

City of Portland
 Development Review Application
 Planning Division Transmittal Form

Application Number: 2015-041

Application Date: 03/11/2015

CBL: 046 C019001

Application Type: Zoning Map Amendment

Project Name: 667 Congress Street Map Amendment

Address: 667- CONGRESS ST

Project Description: Change the rear half of the parcel from R-6 to B-3. The front half of the parcel is already B-3. We are proposing to build a 7-8 story multi-family apartment building with roughly 130 rental apartments and parking under and behind the building.

Distribution List:

Planner	Barbara Barhydt	Parking	John Peverada
Zoning	Ann Machado	Design Review	Caitlin Cameron
Traffic Engineer	Tom Errico	Corporation Counsel	Jennifer Thompson
Civil Engineer	David Senus	Sanitary Sewer	John Emerson
Fire Department	Keith Gautreau	Inspections	Tammy Munson
City Arborist	Jeff Tarling	Historic Preservation	Deb Andrews
Engineering	David Margolis-Pineo	DRC Coordinator	Phil DiPierro
		Outside Agency	

SUBDIVISION PLAT

On the basis of the application, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application 2015-120 relevant to the Subdivision Ordinance, and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds the following:

That the plan (**is/is not**) in conformance with the subdivision standards of the land use code, subject to the following conditions:

1. The recording plat shall be revised noting all waivers and conditions for review and approval by the Planning Authority prior to recording. All waivers shall be recorded within 90 days of the Planning Board approval; and
2. The applicant shall finalize the subdivision plat for review and approval by Corporation Counsel, the Department of Public Services, and the Planning Authority. The final plat shall address the City's Surveyor's comments dated 09.25.2015.

**Shukria Wiar - 89 Lawrence Street Subdivision and Survey Plans - Survey review
9 25 2015**

From: William Clark
To: David Margolis-Pineo
Date: 9/25/2015 3:26 PM
Subject: 89 Lawrence Street Subdivision and Survey Plans - Survey review 9 25 2015
CC: Shukria Wiar
Attachments: 89 Lawrence St Boundary Topo 6 11 2014 survey review 9 25 2015.PDF; 89 Lawrence St Subdivision Plat rev 9 15 survey review 9 25 2015.pdf

Hi David,

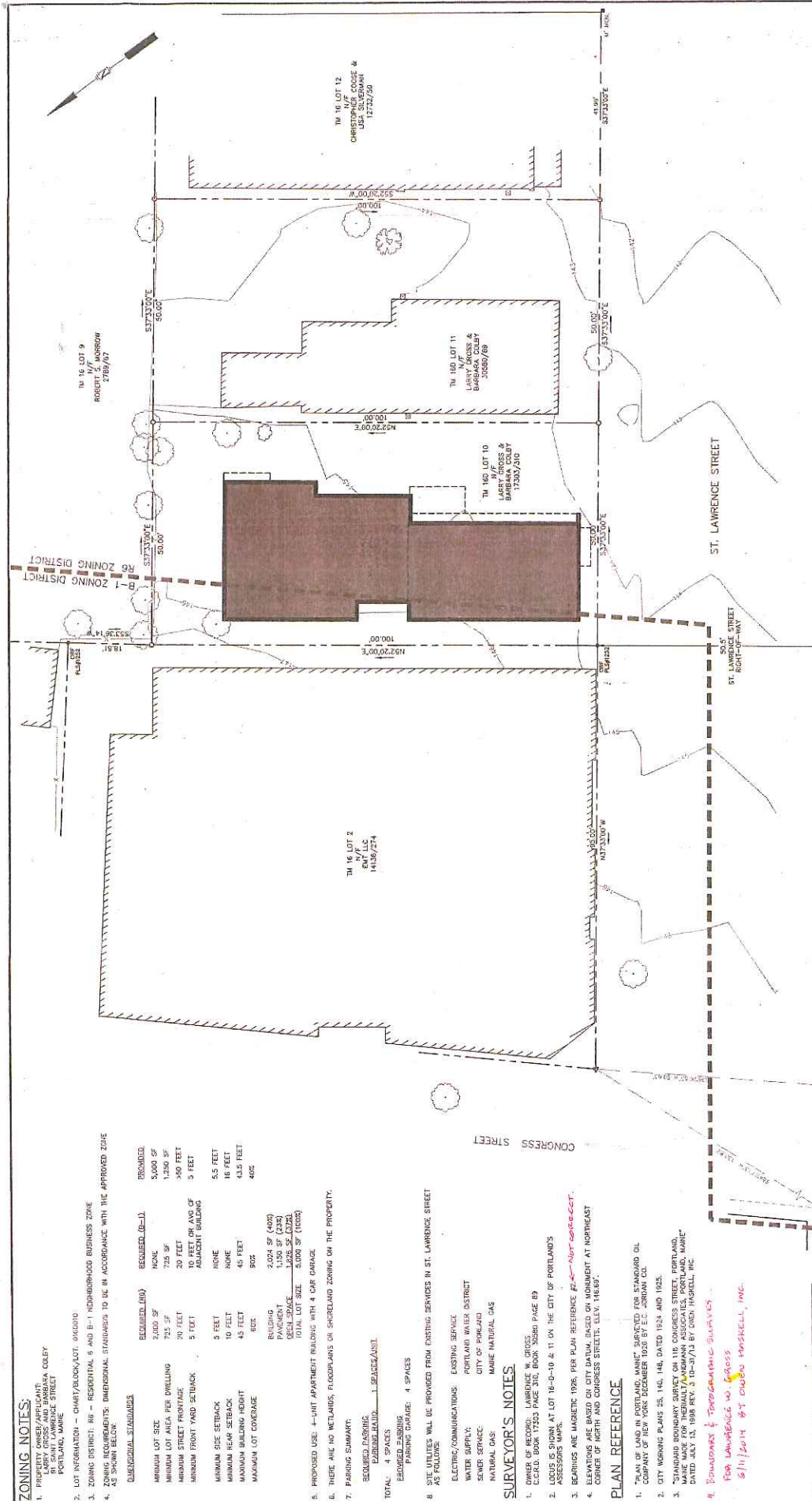
The "Subdivision Plat" Rev 9/15 needs to be prepared by a Licensed Professional Land Surveyor. Standard elements for a subdivision plan are too numerous to list here. The survey firm Owen Haskell, Inc who prepared the Boundary and Topographic Survey has prepared many subdivision plans in Portland and is extremely qualified to complete the plan.

The "Boundary and Topographic Survey" by Owen Haskell, Inc dated 6/11/2014 is very clean and concise. Several items as follows and are shown on the attached plan.

1. Please add State Plane Coordinates for four perimeter corners. This is for updating the City of Portland GIS parcel map.
2. Basis of Bearings. No issue with showing the record magnetic bearing basis. However, the City Working Plans referenced do not have any bearings on them. Bearings match the bearings for the 118 Congress Street project as recorded in Registry Plan Book 214_150, but the 118 Congress Street plan also references the same City Working Plans as a basis of bearing. Could the basis of bearing be plan reference 1, 1926?
3. Benchmark referenced. The monument at Congress Street and North Street is not listed in the Official City Benchmark Card file in the DPS Engineering Archives. Is the source of the 146.69 elevation from a City of Portland Engineering survey field book?
4. The plan shows a gas service line and oil fill along the side of the existing building. I suggest they add a "Proposed Future 5 foot wide gas service/oil fill Easement". Mr Gross cannot grant an easement to himself. However an easement can be created in the future when the existing building or 10,000 SF parcel are sold to separate owners.

Thanks,

Bill



ZONING NOTES:

1. PROJECT: 4 UNIT APARTMENT BUILDING, LARRY GROSS AND BARBARA COLBY PORTLAND, MAINE
2. LOT INFORMATION - CHART/BLACK/LOT: 06010
3. ZONING DISTRICT: R6 - RESIDENTIAL 6 AND B-1 NEIGHBORHOOD BUSINESS ZONE
4. ZONING REQUIREMENTS: DIMENSIONAL STANDARDS TO BE IN ACCORDANCE WITH THE APPROVED ZONE AS SHOWN BELOW

DIMENSIONAL STANDARDS

REQUIRED (R6)	REQUIRED (B-1)	PROVIDED
MINIMUM LOT SIZE	NONE	5,000 SF
MINIMUM LOT AREA PER DWELLING	725 SF	1,250 SF
MINIMUM STREET FRONTAGE	20 FEET	950 FEET
MINIMUM FRONT YARD SETBACK	10 FEET OR 10% OF ADJACENT BUILDING	5 FEET
MINIMUM SIDE SETBACK	NONE	5.5 FEET
MINIMUM REAR SETBACK	10 FEET	10 FEET
MINIMUM BUILDING HEIGHT	4.5 FEET	4.5 FEET
MAXIMUM LOT COVERAGE	80%	40%

5. PROPOSED USE: 4-UNIT APARTMENT BUILDING WITH 4 CAR GARAGE
6. THERE ARE NO WETLANDS, FLOODPLAINS OR SHORELAND ZONING ON THE PROPERTY.
7. PARKING SUMMARY:
 SECURED GARAGES: 4
 UNSECURED GARAGES: 0
 TOTAL: 4 SPACES
 REQUIRED PARKING: 4 SPACES
 PARKING GARAGE: 4 SPACES

UTILITIES: ALL UTILITIES WILL BE PROVIDED FROM EXISTING SERVICES IN ST. LAWRENCE STREET AS FOLLOWS:
 ELECTRIC/COMMUNICATIONS: EXISTING SERVICE
 WATER SUPPLY: PORTLAND WATER DISTRICT
 SEWER SERVICE: CITY OF PORTLAND
 NATURAL GAS: MAINE NATURAL GAS

SURVEYOR'S NOTES:
 1. OWNER OF RECORD: LAWRENCE W. GROSS
 2. RECORD BOOK 17203 PAGE 302, BOOK 30280 PAGE 89
 3. BEARINGS ARE MAGNETIC 1998. PER PLAN REFERENCE #2 - NOT CORRECT.
 4. ELEVATIONS ARE BASED ON CITY DATUM, BASED ON MONUMENT AT NORTHEAST CORNER OF NORTH AND CONGRESS STREETS, ELEV. 148.05'

PLAN REFERENCE:
 1. "PLAN OF LAND IN PORTLAND, MAINE," SURVEYED FOR STANDARD OIL COMPANY OF NEW YORK DECEMBER 1928 BY EC JORDAN CO.
 2. CITY WORKING PLANS 25, 140, 148, DATED 1924 AND 1925.
 3. "STANDARD BOUNDARY SURVEY ON THE CONGRESS STREET, PORTLAND, MAINE" MADE FOR THEMALLY/LANDMANN ASSOCIATES, PORTLAND, MAINE DATED JULY 25, 1998 PER 81P-0718 BY ERIC TORRELL, INC.
 4. BOUNDARY & TOPOGRAPHIC SURVEY FOR LAWRENCE W. GROSS 8/11/2014 BY ERIC TORRELL, INC.

CITY OF PORTLAND PLANNING BOARD

REV.	BY	DATE	COMMENTS

4 UNIT APARTMENT BUILDING
93 ST. LAWRENCE STREET
LARRY GROSS AND BARBARA COLBY
PORTLAND, MAINE
SUBDIVISION PLAN

SME
 Survey & Miller Engineers, Inc.
 4 Emerald Road, Portland, ME 04103
 Phone: 207.885.9116 Fax: 207.885.9981 www.smeinc.com

DESIGN BY: DPD
 DRAWN BY: JRL
 DATE: 4/27/2015
 CHECKED BY: JRL
 JANI: SMO/DPD
 CTR: SME-STD
 JOB NO. 15086.00 DWG FILE BASE: 312121.dwg

NEEDS PREPARATION BY PROFESSIONAL LAND SURVEYOR.

REVISIONS:

REV.	BY	DATE	COMMENTS

CITY OF PORTLAND PLANNING BOARD

SCALE: 1" = 20 FEET

DATE: _____

Shukria Wiar - FW: 93 St Lawrence

From: David Lloyd <lloyd@archetypepa.com>
To: Shukria Wiar <SHUKRIAW@portlandmaine.gov>
Date: 9/28/2015 7:21 AM
Subject: FW: 93 St Lawrence
CC: <Tom@federlelawmaine.com>, Larry Gross <Larry@smaaa.org>
Attachments: 93 St Lawrence Comparison Section.pdf; 93 St Lawrence-A1.04.pdf; 93 St Lawrence-a2.01.pdf

Shukria

My Client has negotiated a compromise with his neighbor at 118 Congress street on our design. Basically lowering the roof height on the mezzanine roof allowing the neighbor a view over our building . I have attached the drawings which show the proposed changes to our submission. I believe this to be a DE Minimis change to our submission . Please email or call with any questions

David

David Lloyd**Architect**

Archetype, P.A.

48 Union Wharf

Portland, ME 04101

Tele: (207) 772-6022

Fax: (207) 772-4056

Cell: (207) 831-8627

lloyd@archetypepa.com

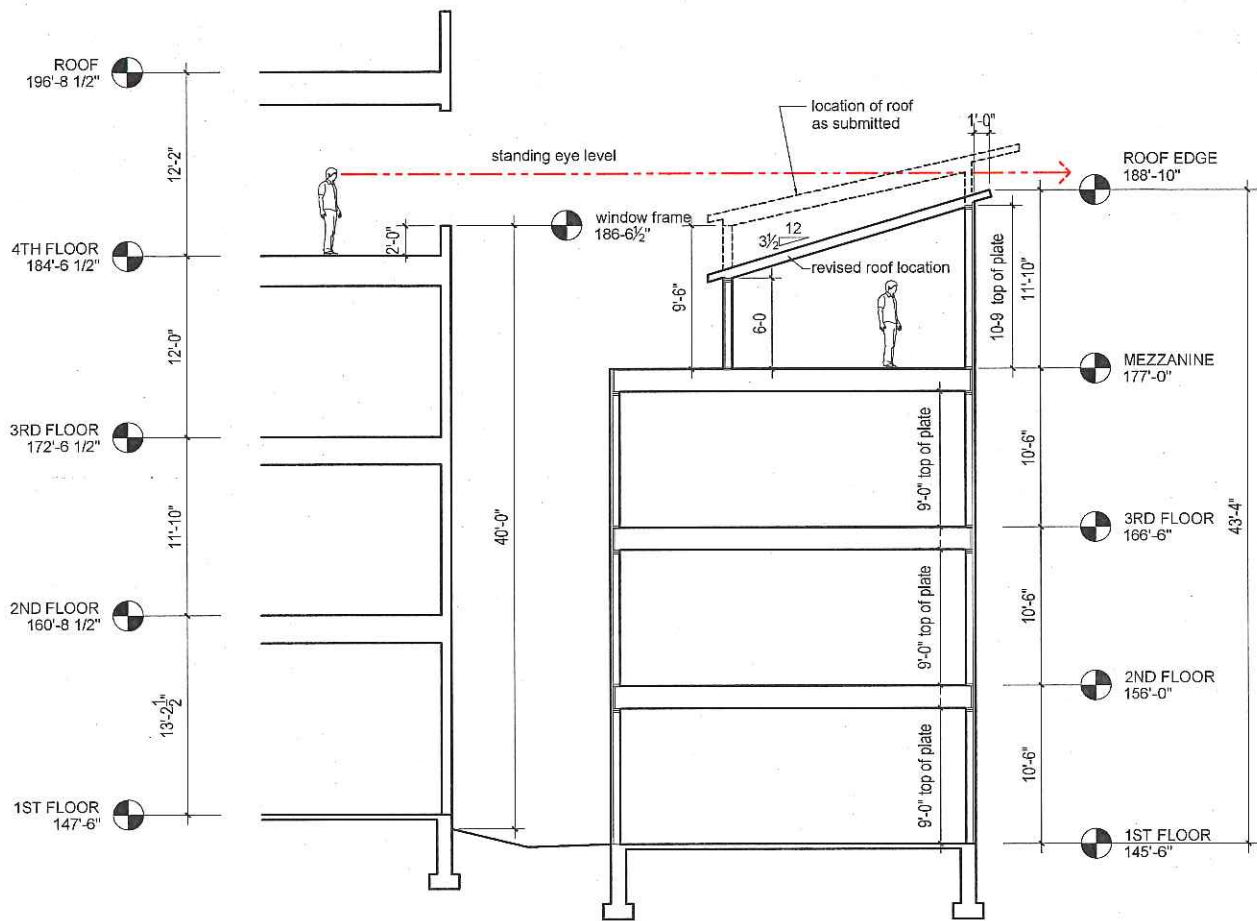
<http://www.archetype-architects.com>

From: Josef Chalat [mailto:azimuthblu@gmail.com]

Sent: Friday, September 25, 2015 3:35 PM

To: 'David Lloyd'

Subject: 93 St Lawrence



Cross Section Through South Elevation
 scale: $\frac{1}{8}'' = 1'-0''$

Cross Section
 scale: $\frac{1}{8}'' = 1'-0''$

118 Congress Street

93 St. Lawrence Street



Memorandum

Planning and Urban Development Department

Planning Division

To: Stuart O'Brien, Chair and Members of the Portland Planning Board

From: Shukria Wiar, Planner

Date: April 10, 2015

Re: B3 Zoning Map Amendment for Rental Apartments, 667 Congress Street
Jonathan Cully of Redfern Properties, Applicant

Project #: 2015-041 CBL: 046 C019001

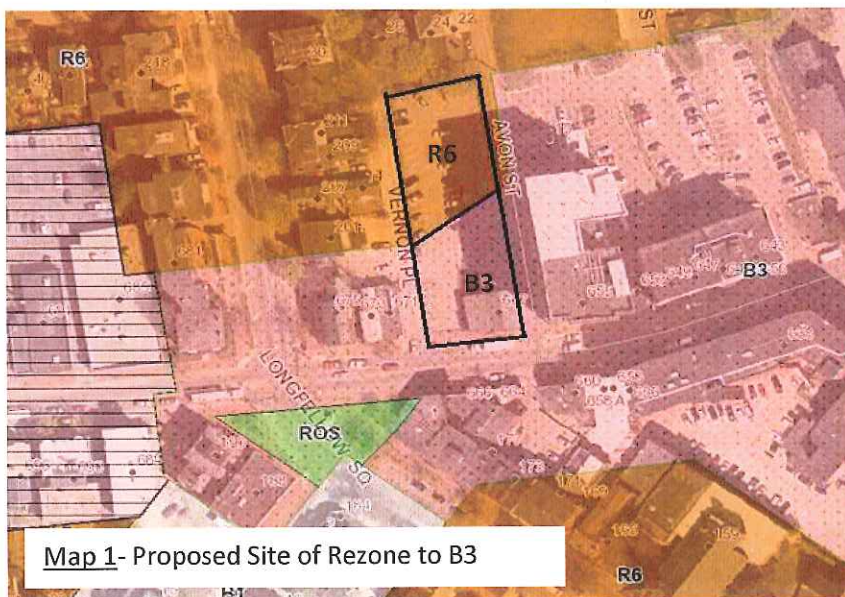
Meeting Date: April 14, 2015

I. INTRODUCTION

On behalf of MSD Properties, LLC, Jonathan Cully of Redfern Properties has submitted an application for a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. As part of the zone change, the applicant is proposing to extend the B3 to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The applicant is seeking to amend the zoning to allow for an integrated development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with parking behind the storefront.

The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place.

It should be noted that the proposal includes the modification of the B-3 Downtown Height Overlay Zone to encompass the area of the proposed zone change, which would establish 85 feet as the maximum height limit. The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones. The property is also in the Congress Street Historic District.



Map 1- Proposed Site of Rezone to B3

The portion of the property proposed for rezoning to B3 is currently within the R6 zone.

A notice of this Workshop was sent to 284 property owners within 500 feet and interested citizens, and appeared in the April 6th and 7th, 2015 editions of the *Portland Press-Herald*. A Neighborhood Meeting is required for this project and the applicant has confirmed that the neighborhood meeting was held last week on April 8th, 2015. At the time of preparing this report the Planning Division has received one written comments on Friday afternoon, please [Attachment PC1](#).

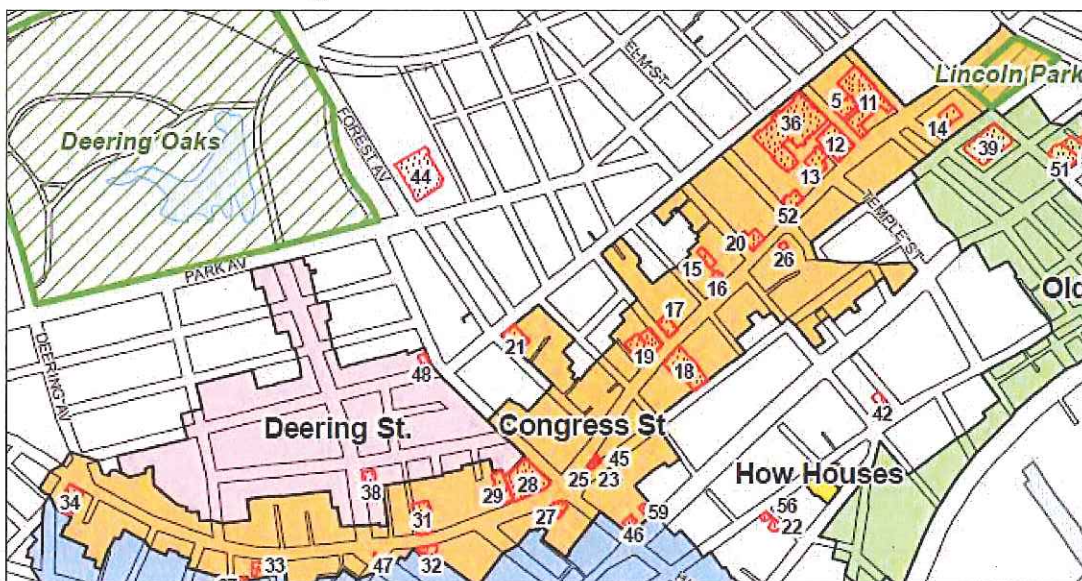
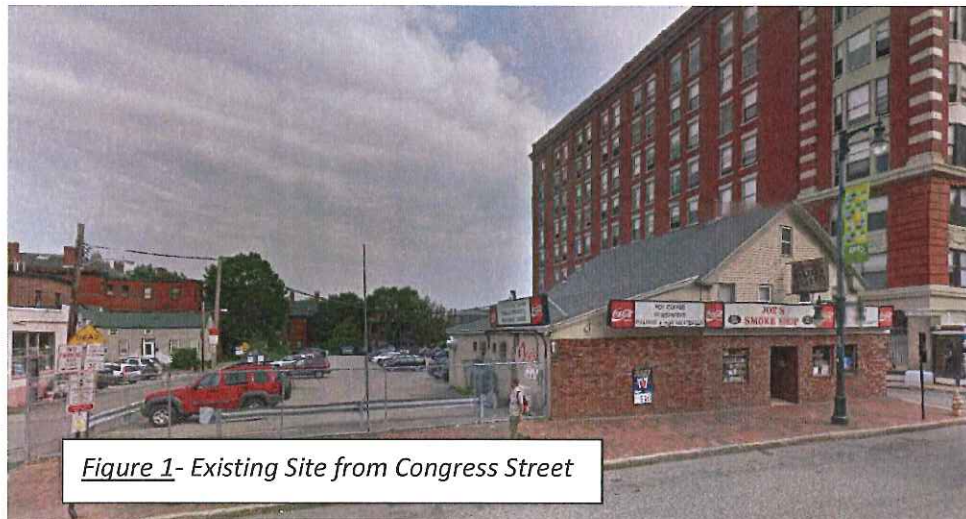
II. PROJECT DATA

Parcel Size:	25,740 sq ft: 12,221 sq ft in B3 zone and 13,519 sq ft in the R6 zone
Current Zoning:	Residential R6 and Downtown Business B3
Proposed Zoning:	Downtown Business B3
Existing Uses:	Retail; Surface parking
Proposed Use:	Multifamily Rental Units - Approximately 130 units, retail, and structured parking

III. EXISTING CONDITIONS AND ZONING

The site is split between the R6 and B3 zones. The north and north-west sides of the site about the Deering Street neighborhood, which is composed of single and multifamily homes (all within R6 and the Deering Street Historic District). The property is located within the Congress Street Historic District.

Currently, the site contains a two and half story building that houses Joe's Smoke Shop and a surface parking lot with approximately 58 parking spaces that are rented out to abutting properties. Avon Street is a one way street that goes through to Deering Street, whereas Vernon Place is a two-way, dead-end street. Both streets are public streets. There is one entry to the parking area via Vernon Street. There are three curb cuts on Avon Street to the site; however all of the curb cuts are blocked with guardrails.



The property is located within the Congress Street Historic District, and is generally characterized by medium- to large scale residential development of a historic nature. The properties directly across Congress Street are marked by residential multi-family development and commercial businesses.

Map 2: Congress Street Historic District, in orange, which stretches from Bramhall Street (at Deering Avenue) to Franklin Street.

The Joe's Smoke Shop building is considered noncontributing to the Congress Street Historic District and can therefore be demolished to make way for the redevelopment project.



Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street both on the lot now zoned B-3 in the front portion.

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records.



IV. PROPOSED DEVELOPMENT

The applicant is proposing to change the R6 portion of the property to the B3 zone that would designate the entire property into the one zone. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial.

The B-3 zone is approximately 100 feet deep on the Vernon Place side and is approximately 150 feet on the Avon Street side of proposed site. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1). The applicant is seeking to develop approximately 130 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density for the project. The density limits and height limitation in the R6 zone constrain the redevelopment of this site.



The applicant is proposing to extend the B3 zone to include the rear portion of the property, making them consistent with the zoning on adjacent properties to the east and south (refer to map amendment on page 1). The applicant is seeking to amend the zoning to allow for an integrated development of a seven- to eight- story multifamily apartment building with Joe's Super Variety occupying the front portion (Congress Street) of the first floor. The first floor will also house the parking spaces (49 spaces in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via a total of four entrances: two off of Avon Street and two off of Vernon Place. Parking, access and other aspects are conceptual at this stage.

The parcel currently contains a surface parking lot with spaces within 35' of adjacent streets. Surface parking, whether existing or proposed, may not be located within 35' of the street, which in this case includes Vernon and Avon. These spaces might be considered structured parking, in which case they are allowed. If not, then

consideration of a text amendment to allow limited surface parking will be needed. The applicant will have further information about the construction of these spaces to make this determination.

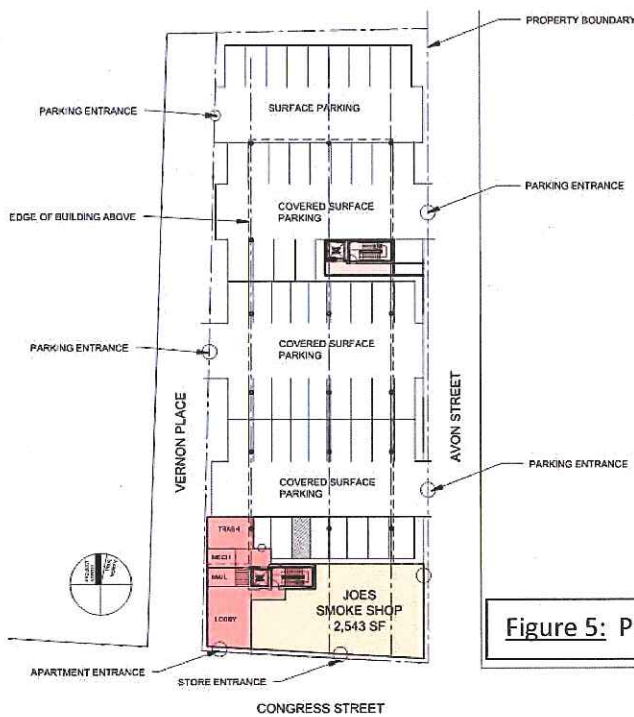
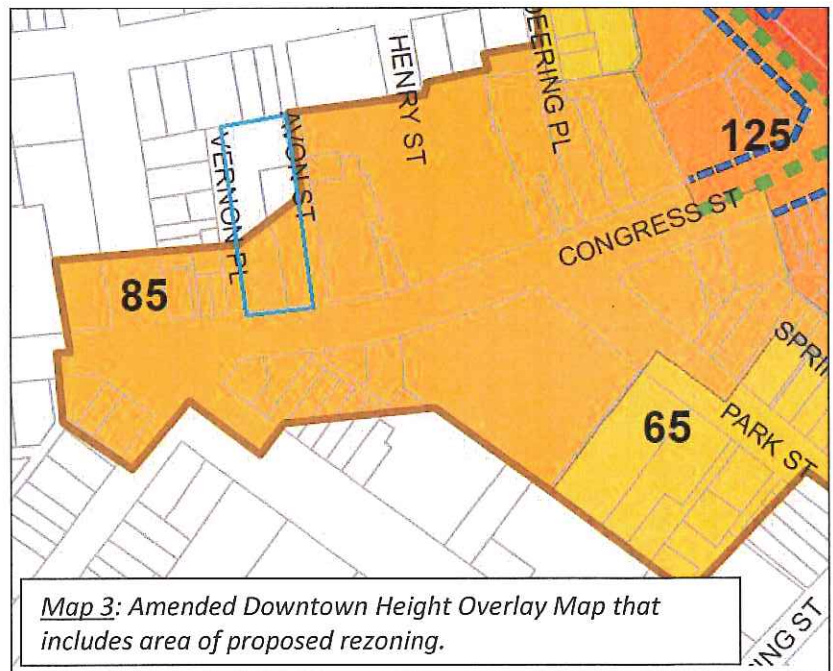


Figure 5: Proposed First-Floor Plan and Building Rendering from Congress St

The proposed amendment also includes modifications to the city’s Downtown Height Overlay. The maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map, which establishes height restrictions ranging from 45 feet to 210 feet across the B3 zone. The height overlay zone sets an 85 foot height limit for the area in the existing B3 zone bounded by Congress and Avon Streets, and Vernon Place. Under the proposed zone change, the Downtown Height Overlay map would be amended to extend the 85 foot maximum building height to be contiguous with the proposed B3 map amendment (see [Map 3](#)).

As noted above, the Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment. The Downtown Entertainment Overlay Zone establishes a 100 foot dispersal requirement for facilities with entertainment licenses. Since the Downtown Entertainment Overlay Zone refers explicitly to and is defined by the B3 zone by ordinance, any map amendment altering the limits of the B3 zone would incorporate the Downtown Entertainment Overlay Zone.



Map 3: Amended Downtown Height Overlay Map that includes area of proposed rezoning.

V. ZONING ANALYSIS

The property is located in the R6 and B3 zones. Section 14-51 Extension of zone lines allows a less restrictive zone to extend no more than thirty (30) feet into a restrictive zone, below is the specific language of the section:

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.

This section is not practical in this situation since the R-6 zone portion of the lot is more than thirty feet. Even if the zone boundary is extended into the more restrictive R-6 zone, a portion of the proposed building would extend into the R6 zone, and the zone line extension does not allow an increase in height. Therefore, this ordinance provision does not resolve the issue of divided zone lines for the proposed redevelopment.

Zoning Purposes

The current R6 zoning is designed to promote neighborhood-scale housing and compatible retail. The purpose of the R6 zone, which is found in the East and West Ends of the city, is to “*set aside areas...for housing characterized primarily by multi-family dwellings at a high density*” and to “*conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses*” (Section 14-135). It should be noted that the R6 zone does encourage high-density housing on the peninsula.

The stated purpose of the B3 zone, or the proposed zoning designation, is clearly intends to increase housing opportunities and encourage mixed-use activities. However, the B3 zone also has some purposes which are distinct from the R6 – to “*enhance and promote the orderly expansion of retail and service businesses downtown,*” to “*provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development activity,*” and “*reinforce the role of the downtown as a meeting place for community residents and visitors alike...*” (Section 14-203). Table 1 compares the purposes of the two zones as written in the zoning ordinance.

