



SAN FRANCISCO PLANNING DEPARTMENT

Executive Summary DETERMINATION OF COMPLIANCE UNDER PLANNING CODE SECTION 309

HEARING DATE: FEBRUARY 21, 2013

Date: February 7, 2013
Case No.: **2013.0029X**
Project Address: **222 SECOND STREET**
Zoning: C-3-O(SD) (Downtown Office Special Development)
Transit Center C-3-O (SD) Commercial Special Use District
350-S Height and Bulk District
Block/Lot: 3735/063
Project Sponsor: TS 222 Second Street Owner, L.P.
c/o Andrew Junius of Reuben & Junius LLP
One Bush Street, Suite 600
San Francisco, CA 94104
Staff Contact: Kevin Guy – (415) 558-6163
Kevin.Guy@sfgov.org
Recommendation: **Approval with Conditions**

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PROJECT DESCRIPTION

The Project proposes to demolish the existing surface parking lot, and to construct a 26-story, 350-foot tall office building containing approximately 430,650 gross square feet of office space, approximately 2,800 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space.

On August 21, 2010, the Commission previously approved a project on the site with a similar design and program of uses. At that time, it was contemplated that a portion of the adjacent property to the west (Lot 005 in Assessor's Block 3735) would be incorporated into the site. This portion is occupied by a loading dock which would have been demolished, and the area would have been utilized as a driveway ramp to access the subterranean parking for the Project. Since the previous approval, the Project Sponsor has been unable to acquire the portion of the adjacent property, necessitating minor design changes to the Project to accommodate vehicular circulation, reconfigure the office floor area, and reduce the amount of ground-floor retail space from approximately 5,000 square feet to approximately 2,800 square feet. The changes to the massing of the building has triggered new exceptions under Section 309 for "Bulk Limits" and "Separation of Towers" requirements that were not granted by the previous approval. The height and gross floor area of the Project are unchanged from the previous approval.

SITE DESCRIPTION AND PRESENT USE

The subject site is a 23,925 sq. ft., roughly square, parcel located at the southwest corner of Second and Howard Streets (Lot 063 of Assessor's Block 3735). The Project Site is within the C-3-O(SD) District, the

Transit Center C-3-O(SD) Commercial Special Use District, and the 350-S Height and Bulk District. The Project Site is currently occupied by a surface parking lot with a small parking lot attendant shed.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The Project Site is located in an area characterized by dense urban development. There are many high-rise structures containing dwellings, offices, and other commercial uses. Located across Second Street is 201 Second Street, which is currently occupied by a surface parking lot but is entitled for a 19-story, 103-unit residential development with ground floor retail. The immediate vicinity around the Project Site contains several high-rise buildings, including 246 Second Street, an approximately 16-story residential building, 580-590 Folsom Street (with frontage on Second Street), an approximately 18-story building, 75 Hawthorne Street, an approximately 20-story building, and 645 Howard Street, also known as One Hawthorne, a 25-story, 189-unit mixed-use building, which was recently completed. There are numerous smaller commercial buildings in the area as well.

The Project Site is located within the Transit Center District Plan (TCDP) area. The City adopted the TCDP and related implementing ordinances in August 2012. Initiated by a multi-year public and cooperative interagency planning process that began in 2007, the Plan is a comprehensive vision for shaping growth on the southern side of Downtown. Broadly stated, the goals of the TCDP are to focus regional growth (particularly employment growth) toward downtown San Francisco in a sustainable, transit-oriented manner, sculpt the downtown skyline, invest in substantial transportation infrastructure and improvements to streets and open spaces, and expand protection of historic resources.

ENVIRONMENTAL REVIEW

On January 27, 2010, the Department published a draft Environmental Impact Report (EIR) for public review in association with the previously-approved project. The draft EIR was available for public comment until March 15, 2010. On March 4, the Planning Commission conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On July 8, 2010, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project. On August 12, 2010, the Planning Commission certified the final EIR.

On February 14, 2013, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that the revisions to the Project would not cause and new significant impacts not identified in the original Final EIR

HEARING NOTIFICATION REQUIREMENTS *

| TYPE | REQUIRED PERIOD | REQUIRED NOTICE DATE | ACTUAL NOTICE DATE | ACTUAL PERIOD |
|--------------------|-----------------|----------------------|--------------------|---------------|
| Classified News Ad | 20 days | February 1, 2013 | January 18, 2013 | 34 days |
| Posted Notice | 20 days | February 1, 2013 | February 1, 2013 | 20 days |
| Mailed Notice | 10 days | February 11, 2013 | January 17, 2013 | 35 days |

* Item was continued without a hearing from the February 7, 2013 Planning Commission agenda.

PUBLIC COMMENT

To date, staff has received no communications regarding the Project.

ISSUES AND OTHER CONSIDERATIONS

- **Bulk:** The Project Site is located in a "-S" Bulk District, which sets maximum dimensions and floor sizes for the upper and lower tower portions of the building. Both the previous iteration of the project, as well as the current design comply with the upper tower controls. The following bulk controls apply to the lower tower of the building: a maximum length of 160 feet, a maximum diagonal dimension of 190 feet, a maximum floor size of 20,000 sq. ft., a maximum average floor size of 17,000 sq. ft.

As previously approved, the floors in the lower tower of the project had a length dimension of approximately 158 feet, a diagonal dimension of approximately 208 feet, a maximum floor size of approximately 20,493 square feet, and an average floor size of approximately 20,493 sq. ft. The Commission granted exceptions from the bulk controls for maximum diagonal dimension, maximum floor size, and maximum average floor size.

In the current design, the floors in the lower tower of the Project have a length dimension of approximately 165 feet, a diagonal dimension of approximately 209 feet, a maximum floor size of approximately 20,860 square feet, and an average floor size of approximately 20,860 sq. ft. Therefore, the current design exceeds the previous exceptions granted for the maximum diagonal dimension, maximum floor size, and maximum average floor size, and requires a new exception for maximum length dimension that was not previously granted.

Pursuant to Planning Code Section 272, exceptions to bulk limits in C-3 Districts may be granted provided at least one of five specified criteria is met. The manner in which the building is separated into base, lower and upper tower divides the mass of the building into distinct elements. Above the 5th floor, the building is set back from the westerly interior property line. Above the 17th floor, the building is substantially set back from the Tehama and Second Street frontages, completing the visual division of the building into a distinct tripartite arrangement. The exterior skin of the building is comprised of overlapping, full-floor glass panels. At a detailed level, the overlap of these panels provides depth and shadow to the building, and creates a dynamically shifting appearance to the building the changes depending on the orientation of the viewer. The added bulk is not anticipated to significantly affect light and air to adjacent buildings. The Project fronts on two wide public streets (Howard and Second Streets), and one alley (Tehama Street). These streets serve to maintain a separation and openness along these frontages. The immediate vicinity contains a wide variety of building types, shapes, materials and designs, and the scale of the Project will be compatible within the skyline from distant vantage points.

- **Separation of Towers:** In order to preserve the openness of the street to the sky and avoid the perception of overwhelming mass, Section 132.1 requires setbacks for upper portions of buildings within “-S” Bulk Districts. Specifically, buildings must provide a minimum setback of 15 feet from the interior property lines that do not abut public sidewalks, and from the centerline of the adjacent street for frontages abutting a public street or alley. This setback increases along a sloping line for building heights above 300 feet.

The Project complies with the required setbacks along the Howard, Second, and Tehama Street frontages. For the interior property line setback, the building is set back approximately 25 feet along a portion of the frontage at the northwestern corner of the property. Toward the southwestern portion of the property, the property line jogs to the east. Within this area, the building is set back approximately five feet from the interior property line. Therefore, the Project does not comply with the required interior property line separation at this location, and a new exception is required that was not previously granted

Per Section 132.1(c)(2), exceptions to the requirements for separation of towers may be granted provided at least one of three listed criteria is met. The conditions on the adjacent property will allow the intent of the setback requirements to be met. Specifically, the area of encroachment is situated next to a one-story loading dock located on the adjacent property to the west. This loading dock serves the five-story historic building at 631 Howard Street. In 1999, the property at 631 Howard Street was determined to be eligible to sell Transferable Development Rights (TDR's), and all eligible TDRs have been transferred from the property. Therefore, the development potential of the adjacent property has been diminished, and the property could not be enlarged or redeveloped under the TDR requirements of the Planning Code. Given the low height of the loading dock and the historic building on the adjacent property, the encroachment of the Project within the required setback will not impair access to light and air between the properties, and will not diminish the appearance of separation between the buildings.

- **Sunlight Access To Public Sidewalks.** Planning Code Section 146(a) requires new buildings to be shaped within an angled sunlight access plane along certain streets, in order to preserve sunlight to public sidewalks. These requirements apply to the west side of Second Street along the project frontage, however, the project does not comply with the required sunlight access plane. An exception to this requirement may be granted if the penetration of the plane does not create shadow because of the shadow already cast by other buildings, or if the shadow created by the penetration of the plane is deemed insignificant.

The Commission granted an exception to this requirement for the previous iteration of the Project. The shadow analysis prepared for the previous approval indicated that the portion of the building that penetrates this plane would result in a small increase in shadows along the sidewalk. Many of the existing buildings on the west side of Second Street cast shadows on the sidewalk. The new shadows resulting from the project would be limited in area. In addition, these new shadows would move quickly through the area, with a duration lasting less than 45 minutes throughout most of the year. Given that the Project would develop a site that was

previously unoccupied by a building, it is unavoidable that the Project would cast new shadows onto sidewalks in the vicinity. Strict compliance with the required sunlight access place would severely restrict the development potential of the Project Site, reducing office development at an intense, walkable urban location that is served by abundant public transit.

Compared with the previously-approved design, the current Project involves only minor reorientation of floor plates, primarily within the base and lower tower portions of the building. Therefore, the shadow conditions on adjacent sidewalks would not differ dramatically from those expected by the previously-approved project.

REQUIRED ACTIONS

In order for the project to proceed, the Commission must determine that the revised project complies with Planning Code Section 309, granting new requests for exceptions regarding Separation of Towers (Section 132.1) and Bulk Limits (Planning Code Sections 270, 272).

BASIS FOR RECOMMENDATION

- The project will add office and retail space that will contribute to the employment base of the City and bolster the viability of the Financial District as the center of commerce for the City.
- The new employees within the building would support commercial establishments in the surrounding area.
- Compared with the existing surface parking lot, the ground-floor retail spaces and views of the interior public open space will enliven the streetscape.
- Public transit and neighborhood-serving commercial establishments are abundant in the area. Employees would be able to walk or utilize transit to commute and satisfy convenience needs without reliance on the private automobile. This pedestrian traffic will activate the sidewalks and open space areas in the vicinity.
- The project meets all applicable requirements of the Planning Code, aside from the exceptions requested pursuant to Planning Code Section 309.

| | |
|------------------------|---------------------------------|
| RECOMMENDATION: | Approval with Conditions |
|------------------------|---------------------------------|

Attachments:

Draft Section 309 Motion
Planning Commission Motion No. 18168, dated August 12, 2010.
Block Book Map
Sanborn Map
Aerial Photograph
Zoning District Map
Graphics Package from Project Sponsor

Exhibit Checklist

- | | |
|---|---|
| <input checked="" type="checkbox"/> Executive Summary | <input checked="" type="checkbox"/> Project sponsor submittal |
| <input checked="" type="checkbox"/> Draft Motion | Drawings: <u>Existing Conditions</u> |
| <input type="checkbox"/> Environmental Determination | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Zoning District Map | Drawings: <u>Proposed Project</u> |
| <input checked="" type="checkbox"/> Height & Bulk Map | <input checked="" type="checkbox"/> Check for legibility |
| <input checked="" type="checkbox"/> Parcel Map | |
| <input checked="" type="checkbox"/> Sanborn Map | |
| <input checked="" type="checkbox"/> Aerial Photo | |
| <input checked="" type="checkbox"/> Context Photos | |
| <input checked="" type="checkbox"/> Site Photos | |

Exhibits above marked with an "X" are included in this packet

Planner's Initials

KMG: G:\Documents\Projects\222 Second - Mod\2013.0029X - 222 Second St Mod - Exec Sum.doc



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing
- Childcare Requirement
- Jobs Housing Linkage Program
- Downtown Park Fee
- Public Art
- Public Open Space
- First Source Hiring (Admin. Code)
- Transit Impact Development Fee
- Other

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Planning Commission Draft Motion Section 309

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ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR NEW EXCEPTIONS FOR SEPARATION OF TOWERS UNDER PLANNING CODE SECTION 132.1 AND BULK REQUIREMENTS UNDER PLANNING CODE SECTIONS 270 AND 272 FOR A PREVIOUSLY-APPROVED PROJECT TO DEMOLISH AN EXISTING SURFACE PARKING LOT AND LOADING DOCK AND CONSTRUCT A 26-STORY, 350-FOOT TALL BUILDING CONTAINING APPROXIMATELY 430,650 GROSS SQUARE FEET OF OFFICE SPACE, APPROXIMATELY 2,800 SQUARE FEET OF GROUND FLOOR RETAIL SPACE, APPROXIMATELY 28,000 SQUARE FEET OF SUBTERRANEAN PARKING AREA, AND APPROXIMATELY 8,600 SQUARE FEET OF PUBLICLY-ACCESSIBLE OPEN SPACE, LOCATED AT 222 SECOND STREET (ASSESSOR'S BLOCK 3735, LOT 063), WITHIN THE C-3-O(SD) (DOWNTOWN OFFICE SPECIAL DEVELOPMENT) DISTRICT AND 350-S HEIGHT AND BULK DISTRICT.

PREAMBLE

On September 12, 2006, Andrew Junius, acting on behalf of TS 222 Second Street LP ("Project Sponsor"), submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case

No. 2006.1006E. The Department issued a Notice of Preparation of Environmental Review on May 19, 2007 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

On September 13, 2006, the Project Sponsor applied for a Planning Code Section ("Section") 309 Determination of Compliance and Request for Exceptions, Application No. 2006.1106X, on the property at 222 Second Street (Assessor's Block 3735, Lot 063) ("Project Site"), in connection with a project to demolish an existing surface parking lot and loading dock and construct a 26-story, 350-foot tall building containing approximately 430,650 gross square feet of office space, approximately 5,000 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space.

On September 13, 2006, the Project Sponsor applied for an allocation of 430,650 square feet of office space to the project pursuant to Sections 321 and 322 (Annual Office Development Limitation Program) (Case No 2006.1106B).

On May 5, 2007, the Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Section 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2006.1106K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project would have no impact to properties subject to Section 295.

On May 28, 2010, the Project Sponsor submitted a request for a Zoning Map Amendment (Case No. 2006.1106Z) to amend Height and Bulk Map Sheet HT1 to increase the height limit at the westerly portion of the project site from 150 feet to 350 feet.

On May 28, 2010, the Project Sponsor submitted a request for a General Plan Amendment (Case No. 2006.1106M) to amend Downtown Plan - Map 5 (Proposed Height and Bulk Districts) to increase the height limit at the westerly portion of the project site from 150 feet to 350 feet.

On January 27, 2010, the Department published a draft Environmental Impact Report (EIR) for public review. The draft EIR was available for public comment until March 15, 2010. On March 4, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On July 8, 2010, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project.

On August 12, 2010, the Commission reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

The Commission found the Final EIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the draft EIR, and approved the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2006.1106E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.

On August 12, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting and approved the Section 309 Determination of Compliance (Case No. 2006.1106X, Motion No. 18168) and request for Office Allocation (Case No. 2006.1106B, Motion No. 18170), and recommended to that the Board of Supervisors ("Board") approve the requested Zoning Map Amendment (Case No. 2006.1106Z, Resolution No. 18169) and General Plan Amendment (Case No. 2006.1106M, Resolution No. 18167) to increase the height limit at the westerly portion of the project site from 150 feet to 350 feet.

On November 9, 2010, the Board conducted a duly noticed public hearing at a regularly scheduled meeting and passed on first reading Ordinance No. 289-10 to approve the requested Zoning Map Amendment, and passed on first reading Ordinance No. 288-10 to approve the requested General Plan Amendment. Both ordinances were finally passed by the Board at a duly noticed public hearing at a regularly scheduled meeting on November 16, 2010.

On November 26, 2012, the Project Sponsor applied for a Section 309 Determination of Compliance to modify the previous approval granted by Motion No. 18168, requesting new exceptions for Separation of Towers (Section 132.1) and Bulk Limits (Sections 270, 272). The design and configuration of the previously-approved project was revised, requiring new exceptions under Section 309 that were not granted by the previous approval (Case No. 2013.0029X).

On February 14, 2013, the Department prepared and published an Addendum to the previously-certified Final EIR which determined that the revisions to the Project would not cause and new significant impacts not identified in the original Final EIR (Case No. 2006.1106E).

On February 21, 2013, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No 2013.0029X. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, the Planning Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Section 309 Determination of Compliance and Request for Exceptions requested in Application No. 2013.0029X for the Project, modifying the previous Section 309 Determination of Compliance approved by Motion No. 18168, subject to conditions contained in EXHIBIT A, attached hereto and incorporated by reference, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The subject site is a 23,925 sq. ft., roughly square, parcel located at the southwest corner of Second and Howard Streets (Lot 063 of Assessor's Block 3735). The Project Site is within the C-3-O(SD) District, the Transit Center C-3-O(SD) Commercial Special Use District, and the 350-S Height and Bulk Districts. The Project Site is currently occupied by a surface parking lot with a small parking lot attendant shed.
3. **Surrounding Properties and Neighborhood.** The Project Site is located in an area characterized by dense urban development. There are many high-rise structures containing dwellings, offices, and other commercial uses. Located across Second Street is 201 Second Street, which is currently occupied by a surface parking lot but is entitled for a 19-story, 103-unit residential development with ground floor retail. The immediate vicinity around the Project Site contains several high-rise buildings, including 246 Second Street, an approximately 16-story residential building, 580-590 Folsom Street (with frontage on Second Street), an approximately 18-story building, 75 Hawthorne Street, an approximately 20-story building, and 645 Howard Street, also known as One Hawthorne, a 25-story, 189-unit mixed-use building, which was recently completed. There are numerous smaller commercial buildings in the area as well.

The Project Site is located within the Transit Center District Plan (TCDP) area. The City adopted the TCDP and related implementing ordinances in August 2012. Initiated by a multi-year public and cooperative interagency planning process that began in 2007, the Plan is a comprehensive vision for shaping growth on the southern side of Downtown. Broadly stated, the goals of the TCDP are to focus regional growth (particularly employment growth) toward downtown San Francisco in a sustainable, transit-oriented manner, sculpt the downtown skyline, invest in substantial transportation infrastructure and improvements to streets and open spaces, and expand protection of historic resources.

4. **Proposed Project.** The Project proposes to demolish the existing surface parking lot, and to construct a 26-story, 350-foot tall office building containing approximately 430,650 gross square feet of office space, approximately 2,800 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space.

On August 21, 2010, the Commission previously approved a project on the site with a similar design and program of uses. At that time, it was contemplated that a portion of the adjacent property to the west (Lot 005 in Assessor's Block 3735) would be incorporated into the site. This portion is occupied by a loading dock which would have been demolished, and the area would have been utilized as a driveway ramp to access the subterranean parking for the Project. Since the previous approval, the Project Sponsor has been unable to acquire the portion of the adjacent property, necessitating minor design changes to the Project to accommodate vehicular circulation, reconfigure the office floor area, and reduce the amount of ground-floor retail space from approximately 5,000 square feet to approximately 2,800 square feet. The changes to the massing of the building has triggered new exceptions under Section 309 for "Bulk Limits" and "Separation of Towers" requirements that were not granted by the previous approvals. The height and gross floor area of the Project are unchanged.

5. **Public Comment.** To date, the Planning Department has received no communications regarding the proposed Project.
6. **Planning Code Compliance.** The Planning Code Compliance Findings set forth in Section #6 of Motion No. 18168, Case #2006.1106X (Determination of Compliance and Granting of Exceptions Under Planning Code Section 309) apply to this Motion, and are incorporated herein as though fully set forth, with modifications to the requested Section 309 exceptions as described in Item #7 of this Motion:
7. **Exceptions Requested Pursuant to Section 309.** The proposed Project is required to meet all applicable Code requirements or request exceptions as permitted by Section 309. In approving the previous Motion No. 18168, the Planning Commission granted specific exceptions regarding Bulk Limits (Section 270, 272), Ground-Level Wind Currents (Section 148), and Sunlight Access to Public Sidewalks (Section 146). The Planning Commission has considered the following exceptions to the Planning Code, makes the following findings, and grants modifications to the previously-granted exception to Bulk Limits, grants a new exception for Separation of Towers (Section 132.1), and reaffirms the previously-granted exception regarding Sunlight Access to Public Sidewalks, as further described below:
 - A. **Section 270: Bulk Limits.** Section 270 establishes bulk limits applicable to all buildings. The Project Site is located in the 350-S Height and Bulk District which provides the following bulk controls for the lower tower: a maximum length of 160 feet, a maximum diagonal dimension of 190 feet, a maximum floor size of 20,000 sq. ft., a maximum average floor size of 17,000 sq. ft. The lower tower controls apply above the base height (1.25 times the widest abutting street or 50 feet whichever is greater) and up to the height of 220 feet. The widest abutting street to the Property is Second (and Howard) Street that is 82.5 feet wide. Thus, the lower tower controls apply above a height of 103 feet, corresponding with the 8th floor of the building until a height of 220 feet, corresponding with the 16th floor of the building. The upper tower controls are as follows: a maximum length of 130 feet, a maximum diagonal dimension of 160 feet, a maximum floor size of 17,000 sq. ft., a maximum average floor size of 12,000 sq.ft.

Lower Tower

As previously approved in Motion No. 18168, the floors in the lower tower of the project had a length dimension of approximately 158 feet, a diagonal dimension of approximately 208 feet, a maximum floor size of approximately 20,493 square feet, and an average floor size of approximately 20,493 sq. ft. Therefore, exceptions were granted for the bulk controls for maximum diagonal dimension, maximum floor size, and maximum average floor size.

In the current design, the floors in the lower tower of the Project have a length dimension of approximately 165 feet, a diagonal dimension of approximately 209 feet, a maximum floor size of approximately 20,860 square feet, and an average floor size of approximately 20,860 sq. ft. Therefore, the current design exceeds the previous exceptions granted for the maximum

diagonal dimension, maximum floor size, and maximum average floor size, and requires a new exception for maximum length dimension.

Upper Tower

As previously approved in Motion No. 18168, the floors in the upper tower of the project had a length dimension of approximately 116 feet, a diagonal dimension of approximately 159 feet, a maximum floor size of approximately 12,000 square feet, and an average floor size of approximately 12,000 sq. ft. The upper tower therefore complied with the applicable bulk requirements. The current design continues to comply with the applicable bulk controls, therefore, no new exceptions are required for the upper tower.

Per Section 272, exceptions to bulk limits in C-3 Districts may be granted provided at least one of five listed criteria is met. The Project complies with the following of the listed criteria:

- (3) The added bulk does not significantly affect light and air to adjacent buildings;

The added bulk is not anticipated to result in any significant affect in light and air to the adjacent buildings. The additional bulk that is being requested beyond the exceptions of the previous approval is not expected to dramatically alter the appearance of the building or affect its relationship to the surrounding context.

The Project fronts on two wide public streets (Howard and Second Streets), and one alley (Tehama Street). These streets serve to maintain a separation and openness along these frontages. The two existing buildings that are immediately adjacent are the Marine Fireman's Union at 240 Second Street to the south, and the Volker Building at 631 Howard to the west. Both of these adjacent buildings are lower, older buildings whose primary light and air come from their primary street façade. Therefore, the Project will not significantly affect access to light and air for these adjacent buildings.

- (4) If appropriate to the massing of the building, the appearance of bulk in the building, structure or development is reduced to the extent feasible by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:

(A) Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass,

(B) Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements,

(C) Differences in materials, colors or scales of the facades that produce separate major elements,

(D) Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted, and

(E) In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures or towers; or

The manner in which the building is separated into base, lower and upper tower divides the mass of the building into distinct elements. The Project has less volume at the base than would be permitted by the Planning Code, thereby compensating for the increase in floor area in the lower tower with a corresponding floor area reduction in the base. Above the 5th floor, the building is set back from the westerly interior property line. This setback provides a distinct break between the massing of the base and the lower tower, and relates the height of the base to the older, low-scaled buildings in the vicinity. Above the 17th floor, the building is substantially set back from the Tehama and Second Street frontages, completing the visual division of the building into a distinct tripartite arrangement.

The exterior skin of the building is comprised of overlapping, full-floor glass panels. At a detailed level, the overlap of these panels provides depth and shadow to the building, and creates a dynamically shifting appearance to the building the changes depending on the orientation of the viewer.

(5) The building, structure or development is made compatible with the character and development of the surrounding area by means of all of the following factors:

(A) A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits,

(B) Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character,

(C) Use of materials, colors and scales either similar to or harmonizing with those of nearby development, and

(D) Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The immediate vicinity contains a wide variety of building types, shapes, materials and designs. Existing buildings and recently approved developments range from 4 to 5-story buildings to existing approximately 16-, 18-, and 20-story buildings at 246 Second Street, 580-590 Folsom Street and 75 Hawthorne Street, respectively, to entitled 19-story development at 201 Second Street and completed 25-story building at One Hawthorne Street, respectively. Beyond the buildings in the immediate vicinity, the height of the Project will be compatible within the skyline from distant vantage points.

The Project will improve and enhance the pedestrian environment by the creation of a large new public open space within the base of the building. More than 8,600 square feet of publicly accessible open space, fronting on Second and Howard Streets, will create new visual interest in an appropriate human scale. This interior space will be activated by the presence of food service and seating areas. In addition, the presence of retail uses will enliven the ground floor near the corner of Tehama and Second Streets.

For these reasons, the Planning Commission finds that the Project satisfies at least three of the listed criteria, and therefore grants the bulk exceptions.

- B. **Setbacks in C-3 Districts/Separation of Towers (Section 132.1).** In order to preserve the openness of the street to the sky and avoid the perception of overwhelming mass, or to maintain the predominant street wall, an upper-level setback may be required pursuant to Section 132.1. Section 132.1(c)(1) requires all structures in the "S" Bulk District provide a minimum setback of 15 feet from the interior property lines that do not abut public sidewalks and from the property lines abutting a public street or alley. This setback increases along a sloping line for building heights above 300 feet.

The lower tower starts at the height that is equal to 1.25 times the width of the principal street on which the building faces. The Project Site's principal frontage is on Second Street. Thus, the lower tower starts at a height of 103' (1.25 x 82.5'). The setback is required at the lower tower height and is measured from the interior property line or the center of a public right-of-way. The proposed building abuts three public right-of-ways: Howard Street, which has a width of 82.5 feet, Second Street, which is 82.5 wide, and Tehama Street, which is 35 feet wide. For the building facades facing Second, Howard, and Tehama Streets the proposed building will comply with the 15-foot setback requirement as measured from the center of Second, Howard, and Tehama Streets.

For the interior property line setback, the building is set back approximately 25 feet along a portion of the frontage at the northwestern corner of the property. Toward the southwestern portion of the property, the property line jogs to the east. Within this area, the building is set back approximately five feet from the interior property line. Therefore, the Project does not comply with the required interior property line separation at this location, and an exception is required.

