

Historic Preservation Board

Wednesday, August 7, 2024 at 5:00 PM
Room 24 (Ground Level of City Hall) and
Zoom



MEMBERS

Robert O'Brien (Chair)
Brad Miller (Vice Chair)
Hilary Bassett
Ashley Keenan
Valerie Paquin-Gould
Brian Sosebee
Rob Whitten

The Historic Preservation Board invites the public to attend the meeting **in person or Zoom** pursuant to the Remote Meeting Policy adopted by the Historic Preservation Board. Prior to the meeting, please check the Agenda Center <https://www.portlandmaine.gov/602/Agendas-Minutes> to view memos and reports which will be posted by the end of the day on the Friday before the Historic Preservation Board meeting.

REMOTE PARTICIPATION

Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

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PUBLIC COMMENT INFORMATION:

To submit written public comment on an agenda item, email hp@portlandmaine.gov. Submissions must be received by 12:00 pm **the day before** the Historic Preservation Board meeting to guarantee their inclusion in

the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

AGENDA:

1. ROLL CALL AND DECLARATION OF QUORUM

2. REPORT OF ATTENDANCE AT THE MEETING HELD ON JULY 17, 2024

i. Public Hearing

609 Congress Street: Bassett, Keenan, Miller, Paquin-Gould, and Whitten present; Sosebee and O'Brien absent.

Workshop

Recode Portland: Bassett, Keenan, Miller, Paquin-Gould, and Whitten present; Sosebee and O'Brien absent.

3. REPORTS OF DECISIONS AT THE MEETING HELD ON JULY 17, 2024

- #### **i. Certificate of Appropriateness for Alterations; 609 Congress Street (142 High Street); Crostone Portland, LLC and The State Theater, Applicants.** Plan Number: HPBR-002926-2024. The Board voted 5-0 to approve the project with conditions.

4. COMMUNICATION AND REPORTS

5. PUBLIC HEARING

- #### **i. Recommendations to the Planning Board regarding ReCode Portland. City of Portland, Applicant.** The Historic Preservation Board will hold a hybrid public hearing to make recommendations to the Planning Board regarding the second wave of ReCode Phase II, addressing proposed changes to Article 2. Administration, Article 3. Definitions, and Article 16. Historic Preservation (Currently Article 17). More information on the draft changes can be found at www.recodeportland.me.
- #### **ii. Certificate of Appropriateness for Addition; 156 HIGH STREET/8 DEERING STREET; Avesta Housing & Williston-Immanuel United Church, Applicant.** Plan Number: HPBR-002801-2024.
- #### **iii. Certificate of Appropriateness for Alterations; 20 MORNING STREET; Elizabeth Zeeuw & Brian Dunn, Applicant(s).** Plan Number: HPBR-002982-2024.
- #### **iv. Certificate of Appropriateness for Rehabilitation; 477 CONGRESS STREET/45 BROWN STREET; Developer's Collaborative & TT Maine Venture, LLC, Applicant.** Plan Number: HPBR-003019-2024.

6. CONSENT AGENDA

**STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT**



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
Kevin Kraft, Director, Planning and Urban Development
Helen Donaldson, Interim Deputy Director, Planning and Urban Development
DATE: August 2, 2024
RE: ReCode, Phase II, Proposed Changes to the Historic Preservation Ordinance -
PUBLIC HEARING
MEETING: August 8, 2024

A legal ad announcing the Historic Preservation Board's meeting on August 8, 2024 was published in the Portland Press Herald on July 26, 2024 and July 27, 2024

BACKGROUND

In 2017, the City Council adopted *Portland's Plan 2030*, a new comprehensive plan for the City of Portland. *Portland's Plan* was developed with the input of thousands of members of the public, and includes a series of policy guides related to key topic areas for the city, from transportation to housing, public facilities, historic resources, waterfront, open space, and the economy. One of the first recommendations of *Portland's Plan* was to "create a new unified development code...that incorporates zoning, the historic preservation ordinance, housing policies, and other aspects of the development review process into a more readable and useful document" (p. 90). This recommendation reflected a desire to modernize and streamline the City's land use regulations, but also the imperative of state statute; 30-A MRS Section 4352(2) requires explicitly that a "zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body."

In direct response to the *Portland's Plan* recommendation and shortly following the plan's adoption, the City began ReCode Portland (www.recodeportland.me), the first comprehensive rewrite of the land use code in over fifty years. From the outset, the effort was designed to advance in two consecutive phases: Phase I would focus largely on improving the code's structure and functionality, paired with several discrete but substantive changes, and Phase II would focus on the more policy-oriented work of ensuring that the code aligns with the goals and guides of *Portland's Plan*. Phase I concluded in November 2020 when the City Council adopted a revised, reorganized and improved land use code. As part of Phase I, no major changes were proposed to the historic preservation ordinance.

Phase II began almost immediately following the conclusion of Phase I. At the outset, the City hired a consultant with national experience in writing and updating land use regulations. Their first task was to evaluate the existing code with respect to the goals from *Portland's Plan*. The resulting code evaluation was released in December 2021, and was the subject of an extensive public engagement effort. Based on the evaluation and feedback from the public, the city subsequently began drafting amendments to the code, which has been released in two “waves.” The first wave, released in June 2023, included updates to Articles 3 (Definitions), 5 (Zones), 6 (Use Standards), & 7 (Dimensional Standards). The City engaged the public online and in person around the first wave of draft changes, and held a workshop with the Planning Board.

The second wave of changes, which were released in April of this year, encompass revisions to the “first wave” articles, as well as draft changes to the remainder of the land use code, and notably include proposed revisions to the historic preservation ordinance (Article 17 of the current code, and Article 16 of the draft). Proposed changes to Articles 2 and 3 are also applicable to the Historic Preservation Board.

General information on ReCode can be found here: <https://www.recodeportland.me/>. Information on the second wave of draft changes can be found here: <https://www.recodeportland.me/second-wave-changes>.

SCOPE

Changes to Articles 2

The draft revisions to Historic Preservation Board administrative procedures focus on simplifying language and creating consistency between the administration of the Planning Board and the Historic Preservation Board where possible. For instance, the draft revisions include the addition of provisions for pro tempore officers and add a process for hearing of conflicts of interest by the Board.

Changes to Article 3

In an effort to simplify the land use code overall, definitions have been consolidated under Article 3 or, where appropriate, integrated into the body of Article 16. The majority of definitions previously included under 17.2 have been integrated into the body of Article 16 where they arise to make the ordinance more easily readable. Definitions for Archaeological Site, Object, Historic Rehabilitation, and Historic Site have been added under Article 3.

Changes to Article 16

The draft revisions to the historic preservation ordinance are focused on maintaining and strengthening the core functions of the article while making the article easier for all users to understand. The draft amendments consolidate related sections, clarify procedures, and simplify language where possible.

Proposed changes relating to historic designations:

1. Clarified the types of historic designations: landmarks, historic districts, and historic landscape districts.
2. Clarified basis for determining "contributing" classifications within designations.
3. Clarified the historic designation process, including consolidation of a single process for amendments.
4. Removed automatic designation for properties listed on the National Register.
5. Reorganized provisions to more clearly convey intent.

Proposed changes relating to Certificate of Appropriateness review (proposed as Historic Preservation Review):

1. Established clear thresholds for administrative and Historic Preservation Board review (see proposed table 16-A).
2. Added exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals (e.g. roof-mounted solar, ground-mounted heat pumps, and new public art).
3. Consolidated and clarified language related to review process.
4. Extended duration of approvals to three years to provide greater flexibility for applicants.

PREVIOUS REVIEW BY HISTORIC PRESERVATION BOARD

May 29, 2024, Workshop:

During the May 29 workshop, the Board began review of the draft revisions to the Historic Preservation Ordinance. Historic Preservation & Planning Staff provided an introductory presentation providing background on ReCode as a whole, and highlighting some proposed changes and topics for discussion. Staff had received a number of questions in advance of the meeting from Board members, and these questions were addressed in the staff memo provided in advance of the meeting.

The Board focused on several topics:

- The relationship between the Historic Preservation Review Standards and the underlying zoning,
- The wording of the standards for review,
- Review of roof-mounted solar installations,
- The authority of the Board to review certificates of economic hardship applications, and
- The category of landmark for designation of individual properties.

July 17, 2024, Workshop:

During the July 17 Workshop, the Board again provided a number of specific questions or comments which were addressed in the staff memo in advance of the meeting. Additionally, the Board provided comment on the following items:

- The category of landmark for designation of individual properties,
- The criteria for designation under and their consistency with the National Register Criteria,
- The wording of Subsection 16.2.2(C) in comparison with the wording of Subsection 17.4.1(D) of the current code,
- The automatic nomination of properties listed on the National Register,
- The language defining reviewable activities
- Parameters around exempt activities such as roof-mounted solar energy systems and heat pumps,
- The wording of the standards for review, specifically as they pertain to new construction,
- The relationship between the standards for review and the underlying zoning,
- The ability of the Board to formally provide comment to the Zoning Board of Appeals with regards to variance applications within historic districts, and
- The appropriateness of the Historic Preservation Board as the review authority for certificate of economic hardship applications.

Recommended revisions to the draft code where there was Board consensus have been detailed in the draft recommendation (Attachment 1). The letter also details which of these have been addressed in the final drafts of Articles 2, 3, and 16.

STAFF COMMENTS

Since the second workshop, staff have completed edits to Articles 2, 3, & 16 (formerly 17) of the Land Use Code. These edits incorporate the feedback received from the Board in the previous two workshops, as well as some final clean-up of language. A clean version of the proposed language of Article 2 & 16 is provided along with redlines (Attachments 2 & 3, respectively). Please note that in the redlines, edits made prior to the first Board workshop are in purple for article 2 and red for article 16, and all edits made since then are in blue. Where text is green, language was moved within the article. Staff are also including definitions for Archaeological Site, Object, and Site (Historic) which will be added under Article 3.

The Board had recommended staff revisit the language of Subsection 16.2.2(C) in comparison with the current language of Subsection 17.4.1(D). Staff have revised the proposed language to more

closely match the current and encourage the Board to confirm the revisions are as expected.

While most recent edits are quite narrowly based on the Board's discussion from the last workshop, Staff did want to draw the Board attention to the standards of Section 16.6. Some additional edits have been made to the standards for review of alterations (Subsection 16.6.2) to better align with the language of the Secretary of the Interior's Standards for Rehabilitation.

The standards for review of new construction (Subsection 16.6.3) have been edited to note that compatibility should be assessed based on the entire historic designation within which the work is taking place, as discussed at the previous workshop. Upon further review of these standards, staff are also proposing that they be adjusted to be standards for review of additions and new construction, and that the "other standards" under Subsection 16.6.3(D) be struck. The change in the heading is recommended to reflect that these standards have often been applied to large additions as well as entirely new constructions. This deletion is recommended because these standards are redundant with several of the standards for review of alteration. Where an application involves alterations to existing buildings and additions or new construction, both sets of standards would apply. This follows the model of a project involving alteration and signage, which is subject to both sets of those standards. Staff are drawing the Board's attention to this as it has not previously been discussed. Staff find that this is an entirely appropriate change, but welcome the Board's feedback.

In addition to the latest edits, a draft recommendation letter has been prepared by Corporation Counsel for the Board's consideration (Attachment 1).

MOTION FOR CONSIDERATION

I move to forward the attached letter (as drafted/as edited) to the Planning Board as the recommendation of the Historic Preservation Board concerning the proposed amendments to Articles 2, 3, & 16 (formerly Article 17) of the Land Use Code, and authorize the Historic Preservation Board Chair or Chair Pro Tempore to sign the recommendation letter (as drafted/with the following edits):

- 1) EDITS
-

ATTACHMENTS

1. Draft Recommendation of the Historic Preservation Board Re. ReCode Portland
2. Final Draft Land Use Code Excerpts (Articles 2, 3, & 16)
3. Final Draft Land Use Code Redline Excerpts (Articles 2, 3, & 16)
4. MHPC Staff Comments and City Staff Responses, Updated
5. Public Comment and City Staff Responses, Updated
6. Staff memo from May 29, 2024 Workshop
7. Staff memo from July 17, 2024 Workshop

Completed version of the current Land Use Code can be found in the following locations:

- Existing: <https://content.civicplus.com/api/assets/e27b9933-d54c-4988-ba26-db4df8eb9954>
- Second Wave Changes: <https://recodeportland.konveio.com/second-wave-recode-changes-draft-land-use-code>
- Second Wave Changes, Redlines:
https://static1.squarespace.com/static/5a75f43a692eb1159413d/t/660d6a7ee07b3e5981ac1fad/1712155274839/Draft+LUC_Redline_4_3_24_reduced.pdf

CITY OF PORTLAND, MAINE

HISTORIC PRESERVATION BOARD

Robert O'Brien, Chair
Brad Miller, Vice Chair
Hilary Bassett
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RECOMMENDATION OF THE HISTORIC PRESERVATION BOARD **RE: ReCode Portland**

INTRODUCTION

The Historic Preservation Board ("Board") held two workshops on May 29 and July 17, 2024 to conduct a preliminary review of the second wave of changes to the City's Land Use code under ReCode Portland. Specifically, the Board reviewed the proposed changes to Article 2, Administration, Article 3, Definitions, and Article 16 (currently Article 17), Historic Preservation.

The Board took the opportunity at the workshops to give feedback and suggestions to staff and have since been provided with a revised version of Articles 2, 3 and 16 for review and consideration at the hearing on August 7.

SUMMARY OF ISSUES DISCUSSED

During the Board's May 29, 2024 and July 17, 2024 workshops, the following topics were discussed:

- The category of landmark for designation of individual properties,
- The criteria for designation and their consistency with the National Register Criteria,
- The wording of Subsection 16.2.2(C) in comparison with the wording of Subsection 17.4.1(D) of the current code,
- The automatic nomination for local designation of properties listed on the National Register,
- The language defining reviewable activities,
- Parameters around exempt activities such as roof-mounted solar energy systems and heat pumps,
- The relationship between the historic preservation standards for review and the underlying zoning,
- The wording of the standards for review,
- The ability of the Board to formally provide comment to the Zoning Board of Appeals with regards to variance applications, particularly concerning matters related to dimensional standards, within historic districts, and
- The appropriateness of the Historic Preservation Board as the review authority for certificate of economic hardship applications.

RECOMMENDATIONS

Based on the discussion at the workshops and considering the feedback from staff as well as public comments received, and pursuant to Chapter 14, Section 2.2.8 (S), the Board makes the following consensus recommendations to the Planning Board related to the proposed amendments to the Land Use Code under ReCode.

1. The Board recommended that the existing historic designation criteria of Subsection 16.2.2(A) be retained with minor changes to more closely align with the National Register Criteria, as suggested by the Maine Historic Preservation Commission. Staff incorporated this recommendation under Subsection 16.2.2(A) of the final draft.
2. The Board recommended that the language of Subsection 16.2.2(C) be revised to more closely match the language under Subsection 17.4.1(D) of the current code. Staff incorporated this recommendation under Subsection 16.2.2(C) of the final draft.
3. Based on feedback from the Maine Historic Preservation Commission, the Board recommended that the local historic designation process not be automatically initiated after a property is listed on the National Register. Staff deleted the language of Subsection 17.6.2 & 17.6.3. (These sections had been revised as Section 16.5 under the second wave drafts reviewed by the Board during the workshops.)
4. The Board recommended that the historic preservation program retain some ability to review roof-mounted solar energy systems when they are proposed in conspicuous locations. Staff have incorporated this recommendation into the new Section 16.5.1(H) of the final draft.
5. The Board was supportive of carving out specific exemptions from historic preservation review for certain appropriately placed exterior heat pumps and other mechanical equipment. Staff have incorporated this recommendation into Subsection 16.5.1(I) of the final draft.
6. The Board was supportive of amending the standards for review of new construction to clarify that new construction may consider the entirety of the surrounding historic context. Staff have incorporated this recommendation into Subsection 16.6.3 of the final draft.
7. The Board recommended that review of certificates of economic hardship should remain with the Zoning Board of Appeals. Staff have incorporated this recommendation into Section 16.7 of the final draft.

The Board thanks staff for incorporating these proposed changes into the revised drafts of ReCode I and urges the Planning Board to retain these changes in the final version which it ultimately advances to the City Council.

Thank you for your time and consideration.

Respectfully Submitted,

Brad Miller

Historic Preservation Board Chair Pro Tempore for the August 7 public hearing

Cc: Evan R. Schueckler, Historic Preservation Program Manager
Kevin Kraft, Director - Planning and Urban Development
Nell Donaldson, Director of Special Projects
Amy McNally, Associate Corporation Counsel

2 ADMINISTRATION

2.1 PLANNING BOARD

2.1.1 Composition

There shall be a Planning Board of seven members. Members of the Planning Board shall be residents of the city and shall not be officers or employees of the City. Members shall serve without compensation.

2.1.2 Appointments

- A. Terms.** The members of the Planning Board shall be appointed by the City Council for terms of three years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members shall expire in any calendar year; providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.
- B. Vacancies.** Permanent vacancies on the Planning Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.1.3 Removal of members

Any member of the Planning Board may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.1.4 Officers

- A. Chair.** The members of the Planning Board shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. The chair may administer oaths.
- B. Vice chair.** The members of the Planning Board shall annually elect one of their number as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Planning Board.
- C. Pro tempore officers.** In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.1.5 Committees

The chair of the Planning Board shall assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report. The board shall adopt such rules as it shall deem appropriate to govern the organization and operation of its committees. Committee

meetings deliberative in nature shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq.

2.1.6 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Planning Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

2.1.7 Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.1.8 Meetings and procedures

A. Meetings. Regular meetings of the Planning Board shall be held at the call of the chair or as provided by rule of the board. Special meetings may be called by the chair or any four members of the Board or at the request of the City Council.

1. *Workshops.* Workshops of the Planning Board or any of its committees may be held at the call of the board or committee

chair, as the case may be, for the presentation of information by the Director of the Department of Planning & Urban Development, their staff, an applicant, or others. These meetings will be open for public comment according to the rules of the Planning Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq. shall be informational only and shall not result in final decisions on any matter.

2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Planning Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of public workshops and hearings, including a brief description of the application(s) to be considered, as follows:

1. *Site plan and subdivision.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to the workshop or hearing. Notice shall also be sent by regular United States mail at least 10 calendar days in advance of the workshop or hearing date to the applicant, the owner(s) of the subject property, and all owners of property located within 500 feet of the subject property.
2. *Land Use Code or zoning map amendment.* Notice of public hearing shall be publicly

posted in the municipal office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing. For map amendments, notice shall be sent by regular United States mail to at least 13 calendar days in advance of any workshop or hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area, except that rezoning to industrial zone designations the notice range shall be 1,000 feet.

3. *Contract or conditional zoning.* Notice of public hearing shall be posted in the City Clerk's office at least 13 days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two times, the date of the first publication to be at least seven days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

The cost of noticing shall be charged to the applicant.

- C. **Procedures.** The Planning Board shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and

this article. Such rules shall be filed with the Planning Authority and with the City Clerk. Any and all rule changes shall be placed on a City Council public agenda as a communication requiring a public hearing. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.1.8(A)(1), all meetings, hearings, and deliberations of the Planning Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Planning Board to be given under oath.

- D. **Keeping of records.** The Director of the Department of Planning & Urban Development shall designate a member of their staff who shall attend all Planning Board proceedings. The staff shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or their absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings, and proceedings and all correspondence of the Board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.

2.1.9 Record and decisions

- A. **Record.** The minutes of the staff, and the transcript if one is made, and all exhibits,

papers, applications, and requests filed in any proceeding before the Planning Board and the decision of the Board shall constitute the record.

- B. Decision.** Every final decision of the Planning Board and every recommendation of the Planning Board to the City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall provide notice of any decision of the Planning Board to the applicant.

2.1.10 Jurisdiction and authority

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the City and in accordance therewith, the Planning Board shall have the following jurisdiction and authority:

- A.** To prepare and recommend a Comprehensive Plan to the City Council.
- B.** To prepare and recommend to the City Council changes in and amendments to the Comprehensive Plan.
- C.** To aid and assist the City Council and departments and agencies of the City in implementing general plans and in planning, developing, and completing specific projects.
- D.** To hear, review, and approve, conditionally approve, or deny major site plans.
- E.** To hear, review, and approve, conditionally approve, or deny applications for subdivision approval.
- F.** To hear, review, and approve or deny applications for conditional uses as specified in Article 6.
- G.** To hear, review, and offer its recommendations to the City Council on applications for amendments to, or revisions of, this Land Use Code.
- H.** To review and offer its recommendations to the City Council on certain public projects.
- I.** To review and approve, conditionally approve, or disapprove site plans for regulated projects in shoreland areas.
- J.** To prepare and offer its recommendations to the City Council with regard to the City's annual Capital Improvement Program.
- K.** Upon reasonable request, to make its special knowledge and expertise available to any official, department, board, or agency of the city, county, state, or federal governments to aid them in the performance of their respective duties relating to the planning and development of the city and its region, including request from the City Council to review proposed developments in which the developer does not have the right, title, or interest in all the property necessary for the proposed development because some or all of that property is owned by the City.
- L.** To make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as seem desirable.
- M.** To employ or contract with such experts and other assistants as may be necessary or convenient to carry out its duties hereunder and to pay for their services and for such other expenses as may be necessary and proper, provided, however, that such expenditures shall not exceed such funds as may be appropriated for such purposes by the City Council.
- N.** To hear, review, and offer its recommendations to the City Council on petitions for street vacations and discontinuances.

- O. To hear, review, and decide appeals where it is alleged there is an error in any decision, requirement, or determination made by the Planning Authority.
- P. To approve, following a public hearing and at the recommendation of the Public Works Authority and the Planning Authority, *Technical Manual* and *Design Manual* standards, provided that such standards shall be additional to and consistent with the provisions of this Land Use Code, necessary and reasonable, and in accordance with sound engineering and urban design practice.

2.1.11 Administrative appeals

- A. **Application procedures.** An appeal may be taken to the Planning Board by any person affected by a final decision of the Planning Authority except as provided elsewhere in this Land Use Code. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany each application. The Planning Authority shall forthwith transmit to the Planning Board all of the papers constituting the record upon which the action appealed from was taken.
- B. **Public hearing.** A public hearing shall be set, advertised and conducted by the Planning Board in accordance with the provisions of this article.
- C. **Action.** Within 30 days following the close of the public hearing, the Planning Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the

statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

- D. **Conditions and limitations.** Any right granted by the reviewing board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.1.12 Planning Board appeals

An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the Board is limited to the making of a recommendation.

2.2 HISTORIC PRESERVATION BOARD

2.2.1 Composition

The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, or training in historic preservation or closely related fields, and shall be residents of the city.

2.2.2 Appointments

- A. **Terms.** Members shall be appointed by the Council for terms of three years. Appointments shall be staggered so that the terms of not more than three members expire in any

calendar year. Members may serve for three consecutive three-year terms.

- B. Vacancies.** Vacancies on the Historic Preservation Board shall be filled within 60 days. However, every member shall continue in office after expiration of the term until a successor has been appointed. Vacancies on the Historic Preservation Board shall be filled for the unexpired term of the former member.

2.2.3 Removal of members

Members may be removed for cause by the Council. Cause shall include, but is not limited to, the failure to attend meetings without good cause. Any member proposed to be removed shall be given written notice and an opportunity to be heard prior to final action.

2.2.4 Officers

- A. Election and terms.** Officers of the Historic Preservation Board shall consist of a chair and vice chair. Officers shall be elected by the Historic Preservation Board and shall serve a term of one year and shall be eligible for re-election.
- B. Chair.** The chair shall preside at all meetings and hearings and fulfill the customary functions of that office.
- C. Vice chair.** In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Historic Preservation Board.
- D. Pro tempore officers.** In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have

all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.2.5 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Historic Preservation Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of the adjournment.

2.2.6 Conflicts

No member of the Historic Preservation Board shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.2.7 Meetings and procedures

- A. Meetings.** Regular meetings of the Historic Preservation Board shall be held no less frequently than monthly. Special meetings may



be called by the chair, any four members of the board, or at the request of the Planning Board or City Council.

1. *Workshops.* Workshops of the Historic Preservation Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by the Planning Authority, an applicant, or others. These meetings will be open for public comment according to the rules of the Historic Preservation Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq., shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Historic Preservation Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of Historic Preservation Board workshops and public hearings, including a brief description of the application(s) to be considered, as follows:

1. *Historic designation nomination.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to any workshop or hearing. Notice shall be sent by regular United States mail to the nominators and to the owner(s) of the subject property or properties at least 10

calendar days in advance of any workshop or hearing date.

2. *National Register nominations.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to any workshop or hearing.
3. *Historic preservation review.* Notice shall be given to all property owners within 100 feet of the property at least seven days prior to the date of the workshop or public hearing.
4. *Major site plan review.* For an application that is classified as a major site plan under Article 13, notice shall be given to all property owners within 500 feet of the property at least seven days prior to the date of the workshop or hearing.
5. *Appeals.* Notice shall be given to all property owners within 100 feet of the property at least seven days prior to the date of the workshop or public hearing. Where the appealed application is classified as a major site plan under Article 13, the notice shall be given to all property owners within 500 feet of the property.
6. The cost of noticing shall be charged to the applicant except in the following cases:
 - a. The cost of noticing National Register nominations shall be charged to the City.
 - b. The cost of noticing appeals shall be charged to the appellant.

C. Procedures. The Historic Preservation Board may adopt procedural rules for the conduct of its business not inconsistent

with the statutes of the state and this article. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.2.7, all meetings, hearings, and deliberations of the Historic Preservation Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Historic Preservation Board to be given under oath.

2.2.8 Record and decisions

- A. Record.** The minutes of the staff, and the transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Historic Preservation Board and the decision of the Board shall constitute the record.
- B. Decision.** Every final decision of the Historic Preservation Board and every recommendation of the Historic Preservation Board to the Planning Board or City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall provide notice of any decision of the Historic Preservation Board to the applicant.

2.2.9 Jurisdiction and authority

The Historic Preservation Board shall have the following jurisdiction and authority:

- A.** To conduct or administer an ongoing survey to identify historically, culturally, architecturally, and archaeologically significant buildings, structures, objects, sites, and areas.
- B.** To review buildings, structures, objects, sites, and areas nominated for local historic designation, and to make recommendations to the Planning Board and City Council for their designation as landmarks, historic districts, and historic landscape districts as applicable.
- C.** To participate in the Certified Local Government Program of the National Historic Preservation Act Amendments of 1980 and the Maine Historic Preservation Commission, and carry out any responsibilities delegated to it under that program, including review and comment on any National Register nominations submitted to the Historic Preservation Board.
- D.** To hold workshops and public hearings to advise and assist owners of historically designated properties on historic preservation and rehabilitation, and to review applications for historic preservation review affecting historically designated properties and to approve or deny such applications.
- E.** To develop guidelines for work affecting historic designations and to aid in the interpretation of the standards for review.
- F.** To assist the Planning Board and City Council in the development of a historic preservation component in the Comprehensive Plan of the City of Portland.
- G.** To make recommendations to the Planning Board concerning any amendments to the Land Use Code appropriate for the protection and

continued use of historically-designated properties.

- H. As requested, to provide comment, recommendations, or testimony to the Planning Board or City Council on matters pertaining to historic preservation in Portland.
- I. To inform and educate the citizens of Portland as to the cultural, historic, architectural, and archeological heritage of the city by publishing maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.

2.2.10 Administrative appeals

- A. **Application procedures.** An appeal may be taken to the Historic Preservation Board by any person affected by a decision of the Planning Authority relative to Article 16. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany the application. The Planning Authority shall forthwith transmit to the Historic Preservation Board all of the papers constituting the record upon which the action appealed from was taken.
- B. **Standard of review.** The standard of review for appeals pursuant to this section shall be de novo. The appellant shall bear the burden of proof.
- C. **Public hearing.** A public hearing shall be set, advertised, and conducted by the Historic Preservation Board in accordance with the provisions of this article.

- D. **Action.** Within 30 days following the close of the public hearing, the Historic Preservation Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the Board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.
- E. **Conditions and limitations.** Any right granted by the board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.2.11 Historic Preservation Board appeal

- A. **Historic Preservation Board decision.** An appeal from any final decision of the Historic Preservation Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Planning Board, adhering to the requirements of Subsection 2.1.11 of this article.
- B. **Standard of Review.** The Planning Board shall deny the appeal unless it finds that the action of the Historic Preservation board was arbitrary or capricious or was not based on substantial evidence. Review by the Planning Board under this subsection is intended to be appellate in nature. Except where the Planning Board determines that injustice would result, the Planning Board shall determine the appeal without considering any facts or arguments which were not presented to the Historic Preservation Board. Where the Planning Board finds it necessary to consider such new evidence in order to do substantial justice, it

shall remand the matter to the Historic Preservation Board for further consideration, unless it determines that the resulting delay is likely to result in undue hardship to the applicant.

- C. Planning Board decision.** The Planning Board's decision on an appeal from a decision of the Historic Preservation Board shall be final with respect to the application or matter initially presented to the Historic Preservation Board. An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the board is limited to the making of a recommendation.

2.3 ZONING BOARD OF APPEALS

2.3.1 Composition

There shall be a Board of Appeals of seven members. Members of the Board shall be residents of the city and shall not be officers or employees of the City or any of its agencies or departments. Members shall serve without compensation.

2.3.2 Appointments

- A. Terms.** The members of the Board of Appeals shall be appointed by the City Council for terms of three years. Terms shall be staggered so that the terms of no more than three members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over 120 days after

expiration of their term. Members may serve for three consecutive three-year terms.

- B. Vacancies.** Permanent vacancies on the Board of Appeals shall be filled by the City Council, in the same manner as other appointments under this article, for the unexpired term of a former member whose place has become vacant.

2.3.3 Removal of members

Any member of the Board of Appeals may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.3.4 Officers

- A. Chair.** The members of the Board of Appeals shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act as chair and shall have all the powers of the chair.
- B. Secretary.** The members of the Board of Appeals shall annually elect one of their number as secretary. The secretary shall fulfill the duties provided by statute and this article and have such other duties as may be provided by the rules of the board.
- C. Pro tempore officers.** In the absence of both the chair and the secretary, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the secretary's absence. In the absence of the secretary, or when the secretary is serving as chair, the board shall elect a secretary pro tempore from among its number and the

secretary pro tempore shall have all the powers of the secretary during the secretary's absence or service as chair.

2.3.5 Quorum and necessary vote

No business shall be transacted by the Board of Appeals without a quorum, consisting of four members, being present. The concurring vote of at least four members of the board shall be necessary to grant any request or application or to sustain any appeal. The vote of a majority of the members present shall be necessary to authorize any action by the board.

2.3.6 Conflicts

No member of the Board of Appeals shall participate in the hearing or disposition of any matter in which they have an interest. Any question of whether a member has a conflict of interest sufficient to disqualify them shall be decided by a majority vote of the members, except the member who is being challenged. Where such a vote results in a tie, the challenged member shall be deemed disqualified.

2.3.7 Meetings and procedures

- A. Staff.** The Building Authority or their designee shall serve as staff to the Board of Appeals.
- B. Meetings.** Regular meetings of the Board of Appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two members of the board or at the request of the City Council. All meetings and hearings of the board shall be open to the public. For all matters properly brought before the Board of Appeals, the board shall select a reasonable time and place for a public hearing

following the submission of the subject application.

- C. Notice.** The Building Authority shall give notice of public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:
 - 1. In all cases, to the petitioner.
 - 2. In all cases, to all residents of the city by publication in a newspaper of general circulation in the city at least once, not more than 30 nor less than five days before the date of the hearing, and by mail to the applicant.
 - 3. In the case of hearings relating to zoning appeals, a variance, or a conditional use, to the Planning Board and City Council by reasonable means.
 - 4. In the case of hearings relating to a variance request from the provisions of Article 11, the application and all supporting information supplied by the applicant shall be forwarded to the State of Maine Department of Environmental Protection at least 20 days prior to action by the board. Any comments received from the Commissioner or their designee prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

5. In the case of hearings related to a variance or conditional use, by mail to the owners of all the property within 500 feet of such parcel or tract.
 6. In the case of hearings related to all other appeals, by mail to the owners of property directly abutting, and directly across a street or alley from the subject property.
 7. For purposes of this subsection, the owners of property shall be considered to be the parties listed by the Assessor's Department as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.
 8. The cost of noticing shall be charged to the applicant.
- D. Procedures.** The Board of Appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the City Clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.
1. *Conduct of hearings.*
 - a. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the Board shall exclude irrelevant, immaterial and unduly repetitious evidence.
 - b. The applicant and any abutter or similar person with standing shall in addition have the right to present witnesses on their own behalf and offer rebuttal evidence, to cross examine all witnesses testifying in opposition to their position through the chair, and to examine and introduce any documents produced at the hearing.
 2. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the Board of Appeals.

2.3.8 Records and decisions

- A. Record.** The recording of testimony, if any, and all exhibits, papers, applications, and requests filed in any proceeding before the Board of Appeals and the decision of the board shall constitute the record.
- B. Decision.** Every decision of the Board of Appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief. The Building Authority shall hand deliver or mail a copy of the decision to the applicant, the Planning Board, and City Council within seven days of such decision, and shall also file the decision with the City Clerk.

2.3.9 Jurisdiction and authority

The Board of Appeals shall have the following jurisdiction and authority:

- A. To hear and decide appeals from the granting or denial of any permit required by Chapter 6, Article 11, or Chapter 10 of the City of Portland Code of Ordinances.
- B. To hear and decide appeals from any decision or order made by the Building Authority pursuant to the provisions of this Land Use Code or any other chapter of the City of Portland Code of Ordinances, except that decisions relating to enforcement of the Shoreland Zone provisions of this chapter may not be appealed to the Board of Appeals and may only be appealed directly to Superior Court in accordance with M.R. Civ. P. 80B and 30-A M.R.S. §§ 2691 & 4483.
- C. To review interpretations of the Zoning Administrator or their designee, except that decisions on such interpretations shall be advisory only and shall not be appealable.
- D. To hear and grant or deny applications for variances from the terms of this Land Use Code, including but not limited to terms related to use; dwelling unit conversion; space and bulk, such as lot size, density, and setbacks; parking; loading; and signs.
- E. To hear and grant or deny applications for conditional uses, as specified in Article 6.

2.3.10 Administrative appeals

- A. **Application procedures.** Application for any appeal to the board shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

- B. **Public hearing.** A public hearing shall be set, advertised and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
- C. **Standard of review.** The standard of review for appeals pursuant to Subsections 2.3.9(A), (B), and (C) shall be de novo. The appellant shall bear the burden of proof.
- D. **Conditions and limitations on rights granted by appeal.** Any right granted by the Board of Appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.3.11 Variances

- A. **Application procedures**
 - 1. Application for a variance shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.
 - 2. A public hearing shall be set, advertised, and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
 - 3. All decisions by the board shall be rendered in a manner and form not inconsistent with the statutes of this state.
 - 4. When a decision affects property located within the Shoreland Overlay Zone, the Zoning Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven days of the board's decision.

B. Undue hardship variance. An undue hardship variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and his or her property would cause undue hardship. The words “undue hardship” as used in this subsection mean the following:

1. The land in question cannot yield a reasonable return unless a variance is granted.
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
3. The granting of a variance will not alter the essential character of the locality.
4. The hardship is not the result of action taken by the applicant or prior owner.

C. Disability variance

1. *By the Board of Appeals.* Notwithstanding the provisions of subsection (B) above, the board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall, or roof

systems necessary for the safety or effectiveness of the structure. For the purpose of this subsection, a disability has the same meaning as a physical or mental disability under 5 M.R.S. § 4553.

2. *By the Building Authority.* Notwithstanding the provisions of subsections (B) and (C(1)) above, the Building Authority may issue a permit to the owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability.

D. Practical difficulty variance. Notwithstanding the provisions of subsections (B) and (C) above, the Board of Appeals may grant a variance from the dimensional standards of this Land Use Code that relate to lot area, lot coverage, frontage, and setback requirements when strict application of these standards would both preclude a permitted use of the property and result in significant economic injury to the applicant. Significant economic injury shall mean that the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land. In granting a practical difficulty variance, all of the following conditions must be found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood.
2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.
3. The practical difficulty is not the result of action taken by the applicant or a prior owner.
4. No other feasible alternative is available to the applicant, except a variance.
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment.
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S. § 435, nor within a Shoreland Zone or flood hazard area, as defined in this Land Use Code.

E. Specified variances prohibited

1. A variance may only be granted with respect to the generally applicable space and bulk requirements of the zone in which the property is located and not from any provision that allows a deviation from those requirements.
2. No variance shall be granted which would permit the creation of a lot or parcel that cannot be developed in compliance with the zoning, subdivision, and other regulations applicable thereto.
3. No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in

harmony with the general purpose and intent of this Land Use Code or the Comprehensive Plan; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.

4. No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship or the hardship of the applicant.

F. Conditions on variances; variances less than requested.

Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening, and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

- G. Limitations on variances.** No variance permitting the erection or alteration of a building shall be valid for a period longer than

two years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than two years, unless an occupancy permit is issued and a use commenced within such period.

- H. Recording of variances.** No variance shall be valid unless, within 90 days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S. § 4353(5).

2.3.12 Violations

In addition to any other remedies available, the Board of Appeals after notice and hearing may revoke any variance or other relief granted under this section when the provisions of this chapter or the conditions under which the relief was granted have not been complied with.

2.3.13 Reconsideration

The Board of Appeals may reconsider any decision within 45 days of its decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, code enforcement officer, and

other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.

2.3.14 Appeals

Any aggrieved party may take an appeal, within 45 days of the vote of the original decision, from any final decision of the Board of Appeals to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S. §§ 2691 & 4483, except as otherwise specifically provided in this article.

3 DEFINITIONS

The following will be added to Article 3 in the appropriate locations:

Archaeological Site. A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

Object. A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Site (Historic). The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

16 HISTORIC PRESERVATION

16.1 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by:

- A. Creating a mechanism to survey, identify, historically designate, and protect buildings, structures, objects, sites, and areas of historic, cultural, architectural, and archaeological significance consistent with the National Register and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation;
- B. Establishing standards for review of alterations and new construction affecting historic designations consistent with the Secretary of the Interiors Standards for the Treatment of Historic Properties;
- C. Encouraging compatible rehabilitation and new construction affecting historic designations, preventing the unnecessary loss of the community's significant character without stifling change and development;
- D. Providing a resource of information and expertise to help those interested in historic designation, and rehabilitation or new construction affecting historic designations; and
- E. Fostering civic pride in the city's history as represented in the city's historic designations.

16.2 HISTORIC DESIGNATIONS

16.2.1 Categories of historic designations

- A. **Landmark.** A discrete building, structure, object, or site and any associated area found to have particular or individual significance or

prominence. Landmarks may be in or outside of historic districts or historic landscape districts.

- B. **Historic district.** A geographically defined area possessing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united by past events, culturally, or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.
- C. **Historic landscape district.** A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components including buildings, structures, sites, or objects which are united by past events, culturally, or aesthetically by design, plan or physical development. The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.

16.2.2 Criteria for historic designation

- A. Any building, structure, object, site, or area nominated for historic designation must be found to demonstrate significance under at least one of the following:
 1. *Significant aspect of heritage.* Value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or United States.
 2. *Significant events or activities.* Location as a site of a significant historic, prehistoric, or cultural event or activity.
 3. *Significant persons.* Identification with a person or persons who significantly

contributed to the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or United States.

4. *Significant design or construction.* Embody the distinctive characteristics of a significant type, style, design, period, or method of construction.
 5. *Significant designer.* Identification as a significant example of the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, State of Maine, New England region, or United States.
 6. *Significant theme.* Representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.
- B.** Any nominated building, structure, object, site or area must also be found to retain sufficient integrity of location, design, setting, materials, workmanship, feeling, and association to convey its significance with respect to the applicable criteria for historic designation as defined in Subsection 16.2.2(A).
- C.** The Planning Board and City Council shall apply the criteria for historic designation of Subsections 16.2.2(A) and (B) above, the historic preservation goals included in the Comprehensive Plan, and consider the effect of such historic designation on other aspects of the Comprehensive Plan of the City.
- D.** The Historic Preservation Board, Planning Board, and City Council may refer to the

National Register of Historic Places Bulletins in interpreting and applying the criteria for historic designation under Subsections 16.2.2(A) and (B).

16.2.3 Classifications within historic designations

- A.** The buildings, structures, objects, and sites within a historic designation may be classified as contributing or noncontributing.
- B.** A contributing classification shall only be applied to a building, structure, object, or site which:
1. Was built at least 50 years prior to the date of district designation, or was built within a period of significance specified in the nomination for historic designation;
 2. Is found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the criteria for historic designation from Subsection 16.2.2(A) specified in the nomination for historic designation; and
 3. Retains sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).
- C.** Where a landmark overlaps with a historic district or historic landscape district, the contributing buildings, structures, objects, and sites of the landmark shall be classified as contributing to the historic district or historic landscape district.
- D.** If a building, structure, object, or site does not meet Subsection 16.2.3(B) or (C) it shall be classified as noncontributing.

16.3 NOMINATION, CONSIDERATION, AND HISTORIC DESIGNATION

16.3.1 Procedure

The provisions of this section shall govern the nomination, consideration, and designation of landmarks, historic districts, and historic landscape districts.

16.3.2 Nomination of a historic designation

- A.** Nomination of a historic designation shall be submitted to the Planning Authority in writing. Nominations shall include the following information:
 - 1. A statement of how the proposed historic designation meets the criteria for historic designation under Subsections 16.2.2(A), (B), and (C).
 - 2. A map showing the location and proposed boundaries of the historic designation.
 - 3. A draft list of the constituent buildings, structures, objects, and sites, indicating their degree of cultural, historic, architectural, or archaeological significance and their classification as contributing or noncontributing within the proposed historic designation.
- B.** Nominations may be submitted by:
 - 1. Any two members of the Historic Preservation Board on their own initiative;
 - 2. The Planning Authority;
 - 3. In the case of a landmark, one or more owners of the affected property; or
 - 4. In the case of a historic district or historic landscape district, one or more owners of an affected property, provided a minimum of two members of the Historic Preservation Board submit written

sponsorship of the nomination to the Planning Authority.

- C.** Upon nomination, the Planning Authority shall notify the owner(s) of the subject property or properties.
- D.** A nomination shall be diligently pursued from the date of submission. Nominators shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of nominators to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the nomination to expire.
- E.** Withdrawal of nominations shall only be at the consent of all parties who submitted the nomination. Consent to withdraw a nomination shall be submitted in writing to the Planning Authority.

16.3.3 Historic Preservation Board review and recommendation

- A.** A public hearing on the nomination shall be held by the Historic Preservation Board following one or more workshops conducted in accordance with procedures adopted by the Historic Preservation Board.
- B.** The Historic Preservation Board shall consider all testimony or evidence relating to the nomination from any person who makes written submissions or appears at a workshop or public hearing. The owner of a nominated property shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the criteria for historic designation in Subsection 16.2.2.

- C. If the Historic Preservation Board finds that documentation and analysis necessary for the consideration of the nomination has not been provided as part of the nomination, such documentation shall be provided prior to further consideration by the Historic Preservation Board.
- D. Following the close of the public hearing, the Historic Preservation Board shall make a recommendation to the City Council in the case of a landmark, or to the Planning Board in the case of a historic district or historic landscape district, as to whether the nominated buildings, structures, objects, sites, or areas meet the criteria for historic designation in Subsection 16.2.2. Such recommendation shall be accompanied by:
 - 1. A report containing findings by the Historic Preservation Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nominated historic designation.

16.3.4 Planning Board review and recommendation

- A. The Planning Board shall hold a public hearing to review the nomination of a historic district or historic landscape district and the recommendation from the Historic Preservation Board. The Board may hold one or more workshops prior to the public hearing.
- B. All meetings, hearings, and deliberations of the Planning Board to consider the nomination, and recommendation and report of the Historic Preservation Board shall be held in conformity with Article 2.

- C. The Planning Board may request that the chair of the Historic Preservation Board, or a member designated by the chair, appear at a meeting to explain the recommendation or report.
- D. Following the close of the public hearing, the Planning Board shall make a recommendation to the City Council upon the evidence as to whether the nomination meets the criteria for historic designation in Subsection 16.2.2. Such recommendation shall be accompanied by:
 - 1. The report of the Historic Preservation Board.
 - 2. A report containing findings by the Planning Board as to whether the criteria for historic designation in Subsection 16.2.2 have been met, as well as any recommended changes to the scope of the nomination.

16.3.5 City Council consideration

- A. Following the receipt of a Historic Preservation Board recommendation and report in the case of a landmark nomination, or Planning Board recommendation and report in the case of a historic district or historic landscape district nomination, the City Council shall approve or reject the historic designation.
- B. The designating order shall include a map of the location and boundaries of the historic designation, and be accompanied by a list of buildings, structures, objects, and sites within the historic designation including their location or address and classification as contributing or noncontributing under Subsection 16.2.3.
- C. Notice of City Council action shall be sent to all owners of property within the boundaries of a

historic designation within 30 days following the City Council action.

- D. A record of the historic designation, maps of the historic designation boundary, and copies of all nominations and reports shall be maintained by the Planning Authority and be made available to the public online and during ordinary business hours.

16.3.6 Designation

- A. Upon designation, all buildings, structures, objects, and sites within the boundary of the historic designation shall be subject to the provision of this article.
- B. Demolition, including any act or process that totally destroys any contributing building, structure, object, or site shall be prohibited, with the exception of:
 1. Any building, structure, object, or site which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. § 2851 et seq., its equivalent, as it may be amended from time to time, or
 2. Any building, structure, object, or site which has been partially destroyed and is determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.
 3. Any building, structure, object, site, or portion thereof which was approved for demolition under a certificate of economic hardship under Section 16.7.

16.3.7 Amendment or rescission of designation

- A. Amendment shall be defined as a change to the historic designation boundary or reclassification of a building, structure, object, or site as contributing or non-contributing in its entirety.
- B. Rescission shall be defined as the complete removal of a historic designation.
- C. Amendment or rescission of any historic designation shall be upon the request of a person or persons authorized to nominate the property or properties affected as set forth in Subsection 16.3.2, or upon request of the City Council. Such requests shall be submitted in writing to the Planning Authority.
- D. Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation. The standards for rescission or amendment shall be limited to those provided in Section 16.2.

16.3.8 Presumption of contributing classification

- A. Where the historic designation does not specify the classification of a building, structure, object, or site, there shall be a presumption that the building, structure, object, or site is contributing, unless:
 1. Documentation can be provided to the Planning Authority that the building, structure, object, or site was constructed within 50 years of or after the date of historic designation, or after the stated period of significance;
 2. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for

historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council; or

3. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has been lawfully substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance, such that it lacks integrity as defined under Subsection 16.2.2(B).

16.4 INTERIM PROTECTION FOR NOMINATED HISTORIC DESIGNATIONS

16.4.1 Maintenance

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, the nomination is withdrawn, or the nomination expires, all buildings, structures, objects, or sites nominated but not yet designated shall be subject to the provisions of Sections 16.8 governing maintenance, to the same extent as if designated.

16.4.2 Protection from demolition

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, the nomination is withdrawn, or the nomination expires, all demolition permit applications for any building, structure, object, or site nominated but not yet designated shall be denied unless:

- A. The Historic Preservation Board has held a public hearing at the request of the owner of a building, structure, object, or site and has found that the building, structure, object, or site in

question would be recommended to be classified as noncontributing to the nominated historic designation and shall be eligible for a demolition permit. The determination of the Historic Preservation Board that the building, structure, object, or site is eligible for a permit shall be conclusive; or

- B. The owner has received a certificate of economic hardship under Section 16.7.

16.5 REVIEW PROCESS FOR HISTORIC PRESERVATION APPROVAL

16.5.1 Applicability

A historic preservation approval shall be required prior to undertaking any new construction, additions, exterior alterations, site alterations, signage, or the relocation of buildings, structures, or objects affecting any property within the boundaries of a historic designation as identified in Table 16-A. Historic preservation approval shall also be a condition precedent to the issuance of any permit authorizing any such work as noted above. Notwithstanding the above, the following activities shall be considered exempt:

- A. Work consisting solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a building, structure, object, or site such as repainting of previously painted surfaces or in-kind replacement of materials or plantings.
- B. Work consisting solely of emergency repair of a temporary nature.
- C. Work approved under a valid certificate of economic hardship.
- D. Work where the Planning Authority determines that the proposed exterior changes are not

readily visible at pedestrian heights from any public way or public open space.

- E. Installation of new public artworks approved or acquired through the City of Portland Public Art Program.
- F. Changes in plantings or vegetation outside of historic landscape districts and minor changes in plantings or vegetation within historic landscape districts.
- G. Alterations to existing grave markers or tombs made for the purpose of recognizing additional decedents or installation of grave markers or tombs recognizing new interments within an existing cemetery.
- H. Roof-mounted solar energy systems where the system:
 - 1. Is consistent with all other city requirements,
 - 2. Is installed reversibly with no damage to any historic roofing materials,
 - 3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and
 - 4. Any associated electrical equipment is not installed on street-facing facades.
- I. Ground-mounted heat pumps and HVAC equipment where:
 - 1. Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or

structure, whichever is a greater distance, and

- 2. Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades.
- J. Installation of temporary buildings, structures, or objects for a period of less than eight consecutive months, unless such installation otherwise meets a threshold for review established in Table 16-A.
- K. Demolition of non-contributing buildings, structures, objects, or sites.
- L. Relocation of non-contributing buildings, structures, or objects to a property outside any historic designation boundary.

16.5.2 Review classifications

- A. Applications shall be subject to administrative or Historic Preservation Board review according to the classifications in Table 16-A.
- B. The Planning Authority may, due to the scope or anticipated impacts of a project, reclassify an administrative review to a Historic Preservation Board review.
- C. At any point in the review process, an applicant may request that the Planning Authority reclassify the application from administrative to Historic Preservation Board review.

TABLE 16-A: HISTORIC PRESERVATION REVIEW CLASSIFICATIONS

		Administrative Review	Board Review
New construction and additions		≤ 500 SF	> 500 SF
Dormer additions¹		Affecting ≤ 40% of roof area (in SF)	Affecting > 40% of roof area (in SF)
Alterations to contributing buildings, structures, or objects²	Minor alterations	All	--
	Major alterations	≤ 25% of any façade, or where work is based on clear documentation of the historic appearance	> 25% of any facade
Alterations to noncontributing buildings, structures, or objects²	Minor alterations	All	--
	Major alterations	≤ 40% of any facade	> 40% of any facade
Site alterations³		All	--
Signage		All	--
Relocation of buildings, structures, or objects⁴		≤ 500 SF	> 500 SF

¹ Dormer additions include any increase in volume which does not interrupt the ridges, eaves, or rakes of an existing building or structure.

² Minor alterations include small or routine changes such as required by building code or modern convenience which result in minimal change in exterior appearance of an existing building, structure, or object. Major alterations include changes to existing or introduction of new details or features which affect the scale, form, proportion of openings, ratio of solid to void, rhythm or placement of entrances, color or texture of materials, or relationship to the street of an existing building, structure, or object.

³ Site alterations include the construction of permanent features such as fences and retaining walls, regrading, hardscaping, and the installation of exterior utilities.

⁴ Relocations include the moving of a building, structure, or object on its site or to another site.

16.5.3 Historic Preservation pre-application meeting

Applicants are encouraged to schedule a historic preservation pre-application meeting with the Planning Authority prior to applying for historic preservation review. The purpose of this meeting is to familiarize the applicant with the City of Portland Historic Preservation submittal requirements, applicable review standards, and to confirm the level of review required. A pre-application meeting does not confer pending proceeding status under Title 1 MRSA 302. No decisions relative to the application shall be made at the pre-application meeting, nor shall any advice or information

provided by the Planning Authority be construed as a decision.

16.5.4 Applications

Application for historic preservation review shall be made on a form prepared by the City and submitted to the Planning Authority along with the applicable fee. Upon receipt of an application and fee, the Planning Authority shall determine whether the application is complete and the level of review required per Table 16-A.

16.5.5 Costs

All projects shall be subject to fees as established by the City Council to cover the administrative costs of review. Applicants are also required to pay fees to

cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed.

16.5.6 Lapse in application

An application for historic preservation review shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

16.5.7 Administrative review

An application for historic preservation review subject to administrative review shall be reviewed by the Planning Authority for compliance with the standards of Section 16.6. The Planning Authority may request revised plans and submittals necessary to determine compliance. The Planning Authority shall approve the application, approve the application with conditions, or deny the application.

16.5.8 Historic Preservation Board review

A. An application for historic preservation review subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.6. The Planning Authority may request revised plans and submittals necessary to determine compliance with the standards of Section 16.6 prior to scheduling a Historic Preservation Board workshop or public hearing.

- B.** The Planning Authority shall schedule the project for review at a workshop or public hearing on a date that meets public noticing requirements and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the standards of Section 16.6.
- C.** In the case of applications being reviewed at a workshop or workshops prior to the public hearing, they shall be informational and not result in any formal approval or disapproval of the project. At a workshop, the Historic Preservation Board shall review the plans and submittals, consider the staff review with respect to the standards of Section 16.6, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the standards of Section 16.6.
- D.** At a hearing, the Historic Preservation Board shall approve, approve with conditions, or deny the application based on the standards of Section 16.6. Should the Historic Preservation Board deny an application, it shall enter findings of fact concerning the relationship between the application and standards of Section 16.6 within 60 days of the close of the public hearing. Written notice of the determination of the Historic Preservation Board on the application, including a copy of the findings of fact, shall be sent by regular mail to the applicant.

16.5.9 Review process involving major site plans

Site plan review by the Planning Board and historic preservation review by the Planning Authority or Historic Preservation Board shall, to the extent feasible, proceed concurrently. Any proposed major site plan required to obtain historic

preservation approval under this article shall be exempt from the design standards included in Article 13, and shall comply with the standards of Section 16.6.

16.5.10 Notice of public meeting

- A.** For all applications for historic preservation review that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.
- B.** The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the property no more than three days following the date of the meeting.
- C.** Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.
- D.** In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

16.5.11 Conditions of approval

The Planning Authority or Historic Preservation Board may impose conditions upon its approval of any application for historic preservation review to bring the application into compliance with the standards of Section 16.6.

16.5.12 Historic preservation approval

- A.** The Planning Authority shall approve or approve with conditions by the Planning Authority or the Historic Preservation Board.
- B.** No historic preservation approval, building, demolition, or other permit shall be issued until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the applicant prior the issuance of any temporary or permanent certificate of occupancy.
- C.** Prior to historic preservation approval the applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the historic preservation approval, upon reasonable request of the Planning Authority.

16.5.13 Expiration of approvals

- A.** Unless work authorized by a historic preservation approval is commenced or a building permit for the same is issued within three years of the initial date of historic preservation approval, the approval shall expire and shall become null and void.
- B.** When the approved work also requires a site plan approval under Article 13, the expiration of the historic preservation approval shall be concurrent with the expiration of the site plan approval, even if longer than three years.
- C.** In the event of litigation arising out of the granting of a historic preservation approval, the approval shall remain valid until one year after the entry of final judgment in the litigation or

until the end of the three-year period, whichever is later.

16.5.14 Amendments

- A. An applicant may apply for an amendment to a historic preservation approval by submitting an amendment application that includes a written statement of the proposed amendment, proposed amended plans, and related submittals to the Planning Authority.
- B. The Planning Authority is authorized to approve minor amendments under the procedures set forth in Subsection 16.5.7, provided that the proposed amendments:
 1. Are generally consistent with the approved plans,
 2. Meet all the standards for review of Section 16.6,
 3. Do not modify the work such that Historic Preservation Board review would otherwise be required per Table 16-A, and
 4. Do not affect any condition or requirement of the Historic Preservation Board.
- C. Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection 16.5.14(B). Review procedures shall follow those for a Historic Preservation Board review, set forth in Subsection 16.5.8.

16.6 STANDARDS FOR REVIEW OF APPLICATIONS FOR HISTORIC PRESERVATION REVIEW

16.6.1 Historic Resources Design Manual

- A. The standards of this article are supplemented by the *Historic Resources Design Manual*. The *Historic Resources Design Manual* may include

descriptions, guidelines, and illustrations of how the standards of this article will be interpreted. All provisions of the *Historic Resources Design Manual* shall be consistent with the standards of this article.

- B. Amendments to the *Historic Resources Design Manual* shall be adopted by the Historic Preservation Board following a public hearing. The *Historic Resources Design Manual* shall be maintained by the Planning Authority.

16.6.2 Standards for review of alteration

In considering an application involving alterations to contributing buildings, structures, site, or objects, the reviewing authority shall approve the application only upon finding that it meets the following standards:

- A. **Compatible use.** When the use of a property is being changed, every reasonable effort shall be made to minimize the alteration of the character-defining features of the building, structure, object, or site.
- B. **Retain historic features.** The distinguishing original qualities or character of the building, structure, object, or site shall be retained and preserved. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- C. **Historical accuracy.** The building, structure, object, or site shall be recognized as a product of its own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall not be undertaken.
- D. **Acquired significance.** Changes which may have taken place in the course of time are evidence of the history and development of the

building, structure, object, or site. Changes that have acquired significance in their own right shall be retained and preserved.

- E. **Distinctive Features.** Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize the building, structure, object, or site shall be retained and preserved.
- F. **Repair rather than replace.** Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence.
- G. **Surface cleaning.** The surface cleaning of the building, structure, or object, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.
- H. **Archaeological resources.** Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.
- I. **Differentiation and contemporary design.** Alterations and additions shall not destroy the character-defining features of the building, structure, object, or site. New work shall be differentiated from the old and shall be compatible with the size, scale, color, material,

and character of the building, structure, object, or site. Contemporary design for alterations and additions shall not be discouraged when such alterations and additions do not destroy significant materials or features that characterize the building, structure, object, or site.

- J. **Reversibility.** Wherever possible, new additions or alterations to the building, structure, object, or site shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

16.6.3 Standards for review of additions and new construction

In considering an application involving additions or new construction, the reviewing authority shall approve the application only upon finding that it meets the following standards:

- A. **Scale and form**
 - 1. *Height.* The height of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
 - 2. *Width.* The width of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
 - 3. *Proportion of principal facades.* The relationship of the width to the height of the principal facades shall be visually compatible with the contributing buildings,

structures, objects, and sites of the historic designation when viewed from any street or public open space.

4. *Roof shape.* The roof shape of the addition or new construction shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.
5. *Scale.* The size and mass of the addition or new construction in relation to open spaces, windows, doors, porches, and balconies shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space.

B. Composition of principal facades

1. *Proportion of openings.* The relationship of the width to height of windows and doors shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
2. *Rhythm of solids to voids.* The relationship of solids to voids in the principal facades shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
3. *Rhythm of entrances, porches, and other projections or recesses.* The relationship of entrances, porches, and other projections or recesses to sidewalks shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
4. *Relationship of materials.* The relationship of the color and texture of materials (other than paint color) of the principal facades

shall be visually compatible with the predominant materials used on the contributing buildings, structures, objects, and sites of the historic designation.

C. Relationship to street

1. *Walls of continuity.* Facades and site features, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the context, form cohesive walls of enclosure along the street to ensure visual compatibility with the contributing buildings, structures, objects, and sites of the historic designation.
2. *Rhythm and spacing along streets.* The relationship of the addition or new construction to the open space between it and adjacent buildings, structures, objects, or sites shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation.
3. *Directional expression of principal facades.* The addition or new construction shall be visually compatible with the directional character of the contributing buildings, structures, objects, and sites of the historic designation, whether this be vertical character, horizontal character, or nondirectional character.
4. *Streetscape and pedestrian improvements.* Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to any addition or new construction shall not be incongruous with the contributing buildings, structures, objects, and sites of the historic designation.

16.6.4 Standards for review of alterations and additions to noncontributing structures

- A.** In considering an application for alterations or additions to a noncontributing building, structure, object, or site, the intent of the review shall be to guide projects toward a more compatible relationship with the surrounding context using the standards for review of additions and new construction set forth in Subsection 16.6.3

16.6.5 Standards for review of relocation

In considering an application involving relocation of a building, structure, or object, the reviewing authority shall approve the application only upon finding that it meets the following standards:

- A.** Whether the historic or urban design character and aesthetic interest of the building, structure, or object contribute to its present setting.
- B.** If located within a district, whether there are definite plans for the area to be vacated and what the effect of those plans is on the character of the surrounding area. In such cases, consideration of additional design guidelines for construction to be imposed as a condition of approval is appropriate.
- C.** Whether the relocation of the building, structure, or object can be accomplished without significant damage to its physical integrity.
- D.** Whether the proposed relocation area is compatible with the cultural, historical or architectural character of the building, structure, or object.

16.6.6 Standards for review of signage

In considering an application involving the installation or modification of sign(s) the reviewing authority shall approve the application only upon finding that it meets the following standards:

- A.** Signs shall be compatible with the subject building, structure, object, and sites.
- B.** Signs shall be installed in such a manner as to minimize damage to contributing buildings, structures, objects, and sites.
- C.** If there is a conflict between this standard and the requirements of Article 19, the stricter standard shall apply.

16.7 CERTIFICATE OF ECONOMIC HARDSHIP

16.7.1 Applicability

- A.** Any applicant who has received a denial under this article or is seeking demolition of a contributing building, structure, object, or site may apply for a certificate of economic hardship from the Board of Appeals.
- B.** The application shall be submitted to the Planning Authority, together with the applicable fee. In the case of a denial, the application shall be submitted within 60 days of the denial.

16.7.2 Standard to be applied

- A.** The Board of Appeals shall approve an application for a certificate of economic hardship only upon a determination that the denial of the proposed activity or the proposed demolition will result in the loss of all reasonable use of the building, structure, object, or site.
- B.** Where the condition of the building, structure, object, or site is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts

of neglect of the owner or their predecessors in title under Section 16.8.

16.7.3 Information to be supplied by applicant

A. The applicant shall submit by affidavit the following information, which shall constitute an application:

1. The assessed value of the property and/or the building, structure, object, or site for the two most recent assessments.
2. Real property taxes paid for the previous two years.
3. The amount paid for the property by the owner, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
4. All appraisals obtained within the previous two years.
5. All listings of the property for sale or rent, price asked and offers received within the previous four years.
6. All studies commissioned by the owner as to profitable renovation, rehabilitation, or utilization of any buildings, structures, objects, or site on the property for alternative use.
7. For income-producing property, itemized income and expense statements from the property for the previous two years.
8. Professional assessment from a licensed engineer or architect with experience in rehabilitation of historic buildings, structures, objects, and sites as to the structural soundness of the building, structure, object, or site and its suitability for continued use, or rehabilitation.

9. Estimate of the cost of the alteration, construction, demolition, or removal proposed by the applicant.
10. Estimate of cost that would be incurred to address findings of fact provided by the reviewing authority in issuing a denial of the application for historic preservation review.

11. A statement of the minimum extent of work necessary to allow reasonable use of the building, structure, object, or site.

B. In the event that the information required to be submitted by the applicant is not reasonably available or attainable, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

C. The Planning Authority may request that third-party reviewers with applicable expertise to review materials provided by the applicant and prepare a report on their analysis of the application materials. In these cases, the cost of the third-party review shall be charged to the applicant.

D. The Board of Appeals may require additional evidence or supporting materials to inform their decision on the application.

16.7.4 Review

A. The Board of Appeals shall hold a workshop or public hearing on the application within 30 days following receipt of a complete application.

B. The Planning Authority may provide a report or any other information, documentation or evidence or request the Historic Preservation Board to assist the Board of Appeals in

considering the extent of variance necessary or reasonable condition to be imposed.

- C. The Board of Appeals may continue a proceeding for such additional time as it reasonably takes an applicant, any other interested person, the Historic Preservation Board, or the Planning Board to comply with a request for additional information or evidence. The applicant shall be afforded the right to present rebuttal evidence.
- D. The determination by the Board of Appeals shall be made within 30 days following close of the public hearing. The determination shall be accompanied by findings of fact.

16.7.5 Issuance

- A. If the determination of the Board of Appeals is that a denial of the historic preservation review application or the prohibition on demolition under Subsection 16.3.6(B) has resulted in the loss of all reasonable use of the building, structure, object, or site then the certificate of economic hardship shall be issued by the Planning Authority within 30 days following the determination.
- B. Certificates of economic hardship shall:
 1. Limit the scope of work to the minimum extent necessary to allow reasonable use of the building, structure, object, or site; and
 2. Not allow for the beginning of any demolition work until the necessary approvals and permits have been attained to allow for the rehabilitation, alteration, or replacement of the building, structure, object, or site.

- C. Certificates of economic hardship shall be valid for a period of three years from the date of the determination by the Board of Appeals.
- D. Certificates of economic hardship shall not be transferable from the applicant to another subsequent owner of the same property.

16.8 MAINTENANCE

16.8.1 Maintenance of protected structures

- A. All contributing buildings, structures, objects, and sites shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof:
 1. Deteriorated or inadequate foundation which jeopardizes its structural integrity.
 2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
 3. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration which jeopardize its structural integrity.
 4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
 5. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with

safety which jeopardize its structural integrity.

6. Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation.
- B. The owner or such other person shall repair such building, structure, object, or site within a specified period of receipt of a written order by the Planning Authority to correct defects or repairs to any building, structure, object, or site as provided by Subsection 16.8.1(A) above, so that such building, structure, object, or site shall be preserved and protected from further deterioration in accordance with the purposes of this article.
- C. Any such order shall be in writing, shall state the actions to be taken with reasonable particularity and shall specify dates for compliance, which may be extended by the Planning Authority for reasonable periods to allow the owner to secure financing, labor or materials.

16.9 PENALTIES

16.9.1 Fines for violation

Failure to perform any act required by this article or performance of any act prohibited by this article or of any conditions or any approvals issued hereunder shall constitute a violation and be subject to a fine as provided in 30 A M.R.S. §4452. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

16.9.2 Withholding of future approvals

Where the applicant has done work or caused work to be done not in compliance with an approval received under this article or without the approvals

required under this article, no new application for a historic preservation review shall be considered for the building, structure, object, or site associated with the violation until the work done without approval is brought into compliance with the requirements of this article.

16.9.3 Additional penalties for willful violation or gross negligence

- A. In addition to the penalties authorized by Subsections 16.9.1 and 16.9.2, a violation which is intentional, or occurs through gross negligence, shall be subject to the following provisions:
 1. No permit shall be issued under Chapter 6 of this Code of Ordinances for any alteration or new construction affecting such property for a period of five years following the last date of the violation, other than permits necessary to correct the violation. However, upon presentation of evidence satisfactory to the Planning Authority that the violation has been corrected, any remaining portion of the five-year prohibition on issuance of a permit may be waived.
 2. For a period of 25 years, any alteration or new construction on the property shall be subject to this article, whether or not any remaining building, structure, object, or site on the property continues to have the cultural, historical, architectural, or archaeological character and integrity that caused it to be nominated or designated as a landmark or part of a district.
 3. As a condition for any new land use approval, the owner may be required to

- rebuild, or replicate the building, structure, object, or site on the property.
- B.** Subsection 16.9.3(A) above shall not apply to violations which are limited to noncontributing buildings, structures, objects, or sites.

16.10 APPEALS

The applicant, or any person who has participated in opposition to the application and demonstrates a particularized harm caused by the approval of any application associated with this article, may appeal that decision in accordance with Article 2.

2 ADMINISTRATION

2.1 PLANNING BOARD

2.1.1 Composition

There shall be a Planning Board of seven members. Members of the Planning Board shall be residents of the city and shall not be officers or employees of the City. Members shall serve without compensation.

2.1.2 Appointments

- A. Terms.** The members of the Planning Board shall be appointed by the City Council for terms of three years. Such members shall serve until their successors are duly appointed and qualified. Such terms shall be staggered so that the terms of not more than three members shall expire in any calendar year; providing, however, such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.
- B. Vacancies.** Permanent vacancies on the Planning Board shall be filled by the City Council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

2.1.3 Removal of members

Any member of the Planning Board may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.1.4 Officers

- A. Chair.** The members of the Planning Board shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. The chair may administer oaths.
- B. Vice chair.** The members of the Planning Board shall annually elect one of their number as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Planning Board.
- C. Pro tempore officers.** In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.1.5 Committees

The chair of the Planning Board shall assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report. The board shall adopt such rules as it shall deem appropriate to govern the organization and operation of its committees. Committee

meetings deliberative in nature shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq.

2.1.6 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Planning Board without a quorum, consisting of four members, being present. The vote of ~~at least four~~ a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

2.1.7 Conflicts

No member of the Planning Board shall participate in the hearing or disposition of any matter in which ~~he or she has~~ they have an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.1.8 Meetings and procedures

A. Meetings. Regular meetings of the Planning Board shall be held at the call of the chair or as provided by rule of the board. Special meetings may be called by the chair or any four members of the Board or at the request of the City Council.

1. *Workshops.* Workshops of the Planning Board or any of its committees may be

held at the call of the board or committee chair, as the case may be, for the presentation of information by the Director of the Department of Planning & Urban Development, their staff, an applicant, or others. These meetings will be open for public comment according to the rules of the Planning Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq. shall be informational only and shall not result in final decisions on any matter.

2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Planning Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of public workshops and hearings, including a brief description of the application(s) to be considered, as follows:

1. *Site plan and subdivision.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to the workshop or hearing. Notice shall also be sent by regular United States mail at least 10 calendar days in advance of the workshop or hearing date to the applicant, the owner(s) of the subject property, and all owners of property located within 500 feet of the subject property, ~~except that~~

~~for subdivisions within industrial zones the notice range shall be 1,000 feet.~~

2. *Land Use Code or zoning map amendment.* Notice of public hearing shall be publicly posted in the municipal office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least 12 days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing. For map amendments, notice shall be sent by regular United States mail to at least 13 calendar days in advance of any workshop or hearing date to all property owners within the area proposed for rezoning and all property owners 500 feet beyond said area, except that rezoning to industrial zone designations the notice range shall be 1,000 feet.
3. *Contract or conditional zoning.* Notice of public hearing shall be posted in the City Clerk's office at least 13 days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two times, the date of the first publication to be at least seven days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

The cost of noticing shall be charged to the applicant.

- C. **Procedures.** The Planning Board shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the Planning Authority and with the City Clerk. Any and all rule changes shall be placed on a City Council public agenda as a communication requiring a public hearing. Any rule may be vetoed, in whole or in part, by order of the Council within 45 days of the date of filing with the City Clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.1.8(A)(1), all meetings, hearings, and deliberations of the Planning Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Planning Board to be given under oath.
- D. **Keeping of records.** The Director of the Department of Planning & Urban Development shall designate a member of their staff who shall attend all Planning Board proceedings. The staff shall provide for the keeping of minutes of the proceedings of the Board, showing the vote of each member on every question, or their absence or failure to vote, and shall maintain the permanent records and decisions of all Board meetings, hearings, and proceedings and all correspondence of the Board, as required by statute. Such records shall be public records

open to inspection during working hours upon reasonable notice.

2.1.9 Record and decisions

- A. Record.** The minutes of the staff, and the transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Planning Board and the decision of the Board shall constitute the record.
- B. Decision.** Every final decision of the Planning Board and every recommendation of the Planning Board to the City Council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation. The Planning Authority shall ~~mail~~provide notice of any decision of the Planning Board to the applicant.

2.1.10 Jurisdiction and authority

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the City and in accordance therewith, the Planning Board shall have the following jurisdiction and authority:

- A.** To prepare and recommend a Comprehensive Plan to the City Council.
- B.** To prepare and recommend to the City Council changes in and amendments to the Comprehensive Plan.
- C.** To aid and assist the City Council and departments and agencies of the City in implementing general plans and in planning, developing, and completing specific projects.
- D.** To hear, review, and approve, conditionally approve, or deny ~~master development plans~~ and major site plans.
- E.** To hear, review, and approve, conditionally approve, or deny applications for subdivision approval.
- F.** To hear, review, and approve or deny applications for conditional uses ~~listed as~~ specified in Article 6.
- G.** To hear, review, and offer its recommendations to the City Council on applications for amendments to, or revisions of, this Land Use Code.
- H.** To review and offer its recommendations to the City Council on certain public projects.
- I.** To review and approve, conditionally approve, or disapprove site plans for regulated projects in shoreland areas.
- J.** To prepare and offer its recommendations to the City Council with regard to the City's annual Capital Improvement Program.
- K.** Upon reasonable request, to make its special knowledge and expertise available to any official, department, board, or agency of the city, county, state, or federal governments to aid them in the performance of their respective duties relating to the planning and development of the city and its region, including request from the City Council to review proposed developments in which the developer does not have the right, title, or interest in all the property necessary for the proposed development because some or all of that property is owned by the City.
- L.** To make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as seem desirable.
- M.** To employ or contract with such experts and other assistants as may be necessary or convenient to carry out its duties hereunder

and to pay for their services and for such other expenses as may be necessary and proper, provided, however, that such expenditures shall not exceed such funds as may be appropriated for such purposes by the City Council.

- N. To hear, review, and offer its recommendations to the City Council on petitions for street vacations and discontinuances.
- O. To hear, review, and decide appeals where it is alleged there is an error in any decision, requirement, or determination made by the Planning Authority.
- P. To approve, following a public hearing and at the recommendation of the Public Works Authority and the Planning Authority, *Technical Manual* and *Design Manual* standards, provided that such standards shall be additional to and consistent with the provisions of this Land Use Code, necessary and reasonable, and in accordance with sound engineering and urban design practice.

2.1.11 Administrative appeals

- A. **Application procedures.** An appeal may be taken to the Planning Board by any person affected by a final decision of the Planning Authority except as provided elsewhere in this Land Use Code. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany each application. The Planning Authority shall forthwith transmit to the Planning

Board all of the papers constituting the record upon which the action appealed from was taken.

- B. **Public hearing.** A public hearing shall be set, advertised and conducted by the Planning Board in accordance with the provisions of this article.
- C. **Action.** Within 30 days following the close of the public hearing, the Planning Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.
- D. **Conditions and limitations.** Any right granted by the reviewing board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.1.12 Planning Board appeals

An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the Board is limited to the making of a recommendation.

2.2 HISTORIC PRESERVATION BOARD

2.2.1 Composition

The Historic Preservation Board shall consist of seven voting members who shall serve without compensation. Members shall not be officers or employees of the City. Members shall have demonstrated interest, knowledge, [or training in](#)

historic preservation or closely related fields, ability, experience, or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization and shall be residents of the city.

2.2.2 Appointments

- A. Terms.** Members shall be appointed by the Council for terms of three years. Appointments shall be staggered so that the terms of not more than three members expire in any calendar year. Members may serve for three consecutive three-year terms.
- B. Vacancies.** Vacancies on the Historic Preservation Board shall be filled within 60 days. However, every member shall continue in office after expiration of the term until a successor has been appointed. Vacancies on the Historic Preservation Board shall be filled for the unexpired term of the former member.

2.2.3 Removal of members

Members may be removed for cause by the Council. Cause shall include, but is not limited to, the failure to attend meetings without good cause. Any member proposed to be removed shall be given written notice and an opportunity to be heard prior to final action.

2.2.4 Officers

- A. Election and terms.** Officers of the Historic Preservation Board shall consist of a chair and vice chair. Officers shall be elected by the Historic Preservation Board and shall serve a term of one year and shall be eligible for re-election.
- B. Chair.** The chair shall preside at all meetings and hearings and fulfill the customary functions of that office.

- C. Vice chair.** In the absence of the chair, the vice chair shall act as chair and shall have all the powers of the chair. The vice chair shall have such other powers and duties as may be provided by the rules of the Historic Preservation Board.

- D. Pro tempore officers.** In the absence of both the chair and the vice chair, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the vice chair's absence. In the absence of the vice chair, or when the vice chair is serving as chair, the board shall elect a vice chair pro tempore from among its number and the vice chair pro tempore shall have all the powers of the vice chair during the vice chair's absence or service as chair.

2.2.5 Quorum and necessary vote

As to any matter requiring a hearing, no business shall be transacted by the Historic Preservation Board without a quorum, consisting of four members, being present. The vote of a majority of the members present shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned for a period not less exceeding three weeks at any one time. The Planning Authority shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of the adjournment.

~~2.2.5~~ 2.2.6 Conflicts

No member of the Historic Preservation Board shall participate in the hearing or disposition of any matter in which ~~he or she has an interest~~ they have

an interest. Any question of whether a member has a conflict of interest sufficient for a member to be recused shall be decided by a majority vote of the members present, except the member whose possible conflict is being examined. Where such vote results in a tie, the subject member shall be recused from the matter.

2.2.62.2.7 Meetings and procedures

A. Meetings. Regular meetings of the Historic Preservation Board shall be held no less frequently than monthly. Special meetings may be called by the chair ~~or~~, any four members ~~of the board~~, or at the request of the ~~chair of the~~ Planning Board ~~or City Council~~.

1. *Workshops.* Workshops of the Historic Preservation Board or any of its committees may be held at the call of the board or committee chair, as the case may be, for the presentation of information by ~~the Director of the Department of Planning & Urban Development, their staff the Planning Authority, an applicant, or others.~~ These meetings will be open for public comment according to the rules of the Historic Preservation Board. Such meetings, unless open to the public as provided in Title 1 M.R.S. § 401 et seq., shall be informational only and shall not result in final decisions on any matter.
2. *Public hearings.* Public hearings shall be held as required by the various statutes, codes, and ordinances pursuant to which matters are brought before the Historic Preservation Board and shall be conducted in accordance with relevant state law, the Land Use Code, and the rules of the board.

B. Notice. The Planning Authority shall give notice of the time and place of Historic Preservation Board ~~public~~ workshops and ~~public~~ hearings, including a brief description of the application(s) to be considered, as follows:

1. ~~Landmark or, historic district, or historic landscape district~~ *Historic designation nomination.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to ~~the any~~ workshop or hearing. Notice shall be sent by regular United States mail ~~at least 10 calendar days in advance of the workshop or hearing date~~ to the ~~applicant nominators~~ and to the owner(s) of the subject property or properties ~~at least 10 calendar days in advance of any workshop or hearing date.~~
2. *National Register nominations.* Notice shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two times, the date of the first publication to be at least 10 calendar days prior to any workshop or hearing.
- ~~2.3. Certificate of Appropriateness~~ *Historic preservation review.* Notice shall be given to all property owners within 100 feet of the property at least seven days prior to the date of the workshop or public hearing.
4. *Major site plan review.* For ~~an application alteration or new construction~~ that is classified as a major site plan under Article ~~14~~13, notice shall be given to all property owners within 500 feet of the property at

3-5. Appeals. Notice shall be given to all property owners within 100 feet of the property at least seven days prior to the date of the workshop or public hearing. Where the appealed application is classified as a major site plan under Article 13, the notice shall be given to all property owners within 500 feet of the property.

a. The cost of noticing National Register nominations shall be charged to the City.

a.b. The cost of noticing appeals shall be charged to the appellant.

statutes of the state or by this article, may be waived by the chair upon good cause being shown. Except as otherwise provided in Subsection 2.2.7, all meetings, hearings, and deliberations of the Historic Preservation Board and its committees shall be open to the public in accordance with Title 1 M.R.S. § 401 et seq. Testimony at any hearing may be required by the Historic Preservation Board to be given under oath.

A. Record. The Director of the Department of Planning & Urban Development or their designated minutes of the staff representative shall attend, and the transcript if one is made, and all exhibits, papers, applications, and requests filed in any proceeding before the Historic Preservation Board meetings. The staff shall provide for the keeping of tape recordings or and the decision of the Board shall constitute the record.

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~~B.~~ No final action shall be taken by the Historic Preservation Board which could in any manner deprive or restrict the owner of a property in its use, alteration, maintenance, disposition, or demolition until such owner either has knowledge of the proceeding or is sent notice offering opportunity to be heard. This paragraph shall not affect the interim protection provisions of Section 17.6.

~~C.~~ Every recommendation or recommended decision of the Historic Preservation Board the Planning Board or City Council shall include written findings of fact, and shall specify the reason or reasons for such action.

~~D.B.~~ Staff shall mail decision or recommendation. The Planning Authority shall provide notice of any final determination or recommendation decision of the Historic Preservation Board to the applicant and property owner(s).

2.2.8 Responsibilities

2.2.9 Jurisdiction and authority

The Historic Preservation Board shall have the following responsibilities jurisdiction and authority:

A. To conduct or administer an ongoing survey to identify historically, culturally, architecturally, and archaeologically significant buildings, structures, objects, sites, and areas areas, sites, structures, and objects.

B. To review all buildings, structures, objects, sites, and areas areas, sites, structures, and objects listed in the National Register of Historic Places, including the boundaries of areas so listed, and nominated for local historic designation, and to make recommendations to the Planning Board and City Council for the their designation

of those areas, sites, structures, and objects as local landmarks or, historic districts.

~~C.~~ To investigate and recommend to the Planning Board and City Council the designation of areas, sites, structures, and objects not listed in the National Register of Historic Places as local landmarks and, and historic landscape districts and to make recommendations to the Planning Board concerning sites, structures, and objects that have contributing significance or are intrusions within nominated or designated districts.

~~D.~~ To keep and make available to the public a register of all areas, sites, structures, and objects that have been designated as landmarks or districts, including all information required as part of each designation.

~~E.~~ Upon request, to advise and assist owners of landmarks and property, sites, structures, or objects within districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse and for procedures for inclusion on other registers of significant areas, sites, structures, and objects, including the National Register of Historic Places.

~~F.B.~~ To recommend to the Planning Board the nomination of areas, sites, structures, and objects to the National Register of Historic Places or to any State of Maine Register of Historic Places that may be established as applicable.

~~G.C.~~ To participate in the Certified Local Government Program of the National Historic Preservation Act Amendments of 1980 and the Maine Historic Preservation Commission, and carry out any responsibilities delegated to it under that program, including review and

comment on any National Register nominations submitted to the Historic Preservation Board.

~~H.~~ To seek funding for which the City of Portland is eligible through the Certified Local Government Program to assist in local preservation projects, including projects undertaken by local non-profit organizations.

~~I.~~ To, upon request by the City Council, participate in any review of federal actions or undertakings pursuant to Section 106 of the National Historic Preservation Act, attend informational and educational programs sponsored by the Maine Historic Preservation Commission, and prepare an annual report of the activities of the Historic Preservation Board.

~~J.A.~~ To inform and educate the citizens of Portland concerning the cultural, historic, architectural, and archeological heritage of the city by publishing appropriate maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.

~~K.D.~~ To hold ~~meetings~~workshops and public hearings to advise and assist owners of historically designated properties on historic preservation and rehabilitation, and to review applications for historic preservation review certificates of appropriateness affecting ~~proposed or~~historically designated landmarks and districtsproperties and to ~~recommend approval~~approve or ~~disapproval of~~deny ~~such applications~~certificates of appropriateness.

~~L.~~ To provide testimony to the Board of Appeals in connection with any applicationreview applications for a Certificate certificates of economic hardship and to issue or deny certificates of economic hardship.

~~E.~~ To develop ~~design~~guidelines for work affecting historic designations and to aid in the interpretation of the standards for review~~landmarks or districts~~ for review and approval by.

~~M.~~ To assist the Planning Board.

~~N.~~ To advise the Planning Board as to recommendations on any preservation or conservation easements that the City of Portland may have or be offered as a gift or otherwise.

~~O.~~ To advise the Planning Board as to the administration of such gifts, grants, and money as may be appropriated for the purposes of this article upon authorization and approval by the City Council.

~~P.~~ To provide comment, as appropriate, to the Planning Board and/or City Council on matters pertaining to historic preservation in Portland.

~~Q.~~ To confer recognition upon the owners of landmarks or properties, sites, structures, or objects within districts by means of certificates, plaques, or markers.

~~R.F.~~ To assist the Planning Board and City Council in the development of a historic preservation component in the Comprehensive Plan of the City of Portland.

~~G.~~ To periodically review the Land Use Code and To make recommendations to the Planning Board concerning any amendments to the Land Use Code appropriate for the protection and continued use of landmarks or historically-designated properties, ~~sites, structures, or objects.~~

~~H.~~ As requested, to provide comment, recommendations, or testimony to the Planning Board or City Council on matters pertaining to historic preservation in Portland.

- I. To inform and educate the citizens of Portland concerning ~~as to the~~ cultural, historic, architectural, and archeological heritage of the city by publishing appropriate maps, newsletters, brochures, and pamphlets and by sponsoring programs and seminars.

2.2.92.2.10 Administrative appeals

- A. Application procedures.** An appeal may be taken to the Historic Preservation Board by any person affected by a decision of the Planning Authority relative to Article ~~17~~16. Such appeal shall be taken within 30 days of the action complained of by filing with the Planning Authority an application for appeal specifying the grounds thereof. The application shall be in such form as specified by the Planning Authority. A payment of a nonrefundable filing fee, as established by the City Council to cover administrative costs and costs of hearing, shall accompany the application. The Planning Authority shall forthwith transmit to the Historic Preservation Board all of the papers constituting the record upon which the action appealed from was taken.

- B. Standard of review.** The standard of review for appeals pursuant to this section shall be de novo. The appellant shall bear the burden of proof.

- B.C. Public hearing.** A public hearing shall be set, advertised, and conducted by the Historic Preservation Board in accordance with the provisions of this article.

- C.D. Action.** Within 30 days following the close of the public hearing, the Historic Preservation Board shall render a decision on the appeal in the manner and form specified in the provisions of this article and the statutes of the

state. The failure of the board to act within 30 days shall be deemed a denial of the appeal unless mutually extended in writing by the appellant and the Board. Within five days of such decision or failure to act notice thereof shall be mailed to each party.

- D.E. Conditions and limitations.** Any right granted by the board on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.2.102.2.11 Historic Preservation Board appeal

- A. Historic Preservation Board decision.** An appeal from any final decision of the Historic Preservation Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the City to the Planning Board, adhering to the requirements of Subsection 2.1.11 of this article.
- B. Standard of Review.** The Planning Board shall deny the appeal unless it finds that the action of the Historic Preservation board was arbitrary or capricious or was not based on substantial evidence. Review by the Planning Board under this subsection is intended to be appellate in nature. Except where the Planning Board determines that injustice would result, the Planning Board shall determine the appeal without considering any facts or arguments which were not presented to the Historic Preservation Board. Where the Planning Board finds it necessary to consider such new evidence in order to do substantial justice, it shall remand the matter to the Historic Preservation Board for further consideration, unless it determines that the resulting delay is

likely to result in undue hardship to the applicant.

- C. Planning Board decision.** The Planning Board's decision on an appeal from a decision of the Historic Preservation Board shall be final with respect to the application or matter initially presented to the Historic Preservation Board. An appeal from any final decision of the Planning Board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the board is limited to the making of a recommendation.

2.3 ZONING BOARD OF APPEALS

2.3.1 Composition

There shall be a Board of Appeals of seven members. Members of the Board shall be residents of the city and shall not be officers or employees of the City or any of its agencies or departments. Members shall serve without compensation.

2.3.2 Appointments

- A. Terms.** The members of the Board of Appeals shall be appointed by the City Council for terms of three years. Terms shall be staggered so that the terms of no more than three members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over 120 days after expiration of their term. Members may serve for three consecutive three-year terms.
- B. Vacancies.** Permanent vacancies on the Board of Appeals shall be filled by the City Council, in

the same manner as other appointments under this article, for the unexpired term of a former member whose place has become vacant.

2.3.3 Removal of members

Any member of the Board of Appeals may be removed for cause by the City Council at any time, provided, however, that before any such removal, such member shall be given an opportunity to be heard in their own defense at a public hearing.

2.3.4 Officers

- A. Chair.** The members of the Board of Appeals shall annually elect one of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act as chair and shall have all the powers of the chair.
- B. Secretary.** The members of the Board of Appeals shall annually elect one of their number as secretary. The secretary shall fulfill the duties provided by statute and this article and have such other duties as may be provided by the rules of the board.
- C. Pro tempore officers.** In the absence of both the chair and the secretary, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the secretary's absence. In the absence of the secretary, or when the secretary is serving as chair, the board shall elect a secretary pro tempore from among its number and the secretary pro tempore shall have all the powers of the secretary during the secretary's absence or service as chair.

2.3.5 Quorum and necessary vote

No business shall be transacted by the Board of Appeals without a quorum, consisting of four members, being present. The concurring vote of at least four members of the board shall be necessary to grant any request or application or to sustain any appeal. Any matter that receives fewer than four votes shall be deemed to have been denied. The vote of a majority of the members present shall be necessary to authorize any action by the board.

2.3.6 Conflicts

No member of the Board of Appeals shall participate in the hearing or disposition of any matter in which he or she has they have an interest. Any question of whether a member has a conflict of interest sufficient to disqualify him or her them shall be decided by a majority vote of the members, except the member who is being challenged. Where such a vote results in a tie, the challenged member shall be deemed disqualified.

2.3.7 Meetings and procedures

- A. Staff.** The Building Authority or their designee shall serve as staff to the Board of Appeals.
- B. Meetings.** Regular meetings of the Board of Appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two members of the board or at the request of the City Council. All meetings and hearings of the board shall be open to the public. For all matters properly brought before the Board of Appeals, the board shall select a reasonable time and place for a public hearing following the submission of the subject application.

C. Notice. The Building Authority shall give notice of public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

1. In all cases, to the petitioner.
2. In all cases, to all residents of the city by publication in a newspaper of general circulation in the city at least once, not more than 30 nor less than five days before the date of the hearing, and by mail to the applicant.
3. In the case of hearings relating to zoning appeals, a variance, or a conditional use, to the Planning Board and City Council by reasonable means.
4. In the case of hearings relating to a variance request from the provisions of Article 11, the application and all supporting information supplied by the applicant shall be forwarded to the State of Maine ~~Commission of the~~ Department of Environmental Protection at least 20 days prior to action by the board. Any comments received from the Commissioner or their designee prior to action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.
5. In the case of hearings related to a variance or conditional use, by mail to the

owners of all the property within 500 feet of such parcel or tract.

6. In the case of hearings related to all other appeals, by mail to the owners of property directly abutting, and directly across a street or alley from the subject property.
 7. For purposes of this subsection, the owners of property shall be considered to be the parties listed by the ~~Assessor's~~ Assessor's Department as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.
 8. The cost of noticing shall be charged to the applicant.
- D. Procedures.** The Board of Appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the City Clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.
1. *Conduct of hearings.*
 - a. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the Board shall exclude irrelevant, immaterial and unduly repetitious evidence.
 - b. The applicant and any abutter or similar person with standing shall in addition have the right to present

witnesses on their own behalf and offer rebuttal evidence, to cross examine all witnesses testifying in opposition to their position through the chair, and to examine and introduce any documents produced at the hearing.

2. All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the Board of Appeals.

2.3.8 Records and decisions

- A. Record.** The recording of testimony, if any, and all exhibits, papers, applications, and requests filed in any proceeding before the Board of Appeals and the decision of the board shall constitute the record.
- B. Decision.** Every decision of the Board of Appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief. The Building Authority shall hand deliver or mail a copy of the decision to the applicant, the Planning Board, and City Council within seven days of such decision, and shall also file the decision with the City Clerk.

2.3.9 Jurisdiction and authority

The Board of Appeals shall have the following jurisdiction and authority:

- A. To hear and decide appeals from the granting or denial of any permit required by Chapter 6, Article ~~H11~~, or Chapter 10 of the City of Portland Code of Ordinances.
- B. To hear and decide appeals from any decision or order made by the Building Authority pursuant to the provisions of this [Land Use Code or any other chapter of the City of Portland Code of Ordinances](#), except that decisions relating to enforcement of the Shoreland Zone provisions of this chapter may not be appealed to the Board of Appeals and may only be appealed directly to Superior Court in accordance with M.R. Civ. P. 80B and 30-A M.R.S. §§ 2691 & 4483.
- C. To review interpretations of the Zoning Administrator or their designee, except that decisions on such interpretations shall be advisory only and shall not be appealable.
- D. To hear and grant or deny applications for variances from the terms of this Land Use Code, including but not limited to terms related to use; dwelling unit conversion; space and bulk, such as lot size, density, and setbacks; parking; loading; and signs.
- E. To hear and grant or deny applications for conditional uses, as specified in Article 6.

2.3.10 Administrative appeals

- A. **Application procedures.** Application for any appeal to the board shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.

- B. **Public hearing.** A public hearing shall be set, advertised and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
- C. **Standard of review.** The standard of review for appeals pursuant to Subsections 2.3.9(A), (B), and (C) shall be de novo. The appellant shall bear the burden of proof.
- D. **Conditions and limitations on rights granted by appeal.** Any right granted by the Board of Appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

2.3.11 Variances

A. Application procedures

- 1. Application for a variance shall be submitted to the Building Authority. A payment of a nonrefundable application fee, as established from time to time by the City Council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the Building Authority.
- 2. A public hearing shall be set, advertised, and conducted by the Board of Appeals in accordance with Subsection 2.3.7.
- 3. All decisions by the board shall be rendered in a manner and form not inconsistent with the statutes of this state.
- 4. When a decision affects property located within the Shoreland Overlay Zone, the Zoning Board of Appeals shall cause written notice of its decision to be mailed or hand-delivered to the Department of Environmental Protection within seven days of the board's decision.

B. Undue hardship variance. An undue hardship variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and his or her property would cause undue hardship. The words “undue hardship” as used in this subsection mean the following:

1. The land in question cannot yield a reasonable return unless a variance is granted.
2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood.
3. The granting of a variance will not alter the essential character of the locality.
4. The hardship is not the result of action taken by the applicant or prior owner.

C. Disability variance

1. *By the Board of Appeals.* Notwithstanding the provisions of subsection (B) above, the board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall, or roof

systems necessary for the safety or effectiveness of the structure. For the purpose of this subsection, a disability has the same meaning as a physical or mental disability under 5 M.R.S. § 4553.

2. *By the Building Authority.* Notwithstanding the provisions of subsections (B) and (C(1)) above, the Building Authority may issue a permit to the owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability.

D. Practical difficulty variance. Notwithstanding the provisions of subsections (B) and (C) above, the Board of Appeals may grant a variance from the dimensional standards of this Land Use Code that relate to lot area, lot coverage, frontage, and setback requirements when strict application of these standards would both preclude a permitted use of the property and result in significant economic injury to the applicant. Significant economic injury shall mean that the value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that denial of the variance would mean the practical loss of all beneficial use of the land. In granting a practical difficulty variance, all of the following conditions must be found to exist:

1. The need for a variance is due to the unique circumstances of the property, and not to the general conditions in the neighborhood.
2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties.
3. The practical difficulty is not the result of action taken by the applicant or a prior owner.
4. No other feasible alternative is available to the applicant, except a variance.
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment.
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S. § 435, nor within a Shoreland Zone or flood hazard area, as defined in this Land Use Code.

E. Specified variances prohibited

- ~~1. No use permitted in medium and high density residential zones shall be permitted in low density residential zones. No use permitted in mixed use or office zones shall be permitted in any residential zone. No use permitted in industrial and airport zones shall be permitted in any mixed use, office, or residential zone. No use permitted in residential zones shall be permitted in any industrial or airport zone. The general use categories are listed below:~~

- a. ~~Low density residential: IR 1, IR 2, IR 3; R 1, R 2, R 3;~~

~~b. Medium and high density residential: R 4, R 5/R 5a, R 6/R 6a;~~

~~c. Mixed Use/Office: B 1/B 1b, B 2/B 2b/B 2c, B 3/B 3b/B 3c, B 4, B 5/B 5b, B 6, B 7, I B, R P, O P;~~

~~d. Industrial: I L/I Lb, I M/I Ma/I Mb, I H/I Hb, A B;~~

~~2.1.~~ A variance may only be granted with respect to the generally applicable space and bulk requirements of the zone in which the property is located and not from any provision that allows a deviation from those requirements.

~~3.2.~~ No variance shall be granted which would permit the creation of a lot or parcel that cannot be developed in compliance with the zoning, subdivision, and other regulations applicable thereto.

~~4.3.~~ No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this Land Use Code or the Comprehensive Plan; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.

~~5.4.~~ No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship or the hardship of the applicant.

- ~~6. No variance shall be granted from the minimum lot sizes set forth in Subsection 4.3.1 for lots in the IR 1 and IR 2 zones.~~
- ~~7. No variance shall be granted from the requirements in Subsection 6.4.1.~~

F. Conditions on variances; variances less than requested.

Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening, and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

G. Limitations on variances. No variance permitting the erection or alteration of a building shall be valid for a period longer than two years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than two years, unless an occupancy permit is issued and a use commenced within such period.

H. Recording of variances. No variance shall be valid unless, within 90 days of final approval of

the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S. § 4353(5).

2.3.12 Violations

In addition to any other remedies available, the Board of Appeals after notice and hearing may revoke any variance or other relief granted under this section when the provisions of this chapter or the conditions under which the relief was granted have not been complied with.

~~**2.3.13 Appeals**~~

~~**2.3.13 Reconsideration**~~

~~The Board of Appeals may reconsider any decision within 45 days of its decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within 45 days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the board members originally voting on the decision, and proper notification to the landowner, petitioner, Planning Board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The board may conduct additional hearings and receive additional evidence and testimony. Appeal of a reconsidered decision to Superior Court must be made within 15 days after the decision on reconsideration.~~

~~**2.3.14 Appeals**~~

~~Any aggrieved party may take an appeal, within 45 days of the vote of the original decision, from any final decision of the Board of Appeals may be taken by any aggrieved party~~ to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure and 30-A M.R.S. §§ 2691 & 4483, except as otherwise specifically provided in this article.

3 DEFINITIONS

The following will be added to Article 3 in the appropriate locations:

Archaeological Site. A bounded geographic location containing the physical evidence of previous human occupation including but not limited to structures, artifacts, graphics (paintings or drawings) and discarded material including plants or animals.

Object. A material thing of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Site (Historic). The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

16.17- HISTORIC PRESERVATION

16.1 PURPOSE

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the City of Portland by:

- A. Creating a mechanism to survey, identify, historically designate, and protect buildings, structures, objects, sites, and areas of preserve and enhance distinctive areas, sites, structures, and objects that have historic, cultural, architectural, and archaeological significance consistent with the National Register and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation;
- B. Establishing standards for review of alterations and new construction affecting historic designations consistent with the Secretary of the Interiors Standards for the Treatment of Historic Properties;
- C. Encouraging compatible rehabilitation and new construction affecting historic designations, preventing the unnecessary loss of the community's significant character without stifling change and development;
- ~~B.D.~~ Providing a resource of information and expertise to help those interested in historic designation, and rehabilitation or new construction affecting historic designations, and in a district or restoring a landmark
- ~~C.~~ Applying review standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to ensure compatible new construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles.

~~D.E.~~ Fostering civic pride in the city's history and development patterns as represented in the city's historic designations, such distinctive areas, sites, structures, and objects.

~~E.~~ Protecting and enhancing neighborhood character.

~~F.~~ Stabilizing and improving the values of designated properties and areas.

~~G.~~ Protecting and enhancing the attractiveness of the city to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers.

~~H.~~ Fostering and encouraging preservation, restoration, and rehabilitation that respects the historic, cultural, architectural, and archaeological significance of distinctive areas, sites, structures, and objects.

16.2 DEFINITIONS

Alteration. ~~Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, reconstruction, demolition, or relocation of any structure or object, or any part of a structure or object.~~

Certificate of Appropriateness. ~~A certificate issued by the Planning Authority evidencing approval of specific plans for alteration of a structure, site, or designated historic landscape or new construction on a site in accordance with this article.~~

Certificate of Economic Hardship. ~~A certificate issued by the Planning Authority evidencing a hardship variance approved by the Zoning Board of Appeals in accordance with Article 2.~~

Certificate of Non-Applicability. A certificate issued by the Planning Authority evidencing a determination that specific plans for alteration of a structure, site, or designated historic landscape or new construction on a site do not require approval under this Article.

Contributing. A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.

Demolition. Any act or process that partially or totally destroys a structure or object.

District. A historic district or historic landscape district.

Historic district. A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

Historic landscape district. A geographically definable area possessing a significant concentration, linkage, or continuity of landscape components which are united by human use and past events or aesthetically by design, plan or physical development.

Historic Resources Design Manual. A manual including guidelines for meeting historic

preservation ordinance review standards and other information.

Landmark. Any property, site, structure, or object of particular historic, architectural, or archaeological significance to Portland, the State of Maine and/or the United States relating to its cultural, social, economic, political, or architectural heritage, or which is associated with historic persons, important events or themes in local, state, or national history.

New construction. The adding to a structure by an addition, the erection or placement of any new structure on a lot or property, or the comprehensive redesign/renovation of an existing structure.

Noncontributing. A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that: 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or 3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.

Object. Anything constructed, fabricated, or created, the use of which does not require permanent or semi permanent location on or in the ground.

Ordinary maintenance. Acts of maintenance or repair which do not include a change in the design, material, or outer appearance of a structure, including without limitation repainting, replacement of materials or windows of the same scale, texture and color, and landscaping other than within an historic landscape district.

Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than the extensive replacement and new construction.

Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural value.

Relocation. Any removal or relocation of a structure on its site or to another site.

Restoration. The act or process of accurately depicting the form, features, and character of the property as it appeared at a particular period of time by means of the removal of features from other period in its history and reconstruction of missing features from the restoration period.

Site. The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

16.3 ADMINISTRATIVE PROCEDURES

~~16.2.1~~ Costs

~~A.~~ Any project may be subject to fees as established by the City Council to cover administrative costs and the costs of Historic Preservation Board review. Applicants shall also pay a fee to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant.

~~B.A.~~ Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.

~~C.A.~~ No Certificate of Appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the

issuance of any temporary or permanent certificate of occupancy.

~~16.2.2~~ 16.2.1 Notice of public meeting

~~A.~~ For all Certificate of Appropriateness applications that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.

~~B.A.~~ The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the site no more than three days following the date of the meeting.

~~C.A.~~ Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.

~~D.A.~~ In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

16.2.3 Notices and public comment

~~A.~~ Except as provided in Subsection 17.7.5, notice of proceedings upon any application for a Certificate of Appropriateness shall be given only when the proposed activity otherwise constitutes major site plan. Notice of such proceedings also shall be furnished to any persons interested in historic preservation who have registered with the Planning Authority, and to the Historic Preservation Board and/or the Planning Board when the proceeding is pending before a different body. The failure to

give any notice required by this article shall not affect the validity of any action taken.

~~B.~~ The Historic Preservation Board, the Planning Board, the Board of Appeals, and the City Council shall each invite public comment at a public meeting in accordance with their respective rules, prior to any final action being taken under this article.

~~C.~~ The Planning Authority shall advise the Historic Preservation Board and the Planning Board of any demolition permit application received by the Planning Authority as to structures or objects that have been classified as noncontributing within nominated or designated districts, but there shall be no Historic Preservation Board review of such permit applications.

~~16.4~~ 16.2 CATEGORIES AND CRITERIA FOR HISTORIC DESIGNATIONS

16.2.1 Categories of historic designations

~~A.~~ **Landmark.** A discrete site, structure, or object building, structure, object, or site and any associated area found to have particular or individual significance or prominence. Landmarks may be in or outside of historic districts or historic landscape districts.

~~B.~~ **Historic district.** A geographically defined area possessing a significant concentration, linkage, or continuity of buildings, structures, sites, or objects united historically by past events, culturally, or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.

C. Historic landscape district. A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components including buildings, structures, sites, or objects which are united by past events, culturally, or aesthetically by design, plan or physical development. The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.

16.2.2 Minimum Criteria for historic designation

- A.** The Historic Preservation Board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an Any area, site, structure, or object building, structure, object, site, or area nominated for historic designation by ordinance as a landmark or district must be found to demonstrate significance under at least one of the following:
1. *Significant aspect of heritage.* Its value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.
 2. *Significant events or activities.* Its location as a site of a significant historic, or prehistoric, or cultural event or activity, which may have taken place within or which involved the use of any existing structure on the property.
 3. *Significant persons.* Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological, or related

aspect of the development heritage of the City of Portland, State of Maine, New England region, or the United States.

4. *Significant design or construction architecture.* Its exemplification Embody the distinctive characteristics of a significant architectural type, style, or design, period, or method of construction, distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.
5. *Significant designer.* Its identification as a significant example of the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States.
6. *Significant theme.* Its Representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

B. In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction but

which contribute to the significance and visual character of the district as a whole.

~~C.~~ In the case of a nominated historic landscape district, the Historic Preservation Board shall also consider its significance as a geological, natural, or designed landscape associated with the development, heritage, or culture of the City of Portland, State of Maine, New England region, or the United States.

~~D.A.~~ The Planning Board and City Council shall apply the criteria of (A), (B), and (C) above as well as historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.

16.2.3 Integrity of landmarks and historic districts

~~B.~~ Any nominated building, structure, object, site or area area, site, structure, or object must also be found to retain area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, condition, setting, materials, and workmanship, feeling, and association to make it worthy of preservation or restoration convey its significance with respect to the applicable criteria for historic designation as defined in Subsection 16.2.2(A).

~~C.~~ The Planning Board and City Council shall apply the criteria for historic designation designation of Subsections 16.2.2(A), and (B), and (C) above, as well as the historic preservation goals included in the Comprehensive Plan, but shall also and consider the effect of such historic

designation on other aspects of the Comprehensive Plan of the City.

~~B.D.~~ The Historic Preservation Board, Planning Board, and City Council may refer to the National Register of Historic Places Bulletins in interpreting and applying the criteria for historic designation under Subsections 16.2.2(A) and (B).

16.2.4 Designation of historic landscape districts

An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state, or local government, or any combination of such ownership.

16.2.3 Classifications within historic designations

~~A.~~ The sites, structures, or objects buildings, structures, objects, and sites within a nominated historic designation may be classified as contributing or noncontributing.

~~B.~~ A contributing classification shall only be applied to a building, structure, object, or site which:

- ~~1.~~ WereWas built at least 50 years prior to the date of district designation, or werewas built within a period of significance specified in the designation application nomination for historic designation;
- ~~2.~~ AreIs found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria for historic designation from Subsection 16.2.2(A) specified in the

- nomination for historic designation ~~report;~~
and
3. Retains sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).
- C. Where a landmark overlaps with a historic district or historic landscape district, the contributing buildings, structures, objects, and sites of the landmark shall be classified as contributing to the historic district or historic landscape district.
- D. If a building, structure, object, or site does not meet the above it will be categorized Subsection 16.2.3(B) or (C) it shall be classified as noncontributing.

16.516.3 NOMINATION, CONSIDERATION, AND HISTORIC DESIGNATION

16.3.1 Procedure

The provisions of this section shall govern the nomination, consideration, and designation of landmarks, historic districts, and historic landscape districts.

16.3.2 Initiation of a Nomination of a historic designation

- A. Nomination of a historic designation ~~a area, site, structure, or object for consideration of designation as a landmark, historic district, or historic landscape district~~ shall be submitted to the Planning Authority in writing. Nominations shall include the following information by the following:
1. A statement of how the proposed historic designation meets the criteria for historic designation under Subsections 16.2.2(A), (B), and (C).

2. A map showing the location and proposed boundaries of the historic designation.
 3. A draft list of the constituent buildings, structures, objects, and sites, ~~structures, or objects,~~ indicating their degree of cultural, historic, architectural, or archaeological significance and their classification as contributing, or noncontributing, or landmark within the proposed historic designation.
- B. Nominations may be initiated submitted by the following:
1. Any two members of the Historic Preservation Board on their own initiative, by written notice to the Planning Authority, or
 2. The Planning Authority, or
 3. In the case of a landmark, By written petition of anyone or more owners of the affected property; in the case of a landmark, or
 4. In the case of a historic district or historic landscape district, By written petition of one or more owners of an affected property in the case of a district, provided a minimum of two members of the Historic Preservation Board must submit written sponsorship of the nomination to the Planning Authority. petition.
- C. In the case of a nomination initiated or sponsored by the Historic Preservation Board, such nomination may be made verbally at a Historic Preservation Board meeting or via signed, written statement to the Planning Authority. A nomination shall be completed and filed with the Planning Authority with all required signatures for the nomination to be pending.

C. Upon nomination, the Planning Authority shall notify the owner(s) ~~or owners~~ of the subject property or properties. ~~nomination and shall transmit the nomination to the Historic Preservation Board for its preliminary consideration at a scheduled meeting, which in no event shall be held later than 60 days following nomination.~~

D. A nomination shall be diligently pursued from the date of submission. Nominators shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of nominators to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the nomination to expire.

~~D.E.~~ Withdrawal of nominations shall only be at the consent of all parties who submitted the nomination. Consent to withdraw a nomination shall be submitted in writing to the Planning Authority.

~~E.A.~~ If documentation and analysis that is necessary for the consideration of a given designation has not been provided at the time of nomination, such documentation shall be completed prior to further consideration by the Historic Preservation Board of the nominated landmark, district, or historic landscape.

~~F.A.~~ At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the Historic Preservation Board for a determination that the structure to be demolished is

noncontributing and eligible for a demolition permit. The determination of the Historic Preservation Board that the structure is eligible for a permit shall be conclusive.

16.3.3 Notification of nomination and public hearing Historic Preservation Board review and recommendation

~~A.~~ A public hearing on the nomination shall be held by the Historic Preservation Board following one or more preliminary workshops of the Historic Preservation Board.

~~A.~~ The hearing shall be conducted in accordance with procedures adopted by the Historic Preservation Board. In the case of additional workshops, these shall be agreed to by the Historic Preservation Board and the nominators.

B. The Historic Preservation Board shall consider all testimony or evidence relating to the nomination ~~designation criteria in Subsection 17.416.2.2~~ from any person who makes written submissions or appears at a the workshop or public hearing. The owner of a nominated landmark or of property within a nominated district shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the designation ~~criteria for historic designation~~ in Subsection 17.416.2.2.

C. ~~If the Historic Preservation Board finds that documentation and analysis that is necessary for the consideration of the nomination a given designation has not been provided at the time~~ s part of the nomination, such documentation shall be provided ~~completed prior to further consideration by the Historic Preservation~~

Board of the nominated landmark, district, or historic landscape.

16.3.4 Recommendation by Historic Preservation Board

D. ~~Within 45 days of~~ Following the close of the public hearing, the Historic Preservation Board shall make a recommendation to the City Council in the case of a landmark, or to the Planning Board in the case of a historic district or historic landscape district, ~~upon the evidence~~ as to whether the nominated buildings, structures, objects, sites, or areas ~~area, site, structure, or object~~ nominated landmark or district meets the criteria for historic designation in Subsection ~~17.4~~ 16.2.2. Such recommendation shall be ~~approved by at least four members of the Historic Preservation Board and shall be accompanied by:~~

- ~~10.—a~~ A report ~~to the City Council and/or Planning Board~~ containing the following information:
 1. findings by the Historic Preservation Board as to whether the criteria for historic designation in Subsection 16.2.2 for historic designation have been met, as well as any recommended changes to the scope of the nominated historic designation.

Explanation of the significance or lack of significance of the nominated landmark or district as it relates to the criteria for designation.

Explanation of the integrity or lack of integrity of a nominated landmark or historic district.

Proposed design guidelines for review of alteration or construction may be recommended. The specific design guidelines may provide explanation by text and/or

schematic examples of visual compatibility for purposes of complying with Section 17.8.

Relationship of the nominated landmark or district to the ongoing effort by the Historic Preservation Board to identify and nominate areas, sites, structures, and objects that meet the criteria for designation.

A map showing the location of the nominated landmark and/or the boundaries of the nominated district.

A list, including the address, of every site, structure, and object in each nominated historic district indicating their degree of cultural, historic, architectural, or archaeological significance by classification as a landmark, contributing, or noncontributing. Where a motion either in favor of a recommendation or in opposition to a recommendation results in a vote of fewer than four members, the item shall automatically be tabled to the next regularly scheduled meeting.

Notification of Historic Preservation Board recommendation

The recommendation of the Historic Preservation Board, including a copy of the report, shall be transmitted to the City Council in the case of a landmark and to the Planning Board in the case of a district. Notice of the recommendation shall be sent by mail to the owner of a nominated landmark and to all owners within a nominated district within ~~14~~ days following adoption of the recommendation and report.

If the recommendation of the Historic Preservation Board is that the property or district not be designated, the nomination process shall terminate and no new nomination

shall be submitted for the identical property or area for a period of one year from the date of termination, except upon a showing of substantial and material newly discovered information.

16.3.516.3.4 Determination by Planning Board review and recommendation

- A.** The Planning Board shall hold a public hearing to review the nomination of a historic district or historic landscape district and the recommendation, upon receipt of a recommendation and a report from the Historic Preservation Board, concerning nomination of a historic district or historic landscape district, may hold one or more workshops pursuant to the provisions of Article 2. The Board may hold one or more workshops prior to the public hearing. After review of the Historic Preservation Board recommendation and report, the Planning Board shall hold a public hearing.
- A.B.** All meetings, hearings, and deliberations of the Planning Board to consider the nomination, and recommendation and report of the Historic Preservation Board shall be held in conformity with Article 2.
- C.** The Planning Board may request that the chair of the Historic Preservation Board, or a member designated by the chair, to appear at any meeting, hearing or deliberation to explain any the recommendation or report.
- B.** A public hearing shall be scheduled within 30 days of the Planning Board's final workshop. At the conclusion of Following the close of the public hearing, the Planning Board shall make a recommendation to the City Council upon the evidence as to its final determination including

written findings as to whether the nomination ed-district meets the criteria for historic designation in Subsection 17.416.2.2. Such recommendation A copy of the determination of the Planning Board shall be sent by regular mail to all owners within a nominated district within 14 days following the determination.

C. Planning Board recommendation to City Council

D. The recommendation of the Planning Board regarding a nominated district shall be filed with the City Clerk within 14 days. It shall be accompanied by:

1. a copy of the report and recommendation of the Historic Preservation Board.
2. A report containing Findings by the Planning Board as to whether the criteria for historic designation in Subsection 16.2.2 for historic designation have been met, as well as any recommended changes to the scope of the nomination. ed-historic designation.
1. , including any specific proposed design guidelines applicable to the nominated landmark or district. The recommendation of the Planning Board may include proposed changes in other City ordinances, policies, infrastructure, or recommendations with respect to the Comprehensive Plan of the City relating to the proposed designation.

16.3.616.3.5 Action by City Council consideration

D. Within 60 days after the filing of a Planning Board recommendation, or Following the receipt of a Historic Preservation Board

recommendation and report in the case of a landmark nomination, or Planning Board recommendation and report in the case of a historic district or historic landscape district nomination, ~~on the nomination with the City Clerk pursuant to Section 17.5.6~~, the City Council shall approve ~~designate the landmark or district~~ or reject the historic designation. Any designation may include specific design guidelines for the designated landmark or district.

A.

~~—~~ The designating order shall include a map of the location and boundaries of the historic designation, and :

B. ~~D~~Designation of a district shall be accompanied by a list, including the address, of every sites, structures, and objects buildings, structures, objects, and sites within the historic designation district. ~~Every Ssites, structures, or objects shall be assigned a~~ including their location or address and classification as of landmark, contributing, or noncontributing; indicating their degree of cultural, historic, architectural, or archaeological significance under Subsection 16.2.3.

E. This list may be amended thereafter by the City Council upon recommendation from the Historic Preservation Board and Planning Board under the same procedures as set forth above. ~~Where there are no express findings by the City Council in the designation ordinance, there shall be a presumption that the City Council found that all requirements of Section 17.4 were met.~~

F. Notice of the proposed action of the City Council shall be provided by mail to the nominator and the owner of the nominated

landmark and/or of all properties adjacent thereto prior to City Council action.

G.C. Notice of City Council action ~~to the same persons~~ shall be sent to all owners of property ~~or within the boundaries of a historic designation~~ within ~~1430~~ days following the City Council action. ~~A copy of each designation and any design guidelines shall be sent to the Planning Board, the Historic Preservation Board, and the Planning Authority.~~

H.D. A complete schedule record of the historic designation, maps of the historic designation boundary, and copies of all application materials ~~nominations and reports~~ all landmarks and districts, including design guidelines and a listing of landmark and contributing structures, shall be maintained by the Planning Authority and ~~shall be made~~ made available to the public online ~~or for public inspection and copying~~ and during ordinary business hours.

16.3.6 Designation

A. Upon designation, all buildings, structures, objects, and sites ~~sites, structures, and objects~~ within the boundary of the historic designation shall be subject to the provision of this article.

A.B. Demolition, including any act or process that totally destroys any landmark or contributing building, structure, or object, or site shall be prohibited, with the exception of:

1. This article shall not apply to a Any building, structure, ~~or object, or site~~ which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. § 2851 et seq., its equivalent, as it may be amended from time to time, or ~~to~~
2. A any building, structure, ~~or object, or site~~ which has been partially destroyed and is

determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.

3. Any building, structure, ~~or~~ object, site, or portion thereof which was approved for demolition under is the subject of a certificate of economic hardship under Section 16.78.

16.3.7 Amendment or rescission of designation

- A. Amendment shall be defined as a change to the historic designation boundary or reclassification of a building, structure, object, or site ~~site, structure, or object~~ as contributing or non-contributing in its entirety.
- B. Rescission shall be defined as the complete removal of a historic designation.
- C. Amendment or rescission of any historic designation shall be upon the request of a person or persons authorized to nominate the property or properties affected as set forth in Subsection 16.3.2, or upon request of the City Council. Such requests shall be submitted in writing to the Planning Authority.
- ~~A.D. Amendment or rescission, and shall follow the procedure set forth in Section 17.516.3 for designation. The City Council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsection 16.25-17.4.1(A) and (B) and Subsection 17.4.2. Amendments may~~

~~include reclassification of a portion of a contributing property to noncontributing status, refinement or correction of design guidelines, maps, and other parts of any designation.~~

16.3.8 Presumption of contributing classification

- A. Where the historic designation ~~classifies a as~~ contributing, but does not specify the classification of a building, structure, ~~or~~ object, or site, there shall be a presumption that the building, structure, ~~or~~ object, or site is contributing, unless:
 - ~~1. Documentation can be provided to the Planning Authority that a the building, structure, object, or site was constructed within 50 years of or after the date of historic designation, or after the stated period of significance; ~~or~~~~
 1.
 2. The Historic Preservation Board holds a public hearing and finds that the building, structure, object, or site has no significance relating to the criteria for historic designation under Subsection 16.2.2(A) referenced in the nomination for the historic designation, or reports of the Historic Preservation Board, Planning Board or City Council; or
 - ~~2. The Historic Preservation Board holds a public hearing and finds that the building, structure, ~~or~~ object, or site has been lawfully substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance, such that it lacks integrity as defined under Subsection 16.2.2(B).~~

3.

~~16.3.8~~ Time limits

If any time limit in the nomination and designation process as provided in Sections 17.4 or 17.5 is not met, the validity of any designation and the interim protection provided by Section 17.6 shall not be affected, provided the Historic Preservation Board, Planning Board or City Council announce the delay and the basis for such in a public meeting, as well as the date to which the matter will be rescheduled.

~~16.6~~ 16.4 INTERIM PROTECTION FOR NOMINATIONS NOMINATED HISTORIC DESIGNATIONS RESOURCES

16.4.1 ~~Nominated landmarks and~~ ~~districts~~ Minimum maintenance

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council Historic Preservation Board acts upon such nomination, ~~or the nomination is withdrawn, or the nomination expires,~~ all buildings, structures, objects, or sites ~~areas, sites, structures, and objects or area~~ areas, sites, structures, and objects nominated but not yet designated ~~as a landmark or district~~ shall be subject to ~~all of~~ the provisions of Sections ~~17.89 and 17.10~~ governing ~~demolition and minimum~~ maintenance, to the same extent as if designated. ~~Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.~~

A. ~~Alteration or new construction commenced pursuant to a building permit issued prior to nomination shall not require a Certificate of Appropriateness, unless such permit has expired, been canceled or revoked. No project for which any application is pending and which has received substantive review by the Planning Board prior to nomination shall be affected by nomination. Substantive review, as used in this paragraph, shall include workshop review of any completed application under Article 14 and Article 15 of the Land Use Code.~~

16.4.2 Protection from demolition

From the time of submission of a complete nomination as set forth under Subsection 16.3.2 until the City Council acts upon such nomination, ~~or the nomination is withdrawn, or the nomination expires,~~ all demolition permit applications for any building, structure, object, or site area, site, structure, or object nominated but not yet designated shall be denied unless:

A. The Historic Preservation Board has held a public hearing at the request of the owner of a building, structure, object, or site and has found that the building, structure, object, or site in question would be recommended to be classified as noncontributing to the nominated historic designation and shall be eligible for a demolition permit. The determination of the Historic Preservation Board that the building, structure, object, or site is eligible for a permit shall be conclusive; or

B. ~~†~~ The owner has received a certificate of economic hardship under Section 16.7.8. At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the

Historic Preservation Board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the Historic Preservation Board that the structure is eligible for a permit shall be conclusive.

16.7 PROTECTIONS FOR PROPERTIES LISTED ON THE NATIONAL REGISTER OF HISTORIC PLACES

Upon receipt of notice from the National Park Service or the Maine Historic Preservation Commission to the City that a property or area has been listed on the National Register of Historic Places or has been determined to be eligible for listing on the National Register, the City shall deny any demolition permit application for any structure or object within the listed property or area unless: The owner has received a certificate of economic hardship under Section 16.8, or The Historic Preservation Board has held a public hearing at the request of the owner and found that the structure or object in question does not have sufficient integrity for historic designation using Subsection 16.2.2 as the standard for review, or Documentation is provided from the Maine Historic Preservation Commission that the structure or object in question has been removed from the National Register of Historic Places, no longer retains sufficient integrity to remain listed on the National Register of Historic Places, or an existing determination of eligibility is no longer valid, or

1. The City Council has held a public hearing at the request of the owner and determined that demolition of the structure or object is consistent with the goals of the Comprehensive Plan. after the adoption of this article, a nomination shall be

deemed submitted to the Historic Preservation Board for designation of such property or area as a landmark, historic district, or historic landscape district under this article, and the procedures of Section 17.6 shall be applicable thereto.

2. Properties eligible for listing on national register or for local designation

3. A Certificate of Economic Hardship shall be obtained prior to demolition of any structure which has not been designated in accordance with this article but which has been determined by the Maine Historic Preservation Commission as eligible for listing in the National Register of Historic Places under the criteria established by 16 U.S.C. Section 470(a) or its successor statute and/or regulations made thereunder or which has been determined to be eligible for local listing under the criteria for designation of this article. The determination of eligibility for listing shall be made by the Planning Authority, which may refer such a determination to the Historic Preservation Board, and by the Board of Appeals if an appeal is taken. Upon determination of eligibility, the structure so determined shall also be subject to the provisions of Section 17.10 until a final decision by the City Council on designation becomes effective. If the City Council rejects designation or fails to designate a structure which has been determined to be eligible under the terms of this section, that structure shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.

16.8 REVIEW PROCESS FOR HISTORIC PRESERVATION APPROVAL CERTIFICATES OF APPROPRIATENESS AND NON-APPLICABILITY

16.5.1 Certificate of Appropriateness Applicability

Except as provided in Subsections 17.7.2 and 17.7.3, ~~a~~^A historic preservation approval certificate of appropriateness shall be required prior to undertaking any the issuance of any permit authorizing new construction, additions, exterior alterations, site alterations, signage, or the relocation of buildings, structures, or objects affecting any property within the boundaries of a historic designation landmark, historic district, or historic landscape district as identified in Table 16-A. Historic preservation approval shall also be a condition precedent to the issuance of any permit authorizing any such work as noted above.

Notwithstanding the above, the following activities shall be considered exempt before the following actions affecting any landmark, contributing or noncontributing structures, objects, sites, or property in a district may be undertaken and shall be a condition precedent to the issuance of any permit authorizing such work:

- A.—Any exterior alteration or new construction requiring a building permit from the City of Portland, including, but not limited to the following:
 - a.—Removal and replacement of architectural detailing including, but not limited to, porch spindles and columns, railings, window moldings, and cornices.
 - b.—Moving of structures or objects on the same site or to another site.
 - c.—Construction of rooftop additions or decks.
 - d.—Alteration of accessory structures such as garages.
 - e.—Porch replacement or new construction of porches.
 - f.—Installation of exterior access stairs.

- g.—Window or door replacement requiring enlargement of openings.
- h.—Installation of antennas and satellite receiving dishes.
- i.—Installation of solar collectors.
- 11.—Any exterior alteration that does not require a building permit but which involves any one of the following activities:
 - a.—Installation or replacement of either roofing or gutters where the roofing or gutters are a significant and integral feature of the structure including, but not limited to, mansard roofs, cupola roofs, ornamental slate roof features, and built-in gutter systems and the installation or replacement of siding.
 - b.—Window and door replacement whether or not it requires enlargement of openings.
 - c.—Masonry work including, without limitation, tuckpointing, sandblasting, chemical cleaning.
 - d.—Site features other than vegetation including, without limitation, fencing, walls, paving, and grading. However, required review for alterations to cemeteries designated under this article shall not include review of alterations to headstones made for the purpose of recognition of additional decedents or installation of grave markers and/or tombs.
 - e.—Streetscape and pedestrian improvements within historic districts, including but not limited to installation of pedestrian lighting, alteration to road or intersection alignment, installation of public signage (other than public safety related signage).
 - f.—Landscaping within an historic landscape district.

- ~~g. Exterior lighting where proposed in conjunction with commercial and institutional signage or awnings or architectural lighting.~~
- ~~h. Exterior utilities including mechanical, HVAC, plumbing and electrical, where placed on elevations readily visible from a public way.~~
- ~~12. Installation or alteration of any exterior sign.~~
- ~~13. Any relocation of a landmark or contributing structure within a district.~~

~~B. There shall be a rebuttable presumption that all structures within a district shall be contributing unless the designation report and Historic Resources Inventory expressly identifies otherwise. Where the Planning Authority or the owner believes that the identification is erroneous, the Historic Preservation Board shall determine whether the structure is noncontributing.~~

16.5.2 Exceptions to requirement of Certificate of Appropriateness

A Certificate of Appropriateness is not required:

- ~~A. Where a Certificate of Non-Applicability has been issued within the previous 12 months.~~
- A. Where the work consists solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a building, structure, object, or site structure, such as repainting of previously painted surfaces or in-kind replacement of materials or plantings, and/or restoration, provided that there is no substitution of materials or alteration of architectural details.

- ~~B. Where the work consists solely of emergency repair of a temporary nature.~~
- ~~C. Work approved under a valid certificate of economic hardship, has been issued and remains valid.~~
- ~~D. In the case of either alteration of a structure (other than a landmark) or of new construction within a district, a Certificate of Appropriateness shall not be required~~Work where the Planning Authority determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights from any public way or public open space. Where a Certificate of Appropriateness is required for such changes, it shall be limited to those portions of the structure or structures so visible.
- ~~D.E. Installation of new public artworks approved or acquired through the City of Portland Public Art Program.~~
- ~~E.F. Changes in plantings or vegetation outside of historic landscape districts and minor changes in plantings or vegetation within historic landscape districts.~~
- ~~F.G. Alterations to existing grave markers or tombs made for the purpose of recognizing additional decedents or installation of grave markers or tombs recognizing new interments within an existing cemetery.~~
- ~~G. Work in City rights-of-way.~~
- ~~H. Roof-mounted solar energy systems where the system:~~
 - ~~1. Is consistent with all other city requirements,~~
 - ~~2. Is installed reversibly with no damage to any historic roofing materials,~~
 - ~~3. Is not installed on street-facing roof planes on landmarks or contributing buildings or structures, and~~

4. Any associated electrical equipment is not installed on street-facing facades.
- I. Ground-mounted heat pumps and HVAC equipment where:
- Exterior units are installed at least 30' from public rights-of-way or behind the street-facing facades of the associated building or structure, whichever is a greater distance, and
 - Any associated line hides, conduit, vents, and other equipment or penetrations are not installed on street-facing facades.
- J. Installation of temporary buildings, structures, or objects for a period of less than eight consecutive months, unless such installation otherwise meets a threshold for review established in Table 16-A.
- K. Demolition of non-contributing buildings, structures, or objects, or sites.
- L. Relocation of non-contributing buildings, structures, or objects to a property site outside any historic designation boundary.
- 16.5-316.5.2 Alterations or new construction within historic landscape districts**
- Review classifications**
- A. Applications shall be subject to administrative or Historic Preservation Board review according to the classifications in Table 16-A.
- B. The Planning Authority may, due to the scope or anticipated impacts of a project, reclassify an administrative review to a Historic Preservation Board review.
- C. At any point in the review process, an applicant may request that the Planning Authority reclassify the application from administrative to Historic Preservation Board review.

TABLE 16-A: HISTORIC PRESERVATION REVIEW CLASSIFICATIONS

		Administrative Review	Board Review
New construction and additions		≤ 500 SF	> 500 SF
	Dormer additions ¹	Affecting ≤ 40% of roof area (in SF)	Affecting > 40% of roof area (in SF)
Alterations to contributing buildings, structures, or objects ²	Minor alterations	All	--
	Major alterations	≤ 25% of any façade, or where work is based on clear documentation of the historic appearance	> 25% of any facade
Alterations to noncontributing	Minor alterations	All	--
	Major alterations	≤ 40% of any facade	> 40% of any facade

**buildings, structures, or
objects²**

Site alterations³ All

--

Signage All

--

Relocation of buildings, structures, or objects⁴

≤ 500 SF

> 500 SF

¹ Dormer additions include any increase in building volume which does not interrupt the ridges, eaves, or rakes of an existing building or structure.

² Minor alterations include small or routine changes such as required by building code or modern convenience which result in minimal change in exterior appearance of an existing building, structure, or object. Major alterations include changes to existing or introduction of new details or features which affect the scale, form, proportion of openings, ratio of solid to void, rhythm or placement of entrances, color or texture of materials, or relationship to the street of an existing building, structure, or object.

³ Site alterations include the construction of permanent features such as fences and retaining walls, regrading, hardscaping, and the installation of exterior utilities.

⁴ Relocations include the moving of a building, structure, or object on its site or to another site within any historic designation boundary.

A certificate of appropriateness shall be obtained before any site alteration or new construction within a historic landscape district may be undertaken, except where a certificate of non-applicability has been issued or where construction or alteration is pursuant to a master plan approved by a prior certificate of appropriateness within five years of commencement and where the master plan is sufficiently detailed to guide the specific work

16.5.3 Historic Preservation pre-application meeting

Applicants are encouraged to schedule a historic preservation pre-application meeting with the Planning Authority prior to applying for historic preservation review a Certificate of Appropriateness. The purpose of this meeting is to familiarize the applicant with the City of Portland Historic Preservation submittal requirements, applicable review criteria and standards, and to confirm the level of review required. A pre-application meeting does not confer pending proceeding status under Title 1 MRSA 302. No decisions relative to the application shall be made at the pre-application meeting, nor shall any advice or information

provided by the Planning Authority be construed as a decision.

16.5.4 Applications for Certificate of Appropriateness

Application for historic preservation review a certificate of appropriateness shall be made on a form prepared by the City and shall be submitted to the Planning Authority along with the applicable fee. Upon receipt of an application and fee, the Planning Authority shall determine whether the application is complete and the level of review required per Table 16-A. The Planning Authority shall determine whether the scope, nature, or scale of the proposed project requires review by the Historic Preservation Board or whether it is a minor or routine project that is appropriately reviewed at the administrative level.

If the Planning Authority determines that the project should be reviewed by the Historic Preservation Board, the item shall be scheduled for the next available Historic Preservation Board meeting, provided that the notice requirements of this article can be met prior to that meeting. The

Planning Authority shall transmit a copy of the complete application to the Historic Preservation Board at least four days prior to their next scheduled meeting. The Planning Authority shall not issue or act upon the application until the Historic Preservation Board has completed its review and approval process. An application for a Certificate of Appropriateness shall be treated as an application for a Certificate of Economic Hardship under Section 17.9 whenever the Historic Preservation Board or the Planning Board, as applicable, determines that the proposed alteration includes any demolition which would:

Have the effect of causing the structure to no longer meet the criteria for designation of Section 17.4; ~~or~~

Materially impair the significance and integrity of the structure.

Where a determination under (B) above is made by the Historic Preservation Board, the Planning Board shall review that decision as a preliminary matter, whether the Historic Preservation Board has taken final action with respect to the application or not. Upon any final determination that an application for a Certificate of Appropriateness is required to be treated as an application for a Certificate of Economic Hardship, no further action shall be taken with respect to the application until that certificate is applied for and is granted.

~~Where the applicant has done work or caused work to be done on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done in compliance with an approval received under this article or was performed without the approvals required under this article, no application for such structure or property shall be considered by the Planning Authority or by the Historic Preservation Board~~

~~until the work done without approval is brought into compliance with the requirements of this article. The Historic Preservation Board may waive this requirement if the Historic Preservation Board determines that the work does not alter the essential character of the structure or district and one or more of the following standards are also met:~~

~~The work was needed to bring a building into conformance with any building or safety code.~~

~~The applicant can demonstrate a good faith belief that necessary approvals had been received for the work at issue prior to the commencement of the work.~~

~~The applicant can demonstrate a good faith belief that the work done was not subject to review under this article.~~

~~Review of any application by the Planning Authority or by the Historic Preservation Board shall not constitute waiver of any future claims by the City concerning violations and shall not stop the City from prosecuting any violation.~~

16.5.5 Costs

~~Any~~ all projects may ~~shall~~ be subject to fees as established by the City Council to cover the administrative costs and the costs of Historic Preservation Board review. Applicants shall ~~are~~ also required to pay a fees to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant.

Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.

~~16.5.5~~ **16.5.6 Lapse in application**

~~Once a completed~~An application for historic preservation review ~~a certificate of appropriateness has been submitted, it~~ shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void. attend two or more Historic Preservation Board meetings at which an application is scheduled for review shall cause the application to expire and to be deemed null and void, unless the Planning Authority determines that good cause is shown for the failure to attend. Where good cause is shown for a failure to attend, the Historic Preservation Board shall table an application to a date mutually agreed upon in writing.

In determining the existence of the circumstances specified in this article, the Historic Preservation Board, Planning Board, or Board of Appeals may require such additional documentation or evidence as they may respectively determine to be necessary, including plans, drawings, and elevations, and notwithstanding any time limit for action or decision specified in this article, it may continue a proceeding for such additional time as it reasonably takes an applicant or any other party to comply with the request for additional relevant documentation

or evidence and may draw a negative inference with regard to the content of any material evidence not produced upon reasonable request.

~~Prior to issuance of any Certificate of Appropriateness, any applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the Certificate of Appropriateness, upon reasonable request of the Planning Authority. If the Planning Authority determines that the applicant has failed or refused to demonstrate an ability to complete the proposed activity, it shall refer the issuance to the Planning Board which shall make a final determination as to whether the applicant has demonstrated a sufficient capability to complete the proposed activity. Notwithstanding any other provision of this article, the Historic Preservation Board or Planning Board may include reasonable conditions, including the provision of adequate financial security, to ensure that actions taken under a Certificate of Appropriateness will be successfully prosecuted to completion, as approved, in a timely manner.~~

16.5.7 Administrative Review process for Certificate of Appropriateness

The process for review of an application for a Certificate of Appropriateness shall be as follows, except to the extent specifically provided elsewhere in this Section 17.7:

For administrative level reviews. An application for historic preservation review ~~a certificate of appropriateness~~ for installation or alteration of any exterior sign; minor or routine alterations; and temporary alterations, construction, or improvements ~~subject to administrative review~~ shall be reviewed by the Planning Authority for

compliance with the standards of Section 17.816.67. The Planning Authority may request revised plans and submittals necessary to determine compliance. The Planning Authority shall approve the application, approve the application with conditions, or deny the application, and the *Historic Resources Design Manual*. Where staff determines that such an application meets these requirements, the Certificate of Appropriateness shall be issued by staff without presentation to the Historic Preservation Board for approval. Staff shall provide the Historic Preservation Board with written notice of staff approvals on a quarterly basis.