Table 1: Purposes of the R6 and B3 Zones

R6 Residential	B3 Downtown Business
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Purpose

To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

To:

1. Maintain and enhance the role of the downtown as the business and commercial center of the region;
2. Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working and visitor populations;
3. Encourage increased housing opportunity downtown for a diverse residential population;
4. Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment;
5. Encourage excellence in urban design;
6. Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures;
7. Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown;
8. Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups;
9. Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment; and
10. Provide for the relocation of residents who are displaced by development.

Permitted Uses

In accordance with their distinct purposes, the R6 generally permits less intensive uses than the B3 zone. The R6 limits development almost exclusively to residential uses, with an exception for low-intensity, compatible uses such as cemeteries, parks, bed and breakfasts, and lodging houses. Some slightly more intense uses, including schools, extended care facilities, places of assembly, hospitals, professional offices, and off-street parking for uses permitted in the R6 zone, are allowed under a conditional use permit. The zone does not permit businesses uses.

As the purposes indicate, the B3 zone permits the most intensive range of uses of the two zones being considered here. The B3 therefore allows residential development similar to that of the R6 zone, but also allows offices, retail establishments, restaurants, drinking establishments, repair services, theaters, hotels, and parking garages by right. Museums, schools, clinics, places of assembly, and county and municipal offices are also permitted. Under conditional uses, the B3 permits light industrial, drive-up banking, emergency shelters, and surface parking.

Table 2: Permitted Uses in the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Residential	<ol style="list-style-type: none"> 1. Single- and two-family dwellings 2. Multi-family dwellings 3. Handicapped family units 4. Single-family, single- and multiple-component manufactured housing 	<ol style="list-style-type: none"> 1. Attached single-family, two-family and multi-family dwellings 2. Handicapped family units 3. Lodging houses 4. Combined living/working spaces
Business		<ol style="list-style-type: none"> 1. General and business offices 2. Professional offices 3. Personal services 4. Offices of building tradesmen 5. Retail establishments, excluding gasoline sales, wholesale and bulk purchase construction supply sales 6. Restaurants, excluding drive-through or drive-in restaurants 7. Drinking establishments 8. Billiard parlors

	<ul style="list-style-type: none"> 9. Repair services, excluding motor vehicle repair services 10. Communication studios or broadcast and receiving facilities 11. Health clubs and gymnasiums 12. Theaters and performance halls 13. Convention facilities 14. Hotels 15. Business services 16. Parking garages 17. Galleries 18. Registered medical marijuana dispensaries
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Institutional	<ul style="list-style-type: none"> 1. Public or private schools 2. Clinics 3. Places of assembly 4. Nursery schools, kindergartens, and day care facilities 5. Museums 6. College, university, trade school 7. Governmental offices
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Other	<ul style="list-style-type: none"> 1. Lodging houses 2. Conversion of a structure into a bed and breakfast with four rooms 3. Hostels with less than 10 guests 4. Wind energy systems 5. Accessory uses 6. Cemeteries 7. Parks, and recreation spaces 8. Home occupation 9. Municipal uses 10. Special needs independent living units 	<ul style="list-style-type: none"> 1. Bed and breakfasts 2. Hostels 3. Wind energy systems 4. County and municipal uses 5. Studios for artists and craftspeople 6. Printing, publishing and related manufacture of cardboard or paper boxes
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R6 Residential

B3 Downtown Business

Conditional	<p><i>Residential</i></p> <ul style="list-style-type: none"> 1. Sheltered care group homes 2. Conversion of a structure into a bed and breakfast with 5+ rooms <p><i>Institutional</i></p> <ul style="list-style-type: none"> 1. Elementary, middle, and secondary schools 2. Long-term and extended care facilities 3. Intermediate care facilities 4. Places of assembly 5. Hospitals 6. College, university, or trade school <p><i>Other</i></p> <ul style="list-style-type: none"> 1. Utility substations 2. Professional offices 3. Chancellery 4. Nursery school and kindergartens 5. Off-street parking for uses permitted in the R6 zone 6. Day care facilities 7. Hostels with no more than 20 guests 8. Wind energy systems¹ 9. Temporary wind anemometer towers 	<ul style="list-style-type: none"> 1. Utility substations 2. Drive-up banking services 3. Light industrial uses 4. Emergency shelters 5. Surface parking 6. Temporary wind anemometer towers
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Dimensional Requirements and Form

Lastly, the two zones differ extensively in terms of the form of building that is promoted through dimensional requirements, again with the B3 encouraging denser, more urban development than the R6 zone. Thus, the R6 provides certain density controls – minimum lot size, minimum area per dwelling unit, maximum lot coverages, and minimum open space ratios – that limit the build-out of any given parcel. The R6 zone also has setback requirements of 10-20 feet, which guarantees that buildings will be separated both from each other and the street. The B3 comparatively does not include minimum lot sizes or minimum areas per dwelling unit, and does not require setbacks.

The R6 zone has a maximum building height of 45 feet. The proposed R-6 amendments recommended by the Planning Board will be considered by the City Council on April 27th. The proposed revisions increase the density of the R-6 zone, but the maximum building height remains unchanged at 45 feet in the draft. As noted above, the maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map. Under the proposed amendment, the Height Overlay would be extended to cover the rezoned area, with a maximum building height of 85 feet, see Attachment 1.

In terms of design and building form, the site is located within the Congress Street Historic District and would be subject to review under the Historic Preservation Ordinance. If the site is rezoned to B3, the development would require a certificate of appropriateness from the Historic Preservation Board and would be exempt from the B-3 Design Guidelines except for the following provisions (Section 14-526 (d) 5):

Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as described in the Design Manual:

- (i) *Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);*

Table 3: Dimensional Requirements in the R6 and B3 Zones

		Existing R6	Proposed R6	B3
Minimum lot size		4,500 SF+ (depending on use)	2000 SF	None
Minimum area per DU		1,000 SF	725 SF	
Minimum street frontage		40 ft.	20 ft.	15 ft.
Minimum lot width		40 ft.	20 ft.	None
Min./Max. front yard	Principal	10 ft. min.	5 ft. or no more than average depths of adjacent front yards.	5 ft. max.
	Accessory			
Min. rear yard	Principal	If > 100 SF footprint, 20 ft.	10 ft.	None
	Accessory	If < 144 SF footprint, 5 ft.	If < 144 SF footprint, 5 ft.	
Min. side yard	Principal	If > 100 SF footprint, 1-3 stories.....10 ft. 4 stories.....12 ft. 5 stories.....15 ft.	5 ft., except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft.	None
	Accessory	If > 100 SF footprint, 20 ft.		

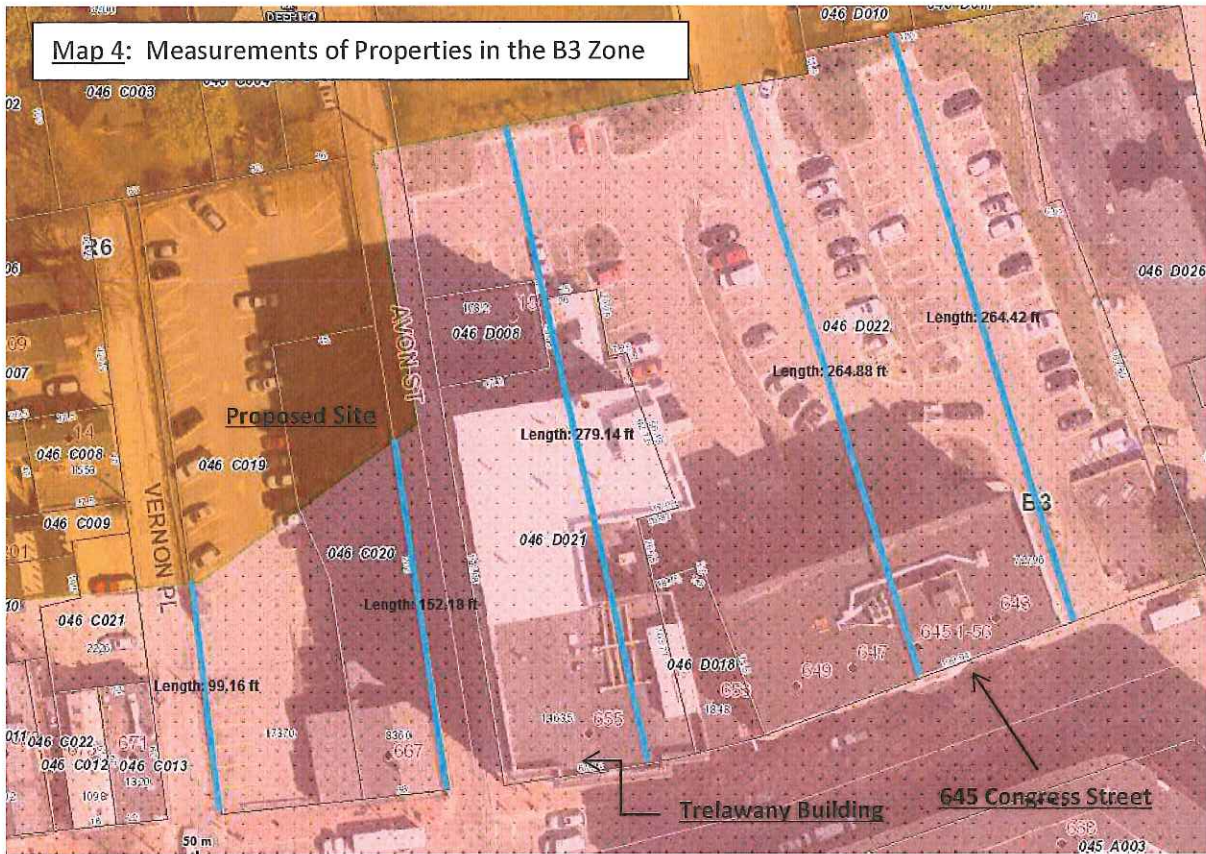
	On side streets		None	
Max. lot coverage		If < 20 DU, 50% of lot area If > 20 DU, 40% of lot area	60%	100%
Open space ratio		If < 20 DU, 20% of lot area If > 20 DU, 30% of lot area	20%	
Max./Min. building height	Principal	45 ft. max.	45 ft. max	35 ft. min. if within 50 ft. of street
	Accessory	18 ft. max.	18 ft. max	85 ft. max.

VI. STAFF COMMENTS

A. Zoning Analysis

As stated previously, the applicant is proposing that the site will consist of approximately one hundred and thirty (130) rental units. The site area is approximately 25,740 sq. ft. Congress Street is one of central streets located on the peninsula and is within walking distance of downtown or other work places and shopping.

The Planning Division believes this site, currently a relatively large parcel in the R6 and B3 zones with a business use, is a good candidate lot for the B3 zone (refer to Comprehensive Plan review below). The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The larger scale and density works reasonably well here, on a street that has significant variety of building types and scale. To the east of this property, are the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. The Trelawney Building is entirely in the B3 zone as well as a single family home in the back. As for the property at 645 Congress Street, the B-3 zone is approximately 265 feet deep into the site; the rear portion of the site is in the R6 zone. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1), it seems like the proposed site may have been the transition property in the two zones. A possible reason for this would have been to protect the R6 zone to the north and west. The properties across Vernon Place are all multifamily homes, except along Congress Street (portion that is in the B3 zone). Below is aerial map that shows the depth of the B3 zone line of the proposed site and the properties to the east.



Across the street from the proposed property is the George S. Hunt Block and Lafayette Building. The applicant has submitted a Neighborhood Birdseye View (below) that shows these buildings as well as the stories of each building.



The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels.

Since there is a density cap and height limitation in the R6 zone, the B3 zone appears a better option for the development of this project. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation.

B. Density Considerations

It is difficult to analyze the maximum numbers of units that might be possible under each of the two zones in the table (R6 and B3) because the mix of units. The applicant has indicated that the number of dwelling units would be approximately 130 units, so the density would be 159 square foot of land area per unit proposed. For further assessment by staff, the applicant is requested to submit information on the extreme limit of build-out of the property under the two zones.

VII. **COMPREHENSIVE PLAN ANALYSIS**

Goals and policies from the Comprehensive Plan which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.
- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

VIII. **NEXT STEPS**

- Provide guidance on zone change request
- Schedule a public hearing

ATTACHMENTS:

Memo Attachments

1. Downtown Height Overlay Map

Public Comments

PC1. Dianna Rust's comments dated April 9, 2015

Applicant's Submittal

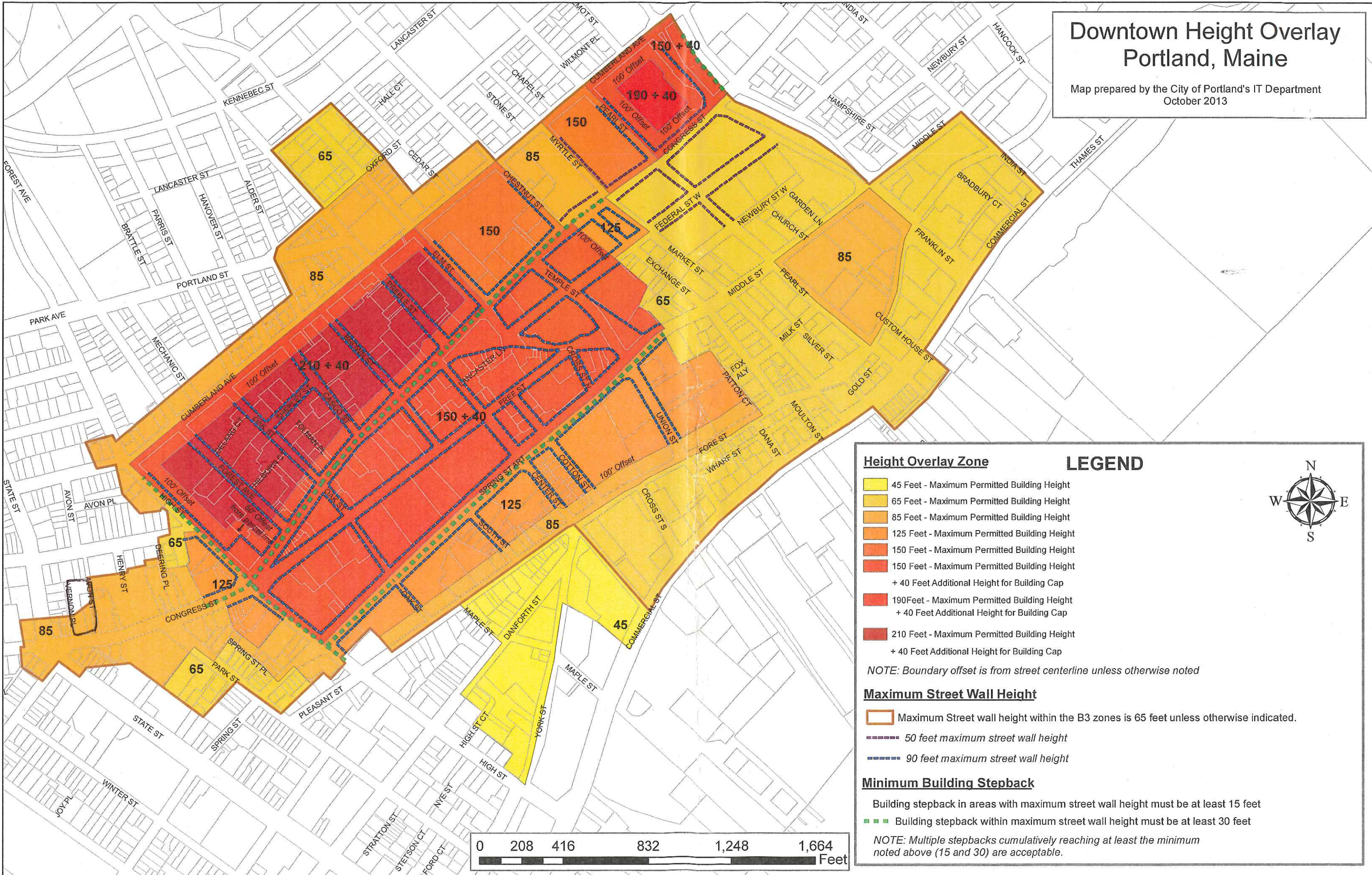
- A. Cover Letter dated March 10, 2015
- B. Application
- C. Deed

Plans

- P1. Neighborhood Birdseye View
- P2. First Floor of Proposed Development
- P3. Congress Street Rendering
- P4. Proposed Zone Map Change

Downtown Height Overlay Portland, Maine

Map prepared by the City of Portland's IT Department
October 2013



Height Overlay Zone

- 45 Feet - Maximum Permitted Building Height
- 65 Feet - Maximum Permitted Building Height
- 85 Feet - Maximum Permitted Building Height
- 125 Feet - Maximum Permitted Building Height
- 150 Feet - Maximum Permitted Building Height
- 150 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap
- 190 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap
- 210 Feet - Maximum Permitted Building Height
+ 40 Feet Additional Height for Building Cap

NOTE: Boundary offset is from street centerline unless otherwise noted

Maximum Street Wall Height

- Maximum Street wall height within the B3 zones is 65 feet unless otherwise indicated.
- 50 feet maximum street wall height
- 90 feet maximum street wall height

Minimum Building Stepback

- Building stepback in areas with maximum street wall height must be at least 15 feet
 - Building stepback within maximum street wall height must be at least 30 feet
- NOTE: Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30) are acceptable.

LEGEND



Dianna Rust
15 Avon Street
Portland, ME 04101
207 956 7633
diannajrust@gmail.com

Stuart O'Brien
Chairman, Planning Board
City of Portland
389 Congress Street
Portland, ME 04101

April 9, 2015

cc: David Marshall, City Councilor, District 2
by email
cc: Jonathan Culley, Redfern Bayside, Developer
by email

Zoning Map Amendment Application
665-667 Congress Street

Dear Mr O'Brien

As the owner of the one and only single family residence on upper Avon Street, directly opposite the above proposed development, I am setting out below the points I wish to raise in opposition to the granting of the variance to change the B6 half of the parking lot to B3.

1. My partner, Walter Ungerer, and I moved to Portland, to 15 Avon Street, at the end of August 2014. We are both artists. We have been told that the house was built in 1865, by the then City Weigher (for hay!)
2. When we moved we could only assume that the R6 section of the parking lot would stay that way, and that any development would be controlled by that zoning.
3. We have no objection to *some* development. The area could certainly use some improvement.

4. As we are both artists, this house, with a decently sized basement for a Victorian house, which we have just thoroughly (and at some considerable expense) waterproofed, provides the spaces we need as a home and for our work.

5. One of our biggest issues with this proposed development is loss of light:

a) We would be cast into deep shade, all day long, especially in the winter. There's not a lot of light, but the light we do get is attractive and pleasing, and it was another factor in choosing the house. Because the Trelawny Building is immediately to the south of us, the light from the west is our main light. In the winter the west light, which shines across the parking lot, is the only light. Apart from direct light on the house, at the moment we can see sunlight looking out to the front. Our little patio faces west, and with no sunlight it would become almost pointless to try and use it.

b) I think it goes without saying how important sunlight is. It can have a strong psychological effect, and a lack of it can contribute to depression. As well as uplifting to see, sunlight adds warmth to a room when it comes in.

c) The only mention I could find about light in the Portland building codes is to not create shade on certain open spaces. In the UK, where I am from, great importance has long been placed on a right to natural sunlight and there have been some interesting cases of homeowners holding up developments because of a threat to their light.

d) About our house people have said, "I love the light!" Lack of light can reduce the value of a house and its resale possibilities. This is of great concern to us.

e) Would you allow someone to come and paint grey on all your windows?

6. After the light issue, we are very apprehensive about the mass and density of the proposed building that would be directly opposite us. Obviously, we don't know the site plan details yet, but I believe the B3 would allow the building line to be relatively close to the street. It would seem there wouldn't even be space for some softening effect of any landscaping.

7. Obviously, we have a very personal view of this development. In fact, we are devastated by the idea. The very thought of this building looming up in front of us feels like robbery and a violation of our space. Avon Street is a small one-way street. Not only will we lose light, but from the proposed plan it looks as if we will have 2 parking entrances very close to our house,

opposite us, with the possibility of disturbance at any time of the day or night (right now parking ends when Boda closes, and it isn't available again until 6.00 am). And with 132 apartments how many cars will there be?

8. Where will trash be picked up, by whom, and at what time? Where will snow go?

9. It seems as if the developer and the city have already assumed this request for a variance will just sail through, without any problems. Jeff Levine (city's director of Planning and Urban Development) was quoted in the Portland Press Herald on March 9, 2015, as saying it's 'exciting' to have a large proposal on a transit corridor.... He said Culley's plan appears to comply with the city's zoning rules, and characterized his request for a zoning map amendment as "nothing drastic". Well, it is drastic to us. *This is our home.*

10. It is just this passing of a variance that would enable the developers to build so big. It will be a massive building between two small streets, one of which is a dead-end. Just because there is already an 8 story building one side of Avon Street, does it have to follow there will be another on the other side? And where will it end. If this variance is allowed, it will surely set a precedence to be used by other developers as an example to point to, to build more giant properties. This would become overwhelming to Longfellow Square, to the west of Congress Street, and on. At the West End Neighborhood meeting I attended Wednesday night, Jonathan Culley said he is working with the city on the street issue. Are there planned changes to the street that we don't know about?

11. We came to Portland because we saw it as a city with a high quality of life, interesting neighborhoods and well preserved architecture. I appreciate the city's wish and need for more housing. However, I have to wholeheartedly agree with an article written by Michael Mertaugh for Keep Portland Livable. He writes how he and his wife are "disappointed to see that Portland's current strategy for promoting growth and development appears to give priority to projects that emphasize size, quantum increases in density... ". And, further, "The city's enthusiasm for higher residential density appears to be partly motivated by an expectation that higher density would generate new tax revenues that could be used to reduce Portland's tax burden. The experience of many other cities suggests that this is likely to be a vain hope. The additional tax revenues from higher residential density are likely to be fully offset by additional costs for public services."

As I couldn't say it better, again, I quote (with his kind permission) Michael Mertaugh, "Capitalizing on Portland's strengths would require a different approach to Portland's development. Rather than a reactive approach that responds to specific proposals by developers - and often involves concessions

such as zoning variances and public subsidies – it would require a pro-active and deliberate approach designed to build on Portland’s strengths and attract the type of development that we want for our city.”

12 If the current zones are adhered to, or the current B3 section is slightly extended to make a suitable shape, couldn’t apartments still be built there? We’ve been told the proposed building will contain a combination of studios, and one-bedroom units, with a small number of two-bedroom units. However, even a two-bedroom unit is not really family oriented. I understood that the city wanted to see more middle-income *family* housing. Why couldn’t the R6 area contain a creative format for some family residences? Of course, this is what *we* would like to see! At the neighborhood meeting Wednesday night the question was raised why R6 was there at all. “To protect the neighborhood!” was one person’s apt response. This is exactly what we had assumed.

13. Since buying our house, which had already had a somewhat cosmetic renovation, we have been making many more improvements over and above those done by the sellers. Not only have we waterproofed the basement; we have also entered into a contract with a thorough repair of the roof with slate and copper. We are expected to comply with the Historic District guidelines and now I feel, why should we bother. All this work is expensive and then our house would be ‘smothered’. There are beautiful old houses on Deering Street, over which this proposed building, at 8 stories, would loom. The building couldn’t help but be very visible.

14. I fear that our 1865 house will be lost in this planned development and the impact on us will be totally ignored. On the issue of Historic Preservation, from the City’s Comprehensive Plan, some pertinent points on Goals and Policies stand out (the italics are mine):

Preserve and enhance the quality and vitality of neighborhoods within and adjacent to the Downtown

Protect and enhance the attractiveness of the city to its *homebuyers, homeowners, residents, tourists, visitors, businesses, and shoppers*

Increase home ownership opportunities for all type of households and all income levels

The *existing* housing stock will be enhanced and preserved

Maintain, rehabilitate, and restore the *existing* housing stock as a safe and important physical, economic and architectural resource for the community

Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through *careful* land use regulation, design and public participation that respects neighborhood integrity.

Encourage *innovative* new housing development, which is designed to be *compatible* with the scale, character, and traditional development patterns of each individual residential neighborhood.

15. From A Community Vision for Portland, also from the Comprehensive Plan:

Listen to, embrace, empower and support our diverse citizenry

Portland retains a small town feel with a built environment that is scaled for people

Portland enjoys a personable and congenial atmosphere that makes it a welcoming place to work, live and visit

Portland is a city of neighborhoods

Maintains unifying features, such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets

16. Will the Planning Board observe these examples above, or will they now find justification to ignore them?

17. We were pleased to be able to find an interesting residence in the Downtown area. Now, it seems, we will be paying a price for that. We feel we will be out of place and even displaced.

18. If this proposal goes through who will compensate us for our loss of amenities and loss of value of our property?

We object to the allowing of this request for a variance and to the mass and density of the building that such a change would allow.

Sincerely

Dianna Rust

P.O. Box 8816
Portland, ME 04104
Office: 207-776-9715
Fax: 207-221-2822
www.redfernproperties.com

March 10, 2015

Ms. Barbara Barhydt
City of Portland, Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

Dear Barbara:

On behalf of MSD Properties LLC, please find attached a Zoning Map Amendment Application related to 665-667 Congress Street. Redfern Properties is working in partnership with MSD Properties LLC and Joe's Super Variety to redevelop the property with a multi-family apartment building, consisting of 7-8 stories and roughly 130 apartments. Joe's Super Variety will occupy the ground floor retail space.

Per the attached, Zoning Map, the property currently is partially in the B-3 Zone and partially in the R-6 Zone. We are requesting a Map Amendment that would designate the entire property B-3. We believe that this is a very logical change that would result in a more sensible Zoning Map. The proposed project is very consistent with the City's Comprehensive Plan and would fill the current need for rental apartment housing.

Please find attached the following in support of this application:

1. **Zoning Map Amendment Application Form**
2. **Copy of Property Deed**
3. **Vicinity Map Showing Current Zoning**
4. **Aerial Photo of City Block showing current building types**
5. **Preliminary Proposed Site Plan**
6. **Preliminary Proposed Building Rendering**

We are committed to creating a progressive and noteworthy project that will enhance this important urban neighborhood. Please do not hesitate to contact me.

Sincerely,



Jonathan Culley
Redfern Properties LLC



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City’s Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City’s web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City’s regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

<p>Planning Division Fourth Floor, City Hall 389 Congress Street (207) 874-8721 or 874-8719</p>	<p>Office Hours Monday thru Friday 8:00 a.m. – 4:30 p.m.</p>
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PROJECT ADDRESS: 667 Congress St.

CHART/BLOCK/LOT: 46-C-19-20

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

We are seeking to change the the rear half of the parcel from R-6 to B-3. The front half of the parcel is already B-3. We are proposing to build a 7-8 story multi-family apartment building with roughly 130 rental apartments and parking under and behind the building.

CONTACT INFORMATION:

Applicant's Contact for electronic plans
Name: Jonathan Culley
e-mail Address jonathan@redfernproperties.com
work # 207-221-5746

Applicant – must be owner, Lessee or Buyer Name: Redfern Properties LLC on behalf of MSD Properties LLC Business Name, if applicable: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-221-5746 Home# Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Owner – (if different from Applicant) Name: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Owner Contact Information Work # Adam Taylor, Attorney 207-828-2005 Home# Cell # Fax# 207-347-4523 e-mail: ataylor@tmfattorneys.com
Agent/ Representative Name: Jonathan Culley/Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Agent/Representative Contact information Work # 207-221-5746 Cell # 207-776-9715 e-mail: jonathan@redfernproperties.com
Billing Information Name: Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Billing Information Work # 207-221-5746 Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Engineer Name: Address: TBD City/State : Zip Code:	Engineer Contact Information Work # Cell # Fax# e-mail:

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.


MSD Properties LLC and Redfern Properties are working in conjunction to develop a multi-family apartment building with ground floor retail. Joe's Super Variety would occupy the ground floor retail space. Preliminary renderings of the proposed building are attached.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

<p>Zoning Map Amendment <u> </u> x \$2,000.00 (from <u>R-6</u> zone to <u>B-3</u> zone)</p> <p>Zoning Text Amendment <u> </u> \$2,000.00 (to Section 14-<u> </u>) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (<u>example</u>) and language to be added is depicted as underline (<u>example</u>))</p> <p>Combination Zoning Text Amendment and Zoning Map Amendment <u> </u> \$3,000.00</p> <p>Conditional or Contract Zone <u> </u> \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)</p>	<p>Fees Paid (office use) _____ _____ _____ _____</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none"> • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) <p>Third party review is assessed separately.</p>
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<p>Signature of Applicant: </p>	<p>Date: 3/10/15</p>
--	--

MSD PROPERTIES LLC / MICHAEL J DISCARIO
 MANAGING MEMBER

Further Information
 In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

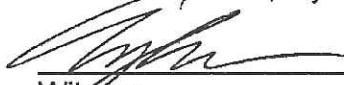
DEED OF SALE BY PERSONAL REPRESENTATIVE
Maine Statutory Short Form

WE, **LOUIS A. DISCATIO**, of 18 Smith Farm Lane, Portland ME 04103, and **TERESA REO**, aka **THERESA DISCATIO**, of 99 Lowell Street, South Portland ME 04106, duly appointed and acting **PERSONAL REPRESENTATIVES** of the **ESTATE** of **JOSEPH L. DISCATIO**, **Cumberland Probate Docket #2012-1034**, by the power conferred by the Probate Code, and every other power, and with the right provided by decedent to convey property without notice to devisees or heirs, for consideration paid, **grant to MSD PROPERTIES, LLC**, a Maine Limited Liability Company with a principal place of business at 665 Congress Street, Portland ME 04101, certain lots or parcels of land and improvements in Portland, Cumberland County Maine on the northerly side of Congress Street bounded on the south by Congress Street, on the west by Vernon Place, and on the east by Avon Street, of approximately .6 acres, described on Exhibit A attached.

This property was conveyed to Joseph L. Discatio and Mary Discatio as joint tenants by warranty deed of Joseph L. Discatio dated September 16, 1990 and recorded on September 18, 1990 in Book 9322 Page 86 of the Cumberland County Registry of Deeds. Mary Discatio died on July 8, 1999; her estate was not probated.

MAINE REAL ESTATE TAX PAID


WITNESS, my hand and seal this 10 day of June, 2013.



Witness

Louis A. Discatio

Grantor – Louis A. Discatio, Personal Representative
Estate of Joseph L. Discatio



Witness


Teresa A. Reo

Grantor – Teresa Reo, aka Theresa Discatio,
Personal Representative Estate of Joseph L. Discatio

State of Maine
Cumberland, SS

Personally appeared before me, the above named Louis A. Discatio and Teresa Reo, aka Theresa Discatio, in their capacity as Joint Personal Representatives of the Estate of Joseph L. Discatio, acknowledged the foregoing instrument to be their free act and deed, and subscribed the same.

Before me,
6-10-2013
Date



Andrew J. Doukas, Attorney At Law
ME BAR #2932

EXHIBIT A – LEGAL DESCRIPTION OF PROPERTY AT 665 CONGRESS STREET,
PORTLAND, CUMBERLAND COUNTY, MAINE

PARCEL I

A certain lot or parcel of land with the buildings thereon, situated on the northwesterly corner of Congress Street and Congress Place, in said City of Portland, County of Cumberland and State of Maine, and having a frontage of thirty-eight (38) feet on Congress Street, and a frontage of about two hundred two (202) feet on Congress Place, with a depth of forty-five (45) feet at the northerly end. Said premises being bounded on the south by Congress Street, on the east by Congress Place, on the north by land now or formerly of T.A. and W.H. Roberts, and on the west by land now or formerly of H.W. and A. Deering, and by land of St. Stephens Church.

Congress Place is now known as Avon Street.

