

REVISED
PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of April 17, 2018

**SUBJECT: 1101 South University Site Plan for City Council Approval
1101 South University Avenue
Project No. SP18-007**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve 1101 South University Site Plan and Development Agreement contingent upon the execution of a contract for the lease/sale of one vehicle parking space within the public parking system.

STAFF RECOMMENDATION

Staff recommends that the site plan be **approved**, because after execution of the parking contract, the contemplated development would comply with all applicable state, local, and federal law, ordinances, standards and regulations; and the development would not cause a public or private nuisance, limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, and would not have a detrimental effect on the public health, safety or welfare.

UPDATE

An error was discovered in the FAR calculations which increases the total area of the building by 92 square feet. As a result, the total area of the building is 9,149, which is above the maximum of 9,100 square feet (400% Maximum FAR) permitted without premiums. The project will now utilize premiums in order to permit the addition of 49 square feet above the base maximum FAR, for a total building area of 9,149 square feet. As required by City code, the use of premiums requires the provision of off-street parking at a rate of one space per 1,000 square feet of floor area above the base FAR. For this project it does required one off-street parking space. The petitioner has agreed to enter a contract with the DDA to provide the required parking space. This proposal will be discuss at the April 25th DDA Operations Committee meeting. This issue must be addressed before City Council action.

A revised motion and recommendation have been prepared. A Development Agreement is also required due to the use of the parking in lieu contract.

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PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve 1101 South University Site Plan.

STAFF RECOMMENDATION

Staff recommends that the site plan be **approved**, because, the contemplated development would comply with all applicable state, local, and federal law, ordinances, standards and regulations; and the development would not cause a public or private nuisance, limits the disturbance of natural features to the minimum necessary to allow a reasonable use of the land, and would not have a detrimental effect on the public health, safety or welfare.

LOCATION

This site is located on the north side of South University Avenue between the East University Avenue pedestrian mall and Church Street. It is in the Downtown Development Authority district and Ward One.

DESCRIPTION OF PETITION

The petitioner seeks site plan approval to construct a new three-story, 4,909-square foot residential addition to the existing two-story office/retail building on the north side of South University Avenue at the corner of the East University pedestrian mall and Church Street.

Existing Conditions – The subject site currently contain a two-story building (4,187 square feet) with retail on the ground floor and office on the second floor. The total lot area is 2,275 square feet (0.05 acre), zoned D1 (Downtown Core base district) and South University character overlay district, and Primary street frontage designation. The site also has frontage on the East University pedestrian mall. There are no natural features on this site.

Proposed Development – The petitioner seeks approval to construct a three-story addition on top of the existing two-story building. After construction of the proposed addition, the building will be 65 feet tall and five stories, plus a basement level used for coffee shop seating, bathrooms and a small mechanical room. The existing coffee shop will remain at the street level and the second floor will remain office uses. Residential apartments are planned for the third through fifth floors. Building services and utilities are located off the alley on the adjacent Collegian development site. The adjacent owner has agreed to sharing the space and will have all proper easements and agreements finalized before issuance of Building Permits. Bicycle lockers are located in the rear (north) of the building and will be accessed by a pedestrian alley along the north side of the site to Church Street.

The proposed footprint is generally rectangular but with a small section of the building extending out at the southwest corner. The existing façade of the first and second floor will remain unaltered with the new building added directly above the walls of the second story. There is no streetwall offset required. Per Section 5:10.20(3)(c), corner sites with less than 5,000 square feet, such as the subject site, are exempt from the streetwall and offset at top of streetwall requirements.

Area, height and placement, plus off-street parking data is provided in the comparison chart below. Other development details include:

- Parking – No off-street parking is proposed or required. Class A bicycle parking lockers are proposed on the adjacent Collegian development parcel. A formal easement providing access to these lockers is being prepared and must be recorded prior to issuance of Building Permits.
- Access – The site has frontage on East University Avenue pedestrian mall and an easement to use it for access to the proposed storefronts. It also has frontage on South University Avenue.
- Storm Water Management – Storm water management is addressed in the underground stormwater detention systems on the adjacent development known as The Collegian (under construction currently). The required detention capacity for this development was accommodated in the design of the initial stormwater system for The Collegian.
- Streetscape Improvements – The South University Streetscape Improvement Project is currently under construction. The developer is working with The Collegian development and the DDA to coordinate installation of the streetscape improvements. The preliminary construction plan has been reviewed and accepted by the DDA.
- Apartment Units – Three apartments are proposed with a total of 16 new bedrooms.
- Retail/Office Spaces – The existing retail space on the ground floor and the basement will remain. The second floor will be retail or office.

COMPARISION CHART

	EXISTING	PROPOSED	REQUIRED/PERMITTED
Base Zoning	D1 (Downtown Core)	D1 (Downtown Core)	D1 (Downtown Core)
Lot Area	2,275 sq ft	2,275 sq ft	No minimum
Max. Usable Floor Area in % of Lot Area	184%	398% (9,057 sq ft)	400% MAX normal (9,100 sq ft MAX) Up to 700% MAX with premiums (up to 15,925 sq ft MAX)
Premiums	N/A	N/A	N/A
Character Overlay District	South University	South University	South University
Streetwall Height	2 stories	5 stories	Site Exempt*
Street-level Transparency	43%**	43%**	60%
Street-level story height	12 feet **	12 feet **	15 feet
Offset at Top of Streetwall	Not Applicable	Not Applicable	Site Exempt*
Building Height	Approximately 2 stories, 20 feet	149 ft, 9 in	150 feet MAX
Massing Articulation	Approximately 30 ft average	43 ft	45 ft MAX
Side, Rear Setbacks	None	None	None
Building Frontages	Primary Street	Primary Street	Primary Street
S. University Ave.	3.7 ft	3.7 ft	0 ft MIN, 1 ft MAX**
Parking	Special Parking District	Special Parking District	Special Parking District
Parking – Automobiles	0	0	0 spaces MIN
Parking – Bicycles	None	2 Class A	2 Class A

* Per Section 5:10.20(3)(c), corner sites with less than 5,000 square feet, such as the subject site, are exempt from the streetwall and offset at top of streetwall requirements.

** Existing legal non-conforming

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Commercial/Residential	D1 (Downtown Core) base, South University overlay
EAST	Commercial	D1 (Downtown Core) base, South University overlay
SOUTH	Commercial	D1 (Downtown Core), South University overlay
WEST	University of Michigan Central Campus	PL

DESIGN REVIEW BOARD REVIEW

The petitioner presented the 1101 South University project to the Design Review Board on January 17, 2018.

At the meeting the Board discussed the project details and made the following comments and recommendations:

1. Consider more completely delineating the first floor from the upper floors. A mid-cornice could be a way to do so, and different brick colors may be another.
2. Note that the first floor reads as if it is being compressed by the upper floors.
3. Reconsider the placement of the sunshades. A better placement may be immediately above the windows.
4. At minimum, consider enlarging the height and width of the canopy over the coffee shop entrance and raising it higher.
5. At best, redesign the corner of the building as a unique, dramatic, elegant, and commanding element in keeping with this building's location at a very active and prominent corner in the downtown and a key gateway into and out of the Diag.

The Design Review Board's recommendation letter and the petitioner's responses are attached.

CITIZEN PARTICIPATION MEETING

The petitioner mailed out postcards describing the project to all residents and property owners within 500 feet of the site as well as all subscribers to the GovDelivery planning update service. The petitioner reported no responses to the postcard mailing.

HISTORY

The site was rezoned as part of the Ann Arbor Discovering Downtown (A2D2) zoning initiative. The current base and character overlay zoning districts and building frontage standards became effective in December 2009.

Buildings on the site were constructed in the 1930's. Prior to the current 80+ year old commercial building, it's likely the lots contained single-family dwellings.

East University Avenue north of South University Avenue was vacated in 1922 or 1923, with all of the land ownership going to the University of Michigan but access rights were kept through an easement for Lots 20 and 21 in R. S. Smith's Addition plat, present day 1101 and 1107 South University Avenue.

SERVICE UNIT COMMENTS

Planning – Staff's comments regarding compliance with city codes and ordinances were addressed by the petitioner. Staff finds that the proposed development to meet zoning and off-street parking regulations. An off-site bicycle parking easement must be recorded prior issuance of Building Permits.

Engineering – Implementation/restoration of the S. University Avenue right-of-way, including the streetscape, shall be coordinated with the Ann Arbor DDA and The Collegian North project, currently under construction.

