

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF THE ZONING ADMINISTRATOR**



August 2, 2013

Christy Moseley Shiker
Holland & Knight LLP
800 17th Street, N.W. - Suite 1100
Washington, DC 20006

Re: Residential Development on Single Record Lot 33 N Street, N.E. (Lot 254, Square 672)

Dear Ms. Shiker:

This is to confirm the substance of our discussions on January 17, 2013, and April 22, 2013, regarding the proposed development of property located in the north half of Square 672. The north half of the square is bounded by N Street to the north, First Street to the east, Patterson Street to the south and North Capitol Street to the west in Northeast Washington. The development site includes the property known as 33 N Street, N.E. (Lot 254, Square 672) (the "Residential Property") highlighted in yellow on the attached plat and properties fronting on N Street (Lot 847, Square 672), First Street (Lot 848, Square 672), and Patterson Street (Lot 247, Square 672) (collectively the "Remaining Property"), highlighted in green on the attached plat. The Residential Property and the Remaining Property are collectively referred to as the "Subject Property." Your client, or entities related to your client, own the Subject Property.

The Subject Property is zoned C-3-C and is located within the North Capitol Receiving Zone for transferable development rights ("TDRs"). The Residential Property is improved with a 2-story office building, and the Remaining Property is improved in part by an existing 7-story office building and in part with surface parking lots. Your client proposes to raze the improvements on the Residential Property to construct a residential building. In the interim phase, the residential building will be connected to the existing office building on the Remaining Property. In the final phase of development, the existing office building will be razed, and a new development will be constructed on the Remaining Property.

You requested that I review certain questions relating to the combination of the Residential Property and the Remaining Property into a single lot of record and relating to the interim and final development of a single building on the Subject Property. In our meeting, we discussed the following items:

Subdivision for Single Lot of Record:

In order to create a single building with frontage on First Street, the Subject Property must be subdivided into a single lot of record. The existing improvements on the Residential Property will be demolished to allow for the development of the residential building and a connection will be made from the residential building to the existing office building as described below. However, the existing improvements on both the Residential Property and the Remaining Property will be in place as of the date of the subdivision, and these improvements will not be connected at that time so as to be considered a single building.

Section 2517.1 of the Zoning Regulations permits two (2) or more principal buildings or structures to be erected as a matter of right on a single subdivided lot that is not located in, or within twenty-five feet of, a Residence District. Section 2517.2 states that the number of principal buildings permitted by this section shall not be limited; provided, that the applicant for a permit to build submits satisfactory evidence that all the requirements of this chapter (such as use, height, bulk, and open spaces around each building), as provided by §§ 3202.2 and 3202.3 are met. Sections 3202.2 and 3202.3 specify what information must be provided at such time as a building permit application is submitted.

The existing improvements on the Residential Property and the Remaining Property either conform to the lot on which they presently sit, or would constitute a nonconforming structure on the existing lot in accordance with Section 2001 of the Zoning Regulations. The creation of the new record lot will neither expand nor enlarge such nonconformity, if one exists. Because no changes are proposed to the existing structures and no permit applications are required or proposed to effectuate the subdivision, a further showing under Section 2517 is not required. Accordingly, I will approve and sign the subdivision, after it has been processed through and approved by the applicable agencies. At such time as a building permit application is submitted for the erection, construction or conversion of a building or structure on the new record lot, such application must show compliance with Sections 2517.2, 3202.2, and 3202.3 in order to secure the building permit.

Measuring Point for Building Height:

The height of the building is measured from the level of the curb opposite the middle of the front of the building to the highest point of the roof or parapet. Because the single building will front on three streets, height may be measured from the street elevation which allows the greatest height. Regardless of which street is used for the point of measurement, the width of First Street (110 feet) may be used to determine the maximum permitted height, which is 130 feet under the TDR Receiving Zone.

Your client will measure height from the curb opposite the front of the building on N Street. For construction of the residential building on the Residential Property, which will be an addition to the existing office building, the middle of the front of the building will be at elevation

55.37. However, at such time as the final development is constructed, the middle of the front of the building will be at elevation 54.50', as shown on the attached Measuring Point Plan. Elevation 54.50' will be the ultimate measuring point for the overall single building on the Subject Property. You advised me that there will be in place a covenant allocating development rights among the multiple phases and committing the owners to maintain the building as a single building under the Zoning Regulations.

Accordingly, given the facts stated above, you must measure the heights of each phase of development from the ultimate measuring point which will result when all the phases are constructed, which will be the level of the curb opposite the middle of the front of the building on N Street, which will be elevation 54.50'.