PARCEL II

First: A certain lot or parcel of land situated in said Portland on the easterly side of Vernon Court and numbered 13 and 15 on said Court, and being the same property conveyed by Grenville H. Deering to Ernest J. Eddy by deed dated November 2, 1907 and recorded in Cumberland County Registry of Deeds in Book 816, Page 149, to which deed and the deeds therein referred to reference is hereby made for a more particular description.

Second: A certain lot or parcel of land, with any buildings thereon, situated on the easterly side of Vernon Court in said Portland and being the most northerly lot of land on the easterly side of said Court and being the premises numbered 19 and 21 as shown on the city valuation plan recorded in Cumberland County Registry of Deeds in Book 5, Page 46, and being the same premises conveyed by Elizabeth E. Deering to said Ernest J. Eddy by deed dated December 18, 1908 and recorded in said Registry of Deeds in Book 835, Page 6, to which deed and the deeds therein referred to reference is hereby made for more particular description of the premises.

Third: A certain lot or parcel of land, with any buildings thereon, situated on the northeasterly side of Vernon Court, otherwise known as Vernon Place, and being the same property conveyed by Robert C. Schmidt to said Ernest J. Eddy by deed dated December 14, 1908 and recorded in said Registry of Deeds in Book 835, Page 4, to which deed and the deeds therein referred to reference is hereby made for a more particular description of the premises.

Fourth: A certain lot or parcel of land at 18-22 Avon Street running in a southerly direction towards Congress Street from the southerly boundary line of the former Kelsey property at the southwest corner of Avon and Deering Streets, a distance of seventy-three and one-half (73 ½) feet, more or less to a junction with the property now or formerly of the Avon Corp. located at the west corner of Avon and Congress Streets, bounded on the southerly side by the said property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall; bounded on the west by property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall and

bounded on the north by said former Kelsey property and property now or formerly of said Avon Corp.

Fifth: A certain lot or parcel of land at number 11 (called 5) Vernon Place, together with the brick frame dwelling, or apartment house thereon, the said property being bounded as follows: On the northerly side by the land, brick and frame house of the said Dalton Memorial Chapel and Burnham Hall, a distance of forty-five (45) feet, more or less, on the easterly side by property now or formerly of the Avon corp. located at the northwesterly corner of Congress and Avon Streets a distance of approximately thirty-six (36) feet, more or less, to a junction with the land and Parish house of the Rector, Wardens and Vestrymen of St. Stephen's Parish, or Church; on the southerly side by the said land and Parish House of said Rector, Wardens and Vestrymen of St. Stephens's Parish or Church; on the westerly side by the line of Vernon Place.

Sixth: Also releasing and conveying all my right, title and interest in the following described real estate: A certain lot or parcel of land with (any) buildings thereon, situated on the northerly side of Congress Street and numbered 665 ½ Congress Street and now or formerly known as "Joe's Smoke Shop," said land beginning at a point one hundred and eighty-five (185) feet, more or less, from State Street at the easterly line of St. Stephen's Episcopal Church edifice and extending in an easterly direction eight and one-half (8 ½) or nine (9) feet thence in a northerly direction a distance of thirty-six (36) feet; thence approximately seven (7) feet in a westerly direction to the easterly wall of the said St. Stephen's Episcopal Church edifice, the said wall being the westerly boundary of the said property.

Seventh: Also a certain other lot or parcel of land, with any buildings thereon, known as St. Stephen's Church, and situated on the northerly side of Congress Street in said Portland, bounded and described as follows:

Said lot is on the corner of Congress Street and Vernon Court, so-called, and is sixty-three (63) feet on Congress Street running back on Vernon Court one hundred and thirty (130) feet, more or less, on the easterly side of said court as far northerly as the land formerly owned and occupied by Hiram W. and Alvin Deering, said lot is bounded on the easterly side thereof by a line described in a Decree of the Supreme Judicial Court held in and for the County of Cumberland, April Term 1838 in the case of Hannah Harding In Equity vs. Job Randall, as a "line drawn from the northerly corner of said lot to Main Street and intersecting said Street two (2) feet easterly of the easterly end of the dwelling house in said pleadings mentioned and excluding the well near said house," to which Decree, duly entered on the Docket of said Court, in said suit, reference for a particular description of said easterly side line of the lot hereby conveyed is always to be had.

Meaning and intending to convey, and hereby conveying, all right, title and interest in and to lots 19-23 as shown on City of Portland Assessors Chart Plan 46, Block C, as recorded in the City Assessors, Portland, Maine.

Meaning and intending to convey, and hereby conveying, all real estate of the grantor which is situated in the block in said Portland which is bounded southerly by Congress Street; westerly by Vernon Place and easterly by Avon Street.

Received
Recorded Register of Deeds
Jun 10, 2013 03:36:33P
Cumberland County
Pamela E. Lovley

665 CONGRESS

FEBRUARY 23, 2015

Plan 1

8 STORY
APARTMENT BUILDING

PROPOSED 8 STORY
APARTMENT BUILDING

6 STORY
BUILDING

6 STORY
APARTMENT BUILDING

6 STORY
APARTMENT BUILDING

7 STORY
APARTMENT BUILDING

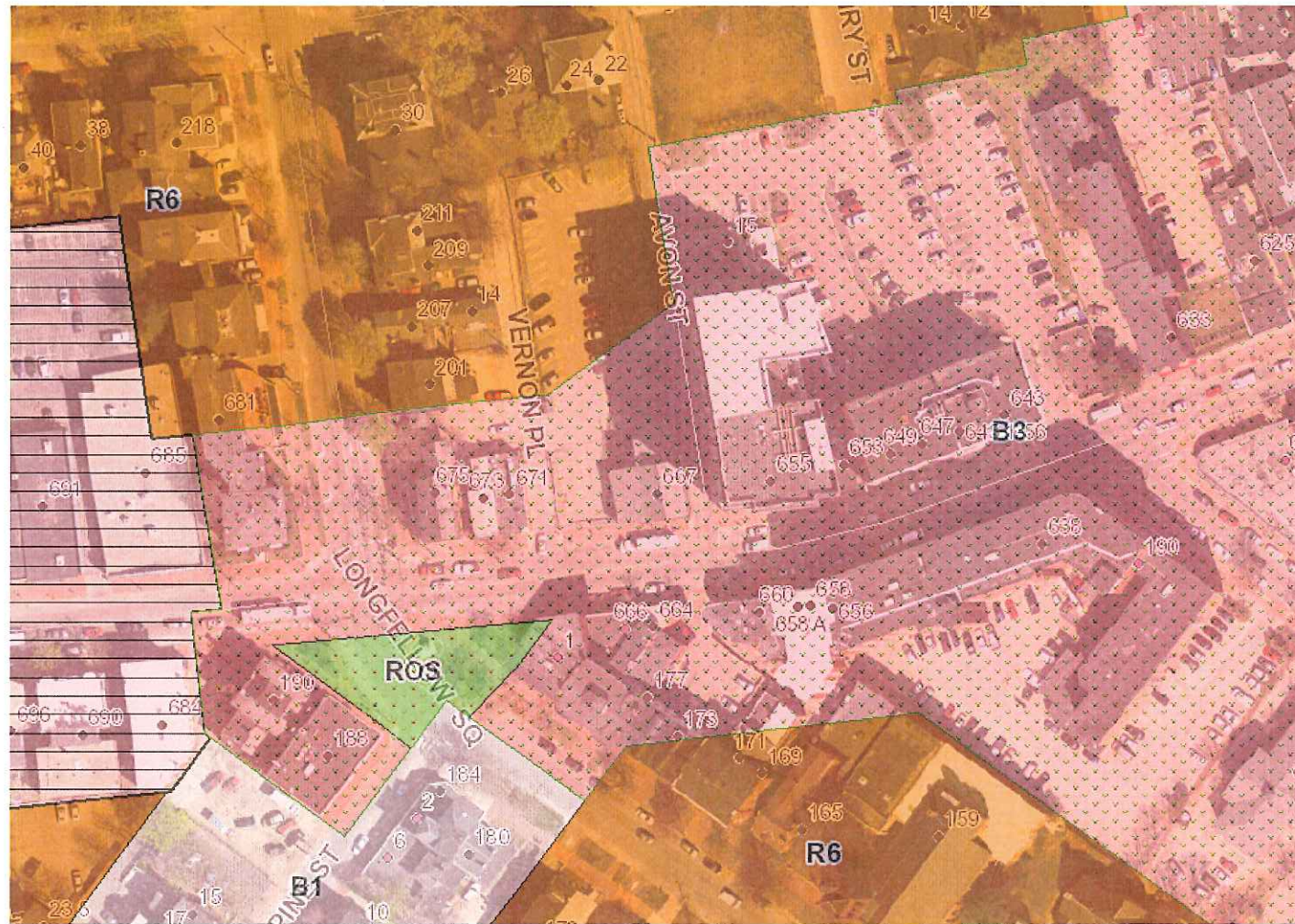


NEIGHBORHOOD BIRDSEYE VIEW

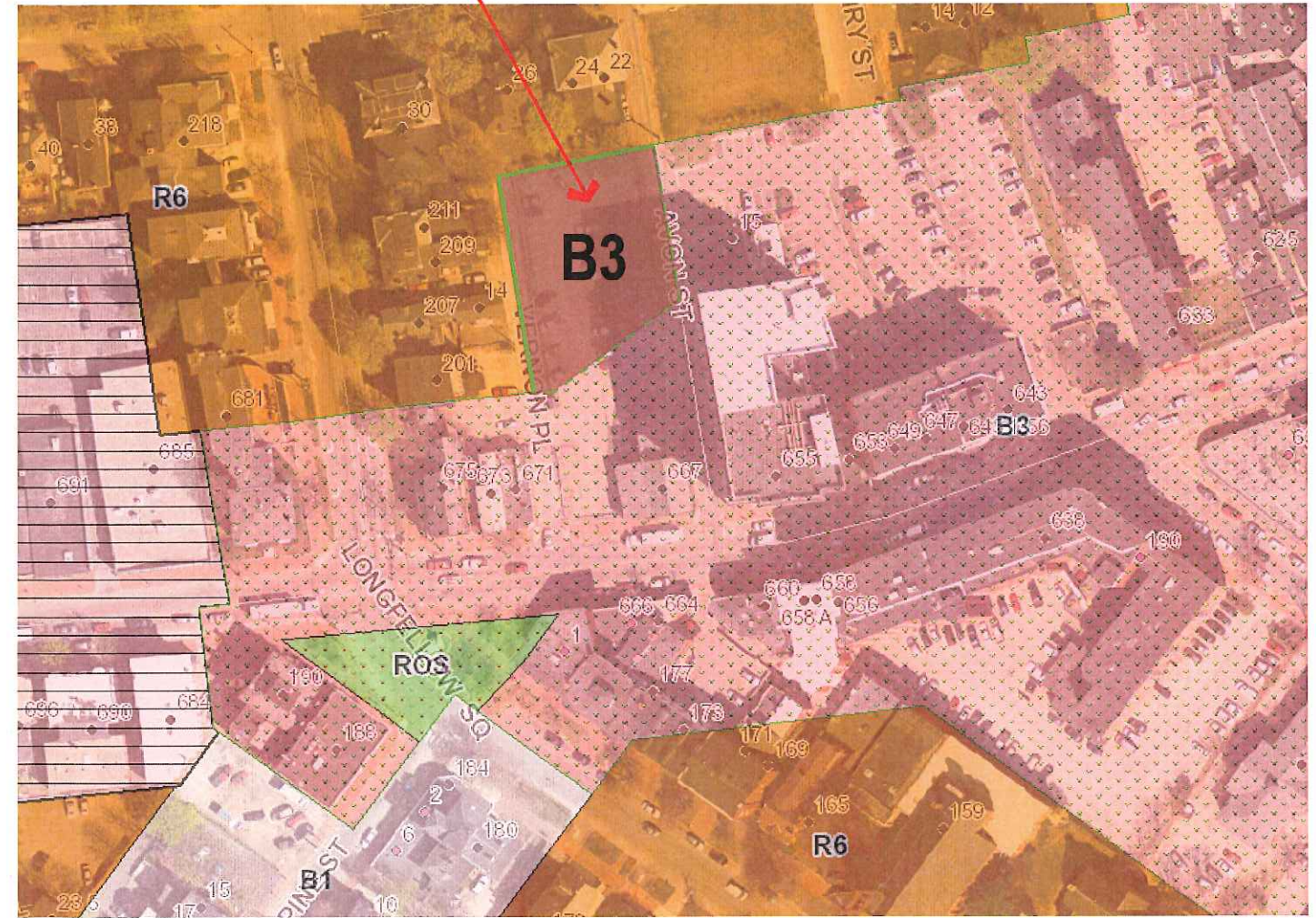
SCALE : NTS

PROGRESS PRINT ONLY
Not for Construction

PROPOSED AREA TO BE REZONED TO B3



EXISTING ZONING MAP

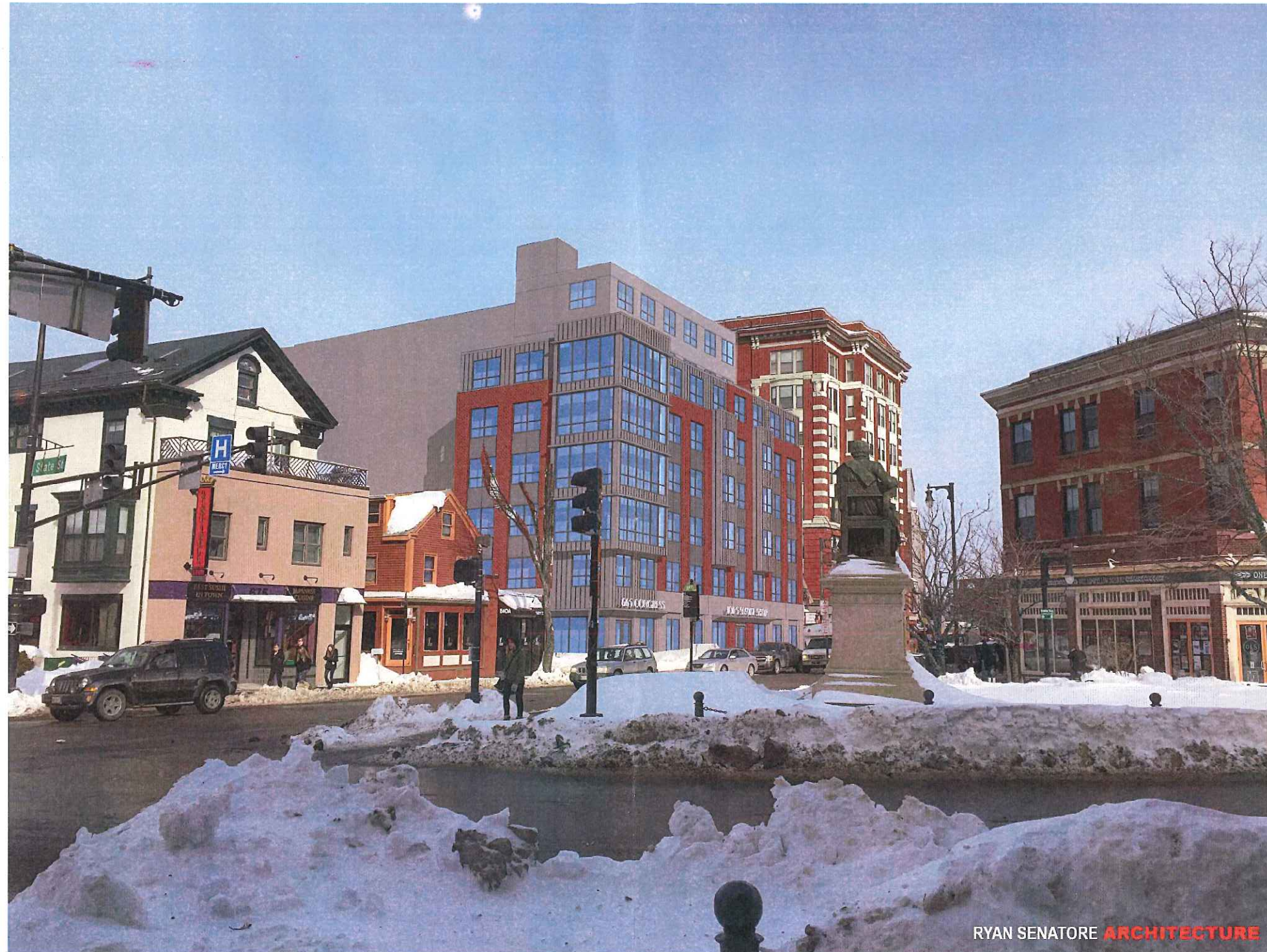


PROPOSED ZONING MAP

665 CONGRESS

MARCH 5, 2015

Plan 3



RYAN SENATORE ARCHITECTURE

Barbara Barhydt - Redfern Properties: Congress Street project and 15 Avon Street

From: Dianna Rust <diannajrust@gmail.com>
To: <BAB@portlandmaine.gov>, <sukriaw@portlandmaine.gov>
Date: Tuesday, May 12, 2015 4:14 PM
Subject: Redfern Properties: Congress Street project and 15 Avon Street
CC: Jonathan Culley <jonathan@redfernproperties.com>, "<david@lourielaw.com>..."

Dear Barbara and Shukria

I wanted to let you know that Jonathan Culley and I have reached a tentative agreement for him to purchase our house at 15 Avon Street once he has the building permit to commence construction.

To this end, I am withdrawing my objections to the project and that will continue during the course of the approval process. I will not be present at the meeting tonight. Would you please pass this information on to the Planning Board and to any other Boards involved with the approval process.

Sincerely

Dianna Rust

Introduction

- On behalf of MSD Properties, LLC, Jonathan Culley of Redfern Properties has submitted an application for a zoning map amendment for the property at 667 Congress Street.
- Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property.
- The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone.
- As part of the zone change, the applicant is proposing to extend the B3 to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south.
- The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place. Both these streets are considered public streets.
- The property is located in the Congress Street Historic District. The site also abuts Deering Street Historic District at the rear of the property.

Proposed Development:

- The applicant is seeking to amend the zoning to allow for mixed uses development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with structures parking behind the storefront. **Plans**
- 108 parking spaces on two levels (ground and basement) and 132 units on upper levels. Access will be from Vernon Place for the ground/first level and from Avon Street for the basement level.
- It should be noted that the proposal includes the modification of the B-3 Downtown Height Overlay Zone, to encompass the area of the proposed zone change.
- The applicant proposed a B3 height amendment to 85'. The Planning Staff is recommending the rear of the property height be limited to 45'; since the rear portion of the property is abutting residential uses and the R6 zone. The applicant agrees with this recommendation that the 45' height limit be applied to the rear 40 feet of the property line (see Map 5).
- The actual setback from the rear property line to the building is approximately 45', but staff is suggesting having a 45 foot maximum building height for the rear lot depth of 40 feet.
- The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones.

Public Comments

- three - 2 for 1 against - Dianne Rust has reached an agreement w/ M.C.P. and want to withdraw her comments
15 Avon Street



PLANNING BOARD REPORT PORTLAND, MAINE

B3 Zoning Map Amendment for Rental Apartments
Level III Zoning Map Amendment
2015-041
Redfern Properties, Applicant

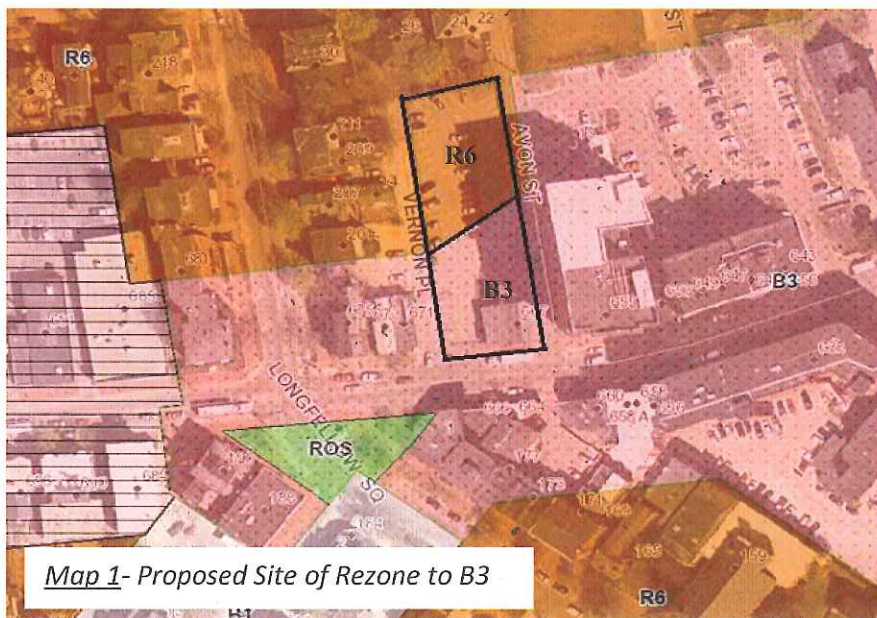
Submitted to: Portland Planning Board: Public Hearing Date: May 12 th , 2015	Prepared by: Shukria Wiar, Planner Date: May 8 th , 2015
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I. INTRODUCTION

On behalf of MSD Properties, LLC, Jonathan Cully of Redfern Properties has submitted an application for a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. As part of the zone change, the applicant is proposing to extend the B3 to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The applicant is seeking to amend the zoning to allow for an integrated development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with parking behind the storefront.

The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place.

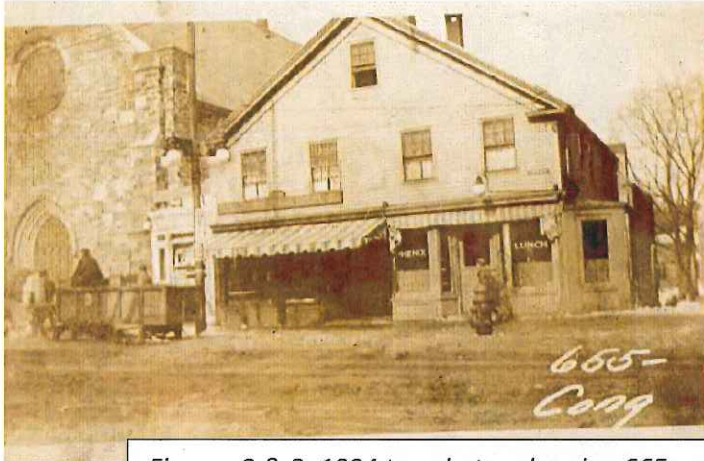
It should be noted that the proposal includes the modification of the B-3 Downtown Height Overlay Zone to encompass the area of the proposed zone change, which would establish 85 feet as the maximum height limit. The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones. The property is also in the Congress Street Historic District.



The portion of the property proposed for rezoning to B3 is currently within the R6 zone.

A notice of this Workshop was sent to 284 property owners within 500 feet and interested citizens, and appeared in the May 4th and 5th, 2015 editions of the *Portland Press-Herald*. A Neighborhood Meeting is required for this project and the applicant has confirmed that the neighborhood meeting was held last week on April 8th, 2015. At the time of preparing this report the Planning Division has received two written comments, please [Attachment PC1](#).

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records.



Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street both on the lot now zoned B-3 in the front portion.

The St. Stephen's Church was razed in 1965 and the property has been used as a surface parking since then. Map 4, below, is an aerial of the proposed site from November 22, 1969. The aerial is showing the site to be entirely surface parking lot with a building at front corner of the site (as it is currently).

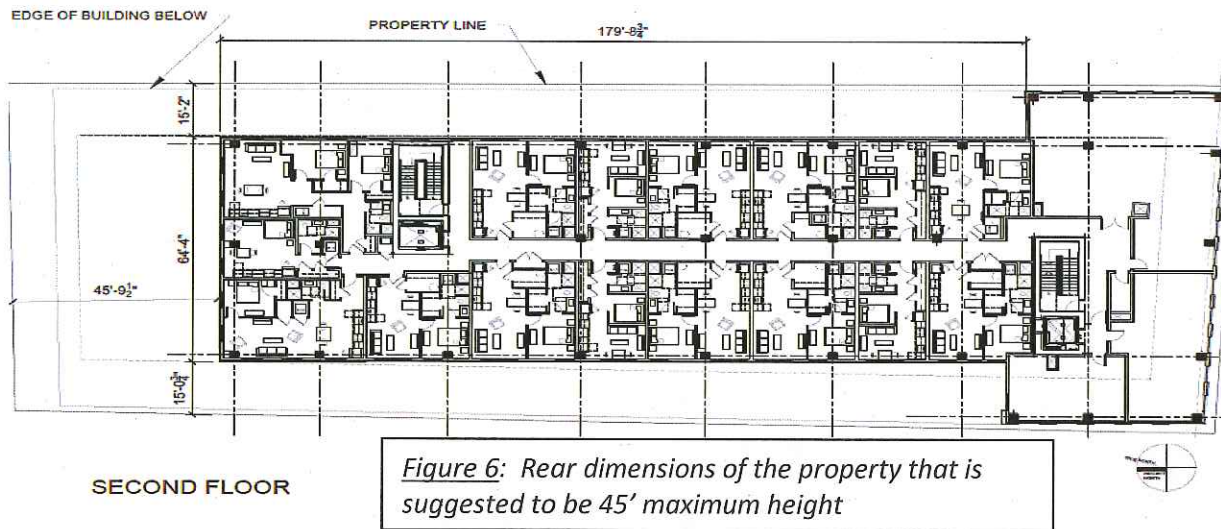


Map 4: November 22, 1969 Aerial of the Proposed Site as a surface parking lot.



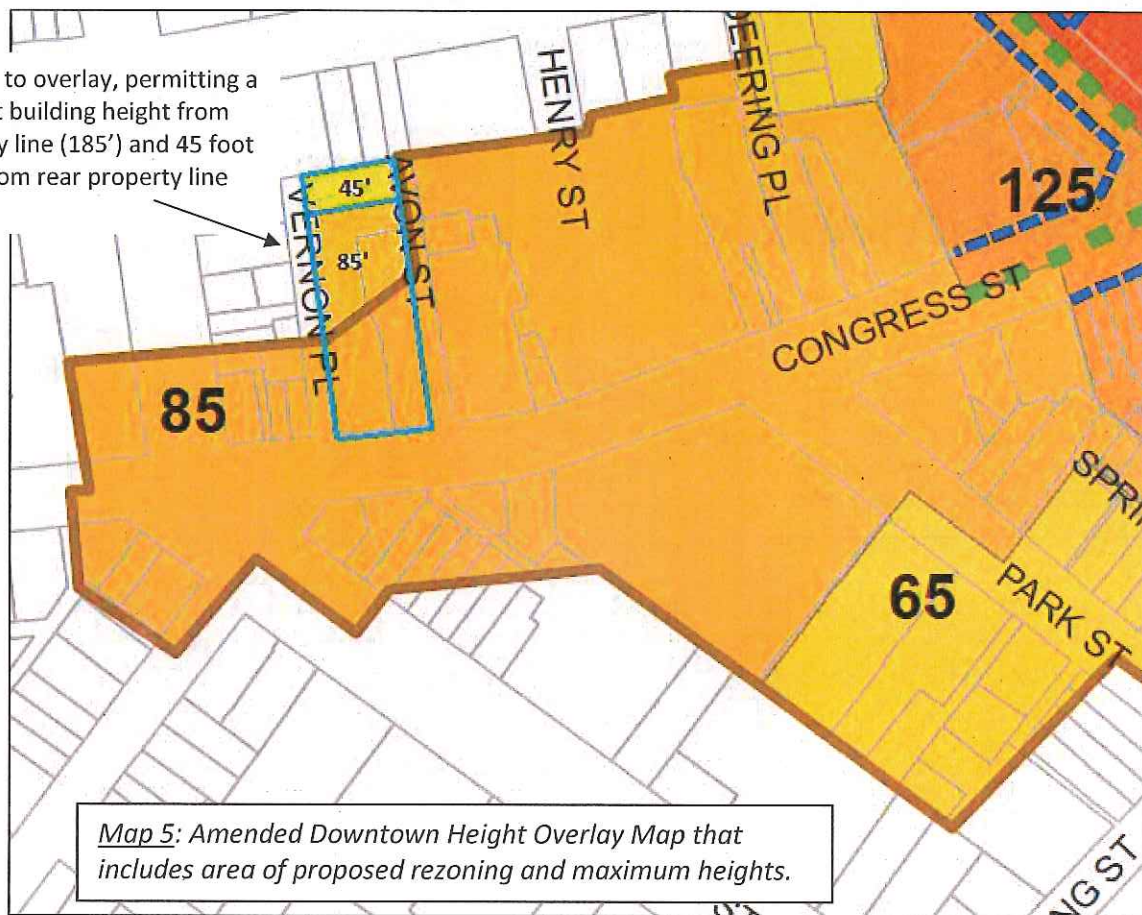
IV. PROPOSED DEVELOPMENT

The applicant is proposing to change the R6 portion of the property to the B3 zone that would designate the entire property into the one zone. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. The B-3 zone is approximately 100 feet deep on the Vernon Place side and is approximately 150 feet on the Avon Street side of proposed site. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1). The applicant is seeking to develop approximately 130 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density for the project. The density limits and height limitation in the R6 zone constrain the redevelopment of this site.



Under the proposed zone change, the Downtown Height Overlay map would be amended to extend the 85 foot maximum building height to be contiguous with the proposed B3 map amendment and have the rear 40' of property be at 45' maximum (see Map 5).

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



As noted above, the Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment. The Downtown Entertainment Overlay Zone establishes a 100 foot dispersal requirement for facilities with entertainment licenses. Since the Downtown Entertainment Overlay Zone refers

street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.

This section is not practical in this situation since the R-6 zone portion of the lot is more than thirty feet. Even if the zone boundary is extended into the more restrictive R-6 zone, a portion of the proposed building would extend into the R6 zone, and the zone line extension does not allow an increase in height. Therefore, this ordinance provision does not resolve the issue of divided zone lines for the proposed redevelopment.

Zoning Purposes

The current R6 zoning is designed to promote neighborhood-scale housing and compatible retail. The purpose of the R6 zone, which is found in the East and West Ends of the city, is to “set aside areas...for housing characterized primarily by multi-family dwellings at a high density” and to “conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses” (Section 14-135). It should be noted that the R6 zone does encourages high-density housing on the peninsula.

The stated purpose of the B3 zone, or the proposed zoning designation, is clearly intends to increase housing opportunities and encourage mixed-use activities. However, the B3 zone also has some purposes which are distinct from the R6 – to

“enhance and promote the orderly expansion of retail and service businesses downtown,” to “provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development activity,” and “reinforce the role of the downtown as a meeting place for community residents and visitors alike...” (Section 14-203). Table 1 compares the purposes of the two zones as written in the zoning ordinance.

