BEFORE THE
BOARD OF ZONING ADJUSTMENT
FOR THE
DISTRICT OF COLUMBIA

APPLICATION OF: **BZA APPLICATION 17197**
1600 FOURTEENTH STREET NW LIMITED PARTNERSHIP **HEARING: JULY 20, 2004**

STATEMENT OF THE APPLICANT

I – NATURE OF RELIEF INITIALLY SOUGHT AND PARTIAL WITHDRAWAL

This statement is submitted on behalf of 1600 Fourteenth Street NW Limited Partnership, (the "Applicant"), the owner of property located within Square 208, specifically Lot 139. This lot, created by subdivision of former record lot 111 and Assessment and Taxation Lots 800 and 801, that were known as 1600, 1602, and 1604-1606 Fourteenth Street, NW, respectively. Within this area (the "Site"), the Applicant proposes to develop a seven story apartment building with up to 30 apartment units; along its Fourteenth Street frontage, the building would also contain retail or service uses. The apartment building will be addressed as 1601 Q Street, NW. The entire site is zoned Arts/C-3-A.

The Applicant requested the Board of Zoning Adjustment (the "Board" or "BZA") to grant relief needed from the Zoning Regulations as follows:

Section	Provision	Nature of Relief
773.3	Residential recreation space (15.0 percent required; 6.0 percent provided)	Variance
1901.1	Percentage of ground floor occupied by retail or service uses listed in § 1907 or arts-related uses listed in § 1908 (50.0 percent required; declared 37.0 percent when initially filed; measured 46.9 percent as hereby filed)	Special Exception
1901.6	*Percentage of linear frontage that may be eating or drinking establishments (limited to 35.0 percent of frontage along 14th Street, 81.5 percent sought)*	*Interpretation or Special Exception*

WITHDRAWN BY APPLICANT

Applicant hereby withdraws all issues associated with § 1901.6 concerning linear frontage limitations.

When originally filed, Applicant also asked for additional relief as follows, should the Board determine that it is not able to grant as much relief under § 773.3 as set out above:

Section	Provision	Nature of Relief
1902.1(a)	Maximum height of roof structure (limited to 83' 6"; as much as 89' 0" sought if needed)	Variance; Possibly Special Exception (See BZA Order 16914)
770.6, 777.1, and 411	Roof structure requirements that walls be of equal height (two sought) and be setback from exterior walls by at least the height of the roof structure (from building's edge)	Special Exception

Board of Zoning Adjustment
District of Columbia
CASE NO. 17197
EXHIBIT NO. 23A1
Case No. 17197
Exhibit 23

II – JURISDICTION OF THE BOARD

The BZA has jurisdiction to grant the variance and special exception relief herein requested pursuant to sections 3103 and 3104 of the Zoning Regulations of the District of Columbia (the "Zoning Regulations"). 11 DCMR §§ 3103 and 3104.

III – DESCRIPTION OF THE AREA AND PROJECT

A. Description of the Site and Surrounding Area

The site is located at 1401 Q Street, NW, which is at that Street's intersection with Fourteenth Street, NW. The site is a corner lot with a frontage of 79 feet along Fourteenth Street and a frontage of 120 feet along Q Street. To the immediate west, running north-south, is a public alley that is 20 feet wide. (See Sanborn Atlas (Exhibit A), the official Surveyor's Plat (within the plans at Exhibit C)). The site itself, as with others within Square 208 facing Fourteenth Street, is zoned Arts/C-3-A. That zone extends west from the site only to the center of the public alley; properties further west in the Square are zoned R-5-B. (See Zoning Map, Exhibit B).

The Uptown Arts – Mixed Use overlay district (commonly abbreviated "Arts") was created to:

(a) *Encourage a scale of development, a mixture of building uses, and other attributes such as safe and efficient conditions for pedestrian and vehicular movement, all of which will be as generally required by the Comprehensive Plan;*
(b) *Require uses that encourage pedestrian activity, especially retail, entertainment, and residential uses;*
(c) *Provide for an increased presence and integration of the arts and related cultural and arts-related support uses;*
(d) *Expand the area's housing supply in a variety of rent and price ranges;*
(e) *Expand business and job opportunities, and encourage development of residential and commercial buildings;*
(f) *Strengthen the design character and identity of the area by means of physical design standards;*
(g) *Encourage adaptive reuse of older buildings in the area and an attractive combination of new and old buildings; and*
(h) *Foster eighteen (18) hour activity and increased public safety." (§ 1900.2)*

The area north and south of the site along and either side of Fourteenth Street NW has experienced a substantial burst of investment in the past several years with numerous all-residential or residential projects with commercial components, as here proposed. In addition, a large, new grocery store opened along P Street (Whole Foods) and The Studio Theatre is now in the midst of an expansion that more than doubles its present square footage, stages and seating.

To the immediate south of the site, across Q Street, is the Berret School, currently used as an apartment house. The land further south along Fourteenth Street is now under construction for residential buildings or residential uses mixed with retail, service, or arts uses as required by the Arts overlay, which runs from just

north of N Street to the south to Florida Avenue, which itself is immediately north of W Street, a distance of 4,600 feet – or the equivalent of nearly ten blocks as measured by "lettered" streets.

B. Project Description

The Applicant seeks to build a new apartment house on land that is now used for parking. Measuring **79** by **120** feet, this essentially vacant land contains a total of **9,480** square feet within its property limits.

This Apartment building would contain fewer than 30 apartment units, 26 being the number contemplated at the time of this filing. Much, but not quite half, of the building's first floor area would be used for retail, service and arts-related uses, as required by the Arts overlay.

The building would have seven stories. Apartments units on the top two stories would be "duplex," meaning they would have two stories and each would have an internal stairway (and, accordingly, the plans provide no common hallway at the level of the seventh floor). Two other duplex apartment units are now contemplated as well, both with parts on the ground floor; one rises a floor; another drops down.

The site is located within the "Greater 14th Street" historic district. As such, the project reaches the BZA only after gaining conceptual approval from the Historic Preservation Review Board ("HPRB"). In the course of gaining that approval, Applicant was asked and agreed to –

- Reduce the height of the building
- Increase its "residential" frontage along Q Street
- Step back the sixth and seventh floors from Q Street
- Step back the seventh floor as well from Fourteenth Street and the abutting property to the north
- Provide more parking than just that required by zoning and to provide parking only within the building, with no spaces provided in any open area of the lot, including the along the public alley as originally contemplated
- Ensure that the emergency exit doorway from the garage along Fourteenth Street maintains the character of the entrances to the commercial frontage of the rest of the building
- Remove sixteen balconies that had been proposed along the Q Street frontage on floors two through five
- Rework the primary mass of the building at its outside corner
- Use windows and transparent doors to expose the building's residential lobby along its Q Street frontage, reinforcing the residential character of the project, in keeping with that street's largely residential character to the west
- Plan against having any doorway to retail/service/arts "commercial" area from Q Street, limiting exposure to just windows at building's SE corner

Portrait of the Project in Zoning Terms For Which No Relief is Sought *if Primary Relief is Forthcoming*: Total Gross Floor Area, Floor Area Ratio, Height, Lot Occupancy, Rear Yard, Courtyards, Roof Structures, and Parking and Loading:

Gross Floor Area and Maximum Floor Area Ratio – Satisfied

The Arts/C-3-A zone allows residential buildings (with retail/service/arts areas included) to have a floor area ratio ("FAR") of 4.5. Applied to this lot's total area of 9,480 square feet, this means the gross floor area may be as much as 42,660 square feet. The project, as proposed, provides a total gross floor area of 42,572 square feet, which is within the overall limit allowed of 42,660 square feet. The FAR of the overall project is 4.49. *However, the gross square footage would increase somewhat if an elevator were provided to reach the main roof level, slightly exceeding the FAR limit (discussed in more detail below).*

Height – Satisfied *(if All Primary Relief Sought is Forthcoming)*

The main roof of the proposed building would be at a height of seventy-two feet (72.0 ft.) from the measuring point, the top of the curb at the middle of the building at its front the front here being Fourteenth Street. While this figure is one foot higher than that described to HPRB, that Board measures from the middle of the property line, not the curb, and the curb is one foot lower at this location. The penthouse would rise ten feet above the main roof and be setback from the exterior walls by at least ten feet, as required, under Applicant's preferred program. *However, if the elevator must reach the level of the main roof (discussed below), then that will add additional height to that part of the penthouse and extend its perimeter to the exterior wall at one point (necessitating additional variance or special exception relief, also discussed below). In fact, the overall height of the penthouse would pass the limit established in the Zoning Regulations (83' 6") by as much as five and a half feet, a total height of as much as 89' 0" from the measuring point.*

Lot Occupancy -- Satisfied

Residential buildings in a C-3-A zone may not occupy more than seventy-five percent (75.0 %) of the overall lot. For the ground floor, lot occupancy includes all but the area set aside for retail/service/arts-related uses plus the elevated courtyard above the garage entrance (since it is more than 4' 0" above the grade). The overall area of the first floor is 6,359 square feet, of which 2,982 is set aside for non-residential use. Thus, the residential gross square footage within the building is 3,377 square feet. The elevated courtyard has 808 square feet. Thus, lot occupancy of the first floor is determined from the sum of 3,377 and 808, namely 4,185 square feet. When divided by the lot area of 9,480, a percentage of 44.1 results. Floors two through five have 6,828 square feet and thus occupy no more than seventy-two percent (72.0 %) of the lot; floors six and seven are smaller, occupying even less of the lot. Thus, lot occupancy limits are honored.

Rear Yard – Satisfied

Within the C-3-A zone district, buildings must provide a rear yard whose minimum depth is established by multiplying the vertical footage from the mean finished grade of the middle of the rear of the building to the main roof by two and one half inches (2 ½"). (See §§ 774.1 and 774.7.) At this site, the grade at the rear is one foot lower than the front, producing seventy-three vertical feet (73.0 ft). When multiplied by 2.5, the resulting rear yard must be at least 15.4 feet. While the project provides a rear yard of sixteen feet (16.0 ft) on the property, the Zoning Regulations allow the depth up to a height of twenty feet (20.0 ft.) to be measured to the middle of any abutting alley. Here, while no portion of the rear of the building is less than twenty feet (20.0 ft.) high, there is an abutting public alley that is twenty feet (20.0 ft) wide. Thus, the zoning requirement of 15.4 feet is more than met by the total depth so provided on the lot itself and by half of the width of the abutting public alley, a total of twenty-six feet (26.0 ft.).

Court Requirements – Satisfied:

The project contains a courtyard in its northwestern corner. This is an open court that widens in three stages, its narrowest area being 20.67 feet wide. This courtyard has this width only for one portion of the level of the elevated terrace (recreation space) and the adjacent private areaway where the outside wall of the second elevator lobby extends past the mass of the main building by 5.83 feet. The next section of the courtyard, and all of it from the second story up above the elevator lobby, is 26.5 feet wide. In its final state, the court becomes 12.67 wider, with a total width of 38.17 feet.

Under the regulations, no courtyard for a residential building may be less than fifteen feet (15.0 ft.) in its width. No part of this court is less than that.

Required width of a court is a function of the height of the facing walls. At its narrowest point, the facing wall to the south rises only one story so the minimum standard dictates the required minimum width. The other facing wall rises from the height of the private areaway, at elevation 2.17 feet to an elevation of 64.0 feet, a total distance of 61.83 feet. Court width must be at least one third of that distance (the 4" per foot rule of § 776.3), or 20.61 feet. This court is slightly wider, at 20.67 feet and it thus complies. (See Sheet ASK-15).

West of the protruding elevator lobby, the facing wall rises 66.33 feet (see Sheet ASK-15). Applying the four inch/foot standard of § 776.3 to that, the required width expands from 15 feet to 22.1 feet. The court's actual width above that lobby's protrusion, that court's width of 26.5 feet more than meets the required minimum.

At its westernmost end, the court expands even more and its southern face is a wall of one less story.

The requirement for adequate width of courtyards is fully satisfied.

Roof Structure – Satisfied *(if All Primary Relief Sought is Forthcoming)*

The Zoning Regulations provide many standards for roof structures, among them that they have vertical walls of equal height and that its walls be set back from the exterior walls of the roof on which the structure sits. The number of roof structures is also limited. The proposed project has a single roof structure that rises uniformly ten feet (10.0 ft.) above the level of the main roof. It contains two fire stairs and some mechanical equipment.

The roof structure is the space through which residents would pass on their way to the roof deck the Applicant is providing in the southeast corner of the main roof.

Applicant seeks the Board's approval of a reduction in residential recreation space that excludes the roof deck from contributing to the total amount of such space because, were it to count, it would have to be fully accessible.

Full accessibility would require an elevator to reach the level of the main roof and have a higher elevator shaft above that: the required setback for roof structures would no longer be met, the roof structure be not have a uniform height, and its height would exceed the height limit such roof structures are allowed in the Arts/C-3-A zone district.

Parking -- Satisfied

Within the C-3-A zone district, one parking space must be provided for each two apartments. Applicant plans at least one level of parking but depicts a full second level. At a minimum, applicant would supply 20 parking spaces, of which one would be for persons with mobility limitations and as many as three would not meet zoning standards for width or vertical clearance. Thus, at least sixteen spaces will exist that satisfy all zoning requirements, sufficient for an apartment building with 33 units. This project has fewer than that so the requirement is fully satisfied. Unless either subsurface soil, rock, and water conditions or pre-construction sales of parking spaces (or both) prove unfavorable, Applicant will also develop a full second level of parking, raising the total number of spaces to as many as thirty-seven, all but four of which would meet zoning standards.

For areas being used for retail or service establishments, no parking space is required for the first 3,000 square feet of gross floor area or cellar floor area. Above that, parking must be supplied at a rate of one space for each 300 square feet. Thus, no parking requirement exists for any area up to 3,150 square feet. Project proposed has a commercial area of 2,982 gross square feet. Thus no additional parking space must be provided.

Loading – Satisfied (No Requirement Here)

Within the C-3-A zone district, an apartment building need not supply a loading space or service delivery space when it has less than 50 apartments. Likewise, the regulations do not require a loading space for the retail, service, and arts-related areas until that area exceeds 5,000 gross square feet. The proposed project has far

fewer apartments than 50 and not quite 3,000 square feet of non-residential gross floor area. Thus, there is no requirement to provide any space for loading or service delivery vehicles.

Aspects of the Project for Which Zoning Relief is Needed:

Percentage of Ground Floor To Be Used for Retail-Service-Arts Uses – Special Exception Sought:

Being located within the Arts/C-3-A zone district, the building must either devote at least 50.0 percent of its ground floor area within the limits of the property to specified retail/service/arts uses or seek and gain approval for any reduction from that standard. The total area of the ground floor within the limits of the property lines is 6,359 square feet. The project, as proposed with this filing, provides 2,982 square feet of such area, representing 46.9 percent of the area of the ground floor within these limits. The project also proposes to dedicate 214 square feet of public space in the form of three projecting bay windows, with clear "retail" type windows at the ground floor level that face Fourteenth Street, one of which also wraps around to face the eastern limits of the property's Q Street frontage. Taken together, the total area thus derived, at 3,196.0 square feet, thus slightly exceeds the zoning standard of fifty percent (50.0 %), which would be an area of 3,179.5 square feet. However, since the area within public space is not "countable" under the zoning regulations, special exception relief is sought to permit the percentage of the area as officially measured within the property limits, namely 2,982 square feet, to satisfy this requirement. This "countable" area represents all but 3.1 percentage points of the total ordinarily required.

Eating and Drinking Establishments
Interpretation or Special Exception Sought (at time of Initial Filing):

All aspects of the question posed in the initial application about the interpretation and application of § 1901.6 are withdrawn.

Residential Recreation Space Requirements – Variance Sought:

Being located within the Arts/C-3-A zone district, the building must either meet the requirements for residential recreation space or seek and gain approval for a variance for any reduction in the amount of space so required. The Zoning Regulations require that buildings in C-3-A zone districts provide residential recreation space equivalent to at least 15.0 percent of the gross floor area used for residential purposes. As noted above, 2,982 gross square feet of the building's ground floor is set aside for retail/service/arts uses. As also noted, the total building contains 42,572 square feet. Accordingly, the regulations would require that residential recreation space amount to at least 15.0 percent of its residential area of 39,590 square feet, which would be a total of at least 5,938 ½ square feet.

Of the required residential recreation area, the regulations also provide that at least half be outdoors (§ 773.6). It also requires that areas counted in the amount of residential recreation space provided be physically accessible to all residents of the building including those with mobility limitations (§ 773.9) and, further, that areas on rooftops may only count when no dimension is less than twenty-five feet (25.0 ft., § 773.7).