Single Building Connections:

The Zoning Regulations provide that the existence of communication below the level of the main floor does not make a single building. Conversely, the existence of communication at or above the level of the main floor does create a single building. Assuming that the separate structures (i.e., each phase) are connected at or above the level of the main floor (the floor on which the principal entrance to the building is located), as required by the regulations currently in effect, the entire building will be considered as a single building and will be eligible for a maximum height of 130 feet and a maximum FAR of 10.0, provided that sufficient TDRs are vested in the property.

You advised me that your client will provide a connection between the residential building and the existing office building. You indicated that this connection will consist of a trellis-covered connector supported by walls and having a roof that is at least 51 percent solid connecting the new portion of the project to the existing office building.

Section 199 of the Zoning Regulations defines the term "building" as:

a structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or chattel. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.

Both the Board of Zoning Adjustment and the Zoning Administrator's office have interpreted the term "building" to include trellis-covered connectors, provided that the trellis roof is at least 51 percent solid and provides the necessary supporting columns or walls. Accordingly, so long as the proposed trellis-covered connector is supported by columns or walls and has a roof that is at least 51 percent solid and leads to and from a door opening into a common area of the building at

each end, the connector between the residential building and the existing office building will be sufficient to create a single building until such time as the full building is constructed.

Roof Structure

The Roof Plan shows the proposed mechanical penthouse above the roof and the proposed pool and pool terrace. The mechanical penthouse rises 18 feet, 6 inches above the roof. It must comply with all requirements set forth in Sections 411 and 770.6 of the Zoning Regulations. The attached Roof Plan indicates that the mechanical penthouse does not provide a 1:1 setback abutting the open court walls of the building. You informed me that your client will either present plans showing compliance with the 1:1 setback requirement from court walls or will seek relief from the Board of Zoning Adjustment.

The building is proposed to include a pool on top of the roof deck. According to the Roof Section, the pool will be less than four feet above the top of the roof, as there is no parapet. Pursuant to §411.17, "Roof structures less than four feet (4 ft.) in height above a roof or parapet wall shall not be subject to the requirements of this section." This office has interpreted the construction of that language to exempt from compliance with §411 a structure that is less than four feet above the parapet wall. Accordingly, the pool deck proposed as shown on the attached Roof Plan and on the attached Roof Section complies with the requirements of the Zoning Regulations.

Courts for Interim Development:

In the interim phase, the Subject Property will only be improved with the residential building and the existing office building connected by the above-described trellis-connector. In this phase, there will be three courts. Section 776.3 provides that when a court is provided for a building devoted to residential uses, the width of court shall be a minimum of 4 inches per foot of height, measured from the lowest level of the court to that elevation; provided, that in no case shall the width of court be less than 15 feet. In the case of a closed court for a building devoted to residential uses, the minimum area shall be at least twice the square of the width of court based upon the height of court, but not less than 350 square feet.

As shown on the attached Interim Court Plans, the courts are as follows:

West Court: As shown on Sheet SD-03 of the Interim Court Plans, the West Court is a closed court and consists of a ground court, a lower court and an upper court.

- The ground court has a height of court of 14 feet, 5 inches. Based on the height of court, the required width of the ground court would be 15 feet, and the required minimum area is 350 square feet. The ground court has a proposed width of 41 feet, 4 inches, in excess of the minimum requirement of 15 feet, and a proposed area of 1,820 square feet, in excess of the minimum requirement of 350 square feet.

- The lower court has a height of court of 102 feet, 8 inches. Based on the height of court, the required width of the lower court would be 34 feet, 2 ¾ inches, and the required minimum area is 2,343 square feet. The lower court has a proposed width of 50 feet, in excess of the minimum requirement of 34 feet, 2 ¾ inches, and a proposed area of 2,600 square feet, in excess of the minimum requirement of 2,343 square feet.
- The upper court has a height of court of 10 feet, 4 inches. Based on the height of court, the required width of the lower court would be 15 feet, and the required minimum area is 350 square feet. The upper court has a proposed width of 51 feet, in excess of the minimum requirement of 15 feet, and a proposed area of 2,750 square feet, in excess of the minimum requirement of 350 square feet.

Center Court: As shown on Sheet SD04 of the Interim Court Plans, the Center Court is a closed court and consists of a ground court and an upper court.

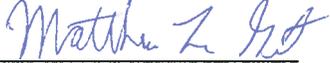
- The ground court has a height of court of 33 feet, 1 inch. Based on the height of court, the required width of the ground court would be 15 feet, and the required minimum area is 350 square feet. The ground court has a proposed width of 47 feet, 4 inches, in excess of the minimum requirement of 15 feet, and a proposed area of 2,488 square feet, in excess of the minimum requirement of 350 square feet.
- The upper court has a height of court of 94 feet, 4 inches. Based on the height of court, the required width of the lower court would be 31 feet, 5½ inches, and the required minimum area is 1,979 square feet. The upper court has a proposed width of 50 feet, in excess of the minimum requirement of 31 feet, 5½ inches, and a proposed area of 3,382 square feet, in excess of the minimum requirement of 1,979 square feet.