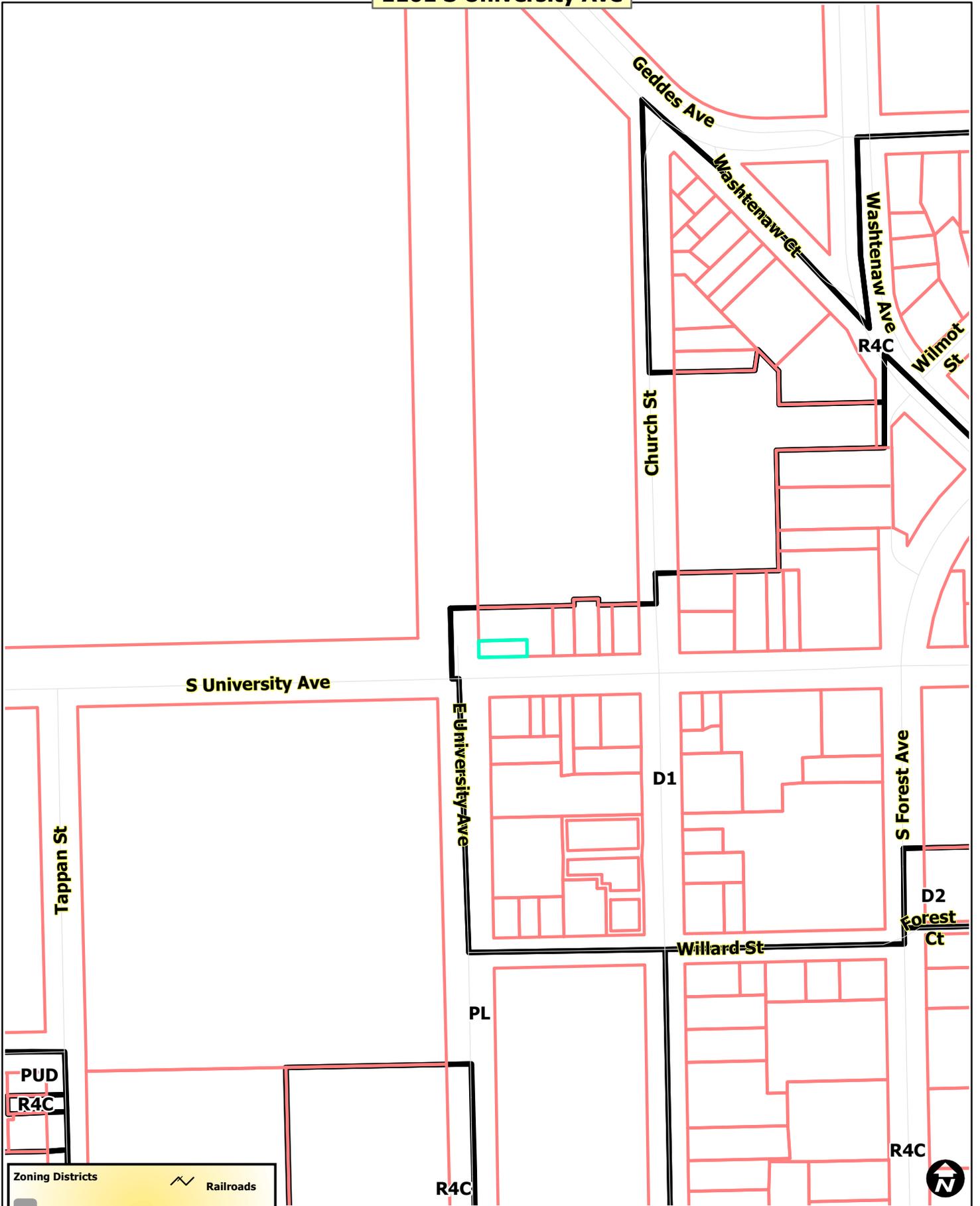
Downtown Development Authority – The petitioner and DDA Staff have drafted language to address coordination and responsibilities for the streetscape improvements. The streetscape will be installed in coordination with the adjacent Collegian development, which is currently under construction.

Prepared by Matt Kowalski
Reviewed by Brett Lenart
4/13/2018

Attachments: Zoning Map
Aerial Photo
[Site Plan](#)
[Elevations](#)
[Design Review Board Recommendations](#)
[Petitioner's Response to DRB Report](#)

c: Petitioner (South University Properties, LLC [Roshanak Ameli-Tehrani]) *by email*
Petitioner's Agent (J. Bradley Moore & Associates [Brad Moore]) *by email*
Systems Planning
File – Project No. SP18-007

1101 S University Ave



Zoning Districts	Railroads
Township Islands	Huron River
City Zoning Districts	Tax Parcels



Map date 12/28/2017
 Any aerial imagery is circa 2015 unless otherwise noted
 Terms of use: www.a2gov.org/terms



1101 S University Ave

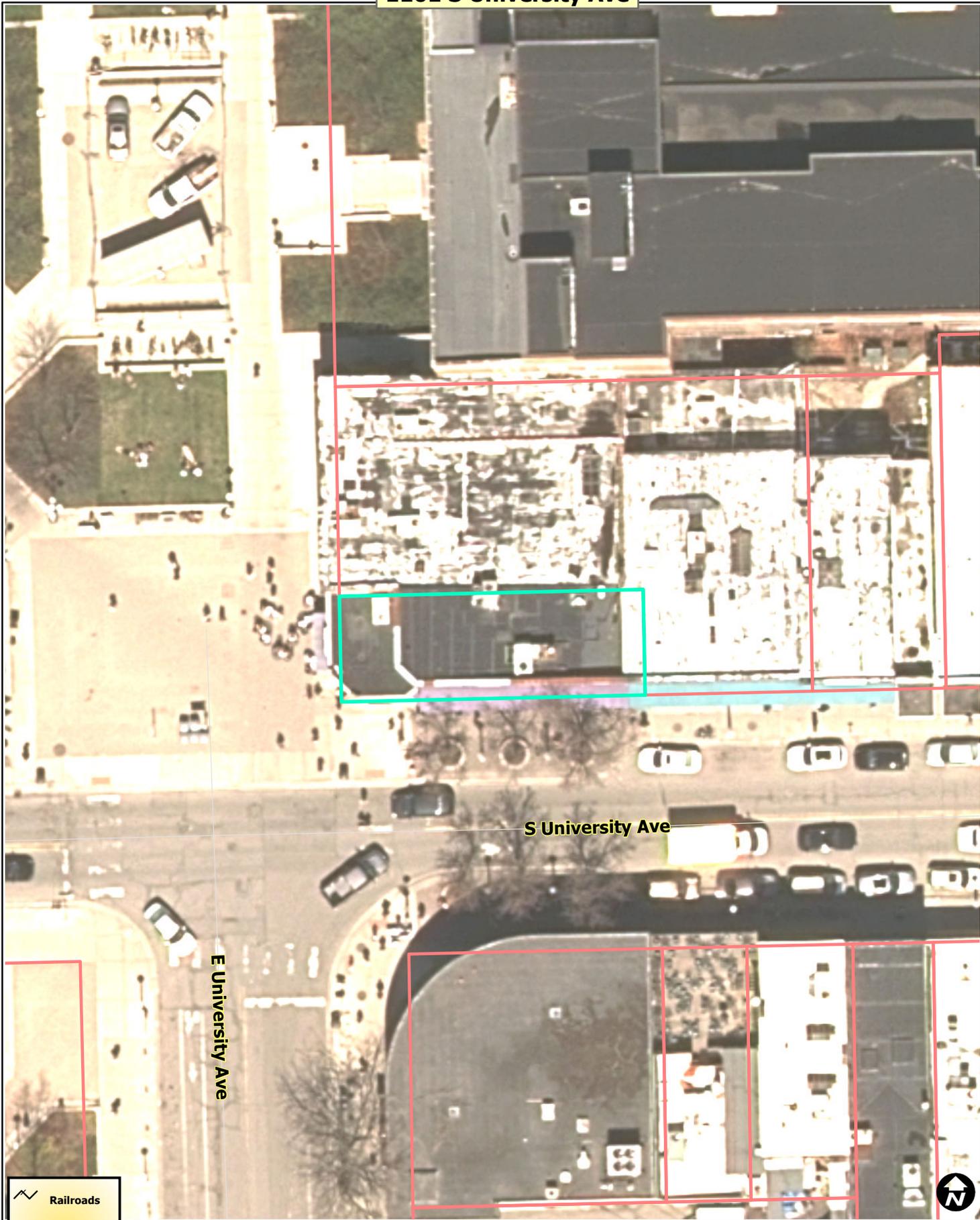


-  Railroads
-  Huron River
-  Tax Parcels



Map date 12/28/2017
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1101 S University Ave



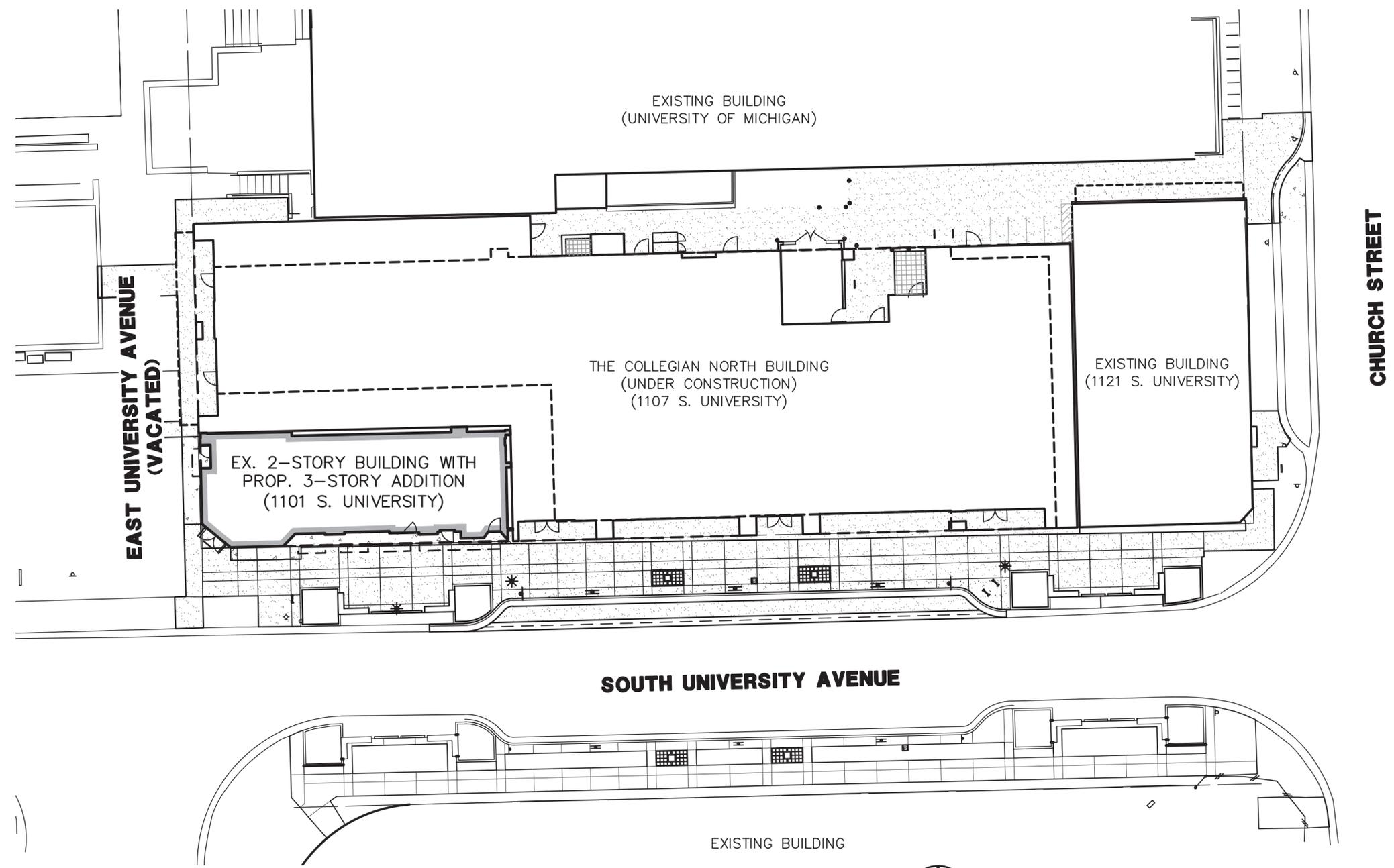
-  Railroads
-  Huron River
-  Tax Parcels



