

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT
REVISED AGENDA**

January 21, 2021 – 7:00 P.M. – GoToMeeting

Per the proclamation issued by Governor Carney and Lieutenant Governor Hall-Long on March 13, 2020, the Board of Adjustment will be meeting remotely via GoToMeeting at the following link:

<https://www.gotomeet.me/newarkde/boa012121>

You can also dial in using your phone.

United States: [+1 \(872\) 240-3212](tel:+18722403212)

Access Code: 401-759-901

New to GoToMeeting? Get the app now and be ready when your first meeting starts: <https://global.gotomeeting.com/install/401759901>

Public comments may be submitted on the items on the agenda via email to citysecretary@newark.de.us by 6:00 p.m. All public comments received will be read into the record at the meeting. Attendees may also alert staff that they wish to speak at the appropriate time by submitting their name, district and/or address via the GoToMeeting chat function during the meeting.

The application and associated documents for the variance request will be available at <https://newarkde.gov/meetings> one week prior to the meeting.

- 1. The approval of the minutes from the meeting held on September 17, 2020.**
- 2. The appeal of GG+A Construction, on behalf of Newark Charter Junior High School, property address 1089 Elkton Road:**
 - a. **Sec. 32-56.2(c)(1) – Height of buildings; exceptions to height limits –** The maximum height in all districts for a public school, private school, parochial school or college is four stories and is not to exceed 50 feet. The proposed plan shows the top of roof at 56 feet, resulting in a 6-foot variance request.
- 3. The appeal of 287 East Main Street Associates, LLC, property address 287 East Main Street regarding the letter issued by Planner II, Thomas Fruehstorfer, titled “287 East Main Street, Fulton Bank, Building Permit 202001549 – New Construction” located at 287 East Main Street, Newark, Delaware.**
 - a. **The applicant is appealing the interpretation of the Planning and Development Department and the City Solicitor that exemptions in Section 32-56.2(c)(2) do not apply to the proposed structure.**
 - b. **If the Board does not find in favor of the applicant for item 2a, the applicant is further requesting the following variances:**
 - i. **Sec. 32-18(d)(4) – Height of buildings –** Except as specified in Article XVI, Section 32-56.2(c)(2) of this chapter, permitted uses in a BB district may be erected to a height of over three stories or 35 feet – The proposed plan shows a structure of 37.5 feet, resulting in a 2.5 foot variance request.

- ii. **Sec. 32-18(d)(5) – Building setback lines** – A 20-foot setback shall be required for all buildings above three stories or 35 feet in height – Where the building exceeds 35 feet in height, the proposed plan shows a setback of 9.3 feet from Main Street, resulting in a 10.7 foot variance request.
- iii. **Sec. 32-18(d)(5) – Building setback lines** – A 20-foot setback shall be required for all buildings above three stories or 35 feet in height – Where the building exceeds 35 feet in height, the proposed plan shows a setback of 3 feet from Tyre Avenue, resulting in a 17 foot variance request.
- iv. **Sec. 32-56.2(c)(2) – Height of buildings; exceptions to height limits** - In any district the maximum building height provisions shall not apply to...a parapet wall or similar appurtenance that may be designed to provide architectural detail and/or to hide mechanical equipment extending not more than four feet above the limit of the height of the building on which it rests. The height limit is 35 feet for the building and 39 feet with the parapet. The proposed plan shows a parapet wall to a height of 43.25 feet, resulting in a 4.25-foot variance request.

Agenda Posted – January 5, 2021
Revised Agenda Posted – January 11, 2021

Revised Agenda updated item 3.b.iii to reflect that the variance is for a setback from Tyre Avenue, not Haines Street

Attest:

Sworn by:

City Secretary

Notary Public (Seal)



PLANNING & DEVELOPMENT
CITY OF NEWARK

220 South Main Street · Newark, Delaware 19711
302.366.7000 · Fax 302.366.7160 · www.cityofnewarkde.us

December 18, 2020

Megan Bauer
GGA Construction
mbauer@ggabuilds.com
302-593-5648

**RE: 2001 Patriot Way/1089 Elkton Road, Newark Charter Junior High School, Building
Permit 202001323 – Foundations & Steel**

Dear Ms. Bauer:

Please be advised that upon review of Building Permit 202001323 for Foundations and Steel at 2001 Patriot Way/1089 Elkton Road, the following issue has been identified by the Planning and Development Department as non-compliant, and the permit is denied. A request for a variance is required before further processing can occur.

Per Section 32-56.2(c)(1), in all districts, a public school, private school, parochial school or college may have a height of four stories not exceeding 50 feet. The submitted plan shows the top of roof at about 55 feet with an additional 6-inch parapet wall. It should be noted that a parapet wall is allowed by Section 32-56.2(c)(2) to provide architectural detail and/or to hide mechanical equipment extending not more than four feet above the limit of the height of the building.

Your application requires a variance to allow a school with a building height of 55 feet.

You may seek a variance from the aforementioned section by completing an application for a hearing before the Board of Adjustment (attached) and submitting it along with a one-thousand one-hundred (\$1,100) fee to the City Secretary's office. This fee is non-refundable and is for the cost of the hearing, whether the Board of Adjustment grants or denies the variance. Please note as well that as per Code Section 32-63, should you request a continuance of an appeal to other than the meeting for which you have applied, another one-hundred sixty-five (\$165) fee will be required.

If you have any questions or concerns, please feel free to contact me at (302) 366-7000 ext. 2044.

Sincerely,



Thomas K. Fruehstorfer
Planner

Cc: Mary Ellen Gray, Planning and Development Director
Stephanie Petersen, Code Enforcement Manager
Tim Poole, Code Enforcement Officer
Renee Bensley, City Secretary
Nichol Scheld, City Secretary Office
Roselyn Keesee, Design Collaborative, Inc.



**CITY SECRETARY'S OFFICE
CITY OF NEWARK**

220 South Main Street · Newark, Delaware 19711
302.366.7000 · Fax 302.366.7067 · www.newarkde.gov

**BOARD OF ADJUSTMENT
INSTRUCTIONS FOR NOTICE OF APPEAL**

The Board of Adjustment meetings are held on the third Thursday of the month, at 7:00 pm in the Council Chamber of the City of Newark Municipal Building, 220 South Main Street, Newark.

The notice of Appeal form must be completed and submitted to the Board of Adjustment Secretary in the City Secretary's Office. The deadline dates may be obtained in the City Secretary's Office or Code Enforcement Division. At the time the application is submitted, you will be informed of the hearing date. In addition to the Notice of Appeal form the following information is required at the time of the application:

1. A filing fee of \$275.00, payable to City of Newark, for each appeal in a residential district. The filing fee in any other zoning district is \$1,100.00.
2. Ten copies of the plot plan or survey.
3. Ten copies of drawings or plans if, in the opinion of the Building Director, they are necessary to clarify hardship.
4. Ten copies of the Denial Letter issued from Code Enforcement triggering the hearing request.
5. In addition to the original filing fee, if an applicant requests a continuance of an appeal, the fee is \$165.00 in a residential district.
6. Should a project be removed from the agenda less than seven days before the scheduled meeting at the request of the applicant, a re-advertising fee of \$165.00 will be charged to be placed on a subsequent board of adjustment agenda. For good cause shown, the fee may be waived at the discretion of the City Secretary.

If you have any questions, please contact the City Secretary's Office at 366-7000.

Please email the City Secretary's office at citysecretary@newark.de.us to schedule an appointment for application submission as the office is currently closed to the public due to COVID-19.

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT**

NOTICE OF APPEAL

FOR OFFICE USE ONLY:

APPEAL NO.: _____ DATE RECEIVED: _____

PROPERTY LOCATION: _____

APPLICANT: _____

DATE OF HEARING: _____

DATE HEARING ADVERTISED: _____

FEE PAID, RECEIPT NO. _____

Please complete and have notarized the Notice of Appeal and submit it along with plans to the Board of Adjustment Secretary, City Secretary's Office, 220 South Main Street, Newark, DE 19711.

1. I/We, **GG+A Construction**
1130 Industrial Road, Middletown, DE 19709 **302-376-6122**
(Mailing Address) (Phone No.)

request a determination by the Board of Adjustment on the following appeal, which was denied by the Building Department on **December 18, 2020**

2. The purpose of the appeal is to request: **Variance for building height from 50' to 56'**

A. ☒ A variance to Chapter 32, Section 32. **56.2(c)(1)** related to:

- ☐ Area
- ☐ Frontage
- ☐ Side Yard
- ☐ Rear Yard
- ☐ Height (sign)
- ☐ Use
- ☐ Parking
- ☒ Other: **Height (building)**

B. ☐ An interpretation.

C. ☐ A special exception (in special sign district only).

3. Description of the property:

A. Street location, lot number: **1089 Elkton Road**

B. Present use: **Empty lot (former freezer plant)**

C. Proposed use: **Junior High School**

D. Zoning district: **RH**

4. I/We believe that the Board of Adjustment should approve this request because: (please state the exceptional practical difficulty in using the property for a proposed use. If an interpretation is requested, state grounds for interpretation.)

We feel that this request is aligned with and in the spirit of the exceptions allowed by

"Sec. 32-56.2 – Area regulations; exceptions", item (2). The additional height requested is a modest increase and only for the center portion of the building. The additional height will provide natural light into the 3rd floor lobby and student work display, allow for higher ceilings in the art rooms, and permit architectural detail at the entrance that is similar to that used on the lower school campus site. More detailed information is provided in the supplemental information included in this submission.

(If additional space is necessary, please attach to form.)

5. Has a previous application for an appeal been filed? No
(If you are not sure, contact the Board of Adjustment secretary at 366-7000.)

6. What is applicant's interest in the premises affected?
(Owner, agent, lessee, etc.)

Owner/School representative

I hereby certify that all of the statements in this Notice of Appeal and attached plans are true to the best of my knowledge.

Jul Ann, School Director NCS
(Applicant's signature)

Sworn to and subscribed before me, this 29th day of December 2020

Cynthia Dawn Coyne
Notary Public

CYNTHIA DAWN COYNE
Notary Public
STATE OF DELAWARE
My Commission Expires February 4, 2021

My Commission Expires 2/4/21

June 07, 2018 - 11:38am User: maffica Q:\Newark Charter\DWG\Surveying\DWG\1804-DE Freezer site\DWG\Surveying\DWG\1804-BOUNDARY.dwg The BOUND

FIDELITY NATIONAL TITLE INSURANCE COMPANY
TITLE SEARCH NO. 6901614

PARCELS P-1 & P-2: EASEMENTS & EXCEPTIONS

- 17 **AGREEMENT** between Manor Real Estate Company and The Philadelphia, Baltimore and Washington Railroad Company, dated December 4, 1968, recorded December 17, 1968 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *V*, Volume 81, Page 233 **APPLICABLE TO THE USAGE OF THE PARCELS**
- 18 **EASEMENTS** as contained in Deed between Manor Real Estate Company and Manor Hope Properties, L.P., dated October 27, 1977, recorded December 30, 1977 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *V*, Volume 99, Page 117 **APPLICABLE TO PARCEL 2 IN INST. #200404300048416**
- 19 **EASEMENT** as contained in Deed between Manor Real Estate Company, etal and Manor Hope Properties, L.P., dated October 27, 1977, recorded December 30, 1977 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *V*, Volume 99, Page 117 **APPLICABLE AS SHOWN FOR PARCEL 2 IN INST. #200404300048416**
- 20 **AGREEMENT OF EASEMENT** between Manor Hope Properties, L.P. and U.S. Warehousing & Freezer Group - Delaware Freezer Plant, L.P., dated July 25, 1978, recorded July 31, 1978 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *F*, Volume 102, Page 174 **APPLICABLE AS SHOWN FOR PARCEL 2 IN INST. #200404300048416**
- 21 **EASEMENTS AND RIGHTS** as contained in Deed between Manor Real Estate Company and Consolidated Rail Corporation, dated March 31, 1976, recorded February 22, 1979 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *B*, Volume 105, Page 257 **NOT APPLICABLE**
- 22 **RIGHT OF WAY SUBDIVISION PLAN** recorded February 23, 1979 in the Office of the Recorder of Deeds in and for New Castle County, Delaware on Microfilm No. 5082 **APPLICABLE**
- 23 **RECORD MINOR SUBDIVISION PLAN FOR RIFFA GAS EXPLORATION CO** recorded July 5, 1985 in the Office of the Recorder of Deeds in and for New Castle County, Delaware on Microfilm No.7664 **APPLICABLE**
- 24 **EASEMENT AGREEMENT** by and between First State Freezer Partnership and Riffa Gas Exploration Company, N.V., dated July 17, 1985, recorded July 17, 1985 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 252, Page 305 **APPLICABLE, NOT PLOTTABLE. RECORD PLAN IS NOT LEGIBLE TO DETERMINE LOCATION.**
- 25 **EASEMENTS AND RIGHTS** as contained in Deed between Riffa Gas Exploration Company, N.A. and EHM Elktion Limited Partnership, dated March 6, 1987, recorded March 9, 1987 512, Page 307 **NOT APPLICABLE**
- 26 **DEVELOPMENT AGREEMENT** by and between E.H.M. Elktion Road Limited Partnership and the City of Newark, dated November 24, 1987, recorded December 21, 1987 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 640, Page 265 **APPLICABLE, NOT PLOTTABLE**
- 27 **AMENDMENT TO EASEMENT AGREEMENT** between EHM Elktion Limited Partnership and LDK Partners, dated August 9, 1989, recorded August 11, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 912, Page 121 **APPLICABLE AS TO EXHIBIT C, AS NOTED ON PLAN**
- 28 **DECLARATION** by EHM Elktion, Limited partnership, dated June 16, 1989, recorded October 4, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 937, Page 17 **NOT APPLICABLE**
- 29 **DRAINAGE AGREEMENT** by and between E.H.M. Elktion Road Limited Partnership and the City of Newark, dated October 30, 1989, recorded November 14, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 955, Page 202 **APPLICABLE, NOT PLOTTABLE**
- 30 **ADMINISTRATIVE SUBDIVISION PLAN FOR INTERSTATE BUSINESS PARK** recorded November 27, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware on Microfilm No. 10142 **APPLICABLE**
- 31 **DECLARATION** by EHM Elktion, Limited Partnership, dated November 27, 1989, recorded November 28, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 960, Page 207 **NOT APPLICABLE**
- 32 **DECLARATION AND RESERVATION OF EASEMENT** by EHM Elktion, Limited Partnership, dated November 27, 1989, recorded November 28, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 960, Page 212 **NOT APPLICABLE**
- 33 **EASEMENT DEED BY COURT ORDER** between Main Tower Associates, L.P., Rendall L. Brown and Sprint Communications Company L.P. and Qwest Communications Company, LLC, dated January 31, 2013, recorded October 30, 2013 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20131030-0068951 **NOT APPLICABLE**

NOTES

1. PARCEL B-1, TAX PARCEL NO. 1100400022
2. PARCEL P-2, TAX PARCEL NO. 1803800033
3. PARCEL P-1, TAX PARCEL NO. 1803800032
4. ZONED: INDUSTRIAL
5. THIS PROPERTY IS LOCATED WITHIN ZONED X (UNSHADED) - DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN PER FIRM MAP NUMBER 1003C0120J REVISED 01/17/2007.