East Court: As shown on Sheet SD05 of the Interim Court Plans, the East Court consists of a ground court, which is a closed court, and an upper court, which is an open court.

- The ground court has a height of court of 14 feet, 5 inches. Based on the height of court, the required width of the ground court would be 15 feet and the required minimum area is 350 square feet. The ground court has a proposed width of approximately 22 feet, 1 inch, in excess of the minimum requirement of 15 feet, and a proposed area of 755 square feet, in excess of the minimum requirement of 350 square feet.
- The upper court has a height of court of 75 feet, 8 inches. Based on the height of court, the required width of the upper court would be 25 feet, 3 inches. The upper court has a proposed minimum dimension of 50 feet, in excess of the minimum requirement of 25 feet, 3 inches. There is no required minimum area for an open court.

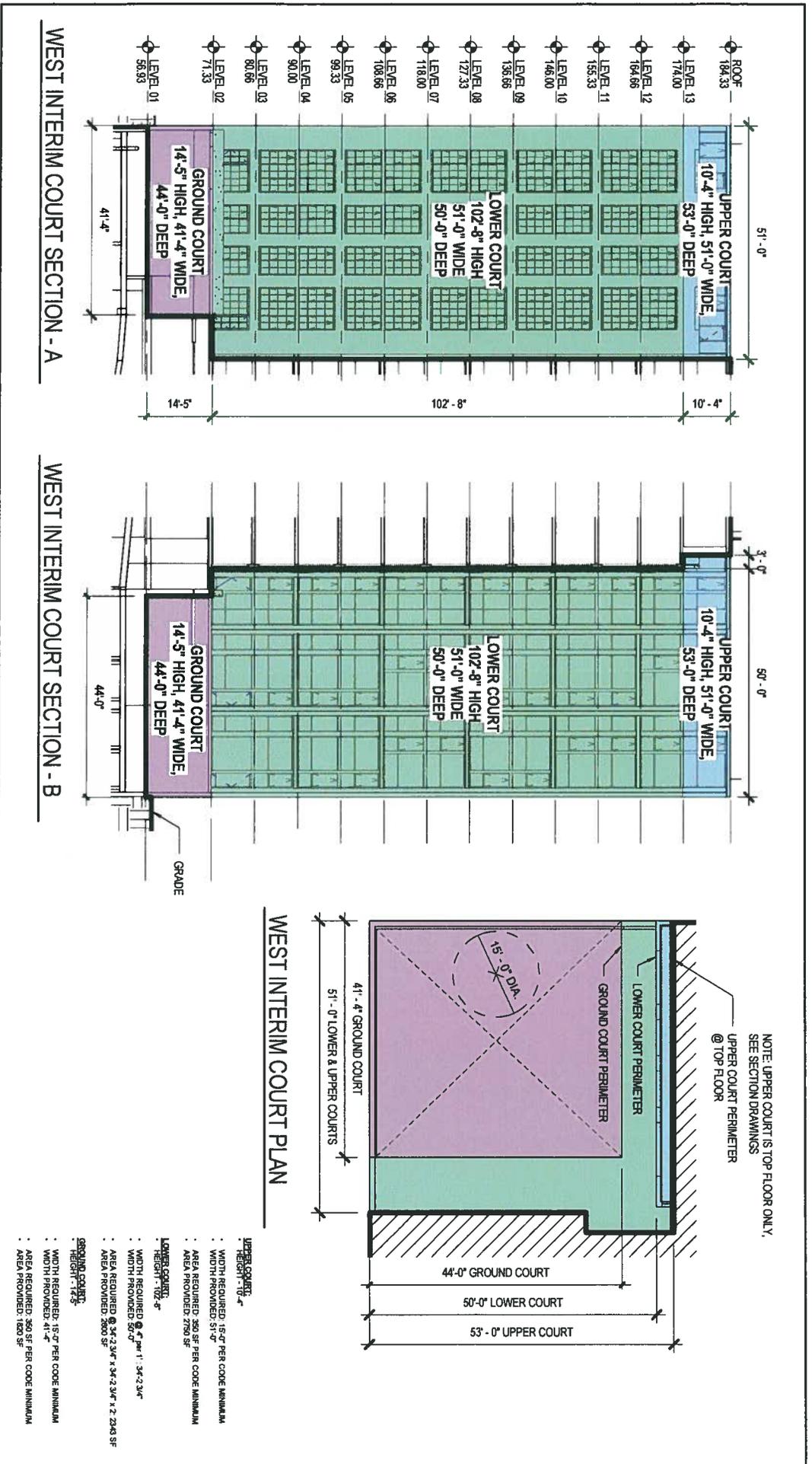
August 2, 2013
Page 6

I believe that I have addressed the issues which we discussed and agreed upon. Please let me know if you have any further questions.

