



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

| | | | | |
|-----------------------------|--|---------------------------------|---|---------------|
| File Number | PL 21-006 | Contact | John Kelley, jkelly@duluthmn.gov | |
| Type | Concurrent Use Permit | Planning Commission Date | February 9, 2021 | |
| Deadline for Action | Application Date | January 5, 2021 | 60 Days | March 6, 2021 |
| | Date Extension Letter Mailed | January 19, 2021 | 120 Days | May 5, 2021 |
| Location of Subject | 2102, 2104, 2112, 2110, 2306 W Superior Street | | | |
| Applicant | Duluth Lincoln Park 1 LLC | Contact | Dante Tomassoni | |
| Agent | Dante Tomassoni | Contact | | |
| Legal Description | See attached | | | |
| Site Visit Date | January 29, 2021 | Sign Notice Date | January 26, 2021 | |
| Neighbor Letter Date | N/A | Number of Letters Sent | N/A | |

Proposal: The purpose of this application is to obtain a Concurrent Use Permit (CUP) to attach balconies, rooftop parapet walls and canopies above ground and attached to a structure along West Superior Street and South 21st Avenue West for a proposed 74 unit apartment building.

Staff Recommendation: Staff is recommends that Planning Commission recommend approval to City Council.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|--------------------------|--|
| Subject | F-5, MU-C | Vacant building | Central Business Secondary |
| North | F-5 | Office/Commercial | Central Business Secondary |
| South | MU-C | Street | Central Business Secondary |
| East | MU-C | Office/Commercial | Central Business Secondary |
| West | F-5 | Office/Commercial | Central Business Secondary |

Summary of Code Requirements:

UDC Section 50-37.7C. The Planning Commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
2. ... Not Applicable
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. ...Not Applicable

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. The applicant is proposing to reuse previously developed lands to construct a 74 unit apartment building with the CUP for architectural treatments to the exterior of the building and foundation footings for structural support.

Future Land Use – Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

History:

1890-1901 – Buildings were constructed.

1979 – Buildings were combined with a single metal front façade.

The property was rezoned from MU-N to F-6 in 2011 (11-068)

Most recently occupied by Roberts Home Furnishings

PL 19-103 – Planning Commission approved a variance from occupied space setback for a multi-family apartment building on August 13, 2019

Review and Discussion Items

Staff finds that:

- 1.) The applicant is proposing to construct a new 74 unit apartment building in the Lincoln Park neighborhood. The application for a concurrent use permit is for the portion of the project located at the southwest corner of Superior Street and South 21st Avenue West. The building will require architectural elements to the exterior façade of the building on the north and west portions of the structure which will extend into the right of way of West Superior Street, South 21st Avenue West.
- 2.) The concurrent use area consists of locations on the north and west side of the building. The proposed apartment complex will consist of four floors above ground with parking at street level. Three floors of apartment units are above the parking garage.
- 3.) Balconies will be located attached to each living space for units on the north and west façades of the building. There will be a total of 14 balconies with each concurrent use area extending 4.33 feet into the right of way for West Superior Street and South 21st Avenue West. The balconies are described as concurrent use parcels 1 through 11 on Exhibit I. The applicant states that balconies will be no lower than fourteen (14) feet above the street level and are vertically spaced for three floors. The applicant also stated that the balconies will improve the aesthetics of the neighborhood and building, improve resident connection and engagement to the community and improve resident quality of life. Balconies will need to comply with all building code requirements for encroachments into the public right of way.
- 4.) Canopies are proposed above each door on the building that borders a sidewalk at a minimum of ten (10) feet above street level along and extending into West Superior Street and South 21st Avenue West. The canopies are described as concurrent use parcels 1 through 4 on Exhibit K. Canopies will need to comply with all building code requirements for encroachments into the public right of way.
- 5.) The parapet rooftop wall will be constructed along the north and west building roof line and will extend approximately 4 feet into the right of way at a height of approximately 53-feet as depicted in Exhibit J. Parapet design is also required by Section 50-22, Duluth Building Form Standards of the UDC for this building type. The applicant has stated that the Parapet is designed to improve the aesthetics of the neighborhood and building. Parapet walls will need to comply with all building code requirements for encroachments into the public right of way.
- 6.) The City Engineering staff has stated that the balconies will be at the elevation of street lights. The street lighting may be replaced with a decorative lighting system in the future and based on the density of balconies along the street frontage it will be difficult to work around light fixture placement. Some balconies may have street lights adjacent to them. In addition street trees are planted in the boulevard and their canopies may extend into the balcony area.
- 7.) The City Construction and Inspection Services Department has stated that the building design will need to be revised to comply with building code requirements for encroachments into public right of way.
- 8.) The balconies, canopies and parapet walls will not impact pedestrian or vehicular movement in the street right of way, nor will it impact the visual characteristics of the streets.
- 9.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will state that the City is not responsible for removal/replacement of the applicant's infrastructure should the City need to access the right-of-way in the permitted area.
- 10.) The area proposed for the concurrent use permit will not diminish the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 11.) No other public, agency, or other comments have been received as of January 29, 2021.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission adopt the findings of the staff report and recommend approval of the concurrent use permit with the following conditions:

- 1.) Applicant shall maintain the project as identified in the attached exhibits.
- 2.) All construction elements of the building design shall comply with building code requirements for encroachments into public right of way prior to the issuance of the concurrent use permit.
- 3.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.