FIDELITY NATIONAL TITLE INSURANCE COMPANY
TITLE SEARCH NO. 6787379

PARCEL B-1: EASEMENTS & EXCEPTIONS

- 1 **WATER EASEMENT AGREEMENT** between Manor Real Estate Company and the Philadelphia Baltimore and Washington Railroad Company, dated November 14, 1956, recorded November 26, 1956 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *F*, Volume 59, Page 528 **NOT APPLICABLE**
- 2 **RESTRICTIONS** as contained in Deed between Manor Real Estate Company and The Philadelphia, Baltimore and Washington Railroad Company, dated December 4, 1968, recorded December 17, 1968 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *V*, Volume 81, Page 233 **APPLICABLE TO THE USAGE OF THE PARCEL**
- 3 **RECORD MINOR LAND DEVELOPMENT PLAN FOR U.S. WAREHOUSING AND FREEZER GROUP-DELAWARE FREEZER PLANT** recorded March 30, 1978 in the Office of the Recorder of Deeds in and for New Castle County, Delaware on Microfilm No. 4755 **APPLICABLE**
- 4 **DEVELOPMENT AGREEMENT** by and between US Warehousing & Freezer Plant, L.P. and New Castle County, dated June 27, 1978, recorded July 24, 1978 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *C*, Volume 102, Page 301 **APPLICABLE, NOT PLOTTABLE**
- 5 **AGREEMENT OF EASEMENT** between Manor Hope Properties, L.P. and U.S. Warehousing & Freezer Group - Delaware Freezer Plant, L.P., dated July 25, 1978, recorded July 31, 1978 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *F*, Volume 102, Page 174 **APPLICABLE, SHOWN ON PLAN**
- 6 **EASEMENT RESERVATIONS** as contained in Deed between Delfreeze One, and Delfreeze Two, Inc. and First State Freezer partnership, dated June 10, 1983, recorded June 10, 1983 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *N*, Volume 122, Page 206 **APPLICABLE AS SHOWN ON PLAN**

- 7 **CONFIRMATORY AGREEMENT** by Equitable Bank, National Association and Delaware Trust Company, dated June 9, 1983, recorded June 10, 1983 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record *N*, Volume 122, Page 244 **NOT A SURVEY RELATED ITEM**
- 8 **EASEMENT AGREEMENT** by and between First State Freezer Partnership and Riffs Gas Exploration Company, N.V., dated July 17, 1985, recorded July 17, 1985 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 252, Page 305 **APPLICABLE, NOT PLOTTABLE. RECORD PLAN IS NOT LEGIBLE TO DETERMINE LOCATION.**
- 9 **AMENDMENT TO EASEMENT AGREEMENT OF JULY 17, 1985** between EHM Elktion Limited partnership and LDK Partners, dated August 9, 1989, recorded August 11, 1989 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 912, Page 121 **APPLICABLE AS TO EXHIBIT D, AS NOTED ON PLAN**
- 10 **EASEMENTS AND BENEFITS** as contained in Deed between LDK Partners and Delaref, Inc. and Louis Dreyfus Commercial Activities Inc., dated May 26, 1994, recorded May 27, 1994 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Deed Record 1741, Page 230 **NOT APPLICABLE**
- 11 **RECORD MINOR LAND DEVELOPMENT PLAN FOR MULTI-PURPOSE AREA FOR NEWARK CHARTER SCHOOL** recorded June 8, 2007 in the Office of the Recorder of Deeds in and for New Castle County, Delaware on Microfilm No. 20070606-005157 **APPLICABLE TO PARCEL B-1**
- 12 **PRIVATE SEWER LINE EASEMENT AGREEMENT** by and between Louis Dreyfus Distribution Center, Inc. and Newark Charter School, Inc., dated March 12, 2003, recorded March 12, 2003 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20030312-0031580 **NOT APPLICABLE**
- 13 **OMNIBUS AMENDMENT OF SECURITY DOCUMENTS** by and among Rockland Trust Company, Maritime International, Inc., Maritime Terminal, Inc., Bridge Terminal, Inc., Connecticut Freezers, Inc. and Delaware Freezers, Inc. dated October 24, 2012, recorded November 1, 2012 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20121101-0063379 **NOT PROVIDED**
- 14 **EASEMENT DEED BY COURT ORDER** between Main Tower Associates, L.P. and Rendall L. Brown vs Sprint Communications Company L.P. and Qwest Communications Company, LLC, dated January 31, 2013, recorded October 30, 2013 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20131030-0068951 **NOT APPLICABLE**
- 15 **SECOND OMNIBUS AMENDMENT OF SECURITY DOCUMENTS** by and among Rockland Trust Company, Maritime International, Inc., Maritime Terminal, Inc., Bridge Terminal, Inc., Connecticut Freezers, Inc. and Delaware Freezers, Inc. dated November 9, 2015, recorded November 24, 2015 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20151109-0001110 **NOT PROVIDED**
- 16 **THIRD OMNIBUS AMENDMENT OF SECURITY DOCUMENTS** by and among Rockland Trust Company, Maritime International, Inc., Maritime Terminal, Inc., Bridge Terminal, Inc., Connecticut Freezers, Inc. and Delaware Freezers, Inc. dated December 30, 2016, recorded January 6, 2017 in the Office of the Recorder of Deeds in and for New Castle County, Delaware in Document No. 20170106-0001110 **NOT PROVIDED**

DELAWARE ROUTE 2
AKA ELKTON ROAD
(VARIABLE WIDTH RIGHT-OF-WAY)

TAX PARCEL #180370002
E H ELKTON 700 LP
LOT #1

TAX PARCEL #1803800030
INTERFLEX I LLC
LOT #3

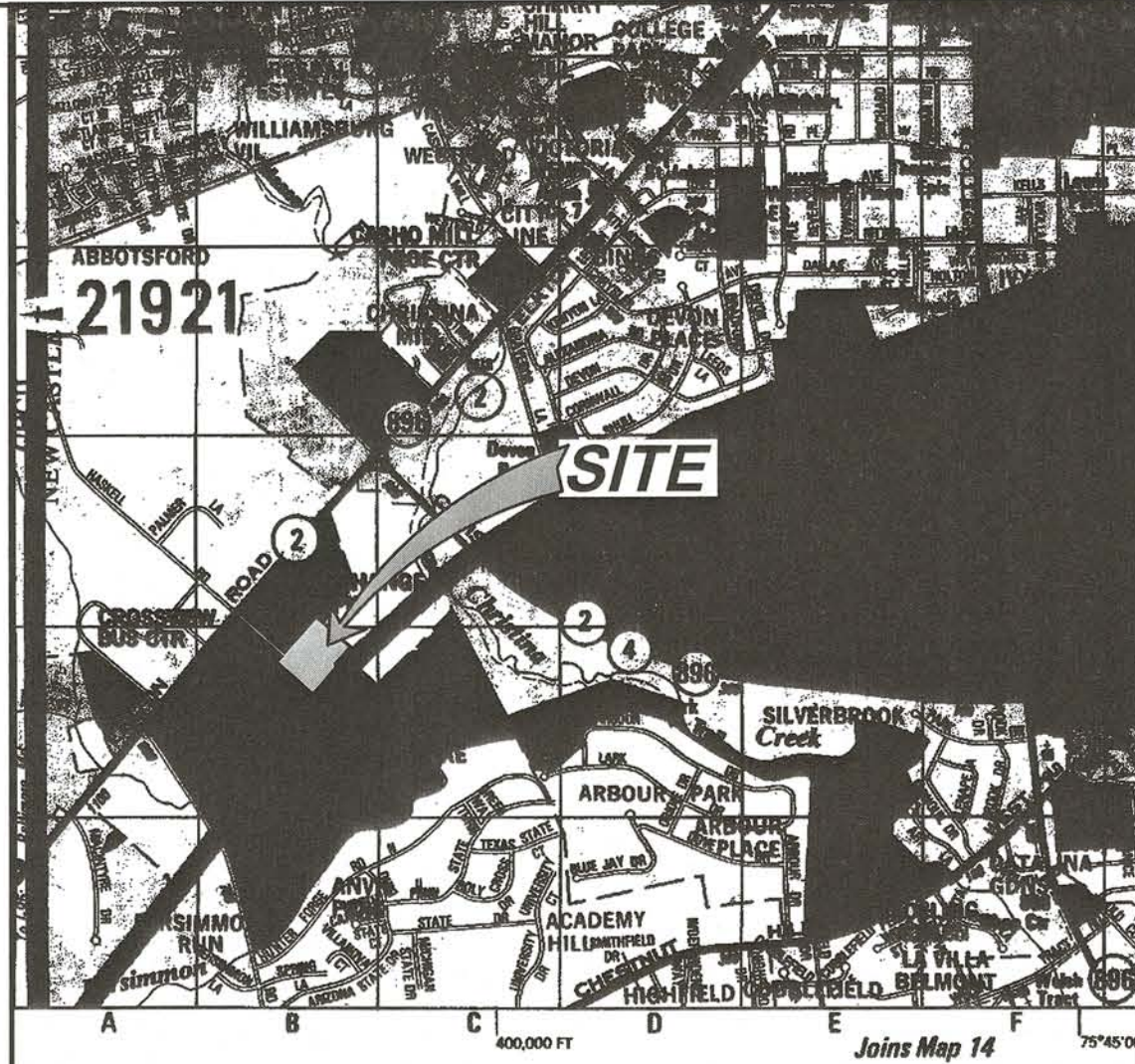
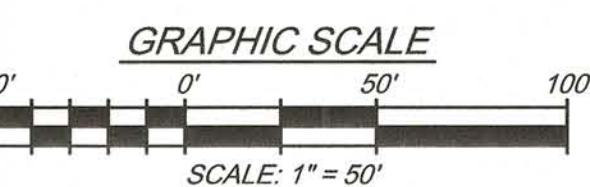
TAX PARCEL #1803800027
CITY OF NEWARK

DEED PARCEL P-1
23,300 S.F.
(0.535 +/- ACRES)
DEED RECORD:
20040430-0048416

TAX PARCEL #1805700002
E H M ELKTON LP
PARCEL B-3

TAX PARCEL #1803800046
NEWARK CHARTER
SCHOOL, INC.
PARCEL B-1A

DEED PARCEL B-1
322,342 S.F.
(7.400 +/- ACRES)
DEED RECORD:
20040430-0048417



VICINITY SKETCH
ADC MAP 10, GRID B - 14 TAX PARCELS: 1100400022, 1803800032, & 1803800033
COPYRIGHT KAPPA MAP GROUP PERMITTED USE NO. 21006232

LEGEND

- IPF - DENOTES IRON PIPE FOUND
- CMF - DENOTES CONCRETE MONUMENT FOUND
- CPS - DENOTES CAPPED IRON PIN SET
- - DENOTES UNMARKED POINT

LEGEND	
PROPERTY LINE	---
ADJOINING PROPERTY LINE	---
EDGE OF PAVEMENT	---
BUILDING OUTLINE	---
FENCE	X
TREELINE	~
RAILROAD TRACKS	---
UNDERGROUND ELECTRIC	---
UNDERGROUND TELEPHONE	---
STORM DRAIN PIPE	---
SANITARY SEWER	---
WATER LINE	---
STORM DRAIN CATCH BASIN	□
STORM MANHOLE	⊙
SANITARY MANHOLE	⊙
SANITARY CLEANOUT	⊙
WATER MANHOLE	⊙
WATER VALVE	⊙
FIRE HYDRANT	⊙
BOLLARD	⊙
PROPERTY CORNER	⊙
BUILDING HATCH	▨
CONCRETE HATCH	▨
PAVEMENT HATCH	▨

REVISIONS

REV #	DATE	DESCRIPTION

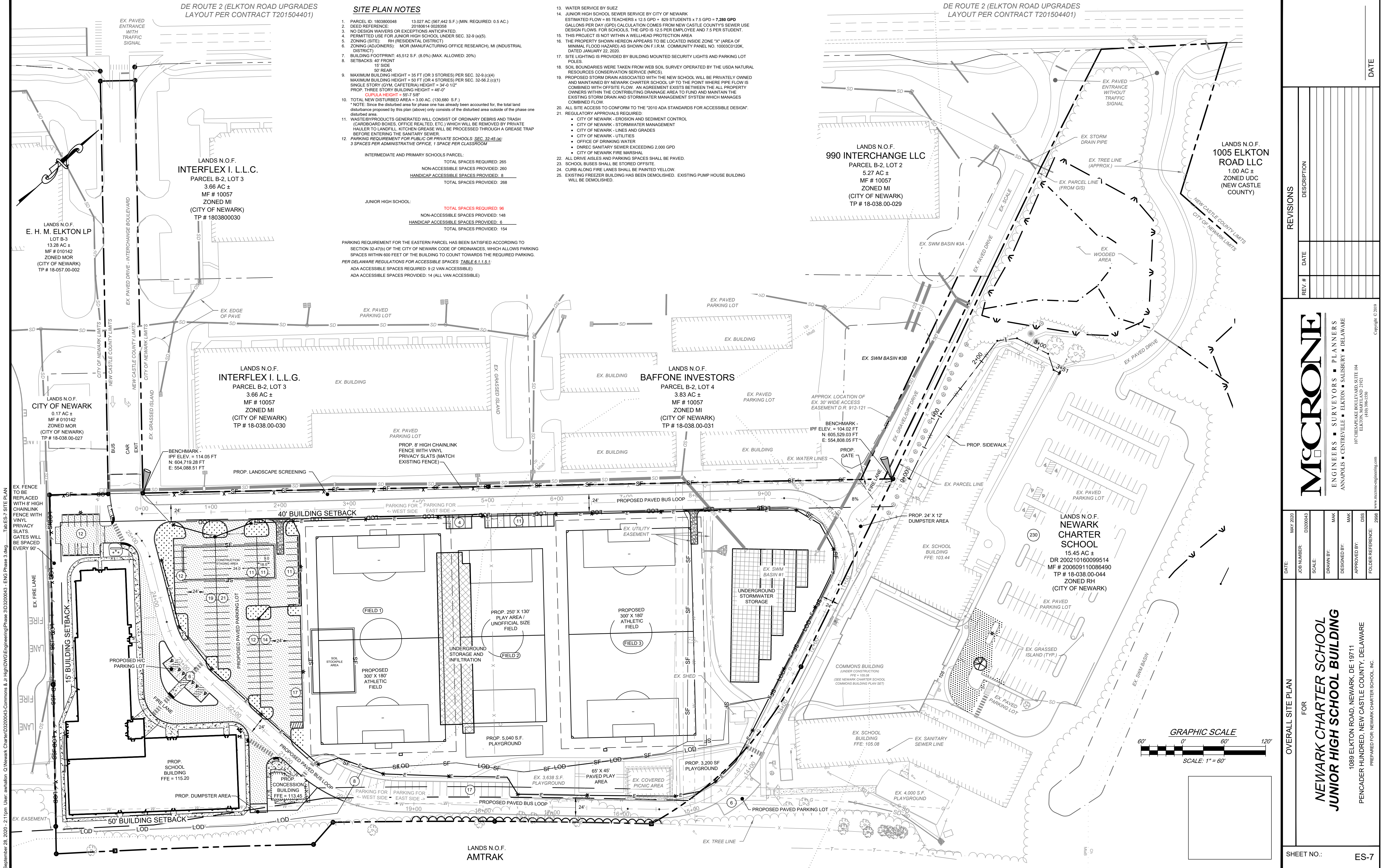
McCRONE
ENGINEERS ■ SURVEYORS ■ PLANNERS
ANNAPOLIS ■ CENTREVILLE ■ ELKTON ■ SALISBURY ■ DELAWARE

187 CHESAPEAKE BOULEVARD, SUITE 104
UPPER MERIDIAN CENTER
ELKTON, MARYLAND 19701
410.398.1550
www.mccrone-engineering.com
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DATE	JOB NUMBER	SCALE	DRAWN BY	DESIGNED BY	APPROVED BY	FOLDER REFERENCE
MAY 2018	D518041	AS SHOWN	NV		DES	

BOUNDARY SURVEY
ON THE LANDS OF
DELAWARE FREEZERS, INC.
PENCADER HUNDRED, NEW CASTLE COUNTY, DELAWARE
PREPARED FOR: NEWARK CHARTER SCHOOL, INC.

