

3/4/2014
4/21/2014
7/22/2014

32-O-14

AN ORDINANCE

**Granting a Special Use Permit for a Planned Development
Located at 835 Chicago Avenue in the C1a Commercial District
("Chicago + Main")**

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the "powers and functions of home rule units shall be construed liberally," was written "with the intention that home rule units be given the broadest powers possible" (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 1979, as amended, ("the Zoning Ordinance"); and

WHEREAS, O'Donnell Investment Co. (the "Applicant"), owner of the property located at 835 Chicago Avenue, Evanston, Illinois (the "Subject Property"), legally described in Exhibit A, which is attached hereto and incorporated herein by reference, applied, pursuant to the provisions of the Zoning Ordinance, specifically Section 6-3-5, "Special Uses", Section 6-3-6, "Planned Developments", and Subsection 6-10-1-9, "Planned Developments" in Commercial Zoning Districts, to permit the construction and operation of a Planned Development with accessory parking located at the Subject Property in the C1a Commercial Zoning District ("C1a District"); and

WHEREAS, the Applicant sought approval to construct a new nine-story ninety-seven foot (97 ft.) tall mixed use commercial, office, and residential building consisting of one hundred twelve (112) dwelling units, approximately 15,670 gross square feet of office space, approximately 12,064 gross square feet of commercial retail space, with one hundred twenty-seven (127) enclosed, garage parking spaces; and

WHEREAS, construction of the Planned Development, as proposed in the application, requires exception from the strict application of the Zoning Ordinance with regards to number of dwelling units per lot size, floor area ration (FAR), building height, enclosed parking setback, number of parking spaces, and the number and length of loading berths; and

WHEREAS, pursuant to Subsection 6-3-6-5 of the Zoning Ordinance, the City Council may grant Site Development Allowances to the normal district regulations established in the Zoning Ordinance; and

WHEREAS, on February 12 and February 26, 2014, in compliance with the provisions of the Illinois Open Meetings Act (5 ILCS 120/1 *et seq.*) and the Zoning Ordinance, the Plan Commission held a public hearing on the application for a Special Use Permit for a Planned Development, case no. 13PLND-0117, heard extensive testimony and public comment, received other evidence, and made written minutes, findings, and recommendations; and

WHEREAS, the Plan Commission's written findings state that the application for the proposed Planned Development meets applicable standards set forth for Special Uses in Subsection 6-3-5-10 of the Zoning Ordinance and Planned Developments in the C1a District per Subsection 6-10-1-9 of the Zoning Ordinance; and

WHEREAS, the Plan Commission recommended the City Council approve the application with conditions; and

WHEREAS, on March 24, 2014, April 28, 2014, and July 28, 2014, the Planning and Development ("P&D") Committee of the City Council held meetings, in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered and adopted the findings and recommendations of the Plan Commission; and

WHEREAS, after the March 24, 2014 meeting of the P&D Committee, the Applicant submitted an amended application to add off-site parking spaces to the proposed development; the amended application is for a proposed Planned Development, seeking approval for a new nine-story ninety-seven foot (97 ft.) tall mixed use commercial, office, and residential building consisting of one hundred twelve (112) dwelling units, approximately 15,670 gross square feet of office space, approximately

12,064 gross square feet of commercial retail space, with one hundred twenty-seven (127) enclosed, garage parking spaces and twenty-five (25) off-site parking spaces located at 935 Chicago Avenue; and

WHEREAS, at its meeting of July 28, 2014, the P&D Committee of the City Council held a meeting in compliance with the provisions of the Open Meetings Act and the Zoning Ordinance, received input from the public, carefully considered the amended application, amended and adopted the applicable findings and recommendations of the Plan Commission, and recommended approval thereof by the City Council; and

WHEREAS, at its meetings of March 24, 2014, and July 28, 2014, held in compliance with the Open Meetings Act and the Zoning Ordinance, the City Council considered the recommendation of the P&D Committee, received additional public comment, made certain findings, and adopted said recommendation; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of Deerfield*, 213 Ill.App.3d 747 (1991)) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124 (7th Cir. 1995)),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are hereby found as facts and incorporated herein by reference.

SECTION 2: Pursuant to the terms and conditions of this ordinance, the City Council hereby grants the Special Use Permit applied for in case no. 13PLND-

0117, to allow construction and operation of the Planned Development described herein.

SECTION 3: The City Council hereby grants the following Site Development Allowances:

- (A) **Number of Dwelling Units Per Lot Size:** A Site Development Allowance is hereby granted for one hundred twelve (112) dwelling units, whereas subsection 6-10-3-4-(B) of the Zoning Ordinance requires a maximum of 87 dwelling units for a lot sized at 30,500 sq. ft. in the C1a District.
- (B) **Floor Area Ratio (FAR):** A Site Development Allowance is hereby granted for a 4.86 floor to area ratio, whereas subsection 6-10-3-7 of the Zoning Ordinance requires a maximum floor area ratio of 4.0 in the C1a District.
- (C) **Building Height:** A Site Development Allowance is hereby granted for a ninety-seven (97) feet maximum height, whereas subsection 6-10-3-9 of the Zoning Ordinance requires a maximum allowed building height of sixty-seven (67) feet in the C1a District.
- (D) **Enclosed Parking Setback:** A Site Development Allowance is hereby granted for a ten (10) foot setback for enclosed parking off of Chicago Avenue, whereas subsection 6-10-3-10 of the Zoning Ordinance requires enclosed parking to be set back twenty (20) feet from any front or street side lot line in the C1a District.
- (E) **Number of Parking Spaces:** A Site Development Allowance is hereby granted permitting a total of one hundred and fifty-two (152) parking spaces, whereas subsection 6-16-3-5 of the Zoning Ordinance requires a minimum of two hundred sixteen (216) parking spaces for this particular mixed use building in the C1a District. Of the aforementioned one hundred and fifty-two (152) parking spaces, one hundred and thirty-one (131) parking spaces are compliant with the requirements of Zoning Ordinance Section 6-16, six (6) parking spaces are tandem parking spaces that are not recognized under the Zoning Ordinance due to a lack of a travel lane, and up to fifteen (15) parking spaces to be located above traditional spaces via hydraulic parking lifts that are not recognized by the Zoning Ordinance due to inadequate height clearance. Of the one hundred and thirty-one (131) code compliant parking spaces, twenty-five (25) parking spaces will be located off-site at 935 Chicago Avenue. All parking spaces, inclusive of the hydraulic lift and off-site spaces as required under this Ordinance, must be in place and usable prior to the issuance of a Temporary Certificate of Occupancy.
- (F) **Number and Length of Loading Berths:** A Site Development Allowance is hereby granted for two (2) short loading berths at twenty-five (25) feet in length, whereas subsection 6-16-5 of the Zoning Ordinance requires a minimum of five

(5) short loading berths at thirty-five (35) feet in length for this particular mixed use building in the C1a District.