Table 1: Purposes of the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Purpose	To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent	To: <ol style="list-style-type: none"> 1. Maintain and enhance the role of the downtown as the business and commercial center of the region; 2. Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city’s resident, working and visitor populations; 3. Encourage increased housing opportunity downtown for a diverse residential population; 4. Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; 5. Encourage excellence in urban design; 6. Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; 7. Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown; 8. Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; 9. Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage

Other	Lodging houses Conversion of a structure into a bed and breakfast with four rooms Hostels with less than 10 guests Wind energy systems Accessory uses Cemeteries Parks, and recreation spaces Home occupation Municipal uses Special needs independent living units	Bed and breakfasts Hostels Wind energy systems County and municipal uses Studios for artists and craftspeople Printing, publishing and related manufacture of cardboard or paper boxes
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R6 Residential

B3 Downtown Business

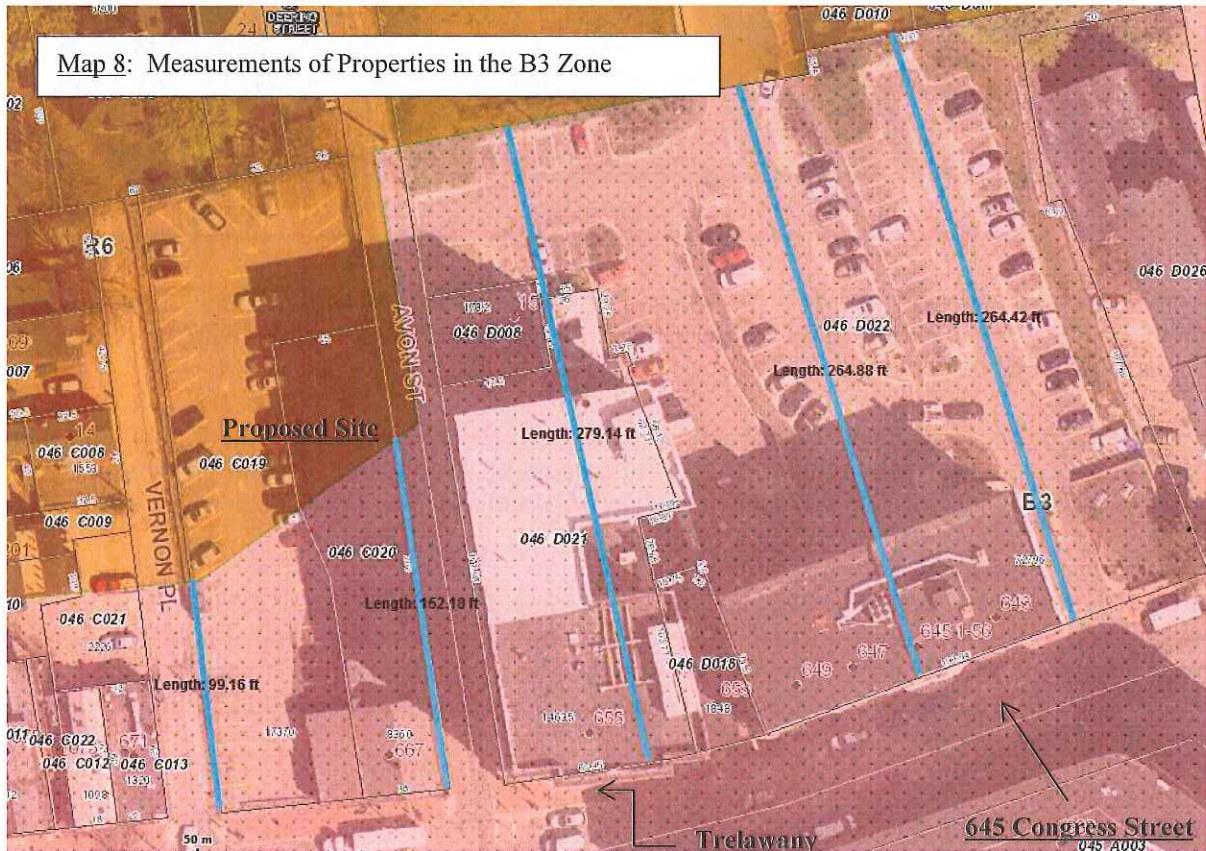
Conditional	Residential Sheltered care group homes Conversion of a structure into a bed and breakfast with 5+ rooms Institutional Elementary, middle, and secondary schools Long-term and extended care facilities Intermediate care facilities Places of assembly Hospitals College, university, or trade school Other Utility substations Professional offices Chancellery Nursery school and kindergartens Off-street parking for uses permitted in the R6 zone Day care facilities Hostels with no more than 20 guests Wind energy systems ¹ Temporary wind anemometer towers	Utility substations Drive-up banking services Light industrial uses Emergency shelters Surface parking Temporary wind anemometer towers
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Dimensional Requirements and Form

Lastly, the two zones differ extensively in terms of the form of building that is promoted through dimensional requirements, again with the B3 encouraging denser, more urban development than the R6 zone. Thus, the R6 provides certain density controls – minimum lot size, minimum area per dwelling unit, maximum lot coverages, and minimum open space ratios – that limit the build-out of any given parcel. The R6 zone also has setback requirements of 10-20 feet, which guarantees that buildings will be separated both from each other and the street. The B3 comparatively does not include minimum lot sizes or minimum areas per dwelling unit, and does not require setbacks.

The R6 zone has a maximum building height of 45 feet. The proposed R-6 amendments recommended by the Planning Board were approved by the City Council on May 4th. The proposed revisions increase the density of the R-6 zone, but the maximum building height remains unchanged at 45 feet in the draft. As noted above, the maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map. Under the proposed

Franklin Arterial. The larger scale and density works reasonably well here, on a street that has significant variety of building types and scale. To the east of this property, are the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. The Trelawney Building is entirely in the B3 zone as well as a single family home in the back. As for the property at 645 Congress Street, the B-3 zone is approximately 265 feet deep into the site; the rear portion of the site is in the R6 zone. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1), it seems like the proposed site may have been the transition property in the two zones. A possible reason for this would have been to protect the R6 zone to the north and west. As part of the proposal for the rezone, staff has recommended the back portion of approximately 40 feet from the property line be a maximum height of 45 feet. The properties across Vernon Place are all multifamily homes, except along Congress Street (portion that is in the B3 zone). Below is aerial map that shows the depth of the B3 zone line of the proposed site and the properties to the east.



Across the street from the proposed property is the George S. Hunt Block and Lafayette Building. The applicant has submitted a Neighborhood Birdseye View (below) that shows these buildings as well as the stories of each building.

VII. COMPREHENSIVE PLAN ANALYSIS

Goals and policies from the Comprehensive Plan which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.
- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.
-



667 667

JOE'S SUPER VARIETY

667 CONGRESS

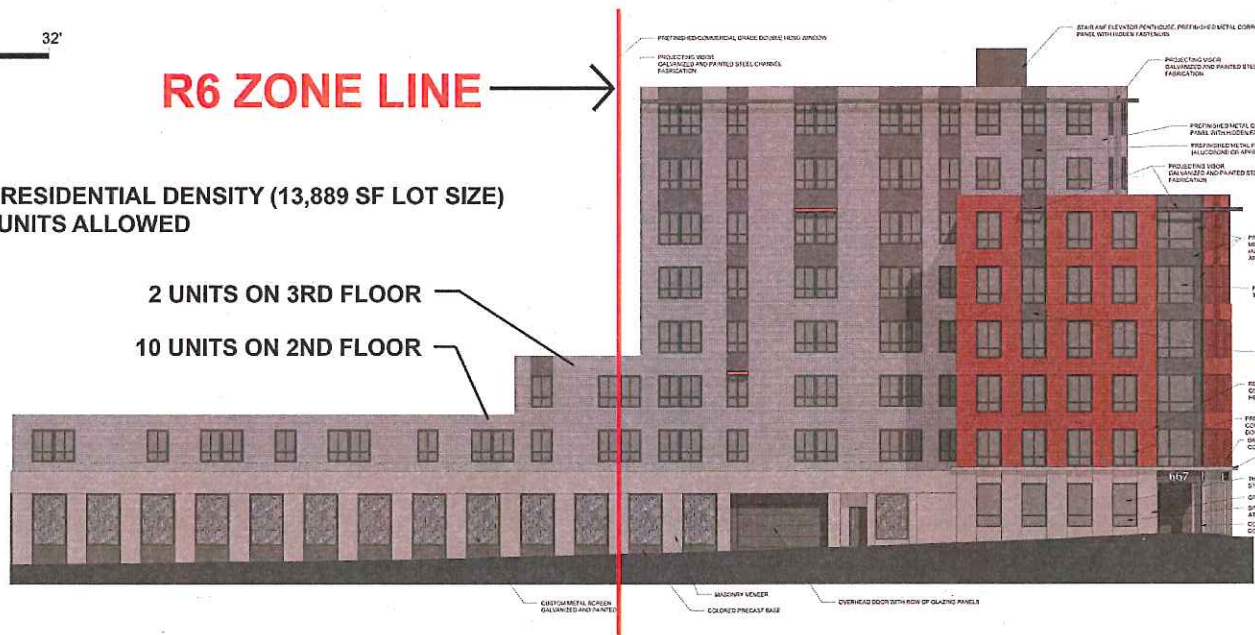
APRIL 16, 2015

0 4' 8' 16' 32'
SCALE

R6 ZONE LINE

R6 RESIDENTIAL DENSITY (13,889 SF LOT SIZE)
12 UNITS ALLOWED

2 UNITS ON 3RD FLOOR
10 UNITS ON 2ND FLOOR



REDFERN PROPERTIES

WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

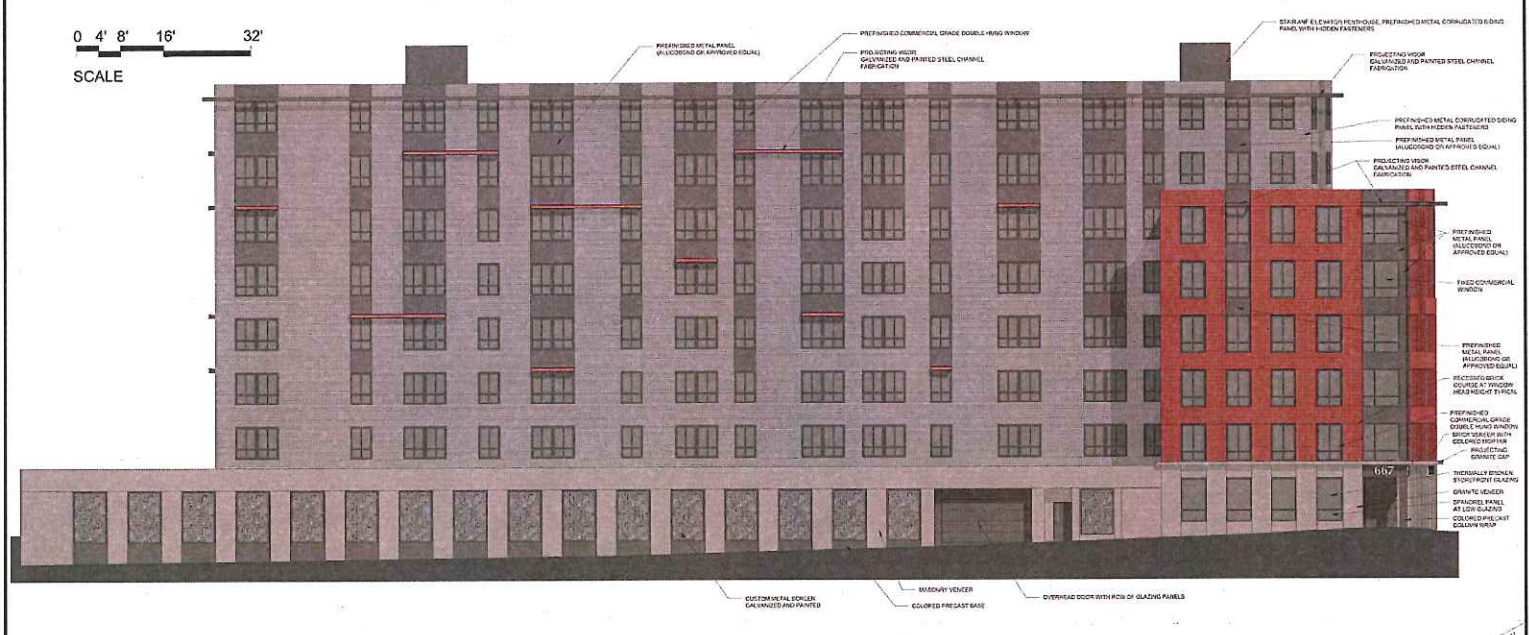
PROGRESS PRINT ONLY
Not for Construction

B3/R6 ZONING ELEVATION

667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



REDFERN PROPERTIES

WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

PROGRESS PRINT ONLY
Not for Construction

B3 ZONING ELEVATION

667 CONGRESS

APRIL 28, 2015



VIEW LOOKING WEST ON CONGRESS STREET

PROGRESS PRINT ONLY
Not for Construction

667 CONGRESS

APRIL 28, 2015



VIEW LOOKING SOUTH FROM DEERING STREET

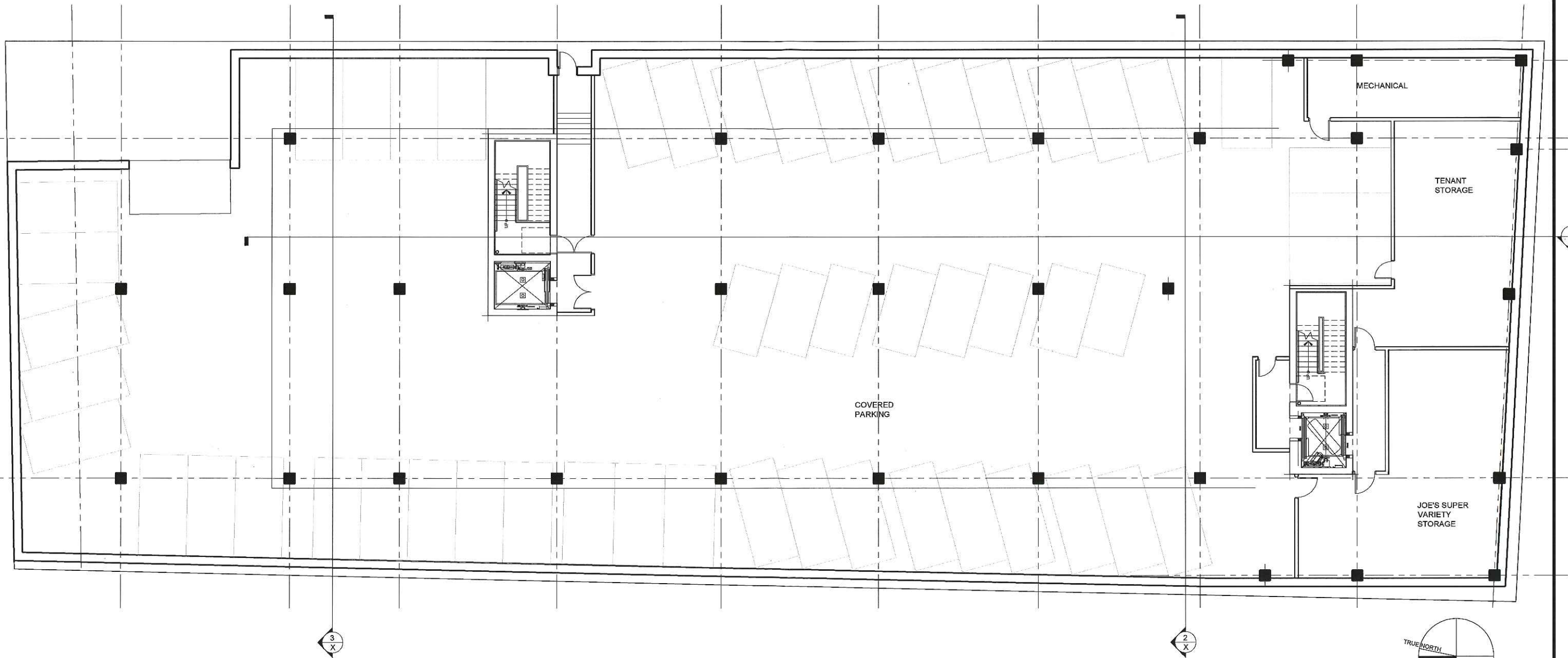
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667 CONGRESS

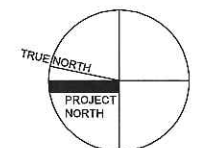
APRIL 28, 2015



VIEW LOOKING WEST FROM NEIGHBORING PARKING LOT



BASEMENT LEVEL



PROGRESS PRINT ONLY
Not for Construction

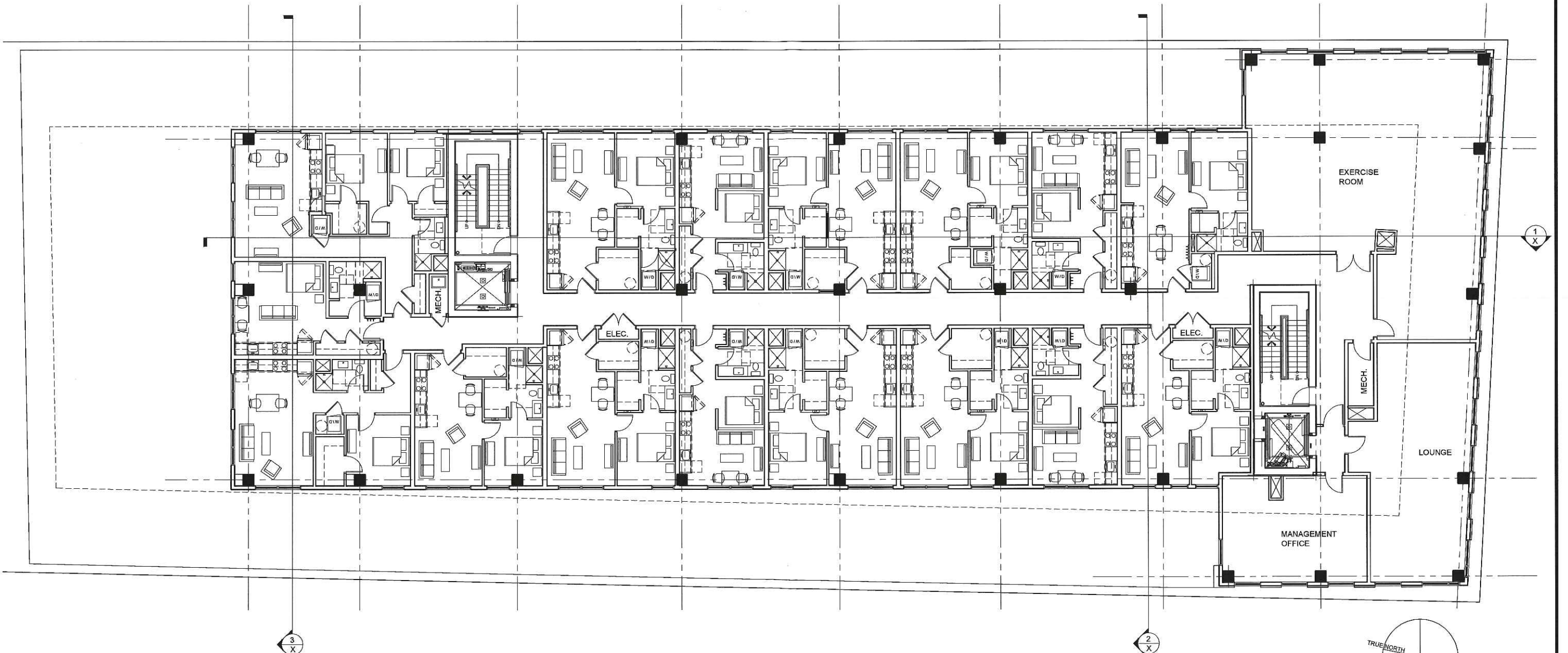
667 CONGRESS

APRIL 28, 2015

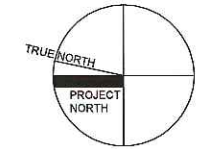
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SCALE

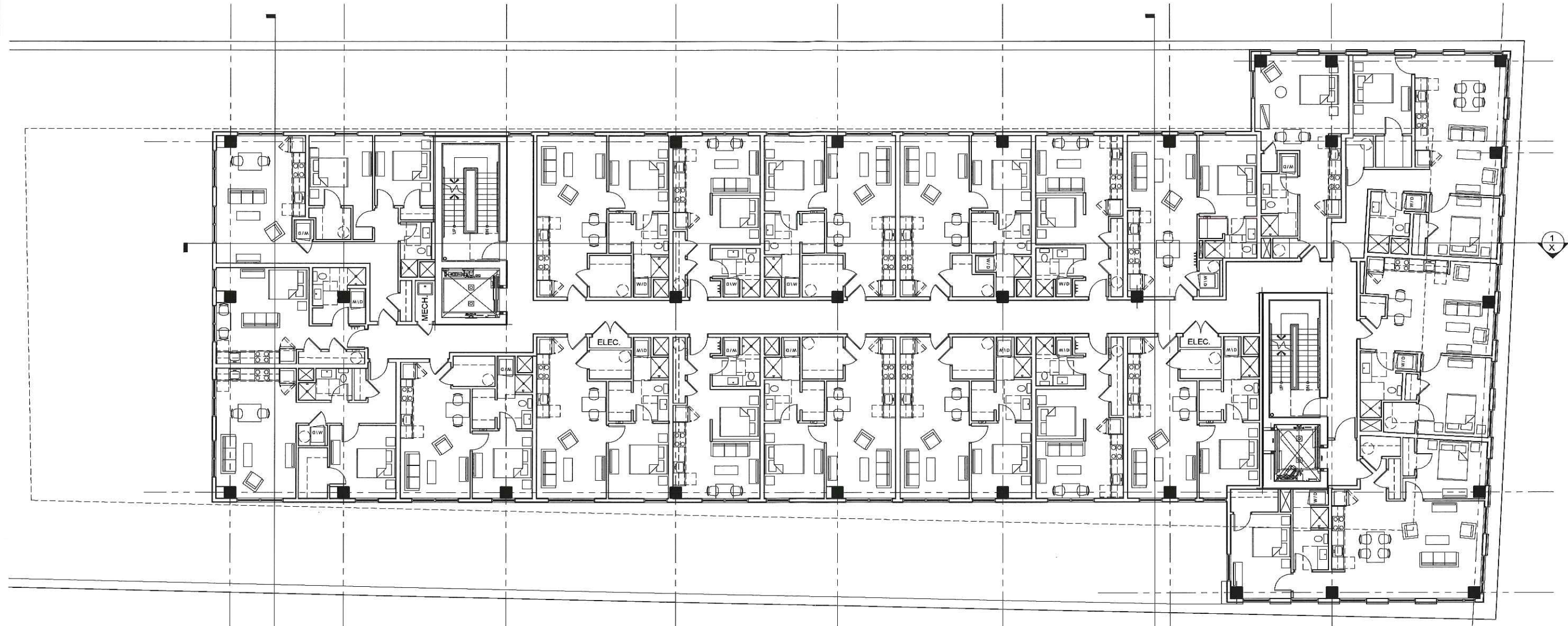




SECOND FLOOR

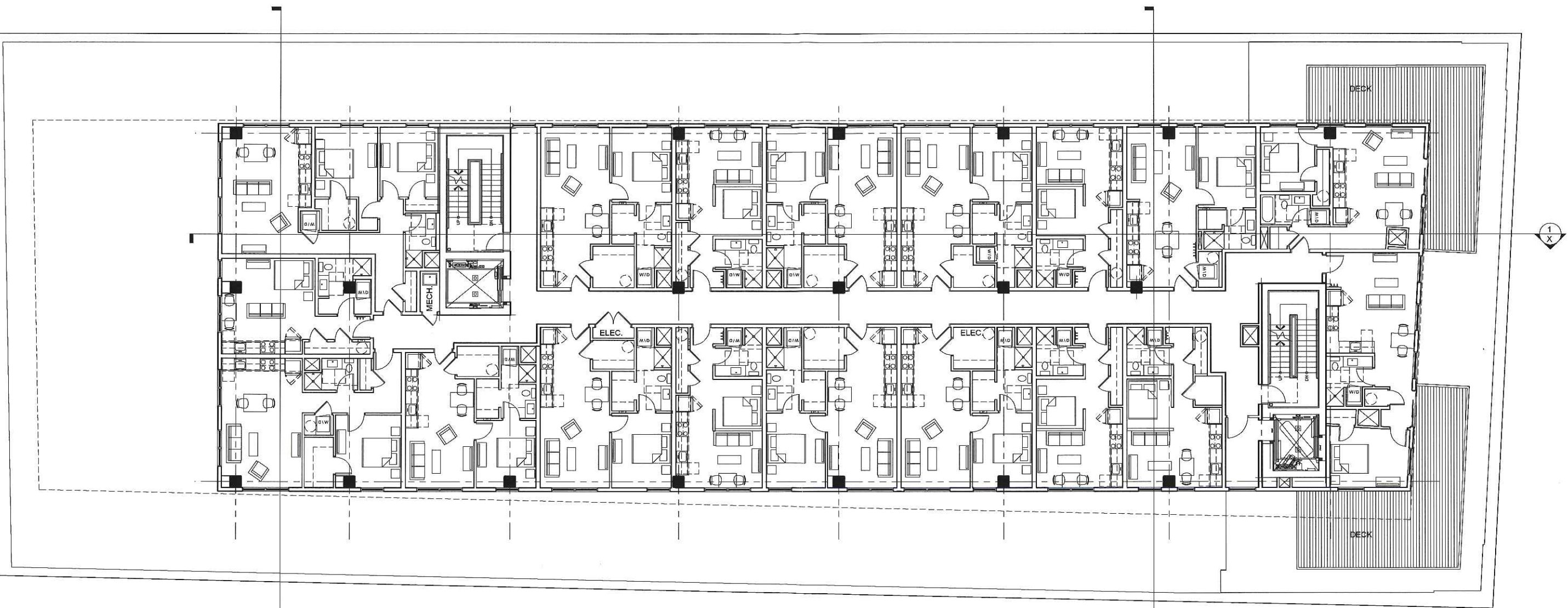


PROGRESS PRINT ONLY
Not for Construction



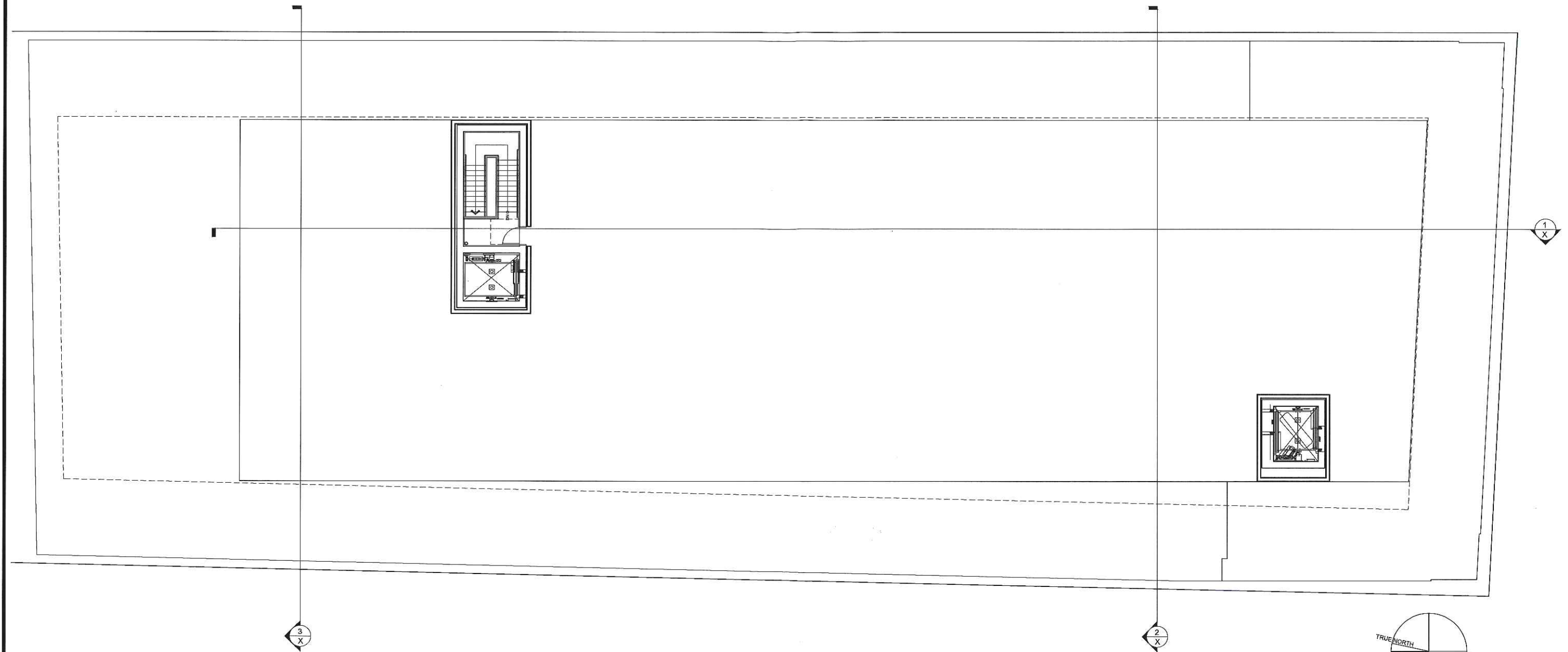
THIRD FLOOR

PROGRESS PRINT ONLY
Not for Construction

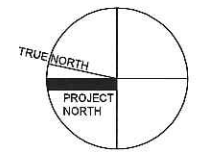


SEVENTH FLOOR

PROGRESS PRINT ONLY
Not for Construction



ROOF LEVEL



PROGRESS PRINT ONLY
Not for Construction



PLANNING BOARD REPORT PORTLAND, MAINE

B3 Zoning Map Amendment for Rental Apartments
Level III Zoning Map Amendment
2015-041
Redfern Properties, Applicant

Submitted to: Portland Planning Board
Public Hearing Date: May 12th, 2015

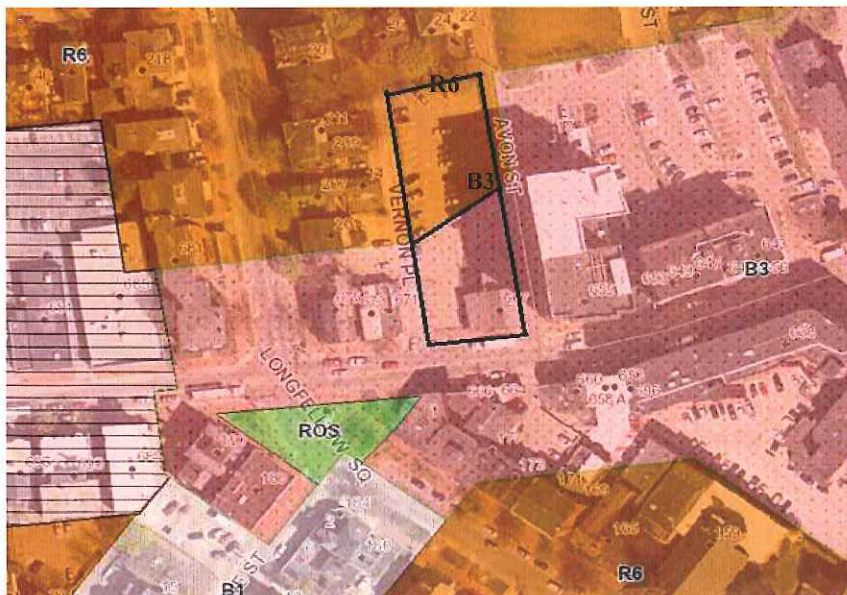
Prepared by: Shukria Wiar, Planner
Date: May 8th, 2015

I. INTRODUCTION

On behalf of MSD Properties, LLC, Jonathan Cully of Redfern Properties has submitted an application for a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. As part of the zone change, the applicant is proposing to extend the B3 to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The applicant is seeking to amend the zoning to allow for an integrated development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with parking behind the storefront.

The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place. The portion of the property proposed for rezoning to B3 is currently within the R6 zone.

It should be noted that the proposal includes the modification of the B-3 Downtown Height Overlay Zone to encompass the area of the proposed zone change, which would establish 85 feet as the maximum height limit. The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones. The property is also in the Congress Street Historic District and abuts another historic district in the rear of the property, the Deering Street Historic District.



A notice of this Workshop was sent to 284 property owners within 500 feet and interested citizens, and appeared in the May 4th and 5th, 2015 editions of the *Portland Press-Herald*. A Neighborhood Meeting is required for this project and the applicant has confirmed that the neighborhood meeting was held last week on April 8th, 2015, see [Attachment D](#). At the time of preparing this report the Planning Division has received three written comments, please [Attachment PC1](#).

