for passive recreation activities such as sunbathing and yoga.

Their presentation included drawings and a computer rendering for the work, which only showed proposed changes to the outside of the building. These drawings showed new structures, nearly nineteen feet tall, that the Hotel was proposing to construct on the roof, though none of the spaces within the rooftop structures were labeled.

After the presentation, the hotel representative and architect were specifically questioned about the types of activities that would occur on the rooftop expansion, to which they replied "things like yoga and sunbathing for hotel guests." At this point, they indicated they also intended to host events on the roof. When asked further, they stated "events like Sunday brunch, wedding receptions, business luncheons, and the like." I specifically inquired as to the proposed occupancy limit of the roof, to which the architect responded, "based on the design, legally up to 274 people." I inquired as to the legality of such an intensive, commercial use on the roof in a residential neighborhood, in a hotel surrounded completely by residential buildings, to which they replied that all of this work would be allowed as a matter-of-right for the Hotel.

4. On October 25, 2013, a neighbor also in attendance at the Hotel's presentation forwarded to me a copy of a letter dated July 24, 2013, from Matthew Le Grant, zoning administrator, addressed to the Hotel's attorney. It stated that the proposed work would comply with the zoning regulations (the "Determination Letter").

At this point, I began researching whether such an intensive, commercial use housed in such a tall structure would be allowable on the roof of a hotel building within a residential neighborhood. With a substantial, long-term investment in my property – and the neighborhood – that would be directly affected by the proposed commercial expansion on the roof, I was keenly concerned about the potential impact on my property and the neighborhood.

5. On December 3, 2013, following a series of phone calls with zoning personnel to further my understanding of what was happening, Steven Reichert (the owner of the other 50% of unit 82) and I met with Richard Nero, deputy director of operations for the District of Columbia Office of Zoning. Mr. Nero indicated that the best course of action would be to get a clarification directly from Mr. Le Grant.

Mr. Reichert and I further inquired about possible avenues for challenging the project. Mr. Nero explained the Board of Zoning Adjustment appeal process. We specifically discussed an appeal's timing, and Mr. Nero said that until there is an actual building permit, "you don't have anything to appeal." He explained the policy by stating that many people routinely abandon projects or make revisions; until they have been issued a building permit, there really is nothing to appeal. "That's when you know the project is real." Mr. Nero added that once the permit is issued, you have 60 days to file an appeal.

Fearing this would allow construction of the project to commence *before* we had the chance to appeal, I again asked Mr. Nero for clarification on the timing. He reiterated that "There's nothing else you can do; this is how the process works. Until there is an actual building permit, you don't have anything to appeal." Consequently, I began to monitor DCRA's permit status tracking website, which Mr. Nero had shown us.

6. On November 13, 2014, I was able to confirm via DCRA's website that one building permit for the Hotel (number B1404914) had been approved on October 28, 2014. I requested a copy of the approved permit drawings from Marcella Gooding, contact representative in DCRA's records room. At the same time, I also requested copies of permit drawings for the three other active permit applications filed by the Hotel. Ms. Gooding stated that drawings were only available for permits that had been issued. This meant I was only able to request drawings for building permit number B1404914, which I received on November 24, 2014. As these drawings only included work on the Hotel guest rooms, I went back to monitoring the status of the other Hotel permits that were listed on the DCRA website, assuming that one of those other permit applications was likely for the rooftop work.
7. On February 12, 2015, a new building permit application for the Hotel (number B1504436) appeared on DCRA's website. That permit was issued on March 19, 2105. I again requested the permit drawings from DCRA, and I received them on March 30, 2015. As these drawings only included interior work on the ground and lower floors, I went back to monitoring the status of the other Hotel permits on DCRA's website.
8. While I was monitoring the status of permits related to the Hotel, I was already involved in BZA Appeal No. 19027, which also questioned an increase in commercial adjunct space in the Hotel. During due diligence for Appeal No. 19027, I realized that, while we had received a copy of the Determination Letter, it referenced a set of design drawings that were not included with the Determination Letter. Fellow Appellant, Ralston Cox, contacted the office of the Zoning Administrator in early February 2015 to request a copy of the drawings. After multiple follow-up inquiries, Mr. Cox received a copy of the drawings that were the basis for the Determination Letter on March 30, 2015, and he immediately forwarded them on to me.¹ He. These Determination Drawings (dated June 21, 2013) differed significantly from the drawings shown at the public meetings in October 2013.

¹ Reference the public record related to BZA Appeal No. 19027, List of Exhibits to Appellant's Pre-Hearing Statement dated June 28, 2015, Exhibit 3, ¶¶ 16 and 19.

9. On June 18, 2015, building permit number B1404913 was issued by DCRA. I acquired a copy of the drawings associated with this permit from DCRA on July 6, 2015. These Permit Drawings indicated new commercial spaces – which had not existed in any prior version of the rooftop design – were to be built on the roof. This Permit allows the Hotel to construct new commercial adjunct spaces on the roof and increase the gross floor area of the Hotel, neither of which is allowed by the Regulations. At that point, the Appellants and I decided to pursue the appeal of permit number B1404913.

I certify that the above information is true and correct to the best of my knowledge, information and belief.



WILLIAM SAWICKI

Date: November 18, 2015

Exhibit 2

Declaration of Steven Reichert

1. I own 50% of unit 82 at The Whyland, 1724 17th Street NW, Washington, DC, which is on the top floor of the building, with direct, multiple sightlines onto the roof of the Carlyle Suites Hotel, immediately to the southwest.
2. On October 11, 2013, in a communique from The Whyland's building manager, I was informed of upcoming public meetings being held to describe impending renovations at the Hotel.
3. On October 24, 2013, I was informed by William Sawicki (the owner of the other 50% of unit 82 and fellow Appellant) that he had just attended a meeting at the Hotel in which the renovation plans for the Hotel were presented. He stated that presentations were made by a Hotel representative and the Hotel's architect, which described an upcoming construction project at the Hotel that would consist of a renovation of the guest rooms and restaurant. The project would also include the addition of a rooftop deck that would be used for activities such as sunbathing and yoga but would also be used as an extension of the Hotel's bar/restaurant and meeting room functions.
4. On October 25, 2013, Mr. Sawicki forwarded to me a copy of the letter sent by Matthew Le Grant, zoning administrator, to the Hotel's attorney, dated July 24, 2013, stating that the proposed work would comply with the zoning regulations. At this point, Mr. Sawicki and I began to research how such an intensive, commercial use could be allowed on the roof of a hotel building within a residential neighborhood. With a substantial, long-term investment in my property (and the neighborhood) that would be directly affected by the proposed commercial expansion onto the roof, I was keenly concerned about the potential impact on my property and the neighborhood.
5. After a series of phone calls with various zoning personnel to attempt to understand what was happening, Mr. Sawicki and I met with Richard Nero, deputy director of operations for the District of Columbia Office of Zoning, on December 3, 2013. Mr. Nero indicated that the best course of action would be to get a clarification directly from Mr. Le Grant.

We further inquired about the possible avenues for challenging the project. Mr. Nero then explained the Board of Zoning Adjustment appeal process. He said the appeal is filed after there is an actual building permit because people often abandon projects or make substantial revisions, so until they have an actual permit, there really is nothing to appeal. He said that once the permit is issued, there is sixty days to file an appeal.

6. On December 5, 2013, I contacted Mr. Le Grant directly to make a specific inquiry about his July letter. On December 12, 2013, I met with Mr. Le Grant and a city attorney in Mr. Le Grant's office, at which time I shared with Mr. Le Grant the information that Mr. Sawicki had shared with me from the Hotel presentation. Specifically, I questioned the use of the term "passive recreation" in his July 2013

letter. I shared with Mr. Le Grant the public revelations made by the Hotel regarding their intentions to use the roof deck for food, beverage, and event purposes. I also informed him that the Hotel stated the roof deck could have a maximum occupancy of 270 people. I inquired as to how these intensive commercial uses could qualify as "passive recreation" uses.

I also inquired as to how the rooftop expansion, which would contain enclosed rooms for the elevator, elevator lobby, restrooms, and storage areas, would not constitute an expansion of both the Hotel and the Hotel's commercial adjunct spaces, as Mr. Le Grant had stated in his July 2013 letter.

I also stated my concerns that the Hotel's proposed rooftop expansion would impair the views from and greatly diminish the privacy of our condominium unit.

Mr. Le Grant seemed receptive to my concerns, and he offered to review the findings outlined in his July 2013 letter in the context of the new information I shared with him.

7. On December 16, 2103, I sent a follow-up letter to Mr. Le Grant reiterating the details of our meeting and requesting a direct response. Subsequent to that letter, I made at least two additional attempts via email to gain a response from Mr. Le Grant. To this date, I have not received a response from Mr. Le Grant.

I certify that the above information is true and correct to the best of my knowledge, information and belief.



STEVEN REICHERT

Date: November 18, 2015

Exhibit 3

Declaration of Ralston Cox

1. I have owned Unit 602 at the Portsmouth Condominium since February 2003. The Portsmouth Condominium is located at 1735 New Hampshire Avenue NW, immediately next door to the Carlyle Hotel (formerly the Carlyle Suites Hotel), which is located at 1731 New Hampshire Avenue NW. I have served as the President of this Condominium Association for the past 10 years.
2. In early 2013 I learned that the Carlyle Suites Hotel had been sold and was under new management. Shortly thereafter I learned that the new owners planned to renovate the building and that the renovation plans encompassed the entire property: sleeping rooms, restaurant, meeting rooms, and public spaces on the first floor and in the basement, and the construction of a deck and/or public space on the roof.
3. Beginning in September and extending through November, I attended several public meetings held at the hotel. Matt Wexler, who identified himself as the representative of the new owners, presented plans for a rooftop structure and deck. Michael Beidler, an architect, made presentations at more than one of these meetings and described the structure. Figure 1 is the plan that was presented to the public at one of those meetings.
4. When questioned at those meetings about the blank, unmarked rooms, Mr. Wexler described them as designed for use as storage for such things as deck chairs and other furniture that would not be used in the off-season or when yoga classes or some other use precluded furniture being present.
5. When questioned at those meetings about the hotel's plans for use of the roof deck area, Mr. Wexler repeatedly said that it would be used for passive purposes, including such uses as yoga classes, sun bathing by hotel guests, and watching fireworks displays. When pressed for details, Mr. Wexler repeatedly denied that the hotel had any overall business plan for the roof deck.
6. On November 6, 2013, Mr. Wexler and Mr. Beidler presented the project to the Zoning, Preservation, and Development Committee of ANC 2B (Dupont Circle). The plan they presented at that meeting is shown as Figure 2. The overall architectural form was different in some minor respects, most notably the general arrangement of the low glass wall and planters that would surround the deck. Mr. Wexler and Mr. Beidler presented these changes as being responsive to neighborhood concerns about potential use of the roof deck. I noted that the two of the rooms that had

previously been unlabeled were now shown as bathrooms; all of the other rooms were also now labeled.

7. On November 7, 2013, a group of residents from buildings immediately adjacent to the Carlyle hotel met with Matt Wexler and Norman ("Chip") Glasgow, an attorney representing the hotel. The meeting was held at Mr. Glasgow's office and I was present. Both Mr. Wexler and Mr. Glasgow emphasized their plans for passive use of the deck, but said that they would also like to use it for special events and limited food service. Members of the neighborhood group expressed concern about both of those ideas, and suggested that they needed to have a better idea of what the hotel was planning in that regard. There was general discussion of shared interest in trying to reach an agreement about how the roof deck would be used, and the neighborhood group reiterated that they needed to know what the hotel was planning in terms of occupancy, use, hours of operation, and issues related to its use for something other than passive purposes.
8. From November 2013 until June 2015, Mr. Wexler was repeatedly asked in multiple public and private meetings and phone calls for details about the hotel's plans for the roof deck. His answers were only general in nature and I found them to be dismissive and evasive. When pressed, he stated repeatedly that the plans for the roof deck were "on hold" or that "nothing was final" or "that won't happen until later, if at all" or that "there is nothing happening on that right now."
9. In June 2015, the neighbors learned that the District of Columbia's Department of Consumer and Regulatory Affairs had issued a building permit (B1404913) for construction of the roof deck and bar. After the permit was issued on June 18, 2015 the neighbors secured a copy of the building plans. Sections of those plans are attached as Figures 3, 4, 5, and 6.
10. In reviewing the permit plans, I noticed the following changes from the plans the neighbors and the ANC were given (Figures 1 and 2):
 - a. One of the rooms formerly marked as "storage" was now marked as "coat check." (Figure 3)
 - b. The much larger room located at the south end of the structure had been subdivided into two separate rooms and marked in Figure 3 as "Support 1" and "Support 2." Figure 4 (and other details in the full set of permit drawings) shows one room being used as a full-service bar and the other room being used as a catering kitchen, i.e. a room with sinks, storage, counters and power outlets sufficient to support warming cabinets and use by caterers or the hotel kitchen for food service.

- c. The bar area, which had been shown as a fully enclosed storage room in earlier plans, now was shown as being open on three sides with bar stools surrounding it on two sides. (Figure 5)
- d. The plan showed extensive furnishings, with seating for 97 people and a total allowable occupancy of 234, and is clearly marked "Casual Dining." (Figures 4 and 6)

11. When I asked in a meeting and in a phone call about the substantial change in their plans as reflected in the permit drawings, Mr. Wexler stated that the hotel was "protecting its interests," and was only going forward with a design that included a much more intensive use of the rooftop space because the neighbors were pressing an appeal with the Board of Zoning Adjustment concerning the allocation of function room and commercial adjunct space within the hotel. He noted that if the hotel did not prevail in the BZA appeal that "we will have to make up the lost revenue from elsewhere," and cited the changes in the design as allowing the hotel to use the roof area for other than passive uses.

I certify that the above information is true and correct to the best of my knowledge, information, and belief.