Applicant's plans as filed with this submission provide about one-third of the total area required, specifically providing 1,139 square feet of residential recreation space indoors and 1,234 outdoors for a total area of 2,373 square feet. This represents six percent (6.0 %), while the zoning regulations stipulate that fifteen percent (15.0 %) be provided.

The project also proposed a deck area on the roof that totals 675 square feet. However, this roof deck's largest rectangular area measures 17.29 by 31.20 feet and therefore does not meet the requirements of § 773.7. As explained below, the non-conforming dimension cannot be readily expanded and, even if it were, the areas short of the required dimensions (walkways, portions south of the roof structure) would not count either so the "achieved" area would not be as large as might be first thought.

Option 1 – Recommended

Under Applicant's proposed "Option 1," the roof deck area would be provided but not be included in the strict calculations. It is omitted for the dimensional reason discussed above but also for several other reasons, the most critical of which is the requirement for physical accessibility (§ 773.9). Under Option 1, residents would gain access to the roof deck by stairs from the sixth floor elevator lobby, where elevator service would be at its uppermost floor – passing through the seventh floor in the fire stairways to reach the roof level above that floor.

This Option allows the elevator machinery to be contained below the level of the main roof resulting in a single roof structure that itself meets all the standards for such structures.

Option 2 – Possible but Not Recommended

Applicant notes that the elevator could be extended to the roof level if relief were sought to allow two areas of relief from penthouse requirements, those being that its walls be of equal height and that all portions of the roof structure be set back from the exterior walls by a distance at least as much as the height of the roof structure itself. Moreover, the resulting roof structure would extend beyond the overall height limit of 83' 6" established for roof structures in the Arts/C-3-A zone district, necessitating either a variance (as originally filed in this application) or, in light of the Board's consideration of this issue as a special exception in BZA Case 16904 within the same overlay zone, a special exception in this instance as well (see BZA Order 16914, Exhibit D).

From the point of view of design, the plans presented to and approved by HPRB depicted a roof structure with a height of ten feet (10.0 ft), set back from all exterior walls by at least that amount (other than portions less than 4.0 feet in height). If the elevator is provided, its shaft must extend through the level of the main roof and two of its walls will meet the corresponding exterior wall instead of being set back. Moreover, additional height would be needed for the mechanical space above the elevator resulting in a roof structure whose walls would not be even (or a single roof structure of much greater height all around that would consistently be in conflict with the normal 1:1 setback requirements.) Finally, although the gross square footage is relatively small, each floor to which or through which an elevator passes counts within the building's gross square footage. Thus, the area of the elevator shafts that now serve the sixth floor with mechanical rooms above but in low-ceilinged space that does not count would have to be added to the overall total. The elevator shaft would thus "count" as it passes through the seventh floor even though it does not stop there and again at the roof level. The added gross square footage is about 100 square feet per floor (98.7 square feet above the main roof).

For the above reasons, Applicant does not recommend that approach.

IV – THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF FOR RESIDENTIAL RECREATION SPACE

A. Standards for Granting Area Variances

Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- the property is unusual because of its size, shape or topography or other extraordinary or exceptional situation or condition;
- the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

The D.C. Court of Appeals has determined that, to satisfy the practical difficulty element of the area variance test, an applicant must demonstrate that "compliance with the area restriction would be unnecessarily burdensome" and that the practical difficulty is "unique to the particular property". *Gilmartin v. District of Columbia Board of Zoning Adjustment,* 579 A.2d at 1170 (D.C. 1990). In that case, the Court noted that "the severity of the variance(s) requested"; "the weight of the burden of strict compliance"; "the effect the proposed variance(s) would have on the overall zone plan," and the "increased expense and inconvenience to applicants for a variance are among the proper factors for BZA's consideration." *Id.* at 1171.

As discussed below, all three "prongs" of the area variance test are met in this Application.

B. Specific Justification for Variance Relief from Residential Recreation Space Requirement in This Case:

The Applicant requests a variance from the residential recreation space requirements set forth in Section 773 of the Zoning Regulations, which provides that when a building in the C-3-A District is devoted to a residential use, an area equal to not less than fifteen percent (15.0 %) of the gross floor area devoted to residential use must be provided for active or passive recreation space for the residents of the building. Moreover, the floor area devoted to residential recreation space must be physically accessible to all residents of the building served by that space. At least half of the total area must be "outdoors." However, if any portion of a roof is used for residential recreation space, the roof area so utilized cannot have a dimension measuring less than

twenty five feet or be occupied by any other equipment or fittings such as vent stacks from plumbing.

The proposed apartment house will have 39,590 square feet of gross floor area devoted to residential uses. Thus, the Applicant is required to devote 5,938 ½ square feet (over half of the area of the lot itself) to residential recreation space. However, the Applicant proposes to provide approximately 2,373 square feet of residential recreation space, six percent (6.0 %) of the proposed residential gross floor area, that complies with the regulations, of which 1,234 square feet would be "outdoors" (slightly more than half).

The Property is Affected by an Exceptional Situation or Condition

The exceptional situation or condition standard applies to the property. These are best considered in two parts, **above grade** and **below grade**.

Basic design principles pushed the **above grade** portions of the building, particularly the central core of fire stairs, elevators, and hallways away from both Fourteenth and Q Streets. A further push away from Fourteenth Street is a direct consequence of the requirement to dedicate half of the ground floor area to retail/service/arts-related uses and to provide adequate depth for those areas. Finally, limitations on the number of penthouses similarly preclude having one fire stair being detached from the main roof structure to the west of the elevator core, even if it could still meet the setback rules.

As discussed above, the Site is located in the Greater 14th Street Historic District and the Historic Preservation Review Board has reviewed the design of the property and approved the project now before the BZA which is more fully described above and in the accompanying plans. (See: five Historic Preservation Review Board Staff Reports and Recommendation, prepared for that Board's meetings of December 18, 2003, January 22, 2004 (though not actually presented at that meeting), February 26, 2004, April 22, 2004 and finally May 27, 2004, all attached hereto as Exhibit E).

In addition, the HPRB limited the height of the building to seven stories and seventy-one feet (as that Board measures height, discussed above). The top of the main roof will be seventy-two feet (72.0 ft.) as zoning measures height, whereas the Arts/C-3-A zone permits a building height of seventy-five feet (75.0 ft.). In its approval, the HPRB also required that all rooftop elements, be set back from the 14th Street frontage of the property and minimized to the greatest extent possible. As shown on the roof plan submitted herewith, (see Sheets ASK 6 though 11), the residential recreation space and rooftop equipment is positioned consistent with this directive.

Below grade, other factors unique to the site apply here, particularly the need to establish a means for passenger vehicles to enter and depart the garage from the public alley and circulate within the garage levels, thus avoiding any need to establish an additional curb cut along either Fourteenth or Q Streets. The project proposes a driveway heading down to the garage from the public alley. This ramp must, of course, wrap itself around the core of stairways and elevators.

Thus, while the core was pushed back from the adjacent streets by both the Historic Preservation Review Board and the application of sound design principles, the push had to be balanced with the absolute need to establish and maintain aisles of adequate width and turning radii.

The site, from this point of view, is just 79 feet wide. For a project of this size, that is a narrow width in which to construct two foundation walls, two drive aisles, one row of parking and have room for the functionally required central core.

In addition, due to the Applicant's plan to provide a roof deck for the residents, even if accessed by stairs, then two stair towers must be provided to the roof to provide two means of egress per the Building Code. These stair towers further limit the area of available residential recreation space on the roof and must be placed apart from each other as well. Along with the two elevators, these stair towers anchor the core of the building, elements that cannot be concentrated at any end or side. The rooftop is also the location of all individual heating and air conditioning systems for the apartments and common areas. The roof also is the point at which various ventilation ducts and sewer vents terminate, all of which rise from the sequence of apartments arrayed below, including the area where the roof deck would be. Specifically note that kitchens and bathrooms fall directly below the area of the roof north of the proposed roof deck, effectively limiting how far it could extend in that direction.

In summary, the size, location, layout and configuration of the proposed building and the restrictions imposed on the project to comply with historic preservation concerns have created a set of physical constraints and design challenges which the Applicant has had to address in the proposed building. These constraints result in an exceptional and extraordinary condition inherent in the Site, thus satisfying the first element of the area variance test.

Strict Application of the Zoning Regulations Would Impose a Peculiar and Exceptional Practical Difficulty on the Applicant

A strict application of the Zoning Regulations would impose a peculiar and exceptional practical difficulty based on the exceptional conditions discussed above. As shown on the plans that diagram residential recreation space (Sheets ASK 17 through 19), the project provides a combination of indoor and outdoor recreation areas that totals 2,373 square feet, more than half of which is outdoors.

Specifically, there are three distinct areas inside, two adjacent to and within the overall building lobby area and a "party" room. The courtyard at the rear of the building provides outdoor recreation area meeting the standards set by Zoning Regulations. Private terraces serve the apartments on the upper two floors, providing 2,075 square feet, just over 400 square feet per apartment on the average. Two duplex units contain private areaways that are outdoors that total 572 square feet. Balconies that total 1,017 square feet serve eleven apartments (one of which also has a private areaway). Thus, seventeen apartment units have access to at least some, and often considerable, private outdoor areas. While this is not to be counted in the

determination of required recreational space, the Board may and should consider this as a mitigating factor as part of the practical difficulty as well as under the absence of adverse impact standard.

The BZA should also know that during the course of HPRB review, that Board required that balconies that would have served all the other apartments above the first floor be eliminated. Sixteen of these smaller balconies, formerly proposed to serve apartment units facing Q Street are depicted on Sheet ASK-17 (that diagram and the accompanying table do not depict or tally balconies that had been proposed for apartments facing Fourteenth Street as they were partially incorporated in the bays now proposed as approved by that Board).

Roof terraces will also provide an attractive, high quality recreation area for residents of the sixth and seventh floors, all of which are duplex (two-story) apartment units.

Because of the architectural and historic preservation limitations imposed, as discussed above, the area of the roof that can be used as complying residential recreation space is significantly reduced. The Applicant designed the placement of the rooftop residential recreation space to accommodate the concerns of the HPRB's staff and community members, while also providing a large open and inviting recreation area for residents of the project.

As the Board should know, the project abuts an area of public space known as "the parking," an area of public space that, where it exists, runs between the outside edge of a public sidewalk and the property line at the front of the adjacent public space. Here "the parking" is sixteen feet (16.0 ft.) wide. The owners of properties that abut this type of space are responsible, under DC Code (24 DCMR 102.1) for all of the costs of its "immediate care and keeping." This is a direct hardship. However, applicant proposes that 1,398 square feet of its overall area of 1,620 square feet have benches, tables and landscaping that is a full equivalent of residential recreation space, yet doing so in a manner that would be open to residents and, potentially, those passing by consistent with the general rules on use of public space by the general public (24 DCMR Chapters 1 and 2).

The limitations on the construction imposed by the HPRB would make it economically impractical (with a small building with a limited number of apartment units) and infeasible to eliminate residential units in the building and replace them with additional indoor residential recreation space. Likewise, with the setbacks HPRB required on the upper levels, converting a part of the seventh floor to outdoor recreation space would likewise constitute a debilitating hardship and leave a gap in the overall profile of the project if the volume of space it would represent were summarily removed.

In fact, virtually all of the open area within the building's property limits and surrounding it is dedicated to public residential recreation space or functionally similar private terraces, balconies, or areaways. There is no more open area to be so utilized.

Finally, the Board should note that the Applicant is already faced with the responsibility, which Applicant has accepted, of making sure the courtyard and party room are fully accessible. Here, this requires a more costly elevator system that has doors on two faces, and two more sets of doors, one at the level of the party room and a second at the level of the raised courtyard. Thus, even to achieve the level of residential recreation space Applicant is proposing, Applicant has had to go to lengths that represent considerable extra expense for a fundamentally non-marketable square footage.

In summary, a strict application of the Zoning Regulations will result in exceptional practical difficulty and hardship to the Applicant. Full compliance with the residential recreation space requirement on this site would put this Applicant at an economic and competitive disadvantage relative to similar residential projects in the vicinity where little or no residential recreation space is required by the Zoning Regulations or demanded by the unit purchasers. The goals of Section 1900.2 of the Arts Overlay district (quoted above) will be met in this project. Converting proposed residential or retail/service/arts-related areas in the building to residential recreation space would compromise the Applicant's ability to achieve those goals and be at odds with the stated policies of the Arts overlay itself.

Relief Can Be Granted Without Substantial Detriment to the Public Good and Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map

The requested variance can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations.

The Applicant will provide additional outdoor residential recreational space, which does not meet the zoning requirements at the proposed roof deck, an area of some 675 square feet. While that area totals 675 feet, only the east-west axis of the deck exceeds twenty-five feet (25.0 ft.). The zoning regulations require that rooftop recreation space have no horizontal dimension that is less than twenty-five feet (25.0 ft.), whereas one dimension proposed now is far short of that at approximately seventeen feet (17.0 ft.). Expansion of that dimension is limited by the small area of roof remaining and a need to provide rooftop outlets for various exhaust and plumbing lines serving the kitchens and bathrooms below. Nevertheless, the roof deck is an integral part of the Applicant's proposal.

In addition, more than half of the apartments have private outdoor spaces that inherently reduce the need for common-use recreation spaces.

When all areas of the roof deck, private balconies, private terraces and private areaways are added up, they total 4,339 square feet.

Over and above this, Applicant proposes to landscape the 1,398 square feet of public space along the lots Q Street frontage known as "the parking" such that it will invite residents of the building and others to pause, sit on a bench, and enjoy the area.

Thus, while zoning measurements show that 2,373 square feet is set aside for "countable" residential recreation space, in fact that area is but part of a much larger set of areas that add to the overall stock or, where private, tend to diminish the demand. The overall total of all these areas is 8,110 square feet, which represents over twenty percent (20.5 % in fact) of the residential gross floor area of the project.

From an urban design and city-wide planning perspective, it is preferable to meet the goals of the Arts Overlay for retail, service, arts uses and residential living space, rather than to provide indoor or outdoor recreation space solely for the occupants of the building. The demographics of the population that is being attracted to the 14th Street Arts Overlay district has been proven to predominantly include singles and couples, without children. In this case, it is the quality of the recreation space, and not the quantity, that is important. The urban lifestyle that is being promoted in the Arts Overlay area encourages an active 18-hour pedestrian streetscape with arts and arts-related uses. This project represents significant new residential construction, with significant attention in its design and materials to be "not inconsistent" with the character of the historic district in which it is situated. In addition, there is an all-but-complying area set aside for, neighborhood-serving retail/service/arts-related uses and more than ample, valued, off-street parking.

Moreover, there are a number of recreational venues in the surrounding area and the Project is located within a burgeoning Arts corridor whose central purpose is to create a lively urban environment. For instance, Logan Circle and the adjacent triangle park, both of which are located approximately one block east of the Site, provide areas for residents to congregate and participate in outdoor activities. The Stead Recreation Center, which is located approximately two blocks west of the Site at 1625 P Street, N.W., and the Shaw Tennis Court/Skateboard Park (which is located approximately four blocks east of the Site at 10th and Rhode Island Avenue), are additional recreational facilities near the Site. The Seaton Elementary School, which is located approximately four blocks east of the Site at 1503 10th Street has an outdoor public playground that area residents can utilize, and the Shaw Junior High School (located northeast of the Site at 925 Rhode Island Avenue, N.W. has an outdoor recreation area that can also be utilized).

Further, the Fusebox Art Gallery and the Transformer Art Gallery, located approximately two blocks south of the Site at 1412 14th Street, N.W. and 1404 P Street, N.W. (respectively), and the Studio Theatre, are open to the public, contribute to the cultural vitality of the area and provide various artistic attractions. Hence, although the Applicant is not complying with the technical requirements of Section 773, the nature and quality of the recreation areas that the Applicant is providing is consistent with the intent, purpose and integrity of the Zoning Regulations.

V – THE APPLICANT MEETS THE BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF FOR PERCENTAGE OF GROUND FLOOR USED FOR RETAIL/SERVICE AND ARTS-RELATED PURPOSES

A. General Standards for Granting Special Exceptions

Under D.C. Code and 11 DCMR §3104, the Board is authorized to grant a special exception where it finds the following general conditions are met:

- the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and map;
- the special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations;
- the special exception complies with the specific requirements for associated with that special exception under the Zoning Regulations.

