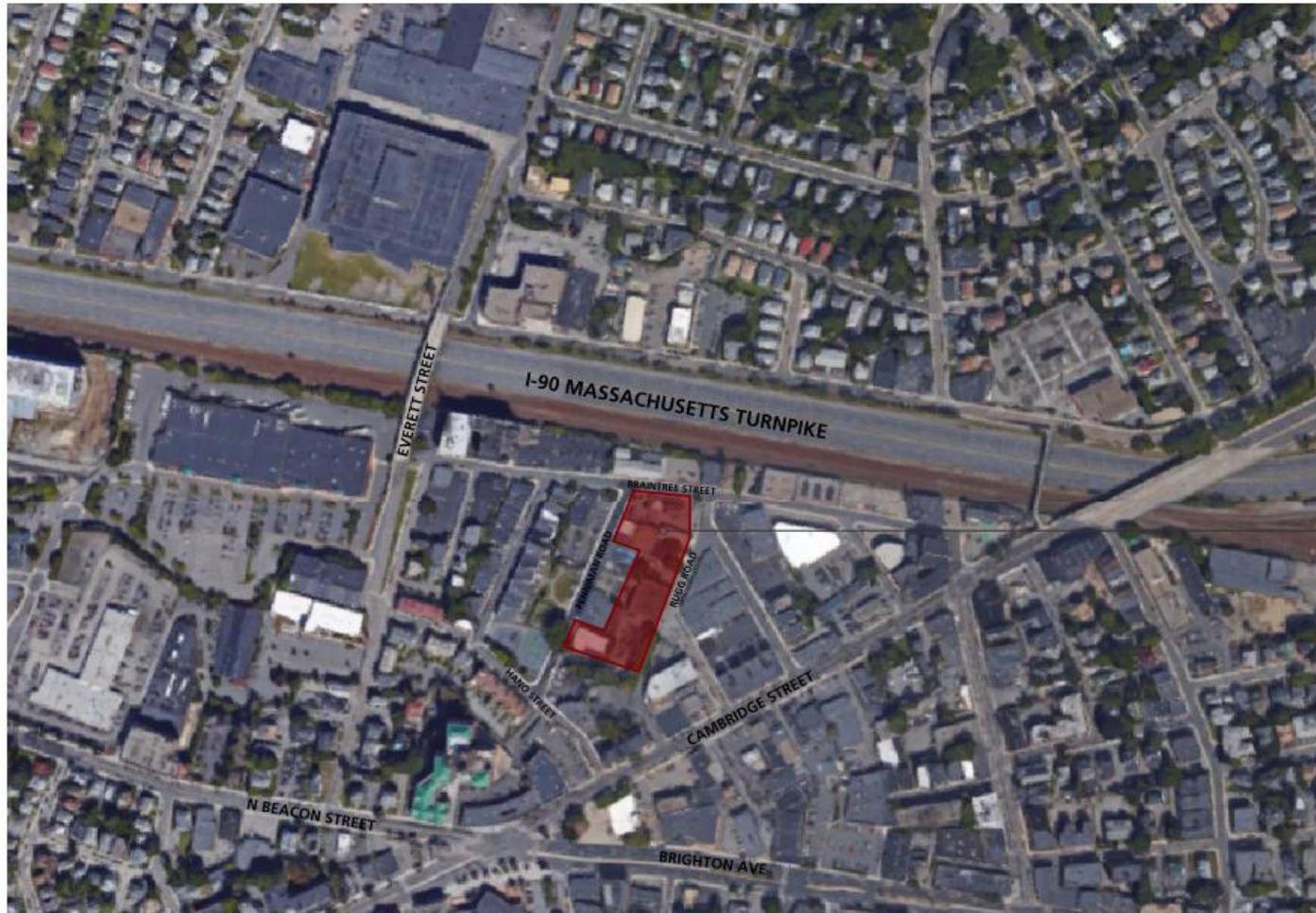




40 RUGG ROAD | ALLSTON, MA

THE MICHAELS ORGANIZATION  
with DIMELLA SHAFFER



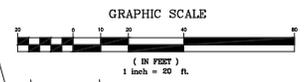
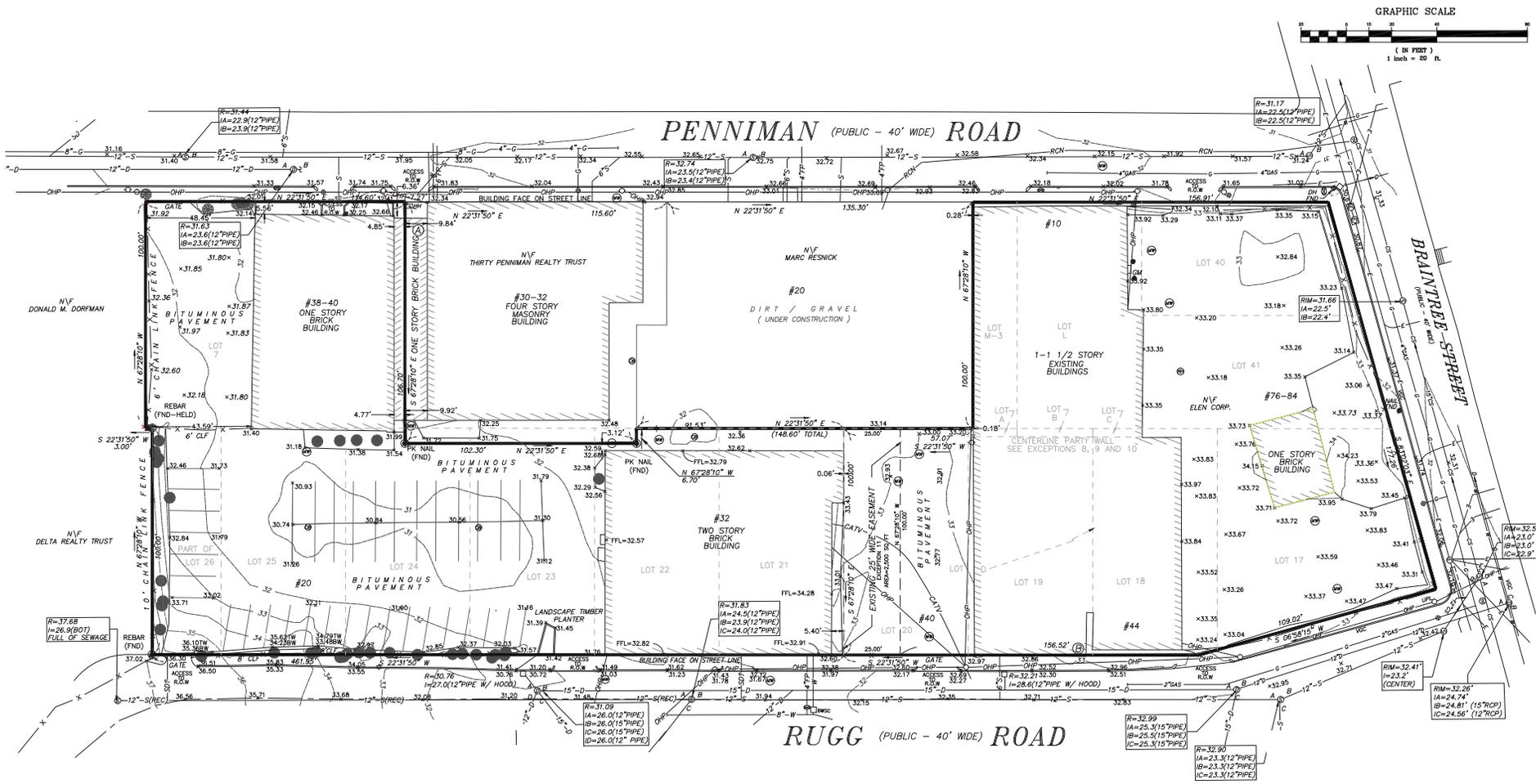
Project Site