If staff approves an application with conditions, the applicant may request review by the Historic Preservation Board. The application shall then be subject to review by the Historic Preservation Board pursuant to Subsection 17.7.5(B).

Staff may elect to forward to the board an application found by staff to meet review standards but for which board confirmation is sought. The application shall be placed upon the next consent agenda of the Historic Preservation Board. Any member of the Historic Preservation Board may remove an application from the consent agenda for the purpose of giving it a public hearing.

If the Planning Authority determines that the application does not meet the requirements of Section 17.8 and the *Historic Resources Design Manual*, the application shall be scheduled for review by the Historic Preservation Board pursuant to Subsection 17.7.5(B), unless the applicant withdraws the application.

For purposes of this subsection only, temporary is defined as either a one time occurrence that does not exceed 30 days or as an annual occurrence that does not exceed one 30 day period each year.

Minor or routine alterations are defined as incidental changes or additions to a building, site features, or exterior utilities which require building permits but will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the opinion of the Planning Authority, such change shall alter the historic character of the building or site.

16.5.8 Historic Preservation Board review

A. ~~For Historic Preservation Board level~~

~~reviews.~~ An application for historic preservation review a certificate of appropriateness subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.67. The Planning Authority may request revised plans and submittals necessary to determine compliance with the standards of Section 16.67 prior to The Planning Authority shall review the application and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the review standards in Section 17.8. The Planning Authority may ~~scheduling a Historic Preservation Board one~~ or more preliminary workshops on the application prior to ~~a~~ or public hearing.

B. The Planning Authority shall schedule the project for review at a workshop or public hearing on a date that meets public noticing requirements and prepare a report for the Historic Preservation Board's consideration which addresses the proposed project's compliance with the review standards of ~~in~~ Section 16.67.

- C. In the case of applications being reviewed at a workshop or workshops prior to the public hearing, they shall be informational and not result in any formal approval or disapproval of the project. At a workshop, the Historic Preservation Board shall review the plans and submittals, consider the staff review with respect to the review standards of Section 16.6~~this article~~, hear public comments and questions, and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the standards of Section 16.6.
- A. At a hearing, the Historic Preservation Board shall approve, approve with conditions, or deny the application based on the applicable review standards of Section 16.6~~7~~. Should the Historic Preservation Board deny an application,
- B. Following any preliminary workshop(s) and upon determination by the Historic Preservation Board that the application is complete, the application shall be scheduled for a public hearing at the next available meeting of the Historic Preservation Board which allows for adequate notice.
- C. Following a public hearing, the Historic Preservation Board shall make a decision on the application.
- D. The Historic Preservation Board it shall enter findings of fact concerning the relationship between the application and the applicable standards of Section 17.8-16.6~~7~~ within 60 days of the close of the public hearing, immediately following a denial or conditional approval of any Certificate of Appropriateness. Written notice of the determination of ~~staff or~~ the Historic Preservation Board on the application,

including a copy of the findings of fact, shall be sent by regular mail to the applicant.

16.5.9 Review process involving major site plans ~~Review process involving major site plans.~~ The process for review of an application for alteration or new construction that is also a major site plan as defined in Article 14 shall be as follows:

Site plan review by the Planning Board and ~~certificate of appropriateness~~ historic preservation review by the Planning Authority or Historic Preservation Board shall, to the extent feasible, proceed concurrently. Any proposed major site plan required to obtain historic preservation approval ~~a certificate of appropriateness~~ under this article shall be exempt from the design standards included in Article 13~~4~~, and shall comply with the applicable design standards of Section 16.6. ~~7~~ listed within Article 17.

Upon receipt of the application for a Certificate of Appropriateness, the Planning Authority shall review the application and schedule a workshop for preliminary review by the Historic Preservation Board. The Planning Authority shall prepare an analysis of the application based upon the standards in Section 17.8 for consideration at the workshop. Additional workshops may be scheduled by the Historic Preservation Board with the consent of the applicant.

Following preliminary workshop(s) and upon determination by the Historic Preservation Board that the application is complete, the Historic Preservation Board shall conduct a public hearing and make a final decision on the application. If the Historic Preservation Board finds that the application meets the applicable standards of Section 17.8, it shall issue a Certificate of

~~Appropriateness, with or without conditions. If the action by the Historic Preservation Board is a denial or conditional approval, the Historic Preservation Board shall make findings of fact concerning the relationship between the application and the applicable standards of Section 17.8.~~

~~Written notice of the determination of the Historic Preservation Board on the application, including a copy of the findings of fact, if any, shall be sent by regular mail to the applicant within 14 days following its determination.~~

16.5.10 Notice of public meeting

- A. For all ~~Certificate of Appropriateness~~ applications for historic preservation review that are subject to Historic Preservation Board review, the applicant shall be responsible for posting a notice of public meeting sign on the property where the development is to occur. The dimensions, construction, and content of the sign shall be in accordance with standards established by the Planning Authority.
- B. The sign shall be posted at least 10 days prior to the public workshop or hearing date, and shall be removed from the ~~site~~ property no more than three days following the date of the meeting.
- C. Once the required notice of public meeting signage is posted, the applicant shall submit a completed certification of posting form to the Planning Authority.
- D. In the event that a required notice of public meeting sign is knocked over or made illegible, it shall be the responsibility of the applicant to promptly reset or replace the sign, though failure to do so shall not invalidate the review.

16.5.11 Conditions of approval

The Planning Authority or Historic Preservation Board may impose conditions upon its approval of any application for historic preservation review certificate of appropriateness to bring the application into compliance with the review standards of Section 16.6. ~~this article.~~

16.5.12 Issuance of Historic preservation approval certificate of appropriateness

- A. The Planning Authority shall ~~issue the~~ certificate of appropriateness within 14 days following ~~approval or approval with~~ conditions by the Planning Authority or ~~proposed affirmative decision by~~ the Historic Preservation Board ~~becoming final~~.
- ~~B. No historic preservation approval Certificate of Appropriateness, building, demolition, or other permit shall be issued until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the applicant developer prior the issuance of any temporary or permanent certificate of occupancy.~~
- ~~B.~~
- C. Prior to issuance of any historic preservation approval ~~Certificate of Appropriateness, any~~ the applicant shall demonstrate sufficient right, title, or interest in the property, technical capacity, and financial capacity to complete any change proposed to be undertaken under the historic preservation approval ~~Certificate of Appropriateness, upon reasonable request of the Planning Authority.~~

16.5.13 Expiration of approvals

A. Unless work authorized by a historic preservation approval certificate of appropriateness shall be commenced or a building permit for the same is issued within three yearssix months of the initial date of issuance of the historic preservation approval, certificate of appropriateness, the certificate of appropriateness the approval shall expire and shall become null and void. ~~The Planning Authority may approve additional extensions of this six month period, not to exceed a total of two years, provided that a written request for extension is received prior to the expiration date of the Certificate of Appropriateness.~~

B. When the approved work also requires a site plan approval under Article 13, the expiration of the historic preservation approval certificate of appropriateness shall be concurrent with the site plan expiration of the site plan approval, even if longer than three years.

~~**A.C.** In the event of litigation arising out of the granting of a certificate of appropriateness historic preservation approval, the approval certificate shall remain valid until one year after the entry of final judgment in the litigation or until the end of the three two-year period, whichever is later.~~

~~**C.** An approval shall expire and become null and void upon the expiration of the authorization for the work, or for the development, under the applicable provisions of Chapter 6 of this Code of Ordinances or Articles 14 or 15.~~

16.5.13 Certificate of Non-Applicability

A. The Planning Authority shall issue a Certificate of Non-Applicability as to property subject to this article when requested to do so when:

- ~~1. The Planning Authority determines that none of the proposed work requires a Certificate of Appropriateness.~~
 - ~~2. The Planning Authority determines that all of the proposed work is ordinary maintenance, restoration, or a combination thereof.~~
 - ~~3. In the case of the alteration of a structure other than a landmark or of new construction within a district, where the Planning Authority determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights from any public way. Where a Certificate of Appropriateness is required for such changes, a Certificate of Non-Applicability shall be issued upon request for those portions of the structure or structures not visible at such heights, provided, however, this paragraph shall not apply to alteration of a landmark or to any demolition.~~
 - ~~4. After any appeal where the Historic Preservation Board, Planning Board or any court determines that paragraphs (1), (2) or (3) of this subsection are applicable.~~
- ~~**B.** The Planning Authority shall act upon any application for a Certificate of Non-Applicability within 14 days of receiving a complete written description of all work to be undertaken.~~

16.5.14 Amendments to approved certificates of appropriateness

A. An applicant may apply for an amendment to a historic preservation approval certificate of appropriateness by submitting an amendment application that includes a written statement of the proposed amendment, proposed amended

plans, and related submittals to the Planning Authority. If at any time before or during work approved under the procedures set forth in this Section 17.7 the applicant requests minor amendments to approved work;

B. The Planning Authority is authorized to may approve such minor amendments under the procedures set forth in Subsection 17.7.516.56.7, provided that the proposed such amendments:

1. Are generally consistent with the approved plans;
2. Meet all the applicable standards for review of set forth in Section 16.6.7;
3. Do not modify the work such that Historic Preservation Board review would otherwise be required per Table 16-A, and;
4. Do not affect will not result in a waiver or substantial alteration of the approval or any condition or requirement of the Historic Preservation Board attached to the approval. The applicant shall supply a written statement of the proposed amendment and amended plans or drawings to the Planning Authority. The decision of the Planning Authority as to whether an amendment may be reviewed under this subsection shall be final.

C. Major amendments include changes that exceed the limited criteria for a minor amendment under Subsection 16.56.14(B). Review procedures shall follow those for a certificate of appropriateness Historic Preservation Board review, set forth in Subsection 16.5.8.

~~16.5.15 Review process for demolition of landmarks or contributing structures within a district~~

A. Any applicant seeking demolition of a landmark or contributing structure must apply for a Certificate of Economic Hardship to the Board of Appeals in accordance with Section 17.9 of this article. Said application must be approved by the Board of Appeals before a demolition permit can be issued.

B. Any applicant seeking demolition of a noncontributing building as defined in this article may apply directly for a demolition permit without receiving approval from the Historic Preservation Board or a Certificate of Economic Hardship from the Board of Appeals.

C. Any applicant seeking demolition of a portion of a contributing or landmark structure may request that the Historic Preservation Board make a determination as to whether such portion of the structure is noncontributing based on the definition of that classification contained in this article. If the board determines the portion to be noncontributing, the applicant may apply directly for a demolition permit.

~~16.9~~16.6 STANDARDS FOR REVIEW OF APPLICATIONS FOR HISTORIC PRESERVATION REVIEW CERTIFICATE OF APPROPRIATENESS

16.6.1 Historic Resources Design Manual

A. The Historic Preservation Board may provide further guidance on how to meet the standards of this article are supplemented by in the Historic Resources Design Manual, which shall supplement this article. The Historic Resources Design Manual may include but need not be

limited to maps and descriptions of landmarks and districts, a listing of properties which have been determined to be eligible for listing on the national register or for local designation, a glossary of terms and architectural styles, may includes descriptions, guidelines, and illustrations of how the standards of this article will be interpreted, and all designation ordinances, reports, and design guidelines. All provisions of the *Historic Resources Design Manual* shall be consistent with the standards of this article and any designation ordinance adopted hereunder.

~~B.~~ Amendments to the *Historic Resources Design Manual* shall be adopted by the Historic Preservation Board following a public hearing, forwarded to the City Council as a communication and shall become effective 45 days from the date on which said amendments are sent to the City Council, unless the City Council takes official action disapproving the amendments, in whole or in part, prior to the expiration of the 45-day period.

~~C.B.~~ The *Historic Resources Design Manual* shall be maintained by the Planning Authority.

16.6.2 Standards for review of alteration

In considering an application for a Certificate of Appropriateness involving alterations to contributing buildings, structures, site, or objects, the Historic Preservation Board and the Planning Board reviewing authority shall approve a the application certificate of appropriateness only upon finding that it the application meets the following standards shall apply the following general standards, as further described in the *Historic Resources Design Manual*, and any design guidelines accompanying the specific designation:

- A. Compatible use. In the case of a change of use of When the use of a property from its originally intended purpose is being changed, ~~Every~~ Every reasonable effort shall be made to provide a compatible use for a property which ~~requires~~ minimize ~~theat~~ alteration ~~of~~ the character ~~defining features of the building, structure, object, or site, and its environment as they relate to the original use or to use a property for its originally intended purpose.~~
- B. Retain historic features. The distinguishing original qualities or character of ~~a the building, structure, object, or site and its environment~~ shall be retained and preserved, not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- C. Historical accuracy. ~~All sites, The building, structures, and objects, or site~~ shall be recognized as a products of their-its own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall not be undertaken, discouraged.
- D. Acquired significance. Changes which may have taken place in the course of time are evidence of the history and development of a the building, structure, object, or site, and its environment. Changes that have acquired significance in their own right shall be retained and preserved, not be destroyed.
- E. Sensitive treatment Distinctive Features. Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize a the building, structure,

object, or site shall be retained and preserved.
~~treated with sensitivity.~~

- F. **Repair rather than replace.** Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence. ~~rather than on conjectural designs or the availability of different architectural elements from other structures or objects.~~
- G. **Surface cleaning.** The surface cleaning of the building, structures, and/or objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.
- H. **Archaeological resources.** Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.
- I. **~~Contemporary design and differentiation.~~**
Differentiation and contemporary design. Alterations and additions shall not destroy the character-defining features of the building, structure, object, or site. New work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the building, structure, object,

or site. Contemporary design for alterations and additions ~~to existing properties~~ shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials or features that characterize the building, structure, object, or site. ~~property.~~
~~The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.~~

- J. **Reversibility.** Wherever possible, new additions or alterations to the building, structures, and objects, or site shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the historic property building, structure, object, or site would be unimpaired.

16.6.3 Standards for review of additions and new construction

In considering an application ~~for a Certificate of Appropriateness~~ involving additions or new construction, the reviewing authority shall approve a certificate of appropriateness the application only upon finding that it the application meets the following standards: ~~Historic Preservation Board and the Planning Board shall apply the following general standards as may be applicable to the context of the proposed construction. The intent and application of the following standards are further described in the Historic Resources Design Manual and shall guide the board in its review.~~

A. Scale and form

- 1. *Height.* The ~~proposed~~ height of the addition or new construction shall be visually compatible with the contributing

- buildings, structures, objects, and sites of the historic designation surrounding structures when viewed from any street or public open space, and in compliance with any design guidelines.
2. *Width.* The width of the addition or new construction a building shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation surrounding structures when viewed from any street or public open space, and in compliance with any design guidelines.
3. *Proportion of principal facades.* The relationship of the width to the height of the principal elevations facades shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space, structures, public ways, and open spaces to which it is visually related.
4. *Roof shapes.* The roof shape of the addition or new construction a structure shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street or public open space, the structures to which it is visually related.
5. *Scale of a structure.* The size and mass of the addition or new construction structures in relation to open spaces, windows, doors openings, porches, and balconies shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation when viewed from any street

or public open space, structures, public ways, and places to which they are visually related.

Applicability of the underlying zoning. The review standards above shall not supersede the dimensional requirements of the underlying zoning to Congress Street Historic District. In the Congress Street Historic District, for new construction within the B-3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.

Applicability to India Street Historic District. For new construction within the India Street Historic District, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure.

Applicability to the Portland Company Historic District. For new construction within the Portland Company Historic District, the height requirements of the B-6 Building Height Overlay & Building Envelopes map shall be controlling and the Historic Preservation Board shall not impose conditions more restrictive than the building height requirements of the B-6 zone.

B. Composition of principal facades

1. *Proportion of openings.* The relationship of the width to height of windows and doors shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation, structures, public ways, and places to which the building is visually related.

2. *Rhythm of solids to voids-in facades.* The relationship of solids to voids in the principal facades of a structure shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. structures, public ways, and places to which it is visually related.
3. *Rhythm of entrances, porches, and other projections or recesses.* The relationship of entrances, porches, and other projections or recesses to sidewalks shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. the structures, public ways, and places to which they are visually related.
4. *Relationship of materials.* The relationship of the color and texture of materials (other than paint color) of the principal facades shall be visually compatible with the predominant materials used on the contributing buildings, structures, objects, and sites of the historic designation. in the structures to which they are visually related.
5. ~~*Signs.* Any new sign, and any change in the appearance of an existing sign located on a landmark, within a historic district, or within an historic landscape district, which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the *Historic Resources Design Manual.*~~

C. Relationship to street

1. *Walls of continuity.* Facades and site ~~structures~~features, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the area context, form cohesive walls of enclosure along the a street to ensure visual compatibility with the contributing buildings, structures, objects, and sites of the historic designation. structures, public ways, and places to which such elements are visually related.
2. *Rhythm ~~of and~~ spacing ~~and structures on~~ along streets.* The relationship of the addition or new construction a structure or object to the open space between it and adjoining adjacent buildings, structures, or objects, or sites shall be visually compatible with the contributing buildings, structures, objects, and sites of the historic designation. structures, objects, public ways, and places to which it is visually related.
3. *Directional expression of principal ~~facades~~ elevation.* ~~A structure~~The addition or new construction shall be visually compatible with the structures, public ways, and places to which it is visually related in its directional character of the contributing buildings, structures, objects, and sites of the historic designation, whether this be vertical character, horizontal character, or nondirectional character.
4. *Streetscape, ~~and~~ pedestrian improvements.* Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to any addition or new construction or on a landmark, within a historic district, or

within a historic landscape district which is readily visible from any street or open space shall not be incongruous with the contributing buildings, structures, objects, and sites of the historic designation, to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the *Historic Resources Design Manual*.

D.—Other standards

- 1.—Compatible use. In the case of a change of use of a property from its originally intended purpose, Every reasonable effort shall be made to provide a compatible use for a property which requires minimize the alteration to of the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose as they relate to the original use. Distinguishing original character. The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The alteration of any historic material or distinctive architectural features should be avoided when possible.
- 2.—Archeological resources. Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.
- 3.—Contemporary design. Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural,

or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, material, and character of the property, neighborhood and environment. Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property.

- 4.—Additions. Wherever possible, new additions to structures and objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

16.6.4 Standards for review of alterations and additions to ~~or redesign of~~ noncontributing structures

- A.—In considering an application for a certificate of appropriateness involving alteration(s) or additions to a noncontributing building, structure, object, or site, the standards for review of alterations set forth in Subsection 17.8.2 shall apply as applicable. The intent of the review shall be to ensure no further erosion of any existing architectural character of the subject structure determined to be significant by the Planning Authority or Historic Preservation Board and, where practicable, to guide projects toward a more compatible relationship with the surrounding context using :

- A. ~~In considering an application for a Certificate of Appropriateness involving comprehensive redesign of a noncontributing structure, the standards for review of additions and new construction set forth in Subsection 17.8.316.67.3 shall apply.~~

16.6.5 Standards for review of relocation

In ~~acting upon~~ considering an application ~~for a Certificate of Appropriateness~~ involving relocation of a building, structure, or object, the reviewing authority shall approve the application a certificate of appropriateness only upon finding that it the application meets the following standards ~~the Historic Preservation Board and the Planning Board shall apply the following general standards and any design guidelines in the ordinance designating the landmark or district:~~

- A. Whether the historic or urban design character and aesthetic interest of the building, structure, or object contribute to its present setting.
- B. If located within a district, whether there are definite plans for the area to be vacated and what the effect of those plans is on the character of the surrounding area. In such cases, consideration of additional design guidelines for construction to be imposed as a condition of approval is appropriate.
- C. Whether the relocation of the building, structure, or object can be accomplished without significant damage to its physical integrity.
- D. Whether the proposed relocation area is compatible with the cultural, historical or architectural character of the building, structure, or object.

16.6.6 Standards for review of signage

In considering an application ~~for a Certificate of Appropriateness~~ involving the installation or modification of sign(s) the reviewing authority shall approve the application a certificate of appropriateness only upon finding that it the application meets the following standards, including awning(s) which incorporate signage,

- A. ~~s~~Signs shall be compatible with the subject building, structure, object, and sites, and its surrounding context as detailed in the signage design guidelines included in the Historic Resources Design Manual.
- B. Signs shall be installed in such a manner as to minimize damage to contributing buildings, structures, objects, and sites. historic resources.
- A.C. If there is a conflict between this standard and the requirements of Article 19, the stricter standard shall apply.

~~16.10~~16.7 CERTIFICATE OF ECONOMIC HARDSHIP

16.7.1 Applicability

- A. Any applicant who has received a denial under this article or is seeking demolition of a landmark or a contributing building, structure, object, or site within a district may apply make application for a certificate of economic hardship from the Board of Appeals. Historic Preservation Board.
- B. The application shall be submitted to the Planning Authority, together with the applicable fee. In the case of a denial, the application shall be submitted within 60 days of the denial.
~~C. The Planning Authority shall transmit a copy of the application to the Board of~~

Appeals, with copies to the Planning Board and the Historic Preservation Board, within 14 days following receipt of a properly completed application.

16.7.2 Standard to be applied

- A. The Board of Appeals Historic Preservation Board shall approve an application for a certificate of economic hardship only upon a determination that the denial of ~~approval of the proposed activity or of the proposed demolition~~ will result in the loss of all reasonable use of the building, structure, object, or site, as required by Subsections ~~17.9.5 and 17.9.7~~.
- B. Where the condition of the building, structure, object, or site is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts of neglect of the owner or their predecessors in title under Section 16.89.

~~D. In applying this standard, the Board of Appeals shall consider among other things any evidence presented concerning the following:~~

- ~~1. Any opinions from a licensed engineer or architect with experience in renovation, restoration, or rehabilitation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration, or rehabilitation.~~
- ~~2. Any estimates of the cost of the proposed alteration, construction, demolition, or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the Planning Board for changes necessary for it to be approved.~~

- ~~3. Any estimates of the market value of the property in its current condition; after completion of the proposed alteration; construction, demolition, or removal; after any expenditures necessary to comply with the recommendations of the Planning Board for changes necessary for it to approve a Certificate of Appropriateness; and in the case of a proposed demolition, after renovation of the existing structure for continued use.~~
- ~~4. In the case of a proposed demolition, any estimates from architects, developers, real estate consultants, appraisers, or other real estate professionals experienced in rehabilitation as to the economic feasibility of restoration, renovation, or rehabilitation of any existing structures or objects.~~

16.7.3 Information to be supplied by applicant

- A. The applicant shall submit by affidavit the following information, which shall constitute an application for an application to be considered to be complete:
1. The assessed value of the property and/or the building, structure, object, or site ~~in the case of a demolition~~ for the two most recent assessments.
 2. Real property taxes paid for the previous two years.
 3. The amount paid for the property by the owner, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
 - ~~4. The current balance of any mortgages or any other financing secured by the~~

- property and the annual debt service, if any, for the previous two years.
- 5.4. All appraisals obtained within the previous two years ~~by the owner or applicant in connection with purchase, offerings for sale, financing, or ownership of the property, or state that none were obtained.~~
- 6.5. All listings of the property for sale or rent, price asked and offers received, ~~if any, within the previous four years, or state that none were obtained.~~
- 7.6. All studies commissioned by the owner as to profitable renovation, rehabilitation, or utilization of any buildings, structures, or objects, or site on the property for alternative use, ~~or a statement that none were obtained.~~
- 8.7. For income-producing property, itemized income and expense statements from the property for the previous two years.
8. Professional assessment from a licensed engineer or architect with experience in renovation, restoration, or rehabilitation of historic buildings, structures, objects, and sites as to the structural soundness of the building, structure, object, or site and its suitability for continued use, renovation, restoration, or rehabilitation.
9. Estimate of the cost of the ~~proposed~~ alteration, construction, demolition, or removal proposed by the applicant.
10. ~~and an e~~ Estimate of ~~any additional~~ cost that would be incurred to address findings of fact provided by the reviewing authority in issuing a denial of the application for historic preservation review. comply with the recommendations of the Planning
- Board for changes necessary for it to approve a certificate of appropriateness.
- 9.11. A statement of the minimum extent of work necessary to allow reasonable use of the building, structure, object, or site.
10. ~~Form of ownership or operation of the property, whether sole proprietorship, for profit or not for profit corporation, limited partnership, joint venture, or other.~~
- B. In the event that the information required to be submitted by the applicant is not reasonably available or attainable, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.
- C. The Planning Authority may request that third-party reviewers with applicable expertise to review materials provided by the applicant and prepare a report on their analysis of the application materials. In these cases, the cost of the third-party review shall be charged to the applicant.
- ~~C.D. Notwithstanding the submission of the above information, t~~The Historic Preservation Board of Appeals may require additional evidence or supporting materials to inform their decision on the application as provided in Subsection 17.7.4(G).
- 16.7.4 **Public hearing**Review
- A. ~~The Board of Appeals~~ Historic Preservation Board shall hold a workshop or public hearing on the application within 30 days following receipt of ~~the~~ completed application ~~form~~. Where the application requests the demolition of a landmark or a contributing structure within a district, the public hearing shall not be held

less than 90 days following receipt of the completed application, unless the applicant makes a clear showing that the delay will result in undue hardship of a unique or exceptional character which could not reasonably be or have been avoided. Upon such a showing, the Planning Authority may waive all or any part of the 90-day period and schedule the hearing before the board. Undue hardship shall not include mere inconvenience or incidental financial loss. No such waiver shall be granted without the Planning Authority giving best practical notice to all persons entitled to notice of the hearing.

B.A. Where the application requests the demolition of a landmark or a contributing structure within a district, the Planning Authority shall promptly notify any persons interested in historic preservation, who have registered in writing with him or her, give notice by mail to all owners of property within 500 feet of the structure, and shall require that the applicant immediately place a notice, to be supplied by the building official, in a prominent place on the structure and to maintain it there at all times during the pendency of the demolition application. The notice shall state that the structure has been proposed to be demolished by its owner and provide contact information for further information. The failure to give any notice required hereunder shall not affect the validity of any action taken by the Planning Authority or the Board of Appeals.

C.B. The Planning Authority Board may provide a report or any other information, documentation or evidence or request the Historic Preservation Board to assist the Board of Appeals in considering the extent of variance

necessary, ~~an appropriate incentive plan~~, or reasonable condition to be imposed.

D. The Board of Appeals may continue a proceeding for such additional time as it reasonably takes an applicant, any other interested person, the Historic Preservation Board, or the Planning Board to comply with a request for additional information or evidence. The applicant shall be afforded the right to present rebuttal evidence.

E.C.

F. ~~Determination by the Board of Appeals~~

G.D. The determination by the Historic Preservation Board of Appeals shall be made within ~~30~~⁴⁵ days following close of the public hearing ~~and submission of all information, documentation, or evidence requested by the board~~. The determination shall be accompanied by findings of fact.

D. ~~The Board of Appeals shall not grant approval of an application involving demolition unless the board determines, upon clear and convincing evidence, that one or more of the following circumstances apply:~~

- ~~1. The structure is not subject to this article.~~
- ~~2. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the structure. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the structure. Where the condition of the structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts or neglect of the owner or his~~

predecessors in title occurring in whole or in part after August 1, 1988.

16.7.5 Disapproval by Board of Appeals

If the determination of the Board of Appeals is to disapprove the application for a Certificate of Economic Hardship, the applicant shall be notified within five business days. The notice shall include a copy of the findings of fact and report.

16.7.6 16.7.5 Determination of no reasonable use/issuance

A. If the determination of the Historic Preservation Board of Appeals is that ~~thea~~ denial of the historic preservation review application certificate of appropriateness or the prohibition on demolition under Subsection 16.3.6(B) has resulted in the denial loss of all reasonable use of the building, structure, object, or site or ~~the entire property~~ in the case of new construction; then the certificate of economic hardship shall be issued by the Planning Authority within 930 days following the determination ~~unless during that time the City Council approves an incentive plan pursuant to Subsection 17.9.8.~~

B. Certificates of economic hardship shall:

1. Limit the scope of work to the minimum extent necessary to allow reasonable use of the building, structure, object, or site; and
2. Not allow for the beginning of any demolition work until the necessary approvals and permits have been attained to allow for the rehabilitation, alteration, or replacement of the building, structure, object, or site.

E.C. Certificates of economic hardship shall be valid for a period of three years from the date of the determination by the Board of Appeals. Historic Preservation Board.

F. A copy of the determination of the Board of Appeals, together with the findings of fact, shall be mailed to the applicant and filed with the City Clerk, the Planning Board, and the Historic Preservation Board within 14 days following the determination of economic hardship.

G. Certificates of eEconomic hHardship shall not be transferable from the applicant to another subsequent owner of the same property.

H. Incentive plan

I. The purpose of an incentive plan is to provide a mechanism to allow a reasonable use without the demolition of the complete structure or important architectural elements. The Planning Board, in cooperation with the Historic Preservation Board and the owner, may prepare a report and recommend to the Board of Appeals an incentive plan to assure reasonable use of the structure. This incentive plan may include, but is not limited to, loans or grants from the City of Portland or other public or private sources; acquisition by purchase or eminent domain; building and safety code modifications to reduce cost of maintenance, restoration, rehabilitation, or renovation; changes in applicable zoning regulations, including a transfer of development rights; or relaxation of the provisions of this article sufficient to allow reasonable use of the structure.

J.

K. City Council consideration of incentive plan

L. Upon receipt of a report from the Board of Appeals recommending an incentive plan to

assure reasonable use of the property, the City Council shall give prompt consideration to the determination of economic hardship and the report of the board, including the recommended incentive plan. The City Council shall approve or disapprove the incentive plan determined by the Board of Appeals to allow reasonable use of the structure within 90 days following the determination by the Board of Appeals.

M.— A copy of the ordinance enacted by the City Council, together with the incentive plan, if any, shall be mailed to the applicant and transmitted to the Board of Appeals, the Planning Board, and the Historic Preservation Board within five business days following the enactment of the ordinance.

N.—

O.— Issuance of Certificate of Economic Hardship

P.D. Upon receipt by the Board of Appeals of a copy of City Council action disapproving an incentive plan, or upon failure of the City Council to act to either approve or disapprove an incentive plan within the time specified, the Board of Appeals shall approve a Certificate of Economic Hardship to the applicant within 30 days. The certificate may be subject to conditions including design guidelines for subsequent new construction not inconsistent with the standards set forth in this article and the *Historic Resources Design Manual*. The Certificate of Economic Hardship shall be valid for a period of 120 days from approval by the Board of Appeals, except as provided in Subsection 17.9.7 where an incentive plan has been proposed. ~~Certificates of Economic Hardship shall not be transferable from the~~

~~applicant to another subsequent owner of the same property.~~

Q.— Upon presentation by the applicant of a valid Certificate of Economic Hardship to the Planning Authority, the Certificate of Appropriateness shall be issued to the applicant within 14 days.

~~16.11~~ 16.8 MAINTENANCE

16.8.1 ~~Preservation~~ Maintenance of protected structures

- A.** All ~~landmarks, and all~~ contributing buildings, structures, ~~and objects, and sites located in an historic district,~~ shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof:
1. Deteriorated or inadequate foundation which jeopardizes its structural integrity.
 2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
 3. Members of walls, partitions, or other vertical supports that split, lean, list, or buckle due to defective material or deterioration which jeopardize its structural integrity.
 4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split, or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which jeopardize its structural integrity.
 5. Fireplaces or chimneys which list, bulge, or settle due to defective material or

deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity.

6. Lack of weather protection which jeopardizes the structural integrity of the walls, roofs, or foundation.
- B. The owner or such other person shall repair such building, ~~object, or~~ structure, ~~or object, or~~ site within a specified period of receipt of a written order by the Planning Authority to correct defects or repairs to any building, structure, or object, or site as provided by Subsection 16.8.1(A) above, so that such building, structure, or object, or site shall be preserved and protected from further deterioration in accordance with the purposes of this article.
- C. Any such order shall be in writing, shall state the actions to be taken with reasonable particularity and shall specify dates for compliance, which may be extended by the Planning Authority for reasonable periods to allow the owner to secure financing, labor or materials.

~~16.12~~16.9 PENALTIES

16.9.1 Fines for violation

Failure to perform any act required by this article or performance of any act prohibited by this article or of any conditions or any approvals certificate issued hereunder shall constitute a violation and be subject to a fine as provided in 30 A.M.R.S. §4452. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

16.9.2 Withholding of future approvals

Where the applicant has done work or caused work to be done ~~not~~ on a structure or a property for which a Certificate of Appropriateness is sought and such work is either not done in compliance with an approval received under this article or ~~was~~ performed without the approvals required under this article, no ~~new~~ application for a historic preservation review a certificate of appropriateness such structure or property shall be considered by the Planning Authority or by the Historic Preservation Board for the site or building, structure, object, or site associated with the violation until the work done without approval is brought into compliance with the requirements of this article. The Historic Preservation Board may waive this requirement if the Historic Preservation Board determines that the work does not alter the essential character of the structure or district and one or more of the following standards are also met:

The work was needed to bring a building into conformance with any building or safety code.

The applicant can demonstrate a good faith belief that necessary approvals had been received for the work at issue prior to the commencement of the work.

The applicant can demonstrate a good faith belief that the work done was not subject to review under this article.

16.9.3 Additional penalties for willful violation or gross negligence

- A. In addition to the penalties authorized by Subsections ~~17.11-16.9~~~~10.1~~ and ~~16.9~~~~10.2~~, a violation which is intentional, or occurs through gross negligence, shall be subject to the following provisions:

1. No permit shall be issued under Chapter 6 of this Code of Ordinances for any alteration or new construction affecting such property for a period of five years following the last date of the violation, other than permits necessary to correct the violation. However, upon presentation of evidence satisfactory to the Planning Authority that the violation has been corrected, any remaining portion of the five-year prohibition on issuance of a permit may be waived.
2. For a period of 25 years, any alteration or new construction on the property shall be subject to this article, whether or not any remaining building, structure, ~~or~~ object, or site on the property continues to have the cultural, historical, architectural, or archaeological character and integrity that caused it to be nominated or designated as a landmark or part of a district.
3. As a condition for any new land use approval, the owner may be required to rebuild, ~~reconstruct, restore,~~ or replicate the building, structure, ~~or~~ object, or site on the property.

- B. Paragraphs (A)(1) and (2) Subsection 16.9.3(A) above shall not apply to violations which are limited to noncontributing buildings, structures, objects, or sites.

~~16.9.4 Other remedies~~

~~Notwithstanding the provisions of Subsections 17.11.1 and 17.11.2, the City may institute appropriate proceedings in law and equity to prevent or remedy any violation of this article.~~

~~16.9.5 Liberal construction of article~~

~~This article shall be liberally applied and construed to effectuate the purpose of preservation set forth in Section 17.1.~~

~~16.9.6 Exception for dangerous buildings~~

~~This article shall not apply to any structure which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S. § 2851 et seq., its equivalent, as it may be amended from time to time, or to any structure which has been partially destroyed and is determined by the Planning Authority to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the Planning Authority, including without limitation securing apertures and/or erecting fencing.~~

~~16.13~~ 16.10 **APPEALS**

The applicant, or any person who has participated in opposition to the application and demonstrates a particularized harm caused by the approval of any application associated with this article, may appeal that decision in accordance with Article 2.

Maine Historic Preservation Commission Staff Comment and City Staff Responses - August 2, 2024

Article	Topic	Comment	RESPONSE
2. Administration	2.2.1 Composition	The demonstrated interests of the Board Members does not align with the requirements of the State CLG guidelines as outlined on Page 6 of the guidelines.	Language around the composition of the Board and qualifications of the members has been adjusted to align with the CLG Guidelines (see 2.B.a.2, Page 6 of the CLG Guidelines)
2. Administration	2.2.9 Jurisdiction and Authority	A number of the minimum duties for a CLG body as outlined in the state CLG guidelines are missing from this section.	In conversation with MHPC Staff, the following were identified as not being addressed through the draft text (see 2.B.b in the CLG Guidelines, page 7): 8) acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and 9) working toward the continuing education of citizens within the CLG's jurisdiction regarding historic preservation issues and concerns. Jurisdiction and Authority has been revised to address the above requirements
3. Definitions	General	As stated in the state CLG guidelines: "definitions- must, at a minimum, include definitions of designation and protection (i.e. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. However, the list of definitions should include any term that may be subjective or may not be recognized by everyone;" Looking at the new land use codes/ordinance, there are multiple definitions related to the historic preservation field that are missing from this section.	A definition for archaeological site will be added under article 3. A Historic Preservation-specific definition for site will be added under article 3. A Historic Preservation-specific definition for object will be added under article 3.
3. Definitions	Buildings, Sites, Structures, Objects, and Districts	The National Register of Historic Places classifies (and defines) historic properties as Buildings, Sites, Structures, Objects, and Districts. The definition section of Portland's ordinance defines both Building and Structure with some overlapping characteristics. Why is this? The National Register definition of Building and Structure are distinctly different.	Language has been revised to consistently include building as distinct from structure.
16. Historic Preservation	16.2 Historic Designations	The National Register of Historic Places classifies (and defines) historic properties as Buildings, Sites, Structures, Objects, and Districts. The definition section of Portland's ordinance defines both Building and Structure with some overlapping characteristics. Why is this? The National Register definition of Building and Structure are distinctly different. Please note that this is a repeat from the definition section. However; our office would like to stress the importance of the National Park Service classifications and definitions within the field of historic preservation.	Language has been revised to consistently include building as distinct from structure.
16. Historic Preservation	16.2.2 Criteria for Designation	The criteria for designation should align and be consistent with the Secretary of the Interior's Standards for Identification and Registration.	The proposed criteria are the same as the existing which were established in 1990 and previously certified.
16. Historic Preservation	16.2.2 Criteria for Designation	It appears that a designation criterion for archaeological sites is missing.	Based on Board feedback, small adjustments have been made to better align the criteria with the National Register. Reference has been made to the National Register Bulletin to provide better guidance. Archaeological significance is captured under the other criteria as an type of signifigance. See above.

Maine Historic Preservation Commission Staff Comment and City Staff Responses - August 2, 2024

Article	Topic	Comment	RESPONSE
16. Historic Preservation	16.2.2(B)	The National Register of Historic Places criteria includes seven aspects of integrity: "location, design, setting, materials, workmanship, feeling, and association." Some of these are missing from this section.	Integrity has been revised to align with the seven aspects of integrity laid out in the National Register Bulletin. Reference has been made to the National Register Bulletin to provide better guidance.
16. Historic Preservation	16.2.2(C)	Considering the effect of a proposed historic designation with the framework of the Comprehensive Plan is not consistent with Maine's CLG program guidelines. This provision introduces a criterion that has nothing to do with either the proposed designation's historic, architectural or archaeological significance or its integrity. Furthermore, this provision does not align with the Secretary of Interior's Standards for Identification and Registration. As stated in Chapter 9 of the National Park Service's Historic Preservation Fund Grant Manual, 2007: Designation is defined as "the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government. Designation includes the identification and registration of resources according to State or local criteria which must be consistent with the Secretary of the Interior's Standards for Identification and Registration. Adoption of the National Register criteria is encouraged." In addition, this type of provision bears a resemblance to the concept of "Projects of Special Merit" that existed in an earlier form of Portland's historic preservation ordinance. That provision was one of the factors that prevented Portland from becoming a Certified Local Government.	Consideration of the Comprehensive Plan by the Planning Board and Council has been a component of the Historic Preservation ordinance since its establishment in 1990. (See 17.4.1(D) & 17.5.8(B)) This was previously certified by MHPC and NPS.
16. Historic Preservation	16.3.7(D)	This section is not consistent with Maine's CLG guidelines if 16.2.2.C. is incorporated into the ordinance.	Consideration of the Comprehensive Plan by the Planning Board and Council has been a component of the Historic Preservation ordinance since its establishment in 1990. (See 17.4.1(D) & 17.5.8(B)) This was previously certified by MHPC and NPS.
16. Historic Preservation	16.3.8(B)	If alterations were made after the designation but without the Historic Preservation Board's approval, what penalty will the owner face?	This section is intended to address resources that may have been overlooked during the original designation process, in particular significant site features or accessory structures. The proposed language is meant to be a clarification of existing language located under 17.7.1(B) Under 16.10 completing work without having recieved an approval would constitute a violation of the code. The owner could be subject to fines of \$100 per day until corrected. Additionally, future approvals could be withheld.

Maine Historic Preservation Commission Staff Comment and City Staff Responses - August 2, 2024

Article	Topic	Comment	RESPONSE
16. Historic Preservation	16.5 Protections for Properties Listed on the National Register of Historic Places	16.5 The National Park Service advises that actions taken at the local level to protect National Register listed or eligible properties need to go through the local designation process. They should not be automatically afforded protection at the local level simply by virtue of their having been listed or determined eligible by the actions of other governmental entities (i.e. the NPS or the Maine Historic Preservation Commission). Since National Register listing does not subject an owner to any restrictions (except and unless they are involved in a federal undertaking that may affect an historic property), there should be no automatic strings attached to the property at the time of listing. This entire section should be deleted. As stated in Chapter 9 of the National Park Service's Historic Preservation Fund Grant Manual, 2007: "Protection is defined as the "a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to a local government becoming a Certified Local Government. The CLG's local protection review process of the Act applies only to properties designated pursuant to State or local laws and procedures. This would not include properties listed on or determined eligible for the National Register of Historic Places unless such properties also were designated under the appropriate State or local process."	This section has been eliminated based on Board feedback.
16. Historic Preservation	16.6.1(I)	Roof mounted Solar should be a reviewed activity and reviewed with the SOI's Standards	Language has been revised to include an exemption for roof-mounted solar consistent with the requirements that are typically applied during reviews (such as not damaging any historic roofing, or being located on non-street-facing roof planes). Installations that do not meet those requirements would be subject to review.
16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	Even though the SOI's Standards are spelled out, it is recommended to reference them since there are several SOI's Standards regarding sustainability, flood adaptation, and rehabilitation. There is mention about archaeology within Section 16, but only a small paragraph that discusses possible mitigation. We suggest that this section be expanded to describe what exactly mitigation may be required by the HPB	Language has been revised to make reference to the Secretary of the Interior's Standards for Rehabilitation specifically.
16. Historic Preservation	16.7.2 (E)	Is there a definition for "sensitivity"?	The standard has been revised to align with Secretary of the Interior Standards for Rehabilitation
16. Historic Preservation	16.7.3(A.6)	This provision does not appear to be consistent with the SOI's Standards	This provision has been removed.
16. Historic Preservation	16.8 Certificate of Economic Hardship	Why has this Section been moved from the Board of Appeals to Historic Preservation? This not a responsibility other CLG communities in Maine currently have under their jurisdiction. We recommend that this stays with the Board of Appeals.	Based on Board feedback, review of Certificates of Economic Hardship will remain with the Zoning Board of Appeals.

Public Comment and Staff Responses - August 2, 2024

Name	Date	Source	Article	Topic	Comment	RESPONSE
Greater Portland Landmarks	5/28/24	Email	2. Administration	2.2.9. Jurisdiction and Authority	The existing ordinance includes several responsibilities for the Historic Preservation Board such as investigating places to nominate and keeping a register, as well as advising the city and public on historic preservation related issues. The staff proposed amendment includes a new Jurisdiction and Authority section which has removed several responsibilities for the Historic Preservation Board. Our concern with the proposed language is that it would remove several responsibilities for the Historic Preservation Board which are minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine From 3.b. Duties of Local Review Commissions: 4) conducting or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC; 17.2.2.8.C “investigating places to nominate” meets the “continuing survey” minimum required duty of a Local Review Commission and its omission would be a loss of authority. We believe the responsibility for survey should remain a duty of the Historic Preservation program. 5) making recommendation for designation of local landmarks and historic districts to the appropriate local governing body and keeping records of such decisions; 17.2.2.8.D “Keeping a register” meets the “keeping records” minimum required duty of a Local Review Commission and its omission would be a loss of authority. 7) acting in an advisory role to other officials and departments of local government regarding the protection of local cultural resources; 17.2.2.8.N. and 17.2.2.8.O. meet this minimum required duty of a Local Review Commission, the language regarding what topics they should provide advice (easements, grants, etc) could be altered, but losing the authority to “advise” on those protection measures would be a loss of authority. 8) acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and 17.2.2.8.E. and 17.2.2.8.J. meet this minimum required duty of a Local Review Commission, losing the authority to “advise and assist property owners” and “educate residents” would be a loss of authority. 9) working toward the continuing education of citizens within the CLG’s jurisdiction regarding historic preservation issues and concerns. 17.2.2.8.J. meets this minimum required duty of a Local Review Commission, and its omission would be a loss of authority.	The goal with the revisions to this section of the ordinance was to clarify the role of the Historic Preservation Board as distinct from the purpose of the historic preservation program and the historic preservation ordinance. Survey is identified as an ongoing purpose of the Historic Preservation Program under 16.1, "...identify, preserve, and enhance distinctive areas, sites, structures, and objects that have historic, cultural, architectural, and archaeological significance." Records are required to be maintained under 2.2.8. Records of designations shall be maintained by the planning authority under 16.3.5(D). Generally, the maintaining of records is a given and accepted function of government. The role of the Historic Preservation Board in serving in an advisory capacity is still captured under 2.2.9 (F), (G), & (H). The role of the program and Board in serving as a resource to the public is a given function and does not need to be called out specifically as an authority of the Board. However, changes will be made to this section insofar as CLG requires it.
Greater Portland Landmarks	5/28/24	Email	2. Administration	2.2.9(E)	The existing ordinance delegates authority for economic hardship hearings to the Zoning Board of Appeals. The staff proposed language assigns that duty to the Historic Preservation Board. This is a change from the current practice (which city staff claim has never been used). Our question is, do other Maine CLG communities assign this duty to Historic Preservation Boards/Committees/Commissions? If so, does MHPC know how well it has worked?	Revie of Certificates of Economic Hardship will remain with the Zoning Board of Appeals based on input from the Historic Preservation Board.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	General	General Comment: The impact of deleting several of the definitions cited below or using alternative definitions that are more appropriate for general land use standards appears to have not been thoroughly considered. Some definitions have been inserted as text into the body of the ordinance, which seems reasonable. However, in the relocation of the definitions, their meaning has been altered. Other definitions as noted below are no longer defined.	Terms will be reviewed for consistency prior to final revision.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"building alteration"	The existing historic preservation ordinance defines Alteration as distinct from the definition of Building Alteration in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. Our concern with the proposed amendment is that deleting the current definition of “Alteration” in the historic preservation ordinance (which included specifically listed non-building permit changes) and the use of the standard land use definition of “Building Alteration” is problematic. The definition of “Alteration” informed the current definition of Certificate of Appropriateness (required for "alteration"). The deletion of “any other act or process not requiring a building permit specifically listed in this article as a reviewable action” changes the applicability standard so that a Certificate of Appropriateness would only be required for work that would otherwise require a building permit. Alterations like painting brick, replacement of siding, re-roofing, heat pump installation, solar panel installation, installation of landscaping improvements, and projects in the ROW that do not require a building permit would not be reviewable. This is a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction.	Minor and major alterations and site alterations have been defined in Table 16-A. Edits have been made to 16.6.1 to clarify that review will be required for work beyond that requiring a building permit.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"district"	Not defined	Historic district and historic landscape district are defined separately under 16.2.1.

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Name	Date	Source	Article	Topic	Comment	RESPONSE
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"historic rehabilitation"	The existing definition is the same as the definition from the Guidelines for the CLG Program in Maine: Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical, architectural, and cultural values. We are unclear why the new term “historic rehabilitation” and the new definition proposed by staff, that is virtually the same length as the current definition, is changed from that included in the Guidelines for the CLG Program in Maine. The term “historic rehabilitation” does not appear in Chapter 16, only “rehabilitation”. We believe the existing definition is sufficient and the prevailing definition at federal, state, and local levels. The term itself should be consistent used within the body of the ordinance and in the definition section for clarity.	Terms will be reviewed for consistency prior to final revision.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"new construction"	Not defined	New construction is a commonly understood phrase that does not need to be defined.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"object"	Not defined	Staff will add 'site' and 'object back into the land use code and will be revising the definitions of 'site' and 'object' within the context of the historic preservation ordinance within Article 3 to ensure improved clarity.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"preservation"	While not defined in the current ordinance, we believe strongly that “preservation” should be defined. If it is included in the general definition section, it should clarify that the definition pertains to its use in Chapter 16 and matters in other chapters pertaining to historic preservation. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.	The term is not used in the ordinance outside of the overarching phrase historic preservation, the scope of which is laid out in the purpose statement or under the jurisdiction and authority of the Historic Preservation Board. A definition is not necessary.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"relocation"	This is a good, revised definition, as it addresses a resource’s orientation.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"restoration"	We believe strongly this should be defined. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, Preservation, Rehabilitation, Restoration, and Reconstruction.	The term is not used in the ordinance therefore a definition is not necessary.
Greater Portland Landmarks	5/28/24	Email	3. Definitions	"site"	The existing historic preservation ordinance defines “Site” as distinct from the definition of “Site” in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. These are really two very different meanings, and in the 43 occurrences of the term ‘site’ found in the staff proposed Chapter 16 the meaning is significantly changed from the existing ordinance. It is problematic to have the definition of "site" that is used in the general ordinance, in a historic preservation context. In addition to the lack of clarity stated above, the minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We would support adding either definition below within Chapter 3. The NPS definition: Historic Site - The site of a significant event, prehistoric or historic occupation or activity, or structure or landscape (extant or vanished), where the site itself possesses historical, cultural, or archeological value apart from the value of any existing structure or landscape. From the Guidelines for the CLG Program in Maine: Site. The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. Other Maine cities and the NPS use “Historic Site” to differentiate the terms, which would require editing the body of the historic preservation ordinance at the 43 occurrences of the term “site”. That may be awkward, and if so, we would support a definition in Chapter 3 that included the historic preservation definition as a second meaning that ONLY applied to chapter 16 and instances in other chapters where “site” is used in the context of historic preservation.	Staff will add 'site' and 'object back into the land use code and will be revising the definitions of 'site' and 'object' within the context of the historic preservation ordinance within Article 3 to ensure improved clarity.

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	General	The elimination of virtually all of the definitions in the ordinance raises the opportunity for a lot of (perhaps unintentional) misinterpretation because the ordinance was carefully crafted to build on the basic definitions. See Chapter 3 Comments above.	The integration of definitions within the article is intended to improve the article's ease of use. Where necessary terms can not be embedded within the text, additional revisions will be suggested to Article 3 to accommodate HP-related definitions.
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	General	We welcome the opportunity to provide written comments on behalf of our members regarding the proposed amendments to Article 16 of the City of Portland’s Land Use Code being advanced under the ReCode initiative. Increasing the production of housing of all types is the top policy initiative of the Chamber, and as you know, your Board plays an important role in the permitting of housing within Portland’s historic districts. It is imperative that the amendments advanced to Article 16 through ReCode affirmatively further the goals of our comprehensive plan and the priorities of our elected officials, both of which strongly prioritize the creation of thousands of units of housing over the next decade.	The proposed revisions to Article 16 are intended to clarify many of the city's existing review procedures and thereby improve the review process.
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	General	The draft before you from staff advances several key changes that we believe will streamline review of alterations, adaptive reuse, and new construction within Portland’s historic districts. Most importantly, the clarification of standards of review and scope of jurisdiction are welcome amendments that will go a long way towards removing subjectivity from the current process that leads to delays that cost applicants considerable amounts of time and money. Additionally, we appreciate the elimination of the existing criteria for designation on Page 55 of the redline PDF that currently allow for historic districts to be assembled through the amalgamation of various building types regardless of the individual merit of structures and even if the proposed district is “composed of a wide variety of resources”. This change significantly limits potential for abuse in the designation of districts which do not contain any sufficient cohesiveness among style, period, or type of building, and which are only currently able to be designated based off this vague standard. Finally, we appreciate the addition of the new criteria in 16.2.2.C that clarifies the applicability of all sections of the comprehensive plan when making designation decisions.	As drafted, historic districts may still be composed of a wide variety of resources provided that it can be demonstrated that they are united by past events, culturally, or aesthetically and collectively meet at least one of the criteria for designation. See 16.2.1(B). The ability of the Planning Board and Council to weigh all components of the comprehensive plan in establishing historic designations has been a component of the ordinance since its adoption in 1990 (See 17.4.1(D) & 17.5.8(B), existing language)
Chamber of Commerce	5/29/24	Email	16. Historic Preservation	General	With that said, we do want to raise some concerns that persist with the current draft. The largest disappointment in this draft as written is that it continues to provide jurisdiction to the Board for review authority over new construction and alterations to non-contributing buildings where more than 40% of the façade is altered. The Board rightly has jurisdiction around alterations and additions to historic structures which we do not question. However, in recent years the subjective deliberativeness that the Board has applied to new construction within historic districts has significantly exacerbated permitting delays and cost increases for developers of new housing, such that policymakers would be wise to revisit if these applications are still well suited to come before it for review. Since 2020, the Board has reviewed 19 applications for new construction within historic districts, nine of which have involved at least three meetings with the board, and four of which have not come back to the board after having been put through one to two workshops. That means that of those 19 applications, just six were processed in what can be considered a reasonable review period of one workshop and one public hearing. In some cases, applicants have had to come to the board more than four times for projects as small as a five-unit multifamily building. These unacceptable delays present considerable cost challenges for developers of small multifamily buildings within historic districts, undermining citywide goals of increasing production of this type of gentle density within our historic neighborhoods.	A significant reduction in the authority of the Board, such as eliminating review of new construction or alterations to noncontributing buildings, has not been part of the approach to updating the Historic Preservation ordinance. Applicants choose not to pursue final approval of projects for a variety of reasons, many of which are unrelated to historic preservation review. The City's 2023 study <i>Trends in Portland's Historic Districts</i> found, among other impacts, that, " <i>Despite lower levels of construction, retention of existing housing has led housing densities in historic districts to increase at similar rates as elsewhere. This is accounted for through a mix of new construction, retention of existing residential units, and repurposing of historic structures for higher densities (single family to two family or commercial to residential conversions, for instance).</i> " (page 6, https://portland.civilspace.io/en/projects/historic-preservation-impact-study). According to the City's housing dashboard, since 2020 , 1,492 housing units have been approved within Portland's historic districts and 670 have been completed. including Maine's tallest building at 201 Federal Street which include 263 new homes (https://www.portlandmaine.gov/1462/Housing-Dashboard).
Brian Scios	5/31/24	Email	16. Historic Preservation	General	I'm writing to voice my strong opposition to the rewriting of ReCode that would essentially put historic preservation at risk in Portland. If you decide to move forward with existing language that would weaken the oversight of the Historic Preservation Board, many damages caused by this will be IRREVERSIBLE and I'm afraid the treasured history and soul of Portland will be at risk. Time and time again we've seen other cities maintain a high bar for historical preservation while balancing the need for growth, development and tax revenue. I urge you to use those cities as examples to model off of for our own great city of Portland.	The draft revisions focus on consolidating related sections, clarifying procedures, and simplifying long-standing language, with the goals of making the article easier for all users to understand while supporting the rehabilitation of historic resources and compatible infill development.
Sandra Radis	6/7/24	Email	16. Historic Preservation	General	Please do not change the preservation code! We love Portland for the care the city takes to protect history, please do not change this code for one organization’s desires. It is wrong.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.

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Name	Date	Source	Article	Topic	Comment	RESPONSE
Teresa Pierce	6/7/24	Email	16. Historic Preservation	General	I oppose weakening the historic preservation language in the ReCode. Let's not in five, ten, 25 years realize that we have lost Historic Portland, we can never get it back. As a resident of the greater Portland community I value the history and culture of the community, the proposed language destroys the current Historic Preservation ordinance, codifies the city council's recent action on 142 Free St., and puts Portland out of compliance with standards required by the Maine Historic Preservation Commission and National Park Service. These are things we should not put in jeopardy.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Robert Kahn	6/7/24	Email	16. Historic Preservation	General	I am totally against RECODE's language that guts the Historic Preservation Ordinance. Why was this unnecessary attack on the ordinance included? It was pointless and divisive. Also, graphic examples (proposed changes next to existing conditions) need to be offered to the public so that we can visually compare the before to proposed after. The heights and density seem to be excessive. Is the code attempting to develop future dense tenement slums like in New York City?	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Victoria Bonebakker	6/10/24	Email	16. Historic Preservation	General	The proposed ReZone plan guts the current protections and would destroy the integrity of Portland's historic districts, whose character enhances the attractiveness of the city for its residents and also draws tourists as well as new residents, supporting the business community and the tax base. Jeopardizing, and in some cases destroying, Portland's historic character will weaken the city irreparably. The plan needs to be amended!!	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Dugan Murphy	6/12/24	Email	16. Historic Preservation	General	I understand some of the changes will have the effect of weakening Portland's historic preservation ordinance and I think doing that is a big mistake. Portland has a major housing crisis right now and a good way to remedy that seems to be encouraging development of surface parking, allowing higher densities of development, and removing requirements for parking. The answer is neither making it easier to demolish contributing buildings in historic districts, nor is it stripping review responsibilities from the Historic Preservation Review Board. This is important to me because Portland's livability is so dependent on the human scale of our historic districts. This is what kept me here when I became an adult and had to decide whether to move away or stay in the Portland area! Furthermore, the integrity of those historic districts bring tourists here, which is the basis for my livelihood and makes it possible to continue living here. Please create a development code that encourages development that integrates well with our historic districts. That will enhance walkability, livability, bikeability, and transit viability.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.
Peter Murray	6/12/24	Form	16. Historic Preservation	General	The Recode proposals appear to significantly weaken and undermine what has been a very successful historic preservation program in the City of Portland. "If it ain't broke, don't fix it!" Some years ago Portland made the decision that preservation of historically significant structures and areas of the City will enhance the attractiveness of the City for purposes of economic development, as a place to visit (tourism) and as a desirable environment for its inhabitants. Portland's historic preservation ordinance has generated a number of historic districts in key areas of the city, for the most part on the Portland Peninsula. Protections afforded contributing structures in these districts have maintained the historic authenticity and amenity of these parts of Portland and have generated millions of dollars of investment in tax credit supported restoration and reuse of contributing buildings - all to the benefit of the City. There is no reason why a regime that has been so successful should be weakened or diluted by the various recode provisions that would 1) allow criteria other than historic authenticity to be considered in declassifying contributing structures, 2) allow dimensional standards of the zoning ordinance to override considerations of historic compatibility, 3) dilute interim protections pending evaluation of a pending historic district designation, or 4) restrict historic review of changes that do not require building permit. There is no showing that any of these changes are needed. All of them tend to undermine the quality of the historic fabric of the City. Some might even jeopardize qualification of Portland's districts for Federal dollars and tax credits. Please leave the Historic Preservation ordinance as it is!	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.

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Name	Date	Source	Article	Topic	Comment	RESPONSE
George Rhealt	7/16/24	Email	16. Historic Preservation	General	HP Public Comment: PLEASE DISMANTLE THE WHOLE PRESERVATION REGIME In contrast to Peter Murray's comment about "don't try to fix something that isn't broken" - I would like to make clear that the city's historic preservation is COMPLETELY BROKEN and well past its sell-by date and should be dismantled completely. Greater Portland Landmarks is basically a front for real estate interests and has very little regard for actual history OR the plight of the many citizens of Portland who do not have the money or resources to buy expensive houses on West Street within a few blocks of the Western Promenade and then spend years making sure the real estate value of such houses continues to escalate beyond all reason. It should be also noted that Peter Murray's recent game is very transparent: (STEP #1 - build expensive contemporary-style home in non-historic neighborhood; STEP #2 - rile up neighbors to lobby for an expansive historic district covering same neighborhood; STEP #3 - get OWN building listed as "non-contributing" while ensuring that no one else can build anything similar in neighborhood; STEP #4 - cash in on the artificial scarcity created as home value skyrockets due to stifling of competition from any new housing product being introduced into now "historic district" neighborhood) It has been patently obvious to anyone not getting a salary/income or a big home equity windfall, that the historic preservation regime in Portland since 1990 has suffocated the local economy and destroyed countless opportunities for a healthy, vibrant, diverse/well-balanced community. Nothing says "regulatory capture" more than a "ReCode process" that basically involves affluent homeowners and a private non-profit advocacy organization basically working hand-in-glove with self-interested staff to preserve all their privileges and control over much of the city's existing built environment at the expense of virtually every other policy goal that a community concerned about a sustainable future would like to push. It cannot be repeated enough that the 1990 preservation ordinance was put in place during a massive regional commercial real estate collapse (coincident and intertwined with a collapse of the entire State of Maine's banking industry). Local preservation advocates were aghast at the brief building "boom" (more like a loud lawnmower) of the 1980s and took full advantage of the disarray in the local business community during the regional recession (recall that the Chamber of Commerce was in such a mess in the late 1980s that it had to sell its 142 Free Street headquarters in 1991 just to unbury itself from financial doom). The result was a preservation ordinance that was a smorgasbord ofpreservation gibberish that did exactly what it was supposed to do: erect massive barriers to any organic and expeditious change in the city's historic core such that anyone wishing to do much of anything had to answer to the preservation cops before moving forward. The worst thing about this entire "ReCode process" with respect to the historic preservation ordinance is the complete absence of real-world examples and actual project case studies. We all know the "impact on housing" historic district "study" was a complete, "garbage-in, garbage-out" sham. The consultant openly admitted this during a videotaped public meeting (one that prevented public comment via the"communications/reports" agenda cop-out) whereby they made clear they engaged in no independent analysis outside of what the planning staff directed them to do. Why no discussion of the ACTUAL history of the historic tax credit program since 1990 and any kind of assessment of its costs/benefits, especially to smaller projects (less than \$2 million is probably the right threshold in 2024 dollars)? - Anyone know the status of the historic tax credit application for 54 York Street? - How about Sagamore Village? (Portland Housing Authority) - 30 Lafayette Street? (Munjoy Hill Historic District) What are we obsessing about "certified local government" status when planning staff have not even bothered to show the HPB or the public a chart of ALL existing historic districts and which ones have been certified by the NPS? The vast majority of our local historic designations do not benefit at all from CLC status due to the lack of certification. Anyone want to talk about the Williston-West Church saga? Any lessons there about how the HP and restrictive Western Prom segregationist zoning works in tandem to stifle development in an affluent neighborhood to serve ONLY the interests of local incumbents and no one else in the City of Portland? We absolutely need to exempt "new construction" from any HP meddling - either staff or HPB-level. The HPB has no expertise here that allows it to substitute its judgment over others in our community for what should surround "the old stuff" and it is even more hilarious (and deeply deeply sad) that many of our historic districts celebrate the eclecticism and juxtaposition of differing styles, forms, massings and heights in designated areas while VIRTUALLY PREVENTING such further opportunities with the obsessive focus on "submissiveness" and "quieting" of any contemporary architectural expressions so as not to impact the property values and prior investments made by others in their historic hobby-horses. Lastly, while the chart of staff responses to various public comment emails is helpful, the ACTUAL EMAILS need to be produced so that the public can fully understand the regulatory capture and "buddy-buddy" nature of the correspondence that has been ongoing between HP and senior planning staff and outside preservation lobbyists. It is absolutely glaring that ordinary citizens have largely been shut out of this years-in-the-making examination and potential updating of the HP regime - which is of course how the whole HP industry wants it. The buzzwords and arcanelegalase of the HP jargon is meant to shut regular people out of this whole effort just as much as the HP ordinance is meant to shut regular people out of expensive historic districts or, if they are let in, that their behavior and existence can be carefully controlled and monitored by an elect class of John Calvin Stevens Society donors and overseers.	The draft revisions are intended to simplify and clarify the ordinance in the interest of strengthening the City's historic preservation program. The intent and authority of the program is not changing.

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.1 Purpose	The language in the existing ordinance’s purpose statement has been significantly abbreviated in the staff proposed draft. Although the added language is useful, the minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that a statement of purpose should give an overview of why the ordinance was created and its intent. We believe several of the paragraphs in 17.1 should remain because as stated in the Guidelines, a statement of purpose may be used to determine whether a decision related to the ordinance is justifiable. We believe the existing statements establishing purpose that describe fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation, etc. should remain. We also believe a purpose statement should include advising other city boards and the City Council on land use matters related to historic preservation.	The purpose statement has been reexpanded and clarified.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1 Categories of Designations	While the existing ordinance has definitions for many terms, the staff proposal imbeds several definitions within the body of the ordinance. This is reasonable, but the alteration of the definitions in some cases is problematic. For instance, it is problematic to have the wrong definition of "site" in the general ordinance, not "site" in a HP context in this section. The definition of landmark in 16.2.1.A differs from the existing definition by removing "property" and keeping "site" which is defined as all contiguous land in common ownership in the general ordinance. See also comments on Chapter 3 above. In addition, the definition of landmark incorporated in 16.2.1.A leaves out from the current definition "historic, architectural or archeological" as a modifier for “particular”, leaving it to read "particular or individual significance." Those left out words seem to be important and should remain. 16.2.1 B in defining historic district leaves out the word "buildings" from the current definition. It should remain.	The language will be revised to consistently use Building, Structure, Object, Site, or Area, as appropriate to the context. All significance is framed within the Criteria for Designation. The criteria cover the these modifiers.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1(A) "landmark"	1) The existing definition includes "historic, architectural or archeological" as a modifier for particular. The staff proposes removing the definition and imbedding it within the body of the text. However, the definition of landmark incorporated in 16.2.1.A. leaves out "historic, architectural or archeological" as a modifier for particular, leaving it to read "particular or individual significance." The left-out words are important in defining what type of significance a Landmark possesses. We believe this needs to be added back to the text either as stated in the existing definition or as defined in the Guidelines for the CLG Program in Maine. From the Guidelines for the CLG Program in Maine: Any site, building, or structure of particular archaeological, historic or architectural significance to the municipality relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with the municipality’s historic preservation ordinance. 2) The staff proposed definition of Landmark states that landmarks may be in historic districts, yet in Section 16.2.3 “Classifications within Historic Designations”, Section 16.2.3 A. states that the sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing. This is in conflict with the definition of Landmark and current practice in Portland, and it should be clarified that within historic districts, resources may be classified as Landmark, contributing, or non-contributing.	All significance is framed within the criteria for designation. The criteria cover the these modifiers. Language will be added to clarify that Landmark is a separate designation that is applied overlapping historic districts or historic landscape districts. All landmark structures that are also within historic districts or historic landscape districts will be considered contributing to the district as well.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1 (B) "historic district"	The existing definition includes the phrase united “by past events”. The proposed staff ordinance removes the definition and instead incorporates the definition of historic district into the body of the ordinance. Section 16.2.1. removes the phrase " united by past events”. Those left out words are important in defining how objects, sites, or structures may be categorically united and is included in the National Parks Service’s definition: NPS definition: Historic District - A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, landscapes, structures, or objects, unified by past events or aesthetically by plan or physical developments. A district may also be composed of individual elements separated geographically but linked by association or history. We believe the existing definition or the NPS definition is the appropriate definition to use.	Language has been revised to include "united by past events" and better align with the National Register.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.1(C) "historic landscape district"	The staff proposes to add language to the definition of historic landscape district which is taken from 17.4.3. It seems appropriate to include it within the definition of HLDs, which staff proposes to include within the body of the ordinance.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for Designation	The existing ordinance instructs the two bodies to apply the historic preservation goals and other aspects of the comprehensive plan. The staff proposed draft in 16.2.2 C, simplifies the reference to the comp plan by calling out the comp plan in general and eliminating that a designation should consider the "historic preservation goals included in the comp plan". We believe that the designation process should specifically consider "historic preservation goals”, along with consideration of other goals in the comp plan.	This section has been reexpanded to clarify that the Planning Board and City Council should weight the criteria for designation, integrity, and all components of the Comprehensive Plan on equal footy based on feedback from the Historic Preservation Board.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for Designation	17.4.1(B) This is an important criterion for evaluating historic districts. We are unclear why this was deleted. It appears to address the National Parks Service’s Standards for evaluating significance within registered historic districts.	This language is redundant to the proposed definition (which follows the model of the National Register) in that it still identifies that there must be a "concentration, linkage, or continuity" and that the district be "united."

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2 Criteria for Designation	17.4.1(C) This too is an important criterion for evaluating historic landscape districts. We are unclear why this was deleted, especially as Portland has five HLDs: Evergreen Cemetery, Eastern Prom, Deering Oaks, Western Prom, and Lincoln Park.	This language is redundant to the proposed definition which requires a "concentration, linkage or continuity of natural or man-made components." The significance would be framed within the criteria for designation.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(A)	The existing ordinance defines the criteria for consideration as “minimum criteria”, while the staff proposed language in 16.2.2 strikes "minimum" from criteria for designation, but later references in the document (16.2.3.B.2) are made to minimum criteria. It is confusing. The terminology should be consistent throughout, using “minimum criteria”.	Revisions are suggested to strike the word "minimum" from all references, using "criteria for historic designation" or "historic designation criteria"
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(B)	General Note: We believe that integrity, which is not defined in either the existing ordinance or in the proposed staff draft, is important to define. Other CLG communities in Maine use the following: HISTORIC INTEGRITY: The authenticity of a property’s historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property’s prehistoric or historic period.	Integrity is defined within the body of the ordinance under 16.2.2 (B) as conveying its significance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.2(B)	The existing ordinance includes “condition” as an aspect of integrity. The staff proposed language in 16.2.2.B discussing integrity omits the term "condition". “Condition” should be considered with any discussion of integrity, as this is a national and state standard. The language in 17.4.2 omitted from the staff proposal “make it worthy of preservation or restoration” is standard preservation language when discussing integrity in historic preservation ordinances. The language should be returned to its original phrasing. We also believe “integrity” should be defined. The citation at the end of the proposed paragraph 16.2.2.B. should cite "applicable criteria as defined in Subsection 16.2.2.A.”	Condition is distinct from integrity. Integrity is a building's ability to convey its significance (p. 44 of the National Register Bulletin: How to Apply the National Register Criteria for Evaluation). Condition is a building's state in terms of its ability to continue to serve a function/purpose. The National Register Bulletin does not identify condition as an aspect of integrity. Other National Park Service guidance states, "A measure of integrity is not the same as an assessment of condition. The National Register recognizes seven aspects or qualities that define integrity: location, design, setting, materials, workmanship, feeling, and association. Researchers assess historic integrity by evaluating whether a property reflects the spatial organization, physical components, and historic associations that is attained during the period(s) of significance. A measure of integrity is not the same as an assessment of condition." (https://www.nps.gov/articles/000/cultural-landscapes-national-register-significance-integrity.htm#:~:text=Researchers%20assess%20historic%20integrity%20by,as%20an%20assessment%20of%20condition.) Based on feedback from Maine Historic Preservation Commission staff, Integrity has been revised to include all seven aspects of integrity referenced by the National Register. Integrity is defined within the body of the ordinance under 16.2.2 (B) as conveying its significance.
Chamber of Commerce	6/1/24	Email	16. Historic Preservation	16.2.2(B)	In the draft proposed 16.2.2.B why is “condition” being removed as a criteria for a nominated area, site, structure or object?	See above.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3 Classifications within historic designations	Does “historic designations” = historic districts? Or does it encompass HDs, HLDs, and individual landmarks? This is confusing language throughout 16.2.	Historic designation is intended as an overarching term that encompasses landmarks, historic districts, and historic landscape districts. Where language refers to specific categories of historic designations, they are called out specifically.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(A)	In the staff proposed language “landmark” classification seems to be inappropriately omitted. Currently certified local historic districts include landmark, contributing, and non-contributing resources and we believe this should be amended to include “landmark”	Revisions have been made to clarify that landmarks as designations may overlap with districts or stand alone.

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Name	Date	Source	Article	Topic	Comment	RESPONSE
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(B)	The existing ordinance definition of “contributing” has been removed in the staff proposal. Instead, new language is proposed within the body of the ordinance. Our concerns with the proposed amendment are: a) That the new language lacks clarity in Section 16.2.3. Classifications within historic designations. Would the term “contributing” apply to historic designations generally (including individual landmarks?) or only to resources in historic districts? b) Section 16.2.3 omits “landmark” as a classification in a historic district. c) Refers to the “designation report”. Section 16.3. Nomination, Consideration, and Historic Designation references “report” several times but those references should be clarified to be “designation report” in order to be consistent. The minimum requirements for local legislation (A.2.) in the Guidelines for the CLG Program in Maine specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We believe the term ‘contributing’ should be a defined term in Chapter 3 and suggest the following definition: From the Guidelines for the CLG Program in Maine: A property or resource that has historical significance through location, design, setting, materials, workmanship, feeling, or association, and adds to the sense of time and place and historical development in a historic property. Minor edit – verb tense in paragraphs 16.2.3.B.1. & 2. (see Greater Portland Landmarks proposed corrections to the left in red)	Contributing classifications could also be applied to buildings, structures, sites, or objects within the boundaries of landmarks. This is consistent with the approach taken under the National Register where individual National Register listings include lists of contributing and noncontributing resources. This approach was also taken under the recent local landmark designation of the B&M Cannery. The notion of "contributing" is generally self-explanatory. The contributing and noncontributing classifications are defined through the parameters given for determining such a classification within the body of the ordinance under 16.2.3. Revisions have been made to correct verb tenses. Revisions have been made to clarify the distinction between the nomination materials and reports issued by the Historic Preservation Board and Planning Board, which would include findings and recommended changes to any nomination.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(B)	We think there would be greater clarity if the term "contributing" were defined in Chapter 3 with a general definition such as “A contributing resource means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district’s sense of time and place and historical development or is capable of yielding important information about an historically significant period.” Chapter 16.2.3.B. would then set out the criteria for contributing (older than 50, sufficient integrity, etc.) The entirety of Section 16.2.3 is confusing because it seems to apply to historic designations generally, but the language seems to be discussing historic district designation, not individual landmarks. Is section 16.2.3 A. and 16.2.3 B. attempting to say that within a “nominated historic designation” like a Landmark, the term contributing would be applied? In a “nominated historic designation” like a Landmark, if there are multiple resources (like House Island for example) the designation is considered a district. This needs clarity, see our comment in 16.2.3 above. Landmarks are also an existing classification within a district, and there is no discussion of that classification in this section. Chapter 3. 16.2.3.B.2. refers to the "minimum criteria" in the "designation report”. The “designation report” contents are not clearly articulated in the staff proposed draft, contrary to the detailed contents contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important. Also, there is inconsistent use of the term “report” and “designation report” in the proposed document that needs to be made consistent.	The contributing and noncontributing classifications are defined through the parameters given for determining such a classification within the body of the ordinance under 16.2.3. Landmarks can contain multiple structures and objects (for example a primary structure and associated accessory structures). This is consistent with individual National Register listings and the approach previously taken at the B&M Cannery, a local landmark.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(C)	The existing definition includes three ways a resource can be considered non-contributing. The last paragraph in the existing definition includes the ability for the board to determine a portion of a building is non-contributing. The new definition is proposed by staff to be imbedded into the body of the text. The proposed definition has been altered through defining contributing buildings in section 16.2.3.B. and ceding all other buildings that do not meet the criteria in 16.2.3.B will be non-contributing. However, the removed language from the third paragraph of the existing definition removes the ability of the Historic Preservation Board to designate a portion of a site or structure as non-contributing. Having the Board retain the option to designate a portion of a site or structure as non-contributing is useful as they review proposed rehabilitation or alteration proposals. The opportunity of the Board to make this determination should not be lost and should be included either as new language in 16.2.3.B or added to 16.2.3.C.	If a building is not contributing, then it would be noncontributing. Under 16.3.8, there is a presumption of contributing classification where a building, structure, site or object was not previously classified. This is consistent with existing language. 16.3.8 adds a framework for finding buildings, structures, sites, or objects of no significance or integrity as noncontributing. The Historic Preservation Board would still retain the authority to approve removal of portions of structures under the certificate of approval process. The Board could find that portions or elements of structures are not distinctive or character-defining and therefore approve their removal as consistent with the standards for review.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.2.3(C)	The definition included in the staff proposed text has altered the existing ordinance through defining contributing buildings in section 16.2.3.B. and ceding all other buildings will be non-contributing. The altered language removes the ability of the historic preservation board to designate a portion of a site or structure as non-contributing. Designating a portion of a site or structure is useful for historic preservation board as they review proposed rehabilitation or alteration proposals.	See above.

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3 Nomination, Consideration, and Historic Designation	The proposed procedure does not seem to require notifications sent to owner(s) at points of determinations by HP and PB. Can MHPC provide information on how other Maine CLG communities handle public notice? During several recent district nominations, like House Island and Munjoy Hill, properties have been sold during the designation process. New residents/owners that arrive during the process deserve public notice so they may participate in the process at the next public meeting. Notifications should be sent to owner(s) at the various points of determination by HP and PB.	See 2.2.7(B)1
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.2 Submittals	The existing ordinance requires nominations to be submitted with signature. There is also language in the existing ordinance which allows the historic preservation board members to make a nomination at a meeting, in writing, and then complete further information before it is processed. The staff proposed language in 16.3.2.A lists all the information that should be included in a nomination, but 16.3.2.C says a nomination can be made "verbally" at a HP meeting. It is inconsistent to have a verbal nomination allowed if all of the information in 16.3.2.A is required. This inconsistency should be resolved. We believe at a minimum a letter signed by at least two members of the historic preservation board should be required, and signatures for public nominations should be a minimum requirement.	Revisions have been made to require that all nominations and sponsorships be in writing.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.3 HPB review	The existing ordinance allows for multiple workshops during the designation process, while the staff proposed language would limit workshops to one, unless the nominators provide consent. A historic district can be nominated by members of the public and then sponsored by two members of the historic preservation board. It is unclear if the staff proposal is to require consent by all nominators (members of the public) or the two members of the HPB. Requiring all public nominators consent to additional meetings for a large district nomination would be unduly complicated. What would that process be if they were not all present at the first workshop? The intention in the proposed language is not clear. Designations might only require one workshop, particularly for individual nominations, but a large district would likely require multiple workshops to allow for public comment and time to discuss additional information that might be required during the process. We propose that Language be included that nominations should be pursued expeditiously to clearly signal the process should not be unduly drawn out.	Revisions have been made to add "one or more workshops."
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.3(D)	The staff proposed language in 16.3.3.D refers to findings by HPB as to whether the criteria have been met. Is this supposed to be the designation report? There are later references to a HPB report as well. Chapter 16.2.3.B.2. refers to the "minimum criteria" in the "designation report". The designation report contents are not clearly articulated in this proposed redraft, contrary to the level of detail contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important so that the public, staff, and members of the board are aware of the content needed. Comparing 16.3.3.D to the existing ordinance there is a provision (17.5.5.B), that if the HPB votes not to designate, a new designation cannot be brought back for at least a year. That is struck from the proposed text.	The information to be provided in the nomination materials is detailed under 16.3.2(A). See above regarding the contents of the nomination and subsequent reports. Revisions have been made to add the provisions under 17.7.5(B) under 16.3.3(E).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.6 "demolition"	The existing ordinance definition includes partial demolition. The staff proposed ordinance is missing ‘partially or’. Our concern with the proposed language is since partial demolitions tend to occur more often than total demolitions. reference to partial demolition, not just removal of features, really should be specified in the ordinance. City staff have indicated that the proposed new definition of alteration encompasses partial demolitions with the phrase “removal of features”. That does not seem sufficient.	Staff find this sufficient.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.7 Amendment or rescission of designation	The language in staff proposed 16.3.7 Amendment or rescission of designation is a significant change from the existing language in 17.5.9. By referring to 16.2 as a whole in referencing standards for rescission or amendment, it allows the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan. Proposing to amend the ordinance to introduce consideration of the comprehensive plan in amendments or rescission decisions is misguided and tantamount to reintroducing the “projects of special merit” provision that had to be removed from the ordinance in 2004 to qualify Portland’s HP ordinance for CLG certification. Comprehensive plans are general scoping documents and city ordinances are the regulatory implementation of those general goals. Once the district or individual designation has been made, a rescission or amendment should be based on new evidence and the application of the enumerated standards and criteria of the ordinance, rather than broad policy goals in the comprehensive plan. This proposed language appears NOT to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	Staff find it appropriate that if the Planning Board and City Council should weigh the comprehensive plan in establishing designations, the comprehensive plan should also be weighed in amendments. The current language already allows for the comprehensive plan to be considered for reclassifications under 17.5.8(B). The proposed language creates a single clear and consistent process for all amendments.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.7(A)	In addition, as proposed in 16.3.7.A there is no application of amendment possible with this process for reclassification to a landmark designation downward to contributing or non-contributing (if say there was a fire or other disaster that altered its exterior appearance) because it explicitly calls out contributing and noncontributing. Is the only option in case of a landmark to remove the designation completely as a rescission? Would that potentially create a ‘donut hole’ in a district boundary, which is generally to be avoided? What is MHPC position on this? We believe there should be a mechanism for all designation categories and that a rescission or amendment should be based on new evidence and the application of the standards and criteria of the ordinance, as intended by the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	See above clarifying that landmarks are separate designations that may overlap historic districts or historic landscape districts.

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Chamber of Commerce	6/2/24	Email	16. Historic Preservation	16.3.8 Presumption of contributing classification	In the draft proposed 16.3.8 why is there a presumption that structures or objects in an area or site are contributing? Shouldn't all structures have the test of the standards in 16.2.2 applied and explicitly listed in the City Council order before they are locked into a potentially irreversible designation as contributing?	This language is consistent with 17.7.1(B), but has been relocated and refined for improved clarity.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.3.8 Presumption of contributing classification	What is the definition of area in the staff proposed language? A district? What about buildings and structures? The staff proposed language in 16.3.8 differs from the existing ordinance in that it provides exceptions to the presumption of contributing status. 16.3.8.B, proposes an exception to the presumption of a contributing classification if the structure was substantially altered within 50 years. We believe there should be some requirement that it was lawfully altered, particularly if it was altered after the date of designation. An applicant should not be able to significantly alter a building without the necessary permits and still qualify for the exemption. This does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine.	Area is not currently defined within the ordinance. Staff find the notion of an "area" to be self-explanatory. Under the proposed language, buildings are not distinguished from structures, but as noted above, revisions are suggested to add "buildings" consistently within the designation language. If a building or structure was unlawfully altered after the date of designation, that would constitute a separate violation under the ordinance's requirement for a COA before permitting and or undertaking any exterior alterations. Language has been added to clarify that alterations will need to have been completed lawfully.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim Protections	The staff proposed language differs from the existing ordinance by altering the Interim protections. As proposed only minimum maintenance and protections from demolition would apply from nomination until City Council action. It proposed to delete the full protections that currently are in place as soon as the HPB recommends designation to the PB. Staff's proposal will encourage major alterations as soon as a resource is nominated but before final designation by the City Council, which can be an extended process in the case of a historic district. We believe the language "Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council" should be included.	Staff find that this is an appropriate change.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim Protections	The existing ordinance language allows for HP determination of a demolition request for a non-contributing resource during the designation process, which can take months. During the designation process, the owner of a building deemed a non-contributing building by the HP Board should be entitled to the same provisions they would have if the district was already designated.	Revisions have been made to add the provisions under 17.5.2(E) under 16.4.2 or 16.4.3.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.4 Interim Protections	The staff proposed draft is missing the existing interim protections that go into effect upon HPB determination and would only require minimum maintenance and protection from demolition throughout the designation review process. As proposed to be amended by staff, there would be no HPB or staff review of proposed projects while a district is being considered by the Planning Board or City Council. It is extremely important that the full interim protections enumerated in the current ordinance (17.6) upon HPB determination are retained. As we found with the Munjoy Hill Local Historic District, review of projects began as soon as the HPB determination began and projects were expediently approved, with the public having the opportunity to comment. This significantly calmed fears about the onerous nature of the review process expressed by opponents and gave members of the public that wanted a say in their neighborhood's development, an opportunity to do so.	Staff find that this is an appropriate change.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.5 Protections for Properties listed on the National Register of Historic Places	Again, what does "area" in this context mean? Historic District? Be consistent with terminology to provide clarity. This section in particular needs review by MHPC. The proposed language states that NRHP listings or properties with a DOE are not allowed to be demolished, with exceptions. The proposed language does not provide review of relocation, alterations or other actions for those properties. We confirmed that MHPC is passing DOEs along to the city, but this staff proposed language doesn't state if newly listed (or eligible) National Register properties fall under the ordinance once they are listed or as stated in the existing ordinance, that a nomination is deemed submitted and the procedures for nomination should be followed. We understand that the city has not been routinely following the existing requirement of the ordinance for local nomination. The Guidelines for the CLG Program in Maine set out minimum duties of the local review commission to "review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction". Guidelines for the CLG Program in Maine sets out that minimum requirements for local legislation include "mandatory review of alterations, demolition, building relocation or new construction (Certificates of Appropriateness)- within the boundaries of designated individual landmarks or districts or which may affect such landmarks or districts". We believe that new NRHP designations should be considered by the HPB as a nomination for local designation as the existing ordinance requires or in some other manner be protected from alterations by the ordinance as they are designated historic properties.	Based on feedback and comments from MHPC staff, this section been removed to eliminate any automatic regulations placed upon properties based on their having been listed on the National Register of Historic Places. Based on Board feedback local Historic Designation will not be automatically initiated for National Register listed properties.

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.5(D)	This exception does not include any preservation criteria related to significance or integrity, nor does it weigh in the reuse potential of a building. By this standard for example, Deering High school, a NRHP-eligible building could be demolished for a new consolidated high school or any other use. We believe this does NOT meet the CLG guidelines and should be removed as an exception.	Based on feedback and comments from MHPC staff, this section has been removed to eliminate any automatic regulations placed upon properties based on their having been listed on the National Register of Historic Places.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	Time limits	We believe general language that will move the process along in good faith or expeditiously should be included.	Time limits on processes have been removed across the code unless otherwise required by state statute. The intent is always to move processes expeditiously and there is no need to include additional language.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6 Review Process for Certificates of Appropriateness	The existing historic preservation ordinance defines certificate of appropriateness, while the staff proposed draft removes this definition. Our concern is that “Certificate of Appropriateness” is a term-of-art and that there is value in retaining the definition.	"Certificate of appropriateness" has the effect of mystifying what is the approval of a proposed change to a property reviewable under the historic preservation ordinance. "Certificate of appropriateness" has been replaced with historic preservation approval throughout.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6 Review Process for Certificates of Appropriateness	17.7.7 Certificate of non-applicability is not defined	Certificates of non-applicability have been removed from the ordinance.
Jeff Sherman	5/10/2024	Konveio	16. Historic Preservation	16.6.1 Applicability	Installation of energy efficient windows should be exempt.	Windows are often distinctive and character-defining features of historic structures. Their replacement should be carefully reviewed. Historic Preservation staff regularly work with property owners to review the design and details of energy efficient replacement windows to ensure that they preserve the historic design of the original windows.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.1 Applicability	The existing ordinance is explicit in what activities require a CoA. The staff proposed language in 16.6.1 only seems to apply if a permit is otherwise required. This would no longer regulate activities that don't require a building permit. This language is a major change. With this staff-proposed language and the deletion of the current definition of “Alteration” (which included specifically listed non-building permit changes) a Certificate of Appropriateness would only be needed for work that would require a building permit. The changes to the definition of alteration which informed the current definition of Certificate of Appropriateness, which has also been removed is problematic and has significant impacts. This would be a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the Guidelines for the CLG Program in Maine to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction	The intent was not to significantly reduce the scope of what work is subject to review. Revisions have been made to clarify that review is not limited to those projects requiring a building permit.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.1 Applicability Exemptions	What is the reasoning behind these new exemptions? Solar installations, heat pumps, and public art should be reviewed to ensure they are installed in a manner that is reversible and removable without damaging character defining features, including historic materials. ROW exceptions: This is not the current practice and is inconsistent with the requirements in 16.7.3.C.4. Streetscape, pedestrian improvements: Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual. This would remove review of historic materials used in crosswalks, the stone gutters in Baxter Boulevard, and Belgian pavers where they exist in the ROW. We believe that the ROW exemption should be removed to preserve historic materials where possible.	The changes to this part of the ordinance are intended to provide much greater clarity as to what is reviewed and by whom, as well as to streamline review for common projects that advance other city goals and projects that are otherwise subject to city-led project development processes. Work in the right-of-way is no longer proposed to be exempt.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.2 Review Classifications (and Table 16-A)	- How were the numerical limitations determined? For instance, 25% could be the storefront of a 4-story or less building. Is the intention that a storefront alteration could be a staff review? - What about Landmark building reviews – are they to all be Board reviews? - Signage – does “all” include new construction? Often the board provides guidance on building signage design concepts as part of the overall design scheme.	The intention is to make clear that modest alterations can also be reviewed by staff and approved if they are found to meet the applicable standards for review. Under 16.6.2(B), the Planning Authority may escalate projects due to anticipated impacts or where staff cannot determine that the project would meet the applicable standards. Applicants would also be allowed to request review by the Board for any project under 16.6.2(C).

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.2 Review Classifications (and Table 16-A)	We believe some of the potential staff reviews as laid out in Table 16-A should have the opportunity for public comment and review by the board, as they can alter a significant portion of a structure.	The proposed thresholds are intended to streamline reviews for common project types, easing the time and administrative burden for applicants.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.3 Historic Preservation Pre-App Meeting	This is a good addition.	No response necessary.
Greater Portland	5/28/24	Email	16. Historic Preservation	16.6.5 Costs of review	Does this change reflect similar board language for ZBA or PB?	This language is generally similar to language included within site plan.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.6 Lapse in Application	Does this change reflect similar board language for ZBA or PB?	This language is generally similar to language included within site plan.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.7 Administrative Review	The existing ordinance states that a project must meet the standards of Section 17.8 and the Historic Resources Design Manual. The staff proposed language in Section 16.7.1.A, states the Historic Resources Design Manual supplements the ordinance. Although similar language exists in 17.8.1. removing the “AND” in this earlier section and just referencing Section 16.7 has changed the standards for review. We believe that projects should comply with the standards in the ordinance AND Historic Resources Design Manual, which may include additional standards specific to a designated property as part of a designation report. The Historic Resources Design Manual should be specifically incorporated by reference into the review standards, and should not just vaguely be said to “supplement” the ordinance as in the staff proposal.	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.7 Administrative Review	Why is staff proposing to eliminate the option to use the consent agenda with staff reviews?	Review of substantive applications is not appropriate under the consent agenda. Where staff do not find that they can determine that a project meets the standards for review, the Planning Authority may escalate a project to the Board for review under 16.6.2(B).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.8 Historic Preservation Board Review	Please see our comment in 16.6.7 above. This section provides an opportunity to provide clear concise language about the required standards. The most comprehensive existing language is in 17.8.2. “In considering an application for a Certificate of Appropriateness involving alteration, the Historic Preservation Board and the Planning Board shall apply the following general standards, as further described in the Historic Resources Design Manual, and any design guidelines accompanying the specific designation” This seems like the standard to use, not just those enumerated in Section 16.7. As mentioned in our comments above, the staff language proposed in this draft is not as explicit as the existing ordinance regarding what information is in the Historic Resources Design Manual and that the manual may include resource specific criteria (See 17.8.1 and 17.8.2)	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource. There are no examples of existing historic designations that have included specific criteria or guidelines. There is nothing preventing the Board from developing guidelines on specific topics or for specific designations, but those would again only be supplemental and serve as a resource for the Board and applicants in interpreting the standards within that context.
Chamber of Commerce	5/30/24	Email	16. Historic Preservation	16.6.8(C)	Consider adding to the end of the subsection “and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7.” This necessary addition will clarify that the Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.	Revisions have been made to add clarity here.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.12. Issuance of a CoA	Currently a 14-day time period, proposed to be removed.	Time limits on processes have been removed across the code unless otherwise required by state statute. The intent is always to move processes expeditiously.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.12(A)	Currently located under 17.3 Administration, Section 1 ‘Costs’.	No response necessary.

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Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.13 Expiration of approvals	The expiration is proposed to change from six months to three years. This seems like a dramatic extension. Does it reflect a current administrative problem of approvals running out for projects often? Perhaps it makes sense to require that work commence within two years, the current not-to exceed amount, with the opportunity to extend for another 12-months. Is this current practice? Or does it clear up a current administrative issue? Does this change reflect similar board language for PB?	Reviewing requests for extensions is an unnecessary administrative burden. Three years is intended to provide applicants with sufficient time to begin projects given ongoing challenges with securing financing, acquiring materials, and scheduling contractors. The proposed is consistent with proposed language under the site plan ordinance.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.6.14 Amendments	The staff proposed language in 16.6.14.B. and 16.6.14.C. is not language in the existing ordinance but seems to represent current process. We believe providing this clarifying language will help to avoid potential confusion regarding what constitutes a minor or major amendment to an approved plan and what the review process for amending an approved plan will be.	No response necessary.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	The Historic Resources Design Manual is only partially incorporated. Sections 16.7.1 and 16.7.2. describe what the Historic Resources Design Manual is, but unhelpfully say the manual supplements the ordinance and deletes the portion of the standard that says “in review of alterations they shall review in accordance with the Historic Resources Design Manual AND any design guidelines accompanying the specific designation”. There should be consistent terminology used to define what the review standards are within the proposed text of Chapter 16. The design manual is incorporated more completely in relation to signage (19.3.4 and 16.7.3B5) and streetscapes (16.7.3 C4). Please see our comments regarding 16.6.7 and 16.6.8. above.	Projects are required to meet the standards for review. The Design Manual is supplemental, providing guidance and serving as a resource.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	In the staff proposed draft the manual is vaguely defined in the body of the text. We believe a definition is important – or greater clarity in the body of the text is needed. See 16.6.7 and Section 16.7 for additional comments on the Historic Resources Design Manual.	A statement of the purpose and role of the Historic Resources Design Manual is included under 16.7.1(A).
Chamber of Commerce	6/3/24	Email	16. Historic Preservation	16.7 Standards for Review of Application for Certificate of Appropriateness	This draft removes all references to the Historic Design Manual. Is the intent that this manual will no longer be applied as a consideration when reviewing an application and that only the standards within the code will be applied?	Projects are required to meet the Standards for Review. The Design Manual is supplemental, providing guidance and serving as a resource.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.2(A) Compatible Use	This staff proposed language is unclear. If the paragraph in the existing ordinance needed to be edited for brevity, we would propose that the staff proposed draft use the following NPS language, it’s succinct, less words than proposed, and standard preservation language. “A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.”	This change is proposed given that Historic Preservation does not review or regulate use. The current language suggests that it does. This clarifies that the function of the review is to minimize the alterations regardless of what allowable use a property owner may be pursuing.
Chamber of Commerce	5/31/24	Email	16. Historic Preservation	16.7.3(A)	Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.	Scale and form are important components of design and should be considered by the Board in reviewing the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3(A)	The Historic Preservation Board needs the flexibility to require design approaches that minimize the non-compatible scale and form that sometimes occurs when old and new structures are juxtaposed in order to meet the compatibility requirements of the ordinance. We strongly believe that the standards for review of new construction should remain as is, currently allowing discretion to restrict a new construction project to less than the maximum dimensions allowed by the underlying zoning, with the retention only of these three notable existing exceptions (Congress Street, India Street and Portland Company). A height and massing assessment has not been done on a broad scale in other zoning districts where historic resources are located. “New construction” is without a definition in proposed 16.7.3. Currently the definition includes "comprehensive redesign/renovation of an existing structure." This is a proposed change, and we believe a definition in Chapter 3, or definition within the text of Chapter 16 could help to provide clarity lost with the elimination of the definition.	Scale and form are important components of design and should be considered by the Board in review the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.

Public Comment and Staff Responses - August 2, 2024

Name	Date	Source	Article	Topic	Comment	RESPONSE
Jeff Sherman	5/10/2024	Konveio	16. Historic Preservation	16.7.3(A.6) Height Restrictions	The height restrictions should be eliminated. There are already height restrictions in the underlying zones.	Scale and form are important components of design and should be considered by the Board in review the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3(A)6 has proven to be easily misinterpreted and has been removed.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3(A.6) Applicability of underlying zoning	This would be a major change in the review standards so that the zoning dimensional standard always trumps historic preservation board considerations in all historic districts, where currently it only applies in three specific locations: For Congress Street, with the variety of height in the district and the downtown height study, it was reasonable to let the underlying zoning determine height. The India Street Historic District and Portland Company Historic District similarly were in areas where a height study had been undertaken to examine the existing context and create a framework for the underlying zoning dimensional standards. This kind of assessment has not been done on a broad scale in other zoning districts where historic resources are located.	The draft language relating to the underlying zoning under 16.7.3 (A)6 has proven to be easily misinterpreted and has been removed.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.7.3(C.4) Streetscape, pedestrian improvements	This proposed provision is inconsistent with the proposed language in Section 16.6.1 “Applicability”. This is an appropriate provision to remain in the proposed draft and Section 16.6.1 should be revised to be made consistent with this provision. We believe that streetscape features, furniture, paving materials, and other pedestrian improvements in historic districts should continue to be reviewable. While modern streetscape elements like bus stops, crosswalks ATMs etc. have been approved, their review of location has been important and allows for public comment on projects that would not otherwise have public input. Even if the review is at the staff level, it codifies a working relationship between the Historic Preservation Program, Public Works, Transportation Planning, and others with interest in the ROW. In addition, projects like the Wharf Street paving project impact a significant character defining feature of the Old Port, and while not all the materials there are historic, it is a prominent streetscape that is valued by locals and tourists, providing an operational function for businesses and a positive pedestrian experience with outdoor dining options. Not reviewing a project such as that and as well not offering the opportunity for public input is problematic.	See above. The changes to this part of the ordinance are intended to provide much greater clarity as to what is reviewed and by whom, as well as to streamline review for common projects that advance other city goals and projects that are otherwise subject to city-led project development processes.
Tim	7/22/24	Konveio	16. Historic Preservation	16.7.3(A)(6) Applicability of underlying zoning	This should be governed by the Dimensional Standards allowed in the zone. HPB should have no say or vote on this. Dimensional Standards have to be abided by. How does any property owner know what can be built on their land if it is arbitrary and left to a group of volunteers to decide what height is appropriate? This seems very odd, unreliable, unpredictable.	The draft language relating to the underlying zoning under 16.7.3 (A)6 has proven to be easily misinterpreted and has been removed.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.8 Certificate of Economic Hardship	Not defined	Certificate of Economic Hardship is defined within the text under 16.8(A).
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	16.8 Certificate of Economic Hardship	This is a significant change. How do other Maine CLG communities handle this provision?	Based on Board feedback, review of Certificates of Economic Hardship will remain with the Zoning Board of Appeals.
Greater Portland Landmarks	5/28/24	Email	16. Historic Preservation	17.3.3(C)	The existing notice requirement for non-contributing structures in a nominated or designated district has been removed in the staff proposed draft. This seems like a reasonable public notice requirement to advise the board at a regular board meeting that a demolition will be occurring in a historic district, as the public may not be aware of a building’s designation status and have questions as to why a demolition is occurring. Additionally, this provision seems to meet the intent of the CLG requirements regarding public participation.	Demolition of noncontributing structures is by right. Requirement to provide notice is unnecessary.
Karen Foster	6/7/2024	Konveio	16. Historic Preservation	Composition of principal facades	Would this require review for non-permanent signs placed on sidewalks, such as UPP parking lot signs on upper Park St.?	Sandwich boards and other non-permanant signage are not subject to review.

**STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT**



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
Kevin Kraft, Interim Director, Planning and Urban Development
Helen Donaldson, Interim Deputy Director, Planning and Urban Development
DATE: May 24, 2024
RE: ReCode, Phase 2, Proposed Changes to the Historic Preservation Ordinance
MEETING: May, 29, 2024

A legal ad announcing the Historic Preservation Board's meeting on May 29, 2024 was published in the Portland Press Herald on May 18, 2024 and May 21, 2024

BACKGROUND

In 2017, the City Council adopted *Portland's Plan 2030*, a new comprehensive plan for the City of Portland. *Portland's Plan* was developed with the input of thousands of members of the public, and includes a series of policy guides related to key topic areas for the city, from transportation to housing, public facilities, historic resources, waterfront, open space, and the economy. One of the first recommendations of *Portland's Plan* was to "create a new unified development code...that incorporates zoning, the historic preservation ordinance, housing policies, and other aspects of the development review process into a more readable and useful document" (p. 90). This recommendation reflected a desire to modernize and streamline the City's land use regulations, but also the imperative of state statute; 30-A MRS Section 4352(2) requires explicitly that a "zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body."

In direct response to the *Portland's Plan* recommendation and shortly following the plan's adoption, the City began ReCode Portland (www.recodeportland.me), the first comprehensive rewrite of the land use code in over fifty years. From the outset, the effort was designed to advance in two consecutive phases: Phase I would focus largely on improving the code's structure and functionality, paired with several discrete but substantive changes, and Phase II would focus on the more policy-oriented work of ensuring that the code aligns with the goals and guides of *Portland's Plan*. Phase I concluded in November 2020 when the City Council adopted a revised, reorganized and improved land use code. As part of Phase I, no major changes were proposed to the historic preservation ordinance.

Phase II began almost immediately following the conclusion of Phase I. At the outset, the City

hired a consultant with national experience in writing and updating land use regulations. Their first task was to evaluate the existing code with respect to the goals from *Portland's Plan*. The resulting code evaluation was released in December 2021, and was the subject of an extensive public engagement effort. Based on the evaluation and feedback from the public, the city subsequently began drafting amendments to the code, which has been released in two “waves.” The first wave, released in June 2023, included updates to Articles 3 (Definitions), 5 (Zones), 6 (Use Standards), & 7 (Dimensional Standards). The City engaged the public online and in person around the first wave of draft changes, and held a workshop with the Planning Board.

The second wave of changes, which were released in April of this year, encompass revisions to the “first wave” articles, as well as draft changes to the remainder of the land use code, and notably include proposed revisions to the historic preservation ordinance (Article 17 of the current code, and Article 16 of the draft). Proposed changes to Articles 2 and 3 are also applicable to the Historic Preservation Board.

General information on ReCode can be found here: <https://www.recodeportland.me/>. Information on the second wave of draft changes can be found here: <https://www.recodeportland.me/second-wave-changes>.

SCOPE

Changes to Articles 2

The draft revisions to Historic Preservation Board administrative procedures focus on simplifying language and creating consistency between the administration of the Planning Board and the Historic Preservation Board where possible. For instance, the draft revisions include the addition of provisions for pro tempore officers and add a process for hearing of conflicts of interest by the Board.

Changes to Article 3

In an effort to simplify the land use code overall, definitions have been consolidated under Article 3 or integrated into the body of Article 16. The majority of definitions previously included under 17.2 have been integrated into the body of Article 16 where they arise to make the ordinance more easily readable. Historic rehabilitation has been added as a definition under Article 3.

Changes to Article 16

The draft revisions to the historic preservation ordinance are focused on maintaining and strengthening the core functions of the article while making the article easier for all users to understand. The draft amendments consolidate related sections, clarify procedures, and simplify language where possible.

Proposed changes relating to historic designations:

1. Clarified the types of historic designations: landmarks, historic districts, and historic landscape districts.
2. Clarified basis for determining “contributing” classifications within designations
3. Clarified the historic designation process, including consolidation of a single process for amendments
4. Clarified protections for properties listed on or eligible for the National Register
5. Reorganized provisions to more clearly convey intent

Proposed changes relating to Certificate of Appropriateness review:

1. Established clear thresholds for administrative and Historic Preservation Board review (see proposed table 16-A).
2. Added exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals (e.g. roof-mounted solar, new public art, and work in the right-of-way such as bike share stations or bus shelters)
3. Consolidated and clarified language related to review process
4. Extended duration of approvals to three years to provide greater flexibility for applicants

STAFF COMMENTS

In preparation for this meeting, Board members were directed to review the publicly available draft language and to provide staff with questions, comments, or topics of particular interest. Staff received responses from several Board members and have broken down the responses into two categories: discrete questions which can be addressed directly and themes that should be flagged for further discussion during the workshop.

DISCRETE QUESTIONS:

The following were discrete questions and staff have endeavored to answer these clearly in the Table 1 below.

TABLE 1: HPB Questions + Comments re ReCode Second Wave Draft*Historic Preservation Board*

What are the reasons to omit other purposes and actions of HP program that were listed in the past, like community education; conduit for grants; signage identifying districts., etc. Are these activities still included somewhere else?

The existing language in Article 2 regarding HP Board jurisdiction and authority blurs distinctions between the role of the Historic Preservation Board and the role of the Historic Preservation Program (i.e. staff). In the interest of clarity and based on practice, roles that have fallen squarely within the purview of the program are proposed to be struck from the Historic Preservation Board language in Section 2.2.9. The Historic Preservation Program will still oversee and expand on these functions.

Designations

Discuss any changes regarding property classifications and the designation process.

A section has been added which lays out clear parameters for determining contributing and noncontributing classifications within the designations section (16.2.3). This integrated content was previously found under definitions (17.2).

The designation process is largely unchanged, but language has been revised to more clearly frame the major steps of the process: Nomination, Historic Preservation Board review, Planning Board review, Council action, and Designation.

Historic landscape district” as a new category of oversight deeply concerns me. Portland is blessed in possessing beautiful natural landscapes and green spaces, many of which certainly have intersected with points of historical significance. This being said, the remit of the HP program has always been focused on and equipped for the evaluation and management of Portland’s built environment. I’m inclined to think this simply falls outside the scope of what the HP board and staff can and should handle. Besides, between Portland’s parks department and the Land Bank, I’m not currently convinced that another cook is needed in this kitchen. I’m open to hearing more about this, and could imagine being convinced, but I don’t know what problem this is supposed to be a solution to as of yet.

This is not a new category. Historic landscape districts are currently a classification within the historic preservation ordinance, subject to a designation process much like a historic district.

Current historic landscape districts include:

- *Back Cove Historic Landscape District*
- *Deering Oaks Historic Landscape District*
- *Eastern Promenade Historic Landscape District*
- *Lincoln Park Historic Landscape District*
- *Western Promenade Historic Landscape District*

A recent applicant (an extraordinarily charming one) was approved for some significant renovations to her home, a lovely little single-family house which has been around a long time. I was surprised to learn, however, that her house was a landmark, as opposed to merely a contributing building. Without besmirching the applicant or the home, I would be utterly shocked if anyone outside a very small cluster of neighbors could even have picked the house out of a lineup, let alone told you anything about it. This did not seem at all to be “landmark” status to me, and I’m very concerned that bloat in the list of landmarks will only serve to weaken the cause of HP over time. From our conversation, it seemed as though the landmark designation may have been the result of the property falling outside the bounds of the relevant historic district, so it was a way to give the home protections. However, we also discussed the idea of non-contiguous historic districts, in which the lots covered by a district don’t necessarily have to all be joined together. The home would have absolutely met the criteria of a contributing building, so I think it would have been a prime candidate for being such a “district island.” I suppose my point here is that I think I’d like to see the list of landmarks reasonably pruned down, while offering many current landmarks continued protections using non-contiguous districts. Something worth discussing, perhaps.	<i>The three categories of historic designations are not intended to be hierarchical, though the category of landmark has been applied to stand out buildings within Historic Districts.</i> <i>As stated under 16.2.1(A), a landmark may have <u>particular</u> or <u>individual</u> significance. Within a district, the particular significance would be applicable. Outside of districts, a property must have individual significance and could also have particular significance.</i> <i>Landmark designation is the mechanism for historically designating individual properties. The ordinance does allow for discontinuous districts, but practically speaking we would not want to limit designations to be interrelated groups. Either approach of individual designations or discontinuous district can be used, but that choice should be considered in relation to the specific significance identified. Furthermore, the number of landmarks in the city has not been raised as a general concern from the public.</i>
In 16.2.2.C, regarding the integration of the Comprehensive Plan into the HP Program’s considerations, I worry this is a bit of a gray area. As we saw with the recent 142 Free St. palaver, there’s some legal haze over the persuasive authority of the Comprehensive Plan, and I think the language as it stands could further contribute to this ambivalence. I’d be interested in hearing more about exactly what staff’s position on this question is, and how the text could be clarified to dissolve future disputes.	<i>The current language under criteria for designation (Section 17.4.1) states that the Planning Board and Council should apply “historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.” The proposed language is rephrased to fit the restructured content of this section, but maintains this intent.</i>
Does the draft give the planning board the right to override HP recommendations by citing the	<i>The Historic Preservation Board would make recommendations based on the criteria for designation. The Planning Board would do the same and also consider</i>

comprehensive plan or other priorities, rather than applying the same standards that HP board does?	<i>the comprehensive plan in making its recommendation. Both recommendations would be forwarded to Council. This follows the existing process under 17.4.1(D).</i>
I noticed that under 16.3.2, the planning authority appears to gain the prerogative to nominate a Historic District all alone, without the need for two HP Board members. I'm not necessarily opposed to this, but I'd be curious in hearing more about why this was added, and justifications as to its necessity.	<i>In many cases in the past, historic designations were initiated as City-led projects; however, because the Planning Authority did not have the authority to nominate, staff had to coordinate with Board Members. The draft language includes providing the Planning Authority with the power to nominate a site for historic designation with the goal of being clearer and more forthright about who has initiated the process. A Planning Authority initiated nomination would still have to be substantively reviewed by the Historic Preservation Board and follow the designation process laid out in the ordinance.</i>
COA review process	
(16-6) Is there a "project of special merit" exception to be invoked by the planning board? Clarify what would be included in "exemptions for projects that advance other city goals."	<i>The draft language does not include any exemptions for "projects of specific merit."</i> <i>Proposed consolidated exemptions are listed under 16.6.1(A-L). They include exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals (e.g. roof-mounted solar, new public art, and work in the right-of-way such as bikeshare station locations or bus shelters).</i>
Concerning 16.6.1.D, while I'm sure there would rarely be any conflict between HP and Portland's Public Art Program, is it necessary that this latter program's projects should receive an automatic bypass of Historic Preservation review? Public art, of course, has a massive effect on the overall perception of a district, and for the benefit of general harmony, it seems as though HP should retain some say here. At least it seems so to me. I'm, again, open to being convinced here, but I would like to hear some compelling reasons.	<i>The Portland Public Art Committee is charged with the responsibility of reviewing all artwork including gifts or new acquisitions, which includes the establishment of an Artist/Artwork Selection Panel. Artist/Artwork selection panels include two site, neighborhood or district representatives, two visual arts professionals, and a representative from the Portland Public Art Committee. Non-voting advisors consist of additional community, design, technical and City departmental representatives. In the case of a piece within a historic district, historic preservation staff are engaged in a consultative capacity. Public artwork can only be located on city-owned land, therefore there are limitations on location and staff generally provides feedback on potential impacts on views to historic properties or installation concerns.</i>

	<i>Review and merits of the artwork is the responsibility of the Public Art Committee.</i>
Does the solar panel exemption apply to designated landmark buildings too? Is there any requirement that such installation be reversible?	<i>As proposed, all roof-mounted solar installations would be exempt from historic preservation review, but would still be subject to city-wide standards for solar installation found under 6.4.38(C). This exemption would only apply to roof-mounted solar as defined in the code.</i>
Those who I've spoken to about this subject would not be surprised to hear me mention this, and here I go again. Regarding 16.7.2.I, I've observed one of the widest gulfs separating the public perception of Historic Preservation and what Historic Preservation actually does and values to be around the issue of "Contemporary design and differentiation." The general public imagines that HP has, as at least one of its objectives, the promotion of traditional, vernacular, timeless architecture. Those familiar with the actual processes of HP know better of course, and I've witnessed several instances of HP professionals recommending, if not outright insisting upon more contemporary designs from applicants, even when presented with beautiful and traditional proposals! I think this is somewhat wrongheaded. I'm not suggesting that we embrace Freeport-style demands for conformity of course, we should continue to not discourage contemporary design. But I think the current standard of "differentiation" is tuned a little too tightly against novel expressions of traditional architecture; I think that we should maybe move a bit closer to the what the general public already thinks we do. I don't think this requires any substantial alterations in the text, but maybe some reworking to ensure that applicants know Portland loves traditional architecture in the modern day!	<i>The current phrasing of this standard has at times led to confusion around whether it includes an imperative for contemporary design. Staff's reading of the standard is that it does not require contemporary design. Instead, the substance of it is that "The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment." Support of contemporary design is a secondary component of the standard and more of a directive for the Board than the applicant.</i> <i>The standard could be inverted to emphasize the above and make clear that the need for the Board to be supportive of contemporary design when proposed by an applicant is secondary to the differentiated but compatible standard.</i> <i>The same could be done for 16.7.3, D-4.</i>
<i>Language and terminology</i>	
Historic Preservation is a whole lot of "you CAN'T do this", "you CAN'T do that". "You're NOT ALLOWED" to make some change to the building which you own, etc. This is unavoidably part of what Historic Preservation	<i>The draft language was prepared with the intention of generally minimizing changes to the existing standards that are applied. However, staff have received comments that the current language is unfriendly because it is largely framed in a prohibitive way. The language could</i>

means, I get that, and I wouldn't want to change that. But what are some ways in which we can make Historic Preservation about "you CAN do this"? I always bring up how many of our favorite historic buildings were built under much more lax zoning and regulatory regimes, and as a result we got some of the best cozy urban environments in New England. Could we, perhaps, offer qualifying projects in Historic Districts zoning opportunities which are more permissive than the underlying zoning code? Or what else could we do to encourage new construction and renovations in historic districts?	<i>be restructured to be more imperative.</i> <i>For instance, Standard 16.7.2, could be restructured as follows, "B. Retain historic features. The distinguishing original qualities or character of a structure, object, or site and its environment shall be retained. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible."</i>
ReCode process	
How have the Maine Historic Preservation Commission's guidelines for Certified Local Government status been taken into account in this draft?	<i>Guidelines for CLGs have been considered. Draft language has been shared with MHPC and staff are awaiting comments.</i>
Other general comments	
Similarly, from the CAMP training, it was recommended that Historic Preservation programs should cultivate their own brand, inviting the public to see what we do, what we're involved with, who we are, and why things work how they do. This can be done by creating a logo/other branding, creating distinct and eye-catching certificates for public display on projects, that sort of thing. Right now the program (like most other elements of the city's government) uses the general citywide branding, but I'd very much like to see some development here. I was even sketching out some ideas myself, (I like to doodle,) maybe we could adopt "Historic Portland" or some other more snappy name as our d/b/a, our brand. Something to set us apart! Just something to think about.	<i>Idea noted. Rebranding is not within the scope of work for ReCode. The department will continue to use city-wide branding, but is looking forward to expanding storytelling, signage, and branding in the future</i>
As I've said, Portland is in a massive housing shortage, and we need to be incentivizing new construction. A major way to do this, from everyone in the business I've spoken with, is cutting down on the administrative bloat that builders have to wade through. While there's been a couple good changes towards this end, what else can we do to make building in historic districts as painless as	<i>The proposed review thresholds are an effort to ease applicants understanding of the review process. However, the Board could discuss whether those thresholds could be adjusted to ease/encourage certain project types.</i>

possible – while, of course, retaining the integrity of the process?	
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TOPICS FOR DISCUSSION:

Protections for properties listed on the National Register of Historic Places (16.5)

The draft language proposes to streamline and reinforce the protections afforded to properties that are listed on or eligible for the National Register of Historic Places. Demolition of National Register listed or eligible properties would be prohibited, except for in the following instances:

1. The owner has received a Certificate of Economic Hardship,
2. The Historic Preservation Board has held a public hearing and found that the property lacks integrity,
3. The owner has received a determination from the Maine Historic Preservation Commission that the property is no longer eligible for National Register listing, or
4. The City Council has found that retention of the structure is not consistent with the Comprehensive Plan.

The intent of the draft language is to avoid the loss of known significant buildings that are not locally designated, to create opportunities for the public to weigh in around the potential loss of such structures, and to provide property owners with reasonable and predictable paths towards demolition where warranted. This provision would also be paired with a programmatic update whereby a formal list of National Register listed and eligible properties would be maintained by the Planning Authority and made available to the public to increase awareness and predictability for property owners.

Reviewable and exempt activities (16.6.1)

The current code features a list of reviewable activities and a list of exempt activities. Staff have found that these two lists can create confusion when an activity does not fall squarely into either. The draft language therefore proposes to consolidate to a single list of exempt activities. If an activity cannot be found within the list of clearly stated exemptions it would therefore be reviewable.

Administrative and Board review thresholds. (16.6.2, & Table 16-A)

Presently, the code provides the Planning Authority with broad discretion over what projects will require administrative or Board review. While this flexibility and discretion can be useful, it has also at times led to confusion for applicants about what review process they may be required to follow, making it difficult for them to plan their projects. The draft Table 16-A is intended to capture the line of where the Planning Authority already draws this distinction. By codifying these thresholds,

the goal is to increase predictability and consistency for applicants and eliminate unnecessary confusion or the perception of partiality. A large change in the relative volume of administrative and Board reviews is not anticipated but should be discussed as part of this workshop.

It is worth noting that these more clearly established thresholds would still be in conversation with other provisions of the code. For instance, work that has little-to-no visibility from public rights of way (as determined by the Planning Authority) would still not be subject to review. Additionally, while work might fall below the Board review threshold, if the work is found not to be consistent with the applicable standards or has additional impacts not covered by the table, the Planning Authority may escalate a project to the Board for review. In either of these cases, pre-application meetings with staff are encouraged and are intended as an opportunity to discuss such scenarios.

The relationship between the historic preservation review and the underlying zoning and site plan standards. (16.7)

Staff have received several questions about the relationship between the historic preservation review and other standards within the land use code including zoning or site plan standards. In many cases these questions have been framed in terms of “which supersedes which?” In reality these varying standards and regulations are intended to be in conversation throughout the necessary reviews. The function of zoning is to set minimums and maximums for use, density, and building mass; site plan standards address environmental, community, and economic considerations; and design standards (both within and outside of the Historic Districts) exist to promote compatibility, contextuality, principles of good urban design, and the enhancement of significant architecture. All of these are also in conversation with life safety and building code requirements.

While in some cases a code might simply say “the stricter shall apply” to address conflicts between provisions, to take that approach here would belie the complexity and nuance that exists. The substance and challenge of reviewing projects for compliance with the historic preservation standards is in guiding projects towards a compatible and appropriate resolution while considering the other regulatory and practical parameters that an applicant is working within. This balancing act is not exclusive to historic preservation reviews, but is also prevalent outside of historic districts. In many cases, principles of good design or contextuality may require that an applicant adjust their project from the minimum or maximum standards allowed by the underlying zoning. These adjustments may vary in how they take form, for instance, requiring the building to stepback may be an appropriate solution to mitigate impacts of height, in other instances adding horizontal trim, differentiating the top floor, or including projections or recesses may be the best design solution depending on context.

While the Board may have the authority to seek adjustments in mass and volume beyond what is allowed by the underlying zoning, that does not mean that the Board should do so without reservation or conversation with the applicant. Furthermore, a Board cannot just reduce building height because there is a preconceived notion that a building is “too” tall. As seen in several

recent reviews, while Board members have suggested adjustments in form, by identifying the underlying standard driving the concern, applicants were able to explore and propose other solutions to those design problems. Inversely, there may be some instances such as relating to highly significant or iconic landmarks, or in contexts that have a particular regularity or uniformity, that it may be appropriate to require adjustments in massing.

The work of the Board is to be thoughtful, clear, and forthright in making these demands while also endeavoring to be flexible and accommodating to the economic or programmatic realities applicants are facing. Ensuring that this authority is used reasonably and clearly is essential to continued encouragement of rehabilitation and development within the historic districts while upholding the relevance of the standards for review.

In summary, zoning is a law that organizes how land may be used. It establishes rules that regulate what may be built on a piece of property, what uses are allowed and the size of a building through dimensional standards. Site Plan review is a set of regulations that inform how development occurs within a local municipality. Site Plan review sets standards related to transportation, environmental, public infrastructure, site design features, lighting, and natural features and open space to ensure that development has a positive impact on the community. Design standards, both within and outside of historic districts, elaborate on those rules and regulations and other adopted policies and plans with more specific guidance to inform the shape of development. In doing so, the design standards reinforce the collective values of a city by ensuring that buildings are molded to contribute positively to the overall environment in a manner that complements and enhances its surroundings, thereby reinforcing the collective values of the community.

Renaming Certificate of Appropriateness

One Board member suggested renaming “Certificate of Appropriateness” to simply “Certificate of Approval”. Staff have previously received comments that “Certificate of Appropriateness” is a cumbersome and confusing name for what amounts to a Historic Preservation approval. Staff support considering this change and would welcome board feedback on what that change could entail, such as Certificate of Approval; Historic Preservation Approval; Historic Preservation Certificate; Historic Preservation Permit.

NEXT STEPS

Following this workshop, workshops with the Planning Board, and ongoing public engagement, comments on the entirety of the second wave of ReCode drafts will be reviewed and the drafts will be revised as necessary. After these revised drafts are released to the public, the final draft language for Articles 2, 3, & 16 will be brought back to the Historic Preservation Board for a public hearing to make a recommendation to the Planning Board.

The Historic Preservation Board's recommendation will then be considered by the Planning Board as they make their recommendation to the City Council.

ATTACHMENTS

1. Current Land Use Code Excerpts (Articles 1, 2, 3, & 17)
2. ReCode One-Page Historic Preservation Article Guide
3. Proposed Land Use Code Excerpts (Articles 1, 2, 3, & 16)
4. Proposed Land Use Code Redlines Excerpts (Articles 1, 2, 3, & 16)

Completed version of the Land Use Code can be found in the following locations:

- Existing: <https://content.civicplus.com/api/assets/e27b9933-d54c-4988-ba26-db4df8eb9954>
- Proposed: <https://recodeportland.konveio.com/second-wave-recode-changes-draft-land-use-code>
- Proposed, Redlines:
https://static1.squarespace.com/static/5a75f43a692ebbeb1159413d/t/660d6a7ee07b3e5981ac1fad/1712155274839/Draft+LUC_Redline_4_3_24_reduced.pdf

**STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT**



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
Kevin Kraft, Interim Director, Planning and Urban Development
Helen Donaldson, Interim Deputy Director, Planning and Urban Development
DATE: July 12, 2024
RE: ReCode, Phase II, Proposed Changes to the Historic Preservation Ordinance,
Second Workshop
MEETING: July 17, 2024

A legal ad announcing the Historic Preservation Board's meeting on July 17, 2024 was published in the Portland Press Herald on July 4, 2024 and July 5, 2024

BACKGROUND

In 2017, the City Council adopted *Portland's Plan 2030*, a new comprehensive plan for the City of Portland. *Portland's Plan* was developed with the input of thousands of members of the public, and includes a series of policy guides related to key topic areas for the city, from transportation to housing, public facilities, historic resources, waterfront, open space, and the economy. One of the first recommendations of *Portland's Plan* was to "create a new unified development code...that incorporates zoning, the historic preservation ordinance, housing policies, and other aspects of the development review process into a more readable and useful document" (p. 90). This recommendation reflected a desire to modernize and streamline the City's land use regulations, but also the imperative of state statute; 30-A MRS Section 4352(2) requires explicitly that a "zoning ordinance must be pursuant to and consistent with a comprehensive plan adopted by the municipal legislative body."

In direct response to the *Portland's Plan* recommendation and shortly following the plan's adoption, the City began ReCode Portland (www.recodeportland.me), the first comprehensive rewrite of the land use code in over fifty years. From the outset, the effort was designed to advance in two consecutive phases: Phase I would focus largely on improving the code's structure and functionality, paired with several discrete but substantive changes, and Phase II would focus on the more policy-oriented work of ensuring that the code aligns with the goals and guides of *Portland's Plan*. Phase I concluded in November 2020 when the City Council adopted a revised, reorganized and improved land use code. As part of Phase I, no major changes were proposed to the historic preservation ordinance.

Phase II began almost immediately following the conclusion of Phase I. At the outset, the City hired a consultant with national experience in writing and updating land use regulations. Their first task was to evaluate the existing code with respect to the goals from *Portland's Plan*. The resulting code evaluation was released in December 2021, and was the subject of an extensive public engagement effort. Based on the evaluation and feedback from the public, the city subsequently began drafting amendments to the code, which has been released in two “waves.” The first wave, released in June 2023, included updates to Articles 3 (Definitions), 5 (Zones), 6 (Use Standards), & 7 (Dimensional Standards). The City engaged the public online and in person around the first wave of draft changes, and held a workshop with the Planning Board.

The second wave of changes, which were released in April of this year, encompass revisions to the “first wave” articles, as well as draft changes to the remainder of the land use code, and notably include proposed revisions to the historic preservation ordinance (Article 17 of the current code, and Article 16 of the draft). Proposed changes to Articles 2 and 3 are also applicable to the Historic Preservation Board.

General information on ReCode can be found here: <https://www.recodeportland.me/>. Information on the second wave of draft changes can be found here: <https://www.recodeportland.me/second-wave-changes>.

SCOPE

Changes to Articles 2

The draft revisions to Historic Preservation Board administrative procedures focus on simplifying language and creating consistency between the administration of the Planning Board and the Historic Preservation Board where possible. For instance, the draft revisions include the addition of provisions for pro tempore officers and add a process for hearing of conflicts of interest by the Board.

Changes to Article 3

In an effort to simplify the land use code overall, definitions have been consolidated under Article 3 or integrated into the body of Article 16. The majority of definitions previously included under 17.2 have been integrated into the body of Article 16 where they arise to make the ordinance more easily readable. Historic rehabilitation has been added as a definition under Article 3.

Changes to Article 16

The draft revisions to the historic preservation ordinance are focused on maintaining and strengthening the core functions of the article while making the article easier for all users to understand. The draft amendments consolidate related sections, clarify procedures, and simplify language where possible.

Proposed changes relating to historic designations:

1. Clarified the types of historic designations: landmarks, historic districts, and historic landscape districts.
2. Clarified basis for determining "contributing" classifications within designations
3. Clarified the historic designation process, including consolidation of a single process for amendments
4. Clarified protections for properties listed on or eligible for the National Register
5. Reorganized provisions to more clearly convey intent

Proposed changes relating to Certificate of Appropriateness review:

1. Established clear thresholds for administrative and Historic Preservation Board review (see proposed table 16-A).
2. Added exemptions for specific projects that otherwise receive City review (often with historic preservation staff consultation) and/or advance other City goals (e.g. roof-mounted solar, new public art, and work in the right-of-way such as bike share stations or bus shelters)
3. Consolidated and clarified language related to review process
4. Extended duration of approvals to three years to provide greater flexibility for applicants

PREVIOUS REVIEW BY HISTORIC PRESERVATION BOARD

May 29, 2024, Workshop:

During the May 29 workshop, the Board began review of the draft revisions to the Historic Preservation Ordinance. Historic Preservation & Planning Staff provided an introductory presentation providing background on ReCode as a whole, and highlighting some proposed changes and topics for discussion. Staff had received a number of questions in advance of the meeting from Board members, and these questions were addressed in the staff memo provided in advance of the meeting.

The Board focused on several topics including the relationship between the Historic Preservation Review Standards and the underlying zoning, the wording of the standards for review, review of roof-mounted solar installations, the authority of the Board to review applications for Certificates of Economic Hardship, and the category of Landmark for designation of individual properties.

STAFF COMMENTS

After the first workshop, staff received requests from several Board members for an additional workshop on ReCode. In preparation for this meeting, it was requested that Board members provide staff with questions, comments, or topics of particular interest. Staff received responses from several Board members and have broken these down into two categories: discrete questions which can be addressed directly and themes that should be flagged for further discussion during the workshop.

Additionally, staff have received comments from the Maine Historic Preservation Commission, which are included as Attachment 5. Staff has provided responses in Attachment 5; however, several items require discussion by the Board. These items have been included below under the topics for discussion.

A number of public comments on the draft language have been received since the draft was released. Staff responses to all of these comments are included under Attachment 6.

DISCRETE QUESTIONS FROM THE BOARD:

TABLE 1: HPB Questions + Comments re ReCode Second Wave Draft	
<i>Designations</i>	
16.2.2 <i>Criteria for designations.</i> Planning Board and City Council final vote on designation removes requirements to consider criteria and only comprehensive plan. This seems like it would have a huge effect on how they vote by removing the HP criteria from consideration. I would like to discuss the effects of this change in greater detail.	<i>The proposed language for Planning Board and Council consideration is as follows:</i> <i>“C. The Planning Board and City Council shall also consider the effect of the proposed historic designation within the framework of the Comprehensive Plan when making a recommendation or decision on a nomination.” (Emphasis added).</i> <i>The intention is that the Planning Board and Council would weigh the criteria for designation (with the recommendation of the Historic Preservation Board) along with the Comprehensive Plan, as is the process under the current language.</i>

COA review process	
<i>Modernizing noticing requirements for quicker scheduling and more affordable noticing.</i> If a project is tabled or takes multiple workshops, it's unfortunate that current noticing requirements put such a time and monetary burden on the applicant. Perhaps the postcards and newsprint ads of the first meeting invite abutters to register for email/text/digital noticing of subsequent meetings? Let's at least have the Code give us the flexibility to modernize noticing in the future.	<i>Staff do not find that noticing requirements are currently driving the turnaround between meetings, but rather that the need for time to produce revised drawings and for staff to review revised plans necessitates time between meetings.</i> <i>Staff are considering removing the requirement for legal ad notice of individual projects below a certain scale in an effort to reduce the cost of review for small projects. Legal ad notice could be provided for meetings generally, with only projects of a particular scale (such as Historic Designations or Major Site Plans) being listed separately. Staff believe this could substantially reduce the cost of reviews for property owners.</i>
<i>Considering Materials Finish and Tone as an Architectural Device.</i> In most cases, we don't want or need to regulate color, but increasingly, it's being used as an architectural device to make building elements more recessive. The HP program should not be picking specific colors, but making tone, materials treatment/finish, or maintenance as conditions of approval should be allowed when they are used as architectural devices to meet the standards. And yes, the board should weigh how practical enforcement would be when a condition is made. (This is not "always paint it green", it's "fourth story painted a recessive color".)	<i>Standard 17.8.3(B.4) (16.7.3(B.4) in the draft) already affords the Board broad review of materials:</i> <i>"4. Relationship of materials. The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in the structures to which they are visually related."</i> <i>The exclusion of paint color from review is consistent with the approach taken on historic buildings as well, given that repainting is considered ordinary maintenance and not subject to review. This means that requiring certain paint colors or families of colors would be essentially unenforceable. Where Board members have concerns about an applicant's use of paint color as a device, they should focus discussion on whether other elements (such as texture, scale, assembly, and composition of materials) are achieving an appropriate effect. It's also worth noting that integral colors such as with masonry or unpainted metal are subject to review by the Board.</i>
<i>Consent Agenda Items for Change Orders.</i> With new CoA's being valid for three years, increasingly we'll have applicants come back to the office for significant change orders ("You approved an iron fence... The supplier went out of business and I can't find a reasonable replacement. Can I just install this wood fence I found instead?") Let's not subject a past applicant to a new public hearing for a change order.	<i>Draft language under 16.6.14 is intended to provide clear thresholds for determining whether changes to approved plans are subject to administrative or Board review. Generally, if a change affects something that could otherwise be reviewed administratively, it will not return to the Board merely by the nature of the overall project having been reviewed by the Board. However, if an applicant where to substantially alter their plans (a substantial reorganization in the façade or increase in scale) the project may need to return to the Board for review and would follow the normal review process.</i>

TOPICS FOR DISCUSSION:

Landmark Category/Classification (16.2.1)

As stated under 16.2.1(A), a landmark may have *particular* or *individual* significance. When overlapping with a district, a landmark could have both particular and individual significance. Outside of districts, a landmark must at least have individual significance and could also have particular significance. The three categories of historic designations are not intended to be hierarchical. However, with the notion of particular significance, the category of landmark has been applied to stand-out buildings within historic districts.

Landmark designation is the appropriate mechanism for historically designating individual properties. The ordinance does allow for discontinuous districts, but practically speaking the Board may not want to limit designations to be interrelated groups. Either approach of individual designations or discontinuous district can be used, but that choice should be considered in relation to the specific significance identified.

It is also worth noting that landmark is not a classification within a historic district or historic landscape district, but rather a separate designation that has been applied overlapping the district. All landmark structures that are also within historic districts or historic landscape districts would be considered contributing to the district as well. Additional language will be added to clarify this.

Criteria for Designation (16.2.2)

Maine Historic Preservation Commission staff have identified that the existing Historic Designation Criteria are not consistent with the National Register Criteria. Staff have noted that the six existing criteria have been a component of the Historic Preservation Ordinance since its establishment in 1990, and no significant changes were proposed under ReCode for 16.2.2(A.1-A.6). However, based on conversations with Maine Historic Preservation Commission staff, City staff are recommending some small changes to the existing criteria for designation as outlined below.

Staff would also suggest that the Board consider whether, as part of this update, the criteria for designation should be more heavily modified to clearly align with the National Register Criteria. There are some potential advantages to paralleling the National Register criteria, such as being able to point more explicitly to National Register guidance on the interpretation and application of the criteria and assessment of integrity. However, these six criteria have been utilized in Portland since the establishment of the Historic Preservation Program.

Current Criteria with Proposed Changes

1. Significant aspect of heritage. Value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.
2. Significant events or activities. Location as a site of a significant historic or prehistoric event or activity ~~which may have taken place within or which involved the use of any existing structure on the property.~~
3. Significant persons. Identification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological, or related aspect of the ~~heritage development~~ of the City of Portland, State of Maine, New England region, or the United States.
4. Significant architecture. ~~Exemplification Embodiment~~ of a significant architectural type, style, or design, period, or method of construction. ~~distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.~~
5. Significant designer. Identification as a ~~significant example of~~ the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States.
6. Significant theme. Representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

National Register Criteria

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of persons significant in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded, or may be likely to yield, information important in prehistory or history.

Protections for properties listed on the National Register of Historic Places (16.5)

In an effort to streamline and reinforce the existing protections afforded to properties that are listed on the National Register of Historic Places, staff had originally proposed to revise the protections to include an automatic prohibition on demolition of such structures with several exemptions that could be pursued by property owners. Staff have since received comments from Maine Historic Preservation Commission staff that this approach is not consistent with National Park Service guidance, which is that no protections should be automatically afforded to National Register-listed properties by municipalities.

Staff explored revising this section to include a demolition delay provision; this would achieve the same goals of the original language, creating an opportunity for the public to weigh in on the potential loss of known significant buildings that are not locally designated, allowing time for the community, advocates, and city staff to work with the property owner to explore alternatives to demolition, and providing property owners with reasonable and predictable paths towards demolition where warranted. However, staff were further advised by Maine Historic Preservation Commission staff that a demolition delay would similarly be inconsistent with National Park Service guidance.

Staff are therefore looking for Board input on this part of the ordinance. For instance, the existing provisions of the code that automatically initiate the local historic designation process could be retained, or the code could be revised to leave the question of initiating the designation of a National Register-listed property to the same groups that can normally initiate designations, including two members of the Board.

Reviewable activities (16.6.1)

Based on Board feedback, staff are proposing to change Certificate of Appropriateness to Certificate of Approval. Staff is recommending that the Board consider Historic Preservation Approval, which aligns with terminology for other approvals in the Land Use Code (i.e. Site Plan Approval).

As discussed at the first workshop, the published draft mistakenly reads as if a certificate would be required only for work also requiring a building permit. The intention of the draft was not to substantially reduce the applicability of Historic Preservation review given that significant exterior alterations (such as removal of character-defining trim or details) can be completed without a building permit. Staff therefore suggest a revision to the introduction to the applicability section as follows:

"A certificate of approval shall be required prior to undertaking any new construction, additions, exterior alterations, site alterations, signage, or the relocation of structures affecting any property within the boundaries of a historic designation as identified in Table 16-A. The issuance of a certificate of approval shall also be a condition precedent to the issuance of any permit authorizing any

such work as noted above. Notwithstanding the above, the following activities shall be considered exempt:" (see 16.6.1(A-L) For the proposed list of exemptions)

Exempt activities (16.6.1)

Several Board members expressed concerns over the proposed exemption for roof-mounted solar energy systems. The basis for the proposed change is in light of fairly robust solar installation standards that already exist within the code (see 6.4.38 (A) & (C) of the draft code), as well as a desire to simplify the review of an important tool in increasing the sustainability of Portland's historic structures. In light of Board comments and based on feedback from the Maine Historic Preservation Commission on this issue, staff are proposing to provide some additional clarification on what would be exempt:

"1. Roof-mounted solar energy systems where the system:

- Is consistent with all other city requirements,
- Is installed reversibly with no damage to any historic roofing materials,
- Is installed on only non-street-facing roof planes on landmarks or contributing properties, and
- Any associated electrical equipment is installed on non-street-facing elevations.