SHEET NO.: 1 OF 1



September 28, 2020 - 2:11pm User: avhailon Q:\Newark Charter\03200043 - ENG Phase 3.dwg.....Tables-7 SITE PLAN

DE ROUTE 2 (ELKTON ROAD UPGRADES)
LAYOUT PER CONTRACT T201504401)

DE ROUTE 2 (ELKTON ROAD UPGRADES)
LAYOUT PER CONTRACT T201504401)

SITE PLAN NOTES

1. PARCEL ID: 1903800048 13,027 AC (567,442 S.F.) (MIN. REQUIRED: 0.5 AC.)
 2. DEED REFERENCE: 20180614 0028358
 3. NO DESIGN WAIVERS OR EXCEPTIONS ANTICIPATED.
 4. PERMITTED USE FOR JUNIOR HIGH SCHOOL UNDER SEC. 32-9 (a)(5)
 5. ZONING (SITE): RH (RESIDENTIAL DISTRICT)
 6. ZONING (ADJOINERS): MOR (MANUFACTURING OFFICE RESEARCH), MI (INDUSTRIAL DISTRICT)
 7. BUILDING FOOTPRINT: 45,512 S.F. (8.0%) (MAX. ALLOWED: 20%)
 8. SETBACKS: 40' FRONT
15' SIDE
50' REAR
 9. MAXIMUM BUILDING HEIGHT = 35 FT (OR 3 STORIES) PER SEC. 32-9 (c)(4)
MAXIMUM BUILDING HEIGHT = 50 FT (OR 4 STORIES) PER SEC. 32-56.2 (c)(1)
SINGLE STORY (GYM, CAFETERIA) HEIGHT = 34'-0" 1/2"
PROP. THREE STORY BUILDING HEIGHT = 46'-0"
CURBULA HEIGHT = 55'-7" 5/8"
 10. TOTAL NEW DISTURBED AREA = 3.00 AC (130,680 S.F.)
*NOTE: Since the disturbed area for phase one has already been accounted for, the total land disturbance proposed by this plan (above) only consists of the disturbed area outside of the phase one disturbed area.
 11. WASTE/PRODUCTS GENERATED WILL CONSIST OF ORDINARY DEBRIS AND TRASH (CARDBOARD BOXES, OFFICE RELATED, ETC.) WHICH WILL BE REMOVED BY PRIVATE HAULER TO LANDFILL. KITCHEN GREASE WILL BE PROCESSED THROUGH A GREASE TRAP BEFORE ENTERING THE SANITARY SEWER.
 12. PARKING REQUIREMENT FOR PUBLIC OR PRIVATE SCHOOLS: SEC. 32-45 (b)
3 SPACES PER ADMINISTRATIVE OFFICE, 1 SPACE PER CLASSROOM
- INTERMEDIATE AND PRIMARY SCHOOLS PARCEL:
- | | |
|--------------------------------------|-----|
| TOTAL SPACES REQUIRED: | 265 |
| NON-ACCESSIBLE SPACES PROVIDED: | 260 |
| HANDICAP ACCESSIBLE SPACES PROVIDED: | 8 |
| TOTAL SPACES PROVIDED: | 268 |
- JUNIOR HIGH SCHOOL:
- | | |
|--------------------------------------|-----|
| TOTAL SPACES REQUIRED: | 96 |
| NON-ACCESSIBLE SPACES PROVIDED: | 148 |
| HANDICAP ACCESSIBLE SPACES PROVIDED: | 6 |
| TOTAL SPACES PROVIDED: | 154 |
- PARKING REQUIREMENT FOR THE EASTERN PARCEL HAS BEEN SATISFIED ACCORDING TO SECTION 32-47(b) OF THE CITY OF NEWARK CODE OF ORDINANCES, WHICH ALLOWS PARKING SPACES WITHIN 600 FEET OF THE BUILDING TO COUNT TOWARDS THE REQUIRED PARKING.
- PER DELAWARE REGULATIONS FOR ACCESSIBLE SPACES: TABLE 6.1.1.5.1:
- | | |
|---------------------------------|-------------------------|
| ADA ACCESSIBLE SPACES REQUIRED: | 9 (2 VAN ACCESSIBLE) |
| ADA ACCESSIBLE SPACES PROVIDED: | 14 (ALL VAN ACCESSIBLE) |
13. WATER SERVICE BY SUEZ
14. JUNIOR HIGH SCHOOL SEWER SERVICE BY CITY OF NEWARK
ESTIMATED FLOW = 85 TEACHERS x 12.5 GPD + 829 STUDENTS x 7.5 GPD = 7,280 GPD
GALLONS PER DAY (GPD) CALCULATION COMES FROM NEW CASTLE COUNTY'S SEWER USE DESIGN FLOWS. FOR SCHOOLS, THE GPD IS 12.5 PER EMPLOYEE AND 7.5 PER STUDENT.
15. THIS PROJECT IS NOT WITHIN A WELLHEAD PROTECTION AREA
16. THE PROPERTY SHOWN HEREON APPEARS TO BE LOCATED INSIDE ZONE "X" (AREA OF MINIMAL FLOOD HAZARD) AS SHOWN ON F.I.R.M. COMMUNITY PANEL NO. 10003C0120K, DATED JANUARY 22, 2020.
17. SITE LIGHTING IS PROVIDED BY BUILDING MOUNTED SECURITY LIGHTS AND PARKING LOT POLES
18. SOIL BOUNDARIES WERE TAKEN FROM WEB SOIL SURVEY OPERATED BY THE USDA NATURAL RESOURCES CONSERVATION SERVICE (NRCS).
19. PROPOSED STORM DRAIN ASSOCIATED WITH THE NEW SCHOOL WILL BE PRIVATELY OWNED AND MAINTAINED BY NEWARK CHARTER SCHOOL UP TO THE POINT WHERE PIPE FLOW IS COMBINED WITH OFFSITE FLOW. AN AGREEMENT EXISTS BETWEEN THE ALL PROPERTY OWNERS WITHIN THE CONTRIBUTING DRAINAGE AREA TO FUND AND MAINTAIN THE EXISTING STORM DRAIN AND STORMWATER MANAGEMENT SYSTEM WHICH MANAGES COMBINED FLOW.
20. ALL SITE ACCESS TO CONFORM TO THE '2010 ADA STANDARDS FOR ACCESSIBLE DESIGN'.
21. REGULATORY APPROVALS REQUIRED:
- CITY OF NEWARK - EROSION AND SEDIMENT CONTROL
 - CITY OF NEWARK - STORMWATER MANAGEMENT
 - CITY OF NEWARK - LINES AND GRADES
 - CITY OF NEWARK - UTILITIES
 - OFFICE OF DRINKING WATER
 - DNREC SANITARY SEWER EXCEEDING 2,000 GPD
 - CITY OF NEWARK FIRE MARSHAL
22. ALL DRIVE AISLES AND PARKING SPACES SHALL BE PAVED.
23. SCHOOL BUSES SHALL BE STORED OFFSITE.
24. CURB ALONG FIRE LANES SHALL BE PAINTED YELLOW.
25. EXISTING FREEZER BUILDING HAS BEEN DEMOLISHED. EXISTING PUMP HOUSE BUILDING WILL BE DEMOLISHED.

REVISIONS		DATE		DESCRIPTION
REV. #		DATE		

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ELKTON, MD 21921
(410) 384-1450
www.mccrone-engineers.com

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DATE	JOB NUMBER	SCALE	DRAWN BY	DESIGNED BY	APPROVED BY	FOLDER REFERENCE
MAY 2020	D3200043		IMAK	IMAK	DSE	2566

OVERALL SITE PLAN

FOR

**NEWARK CHARTER SCHOOL
JUNIOR HIGH SCHOOL BUILDING**

1069 ELKTON ROAD, NEWARK, DE 19711
PENCADER HUNDRED, NEW CASTLE COUNTY, DELAWARE
PREPARED FOR: NEWARK CHARTER SCHOOL, INC.

SHEET NO.: ES-7

D C

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1211 DELAWARE AVE.
WILMINGTON, DE 19806
(302) 632-4221 FAX (302) 655-0303

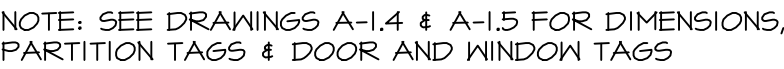
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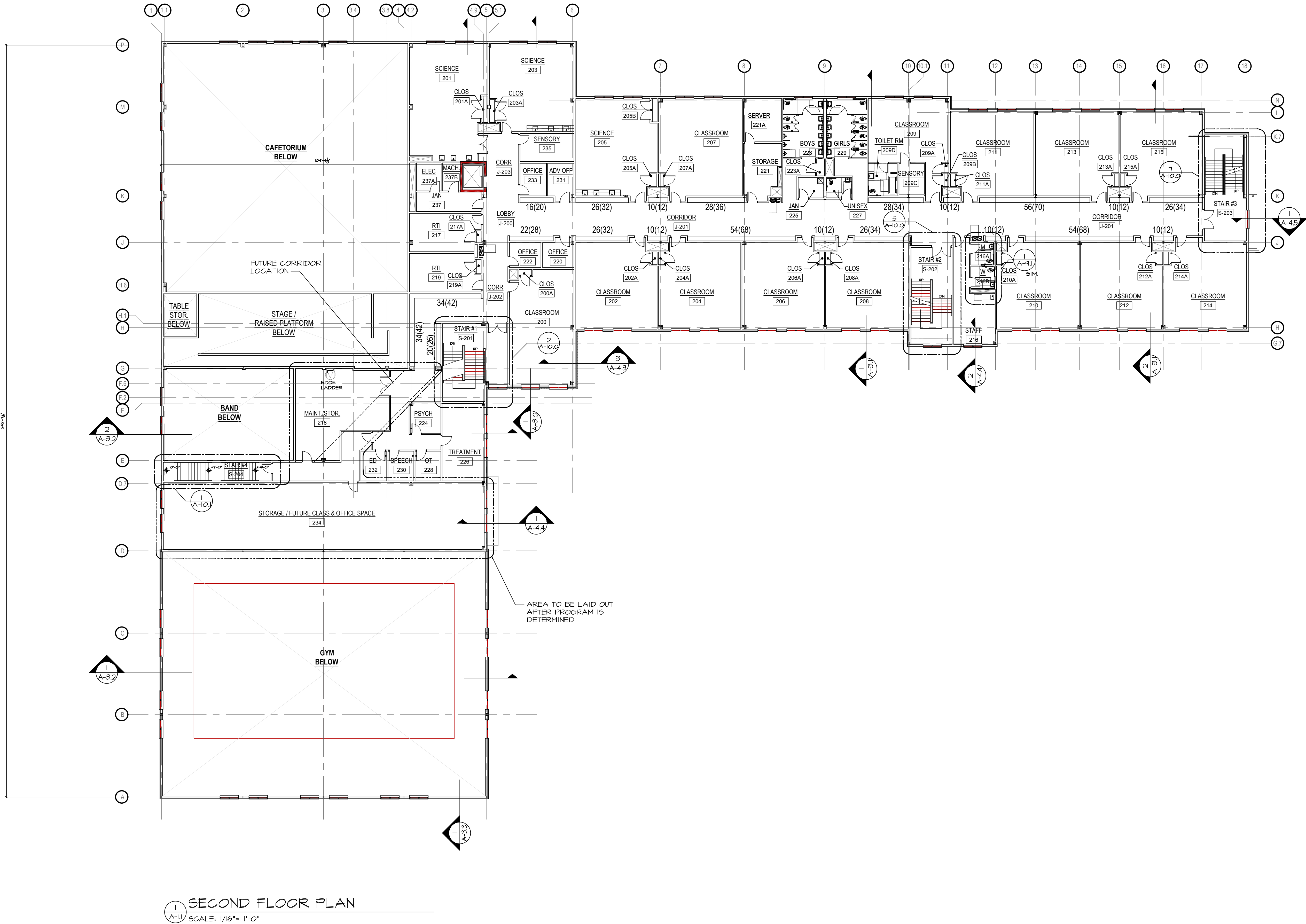
2009.02

OCTOBER 23, 2020

AS NOTED

DRUMMOND, D. C.





THE CONTRACTOR IS RESPONSIBLE FOR CONFIRMING AND CORRELATING ALL QUANTITIES AND DIMENSIONS. CONTRACTOR SHALL, UPON DISCOVERY, IMMEDIATELY NOTIFY ARCHITECT OF ANY DISCREPANCIES. THE CONTRACTOR IS RESPONSIBLE FOR SELECTING FABRICATION PROCESSES AND TECHNIQUES OF CONSTRUCTION, COORDINATING HIS WORK WITH THAT OF ALL OTHER TRADES AND PERFORMING HIS WORK IN A SAFE, SATISFACTORY AND WORKMANLIKE MANNER. CONTRACTOR AND SUBS SHALL BE AWARE OF ALL ON-SITE CONDITIONS PRIOR TO SUBMITTAL OF BIDS.

ECT TITLE:
NEWARK CHAPTER SCHOOL

JR HIGH BUILDING

INTERCHANGE BUSINESS PARK
O ELKTON ROAD
NEWARK, DELAWARE 19711

THIRD FLOOR AND
LOW ROOF PLAN

2009.02

DATE: _____

OCTOBER 23, 2020

SCALE:

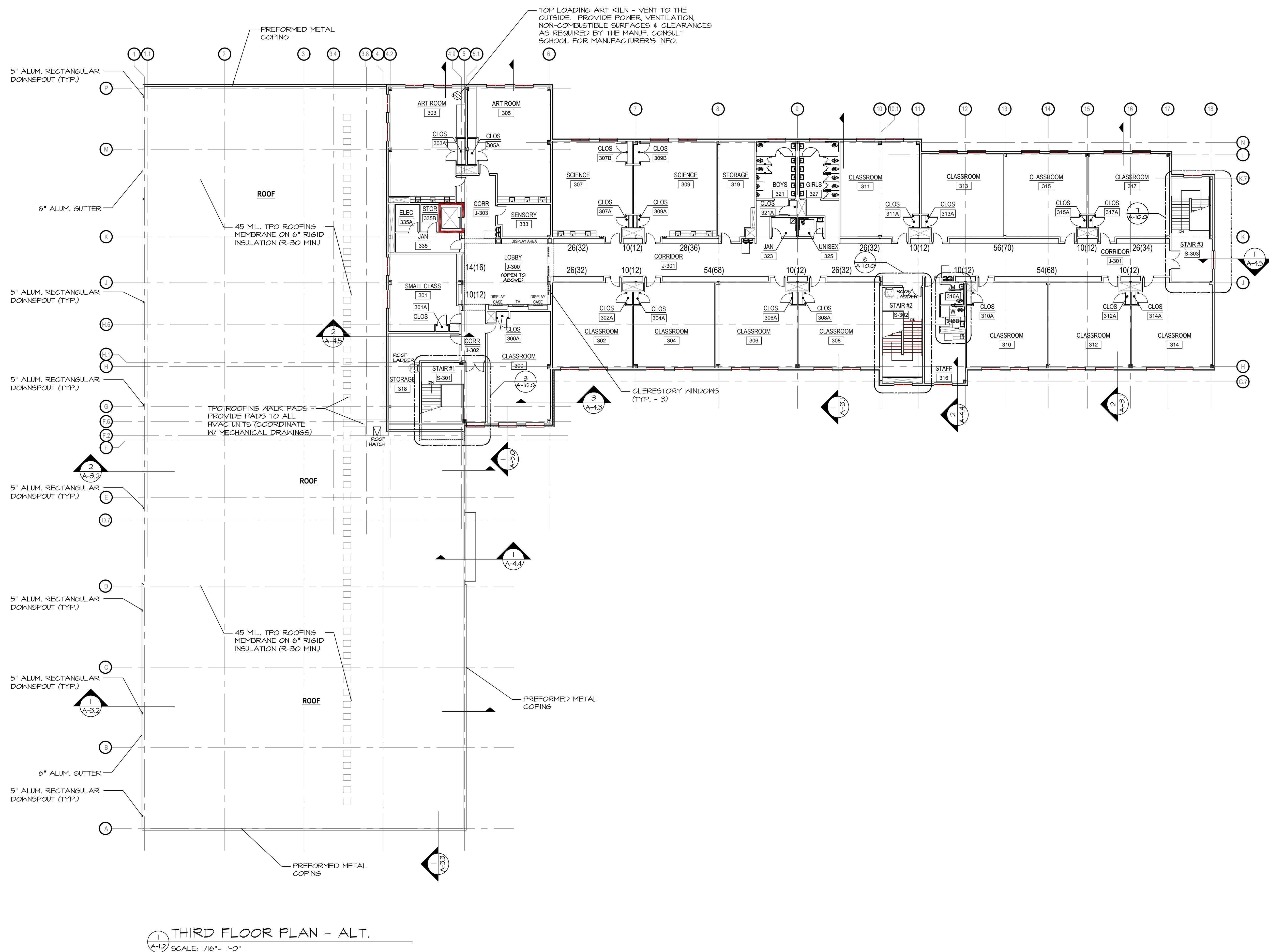
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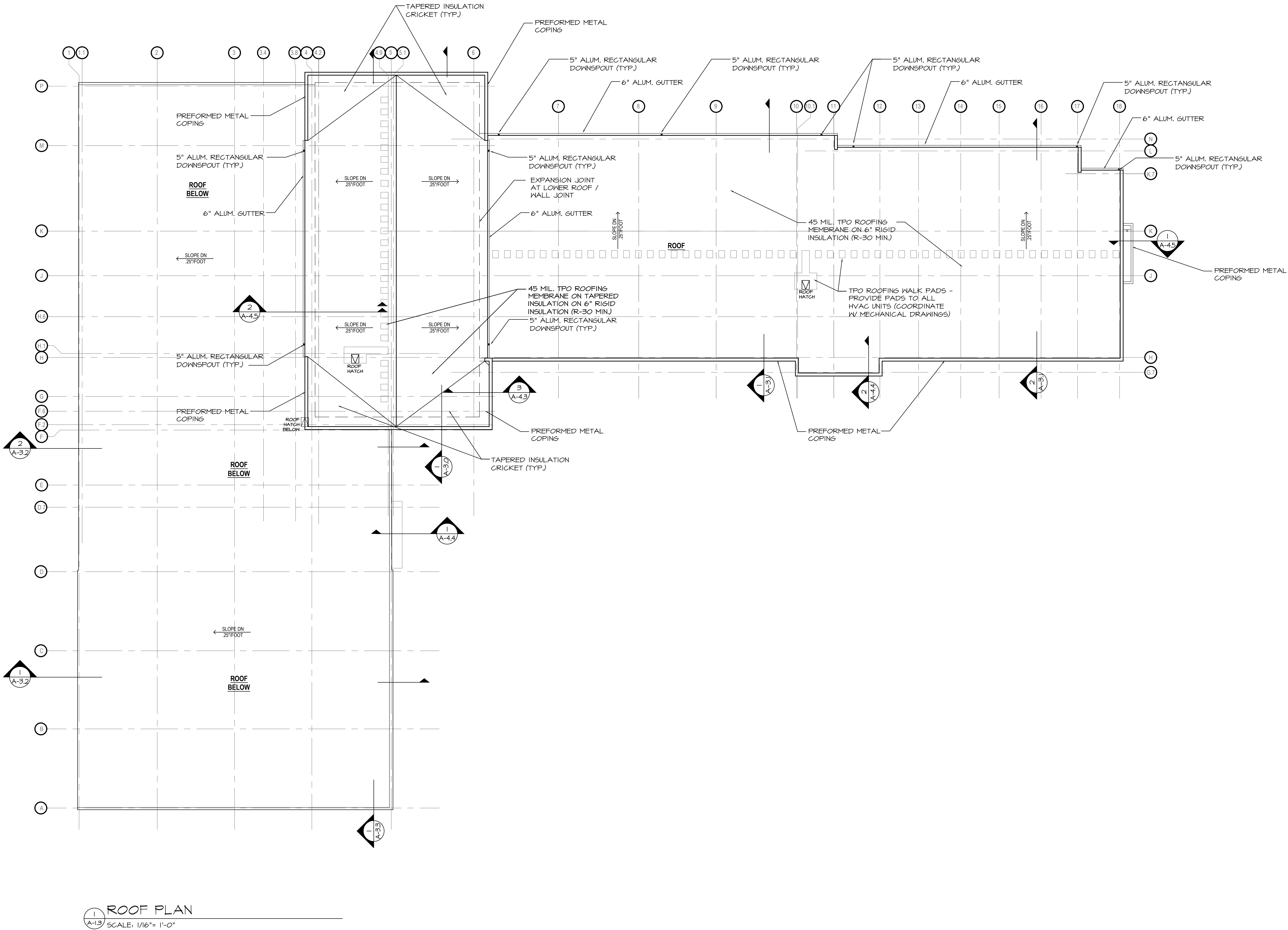
DRAWN BY:

DCH
DRAWING NO.

A-1.2

**ISSUED FOR FOUNDATION
PERMIT**





NOTE: SEE DRAWINGS A-1.10 & A-1.11 FOR ENLARGED PLANS AND NOTES

REVISIONS:

I

C

D

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PROJECT TITLE:
NEWARK CHARTER SCHOOL

JR HIGH BUILDING

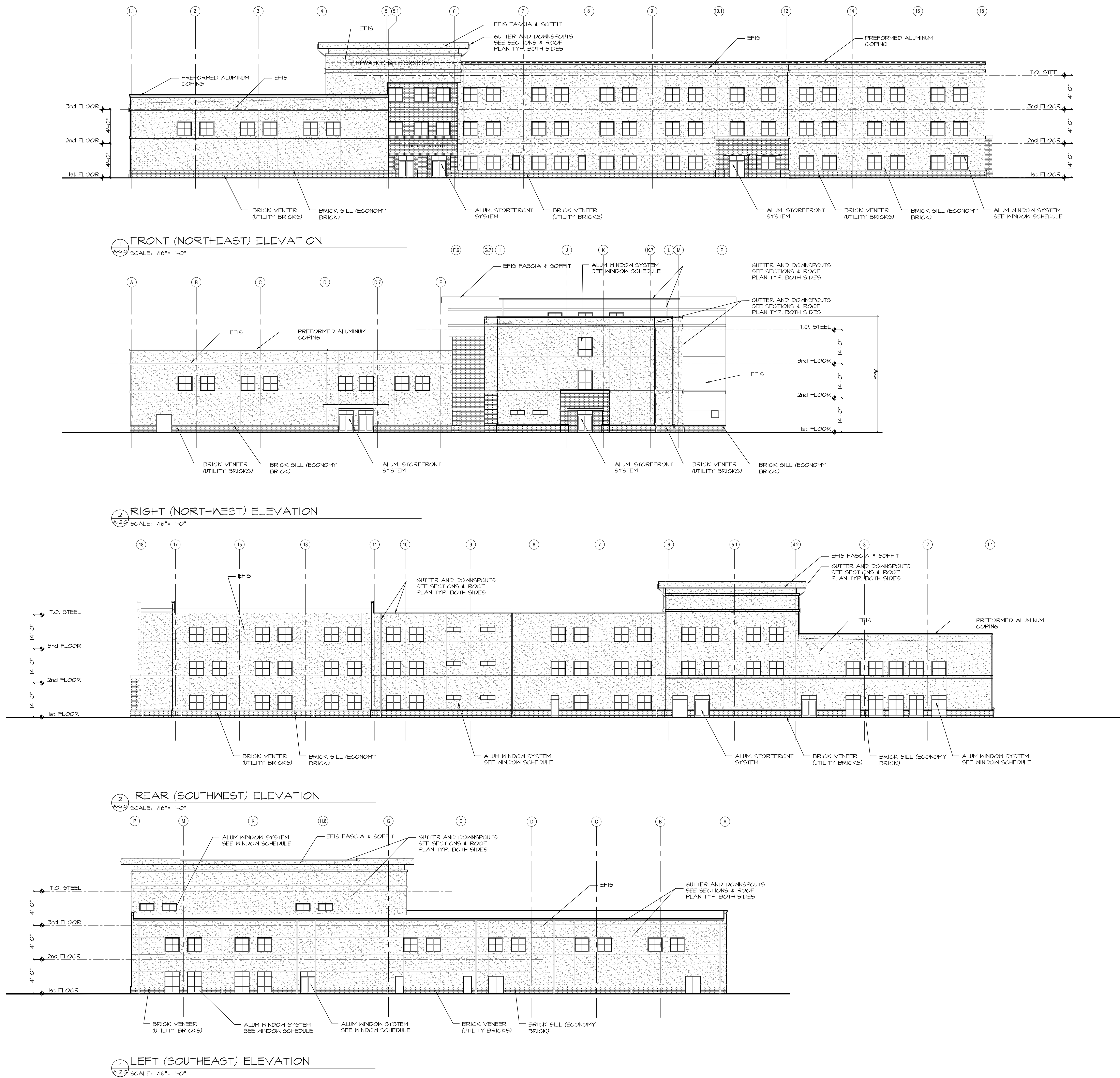
INTERCHANGE BUSINESS PARK
O ELKTON ROAD
NEWARK, DELAWARE 19711

SHEET TITLE:
ROOF PLAN

PROJECT NO.	2009.02
DATE:	OCTOBER 23, 2020
SCALE:	AS NOTED
DRAWN BY:	DCH
DRAWING NO.	

ISSUED FOR FOUNDATION
PERMIT

A-1.3



REVISIONS:

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C
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THE CONTRACTOR IS RESPONSIBLE FOR
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DISCOVERY, IMMEDIATELY NOTIFY ARCHITECT OF
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WORKMANLIKE MANNER. CONTRACTOR AND
SUBS SHALL BE AWARE OF ALL ON-SITE
CONDITIONS PRIOR TO SUBMITTAL OF BIDS.

PROJECT TITLE:
NEWARK CHARTER SCHOOL
JR HIGH BUILDING
INTERCHANGE BUSINESS PARK
1009 ELKTON ROAD
NEWARK, DELAWARE 19711

SHEET TITLE:
ELEVATIONS

PROJECT NO.
2009.02
DATE:
OCTOBER 23, 2020
SCALE:
AS NOTED
DRAWN BY:
DCH
DRAWING NO.

ISSUED FOR FOUNDATION
PERMIT

A-2.0



VARIANCE REQUEST FOR **NEW JUNIOR HIGH SCHOOL**



PREPARED BY:
Design Collaborative Inc

1211 Delaware Avenue
Wilmington, DE 19806
www.dciarchitects.com

Delivered:
December 29, 2020

VARIANCE REQUEST

Background:

The Newark Charter School has embarked on an expansion of their lower school campus to enhance their facilities and to create a K-8 campus that will meet the needs of their growing student population. On the northeast end of the site are the existing primary and intermediate schools which will house grades K-5. The 1-story Commons building will connect the two schools and serve as the new main entrance for both. A new 3-story junior high school will be constructed to accommodate grades 6-8 on the southwest end of the site. Connecting the ends of the site is a new bus loop encircling athletic and practice fields.

This request for a variance is in response to the Foundation and Steel Permit denial letter dated December 18, 2020. The center portion of the junior high school building has an approximate height of 55'-3" (excluding the 6 inch parapet). A variance is required to allow the school to have a building height of greater than 50 feet.

Kwik Check Factors:

1.

The nature of the zone in which the property is located.

Response: While the school’s property is zoned RH (single family residential), it is surrounded by properties zoned MI (General Industrial) or MOR (Manufacturing Office Research) and the Amtrak Railway line.
2.

The character of the immediate vicinity of the subject property and the uses of the property within that immediate vicinity.

Response: The immediate vicinity of the Junior High School site is industrial in nature. The Amtrak Railway line and the Sandy Brae industrial park are on the eastern side. To the south and west of the site are the Interstate Business Park and the Interchange Business Park. The intermediate and primary schools lie at the north end of the lower school campus.
3.

Whether, if the restriction upon the applicant’s property were removed, such removal would seriously affect the neighboring properties and uses.

Response: Given the distance of the existing buildings from the new Junior High School, there is no adverse effect to the neighboring properties and uses if the additional height is allowed. It should be noted that the new Junior High, with the additional height, will still be lower in height than the freezer plant that was on this site until it was demolished earlier this year in anticipation of this project.

4.

Whether, if the restriction is not removed, the restriction would create unnecessary hardship or exceptional practical difficulty for the owner in relation to efforts to make normal improvements in the character of that use of the property.

Response: The center portion of the roof was raised to provide natural light via clerestory into the 3rd floor lobby and student display area and to allow a higher ceiling in the Art Rooms to accommodate a variety of art mediums. If the additional height is not allowed, these could not be provided and would negatively impact the programmatic offering in the building. The additional height at the entrance also allows for similar architectural details used on the other buildings on site, tying the campus together.

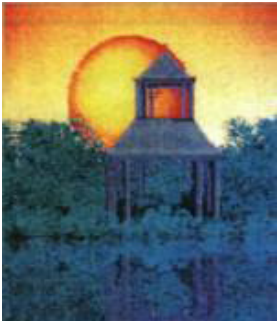
Summary:

We feel that this request is aligned with and in the spirit of the exceptions allowed by “Sec. 32-56.2 – Area regulations; exceptions”, item (2):

“In any district the maximum building height provisions shall not apply to dormers, spires, domes, cupolas, belfries, chimneys, smokestacks, flag poles, elevator enclosures, water tanks on roofs, silo, roof antennas, solar panels or collectors (on roofs), theater scenery lofts or fly lofts which occupy an aggregate of not over 25% of the ground floor area of the building, or a parapet wall or similar appurtenance that may be designed to provide architectural detail and/or to hide mechanical equipment extending not more than four feet above the limit of the height of the building on which it rests. A roof appurtenance that resembles a roof may extend above the limit of the height of the building up to a height equal to the floor to roof deck height of the top floor of the building provided that its slope does not exceed a 12/12 pitch.”

The additional height requested is a modest increase and only for the center portion of the building. The additional height will provide natural light into the 3rd floor lobby and student work display, allow for higher ceilings in the art rooms, and permit architectural detail at the entrance that is similar to that used on the lower school campus site.

We respectfully request this variance be granted.



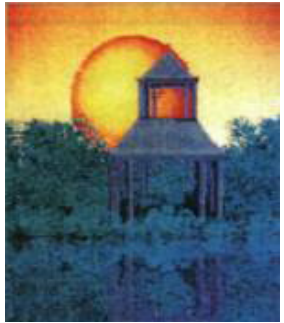
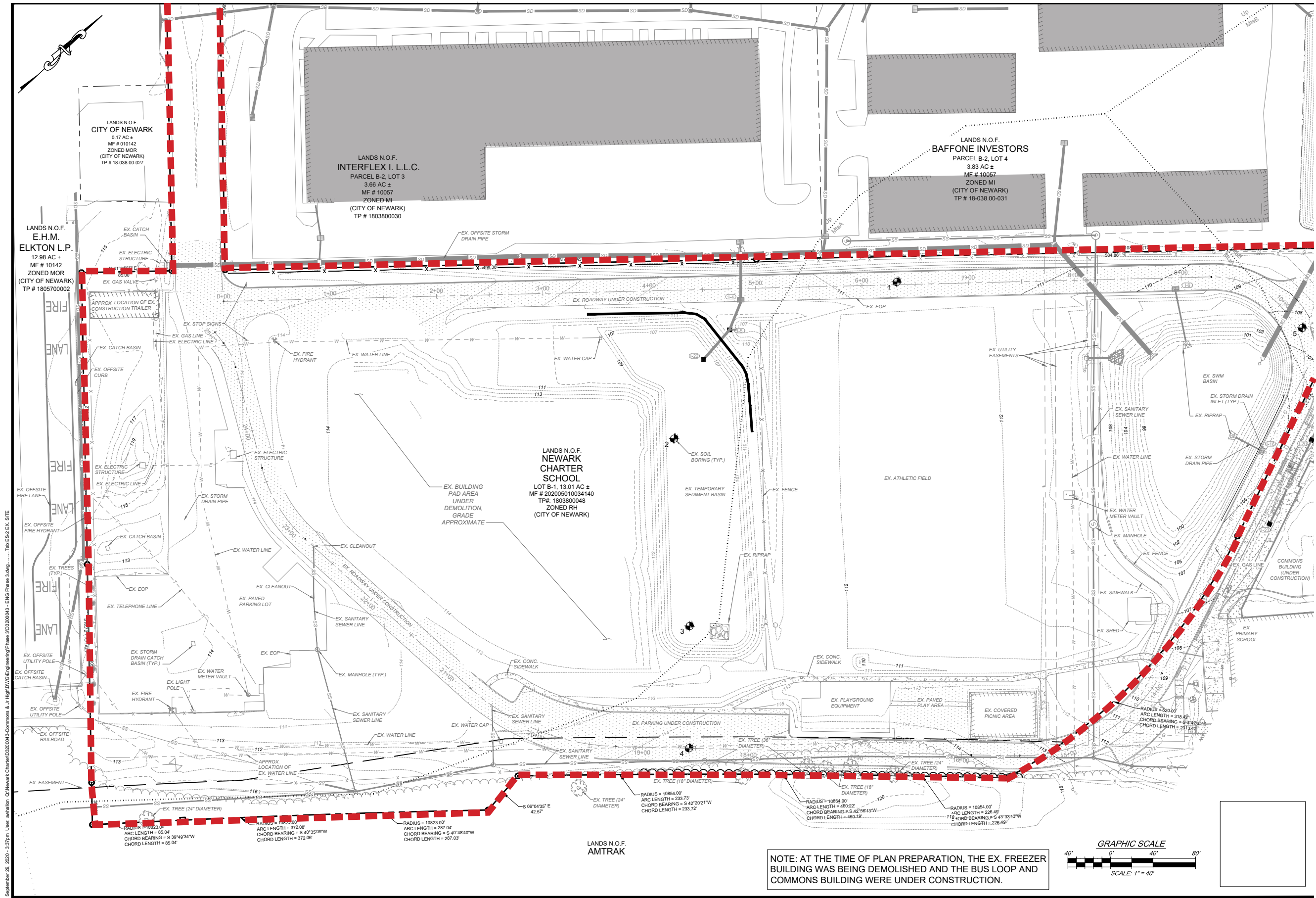
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NEWARK CHARTER SCHOOL
JUNIOR HIGH SCHOOL BUILDING
1089 ELKTON ROAD
NEWARK, DE 19711