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SITE PLAN



CHART

Required / Permitted	Proposed
None	2,275sf / 0.05 acres
None	95.1 ft
D1	D1
South University Primary	South University Primary
apartments/commercial/office	apartments/commercial/office
	2,575sf commercial, 1,573sf Office
	4,909sf Residential (3 units/16 beds)
	1 bldg; basement,
	off-site underground storm detention
	fully fire suppressed
15,925sf / 700%	9,057sf
9,100sf / 400%	398.10%
6,825sf max / 300%	None
2 stories min., 3 stories max.	Site exempt (<5,000sf corner)

OVERALL SITE

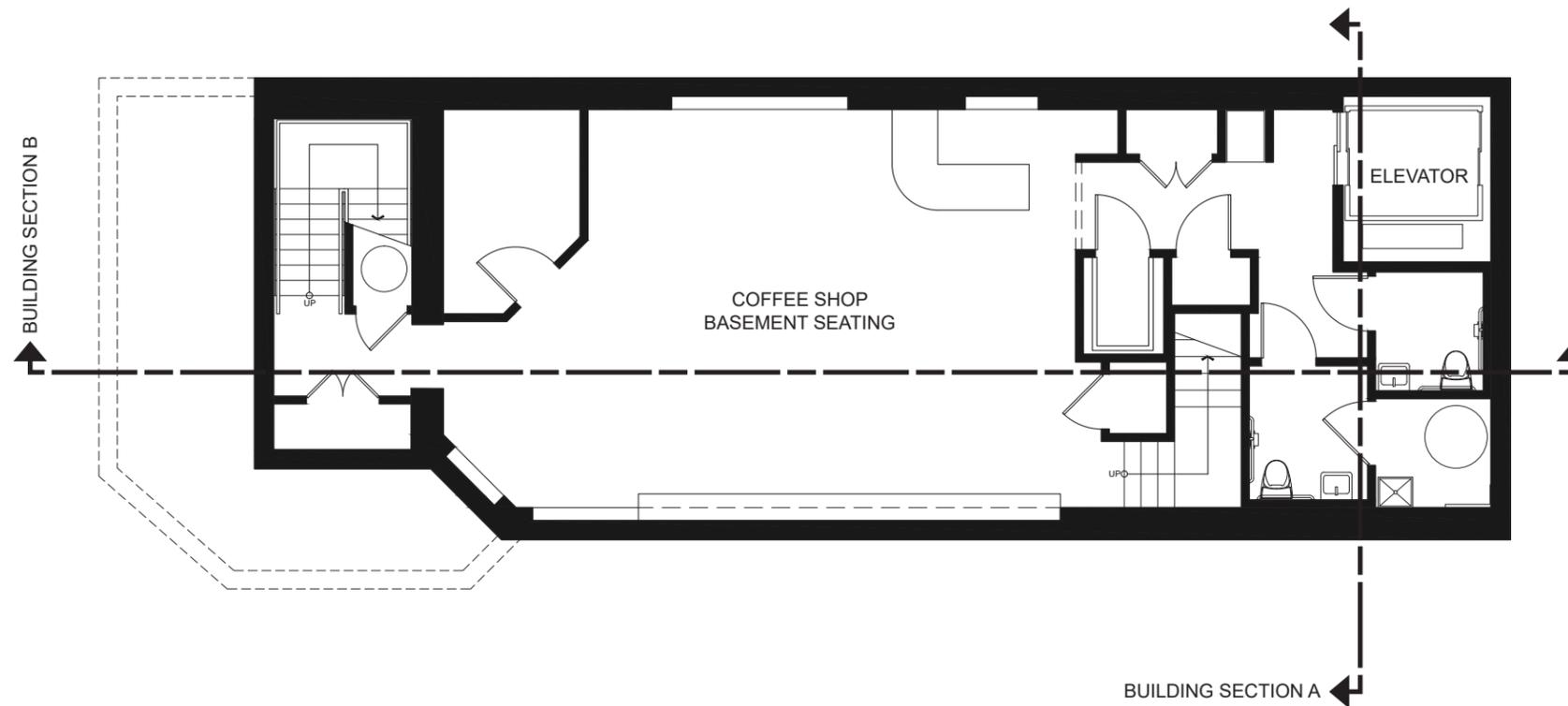
1" = 20'



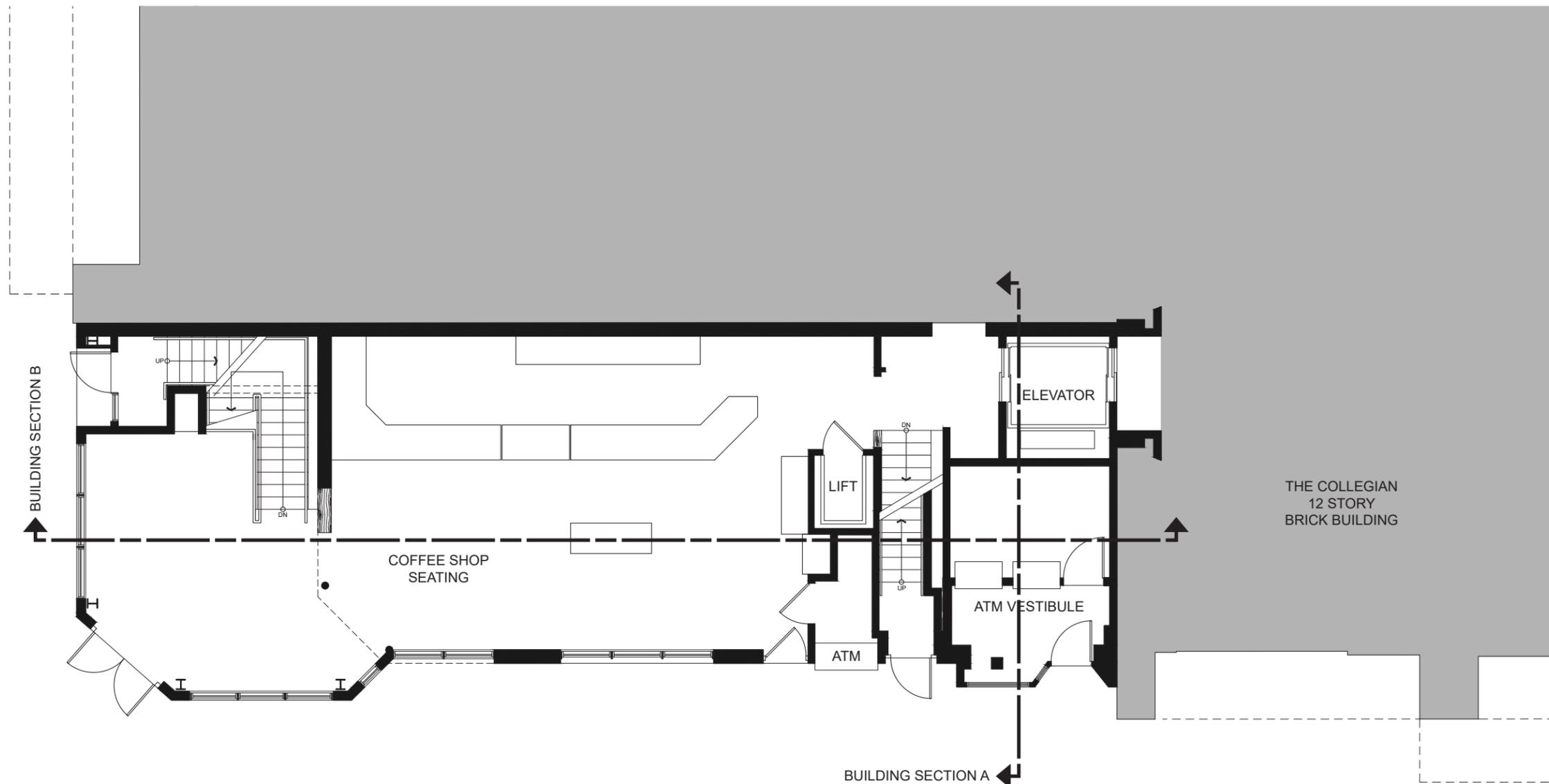
PROJECT SUMMARY

THE PROJECT CONSISTS OF A THREE STORY RESIDENTIAL ADDITION TO A TWO STORY COMMERCIAL/OFFICE BUILDING. THE EXISTING STRUCTURE WILL REMAIN. THE PROPOSED FLOOR AREA IS WITHIN THE ALLOWABLE FLOOR AREA RATIO FOR D1: DOWNTOWN DISTRICT. NO PARKING IS REQUIRED OR PROPOSED WITH THE DEVELOPMENT AS THERE ARE NO PREMIUMS PROPOSED. THE STREETScape WILL BE CONSTRUCTED BY THE ADJACENT COLLEGIAN NORTH DEVELOPMENT PER THE DDA STREETScape PLANS FOR SOUTH UNIVERSITY AND STREETScape PLANTINGS WILL BE INSTALLED BY THE DDA. STORMWATER MANAGEMENT INCLUDES CONNECTION TO THE UNDERGROUND STORMWATER DETENTION SYSTEM BELOW THE COLLEGIAN NORTH DEVELOPMENT.

