

# Development Services

## From Concept to Construction

Phone: 503-823-7300 Email: [bds@portlandoregon.gov](mailto:bds@portlandoregon.gov) 1900 SW 4th Ave, Portland, OR 97201

More Contact Info (<http://www.portlandoregon.gov/bds/article/519984>)



### APPEAL SUMMARY

**Status:** Decision Rendered - Held over from ID 20185 (4/3/19) for additional information

<b>Appeal ID:</b> 20216	<b>Project Address:</b> NWC - SW 1st Ave and SW Pine St
<b>Hearing Date:</b> 4/10/19	<b>Appellant Name:</b> Milena Di Tomaso
<b>Case No.:</b> B-014	<b>Appellant Phone:</b> 5038632425
<b>Appeal Type:</b> Building	<b>Plans Examiner/Inspector:</b> John Cooley
<b>Project Type:</b> lur	<b>Stories:</b> 5 <b>Occupancy:</b> B, M, S-1 <b>Construction Type:</b> 3-A
<b>Building/Business Name:</b> PAE Living Building	<b>Fire Sprinklers:</b> Yes - Throughout
<b>Appeal Involves:</b> Erection of a new structure, Reconsideration of appeal	<b>LUR or Permit Application No.:</b> 19-124284-LU
<b>Plan Submitted Option:</b> pdf [File 1]	<b>Proposed use:</b> Office, Retail

### APPEAL INFORMATION SHEET

#### Appeal item 1

**Code Section** 705.8.1, Table 705.8, 705.8.6.2

<b>Requires</b>	<p>705.8.1 Allowable area of openings. The maximum area of unprotected and protected openings permitted in an exterior wall in any story of the building shall not exceed percentages specified in Table 705.8.</p> <p>Table 705.8 Maximum area of exterior wall openings based on fire separation distance and degree of opening protection.</p> <p>FSD of 3'-0" to less than 5'-0" = 15% allowable area of unprotected openings in a sprinklered building. FSD of 30' – 0" or greater = no limit on area of openings, protected or unprotected.</p> <p>705.8.6.2 Vertical Exposure for buildings on separate lots - Where a new building is to be erected adjacent to an existing building, all opening in the exterior wall of the new building are required to be not less than ¾ hour when these openings are less than 15' vertically above the roof of the existing building structure. The opening protections are required where the distance between the buildings or structure is less than 15 feet.</p>
<b>Proposed Design</b>	<p>The proposed building is a new 5-story building being built adjacent to an existing 3 story building on SW 2nd and SW Pine to the west and a parking lot to the north. The proposed building locates sixteen glazed operable openings on the second to fifth stories, built on the wall 8" off of the north property line facing the parking lot. Fourteen glazed openings on the fourth and fifth stories are proposed to be built at the wall located 4" off the west property line and seven are within the 15'-0" vertical from the rooftop of the existing adjacent building to the west. Three of these openings are proposed to be fixed windows and four are proposed to be operable windows.</p>

A covenant agreement will be established to state the owner will replace all existing windows located on the exterior wall on the north and west elevations of the proposed building with wall construction equivalent to the fire rating of the exterior wall if in the future any new building is permitted to be constructed. The four operable openings on the west wall will be equipped with a fire shutters that meet the requirements of the wall and are tied to the alarm system. The three fixed openings will be protected at the interior by additional sprinkler heads at the windows. The final design of the sprinklers will be coordinated with the Fire Marshall's office.

Reconsideration Text:

The proposed building is a new 5-story "Living Building Challenge" certified building, adjacent to an existing 3 story building on SW 2nd and SW Pine to the west and a surface parking lot to the north. The exterior wall construction of the north and west walls will meet the requirements of Table 602, except where glazed openings exist, as follows:

The proposed design locates a total of twelve (12) glazed operable openings on the second to fifth stories, built on the wall 8" off of the north property line facing the parking lot. A total of eight (8) glazed openings on the fourth and fifth stories are proposed to be built at the wall located 4" off the west property line and all are above the 15'-0" vertical from the rooftop of the existing adjacent building to the west. All the openings on the west are proposed to be fixed non-operable windows. Per 705.8.6.2, the west window openings are above 15' from the adjacent roof and will not require any protective rating.

No-build easements will be established between each of the adjoining properties that will prevent any future developments on those lots to occur within the code required fire separation distance. Per Table 705.8, the fire separation distance shall be between 3'-0" and up to 5'-0" when there is up to 15% of unprotected opening area in the exterior wall of a sprinklered building. We have less than 15% unprotected openings on both the north and west elevations and are proposing a 3'-0" no-build easement as shown on the attached site plan. In addition, a covenant will be established between each of the adjoining properties to state that in the event of a proposed development on those lots, the windows will be removed and the openings will be infilled with wall construction equivalent to the fire rating of the exterior wall. At that point the no-build easement can be removed to allow the adjacent development.

Reconsideration Text (Rev 1):

The proposed building is a new 5-story "Living Building Challenge" certified building, adjacent to an existing 3 story building at 126 SW 2nd Ave (Pine Street Market) to the west and a surface parking lot to the north. The exterior wall construction of the north and west walls will meet the requirements of Table 602, except where glazed openings exist, as follows:

The proposed design locates a total of twelve (12) glazed operable openings on the second to fifth stories, built on the wall 8" off of the north property line facing the parking lot. A total of eight (8) glazed openings on the fourth and fifth stories are proposed to be built at the wall located 4" off the west property line and all are above the 15'-0" vertical from the rooftop of the existing adjacent building to the west. All the openings on the west are proposed to be fixed non-operable windows. Per 705.8.6.2, the west window openings are above 15' from the adjacent roof and will not require any protective rating.

No-build easements will be established between the north parking lot property and the west Pine Street Market property that will prevent any future developments on those lots to occur within the code required fire separation distance. Per Table 705.8, the fire separation distance shall be between 3'-0" and up to 5'-0" when there is up to 15% of unprotected opening area in the exterior wall of a sprinklered building. We have less than 15% unprotected openings on both the north and west elevations and are proposing a 3'-0" no-build easement as shown on the attached site plan. In addition, a covenant will be established between the two adjoining properties to state that in the

event of a proposed development on those lots, the windows will be removed and the openings will be infilled with wall construction equivalent to the fire rating of the exterior wall. At that point the no-build easement can be removed to allow the adjacent development.

Note: No easement will be established between Kell's Restaurant property, as there are no proposed openings on that portion of the shared property line. The unprotected opening area percentage, on the West, is calculated based on the length of the building at the Pine Street Market property line only.

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**Reason for alternative** The intent of 705.8.1 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building by limiting the amount of protected and unprotected openings based on fire separation distance.

Because there are no existing structures to the north of the proposed building and no structure above three stories to the west of the proposed project, Table 705.8 would indicate that separation of 30'-0" or greater would have unlimited area for protected and unprotected openings. In the future if a new building is permitted to be constructed to the north and/or the west, the covenant agreement will require infill of the proposed openings with exterior wall with fire protection equal to that of the exterior wall.

The intent of 705.8.6.2 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building. The code requires any opening with 15' vertical and 15' horizontal to be protected for ¾ hour.

The three proposed openings on the west side within 15' vertical from the adjacent rooftop with fixed windows will be protected at the interior by a standard sprinkler head at the interior. The four proposed openings on the west side within 15' vertical from the adjacent rooftop with operable windows will be protected by fire shutters that meet the requirements of the wall and are tied to the alarm system. The sprinklers and the fire shutters provide better protection than the ¾ hour rated glass and will protect the occupants from heat and smoke in the event that a fire in the adjacent building continues through the roof.

This proposed alternate is required for the project to meet its targeted certification under the Living Building Challenge. The "Civilized Environment" Imperative requires all workspaces (at the time of certification) to be within 30' of a window and/or manually operable mechanism to provide fresh air and daylight. Without the proposed operable windows, the building would not be economically viable as an office, as too much of the floor plate could not be regularly occupied as workspace; the project is already being zoned and designed with circulation, mechanical and office support spaces in "non-daylit" zones on the first, second, and third floors. As well, skylights were considered on the fifth floor, but they would conflict with the necessity to maximize PV placement and renewable energy production to achieve the required net-zero energy performance under LBC, as well the necessity to provide fire department access and circulation around the perimeter of the roof.

**Reconsideration Text:**

The intent of 705.8.1 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building by limiting the amount of protected and unprotected openings based on fire separation distance.

There are no existing structures to the north of the proposed building and no structure above three stories to the west of the proposed project. By establishing a no-build easement, we are preserving the fire separation distance in front of the openings. In the future, if a new building is proposed to be developed to the north and/or the west within the no build easement, the covenant agreement would require the windows on the property line to be filled in with rated exterior wall

construction. This set of requirements will ensure the fire separation distance is preserved and allow a trigger for the city to be notified in the event of a planned development.