II. PROJECT DATA

Parcel Size: 25,740 sq ft: 12,221 sq ft in B3 zone and 13,519 sq ft in the R6 zone
 Current Zoning: Residential R6 and Downtown Business B3
 Proposed Zoning: Downtown Business B3
 Existing Uses: Retail; Surface parking
 Proposed Use: Multifamily Rental Units - Approximately 130 units, retail, and structured parking

III. EXISTING CONDITIONS AND ZONING

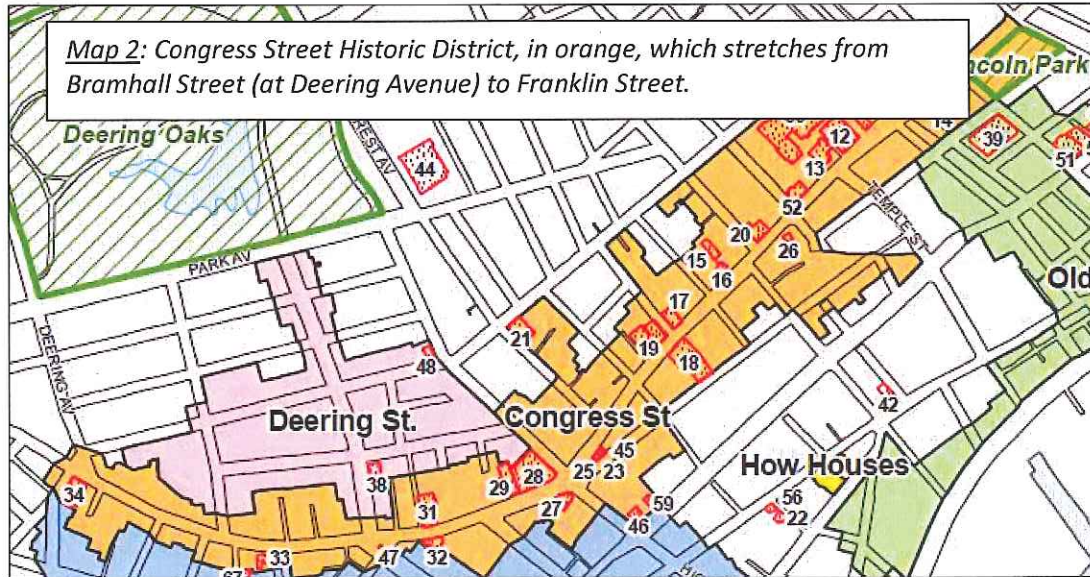
The site is split between the R6 and B3 zones. The north and north-west sides of the site abut the Deering Street neighborhood, which is composed of single and multifamily homes (all within R6 and the Deering Street Historic District). The property is located within the Congress Street Historic District. The rear of this site abuts the Deering Street Historic District.

Currently, the site contains a two and half story building that houses Joe’s Smoke Shop and a surface parking lot with approximately 58 parking spaces that are rented out to abutting properties.



Figure 1- Existing Site from Congress Street

Avon Street is a one way street that goes through to Deering Street, whereas Vernon Place is a two-way, dead-end street. Both streets are p Street. There are three curb cuts on Avon S blocked with guardrails.



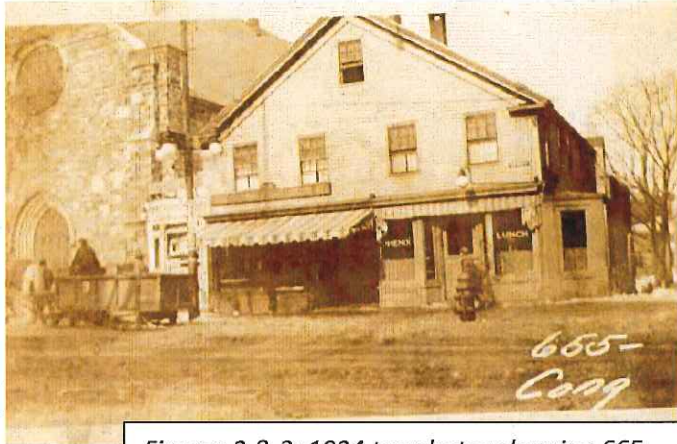
Map 2: Congress Street Historic District, in orange, which stretches from Bramhall Street (at Deering Avenue) to Franklin Street.

The property is located within the Congress Street Historic District and abuts the Deering Street Historic District, and is generally characterized by medium- to large scale residential development of a historic nature. The properties directly across

Congress Street are marked by residential multi-family development and commercial businesses.

The Joe's Smoke Shop building is considered noncontributing to the Congress Street Historic District and can therefore be demolished to make way for the redevelopment project.

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records.



Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street both on the lot now zoned B-3 in the front portion.

The St. Stephen's Church was razed in 1965 and the property has been used as a surface parking lot since then. Map 4, below, is an aerial of the proposed site from November 22, 1969. The aerial is showing the site to be entirely surface parking lot with a building at front corner of the site (as it is currently).

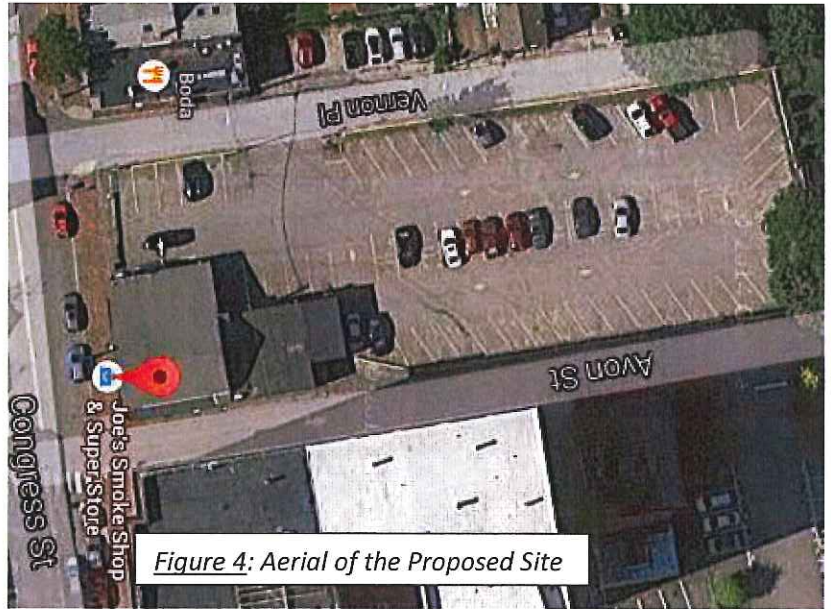


Map 4: November 22, 1969 Aerial of the Proposed Site as a surface parking lot.

IV. PROPOSED DEVELOPMENT

The applicant is proposing to change the R6 portion of the property to the B3 zone that would designate the entire property into the one zone. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. The B-3 zone is approximately 100 feet deep on the Vernon Place side and is approximately 150 feet on the Avon Street side of proposed site. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1). The applicant is seeking to develop approximately 130 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density for the project. The density limits and height limitation in the R6 zone constrain the redevelopment of this site.

The applicant is proposing to extend the B3 zone to include the rear portion of the property, making them consistent with the zoning on adjacent properties to the east and south (refer to map amendment on page 1). The applicant is seeking to amend the zoning to allow for an integrated development of a seven- to eight- story multifamily apartment building with Joe's Super Variety occupying the front portion (Congress Street) of the first floor. The basement and first level will house the parking spaces (59 on the basement level and 49 spaces on first level, 108 in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via two entrances: one off of Avon Street and one off of Vernon Place. Parking, access and other aspects are conceptual at this stage.



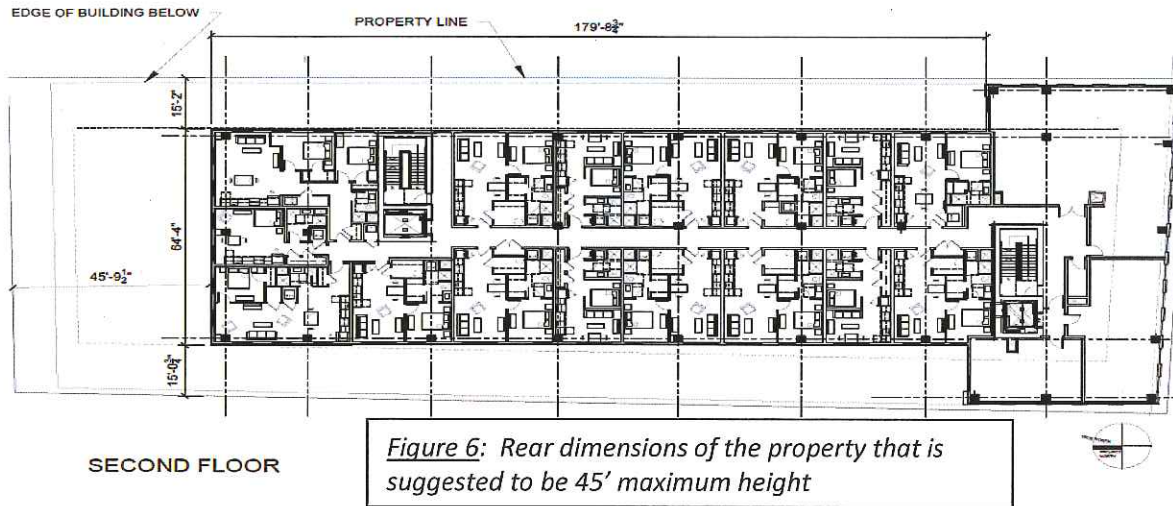
The parcel currently contains a surface parking lot with spaces within 35' of adjacent streets. Surface parking, whether existing or proposed, may not be located within 35' of the street, which in this case includes Vernon and Avon. These spaces, as proposed, are considered structured parking, in which case they are allowed.



The proposed amendment also includes modifications to the city's Downtown Height Overlay. The maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map, which establishes height restrictions ranging from 45 feet to 210 feet across the B3 zone. The height overlay zone sets an 85 foot height limit for the area in the existing B3 zone bounded by Congress and Avon Streets, and Vernon Place.

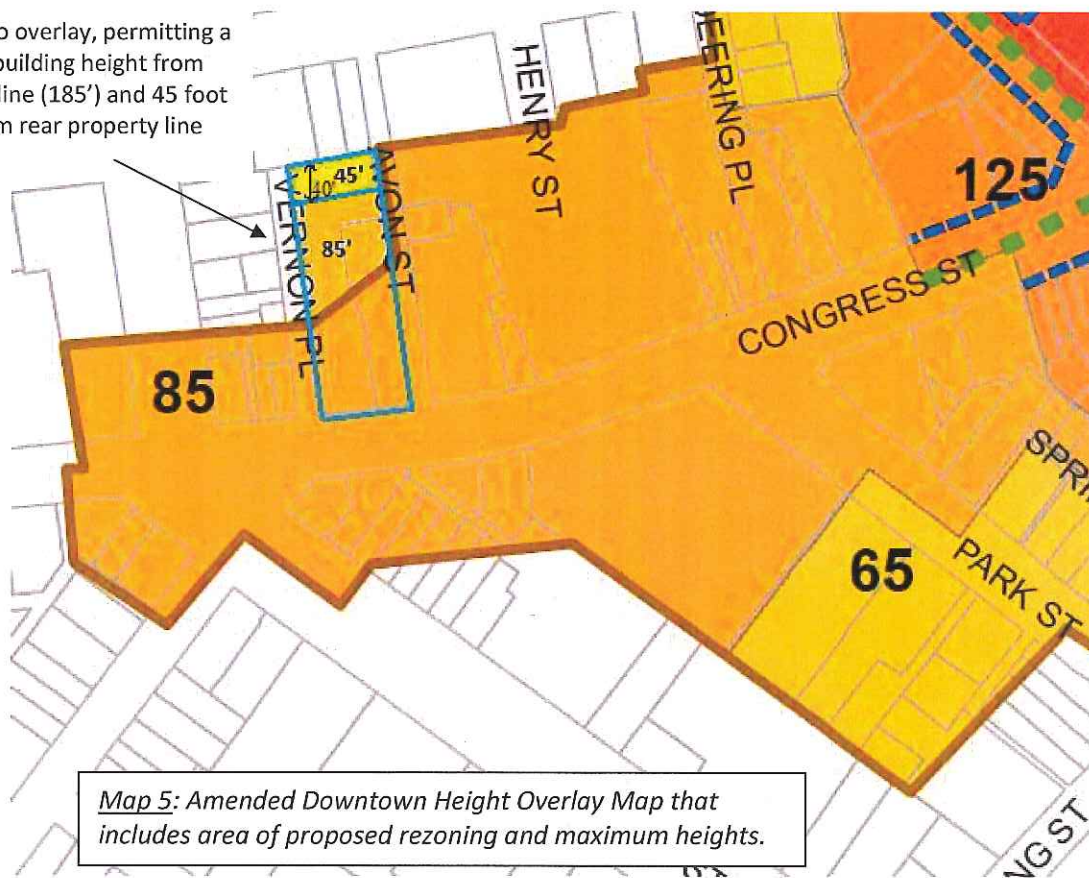
The applicant proposed a B3 height amendment to 85'. The Planning Staff is recommending the rear of the property height be limited to 45'; since the rear portion of the property is abutting residential uses and the R6 zone. The applicant agrees with this recommendation that the 45' height limit be applied to the rear 40 feet of the

property line (see Map 5). The actual setback from the rear property line to the building is approximately 45', but staff is suggesting having a 45 foot maximum building height for the rear lot depth of 40 feet.



Under the proposed zone change, the Downtown Height Overlay map would be amended to extend the 85 foot maximum building height to be contiguous with the proposed B3 map amendment and have the rear 40' of property be at 45' maximum building height (see Map 5).

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



As noted above, the Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment. The Downtown Entertainment Overlay Zone establishes a 100 foot dispersal

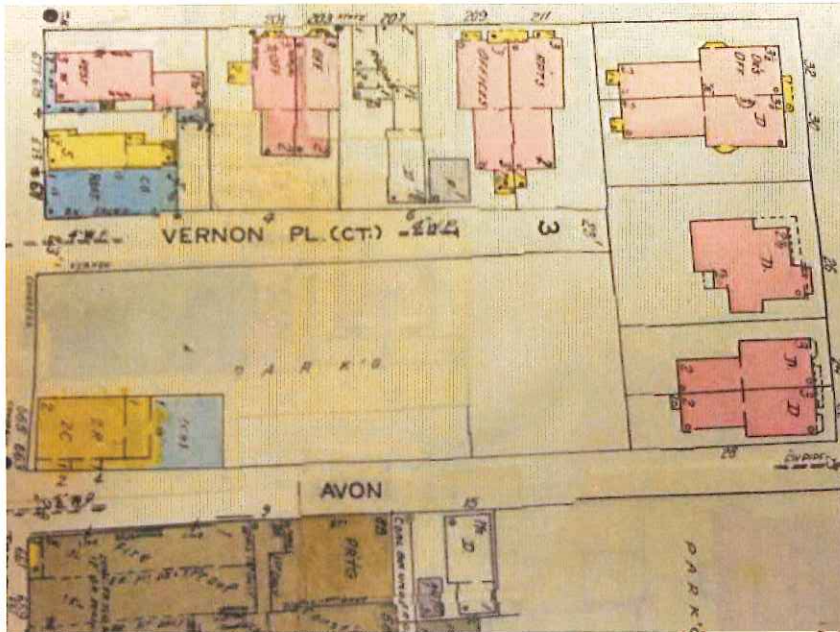
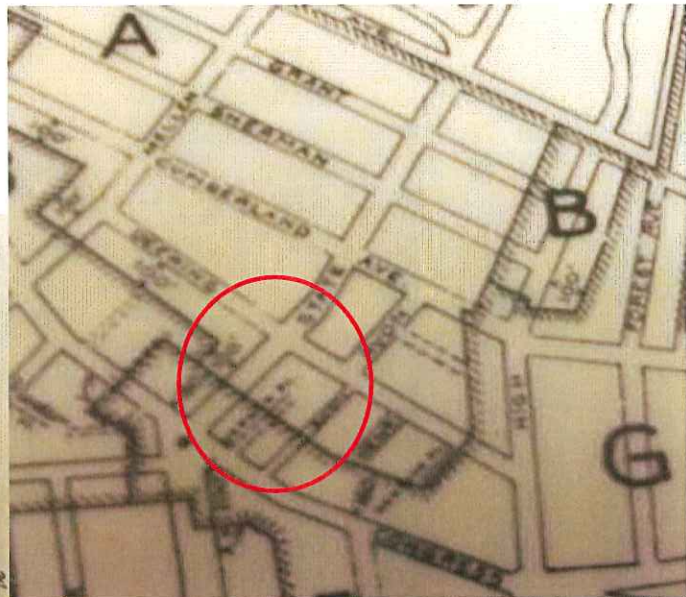
requirement for facilities with entertainment licenses. Since the Downtown Entertainment Overlay Zone refers explicitly to and is defined by the B3 zone by ordinance, any map amendment altering the limits of the B3 zone would incorporate the Downtown Entertainment Overlay Zone.

V. ZONING ANALYSIS

A. Zoning Background to the Site

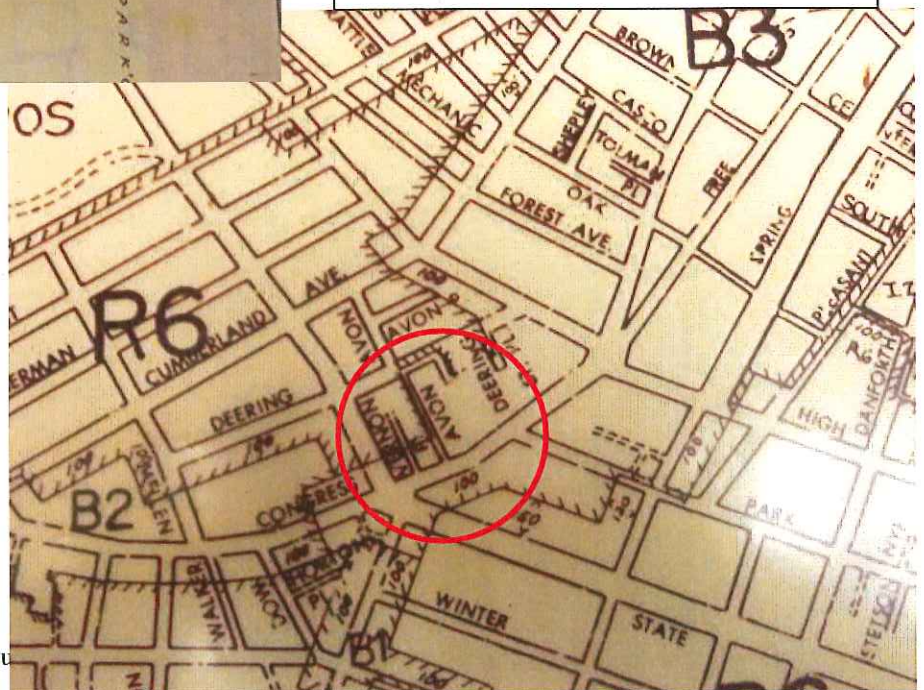
The City’s zoning maps from different years were researched for a zoning history of the site. Below Map 6 is a zoning map that adopted on March 18, 1946 by the City Council. The proposed site is circled in red. The site is divided between two zone at that time, A and G zone. According to the legend on the map, the A zone is Apartment House and the G zone is General Business.

Sanborn Insurance Map was published in 1954 with the latest amendment in June, 1975. The site was amended at a certain time that changed from having buildings on the site (church and two residential buildings) to surface parking.



Map 6, 7 and 8: Zoning Map Adopted by Portland City Council in March 18, 1946 (above); Sanborn Insurance Map (left) and Zoning Map Adopted by Portland City Council in March 1958, revised February 1990 (below).

The Zoning Map of Portland Mainland was adopted by the Portland City Council in March, 1958. The map shows this proposed site, in red, to be divided into two zones, R6 and B3. The Downtown Height Overlay Map was overlaid on the B3 zone. The Downtown Height Overlay Map was adapted on March 11, 2001



B. Current Zoning

The property is located in the R6 and B3 zones. Section 14-51 Extension of zone lines allows a less restrictive zone to extend no more than thirty (30) feet into a restrictive zone, below is the specific language of the section:

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.

This section is not practical in this situation since the R-6 zone portion of the lot is more than thirty feet. Even if the zone boundary is extended into the more restrictive R-6 zone, a portion of the proposed building would extend into the R6 zone, and the zone line extension does not allow an increase in height. Therefore, this ordinance provision does not resolve the issue of divided zone lines for the proposed redevelopment.

Zoning Purposes

The current R6 zoning is designed to promote neighborhood-scale housing and compatible retail. The purpose of the R6 zone, which is found in the East and West Ends of the city, is to “set aside areas...for housing characterized primarily by multi-family dwellings at a high density” and to “conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses” (Section 14-135). It should be noted that the R6 zone does encourages high-density housing on the peninsula.

The stated purpose of the B3 zone, or the proposed zoning designation, is clearly intends to increase housing opportunities and encourage mixed-use activities. However, the B3 zone also has some purposes which are distinct from the R6 – to

“enhance and promote the orderly expansion of retail and service businesses downtown,” to “provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development activity,” and “reinforce the role of the downtown as a meeting place for community residents and visitors alike...” (Section 14-203). Table 1 compares the purposes of the two zones as written in the zoning ordinance.

Table 1: Purposes of the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Purpose	To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.	To: 1. Maintain and enhance the role of the downtown as the business and commercial center of the region; 2. Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city’s resident, working and visitor populations; 3. Encourage increased housing opportunity downtown for a diverse residential population; 4. Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; 5. Encourage excellence in urban design; 6. Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures;

In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

7. Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown;
8. Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups;
9. Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment; and
10. Provide for the relocation of residents who are displaced by development.

Permitted Uses

In accordance with their distinct purposes, the R6 generally permits less intensive uses than the B3 zone. The R6 limits development almost exclusively to residential uses, with an exception for low-intensity, compatible uses such as cemeteries, parks, bed and breakfasts, and lodging houses. Some slightly more intense uses, including schools, extended care facilities, places of assembly, hospitals, professional offices, and off-street parking for uses permitted in the R6 zone, are allowed under a conditional use permit. The zone does not permit businesses uses.

As the purposes indicate, the B3 zone permits the most intensive range of uses of the two zones being considered here. The B3 therefore allows residential development similar to that of the R6 zone, but also allows offices, retail establishments, restaurants, drinking establishments, repair services, theaters, hotels, and parking garages by right. Museums, schools, clinics, places of assembly, and county and municipal offices are also permitted. Under conditional uses, the B3 permits light industrial, drive-up banking, emergency shelters, and surface parking.

Table 2: Permitted Uses in the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Residential	Single- and two-family dwellings	Attached single-family, two-family and multi-family dwellings
	Multi-family dwellings	Handicapped family units
	Handicapped family units	Lodging houses
	Single-family, single- and multiple-component manufactured housing	Combined living/working spaces
Business		General and business offices
		Professional offices
		Personal services
		Offices of building tradesmen
		Retail establishments, excluding gasoline sales, wholesale and bulk purchase construction supply sales
		Restaurants, excluding drive-through or drive-in restaurants
		Drinking establishments
		Billiard parlors
		Repair services, excluding motor vehicle repair services
		Communication studios or broadcast and receiving facilities
		Health clubs and gymnasiums
		Theaters and performance halls
		Convention facilities
		Hotels
		Business services
	Parking garages	
	Galleries	
	Registered medical marijuana dispensaries	

Institutional		Public or private schools Clinics Places of assembly Nursery schools, kindergartens, and day care facilities Museums College, university, trade school Governmental offices
	Other	Lodging houses Conversion of a structure into a bed and breakfast with four rooms Hostels with less than 10 guests Wind energy systems Accessory uses Cemeteries Parks, and recreation spaces Home occupation Municipal uses Special needs independent living units
		Bed and breakfasts Hostels Wind energy systems County and municipal uses Studios for artists and craftspeople Printing, publishing and related manufacture of cardboard or paper boxes

R6 Residential

B3 Downtown Business

Conditional	Residential Sheltered care group homes Conversion of a structure into a bed and breakfast with 5+ rooms Institutional Elementary, middle, and secondary schools Long-term and extended care facilities Intermediate care facilities Places of assembly Hospitals College, university, or trade school Other Utility substations Professional offices Chancellery Nursery school and kindergartens Off-street parking for uses permitted in the R6 zone Day care facilities Hostels with no more than 20 guests Wind energy systems ¹ Temporary wind anemometer towers	Utility substations Drive-up banking services Light industrial uses Emergency shelters Surface parking Temporary wind anemometer towers

Dimensional Requirements and Form

Lastly, the two zones differ extensively in terms of the form of building that is promoted through dimensional requirements, again with the B3 encouraging denser, more urban development than the R6 zone. Thus, the R6 provides certain density controls – minimum lot size, minimum area per dwelling unit, maximum lot coverages, and minimum open space ratios – that limit the build-out of any given parcel. The R6 zone also has setback requirements of 10-20 feet, which guarantees that buildings will be separated both from each other and the street.

The B3 comparatively does not include minimum lot sizes or minimum areas per dwelling unit, and does not require setbacks.

The R6 zone has a maximum building height of 45 feet. The proposed R-6 amendments recommended by the Planning Board were approved by the City Council on May 4th. The proposed revisions increase the density of the R-6 zone, but the maximum building height remains unchanged at 45 feet. As noted above, the maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map. Under the proposed amendment, the Height Overlay would be extended to cover the rezoned area, with a maximum building height of 85 feet at most of the site and 45 feet for 40' at the rear of the property, see Map5 above.

In terms of design and building form, the site is located within the Congress Street Historic District and would be subject to review under the Historic Preservation Ordinance. If the site is rezoned to B3, the development would require a certificate of appropriateness from the Historic Preservation Board and would be exempt from the B-3 Design Guidelines except for the following provisions (Section 14-526 (d) 5):

Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as described in the Design Manual:

- (i) *Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);*

Table 3: Dimensional Requirements in the R6 and B3 Zones

		Proposed R6	B3
Minimum lot size		2000 SF	None
Minimum area per DU		725 SF	
Minimum street frontage		20 ft.	15 ft.
Minimum lot width		20 ft.	None
Min./Max. front yard	Principal	5 ft. or no more than average depths of adjacent front yards.	5 ft. max.
	Accessory		
Min. rear yard	Principal	10 ft.	None
	Accessory	If <144 SF footprint. 5ft	
Min. side yard	Principal	5 ft., except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft.	None
	Accessory	If > 100 SF footprint, 20 ft.	
	On side streets	None	

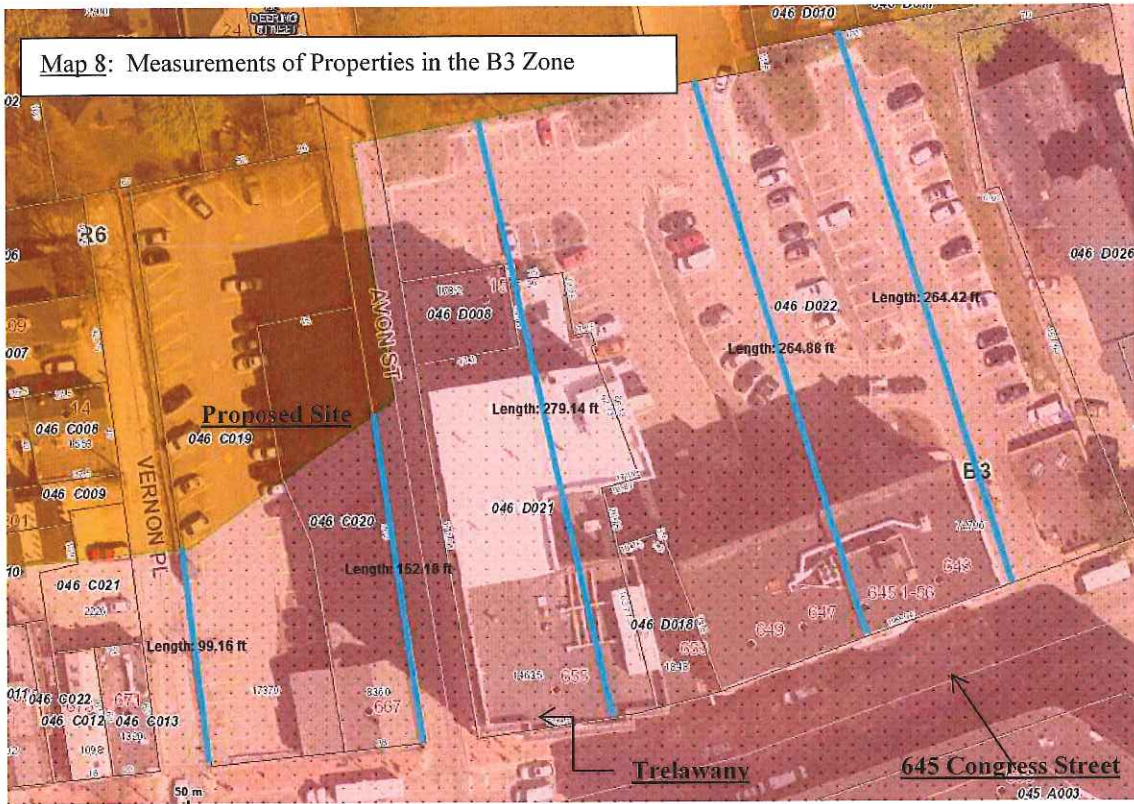
Max. lot coverage		60%	100%
Open space ratio		20%	
Max./Min. building height	Principal	45 ft. max	35 ft. min. if within 50 ft. of street; 85 ft. max.
	Accessory	18 ft. max	

VI. STAFF COMMENTS

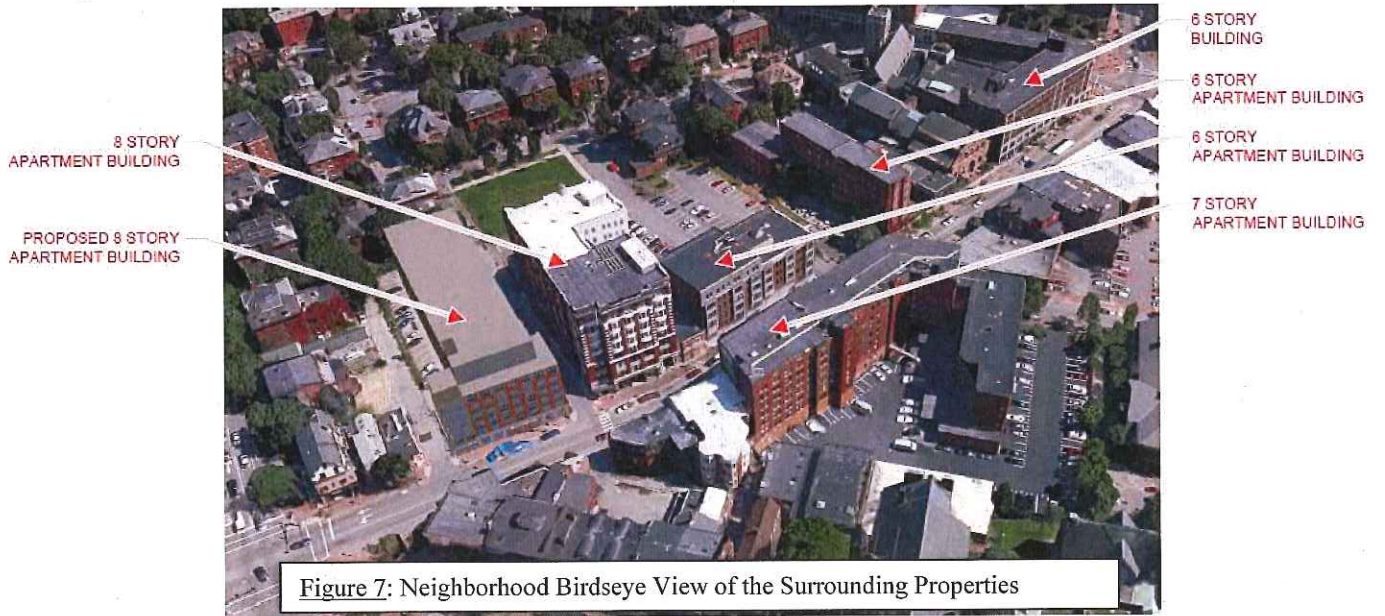
A. Zoning Analysis

As stated previously, the applicant is proposing that the site will consist of approximately one hundred and thirty-two (132) rental units. The site area is approximately 25,740 sq. ft. Congress Street is one of central streets located on the peninsula and is within walking distance of downtown or other work places and shopping.