Several board members suggested that review of solar should be extended to Landmarks; however, staff have concerns that requiring a higher threshold for review of Landmarks may create a deterrent for property owners interested in landmarking their properties.

Upon further internal discussion, staff are also interested in including an exemption for heat pumps/other exterior ground-mounted HVAC equipment. At present, heat pumps require a significant portion of staff time to review when the majority of cases could likely be addressed through a few standard conditions. Staff are proposing that the following be exempt:

"1. Ground-mounted Heat Pumps and HVAC equipment where:

- Exterior units are installed back from any open space between the street and any associated building or at least 30' from public rights-of-way, whichever is greater, and
- Any associated line hides, conduit, vents, and other equipment or penetrations are installed on non-street-facing elevations.

Standards for Review. (16.7)

During the first workshop, several Board members commented on the tone and phrasing of the Standards for Review of Alterations, noting that they tend to be negative or prohibitive. The recommendation was made that the standards could be reworded to be more positive and directive. Staff will be revising the wording of the standards to incorporate these comments. Additionally, Staff have received some comments from Maine Historic Preservation Commission staff on some areas where the existing alteration standards are inconsistent with the Secretary of

the Interior's Standards for Rehabilitation. Language will be revised as necessary to address these comments.

The Board also discussed the relationship between the underlying zoning and the Standards for Review of New Construction and points of friction that have arisen during various reviews. The Board was divided on whether to limit the Board's authority to control scale and form, and whether members would like to see additional variances to the base zoning be grantable by the Board. Scale and form are important components of design and should be considered by the Board, just as they are by the Planning Board, in reviewing the compatibility of proposed new construction. The draft language relating to the underlying zoning under 16.7.3-A.6 has proven to be easily misinterpreted and is recommended to be removed.

In the interest of clarity and consistency across the land use code, staff are not proposing any new zoning tools or processes that would create additional exemptions or variances from the underlying zoning specific to Historic Preservation. Existing variances to zoning are contained within 2.3.11 and applicants may avail themselves of those as relevant. As proposed, the underlying zoning remains the starting point for projects. Through design review with the Historic Preservation Board or Planning Board, projects are further refined based on the applicable review standards which may or may not result in adjustments to the building envelope. In certain instances, this may result in the zoning envelope being molded to fit the surrounding context. In other instances, no reduction of the permitted zoning envelope may be necessary and the Board may rely on composition of the façade and detailing.

Considering the Board's discussion of the how to assess compatibility, Staff are seeking Board feedback on the question of whether some of the language within the Standards for Review of New Construction could be adjusted. The current standards often refer to compatibility with "structures, objects, public ways, and places to which it is visually related." Staff would propose that this could be modified to compatibility with the "contributing buildings, structures, objects, and sites of the Historic Designation." This would add greater clarity that consideration of precedent should be limited to contributing buildings, but also that the broader context of a district as a whole may be referenced, rather than just buildings in the immediate vicinity/eyesight.

Economic Hardship

Several Board members questioned the proposed change that would make the Historic Preservation Board the reviewing authority for Certificates of Economic Hardship. Staff provided some background at the first workshop that the proposed change was intended to acknowledge the Board's expertise in examining questions around the feasibility of rehabilitation and reuse of historic structures. This is a common approach in many other Historic Preservation Programs, including Biddeford, Bangor, and Lewiston in Maine.

However, staff have received some public comment requesting that the Zoning Board of Appeals remain the reviewing authority for Certificates of Economic Hardship. Additionally, MHPC has

recommended that the review of Certificates of Economic Hardship remain under the Zoning Board of Appeals. Staff still find the proposed change to be reasonable, but look to the Board for final input on the matter.

NEXT STEPS

Following this workshop, workshops with the Planning Board, and ongoing public engagement, comments on the entirety of the second wave of ReCode drafts will be reviewed and the drafts will be revised as necessary. After these revised drafts are released to the public, the final draft language for Articles 2, 3, & 16 will be brought back to the Historic Preservation Board for a public hearing to make a recommendation to the Planning Board.

The Historic Preservation Board's recommendation will then be considered by the Planning Board as they make their recommendation to the City Council.

ATTACHMENTS

1. Current Land Use Code Excerpts (Articles 1, 2, 3, & 17)
2. ReCode One-Page Historic Preservation Article Guide
3. Proposed Land Use Code Excerpts (Articles 1, 2, 3, & 16)
4. Proposed Land Use Code Redlines Excerpts (Articles 1, 2, 3, & 16)
5. MHPC Staff Comments and City Staff Responses
6. Guidelines for the Certified Local Government Program in Maine
7. National Register Bulletin: How to Apply the National Register Criteria
8. Public Comment and Staff Responses

Completed version of the Land Use Code can be found in the following locations:

- Existing: <https://content.civicplus.com/api/assets/e27b9933-d54c-4988-ba26-db4df8eb9954>
- Proposed: <https://recodeportland.konveio.com/second-wave-recode-changes-draft-land-use-code>
- Proposed, Redlines: https://static1.squarespace.com/static/5a75f43a692ebbeb1159413d/t/660d6a7ee07b3e5981ac1fad/1712155274839/Draft+LUC_Redline_4_3_24_reduced.pdf



PO Box 17533, Portland, ME 04112

24 May 2024

RE: Proposed Portland Historic Preservation Ordinance Changes

Chair O'Brien and Members of the Historic Preservation Board,

Greater Portland Landmarks has significant concerns about some of the proposed changes to Portland's Historic Preservation Ordinance as drafted in the staff's proposed Chapter 16 draft. We believe that a number of the changes do not meet the minimum standards set out in the *Guidelines for the Certified Local Government (CLG) Program in Maine*. We also have concerns that several deletions and language changes will have a significant impact on the Board's ability to fulfill its responsibilities under the ordinance and the historic preservation goals outlined in the City's Comprehensive Plan.

Enclosed is a copy of our comments. We have noted areas where we feel the changes specifically do not address CLG requirements for local legislation. We have forwarded a copy of this document to the Maine Historic Preservation Commission. We also have questions and comments on other areas of concern that are not specifically related to CLG requirements.

The staff proposed draft required a great deal of analysis to understand what was proposed as new language and not in the existing ordinance, what existing text was proposed to be relocated, and what text in the existing document was proposed to be removed altogether. We hope that our comments assist you in your deliberations at your workshop on Wednesday the 29th.

We would like to highlight some of our major concerns:

- Proposed language that would remove or alter the purpose of the board and its responsibilities as required by the *Guidelines for Certified Local Government Programs in Maine*.
- Proposed language that would alter or eliminate the definitions of standard historic preservation terms like site or landmark.
- Proposed language that would remove interim protections and project review during the designation process.
- Proposed language that would no longer regulate activities that don't require a building permit, including removing review of projects in the ROW that would have visual impact on historic districts.
- Proposed language that would allow the dimensional requirements of the underlying zoning to supersede the historic preservation review standards in all areas designated as historic, not just Congress Street, India Street, and at the Portland Company.
- Proposed language that moves authority to review and issue a Certificate of Hardship from the Zoning Board of Appeals to the Historic Preservation Board.

- Proposed language in the standards for rescission or amendment that would allow the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan.

The last item above we feel is the most significant staff proposed change that should be addressed. This is a significant change from existing and historic ordinance language and will disallow certification of this ordinance and lose CLG status for the city. Landmarks met with Planning staff on May 2, 2024 to begin to outline our concerns about proposed “Wave 2” changes to the historic preservation ordinance. Staff seemed to suggest that in 2020 changes had been made to the Rescission of Designation provision of the ordinance, and their proposed “Wave 2” language to allow the City Council to consider the comprehensive plan in rescission applications was merely reverting the ordinance back to how it was pre-2020. To the contrary, our research confirms that the substance of the current provision on amendment or rescission of a designation is largely unchanged from what was first enacted in 1990. We have attached pages from the 2019 Portland Zoning Ordinance, prior to the ReCode 2020 amendments, that clearly show the rescission standards were limited to the minimum criteria for designation and the integrity standard. Rescission standards did not include the goals of the comprehensive plan.

We hope that you will agree that the items summarized above and changes outlined in our attached comments, are indeed significant changes and that you will ask city staff to amend their proposal.

Thank you for considering our views,



Carol De Tine
Vice President of the Board of Trustees
Greater Portland Landmarks

Attachments:

Excerpted pages from 2019 Portland Zoning Code, Chapter 14

Research on evolution of the Amendment and Rescission of designation provision, 1990 to the present.
Landmarks specific comments on the staff proposed changes to Chapter 17 of the Land Use Code

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States;
2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;
3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;
4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or
6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such

cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States.

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city.

(Ord. No. 235-90, 2-26-90)

Sec. 14-611. Integrity of landmarks and historic districts.

Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.

(Ord. No. 235-90, 2-26-90)

Sec. 14-612. Designation of historic landscape districts.

An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state or local government, or any combination of such ownership.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 2, 5-17-93)

Sec. 14-613. Reserved.

DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION

Sec. 14-614. Procedure.

The provisions of this division shall govern the nomination, consideration and designation of landmarks and districts.

(Ord. No. 235-90, 2-26-90)

Sec. 14-615. Initiation of nomination.

(a) Nomination of an area, site, structure or object for consideration of designation as a landmark, historic district or

designation ordinance and design guidelines.

(d) Notice of council action to the same persons shall be sent within ten business days following the council action. A copy of each designation ordinance and design guidelines shall be sent to the planning board, the historic preservation board and the department. A complete schedule of all landmarks and districts, including design guidelines and a listing of landmark and contributing structures, shall be maintained by the department as part of the design manual and shall be available for public inspection and copying during ordinary business hours.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-623. Amendment and rescission of designation.

Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance.

(Ord. No. 235-90, 2-26-90)

Sec. 14-624.- Sec. 14-627. Reserved.

*Editor's note - Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety.

Sec. 14-628. Time limits.

(a) Any time limit specified for any step in the process for nomination or designation of a landmark may be extended with the consent of the property owner.

(b) Any time limit specified for any step in the process for nomination or designation of a district may be extended where at least ten (10) percent of the owners of property within the boundaries of the proposed district have given written consent to the extension.

(c) Failure to comply with any time limit in the nomination

Research on the evolution of the Amendment and Rescission of Designation provision, 1990 to present

Prepared for Greater Portland Landmarks, by Barbara Vestal, May 24, 2024

When Landmarks met with Planning staff on May 2, 2024 to begin to outline our concerns about proposed “Wave 2” changes to the historic preservation ordinance, they seemed to suggest that 2020 changes had been made to the Rescission of Designation provision of the ordinance, and that the Wave 2 proposal to allow the City Council to consider the comprehensive plan in rescission applications merely changed the ordinance back to how it was pre-2020. To the contrary, my research, outlined below, confirms that **the substance of the current provision on amendment or rescission of a designation is largely unchanged from what was first enacted in 1990.**

Following immediately below are excerpts from Portland’s Historic Preservation Ordinance as it appeared City of Portland, Code of Ordinances, Land Use Code, Chapter 14, Rev. 6-21-12. (This is how it read in 2012, and as far as I believe, continued to read until 2020 ReCode I amendments.)

Sec. 14-623. Amendment and rescission of designation. Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance. (Ord. No. 235-90, 2-26-90) (Vestal emphasis added)

Sec. 14-627. Reserved. -----

***Editor’s note – Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety. -----**

14-623 states that the standards for rescission are limited to section 14-610(a) and section 14-611, which are reproduced from the 2012 document, below:

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States; City of Portland Land Use Code of Ordinances Chapter 14 Sec. 14-610 Rev. 6-21-12 14-815

2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;
3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;
4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or
6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

*((b), (c) and (d), reproduced here, are **excluded** from consideration in a 14-623 rescission)*

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States. City of Portland Land Use Code of Ordinances Chapter 14 Sec. 14-610 Rev. 6-21-12 14-816

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of the city. (Ord. No. 235-90, 2-26-90)

(This, from 2012, is also to be considered in a 14-623 rescission:)

Sec. 14-611. Integrity of landmarks and historic districts. Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration. (Ord. No. 235-90, 2-26-90)

Note that Sections 14-623, 14-610 and 14-611 as shown in these 2012 excerpts are exactly the same as were adopted by Order Number 235-90 on February 26, 1990 as part of the original ordinance. As of 6/21/12 they had not been amended. The 2012 version of the ordinance also notes that the "Projects of Special Merit" was repealed in its entirety 9/8/04. I don't believe they were amended between 2012 and 2020.

COMPARISON TO CURRENT VERSION OF THE CODE, AFTER RECODE I AMENDMENTS IN 2020:

After the ReCode I package of amendments were adopted in 2020, the rescission provision read as follows: (changes from 1990 are underlined or struck through)

17.5.9 Amendment or rescission of designation Amendment or rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the City Council, and shall follow the procedure set forth in Section 17.5 for designation. The City Council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council shall be limited to those provided in Subsections 17.4.1(A) and (B) and Subsection 17.4.2. Amendments may include reclassification of a portion of a contributing property to noncontributing status, refinement or correction of design guidelines, maps, and other parts of any designation ordinance.

The underlining and strikeout show the changes that were made between the 1990 version and the current (post-ReCode I 2020 amendments) version. This is the operative law today. The changes are as follows:

1. In 1990, Division 4 was "DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION". In 2020, it was renumbered 17.5 NOMINATION, CONSIDERATION AND DESIGNATION. No substantive change.
2. In 1990, what is now the Historic Preservation Board had lesser powers and was called the Historic Preservation Committee.
3. **There do appear to be two substantive changes made in 2020. 17.4.1 (B) was added to what could be considered in a rescission.**
4. **And "reclassification of a portion of a contributing property to noncontributing status" was specifically added to the list of examples of amendments that could be made.** The list is not intended to be exhaustive; it says "amendments may include." This would not preclude reclassification of an entire property to noncontributing status.

The current criteria of 17.4.1(A) and 17.4.2, reproduced below, seem unchanged from the 1990 criteria:

17.4.1 Minimum criteria for designation (Same as 14-610(a))

A. The Historic Preservation Board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure, or object for designation by ordinance as a landmark or district:

1. Its value as a significant example of the cultural, historic, architectural, archaeological, or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States.
2. Its location as a site of a significant historic or prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property.

3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archaeological, or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States.
4. Its exemplification of a significant architectural type, style, or design distinguished by innovation, rarity, uniqueness, or overall quality of design, detail, materials, or craftsmanship.
5. Its identification as the work of an architect, designer, engineer, or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States.
5. Its representation of a significant cultural, historic, architectural, archaeological, or related theme expressed through distinctive areas, sites, structures, or objects that may or may not be contiguous.

And also unchanged except for the numerical references:

17.4.2 Integrity of landmarks and historic districts (Same as 14-611)

Any area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, condition, materials, and workmanship to make it worthy of preservation or restoration.

The new section that was added for consideration in the event of a rescission in the 2020 amendments is 17.4.1(B), which states as follows:

B. In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction but which contribute to the significance and visual character of the district as a whole.

SUMMARY:

According to my analysis, the ordinance provision addressing amendment or rescission of designation is largely unchanged from the original provision adopted in 1990. References to code sections have been updated as part of the 2020 ReCode renumbering of the entire ordinance. Identifications of entities have been updated (e.g. council became City Council). There are only two substantive changes that appear to have been made between 1990 and now, both in connection with ReCode I amendments in 2020. “Interrelationship of resources within a district to create an identifiable entity” has been added to “Minimum criteria for designation” and “Integrity” as another standard that may be considered by Historic Preservation, Planning and the City Council in weighing a request for rescission. And reclassification of a portion of a structure from contributing to noncontributing has been clarified being a type of amendment that could, theoretically, be a permissible rescission.

In my opinion, there is no basis to believe that exclusion of the comprehensive plan from the standards to be considered in a rescission application is a new development. The exclusion of the comprehensive plan in a rescission decision has been in place since the original adoption of the ordinance in 1990.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
		General Comment: The existing ordinance has been divided across three chapters, Chapter 2: Administration, Chapter 3, Definitions, and the remaining sections of the ordinance are proposed as the new Chapter 16. We have outlined our comments below in order of the proposed draft chapters.
	CHAPTER 2. ADMINISTRATION	
2.2.8. Responsibilities 2.2.8.C Includes “investigating” places to nominate 2.2.8.D Keeping a register 2.2.8.E. to advise and assist property owners 2.2.8.H to seek CLG funding 2.2.8.I Section 106 participation 2.2.8 J. education of residents 2.2.8 N to advise city council on easements 2.2.8.O to advise the PB on gifts and grants, etc. 2.2.8.Q recognition thru plaques, etc.	2.2.9. Jurisdiction and Authority Proposes to delete those responsibilities noted in the column to the left:	The existing ordinance includes several responsibilities for the Historic Preservation Board such as investigating places to nominate and keeping a register, as well as advising the city and public on historic preservation related issues. The staff proposed amendment includes a new Jurisdiction and Authority section which has removed several responsibilities for the Historic Preservation Board. Our concern with the proposed language is that it would remove several responsibilities for the Historic Preservation Board which are minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> <i>From 3.b. Duties of Local Review Commissions:</i> 4) conducting or causing to be conducted a continuing survey of cultural resources in the community according to guidelines established by the MHPC; 17.2.2.8.C “investigating places to nominate” meets the “continuing survey” minimum required duty of a Local Review Commission and its omission would be a loss of authority. We believe the responsibility for survey should remain a duty of the Historic Preservation program. 5) making recommendation for designation of local landmarks and historic districts to the appropriate local governing body and keeping records of such decisions; 17.2.2.8.D “Keeping a register” meets the “keeping records” minimum required duty of a Local Review Commission and its omission would be a loss of authority. 7) acting in an advisory role to other officials and departments of local government regarding the protection of local cultural resources; 17.2.2.8.N. and 17.2.2.8.O. meet this minimum required duty of a Local Review Commission, the language regarding what topics they should provide advice (easements, grants, etc) could be altered, but losing the authority to “advise” on those protection measures would be a loss of authority. 8) acting as a liaison on behalf of the local government to individuals and organizations concerned with historic preservation; and 17.2.2.8.E. and 17.2.2.8.J. meet this minimum required duty of a Local Review Commission, losing the authority to “advise and assist property owners” and “educate residents” would be a loss of authority. 9) working toward the continuing education of citizens within the CLG's jurisdiction regarding historic preservation issues and concerns. 17.2.2.8.J. meets this minimum required duty of a Local Review Commission, and its omission would be a loss of authority.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
2.2.8.L Certificate of Economic Hardship: to provide testimony at Board of Appeals	2.2.9E Certificate of Economic Hardship: to review applications and issue or deny CEH.	The existing ordinance delegates authority for economic hardship hearings to the Zoning Board of Appeals. The staff proposed language assigns that duty to the Historic Preservation Board. This is a change from the current practice (which city staff claim has never been used). Our question is, do other Maine CLG communities assign this duty to Historic Preservation Boards/Committees/Commissions? If so, does MHPC know how well it has worked?
	CHAPTER 3. DEFINITIONS	
		General Comment: The impact of deleting several of the definitions cited below or using alternative definitions that are more appropriate for general land use standards appears to have not been thoroughly considered. Some definitions have been inserted as text into the body of the ordinance, which seems reasonable. However, in the relocation of the definitions, their meaning has been altered. Other definitions as noted below are no longer defined.
From Chap. 17 - Alteration. Any act or process requiring a building permit and <u>any other act or process not requiring a building permit but specifically listed in this article as a reviewable action</u>, including without limitation the repair, reconstruction, demolition, or relocation of any structure or object, or any part of a structure or object. From Chap. 3 - Building alteration. A change or rearrangement in the structural supports, exterior appearance, or removing from or otherwise affecting the exterior appearance of a building.	Chap. 3 - Building alteration. A change or rearrangement in the structural supports, exterior appearance, or removal of features otherwise affecting the exterior appearance of a building.	The existing historic preservation ordinance defines Alteration as distinct from the definition of Building Alteration in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. Our concern with the proposed amendment is that deleting the current definition of “Alteration” in the historic preservation ordinance (which included specifically listed non-building permit changes) and the use of the standard land use definition of “Building Alteration” is problematic. The definition of “Alteration” informed the current definition of Certificate of Appropriateness (required for "alteration"). The deletion of “any other act or process not requiring a building permit specifically listed in this article as a reviewable action” changes the applicability standard so that a Certificate of Appropriateness would only be required for work that would otherwise require a building permit. Alterations like painting brick, replacement of siding, re-roofing, heat pump installation, solar panel installation, installation of landscaping improvements, and projects in the ROW that do not require a building permit would not be reviewable. This is a <u>significant change</u> and does not appear to meet the minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction.
Certificate of Appropriateness.	<i>Not defined</i>	The existing historic preservation ordinance defines certificate of appropriateness, while the staff proposed draft removes this definition. Our concern is that “Certificate of Appropriateness” is a term-of-art and that there is value in retaining the definition.
Certificate of Economic Hardship.	<i>Not defined</i>	
Certificate of Non-Applicability.	<i>Not defined</i>	

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark’s Comments
Contributing. A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.	See 16.2.3.B. A contributing classification shall only be applied to an area, site, structure, or object which: 1) Were Was built at least 50 years prior to the date of district designation or were was built within a period of significance specified in the designation application. 2) Are Is found to have a relationship with or physically embod ies the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the <u>designation report</u> ; and 3) Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	The existing ordinance definition of “contributing” has been removed in the staff proposal. Instead, new language is proposed within the body of the ordinance. Our concerns with the proposed amendment are: a) That the new language lacks clarity in <i>Section 16.2.3. Classifications within historic designations</i>. Would the term “contributing” apply to historic designations generally (including individual landmarks?) or only to resources in historic districts? b) Section 16.2.3 omits “landmark” as a classification in a historic district. c) Refers to the “designation report”. <i>Section 16.3. Nomination, Consideration, and Historic Designation</i> references “report” several times but those references should be clarified to be “designation report” in order to be consistent. The minimum requirements for local legislation (A.2.) in the <i>Guidelines for the CLG Program in Maine</i> specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We believe the term ‘contributing’ should be a defined term in Chapter 3 and suggest the following definition: <i>From the Guidelines for the CLG Program in Maine:</i> A property or resource that has historical significance through location, design, setting, materials, workmanship, feeling, or association, and adds to the sense of time and place and historical development in a historic property. Minor edit – verb tense in paragraphs 16.2.3.B.1. &2. (see GPL proposed corrections to the left in red)
Demolition. Any act or process that partially or totally destroys a structure or object.	Chap.16.32.6, Demolition , including any act or process that totally destroys any landmark or contributing structure or object.	The existing ordinance definition includes partial demolition. The staff proposed ordinance is missing ‘partially or’. Our concern with the proposed language is since partial demolitions tend to occur more often than total demolitions. reference to partial demolition, not just removal of features, really should be specified in the ordinance. City staff have indicated that the proposed new definition of alteration encompasses partial demolitions with the phrase “removal of features”. That does not seem sufficient.
District.	<i>Not defined</i>	

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
Historic district. A geographically definable area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.	Chap. 16.2.1, Historic district. A geographically defined area possessing a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.	The existing definition includes the phrase united “by past events”. The proposed staff ordinance removes the definition and instead incorporates the definition of historic district into the body of the ordinance. Section 16.2.1. removes the phrase “united by past events”. Those left out words are important in defining how objects, sites, or structures may be categorically united and is included in the National Parks Service’s definition: NPS definition: Historic District - A geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, landscapes, structures, or objects, <u>unified by past events</u> or aesthetically by plan or physical developments. A district may also be composed of individual elements separated geographically but linked by association or history. We believe the existing definition or the NPS definition is the appropriate definition to use.
Historic landscape district. A geographically definable area possessing a significant concentration, linkage, or continuity of landscape components which are united by human use and past events or aesthetically by design, plan or physical development.	Chap. 16.2.1, Historic landscape district. A geographically defined area possessing a significant concentration, linkage, or continuity of natural or man-made landscape components which are united by past events, or aesthetically by design, plan or physical development. <u>The defined area shall be owned in its entirety by a unit of federal, state, or local government, or any combination of such ownership at the time of nomination.</u>	The staff proposes to add language to the definition of historic landscape district which is taken from 17.4.3. It seems appropriate to include it within the definition of HLDs, which staff proposes to include within the body of the ordinance.
Historic Resources Design Manual.	<i>Not defined</i>	In the staff proposed draft the manual is vaguely defined in the body of the text. We believe a definition is important – or greater clarity in the body of the text is needed. See 16.6.7 and Section 16.7 for additional comments on the Historic Resources Design Manual.
		General Note: We believe that integrity, which is not defined in either the existing ordinance or in the proposed staff draft, is important to define. Other CLG communities in Maine use the following: HISTORIC INTEGRITY: The authenticity of a property’s historic identity as evidenced by the survival of physical characteristics (location, design, setting, materials, workmanship and association) that existed during the property’s prehistoric or historic period.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
Landmark. Any property, site, structure, or object of particular <u>historic, architectural, or archaeological</u> significance to Portland, the State of Maine and/or the United States relating to its cultural, social, economic, political, or architectural heritage, or which is associated with historic persons, important events or themes in local, state, or national history.	In Chapter 16.2.1, Landmark. A discrete site, structure, or object and any associated area found to have particular or individual significance or prominence. <u>Landmarks may be in or outside of historic districts or historic landscape districts.</u>	1) The existing definition includes "historic, architectural or archeological" as a modifier for particular. The staff proposes removing the definition and imbedding it within the body of the text. However, the definition of landmark incorporated in 16.2.1.A. leaves out "historic, architectural or archeological" as a modifier for particular, leaving it to read "particular or individual significance." The left-out words are important in defining what type of significance a Landmark possesses. We believe this needs to be added back to the text either as stated in the existing definition or as defined in the <i>Guidelines for the CLG Program in Maine</i>. <i>From the Guidelines for the CLG Program in Maine:</i> Any site, building, or structure of particular <u>archaeological, historic or architectural</u> significance to the municipality relating to its heritage, cultural, social, economic or political history, or which is associated with historic personages or important events in local, state or national history which has been designated in accordance with the municipality's historic preservation ordinance. 2) The staff proposed definition of Landmark states that landmarks may be in historic districts, yet in Section 16.2.3 "Classifications within Historic Designations", Section 16.2.3 A. states that the sites, structures, or objects within a nominated historic designation <u>may be classified as contributing or noncontributing</u>. This is in conflict with the definition of Landmark and current practice in Portland, and it should be clarified that within historic districts, resources may be classified as Landmark, contributing, or non-contributing.
New construction. Noncontributing. A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that:	<i>Not defined</i> See 16.2.3. C. If an area, site, structure, or object does not meet the above (in 16.2.3.B) it will be categorized as noncontributing.	The existing definition includes three ways a resource can be considered non-contributing. The last paragraph in the existing definition includes the ability for the board to determine a portion of a building is non-contributing. The new definition is proposed by staff to be imbedded into the body of the text. The proposed definition has been altered through defining contributing buildings in section 16.2.3.B. and ceding all other buildings that do not meet the criteria in 16.2.3.B will be non-contributing. However, the removed language from the third paragraph of the existing definition removes the ability of the Historic Preservation Board to designate a portion of a site or structure as non-contributing. Having the Board retain the option to designate a portion of a site or structure as non-contributing is useful as they review proposed rehabilitation or alteration proposals. The opportunity of the Board to make this determination should not be lost and should be included either as new language in 16.2.3.B or added to 16.2.3.C.
1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or	<i>From 16.2.3.B - Contributing</i> 1) Were built at least 50 years prior to the date of district designation or were built within a period of significance specified in the designation application. 2) Are found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological	

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. <u>A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.</u>	significance as embodied in the minimum criteria specified in the <u>designation report</u> ; and 3) Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	
Object.	<i>Not defined</i>	
Ordinary maintenance.	<i>Defined in 16.6.1 Applicability.</i>	
Preservation.	<i>Not defined</i>	While not defined in the current ordinance, we believe strongly that “preservation” should be defined. If it is included in the general definition section, it should clarify that the definition pertains to its use in Chapter 16 and matters in other chapters pertaining to historic preservation. The minimum requirements for local legislation (A.2.) in the <i>Guidelines for the CLG Program in Maine</i> specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, <u>Preservation, Rehabilitation, Restoration, and Reconstruction.</u>
Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historical, architectural, and cultural value.	Chap. 3 - Historic rehabilitation. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.	<i>The existing definition is the same as the definition from the Guidelines for the CLG Program in Maine:</i> Rehabilitation. The act or process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions of features of the property which are significant to its historical, architectural, and cultural values. We are unclear why the new term “historic rehabilitation” and the new definition proposed by staff, that is virtually the same length as the current definition, is changed from that included in the <i>Guidelines for the CLG Program in Maine</i> . The term “historic rehabilitation” does not appear in Chapter 16, only “rehabilitation”. We believe the existing definition is sufficient and the prevailing definition at federal, state, and local levels. The term itself should be consistent used within the body of the ordinance and in the definition section for clarity.
Relocation. Any removal or relocation of a structure on its site or to another site.	Chap. 3 - Relocation. The act or process of taking a structure or object and moving it from its current location or orientation to a new location or orientation.	This is a good, revised definition, as it addresses a resource’s orientation.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
From Chap. 17 - Site. The location of a significant event, an archaeological site, a landscape or traditional cultural property, or a building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure. From Chap. 3 - Site. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.	Chap. 3 - Site. All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.	The existing historic preservation ordinance defines “Site” as distinct from the definition of “Site” in the general zoning. The staff proposed language would use the general definition for all chapters of the ordinance. These are really two very different meanings, and in the 43 occurrences of the term ‘site’ found in the staff proposed Chapter 16 the meaning is significantly changed from the existing ordinance. It is problematic to have the definition of "site" that is used in the general ordinance, in a historic preservation context. In addition to the lack of clarity stated above, the minimum requirements for local legislation (A.2.) in the <i>Guidelines for the CLG Program in Maine</i> specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We would support adding either definition below within Chapter 3. <i>The NPS definition:</i> Historic Site - The site of a significant event, prehistoric or historic occupation or activity, or structure or landscape (extant or vanished), where the site itself possesses historical, cultural, or archeological value apart from the value of any existing structure or landscape. <i>From the Guidelines for the CLG Program in Maine:</i> Site. The location of a significant event; an Archaeological Site; a landscape or traditional cultural property; or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure. Other Maine cities and the NPS use “Historic Site” to differentiate the terms, which would require editing the body of the historic preservation ordinance at the 43 occurrences of the term “site”. That may be awkward, and if so, we would support a definition in Chapter 3 that included the historic preservation definition as a second meaning that ONLY applied to chapter 16 and instances in other chapters where “site” is used in the context of historic preservation.
Restoration.	<i>Not defined</i>	We believe strongly this should be defined. The minimum requirements for local legislation (A.2.) in the <i>Guidelines for the CLG Program in Maine</i> specifically state that Local legislation for designation and protection of historic properties by CLGs in Maine must contain, at a minimum, the definitions of designation and protection (ie. Historic District, Historic Landmark, Historic Site) that meet federal statutory definitions. We also believe they should include the definitions for the four treatment standards, <u>Preservation, Rehabilitation, Restoration, and Reconstruction.</u>

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
	CHAPTER 16. HISTORIC PRESERVATION	
17.1 Purpose Includes 8 paragraphs establishing purpose: fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation etc.	16.1 Purpose Retains first paragraph and adds: <u>establishing standards for the review of construction within and affecting designated historic properties to encourage preservation, restoration, rehabilitation, and new construction that respects the historic, cultural, architectural, and archaeological significance of distinctive areas, sites, structures, and objects.</u>	The language in the existing ordinance's purpose statement has been significantly abbreviated in the staff proposed draft. Although the added language is useful, the minimum requirements for local legislation (A.2.) in the <i>Guidelines for the CLG Program in Maine</i> specifically state that a statement of purpose should give an overview of why the ordinance was created and its intent. We believe several of the paragraphs in 17.1 should remain because as stated in the <i>Guidelines</i>, a statement of purpose may be used to determine whether a decision related to the ordinance is justifiable. We believe the existing statements establishing purpose that describe fostering civic pride, resource of expertise, protecting and enhancing neighborhoods, fostering preservation, etc. should remain. We also believe a purpose statement should include advising other city boards and the City Council on land use matters related to historic preservation.
17.2 Definitions	Removed to Chapter 2, but just a select few definitions were moved – the rest deleted.	The elimination of virtually all of the definitions in the ordinance raises the opportunity for a lot of (perhaps unintentional) misinterpretation because the ordinance was carefully crafted to build on the basic definitions. See Chapter 3 Comments above.
17.3 Administrative Procedures		
17.3.3 Notices & Public Comment <i>Paragraph C.</i> The Planning Authority shall advise the Historic Preservation Board and the Planning Board of any demolition permit application received by the Planning Authority as to structures or objects that have been classified as noncontributing within nominated or designated districts, but there shall be no Historic Preservation Board review of such permit applications.	<i>No equivalent section in this chapter or Chapter 2</i>	<i>The existing notice requirement for non-contributing structures in a nominated or designated district has been removed in the staff proposed draft.</i> <i>This seems like a reasonable public notice requirement to advise the board at a regular board meeting that a demolition will be occurring in a historic district, as the public may not be aware of a building's designation status and have questions as to why a demolition is occurring. Additionally, this provision seems to meet the intent of the CLG requirements regarding public participation.</i>

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.4 Categories & Criteria for Designation	16.2 Historic Designations	
<i>No equivalent Section (definitions)</i>	16.2.1 Categories of Designations: A) Landmark. A discrete site, structure, or object and any associated area.... B) Historic district. A geographically defined area possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by design, plan, or physical development. The defined area may comprise individual elements separated geographically but linked by association or history.	While the existing ordinance has definitions for many terms, the staff proposal imbeds several definitions within the body of the ordinance. This is reasonable, but the alteration of the definitions in some cases is problematic. For instance, it is problematic to have the wrong definition of "site" in the general ordinance, not "site" in a HP context in this section. The definition of landmark in 16.2.1.A differs from the existing definition by removing "property" and keeping "site" which is defined as all contiguous land in common ownership in the general ordinance. <i>See also comments on Chapter 3 above.</i> In addition, the definition of landmark incorporated in 16.2.1.A leaves out from the current definition "historic, architectural or archeological" as a modifier for "particular", leaving it to read "particular or individual significance." Those left out words seem to be important and should remain. 16.2.1 B in defining historic district leaves out the word "buildings" from the current definition. It should remain.
17.4.1 A. Minimum Criteria , limits consideration to those six areas in making the determination:	16.2.2.A. Criteria for consideration <i>Significant aspect of heritage.</i> <i>Significant events or activities.</i> <i>Significant persons.</i> <i>Significant architecture.</i> <i>Significant designer.</i> <i>Significant theme.</i>	The existing ordinance defines the criteria for consideration as "minimum criteria", while the staff proposed language in 16.2.2 strikes "minimum" from criteria for designation, but later references in the document (16.2.3.B.2) are made to minimum criteria. It is confusing. The terminology should be consistent throughout, using "minimum criteria".
17.4.2 Integrity of landmarks & HDs Any area, structure, or object that meets the criteria in Section 17.4.1 must also have sufficient integrity of location, design, <u>condition</u>, materials, and workmanship to <u>make it worthy of preservation or restoration</u>.	16.2.2.B Inserts Integrity paragraph from 17.4.2, but omits "condition" as a criteria of integrity. It also alters language at the end of the paragraph to: "...to convey its significance with respect to the applicable criteria as defined in Subsection 16.2.2."	The existing ordinance includes "condition" as an aspect of integrity. The staff proposed language in 16.2.2.B discussing integrity omits the term "condition". "Condition" should be considered with any discussion of integrity, as this is a national and state standard. The language in 17.4.2 omitted from the staff proposal "<u>make it worthy of preservation or restoration</u>" is standard preservation language when discussing integrity in historic preservation ordinances. The language should be returned to its original phrasing. We also believe "integrity" should be defined. The citation at the end of the proposed paragraph 16.2.2.B. should cite "applicable criteria as defined in Subsection 16.2.2.<u>A.</u>"

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.4.1.B Criteria for HDs In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction, but which contribute to the significance and visual character of the district as a whole.	<i>Deleted, does not appear to be an equivalent paragraph</i>	This is an important criterion for evaluating historic districts. We are unclear why this was deleted. It appears to address the National Parks Service's Standards for evaluating significance within registered historic districts.
17.4.1.C Criteria for HLDs: In the case of a nominated historic landscape district, the Historic Preservation Board shall also consider its significance as a geological, natural, or designed landscape associated with the development, heritage, or culture of the City of Portland, State of Maine, New England region, or the United States.	<i>Deleted, does not appear to be an equivalent paragraph</i>	This too is an important criterion for evaluating historic landscape districts. We are unclear why this was deleted, especially as Portland has five HLDs: Evergreen Cemetery, Eastern Prom, Deering Oaks, Western Prom, and Lincoln Park.
17.4.1.D The Planning Board and City Council shall apply the criteria of (A), (B), and (C) above as well as historic preservation goals included in the Comprehensive Plan, but shall also consider the effect of such designation on other aspects of the Comprehensive Plan of the City.	16.2.2.C. The Planning Board and City Council shall also consider the effect of the proposed historic designation within the framework of the Comprehensive Plan when making a recommendation or decision on a nomination.	The existing ordinance instructs the two bodies to apply the historic preservation goals and other aspects of the comprehensive plan. The staff proposed draft in 16.2.2 C, simplifies the reference to the comp plan by calling out the comp plan in general and eliminating that a designation should consider the "historic preservation goals included in the comp plan". We believe that the designation process should specifically consider "historic preservation goals", along with consideration of other goals in the comp plan.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
<i>No equivalent Section</i>	16.2.3 Classifications within historic designations	Does “historic designations” = historic districts? Or does it encompass HDs, HLDs, and individual landmarks? This is confusing language throughout 16.2.
	16.2.3 A. The sites, structures, or objects within a nominated historic designation may be classified as contributing or noncontributing.	In the staff proposed language “landmark” classification seems to be inappropriately omitted. Currently certified local historic districts include landmark, contributing, and non-contributing resources and we believe this should be amended to include “landmark”
From 17.2 Definitions, Contributing: A classification applied to a site, structure, or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.	16.2.3.B Contributing: Were built at least 50 years prior to the date of district designation, or were built within a period of significance specified in the designation application; 2. Are found to have a relationship with or physically embody the qualities that give the historic designation cultural, historic, architectural, or archaeological significance as embodied in the minimum criteria specified in the <u>designation report</u> ; and 3. Retain sufficient integrity to communicate that significance as defined in Subsection 16.2.2(B).	We think there would be greater clarity if the term "contributing" were defined in Chapter 3 with a general definition such as “A contributing resource means and includes any building, other structure or site that by age, location, design, setting, materials, workmanship or association adds to the district’s sense of time and place and historical development or is capable of yielding important information about an historically significant period.” Chapter 16.2.3.B. would then set out the criteria for contributing (older than 50, sufficient integrity, etc.) The entirety of Section 16.2.3 is confusing because it seems to apply to historic designations generally, but the language seems to be discussing historic <u>district</u> designation, not individual landmarks. Is section 16.2.3 A. and 16.2.3 B. attempting to say that within a “nominated historic designation” like a Landmark, the term contributing would be applied? In a “nominated historic designation” like a Landmark, if there are multiple resources (like House Island for example) the designation is considered a district. This needs clarity, see our comment in 16.2.3 above. Landmarks are also an existing classification within a district, and there is no discussion of that classification in this section. Chapter 3. 16.2.3.B.2. refers to the "minimum criteria" in the " <u>designation report</u> ". The “designation report” contents are not clearly articulated in the staff proposed draft, contrary to the detailed contents contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important. Also, there is inconsistent use of the term “report” and “designation report” in the proposed document that needs to be made consistent.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
From 17.2 Definitions - Noncontributing. A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that: 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or 3) where the location, design, setting, materials, workmanship, and association have been so altered or have so deteriorated that the overall integrity of the site, structure, or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the Historic Preservation Board to be non-contributing if it meets one or more of the above conditions.	16.2.3.C If an area, site, structure, or object does not meet the above it will be categorized as noncontributing.	The definition included in the staff proposed text has altered the existing ordinance through defining contributing buildings in section 16.2.3.B. and ceding all other buildings will be non-contributing. The altered language removes the ability of the historic preservation board to designate a portion of a site or structure as non-contributing. Designating a portion of a site or structure is useful for historic preservation board as they review proposed rehabilitation or alteration proposals.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.5 Nomination, Consideration and Historic Designation	16.3 Nomination, Consideration and Historic Designation	
17.5.2.B. requires nominations signatures to be submitted	Not in 16.3.2 Submittals.	The existing ordinance requires nominations to be submitted with signature. There is also language in the existing ordinance which allows the historic preservation board members to make a nomination at a meeting, <u>in writing</u>, and then complete further information before it is processed. The staff proposed language in 16.3.2.A lists all the information that should be included in a nomination, but 16.3.2.C says a nomination can be made "verbally" at a HP meeting. It is inconsistent to have a verbal nomination allowed if all of the information in 16.3.2.A is required. This inconsistency should be resolved. We believe at a minimum a letter <u>signed</u> by at least two members of the historic preservation board should be required, and signatures for public nominations should be a minimum requirement.
General Note: This procedure currently has time limits to move the process along.	General Note: Time frames seem to have been eliminated.	
17.5.2.E gives opportunity for demolition during the designation consideration process with a determination as a non-contributing resource.	No such exception.	The existing ordinance language allows for HP determination of a demolition request for a non-contributing resource during the designation process, which can take months. During the designation process, the owner of a building deemed a non-contributing building by the HP Board should be entitled to the same provisions they would have if the district was already designated.
17.6.1.A Interim protectionsUpon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council becomes effective. If the City Council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of Sections 17.9 and 17.10 of this article.	This language has been deleted.	The staff proposed draft is missing the existing interim protections that go into effect upon HPB determination and would only require minimum maintenance and protection from demolition throughout the designation review process. As proposed to be amended by staff, there would be no HPB or staff review of proposed projects while a district is being considered by the Planning Board or City Council. It is extremely important that the full interim protections enumerated in the current ordinance (17.6) upon HPB determination are retained. As we found with the Munjoy Hill Local Historic District, review of projects began as soon as the HPB determination began and projects were expediently approved, with the public having the opportunity to comment. This significantly calmed fears about the onerous nature of the review process expressed by opponents and gave members of the public that wanted a say in their neighborhood's development, an opportunity to do so.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.5.3 one or more workshops scheduled by HPB	16.3.3 HPB review – 1 workshop, additional workshops require consent of nominators.	The existing ordinance allows for multiple workshops during the designation process, while the staff proposed language would limit workshops to one, unless the nominators provide consent. A historic district can be nominated by members of the public and then sponsored by two members of the historic preservation board. It is unclear if the staff proposal is to require consent by all nominators (members of the public) or the two members of the HPB. Requiring all public nominators consent to additional meetings for a large district nomination would be unduly complicated. What would that process be if they were not all present at the first workshop? The intention in the proposed language is not clear. Designations might only require one workshop, particularly for individual nominations, but a large district would likely require multiple workshops to allow for public comment and time to discuss additional information that might be required during the process. We propose that Language be included that nominations should be pursued expeditiously to clearly signal the process should not be unduly drawn out.
17.5.4 explicitly states required information in the report.	16.3.3.D very general language about the report to be completed.	The staff proposed language in 16.3.3.D refers to findings by HPB as to whether the criteria have been met. Is this supposed to be the designation report? There are later references to a HPB report as well. Chapter 16.2.3.B.2. refers to the "minimum criteria" in the "designation report". The designation report contents are not clearly articulated in this proposed redraft, contrary to the level of detail contained in the existing ordinance, see Chap. 17.5.4.A. We believe clearly outlining the contents of the designation report is important so that the public, staff, and members of the board are aware of the content needed. Comparing 16.3.3.D to the existing ordinance there is a provision (17.5.5.B), that if the HPB votes not to designate, a new designation cannot be brought back for at least a year. That is struck from the proposed text.
General Note: The existing designation procedure currently requires notifications sent to owner(s) at points of determinations by HP and PB.	General Note: The proposed procedure does not seem to require notifications sent to owner(s) at points of determinations by HP and PB.	Can MHPC provide information on how other Maine CLG communities handle public notice? During several recent district nominations, like House Island and Munjoy Hill, properties have been sold during the designation process. New residents/owners that arrive during the process deserve public notice so they may participate in the process at the next public meeting. Notifications should be sent to owner(s) at the various points of determination by HP and PB.
17.5.9 Amendment or rescission of designation The standards for rescission or amendment applied by the Historic Preservation Board, Planning Board, and City Council <u>shall be limited to those provided in Subsections 17.4.1(A) and (B) and Subsection 17.4.2.</u>	16.3.7 Amendment or rescission of designation <u>Amendment or rescission shall follow the procedure set forth in Section 16.3 for designation.</u> The standards for rescission or amendment shall be limited to those provided in Section 16.2.	The language in staff proposed 16.3.7 Amendment or rescission of designation is a <u>significant change</u> from the existing language in 17.5.9. By referring to 16.2 as a whole in referencing standards for rescission or amendment, it allows the planning board or the city council to decide that a landmark or contributing building can be reclassified as noncontributing (and therefore demolished) based on goals, other than historic preservation, identified in the comprehensive plan. Proposing to amend the ordinance to introduce consideration of the comprehensive plan in amendments or rescission decisions is misguided and tantamount to reintroducing the "projects of special merit" provision that had to be removed from the ordinance in 2004 to qualify Portland's HP ordinance for CLG certification. Comprehensive plans are general scoping documents and city ordinances are the regulatory implementation of those general goals. Once the district or individual designation has been made, a rescission or amendment should be based on new evidence and the application of the enumerated standards and criteria of the ordinance, rather than broad policy goals in the comprehensive plan. This proposed language appears <u>NOT</u> to meet the minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> .

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark’s Comments
		In addition, as proposed in 16.3.7.A there is no application of amendment possible with this process for reclassification to a landmark designation downward to contributing or non-contributing (if say there was a fire or other disaster that altered its exterior appearance) because it explicitly calls out contributing and noncontributing. Is the only option in case of a landmark to remove the designation completely as a rescission? Would that potentially create a ‘donut hole” in a district boundary, which is generally to be avoided? What is MHPC position on this? We believe there should be a mechanism for all designation categories and that a rescission or amendment should be based on new evidence and the application of the standards and criteria of the ordinance, as intended by the minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> .
17.7.1 There shall be a rebuttable presumption that all structures within a district shall be contributing unless the designation report and Historic Resources Inventory expressly identifies otherwise. Where the Planning Authority or the owner believes that the identification is erroneous, the Historic Preservation Board shall determine whether the structure is noncontributing.	16.3.8 Presumption of contributing classification Where the designation classifies an <u>area</u> or site as contributing, but does not specify the classification of a structure or object in the area or on the site, there shall be a presumption that the structure or object is contributing, unless: A. Documentation can be provided to the Planning Authority that a structure or object was constructed within 50 years of or after the date of historic designation, or after the stated period of significance, or B. The Historic Preservation Board holds a public hearing and finds <u>that the structure or object has been substantially altered within 50 years of or after the date of historic designation, or after the stated period of significance.</u>	What is the definition of area in the staff proposed language? A district? What about buildings and structures? The staff proposed language in 16.3.8 differs from the existing ordinance in that it provides exceptions to the presumption of contributing status. 16.3.8.B, proposes an exception to the presumption of a contributing classification if the structure was substantially altered within 50 years. We believe there should be some requirement that it was lawfully altered, particularly if it was altered after the date of designation. An applicant should not be able to significantly alter a building without the necessary permits and still qualify for the exemption. This does not appear to meet the minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> .
17.5.10 Time Limits	<i>No equivalent paragraph</i>	We believe general language that will move the process along in good faith or expeditiously should be included.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.6. Interim Protections 1 - Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council... 2- outlines process for pending applications and pending building permits.	16.4 Interim Protections only requiring minimum maintenance and protection from demolition until City Council decision.	The staff proposed language differs from the existing ordinance by altering the Interim protections. As proposed only minimum maintenance and protections from demolition would apply from nomination until City Council action. It proposed to delete the full protections that currently are in place as soon as the HPB recommends designation to the PB. Staff's proposal will encourage major alterations as soon as a resource is nominated but before final designation by the City Council, which can be an extended process in the case of a historic district. We believe the language "Upon final action of the Historic Preservation Board recommending designation, the site, structure, object, or area nominated shall be subject to all of the protections of this article until a final decision on designation by the City Council" should be included.
17.6.2 AND 17.6.3 National Register Listed and Eligible properties. NRHP listings become automatic nominations.	16.5 Protections for Properties listed on the National Register of Historic Places. Upon receipt of notice from the NPS or MHPC that a property or <u>area</u> has been listed on the National Register of Historic Places or has been determined to be eligible for listing on the NRHP.... Exception D. The City Council has held a public hearing at the request of the owner and determined that demolition of the structure or object is consistent with the goals of the Comprehensive Plan.	Again, what does "area" in this context mean? Historic District? Be consistent with terminology to provide clarity. This section in particular needs review by MHPC. The proposed language states that NRHP listings or properties with a DOE are not allowed to be demolished, with exceptions. The proposed language does not provide review of relocation, alterations or other actions for those properties. We confirmed that MHPC is passing DOEs along to the city, but this staff proposed language doesn't state if newly listed (or eligible) National Register properties fall under the ordinance once they are listed or as stated in the existing ordinance, that a nomination is deemed submitted and the procedures for nomination should be followed. We understand that the city has not been routinely following the existing requirement of the ordinance for local nomination. The <i>Guidelines for the CLG Program in Maine</i> set out minimum duties of the local review commission to "review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction". <i>Guidelines for the CLG Program in Maine</i> sets out that minimum requirements for local legislation include "mandatory review of alterations, demolition, building relocation or new construction (Certificates of Appropriateness)- within the boundaries of designated individual landmarks or districts or which may affect such landmarks or districts". We believe that new NRHP designations should be considered by the HPB as a nomination for local designation as the existing ordinance requires or in some other manner be protected from alterations by the ordinance as they are designated historic properties. This exception does not include any preservation criteria related to significance or integrity, nor does it weigh in the reuse potential of a building. By this standard for example, Deering High school, a NRHP-eligible building could be demolished for a new consolidated high school or any other use. We believe this does <u>NOT</u> meet the CLG guidelines and should be removed as an exception.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
17.7.1.A. Certificate of Appropriateness spells out explicitly what requires a CoA	16.6.1 Applicability	The existing ordinance is explicit in what activities require a CoA. The staff proposed language in 16.6.1 only seems to apply if a permit is otherwise required. This would no longer regulate activities that don't require a building permit. This language is a <u>major change</u>. With this staff-proposed language <u>and</u> the deletion of the current definition of "Alteration" (which included specifically listed non-building permit changes) a Certificate of Appropriateness would only be needed for work that would require a building permit. The changes to the definition of alteration which informed the current definition of Certificate of Appropriateness, which has also been removed is problematic and has significant impacts. This would be a significant change and does not appear to meet the minimum requirements for a Local Review Commission per the <i>Guidelines for the CLG Program in Maine</i> to review alterations, relocation, demolition, and other actions affecting designated historic properties under its jurisdiction
17.7.2 Exceptions to Requirement of Certificate of Appropriateness <i>Exceptions:</i> 17.7.2 B. Where the work consists solely of ordinary maintenance and/or restoration, provided that there is no substitution of materials or alteration of architectural details.	16.6.1 Applicability <i>Exemptions:</i> 16.6.1 A. Work consisting solely of ordinary maintenance, being acts of upkeep or repair which do not include a change in the design, material, or outer appearance of a site structure, or object, such as repainting of previously painted surfaces or in-kind replacement of materials or plantings. Adds 8 Exemptions: including work in City ROW, public art, vegetation in HLDs, roof mounted solar, temp structures (8 months), demolition and relocation on non-contributing structures.	What is the reasoning behind these new exemptions? Solar installations, heat pumps, and public art should be reviewed to ensure they are installed in a manner that is reversible and removable without damaging character defining features, including historic materials. ROW exceptions: This is not the current practice and is inconsistent with the requirements in 16.7.3.C.4. Streetscape, pedestrian improvements: <i>Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual.</i> This would remove review of historic materials used in crosswalks, the stone gutters in Baxter Boulevard, and Belgian pavers where they exist in the ROW. We believe that the ROW exemption should be removed to preserve historic materials where possible.
<i>No equivalent Section</i>	16.6.2 Review Classifications (and Table 16-A)	- How were the numerical limitations determined? For instance, 25% could be the storefront of a 4-story or less building. Is the intention that a storefront alteration could be a staff review? - What about Landmark building reviews – are they to all be Board reviews? - Signage – does "all" include new construction? Often the board provides guidance on building signage design concepts as part of the overall design scheme.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark’s Comments
No equivalent Section	16.6.2 Review Classifications (and Table 16-A)	We believe some of the potential staff reviews as laid out in Table 16-A should have the opportunity for public comment and review by the board, as they can alter a significant portion of a structure.
No equivalent Section	16.6.3 Historic Preservation Pre-App Meeting	This is a good addition.
17.7.4 Applications for CoA	16.6.4 Applications	
17.3.1.A. Any project may be subject to fees as established by the City Council to cover administrative costs and the costs of Historic Preservation Board review. Applicants shall also pay a fee to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the applicant for such costs incurred by the City, which invoice shall be paid promptly by the applicant. 17.3.1.B Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.	16.6.5 Costs review. Applicants are also required to pay fees to cover the professional and administrative costs for analysis associated with project review, including but not limited to planning, legal, or other services as needed.	Does this change reflect similar board language for ZBA or PB?
17.7.4.F Once a completed application has been submitted, it shall be diligently pursued. Failure of an applicant to attend two or more Historic Preservation Board meetings at which an application is scheduled for review shall cause the application to expire and to be deemed null and void, unless the Planning Authority determines that good cause is shown	16.6.6 Lapse in Application An application for a certificate of appropriateness shall be diligently pursued from the date of submission. Applicants shall provide additional information as requested by the Planning Authority or Historic Preservation Board when determined to be reasonably necessary to make any	Does this change reflect similar board language for ZBA or PB?

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
for the failure to attend. Where good cause is shown for a failure to attend, the Historic Preservation Board shall table an application to a date mutually agreed upon in writing.	determination required by this article. Failure of an applicant to provide a response to the request for additional information within 120 days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.	
17.7.5 Review Process for Certificates of Appropriateness. 17.7.5.A. ... shall be reviewed by the Planning Authority for compliance with the standards of Section 17.8 <u>and</u> the <i>Historic Resources Design Manual</i>. 17.7.5.A.2 Staff may elect to forward to the board an application found by staff to meet review standards but for which board confirmation is sought. The application shall be placed upon the next consent agenda of the Historic Preservation Board. Any member of the Historic Preservation Board may remove an application from the consent agenda for the purpose of giving it a public hearing.	16.6.7 Administrative Review ... shall be reviewed by the Planning Authority for compliance with the standards of Section 16.7. <i>deleted</i>	The existing ordinance states that a project must meet the standards of Section 17.8 <u>and</u> the <i>Historic Resources Design Manual</i>. The staff proposed language in Section 16.7.1.A, states the Historic Resources Design Manual supplements the ordinance. Although similar language exists in 17.8.1. removing the “AND” in this earlier section and just referencing Section 16.7 has changed the standards for review. We believe that projects should comply with the standards in the ordinance <u>AND</u> <i>Historic Resources Design Manual</i>, which may include additional standards specific to a designated property as part of a designation report. The Historic Resources Design Manual should be specifically incorporated by reference into the review standards, and should not just vaguely be said to “supplement” the ordinance as in the staff proposal. Why is staff proposing to eliminate the option to use the consent agenda with staff reviews?
	16.6.8 Historic Preservation Board Review A) An application for a certificate of appropriateness subject to Historic Preservation Board review shall be reviewed by the Historic Preservation Board for compliance with the standards of Section 16.7.	Please see our comment in 16.6.7 above. This section provides an opportunity to provide clear concise language about the required standards. The most comprehensive existing language is in 17.8.2. “In considering an application for a Certificate of Appropriateness involving alteration, the Historic Preservation Board and the Planning Board shall apply the following general standards, as further described in the <i>Historic Resources Design Manual</i>, and any design guidelines accompanying the specific designation” This seems like the standard to use, not just those enumerated in Section 16.7. As mentioned in our comments above, the staff language proposed in this draft is not as explicit as the existing ordinance regarding what information is in the Historic Resources Design Manual and that the manual may include resource specific criteria (See 17.8.1 and 17.8.2)

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
	16.6.12. Issuance of a CoA	Currently a 14-day time period, proposed to be removed.
17.3.1.C No Certificate of Appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the issuance of any temporary or permanent certificate of occupancy.	16.6.12.A No certificate of appropriateness, building, demolition, or other permit shall issue until all current charges due under this article have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the issuance of any temporary or permanent certificate of occupancy.	Currently located under 17.3 Administration, Section 1 'Costs'.
17.7.6 B Unless work authorized by a Certificate of Appropriateness shall be commenced within <u>six months</u> of the date of issuance of the Certificate of Appropriateness, the Certificate of Appropriateness shall expire and shall become null and void. The Planning Authority may approve <u>additional extensions of this six month period, not to exceed a total of two years,</u> provided that a written request for extension is received prior to the expiration date of the Certificate of Appropriateness. In the event of litigation arising out of the granting of a Certificate of Appropriateness, the certificate shall remain valid until one year after the entry of final judgment in the	16.6.13 Expiration of approvals A. Unless work authorized by a certificate of appropriateness is commenced or a building permit for the same is issued within <u>three years</u> of the initial date of issuance of the certificate of appropriateness, the certificate of appropriateness shall expire and shall become null and void. B. When the approved work also requires a site plan approval under Article 13, the expiration of the certificate of appropriateness shall be concurrent with the site plan expiration. C. In the event of litigation arising out of the granting of a certificate of appropriateness, the certificate shall remain valid until one year after the entry of final judgment in the	The expiration is proposed to change from six months to three years. This seems like a dramatic extension. Does it reflect a current administrative problem of approvals running out for projects often? Perhaps it makes sense to require that work commence within two years, the current not-to exceed amount, with the opportunity to extend for another 12-months. Is this current practice? Or does it clear up a current administrative issue? Does this change reflect similar board language for PB?

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
litigation <u>or until the end of the two-year period, whichever is later.</u>	litigation or until the end of the <u>three-year period, whichever is later.</u>	
17.7.8 Amendments to approved CoA	16.6.14 Amendments	The staff proposed language in 16.6.14.B. and 16.6.14.C. is not language in the existing ordinance but seems to represent current process. We believe providing this clarifying language will help to avoid potential confusion regarding what constitutes a minor or major amendment to an approved plan and what the review process for amending an approved plan will be.
17.7.7 Cert. of Non-Applicability	<i>No equivalent section</i>	
	16.7 Standards for Review of Application for Certificate of Appropriateness	The Historic Resources Design Manual is only partially incorporated. Sections 16.7.1 and 16.7.2. describe what the Historic Resources Design Manual is, but unhelpfully say the manual supplements the ordinance and deletes the portion of the standard that says “ in review of alterations they shall review in accordance with the Historic Resources Design Manual AND any design guidelines accompanying the specific designation”. There should be consistent terminology used to define what the review standards are within the proposed text of Chapter 16. The design manual is incorporated more completely in relation to signage (19.3.4 and 16.7.3B5) and streetscapes (16.7.3 C4). Please see our comments regarding 16.6.7 and 16.6.8. above.
17.8.2.A Standards for Review of Alterations – Compatible Use Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment <u>or to use a property for its originally intended purpose.</u>	16.7.2.A. Compatible Use In the case of a change of use of a property from its originally-intended purpose, every reasonable effort shall be made to minimize the alteration of the character defining features of the structure, object, or site and its environment <u>as they relate to the original use.</u>	This staff proposed language is unclear. If the paragraph in the existing ordinance needed to be edited for brevity, we would propose that the staff proposed draft use the following NPS language, it's succinct, less words than proposed, and standard preservation language. “A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.”
17.8.3. Standards for Review of New Construction: <i>6. Applicability to Congress Street Historic District.</i> In the Congress Street Historic District, for new construction within the B- 3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.	16.7.3 Standards for Review of <u>New Construction</u>: 16.7.3.A.6 Applicability of underlying zoning <u>The review standards above shall not supersede the dimensional requirements of the underlying zoning.</u>	This would be a <u>major change</u> in the review standards so that the zoning dimensional standard always trumps historic preservation board considerations in all historic districts, where currently it only applies in three specific locations: For Congress Street, with the variety of height in the district and the downtown height study, it was reasonable to let the underlying zoning determine height. The India Street Historic District and Portland Company Historic District similarly were in areas where a height study had been undertaken to examine the existing context and create a framework for the underlying zoning dimensional standards. This kind of assessment has not been done on a broad scale in other zoning districts where historic resources are located.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark's Comments
7. <i>Applicability to India Street Historic District.</i> For new construction within the India Street Historic District, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure. 8. <i>Applicability to the Portland Company Historic District.</i> For new construction within the Portland Company Historic District, the height requirements of the B-6 Building Height Overlay & Building Envelopes map shall be controlling and the Historic Preservation Board shall not impose conditions more restrictive than the building height requirements of the B- 6 zone.		The Historic Preservation Board needs the flexibility to require design approaches that minimize the non-compatible scale and form that sometimes occurs when old and new structures are juxtaposed in order to meet the compatibility requirements of the ordinance. We strongly believe that the standards for review of new construction <u>should remain as is</u>, currently allowing discretion to restrict a new construction project to less than the maximum dimensions allowed by the underlying zoning, with the retention only of these three notable existing exceptions (Congress Street, India Street and Portland Company). A height and massing assessment has not been done on a broad scale in other zoning districts where historic resources are located. “New construction” is without a definition in proposed 16.7.3. Currently the definition includes "comprehensive redesign/renovation of an existing structure." This is a proposed change, and we believe a definition in Chapter 3, or definition within the text of Chapter 16 could help to provide clarity lost with the elimination of the definition.
	16.7.3C. 4 .Streetscape, pedestrian improvements. Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the <i>Historic</i>.	This proposed provision is inconsistent with the proposed language in Section 16.6.1 “Applicability”. This is an appropriate provision to remain in the proposed draft and Section 16.6.1 should be revised to be made consistent with this provision. We believe that streetscape features, furniture, paving materials, and other pedestrian improvements in historic districts should continue to be reviewable. While modern streetscape elements like bus stops, crosswalks ATMs etc. have been approved, their review of location has been important and allows for public comment on projects that would not otherwise have public input. Even if the review is at the staff level, it codifies a working relationship between the Historic Preservation Program, Public Works, Transportation Planning, and others with interest in the ROW. In addition, projects like the Wharf Street paving project impact a significant character defining feature of the Old Port, and while not all the materials there are historic, it is a prominent streetscape that is valued by locals and tourists, providing an operational function for businesses and a positive pedestrian experience with outdoor dining options. Not reviewing a project such as that and as well not offering the opportunity for public input is problematic.

Existing H.P. Ordinance (Chapter 17)	Staff Proposed H.P. Ordinance	Greater Portland Landmark’s Comments
17.9 Certificate of Economic Hardship To be approved by Board of Appeals	16.8 Certificate of Economic Hardship To be approved by Historic Preservation Board	This is a <u>significant change</u> . How do other Maine CLG communities handle this provision?

May 29, 2024

Chair O'Brien and Members of the Portland Historic Preservation Board,

We welcome the opportunity to provide written comments on behalf of our members regarding the proposed amendments to Article 16 of the City of Portland's Land Use Code being advanced under the ReCode initiative. Increasing the production of housing of all types is the top policy initiative of the Chamber, and as you know, your Board plays an important role in the permitting of housing within Portland's historic districts. It is imperative that the amendments advanced to Article 16 through ReCode affirmatively further the goals of our comprehensive plan and the priorities of our elected officials, both of which strongly prioritize the creation of thousands of units of housing over the next decade.

The draft before you from staff advances several key changes that we believe will streamline review of alterations, adaptive reuse, and new construction within Portland's historic districts. Most importantly, the clarification of standards of review and scope of jurisdiction are welcome amendments that will go a long way towards removing subjectivity from the current process that leads to delays that cost applicants considerable amounts of time and money. Additionally, we appreciate the elimination of the existing criteria for designation on Page 55 of the redline PDF that currently allow for historic districts to be assembled through the amalgamation of various building types regardless of the individual merit of structures and even if the proposed district is "composed of a wide variety of resources". This change significantly limits potential for abuse in the designation of districts which do not contain any sufficient cohesiveness among style, period, or type of building, and which are only currently able to be designated based off this vague standard. Finally, we appreciate the addition of the new criteria in 16.2.2.C that clarifies the applicability of all sections of the comprehensive plan when making designation decisions.

With that said, we do want to raise some concerns that persist with the current draft. The largest disappointment in this draft as written is that it continues to provide jurisdiction to the Board for review authority over new construction and alterations to non-contributing buildings where more than 40% of the façade is altered. The Board rightly has jurisdiction around alterations and additions to historic structures which we do not question. However, in recent years the subjective deliberativeness that the Board has applied to new construction within historic districts has significantly exacerbated permitting delays and cost increases for developers of new housing, such that policymakers would be wise to revisit if these applications are still well suited to come before it for review. Since 2020, the Board has reviewed 19 applications for new construction within historic districts, nine of which have involved at least three meetings with the board, and four of which have not come back to the board after having been put through one to two workshops. That means that of those 19 applications, just six were processed in what can be considered a reasonable review period of one workshop and one public hearing. In some cases, applicants have had to come to the board more than four times for projects as small as a five-unit multifamily building. These unacceptable delays present considerable cost challenges for developers of small multifamily buildings within historic districts, undermining citywide goals of increasing production of this type of gentle density within our historic neighborhoods.



Additional recommendations that will streamline permitting in historic districts to aid in the production of housing include:

- **16.6.8.C:** Consider adding to the end of the subsection “and provide direction to the applicant regarding issues to be addressed to bring the application into compliance with the relevant standards of Section 16.7.” This necessary addition will clarify that the Board must provide feedback at workshops specific to the standards. In several recent cases of the Board feedback, the applicant has been left with subjective criticisms from various Board members that do not directly address which standards the member believes the applicant is not complying with, creating confusion that leads to needless additional rounds of workshops. Board feedback in workshops must be explicitly tied to the relevant standards to reduce the number of workshops needed.
- **16.7.3.A:** Strike all standards in this section except for 16.7.3.A.6. That subsection is a welcome addition to the code, but its addition obviates the need for subsections 16.7.3.A.1-16.7.3.A.5. This draft wisely makes clear that the Board is unable to impose standards on the applicant that would require reductions to the building envelope beyond restrictions present in the base zoning, and thus there no longer need to be standards that even mention the ability for the Board to analyze dimensional components of a building like height and width. This current source of confusion has been a key driver to the lengthy review process the Board has undertaken on applications for new construction and making explicit that the Board cannot force an applicant to reduce height and width or increase setbacks and step backs must be clear and enforceable. If the Board is to continue to have jurisdiction over new construction, the standards in sections 16.7.3.B & 16.7.3.C are more than sufficient to ensure compatibility with the aims of a historic district.

Additional questions we have that we would appreciate answers to in upcoming review workshops before the Historic Preservation Board and the Planning Board include:

- In the draft proposed 16.2.2.B why is “condition” being removed as a criteria for a nominated area, site, structure or object?
- In the draft proposed 16.3.8 why is there a presumption that structures or objects in an area or site are contributing? Shouldn’t all structures have the test of the standards in 16.2.2 applied and explicitly listed in the City Council order before they are locked into a potentially irreversible designation as contributing?
- This draft removes all references to the *Historic Design Manual*. Is the intent that this manual will no longer be applied as a consideration when reviewing an application and that only the standards within the code will be applied?

We thank the Board for your service to the City of Portland and we trust that you will review this draft with an utmost focus on what is best for the future shared prosperity of the City of Portland and its residents.

Sincerely,

Quincy Hentzel
President & CEO



Evan Schueckler <evans@portlandmaine.gov>

HP Public Comment: PLEASE DISMANTLE THE WHOLE PRESERVATION REGIME

George Rheault <george.rheault@gmail.com>

Tue, Jul 16, 2024 at 10:04 AM

To: Historic Preservation <hp@portlandmaine.gov>, Evan Schueckler <evans@portlandmaine.gov>, Kevin Kraft <kkraft@portlandmaine.gov>

In contrast to Peter Murray's comment about "don't try to fix something that isn't broken" - I would like to make clear that the city's historic preservation is COMPLETELY BROKEN and well past its sell-by date and should be dismantled completely.

Greater Portland Landmarks is basically a front for real estate interests and has very little regard for actual history OR the plight of the many citizens of Portland who do not have the money or resources to buy expensive houses on West Street within a few blocks of the Western Promenade and then spend years making sure the real estate value of such houses continues to escalate beyond all reason.

It should be also noted that Peter Murray's recent game is very transparent: (STEP #1 - build expensive contemporary-style home in non-historic neighborhood; STEP #2 - rile up neighbors to lobby for an expansive historic district covering same neighborhood; STEP #3 - get OWN building listed as "non-contributing" while ensuring that no one else can build anything similar in neighborhood; STEP #4 - cash in on the artificial scarcity created as home value skyrockets due to stifling of competition from any new housing product being introduced into now "historic district" neighborhood)

It has been patently obvious to anyone not getting a salary/income or a big home equity windfall, that the historic preservation regime in Portland since 1990 has suffocated the local economy and destroyed countless opportunities for a healthy, vibrant, diverse/well-balanced community.

Nothing says "regulatory capture" more than a "ReCode process" that basically involves affluent homeowners and a private non-profit advocacy organization basically working hand-in-glove with self-interested staff to preserve all their privileges and control over much of the city's existing built environment at the expense of virtually every other policy goal that a community concerned about a sustainable future would like to push.

It cannot be repeated enough that the 1990 preservation ordinance was put in place during a massive regional commercial real estate collapse (coincident and intertwined with a collapse of the entire State of Maine's banking industry). Local preservation advocates were aghast at the brief building "boom" (more like a loud lawnmower) of the 1980s and took full advantage of the disarray in the local business community during the regional recession (recall that the Chamber of Commerce was in such a mess in the late 1980s that it had to sell its 142 Free Street headquarters in 1991 just to unbury itself from financial doom). The result was a preservation ordinance that was a smorgasbord of preservation gibberish that did exactly what it was supposed to do: erect massive barriers to any organic and expeditious change in the city's historic core such that anyone wishing to do much of anything had to answer to the preservation cops before moving forward.

The worst thing about this entire "ReCode process" with respect to the historic preservation ordinance is the complete absence of real-world examples and actual project case studies.

We all know the "impact on housing" historic district "study" was a complete, "garbage-in, garbage-out" sham. The consultant openly admitted this during a videotaped public meeting (one that prevented public comment via the "communications/reports" agenda cop-out) whereby they made clear they engaged in no independent analysis outside of what the planning staff directed them to do.

Why no discussion of the ACTUAL history of the historic tax credit program since 1990 and any kind of assessment of its costs/benefits, especially to smaller projects (less than \$2 million is probably the right threshold in 2024 dollars)?

- Anyone know the status of the historic tax credit application for 54 York Street?
- How about Sagamore Village? (Portland Housing Authority)
- 30 Lafayette Street? (Munjoy Hill Historic District)

What are we obsessing about "certified local government" status when planning staff have not even bothered to show the HPB or the public a chart of ALL existing historic districts and which ones have been certified by the NPS? The vast majority of our local historic designations do not benefit at all from CLC status due to the lack of certification.

Anyone want to talk about the Williston-West Church saga? Any lessons there about how the HP and restrictive Western Prom segregationist zoning works in tandem to stifle development in an affluent neighborhood to serve ONLY the interests of local incumbents and no one else in the City of Portland?

We absolutely need to exempt "new construction" from any HP meddling - either staff or HPB-level. The HPB has no expertise here that allows it to substitute its judgment over others in our community for what should surround "the old stuff" and it is even more hilarious (and deeply deeply sad) that many of our historic districts celebrate the eclecticism and juxtaposition of differing styles, forms, massings and heights in designated areas while VIRTUALLY PREVENTING such further opportunities with the obsessive focus on "submissiveness" and "quieting" of any contemporary architectural expressions so as not to impact the property values and prior investments made by others in their historic hobby-horses.

Lastly, while the chart of staff responses to various public comment emails is helpful, the ACTUAL EMAILS need to be produced so that the public can fully understand the regulatory capture and "buddy-buddy" nature of the correspondence that has been ongoing between HP and senior planning staff and outside preservation lobbyists.

It is absolutely glaring that ordinary citizens have largely been shut out of this years-in-the-making examination and potential updating of the HP regime - which is of course how the whole HP industry wants it. The buzzwords and arcane legalase of the HP jargon is meant to shut regular people out of this whole effort just as much as the HP ordinance is meant to shut regular people out of expensive historic districts or, if they are let in, that their behavior and existence can be carefully controlled and monitored by an elect class of John Calvin Stevens Society donors and overseers.

Greater Portland Landmarks Comments on Portland ReCode Phase II Draft

August 1, 2024

Greater Portland Landmarks supports a comprehensive update to the City's Land Use Code to make it more user-friendly while advancing goals of the city's comprehensive plan, including promoting more equitable housing production and transit-oriented development, fostering resilience in the face of climate change and supporting the working waterfront, and of course, promoting historic preservation as well as good new design in Portland.

Landmarks has carefully reviewed the draft ReCode Phase I and II, submitted comments, and worked with staff. We greatly appreciate your time and responses to our comments and concerns. As the Phase II Draft is being finalized, we would like to reiterate our primary recommendations, in particular to support the effectiveness and accessibility of the historic preservation ordinance, and the City's ability to retain its Certified Local Government status.

Chapter 16 Historic Preservation

Given the public and economic benefits of preserving and fostering Portland's special historic character, we are particularly focused on proposed changes that could weaken the city's historic preservation ordinance or threaten our status as a Certified Local Government (which supports investment in and benefits owners of historic structures through tax credit opportunities, among other advantages). Our primary recommendations are to maintain language that clearly describes the purpose and benefits of historic preservation and defines evaluation and review standards for landmarks and historic districts, and that limits review of designation amendments or rescissions to specific criteria.

We strongly recommend including a full description of the purpose of historic preservation as is included in the current ordinance. As drafted, many public, cultural, and economic benefits of historic preservation are not mentioned, and this is an important place to highlight these benefits for people who need to interact with the regulations and understand why they are necessary.

Further, we recommend maintaining a set of clear definitions of terms that are used in Chapter 16, rather than just embedding them in the body of the text. The definitions could move to the end if needed for the flow of the chapter and having process information readily accessible.

In section 16.2.2 Criteria for Designation, rephrasing criteria to create clear subheadings is helpful, however we caution that engineering significance is somewhat lost in this format and recommend that *4. Significant Architecture* should clarify that significant works of engineering are also included

Greater Portland Landmarks' mission is to ensure that Greater Portland preserves its sense of place for all and builds vibrant, sustainable neighborhoods and communities for the future.

consistent with National Parks Service criteria for listing in the National Register (such as a bridge, or structure that isn't a building).

It should also be clear that landmark and historic district designation only impacts the exterior of a building, that the HP Board does not regulate work that only impacts the interior.

The current ordinance notes that the City Planning Board and the City Council may consider proposed designations based on criteria for significance and integrity as well as "historic preservation goals" and other aspects of the City's comprehensive plan. This has been a reasonable policy especially for historic districts, which do impact elements of the City's comprehensive plan, and we support it remaining in place. (We also urge that the current language with specific reference to the "historic preservation goals" within the comprehensive plan remains, as a reminder that the City prioritizes historic preservation along with other important goals).

Language in the proposed ReCode plan (16.3.7.D, and by reference 16.2.2.C) would also allow consideration of the comprehensive plan in designation amendment and rescission applications, for example to change the contributing status of a building within a historic district for reasons other than its integrity or significance. We have heard from the Maine Historic Preservation Commission (MHPC) that this language constitutes the same result as a "project of special merit" provision, which was for hears a barrier to Certified Local Government status and was specifically removed for Portland to become a CLG. We feel very strongly that once designated, a process that involves consideration of the City's comprehensive plans and the historic preservation goals stated within it, rescission and amendments standards should remain limited to the minimum criteria for designation and the integrity standard and be so stated in very clear language within the ordinance. We appreciate your commitment to retaining Portland's CLG status and are happy to work with you and MHPC as you finalize the updated code.

The current ordinance provides a mechanism by which properties listed on the National Register are forwarded to the Historic Preservation Board for consideration as local landmarks. Understanding concerns by MHPC that an automatic path to local designation from National Register is not consistent with National Park Service standards or CLG requirements, we recommend including language to ensure communication with the MHPC and keeping an inventory of listed and eligible sites for consideration.

Dimensional Standards, Neighborhood Zones, and Transit Oriented Zones

We support proposed changes that would permit commercial uses at strategic locations in residential neighborhoods and recreate the historic mix of uses that developed in many of Portland's historic neighborhoods. We support proposed dimensional changes that build upon the characteristics of older neighborhoods that were of necessity built close to a variety of designations, including public transit, and believe examples like those off Brighton, Washington, and Forest Avenues are good models for a more transit-oriented city. These contain examples of multi-family and mixed-use buildings that support the city's goals to create opportunities for a variety of housing types and denser neighborhoods.

While many of the proposed changes in the ReCode draft focus on catalyzing new construction, also important to Greater Portland Landmarks is how the new rules will 'legalize' non-conforming historic

buildings, especially in older neighborhoods off the peninsula, many of which have been determined eligible for listing in the National Register. The land use code should incentivize retention of existing residential structures to the degree possible, furthering sustainability goals and protection of local fabric and character, including diverse affordable housing options in the city's residential neighborhoods. Teardowns have adverse environmental effects, including increased solid waste and energy impacts that do not support the City's sustainability goals.

We urge that the Land Use plan provide guidance for new construction in older neighborhoods that not just fill the permitted building envelope, but integrate into the existing fabric and street patterns, even if it is larger in height or mass. We agree with the goals of encouraging "compatibility and context sensitivity" referenced in the draft residential neighborhoods' purpose statements, and the statement in Camiros' Recode Phase II Land Use Code Evaluation Report that, *"it can include thinking carefully about the design and context of development in Portland, helping to ensure that the essential historic fabric of the city remains intact and that — though architectural styles may vary — new development remains authentic to the local character and complementary to the Portland vernacular."*

We find that those concepts are only partially operationalized in the current draft and note that they are particularly absent in the proposed RN-5 zone. The design manual, with its focus on the examination of context, will be crucial to facilitating the successful integration of new development into existing neighborhoods. We look forward to seeing the updated design manual and hope it will be brought forth for adoption in tandem with the land use code. Referencing the design standards explicitly within the dimensional standards section will be important.

We also urge that the dimensional standards measure building height from the predevelopment grade throughout the city, and in determining front setbacks in neighborhood zones, that new regulations do not lead to new construction vastly differing from or breaking the general pattern along a street. For example, the proposed front setback language of "average of adjacent front yards, +/- 5 feet", in some cases would allow new buildings to be at or near the sidewalk, which along with extra height allowances has the potential to exacerbate the feeling of a new dwelling being out of context.

The zoning guides and additional graphics in the proposed sections are very useful and we recommend modeling the proposed changes in various zones as well so that the public will understand what is permissible.

Thank you very much for considering our views, I look forward to working with you to support historic preservation, planning, and design in Portland.

Sincerely,

A handwritten signature in black ink, reading "Kate Lemos McHale". The signature is fluid and cursive, with a long horizontal line extending from the end.

Kate Lemos McHale
Executive Director

STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
DATE: August 2, 2024
RE: 156 High Street/8 Deering Street – PUBLIC HEARING – Addition
PROJECT ID: HPBR-002801-2024
MEETING: August 7, 2024

Owner: Williston-Immanuel United Church
Applicant: Nathaniel Howes, Avesta Housing
Architect: Virginie Stanley, Invivid Architecture

A sign announcing the Historic Preservation Board's meeting on August 7, 2024 was posted at the property on July 26, 2024. A legal ad was published in the Portland Press Herald on July 26, 2024 and July 27, 2024, and 193 notices were sent to neighboring property owners within 100 feet of the subject property.

PROJECT SCOPE

Convert portions of existing parish house to housing.

Construct 3 story addition to rear of parish house on existing empty parcel fronting onto Deering Street Place. Addition to have a residential entrance off of Deering Street Place.

Addition Dimensions:

Overall Height: ~40'

Footprint: ~48' X ~55'

Material Specifications:

Foundation	Concrete
Siding	Polymer-based composite
Trim	Polymer-based composite
Roofing	Flat membrane roof
Windows	Vinyl
Doors	Not specified

SUMMARY OF HISTORIC CONTEXT

156 High Street, or the Williston-Immanuel United Church, was constructed between 1925 and 1927 following the English Perpendicular Gothic Revival designs of E. Leander Higgins. The complex replaced several 19th century brick and frame residential buildings. The church is constructed out of granite, fronting onto High Street with a tall belfry to the left of the gable end of the church. The nave extends towards the rear of the lot where it connects with the rear of the large two-and-a-half-story buff brick parish house which fronts onto Deering Street. At the corner of High and Deering, the church and parish house a granite cloister bridges between them, enclosing a small courtyard.



Figure 1: 2023 Google Street View showing the Williston-Immanuel United Church (Center) with the State Theater up High Street (left) and Deering Street to the west (right).

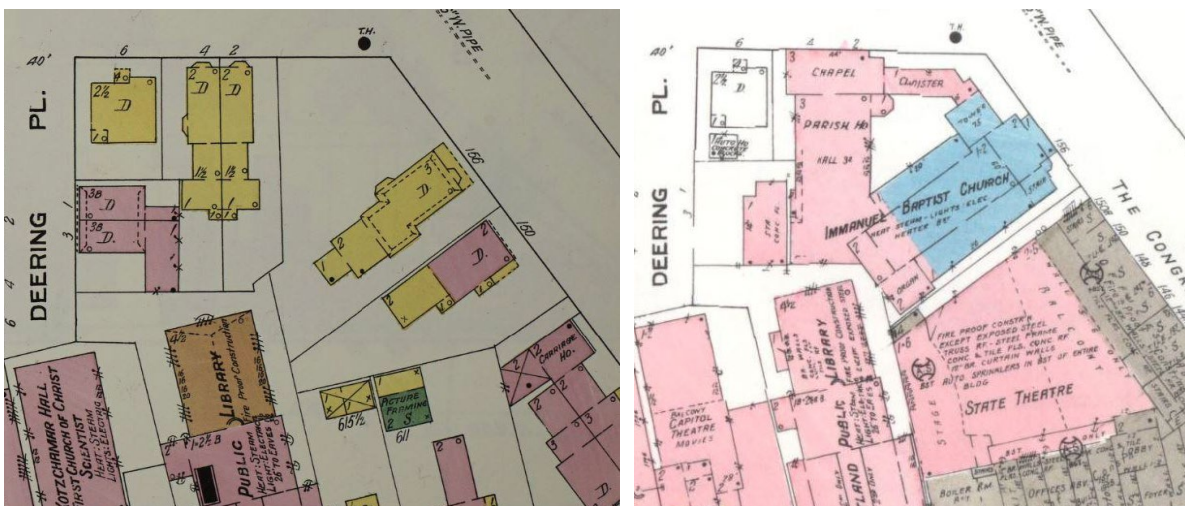


Figure 2: 1909 (left) and 1954 (right) Sanborn Fire Insurance Map details for 156 High Street showing the evolution of the corner from a residential context to a more urban commercial/institutional one.

The area of proposed development is at the rear of the church, fronting onto Deering Place. Until at least 1924, the parcel contained a two-and-a-half-story brick Second Empire double house. Between 1924 and 1954, the structure was torn down and replaced with a single-story brick building associated with the church, which has since been demolished itself.



Figure 3: 1924 Tax Photo showing the building that once stood on the empty parcel at 8 Deering Street. 6 Deering Street is visible at the left edge of the photo.

The site in question straddles the boundary between the Congress Street and Deering Street Historic Districts. The Williston-Immanuel United Church is a Landmark structure within the Deering Street Historic District, while the empty parcel proposed for development is located within the Congress Street Historic District. Regardless, the whole site has a strong visual relationship to both districts. The church is next to the State Theater and across from the Eastland Hotel which are within the Congress Street District. The proposed development site is only accessible from Deering Place from within the Deering Street Historic District, and has a direct visual relationship with 6 & 10 Deering Street. Any structure over two stories built on the site will also have some visibility from Congress Street over the noncontributing 625 Congress and the adjacent empty lot.

Given the location of this site at the edge of two adjacent districts, the Board should consider the visual relationship of the proposed building to both contexts.

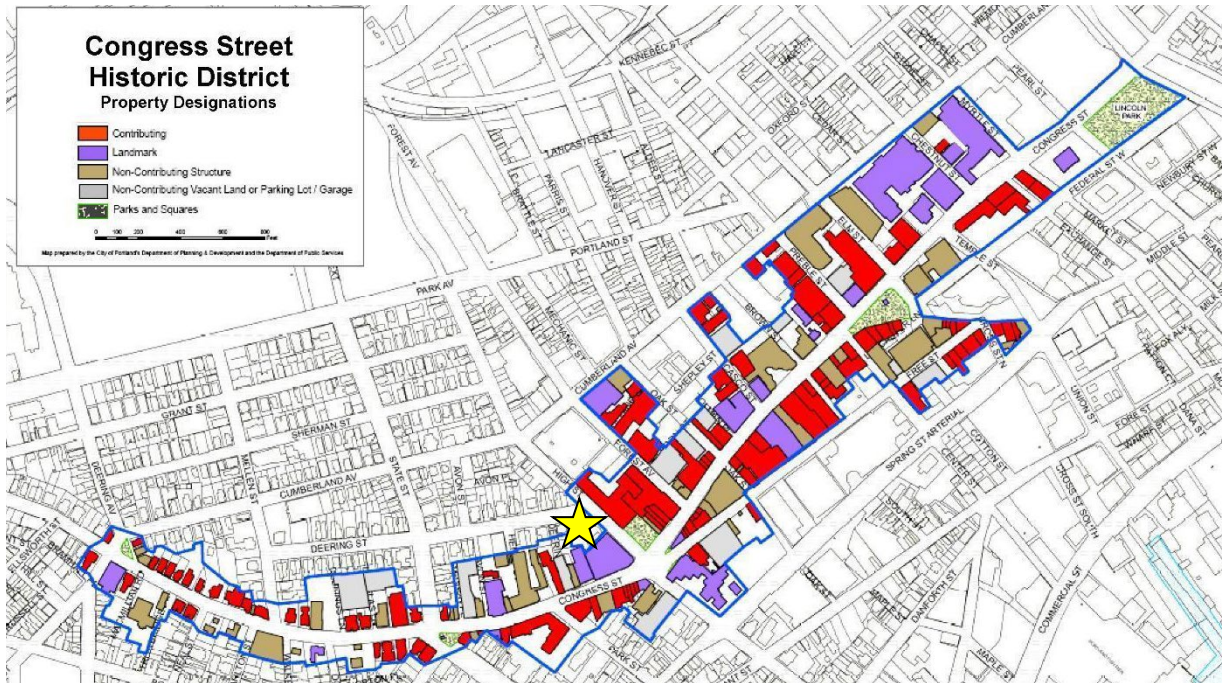


Figure 4: Map of Congress Street Historic District showing location of 156 High Street with a yellow star.

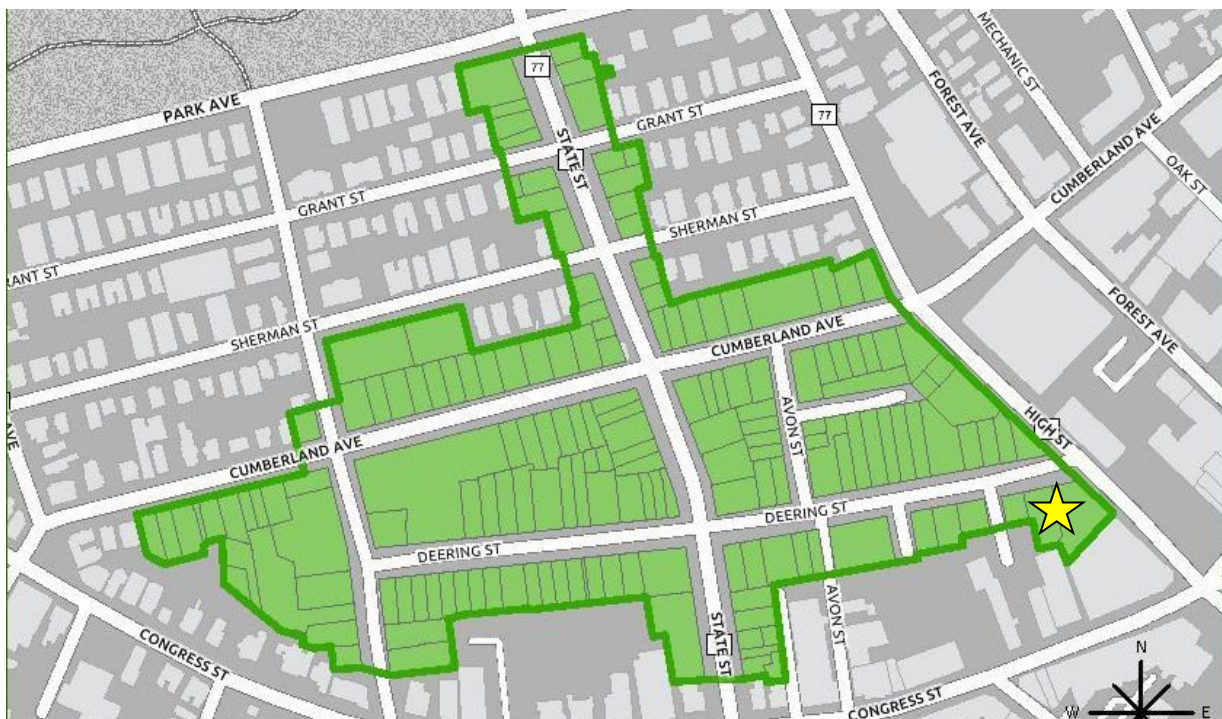


Figure 5: Map of Deering Street Historic District showing location of 156 High Street with a yellow star.

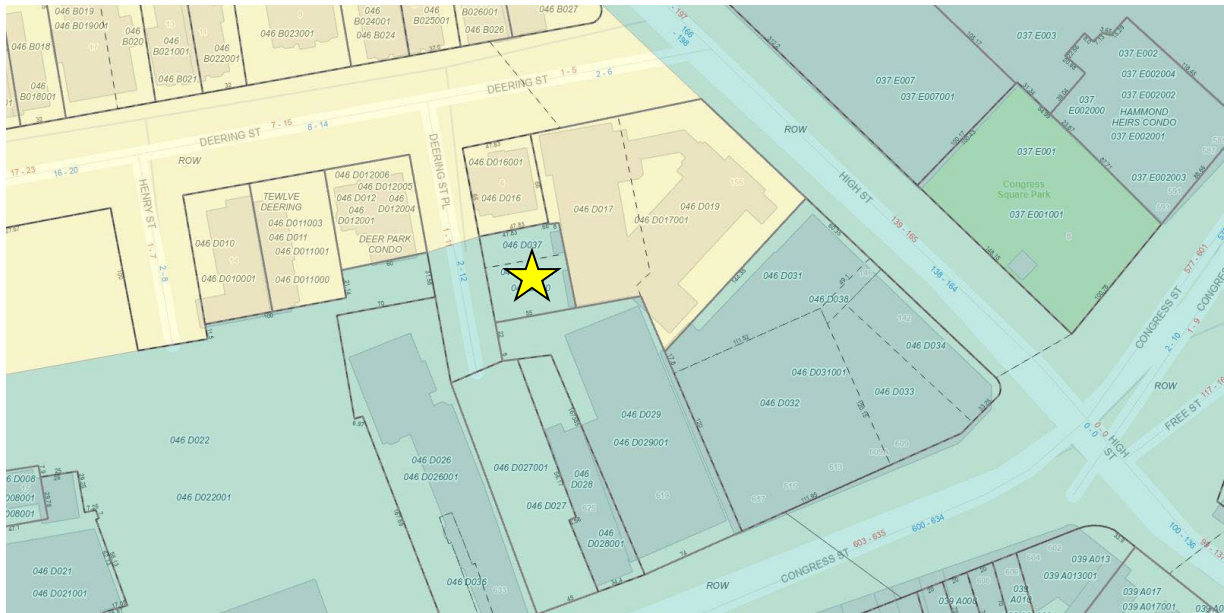


Figure 6: Map showing the shared boundary of the Congress Street (blue) and Deering Street (yellow) Historic Districts. The empty parcel proposed for development and located within the Congress Street Historic District is indicated with a yellow star. The Williston-Immanuel Church is located to the east (left) at the corner of High and Deering Streets within the Deering Street Historic District.

Congress Street Historic District

The visual character of the Congress Street Historic District is rich and varied thanks to a layered historical development over time. The result is an area with structures from the eighteenth to twentieth centuries, and representing nearly every style of American architecture ranging from Colonial to Post Modern. The district also represents a variety of architectural typologies including residential, commercial, mixed-use, civic, religious, and institutional at widely varied scales. Structures range from two stories to fourteen, generally exhibiting a greater concentration of high-rise buildings than any other Historic District in Portland.

Despite the variety of styles, period, and scales of architecture within the district, there are several urban design characteristics that serve to unify the area. First, with few exceptions, the structures that line Congress are built up to the street, creating a strong street wall and sense of enclosure. Second, the historic buildings exhibit high quality materials and a high level of craftsmanship. Third, the majority of the commercial structures, particularly those built during the 19th and early 20th century, share a basic visual organization with an identifiable base (storefront level), middle, and top (cornice or cap). The buildings that depart from these unifying elements are typically the oldest residential buildings that pre-date the commercial context, or civic/institutional buildings.



Figure 7: 2023 Google Street View of Congress Square Park, looking North along High Street and showing the variety of architectural styles and scales with Williston-Immanuel just around the corner from the State Theater (left).

Deering Street Historic District

The Deering Street Historic District represents a fairly homogeneous and cohesive grouping of large residences dating from mid-eighteenth century to the early twentieth century, punctuated by several large, late apartment buildings and churches. Buildings represent prevailing late-nineteenth century architectural styles including Italianate, Second Empire, Victorian Gothic, Richardsonian Romanesque, Queen Anne, and Colonial Revival.

Residential structures are predominantly of brick, though clapboard and shingled houses are interspersed throughout. Houses are relatively uniform in scale, ranging from two to three-and-a-half stories, and are typically setback slightly from the street. Symmetrically planned and squarish single or double houses are among the most common structures, with a variety of asymmetrically planned single family, duplex, or apartment buildings also typical. Additionally, a small number of larger, early twentieth century apartment buildings, such as at The Marlborough (180 High Street) and The Northgate (231 State Street), along with Sacred Heart Catholic Church (65 Mellen Street) and Williston-Immanuel United Church punctuate the district adding additional variety and interest.



Figure 8: 2023 Google Street View looking east on Deering Street, showing the uniformity of scale and materials in the district, with much larger and equally historic buildings in the Congress Street District within sight. Williston-Immanuel Church is located at the end of street, across from the Eastland Hotel.

Additional information on the Congress Street and Deering Street Historic Districts can be found on the city website: <https://www.portlandmaine.gov/665/Historic-Districts>

PREVIOUS REVIEW BY HISTORIC PRESERVATION BOARD

February 21, 2024, Workshop:

On February 21, the Historic Preservation Board held a workshop to conduct a preliminary review of the proposed addition at 156 High Street. The applicant was bringing the project forward at a conceptual level to receive feedback from the Board on whether the proposed height and scale could be accommodated as an addition to the historic Williston-Immanuel United Church. The Board responded favorable to the project, noting that the location of the parcel within the Congress Street Historic District and its proximity to historic buildings with heights ranging from four to fourteen stories meant that a tall structure could be accommodated. Board members suggested that if a taller building were to be pursued, a more contemporary approach to the buildings design might be more successful; however, some Board members also spoke favorably toward the more traditional Mansard-roofed design.

Board members did express some concern over the proposed first floor parking as being somewhat incongruent with the adjacent residential structures. They suggested that the applicant further explore ways to make the building base as solid as possible to minimize the appearance of a floating building. The Board also recommended looking at including a clear pedestrian entrance along Deering Street Place.



Figure 9: Rendering of the proposed addition as presented at the February 21, 2024 workshop.

STAFF COMMENTS

Since the first workshop, the applicant has significantly changed the scope of the project due to project considerations outside of the Historic Preservation Review. The parking at the first floor of the addition has been eliminated, with the middle three floors being lowered down to grade, and the fifth-floor units being relocated to the basement. The result, by staff's count, is a net loss of two units, but a net gain of five bedrooms.



Figure 10: Rendering of the proposed addition to be presented at the August 7, 2024 public hearing.

The revised design is extremely consistent in scale with the surrounding context. Buildings along Deering Street are primarily two to three stories in height. They tend to feature fairly simple massing with central entrances, regular fenestration, and strong cornices. The proposed addition features a simple rectangular mass, a new central pedestrian entrance along Deering Street Place, very regular windows, and a strong projecting cornice. The revised proposal has eliminated the parking at-grade. This has allowed for the incorporation of occupiable areas immediately along the street, as is typical in the nearby context, and the inclusion of a clearly identified pedestrian entrance at the center of the façade.

While the Board had been supportive of the originally proposed height of five stories (and had even encouraged that the applicant should explore additional height) the proposed addition is clearly consistent with the surrounding context while being subtly differentiated through simplified exterior details and the use of modern materials.

ANALYSIS OF APPLICABLE REVIEW STANDARDS

Standards for Review of New Construction, 17.8.3:

Standard A. Scale and Form	
1. Height	
The proposed height shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	
Standard Met?	Staff Comments
Yes	The addition is proposed to be three stories, as is typical of residential buildings along Deering Street and Place.
2. Width	
The width of a building shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	
Standard Met?	Staff Comments
Yes	The width of the proposed addition is in keeping with building widths seen along Deering Street and Place.
3. Proportion of principal facades	
The relationship of the width to the height of the principal elevations shall be visually compatible with structures, public ways, and open spaces to which it is visually related.	
Standard Met?	Staff Comments
Yes	The proposed addition will have a horizontally-proportioned façade as is typical of buildings along Deering Street and Place.

4. Roof shapes The roof shape of a structure shall be visually compatible with the structures to which it is visually related.	
Standard Met?	Staff Comments
Yes	The proposed addition will have a flat. Flat roofs are common within the Congress Street Historic District. While flat roofs are less uncommon within the Deering Street Historic District, low-slope hipped roofs are extremely common and from vantages appear as flat roofs.
5. Scale of a structure The size and mass of structures in relation to open spaces, windows, door openings, porches, and balconies shall be visually compatible with the structures, public ways, and places to which they are visually related.	
Standard Met?	Staff Comments
Yes	The scale of the proposed building is in keeping with the scale of buildings along Deering Street and Place. The structure is lower than many adjacent buildings within the Congress Street Historic District.
6. Applicability to Congress Street Historic District In the Congress Street Historic District, for new construction within the B3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.	
Standard Met?	Staff Comments
Yes	The Board was encouraging of a building in the five-six story height range; however, the applicant is now pursuing a three-story building.

Standard B. Composition of Principle Facades	
1. Proportion of openings The relationship of the width to height of windows and doors shall be visually compatible with structures, public ways, and places to which the building is visually related.	
Standard Met?	Staff Comments
Yes	The proposed addition will have vertically oriented windows, which is in keeping with the proportions of openings in both districts.
2. Rhythm of solids to voids in facades The relationship of solids to voids in the façade of a structure shall be visually compatible with structures, public ways, and places to which it is visually related.	
Standard Met?	Staff Comments
Yes	The proposed addition will have regularly arranged windows, with the walls slightly favoring solid to void, as is typical along Deering Street.

<u>3. Rhythm of entrance porch and other projections</u> The relationship of entrances and other projections to sidewalks shall be visually compatible with the structures, public ways, and places to which they are visually related.	
Standard Met?	Staff Comments
Yes	The addition is proposed to have a prominent recessed central pedestrian entrance as is typical of buildings along Deering Street and Place.
<u>4. Relationship of materials</u> The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in the structures to which they are visually related.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to use composite clapboard siding and trim. These proposed materials will be very similar to the materials used on historic frame structures in the Deering Street Historic District.

Standard C. Relationship to Street	
<u>1. Walls of continuity</u> Facades and site structures, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the structures, public ways, and places to which such elements are visually related.	
Standard Met?	Staff Comments
Yes	The proposed addition will retain some space between the adjacent structure on Deering Place, as is typical within the Deering Street Historic District.
<u>2. Rhythm of spacing and structures on streets</u> The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways, and places to which it is visually related	
Standard Met?	Staff Comments
Yes	The proposed addition will be generally in keeping with the rhythm of structures along Deering Street and Deering Place.
<u>3. Directional expression of principal elevation</u> A structure shall be visually compatible with the structures, public ways, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or nondirectional character.	
Standard Met?	Staff Comments
Yes	The proposed addition will have a generally horizontal expression given the horizontal siding and strong cornice. Horizontal expressions are typical of adjacent structures along Deering Street.

<u>4. Streetscape, pedestrian improvements</u> Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual.	
Standard Met?	Staff Comments
Yes	The sidewalk and associated areas along Deering Place will be treated consistently with the existing sidewalks per the City's Technical Manual.

Standard D. Other Standards	
<u>1. Compatible use</u> Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose.	
Standard Met?	Staff Comments
Yes	The proposed rehabilitation and addition will provide housing as is typical of both the Congress and Deering Street contexts. The proposed addition does not require alteration to or destruction of any significant features of the historic church structure.
<u>2. Distinguishing original character</u> The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The alteration of any historic material or distinctive architectural features should be avoided when possible.	
Standard Met?	Staff Comments
Yes	The addition is proposed to connect at an elevation of the building which is at the rear of the structure and distinctly more utilitarian than other facades being constructed of common brick rather than buff brick or granite. The addition will not interrupt significant architectural details, windows or doorways.
<u>4. Contemporary design</u> Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, material, and character of the property, neighborhood and environment.	
Standard Met?	Staff Comments
Yes	The addition is proposed to have a rather traditional design using clapboard siding, corner boards, and a strong cornice. However, the proposed character will be differentiated from the historic structures along Deering Street through simplified detailed and modern materials.

5. Additions

Wherever possible, new additions to structures and objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Standard Met?	Staff Comments
Yes	The proposed addition will require that new openings be created through a historic, but nondescript wall of the parish hall. Removal of the addition at a future date would require infilling of those openings. However, the addition will require little change to the essential form of the church building, leaving its overall form and footprint intact.

MOTION FOR CONSIDERATION

I move to APPROVE application HPBR-002801-2024 for an addition at 156 High Street/8 Deering Street on the basis of submitted documentation, plans, and specifications; information provided in the staff memo; and findings by the Historic Preservation Board that the project meets Standards for Review of New Construction 17.8.3 A.1-5, B.1-5, C.1-4, & D.1-5.

ATTACHMENTS

1. Drawings
2. Material Specifications

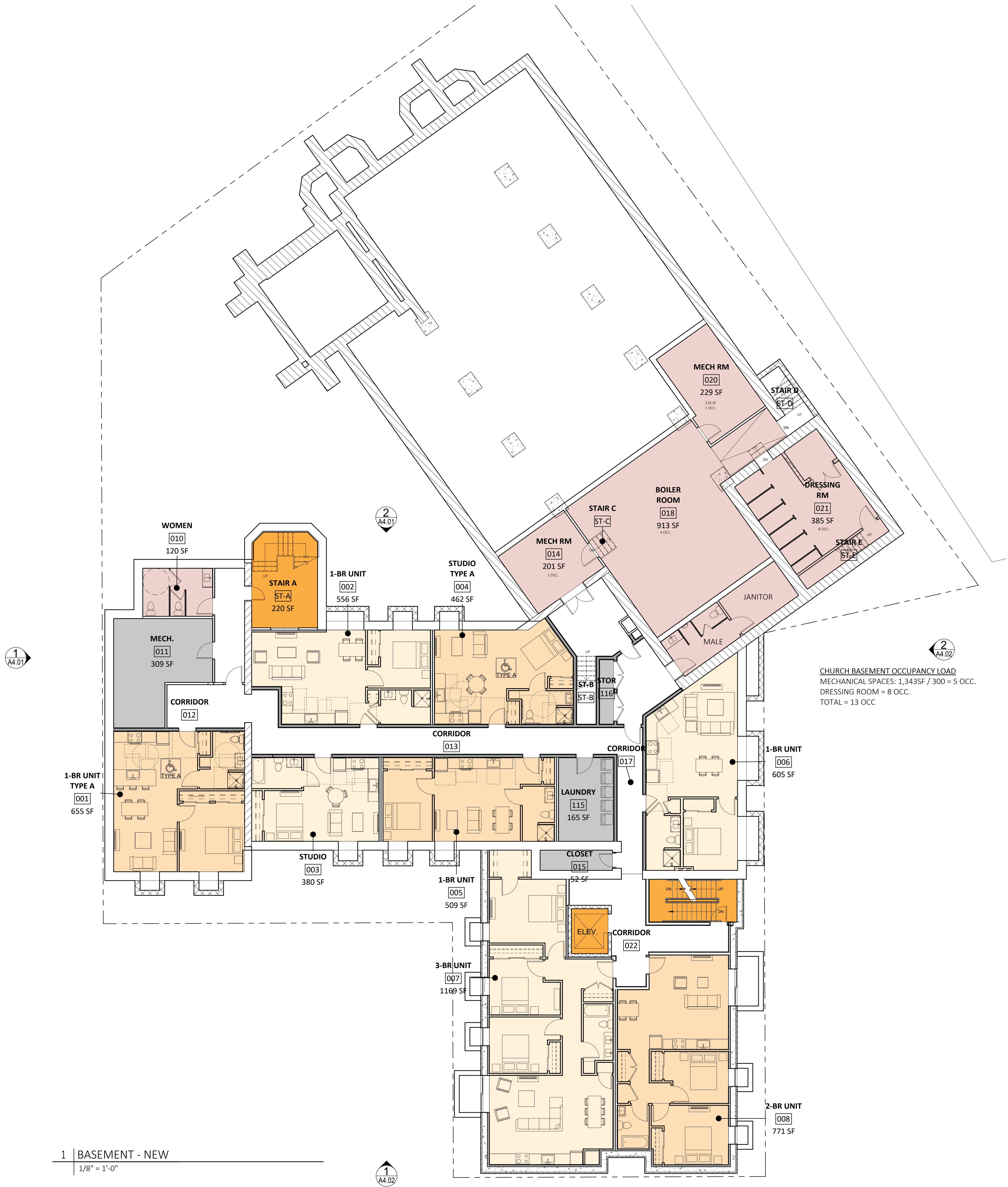






EXISTING BUILDING AREAS			
BASEMENT.....	8,635 GSF	(8,331 GSF REHAB)	
FIRST FLOOR.....	13,355 GSF	(3,871 GSF REHAB)	
SECOND FLOOR.....	7,386 GSF	(6,081 GSF REHAB)	
THIRD FLOOR.....	4,857 GSF	(4,857 GSF REHAB)	
TOTAL.....	34,233 GSF	(23,140 GSF REHAB)	
NEW BUILDING AREAS			
BASEMENT.....	2,523 GSF		
FIRST FLOOR.....	2,844 GSF		
SECOND FLOOR.....	2,594 GSF		
THIRD FLOOR.....	2,594 GSF		
TOTAL.....	10,555 GSF		
EXISTING AND NEW TOTAL.....	44,788 GSF	(34,929 GSF)	

EXISTING BUILDING UNITS	EXISTING BUILDING BED COUNTS
BASEMENT.....06 UNITS	STUDIO.....02 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....16 UNITS
SECOND FLOOR.....07 UNITS	TWO BEDROOM.....03 UNITS
THIRD FLOOR.....06 UNITS	
TOTAL.....21 UNITS	
NEW BUILDING UNITS	NEW BUILDING BED COUNTS
BASEMENT.....02 UNITS	STUDIO.....00 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....02 UNITS
SECOND FLOOR.....03 UNITS	TWO BEDROOM.....07 UNITS
THIRD FLOOR.....03 UNITS	THREE BEDROOM.....01 UNIT
TOTAL.....10 UNITS	
SITE TOTAL.....31 UNITS	



1 BASEMENT - NEW
1/8" = 1'-0"

Project:

**WILLISTON-IMMANUEL
UNITED CHURCH**

156 HIGH STREET
PORTLAND, ME

Owner/Client:

AVESTA HOUSING

Consultant:

Revisions:

Key Plan:

FIRST FLOOR PLAN - NEW

Scale:
1/8" = 1'-0"

24 JUNE 2024

A1.06

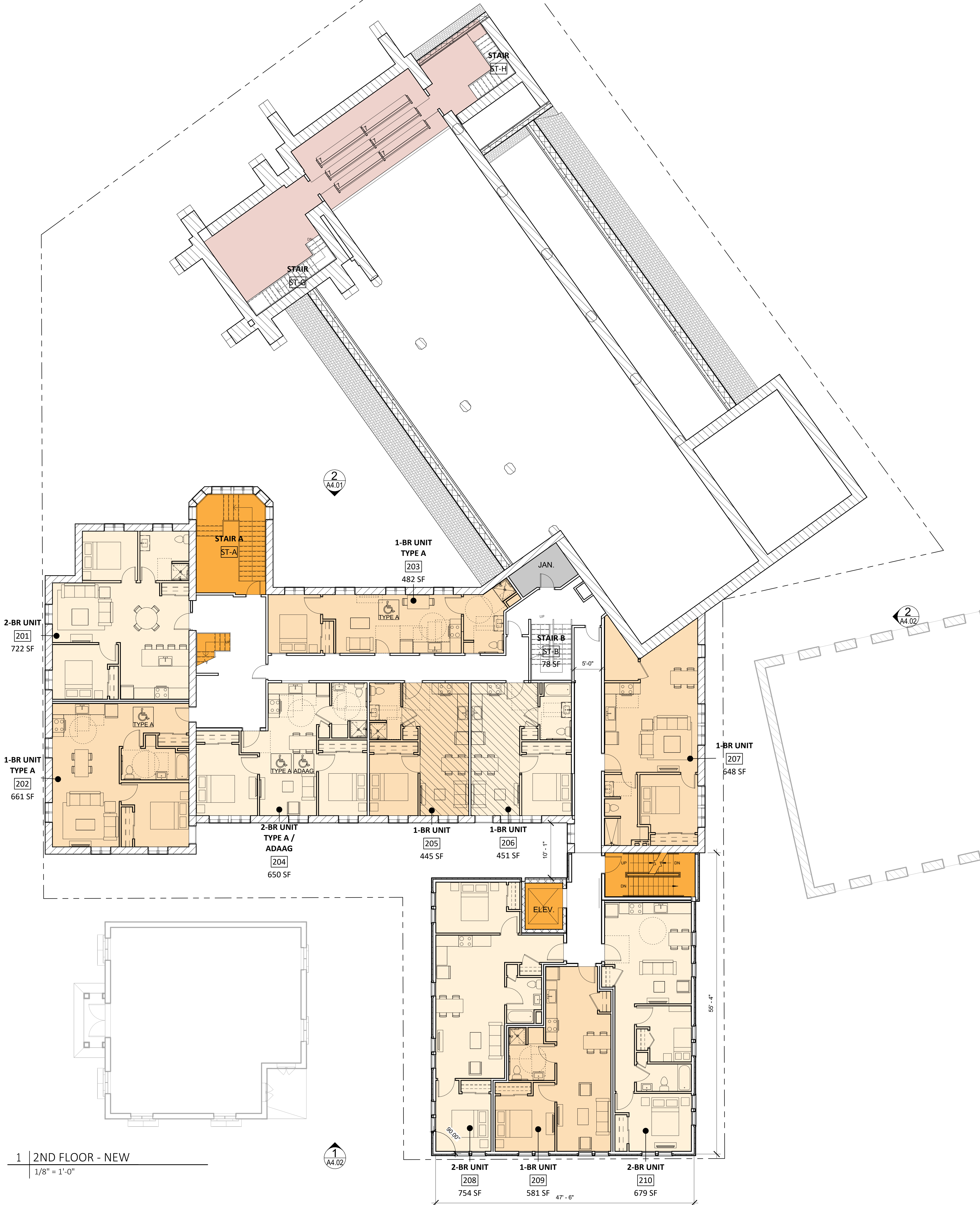
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TOTAL.....	34,233 GSF	(23,140 GSF REHAB)	
NEW BUILDING AREAS			
BASEMENT.....	2,523 GSF		
FIRST FLOOR.....	2,844 GSF		
SECOND FLOOR.....	2,594 GSF		
THIRD FLOOR.....	2,594 GSF		
TOTAL.....	10,555 GSF		
EXISTING AND NEW TOTAL.....	44,788 GSF	(34,929 GSF)	

EXISTING BUILDING UNITS	EXISTING BUILDING BED COUNTS
BASEMENT.....06 UNITS	STUDIO.....02 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....16 UNITS
SECOND FLOOR.....07 UNITS	TWO BEDROOM.....03 UNITS
THIRD FLOOR.....06 UNITS	
TOTAL.....21 UNITS	
NEW BUILDING UNITS	NEW BUILDING BED COUNTS
BASEMENT.....02 UNITS	STUDIO.....00 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....02 UNITS
SECOND FLOOR.....03 UNITS	TWO BEDROOM.....07 UNITS
THIRD FLOOR.....03 UNITS	THREE BEDROOM.....01 UNIT
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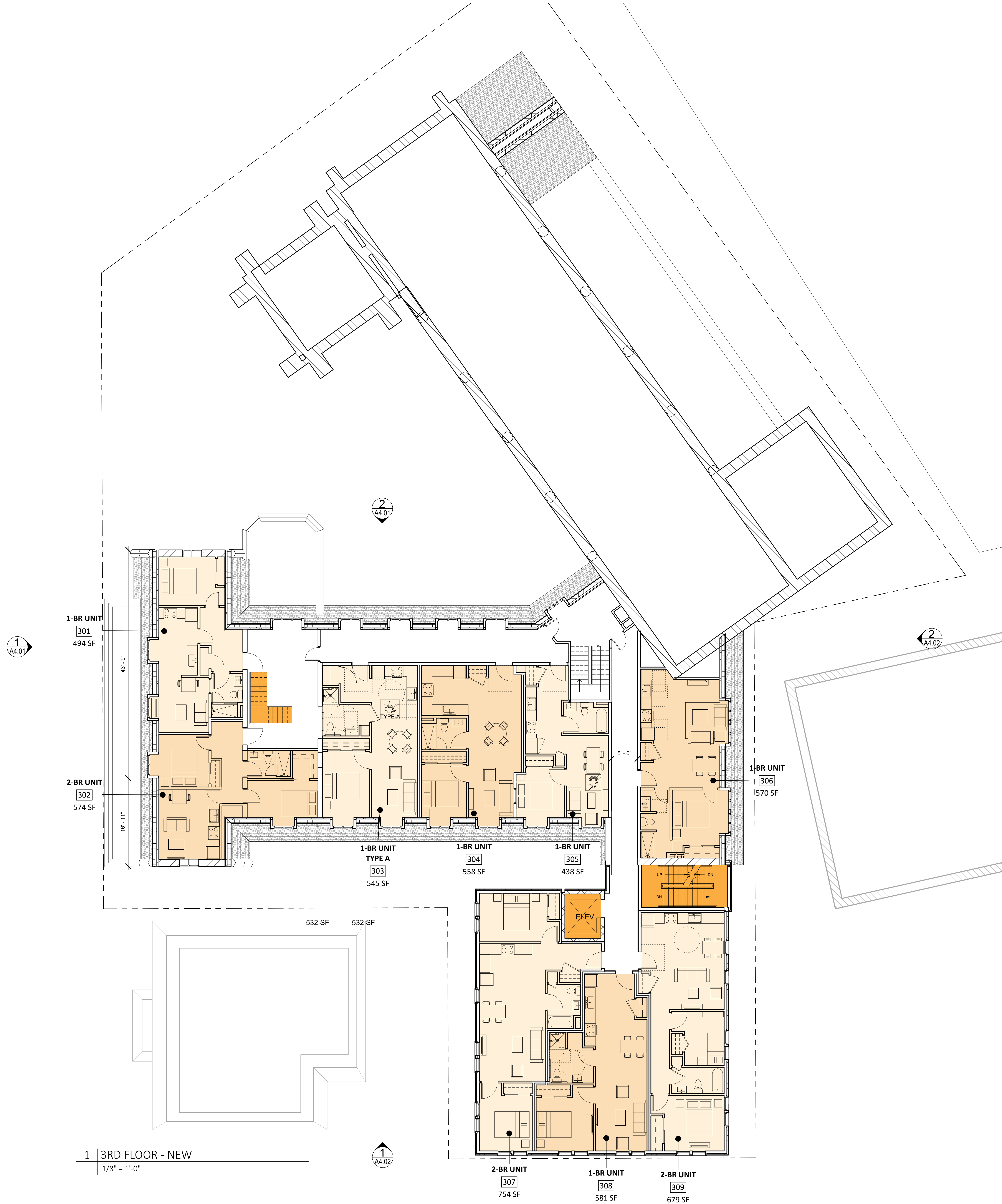
EXISTING BUILDING UNITS	EXISTING BUILDING BED COUNTS
BASEMENT.....06 UNITS	STUDIO.....02 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....16 UNITS
SECOND FLOOR.....07 UNITS	TWO BEDROOM.....03 UNITS
THIRD FLOOR.....06 UNITS	
TOTAL.....21 UNITS	
NEW BUILDING UNITS	NEW BUILDING BED COUNTS
BASEMENT.....02 UNITS	STUDIO.....00 UNITS
FIRST FLOOR.....02 UNITS	ONE BEDROOM.....02 UNITS
SECOND FLOOR.....03 UNITS	TWO BEDROOM.....07 UNITS
THIRD FLOOR.....03 UNITS	THREE BEDROOM.....01 UNIT
TOTAL.....10 UNITS	
SITE TOTAL.....31 UNITS	



1 | 2ND FLOOR - NEW
1/8" = 1'-0"

EXISTING BUILDING AREAS			
BASEMENT.....	8,635 GSF	(8,331 GSF REHAB)	
FIRST FLOOR.....	13,355 GSF	(3,871 GSF REHAB)	
SECOND FLOOR.....	7,386 GSF	(6,081 GSF REHAB)	
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FIRST FLOOR.....02 UNITS	ONE BEDROOM.....16 UNITS
SECOND FLOOR.....07 UNITS	TWO BEDROOM.....03 UNITS
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FIRST FLOOR.....02 UNITS	ONE BEDROOM.....02 UNITS
SECOND FLOOR.....03 UNITS	TWO BEDROOM.....07 UNITS
THIRD FLOOR.....03 UNITS	THREE BEDROOM.....01 UNIT
TOTAL.....10 UNITS	
SITE TOTAL.....31 UNITS	



Project:

**WILLISTON-IMMANUEL
UNITED CHURCH**

156 HIGH STREET
PORTLAND, ME

Owner/Client:

AVESTA HOUSING

Consultant:

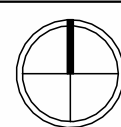
Revisions:

Key Plan:

EXTERIOR ELEVATIONS

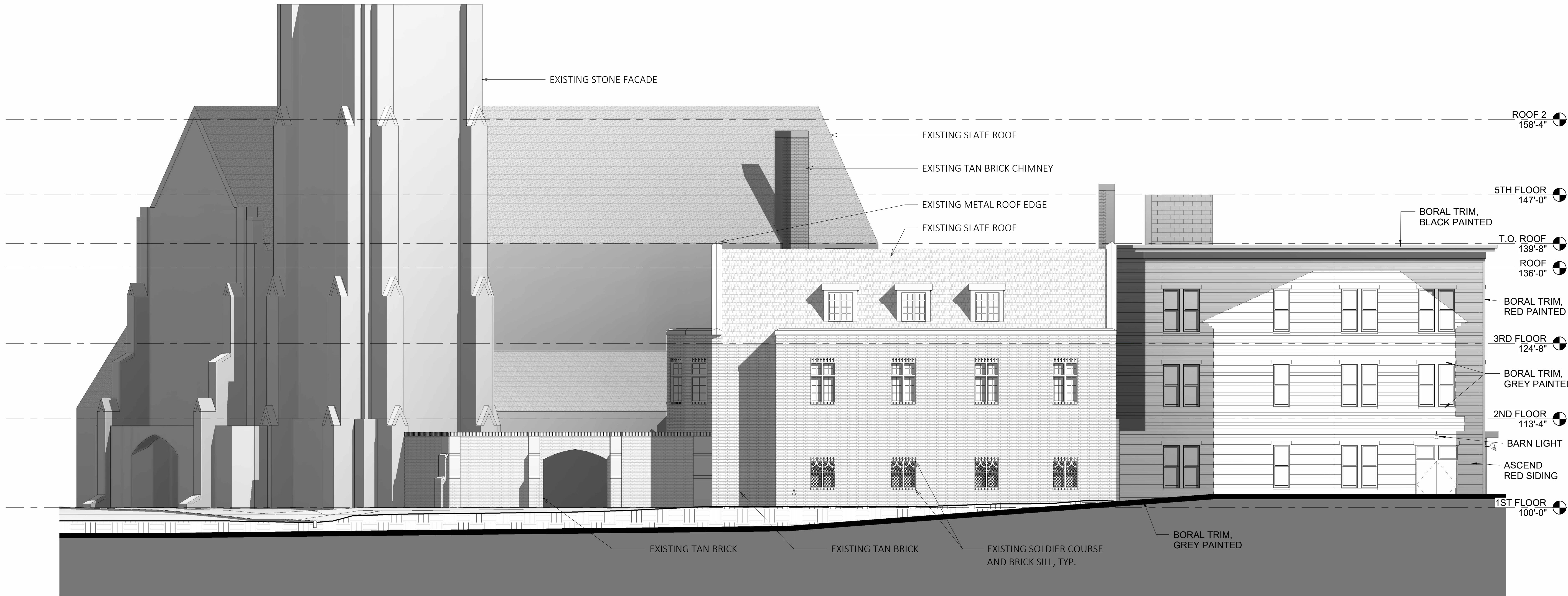
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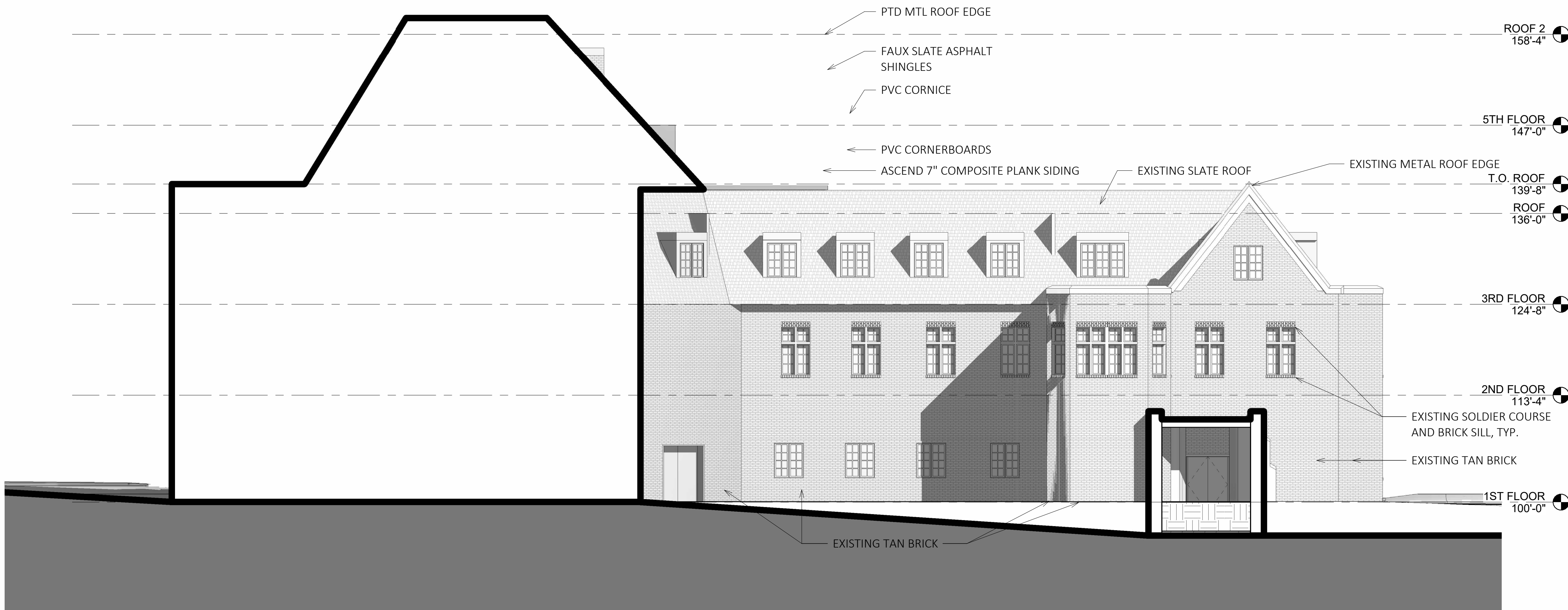
24 JUNE 2024

A4.01



1 | NORTH ELEVATION - PARISH HOUSE

1/8" = 1'-0"



2 | EAST ELEVATION - PARISH HOUSE

1/8" = 1'-0"

Project:

**WILLISTON-IMMANUEL
UNITED CHURCH**

156 HIGH STREET
PORTLAND, ME

Owner/Client:

AVESTA HOUSING

Consultant:

1 | WEST ELEVATION- PARISH HOUSE

1/8" = 1'-0"

3 | WEST ELEVATION - ADDITION

1/8" = 1'-0"

2 | SOUTH ELEVATION - PARISH HOUSE

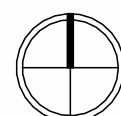
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Revisions:

Key Plan:

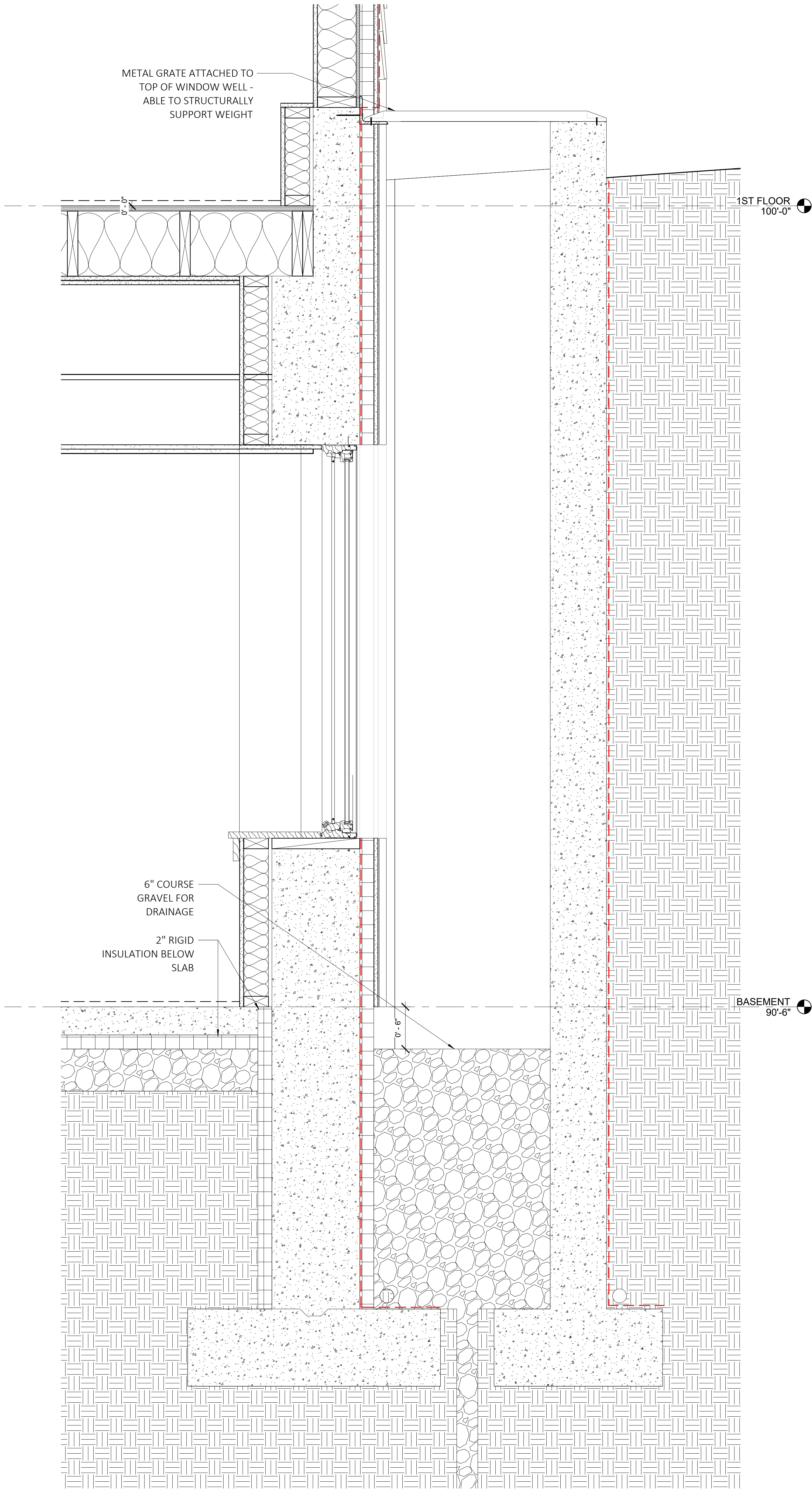
EXTERIOR ELEVATIONS

Scale:
1/8" = 1'-0"