Sincerely, 
Matthew Le Grant
Zoning Administrator

Attachments: Location Plat
Overall Site Plan
Roof Plan and Roof Section
Interim Court Plans

File: Det Let re 33 N St NE to Shiker 8-2-13



NOTE: UPPER COURT IS TOP FLOOR ONLY.
SEE SECTION DRAWINGS

- UPPER COURT:**
 - HEIGHT: 10'-4"
 - WIDTH REQUIRED: 15'-0" PER CODE MINIMUM
 - WIDTH PROVIDED: 51'-0"
 - AREA REQUIRED: 360 SF PER CODE MINIMUM
 - AREA PROVIDED: 2790 SF
- LOWER COURT:**
 - HEIGHT: 102'-8"
 - WIDTH REQUIRED: 6" PER 1' 3'-2 3/4"
 - WIDTH PROVIDED: 50'-0"
 - AREA REQUIRED: 3'-2 3/4" x 3'-2 3/4" x 2 2043 SF
 - AREA PROVIDED: 2600 SF
- GROUND COURT:**
 - HEIGHT: 14'-5"
 - WIDTH REQUIRED: 15'-0" PER CODE MINIMUM
 - WIDTH PROVIDED: 41'-4"
 - AREA REQUIRED: 360 SF PER CODE MINIMUM
 - AREA PROVIDED: 1820 SF

33 N ST. NE
SQ. 672 / LOT 254

THE JBG COMPANIES

COURT DIAGRAM KEY COURT LOCATION KEY PLAN - WEST



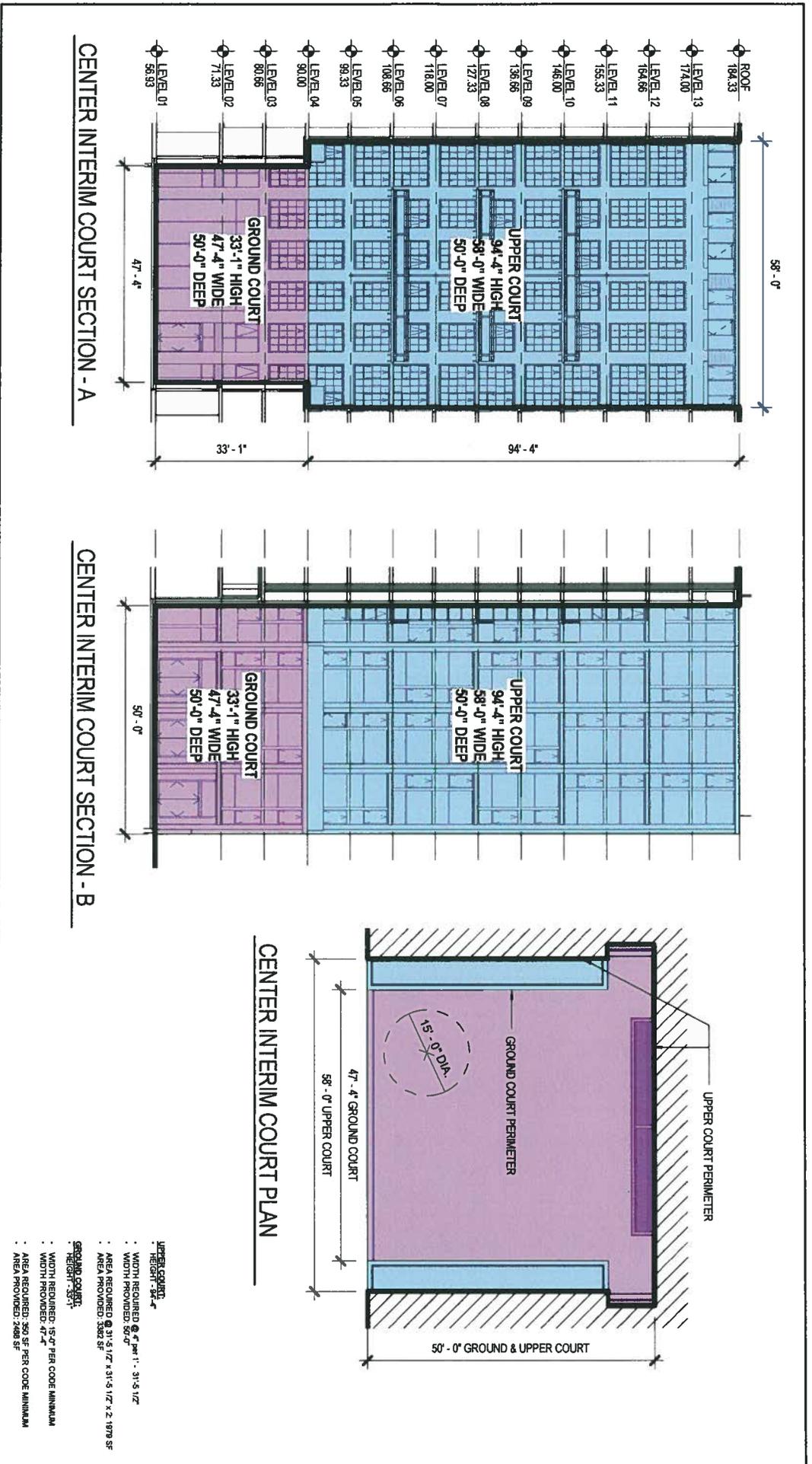
PROJECT NAME: 33 N STREET NE
PROJECT NO.: 12045.00