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (*quoting Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

The sole special exception herein sought on a primary basis is that relating to allowing a slight reduction in the percentage of the ground floor area to be set aside for use by retail/service/arts-related uses. The Arts Overlay chapter of the Zoning Regulations require that this be fifty percent (50.0 %, see § 1901.1)) while the Applicant proposes slightly less (46.9 %). Elsewhere, the same chapter specifically authorizes the BZA to take up questions of relief from requirements of this Chapter as a special exception (see § 1906.1).

The effect of this is to add five specific standards that apply in these cases:

(a) *The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area;*

(b) *Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan;*

(c) *The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is*

involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;

(d) Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and

(e) The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District.

As discussed below, all general and all specific standards for the granting of a special exception are met in this case.

B. Specific Justification for Special Exception Relief for Percentage of Ground Floor Used for Retail/Service and Arts-Related Purposes:

As noted above, Applicant has set aside a substantial area of the ground floor for use by required retail/service/arts-related uses along most of its Fourteenth Street frontage, the only exception being a fire exit from garages below. The fire exit extends less than fifteen feet of the lot's overall frontage of seventy-nine feet. The balance of the frontage at the ground floor level is exclusively used for the uses "preferred" by the terms of the Arts overlay, and will comply with all other associated requirements of § 1903.

However, while the overall amount of area set aside for this use inside the property line is 2,982 square feet, the Applicant proposes to include 214 square feet of area in three "retail" type bay windows that will project into public space. The Zoning Regulations do not allow for such space to be counted. On the other hand, the Board can readily determine that the sum of the two figures is a total amount of space for the preferred uses that surpasses the amount required. Specifically, the area provided amounts to 3,196 square feet; this is slightly more than the area required, which is 3,179 ½ square feet.

The Board should also realize that three uses are competing for the same space, all uses being ones embraced by the regulations: pure residential living space and space directly accessory to it (apartment units, mail boxes, reception desk, elevators, hallways), preferred uses per the Arts overlay, and residential recreation space.

As to the tests for all special exceptions under the Arts overlay, the Applicant sets out the five specific tests and describes the circumstances as follows:

	"Arts" Requirement	Circumstances Here
a	The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area	The project provides all uses required and substantially in the amount required. The preferred uses have the total area required, just not all inside the property line. The preferred uses open only to Fourteenth Street and do not create a commercial depth from that street that could erode the integrity or quality of the residential zone west of the public alley at the western limit of the site. Of the required uses or areas, even the space for residential recreation space is effectively "made whole" when combined with other private spaces and the area in front of the Q Street face of the building proposed.
b	Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan	The project provides virtually all of the area required, though technically some of it is in public space and cannot, thus, be a part of the official measurements. The purposes of the Chapter and Comprehensive Plan are not compromised in the least.
c	The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;	The design has been conceptually approved by the Historic Preservation Review Board. As it is new construction it is not a historic landmark so there is no need for referral to the State Historic Preservation Officer

	"Arts" Requirements	Circumstances Here
d	Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and	Vehicle access is limited to a public alley that is twenty feet wide, wider than most in the area, removed from the nearest public sidewalk by the width of "the parking" (16.0 feet) plus all but the driveway of the building which is 19.08 feet of the lot's width of 79.0 feet, effectively 76 feet in all.
e	The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District	No special requirements appear to be necessary as the non-residential but "preferred" uses open onto and essentially face Fourteenth Street, with only one bay of a window from one such area even opening onto the Q Street frontage.

As to the general tests for special exceptions under the Zoning Regulations, the Applicant sets these out and describes the circumstances as follows:

	General Requirement	Circumstances Here
-	The special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and map	The project provides all uses required and substantially in the amount required. The preferred uses have the total area required, just not all inside the property line. The preferred uses open only to Fourteenth Street and do not create a commercial depth from that street that could erode the integrity or quality of the residential zone west of the public alley at the western limit of the site. Of the required uses or areas, even the space for residential recreation space is effectively "made whole" when combined with other private spaces and the area in front of the Q Street face of the building proposed.
-	The special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations	No element of the project poses any adverse effect on neighboring property for the relief proposed the effects of which are contained entirely within the property itself or on the public space that the property abuts that is the responsibility of the owners to keep and maintain. No part of the primary request adds to any zoning limit established to protect adjacent properties in terms of use, height, bulk, setback, lot occupancy. Even the optional (and not recommended) alternative to add height to the roof structure for a possible elevator is central to the project and has so little overall bulk that its effects are largely ones affecting the overall skyline from a few vantage points, not casting significant marginal shadow on nearby properties.

VI – CONSULTATION WITH COMMUNITY ORGANIZATIONS AND RESIDENTS

The Applicant has worked with the community and obtained support for the Project.

Starting in October, 2003, the Applicant initiated a series of meetings with both the Advisory Neighborhood Commission and the Logan Circle Community Association (four times), earning and gaining the support of both organizations that contributed to the approval granted the project in May by the Historic Preservations Review Board.

The Applicant received many suggestions from these community organizations and local residents, and the Applicant accepted many of their comments (see the roster of changes at the outset of this document).

The collaboration resulted in general consensus that the project was positive, with appropriate bulk and height.

No zoning issues were noted to the Historic Preservation Review Board when first filed as that study was not then complete and, in later consultation with that Board's staff, Applicant's team was advised that that Board would not want to be apprised of zoning issues not affecting the overall design, which the relief herein sought does not affect at all or at least in the most minimal manner.

Applicant also met with neighbors to the project, several of whom expressed views that the zoning relief should not be granted.

Thus, while there is support from established organizations for the Project, it is possible that contrasting positions will be voiced or provided to the BZA in some other fashion.

As to the zoning process itself, the Applicant met with the Community Development Committee ("CDC") of the Advisory Neighborhood Commission on Wednesday, June 23 earning its support on the two areas of primary relief. The CDC is advisory to the overall ANC, which meets July 7, one day after the filing deadline for this document. The ANC will communicate its position directly to the Board. Significantly, the CDC recommended against the ANC's taking a position on the question of linear frontage requirements along Fourteenth Street, the very issue the Applicant has now withdrawn from consideration.

As to the plans presented and approved, Applicant shared with the CDC the effect of a partial reduction in residential recreation space requirements that could force an elevator to serve the main roof. Applicant concludes that no member of the CDC or audience of residents supported that outcome.

The Applicant will also meet with the Logan Circle Community Association on July 13, thus allowing them to share their views with the BZA if they so choose.

VII – CONSULTATION WITH THE OFFICE OF PLANNING

The Applicant met with the Office of Planning to provide details about the project on July 1.

Following discussion with about the issue of linear frontage, Applicant determined it would withdraw that question from the BZA's immediate responsibilities under this case.

The project architect, Bill Bonstra, and the planner, Lindsley Williams, explained the basis of the relief sought. They also confirmed that the roof deck depicted on the plans is a part of the planned project, not an Option. The question is only whether it must be fully accessible and be a part of the official residential recreation space supplied. They also reviewed the diagrams and tables showing where residential recreation space and areas of a comparable nature are located within and surrounding the project.

The Office will communicate its conclusions directly to the Board.

VIII – COMPLETION OF PRIMARY CASE

The foregoing materials complete the substance of Applicant's pre-hearing statement for the two areas of primary relief. The materials that follow address additional relief that would be needed if the primary relief cannot be fully granted for any reason that triggers a need for a passenger elevator to reach the level of the main roof.

IX – THE APPLICANT MEETS THE BURDEN OF PROOF FOR SPECIAL EXCEPTION RELIEF FOR ROOF STRUCTURES AND THEIR HEIGHT IF AN ELEVATOR MUST SERVE THE LEVEL OF THE MAIN ROOF

The following address additional relief that would be needed if the primary relief cannot be fully granted for any reason that triggers a need for a passenger elevator to reach the level of the main roof.

Three areas of relief would be needed, all potentially being issues that can be considered under established special exception provisions:

- Having a roof structure with walls that are not of equal height (§ 770.6(a) and its reference to all of § 411, including the "equal height" provision (§ 411.5)

- Having a roof structure all whose walls would not be set back from the corresponding wall of the building by an amount equal to the height of the roof structure (§ 770.6(b)).

- Having a roof structure whose total height could be as much as 89.0 feet above the point of measurement of height exceeding the standard established for such a height under the Arts overlay where C-3-A is, as here, the base zone district (§ 1902.1(a))

A. Preliminary Matter to the Secondary Relief:

In light of the Board's determination that the relief to height could be considered as a special exception instead of a variance in BZA Case 16194 (see Exhibit D), Applicant herewith requests the Board to formally supplant the variance Applicant sought for the issue of the height of the elevator shaft to the appropriate special exception process, that of the Art's overlay wherein the particular height standard is set out.

B. Standards for Approving Special Exception Relief

As a special exception process, the same general standards apply here as set out earlier in part V of this Pre-Hearing Statement. Likewise, for the element to be evaluated under the "Arts" special exception process, the same standards reviewed earlier also apply here. These standards will be juxtaposed to the three issues which are so intertwined that separating one from another would make this submission unnecessarily repetitive. Likewise, all the information set out in earlier parts of this submission relating to the site and plan apply and are applied in full without restating them.

For the two specific "roof structure" design issues of equal height and setbacks, the Zoning Regulations establish a single paragraph at § 411.11 that establishes the conditions the Board must examine. As allowed by that section and § 3104, Applicant requests special exception relief to deviate from strict compliance of those requirements as permitted to these standards. As to the particulars of this case, the standards and circumstances Applicant summarizes as follows:

	"Roof Structure" Requirement	Circumstances Here
411.11	Where impracticable because of operating difficulties, size of building lot, or other conditions relating to the building or surrounding area that would tend to make full compliance unduly restrictive, prohibitively costly, or unreasonable, the Board of Zoning Adjustment shall be empowered to approve, as a special exception under § 3104, the location, design, number, and all other aspects of such structure regulated under §§ 411.3 through 411.6, even if such structures do not meet the normal setback requirements of §§ 400.7, 530.4, 630.4, 770.6, 840.3, or 930.3, when applicable, and to approve the material of enclosing construction used if not in accordance with §§ 411.3 and 411.5; provided, that the intent and purpose of this chapter and this title shall not be materially impaired by the structure, and the light and air of adjacent buildings shall not be affected adversely.	The lots relatively narrow width and other factors that force the elevator and stair core to be located where they are, the setback requirements of the Historic Preservation Review Board from public streets, and aisle requirements accumulate so as to provide no other place for the elevator core to be located. The same factors create the need for walls of unequal height and the inability to maintain setback from the courtyard walls. The overall upward bulge would only exist where it would be the least visible to the surrounding community and public; those living immediately west of the project could see it from their rear yards if they are not occupied, as many are, by accessory garage structures. The physical volume of the addition is so small as to create no meaningful impact on light and air within the project or at its immediate perimeter.

Even with the proposed added height to the roof structure, the purpose of the setback requirement is to ensure adequate light and air to adjacent property and abutting streets. This purpose is achieved despite the requested special exception since relief from the setback requirement will not hinder the light and air of adjacent property owners since the roof structures are well within the permitted height requirement.

The differing heights are a direct response to HPRB's directive to minimize roof structure heights and massing, with the goal of reducing the overall visibility of the roof structures from the surrounding areas. Since the elevator tower's height cannot be lowered as much as the relatively low ten foot (10.0 ft.) height of the rest of the roof structure due to critical mechanical equipment and working space that must be above the roof of any elevator cab, strict compliance with the zoning regulation would force the elevator shaft to be taller, slightly increasing its visibility. Accordingly, the proposed penthouses are in harmony with the purpose and intent of the Zoning Regulations and meet the test for special exception relief under Section 411.

As to the question of the amount of height that exceeds 83' 6", the Arts Special Exception standards come into play as follows:

	"Arts" Requirement	Circumstances Here
a	The uses, buildings, or features at the size, intensity, and locations proposed, will substantially advance the purposes of the ARTS Overlay District and will not adversely affect neighboring property or be detrimental to the health, safety, convenience, or general welfare of persons living, working, or visiting in the area	The total height increment is no more than five and a half feet (5.5 ft.) to a maximum height of 89 feet. The square footage so rising is less than 100 square feet. The purpose of the elevator is to provide full access to a roof deck for the residents of the building, in keeping with their full participation in and views of the surrounding community.
b	Exceptional circumstances affecting the property make compliance with the requirements of this chapter difficult or impossible, or the development provides alternative public benefits in lieu of the excepted uses or features that are of comparable value to the public in achieving the purposes of this chapter and of the Comprehensive Plan	There is no feasible way to have any other type of vertical lift move those with mobility restrictions from the level of the sixth floor through the seventh and reach the level of the main roof two stories from the starting point. This differs from a situation in which apartments have a public elevator lobby serving their "top story."

	"Arts" Requirements	Circumstances Here
c	The architectural design concept of the project will enhance the urban design features of the immediate vicinity in which it is located; provided, if a historic district or historic landmark is involved, the Board shall refer the application to the State Historic Preservation Officer for review and report;	The design has been conceptually approved by the Historic Preservation Review Board. As it is new construction it is not a historic landmark so there is no need for referral to the State Historic Preservation Officer. Staff to that Board, which has been delegated authority to oversee all design issues following the stage of conceptual approval now in hand, have advised the Applicant that the addition would not cause the project to become "incompatible" with the historic district in which it is located.
d	Vehicular access and egress are located and designed so as to minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions; and	Not relevant to circumstance.
e	The Board may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the ARTS Overlay District	No special requirements appear to be necessary.

Having addressed the specific special exception standards, Applicant turns finally to the two general tests as they relate to the three areas of relief, considered collectively, as follows:

	General Requirement	Circumstances Here
-	The special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and map	The relief requested provides just the extra flexibility needed to provide full access to the roof level for persons with mobility restrictions and adds a small additional area of outdoor space for residential recreation purposes.
-	The special exception will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations	The change will have no discernable effect on any neighboring property or be at all adverse to any of those properties.

X – THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF FOR HEIGHT LIMIT OF ROOF STRUCTURES IN THEARTS/C-3-A ZONE AT THIS SITE IF AN ELEVATOR MUST SERVE THE LEVEL OF THE MAIN ROOF

The following address specific variance relief that would be needed if the primary relief cannot be fully granted for any reason that triggers a need for a passenger elevator to reach the level of the main roof and that relief is determined to require a variance.

As the general standards for a variance were set out in Part IV of this Statement, they will not be repeated here. The Board should now fully understand the fact that the height of roof structures in the Arts/C-3-A zone is limited to 83' 6" and know that here an elevator shaft would, of necessity, extend past that limit if an elevator must serve the main roof level.

As to the three "prongs" of factors of the variance test, in the instance of the extended elevator shaft, all previously set out factors of uniqueness, practical difficulty, and absence of adverse external effect or being inconsistent with the Zoning Regulations and Map apply. Applicant will be prepared to discuss these in more detail if the Board requests.

XI – EXHIBITS SUBMITTED IN SUPPORT OF THE APPLICATION

Exhibit A:	Portion of the Sanborn Atlas showing the Site highlighted in red;
Exhibit B:	A portion of the Zoning Map showing the Site highlighted in red;
Exhibit C:	Architectural Plans and Drawings, Topographic Survey; Surveyor's Plat;
Exhibit D:	BZA Summary Order 16914 (PN Hoffman) highlighting advertised variance for height of penthouse and note that the Board considered the question as a special exception;
Exhibit E:	Historic Preservation Review Board Staff Reports and Recommendations, prepared by that Board's staff and presented (except as noted) to them on December 18, 2003, January 22, 2004 (though not actually presented at that meeting), February 26, 2004, April 22, 2004, and May 27, 2004 (but also dated April 22);
Exhibit F:	Advisory Neighborhood Commission 2F Letter Concerning Project;
Exhibit G:	Outline of Testimony of Fred Bahrami, Developer;
Exhibit H:	Outline of Testimony of Bill Bonstra, AIA, Architect;
Exhibit I:	Availability of Emily Eig, Historic Preservation Consultant (to attend hearing and answer questions if posed by the Board); and
Exhibit J:	Outline of Testimony of Lindsley Williams, Land Use, Planning and Zoning Consultant

XII – WITNESSES

A. Fred Bahrami, Principal, 1600 Fourteenth Street Limited Partnership LLP.

B. Bill Bonstra, AIA, Principal Bonstra Architects PC, Architect.

C. Lindsley Williams, Land Use, Planning and Zoning Consultant.

XIII – CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for granting the area variance sought for residential recreation space by determining that 6.0 percent is sufficient in this case and the special exception sought under the Zoning Regulations as to percentage of the ground floor in non-residential use is satisfactory under the applicable standards when 2,982 square feet of gross floor area are provided, as shown in the attached plans and diagrams.

Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By: 

Douglas J. Patton, Esq.

2084846_v1

A

Exhibit A: Portion of the Sanborn Atlas, showing the Site outlined in red

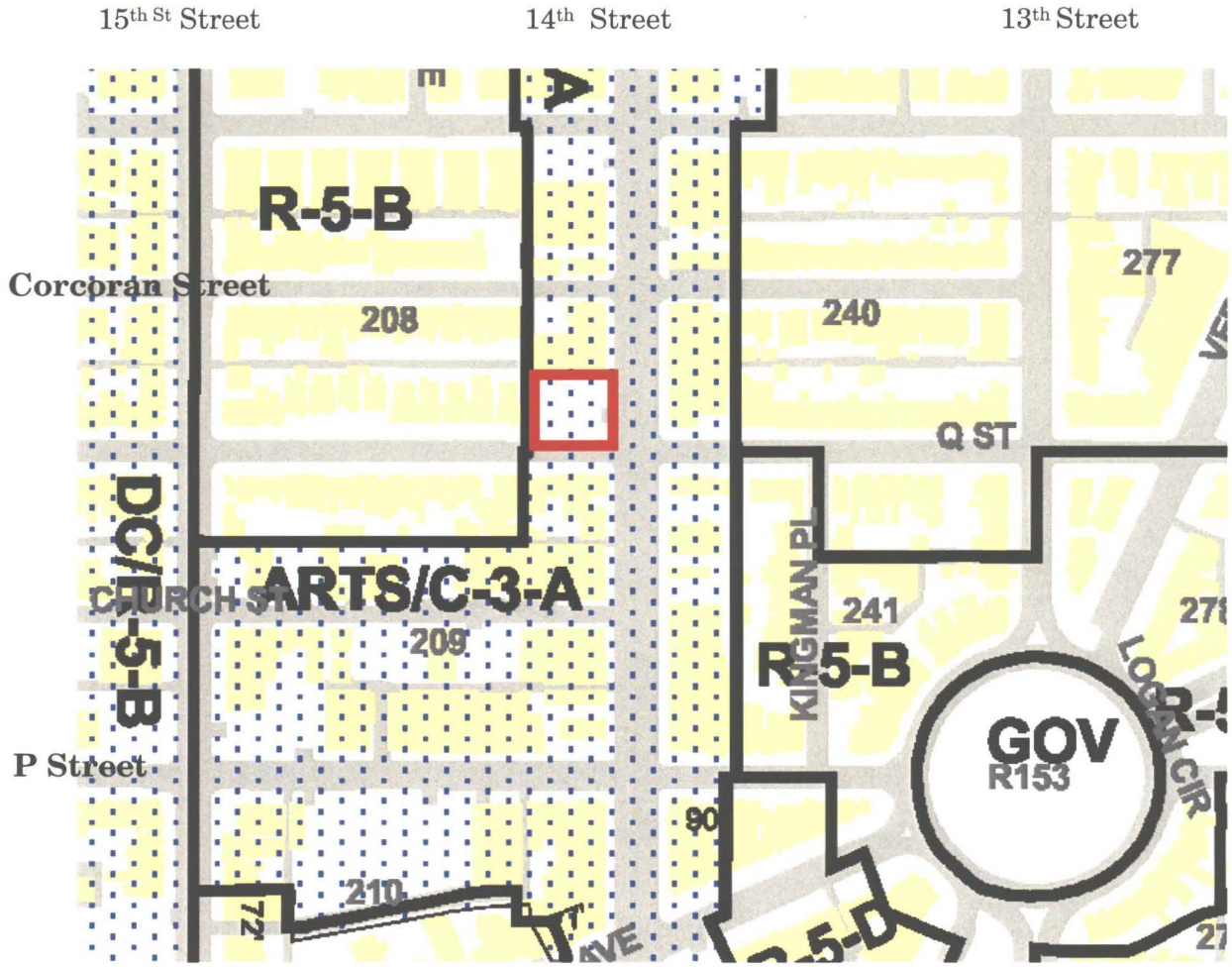
Lot 139, Square 208 and Its Context



B

Exhibit B: Portion of the Zoning Map, showing the Site outlined in red

(Names or Numbers of Some Streets Added, Supplementing those on Zoning Map Itself)



2074526_v1

C

1401 Q STREET CONDOMINIUM

WASHINGTON, DC

BUILDING CODE AND PROJECT DATA

1. SITE DATA:

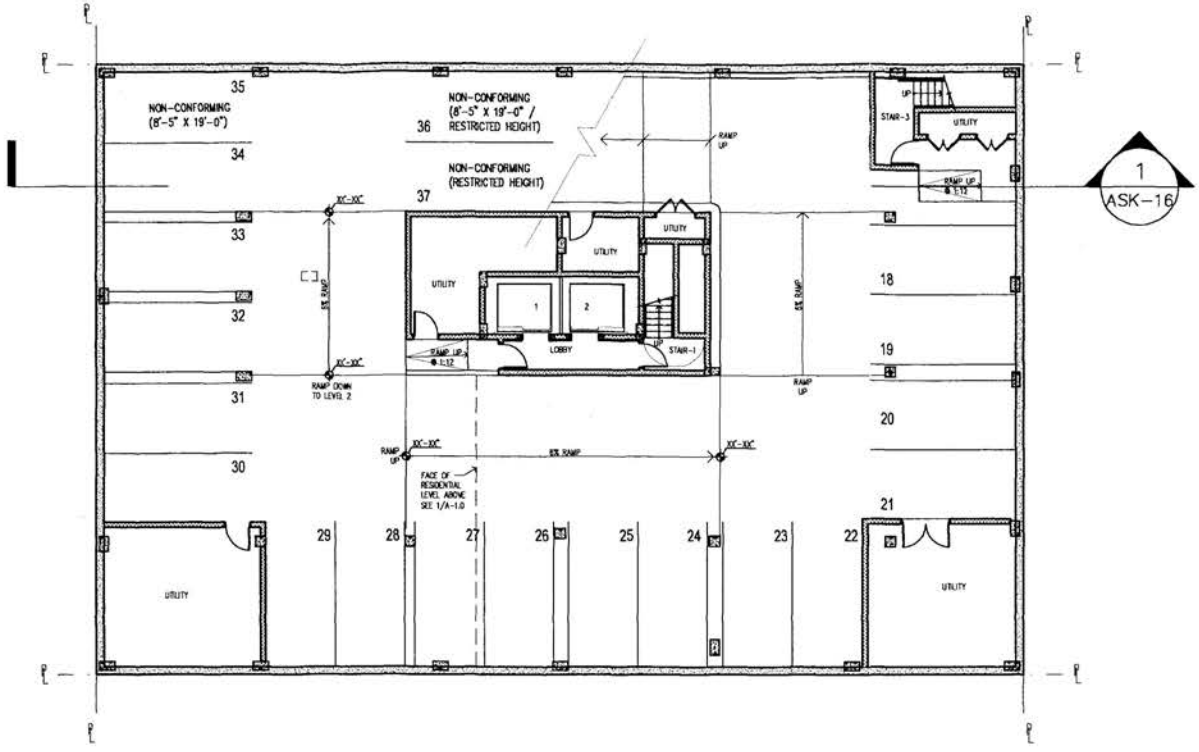
LOT	SQUARE	AREA
139	208	9,480 G.S.F.

2. ZONING DISTRICT:
   C-3-A/ARTS OVERLAY DISTRICT
3. CONSTRUCTION TYPE:
   CONCRETE FLAT PLATE- TYPE 1
   MASONRY AND STEEL STUD NON-LOAD BEARING WALLS
4. USE GROUP:
   M - MERCANTILE
   R2 - MULTI-FAMILY RESIDENTIAL
5. FIRE SUPPRESSION SYSTEM:
   THE BUILDING WILL BE FULLY SPRINKLERED.
6. NUMBER OF STORIES ABOVE GRADE: 7
7. BUILDING HEIGHT: 72'-0" (71'-0" - MEASURED TO BUILDING FACE AT P
   +1'-0" - MEASURED TO TOP OF CURB @ $\frac{C}{L}$ OF 14TH STREET ELEVATION)
8. FLOOR AREAS:

FIRST	6,359 GSF	(2,982 GSF COMMERCIAL AND 3,377 GSF RESIDENTIAL)
SECOND	6,828 GSF	
THIRD	6,828 GSF	
FOURTH	6,828 GSF	
FIFTH	6,828 GSF	
SIXTH	5,716 GSF	
SEVENTH	3,185 GSF	
TOTAL	42,572 GSF	(39,590 RESIDENTIAL)

9. PARKING SPACES: REQUIRED - 13 , PROVIDED - 37 (4 NON-CONFORMING)
10. BUILDING CODE:
    BOCA NATIONAL BUILDING CODE- 1996 EDITION, DC SUPPLEMENT DCMR 12/1999
    ZONING: DCMR 11, DC ZONING CODE
    SPRINKLER : NFPA #13 1996
    MECHANICAL: INTERNATIONAL MECHANICAL CODE/1996
    PLUMBING: INTERNATIONAL PLUMBING CODE/1995
    ELECTRICAL: NFPA NATIONAL ELECTRICAL CODE/1996
    AMERICANS WITH DISABILITIES ACT - 1992





1 / ASK-1 PARKING – LOWER LEVEL

1/16" = 1'-0"

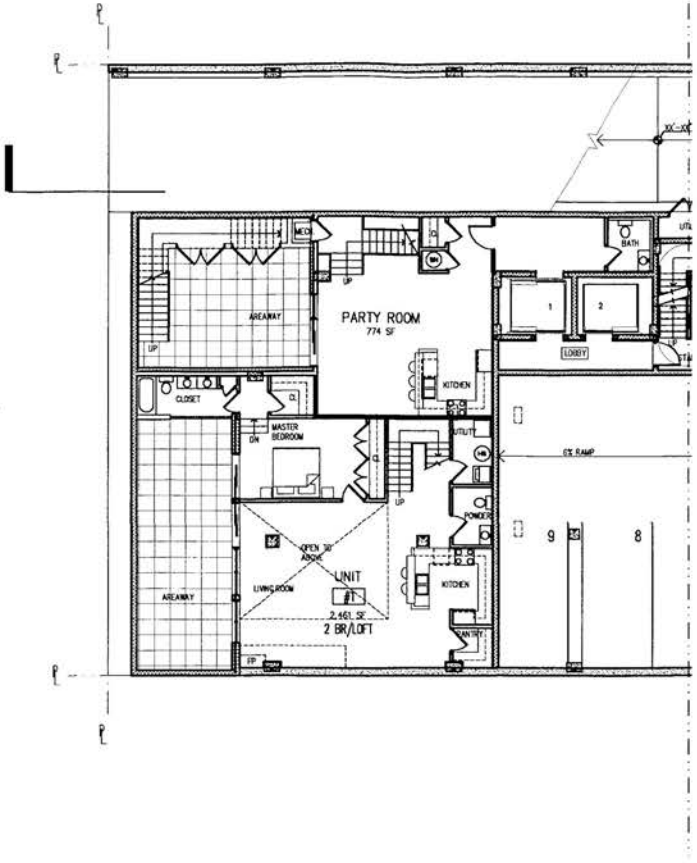
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

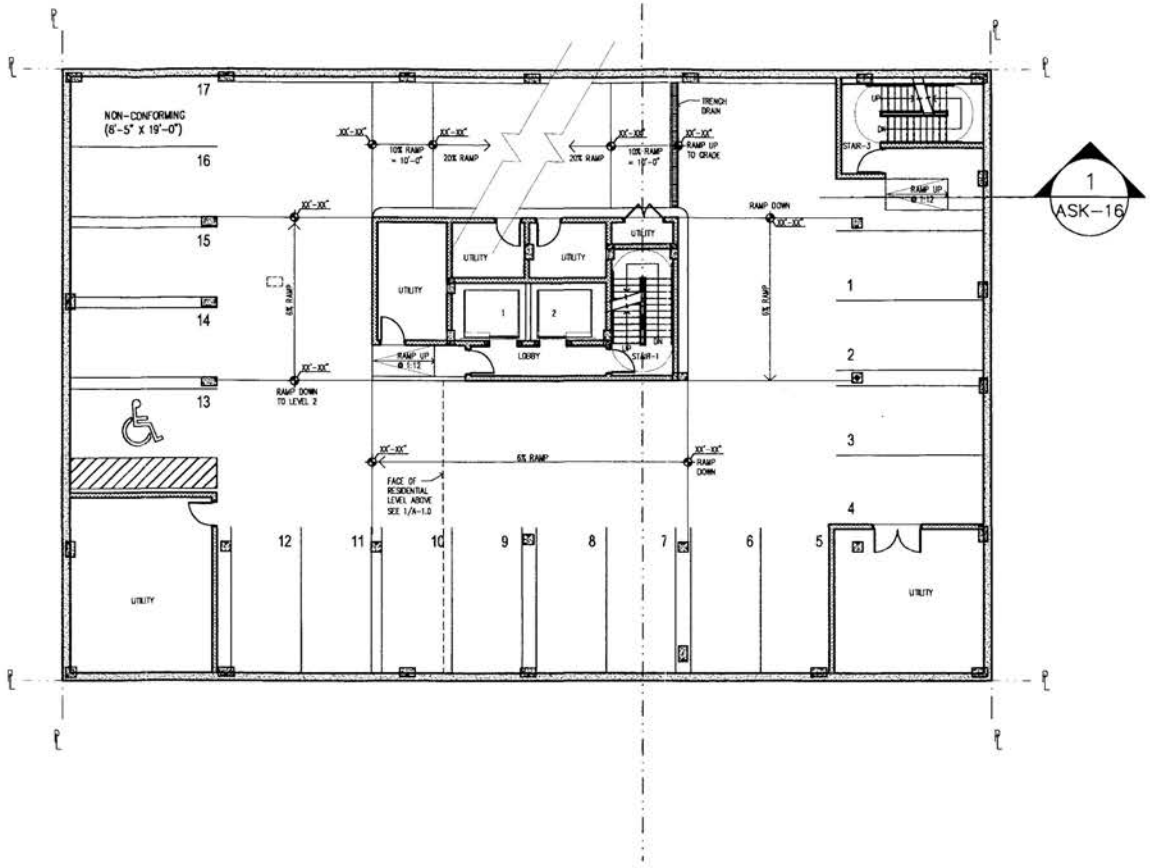
ASK-1

02 July 2004



2 ASK-2 CELLAR LEVEL PLAN

1/16" = 1'-0"



1 ASK-16

1 ASK-2 PARKING - UPPER LEVEL

1/16" = 1'-0"