Ralston Cox

November 18, 2015

Figure 1

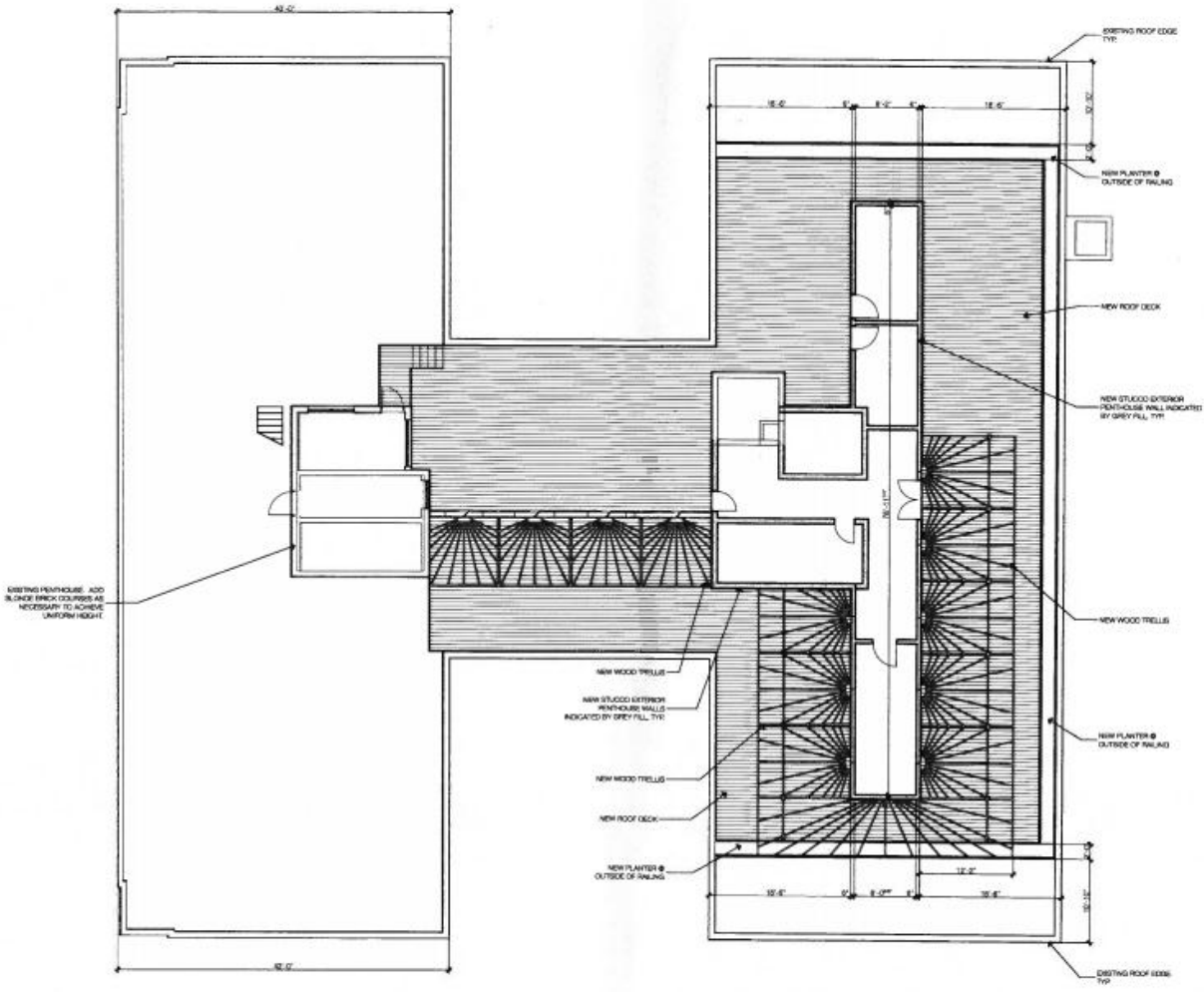


Figure 2

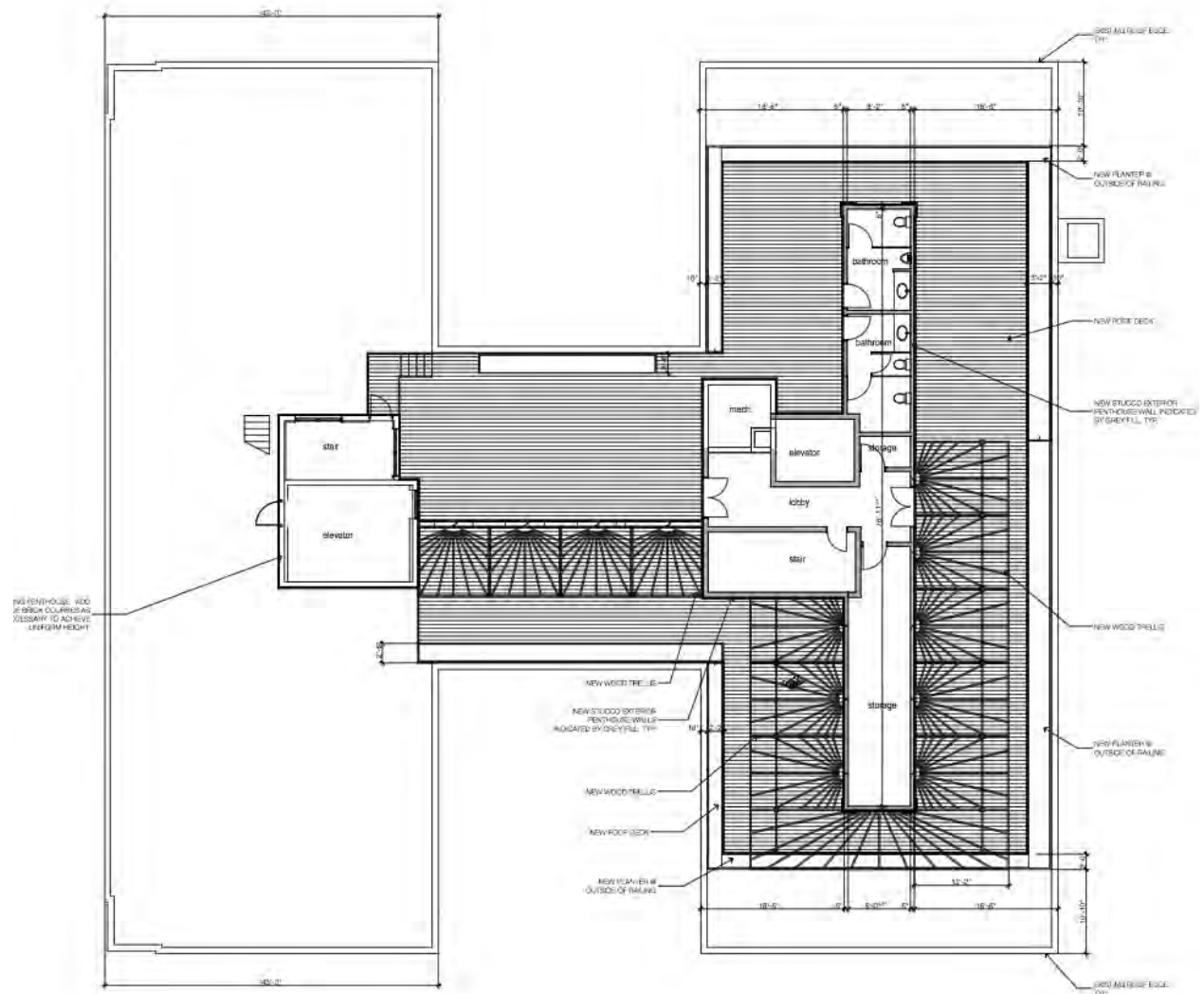


Figure 3

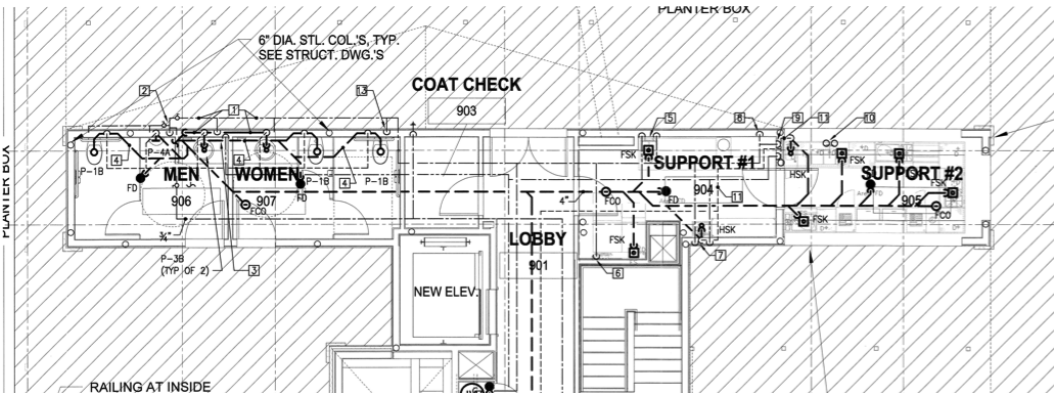


Figure 4

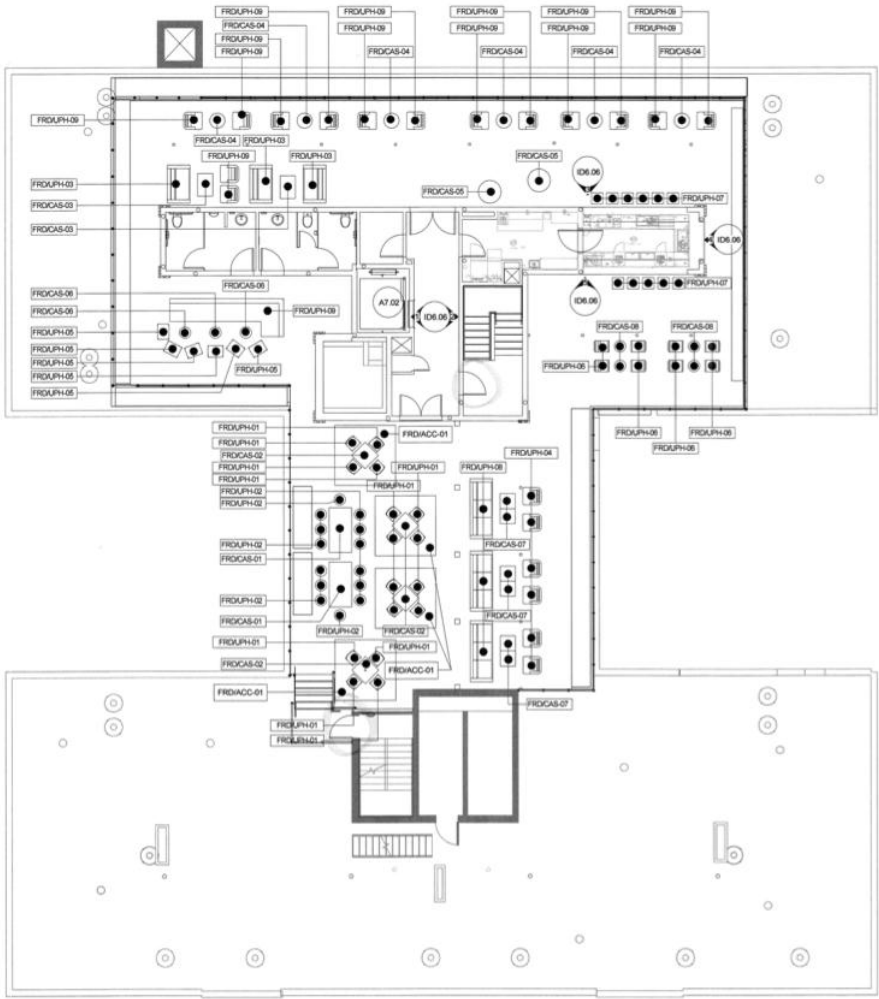


Figure 5

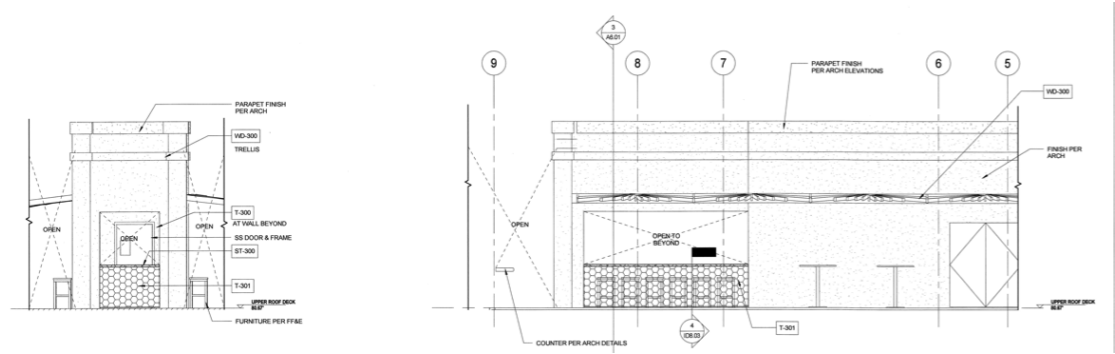


Figure 6

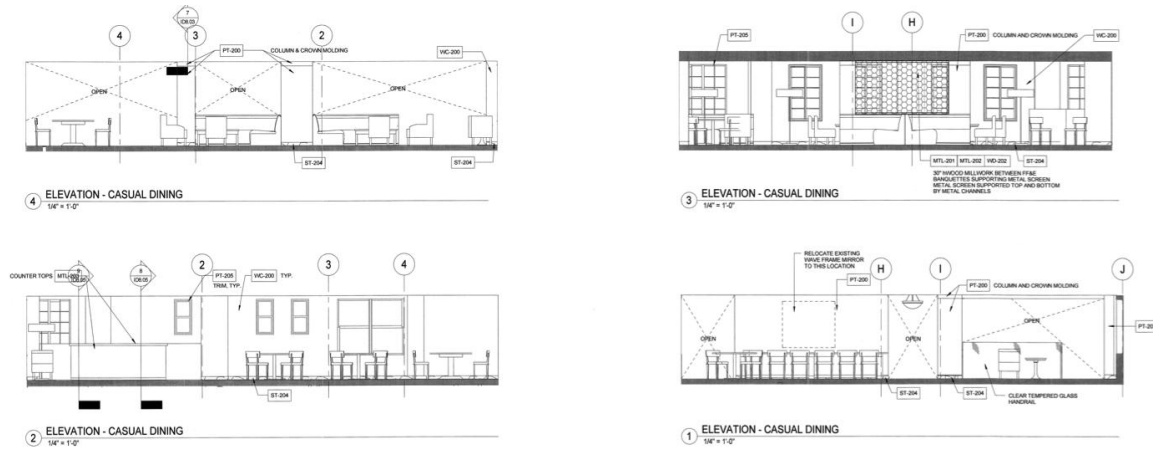


Exhibit 4

Declaration of Stacie G. Goffin

1. With my husband, I own Unit #2 in the Normanstone Condominium at 1737 New Hampshire Avenue NW. I have lived there since February 2002.
2. Beginning in October 2013, I attended two, and perhaps three of five public meetings convened at the behest of Stephanie Maltz, our elected ANC representative.
3. Held in a meeting room at the back of the hotel on the first floor, these meetings were hosted by Matt Wexler, who introduced himself as representing the new owners.
4. As I recall, the first meeting was a "meet and greet," with a verbal sharing of information by Mr. Wexler, followed by the opportunity to ask questions. At the second meeting we were shown a slide presentation of the proposed roof deck, followed by a question and answer period.
5. For almost a year, Mr. Wexler provided evasive answers to neighborhood questions regarding the proposed roof deck's purpose and the timing for its construction.
6. When hotel renovations began in fall 2014, Mr. Wexler started stating that the roof deck had been placed on hold, accompanied by declarations that no plans existed regarding next steps for the roof deck.
7. On May 28, 2015, to celebrate the hotel's completed renovations and opening of its new restaurant, the neighborhood was invited to an open house, including opportunities to view a renovated guest room.
8. I attended the open house. During the reception, when asked about the timing of the new roof deck, a management level Kimpton employee stated that the roof deck no longer was under consideration..
9. Later, during a tour of a renovated guest room, led by the Kimpton's regional manager of marketing, the same question was asked, and the same response was given.
10. My neighbors and I first learned of the hotel's application for a building permit for the roof deck when Mr. Wexler unexpectedly disclosed this information at an ANC meeting held on June 10, 2015.
11. Following this disclosure, neighbors made repeated inquiries of Mr. Wexler, without success, to gain information regarding the hotel's roof deck plans.
12. Since then, Mr. Wexler has expressed the Hotel's intent to use the roof deck for occasions such as "weddings, bar mitzvahs, and corporate events."

I certify that the above information is true and correct to the best of my knowledge,
information, and belief.

Stacie G Goffin

A handwritten signature in cursive script, reading "Stacie G Goffin", written over a horizontal line.

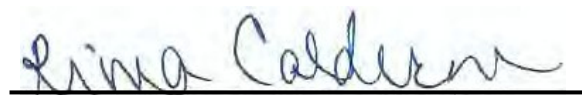
DATE: November 18, 2015

Exhibit 5

Declaration of Rima Calderon

1. I own Unit G at 1751 New Hampshire Avenue NW, a condominium. I have lived there since July 2000.
2. When the Carlyle Hotel renovations began in fall 2014, Matt Wexler, a representative of the hotel's new owners, appeared to speak to the hotel's neighbors at a neighborhood meeting at the Dupont Hotel. He said he could not provide specifics about what the Carlyle roof deck would look like. He talked about "passive use" and gave us examples such as sunbathing and yoga for use by hotel guests. In addition, he said the roof deck portion of the renovations had been placed on hold and that the owners had no plans to begin that part of the renovations.