ISSUED UNDER: DRAWING REF.: SCALE: N.T.S.

DATE: 2013-06-27

ASR# SD-03

1023 31st Street, NW
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33 N ST. NE
 SQ. 672 / LOT 254
 THE JBG COMPANIES

UPPER COURT
 LOWER COURT
 GROUND COURT



COURT DIAGRAM KEY COURT LOCATION KEY PLAN - CENTER

COMMENT:
 CENTER INTERIM COURT DIAGRAMS
 PROJECT NAME:
 33 N STREET NE
 PROJECT NO.:
 12045.00
 ISSUED UNDER:
 DRAWING REF.:

SCALE:
 N.T.S.

DATE:
 2013-06-27

ASR#

SD-04

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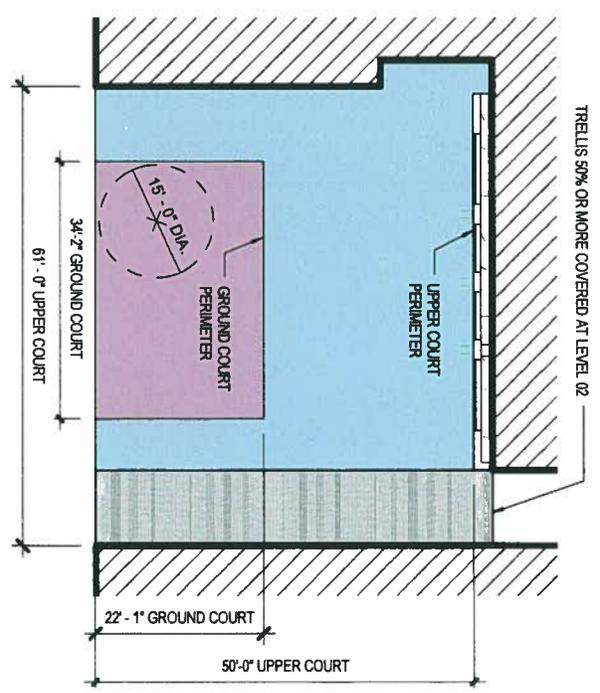


- UPPER COURT:
 - HEIGHT - 34'-4"
 - WIDTH REQUIRED @ 6" PER 1' - 31'-5 1/2"
 - WIDTH PROVIDED 58'-0"
 - AREA PROVIDED 1840 SF
- GROUND COURT:
 - HEIGHT - 33'-1"
 - WIDTH REQUIRED - 15'-0" PER CODE MINIMUM
 - WIDTH PROVIDED - 47'-4"
 - AREA REQUIRED - 350 SF PER CODE MINIMUM
 - AREA PROVIDED 2468 SF