DATE: 12/29/2020



IMAGE SOURCE: NEW CASTLE COUNTY WEBSITE GIS MAPS - ACCESSED DECEMBER 2020



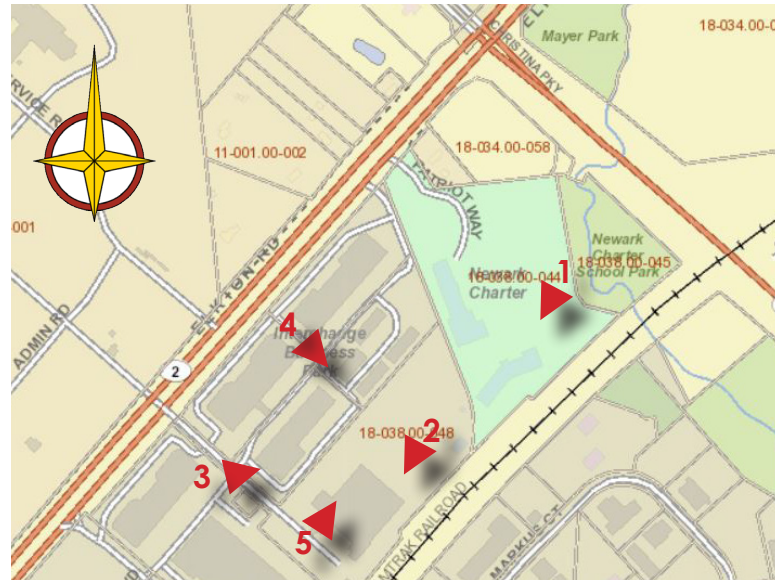
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EXISTING SITE SURVEY



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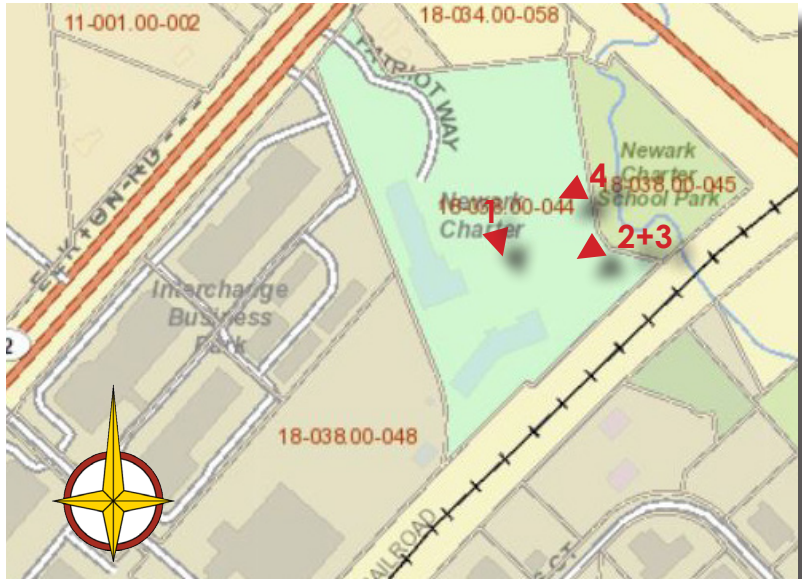
EXISTING SITE PICTURES



1 - EXISTING PRIMARY SCHOOL



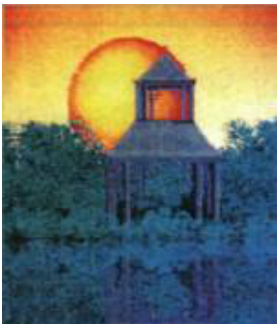
2 - NEW COMMONS



3 - NEW COMMONS ENTRANCE



4 - EXISTING INTERMEDIATE SCHOOL



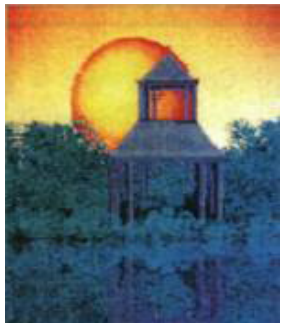
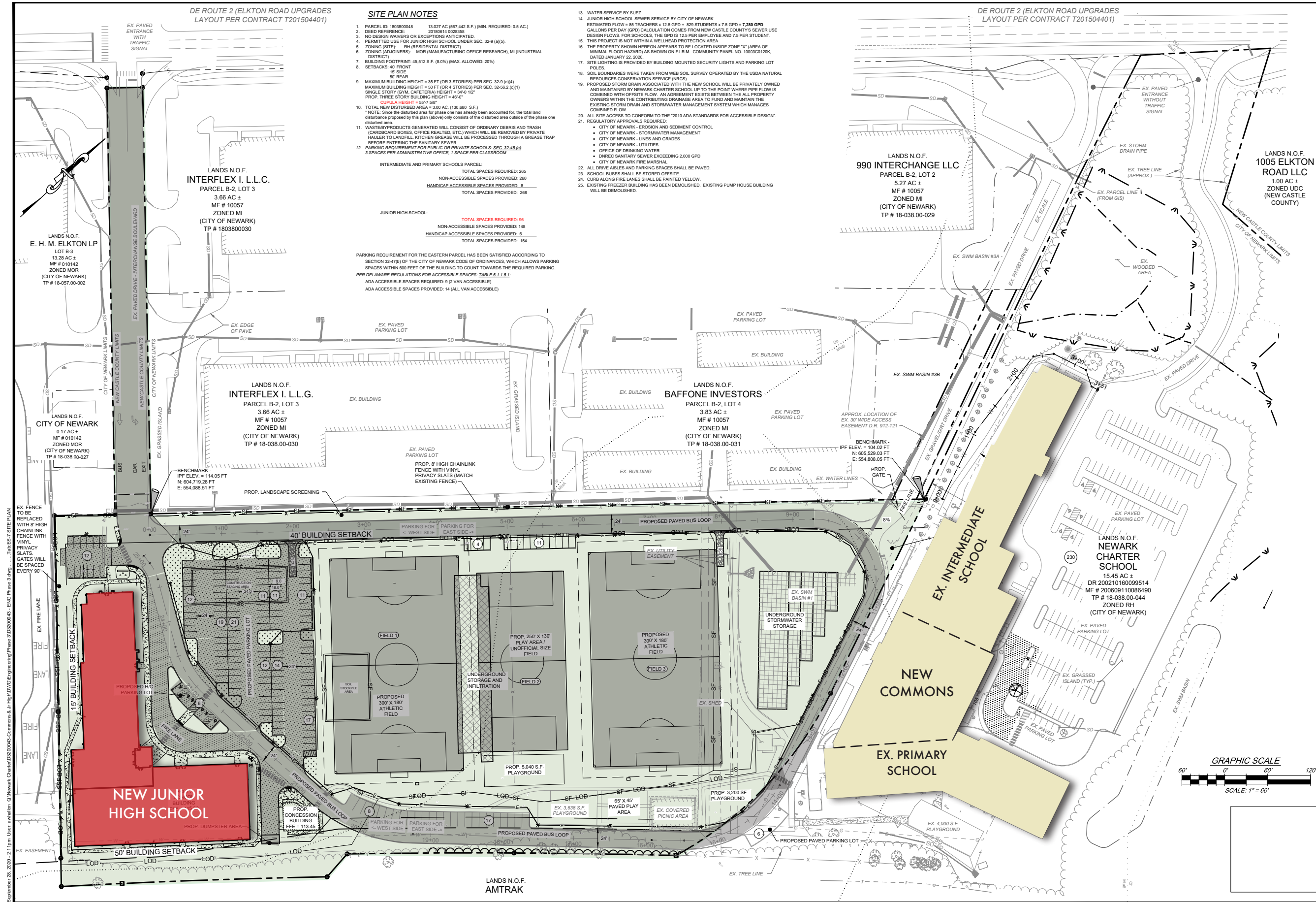
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EXISTING SCHOOLS



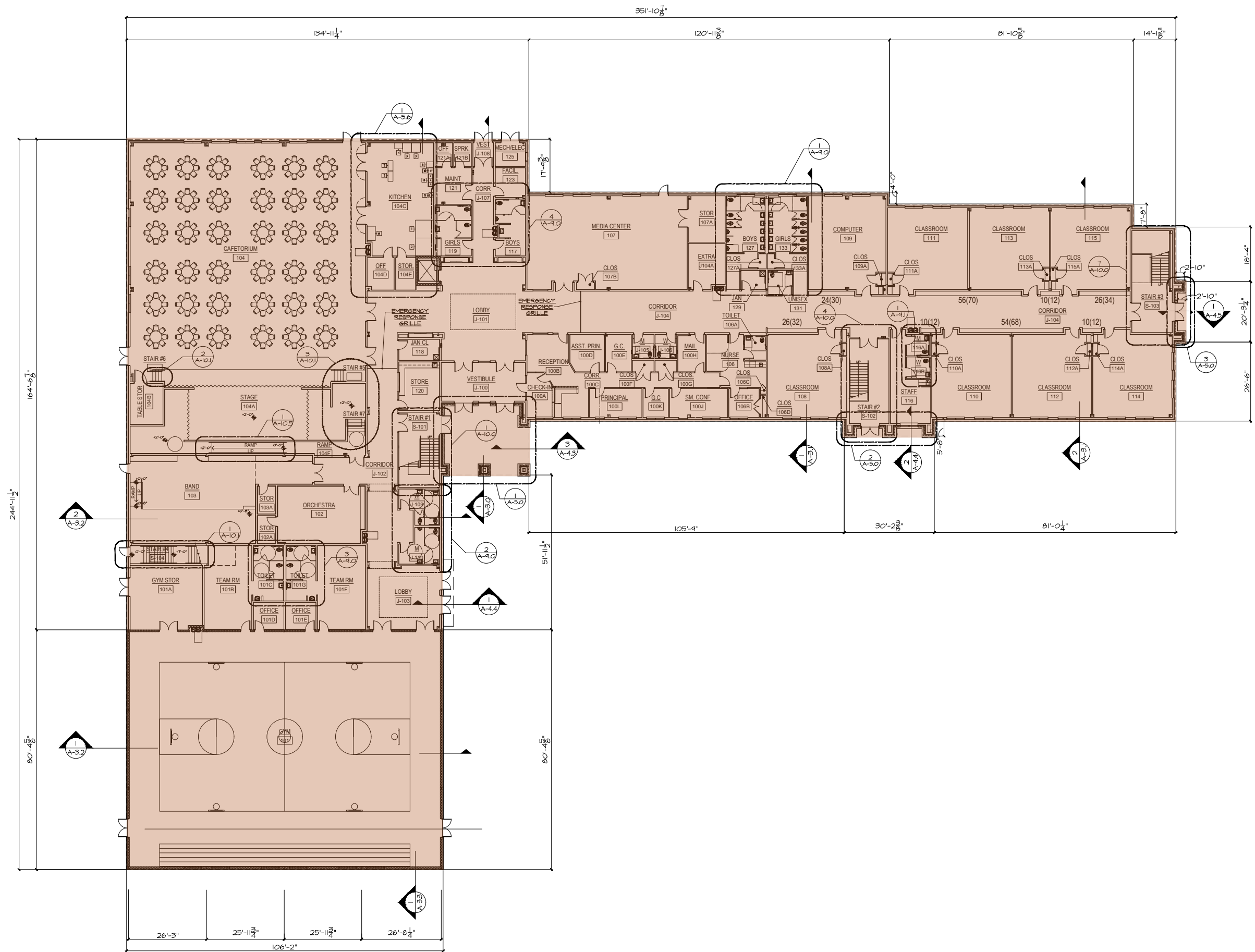
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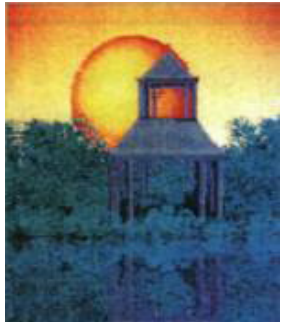
NEWARK CHARTER SCHOOL
JUNIOR HIGH SCHOOL BUILDING
1089 ELKTON ROAD
NEWARK, DE 19711

DATE: 12/29/2020

NEW CAMPUS PLAN



FIRST FLOOR PLAN

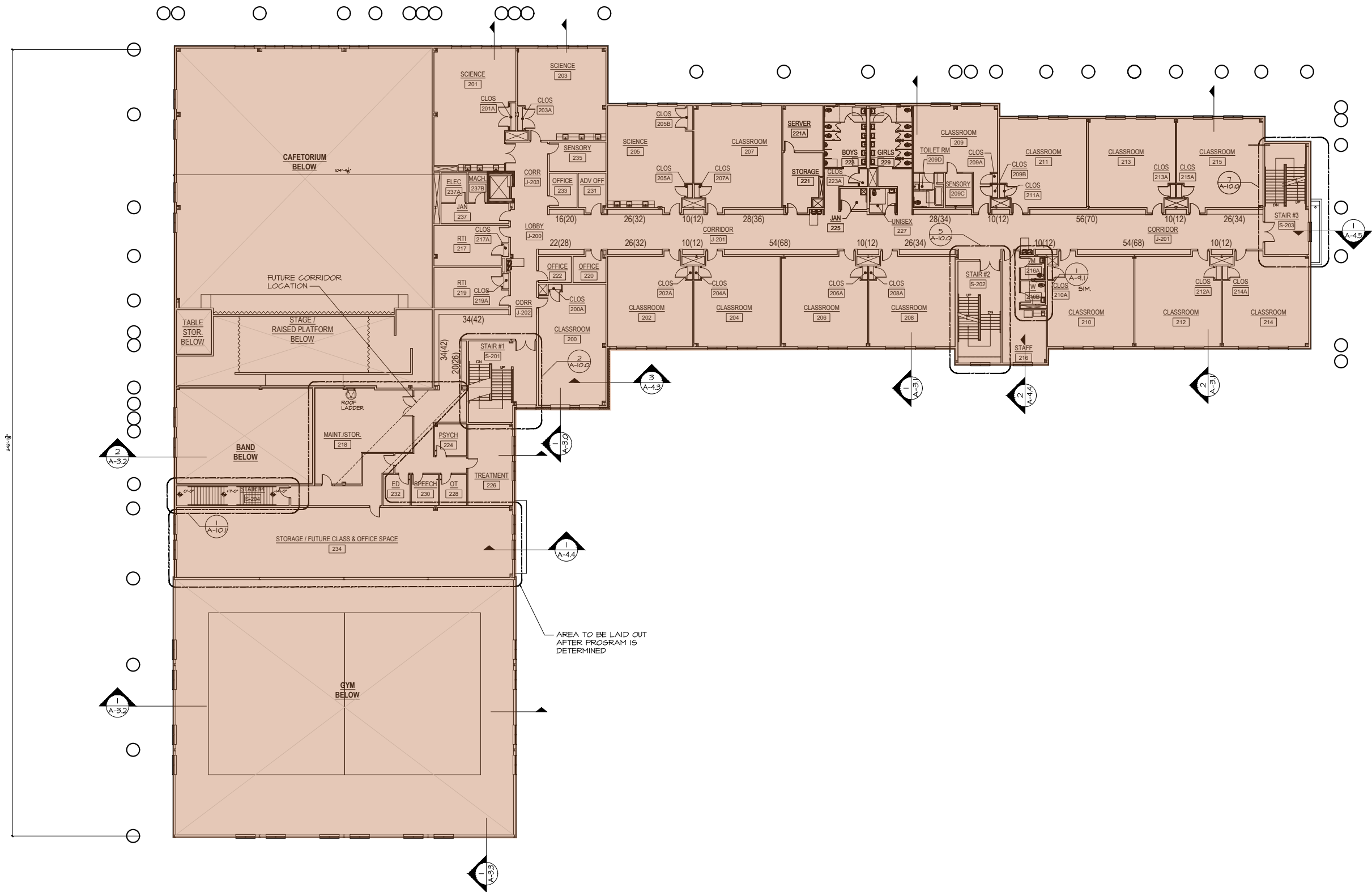


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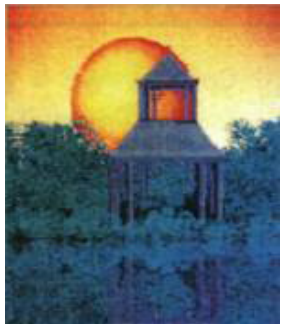
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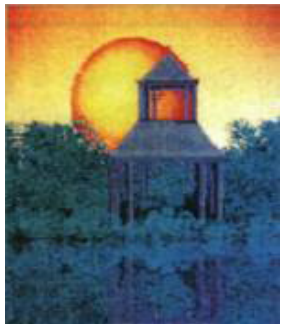