3. On May 28, 2015, to introduce the newly reopened hotel and its new restaurant, Mr. Wexler invited the neighbors to an open house at the Carlyle, including opportunities for us to see a renovated sleeping room.
4. I attended the reception. During the reception, a Kimpton hotel manager, when asked, said the hotel no longer planned to build the roof deck
5. Later, during a tour of a renovated sleeping room led by the Kimpton's regional manager of marketing, this manager also said the hotel no longer planned to build the roof deck when questioned about those plans.
6. The neighbors, including me, learned of the hotel's intention to move forward with the roof deck when Mr. Wexler mentioned it at an ANC meeting held on June 10, 2015.
7. Following this disclosure, we made repeated but unsuccessful attempts to obtain more information about the hotel's roof deck plans from Mr. Wexler.

I certify that the above information is true and correct to the best of my knowledge, information and belief.

A handwritten signature in blue ink that reads "Rima Calderon". The signature is written in a cursive style and is positioned above a solid black horizontal line.

RIMA CALDERON

Date: November 18, 2015

Exhibit 6: History of Rooftop Design Revisions Between July 2013 and June 2015

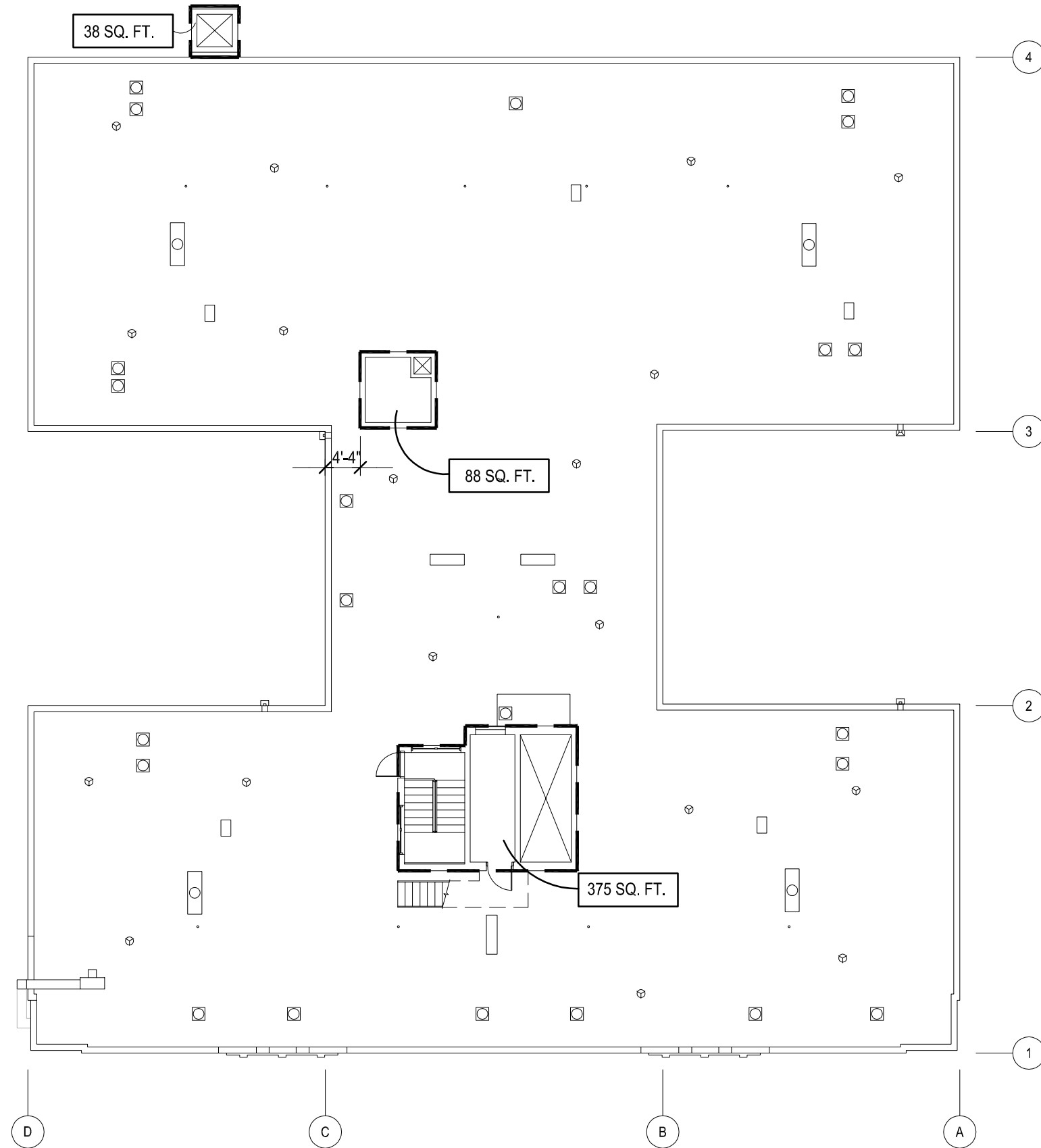
The drawings in this Exhibit are excerpts from the referenced Sources, and some have been highlighted by Appellants for the reasons specified in the Table of Contents.

Table of Contents:

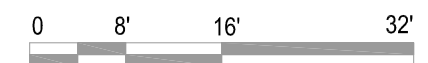
Page	Source Date ¹	Receipt Date ²	Source and <i>Drawing</i>	
	07/24/2013	03/30/2015	Determination Drawings referenced in Determination Letter	
1			<i>Existing Roof Plan</i>	
2			<i>Proposed Roof Plan</i>	
3			<i>Proposed Section</i>	
	10/2013	10/2013	Various Public Presentations Given by the Hotel (and Similar to the Hotel’s Drawing Submission to HPRB)	
4			<i>Existing roof Plan</i>	
5			<i>Proposed Roof Plan</i>	
6			<i>Existing E-W Section</i>	
7			<i>Proposed E-W Section</i>	
	11/06/2013	11/06/2013	Public Presentation Given by the Hotel at the ANC Zoning, Planning, and Development Committee Meeting	
8			<i>Proposed Roof Plan</i>	
	06/18/2015	07/06/2015	Permit Drawings	
9			<i>Roof Plan</i>	
10			<i>Elevations</i>	
11			<i>Seating Plan</i>	
12			<i>Sanitary & Vent Riser Diagram</i>	Highlighted to Show Commercial Rooftop Uses
13			<i>Domestic Water Riser Diagram</i>	Highlighted to Show Commercial Rooftop Uses
14			<i>Domestic Water Riser Diagram</i>	Highlighted to Show Kitchen Consultant and Food Service Consultant
15			<i>Fire Protection Riser Diagram</i>	Highlighted to Show Commercial Rooftop Uses
16			<i>Natural Gas Riser Diagram</i>	Highlighted to Show Commercial Rooftop Uses
17			<i>Schedules</i>	Highlighted to Show Commercial Rooftop Uses

¹ **Source Date:** This is the date the drawing was either first referenced as a public document or first presented publicly.

² **Receipt Date:** This is the date the drawing was first made available to Appellants.



GRAPHIC SCALE



CARLYLE SUITES HOTEL

06-21-13

EXISTING ROOF LEVEL PLAN

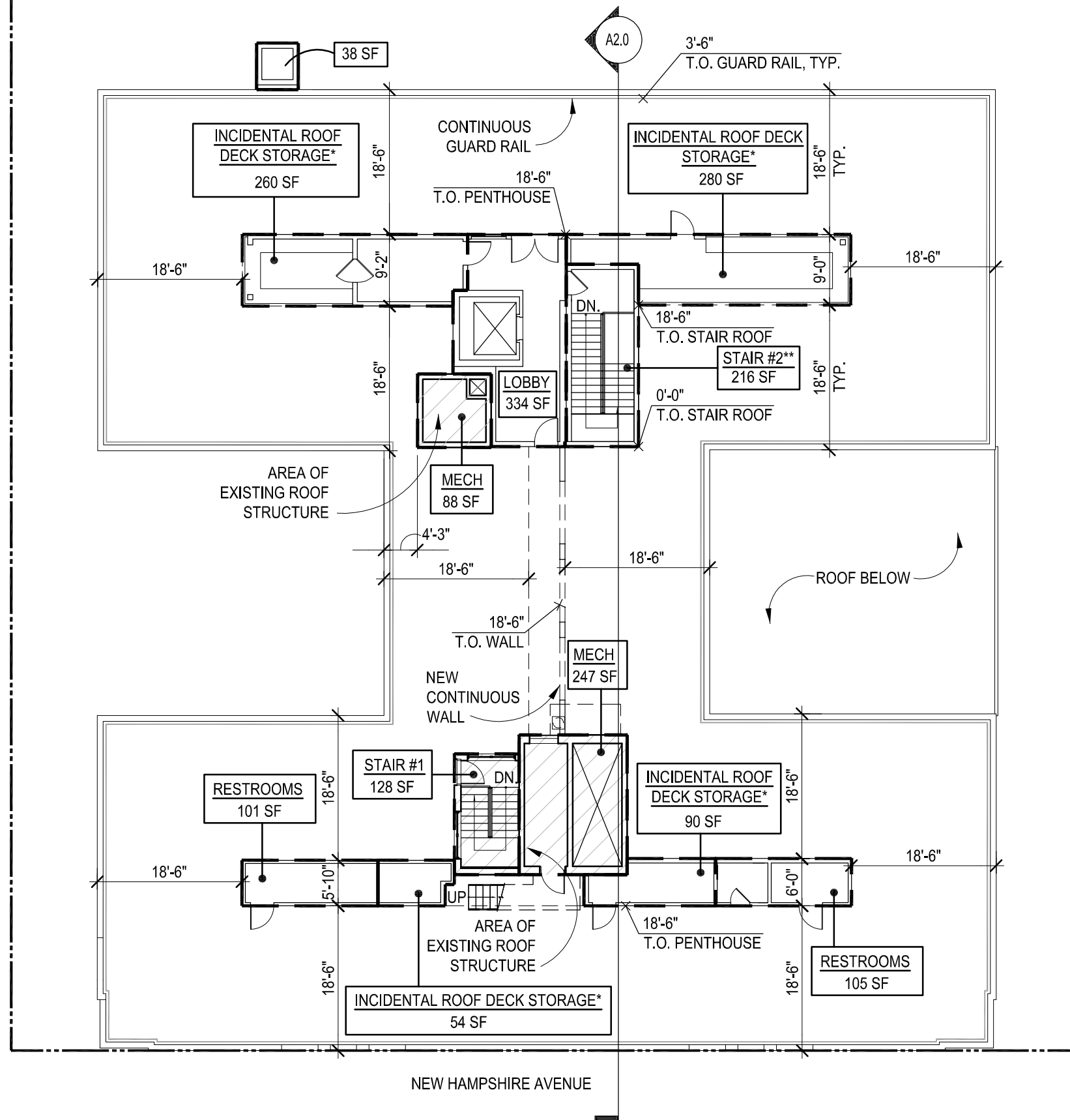
1731 NEW HAMPSHIRE AVE, WASHINGTON, DC 20009

13.0003

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7735 OLD GEORGETOWN ROAD, SUITE 700, BETHESDA, MD 20814 - TEL: (240) 333-2000 - FAX: (240) 333-2001

X1.4
GTM ARCHITECTS



NOTES:

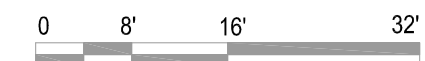
1. PENTHOUSE HEIGHTS ARE MEASURED FROM EXISTING ROOF LEVEL.
2. GUARDRAIL HEIGHTS ARE MEASURED FROM NEW ROOF DECK.