The Planning Division believes this site, currently a relatively large parcel in the R6 and B3 zones with a business use, is a good candidate for the B3 zone (refer to Comprehensive Plan review below). The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The larger scale and density works reasonably well here, on a street that has significant variety of building types and scale. The buildings to the east of this property are the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. The Trelawney Building is entirely in the B3 zone, as well as a single family home in the back. As for the property at 645 Congress Street, the B-3 zone is approximately 265 feet deep into the site; the rear portion of the site is in the R6 zone. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1), it seems like the proposed site may have been the transition property in the two zones. A possible reason for this would have been to protect the R6 zone to the north and west. As part of the proposal for the rezoning, staff has recommended the back portion of the lot for a depth of 40 feet from the property line be a maximum height of 45 feet. The properties across Vernon Place are all multifamily homes, except along Congress Street (portion that is in the B3 zone). Below is aerial map that shows the depth of the B3 zone line of the proposed site and the properties to the east.



Across the street from the proposed property is the George S. Hunt Block and Lafayette Building. The applicant has submitted a Neighborhood Birdseye View (below) that shows these buildings as well as the stories of each building.



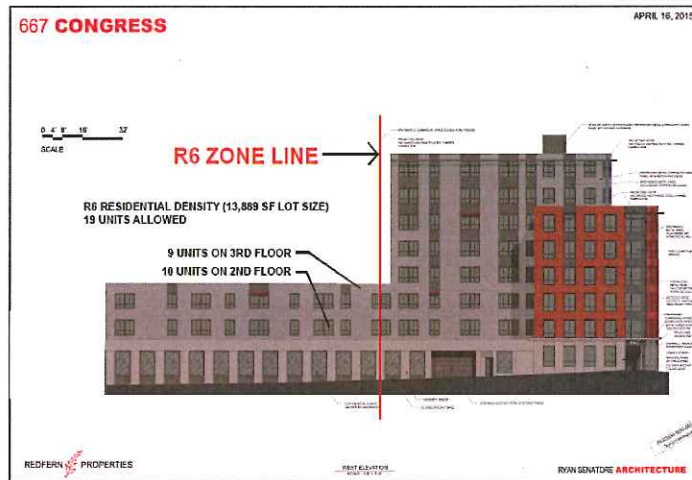
The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels.

Since there is a density cap and height limitation in the R6 zone, the B3 zone appears a better option for the development of this project. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation.

C. Density Considerations

The applicant has indicated that the number of dwelling units would be approximately 132 units. The proposed R-6 amendments recommended by the Planning Board were approved by the City Council on May 4th, therefore the density under the new R6 zone is 725 square feet of land area per unit. Under this new density requirement, the applicant had calculated nineteen (19) units that would be allowable. Below is a rendering of how that proposed building would look like if the site was built out in the two zones.

Since there is no density requirement in the B3 zone, it is difficult to analyze the maximum numbers of units that might be possible under the zone. The applicant has also submitted a rendering of the building with the proposed number of units in the B3 zone.



B3/R6 ZONING ELEVATION



B3 ZONING ELEVATION

VII. COMPREHENSIVE PLAN ANALYSIS

Goals and policies from the Comprehensive Plan which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.
- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.

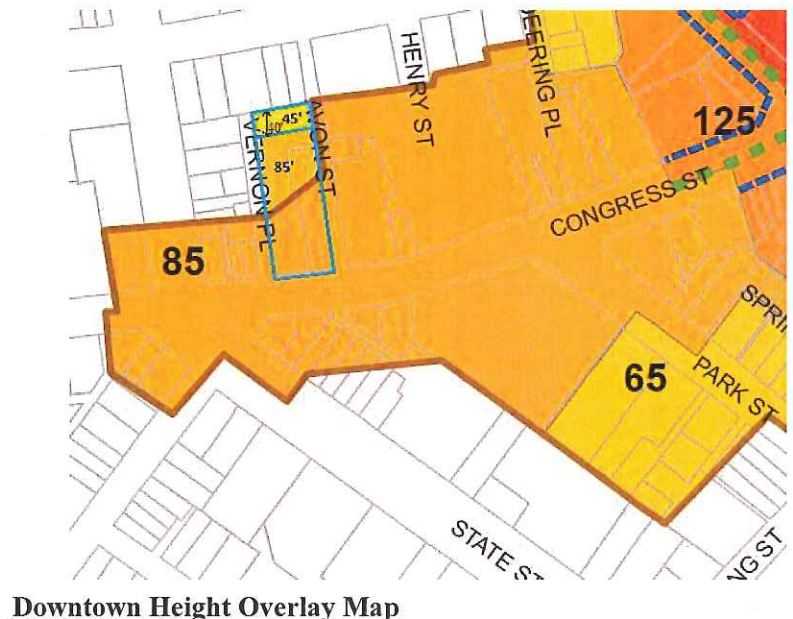
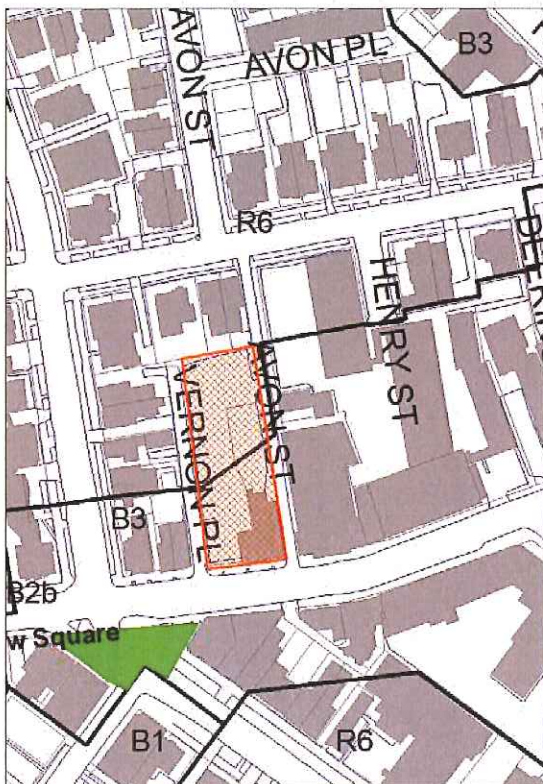
Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

VIII. PROPOSED MOTION

Based on the material provided in this Planning Report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed map amendment for the property at 667 Congress Street to **change the zoning from Residential (R-6) to Downtown Business (B-3)** and the concurrent amendment to **modify the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area with a 45 foot height limit for 40 feet at the rear of the property line**, as shown in the maps below, **are** or **are not** consistent with the Comprehensive Plan and **does** or **does not** recommend adoption of the proposed amendments to the City Council.



ATTACHMENTS:

Memo Attachments

1. Downtown Height Overlay Map

Public Comments

- PC1. Dianna Rust's comments dated April 9, 2015
- PC2. Darrell Williams' comments dated April 30, 2015
- PC3. Mark Lockman's comments dated May 5, 2015

Applicant's Submittal

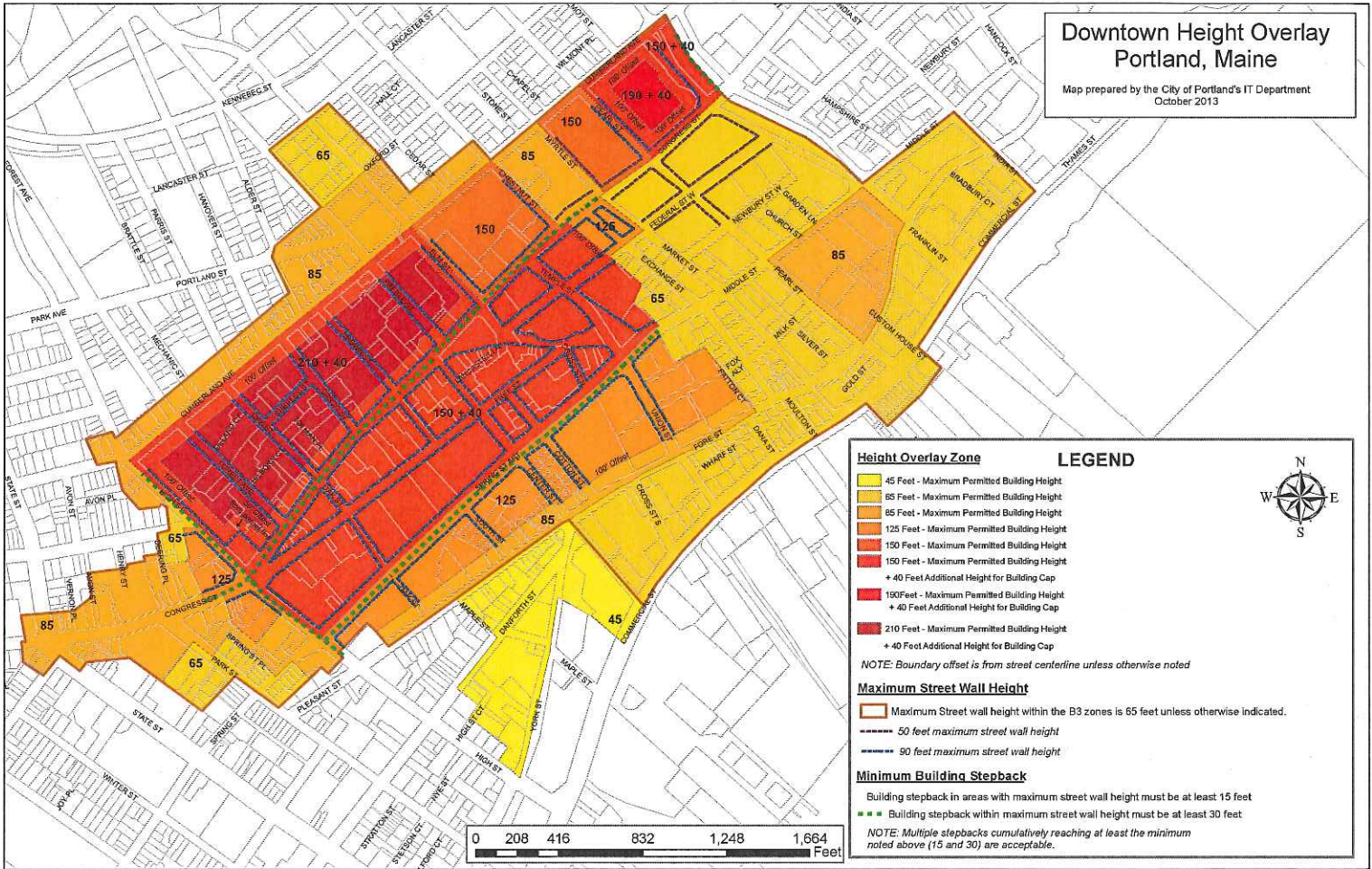
- A. Cover Letter dated March 10, 2015
- B. Application
- C. Deed
- D. Neighborhood Meeting Minutes

Plans

- P1. Neighborhood Birdseye View
- P2. First Floor of Proposed Development
- P3. Congress Street Rendering
- P4. Proposed Zone Map Change
- P5. Basement Level Floor Plan
- P6. First Floor Plan
- P7. Second Floor Plan
- P8. Third Floor Plan
- P9. Seventh Floor Plan
- P10. Roof Level
- P11. South Elevation Rendering (Congress Street)
- P12. West Elevation Rendering (Vernon Place)
- P13. North Elevation Rendering (from Deering Street)
- P14. East Elevation Rendering (Avon Street)
- P15. Garage Section-1
- P16. Garage Section-2
- P17. Garage Section-3
- P18. Floor Plans with the dimensions to the property line
- P19. Rendering of the Site under R6 Density
- P20. 667 Congress Street Model

Downtown Height Overlay Portland, Maine

Map prepared by the City of Portland's IT Department
October 2013



P.O. Box 8816
Portland, ME 04104
Office: 207-776-9715
Fax: 207-221-2822
www.redfernproperties.com

March 10, 2015

Ms. Barbara Barhydt
City of Portland, Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

Dear Barbara:

On behalf of MSD Properties LLC, please find attached a Zoning Map Amendment Application related to 665-667 Congress Street. Redfern Properties is working in partnership with MSD Properties LLC and Joe's Super Variety to redevelop the property with a multi-family apartment building, consisting of 7-8 stories and roughly 130 apartments. Joe's Super Variety will occupy the ground floor retail space.

Per the attached, Zoning Map, the property currently is partially in the B-3 Zone and partially in the R-6 Zone. We are requesting a Map Amendment that would designate the entire property B-3. We believe that this is a very logical change that would result in a more sensible Zoning Map. The proposed project is very consistent with the City's Comprehensive Plan and would fill the current need for rental apartment housing.

Please find attached the following in support of this application:

1. **Zoning Map Amendment Application Form**
2. **Copy of Property Deed**
3. **Vicinity Map Showing Current Zoning**
4. **Aerial Photo of City Block showing current building types**
5. **Preliminary Proposed Site Plan**
6. **Preliminary Proposed Building Rendering**

We are committed to creating a progressive and noteworthy project that will enhance this important urban neighborhood. Please do not hesitate to contact me.

Sincerely,



Jonathan Culley
Redfern Properties LLC



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City’s Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City’s web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City’s regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

<p>Planning Division Fourth Floor, City Hall 389 Congress Street (207) 874-8721 or 874-8719</p>	<p>Office Hours Monday thru Friday 8:00 a.m. – 4:30 p.m.</p>
--	---

PROJECT ADDRESS: 667 Congress St.

CHART/BLOCK/LOT: 46-C-19-20

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

We are seeking to change the the rear half of the parcel from R-6 to B-3. The front half of the parcel is already B-3. We are proposing to build a 7-8 story multi-family apartment building with roughly 130 rental apartments and parking under and behind the building.

CONTACT INFORMATION:

	Applicant's Contact for electronic plans Name: Jonathan Culley e-mail Address jonathan@redfernproperties.com work # 207-221-5746
Applicant – must be owner, Lessee or Buyer Name: Redfern Properties LLC on behalf of MSD Properties LLC Business Name, if applicable: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-221-5746 Home# Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Owner – (if different from Applicant) Name: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Owner Contact Information Work # Adam Taylor, Attorney 207-828-2005 Home# Cell # Fax# 207-347-4523 e-mail: ataylor@tmfattorneys.com
Agent/ Representative Name: Jonathan Culley/Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Agent/Representative Contact information Work # 207-221-5746 Cell # 207-776-9715 e-mail: jonathan@redfernproperties.com
Billing Information Name: Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Billing Information Work # 207-221-5746 Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Engineer Name: Address: TBD City/State : Zip Code:	Engineer Contact Information Work # Cell # Fax# e-mail:

Surveyor Name: Nadeau Land Surveys Address: 918 Brighton Ave. City/State : Portland, ME Zip Code: 04103	Surveyor Contact Information Work # 207-878-7870 Cell # Fax# 207-878-7871 e-mail: jim@nadeaulandsurveys.com
Architect Name: Ryan Senatore Architecture Address: 565 Congress St., Suite 304 City/State : Portland, ME Zip Code: 04101	Architect Contact Information Work # 207-650-6414 Cell # 207-650-6414 Fax# e-mail: ryan@senatorearchitecture.com
Attorney Name: Eben Adams/Pierce Atwood Address: Merrill's Wharf 254 Commercial St. City/State : Portland, ME Zip Code: 04101	Attorney Contact Information Work # 207-791-1175 Cell # Fax# 207-791-1350 e-mail: eadams@pierceatwood.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

The applicant is MSD Properties LLC. A copy of the deed demonstrating fee ownership is attached. The applicant is working in partnership with Redfern Properties LLC to rezone and redevelop the property.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

The property is currently used for retail service and parking. It is the home of Joe's Super Variety with surface parking to the rear of the store.

Current Zoning Designation(s):

The front half of the property is currently zoned B-3, while the rear half is zoned R-6. We seek Zone Map Amendment for the rear half half of the property to match the front half, such that the entire property would be zoned B-3.

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.


MSD Properties LLC and Redfern Properties are working in conjunction to develop a multi-family apartment building with ground floor retail. Joe's Super Variety would occupy the ground floor retail space. Preliminary renderings of the proposed building are attached.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

<p>Zoning Map Amendment ___ x \$2,000.00 (from <u>R-6</u> zone to <u>B-3</u> zone)</p> <p>Zoning Text Amendment ___ \$2,000.00 (to Section 14- _____) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (<u>example</u>) and language to be added is depicted as underline (<u>example</u>))</p> <p>Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00</p> <p>Conditional or Contract Zone ___ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)</p>	<p>Fees Paid (office use) _____ _____ _____ _____</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none"> • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) <p>Third party review is assessed separately.</p>
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<p>Signature of Applicant: </p>	<p>Date: 3/10/15</p>
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MSD PROPERTIES LLC / MICHAEL J. DISCATIO
 MANAGING MEMBER

Further Information

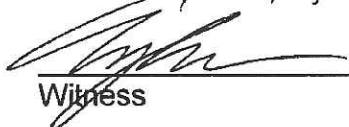
In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

DEED OF SALE BY PERSONAL REPRESENTATIVE Maine Statutory Short Form

WE, LOUIS A. DISCATIO, of 18 Smith Farm Lane, Portland ME 04103, and TERESA REO, aka THERESA DISCATIO, of 99 Lowell Street, South Portland ME 04106, duly appointed and acting **PERSONAL REPRESENTATIVES** of the **ESTATE** of **JOSEPH L. DISCATIO, Cumberland Probate Docket #2012-1034**, by the power conferred by the Probate Code, and every other power, and with the right provided by decedent to convey property without notice to devisees or heirs, for consideration paid, **grant** to **MSD PROPERTIES, LLC**, a Maine Limited Liability Company with a principal place of business at 665 Congress Street, Portland ME 04101, certain lots or parcels of land and improvements in Portland, Cumberland County Maine on the northerly side of Congress Street bounded on the south by Congress Street, on the west by Vernon Place, and on the east by Avon Street, of approximately .6 acres, described on Exhibit A attached.

This property was conveyed to Joseph L. Discatio and Mary Discatio as joint tenants by warranty deed of Joseph L. Discatio dated September 16, 1990 and recorded on September 18, 1990 in Book 9322 Page 86 of the Cumberland County Registry of Deeds. Mary Discatio died on July 8, 1999; her estate was not probated.

WITNESS, my hand and seal this 10 day of June, 2013.



Witness

Louis A. Discatio

Grantor – Louis A. Discatio, Personal Representative
Estate of Joseph L. Discatio



Witness

Teresa A. Reo


Grantor – Teresa Reo, aka Theresa Discatio,
Personal Representative Estate of Joseph L. Discatio

State of Maine
Cumberland, SS

Personally appeared before me, the above named Louis A. Discatio and Teresa Reo, aka Theresa Discatio, in their capacity as Joint Personal Representatives of the Estate of Joseph L. Discatio, acknowledged the foregoing instrument to be their free act and deed, and subscribed the same.

Before me,
6-10-2013

Date



Andrew J. Doukas, Attorney At Law
ME BAR #2932

MAINE REAL ESTATE TAX PAID

EXHIBIT A – LEGAL DESCRIPTION OF PROPERTY AT 665 CONGRESS STREET,
PORTLAND, CUMBERLAND COUNTY, MAINE

PARCEL I

A certain lot or parcel of land with the buildings thereon, situated on the northwesterly corner of Congress Street and Congress Place, in said City of Portland, County of Cumberland and State of Maine, and having a frontage of thirty-eight (38) feet on Congress Street, and a frontage of about two hundred two (202) feet on Congress Place, with a depth of forty-five (45) feet at the northerly end. Said premises being bounded on the south by Congress Street, on the east by Congress Place, on the north by land now or formerly of T.A. and W.H. Roberts, and on the west by land now or formerly of H.W. and A. Deering, and by land of St. Stephens Church.

Congress Place is now known as Avon Street.

PARCEL II

First: A certain lot or parcel of land situated in said Portland on the easterly side of Vernon Court and numbered 13 and 15 on said Court, and being the same property conveyed by Grenville H. Deering to Ernest J. Eddy by deed dated November 2, 1907 and recorded in Cumberland County Registry of Deeds in Book 816, Page 149, to which deed and the deeds therein referred to reference is hereby made for a more particular description.

Second: A certain lot or parcel of land, with any buildings thereon, situated on the easterly side of Vernon Court in said Portland and being the most northerly lot of land on the easterly side of said Court and being the premises numbered 19 and 21 as shown on the city valuation plan recorded in Cumberland County Registry of Deeds in Book 5, Page 46, and being the same premises conveyed by Elizabeth E. Deering to said Ernest J. Eddy by deed dated December 18, 1908 and recorded in said Registry of Deeds in Book 835, Page 6, to which deed and the deeds therein referred to reference is hereby made for more particular description of the premises.

Third: A certain lot or parcel of land, with any buildings thereon, situated on the northeasterly side of Vernon Court, otherwise known as Vernon Place, and being the same property conveyed by Robert C. Schmidt to said Ernest J. Eddy by deed dated December 14, 1908 and recorded in said Registry of Deeds in Book 835, Page 4, to which deed and the deeds therein referred to reference is hereby made for a more particular description of the premises.

Fourth: A certain lot or parcel of land at 18-22 Avon Street running in a southerly direction towards Congress Street from the southerly boundary line of the former Kelsey property at the southwest corner of Avon and Deering Streets, a distance of seventy-three and one-half (73 ½) feet, more or less to a junction with the property now or formerly of the Avon Corp. located at the west corner of Avon and Congress Streets, bounded on the southerly side by the said property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall; bounded on the west by property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall and

bounded on the north by said former Kelsey property and property now or formerly of said Avon Corp.

Fifth: A certain lot or parcel of land at number 11 (called 5) Vernon Place, together with the brick frame dwelling, or apartment house thereon, the said property being bounded as follows: On the northerly side by the land, brick and frame house of the said Dalton Memorial Chapel and Burnham Hall, a distance of forty-five (45) feet, more or less, on the easterly side by property now or formerly of the Avon corp. located at the northwesterly corner of Congress and Avon Streets a distance of approximately thirty-six (36) feet, more or less, to a junction with the land and Parish house of the Rector, Wardens and Vestrymen of St. Stephen's Parish, or Church; on the southerly side by the said land and Parish House of said Rector, Wardens and Vestrymen of St. Stephens's Parish or Church; on the westerly side by the line of Vernon Place.

Sixth: Also releasing and conveying all my right, title and interest in the following described real estate: A certain lot or parcel of land with (any) buildings thereon, situated on the northerly side of Congress Street and numbered 665 ½ Congress Street and now or formerly known as "Joe's Smoke Shop," said land beginning at a point one hundred and eighty-five (185) feet, more or less, from State Street at the easterly line of St. Stephen's Episcopal Church edifice and extending in an easterly direction eight and one-half (8 ½) or nine (9) feet thence in a northerly direction a distance of thirty-six (36) feet; thence approximately seven (7) feet in a westerly direction to the easterly wall of the said St. Stephen's Episcopal Church edifice, the said wall being the westerly boundary of the said property.

Seventh: Also a certain other lot or parcel of land, with any buildings thereon, known as St. Stephen's Church, and situated on the northerly side of Congress Street in said Portland, bounded and described as follows:

Said lot is on the corner of Congress Street and Vernon Court, so-called, and is sixty-three (63) feet on Congress Street running back on Vernon Court one hundred and thirty (130) feet, more or less, on the easterly side of said court as far northerly as the land formerly owned and occupied by Hiram W. and Alvin Deering, said lot is bounded on the easterly side thereof by a line described in a Decree of the Supreme Judicial Court held in and for the County of Cumberland, April Term 1838 in the case of Hannah Harding In Equity vs. Job Randall, as a "line drawn from the northerly corner of said lot to Main Street and intersecting said Street two (2) feet easterly of the easterly end of the dwelling house in said pleadings mentioned and excluding the well near said house," to which Decree, duly entered on the Docket of said Court, in said suit, reference for a particular description of said easterly side line of the lot hereby conveyed is always to be had.

Meaning and intending to convey, and hereby conveying, all right, title and interest in and to lots 19-23 as shown on City of Portland Assessors Chart Plan 46, Block C, as recorded in the City Assessors, Portland, Maine.

Meaning and intending to convey, and hereby conveying, all real estate of the grantor which is situated in the block in said Portland which is bounded southerly by Congress Street; westerly by Vernon Place and easterly by Avon Street.

Received
Recorded Register of Deeds
Jun 10, 2013 03:36:33P
Cumberland County
Pamela E. Lovley

P.O. Box 8816
Portland, ME 04104
Office: 207-221-5746
Fax: 207-221-2822
www.redfernproperties.com

March 25, 2015

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a new development at 665-667 Congress St. in Portland, the site of Joe's Super Variety. The project consists of ground floor commercial space, which will be the new home of Joe's Super Variety and roughly 130 residential rental apartments on Floors 2-8. This meeting pertains to our Zoning Map Amendment Application. Currently the property is Zoned B-3 in the front and R-6 in the rear. We are requesting a Zone Map Amendment which would change the back of the property to the B-3 Zone to match the Zoning at the front of the property.

Meeting Location: Reiche School Community Room, 166 Brackett St., Portland
Meeting Date: Wednesday, April 8th
Meeting Time: 6:00pm

The City Code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please contact me at 207-221-5746 or jonathan@redfernproperties.com. I hope to see you at the meeting.

Sincerely,


Jonathan Culley
Redfern Properties LLC

Dianna Rust
15 Avon Street
Portland, ME 04101
207 956 7633
diannajrust@gmail.com

Stuart O'Brien
Chairman, Planning Board
City of Portland
389 Congress Street
Portland, ME 04101

April 9, 2015

cc: David Marshall, City Councilor, District 2
by email
cc: Jonathan Culley, Redfern Bayside, Developer
by email

Zoning Map Amendment Application
665-667 Congress Street

Dear Mr O'Brien

As the owner of the one and only single family residence on upper Avon Street, directly opposite the above proposed development, I am setting out below the points I wish to raise in opposition to the granting of the variance to change the B6 half of the parking lot to B3.

1. My partner, Walter Ungerer, and I moved to Portland, to 15 Avon Street, at the end of August 2014. We are both artists. We have been told that the house was built in 1865, by the then City Weigher (for hay!)
2. When we moved we could only assume that the R6 section of the parking lot would stay that way, and that any development would be controlled by that zoning.
3. We have no objection to *some* development. The area could certainly use some improvement.

4. As we are both artists, this house, with a decently sized basement for a Victorian house, which we have just thoroughly (and at some considerable expense) waterproofed, provides the spaces we need as a home and for our work.

5. One of our biggest issues with this proposed development is loss of light:

a) We would be cast into deep shade, all day long, especially in the winter. There's not a lot of light, but the light we do get is attractive and pleasing, and it was another factor in choosing the house. Because the Trelawny Building is immediately to the south of us, the light from the west is our main light. In the winter the west light, which shines across the parking lot, is the only light. Apart from direct light on the house, at the moment we can see sunlight looking out to the front. Our little patio faces west, and with no sunlight it would become almost pointless to try and use it.

b) I think it goes without saying how important sunlight is. It can have a strong psychological effect, and a lack of it can contribute to depression. As well as uplifting to see, sunlight adds warmth to a room when it comes in.

c) The only mention I could find about light in the Portland building codes is to not create shade on certain open spaces. In the UK, where I am from, great importance has long been placed on a right to natural sunlight and there have been some interesting cases of homeowners holding up developments because of a threat to their light.

d) About our house people have said, "I love the light!" Lack of light can reduce the value of a house and its resale possibilities. This is of great concern to us.

e) Would you allow someone to come and paint grey on all your windows?

6. After the light issue, we are very apprehensive about the mass and density of the proposed building that would be directly opposite us. Obviously, we don't know the site plan details yet, but I believe the B3 would allow the building line to be relatively close to the street. It would seem there wouldn't even be space for some softening effect of any landscaping.

7. Obviously, we have a very personal view of this development. In fact, we are devastated by the idea. The very thought of this building looming up in front of us feels like robbery and a violation of our space. Avon Street is a small one-way street. Not only will we lose light, but from the proposed plan it looks as if we will have 2 parking entrances very close to our house,

opposite us, with the possibility of disturbance at any time of the day or night (right now parking ends when Boda closes, and it isn't available again until 6.00 am). And with 132 apartments how many cars will there be?

8. Where will trash be picked up, by whom, and at what time? Where will snow go?

9. It seems as if the developer and the city have already assumed this request for a variance will just sail through, without any problems. Jeff Levine (city's director of Planning and Urban Development) was quoted in the Portland Press Herald on March 9, 2015, as saying it's 'exciting' to have a large proposal on a transit corridor.... He said Culley's plan appears to comply with the city's zoning rules, and characterized his request for a zoning map amendment as "nothing drastic". Well, it is drastic to us. *This is our home.*

10. It is just this passing of a variance that would enable the developers to build so big. It will be a massive building between two small streets, one of which is a dead-end. Just because there is already an 8 story building one side of Avon Street, does it have to follow there will be another on the other side? And where will it end. If this variance is allowed, it will surely set a precedence to be used by other developers as an example to point to, to build more giant properties. This would become overwhelming to Longfellow Square, to the west of Congress Street, and on. At the West End Neighborhood meeting I attended Wednesday night, Jonathan Culley said he is working with the city on the street issue. Are there planned changes to the street that we don't know about?

11. We came to Portland because we saw it as a city with a high quality of life, interesting neighborhoods and well preserved architecture. I appreciate the city's wish and need for more housing. However, I have to wholeheartedly agree with an article written by Michael Mertaugh for Keep Portland Livable. He writes how he and his wife are "disappointed to see that Portland's current strategy for promoting growth and development appears to give priority to projects that emphasize size, quantum increases in density... ". And, further, "The city's enthusiasm for higher residential density appears to be partly motivated by an expectation that higher density would generate new tax revenues that could be used to reduce Portland's tax burden. The experience of many other cities suggests that this is likely to be a vain hope. The additional tax revenues from higher residential density are likely to be fully offset by additional costs for public services."

As I couldn't say it better, again, I quote (with his kind permission) Michael Mertaugh, "Capitalizing on Portland's strengths would require a different approach to Portland's development. Rather than a reactive approach that responds to specific proposals by developers - and often involves concessions

such as zoning variances and public subsidies – it would require a pro-active and deliberate approach designed to build on Portland’s strengths and attract the type of development that we want for our city.”

12 If the current zones are adhered to, or the current B3 section is slightly extended to make a suitable shape, couldn’t apartments still be built there? We’ve been told the proposed building will contain a combination of studios, and one-bedroom units, with a small number of two-bedroom units. However, even a two-bedroom unit is not really family oriented. I understood that the city wanted to see more middle-income *family* housing. Why couldn’t the R6 area contain a creative format for some family residences? Of course, this is what *we* would like to see! At the neighborhood meeting Wednesday night the question was raised why R6 was there at all. “To protect the neighborhood!” was one person’s apt response. This is exactly what we had assumed.

13. Since buying our house, which had already had a somewhat cosmetic renovation, we have been making many more improvements over and above those done by the sellers. Not only have we waterproofed the basement; we have also entered into a contract with a thorough repair of the roof with slate and copper. We are expected to comply with the Historic District guidelines and now I feel, why should we bother. All this work is expensive and then our house would be ‘smothered’. There are beautiful old houses on Deering Street, over which this proposed building, at 8 stories, would loom. The building couldn’t help but be very visible.