SECTION 4: Pursuant to Subsection 6-3-5-12 of the Zoning Ordinance, the City Council imposes the following conditions on the Special Use Permit granted hereby, which may be amended by future ordinance(s), and violation of any of which shall constitute grounds for penalties or revocation of said Special Use Permit pursuant to Subsections 6-3-10-5 and 6-3-10-6 of the Zoning Ordinance:

- (A) **Compliance with Applicable Requirements:** The Applicant shall develop and operate the Planned Development authorized by the terms of this ordinance in substantial compliance with: the terms of this ordinance; the Site and Landscape Plans in Exhibits B and C, attached hereto and incorporated herein by reference; all applicable legislation; the Applicant's testimony and representations to the Site Plan and Appearance Review Committee, the Plan Commission, the P&D Committee, and the City Council; and the approved documents on file in this case.
- (B) **Enclosed Parking Ingress/Egress:** The Applicant shall provide access from the enclosed parking structure to Chicago Avenue via a one-lane right turn only egress as depicted on the Site Plan in Exhibit B. Primary access to and from the enclosed parking structure shall occur via the ingress/egress located at the alley as depicted in the Site Plan in Exhibit B.
- (C) **Landscape Design:** The Applicant shall install and maintain landscaping as depicted in Exhibit C. All landscape and hardscape, including but not limited to sidewalks, curbing, decorative brickwork, and planting materials, shall conform to the Chicago Avenue Streetscape Plan along Chicago Avenue and Main Street.
- (D) **Retail Exclusive Parking:** The Applicant shall provide thirteen (13) enclosed parking spaces on the ground floor of the building parking, which shall be exclusively used for retail customers during the business hours of the on-site retail businesses and shall not be utilized for office or residential purposes during those business hours. Additionally, the Applicant agrees to display proper signage within the parking structure that specifically details such restriction. The aforementioned thirteen (13) on-site parking spaces for retail use shall be privately managed.
- (E) **Parking Lifts:** The Applicant shall install three (3) parking spaces located above traditional spaces via hydraulic parking lifts. Up to twelve (12) additional hydraulic parking lifts shall be installed on an as-needed basis as determined by the City of Evanston. The Applicant shall provide the City a certified rent roll of the parking spaces on an annual basis, including hydraulic lift spaces. In the event all hydraulic parking lifts are occupied, the Applicant shall purchase and install an

additional three (3) hydraulic parking lifts until a maximum fifteen (15) lifts are installed or there is no additional demand.

In the event there is not a demand for additional hydraulic parking lifts upon the third anniversary of the issuance of the final Certificate of Occupancy, such hydraulic parking lift obligation shall sunset and the Applicant shall be released of said requirement within the Planned Development.

- (F) **Car Sharing and Car Club Service:** The Applicant agrees to provide and place a minimum of two (2) car share vehicles in the enclosed parking structure prior to obtaining the Temporary Certificate of Occupancy. In the event this Planned Development, 835 Chicago Avenue ("Chicago + Main"), is converted to condominiums, Applicant may cease to provide the Car Sharing and Car Club Service.
- (G) **Employees:** That the Applicant will have, as a primary goal, the employment of ten (10) Evanston residents, with a required minimum amount of five (5) Evanston resident employees during construction. Said residents, without regard to sex, race or ethnicity, can be sub-contractors or vendors to the development. The Applicant will hire as many competent minority and/or women Evanston subcontractors, workers, and residents as possible for the construction project.
- (H) **Temporary Parking Meter Loss Compensation:** The Applicant shall pay two thousand two hundred fifty dollars (\$2,250.00) per City of Evanston parking meter that must be temporarily capped or removed during the construction period, not to include any permanently removed meters. Such payment shall be for the City Parking Fund and shall be made prior to the issuance of the building permit.
- (I) **Permanent Parking Meter Loss Compensation:** The Applicant shall pay seventy-two thousand two hundred eighty-one dollars (\$72,281.00) for the total permanent removal of four (4) City of Evanston parking meters. Such payment shall be made prior to the temporary Certificate of Occupancy and is for the City Parking Fund.
- (J) **Alley Excavation and Pavement:** The Applicant agrees to have the City of Evanston excavate and pave the north-south alley adjacent to Subject Property by way of the City of Evanston's Special Assessment Process. The Applicant shall obtain a Special Assessment Process petition from the City Engineer and comply with the subsequent required procedure necessary for the Special Assessment. If the Special Assessment Process is not approved, the Applicant shall, at its sole cost and expense, reconstruct the alley along the length of the subject property to the City alley standard, which includes but is not limited to an 8" concrete base with stormwater conveyance.

- (K) **Waste Management Services:** The Applicant agrees to work with the waste management company servicing the alley to the best of their ability to ensure the alley remains passable during waste collection and/or pick-up.
- (L) **Property Utility Lines:** The Applicant shall bury adjacent property utility lines, including but not limited to the lines on the four (4) adjacent utility poles, in conjunction with the required underground placement of utility lines required for the development project.
- (M) **City of Evanston Affordable Housing Fund:** In the event this Planned Development, 835 Chicago Avenue ("Chicago + Main"), is converted to condominiums, the Applicant shall contribute to the Affordable Housing Fund four hundred forty thousand dollars (\$440,000.00), amount consisting of ten percent (10%) of the units paid at forty thousand dollars (\$40,000.00) per unit.
- (N) **Public Art:** Applicant will include public art in its development and visible to pedestrians. Public art may be in the form of decorative stamped concrete walks, special brick work, glass blocks, or landscaping art. The Applicant will be responsible for all costs associated with the public art, including installation and maintenance.
- (O) **Recordation:** Pursuant to Subsection 6-3-6-10 of the Zoning Ordinance, the Applicant shall, at its cost, record a certified copy of this ordinance, including all exhibits attached hereto, with the Cook County Recorder of Deeds, and provide proof of such recordation to the City, before the City may issue any permits pursuant to the Planned Development authorized by the terms of this ordinance.

SECTION 5: When necessary to effectuate the terms, conditions, and purposes of this ordinance, "Applicant" shall be read as "Applicant's tenants, agents, assigns, and successors in interest."

SECTION 6: This ordinance shall be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

SECTION 7: Except as otherwise provided for in this ordinance, all applicable regulations of the Zoning Ordinance and the entire City Code shall apply to the Subject Property and remain in full force and effect with respect to the use and development of the same. To the extent that the terms and provisions of any of said documents conflict with the terms herein, this ordinance shall govern and control.

SECTION 8: All ordinances or parts of ordinances that are in conflict with the terms of this ordinance are hereby repealed.