Per Section 132.1(c)(2), exceptions to the requirements for separation of towers may be granted provided at least one of three listed criteria is met. The Project complies with the following of the listed criteria:

- (2) Exceptions may be allowed to the extent that it is determined that restrictions on adjacent properties make it unlikely that development will occur at a height or bulk which will, overall, impair access to light and air on or the appearance of separation between buildings, thereby making full setbacks unnecessary.

The conditions on the adjacent property will allow the intent of the setback requirements to be met. Specifically, the area of encroachment is situated next to a one-story loading dock located on the adjacent property to the west. This loading dock serves the five-story historic building at 631 Howard Street. In 1999, the property at 631 Howard Street was determined to be eligible to sell Transferable Development Rights (TDR's), and all eligible TDRs have been transferred from the property. Therefore, the development potential of the adjacent property has been diminished, and the property could not be enlarged or redeveloped under the TDR requirements of the Planning Code. Given the low height of the loading dock and the historic building on the adjacent property, the encroachment of the Project within the required setback

will not impair access to light and air between the properties, and will not diminish the appearance of separation between the buildings.

For these reasons, the Planning Commission finds that the Project satisfies at least one of the listed criteria, and therefore grants the exception from the requirements for separation of towers.

- C. **Section 146: Shadows on Public Sidewalks.** In order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods, Section 146(a) requires new structures to avoid penetrating a sun access plane defined by an angle sloping away from the street above a stipulated height at the property line as set forth in Table 146. Section 146(c) requires new buildings and additions to existing buildings in C-3 Districts to be shaped, if it can be done without creating an unattractive design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public sidewalks other than those protected by Section 146(a).

Section 146 applies to the west side of Second Street, from Market Street to a point 300 feet south of Folsom Street. Section 146 requires that a building be within an envelope that slopes away from the street at an angle of 62 degrees beginning at 132 feet above grade. The Project as proposed would have a street wall approximately 216 feet high on Second Street, with a 24.5-foot setback from Second Street above the 17th floor. A line from this setback to the top of the building would create an angle of approximately 11 degrees, and thus the Project would not comply with the sun angle plane. The Commission granted an exception to the requirements of Section 146 in association with the previous approval of the Project (Motion No. 18168, Case No 2006.1106X).

The revised design of the Project is not expected to dramatically alter the sidewalk shadow conditions compared with the previous approval, therefore, the Commission reaffirms the granting of this exception, as set forth below.

An exception may be granted if (i) the penetration of the plane does not create shadow because of the shadow already cast by other buildings, or if (ii) "the shadow created by the penetration of the plane is deemed insignificant because of the limited extent or duration of the shadow or because of the limited public use of the shadowed space."

The portion of Second Street affected by this portion of Section 146 is approximately 1,800 feet long and extends from Market Street to 300 feet south of Folsom Street. The increased shading occurs at various times during the year, and at various portions of this stretch of sidewalk. Many existing buildings on the west side of Second Street already shade major portions of this sidewalk throughout the year.

The amount of shadow would vary based on time of day, time of year, the height and bulk of intervening existing and proposed development, and climatic conditions (clouds, fog, or sun) on a given day. Given that the Project would develop a site that was previously unoccupied by a building, it is unavoidable that the Project would cast new shadows onto sidewalks in the

vicinity. Strict compliance with the required sunlight access place would severely restrict the development potential of the Project Site, reducing office development at an intense, walkable urban location that is served by abundant public transit.

In association with the previous project approved for the site under Motion No. 18168, the Project Sponsor submitted shadow calculations that determined that the Project causes an increase of only 0.6592% in shadow based on annual available sunlight (AAS). The study further determined that the new shadows either are small slivers of shadows moving along the sidewalk on a single block, or are quickly moving shadow segments from curb to building across a larger sidewalk section. Compared with the previously-approved design, the current Project involves only minor reorientation of floor plates, primarily within the base and lower tower portions of the building. Therefore, the shadow conditions on adjacent sidewalks would not differ dramatically from those expected by the previously-approved project.

8. **General Plan Conformity.** The General Plan Consistency Findings set forth in Section #8 of Motion No. 18168, Case #2006.1106X (Determination of Compliance and Granting of Exceptions Under Planning Code Section 309) apply to this Motion, and are incorporated herein as though fully set forth.

9. **Priority Policy Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies. The Project complies with these policies, on balance, as follows:
 - A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project Site does not contain any existing retail uses, and none will be displaced by the Project. The Project furthers this policy by proposing ground floor retail uses. The addition of office uses will bring new employees and visitors to the Project Site and area, which would strengthen existing neighborhood retail operations and encourage new retail opportunities in the vicinity of the Project Site.

 - B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Site is currently used as a surface parking lot, and thus, the Project will have no effect on existing housing. The Project is compatible with the character of the area, which is somewhat varied in scale, but is generally defined by intense urban development.

 - C. That the City's supply of affordable housing be preserved and enhanced.

The Project will promote this policy by contributing to the City's affordable housing supply by complying with the Jobs-Housing Linkage Program.

 - D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project Site is situated in the downtown core and is well served by public transit. The Project Site is located just two blocks from Market Street, a major transit corridor that provides access to various Muni and BART lines. In addition, the Project Site is within one block from the future Transbay Terminal providing convenient access to other transportation services. The Project includes minimal off-street parking to discourage commuting via private automobile.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project Site does not contain any industrial or service sector uses, and thus none will be displaced by the Project. The Project Site is currently occupied by a temporary surface parking lot operation.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will conform to the structural and seismic requirements of the San Francisco Building Code.

- G. That landmarks and historic buildings be preserved.

The Project Site does not contain any existing historic resources and is not located in any historic or preservation district. The Project would not affect any off-site historic resources.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project Site is surrounded by existing urban development and is not located adjacent to parks or other public open spaces. Therefore, the Project is not expected to have any impact on this policy.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Section 309 Determination of Compliance and Request for Exceptions would promote the health, safety, and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2013.0029X**, and grants exceptions to Sections 132.1, 270, and 272 pursuant to Section 309, subject to the following conditions attached hereto as "EXHIBIT A", and subject to the Conditions of Approval of Planning Commission Motion No. 18168, as amended by this approval which are incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. 2013.0029X.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on February 21, 2013.

Linda D. Avery
Commission Secretary

AYES:

NOES:

ABSENT:

ADOPTED: February 21, 2013

Exhibit A

Conditions of Approval

This authorization is modify the previous approval granted by Motion No. 18168, requesting new exceptions for Separation of Towers (Section 132.1) and Bulk Limits (Sections 270, 272), for a project located at 222 Second Street, Lot 063 in Assessor's Block 3735, within the C-3-O (SD) District, the Transit Center C-3-O (SD) Commercial Special Use District, and the 350-S Height and Bulk District to demolish an existing surface parking lot and construct a 26-story, 350-foot tall office building containing approximately 430,650 gross square feet of office space, approximately 2,800 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space, subject to conditions of approval reviewed and approved by the Commission on August 12, 2010 under Motion No. 18168, as amended by the Planning Commission on February 21, 2013 under Motion No XXXXX. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator. The Project shall be completed in general conformity with the plans dated labeled "Exhibit B" on file in Case Docket 2013.0029X, except as modified herein.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on August 12, 2010 under Motion No. 18168, as amended by the Planning Commission on February 21, 2013 under Motion No. XXXXX.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. XXXXX shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Conditional Use authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new Conditional Use authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting PERFORMANCE

1. **Validity and Expiration.** The authorization and right vested by virtue of this action is valid for three years from the effective date of the Motion (until February 21, 2016). A building permit from the Department of Building Inspection to construct the project and/or commence the approved use must be issued as this Conditional Use authorization is only an approval of the proposed project and conveys no independent right to construct the project or to commence the approved use. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been obtained within three (3) years of the date of the Motion approving the Project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. The Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org.



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Inclusionary Housing
- Childcare Requirement
- Jobs Housing Linkage Program
- Downtown Park Fee
- Public Art
- Public Open Space
- First Source Hiring (Admin. Code)
- Transit Impact Development Fee
- Other

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Planning Commission Motion 18168 Section 309

HEARING DATE: AUGUST 12, 2010

Date: July 22, 2010
Case No.: **2006.1106BMXZ**
Project Address: **222 SECOND STREET**
Zoning: C-3-O(SD) (Downtown Office Special Development)
 350-S/150-S Height and Bulk District
Block/Lot: 3735/063
Project Sponsor: TS 222 Second Street, LP
 c/o Andrew Junius of Reuben & Junius LLP
 One Bush Street, Suite 600
 San Francisco, CA 94104
Staff Contact: Kevin Guy – (415) 558-6163
Kevin.Guy@sfgov.org

ADOPTING FINDINGS RELATED TO THE APPROVAL OF A SECTION 309 DETERMINATION OF COMPLIANCE AND REQUEST FOR EXCEPTIONS FOR BULK REQUIREMENTS UNDER PLANNING CODE SECTIONS 270 AND 272, GROUND-LEVEL WIND CURRENTS UNDER SECTION 148, AND SUNLIGHT ACCESS TO PUBLIC SIDEWALKS UNDER SECTION 146 FOR A PROJECT TO DEMOLISH AN EXISTING SURFACE PARKING LOT AND LOADING DOCK AND CONSTRUCT A 26-STORY, 350-FOOT TALL BUILDING CONTAINING APPROXIMATELY 430,650 GROSS SQUARE FEET OF OFFICE SPACE, APPROXIMATELY 5,000 SQUARE FEET OF GROUND FLOOR RETAIL SPACE, APPROXIMATELY 28,000 SQUARE FEET OF SUBTERRANEAN PARKING AREA, AND APPROXIMATELY 8,600 SQUARE FEET OF PUBLICLY-ACCESSIBLE OPEN SPACE, LOCATED AT 222 SECOND STREET (ASSESSOR'S BLOCK 3735, LOT 063), WITHIN THE C-3-O(SD) (DOWNTOWN OFFICE SPECIAL DEVELOPMENT) DISTRICT AND 350-S/150-S HEIGHT AND BULK DISTRICTS, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On September 12, 2006, Andrew Junius, acting on behalf of TS 222 Second Street LP ("Project Sponsor"), submitted an Environmental Evaluation Application with the Planning Department ("Department"), Case No. 2006.1006E. The Department issued a Notice of Preparation of Environmental Review on May 19, 2007 to owners of properties within 300 feet, adjacent tenants, and other potentially interested parties.

On September 13, 2006, the Project Sponsor applied for a Planning Code Section ("Section") 309 Determination of Compliance and Request for Exceptions, Application No. 2006.1106X, on the property at 222 Second Street (Assessor's Block 3735, Lot 063) ("Project Site"), in connection with a project to demolish an existing surface parking lot and loading dock and construct a 26-story, 350-foot tall building containing approximately 430,650 gross square feet of office space, approximately 5,000 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space ("Project"), in general conformity with plans dated August 12, 2010 and labeled Exhibit B.

On September 13, 2006, the Project Sponsor applied for an allocation of 430,650 square feet of office space to the project pursuant to Sections 321 and 322 (Annual Office Development Limitation Program) (Case No 2006.1106B).

On May 5, 2007, the Project Sponsor submitted a request for review of a proposed development on the Project Site exceeding 40 feet in height, pursuant to Section 295, analyzing the potential impacts of the development to properties under the jurisdiction of the Department of Recreation and Parks (Case No. 2006.1106K). Department staff prepared a shadow fan depicting the potential shadow cast by the development and concluded that the Project would have no impact to properties subject to Section 295.

On May 28, 2010, the Project Sponsor submitted a request for a Zoning Map Amendment (Case No. 2006.1106Z) to amend Height and Bulk Map Sheet HT1 to increase the height limit at the westerly portion of the project site from 150 feet to 350 feet.

On May 28, 2010, the Project Sponsor submitted a request for a General Plan Amendment (Case No. 2006.1106M) to amend Downtown Plan - Map 5 (Proposed Height and Bulk Districts) to increase the height limit at the westerly portion of the project site from 150 feet to 350 feet.

On January 27, 2010, the Department published a draft Environmental Impact Report (EIR) for public review. The draft EIR was available for public comment until March 15, 2010. On March 4, 2010, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting to solicit comments regarding the draft EIR. On July 8, 2010, the Department published a Comments and Responses document, responding to comments made regarding the draft EIR prepared for the Project.

On August 12, 2010, the Commission reviewed and considered the Final EIR and found that the contents of said report and the procedures through which the Final EIR was prepared, publicized, and reviewed complied with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.) ("CEQA"), 14 California Code of Regulations Sections 15000 et seq. ("the CEQA Guidelines"), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31").

The Commission found the Final EIR was adequate, accurate and objective, reflected the independent analysis and judgment of the Department and the Commission, and that the summary of comments and responses contained no significant revisions to the draft EIR, and approved the Final EIR for the Project in compliance with CEQA, the CEQA Guidelines and Chapter 31.

The Planning Department, Linda Avery, is the custodian of records, located in the File for Case No. 2006.1106E, at 1650 Mission Street, Fourth Floor, San Francisco, California.

Department staff prepared a Mitigation Monitoring and Reporting program ("MMRP"), which material was made available to the public and this Commission for this Commission's review, consideration and action.

On August 12, 2010, the Commission adopted Resolution No. 18167, recommending that the Board of Supervisors approve the General Plan Amendment to increase the height limit at the westerly portion of the project site, adopted findings pursuant to CEQA, as set forth in Exhibit B of Resolution No. 18167, and adopted the Mitigation, Monitoring, and Reporting Program, as set forth in Exhibit C of Resolution No. 18167, which are incorporated herein by this reference thereto as if fully set forth in this Motion.

On August 12, 2010, the Commission conducted a duly noticed public hearing at a regularly scheduled meeting on Case No 2006.1106X. The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, the Planning Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Section 309 Determination of Compliance and Request for Exceptions requested in Application No. 2006.1106X for the Project, subject to conditions contained in EXHIBIT A, attached hereto and incorporated by reference, based on the following findings:

FINDINGS

Having reviewed the materials identified in the recitals above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The subject site is a 23,925 sq. ft., roughly square, parcel located at the southwest corner of Second and Howard Streets (Lot 063 of Assessor's Block 3735). The Project Site is within the C-3-O(SD) District and a 350-S/150-S Height and Bulk Districts.

The Project Site is currently occupied by a surface parking lot with a small parking lot attendant shed. The Project also contemplates the future acquisition of a portion of the adjacent property to the west (Lot 005 in Assessor's Block 3735), measuring 1,650 square feet. This portion fronts on Tehama Street, and is currently occupied by a loading dock serving the adjacent building at 631 Howard Street. This loading dock would be demolished, and the area would be utilized as a driveway ramp to access the subterranean parking for the Project.

3. **Surrounding Properties and Neighborhood.** The Project Site is located in an area characterized by dense urban development. There are many high-rise structures containing

dwellings, offices, and other commercial uses. Located across Second Street is 201 Second Street, which is currently occupied by a surface parking lot but is entitled for a 19-story, 103-unit residential development with ground floor retail. The immediate vicinity around the Project Site contains several high-rise buildings, including 246 Second Street, an approximately 16-story residential building, 580-590 Folsom Street (with frontage on Second Street), an approximately 18-story building, 75 Hawthorne Street, an approximately 20-story building, and 645 Howard Street, also known as One Hawthorne, a 25-story, 189-unit mixed-use building, which was recently completed. There are numerous smaller commercial buildings in the area as well. The existing height limits in the area range from 80 feet to 550 feet.

4. **Proposed Project.** The Project proposes to demolish the existing surface parking lot and the existing loading dock on the adjacent property, and to construct a 26-story, 350-foot tall office building containing approximately 430,650 gross square feet of office space, approximately 5,000 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space.
5. **Public Comment.** To date, Department staff has received been contacted by one individual in opposition to the Project, who expressed concerns with the height and compatibility of the Project compared with surrounding buildings, as well as the loss of private views.
6. **Planning Code Compliance.** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:

- A. **Floor Area Ratio (Section 124).** Section 124 establishes basic floor area ratios (FAR) for all zoning districts. As set forth in Section 124(a), the FAR for the C-3-O(SD) District is 6.0 to 1. Under Sections 123 and 128, the FAR can be increased to a maximum of 18.0 to 1 with the purchase of transferable development rights (TDR).

The basic floor area ratio in the C-3-O(SD) District is 6.0:1, and the maximum FAR with the purchase of TDR is 18.0:1. The Property has a lot area of approximately 23,925 square feet, thus the maximum development of the Property pursuant to Section 123 is 143,550 square feet of gross area under the basic FAR, and 430,650 square feet of gross area with the purchase of TDR. The Project proposes approximately 430,650 square feet of gross area, and thus complies with the existing FAR limits. The Project will require purchase of TDR pursuant to Section 128.

- B. **Setbacks in C-3 Districts (Section 132.1).** In order to preserve the openness of the street to the sky and avoid the perception of overwhelming mass, or to maintain the predominant street wall, an upper-level setback may be required pursuant to Section 132.1. Section 132.1(c)(1) requires all structures in the "S" Bulk District provide a minimum setback of 15 feet from the interior property lines that do not abut public sidewalks and from the property lines abutting a public street or alley. This setback increases along a sloping line for building heights above 300 feet.

The lower tower starts at the height that is equal to 1.25 times the width of the principal street on which the building faces. The Project Site's principal frontage is on Second Street. Thus, the lower tower starts at a height of 103' (1.25 x 82.5'). The setback is required at the lower tower height and is measured from the interior property line or the center of a public right-of-way. The proposed building abuts three public right-of-ways: Howard Street, which has a

width of 82.5 feet, Second Street, which is 82.5 wide, and Tehama Street, which is 35 feet wide. For the building facades facing Second, Howard, and Tehama Streets the proposed building will comply with the 15-foot setback requirement as measured from the center of Second, Howard, and Tehama Streets. For the interior property line setback, the building is set back approximately 20 feet from its southwestern interior property line, and thus the Project complies with this requirement.

- C. **Open Space (Section 138).** New buildings in the C-3-O(SD) Zoning District must provide public open space at a ratio of one sq. ft. per 50 gross square feet of all uses, except residential uses, institutional uses, and uses in a predominantly retail building. This public open space must be located on the same site as the building or within 900 feet within a C-3 district.

The Project proposes 430,650 gross sq. ft. of new office space. At a ratio of 1:50, the added floor area requires 8,613 sq. ft. of open space. The Project includes approximately 8,636 square feet of open space on the ground level, and thus complies with this requirement. The proposed open space is enclosed, and is designed in a manner that generally complies with the adopted Guidelines for Downtown Open Space. The design of the open space will be further refined throughout the building permit review process.

- D. **Streetscape Improvements (Section 138.1).** Section 138.1(b) requires that when a new building is constructed in a C-3 District, landscaping and other streetscape improvements must be provided. Under Section 138.1(c), the Commission may also require the Project Sponsor to install additional sidewalk improvements such as lighting, special paving, seating and landscaping in accordance with the guidelines of the Downtown Streetscape Plan if it finds that these improvements are necessary to meet the goals and objectives of the General Plan.

The Project will include appropriate streetscape improvements and will comply with this requirement. The conceptual project plans show the installation of street trees along the frontage of the Project. The precise location, spacing, and species of these street trees, as well as other streetscape improvements, will be further refined throughout the building permit review process.

- E. **Downtown Park Fund (Section 139).** A project in a C-3 District that proposes a net addition of office space is required to pay a fee of \$2 per square foot, to be deposited in the Downtown Park Fund. The purpose of the Downtown Park Fund is to provide the City with the financial resources to develop public park and recreation facilities for the enjoyment of employees and visitors in downtown San Francisco.

The Project proposes approximately 430,650 sq. ft. of new office use, and is subject to this requirement. Conditions of approval have been added to ensure that the Project complies with this requirement.

- F. **Street Trees (Section 143).** Section 143 requires the installation of street trees in the case of the construction of a new building. One 15-gallon street tree shall be required for every 20 feet of property frontage along each street or alley, with any remaining fraction of ten feet or more of frontage requiring an additional tree. The species and

locations of trees installed in the public right-of-way shall be subject to approval by the Department of Public Works.

The conceptual Project plans show the installation of street trees along the frontage of the Project. The precise location, spacing, and species of these street trees, as well as other streetscape improvements, will be further refined throughout the building permit review process.

- G. **Shadows on Public Open Spaces (Section 147).** Section 147 sets forth certain requirements and determinations regarding shadows being cast on public or publicly accessible open space. Section 147 seeks to reduce substantial shadow impacts on public plazas and other publicly accessible spaces other than those protected under Section 295.

The Project will be approximately 350 feet high and therefore must comply with Section 147.

The proposed project would cast shadow on the privately owned, publicly accessible open space at 235 Second Street in the late afternoon, from June through September. New project shadow would fall on this open space beginning as early as about 3:30 p.m. in June and as late as about 5:00 p.m. in September. During all of the time when new shadow would fall on the 235 Second Street open space, much of this open space would already be shaded by the 235 Second Street building itself, and project shadow would cover the unshaded portion of the open space closest to the corner of Second and Clementina Streets. No new shadow would fall on the 235 Second Street open space between October and May, because shadow from existing buildings would already reach this open space at the time that project shadow would also reach the space.

The project would also cast new shadow on the open space adjacent to the office building at 555 Mission Street during the late fall and early winter (mid-November through late January), for about 30 minutes during the period just before the 12:00 noon. This new shadow would fall mainly on the rear (Minna Street) side of this open space, where there are stone benches amidst deciduous trees planted in decomposed granite. This rear, or southerly, portion of the 555 Mission Street open space is currently in sunlight during the midday hours because the area to the south, between Minna and Natoma Streets, is occupied by a surface parking lot. Project shadow would not reach the open space adjacent to the office building at 560 Mission Street, nor would it reach the 100 First Street sun terrace or the open space at the planned 535 Mission Street building. The proposed project would cast shadow on two other publicly accessible open spaces around the winter solstice, when shadows are longest. In the early morning, the Project would cast new shadow on the publicly accessible open space at One Post Street. This shadow would last for about 15 minutes and would occur during the period between about 8:00 a.m. and 8:30 a.m. from mid-November through late January. In the mid- to late afternoon, project shadow would reach the edge of the open space in front of the office buildings at 400 and 401 Howard Street (part of the Foundry Square complex, on the northwest and southeast corners of First and Howard Streets). This shadow would occur from late November through mid-January, for about 15 minutes, during the period between about 2:45 p.m. and 3:30 p.m. Most of the open space at 400 Howard Street would already be in shadow from the 400 Howard Street building itself when shadow from 222 Second Street would reach this space, but because the Project would be on the south side of Howard Street, project shadow would cover the unshaded portion of this open space nearest the corner of First

and Howard Streets. At 401 Howard, the open space is generally in the sun because there is a parking lot across First Street.

This new shadow described above would be of limited duration and would occur at each of the open spaces noted over only a few weeks of the year in late fall and early winter. Because of the limited duration and extent, these shadows would not be expected to substantially adversely affect use of the open spaces. Therefore, impact would be less than significant.

The Project would not cast new shadow on the following publicly accessible open spaces because other buildings already cast shadow during times when project shadow would otherwise fall on the open spaces: the open space east of Montgomery Street at Market Street (shaded by buildings directly across Market Street); the open space at Marathon Plaza, 333 Second Street (shaded by Marathon Plaza itself); the open space at 300 Beale Street (shaded by that building); and the Jessie Square open space in front (south) of the Contemporary Jewish Museum on Mission Street west of Third Street (shaded by the Aronson Building at 700 Mission Street and the St. Regis tower at 125 Third Street). The Project would cast new shadow on Yerba Buena Gardens, including the grassy open space (esplanade) in the center of the block bounded by Third, Fourth, Mission, and Howard Streets. New shadow would be added to this open space area in the early morning hours of the summer months when existing buildings of the Yerba Buena Center for the Arts (theater and gallery), as well as the elevated entrance to Moscone Center North and the restaurants atop the roof of this structure, already shade much of block.

New shadow would occur between September and May in the early hours of the morning. In mid May, the Project would add shadow between 7:15 a.m. and 8:00 a.m. In May and June the new shading would occur from the "first Proposition K minute" (the first minute after one hour after sunrise, ranging between 6:48 a.m. and 6:55 a.m.) until approximately 7:30 a.m. The project shadow would persist on Yerba Buena Center until 7:30 a.m. in mid July and recede by 8:00 a.m. in mid August. All project-related shadow effects would gone by the first week of September.

The maximum amount of new shadow at any one time would be approximately 34,313 square feet at 7:00 a.m. on June 21, the summer solstice. (At this time, nearly all of the square lawn area would be shaded, with most of the shadow cast by existing buildings.)

Because project shadow on Yerba Buena Center would occur only in the early morning between May and September, and would recede by no later than 8:00 a.m., project shadow would not substantially affect the use or enjoyment of this open space, and the effect would be less-than-significant.

Because project shadow on publicly accessible open spaces would be relatively limited, the Project complies with Planning Code Section 147.

- H. **Public Art (Section 149).** In the case of construction of a new building or addition of floor area in excess of 25,000 square feet to an existing building in a C-3 District, Section 149 requires a project to include works of art costing an amount equal to one percent of the construction cost of the building.

Conditions of approval have been added to ensure that the Project complies with this requirement.

- I. **Off-street Parking (Section 151.1).** Pursuant to Section 151.1, non-residential uses in C-3 Districts are not required to provide off-street parking. Accessory parking for the proposed office uses is permitted, not to exceed 7% of the gross floor area of the building.
- With 430,650 gross square feet of office uses, the Project may provide up to 30,146 square feet of off-street parking area. The Project includes two below-grade parking levels with 28,000 square feet of gross parking area, and thus the Project complies with the maximum allowances for accessory parking.*
- J. **Loading (Section 152.1).** Section 152.1 establishes minimum requirements for off-street loading. For the Project, Table 152.1 requires off-street freight loading spaces to be provided at a ratio of 0.1 spaces per 10,000 square feet of gross office floor area. Section 153(a)(6) allows two service vehicle spaces to be substituted for one freight loading space provided that at least 50% of the total required number of loading spaces are provided.
- With 430,650 square feet of office use, the Project requires 4 loading spaces. The Project will provide two full-size off-street loading spaces and one smaller size off-street loading space accessible off of Tehama Street, and four service vehicle spaces in the upper garage level. The four service vehicle spaces are provided in lieu of the third and fourth required full-size off-street loading spaces pursuant to Section 153(a)(6). Thus, with three freight-loading spaces, and four service vehicle spaces, the Project complies with this requirement.*
- K. **Vehicular Access to Off-Street Parking and Loading (Section 155).** In C-3 Districts, where alternative frontages are available, no curb cuts accessing off-street parking or loading shall be created or utilized on street frontages identified as a Transit Preferential, Citywide Pedestrian Network, or Neighborhood Commercial Streets as designated in the Transportation Element of the General Plan or designated an official City bicycle route or lane.
- The Project will provide access to off-street parking and freight loading via Tehama Street. This portion of Tehama Street is not a street frontage identified as a Transit Preferential, Citywide Pedestrian Network, or Neighborhood Commercial Street as designated in the Transportation Element of the General Plan or designated an official City bicycle route or lane, and therefore complies with this requirement.*
- L. **Shower and Locker Facilities (Section 155.3).** New commercial buildings whose primary use consists of offices require four showers and eight lockers when the gross floor area exceeds 50,000 square feet.
- The Project provides the required shower and locker facilities on the lower garage level, and thus complies with this requirement.*
- M. **Bicycle Parking (Section 155.4).** New commercial buildings whose primary use consists of offices require 12 Class 1 bicycle parking spaces when the gross floor area exceeds 50,000 square feet.
- The Project currently proposes approximately 23 bicycle stalls on the lower garage level, and thus complies with this requirement.*

- N. **Height (Section 260).** Section 260 requires that the height of buildings not exceed the limits specified in the Zoning Map and defines rules for the measurement of height. The Project Site is within the 350-S and 150-S Height and Bulk Districts.