4.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

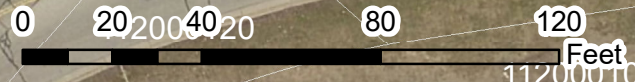


Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries

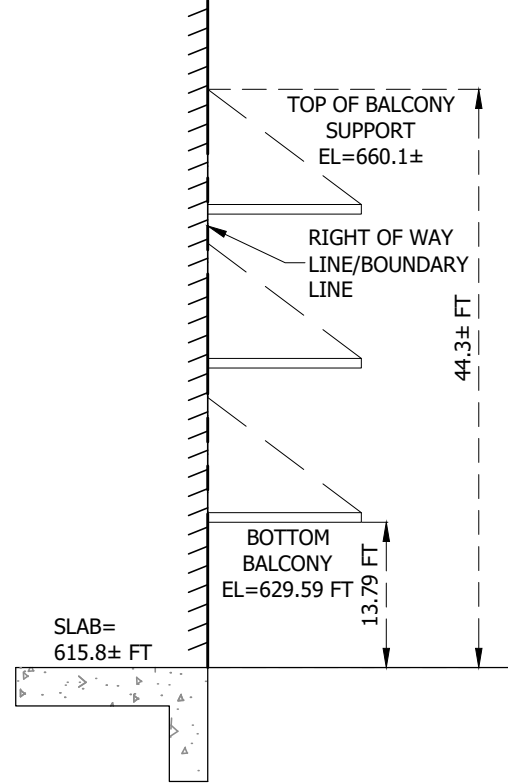
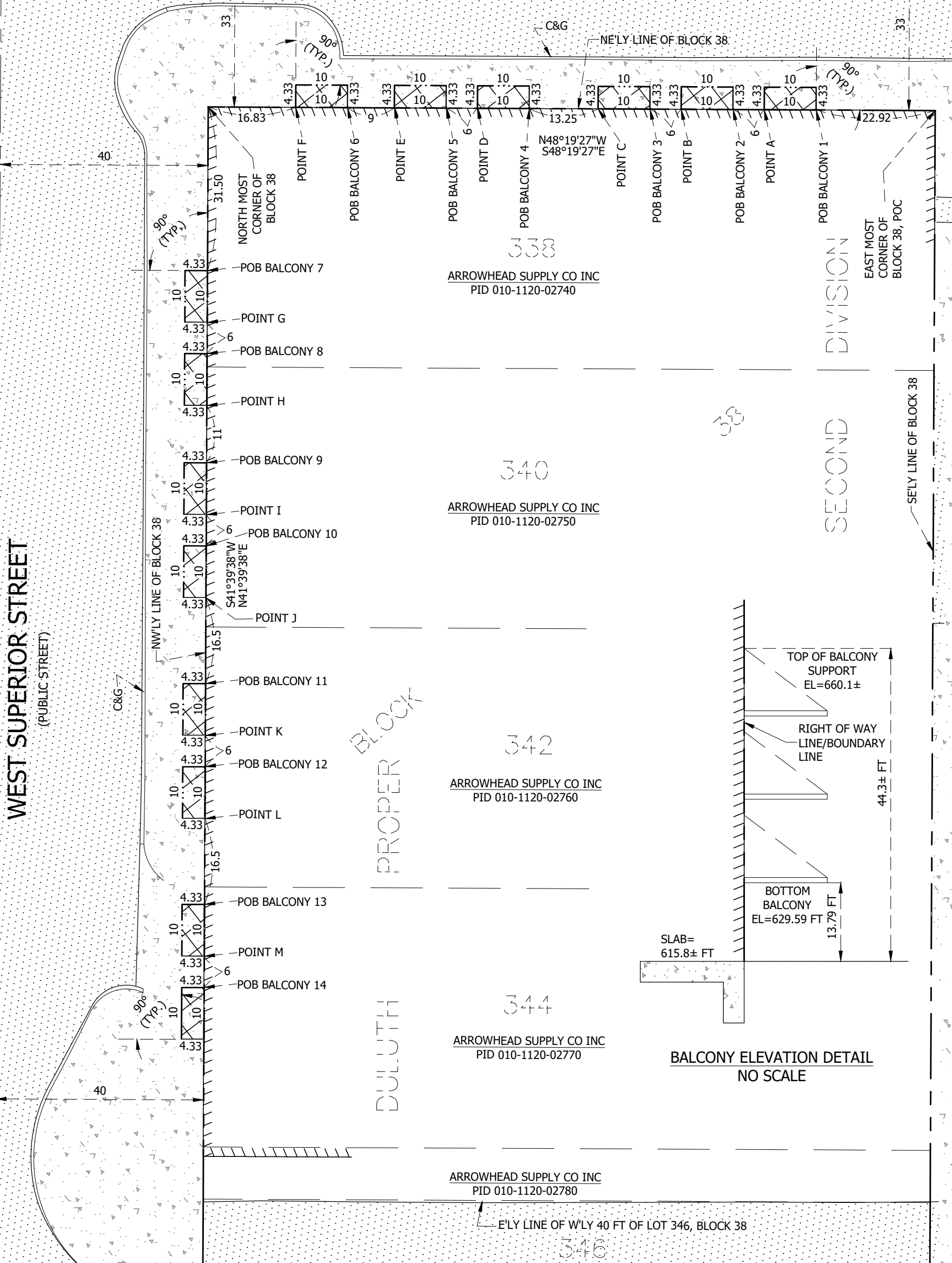


