

Jack Nikfard  
2001 Third Ave  
Seattle, WA 98121

April 26, 2017

Office of Hearing Examiner  
City of Seattle  
700 5<sup>th</sup> Ave  
Suite 4000  
Seattle, WA 98104

RE: Land Use Appeal, Project Number 3018686

To Whom It May Concern:

I writing to formally appeal the Land Use decision for SDCI project number 3018686 located on 2031 3rd Ave. The proposal is a 36 story, 440' tall office/ residential tower in the Belltown neighborhood.

Of specific concern is the "Tower Width" departure that was granted through the Design Review process based on two main points:

1. The magnitude of the departure. A 178' wide tower is proposed, exceeding by 48% the 120' allowed by code. Below is an excerpt from SMC 23.49.058E:

*2. Maximum tower width*

*a. In DMC zones, the maximum facade width for portions of a building above 85 feet along the general north/south axis of a site (parallel to the Avenues) shall be 120 feet or 80 percent of the width of the lot measured on the Avenue, whichever is less, except that:*

- 1) On a lot where the limiting factor is the 80 percent width limit, the maximum facade width is 120 feet, if at all elevations above a height of 85 feet, no more than 50 percent of the area of the lot located within 15 feet of the street lot line(s) is occupied by the structure; and*
- 2) On lots smaller than 10,700 square feet that are bounded on all sides by street right-of-way, the maximum facade width shall be 120 feet.*

2. The lack of information made available to the public through the Design Review Process:

a. The project went through 4 total Design Review meetings; Two Early Design Guidance meetings (1/6/15 and 7/28/15) and 2 Recommendations meetings. (3/29/16 and 1/17/17) See Exhibits A through D.

b. All four Design Proposals made available for download to the public before the meetings made no mention of the "tower width" departure request.

c. The first 3 Meeting Reports prepared by SDCI made no mention of the "tower width" departure. See Exhibit E through G.

d. During the third meeting (first Recommendations), the applicant made the first oral mention of the departure request. It was represented as a 144' wide tower and asked for an excess of 24' (20 percent) departure over the 120' maximum allowed by code. However, the request was not mentioned or described in the Design Proposal accessible to the public prior to the meeting.

e. Concerns regarding the departure were expressed both in writing and in person during the fourth meeting (second Recommendations). Concerns were set aside by SDCI staff as having already been decided upon.

f. The first mention of the "tower width" departure is published in a Meeting Report by SDCI after the fourth meeting (second Recommendations). The departure mentions a 178' wide tower, 34 feet wider than as previously presented and 58 feet wider than the 120 feet maximum allowed by code. See Exhibit H.

3. I would like to request a Land Use Code Interpretation regarding "Tower Width" measurements:
- a. As prescribed in SMC 23.49.058E "Tower Width" is limited to 120' on this particular site.
  - b. The applicant has interpreted their design as a 144' wide tower on the Master Use Permit documents by measuring only one of two segments that make up the north to south dimension of the tower.
  - c. Meeting Report by SDCI after the fourth meeting (second Recommendations) finally mentions a 178' wide tower, 34 feet wider than presented at the DRB meetings and 58 feet wider than the 120 feet maximum allowed by code. This would be an excess of 49 percent over the code maximum. See Exhibit H
  - d. Tower dimension in the "general north/ south axis of the site" totals 179' as described on the fourth Meeting Report and not 144' as presented to the DRB or on the MUP documents. Building elevations from the east and west, the building measures 179'. See Exhibit I

As outlined above, I believe the process of granting the departure was less than transparent. The omission of the departure from all Design Proposals denied the public the chance to comprehend the magnitude of the request. A mere oral mention during the third meeting was not adequate for the public to understand compliance with a very complex Land Use Code. Once understood during the fourth meeting, public input was put aside. Lastly, SDCI Meeting Reports only made mention of it after the fourth meeting, by which time, it was deemed too late public discussion. As a result, the building will be in considerable excess of code and will permanently sacrifice views, solar access and a proportioned skyline for the benefit of the general public.