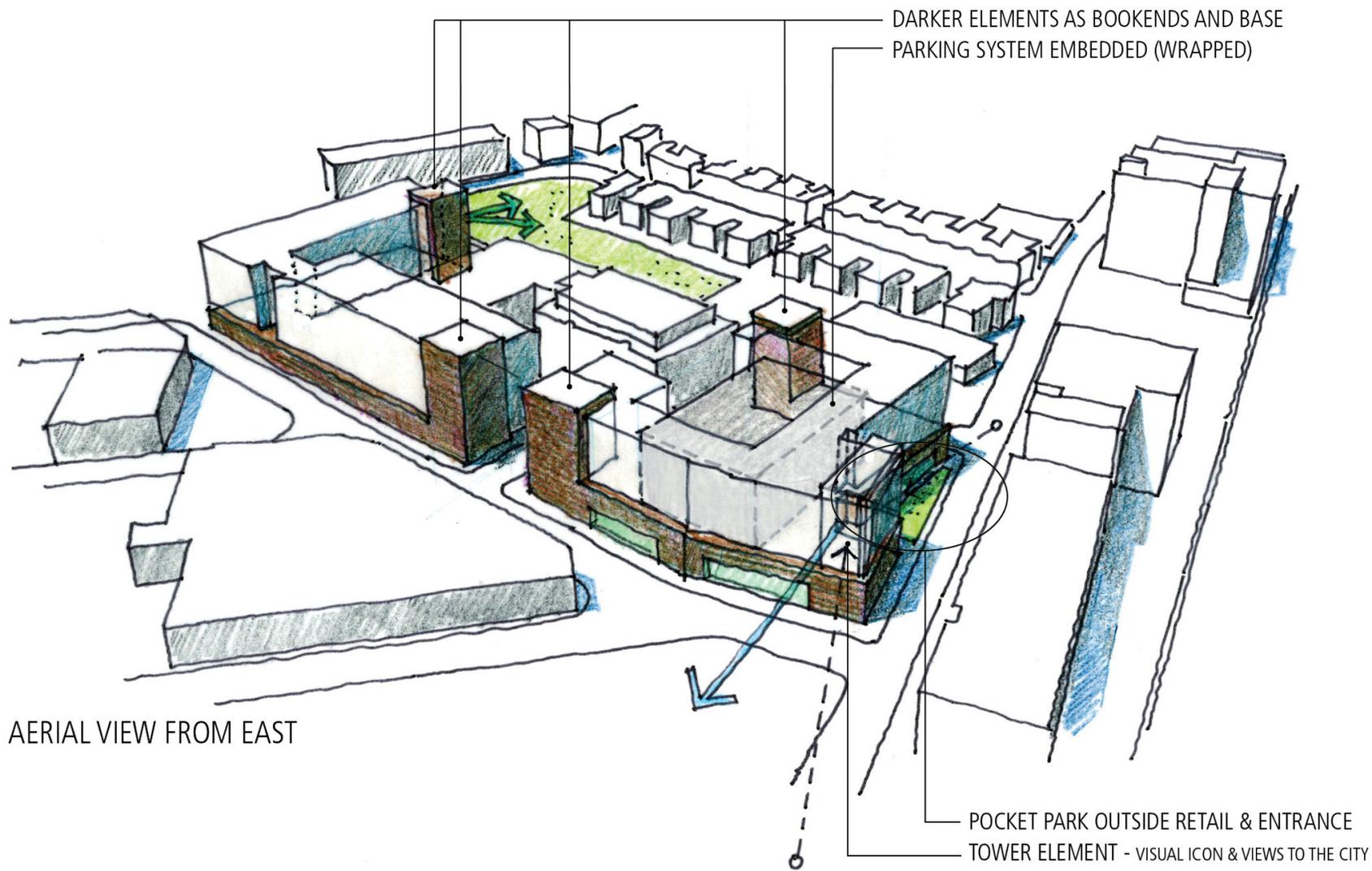


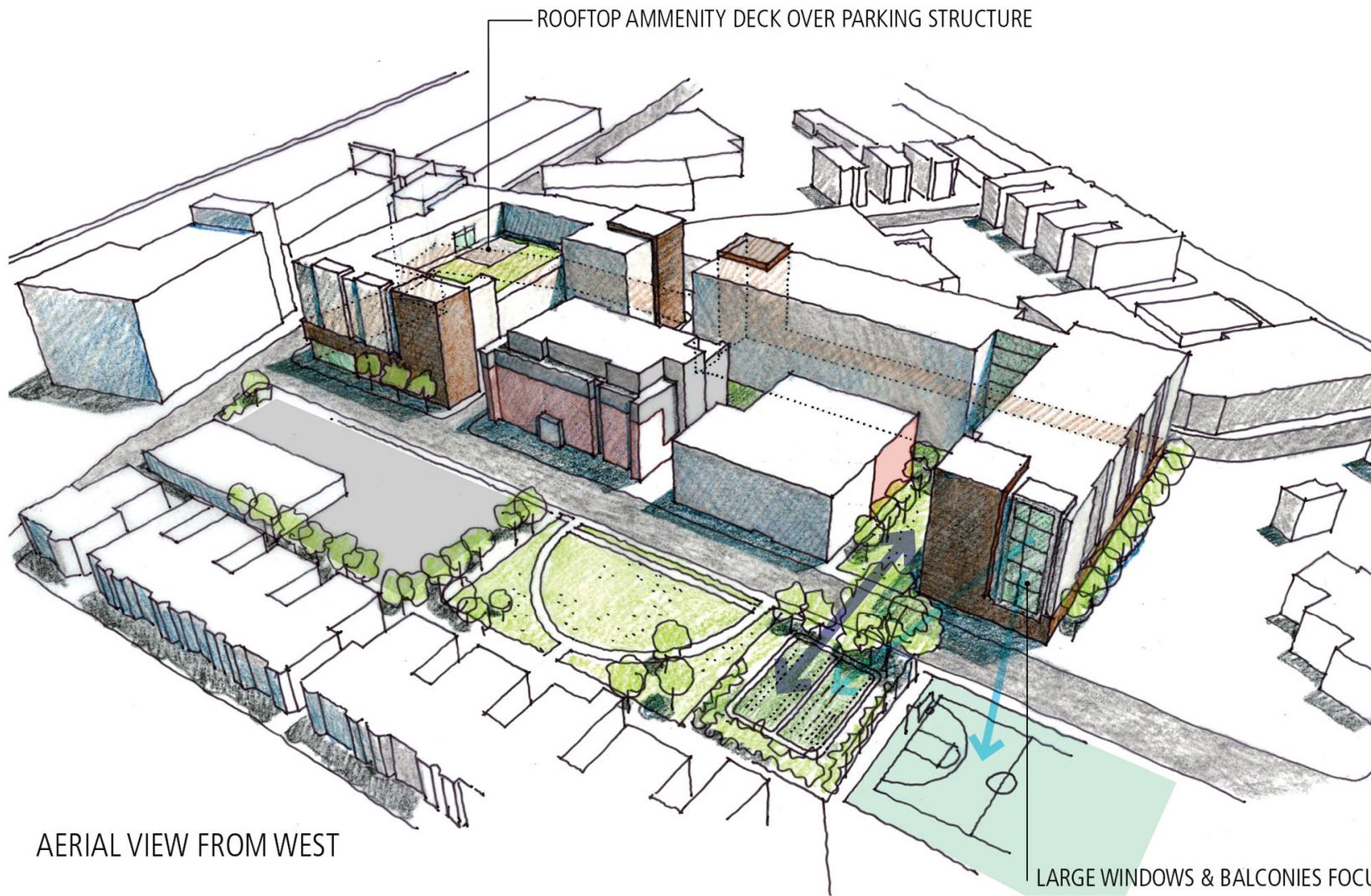


AERIAL VIEW OF SITE LOOKING SOUTH-WEST