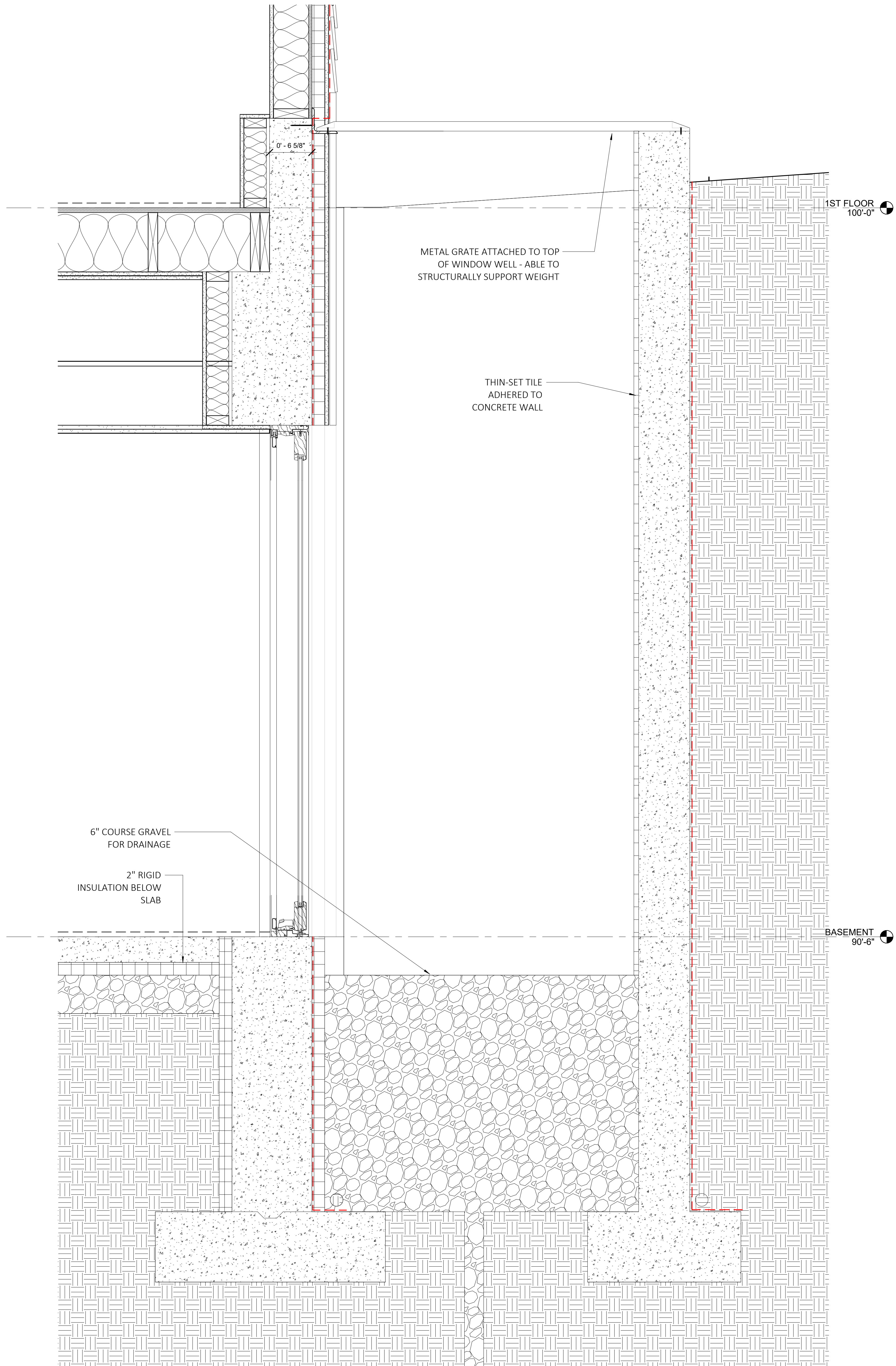


24 JUNE 2024

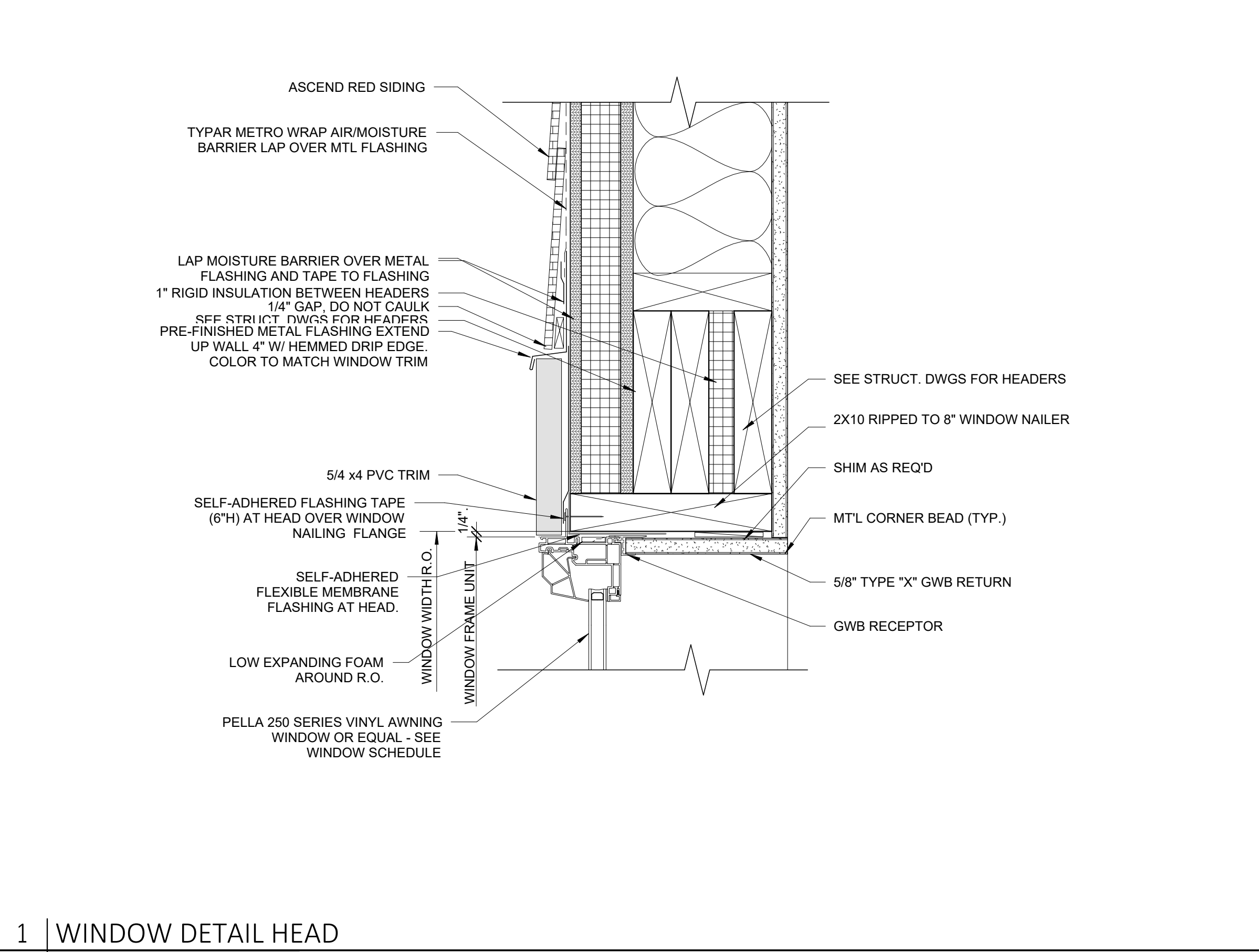
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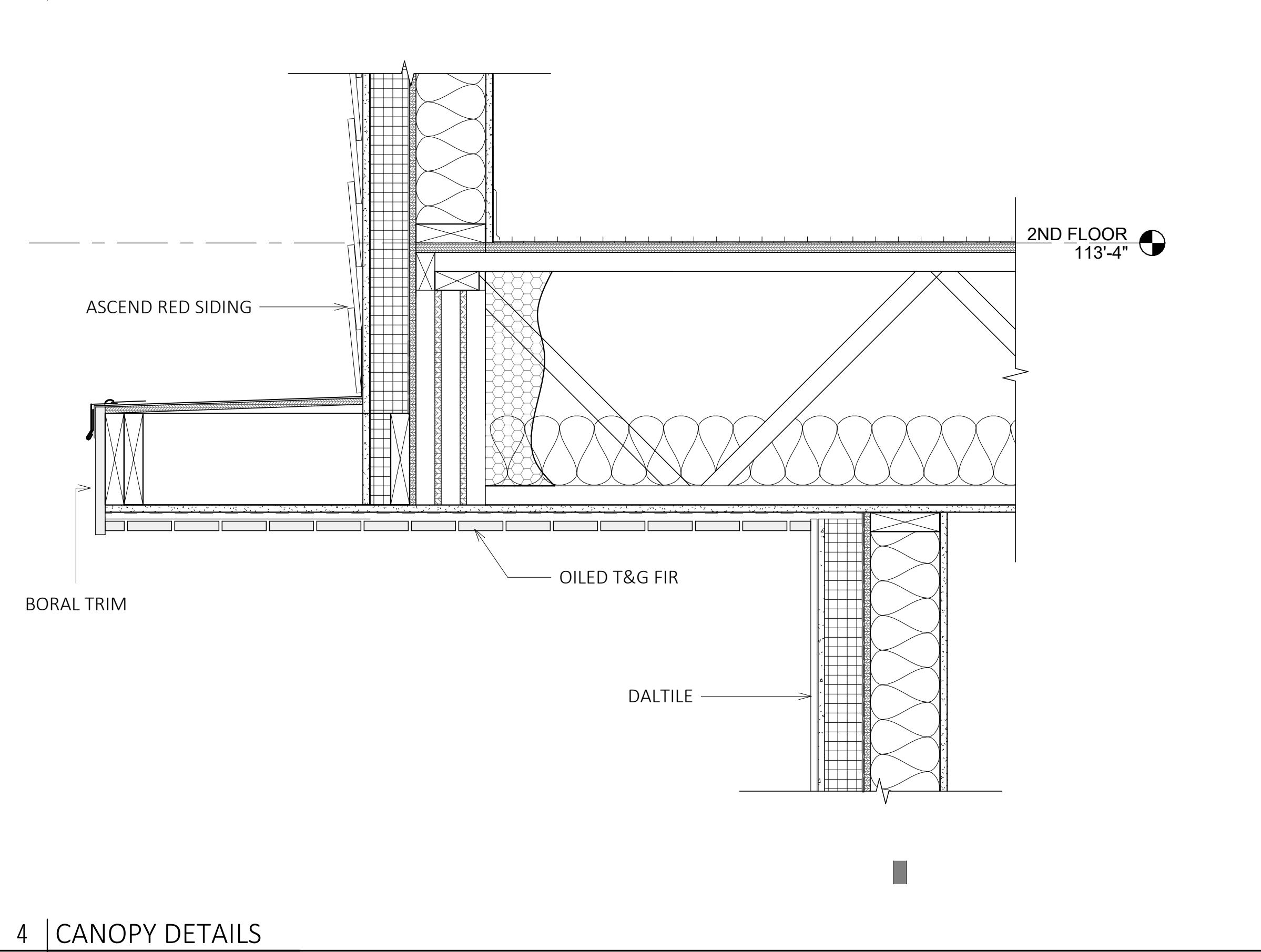
2 WINDOW WELL SECTION
1 1/2" = 1'-0"



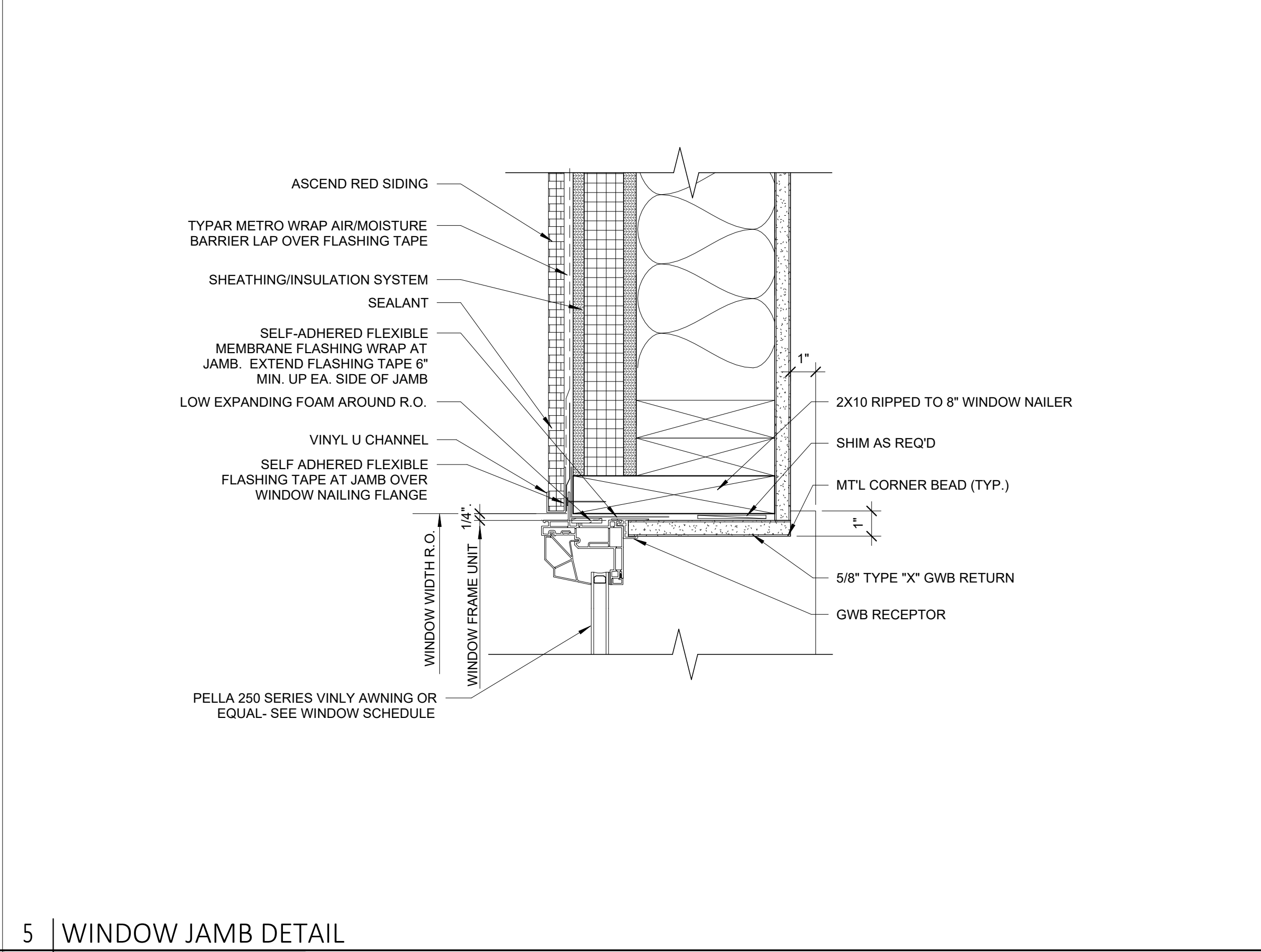
1 SLIDING DOOR WELL SECTION
1 1/2" = 1'-0"



1 | WINDOW DETAIL HEAD
3" = 1'-0"



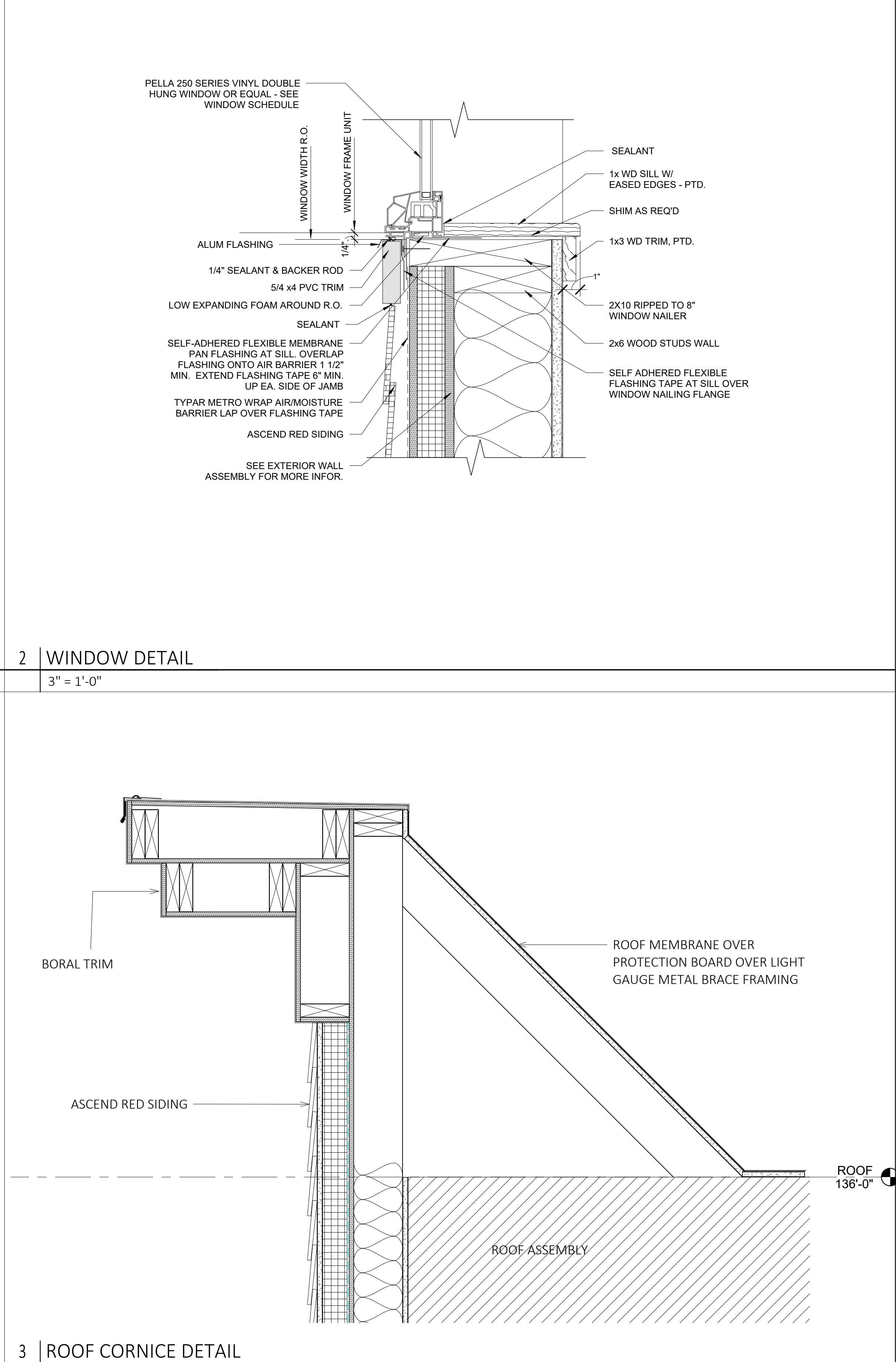
4 | CANOPY DETAILS
1 1/2" = 1'-0"



5 | WINDOW JAMB DETAIL
3" = 1'-0"



3 | ROOF CORNICE DETAIL
1 1/2" = 1'-0"



3 | ROOF CORNICE DETAIL
1 1/2" = 1'-0"

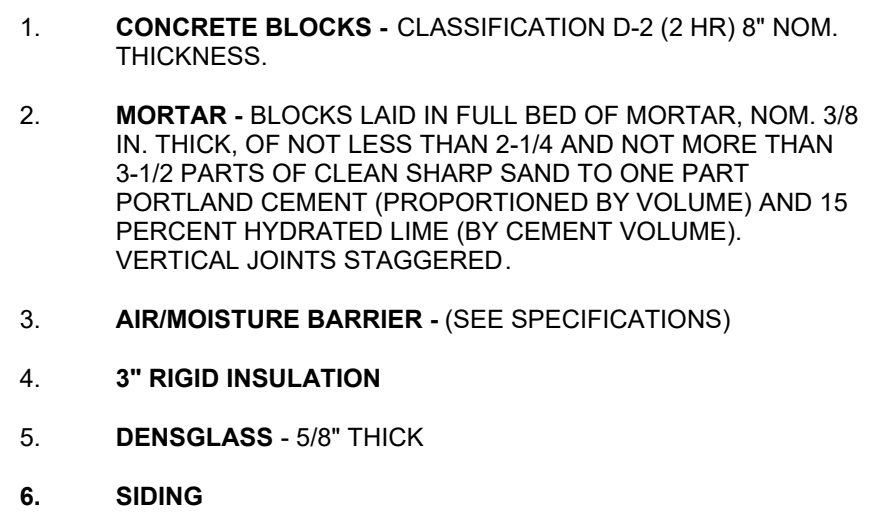
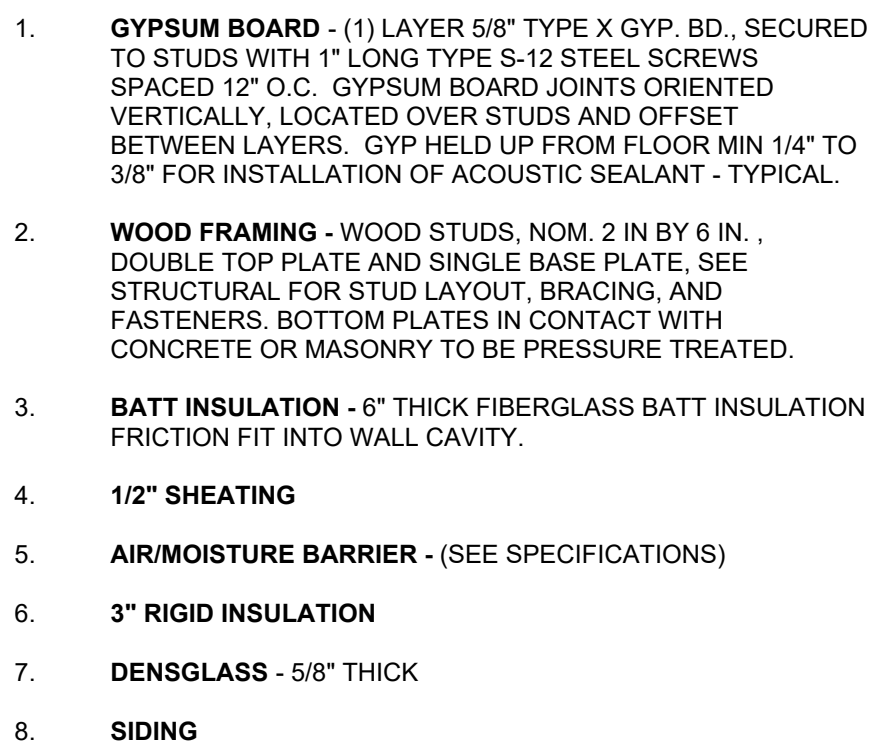
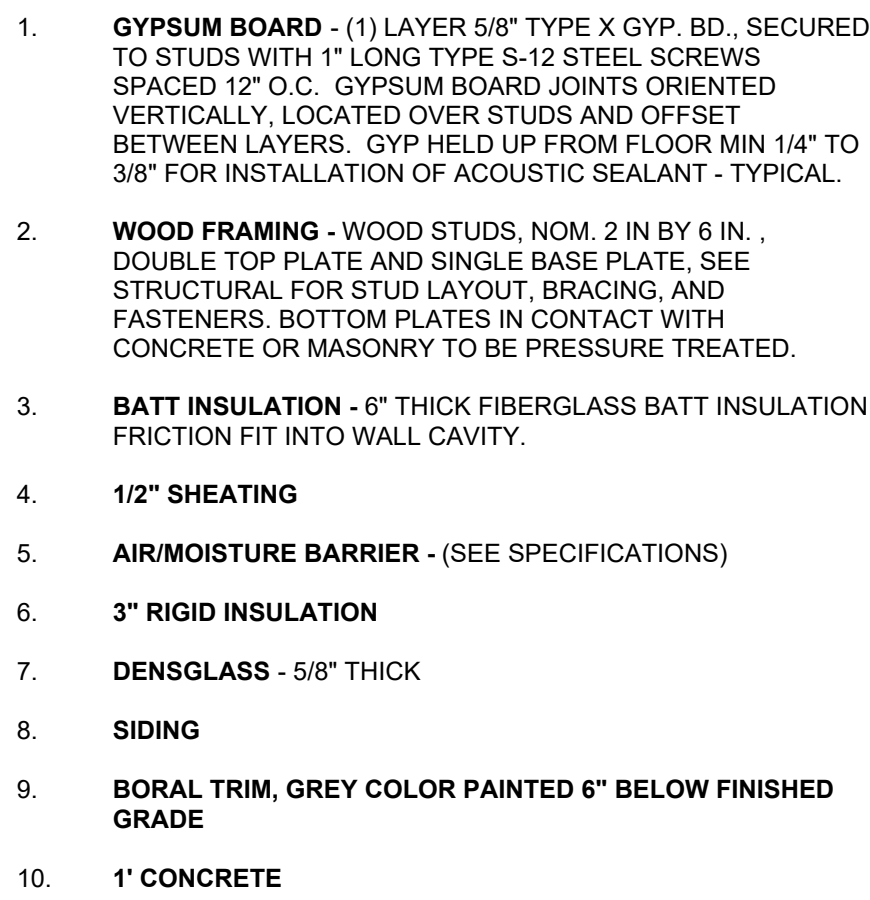




WILLISTON-IMMANUEL
UNITED CHURCH

156 HIGH STREET
PORTLAND, ME

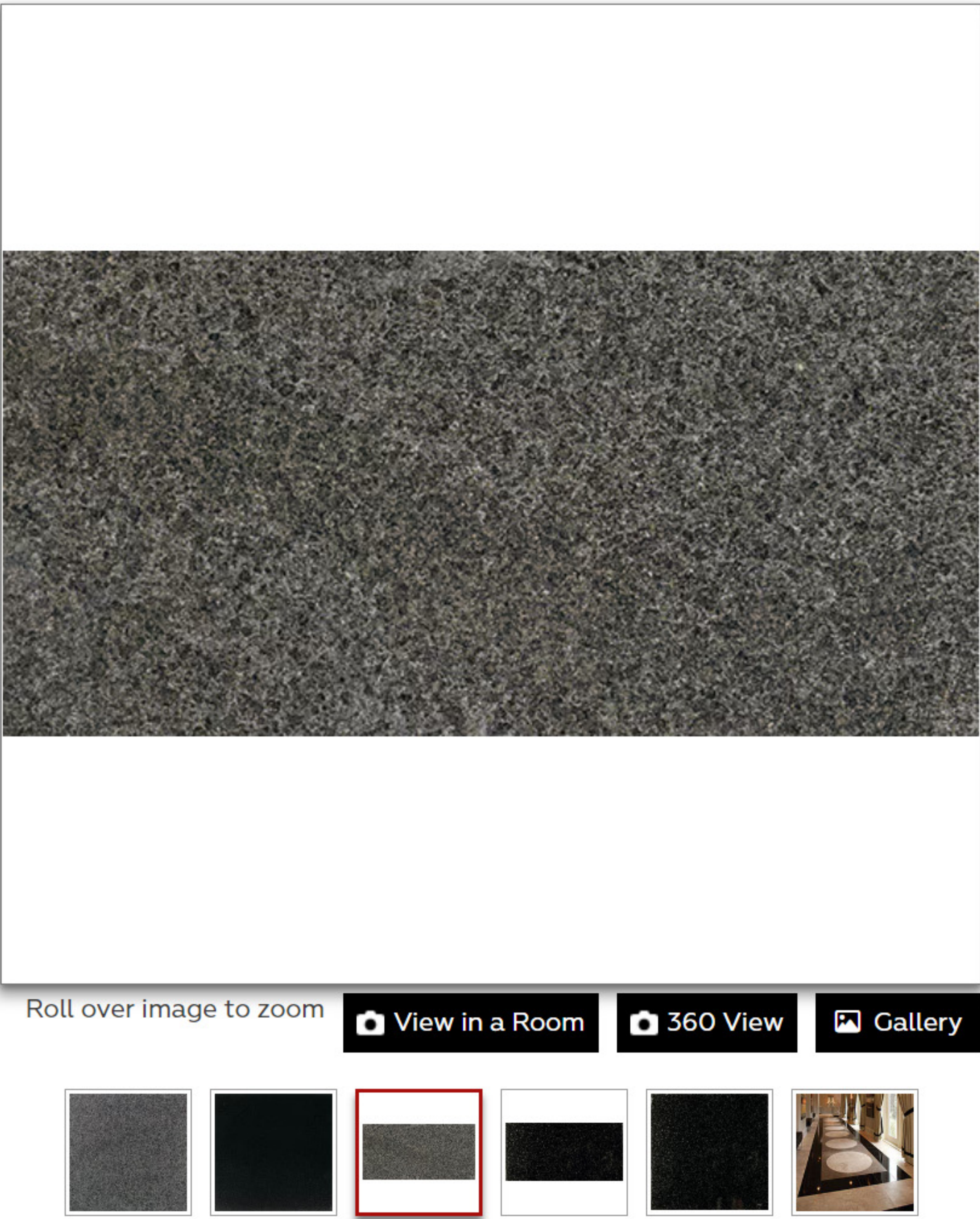
Consultant:


$$1\frac{1}{2}'' = 1'-0''$$
$$1\frac{1}{2}'' = 1'-0''$$
$$1\frac{1}{2}'' = 1'-0''$$

Key Plan:

24 JUNE 2024

G0.07



COUNTERTOP | FLOOR | WALL

Absolute Black

Part of: [Natural Stone](#) [Natural Stone Granite](#)

[GRANITE](#)

Granite’s distinctive granular look is made up of quartz, feldspar, biotite, and other minerals making it surprising in its many variations.

[GO TO USAGE CHART](#) >

Want to see this product in person?

[Where to buy](#)

USAGE CHART

Grout Joint Recommendation
Durability
Soundness
Exterior Usage
Country of Manufacturer
Country of Origin
No additional notes

Barn Light Outdoor Wall

8537401, 8637401, 8737401, 8837401 | 1.0

GENERATION LIGHTING

Outdoor

GENERAL PRODUCT INFORMATION:

These fixtures are intended to be installed utilizing NEC compliant junction boxes.

This product is safety listed for wet locations.

Incandescent version may be dimmed with a standard incandescent dimmer. LED version may be dimmed with a LED dimmer. Consult lamp manufacturer for additional information.

This instruction shows a typical installation.

CAUTION - RISK OF FIRE

This product must be installed in accordance with the applicable installation code by a person familiar with the construction and operation of the product and the hazards involved.

Use minimum 90°C supply conductors.

GENERATION LIGHTING

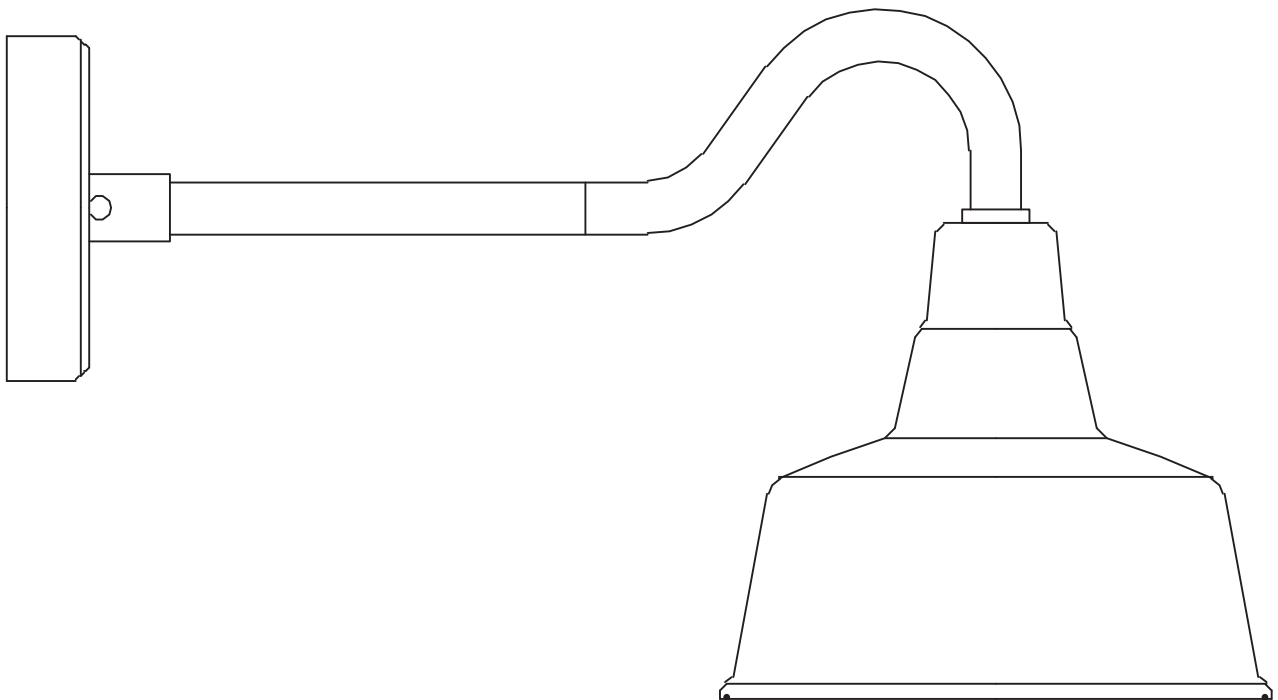
7400 Linder Ave, Skokie, IL 160077

800.969.3347

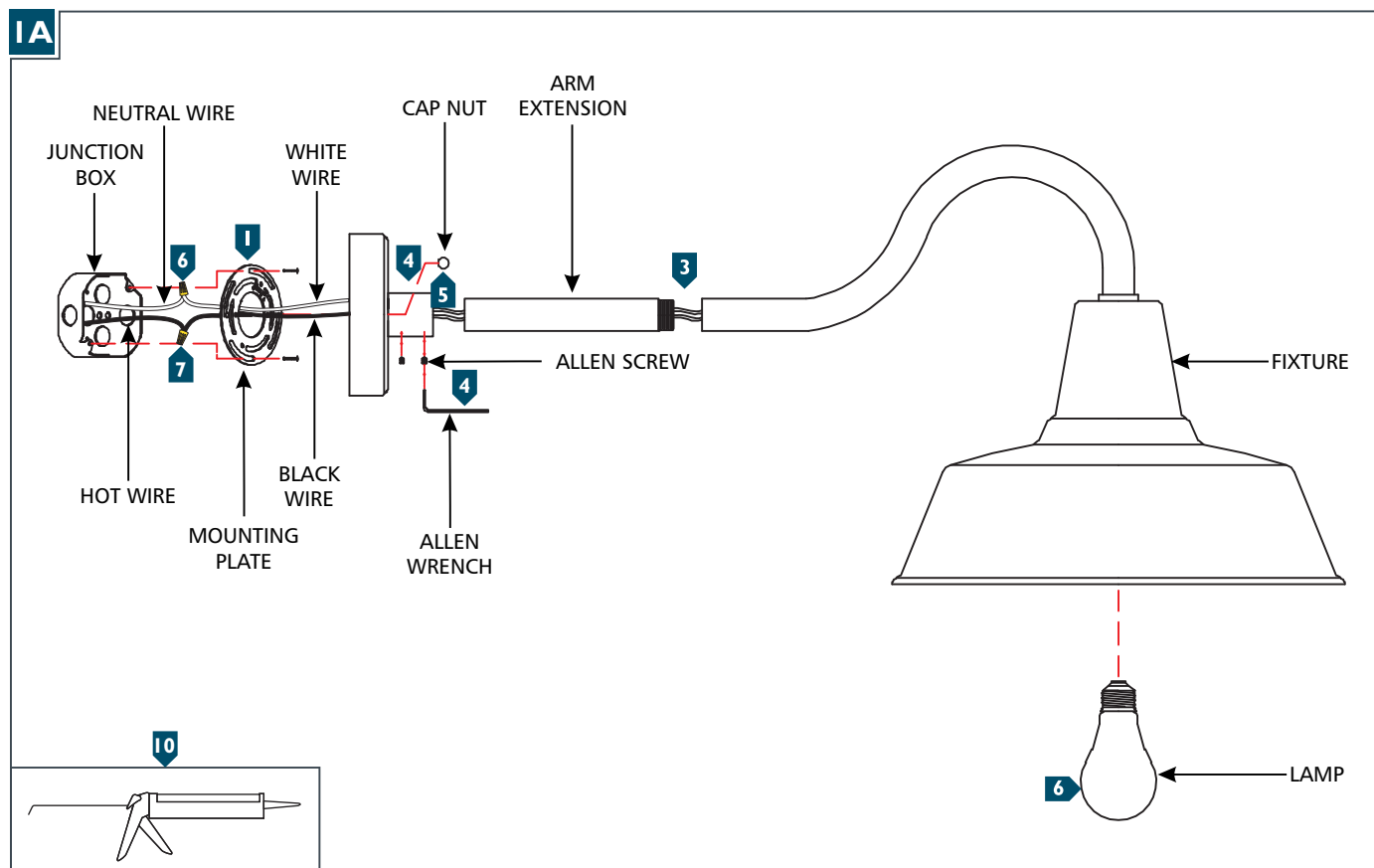
www.generationlighting.com

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SAVE THESE INSTRUCTIONS!

Install the Fixture



- 1** Secure the mounting plate to the junction box.
- 2** Optional: Feed fixture wires through the arm extension and screw the threaded end of the fixture arm into the fixture.
- 3** Feed the fixture wires into the fixture base.
- 4** Insert the fixture arm into the fixture base and secure in place with the provided allen screws.
- 5** Connect the fixture to a suitable ground in accordance to local electrical codes.
- 6** Connect the white fixture wire to the neutral power line wire with a wire nut.
- 7** Connect the black fixture wire to the hot power line wire with a wire nut.
- 8** Neatly place the wires into the junction box, mount the fixture base onto the mounting plate studs, and secure it with the two cap nuts.
- 9** Screw the lamp into socket. Refer to the label on the socket for Max Wattage Information.
- 10** Caulk around the base of the fixture with waterproof construction sealant.

GENERATION LIGHTING

8637401-15: Medium One Light Outdoor Wall Lantern

Dimensions:

Diameter:	12"	Extends:	17 1/8"
Width:	12"	Extends Max:	23 1/8"
Height:	10 5/8"	Wire:	6 1/2" (color/Black/White)
Weight:	1.8 lbs.	Mounting Proc.:	Cap Nuts
		Connection:	Mounted To Box



Bulbs:

1 - Medium A19 75w Max. 120v - Not included

Features:

- Dark sky friendly. Designed to emit no light above the 90° horizontal plane. Photometry unavailable.
- Easily converts to LED with optional replacement lamps
- Meets Title 24 energy efficiency standards
- Title 24 compliant if used with Joint Appendix (JA8) approved light bulbs listed in the California Energy Commission Appliance database.

Collection: Barn Light

Featured in the decorative Barn Light collection

1 A19 Medium 75 watt light bulb

Dark sky friendly. Designed to emit no light above the 90° horizontal plane. Photometry unavailable.

Easily converts to LED with optional replacement lamps

Meets Title 24 energy efficiency standards

UPC #:785652092749

Finish: White (15)

Material List:

1 Body - Aluminum - White

Safety Listing:

Safety Listed for Wet Locations

Instruction Sheets:

Trilingual (English, Spanish, and French) (990W8_37401-BRL)

Backplate / Canopy Details:

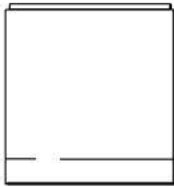
Type	Height / Length	Width	Depth	Diameter	Outlet Box Up	Outlet Box Down
Back Plate			1 1/4	5	5 1/4	8 1/4

Shipping Information:

Package Type	Product #	Quantity	UPC	Length	Width	Height	Cube	Weight	Fr. Class	UPS Ship
Individual	8737401-12	1	785652092749	20.5	16.5	16.38		1	60	Yes
NJ Pallet		38		48	40	77	85.556	136.8		No
NV Pallet		38		48	40	77	85.556	136.8		No

Surface mounted downlight

Symmetric and asymmetric



•
B
•

• A •



View all photos

Asymmetric wall washer

	LED		A	B
24 425	8.0W	766 lm	3 ⁷ / ₈	4 ³ / ₈
24 426	11.5W	1359 lm	5 ¹ / ₈	5 ¹ / ₄
24 427	16.8W	1989 lm	5 ³ / ₄	5 ⁷ / ₈
24 428	25.0W	3124 lm	7 ³ / ₈	7 ¹ / ₄

Linear spread

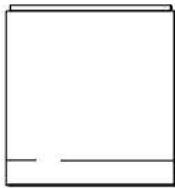
	LED		A	B
24 430	16.8W	2134 lm	5 ¹ / ₈	5 ¹ / ₄
24 432	24.1W	2485 lm	5 ³ / ₄	5 ⁷ / ₈

Symmetric narrow beam

	LED	EXPRESS		β	A	B
24 399	8.0W	✓	983 lm	17°	3 ⁷ / ₈	4 ³ / ₈
24 401	16.8W	✓	2275 lm	21°	5 ¹ / ₈	5 ¹ / ₄
24 422	24.1W	✓	2958 lm	14°	5 ³ / ₄	5 ⁷ / ₈
24 424	35.7W	✓	4785 lm	19°	7 ³ / ₈	7 ¹ / ₄

Surface mounted downlight

Symmetric and asymmetric



• A •



 View all photos

Symmetric very wide beam						
	LED	EXPRESS		β	A	B
24 409	8.0W	✓	961 lm	55°	3 $\frac{3}{8}$	4 $\frac{3}{8}$
24 411	16.8W	✓	2299 lm	74°	5 $\frac{1}{8}$	5 $\frac{1}{4}$
24 416	24.1W	✓	2920 lm	62°	5 $\frac{3}{4}$	5 $\frac{7}{8}$
24 418	35.7W	✓	4661 lm	60°	7 $\frac{3}{8}$	7 $\frac{1}{4}$

Symmetric wide beam						
	LED	EXPRESS		β	A	B
24 404	8.0W	✓	978 lm	31°	3 $\frac{3}{8}$	4 $\frac{3}{8}$
24 406	16.8W	✓	2285 lm	39°	5 $\frac{1}{8}$	5 $\frac{1}{4}$
24 419	24.1W	✓	2914 lm	32°	5 $\frac{3}{4}$	5 $\frac{7}{8}$
24 421	35.7W	✓	4723 lm	34°	7 $\frac{3}{8}$	7 $\frac{1}{4}$



INSTALLATION GUIDE



For questions, call Alside Customer Service at 800-922-6009 or go online at alside.com/ascend.

These installation instructions pertain to the ASCEND 7" plank, ASCEND 12" Board & Batten, and typical cladding accessories used in a home siding installation.

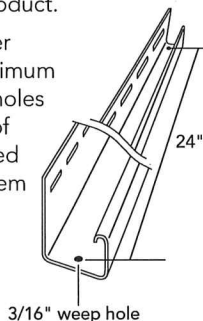
IMPORTANT: FAILURE TO FOLLOW ALSIDE WRITTEN INSTALLATION INSTRUCTIONS AND COMPLY WITH APPLICABLE BUILDING CODES MAY VIOLATE LOCAL LAWS AND AFFECT CLADDING PERFORMANCE AND WARRANTY COVERAGE.

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GENERAL INFORMATION

- Check local building codes before installation.
 - Cladding should be installed over a sheathing that provides a smooth, flat surface.
 - Make sure the substrate meets requirements for a weather-resistant barrier system, including a water resistive barrier and proper flashing around windows, doors, other openings and corners.
- DO NOT install directly over studs.
- DO NOT hard nail.
- DO NOT install ASCEND in temperatures below -5°F.
- DO NOT rest ladders against panels. Suggest using scaffolding.
- ASCEND 7" plank must maintain a 3/8" clearance between cladding and all receiving channels.
- Ensure 1/4" clearance between Board & Batten panel and top accessory channel.
- Ensure 1/2" clearance between Board & Batten panel and bottom channel.
- ASCEND 7" plank is for horizontal applications only.
- ASCEND 12" Board & Batten is for vertical applications only.
- All cladding accessories must have a minimum pocket depth of 3/4" and accommodate 3/4" projection.
- All overlaps must have a field cut prior to installation. The cladding edge of the under plank must be cut flush to nail hem notch or beyond before being overlapped with the next plank.
 - **ASCEND 12" Board and Batten cannot be overlapped.**
- Inspect cladding for any breakage, foreign objects, surface defects, color consistency and correctness. DO NOT install questionable product.
- **IMPORTANT:** For water management, drill minimum 3/16" diameter weep holes every 24" in the base of J-channel when installed horizontally with nail hem at top of J-channel. Leave a gap between the J-channel and any head flashing.



SAFETY PRECAUTIONS

- Safety goggles are always recommended for all nailing and cutting operations. As on any construction job, use proper safety equipment and follow safe construction practices.
- Cut cladding in an open, well-ventilated area.

STORAGE

- DO NOT store pallets more than four high.
- DO NOT store cartons more than five high.
- DO NOT store cartons standing up or vertically on end.
- Store away from areas where falling objects or other construction activity may inadvertently cause damage.
- Siding should be stored indoors and away from direct sources of heat and sunlight if possible.

Note: Alside is not responsible for damage caused by improper storage of the product.

- If storing outdoors at a distribution location, protective bonnet/shroud should always be kept on the cartons to prevent inadvertent surface damage.
- At the jobsite, take the following precautions when storing material:
 - ASCEND 7" Plank: Store flat and covered prior to installation.
 - ASCEND 12" Board & Batten: Store on wide side of carton and covered prior to installation. DO NOT store standing up on narrow side of carton.
 - Do not store in a location where temperatures may exceed 130°F (48.89°C) (e.g., on blacktop pavement during hot weather or under dark tarps or plastic without air circulation).
 - When transporting to a jobsite, keep cartons flat and supported along their entire length. DO NOT overhang.

HANDLING INSTRUCTIONS

- Material can be pulled from the ends of cartons; however it is recommended to cut the entire length of a carton top edge and remove material to prevent any damage at the ends of the panel. Do not cut deep into carton as you may damage material in the box. Avoid bending or damaging the panel ends.
- Avoid dragging material along the ground to avoid potential scratches at the ends of the panel.
- Ensure the product is clean when installing on the wall.

Note: Alside is not responsible for damage caused by improper handling of the product.

FASTENER SPECIFICATIONS

Use galvanized steel or other corrosion-resistant nails, staples, or screws.

- Nails: 7/16" head x 1/8" shank diameter.
- Screws: Size #8, truss or pan head, self-tapping sheet metal type.
- Staples: Minimum 16 gauge, 7/16" crown, semi-flattened to elliptical cross section.

WALL PREPARATION

ASCEND cladding serves as a supplemental rain screen, not a weather-resistant barrier and must be installed over a weather-resistant barrier system in accordance with local building code. Weather-resistant barrier systems consist of cladding, water resistive barrier, and flashed openings and penetrations. Install water-resistive barrier in accordance with the barrier manufacturer's installation instructions.

- DO NOT install ASCEND plank over metallic faced insulation/sheathing.
- Check with local code officials for building requirements in your area.

ASCEND 7" PLANK: Must be installed over a level surface with either 16" or 24" on-center framing.

ASCEND 12" BOARD & BATTEN: Must be installed over a level surface.

NEW CONSTRUCTION WALL PREPARATION:

- Apply over a rigid sheathing and weather-resistant barrier system. ASCEND cannot be installed over open studs. Where local building code requires a capillary break, see below "Furring Applications."

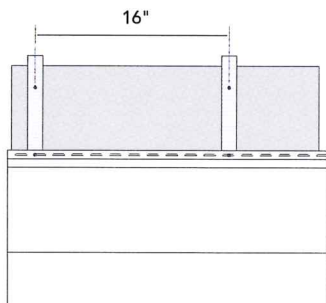
REMODEL WALL PREPARATION:

- Over existing wood or vinyl siding: apply fanfold, foam board or rigid sheathing over existing wood siding to provide a smooth surface. Existing substrate materials must be in good condition, DO NOT install over rot or mold.
- Removing old siding: prepare wall as described in New Construction.

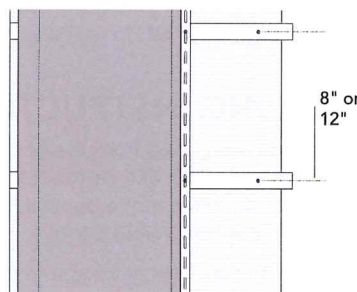
Note: FOR 12" BOARD & BATTEN ONLY: Remodel installations using a non-nailable foam or fiber sheathing requires furring. See "Furring Applications" section below.

FURRING APPLICATIONS:

Wood furring is used to correct uneven walls, over masonry walls, or where local building code requires a capillary break between the wall and siding.



Vertical furring should be 1"x3" furring strips, spaced 16" O.C., and fastened framing members of structure.



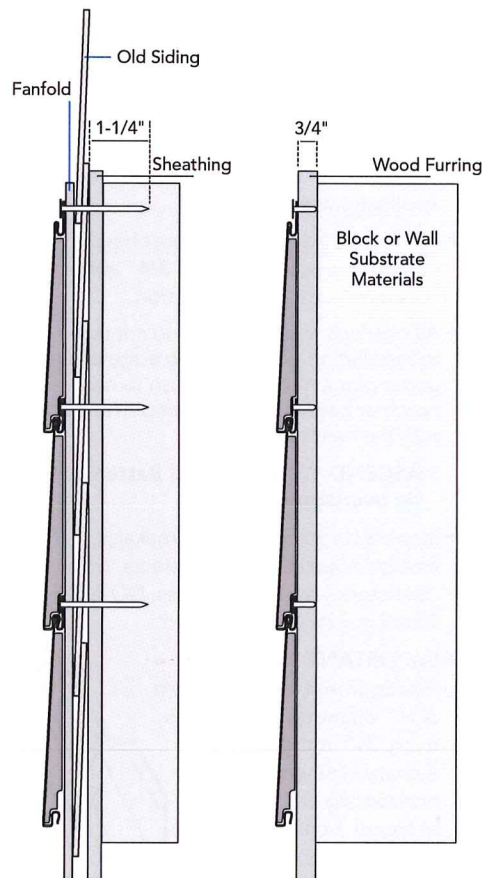
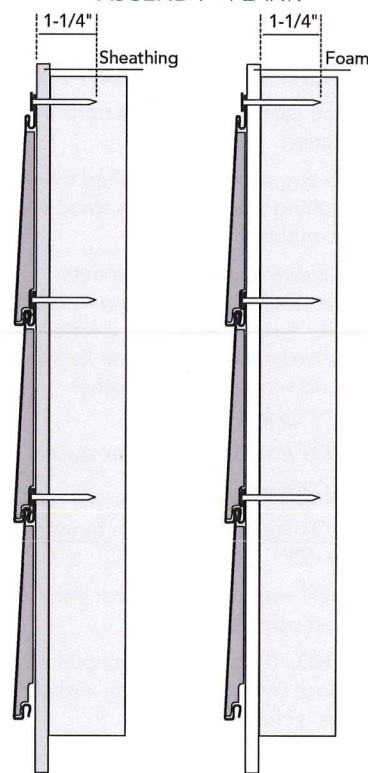
Horizontal furring should be 1"x3" furring strips, spaced 8" or 12" O.C., and fastened framing members of structure every 12".

Except for applications requiring capillary break per building code, create a flat surface by:

1. Installing foam board or rigid sheathing between furring, OR
2. Apply fanfold, foam board or rigid sheathing over furring across the width of wall (including over furring).

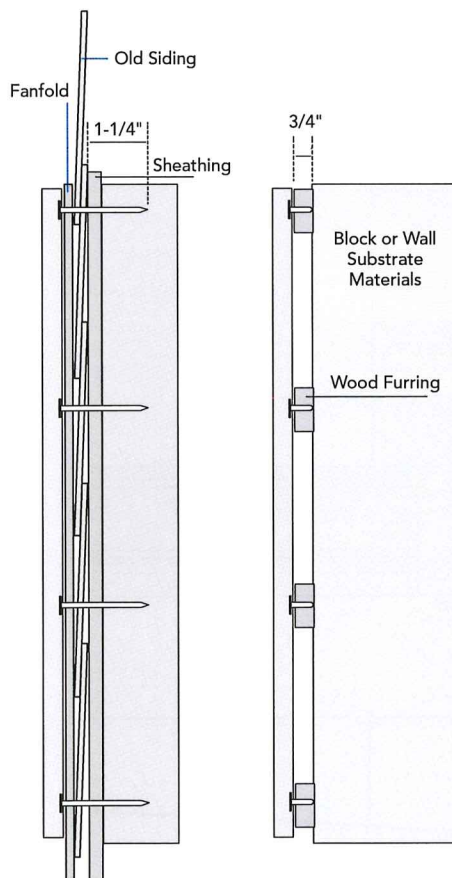
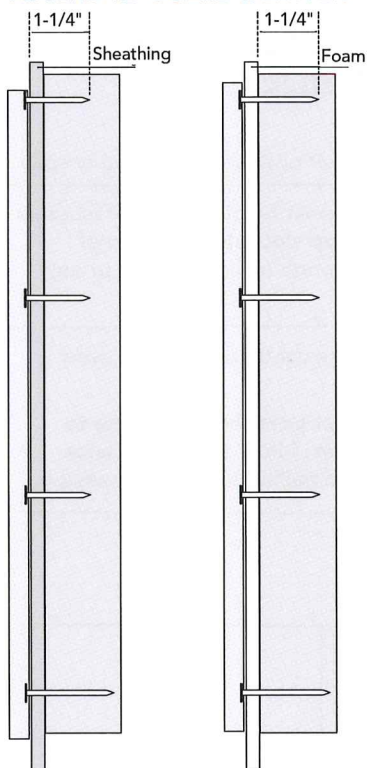
Measure and plan for the first overlap to land over furring. When overlaps land between furring strips for applications requiring a capillary break per building code, a 1"x3" furring strip at 1" length should be placed behind overlap for support.

ASCEND 7" PLANK



Due to varying thickness of substrate materials, appearance of materials and fastener length may not be to scale.

ASCEND 12" BOARD & BATTEN

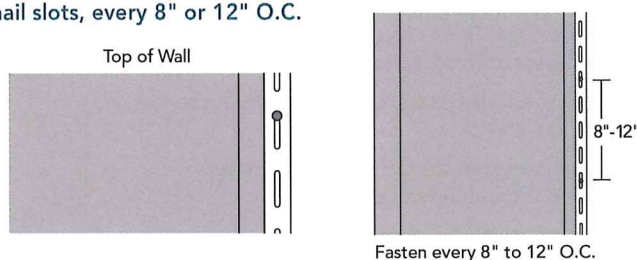


Due to varying thickness of substrate materials, appearance of materials and fastener length may not be to scale.

FASTENER REQUIREMENTS

- Use galvanized steel or other corrosion-resistant nails, staples or screws when installing ASCEND. See "Fastener Specifications" on page 3.
- Proper fastener penetration is minimum 1-1/4" into nailable solid material, such as wood sheathing and framing members. When fasteners penetrate non-nailable material, such as foam sheathing, the thickness of non-nailable material does not count toward the minimum 1-1/4" penetration. ASCEND may be used in furring applications with 3/4" fastener penetration.

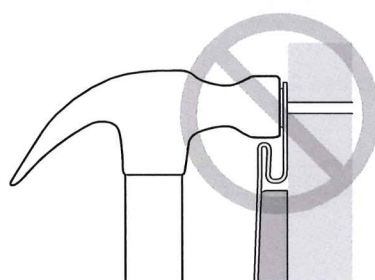
IMPORTANT: Hang ASCEND Board & Batten panel by placing the first fastener in the uppermost part of top full slot. **DO NOT** fasten through nailing flanges of any other accessories. Place all other fasteners in center of nail slots, every 8" or 12" O.C.



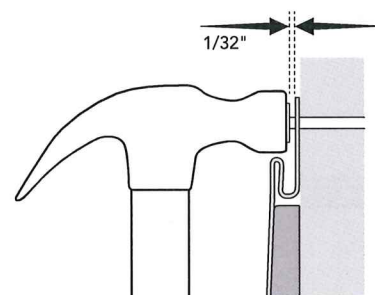
- **DO NOT** hard nail, leave 1/32" (minimum) space between fastener and nail hem.
- When using power nail guns and staplers, set and adjust air pressure ensuring 1/32" clearance between fasteners and nailing hem.

Check with Alsie technical support for specific windload resistance for 3/4" fastener penetration into 1"x 3" wood furring.

FASTENING PROCEDURE



Do not drive the head of fastener tightly against the cladding and accessory nail hem.



Allow 1/32" clearance between fastener head and nailing hem for expansion.

ASCEND ACCESSORIES INSTALLATION INSTRUCTIONS

ACCESSORIES INSTALLATION: ASCEND STARTER STRIP

- For cladding to be installed properly, in level fashion, the starter strip at the bottom must be level. Failure to install starter strips level will negatively impact subsequent courses and overlap appearance.

- There are two methods to determine position of starter strip:

Option 1: Determine lowest point of the wall, measure up 1/4" less than the width of starter strip and mark on the wall.

- Using a chalk line from the mark, go to the next corner and pull the line taut. Make sure the line is level and snap a chalk line, repeating around the entire house.

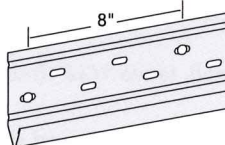
Option 2: Measure down from soffit to the top of foundation and subtract 1/4" less width of starter strip.

- Make a mark on the wall and transfer measurement to the other corner of the wall.

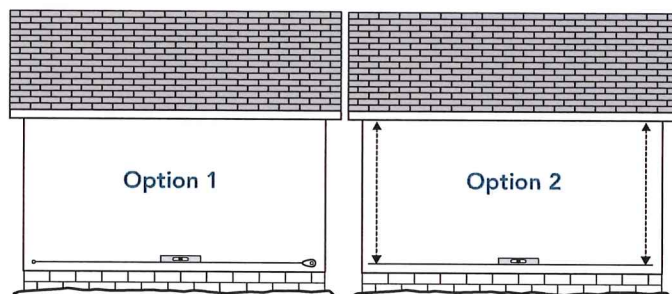
- Snap a chalk line between the corners at the marks, repeating around the entire house.

- Keep ends of starter strips 1/4" apart to allow for expansion.

- Fasten every 8", center of slots, 1-1/4" penetration into studs and leave 1/32" clearance between fastener head and starter, staggering fasteners in top and bottom row of slots.



- Maintain a minimum 1/2" clearance from grade and slab concrete for cladding and accessories.



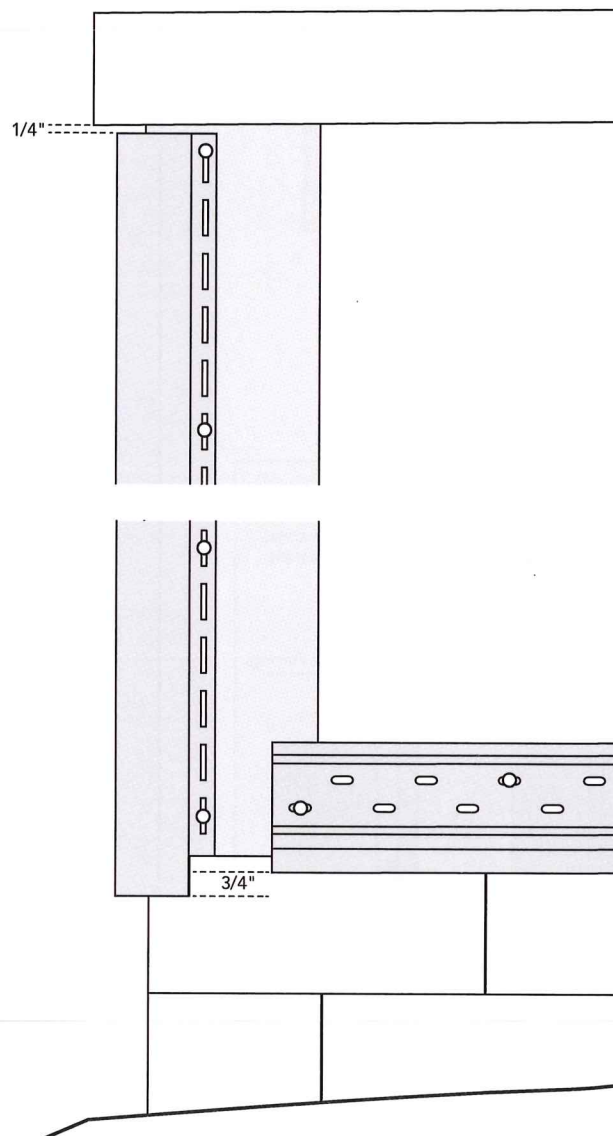
ACCESSORIES INSTALLATION: OUTSIDE AND INSIDE CORNER POSTS

- Position the top of vinyl corner post 1/4" from eave or soffit.

IMPORTANT: Hang corner post by placing first fasteners in the uppermost part of top slots at both sides of corner. **DO NOT** fasten through nailing flanges or any other accessories.

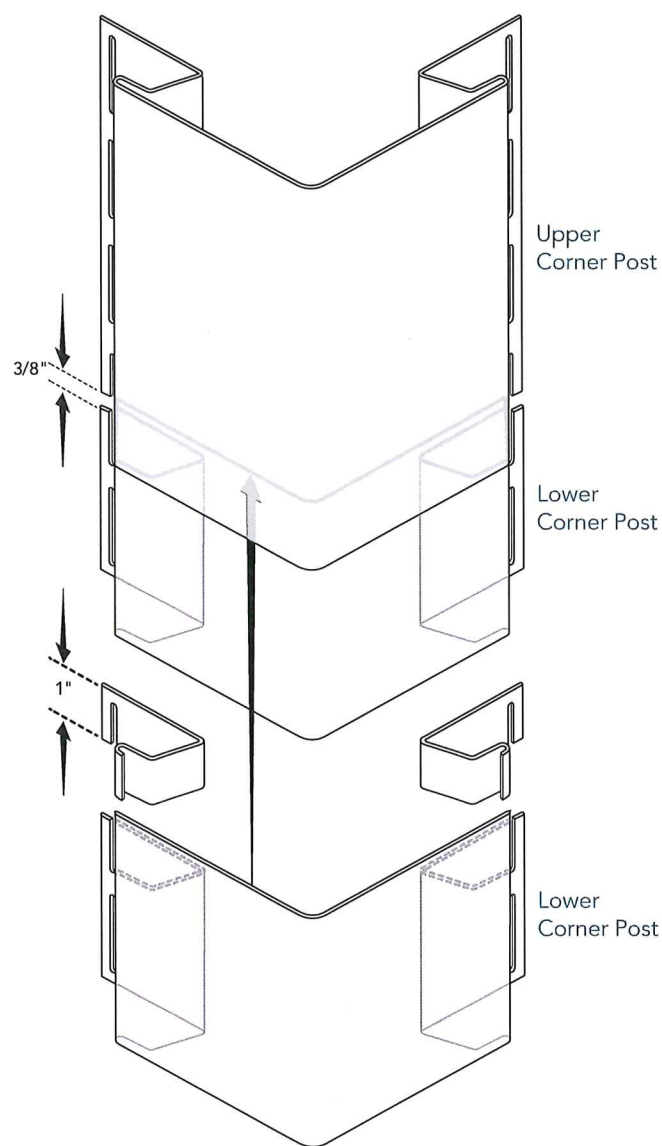
- Place all other fasteners in the center of nail slots, every 8" to 12".

- Do not fasten tightly; corner post should be able to move to allow for expansion. Allow 1/32" clearance between fastener head and nailing hem for expansion.**



ACCESSORIES INSTALLATION: OVERLAPPING CORNER POSTS

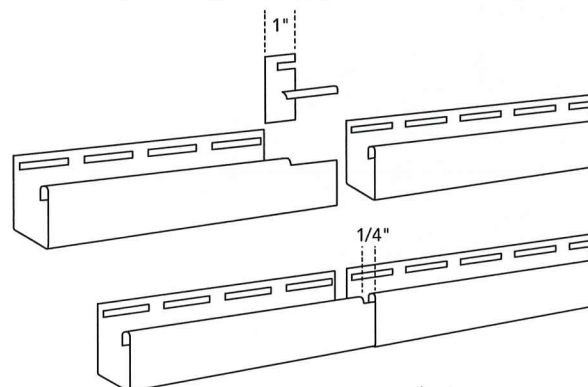
- At the top of lower cornerpost, cut 1" off the nailing flanges and channels so just the face of the outside corner post remains. Then lap 5/8" of the upper post over the lower post, allowing 3/8" for expansion.
- When the bottom edge of a corner post terminates into a porch, deck, brick, stone ledge or roof line, etc., allow 3/8" for every 10' of corner when the ambient temperature is above 40°F; 1/2" for every 10' of corner when the ambient temperature is 40°F or below.



ACCESSORIES INSTALLATION: J-CHANNELS

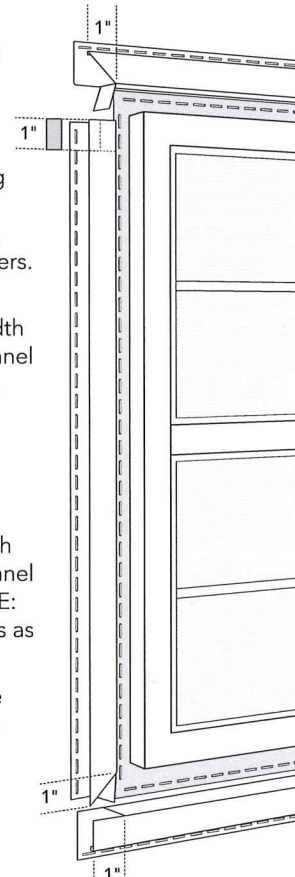
BOTTOM RECEIVER

- Make sure channels are level by snapping a chalk line.
- Drill minimum 3/16" diameter weep holes every 24". Leave a gap between the J-channel and the head flashing. J-channel should not rest on head flashing because it will block weep holes and will prevent adequate drainage.
- When joining two J-channels, cut one of the J-channel's nail flange and U shape hook leg at the face of the J-channel and insert into the adjoining J-channel 3/4" to create a clean overlap, leaving a 1/4" gap between hook legs.



WINDOWS/DOORS/OBSTACLES

- Before installing J-channel, make sure the substrate meets requirements for a weather-resistant barrier system, including a weather-resistant barrier and proper flashing around windows, doors, other openings, and corners.
- Begin cutting J-channel at the bottom of obstacle; measure width of the frame plus width of J-channel face to be installed at the jambs.
- Cut J-channels at the jambs; measure height of frame plus width of J-channel at the top and bottom of frame.
- Cut top J-channel; measure width of the frame plus width of J-channel face installed at the jambs. NOTE: J-channel will require weep holes as mentioned above.
- Create mitre cuts and tabs at the bottom of jamb pieces and both sides of top J-channel.
- Refer to fastener requirements, specs, and procedure above.



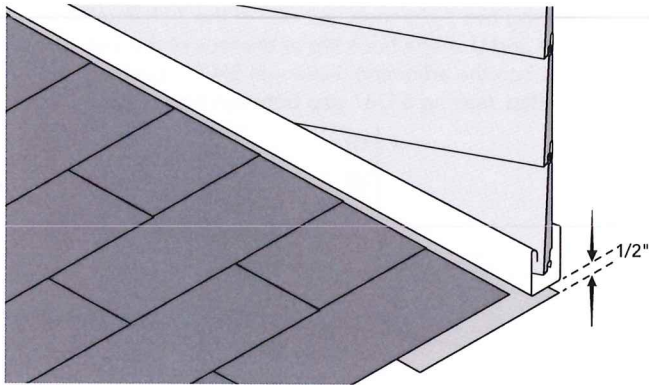
Continued on page 8

ASCEND 7" PLANK INSTALLATION INSTRUCTIONS

ACCESSORIES INSTALLATION: J-CHANNELS Continued

ROOFLINES AND GABLES

- Maintain a minimum of 1/2" from roofline shingles and step flashing.
- When joining two J-channels, cut one of the J-channel nail flange and U shape hook leg at the face of J-channel and insert into the adjoining J-channel 3/4" to create a clean overlap.

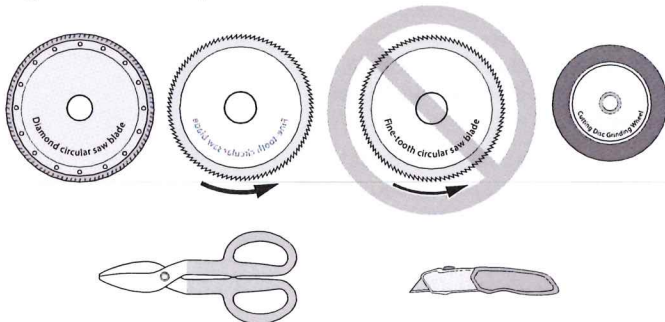


CUTTING CLADDING INSTRUCTIONS

- For vertical cuts to planks starting and finishing a course, transitioning into receiving channels, and overlaps, use the following tools:
 - Circular saw with a diamond blade or fine tooth (plywood) blade installed backward.
 - Tin snips; avoid closing blade completely at end of each stroke for a cleaner cut.

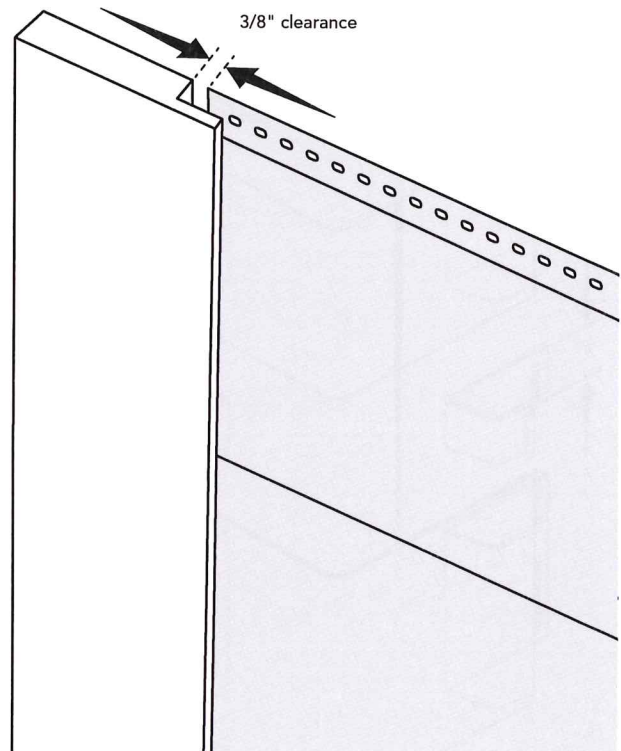
IMPORTANT: Vertical cuts must be straight; use a straight edge or carpenters square.

- For horizontal cuts above and below obstacles and finishing top course under overhangs, use the following tools:
 - Angle grinder with diamond blade.
 - Utility knife or scoring tool; score across and through the face of plank, into foam backing, and snap in half.
- For angle cuts in rakes and gables, saws, snips and angle grinders are acceptable.



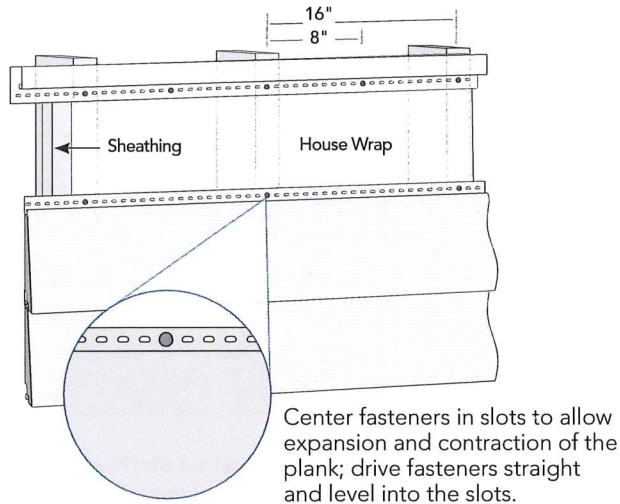
CLADDING INSTALLATION: 7" PLANK

- First course (row of planks) should be seated down into the starter strip. Planks should fully engage into the starter strip, but do not force down or create compression when fastening planks. **Plank should lay flat against wall.**
- **Allow for expansion and contraction by leaving 3/8" clearance between cladding and all corner posts and horizontal or vertical channels.**
- Remove plank factory notch before inserting into all receiving channels at corners, windows, doors and other obstacles.
- Avoid using planks shorter than 24" to start and finish a course.
- Check every 5th course for horizontal alignment on same and adjoining walls.
- When planning course layout, the first overlap should not occur in planks immediately above or below windows, doors, and other obstacles. For subsequent overlaps occurring above or below windows, doors, and other obstacles, and not using finish trim or starter strip, shim behind overlaps for proper plank projection and secure fit in J-channel.
- Refer to fastener requirements and specs above.



ASCEND 7" PLANK INSTALLATION INSTRUCTIONS (CONT'D)

FASTENING PROCEDURE: CLADDING

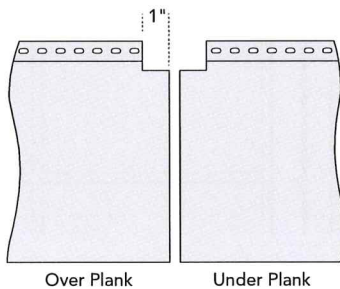


- If a nail slot does not allow centering/securing into nailable structural member, use a nail hole slot punch to extend the nail slot and allow centering of fastener.
- When using power nail guns and staplers, set and adjust air pressure ensuring 1/32" clearance between each fastener and nailing hem.

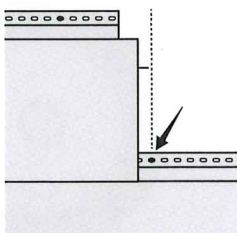
For information on fastening ASCEND and wind speed resistance, refer to Intertek CCRR-0316 and ICC ESR-4449 reports.

OVERLAPPING PLANKS

- Overlap away from areas with high traffic.
- Stagger cladding overlaps so that no two courses are aligned vertically unless separated by at least three courses.



- Install fastener on lower course in nail slot closest to plank overlap.



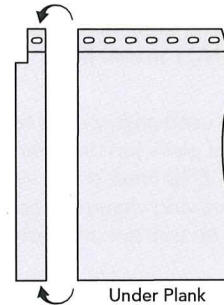
IMPORTANT: For applications using "soft" walls instead of a nailable substrate like OSB, the fastener at the lap must be a #8 truss or pan head screw and penetrate through the "soft" wall sheathing.

IMPORTANT: FIELD CUT REQUIRED

- A straight end cut required on Under Plank for proper overlap.

SAW CUT:

- Flush cut through entire Under Plank. **NOTE:** Cut should be flush through the nail hem to the bottom of the plank.

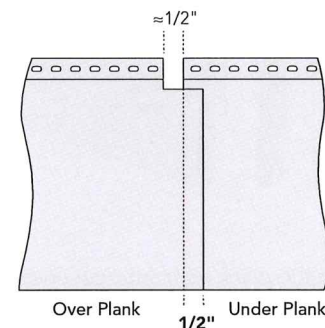


LAP METHOD – PREFERRED:

- Install Over Plank factory edge as the first plank of each course.
- Install subsequent Under Planks by sliding the Under Plank factory edge behind the Over Plank factory edge. **Maintain 1/2" overlap from cut of Under Plank. Do not butt foam to foam.** Maintaining a 1/2" overlap gap will give you approximately a 1/2" foam gap between planks.

LAP METHOD – TRADITIONAL:

- Overlap by sliding the Over Plank toward the Under Plank.
- Slightly lift the Under Plank while sliding the Over Plank 1/2" in front of the Under Plank so that the Over Plank seats down in the course below it first, then seat overlap down into the lock. **Maintain 1/2" overlap from cut of Under Plank. Do not butt foam to foam.** Maintaining a 1/2" overlap gap will give you approximately a 1/2" foam gap between planks.

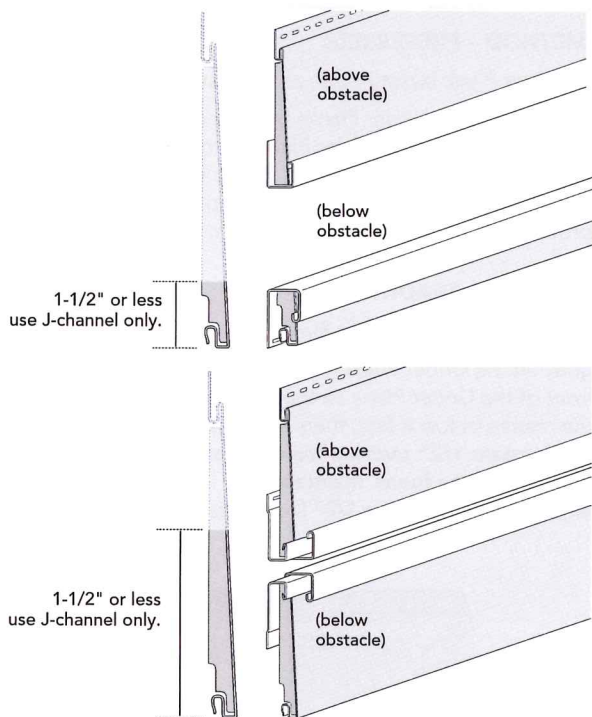


Stacking down Over Plank or failure to slightly lift Under Plank when overlapping, resulting in stress or flex of factory edge will void warranty

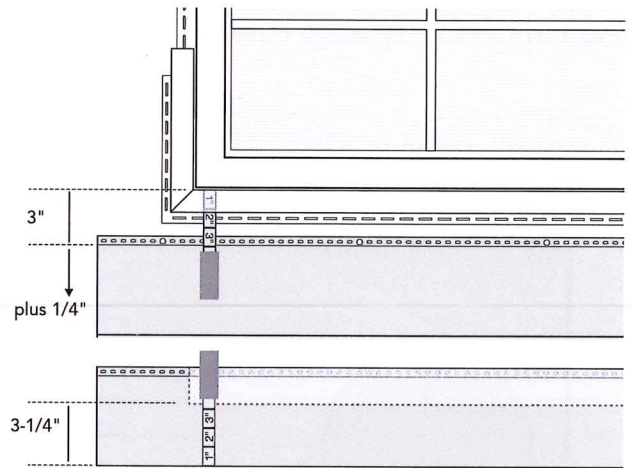
ASCEND 7" PLANK INSTALLATION INSTRUCTIONS (CONT'D)

INSTALLATION AROUND OBSTACLES:

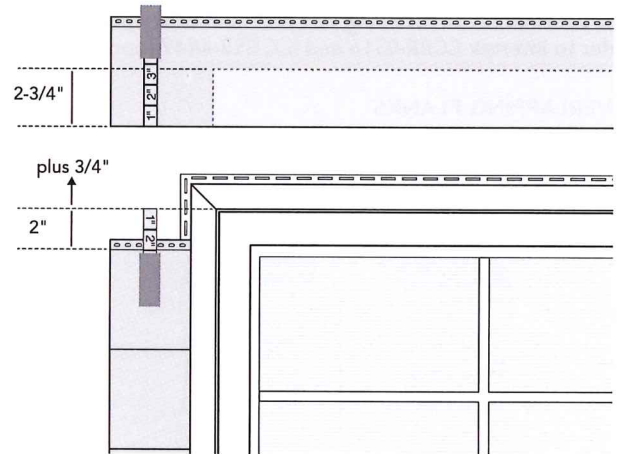
- Use mounting blocks with a receiving channel ring when installing cladding around fixtures such as faucets, vents, lights, pipes, lines, etc. **Allow clearance (3/8") in receiving channels (horizontal and vertical) when installing cladding.**
- Install ASCEND finish trim for maintaining plank projection and securing cladding on horizontal surfaces under and above windows, doors, and other obstacles when the width is greater than 1 ft. **DO NOT install finish trim vertically with the 7" plank.**
 - ASCEND finish trim is used anytime the top nail hem or bottom stack lock of plank has been removed (see exception below). ASCEND finish trim is inserted into the sill and header receiving channel. Receiving channel is installed prior to finish trim and measurements for plank cuts.



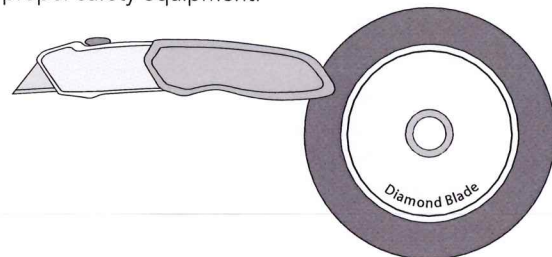
- When measuring the plank horizontal cut under obstacles, place tape measure into the backside of the receiving channel and measure to the top of the plank face of previously installed plank (past nail hem). Transfer measurement plus 1/4" to the cladding plank by pulling tape measure from the bottom of plank and mark measurement plus 1/4". Remove top of plank to the width of obstacle plus clearance (1/4" or 3/8") on both sides of obstacle.



- When measuring the plank horizontal cut above obstacles, hook tape measure onto the backside of the receiving channel and measure to the top of the plank face of previously installed plank (past nail hem). Transfer measurement plus 3/4" to the cladding plank by pulling tape measure from the bottom of plank and mark measurement plus 3/4". Remove bottom of plank to the width of obstacle plus clearance (3/8") on both sides of obstacle.



- Cut plank using a utility knife or angle grinder. Ensure proper safety equipment.

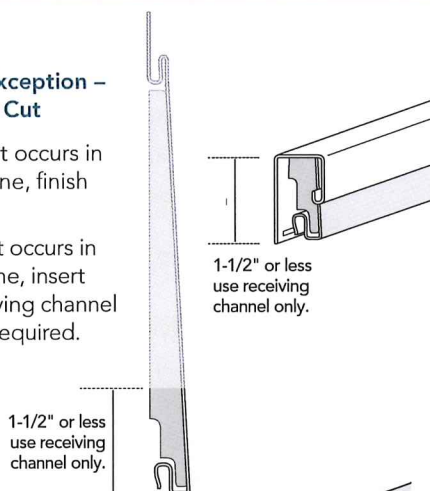


NOTE: Horizontal cuts occurring 1-1/2" or less from bottom butt of cladding do not require finish trim. Place up to 1-1/2" of cladding at the bottom butt into receiving channel only.

ASCEND 7" PLANK INSTALLATION INSTRUCTIONS (CONT'D)

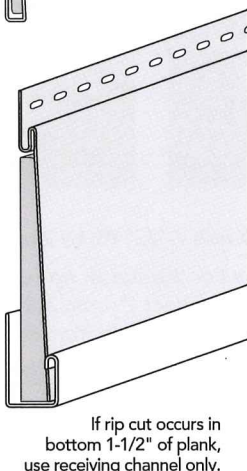
Finish Trim Usage Exception – Below Obstacle Rip Cut

- When horizontal cut occurs in the light shaded zone, finish trim is required.
- When horizontal cut occurs in the dark shaded zone, insert cut plank into receiving channel only, no finish trim required.



Finish Trim Usage Exception – Above Obstacle Rip Cut

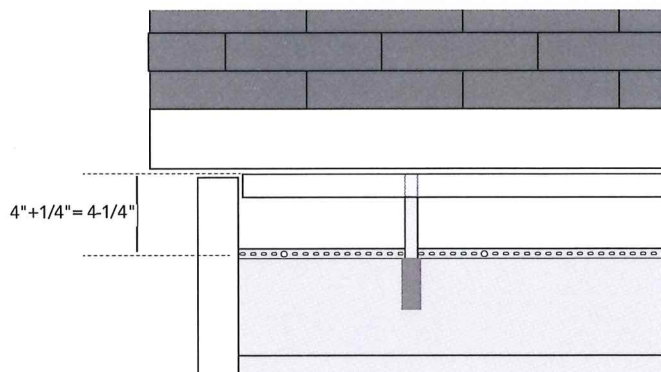
- Drill 3/16" weep holes in finish trim.
- Install finish trim into the receiving channel header and sill of windows, doors, and other obstacles after taking measurements for plank horizontal cuts. **Finish trim should be installed flat against the wall.**
- ASCEND finish trim will allow plank to maintain projection while securing the horizontal cut section of the plank.



FINISHING TOP OF WALLS

LAST COURSE INSTALLED HORIZONTALLY IN RECEIVING CHANNEL AT THE EAVES

- Install receiving channel under the soffit or eave to receive ASCEND finish trim.
- Place tape measure into the backside of the receiving channel and measure to the top of previously installed plank (past nail hem). Transfer measurement plus 1/4" to the cladding plank by pulling the tape measure from the bottom of plank and mark the measurement plus 1/4", remove top of plank.



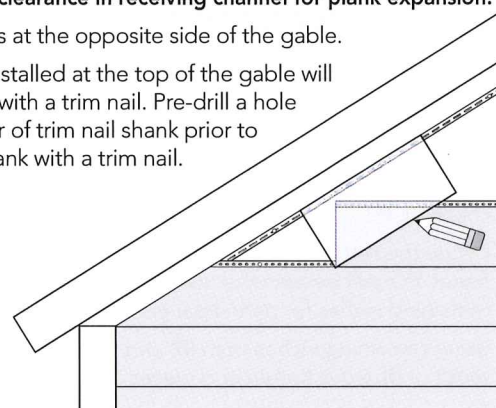
- Cut plank using a utility knife or grinder blade.

NOTE: Horizontal cuts removing top of cladding plank and leaving 1-1/2" or less of cladding plank at the bottom butt do not require finish trim. Place up to 1-1/2" of cladding at the bottom butt into receiving channel only.

- Install finish trim into the receiving channel or other channeled accessory previously installed under the soffit. Finish trim should be installed flat against the wall.
- Push ASCEND plank completely into the finish trim before engaging the plank stack lock into previous course.
- ASCEND finish trim will allow plank to maintain projection while securing the horizontal cut section of the plank.

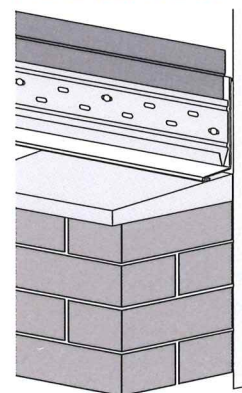
GABLE INSTALLATION

- Make a pattern that duplicates the angle or slope of the gable by stack-locking a small piece into the last course of cladding installed before the gable starts.
- Place a second piece into the gable receiving channel and mark slope on the small piece of cladding.
- Remove small piece and cut along mark for a pattern to make gable cuts. Ensure accuracy of angle to preserve required clearance into channel.
- **Ensure 3/8" clearance in receiving channel for plank expansion.**
- Repeat steps at the opposite side of the gable.
- Last piece installed at the top of the gable will be installed with a trim nail. Pre-drill a hole the diameter of trim nail shank prior to fastening plank with a trim nail.



MASONRY TO ASCEND TRANSITION

- Caulk where substrate meets the top of flashing, and between the masonry and bottom of head flashing.
- Apply field-formed head flashing and tape.
- Install receiving channel or starter strip for horizontal ASCEND cladding.
- There must be a gap left between the starter strip and the flashing. If the starter strip is touching the flashing, the ASCEND plank will not engage properly.

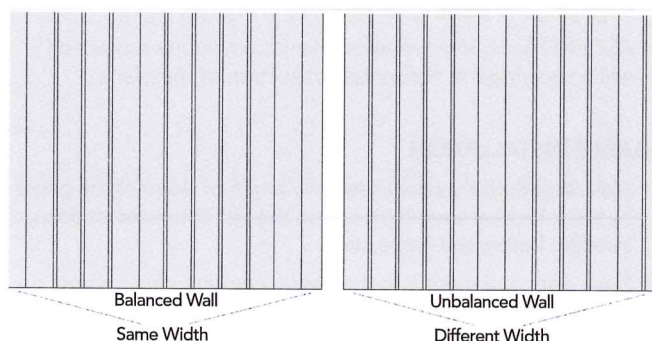


ASCEND 12" BOARD & BATTEN INSTALLATION INSTRUCTIONS

CLADDING INSTALLATION: BOARD & BATTEN

BOARD & BATTEN LAYOUT

- Before cutting and fastening the first Board & Batten panel, plan the wall layout to have a balanced appearance with a Batten centered in the peak if installing in a gable. A balanced appearance will have an equal number of full panels to the right and left of the center point of a wall and end pieces will be the same width.



CALCULATING A BALANCED WALL APPEARANCE

To create a balanced wall appearance, you will need to know the following:

- Total width of wall (inches) from outside edge of receiving channel to outside edge of receiving channel, less required clearance for expansion, 1/4" clearance in each receiving channel). (A)
- Divide the result of (A) by 12" exposure of full Board & Batten panel, this will result in the number of full-length panels and remaining inches for partial panels. (B)
- Using remaining inches from (B) and divide by 2 for the rip cut width of Board & Batten end pieces. (C)
- The starter rip cut panel should be 1" shorter than half the remaining inch total. The terminating rip cut should be 1" longer than half the remaining inch total.

WALL EXAMPLE

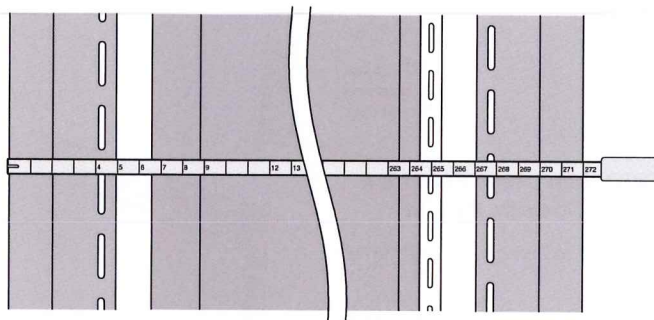
1. Width of receiving channel – 272"

- $272" - 1/4" - 1/4" = 271-1/2"$ (A)

- The 1/2" is 1/4" doubled for clearance into receiving channel

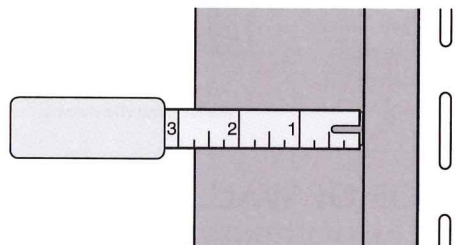
2. Divide 271-1/2" (A) by 12 for full length panels. This comes out to 22 full panels.

- $271-1/2" - 264" (22 \text{ full panels}) = 7-1/2"$ (B)

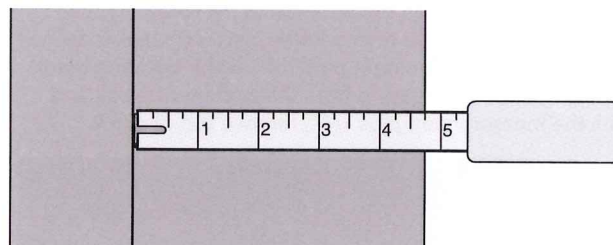


3. Divide 7-1/2" (B) by 2 to get 3-3/4" (C)

- For the starter rip cut panel (piece with the nail hem slots), subtract 1" from 3-3/4" (C) to make your rip cut = 2-3/4" as measured from the lock.



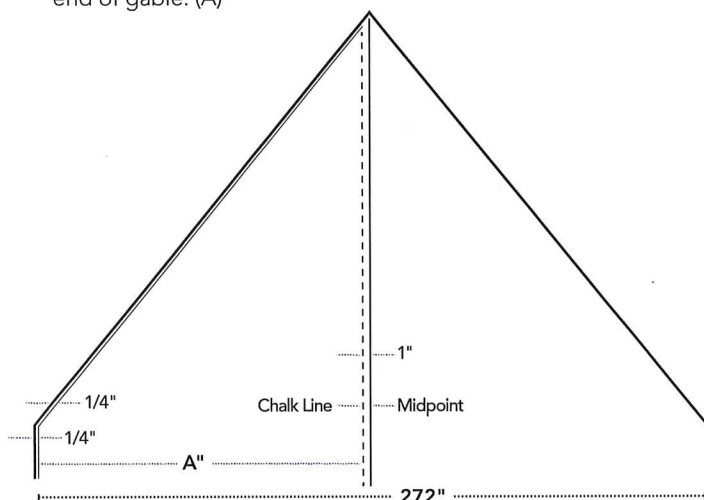
- For the termination rip cut panel (panel with the batten strip), add 1" to 3-3/4" (C) to make your rip cut = 4-3/4" as measured from the batten.



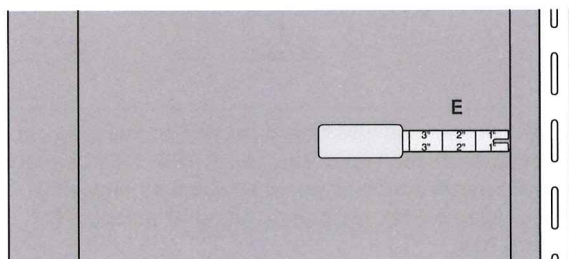
CALCULATING A BALANCED GABLE APPEARANCE

To create a balanced gable appearance with the batten strip centered at mid-point of gable, follow the steps below::

- Drop a plumb line from the center of gable and then strike a vertical chalk line 1" left of mid-point line. At base of gable, measure from the chalk line to inside of receiving channel at end of gable. (A)



- Divide by 12" to determine number of full panels (B) and one partial panel that will serve as the starter piece for the left side of the gable.
- For the starter piece width, multiply 12" by the number of full panels (B) and subtract that value (C) from the base of gable measurement (A). Deduct a 1/4" clearance from partial piece width (D) for clearance in channeled accessory (E). Measure (E) from inside part of nail hem as shown below and cut panel.



Note: If wall installation transitions into a gable, reference gable installation instruction to make sure wall installation remains centered. Follow same instruction.

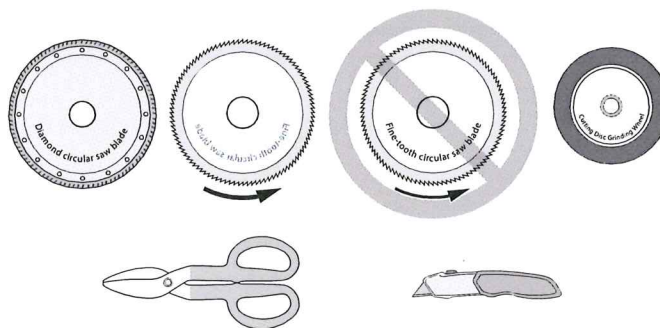
GABLE EXAMPLE

1. Drop a plumb line from the center of the gable. Mark your vertical chalk line 1" to the left of the line. Measure from the inside of the receiving channel to the chalk line.
 - $136" - 1" = 135" (A)$
2. Divide 135" (A) by 12 for full length panels.
 - $135" (A) \div 12" = 11 \text{ (full panels) (B)}$
3. Multiple 11 (B) by 12" for total width of full length panels.
 - $12" \times 11 \text{ (full panels) (B)} = 132" (C)$
4. Subtract 132" (C) from 135" (A) to get partial piece width.
 - $135" (A) - 132" (C) = 3" (D)$
5. Subtract 1/4" from 3" (D) to ensure clearance in channeled accessory.
 - $3" (D) - 1/4" = 2-3/4" (E)$

CUTTING BOARD & BATTEN PANELS

For vertical, angular or horizontal rip cuts at corners, windows, doors and other obstacles use the following tools:

- Circular saw with a diamond blade or fine tooth (plywood) blade installed backwards.
- Angle grinder with diamond blade.
- Tin snips; avoid closing the blade completely at the end of each stroke for a cleaner cut. Also maintain a straight cut when cutting through the width of the panel.
- Utility knife or scoring tool; score across and through the face of panel, into foam backing, and snap in half.



ASCEND 12" BOARD & BATTEN INSTALLATION INSTRUCTIONS (CONT'D)

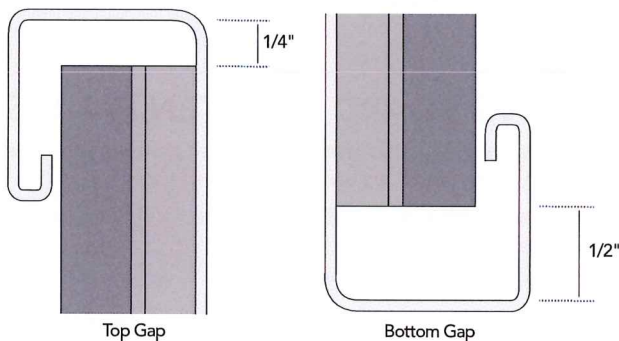
BOARD & BATTEN ACCESSORIES INSTALLATION

- Use 3/4" x 3/4" receiving channel accessories such as J-channel, at bottom and top of wall, transitions, corners, windows, doors and other obstacles.

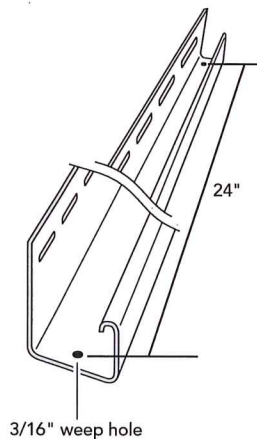
Note: Ensure a 1/4" clearance between Board & Batten panel and top accessory channel.

- Channel accessories are used to frame the bottom of Board & Batten panels at the top and bottom of a wall.

Note: Ensure a 1/2" clearance between Board & Batten panel and bottom channel.



IMPORTANT: For water management, drill minimum 3/16" diameter weep holes every 12" to 24". Leave a gap between the J-channel and the head flashing. J-channel should not rest on head flashing because it will block weep holes and will prevent adequate drainage.

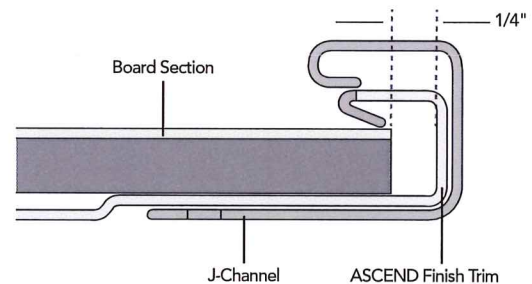


- Channeled accessories are used to frame the top and bottom of Board & Batten panels, as well as gable and rake accent applications.

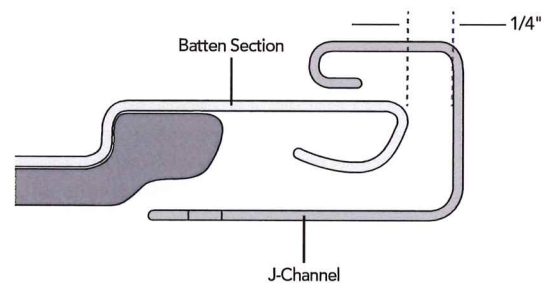
BOARD & BATTEN INSTALLATION: WALL AND GABLE

- Reference "Fastener Requirements" section on page 5.
- When rip cuts or the "board" part of the panel is to be received into an accessory channel over 12", ASCEND finish trim is required and will secure the panel to the wall. Insert and fasten ASCEND finish trim into receiving channel before installing ASCEND Board & Batten panel.
 - Finish trim is not required in horizontal receiving channels or if "batten" part of panel is inserted into receiving channel.
 - Maintain a 1/4" horizontal clearance into finish trim, as shown below.

BOARD SECTION – Use Finish Trim



BATTEN SECTION – DO NOT Use Finish Trim



Note: Finish trim nail into board portion to keep rip cut panel in place at the top of the panel. Drill 1/8" diameter hole into board section of panel covered by receiving channel. Using a trim nail punch, fasten trim nail, DO NOT hard nail.

Note: Ensure a 1/4" clearance between Board & Batten panel and top accessory channel.

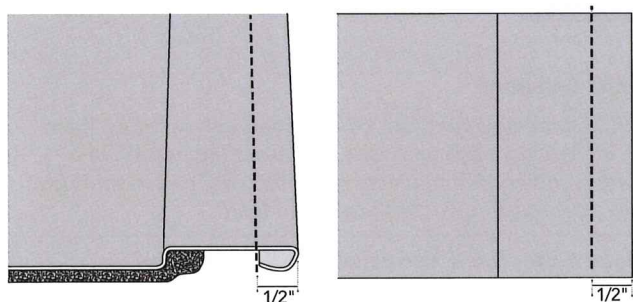
Note: Ensure a 1/2" clearance between Board & Batten panel and bottom channel.

ASCEND 12" BOARD & BATTEN INSTALLATION INSTRUCTIONS (CONT'D)

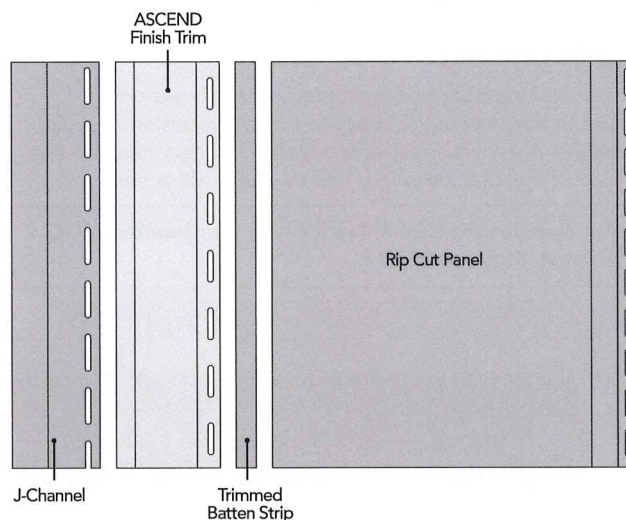
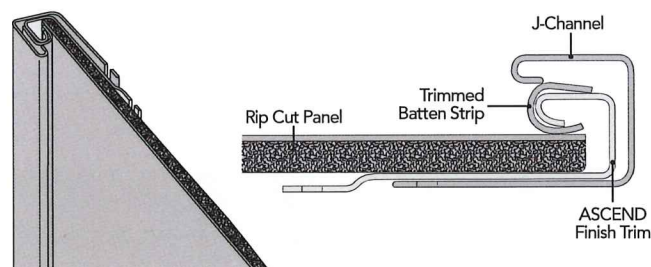
- For smoother installation, cam/angle the batten when interlocking a new panel with the previous panel. Begin locking a few inches below the top accessory, then slide the panel upwards as it securely locks from the top down.
 - When making rip cuts around windows, doors, other obstacles, follow same finish trim use and clearance instructions as performed on rip cut of the first panel when span is greater than 12".
 - For best appearance, cover the clear flex leg of the finish trim, use the following techniques:
 - Using the rip cut panel, cut a piece of the batten strip and insert into flex leg pocket.
- OR**
- Install utility trim by removing the nail hem and inserting into flex leg pocket.

USE BATTEN STRIP

- Measure 1/2" and cut batten strip from panel as follows:



- Insert the batten strip over the finish trim.



TIP: While this is a press/friction fit, it's optional to enhance its integrity by applying beads of caulk into the trimmed batten portion.

TRANSITIONS

Note: Board & Batten panels cannot be vertically overlapped.

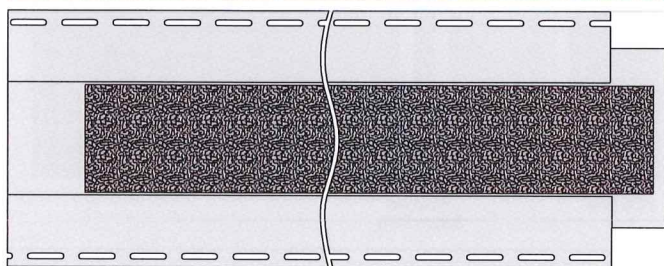
- When a wall height extends beyond the length of one Board & Batten course or there is a transition to or from another material or cladding, make sure to include proper flashing when using J-channel and other receiving channel trims.
- ASCEND composite cladding H-Trim is designed with weep holes and tapered graphite polystyrene foam designed for water drainage.

ASCEND H-TRIM INSTALLATION INSTRUCTIONS

H-TRIM INSTALLATION: HORIZONTAL

- Channelled accessories are required when transitioning between a horizontal cladding to a board & batten or shake cladding. H-Trim is an option to meet this need. Position the H-Trim in the location where the transition will occur.

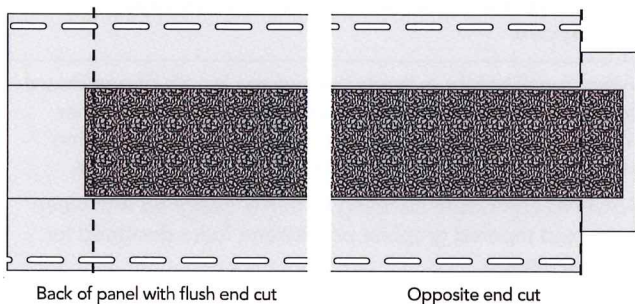
Note: Nail flanges should lay flush to the sheathing. DO NOT push down on H-Trim.



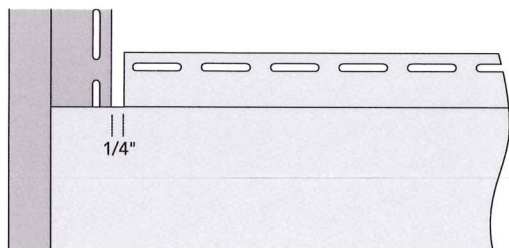
Note: One end of the H-Trim panel has recessed foam to enable another piece of H-Trim to create overlap.

STARTING A TRANSITION

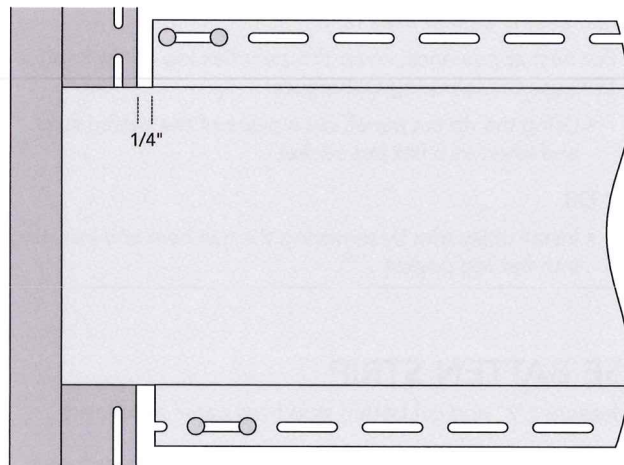
- Cut through the entire piece just inside the edge of the foam to create a flush end cut.



- Butt a flush cut end against the outer edge of the vertical accessory. **DO NOT** overlap the H-Trim nail flange on top of another product nail flange.
- If H-Trim nail flange overlaps the nail flange of a corresponding accessory, cut the nail flange back a minimum of 1/4" length past the vertical accessory nail flange.



- When used with a corner post or terminating into another vertical accessory, H-Trim is required to be restricted at that end. Place fasteners at the edges of the slot closest to end of panel to restrict movement in opposite direction on both the top and bottom nail flanges. This will restrict movement of H-Trim into the corresponding accessory. **DO NOT** fasten through nailing flanges of any other accessories.

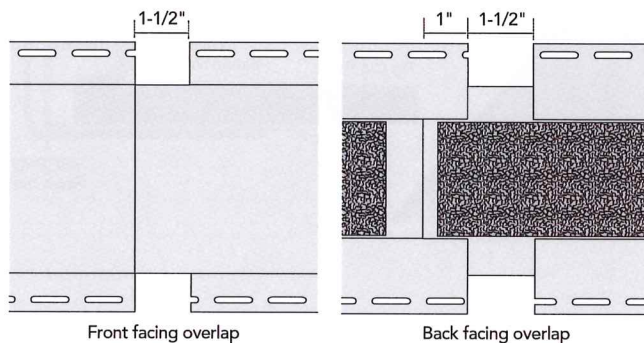


H-TRIM OVERLAP

- ASCEND composite H-Trim is designed with recessed foam on the trailing edge to accept the cutout/lap portion of a corresponding H-Trim piece. When lapping, H-Trim must go into a pre-existing end with recessed foam.

Note: Either the under panel or over panel may be installed first.

- Do not cut foam back on an already cut piece, use a new piece of H-Trim with recessed foam on all overlaps.**
- Ensure 1-1/2" between the nail hems of the two H-Trim pieces. This will provide a 1" overlap between panels.



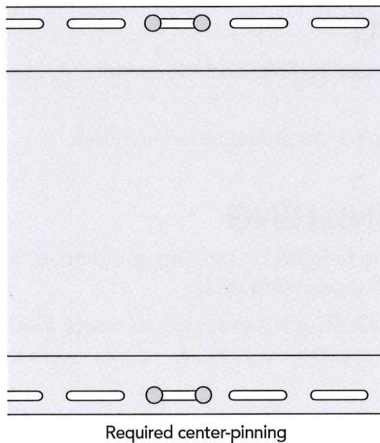
ASCEND H-TRIM INSTALLATION INSTRUCTIONS (CONT'D)

H-TRIM FASTENING

- Place fasteners 4-6 slots away from the lap on both panels.
- Nail flanges should lay flush to the sheathing. DO NOT push down on H-Trim.

Note: Installers should never cut the foam back or modify the foam setback on any of these transitions when the span of the transition is greater than a single piece of H-Trim.

- When installation of H-Trim spans more than two full length pieces, the middle H-Trim piece(s) is required to be center-pinned to restrict movement. Center-pinning is required on both the top and bottom nail hems at the center of each full length panel.



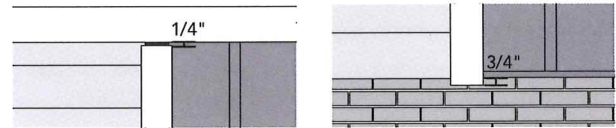
- Place fasteners every 16" on center on both the top nail hem and bottom nail hem.
- Ensure end of H-Trim course is not less than 18" in length.

H-TRIM INSTALLATION: VERTICAL

- H-Trim may be used in vertical applications when transitioning between two different plank profiles such as ASCEND 7" Horizontal and ASCEND 12" Board & Batten.
- The terminating points at both the top and bottom of the wall must be flush cut.
- Nail flanges of the H-Trim must not overlap the accessory it is butting up to. Follow instructions above on cutting procedures for these terminating points.

HANGING VERTICAL H-TRIM - FREESTANDING APPLICATION

- Position the top of H-Trim 1/4" from eave, soffit or channeled accessory.

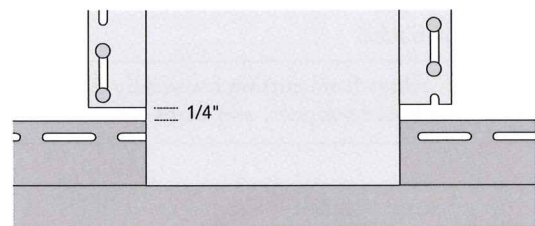


IMPORTANT: Hang H-Trim by placing first fasteners in the uppermost part of top slots at both sides. DO NOT fasten through nailing flanges or any other accessories.

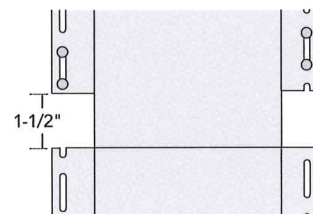
- Place all other fasteners in the center of nail slots, every 8" to 12".
- DO NOT fasten tightly; H-Trim should be able to move to allow for expansion.
- Allow 1/32" clearance between fastener head and nailing hem for expansion.

HANGING VERTICAL H-TRIM - BUTTED APPLICATION

IMPORTANT: Position H-Trim by placing center-pinning in bottom most full slots on both sides. DO NOT fasten through nailing flanges or any other accessories. Cut the nail flange back a minimum of 1/4" length past the horizontal accessory nailing flange.



- Place all other fasteners in the center of nail slots, every 8" to 12".
- DO NOT fasten tightly; H-Trim should be able to move to allow for expansion.
- Allow 1/32" clearance between fastener head and nailing hem for expansion.
- Leave 3/8" clearance between H-Trim and top accessory.
- Overlap of the panel will have a 1-1/2" gap distance between nail hems. Center-pin higher panel in bottom most full slots on both sides.



CELLULAR PVC TRIM INSTALLATION INSTRUCTIONS

CELLULAR PVC TRIM INSTALLATION: GENERAL INFORMATION

- Install trim over a continuous substrate.
- Fasteners shall penetrate substrate minimum 1-1/2".
- Leave the recommended expansion space between pieces of trim based on temperature at the time of installation.
- Use PVC cement or adhesives to join pieces of cellular trim.
- Use 100% acrylic latex house paint if paint color is an LRV (Light Reflectance Value) greater than or equal to 55%.
- If LRV is less than 55%, use a coating that is formulated specifically for exterior vinyl products.
- Use sealant to fill gaps, nail and screw holes.

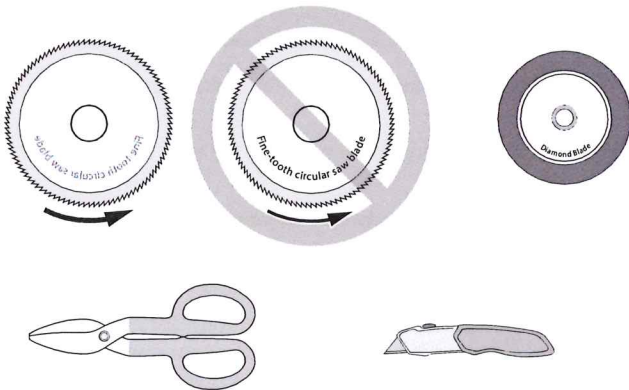
TRANSPORTING AND STORING

- Trim is shipped to the jobsite in a plastic wrap to protect from dirt and debris.
- Store on a flat level surface.
- Handle trim with care to avoid damage.

CUTTING

- Use conventional wood working saws.
- Use carbide tipped blades designed to cut wood.
- Do not use fine tooth metal cutting blades.
- Do not reverse blades.

Avoid rough edges from cutting caused by excessive friction, poor board support, and worn saw blades.



DRILLING

- Do not use bits made for rigid PVC.
- Avoid frictional build-up and remove shavings from the drill hole as frequently as necessary.
- Drill with standard wood-working drill bits.

MILLING

- Mill using standard milling machines used to rout lumber.
- Relief angle 20 to 30 degrees.
- Do not score material.
- Cutting speed to be optimized with the number of knives and feed rate.

ROUTING

- Rout using standard bits and the same tools used to rout lumber.
- Carbide-tipped router bits recommended.

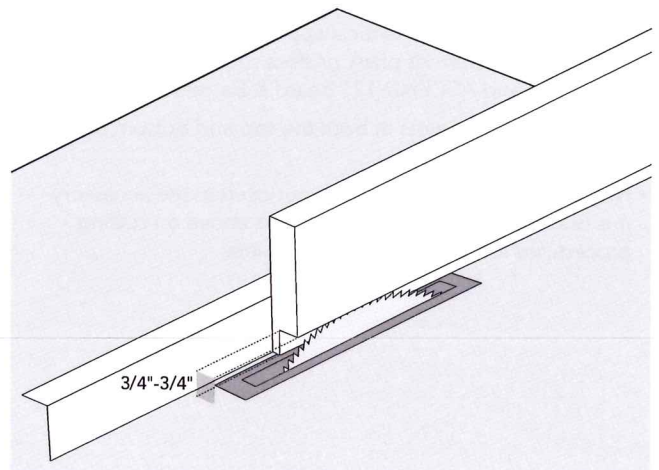
EDGE FINISHING

- Edges can be finished by sanding, grinding, or filling with traditional woodworking tools.
- Sand with 150-220 grit sandpaper to create a smooth edge.

JOINTS

- Provide bevel or shiplapped joints for material subject to expansion and contraction. Do not use butt joints.
- Use butt joints for corner units or T-joints, only.

IMPORTANT: When field routing a solid board with a receiving channel, minimum 3/4" pocket depth and 3/4" projection routes are required.

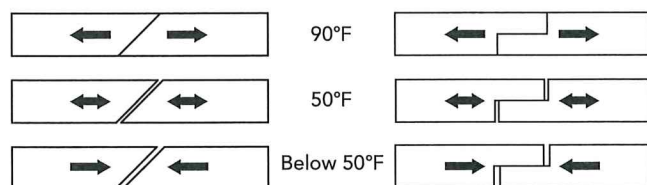


CELLULAR PVC TRIM INSTALLATION INSTRUCTIONS (CONT'D)

EXPANSION/CONTRACTION

- Under normal conditions and when installed properly, PVC trim will expand/contract approximately 1/8" per 18'.

IMPORTANT: Failure to use proper type and quantity of fasteners may result in expansion/contraction greater than 1/8". Provide bevel or shiplapped joints for material subject to expansion and contraction. Do not use butt joints.

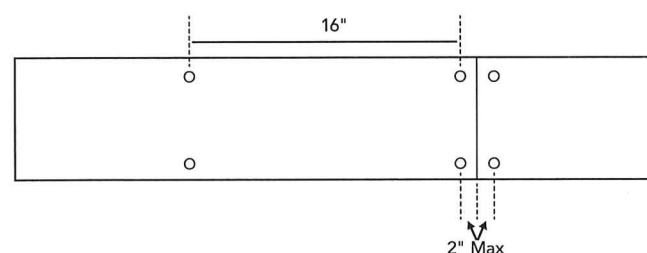


FASTENING

- Fasteners shall be hand nailed, power nailed, or screwed.
- Power nailing: adjust nail gun to prevent excessive nailing pressure or overdriving the nail. Adjust for ambient and material temperatures.
- Pre-drill material when installing in low temperatures.
- Fasteners should be long enough to penetrate into a 1-1/2" solid wood substrate a minimum of 1-1/2".
- Staples, small brads, and wire nails must not be used as fastening members.
- Fasten trim into a flat, solid wood substrate that is a minimum 1-1/2" thick. Do not fasten trim into hollow or uneven substrates.

FASTENER SCHEDULE

- Along length of board: fasten at 16" on center, maximum.
- Within width of board: 4" on center, maximum.
- Distance from end of each board: Not more than 2".



BONDING

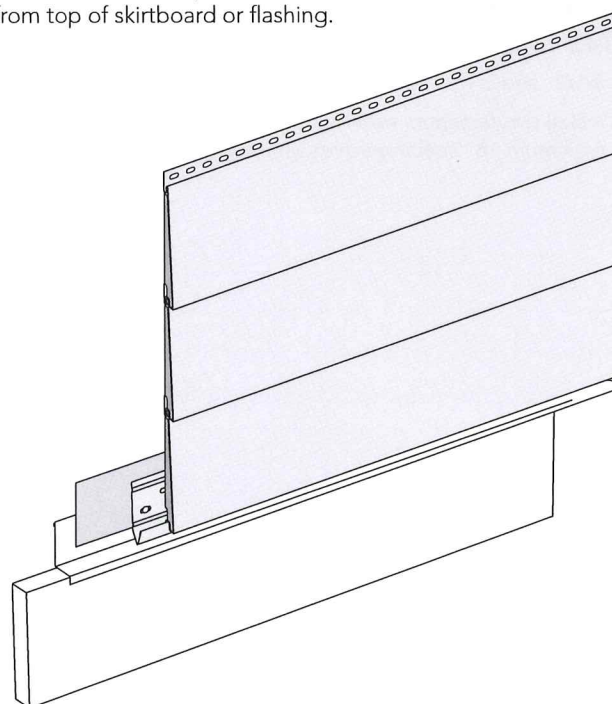
- Follow adhesive manufacturer's guidelines.
- Glue joints shall be secured on each side of the joint to allow adequate bonding time.
- Surfaces to be glued should be clean and dry and in complete contact with each other. Smooth surfaces shall be sanded and cleaned prior to bonding.
- Use PVC adhesive when installing short runs of trim.

FINISHING

- Correct dents and gouges before applying final coating.
- Nail holes should be filled using Structural Sealant, Cellular PVC Adhesive or Nail Stick.
- Clean material with a light detergent and warm water. Stubborn stains may be removed with rubbing alcohol.

SKIRTBOARD INSTALLATION AT GRADE

- Skirtboard can be installed for aesthetics, but is not required for installation of ASCEND cladding at grade.
- Skirtboard design with a kick out leg at the top is not compatible with ASCEND.
- To achieve aesthetics of skirtboard, use solid trim board with field-formed head flashing and ASCEND starter strip above the trim board.
- ASCEND starter strip needs to be offset about 1/8" to 1/4" from top of skirtboard or flashing.



CELLULAR PVC TRIM INSTALLATION INSTRUCTIONS (CONT'D)

MASONRY TO CLADDING TRANSITION

- Water Table design with a kick out leg at the top is not compatible with ASCEND. Remove kick out leg, install head flashing with tape and ASCEND starter strip or receiving channel.
- **Option:** To achieve aesthetics of Water Table, use solid trim board with field-formed head flashing with tape and ASCEND starter strip or receiving channel above the trim board.

BAND BOARD INSTALLATION

- Band board aesthetics will require a field-routed pocket $3/4" \times 3/4"$ at the bottom of a solid trim board.
- Install ASCEND finish trim into the field routed pocket (see Finish Trim Usage Exception Section on page 9).
- Finish last course of cladding into ASCEND finish trim.
- Head flashing should be formed and installed above band board.
- Install starter strip or channel to receive first course of cladding above band board.

INSIDE CORNER INSTALLATION

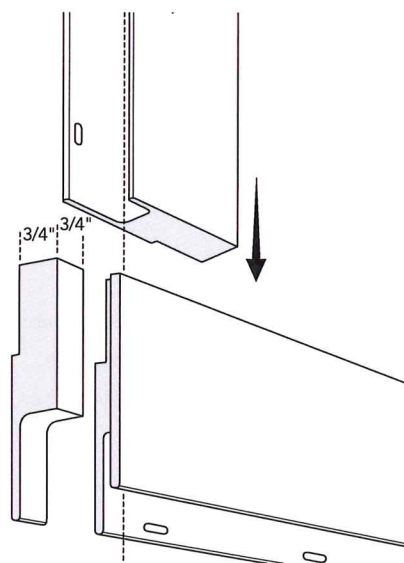
- Install 3-1/2" trim board with channel to receive cladding.
- On the adjacent wall from 3-1/2" trim board, remove 1" wide strip from trim board and install the backside against the 3-1/2" trim board.

ONE-PIECE OUTSIDE CORNER INSTALLATION

- 3-1/2" and 5-1/2" one-piece corner boards are recommended.
- Install two fasteners evenly spaced across each side, maximum 16" spacing across entire length of corner.

WINDOW SURROUND INSTALLATION

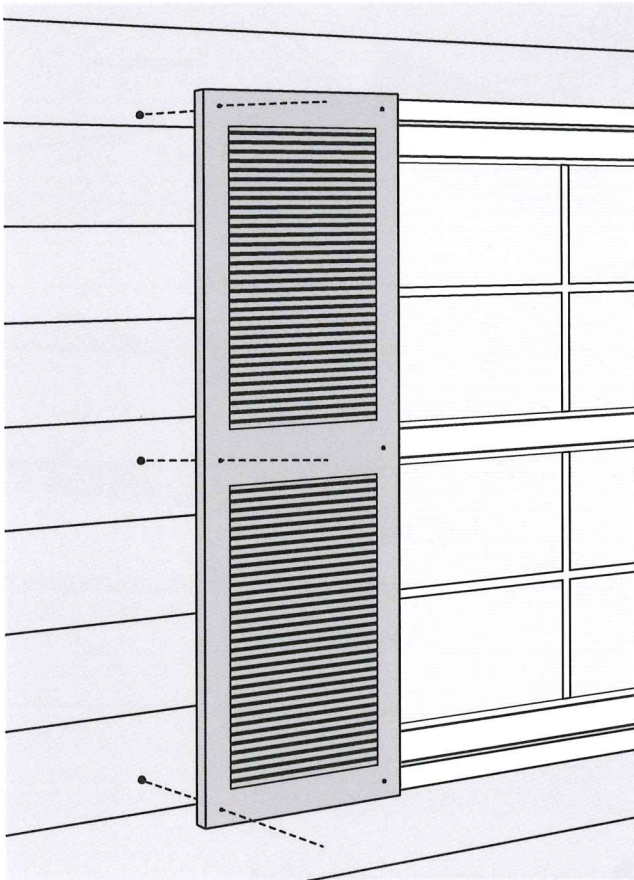
- Before installing trim, flash opening in accordance with AAMA method A1 or local building code requirements.
- For new construction, trim boards with channel and nail fin cutout are recommended.
- Cut sill, jambs and header to assemble picture frame of trim prior to installing on the wall.
- When making mitre cuts at corners, additional field cuts are not required.
- When making square cuts at corners and using the historic and solid sill, two field cuts are required to receive cladding:
 - Field route a $3/4" \times 3/4"$ pocket at the bottom backside of sill. Cut ASCEND finish trim length 2" less than sill length and insert into the routed sill pocket.
 - Exception: when using cellular trim with a channel, field route at backside is not required.
 - Field route $3/4" \times 3/4"$ pocket across installed height of sill ends and top of both jamb pieces, to provide a continuous receiving channel at corners to receive plank.
- Install screws through bottom of sill into the jamb trim boards.
- Glue and screw the header into the top of jambs.



SPECIALTY RECOMMENDATIONS

SPECIALTY RECOMMENDATIONS: SHUTTER INSTALLATION

- Pre-drill holes through shutter and mark location of these holes on the cladding.
- Drill a hole 1/4" larger than the diameter of shutter screw shank in plank.
- Do not fasten tight.

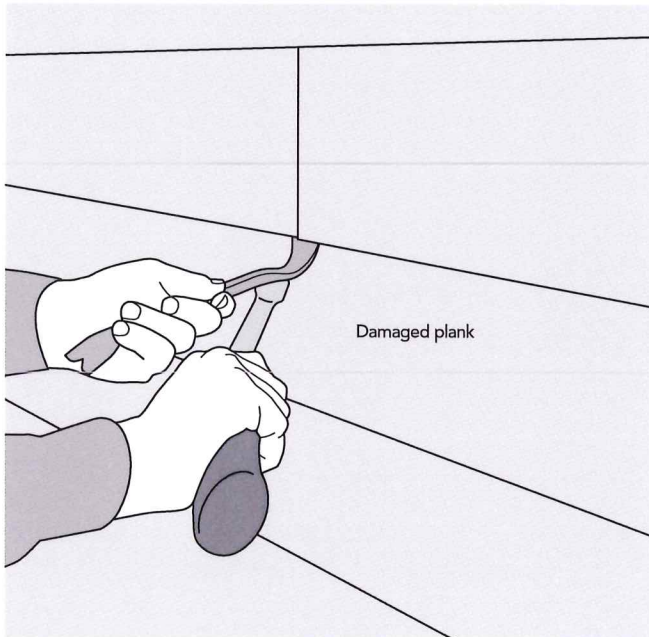


ATTACHMENT OF OTHER PRODUCTS

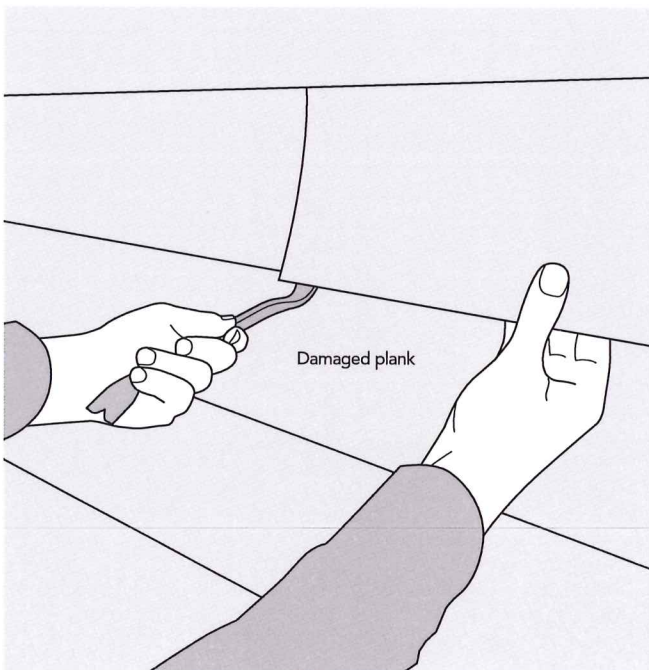
- Requires a hole to be 1/4" larger in diameter than fastener shank diameter used to attach product.

REPLACING A DAMAGED PLANK – ASCEND 7" PLANK

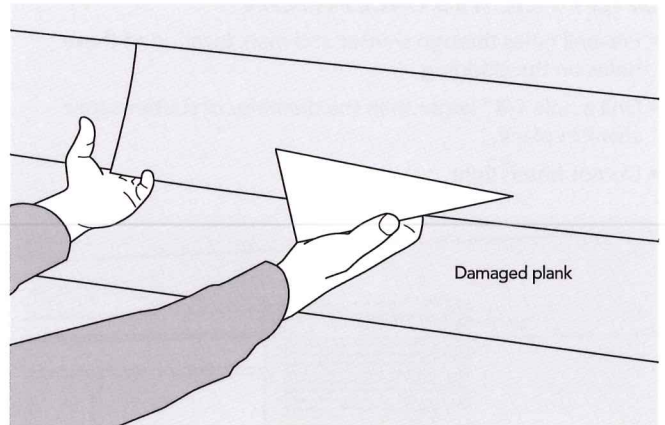
- 1 Locate an overlap of the cladding course above damaged plank.
- 2 Slide pry bar under the overlap of the cladding course above damaged plank.



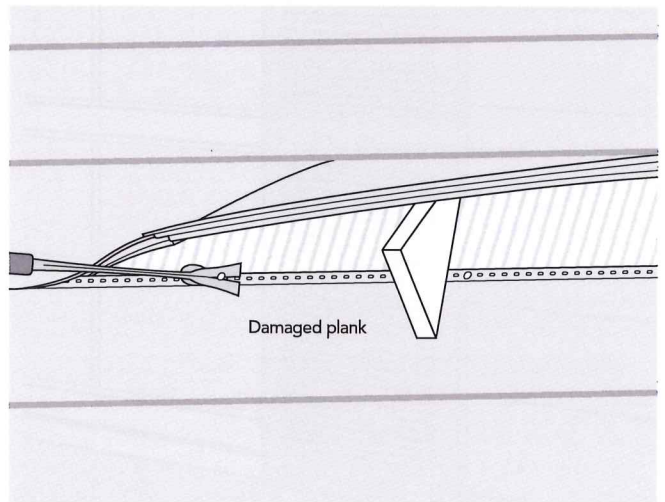
- 3 Using a hammer, tap up on the pry bar to unlock stack lock from the top lock of damaged plank. Repeat this step, working away from the overlap until stack lock is unlocked across the length of damaged plank.



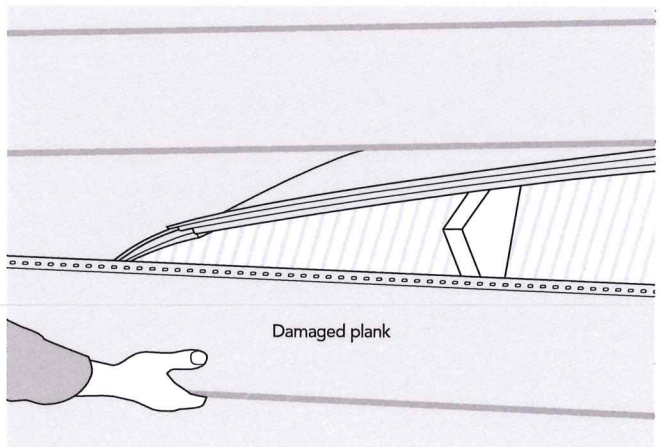
- 4 Place wood shims behind the cladding planks allowing more room to the nail hem of damaged plank.



- 5 Remove fasteners from damaged plank.

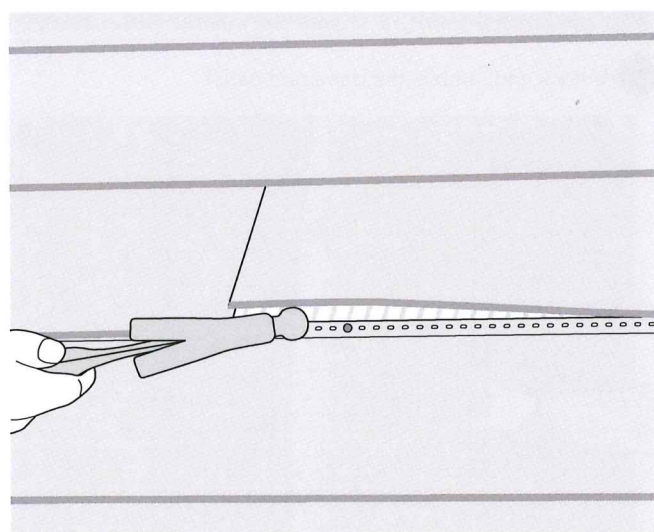
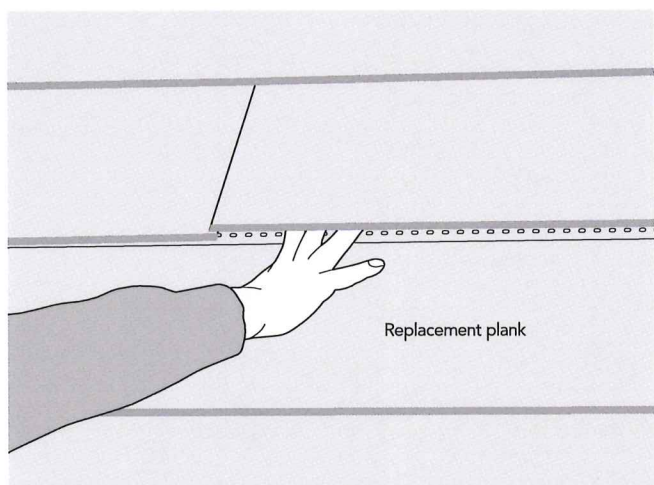


- 6 Unlock and remove damaged plank.

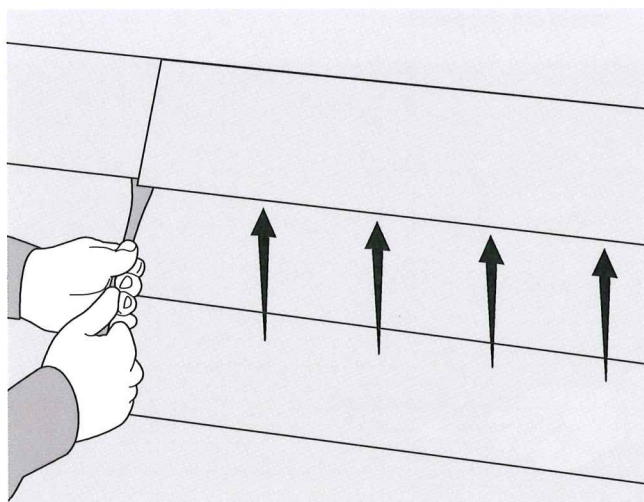


REPLACING A DAMAGED PLANK – ASCEND 7" PLANK (CONT'D)

- 7 Install replacement plank and fasten. See "Fastening Procedure: Cladding" section on page 9.

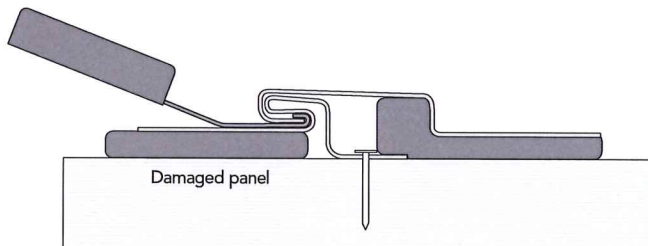
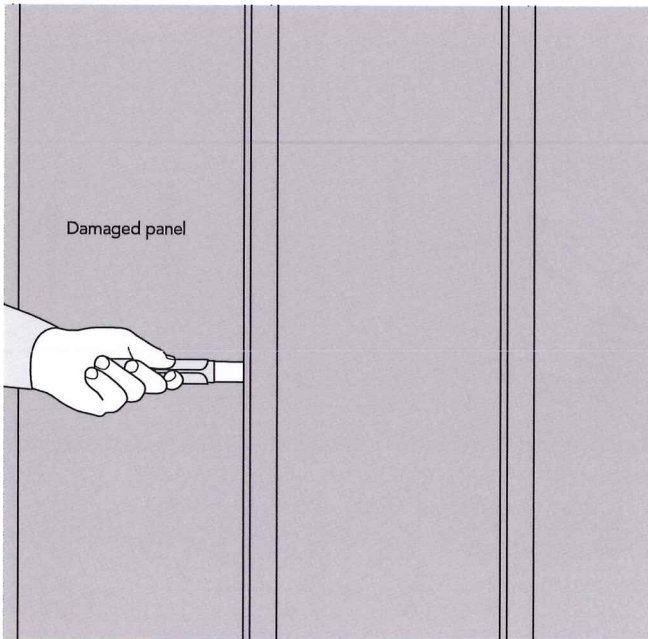


- 8 Remove shims and starting at overlap, apply upward pressure to the bottom lock leg to engage stack lock into top lock of replacement plank.

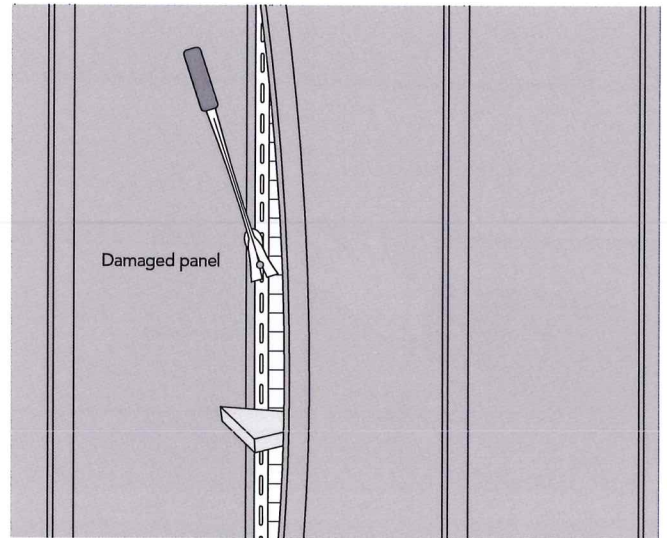


REPLACING A DAMAGED PANEL – ASCEND 12" BOARD & BATTEN

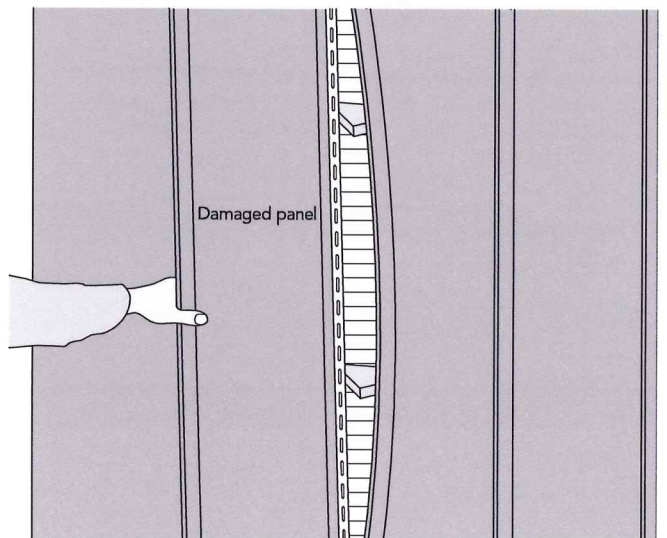
- 1 Slip the zip lock tool or unlocking tool behind the panel next to the one to be replaced and unzip it from the lock of the damaged panel. Repeat this step, until lock is unlocked across the full length of damaged panel. Gently bend out the panel.



- 2 Place wood shims behind the cladding panels to allow more room. Remove the fasteners from damaged panel.



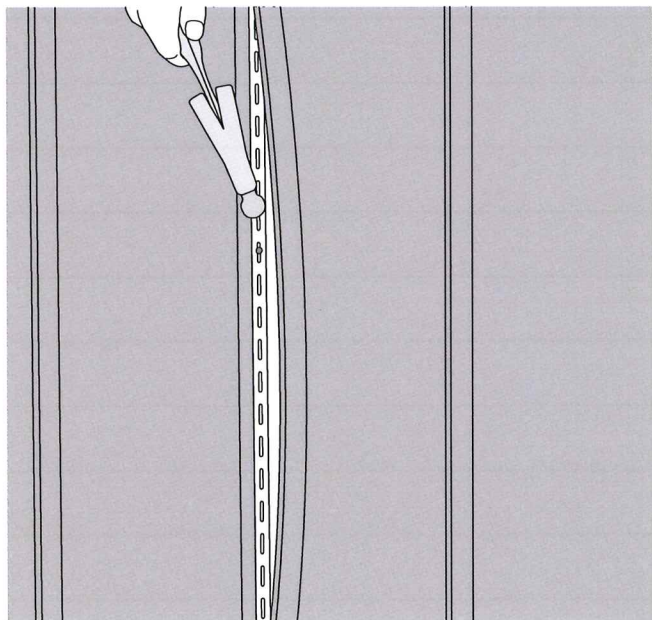
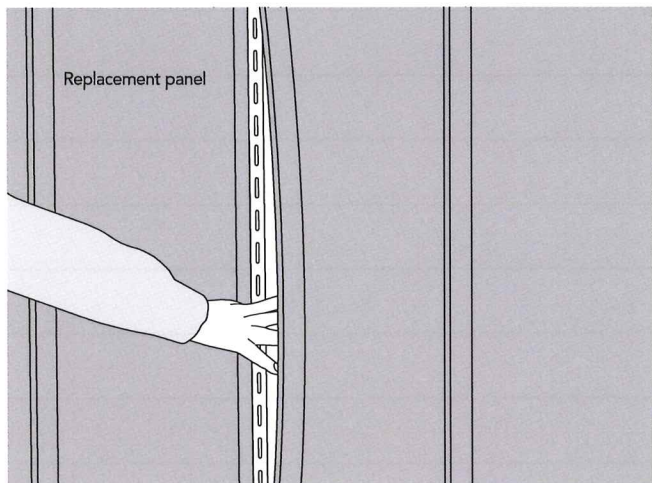
- 3 Unlock and remove the damaged panel.