SECTION 9: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 10: The findings and recitals herein are hereby declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: March 24, 2014

Approved:

Adopted: July 28, 2014

July 30, 2014

Elizabeth B Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel

EXHIBIT A

Legal Description

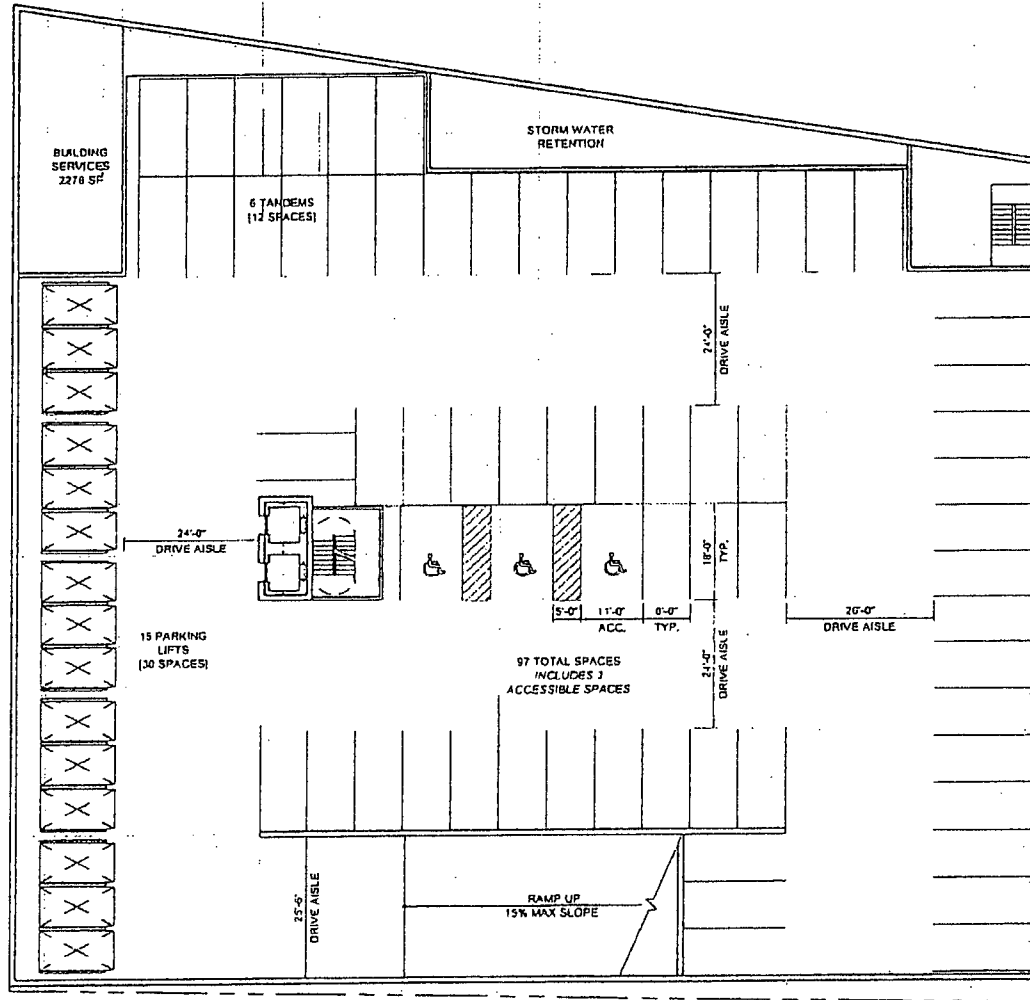
LOT "A" IN THE MAIN CONSOLIDATION, BEING A CONSOLIDATION OF LOTS 1, 2 AND 3 IN BLOCK 11 IN WHITE'S ADDITION TO EVANSTON IN SECTION 19, TOWNSHIP 41 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JANUARY 5, 1977 AS DOCUMENT NUMBER 23769201, IN COOK COUNTY, ILLINOIS.

PINs: 11-19-401-024-0000

COMMONLY KNOWN AS: Unimproved vacant land, 835 Chicago Avenue, Evanston, IL (approx. 30,500 sq. ft.)