The finished roof of the Project will reach a height of 350 feet. Rooftop mechanical equipment, elevator penthouses, and associated screening will reach a height of 370 feet. Pursuant to Section 260(b)(1), these features are exempt from the applicable height limit. The Project Sponsor has requested a Zoning Map Amendment and a General Plan Amendment to change the applicable height limit on the westerly portion of the property from the 150-S to the 350-S Height and Bulk District. These amendments will make the height limit for this westerly portion consistent with the remainder of the Project Site.

- O. **Shadows on Parks (Section 295).** Section 295 requires any project proposing a structure exceeding a height of 40 feet to undergo a shadow analysis in order to determine if the project will result in the net addition of shadow to properties under the jurisdiction of the Recreation and Park Department.

The Department conducted a shadow analysis and determined that the Project would not impact any properties under the jurisdiction of the Recreation and Park Department.

- P. **Jobs-Housing Linkage Program (Section 313).** Pursuant to Section 313, large-scale development projects that contain entertainment, hotel, office, research and development, or retail uses are required to pay a fee to a designated housing developer or to the City in order to help offset the cost of building additional housing. This requirement applies to office projects proposing at least 25,000 square feet of new office uses.

The Project proposes approximately 430,650 sq. ft. of new office use and thus is subject to Section 313 requirements. The Sponsor will meet the requirements of Section 313 either by construction of the units or by payment of an in-lieu fee.

- Q. **Childcare Requirement (Section 314).** Under Section 314, large-scale development projects are required to (1) provide on-site childcare, (2) provide off-site childcare, (3) pay an in-lieu fee, or (4) combine the provision of on-site or off-site childcare with the payment of an in-lieu fee. This requirement applies to office development projects proposing the net addition of 50,000 or more gross square feet of use.

The Project proposes approximately 430,650 sq. ft. of new office use and therefore Section 314 applies. The Sponsor will either provide the facility itself, make arrangements with an appropriate organization to do so, or pay the in-lieu fee.

7. **Exceptions Requested Pursuant to Section 309.** The proposed Project is required to meet all applicable Code requirements or request exceptions as permitted by Section 309(a) (1)-(9). The Planning Commission has considered the following exceptions to the Planning Code, makes the following findings, and grants each exception as further described below:

- A. **Section 270: Bulk Limits.** Section 270 establishes bulk limits applicable to all buildings. The Project Site is located in a 350-S/150-S Height and Bulk District which provides the following bulk controls for the lower tower: a maximum length of 160 feet, a maximum diagonal dimension of 190 feet, a maximum floor size of 20,000 sq.

ft., a maximum average floor size of 17,000 sq. ft. The lower tower controls apply above the base height (1.25 times the widest abutting street or 50 feet whichever is greater) and up to the height of 220 feet. The widest abutting street to the Property is Second (and Howard) Street that is 82.5 feet wide. Thus, the lower tower controls apply above a height of 103 feet, corresponding with the 8th floor of the building until a height of 220 feet, corresponding with the 16th floor of the building. The upper tower controls are as follows: a maximum length of 130 feet, a maximum diagonal dimension of 160 feet, a maximum floor size of 17,000 sq. ft., a maximum average floor size of 12,000 sq.ft.

The lower tower for the Project has a length dimension of approximately 158 feet, a diagonal dimension of approximately 208 feet, a maximum floor size of approximately 20,493 square feet, and an average floor size of approximately 20,493 sq. ft. Therefore, each floor within the lower tower exceeds the maximum diagonal bulk controls and the maximum floor size, and the lower tower floors collectively exceed the maximum average floor size.

The upper tower for the Project has a length dimension of approximately 116 feet, a diagonal dimension of approximately 159 feet, a maximum floor size of approximately 12,000 square feet, and an average floor size of approximately 12,000 sq. ft. The upper tower therefore complies with the applicable bulk requirements.

Per Section 272, exceptions to bulk limits in C-3 Districts may be granted provided at least one of five listed criteria is met. The Project complies with the following of the listed criteria:

- (3) The added bulk does not significantly affect light and air to adjacent buildings;

The added bulk is not anticipated to result in any significant affect in light and air to the adjacent buildings. The Project fronts on two wide public streets (Howard and Second Streets), and one alley (Tehama Street). These streets serve to maintain a separation and openness along these frontages. The two existing buildings that are immediately adjacent are the Marine Fireman's Union at 240 Second Street to the south, and the Volker Building at 631 Howard to the west. Both of these adjacent buildings are lower, older buildings whose primary light and air come from their primary street façade. Therefore, the Project will not significantly affect access to light and air for these adjacent buildings.

- (4) If appropriate to the massing of the building, the appearance of bulk in the building, structure or development is reduced to the extent feasible by means of at least one and preferably a combination of the following factors, so as to produce the impression of an aggregate of parts rather than a single building mass:

- (A) Major variations in the planes of wall surfaces, in either depth or direction, that significantly alter the mass,
- (B) Significant differences in the heights of various portions of the building, structure or development that divide the mass into distinct elements,
- (C) Differences in materials, colors or scales of the facades that produce separate major elements,

(D) Compensation for those portions of the building, structure or development that may exceed the bulk limits by corresponding reduction of other portions below the maximum bulk permitted, and

(E) In cases where two or more buildings, structures or towers are contained within a single development, a wide separation between such buildings, structures or towers; or

The manner in which the building is separated into base, lower and upper tower divides the mass of the building into distinct elements. The Project has less volume at the base than would be permitted by the Planning Code, thereby compensating for the increase in floor area in the lower tower with a corresponding floor area reduction in the base. Above the 5th floor, the building is set back from the westerly interior property line and along the Howard Street frontage. This setback provides a distinct break between the massing of the base and the lower tower, and relates the height of the base to the older, low-scaled buildings in the vicinity. In addition, this setback reveals structural columns at the 5th floor, further strengthening the division between the base and the lower tower and introducing a new, rounded textural form. Above the 17th floor, the building is substantially set back from the Tehama and Second Street frontages, completing the visual division of the building into a distinct tripartite arrangement.

The exterior skin of the building is comprised of overlapping, full-floor glass panels. At a detailed level, the overlap of these panels provides depth and shadow to the building, and creates a dynamically shifting appearance to the building the changes depending on the orientation of the viewer.

(5) The building, structure or development is made compatible with the character and development of the surrounding area by means of all of the following factors:

(A) A silhouette harmonious with natural land-forms and building patterns, including the patterns produced by height limits,

(B) Either maintenance of an overall height similar to that of surrounding development or a sensitive transition, where appropriate, to development of a dissimilar character,

(C) Use of materials, colors and scales either similar to or harmonizing with those of nearby development, and

(D) Preservation or enhancement of the pedestrian environment by maintenance of pleasant scale and visual interest.

The immediate vicinity contains a wide variety of building types, shapes, materials and designs. Existing buildings and recently approved developments range from 4 to 5-story buildings to existing approximately 16-, 18-, and 20-story buildings at 246 Second Street, 580-590 Folsom Street and 75 Hawthorne Street, respectively, to entitled 19-story development at 201 Second Street and completed 25-story building at One Hawthorne Street, respectively. Beyond the buildings in the immediate vicinity, the height of the Project will be compatible within the skyline from distant vantage points.

The Project will improve and enhance the pedestrian environment by the creation of a large new public open space within the base of the building. More than 8,600 square feet of publicly accessible open space, fronting on Second and Howard Streets, will create new visual interest in an appropriate human scale. This interior space will be activated by the presence of food service and seating areas. In addition, the presence of retail uses will enliven the ground floor near the corner of Tehama and Second Streets.

For these reasons, the Planning Commission finds that the Project satisfies at least three of the listed criteria, and therefore grants the bulk exceptions.

- B. Section 148: Ground-Level Wind Currents.** In C-3 Districts, buildings and additions to existing buildings shall be shaped, or other wind-baffling measures shall be adopted, so that the developments will not cause ground-level wind currents to exceed more than 10 percent of the time year round, between 7:00 a.m. and 6:00 p.m., the comfort level of 11 miles per hour equivalent wind speed in areas of substantial pedestrian use and seven miles per hour equivalent wind speed in public seating areas.

When preexisting ambient wind speeds exceed the comfort level, or when a proposed building or addition may cause ambient wind speeds to exceed the comfort level, the building shall be designed to reduce the ambient wind speeds to meet the requirements. An exception may be granted, in accordance with the provisions of Section 309, allowing the building or addition to add to the amount of time that the comfort level is exceeded by the least practical amount if (1) it can be shown that a building or addition cannot be shaped and other wind-baffling measures cannot be adopted to meet the foregoing requirements without creating an unattractive and ungainly building form and without unduly restricting the development potential of the building site in question, and (2) it is concluded that, because of the limited amount by which the comfort level is exceeded, the limited location in which the comfort level is exceeded, or the limited time during which the comfort level is exceeded, the addition is insubstantial.

No exception shall be granted and no building or addition shall be permitted that causes equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year.

As discussed in the EIR prepared for the Project, existing and post-Project ground-level wind currents were analyzed, with measurements taken at 51 test points.

Comfort Criterion

Without the Project, 10 of the 51 test points currently exceed the pedestrian comfort level of 11 mph. With the Project, four exceedances would be eliminated and six new ones would be created. Three of the new exceedances occur at three of the four corners of Second and Howard Streets, two are located at two of the four corners of Second and Tehama Streets, and one is located at the southwest corner of the Project Site, in at the dead end of Tehama Street where parking and loading access is located. All of the exceedances, except for the one located near the parking and loading access on Tehama Street, are in an area of substantial pedestrian use. An exception under Section 148 (a) is therefore required.

An exception is justified under the circumstances, because the changes in wind speed and frequency due to the Project are so slight that they would be difficult for pedestrians to perceive. First, the amount by which the comfort level is exceeded at the six new exceedance locations is minimal. The wind speeds at these exceedance locations with the Project range from 12 to 15 miles per hour, or just 1 to 4 miles per hour above the comfort criterion. Of the total 12 exceedance locations that will exist with the Project, only one will have wind speeds up to 15 miles per hour, three will have wind speeds up to 14 miles per hour, three will have wind speeds up to 13 miles per hour, and five will have wind speeds up to 12 miles per hour. The average wind speed for the 51 locations would only increase with the Project by 0.1 mph to 10.2 mph. Second, the number of locations in which the comfort level will be exceeded is minimal. Only 12 of 51 test locations will exceed the comfort level, and the Project will only create a net increase of two locations that exceed the comfort level. Finally, the amount of time during which the comfort level is exceeded is minimal. The average percent of time that the comfort level is exceeded amongst all 51 test locations is currently eight percent, which would be unchanged by the Project. And the average percent of time that the comfort level is exceeded amongst exceedance locations (10 existing, 12 with Project) will slightly increase from 16.4% to 17%. The limited amount of by which the comfort level is exceeded, the limited location in which the comfort level is exceeded and the limited time during which the comfort level is exceeded as a result of the Project is insubstantial.

The severity of the exceedances in the cumulative scenario (measured assuming the Project plus nine proposed or entitled buildings in the nearby area are built) is also insubstantial. Only one net new exceedance is created in the cumulative scenario. Of the total 11 exceedances, only three would have wind speeds measured at 14 mph or greater. The average wind speed for the 51 locations would drop by 0.1 mph, to 10 mph. The average percent of time that the comfort level is exceeded amongst all 51 test locations would also be unchanged. Finally, the average amount of time that the comfort level is exceeded amongst exceedance locations (10 existing, 11 cumulative) will slightly increase from 16.4% to 17.5%. The amount of by which the comfort level is exceeded, the location in which the comfort level is exceeded, and the time during which the comfort level is exceeded in the cumulative scenario is also insubstantial.

In addition, the Project cannot be shaped or other incorporate other wind baffling measures that would reduce the wind at the exceedance locations to comply with Section 148(a) without creating an unattractive building or unduly restricting the development potential of the Project Site. The wind analysis concludes that (a) the proposed new building will not generate adverse pedestrian level winds given the nature of the built environment surrounding the proposed development, and that (b) there is no reason to believe that modification of the design would improve the existing windy conditions that occur in the vicinity.

For the reasons discussed above, an exception from the comfort criterion is appropriate and hereby granted.

Hazard Criterion

The Project complies with the wind hazard criterion. The wind tunnel test indicated that all 51 test points currently meet the wind hazard criterion, i.e. wind speeds in these locations do not exceed 26 mph for more than one hour per year. The wind tunnel test predicted that all

51 locations would remain in compliance with construction of the Project and in the cumulative scenario.

Since the Project does not cause equivalent wind speeds to reach or exceed the hazard level of 26 miles per hour for a single hour of the year, the Project complies with the hazard criterion requirement of Section 148.

- C. **Section 146: Shadows on Public Sidewalks.** In order to maintain direct sunlight on public sidewalks in certain downtown areas during critical use periods, Section 146(a) requires new structures to avoid penetrating a sun access plane defined by an angle sloping away from the street above a stipulated height at the property line as set forth in Table 146. Section 146(c) requires new buildings and additions to existing buildings in C-3 Districts to be shaped, if it can be done without creating an unattractive design and without unduly restricting the development potential of the site in question, to reduce substantial shadow impacts on public sidewalks other than those protected by Section 146(a).

Section 146 applies to the west side of Second Street, from Market Street to a point 300 feet south of Folsom Street. Section 146 requires that a building be within an envelope that slopes away from the street at an angle of 62 degrees beginning at 132 feet above grade. The Project as proposed would have a street wall approximately 216 feet high on Second Street, with a 24.5-foot setback from Second Street above the 17th floor. A line from this setback to the top of the building would create an angle of approximately 11 degrees, and thus the Project would not comply with the sun angle plane, therefore, the Project Sponsor is seeking an exception to the requirements of Section 146.

An exception may be granted if (i) the penetration of the plane does not create shadow because of the shadow already cast by other buildings, or if (ii) "the shadow created by the penetration of the plane is deemed insignificant because of the limited extent or duration of the shadow or because of the limited public use of the shadowed space."

The portion of Second Street affected by this portion of Section 146 is approximately 1,800 feet long and extends from Market Street to 300 feet south of Folsom Street. The increased shading occurs at various times during the year, and at various portions of this stretch of sidewalk. Many existing buildings on the west side of Second Street already shade major portions of this sidewalk throughout the year. The Project Sponsor submitted shadow calculations that determined that the Project causes an increase of only 0.6592% in shadow based on annual available sunlight (AAS).

The shadow calculations bear out that the new shadows either are small slivers of shadows moving along the sidewalk on a single block, or are a quickly moving shadow segment from curb to building across a larger sidewalk section. In midsummer, there will be a shadow section from between 5:30 to 6:15 PM that shrinks to a sliver, eventually vanishing by late summer on the sidewalk area between Howard and Tehama Streets. Starting midsummer, a new shadow sliver appears and then becomes a shadow section in late summer from around 1:15 to 2:30 PM on the sidewalk area between Howard and Natoma Streets and changes by early fall changes to around 11:15AM to 12:00 PM on the sidewalk area between Howard and Minna Streets. During the early fall a shadow sliver appears on the sidewalk area

between Howard and Tehama Streets at 2:45 PM and changes to between 1:45 to 2:45 PM when we go off daylight savings time. In the late fall once daylight savings time ends, these last two shadows happen an hour earlier. In late fall the earlier shadow section is from around 10:00 to 11:45 AM and covers the sidewalk from Howard to Minna Streets and by mid-winter from around 9:30 to 10:00 AM and covers the sidewalk area between Howard and Mission Streets. The later shadow sliver will be on the sidewalk between Howard and Tehama Streets around 12:30 to 1:45 PM in the late fall and by midwinter vanishes completely. During the late fall a new shadow sliver appears between Howard and Tehama Streets at noon and changes to between 11:15 to 11:45AM at midwinter.

The Planning Commission finds that this minor increase in shadow on this portion of the Second Street sidewalk that is created by penetration of the plane described in Section 146 is insignificant under Section 146(b) of the Code.

8. **General Plan Conformity.** The Project will affirmatively promote the following objectives and policies of the General Plan:

COMMERCE ELEMENT

Objectives and Policies

OBJECTIVE 1:

MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.

Policy 1.1:

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development which has substantial undesirable consequences that cannot be mitigated.

The Project provides significant benefits by increasing the supply of office space in the Downtown area, and thus creating space for new employment opportunities in a location that is easily accessible by transit, and is within walking distance of many retail goods and services. It will result in an increase in tax revenue for the City and an increase in retail activity in the immediate neighborhood. Compared with the existing surface parking lot, the Project will enliven the streetscape with retail uses and views of a publicly-accessible interior open space.

Policy 1.3:

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

The Project Site is designated in the Downtown Plan of the General Plan for Downtown Office Uses. Thus, the Project Site is a suitable location for the Project and will concentrate office developments in the Downtown Core area.

OBJECTIVE 2:

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

Policy 2.1:

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

The Project reinforces the role of the Downtown Core as a focus of office activity and a regional employment center. The Project is centrally located and is close to many existing office developments and retail services.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 3:

MODERATION OF MAJOR NEW DEVELOPMENT TO COMPLEMENT THE CITY PATTERN, THE RESOURCES TO BE CONSERVED, AND THE NEIGHBORHOOD ENVIRONMENT.

Policy 3.1:

Promote harmony in the visual relationships and transitions between new and older buildings.

Policy 3.6:

Relate the bulk of buildings to the prevailing scale of development to avoid an overwhelming or dominating appearance in new construction.

The Project vicinity consists of a variety of building designs and scales. The subject block and vicinity contains several high-rise buildings, as well as a number of smaller buildings. The Project has been carefully designed to complement the existing development and neighborhood. The setback of the 5th floor of the building respects the context of older, lower-scaled buildings in the immediate vicinity, while the overall height and massing of the Project is suitable for its location within the Downtown Core.

DOWNTOWN AREA PLAN

Objectives and Policies

OBJECTIVE 2:

MAINTAIN AND IMPROVE SAN FRANCISCO'S POSITION AS A PRIME LOCATION FOR FINANCIAL, ADMINISTRATIVE, CORPORATE, AND PROFESSIONAL ACTIVITY.

Policy 2.1:

Encourage prime downtown office activities to grow as long as undesirable consequences of such growth can be controlled.

Policy 2.2:

Guide location of office development to maintain a compact downtown core and minimize displacement of other uses.

The Project Site is currently occupied by a temporary surface parking lot, and the Project will not displace any permanent uses. The Project Site is well served by transit, and is close to many retail goods and services. The Project will reinforce the form of a compact Downtown Core, and will not contribute to office growth in an area that may result in undesirable consequences for neighborhoods adjacent to downtown.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 2:

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPMENT AND IMPROVING THE ENVIRONMENT.

Policy 2.1:

Use rapid transit and other transportation improvements in the city and region as the catalyst for desirable development, and coordinate new facilities with public and private development.

The Project is located within an existing high-density urban context. The Downtown Core has a multitude of transportation options, and the Project Site is within walking distance of the Market Street transit spine, and the Transbay Terminal, and the Ferry Building, and thus would make good use of the existing transit services available in this area and would assist in maintaining the desirable urban characteristics and services of the area. The Project proposes little off-street parking, encouraging users of the building to seek transportation options other than private automobile use.

9. **Priority Policy Findings.** Section 101.1(b) establishes eight priority planning policies and requires the review of permits for consistency with said policies. The Project complies with these policies, on balance, as follows:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced.

The Project Site does not contain any existing retail uses, and none will be displaced by the Project. The Project furthers this policy by proposing ground floor retail uses. The addition of office uses will bring new employees and visitors to the Project Site and area, which would strengthen existing neighborhood retail operations and encourage new retail opportunities in the vicinity of the Project Site.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

The Site is currently used as a surface parking lot, and thus, the Project will have no effect on existing housing. The Project is compatible with the character of the area, which is somewhat varied in scale, but is generally defined by intense urban development.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project will promote this policy by contributing to the City's affordable housing supply by complying with the Section 314 Jobs-Housing Linkage Program.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The Project Site is situated in the downtown core and is well served by public transit. The Project Site is located just two blocks from Market Street, a major transit corridor that provides access to various Muni and BART lines. In addition, the Project Site is within one

block from the proposed Transbay Terminal (approximately two blocks from the existing Transbay Terminal) providing convenient access to other transportation services. The Project includes minimal off-street parking to discourage commuting via private automobile.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project Site does not contain any industrial or service sector uses, and thus none will be displaced by the Project. The Project Site is currently occupied by a temporary surface parking lot operation.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will conform to the structural and seismic requirements of the San Francisco Building Code.

- G. That landmarks and historic buildings be preserved.

The Project Site does not contain any existing historic resources and is not located in any historic or preservation district. The Project would not affect any off-site historic resources.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project Site is surrounded by existing urban development and is not located adjacent to parks or other public open spaces. Therefore, the Project is not expected to have any impact on this policy.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

11. The Commission hereby finds that approval of the Section 309 Determination of Compliance and Request for Exceptions would promote the health, safety, and welfare of the City.

DECISION

Based upon the whole record, the submissions by the Project Sponsor, the staff of the Department, and other interested parties, the oral testimony presented to the Commission at the public hearing, and all other written materials submitted by all parties, in accordance with the standards specified in the Code, the Commission hereby **APPROVES Application No. 2006.1106X**, and grants exceptions to Sections 146, 148, 270, and 272 pursuant to Section 309, subject to the following conditions attached hereto as Exhibit A (Conditions of Approval) which is incorporated herein by reference as though fully set forth, in general conformance with the plans stamped Exhibit B and on file in Case Docket No. 2006.1106X.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 309 Determination of Compliance and Request for Exceptions to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of this Motion if not appealed OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals in person at 1650 Mission Street, Room 304 or call (415) 575-6880.

I hereby certify that the foregoing Motion was ADOPTED by the Planning Commission at its regular meeting on August 12, 2010.

Linda D. Avery
Commission Secretary

AYES: Miguel, Antonini, Borden, Lee

NOES: Moore, Olague, Sugaya

ABSENT:

ADOPTED: August 12, 2010

Exhibit A

Conditions of Approval

Wherever "Project Sponsor" is used in the following conditions, the conditions shall also bind any successor to the Project or other persons having an interest in the Project or underlying property.

This approval and the granting of certain exceptions pursuant to Section 309 is for a Project located on the property at 222 Second Street, Lot 063 in Assessor's Block 3735, The Project Site is within an C-3-O(SD) District and an existing 350-S/150-S Height and Bulk District, in general conformity with the plans stamped Exhibit B and dated August 12, 2010. The Project includes the demolition of the existing surface parking lot and the existing loading dock on the adjacent property, and the construct a 26-story, 350-foot tall office building containing approximately 430,650 gross square feet of office space, approximately 5,000 square feet of ground floor retail space, approximately 28,000 square feet of subterranean parking area, and approximately 8,600 square feet of publicly-accessible open space. The Project shall be completed in general conformity with the plans dated labeled "Exhibit B" on file in Case Docket 2006.1106X, except as modified herein.

1. CONDITIONS TO EFFECTIVENESS OF THIS APPROVAL

A. General Plan Amendment. It shall be a condition precedent to the effectiveness of this approval that the General Plan is amended to increase the height of the westerly portion of the Project Site from 150 feet to 350 feet, and this approval shall not be effective until such an amendment has been approved by the Board of Supervisors, has become effective and any appeal or referendum period has run, or if appealed, the amendment has been upheld.

B. Zoning Map Amendment. It shall be a condition precedent to the effectiveness of this approval that the Zoning Map is amended to change the Height and Bulk designation of the westerly portion of the Project Site from 150-S to 350-S, and this approval shall not be effective until such an amendment has been approved by the Board of Supervisors, has become effective and any appeal or referendum period has run, or if appealed, the amendment has been upheld.

C. Office Allocation. It shall be a condition precedent to the effectiveness of this approval that the Project receive an allocation of 430,650 square feet of allowable office development under Annual Office Development Limitation Program.

2. COMPLIANCE WITH OTHER REQUIREMENTS

A. This decision conveys no right to construct, or to receive or apply for a building permit. The Project shall be subject to, and the Project Sponsor shall implement and otherwise comply with, the Conditions set forth in this Exhibit A. If these conditions conflict with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

3. GENERAL CONDITIONS

A. Mitigation and Improvement Measures. Measures within the Commission's jurisdiction proposed as part of the Project, as outlined in Exhibit C of Planning Commission Resolution 18167, Case #2006.1106M (General Plan Amendment), the Mitigation Monitoring and Reporting Program (MMRP) shall be a condition of approval and is accepted by the Project Sponsor or its successor in interest. If said measures are less restrictive than the other conditions herein, the more restrictive and protective control as determined by the Zoning Administrator, shall govern.

B. Community Liaison. The Project Sponsor shall appoint a community liaison officer to deal with issues of concern to the owners and occupants of nearby properties at all times during Project construction. Prior to the commencement of Project construction, the Project Sponsor shall give the Zoning Administrator and the owners of properties within 300 feet of the Project site boundaries written notice of the name, business address and telephone number of the community liaison.

C. Recordation. Prior to the issuance of any building permit for the construction of the Project, the Zoning Administrator shall approve and order the recordation of a notice in the Official Records of the Recorder of the City and County of San Francisco, which notice shall state that construction of the Project has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied, and record said writing if requested.

D. Reporting. The Project Sponsor shall submit to the Zoning Administrator two copies of a written report describing the status of compliance with the conditions of approval contained within this Motion every six months from the date of this approval through the issuance of the first temporary certificate of occupancy. Thereafter, the submittal of the report shall be on an annual basis. This requirement shall lapse when the Zoning Administrator determines that all the conditions of approval have been satisfied or that the report is no longer required for other reasons.

E. Construction.

- (1). The Project Sponsor shall ensure the construction contractor will coordinate with the City and other construction contractor(s) for any concurrent nearby projects that are planned for construction so as to minimize, to the extent possible, negative impacts on traffic and nearby properties caused by construction activities.
- (2). The project sponsor and construction contractor(s) shall meet with the Traffic Engineering Division of the Department of Parking and Traffic, the Fire Department, MUNI, and the Planning Department to determine feasible traffic mitigation measures to reduce traffic congestion and pedestrian circulation impacts during construction of the proposed project.

F. Performance

- (1) A site permit or building permit for the herein-authorized Project shall be obtained within three years of the date of this action, and construction, once commenced, shall be thenceforth pursued diligently to completion.

(2) This authorization may be extended at the discretion of the Zoning Administrator only if the failure to issue a permit by the Department of Building Inspection to construct the proposed building is delayed by a City, state or federal agency or by appeal of issuance of such permit. Failure to begin work within that period, or thereafter to carry the development diligently to completion, shall be grounds to revoke approval of the authorized development.

G. Revocation. The Planning Commission may, in a public hearing, consider the revocation of the approvals granted if a site or building permit has not been issued within three (3) years of the date this approval is effective. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Planning Commission may also consider revoking the approvals if a permit for the Project has been issued but is allowed to expire and more than three (3) years have passed since the effectiveness of this approval. This authorization may be extended at the discretion of the Zoning Administrator if the failure to issue a permit by the Department of Building Inspection to construct the proposed building is caused by a delay by a City, state or federal agency or by any appeal of the issuance of such a permit(s) or by any legal challenge.