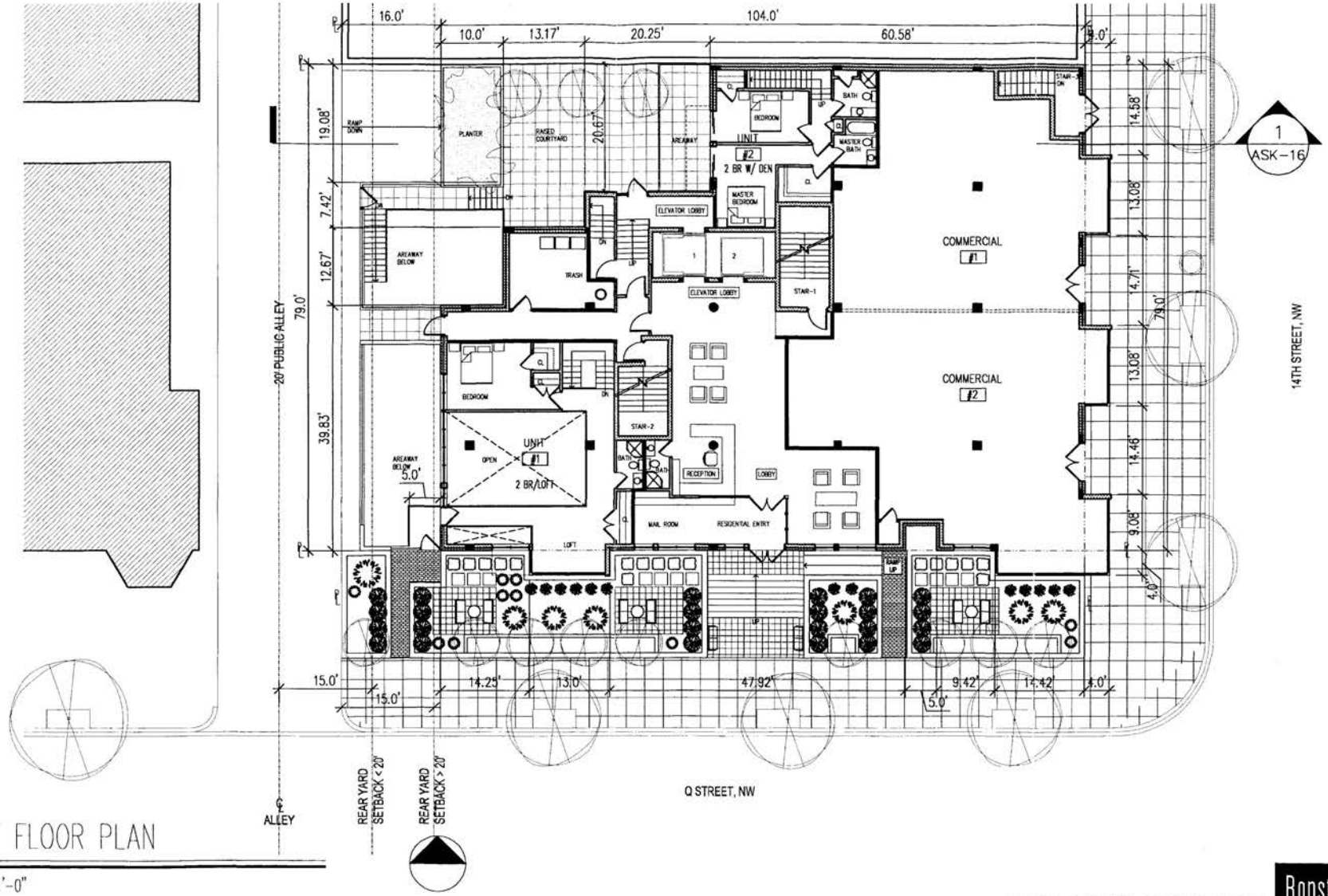
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-2

02 July 2004



1
ASK-3

FIRST FLOOR PLAN

1/16" = 1'-0"

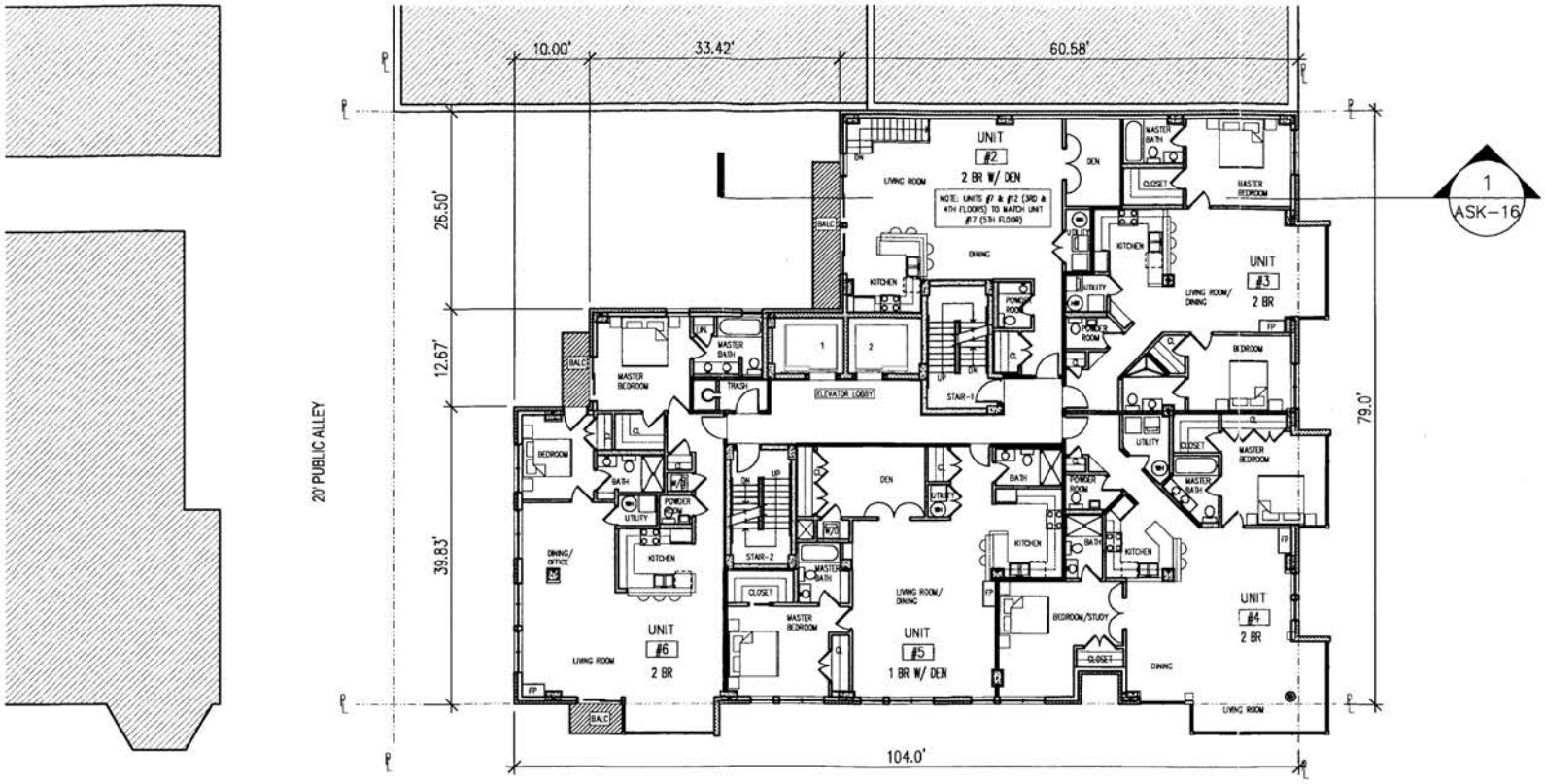
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-3



NOTE: SEE FIRST FLOOR PLAN FOR ADDITIONAL DIMENSIONS

1
ASK-4

TYPICAL FLOOR PLAN

1/16" = 1'-0"

2ND THRU 4TH

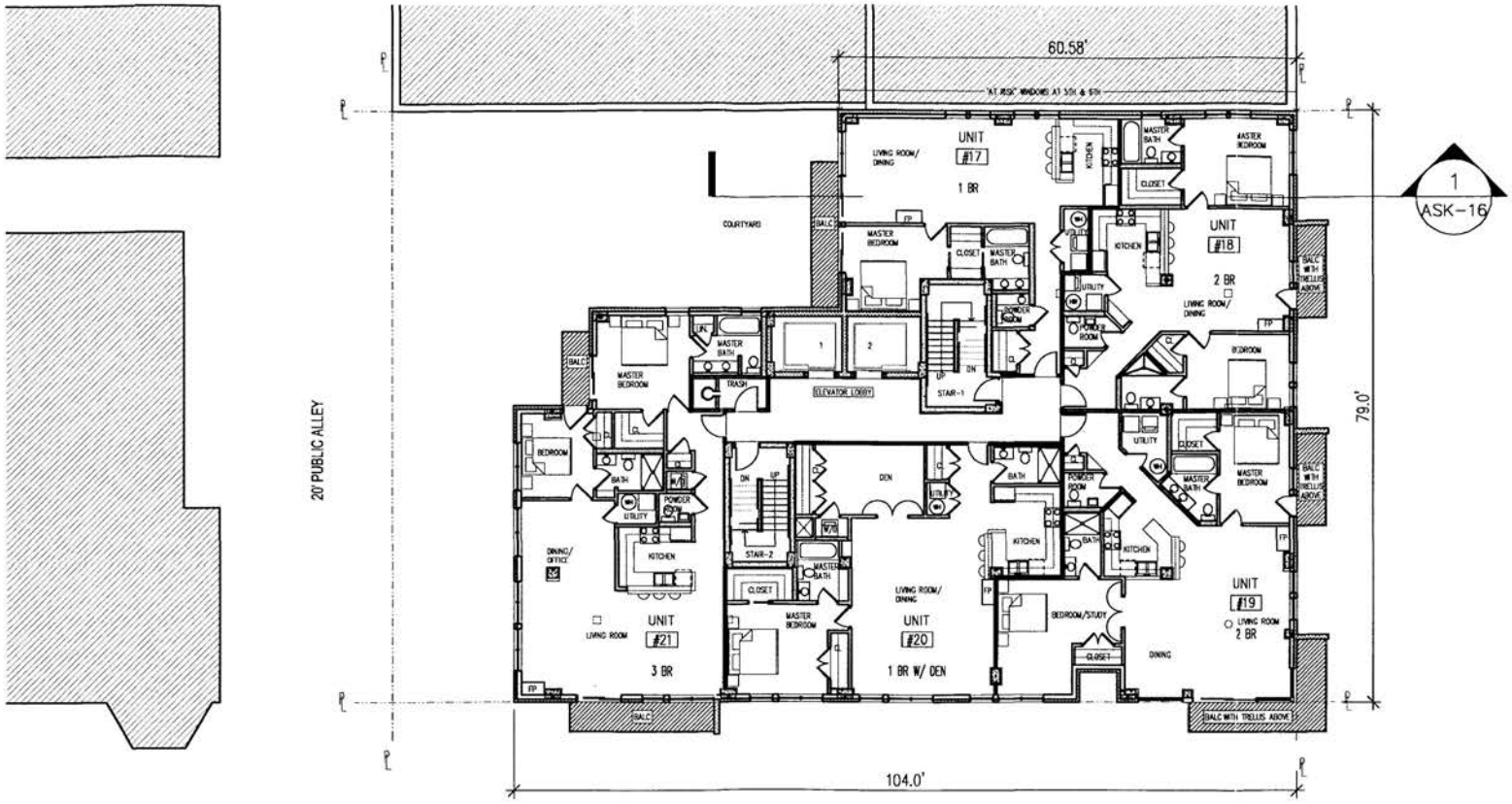
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-4



NOTE: SEE TYPICAL FLOOR PLAN FOR ADDITIONAL DIMENSIONS

1
ASK-5

5TH FLOOR PLAN

1/16" = 1'-0"

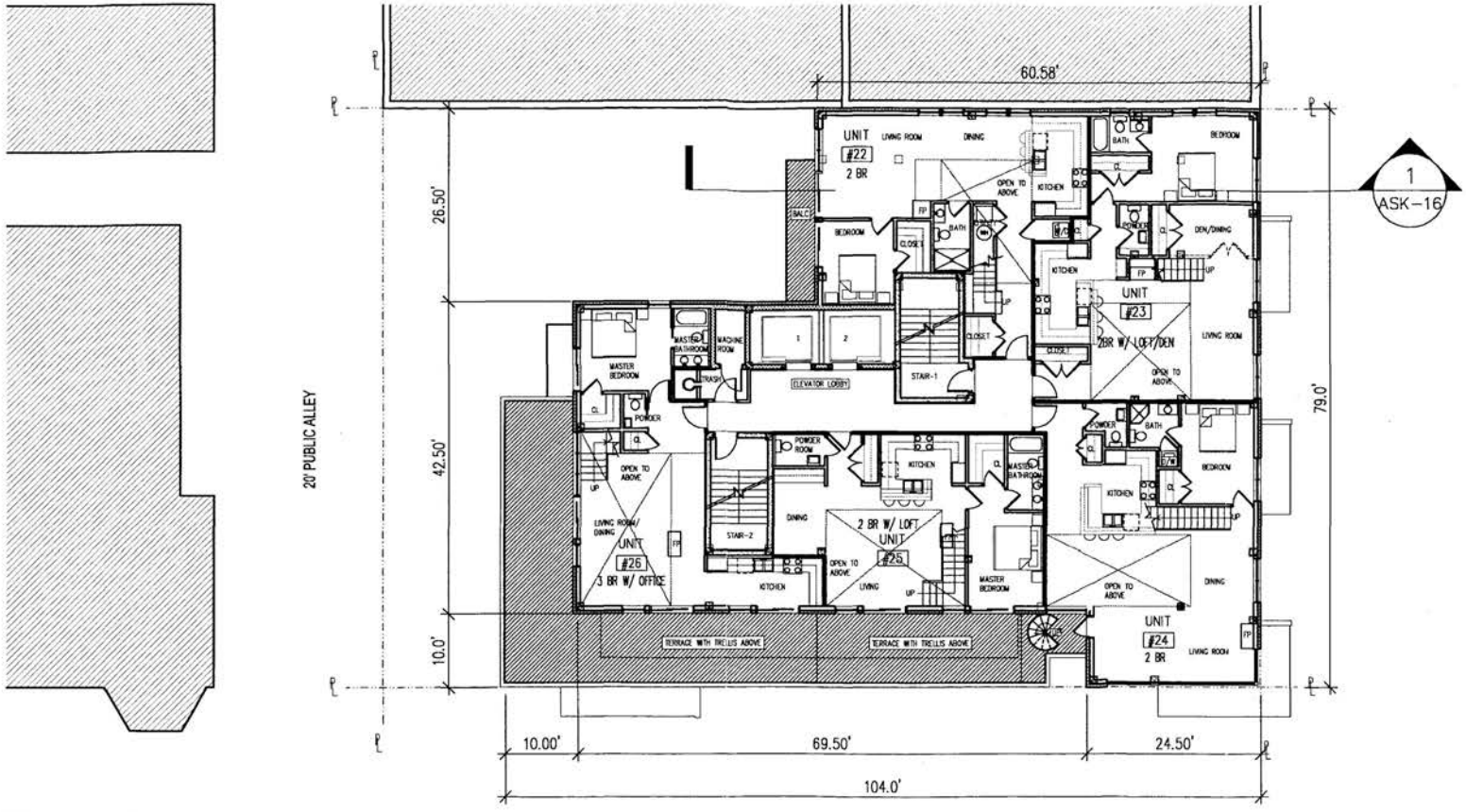
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-5



1 ASK-6 SIXTH FLOOR PLAN

1/16" = 1'-0"

NOTE: SEE TYPICAL FLOOR PLAN FOR ADDITIONAL DIMENSIONS

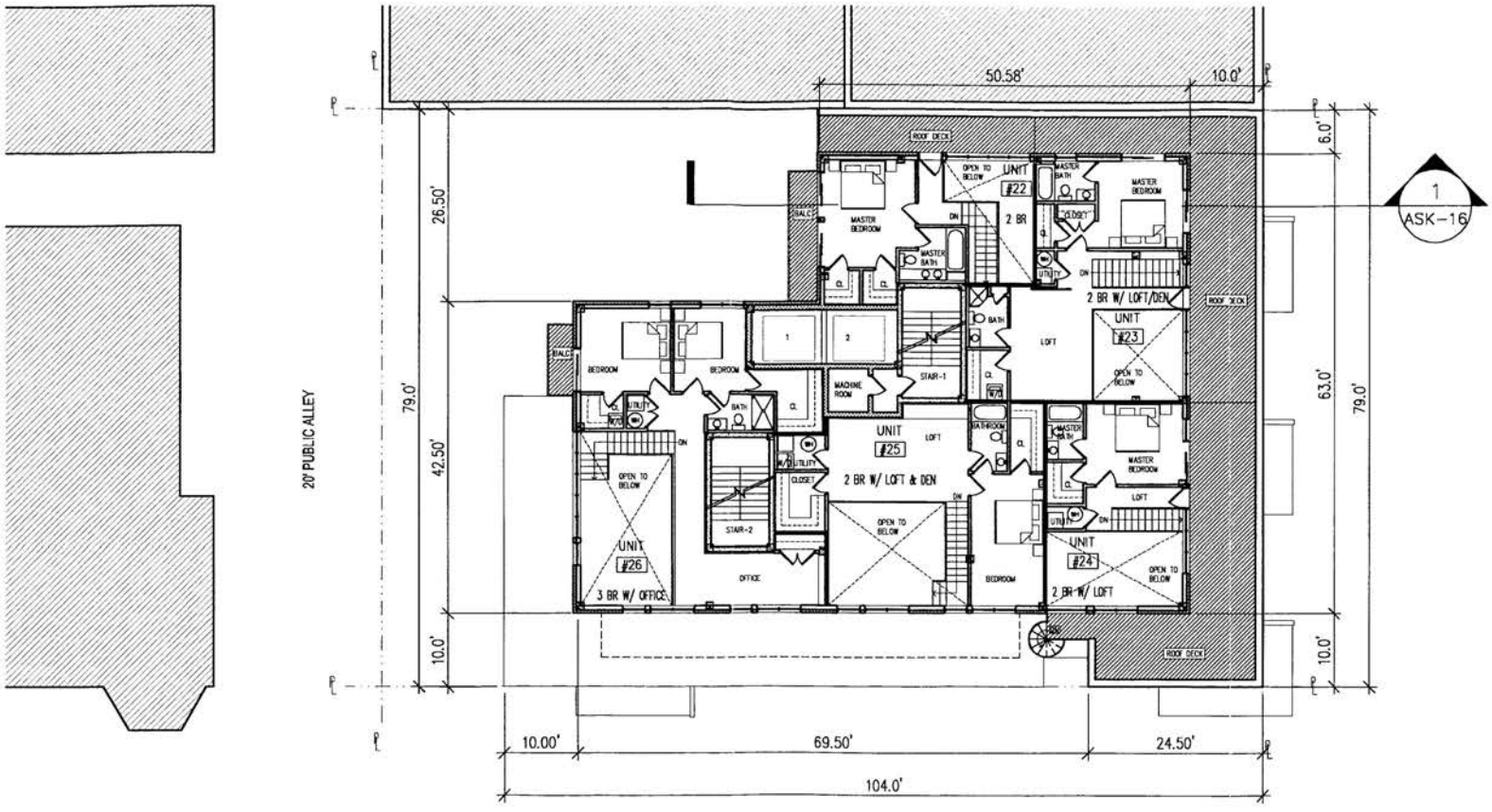
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects pc