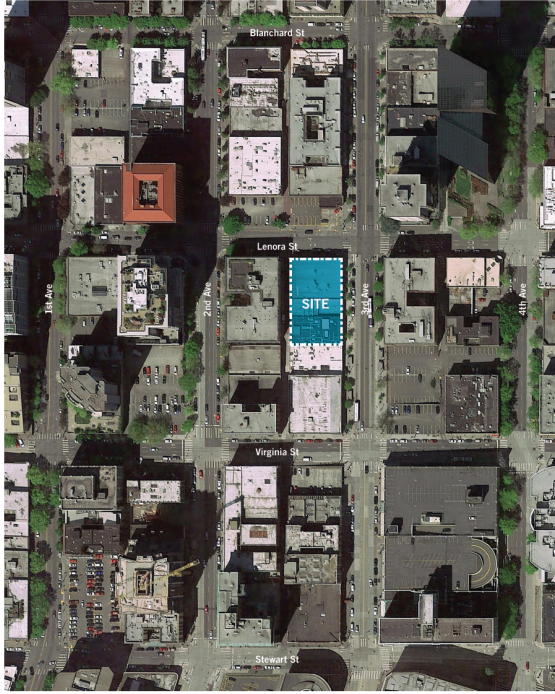
I ask that the Office of the Hearing Examiner consider this request and look forward to it's decision.

Sincerely,

Jack Nikfard

## EXHIBIT A

*Excerpt from first EDG Design Proposal. No Departures were requested. (notes by Jack Nikfard)*



PERKINS+WILL

MARTIN SELIG REAL ESTATE | 3rd and Lenora | Project 3018686 | EDG | 01.06.2015

## CONTENTS

<b>3.0 PROPOSAL</b>	
the proposed development is a 440' 31-story (above grade), 560,000 SF mixed use building with six levels of below grade parking.	
+/- 150 residential units	
+/- 250 parking stalls	
+/- 270,000 SF office	
<b>4.0 CONTEXT ANALYSIS</b>	
zoning   topography	6
downtown overlays	7
community nodes   landmarks	8
notable architecture   siting patterns	10
historic buildings	12
uses   structures	14
<b>5.0 EXISTING SITE CONDITIONS</b>	
streetscape	16
sun   shadow graphical analysis	20
<b>7.0 ZONING DATA</b>	24
<b>8.0 DESIGN GUIDELINES</b>	25
<b>9.0 ALTERNATIVE ARCHITECTURAL CONCEPTS</b>	
concept overview	26
site survey	28
combined lot development	29
concept 1: Box scheme	30
concept 2: Bar scheme	32
concept 3: Z scheme (Preferred)	34

3

## EXHIBIT B

*Excerpt from second EDG Design Proposal. No Tower Width Departure requested. SMC 23.49.058E (notes by Jack Nikfard)*