14. I fear that our 1865 house will be lost in this planned development and the impact on us will be totally ignored. On the issue of Historic Preservation, from the City’s Comprehensive Plan, some pertinent points on Goals and Policies stand out (the italics are mine):

Preserve and enhance the quality and vitality of neighborhoods within and *adjacent* to the Downtown

Protect and enhance the attractiveness of the city to its *homebuyers*, *homeowners*, residents, tourists, visitors, businesses, and shoppers

Increase home ownership opportunities for all type of households and all income levels

The *existing* housing stock will be enhanced and preserved

Maintain, rehabilitate, and restore the *existing* housing stock as a safe and important physical, economic and architectural resource for the community

Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through *careful* land use regulation, design and public participation that respects neighborhood integrity.

Encourage *innovative* new housing development, which is designed to be *compatible* with the scale, character, and traditional development patterns of each individual residential neighborhood.

15. From A Community Vision for Portland, also from the Comprehensive Plan:

Listen to, embrace, empower and support our diverse citizenry

Portland retains a small town feel with a built environment that is scaled for people

Portland enjoys a personable and congenial atmosphere that makes it a welcoming place to work, live and visit

Portland is a city of neighborhoods

Maintains unifying features, such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets

16. Will the Planning Board observe these examples above, or will they now find justification to ignore them?

17. We were pleased to be able to find an interesting residence in the Downtown area. Now, it seems, we will be paying a price for that. We feel we will be out of place and even displaced.

18. If this proposal goes through who will compensate us for our loss of amenities and loss of value of our property?

We object to the allowing of this request for a variance and to the mass and density of the building that such a change would allow.

Sincerely

Dianna Rust

From: "Darrell Williams" <darrell@eightenventures.com>
To: <shukriaw@portlandmaine.gov>
Date: 4/30/2015 5:04 PM
Subject: Comments Regarding Proposed 667 Congress Street Development

Good Afternoon! Ms. Wiar, I am writing in support of the proposed apartment development/rezoning at 667 Congress Street. Allow me to briefly state that the proposed development will increase diversity and economic development. I am a long time resident of Portland and 4 1/2 year resident of 645 Congress Street. And, I strongly believe the proposed development will have a positive impact in our neighborhood. Moreover, the owners of Joe's Smoke Shop & Super Store are committed business owners who take pride in serving our community. I expect that they will continue to play this same role as development partners of this project. I truly hope you and your colleagues will look favorably on the proposed rezoning and grant the partnership the right to move forward. Sincerely, Darrell Keith Williams

Darrell Williams

Eighteen Ventures

(207)347-1214

PO Box 5035

Portland, ME 04101

www.Eightenventures.com

Shukria Wiar,

I am writing to you in support of the proposed project by the Discatio family on their property at 667 Congress Street.

As a resident of 655 Congress Street and regular patron of Joe's Super Variety Store since 2007 I can personally attest that Michael and David are fair, honest and hardworking business people with strong ties to the community who run a great business that is vital to the neighborhood.

This project will be of great benefit to the neighborhood and the city, creating an improved variety store as well as housing and off street parking that will attract young professionals to the already thriving Arts District.

Maine and the City of Portland cannot afford to turn down this economic boon. A project of this magnitude will have an immediate positive economic impact in terms of construction jobs, not to mention additional benefits to local businesses in the short run, namely hotels and eateries catering to construction workers.

Furthermore, as Portland strives to transform into a vibrant metropolitan destination, what better way to aid this transformation than to create housing with built in off street parking that will bring successful, well educated people to live, work, and spend near downtown?

As a resident, student, teacher and coach in this great city for the better part of the last decade I implore you to swiftly move forward with this project. The economic and social benefits are too important to pass up.

Sincerely,

Mark Lockman

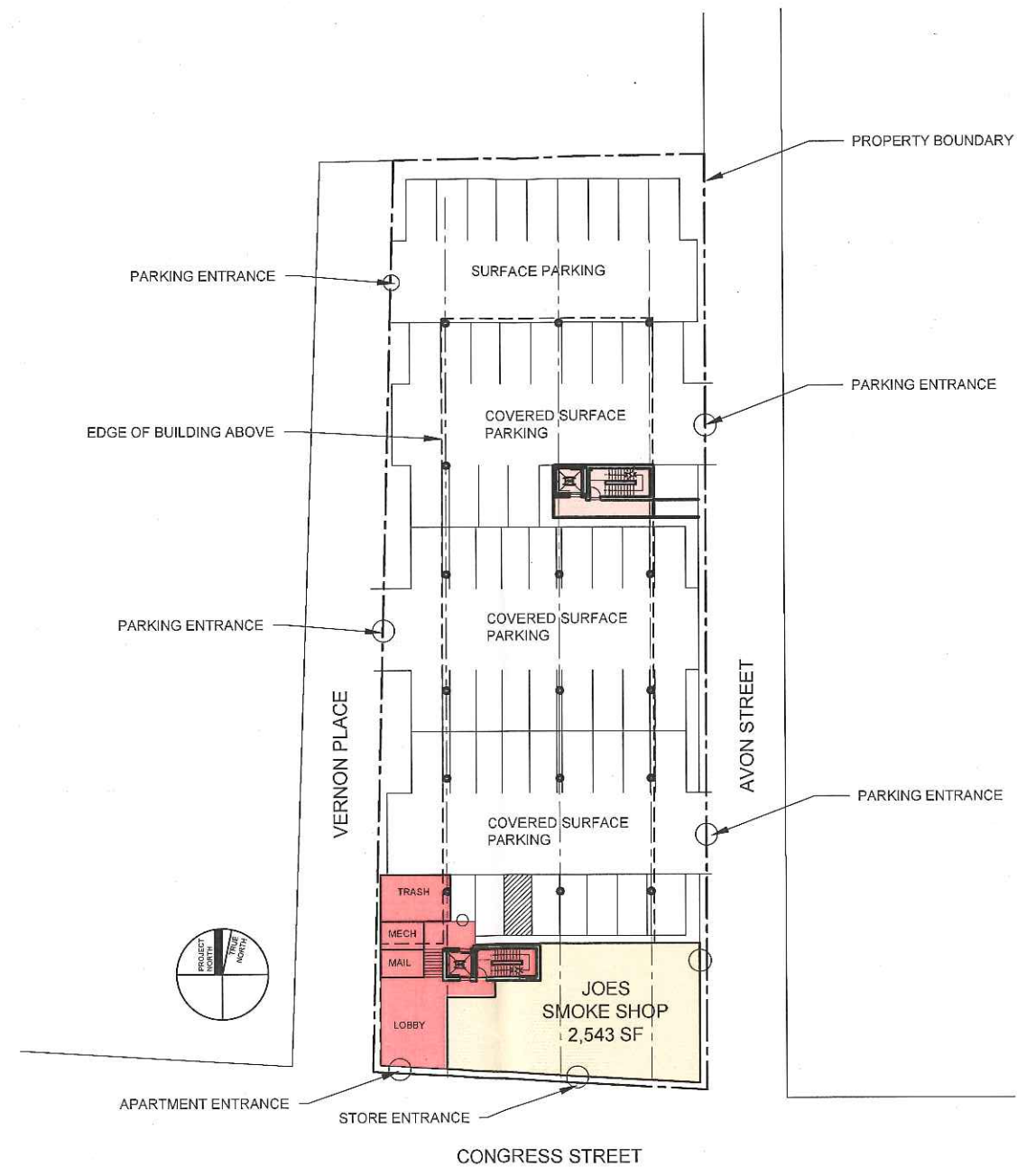
665 CONGRESS

FEBRUARY 23, 2015



NEIGHBORHOOD BIRDSEYE VIEW

SCALE : NTS

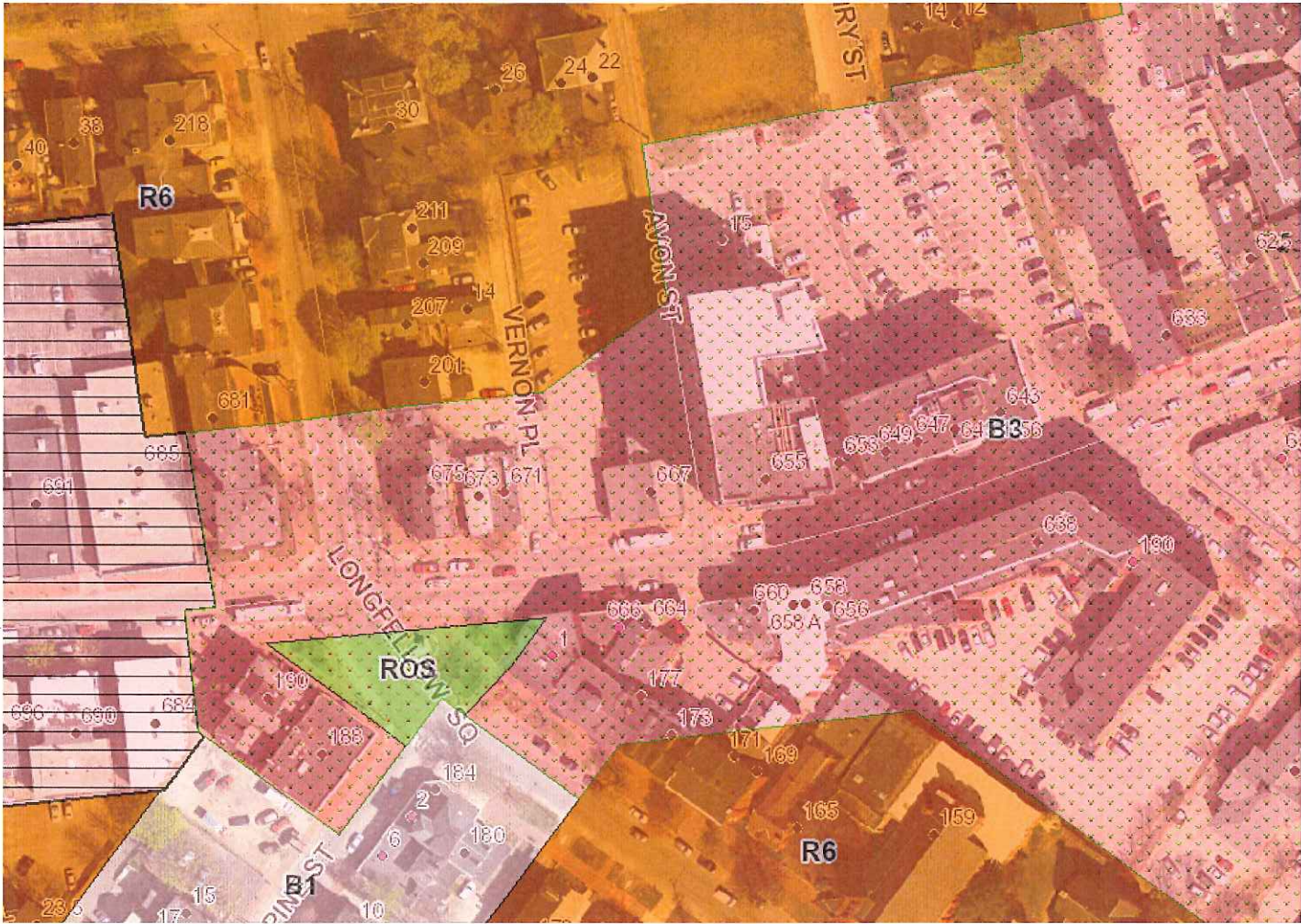


FIRST FLOOR PLAN

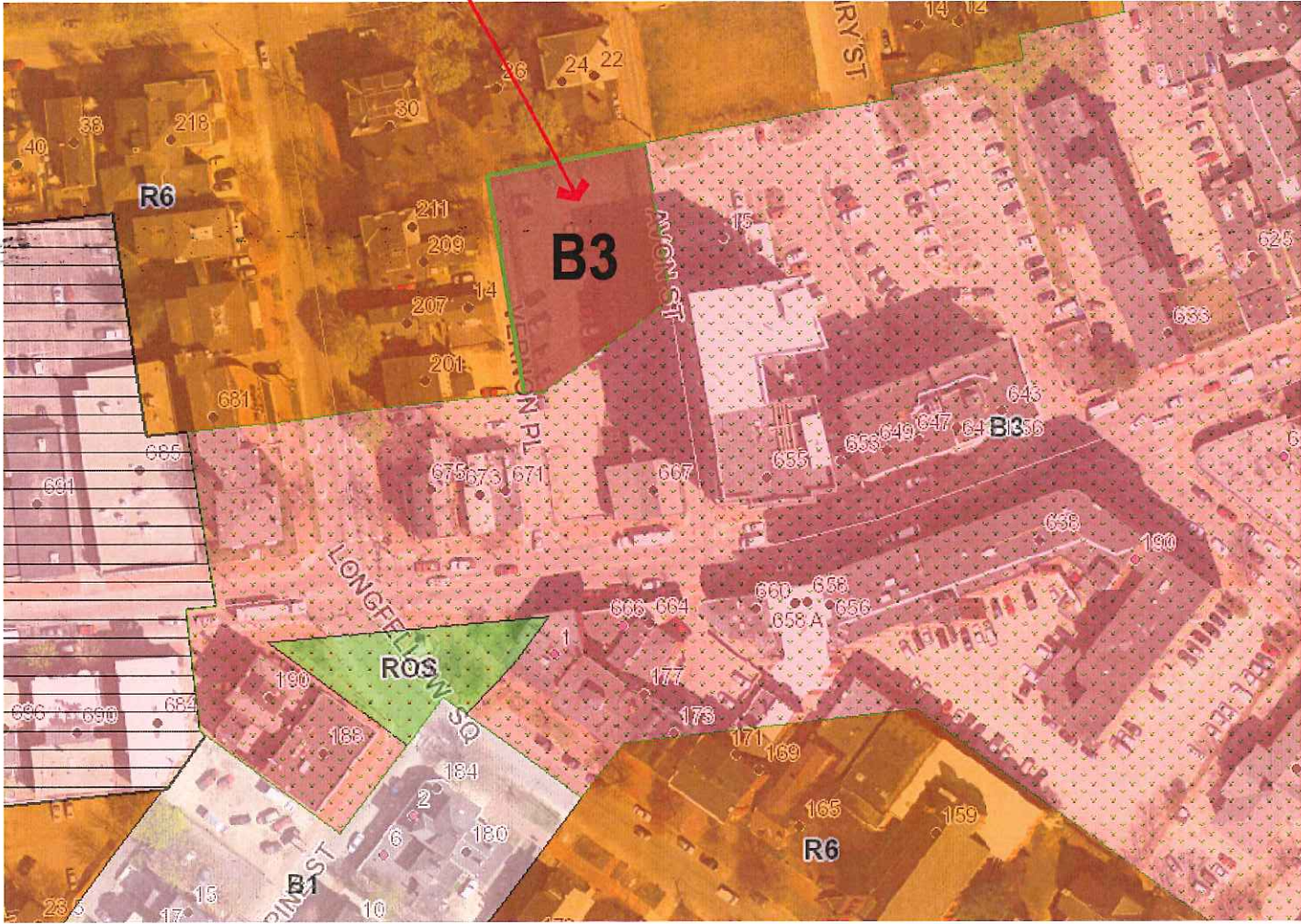
SCALE : 1/32" = 1'-0"

PROGRESS PRINT ONLY
Not for Construction

PROPOSED AREA TO BE REZONED TO B3



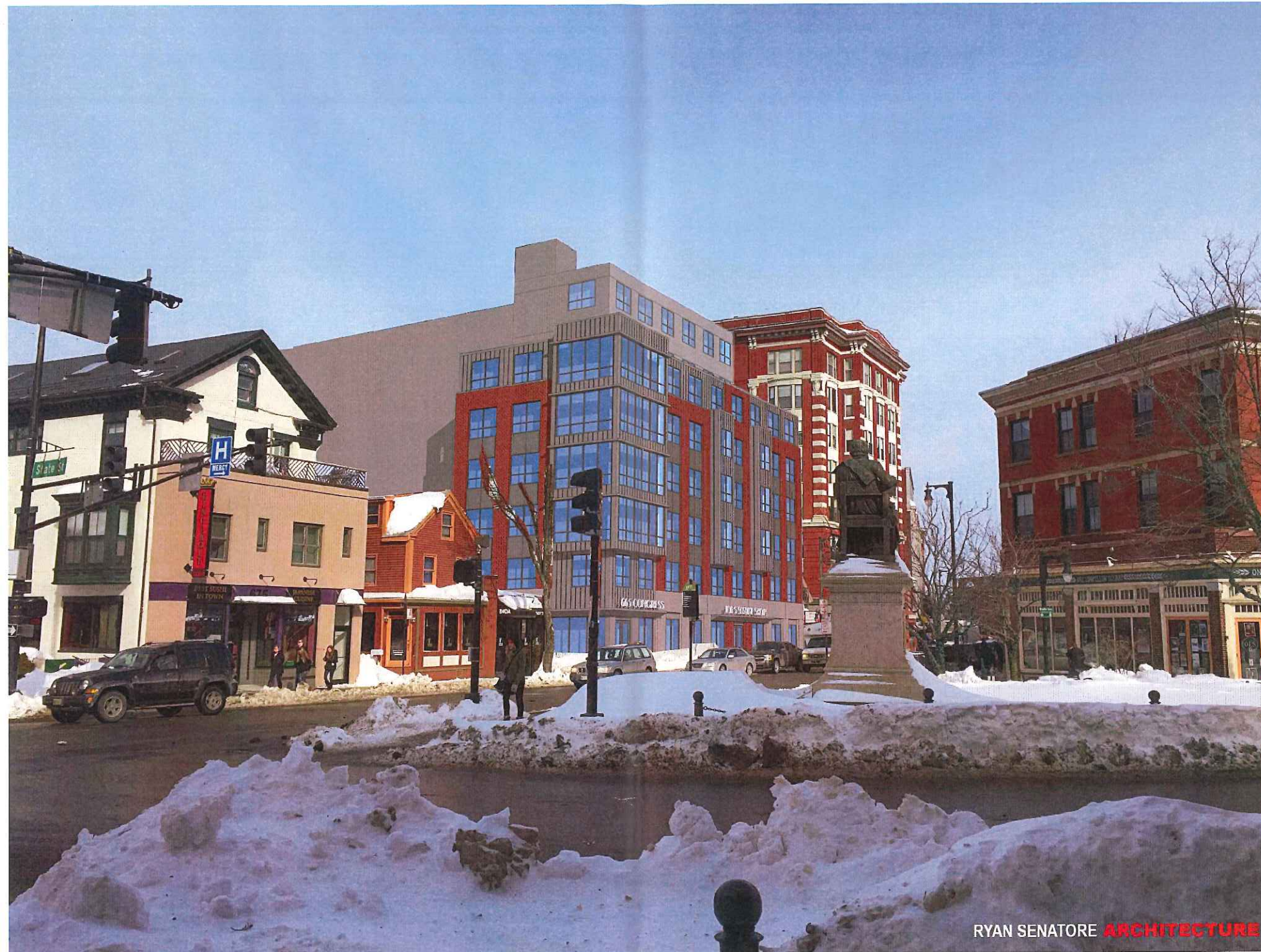
EXISTING ZONING MAP



PROPOSED ZONING MAP

665 CONGRESS

MARCH 5, 2015

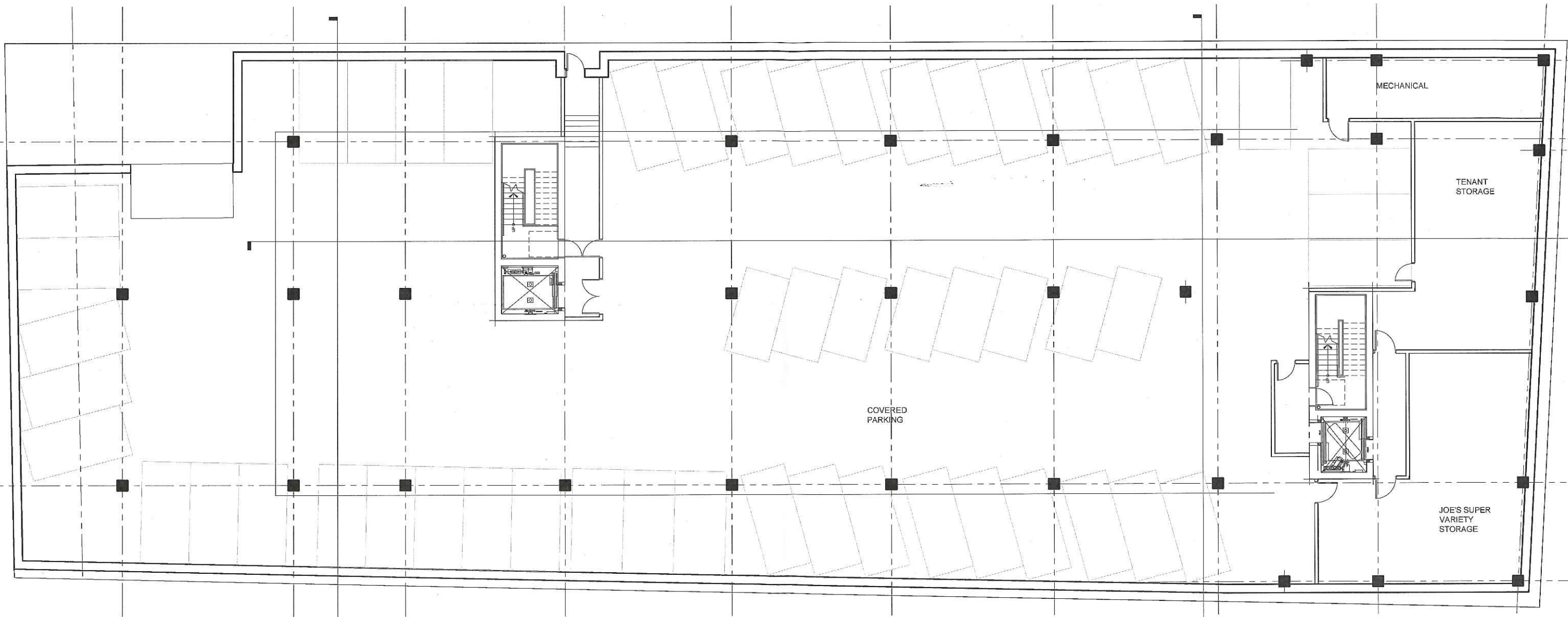


RYAN SENATORE ARCHITECTURE

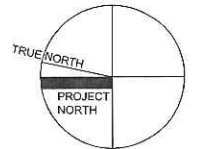
CONGRESS STREET RENDERING

SCALE : NTS

PROGRESS PRINT ONLY
Not for Construction



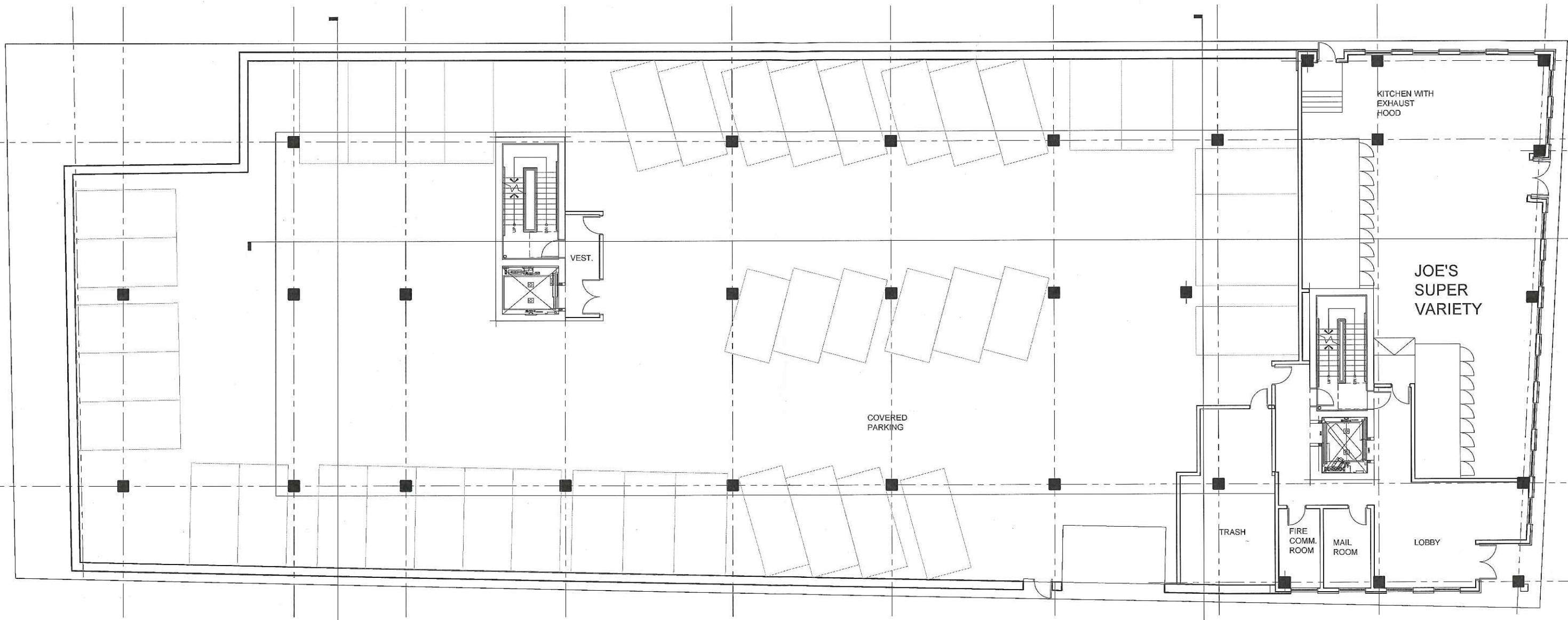
BASEMENT LEVEL



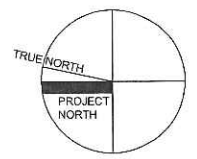
PROGRESS PRINT ONLY
Not for Construction

667 CONGRESS

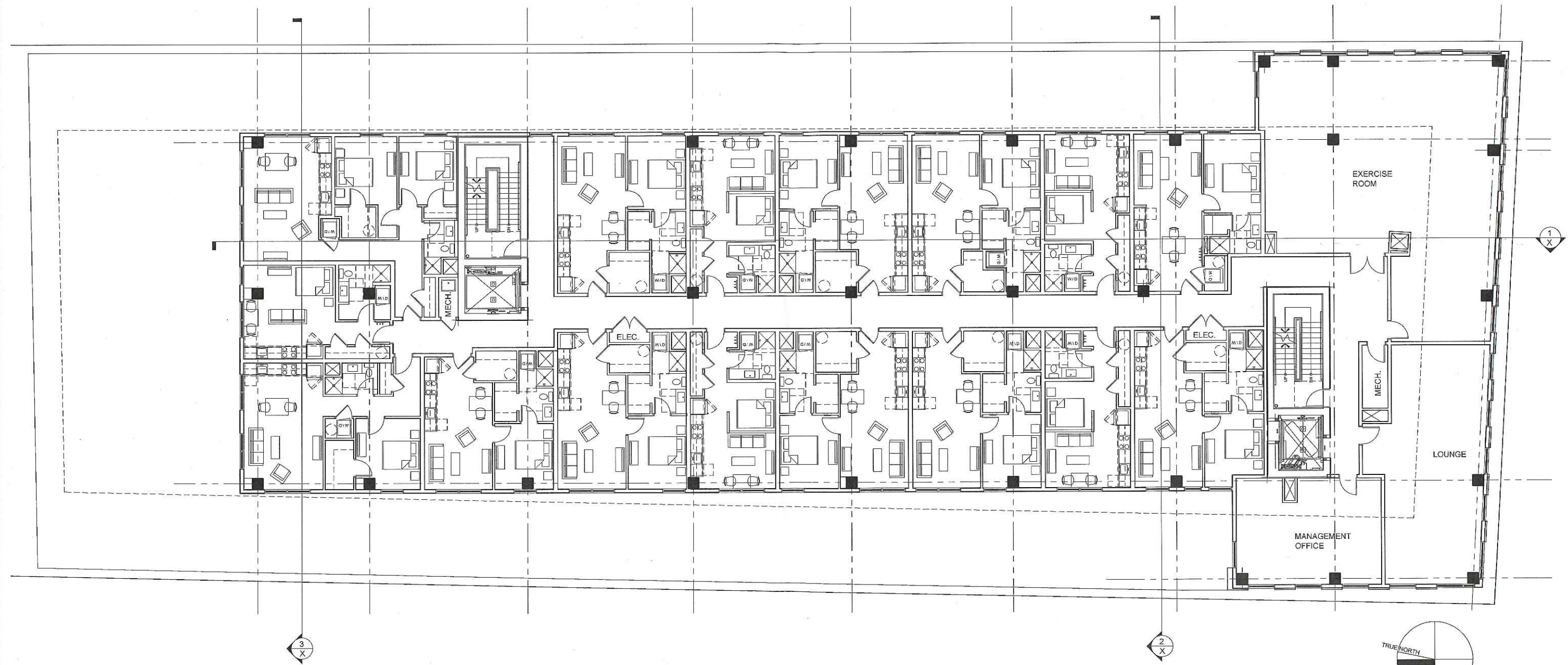
APRIL 16, 2015



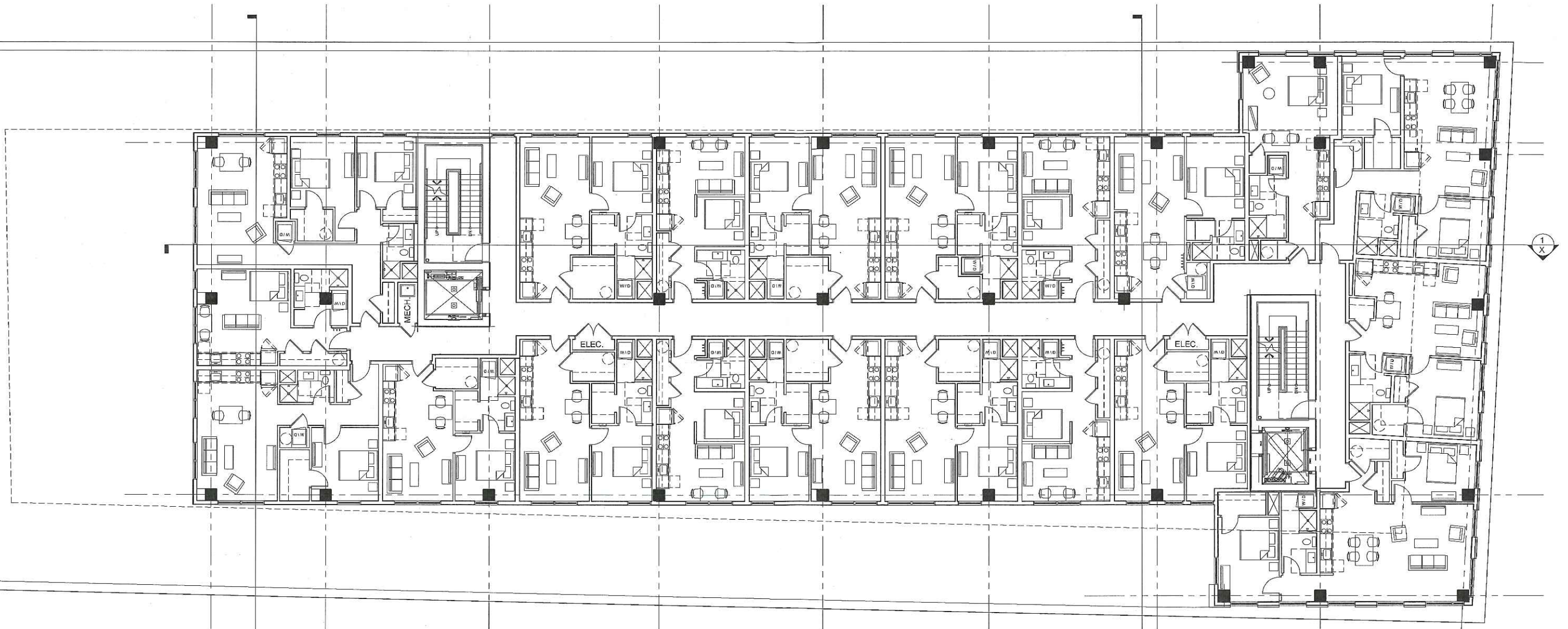
FIRST FLOOR



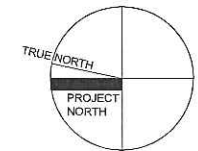
PROGRESS PRINT ONLY
Not for Construction