H. Failure to comply with any of the Conditions of Approval shall constitute a violation of the Planning Code, enforceable by the Zoning Administrator. Should the monitoring of the Conditions of Approval be required, the Applicant or successors shall pay fees as established in Planning Code Section 351(f) (2).

I. Violation of the conditions noted above or any other provisions of the Planning Code may be subject to abatement.

J. Severability. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other of the remaining provisions, clauses, sentences, or sections of these conditions. It is hereby declared to be the intent of the Commission that these conditions of approval would have been adopted had such invalid sentence, clause, or section or part thereof not been included herein.

K. First Source Hiring. The project is subject to the requirements of the First Source Hiring Program (Chapter 83 of the Administrative Code) and the Project Sponsor shall comply with the requirements of this Program.

3. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A BUILDING (OR SITE) PERMIT

A. Design. The Project Sponsor and the Project architects shall continue to work on aspects of design development with the Department.

B. Transferable Development Rights (TDR). The Project Sponsor shall purchase the required number of TDR and secure a Notice of Use of TDR.

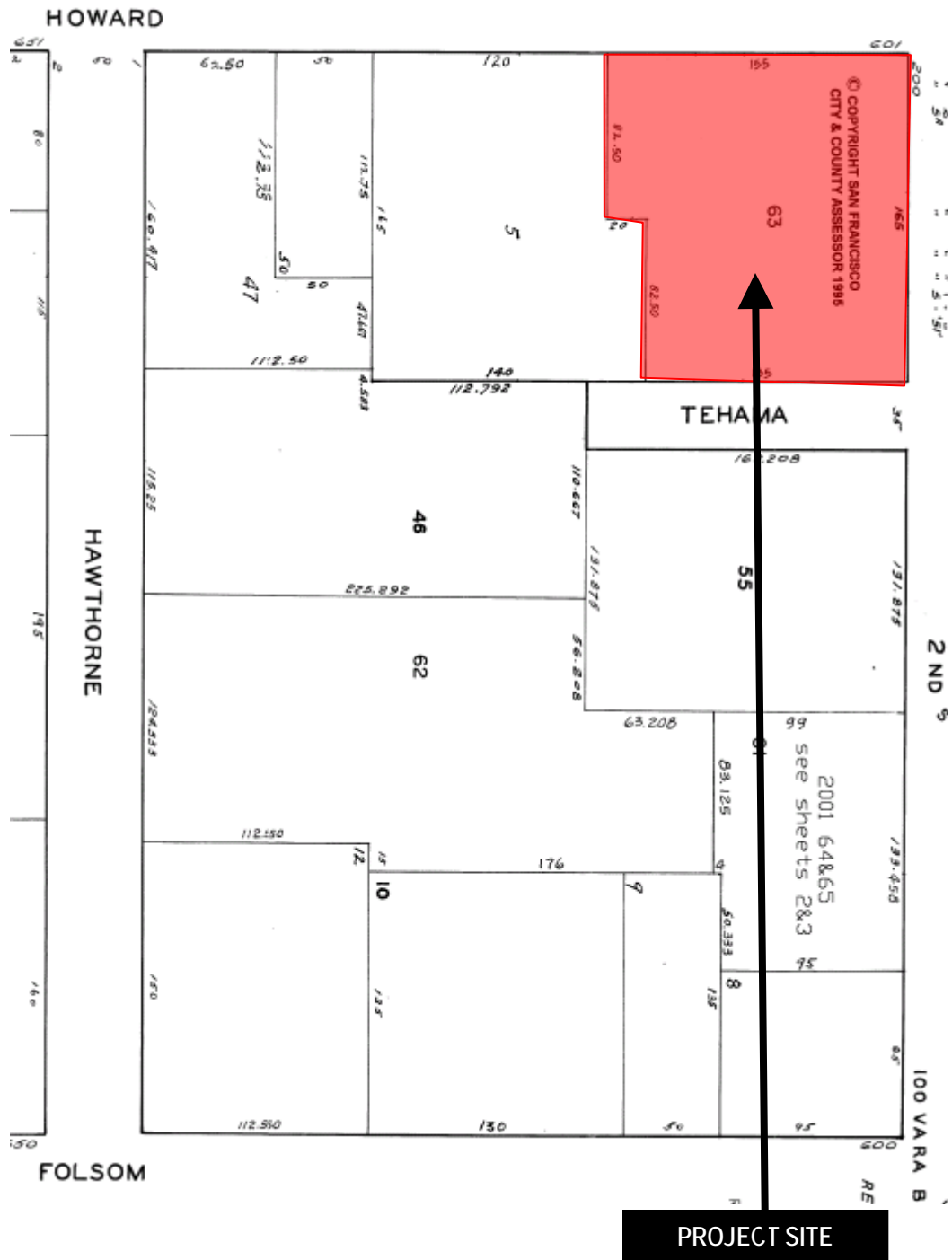
4. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF A FIRST CONSTRUCTION DOCUMENT (ADDENDUM TO A BUILDING OR SITE) PERMIT

- A. Jobs-Housing Linkage Fee. The Project Sponsor shall pay the Jobs-Housing Linkage Fee as required by Planning Code Section 313. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application.
- B. Downtown Park Fee. The Project Sponsor shall pay the Downtown Park Fee as required by Planning Code Section 139. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application.
- C. Child Care Brokerage Services and Fees
- (1). The Project Sponsor shall execute an agreement with the Department and the Mayor's Office of Community Development for the provision of childcare brokerage services and preparation of a childcare plan to be approved by the Director of Planning. The childcare plan and childcare brokerage services shall be designed to meet the goals and objectives set forth in Planning Code Section 165.
- (2). The Project Sponsor shall pay the Child Care Fee as required by Planning Code Section 314. The net addition of gross square footage of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application.
- D. Transit Impact Development Fee. The Project Sponsor shall pay the Transit Impact Development Fee as required by Chapter 38 of the Administrative Code. The net addition of gross floor area of office use subject to this requirement shall be determined based on drawings submitted with the Building Permit Application. Prior to the issuance of the first certificate of occupancy, the Project Sponsor shall provide the Director with certification that the fee has been paid.
- E. Public Artwork
- (1). Pursuant to Section 149, the Project shall include the work(s) of art valued at an amount equal to one percent of the hard construction costs for the Project as determined by the Director of the Department of Building Inspection. The Project Sponsor shall provide to the Director necessary information to make the determination of construction cost hereunder.
- (2). The Project Sponsor and the Project artist shall consult with the Planning Department during design development regarding the height, size, and final type of the art. The final art concept shall be submitted for review for consistency with this Motion by, and shall be satisfactory to, the Director of the Planning Department in consultation with the Commission.
5. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF AN ARCHITECTURAL ADDENDUM
- A. Design
- (1). Final detailed building plans shall be reviewed and approved by the Planning Department before issuance of the first addendum to the site permit. Detailed building plans shall include a final site plan, parking plan, open space and landscaping plans, floor plans, elevations, sections, specifications of finish materials and colors, and details of construction.

- (2). Final architectural and decorative detailing, materials, glazing, color, and texture of exterior finishes shall be submitted for review by, and shall be satisfactory to the Director of the Department. The Project architect shall submit dimensional design drawings for building details with specifications and samples of materials to ensure a high design quality is maintained.
 - (3). Highly reflective glass, mirror glass, or deeply tinted glass shall not be permitted. Only clear glass shall be permitted at pedestrian levels.
 - (4). Per Section 141, rooftop mechanical equipment is required to be screened so as not to be visible from any point at or below the roof level of the subject building.
- B. Usable Open Space. A final plan showing location and area of common usable open space shall be submitted for review by, and shall be satisfactory to, the Director of the Department. The Project shall include the common usable open space and private usable open space balconies generally as described in this Motion, as shown in Exhibit B.
- C. Lighting. The Project Sponsor shall develop a lighting program for the Project, which shall be subject to review and approval by Planning Department staff. The lighting program shall include any lighting required or proposed within the public right-of-way as well as lighting attached to the building. Once approved by Department staff, the lighting program information shall be submitted and approved as part of the first building or site permit for the project.
- D. Pedestrian Streetscape Improvements. A final pedestrian streetscape improvement plan including landscaping and paving materials and patterns, shall be submitted for review by, and shall be satisfactory to the Director of the Department, in consultation with staff from the Department of Public Works and the Department of Parking and Traffic. Other agencies shall be contacted as appropriate. The Project shall include pedestrian streetscape improvements as described in this Motion and in conformance with Planning Code Section 138.1, Section 143, and the Downtown Streetscape Plan.
- E. Signage. The Project Sponsor shall develop a signage program for the Project, which shall be subject to review and approval by Planning Department staff. All subsequent sign permits shall conform to the approved signage program. Once approved by Department staff, the signage program information shall be submitted and approved as part of the first building or site permit for the project.
- F. Garbage and Recycling. The building design shall provide adequate space designated for trash compactors and trash loading. Space for the collection and storage of recyclable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program, shall also be provided at the ground level of the project. Enclosed trash areas with provisions for separating recyclable and non-recyclable materials shall be provided for Project residents on each floor of the residential tower. These areas shall be indicated on the building plans.

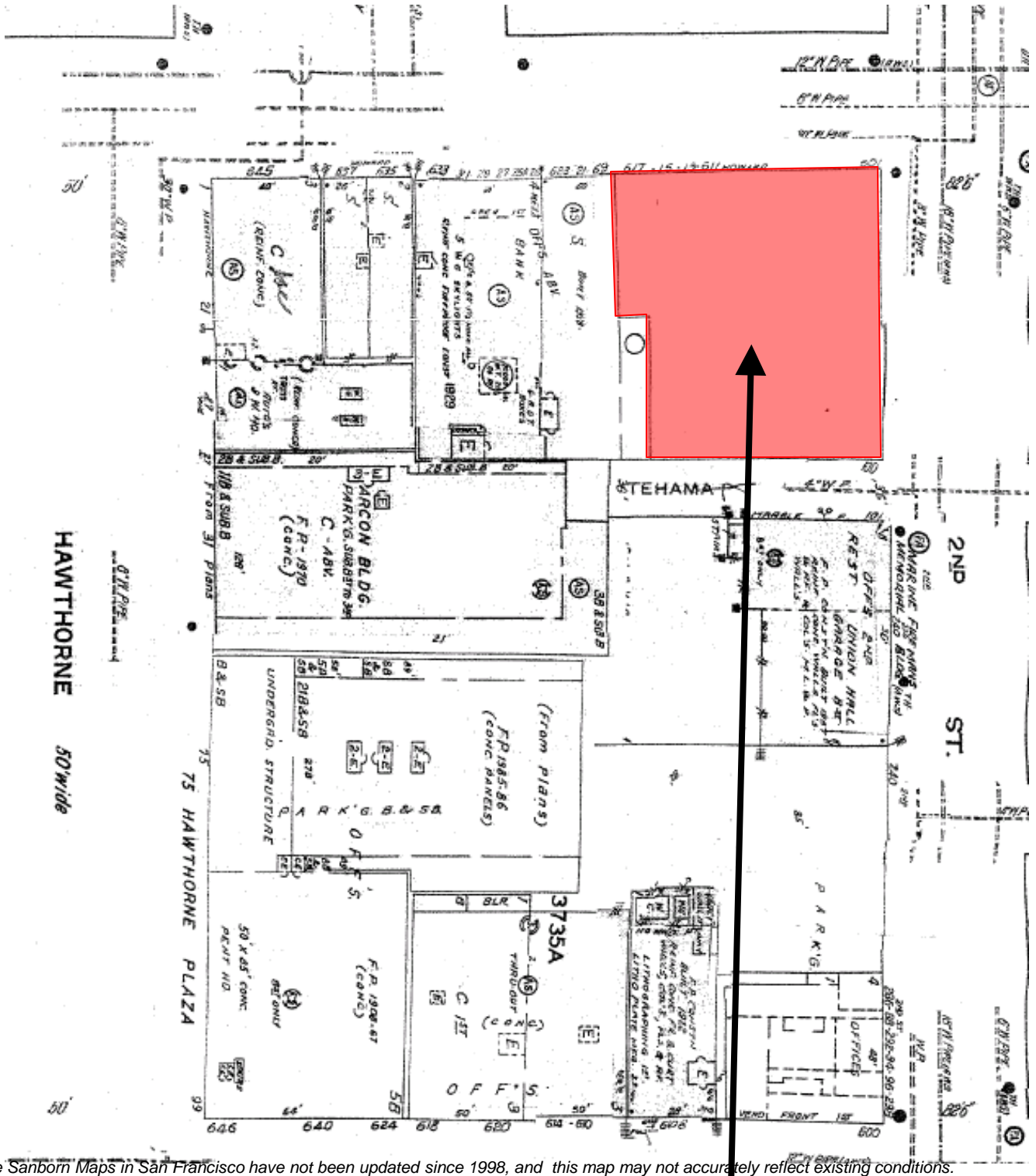
6. CONDITIONS TO BE MET PRIOR TO THE ISSUANCE OF THE FIRST CERTIFICATION OF OCCUPANCY.
- A. Pedestrian Streetscape Improvements
- (1). The Project Sponsor shall complete the City's standard pedestrian streetscape improvements as required by the Department of Public Works and shall be responsible for the upkeep and maintenance of such improvements if they exceed City standards.
- (2). Street trees shall be installed pursuant to the requirements set forth in Section 143. The species and locations shall be subject to approval by the Department of Public Works.
- B. Public Artwork
- (1). The Project Sponsor shall install the public art generally as described in this Motion and in a location visible to the public. If the Zoning Administrator concludes that it is not feasible to install the work(s) of art within the time herein specified and the Project Sponsor provides adequate assurances that such works will be installed in a timely manner, the Zoning Administrator may extend the time for installation for a period of not more than twelve (12) months.
- (2). The Project Sponsor shall comply with Code Section 149(b) by providing a plaque or cornerstone identifying the Project architect, the artwork creator and the Project completion date in a publicly conspicuous location on the Project Site. The design and content of the plaque shall be approved by Department staff prior to its installation
- C. Garbage and Recycling. The Project Sponsor shall provide the garbage and recycling areas above, and contract for recycling pickup.

Parcel Map



Section 309 Determination of Compliance
 Case Number 2013.0029X
 222 Second Street

Sanborn Map*



*The Sanborn Maps in San Francisco have not been updated since 1998, and this map may not accurately reflect existing conditions.

PROJECT SITE



Section 309 Determination of Compliance
Case Number 2013.0029X
222 Second Street

Aerial Photo



PROJECT SITE



Section 309 Determination of Compliance
Case Number 2013.0029X
222 Second Street

Aerial Photo



Looking North

PROJECT SITE

Section 309 Determination of Compliance
Case Number 2013.0029X
222 Second Street

Aerial Photo



Looking West

PROJECT SITE

Section 309 Determination of Compliance
Case Number 2013.0029X
222 Second Street

Zoning Map



Section 309 Determination of Compliance
Case Number 2013.0029X
222 Second Street

February 6, 2013

President Rodney Fong
San Francisco Planning Commission
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 222 Second Street - Case No. 2013.0029X
Amendments to Section 309 Approval
Planning Commission Hearing Date: February 21, 2013
Our File No.: 6250.14

Dear President Fong and Commissioners:

This office represents Tishman Speyer Properties, the project sponsor for the approved 430,650 square foot office project (the "Project") located at 222 Second Street, at the corner of Second and Howard Streets (the "Property"). The Project was approved on August 12, 2010. Since that time, the Project Sponsor has been diligently pursuing financing and preparing to start construction. A site permit application was filed with the City on August 10, 2012. Construction is currently slated to begin on July 1, 2013.

Prior to the start of construction, the Project requires Planning Commission approval of several minor adjustments to the Project design. Those Project modifications are described in detail below.

Background

At the time of the Project's original approval, the project sponsor anticipated purchasing a portion of the adjacent 631 Howard Street property abutting the southwest half of 222 Second Street's interior lot line, incorporating that lot area into the project site, and adjusting the property line between the project site and 631 Howard accordingly. This portion of the 631 Howard Street property is currently occupied by a loading dock fronting on Tehama Street that is approximately 20 feet wide, and 82.5 feet long.

That transaction did not occur, and the property line between 631 Howard and 222 Second Street remains in the same location. Because the property line will not be adjusted as originally intended, the approved project requires a Section 309 exception from the tower separation requirements of the Planning Code. As discussed in more detail below, the fact pattern here, with the adjacent historic building at 631 Howard, supports the granting of this exception.

Additionally, recent changes in the Building Code related to tower sway during a seismic event require that high-rise towers must now be set back approximately five feet from the property line to prevent the building from swaying over the property line. Because of the location of the interior property line, the Project will now also require minor adjustments to the dimensions of building's base and lower tower to accommodate this Code change. The Project Sponsor has also voluntarily agreed to build the Project in compliance with the 2010 California Building Code ("CBC"), instead of the 2001 CBC, under which the site permit was originally submitted.

Tower Separation

Planning Code Section 132.1(d)(1) requires that all structures in the "S" Bulk District be set back from an interior property line which does not abut a public sidewalk and from the property line abutting the right-of-way of a public street or alley. The setback must be a minimum of 15 horizontal feet, measured from the interior property line or the center of a public right-of-way, as the case may be, beginning at a height which is 1.25 times the width of the principal street on which the building faces, and increasing as the building increases in height. The Property is located in an "S" Bulk District and so is required to comply with Section 132.1(d) or seek an exception.

Under Planning Code Section 132.1(d)(2)(B):

Exceptions may be allowed [to the separation of towers requirement] to the extent that it is determined that restrictions on adjacent properties make it unlikely that development will occur at a height or bulk which will, overall, impair access to light and air or the appearance of separation between buildings, thereby making full setbacks unnecessary. The minimum setback for such façade shall be partially or fully reduced as appropriate by the Planning Commission as an exception according to the procedures of Section 309 for any of the following conditions:...(ii) for development lots abutting preservation lots that have transferred all potential development rights according to the procedures of Section 128.

The situation presented by the property line configuration between the Property and the 631 Howard Street site **is precisely the set of facts identified in the above exception language.** 631 Howard Street is a historic building that in previous years has transferred all of its development rights as allowed for by the Planning Code. In 1999, the Planning Department approved a Certificate of Eligibility creating 26,568 square feet of transferrable development rights ("TDR") which were transferred from the building later that year.

It is clear under the Planning Code that once TDR are sold from a historic building, the development potential of that preservation site is permanently diminished (Section 128(d)). There are no circumstances under which a building larger than the existing 631

Howard Street could be built on that site (either through an addition to the building or by rebuilding a site after a calamity damaged or destroyed the 631 Howard building).

Therefore, by virtue of 631 Howard Street's sale of TDR from its site, there is no potential for additional construction on that site that would in any way conflict with the approved tower at 222 Second Street.

Bulk Exception

As can be seen from the comparison table below, the currently proposed Project remains essentially the same as the project approved in 2010. The proposed minor modifications will affect only the base and lower tower of the building.

PROJECT COMPARISON

| | 2010 Approved Project | 2013 Modified Project | Change from Approved 2010 Project to 2013 Modified Project |
|---------------------------------------|--------------------------------------|----------------------------------|---|
| Building Height | 350 feet | 350 feet | 0 |
| Building Stories | 26 stories | 26 stories | 0 |
| Building GFA | 430,650 | 430,650 | 0 |
| Parking | 54 spaces | 54 spaces | 0 |
| Parking Access | Tehama | Tehama | 0 |
| Loading – number of spaces | 2 + four van spaces | 2 + four van spaces | 0 |
| Loading access | Tehama | Tehama | 0 |
| Open space | 8,600 sf | 8,600 sf | 0 |
| Ground floor retail | 5,000 sf | 2,100 sf | (-) 2,900 sf |
| Base dimensions | 135' X 162'-6" | 130' X 165'-0" | (-) 5' in width (+) 2' 6" in length |
| Lower tower dimensions | 135' X 157'-6" | 130' X 165'-0" | (-) 5' in width (+) 7' 6" in length |

The shifting of a small amount of lower tower bulk from the east side of the building (facing the interior property line and 631 Howard) to the south side of the building (along Tehama) will be barely perceptible when comparing side-by-side elevations. The comparison of the originally approved Project and modified Project in the plans and diagrams provided in your packet show this. The findings that this Commission made in 2010, in granting the original bulk exceptions for the Project, are virtually identical to the findings that must be made to grant this one additional lower tower bulk exception. In summary, the justification for the bulk exception is as follows:

The added bulk will not result in any significant affect in light and air to the adjacent buildings. The Project fronts on two wide public streets (Howard and Second Streets), and one alley (Tehama Street). These streets serve to maintain a separation and openness along these frontages. The two existing buildings that are immediately adjacent are the Marine Fireman's Union at 240 Second Street to the south, and 631 Howard to the west. Both of these adjacent buildings are lower, older buildings whose primary light and air come from their primary street façade. Therefore, the Project will not significantly affect access to light and air for these adjacent buildings.

The manner in which the building is separated into base, lower and upper tower divides the mass of the building into distinct elements. The Project has less volume at the base than would be permitted by the Planning Code, thereby compensating for the increase in floor area in the lower tower with a corresponding floor area reduction in the base. Above the 5th floor, the building is set back from the westerly interior property line adjacent to 631 Howard Street.

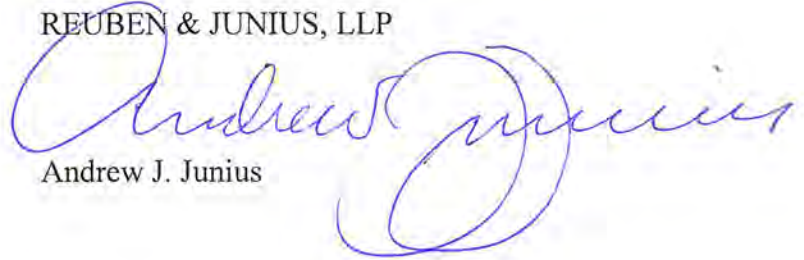
A fifth floor articulation in the form of a recess and a change in the façade detailing provides a distinct horizontal break between the massing of the base and the lower tower, and relates to the height of the base to the older, low-scaled buildings in the vicinity. The 5th floor articulation differentiates the base and the lower tower with vertical glass fins that will provide distinctive depth and shadows. Above the 17th floor, the building is substantially set back from the Tehama and Second Street frontages, completing the visual division of the building into a distinct tripartite arrangement.

Conclusion

This approved Project is ready to start construction this summer. We appreciate the Commission's support of these minor adjustments to the building.

Very truly yours,

REUBEN & JUNIUS, LLP



Andrew J. Junius

Enclosures

cc: Vice President Cindy Wu
Commissioner Michael Antonini
Commissioner Gwyneth Borden
Commissioner Rich Hillis
Commissioner Kathrin Moore
Commissioner Hisashi Sugaya
Jonas Ionan, Commission Secretary
John Rahaim, Planning Director
Kevin Guy, Project Planner
Tishman Speyer Properties