### DEPARTURE REQUESTS

DEPARTURE REQUEST	SMC REFERENCE AND REQUIREMENT	PROPOSED DEPARTURE	REASON FOR DEPARTURE
1) 23.49.009b. STREET LEVEL USE REQUIREMENTS	If street frontage is greater than 120', 75% must be devoted to use listed in SMC 23.49.009a If street frontage is less than 120' and lot has street frontage on two or more sides, 50% of street frontage must be devoted to use listed in SMC 23.49.009a	Request departure to allow 33% of approved use on the Lenora Street elevation (50% permitted uses required.) This elevation is 101' in length. Of this total length 32'-6" is designated as retail use.	<ul style="list-style-type: none"> <li>The mixed-use aspect of this building suggests separate entrances. Design guidance recommended separation of the office and residential entrances for clear address identity and a continuous commercial use along 3rd Avenue.</li> <li>The shallow site dimension east to west impacts the available street frontage that can be provided for building access.</li> <li>Additional transparency is provided at non-permitted uses.</li> </ul>
2) SMC 23.54.030 - PARKING STALL MIX (RESIDENTIAL)	Parking is not required in DMC zone (SMC 23.49.019.A). When parking is provided it shall meet requirements of 23.54.030. SMC 23.54.030B.1.b - Residential uses with 5 or more spaces, 60% min. medium stalls required.	There are 141 residential stalls provided. Request departure to allow 45% medium stalls. (inclusive of large and barrier free stalls).	<ul style="list-style-type: none"> <li>The size of the structural core limits the overall available floor plate dimension width for below grade parking. The core location and stall configuration is optimized for highest possible quantity of large and medium stalls.</li> <li>The mixed use aspect of this parking configuration also divides the mix of stall sizes. There are &gt;60% total medium stalls (inclusive of non-residential parking levels).</li> </ul>
3) SMC 23.54.030 - PARKING STALL MIX (NON-RESIDENTIAL)	Parking is not required in DMC zone (SMC 23.49.019.A). When parking is provided it shall meet requirements of 23.54.030 . 23.54.030B.2.c - Non-residential uses with 20 or more spaces, 35% minimum small stalls (65% max small stalls). A minimum of 35% shall be large stalls.	There are 125 non-residential stalls provided. Request departure to allow 18% large stalls and 82% small and medium stalls.	<ul style="list-style-type: none"> <li>The size of the structural core limits the overall available floor plate dimension for below grade parking. The core location and stall configuration is optimized for highest possible quantity of large and medium stalls.</li> </ul>
4) SMC.49.008.B - BONUS HEIGHT ENCLOSED AREA	10% Height bonus with facades enclosing an area less than 9,000 sf. Space must be occupied by features permitted in this section (stair penthouses 23.49.008.D.2.a.2, common recreation area D.2.a.4, mech. equipment D2.a.5, elevator penthouses D2.b) Unoccupied space for architectural interest is not counted as area	Request departure to allow 10,700 sf of enclosed area plus 3,400 sf (14,100 sf total).	<ul style="list-style-type: none"> <li>The enclosed common recreation is a unique city feature designed as a transparent space with trees and landscaping visible to the exterior day and night. The mezzanine provides variety in elevation and activates the full height of this residential amenity space. Mechanical spaces are consolidated to the east side of the building and screened to the allowable height limit for architectural interest.</li> </ul>
5) SMC 23.49.058C - FACADE MODULATION	Facade modulation is required above 85 feet for any structure within 15' of street lot line No modulation is required for portions of facade set back 15' or more from street lot line	Request departure to provide no limit to length of unmodulated façade up to 160'	<ul style="list-style-type: none"> <li>Building is set back from the property line 3' at the first two stories. This provides a more generous sidewalk width and vertical modulation at the street scale.</li> <li>Building is set back &gt;15' from the lot line and exceeds modulation requirements above +146' elevation.</li> <li>There is a natural break in program between office and residential to express the building massing modulation</li> </ul>

## EXHIBIT C

*Excerpt from first Recommendations Design Proposal. No Tower Width Departure requested. SMC 23.49.058E (notes by Jack Nikfard)*