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



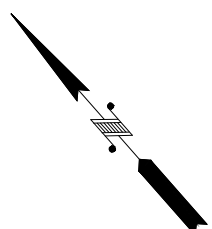
TWENTY FIRST AVENUE WEST

(PUBLIC AVENUE)



LEGEND

- PROPOSED CONCURRENT USE AREA
- BITUMINOUS SURFACE
- CONCRETE SURFACE
- C&G CONCRETE CURB & GUTTER
- POB-POINT OF BEGINNING
- POC-POINT OF COMMENCEMENT
- BUILDING LINE
- CENTER LINE
- RIGHT OF WAY LINE
- CONCURRENT USE LINE



CONCURRENT USE EXHIBIT

CLIENT: P&R PROPERTIES
 ADDRESS: 2102, 2104 & 2110 W SUPERIOR ST, DULUTH, MN 55806
 DATE: 12-28-2020

REVISIONS:
 JOB NO: 20-380 SHEET 2 OF 2

ALTA
 LAND SURVEY COMPANY
 PHONE: 218-727-5211
 LICENSED IN MN & WI
 WWW.ALTLANDSURVEYDULUTH.COM

Exhibit K

LEGAL DESCRIPTION FOR CONCURRENT USE PARCEL CANOPY #1

A parcel of land lying within the platted right of way of Twenty First Avenue West, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the East most corner of Block 38; thence on assumed bearing of North 48 degrees 19 minutes 27 seconds West, along the Northeasterly line of said Block 38 for a distance of 129.58 feet to the point of beginning of the parcel herein described; thence North 41 degrees 40 minutes 33 seconds East 3.00 feet to a line parallel with and distant 3.00 feet Northeasterly of the Northeasterly line of said Block 38; thence North 48 degrees 19 minutes 27 seconds West, along said parallel line 9.00 feet; thence South 41 degrees 40 minutes 33 seconds West 3.00 feet to the Northeasterly line of said Block 38; thence South 48 degrees 19 minutes 27 seconds East, along said Northeasterly line 9.00 feet to the point of beginning. The concurrent use parcel lies between the bottom of the canopy elevation at 625.80 feet, more or less, and the top of the support for the canopy elevation at 629.15 feet, more or less.
Said parcel contains 27.00 square feet.

LEGAL DESCRIPTION FOR CONCURRENT USE PARCEL CANOPY #2

A parcel of land lying within the platted right of way of West Superior Street, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the East most corner of Block 38; thence on assumed bearing of North 48 degrees 19 minutes 27 seconds West, along the Northeasterly line of said Block 38 for a distance of 140.00 feet to the North most corner of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along the Northwesterly line of said Block 38 for a distance of 1.42 feet to the point of beginning of the parcel herein described; thence North 48 degrees 20 minutes 22 seconds West 3.00 feet to a line parallel with and distant 3.00 feet Northwesterly of the Northwesterly line of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along said parallel line 9.00 feet; thence South 48 degrees 40 minutes 22 seconds East 3.00 feet to the Northwesterly line of said Block 38; thence North 41 degrees 39 minutes 38 seconds East 9.00 feet to the point of beginning. The concurrent use parcel lies between the bottom of the canopy elevation at 625.80 feet, more or less, and the top of the support for the canopy elevation at 629.15 feet, more or less.
Said parcel contains 27.00 square feet.

LEGAL DESCRIPTION FOR CONCURRENT USE PARCEL CANOPY #3

A parcel of land lying within the platted right of way of West Superior Street, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the East most corner of Block 38; thence on assumed bearing of North 48 degrees 19 minutes 27 seconds West, along the Northeasterly line of said Block 38 for a distance of 140.00 feet to the North most corner of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along the Northwesterly line of said Block 38 for a distance of 78.95 feet to the point of beginning of the parcel herein described; thence North 48 degrees 20 minutes 22 seconds West 3.00 feet to a line parallel with and distant 3.00 feet Northwesterly of the Northwesterly line of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along said parallel line 4.42 feet; thence South 48 degrees 40 minutes 22 seconds East 3.00 feet to the Northwesterly line of said Block 38; thence North 41 degrees 39 minutes 38 seconds East 4.42 feet to the point of beginning. The concurrent use parcel lies between the bottom of the canopy elevation at 625.80 feet, more or less, and the top of the support for the canopy elevation at 629.15 feet, more or less.
Said parcel contains 13.26 square feet.