EXHIBIT B

Development Plans

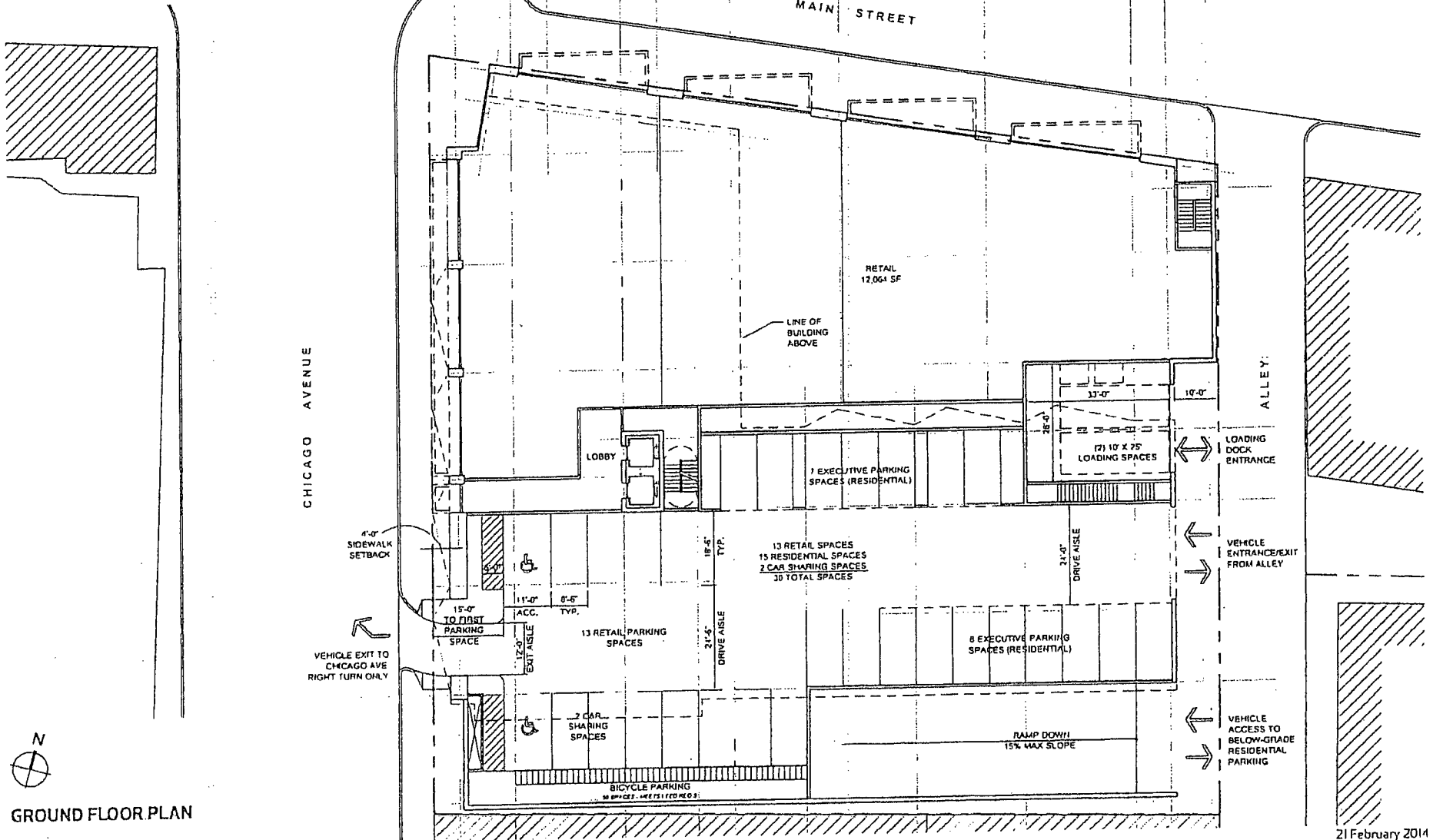


BASEMENT LEVEL PLAN



12 February 2014

GJR|E|C Architects

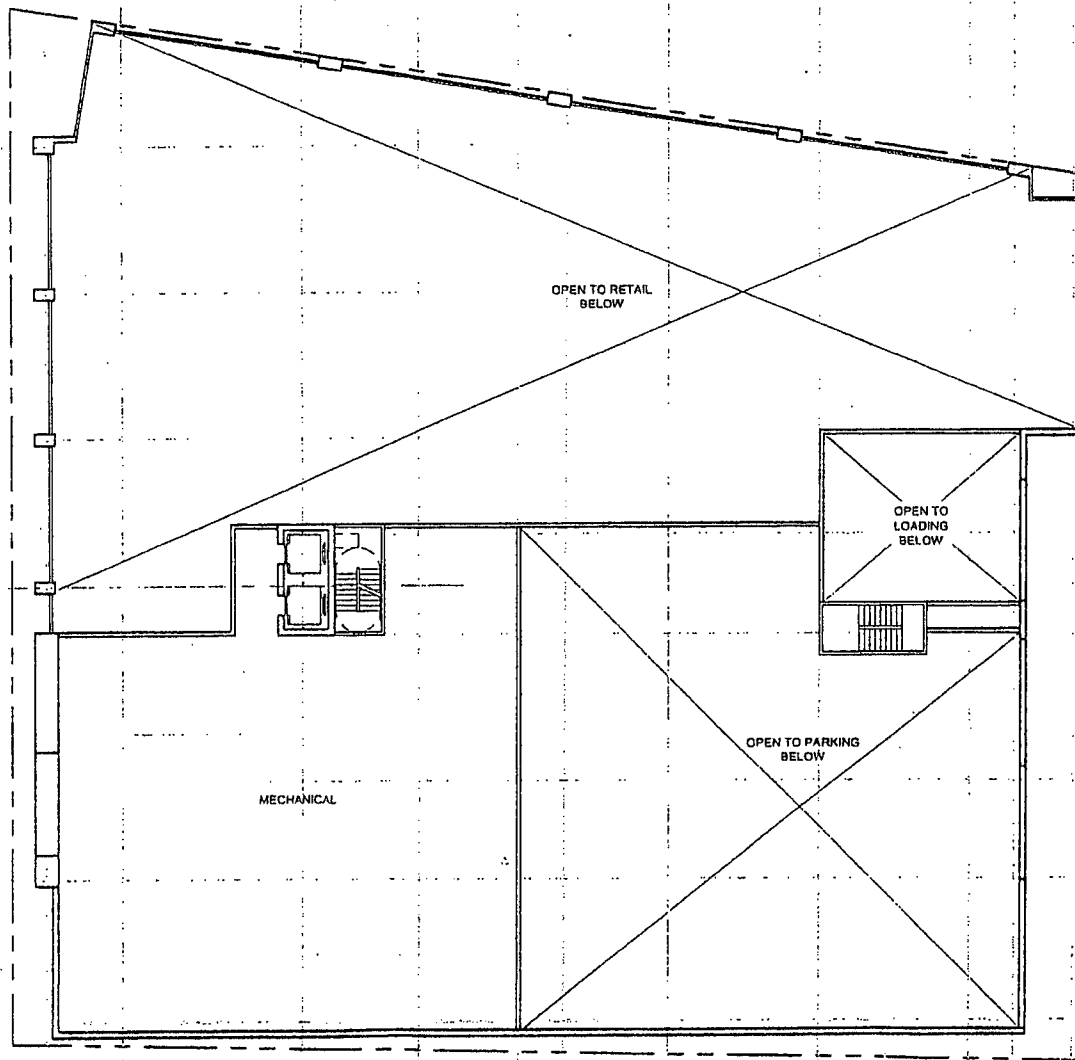


GROUND FLOOR PLAN



21 February 2014

G|R|E|C Architects



6,500 TOTAL GSF



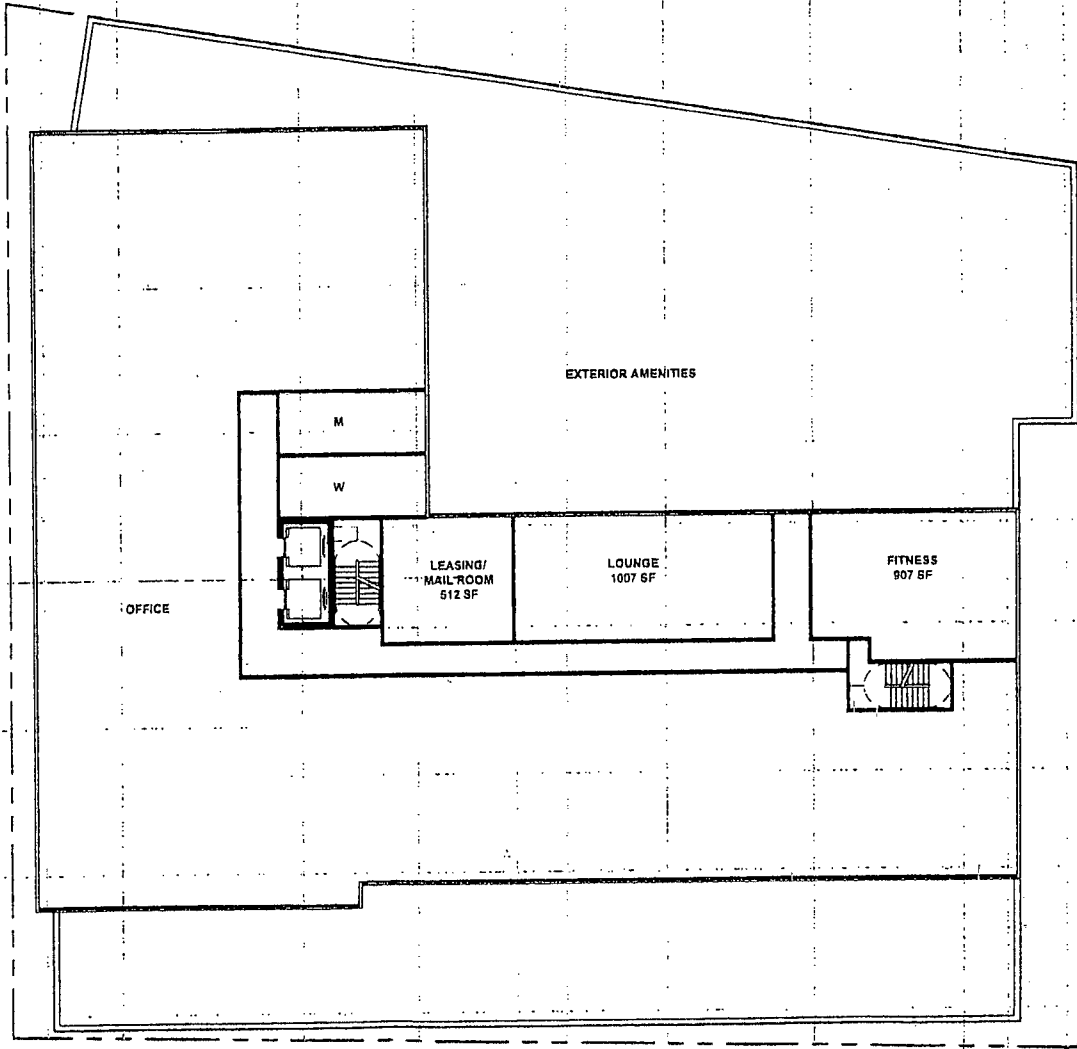
MEZZANINE FLOOR PLAN
SCALE: 1" = 20'-0"