NEWARK CHARTER SCHOOL

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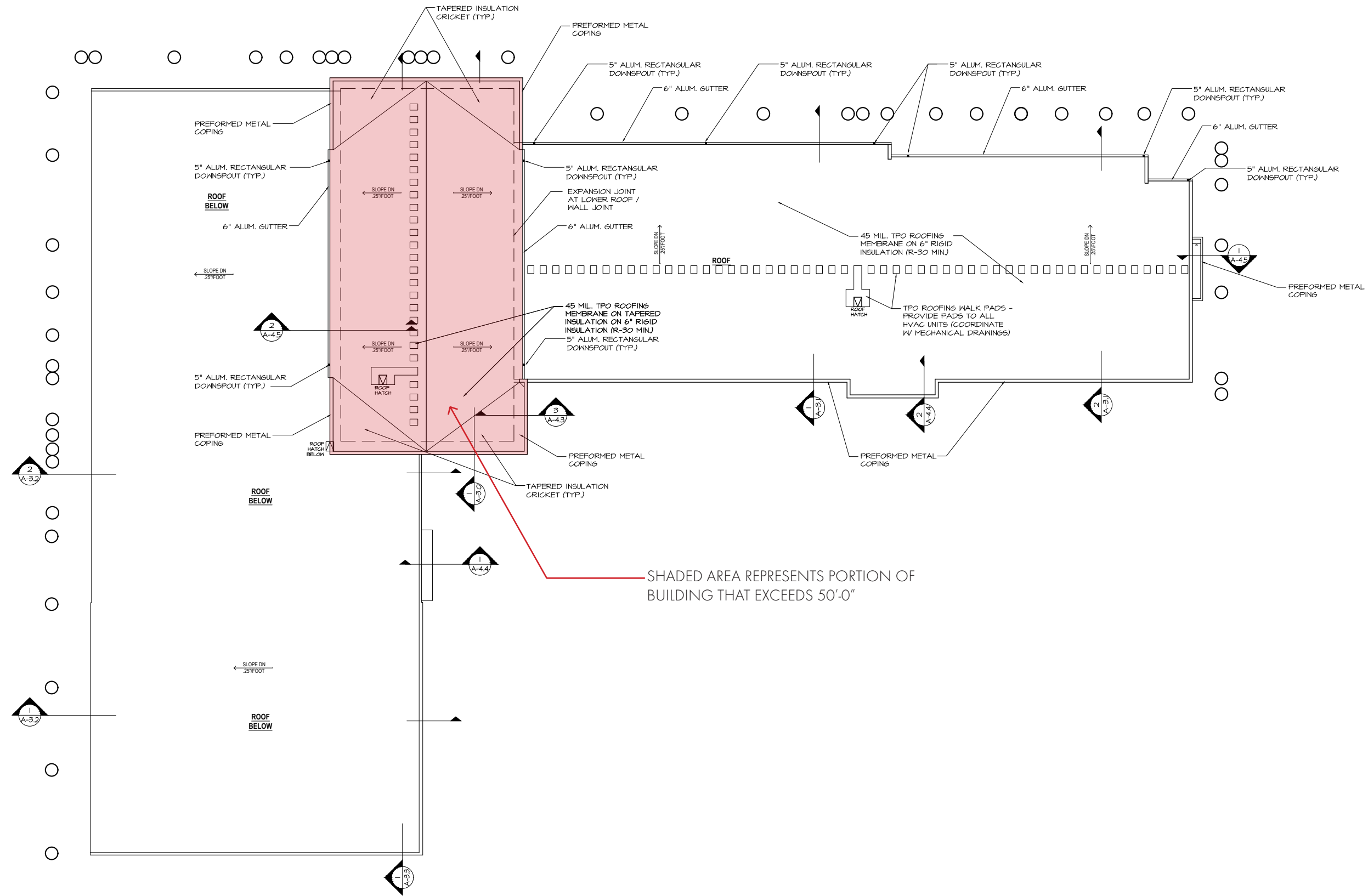


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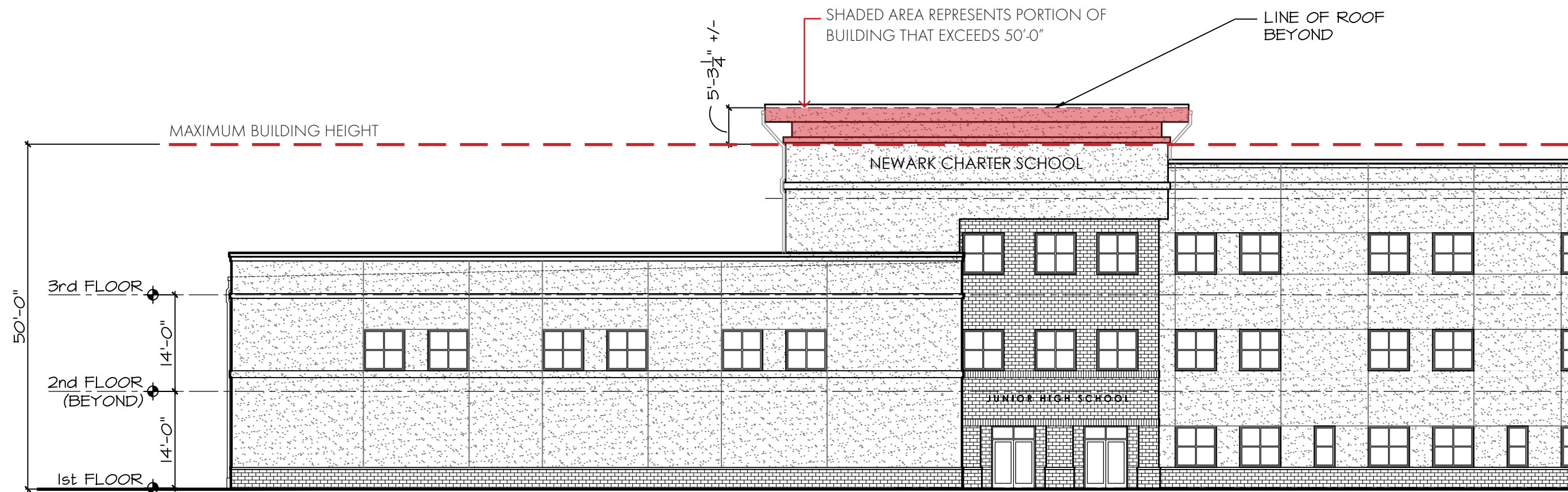
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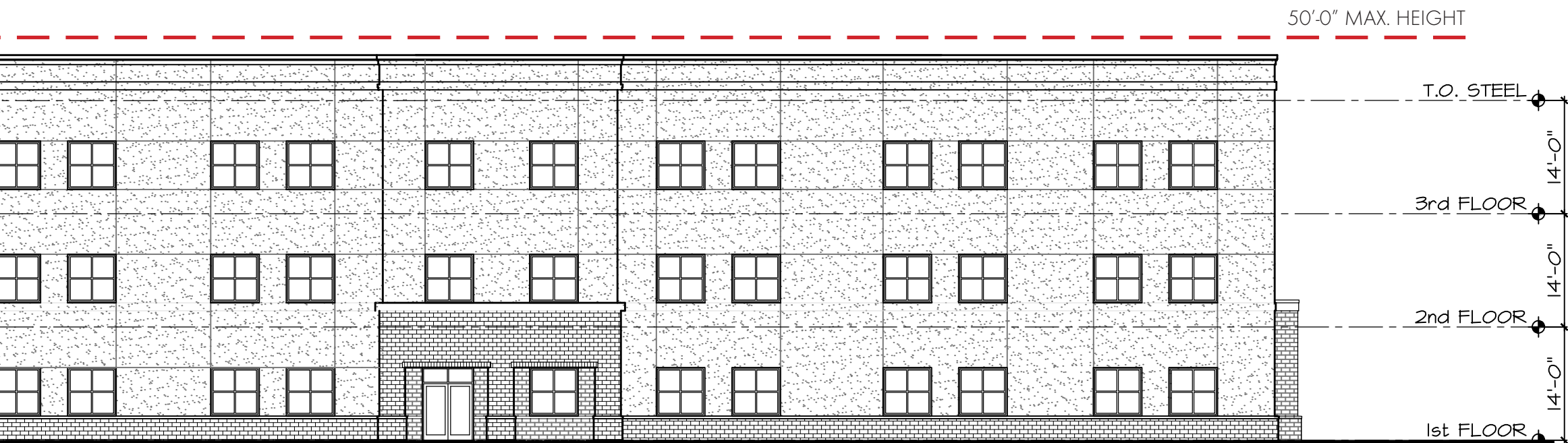
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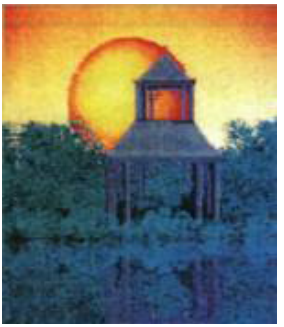
ROOF PLAN

10





FRONT ELEVATION

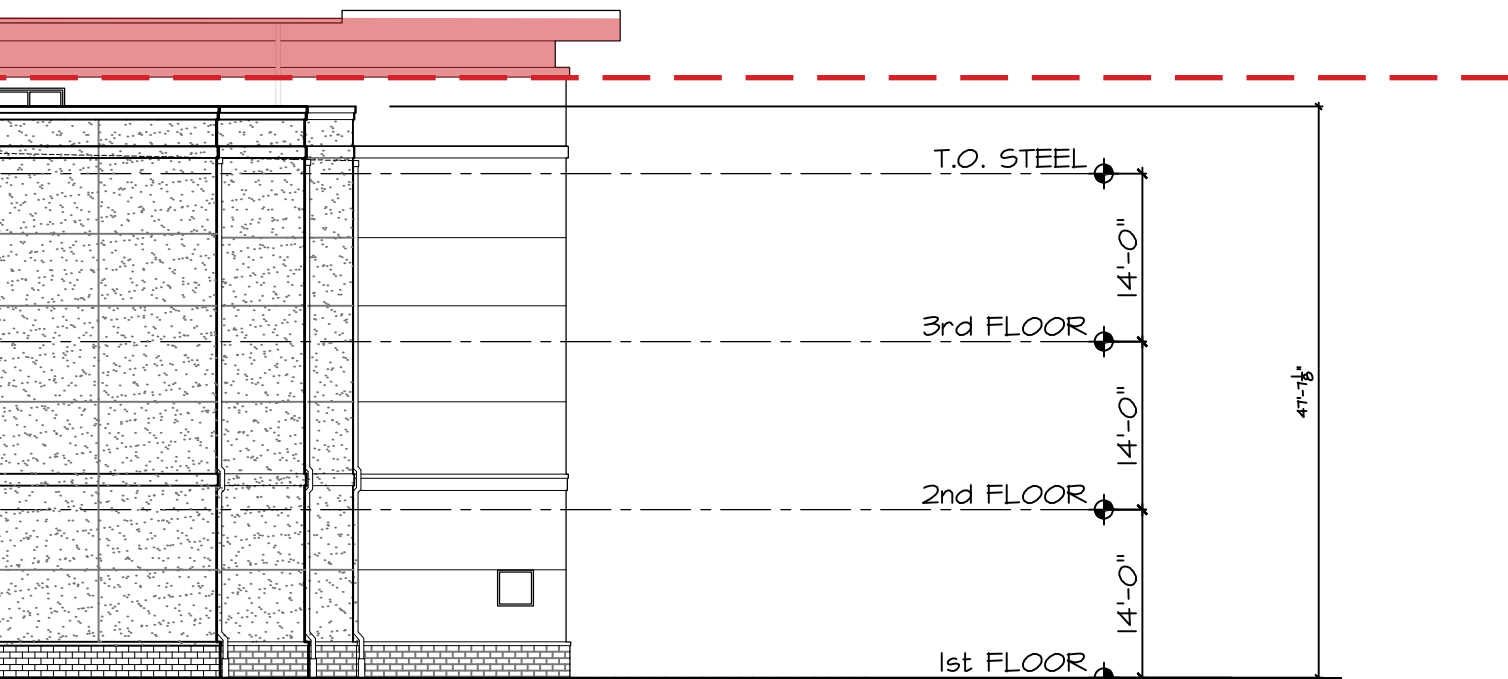


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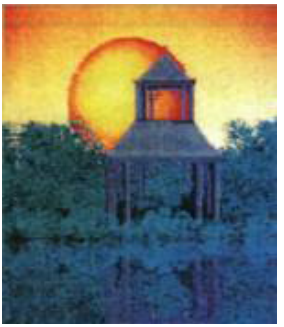
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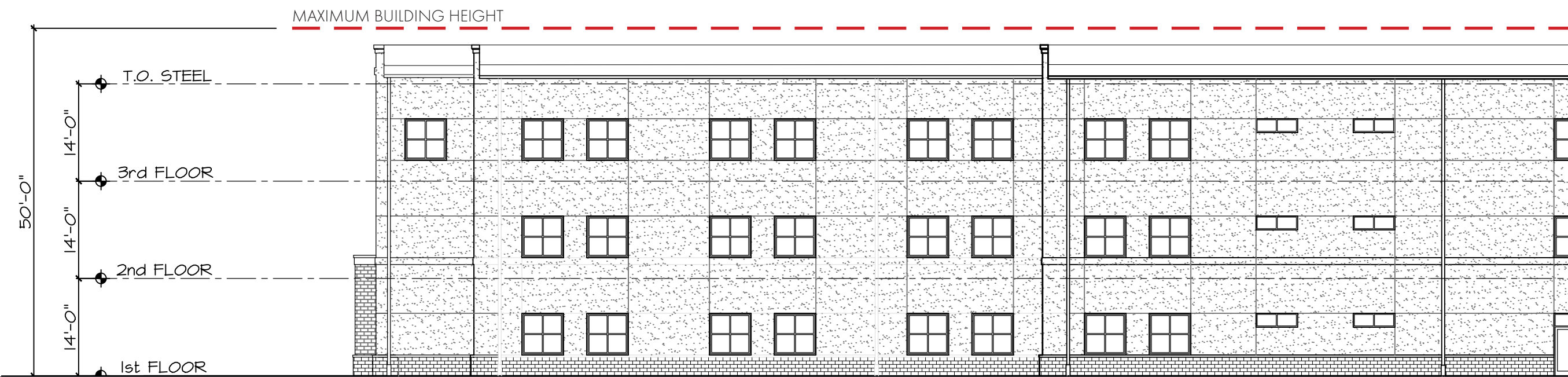
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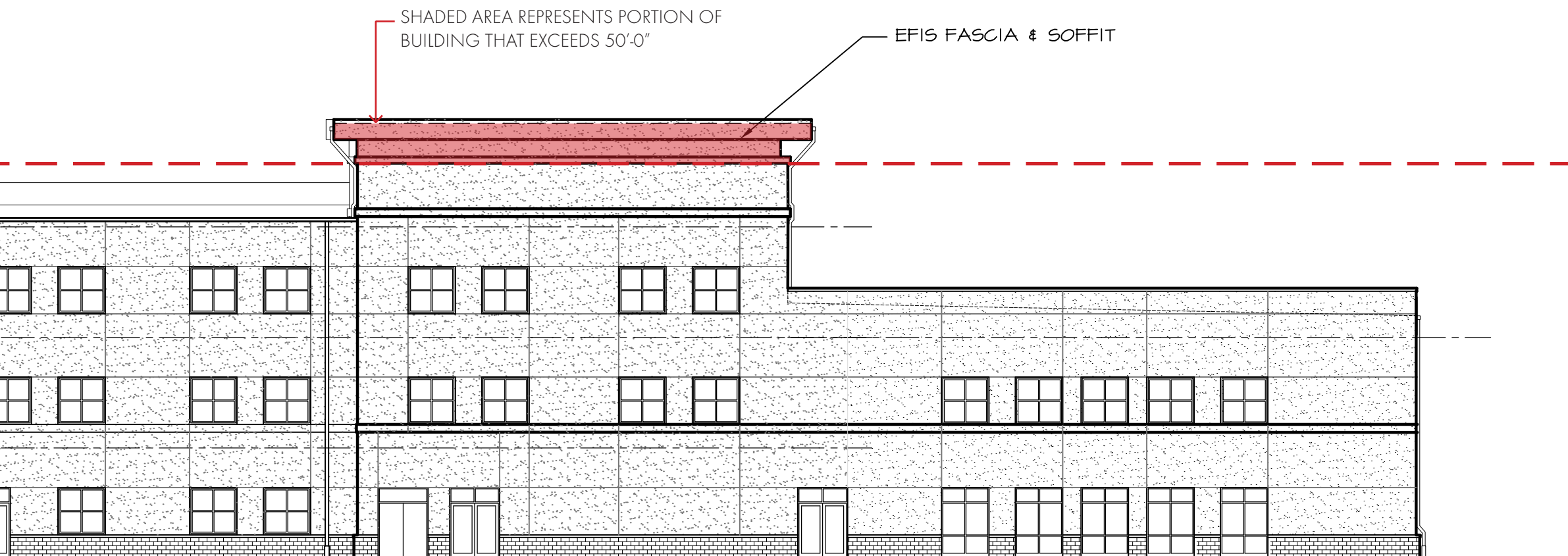