SOURCE: GOOGLE





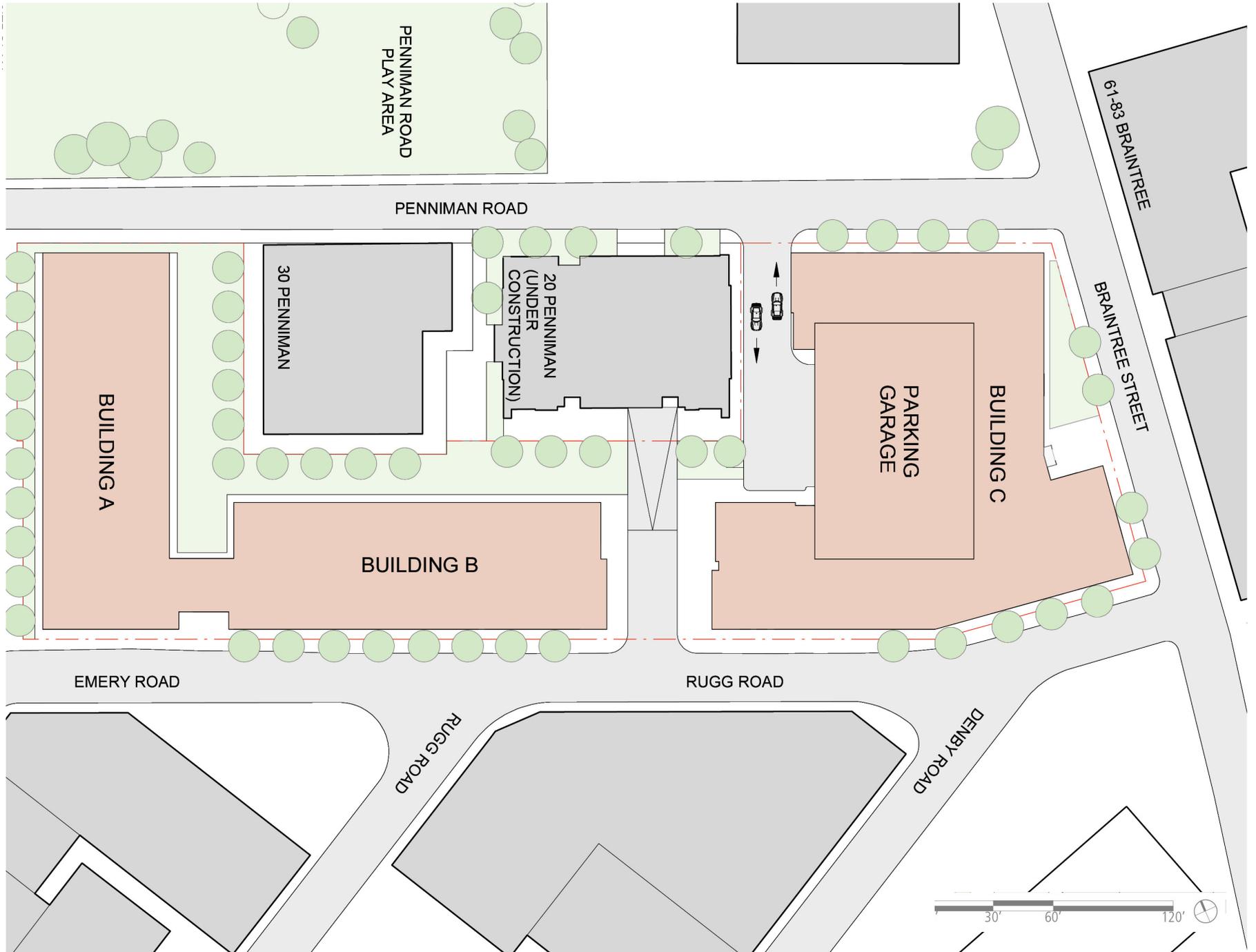


ROOFTOP AMMENITY DECK OVER PARKING STRUCTURE