A04

23 JANUARY 2013

CHICAGO + MAIN | Evanston

G|R|E|C Architects



18,600 TOTAL GSF



SECOND FLOOR PLAN
SCALE: 1" = 20'-0"

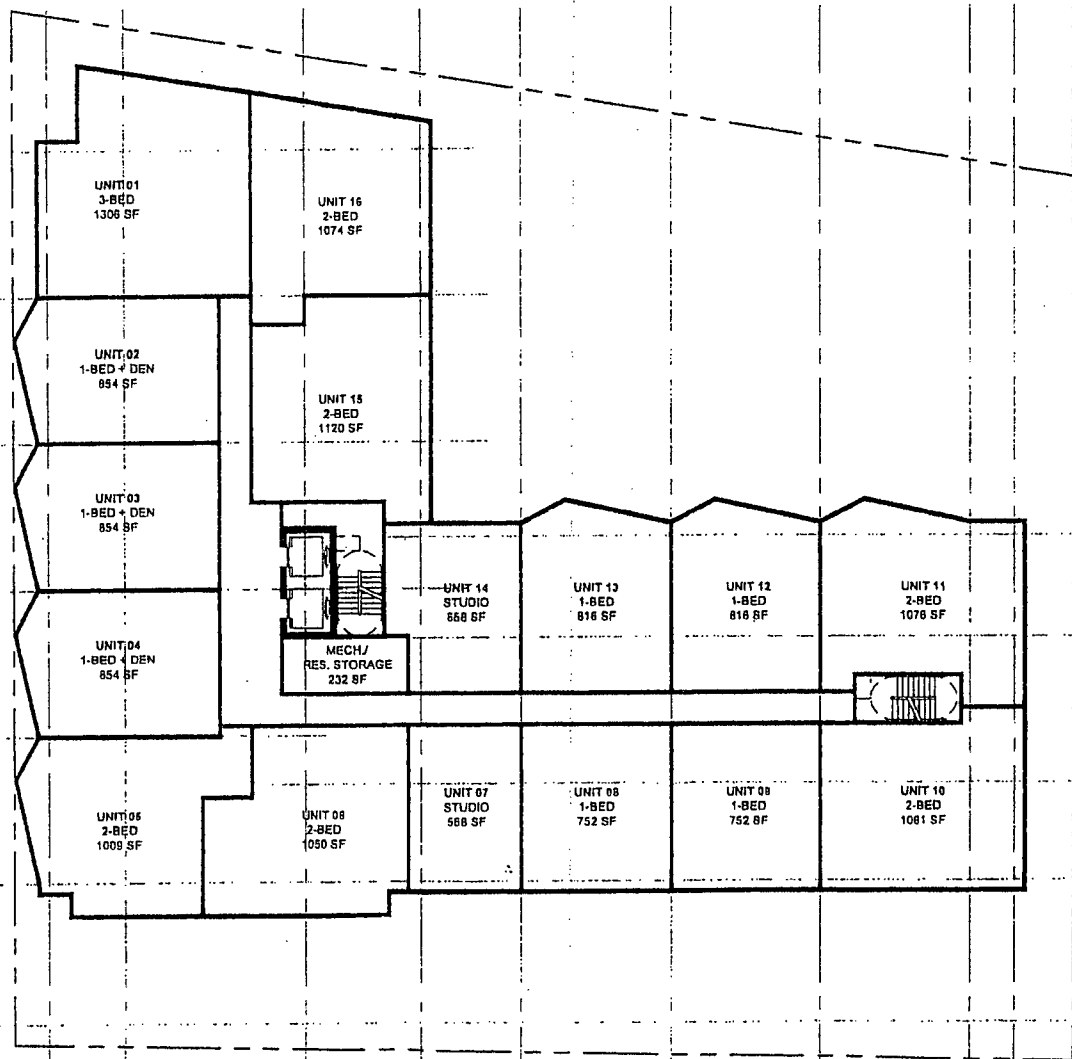
A05

11120 - Chicago & Main & 61412 02 Structural Rooming-0502 SECOND FLOOR PLAN.dwg

23 JANUARY 2013

CHICAGO + MAIN | Evanston

G|R|E|C Architects



16,650 TOTAL GSF
 (2) STUDIO UNITS
 (7) 1 BEDROOM UNITS
 (8) 2 BEDROOM UNITS
 (1) 3 BEDROOM UNIT

N
 TYPICAL RESIDENTIAL PLAN
 LEVELS 3 - 9)

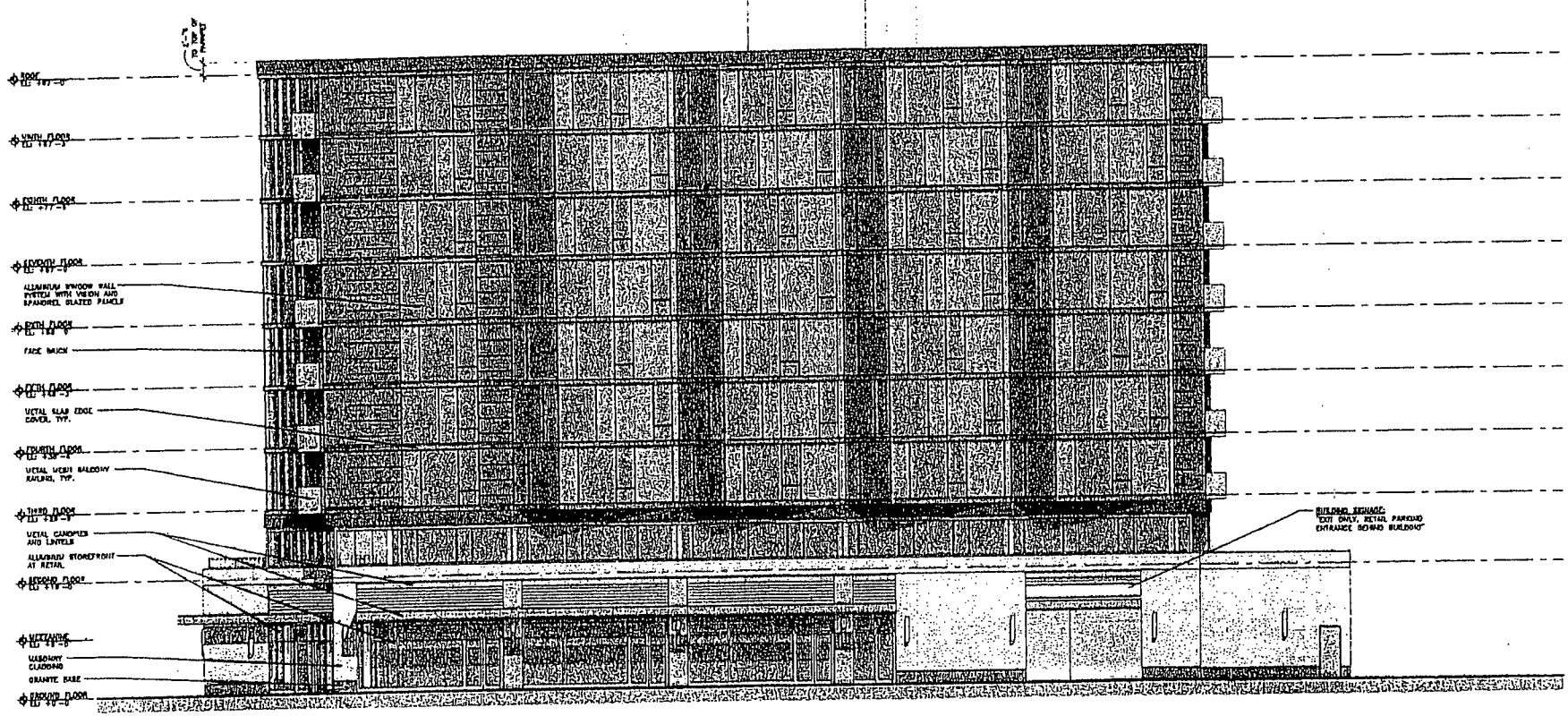
SCALE: 1" = 20'-0"
 M:\1127 - 2011 - 2011 - 303030 - 11270 - Design & construction\11270.dwg (residential documents)\ADD TYP FLOOR PLAN.dwg