* INCIDENTAL STORAGE FOR ROOF TOP USE ONLY

**STAIRWELL #2 SLOPES FROM FROM 0'-0"
AT NEW ROOF LEVEL TO 18'-6" ABOVE
EXISTING ROOF LEVEL. SEE SECTION A2.0.



GRAPHIC SCALE



CARLYLE SUITES HOTEL

06-21-13

PROPOSED ROOF LEVEL PLAN

1731 NEW HAMPSHIRE AVE, WASHINGTON, DC 20009

13.0003

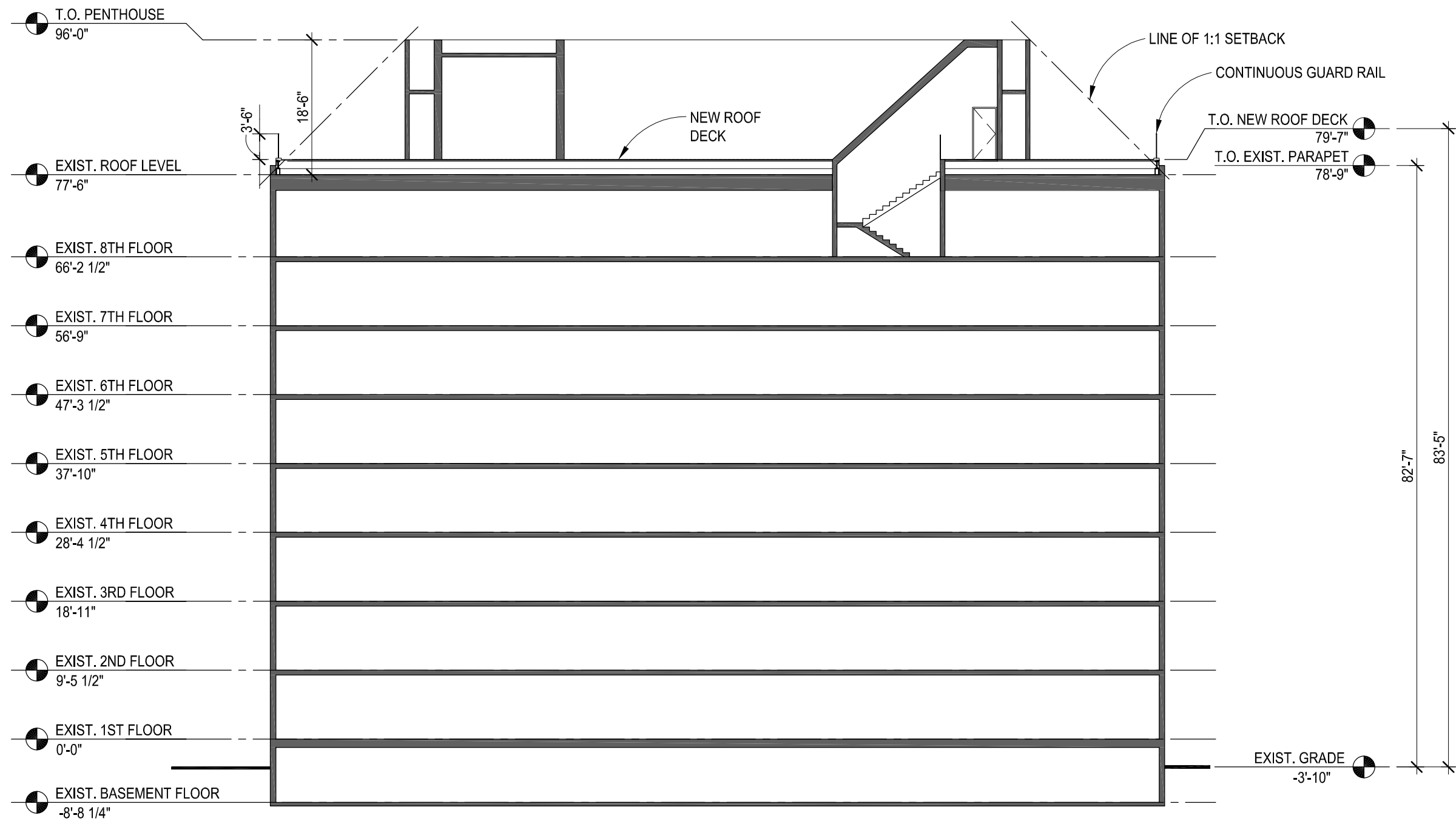
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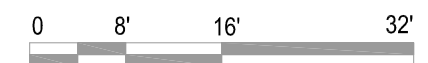
A1.4

FTM

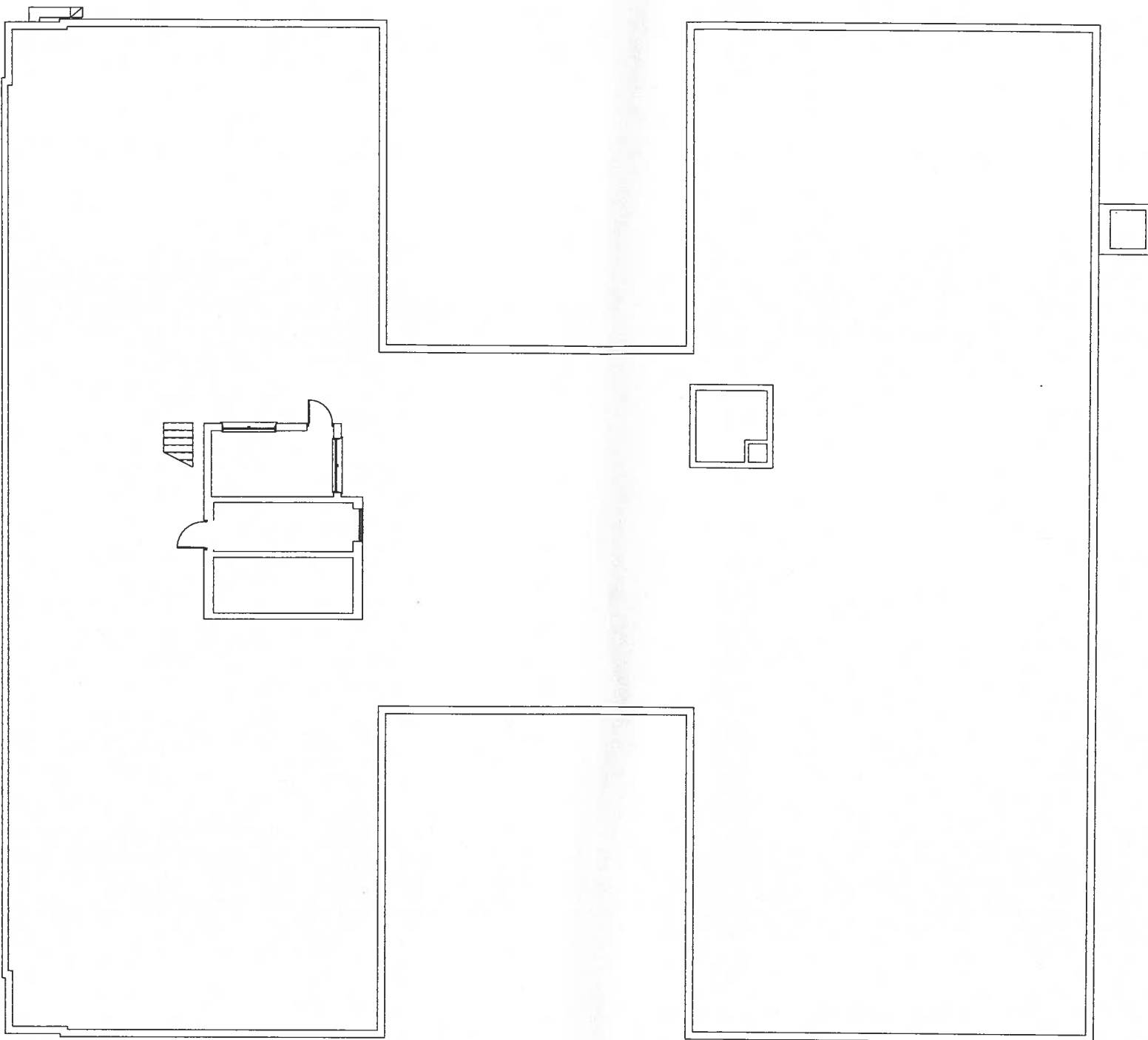
GTM ARCHITECTS



GRAPHIC SCALE



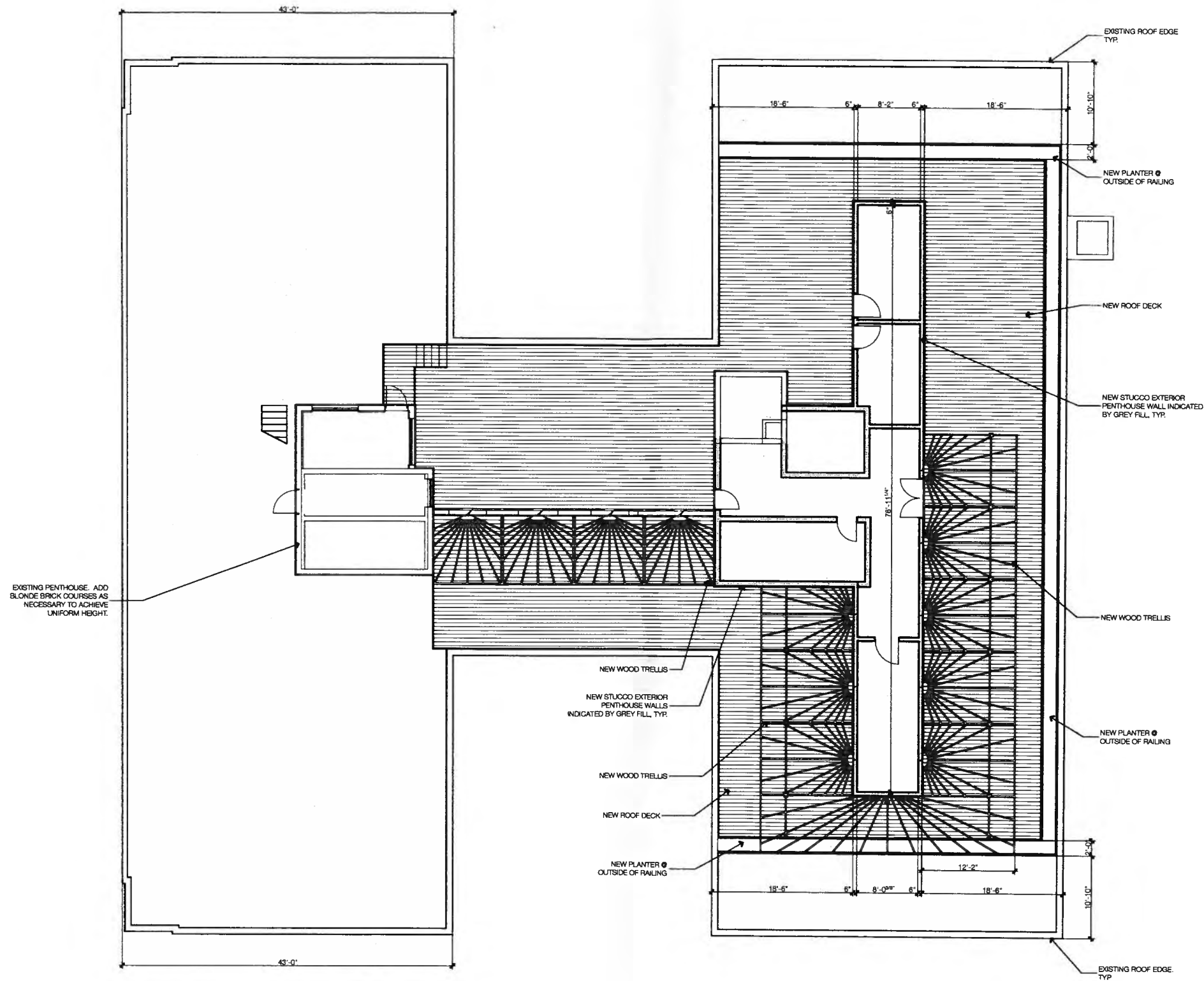
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1 **ROOF LEVEL- EXISTING**
SCALE: 1/16" = 1'-0"



		
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Office		
2112 West 10th St Wichita, KS 67203 Tel: (316) 261-1118 Fax: (316) 261-1119		
EXISTING/DEMO PLANS Schematic Design		
Carlyle Suites Hotel 1731DC		
DATE 19 October 2013	SCALE	PRINTING 26 September 2013
A-2		



1 **ROOF LEVEL- PROPOSED**
SCALE: 1/16" = 1'-0"



A.O. B. 315
Washington, WA
(206) 834-1118

Office:
2115 Ward Court, NW
Seattle, WA 98107
(206) 696-0900
Fax: (206) 696-1061
www.TROUTDESIGN.com