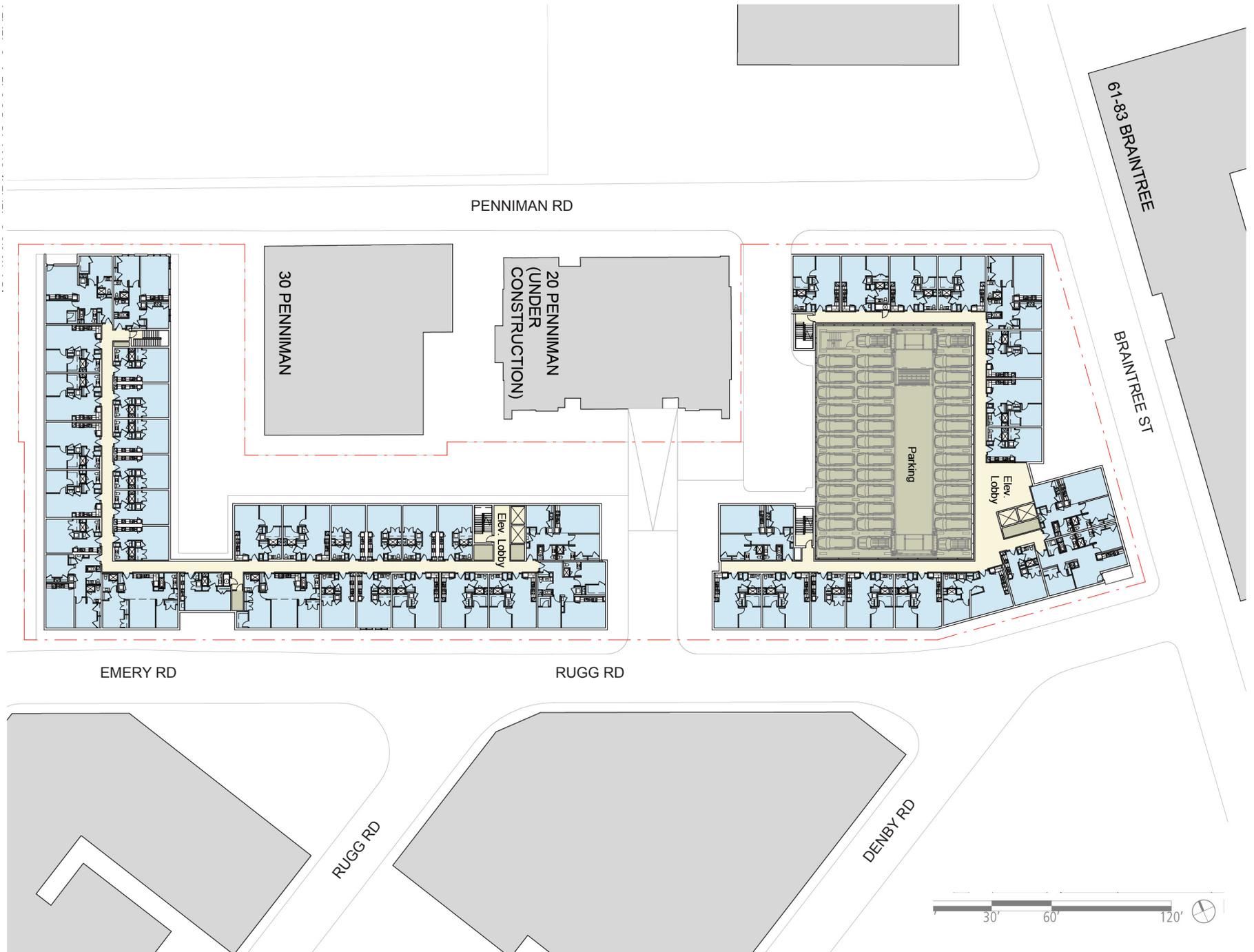
AERIAL VIEW FROM WEST

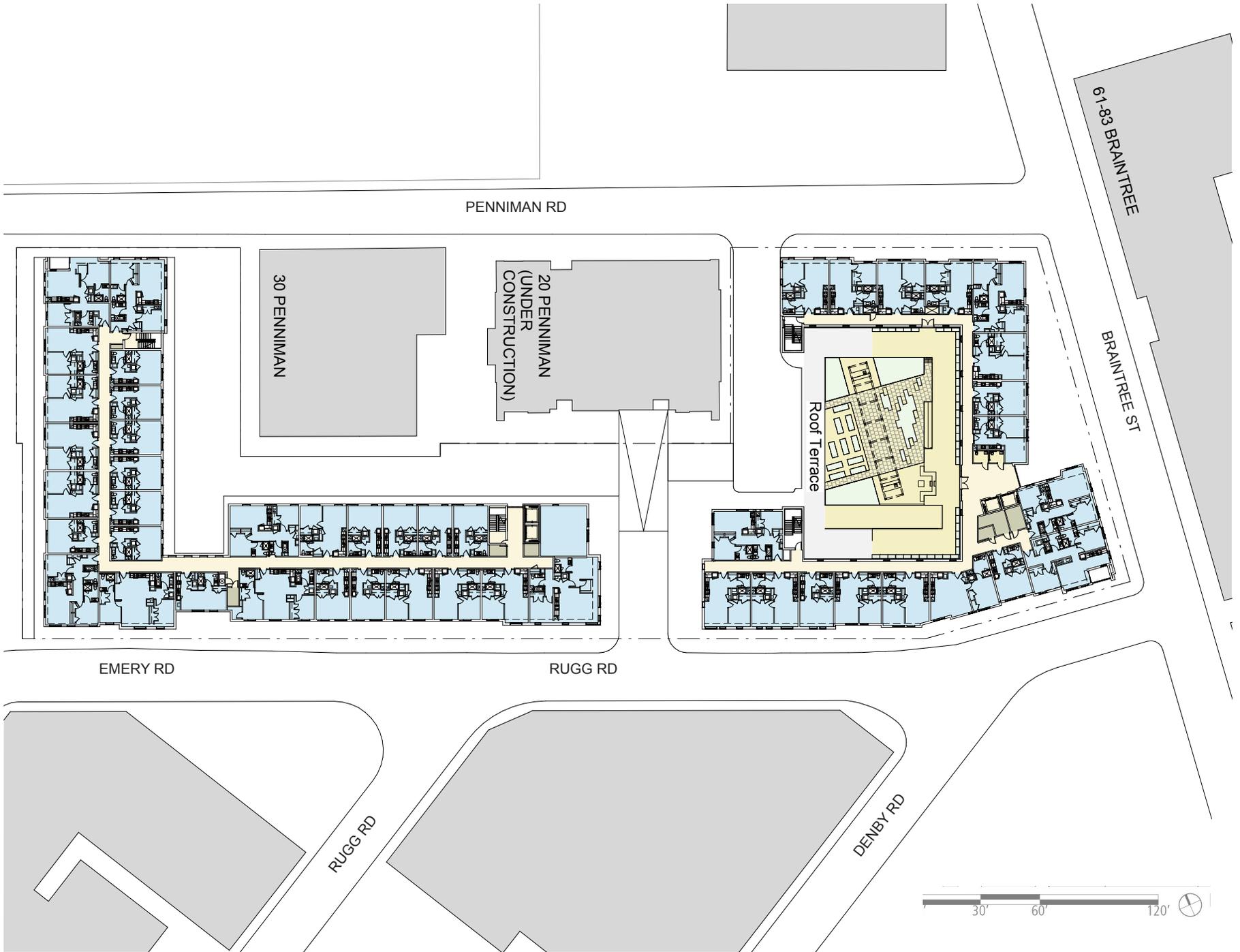