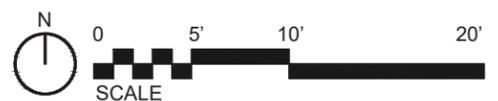
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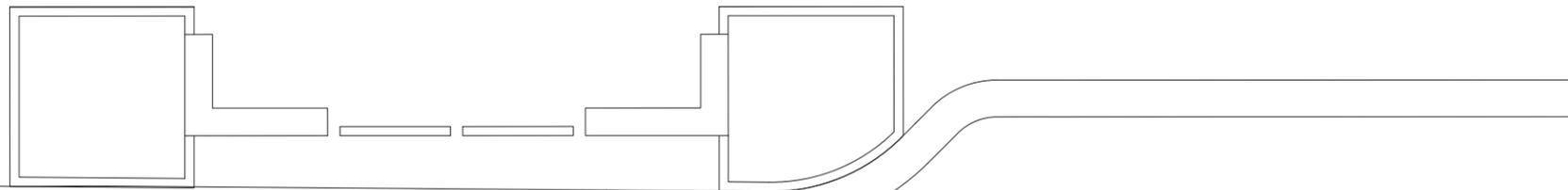
N
0 5' 10' 20'
SCALE
BASEMENT FLOOR PLAN



THE COLLEGIAN
12 STORY
BRICK BUILDING

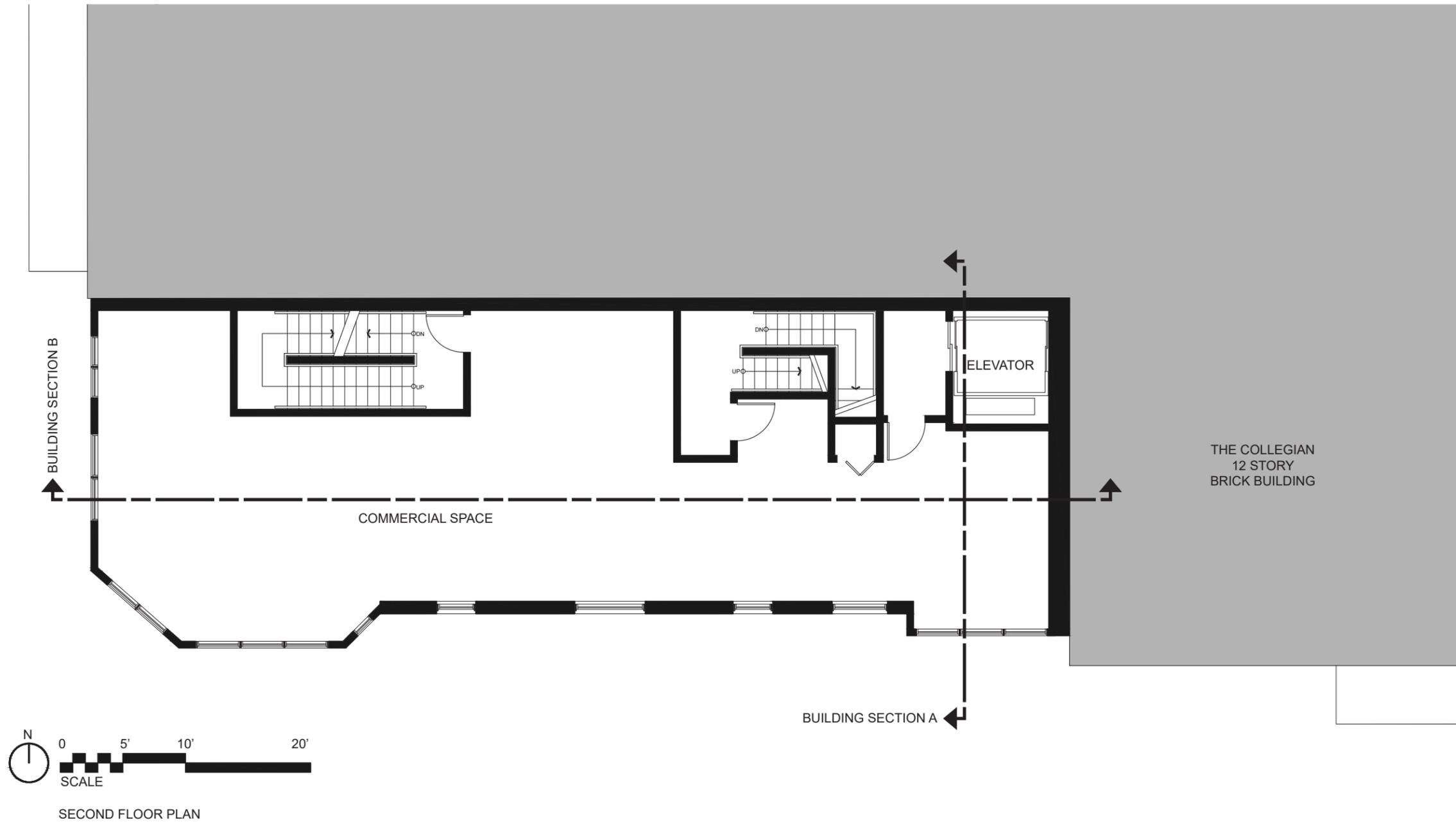


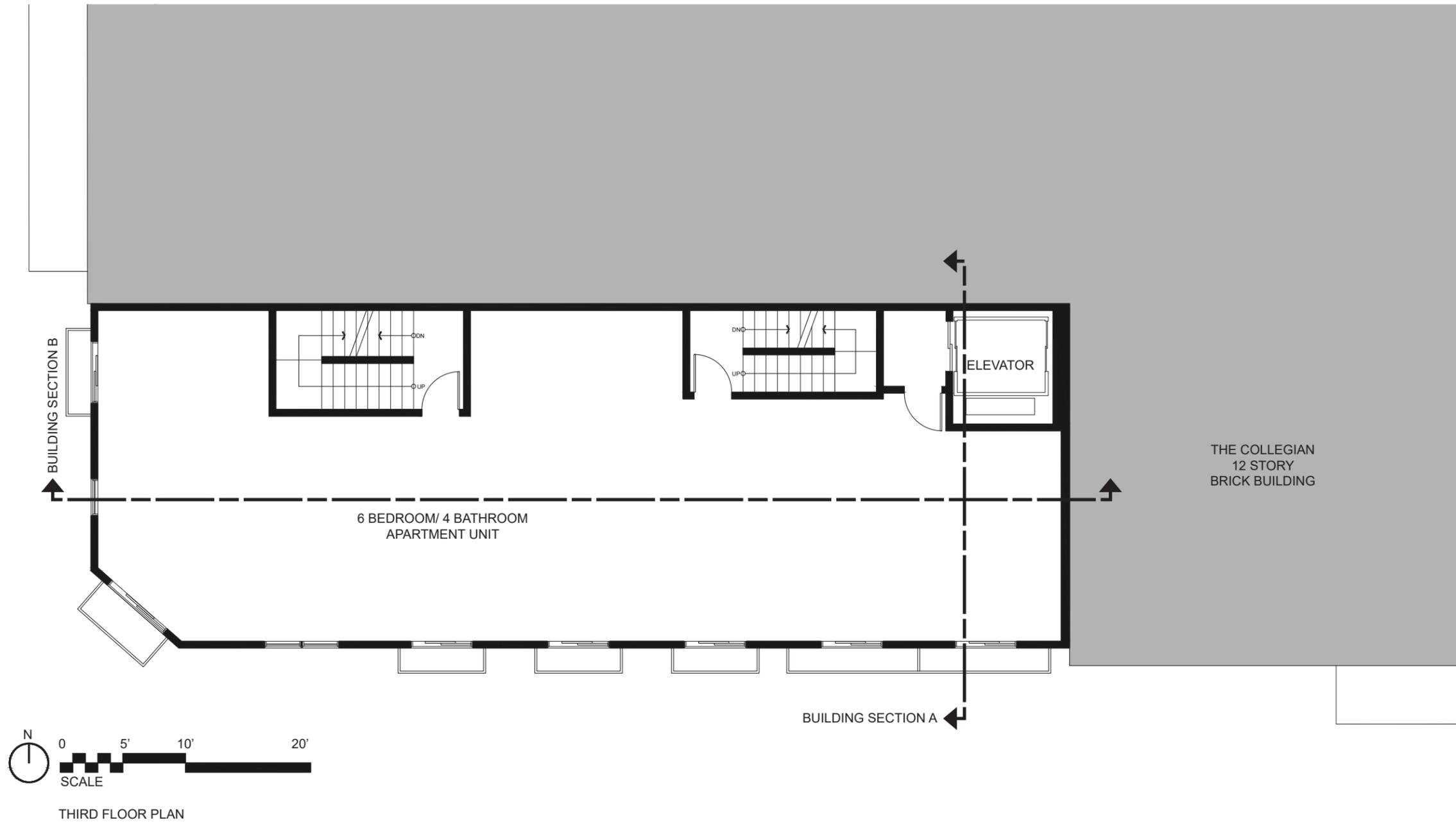
FIRST FLOOR PLAN



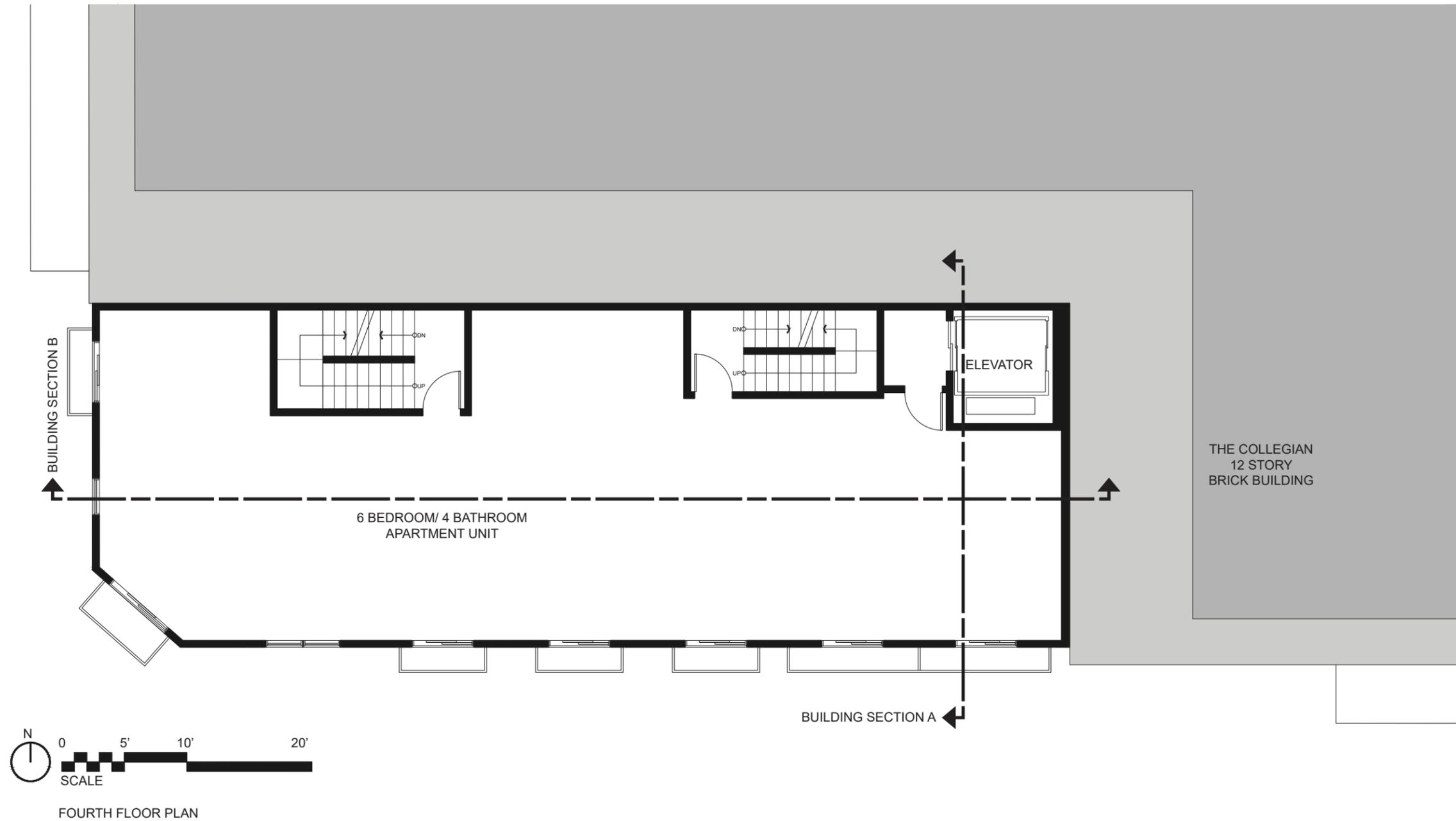
SOUTH UNIVERSITY STREET

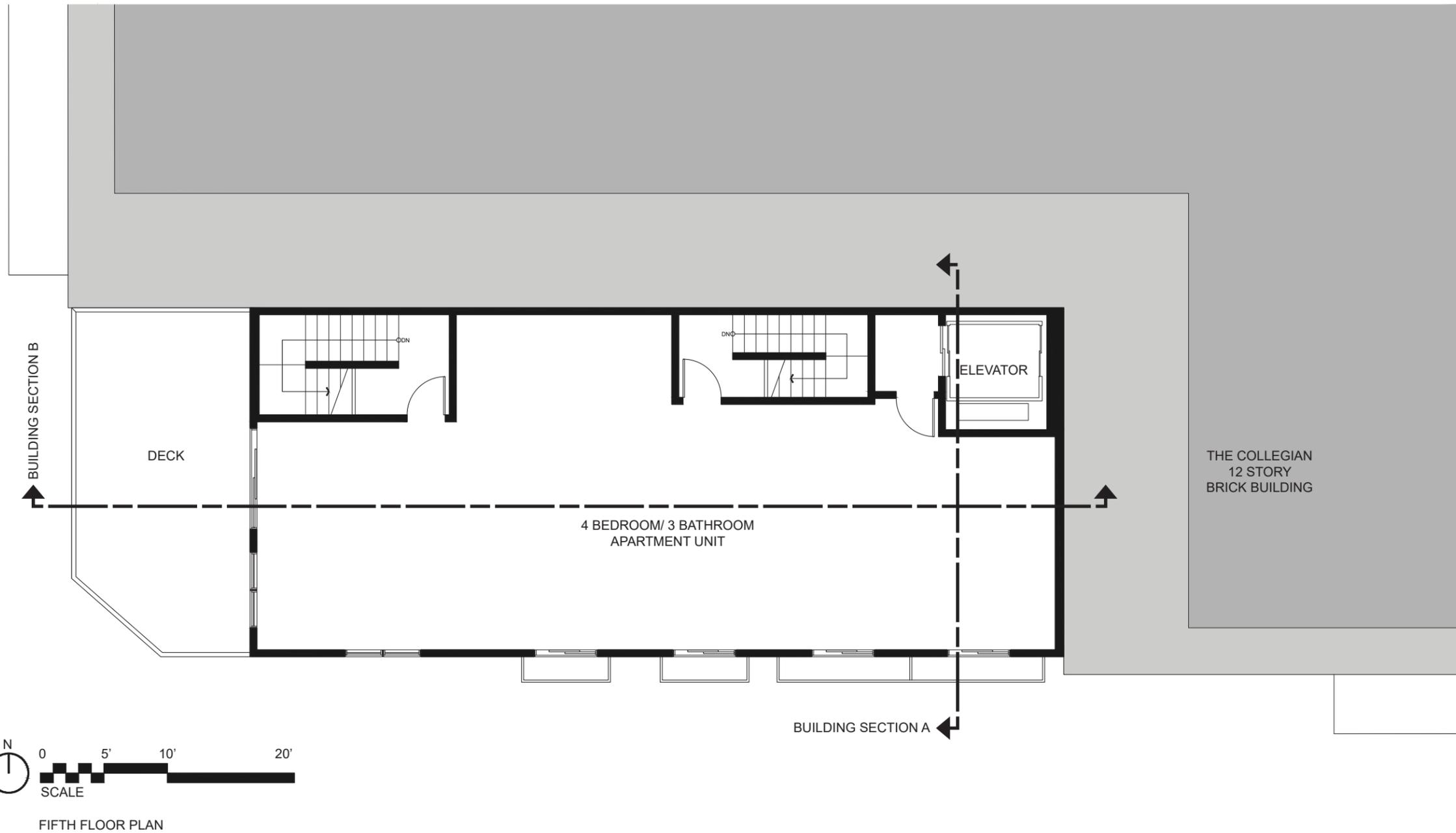