### DEPARTURE REQUESTS

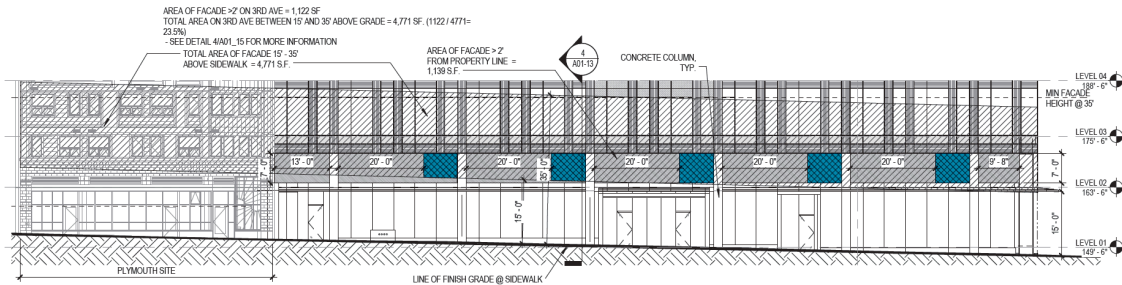
DEPARTURE REQUEST	SMC REFERENCE AND REQUIREMENT	PROPOSED DEPARTURE	REASON FOR DEPARTURE
1) SMC 23.54.030 Parking stall ratios for non-residential use.	Note that parking is not required in the DMC zone per SMC 23.49.019.A; however, parking is provided.  23.54.030B.2.c states that for non-residential uses with 20 or more spaces, a minimum of 35% shall be large stalls.	There are 148 stalls designated for non-residential use. Requested departure would allow 16% of these to be large stalls and 84% small and medium stalls.	The size of the split structural core limits the overall available floor dimensions for below grade parking. The core location(s) and stall configuration is optimized for best mix of large and medium stalls based on site and structure dimensions. The development is highly served by transit and there is a trend toward increasingly smaller vehicles and more ride sharing as well as use of public transit in the downtown core.
2) SMC.49.008.B Floor area of enclosed rooftop amenity within bonus height allowance for amenity.	10% height bonus (40') is allowed for enclosed rooftop recreation area less than with a floor area of 9,000 SF or less. Space must be occupied by features permitted in this section (stair penthouses, common recreation area, mechanical equipment, elevator penthouses) while unoccupied space for architectural interest is not counted as area.	Request departure to allow 10,700 SF of enclosed area plus 3,890 SF (14,590 sf total) including recreation uses and allowable mechanical systems, stairs, and appurtenances.	The enclosed common recreation is designed as a 40' high volume of highly transparent conservatory space with landscaping and a variety of recreational programs. An occupied mezzanine provides spatial variety and activates the full height of the amenity space. Mechanical spaces are consolidated to the east side of the building and screened. The proposed departure allows for the most optimal use of the interior volume for recreational spaces while maintaining a consistent, clean, sculptural form at the exterior and effectively screening mechanical equipment within the exterior glazed enclosure.

## EXHIBIT D

Excerpt from second Recommendations Design Proposal. No Tower Width Departure requested.  
SMC 23.49.058E (notes by Jack Nikfard)

### DEPARTURE REQUEST

SMC REFERENCE	SMC REQUIREMENT	PROPOSED DEPARTURE	RATIONALE FOR DEPARTURE
23.49.056.B.2.b.iii FACADE SETBACK LIMITS, SETBACK WIDTH BETWEEN 15 AND 35 FEET ABOVE SIDEWALK GRADE	Setback limitation from 15' - 35' above grade; No setback deeper than 2 feet shall be wider than 20 feet, measured parallel to the street lot line.	Allow a setback width up to 28' for upper portion of two-story area (above 15' and below the soffit).  See diagrams below and on the following page. The project is compliant with the zoning setback standard (indicated by hatched area) in all cases but for (5) small areas highlighted in blue in the diagram below.	The proposed building massing at street level creates a tall two-story loggia that has the following design benefits: <ul style="list-style-type: none"> <li>widens the sidewalk, increases public open space</li> <li>creates a civic scale expression along the pedestrian frontages of Third and Lenora</li> <li>relates to the horizontal datum of the adjacent context building</li> <li>defines public uses of ground and second floor</li> <li>differentiates the office program above from the retail and amenity spaces on levels 1 and 2.</li> <li>provides enhanced pedestrian visual access to the activity inside the building and "eyes on the street."</li> <li>The Loggia design as proposed was supported by the Board in EDG1, EDG2, and REC1.</li> </ul>



## **EXHIBIT E**

*Excerpt from first EDG Report. No Departures requested. (notes by Jack Nikfard)*

### **DEVELOPMENT STANDARD DEPARTURES**

The Board's recommendation on any requested departure(s) will be based on the departure's potential to help the project better meet these design guidelines priorities and achieve a better overall project design than could be achieved without the departure(s). The Board's recommendations will be reserved until the final Board meeting.