LARGE WINDOWS & BALCONIES FOCUS ON PARK

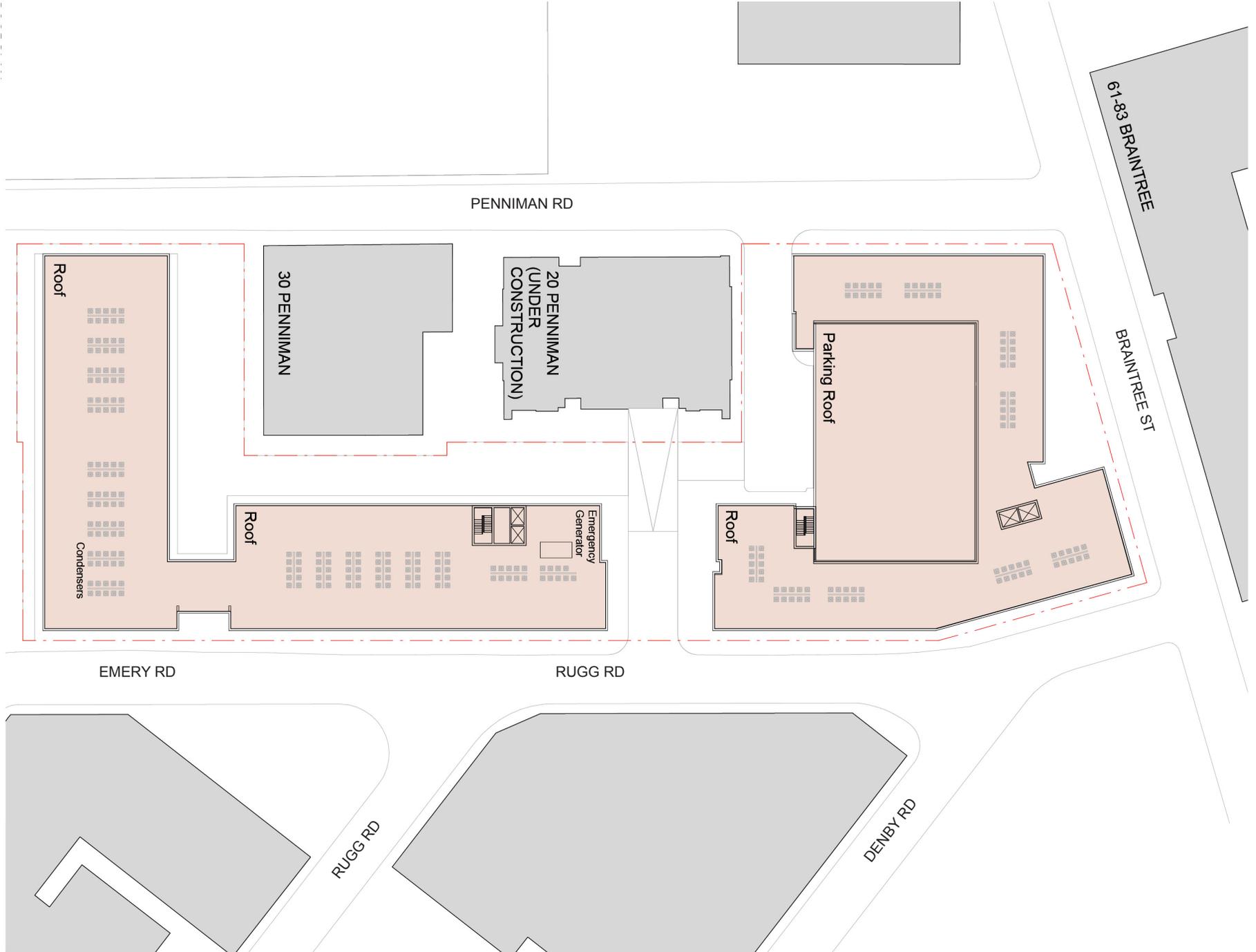
GARDEN VISUALLY EXTENDED ACROSS THE STREET