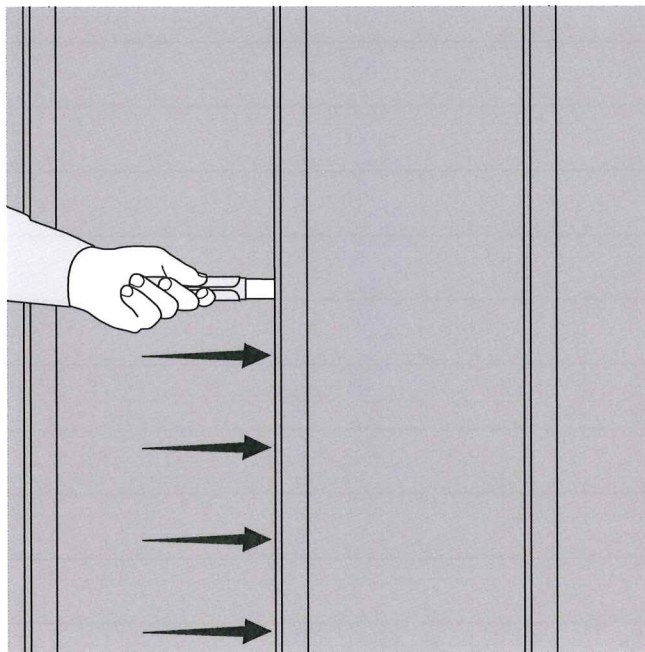
REPLACING A DAMAGED PANEL – ASCEND 12" BOARD & BATTEN (CONT'D)



- 4 Install replacement panel and fasten. See "Fastening Procedure: Cladding" section on page 9.



- 5 Remove shims. Use the zip lock tool to lock the panel in place. DO NOT hit or force the panel into place as it may crack the replacement panel lock.



NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

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HP Public Comment - 156 High St/8 Deering St: Needlessly Unambitious

0 views



George Rheault <george.rheault@gmail.com>

9:44 AM (7 minutes ago)



to HHistoric Preservation, Evan Schueckler, Christine Grimando

The most obvious question about this historicist proposal (aside from wondering how those relegated to the basement units of the parish house will receive adequate light and air during their habitations) is why it is so stumpy and not bigger?

Please see attached the front page from a December, 1911 newspaper edition extolling the advent of Portland's "apartment house" era.

The fact that historic preservation has been one of the number one reasons our community cannot build adequate housing cannot be repeated enough.

The fact that over 120 years ago, Portland knew how to create housing solutions using height and density before the drags of zoning and "planning staff" were unleashed upon our community also cannot be repeated enough. [It is particularly funny how "The Los Angeles" apartment house on Cumberland is VERY historic and yet has not needed the patronizing embrace of historic preservation protections to survive.]

The focus on this entire parish house adaptive re-use seems mostly to be a "do not disturb the neighbors" effort ("neighbors" being broadly construed to include a whole host of busybodies few of whom spend much time around the project area).

While it is a good thing that there will be housing above the parking stalls (while expensive it is much better to have housing above parking than for the air above a parking field to lie fallow as it often the case in many Portland developments, on and off the peninsula and subsidized and unsubsidized), it is baffling that with so much of the floor plates of the new addition devoted to egress (two stairwells and the elevator shaft) that going up taller was not pushed for to make this effort even more impactful for housing creation.

Surely a few more floors would help the pro forma calculations over time and few, except the diehard NIMBY and preservation fanatics, would care if the addition sprouts somewhat taller and more visibly above the neighborhood. 100 Parris Street (a/k/a/ The Furman Block) managed to reach 7 stories though with pre-COVID construction pricing). How high would zoning allow here anyway?

It is amazing that after the many years of discussion necessary to bring this project to this point, the result is basically a dumbed down vision hamstrung by "pounds of flesh" historic preservation strictures in conjunction with other things (restrictive building code, LIHTC cost caps) leaving no one particularly happy (if "everyone" is to blame, then no one can be held responsible, right?).

But there is no question that the historic preservation "tail" has wagged this dog into submission to make it smaller and less financially viable.

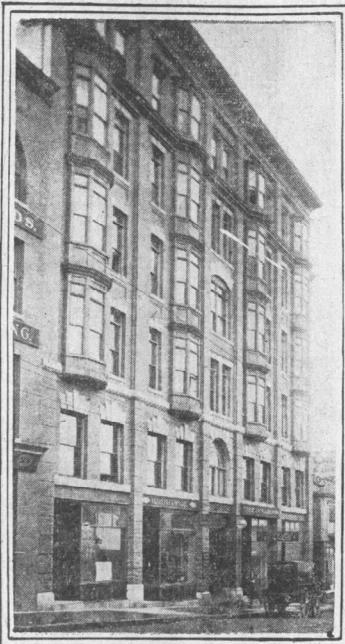
Of course the people who will have to live here will be the victims of the value engineering that remains to be done to get this to the finish line. If the NIMBYs get their way on keeping the addition stunted and "submissive," at least let the AVESTA bureaucrats save some money by cutting out the stupid fake mansard roof that fools no one and is just an embarrassing shame akin to a "Scarlet Letter" that indicts the entire "preservation apparatus" in our community.

FYI - "The Elks" apartment house was located behind the Free Street Elks Lodge (see below) and presumably both were demolished in order to build the Civic Center arena (unless they had already been extinguished by other means before that time).

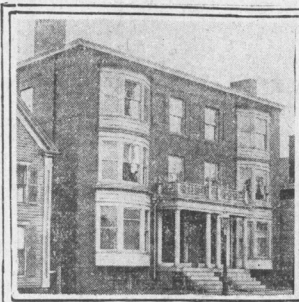
[45 Spring Street, Portland, 1924 - Maine Memory Network](#)

[Adjacent to Elks Lodge: [90-96 Free Street, Portland, 1924 - Maine Memory Network](#)]

APARTMENT HOUSES AN IMPORTANT FACTOR IN GREAT BUILDING ERA IN PORTLAND OF THE PAST FEW YEARS



THE WARDSWORTH PREBLE ST



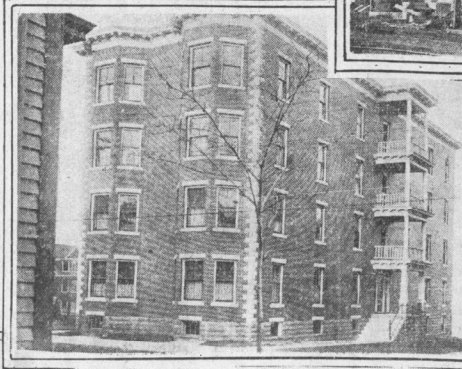
BROWN APPTS VAUGHAN ST



VAUGHAN HALL, VAUGHAN ST

THE SHELLEY CASCO ST

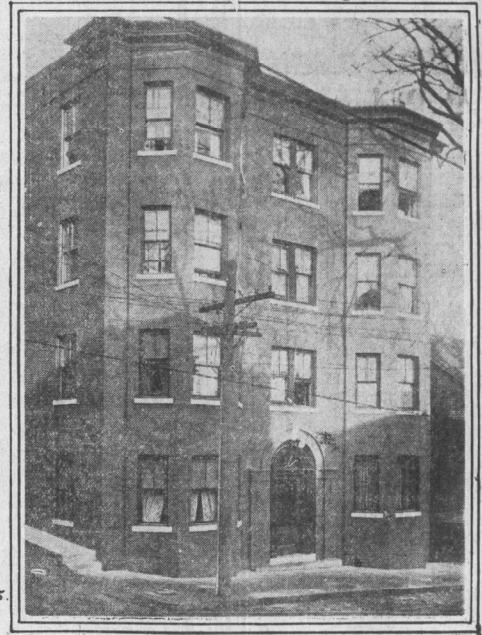
PLUMMER APARTMENTS, MORNING ST



THE WINDSOR COR PORTLAND & STATE STS

"THE LOS ANGELES," CUMBERLAND AVE.

ELKE'S APARTMENTS, SPRING ST



One of the largest factors and perhaps the most interesting one in Portland's great building era of the past few years has been not the manufacture of the public buildings or the costly private residences, though these have all counted, swelling the total but the apartment houses. Half a dozen years ago, the best the city could boast were houses of no more than eight or ten flats. These have now been relegated to the background by the growth of the real apartment house, with its score or more of units, and its appeal to the wonderful popularity with Portland families.

The apartment house is the high force of circumstances a product of the city. It was not invented; neither did it come with the beginning of any movement for the colonization of many families into one building. It has evolved very logically, although rapidly, from the ordinary tenement house. It would, in fact, be difficult to say when the first apartment house was built here or in the larger cities which experienced it first. The ordinary tenement house and the apartment building so overlap each other in design that a structure is not generally recognized as an apartment house unless it is of very considerable size, with several scores of rooms on each floor.

One local architect has drawn the difference by designating as a flat-house a building in which each floor is given up to only one suite of rooms, and as an apartment house a building which has accommodations for two or more families on each floor.

At any rate, Portland has gradually outgrown the "three flats" and now well claim the possession now of a number of large, well-appointed apartment houses. Of course the city is several years behind New York, Philadelphia, Boston and other larger communities, yet even in those cities with their populations of from half a million to 5,000,000, this type of dwelling is a comparatively modern institution. Two primary causes, perhaps, may be ascribed to its growth. They are economy of space and the higher standards of living which have been infused into American life.

Like the tall office building, the apartment house has grown up in the large cities because there is a demand for accommodations near the business and amusement centers of the towns. People want to live near the shopping and commercial districts and unless they are wealthy they cannot afford to have individual homes or, even houses in a block, since capitalists, therefore, have taken advantage of their wants and desires and have offered to them the apartment houses as the best means of economizing space and consequently of lowering the cost of living in the heart of the city where they wish to be.

John Howard Stevens' Comment.

The reason for the apartment house which lies in the higher standards of life also reverts back to cost. So expensive is it now to meet social requirements says John Howard Stevens, the architect, that people find a means of securing the cost of maintaining individual homes and at the same time

of satisfying the demands of social custom by living in apartments. The cost of building materials is so great now, and consequently the price of houses already built—that married men can not spend a large part of their salaries in building homes and at the same time meet the other expenses of their families. Neither do they like to contribute a goodly part of their salaries each year to pay the interest and make a partial payment on loans which they might obtain to build homes. They turn, as the easiest way out of the difficulty to the apartment house where, even though they are conscious that the owner is reaping a harvest from their rent, they do not feel the pull of the monthly rental as much as they would the original cost of a home or the interest on a mortgage.

Apartment house building on a large scale in Portland began less than a half dozen years ago. Before that the city had many houses of three, six, and eight flats, but nothing which could aspire to be called an apartment house. About the first example of this kind of construction was the Los Angeles on Cumberland avenue, which was built by E. C. Richards in 1907. This building contains 20 apartments of from one to four rooms, each of them equipped with a kitchenette, a five story building and it fitted with an automatic elevator and has many of the appointments which would class it as a real apartment house.

Shortly after the Los Angeles was built the Wardsworth and the Shelley

were erected. These were the largest buildings, in number of apartments, in the city, although many of the suites have only one or two rooms. The Wardsworth is a five story structure with 10 apartments on each floor, and the Shelley has 10 apartments, some of them having no more than one room and kitchenette, while others have three and five rooms. The cost of such a building is well illustrated by the cost of the Shelley, which was about \$125,000, and the annual income from this property is from \$15,000 to \$17,000.

During the past year three large apartment buildings have been erected in the city. Vaughan Hall, the Elke's apartment, and the Windsor. Vaughan Hall, which is not quite completed, is the largest building and one of the best types of this kind of construction in Portland. Although it contains only 20 suites, these are all large with six or seven rooms and baths. The building is five stories high, and the plans were made providing for the addition of another floor at some future time. The entrance is re-enforced concrete and on each floor is a main corridor which extends the entire length of the building. This is finished in aesthetic tiling. The building is equipped with an electric elevator, three sets of stairways, and a rear fire escape. The rooms are finished in birch and white enamel. One feature of Vaughan Hall is the water system of the Kewanee type, that forces the water by means of an electric pump to the upper stories.

The Windsor, which is of quite different style, stands at the corner of State and Portland streets. Its ground area is very large, as considerable space is taken up by an interior court. The building is now three stories high, but two stories will probably be added eventually. It is divided by a brick fire wall, running completely through the center, and each side has its main entrance. There are 24 apartments in the building, most of them of five rooms and bath. Its cost was \$20,000.

A good example of the Munjoy Hill apartment house is the Raymond, which is owned by Samuel D. Plummer. It is a four story structure, with four suites on each floor. During the past two years many buildings like this have been erected in all parts of the city and they are almost invariably successful as investments.

An apartment house somewhat similar to the Raymond but smaller, and which is a good example of the type of building that preceded the large apartments in the city is the Brown apartment, on Vaughan street. It was built more than 12 years ago and was one of the first brick structures of the kind in Portland.

The Elke's apartments which were also so completed last summer, are designed along lines different from those of Vaughan Hall. Where the latter building has large suites, the apartments in the Elke's structure have fewer and smaller rooms.

Even though these large apartment

buildings and many smaller houses have been completed this year, the rapidity with which their suites have been leased promises well for an equal or greater amount of construction next season. Already a number of owners of good sites are contemplating the building of apartment houses on them. Surely the apartment house has come to stay in Portland and it has already in the erection of more buildings of that type, perhaps, than in any other city of like size in New England. It gained a place in the domestic life of the city. It is possible that more such houses will be erected than are needed to satisfy the demand for apartments, but the high water mark has by no means yet been reached.

SCHOLARS REMEMBER

THE LITTLE ONES.

Some of the children in town have observed the season with all the thoughtfulness of their elders and Friday those who saw the children from the Chestnut Street School going through Cumberland avenue to the Children's Hospital were pleased with the pretty sight. These children carried gifts bought with their pennies or made by their own hands. Among other beautiful gifts were two dolls, several books, puzzle, small dolls and cradles made from grape baskets. Earlier in the day other children had visited the Home for Friendless Boys, a network puff being among the practical gifts. Surely the teachers must have inspired the children with the true spirit of Christmas.

Even though these large apartment

CARDINAL O'CONNELL'S ACKNOWLEDGMENT TO THE READING CIRCLE.

The following card has been received by the Cathedral Reading Circle, Portland, from His Eminence, Cardinal O'Connell, acknowledging the felicitations received on the occasion of his elevation to the high dignity of the College of Cardinals on Nov. 20.

"Cardinal O'Connell, Archbishop of Boston, is profoundly grateful to the Cathedral Reading Circle, Portland, for their kind wishes and congratulations."

The greetings were received on the Saturday before Christmas.

A SHORT CHRISTMAS.

"Christmas day is only three hours long in the Finnish town of Tornio, and a traveler. 'I spent last Christmas there. At sunrise I got up to see my presents and read my Christmas mail, and night had fallen before I got through breakfast."

"Tornio," he went on, "has a day twenty-two hours long in June. Pretty good, eh? But that is nothing better than Wardbury. Wardbury is in Norway, has a day that lasts from May 21 to July 22. And Spitzbergen's longest day lasts three and half months."

Mutt and Jeff are going to be taken to England, to give the dull Britons a chance to laugh at the "Bug" Fisher cartoons.

1924 Portland Tax Records: 90-96 Free Street, Portland, 1924

Sketch on other side

Portland, Maine

Assessment 19

Name Elks Home, Portland, Me. Exempt

Street Free No 20-96

Block 39C Lot No. 3

Use of Bldg. _____ Name _____

Tenants and Rooms _____

Rentals _____

Age _____

Condition of Repair _____

Class	Exterior	Plumbing
Bungalow	Clapboards	Common
Single House	Siding	Individual
Two family	Shingles	Open
Three family	Stucco	Set tubs
Apartment	Paper	Finish
Store Building	Tapestry Brick	Plain
Office	Com. Brick	Hardwood
Factory	Galv. Iron	Halls
Storage	Stone	Wood
Stables	Terra Cotta	Terrazzo
Garage, private	Concrete	Marble
Garage, public		Roof — Roofing
Theatre	Heating	Shingle
Club House	Stove	Slate
Cottage	Furnace	Gravel
	Hot Water	Prepared
	Steam	Asbestos
Foundation	Light	Flat
Brick	Oil	Hip
Stone	Gas	Gable
Concrete	Electric	Dormers
Pile		Windows
Basement	Floor	Plain Glass
Full	Common	Wire Glass
Cement Floor	Hardwood	Shutters
Waterproof	Re-Concrete	Miscellaneous
Construction	Concrete Slab	Elevator
Frame	Waterproof	Sprinkler
Brick		Fire Escape
Tile	Ceiling	Refrigerator
Blocks	Plaster	Vacuum Cleaner
Stucco	Metal	Safes and Vaults
Re-Concrete	Panelled	Telephone Equip.
Mill	Rough	
Steel Frame		

Ground Area 4711 sq. ft. Height _____

Cubic Feet 181 Unit _____

Utility Dep. _____

Dep. _____ Per cent. _____

Sound Value, \$ _____

Land 15563 Corner _____ Interior _____ Alley _____

Front _____ Depth _____

COMPUTATION

Area	Multiplier	Coefficient
15563	75	11,672
Year	Unit	Coefficient
1924	25	11,672
		Land Value
		29180

Exempt

R32
29,210



Surveyed by Lambert Johnson Motherwell

(Remarks on other Side)

Remarks about Buildings

FREE ST

96
94
92
90

57'-0"
39'-4"
2'-9"
48'-5"
30'-10"
3'-9" between buildings
42'-2"
5'-4" between buildings

Remarks about Land

$88 \times 57 = 5016$
 $48.42 \times 8.21 = 398$
 $30.83 \times 12.08 = 372.97$
 $6711 - 6711$

Remarks about Personal Property

CITY OF PORTLAND, MAINE
ASSESSORS DEPARTMENT

CLASSE	BLOCK
3	Building Volumes Checked
4	Building Values Placed
5	Building Values Extended
6	Land Only Questionnaire Made
7	Land Values Placed
8	Land Values Extended
9	Improvements
10	Improvements

217-421

1924 Portland Tax Records: 90-96 Free Street, Portland, 1924

MaineMemory.Net #53238
Collections of City of Portland - Planning & Development



Owner: Elks Home, Portland, Maine
Address: 90-96 Free Street, Downtown, Portland, Maine
Use: Club House
Local Code: Block 39C Lot 3 Book 33 Page 1
MMN item number: 52868
Architect: Alexander Parris

1924 Portland Tax Records: 45 Spring Street, Portland, 1924

Portland, Maine
Assessment 19

Name Elks Home, Portland Me.
Owner Spring
Street Spring No. 45-47
Block 39C Lot 115
Use of Bldg. Apartment House Name
Tenants and Rooms 14 Apartments
Rentals
Age 12 (first tax 1912)
Condition of Repair Good

Class
Bungalow
Single House
Two family
Three family
Apartment
Store Building
Office
Factory
Storage
Stables
Garage, private
Garage, public
Theatre
Club House
Cottage

Exterior
Clapboards
Siding
Shingles
Stucco
Paper
Tapestry Brick
Comm. Brick
Galv. Iron
Stone
Terra Cotta
Concrete

Plumbing
Common
Individual
Open
Set tubs
Finish
Plain
Hardwood
Halls
Wood
Terrazzo
Marble

Heating
Stove
Furnace
Hot Water
Steam

Foundation
Brick
Stone
Concrete
Pile
Basement
Full
Cement Floor
Waterproof
Wooden Floor
Construction
Frame
Brick
Tile
Blocks
Stucco
Re-Concrete
Mill
Steel Frame

Light
Oil
Gas
Electric

Floor
Common
Hardwood
Re-Concrete
Concrete Slab
Waterproof

Ceiling
Plaster
Metal
Panelled
Rough

Roof - Roofing
Shingle
Slate
Gravel
Prepared
Asbestos
Flat
Hip
Gable
Dormers

Windows
Plain Glass
Wire Glass
Shutters

Miscellaneous
Elevator
Sprinkler
Fire Escape
Refrigerator
Vacuum Cleaner
Safes and Vaults
Telephone Equip.

Ground Area 3529 Height 45'-0"
Cubic Feet 160,405 Unit 2.2 cts.
Utility Dep.
Dep. 20 Per cent.
Sound Value, \$ 28266

Land 5819 Corner Interior Alley
Front 3000 Depth = ft.

COMPUTATION

Area	Multiplier	Coefficient
5819	103	5993
Year	Unit	Coefficient
		Land Value

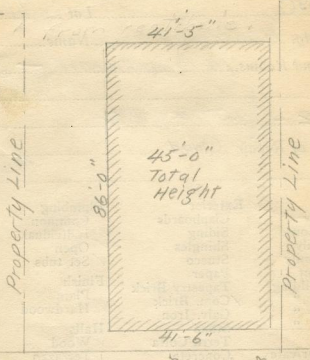
13814
1924
18220



45 Spring

Surveyed by Faulken-Johnson-Mather-sell
1900
(Remarks on other Side)

Remarks about Buildings
Individual phones to each apartment from vestibule, No switchboard.



41'-5"
45'-0" Total Height
86'-0"
41'-6"
Property Line
Property Line
45
43
SPRING ST

Remarks about Land
 $41.5 \times 86 = 3569 \times 45 = 160605$

Remarks about Personal Property

CITY OF PORTLAND, MAINE
ACCESSORS DEPARTMENT

CHARACTER	BLOCK
3 Building Volumes Checked	454
4 Building Values Placed	454
5 Building Values Extended	
6 Land Only Questionnaire Made	
7 Land Values Placed	
8 Land Values Extended	
9 Compared 15 1923	
10 Forces of Property Added	

1924 Portland Tax Records: 45 Spring Street, Portland, 1924



Owner: Elks Home, Portland, Me.
Address: 45 Spring Street, Downtown, Portland, Maine
Use: Apartments
Local Code: Block 39C Lot 11 Book 68 Page 1
MMN item number: 76350



PO Box 17533, Portland, ME 04112

20 February 2024

RE: 156 High Street/8 Deering Street - Addition

Chair O'Brien and Members of the Historic Preservation Board,

Greater Portland Landmarks supports the addition of housing at this location and does not believe the proposed height and use are inconsistent with the context. However traditional residential features like the clapboards and roof form applied to the addition, which are more similar in form and scale with mixed-use and residential buildings within the Congress Street Historic District, are a perplexing design solution. When viewed from Congress Street and High Street, the proposed mansard roof seems out of context, and it is oddly configured where it intersects with the stair and elevator core. Likewise, from Deering Place, the proposed first level parking area appears out of context with its smaller scale residential neighbors in the Deering Street Historic District.

In our opinion, one solution would be to visually relate the upper floors of the addition to the church and parish house, or to nearby mixed use or residential buildings in the Congress Street Historic District. As Deering Place is narrow, which limits views of the overall addition, and adjacent to smaller scale residential buildings, it might be appropriate to visually relate the lowest floor of the proposed addition to that context. As is suggested in the staff report, a pedestrian friendly entrance, the treatment of the proposed walls to screen the parking area, paving treatments, and other site features could help to visually relate the base of the addition to its residential neighbors.

If the applicant chooses to pursue a design that is traditional in character as proposed, we hope the board will encourage the applicant to return with a solution that is more of a contemporary interpretation of traditional elements like the mansard roof, differentiating the addition more clearly from its Deering Street neighbors.

Thank you for considering our views,

A handwritten signature in black ink that reads "Carol De Tine".

Carol De Tine
Vice President of the Board of Trustees
Greater Portland Landmarks

STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
DATE: August 2, 2024
RE: 20 Morning Street – PUBLIC HEARING – Alterations
PROJECT ID: HPBR-002982-2024
MEETING: August 7, 2024

Owner: Elizabeth Zeeuw and Brian Dunn
Architect: Tracie Reed, Dextrous Creative

A sign announcing the Historic Preservation Board's meeting on August 7, 2024 was posted at the property on July 28, 2024. A legal ad was published in the Portland Press Herald on July 26, 2024 and July 27, 2024, and 264 notices were sent to neighboring property owners within 100 feet of the subject property.

PROJECT SCOPE

Remove all existing non-historic siding and roofing. Salvage all existing historic trim/exterior details.

Introduce new window opening at eastern end of south elevation adjacent to existing openings. Install new green wall trellis at south elevation. Expand existing shed-roof dormer on southern roof slope.

Clad all exterior walls in new cedar clapboard siding over 3-3/8" of new continuous rigid insulation at side and rear elevations. Foundation at rear and side elevations to be clad in insulation and parged over with stucco. Install 9" of new rigid insulation over roof decking and cover with new standing seam metal roof. Construct new raised eaves to accommodate new roof height and reinstall any salvaged historic trim.

Construct new ~10' x 18' and ~11' tall storage shed in rear yard. Install new patio at grade in side yard.

Material Specifications:

Foundation	Existing painted brick or stucco over insulation over existing painted brick
Siding	Cedar clapboard siding with 4" reveal and metal shingles
Trim	Existing or new to match historic
Roofing	Standing seam metal

Windows	Existing or new single-light casements.
Doors	Existing

SUMMARY OF HISTORIC CONTEXT

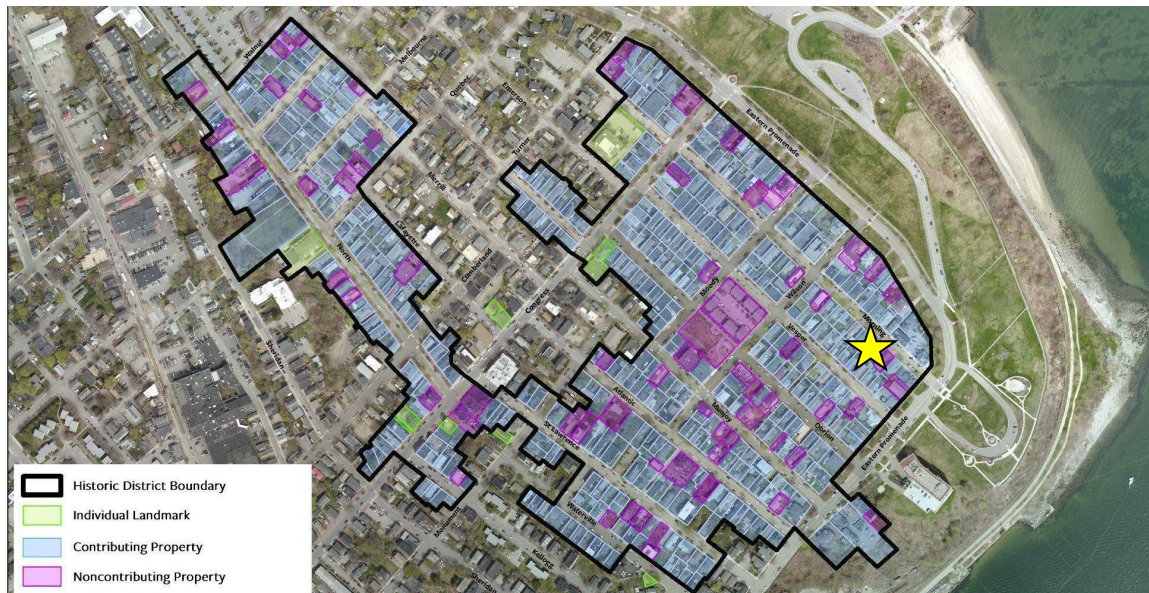


Figure 1: Map of the Munjoy Hill Historic District showing location of 20 Morning Street with yellow star.



Figure 2: 1924 Tax Photo for 20 Morning Street.

20 Morning Street, the Patrick McMann House, is classified as a contributing structure within the Munjoy Hill Historic District. The structure is a two-and-a-half-story Italianate dwelling constructed around 1866. The structure features a street-facing gable, double-height front bay window and an elaborate Italianate bracketed hood over the front door. The 1924 tax photo shows the structure had clapboard siding and very slender trim around the windows and at the building corners. The eaves at the main roof and two levels of the front bay and the bracketed entry hood can all be seen in the 1924 photo.

The 1896 Sanborn Map shows that at least until 1896 the structure had a simple rectangular form with a rectangular el at the rear. By 1909, the rear el had been enlarged and the bay window at the front was added. This would suggest that the exterior details of clapboard with very modest corner boards and simple classical cornices may have been alterations completed as part of an early twentieth-century renovation with the entrance hood being the only surviving distinctly Italianate feature of the building.

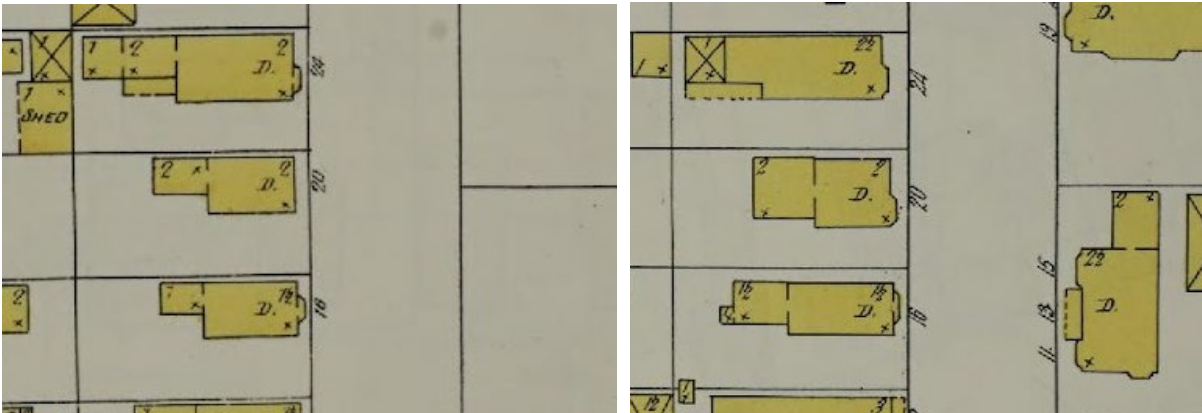


Figure 3: 1896 (left) and 1909 (right) Sanborn Maps showing the changes in the form of 20 Morning Street.

At some point in the mid twentieth century, the house was clad in asbestos or cementitious shingles and the two-over-two windows seen in 1924 were replaced. In 2011, the shingles and clapboards were removed and the house was reclad in the current faux-woodgrain fiber-cement siding. At that same point, much of the trim, especially at the windows, was covered in brake metal flashing and the corner boards were widened to their current appearance.



Figure 4: 2011 Google street view showing the shingle siding being removed.

Additional information on the Munjoy Hill Historic District can be found on the city website:

<https://www.portlandmaine.gov/665/Historic-Districts>

PREVIOUS REVIEW BY HISTORIC PRESERVATION BOARD

July 3, 2024, Workshop:

During the July 3 workshop, the Board was generally supportive of removal of the non-historic siding, the addition of continuous insulation, residing in cedar, and the addition of a trellis on the south elevation. However, the board did have a number of concerns. The Board was generally unsupportive of the proposed rainscreen cladding, and recommended that the applicant should use traditional cedar clapboards. The Board also found that the introduction of a large picture window at the south elevation near the street was inappropriate as it would eliminate a historic window opening. The Board encouraged exploration of an additive approach that would retain the existing opening while introducing additional glazing. The Board was supportive of the expanded dormer; however, they did encourage pulling it back slightly from the street and working to align windows with those below. The Board took no issue with the proposed shed.

STAFF COMMENTS

Since the July 3 workshop, the applicants have modified their proposal in an effort to address Board comments. The most substantial change has been to propose cedar shingle clapboards with a four-inch reveal for the siding, rather than the open rainscreen system previously proposed. Additionally, rather than a large picture window, the applicant is proposing to introduce a new window adjacent to the existing window opening at the eastern end of the south elevation. The new opening will match the dimensions of the existing, but will be differentiated by the use of a single-light casement-style window.

At the dormer, the applicant is now proposing to clad the dormer additions with metal shingle siding in an effort to blend the expanded dormers into the proposed metal roofing. The scale of the existing dormer would be preserved by retaining its corner boards and cladding the historic portion of the dormer in cedar clapboard siding. The applicant has attempted to align the dormer windows with the existing and proposed; however, the ability to align these is limited given that the existing dormer windows do not align with the windows below. The applicant has also slightly reduced the size of the proposed dormer additions.

In addition to the design changes noted above, the applicant has also included some more detailed information on the building wrap product proposed to be used behind the siding.

ANALYSIS OF APPLICABLE REVIEW STANDARDS

Standards for Review of Alterations, 17.8.2:

Standard 1	
Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose.	
Standard Met?	Staff Comments
Not Applicable	

Standard 2	
The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to completely remove all non-historic siding and trim in order to wrap the structure in continuous insulation and install new cedar clapboard siding. The historic eaves and rakes will be removed and recreated to align with the new roof insulation. The applicant is proposing to reinstall as much of the historic trim as possible in the new eave and rake locations. At the front of the building, the applicant is proposing not to install new continuous insulation in an effort to maintain the trim relationships along the street frontage where the building is most visible.

Standard 3	
All sites, structures, and objects shall be recognized as products of their own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall be discouraged.	
Standard Met?	Staff Comments
Yes	Generally, the applicant is not proposing to introduce any conjectural features. Historic trim will be removed and relocated to accommodate new continuous insulation.

Standard 4	
Changes which may have taken place in the course of time are evidence of the history and development of a structure, object, or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.	
Standard Met?	Staff Comments
Yes	The applicant is not proposing to permanently remove any features of the building which have acquired significance.

Standard 5	
Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize a structure, object, or site shall be treated with sensitivity.	
Standard Met?	Staff Comments
Yes	The existing eaves and projecting rakes will be removed and recreated to align with the new roof insulation. The applicant is proposing to reinstall as much of the historic trim as possible in the new eave and rake locations. At the front of the building, the applicant is proposing not to install new continuous insulation in an effort to maintain the trim relationships along the street frontage where the building is most visible.

Standard 6	
Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to clad the building in a new cedar clapboard siding as was on the building historically.

Standard 7	
The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.	
Standard Met?	Staff Comments
Not Applicable	

Standard 8	
Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.	
Standard Met?	Staff Comments
Not Applicable	

Standard 9	
Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to introduce two new windows on the south elevation adjacent to existing openings. The windows are proposed to match the proportions of the existing, but will be single-light casements to differentiate from the historic windows. The applicant is also proposing to expand an existing historic shed-roof dormer on the southern roof slope. The expanded dormers are proposed to be differentiated by retaining the existing dormer corner boards and using metal shingles to clad the expanded area. Squarish windows will also further differentiate these expanded dormers.

Standard 10	
Wherever possible, new additions or alterations to structures and objects shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the historic property would be unimpaired.	
Standard Met?	Staff Comments
Yes	Dormer additions are often approved, as they are relatively simple to eliminate and patch in roofing. The installation of continuous insulation at the walls and roof will require the removal of the historic eaves and rakes and their reinstallation with adjustments to accommodate the insulation, which the Board did not raise as a concern. The applicant is also proposing to add several greenscreen trellises on the south elevation. Generally, these would be easily removed and reversed.

Standards for Review of New Construction, 17.8.3:

Standard A. Scale and Form	
1. Height The proposed height shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	
Standard Met?	Staff Comments
Yes	The proposed shed will be one-story as is typical of accessory structures.
2. Width The width of a building shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	
Standard Met?	Staff Comments
Yes	The proposed shed will be ten feet wide, falling within the typical range of widths of accessory structures.
3. Proportion of principal facades The relationship of the width to the height of the principal elevations shall be visually compatible with structures, public ways, and open spaces to which it is visually related.	
Standard Met?	Staff Comments
Yes	The proposed shed will have a slightly vertically proportioned façade.
4. Roof shapes The roof shape of a structure shall be visually compatible with the structures to which it is visually related.	
Standard Met?	Staff Comments
Yes	The applicant is proposing a low-slope gabled roof for the proposed garage, as is typical of accessory structures.
5. Scale of a structure The size and mass of structures in relation to open spaces, windows, door openings, porches, and balconies shall be visually compatible with the structures, public ways, and places to which they are visually related.	
Standard Met?	Staff Comments
Yes	The scale of the proposed shed is small and completely subordinate to the historic house as is typical of accessory structures.
6. Applicability to Congress Street Historic District In the Congress Street Historic District, for new construction within the B3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.	
Standard Met?	Staff Comments
Not Applicable	

<u>7. Applicability to India Street Historic District</u> For new construction within the India Street Historic District, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure.	
Standard Met?	Staff Comments
Not Applicable	
<u>8. Applicability to the Portland Company Historic District</u> For new construction within the Portland Company Historic District, the height requirements of the B-6 zone as shown on the B6 Building Height Overlay & Building Envelopes map shall be controlling and the historic preservation board shall not impose conditions more restrictive than the building height requirements of the B-6 zone.	
Standard Met?	Staff Comments
Not Applicable	

Standard B. Composition of Principle Facades	
<u>1. Proportion of openings</u> The relationship of the width to height of windows and doors shall be visually compatible with structures, public ways, and places to which the building is visually related.	
Standard Met?	Staff Comments
Yes	The shed is proposed to have a pair of vertical double doors facing the street, a common arrangement for accessory structures.
<u>2. Rhythm of solids to voids in facades</u> The relationship of solids to voids in the façade of a structure shall be visually compatible with structures, public ways, and places to which it is visually related.	
Standard Met?	Staff Comments
Yes	The street-facing façade of the shed will be dominated by the double doors, a typical feature of sheds and garages.
<u>3. Rhythm of entrance porch and other projections</u> The relationship of entrances and other projections to sidewalks shall be visually compatible with the structures, public ways, and places to which they are visually related.	
Standard Met?	Staff Comments
Yes	The entire shed will be set back significantly from the sidewalk as is typical of accessory structures.
<u>4. Relationship of materials</u> The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in the structures to which they are visually related.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to clad the shed in shingles, a common material in the district.

5. Signs

Any new sign, and any change in the appearance of an existing sign located on a landmark, within a historic district, or within an historic landscape district, which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual.

Standard Met?	Staff Comments
Not Applicable	

Standard C. Relationship to Street

1. Walls of continuity

Facades and site structures, such as masonry walls, fences, and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the structures, public ways, and places to which such elements are visually related.

Standard Met?	Staff Comments
Yes	The shed will be set back far from the street at the end of the driveway, a typical location for accessory structures.

2. Rhythm of spacing and structures on streets

The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways, and places to which it is visually related

Standard Met?	Staff Comments
Yes	The shed will be set back far from the street at the end of the driveway, maintaining the typical side yard/driveway next to the house.

3. Directional expression of principal elevation

A structure shall be visually compatible with the structures, public ways, and places to which it is visually related in its directional character, whether this be vertical character, horizontal character, or nondirectional character.

Standard Met?	Staff Comments
Yes	The proposed shed will have a slightly vertical proportion as is common throughout the district.

4. Streetscape, pedestrian improvements

Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the Historic Resources Design Manual.

Standard Met?	Staff Comments
Not Applicable	

Standard D. Other Standards	
<u>1. Compatible use</u> Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose.	
Standard Met?	Staff Comments
Yes	Small storage sheds/garages are common through the district. The shed will not require destruction of character-defining features of the site.
<u>2. Distinguishing original character</u> The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The alteration of any historic material or distinctive architectural features should be avoided when possible.	
Standard Met?	Staff Comments
Not applicable	
<u>3. Archeological resources</u> Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.	
Standard Met?	Staff Comments
Not Applicable	
<u>4. Contemporary design</u> Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, material, and character of the property, neighborhood and environment.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to clad the shed in shingles to differentiate it from the historic structure, as is also proposed for the additions to the historic structure.
<u>5. Additions</u> Wherever possible, new additions to structures and objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the structure would be unimpaired.	
Standard Met?	Staff Comments
Not Applicable	

MOTION FOR CONSIDERATION

I move to CONDITIONALLY APPROVE application HPBR-002982-2024 for alterations at 20 Morning Street on the basis of submitted documentation, plans, and specifications; information provided in the staff memo; and findings by the Historic Preservation Board that the project meets Standards for Review of Alterations 17.8.2 A-J; and Standards for Review of New Construction 17.8.3 A.1-5, B.1-5, C.1-4, & D.1-5, with the following conditions:

- 1) That final trim details be reviewed and approved by staff as being consistent with existing conditions or the trim present in the 1924 Tax Photo.

ATTACHMENTS

1. Introductory Letter
2. Drawings and Plans
3. 20 Morning Street, Designation Description

July 14, 2024



Evan Schueckler,
Historic Preservation Program Manager
389 Congress Street, Fourth Floor
Portland, ME 04101

Mr. Schueckler,

On behalf of our clients, Elizabeth Zeeuw and Brian Dunn, please find an enclosed revisions to the 20 Morning Street application (HPBR-002982-2024) in the Munjoy Hill Historic Preservation District.

In response to feedback from the Board at our July 3rd workshop we have made the following changes A) eliminated the open rain screen – replaced with 4” cedar clapboards, B) eliminated the bay, retaining three sides of the original opening of the front-most double hung, proposed with mulled casement to match the sizing of the original unit. The dormer now (C) features reduced width, window pattern and differentiated siding.

The new windows (B) utilize the existing framed opening of the single double hung. With the window replacement it also adds a mulled window of the same size to this assembly. This pattern is repeated on the second floor and dormer above with a continuation of this stacked unit.

At the dormer (C), the mulled window matches the height and stacks with the units below. The width of the dormer has been reduced (from rear). The trim differentiation between existing dormer and new construction seeking to retain the outline of the existing form. The addition walls are proposed are clad in a metal shingle with the intent of reducing its prominence. Photos of the shingles and proposed standing seam (flat panel profile) roofing are providing as attachments.

To illustrate the consideration of how the proposed changes will impact the existing structure we have provided photos, and updated construction details illustrating transitions original and proposed details at wall/roof and foundation assemblies. These include revised Pro Clima ‘intelligent’ vapor control membranes for all assemblies, as appropriate for each assembly type. It is also worth noting that by insulating the foundation at the exterior, thus keeping the brick on the warm-side of the assembly this reduces risk of freeze damage caused by the inevitable migration of moisture.

We look forward to sharing these revisions to the project to the Board next month and their insightful suggestions to ensuring the integrity of the District.

Respectfully,

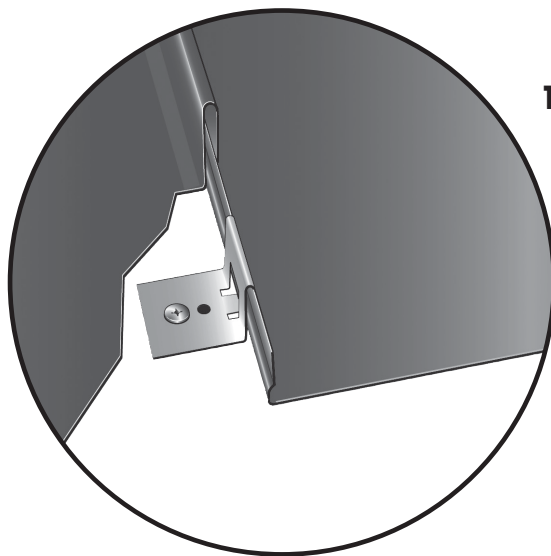
Tracie J. Reed, Dextrous Creative (she/her)

Licensed to Practice Architecture in Maine, MA and NH, NCARB, AIA, NOMA, LEED AP

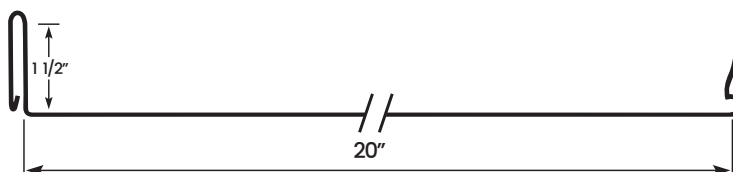
Enclosures: Architectural documentation, and cutsheets

EVERSEAM® 20

Panel Information



1 Square: 61.54 LF



Everseam® 20	Warranty	Weight Per Lin. Ft.
24 Ga. Painted Galvalume See Architectural Color Guide Lead time 2 weeks	35 Years*	2.00#
24 Ga. Bare Galvalume Plus Lead time 2 weeks	25 Years*	1.95#

Refer to the following color guides: Fluropon®

*Please refer to Everlast Roofing, Inc.'s warranty details.
Note: Oil canning is not a cause for rejection.

- Prices are FOB Everlast Roofing, Inc.
- No returns allowed on custom cut and special order roofing, siding and accessories.
- Minimum sheet length is six feet. For sheets under six feet, add \$2.00 per panel.
- All pricing includes standard packaging.
- Job site delivery - must be accessible for 45' flat bed trailer, per-arranged with Everlast Roofing for approval and planned unloading.
A drop charge of \$200.00 will apply to all job site deliveries, in addition to the regular freight rate.
- A \$50.00 drop charge will apply to all orders under \$500.00. Orders may be grouped if delivered to the same location.
- Lengths over 30': please inquire.
- Clips are not included in the price of the panel.

LEBANON, PA
888.339.0059

ORWELL, OH
877.866.9955

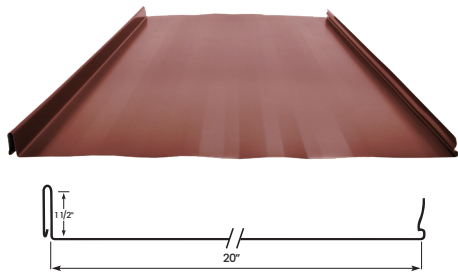
HOWE, IN
866.562.3782

BRIDGTON, ME
800.677.2060

FLUROPON®

Paint System

Everseam®



Coil

24 Gauge
40" Grade 50 / 48" Grade 50
20" Grade 50 / 24" Grade 50



PROFILE	Everseam®	
SERIES	EVERSEAM24	COIL
GAUGE	24 Gauge	24 Gauge
SUBSTRATE	Galvalume or Galvanized	Galvalume or Galvanized
FILM INTEGRITY	35 Years	35 Years
FADE / CHALK	35 Years	35 Years
PERFORMANCE	UP TO 25 Years	N/A

All profiles are available unpainted with acrylic coating for a mill finish appearance.

TRADEMARKS

Fluoropon® is a registered trademark of The Sherwin-Williams Company
Everseam® is a registered trademark of Everlast Roofing, Inc.

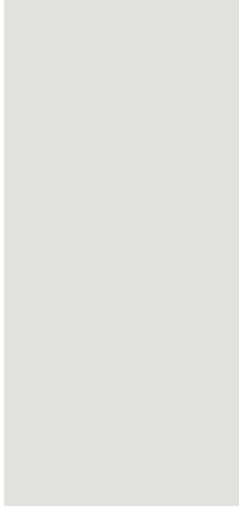


LEBANON, PA
888.339.0059

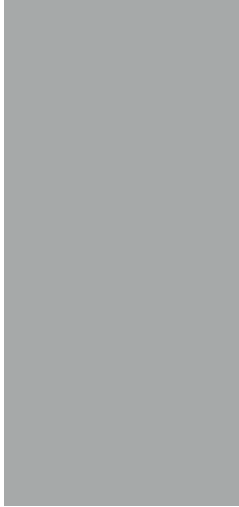
ORWELL, OH
877.866.9955

HOWE, IN
866.562.3782

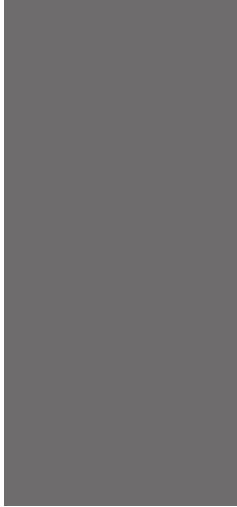
BRIDGTON, ME
800.677.2060



Bone White
2103



Cityscape
2208



Dark Gray
2217

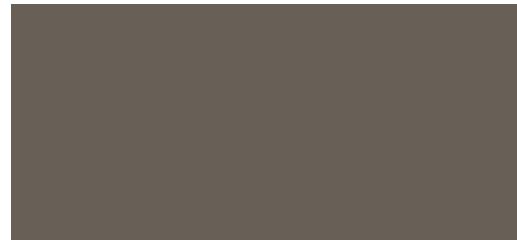
Charcoal
2206



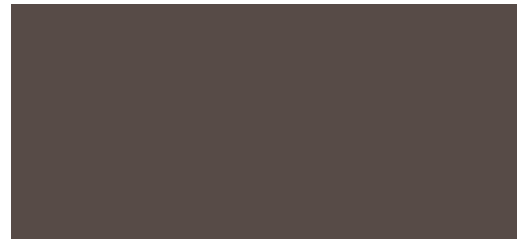
Sandstone
2340



Burnished Slate
2705



Mansard Brown
2724



Dark Bronze
2716



Gallery Blue
2621



Forest Green
2520



FLUROPON®

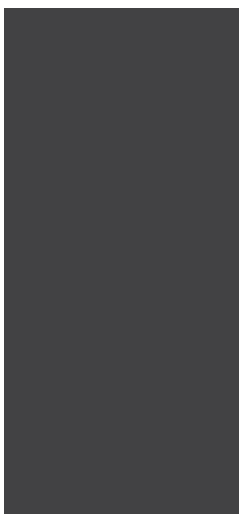
Color Guide

The Fluropon® Paint System's proven performance and durability offers color, confidence and collaboration to bring every project successfully to life. The Fluropon® Family of metal coatings delivered the advantages of 70% PVDF coating:

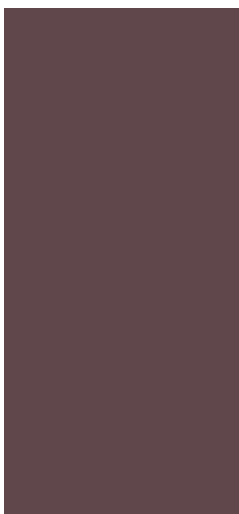
- Outstanding color and gloss retention
- Extreme weathering performance
- Resistance to dirt, stains, chalk and fade
- Graffiti resistance that meets ASTM standards

DISCLAIMER: This color chart is to be used as a guide only. These colors are a close approximation, but due to various factors, they may not be exact. For specific color-matching, samples are available by request.

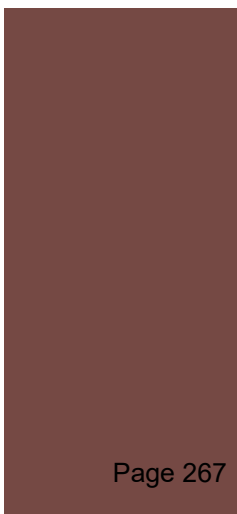
Matte Black
2825



Burgundy
2404



Colonial Red
2413





HISTORIC PRESERVATION

20 Morning



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CREATIVE

PORTLAND, ME 04102
TRACIE REED, ARCHITECT
NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

EXISTING/DEMO PLANS

Project number 24-08_20 Morning

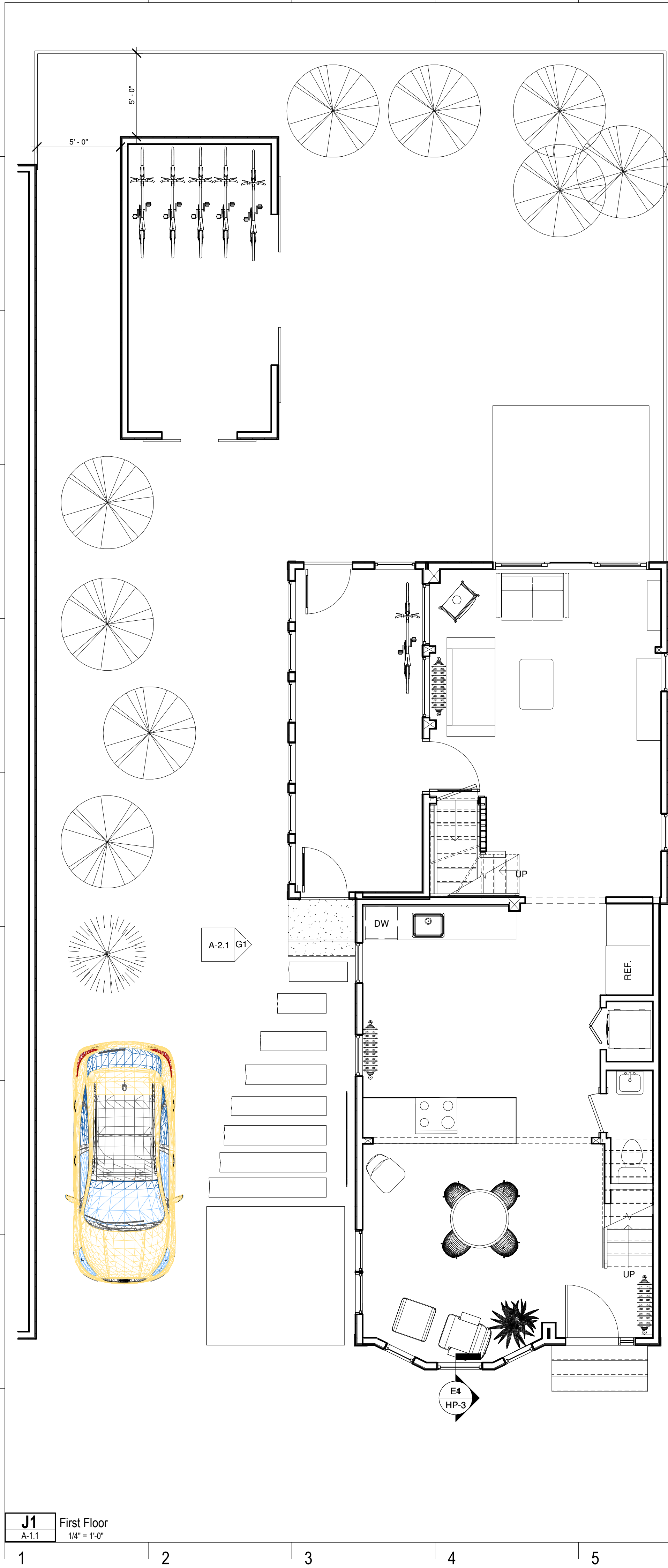
Date 07.07.24

Drawn by Author

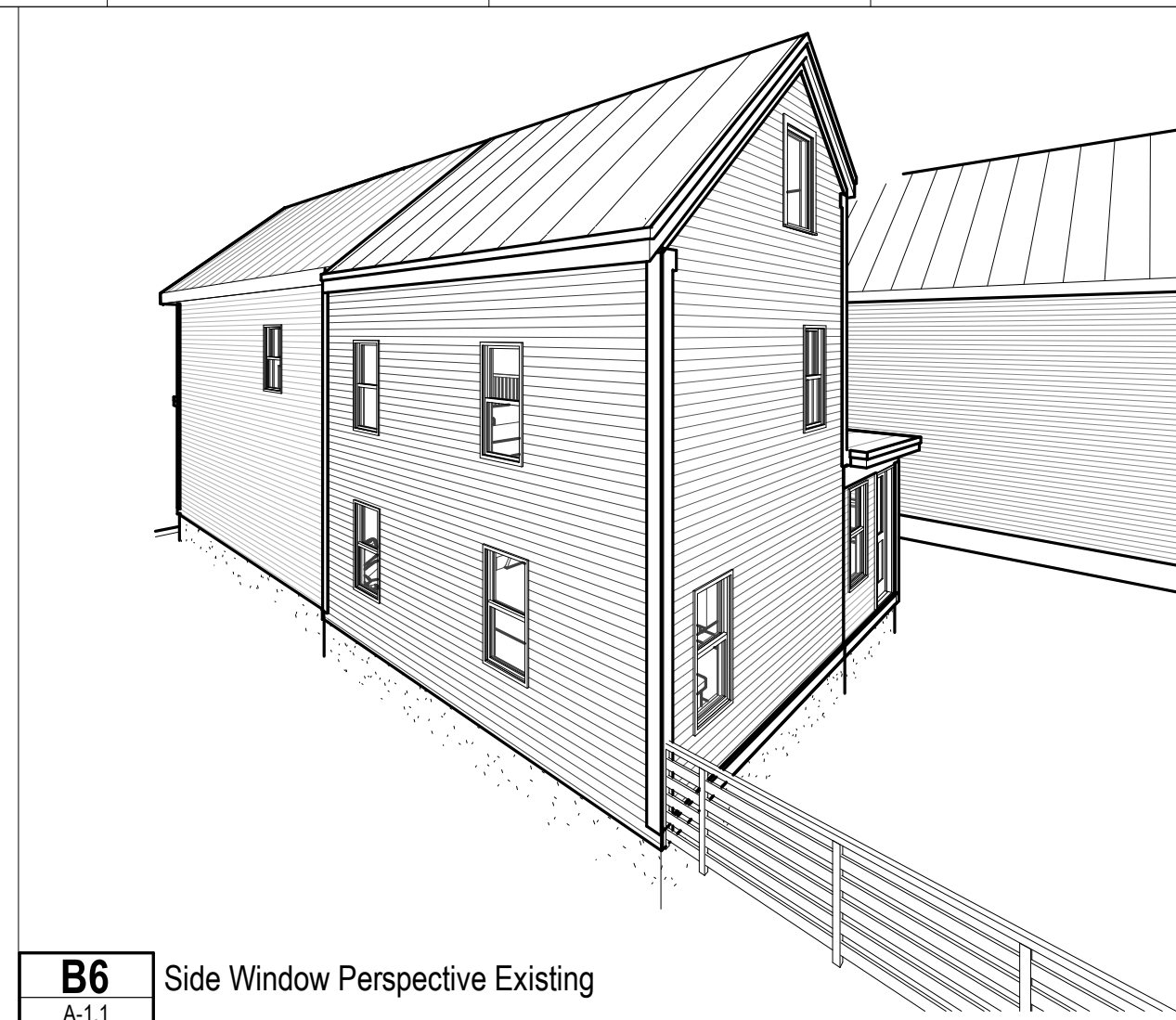
Project Status HP

A-1.0

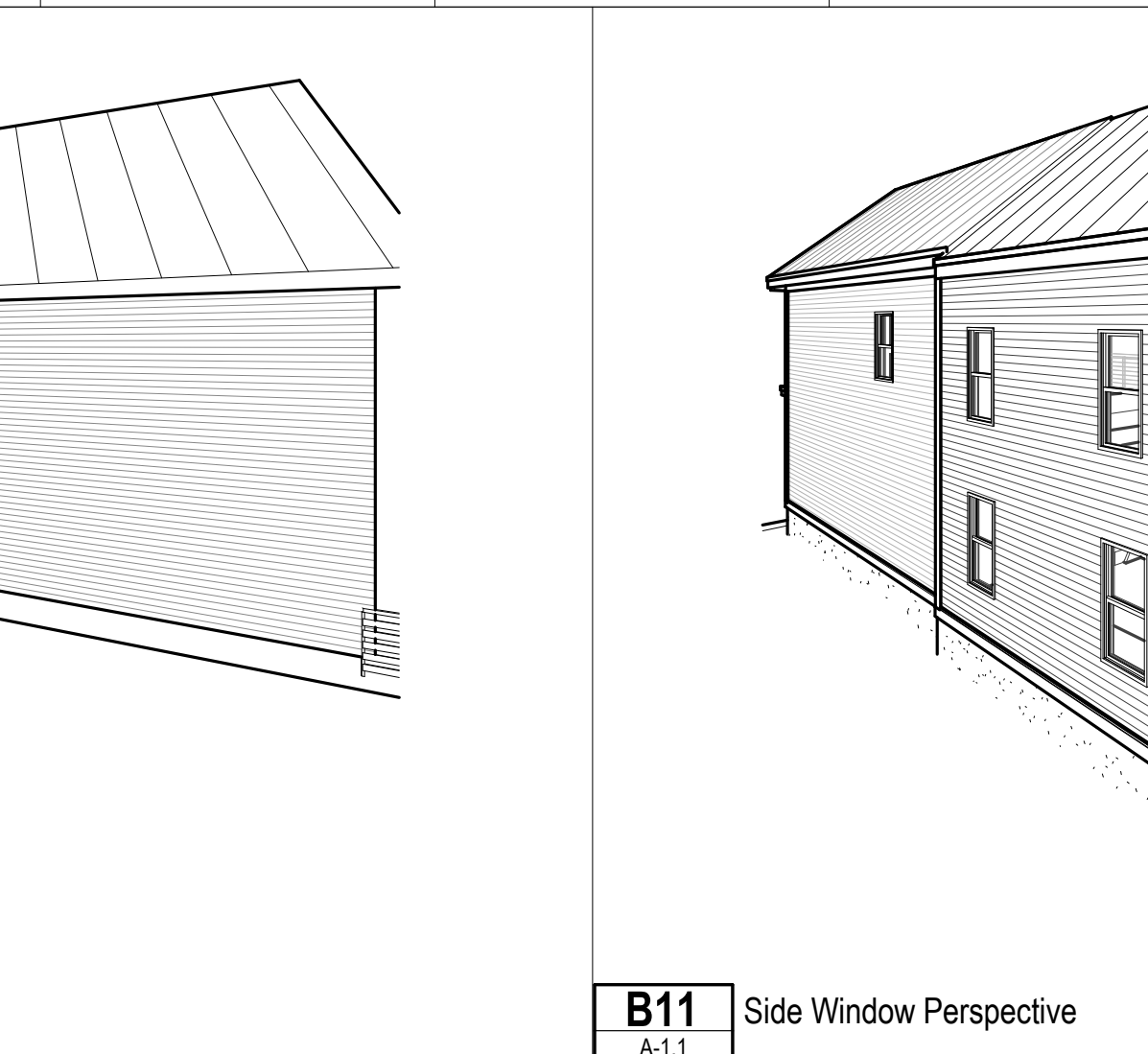
Scale 1/4" = 1'-0"



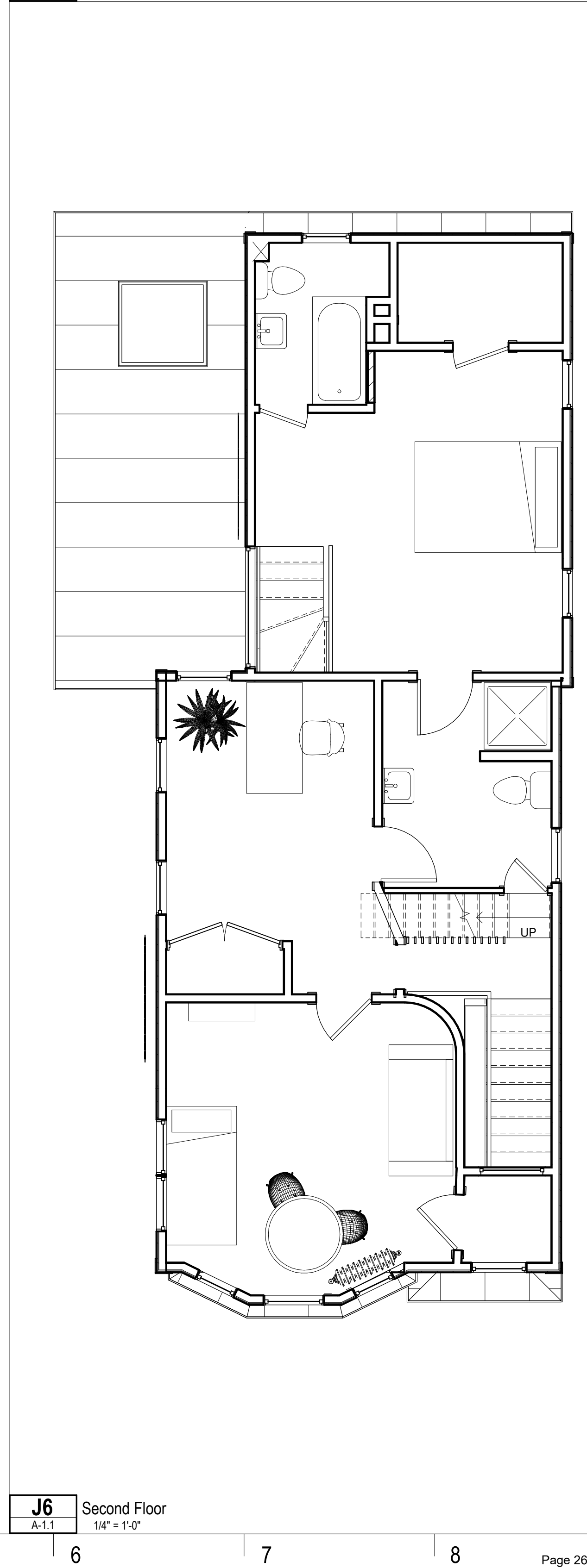
J1 First Floor
A-1.1 1/4" = 1'-0"



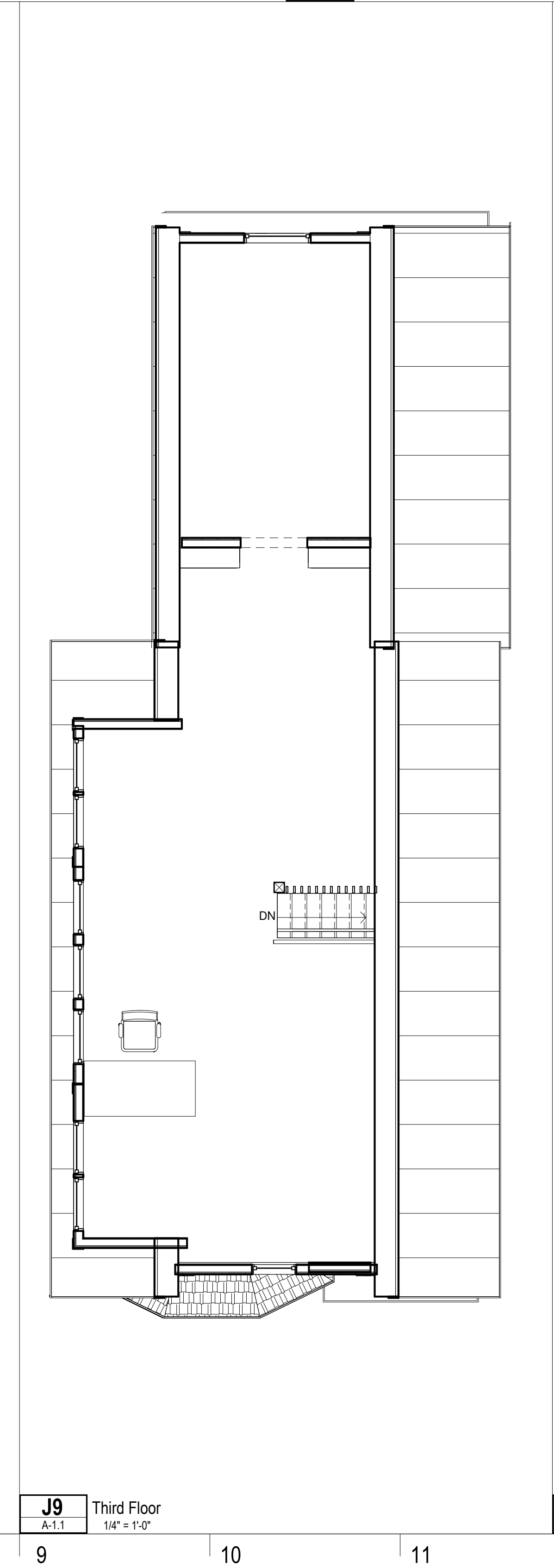
B6 Side Window Perspective Existing
A-1.1



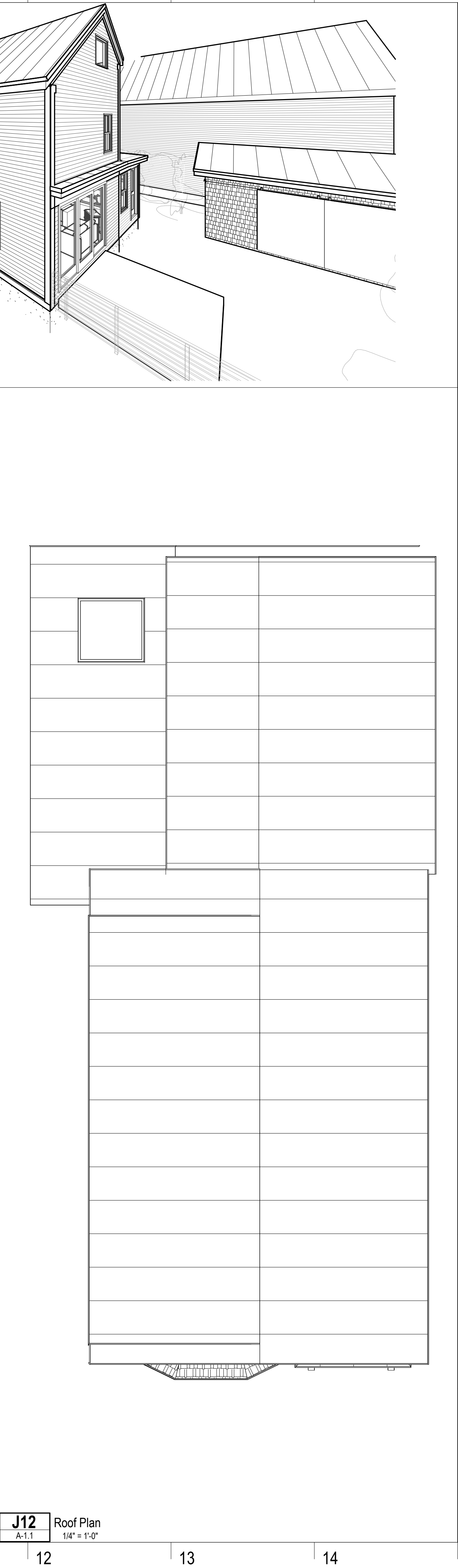
B11 Side Window Perspective
A-1.1



J6 Second Floor
A-1.1 1/4" = 1'-0"



J9 Third Floor
A-1.1 1/4" = 1'-0"



J12 Roof Plan
A-1.1 1/4" = 1'-0"

HISTORIC PRESERVATION

20 Morning



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CREATIVE**

PORTLAND, ME 04102
TRACIE REED, ARCHITECT
NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

FLOOR PLANS

Project number	24-08_20 Morning
Date	07.07.24
Drawn by	TR
Project Status	HP

A-1.1

Scale 1/4" = 1'-0"



C1 South Elevation Existing
A-2.1 1/4" = 1'-0"



C11 East Elevation Existing
A-2.1 1/4" = 1'-0"



G1 South Elevation
A-2.1 1/4" = 1'-0"



G11 East Elevation
A-2.1 1/4" = 1'-0"



J1 Sidewalk @ Corner of 16 Morning
A-2.1



J6 Existing Street View
A-2.1



J11 Street View
A-2.1

HISTORIC PRESERVATION

20 Morning



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PORTLAND, ME 04102
TRACIE REED, ARCHITECT
NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

EXTERIOR ELEVATIONS

Project number 24-08_20 Morning

Date 07.07.24

Drawn by TJR

Project Status HP

A-2.1

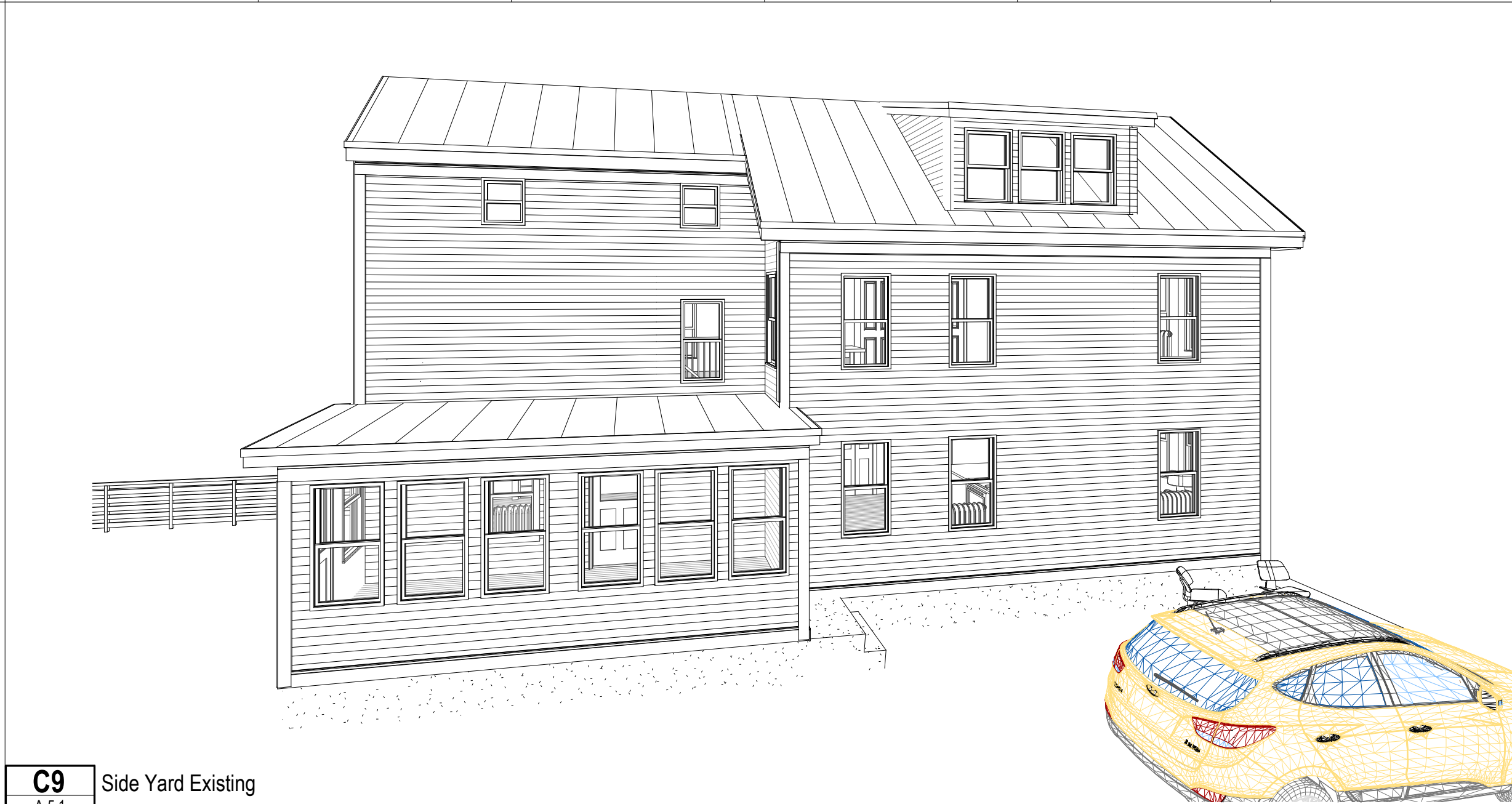
Scale 1/4" = 1'-0"



C1
A-5.1 Curb Cut Existing



C5
A-5.1 Curb Cut View



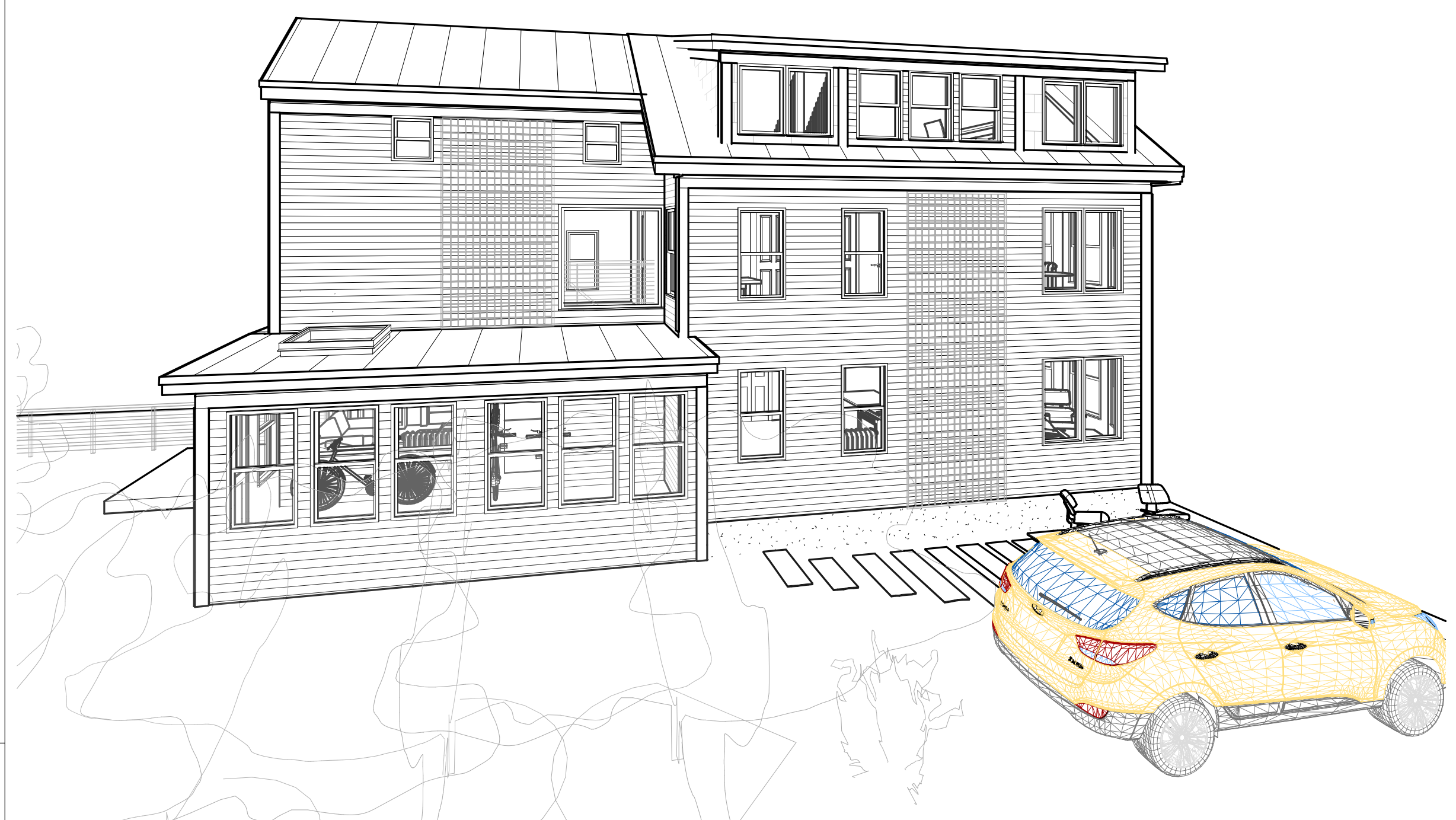
C9
A-5.1 Side Yard Existing



F1
A-5.1 Streetscape Existing



F5
A-5.1 Streetscape



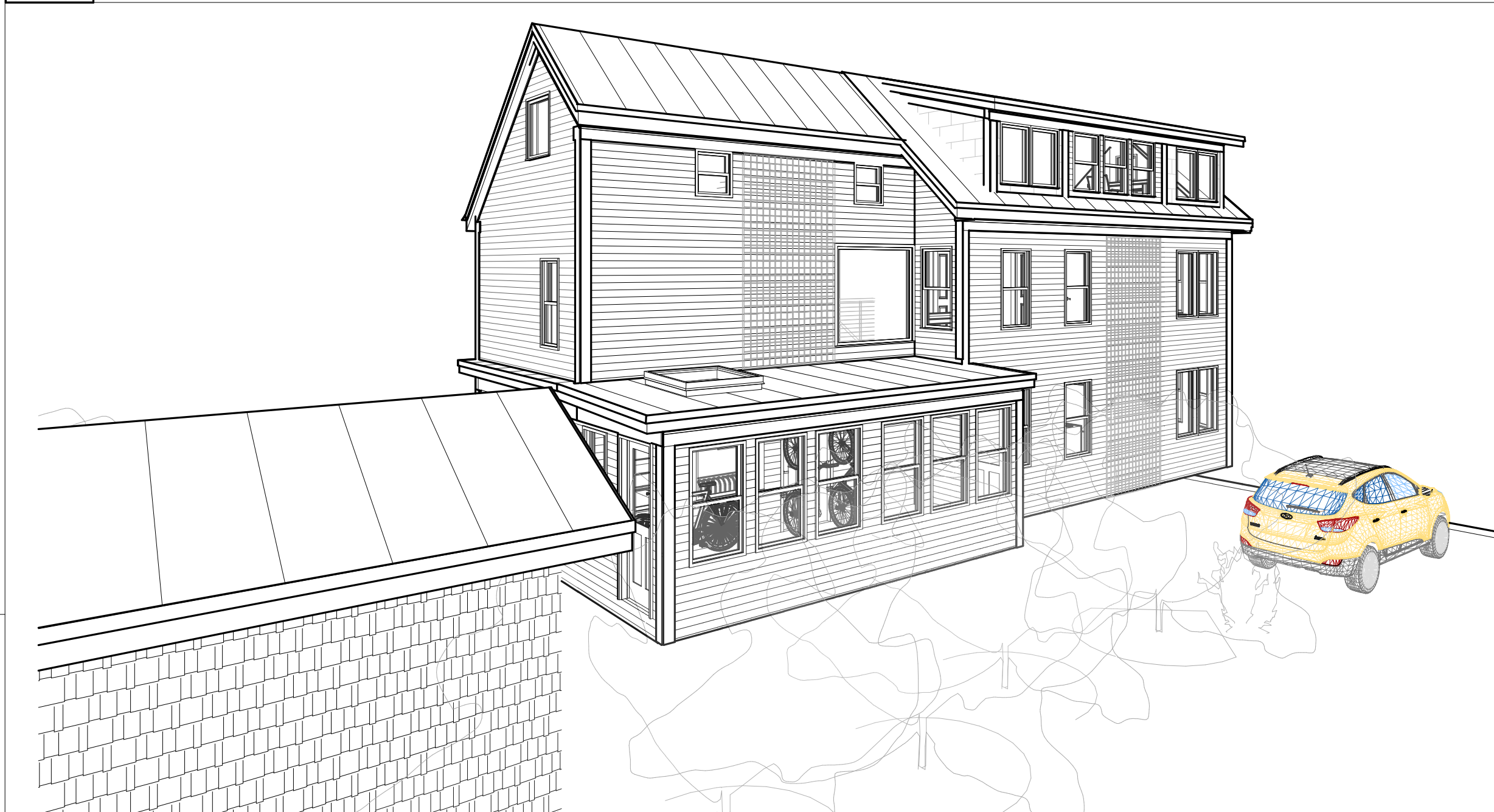
G9
A-5.1 Side Yard



I1
A-5.1 Backyard Existing



I5
A-5.1 Backyard View



J9
A-5.1 Yard Perspective Towards Street

HISTORIC PRESERVATION

20 Morning



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CREATIVE**

PORTLAND, ME 04102
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NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

EXTERIOR PERSPECTIVES

Project number	24-08_20 Morning
Date	07.07.24
Drawn by	TR
Project Status	HP

A-5.1

Scale



LOCUS MAP KEY
A: 20 MORNING STREET
B: 11 O'BRIEN
C: 15 VESPER
D: 29 WATERVILLE
E: 9 ST. LAWRENCE STREET
F: 9 MOODY STREET



11 O'BRIEN
NEW DORMERS & ADDITION W/WINDOWS
CURRENTLY UNDER CONSTRUCTION.

FAR LEFT: NEW DORMER EXTENDS TO
STREETFRONT & STRUCTUALLY BEARS
ON EXTERIOR WALL.

IMMEDIATE LEFT: GOOGLE STREET VIEW
CAPTURED SEPT. 2023 ILLUSTRATING
CONDITION PRIOR TO ALTERATIONS IN
PROGRESS.

HISTORIC
PRESERVATION

20 Morning



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CREATIVE

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TRACIE REED, ARCHITECT
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207.409.0459 (cell)

PROJECT TEAM



VESPER
LEFT: VIEW OF 20 MORNING STREET
REAR FROM DRIVEWAY @ 15 VESPER
(PICTURE WINDOW AND STOVE VENT).
FACE OF HOUSE IS APPROX. 116'-0".
FROM VESPER SIDEWALK. THIRD FLOOR
WINDOW AND PART OF SECOND FLOOR
WINDOW ARE EXTENT OF VISIBLE
FACADE.

29 WATERVILLE STREET
RIGHT: THREE STORY BOX BAY
W/PICTURE WINDOWS @ SECOND FLOOR
AND MULLED UNITS @ UPPER FLOORS.



MATERIAL INSPIRATIONS
9 ST. LAWRENCE STREET - IRREGULAR
GRANITE PAVERS.

9 MOODY STREET - WEATHERED CEDAR
OPEN RAIN SCREEN SIDING. NARROW

NEIGHBORHOOD
SURVEY

Project number 24-08_20 Morning

Date 07.07.24

Drawn by TR

Project Status HP

HP-1

Scale



1924 TAX MAP: MAINE HISTORICAL SOCIETY



2024 VIEW



HOOD/ENTRY TRIM ASIDE FROM FACIA, CROWN MOLDING, & FRIEZE @ BAY WINDOW. FRONT STEPS ARE BRICK. IN 1924 PHOTO THEY ARE WOOD.



TEXTURED HARDIPLANK INSTALLED W/5" REVEAL. DRIP CAP & 5.5" WATER TABLE & NEW 5.5" CORNER BOARD.



LEFT: WINDOWS IN 1924 PORTLAND TAX MAP ARE 2X2 & DARK IN COLOR. THE WINDOWS FEATURE NARROW SIDE/HEAD CASING AND SILL.



RIGHT: FIRST FLOOR BAY WINDOW ILLUSTRATES LACK OF CORNER TRIM. ALSO WATER TABLE IS ABSENT - SIDING TERMINATES IN COURSE OF CLAPBOARD.



LEFT: LOWER CORNER OF IMAGE ILLUSTRATING LACK OF WATER TABLE



RIGHT: DORMER WINDOWS ARE ALTERED (NOW TRIPLE) ORIGINALLY 2/1



LEFT: EXISTING PAINTED BRICK FDN @ BAY WINDOW



LEFT: NEW MDF WATER TABLE WITH DRIP CAP & ALUM. TRIM AT OUTSIDE CORNER OF BAY WINDOW.



RIGHT: NEW MDF TRIM BRIDGES GAP BTW ORIGINAL TRIM @ HOODED ENTRY & BAY WINDOW. @ LEFT - ALUM. TRIM @ BAY WINDOW INNER CORNER.

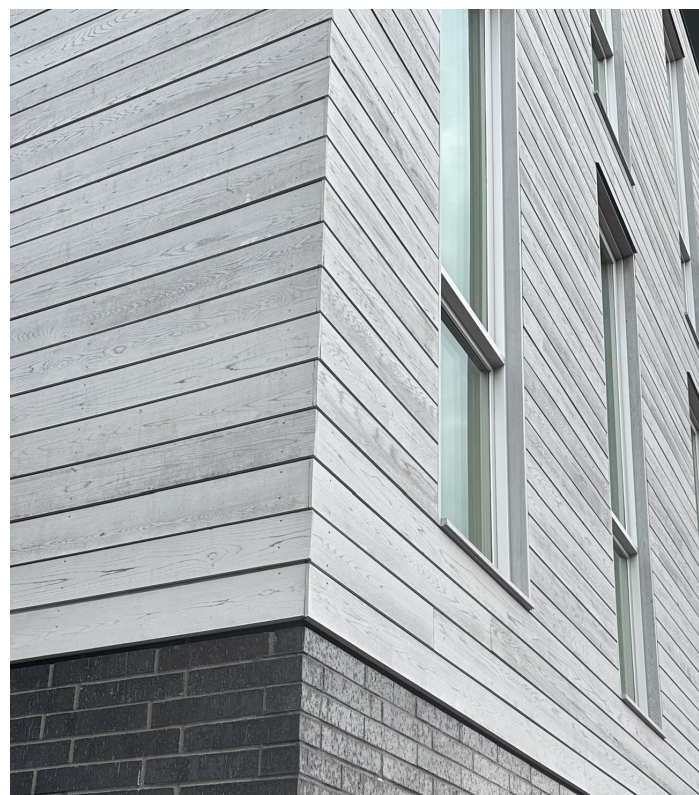
NEW TRIM PROVIDES TRANSITION @ ORIGINAL HOOD & HARDIPLANK SIDING



ALL ORIGINAL WINDOW TRIM HAS BEEN REMOVED. TYP. TRIM PHOTO.



CORNER BOARD AND WATER TABLE & FRONT CORNER (DRIVEWAY SIDE)



OPEN RAIN SCREEN EXAMPLE (@ MOODY STREET)



INSPIRATION FOR OUTBUILDING



EXAMPLE OF METAL SINGLES (VERSA-LOK PANEL SHOWN)



EXAMPLE OF METAL ROOFING (SEE DETAILS FOR COLOR, PROFILE & ATTACHED CUT SHEETS)

HISTORIC PRESERVATION

20 Morning



DEXTROUS CREATIVE

PORTLAND, ME 04102
TRACIE REED, ARCHITECT
NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

PHOTOS OF EXISTING TRIM DETAILS

Project number 24-08_20 Morning

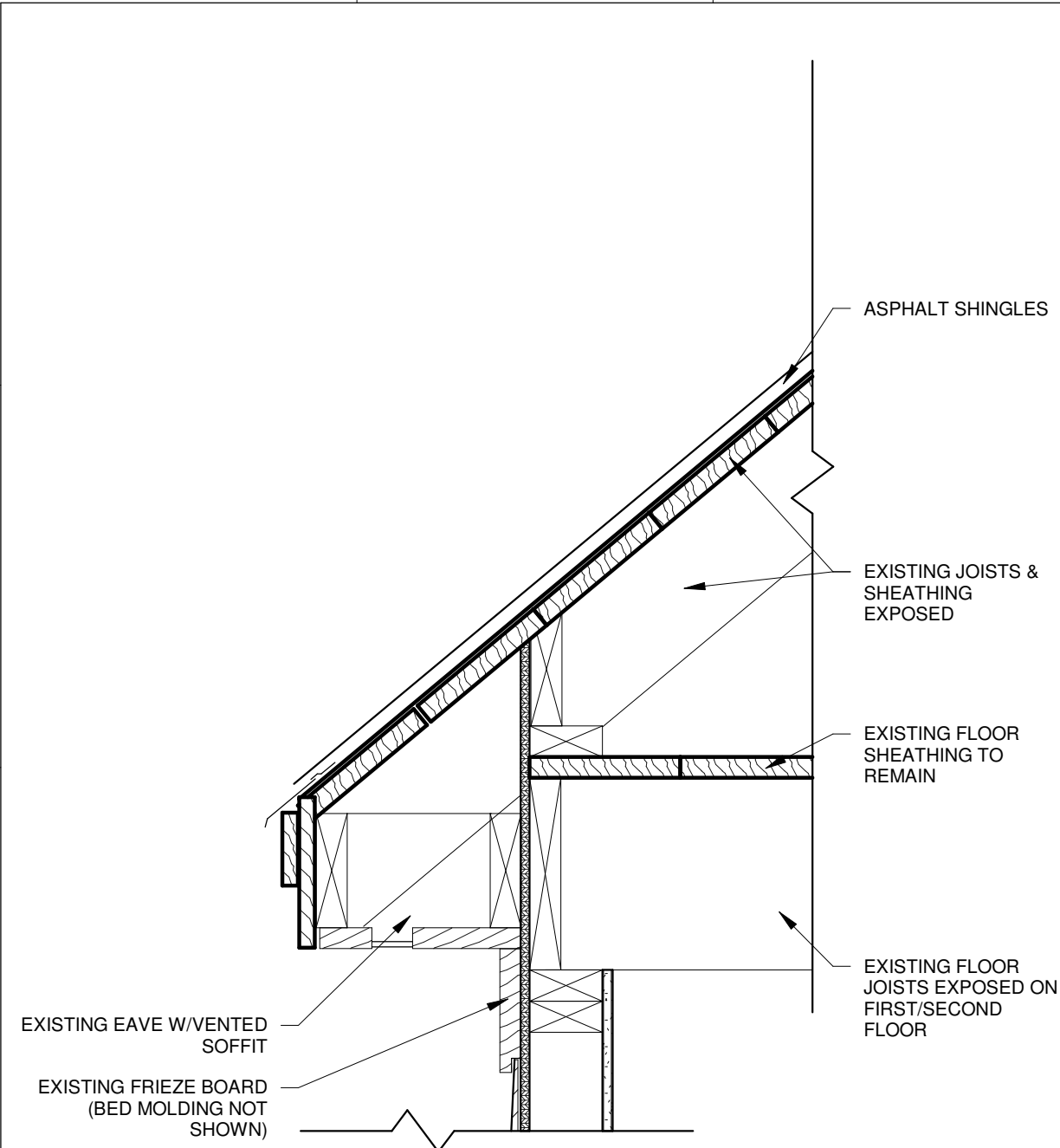
Date 07.07.24

Drawn by TR

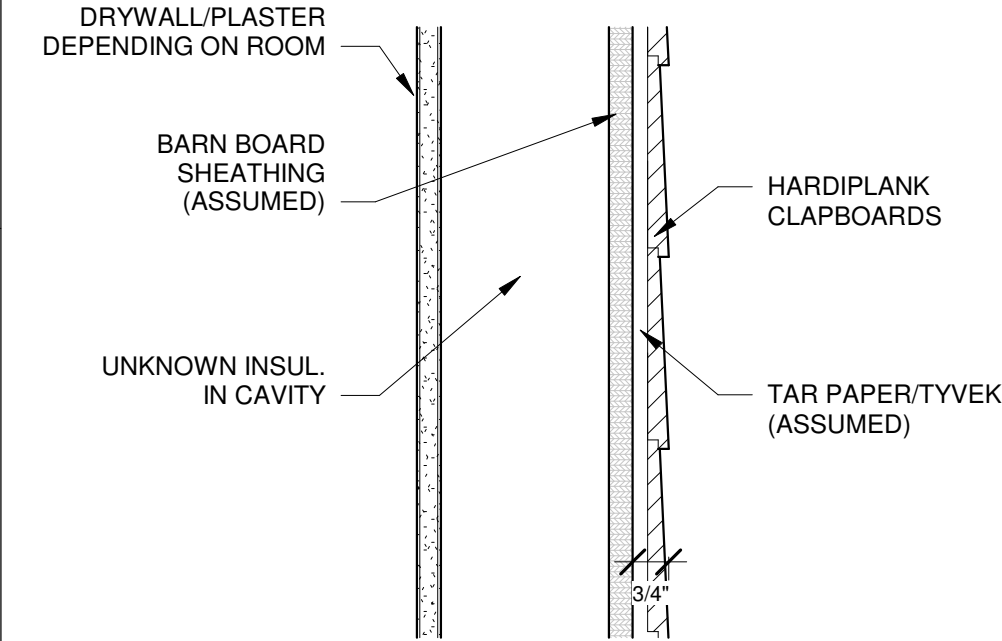
Project Status HP

HP-2

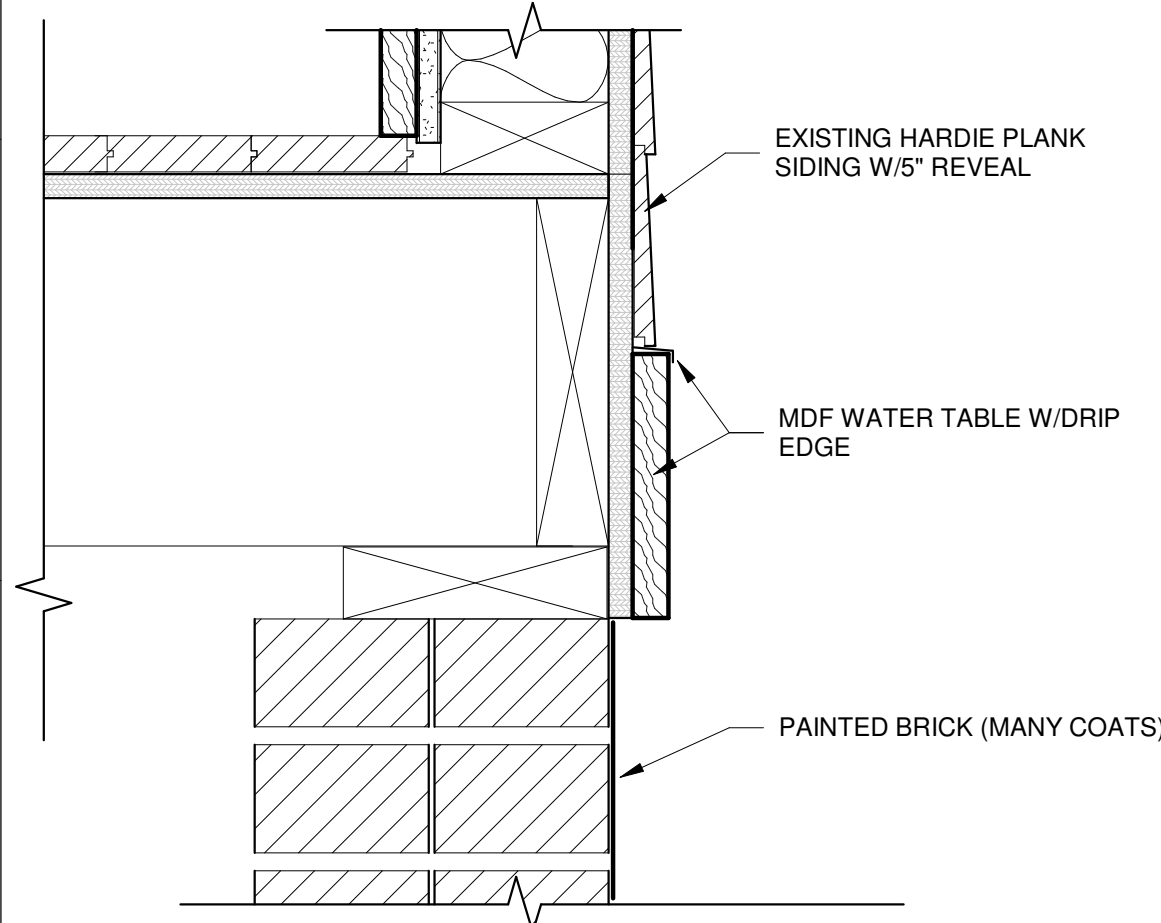
Scale



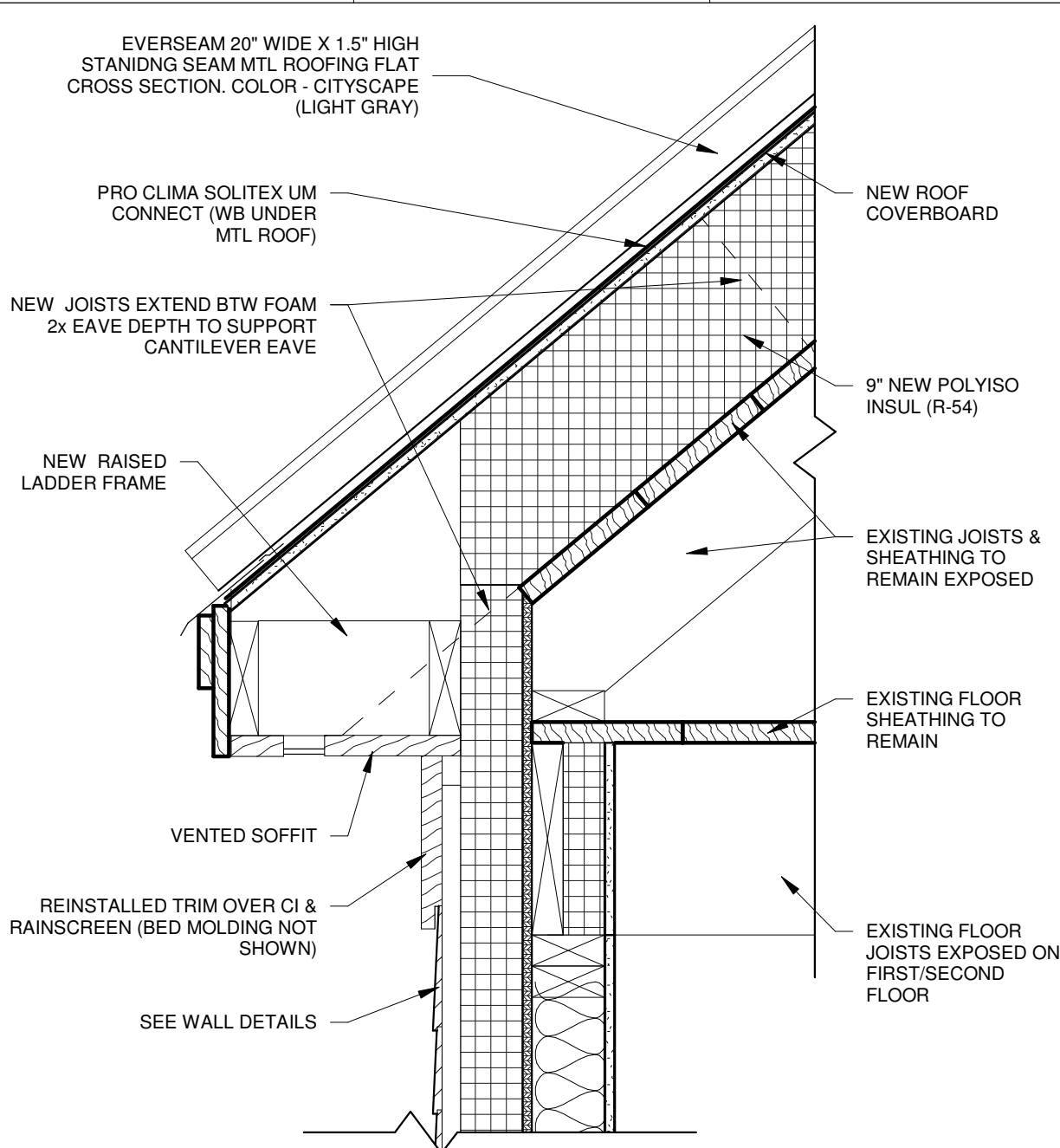
D1 EXISTING ROOF
HP-3 1 1/2" = 1'-0"



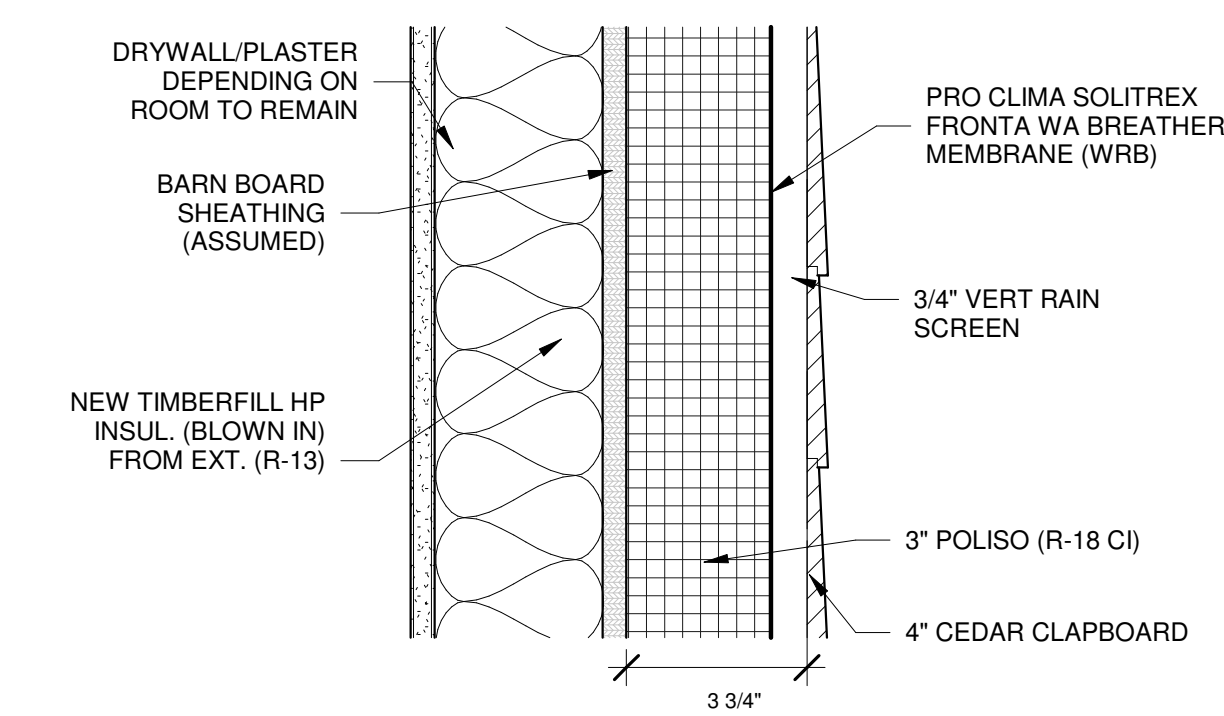
E1 EXISTING EXTERIOR WALL (SECTION)
HP-3 3" = 1'-0"



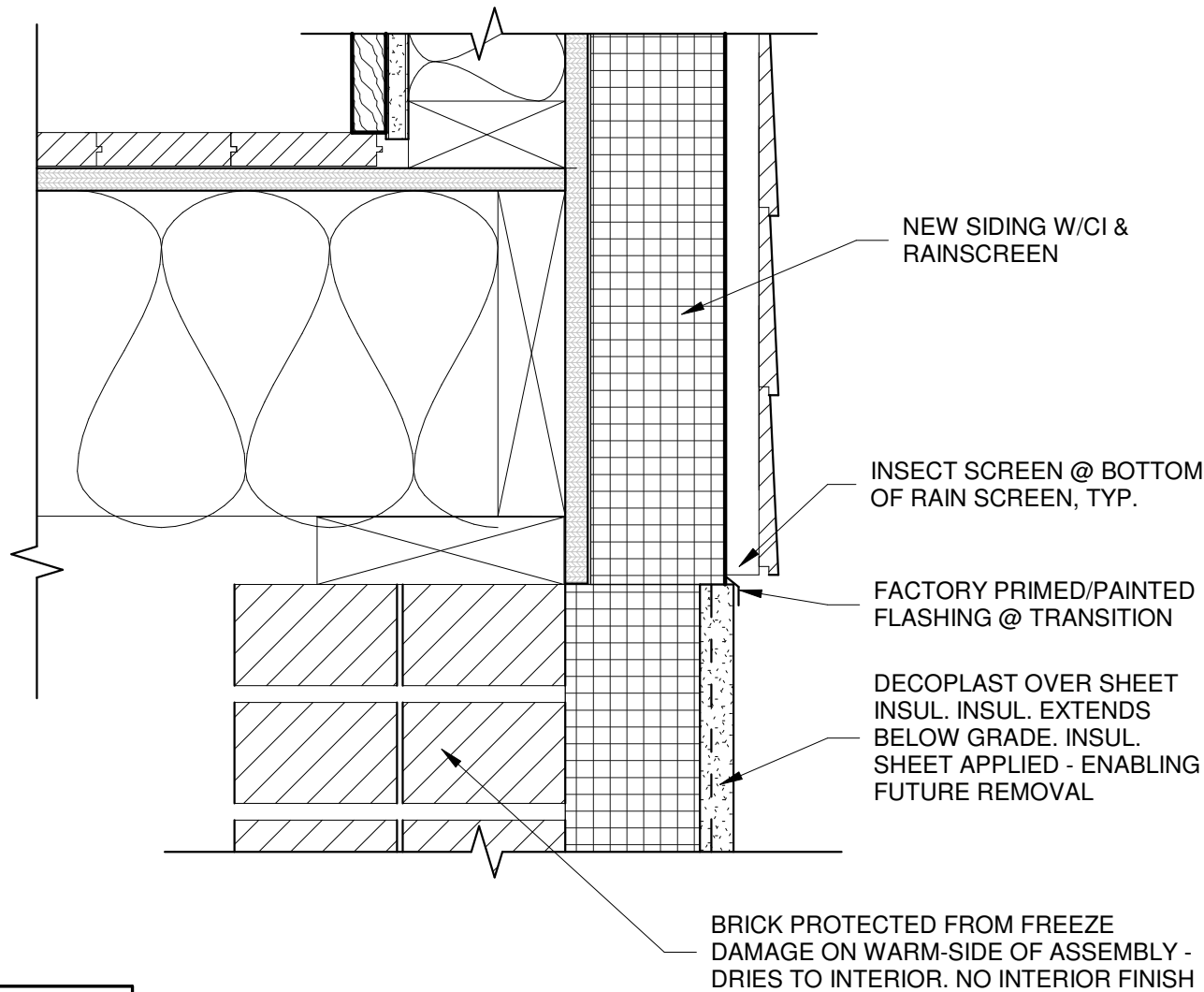
H1 EXISTING WALL & FDN TRANSITION
HP-3 3" = 1'-0"



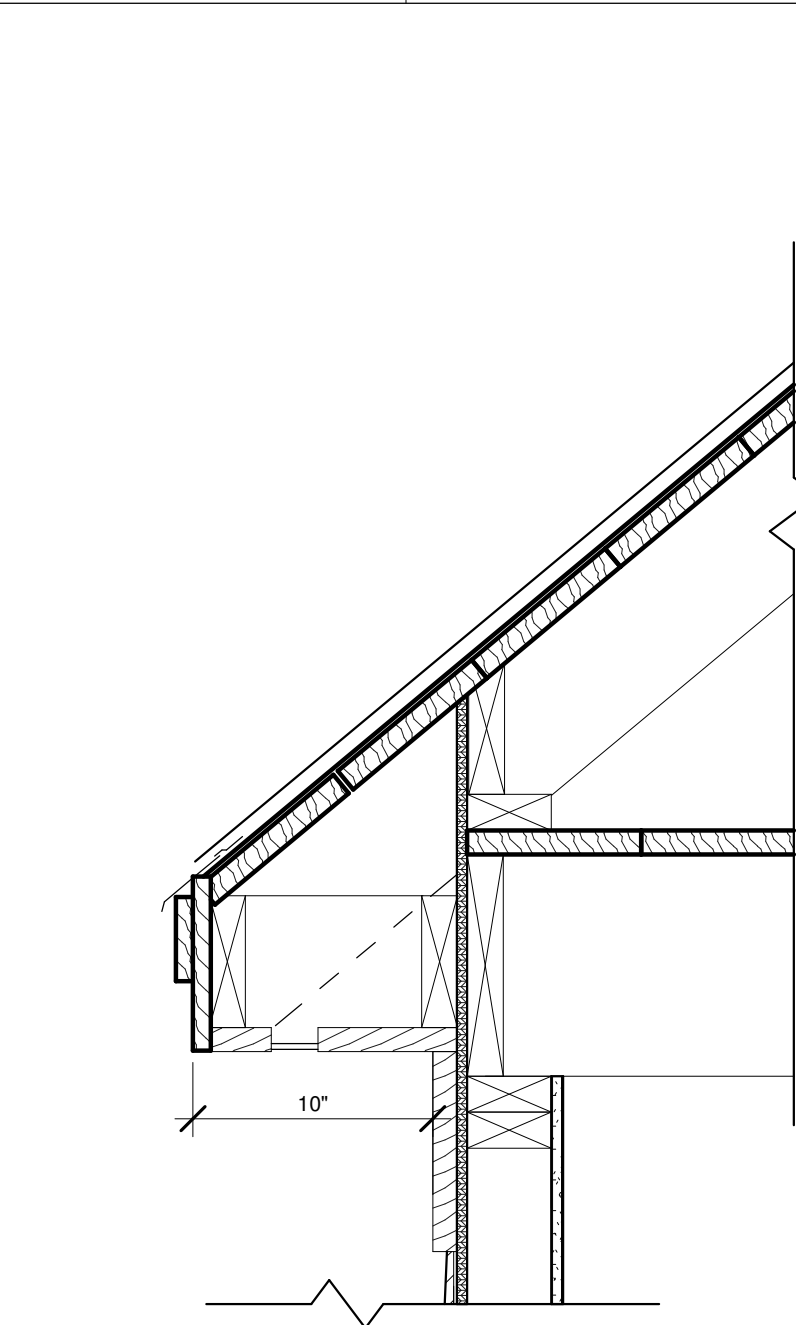
D4 INSUL. ROOF & EAVE
HP-3 1 1/2" = 1'-0"



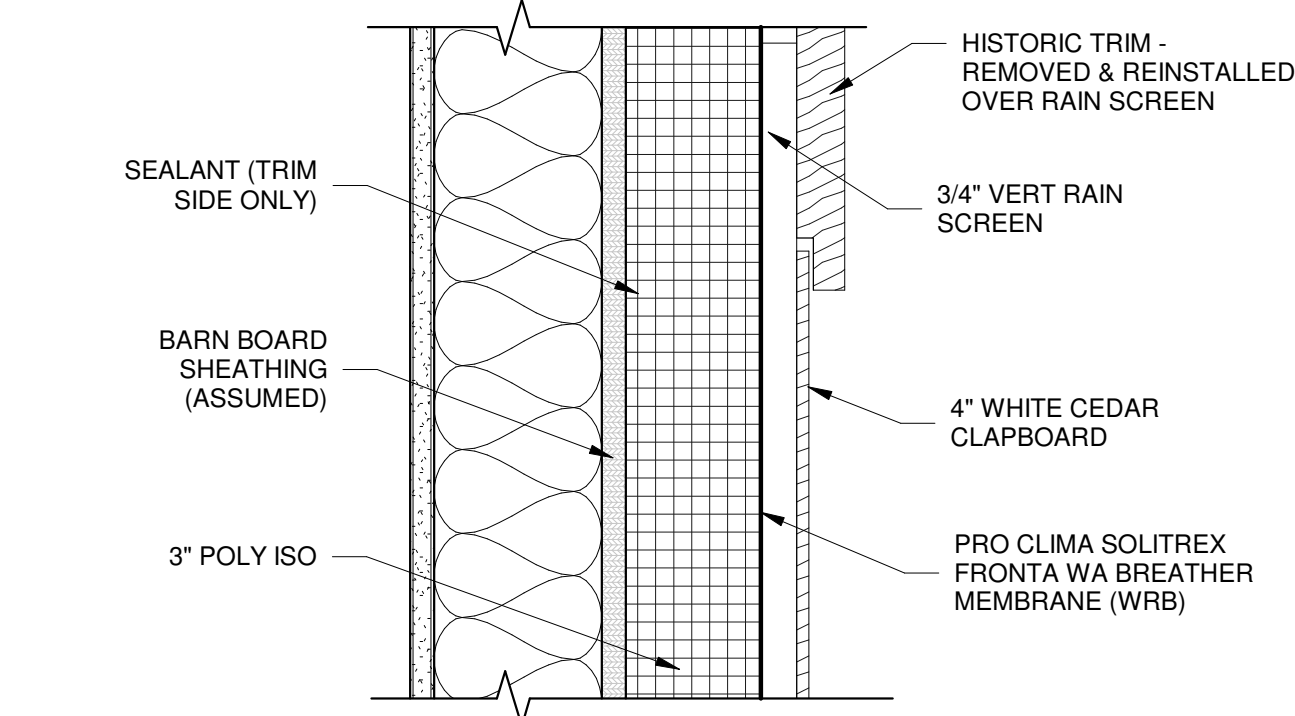
E4 NEW EXT WALL ASSEMBLY (SECTION)
HP-3 3" = 1'-0"



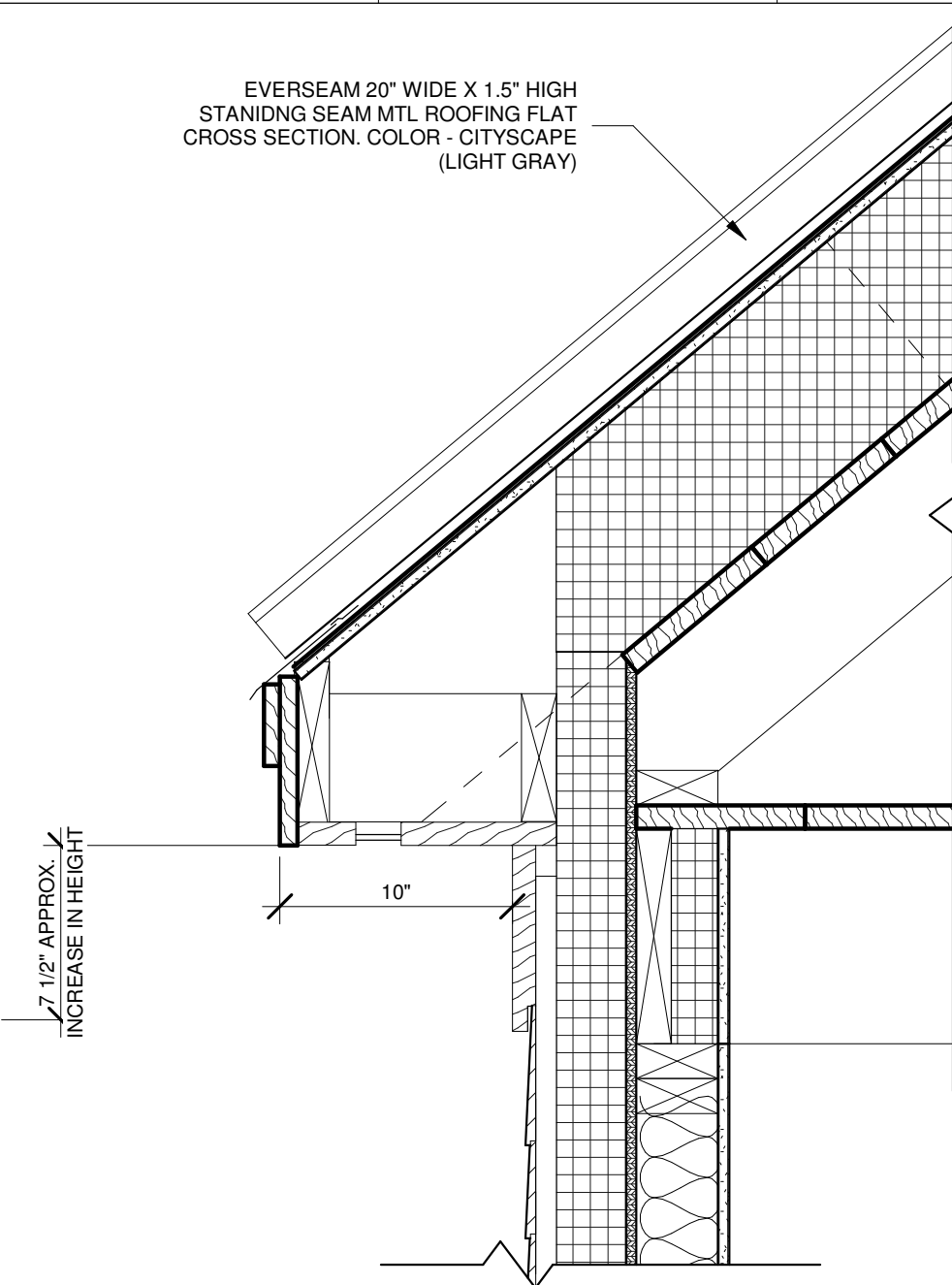
H4 WALL & FDN TRANSITION
HP-3 3" = 1'-0"



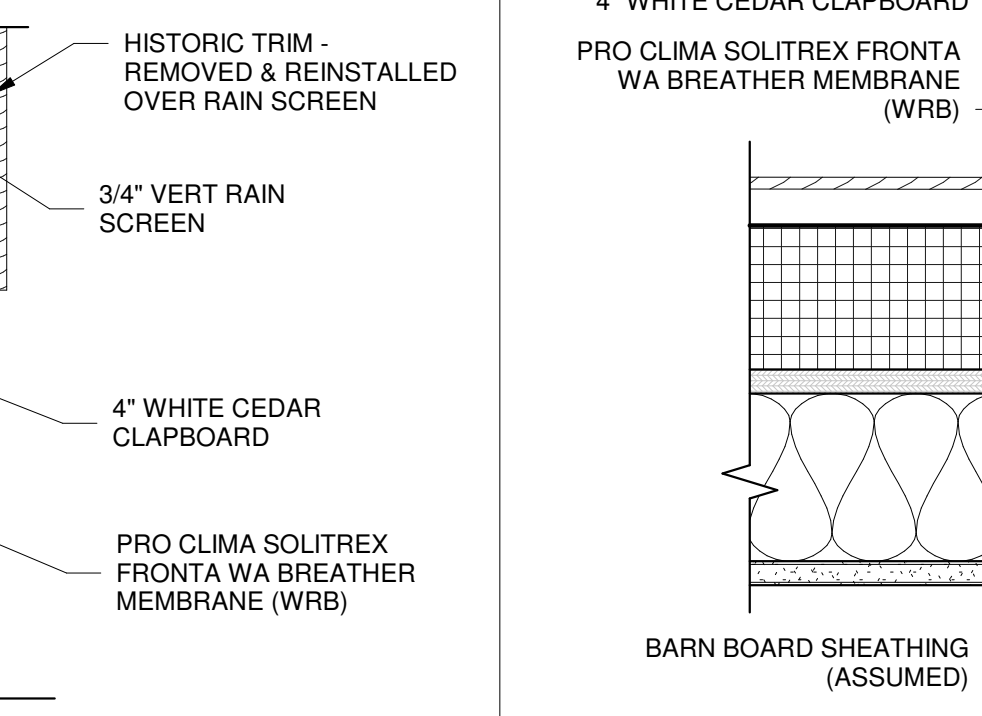
C7 SUPERIMPOSED EXISTING / NEW ROOF
HP-3 1 1/2" = 1'-0"



E7 CI @ FRIEZE/EXISTING TRIM, TYP. (SECTION)
HP-3 3" = 1'-0"



C7 SUPERIMPOSED EXISTING / NEW ROOF
HP-3 1 1/2" = 1'-0"



E11 CI & NEW TRIM (PLAN VIEW)
HP-3 3" = 1'-0"

CONCEPT IS TO RETAIN THE TRIM PROFILES OF THE FASCIA AND FRIEZE BOARD (BED MOLDING NOT SHOWN). NOTE FASCIA IS NOT INTENDED TO BE MODELED AS REPLICA OF HISTORIC TRIM BUT INSTEAD TO SERVE AS ILLUSTRATIVE EXAMPLE OF RESULT OF ADDING INSUL. TO ROOF AND IMPACT ON TRIM.

IN ADDING CI ON EXTERIOR THE FRIEZE & ALL TRIM WILL BE RAISED BY 7 1/2" (APPROX). DUE TO EXISTING (LIMITED) HEAD HEIGHT ON INTERIOR OF SPACE INSULATION ON THE INTERIOR IS NOT FEASIBLE.

PROPOSED INSUL. THICKNESS MEETS IECC 2021. CURRENTLY THE STRUCT. HAS NO ROOF INSUL AND IT IS ASSUMED NO WALL INSUL.

ALL HISTORIC TRIM PROFILES WILL BE SURVEYED VIA LIFT BY CONTRACTOR PRIOR TO WORK SO KNIVES REPLICATING THOSE TRIM PROFILES CAN BE CREATED IF ORIGINAL TRIM IS DAMAGED DURING REMOVAL. TRIM WILL BE NUMBERED/CATALOGED FOR REINSTALL.

HISTORIC PRESERVATION

20 Morning



**DEXTROUS
CREATIVE**

PORTLAND, ME 04102
TRACIE REED, ARCHITECT
NCARB, AIA, LEED AP BD-C
traciereed@dextrouscreative.com
207.409.0459 (cell)

PROJECT TEAM

No.	Description	Date

DETAILS ILLUST. EXISTING & PROPOSED ASSEMBLIES

Project number 24-08_20 Morning

Date 07.07.24

Drawn by TR

Project Status HP

HP-3

Scale As indicated

Address: 20 Morning

Approximate/Documented Date of Building: 1866

Surveyed: 8/17/2018

Historic Name: Patrick McMann House

Contributing or Noncontributing: Contributing



Introduction

20 Morning Street is a front gabled two-and-a-half-story frame Italianate style single-family house clad in vinyl siding. The dwelling is typical of the many gable front Italianate dwellings built on narrow lots that typify Munjoy Hill's historic character. Despite replacement siding and windows, the building retains a significant amount of stylistic detail consistent with its Italianate origins. Such features include a two-story bay window, a bracketed hood over the main entrance, a sidelight and paneling to the right of the entrance door, corner boards, and a band of trim beneath the cornice in the gable and eaves.

Current Architectural Description

The façade is two bays wide and includes a two-story bay window in the first bay and the main entrance in the second. The bay window features a hipped roof and bands of vinyl trim above each set of windows on each floor. The main entrance is accessed by concrete and brick stairs with thin metal railings with twisting metal balusters. Windows in the façade are 1/1 with vinyl sash and trim.

The north elevation is two bays wide and includes a rear ell that runs nearly flush with the main structure, jutting out around foot in width. Windows in the north elevation are 1/1 with vinyl sash and trim. The west elevation is not visible from the public way. The south elevation is roughly four bays wide—an enclosed porch in the first bay at the building's rear/rear ell obscures how many bays may be contained within. The enclosed porch features a street-facing door accessed by brick and concrete stairs. Windows in the south elevation are 1/1 with vinyl sash and trim.

The roof is sheathed in asphalt shingles and does not contain chimneys, but it does have a shed dormer rising from the southern slope with two 1/1 vinyl sash windows.

Additions and Alterations Since 1924

The building has undergone typical losses since 1924: wooden clapboard siding and trim, wood sash windows, and a chimney rising from the rear ell. The rear ell is present in the 1924 iteration, but the enclosed porch is not. In addition, the shed dormer on the south slope of the roof is present in 1924. Despite these losses the dwelling retains its pedestrian level details, form and scale that contribute to the neighborhood's historic character.



Evan Schueckler <evans@portlandmaine.gov>

HP Public Comment - 20 Morning St: The ABSURDITY OF THE MUNJOY HILL HISTORIC DISTRICT

George Rheault <george.rheault@gmail.com>

Tue, Jul 2, 2024 at 11:59 AM

To: Historic Preservation <hp@portlandmaine.gov>, Evan Schueckler <evans@portlandmaine.gov>

Why is this renovation project getting the third degree from our "Hyper-Gentrification Gendarmes" (a/k/a "The Preble Chapel Killer Klub")?

Here is the COMPLETE summation of the "character-defining" elements from the 2018 - 2019 district documentation for [20 Morning Street](#):

"Despite these losses [emphasis added], the dwelling retains its pedestrian level details, form and scale that contribute to the neighborhood's historic character."

Since virtually NONE of the original exterior details of the original structure remain (what does "pedestrian level details" even mean here??), the entirety of the basis for its inclusion in the absurd gerry-mandered "historic district" is its "form" and "scale" (a/k/a "massing") which is the kludge that Deb Andrews & her little cabal (Hillary Bassett, Rob Whitten, et al) laughably used to justify the sweeping expansion of historic preservation regulation in the once isolated and down-trodden but now very much up-scale Munjoy Hill neighborhood. Yes, we desperately needed the protections afforded from a "Munjoy Hill Historic District" in order to preserve the history that between the Civil War and the early 1920s, Portland, Maine residential dwellings often developed a form and massing between 1 to 3 stories tall!

So, the ONLY question that should be asked of the applicant, as part of a review of their very modest and reasonable renovation plans, is ARE THEY CHANGING IN ANY FUNDAMENTAL WAY THE FORM AND MASSING OF THE ORIGINAL BUILDING THAT EXISTED IN 1924?

The answer is obviously NO. And that should be it. End of story. Stop your busy-body micromanagement of things that are not even historic. Everyone can go home after a 30 second vote to approve the renovation plans as filed and get a jump on their fireworks and cook-out plans for July 4th.

[For the full description see link to Morning Street inventory excerpt provided by HP staff: <https://portlandme.portal.civicclerk.com/event/6709/files/attachment/23168>

[Please note that the original inventory description mis-identified the cladding as "vinyl" when it was NOT vinyl - an indication of how sloppy and poor the original surveying of the district environment was during the run-up to its designation. The early history of the house is also obscured. It is almost certainly not from 1866, but it may very well have been built in 1867 or 1868 and may initially have been a squatter dwelling of some kind or other informal ownership as the relevant deeds exist only from the 1880s and appear to be some kind of attempt to back-date the ownership of the property as a way to formalize ownership after-the-fact." There is also ZERO PROOF that the dwelling that shows up in the 1896 Sanborn Map is the SAME structure as the dwelling that shows up in the 1909 Sanborn Map (the point being the 1909 dwelling might be a completely new, ground-up creation.)

On the question of metal roofs, there are many examples of these not being an kind of impediment to "contributing status" when the district was originally created in early 2021 (based on documentation introduced in 2019 and never updated].

Here are a few specific ones:

106 North Street

100 North Street

[29 Munjoy Street](#)

47-51 Munjoy Street (these parcels are officially part of "[43 Munjoy Street](#)" ownership)

Also, the City of Portland has a LOT of explaining to do regarding the fraudulent representations they made to the National Park Service in their certification application for the historic district regarding the existing conditions of various properties at the time of the certification application.

Here are a few relevant examples pertaining to that issue (which should aid the arguments in favor of the current application regarding "compatibility" evaluations of contemporary modifications):

33 North Street

[30 O'Brion Street](#)

60 Munjoy Street

**STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT**



TO: Chair O'Brien and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
DATE: August 2, 2024
RE: 477 Congress Street – PUBLIC HEARING – Rehabilitation
PROJECT ID: HPBR-003019-2024
MEETING: August 7, 2024

Owner: TT Maine Venture, LLC
Applicant: Kevin Bunker, Developer's Collaborative
Architect: Virginie Stanley, Invivid Architecture

A sign announcing the Historic Preservation Board's meeting on August 7, 2024 was posted at the property on July 26, 2024. A legal ad was published in the Portland Press Herald on July 26, 2024 and July 27, 2024, and 149 notices were sent to neighboring property owners within 500 feet of the subject property.

PROJECT SCOPE

Rehab Historic Time & Temperature Building, including all four connected structures at 477 Congress Street, 481 Congress Street, 10-20 Preble Street, and 22 Preble Street. Rehabilitation to include:

- Repointing and repairs to historic masonry;
 - Repair of distinctive historic wood and steel windows;
 - Replacement of all existing non-historic storefronts and doors with new to match historic images;
 - Replacement of all existing non-historic one-over-one windows;
 - Recreation of missing historic details such as decorative balconies and cornice at 477 Congress Street, and decorative columns at 22 Preble Street;
 - Recladding of non-historic two-story rooftop addition at 477 Congress Street with more historically compatible siding and windows;
 - Construction of new brick-clad egress stair tower addition at rear of 477 Congress Street;
 - Installation of new exterior architectural lighting; and
 - Replacement of Time & Temperature Sign with new to match using LEDs.
-

SUMMARY OF HISTORIC CONTEXT

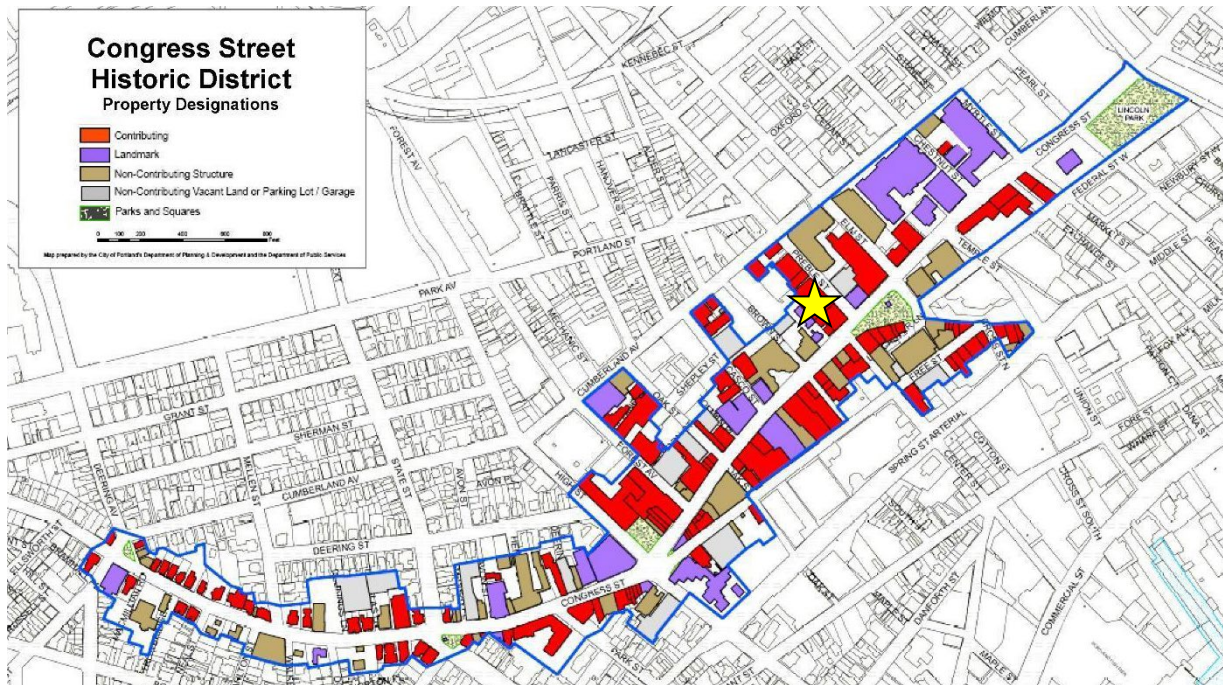


Figure 1: Map of Congress Street Historic District showing location of 477 Congress Street with a star.

The descriptions of the four buildings that make up the Time & Temperature Building complex have been included for reference as Attachment 4. The applicant has also included some historical information in their package, including a number of historic images of the complex.

Additional information on the Congress Street Historic District can be found on the city website: <https://www.portlandmaine.gov/665/Historic-Districts>

PREVIOUS REVIEW BY HISTORIC PRESERVATION BOARD

April 20, 2022, Public Hearing:

On April 20, 2022, the Historic Preservation Board voted to approve a program of rehabilitation and alterations at the Time and Temperature Building under HPBR-001500-2021. The Certificate of Appropriateness and Approved Plans are included for reference as Attachments 1 & 2. This approval expired on April 20, 2024.

STAFF COMMENTS

As a similar project was previously approved in 2022, the application is being brought to the Board directly for Public Hearing.

The scope of the project is predominantly unchanged since the 2022 approval. The only exceptions to this are with regards to changes to the proposed replacement storefronts along Preble Street. The applicant is also seeking Historic Rehabilitation Tax Credits and as a part of their preliminary tax credit review, they were directed to restore these storefronts to be more consistent with the appearance shown in historic photos. The new egress stair tower has also been reduced in its size. Generally, staff find that these changes are an improvement over the prior approval.

ANALYSIS OF APPLICABLE REVIEW STANDARDS

Standards for Review of Alterations, 17.8.2:

Standard 1	
Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character defining features of the structure, object, or site and its environment or to use a property for its originally intended purpose.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to rehabilitate the existing complex into residential. As proposed, the conversion to residential usage does not require extensive exterior alterations to character-defining features.

Standard 2	
The distinguishing original qualities or character of a structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.	
Standard Met?	Staff Comments
Yes	The applicant is proposing to retain historic materials and distinctive features as the exterior where they are extant.