At the time of the **Final** Early Design Guidance no departures from development standards were requested.

### **BOARD DIRECTION**

## EXHIBIT F

*Excerpt from second EDG Report. No Tower Width Departure requested. SMC 23.49.058E (notes by Jack Nikfard)*

At the time of the Final Early Design Guidance meeting the following departures from development standards were requested.

**SMC 23.49.009.B.** If street frontage is less than 120 feet, and has street frontage on two sides, 50 must be occupied by uses listed in 23.49.009.A. *Request to provide 33% on Lenora.*

**SMC 23.54.030.B.1.b.** For residential uses with 5 or more stalls, a minimum of 60% are to be striped for medium vehicles. *Request to provide 45% medium stalls.*

**SMC 23.54.030.B.2.c.** For non-residential uses with 20 or more spaces, 35% minimum and 65% maximum are to be small stalls. A minimum of 35% are to be large stalls. *Request to allow 18% large and 82% small and medium stalls.*

**SMC 23.49.008.B** A 10 % height bonus with facades enclosing an area of less than 9,000 sf. *Request to allow 10,700 sf of enclosed area plus an additional 3,400 sf (14,100 sf total).*

**SMC 23.49.058.C.** Facade modulation is required above 85 feet for structure within 15 feet of lot line. *Request to provide no limit to length of unmodulated facade up to 160 feet.*

## EXHIBIT G

*Excerpt from first Recommendations Report. No Tower Width Departure requested. SMC 23.49.058E (notes by Jack Nikfard)*

### DEVELOPMENT STANDARD DEPARTURES

At the time of the second Early Design Guidance meeting, five departures from development standards were requested. At the recommendation meeting, requested departures had been narrowed to two.

**SMC 23.54.030.B.2.c** For non-residential uses with 20 or more spaces, 35% minimum and 65% maximum are to be small stalls. A minimum of 35% are to be large stalls. *Request to allow 16% large and 84% small and medium stalls.* The departure allows for optimizing the core location

#3018686  
Page 4 of 5

---

and stall configuration, contributing to a well-proportioned and unified building (Guideline B 2 and E-2); and

**SMC 23.49.008.B** A 10 % height bonus with facades enclosing an area of less than 9,000 sf. *Request to allow 10,700 sf of enclosed area plus an additional 3,890 sf (14,590 sf total).* The tower-top conservatory enhances the skyline (A-2) and reinforces the building's sculptural form (B-3, B-4).

## EXHIBIT H

*Excerpt from second Recommendations Report. First mention of a "tower width" departure appears though not discussed at the meeting. SMC 23.49.058E (notes by Jack Nikfard)*

### DEVELOPMENT STANDARD DEPARTURES

At the time of the second Early Design Guidance meeting, five departures from development standards had been mentioned. At the recommendation meeting the requested departures had been narrowed to three:

#### **SMC 23.54.030.B.2.c**

For non-residential uses with 20 or more parking spaces, a minimum of 35% and a maximum of 65% are to be striped for small vehicles. A minimum of 35% are to be large stalls. The applicants' request was to allow 16% for large and 84% for small and medium stalls. As explained by the design team, the departure would allow for optimizing the location of the building's central cores within the challenging shape as well as modifying stall configurations, thus contributing to a better proportioned and more unified building (Guidelines B-2 and E-2).