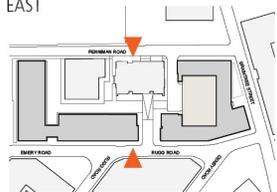
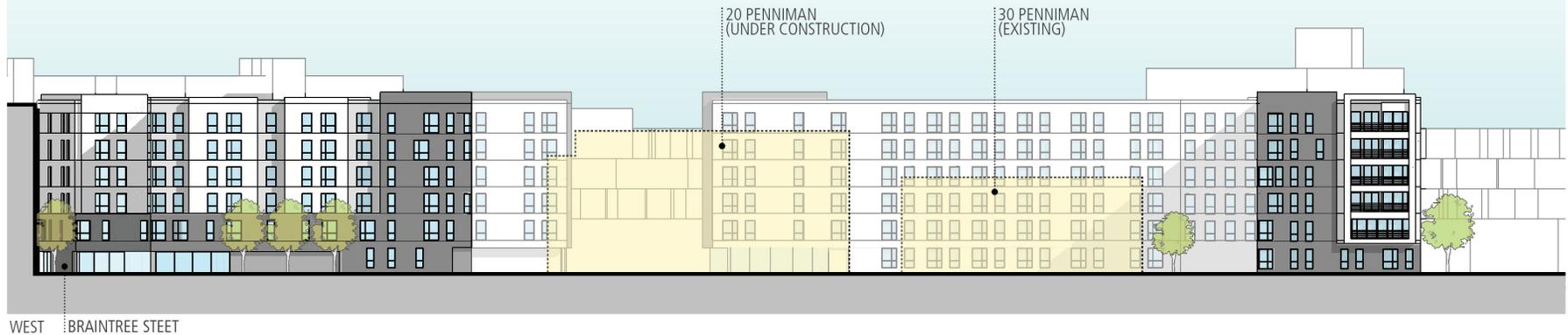


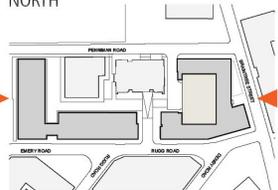














VIEW LOOKING WEST FROM BRAINTREE ST

68-78 BRAINTREE STREET (UNDER CONSTRUCTION)

40 RUGG ROAD

20 PENNIMAN (UNDER CONSTRUCTION)



VIEW LOOKING EAST FROM BRAINTREE ST



VIEW LOOKING NORTH FROM RUGG RD

20 PENNIMAN (UNDER CONSTRUCTION)

30 PENNIMAN (EXISTING)

40 RUGG ROAD



VIEW LOOKING NORTH-EAST FROM PENNIMAN RD

## Preliminary Zoning Analysis

76-84 Braintree Avenue, 28-32 and 40 Rugg Road, 10 and 10R Penniman Road Allston, MA (the “Property”)

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### Background Documents

- Zoning Ordinance of the City of Boston (including principally Articles 2A, 8, 13, 37, 51, 80, and 85) (the “Zoning Code”).
- Map 7B/7D of the series of Zoning Maps of the City of Boston (the “Zoning Map”). A reduced-size copy of the Zoning Map is attached hereto as Exhibit A.
- Plan of land entitled “ALTA-NSPS Land Title Plan 18-38 Penniman Road, Boston (Allston) MA” prepared by GEOD Consulting, dated February 7, 2017 (the “Survey Plan”).
- Applicable Site and Building Design Guidelines and Standards are attached hereto as Exhibit B.
- “Brighton Guest Street Area Planning Study,” dated March 2012, prepared by Sasaki Associates, GLC Development Resources, City of Boston, and Boston Redevelopment Authority (the “Planning Study”).

## **Existing Conditions**

According to the Survey Plan, the Property is comprised of the following tax parcels:<sup>1</sup>

- 2201825000 – 10 and 10R Penniman Road
- 2201807000 – 84 and 76 Braintree Street
- 2201808000 – 40 Rugg Road
- 2201810010 – 28 and 32 Rugg Road
- 2201821010 – Penniman Road (no number provided)

The Survey Plan provides a new perimeter plan of these combined parcels. Per the Survey Plan, the combined lot area is 82,322 square feet or 1.89 acres. The Survey Plan also shows the following existing buildings on the Property:

- One story brick building fronting on Penniman Road;
- Two story brick building fronting on Rugg Road;
- One and ½ story building fronting on both Penniman Road and Rugg Road; and
- One story brick building adjacent to Braintree Street.

According to the Survey Plan, a portion of the Property, adjacent to the two story brick building, is used for accessory off-street surface parking spaces for 45 vehicles. This area appears to be accessible from both Rugg Road and Penniman Road. There are no designated off-street loading areas shown on the Survey Plan.

## **Zoning District(s)**

According to the Zoning Map, the Property is located in the Allston/Brighton Neighborhood District established by Article 51 of the Zoning Code and is within the Braintree Street Local Industrial Subdistrict (LI-1), established by Article 51, Section 51-18 of the Zoning Code. According to the Zoning Map, the Property is not located in any overlay district established by the Zoning Code.

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<sup>1</sup> See City of Boston, Assessing Online.

## Project Description

The existing structures on the Property will be demolished and two residential structures and a parking structure will be constructed thereon. The Concept Plans and Project Summary describe the two residential structures as Building A, Building B, and Building C. Although described separately, Building A and Building B are connected.

- Building A is proposed to be located along the southern boundary of the Property, running between Penniman Road and Rugg Road. Building A is proposed as a six story (five floors over ground floor) structure, containing 95 residential units, with a mix of studio, 1 bedroom/1 bathroom and 2 bedroom/2 bathroom units.
- Building B is proposed to be located along the eastern boundary of the Property, along Rugg Road. Building B is proposed as a six story (five floors over ground floor) structure, containing 76 residential units, with a mix of studio, 1 bedroom/1 bathroom and 2 bedroom/2 bathroom units. Building B is proposed to contain 141 indoor bicycle parking spaces on the ground level.