1101 S. University
ANN ARBOR, MICHIGAN

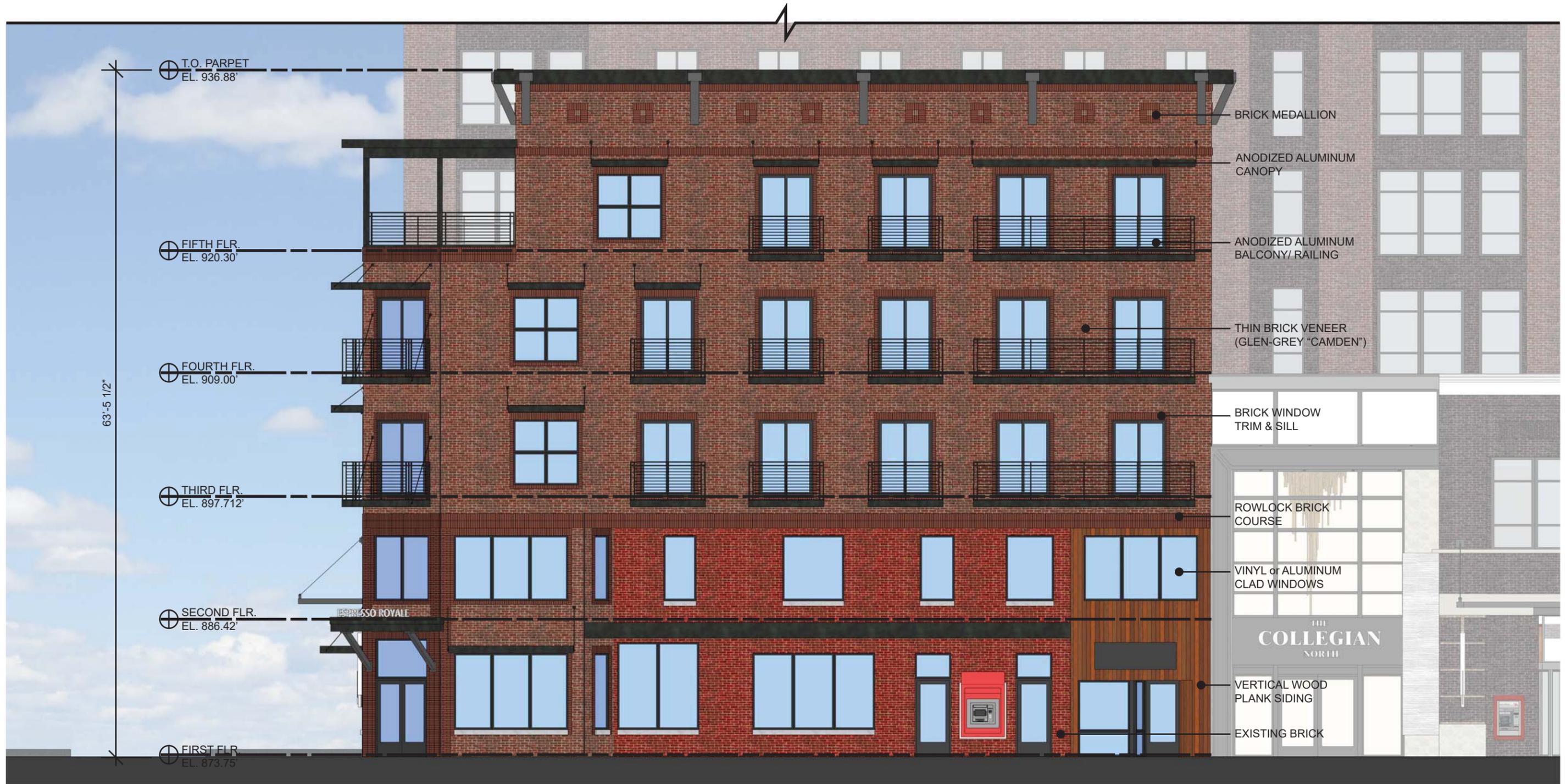




THIRD FLOOR PLAN







⊕ T.O. PARPET
EL. 936.88'

⊕ FIFTH FLR.
EL. 920.30'

⊕ FOURTH FLR.
EL. 909.00'

⊕ THIRD FLR.
EL. 897.712'

⊕ SECOND FLR.
EL. 886.42'

⊕ FIRST FLR.
EL. 873.75'

63'-5 1/2"

BRICK MEDALLION

ANODIZED ALUMINUM
CANOPY

ANODIZED ALUMINUM
BALCONY/ RAILING

THIN BRICK VENEER
(GLEN-GREY "CAMDEN")