PROPOSED PLANS
Schematic Design

Carlyle Suites Hotel
1731DC

DATE: 19 October 2013
SCALE: 1/16" = 1'-0"
PRINTING: 26 September 2013

A-3

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+96'
10 TO PENTHOUSE

+77'-6"
9 ROOF LEVEL

+66'-2 1/2"
8 8TH FLOOR

+58'-9"
7 7TH FLOOR

+47'-3 1/2"
6 6TH FLOOR

+37'-10"
5 5TH FLOOR

+28'-4 1/2"
4 4TH FLOOR

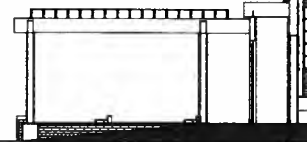
+18'-11"
3 3RD FLOOR

+9'-5 1/2"
2 2ND FLOOR

0'
1 1ST FLOOR

EXISTING BRICK PENTHOUSE

EXISTING BRICK CHIMNEY
REAR OF BUILDING



1

E-W Section- Existing

SCALE: 1/16" = 1'-0"



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43081-0359
(614) 874-4118

Office

2115 West Court NW
Atlanta, GA 30329
(404) 894-3000
Fax: (404) 894-1041

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EXISTING SECTION

Schematic Design

Carlyle Suites Hotel

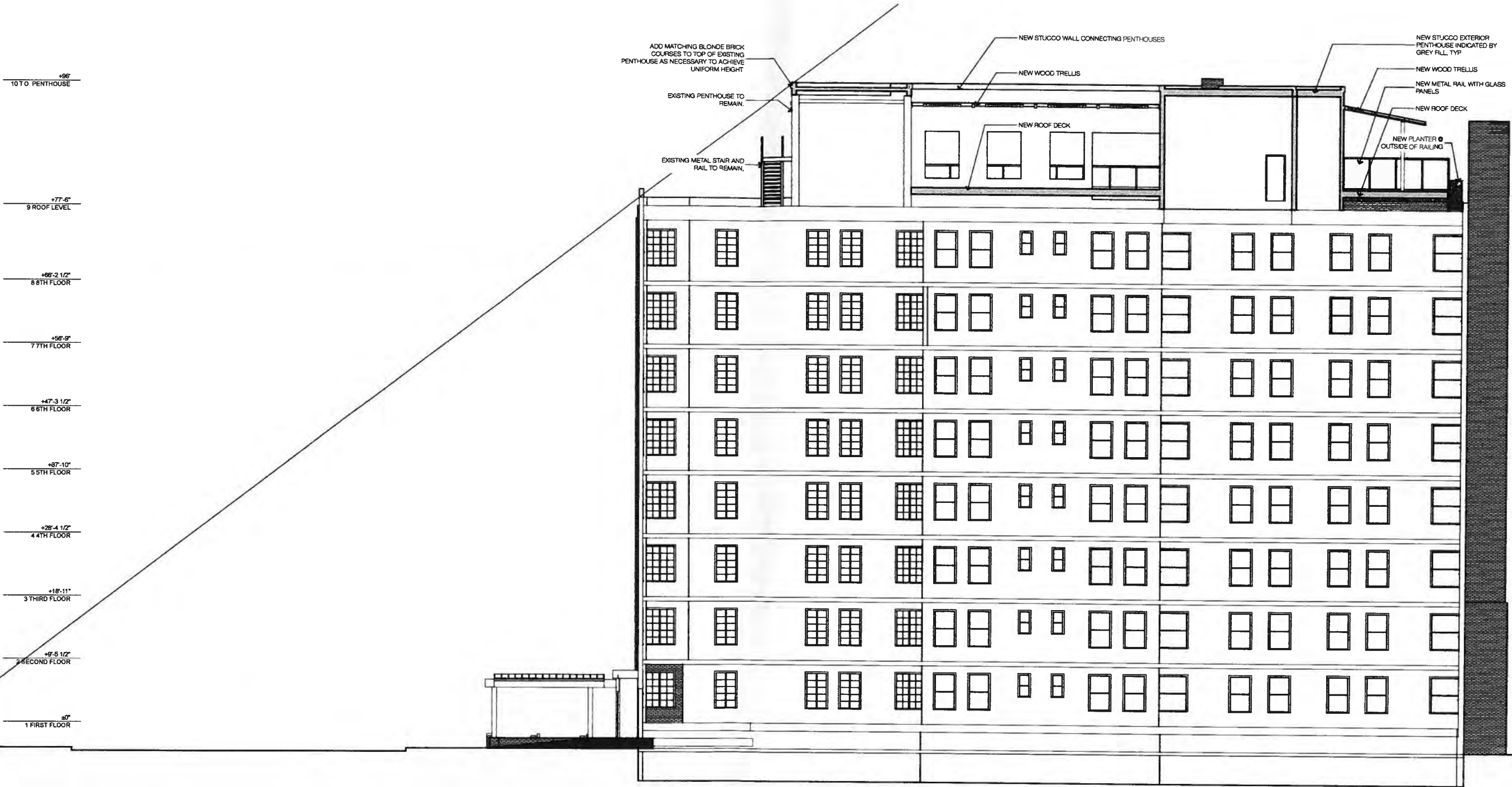
1731DC

DATE 19 October 2013

SCALE

PRINTING 26 September 2013

A-4



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1

E-W Section- Proposed

SCALE: 1/16" = 1'-0"



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Office's

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Atlanta, GA 30329
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Fax: (770) 435-1234

PROPOSED SECTION

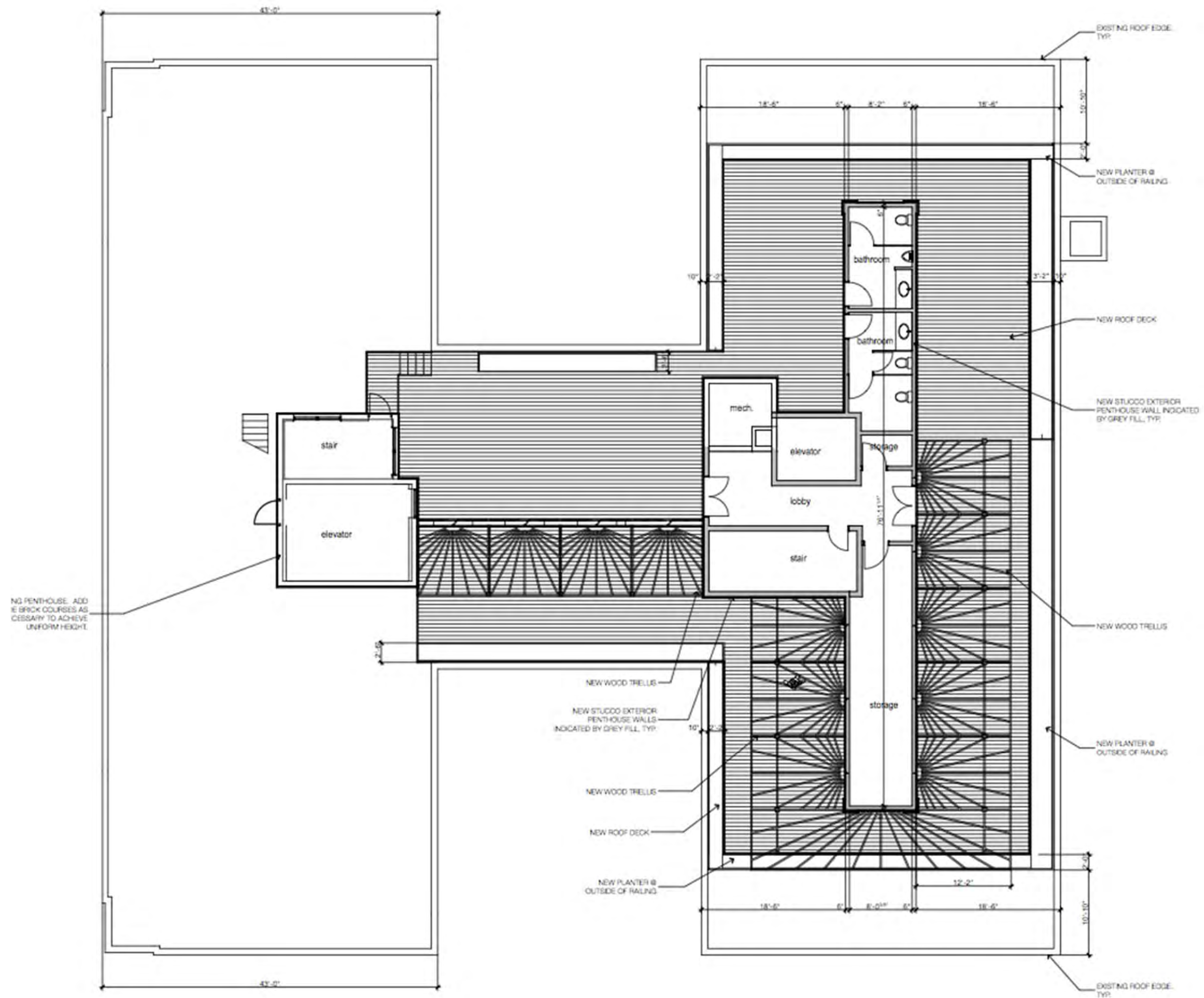
Schematic Design

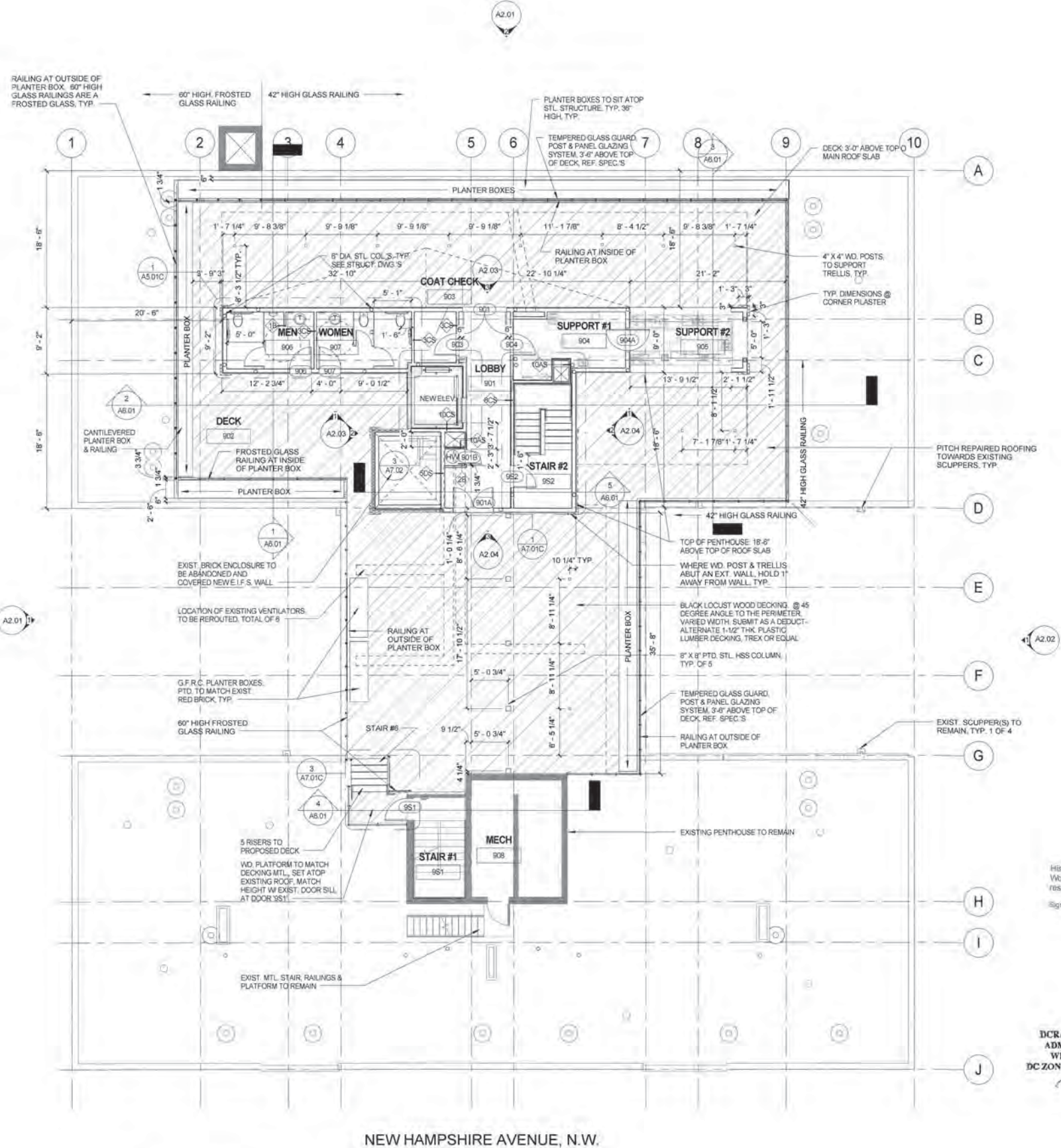
Carlyle Suites Hotel

1731DC

DATE	SCALE	PRINTING
19 October 2013		
26 September 2013		

A-5





1 ROOF LEVEL PLAN
1/8" = 1'-0"

NEW HAMPSHIRE AVENUE, N.W.