A06

23 JANUARY 2013

CHICAGO + MAIN | Evanston

G|R|E|C Architects



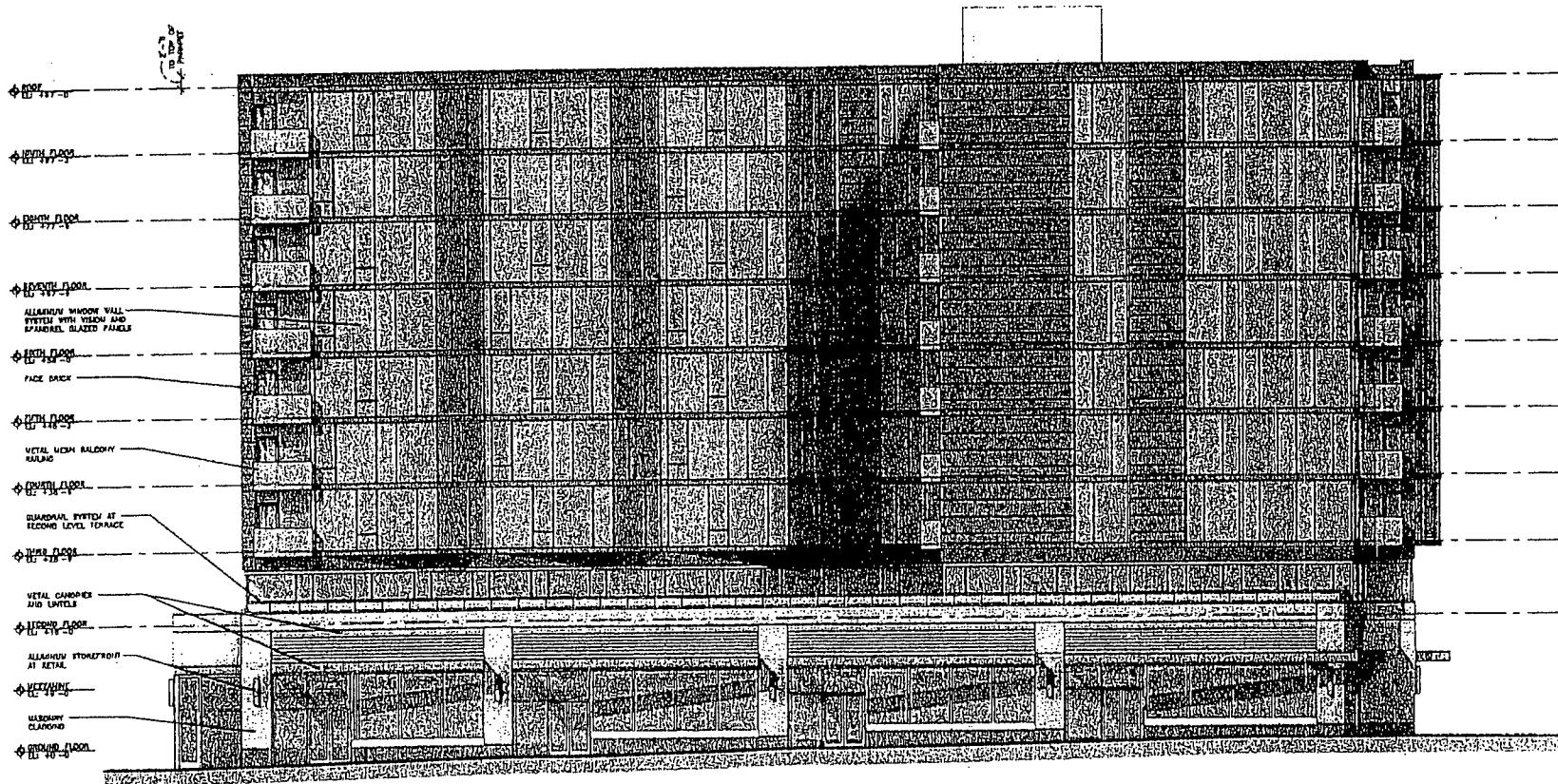
WEST (CHICAGO AVENUE) ELEVATION
 SCALE: 1/16" = 1'-0"