One Bush Street, Suite 600
San Francisco, CA 94104

tel: 415-567-9000
fax: 415-399-9480

REUBEN & JUNIUS, LLP

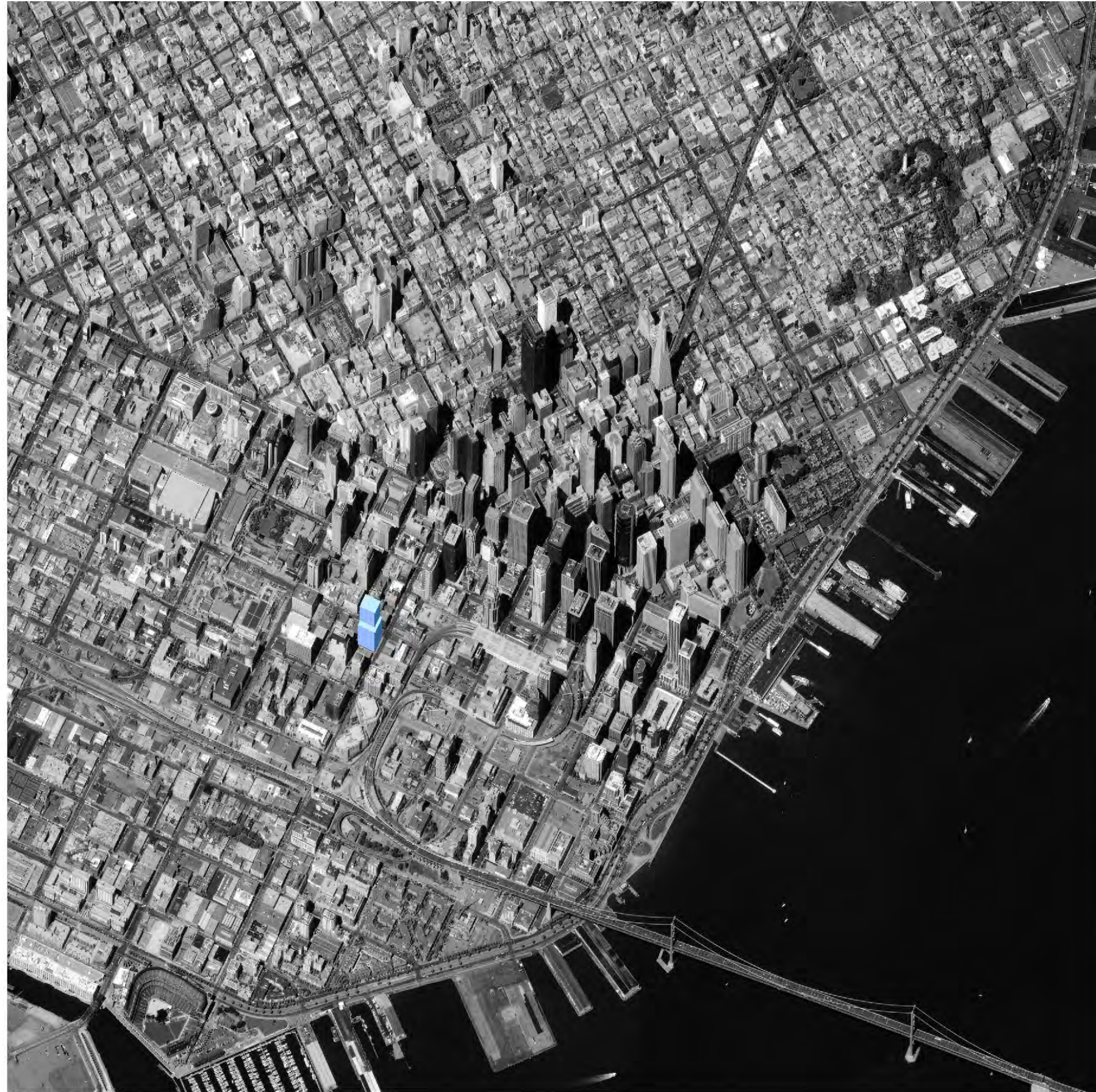
www.reubenlaw.com



222 SECOND STREET

PLANNING REVIEW

GENSLER | THOMAS PHIFER AND PARTNERS
02.07.2013



LOCATION | AERIAL VIEW OF SOMA

222 SECOND STREET
TISHMAN SPEYER

Gensler | Thomas Phifer and Partners

FEBRUARY 07, 2013

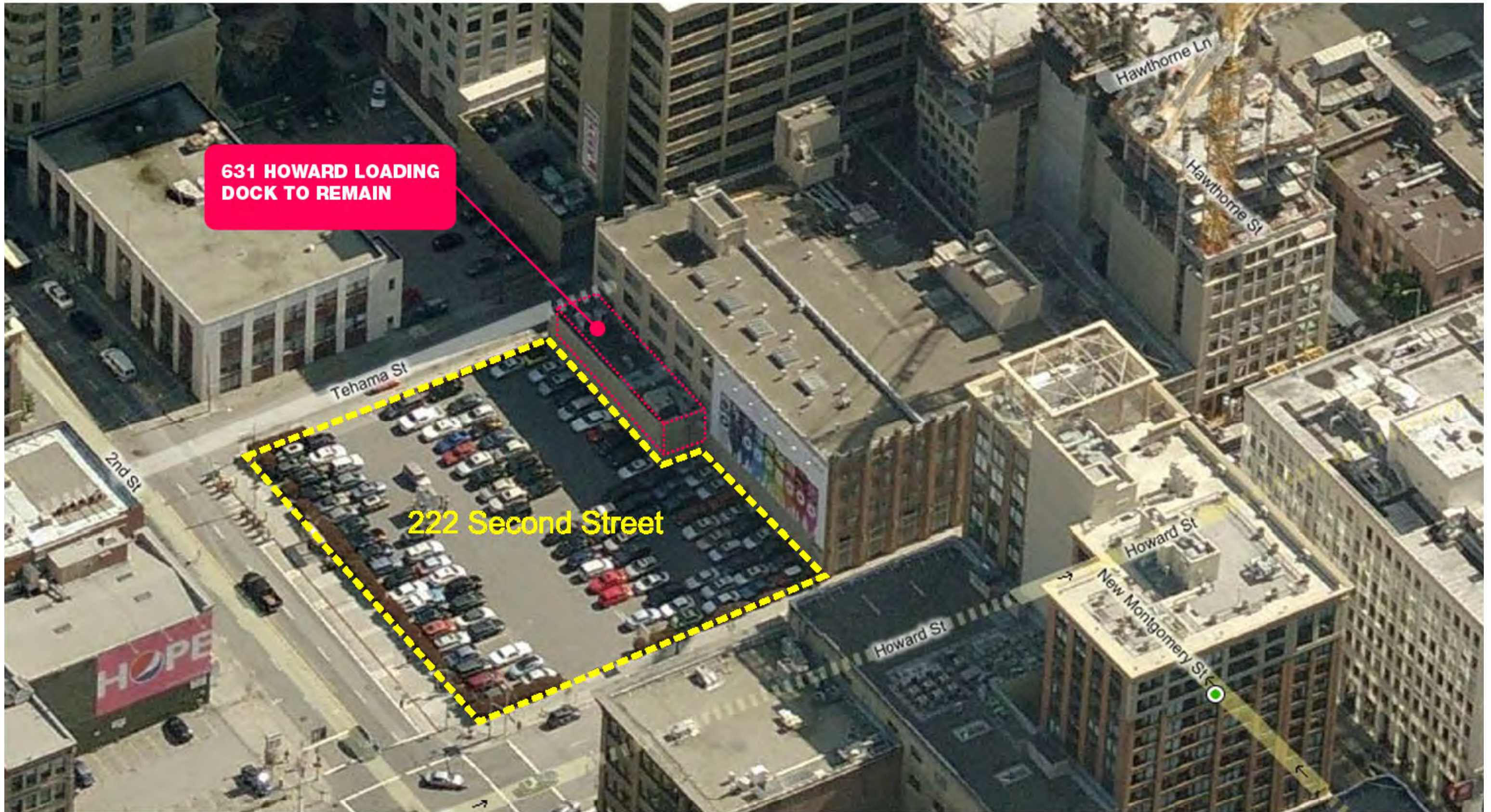
APPROVED SITE



PROPOSED SITE



LOCATION | PLAN VIEW SITE



LOCATION | PLAN VIEW OF SITE

222 SECOND STREET
TISHMAN SPEYER

Gensler | Thomas Phifer and Partners

FEBRUARY 07, 2013



LOCATION | VIEW ON HOWARD STREET LOOKING WEST

222 SECOND STREET
TISHMAN SPEYER

Gensler | Thomas Phifer and Partners

FEBRUARY 07, 2013



LOCATION | VIEW ON 2ND STREET LOOKING SOUTH



LOCATION | VIEW ON 2ND STREET LOOKING NORTH



LOCATION | VIEW ON HOWARD STREET LOOKING EAST

Planning Code Exceptions

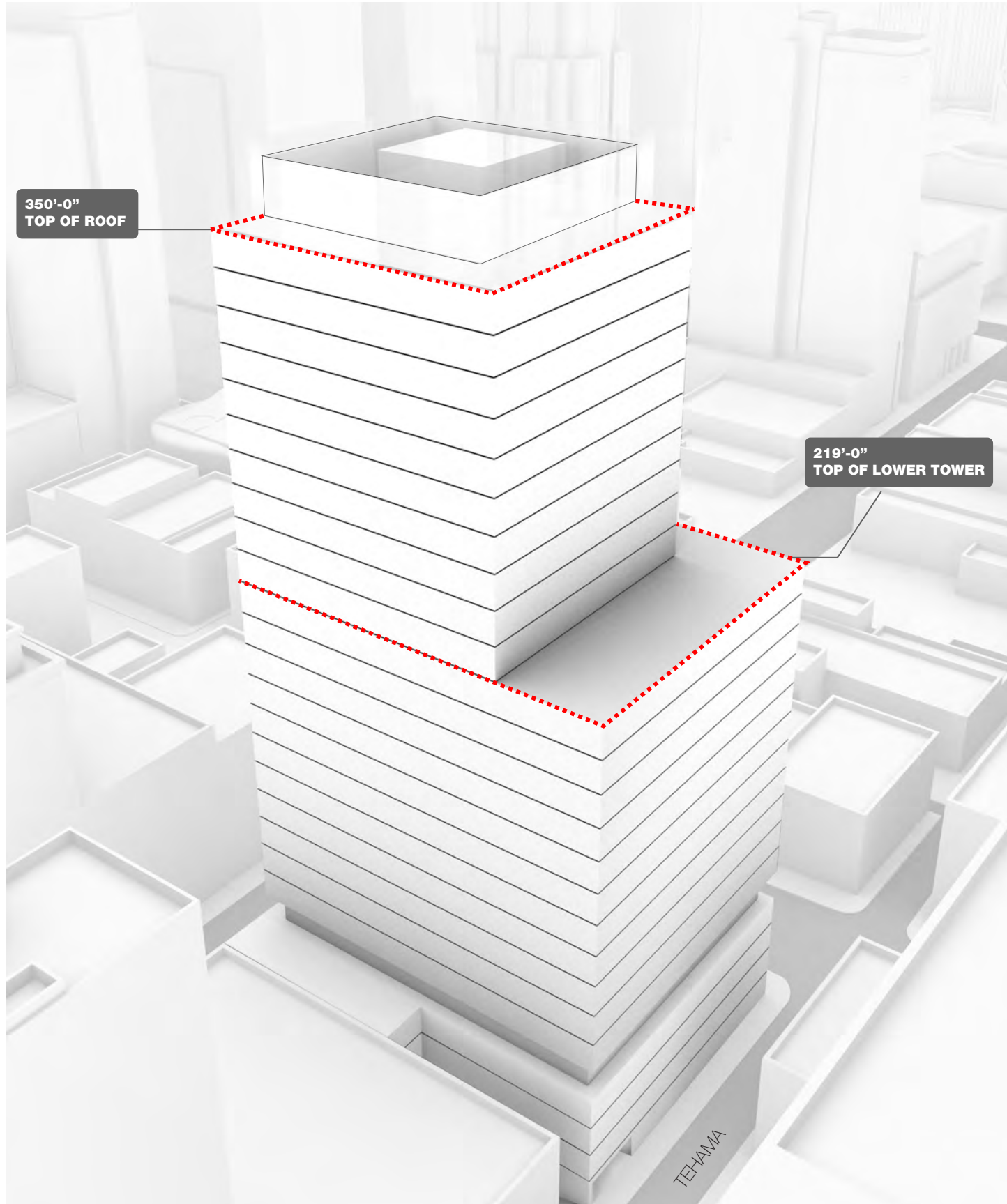
Section 270 - Bulk Limits

Per Section 272 - Bulk Limits: Special exceptions in C-3 Districts. An exception to the bulk limits may be permitted providing that there are adequate compensation for those proportions of the building, structure or development that exceeds the bulk limits by corresponding reduction of other portions below the maximum bulk permitted.

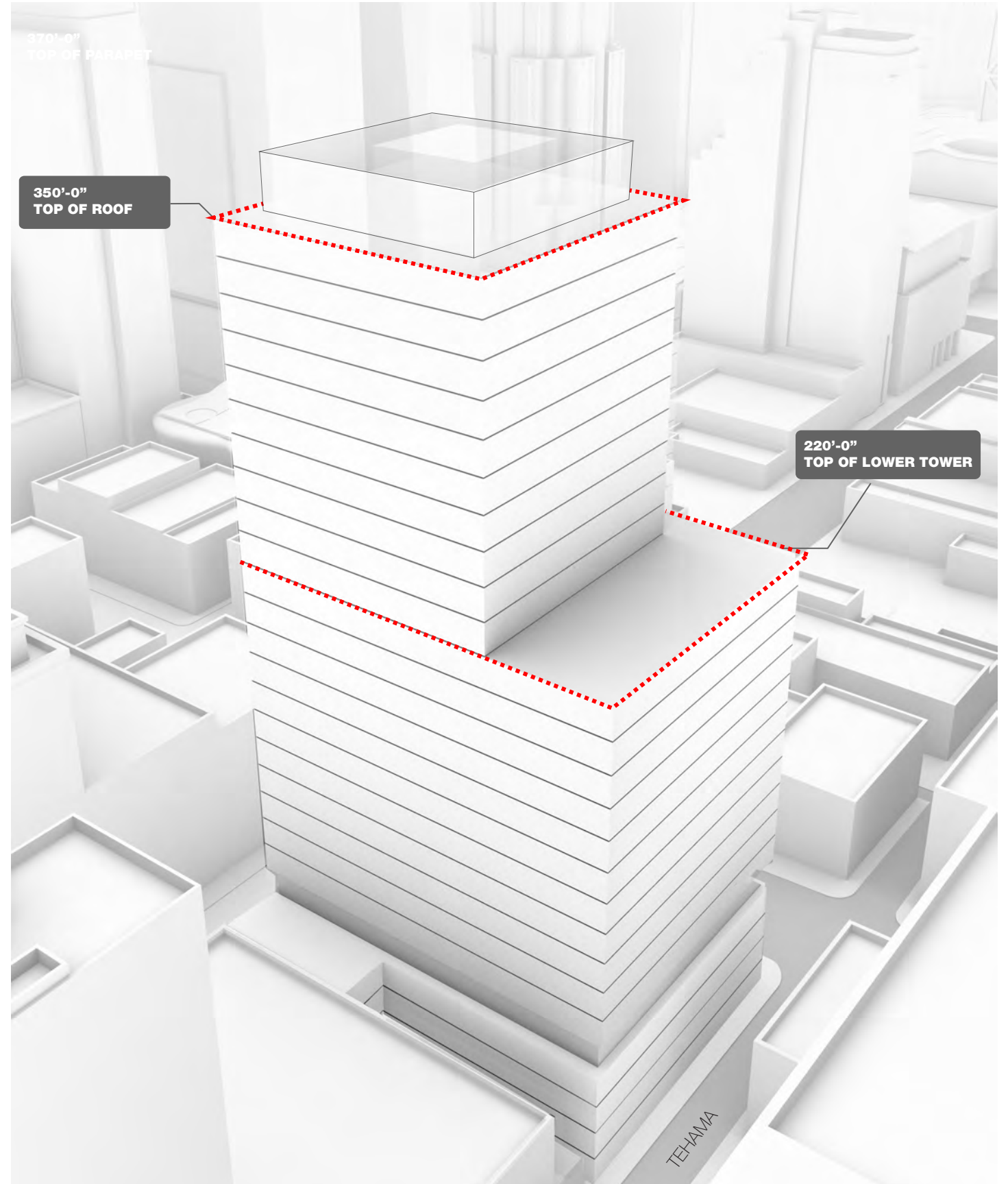
Section 132.1(d)(1) – Separation of Towers

Section 132.1(d)(1) requires that all structures in the S Bulk District be setback from an interior property line. Exceptions may be allowed by the Planning Commission where it is determined that adjacent properties are unlikely to be developed to a height or bulk which would, overall, impair access to light and air or the appearance of separation between buildings, and thereby making full setbacks unnecessary. **An exception is specifically provided for for development lots abutting preservation lots that have transferred all potential development rights according to the procedures of Section 128.**

APPROVED MASSING



PROPOSED MASSING



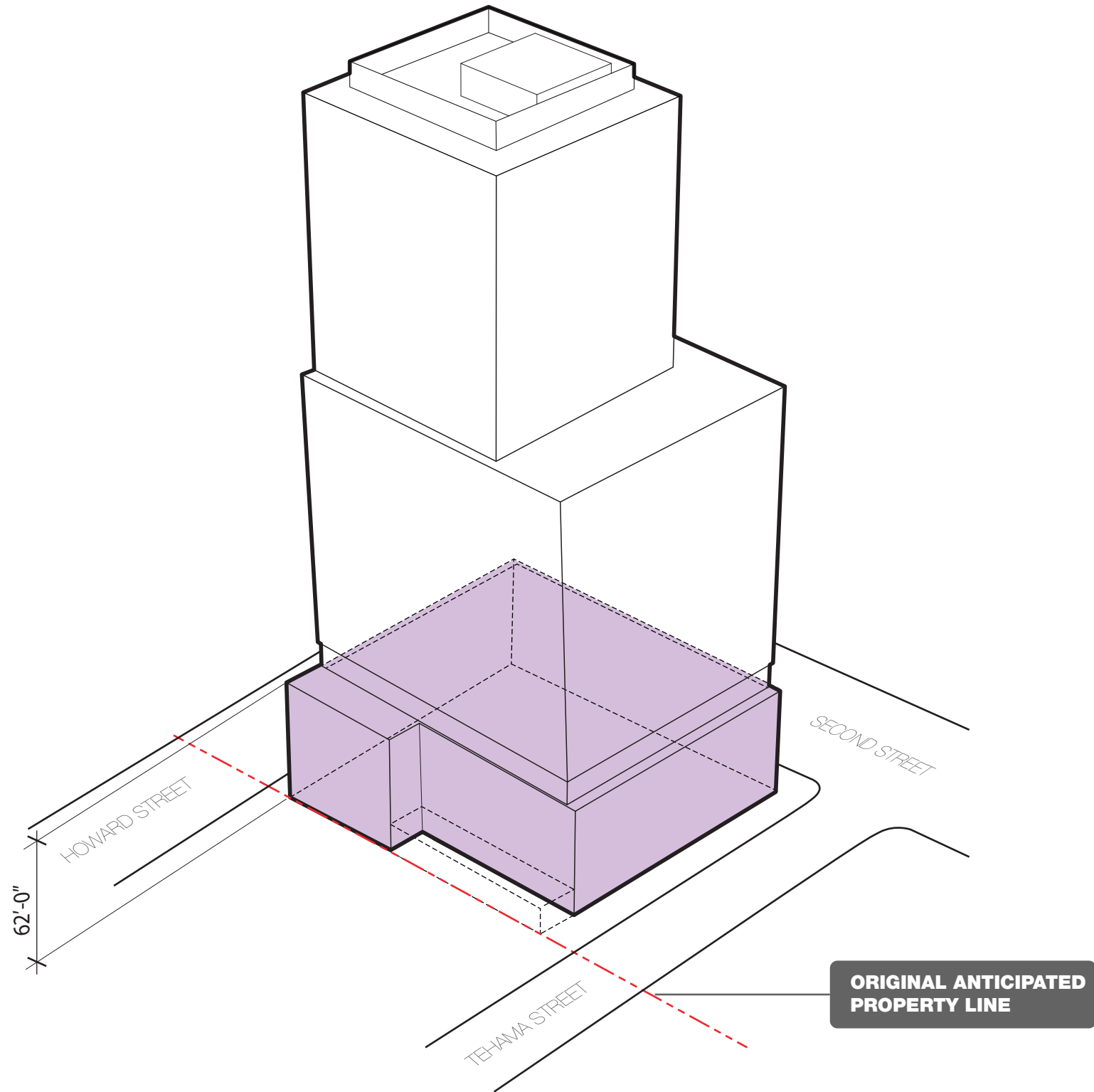
MASSING | AERIAL VIEW FROM SOUTHWEST CORNER

222 SECOND STREET
TISHMAN SPEYER

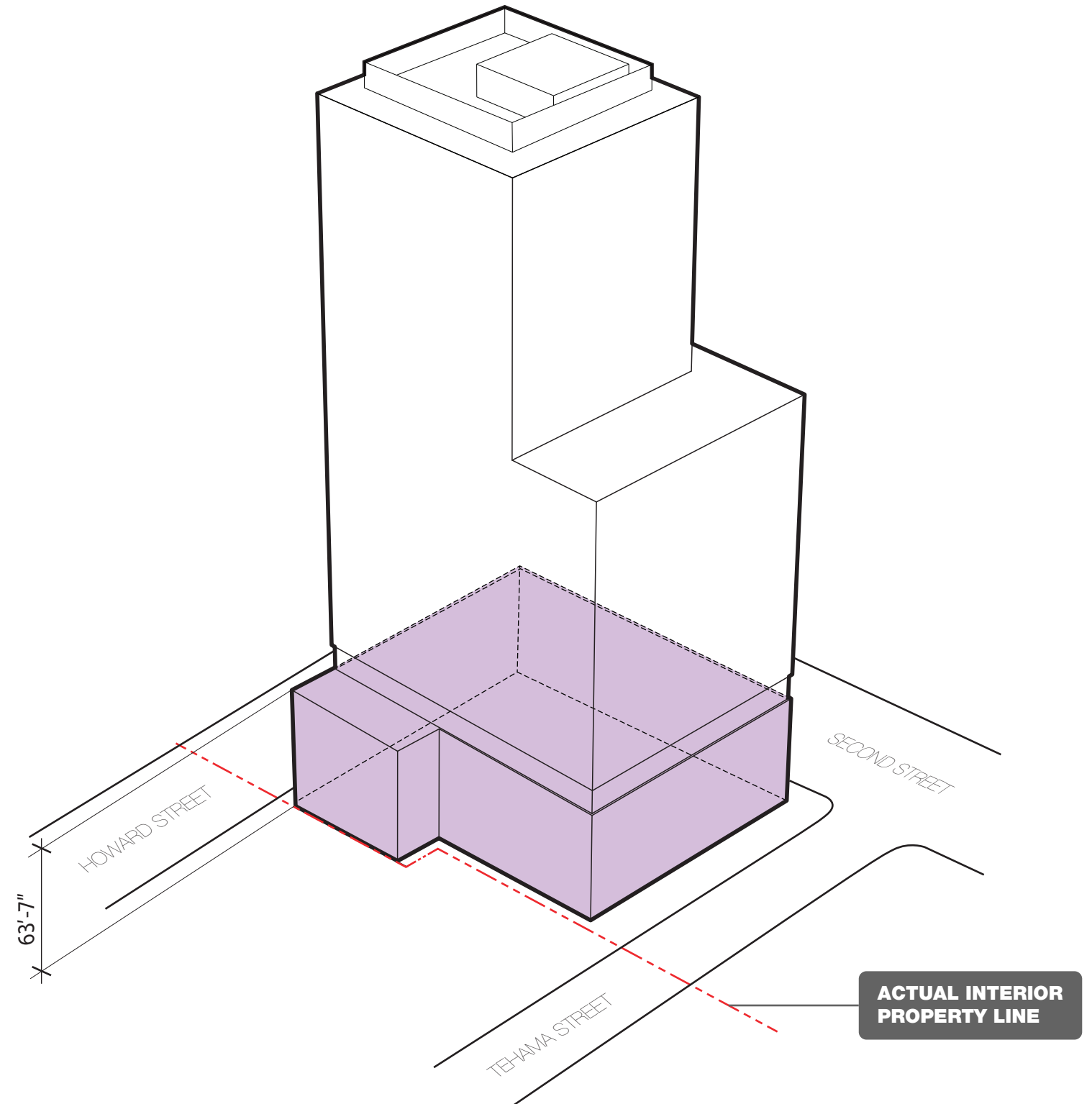
Gensler | Thomas Phifer and Partners

FEBRUARY 07, 2013

APPROVED MASSING

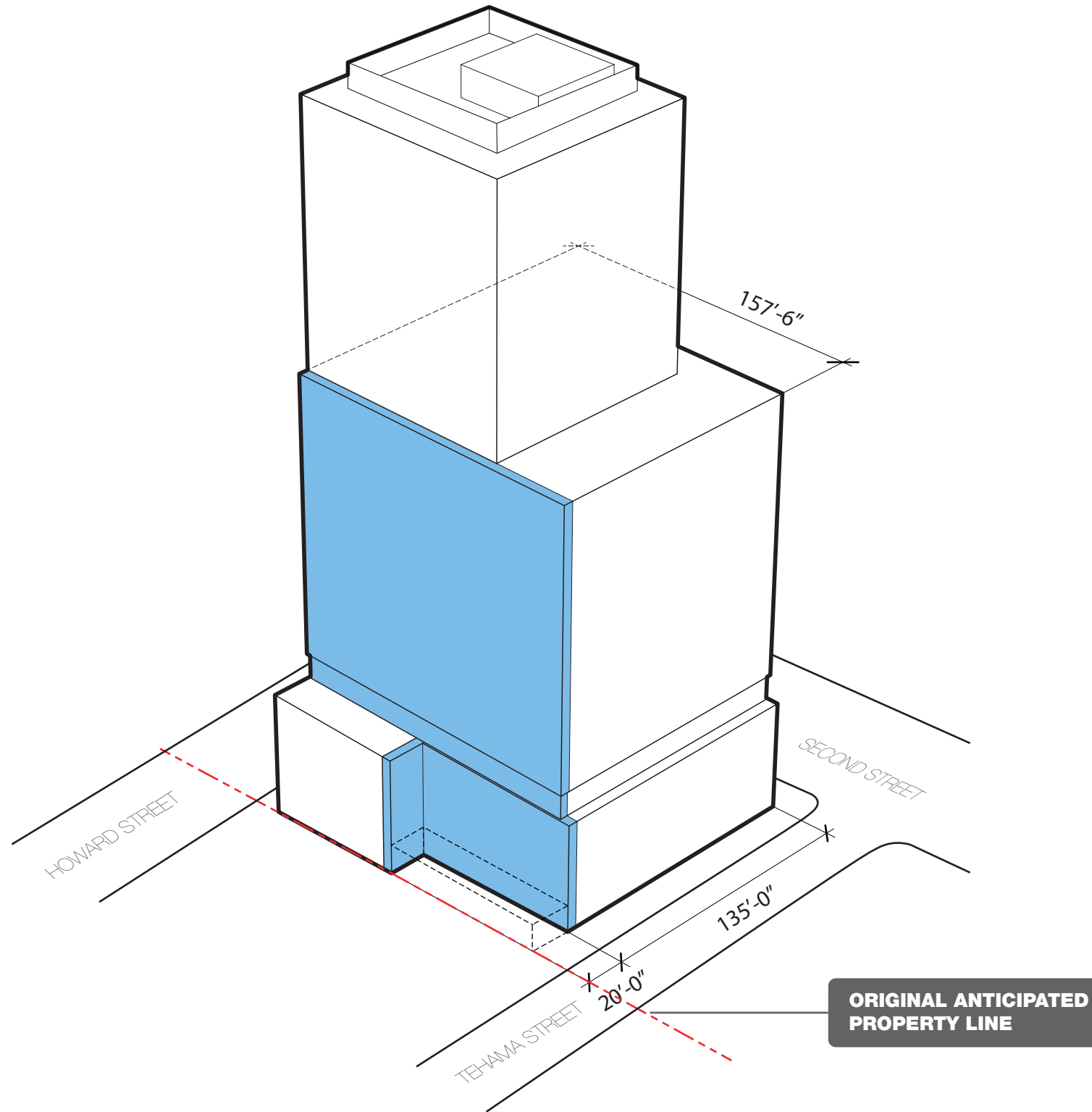


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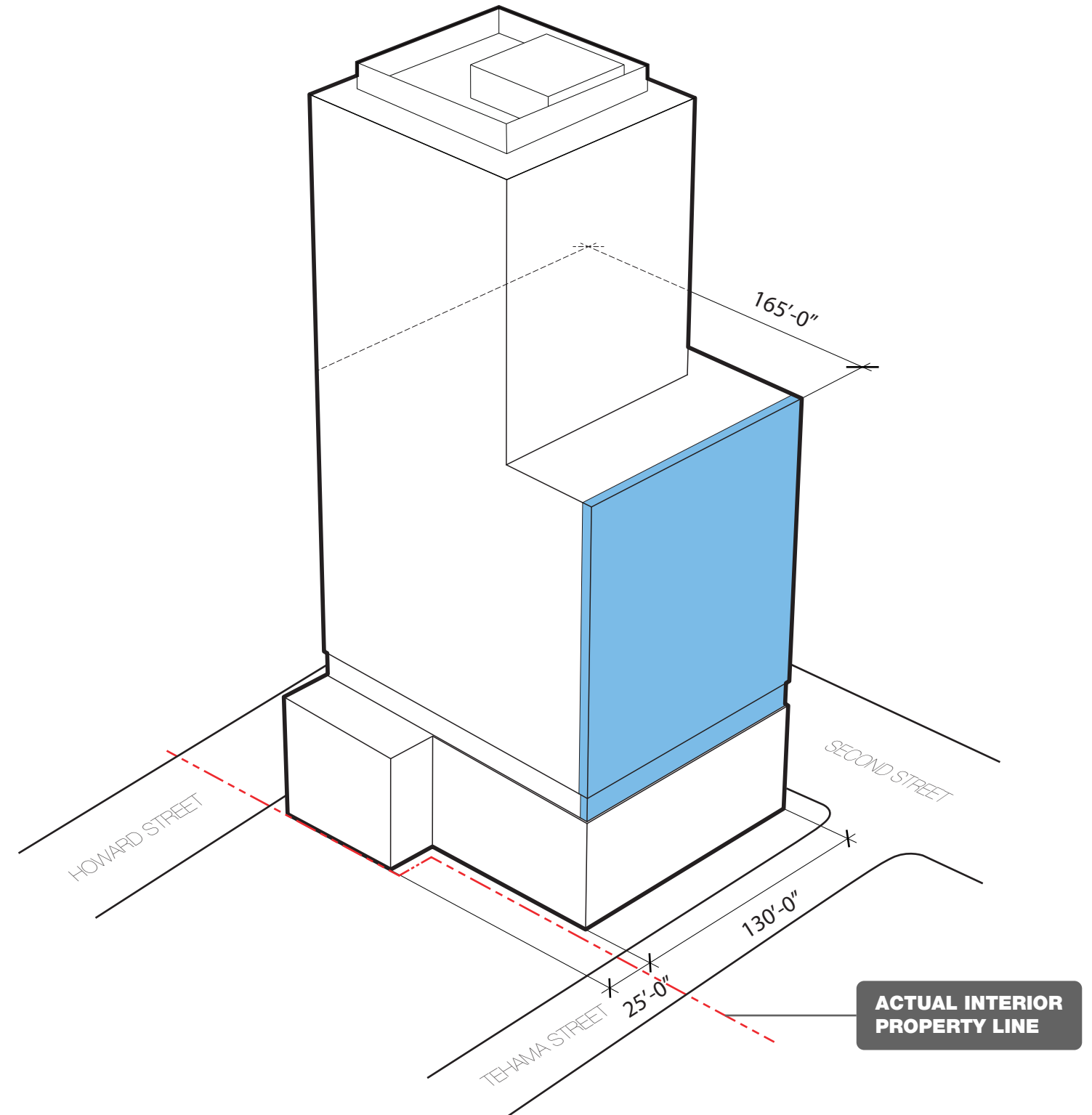