Historic Preservation Clearance for Exterior Work. Scope of approved exterior work is restricted only to drawings with this stamp.
Signature and date: *KE 4/11/14*

DCRA/OFFICE OF THE ZONING ADMINISTRATOR/COMPLIES WITH REQUIREMENTS OF DC ZONING REGULATIONS (HDCMR)
m22 6-4-15

OWNER
CS Bond St C Properties, LLC c/o Foxhall Partners
2120 L Street N.W., Suite 215
Washington, DC 20037
Tel: 202.391.0750 Fax: 202.391.3261

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Tel: 202.452.1644 Fax: 202.452.1647

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Tel: 301.855.7444

Lighting Consultant
CM King & Associates Inc.
1411 King Street Alexandria, VA 22314
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SUBMISSIONS	
Date	Description
11.11.13	70% GUESTROOM/25% GENERAL SUBMISSION
01.07.14	PERMIT SUBMISSION
02.26.14	PERMIT SET

REVISIONS		
No.	Date	Description



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NEW YORK WASHINGTON SCOTTSDALE SHANGHAI

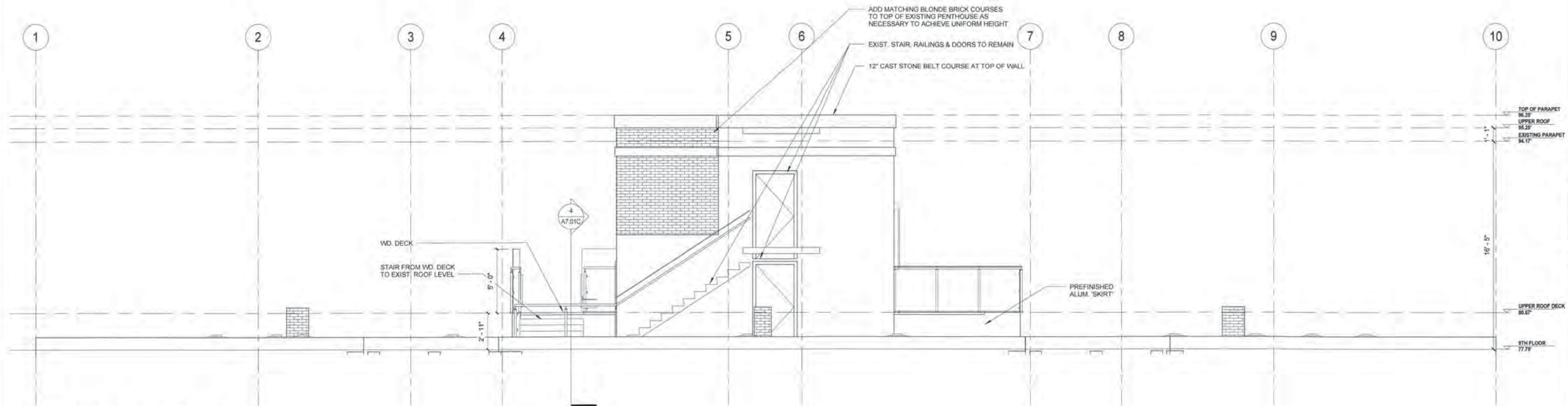
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PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

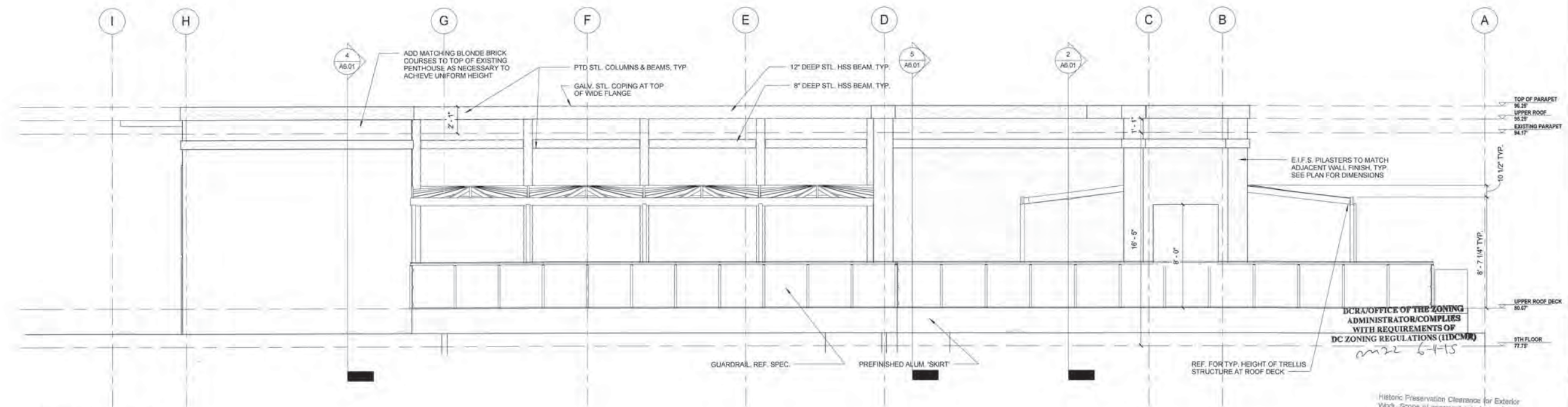
ROOF LEVEL FLOOR PLAN

SEAL & SIGNATURE
DISTRICT OF COLUMBIA
RECORDING DIVISION
No. 4206
REGISTERED
ARCHITECT

PROJECT No.: 9909.00
DWG No.:
A1.05



2 BUILDING ELEVATION - W
1/4" = 1'-0"



1 BUILDING ELEVATION - S
1/4" = 1'-0"

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SUBMISSIONS	
Date	Description
01.07.14	PERMIT SUBMISSION
02.25.14	PERMIT SET

REVISIONS	
No.	Date Description

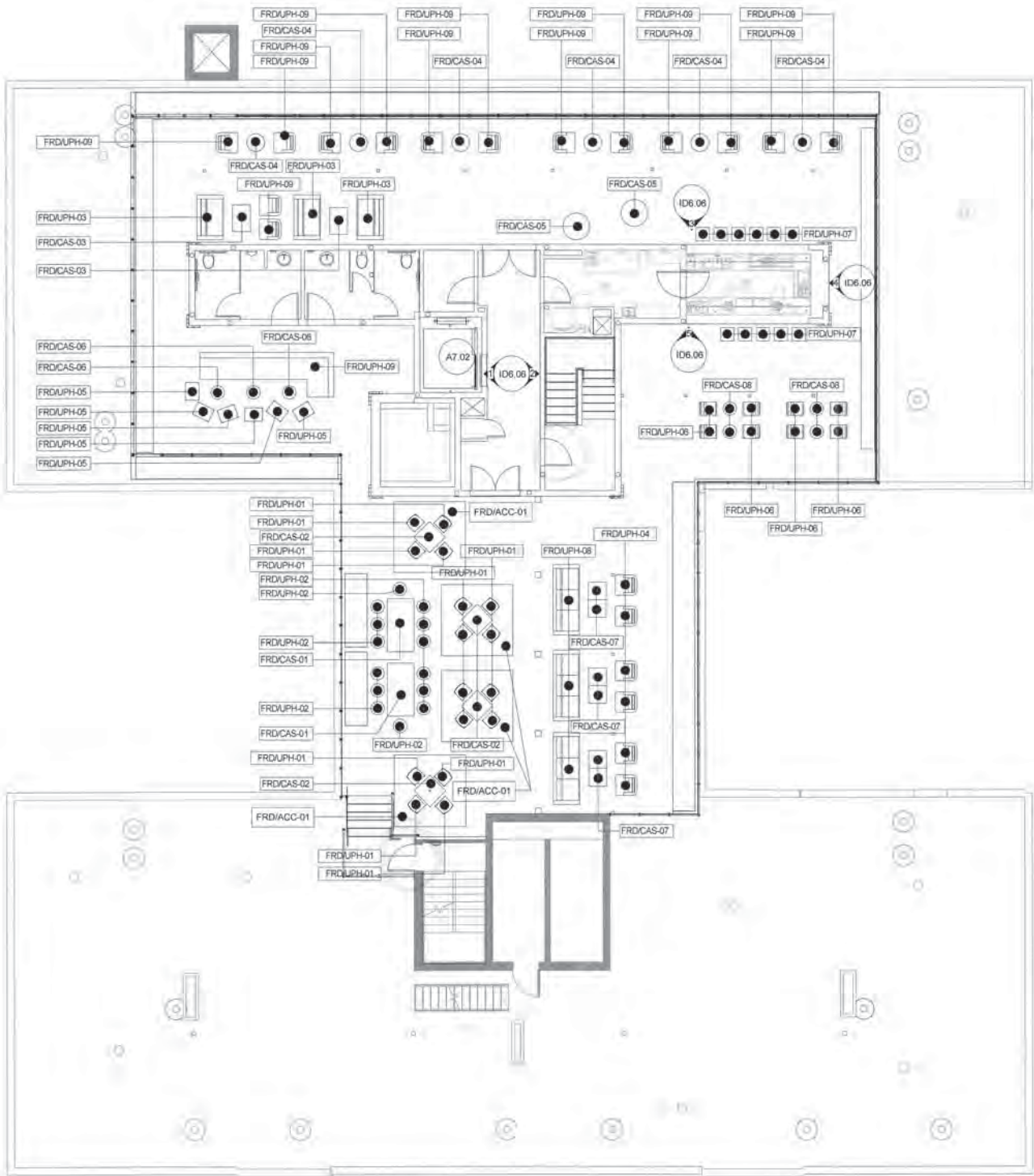
BBG-BBGM
BRENNAN BEER GORMAN ARCHITECTS
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PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

**EXTERIOR BUILDING ELEVATIONS
- SOUTH & WEST**

SEAL & SIGNATURE
DISTRICT OF COLUMBIA
BRENNAN BEER GORMAN
No. 4296
REGISTERED
ARCHITECT
PROJECT NO.: 9909.00
DWG NO.:
A2.02

NOTE: U.O.N. SEE ARCHITECTURAL
EXTERIOR ELEVATIONS FOR
FINISHES



1 ROOF LEVEL PLAN
1/8" = 1'-0"

DEPT. OFFICE OF THE ZONING
ADMINISTRATOR/COMPLIANCE
WITH REQUIREMENTS OF
DC ZONING REGULATIONS (11DCMR)
m22 6-415

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Tel: 703.684.6279 Fax: 703.684.6273

SUBMISSIONS

Date Description

01.07.14 PERMIT SUBMISSION
02.25.14 PERMIT SET

REVISIONS

No. Date Description



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PROJECT

The Carlyle Suites Hotel Renovation
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Washington, DC 20009

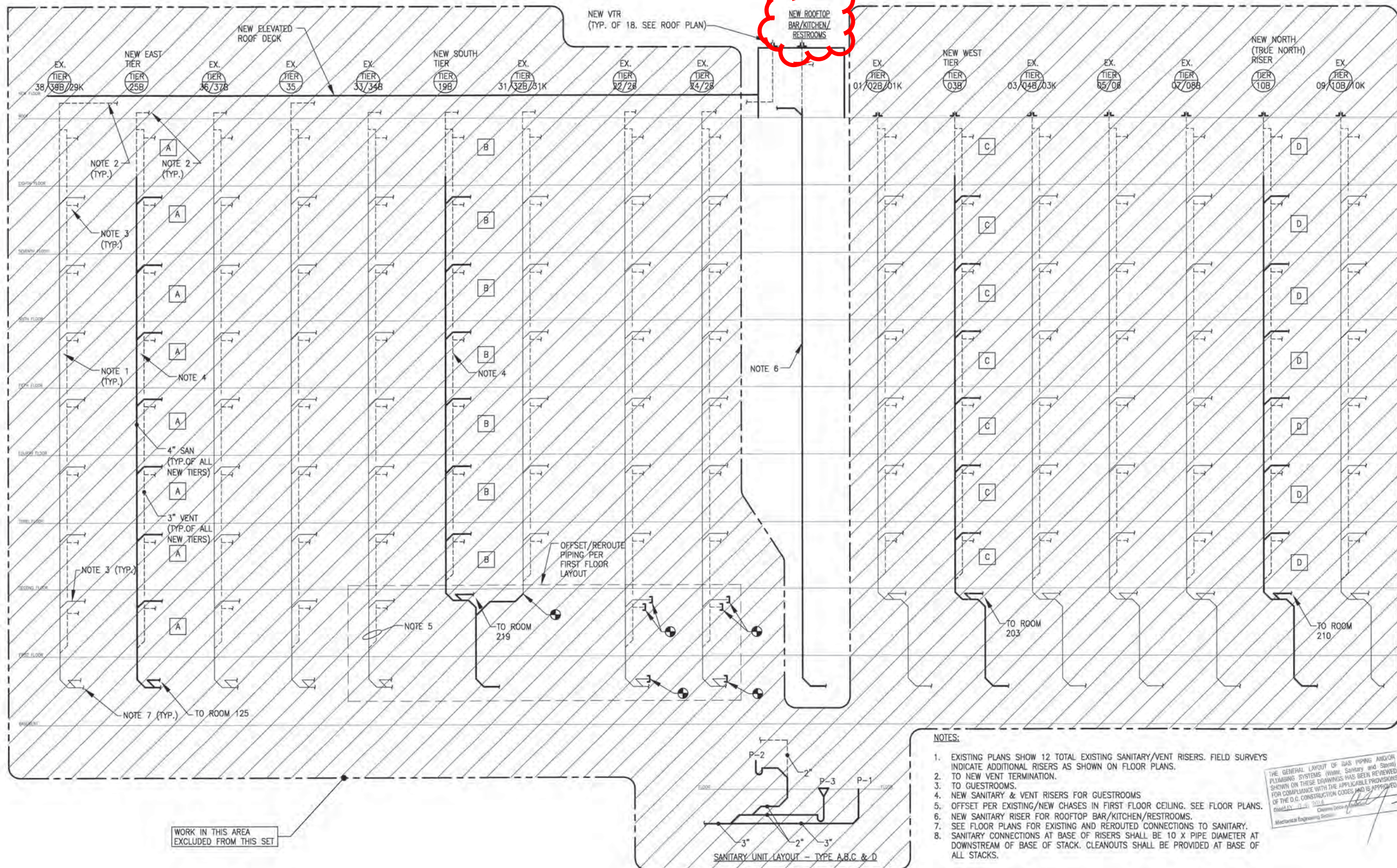
FURNITURE PLAN - ROOF



PROJECT No. 9909.00

DWG 102

ID3.05



OWNER
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SUBMISSIONS

Date	Description
11.11.13	700 GUESTROOM/ASEL GENERAL SUBMISSION
02.28.14	PERMIT SET