EAST INTERIM COURT SECTION - A

EAST INTERIM COURT SECTION - B



EAST INTERIM COURT PLAN

33 N ST. NE
SQ. 672 / LOT 254
THE JBG COMPANIES



COURT DIAGRAM KEY

COURT LOCATION KEY PLAN - EAST



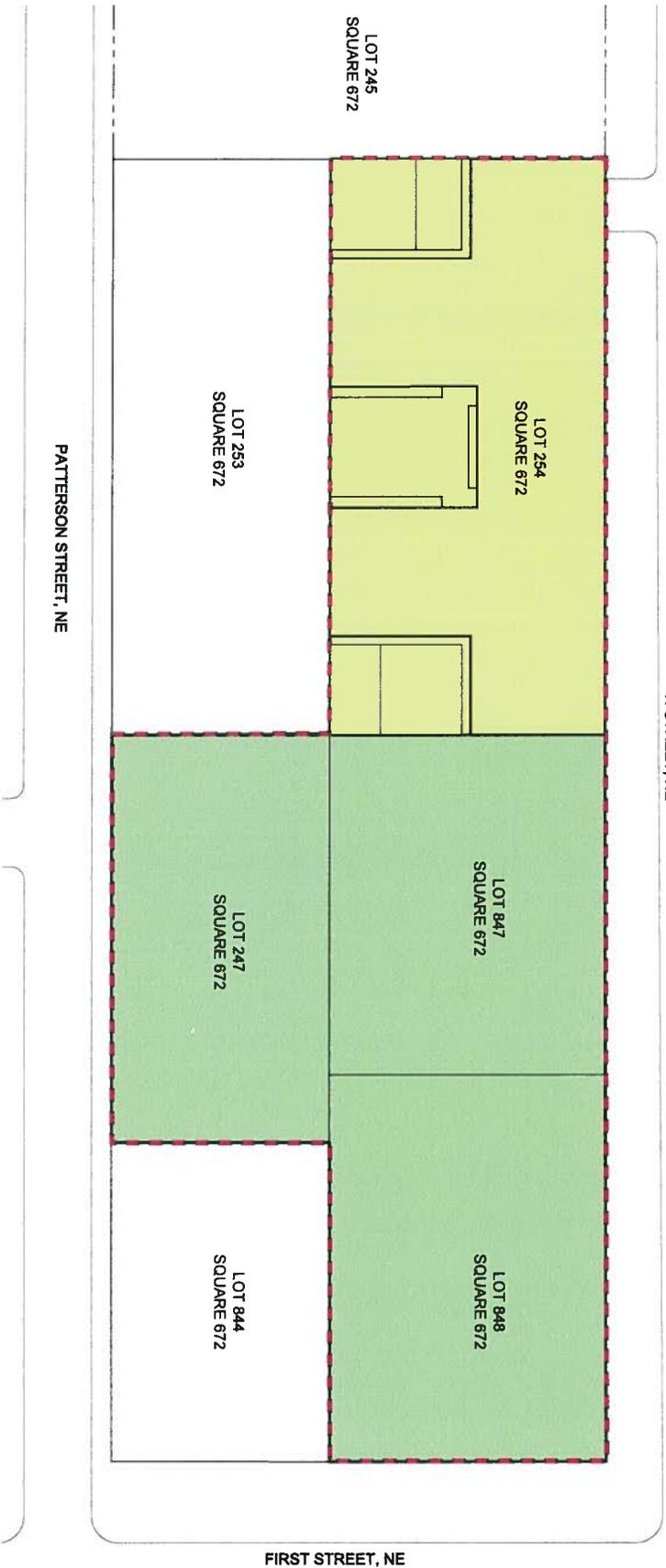
COMMENT:
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PROJECT NAME:
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PROJECT NO.:
12045.00
ISSUED UNDER:
DRAWING REF.:

SCALE:
N.T.S.
DATE:
2013-07-03

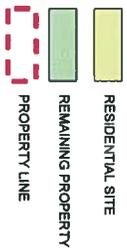
ASR#:
SD-05

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Location Plat



33 N Street NE
 Washington, DC Square 672 / Lot 254
 Date
 March 22, 2013





**33 N STREET NE
ZONING DIAGRAMS**

**JULY 3, 2013
THE JBG COMPANIES**

DRAWING LIST

- A2.0 COVER SHEET
- A2.1 OVERALL SITE PLAN
- A2.2 ROOF PLAN
- A2.3 ROOF SECTIONS

A2.0

PROJECT NAME
33 N Street NE
Washington, DC Square 672 / Lot 254

DATE
July 3, 2013



THE JBG COMPANIES





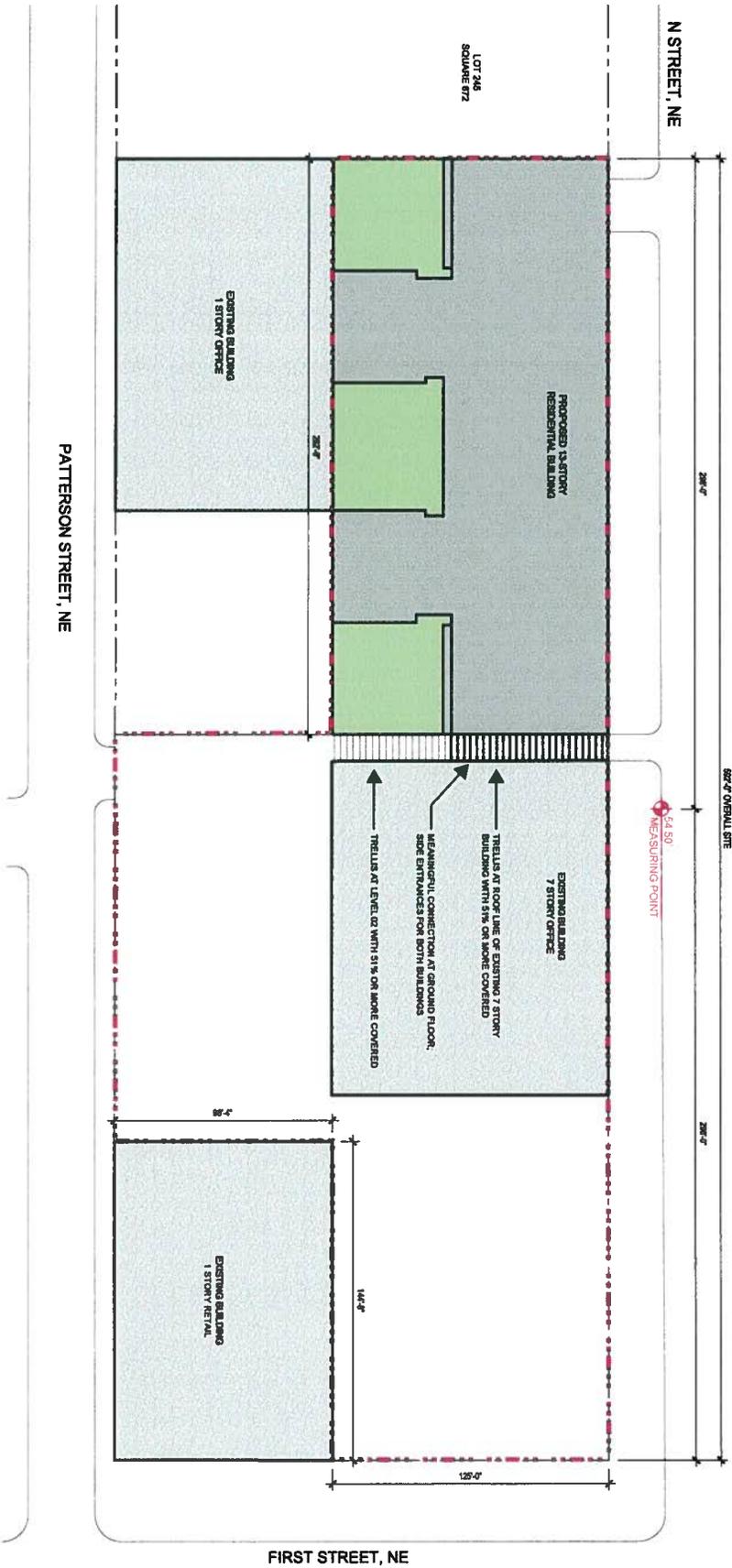
A2.1

PROJECT NAME
33 N Street NE