The intent of 705.8.6.2 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building. The code requires any opening with 15' vertical and 15' horizontal to be protected for ¾ hour.

All proposed window openings on the west elevation are above the 15'-0" vertical separation distance from the adjacent roof structure on the west. All window openings will be unprotected. This proposed alternate is required for the project to meet its targeted certification under the Living Building Challenge. The "Civilized Environment" Imperative requires all workspaces (at the time of certification) to be within 30' of a window and/or manually operable mechanism to provide fresh air and daylight. Without the proposed windows, the building would not be economically viable as an office, as too much of the floor plate could not be regularly occupied as workspace; the project is already being zoned and designed with circulation, mechanical and office support spaces in "non-daylit" zones on the first, second, and third floors. As well, skylights are considered on the fifth floor, but they are limited in area so not to conflict with the necessity to maximize PV placement and renewable energy production to achieve the required net-zero energy performance under LBC, as well the necessity to provide fire department access and circulation around the perimeter of the roof.

Reconsideration Text (Rev 1):

The intent of 705.8.1 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building by limiting the amount of protected and unprotected openings based on fire separation distance.

There are no existing structures to the north of the proposed building and no structure above three stories to the west of the proposed project. By establishing a no-build easement, we are preserving the fire separation distance in front of the openings. In the future, if a new building is proposed to be developed to the north and/or the west within the no build easement, the covenant agreement would require the windows on the property line to be filled in with rated exterior wall construction. This set of requirements will ensure the fire separation distance is preserved and allow a trigger for the city to be notified in the event of a planned development.

The intent of 705.8.6.2 is to prevent fire, heat and smoke from moving from an adjacent building and impacting the safety of the new building. The code requires any opening with 15' vertical and 15' horizontal to be protected for ¾ hour.

All proposed window openings on the west elevation are above the 15'-0" vertical separation distance from the adjacent roof structure on the west. All window openings will be unprotected.

This proposed alternate is required for the project to meet its targeted certification under the Living Building Challenge. The "Civilized Environment" Imperative requires all workspaces (at the time of certification) to be within 30' of a window and/or manually operable mechanism to provide fresh air and daylight. Without the proposed windows, the building would not be economically viable as an office, as too much of the floor plate could not be regularly occupied as workspace; the project is already being zoned and designed with circulation, mechanical and office support spaces in "non-daylit" zones on the first, second, and third floors. As well, skylights are considered on the fifth floor, but they are limited in area so not to conflict with the necessity to maximize PV placement and renewable energy production to achieve the required net-zero energy performance under LBC, as well the necessity to provide fire department access and circulation around the perimeter of the roof.

## APPEAL DECISION

**1a. Openings in the North wall within 3 feet of the property line with no build easement: Granted provided the easement is a minimum of 2 feet, 4 inches wide for the full width of the building.**

**Appellant must contact Nancy Thorington (503-823-7023) for more information prior to writing the no build easement.**

**The easement must include language that establishes the edge of the easement on the adjacent lot as the implied property line for the purpose of determining fire separation distance for future development on the adjacent lot.**

**The unrecorded easement must be reviewed and approved by BDS prior to recording. A copy of the recorded easement must then be provided to BDS prior to plan review approval.**

**1b. Openings in the West wall within 3 feet of the property line with no build easement above the roof of the adjacent building: Granted provided the easement is a minimum of 2 feet, 8 inches wide x 100 feet in length for the full length of the adjacent Pine Street Market building.**

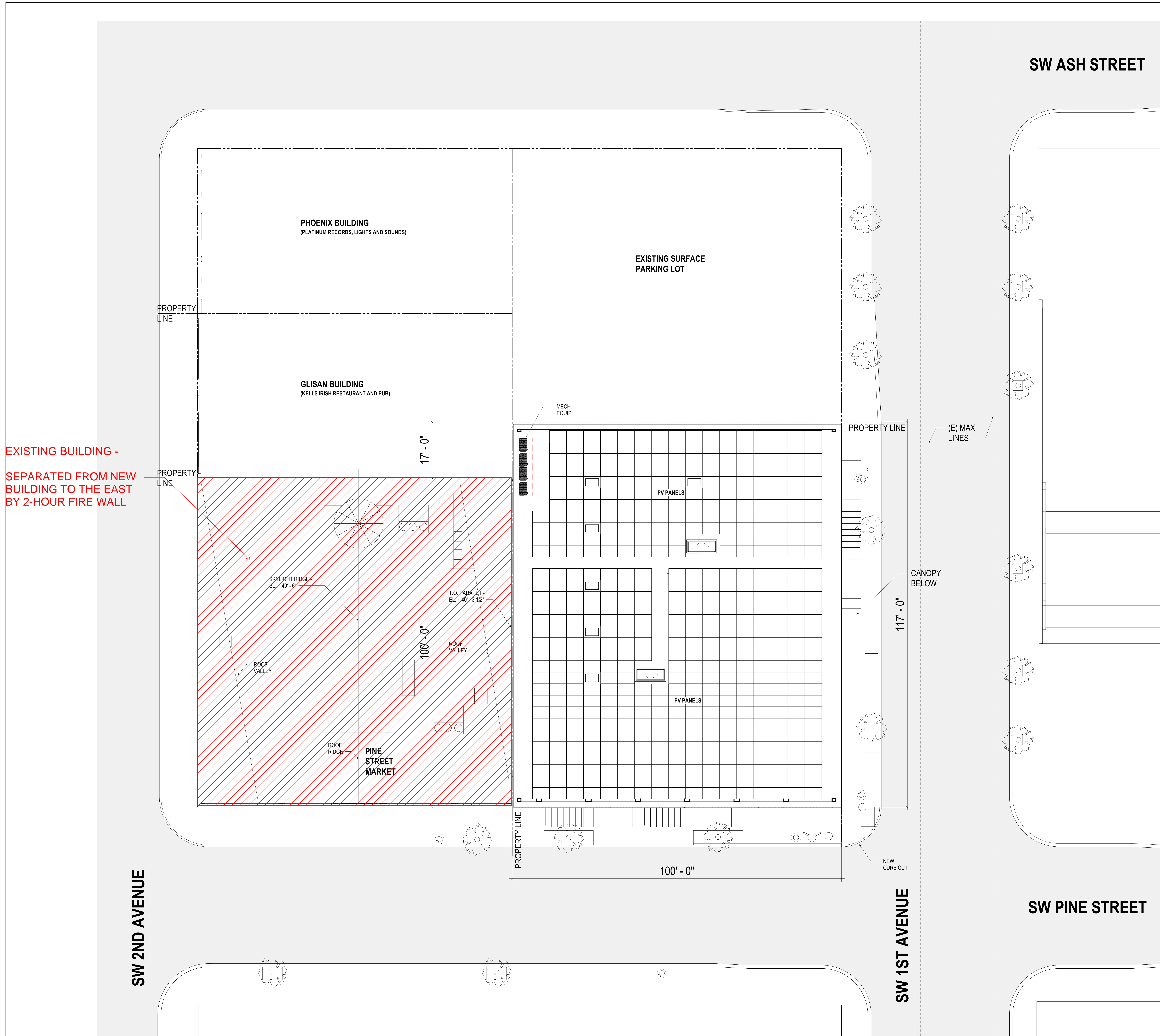
**Appellant must contact Nancy Thorington (503-823-7023) for more information prior to writing the no build easement.**

**The easement must include language that establishes the edge of the easement on the adjacent lot as the implied property line for the purpose of determining fire separation distance for future development on the adjacent lot.**

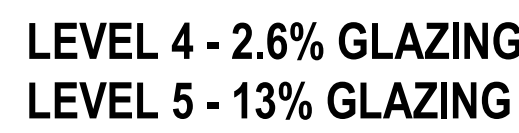
**The unrecorded easement must be reviewed and approved by BDS prior to recording. A copy of the recorded easement must then be provided to BDS prior to plan review approval.**

The Administrative Appeal Board finds with the conditions noted, that the information submitted by the appellant demonstrates that the approved modifications or alternate methods are consistent with the intent of the code; do not lessen health, safety, accessibility, life, fire safety or structural requirements; and that special conditions unique to this project make strict application of those code sections impractical.

Pursuant to City Code Chapter 24.10, you may appeal this decision to the Building Code Board of Appeal within 180 calendar days of the date this decision is published. For information on the appeals process and costs, including forms, appeal fee, payment methods and fee waivers, go to [www.portlandoregon.gov/bds/appealsinfo](http://www.portlandoregon.gov/bds/appealsinfo), call (503) 823-7300 or come in to the Development Services Center.