BRICK WINDOW
TRIM & SILL

ROWLOCK BRICK
COURSE

VINYL or ALUMINUM
CLAD WINDOWS

VERTICAL WOOD
PLANK SIDING

EXISTING BRICK

ESPRESSO ROYALE

THE
COLLEGIAN
NORTH

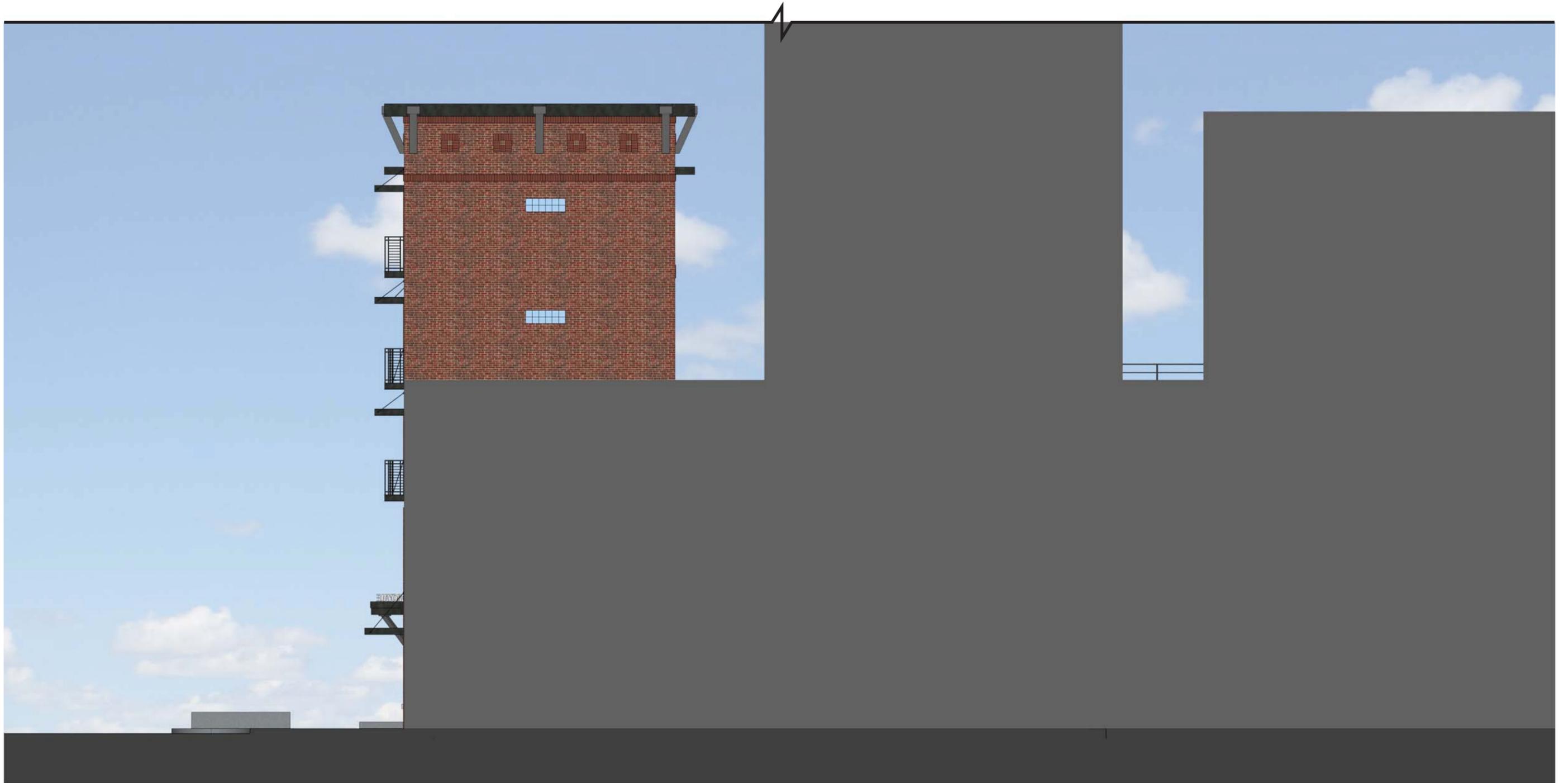
ENLARGED SOUTH ELEVATION



ENLARGED WEST ELEVATION



ENLARGED NORTH ELEVATION



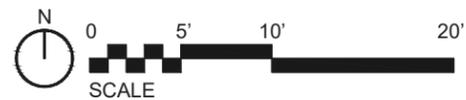
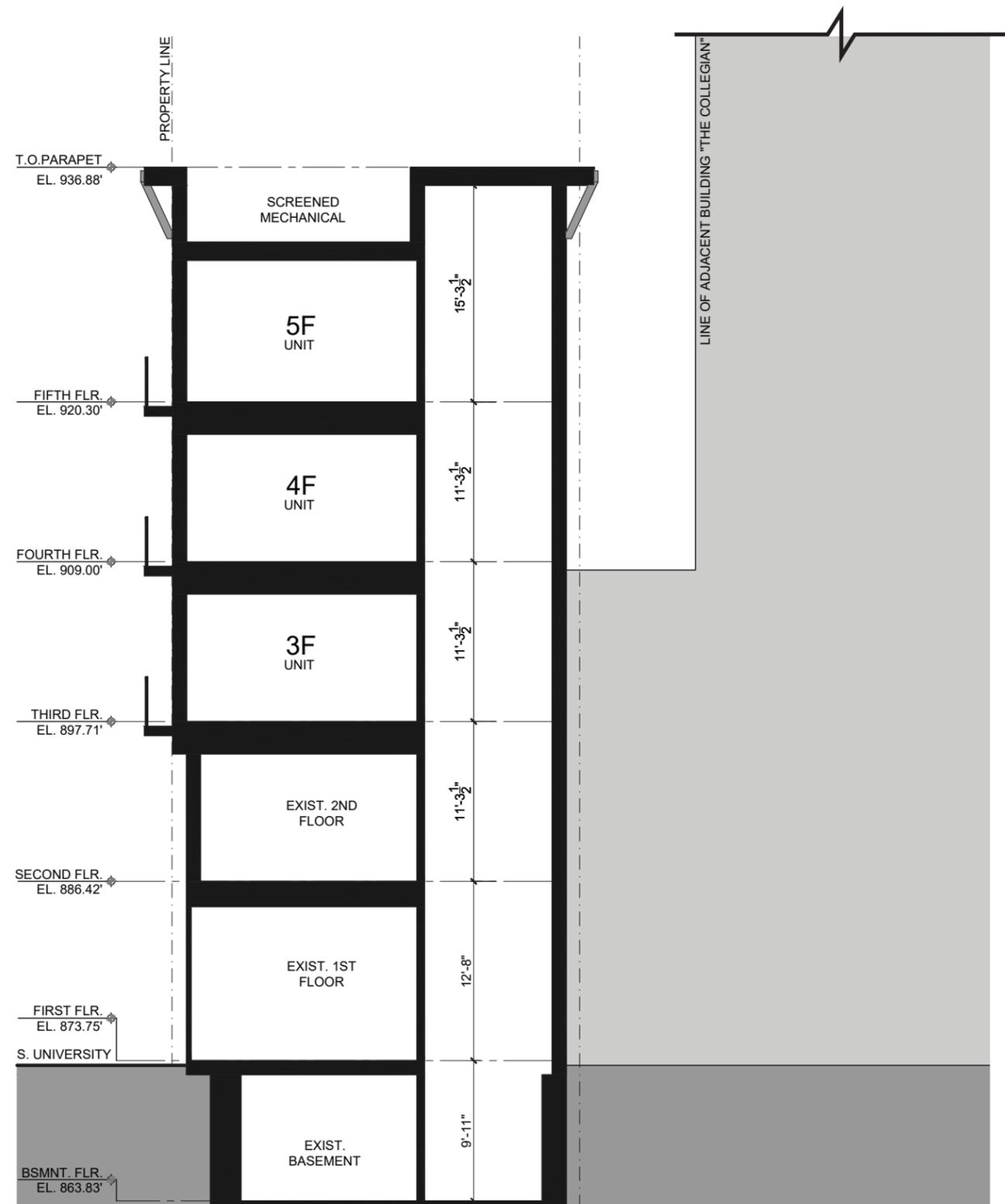
ENLARGED EAST ELEVATION



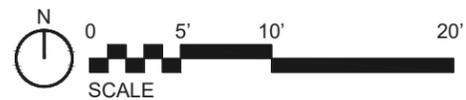
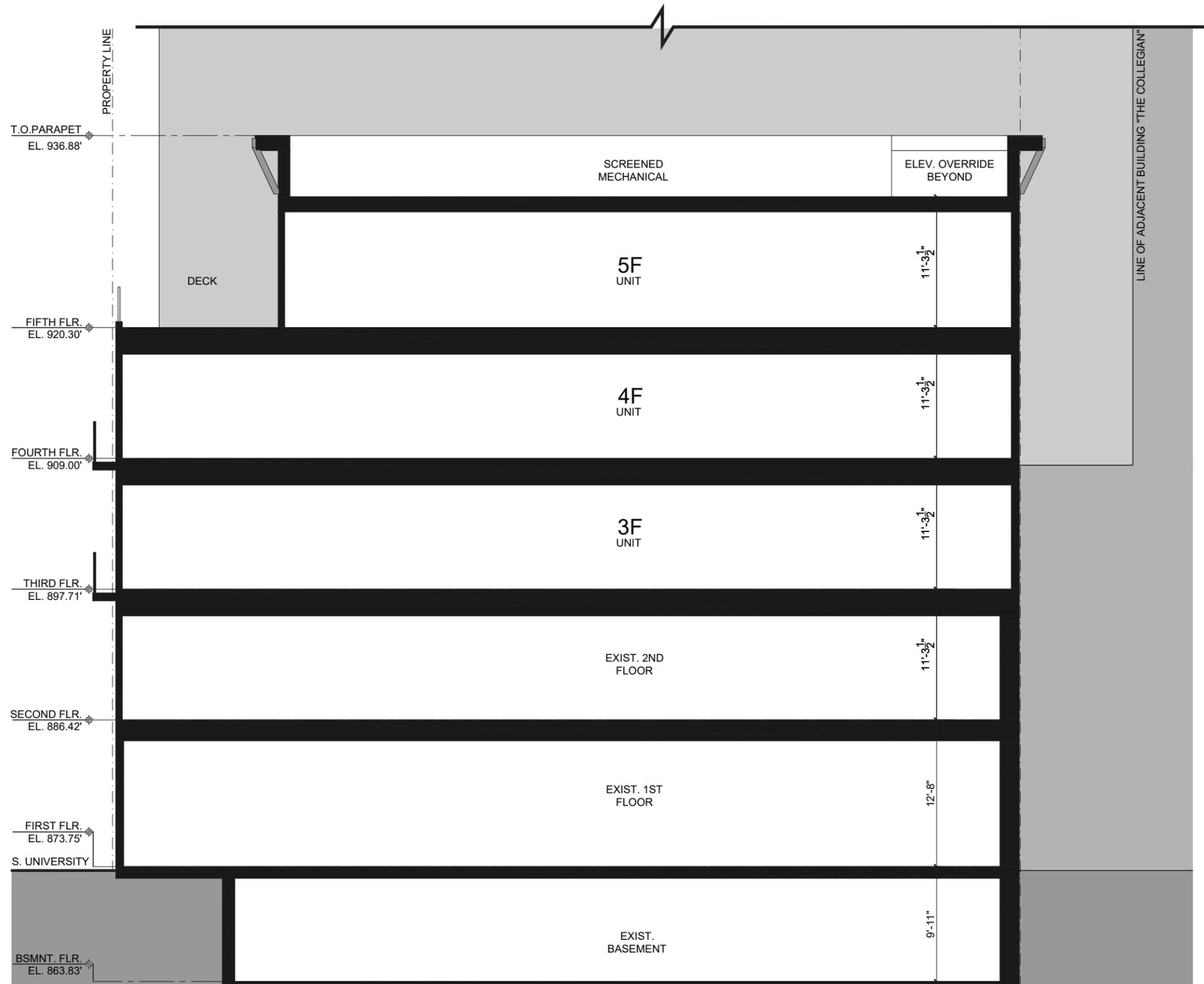
SOUTH ELEVATION



WEST ELEVATION



BUILDING SECTION A



BUILDING SECTION B



ANN ARBOR DESIGN REVIEW BOARD

Staff Report

MEETING DATE: January 17, 2018

PROJECT: 1101 South University Ave Design Plan
Project No. DR17-002

ADDRESS: 1101 South University Avenue

ZONING: D1 Downtown Core (base zoning)
South University Character (overlay zoning)
Primary (street designation)

DESIGN TEAM: J. B. Moore – J. Bradley Moore and Associates Architects
Tom Covert – Midwestern Consulting
S. University Properties (owner)

PROPOSED PROJECT: A vertical expansion of an existing two-story building is proposed to create a five-story mixed-use building. In addition to the current coffee shop on the first floor and office space on the second floor, three floors of apartments will be constructed with a total of 16 bedrooms. The proposed building will have 8,117 square feet of floor area and a FAR of 357% on this 2,275-square foot site.



Figure 1 – Location Map

The site (thick red outline in Figure 1) is located on the north side of South University Avenue at what was the northeast corner of East University Avenue. East U is now a pedestrian mall on the outside of the University of Michigan’s Central Campus Diag.

The north and east sides of the site abut the Collegian North development (under construction, thin orange outline in Figure 1).

In the submitted design plan, the applicant states “the building is conceived as an asymmetrical composition of windows, masonry, glass and metal rising 5 stories and culminating in a generous cornice line at the top of the building.” Many projecting horizontal components, such as canopies and balconies, are included to both delineate the base and top as well as provide visual interest, dimensional relief, amenities to residents and benefits to the pedestrian experience.



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STAFF COMMENTS:

1. The area, height and placement regulations for this site (D1, South University Character, primary street) are provided in the chart below. A cursory review of the proposed development indicates meets most applicable zoning regulations.

	Requirements	Proposed