ZONING COMPLIANCE | BASE

APPROVED MASSING

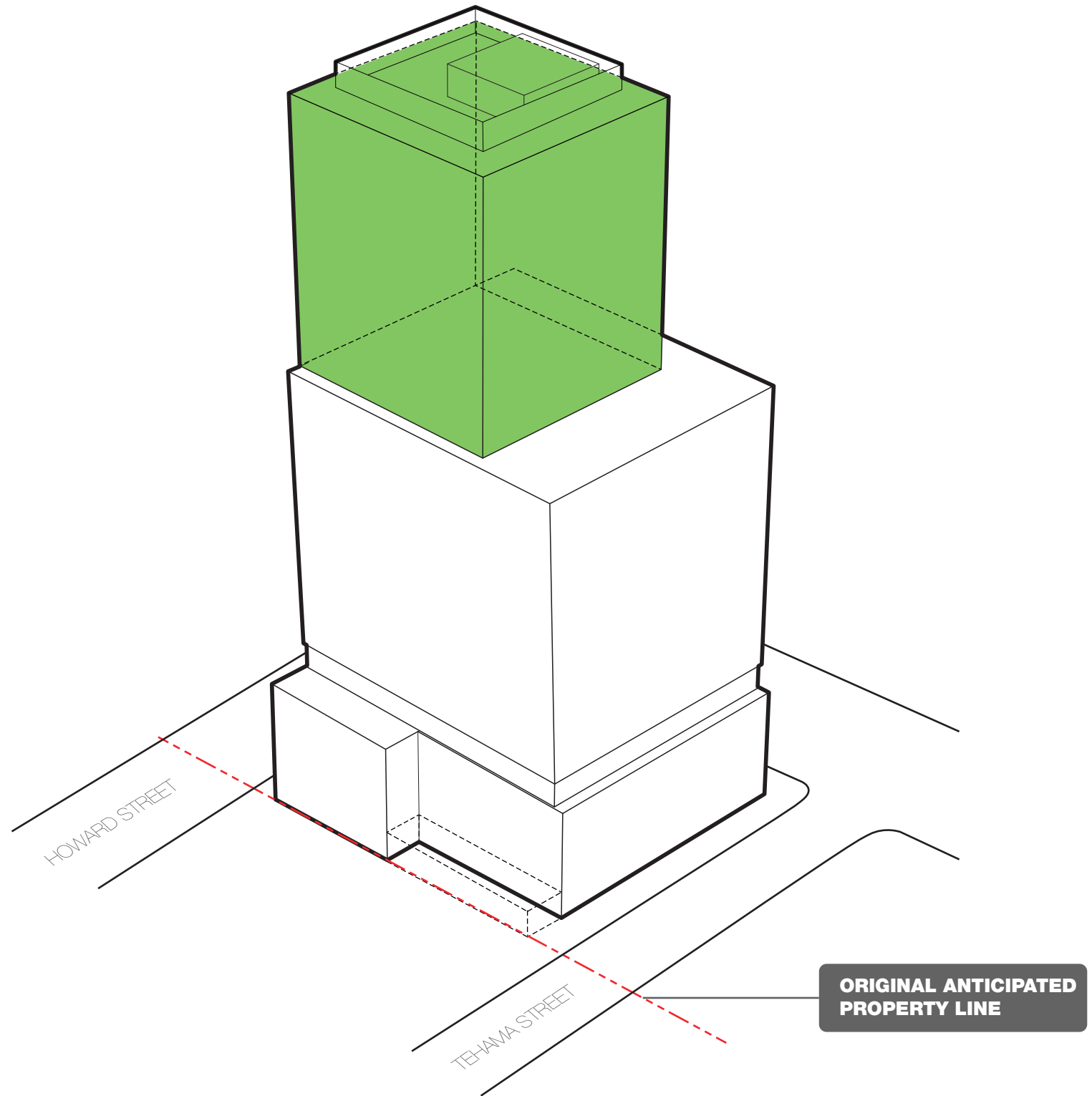


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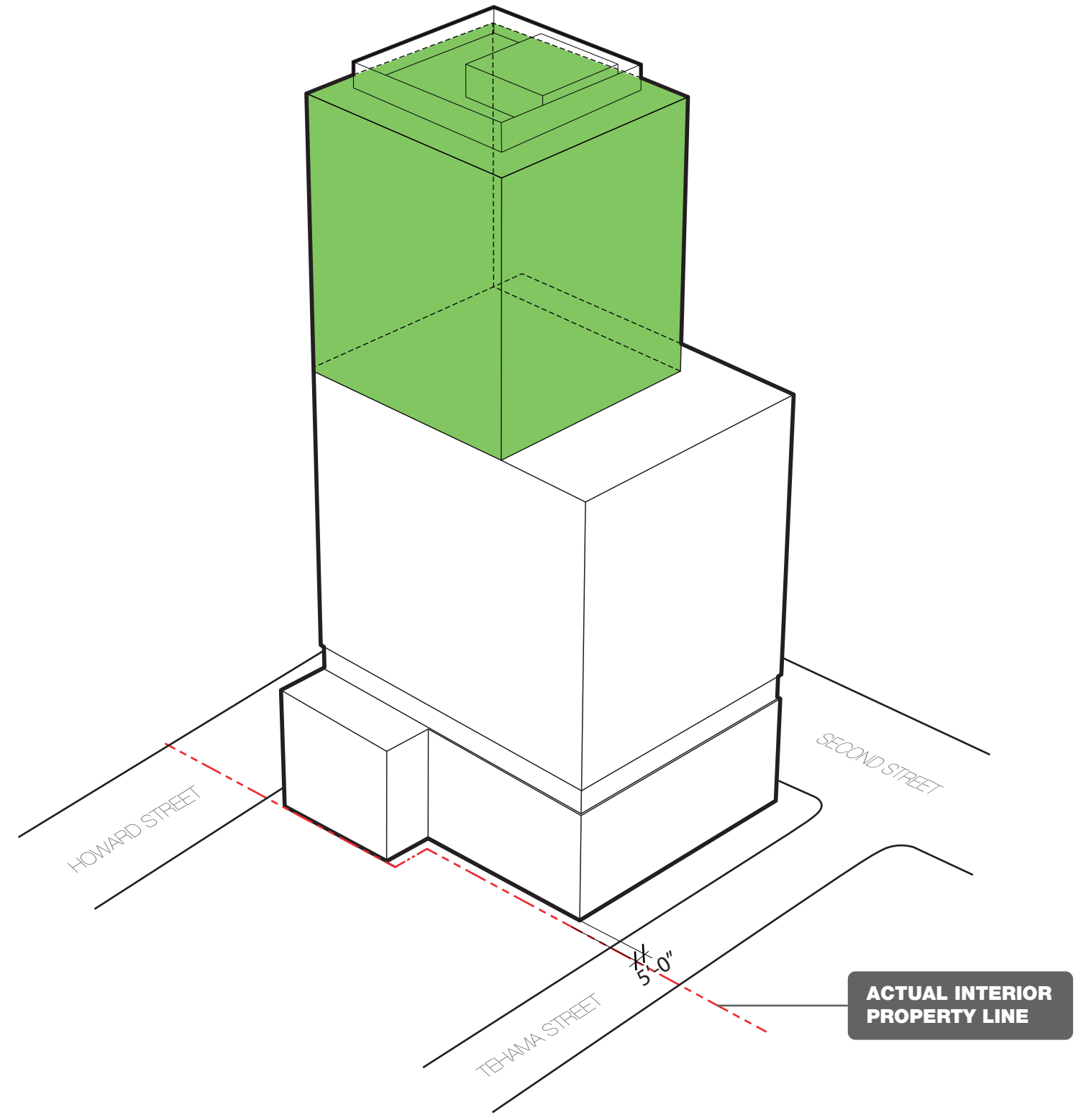