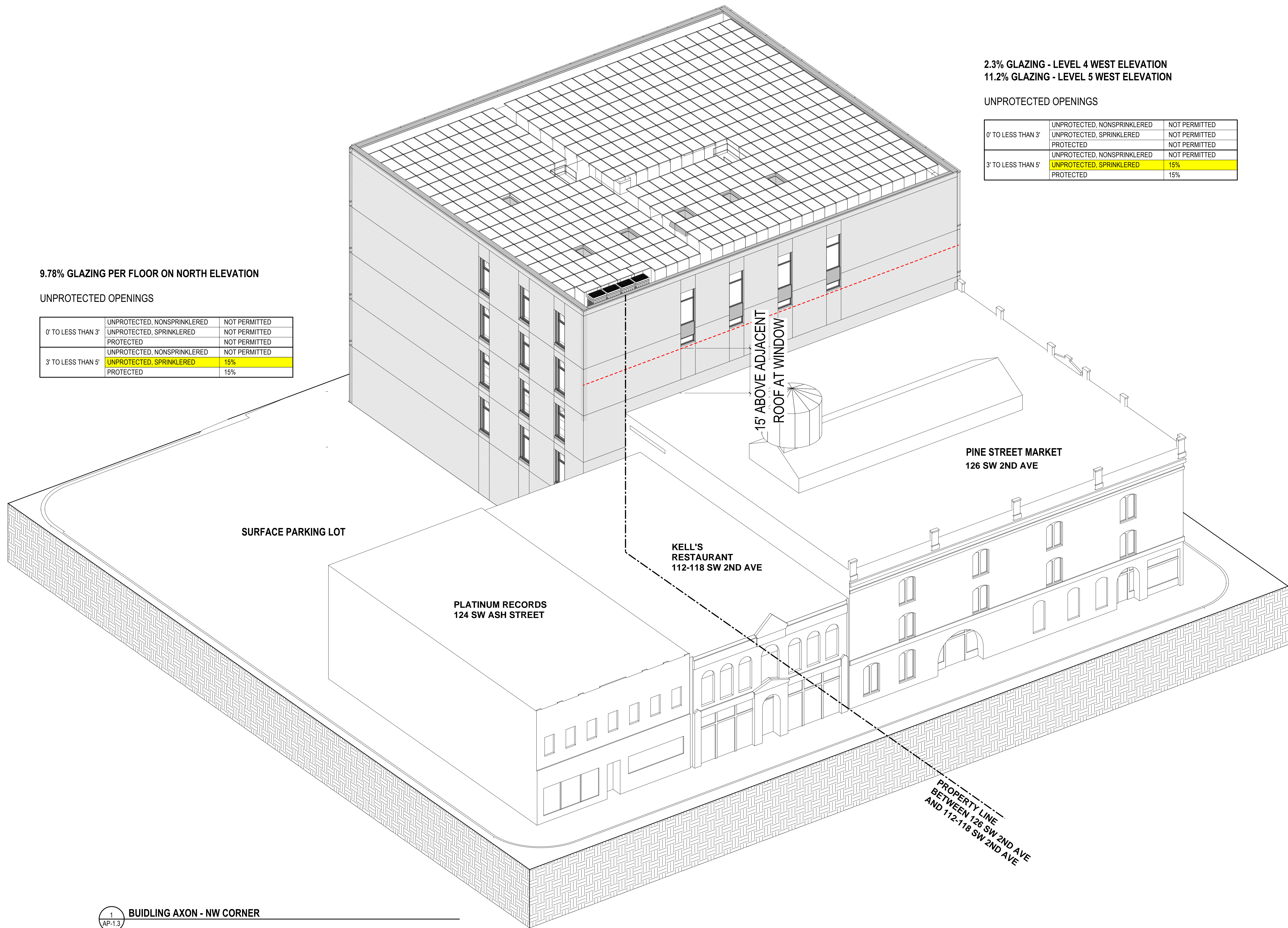






**FLOOR PLAN - LEVEL 04**  
1/8" = 1'-0"





9.78% GLAZING PER FLOOR ON NORTH ELEVATION

UNPROTECTED OPENINGS

0' TO LESS THAN 3'	UNPROTECTED, NONSPRINKLERED	NOT PERMITTED
	UNPROTECTED, SPRINKLERED	NOT PERMITTED
	PROTECTED	NOT PERMITTED
3' TO LESS THAN 5'	UNPROTECTED, NONSPRINKLERED	NOT PERMITTED
	UNPROTECTED, SPRINKLERED	15%
	PROTECTED	15%

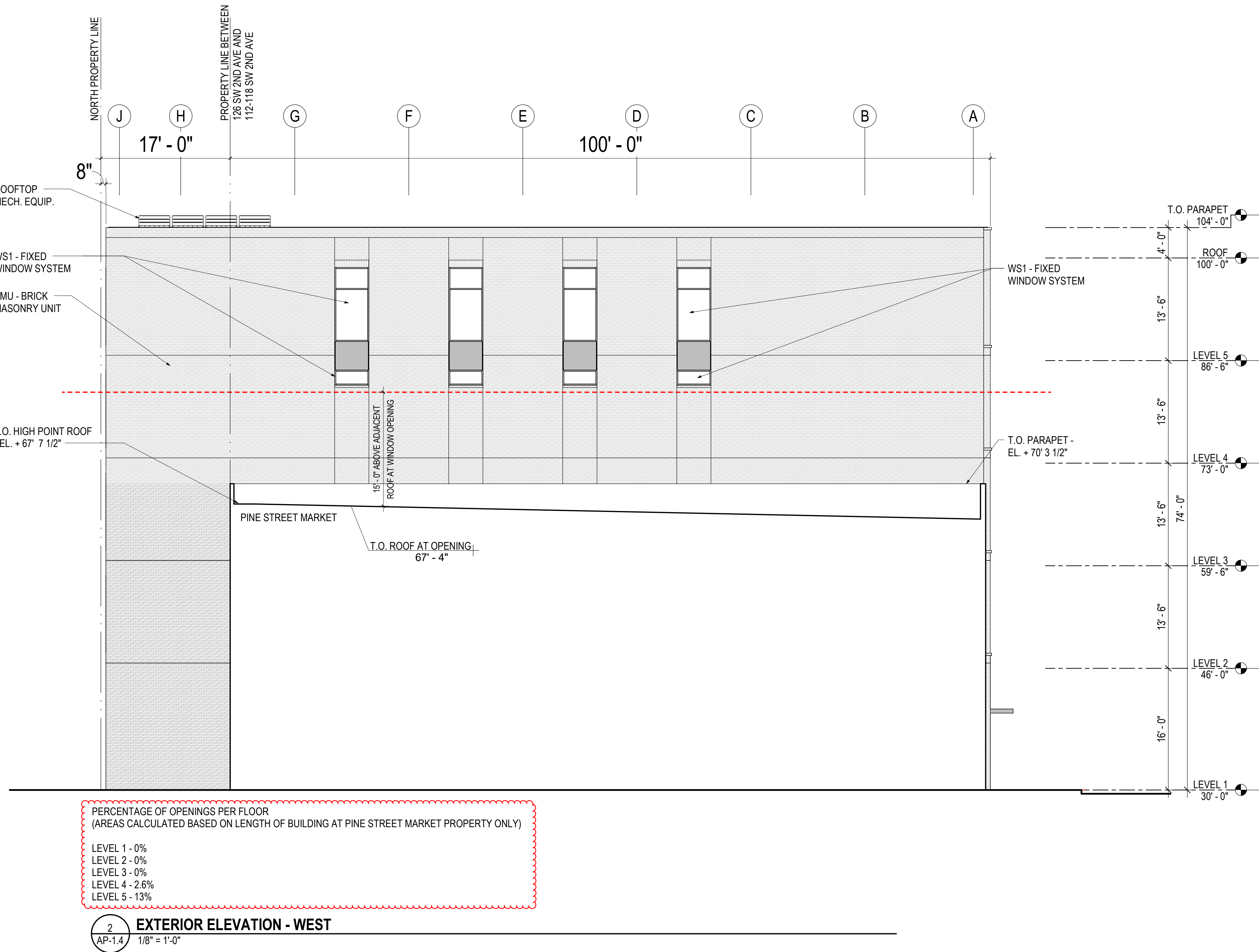
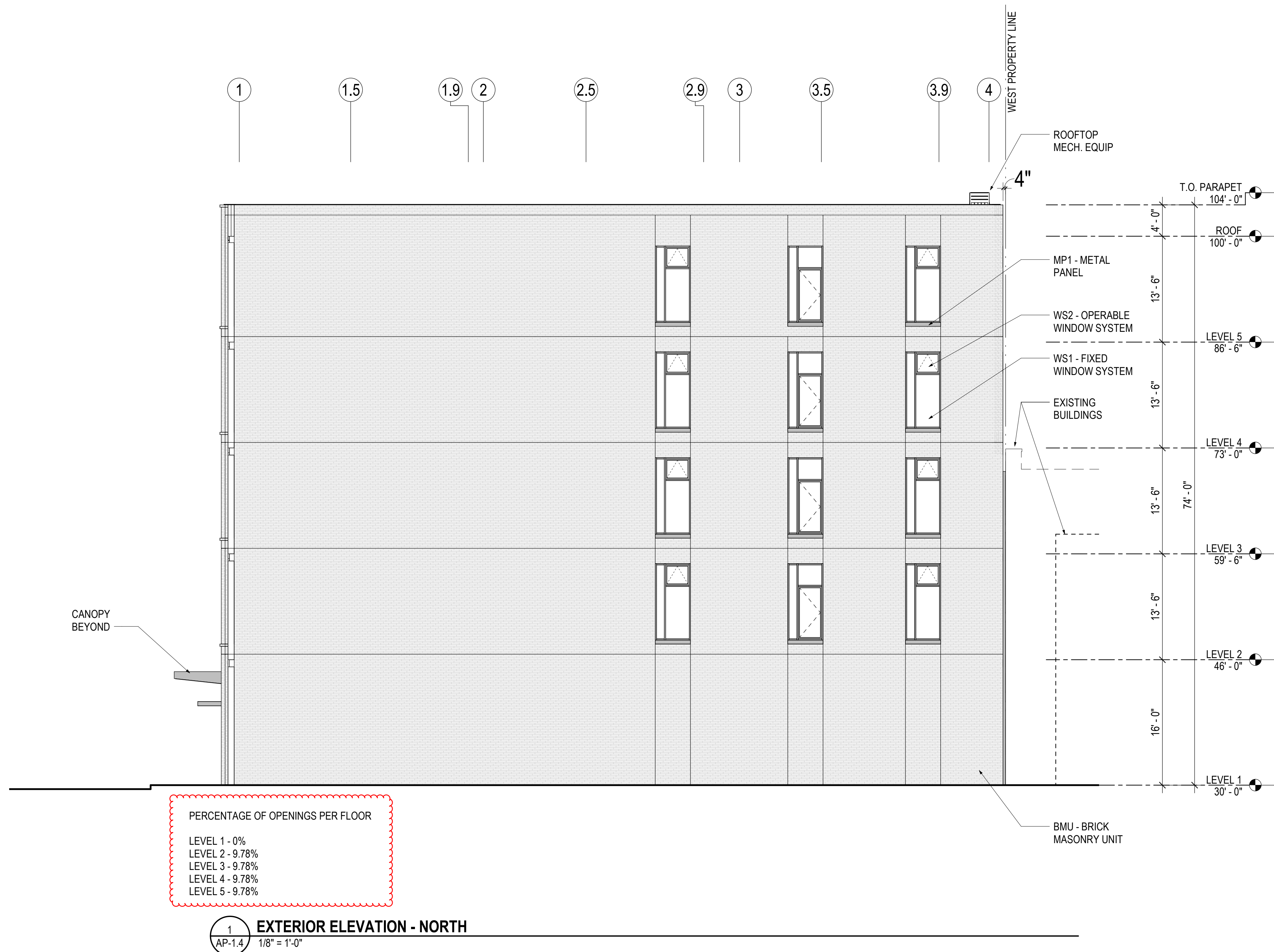
2.3% GLAZING - LEVEL 4 WEST ELEVATION  
11.2% GLAZING - LEVEL 5 WEST ELEVATION