FAR (Floor Area Ratio)	Max. 400% normally, up to 700% with premiums (9,101 – 15,928 sq ft)	357% (8,117 sq ft)
Front Setback	0 ft MIN – 1 ft MAX	0 to 3 ft (no change to existing)
Side Setback	0 ft MIN	0 ft
Rear Setback	0 ft MIN	0 ft
Streetwall Height	None (see note)	None
Offset at Top of Streetwall	None (see note)	None
Total Height	Maximum 150 ft	64 ft
Massing Articulation	Maximum 45 ft	Not specified
Building Coverage	No maximum	
Open Space	No minimum	

Note: Corner sites with less than 5,000 square feet, such as the subject site,

are exempt from the streetwall and offset at top of streetwall requirements per Section 5:10.20(3)(c).

2. The applicant should identify the proposed massing articulation dimension.
3. The applicant should provide the height of the street-level façade from its floor to the next floor above, the percentage of transparent windows or glazing at the street level, the height of the bottom of the windows on the street-level story. Because the structure of the existing two-story building is proposed to remain, the height first floor may remain as an existing nonconforming element (if it is not a minimum of 15 feet, per Section 5:10.20(5)(b)(1)), but the significant façade changes will require compliance with Section 5:10.20(5)(b)(2) and (3).
4. The applicant should note if “other materials” as described in Section 5:10.20(5)(a) are proposed which would need a recommendation by the Design Review Board.
5. The proposed development is notably smaller than its contemporaries in the South University Character area – it is the only one that does not utilize premium floor area – but it is solidly among them in terms of style, massing, and proportions. As they almost all have done, the proposed development’s overall building envelope also incorporates the majority of the applicable **design guidelines for context and site planning**.
6. The **design guidelines for buildings** generally focus on minimizing the impact of a new building and providing details, variation, and design treatments that break down scale. The proposed development provides no setbacks or plane variation but it does have numerous balconies and awnings. The punched window openings, balconies and awnings will provide depth and shadowing to the façade. The Board should discuss whether these features fulfill the guidelines for building massing.
7. The proposed development incorporates many applicable **design guidelines for building elements**. It has a high level of ground floor transparency and entrances oriented towards the street. Its street edge, entries, windows, awnings, materials and (apparently) natural environmental controls respond positively to the guidelines.