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DATE: 12/29/2020





SHADED AREA REPRESENTS PORTION OF
BUILDING THAT EXCEEDS 50'-0"

EFIS FASCIA & SOFFIT

REAR ELEVATION

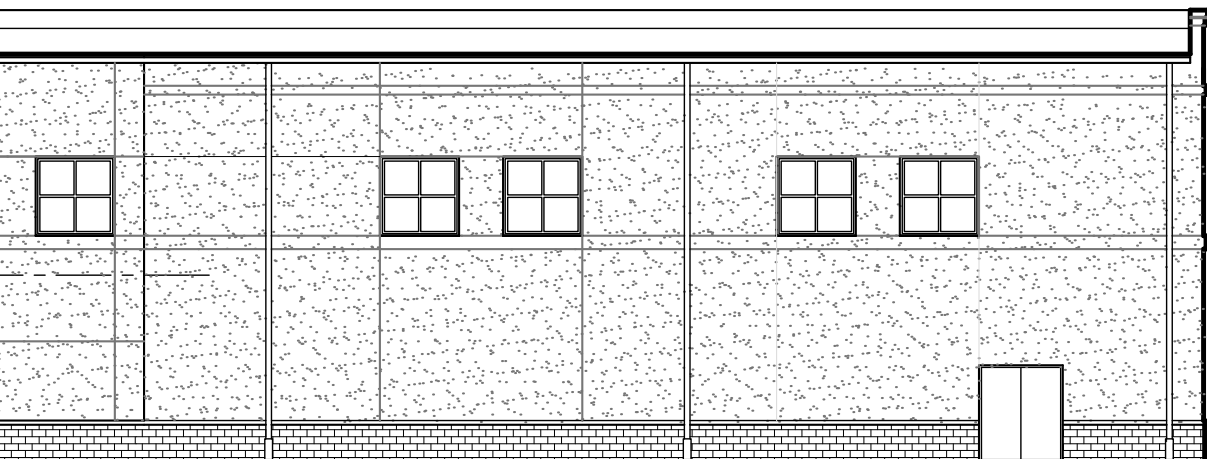


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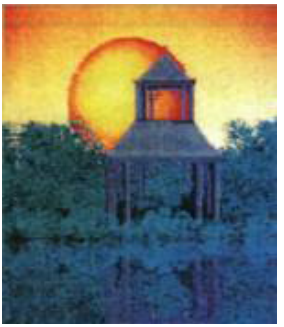
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DATE: 12/29/2020





LEFT ELEVATION



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NEWARK, DE 19711

DATE: 12/29/2020



PLANNING & DEVELOPMENT
CITY OF NEWARK

220 South Main Street · Newark, Delaware 19711
302.366.7000 · Fax 302.366.7160 · www.cityofnewarkde.us

December 31, 2020

Chris Locke
Lang Development Group
chris@langdevgrp.com

RE: 287 East Main Street, Fulton Bank, Building Permit 202001549 – New Construction

Dear Mr. Locke:

Please be advised that upon review of Building Permit 202001549 for construction of a new building at 287 East Main Street, the following issue has been identified by the Planning and Development Department as non-compliant, and the permit is denied.

Per Section 32-18(d)(4), a building may not be erected over three stories or 35 feet. The submitted plan shows the top of roof at about 37.5 feet, or 2.5 feet above the allowable height. It should be noted, as confirmed by the solicitor's opinion below, that exemptions in Section 32-56.2(c)(2) would not apply to this proposed structure.

The solicitor has stated the following by email:

Per Code, this building can be up to 35 feet in height, with parapet walls that can extend up to an additional 4 feet. As I understand it, there are sections of the building that exceed 35 feet, and there are parapet walls that extend more than four feet above the 35-foot limit.

The only exception contained in Section 32-56.2c (highlighted) is for "a roof appurtenance that resembles a roof".

What is a roof appurtenance that resembles a roof? – simply put it is structure that looks like a roof but is not - Here is an aerial view such a structure at 52 N. Chapel: (photo omitted)

As I understand the design of your project, the parapet walls do not come under the

definition of a roof appurtenance that resembles a roof. Accordingly, as this exception is not applicable, other than the parapet wall, no part of the building can exceed 35 feet in height, and no parapet wall can extend more than four feet above the 35-foot limit.

It should be noted that Section 32-56.2(c)(2) actually allows a parapet wall to extend up to 4 feet above the allowable building height. The parapet wall shown on the plans extends to about 43.25 feet and is actually about 5.75 feet above the provided roof height and about 8.25 feet above the allowable roof height.

Your application requires a 2.5-foot variance of Section 32-18(d)(4) to allow a structure of 39.25 feet. It also requires a 4.25-foot variance of Section 32-56.2(c)(2) to allow a parapet wall to a height of about 43.25 feet.

Additionally, since the building is over 35 feet, per Section 32-18(d)(5), the building is required to be set back 20 feet. Where the building exceeds 35 feet the plan submitted shows the building set back 9.3 feet from Main Street and about 3 feet from Haines Street. **As such, the plan requires a Section 32-18(d)(5) setback variance of 10.7 feet from Main Street and 17 feet from Haines Street.**

You may seek a variance from the aforementioned section by completing an application for a hearing before the Board of Adjustment (attached) and submitting it along with a one-thousand one-hundred (\$1,100) fee to the City Secretary's office. This fee is non-refundable and is for the cost of the hearing, whether the Board of Adjustment grants or denies the variance. Please note as well that as per Code Section 32-63, should you request a continuance of an appeal to other that the meeting for which you have applied, another one-hundred sixty-five (\$165) fee will be required.

If you have any questions or concerns, please feel free to contact me at (302) 366-7000 ext. 2044.

Sincerely,



Thomas K. Fruehstorfer
Planner

Attachment: Building cross section

Cc: Mary Ellen Gray, Planning and Development Director
Stephanie Petersen, Code Enforcement Manager
Brian Daring, Code Enforcement Officer
Renee Bensley, City Secretary
Nichol Scheld, City Secretary Office



**CITY OF NEWARK
DELAWARE**

January 14, 2021

TO: Chair and Members of the Board of Adjustment

FROM: Renee Bensley, City Secretary *RKB*

CC: Paul Bilodeau, City Solicitor
Mary Ellen Gray, Planning and Development Director

RE: Application Materials for 287 East Main Street (Fulton Bank) - Revised

On December 29, 2020, the Planning and Development Department issued a denial letter for a building permit for construction of a new building at 287 East Main Street due to the height of the building on the submitted application and concluded that the exemptions in Section 32-56.2(c)(2) did not apply. Based on this letter, the applicant submitted an application to be heard by the Board of Adjustment challenging the interpretation that the exemptions in Section 32-56.2(c)(2) did not apply, as well as applying for a height variance in case the Board of Adjustment did not approve applicant's challenge to the interpretation. The application was submitted on December 30, 2020, which was prior to the deadline for the January 21, 2021 Board of Adjustment meeting.

On December 31, 2020, the Planning and Development Department issued a revised denial letter (enclosed in your packet), which clarified the variances required for height for the building and the parapet, but also expanded the denial to include variances needed for setbacks from Main Street and Haines Street. Since this change was received after the applicant had already submitted their application, the applicant was given the opportunity to provide supplemental materials to address the additional variances. The applicant submitted a letter to supplement their application on January 5, 2021 (enclosed in your packet).

Additionally, while reviewing the December 31, 2020 letter to create the notice for the January 21, 2021 meeting, it was found that while the variance needed that was listed for the height of the building was correct (2.5 feet), the height of the building was not (39.25 feet in the letter; 37.5 feet on the building permit application). The correct height of 37.5 feet and requested variance of 2.5 feet were used for the notices and agenda to publicize the meeting.

It was also discovered after the Newark Post advertisement and the direct mail notices had gone out that the reference to Haines Street for the setback variance was incorrect in the December 31 letter and should have been Tyre Avenue. Our staff was able to publish a revised notice in the January 11 News Journal and resent the direct mail notices for this application with the corrected information. Both are within the 10 days advance notice required for newspaper and direct mail. We also submitted a corrected advertisement to the Newark Post, which will run on January 15.

Following the re-noticing of the meeting, we received a revised request from the applicant with

new drawings (enclosed) on January 11. After conversation with both the Planning and Development Department and the applicant, it was determined that the new design of the building reduced the building height to 35 feet, which is in compliance with Code and negated the need for a building height variance. Additionally, since the building height is now in compliance, the need for the setback variances is also negated since the trigger for those in the Code was the project exceeding the 35-foot height limit. The applicant has further reduced the size of the parapet in the new design to 40 feet, 8 inches, which means that the variance required is reduced to 1 foot, 8 inches from the originally requested variance of 4.25 feet. The reduced parapet height variance is the only variance now required for this application. Our office will not be re-noticing this meeting with the reduced request as it is legally permissible to reduce the request on the floor without notice.

In my conversation with the applicant on January 13, I also asked if they were no longer planning to appeal the interpretation of the Planning and Development Department since the number and size of the variances required had been reduced. They were undecided as to whether they were still going to proceed with the appeal at that point, so it remains on the agenda to be heard before the area variance.

If there are any questions, please do not hesitate to contact me in advance of the meeting.

/rkb

**CITY OF NEWARK
DELAWARE
BOARD OF ADJUSTMENT**

NOTICE OF APPEAL

FOR OFFICE USE ONLY:

APPEAL NO.: 21-BA-2 DATE RECEIVED: December 30, 2020

PROPERTY LOCATION: 287 East Main Street

APPLICANT: Chris Locke / 287 East Main Street, LLC

DATE OF HEARING: January 21, 2021

DATE HEARING ADVERTISED: January 8, 2021

FEE PAID, RECEIPT NO. \$1,100 check # 1075

Please complete and have notarized the Notice of Appeal and submit it along with plans to the Board of Adjustment Secretary, City Secretary's Office, 220 South Main Street, Newark, DE 19711.

1. I/We, 287 East Main Street Associates LLC

100 Dean Drive Newark Delaware 19711

302-731-1340

(Mailing Address)

(Phone No.)

request a determination by the Board of Adjustment on the following appeal, which was denied by the Building Department on December 29, 2020

2. The purpose of the appeal is to request: _____

A. ☒ A variance to Chapter 32, Section 32. 56.2c related to:

- ☐ Area
- ☐ Frontage
- ☐ Side Yard
- ☐ Rear Yard
- ☒ Height (sign)
- ☐ Use
- ☐ Parking
- ☒ Other: Definition of roof appurtenance

B. ☒ An interpretation.

C. ☐ A special exception (in special sign district only).

3. Description of the property:

A. Street location, lot number: 287 East Main Street Newark De 19711

B. Present use: Bank

C. Proposed use: Bank/retail and apartment building

D. Zoning district: BB

4. I/We believe that the Board of Adjustment should approve this request because: (please state the exceptional practical difficulty in using the property for a proposed use. If an interpretation is requested, state grounds for interpretation.)

32-56.2(c) 2 allows for exception to the 35 feet height restriction for certain architectural feature of a building so
as the feature does not occupy an aggregate of not over 25% of the ground floor. The corner of the building located
on the property is such a feature. We submitted plans of said fact to the Planning Department seven months ago.

Pursuant to 27-22b(2) and (3), the planning department did not adhere to the timetable to notify developer of any
issues relevant to height. Developer had relied on 32-56.2(c) (2) as they had this type of architectural feature in
numerous other buildings they had constructed throughout the City which was approved by Planning in previous
projects. Developer will suffer severe economic hardship in excess of \$75,000. Pursuant to 32-66(a) (2), this request
will not be contrary to the public interest and a literal enforcement would result in an unnecessary hardship. By
approving applicant's request, the spirit of chapter 32 shall be observed and substantial justice will be done.

(If additional space is necessary, please attach to form.)

5. Has a previous application for an appeal been filed? No
(If you are not sure, contact the Board of Adjustment secretary at 366-7000.)

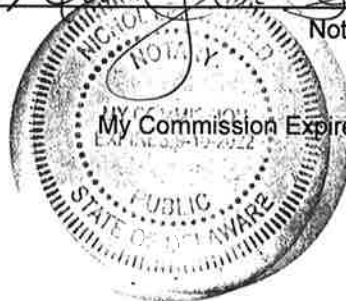
6. What is applicant's interest in the premises affected?
(Owner, agent, lessee, etc.)
Owner

I hereby certify that all of the statements in this Notice of Appeal and attached plans are true to the best of my knowledge.

Christopher R. Locke
(Applicant's signature)

Sworn to and subscribed before me, this 30th day of December 2020

Neelajeev S. Shukla
Notary Public



My Commission Expires 9/12/2022



LANG
DEVELOPMENT GROUP

100 Dean Drive, Newark, DE 19711
302-731-1340

Renee Bensley
City Secretary
City of Newark
220 South Main Street
Newark, Delaware 19711

January 4, 2021

Re: 287 East Main Street
Board of Adjustment

Dear Ms. Bensley,

This letter shall serve as a supplemental document to my application to the Board of Adjustment which I filed on December 30, 2020.

On December 31, 2020, the Planning department gave me a revised Permit denial letter stating two additional issues for The Board of adjustments to adjudicate. These issues are Section 32-18(d) (4) and Section 32-18(d)(5).