ASK-6



1 ASK-7

7TH FLOOR PLAN – PENTHOUSE

1/16" = 1'-0"

NOTE: SEE TYPICAL FLOOR PLAN FOR ADDITIONAL DIMENSIONS

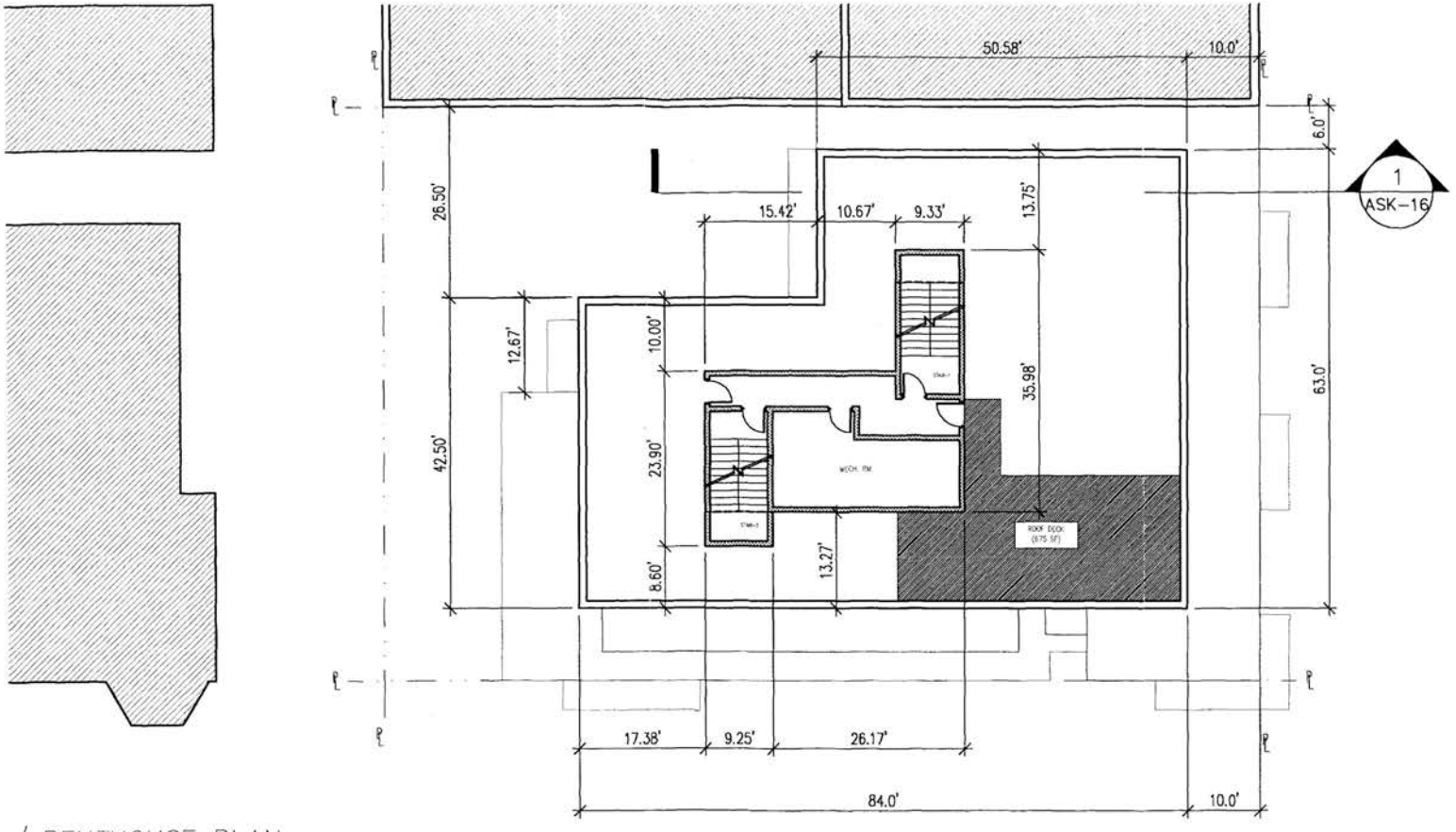
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects pc

ASK-7



1 / ASK-8 ROOF / PENTHOUSE PLAN

1/16" = 1'-0"

OPTION #1

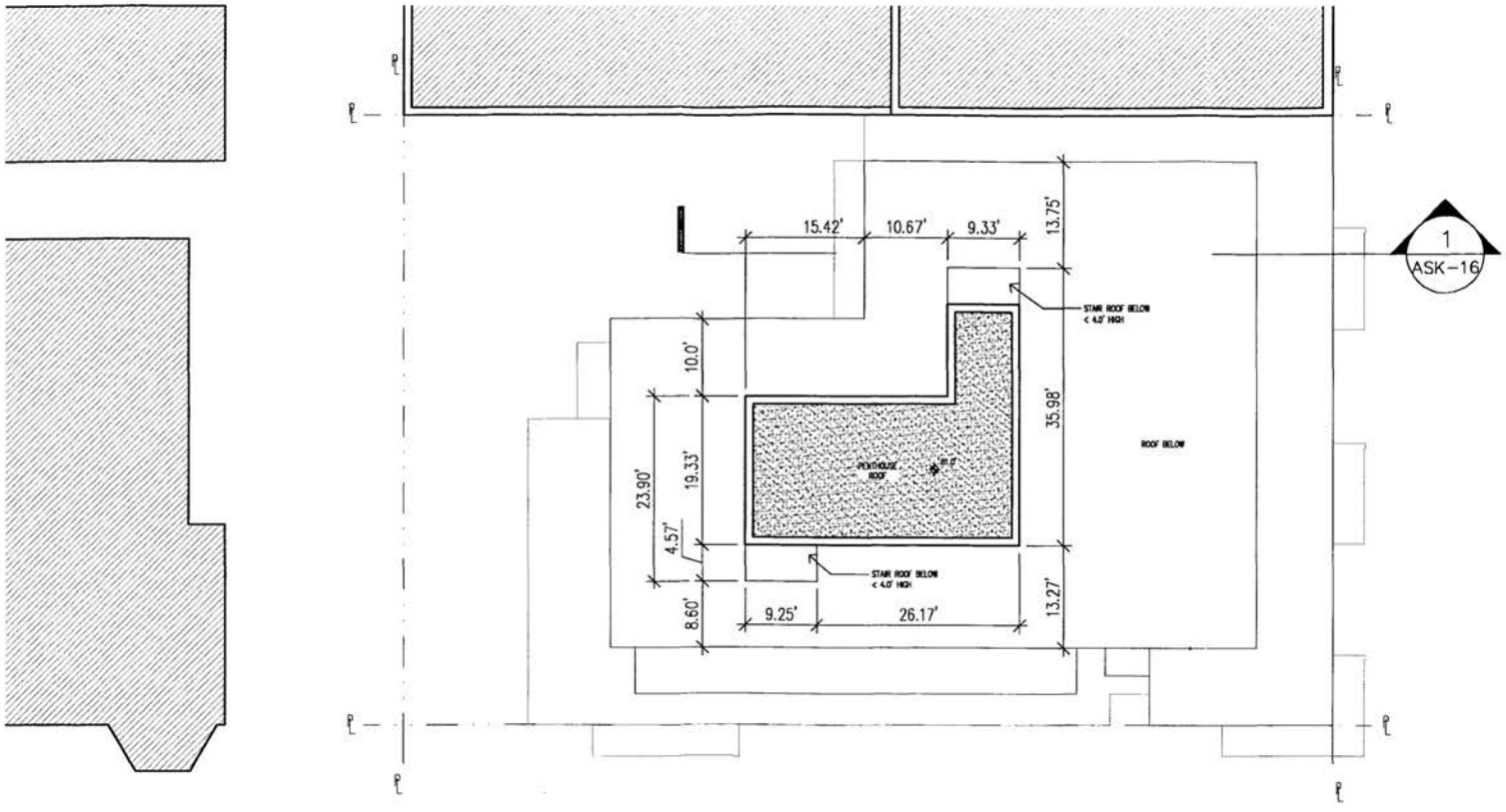
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-8

02 July 2004



1
ASK-9

PENTHOUSE ROOF PLAN

1/16" = 1'-0"

OPTION #1

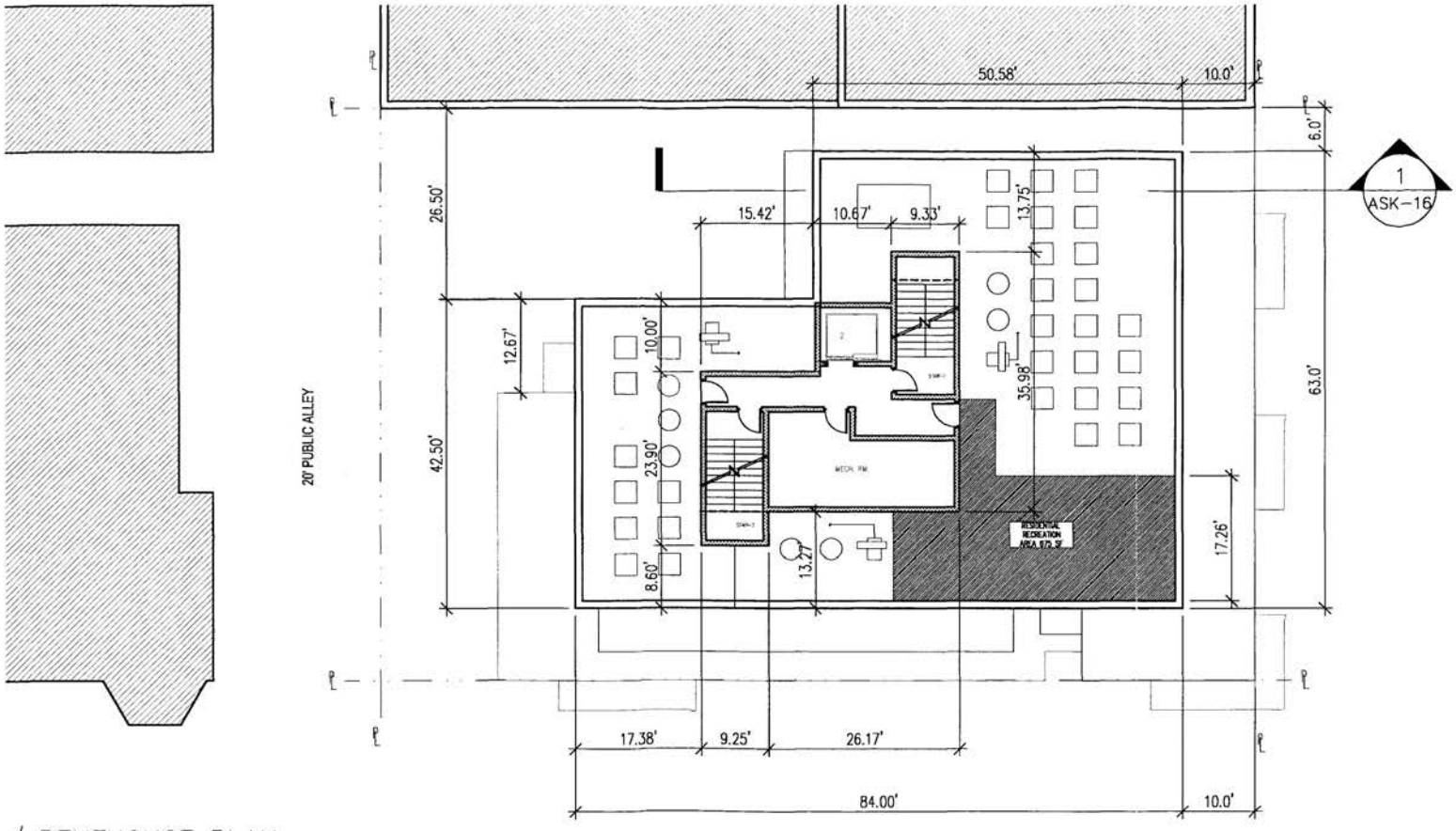
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-9



1 ASK-10

ROOF / PENTHOUSE PLAN

1/16" = 1'-0"

OPTION #2

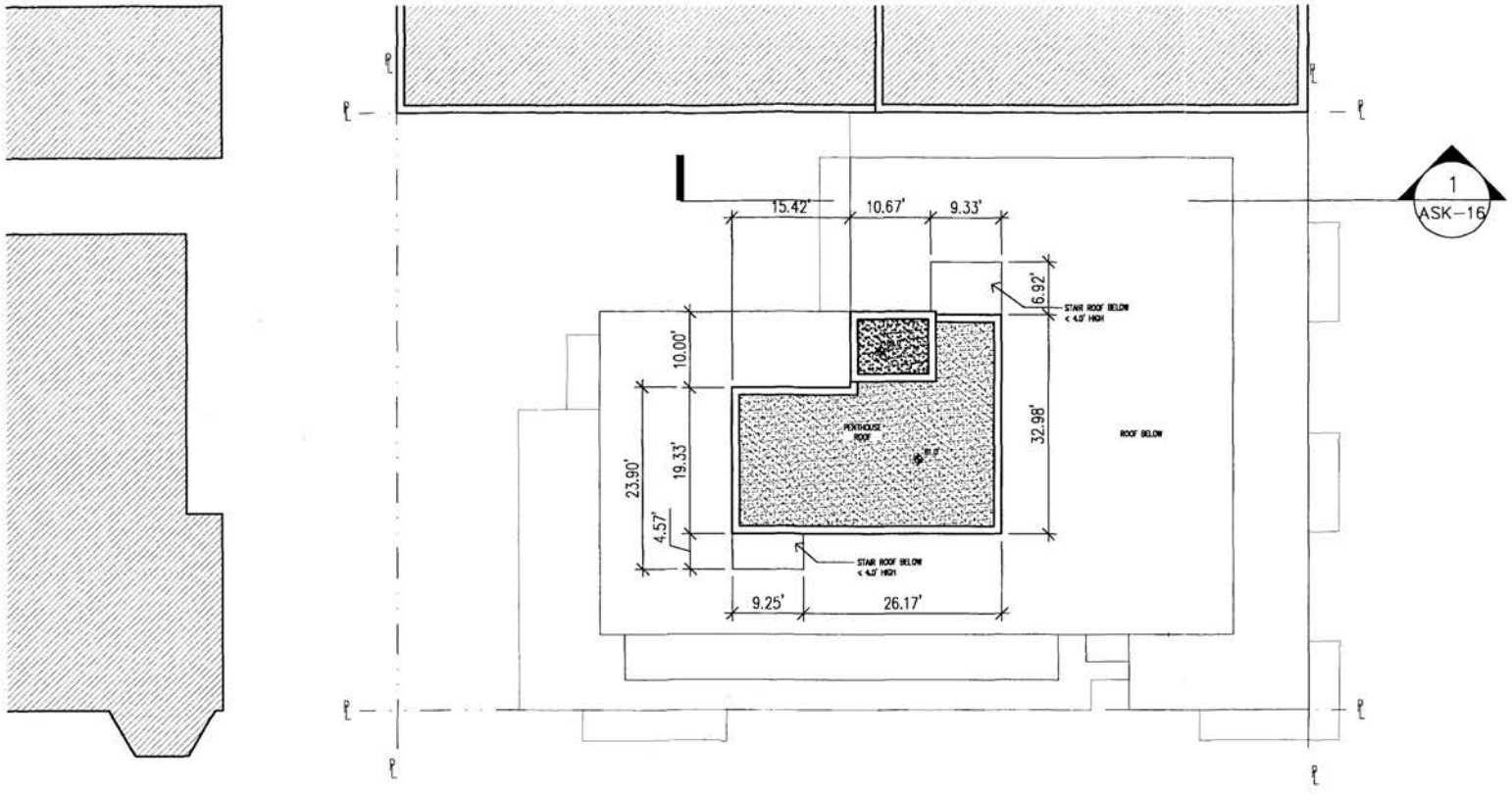
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects pc