Together, Building A and Building B are proposed to have 143,600 gross square feet, with a total 136,900 square feet of total residential floor area.

- Building C is proposed to be located in a “C”-shape configuration on the northern side of the Property, running along Penniman Road, Braintree Street and Rugg Road, wrapping around the Parking Structure. Building C is proposed as a six story (five floors over ground floor) structure, containing 90 residential units, with a mix of studio, 1 bedroom/1 bathroom and 2 bedroom/2 bathroom units. Building C is proposed to have a total of 104,500 gross square feet, with a total of 93,200 square feet of residential floor area, 10,000 square feet of residential amenity floor area on the ground floor, and 2,800 square feet of retail floor area on the ground floor. We have not been provided information as to the proposed use of the retail or amenity space. Building C is proposed to contain 91 indoor bicycle parking spaces on the ground level.
- The Parking Structure is proposed to contain five parking levels with a total of 168 parking spaces, with access from Penniman Road. Additional 12 surface-level parking spaces are proposed along Emery Road. The proposed ratio of parking spaces to units is 0.69. The Parking Structure is proposed to be a “Unitronics Automated Vehicle Storage and Retrieval System.”

The foregoing proposed uses and structures are collectively defined herein as the “Proposed Project.”

## Use Regulations

The use regulations applicable to the Proposed Project under the LI Subdistrict are established by Article 51, Section 51-19 of the Zoning Code and Table B of Article 51 (“Table B”). Under those provisions:

- Multi-family Dwellings are a forbidden use. Approval of this use will require a Variance from the City of Boston Board of Appeal (“Board of Appeal”), pursuant to the requirements of Article 7.
- Local Retail use is an allowed use as-of-right. Local retail is defined by Article 2A, Section 2A-1: “A store primarily serving the local retail business needs of the residents of the neighborhood, but not constituting an adult bookstore or adult entertainment business, including, but not limited to, store retailing or renting one or more of the following: food, baked goods, groceries, drugs, videos, computer software, tobacco products, clothing, dry goods, books, flowers, paint, hardware, and minor household appliances, but not including a bakery or liquor store.”<sup>2</sup> The proposed retail use may be considered “Local Retail” if it fits into one of these types of retail use and is not intended primarily to service the building residents.
- Accessory Retail use is a conditional use. Accessory Retail is not defined in the Zoning Code. The proposed retail use may be considered accessory to the residential use if it is intended to service primarily building residents, consistent with the general definition for accessory uses. If so, a Conditional Use Permit from the Board of Appeal under Article 6 of the Zoning Code will be required.
- Accessory Services for Apartment and Hotel Residents use is a forbidden use. Accessory services for apartments and hotel residents applies in buildings with more than 50 dwelling units and is defined to include: “newsstand, barber shop, dining room, and similar services primarily for the occupants thereof, when conducted wholly within the building and entered solely from within the building.”<sup>3</sup> If the proposed residential amenity space in Building C is determined to constitute Accessory Services for Apartment and Hotel Residents, such use will require a Variance from the Board of Appeal under Article 7.
- Accessory parking use is allowed as-of-right under Table B.

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<sup>2</sup> Article 2A-1.

<sup>3</sup> Article 2A-1.

**Dimensional Regulations**

The table on the following page presents the dimensional regulations applicable to the Property under Article 51, Section 51-20 of the Zoning Code and Table F of Article 51 (“Table F”), compared to the proposed structures and uses comprising the Proposed Project:

<u>Description</u>	<u>Standard</u>	<u>Proposed Project Component</u>
Maximum Floor Area Ratio <sup>4</sup>	1.0	2.9 <sup>5</sup>
Maximum Building Height <sup>6</sup>	35	>35 <sup>7</sup>
Minimum Lot Size	None	N/A
Minimum Lot Area Per Dwelling Unit	None	N/A
Minimum Usable Open Space per Dwelling Unit	50 square feet/unit (12,950 square feet total for 259 proposed units)	[Not Provided]
Minimum Lot Width	None	N/A

<sup>4</sup> “Floor Area Ratio” or “FAR” is defined at Article 2A, Section 2A-1 as “the ratio of the gross floor area of a structure to the total area of the lot.” The FAR numerator, Gross Floor Area, is initially defined in the same section as “the sum of areas of the several floors of the structure, as measured by the exterior faces of the walls.” Specific exclusions from this definition include garages in basements (and at grade for such spaces accessory to a dwelling), basement and cellar areas devoted exclusively to uses accessory to the operation of the structure, and other areas in the structure devoted to mechanical equipment “customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities and storage facilities.” Under the definition of FAR, all areas of a lot “required to meet the off-street parking requirements of this Code” are further excluded (not just those in the basement).

<sup>5</sup> This calculation is based on the total gross floor area of Buildings A, B, and C, according to the Project Summary, 245,035 square feet, divided by the total lot area 82,322 square feet. [NOTE: The FAR should also include the total floor area of the Parking Structure above ground floor level. We will need this calculation to definitively calculate the proposed FAR.]

<sup>6</sup> Building Height is defined at Article 2A, Section 2A-1 as “the vertical distance from grade to the top of the highest point of the roof beams of a flat roof ... excluding ... chimneys, smokestacks, silos, ... aerials, elevator penthouses, water tanks, ... or other roof structures and penthouses normally built above the roof and not used or designed to be used for human occupancy, but such structures shall be erected only to such heights, and cover only such areas, as are necessary to accomplish the purpose for which they are intended to serve, provided that in any event, the total area of such roof structures and penthouses does not exceed 33 1/3 percent of the total of all roof areas, measured horizontally, of such building.” “Grade” is defined as the “average elevation of the nearest sidewalk at the line of the street or streets on which the building abuts.”

<sup>7</sup> Although we have not been provided the exact proposed height of the proposed structures, each is 6 stories, which will exceed 35 feet. [NOTE: We will need the building’s absolute height and grade of the Property to determine compliance with the height requirement.]