ZONING COMPLIANCE | COMPENSATING VOLUME

APPROVED MASSING

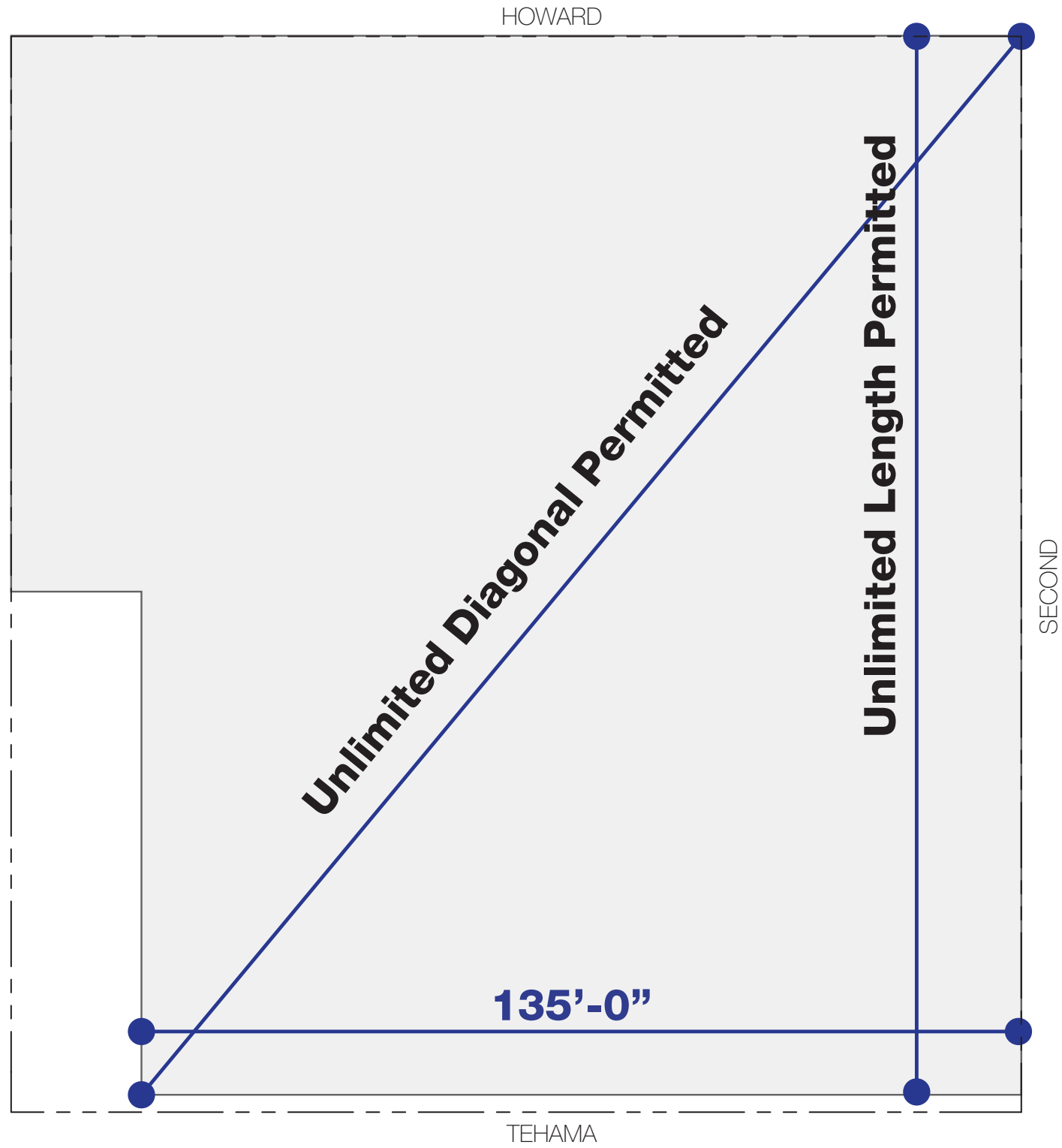


PROPOSED MASSING

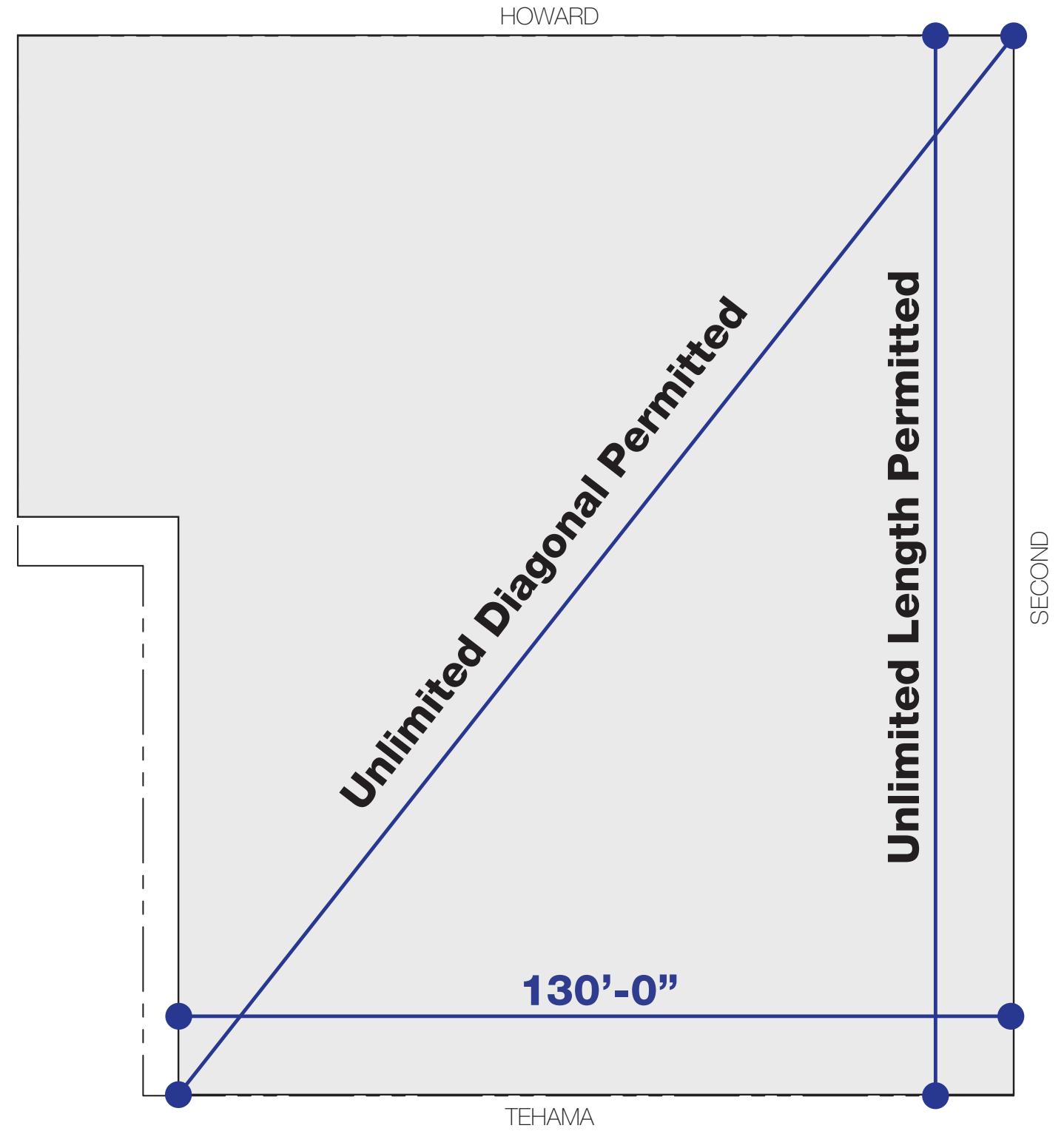


ZONING COMPLIANCE | UPPER TOWER

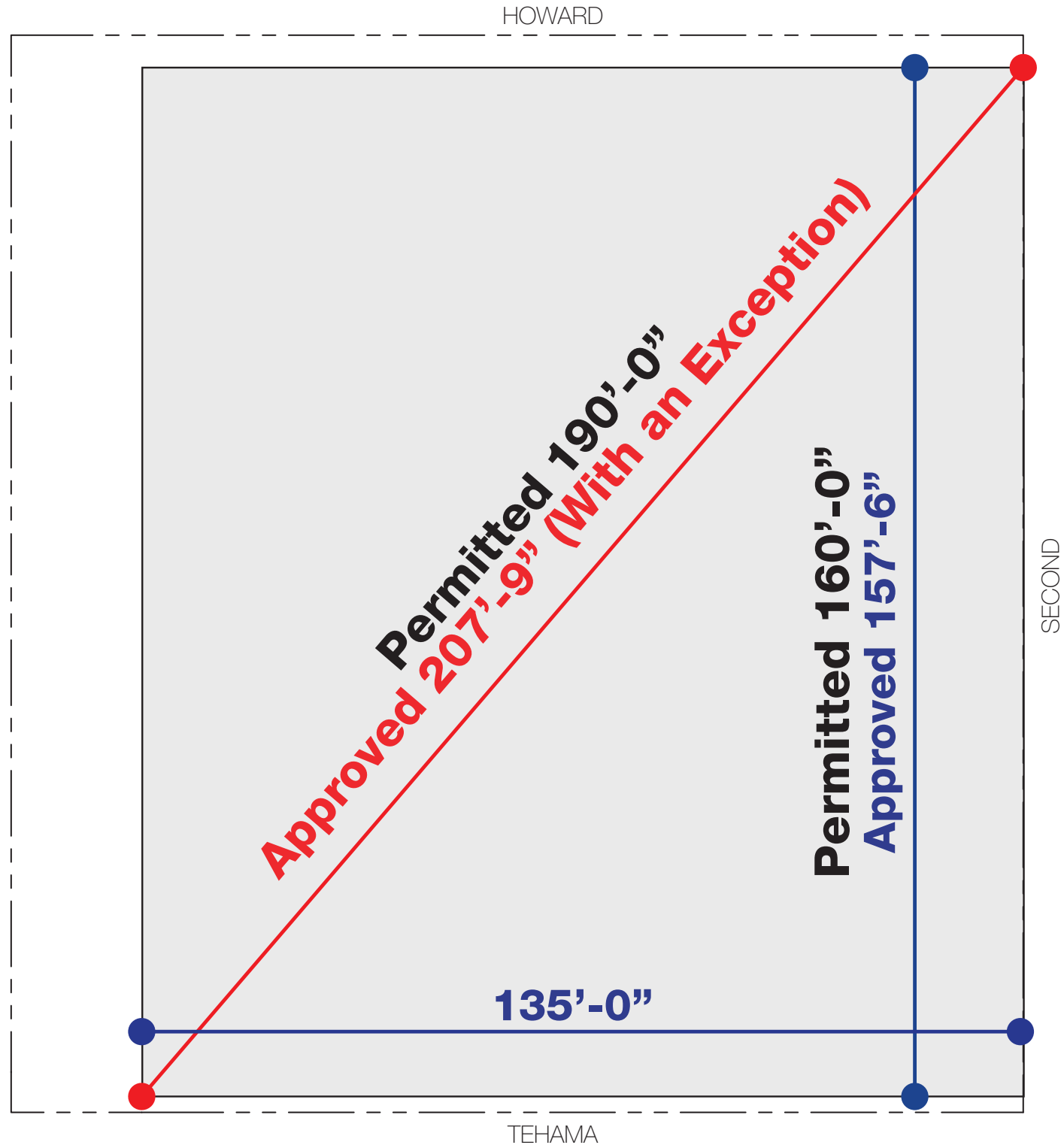
APPROVED LEVELS 02-04



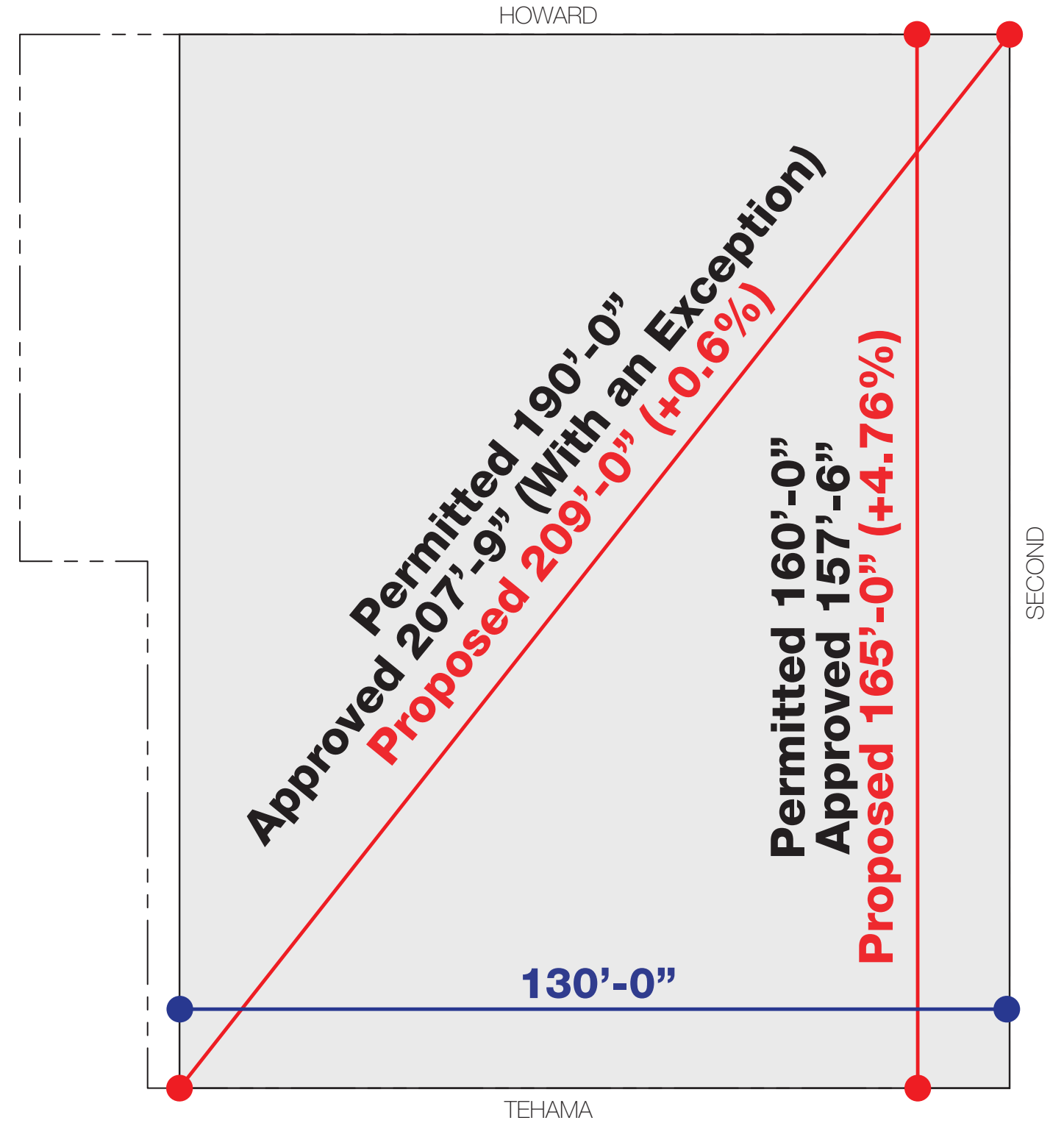
PROPOSED LEVELS 02-04



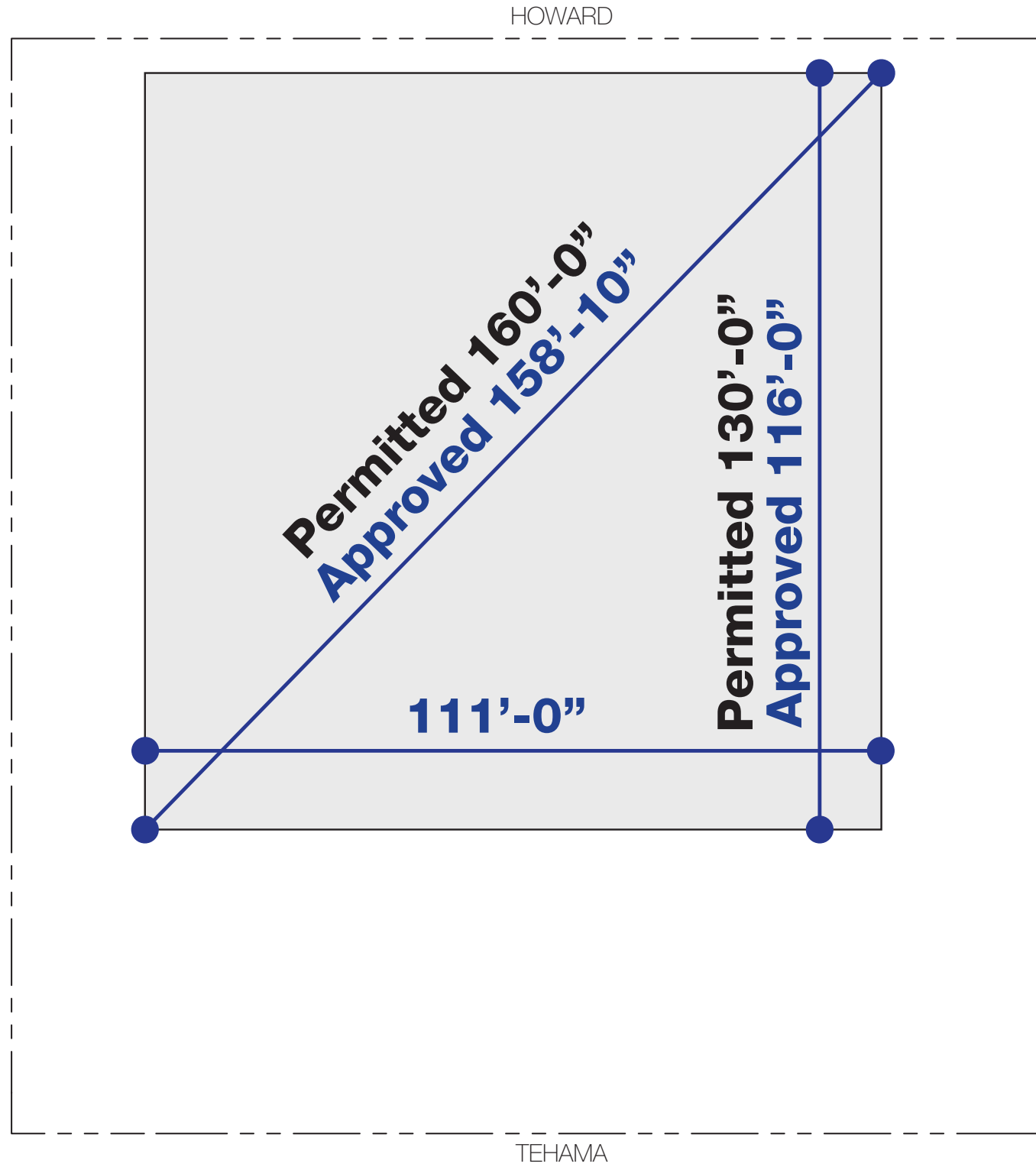
APPROVED LEVELS 05-16



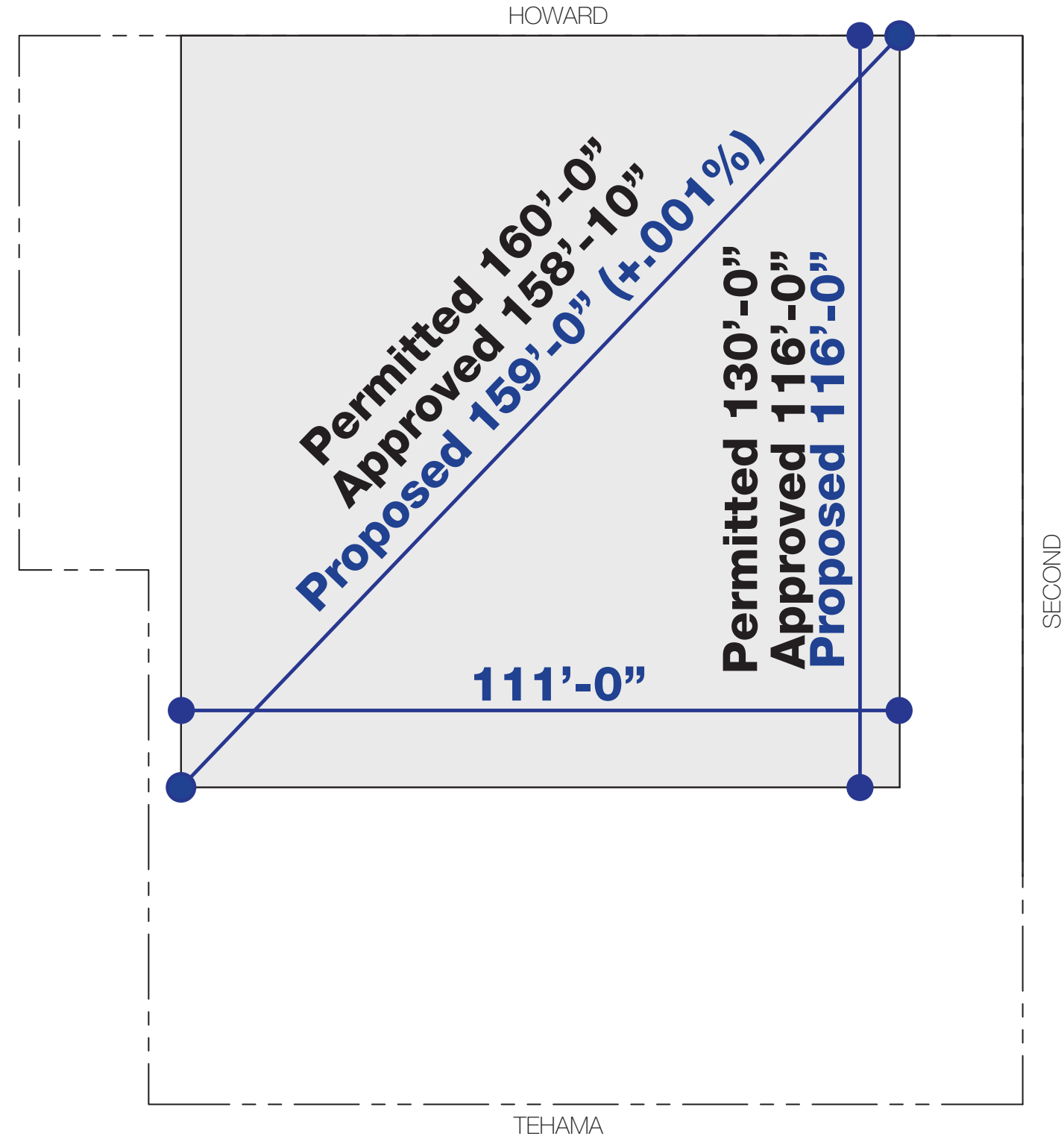
PROPOSED LEVELS 05-16



APPROVED LEVELS 17-26



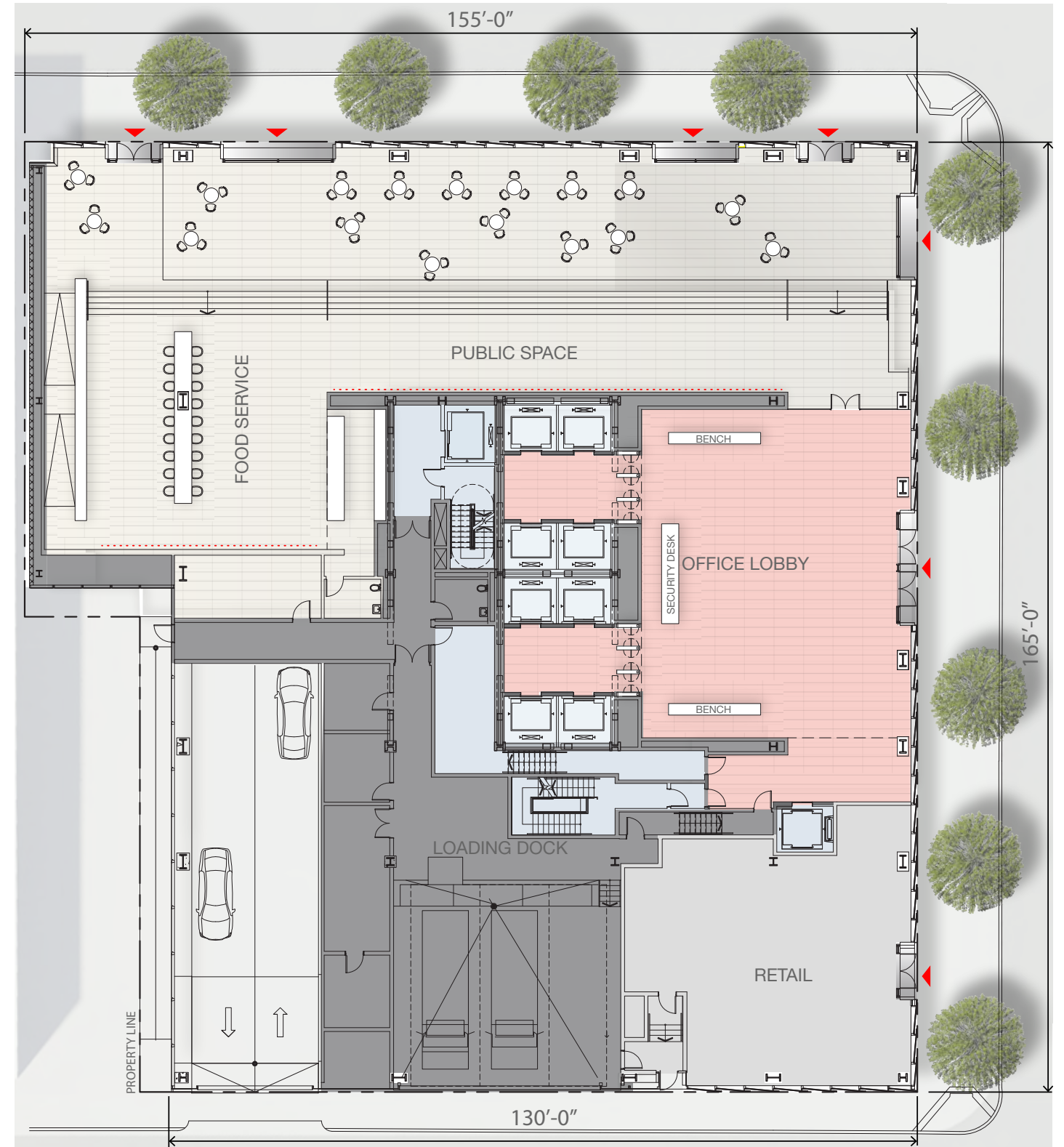
PROPOSED LEVELS 17-26



APPROVED GROUND FLOOR

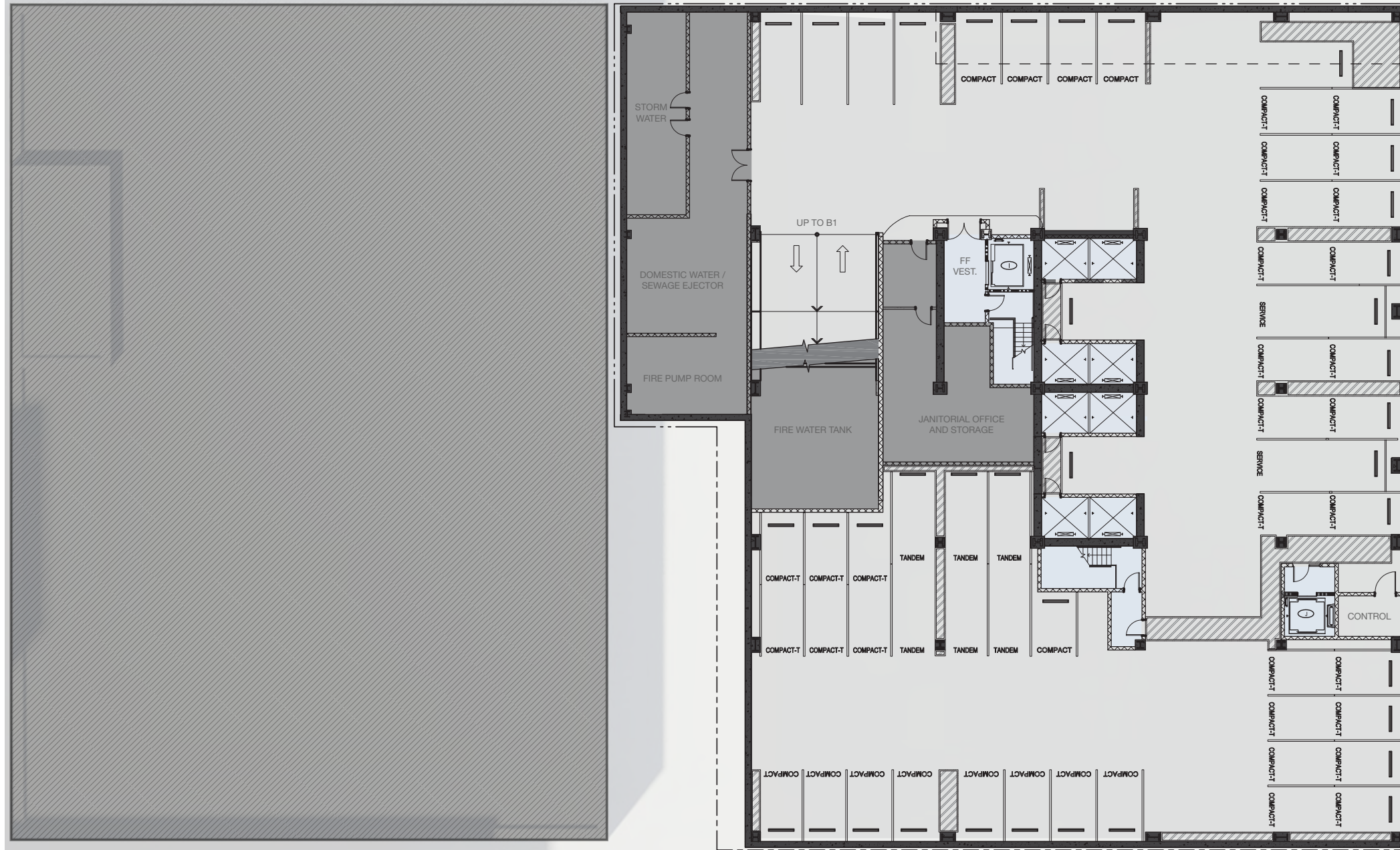


PROPOSED GROUND FLOOR



PLAN | GROUND FLOOR PLAN

HOWARD STREET

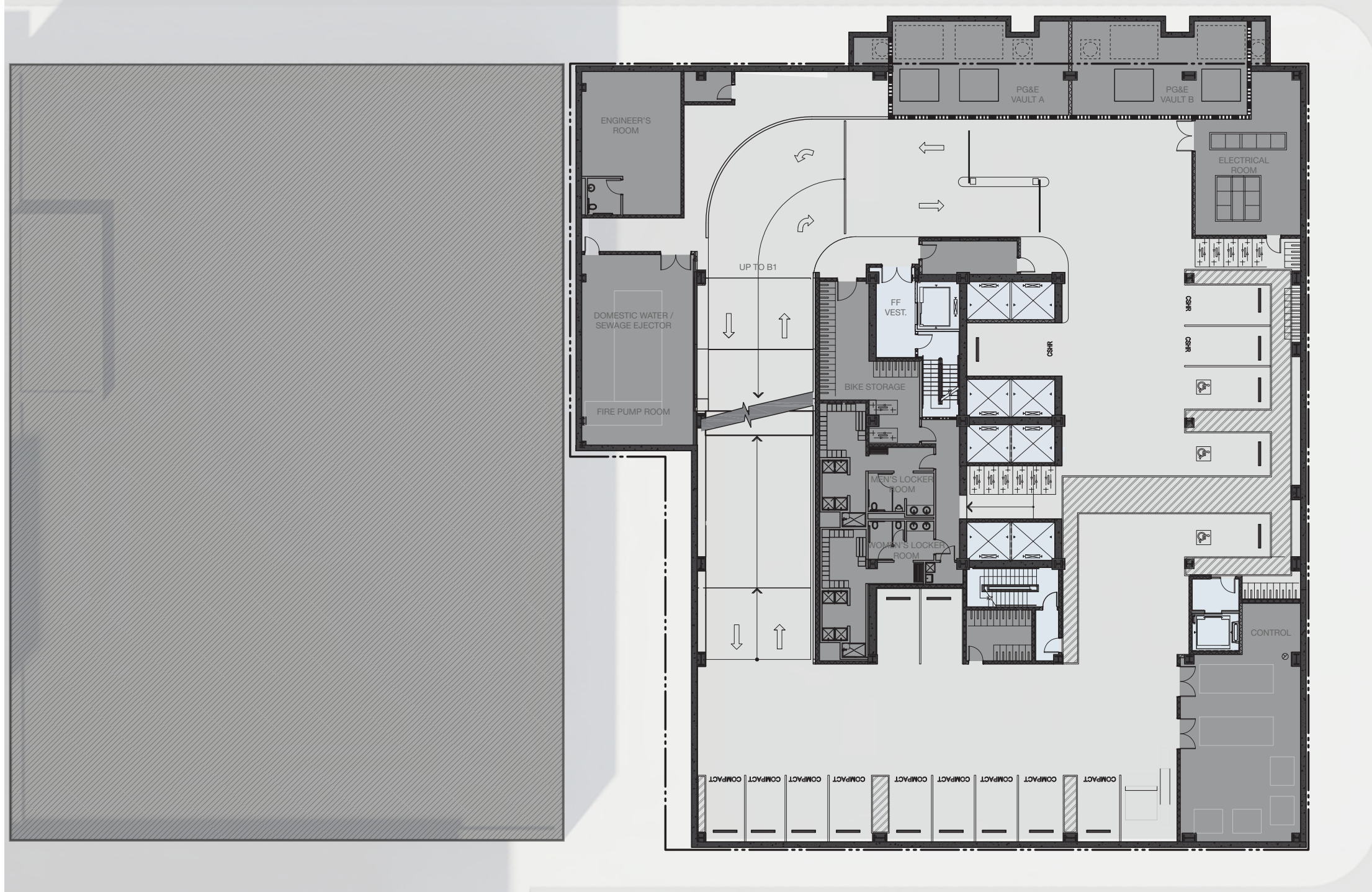


SECOND STREET

TEHAMA STREET

PLAN | PROPOSED BASEMENT LEVEL 02

HOWARD STREET



SECOND STREET

TEHAMA STREET

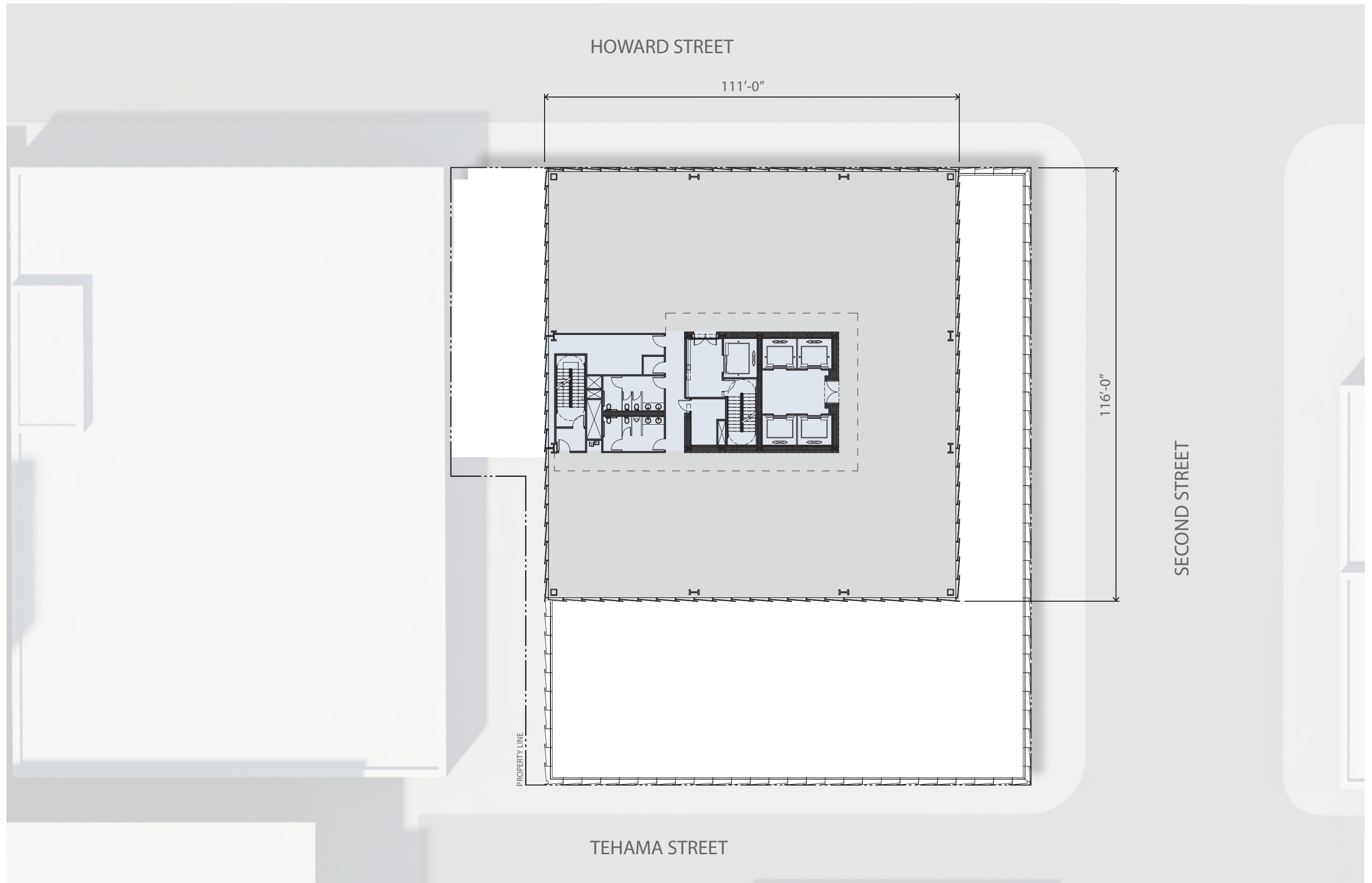
PLAN | PROPOSED BASEMENT LEVEL 01



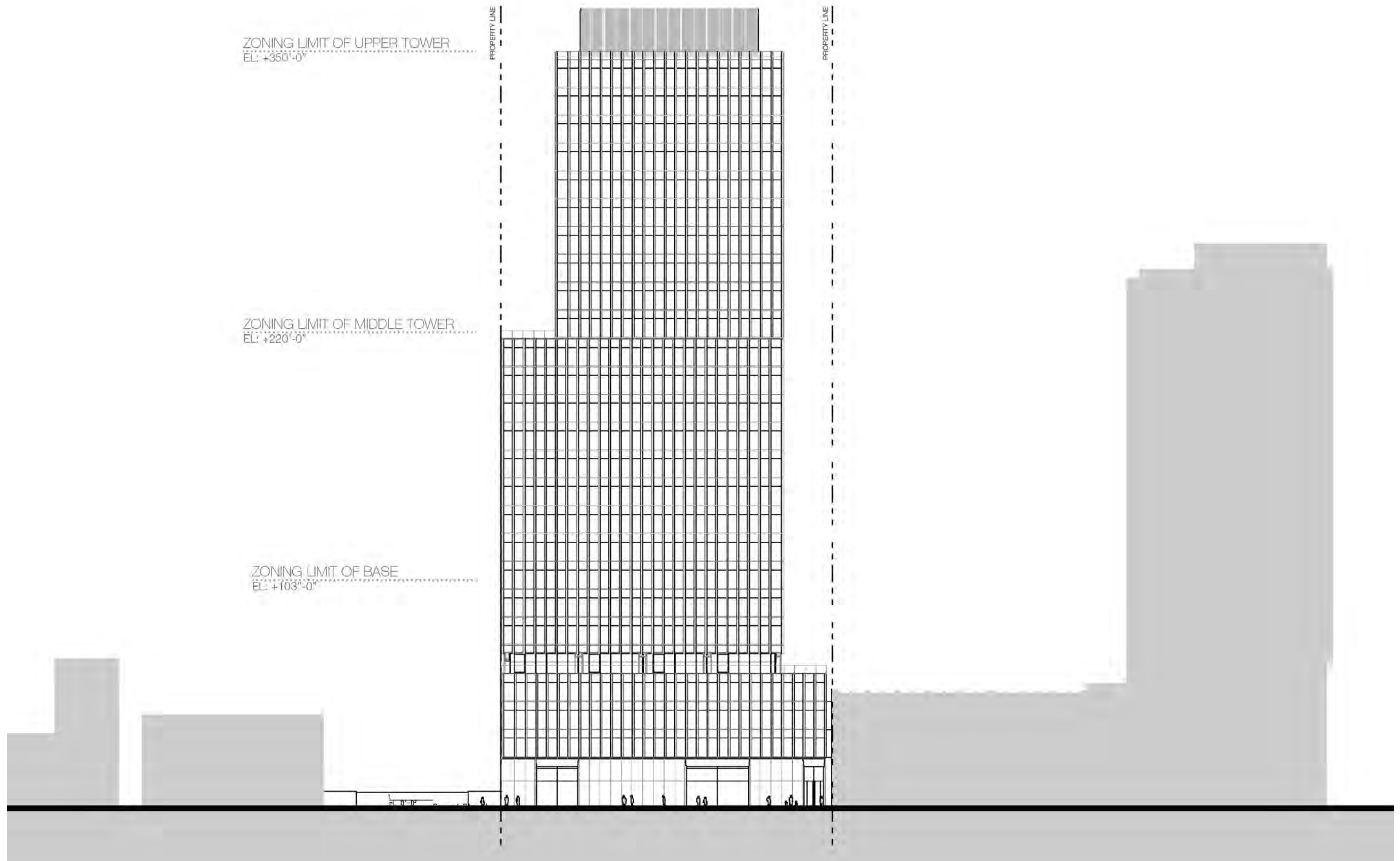
PLAN | PROPOSED BASE FLOOR PLAN - LEVELS 02-04



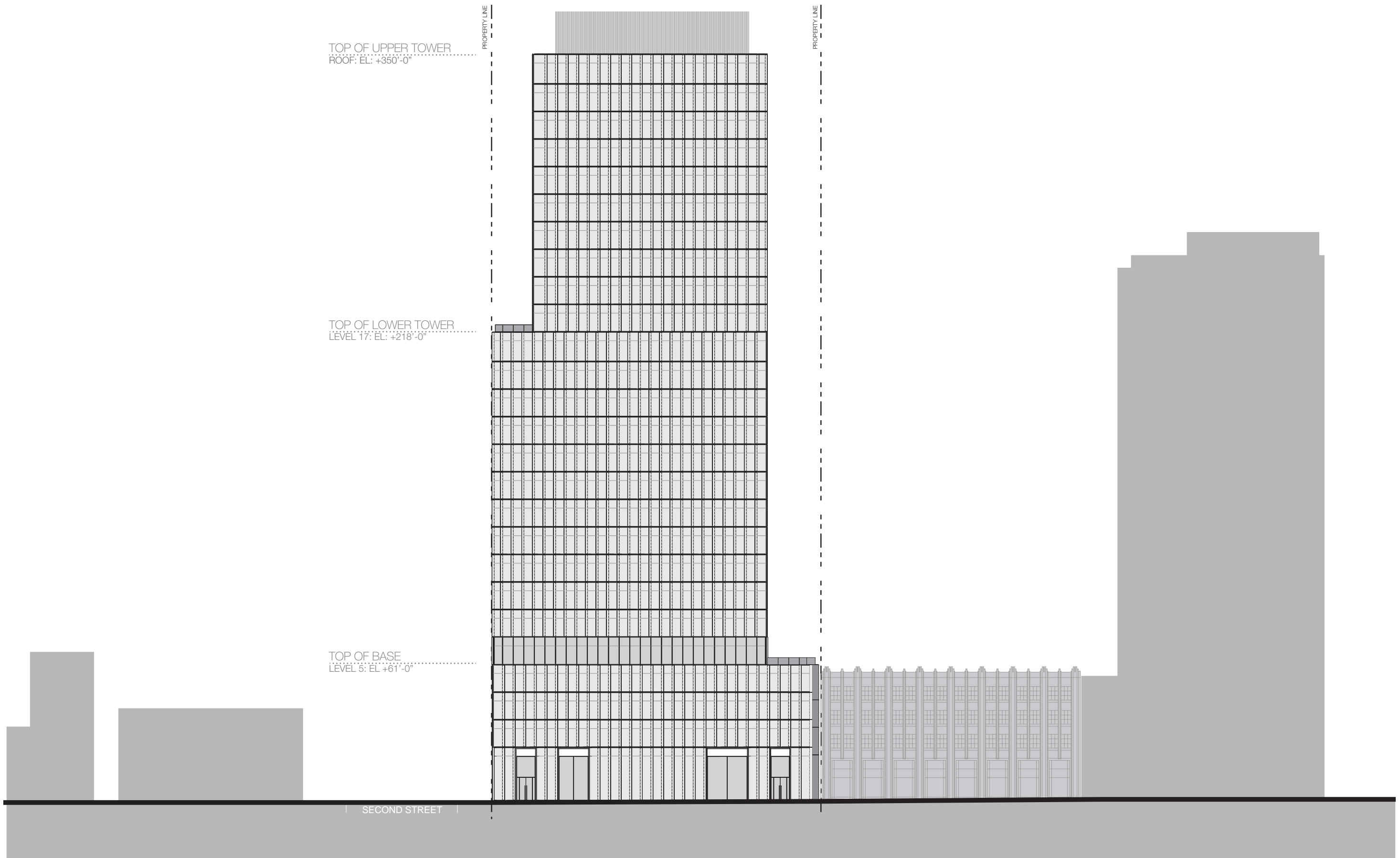
PLAN | PROPOSED TYPICAL LOWER TOWER FLOOR PLAN - LEVELS 06-16