ASK-10

02 July 2004



1
ASK-11

PENHOUSE ROOF PLAN

1/16" = 1'-0"

OPTION #2

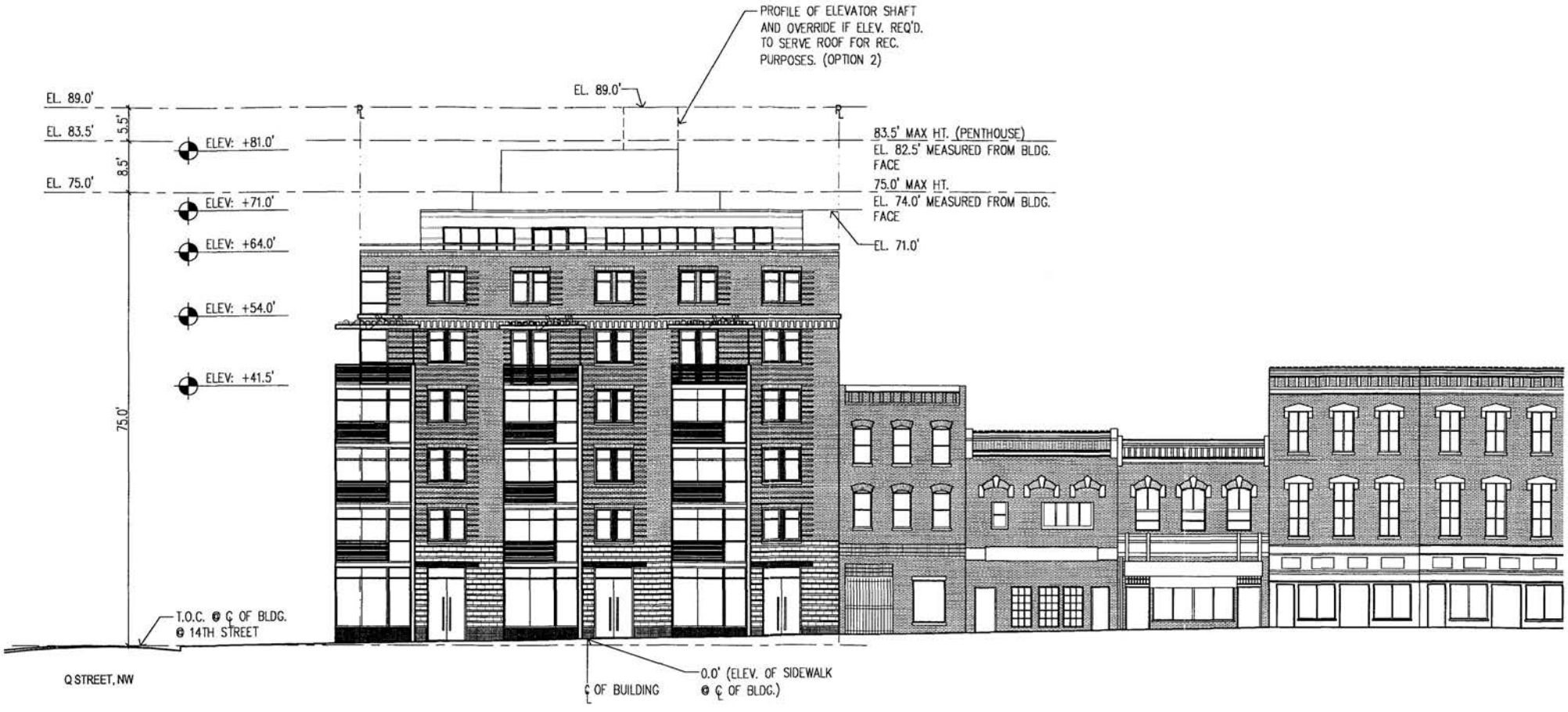
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects pc

ASK-11



1 / ASK-12

14 STREET ELEVATION

1/16" = 1'-0"

FACING EAST

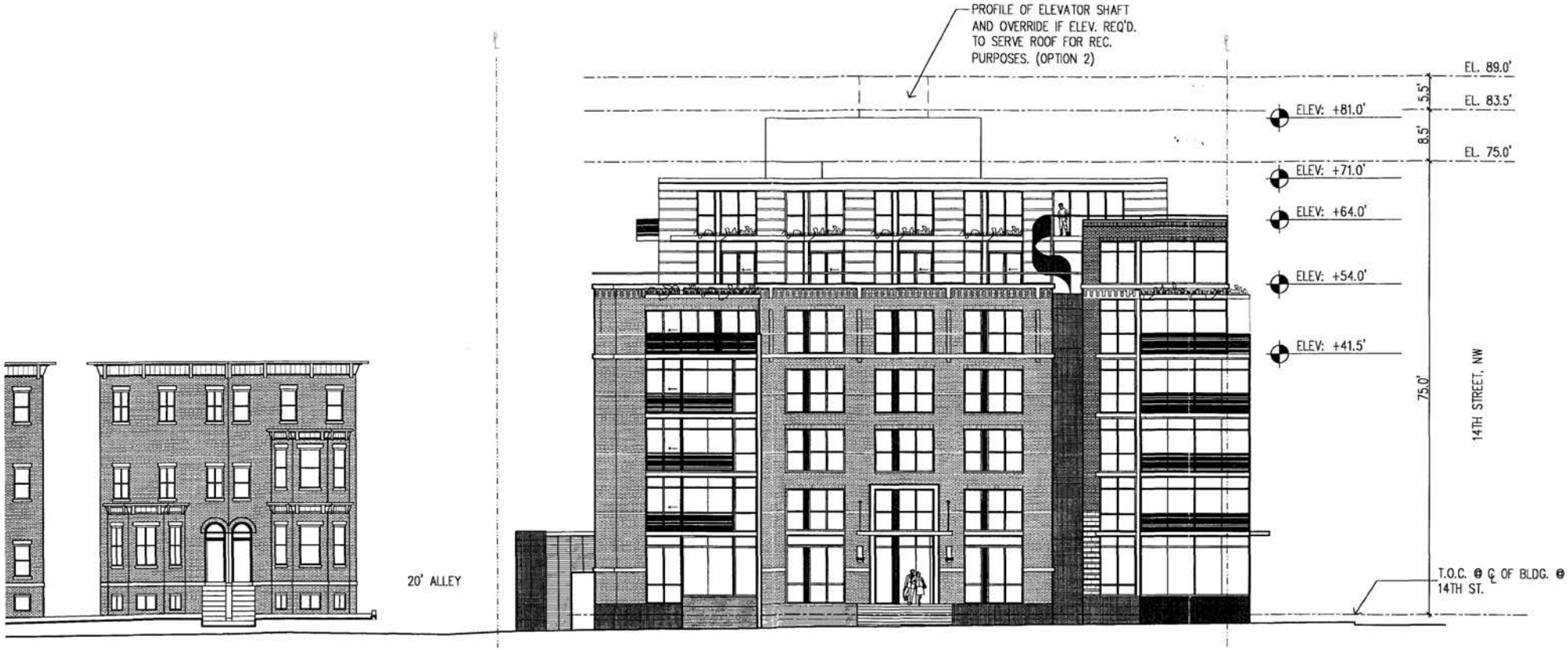
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-12



1
ASK-13

Q STREET ELEVATION

1/16" = 1'-0"

FACING NORTH

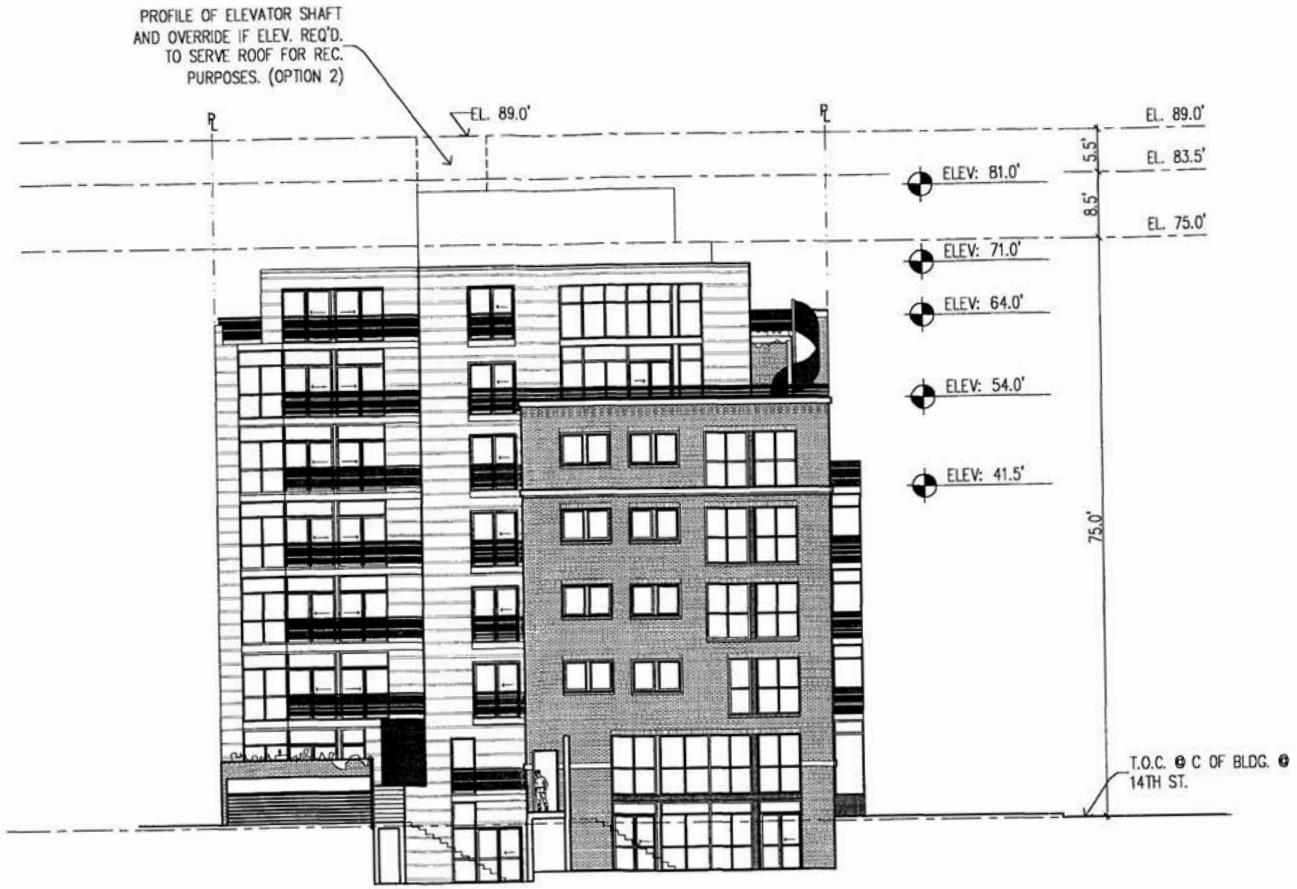
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-13



1 / ASK-14

ALLEY ELEVATION

1/16" = 1'-0"

FACING WEST

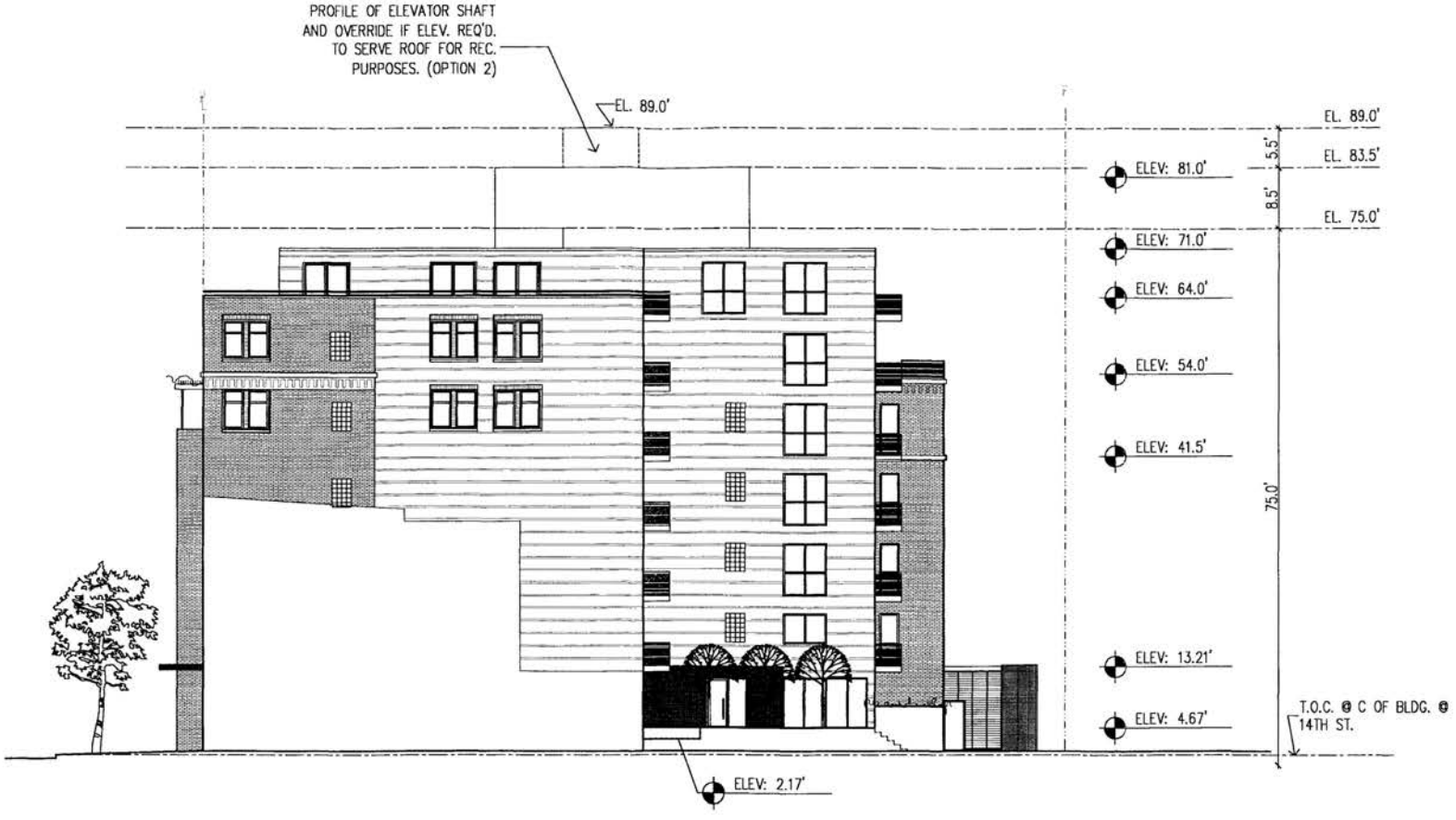
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-14



1
ASK-15

ELEVATION AT COURT YARD

1/16" = 1'-0"