Standard 3	
All sites, structures, and objects shall be recognized as products of their own time, place, and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall be discouraged.	
Standard Met?	Staff Comments
Yes	The applicant is not proposing to introduce any conjectural features or elements.

Standard 4	
Changes which may have taken place in the course of time are evidence of the history and development of a structure, object, or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.	
Standard Met?	Staff Comments
Yes	The applicant is not proposing to destroy or remove any features which have acquired significance. During the previous review, the Board had identified that the existing rooftop sign had acquired significance and had required that the replacement signage should be able to match the appearance and functionality of the existing.

Standard 5	
Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize a structure, object, or site shall be treated with sensitivity.	
Standard Met?	Staff Comments
Yes	Distinctive features such as exterior terracotta and decorative windows will be retained and repaired.

Standard 6	
Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture, and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.	
Standard Met?	Staff Comments
Yes	Distinctive features such as exterior terracotta and decorative windows will be retained and repaired. Where historic features are missing, such as the original cornice, decorative balcony balustrades, and the columns at the Keith Theater Entrance, they shall be recreated based on historic evidence.

Standard 7	
The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.	
Standard Met?	Staff Comments
Yes	Details of Masonry cleaning, as applicable, will be reviewed by staff for their appropriateness.

Standard 8	
Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.	
Standard Met?	Staff Comments
Not Applicable	

Standard 9	
Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material, and character of the property, neighborhood or environment.	
Standard Met?	Staff Comments
Yes	The new egress stair tower addition and refacing of the non-historic top two floors shall be differentiated through simplified materials and detailing.

Standard 10	
Wherever possible, new additions or alterations to structures and objects shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the historic property would be unimpaired.	
Standard Met?	Staff Comments
Yes	The new egress stair tower addition will require minimal removal of exterior materials on a non-street facing façade. Additionally, the top two stories are non-historic so their refacing will not require removal of historic materials.

MOTION FOR CONSIDERATION

I move to CONDITIONALLY APPROVE application HPBR-003019-2024 for rehabilitation at 477 Congress Street on the basis of submitted documentation, plans, and specifications; information provided in the staff memo; and findings by the Historic Preservation Board that the project meets Standards for Review of Alterations 17.8.2 A-J, with the following conditions:

- 1) That a mock-up of proposed masonry work, (including all cleaning, repointing, replacement, patching or other repairs, and new masonry) shall be reviewed and approved by Historic Preservation staff prior to proceeding with the work to ensure that the work is consistent with the historic masonry and will not cause unnecessary damage to historic materials per the Standards for Review of Alterations; and
- 2) That final details on the structure, appearance, and functionality of the new rooftop sign shall be submitted to staff for review and approval as being consistent with the appearance and capabilities of the existing rooftop sign.

ATTACHMENTS

1. Intro Letter and Plans
2. HPBR-001500-2021, Certificate of Appropriateness dated April 27, 2022
3. HPBR-001500-2021, Approved Plans dated April 27, 2022
4. Designation Descriptions

CITY OF PORTLAND
Planning & Urban Development Department

**HISTORIC PRESERVATION APPLICATION
SUBMISSION CHECKLIST**

Please submit each document as a separate PDF file
Please confirm by electronically checking the boxes to the left

To supplement your application, please submit the following items *as applicable to your project*. Keep in mind that the written project description that you provide the Historic Preservation Board and staff, is the only description they will have of your project or design. Therefore, it should precisely illustrate the proposed alteration(s), additions, and/or infill construction.

GENERAL APPLICATION DOCUMENTS

Yes ☒	N/A ☐	Project Description Cover Letter with detailed project description
Yes ☒	N/A ☐	Completed Checklist for Historic Preservation review (this document)

PLANS, etc.

Yes ☒	N/A ☐	Exterior photographs of property (required for all applications). Include a general streetscape view, view of entire building, and close-ups of project area.
Yes ☒	N/A ☐	Sketches or elevation drawings at a minimum ¼" scale.
Yes ☒	N/A ☐	Details or wall sections, where applicable.
Yes ☒	N/A ☐	Floor plans, where applicable.
Yes ☒	N/A ☐	Site Plan, where applicable, showing relative location of adjacent structures.
Yes ☐	N/A ☒	Catalog cuts or product information (e.g. proposed windows, doors, fencing).
Yes ☐	N/A ☒	Materials – list all visible exterior materials.

RE: Time and Temperature Building

Dear Evan,

We are currently developing plans to put housing into the annex and theater portions of the Time and Temperature Building. This building has gone through two iterations in the past, and the proposed exterior work remains unchanged from the April 20, 2022 approval and September 14, 2023 extension granted by the Historic Preservation Board. The following is a brief summary of the exterior renovations to take place, starting at 479 Congress Street, moving easterly down Congress Street, then northerly down to 22 Preble Street.

1. 479 Congress Street, first built circa 1922 and formerly the TD Bank, will have new storefronts built in mahogany and painted that will flank a new painted wood entry door. These will replace the aluminum storefronts and door that are existing. See A4.28
2. 477 Congress Street, the existing arcade entry doors that are currently mahogany, will be repaired and painted. See A4.29.
3. 475 Congress Street, first built circa 1923, is the tower. The original bank entry was replaced with an aluminum door previously. It will be replaced with a new mahogany door. The paint on the existing granite base of the tower will be removed, and flags will be placed above the entry as shown previously. New storefront windows will be installed in existing masonry openings with bronzed aluminum frames. See A4.29.
4. Above the entry on 475 Congress Street and around the corner down Preble Street, the second and third floor of the tower have large two-story steel windows. The steel frames will be repaired and a central ornamental panel will be reconditioned. See A4.29 and A4.32.
5. Further above, the main tower had a two-story addition built on top of the 12th floor in 1963, making the tower a total of 14 stories. The addition was clad in a painted metal panel and Dryvit was applied to the metal panels sometime in the 1980s. This entire façade will be removed and replaced with a fiberglass cornice and pilasters to match the original cornice and align with the existing 1923 tower design. New curtain wall will infill between the pilasters and match the dimensions of the windows below. See A4.20 through A4.23.
6. Continuing northerly down Preble Street, drawing A4.32 shows similar conditions to line item 3 with existing masonry openings being replaced with new storefront windows with bronzed aluminum frames.
7. Further north on Preble Street are existing wood storefronts in poor condition. These will be rebuilt in wood and painted. The painted brick will be repainted. Above these storefronts on the second floor are large, fixed windows flanked by double-hung windows. These will be repaired and painted, and the aluminum double-hung windows will be replaced with wood replicas. See A4.33.
8. 22 Preble Street will have new wood painted storefronts to replace all existing ones. The entry will receive a new canopy and signage to reflect what was there historically. The windows above the entry on the second floor will be reconditioned. See A4.34.

9. All masonry will be field verified for integrity and repointed or repaired as necessary. Exterior materials include painted brick, exposed brick, limestone, and exposed granite.
10. On the northern end of the tower a new egress stair will be added to bring the building up to code. It will be clad in a brick similar in color to the adjacent façade. See A4.22.

We are excited to submit these drawings to the board for their consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'V. Stanley', with a long, sweeping horizontal stroke extending to the right.

Virginie Stanley
Maine Licensed Architect #4515



July 18, 2024

Evan R. Schueckler, Historic Preservation Program Manager
City of Portland
City Hall
389 Congress Street
Portland, Maine 04101

RE: 477 Congress Street Certificate of Appropriateness

Dear Evan,

The purpose of this letter is to request a certificate of appropriateness for 477 Congress Street (the Time and Temperature building). The work remains essentially unchanged from the April 20, 2022 approval and September 14, 2023 extension granted by the Historic Preservation Board. However, that extended approval expired on April 20, 2024.

By way of background, DC Predevelopment LLC (“DC”) obtained site control of the property on April 25, 2024, after the previous development team moved on from the project. The purchase and sale is included in this submission. Since then, DC has been working to come up with a physical and financial plan that will save the landmark Time and Temperature building from further deterioration and possible demolition.

Essentially, the overall plan remains largely unchanged, and there are no changes proposed to the exterior since the previous COA was granted. We have merely re-demised some of the residential square footage in certain sections of the building (the annex and theater sections; not the main tower). We have also converted one small retail unit on Preble Street to a community room for the occupants. Generally, units were made slightly larger so there are now fewer of them, 41, in the same spatial footprint. Previously, in the same footprint, there were 58 “micro” units, so there will be a net reduction of 17 units overall.

A set of comparison plans is included in this submission. The changes, other than unit demising walls, are shown in pink clouded areas with notations, which is a markup of the currently approved plans. The unit demising changes themselves are not shown in pink clouded areas but rather in the same color in a table to the side of the drawings. A clean set of the amended proposed plans is also included.

Thank you for considering this certificate of appropriateness request and please let us know if we may provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read 'KB', with a stylized, cursive flourish extending from the end.

Kevin R. Bunker, Manager
DC Predevelopment LLC

RETAIL WAS
REPLACED WITH A
COMMUNITY
ROOM

ELEC. DOOR OPEN
BOLLARD

NEW STAIR FROM ANNEX
BASEMENT TO THE ANNEX
FOURTH FLOOR, WOOD
CONSTRUCTION



Project:

Congress Street
Portland, Maine

Owner/Client:

GREENMARS

Consultant:

Revisions:

Key Plan:

GROSS SQUARE
FOOTAGE TOTALS

BASEMENT	34,308 GSF
1ST FLOOR	34,208 GSF
2ND FLOOR	35,362 GSF
3RD FLOOR	15,305 GSF
4TH FLOOR	15,784 GSF
5TH FLOOR	6,985 GSF
6TH FLOOR	6,985 GSF
7TH FLOOR	6,985 GSF
8TH FLOOR	6,985 GSF
9TH FLOOR	6,985 GSF
10TH FLOOR	6,985 GSF
11TH FLOOR	6,985 GSF
12TH FLOOR	6,985 GSF
13TH FLOOR	6,956 GSF
14TH FLOOR	6,956 GSF
PENTHOUSE	1,531 GSF
TOTAL	206,290 GSF

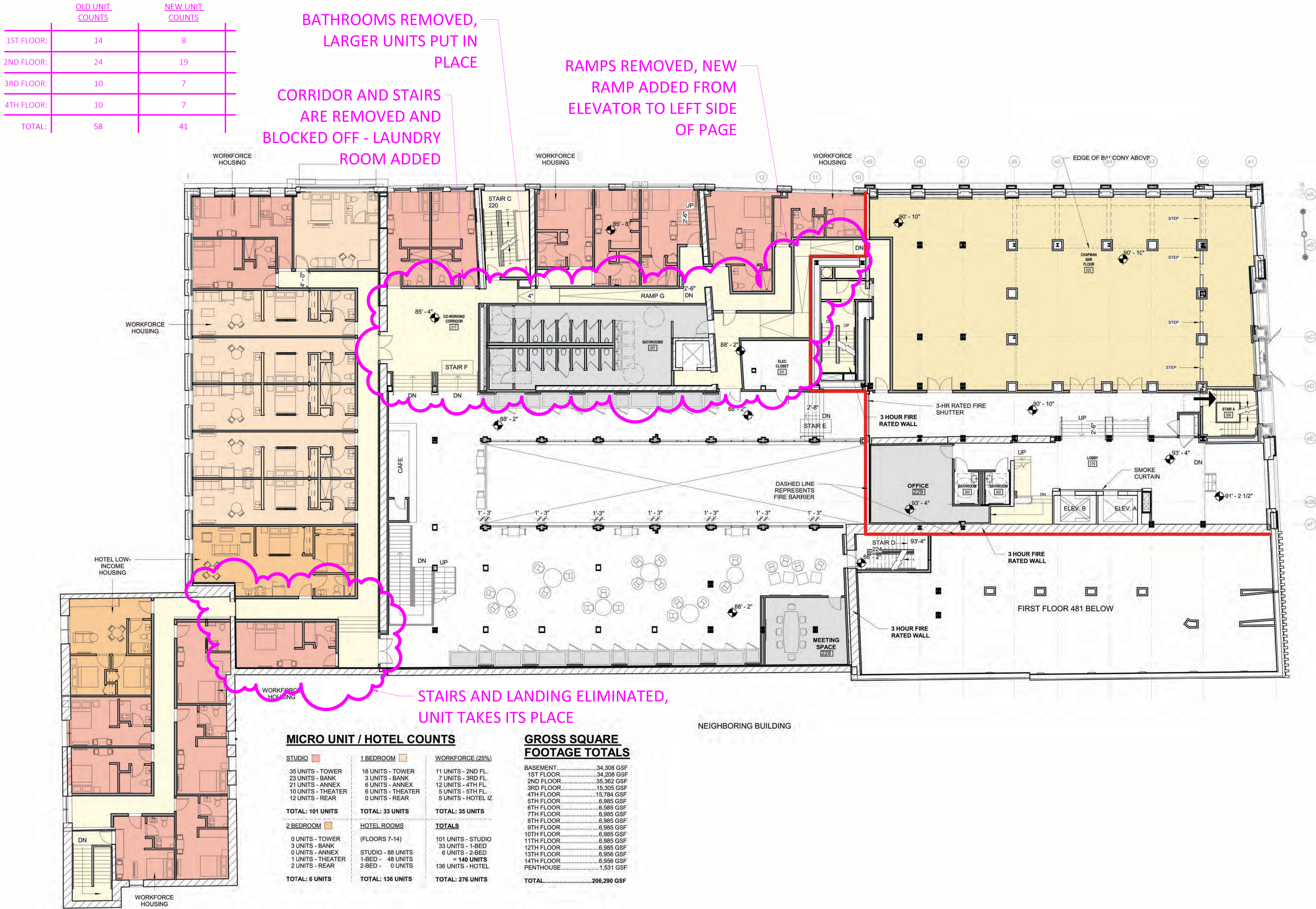
FIRST FLOOR PLAN

Scale:
As indicated

DECEMBER, 2023

A1.01

	OLD UNIT COUNTS	NEW UNIT COUNTS
1ST FLOOR:	14	8
2ND FLOOR:	24	19
3RD FLOOR:	10	7
4TH FLOOR:	10	7
TOTAL:	58	41



Project:
**TIME & TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine
Owner/Client:
GREENMARS

Consultant:

Revisions:

Key Plan:

THIRD FLOOR PLAN

Scale:
As indicated

7 DECEMBER, 2023

A1.03

1 | 3RD FLOOR - OVERALL FLOOR PLAN - 2ND FLOOR 481

3/32" = 1'-0"

2 | 3RD FLOOR - 481 CONGRESS - NEW

3/32" = 1'-0"

MICRO UNIT / HOTEL COUNTS

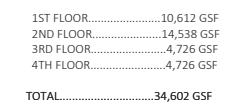
STUDIO ■	1 BEDROOM ■	WORKFORCE (25%)
35 UNITS - TOWER 23 UNITS - BANK 21 UNITS - ANNEX 10 UNITS - THEATER 12 UNITS - REAR	18 UNITS - TOWER 3 UNITS - BANK 6 UNITS - ANNEX 6 UNITS - THEATER 0 UNITS - REAR	11 UNITS - 2ND FL. 7 UNITS - 3RD FL. 12 UNITS - 4TH FL. 5 UNITS - 5TH FL. 5 UNITS - HOTEL IZ
TOTAL: 101 UNITS	TOTAL: 33 UNITS	TOTAL: 35 UNITS
2 BEDROOM ■	HOTEL ROOMS	TOTALS
0 UNITS - TOWER 3 UNITS - BANK 0 UNITS - ANNEX 1 UNITS - THEATER 2 UNITS - REAR	(FLOORS 7-14) STUDIO - 88 UNITS 1-BED - 48 UNITS 2-BED - 0 UNITS	101 UNITS - STUDIO 33 UNITS - 1-BED 6 UNITS - 2-BED = 140 UNITS 136 UNITS - HOTEL
TOTAL: 6 UNITS	TOTAL: 136 UNITS	TOTAL: 276 UNITS

GROSS SQUARE
FOOTAGE TOTALS

BASEMENT.....	34,308 GSF
1ST FLOOR.....	34,208 GSF
2ND FLOOR.....	35,362 GSF
3RD FLOOR.....	15,305 GSF
4TH FLOOR.....	15,784 GSF
5TH FLOOR.....	6,985 GSF
6TH FLOOR.....	6,985 GSF
7TH FLOOR.....	6,985 GSF
8TH FLOOR.....	6,985 GSF
9TH FLOOR.....	6,985 GSF
10TH FLOOR.....	6,985 GSF
11TH FLOOR.....	6,985 GSF
12TH FLOOR.....	6,985 GSF
13TH FLOOR.....	6,956 GSF
14TH FLOOR.....	6,956 GSF
PENTHOUSE.....	1,531 GSF
TOTAL.....	206,290 GSF

	OLD UNIT COUNTS	NEW UNIT COUNTS
1ST FLOOR:	14	8
2ND FLOOR:	24	19
3RD FLOOR:	10	7
4TH FLOOR:	10	7
TOTAL:	58	41





Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

SECOND FLOOR PLAN

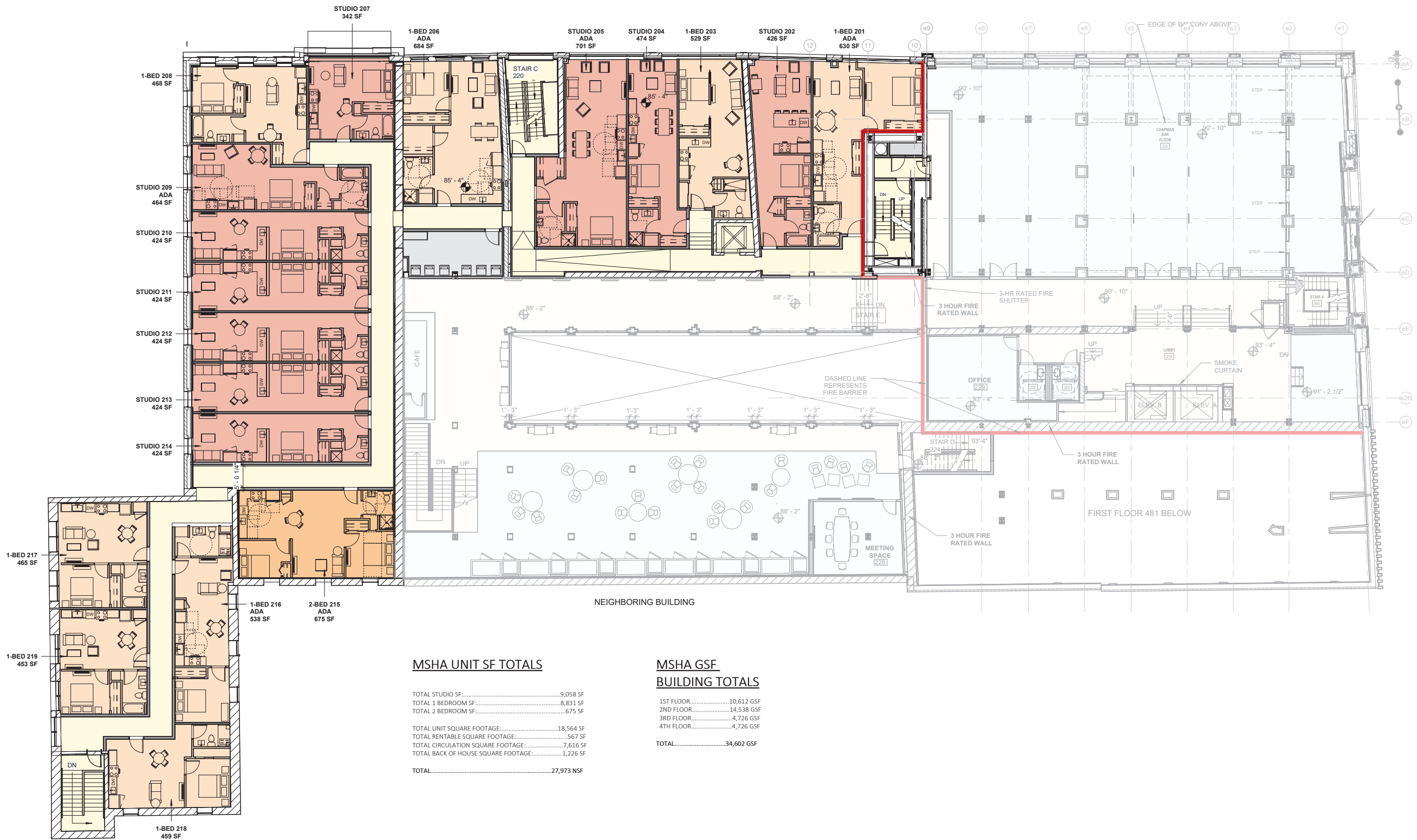
Scale:

As indicated



18 JULY 2024

A1.02



MSHA UNIT SF TOTALS

TOTAL STUDIO SF:	9,058 SF
TOTAL 1 BEDROOM SF:	8,831 SF
TOTAL 2 BEDROOM SF:	675 SF
TOTAL UNIT SQUARE FOOTAGE:	18,564 SF
TOTAL RENTABLE SQUARE FOOTAGE:	567 SF
TOTAL CIRCULATION SQUARE FOOTAGE:	7,616 SF
TOTAL BACK OF HOUSE SQUARE FOOTAGE:	1,226 SF
TOTAL:	27,973 NSF

**MSHA GSF
BUILDING TOTALS**

1ST FLOOR:	10,612 GSF
2ND FLOOR:	14,538 GSF
3RD FLOOR:	4,726 GSF
4TH FLOOR:	4,726 GSF
TOTAL:	34,602 GSF

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

THIRD FLOOR PLAN

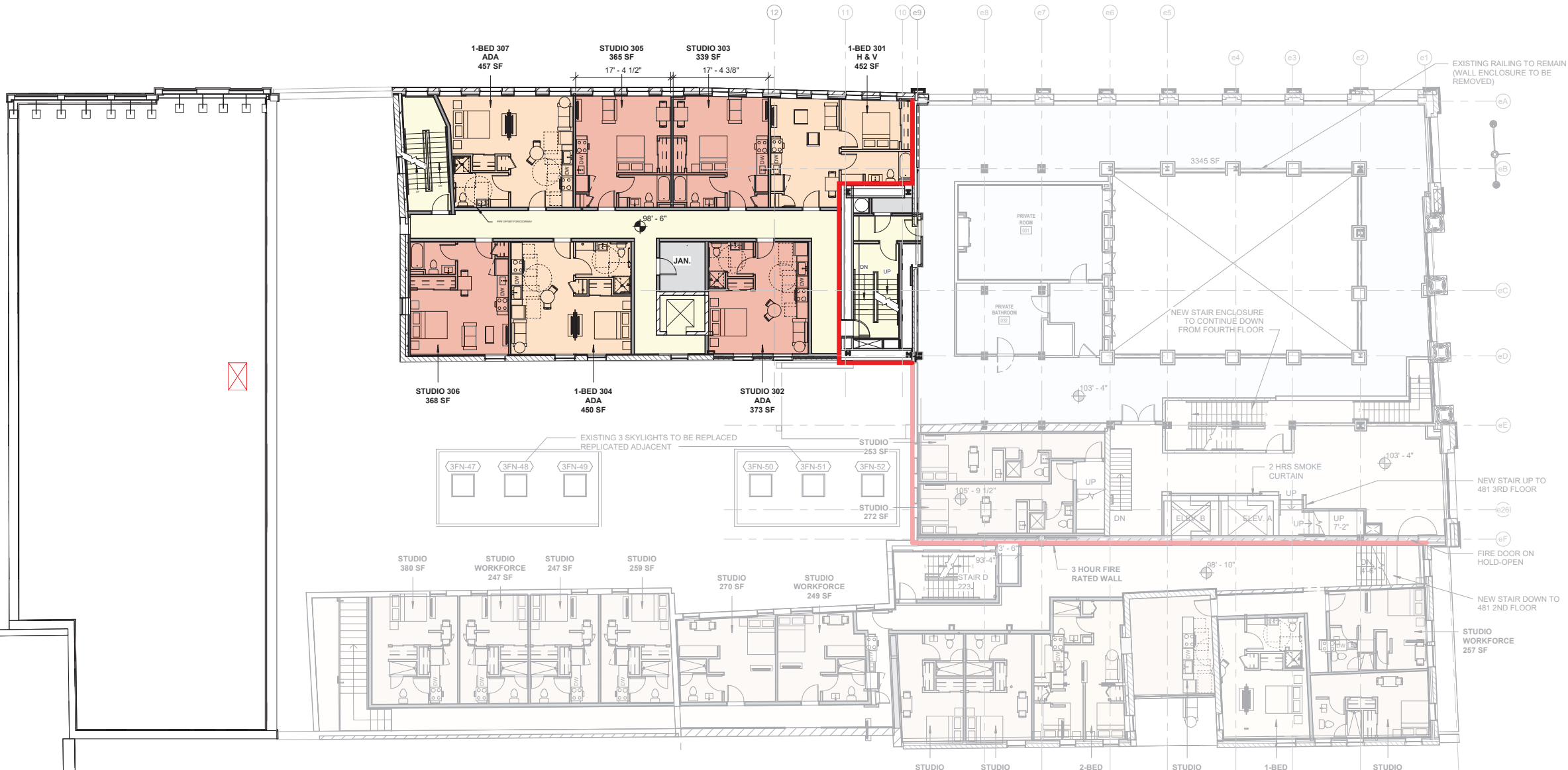
Scale:

As indicated



18 JULY 2024

A1.03

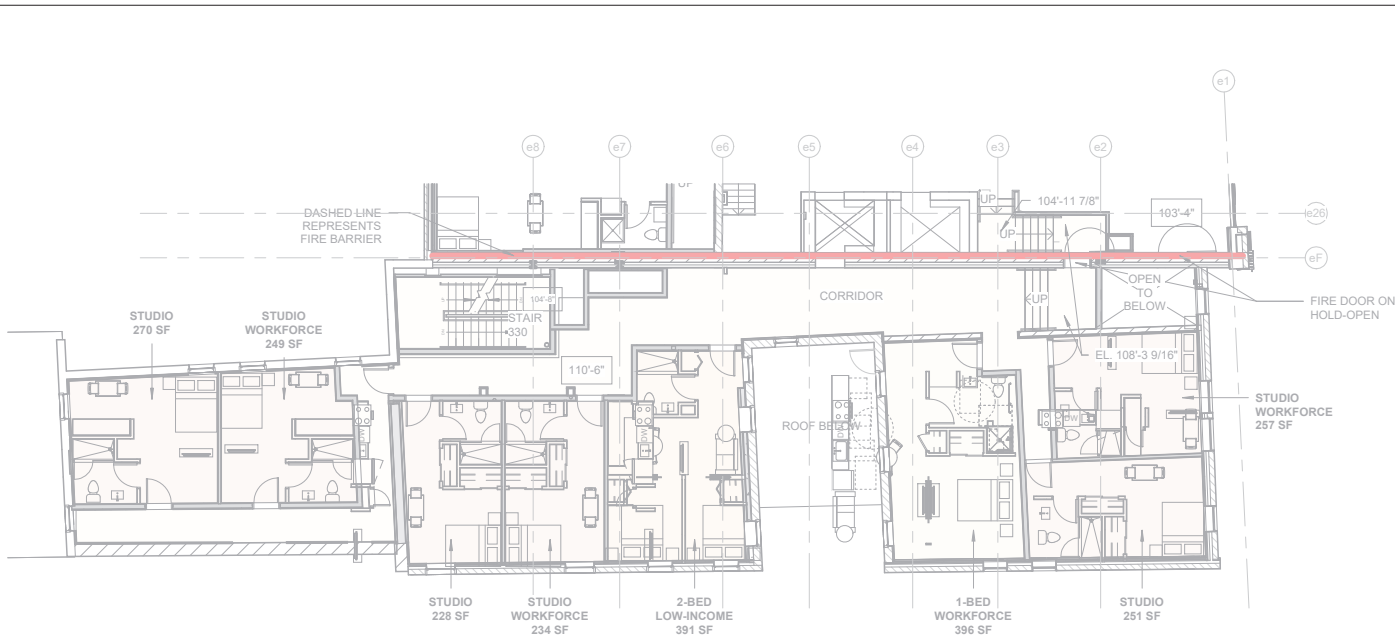


MSHA UNIT SF TOTALS

TOTAL STUDIO SF:	9,058 SF
TOTAL 1 BEDROOM SF:	8,831 SF
TOTAL 2 BEDROOM SF:	675 SF
TOTAL UNIT SQUARE FOOTAGE:	18,564 SF
TOTAL RENTABLE SQUARE FOOTAGE:	567 SF
TOTAL CIRCULATION SQUARE FOOTAGE:	7,616 SF
TOTAL BACK OF HOUSE SQUARE FOOTAGE:	1,226 SF
TOTAL:	27,973 NSF

**MSHA GSF
BUILDING TOTALS**

1ST FLOOR:	10,612 GSF
2ND FLOOR:	14,538 GSF
3RD FLOOR:	4,726 GSF
4TH FLOOR:	4,726 GSF
TOTAL:	34,602 GSF



MSHA UNIT SF TOTALS

TOTAL STUDIO SF:	9,058 SF
TOTAL 1 BEDROOM SF:	8,831 SF
TOTAL 2 BEDROOM SF:	675 SF
TOTAL UNIT SQUARE FOOTAGE:	18,564 SF
TOTAL RENTABLE SQUARE FOOTAGE:	567 SF
TOTAL CIRCULATION SQUARE FOOTAGE:	7,616 SF
TOTAL BACK OF HOUSE SQUARE FOOTAGE:	1,226 SF
TOTAL	27,973 NSF

MSHA GSF
BUILDING TOTALS

1ST FLOOR:	10,612 GSF
2ND FLOOR:	14,538 GSF
3RD FLOOR:	4,726 GSF
4TH FLOOR:	4,726 GSF
TOTAL	34,602 GSF



Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

4TH FLOOR PLAN

Scale:

As indicated



18 JULY 2024

Project:

**TIME &
TEMPERATURE
BUILDING**
477 Congress Street
Portland, Maine

Owner/Client:

GREENMARS

Consultant:

Revisions:

Key Plan:

ENLARGED - 8TH FLOOR
PLAN

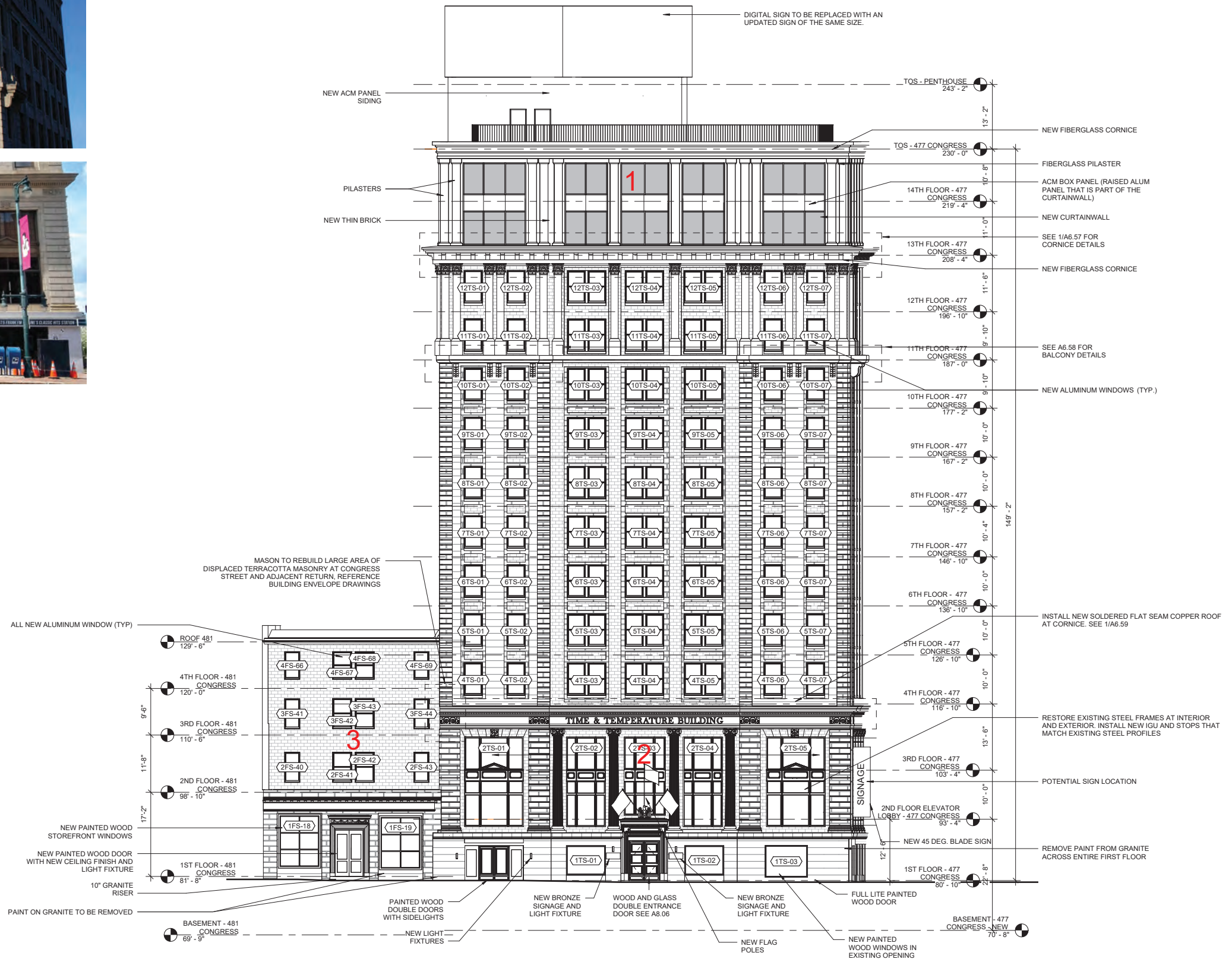
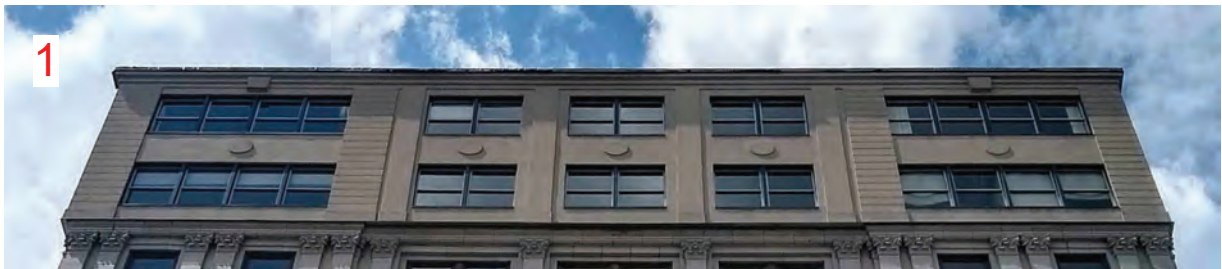
Scale:
1/4" = 1'-0"



11 SEPTEMBER, 2023

A1.43





Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

CONGRESS ST ELEVATION

Scale:

3/32" = 1'-0"



18 JULY 2024

A4.20

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

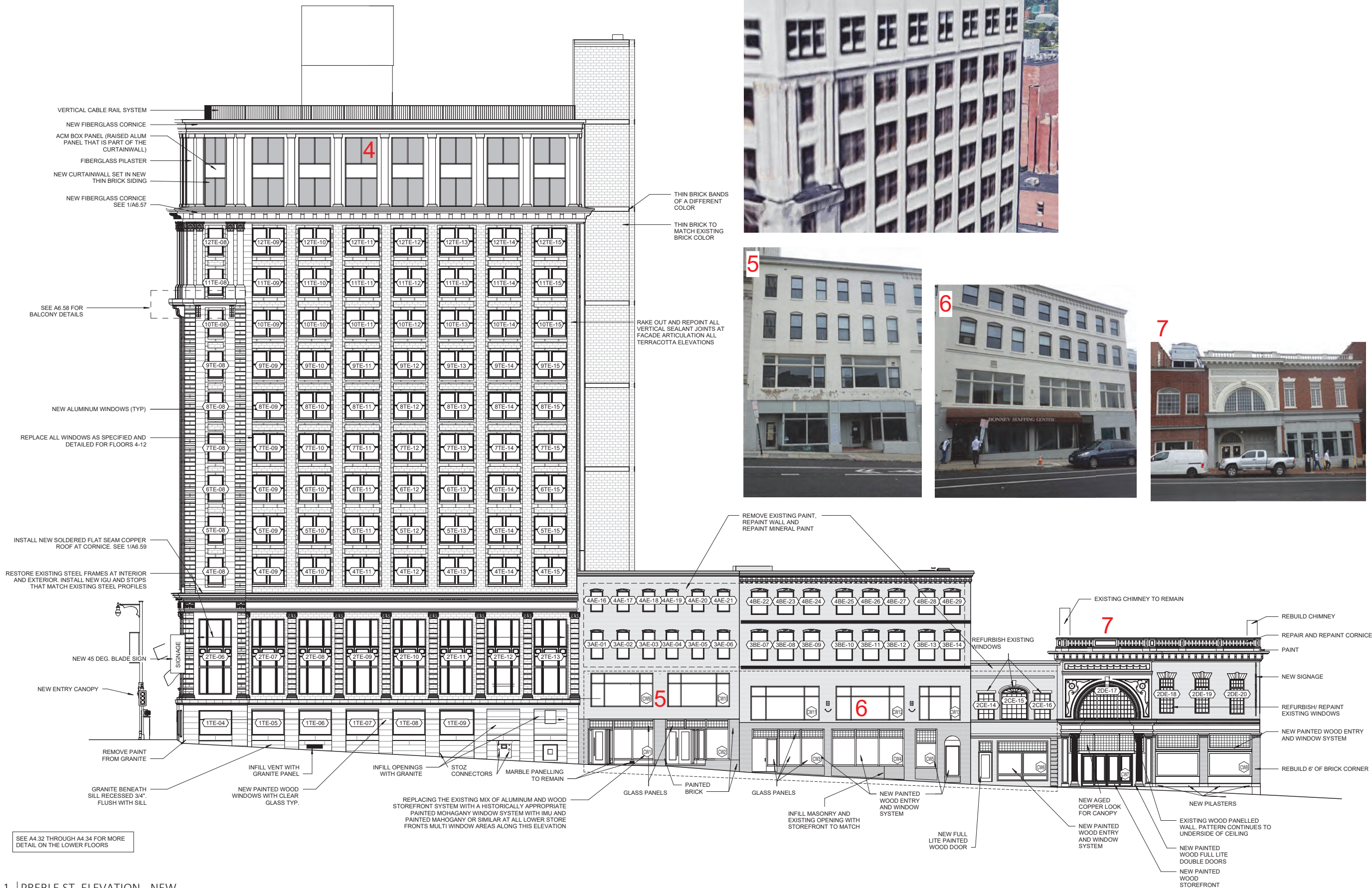
PREBLE ST. ELEVATION

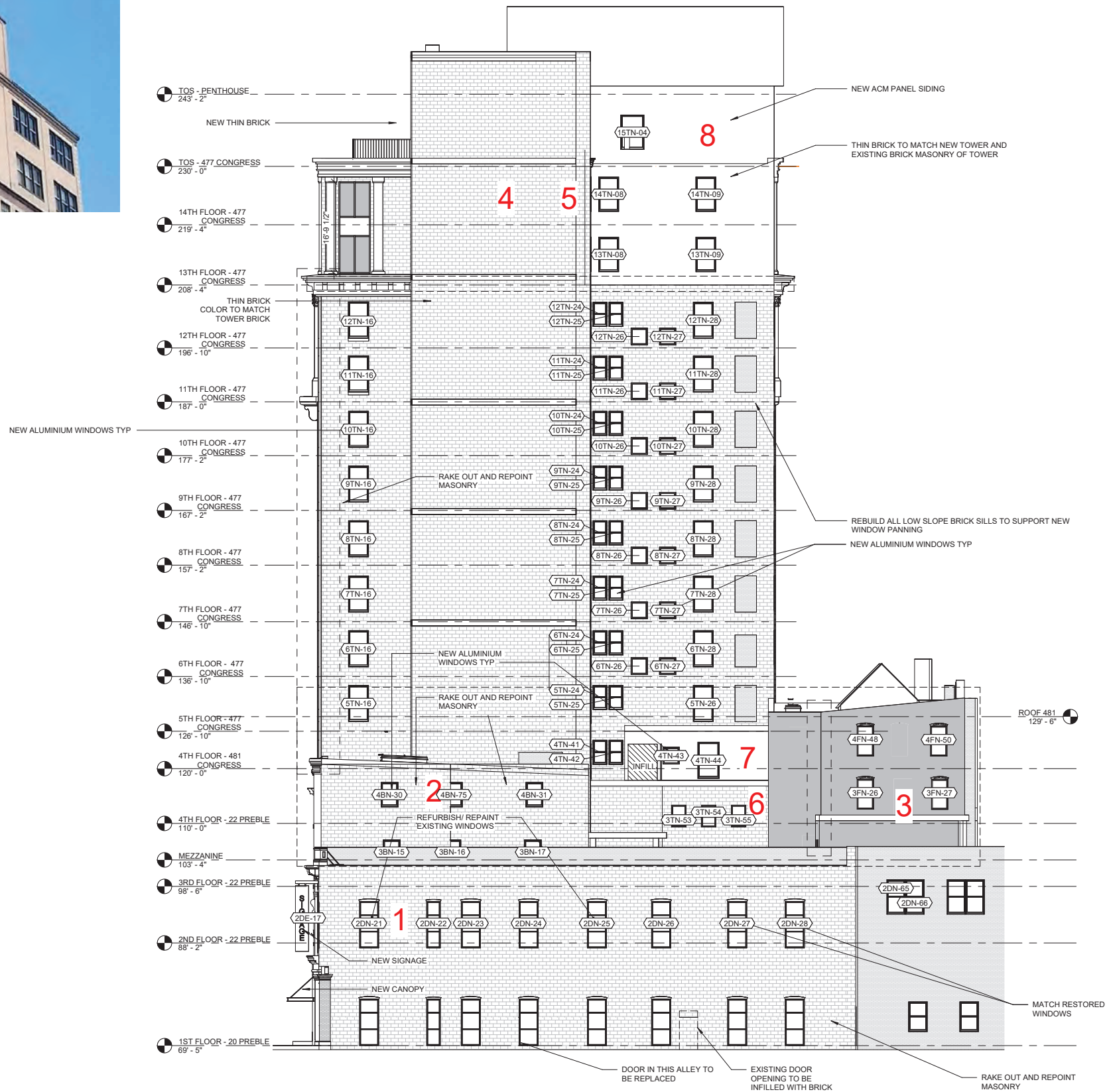
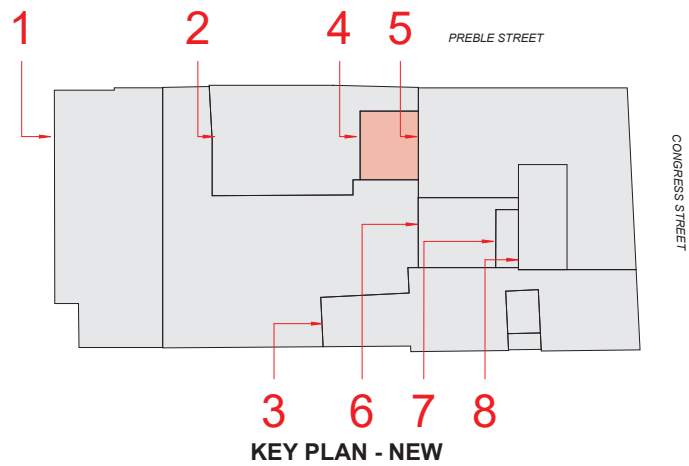
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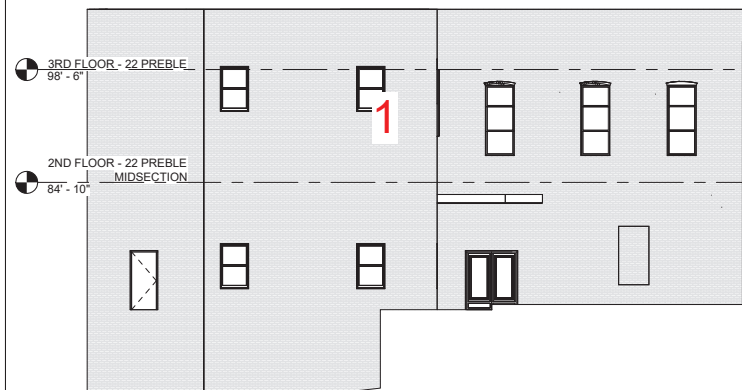
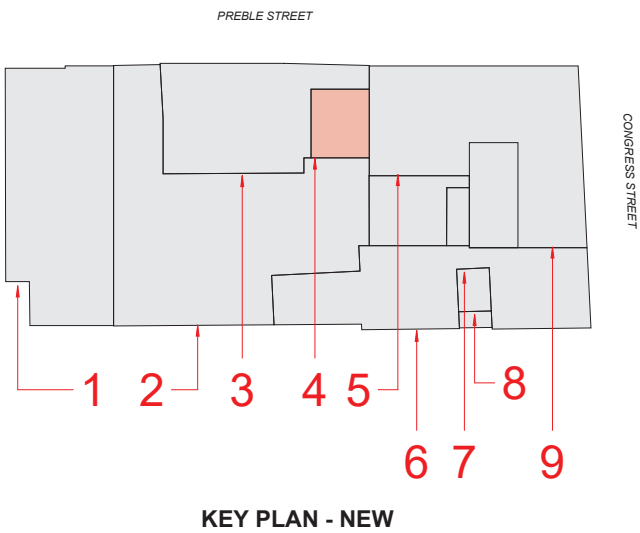
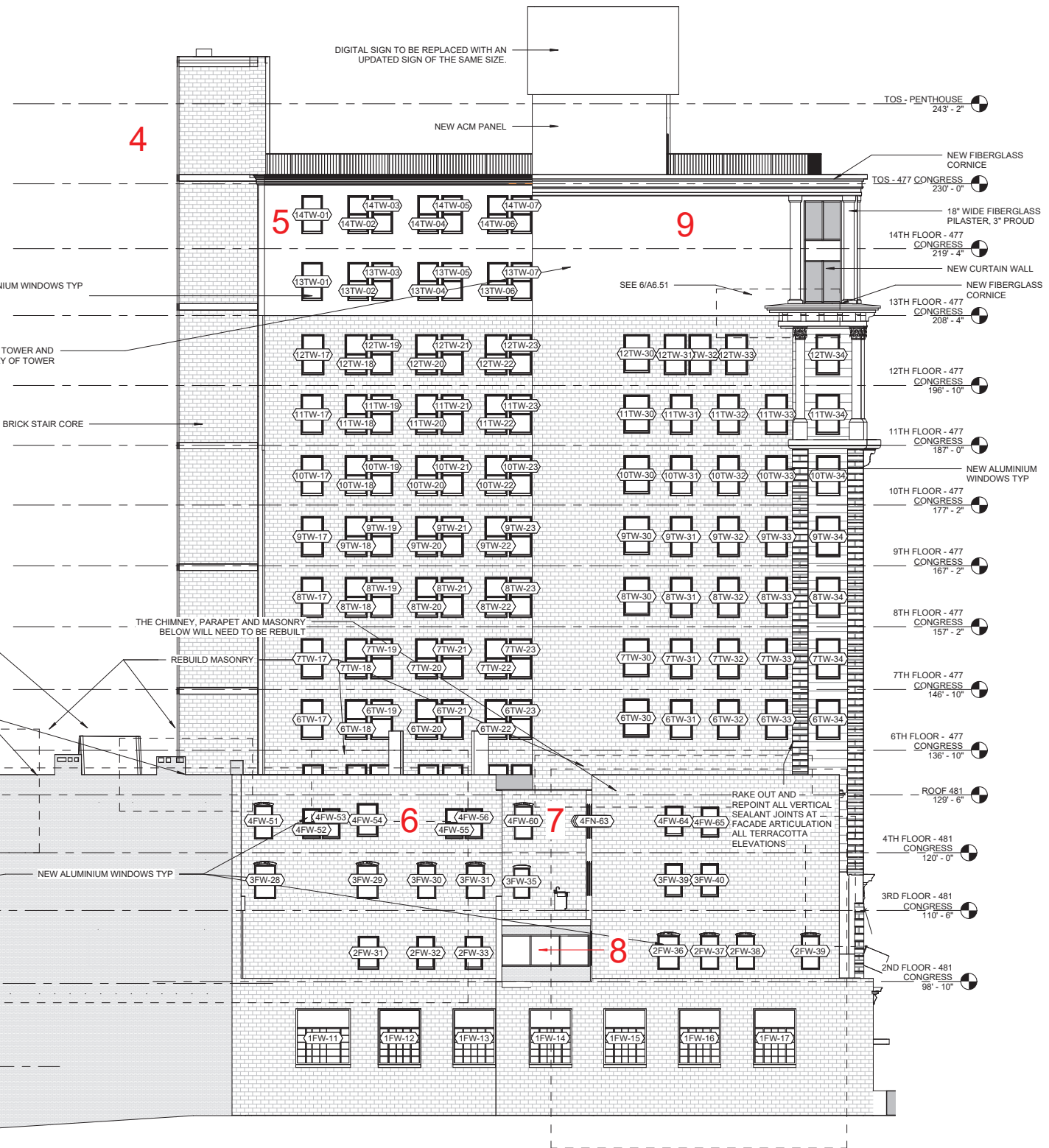
3/32" = 1'-0"

18 JULY 2024

A4.21







Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

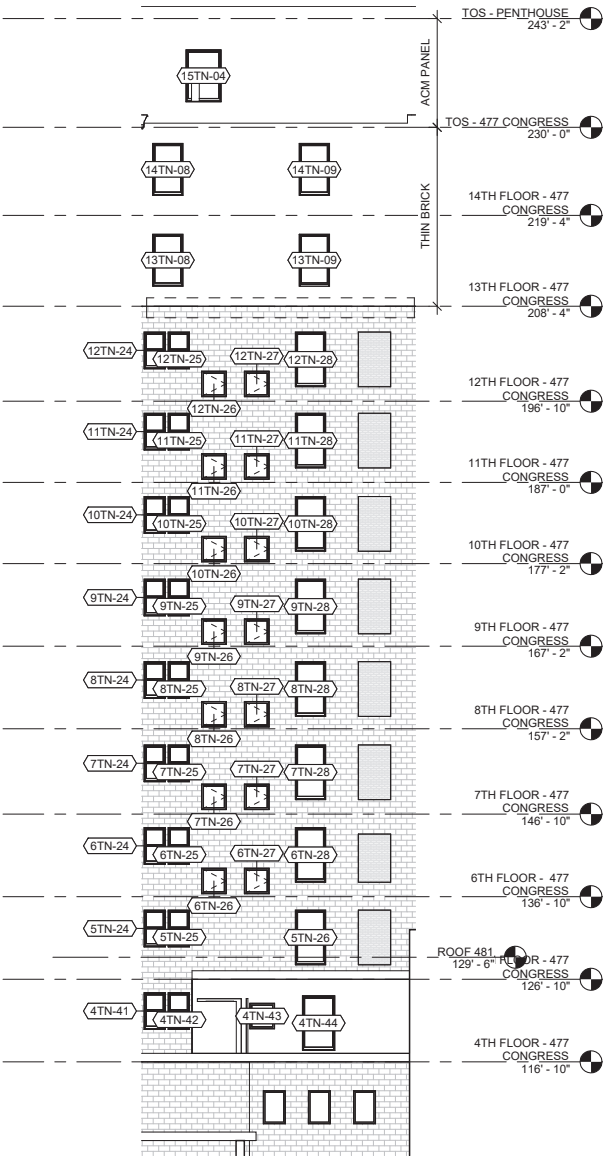
BUILDING ELEVATIONS OFF
2ND FL ROOF

Scale:
3/32" = 1'-0"



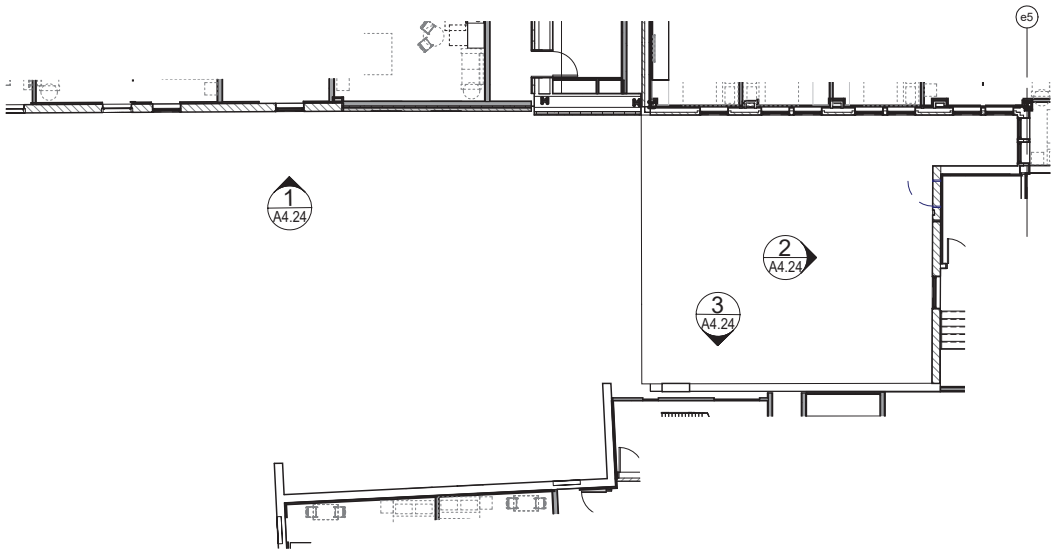
18 JULY 2024

A4.24



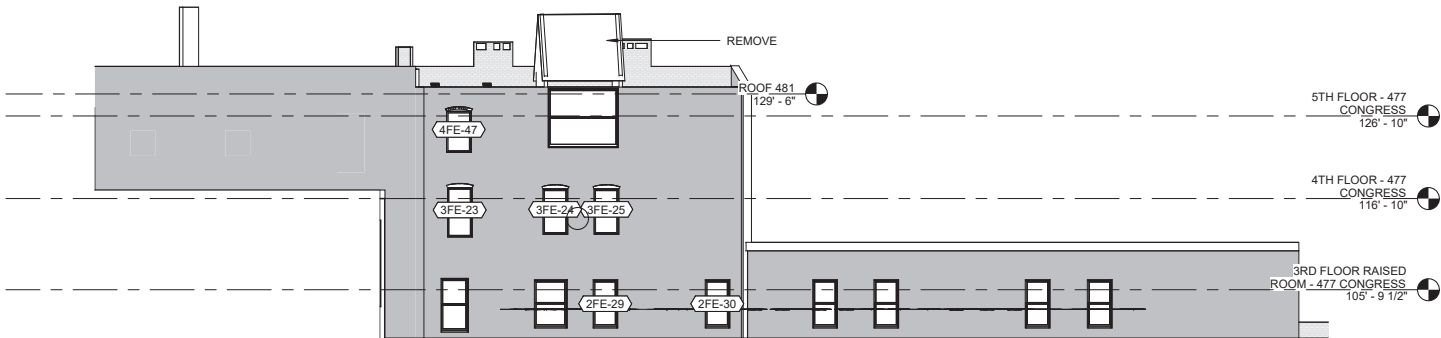
2 | NORTH ELEVATION - NEW INNER COURTYARD

3/32" = 1'-0"



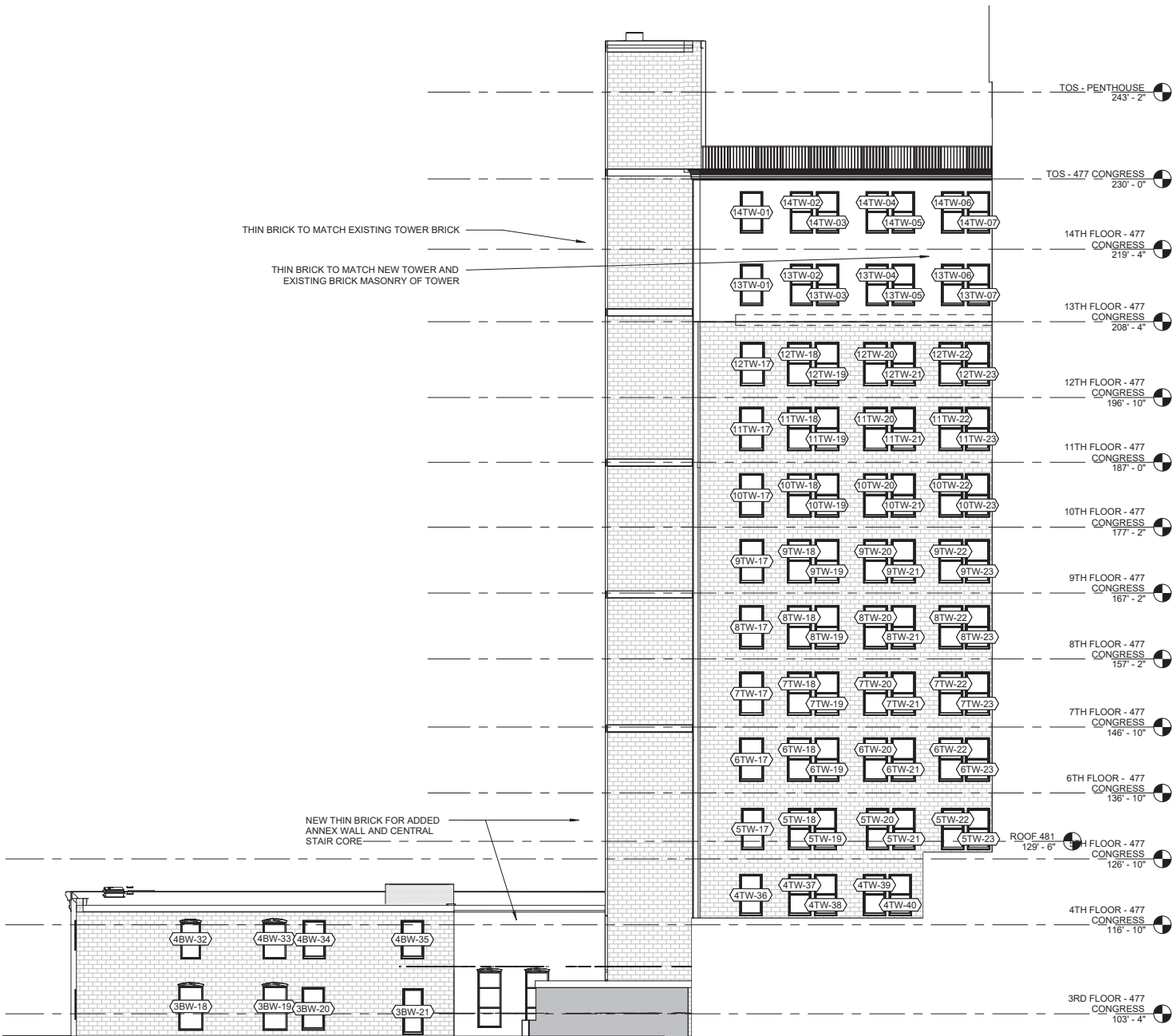
4 | 4TH FLOOR - INNER COURTYARD - NEW

3/32" = 1'-0"



3 | EAST ELEVATION - NEW INNER COURTYARD

3/32" = 1'-0"



1 | WEST ELEVATION - NEW INNER COURTYARD

3/32" = 1'-0"

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

**481 COURTYARD
ELEVATIONS**

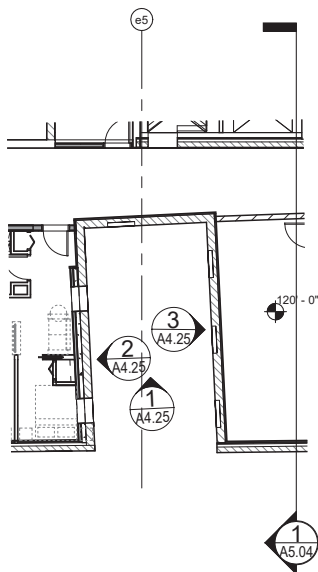
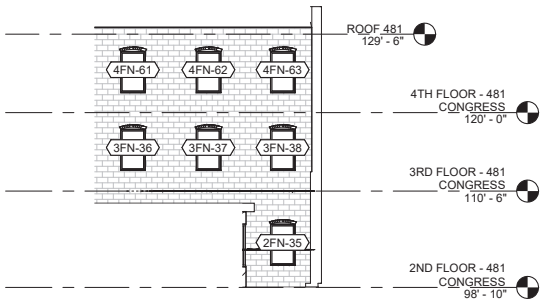
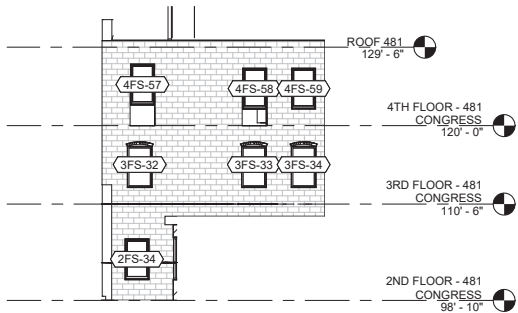
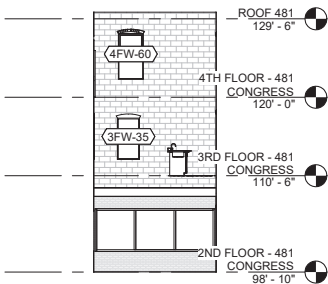
Scale:

3/32" = 1'-0"



18 JULY 2024

A4.25



1 | WEST ELEVATION - NEW COURTYARD

2 | SOUTH ELEVATION - NEW COURTYARD

3 | NORTH ELEVATION - NEW COURTYARD

4 | 4TH FLOOR - COURTYARD - NEW

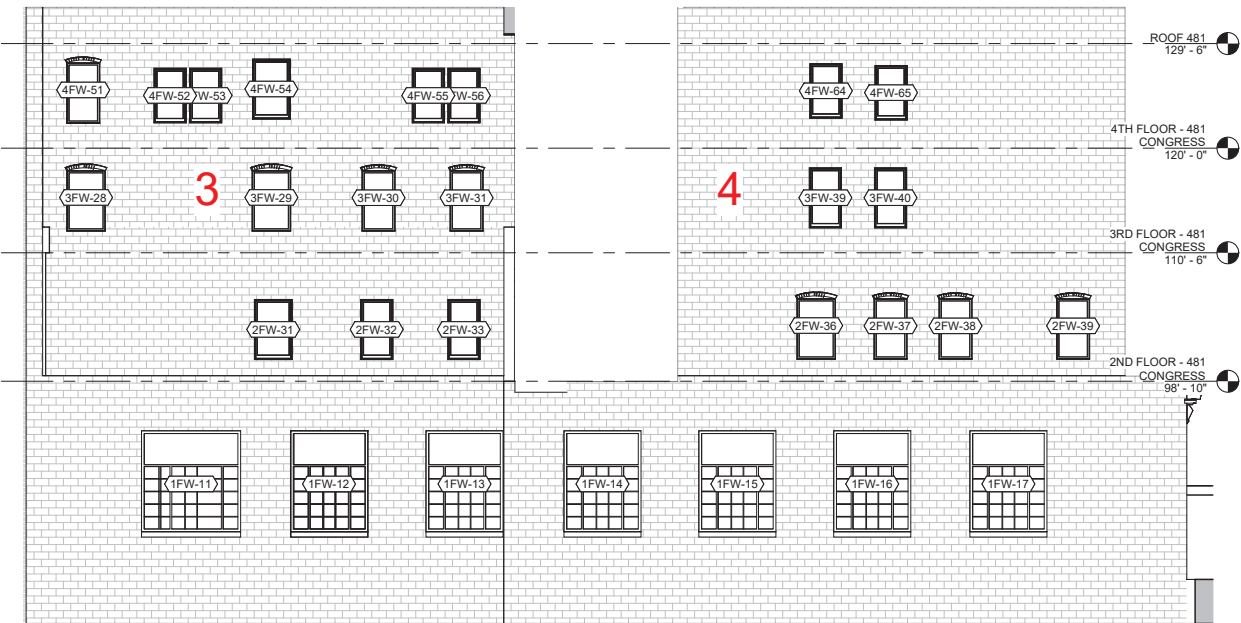
3/32" = 1'-0"

3/32" = 1'-0"

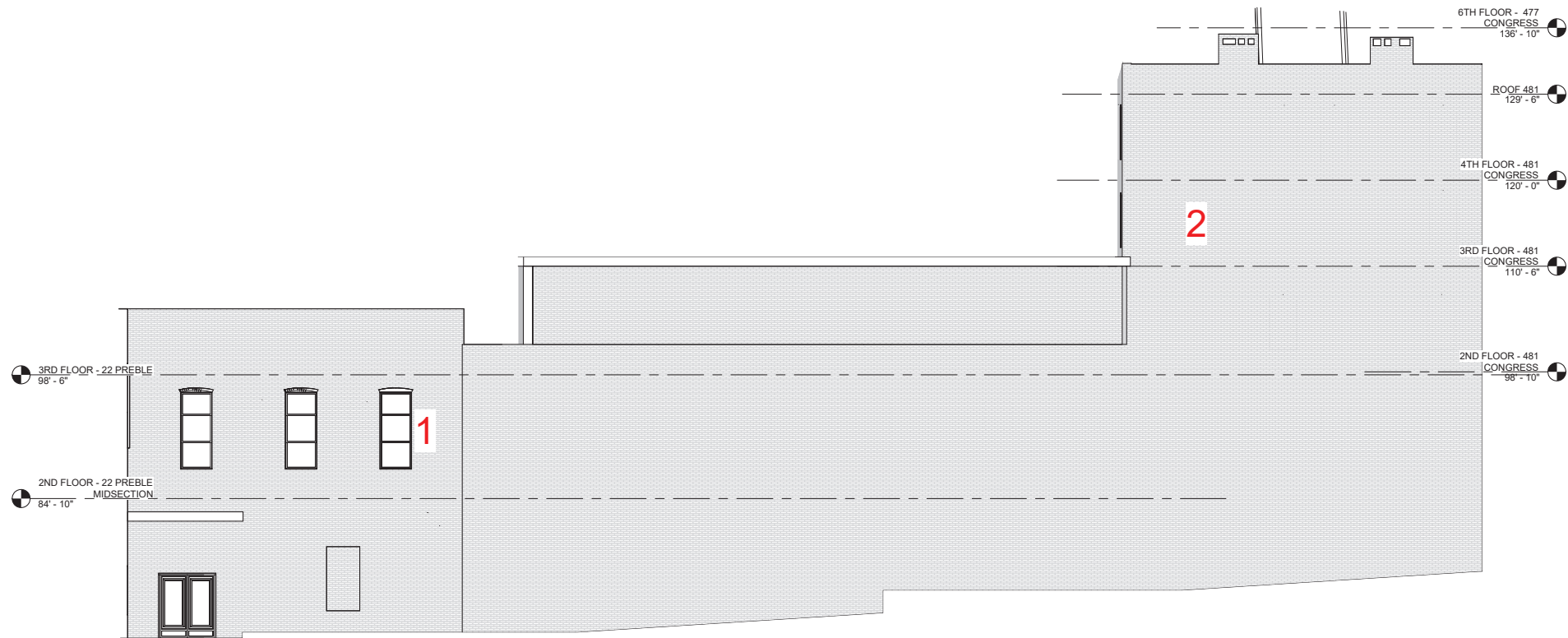
3/32" = 1'-0"

3/32" = 1'-0"

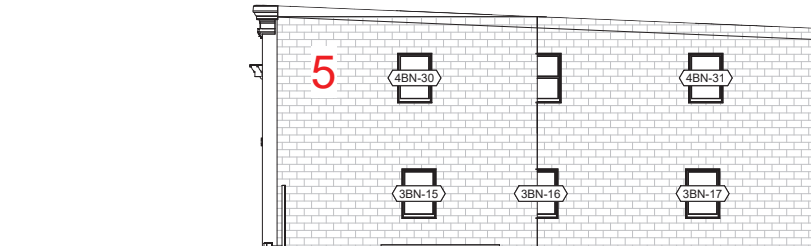
2 | WEST ELEVATION - 481 BUILDING - NEW
1/8" = 1'-0"



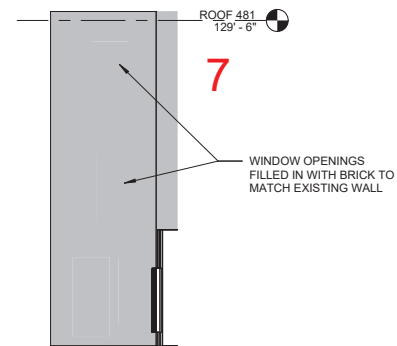
1 | WEST ELEVATION - ALLEY WALL - NEW
1/8" = 1'-0"



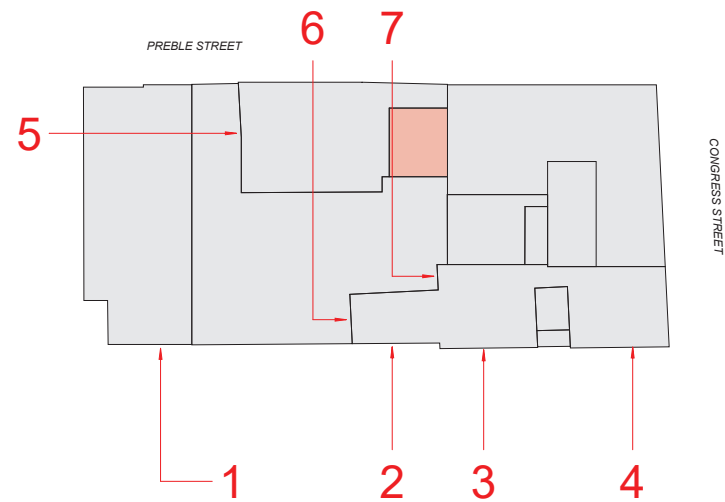
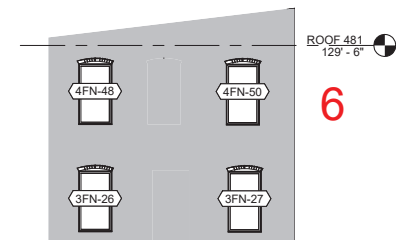
5 | NORTH ELEVATION - ANNEX - NEW
1/8" = 1'-0"



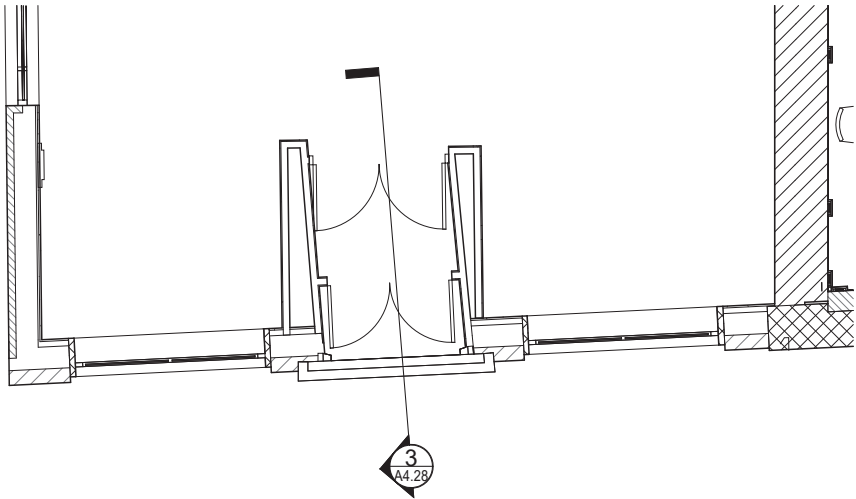
3 | NORTH ELEVATION - 481 BUILDING 2 - NEW
1/8" = 1'-0"



4 | NORTH ELEVATION - 481 BUILDING - NEW
1/8" = 1'-0"



KEY PLAN - NEW



Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

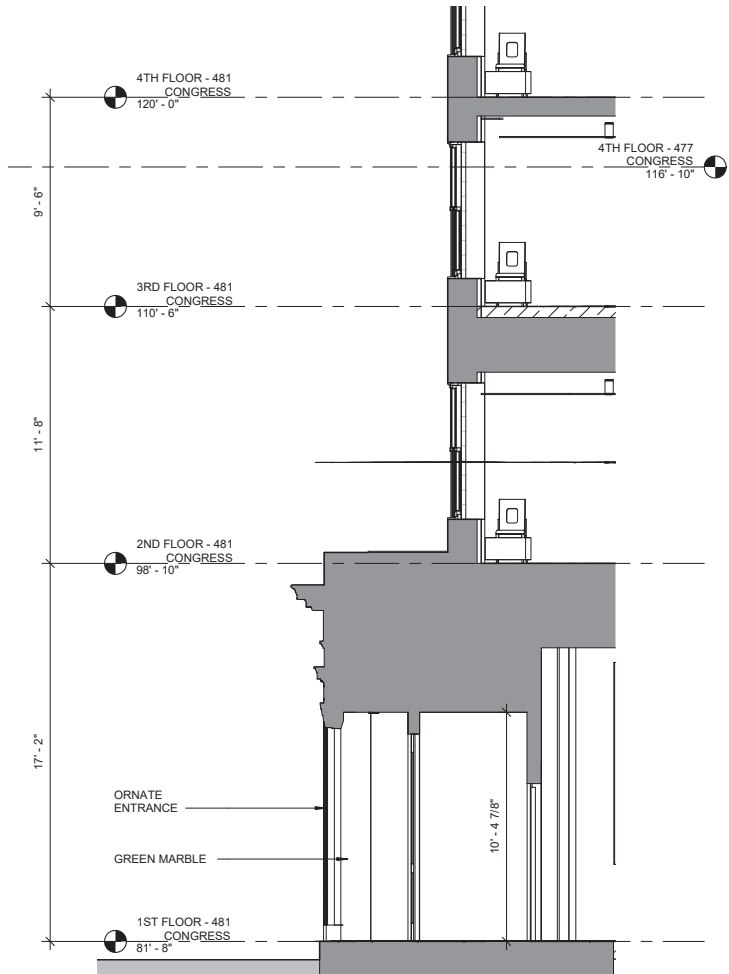
Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

2 | FIRST FLOOR CONGRESS STREET BANK - NEW

1/4" = 1'-0"



3 | BANK ENTRANCE SECTION

1/4" = 1'-0"



1 | CONGRESS STREET FIRST FLOOR BANK ELEVATION - NEW

1/4" = 1'-0"

Revisions:

Key Plan:

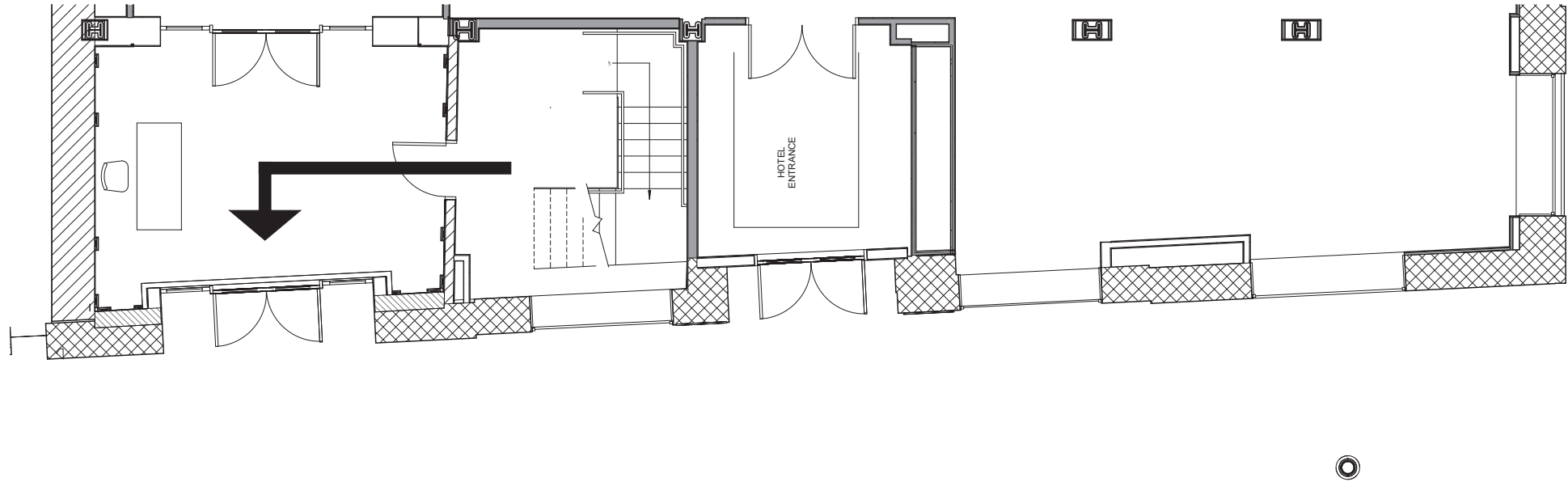
CONGRESS STREET
DETAILS - NEW

Scale:
1/4" = 1'-0"



18 JULY 2024

A4.28



2 | FIRST FLOOR CONGRESS STREET TOWER - NEW

1/4" = 1'-0"



architecture
invivid

631 Stevens Ave Ste #200
Portland, ME 04103
207 - 939 - 7602

Project:

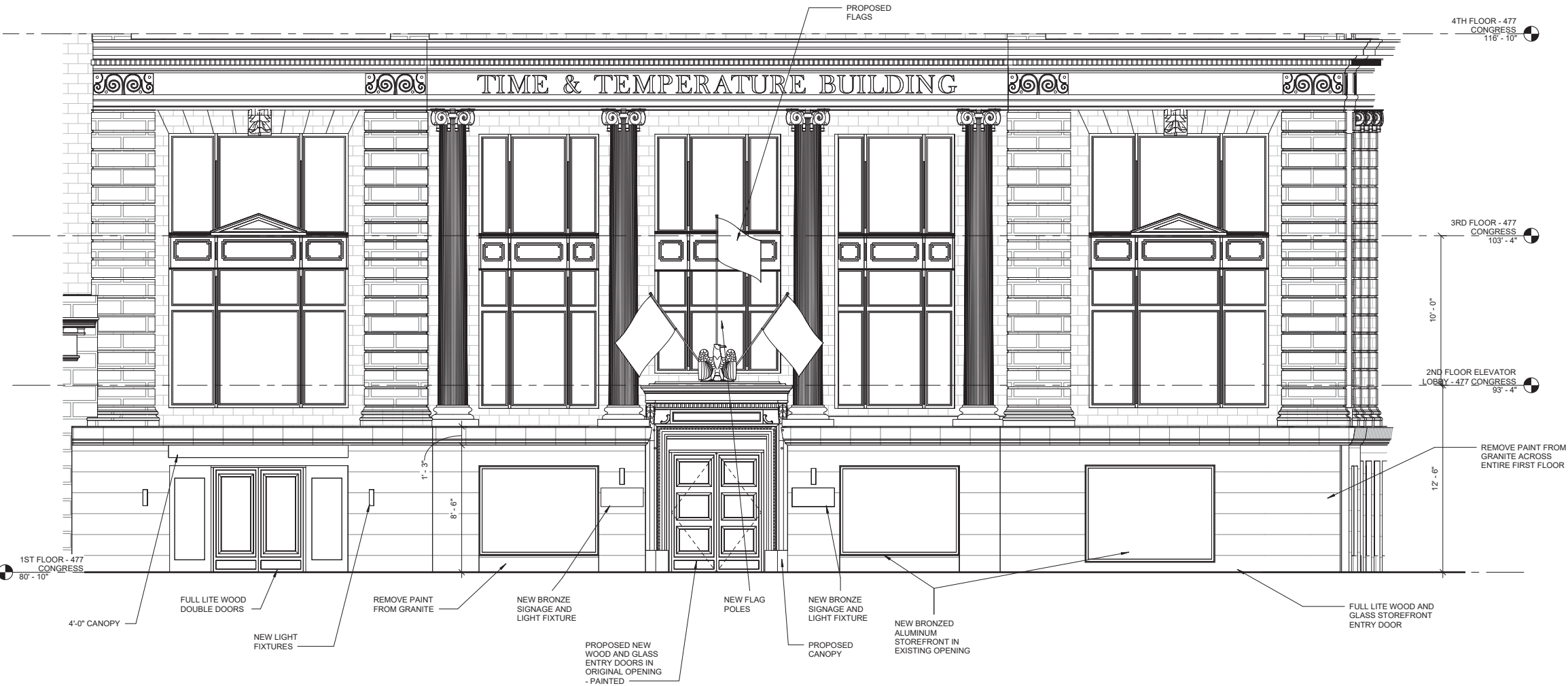
**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:



1 | CONGRESS STREET FIRST FLOOR TOWER ELEVATION - NEW

1/4" = 1'-0"

Revisions:

Key Plan:

CONGRESS STREET
DETAILS - NEW

Scale:

1/4" = 1'-0"



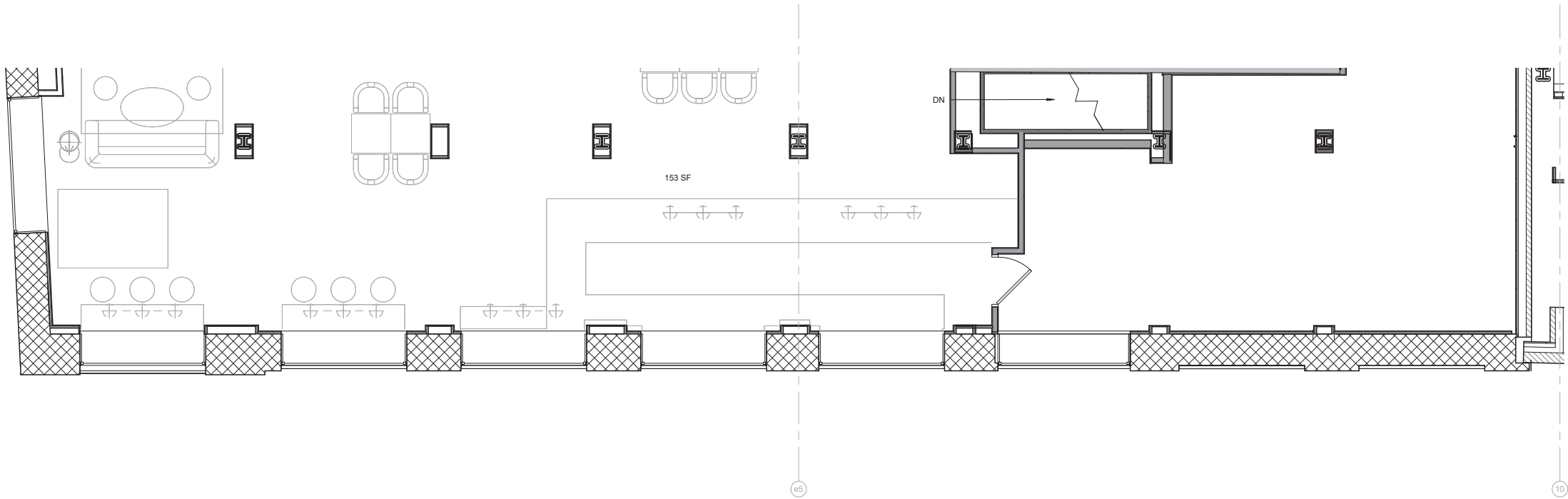
18 JULY 2024

A4.29

10



11



2 | FIRST FLOOR PREBLE STREET TOWER - NEW

1/4" = 1'-0"



LIGHTING INCORPORATED

1 | PREBLE STREET FIRST FLOOR TOWER ELEVATION - NEW

1/4" = 1'-0"

architecture
invivid

631 Stevens Ave Ste #200
Portland, ME 04103
207 - 939 - 7602

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

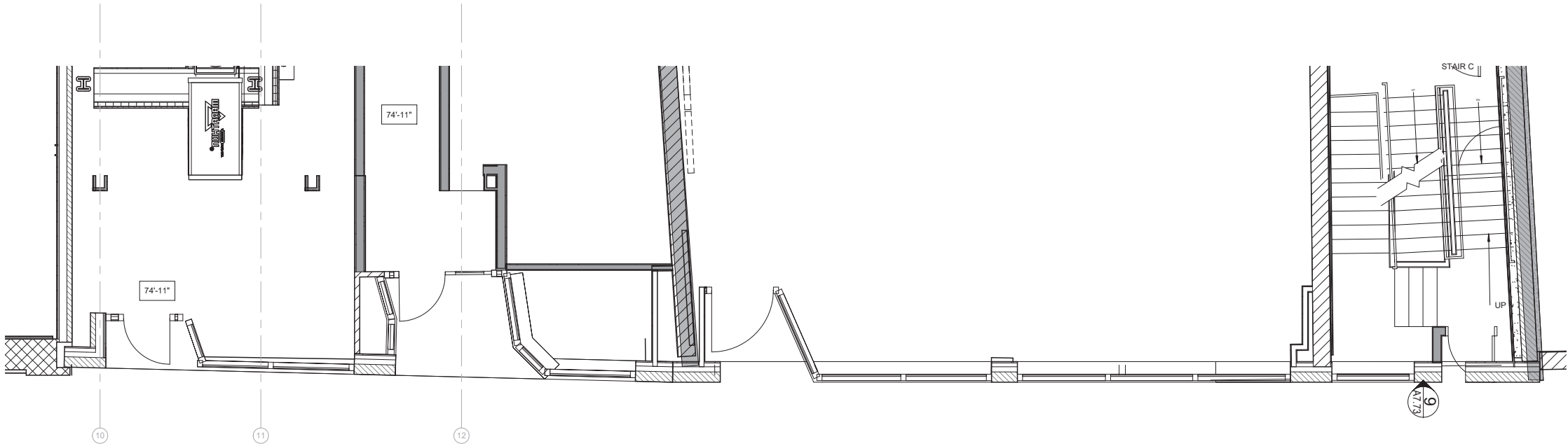
PREBLE STREET DETAILS -
NEW

Scale:
1/4" = 1'-0"



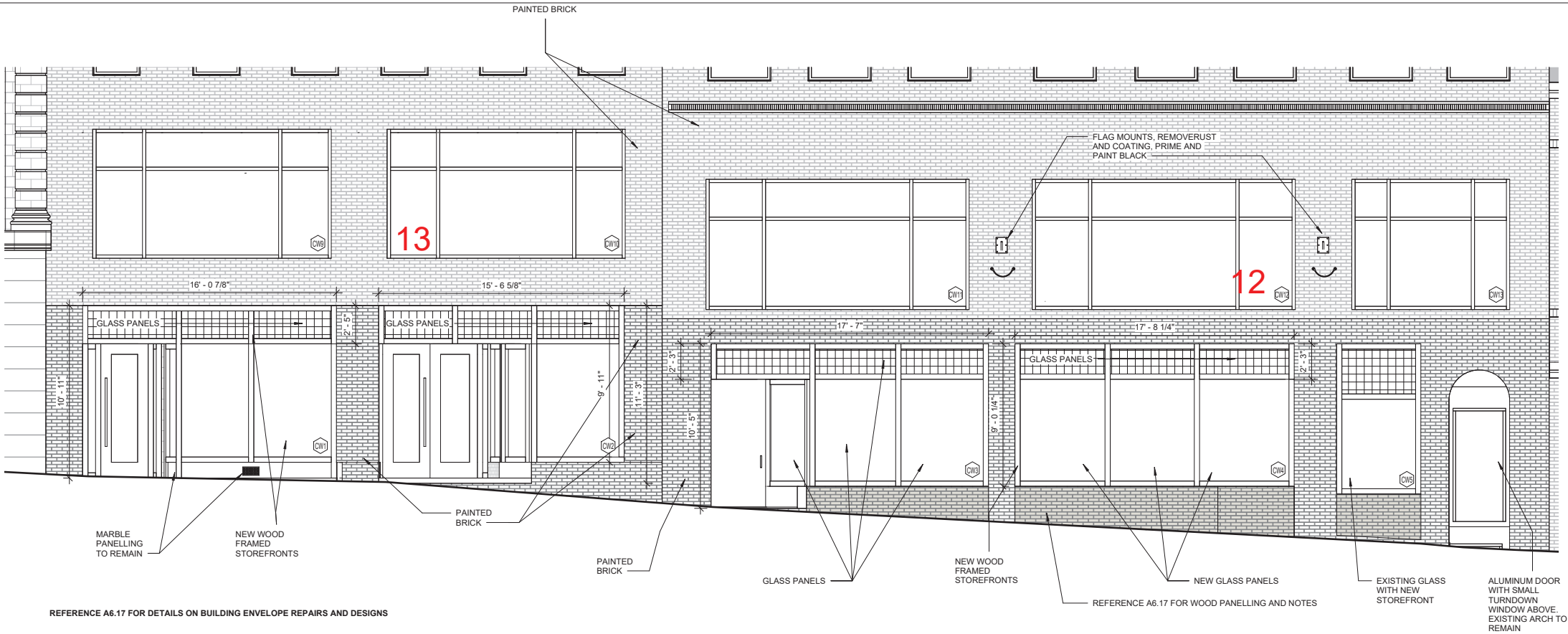
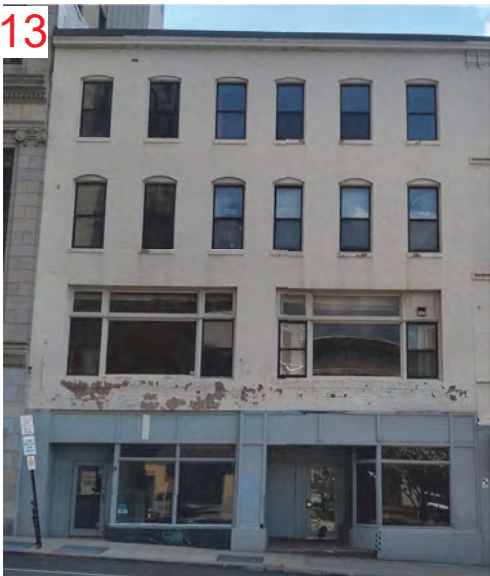
18 JULY 2024

A4.32



2 | FIRST FLOOR PREBLE STREET ANNEX 2 - NEW

1/4" = 1'-0"



1 | PREBLE STREET FIRST FLOOR ANNEX 2 ELEVATION - NEW

1/4" = 1'-0"

LIGHTING INCORPORATED

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

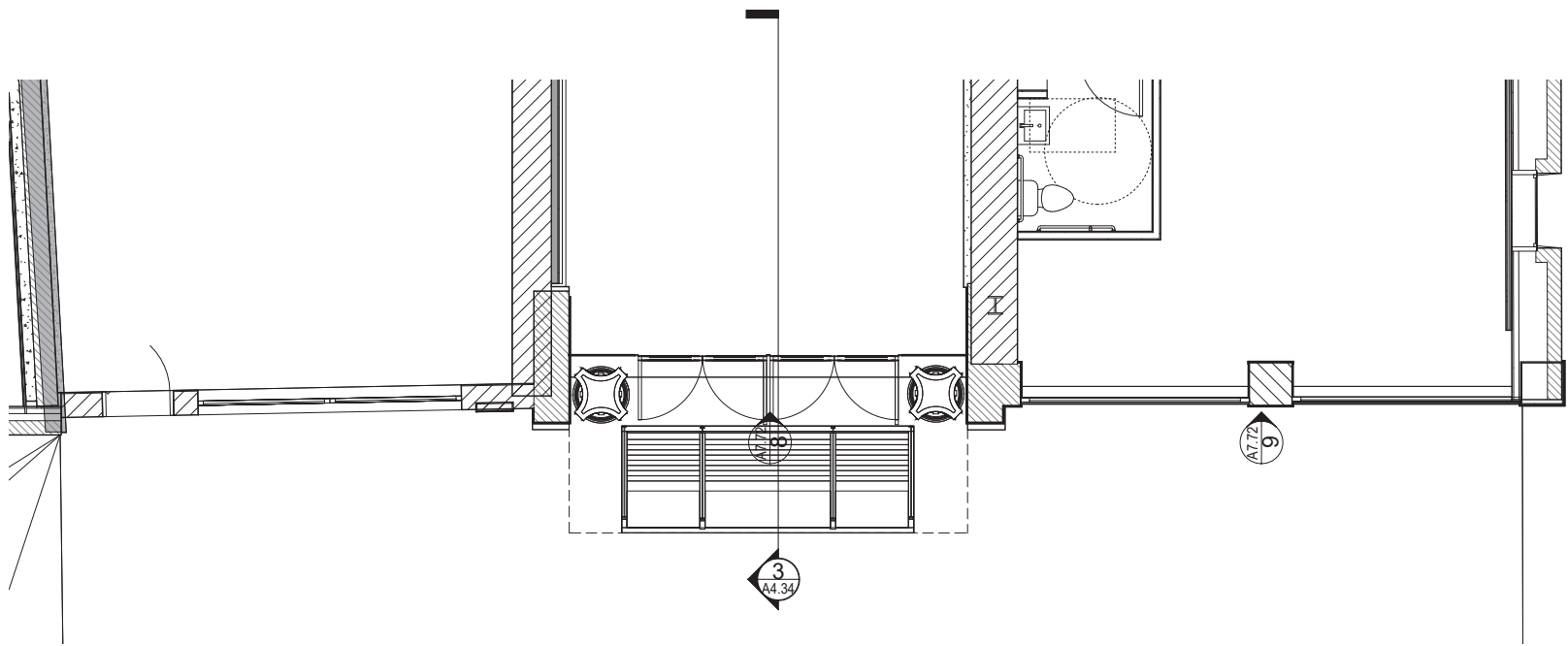
PREBLE STREET DETAILS -
NEW

Scale:
1/4" = 1'-0"

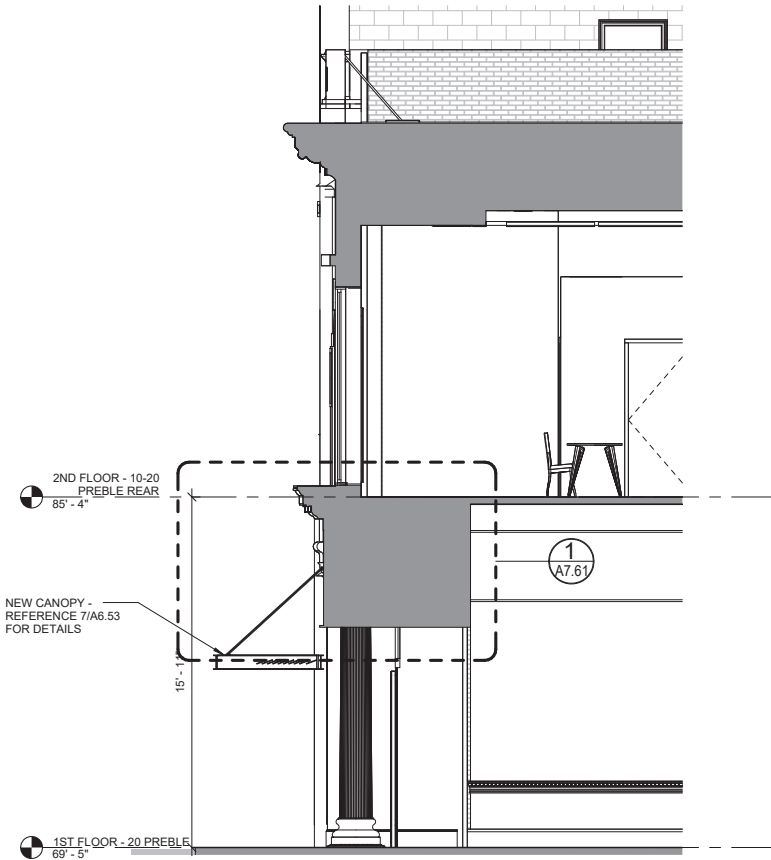


18 JULY 2024

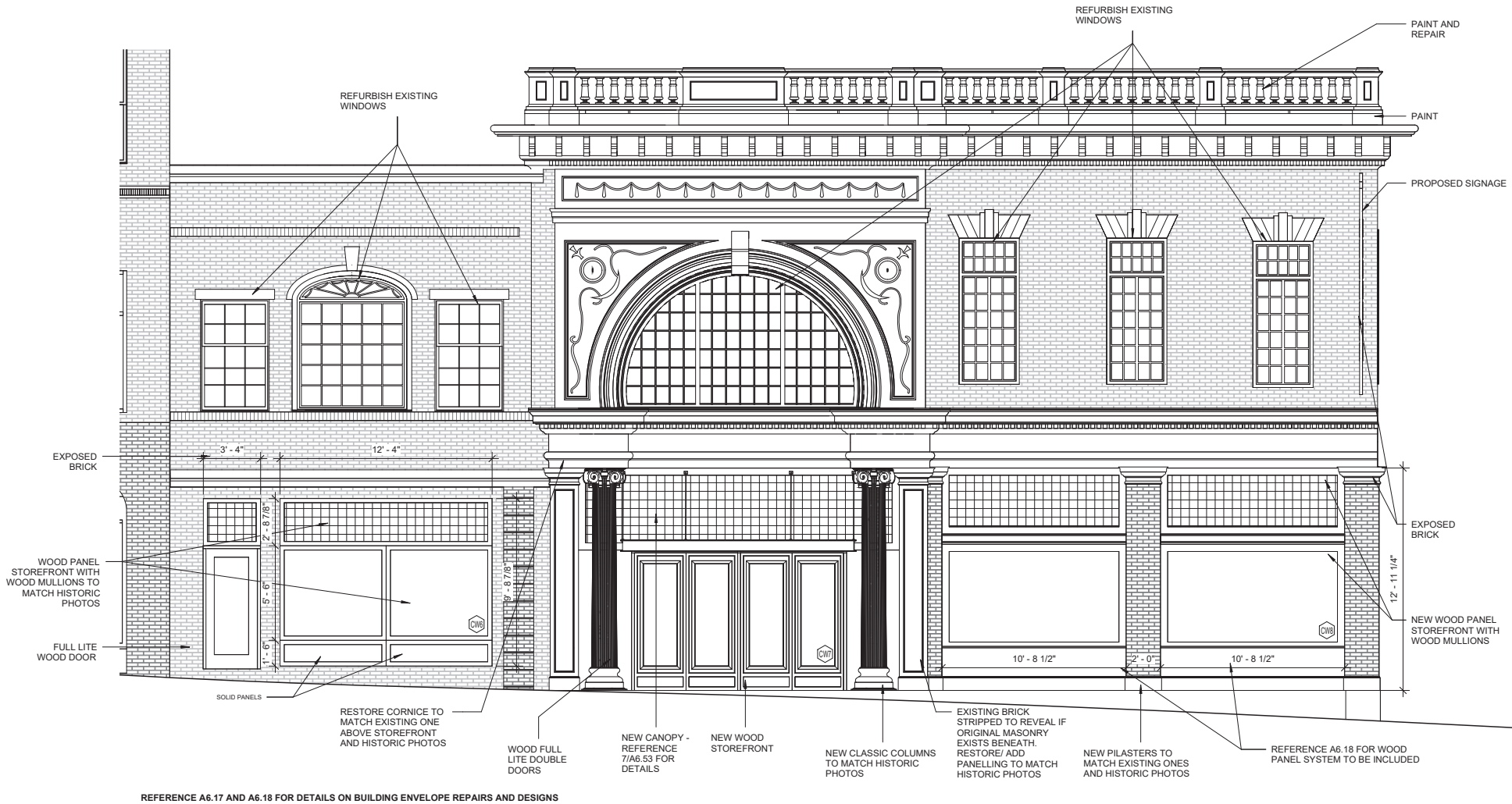
A4.33



2 | FIRST FLOOR PREBLE STREET ANNEX - NEW
1/4" = 1'-0"



3 | 22 PREBLE ENTRANCE SECTION
1/4" = 1'-0"



1 | PREBLE STREET FIRST FLOOR ANNEX ELEVATION - NEW
1/4" = 1'-0"

Project:

**TIME &
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477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

**PREBLE STREET DETAILS -
NEW**

Scale:
1/4" = 1'-0"



18 JULY 2024

A4.34

Project:

**TIME &
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BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

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COLLABORATIVE

Consultant:

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207.807.6661

Revisions:

Key Plan:

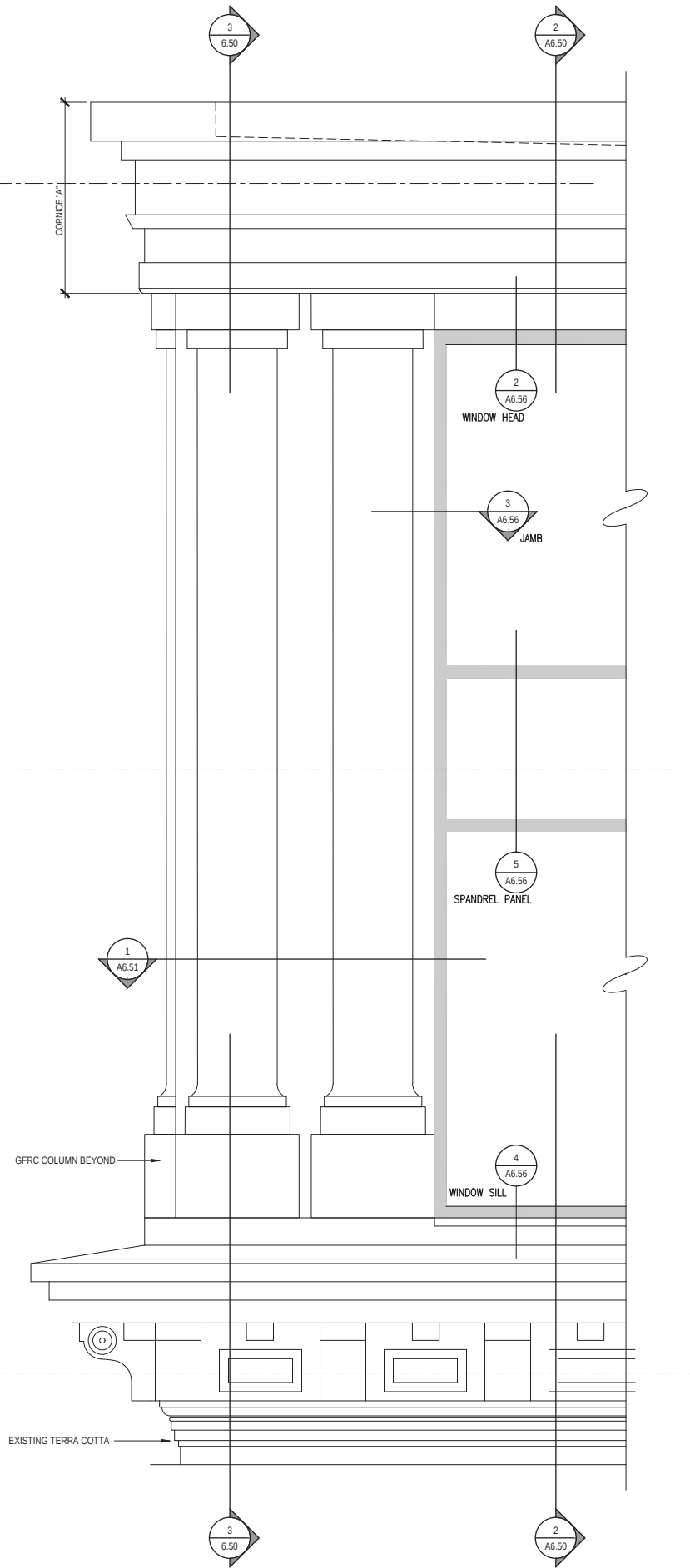
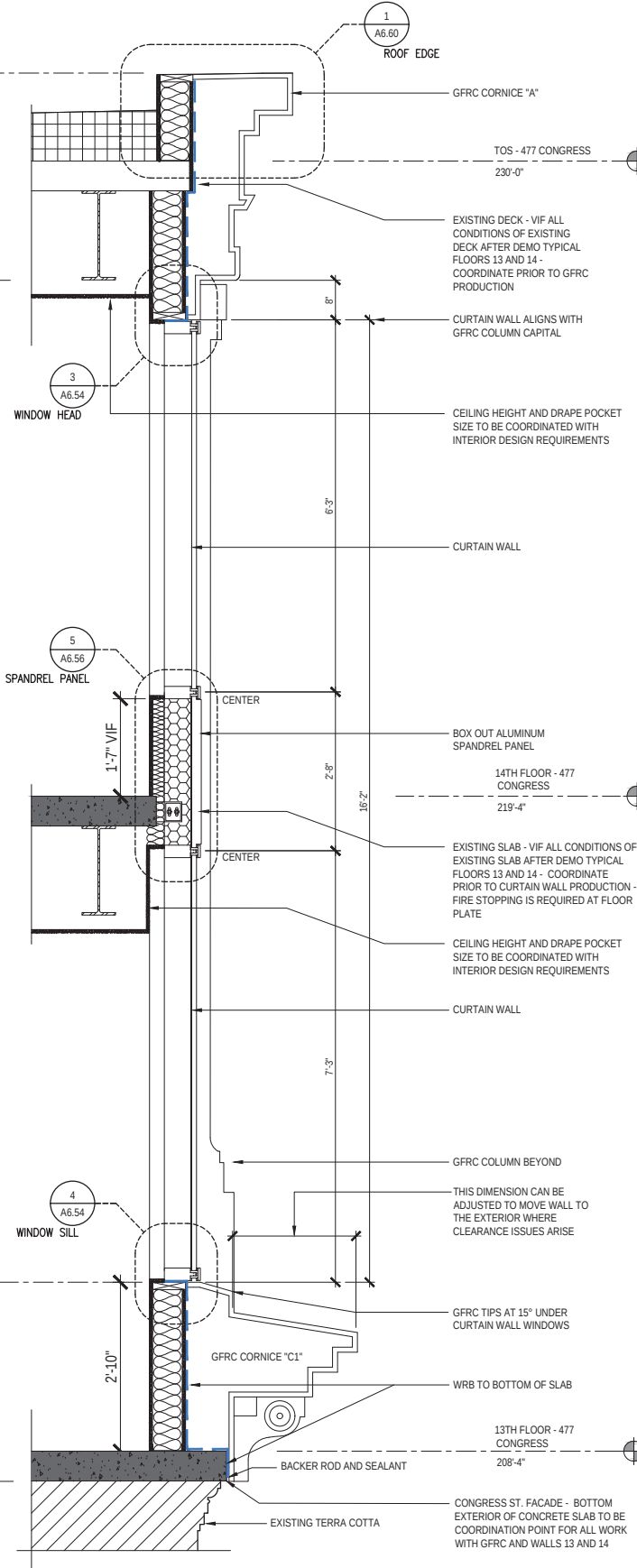
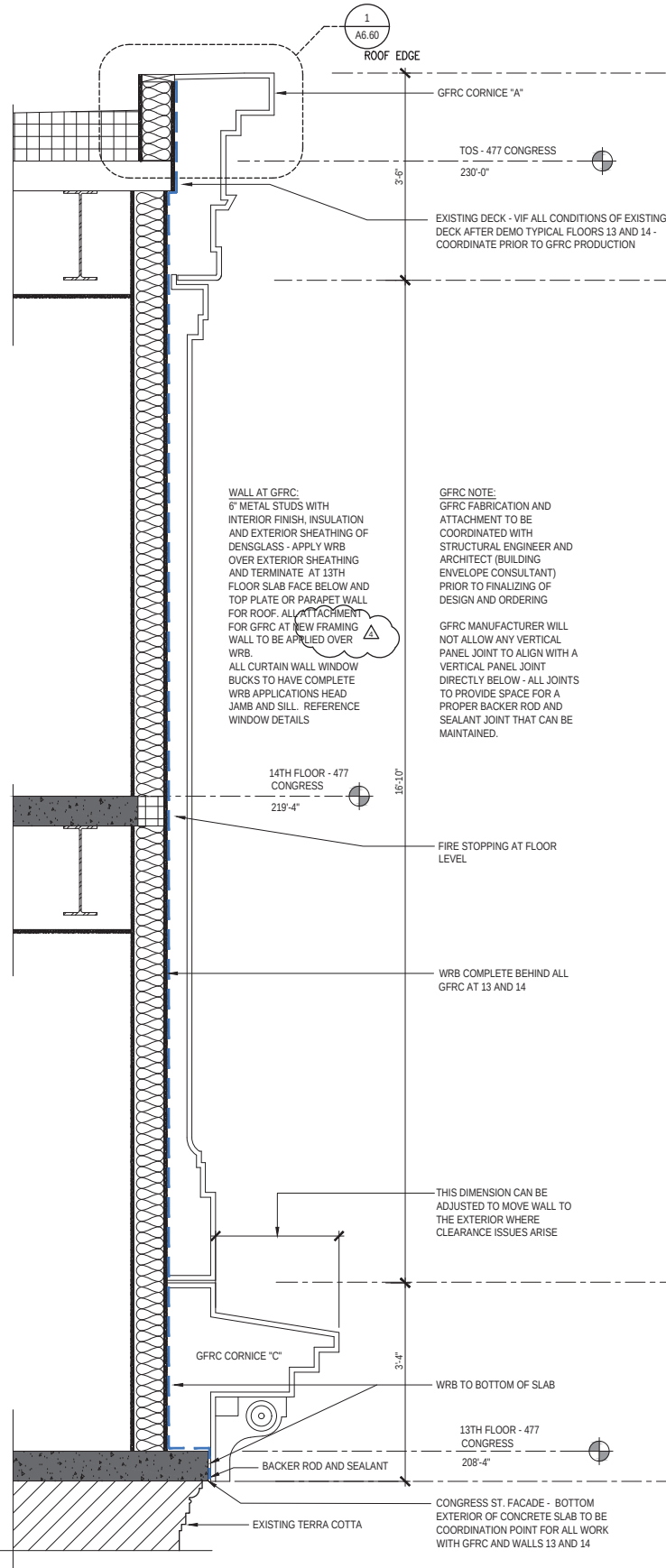
**13 AND 14
WALL SECTIONS**

Scale:

AS NOTED

18 JULY 2024

A6.50



3

WALL SECTION - CONGRESS ST. 13 AND 14TH FLOOR

GFRF

SCALE: $\frac{3}{4}"=1'-0"$

2

WALL SECTION - CONGRESS ST. 13 AND 14TH FLOOR

CURTAIN WALL

SCALE: $\frac{3}{4}"=1'-0"$

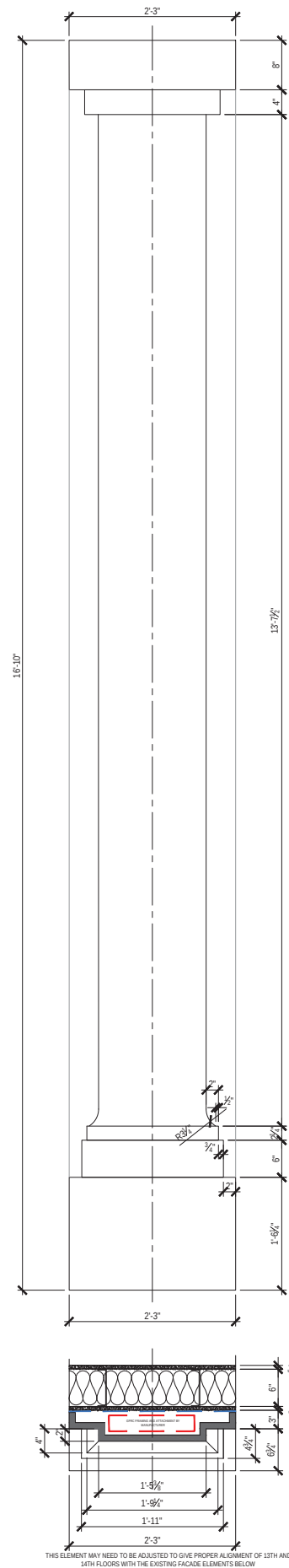
Page 311

1

TOWER WINDOW SILL DETAIL - EXISTING

PLAN DETAIL - TERRACOTTA

SCALE: $\frac{3}{4}"=1'-0"$



3

GFRc COLUMN DETAIL - 13 AND 14TH FLOOR

GFRc - VERIFY IN FIELD ALL DIMENSIONS

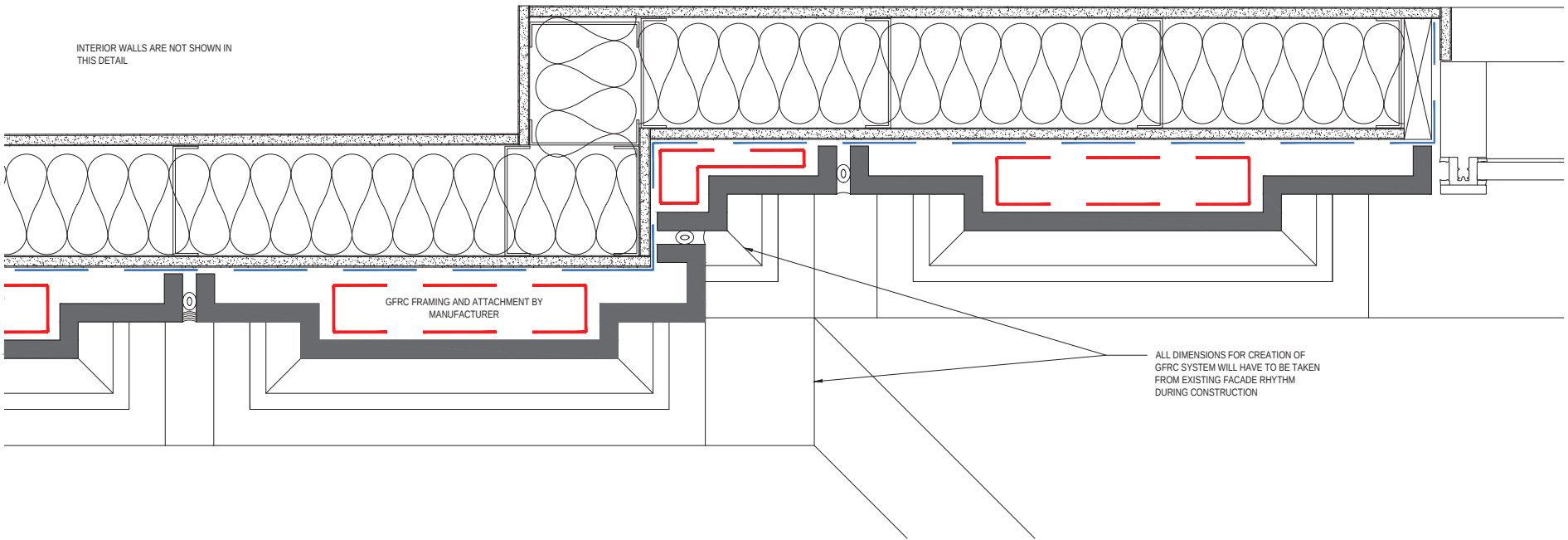
SCALE: 1"=1'-0"

1

GFRc WALL DETAILS - 13 AND 14TH FLOOR

PLAN DETAIL

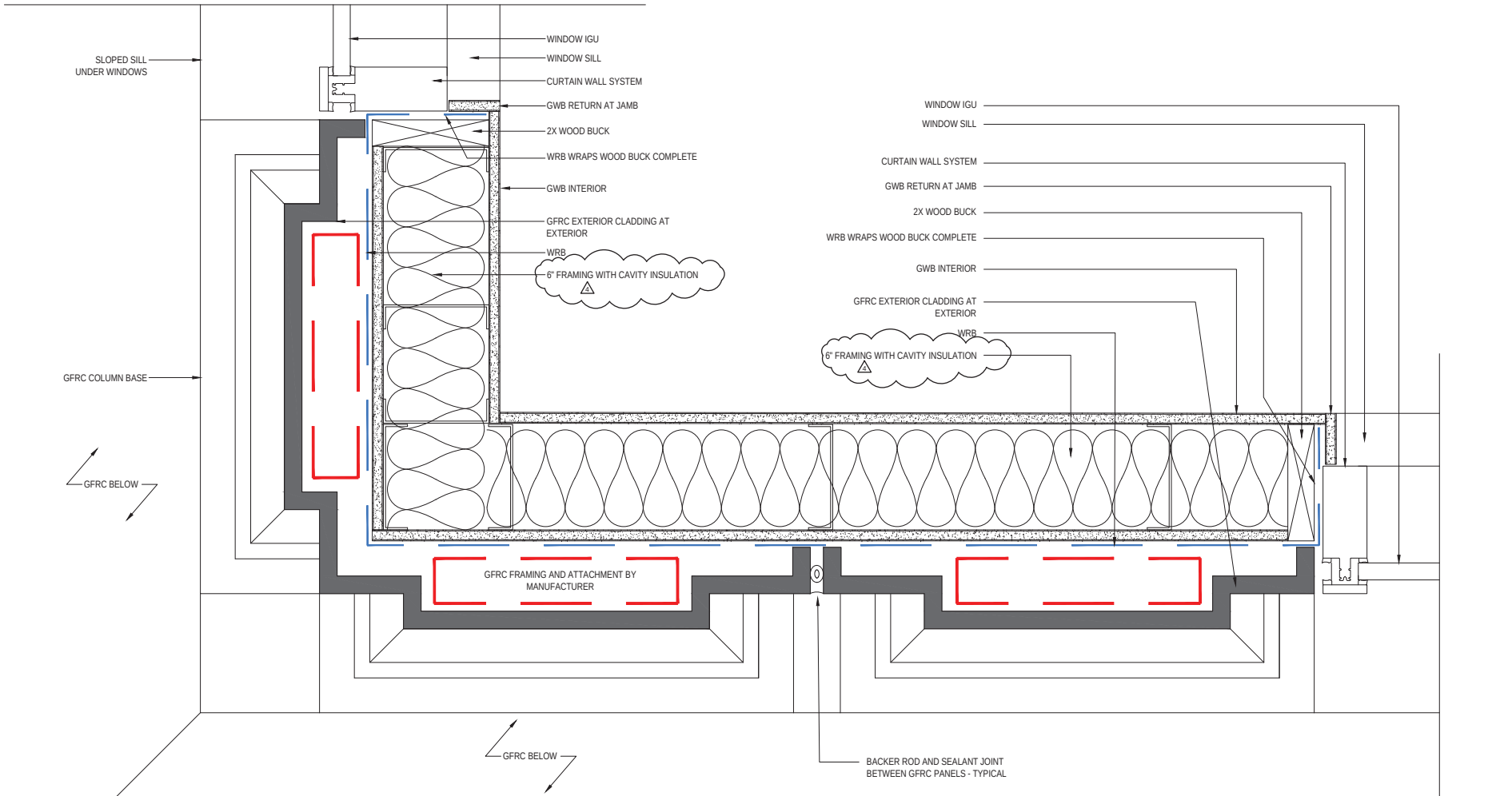
SCALE: 3"=1'-0"



2 GFRc BASE OF WALL DETAILS CONGRESS STREET STEP

PLAN DETAIL

SCALE: 3"=1'-0"



Project:

TIME &
TEMPERATURE
BUILDING

477 Congress Street
Portland, Maine

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COLLABORATIVE

Consultant:

Revisions:

Key Plan:

GFRc
DETAILS

Scale:

AS NOTED



18 JULY 2024

Project:

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477 Congress Street
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207.807.6661

Revisions:

Key Plan:

**WINDOW
DETAILS**

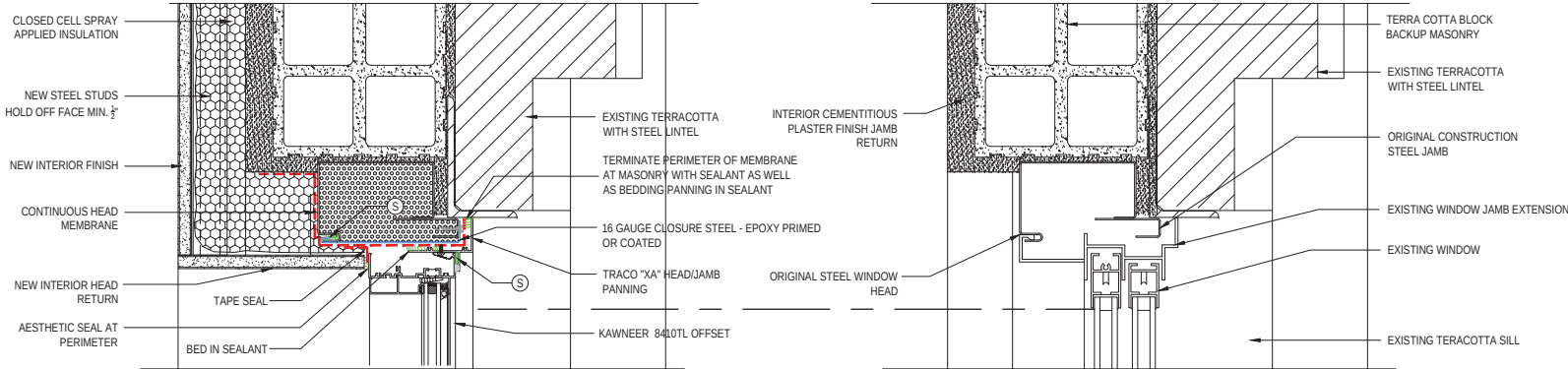
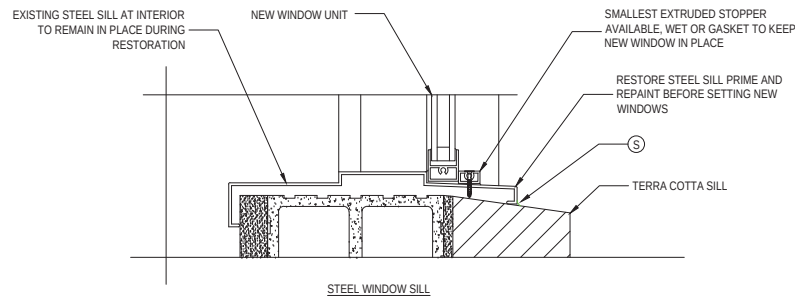
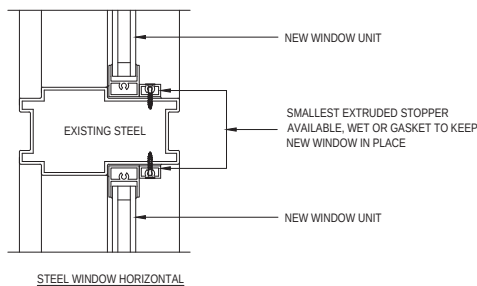
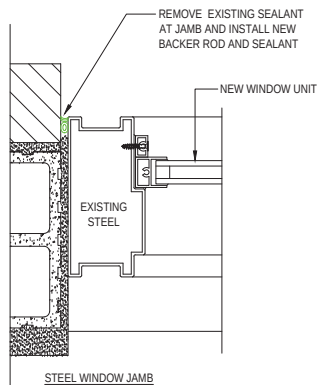
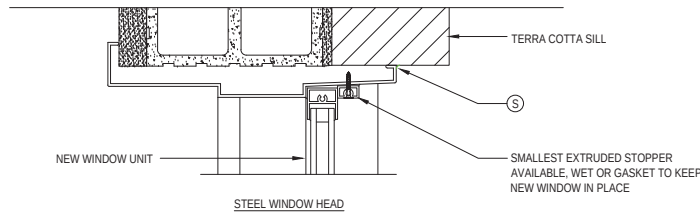
Scale:

AS NOTED



18 JULY 2024

A6.52



6 TOWER WINDOW HEAD DETAIL - NEW

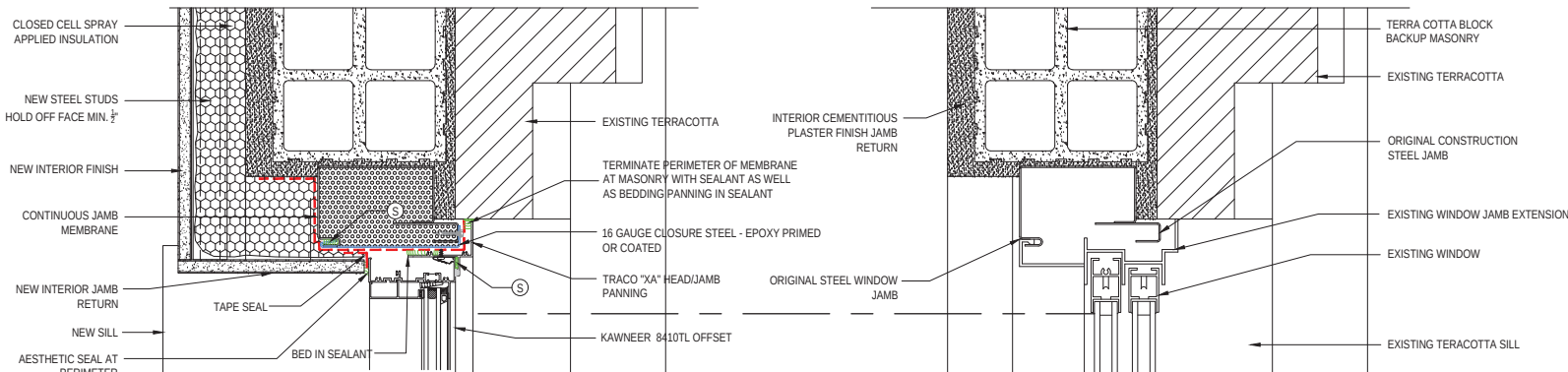
TERRACOTTA

SCALE: 3"=1'-0"

5 TOWER WINDOW HEAD DETAIL - EXISTING

TERRACOTTA

SCALE: 3"=1'-0"



4 TOWER WINDOW JAMB DETAIL - NEW

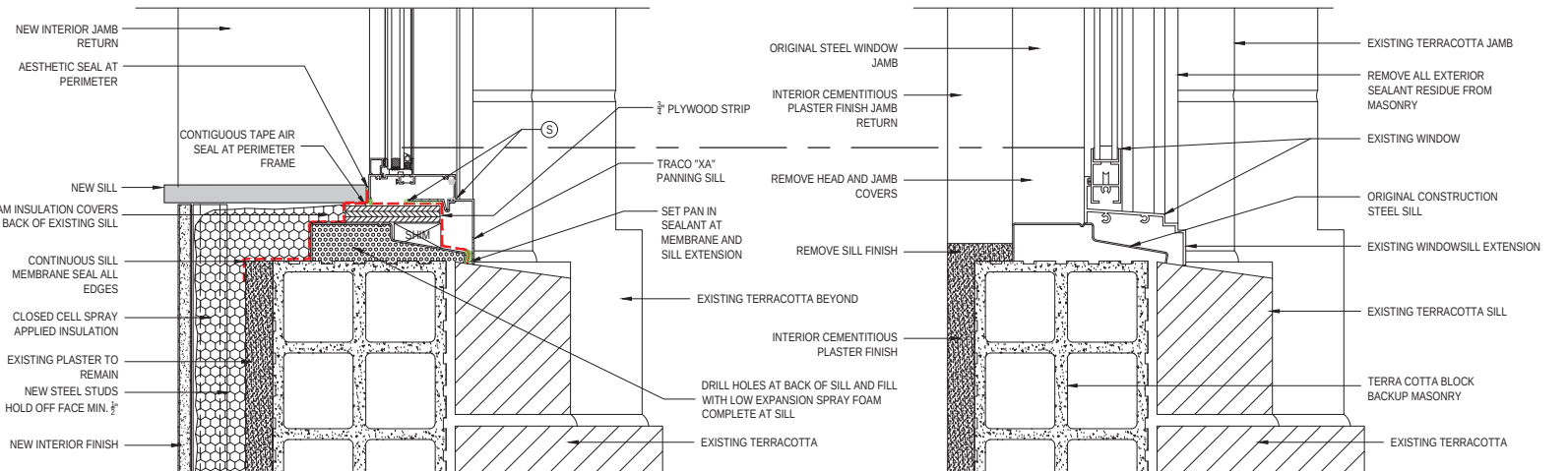
TERRACOTTA

SCALE: 3"=1'-0"

3 TOWER WINDOW JAMB DETAIL - EXISTING

TERRACOTTA

SCALE: 3"=1'-0"



2 TOWER WINDOW SILL DETAIL - NEW

TERRACOTTA

SCALE: 3"=1'-0"

1 TOWER WINDOW SILL DETAIL - EXISTING

TERRACOTTA

SCALE: 3"=1'-0"

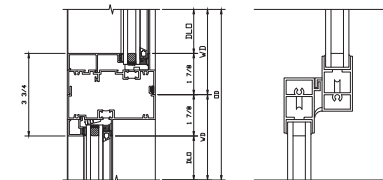
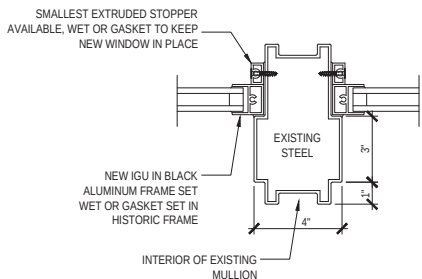
9 HISTORIC HEAD JAMB AND SILL REGLAZING DETAILS

2 STORY WINDOWS AT CONGRESS STREET AND PREBLE.

SCALE: 3"=1'-0"

ALL 2 STORY HISTORIC WINDOW FRAMES ON PREBLE AND CONGRESS STREETS:

1. REMOVE ALL EXISTING PAINT AND RUST FROM ALL HISTORIC METAL WINDOW COMPONENTS - REPAIR ALL DAMAGE AND RUST THROUGH BY WELDING IN NEW METAL AND FINISHING. PRIME PARTS WITH A TWO PART AUTOMOTIVE GRADE SELF ETCHING PRIME AND REPAINT COLOR AS SELECTED BY THE ARCHITECT.
2. REMOVE DECORATIVE PANELS AT EXTERIOR, REPAIR AND REFINISH OFFSITE BEFORE REINSTALLATION IN THE SAME MANNER.