REVISIONS

No.	Date	Description

BBG-BBGM

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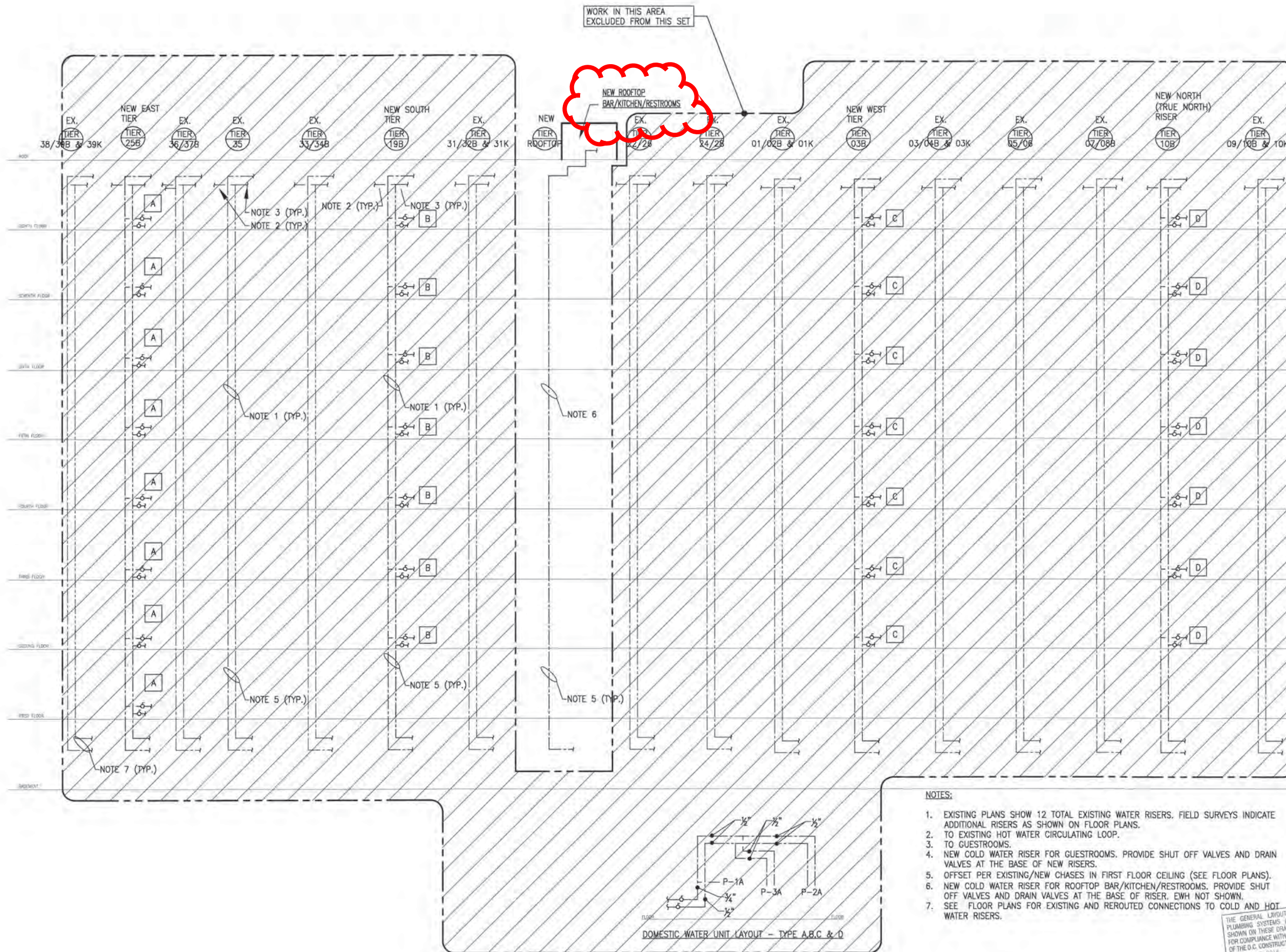
PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

SANITARY & VENT RISER DIAGRAM

PROJECT No: 2013-025-03
DWG No:

P6.01

MECHANICAL ENGINEER



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SUBMISSIONS

Date	Description
11.11.13	70% GUESTROOM/39% GENERAL SUBMISSION
02.25.14	PERMIT SET

REVISIONS

No.	Date	Description



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PROJECT

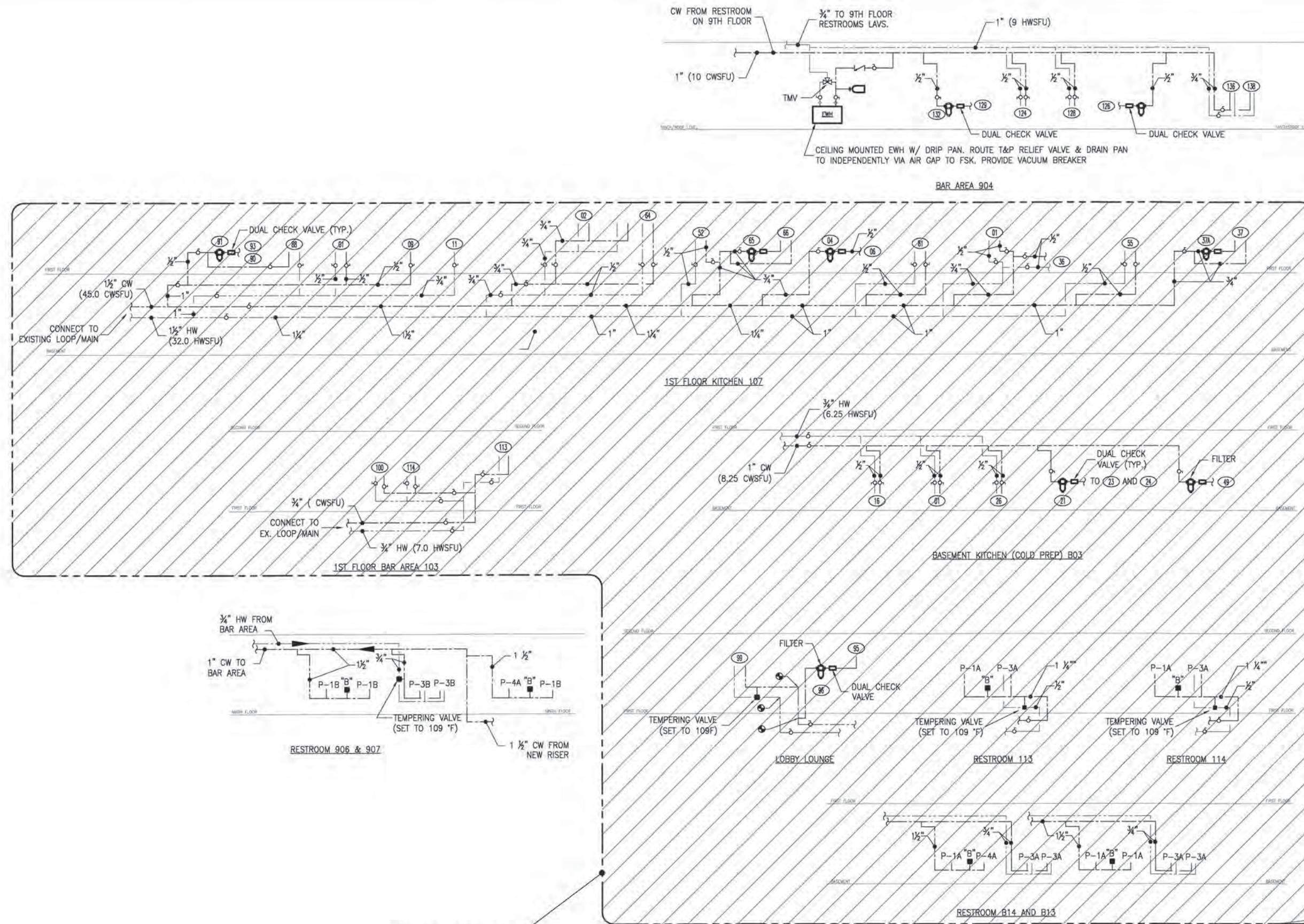
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

DOMESTIC WATER RISER DIAGRAM



PROJECT No. 2013-025-00
DWG No.

P6.02



WORK IN THIS AREA
EXCLUDED FROM THIS SET

NOTES:

1. ALL CW AND HW PIPING TO BE INSULATED & JACKET PROVIDED IF SUBJECT TO DAMAGE.
2. REFER TO PLUMBING FIXTURE CONNECTION SCHEDULE FOR ADDITIONAL PIPE SIZES NOT SHOWN.
3. PROVIDE ACCESS PANELS, AS REQUIRED, FOR BRANCH SHUT OFF VALVES.
4. SEE KITCHEN CONSULTANT DRAWINGS FOR ADDITIONAL INFORMATION.

OWNER

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SUBMISSIONS

Date	Description
11.11.13	70% QUESTOR/MONK GENERAL SUBMISSION
02.28.14	PERMIT SET

REVISIONS

No.	Date	Description



BRENNAN BEER GORMAN ARCHITECTS
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NEW YORK WASHINGTON SCOTTSDALE SHANGHAI

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PROJECT

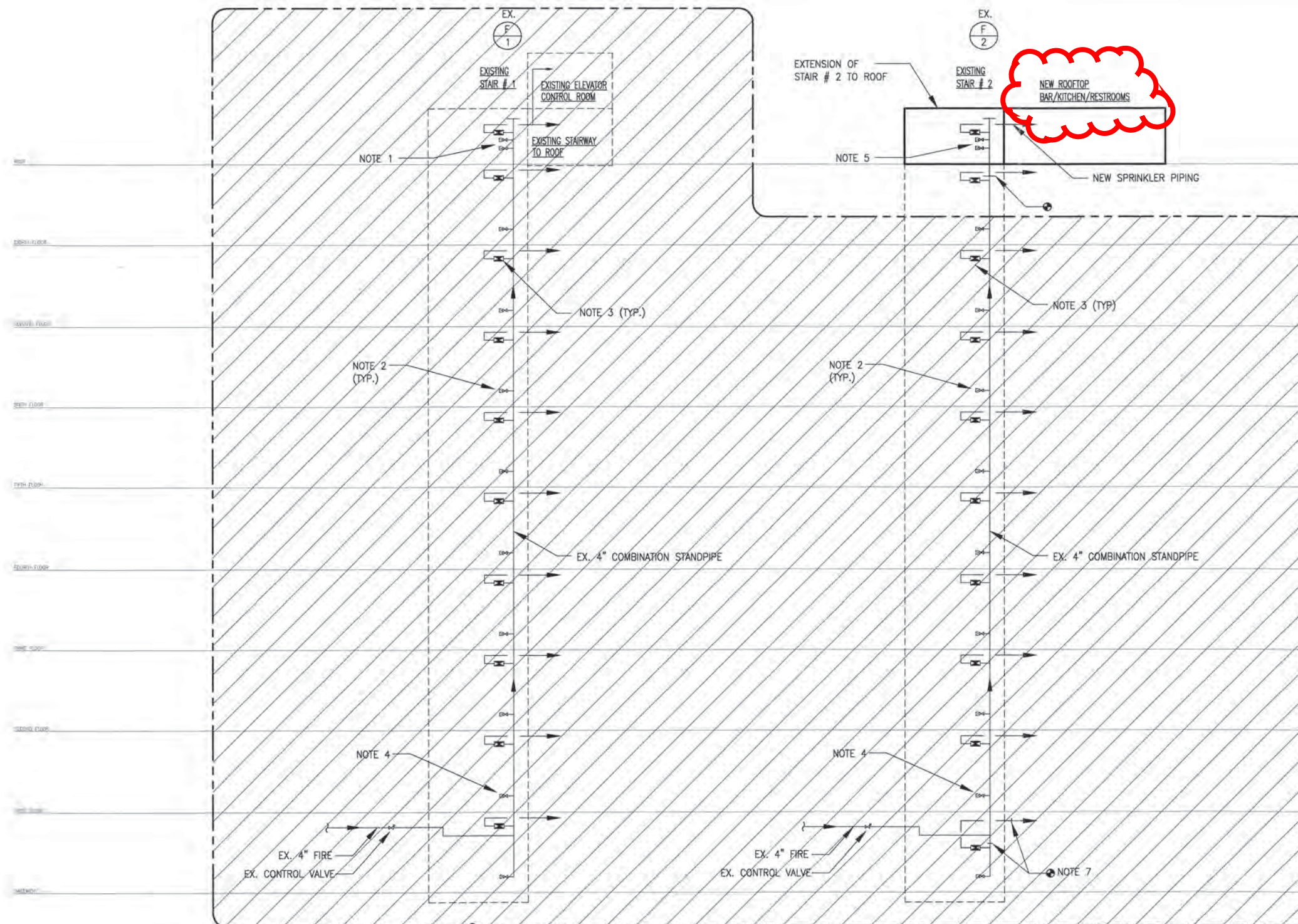
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

DOMESTIC WATER
RISER DIAGRAM



PROJECT No: 2013-025-09
DWG No:

P6.02A



WORK IN THIS AREA
EXCLUDED FROM THIS SET

NOTES:

1. EXISTING TEST CONNECTION FOR HYDRAULICALLY MOST REMOTE FDV.
2. EXISTING 2 1/2" FIRE DEPT VALVE IN STAIRWAY.
3. EXISTING SPRINKLER FLOOR CONTROL VALVE ASSEMBLY.
4. EXISTING 2 1/2" FIRE DEPT VALVE IN STAIRWAY.
5. NEW TEST CONNECTION FOR HYDRAULICALLY MOST REMOTE FDV. CONFIRM EXCLUSION OF EXPRESS DRAIN RISER WITH AHJ. DRAIN TO STAIRWAY # 1 EXPRESS DRAIN RISER WITHIN 8TH FLOOR CEILING.
6. EXISTING SPRINKLER SHOP DRAWINGS BY LIVINGSTON FIRE (1991) & FIREGUARD (1993) WERE FURNISHED FOR REFERENCE.
7. EXISTING SPRINKLER FLOOR CONTROL VALVE ASSEMBLY & 2 1/2" FIRE DEPT VALVE TO BE RELOCATED WITHIN NEW STAIRWAY LAYOUT (BASEMENT LEVEL ONLY).