FACING SOUTH

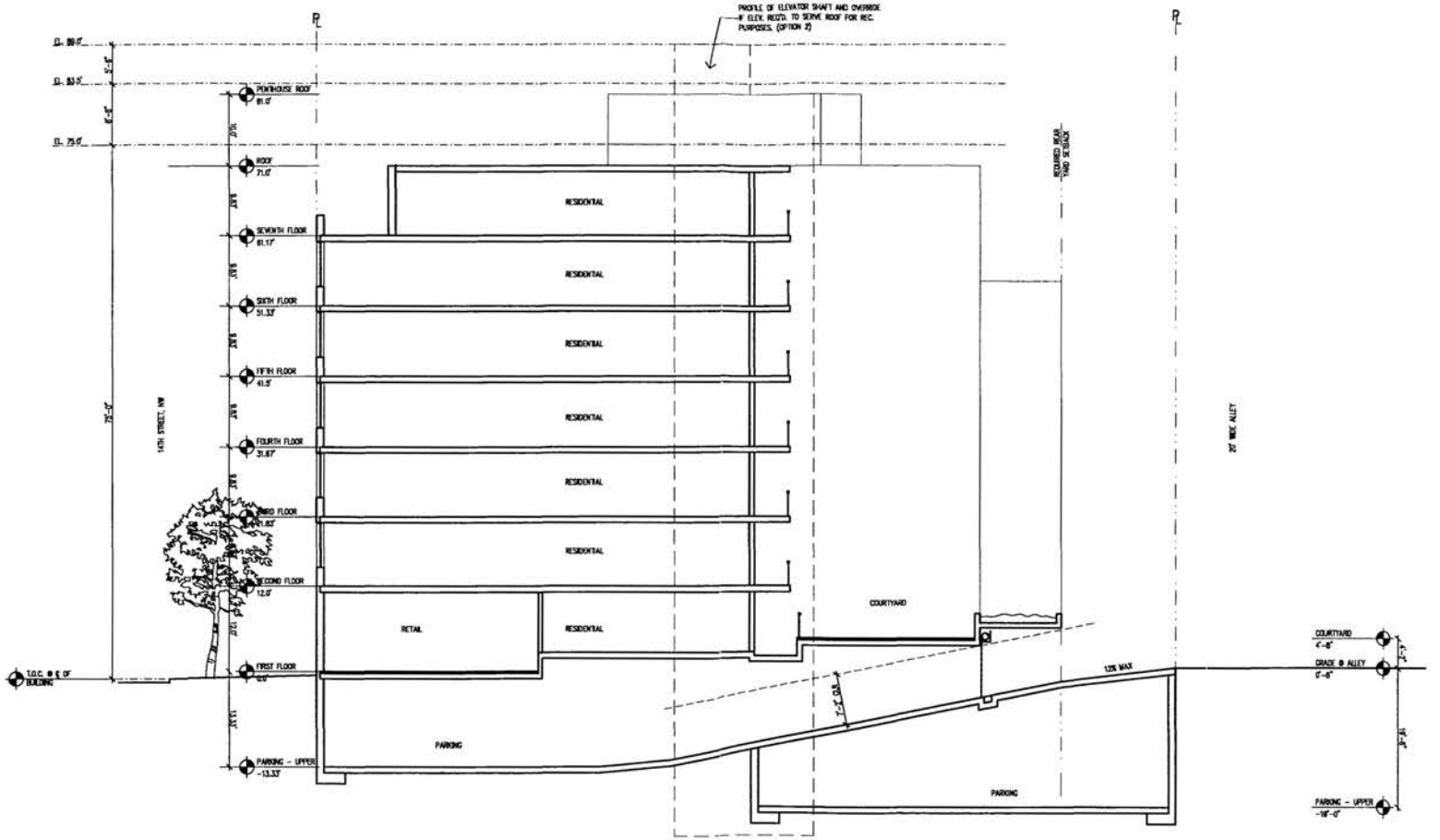
02 July 2004

14 & Q STREET CONDOMINIUM

WASHINGTON, DC

Bonstra Architects PC

ASK-15



1
ASK-16

SCHEMATIC SECTION

1/16" = 1'-0"

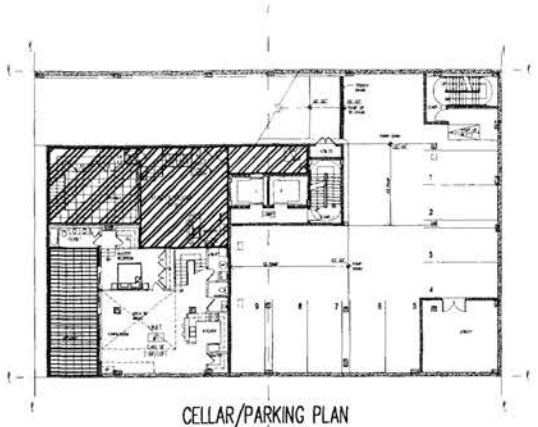
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

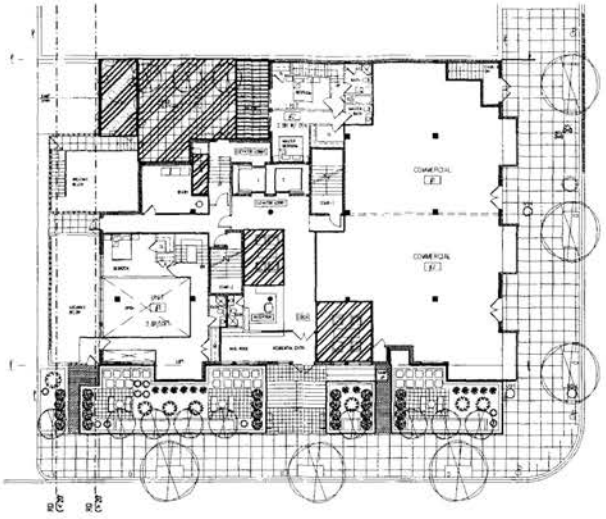
Bonstra Architects PC

ASK-16

02 July 2004



CELLAR/PARKING PLAN



FIRST FLOOR PLAN



BALCONIES (4) REMOVED BY HPRB REQUEST

2ND–4TH FLOOR PLAN



BALCONIES (4) REMOVED BY HPRB REQUEST

5TH FLOOR PLAN



6TH FLOOR PLAN



7TH FLOOR PLAN–PENTHOUSE

1
ASK-17

RESIDENTIAL RECREATION SCHEME

1/32" = 1'-0"

FLOORS CELLAR–7TH

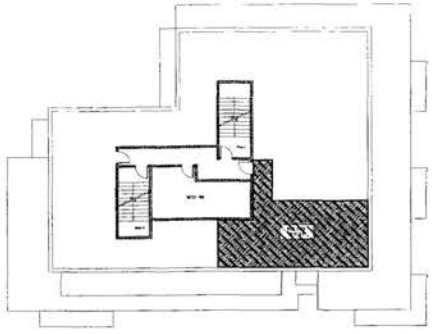
14 & Q STREET CONDOMINIUM

WASHINGTON, DC

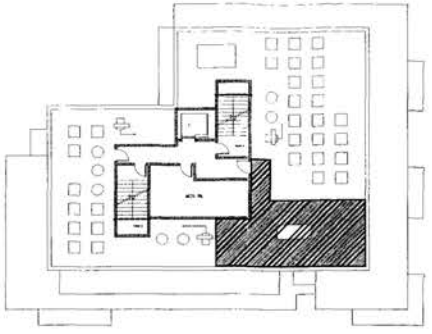
Bonstra Architects pc

ASK-17

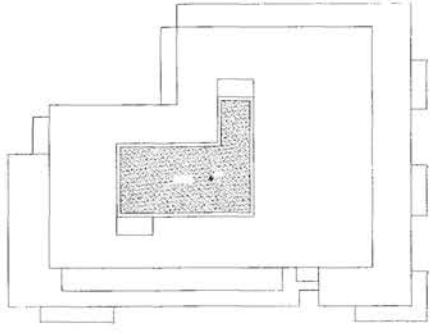
02 July 2004



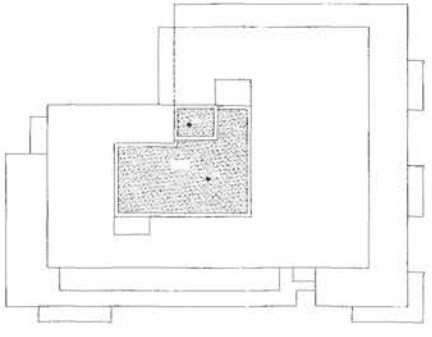
ROOF, PENTHOUSE - OPTION 1



ROOF, PENTHOUSE - OPTION 2



PENTHOUSE ROOF - OPTION 1



PENTHOUSE ROOF - OPTION 2

	RESIDENTIAL REC. (INDOORS)
	RESIDENTIAL REC. (OUTDOORS)
	ROOF DECK
	PRIVATE TERRACES
	PRIVATE AREAWAYS
	PRIVATE BALCONIES
	LANDSCAPED AREA (Q ST.)
	REMOVED BALCONIES

1
ASK-18

RESIDENTIAL RECREATION SCHEME

1/32" = 1'-0"

PENTHOUSE - ROOF OPT. 1,2

02 July 2004

14 & Q STREET CONDOMINIUM

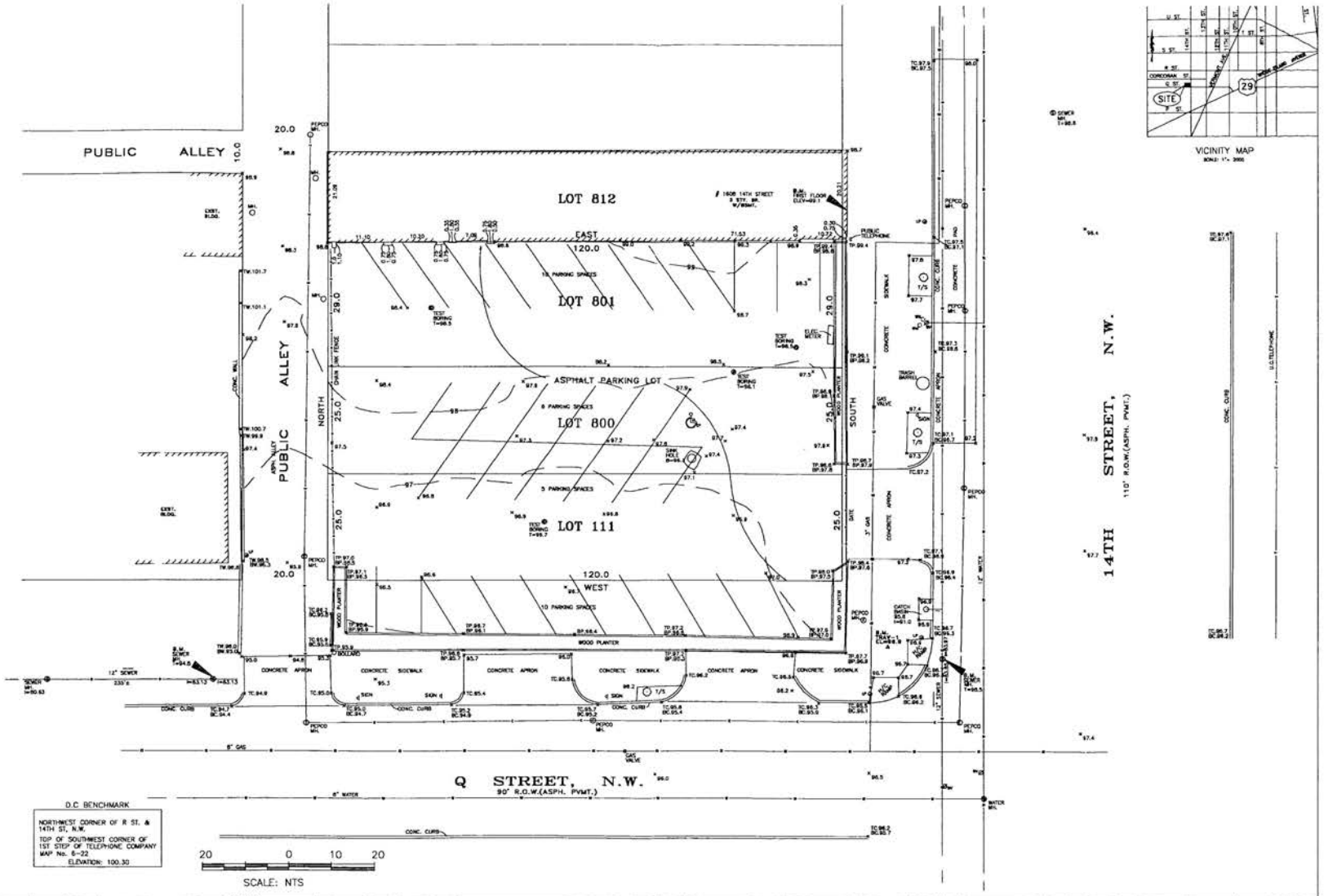
WASHINGTON, DC

Bonstra Architects pc

ASK-18

Residential Recreation Space - Qualifying	OPTION 1 (SF)	OPTION2 (SF)
Residential Recreation (indoors)	1,139	1,139
Residential Recreation (outdoors, excl. roof deck)	1,234	1,234
Residential Recreation (outdoors, roof deck itself)	0	675
Subtotal:	2,373	3,048
Percentage of Residential Gross Floor Area:	6.0%	7.7%
Other Outdoor Space with Recreation Potential		
Roof Deck for Residential Owners/Tenants	675	0
Private Terraces	2,075	2,075
Private Areaways	572	572
Private Balconies	1,017	1,017
Landscaped Area (on "Q" Street)	1,398	1,398
Subtotal:	5,737	5,062
Percentage of Residential Gross Floor Area:	14.5%	12.8%
TOTAL:	**8,110**	**8,110**
Percentage of Residential Gross Floor Area:	20.5%	20.5%
Balconies Removed (Historic Preservation Review Board)	*404*	*404*

Residential Recreation Space	Area (SF)
Indoors	
Party Room	774
Lobby Seating	146
Entrance Sitting Room	219
Subtotal:	**1,139**
Outdoors (exl. roof deck)	
Party Room Areaway	439
Rear Terrace	795
Subtotal:	**1,234**
TOTAL:	**2,373**



No.	DESCRIPTION	NAME	DATE
	REVISIONS		

DRAWN RAJ
DESIGNED
CHECKED ANDREW
SCALE NTS

WEST CONSULTING GROUP
4424 MONTGOMERY AVENUE
BETHESDA, MARYLAND 20814
(301) 654-7907 654-7908 (FAX)

14TH & Q STREET, N.W.

TOPOGRAPHIC SURVEY
LOT 800,801 & 111 SQUARE 208
WASHINGTON, DC.

DATE NOV. 3RD 03
SHEET 1 OF 1
JOB No. 03-181

14 & Q STREET CONDOMINIUM

02 July 2004

WASHINGTON, DC

Bonstra Architects PC

ASK-20

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., March 15, 2004

Plat for Building Permit of: SQUARE 208 LOT 139

Scale: 1 inch = 20 feet Recorded in Book 196 Page 181

Receipt No. 10040

Furnished to: JAN MARUT

For Surveyor, D.C.

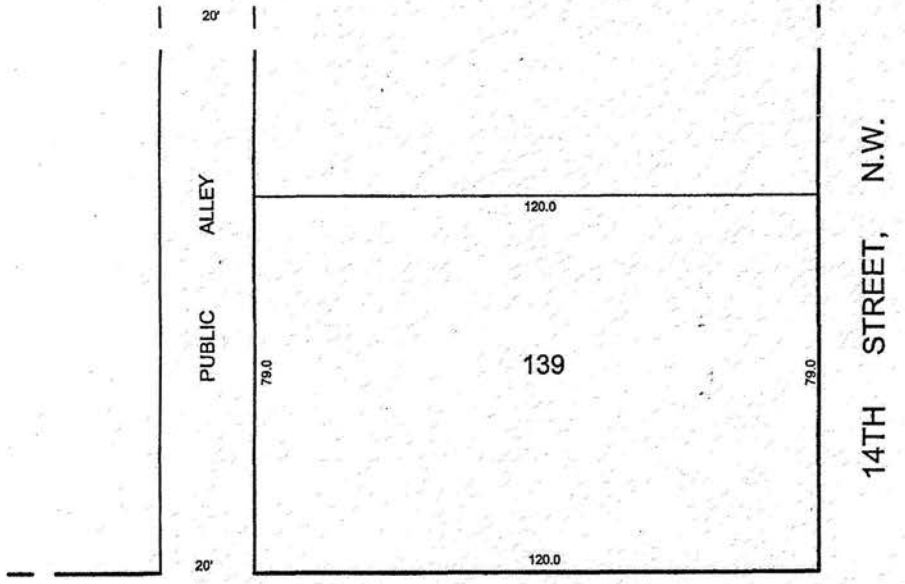
By: B.D.M

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat;and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

Date: 3/28/04

(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



COPY OF SURVEYOR'S PLAT

Bonstra Architects PC

14 & Q STREET CONDOMINIUM
WASHINGTON, DC

ASK-21

02 July 2004