LEGAL DESCRIPTION FOR CONCURRENT USE PARCEL CANOPY #4

A parcel of land lying within the platted right of way of West Superior Street, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the East most corner of Block 38; thence on assumed bearing of North 48 degrees 19 minutes 27 seconds West, along the Northeasterly line of said Block 38 for a distance of 140.00 feet to the North most corner of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along the Northwesterly line of said Block 38 for a distance of 155.95 feet to the point of beginning of the parcel herein described; thence North 48 degrees 20 minutes 22 seconds West 3.00 feet to a line parallel with and distant 3.00 feet Northwesterly of the Northwesterly line of said Block 38; thence South 41 degrees 39 minutes 38 seconds West, along said parallel line 4.42 feet; thence South 48 degrees 40 minutes 22 seconds East 3.00 feet to the Northwesterly line of said Block 38; thence North 41 degrees 39 minutes 38 seconds East 4.42 feet to the point of beginning. The concurrent use parcel lies between the bottom of the canopy elevation at 625.80 feet, more or less, and the top of the support for the canopy elevation at 629.15 feet, more or less.
Said parcel contains 13.26 square feet.

LEGAL DESCRIPTION PER TITLE COMMITMENT FILE NO. HB-39266

The land referred to in this Commitment is described as follows:

Lot 338, Block 38, Duluth Proper Second Division, St. Louis County, Minnesota.

Torrens Property.

Torrens Certificate No. 238921.0.

Lot Three Hundred Forty (340), in Block Thirty-eight (38), Duluth Proper Second Division, according to the plat thereof, St. Louis County, Minnesota.

Abstract Property

Lot Three Hundred Forty-two (342), in Block Thirty-eight (38), Duluth Proper Second Division, according to the plat thereof, St. Louis County, Minnesota.

Abstract Property

Lot 344, Block 38, Duluth Proper Second Division, St. Louis County, Minnesota.



Torrens Property.

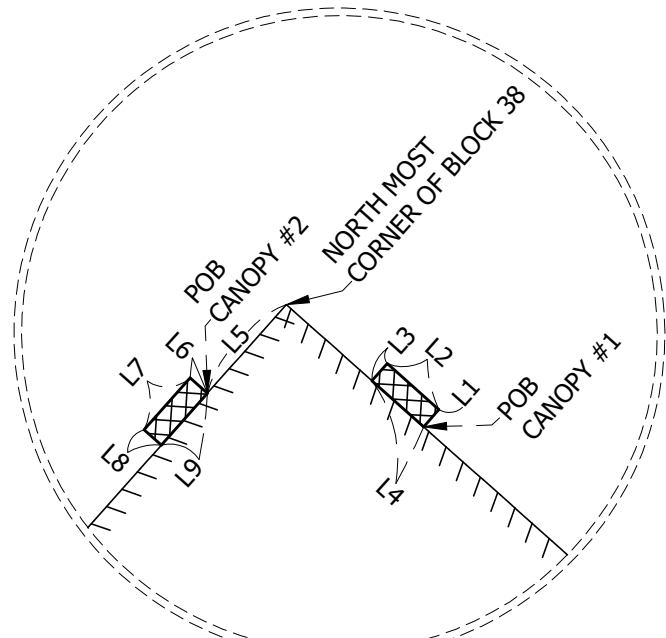
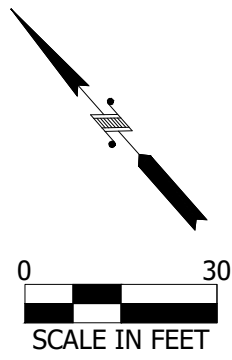
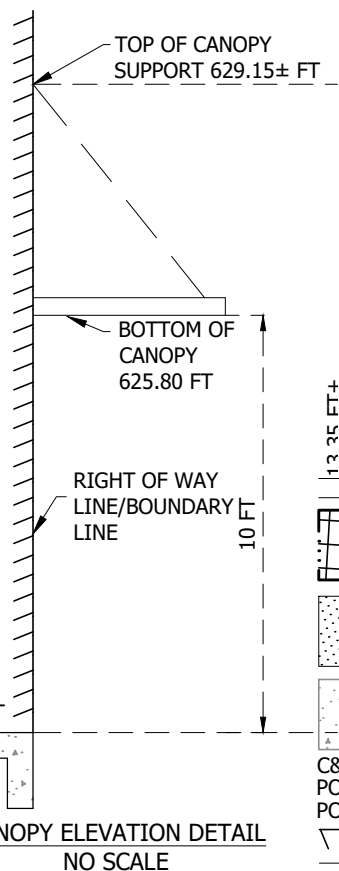
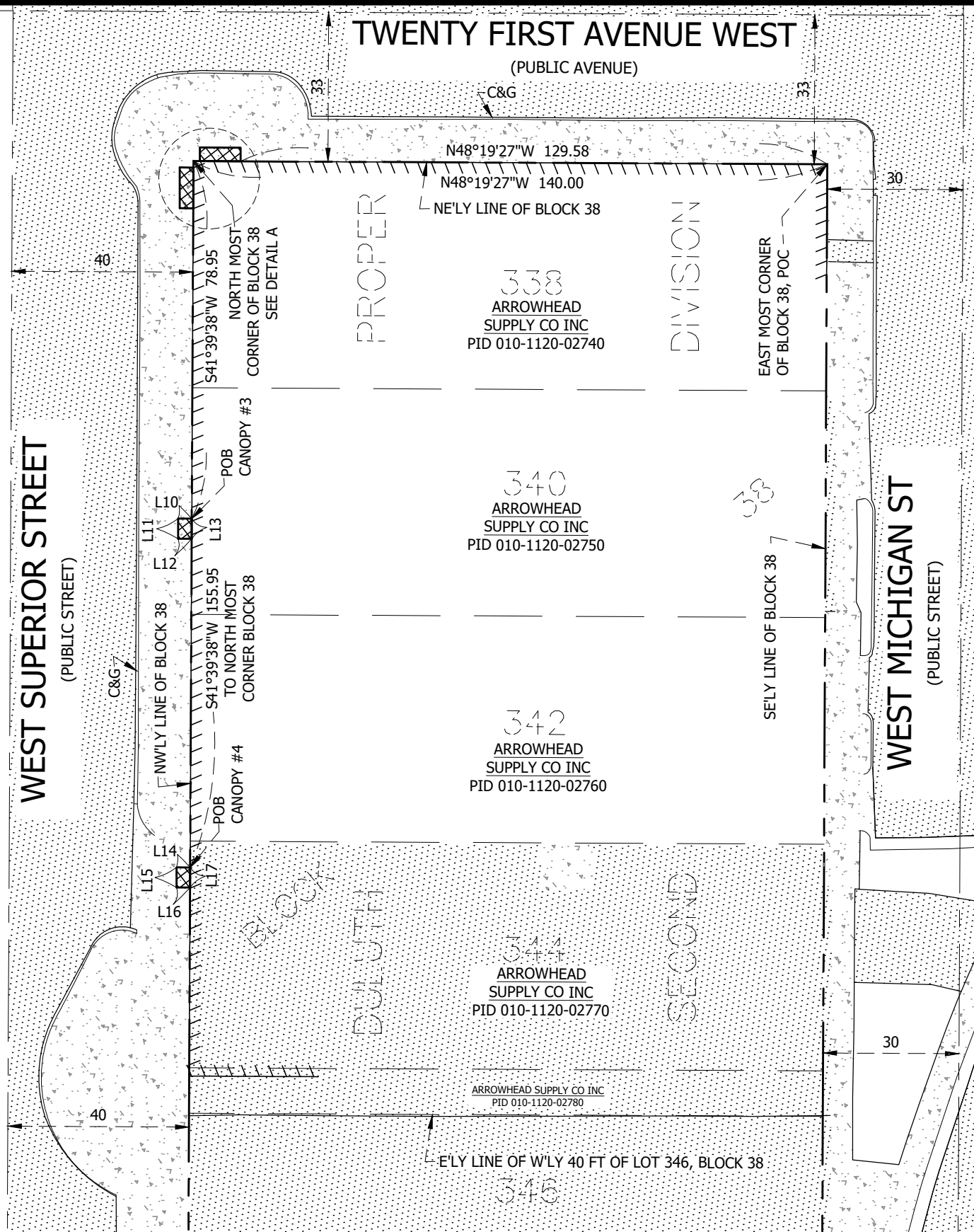
Torrens Certificate No. 240925.0.