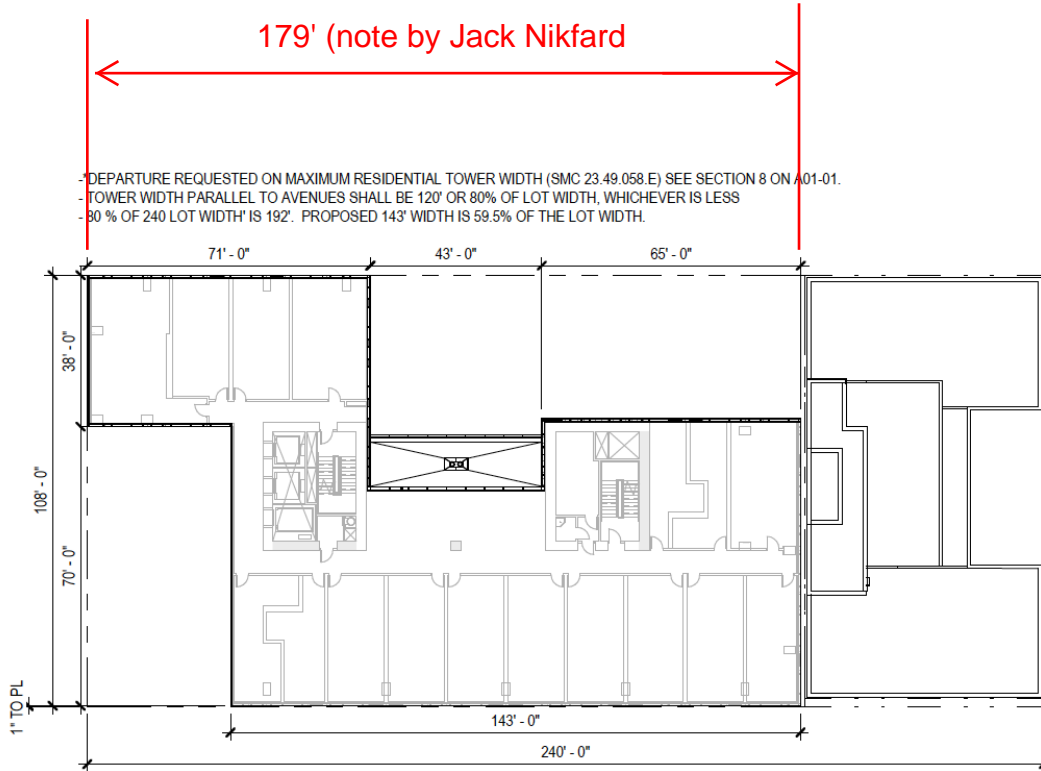
SMC 23.49.008.B A 10% height bonus with facades enclosing an area of less than 9,000 sf. The applicants' request was to allow a total of 14,590 sf of enclosed area. As explained by the design team, the tower-top conservatory would strikingly enhance the skyline (A-2) and reinforce the building's sculptural form (Guidelines B-3, B-4).

#### **SMC 23.49.058.E**

Per Code, the maximum façade width for residential portions of the building above 85 feet parallel to the Avenues would need to be 80 percent of the lot width or a maximum of 120 feet, whichever is less. The proposed façade width is 178 feet, which would exceed the maximum allowable width and require a departure. The Board confirmed that the residential upper tower "Z plan" provides for an upper building mass of multiple facades unique in the downtown area and one that creates outstanding visual interest. The structure is a well-proportioned and unified building (B-4); it enhances the skyline (A-2), and provides facades that read at many scales (C-2).

**EXHIBIT I**

Excerpt from Master Use Permit drawings dated December 22, 2016. General north/ south dimensions total  $71' + 43' + 65' = 179'$  (notes by Jack Nikfard)