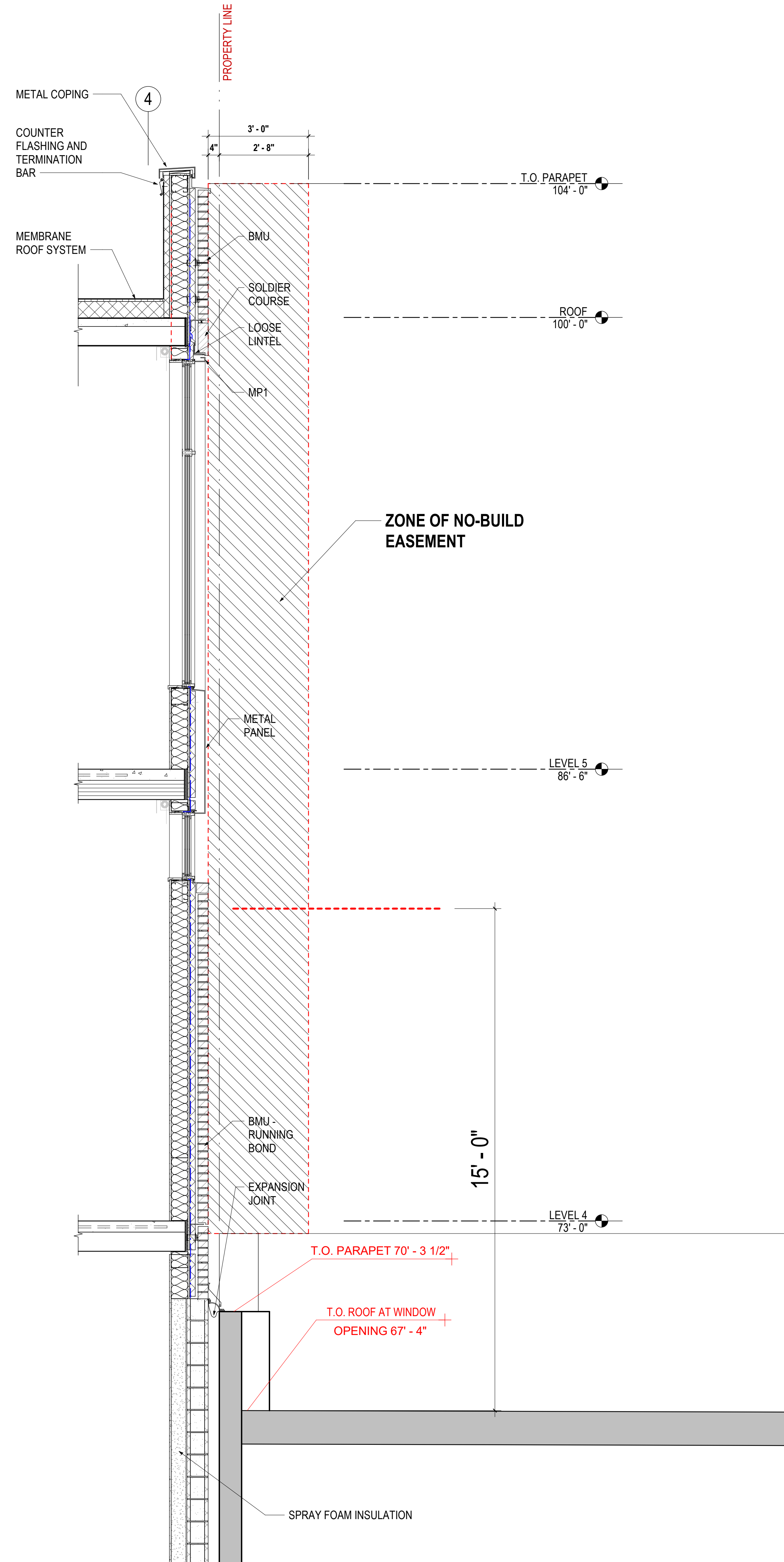
UNPROTECTED OPENINGS

0' TO LESS THAN 3'	UNPROTECTED, NONSPRINKLERED	NOT PERMITTED
	UNPROTECTED, SPRINKLERED	NOT PERMITTED
	PROTECTED	NOT PERMITTED
3' TO LESS THAN 5'	UNPROTECTED, NONSPRINKLERED	NOT PERMITTED
	UNPROTECTED, SPRINKLERED	15%
	PROTECTED	15%