Lot 346 EXCEPT the W'ly 40 feet thereof Block 38, Duluth Proper Second Division, St. Louis County, Minnesota.

Torrens Property.

Torrens Certificate No. 328213.0

| | | | |
|--|--|----------------|---|
| I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  David R. Evanson Mn Lic. No. 49505 | CONCURRENT USE EXHIBIT | |  ALTA LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW. ALTALANDSURVEYDULUTH.COM |
| | CLIENT: P&R PROPERTIES | REVISIONS: | |
| DATE: 12-28-2020 | ADDRESS: 2102, 2104 & 2110 W SUPERIOR ST, DULUTH, MN 55806 | JOB NO: 20-380 | SHEET 1 OF 2 |



LEGEND

| | |
|--|------------------------------|
| | PROPOSED CONCURRENT USE AREA |
| | BITUMINOUS SURFACE |
| | CONCRETE SURFACE |
| | C&G CONCRETE CURB & GUTTER |
| | POB-POINT OF BEGINNING |
| | POC-POINT OF COMMENCEMENT |
| | BUILDING LINE |
| | CENTER LINE |
| | RIGHT OF WAY LINE |
| | CONCURRENT USE LINE |

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N41°40'33"E | 3.00 |
| L2 | N48°19'27"W | 9.00 |
| L3 | S41°40'33"W | 3.00 |
| L4 | S48°19'27"E | 9.00 |
| L5 | S41°39'38"W | 1.42 |
| L6 | N48°20'22"W | 3.00 |
| L7 | S41°39'38"W | 9.00 |
| L8 | S48°20'22"E | 3.00 |
| L9 | N41°39'38"E | 9.00 |
| L10 | N48°20'22"W | 3.00 |
| L11 | S41°39'38"W | 4.42 |
| L12 | S48°20'22"E | 3.00 |
| L13 | N41°39'38"E | 4.42 |
| L14 | N48°20'22"W | 3.00 |
| L15 | S41°39'38"W | 4.42 |
| L16 | S48°20'22"E | 3.00 |
| L17 | N41°39'38"E | 4.42 |