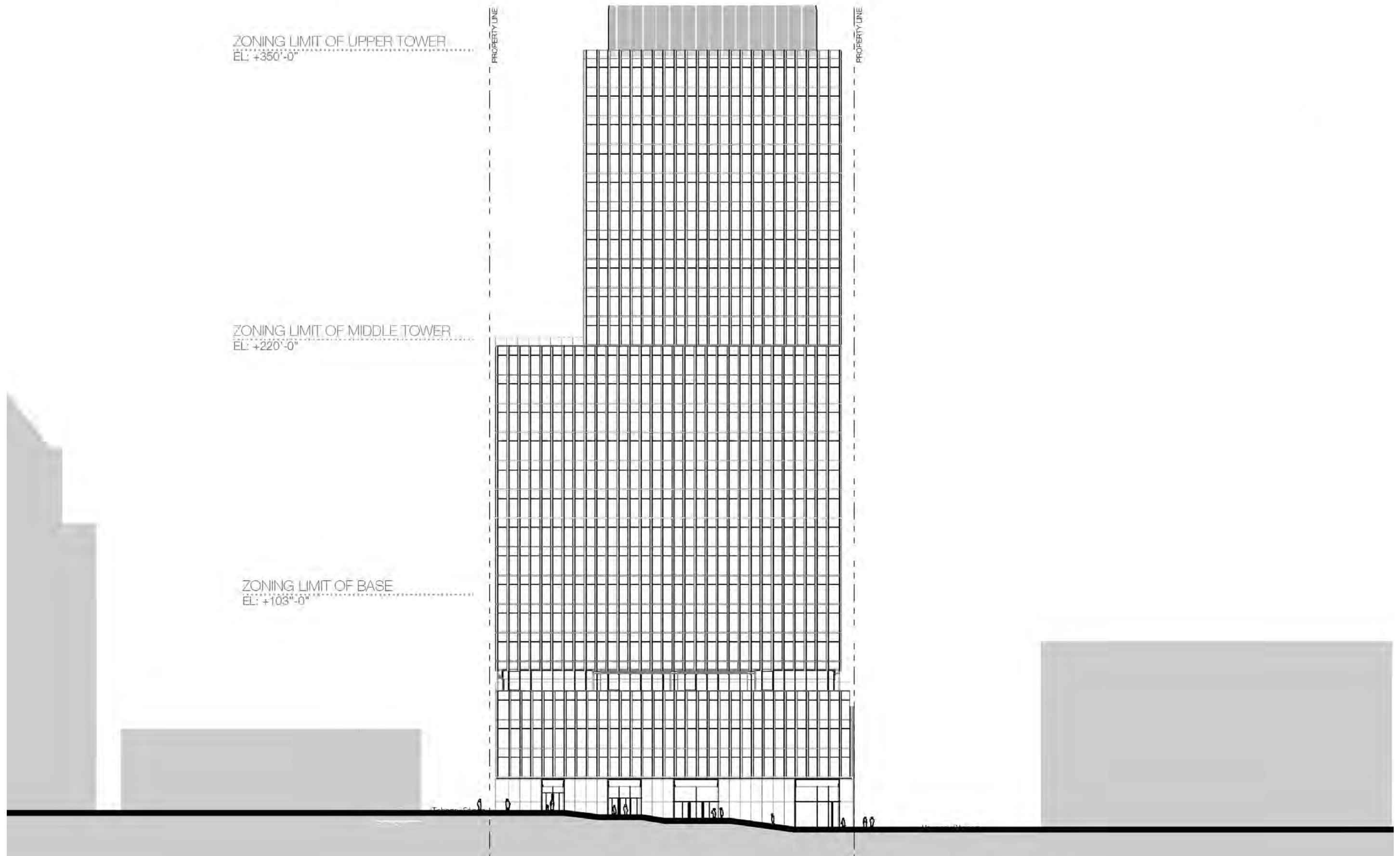
PLAN | PROPOSED TYPICAL UPPER TOWER FLOOR PLAN - LEVELS 17-26



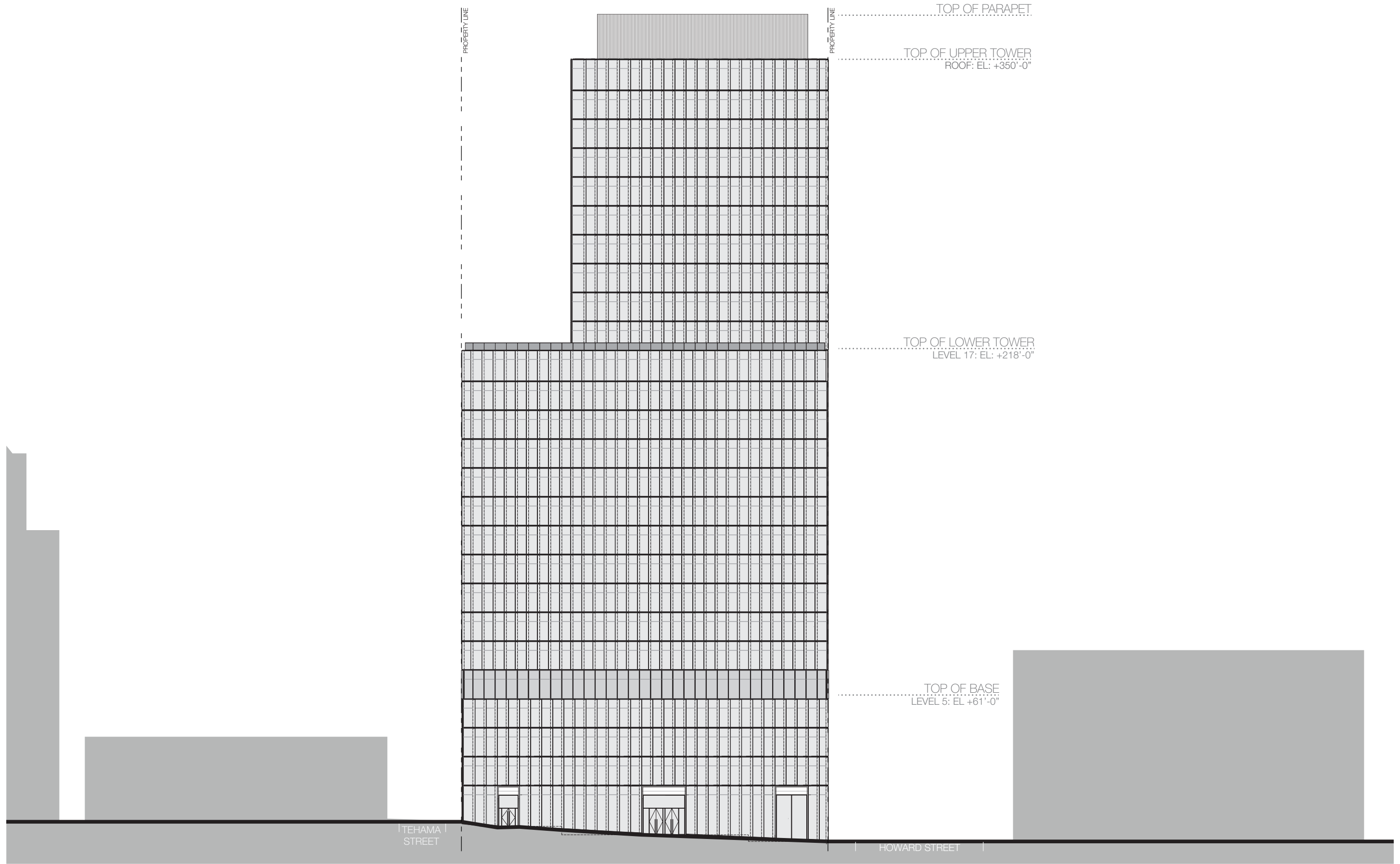
ELEVATION | HOWARD STREET | NORTH ELEVATION - APPROVED DESIGN



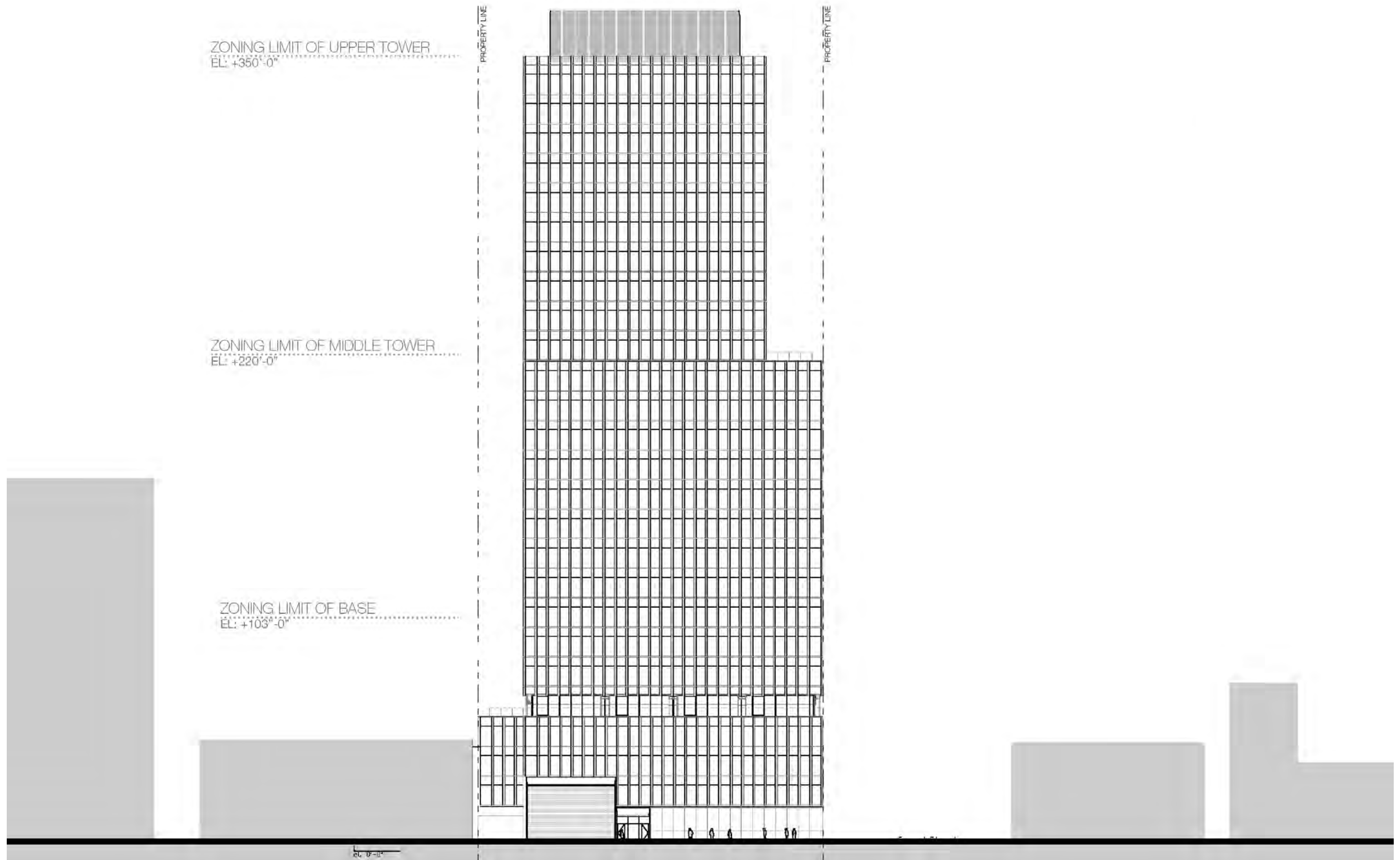
ELEVATION | HOWARD STREET | NORTH ELEVATION - PROPOSED DESIGN



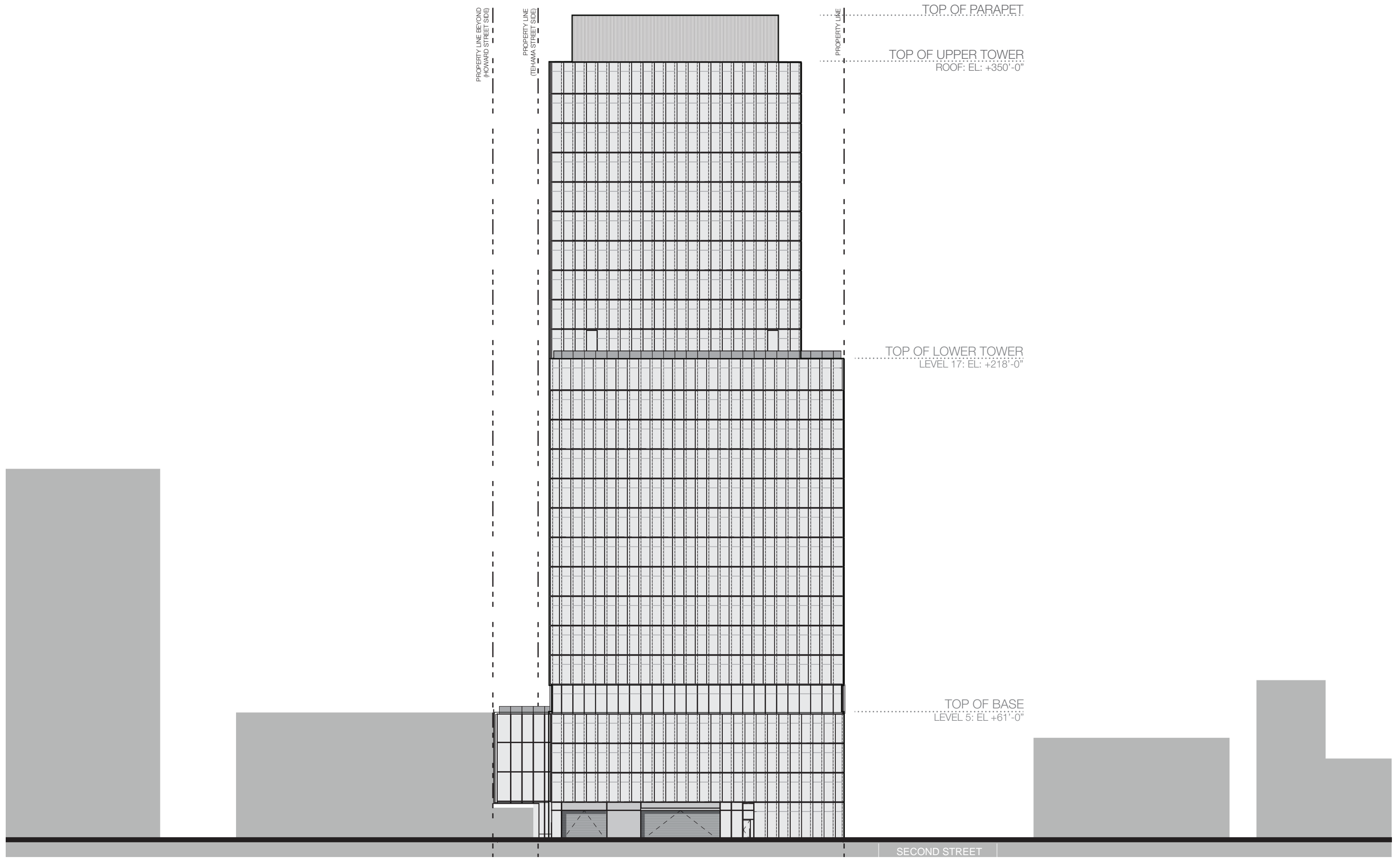
ELEVATION | SECOND STREET | EAST ELEVATION - APPROVED DESIGN



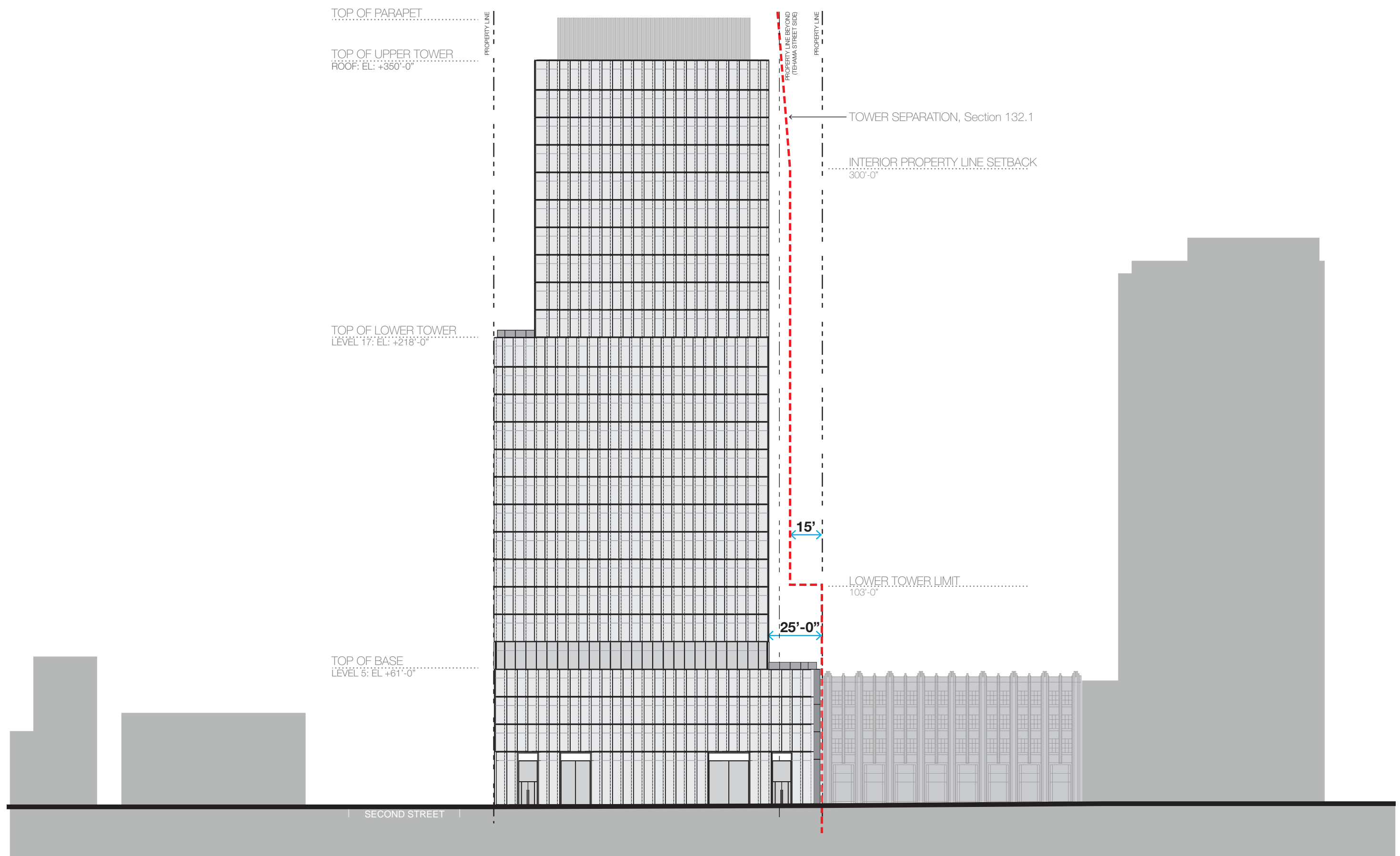
ELEVATION | SECOND STREET | EAST ELEVATION - PROPOSED DESIGN



ELEVATION | TEHAMA STREET | SOUTH ELEVATION - APPROVED DESIGN



ELEVATION | TEHAMA STREET | SOUTH ELEVATION - PROPOSED DESIGN

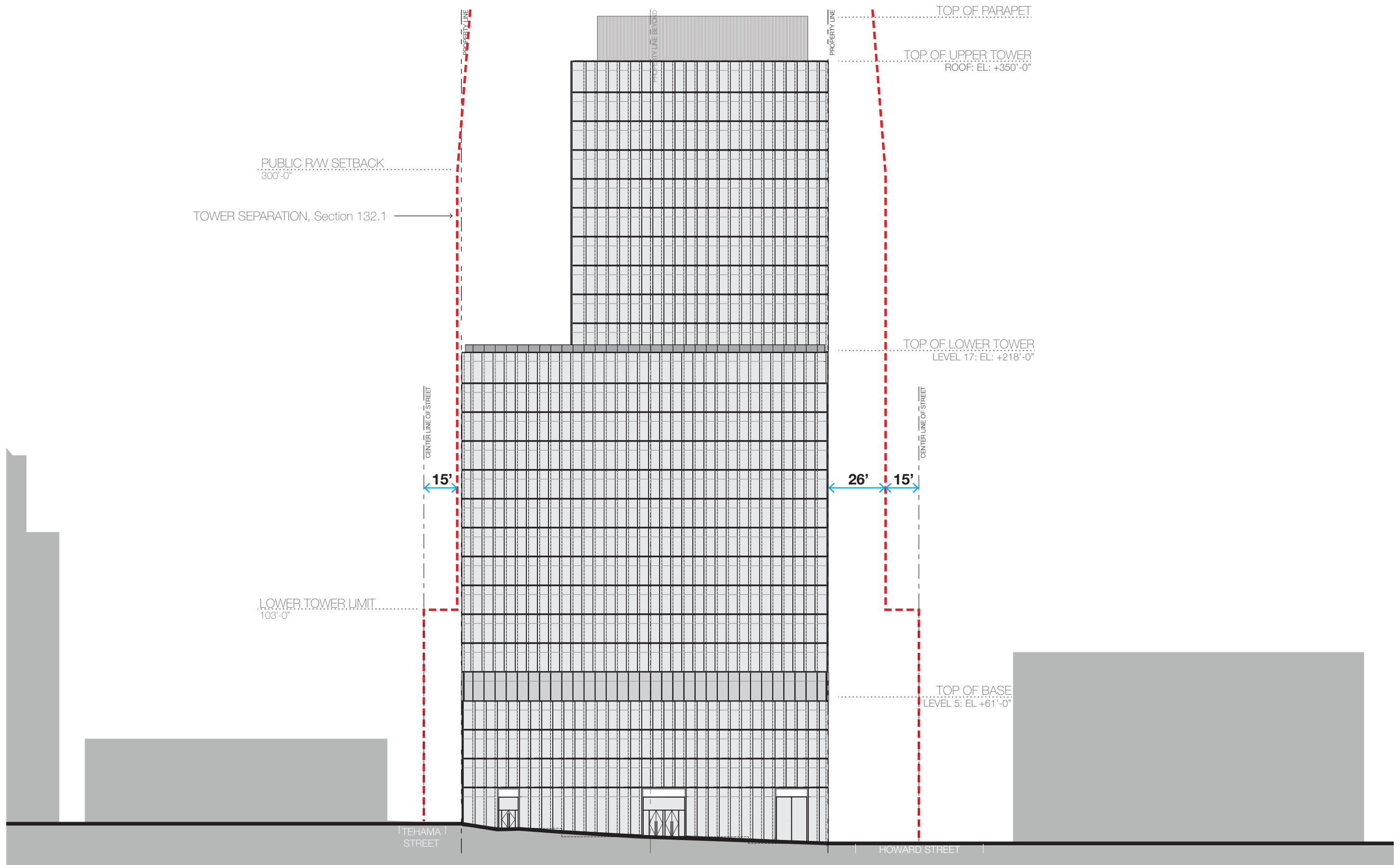


ELEVATION | HOWARD STREET SETBACK

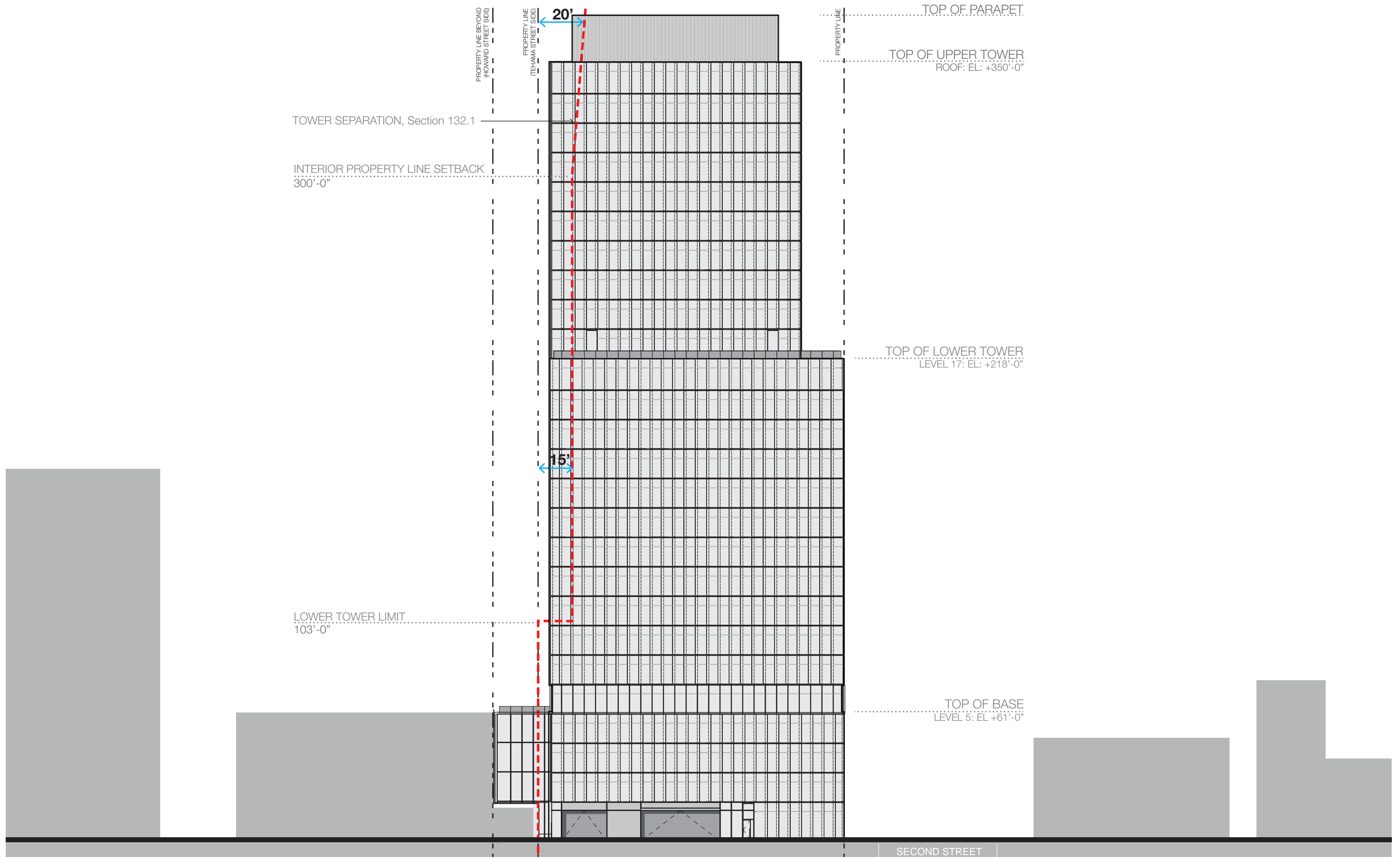
222 SECOND STREET
TISHMAN SPEYER

Gensler | Thomas Phifer and Partners

FEBRUARY 07, 2013



ELEVATION | SECOND STREET SETBACKS



ELEVATION | TEHAMA STREET SETBACK

APPROVED DESIGN



PROPOSED DESIGN



RENDERING | VIEW OF HOWARD AND SECOND STREETS