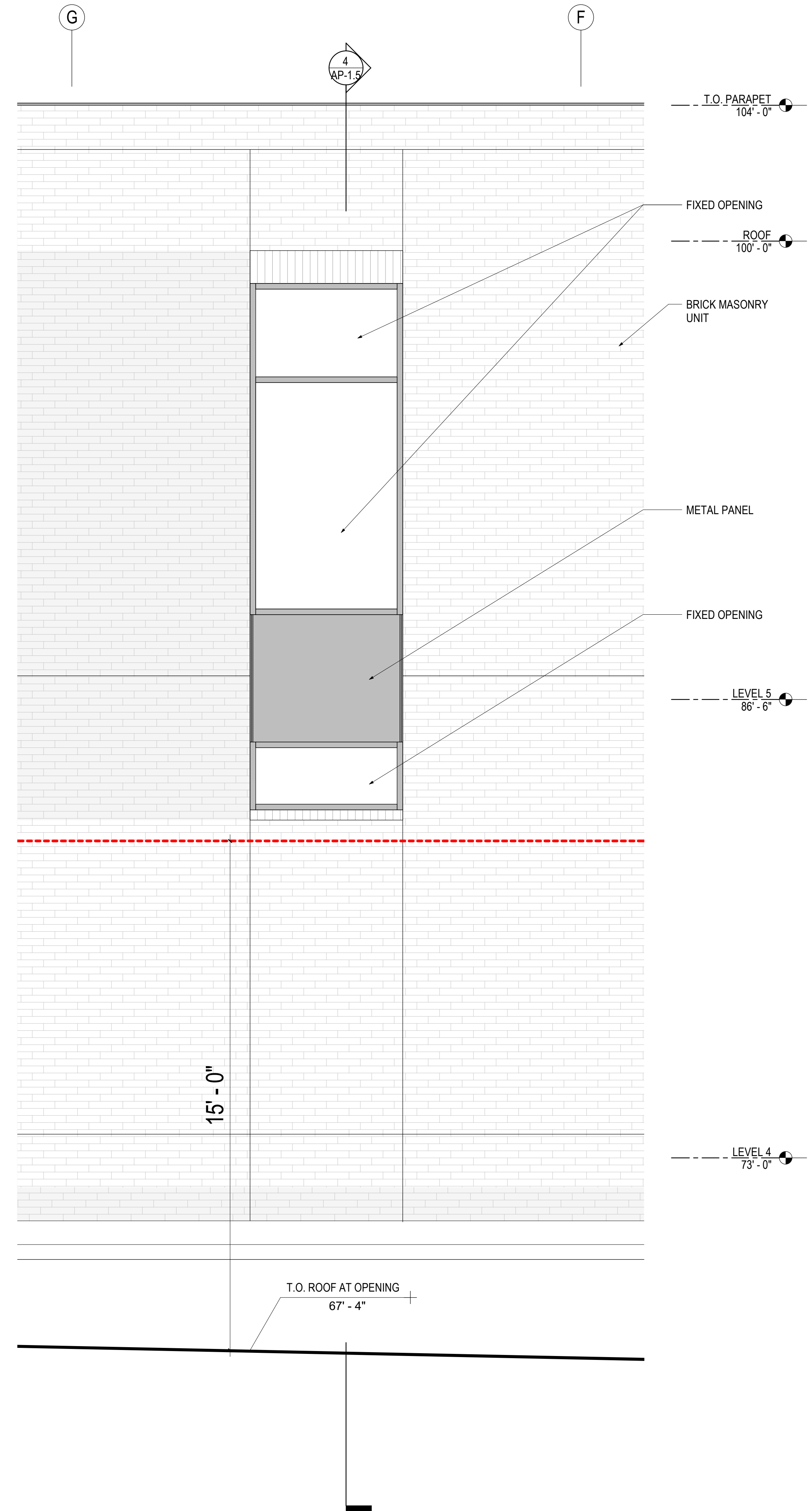
1  
AP-1.3 BUILDING AXON - NW CORNER





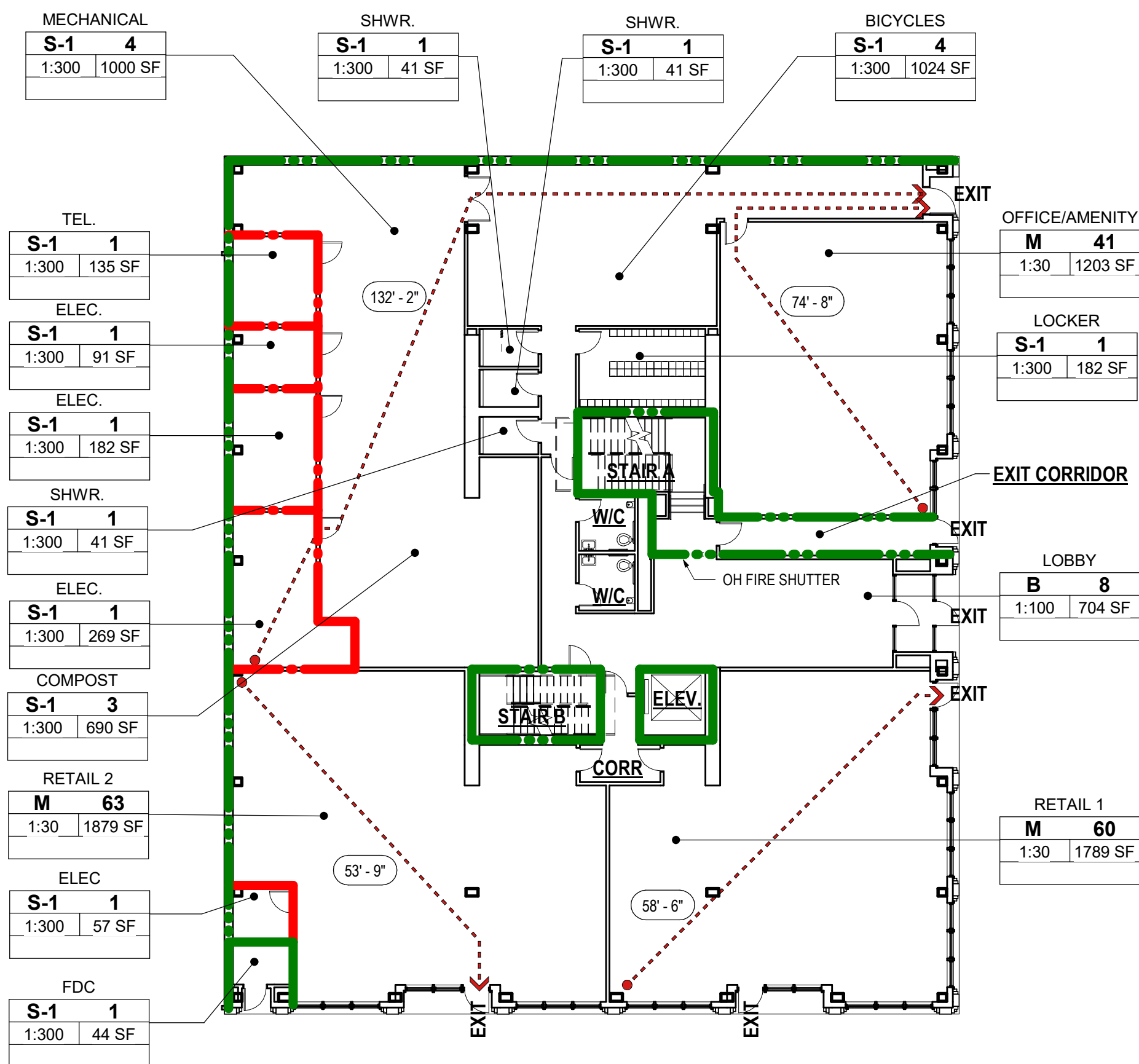


4  
AP-1.5  
SECTION, WALL - WEST AT OPENINGS  
1/2" = 1'-0"



1  
AP-1.5  
ELEVATION, EXTERIOR ENLARGED- WEST  
1/2" = 1'-0"





1 PLAN, LIFE SAFETY - LEVEL 01

1/16" = 1'-0"

AREA - 10,558 GSF

OCCUPANCY CLASSIFICATION: BUSINESS W / M / S

CONSTRUCTION TYPE: IIIA

OCCUPANT LOAD: 200 PERSONS (100 GSF/PERSON)

TRAVEL DISTANCE:  
COMMON PATH - 100' MAX (75' MAX AT RETAIL)