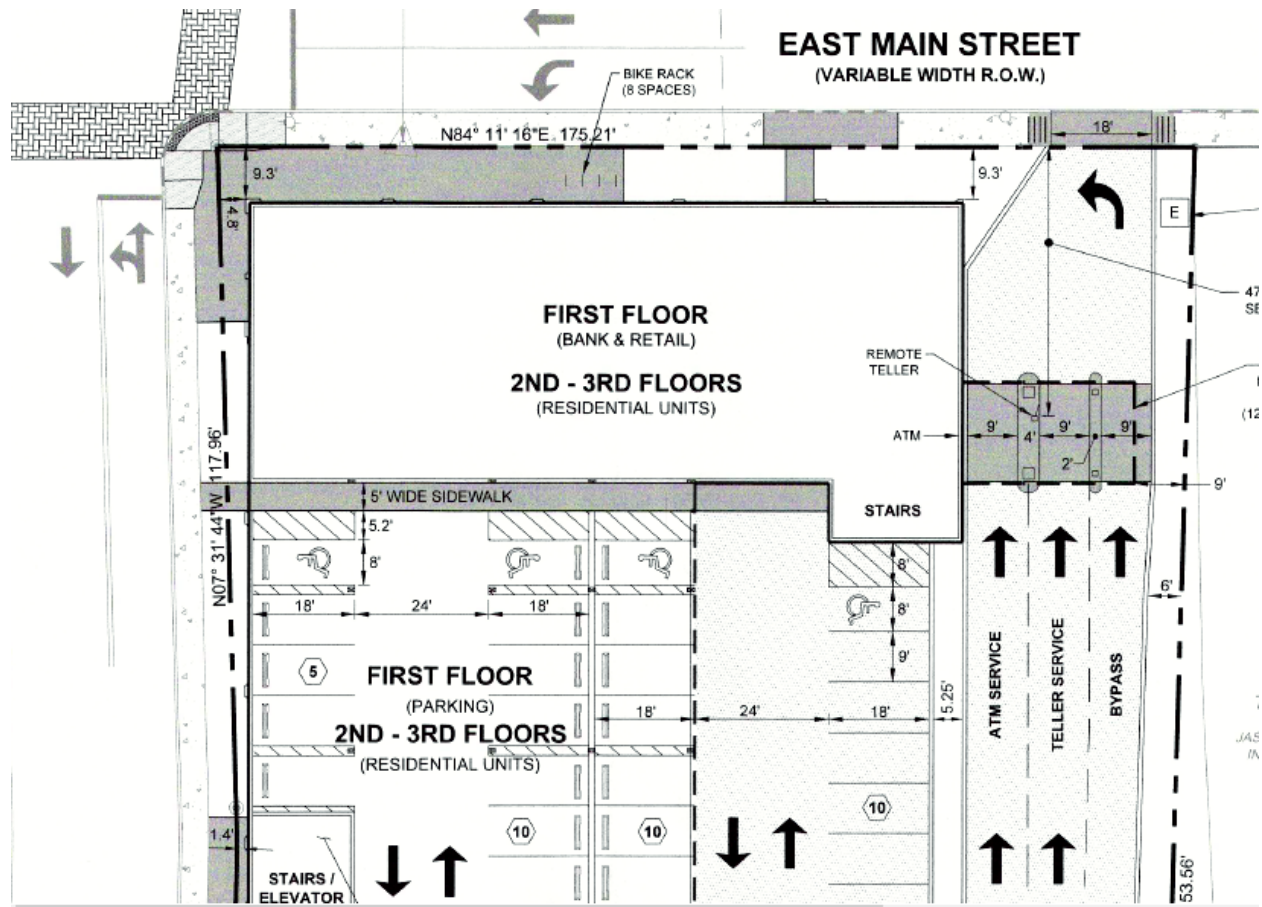
In response to this second letter, I submit that we will make the appropriate changes to the architectural drawings to assure that the area in question does not exceed the 35 feet height restrictions of 32-18(d) (4) and therefore making moot the request for a variance of 32-18(d)(5).

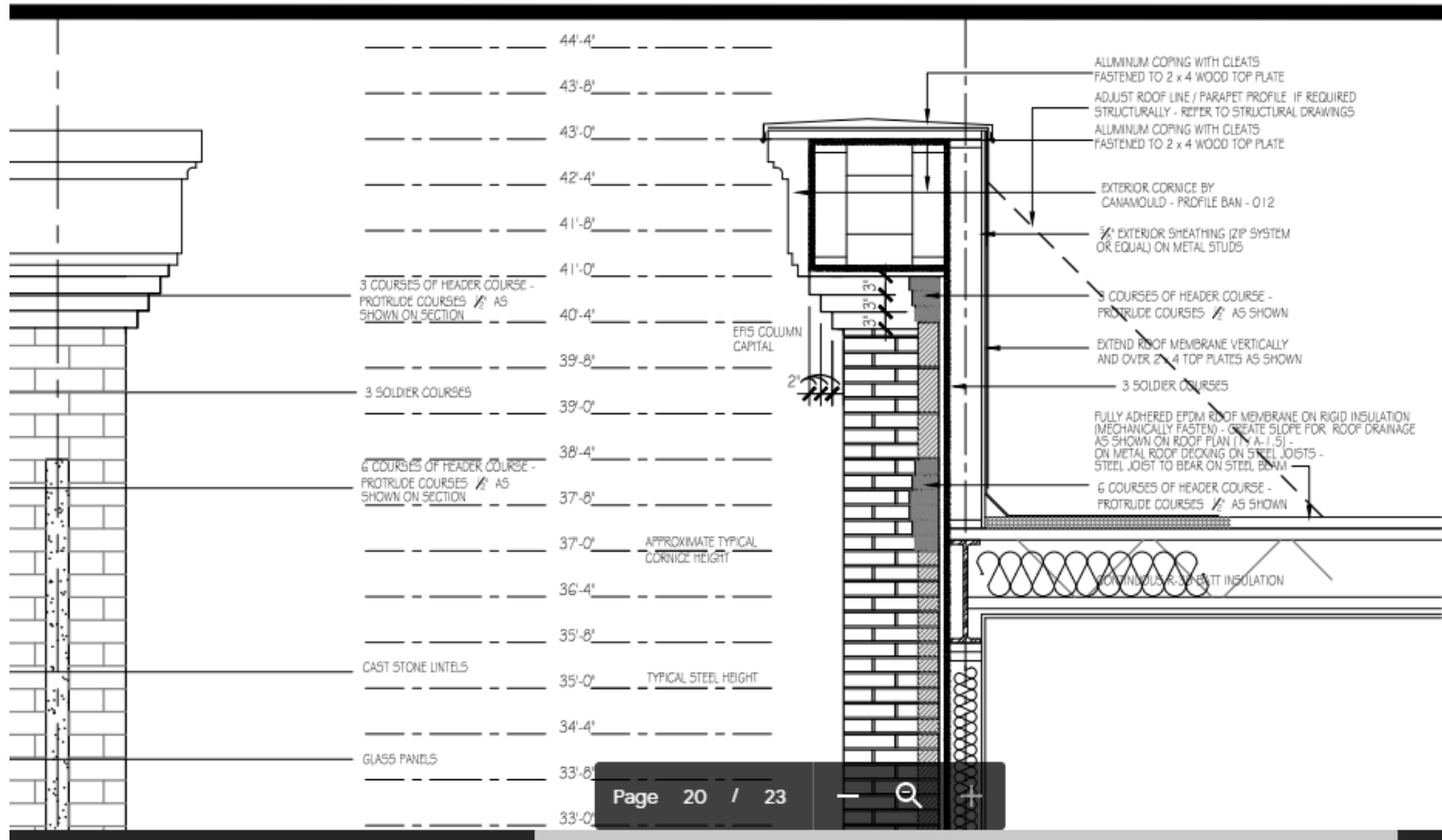
However, if the Board of Adjustment deems the request for a variance of 32-56.2(c) acceptable and believes we need additional variance of 32-18(d) (5), then we hereby request such a variance for the stated reason in the initial application.

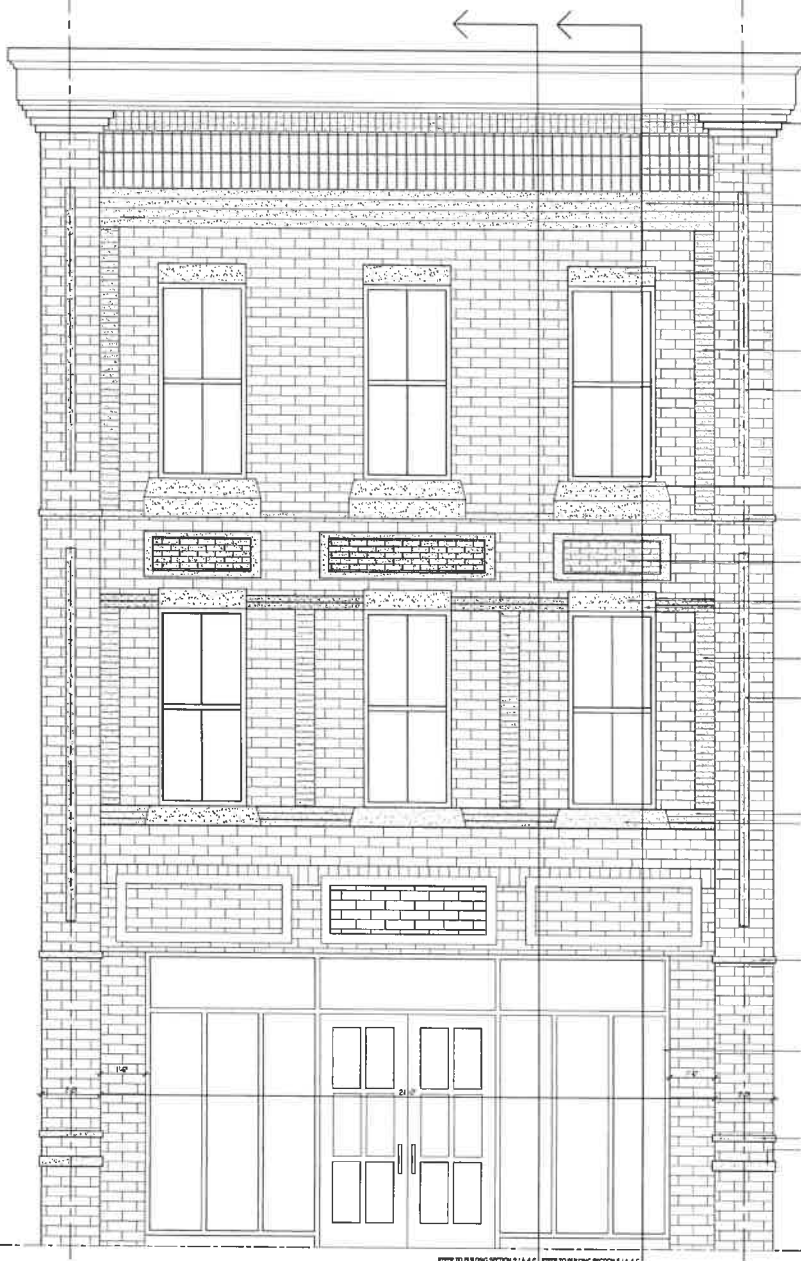
Best regards,

Christopher R. Locke, Esq.
General Counsel/Sr.VP



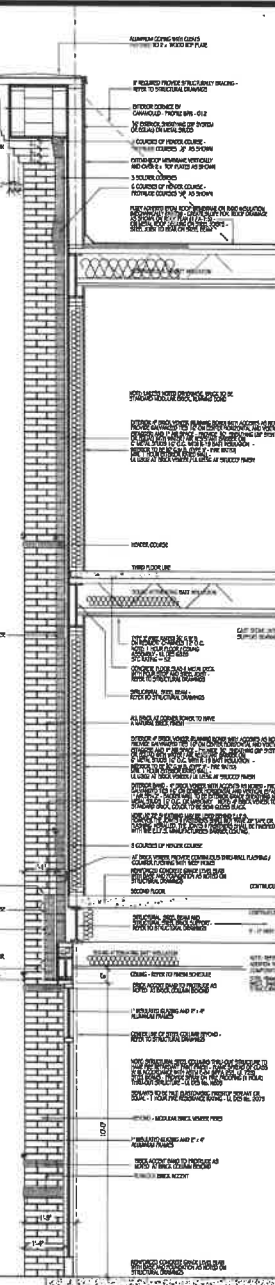




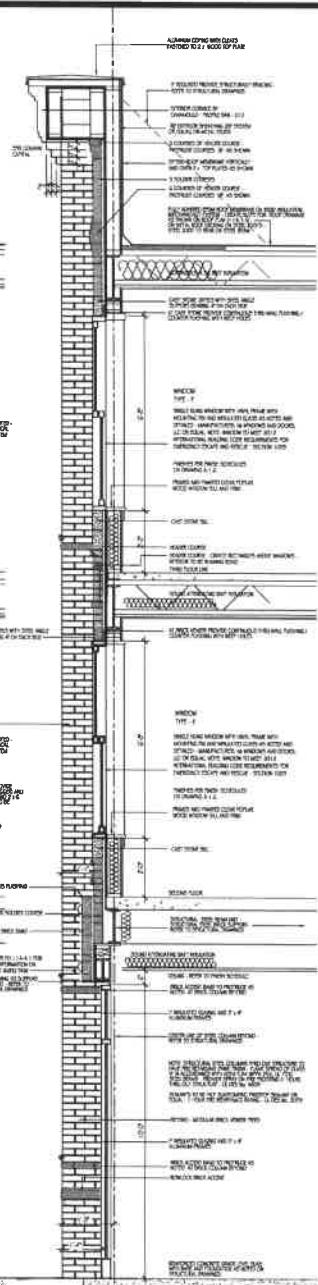


1 CORNER TOWER ELEVATION - MAIN STREET

42'-0"	ALUMINUM CORNER WINDOW CASE
41'-0"	41'-0"
40'-0"	40'-0"
39'-0"	39'-0"
38'-0"	38'-0"
37'-0"	37'-0"
36'-0"	36'-0"
35'-0"	35'-0"
34'-0"	34'-0"
33'-0"	33'-0"
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14'-0"	14'-0"
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10'-0"	10'-0"
9'-0"	9'-0"
8'-0"	8'-0"
7'-0"	7'-0"
6'-0"	6'-0"
5'-0"	5'-0"
4'-0"	4'-0"
3'-0"	3'-0"
2'-0"	2'-0"
1'-0"	1'-0"
0'	0'



2 BUILDING SECTION



3 BUILDING SECTION

SIGNATURE: 
 DATE OF SIGNATURE: MAY 26, 2020
 DATE OF REGISTRATION EXPIRATION: 01/31/2022

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ARCHITECT / ENGINEER
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 Architects Engineering Interior Design Project Management
 Lancaster Design Center Phone: (302) 654-3546
 2417 Lancaster Avenue Fax: (302) 654-3548
 Wilmington, DE 19802 E-mail: info@breckstone.com

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 24 DEL.C. §313(c).

GENERAL NOTES
 DRAWINGS FOR REVIEW
 JANUARY 8, 2021

REVISED / RESUBMITTED	DATE
STORE FRONTS REVISED	11-10-20
ELEVATOR SHIFTED TO ALIGN WITH CORRIDOR WALL	10-7-20
ELEVATOR DIMENSIONS REVISED	9-9-20
ISSUED FOR PERMIT	5-26-20

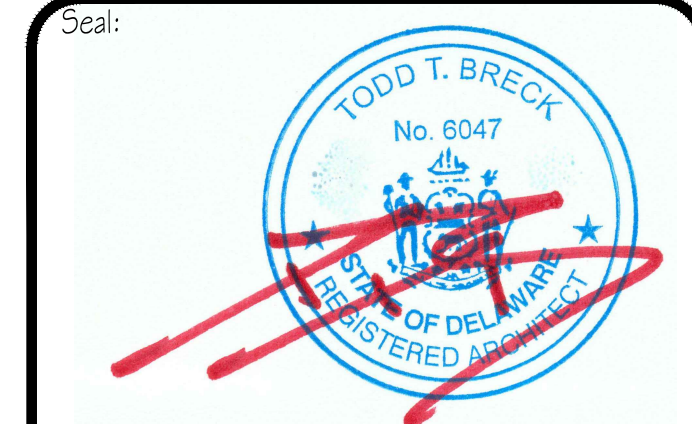
CLIENT NAME & ADDRESS:
 LANG DEVELOPMENT GROUP
 100 DEAN DRIVE
 NEWARK, DELAWARE

PROJECT NAME & ADDRESS:
 287 EAST MAIN STREET
 NEWARK, DELAWARE

DRAWING NAME:
 TOWER DETAILS

Drawn By: GFL	Checked By: TTB
Project No: 19-66	Sheet No:
Date: MAY 26, 2020	
Scale: 1/2" = 1'-0"	

A-4.6



SIGNATURE:
DATE OF SIGNATURE: MAY 26, 2020
DATE OF REGISTRATION EXPIRATION: 01/31/2022

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GENERAL NOTES		
DRAWINGS FOR REVIEW JANUARY 4, 2021		
REVISED / RESUBMITTED	12-21-20	
STORE FRONTS REVISED	11-10-20	
ELEVATOR SHIFTED TO ALIGN WITH CORRIDOR WALL	10-7-20	
ELEVATOR DIMENSIONS REVISED	9-9-20	
ISSUED FOR PERMIT	5-26-20	
No.	Revision/Issue	Date

CLIENT NAME & ADDRESS:
LANG DEVELOPMENT GROUP
100 DEAN DRIVE
NEWARK, DELAWARE

PROJECT NAME & ADDRESS:
287 EAST MAIN STREET
NEWARK, DELAWARE

DRAWING NAME:
ELEVATIONS

Drawn By: GFL	Checked By: TTB
Project No: 19.66	Sheet No: A-2.1
Date: MAY 26, 2020	
Scale: 1/8" = 1'-0"	