SURVEYOR'S NOTES

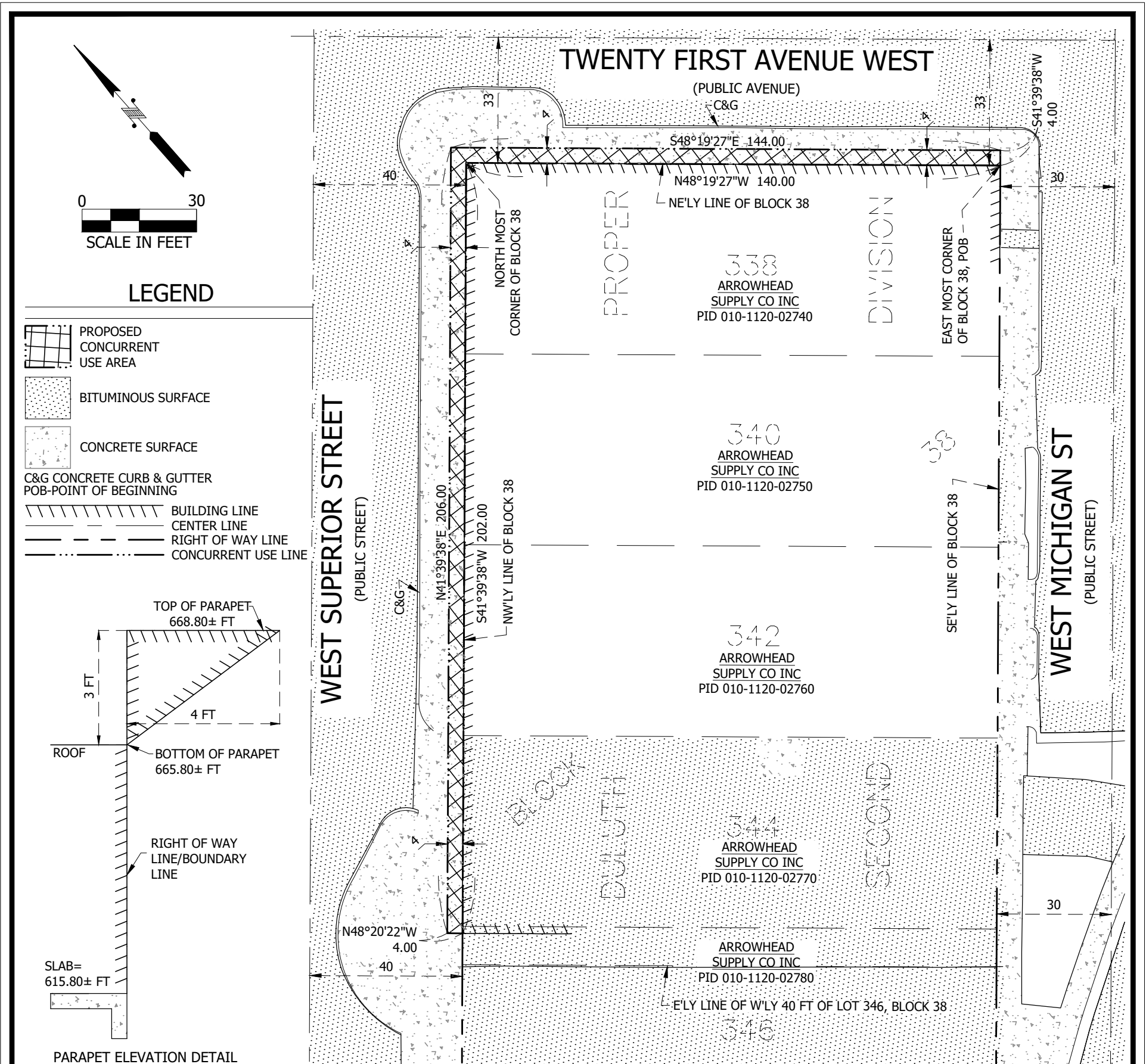
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- THIS IS NOT A BOUNDARY SURVEY.

CONCURRENT USE EXHIBIT

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ALTA
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LEGAL DESCRIPTION FOR CONCURRENT USE PARCEL

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SURVEYOR'S NOTES

- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
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Torrens Certificate No. 240925.0.

Lot 346 EXCEPT the W'ly 40 feet thereof Block 38, Duluth Proper Second Division, St. Louis County, Minnesota.

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Torrens Certificate No. 328213.0

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

David R. Evanson
David R. Evanson

DATE:12-28-2020

MN Lic. No. 49505

CONCURRENT USE EXHIBIT

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SHEET 1 OF 1

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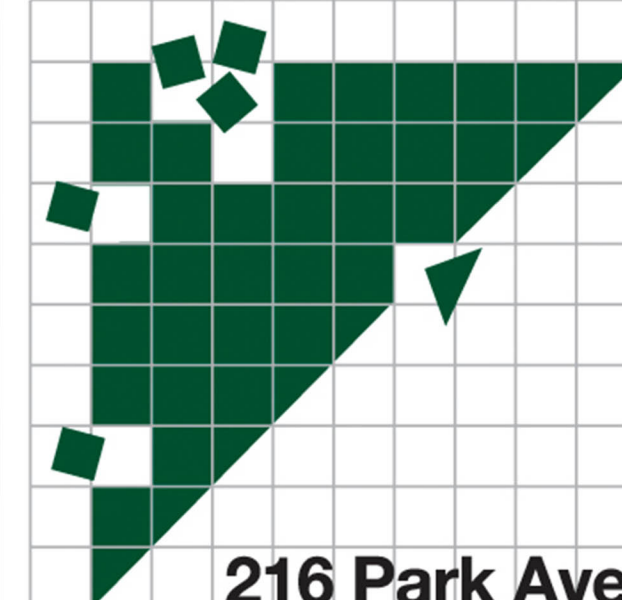