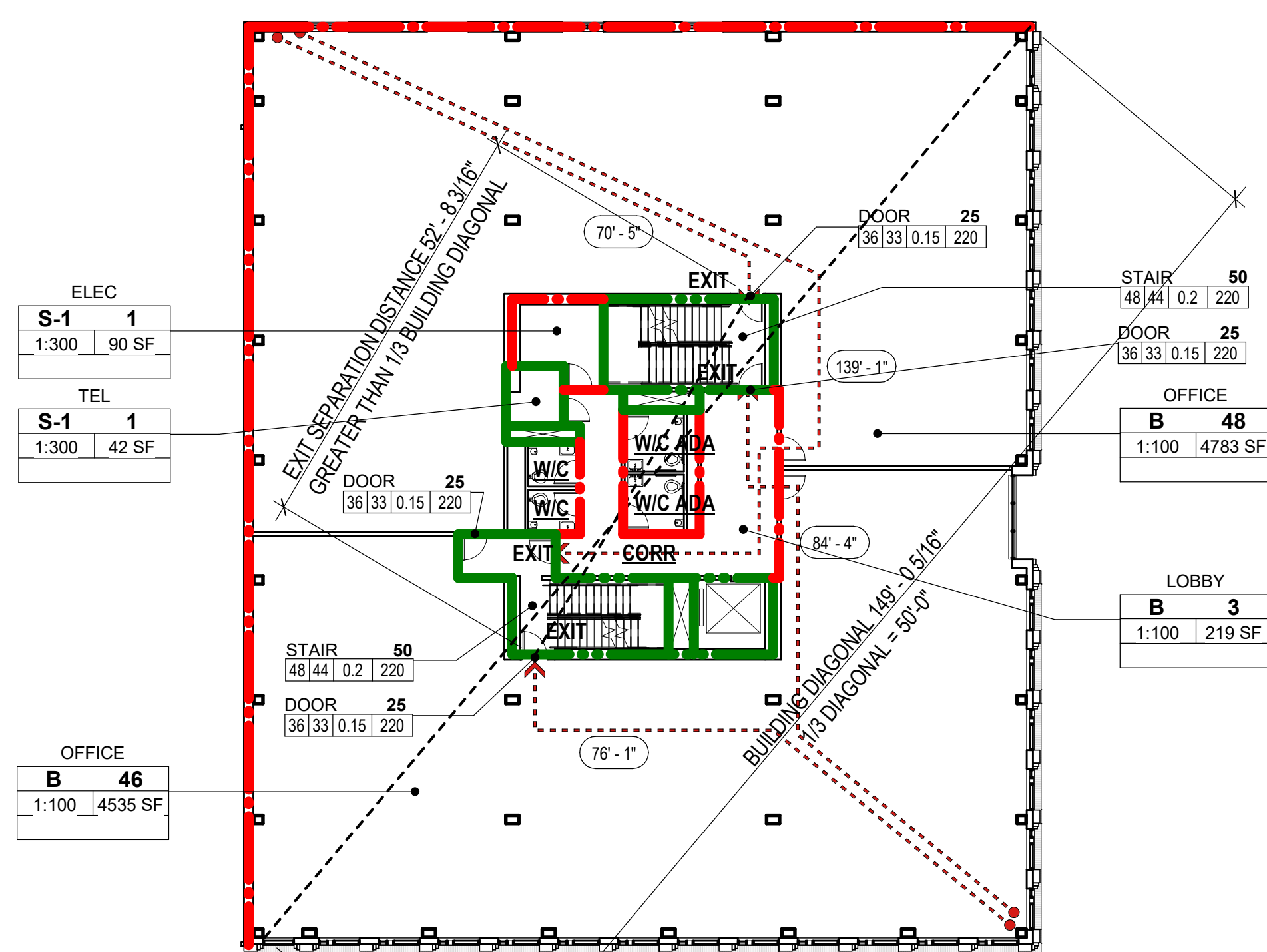
EXIT ACCESS - 300' MAX (250' MAX AT RETAIL)

EXIT DOOR WIDTH:  
REQUIRED - 9'

PROVIDED - 36"

Occupant Load - Level 1					
Level	Occupancy Group	Occupant Load Factor	Area	Occupant Load	
LEVEL 1	B	100	704 SF	8	
LEVEL 1	B	100	87 SF	1	
LEVEL 1	M	30	1203 SF	41	
LEVEL 1	M	30	1789 SF	60	
LEVEL 1	M	30	1879 SF	63	
LEVEL 1	S-1	300	1024 SF	4	
LEVEL 1	S-1	300	182 SF	1	
LEVEL 1	S-1	300	41 SF	1	
LEVEL 1	S-1	300	41 SF	1	
LEVEL 1	S-1	300	135 SF	1	
LEVEL 1	S-1	300	91 SF	1	
LEVEL 1	S-1	300	182 SF	1	
LEVEL 1	S-1	300	269 SF	1	
LEVEL 1	S-1	300	57 SF	1	
LEVEL 1	S-1	300	44 SF	1	
LEVEL 1	S-1	300	690 SF	3	
LEVEL 1	S-1	300	1000 SF	4	
LEVEL 1	S-1	300	41 SF	1	

194



2 PLAN, LIFE SAFETY - LEVEL 02

1/16" = 1'-0"

AREA - 10,813 GSF

OCCUPANCY CLASSIFICATION: BUSINESS

CONSTRUCTION TYPE: IIIA

OCCUPANT LOAD: 104 PERSONS (100 GSF/PERSON)

TRAVEL DISTANCE:  
COMMON PATH - 100' MAX

EXIT ACCESS - 300' MAX

EXIT STAIR WIDTH:  
REQUIRED - 104 x 2 = 20.8' / 2 EXITS = 11'

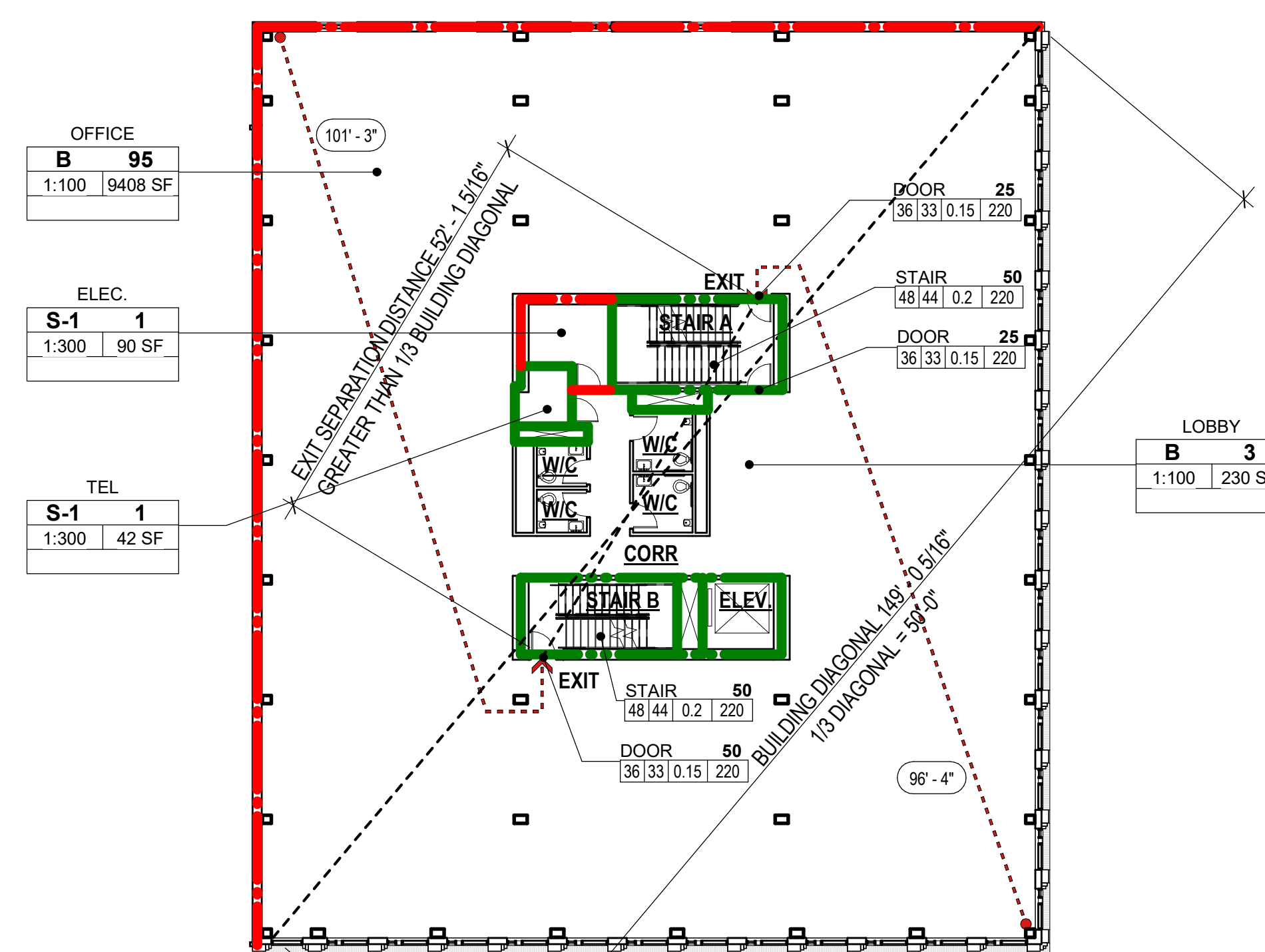
PROVIDED: 52"

EXIT DOOR WIDTH:  
REQUIRED - 104 x 15 = 15.6' / 2 EXITS = 8'

PROVIDED - 36"

Occupant Load - Level 2					
Level	Occupancy Group	Occupant Load Factor	Area	Occupant Load	
LEVEL 2	B	100	4783 SF	48	
LEVEL 2	B	100	4535 SF	46	
LEVEL 2	B	100	219 SF	3	
LEVEL 2	S-1	300	42 SF	1	
LEVEL 2	S-1	300	90 SF	1	

99



3 PLAN, LIFE SAFETY - LEVEL 03

1/16" = 1'-0"

AREA - 10,819 GSF

OCCUPANCY CLASSIFICATION: BUSINESS

CONSTRUCTION TYPE: IIIA

OCCUPANT LOAD: 103 PERSONS (100 GSF/PERSON)