8 HISTORIC MULLION REGLAZING

2 STORY WINDOWS AT CONGRESS STREET AND PREBLE.

SCALE: 3"=1'-0"

7 MEETING RAIL NEW AND EXISTING

SCALE: 3"=1'-0"

2 TOWER WINDOW SILL DETAIL - NEW

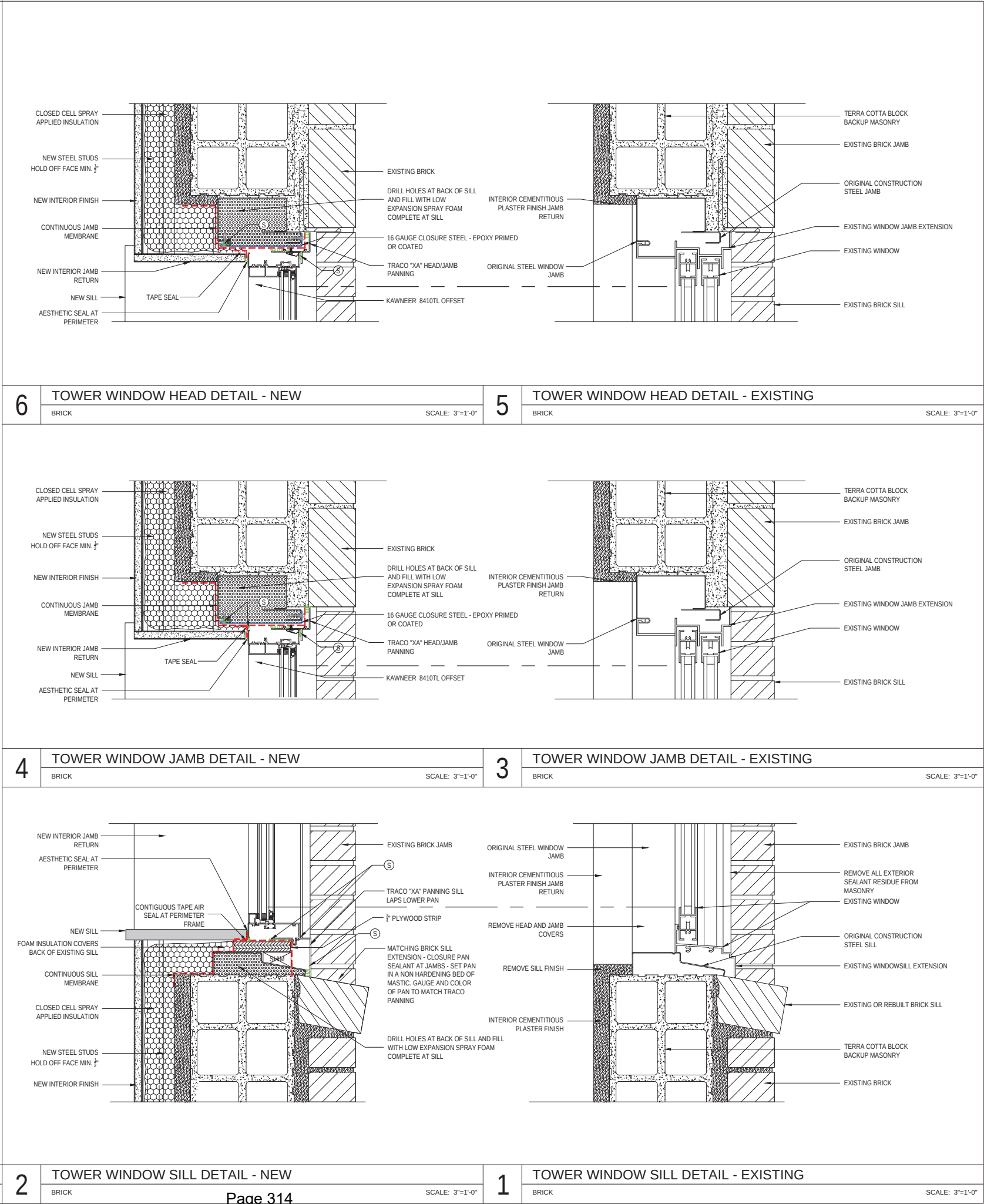
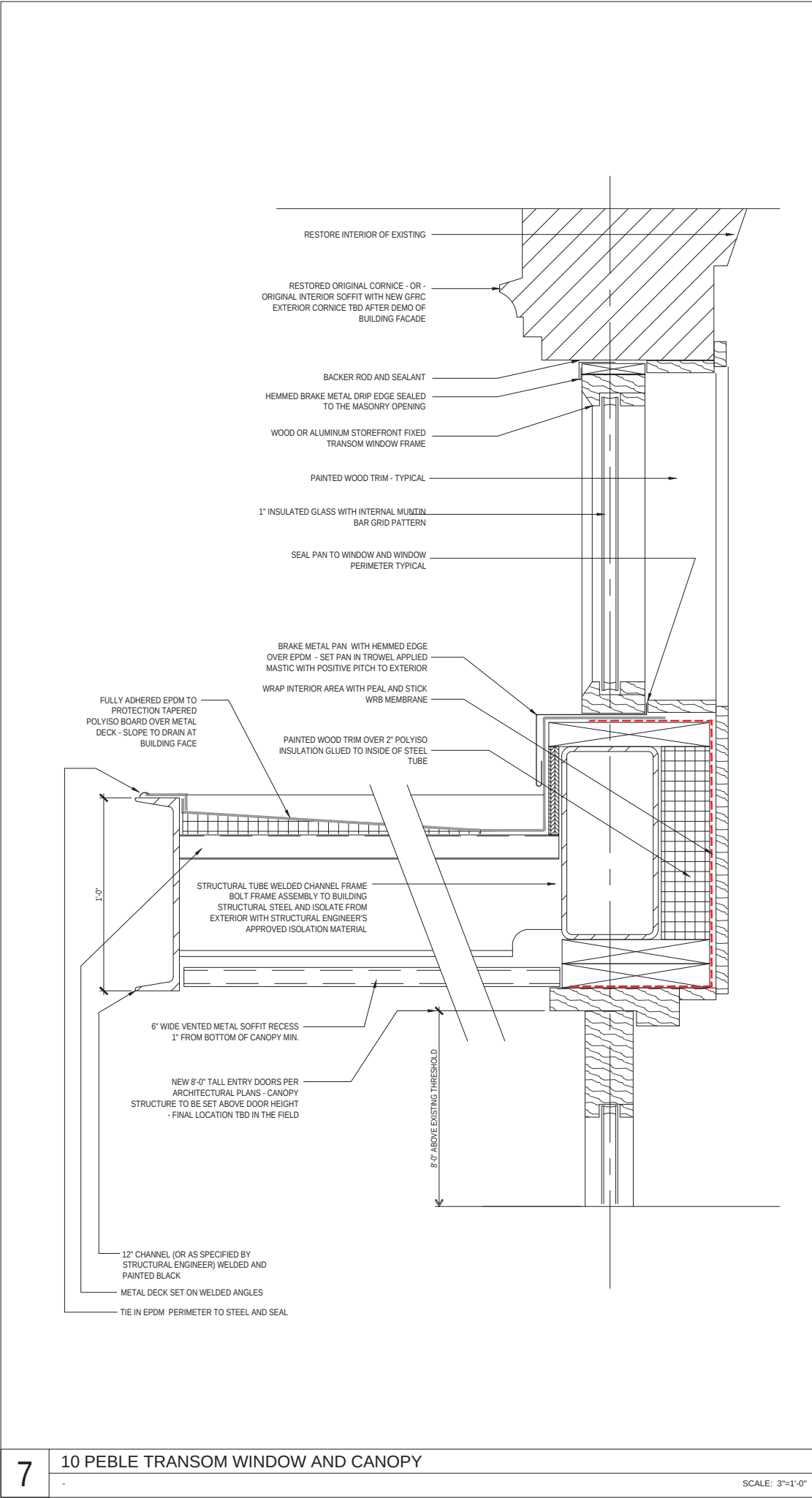
TERRACOTTA

SCALE: 3"=1'-0"

1 TOWER WINDOW SILL DETAIL - EXISTING

TERRACOTTA

SCALE: 3"=1'-0"



Project:

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477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

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207.807.6661

Revisions:

Key Plan:

**WINDOW
DETAILS**

Scale:

AS NOTED



18 JULY 2024

A6.53

Project:

**TIME &
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Key Plan:

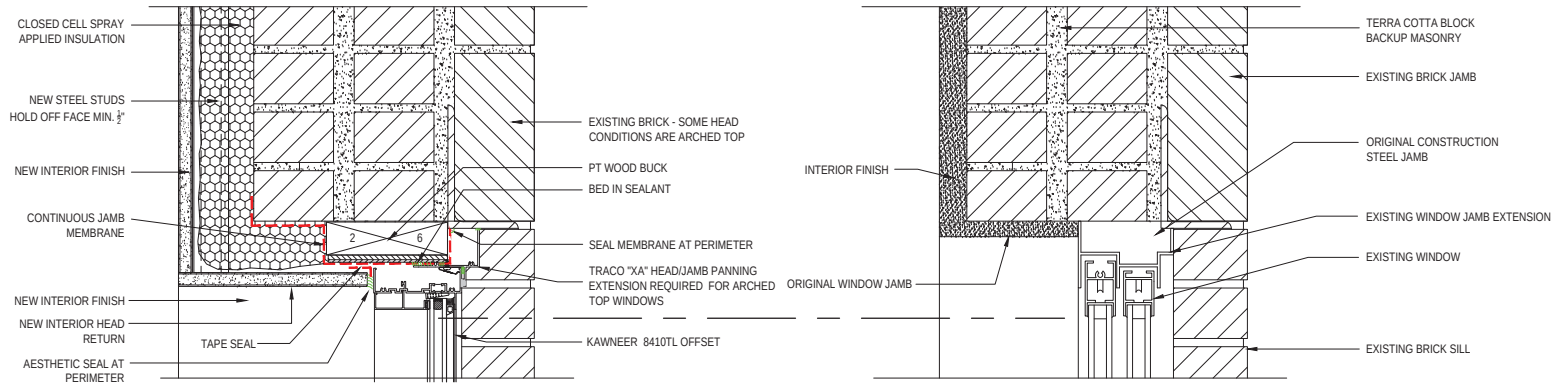
**WINDOW
DETAILS**

Scale:
AS NOTED



18 JULY 2024

A6.54



6

BRICK WINDOW HEAD - NEW

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

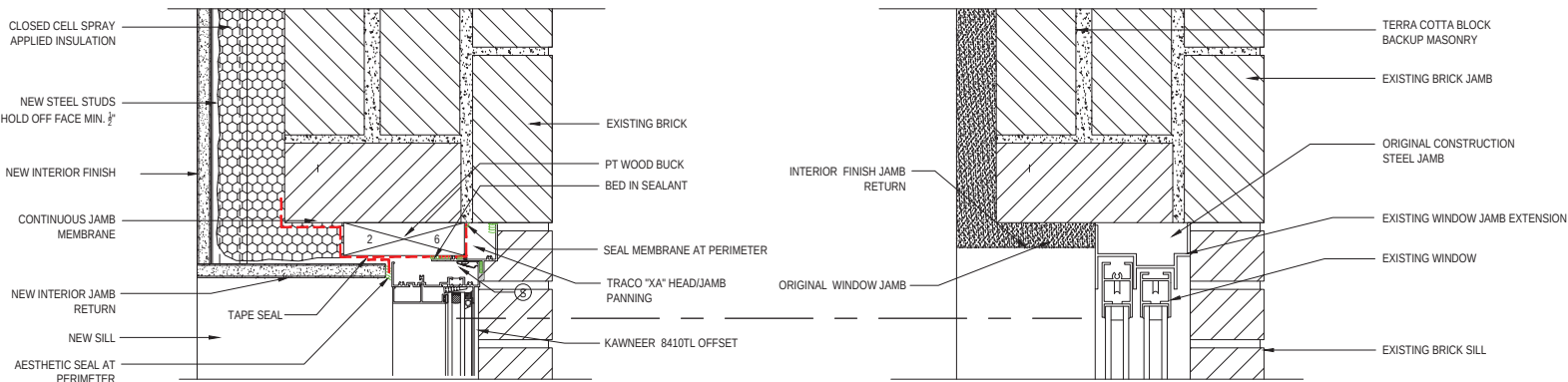
SCALE: 3\"=1'-0\"

5

BRICK WINDOW HEAD - EXISTING

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

SCALE: 3\"=1'-0\"



4

BRICK WINDOW JAMB - NEW

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

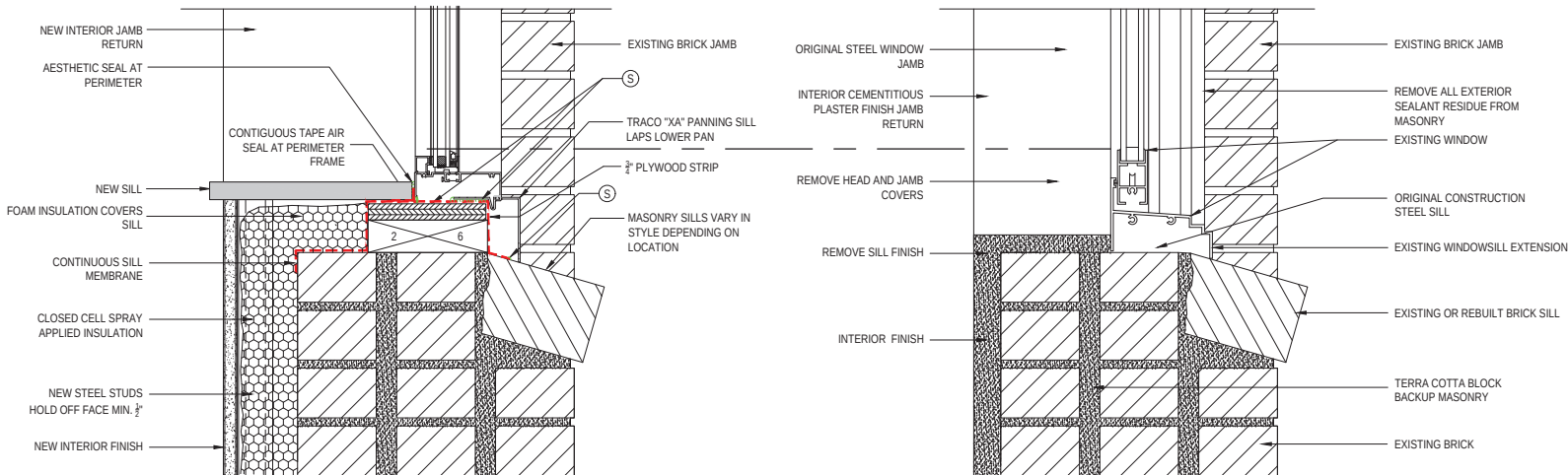
SCALE: 3\"=1'-0\"

3

BRICK WINDOW JAMB - EXISTING

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

SCALE: 3\"=1'-0\"



2

BRICK WINDOW SILL - NEW

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

SCALE: 3\"=1'-0\"

1

BRICK WINDOW SILL - EXISTING

MULTI-WYTHE BRICK AT ACCESSORY BUILDINGS

SCALE: 3\"=1'-0\"

Project:

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Key Plan:

**WINDOW
DETAILS**

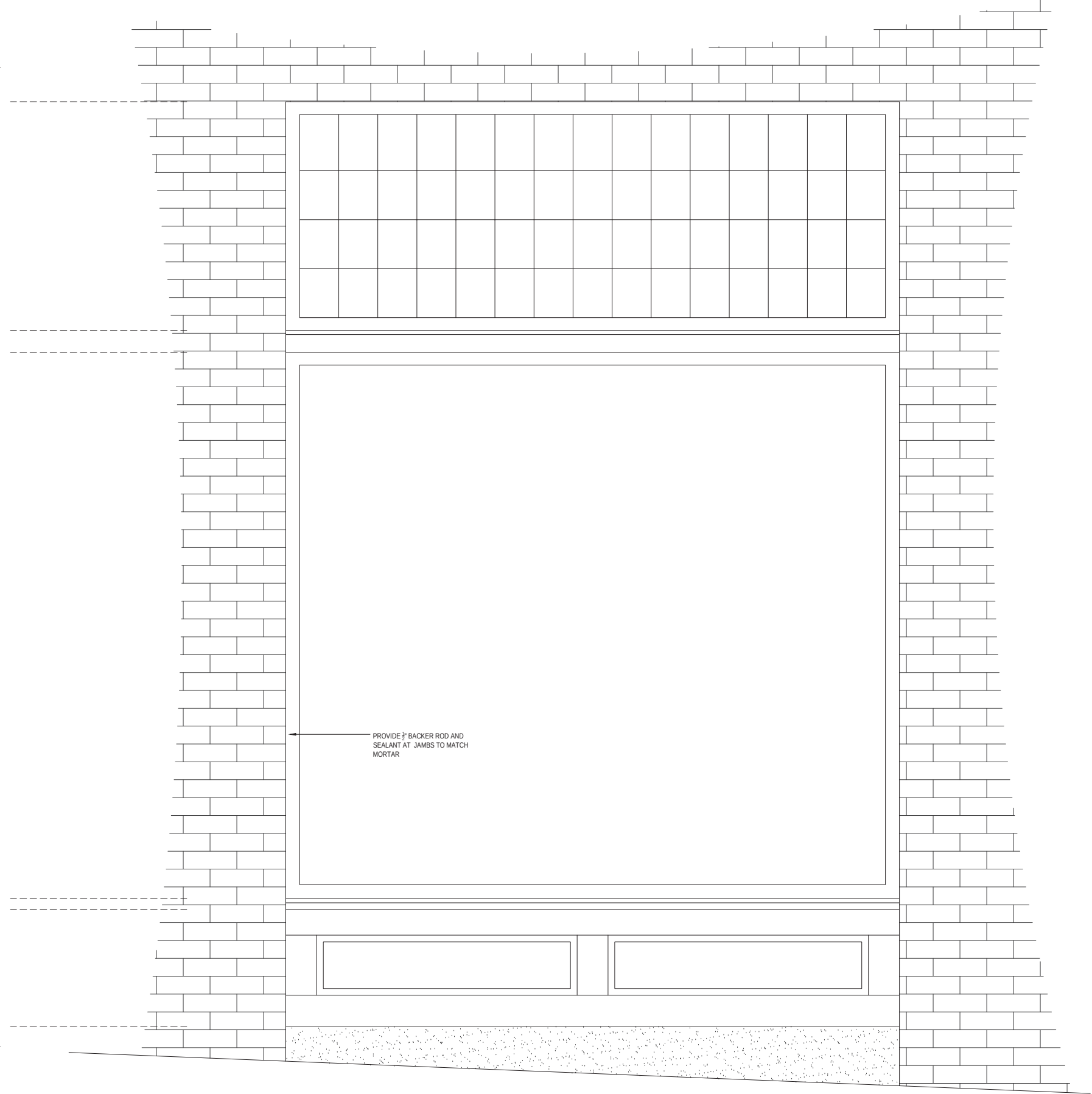
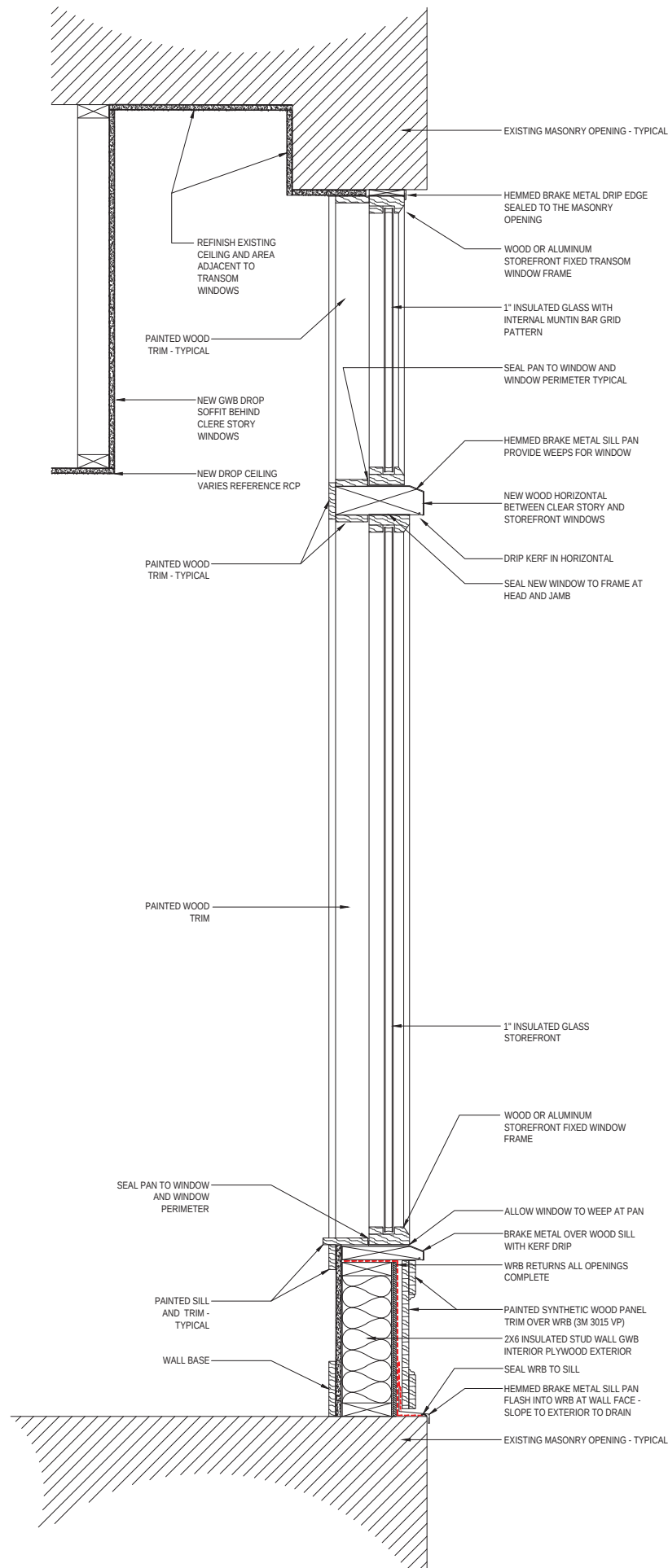
Scale:

AS NOTED



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A6.55



Project:

**TIME &
TEMPERATURE
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Revisions:

Key Plan:

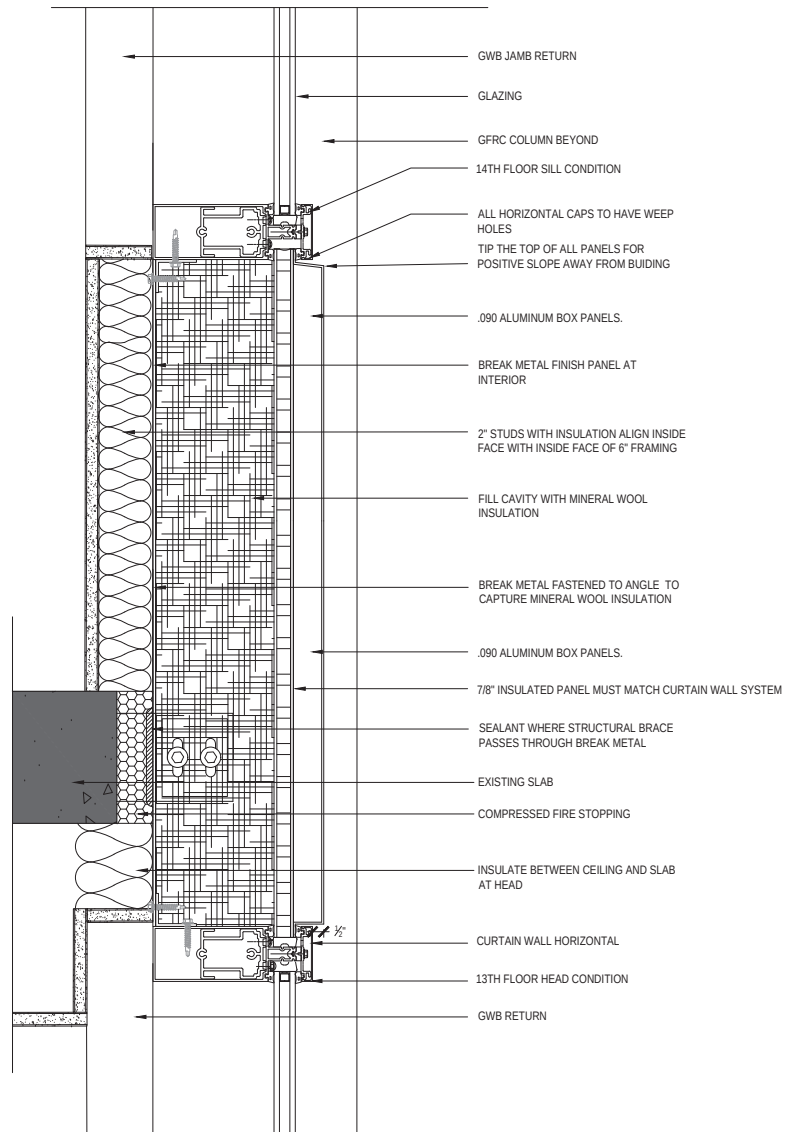
**WINDOW
DETAILS**

Scale:
AS NOTED



18 JULY 2024

A6.56

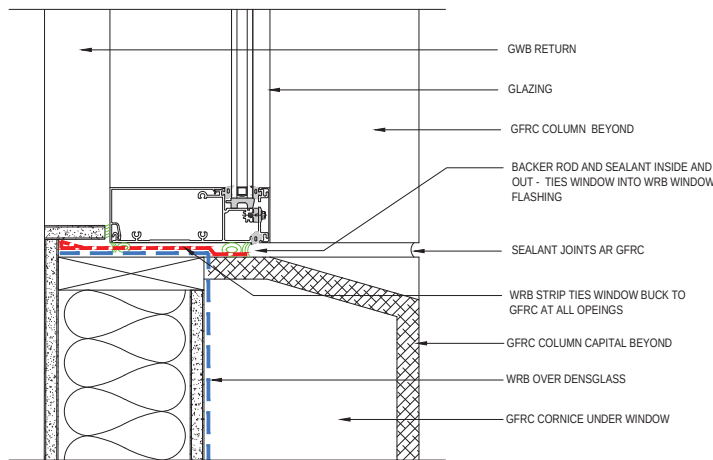


5

13TH & 14TH FLOOR GFR CURTAIN WALL SPANDREL PANEL

GFR

SCALE: 3"=1'-0"

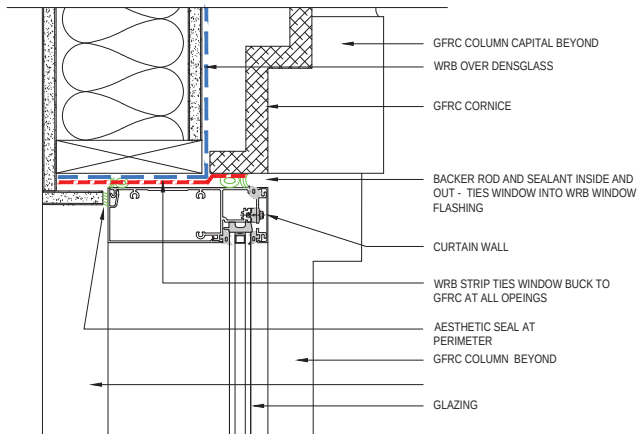


4

13TH FLOOR GFR CURTAIN WALL SILL DETAIL - CURTAIN WALL

GFR

SCALE: 3"=1'-0"

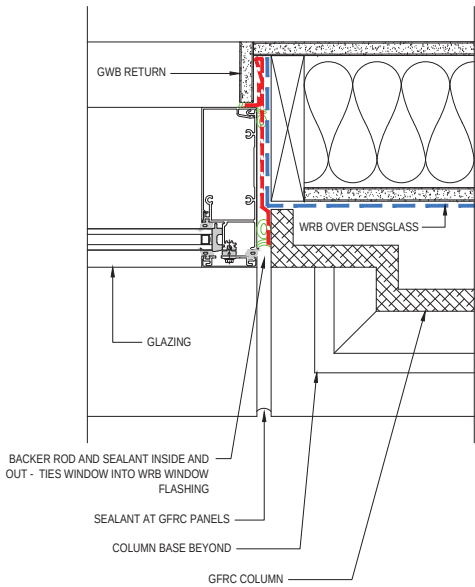


3

14TH FLOOR GFR HEAD DETAIL - CURTAIN WALL

TERRACOTTA

SCALE: 3"=1'-0"

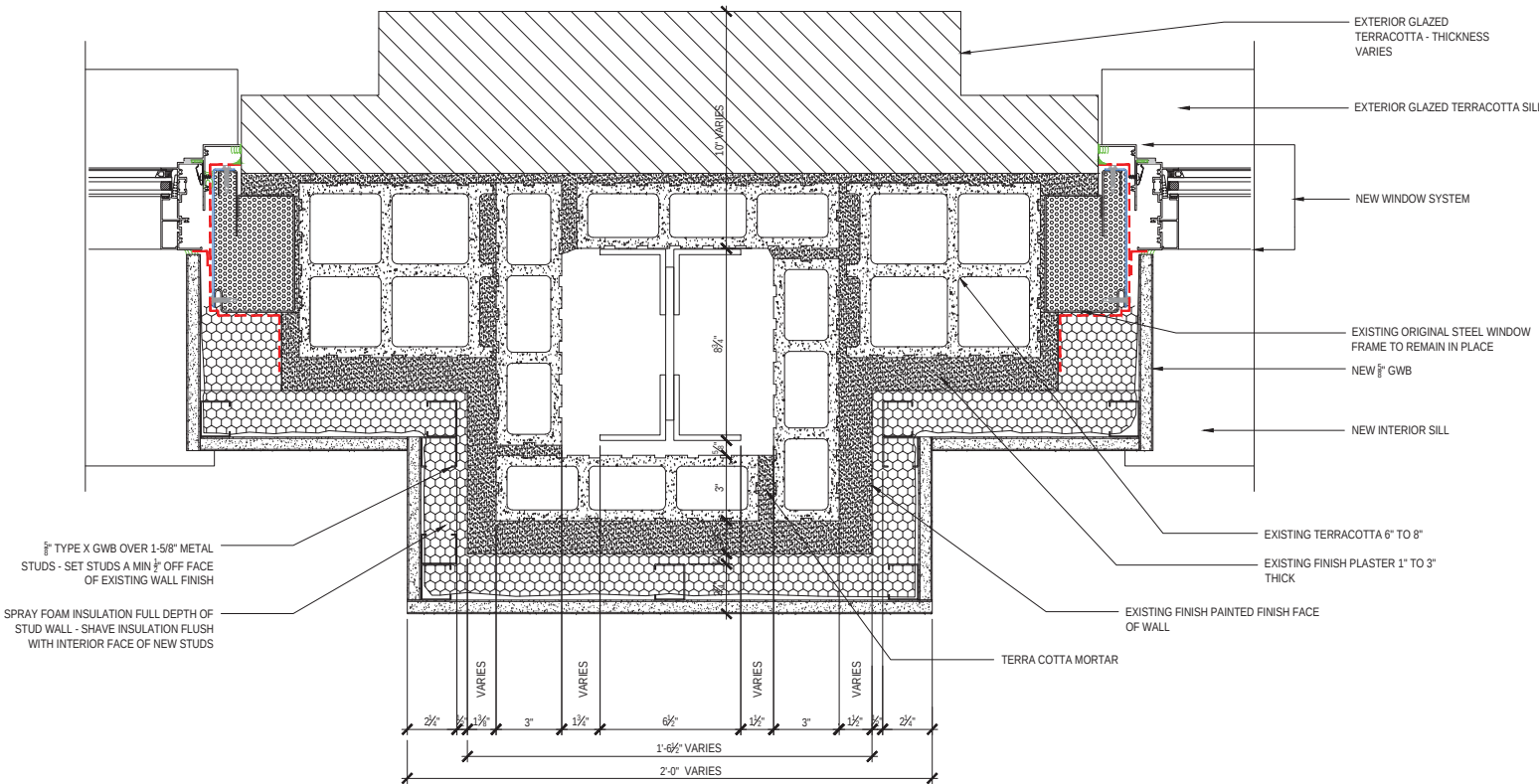


2

14TH FLOOR GFR CURTAIN WALL JAMB DETAIL - CURTAIN WALL

TERRACOTTA

SCALE: 3"=1'-0"

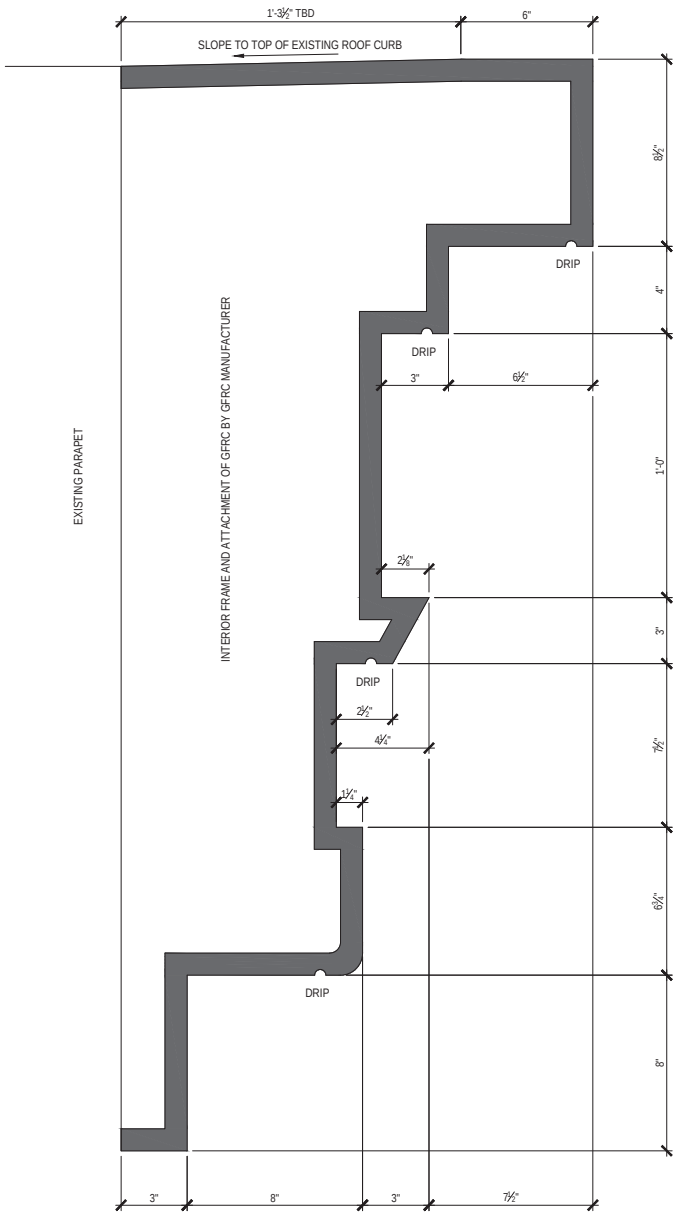


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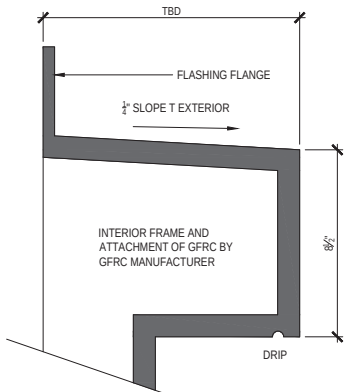
TERRA COTTA TOWER COLUMN DETAIL

TERRACOTTA

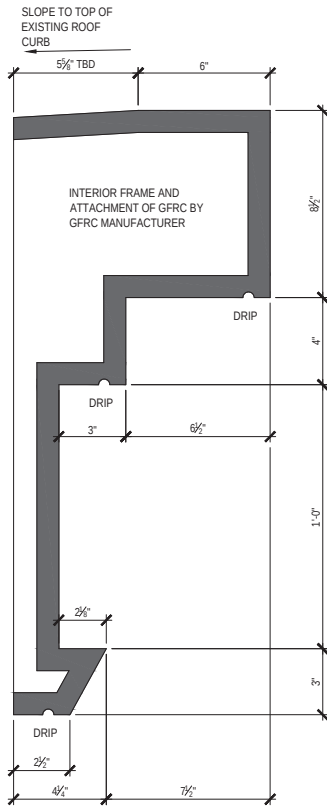
SCALE: 3"=1'-0"



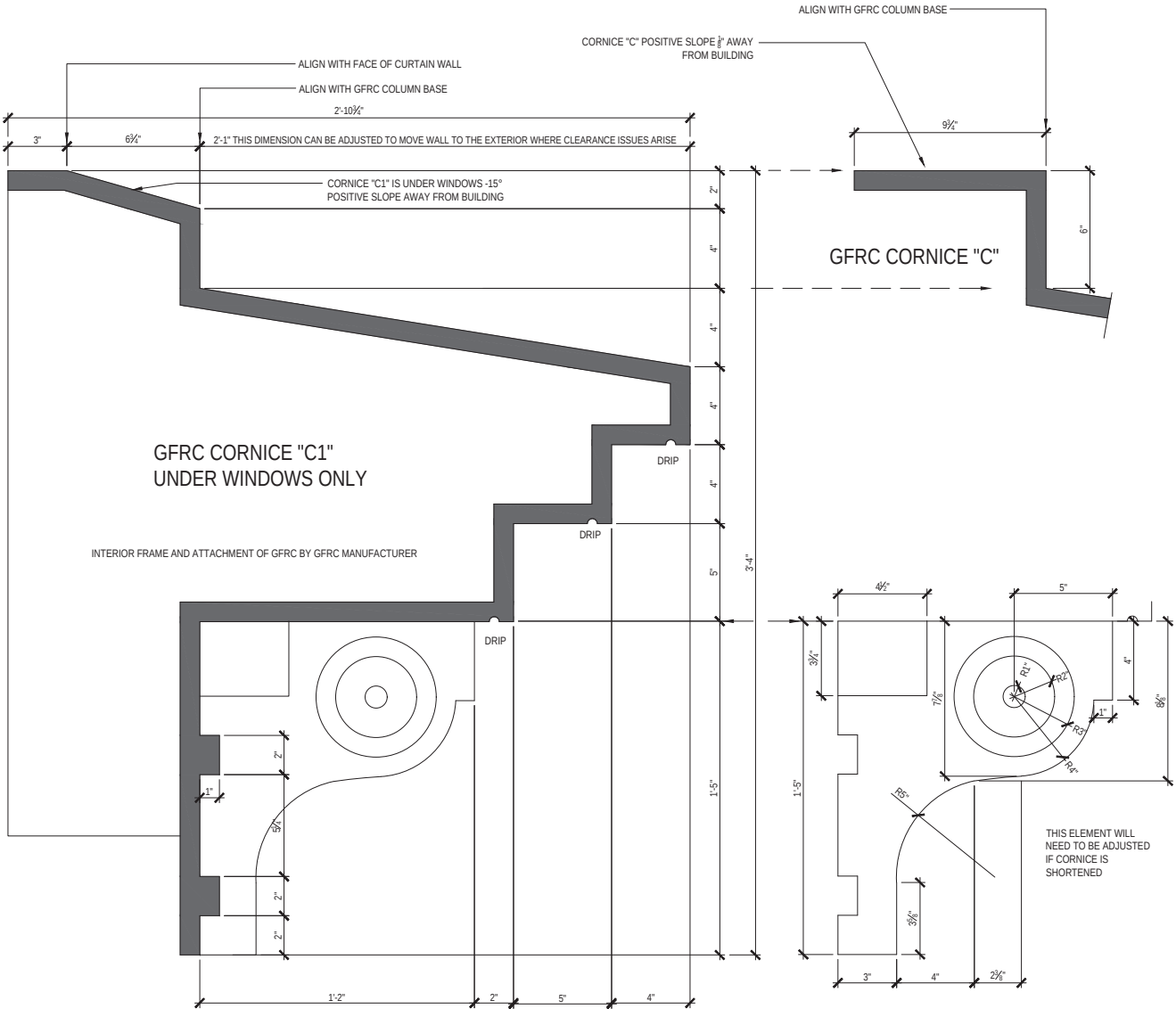
GFRF CORNICE "A"



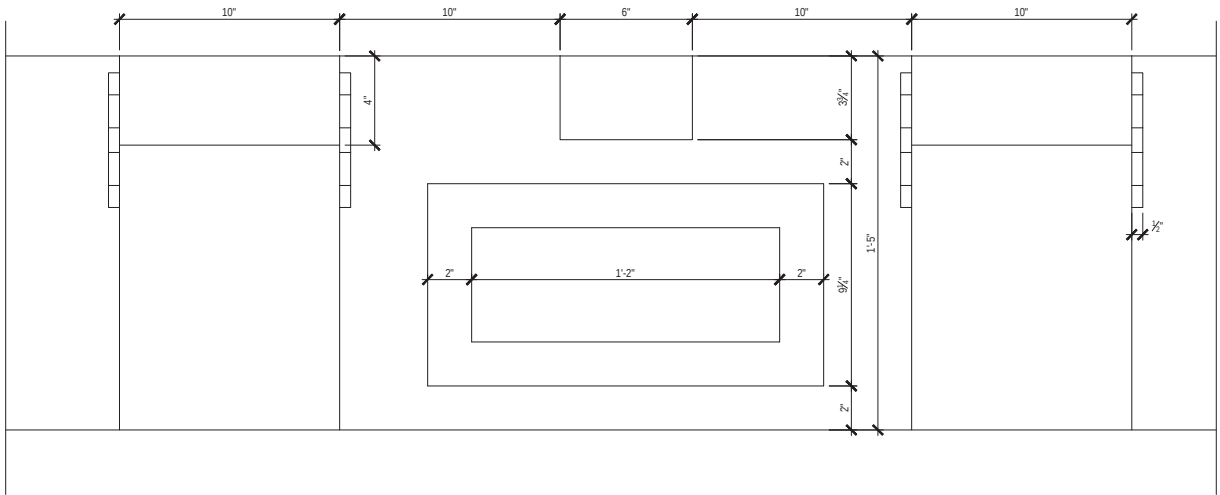
GFRF CORNICE "A-a" OR "A1-a"
AT VERTICAL WALL INTERSECT



GFRF CORNICE "A1"



GFRF CORNICE "C1"
UNDER WINDOWS ONLY



GFRF 13TH FLOOR CORNICE

Project:

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Key Plan:

GFRF CORNICE
DETAILS

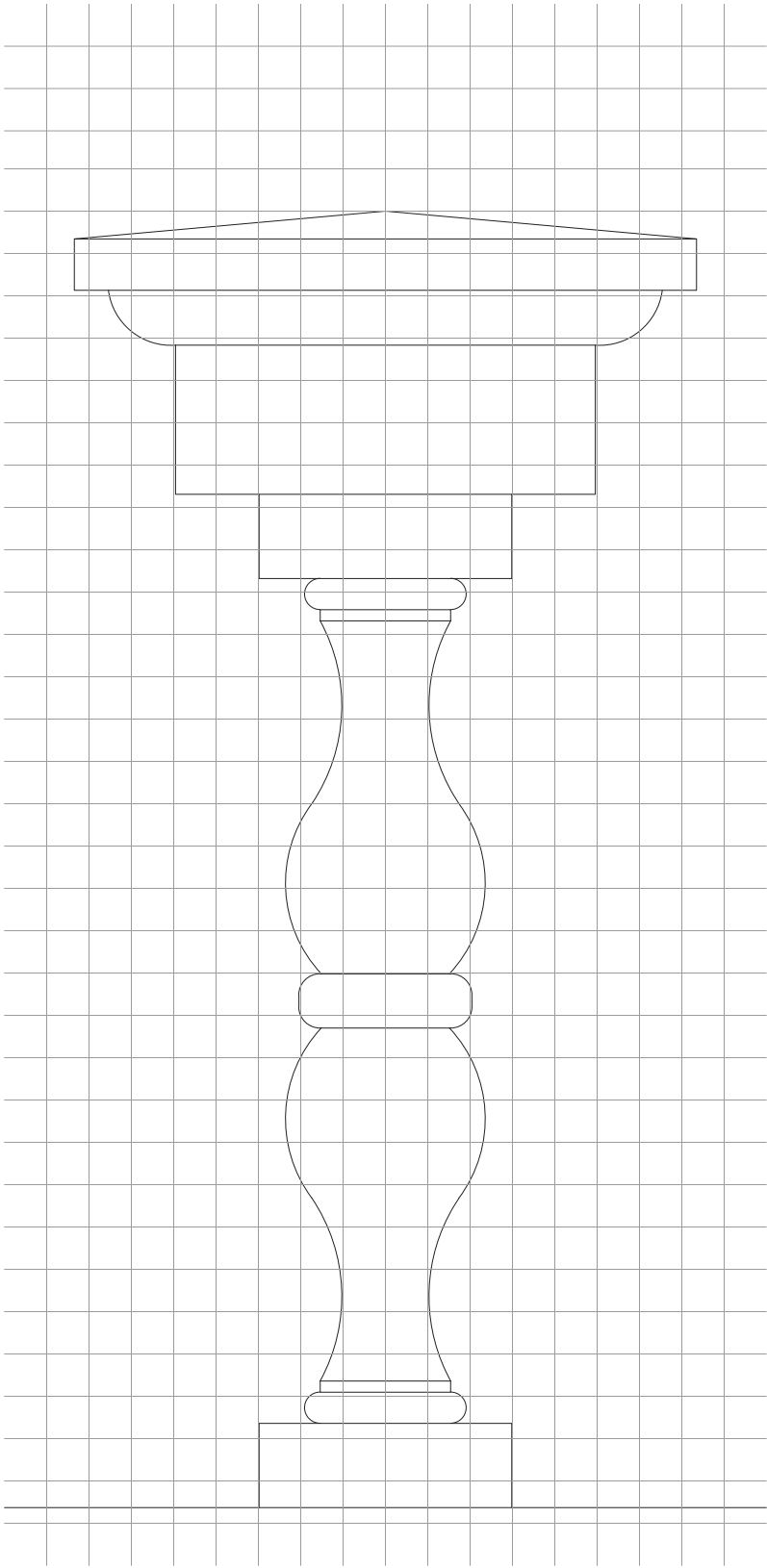
Scale:

AS NOTED



18 JULY 2024

A6.57



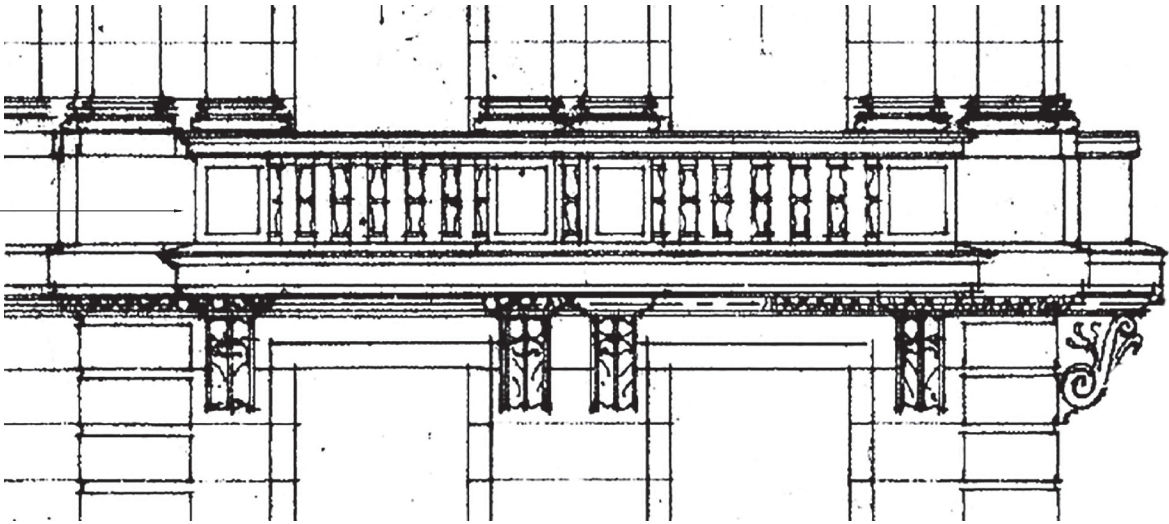
PROPOSED NEW BALUSTERS FOR RECREATION OF THE BALCONIES IN GFRc MATERIAL. THE DRAWING IS BASED HISTORICAL DOCUMENTS ABOVE DRAWING IS 6"±1'-0" ON A 1" GRID FOR CREATION OF THE PROTOTYPES

3 GFRc AND BALUSTER AND RAIL

GFRc BALCONY RECREATION

SCALE: 6"=1'-0"

HISTORIC DRAWING SHOWING OVERALL INTENT OF THE BALCONIES



CURRENTLY THE BALCONIES ARE STRUCTURALLY FAILING AND HAVE HAD THE UPPER PORTIONS REMOVED AND REPLACED WITH EPDM OVER BRICK. THE SYSTEM HAS BEEN AUGMENTED WITH STEEL BRACES AND BRACKETS. IF THE BALCONIES ARE NOT REPLACED THEY WILL HAVE TO BE REMOVED IN THE NEAR FUTURE DUE TO STRUCTURAL FAILURE

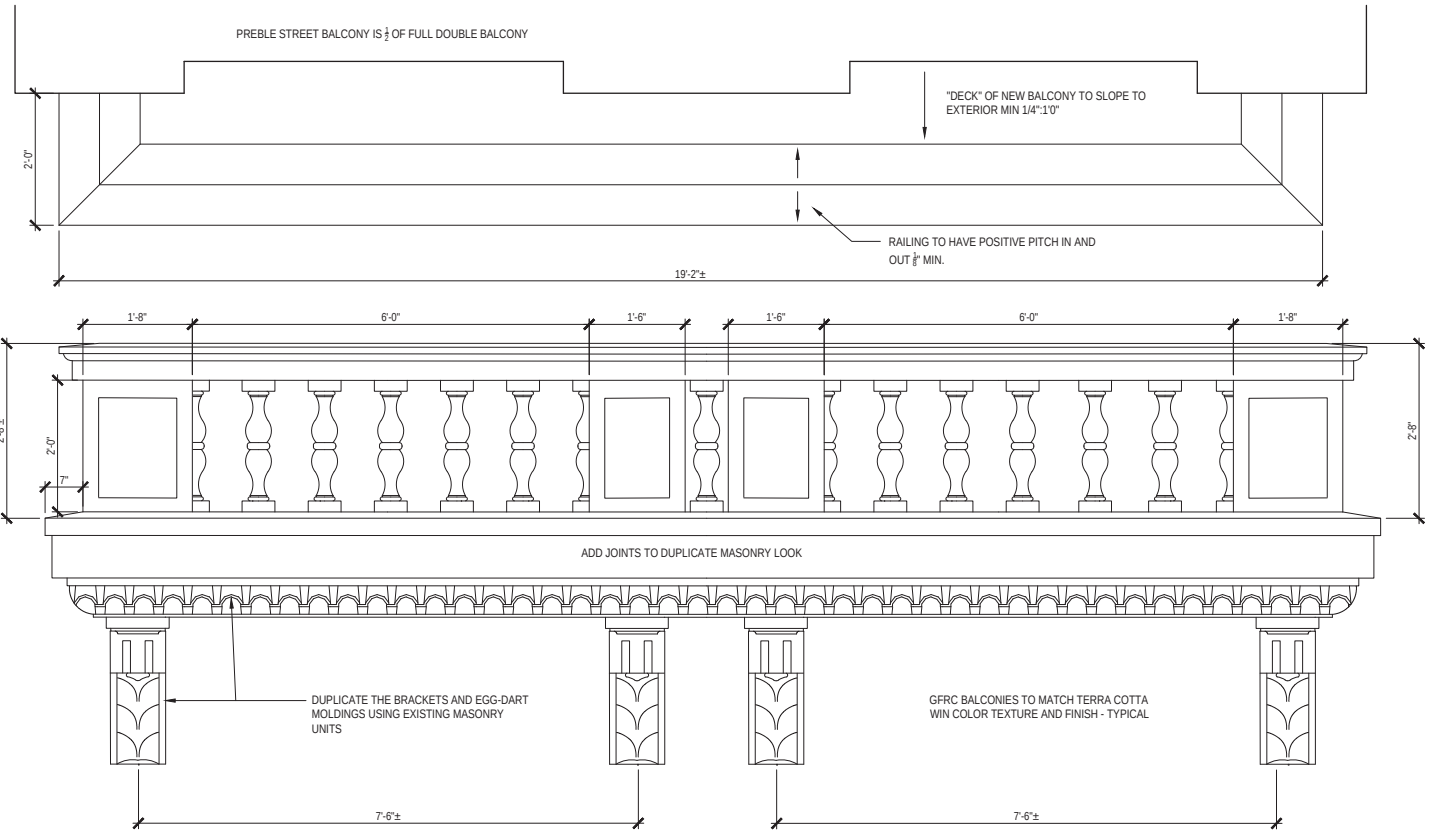
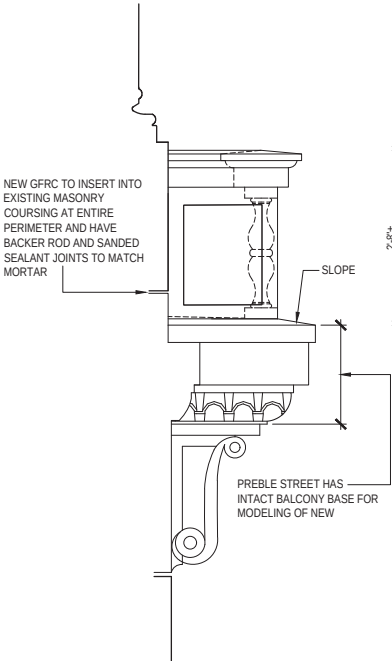


1 HISTORIC DRAWING AND CURRENT PHOTO OF BALCONY

TERRA COTTA BALCONY

SCALE: NTS

GFRc ATTACHMENT REQUIREMENTS TO BE COORDINATED WITH EXISTING STRUCTURAL STEEL AND ANY NEW STEEL NEEDED ONCE REMOVAL OF EXISTING BALCONIES IS COMPLETE



2 NEW GFRc BALCONY AT TWO LOCATIONS OF CONGRESS STREET

ALL DIMENSIONS TO BE VERIFIED IN THE FILED PRIOR TO CONSTRUCTION.

SCALE: 3/4"=1'-0"

Project:

TIME &
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477 Congress Street
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COLLABORATIVE

Consultant:

Revisions:

Key Plan:

GFRc
BALCONY

Scale:

AS NOTED



18 JULY 2024

Project:

**TIME &
TEMPERATURE
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COLLABORATIVE

Consultant:

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Revisions:

Key Plan:

DETAILS

Scale:
AS NOTED

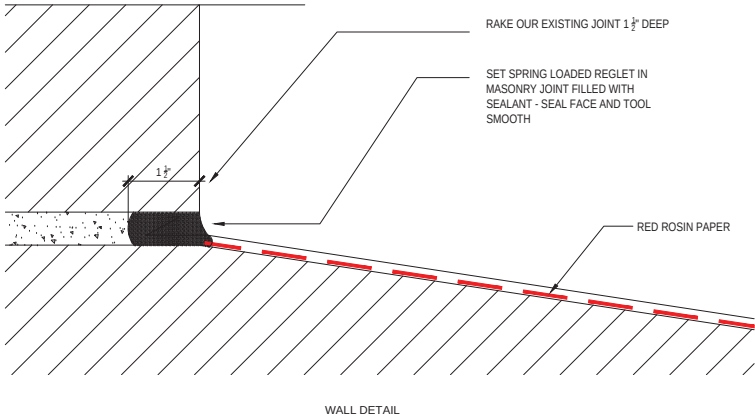
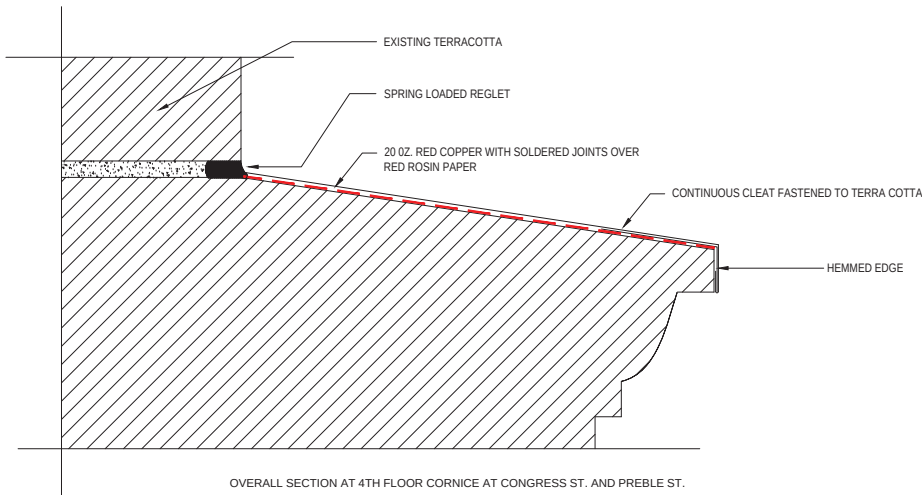


18 JULY 2024

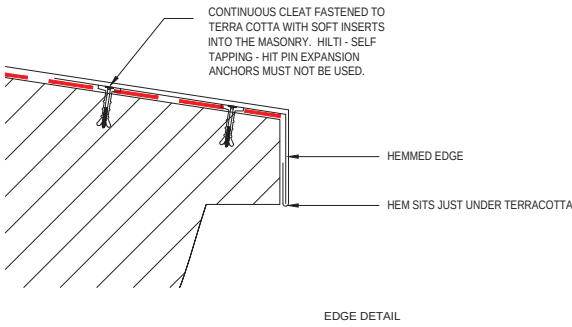
A6.59



COPPER FLAT SEAM JOINTS



WALL DETAIL



EDGE DETAIL

Project:

**TIME &
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477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

ENVELOPE
ARCHITECTURE & CONSULTING
BUILDING ENVELOPE CONSULTANTS
207.807.6661

Revisions:

Key Plan:

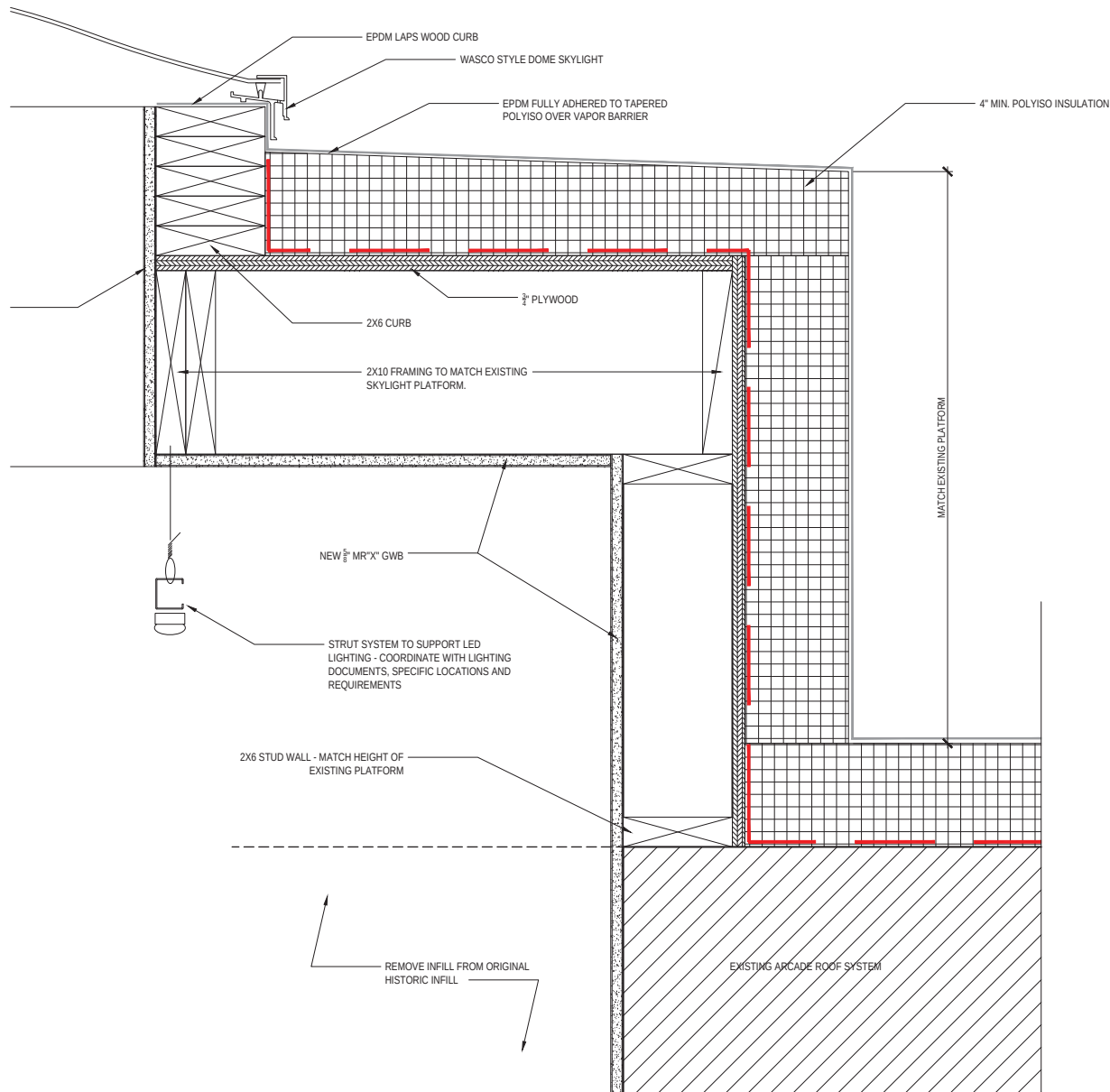
ROOF DETAILS

Scale:
AS NOTED

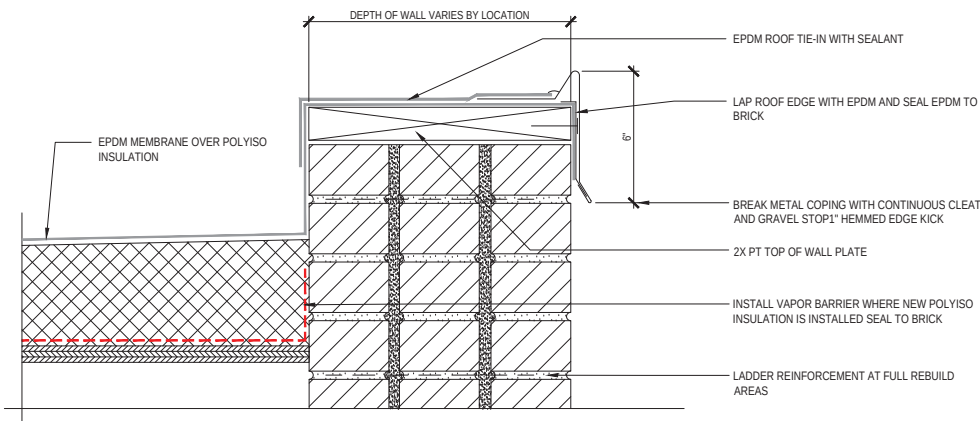


18 JULY 2024

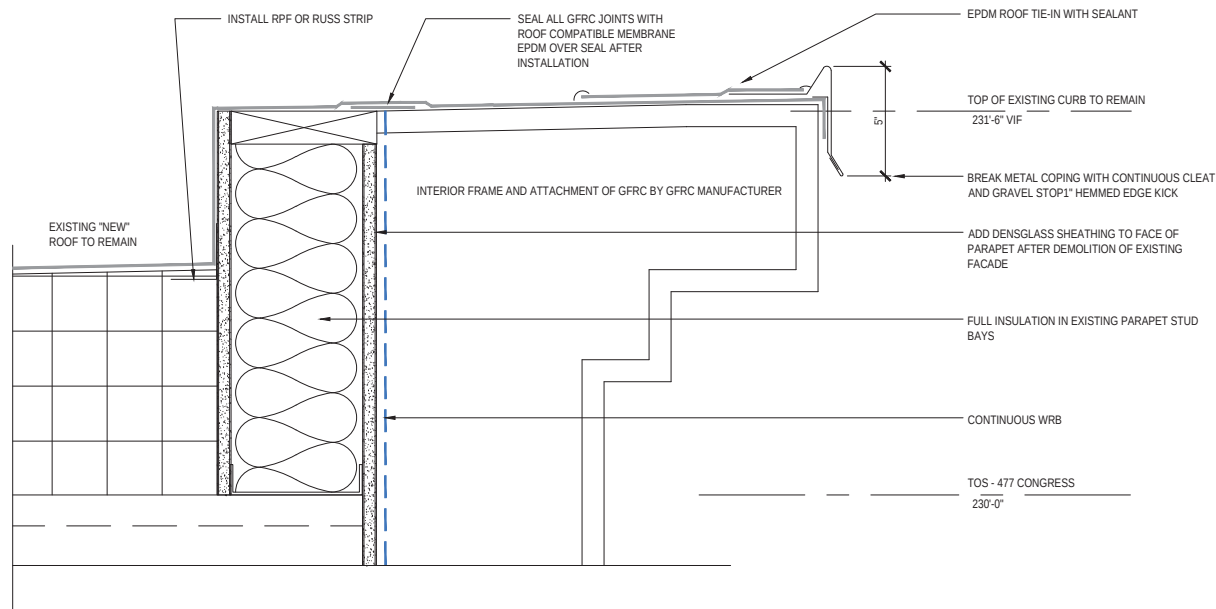
A6.60



4 ARCADE SKYLIGHT DETAIL
SCALE: 3/4"=1'-0"



3 ROOF PARAPET AT BRICK MASONRY
SCALE: 3/4"=1'-0"



1 ROOF TOP GFRC CORNICE
ALL DIMENSIONS TO BE VERIFIED IN THE FIELD PRIOR TO CONSTRUCTION.
SCALE: 3/4"=1'-0"

Project:

**TIME &
TEMPERATURE
BUILDING**

477 Congress Street
Portland, Maine

Owner/Client:

DEVELOPERS
COLLABORATIVE

Consultant:

Revisions:

Key Plan:

FRONT DOOR DETAILS

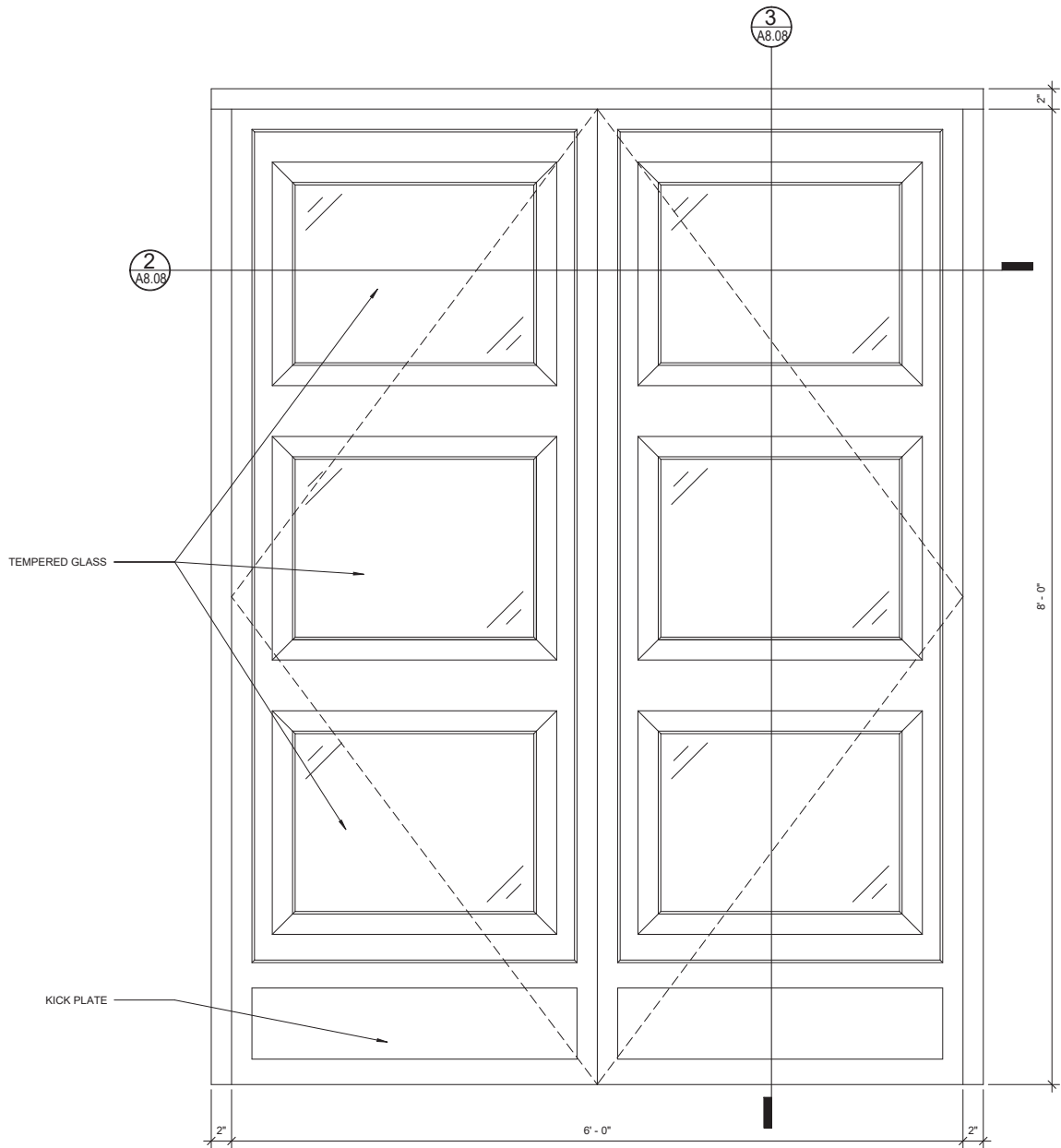
Scale:

As indicated



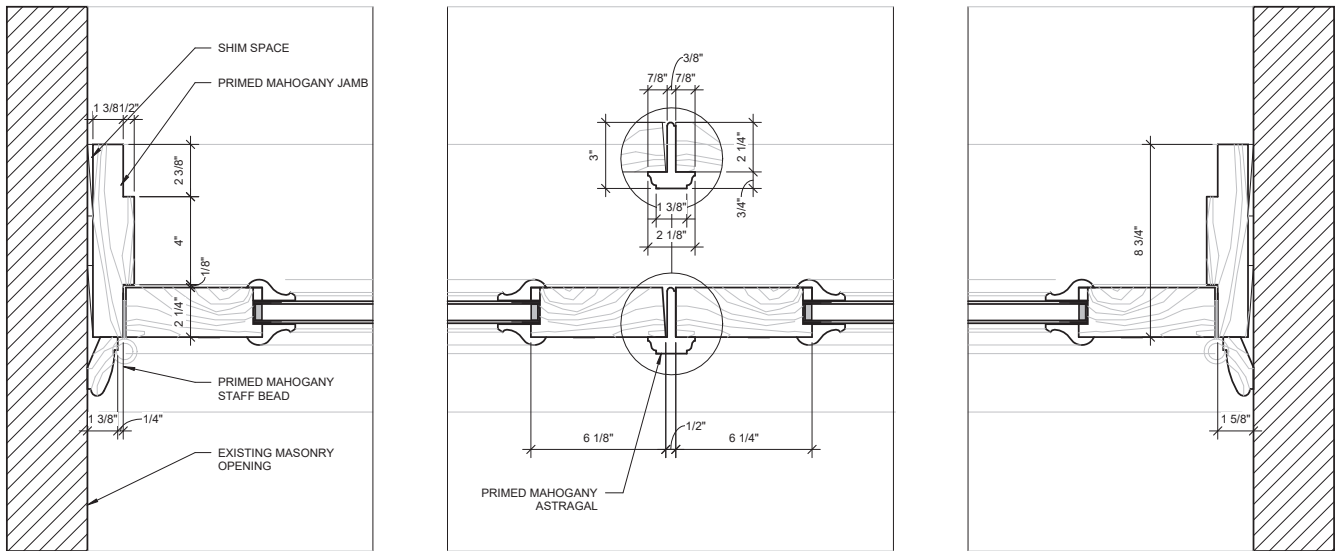
18 JULY 2024

A8.08



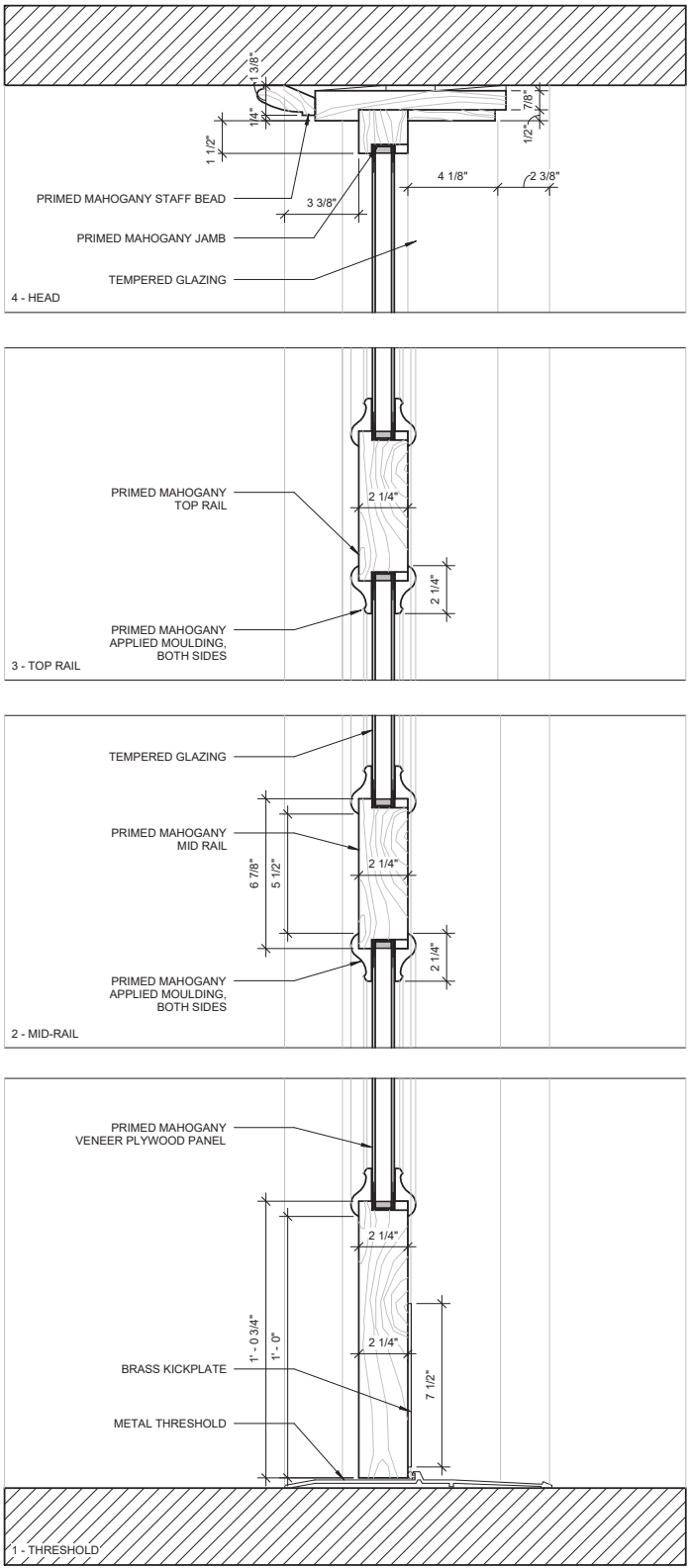
1 ENTRY DOOR ELEVATION

1 1/2" = 1'-0"



2 HORIZONTAL SECTION AT GLAZING

3" = 1'-0"



3 ENTRY DOOR VERTICAL SECTION

3" = 1'-0"



























TIME & TEMPERATURE BUILDING

477
CONGRESS STREET



107.5 FRANK FM - MAINE'S CLASSIC HITS STATION



37-F-22











479
Cong

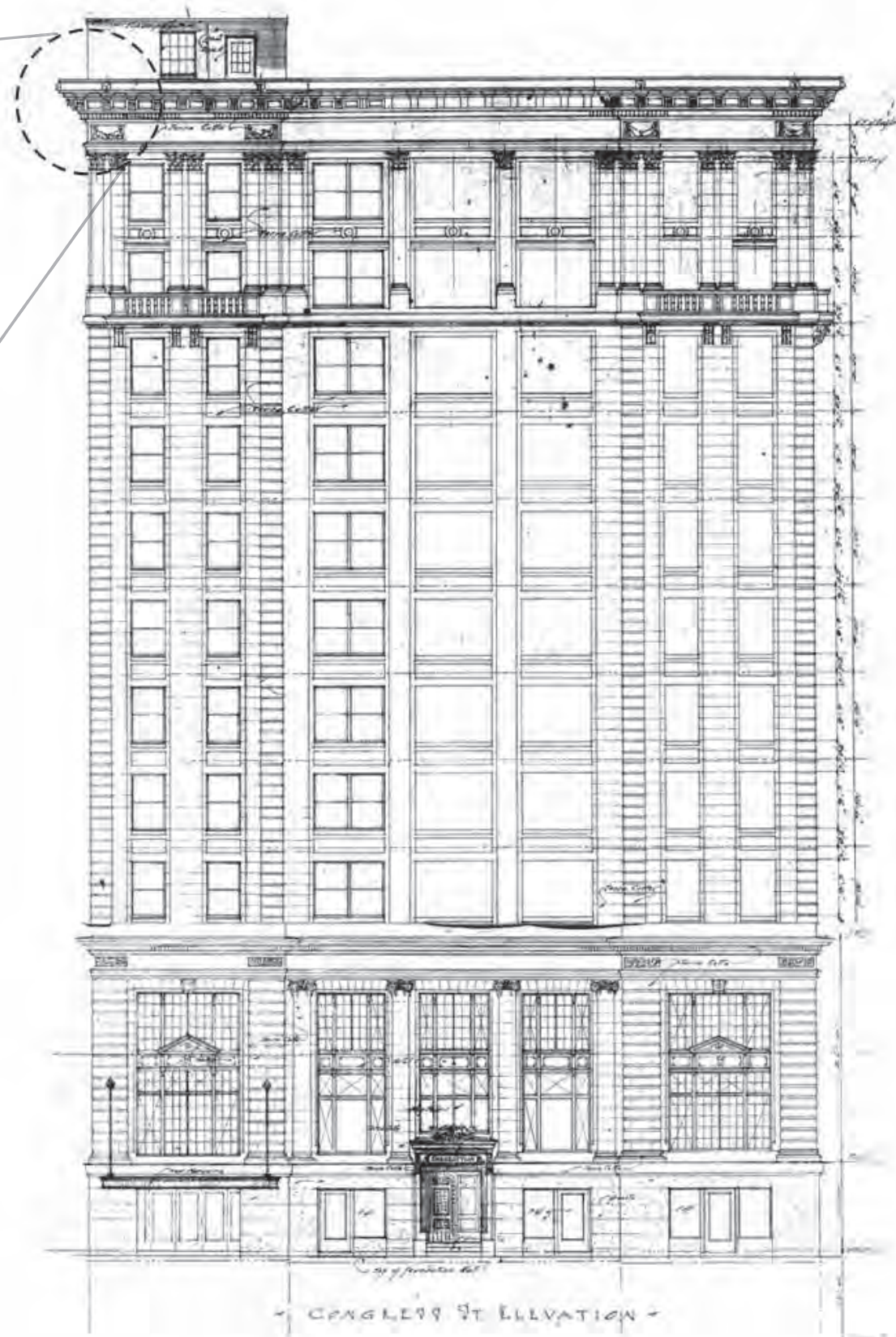
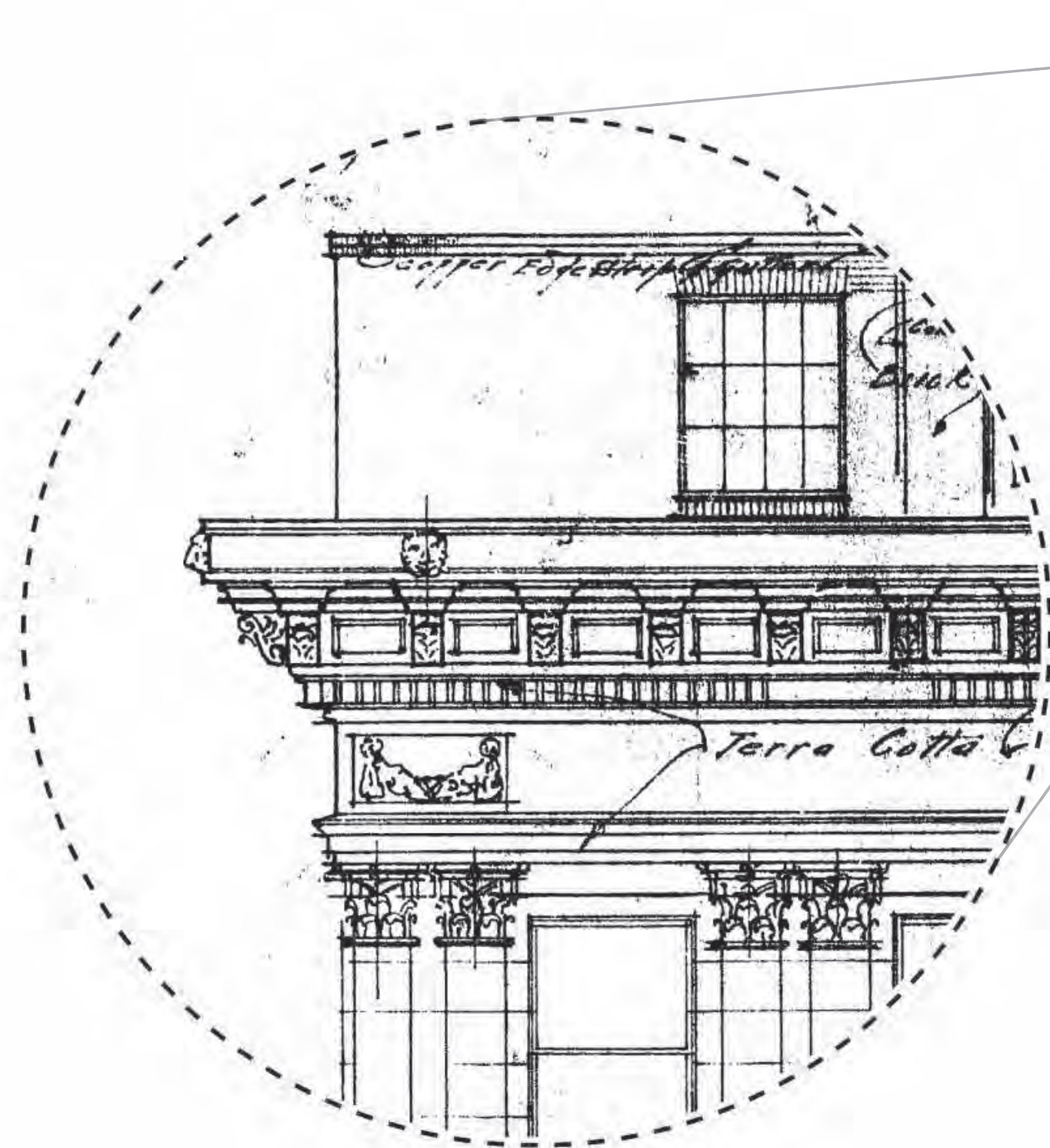
37-F-18



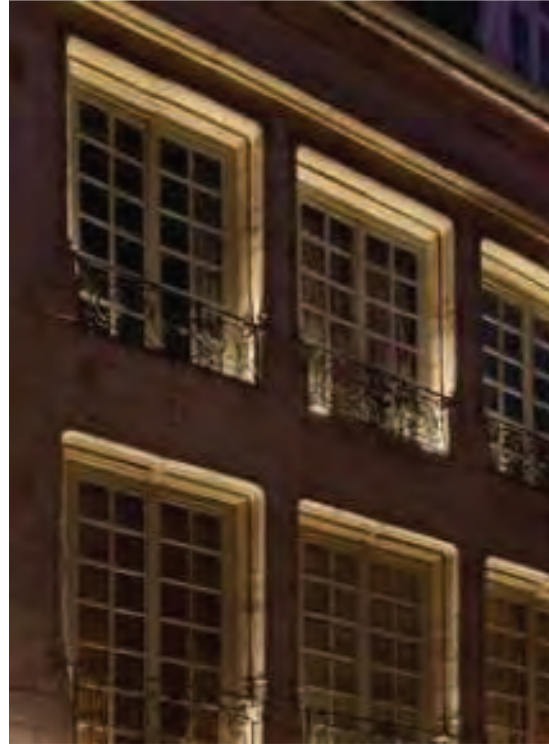
8-14
Preble



*Arcade
Preble*



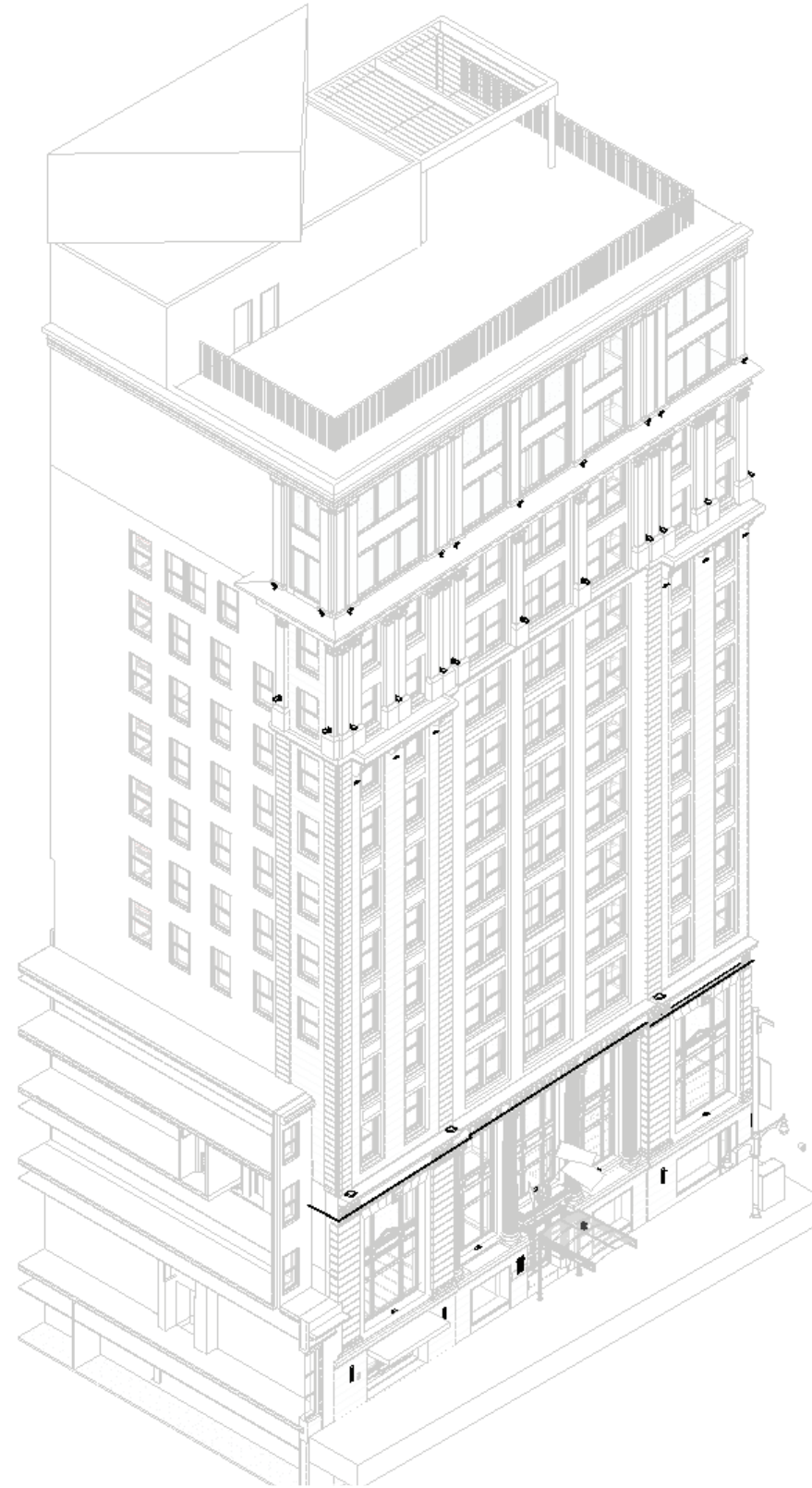
Facade



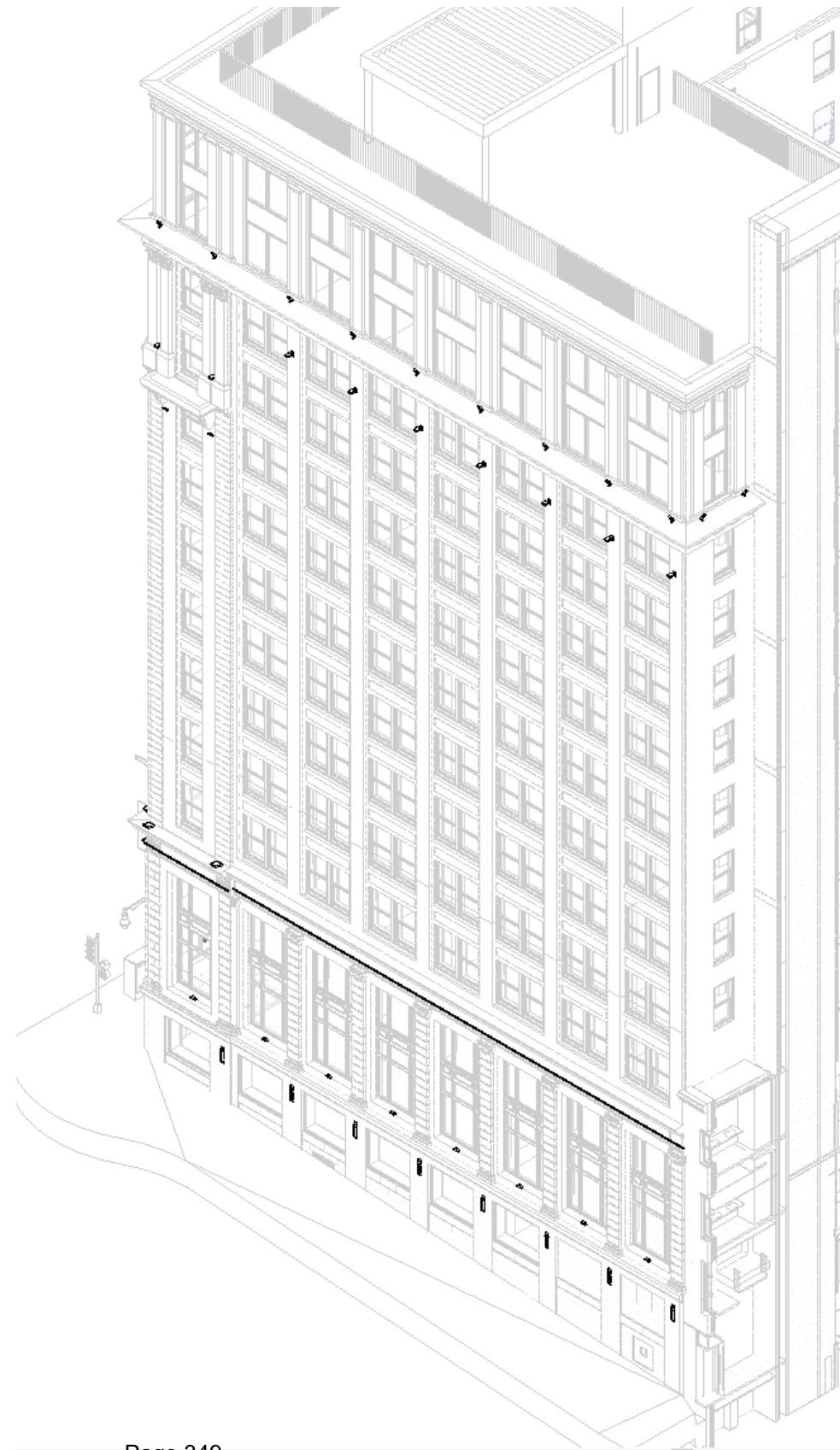
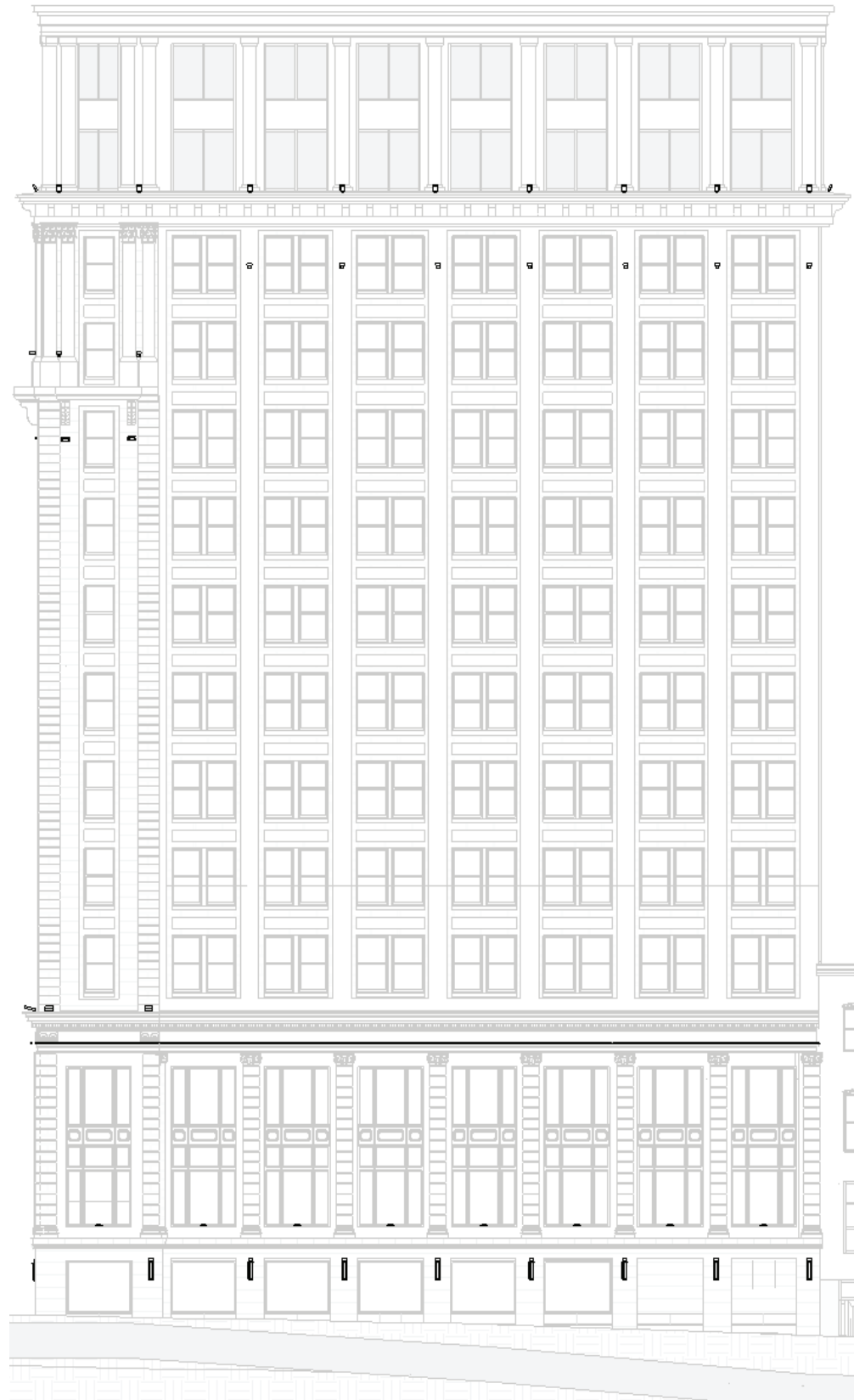
Facade



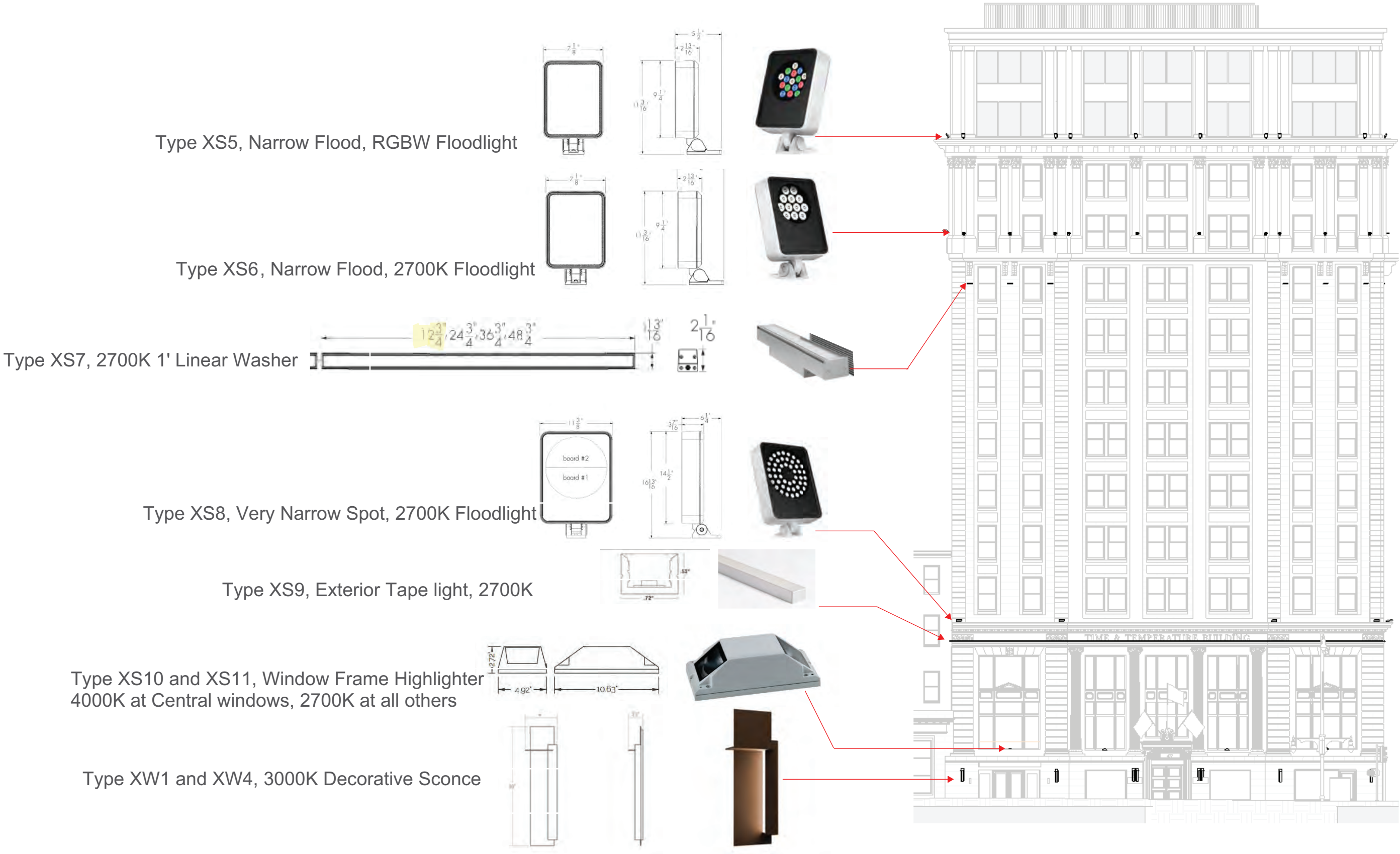
Congress St. Facade



Preble St. Facade



Congress St. Facade





Existing



Current Proposal



April 27, 2022

Marieke Thormann
Fathom Companies
80 Exchange Street
Portland, Maine 04101

Re: HPBR-001500-2021

Dear Marieke,

On April 20, 2022, the City of Portland Historic Preservation Board voted 6-0 (O'Brien absent) to approve your application for a Certificate of Appropriateness, submitted on behalf of Fathom Companies, for exterior alterations at 477 Congress Street. Approval was based on the application materials submitted for the public hearing on 4/20/22, and was made with the following conditions:

- The following final details are to be submitted to HP staff for final review and approval:
 - o Final details and selections for exterior lighting, including on the roof
 - o Signage plans
- Any changes to the plans approved by the Board on 4/20/22 must be submitted to HP staff for review and approval, prior to implementation.

All improvements shall be carried out as shown on the materials submitted for the 4/20/22 public hearing, except as to comply with the conditions above. Changes to the approved plans or specifications, and any additional work that may be undertaken must be reviewed and approved by this office prior to construction, alteration, or demolition. If, during the course of completing the approved work, conditions are encountered which prevent completing the approved work, or which require additional or alternative work, you must apply for and receive a Certificate of Appropriateness or Non-Applicability PRIOR to undertaking additional or alternative work.

This Certificate is granted upon condition that the work authorized herein is commenced within twelve (12) months after the date of issuance. If the work authorized by this Certificate is not commenced within twelve (12) months after the date of issuance or if such work is suspended in significant part for a period of one year after the time the work is commenced, such Certificate shall expire and be of no further effect; provided that, for cause, one or more extensions of time for periods not exceeding ninety (90) days each may be allowed in writing by the Department.

Sincerely,

A handwritten signature in black ink that reads "Robert Wiener". The signature is fluid and cursive, with the first name "Robert" and last name "Wiener" clearly distinguishable.

Robert Wiener, Preservation Compliance Coordinator

Cc: David Lloyd, Archetype Architects
Ginny Stanley, Archetype Architects
Deb Andrews, Historic Preservation Program Manager



CITY OF PORTLAND
Planning & Urban Development Department

Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____

**HISTORIC PRESERVATION APPLICATION
SUBMISSION CHECKLIST**

Please submit each document as a separate PDF file
Please confirm by electronically checking the boxes to the left

To supplement your application, please submit the following items *as applicable to your project*. Keep in mind that the written project description that you provide the Historic Preservation Board and staff, is the only description they will have of your project or design. Therefore, it should precisely illustrate the proposed alteration(s), additions, and/or infill construction.

GENERAL APPLICATION DOCUMENTS

Yes ☒	N/A ☐	Project Description Cover Letter with detailed project description
Yes ☒	N/A ☐	Completed Checklist for Historic Preservation review (this document)

PLANS, etc.

Yes ☒	N/A ☐	Exterior photographs of property (required for all applications). Include a general streetscape view, view of entire building, and close-ups of project area.
Yes ☒	N/A ☐	Sketches or elevation drawings at a minimum 1/4" scale.
Yes ☒	N/A ☐	Details or wall sections, where applicable.
Yes ☒	N/A ☐	Floor plans, where applicable.
Yes ☒	N/A ☐	Site Plan, where applicable, showing relative location of adjacent structures.
Yes ☐	N/A ☒	Catalog cuts or product information (e.g. proposed windows, doors, fencing).
Yes ☐	N/A ☒	Materials – list all visible exterior materials.



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Urban Development
Certification Program



April 27, 2022

Marieke Thormann
Fathom Companies
80 Exchange Street
Portland, Maine 04101

Re: HPBR-001500-2021

Dear Marieke,

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Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date:

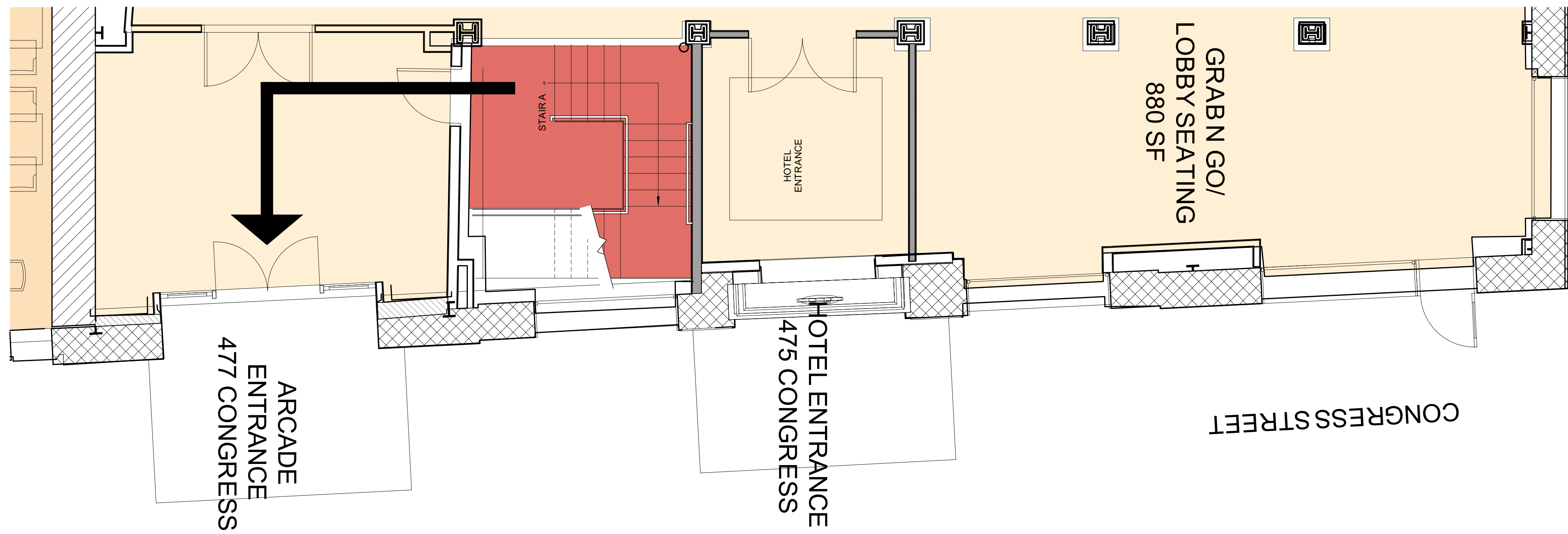
is granted upon condition that the work authorized herein is commenced
12) months after the date of issuance. If the work authorized by this Certificate is
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significant part for a period of one year after the time the work is commenced,

such certificate shall expire and be of no further effect; provided that, for cause, one or more
extensions of time for periods not exceeding ninety (90) days each may be allowed in writing by
the Department.

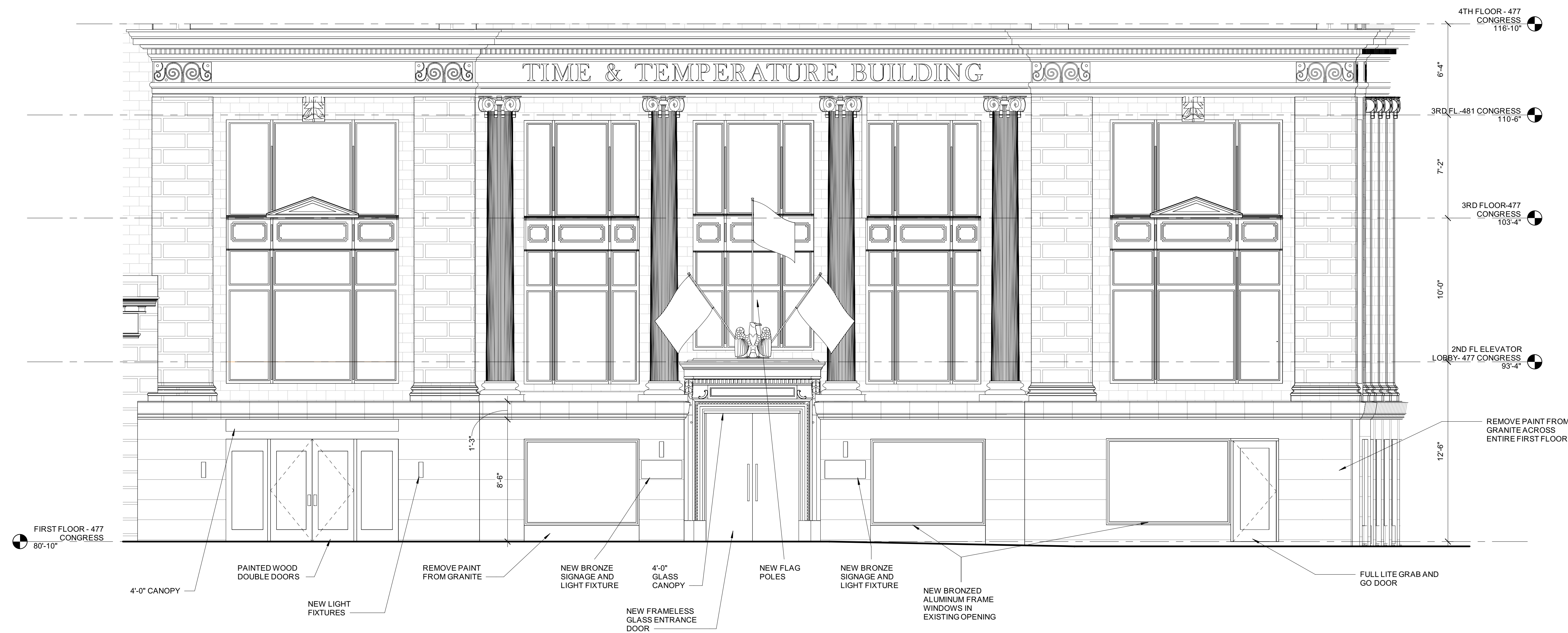
Sincerely,

Robert Wiener, Preservation Compliance Coordinator

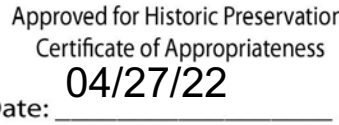
Cc: David Lloyd, Archetype Architects
Ginny Stanley, Archetype Architects
Deb Andrews, Historic Preservation Program Manager



2 | FIRST FLOOR CONGRESS STREET TOWER - NEW
1/4" = 1'-0"



1 | CONGRESS STREET FIRST FLOOR TOWER ELEVATION - NEW
1/4" = 1'-0"



Architectural section drawing of the 481 Congress building, showing the vertical dimensions and floor levels. The drawing is oriented vertically, with the ground level at the bottom.

Floor Levels and Dimensions:

- 4TH FL. - 481 CONGRESS:** 120'-0"
- 3RD FL. - 481 CONGRESS:** 110'-6"
- 2ND FL. - 481 CONGRESS:** 98'-10"
- FIRST FLOOR - 481 CONGRESS:** 81'-8"

Overall Dimensions:

- 9'-6"** (Height from 4th floor to 3rd floor)
- 11'-8"** (Height from 3rd floor to 2nd floor)
- 17'-2"** (Height from 2nd floor to 1st floor)
- 10'-4 7/8"** (Height from ground to 2nd floor)

Labels and Features:

- ORNATE ENTRANCE** (Pointing to the entrance on the first floor)
- GREEN MARBLE** (Pointing to the entrance area on the first floor)

Section Orientation: The drawing is labeled "SECTION" at the bottom right.

Architectural elevation drawing of the storefront of 477 Congress. The drawing shows the first floor and upper levels, with dimensions and labels for various elements.

Dimensions:

- Overall height: 116'-10"
- Height from 4th floor to 3rd floor: 6'-4"
- Height from 3rd floor to 2nd floor: 7'-2"
- Height from 2nd floor to 1st floor: 10'-0"
- Height of 2nd floor lobby: 93'-4"
- Height of 1st floor: 80'-10"
- Height of 10" granite riser: 12'-6"

Labels:

- 4TH FLOOR - 477 CONGRESS
- 3RD FL - 481 CONGRESS
- 3RD FLOOR - 477 CONGRESS
- 2ND FL ELEVATOR LOBBY - 477 CONGRESS
- FIRST FLOOR - 477 CONGRESS
- NEW PAINTED MAHOGANY STOREFRONT WINDOWS
- NEW PAINTED MAHOGANY DOOR
- 10" GRANITE RISER

URANT
4 SF
OUNT 74

RESTAURANT
ENTRANCE
481 CONGRESS

CONGRESS ST

Consultant:

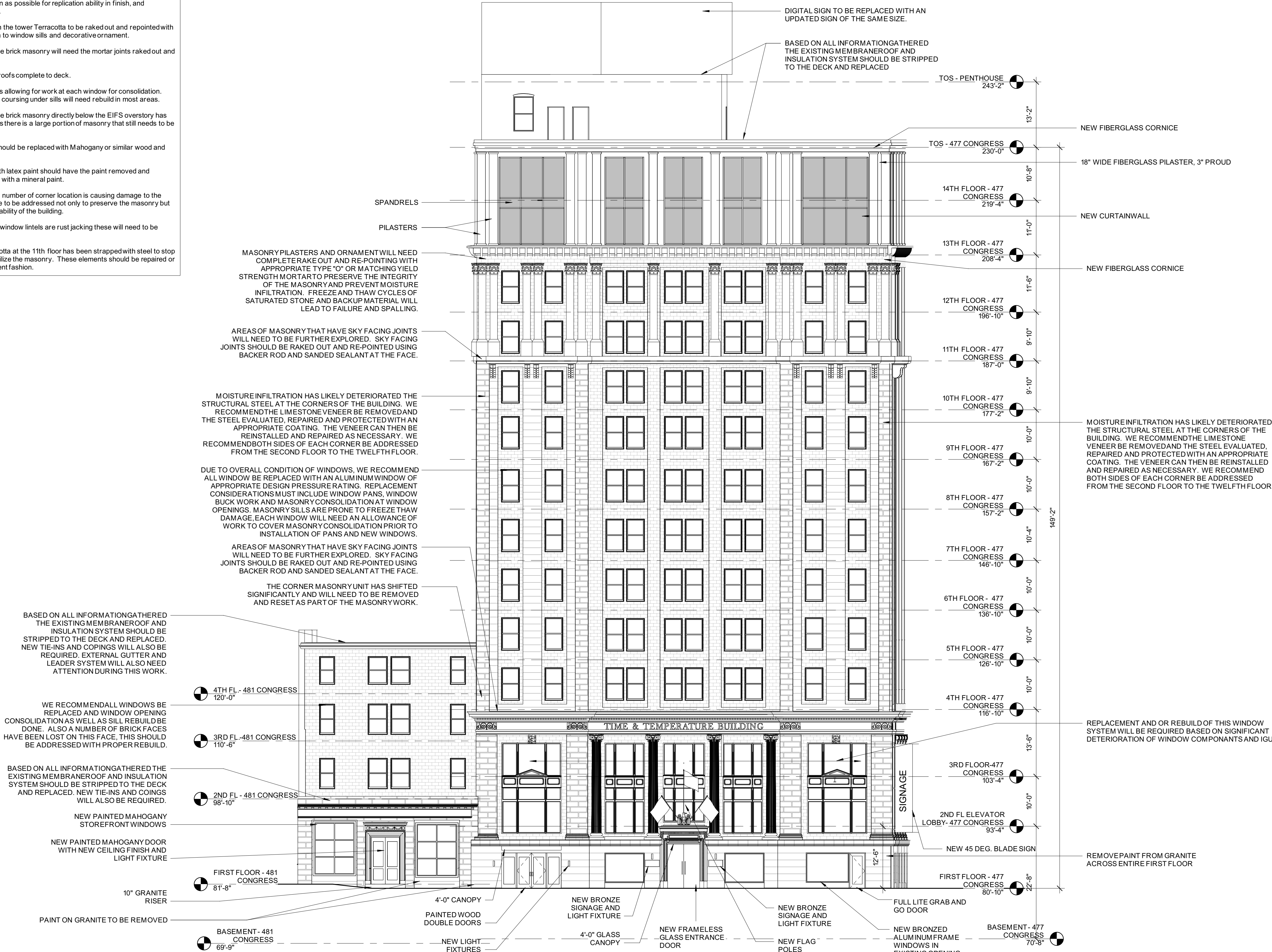
Prepared For:

PRESIDIUM



Preliminary General Notes:

1. Terracotta cladding is difficult to work with and expensive to replace. Skilled masons must be used to ensure existing pieces are protected and new work is placed properly. We recommend existing TC be sent to the two leading manufacturers as soon as possible for replication ability in finish, and deliverable schedules.
2. All masonry joints in the tower Terracotta to be raked out and repointed with special attention given to window sills and decorative ornament.
3. A large portion of the brick masonry will need the mortar joints raked out and repointed.
4. Replace all EPDM roofs complete to deck.
5. Replace all windows allowing for work at each window for consolidation. Brick window sills and coursing under sills will need rebuild in most areas.
6. A large portion of the brick masonry directly below the EIFS overstory has been rebuilt, it appears there is a large portion of masonry that still needs to be rebuilt.
7. Wood storefronts should be replaced with Mahogany or similar wood and IGU windows.
8. All bricks coated with latex paint should have the paint removed and repainted after repairs with a mineral paint.
9. Structural Steel in a number of corner location is causing damage to the masonry, this will have to be addressed not only to preserve the masonry but to ensure structural stability of the building.
10. A number of steel window lintels are rust jacking these will need to be replaced.
11. Decorative Terracotta at the 11th floor has been strapped with steel to stop deterioration and stabilize the masonry. These elements should be repaired or replaced in a permanent fashion.



2 | CONGRESS ST - ELEVATION - NEW
3/32" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:

ARCHETYPE
ARCHITECTS

48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

TIME &
TEMPERATURE
HOTEL

477 Congress Street
Portland, Maine

Revisions:

Scale:

3/32" = 1'-0"

Date:

22 FEB, 2021

CONGRESS ST
ELEVATION

A4.21



C H E T Y P E

Approved for Historic Preservation **Temperature Building**
Certificate of Appropriateness

04/27/22

Date: _____

We are presently in the Schematic Design Phase of the renovation of the Time and Temperature Building. The entire complex starts at 479 Congress St., the former TD North Bank, runs easterly along Congress St. and down northerly to 22 Preble St. The project will receive Historic Tax Credits and as such will be reviewed by the Maine Historic Commission and the National Park Service. I am also pleased to say that our Historical Consultant is Scott Hanson. The finish product will include up to 196 hotel rooms, meeting and banquet rooms, a restaurant, some retail, and a rooftop bar. Following is a brief summary of the exterior renovations starting at 479 Congress St., moving easterly down Congress St. then northerly down to 22 Preble St.

1. 479 Congress ST. Circa 1922, former TD Bank, DWG A7.11, new storefronts built in mahogany and painted will flank a new painted wood entry door replacing aluminum storefronts and door.
2. 477 Congress St., DWG A7.12 existing arcade entry doors, presently mahogany will be repaired and painted.
3. 475 Congress St. circa 1923, Dwg A7.12 is the tower. The original bank entry abandoned for many years and replaced with the aluminum door will be replaced with a frameless glass door and glass canopy, above the door's flags will be placed. Original entry did show a single American flag above door. Also, along this elevation new storefront windows will be installed in existing MO, with a bronzed aluminum frame. We have also shown a new door to the "grab and go" shop which will be open to hotel guests and passersby. Note historically the base of this building did have retail stores. The granite base which is painted will have paint removed
4. On the second and 3rd floors of this façade, which runs along Congress and down Preble, the large windows have a steel frame which will be repaired and a central ornamental panel which will be reconditioned.
5. Moving northerly down Preble St. DWG A7.5 has similar conditions as mentioned in item 3.
6. Continuing down Preble St, DWG A7.16 shows existing storefronts in poor condition which will be rebuilt in wood and painted. The painted brick will be repainted. Above the storefronts on the second floor the large, fixed windows with flanking double hungs will be repaired and painted. The double hungs, which are aluminum will be replaced with wood double hungs.
7. DWG A7.17 shows new wood painted storefronts, all existing storefronts replaced, the entry to 22 Preble St. will receive a new canopy and signage above a reflection of what was there historically. The windows above on the second floor will be reconditioned.
8. All masonry will be field verified for soundness and repointed or repaired as necessary, Exterior materials include painted brick, unpainted brick, limestone, and granite.



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____

C H E T Y P E

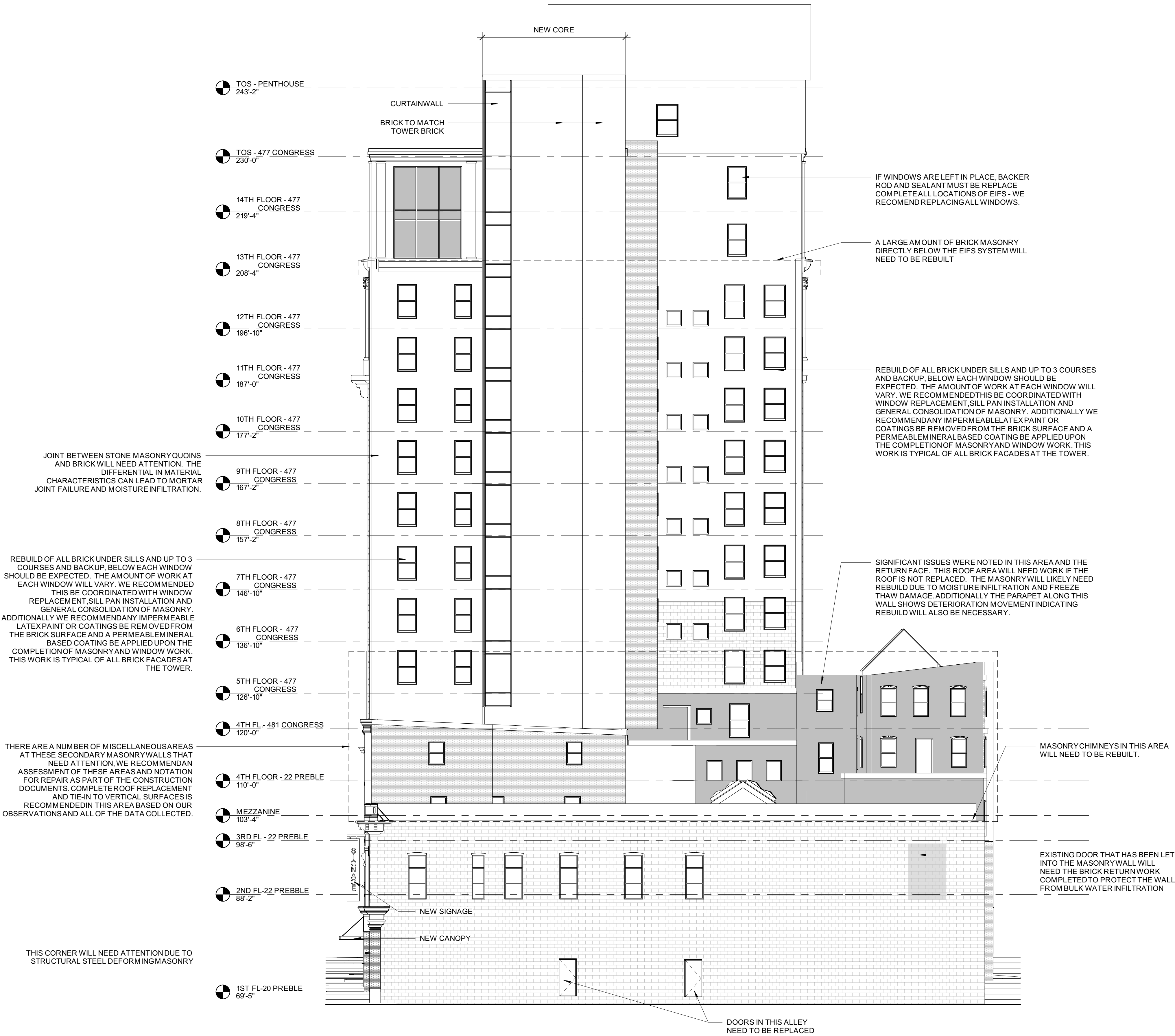
n tower circa 1923 had a two-story addition placed on the building in 1963. It was painted metal panel, sometime in the 1980's Dryvit was applied to the metal. This entire façade will be removed and replaced with a fiberglass cornice and with an infill of curtain wall between the pilasters. The cornice and pilasters will be original cornice and the pilasters are lined up with pilasters from below. See 1.21

10 On the northern end of the tower a new elevator and fire egress stair will be added to bring the building up to code. It will be clad in a brick similar in color to the adjacent bricks. See DWG A4.23

We are very pleased to submit these preliminary drawings to the board for their consideration and discussion.