PROPOSED SITE



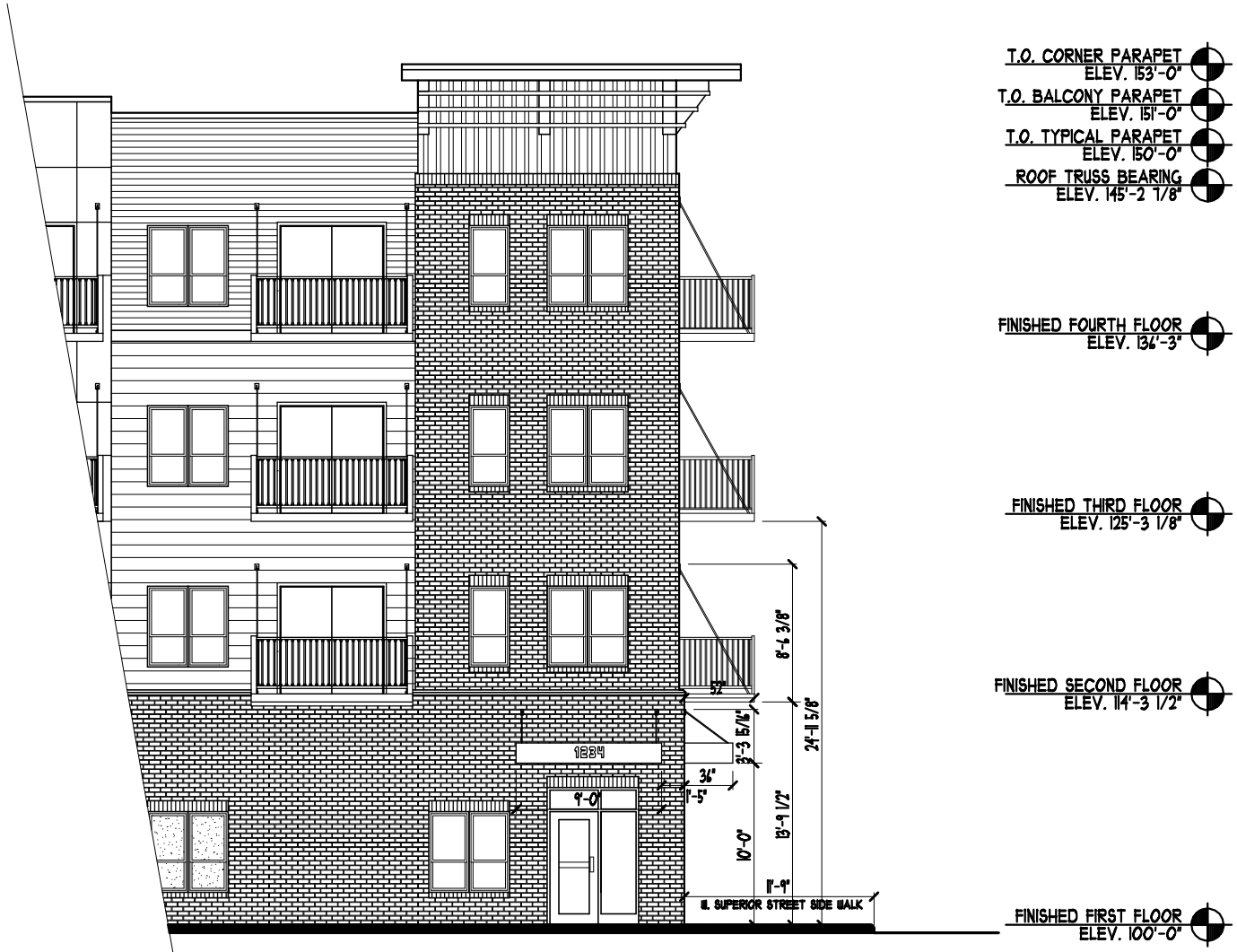
LINCOLN PARK FLATS

DULUTH
MINNESOTA



COLE GROUP
ARCHITECTS

216 Park Avenue S., Suite 102 • St. Cloud, MN 56301
Phone: (320) 654-6570 Fax: (320) 230-6570



EAST ELEVATION
 SCALE: 3/32" = 1'-0"

- T.O. CORNER PARAPET
ELEV. 153'-0"
- T.O. BALCONY PARAPET
ELEV. 151'-0"
- T.O. TYPICAL PARAPET
ELEV. 150'-0"
- ROOF TRUSS BEARING
ELEV. 145'-2 1/8"

● FINISHED FOURTH FLOOR
ELEV. 135'-3"