TRAVEL DISTANCE:  
COMMON PATH - 100' MAX

EXIT ACCESS - 300' MAX

EXIT STAIR WIDTH:  
REQUIRED - 103 x 2 = 20.6' / 2 EXITS = 11'

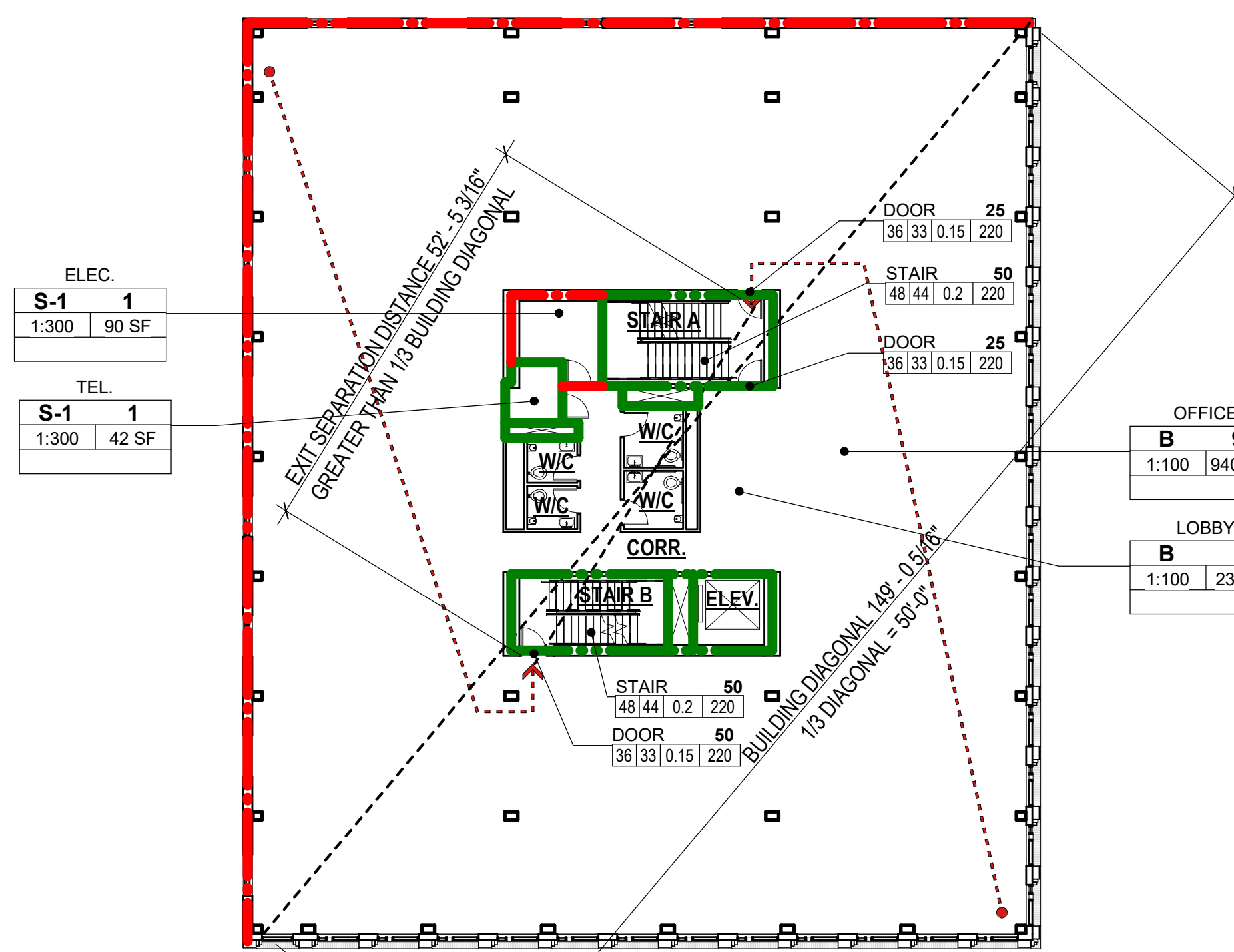
PROVIDED: 52"

EXIT DOOR WIDTH:  
REQUIRED - 103 x 15 = 15.45' / 2 EXITS = 8'

PROVIDED - 36"

Occupant Load - Level 3					
Level	Occupancy Group	Occupant Load Factor	Area	Occupant Load	
LEVEL 3	B	100	9408 SF	95	
LEVEL 3	B	100	230 SF	3	
LEVEL 3	S-1	300	42 SF	1	
LEVEL 3	S-1	300	90 SF	1	

100



5 PLAN, LIFE SAFETY - LEVEL 04

1/16" = 1'-0"

AREA - 10,831 GSF

OCCUPANCY CLASSIFICATION: BUSINESS

CONSTRUCTION TYPE: IIIA

EXITS REQUIRED - 2

OCCUPANT LOAD: 103 PERSONS (100 GSF/PERSON)

TRAVEL DISTANCE:  
COMMON PATH - 100' MAX

EXIT ACCESS - 300' MAX

EXIT STAIR WIDTH:  
REQUIRED - 103 x 2 = 20.6' / 2 EXITS = 11'

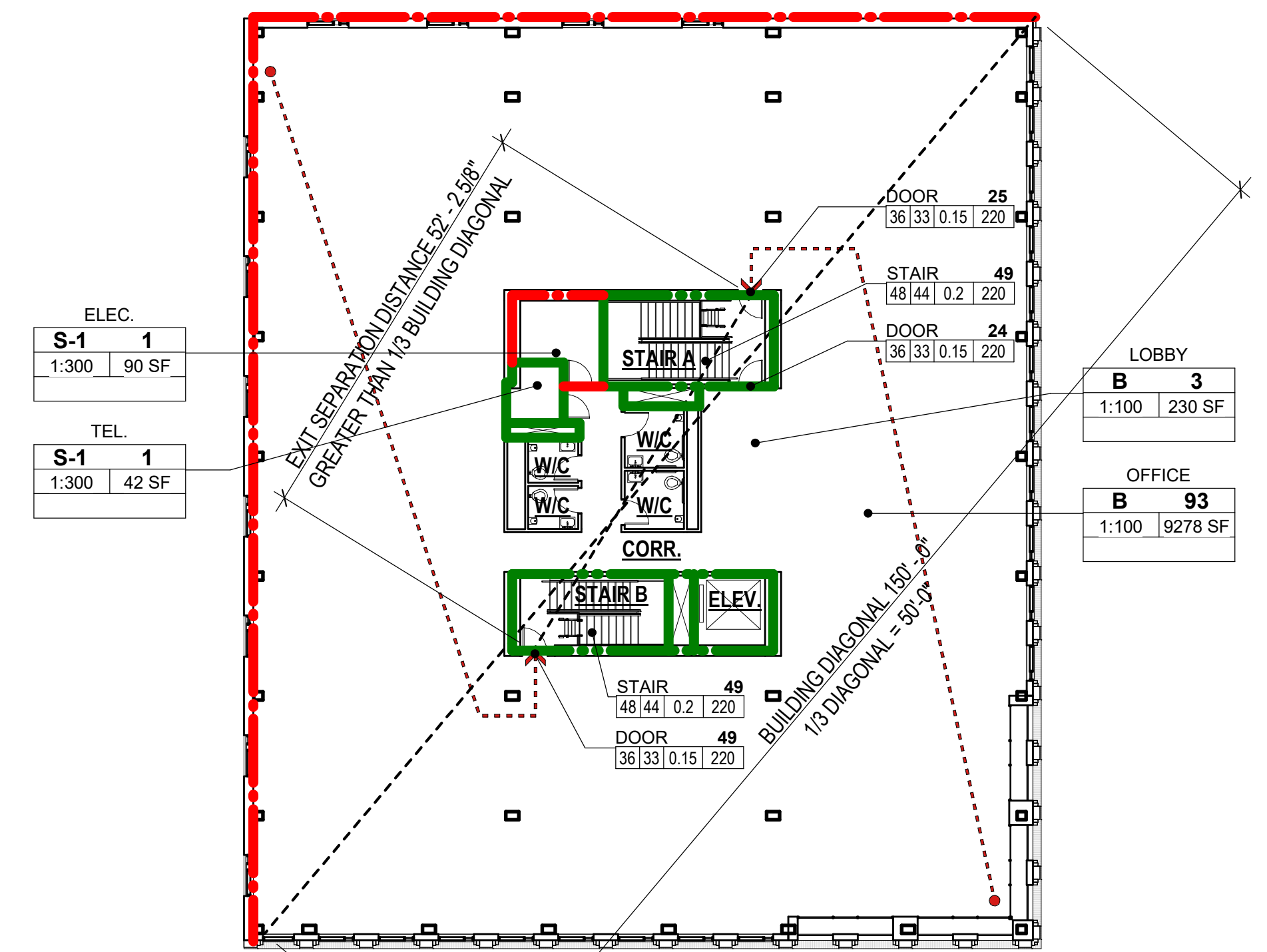
PROVIDED: 52"