APPLICABLE GUIDELINES: From the Ann Arbor Downtown Design Guidelines

Staff has identified the following Guidelines as applicable to the proposed project. These include Guidelines both with which the proposed project is and is not consistent. The Design Review Board may find other Guidelines are also applicable.

Chapter 1: General Design Guidelines

A. Design Guidelines for Context and Site Planning

A.1 Urban Pattern and Form. When considering urban pattern and form, the petitioner should assess the character of the adjacent streetscape, open spaces, and buildings to determine how they function as places and facilities supporting human use.

A.1.1 Identify and then reinforce the positive characteristics of adjacent sites.

A.1.2 Design sidewalk level features and facilities to provide enrichment of the pedestrian experience.

A.1.3 Corner sites are an opportunity to express an architectural gateway or focal point and a dominant architectural feature.

A.1.5 If the street geometries are such that the mid- block is the termination of a perpendicular street view, consider a design with enough presence and detail to make that view noteworthy.

A.2 Site Planning and Natural Systems. An urban setting can be a challenging environment in which to respond to natural systems. Consider natural systems such as sun and wind patterns, climates and seasonality, rainwater harvesting, and significant individual features such as street tree patterns and landmark trees on public and private sites.

B. Design Guidelines for Buildings

B.1 Building Massing. Building massing principles address the overall height, size and shape of a building. Although these guidelines refer to the visual aspects of structures, it is important to note that downtown zoning districts address key building massing considerations including floor area ratio, building height, streetwall height, offset and module length.

B.1.3 Provide a clear definition between the base (the lower floor or floors) and upper floors to maintain a sense of scale at the street level.

B.1.4 If appropriate to the context, establish a design treatment that includes a differentiated building top.

C. Design Guidelines for Building Elements

Building elements include specific design features that give character and detail to a building. They are not generally addressed by the requirements of the downtown zoning districts. Entries, windows, materials, and other building elements influence the degree to which a new building contributes to the urban fabric. Quality and creativity are most clearly expressed and experienced at this level of design.

The design of building elements should be compatible with its surrounding context. However, a wide range of styles or design themes are appropriate including creative, contemporary, and environmentally-oriented design solutions. Surfaces that have variations in depth with substantial shadow lines add interest.

- C.1 Street Edge.** Building elements and architectural details used at the street front have a direct impact on the quality of the pedestrian experience and should be combined to create an active and interesting street front. Creative use of materials, textures and architectural details is especially important where there are few windows at the street front of a building.
- C.2 Entries.** The location, spacing and general pattern of building entries impact the quality of the pedestrian experience downtown. Building entries should be located to enhance the street level experience and help give a sense of scale. Entries should be clearly defined, accessible, and located to express rhythm and visual interest along a street front. Although traditional building entry designs may be appropriate, creative and contemporary interpretations are also encouraged.
- C.3 Windows.** Window design and placement should help establish a sense of scale and provide visual interest.
- C.4 Awnings.** The use of awnings is encouraged at the sidewalk level to provide shelter from the rain, to modulate natural light, and to indicate entry and provide transition from the outdoor to the indoor environment.
- C.5 Materials.** Building materials should reinforce the massing and architectural concepts and enhance the character of the building and its context.
- C.6 Building Operational Systems.** Building operational systems such as waste management, utility services, heating and cooling systems, must be carefully integrated into the design of a building and not detract from the architectural concept.
- C.7 Sustainability in Building Elements.** Consider sustainability when selecting

structural and façade materials and designing functional building elements.

South University Character District

This district is located on the southern and eastern edges of central campus (refer to the map for boundaries). Current architectural character includes diverse styles ranging from older eclectic forms to new/contemporary ones, expressed through a wide variety of architectural materials including wood siding, brick, limestone, precast concrete, and various metals. Building heights range from one and two floor/low-rise to mid and hi-rise. Rooflines vary from two and three story frame houses to flat roofed contemporary expressions at various building heights and façade expressions.

This area is a mixed use district, largely consisting today of university population-focused restaurant and commercial services, and student housing. This district is busy and vibrant with automobile and pedestrian activity. Sidewalk level doorways provide access to upper floor offices and apartments.

The urban landscape includes sidewalk extensions (bump-outs) with circular tree sized planters; a well developed tree canopy over some sidewalks; and outdoor dining spaces at sidewalk and rooftop levels. First floor facades are more transparent with clear, large display windows, allowing inside first floor retail activities to be visible from, and contribute to, the district's active street life.

The cumulative character can be described as a busy and vibrant urban setting that encourages and accommodates a diverse range of downtown activities.



City of Ann Arbor

PLANNING & DEVELOPMENT SERVICES — PLANNING DIVISION

301 East Huron Street | P.O. Box 8647 | Ann Arbor, Michigan 48107-8647

p. 734.794.6265 | f. 734.994.8312 | planning@a2gov.org

DESIGN REVIEW BOARD COMMENTS AND RECOMMENDATIONS

TO: Brad Moore – Design Team

FROM: Alexis DiLeo, City Planner on behalf of the Design Review Board

DATE: February 15, 2018

SUBJECT: 1101 South University Ave Design Project (Project No. DR17-002)

The Design Review Board discussed your proposed design for 1101 South University Avenue on January 21, 2018. Please consider the following comments and recommendations made by the Board when preparing a revised design plan for further discussion by the Board and the future site plan petition:

1. Consider more completely delineating the first floor from the upper floors. A mid-cornice could be a way to do so, and different brick colors may be another.
2. Note that the first floor reads as if it is being compressed by the upper floors.
3. Reconsider the placement of the sunshades. A better placement may be immediately above the windows.
4. At minimum, consider enlarging the height and width of the canopy over the coffee shop entrance and raising it higher.
5. At best, redesign the corner of the building as a unique, dramatic, elegant, and commanding element in keeping with this building's location at a very active and prominent corner in the downtown and a key gateway into and out of the Diag.

These comments and recommendations were prepared on February 15, 2018 and approved by the Design Review Board on February 21, 2018.



MEMO

January 25th, 2018

To: City of Ann Arbor Planning Department

Re: 1101 S. University

To whom it may concern;

Please be advised that the design for the proposed project at 1101 S. University was modified after the Design Review Board meeting January 17th in the following ways in response to comments from board members.

A 'belt course' of decorative masonry/brick was added at the top of the second floor to further delineate the "base" of the building (the majority of the new work involves addition of building area above the current second floor).

Shade canopies over the window openings were lowered to be closer to the top of the opening (window head).

Additional decorative masonry/brick coursing was added at the angled corner of the building on the first two floors (at the main retail entrance to the building) face in both E. University & S. University.

The canopy over the main retail entrance to the building was thickened (increased in vertical profile) and raised a bit.

Brad Moore

J Bradley Moore & Associates, Architects, Inc.

1101 SOUTH UNIVERSITY DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this ____ day of ____, 2018, by and between the City of Ann Arbor, a Michigan Municipal Corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and South University Properties, a Michigan Limited Liability Company, with principal address at 2710 Quebec Street NW, Washington DC, 2009, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as 1101 South University, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as 1101 South University, and desires site plan and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETOR will install these improvements prior to any permits being issued.

THE PROPRIETOR(S) HEREBY AGREE(S):

(P-1) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to South University Avenue, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along South University Avenue frontage when such improvements are determined by the CITY to be necessary.

(P-2) To indemnify and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-3) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as named insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-4) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-5) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any substantive changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-6) To submit signed and sealed drawings to the CITY reflecting the building elevations, setbacks, aesthetics, and materials approved by City Council and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any substantive changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be submitted to the Design Review Board for approval.

(P-7) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-8) Prior to issuance of building permits, to PROPRIETOR shall execute a contract with the City or its designee to provide a Contribution in Lieu of providing required parking on site. Proprietor agrees and acknowledges that failure to maintain the off-site parking contract will be a violation of the zoning ordinance regarding the minimum required number of parking spaces, consistent with Chapter 59, Section 5:167 of Ann Arbor City Code.

(P-9) PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of PROPRIETOR has (have) legal authority and capacity to enter into this agreement for PROPRIETOR.

(P-10) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved development agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or development agreement.

(P-11) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien, as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a

portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-12) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the 1101 South University site plan.

(C-2) To provide timely and reasonable CITY inspections as may be required during construction.

(C-3) To record this agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

legal description(s) to be inserted here

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day first above written.

Witnesses:

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

Witness:

By: _____
Name, Title

STATE OF MICHIGAN)

County of Washtenaw) ss:
)

On this _____ day of _____, 20___, before me personally appeared Christopher Taylor, Mayor, and Jacqueline Beaudry, Clerk of the City of Ann Arbor, a Michigan Municipal Corporation, to me known to be the persons who executed this foregoing instrument, and to me known to be such Mayor and Clerk of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the free act and deed of said Corporation by its authority.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

On this _____ day of _____, 20___, before me personally appeared _____, to me known to be the person who executed the foregoing instrument, and acknowledged that he executed the foregoing instrument as his free act and deed.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning & Development Services
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265