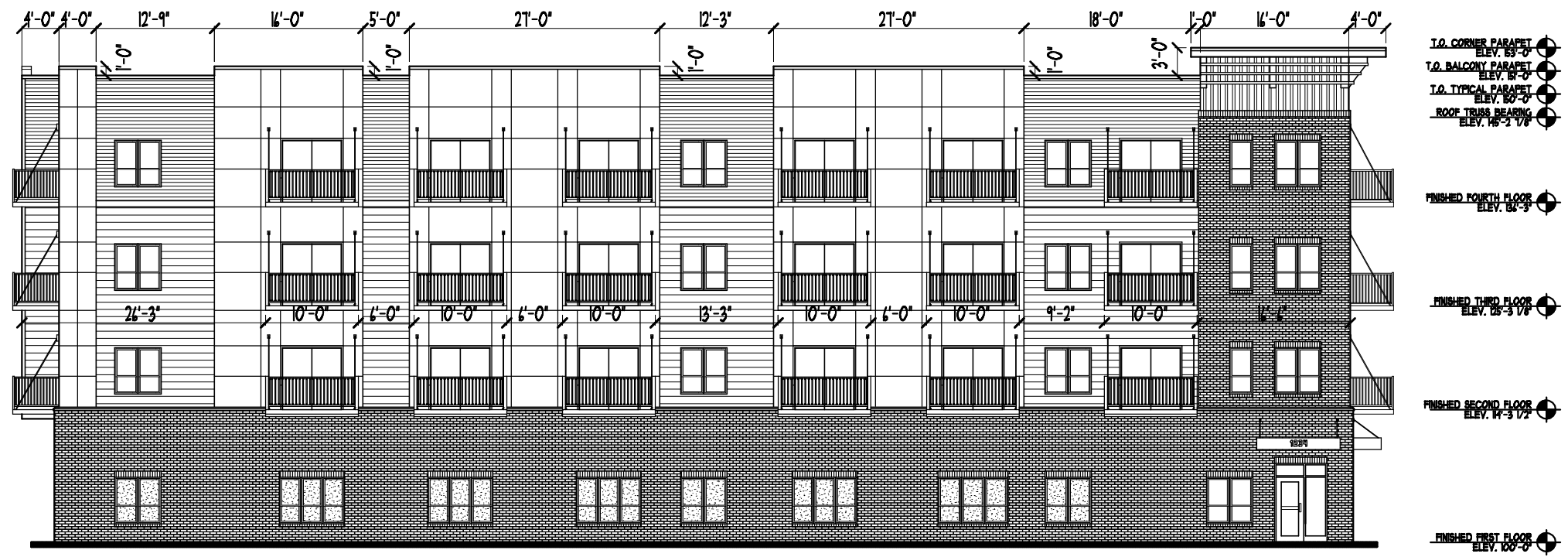
● FINISHED THIRD FLOOR
ELEV. 125'-3 1/8"

● FINISHED SECOND FLOOR
ELEV. 114'-3 1/2"

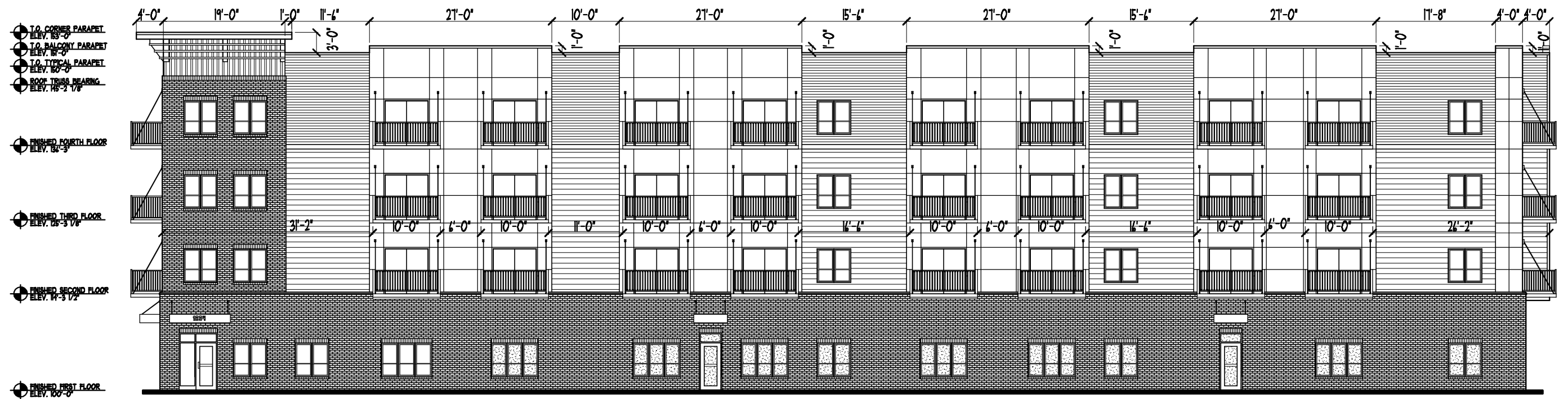
● FINISHED FIRST FLOOR
ELEV. 100'-0"



NORTH ELEVATION
SCALE: 3/32" = 1'-0"



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



NORTH ELEVATION
 SCALE: 1/16" = 1'-0"