EXIT DOOR WIDTH:  
REQUIRED - 103 x 15 = 15.45' / 2 EXITS = 8'

PROVIDED - 36"

Occupant Load - Level 4					
Level	Occupancy Group	Occupant Load Factor	Area	Occupant Load	
LEVEL 4	B	100	9408 SF	95	
LEVEL 4	B	100	230 SF	3	
LEVEL 4	S-1	300	90 SF	1	
LEVEL 4	S-1	300	42 SF	1	

100



4 PLAN, LIFE SAFETY - LEVEL 05

1/16" = 1'-0"

AREA - 10,653 GSF

OCCUPANCY CLASSIFICATION: BUSINESS

CONSTRUCTION TYPE: IIIA

EXITS REQUIRED - 2

OCCUPANT LOAD: 98 PERSONS (100 GSF/PERSON)

TRAVEL DISTANCE:  
COMMON PATH - 100' MAX

EXIT ACCESS - 300' MAX

EXIT STAIR WIDTH:  
REQUIRED - 103 x 2 = 20.6' / 2 EXITS = 11'

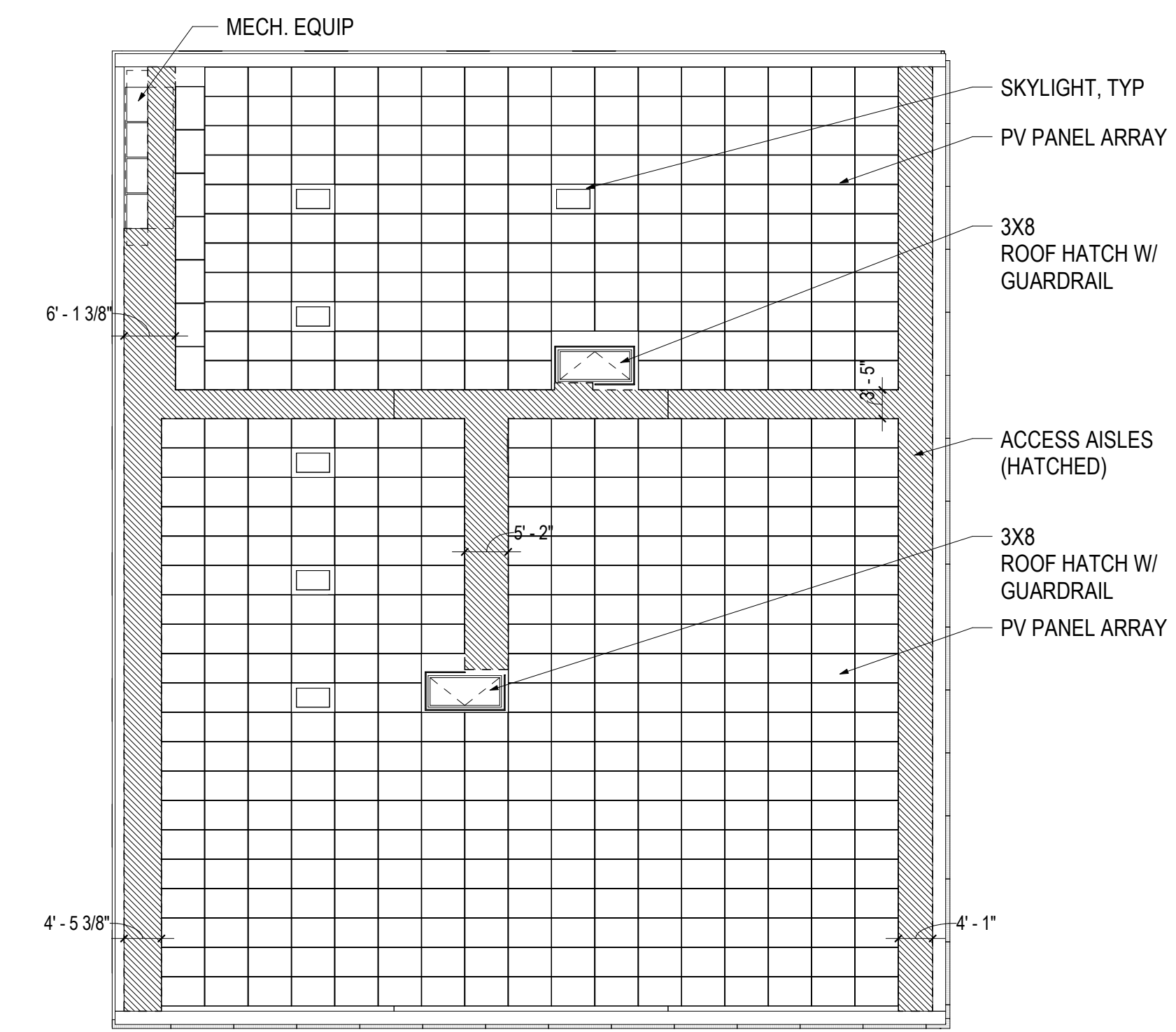
PROVIDED: 52"

EXIT DOOR WIDTH:  
REQUIRED - 103 x 15 = 15.45' / 2 EXITS = 8'

PROVIDED - 36"

Occupant Load - Level 5					
Level	Occupancy Group	Occupant Load Factor	Area	Occupant Load	
LEVEL 5	B	100	9278 SF	93	
LEVEL 5	B	100	230 SF	3	
LEVEL 5	S-1	300	42 SF	1	
LEVEL 5	S-1	300	90 SF	1	

98



6 PLAN, LIFE SAFETY - ROOF

1/16" = 1'-0"

UNOCCUPIED

## GENERAL NOTES

1. COMPLY WITH ALL REGULATIONS, CODES, AND AUTHORITIES HAVING JURISDICTION INCLUDING THE ADA, ANSI A117.1, OREGON STRUCTURAL SPECIALTY CODE, NEC, NFPA, AND CITY OF PORTLAND BUREAU OF DEVELOPMENT SERVICES AND CITY OF PORTLAND FIRE AND RESCUE.

2. PROVIDE AUDIBLE AND VISUAL ALARMS AS INDICATED, CONFIRM REQUIRED LOCATIONS WITH CITY OF PORTLAND BUREAU OF FIRE. SUBMIT LOCATIONS TO ARCHITECT FOR APPROVAL OF DESIGN INTENT PRIOR TO SUBMISSION TO THE AUTHORITIES HAVING JURISDICTION.

3. ALL EGRESS PATHWAYS SHALL BE A MINIMUM OF 44" WIDE CLEAR. MAINTAIN GREATER WIDTH WHERE SO DIMENSIONED. EACH DOOR OPENING SHALL PROVIDE A CLEAR WIDTH OF NOT LESS THAN 32 INCHES.

4. PROVIDE EMERGENCY LIGHTING DELIVERING A MINIMUM AVERAGE OF 1 FT CANDLE AND AT LEAST .1 FOOTCANDLE ALONG EGRESS PATH.

5. PROVIDE FIRE EXTINGUISHERS PER LOCAL JURISDICTION'S REQUIREMENTS. BUILDING STANDARD FIRE EXTINGUISHERS SHALL BE LOCATED AT A MINIMUM OF 1 FIRE EXTINGUISHER PER EVERY 3000 SF WITH NO MORE THAN 75 FEET OF TRAVEL DISTANCE FROM ANY POINT IN THE TENANT AREA. VERIFY AND LOCATIONS AND TYPES OF EXISTING FIRE EXTINGUISHERS AND PROTECT THEM DURING THE WORK. CONFIRM LOCATIONS OF EXISTING AND NEW FIRE EXTINGUISHERS WITH ARCHITECT PRIOR TO INSTALLATION.

## FIRE AND LIFE SAFETY LEGEND

- FIRE - 0.5 HR
- FIRE - 1 HR
- FIRE - 2 HR
- FIRE - 3 HR
- FIRE - 4 HR
- FIRE SMOKE BARRIER - 1 HR
- FIRE SMOKE PARTITION

- EXIT SIGN
- FE FIRE EXTINGUISHER
- FEC FIRE EXTINGUISHER CABINET
- SC STANDPIPE CABINET
- BUILDING EXIT

- TRAVEL DISTANCE
- EGRESS PATH

- EXIT COMPONENT
- OCCUPANT LOAD
- OCCUPANCY CAPACITY
- OCCUPANCY LOAD FACTOR
- WIDTH REQUIRED
- WIDTH PROVIDED

- SPACE NAME
- OCCUPANCY GROUP
- OCCUPANCY LOAD
- CALCULATED AREA
- OCCUPANCY SEPARATION
- OCCUPANCY LOAD FACTOR