**RESIDENTIAL TOWER WIDTH DIAGRAM**

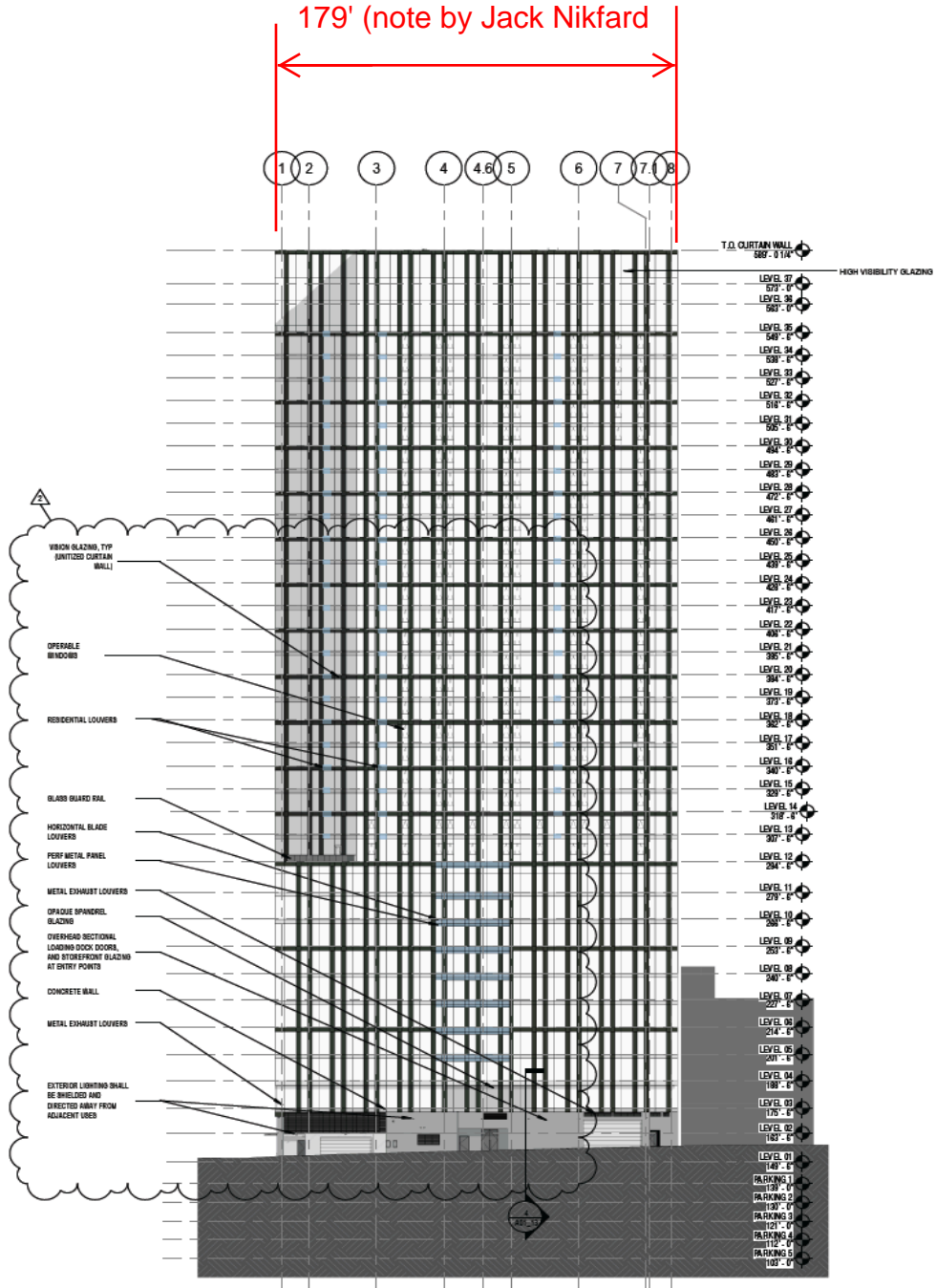
**1** (ELEV. +160')

1/32" = 1'-0"



**EXHIBIT I (Continued)**

Excerpt from Master Use Permit drawings dated December 22, 2016. General north/ south dimensions total 71' + 43' + 65' = 179' (notes by Jack Nikfard)



② WEST ELEVATION - COLORED MUP  
1/32" = 1'-0"