A07

23 JANUARY 2013

CHICAGO + MAIN | Evanston

G|R|E|C Architects



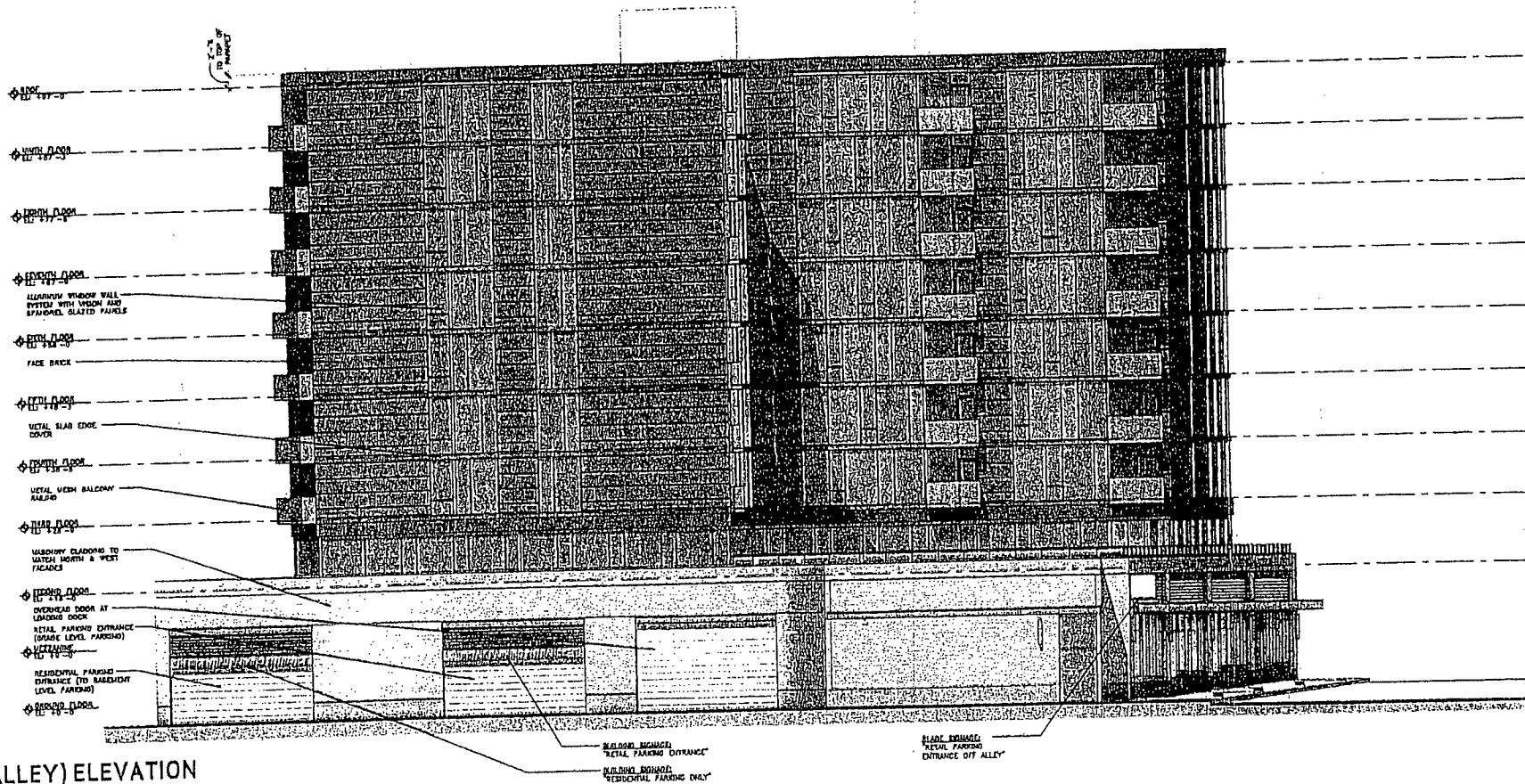
NORTH (MAIN STREET) ELEVATION
 SCALE: 3/16" = 1'-0"

A08

23 JANUARY 2013

CHICAGO + MAIN | Evanston

G|R|E|C Architects



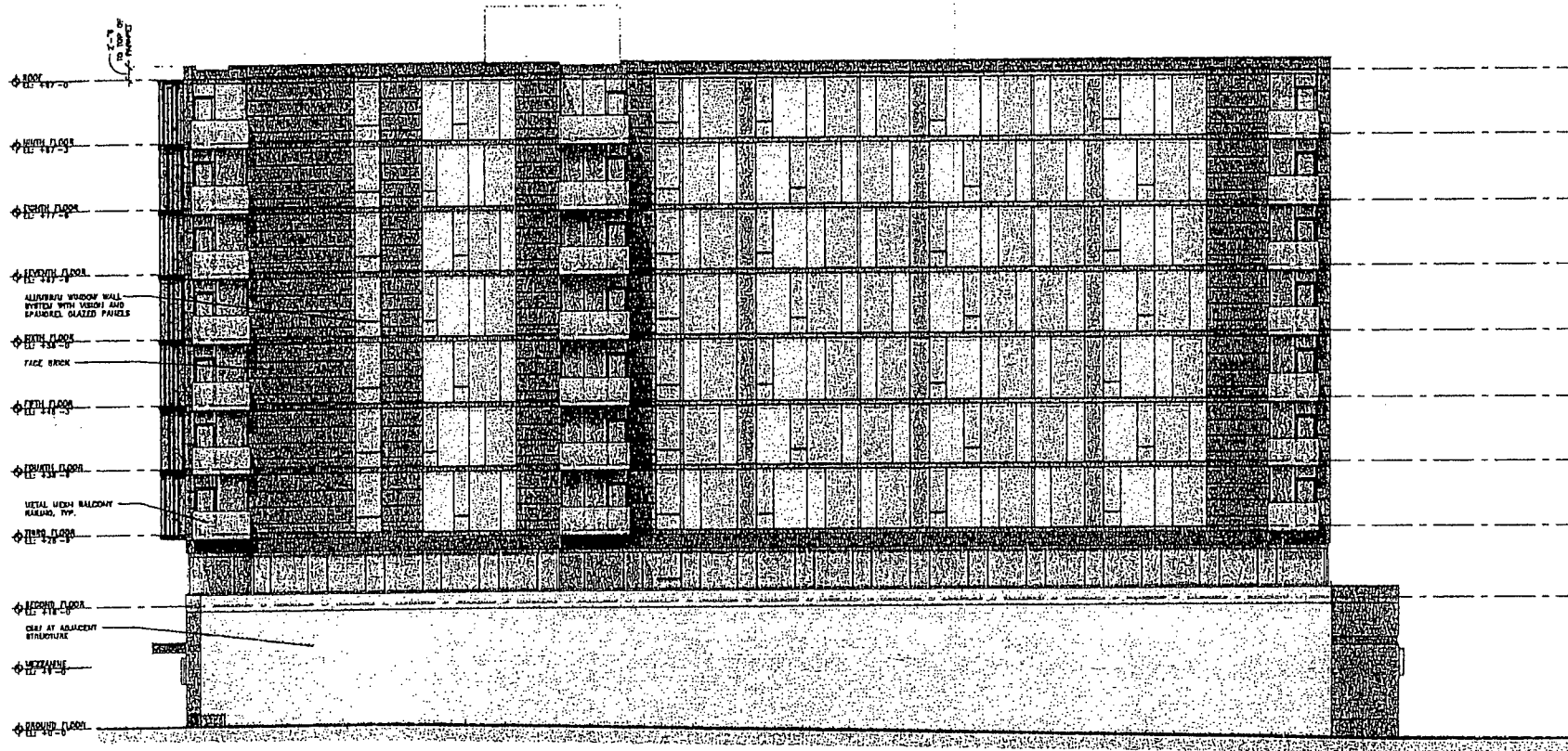
EAST (ALLEY) ELEVATION
 SCALE: 1/16" = 1'-0"

A09

23 JANUARY 2013

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SOUTH ELEVATION
 A/E: 1/16" = 1'-0"