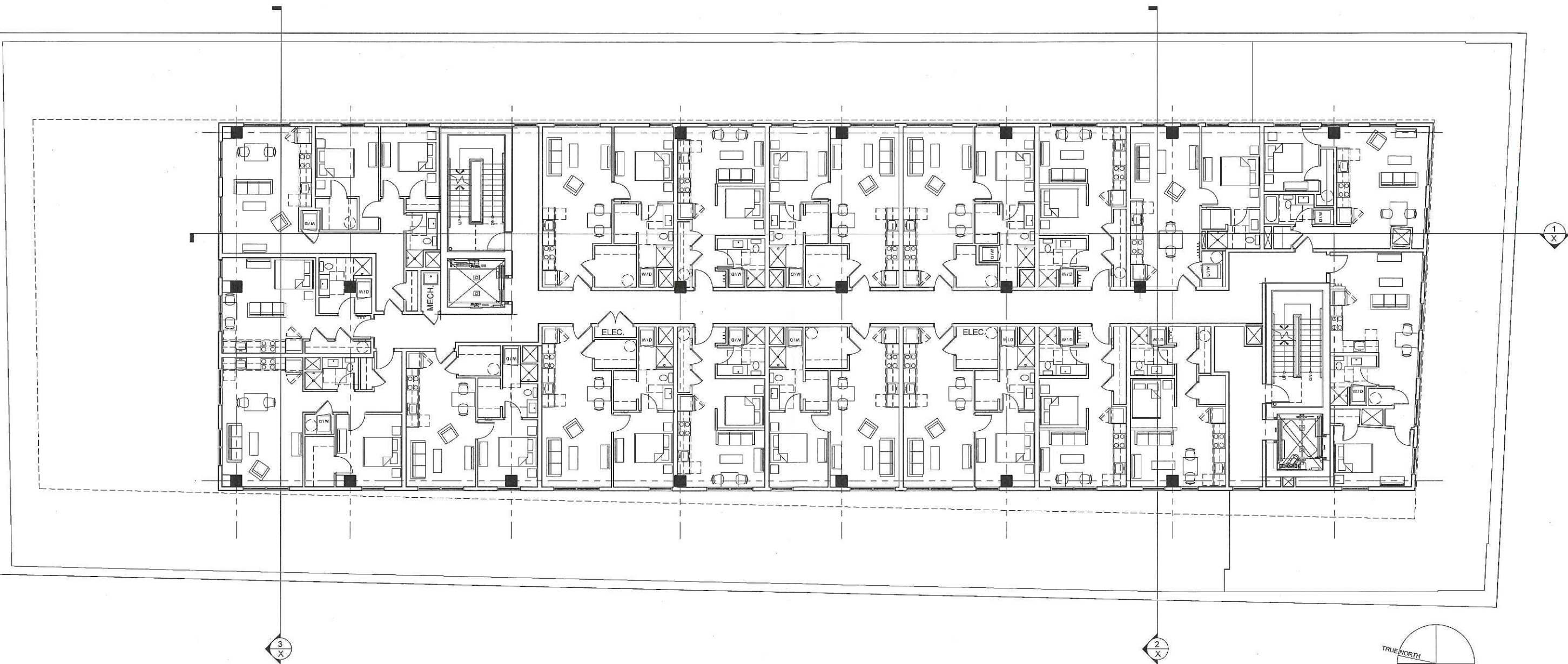
SECOND FLOOR



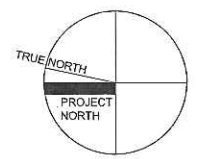
THIRD FLOOR



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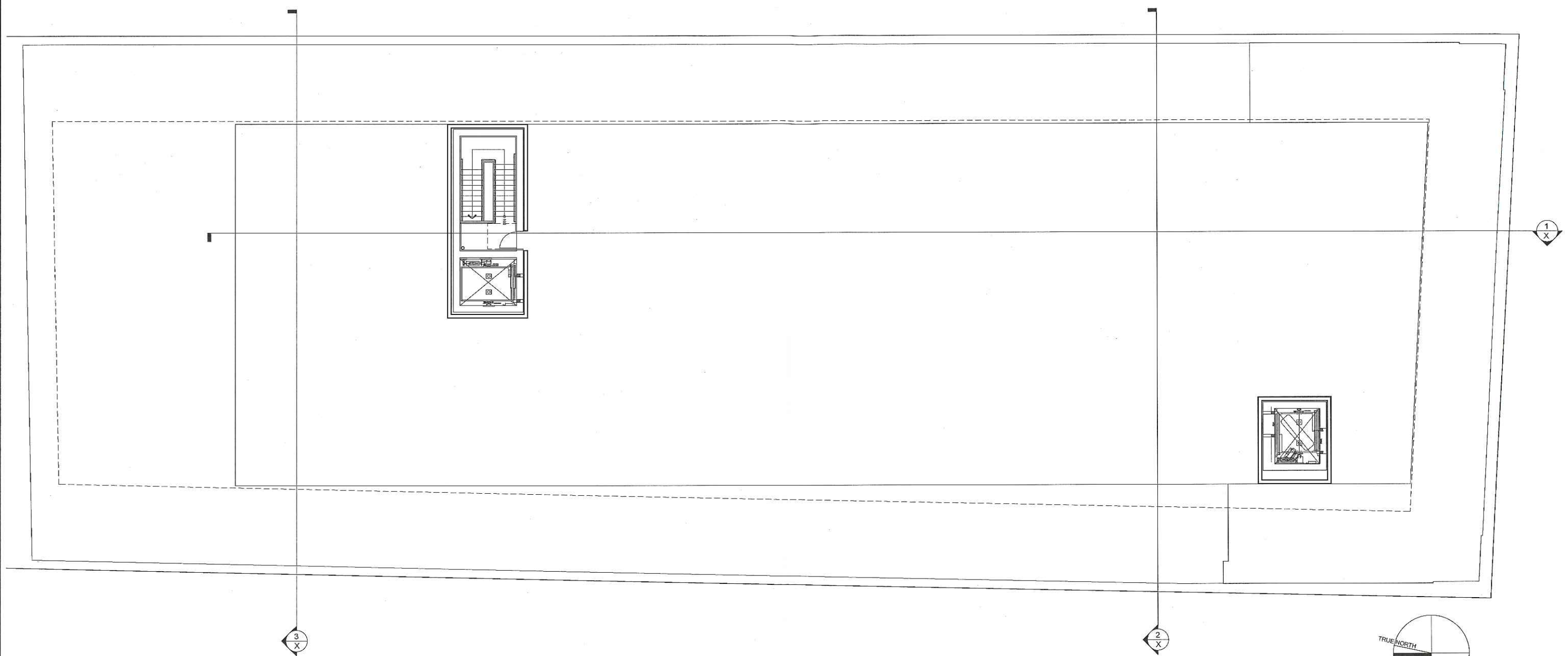
SEVENTH FLOOR



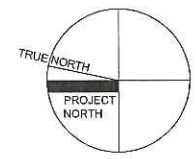
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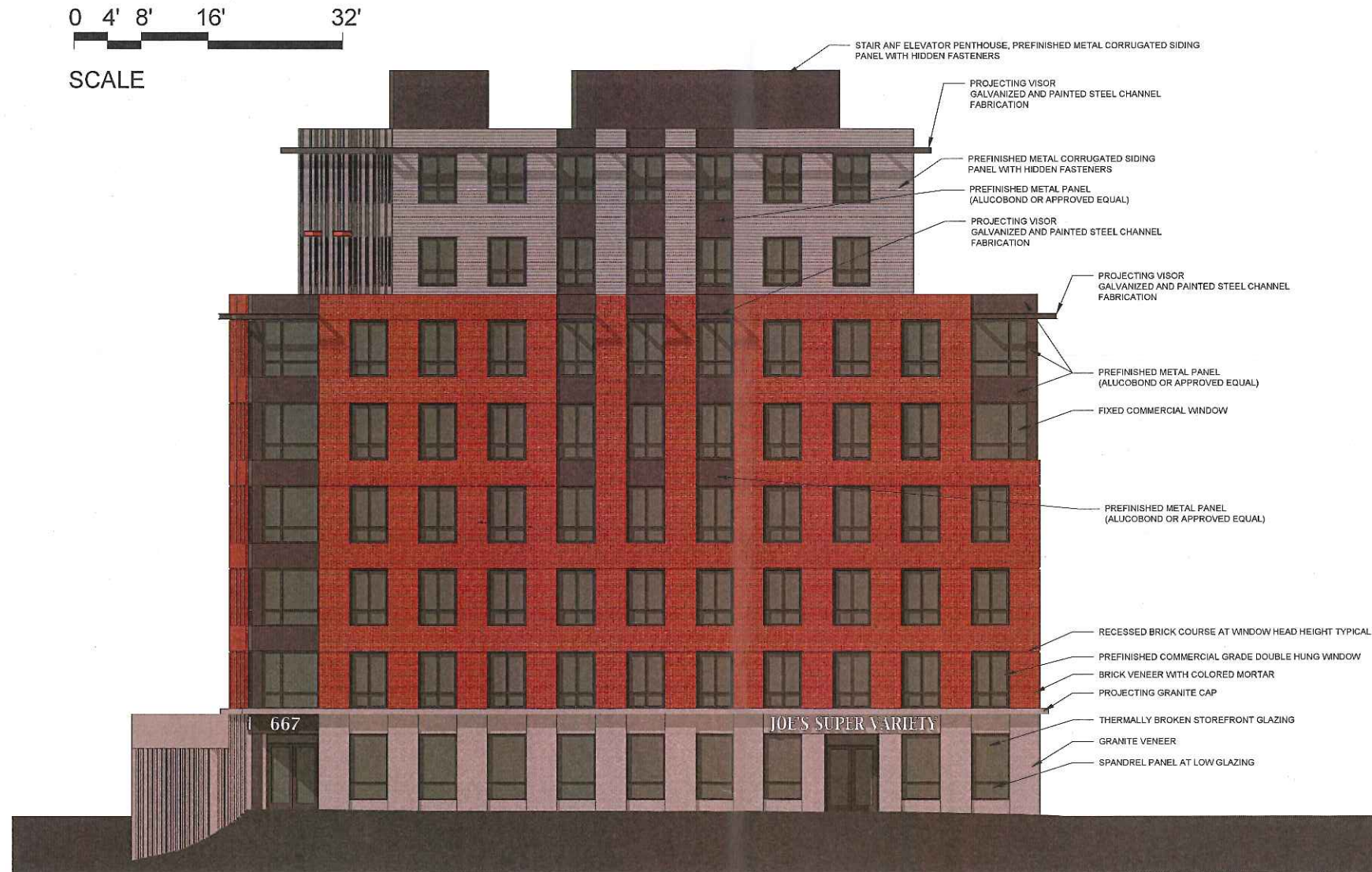
ROOF LEVEL



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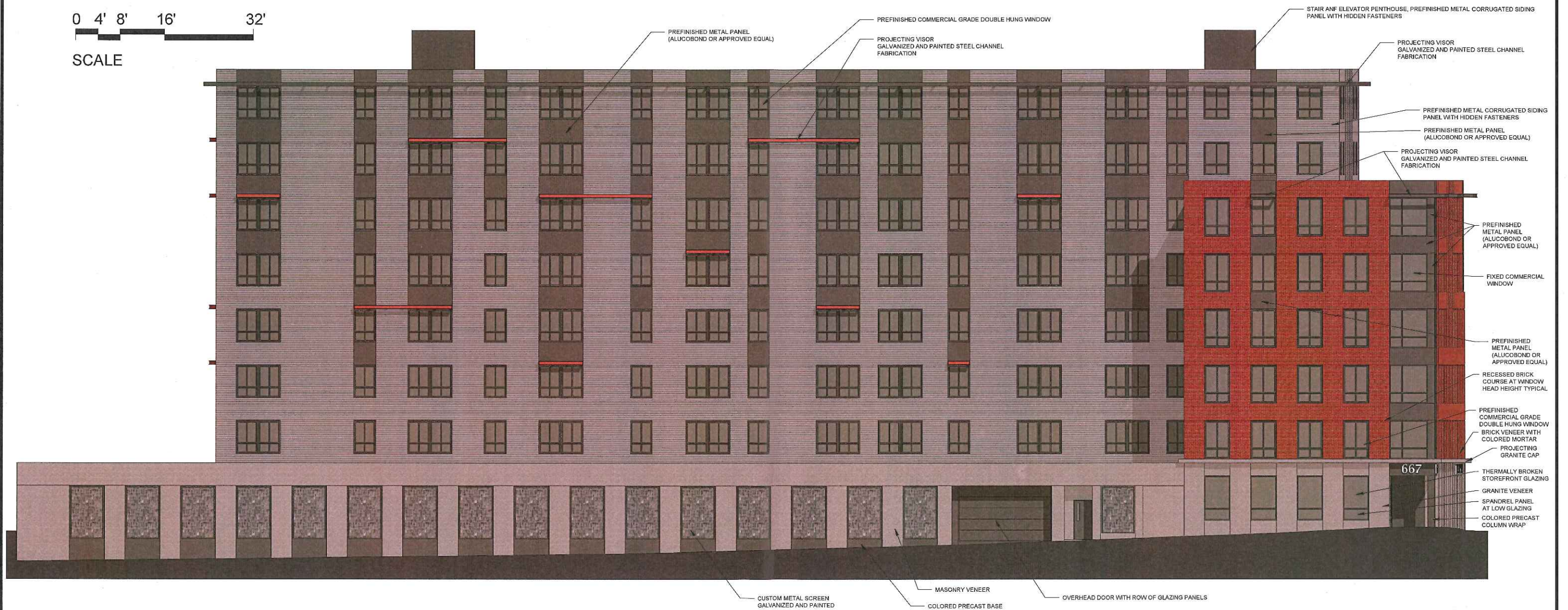
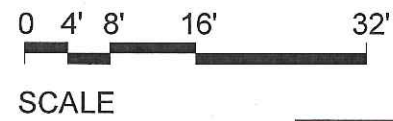
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0 4' 8' 16' 32'

SCALE



667 CONGRESS

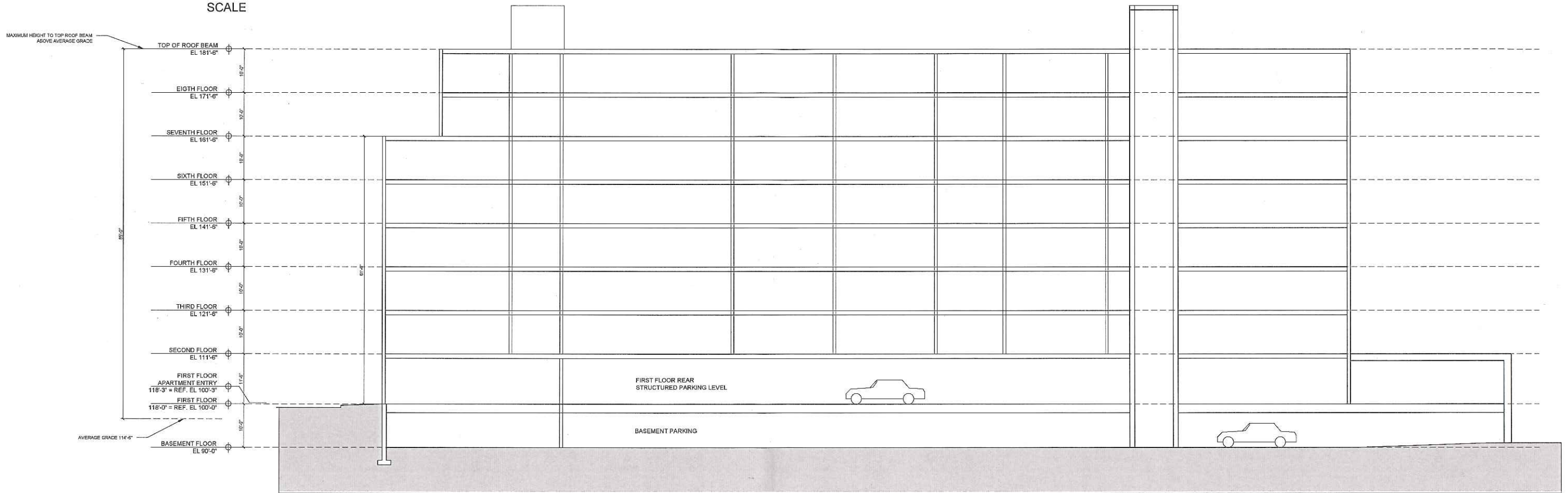
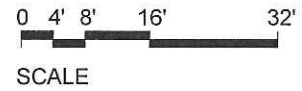
APRIL 16, 2015

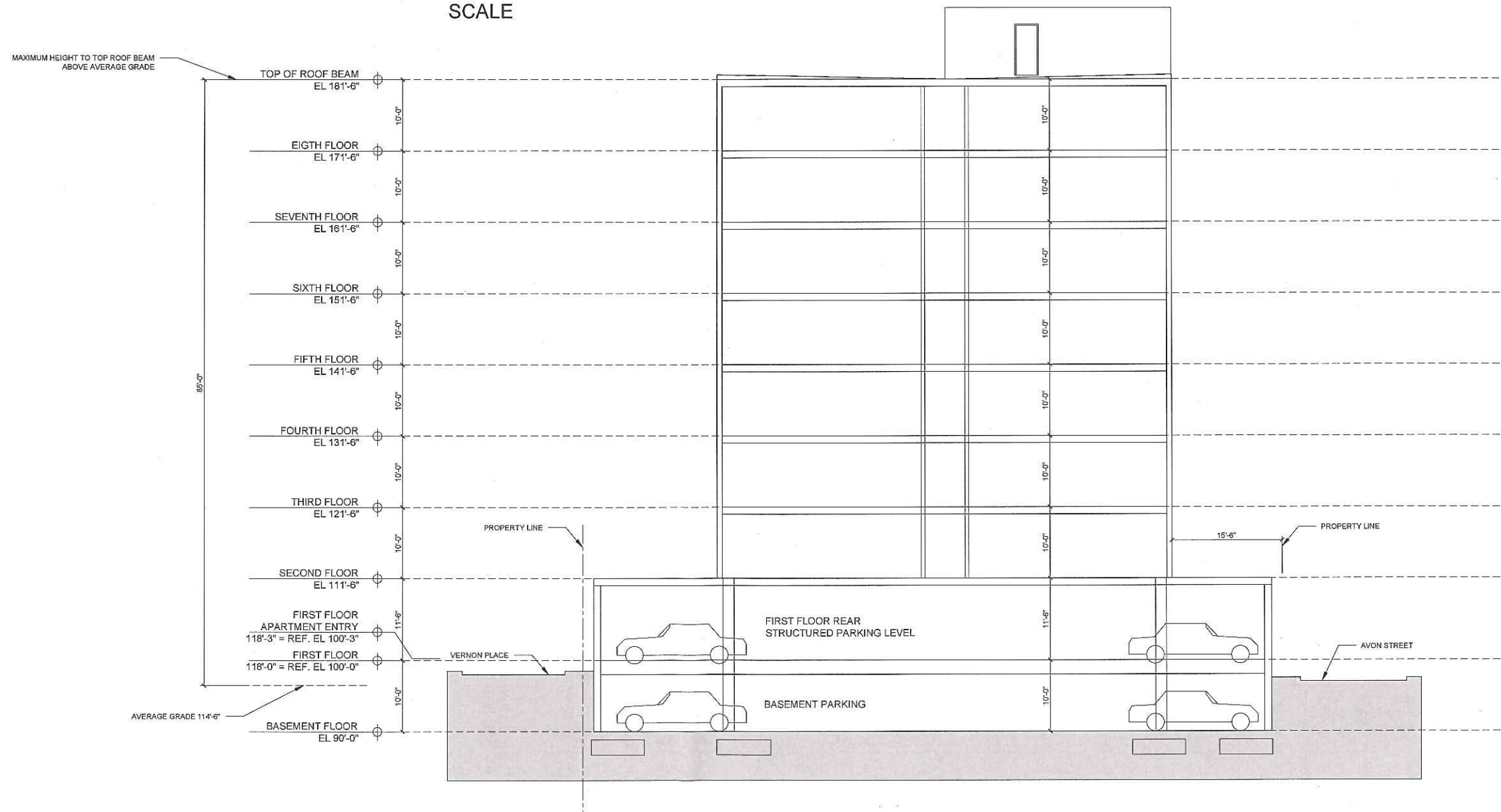
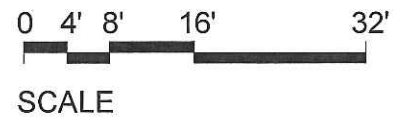
0 4' 8' 16' 32'
SCALE



667 CONGRESS

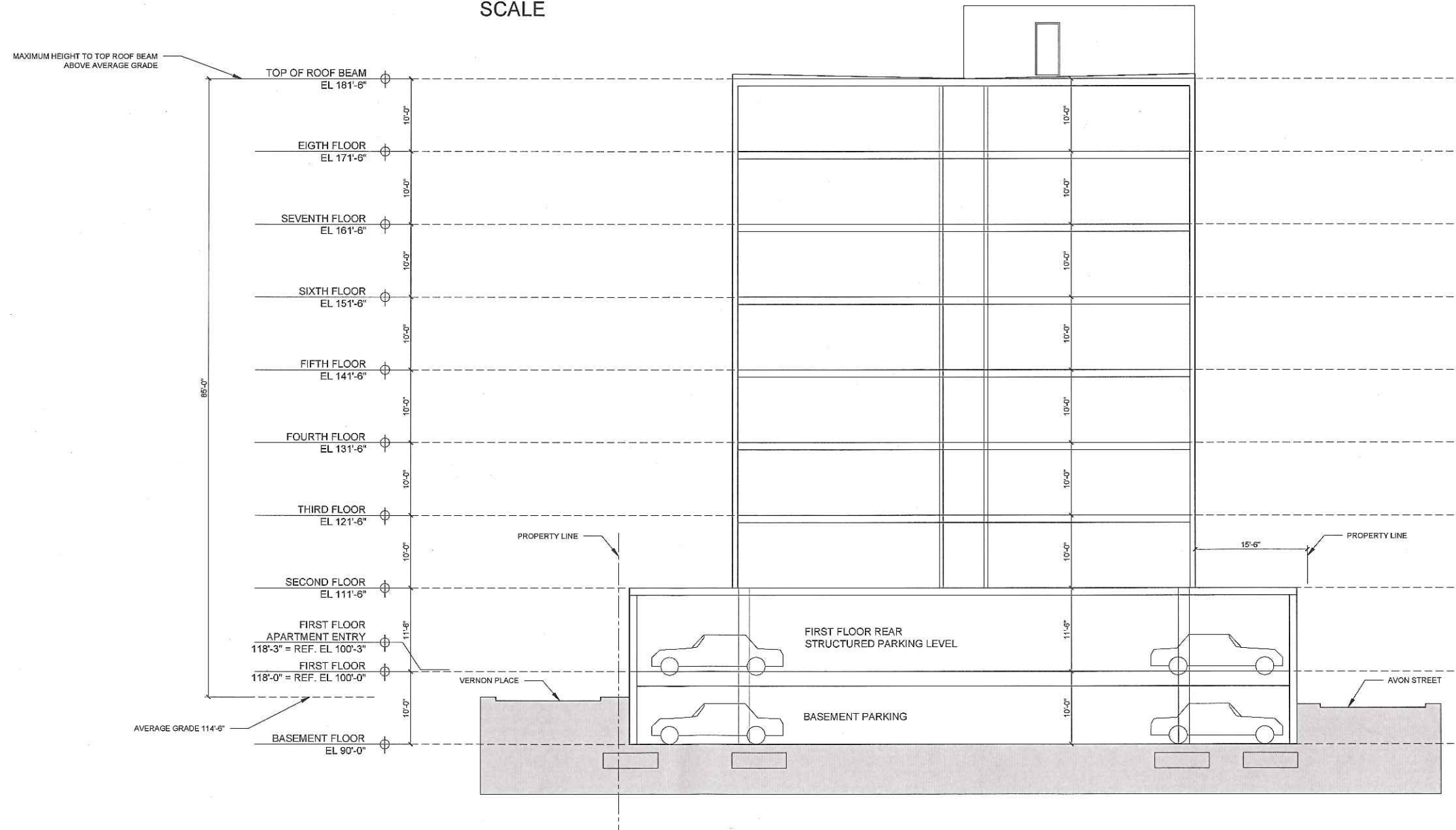
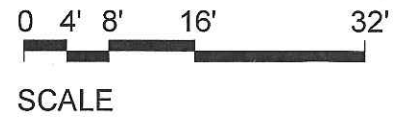
APRIL 16, 2015





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667 667

JOE'S SUPER VARIETY

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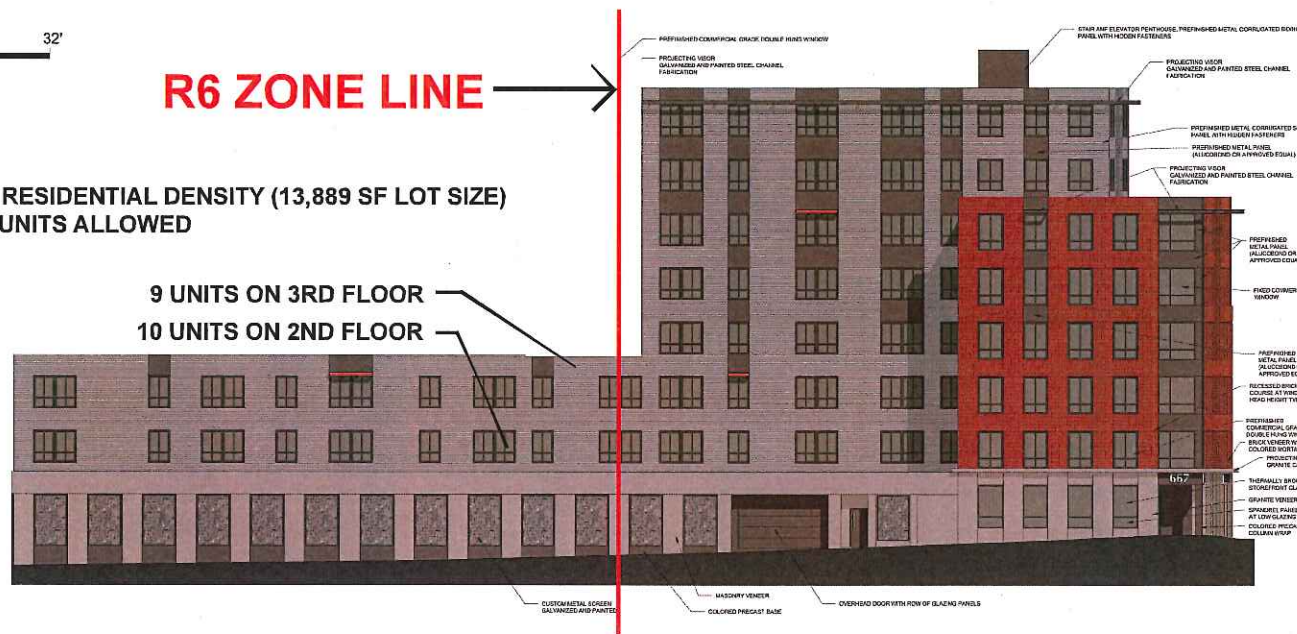
APRIL 16, 2015

0 4' 8' 16' 32'
SCALE

R6 ZONE LINE

R6 RESIDENTIAL DENSITY (13,889 SF LOT SIZE)
19 UNITS ALLOWED

9 UNITS ON 3RD FLOOR
10 UNITS ON 2ND FLOOR



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REDFERN PROPERTIES

WEST ELEVATION
SCALE: 1/8" = 1'-0"

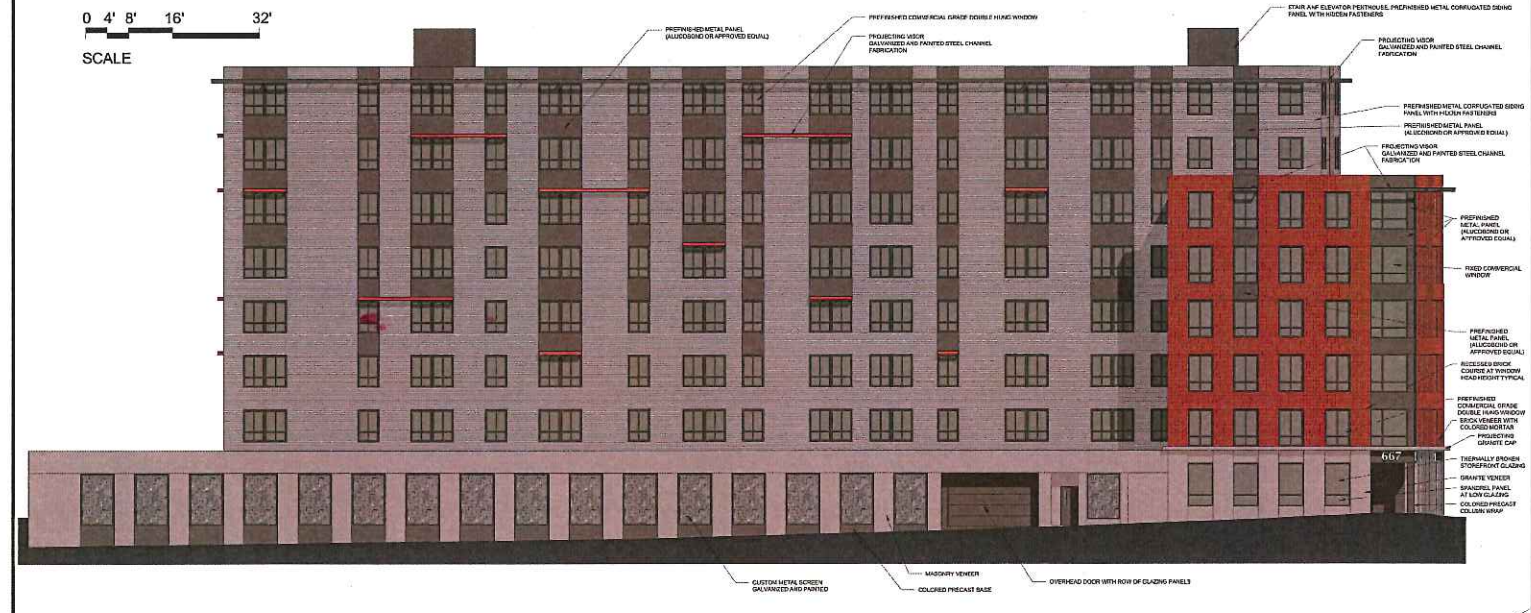
RYAN SENATORE ARCHITECTURE

B3/R6 ZONING ELEVATION

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APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



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REDFERN PROPERTIES

WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

B3 ZONING ELEVATION

667 CONGRESS

APRIL 28, 2015

EDGE OF BUILDING BELOW

PROPERTY LINE

179'-8³/₄"

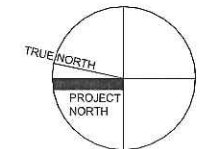
15'-2"

64'-4"

45'-9¹/₂"

15'-0³/₄"

SECOND FLOOR



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