Respectfully,

David Lloyd
Maine Licensed Architect #936



1 | NORTH ELEVATION NEW
3/32" = 1'-0"

Prepared For:
PRESIDIUM

Consultant:

Architect:
**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:
**TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

Revisions:

Scale:
3/32" = 1'-0"

Date:
22 FEB, 2021

NORTH ELEVATIONS

A4.23



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____



NO LOITERING
NO SMOKING
WITHIN 20 FEET
OF ENTRANCE

24

Greater Portland
Immersion
Welcome Center
Black Portland
Training Center

PAY M



PA
P
Dutch's
Breakfast & Lunch



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

Date: 04/27/22





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

Date: 04/27/22





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____

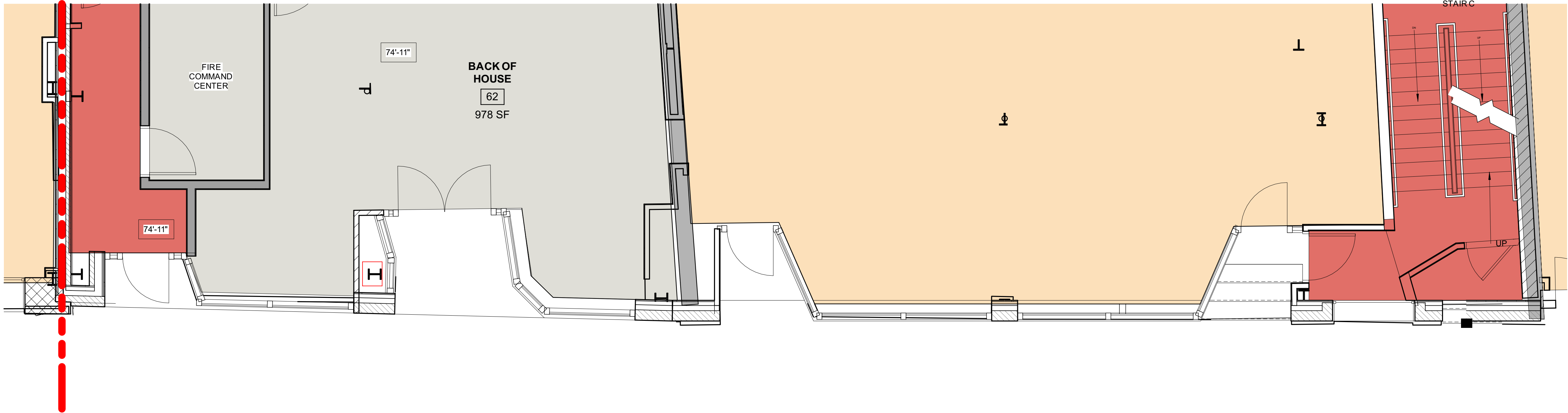




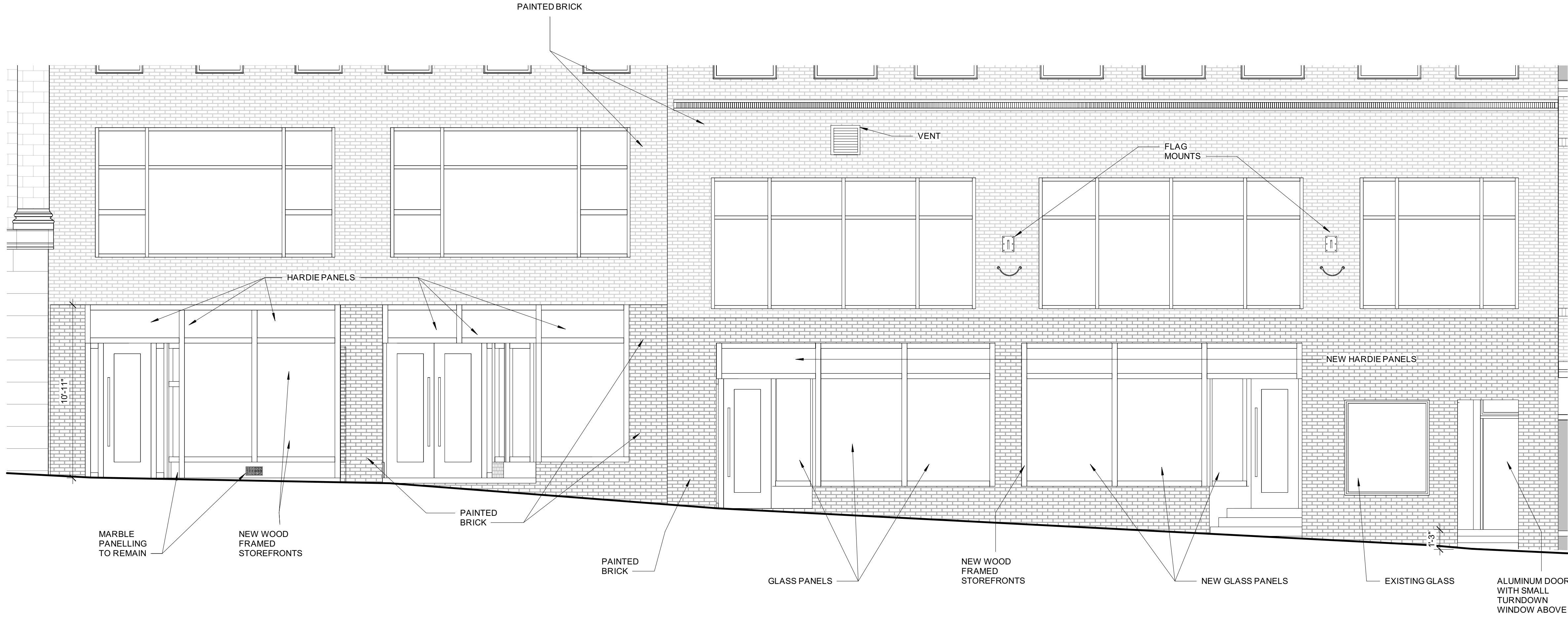
Approved for Historic Preservation
Certificate of Appropriateness
04/27/22
Date:

OFFICE

42



2 | FIRST FLOOR PREBLE STREET ANNEX 2 - NEW
1/4" = 1'-0"



1 | PREBLE STREET FIRST FLOOR ANNEX 2 ELEVATION - NEW
1/4" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:
**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project: **TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

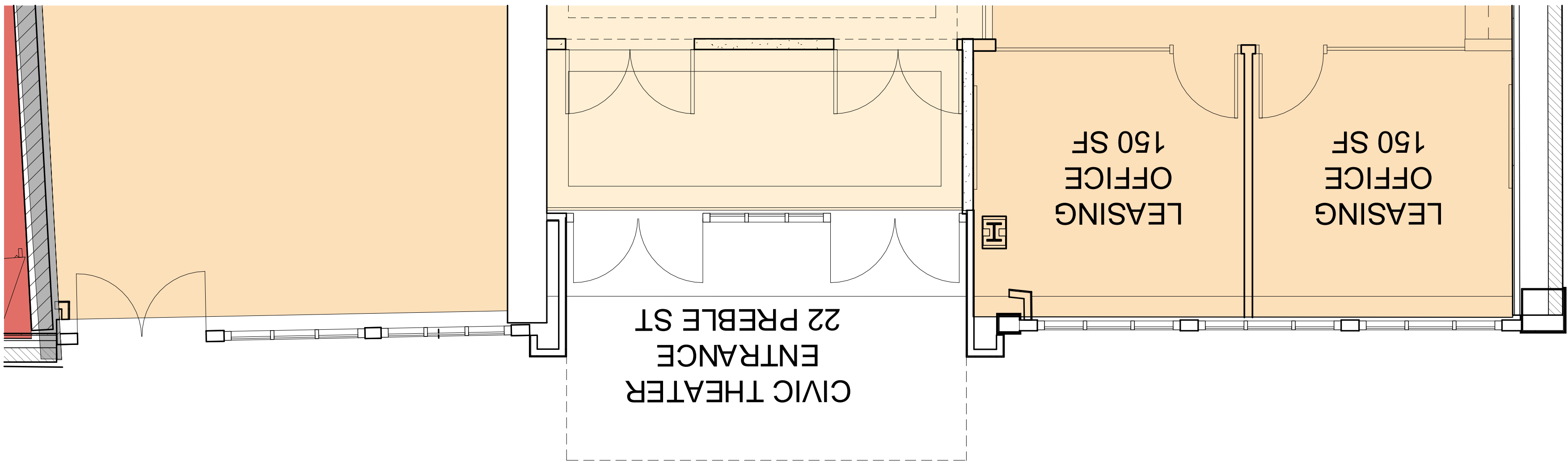
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Scale: 1/4" = 1'-0"

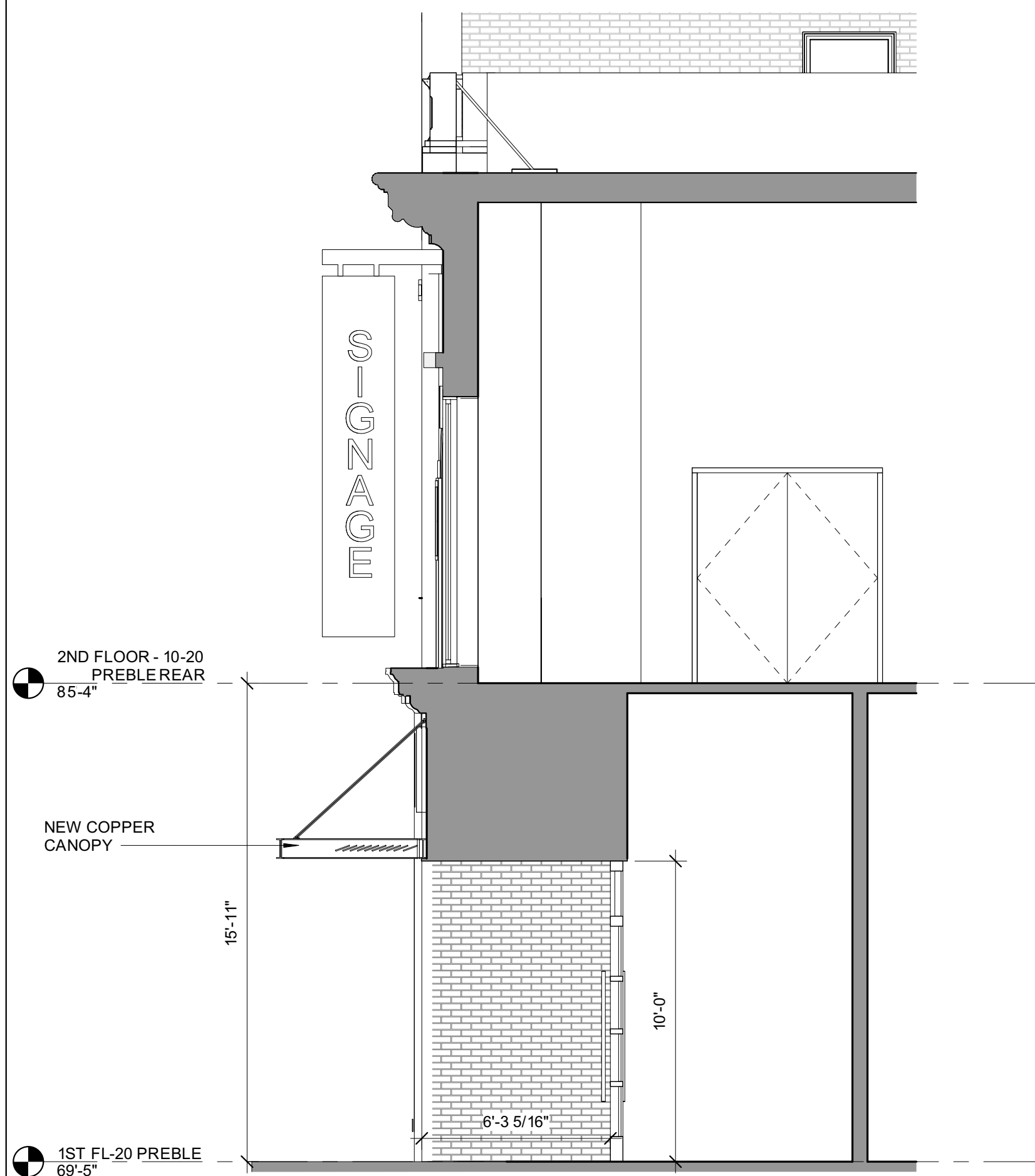
Date: 22 FEB, 2021

PREBLE STREET
DETAILS - NEW

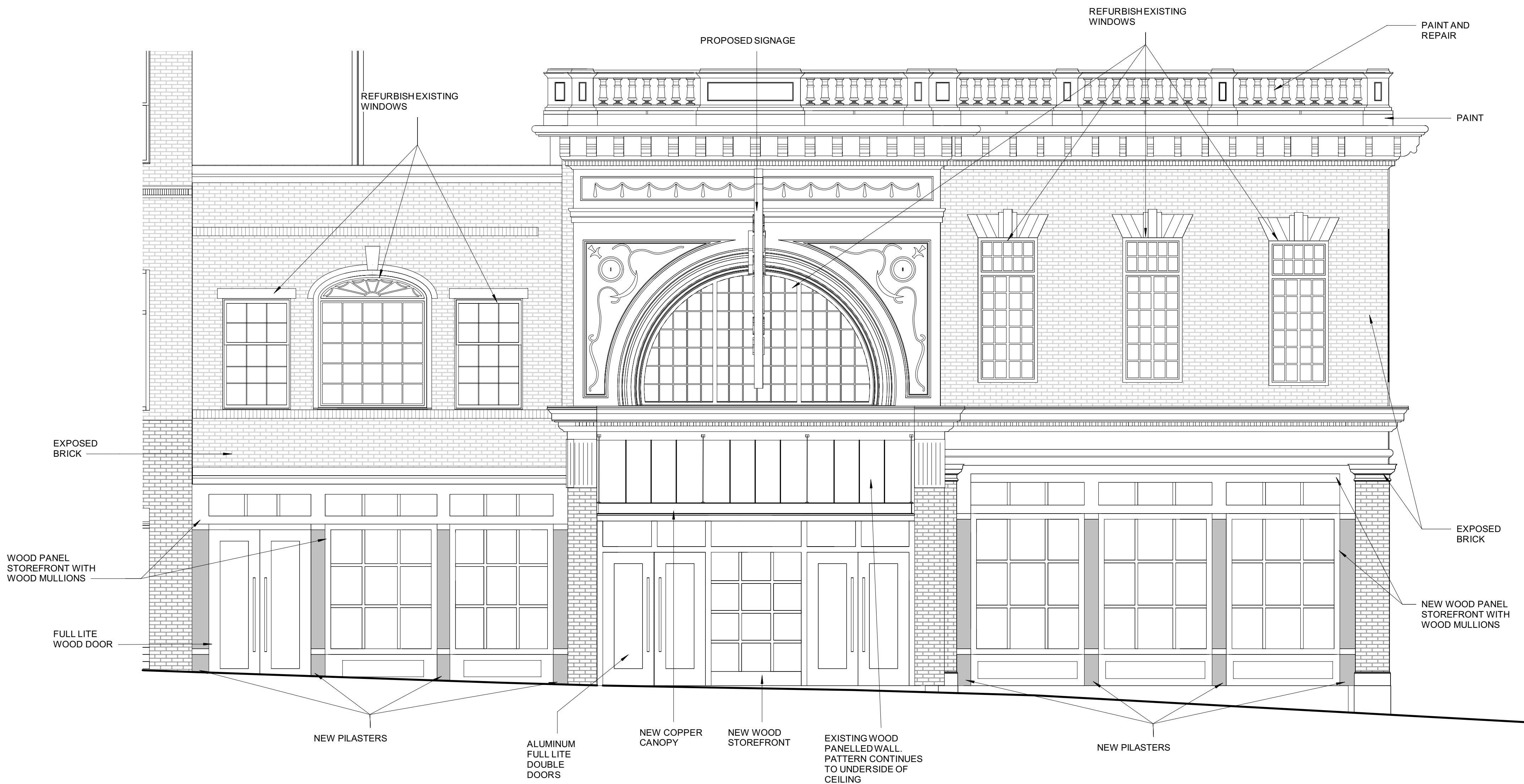
A7.16



2 | FIRST FLOOR PREBLE STREET ANNEX - NEW
1/4" = 1'-0"



3 | 22 PREBLE ENTRANCE SECTION
1/4" = 1'-0"



1 | PREBLE STREET FIRST FLOOR ANNEX ELEVATION - NEW
1/4" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:

ARCHETYPE
ARCHITECTS
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

**TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

Revisions:

Date:
22 FEB, 2021

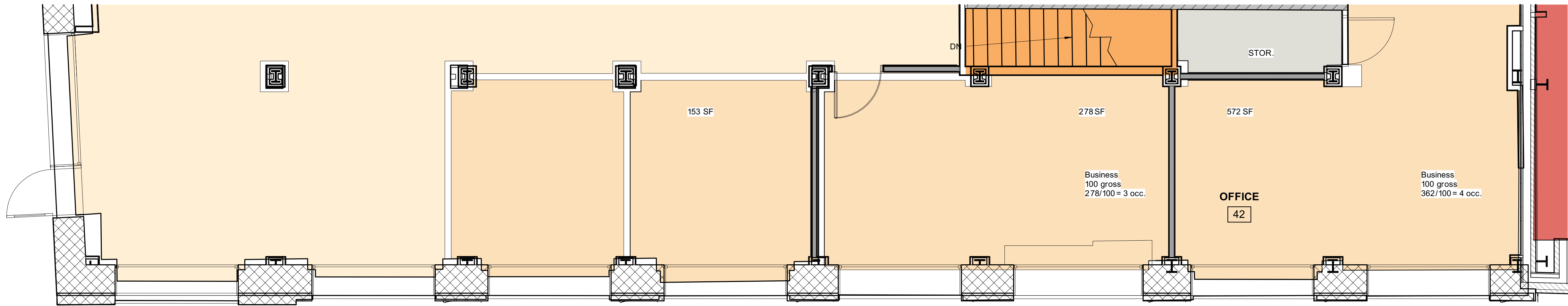
Scale:
1/4" = 1'-0"

**PREBLE STREET
DETAILS - NEW**

A7.17



Approved for Historic Preservation
Certificate of Appropriateness
04/27/22
Date:



PREBLE STREET

2 | FIRST FLOOR PREBLE STREET TOWER - NEW
1/4" = 1'-0"



1 | PREBLE STREET FIRST FLOOR TOWER ELEVATION - NEW
1/4" = 1'-0"

Prepared For:
PRESIDIUM

Consultant:

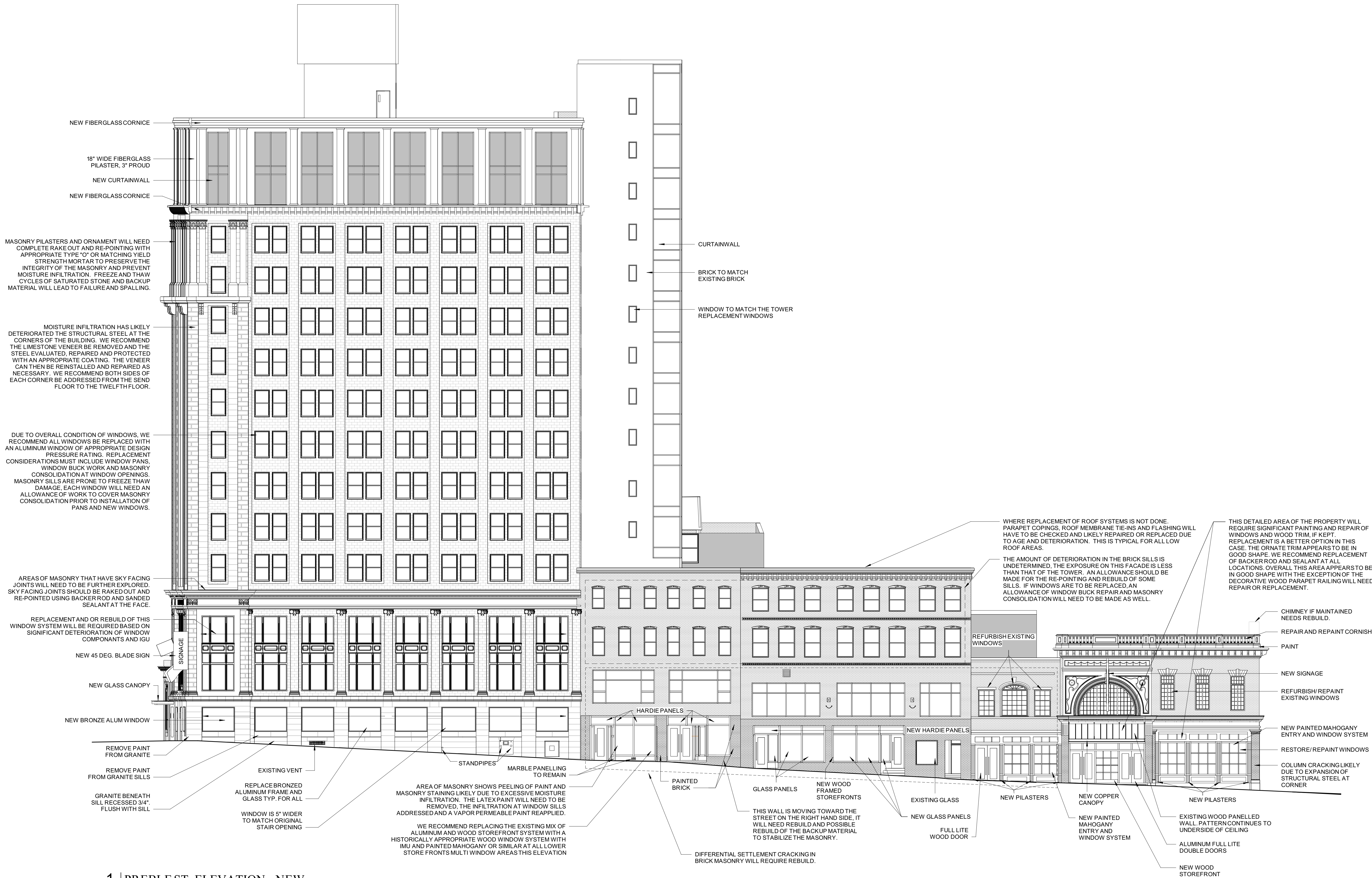
Architect:
**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project: **TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

Revisions:

Date: 22 FEB, 2021
Scale: 1/4" = 1'-0"
**PREBLE STREET
DETAILS - NEW**

A7.15



1 | PREBLE ST. ELEVATION - NEW
3/32" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:

ARCHETYPE
ARCHITECTS

48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

TIME &
TEMPERATURE
HOTEL

477 Congress Street
Portland, Maine

Revisions:

Scale:

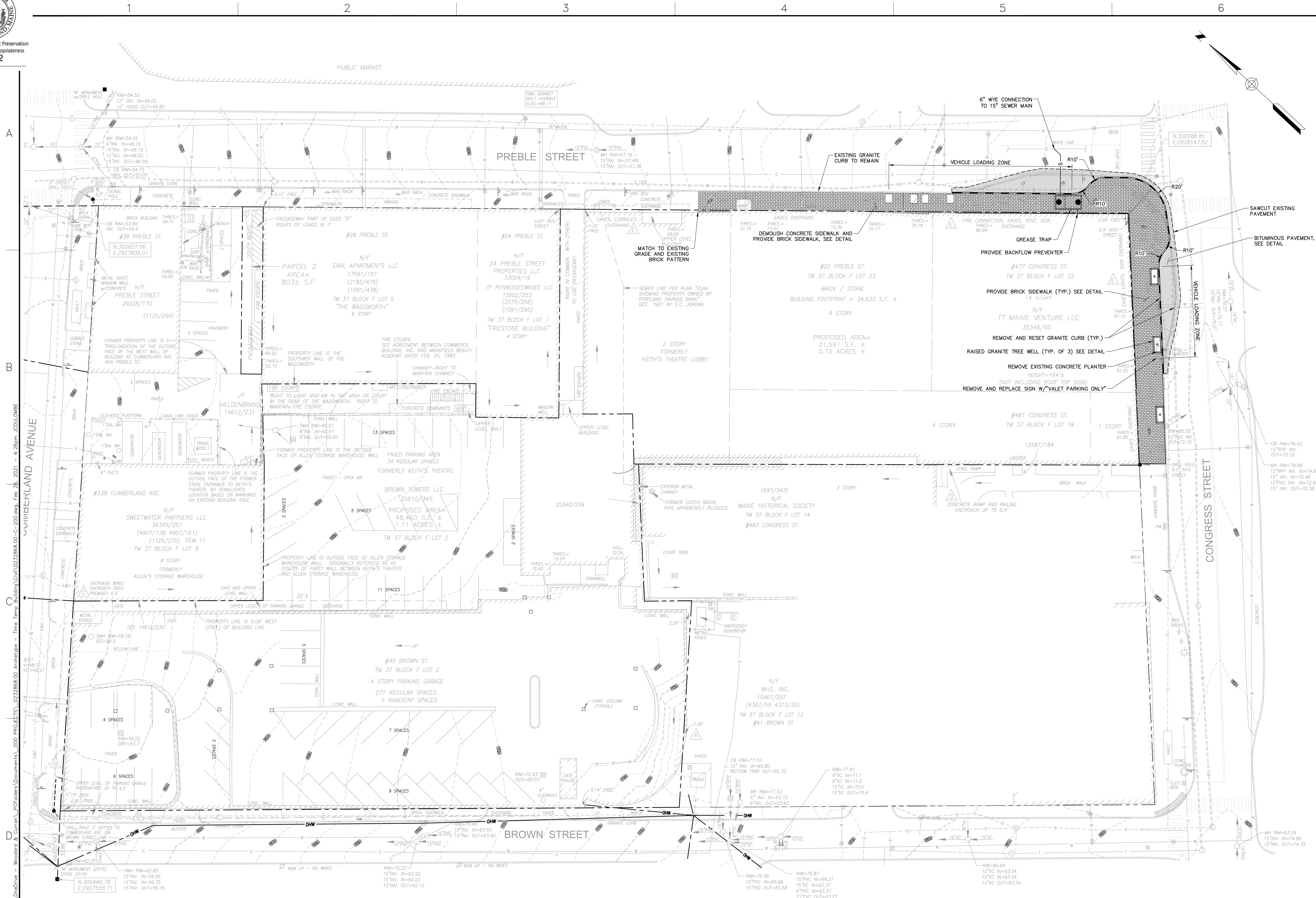
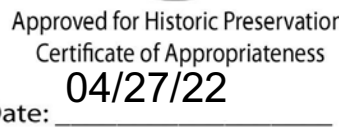
3/32" = 1'-0"

Date:

22 FEB, 2021

PREBLE ST.
ELEVATION

A4.22



REV		DESCRIPTION		DATE
	DESIGNED BY: XXX		CHECKED BY: XXX	
	DRAWN BY: JBC		022868100-C-200.dwg	

SITE PLAN

477 CONGRESS HOTEL
PORTLAND, MAINE

HRI PROPERTIES
812 GRAVIER STREET, SUITE 200
NEW ORLEANS, LA 70112

JOB NO.:0232868.00
DATE:FEBRUARY 2020
SCALE:1" = 20'
SHEET: 2 OF 3

C-200



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____







Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____



Existing



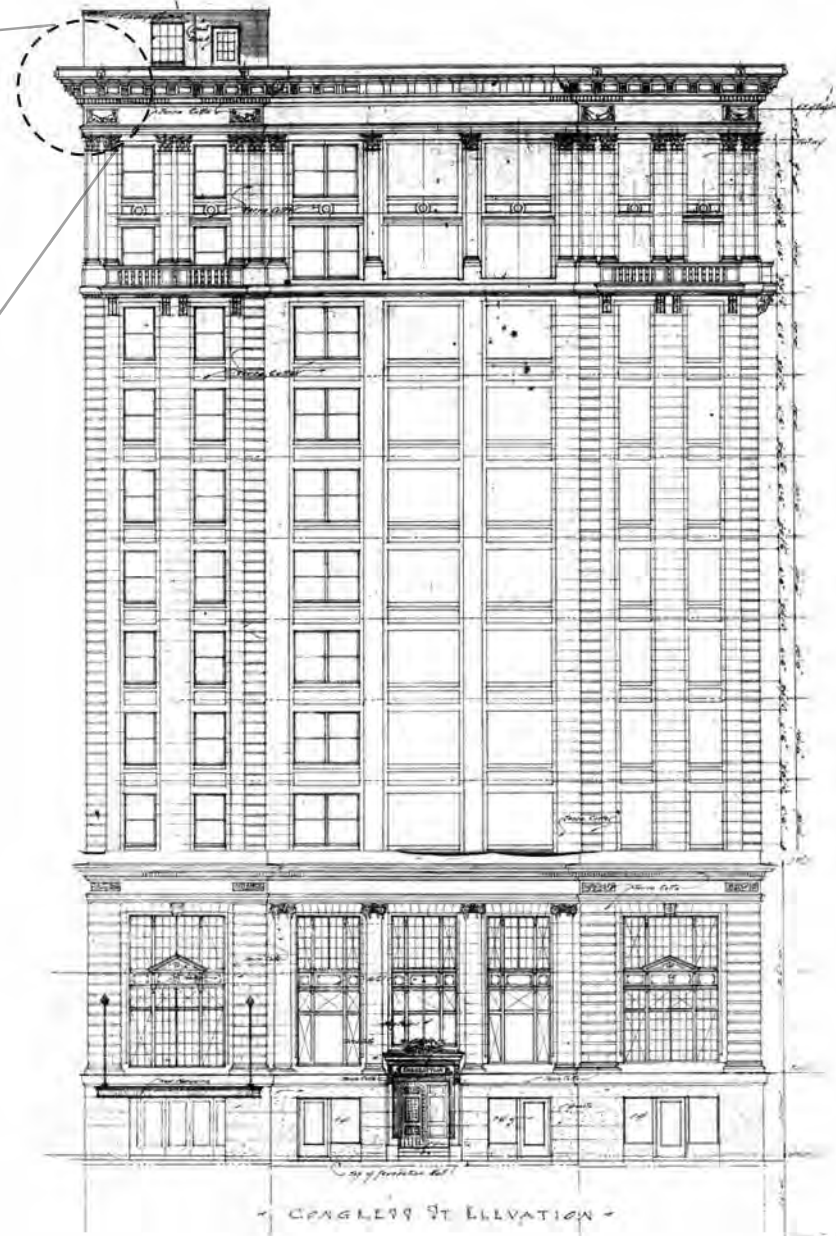
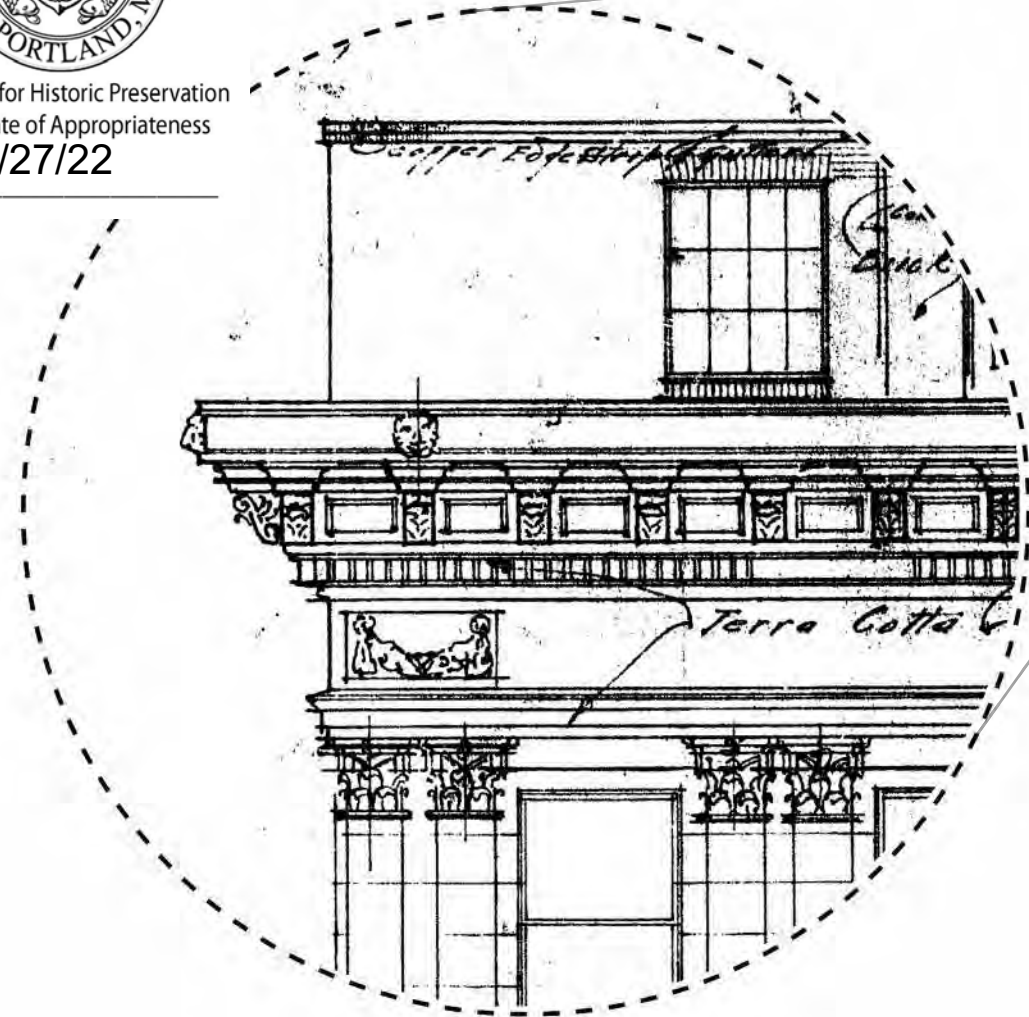
Current Proposal



Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____

NEW RAILING FOR ROOF
DECK

NEW GLASS FIBER
REINFORCED CONCRETE
SOFFIT

TOS - 477 CONGRESS
230'-0"

CURTAIN WALL

EXISTING FLOOR SYSTEM

CURTAIN WALL

14TH FLOOR - 477 CONGRESS
219'-4"

CURTAIN WALL SPANDREL
PANEL

EXISTING FLOOR SYSTEM

CURTAIN WALL

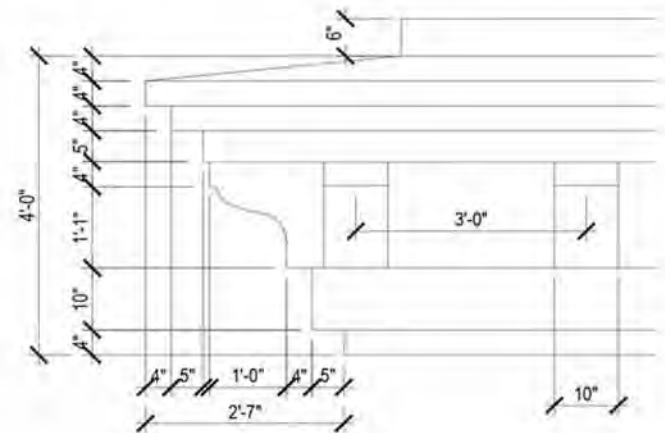
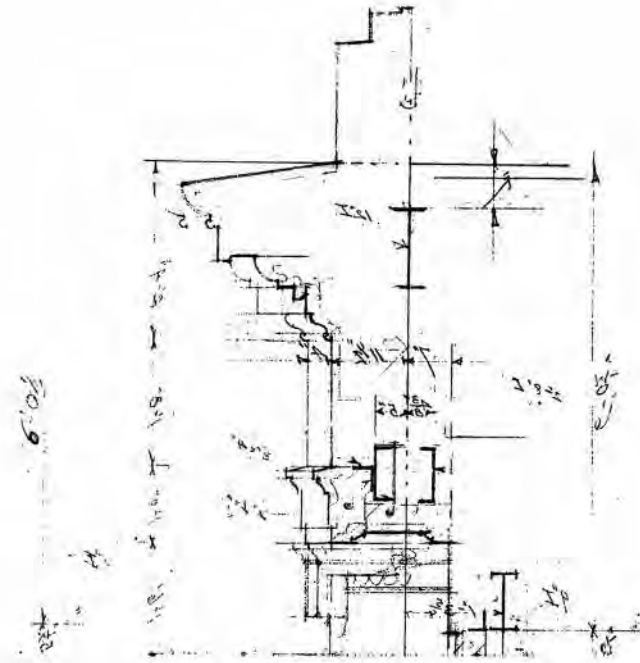
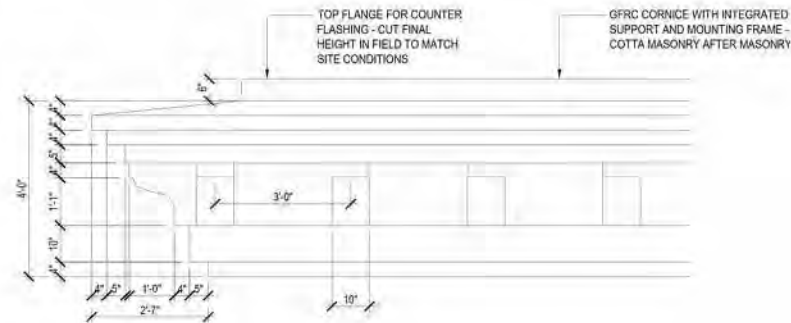
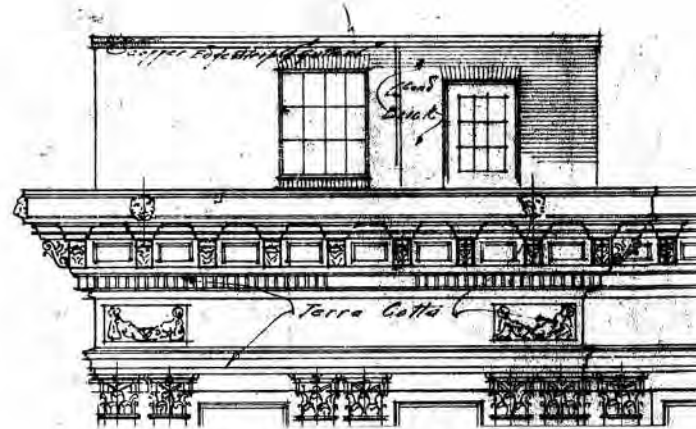
NEW SOLDERED COPPER
SOFFIT CAP WITH SNOW
SLIDE PROTECTION

NEW GLASS FIBER
REINFORCED CONCRETE
SOFFIT

13TH FLOOR - 477 CONGRESS
208'-4"

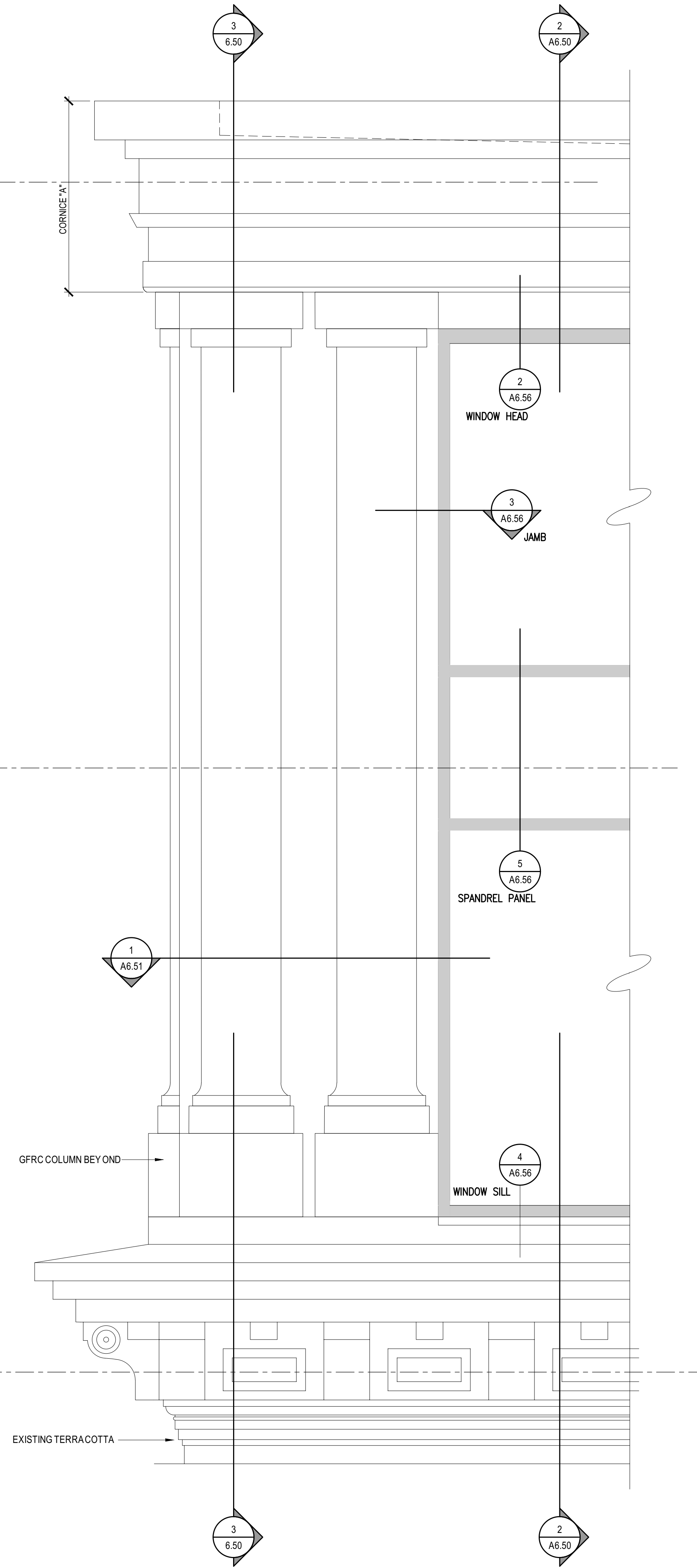
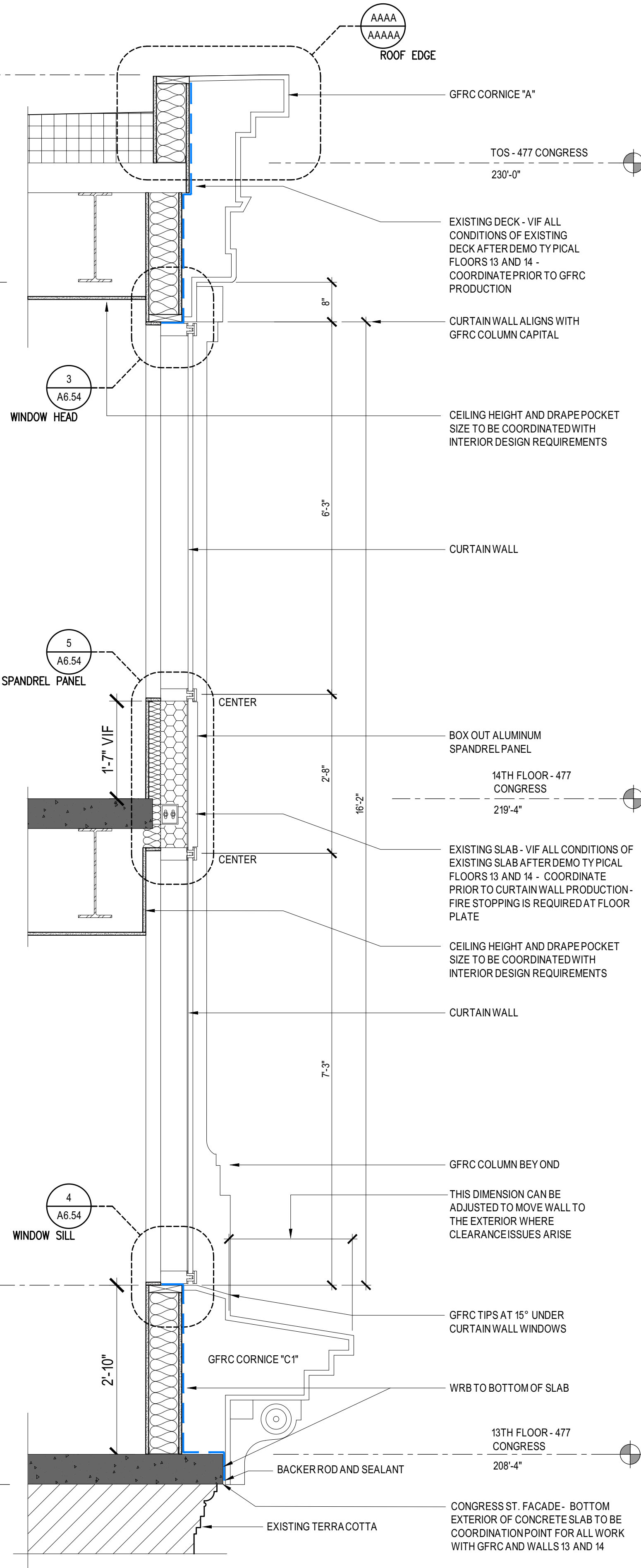
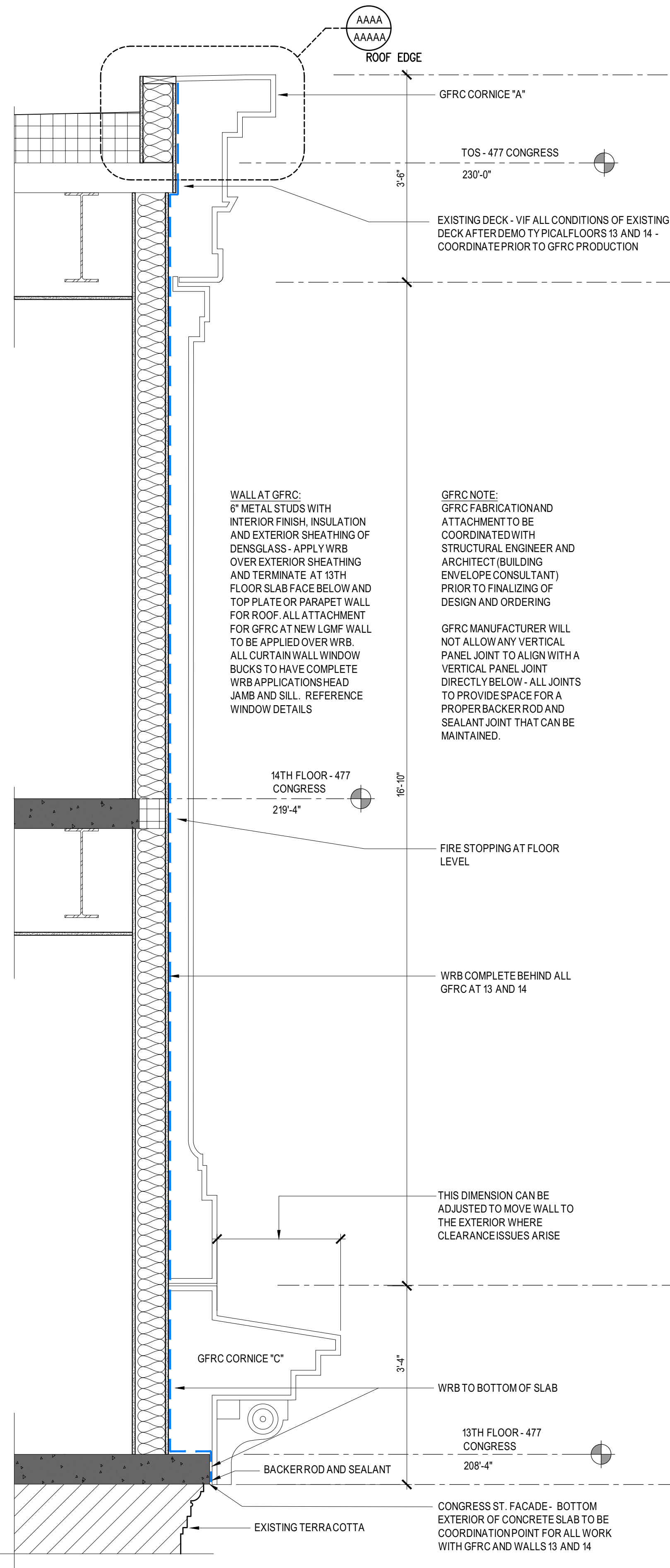
EXISTING TERRAZZOTA
FACADE

121TH FLOOR - 477 CONGRESS
196'-10"





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04/27/22
Date:



3

WALL SECTION - CONGRESS ST. 13 AND 14TH FLOOR

GFRF

SCALE: 3/4"=1'-0"

2

WALL SECTION - CONGRESS ST. 13 AND 14TH FLOOR

CURTAIN WALL

SCALE: 3/4"=1'-0"

1

TOWER WINDOW SILL DETAIL - EXISTING

PLAN DETAIL - TERRACOTTA

SCALE: 3/4"=1'-0"

Prepared For:

PRESIDIUM

Consultant:

ENVELOPE
ARCHITECTURE & CONSULTING
BUILDING ENVELOPE CONSULTANTS
207.807.6661

Architect:

ARCHETYPE
ARCHITECTS
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

TIME &
TEMPERATURE
HOTEL

477 Congress Street
Portland, Maine

Revisions:

DESIGN DEVELOPMENT
HISTORIC SUBMISSION

Scale:

AS NOTED

Date:
03/28/2022

13 AND 14
WALL SECTION

A6.50



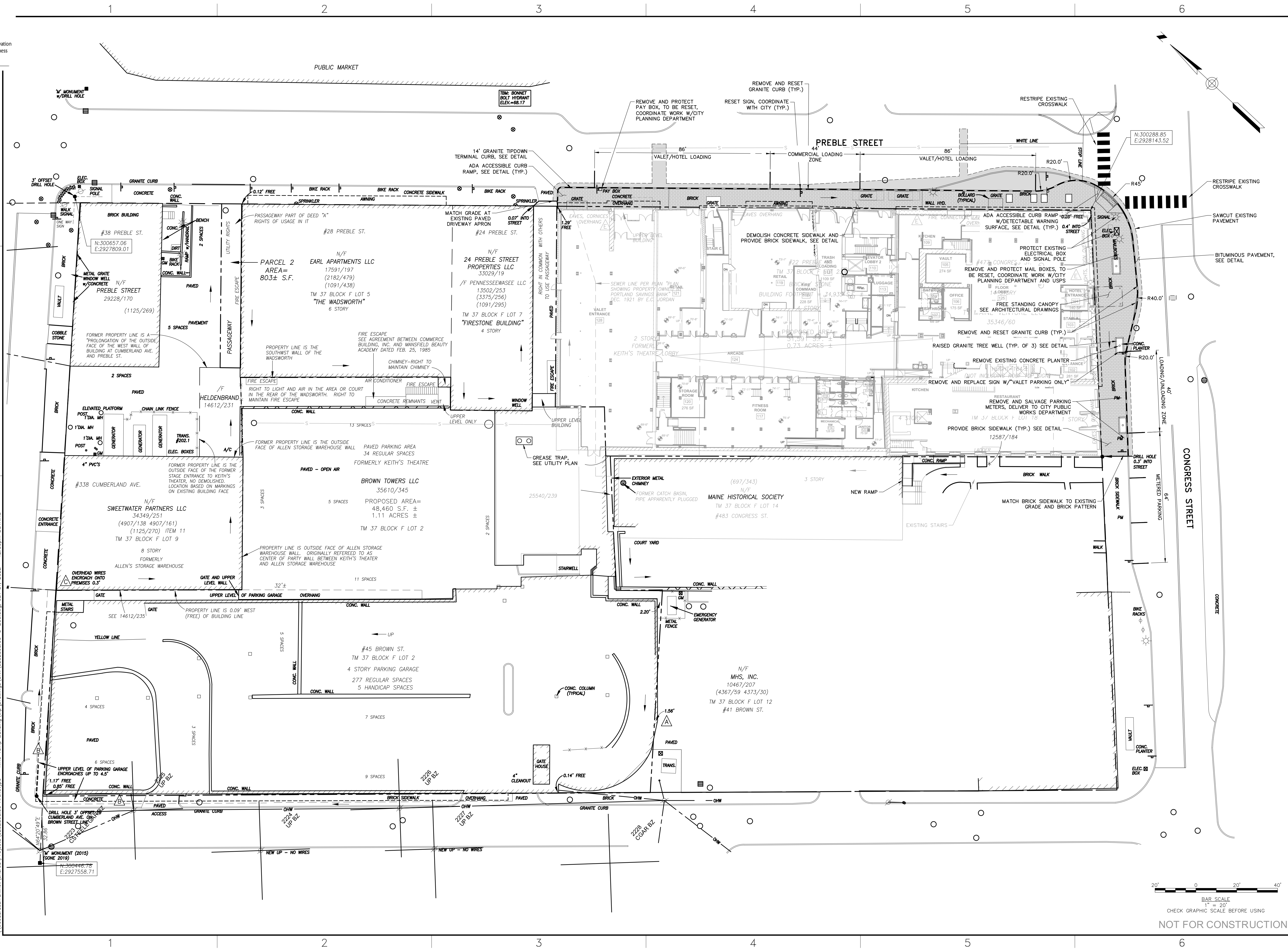
Approved for Historic Preservation
Certificate of Appropriateness
04/27/22

Date:





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Certificate of Appropriateness
04/27/22
Date:



41 Hutchins Drive
Portland Maine 04102
800.426.4262 | www.woodardcurran.com

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REV	DESCRIPTION	DATE
A	RESPONSE TO CITY COMMENTS	01/11/2022
B	ADDED FRONT ENTRANCE CANOPY	07/31/2022

DESIGNED BY: ANL
DRAWN BY: JEC

CHECKED BY: DBS
02/28/2022-C-200.dwg

OVERALL SITE PLAN

477 CONGRESS HOTEL
PORTLAND, MAINE

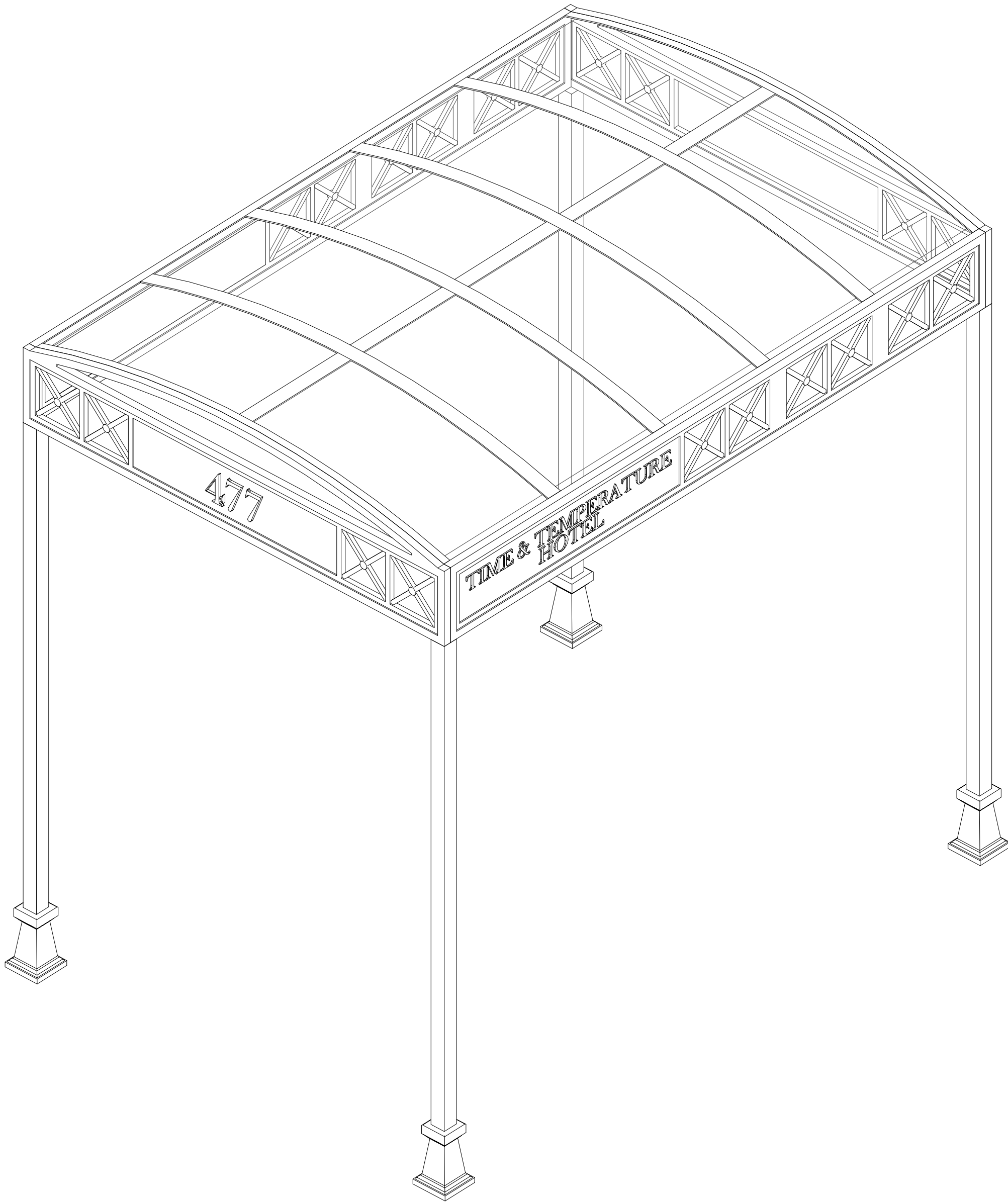
TT MAINE VENTURE, LLC
3100 MCKINNON STREET, SUITE 250
DALLAS, TX 75201

JOB NO.: 0232868.00
DATE: JANUARY 11, 2022
SCALE: 1" = 20'
SHEET: 2 OF 7

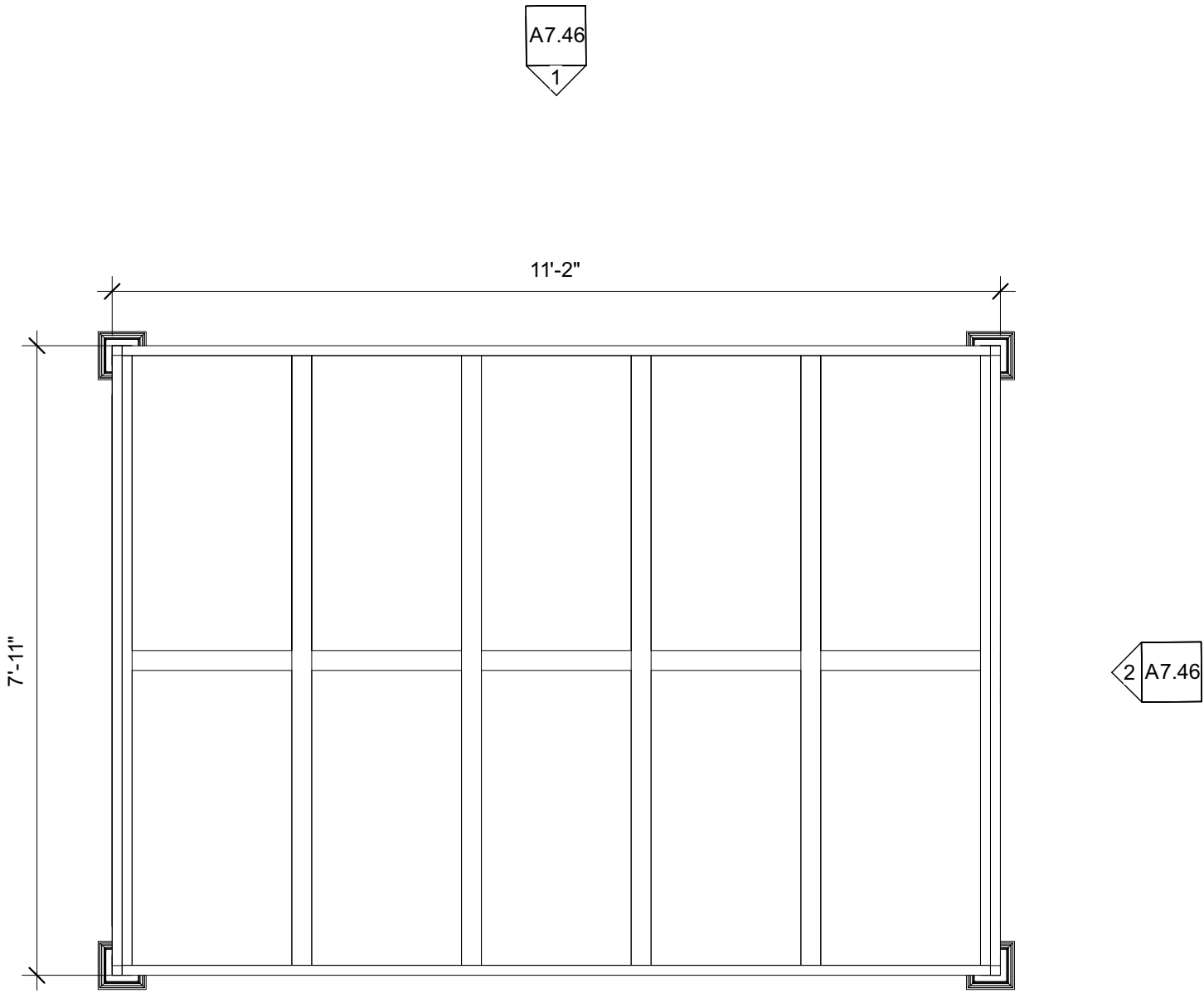
C-200



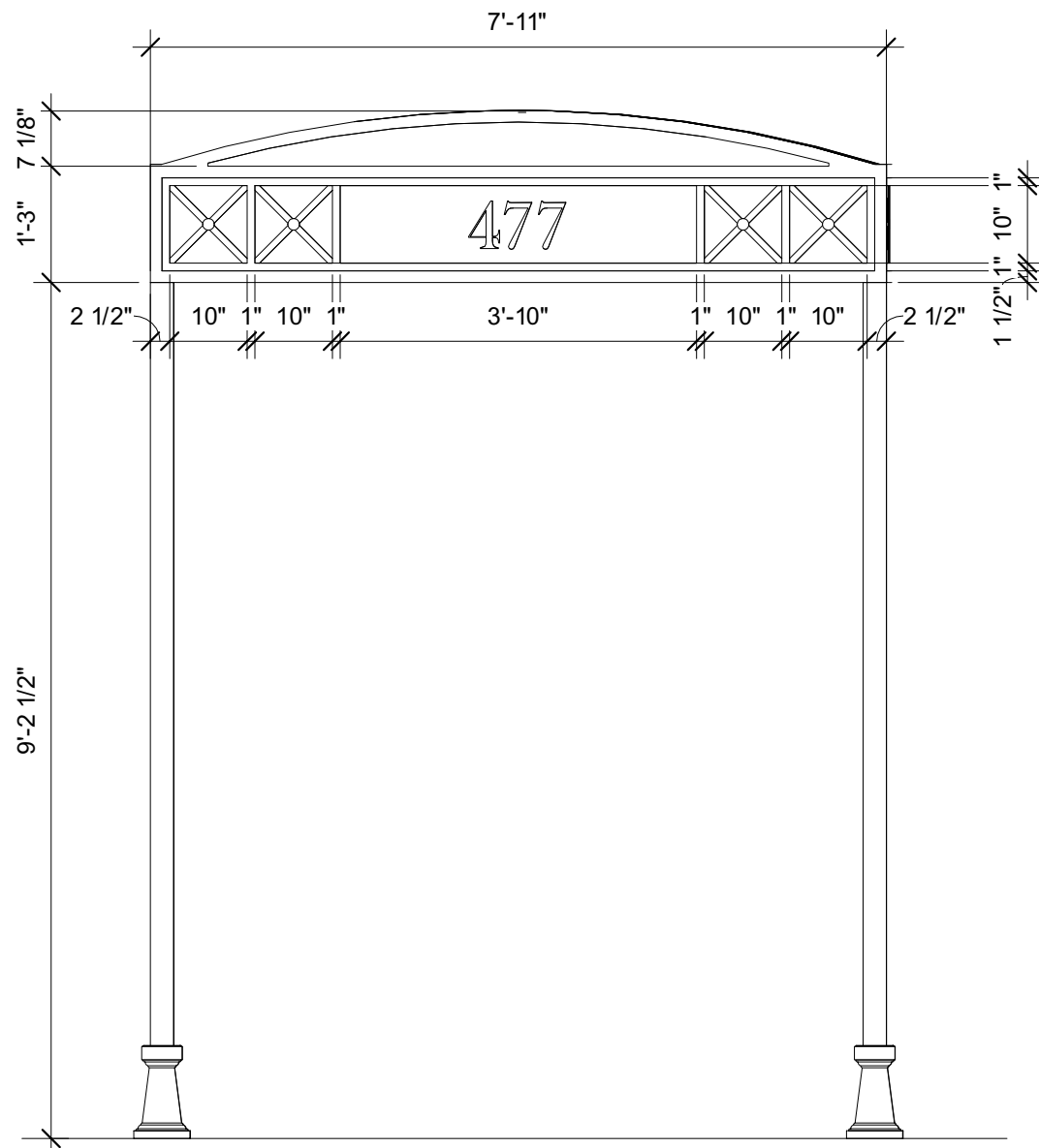
Approved for Historic Preservation
Certificate of Appropriateness
04/27/22
Date:



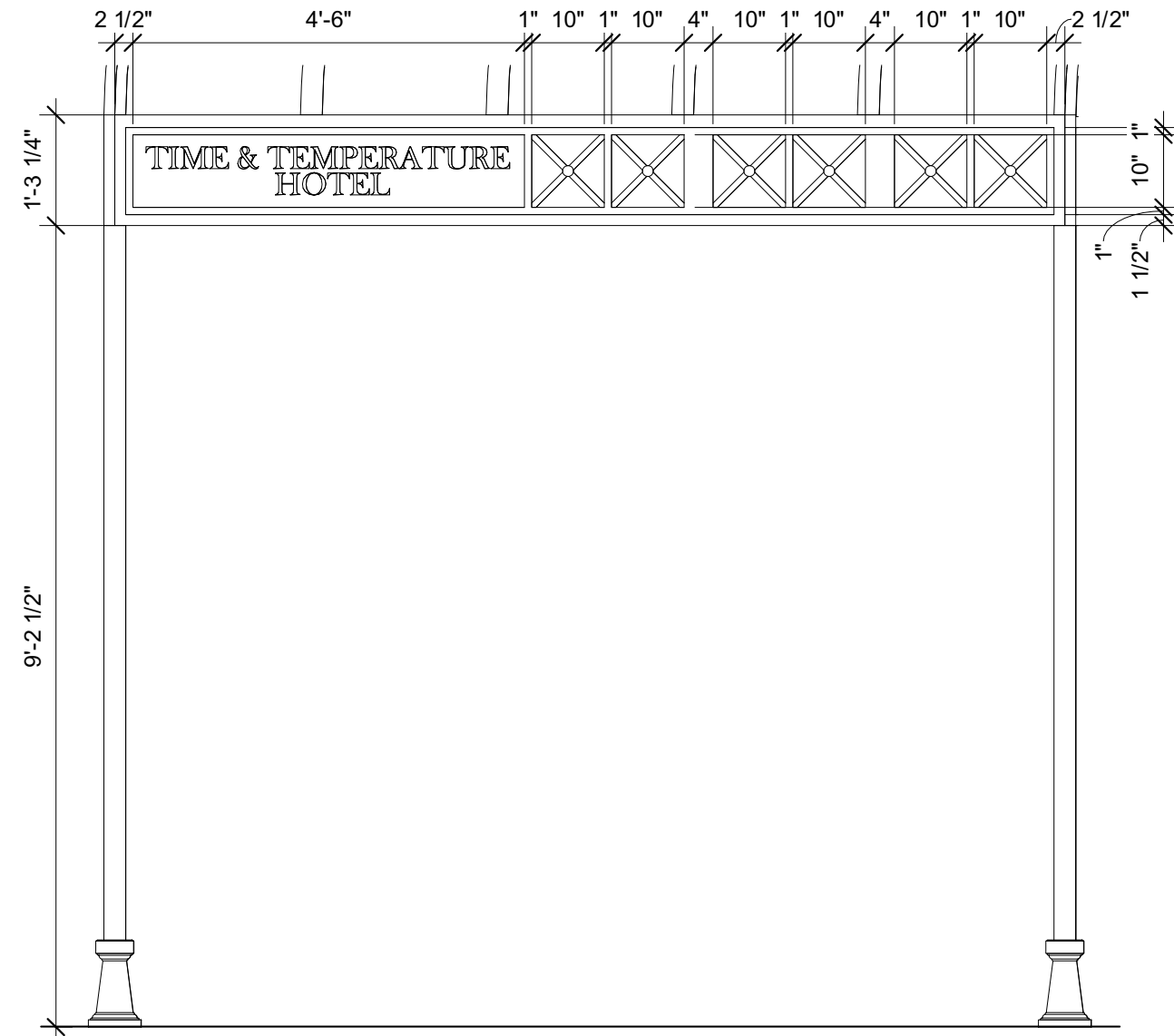
4 | CANOPY AXONOMETRIC



3 | CANOPY PLAN
1/2" = 1'-0"



2 | CANOPY -FRONT VIEW
1/2" = 1'-0"



1 | CANOPY -SIDE VIEW
1/2" = 1'-0"

Prepared For:
PRESIDIUM

Consultant:

Architect:
**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

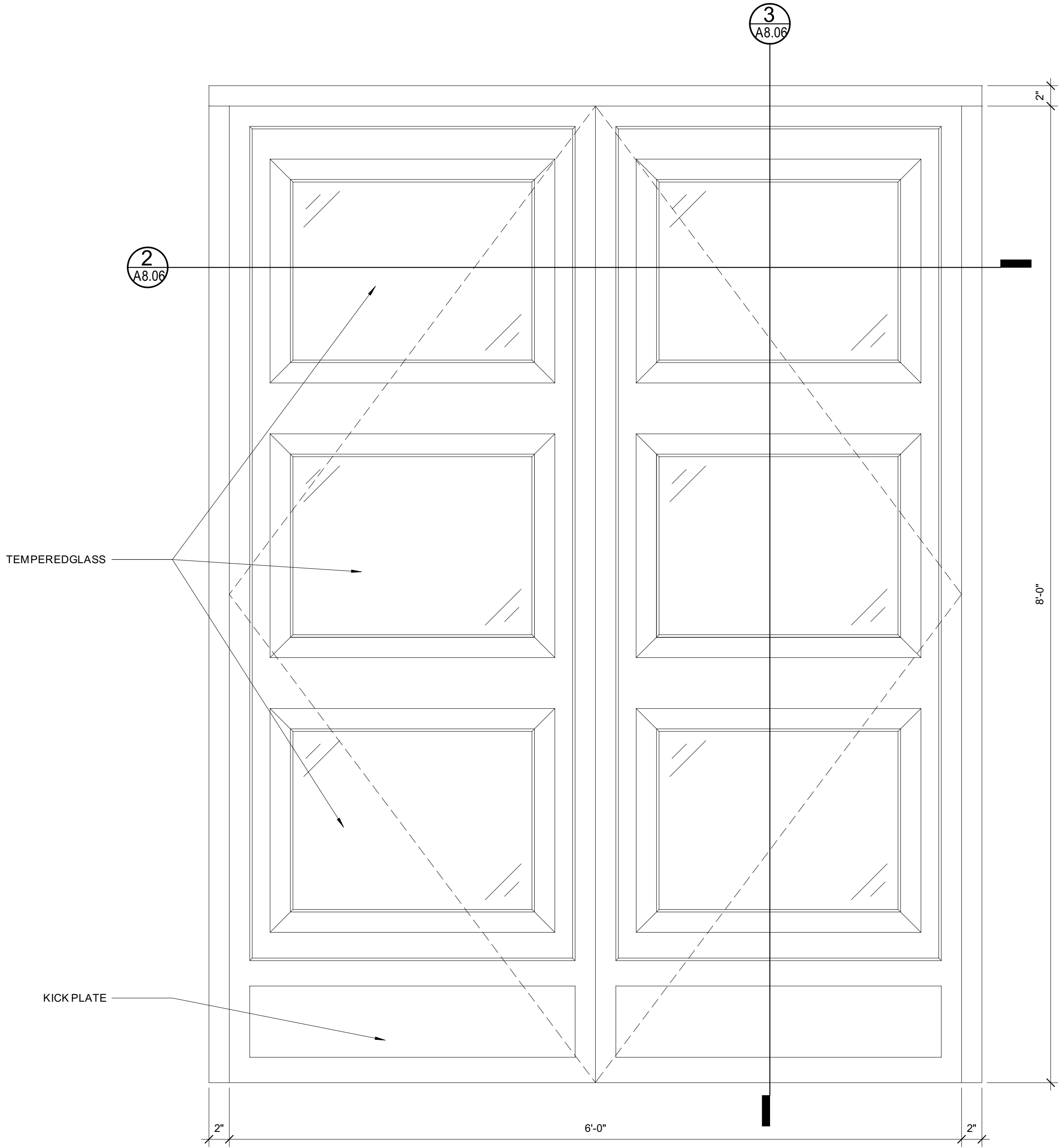
Project: **TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

Revisions:

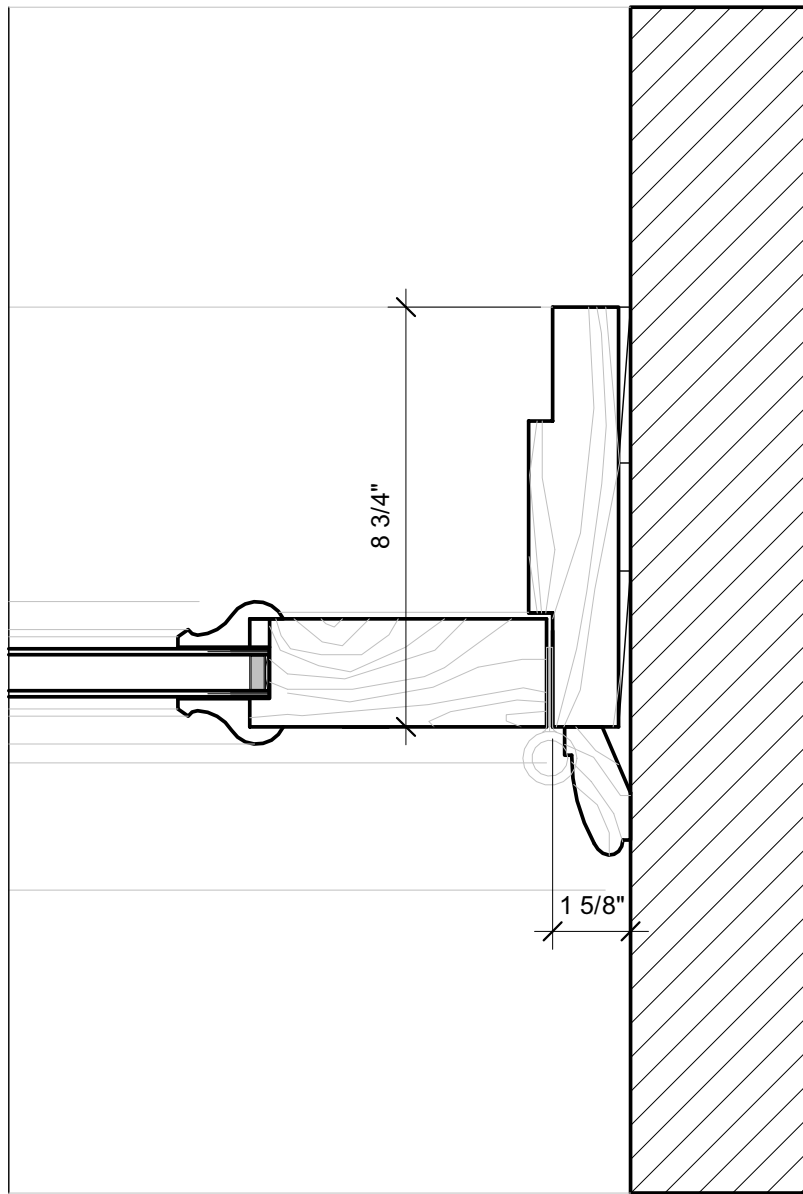
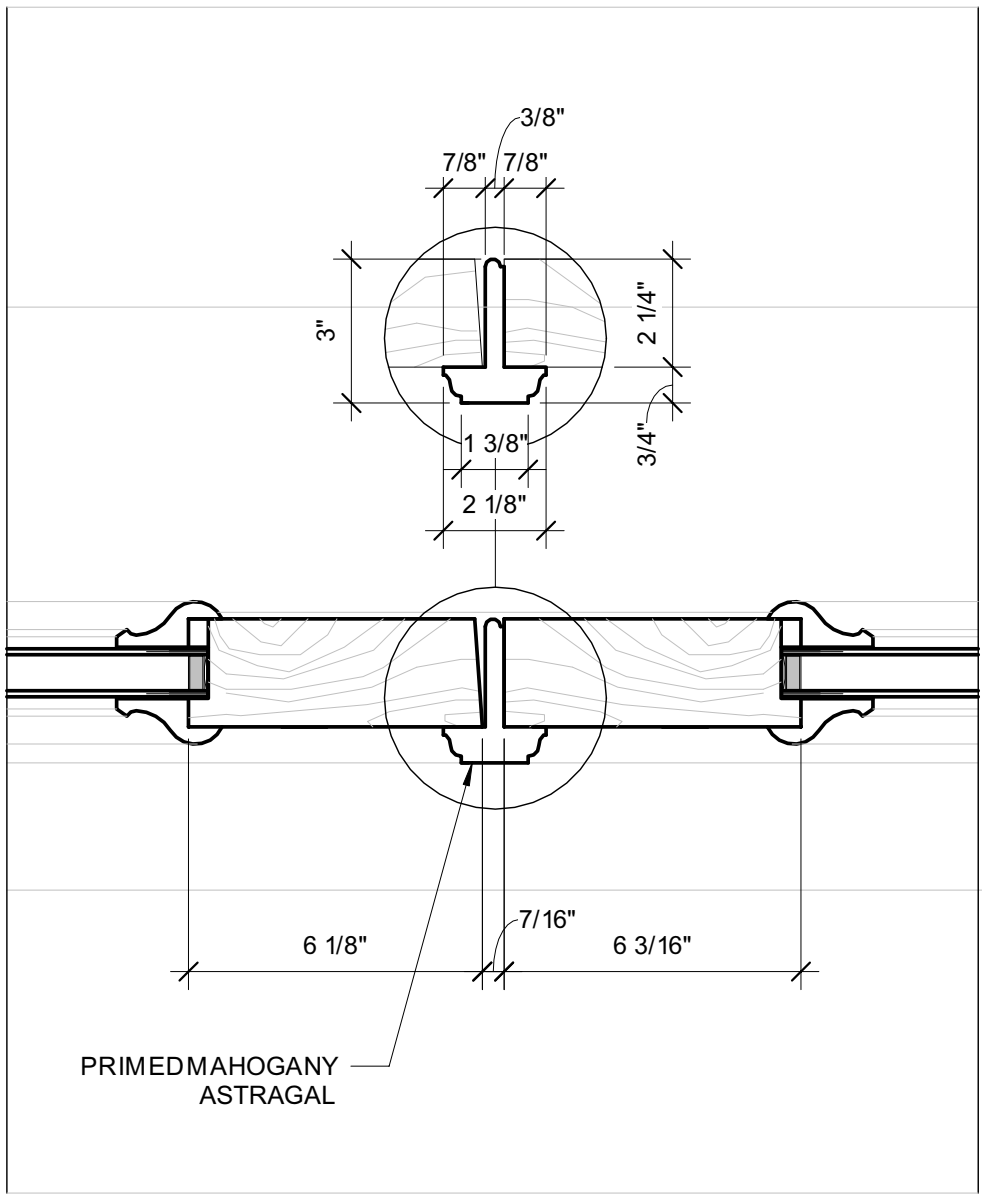
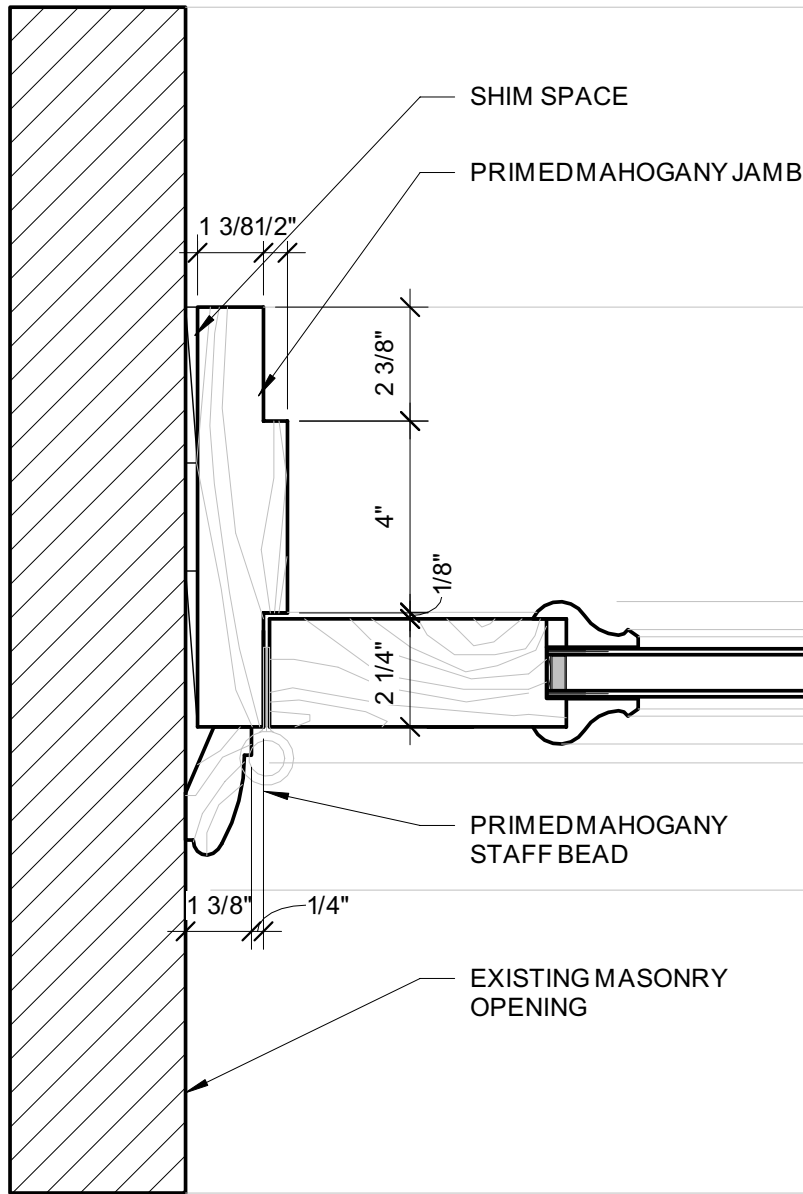
Date:
28 MAR, 2022
Scale:
1/2" = 1'-0"

MAIN CANOPY
DETAILS

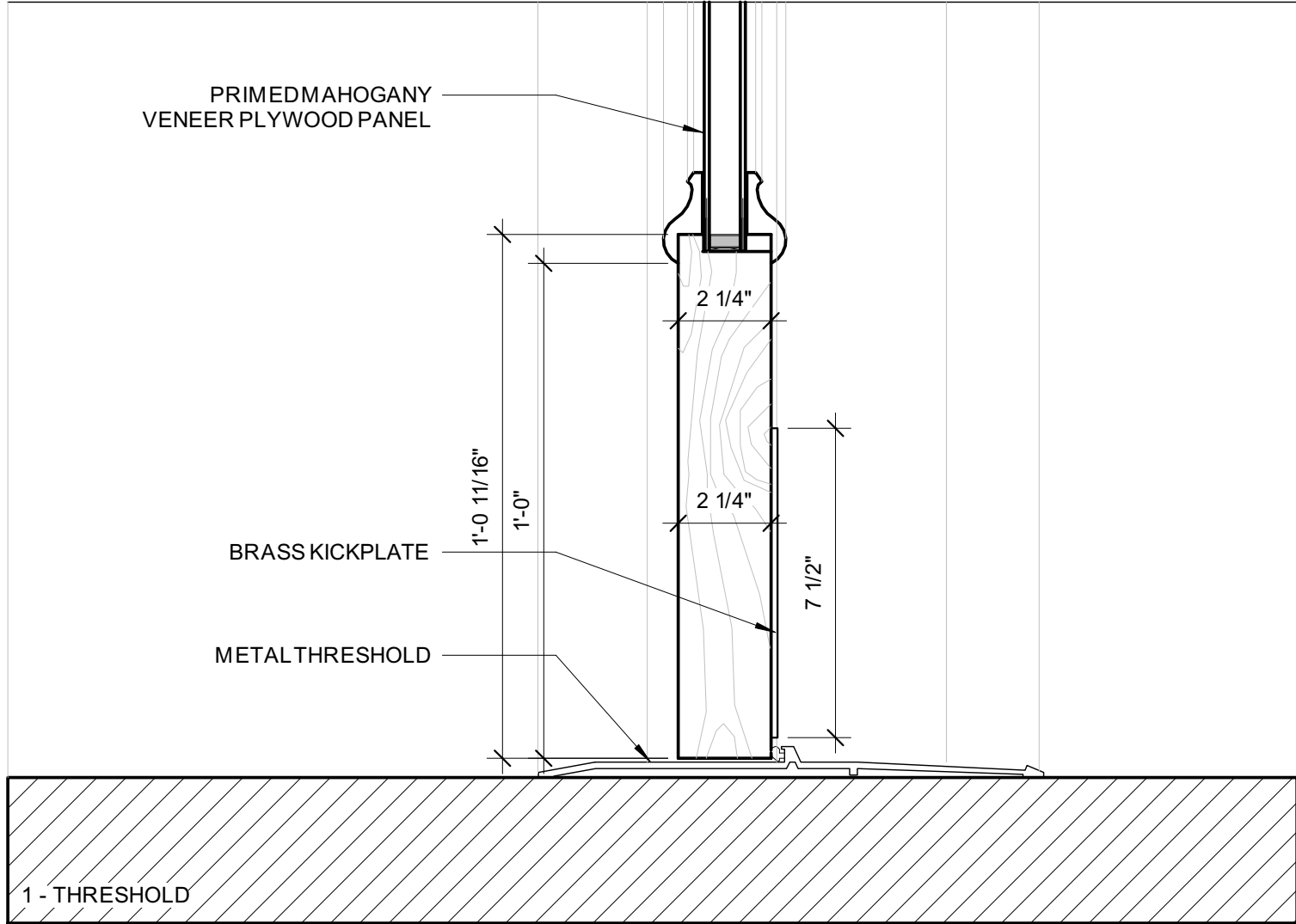
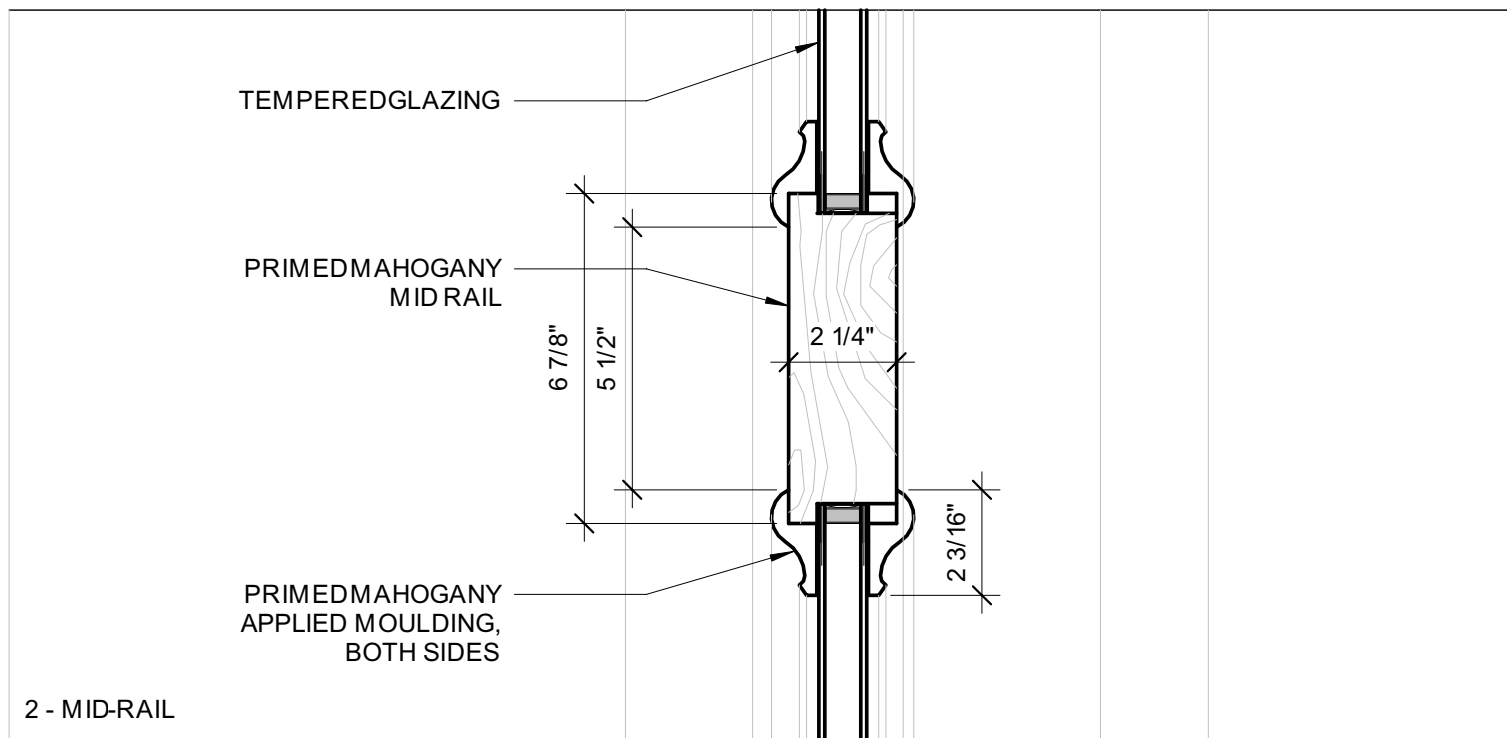
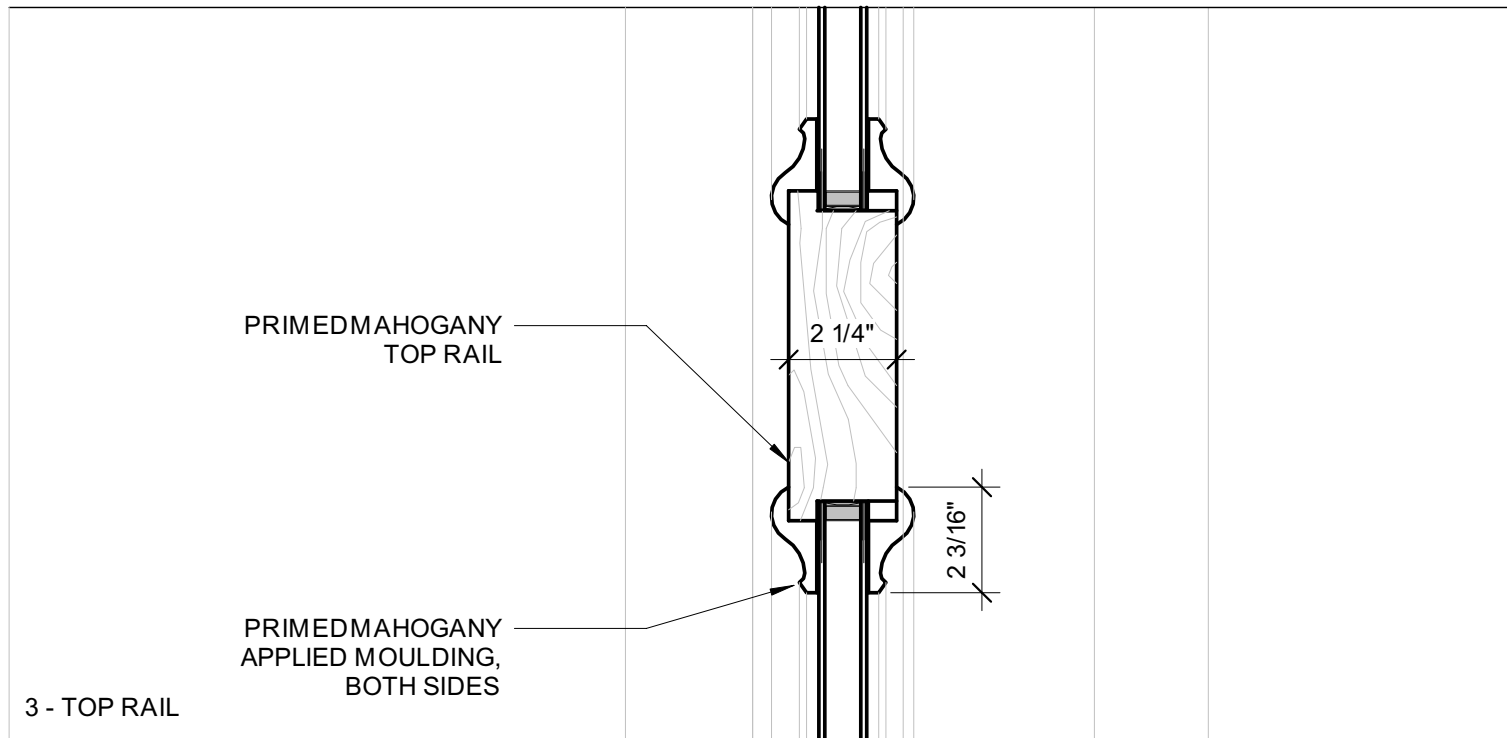
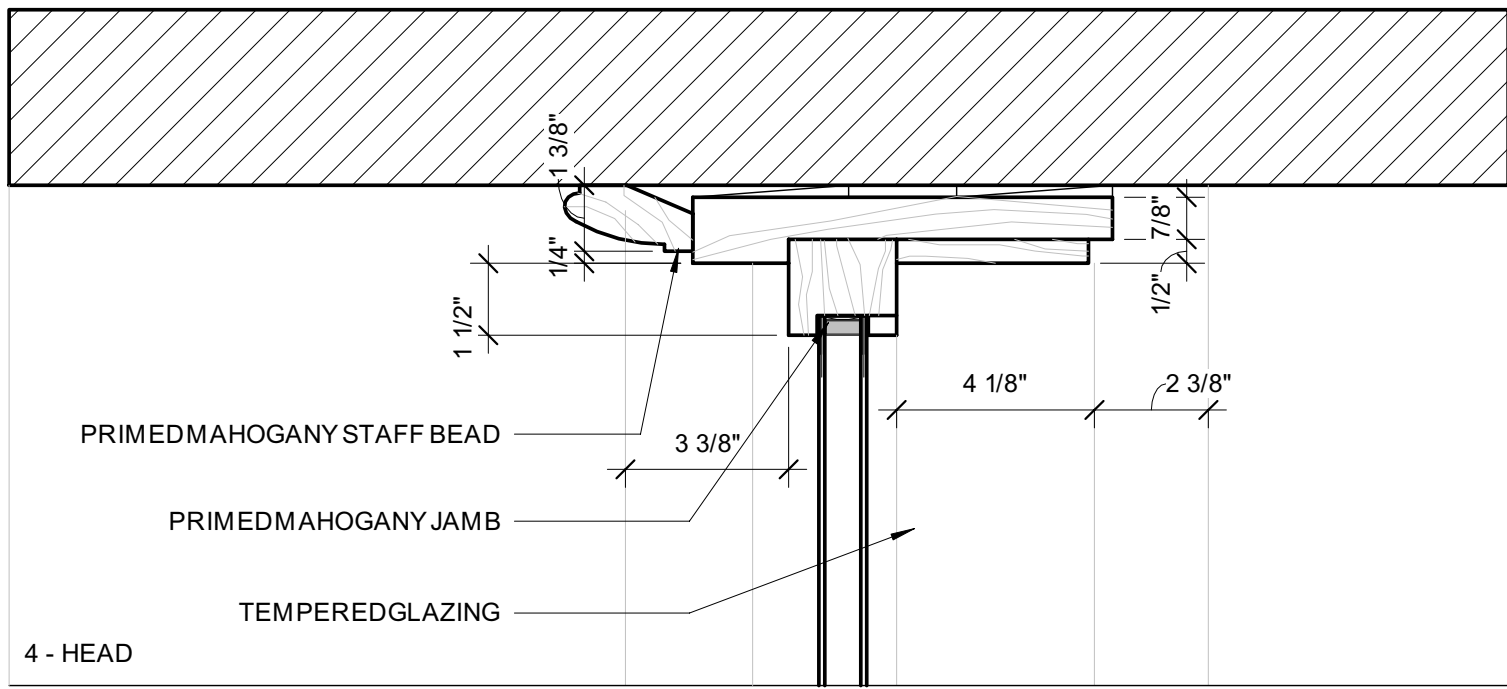
A7.46



1 ENTRY DOOR ELEVATION
1 1/2" = 1'-0"



2 HORIZONTAL SECTION AT GLAZING
3" = 1'-0"



3 ENTRY DOOR VERTICAL SECTION
3" = 1'-0"

Prepared For:
PRESIDIUM

Consultant:

Architect:
**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:
**TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

Revisions:

Date:
28 MAR, 2022
Scale:
As indicated

FRONT DOOR
DETAILS

A8.06





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04/27/22
Date:



- Preliminary General Notes:**
1. Terracotta cladding is difficult to work with and expensive to replace. Skilled masons must be used to ensure existing pieces are protected and new work is placed properly. We recommend existing TC be sent to the two leading manufacturers as soon as possible for replication ability in finish, and deliverable schedules.
 2. All masonry joints in the lower Terracotta to be raked out and repointed with special attention given to window sills and decorative ornament.
 3. Replace all EPDM membrane and install new roof drain with additional drains and leaders.
 4. Replace all windows allowing for work at each window for consolidation.
 5. Wood storefronts should be replaced with Mahogany or similar wood and IGU windows, reference details.
 6. All bricks coated with latex paint should have the paint removed and repainted after repairs with a mineral paint.



2 | CONGRESS ST - ELEVATION - NEW
3/32" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:

Project:

Revisions:

Scale:

Date:

A4.20

ARCHETYPE
ARCHITECTS

TIME & TEMPERATURE
HOTEL

CONGRESS ST
ELEVATION

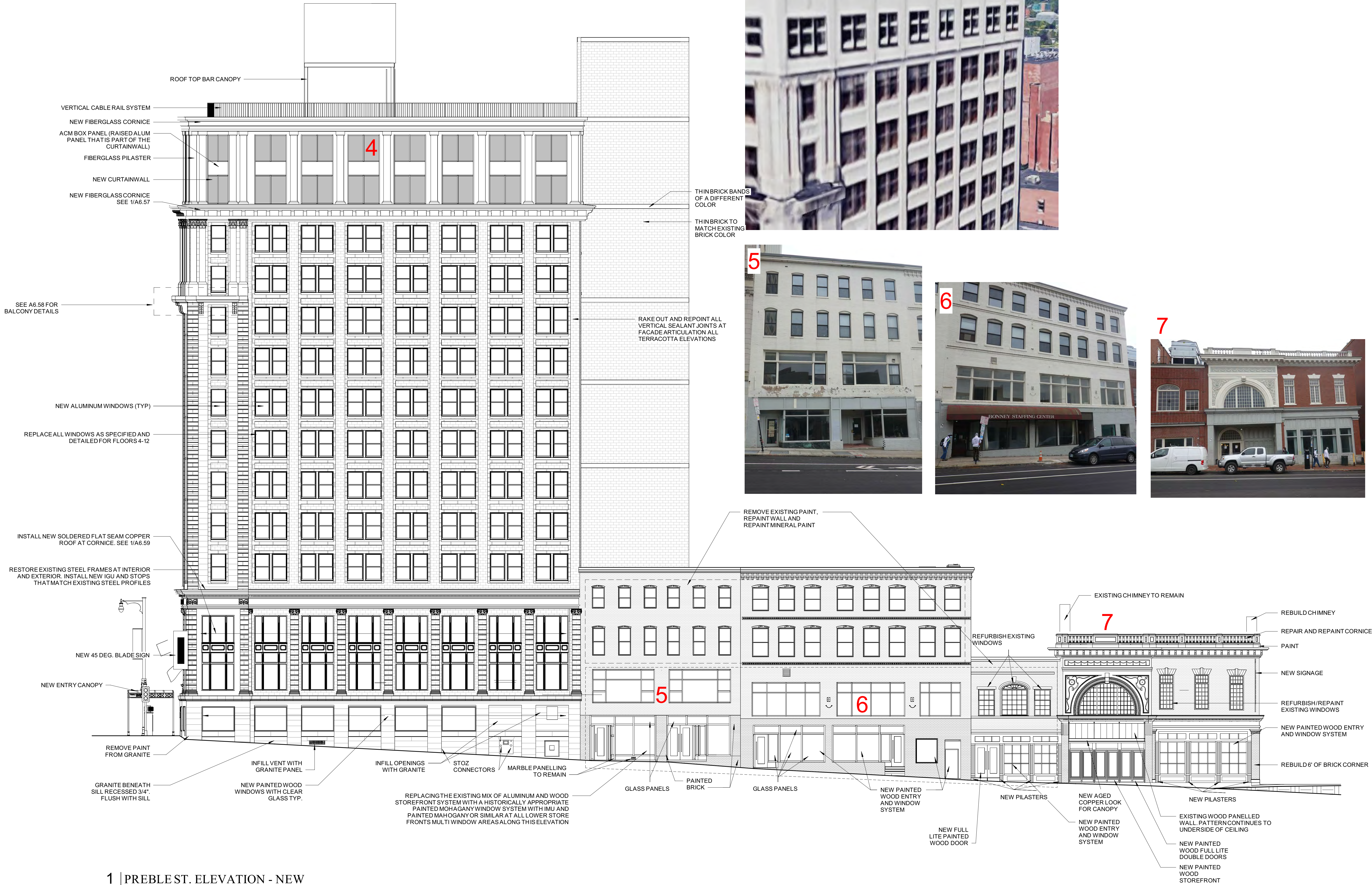
A4.20

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(207) 772-6022 Fax (207) 772-4056

477 Congress Street
Portland, Maine



Approved for Historic Preservation
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04/27/22
Date:



1 | PREBLE ST. ELEVATION - NEW
3/32" = 1'-0"

Prepared For:

PRESIDIUM

Consultant:

Architect:

ARCHETYPE
ARCHITECTS

48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

**TIME &
TEMPERATURE
HOTEL**

477 Congress Street
Portland, Maine

Revisions:

Date:

20 APRIL, 2022

Scale:

3/32" = 1'-0"

**PREBLE ST.
ELEVATION**

A4.21





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04/27/22
Date:



1 | THEATER VIEW



2 | PREBLE VIEW



3 | BANK VIEW



4 | CONGRESS-PREBLE VIEW

Prepared For:

PRESIDIUM

Consultant:

Architect:

**ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Project:

**TIME &
TEMPERATURE
HOTEL**
477 Congress Street
Portland, Maine

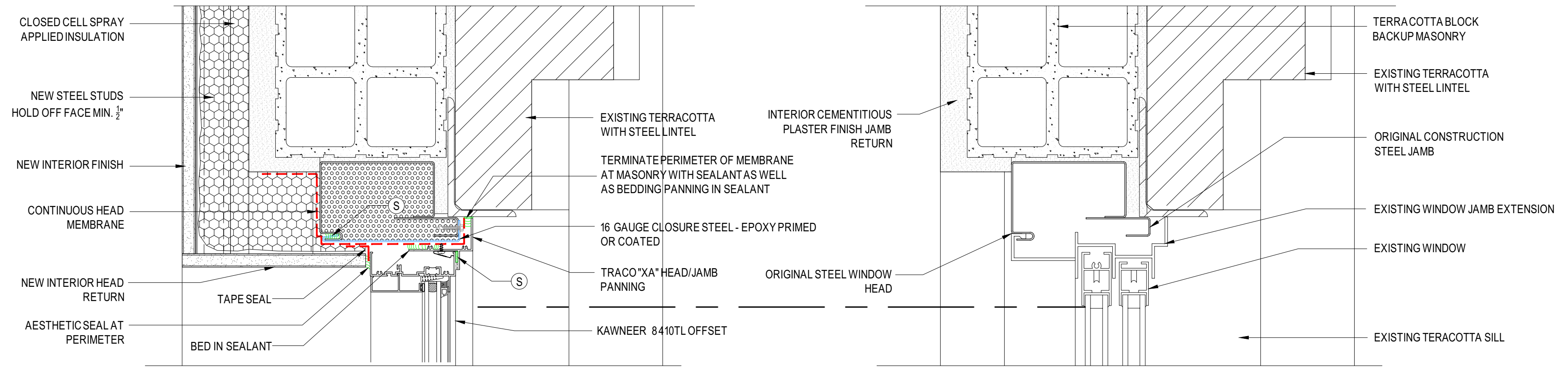
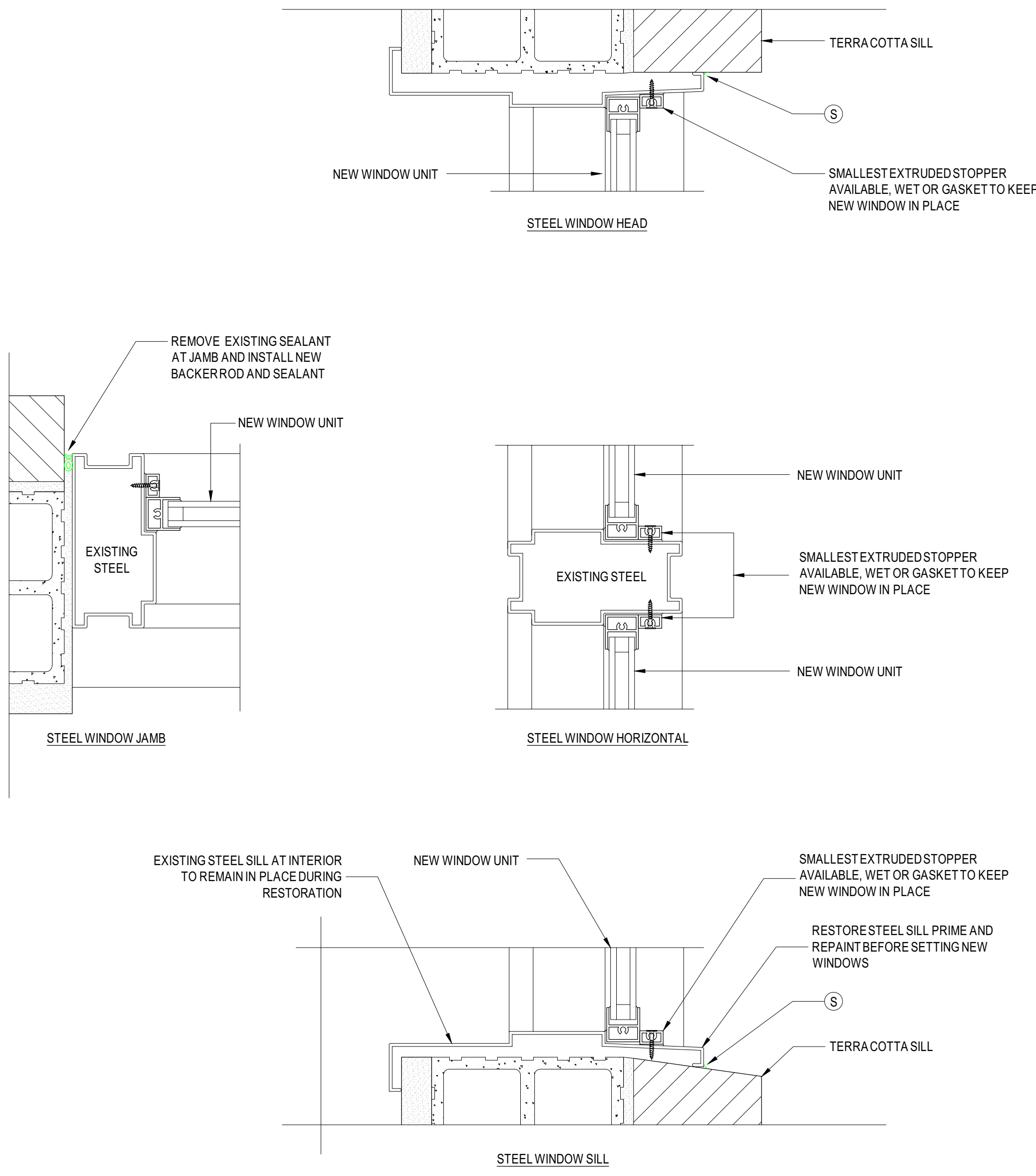
Revisions:

Scale:

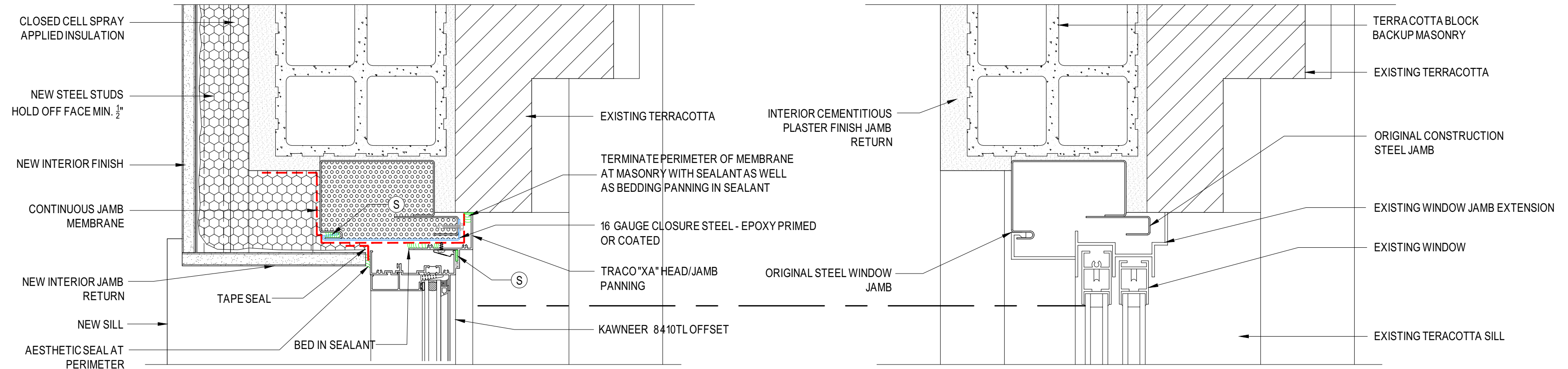
Date:
28 MAR, 2022

VIEWS

G0.04



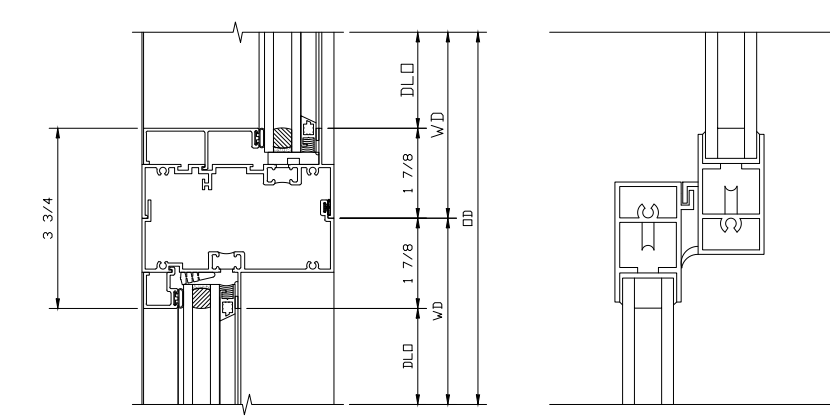
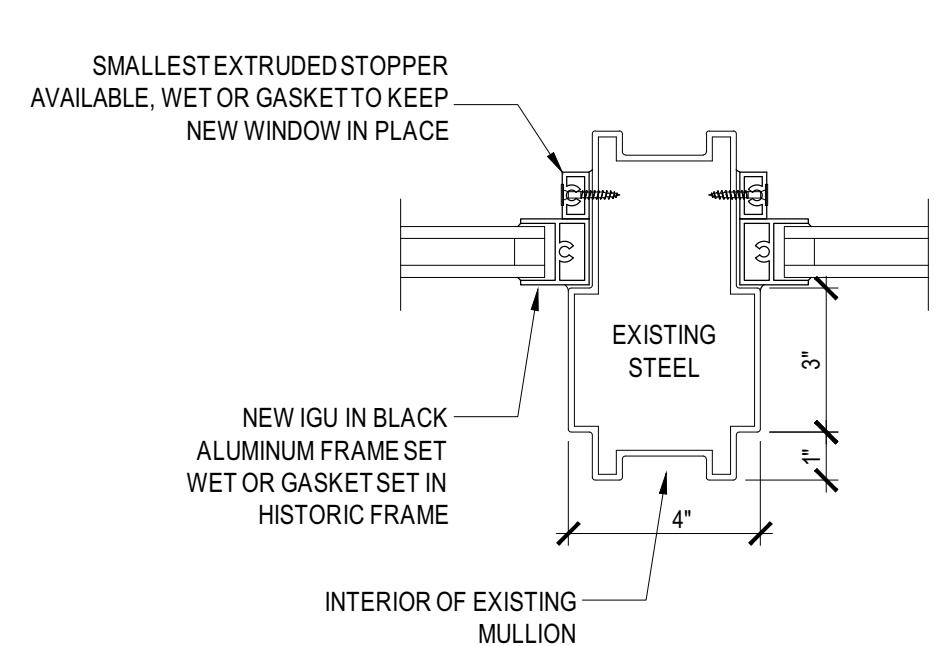
6	TOWER WINDOW HEAD DETAIL - NEW	5	TOWER WINDOW HEAD DETAIL - EXISTING
	TERRACOTTA SCALE: 3"=1'-0"		TERRACOTTA SCALE: 3"=1'-0"



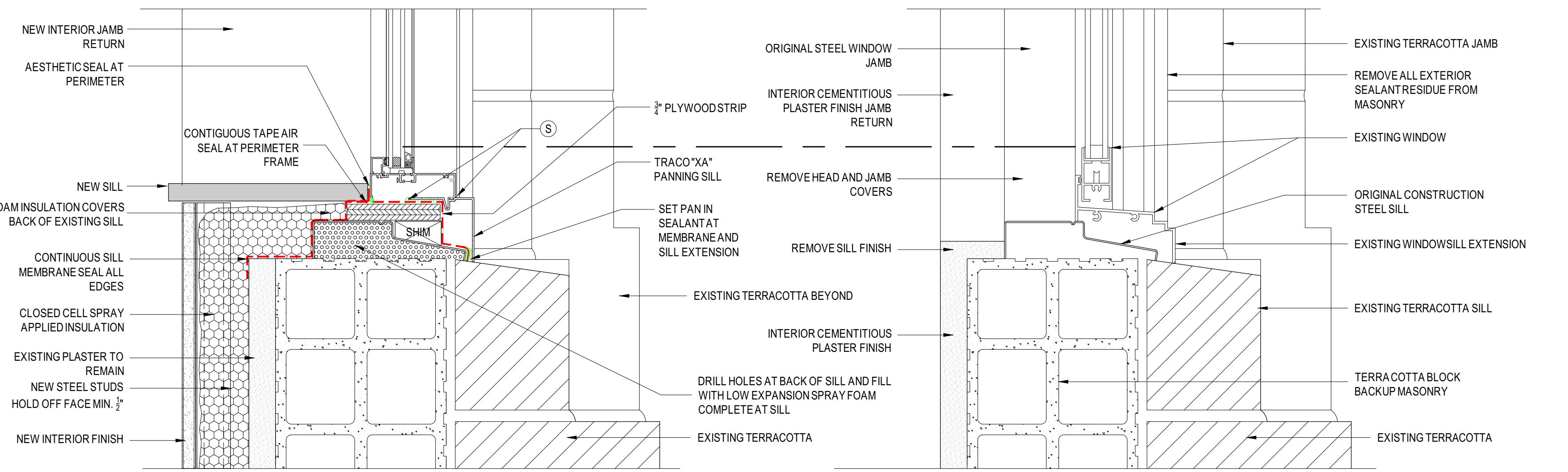
4	TOWER WINDOW JAMB DETAIL - NEW	3	TOWER WINDOW JAMB DETAIL - EXISTING
	TERRACOTTA SCALE: 3"=1'-0"		TERRACOTTA SCALE: 3"=1'-0"

ALL 2 STORY HISTORIC WINDOW FRAMES ON PREBLE AND CONGRESS STREETS:

1. REMOVE ALL EXISTING PAINT AND RUST FROM ALL HISTORIC METAL WINDOW COMPONENTS - REPAIR ALL DAMAGE AND RUST THROUGH BY WELDING IN NEW METAL AND FINISHING. PRIME PARTS WITH A TWO PART AUTOMOTIVE GRADE SELF ETCHING PRIME AND REPAINT COLOR AS SELECTED BY THE ARCHITECT.
2. REMOVE DECORATIVE PANELS AT EXTERIOR, REPAIR AND REFINISH OFFSITE BEFORE REINSTALLATION IN THE SAME MANNER.



8	HISTORIC MULLION REGLAZING	7	MEETING RAIL NEW AND EXISTING
	2 STORY WINDOWS AT CONGRESS STREET AND PREBLE. SCALE: 3"=1'-0"		- SCALE: 3"=1'-0"



2	TOWER WINDOW SILL DETAIL - NEW	1	TOWER WINDOW SILL DETAIL - EXISTING
	TERRACOTTA SCALE: 3"=1'-0"		TERRACOTTA SCALE: 3"=1'-0"

Prepared For: **PRESIDIUM**

Consultant:

ENVELOPE
ARCHITECTURE & CONSULTING

BUILDING ENVELOPE CONSULTANTS
207.807.6661

Architect: **ARCHETYPE
ARCHITECTS**
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

477 Congress Street
Portland, Maine

Revisions:

DESIGN DEVELOPMENT
HISTORIC SUBMISSION

Date: 03/28/2022
 Scale: AS NOTED
 WINDOW DETAILS

A6.52

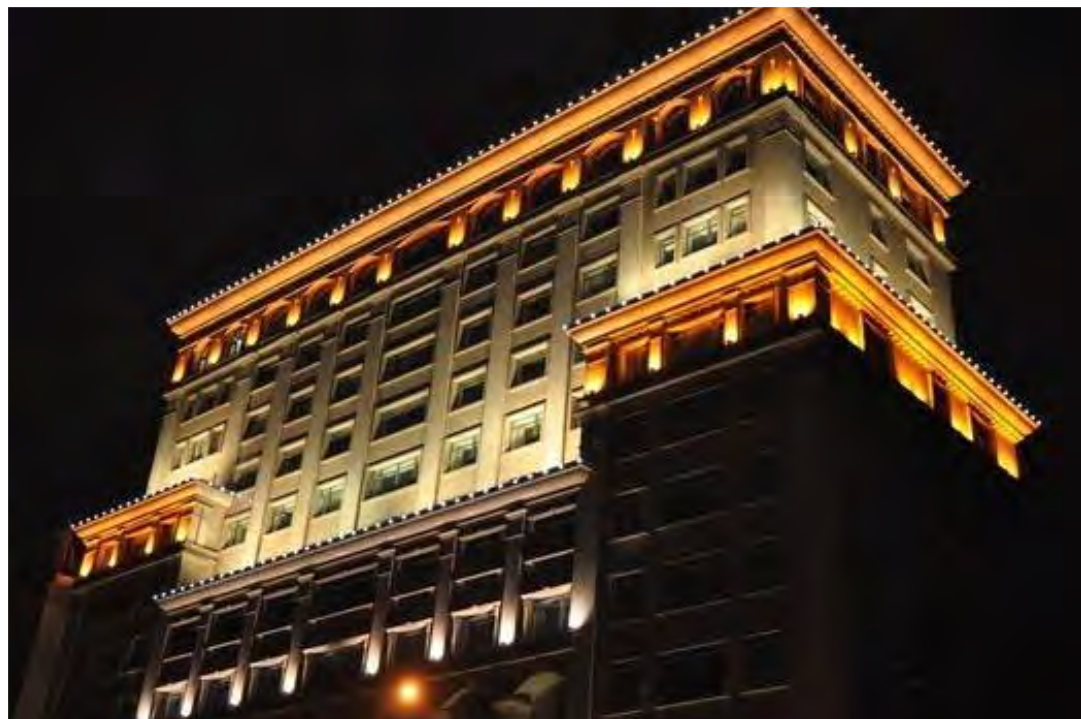


de

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Certificate of Appropriateness

04/27/22

Date: _____





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Certificate of Appropriateness

04/27/22

Date: _____

de



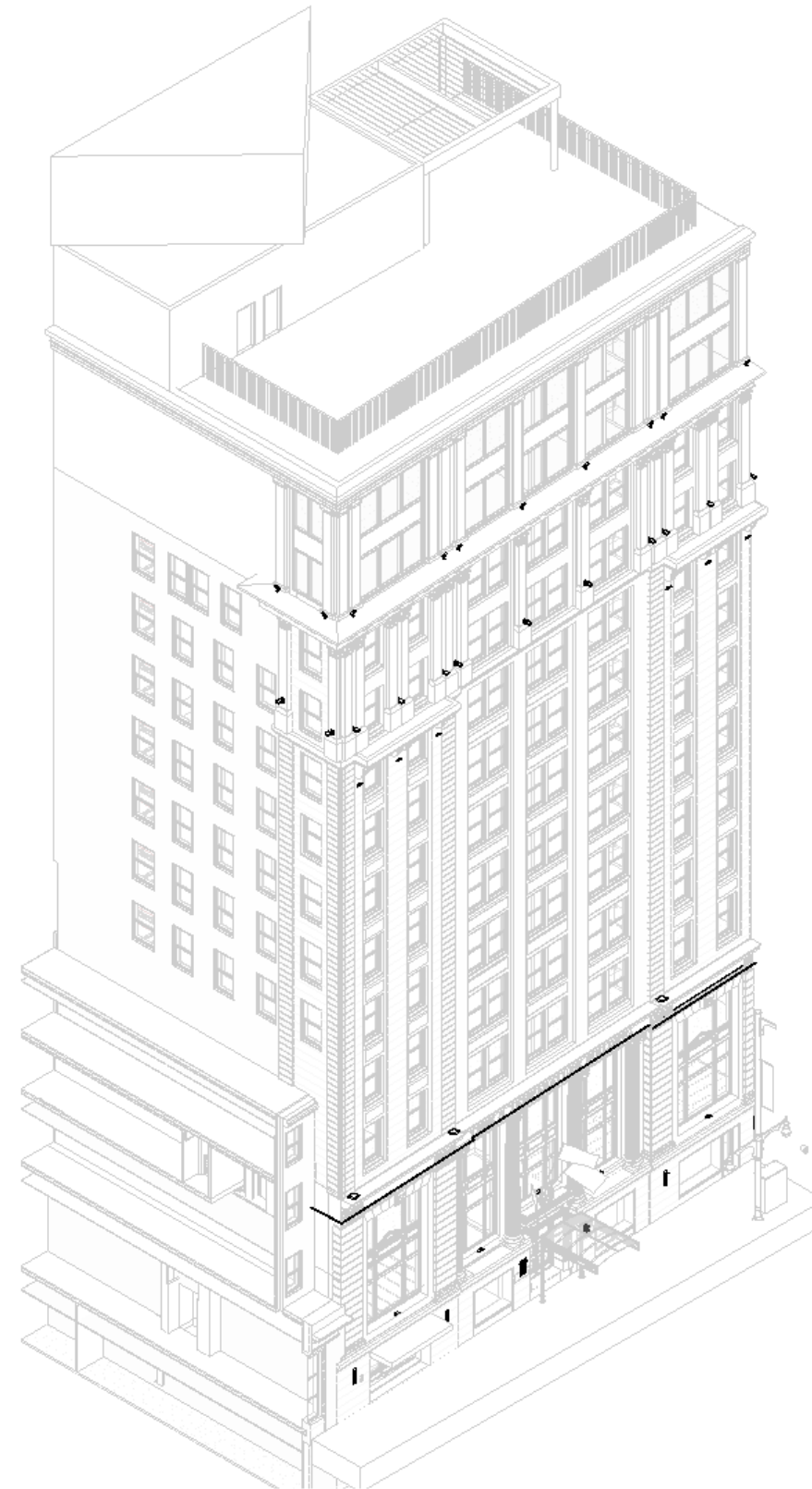
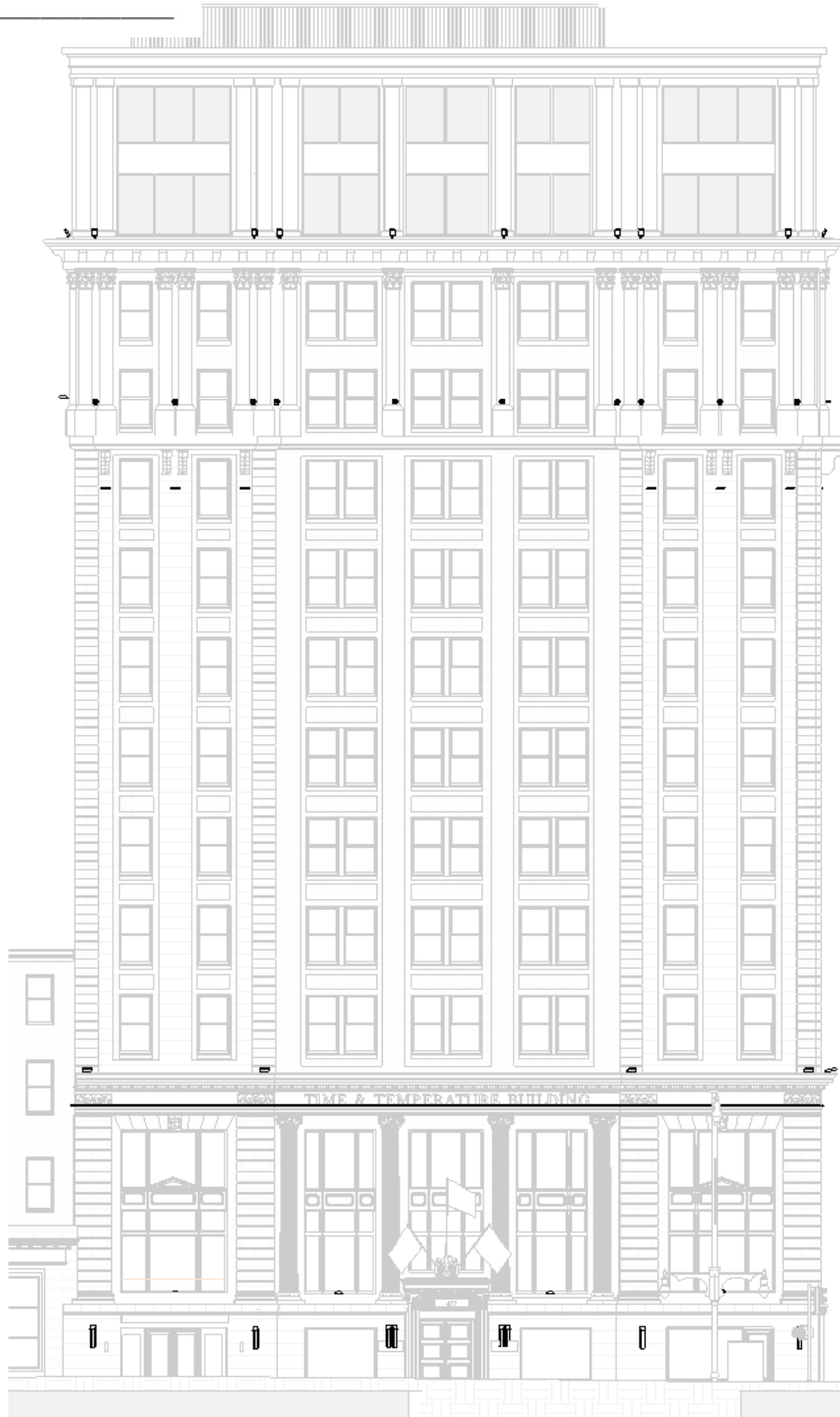


ress St. Facade

Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____



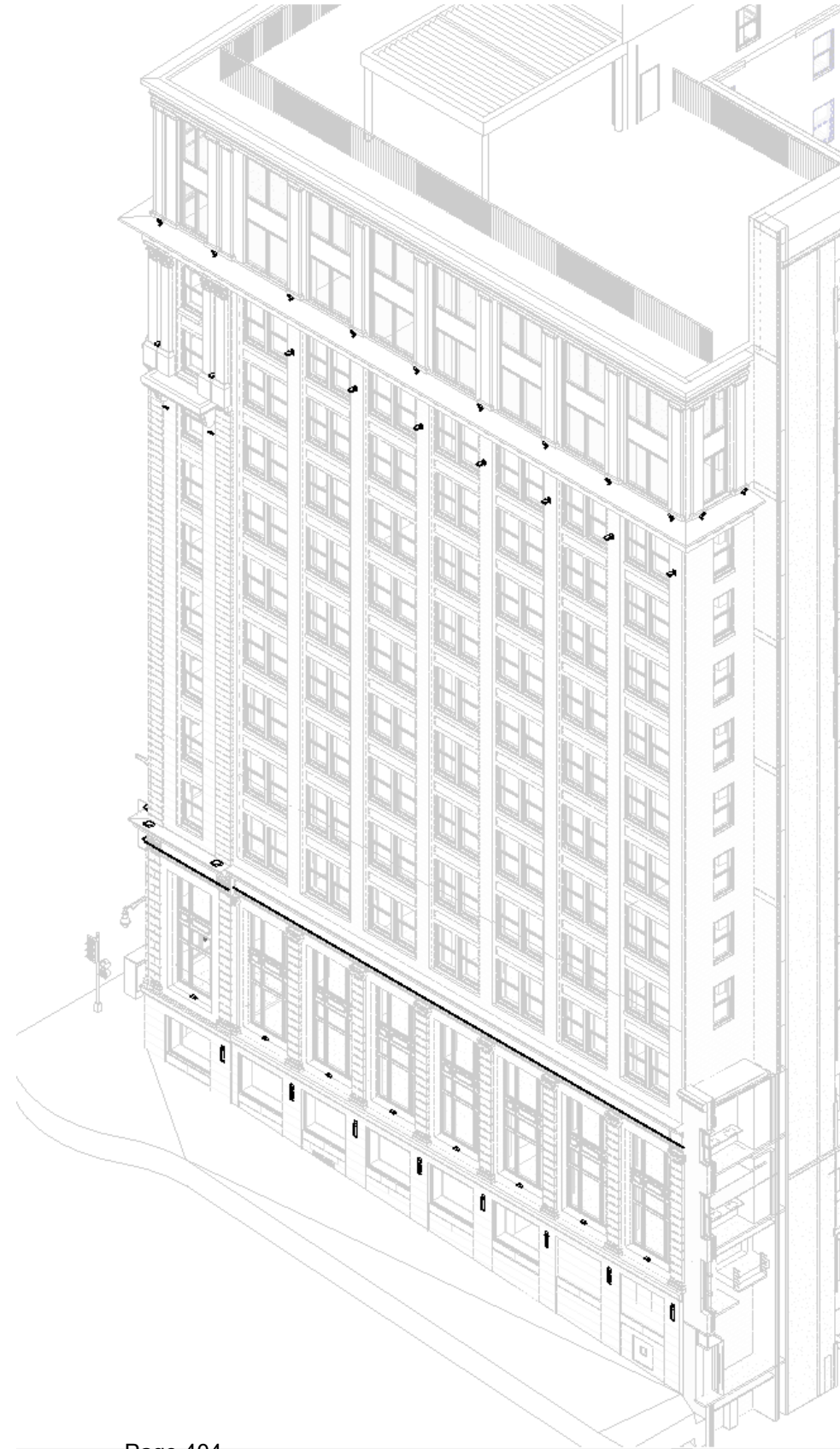
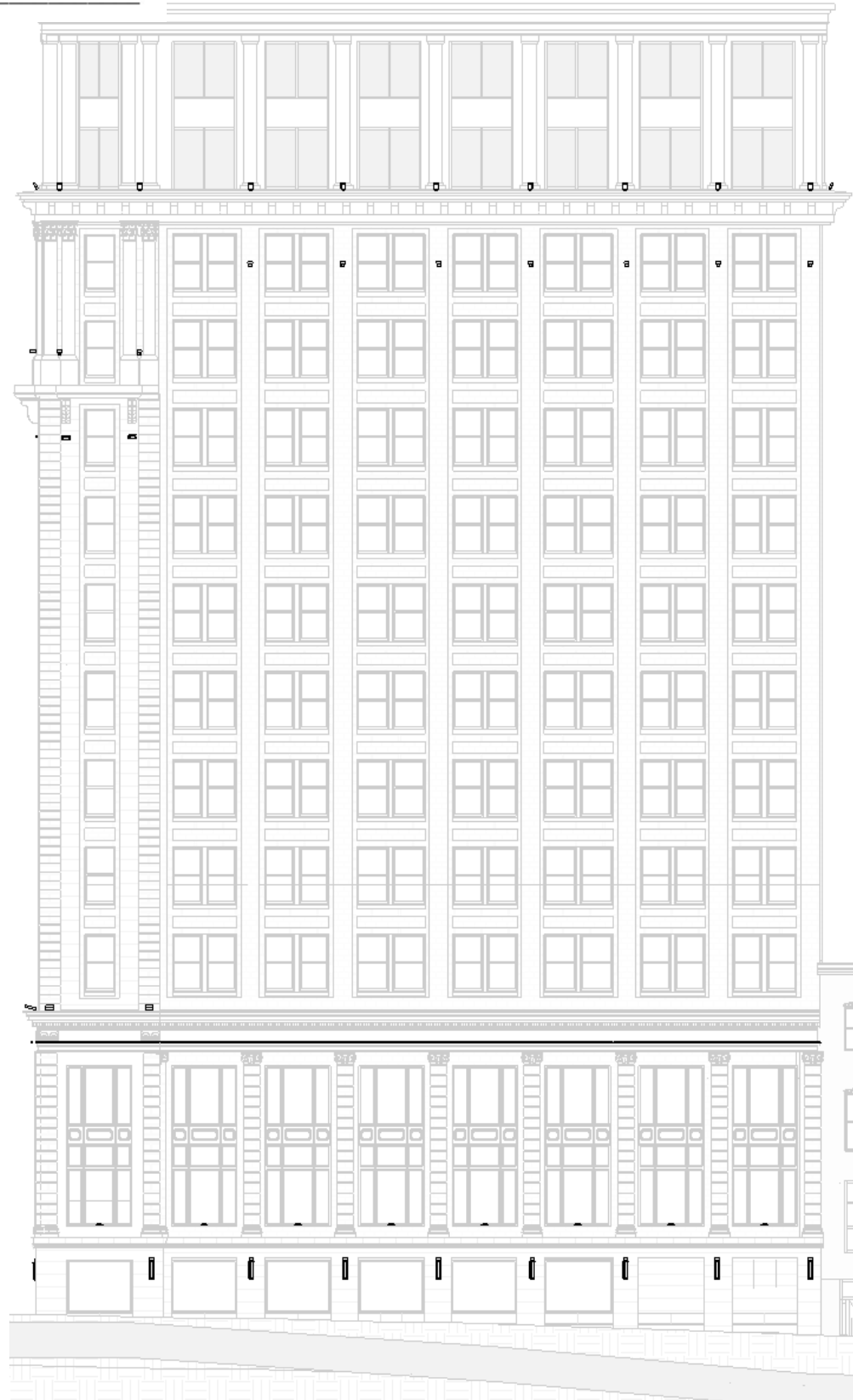


ple St. Facade

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04/27/22

Date: _____

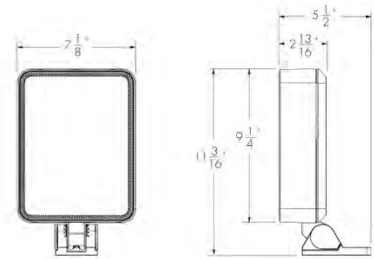




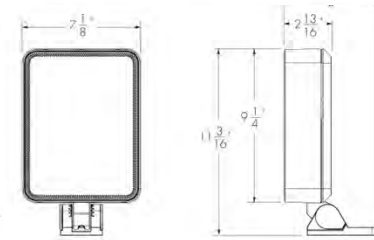
ress St. Facade

Approved for Historic Preservation
Certificate of Appropriateness
04/27/22
Date: _____

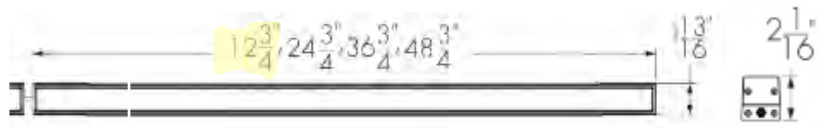
Type XS5, Narrow Flood, RGBW Floodlight



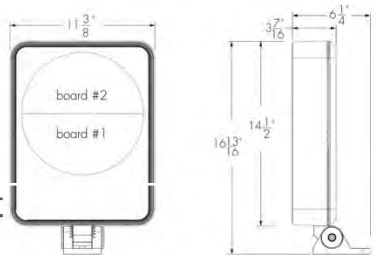
Type XS6, Narrow Flood, 2700K Floodlight



Type XS7, 2700K 1' Linear Washer



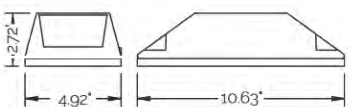
Type XS8, Very Narrow Spot, 2700K Floodlight



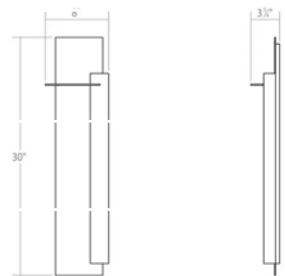
Type XS9, Exterior Tape light, 2700K



Type XS10 and XS11, Window Frame Highlighter
4000K at Central windows, 2700K at all others



Type XW1 and XW4, 3000K Decorative Sconce





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Certificate of Appropriateness

04/27/22

Date: _____



Existing



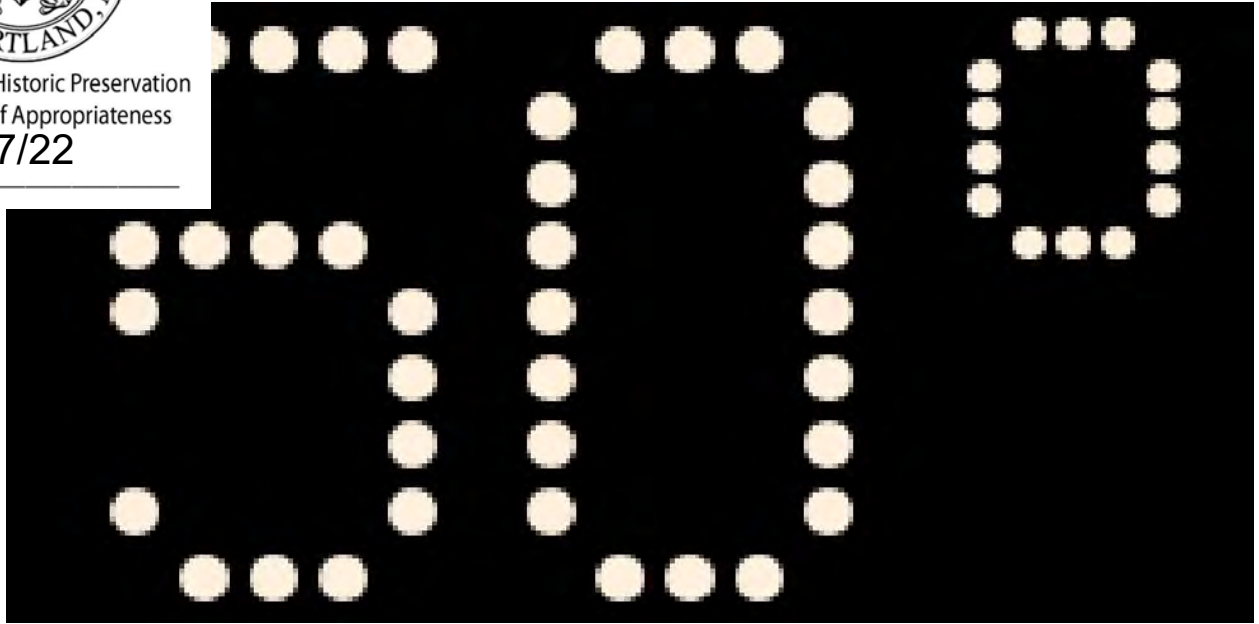
Current Proposal

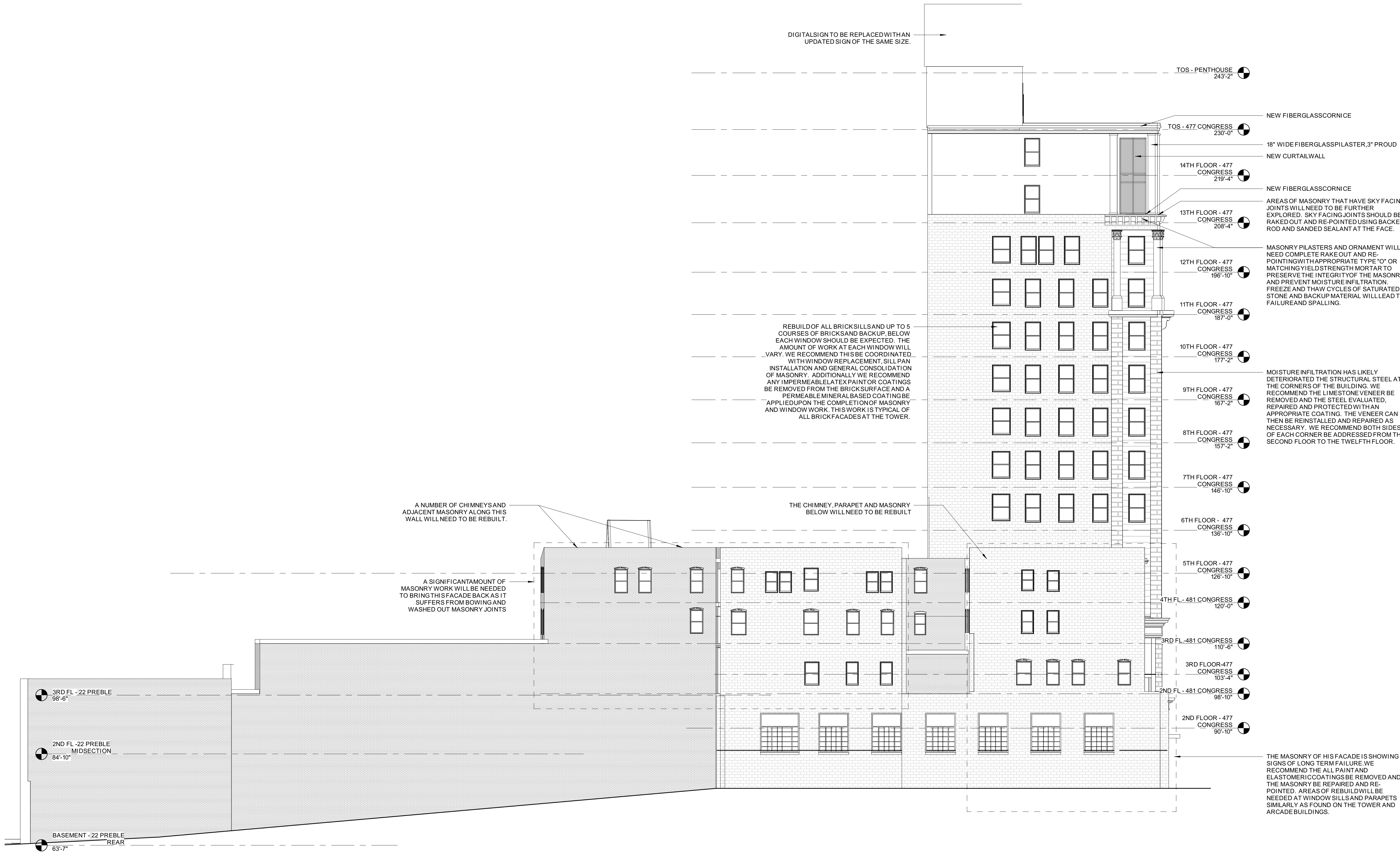


Approved for Historic Preservation
Certificate of Appropriateness

04/27/22

Date: _____





1 | WEST ELEVATION NEW
3/32" = 1'-0"

Prepared For:		PRESIDIUM	
Consultant:		ARCHETYPE ARCHITECTS 48 Union Wharf Portland, Maine 04101 (207) 772-6022 Fax (207) 772-4056	
Project:		TIME & TEMPERATURE HOTEL 477 Congress Street Portland, Maine	
Revisions:			
Date:	Scale:	WEST ELEVATION	
22 FEB, 2021	3/32" = 1'-0"		
A4.24			

Portland Historic Resources Inventory

Property Address: 475-477 Congress Street

CSHD Map Key #48

District: Congress Street

Local Rating: Contributing

Date of Placement: Local 4/15/09

Architectural Description/Historic Significance:

Chapman (Time and Temperature) Building

1924, two stories added 1962

The fourteen-story Chapman Building (now referred to as the Time and Temperature Building) was designed as a twelve-story tower by Portland architect Herbert W. Rhodes. The original building was completed in 1924. The top two stories were added in 1962 and were redesigned in 1986-87.

The limestone building is a simple example of the Classical Revival style. When compared to the neighboring Fidelity Trust Building, it is Spartan in its decorative detail. The Chapman Building in its original configuration exhibited the base, shaft, and capital organization so typical of commercial structures of its period. The base is three stories high and divided into three parts. The base's centerpiece is a slightly recessed main banking hall entrance, with a stone entablature complete with carved eagle, and grandly-scaled windows above and to its sides. The recessed, center three bays above the main entrance are emphasized by four, two-story-high, fluted engaged columns that provide liveliness to the base. They contrast to the rather plain storefronts on the first floor. A simple cornice caps the base at the third floor.

The fourth through tenth floors form the shaft and are simply detailed. On either side, outer bays have stone quoins at their edges and two vertical rows of single windows with double-hung one-over-one sash, separated by a full height pier. The main center section has three bays, each with a pair of double-hung windows separated by a mullion.

A simple cornice with an egg-and-dart design is atop the tenth story and forms the bottom edge of the building's "capital". Two balconies, each supported on four massive brackets, extend the cornice at the two edge bays.

The building "capital" continues as the eleventh and twelfth floors. Windows are separated by pilasters capped by Corinthian capitals. A simple cornice above these capitals was the original top edge of the building.

The main entrance to the building is also the entrance to Portland's first "mall", The Arcade, which extends through the Chapman Building and the older buildings at 10-20 Preble Street to the former B.F. Keith Theater lobby, which had its major entrance on Preble Street. All of the buildings have been owned jointly since the construction of the Chapman Building and The Arcade in 1924.

When they were added in 1962, the thirteenth and fourteenth floors did not relate to the style, detail or materials of the original building. Window placement was totally unrelated to that of the lower stories. The corners of the addition extended to the very edge of the original cornice, giving the top of the building a precarious appearance. In 1986-87, the top two floors were reclad in a stucco coating that was detailed with simplified, stylized classical motifs. New windows were grouped to more closely correspond with original patterns below. The well-considered change in material and detailing served to better integrate the two-story addition with the original structure.



Portland Historic Resources Inventory

Property Address: 481 Congress Street

CSHD Map Key #53

District: Congress Street

Local Rating: Contributing

Date of Placement: Local 4/15/09

Architectural Description/Historic Significance:

Preble House Hotel (remaining fragment)

c. 1870, new street level façade 1924

Directly to the west of the Chapman Bank Building and connected to it is a four-story structure that was originally part of the Preble House Hotel. The Preble House Hotel grew from the classic Federal style three-story brick mansion of Commodore Edward Preble. Designed by Alexander Parris, it was built 1806-08. Converted to a hotel in 1860, it eventually gained a fourth floor as well as a four bay addition to the east and a three bay addition to the west. 481 Congress Street is the three bay addition. Subsequently, the building served as an entrance to Keith's Theater. The building has been remodeled several times and today presents a somewhat disjointed appearance due to the disparity in stylistic treatment of the street level and upper floors.

The street level was redesigned in 1924 to visually relate to the Chapman Building which was then under construction. 461's Classical Revival first floor closely echoes the style of the adjacent tower. It has a stately composition of display windows with transoms, framed by storefront piers at outer edges and smaller piers at the inner edges. The smaller piers form the frame for the central door, which has carved trim and an entablature featuring decorative garlands and medallions. Above the doors and display windows is a richly-detailed cornice. Above and set back from the cornice are the upper three stories of the original building, built of brick with simple double-hung windows and virtually no decoration. The windows are neither in their original location nor configuration.



Portland Historic Resources Inventory

Property Address: 10-20 Preble Street

CSHD Map Key #48

District: Congress Street

Local Rating: Contributing

Date of Placement: Local 4/15/09

Architectural Description/Historic Significance:

c. 1875

This pair of four-story brick commercial buildings has segmental arched window lintels on the upper two floors. The wider building, on the right, has projecting belt courses between the upper floors and a restrained Italianate cornice in brick. The building on the left is very plain and unadorned. Both buildings have large Chicago style windows on the second floor, perhaps added in conjunction with the renovations undertaken in 1924. At that time the first floor of both buildings had classic storefronts with transom windows above display windows and recessed entries.

The buildings have been owned jointly with the adjoining Chapman Building (Time and Temperature Building) on Congress Street and the Keith Theater entrance on Preble St. since the construction of the Chapman Building and The Arcade in 1924. The Arcade was Portland's first indoor "mall" and was cut through the interiors of these buildings when it was created.

The two story brick façade to the right, immediately adjoining the Keith Theater entrance, appears to be non-contributing late 20th century construction, replacing a two-story 19th century Italianate brick storefront façade.

Other than the storefronts, which have unsympathetic late 20th century replacements, and the painting of the exterior brick surfaces these buildings look much as they did in 1924. Aluminum replacement windows have maintained the 1/1 double hung style on the upper floors seen in 1924 and, with minor alteration, the Chicago style of the second floor windows.



Portland Historic Resources Inventory

Property Address: 22 Preble Street – B.F. Keith Theater

CSDH Map Key #49

District: Congress Street

Local Rating: Contributing

Date of Placement: Local 4/15/09

Architectural Description/Historic Significance:

B.F. Keith Theater and The Arcade entrance.

1906

Designed by Francis Fassett this Colonial Revival façade was the entrance to elegant B.F. Keith Theater (demolished in 1965), located behind this and several buildings on Preble Street (22 - 34 Preble St.). After renovation in 1924 it was also the Preble Street entrance to Portland's first indoor "mall", The Arcade, built in conjunction with the new Chapman Building on Congress Street, where it also has an entrance. It also runs through 10-20 Preble Street.

The exuberant two story façade is divided into nearly equal halves. The building entrance, on the left side, has a grand arch window with scrolled keystone ornament on the second floor level, surrounded with Adamesque stucco ornament, sitting on an entablature supported by round columns with Ionic capitals and flanking flat paneled pilasters with Doric capitals. In 1924 a boxy marquee extended out from the recessed entry over the sidewalk and had a scalloped lambrequin that appears to have been canvas.

The right side of the building is much more restrained. It has three windows with keystone lintels set in the brick wall on the second floor, above the entablature that continues from the left side of the building, the first floor storefront had windows flanking a recessed central entrance with typical transom windows above. A brick pilaster with a Doric capital sits on a granite base to the right of the storefront, balancing the more elaborate pilasters at the left side of the façade and at the center, framing the entrance, and carrying the entablature. A bracketed and denticulated cornice topped with a classical balustrade caps the façade.

The 1924 photo shows a projecting vertical sign centered on the entry arch rising from the top of the marquee to a full story above the cornice with "B. F. Keith" spelled out in electric light bulbs. At the entrance portion of the façade a pair of light fixtures with five white globes on approximately 6' high cast metal posts (resembling shortened street light fixtures of the era) sat on the paneled bases in the balustrade. Two more white globes hung as pendent fixtures at the outer corners of the marquee with one tucked up under the center of the marquee as well, another pair were held on torch-like iron brackets mounted to the pilasters flanking the entrance. Several more were hung from simple gooseneck fixtures on the adjoining storefronts.

Other than the replaced windows, everything above the first story entablature is largely intact. The current windows with multiple small panes have a sympathetic Colonial Revival feeling but are quite different from the original windows. The 1924 photo shows 1/1 double hung windows

with transom panels on the right and an elaborate window with cast metal (?) rococo tracery in the arched window above the entrance. On the first floor the columns and flanking pilasters of the entrance are gone and the entablature is partially altered. The current paneled design of the recessed entry is a late 20th century treatment, as is the storefront infill on right side of the building.