Minimum Lot Frontage	None	N/A
Minimum Front Yard Depth	None	N/A
Minimum Side Yard Width	None	N/A
Minimum Rear Yard Depth <sup>8</sup>	20 feet	[Not Provided]

The Proposed Project does not conform to the maximum FAR and building height requirements, and will, therefore, require a Variance from the Board of Appeals under Article 7 to exceed these standards.

**Planning Study**

The Proposed Project is also located within the study area of the Planning Study. The Planning Study vision is for “an urban mixed use district featuring vibrant community uses and residential development.”<sup>9</sup> It envisions Braintree Street as being lined with active uses as a live/work street.

By proposing ground floor retail use facing Braintree Street and residential use elsewhere on the Property, the Proposed Project is generally consistent with the vision established by the Planning Study.

**Site and Building Design Guidelines and Standards**

Article 51, Sections 51-51 through 51-53 provide additional guidelines and standards for proposed projects in the Allston-Brighton Neighborhood District beyond the conventional dimensional (height, bulk, setback) standards set forth under Table F. The specific design requirements required by Section 51-52 and the screening and buffering requirements required by Section 51-53 do not apply to projects subject to Large Project Review. The design guidelines set out in Section 51-51.2 do, however, appear to apply to projects that are subject to Large Project Review. These additional guidelines and standards, which are set forth in pertinent part in Exhibit C to this memorandum, address a wide range of site and building design issues and should be reviewed by TMO and the architect to confirm compliance and identify any areas of inconsistency..

Article 28, Section 28-5 establishes the jurisdiction of the Boston Civic Design Commission (the “BCDC”). The Proposed Project comes within the jurisdiction of the BCDC as a “Large-Scale Development Project” proposing a structure with gross floor area in

<sup>8</sup> On through lots, the Rear Yard Depth requirement does not apply. Instead the Front Yard requirements are applied to that part of a Rear Yard that is also a Street Line, unless the street is less than 20 feet wide. Article 51-57.10.

<sup>9</sup> Planning Study at 50.

excess of 100,000 square feet. BCDC's review is coordinated with the Large Project Review process described below and is limited to review at the schematic design stage. The BCDC may recommend approval, disapproval, need for modifications, or need for further review to the BPDA, based on "established urban design principles and practices."

### **Off-Street Parking and Loading**

Pursuant to Article 51, Section 51-56 of the Zoning Code, for all proposed projects undergoing Large Project Review under Article 80B, minimum off-street parking and loading requirements are determined through Large Project Review rather than under the requirements of Section 51-56. The Proposed Project's off street parking and loading will accordingly be determined through Large Project Review.



Exhibit B  
**Applicable Site and Building Design Guidelines and Standards**

Article 51, Section 51-51.2 – *Design Guidelines*

The following guidelines apply to all proposed projects in the Allston-Brighton Neighborhood District:

- (a) Site planning, including location of buildings, open space, and vehicular access and parking areas, should be designed to enhance the street frontage and surrounding building and spaces.
- (b) Vehicular access and egress to a site should provide safe visual access for drivers and pedestrians.
- (c) Parking should not be located in the front of buildings, unless there are special circumstances, such as existing building locations or site conditions, that make it necessary. Parking and storage areas should be located behind buildings and shall comply with the applicable provisions of Section 51-56.
- (d) New or rehabilitated residential buildings should reflect and complement the patterns of height, siting, and architectural character of the surrounding residential structures. The removal or alteration of any historic or architectural feature should be held to a minimum.
- (e) New or rehabilitated commercial buildings should be compatible with the height, building material, and architectural character of older commercial buildings. Distinctive features such as the size, scale, mass, architectural detail, and building materials should be retained, if possible, when rehabilitating commercial or residential buildings. This should include roofs, roof profiles, existing window and door openings, steps, porches, and other features that give a neighborhood its distinguishing character.
- (f) Deteriorated architectural features should be repaired rather than be replaced, wherever possible, when rehabilitating residential or commercial buildings. In the event that replacement is necessary, the new material should match the existing in composition, design, texture, and appearance. Repair or replacement of missing architectural features should be based as much as possible on accurate duplication of original features of the building to be rehabilitated or those of other buildings of the same style and period.
- (g) Contemporary design for residential structures shall not be discouraged, if such design is compatible with the size, material, and character of the surrounding neighborhood environment.
- (h) New residential construction should reflect the traditional location and relationship of buildings on their sites. This includes setback from streets, spacing among buildings, and orientation of openings to the street and neighboring structures. In addition, the location of the buildings should respect significant landscape features on the site.
- (i) New residential construction should respect certain standards of scale in order to maintain the subdistrict's special qualities. Overall building height and massing, relationships of primary buildings to secondary buildings, and landscape elements all should be consistent with the surrounding architecture and environment.

- (j) Open spaces, building entrances, shop fronts, shop windows, shop entrances, terraces, gardens, arcades, and similar elements should be designed to enhance pedestrian activity and should encourage an active street life. Blank walls, without windows, facing onto pedestrian areas, should be avoided to the extent practicable in building designs.
- (k) Storefronts and display windows should be open and welcoming to the shopper and stroller façade treatments, building materials, and design details should be in keeping with the area's finest commercial architecture. Street Wall continuity should be maintained.
- (l) Setbacks, corner treatments, and other design details should be used to minimize the sense of bulk of structures, and ornamental and decorative elements appropriate to the urban context are encouraged.
- (m) Roofs of buildings should be designed to minimize the visibility of roof structures normally built above the roof and not designed to be used for human occupancy.
- (n) A clearly defined zone for signs on the building façade should be established, defined by a change in façade color and/or materials, or by an articulation of the façade without changing color. In buildings with multiple stores, the sign band should be subdivided so that each section clearly relates to an individual store. Signs shall comply with the provisions of Section 51-55 (Sign Regulations), where applicable.
- (o) Landscaping and screening should be used to make Neighborhood Business subdistricts more attractive, and to provide screening between neighborhood business and residential uses. Proposed Projects shall comply with the provisions of Section 51-53 (Screening and Buffering Requirements), where applicable.
- (p) In addition to the foregoing, design features of a Proposed Project should take into consideration any special characteristics of the site and its location, and should enhance and reinforce any historic qualities of existing structures.