THE GENERAL LAYOUT OF GAS PIPING AND/OR PLUMBING SYSTEMS (WATER, SANITARY AND SEWER) SHOWN ON THESE DRAWINGS HAS BEEN REVIEWED FOR COMPLIANCE WITH THE APPLICABLE PROVISIONS OF THE D.C. CONSTRUCTION CODES AND IS APPROVED.

DATE: 3-20-14
BY: [Signature]
Mechanical Engineering Section

OWNER
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SUBMISSIONS

Date	Description
11.11.13	20% SUBMITTAL GENERAL SUBMISSION
02.28.14	PERMIT SET

REVISIONS

No.	Date	Description

BBG | BBGM

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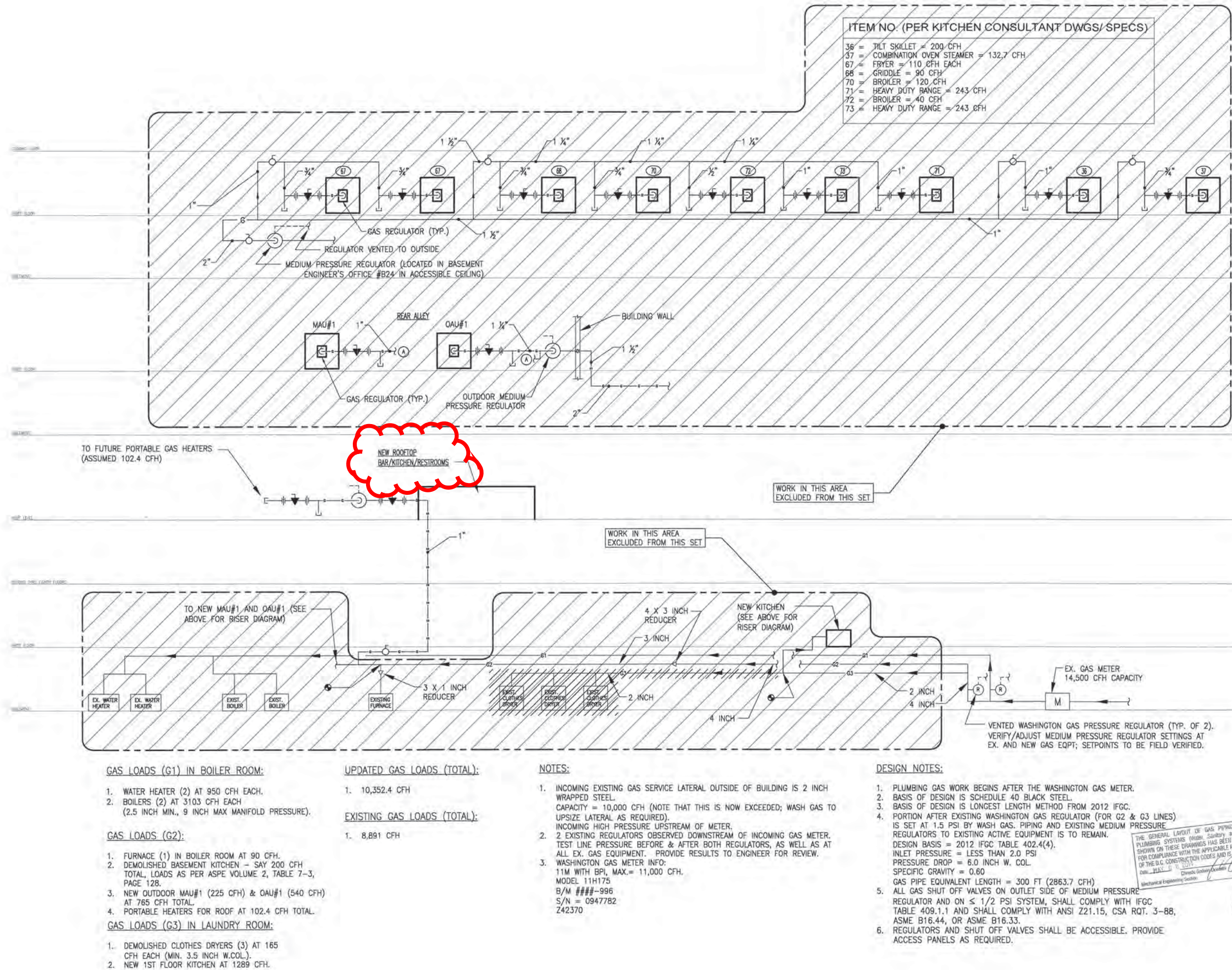
PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

**FIRE PROTECTION
RISER DIAGRAM**

PROJECT No: 2013-025-00
DWG No:

P6.03

SEAL & SIGNATURE
[Stamp: District of Columbia, No. 9481, 3-20-14, REGISTERED PROFESSIONAL ENGINEER]



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SUBMISSIONS

Date	Description
11.11.13	FOR QUESTIONS/GENERAL SUBMISSION
02.25.14	PERMITS SET

REVISIONS

No.	Date	Description

BBG-BBGM
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PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

NATURAL GAS RISER DIAGRAM

SEAL & SIGNATURE
PROJECT No. 2013-025-00
DWG No.
P6.04

WORK IN THIS AREA
EXCLUDED FROM THIS SET

EXPANSION TANK SCHEDULE										
ID	M.W.P. p.s.i.g.	CAPACITY GALLONS		SYSTEM CONNECTION INCHES	DIMENSIONS		WEIGHT, LBS.		REFERENCE	REMARKS
		TANK VOLUME	ACCEPT. VOLUME		DIAMETER INCHES	HEIGHT INCHES	TARE	OPERATING		
ET 1	150	5	3.1	3/4	12	14	28	54	WATTS DETA-12	1. NSF 61 COMPLIANCE CERTIFICATE. 2. COMPLETE DRAIN PAN, AIR ELIMINATOR & AIR VENT.

MARK	FIXTURE (LOCATION)	PIPE DIAMETER (INCH.)				
		C.W.	H.W.	T.W.	DRAIN	VENT
P-1	WATER CLOSET (GUEST ROOMS)	1/2	-	-	3	SEE NOTE 2
P-1A	WATER CLOSET (ADA & NON-ADA) (BASEMENT & 1ST FLR RESTROOMS)	1	-	-	4	2
P-1B	WATER CLOSET (ADA & NON-ADA) (ROOF LEVEL RESTROOMS)	1	-	-	4	2
P-2	SHOWER (GUEST ROOMS)	1/2	1/2	-	2	SEE NOTE 2
P-3	LAVATORY (GUEST ROOMS)	1/2	1/2	-	2	2
P-3A	LAVATORY (BASEMENT & 1ST FLR RESTROOMS)	1/2	-	1/2	2	1 1/2
P-3B	LAVATORY (ROOF LEVEL RESTROOMS)	1/2	-	1/2	2	1 1/2
P-4	URINAL (BASEMENT, 1ST FLR, ROOF LEVEL RESTROOMS)	3/4	-	-	2	1 1/2
FD-1	FLOOR DRAIN (BASEMENT & 1ST & ROOF RESTRMS)				3	2

- NOTES:
- ADA ACT COMPLIANCE FOR FIXTURES P-1A: EXPOSED PIPES & SURFACES, AND ALL WATER AND DRAIN PIPES UNDER LAVATORIES SHALL BE INSULATED, OR OTHERWISE CONFIGURED TO PROTECT AGAINST CONTACT. THERE SHALL BE NO SHARP OR ABRASIVE SURFACES UNDER LAVATORIES.
 - FIXTURE IS WET VENTED THROUGH LAVATORY.
 - SEE ARCH DWGS FOR ADDITIONAL/RELATED INFO PERTAINING TO SELECTIONS CONSISTENT WITH BLDG STANDARD FIXTURES.

DOMESTIC WATER HEATER SCHEDULE

MARK	LOCATION	TYPE	STORAGE GALLONS	RECOVERY (GPH)	MANUFACTURER	MODEL NUMBER	REMARKS
				40°-140°F			
EWH	ROOFTOP BAR SUPPORT AREA (CEILING/WALL MOUNTED)	ELECTRIC	30	20 GPH	A.O. SMITH	DEL-30	WITH 208 V, 60 HZ, (2) 5.0 KW ELEMENTS; WITH WATTS WALL MOUNTED THERMAL EXPANSION TANK. PROVIDE T&P RELIEF VALVE AND DRAIN VALVE. ROUTE BOTH VALVES TO FSK VIA AIR GAP AS PER DETAIL. PROVIDE THERMOSTATIC MIXING VALVE, TMV-1.

THERMOSTATIC MIXING VALVE SCHEDULE

ID	LOCATION	SERVICE	DELIVERY (gpm)	PRESSURE DROP (psi)	LEAVING WATER TEMP. °F	SIZE	REMARKS
TMV-1	ROOF LEVEL NEAR BAR (WALL MOUNTED)	EWB	11	25	120	INLET: 3/4" OUTLET: 3/4"	SYMMONS MODEL # 5-230-CK-M. MEETS ASSE 1017.
TMV-2	RESTROOMS & KITCHEN (UNDER SINK)	LAVATORIES, HAND SINKS, & RINSE SINK	-	-	109	INLET: 3/8" OUTLET: 3/8"	SLOAN MODEL # MIX-135-A. MEETS ASSE 1070.

WATER HAMMER ARRESTOR SCHEDULE

MARK	FIXTURE UNIT	ZURN	WADE	SMITH	JOSAM
PDI-A	1-11	100	W-5	5005	75001
PDI-B	12-32	200	W-10	5010	75002
PDI-C	33-60	300	W-20	5020	75003
PDI-D	61-113	400	W-50	5030	75004

DRAIN SCHEDULE

ID	MANUFACTURER	MODEL NO.	STRAINER SIZE	NECK SIZE	LOCATION	REMARKS
FD	JAY R SMITH	2005L-A06NB-U	6"	SEE PLUMBING DWGS FOR PIPE SIZES	KITCHEN AREAS	CAST IRON BODY AND FLASHING COLLAR WITH NICKEL BRONZE STRAINER. PROVIDE VANDAL PROOF GRATE
FSK	JAY R SMITH	3141-C-12	12"	SEE PLUMBING DWGS FOR PIPE SIZES	KITCHEN AREAS	WITH SEDIMENT BUCKET, FLASHING CLAMP -'C' AND NICKEL BRONZE RIM AND 1/2" GRATE - '12'.
RD	JAY R SMITH	1015-R-C-CID	15"	4"	PENTHOUSE ROOF	DUCO CAST IRON BODY WITH ADJUSTABLE EXTENSION SLEEVE, REVERSIBLE COLLAR, COMBINED FLASHING CLAMP AND GRAVEL STOP, WITH CAST IRON DOME, SUMP RECEIVER & UNDER DECK CLAMP.
ORD	JAY R SMITH	1074-E-R-C-CID	15"	4"	PENTHOUSE ROOF	DUCO CAST IRON BODY WITH ADJUSTABLE EXTENSION SLEEVE, REVERSIBLE COLLAR, PVC STANDPIPE, COMBINED FLASHING CLAMP AND GRAVEL STOP, WITH CAST IRON DOME, SUMP RECEIVER & UNDER DECK CLAMP.
AD	JAY R SMITH		8"	4"	UNDER LIFT TO BSMT	

PUMP SCHEDULE

MARK	SERVICE	LOCATION	FLOW GPM	TDH ft	TYPE	MOTOR			REMARKS
						POWER	VOLTS/PHASE	RPM	
ESP-1	WASTE	ELEVATOR PIT	50	18	SUBMERSIBLE WITH OIL-MINDER CONTROL	1/2 HP	115/1Ø	3600	STANCOR MODEL SE50 (W/ OIL MINDER - MULTI PIN OPTION, WITH TWIST LOCK CONNECTION CABLE AND JUNCTION BOX) W/ ALARM & CONTACTS.

OWNER
CS Bond & C Properties, LLC c/o
Fashali Partners
2120 L Street N.W., Suite 215
Washington, DC 20037
Tel: 202.591.0700 Fax: 202.591.5261

DEVELOPER

CONSULTANTS
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MEP Engineer
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Arlington, VA 22207
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Financial Foods
8014 Norfolk Ave, Ste 1200
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Tel: 301.960.2468 Fax: 301.365.2768

Vertical Transportation
Lorch Bates
4261 North View Drive, Suite 314
Bowie, MD 20716
Tel: 301.805.7944

Lighting Consultant
CM King + Associates Inc.
1411 King Street Alexandria, VA 22314
Tel: 703.964.6270 Fax: 703.664.6273

SUBMISSIONS	
Date	Description
11.11.13	TYPL, QUESSTROOMS GENERAL SUBMISSION
02.26.14	PERMIT SET

REVISIONS		
No.	Date	Description

BBG

BBGM

BRENNAN BEER GORMAN ARCHITECTS
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PROJECT
The Carlyle Suites Hotel Renovation
1731 New Hampshire Ave NW,
Washington, DC 20009

SCHEDULES

REAL & SIGNATURE
DISTRICT OF COLUMBIA
No. 3461
3-20-14
REGISTERED
PROFESSIONAL ENGINEER

PROJECT No.: 2013-029-00
DWG No.:

P7.01



GOVERNMENT OF THE DISTRICT OF COLUMBIA
Dupont Circle Advisory Neighborhood Commission 2B

July 7, 2015

Melinda M. Bolling
1100 4th Street, SW
Washington, DC 20024
dcra@dc.gov

RE: Building Permit Application for the Carlyle Suites at 1731 New Hampshire Ave NW
(#B1404913)

Dear Director Bolling,

At its regular meeting on June 10, 2015, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 9 of 9 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of 6-3.

“ANC2B requests that DCRA not make a decision on the deck building permit (#B1404913) for 1731 New Hampshire Ave NW until the ANC has had a chance to review it and the community has been adequately consulted.”

Commissioners Stephanie Maltz (stephanie.maltz@anc.dc.gov) and Noah Smith (noah.smith@anc.dc.gov) are the Commission’s representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,

Noah Smith
Chairman