Washington, DC Square 672 / Lot 254

DATE
July 9, 2013



OVERALL SITE PLAN

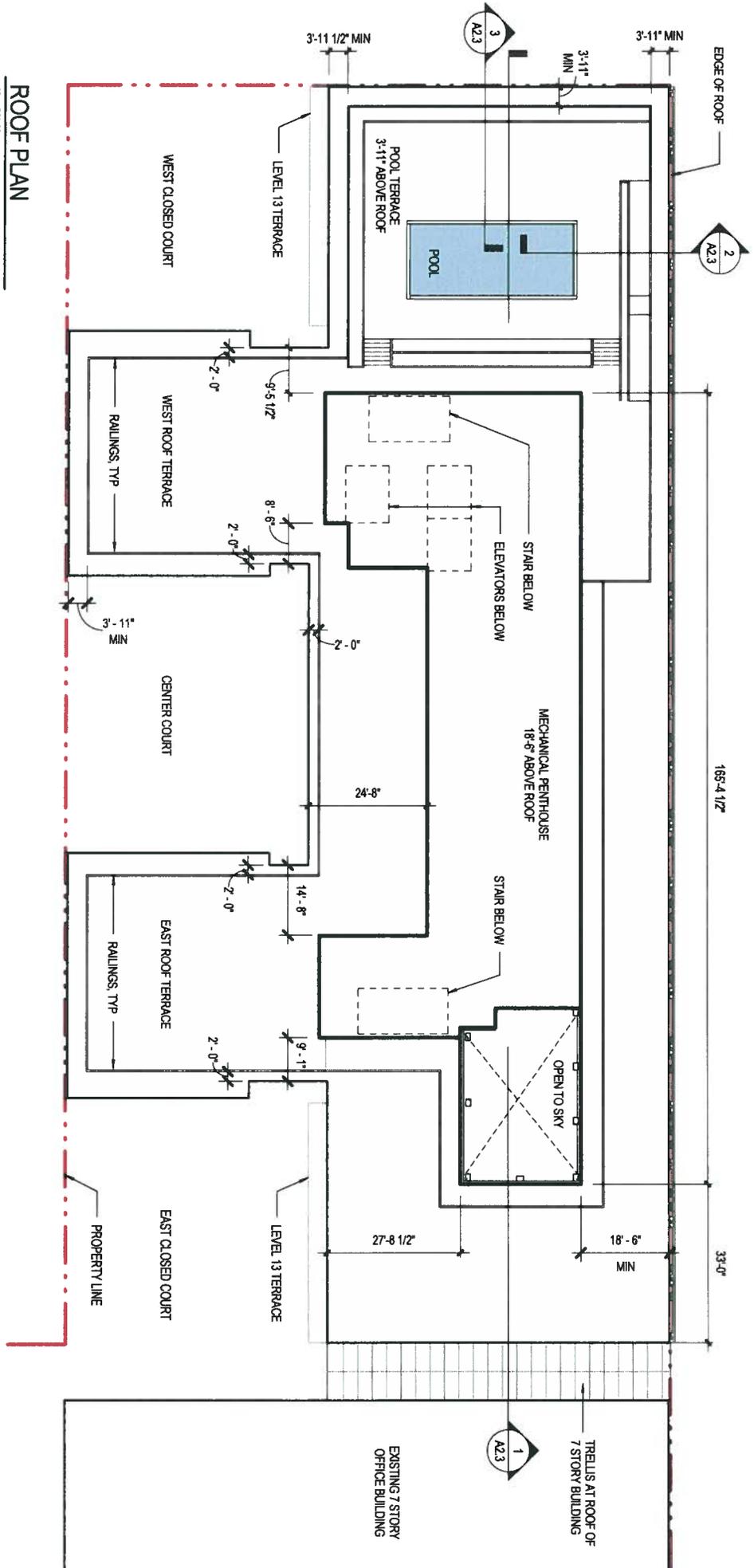


- BUILDINGS - PROPOSED
- BUILDINGS - EXISTING
- COURTS
- PROPERTY LINE





ROOF PLAN
1" = 20'-0"



A2.2

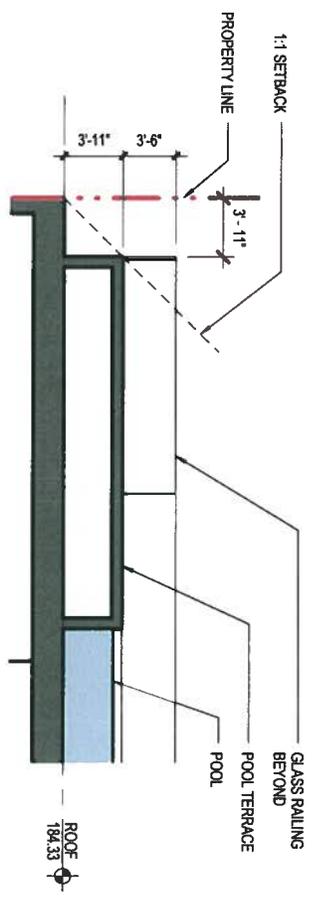
PROJECT NAME
33 N Street, NE
Washington, DC Square 672 / Lot 254

DATE
June 28, 2013

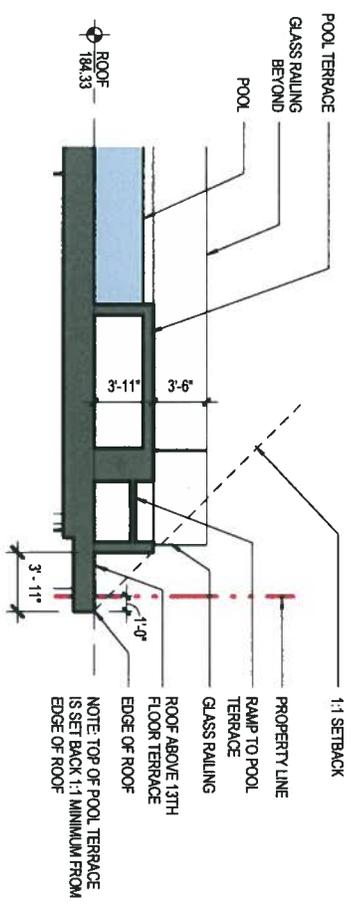




1 ROOF SECTION
1" = 20'-0"



3 ENLARGED ROOF SECTION
1/8" = 1'-0"



2 ENLARGED ROOF SECTION
1/8" = 1'-0"



A2.3

PROJECT NAME
33 N Street NE
Washington, DC Square 672 / Lot 254
DATE
June 28, 2013