A10

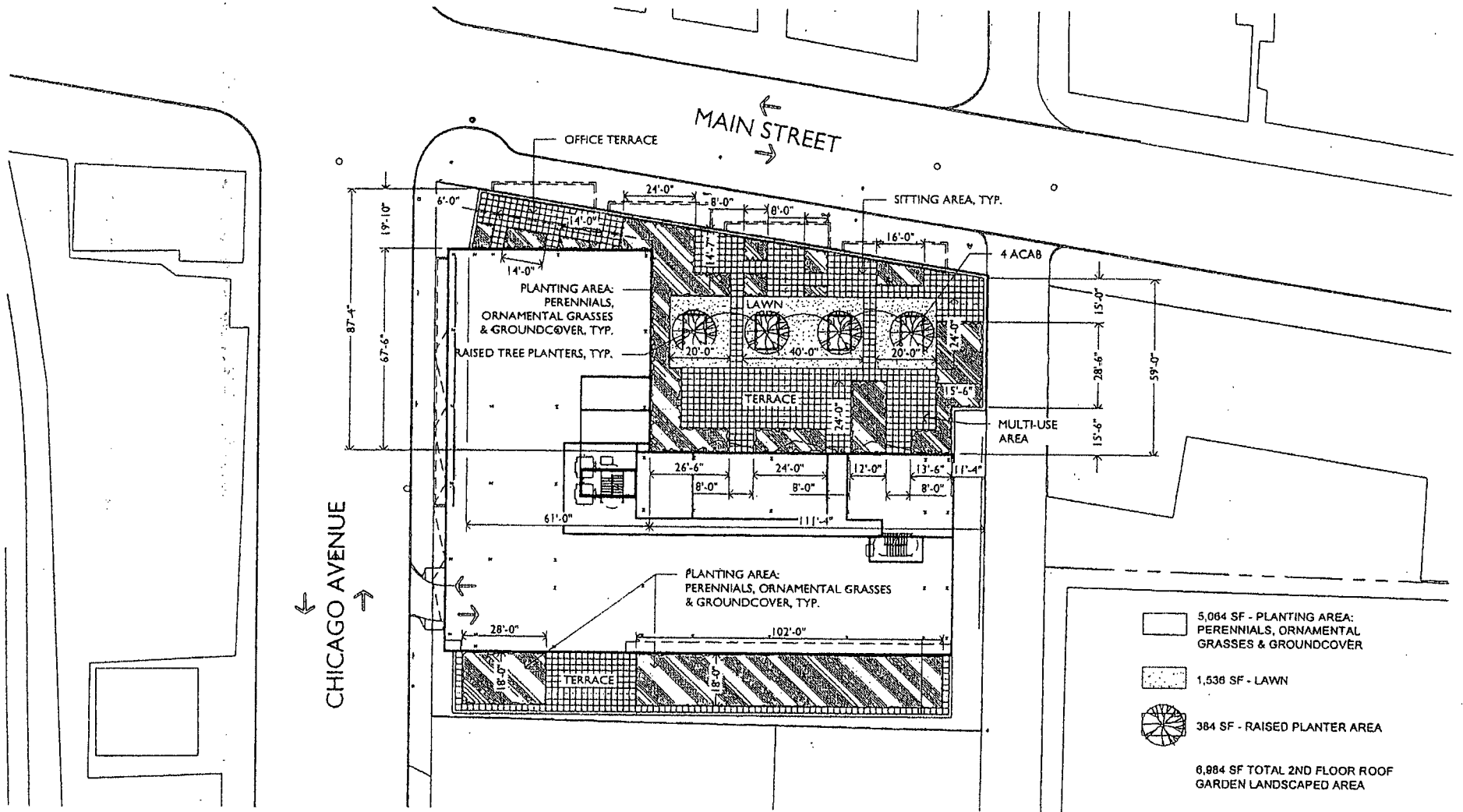
23 JANUARY 2013




CHICAGO + MAIN | Evanston

G|R|E|C Architects

EXHIBIT C

Landscape Plans



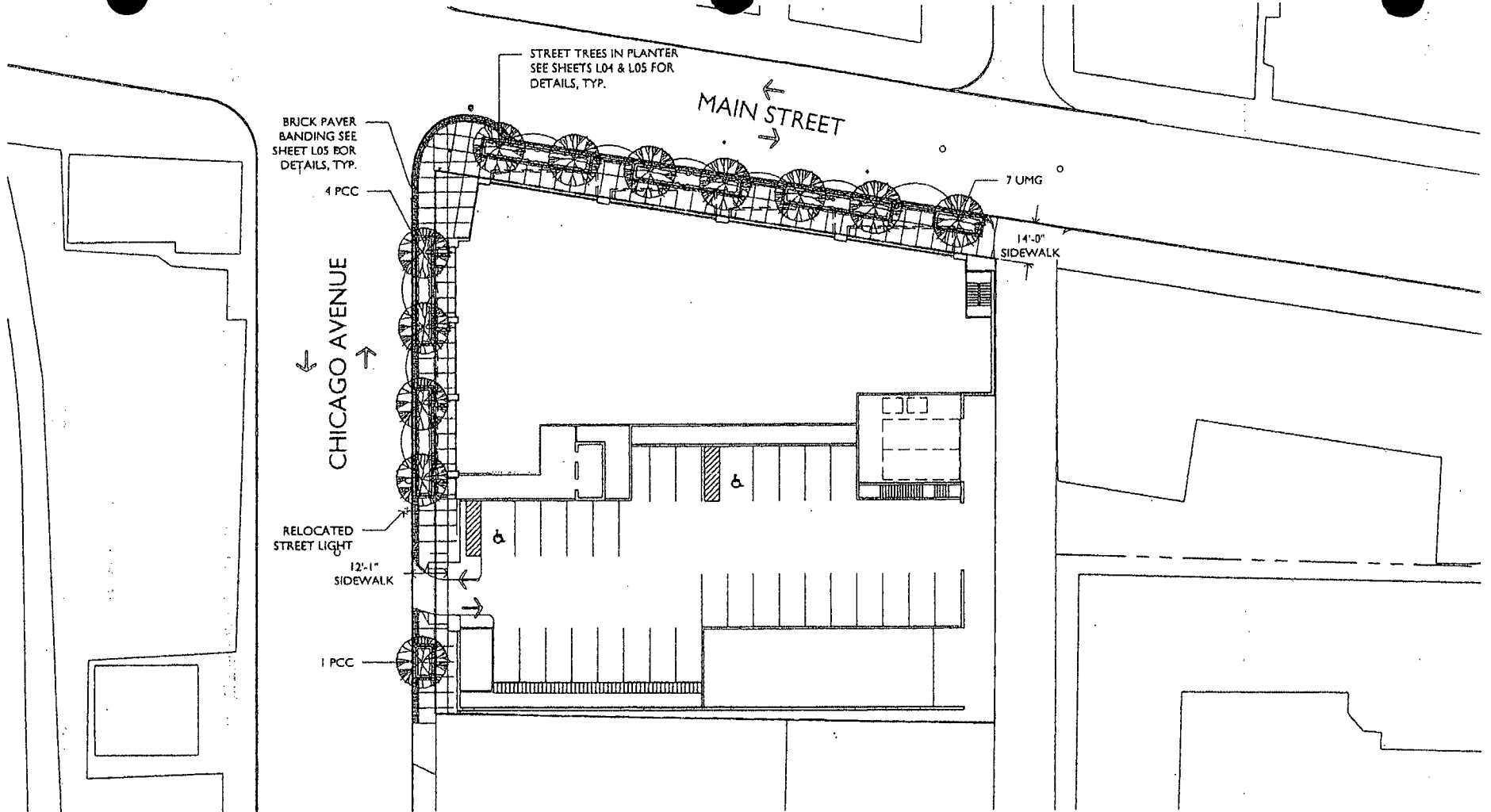
-  5,064 SF - PLANTING AREA: PERENNIALS, ORNAMENTAL GRASSES & GROUND COVER
-  1,536 SF - LAWN
-  384 SF - RAISED PLANTER AREA
- 6,984 SF TOTAL 2ND FLOOR ROOF GARDEN LANDSCAPED AREA

SCHEMATIC 2ND FLOOR LANDSCAPE PLAN
 SCALE: 1" = 30'-0"



L03

03 FEBRUARY 2014



SCHEMATIC STREETScape PLAN
 SCALE: 1" = 30'-0"



L02

03 FEBRUARY 2014